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About the appointment of an MB

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THE process of appointing the new Menteri Besar of Selangor has raised some interesting constitutional issues. Discussion of the issues involved, however, has been more than somewhat confused due to a misunderstanding of the process itself.

To begin with, several political leaders have repeatedly said that the choice of the Menteri Besar or Chief Minister of a State is the prerogative of the Prime Minister. Constitutionally, this is not so. The Prime Minister has no such prerogative either under the Federal Constitution or under the State Constitutions. He certainly had no say whatsoever in the appointments of the present Menteri Besar of Kelantan and the Chief Minister of Sarawak.

The confusion partly arises from the fact that our system of government is based on the Westminster model thus inviting comparisons with the practice in Britain in the appointment of the Prime Minister of that country.

To a certain extent the comparisons are valid because the process of appointing the Prime Minister as provided in the Federal Constitution is almost similar to that of Britain.

At the recently concluded British general election, the leader of the Conservative Party was Mr John Major, the incumbent Prime Minister and the leader of the Labour Party was Mr Tony Blair.

They were the declared leaders of their party when they went to the polls. The leader of the party obtaining a majority of members in the House of Commons is appointed by the Queen to be the Prime Minister. Hence the appointment of Blair as Prime Minister.

In Malaysia, Datuk Seri Dr Mahathir Mohamad, as the declared leader of the Barisan Nasional, having won a majority in the last general election to the Dewan Rakyat was similarly appointed Prime Minister by the Yang DiPertuan Agong.

At State level the constitutional provision to appoint a Menteri Besar or Chief Minister is the same as that of the Prime Minister but in practice it is not necessarily so. It was the same in the case of Kelantan and Sarawak because in these two States there is a declared leader of the majority political party at State level.

In States where Umno is the major component of the BN government, political fortunes are much influenced and determined by Umno. This has a lot to do with the party structure of Umno itself. In Umno, leaders are elected at branch, division and national levels but not at State level. There is therefore no declared State party leader when the State goes to the polls.

Because Umno is the major component of the BN, the Umno President is also the leader of the BN. As there is no State party leader as such in Umno States, the leader of the BN is the acknowledged and declared party leader to all intents and purposes at State level.

The State Constitution provides that the Ruler may act in his discretion in the appointment of the Menteri Besar who in his judgment is likely to command the confidence of the majority of the members of the State Legislative Assembly.

It follows that the Ruler does not have to consult anybody or he may consult anybody but in the parliamentary democracy we have evolved over the years, the Ruler consults the leader of the majority party. In the

case of Selangor that leader is Dr Mahathir in his capacity as the leader of the BN and not as Prime Minister.

The current constitutional situation in Selangor is not unlike that in Britain in the 1950s. In 1956 Anthony Eden, the British Prime Minister supported the Anglo-French invasion of Egypt in collusion with Israel to seize control of the Suez Canal. The Egyptians retaliated by sinking the ships already in the canal which rendered the canal no longer navigable. Faced with international and domestic hostility to his policy, Anthony Eden resigned in 1957.

The Deputy Prime Minister at the time was Rab Butler but his own party passed him over. Lord Salisbury advised the Queen to appoint Harold Macmillan instead. The choice of Macmillan was a complete surprise to everybody. He is remembered for coining the phrase "little local difficulties" when confronted with a political problem.

And so it may come to pass that Datuk Abu Hassan Omar, by the Grace of God and Dr Mahathir, will be the new Menteri Besar of Selangor.

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