



# PARLIMEN MALAYSIA



**BILL**

**Constitutions ( Amendment ) 1960**

**D.R.15/1960**

(Presented and read a first time and ordered to be printed, 22nd February, 1960).

A BILL  
*intituled*

An Act to amend the Constitution of the Federation.

[ ]

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Ra'ayat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Constitution (Amendment) Act, 1960, and shall come into operation on such date as the Yang di-Pertuan Agong may by notification in the *Gazette* appoint; and the Yang di-Pertuan Agong may appoint different dates for the coming into operation of different provisions of this Act.

Short title  
and com-  
mencement.

2. Part III of the Constitution is hereby amended—

Miscella-  
neous  
amendments  
in Part III.

(a) by substituting for the words "registration authority" wherever they occur in Clauses (1) and (2) of Article 15, Article 16, Article 17, Clause (1) of Article 23 and Clause (1) of Article 30 of the Constitution the words "Federal Government";

(b) by substituting for the words "that authority" wherever they occur in Clause (2) of Article 15, Article 16 and Article 17 of the Constitution the words "the Federal Government";

(c) by deleting the comma and words ", but except as aforesaid the registration authority shall register any declaration duly made thereunder" appearing in Clause (2) of Article 23 of the Constitution.

3. (1) Article 34 of the Constitution is hereby amended by adding thereto the following new Clause:

Amendment  
of Article 34.

"(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."

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(2) This section shall come into operation at the expiration of the period of twelve months beginning with the day on which Parliament as constituted in accordance with Part IV of the Constitution first met.

Amendment  
of Article 42.

4. Article 42 of the Constitution is hereby amended—

(a) by substituting for the word “Any” appearing in the first line of Clause (2) thereof the words “Subject to Clause (10), any”;

(b) by adding thereto the following new Clause:

“(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.”.

Amendment  
of Article 43.

5. Article 43 of the Constitution is hereby amended by inserting immediately after the words “Yang di-Pertuan Agong,” appearing in Clause (5) thereof the words “unless the appointment of any Minister shall have been revoked by the Yang di-Pertuan Agong on the advice of the Prime Minister”.

New Article  
43A.

6. The following new Article is inserted in the Constitution immediately after Article 43 thereof:

“Assistant  
Ministers.

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.”.

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## 7. Article 48 of the Constitution is hereby amended—

Amendment  
of Article 48.

- (a) by inserting immediately after the words "House of Parliament" appearing in paragraph (d) of Clause (1) thereof the words "or to the Legislative Assembly of a State";
- (b) by substituting for the words "two years" appearing in paragraph (e) of Clause (1) thereof the words "one year or to a fine of not less than two thousand dollars";
- (c) by inserting immediately after the word "custody" appearing in Clause (3) thereof the words "or the date on which the fine mentioned in the said paragraph (e) was imposed on such person".

## 8. Article 56 of the Constitution is hereby amended by adding thereto the following new Clause:

Amendment  
of Article 56.

"(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."

## 9. Article 57 of the Constitution is hereby amended by adding thereto the following new Clause:

Amendment  
of Article 57.

"(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."

## 10. Article 61 of the Constitution is hereby amended by adding thereto the following new Clause:

Amendment  
of Article 61.

"(4) In this Article "member of the Cabinet" includes an Assistant Minister."

## 11. Article 76 of the Constitution is hereby amended by deleting the words "for the purposes of Article 75" appearing in Clause (3) thereof.

Amendment  
of Article 76.

## 12. Part VI of the Constitution is hereby amended by adding thereto, immediately after Article 95 of the Constitution, the following new Chapter and Article:

New Article  
95A.

"CHAPTER 7—NATIONAL COUNCIL FOR LOCAL  
GOVERNMENT

The  
National  
Council for  
Local  
Govern-  
ment.

95A. (1) There shall be a National Council for Local Government consisting of a Minister as Chairman, one representative from each of the States, who shall be appointed by the Ruler or Governor, and such number, not exceeding ten, of representatives of the Federal Government as that Government may appoint.

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

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

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

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

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

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

Amendment  
of Article  
114.

13. Article 114 of the Constitution is hereby amended by repealing Clause (4) thereof and substituting therefor the following new Clause:

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

(a) is an undischarged bankrupt; or

(b) engages in any paid office or employment outside the duties of his office; or

(c) is a member of either House of Parliament or of the Legislative Assembly of a State.”.

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14. Article 119 of the Constitution is hereby amended— Amendment  
of Article  
119.

(a) by repealing Clause (1) thereof and substituting therefor the following new Clause:

“(1) Every citizen who—

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

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

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

(b) by substituting a comma for the full-stop at the end of Clause (4) thereof and inserting immediately thereafter the words “and “absent voter” means in relation to any constituency any citizen who is registered as an absent voter in respect of that constituency under the provisions of any law relating to elections.”.

15. Article 122 of the Constitution is hereby amended— Amendment  
of Article  
122.

(a) by repealing Clause (3) thereof and substituting therefor the following new Clause:

“(3) In appointing the Chief Justice the Yang di-Pertuan Agong shall act on the advice of the Prime Minister, after consulting the Conference of Rulers; and in appointing the other judges of the Supreme Court he shall act on the advice of the Prime Minister, after consulting the Conference of Rulers and considering the advice of the Chief Justice.”;

(b) by repealing Clause (4) thereof.

16. Article 125 of the Constitution is hereby amended— Amendment  
of Article  
125.

(a) by deleting the words “appointed on the recommendation of the Judicial and Legal Service Commission, being persons” appearing in Clause (4) thereof;

(b) by substituting for the words “Commission expedient so to recommend” appearing in Clause (4) thereof the words “Yang di-Pertuan Agong expedient to make such appointment”;

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- (c) by substituting for the words "Judicial and Legal Service Commission" appearing in Clause (5) thereof the words "Prime Minister, or the Prime Minister after consulting the Chief Justice,".

Amendment  
of Article  
132.

17. Article 132 of the Constitution is hereby amended—

- (a) by substituting for the words "police service" appearing in paragraph (d) of Clause (1) thereof the words "police force";
- (b) by inserting immediately after Clause (2) thereof the following new Clause:

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

- (c) by inserting immediately after the words "any Minister" appearing in paragraph (a) of Clause (3) thereof the words "or Assistant Minister";

- (d) by inserting immediately after paragraph (e) of Clause (3) thereof the following new paragraph:

"(f) persons holding such diplomatic posts in the general public service of the Federation as the Yang di-Pertuan Agong may by order prescribe;".

Amendment  
of Article  
135.

18. Article 135 of the Constitution is hereby amended by repealing Clause (3) thereof.

Amendment  
of Article  
137.

19. Article 137 of the Constitution is hereby amended by repealing Clause (3) thereof and substituting therefor the following new Clause:

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

- (a) the Minister for the time being charged with responsibility for defence; who shall be Chairman;
- (b) one member representing Their Highnesses, who shall be appointed by the Conference of Rulers;
- (c) the Chief of the Armed Forces Staff who shall be appointed by the Yang di-Pertuan Agong;

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- (d) a civilian member, being the person performing the duties of the office of Secretary for Defence, who shall act as Secretary to the Council;
- (e) two senior staff officers of the Federation Armed Forces, appointed by the Yang di-Pertuan Agong;
- (f) a senior officer of the Royal Malayan Navy, appointed by the Yang di-Pertuan Agong;
- (g) a senior officer of the Royal Malayan Air Force, appointed by the Yang di-Pertuan Agong;
- (h) two, if any, additional members, whether military or civilian, appointed by the Yang di-Pertuan Agong."

20. Article 138 of the Constitution is hereby repealed.

Repeal of  
Article 138.

21. Article 139 of the Constitution is hereby amended—

Amendment  
of Article  
139.

- (a) by inserting immediately after the word "paragraphs" appearing in Clause (1) thereof the letter, brackets and comma "(b),";
- (b) by substituting for the comma and words ", or members of the public service of the State of Malacca or the State of Penang" appearing in Clause (1) thereof the words "and members of the public services of the State of Malacca and the State of Penang".

22. Article 140 of the Constitution is hereby repealed and the following new Article substituted therefor:

New Article  
140.

"Police  
Force  
Commis-  
sion.

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

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

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

- (a) the Minister for the time being charged with responsibility for the police, who shall be Chairman;
- (b) the Commissioner of Police;

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(c) the person performing the duties of the office of Secretary to the Ministry under the Minister for the time being charged with responsibility for the police;

(d) a member of the Public Services Commission, appointed by the Yang di-Pertuan Agong;

(e) two other members, appointed by the Yang di-Pertuan Agong.

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

(5) Before acting in accordance with Clause (4) on the recommendation of the Police Force Commission, the Yang di-Pertuan Agong shall consider the advice of the Prime Minister, and may once refer the recommendation back to the Commission in order that it may be reconsidered.

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

(a) the organisation of its work and the manner in which its functions are to be performed, and the keeping of records and minutes;

(b) the duties and responsibilities of the several members of the Commission, including the delegation to any member of the Commission or the police force or board of officers of such force of its powers or duties;

(c) the consultation by the Commission with persons other than its members;

(d) the procedure to be followed by the Commission in conducting its business (including the fixing of a quorum), the appointment, at its option, of a vice-chairman from among its members, and the functions of the vice-chairman;

(e) any other matters for which the Commission considers it necessary or expedient to provide for the better performance of its functions.

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

23. Article 141 of the Constitution is hereby amended by inserting immediately after the words “Yang di-Pertuan Agong” appearing in Clause (2) thereof the words “in his

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discretion but after considering the advice of the Prime Minister and after consultation with the Conference of Rulers”.

**24.** Article 142 of the Constitution is hereby amended by substituting for the words “A member” appearing in Clause (1) thereof the words “Subject to paragraph (a) of Clause (3) of Article 140, a member”.

Amendment  
of Article  
142.

**25.** Article 144 of the Constitution is hereby amended—

(a) by deleting the comma and words “, other than posts in the judicial and legal service” appearing in Clause (3) thereof;

Amendment  
of Article  
144.

(b) by inserting immediately after Clause (5) thereof the following new Clause:

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

Provided that—

(a) no such law or regulation may provide for the exercise by any such officer or board of officers of any power of first appointment to the permanent or pensionable establishment, or to any power of promotion (other than promotion to an acting appointment); and

(b) any person aggrieved by the exercise by any such officer or board of officers of any power of disciplinary control may appeal to the Commission within such time and in such manner as may be prescribed by any such law or regulations, and the Commission may make such order thereon as it may consider just.”.

**26.** Article 145 of the Constitution is hereby repealed and the following new Article substituted therefor:

New Article  
145.

“The  
Attorney-  
General.

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

(2) It shall be the duty of the Attorney-General to advise the Yang di-Pertuan Agong or the Cabinet or any Minister upon such legal matters, and to perform

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such other duties of a legal character, as may from time to time be referred or assigned to him by the Yang di-Pertuan Agong or the Cabinet, and to discharge the functions conferred on him by or under this Constitution or any other written law.

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

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

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

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

Amendment  
of Article  
148.

27. Article 148 of the Constitution is hereby amended—

- (a) by inserting immediately after the word "are" appearing in Clause (1) thereof the words and commas ", unless the context otherwise requires,";
- (b) by substituting for the number "138" appearing in Clause (1) thereof the number "139";
- (c) by inserting immediately after the word "includes" appearing in Clause (2) thereof the words and comma "a Minister,".

Amendment  
of Article  
149.

28. Article 149 of the Constitution is hereby amended—

- (a) by inserting immediately after the word and comma "property," appearing in Clause (1) thereof the words "or to excite disaffection against the Yang di-Pertuan Agong or any Government in the Federation, or to promote feelings of ill-will and hostility between different races or classes of the population, or to procure the alteration, otherwise than by lawful means, of anything by law established,";

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(b) by substituting for Clause (2) thereof the following new Clause:

“(2) A law containing such a recital as is mentioned in Clause (1) shall, if not sooner repealed, cease to have effect if resolutions are passed by both Houses of Parliament annulling such law, but without prejudice to anything previously done by virtue thereof or to the power of Parliament to make a new law under this Article.”;

(c) by substituting for the word “subversion” appearing in the marginal note thereto the words “organised violence, etc.”.

**29.** Article 150 of the Constitution is hereby amended by substituting for Clause (3) thereof the following new Clause: Amendment of Article 150.

“(3) A Proclamation of Emergency and any ordinance promulgated under Clause (2) shall be laid before both Houses of Parliament and, if not sooner revoked, shall cease to have effect if resolutions are passed by both Houses annulling such Proclamation or ordinance, but without prejudice to anything previously done by virtue thereof or to the power of the Yang di-Pertuan Agong to issue a new Proclamation under Clause (1) or promulgate any ordinance under Clause (2).”.

**30.** Part XI of the Constitution is hereby amended by inserting therein, immediately after Article 150 of the Constitution, the following new Article: New Article 150A.

“Legislation against subversion.

150A. (1) Notwithstanding the provisions of Articles 149 and 150, an Act of Parliament may provide for the detention on the order of a Minister of any person for a period not exceeding two years if the Yang di-Pertuan Agong is satisfied with respect to that person that, with a view to preventing that person from acting in a manner prejudicial to the security of Malaya or any part thereof or the maintenance of public order therein or the maintenance therein of essential services, it is necessary to detain such person.

(2) No provision of any law made under this Article shall be invalid on the ground that it is inconsistent with any of the provisions of Article 5, 9 or 10, or would apart from this Article be outside the legislative powers of Parliament.

(3) In this Article “essential services” means any service, undertaking, manufacture or occupation

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declared by any Act of Parliament made in pursuance of this Article to be an essential service.”.

Amendment  
of Article  
151.

31. Article 151 of the Constitution is hereby amended by repealing paragraph (b) of Clause (1) thereof and substituting therefor the following new paragraph :

“(b) no citizen shall be detained under that law or ordinance for a period exceeding three months unless an advisory board constituted as mentioned in Clause (2) has considered any representations made by him under paragraph (a) and made recommendations thereon to the Yang di-Pertuan Agong.”.

Amendment  
of Article  
154.

32. Article 154 of the Constitution is hereby amended—

- (a) by deleting the words “but subject to Clause (3)” appearing in Clause (2) thereof;
- (b) by repealing Clause (3) thereof.

Amendment  
of Article  
174.

33. Article 174 of the Constitution is hereby amended by substituting for the word “five” appearing in the first line of Clause (4) thereof the word “ten”.

Amendment  
of the  
Second  
Schedule.

34. The Second Schedule to the Constitution is hereby amended—

- (a) by deleting the heading “*The registration authority*” appearing above section 3 thereof;
- (b) by deleting section 3 thereof;
- (c) by substituting for section 4 thereof the following new section :

“4. The Minister may delegate to any officer of the Federal Government or, with the consent of the Ruler or Governor of any State, to any officer of the Government of that State, any of his functions under Part III of this Schedule; but any person aggrieved by the decision of a person to whom the functions of the Minister are so delegated may appeal to the Minister.”;

- (d) by deleting section 5 thereof;
- (e) by deleting the words “*and registration authority*” appearing in the heading above section 6 thereof;
- (f) by substituting for section 6 thereof the following new section :

“6. Subject to Federal law, the Minister may make rules and prescribe forms for the purpose of the exercise of his functions under Part III and this Schedule.”;

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- (g) by deleting section 8 thereof;
- (h) by substituting for section 10 thereof the following new section:

“10. (1) It shall be the duty of the Minister to compile and maintain—

- (a) a register of citizens by registration;
- (b) a register of citizens by naturalisation;
- (c) a register of persons to whom certificates have been issued under Article 30;
- (d) a register of persons who have renounced or been deprived of citizenship under any provision of Part III;
- (e) an alphabetical index of all persons referred to in paragraphs (a), (b), (c) and (d) of this paragraph.

- (2) For the purposes of this section—

“citizen by registration” includes a citizen to whom any paragraph (other than paragraph (c)) of Clause (1) of Article 28 applies and a citizen by registration under Article 170;

“citizen by naturalisation” includes a citizen to whom paragraph (c) of Clause (1) of Article 28 applies.”;

- (i) by deleting sections 13, 14 and 15 thereof;
- (j) by substituting for section 16 thereof the following new section:

“16. (1) It shall be an offence punishable with imprisonment for two years or a fine of one thousand dollars or both for any person—

- (a) knowingly to make any false statement with a view to inducing the Minister to grant or refuse any application under Part III, including any application to determine whether the applicant is a citizen by operation of law; or
- (b) to forge or without lawful authority alter any certificate, whether issued or granted in the Federation or elsewhere, or without lawful authority use or have in his possession any certificate which has been so forged or altered; or

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- (c) to fail to comply with any requirement imposed upon him by any rules made under section 6 with respect to the delivering up of certificates;
  - (d) to personate or falsely represent himself to be or not to be a person to whom a certificate, whether issued in the Federation or elsewhere, has been duly issued or granted.
- (2) In this section "certificate" means—
- (a) any certificate of registration as a citizen granted under Article 15, 16, 17 or 170;
  - (b) any certificate of registration of a birth at a Malayan Consulate under paragraph (d) of Clause (1) of Article 14;
  - (c) any certificate of naturalisation granted under Article 19 or 20;
  - (d) any certificate of citizenship issued under Article 30."

Special  
provision  
relating to  
Article 145.

**35.** In the event of section 20 coming into operation at any date prior to the date of the coming into operation of section 26 Article 145 of the Constitution shall, until the coming into operation of section 26, be construed as if for the reference to the Judicial and Legal Service Commission appearing in Clause (1) thereof there were substituted a reference to the Public Services Commission.

Repeal.  
32 of 1959.  
of 1960.

**36.** The Citizenship Certificates (Offences) Ordinance, 1959, and section 3 of the Assistant Ministers Act, 1960, are hereby repealed.

#### EXPLANATORY STATEMENT

With the establishment of Parliament, in which the legislative authority of the Federation is vested, it is now possible to make permanent amendments to the Constitution, in accordance with the provisions of Article 159 thereof: and experience in the working of the Constitution since Merdeka Day has indicated the necessity of revising the Constitution in a number of particulars. While the above Bill deals with amendments to Articles and one Schedule of the Constitution *seriatim*, its intended effects will perhaps be the more clearly appreciated if they are dealt with under the various subjects affected, which are summarised hereunder.

**2. Elections.**—Under Article 119 of the Constitution a citizen who has attained the age of 21 on the qualifying date (i.e., the date by reference to which the electoral rolls are prepared or revised) and has been resident in a constituency for at least six months immediately

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preceding such date is entitled to vote in that constituency in any election to the Dewan Ra'ayat or the State Legislative Assembly, unless he is disqualified for being an elector. It has been found that the qualification requiring residence for six months is unsatisfactory, as it is extremely difficult during the period of registration or revision to ascertain the exact time during which a person has lived in any particular locality. Furthermore, it is hardly reasonable that a person should be deprived of his vote during any year merely because he has moved from one place to another, and has not been living in his new place of residence for a period of six months. An added complication arises, again, in relation to a person who moves from one State constituency to another within the same Parliamentary constituency: remaining qualified as a Parliamentary elector, he may cease to be a State elector, a fact which makes it impossible to keep the Parliamentary and State electoral rolls identical.

3. In consequence it is proposed that the United Kingdom practice of treating residence on a qualifying date in each year as an electoral qualification should be adopted: this would also import the doctrine of "constructive residence", so that a person temporarily absent from his normal place of residence could be regarded as eligible for registration as an elector in the constituency in which he normally resides.

4. At the same time it is proposed that citizens of 21 years or more should in certain circumstances be eligible to vote as absent voters. At present members of His Majesty's forces serving outside the Federation are disqualified from voting: a prohibition virtually disenfranchising the whole of the Royal Malayan Navy in Singapore, and other service personnel serving abroad, together with the staff of the Federation's diplomatic missions abroad.

5. The two foregoing amendments are incorporated in the new Article 119 proposed by *clause 14* of the Bill; and the categories of absent voter, and the machinery by which they may exercise their votes, will be provided by regulations under the Elections Ordinance, 1958, and laid before the Dewan Ra'ayat under that Ordinance.

6. *Responsibility for registration of Citizens.*—Under Part III and the *Second Schedule* to the Constitution two authorities are made responsible for citizenship: the Election Commission being responsible for the registration of wives and children under Article 15, of persons born in the Federation before Merdeka Day under Article 16, and of persons resident in the Federation on Merdeka Day under Article 17; and the Minister of the Interior for naturalisation, termination and deprivation of citizenship, under Articles 23 to 27. This dual responsibility exists under the *Second Schedule*, which can be amended by less formal means than most of the other provisions of the Constitution.

7. Prior to Merdeka Day citizenship was the responsibility of the Government, as it is, in general in all other territories; and while the present dual responsibility for citizenship has succeeded in the immediate objective of registering as large a number of new citizens between Merdeka Day and the first general election last year as was possible, it is now considered administratively more convenient and in other ways more desirable to transfer the responsibilities of the Election Commission in relation to registration of citizens to the Federal Government. This transfer is proposed by the provisions of *Clauses 2 and 34* of the above Bill.

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8. *The Public Services.*—At present there exists, in addition to the Armed Forces Council, several separate Service Commissions: the Public Services Commission, with jurisdiction over the general public service of the Federation and several States; the Police Service Commission, with jurisdiction over the police service; the Judicial and Legal Service Commission, with jurisdiction over the judicial and legal service; and the Railway Service Commission, with jurisdiction over the railway service. There is some lack of uniformity in the law relating to these Commissions, and in certain services, such as the armed forces, police and railway services, wide powers of discipline are vested in the official heads of the services, subject to appeal to the appropriate Council or Commission. In respect of the other services duties of the Commissions extend to the appointment, confirmation, emplacement on the permanent or pensionable establishment, promotion, transfer and exercise of disciplinary control over members of the services to which their jurisdictions extend.

9. It is proposed, by an amendment to Article 144 (*see Clause 25*) to enable Federal laws, or regulations made by His Majesty, to provide for the exercise by a public officer or board of public officers of the powers of the various Service Commissions: but such powers may only be exercised by officers to whom the jurisdiction of such Commission extends, and will not extend to first appointments to the public service, or to substantive promotions; further, when disciplinary powers are so exercised, there will be a right of appeal to the appropriate Commission.

10. A further amendment is also proposed to Article 132 (*see Clause 17*) by virtue of which appointment, etc., to such diplomatic posts as His Majesty may designate will be excepted from the provisions of Part X of the Constitution, in the same way as Ministerial appointments, etc. [*see Article 123 (3)*] are excepted from that Part. At the same time it is proposed [*see Clause 17 (b)*] to make it clear that public officers hold office at the pleasure of His Majesty or, in the case of the State public services, of the Ruler or Governor of the State. This in no way affects the provisions of the Constitution requiring that disciplinary functions in respect of members of the public services are to be exercised by, or subject to an appeal to, the appropriate services Commission.

11. In addition to the foregoing amendments, it is proposed that the constitution of the Armed Forces Council and the Police Service Commission (both bodies dealing with forces under strict discipline) should be amended. Concerning the Armed Forces Council it is proposed (*Clause 19*) that for flexibility and administrative convenience specific references to the Commanders of the Federation Navy and Air Force should be deleted, and that it should be possible to appoint two additional civilian members, in lieu of one such member, as at present. As for the Police Service Commission, it is proposed (*Clause 22*) that this should be substantially reconstituted with the name of Police Force Commission, under the chairmanship of the Minister charged with responsibility for the police: the other members consisting of the Commissioner of Police, the Secretary to the Ministry charged with responsibility for the police, a member of the Public Services Commission and two other members, all the three latter members being appointed by His Majesty. Minor consequential amendments are set out in *Clauses 24 and 27*.

12. Judges of the Supreme Court who, at the present time, are appointed [*see Article 122 (3) of the Constitution*] by His Majesty after consulting the Conference of Rulers, and acting on the recommendation

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of the Judicial and Legal Service Commission. It is proposed, by *Clause 15* of the Bill, that judges should be appointed by His Majesty on the advice of the Prime Minister, and after consulting the Conference of Rulers and considering the advice of the Chief Justice. This method of appointment of judges has been followed for many years in most countries in which our system of justice obtains. In view of these proposals it is considered unnecessary to retain a separate Commission in respect of the judicial and legal service, and in consequence it is proposed that the Judicial and Legal Service Commission should be abolished (*Clause 20*) and its functions transferred to the Public Services Commission, with consequential amendments to Part IX of the Constitution. A further consequential amendment is proposed to Article 125 (*see Clause 16*) by the deletion of the present references to the Judicial and Legal Service Commission appearing therein. Minor consequential amendments are also contained in *Clauses 18 and 21 (a)*.

13. *National Council for Local Government.*—By *clause 12* it is proposed that a National Council for Local Government be established, consisting of a Minister as chairman, one representative from each of the States, to be appointed by the Ruler or Governor of the State, and up to ten representatives of the Federal Government. It is proposed that the Council should meet at least once in each year, and that it should have two main functions: first, the formulation of a national policy for the promotion, development and control of local government throughout the Federation, and for the administration of any laws relating thereto; and second, advising the Federal and State Governments on all legislation dealing with local government, which must be submitted to the Council before enactment. In this manner the activities of the State Governments in legislating in exercise of their powers under item 4 of the State List and those of the Federal Government in legislating on local government for the purposes of uniformity of law and policy under Article 76 (4) of the Constitution will be co-ordinated through a national body.

14. *Special Powers Against Subversion.*—In Part XI of the Constitution are set out the special powers conferred on His Majesty and Parliament in relation to subversion, grave emergencies, etc. Article 149 enables Parliament to pass an Act whenever it is satisfied that action has been taken or threatened by any substantial body of persons, whether inside or outside the Federation, to cause, or to cause a substantial number of citizens to fear organised violence against persons or property. Any such Act of Parliament may override the provisions of Article 5 (dealing with liberty of the person), 9 (dealing with prohibition of banishment and freedom of movement) or 10 (dealing with freedom of speech, assembly and association), and by virtue of Article 149 (2) is limited in extent to a period of one year. It is now proposed, by *Clause 28*, that any such Act should not be so limited in extent, but that it should be capable of annulment at any time, by resolution of both Houses of Parliament. Further, the grounds on which a law may be enacted under the Article have been extended to cover the matters referred to in *Clause 28 (a)*.

15. Under Article 150 His Majesty may issue a Proclamation of Emergency, if he is satisfied that a grave emergency exists whereby the security or economic life of the Federation or any part thereof is threatened, whether by war or external aggression or internal disturbance. If Parliament is not sitting at the time of issue of any such Proclamation His Majesty may legislate by means of ordinances: but any such Proclamation and ordinance must be laid before Parliament

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and cease to have effect within, respectively, two months of issue and fifteen days from the date of tabling, unless approved by resolution of each House of Parliament. It is considered that the Article should be amended (*see Clause 29*) in order to permit a Proclamation or ordinance to continue in force until revoked by His Majesty or annulled by resolution of both Houses of Parliament.

16. Under the present Constitution no law providing for preventive detention can be promulgated, except under Article 149 or 150. It is considered that in view of the present danger of subversion in the Federation, some legal provision should exist, in the event of the cesser of the Emergency Regulations Ordinance, 1948, under Article 163, for a power of preventive detention to be created under the authority of an Act of Parliament, and subject to constitutional safeguards. Accordingly it is proposed, by *Clause 30*, to add to Part XI a new Article, under which an Act of Parliament may provide for the detention on the order of a Minister of any person for a period of up to two years, if His Majesty is satisfied that it is necessary to detain any such person, with a view to preventing him from acting in a manner prejudicial to the security of Malaya or any part thereof, or the maintenance of public order or essential services in Malaya. The safeguards contained in Article 151 will, however, apply to any such detention: but it is proposed, by *Clause 31*, to amend that Article in order to place the final responsibility for release or continued detention upon the Cabinet.

17. *The Attorney-General.*—At the present time the Attorney-General is appointed by His Majesty after consultation with the Judicial and Legal Service Commission from among the members of the judicial and legal service. It is considered that greater latitude may be desirable in the future in appointments to the office of Attorney-General, and accordingly it is proposed, by *Clause 26*, that His Majesty should make such appointment on the advice of the Prime Minister: although any person so appointed must, as at present, be qualified to be a judge of the Supreme Court. In the event of the operation of this Clause being suspended, *Clause 35* substitutes in the present Article 145 (1) a reference to the Public Services Commission, in lieu of a reference to the Judicial and Legal Service Commission (*see paragraph 9, above*).

18. *Assistant Ministers.*—Legislation has already been enacted on the subject of Assistant Ministers, but it is considered that express provision for their appointment, etc., should appear in the Constitution itself. Such provision is made by *Clauses 6, 10 and 17*, together with a consequential repeal of section 3 of the Assistant Ministers Act, 1960 (dealing with the power of appointment of Assistant Ministers) in *Clause 36*.

19. *Powers of His Majesty.*—By the Constitution (Temporary Amendment) Ordinance, 1958, Article 34 of the Constitution was amended in order to enable His Majesty to amend the Constitution of the State of which he is Ruler, for the purpose of bringing that Constitution into accord with the Federal Constitution, and of appointing a Regent or member of a Council of Regency in place of any person who has died or become incapacitated. Such amendment was necessary, because otherwise His Majesty could not, by Article 34 (1), exercise any functions as Ruler of his State, except those of Head of the Muslim religion. The amendment was, and could only be, of a temporary nature, and it is now proposed, by *Clause 3*, to import it permanently into the Constitution, the power of amendment of the State Constitution being, however, not restricted (as under the present temporary amendment) to the amendments consequential upon Article 71 and the Eighth Schedule to the Constitution.

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20. At the same time it is proposed to make it clear that His Majesty may, as Head of the Muslim religion in the States of Malacca and Penang, exercise any prerogative of mercy in relation to sentences imposed by Muslim courts in those States. This amendment is contained in *Clause 4*. A minor amendment is also contained in *Clause 23*, which assimilates the method of appointment of members of the Railway Service Commission to that relating to the method of appointment of members of the Public Services Commission, who are appointed by His Majesty, acting in his discretion but after considering the advice of the Prime Minister, and after consultation with the Conference of Rulers.

21. *President of the Senate and Mr. Speaker.*—In theory it is possible for the President of the Dewan Negara and the Speaker of the Dewan Ra'ayat to be members of a State Legislative Assembly. This is considered undesirable and in consequence it is proposed, by *Clauses 8 and 9*, to provide that a member of a State Legislative Assembly who is elected to either of these offices must resign his seat in the Assembly before exercising any of the functions of the office.

22. *The Election Commission.*—It is considered desirable to ensure the complete independence of this Commission, which conducts Parliamentary and State elections, and is charged with responsibility for delimiting constituencies and preparing and revising electoral rolls (see Article 113), by providing that members of the Commission may be removed from office if they engage in any paid office or employment outside the duties of their office as members of the Commission, or if they are undischarged bankrupts. This amendment, set out in *Clause 13*, enlarges the present law, under which a person is disqualified for appointment as an Election Commissioner only if he holds a whole-time office in the public services, or is a member of either House of Parliament or of the Legislative Assembly of a State.

23. *Disqualification for membership of Parliament.*—Under Article 48 of the Constitution a person is disqualified for being a member of either House of Parliament if, *inter alia*, he has been convicted of an offence by a court of law in the Federation and sentenced to imprisonment for not less than two years, unless he has received a free pardon in respect of such offence, or His Majesty removes the disqualification, or unless at least five years has elapsed since the date on which he was released from custody. It is proposed, by *Clause 7*, to amend this provision in order to disqualify any person who has been sentenced to imprisonment for not less than one year, or to a fine of not less than two thousand dollars.

24. *The Federal Capital.*—Under Article 154 (3) Parliament's power to legislate on local government and town planning in, and the water supply to the Federal capital of Kuala Lumpur, and on rates in the Federal capital is suspended until a date has been appointed by His Majesty with the concurrence of His Highness the Sultan of Selangor in pursuance of arrangements made between the Federal Government and the Government of Selangor for the establishment elsewhere of the State capital of Selangor. It is now proposed, by *Clause 32*, to delete this provision.

25. *Miscellaneous.*—The opportunity has also been taken in the above Bill to make several minor amendments to the Constitution, particularly in relation to the Second Schedule, containing the "supplementary provisions relating to citizenship". It is proposed, by *Clause 34*, that the penal provisions in section 16 should be extended to cover *inter*

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*alia* the offences contained in the Citizenship Certificates (Offences) Ordinance, 1959 (which, it is proposed should be repealed by *Clause 36*), and that references to the registration authority be (consequent on *Clause 2*) deleted.

26. By *Clause 5* it is proposed to amend Article 43, to make it clear that a Minister may be dismissed from the Cabinet by His Majesty, acting on the advice of the Prime Minister: so making the method of dismissal similar to that of appointment; and by *Clause 7* it is proposed to amend Article 48 (1) (*d*), in order to include a reference to an election to a State Legislative Assembly: the consequence of the amendment being to disqualify for membership of either House of Parliament any person who, having been nominated for election to a State Legislative Assembly (as well as either House of Parliament), or having acted as election agent to a person so nominated, has failed to lodge any return of election expenses within the time and in the manner prescribed by law.

27. It is also proposed, by *Clause 33*, to amend Article 174 (4) of the Constitution. Under this Article a person may, within five years of Merdeka Day, be appointed to be a judge of the Supreme Court, notwithstanding that he is not qualified for such appointment under Article 123, if he is and has been for not less than five years qualified to practise as an advocate in a Court in any Commonwealth country having unlimited jurisdiction in civil or criminal matters. One of the several qualifications required by Article 123 is ten years' membership of the judicial and legal service of the Federation. Since this service was established only on Merdeka Day it is considered that the period of five years, referred to in Article 174 (4), should be extended to ten years.

28. Several minor amendments are proposed by *Clause 11*, which deletes an erroneous cross-reference in Article 76 (3), and by *Clause 21 (b)*, which is designed to clarify two confusing alternatives in Article 139 (1) of the Constitution.

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