

FEDERATION OF MALAYA CONSTITUTION

PARTS FOUR AND FOURTEEN

This article is the third of a series designed, when completed, to form as a whole an annotated version of the Federation of Malaya constitution. The first two parts appeared in the *University of Malaya Law Review*, vol. 1, pp. 137-144, 175-203.

PART IV

THE FEDERATION

Chapter 1 — The Supreme Head

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

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

(3) The Yang di-Pertuan Agong shall be elected¹ by the Conference of Rulers² for a term of five years, but may at any time resign his office by writing under his hand addressed to the Conference of Rulers² or be removed from office by the Conference of Rulers,² and shall cease to hold office on ceasing to be a Ruler.³

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

Notes

1. "Election" is used in a rather unusual sense, since the office of Yang di-Pertuan Agong goes to the most senior ruler unless he is ruled out by either withdrawing from the election or being declared unsuitable by the Conference of Rulers. See part I of the third schedule, note 4, below. The first Yang di-Pertuan Agong was the Yang di-Pertuan Besar of Negri Sembilan, and the second is the Sultan of Selangor.

2. The Conference of Rulers is constituted for the purposes of this article and the next by article 38(1) and sections 1 and 7 of the fifth schedule.

3. The rulers are the Yang di-Pertuan Besar of Negri Sembilan, the Raja of Perlis, and the seven sultans of the other Malay States.

4. The provisions of parts I, III and IV of the third schedule are as follows.

THIRD SCHEDULE

ELECTION OF YANG DI-PERTUAN AGONG AND DEPUTY SUPREME HEAD

PART I

ELECTION OF YANG DI-PERTUAN AGONG

1. (1) A Ruler is qualified to be elected Yang di-Pertuan Agong unless— (a) he is a minor, or (b) he has notified the Keeper of the Rulers' Seal that he does not desire to be elected, or (c) the Conference of Rulers by secret ballot resolves that he is unsuitable by reason of infirmity of mind or body or for any other cause to exercise the functions of Yang di-Pertuan Agong.

(2) A resolution under this section shall not be carried unless at least five members of the Conference have voted in favour of it.

2. The Conference of Rulers shall offer the office of Yang di-Pertuan Agong to the Ruler qualified for election whose State is first on the election list described in section 4 and, if he does not accept the office, to the Ruler whose State is next on the list, and so on until a Ruler accepts the office.

3. When a Ruler to whom the office of Yang di-Pertuan Agong has been offered in accordance with section 2 has accepted the office, the Conference of Rulers shall declare him elected and the Keeper of the Rulers' Seal shall notify the result of the election in writing to both Houses of Parliament.

4. (1) The election list— (a) shall for the purposes of the first election be a list comprising the States of all the Rulers in the order in which Their Highnesses then recognize precedence among themselves; (b) shall for the purposes of subsequent elections be that list as varied in accordance with subsection (2) until it is reconstituted under subsection (3), and shall then be the list so reconstituted, but varied, for the purposes of further elections, in accordance with subsection (4).

(2) The list in force at the first election shall be varied as follows: (a) after each election any States preceding on the list the State whose Ruler was elected shall be transferred (in the order in which they are then on the list) to the end of the list, and the State whose Ruler was elected shall be omitted; (b) whenever there is a change in the Ruler of a State then on the list, that State shall be transferred to the end of the list (and if on the same day there is a change in the Rulers of more than one such State, those States shall be so transferred in the order in which they are then on the list).

(3) When no State remains on the list as varied in accordance with subsection (2), or If at an election no Ruler of a State on that list is qualified for election or accepts office, the election list shall be reconstituted so as to comprise again the States of all the Rulers, but in the following order, that is to say, those whose Rulers have held the office of Yang di-Pertuan Agong in the order in which their Rulers have held that office, and the others (if any) following them in the order in which they were on the list before it was reconstituted.

(4) After each election held in accordance with the reconstituted list that list shall be varied as follows: (a) any States preceding on the list the State whose Ruler was elected shall be transferred (in the order in which they are then on the list) to the end of the list; and (b) the State whose Ruler was elected shall then be placed last.

PART III

REMOVAL OF YANG DI-PERTUAN AGONG

8. A resolution of the Conference of Rulers to remove the Yang di-Pertuan Agong from office shall not be carried unless at least five members of the Conference have voted in favour of it.

PART IV
GENERAL

9. An election held in accordance with this Schedule before Merdeka Day shall be valid and shall take effect on that day.

10. In section 4(3) the expression "Ruler" includes a past Ruler.

33. (1) There shall be a Deputy Supreme Head of the Federation (to be known as the Timbalan Yang di-Pertuan Agong) who shall exercise the functions and have the privileges of the Yang di-Pertuan Agong during any vacancy in the office of the Yang di-Pertuan Agong and during any period during which the Yang di-Pertuan Agong is unable to exercise the functions of his office owing to illness, absence from the Federation or for any other cause, but the Deputy Supreme Head shall not exercise those functions during any absence of the Yang di-Pertuan Agong which is expected to be less than fifteen days.

(2) The Deputy Supreme Head shall be elected¹ by the Conference of Rulers² for a term of five years, or if elected during the term for which the Yang di-Pertuan Agong was elected, for the remainder of that term, but may at any time resign his office by writing under his hand addressed to the Conference of Rulers² and shall cease to hold office on ceasing to be a Ruler.³

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

(4) The provisions of Part II of the Third Schedule⁴ shall apply to the election of the Deputy Supreme Head of the Federation.

(5) Parliament may by law provide for the exercise by a Ruler³ of the functions of the Yang di-Pertuan Agong in cases where those functions would under Clause (1) fall to be exercised by the Deputy Supreme Head but cannot be so exercised owing to a vacancy in the office of the Deputy Supreme Head or to his illness, absence from the Federation or to any other cause;⁵ but such a law shall not be passed without the consent of the Conference of Rulers.⁶

Notes

1. A comment similar to that in note 1 to article 32 applies here. The first Timbalan Yang di-Pertuan Agong was the Sultan of Selangor, and the second is the Raja of Perlis.

2. See note 2 to article 32.

3. See note 3 to article 32.

4. The provisions of part II of the third schedule are as follows.

PART II
ELECTION OF DEPUTY SUPREME HEAD

5. A Ruler is qualified to be elected Deputy Supreme Head unless — (a) he would not be qualified to be elected Yang di-Pertuan Agong; or (b) he has notified the Keeper of the Rulers' Seal that he does not desire to be elected.

6. The Conference of Rulers shall not elect a Deputy Supreme Head while the office of Yang di-Pertuan Agong is vacant.

7. The Conference of Rulers shall offer the office of Deputy Supreme Head to the Ruler qualified for election who, on the death of the Yang di-Pertuan Agong last elected, would be the first entitled to be offered the office of Yang di-Pertuan Agong and, if he does not accept it, to the next and so on until a Ruler accepts the office.

For the provisions of part IV, see note 4 to article 32.

5. The Yang di-Pertuan Agong (Exercise of Functions) Ordinance, 1957 (No. 72), passed by the Legislative Council under powers granted by article 164(3), and reciting in the preamble the consent of the Conference of Rulers, makes provision in accordance with article 33(5). By section 3 of the Ordinance, the functions of the Yang di-Pertuan Agong are, in the circumstances mentioned in article 33(5), to be exercised by the first ruler to accept in order of priority to succeed as Yang di-Pertuan Agong until (section 4) the next meeting of the Conference of Rulers. Then (section 5) the Conference appoints a ruler qualified to be Yang di-Pertuan Agong to exercise the latter's functions until (section 7) the Yang di-Pertuan Agong or Deputy Supreme Head takes over. Oaths of office are provided for by section 4 and the schedule. By section 6, Parliament must be notified by the Keeper of the Rulers' Seal who is exercising the Yang di-Pertuan Agong's functions.

By section 8, the procedure on incapacity of the ruler acting under the Ordinance is dealt with in the same way as incapacity of the Deputy Supreme Head.

6. As to the jurisdiction of the courts to declare void a law so providing but passed without the consent of the Conference of Rulers, see notes 2, 3 and 5 to article 4, vol. 1, pp. 140–144.

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

(2) The Yang di-Pertuan Agong shall not hold any office of profit.²

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

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

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

(6) The Raja Permaisuri Agong shall not hold any office under the Federation or any State.

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

(8) ⁴ Nothing in Clause (1) shall prevent the Yang di-Pertuan Agong exercising as Ruler of his State any power vested in him either alone or in conjunction with any other authority — (a) to amend the Constitution of the State for the purpose of — (i) incorporating therein all or any of the essential provisions referred to in Clause (4) of Article 71, or provisions substantially to the same effect; (ii) removing from the Constitution of the State any provision inconsistent with such essential provisions; or (iii) bringing about a satisfactory transition to the constitutional arrangements contemplated by such essential provisions; or (b) to appoint a Regent or member of a Council of Regency in the place of any Regent or member, as the case may be, who has died or has become incapable for any reason of performing the duties of the office of Regent or member of the Council of Regency respectively.

Notes

1. The functions the Yang di-Pertuan Agong may exercise as Ruler of his State were, by clause (8), made temporarily wider than those mentioned in clause (1).

2. By article 160(2): “Office of profit” means any whole-time office in any of the public services, and includes the office of Chief Justice or other judge of the Supreme Court, Auditor-General, Attorney-General, member of the Election Commission or of any Commission to which Part X applies, and any office declared by Act of Parliament to be an office of Profit.” Disobedience by the Yang di-Pertuan Agong to clause (2) would appear to be visited only by exercise of the power of removal created by article 32(2).

3. Neither “commercial enterprise” nor “actively engage” is defined in the constitution. A possible analogy is the rule as applied to members of the English bar. Disobedience appears to be visited only with the possibility of removal under article 32(2).

4. Clause (8) was added by section 2 of the Constitution (Temporary Amendment) Ordinance, 1958 (No. 42), passed by the Legislative Council under power granted to it by article 159(2) to make amendments to the constitution as it “may deem necessary to remove any difficulties in the transition from the constitutional arrangements in operation immediately before Merdeka Day to those provided for by this Constitution . . .” The Ordinance has a preamble reciting the difficulties encountered and that the Legislative Council deemed it necessary to remove them by the amendment made. By section 3 of the Ordinance, the amendment is to cease to have effect one year after the first meeting of Parliament, which is the latest date permitted by article 159 (2). As to the position thereafter, see note 1, p. 61, *post*.

35. (1) Parliament shall by law provide a Civil List¹ of the Yang di-Pertuan Agong and a Civil List¹ of the Raja Permaisuri Agong and those Civil Lists¹ shall be charged on the Consolidated Fund and shall not be diminished during the Yang di-Pertuan Agong’s continuance in office.²

(2) Parliament shall by law make provision for the remuneration of the Deputy Supreme Head of the Federation or any other person authorised by law to exercise the functions of the Yang di-Pertuan Agong during any period during which he exercises those functions.³

Notes

1. By article 160(2): “‘Civil List’ means the provision made for the maintenance of the Yang di-Pertuan Agong, his Consort, a Ruler or Governor out of public funds.”

2. Provision is made by the Civil Lists Ordinance, 1957 (No. 70), enacted under powers conferred by article 164(3) of the constitution, for civil lists for the Yang di-Pertuan Agong and his consort. To the Yang di-Pertuan Agong, section 2 and the first and second schedules give \$557,000 a year and a once for all \$52,000 for a motor car. Of the annual \$557,000, \$180,000 is paid to the Yang di-Pertuan Agong as the privy purse. The remainder is paid to the Comptroller of the Household as follows: entertainment, \$36,000; household and court salaries, \$177,000; household and court expenses, \$158,000; royal bounty, alms, special services, \$6,000. Section 3 provides \$30,000 a year for the Raja Permaisuri Agong. Section 4(1) charges the civil lists on the Consolidated Fund.

3. See the Timbalan Yang di-Pertuan Agong (Remuneration) Ordinance, 1958 (No. 19).

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

37. (1) The Yang di-Pertuan Agong shall before exercising his functions take and subscribe before the Conference of Rulers¹ and in the presence of the Chief Justice of the Federation (or in his absence the next senior judge of the Supreme Court available) the oath of office set out in Part I of the Fourth Schedule;² and the oath shall be attested by two persons appointed for the purpose by the Conference of Rulers.¹

(2) The Deputy Supreme Head of the Federation shall before exercising his functions, other than the functions exercisable for the purpose of convening the Conference of Rulers,³ take and subscribe before the Conference of Rulers¹ and in the presence of the Chief Justice of the Federation (or in his absence the next senior judge of the Supreme Court available) the oath of office set out in Part II of the Fourth Schedule.²

(3) The said oaths, translated into English, are set out in Part III of the Fourth Schedule.²

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

Notes

1. The Conference of Rulers is constituted by article 38.

2. Affirmation is an alternative to swearing: see article 160(4). The provisions of the fourth schedule are as follows.

FOURTH SCHEDULE

OATHS OF OFFICE OF YANG DI-PERTUAN AGONG AND
TIMBALAN YANG DI-PERTUAN AGONG

PART I

OATH OF YANG DI-PERTUAN AGONG

Kami.....ibni.....

Yang di-Pertuan Agong bagi Persekutuan Tanah Melayu bersumpah dengan melafazkan:

Wallahi; Wabillahi; Watallahi;

maka dengan lafaz ini berikrar-lah kami dengan sa-sungguh dan dengan sa-benarnya mengaku akan ta'at setia pada menjalankan dengan 'adil-nya pemerintahan bagi Persekutuan Tanah Melayu dengan mengikut sa-bagaimana Undang-undang dan Perlembagaan Negeri yang telah di-sah dan di-mashhorkan dan yang akan di-sah dan di-mashhorkan di-masa hadapan ini. Dan lagi kami berikrar mengaku dengan sa-sungguh dan dengan sa-benarnya memelihara pada setiap masa Ugama Islam dan berdiri tetap di-atas pemerintahan yang 'adil dan aman di-dalam negeri.

PART II

OATH OF TIMBALAN YANG DI-PERTUAN AGONG

Kami.....ibni.....

yang telah di-lantek menjadi Timbalan Yung di-Pertuan Agong bagi Persekutuan Tanah Melayu bersumpah dengan melafazkan:

Wallahi; Wabillahi; Watallahi;

dan dengan lafaz ini berikrar-lah kami dengan sa-sungguh dan dengan sa-benarnya mengaku akan ta'at setia pada menjalankan tanggungan kami yang telah di-tetapkan dan yang akan di-tetapkan pada suatu masa ka-suatu masa yang ka-hadapan ini oleh Undang-undang dan Perlembagaan Negeri Persekutuan Tanah Melayu.

PART III

ENGLISH TRANSLATIONS

We.....ibni.....

Yang di-Pertuan Agong of the Federation of Malaya do hereby swear:

Wallahi; Wabillahi; Watallahi;

and by virtue of that oath do solemnly and truly declare that We shall justly and faithfully perform (carry out) our duties in the administration of the Federation of Malaya in accordance with its laws and constitution which have been promulgated or which may be promulgated from time to time in the future. Further We do solemnly and truly declare that We shall at all time protect the Muslim Religion and uphold the rules of law and order in the Country.

We.....ibni.....

being elected to be the Deputy Yang di-Pertuan Agong of the Federation of Malaya do hereby swear:

Wallahi;

Wabillahi;

Watallahi;

and by virtue of that oath do solemnly and truly declare that We shall faithfully perform (carry out) our duties as Deputy Yang di-Pertuan Agong as laid down and may from time to time be laid down by the laws and the Constitution of the Federation of Malaya.

3. The exception is necessary in order to enable the oath to be taken.
4. See note 5 to article 33.

Chapter 2 — The Conference of Rulers

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

(2) The Conference of Rulers shall exercise its functions of— (a) electing, in accordance with the provisions of the Third Schedule, the Yang di-Pertuan Agong and Deputy Supreme Head of the Federation,² (b) agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole,³ (c) consenting or withholding consent to any law⁴ and making or giving advice on any appointment⁵ which under this Constitution requires the consent of the Conference or is to be made by or after consultation with the Conference, and may deliberate on questions of national policy (for example changes in immigration policy) and any other matter that it thinks fit.⁶

(3) When the Conference deliberates on matters of national policy the Yang di-Pertuan Agong shall be accompanied by the Prime Minister,⁷ and the other Rulers⁸ and the Governors⁹ by their Mentri Mentri Besar¹⁰ or Chief Ministers,¹¹ and the deliberations shall be among the functions exercised, by the Yang di-Pertuan Agong in accordance with the advice of the Cabinet,¹² and by the other Rulers and the Governors in accordance with the advice of their Executive Councils.¹³

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

(5) The Conference of Rulers shall be consulted before any change in policy affecting administrative action under Article 153 is made.¹⁴

(6) The members of the Conference of Rulers may act in their discretion¹⁵ in any proceedings relating to the following functions, that is to say — (a) the election or removal from office of the Yang di-Pertuan Agong or the election of the Deputy Supreme Head of the Federation;² (b) the advising on any appointment;⁵ (c) the giving or withholding of consent to any law altering the boundaries of a State¹⁶ or affecting the privileges, position, honours or dignities of the Rulers;¹⁷ or (d) the agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole.³

Notes

1. The provisions of the fifth schedule are as follows.

FIFTH SCHEDULE

THE CONFERENCE OF RULERS

1. The Conference of Rulers shall, subject to the following provisions of this Schedule, consist of Their Highnesses the Rulers and the Governors of Malacca and Penang.

2. The place of His Highness the Ruler of any State or the Governor of any State as a member of the Conference of Rulers may in any case in which the Constitution of that State so provides be taken by such person as that Constitution may provide.

3. The Conference of Rulers shall have a Rulers' Seal, which shall be kept in the custody of a person appointed by the Conference.

4. The person appointed under section 3 shall be known as the Penyimpan Mohar Besar Raja-Raja (Keeper of the Rulers' Seal), shall act as secretary to the Conference of Rulers and shall hold his office at the pleasure of the Conference.

5. A majority of the members of the Conference of Rulers shall form a quorum and, subject to the provisions of this Constitution, the Conference may determine its own procedure.

6. The Keeper of the Rulers' Seal shall convene the Conference of Rulers whenever required to do so by the Yang di-Pertuan Agong or by not less than three members of the Conference and, without being so required, not later than four weeks before the expiry of the term of office of the Yang di-Pertuan Agong and whenever a vacancy occurs in that office or in the office of the Deputy Supreme Head of the Federation.

7. The Governors of Malacca and Penang shall not be members of the Conference of Rulers for the purposes of any proceedings relating to the election or removal of the Yang di-Pertuan Agong or the election of the Deputy Supreme Head of the Federation or relating solely to the privileges, position, honours and dignities of Their Highnesses or to religious acts, observances or ceremonies.

8. In any case where the Conference of Rulers is not unanimous it shall take its decision by a majority of the members voting, subject however to the provisions of the Third Schedule.

9. Any consent, appointment or advice of the Conference of Rulers required under this Constitution shall be signified under the Rulers' Seal; and where, in the case of any proposed appointment, a majority of the members of the Conference have indicated, by writing addressed to the Keeper of the Rulers' Seal, that they are in favour of the appointment, he shall so signify the advice of the Conference without convening it.

2. See article 32, especially note 4, and article 33, especially notes 4 and 5.

3. See article 3(2), vol. 1, p. 140.

4. The consent of the Conference of Rulers is required before any law can be passed having any of the following effects: (a) altering the boundaries of a State — article 2(b), vol. 1, p. 137; (b) directly affecting the privileges, position, honours or dignities of the rulers — article 38(4); (c) amending article 38, or article 70 (precedence of rulers and governors), or article 71(1) (federal guarantee of rulers' rights and privileges under State constitutions), or article 153 (special position of the Malays) — article 159(5).

5. By article 105(1), the Auditor-General is appointed by the Yang di-Pertuan Agong on the advice of the prime minister and after consultation with the Conference of Rulers. By article 114(1), the Election

Commission is appointed by the Yang di-Pertuan Agong after consultation with the Conference of Rulers. By article 122 (3), in appointing the Chief Justice, the Yang di-Pertuan Agong acts on the advice of the prime minister after consulting the Conference of Rulers, and, in appointing the other judges of the Supreme Court, the Yang di-Pertuan Agong must, after consulting the Conference of Rulers and the Chief Justice, act on the advice of the prime minister. By article 137(3)(b), the Armed Forces Council includes one member appointed by the Conference of Rulers. By article 139(4), all the members of the Public Services Commission are appointed by the Yang di-Pertuan Agong in his discretion but after considering the advice of the prime minister and after consultation with the Conference of Rulers.

Under article 37 and under the Yang di-Pertuan Agong (Exercise of Functions) Ordinance, 1957 (see note 5 to article 33), the Conference of Rulers has further functions relating to appointments.

6. See also clauses (3) and (5) of this article.
7. The prime minister is the head of the federal government: see article 43(2).
8. See note 3 to article 32.
9. The States of Malacca and Penang each have a governor appointed by the Yang di-Pertuan Agong acting in his discretion but after consultation with the chief minister of the State.
10. The *mentri besar* is the head of the government of a Malay State.
11. The chief ministers are the heads of the governments of the States of Malacca and Penang.
12. The cabinet is the collective name for the ministers of the federal government: see article 43(1).
13. The executive council is the collective name for the ministers of a State government.
14. Article 153 deals with the special position of the Malays.
15. I.e., without following the advice of ministers.
16. Under article 2(b), vol. 1, p. 137.
17. Under clause (4) of this article. See also article 40 (2) (c).

Chapter 3—The Executive

39. The executive authority of the Federation shall be vested in the Yang di-Pertuan Agong,¹ but Parliament may by law confer executive functions on other persons.

Note

1. Article 40 divides the executive functions of the Yang di-Pertuan Agong into those which he may exercise in his discretion and those which he must exercise in accordance with ministerial advice.

40. (1) In the exercise of his functions under this Constitution¹ or federal law² the Yang di-Pertuan Agong shall³ act in accordance with the advice of the Cabinet⁴ or of a Minister acting under the general authority of the Cabinet,⁴ except as otherwise provided by this Constitution;⁵ but shall be entitled, at his request, to any information concerning the government of the Federation which is available to the Cabinet.

(2) The Yang di-Pertuan Agong may act in his discretion in the performance of the following functions that is to say — (a) the appointment of a Prime Minister,⁶ (b) the withholding of consent to a request for the dissolution of Parliament,⁷ (c) the requisition of a meeting of the Conference of Rulers concerned solely with the privileges, position, honours and dignities of Their Highnesses, and any action at such a meeting,⁸ and in any other case mentioned in this Constitution.⁹

(3) Federal law² may make provision for requiring the Yang di-Pertuan Agong to act after consultation with or on the recommendation of any person or body of persons other than the Cabinet in the exercise of any of his functions other than — (a) functions exercisable in his discretion;¹⁰ (b) functions with respect to the exercise of which provision is made in any other Article.¹¹

Notes

1. The functions of the Yang di-Pertuan Agong under this constitution are set out in the following provisions: article 3(2) — to represent the rulers in any federal religious acts, observances or ceremonies; article 3 (3) — to be the head of the Muslim religion in Malacca and Penang under the constitutions of those States; article 41 — supreme commander of the armed forces of the Federation — *cf.* article 137; article 42 — to grant pardons, reprieves and respites in respect of offences tried by court-martial; article 43 — to appoint the cabinet; article 45 — appointment of sixteen senators; article 55 — to summon, prorogue and dissolve Parliament; article 60 — to address either House of Parliament or both Houses jointly; article 66 — to give the royal assent to bills; article 92 — to proclaim development areas; article 99 — to have the annual financial statement laid before the House of Representatives; article 105 — to appoint the Auditor-General; article 107 — to receive the Auditor-General's reports and cause them to be laid before the House of Representatives; article 114 — to appoint the Election Commission; article 115 — to approve the number and terms of service of Election Commission employees, and to select two federal government officers to advise the Commission on delimiting constituencies for the House of Representatives and State Legislative Assemblies; article 122 — to appoint the judges of the Supreme Court; article 124 — to be present when the Chief Justice takes and subscribes the oath of office and allegiance; article 125 — to deal with certain questions relating to retirement, removal and suspension of Supreme Court judges; article 130 — to refer constitutional questions to the Supreme Court for an opinion; article 131 — to deal with

appeals from the Supreme Court; article 137 — to appoint the General Officer Commanding the federation army; article 138 — to appoint members of the Judicial and Legal Service Commission; article 139 — to appoint the Public Services Commission; article 140 — to appoint the Police Service Commission; article 141 — to appoint the Railway Service Commission; articles 142-144 — certain functions with regard to the Commissions generally; article 145 — to appoint the Attorney-General; article 146 — to receive an annual report from each Commission; article 150 — to proclaim a state of emergency and (pending parliamentary action) to promulgate emergency legislation; article 151 — to appoint an advisory board for cases of detention without trial; article 153 — to safeguard the special position of the Malays; article 154 — to appoint a day for the complete transfer to Parliament of power to legislate for the local government of Kuala Lumpur; article 162 — to make adaptations of laws passed before this constitution took effect; article 163 — to declare the 1948- emergency at an end and to repeal the emergency legislation (including the enabling Ordinance); article 164 — to continue the Legislative Council in existence after 1st July, 1959 until not later than the end of that year; article 165 — temporary financial provisions; article 180 — preservation of pensions, etc.

2. By article 160(2): “ ‘Federal law’ means — (a) any existing law relating to a matter with respect to which Parliament has power to make laws, being a law continued in operation under Part XIII, and (b) any Act of Parliament.”

3. There is no sanction for disobedience but removal under article 32 (3).

4. See note 12 to article 38.

5. Various provisions of the constitution provide for the Yang di-Pertuan Agong to act on the advice of someone other than a minister or the cabinet.

6. See article 43(2)(a).

7. See article 55(2).

8. See article 38(4).

9. Cases where the constitution provides that the Yang di-Pertuan Agong may act in his discretion are: article 122 — in appointing the Chief Justice, after consulting the Conference of Rulers and considering the advice of the prime minister; article 139(4) — in appointing the members of the Public Services Commission, after considering the advice of the prime minister and after consultation with the Conference of Rulers; article 140(2)(c) — in appointing some members of the Police Service Commission, after considering the advice of the minister for the

time being charged with responsibility for the police; article 141; article 143(1) (a) — in sanctioning the appointment for a term less than five years of a member of one of the Commissions governed by Part X, after considering the advice of the prime minister.

10. See clause (2) of this article, and note 9, above.

11. See note 5, above.

41. The Yang di-Pertuan Agong shall be the Supreme Commander of the armed forces of the Federation.¹

Note

1. See article 137.

42. (1) The Yang di-Pertuan Agong has power to grant pardons, reprieves and respites in respect of all offences which have been tried by court-martial;¹ and the Ruler or Governor of a State has power to grant pardons, reprieves and respites in respect of all other offences committed in his State.²

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

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

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

(5) The Pardons Board constituted for each State shall consist of the Attorney-General⁴ of the Federation, the Chief Minister⁵ of the State and not more than three other members, who shall be appointed by the Ruler⁶ or Governor;⁷ but the Attorney-General⁴ may from time to time by instrument in writing delegate his functions as a member of the Board to any other person, and the Ruler⁶ or Governor⁷ may appoint any person to exercise temporarily the functions of any member of the Board appointed by him who is absent or unable to act.

(6) The members of a Pardons Board appointed by the Ruler⁶ or Governor⁷ shall be appointed for a term of three years and shall be eligible for re-appointment, but may at any time resign from the Board.

(7) A member of the Legislative Assembly of a State⁸ or of the House of Representatives⁹ shall not be appointed to be a member of a Pardons Board or to exercise temporarily the functions of such a member.

(8) The Pardons Board shall meet in the presence of the Ruler⁶ or Governor⁷ and he shall preside over it.

(9) Before tendering their advice on any matter a Pardons Board shall consider any written opinion which the Attorney-General⁴ may have delivered thereon.

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

Notes

1. Subject to any Act which may be passed under article 40(3), the powers of the Yang di-Pertuan Agong must be exercised, under article 40(1), in accordance with the advice of the cabinet or of a minister acting under the general authority of the cabinet.

All courts other than Sharaiah Courts are federal: see article 121.

2. Most penal laws are federal laws, and all courts other than Sharaiah Courts are federal. Nevertheless the civilian power of pardon is given to the heads of the States. Yet the federal prosecutions department has a voice: see clauses (4)(b) and (5).

3. This appears to be obvious from the terms of article 40 (3).

4. See article 145.

5. By article 160 (2): “ ‘Chief Minister’ includes Mentri Besar.” See notes 10 and 11 to article 38.

6. See note 3 to article 32.

7. See note 9 to article 38.

8. Such membership is determined by State law.

9. See articles 46-48.

10. Clause (10) was added by the Constitution (Amendment) Act, 1960 (No. 10), section 4.

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

(2) The Cabinet shall be appointed as follows, that is to say— (a) the Yang di-Pertuan Agong shall first appoint as Perdana Mentri (Prime Minister) to preside over the Cabinet a member of the House of Representatives² who in his judgment³ is likely to command the confidence of the majority of the members of that House; and (b) he shall on the advice of the Prime Minister appoint other Mentri (Ministers) from among the members of either House of Parliament; but if an appointment is made while Parliament is dissolved a person who was a member of the last House of Representatives may be appointed but shall not continue to hold office after the beginning of the next session of Parliament unless, if he has been appointed Prime Minister, he is a member of the new House of Representatives, and in any other case he is a member either of that House or of the State.

(3) The Cabinet shall be collectively responsible to Parliament.⁴

(4) If the Prime Minister ceases to command the confidence of the majority of the members of the House of Representatives,² then, unless at his request the Yang di-Pertuan Agong dissolves Parliament, the Prime Minister shall tender the resignation of the Cabinet.⁴

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

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

(7) Notwithstanding anything in this Article, a person who is a citizen by naturalisation⁷ or by registration under Article 17⁸ shall not be appointed Prime Minister.

(8) If a member of the Legislative Assembly of a State⁹ is appointed a Minister he shall resign from the Assembly before exercising the functions of his office.

(9) Parliament shall by law make provision for the remuneration of members of the Cabinet.¹⁰

Notes

1. See article 40(1). See also the Assistant Ministers Act, 1960 (No. 5).
2. See articles 44 and 46(1).
3. The Yang di-Pertuan Agong acts in his discretion in appointing a prime minister: see article 40(2)(a).
4. Clauses (3) and (4) seem to be an attempt to summarise the English conventions on the executive-legislature relationship. It does not make them litigable.
5. Acting on the advice of the prime minister.
- 5a. The words “unless . . . Minister” were added by the Constitution (Amendment) Act, 1960 (No. 10), section 5.
6. Affirmation is an alternative to swearing: see article 160(4). The oaths are as follows.

SIXTH SCHEDULE

FORMS OF OATHS AND AFFIRMATIONS

1. *Oath of Office and Allegiance*

“I....., having been elected (or appointed) to the office of.....do solemnly swear (or affirm) that I will faithfully discharge the duties of that office to the best of my ability, that I will bear true faith and allegiance to the Federation of Malaya, and will preserve, protect and defend its Constitution.”

3. *Oath of Secrecy*

“I....., do solemnly swear (or affirm) that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as.....except as may be required for the due discharge of my duties as such or as may be specially permitted by the Yang di-Pertuan Agong.”

7. See articles 19 and 20, vol. 1, pp. 193-194.
8. See vol. 1, p. 191.
9. Such membership is determined by State law.
10. Provision is made (by the Legislative Council exercising powers conferred by article 164(3)) by the Ministers (Remuneration) Ordinance, 1957 (No. 63). By section 2 and the schedule, the prime minister is given a salary of \$48,000 a year, with allowances of \$12,000 a year as

Leader of the House, \$24,000 a year for entertainment, and \$1,800 a year for a chauffeur. Other ministers get \$36,000 a year salary, \$3,000 a year entertainment allowance (\$6,000 for the deputy prime minister), and the \$1,800 for the chauffeur. All ministers get a subsistence allowance when out of Kuala Lumpur on government business, a furnished house rent-free, medical facilities, a month's holiday with pay a year, and a motor car rent-free accompanied by a mileage allowance.

43A. [See note 2, p. 61, *post.*]

*Chapter 4 — Federal Legislature*¹

44. The legislative authority of the Federation² shall be vested in a Parliament, which shall consist of the Yang di-Pertuan Agong³ and two Majlis (Houses of Parliament) to be known as the Dewan Negara (Senate)⁴ and the Dewan Ra'ayat (House of Representatives).⁵

Notes

1. See article 164, especially clause (3), p. 56, *post.*
2. See articles 73-79.
3. See article 40(1).
4. See article 45.
5. See article 46.

45. (1) Subject to Clause (4), the Senate shall consist of elected and appointed members as follows — (a) two members for each State shall be elected in accordance with the Seventh Schedule;¹ and (b) sixteen members shall be appointed by the Yang di-Pertuan Agong.²

(2) The members to be appointed by the Yang di-Pertuan Agong³ shall be persons who in his³ opinion have rendered distinguished public service or have achieved distinction in the professions, commerce, industry, agriculture, cultural activities or social service or are representative of racial minorities or are capable of representing the interests of aborigines.⁴

(3) The term of office of a member of the Senate shall, subject to the provisions of the Seventh Schedule,¹ be six years and shall not be affected by a dissolution of Parliament.

(4) Parliament may by law— (a) increase to three the number of members to be elected for each State; (b) provide that the members to be elected for each State shall be so elected by the direct vote of the electors of the State;⁵ (c) decrease the number of appointed members or abolish appointed members.

Notes

1. The provisions of the seventh schedule are as follows.

SEVENTH SCHEDULE

ELECTION AND APPOINTMENT OF SENATORS

PART I

ELECTION OF SENATORS

1. (1) As soon as may be after the dissolution of the Legislative Council, the Yang di-Pertuan Agong shall give notice to the Ruler or Governor of each State that an election of Senators is required and the Ruler or Governor shall require the Legislative Assembly to elect Senators as soon as may be.

(2) As often as there is a vacancy among the members elected to the Senate by a State the Yang di-Pertuan Agong shall give notice to the Ruler or Governor of the State that an election of a Senator is required, and the Ruler or Governor shall require the Legislative Assembly to elect a Senator as soon as may be.

2. (1) The names of candidates for election shall be proposed and seconded by members of the Assembly and the member proposing or the member seconding shall submit a statement in writing, signed by the person nominated, that he is willing to serve as a Senator if elected.

(2) When all the nominations have been received, the presiding officer shall announce the names of the persons nominated in alphabetical order and shall then put their names to the vote in that order.

(3) Each member present shall be entitled to vote for as many candidates as there are vacancies to be filled, and the names of the members voting for each candidate shall be recorded; and if any member casts a vote in addition to those allowed by this subsection that vote shall be void.

(4) The presiding officer shall declare to be elected the candidate or candidates who receive the largest number of votes, but if two or more candidates have an equal number of votes and the number of those candidates is larger than the number of vacancies to be filled, the election of those candidates shall be determined by lot.

3. Notwithstanding anything in section 2, if a vacancy due to the expiry of the term of office of a Senator is to be filled at the same meeting as a vacancy arising in any other way there shall first be an election to fill the vacancy due to the expiry of the term and then a separate election to fill the other vacancy.

4. The presiding officer shall certify to the clerk to the Senate, by writing under his hand, the name of a person elected as Senator in accordance with the provisions of this Schedule.

5. If any question arises whether a member of the Senate has been duly elected in accordance with the provisions of this Schedule, the decision of the Senate shall be taken and shall be final.

PART II

RETIREMENT OF SENATORS

6. The term of office of one of the two Senators elected at the first election held in accordance with the provisions of this Schedule shall be three years, and the Senator whose term is six years shall, if both receive the same number of votes, be determined by lot and shall otherwise be the one who receives the greatest number of votes.

7. Of the persons first appointed to be Senators eight shall be appointed for a term of three years.

8. The term of office of a person elected or appointed to replace a person who has died or ceased to be a Senator before the expiration of his term shall be the remainder of that term.

2. See clause (2) of this article.
3. See article 40(1).
4. "... aborigines" — see note 10 to article 8, vol. 1, p. 180.
5. Such direct elections would then be governed by article 120.

46. (1) The House of Representatives shall consist of one hundred elected members except that the first House of Representatives shall consist of one hundred and four.

(2) After the completion of the first census to be taken after Merdeka Day¹ Parliament may by law alter the number of members of the House of Representatives.

Note

1. Merdeka Day was 31st August 1957. No census has been taken since then.

47. Every citizen¹ resident² in the Federation is qualified to be a member — (a) of the Senate,³ if he is not less than thirty years old, (b) of the House of Representatives,⁴ if he is not less than twenty-one years old, unless he is disqualified for being a member by this Constitution⁵ or by any law made in pursuance of Article 48.

Notes

1. Articles 14-31 and 170 govern citizenship.
2. "... resident in the Federation" — in the absence of any definition of "residence" in the constitution, the question of what degree of connection with the Federation constitutes residence therein can be regarded as wide open. *Cf.* note 5 to article 15 and note 7 to article 20. Whether a person is qualified to be a member of either House of Parliament is a matter for the Supreme Court.
3. See article 45.
4. See article 46.
5. See article 48.

48.¹ (1) Subject to the provisions of this Article, a person is disqualified for being a member of either House of Parliament^{1a} if — (a) he is and has been found or declared to be of unsound mind;² or (b) he is an undischarged bankrupt;³ or (c) he holds an office of profit;⁴ or (d) having been nominated for election to either House of Parliament or to the Legislative Assembly of a State, or having acted as election agent to a person so nominated, he has failed to lodge any return of election expenses required by law within the time and in the manner so required;⁵ or (e) he has been convicted of an offence by a court of law in the Federation and sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand dollars and has not received a free pardon; or (f) he has voluntarily acquired citizenship of, or exercised rights of citizenship in, a foreign country⁶ or has made a declaration of allegiance to a foreign country.⁷

(2) Federal law⁷ may impose, for such periods as may be specified thereby, disqualification for membership of either House of Parliament on persons committing

offences in connection with elections; and any person who has been convicted of such an offence or has in proceedings relating to an election been proved guilty of an act constituting such an offence, shall be disqualified accordingly for the period so specified.⁸

(3) The disqualification of a person under paragraph (*d*) or paragraph (*e*) of Clause (1) may be removed by the Yang di-Pertuan Agong and shall, if not so removed, cease at the end of the period of five years beginning with the date on which the return mentioned in the said paragraph (*d*) was required to be lodged, or, as the case may be, the date on which the person convicted as mentioned in the said paragraph (*e*) was released from custody or the date on which the fine mentioned in the said paragraph (*e*) was imposed on such person; and a person shall not be disqualified under paragraph (*f*) of Clause (1) by reason only of anything done by him before he became a citizen.⁹

Notes

1. This article is reproduced as amended by the Constitution (Amendment) Act, 1960 (No. 10), section 7.

1a. See articles 44-47. See also article 65(5).

2. See the Mental Disorders Ordinance, 1952 (No. 31).

3. See the Bankruptcy Ordinance, 1959 (No. 20).

4. See note 2 to article 34.

5. See the Election Offences Ordinance, 1954 (No. 9), section 23, as amended by the Election Offences (Amendment) Ordinances, 1955 (No. 10), section 7, and 1959 (No. 10), section 9.

6. By article 160(2): “ ‘Foreign country’ does not include any part of the Commonwealth or the Republic of Ireland.”

7. By article 160(2): “ ‘Federal law’ means—(*a*) any existing law relating to a matter with respect to which Parliament has power to make laws, being a law continued in operation under Part XIII, and (*b*) any Act of Parliament.”

8. See the Election Offences Ordinance, 1954 (No. 9), parts II-V, and the Election Offences (Amendment) Ordinances, 1955 (No. 10) and 1959 (No. 10).

9. By article 160(2): “ ‘Citizen’ means a citizen of the Federation.”

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

50. (1) If a member of either House of Parliament becomes disqualified for membership of that House¹ his seat shall become vacant.²

(2) If a person disqualified for being a member of the House of Representatives³ is elected to that House or if a person disqualified for being a member of the Senate is elected or appointed to the Senate,³ or if an election or appointment to either House is contrary to Article 49, the election or appointment shall be void.⁴

(3) If the election of any person would or might be void under Clause (2) his nomination for the election shall be void.⁵

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

Notes

1. See article 53.
2. See article 54.
3. See article 48.
4. As to the procedure, see the Election Offences Ordinance, 1954 (No. 9), part VII, as amended by the Election Offences (Amendment) Ordinance, 1959 (No. 10), sections 13 and 14.
5. As to nominations generally, see the Elections Ordinance, 1958 (No. 33), section 16(2)(b), and the regulations made thereunder, *viz.* the Elections (Conduct of Elections) Regulations, 1959 (L.N. 69), regulations 4-9.

Clause (3) makes it clear that if a person purporting to be nominated would not be able to take his seat if elected, due to clause (2), the nomination itself is void. In other words, normally the procedure of challenge is brought into operation, and the returning officer must rule. Difficulty is occasioned by the use in clause (3) of the words “would *or might* be void . . .” The presence of the italicised words means that there is a class of candidates whose nominations are void, other than those whose election would be void if they were elected. What is this class, of whom it cannot be said that their election would be void, but of whom it can be said that their election might be void? Does it include all candidates, for any might go bankrupt or be found of unsound mind before polling day? Or does it refer to candidates of whom there is reasonable cause to believe that, though not disqualified on nomination day, they will be disqualified by polling day? Does it, for example, include a person against whom lunacy proceedings have been commenced but not concluded and exclude those who are thought by many to be crazy but against whom no proceedings have been started?

Regulation 7(1) of the Elections (Conduct of Elections) Regulations, 1959, provides: “Objection may be made to a nomination paper by any person whose name appears in the electoral rolls for the constituency and by any candidate for the constituency on all or any of the following grounds but on no other ground, namely; . . . (e) that the candidate is disqualified from being a member under the provisions of the Constitution of the Federation in the case of any election to the Dewan Ra’ayat . . .” There is no provision for objection on the ground that the candidate might be disqualified from being a member. Hence, a challenge to the nomination on that ground would have to be by other procedure than objection before the returning officer. Declaration and injunction would appear appropriate.

51. A member of either House of Parliament may resign his membership by writing under his hand addressed, if he is a member of the Senate, to the President of the Senate,¹ and if a member of the House of Representatives, to the Speaker of that House.²

Notes

1. See article 56.
2. See article 57.

52. If a member of either House of Parliament is without the leave of the House absent from every sitting of the House for a period of six months¹ the House may declare his seat vacant.²

Notes

1. A member may save his seat, it would appear, by looking in for a few minutes twice a year. But see article 63(1). See also article 59(2).
2. Vacant seats are governed by article 54.

53. If any question arises whether a member of a House of Parliament has become disqualified for membership,¹ the decision of that House shall be taken and shall be final.²

Notes

1. This section applies only to disqualification arising after election or appointment. As to the nature of disqualification, see articles 48 and 49. As to the procedure on disqualification arising before election, see article 50.
2. *Cf.* article 63(1). It is quite clear that there is no review in court.

54. Whenever there is a casual vacancy¹ among the members of either House of Parliament² it shall be filled within sixty days from the date on which it occurs, and an election³ shall be held or an appointment³ made accordingly.

Notes

1. By article 160(2): “‘Casual vacancy’ means a vacancy arising in the Senate otherwise than by the expiry of the term of office of a member, or a vacancy arising in the House of Representatives or a Legislative Assembly otherwise than by a dissolution of Parliament or of the Assembly.”
2. See article 44.
3. See articles 45(1)(a) and 46(1). Part VIII governs elections.
4. See article 45(1)(b).

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

- (2) The Yang di-Pertuan Agong may prorogue² or dissolve³ Parliament.

(3) Parliament unless sooner dissolved³ shall continue for five years from the date of its first meeting and shall then stand dissolved.

(4) Whenever Parliament is dissolved a general election⁴ shall be held within sixty days from the date of the dissolution and Parliament shall be summoned to meet on a date not later than ninety days from that date.

Notes

1. With the limits allowed by this clause, the Yang di-Pertuan Agong must act on ministerial advice in summoning Parliament: see article 40(1).

2. Prorogation is on ministerial advice: see article 40(1).

3. By article 40(2)(b), the Yang di-Pertuan Agong may act in his discretion in withholding consent to a request for a dissolution of Parliament.

4. Elections are governed by Part VIII.

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

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

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

(4) If a member of the Legislative Assembly of a State is chosen to be president he shall resign from the Assembly before exercising the functions of his office.¹

Note

1. Clause (4) was added by the Constitution (Amendment) Act, 1960 (No. 10), section 8.

57. (1) The House of Representatives shall from time to time choose one of its members to be Yang di-Pertua Dewan Ra'ayat (Speaker) and one to be Deputy Speaker, and shall transact no business while the office of Speaker is vacant other than the election of a Speaker.

(2) A member holding office as Speaker or Deputy Speaker shall vacate his office on ceasing to be a member of the House of Representatives and may at any time resign his office.

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

(4) If a member of the Legislative Assembly of a State is chosen to be Speaker he shall resign from the Assembly before exercising the functions of his office.¹

Note

1. Clause (4) was added by the Constitution (Amendment) Act, 1960 (No. 10), section 9.

58. Parliament shall by law provide for the remuneration of the President and Deputy President of the Senate and the Speaker and Deputy Speaker of the House of Representatives, and the remuneration so provided for the President of the Senate and the Speaker of the House of Representatives shall be charged on the Consolidated Fund.¹

1. See the President of the Senate (Remuneration) Act, 1960 (No. 2), and the Speaker (Remuneration) Act, 1960 (No. 7).

59. (1) Every member of either House of Parliament shall before taking his seat take and subscribe before the person presiding in the House an oath in the

form set out in the Sixth Schedule,¹ but a member may before taking that oath take part in the election of a President of the Senate² or Speaker of the House of Representatives.³

(2) If a member has not taken his seat within three months from the date on which the House first sits after his election or such further time as the House may allow, his seat shall become vacant.⁴

Notes

1. Affirmation is an alternative to swearing: see article 160(4). The oath set out in the sixth schedule is as follows.

2. *Oath as Member of Parliament and of Allegiance*

“I,....., having been elected (or appointed) as a member of the House of Representatives (or the Senate) do solemnly swear (or affirm) that I will faithfully discharge my duties as such to the best of my ability, that I will bear true faith and allegiance to the Federation of Malaya, and will preserve, protect and defend its Constitution.”

2. See article 56.

3. See article 57.

4. As to the consequence of the vacancy, see article 54. As to the finality of the decision, see article 63(1). See also article 52.

60. The Yang di-Pertuan Agong may address either House of Parliament or both Houses jointly.¹

Note

1. The Yang di-Pertuan Agong must act on ministerial advice: see article 40(1).

61. (1) In addition to his rights as a member of one of the Houses of Parliament every member of the Cabinet¹ shall have the right to take part in the proceedings of the other House.²

(2) Either House of Parliament may appoint as a member of any of its committees the Attorney-General³ or any member of the Cabinet¹ notwithstanding that he is not a member of that House.²

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

(4) In this Article “member of the cabinet” includes an Assistant Minister.⁴

Notes

1. See article 43.

2. But see clause (3).

3. See article 145.

4. Clause 4 was added by the Constitution (Amendment) Act, 1960 (No. 10), section 10.

62. (1) Subject to the provisions of this Constitution¹ and of federal law,² each House of Parliament shall regulate its own procedure.

(2) Each House may act notwithstanding any vacancy in its membership, and the presence or participation of any person not entitled thereto shall not invalidate any proceedings.³

(3) Subject to Clause (4) and to Articles 89(1)⁴ and 159(3),⁵ each House shall, if not unanimous, take its decision by a simple majority of members voting; and the person presiding shall cast his vote whenever necessary to avoid an equality of votes, but shall not vote in any other case.

(4) In regulating its procedure⁶ each House may provide, as respects any decision relating to its proceedings, that it shall not be made except by a specified majority or by a specified number of votes.

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

Notes

1. See articles 62(3), 62(5), 66-68, 89(1)—see note 4, below —, 101 (supplementary and excess expenditure), 149(1) (legislation against subversion), 159(3)—see note 5, below —, 163(3) (temporary continuancy of the Emergency Regulations Ordinance, 1948).

2. There is as yet no federal law governing the procedure of either House of Parliament.

3. This clause is supplementary to articles 53 and 63(1) in taking proceedings in Parliament out of the purview of the courts. It does not mean that the House concerned would not exercise its disciplinary powers were interlopers participating or attempting to participate in the proceedings.

4. Article 89(1) requires a majority of all the members and a two-thirds majority of those voting for a resolution of each House of Parliament approving it before a State Enactment deserving a Malay reservation becomes operative.

5. Article 159(3) requires the support of two-thirds of all the members of each House for most constitutional amendments.

6. Under the power in clause (1).

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

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

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

Notes

1. This clause, along with articles 53 and 62(2), stops the court inquiring into internal matters of Parliament. It does not stop the court holding an Act of Parliament void as unconstitutional, even on the ground that the wrong procedure was followed in passing it. *Cf. Harris v. Dönges* [1952] 1 T.L.R. 1245. For example, an Act requiring a two-thirds majority could be held invalid if it appeared to have been passed by a

less majority, but an Act which purported to have been passed by a two-thirds majority could not be attacked on the ground that the tellers miscounted. *Cf.* article 72(1).

2. The question of what constitutes a proceeding in Parliament is a vexed one. It is not confined to what actually occurs in the House during a sitting. It may include correspondence between members and ministers and other activities ancillary to the discharge of parliamentary duties. The clause, it is to be noted, begins: "No person," and not: "No member . . ." *Cf. Re Parliamentary Privilege Act, 1770* [1958] A.C. 331. While this clause protects people from judicial proceedings, it leaves them open to executive action, for example under the Emergency Regulations. *Cf.* article 72(2).

3. This clause gives absolute immunity from civil and criminal proceedings along the lines of the (English) Parliamentary Papers Act, 1840. It gives no protection against executive action, but this is obviously unlikely in such cases. *Cf.* article 72(3).

64. Parliament shall by law provide for the remuneration of members of each House.¹

Note

1. See the Parliament (Members' Remuneration) Act, 1960 (No. 4).

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

(2) The Clerk to the Senate and the Clerk to the House of Representatives shall be appointed by the Yang di-Pertuan Agong¹ and, subject to Clause (3), each shall hold office until he attains the age of sixty years or such other age as Parliament may by law provide,² unless he sooner resigns his office.

(3) The Clerk to the Senate and the Clerk to the House of Representatives may be removed from office on the like grounds and in the like manner as a judge of the Supreme Court,³ except that the representation mentioned in Article 125(3) shall be a representation made by the President of the Senate or, as the case may be, the Speaker of the House of Representatives.

(4) Before appointing any member of his staff the Clerk to the Senate shall consult the President of the Senate, and the Clerk to the House of Representatives the Speaker of that House.

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

Notes

1. The Yang di-Pertuan Agong must act on ministerial advice: see article 40(1).

2. No such provision has yet been made

3. See article 125, which provides security from executive or parliamentary interference in such matters.

Chapter 5—Legislative procedure

66. (1) The power of Parliament to make laws¹ shall be exercised by Bills passed by both Houses (or, in the cases mentioned in Article 68, the House of Representatives)² and assented to by the Yang di-Pertuan Agong.³

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

(3) When a Bill has been passed by the House in which it originated it shall be sent to the other House; and it shall be presented to the Yang di-Pertuan Agong for his assent³ when it has been passed by the other House and agreement has been reached between the two Houses on any amendments made in it or when it is required to be so presented under Article 68.

(4) The Yang di-Pertuan Agong shall signify his assent³ to a Bill by causing the Public Seal⁴ to be affixed thereto, and after assenting to a Bill he shall cause it to be published as a law.

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

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

Notes

1. The powers are dealt with in articles 73-79.
2. As to parliamentary procedure, see article 62.
3. The Yang di-Pertuan Agong must act on ministerial advice: see article 40(1).
4. See article 36.

67. (1) A Bill or amendment making provision for — (a) imposing or increasing any tax or abolishing, reducing or remitting any existing tax, (b) the borrowing of money, or the giving of any guarantee, by the Federation, or the amendment of the law relating to the financial obligations of the Federation; (c) the custody of the Consolidated Fund, the charging of any money on the Consolidated Fund or the abolition or alteration of any such charge; (d) the payment of moneys into the Consolidated Fund or the payment, issue or withdrawal from the Consolidated Fund of any moneys not charged thereon, or any increase in the amount of such a payment, issue or withdrawal; (e) the compounding or remission of any debt due to the Federation; (f) the assignment of a tax or fee or the making of a grant to any State; (g) the receipt of moneys on account of the Consolidated Fund or the custody or issue of such moneys or the audit of the accounts of the Federation or a State; shall not be introduced or moved except by a Minister, and a Bill making provision for any such matter shall not be introduced in the Senate.

(2) A Bill or amendment shall not be deemed to make provision for any of the said matters by reason only that it provides — (a) for the imposition or alteration of any fine or other pecuniary penalty or for the payment or demand of a licence fee or a fee or charge for any service rendered; or (6) for the imposition, alteration or regulation of any tax or rate by any local authority or body for local purposes,

68. (1) Where a money Bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within a month, it shall be presented to the Yang di-Pertuan Agong for his assent¹ unless the House of Representatives otherwise directs.²

(2) Where — (a) a Bill which is not a money Bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate or is passed by the Senate with amendments to which the House of Representatives does not agree; and (b) in the following session (whether of the same Parliament or not) but not earlier than one year after it was first passed by the House of Representatives the same Bill, with no other alterations than those mentioned in Clause (3), is passed again by the House of Representatives and sent to the Senate at least one month before the end of the session and is not passed by the Senate or is passed by the Senate with amendments to which the House of Representatives does not agree, the Bill shall, unless the House of Representatives otherwise directs, be presented to the Yang di-Pertuan Agong for his assent¹ with such amendments, if any, as may have been agreed to by both Houses.²

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

(4) When a Bill is presented to the Yang di-Pertuan Agong¹ in pursuance of this Article it shall bear a certificate of the Speaker of the House of Representatives that the provisions of this Article have been complied with, and that certificate shall be conclusive for all purposes and shall not be questioned in any court.

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

(6) In this Article “money Bill” means a Bill which, containing in the opinion of the Speaker of the House of Representatives only provisions dealing with all or any of the following matters, that is to say— (a) the matters mentioned in Article 67(1) or the regulation of any tax, (b) the reduction of any such amount as is mentioned in paragraph (d) of Article 67(1); and (c) any matter incidental to those matters or any of them, is certified by him as a money Bill.

Notes

1. The Yang di-Pertuan Agong must act on ministerial advice: see article 40(1).
2. The procedure outlined in clauses (1) and (2) is similar to that applicable in the United Kingdom Parliament under the (English) Parliament Acts, 1911 and 1948.

Chapter 6— Capacity as respects property, contracts and suits

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

(2) The Federation may sue and be sued.¹

Note

1. It is not clear whether clause (2) makes any proposition as to substantive liability when it states that the Federation may be sued, or

whether it simply declares that when the Federation is proceeded against the appropriate method is suing in an action. Clause (1) presumably puts liability in contract and in matters of property beyond dispute. As to liability in tort, apart from torts connected with matters under clause (1), it is submitted that there is no basic theory in Malaya corresponding to "the King can do no wrong" in England, since the courts do not derive from a feudal landholding system. Presumably, therefore, capacity to enter into transactions implies liability like that of a human being in the absence of legislative immunity, of which there is none. Under the Government Proceedings Ordinance, 1956 (No. 58), sections 5-7, the federal government is liable in tort along the lines of the (English) Crown Proceedings Act, 1947. The Ordinance of 1956 was one of those modified under the Pending Laws Validity Ordinance, 1957 (No. 58).

Note: Temporary and Transitional Provisions Affecting Part IV.

PART XIII

164. (1) The Legislative Council established under the Federation of Malaya Agreement, 1948, shall remain in being on and after Merdeka Day and shall not be dissolved before the first day of January, nineteen hundred and fifty-nine.

(2) If the Election Commission advises the Yang di-Pertuan Agong that it is not reasonably practicable to hold elections to Parliament in accordance with this Constitution before the first day of July, nineteen hundred and fifty-nine, the Yang di-Pertuan Agong may at any time after the first day of January, nineteen hundred and fifty-nine, by Proclamation continue the Legislative Council until such date, not being later than the end of that year, as may be specified in the Proclamation, and the Legislative Council shall continue accordingly and shall stand dissolved on that date.

(3) Until the dissolution of the Legislative Council Chapters 4 and 5 of Part IV shall not apply, and the powers of Parliament under this Constitution shall be exercisable by the Yang di-Pertuan Agong with the advice and consent of the Legislative Council; and accordingly, in relation to the period ending with the dissolution of the Legislative Council, references in this Constitution, other than references in Article 159, to Parliament, either or both Houses of Parliament and an Act of Parliament shall be construed respectively as references to the Yang di-Pertuan Agong with the advice and consent of the Legislative Council, the Legislative Council and an Ordinance enacted by the Yang di-Pertuan Agong with the advice and consent of that Council.

(4) Until the dissolution of the Legislative Council the provisions of the Federation of Malaya Agreement, 1948, set out in the first column of the Twelfth Schedule shall continue in force, subject to the modifications set out in the second column of that Schedule and to the following further modifications, that is to say—
(a) for references to a Malay State or a Settlement there shall be substituted references to a State; (b) for references to the High Commissioner there shall be substituted references to the Yang di-Pertuan Agong; and (c) for references to the Federal Executive Council there shall be substituted references to the Cabinet, and Article 61 shall apply with the necessary modifications.

TWELFTH SCHEDULE

PROVISIONS OF THE FEDERATION OF MALAYA AGREEMENT, 1948 AS APPLIED TO THE LEGISLATIVE COUNCIL AFTER MERDEKA DAY

*Provisions of the Agreement**Modifications*

Clause 36	In sub-clause (2) the words “two <i>ex officio</i> members” shall be omitted and for the words “thirty-three” the words “thirty-five” shall be substituted.
Clause 36A	In sub-clauses (1) and (3) the words “with the concurrence of Their Highnesses the Rulers” shall be omitted.
Clause 38	For the words after “Malay States” the words “and the two Chief Ministers of Malacca and Penang” shall be substituted.
Clause 39	For the word “eight”, the word “ten” shall be substituted.
Clause 40	The words from “who the High Commissioner” to “proceedings of the Council” in sub-clause (1) and the words from “and who the High Commissioner” to “proceedings of the Council” in sub-clause (2) shall be omitted.
Clause 40A	In sub-clause (1) the words from “and who are able” to the end of the sub-clause shall be omitted. In sub-clause (2) for the words “from time to time in force in the Federation” the words “in force in the Federation immediately before Merdeka Day” shall be substituted.
Clause 41	—
Sub-clauses (2) and (3) of Clause 41A	In sub-clause (3) the words “who is not entitled to be so registered under the provisions of Clause 41B of this Agreement or” shall be omitted.
Clause 41C	—
Clause 42, other than sub-clause (3) thereof	—
Clause 43	In sub-clause (1) the words “ <i>ex officio</i> or” and paragraphs (a), (b) and (c) shall be omitted. In sub-clause (5) for the words from “of a Malay State” to “of any Settlement” the words “or Chief Minister of a State” shall be substituted; and for the words from “such other Member” to the end of the sub-clause the words “such other person as the Menteri Besar or Chief Minister may nominate” shall be substituted.
Clause 43A, other than sub-clause (3) thereof	—
Clause 45A	—
Clause 46	—

Clause 51	The words “and Their Highnesses the Rulers of the Malay States” and the proviso shall be omitted.
Clause 53	—
Clause 54, other than sub-clauses (2) and (6) thereof	<p>In sub-clause (1) the words “the assent of Their Highnesses the Rulers and either” and all the words after “High Commissioner” to the end of the sub-clause shall be omitted.</p> <p>In sub-clause (3) the words from “according to” to “Secretary of State” and the words after “refuses to assent thereto” shall be omitted.</p> <p>In sub-clause (5) the words “and Their Highnesses the Rulers” shall be omitted.</p>
Clause 56	The words “the rights of His Majesty, His Heirs and Successors, or” shall be omitted.
Clause 57	For the words “and Their Highnesses the Rulers for their assent” the words “for his assent” shall be substituted.
Clause 58	—
Clause 59	—
Clause 60	—
Clause 61, other than sub-clause (4) thereof	<p>In sub-clause (1) the words “with the assent of Their Highnesses the Rulers” shall be omitted.</p> <p>In sub-clause (2) after the words “at any time” the words “after the first day of January, 1959” shall be inserted.</p>
Clause 61A	—
Sub-clause (1) of Clause 62	—
Clause 64	—
In the First Schedule, Form IV	—
Seventh Schedule	—

166. (1) Subject to the provisions of this Article, all property and assets which immediately before Merdeka Day were vested in Her Majesty for the purposes of the Federation or of the colony or Settlement of Malacca or the colony or Settlement of Penang, shall on Merdeka Day vest in the Federation or the State of Malacca or the State of Penang, as the case may be.

(2) Any land in the State of Malacca or the State of Penang which immediately before Merdeka Day was vested in Her Majesty shall on that day vest in the State of Malacca or the State of Penang as the case may be.

(3) Any land vested in the State of Malacca or the State of Penang which immediately before Merdeka Day was occupied or used by the Federation Government or Her Majesty's Government or by any public authority for purposes which in

accordance with the provisions of this Constitution become federal purposes shall on and after that day be occupied, used, controlled and managed by the Federal Government or, as the case may be, the said public authority, so long as it is required for federal purposes, and— (a) shall not be disposed of or used for any purposes other than federal purposes without the consent of the Federal Government, and (b) shall not be used for federal purposes different from the purposes for which it was used immediately before Merdeka Day without the consent of the Government of the State.

(4) Any State land which, immediately before Merdeka Day, was occupied or used, without being reserved, by the Federation Government for purposes which become federal purposes on that day, shall on that day be reserved for those federal purposes.

(5) All property and assets which immediately before Merdeka Day were vested in the Federation Government or some other person on its behalf for purposes which on that day continue to be federal purposes, shall on that day vest in the Federation.

(6) Property and assets which immediately before Merdeka Day were vested in the Federation Government or some person on its behalf for purposes which on that day become purposes of any State shall on that day vest in that State.

(7) Property and assets other than land which immediately before Merdeka Day were used by a State for purposes which on that day become federal purposes shall on that day vest in the Federation.

(8) Any property which was, immediately before Merdeka Day, liable to escheat to Her Majesty in respect of the government of Malacca or the government of Penang shall on that day be liable to escheat to the State of Malacca or the State of Penang, as the case may be.

167. (1) Subject to the provisions of this Article, all rights, liabilities and obligations of— (a) Her Majesty in respect of the government of the Federation, and (b) the Government of the Federation or any public officer on behalf of the Government of the Federation, shall on and after Merdeka Day be the rights, liabilities and obligations of the Federation.

(2) Subject to the provisions of this Article, all rights, liabilities and obligations of— (a) Her Majesty in respect of the government of Malacca or the government of Penang, (b) His Highness the Ruler in respect of the government of any State, and (c) the Government of any State, shall on and after Merdeka Day be the rights, liabilities and obligations of the respective States.

(3) All rights, liabilities and obligations relating to any matter which was immediately before Merdeka Day the responsibility of the Federation Government but which on that date become the responsibility of the Government of a State, shall on that day devolve upon that State.

(4) All rights, liabilities and obligations relating to any matter which was immediately before Merdeka Day the responsibility of the Government of a State but which on that day becomes the responsibility of the Federal Government, shall on that day devolve upon the Federation.

(5) In this Article, rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise, other than rights to which Article 166 applies.

(6) The Attorney-General shall, on the application of any party interested in any legal proceedings, other than proceedings between the Federation and a State, certify whether any right, liability or obligation is by virtue of this Article a right, liability or obligation of the Federation or of a State named in the certificate, and any such certificate shall for the purposes of those proceedings be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and any State as between themselves.

(7) The Federation shall make the like annual payments as fell to be made before Merdeka Day under Article II of the Treaty made on the sixth day of May, eighteen hundred and sixty-nine, between Her Majesty of the one part and the King of Siam of the other part relative to the State of Kedah.

168. (1) Subject to the provisions of this Article, any legal proceedings pending in any court immediately before Merdeka Day in which Her Majesty or any servant of Her Majesty is a party in respect of the colony or Settlement of Malacca or the colony or Settlement of Penang shall continue on and after Merdeka Day with the State of Malacca or the State of Penang, as the case may be, substituted as a party.

(2) Subject to the provisions of this Article, any legal proceedings pending in any court immediately before Merdeka Day in which the Federation Government or a State Government or any officer of either Government is a party shall continue on and after Merdeka Day with the Federation or, as the case may be, the State substituted as a party.

(3) Any legal proceedings pending in any court immediately before Merdeka Day in which the Federation Government or any officer thereof is a party shall, if the subject matter falls within the executive authority of a State, be continued on and after that day with that State substituted as a party.

(4) Any legal proceedings pending in any court immediately before Merdeka Day in which a State or any officer thereof is a party shall, if the subject matter falls within the executive authority of the Federation, be continued on and after that day with the Federation substituted as a party.

(5) The Attorney-General shall, on the application of any party to any proceedings referred to in this Article, certify whether the Federation or a State is in accordance with this Article to be substituted as a party in those proceedings, and any such certificate shall, for the purposes of those proceedings, be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and any State as between themselves.

177. A person who, under any provisions of this Part, holds office under the Federation by virtue of having been the holder of a corresponding office immediately before Merdeka Day may, until Parliament otherwise provides, perform his functions without taking the oath required in the case of other holders of that office.

178. Until Parliament otherwise provides, the remuneration payable to the persons holding the office of Prime Minister and other Ministers shall be the same as was payable, immediately before Merdeka Day, to the Chief Minister and other Ministers of the Federation respectively.

PART XIV

SAVING FOR RULERS' SOVEREIGNTY, ETC.

181. (1) Subject to the provisions of this Constitution, the sovereignty, prerogatives, powers and jurisdiction of the Rulers and the prerogatives, powers and jurisdiction of the Ruling Chiefs of Negri Sembilan within their respective territories as hitherto had and enjoyed shall remain unaffected.

(2) No proceedings whatsoever shall be brought in any court against the Ruler of a State in his personal capacity.

Notes on the 1960 Amendments

1. By the Constitution (Amendment) Act, 1960 (No. 10), section 3, at the expiration of the temporary clause 8 of article 34 the following permanent clause 8 will be substituted for it:

(8) Nothing in Clause (1) shall prevent the Yang di-Pertuan Agong exercising as Ruler of his State any power vested in him either alone or in conjunction with any other authority— (a) to amend the Constitution of the State; or (b) to appoint a Regent or member of a Council of Regency in the place of any Regent or member, as the case may be, who has died or has become incapable for any reason of performing the duties of the office of Regent or member of the Council of Regency respectively.

2. By the Constitution (Amendment) Act, 1960 (No. 10), section 6, the following new article was added:

43A. (1) The Yang di-Pertuan Agong may on the advice of the Prime Minister appoint Assistant Ministers from among the members of either House of Parliament; but if an appointment is made while Parliament is dissolved a person who was a member of the last House of Representatives may be appointed but shall not hold office after the beginning of the next session of Parliament unless he is a member either of that House or of the Senate.

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

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

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

Note

See also the Assistant Ministers Act, 1960 (No. 5).

L. A. SHERIDAN. *

* LL.B. (London); Ph.D. (Belfast); of Lincoln's Inn, Barrister-at-Law; Professor of Law and Dean of the Law Faculty in the University of Malaya in Singapore.