

Volume V
No. 13



Tuesday
20th August, 1963

PARLIAMENTARY DEBATES

DEWAN RA'AYAT
(HOUSE OF REPRESENTATIVES)

OFFICIAL REPORT

CONTENTS

BILL:

Malaysia Bill (debate continued) [Col. 1335]

EXEMPTED BUSINESS (Motion) [Col. 1386]

FEDERATION OF MALAYA
DEWAN RA'AYAT
(HOUSE OF REPRESENTATIVES)

Official Report

Fifth Session of the First Dewan Ra'ayat

Tuesday 20th August, 1963

The House met at Ten o'clock a.m.

PRESENT:

The Honourable Mr Speaker, DATO' HAJI MOHAMED NOAH BIN OMAR, P.M.N., S.P.M.J., D.P.M.B., P.I.S., J.P.

" the Prime Minister, Minister of External Affairs and Minister of Information and Broadcasting, Y.T.M. TUNKU ABDUL RAHMAN PUTRA AL-HAJ, K.O.M. (Kuala Kedah).

" the Deputy Prime Minister, Minister of Defence and Minister of Rural Development, TUN HAJI ABDUL RAZAK BIN DATO' HUSSAIN, S.M.N. (Pekan).

" the Minister of Internal Security and Minister of the Interior, DATO' DR ISMAIL BIN DATO' HAJI ABDUL RAHMAN, P.M.N. (Johor Timor).

" the Minister of Finance, ENCHE' TAN SIEW SIN, J.P. (Melaka Tengah).

" the Minister of Works, Posts and Telecommunications, DATO' V. T. SAMBANTHAN, P.M.N. (Sungei Siput).

" the Minister without Portfolio, DATO' SULEIMAN BIN DATO' HAJI ABDUL RAHMAN, P.M.N. (Muar Selatan).

" the Minister of Transport, DATO' HAJI SARDON BIN HAJI JUBIR, P.M.N. (Pontian Utara).

" the Minister without Portfolio, DATO' ONG YOKE LIN, P.M.N. (Ulu Selangor).

" the Minister of Agriculture and Co-operatives, ENCHE' MOHAMED KHIR BIN JOHARI (Kedah Tengah).

" the Minister of Labour and Social Welfare, ENCHE' BAHAMAN BIN SAMSUDIN (Kuala Pilah).

" the Minister of Health, ENCHE' ABDUL RAHMAN BIN HAJI TALIB (Kuantan).

" the Minister of Commerce and Industry, DR LIM SWEE AUN, J.P. (Larut Selatan).

" the Minister of Education, TUAN HAJI ABDUL HAMID KHAN BIN HAJI SAKHAWAT ALI KHAN, J.M.N., J.P. (Batang Padang).

" the Assistant Minister of the Interior, ENCHE' CHEAH THEAM SWEE (Bukit Bintang).

" the Assistant Minister of Labour and Social Welfare, ENCHE' V. MANICKAVASAGAM, J.M.N., P.J.K. (Klang).

The Honourable the Assistant Minister of Commerce and Industry,
 TUAN HAJI ABDUL KHALID BIN AWANG OSMAN
 (Kota Star Utara).

„ the Assistant Minister of Information and Broadcasting
 ENCHE' MOHAMED ISMAIL BIN MOHAMED YUSOF (Jerai).

„ ENCHE' ABDUL AZIZ BIN ISHAK (Kuala Langat).

„ ENCHE' ABDUL GHANI BIN ISHAK, A.M.N. (Melaka Utara).

„ ENCHE' ABDUL RAUF BIN A. RAHMAN, P.J.K., K.M.N.
 (Krian Laut).

„ ENCHE' ABDUL RAZAK BIN HAJI HUSSIN (Lipis).

„ ENCHE' ABDUL SAMAD BIN OSMAN (Sungei Patani).

„ TOH MUDA HAJI ABDULLAH BIN HAJI ABDUL RAOF
 (Kuala Kangsar).

„ TUAN HAJI ABDULLAH BIN HAJI MOHD. SALLEH, A.M.N., P.I.S.
 (Segamat Utara).

„ TUAN HAJI AHMAD BIN ABDULLAH (Kota Bharu Hilir).

„ ENCHE' AHMAD BIN ARSHAD, A.M.N. (Muar Utara).

„ ENCHE' AHMAD BIN MOHAMED SHAH, S.M.J.
 (Johor Bahru Barat).

„ TUAN HAJI AHMAD BIN SAAID (Seberang Utara).

„ ENCHE' AHMAD BIN HAJI YUSOF, P.J.K. (Krian Darat).

„ TUAN HAJI AZAHARI BIN HAJI IBRAHIM
 (Kubang Pasu Barat).

„ ENCHE' AZIZ BIN ISHAK (Muar Dalam).

„ DR BURHANUDDIN BIN MOHD. NOOR (Besut).

„ ENCHE' CHAN CHONG WEN, A.M.N. (Kluang Selatan).

„ ENCHE' CHAN SIANG SUN (Bentong).

„ ENCHE' CHAN SWEE Ho (Ulu Kinta).

„ ENCHE' CHAN YOON ONN (Kampar).

„ ENCHE' CHIN SEE YIN (Seremban Timor).

„ DATIN FATIMAH BINTI HAJI HASHIM, P.M.N.
 (Jitra-Padang Terap).

„ ENCHE' GEH CHONG KEAT, K.M.N. (Penang Utara).

„ ENCHE' HAMZAH BIN ALANG, A.M.N. (Kapar).

„ ENCHE' HANAFI BIN MOHD. YUNUS, A.M.N. (Kulim Utara).

„ ENCHE' HARUN BIN ABDULLAH, A.M.N. (Baling).

„ ENCHE' HARUN BIN PILUS (Trengganu Tengah).

„ TUAN HAJI HASAN ADLI BIN HAJI ARSHAD
 (Kuala Trengganu Utara).

„ TUAN HAJI HASSAN BIN HAJI AHMAD (Tumpat).

„ ENCHE' HASSAN BIN MANSOR (Melaka Selatan).

„ ENCHE' HUSSEIN BIN TO' MUDA HASSAN (Raub).

„ ENCHE' HUSSEIN BIN MOHD. NOORDIN, A.M.N., P.J.K. (Parit).

„ TUAN HAJI HUSSAIN RAHIMI BIN HAJI SAMAN
 (Kota Bharu Hulu).

„ ENCHE' IBRAHIM BIN ABDUL RAHMAN (Seberang Tengah).

„ ENCHE' ISMAIL BIN IDRIS (Penang Selatan).

The Honourable ENCHE' ISMAIL BIN HAJI KASSIM (Kuala Trengganu Selatan).
 ENCHE' KANG KOCK SENG (Batu Pahat).
 ENCHE' K. KARAM SINGH (Damansara).
 CHE' KHADIJAH BINTI MOHD. SIDEK (Dungun).
 ENCHE' KHONG KOK YAT (Batu Gajah).
 ENCHE' LEE SAN CHOON, K.M.N. (Kluang Utara).
 ENCHE' LEE SECK FUN (Tanjong Malim).
 ENCHE' LEE SIOK YEW, A.M.N. (Sepang).
 ENCHE' LIM JOO KONG, J.P. (Alor Star).
 ENCHE' LIM KEAN SIEW (Dato Kramat).
 ENCHE' LIU YOONG PENG (Rawang).
 ENCHE' T. MAHIMA SINGH, J.P. (Port Dickson).
 ENCHE' MOHAMED BIN UJANG (Jelebu-Jempol).
 ENCHE' MOHAMED Abbas bin AHMAD (Hilir Perak).
 ENCHE' MOHAMED ASRI BIN HAJI MUDA (Pasir Puteh).
 ENCHE' MOHAMED NOR BIN MOHD. DAHAN (Ulu Perak).
 DATO' MOHAMED HANIFAH BIN HAJI ABDUL GHANI, P.J.K. (Pasir Mas Hulu).
 ENCHE' MOHAMED YUSOF BIN MAHMUD, A.M.N. (Temerloh).
 TUAN HAJI MOKHTAR BIN HAJI ISMAIL (Perlis Selatan).
 ENCHE' NG ANN TECK (Batu).
 TUAN HAJI OTHMAN BIN ABDULLAH (Tanah Merah).
 ENCHE' OTHMAN BIN ABDULLAH, A.M.N. (Perlis Utara).
 ENCHE' QUEK KAI DONG, J.P. (Seremban Barat).
 TUAN HAJI REDZA BIN HAJI MOHD. SAID, J.P. (Rembau-Tampin).
 ENCHE' SEAH TENG NGIAB (Muar Pantai).
 ENCHE' D. R. SEENIVASAGAM (Ipoh).
 ENCHE' S. P. SEENIVASAGAM (Menglembu).
 TUAN SYED ESA BIN ALWEE, J.M.N., S.M.J., P.I.S. (Batu Pahat Dalam).
 TUAN SYED HASHIM BIN SYED AJAM, A.M.N., P.J.K., J.P. (Sabak Bernam).
 TUAN SYED JA'AFAR BIN HASAN ALBAR, J.M.N. (Johor Tenggara).
 ENCHE' TAJUDIN BIN ALI, P.J.K. (Larut Utara).
 ENCHE' TAN CHENG BEE, J.P. (Bagan).
 ENCHE' TAN PHOCK KIN (Tanjong).
 ENCHE' TAN TYE CHEK (Kulim-Bandar Bahru).
 TENGKU BESAR INDERA RAJA IBNI AL-MARHUM SULTAN IBRAHIM, D.K., P.M.N. (Ulu Kelantan).
 DATO' TEOH CHZE CHONG, D.P.M.J., J.P. (Segamat Selatan).
 ENCHE' TOO JOON HING (Teluk Anson).
 ENCHE' V. VEERAPPEN (Seberang Selatan).
 WAN MUSTAPHA BIN HAJI ALI (Kelantan Hilir).
 WAN SULAIMAN BIN WAN TAM, P.J.K. (Kota Star Selatan).

The Honourable WAN YAHYA BIN HAJI WAN MOHAMED, K.M.N. (Kemaman).

- „ ENCHE' YAHYA BIN HAJI AHMAD (Bagan Datoh).
- „ ENCHE' YEOH TAT BENG (Bruas).
- „ ENCHE' YONG WOO MING (Sitiawan).
- „ PUAN HAJAH ZAIN BINTI SULAIMAN, J.M.N., P.I.S. (Pontian Selatan).
- „ TUAN HAJI ZAKARIA BIN HAJI MOHD. TAIB (Langat).
- „ ENCHE' ZULKIFLEE BIN MUHAMMAD (Bachok).

ABSENT:

The Honourable ENCHE' AHMAD BOESTAMAM (Setapak).

- „ ENCHE' V. DAVID (Bungsar).
- „ ENCHE' MOHAMED DAHARI BIN HAJI MOHD. ALI (Kuala Selangor).
- „ NIK MAN BIN NIK MOHAMED (Pasir Mas Hilir).
- „ ENCHE' TAN KEE GAK (Bandar Melaka).

IN ATTENDANCE:

The Honourable the Minister without Portfolio, ENCHE' KHAW KAI-BOH, P.J.K.

PRAYERS

(Mr Speaker *in the Chair*)

BILL
THE MALAYSIA BILL

(Select Committee)

Mr Speaker: Honourable Members, last night, before I adjourned the sitting of the House, the Member for Daman-sara asked for a Division on the question that the Bill be referred to a

Select Committee. Now, I want to know whether he wants to proceed with that or not.

Enche' K. Karam Singh (Daman-sara): Mr Speaker, Sir, we do ask for a Division.

Mr Speaker: Honourable Members who want a Division please rise in their seats. (*More than 15 Members rise in their seats*).

House divides: Ayes—17; Noes—67; Abstentions—Nil.

AYES

Tuan Haji Ahmad bin Abdullah	Tuan Haji Hussain Rahimi bin Haji Saman	Enche' S. P. Seenivasagam
Dr Burhanuddin bin Mohd. Noor	Enche' K. Karam Singh	Enche' Tan Phock Kin
Enche' Chan Yoon Onn	Che' Khadijah binti Mohd. Sidek	Enche' Too Joon Hing
Enche' Chan Swee Ho	Enche' Mohamed Asri bin Haji Muda	Enche' V. Veerappen
Enche' Harun bin Pilus	Enche' D. R. Seenivasagam	Wan Mustapha bin Haji Ali
Tuan Haji Hassan bin Haji Ahmad		Enche' Zulkiflee bin Muhammad

NOES

Tonku Abdul Rahman Putra Al-Haj	Enche' Mohamed Khir bin Johari	Enche' Abdul Samad bin Osman
Tun Haji Abdul Razak bin Dato' Hussain	Enche' Bahaman bin Samsudin	Toh Muda Haji Abdullah bin Haji Abdul Raaf
Dato' Dr Ismail bin Dato' Haji Abdul Rahman	Tuan Haji Abdul Hamid Khan bin Haji Sakhawat Ali Khan	Tuan Haji Abdullah bin Mohd. Salleh
Enche' Tan Siew Sin	Enche' Cheah Theam Swee	Enche' Ahmad bin Arshad
Dato' V. T. Sambanthan	Enche' V. Manickavasagam	Enche' Ahmad bin Mohamed Shah
Dato' Suleiman bin Dato' Haji Abdul Rahman	Enche' Mohamed Ismail bin Mohamed Yusof	Tuan Haji Ahmad bin Saaid
Dato' Haji Sardon bin Haji Jubir	Enche' Abdul Ghani bin Ishak	Enche' Ahmad bin Haji Yusof
Dato' Ong Yoke Lin	Enche' Abdul Rauf bin A. Rahman	Enche' Aziz bin Ishak
	Enche' Abdul Razak bin Haji Husin	Enche' Chan Chong Wen

Enche' Chan Siang Sun
 Datin Fatimah binti Haji Hashim
 Enche' Geh Chong Keat
 Enche' Hamzah bin Alang
 Enche' Hanafi bin Mohd. Yunus
 Enche' Harun bin Abdullah
 Enche' Hassan bin Mansor
 Enche' Hussein bin To' Muda
 Hassan
 Enche' Hussein bin Mohd.
 Nordin
 Enche' Ibrahim bin Abdul
 Rahman
 Enche' Ismail bin Idris
 Enche' Ismail bin Haji Kassim
 Enche' Kang Kock Seng
 Enche' Lee San Choon

Enche' Lee Seck Fun
 Enche' Lim Joo Kong
 Enche' T. Mahima Singh
 Enche' Mohamed bin Ujang
 Enche' Mohamed Abbas bin
 Ahmad
 Enche' Mohamed Nor bin Mohd.
 Dahan
 Enche' Mohamed Yusof bin
 Mahmud
 Tuan Haji Mokhtar bin Haji
 Ismail
 Tuan Haji Othman bin Abdullah
 Enche' Othman bin Abdullah
 Enche' Quek Kai Dong
 Tuan Haji Redza bin Haji Mohd.
 Said
 Enche' Seah Teng Ngiah

Tuan Syed Esa bin Alwee
 Tuan Syed Hashim bin Syed
 Ajam
 Tuan Syed Ja'afar bin Hasan
 Albar
 Enche' Tajudin bin Ali
 Enche' Tan Cheng Bee
 Enche' Tan Tye Chek
 Tengku Besar Indra Raja ibni
 Sultan Ibrahim
 Dato' Teoh Chze Chong
 Wan Suleiman bin Wan Tam
 Wan Yahya bin Haji Wan
 Mohamed
 Enche' Yahya bin Haji Ahmad
 Enche' Yong Woo Ming
 Puan Hajjah Zain binti Sulaiman
 Tuan Haji Zakaria bin Haji
 Mohd. Taib

ABSTENTIONS

Nil

Question that the Bill be referred to a Select Committee accordingly negatived.

Bill committed to a Committee of the whole House.

House immediately resolved itself into a Committee of the whole House.

Bill considered in Committee.

(Mr Speaker *in the Chair*)

Clauses 1 to 5—

Enche' Tan Phock Kin (Tanjong): Mr Chairman, Sir, I would like to refer to Clause 3, which states that "the Constitution shall be amended", and I think it arose from the preamble which states that it is necessary to amend the Constitution. I submit here, Sir, that, in view of the fact that the amendment to the Constitution will in effect change the whole basis of our present Constitution to an extent not envisaged by any of the member States when they first joined the Federation—and that is a very important consideration—it is wrong for the Constitution to be amended. I disagree that to give effect to the Agreement it is necessary to amend the Constitution, because I submit that giving effect to the Agreement can be done without amending the Constitution. It can be done by submitting a new Constitution for consideration by all the member States. I feel, Sir, that that will be a more proper way of doing it, because, as we are all aware,

any amendment which is going to change fundamentally the basis of the Constitution must be done with the agreement of all the member States. However, Sir, as far as the provisions of our Federal Constitution are concerned, they do not envisage that any amendment will be of such a fundamental nature; and I, therefore, feel, Sir, that the Government is trying to pull a fast one over the people of this country by introducing this amendment and by stating that to give effect to the Agreement it is necessary to amend the Constitution. I, therefore, feel that, in view of my explanation, the Government should agree to withdraw this amendment and seek to make the necessary changes by submitting a new Constitution for consideration.

Enche' Mohamed Asri bin Haji Muda (Pasir Puteh): Tuan Pengurus, bagi pehak saya merasa bahawa di-dalam kita hendak meminda Perlembagaan ini yang merupakan satu rombakan kapada kedudukan negara kita dan merupakan satu pindaan yang pokok di-dalam bentuk negara kita ini, maka sangat-lah patut dan mustahak bahawa sabelum pindaan di-lakukan, maka kapada Kerajaan Negeri di-dalam Persekutuan Tanah Melayu ini, mereka itu hendak-lah di-beri peluang bersama bagi mengkaji tentang soal² yang besar, supaya pembentukan bagi sa-buah negara pada masa akan datang akan dapat di-adakan perhubungan yang baik di-antara tiap² Negeri

yang menjadi unit di-dalam Persekutuan pada masa akan datang.

Sa-memang-lah kalau di-pandang sa-pintas lalu pun, Tuan Pengerusi, bahawa negeri² di-dalam Borneo itu, saperti yang terkandong dalam Clause 4 cheraian (2) (b) yang menunjukkan dua buah Negeri dalam Borneo itu, di-beri kesempatan yang chukup luas bagi menchampori perundingan dalam sabuah negara baharu, akan tetapi bagaimana-kah kedudukan-nya bagi Negeri² dalam Persekutuan Tanah Melayu saperti yang terkandong di-dalam cheraian (2) (a) yang merupakan unit di-dalam negara Persekutuan Tanah Melayu ini. Kalau kita perhatikan kepada bentuk bendera baharu bagi negara Malaysia yang akan di-bentuk pada masa akan datang ini yang mempunyai gambar bintang 14 buchu yang erti-pya tiap² satu buchu itu merupakan satu unit di-dalam negara Persekutuan, ma'ana-nya tiap² negeri di-dalam Persekutuan Tanah Melayu ini ada-lah merupakan satu unit, kalau dia merupakan satu unit maka berma'ana-lah dia akan sama dengan unit² yang lain saperti Sabah, Sarawak dan Singapura. Jadi kalau sa-kira-nya hendak di-sifatkan semua negeri² di-dalam Persekutuan Tanah Melayu ini sa-bagai satu unit sahaja, maka tentu-lah Negeri² di-Borneo itu pun hendak di-sifatkan juga sa-bagai satu unit, saperti Sabah dan Sarawak, dan ada-lah di-harap perkara ini tidak akan berlaku. Jadi, patut-lah pada hari ini di-beri peluang kepada Negeri² di-dalam Persekutuan Tanah Melayu ini mengkaji sama di-dalam rundingan bagi pembentukan Malaysia ini.

Enche' K. Karam Singh (Daman-sara): Mr Chairman, Sir, if we read the preamble we will find that the premises are stated: firstly, that on behalf of the Federation it has been agreed, among other things, that the British colonies of North Borneo and Sarawak and the State of Singapore shall be federated with the existing States of the Federation as the States of Sabah, Sarawak and Singapore, and that the name of the Federation should thereafter be Malaysia; secondly, that it is necessary to amend the Constitution of

of those States; and, thirdly, the Conference of Rulers is mentioned as having consented to the passing of this Act. And it straightforwardly goes on to say that this Malaysia Bill be now enacted.

Mr Chairman, Sir, there is a very fundamental defect in this preamble which invalidates the entire Bill, because if a premise is missing, it affects the entire Bill, and that defect shows that this Act is fundamentally incurable. What is that defect, Mr Chairman, Sir? This preamble is one-sided. It does not state—perhaps the Government dares not state—in this preamble that the British colonies of North Borneo and Sarawak and the State of Singapore have agreed to join into this Federation of Malaysia. Why has the Government not dared to put in this fundamental premise, to enable the other side to come into this Malaysian Federation? So far as this premise states "the wishes of the Government of the Federation of Malaya", it may state a fact that this Legislature is dominated by the Government, but it does not state at all that the other supposed parties to this Agreement have consented to come into Malaysia.

Mr Chairman: Order, order. We are not dealing with the preamble. The House is now dealing with Clauses 1 to 5. We are coming back to the preamble at the end, after we have finished with the clauses of this Bill.

Enche' K. Karam Singh: It is rather odd, Sir. It is like putting the cart before the horse (*Laughter*).

The Deputy Prime Minister (Tun Haji Abdul Razak): Mr Chairman, Sir, in reply to the Honourable Member for Tanjong, I have explained, when introducing this Bill, that although it has been found necessary in some respects to amend the Constitution as it applies to the existing States, these amendments do not affect the substance. They affect the text of the Constitution. And as I have said, they are rather to preserve the position of the States and to fit in the new States in the Constitution without disturbing the constitution of the existing States. So there is no question really of having

The actual effect of the Honourable Member's suggestion is that we should have a completely new Bill and a new Constitution. The intention here is to amend the existing Constitution, because we are bringing in three new States and quite naturally certain provisions of the Constitution affecting the existing States have to be amended. But these amendments do not affect the substance. I have also explained that we have had consultations with the Conference of Rulers, and, in accordance with our procedure and practice, we have carried out all the consultations necessary.

Enche' Zulkiflee bin Muhammad (Bachok): Tuan Pengurus, saya hairan bagaimana Yang Berhormat Timbalan Perdana Menteri boleh mengatakan bahawa pindaan ini dan Act for Malaysia ini tidak mengubah "substance of the Constitution." Perlembagaan Persekutuan Tanah Melayu ada-lah satu Perlembagaan yang meluluskan perhubungan negeri² dengan negeri² yang lain, dan dengan perhubungan itu terbentuk sa-buah Persekutuan yang dinamakan Persekutuan Tanah Melayu. Asas bagi perhubungan itu telah di-nyatakan di-dalam pembahagian² kuasa dan tanggong-jawab serta telah di-nyatakan pula di-dalam-nya berbagai perkara hubungan² kerja di-antara Kerajaan Pusat dengan Kerajaan² Negeri.

Sa-lain daripada itu, Tuan Pengurus, di-dalam Perlembagaan itu ternyata bahawa dasar pembahagian yang tersebut tadi serta susunan² kerja-nya adalah di-asaskan atas persamaan atas kedudukan yang sama bagi tiap² negeri itu. Maka "substance" yang sama pada tiap² negeri kita ubah apabila kita masukkan Singapura, Sarawak dan Borneo Utara. Tidak-kah mengubah keadaan "substance" besar yang patut di-jadikan satu perkara yang mesti difikirkan bersama oleh Kerajaan² itu dengan Kerajaan Pusat? Jadi saya nampak hujah Yang Berhormat Timbalan Perdana Menteri itu tidak dapat di-terima.

Enche' Tan Phock Kin: Mr Chairman, Sir, I am afraid I cannot agree with the Deputy Prime Minister when he says that the amendments do not

change the substance of the present Constitution. If that remark refers solely to the existing States in the Federation of Malaya, then I can agree with him. He must realise that with the introduction of the new States, the position of the present States with regard to the new States are entirely different, though their position among themselves are somewhat the same. It must be realised that, when the Federation of Malaya Constitution was first promulgated, the member States came into the Federation with the full realisation that as far as their position was concerned, with regard to the other member States of the Federation, there was very little difference. But the introduction of amendments to the Constitution has changed this position most fundamentally. Singapore is being given special rights with regard to labour and education and there are special financial provisions; there are also similar things with regard to the Bornean territories. It is my submission here, Sir, that if it is the intention of the Government to introduce all these provisions, then the original member States should have an opportunity of re-determining their position. Otherwise, it will be most unfair to them, because when they first joined the Federation they were made to believe that all States in the Federation would be treated alike financially and otherwise; and though quite a number of States, like Penang, were not satisfied with the arrangements, they felt that in the national interests it would be to the benefit of all if they should compromise on those particular issues. But when the new amendments are put through, the position will no longer be the same and it is only correct that every State should be given an opportunity of negotiating for any new changes and this is only possible, if we allow them to consider the new arrangements with the introduction of the new Constitution. Further on, Sir, it will be seen very clearly from Clause 4 that the Constitution is substantially changed in spite of the assurance given by the Honourable the Deputy Prime Minister that the Constitution is not changed in substance, because in the old Constitution the States were named by

themselves—namely, Pahang, Kedah, Kelantan, Malacca, etc. They were not categorised as in the present amendment and the motive of categorising them is obvious to the Honourable Deputy Prime Minister and to anyone reading the Constitution. It has changed substantially the provisions of the original Constitution. The Honourable Deputy Prime Minister is basing his arguments on the fact that it is not necessary to have a new Constitution because the old Constitution has not been changed in substance, but I submit here, Sir, that I have proved to him that he is quite wrong in this respect and in view of that

Tun Haji Abdul Razak: Sir, on a point of clarification—I never said that the Constitution has not been changed substantially. What I said is that the position of the existing States, the constitutional position, of the existing States of the Federation has not changed substantially. The Constitution, of course, is being amended by this Bill here.

Enche' Tan Phock Kin: Sir, I must thank the Honourable Deputy Prime Minister for his clarification. I have also clarified very clearly in the course of my explanation just now that it is true to say that the position of the existing States of the Federation of Malaya has not changed substantially, but this is quite beside the point, because the position of the existing States of the Federation of Malaya will have to be looked at from the point of view with regard to the other new States; and if the position as to the other States have changed substantially, then it is correct, to base it on the argument of the Deputy Prime Minister, that they should be given an opportunity to discuss this particular problem, to negotiate on this particular issue, because if you ask somebody to join a special club, or to join any club, or any organisation, on the lines of certain rules and regulations, and if you were to admit new members based on new rules and regulations, and new privileges, then it is only correct that the original members of the club should be given an opportunity to decide whe-

ther or not they are agreeable to the new changes. This fundamental idea is embodied in our Societies Ordinance, in our Trade Union Ordinance; and what is good for a trade union or for a society which embraces the whole population of our country, why should it not be good enough for the nation? I submit, Sir, that this is a very good analogy, and unless the Deputy Prime Minister can give a suitable explanation as to why he disagrees with this argument, then I feel that he should agree with the suggestion put forward by us.

Tuan Haji Ahmad bin Saaid (Seberang Utara): Tuan Pengerusi, Yang Berhormat wakil dari Tanjung pada pendapat saya ada keliru sadikit berkenaan dengan chara penubohan Persekutuan Malaysia ini. Ahli Yang Berhormat itu memberikan mithalananya, kata-nya kalau sa-saorang itu hendak masuk kapada satu² persatuan, maka patut-lah konon-nya persatuan itu menerima fikiran daripada ahli itu. Ini ada-lah salah, kerana tiap² persatuan itu ada undang² tuboh-nya yang tetap yang di-daftarkan; bagi tiap² ahli, kalau mengaku patoh kapada undang² itu, maka baharu-lah dia di-terima. Chara penubohan Malaysia ini, saperti yang telah di-chakapkan oleh Ahli Yang Berhormat itu beberapa kali di-dalam Dewan ini ia-itu konon-nya negeri² yang hendak masuk di-dalam Persekutuan ini ada di-dapat bedza-membedza atau ta' adil. Saya ingin menchabar Ahli Yang Berhormat itu, tunjukkan di-mana-kah ada sa-buah negara di-dalam dunia ini, baik Amerika Sharikat mahu pun Jepon atau India yang undang² negeri-nya lima puloh buah negeri dalam Amerika Sharikat itu, dan di-India hampir lima puloh buah negeri juga yang undang² negeri-nya sama dengan undang² negeri yang lain, dan Perlembagaan negeri-nya sama dengan Perlembagaan negeri bagi semua sa-kali. Saya chabar Ahli Yang Berhormat itu, kalau boleh tunjukkan mana satu negeri yang sama undang² Perlembagaan-nya dan undang² negeri-nya. Chara yang kita buat ini, Tuan Pengerusi, sa-bagaimana yang di-terangkan oleh Ahli Yang Berhormat itu

Enche' Lim Kean Siew: Mr Speaker, Sir, I have listened to the speech both in English and in Malay, but I am afraid that I do not understand what he is trying to say. Could he please clarify what he means when he said to demonstrate where in the world are there similar constitutions. There are many points of constitutions similar to those of America. Which portion does he mean? I heard both the English and Malay versions but I still do not understand. Maybe he is speaking one of these new languages?

Mr Chairman: I can understand what he said all right. (*To Tuan Haji Ahmad bin Saaid*) Make it as short as possible.

Tuan Haji Ahmad bin Saaid: Jadi perkara yang di-bangkitkan oleh Ahli Yang Berhormat dari Tanjung itu mengatakan ada bedza-membedza di antara negeri² yang hendak masuk di dalam Persekutuan Malaya ini. Yang sa-tahu saya di-mana juga dalam negeri Persekutuan, chara yang kita bentuk ini berdasar kapada menghormati hak asasi bagi negeri² itu yang mana yang patut masuk dalam Perlembagaan Negeri-nya dan undang² yang sesuai dengan negeri-nya, maka itu-lah yang kita terima.

Enche' Lim Kean Siew: Mr Chairman, Sir, we are dealing with constitutional matters, and constitutional law itself is a specialist subject and it would, I think, do great justice to this House and to the people of Malaya at large if those people who do not know constitutional law keep quiet. I mean, Sir, that I have not heard as much nonsense as I have heard in the last five minutes. If there is no constitution, then we have to apply, like in England, constitutional practice, which arises from convention. If we do not have a constitution, and where a colony wishes to be independent, there are provisions in the United Nations which allow for certain procedures. Relationships between States are governed to some extent by international law, which many people say is the law of might rather than the law of right. Where we take in new States, as my Honourable friend, the Member for Tanjung, has stated, one cannot say that the

situation has not changed, or that the relationships have not changed.

Now, Mr Chairman, Sir, let us deal with the position of the Rulers and the States first. When the Constitution of the Federation of Malaya was discussed, there was no such thing as the State Assemblies—for example, the State Assembly of Penang which was set up. The position of the Rulers were as Rulers of their States, and under the advice of Dato' Neil Lawson they came to an agreement with regard to their own rights within their respective States and in relation to the Federation of Malaya, and it is embodied in our Constitution that nothing shall affect the rights of the Rulers without their unanimous consent.

The Honourable the Deputy Prime Minister said yesterday that, as the Honourable Prime Minister has informed the House, the Government has consulted the Rulers on several occasions with regard to their rights in the new Federation.

Now, Mr Chairman, Sir, on the establishment of the Federation of Malaya, there came into being State Assemblies and State Executive Committees known as "Ex-Cos" and there also came provisions which lay down that on all matters regarding the State, the Governor-in-Council shall act—the "Governor-in-Council" means the Governor acting in conformity with the members of the Executive Council of the State—according to the resolutions of the State executive.

My Honourable friend, the Member for Kelantan Hilir, said yesterday that on the formation of Malaysia the Government did not consult the States. That was denied by the Honourable Deputy Prime Minister on the argument that the Rulers had been consulted. Mr Chairman, Sir, there is a difference constitutionally between the Rulers *per se* (by themselves) and the rights of the Rulers with regard to their rights embodied in the persons of the Rulers, and the constitutional position with regard to the Rulers-in-Council. The Rulers-in-Council decide affairs of the State. The Rulers in

themselves can only decide their personal rights. So, when the Honourable Deputy Prime Minister and the Honourable Prime Minister said yesterday that they had consulted the Rulers, one must be clear that what was meant was that they had consulted the Rulers as regard their rights—their own rights.

Now, Mr Chairman, Sir, it can be said that the Honourable Member for Kelantan Hilir was wrong to say that they should have consulted the Rulers-in-Council, because matters of the Federation and admission of new States may be taken by the Government, according to our Constitution without consultation with the Rulers-in-Council of those States, in other words, of Johore, Kedah, Kelantan, Malacca, Negeri Sembilan, Pahang, Penang, Perak, Perlis, Selangor, and Trengganu. On the other hand that may be correct, but that is entirely another point. But what was wanted by the Honourable Member for Kelantan Hilir was whether or not the Ruler-in-Council was consulted, as opposed to the Ruler *per se*. If one did consult the Ruler-in-Council of Kelantan, one must have consulted the Executive Council composed of my friends from the Pan-Malayan Islamic Party—and it is quite clear that if one consulted the Executive Council of the P.M.I.P., they would not agree to the constitutional amendments as proposed in this Bill. Of course, it is quite true to say that it is generally accepted that where there is no constitutional provision, convention requires, both internationally and nationally, that the wishes of the people be consulted and be properly determined. Whether the wishes of the Kelantan people had been properly consulted or not, I cannot say, but I am sure that, as represented by the P.M.I.P., they could not have been consulted; if they had been consulted, Kelantan could not have agreed to this Bill.

Mr Chairman, Sir, the other point which has been dealt with by the Honourable Prime Minister is this: the relationships, he said, of the Malayan States have not been changed. But we must understand that relation-

ship, as my Honourable friend from Tanjong was saying, is a matter of action and inter-action. There is a difference between relationship between the States of the Federation *inter se* amongst themselves, and relationship of each and every Malayan State with regard to the Bornean States, and with regard to Singapore. In other words, the relationship between Johore, Kelantan, Kedah, Malacca, Negeri Sembilan, Pahang, Penang, Perak, Perlis, Selangor and Trengganu may not have changed, but we cannot say that the relationship of Johore to the Bornean States and to the Singapore State has not been changed, because that is a new relationship. And, similarly, the relationship between the State of Singapore and the States of Borneo with Johore must influence the relationship between Johore, Kedah, Kelantan, Malacca, Negeri Sembilan, and so on. Thus, it can also be said that where the relationship between Kedah and Singapore and the Bornean States have affected Kedah, thus the relationship between Kedah and Penang must also have thus been affected. So relationship between the Federation of the Malayan States among themselves may not have changed, but by the introduction of new States, the relationship with one another of those States must have in some extent been affected indirectly; we cannot say that relationships can be kept in water-tight compartments. Now, let us take one State for instance, Penang fought for autonomy in certain matters—in fact, Mr Chairman, Sir, if you remember, the late Mr Heah Joo Seang

Tuan Haji Ahmad bin Saaid (Seberang Utara): Mr Chairman, Sir, on a point of order, Standing Order 55 (1):

“Any Committee to which a Bill is committed shall not debate the principle of the Bill but only its details.”

May the House know what section the Honourable Member is referring to? He is not touching on the details.

Mr Chairman: I think he is quite in order. Please proceed.

Enche' Lim Kean Siew: Mr Chairman, Sir, the late Mr Heah Joo Seang went to England and asked that Penang

be separated as a colony from the rest of the Malayan States, and, in fact, many others in Penang asked for complete autonomy. Certain autonomy has been given to Singapore including financial affairs. Now, when Singapore is introduced into the Malaysian States, it must affect the relationship as between Penang and the other States of Malaya. You cannot say that the relationships are not affected.

Mr Chairman, Sir, the Honourable Member for Seberang Utara asked if my Honourable friend for Tanjong could give examples of constitutional changes, but I do not understand what he means.

Tuan Haji Ahmad bin Saaid: What I mean is that whether there is any democratic form of federation anywhere, where they have got identical State laws and identical constitutional laws.

Mr Chairman: If you do not understand, there is no need to reply to him at all (*Laughter*).

Enche' Lim Kean Siew: Mr Chairman, Sir, I was going to give him a very recent example, the example of Hawai which moved into the United States of America as its 50th State. So, there is a parallel. But if he is going to ask if there is an identical constitution with that of the Federation of Malaysia, I have to say "no" because no two persons are identical. I mean there is no such a federation called as the Federation of Malaysia anywhere else in the world. But certainly under the Constitution of the United States autonomy is given to the States in many matters, including that of education, and that is why it has been very difficult for the Federal troops to be used in States such as Alabama and Georgia to build integration except on the excuse that the security and peace of the States had been affected. Similarly, such provisions are in this Bill, and if the Honourable Member for Seberang Utara was trying to say that that is good, he has only just to look at the race riots in America to know how bad it is; and as far as the State of Hawai is concerned, the State of Hawai only moved into the United

States of America by approval of the Legislature of the State of Hawai. There are other instances in international law whereby States have either seceded or acceded to other States. But the convention generally is that it must be with consultations. Therefore, when we state that the States of the Federation shall be the States of Malaya, the Borneo States and the State of Singapore, it is quite clear that even from the point of view of convention we must consult the people of the States as represented by their Legislatures, and as the Member for Kelantan Hilir has said, in the instance of the State of Kelantan, it must be the Ruler-in-Council and not merely the Ruler.

The Minister of Interior (Dato' Dr Ismail): Mr Speaker, Sir, before I reply to the observation made by the Honourable Member, I would like to make one very important observation, and that is, the habit of members of the Opposition to arrogate to themselves the power of the Speaker to control the conduct of this House. It is the parliamentary practice that every member of the House has the right to express his opinion, and even if you disagree with that opinion, and even if an Honourable Member giggles in the House, it is for the Speaker to rule whether he is or he is not out of order (*Applause*). It is part of parliamentary practice that a person has the right to say whether you agree with him or not, and we will defend the right of every member of the House to speak.

Enche' Lim Kean Siew: On a point of order. Is he discussing this Bill?

HONOURABLE MEMBERS: What order?

Enche' Lim Kean Siew: Order 36, Mr Speaker. And as for the giggling I think it was the Minister of Commerce and Industry himself who giggled, not us.

Dato' Dr Ismail: So let us be very frank on this one: the only person who can keep order in the House is the Speaker and let no Honourable Member of the House try to arrogate to himself that power.

As regard the observations made by the Honourable Members of the Opposition, it is quite clear that there are

two types of constitution. One is the written one and the other one an unwritten one based on convention. We in the Federation of Malaya have a written Constitution and let us see what the Constitution says in regard to the admission of new States—Article 2 of the Constitution. I will read the whole Article—

“Parliament may by law—

- (a) admit other States to the Federation;
- (b) alter the boundaries of any State;”

Then it goes on to say,

“but a law altering the boundaries of a State shall not be passed without the consent of that State (expressed by a law made by the Legislature of that State) and of the Conference of Rulers.”

In other words, Sir, it is stated in the Constitution that if you want to alter the boundary of a State, there is a provision there that you cannot do it without consultation with the State. But there is no such proviso in regard to the admission of other States to the Federation, and if it is intended that the State should be consulted when the question of the admission of new States arises, then it would have been written in the Constitution. Ours is a written constitution, and so there is no point in trying to quote from England where there is no written constitution and where it is based on convention. I think it is as simple as that. It is no use saying that you should not speak on the Constitution when you are not a lawyer. A member of this House has every right to express his position in regard to this question (*Applause*) and I would like to state that it is not the preserve of the learned members of the House to speak on the Constitution of this country. It is the right of every member of this House to speak on the provisions of the Constitution (*Applause*).

Enche' Lim Kean Siew: Again the Honourable Minister of Internal Security has been very heavily influenced by the fact that he controls internal security. He was quite correct to say that we said that those who do not understand should not speak. It was certainly in the nature of an exhortation and not in the nature of a command. But being the Minister of

Internal Security he cannot, I am sure, distinguish between an exhortation and a command, because every word that he speaks is backed up by force, and he is used to it.

Mr Chairman, Sir, it is quite clear that what I said was that those who do not understand the Constitution should not speak and confuse the people. I was very clear, and I maintain this fact. And certainly, Mr Chairman, Sir, I am not trying to arrogate myself into your position, as in fact the Minister of Internal Security was trying to do.

Mr Chairman: Can we leave that topic?

Enche' Lim Kean Siew: But, Mr Chairman, Sir, you did not stop him. I was quite clear in stating that whether or not our Constitution allows us to deal with new States is another matter. I was not going to deal with that, and I did not say that the Constitution did not make provision for that. But what I said was that my Honourable friend for Kelantan Hilar was speaking of another subject; when he asked whether the Rulers were consulted he meant the Rulers-in-Council, whereas when the Deputy Prime Minister replied that the Rulers had been consulted he meant that the Rulers had been consulted in regard to their own capacity.

Tuan Haji Ahmad bin Saaid: Under Standing Order 40 (1), since there are no amendments introduced amending Clauses 1 to 5, I move that the question be now put.

Mr Chairman: I think in a national matter of this nature I should give every opportunity to discuss the Bill fully.

Tuan Haji Hasan Adli bin Haji Arshad (Kuala Trengganu Utara): Tuan Pengerusi, di-dalam muka 2 Fasal 4 (2) (b) telah di-sebutkan ia-itu negeri² yang akan di-masukkan dalam Persekutuan Malaysia itu ia-lah Sabah dan Sarawak. Sunggoh pun di-dalam ayat itu tidak di-sebutkan tentang Brunei, tetapi kita telah mendengar bahawa Perdana Menteri dan Timbalan Perdana Menteri, Persekutuan Tanah Melayu, ada menyatakan beberapa kali

ia-itu Kerajaan maseh berharap dan sangat berharap supaya Brunei masok dalam Malaysia ini.

Apa yang saya hendak minta penjelasan di-sini tentang benar atau tidaknya bahawa satu persetujuan sulit telah di-buat di-antara Perdana Menteri, Persekutuan Tanah Melayu, dengan Perdana Menteri British, ia-itu usaha akan di-jalankan juga supaya Brunei walau bagaimana pun akan di-masukkan ka-dalam Malaysia sa-belum 31 haribulan Disember, 1963 ini?

Mr Chairman: Saya tidak nampak bagaimana perkara yang berkenaan dengan Brunei boleh berkait dalam Clauses 1 sampai 5 ini.

Dr Burhanuddin bin Mohd. Noor (Besut): Tuan Pengurus, saya tertarek hati dengan penerangan daripada Yang Berhormat Timbalan Perdana Menteri tadi yang mengatakan bahawa tidak ada "fundamental change" dalam perubahan ini. Saya tidak dapat bersetuju dengan keterangan itu. Saya baca Fasal 2 dalam Perlembagaan Persekutuan Tanah Melayu mengatakan :

- (a) menerima Negeri² masok ka-dalam Negeri Persekutuan;
- (b) mengubah sempadan² mana² jua Negeri;

Kalau memasukkan negeri² Sabah, Sarawak dan Singapura ka-dalam Persekutuan Tanah Melayu mengikut Fasal 2 ini ada-lah menasabah dan dapat di-terima, tetapi oleh kerana sekarang timbul masalah memakai Fasal 4 dalam Malaysia Bill ini yang mengatakan :

"The Federation shall be known, in Malay and in English, by the name Malaysia."

saya tidak dapat terima kerana tidak di-katakan "fundamental change" dengan sendiri-nya kedudukan Malaysia dengan kedudukan Persekutuan Tanah Melayu ini boleh kita memandang dan mema'anakan helah politik atau pun chara penipuan yang meletakkan dudok perubahan dasar negara kita. Kerana kalau di-masukkan dengan nama Persekutuan Tanah Melayu dalam Perlembagaan ini, maka dengan sendiri-nya ada-lah mengikut Perlembagaan dan tidak "fundamental

change" ia-itu menambah sahaja lagi, tetapi manakala kita memakai perkataan Malaysia berbalek-lah ma'ana Malaysia ini kapada London Agreement 8 haribulan July itu. Dan di-sini, mithal-nya, kita lihat Article 6 dengan sendiri-nya kebebasan kita dalam pertahanan jatoh balek terajah kedudukan Persekutuan Tanah Melayu kita ini. Jadi daripada cheraian² yang di-masukkan lagi bererti sudah lebih daripada "fundamental change" kapada berubah dasar. Jadi ini-lah perkara yang berat yang saya hendak penerangan yang jelas daripada Yang Berhormat Timbalan Perdana Menteri.

Enche' Too Joon Hing (Telok Anson): Mr Chairman, Sir, I refer to Clause 3 which says that the Constitution shall be amended. I have said quite often in this House that the Prime Minister had promised that no amendment would be introduced to our Constitution

Mr Chairman: We are not debating on the principle of the Bill. Standing Order 55 (1) says:

"Any Committee to which a Bill is committed shall not debate the principle of the Bill but only its details."

We have already debated on the principle of the Bill and I must warn you that you should not debate on the principle—you can only debate on the details of the Bill now. As far as I can gather, you are going back to the principle which we have debated for the last four days.

Enche' Too Joon Hing: Sir, I am referring to Clause 3 of the Bill which says, "The Constitution shall be amended". I am opposing this amendment on the ground that the Prime Minister promised, and the Alliance Manifesto pledged in 1959, to uphold the Constitution. It was on the strength of this pledge that the people showed confidence in the Alliance and returned them to power—and it was also to be taken for granted that the Alliance would not amend the Constitution unless the people were referred to and a mandate obtained. Sir, it is on this ground that I oppose Clause 3.

Tun Haji Abdul Razak: Tuan Pengurus, saya suka menerangkan kepada Ahli² Yang Berhormat dari Besut dan Bachok. Saya fikir kedua² Ahli Yang Berhormat itu salah faham berkenaan dengan keterangan yang saya beri tadi dan juga sa-malam. Pindaan² yang saya sebutkan itu tidak menukar kedudukan negeri² yang ada dalam Persekutuan Tanah Melayu. Akan tetapi, Bill ini tentu-lah ada mendatangkan perubahan² yang besar, ia-itu kita hendak memasukkan tiga buah negeri yang lain kepada Persekutuan ini, dan Persekutuan ini akan di-tukar kepada nama Malaysia. Ini-lah "fundamental change". Akan tetapi bagi menukar Perlembagaan Persekutuan Tanah Melayu dan bagi memasukkan negeri² yang baharu dalam Persekutuan ini kuasa ada-lah dalam tangan Parlimen ini menurut Article 2, yang mengatakan :

"Parliament may by law—

(a) admit other States to the Federation;"

Dan tidak ada di-sebut di-situ yang mengatakan Parlimen atau Kerajaan Persekutuan terpaksa berunding lebuh dahulu dengan Kerajaan² Negeri. Jadi kedudukan sekarang ini berlainan daripada kedudukan sa-belum tahun 1948 dahulu, ia-itu sa-belum di-adakan Persekutuan Tanah Melayu. Sekarang dalam Perlembagaan ini ada kuasa yang tertentu di-beri kepada Kerajaan Pusat atau Kerajaan Persekutuan dan Parlimen. Jadi apa kuasa yang ada dalam tangan Parlimen dan Kerajaan Persekutuan boleh jalankan dengan tidak payah lebuh dahulu berunding dengan Kerajaan² Negeri. Dan bagitu juga pada tahun 1957 pada masa menggubal Perlembagaan yang baharu pehak Kerajaan kena-lah berunding dengan Majlis Raja² Melayu, Majlis Raja² Melayu mengadakan wakil-nya berunding bersama dengan Kerajaan Persekutuan pada masa itu bagi menentukan Perlembagaan yang baharu. Itu-lah chara dan peratoran yang di-jalankan menurut Perlembagaan. Yang Berhormat Menteri Dalam Negeri tadi telah menerangkan perkara ini, ia-itu tidak ada di-bawah Article 2 dalam Perlembagaan berkehendakkan Kerajaan Persekutuan

atau Parlimen berunding dengan Kerajaan Negeri—hanya-lah di-katakan :

"Parliament may by law—

(a) admit other States to the Federation;"

Sir, my Honourable colleague, the Minister of Internal Security has replied to the Honourable Member for Dato Kramat and I only wish to say this. It is quite clear, under Article 2 of the Constitution, that "Parliament may by law admit other States to the Federation", and there is no requirement under that Article, or under any other Article in the Constitution, that we should consult individual States before we pass this law. Of course, we have to consult the Conference of Rulers on matters which affect their prestige, their position, and other things, but there is no requirement for us to consult individual States. The position is different from what it was before 1948 or before 1957, because we now have a Constitution and the provisions of our Constitution specify certain powers that lie with the Federal Parliament, the Central Government, and certain powers that lie with the States. Therefore, on this matter, it is clearly stated in the Constitution that the power is for Parliament to pass law to admit the new States—and this Constitution had been agreed to previously by all concerned.

Clauses 1 to 5 inclusive ordered to stand part of the Bill.

Clauses 6 to 10—

Enche' Lim Kean Siew: Mr Chairman, Sir. Clause 6 provides that Sabah, Sarawak and Singapore shall have Governors. I wonder if the Honourable Deputy Prime Minister could tell us why it is that Sarawak should have no Ruler, because I thought there was a Temmengong Jugah, or the Paramount Chief of the Ibans, who had for many, many years claimed to be at least the titular head of one of the largest sections of the natives of Sarawak. I say "native" not to disparage the people there, but with reference to those as defined in the Constitution as natives. I think, Mr Chairman, Sir, it would be quite delightful to have a Ruler for Sarawak, and it would

certainly add colour to the House during ceremonial occasions.

The other point I would like to talk about is in respect of Clause 7 (2) and (3). I do not know if the confusion is deliberate, or there is an error. It would appear that the Yang di-Pertuan Agong shall be the Head of the Muslim Religion in Malacca, Penang and Singapore under this new Bill; and that it would also appear that the intention is to exclude the position of Islam, thereby, I suppose, removing the Muslim Offences Enactments—I would like to state here quite clearly that I am not discussing the pros and cons of this—from the States of Sabah and Sarawak. If that is so, the phrase “as a whole” in the new Clause (7) should be deleted; the new Clause (7) reads:

“The function of the Conference of Rulers of agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole shall not extend to Sabah or Sarawak, and accordingly those States shall be treated as excluded from the references in Clause (2) of Article 3 and in this Article to the Federation as a whole.”

Mr Chairman, Sir, the phrase “as a whole”, I am afraid, is a bit dubious, because it could mean that when the Islamic laws apply to the Federation as a whole they should be excluded from the Bornean States—perhaps, that is the intention. But once we have the argument that “as a whole” must include all States, then the phrase “as a whole” can be interpreted differently; it would then mean that the Islamic religious acts, observances and ceremonies shall not apply as a whole, but it can apply partially to the Bornean States. If that is clarified and recorded, then there would perhaps be no problem in the future. I think what is meant is that these religious acts, observances and ceremonies, which apply as a whole to the Federation, shall not apply *in toto*, to the Bornean States.

Mr Chairman, Sir, I am afraid that Clause 9 of the Bill might cause a lot of disagreement again. According to Clause 9 there will be 15 representatives from Singapore. This matter has been explained by both the Honourable

Deputy Prime Minister and the Honourable Prime Minister in that this is necessary because of the autonomy given to Singapore in respect of labour and education. Mr Chairman, Sir, if we were in the Alliance, we might be persuaded to accept that that view is correct; or, if we were the supporters of the Singapore Prime Minister, we might be persuaded to agree. But if we looked at the problem from another viewpoint, there is no doubt that representation from Singapore is too weak, and this will definitely affect the whole basis of this Bill, because this Bill attempts to set up, as it says, a Federation known as Malaysia. If we have 15 members from Singapore—which number should, in fact, from the point of view of population have to be about 34 or 35—we are cutting down their membership and their power to enact laws, their power to change laws, and their power to represent their people adequately. Perhaps, the Government might consider that we should rather give them proper representation and take away their autonomy in those fields. I say so, because, Mr Chairman, Sir, as I have stated just now in reply to the Honourable Member for Seberang Utara, where you give autonomy and you have a different complex of people—I mean, to be more blunt, where you have Chinese gathered in one force who, in character and religious beliefs and customs, are different from the Malayan people—it is quite natural that they would move according to their personality and their culture and they would, therefore, move in a manner which would affect us—like where autonomy has been given to the American States and there has been segregation and where there is an attempt to bring about integration, Federal forces have had to be used in order to bring about unity. Now, it is quite possible that by giving way here we think we are doing a great service to the Federation of Malaysia but, in fact, we are not doing any service to anyone at all. If you were to look at it from the future point of view, there would be trouble—and the only way to prevent trouble and to prevent revolution, we all

know, is democracy. Why do we have democracy, why do we believe in democracy? It is because we believe that if a person has adequate representation and is allowed to air his views freely and openly, we would have removed his hostility from within himself and his ill-feelings; and on the other hand, if we suppress the people, they are bound to explode. So, in spite of what the Prime Minister of Singapore has to say on this matter, we cannot agree with him; as people, who believe that the basic structure of all communities is democratic, we cannot agree to this. Mr Chairman, Sir, from our smallest village where we have the Ketuas Kampong, the Penghulus and the Village Committees—even in the Chinese villages where we have the Village Head and the head of the clan and of the association—right from the very smallest unit of society—democratic representation is absolutely necessary to prevent misunderstanding. We might think that we have given Sabah and Sarawak a greater number of seats because of their distances, as the Honourable Deputy Prime Minister has said. However, let us hope that he is not carried away by his own argument, because it is not a question of whether Sabah and Sarawak has too many, but whether or not Singapore has too few, even if we want to give them autonomy in labour and autonomy in education? Even if we say that we must give them labour and education, because the complex of Singapore is industrial and because the people there are not a people who have to earn their living from agriculture, even if we give them autonomy in education and labour, is not 15 too little? The Honourable the Prime Minister said that we give them 15 seats and there are no special rights for the Malays, but that if they want their special rights they can come over to the Federation. This defeats the idea of racial integration. In fact, the basis of 15 seats may be based on this argument—that Singapore being an industrial complex and having that one special race, we must not allow them politically to control us and that there must be special rights retained

for the Federation of Malaya until the peoples are equal.

The racial basis is all through the argument of the government. The Prime Minister has said "Give me an instance where a big company has got more than one in ten employees who are Malays." This kind of argument works both ways; because the Government takes in the Malays as policemen, in the Army—where it is 36 to 1 in favour of the Malays—and into the Government Service, the best qualified Malays are in the Government Service, Police Force and the Army, and therefore what is left to the commercial world are those people who may not have even passed form four. I will give an example which applies to myself. I have on many occasions asked for a shorthand typist who was qualified in Malay. I have got many applications from many who have only passed form four, and I have asked several of them—the names of whom I won't mention, of course—why they have only passed form four. They say that the Government accepted form four and therefore they do not have to pass form five. Now in the case of one applicant, she has now a job in the Government because I told her that the commercial world is highly competitive."

Mr Chairman: Do you have to go all over that?

Enche' Lim Kean Siew: I suppose not. But, on the other hand, I suppose it might enlighten other people, because when one says that we must restrict Singapore's representation and the Malays, who want special rights, can come to Malaya, since there are no special rights given to the Malays in Singapore, and that the Malays in Malaya must have special rights since they have found little place in the commercial field, my argument is that the best people are in Government, and therefore this disproportion and this imbalance must continue and will be exaggerated in future. You see, Mr Chairman, Sir, this fear of the Chinese in Singapore has so influenced our minds that we think 15 members from Singapore is sufficient. But I say this is another step whereby the Malaysian

peoples have been split into sides and, Mr Chairman, I say in all seriousness that, if it does not happen today, in the future when we are dead and gone, there may be race riots and there may be revolution and the whole of the Federation will be broken into two. It is because we do not like violence, it is because we think that it will injure everybody that we feel that 15 members from Singapore should be deleted and we should go by the proportion of population. In any event 34 members from Singapore will not come even to one-third of the representation in this House, and, therefore, since it does not . . .

Mr Chairman: It seems to me that you are repeating the same arguments which you put forward when we were debating the principle of the Bill.

Enche' Lim Kean Siew: Yes, can't I repeat myself? I did not know that I was not supposed to repeat myself to stress a point. The Standing Order says that unless I am irrelevant . . .

Mr Chairman: The House has already debated the principle and you brought that point very clearly during the debate on the principle of the Bill.

Enche' Lim Kean Siew: Some of the papers never wrote it up, and I think it should be repeated because even members of the House do not seem to understand it (*Laughter*). Anyway, I hope you would bear with me. I am just finishing as a matter of fact. Even if the idea is to prevent the Parliament being swamped by people who do not adhere to the Muslim religion, even if we have 34 members from Singapore they do not come to one-third, and since they do not come to one-third, they cannot influence amendments. So what is the purpose of this unnecessary restriction to 15 seats?

Enche' Zulkiflee bin Muhammad: Tuan Pengurus di-dalam Bab 7 (3), kelmarin saya telah bangkitkan ia-itu di-dalamnya di-nyatakan bahawa kuasa Majlis Raja² Melayu di-dalam bersetuju dan tidak bersetuju melanjut atau menjalankan hal yang bersangkutan dengan ugama tidak boleh dipanjangkan sampai ka-Sabah dan

Sarawak. Yang Berhormat Timbalan Perdana Menteri telah menjawab bahawa kerana ugama ada-lah perkara negeri ini, maka hal ini tidak-lah boleh kita lanjutkan ka-sana.

Sekarang ini, Tuan Pengurus, saya mushkilkan dalam perkara ini kerana kedudukan orang² Islam di-Sabah dan Sarawak itu hendak-lah di-perhati dan di-samakan dengan kedudukan orang² Islam di-Malaysia. Jika tidak, tidak ada-lah ma'ana sa-buah negara yang bersatu mempunyai dua, tiga, empat perkara. Saya berfikir hal ini ada-lah perkara besar. Kata-lah "religious acts" atau "observances" yang di-putuskan oleh Conference of Rulers, di-sini menurut biasa Conference of Rulers memberi kuasa kapada jawatan-kuasa yang tertentu bagi menentukan puasa bulan Ramadhan pada sakian haribulan, kata-lah, pada 1 haribulan puasa di-Malaysia. Kemudian menurut Rang Undang² ini dalam Bab 7 (3) mengatakan hal ini tidak boleh di-lanjutkan ka-Sabah dan Sarawak dan Tuan² Sheikh di-Sabah dan Sarawak nampak bulan pada 2 haribulan, nasib baik kalau kedua² wilayah itu nampak bulan sama, tetapi kalau Sarawak nampak bulan pada 3 haribulan, maka dalam sa-buah negara Malaysia mempunyai puasa tiga hari dan Hari Raya tiga hari berlainan. Itu-lah sebab-nya saya kata tidak kena dalam perbahasan saya ini. Jadi saya minta Yang Berhormat Timbalan Perdana Menteri fikirkan perkara ini sa-belum di-luluskan.

Enche' K. Karam Singh: Mr Chairman, Sir, I refer specifically to Clause 9 and I will read it over to emphasise what I want to say. I quote Clause 9:

"(1) The House of Representatives shall consist of one hundred and fifty-nine elected members.

(2) There shall be—

- (a) one hundred and four members from the States of Malaya;
- (b) sixteen members from Sabah;
- (c) twenty-four members from Sarawak;
- (d) fifteen members from Singapore."

Mr Chairman, Sir, I would concentrate on Clause 9 (2) (d) "fifteen members from Singapore". Sir, there are two ways in which brutality can be effected.

One is a direct slaughter of people—a physical slaughter. When that happens the whole world rises in uproar, because they can see it. But when the invisible but vital and all important political rights of a people are destroyed there is no such uproar, because it does not strike the eyes of the people of the world. But this second destruction of the political rights of a people is far worse than even the physical destruction that can be committed upon a people. Now, the same Government, which has raised so much noise on distant issues like Tibet, is today committing a massacre, a political massacre, upon the rights of the people of Singapore by diminishing their representation in the Central Malaysian Parliament, and it is to this destruction of their rights that I bring the attention of this House and the people of these territories.

Mr Chairman, Sir, this is just not an academic point, because we know that for this same right of representation the American colonies went to war against the British. Their slogan was "No taxation without representation". For that a very deadly war was waged by the Americans until they finally emerged as an independent nation. Now, in a somewhat diluted form, that same crime is being committed by the Alliance Government upon the people of Singapore by a diminution of their rights—their rights of representation. It is best for the people of these regions, and for the Government, to bear in mind that what the Americans two hundred years ago could not tolerate, would the people of Singapore tolerate today, coupled with the extreme political awakening that has been going on in this part of the world?

Mr Chairman: It is the same point raised by your colleague.

Enche' K. Karam Singh: Sir, this is an elaboration; it is not a repetition. This point is very important. Sir, we can see from this false argument of making Singapore free through Malaysia will not deceive anyone because, with the diminution of their right of representation proportionate to their number, it will only lead the people

of Singapore into a political desert as constituted by Malaysia. Sir, the people in these territories will still further continue their struggle for freedom and independence within the context of Malaysia

Enche' Abdul Razak bin Haji Hussin (Lipis): Tuan Pengerusi, on a point of order, 55 (1)—Sa-sabuah Jawatan-Kuasa yang telah di-serahkan

Mr Chairman: (*To Enche' K. Karam Singh*) Order! Will you sit down!

Enche' Abdul Razak bin Haji Hussin: Sa-sabuah Jawatan-Kuasa yang telah di-serahkan kapada-nya satu Rang Undang² tidak boleh membahathkan asas Rang Undang² itu tetapi hanya butir²-nya sahaja. Pada himat saya, Tuan Pengerusi, Ahli Yang Berhormat sahabat saya itu berchakap pada dasar-nya.

Mr Chairman: Masaalah yang sa-macham ini susah hendak membandingkan di-antara dasar dengan detail. Saya terpaksa-lah membenarkan-nya sadikit atas sa-saorang yang hendak berchakap itu, atau saya boleh terangkan supaya dia boleh berchakap dengan sa-berapa pendek.

It is very difficult to differentiate between the principle and details here, but I ask you (*To Enche' K. Karam Singh*) to remember Standing Order 55 (1). We are dealing with the details at this stage. We have debated the principle of the Bill.

Enche' K. Karam Singh: Mr Chairman, Sir, I am concentrating my arguments on this single line of Clause 9 (2) (d), "fifteen members from Singapore". As I said, Sir, the people of Singapore will only be led into a political desert by the Alliance and will in no way find the fulfilment of their national desire for freedom and independence.

Mr Chairman, Sir, the other day the Honourable Prime Minister said that he could not tolerate an independent Singapore, because if Singapore were independent it would, perhaps, establish relations with communist countries. But, Sir, what fear is there of Singapore within the Federation having full and

appropriate representation? A Singapore within Malaysia is not going to establish relations with any communist country or countries. It will be within Malaysia. So, why the denial of their rightful and proportional representation in the Central Parliament? This shows that it is not communism alone which the Prime Minister is claiming to fight but the people of Singapore also: he has made them political enemies and whose rights he is determined to curtail, to curtail very drastically.

Mr Chairman, Sir, there may be some people who may think, what are these 15 seats, what are seats, what do the seats matter? I must remind the movers of this Malaysia Act that it was their own party which in 1959 was almost blown to bits by this quarrel over seats between the UMNO and the M.C.A. Seats are so important that the Parties, which had proclaimed to the world that they were united, could be prepared to cut each other's throat when the question of seats arose—and that did happen in 1959. So, Mr Chairman, Sir, could a denial of seats, a proper number of seats to the people of Singapore, be agreed to by those people who do not belong to the governing Parties' membership, when that same denial of the demand of seats by the major partner, the M.C.A., at that time was not agreed to? This denial, in fact, produced an explosion. Mr Chairman, Sir, I would ask the Government not to put on a very smug look and appear very complacent and to treat this matter as of very little importance, because if their own partner could revolt at the critical moment of elections, the people of Singapore will not forever stomach this curtailment, this reduction of their democratic right.

Mr Chairman, Sir, there is this argument—that the people of Singapore have autonomy in labour

Mr Chairman: I think that has been repeated time and time again.

Enche' K. Karam Singh: If you will bear with me, Sir, I will not be repeating even one old argument. I have got my own arguments which are

original. (*Laughter*). Sir, it has been said that the Government of Singapore will have autonomy in labour and education. I have to state the premise, Sir, and now I come to what I want to say: an important point that has not been stated is that the Ministry of Commerce and Industry will be held by a central Minister, so that will go a very long way to reduce this so-called autonomy on labour, because labour always comes under commerce and industry—and that is in the hands of the Central Malaysian Parliament.

Mr Chairman, Sir, what we can say is that, far from getting democracy, the people of Singapore are being given a starved and stunted form of democracy, which will not satisfy their aspirations. I will tell the Government this: no one is forcing you to take the people of Singapore into this Federation; but if you want to take them into this Federation, treat them fairly, treat them justly and give them their dues. Mr Chairman, Sir, irrespective of what race or religion they belong to, they are people and they cannot be denied their rights as people, and their sovereign rights of representation cannot be diminished or divided or diluted by any argument of autonomy in one or two matters, when, in fact, their sovereignty has been totally surrendered to the Central Malaysian Parliament and the Central Government. So, Mr Chairman, Sir, the Alliance Government can march in silence over the rights of the people of Singapore by adopting Clause 9 (2) (d)—they can march in silence over the rights of the people in Singapore—but they must remember that there will be repercussions. Perhaps the repercussions may be postponed, or they may be delayed, but one day the people of Singapore must, and will assert their democratic rights. That is all I have to say, Mr Chairman, Sir.

Sitting suspended at 11.43 a.m.

Sitting resumed at 12.00 p.m.

(*Mr Deputy Speaker in the Chair*)

Debate resumed.

Dato' Mohamed Hanifah bin Haji Abdul Ghani (Pasir Mas Hulu): Tuan Pengerusi, di-dalam Clause 9 (2) (b)

dan (c), ia-itu peruntukan kerusi kepada dua wilayah itu sa-banyak 40 kerusi—16 kerusi kapada Sabah dan 24 kerusi kapada Sarawak—walhal jumlah penduduk-nya lebuh¹ kurang 1,100,000. Maka peruntukan yang di-tetapkan dalam Bill ini tidak-lah 'adil kerana terlampaui banyak sangat, dan sa-patutnya perkiraan di-jalankan saperti yang di-lakukan dalam Persekutuan Tanah Melayu ini. Kalau di-jalankan di-dalam dua wilayah itu saperti yang di-jalankan di-dalam negeri ini, wilayah² itu hanya akan mendapat satu perenam sahaja jumlah kerusi. Di-sini saya berasa dukachita kerana pemberian pehak Persekutuan Tanah Melayu kapada dua wilayah itu terlampaui banyak sangat. Sa-patut-nya hendak-lah mengikut chara pembahagian yang di-lakukan di-dalam Persekutuan Tanah Melayu. Bagitu juga dalam cheraian (d), ia-itu 15 kerusi di-beri kapada Singapura, walhal Singapura hendak hak otonomi di-dalam pelajaran dan buruh. Maka sa-patut-nya hak otonomi itu di-kaji sa-mula oleh pehak Kerajaan, kerana saya rasa 15 kerusi yang di-untokkan itu telah lebuh. Maka itu-lah sebab pehak PAS membangkang Bill ini, sebab di-dapati banyak perkara yang tidak 'adil bahkan kita menjual hak kita kapada wilayah² itu.

Enche' Tan Phock Kin: Mr Chairman, Sir, I rise to speak on Clauses 9 and 10 of the Bill. Clauses 9 and 10 deal with representation from member States of the new Federation. Clause 9 states specifically the number of representatives from each State, while Clause 10 goes on to make provisions with regard to delimitation of constituencies.

Mr Chairman, Sir, I would like to dwell here on the principle of representation. As the Honourable Deputy Prime Minister and Members of the Government bench have pointed out to us time and time again that they believe in parliamentary democracy—and one of the elementary principles of parliamentary democracy is that Parliament must reflect as far as possible the views of the people, and to guarantee that we must see to it that the House of Representatives must be constituted in a manner which is strictly in accordance with this concept. So, if we are going

to base on that concept, then we must agree on the principle that each particular constituency must be based on the numbers with a little allowance for the size of the constituency and other such matters. However, here we have a basis of representation which is out of proportion to the population—some have over-representation, while others are under-represented. So, Sir, as a result of this, we will have a House that will not actually reflect the opinion of the nation as a whole. In view of this anomaly, we may find that, in view of the fact that certain States are being under-represented, the view-points of the States will not be fully expressed in this House; and apart from that we must also appreciate the fact, with our present system of election, that we may even have an anomaly in which the majority in the House may not represent the majority of the people. We must appreciate this fact that with this anomaly and, in addition, if we were to make provision as suggested in the Bill, we may have a position in this House, whereby the majority of the representatives here do not actually represent the majority of the people; and the danger of this in a parliamentary democracy can be very profound. We must realise that in States that do not profess parliamentary democracy, we have read about revolutions for the simple reason that the governments do not act in accordance with the wishes of the people. We have to go no further than to see what is happening in a neighbouring country, where you have a persecution of the Buddhists who form quite a big majority of the people; in view of the fact that the Government as such is not democratically representative of the various viewpoints, or the Government chose to ignore the viewpoints of the majority of the population, you have this state of affairs. I say, Sir, that in the new Federation of Malaysia, unless we take cognizance of this fact we may land ourselves in chaos.

Sir, Clause 10 of the Bill makes provision for an Election Commission to go into the question of delimitation of constituencies in accordance with Article 171 of the Constitution: here,

there is a proviso which makes provision for separate reviews under Clause (2) for the States of Malaya, and for each of the Borneo States and for the State of Singapore. Perhaps, the Honourable Deputy Prime Minister can explain the necessity of separate reviews for the various territories in the Federation of Malaysia, and whether it was being designed to continue this manner of giving internal representation to the various member States. I hope that the Honourable Deputy Prime Minister will give a full explanation in respect of these two points raised by me.

Enche' Zulkiflee bin Muhammad: Tuan Pengerusi, sa-belum Yang Berhormat Timbalan Perdana Menteri menjawab, saya hendak berchakap, ia-itu dalam perbahathan tadi saya telah menyebutkan berkenaan dengan "function of the Conference of Rulers". Yang memushkilkan saya lebuh ia-lah tentang "State List". Di-Borneo saya nampak tidak ada satu kenyataan yang boleh kita sebutkan bahawa di-dalam "State List" itu ada perkara yang membolehkan "State List" itu sendiri menjadi kuasa dalam perkara ugama Islam. Jadi itu sahaja saya minta supaya perkara itu di-jelaskan.

Tun Haji Abdul Razak: Tuan Pengerusi, saya suka yang pertama sa-kali hendak menjawab pandangan Yang Berhormat dari Bachok. Berkenaan dengan Fasal 7 (3) saya telah terangkan sa-malam bahawa kedudukan perkara ini ia-lah di-sebabkan hal ugama itu hal negeri dan tidak shak lagi perkara itu sebab dalam State List sekarang ini ugama dan 'adat-isti'adat itu hal negeri dan ini akan menjadi hak negeri dalam negeri Sabah dan Sarawak, dan kedua² negeri ini menerima ugama Islam itu di-jadikan ugama rasmi Persekutuan Tanah Melayu saperti yang tersebut dalam Artikal 3, di-dalam Perlembagaan kita. Akan tetapi, mereka itu berkehendakkan keadaan yang ada di-Sabah dan Sarawak pada masa ini kekal tidak di-ubah, dan jika hendak di-ubah apa² hendak-lah di-buat dengan persetujuan mereka itu sendiri.

Berkenaan dengan chontoh yang disebutkan oleh Ahli Yang Berhormat itu ia-itu umpama-nya haribulan puasa

dalam bulan Ramadhan di-samakan di-seluroh Persekutuan Malaysia ini, saya yakin perkara ini dapat di-jalankan, dan ta' dapat tiada perkara itu akan di-putuskan dalam Majlis Raja². Sunggoh pun dalam Fasal 7 (3) mengatakan yang keputusan itu tidak mengikut Sabah dan Sarawak, tetapi saya perchaya dalam perkara yang saperti ini mereka itu akan bersetuju. Jadi itu-lah dia chara-nya, sebab menurut Perlembagaan kita yang ada sekarang ini dan kehendak Duli² Yang Maha Mulia Raja² ugama itu hak negeri. Jadi itu-lah sebab Sabah dan Sarawak meminta hal ugama ini di-tinggalkan hal negeri. Mereka itu menerima ugama Islam di-jadikan Ugama Rasmi Persekutuan Tanah Melayu, dan dengan sebab itu-lah di-adakan pindaan Fasal 38.

Sir, a number of Honourable Members spoke on Clause 9 (2) on the question of representation. Some say that certain States are given too few representation and others say that some States are given too much representation. I have explained all this in great detail yesterday and I do not think I need to go into this matter again. I have said that Singapore is given 15 seats in the House of Representatives, because Singapore has got considerable local autonomy. Now, Sir, Malaysia, as well as the Federation of Malaya now, is a Federation. The Central Government has certain powers under the Constitution. Now, if a State has a large measure of local autonomy, obviously the powers of the Central Government over a State are limited to that extent. In view of that, it is only fair that, because Singapore has a greater measure of local autonomy than the other States, the representation for Singapore on the Central Government should accordingly be reduced. Now, Sir, the Honourable Member for Tangjong alleges that because of this, the representation in the Federal Parliament does not reflect the views of the people as a whole.

We, here, have accepted, as a matter of principle under the Constitution, that in delineating constituencies we do not only take into consideration the population of a particular constituency

but also other matters—weightage, distance, size, etc., and, as I have explained yesterday, the Borneo territories—Sabah and Sarawak—because of their large size and their considerable potentialities and their great distance from the national capital, from the Central Government, it is necessary for us to give them this representation, in order to make up for the disadvantages that these two territories have. So, as I have said, we are a Federation and, naturally, in a Federation as opposed to a unitary State there are other factors to be taken into consideration and the powers of the Central Government are limited under the Constitution.

Sir, as regards Clause 10, it is necessary to have separate reviews of the delimitation of the constituencies under this Clause, because the representation given to the various units is fixed under Clause 9 and this cannot be changed until 1970, as provided under the safeguard of the Constitution. That is why for that period it is necessary to have a separate review for the various units, because each of the areas has been allotted a certain number of seats—Sabah, it has been allotted 16 seats, so that the delimitation of the constituencies in that State must be limited to 16 seats; it is the same with Singapore and Sarawak. Sir, that is the position.

In regard to the comment made by the Honourable Member for Damansara about the representation given to Singapore, I think he made one error in his speech—that is on the question of commerce and industry. Commerce is a concurrent matter with Singapore, and it is not true to say that we have absolute control of commerce and industry in Singapore, and the Minister of Commerce and Industry here cannot administer matters of commerce and industry as he can do with the other States in the Federation. Singapore is different in this respect, because commerce is in the concurrent list.

The Honourable Member for Dato Kramat was not clear in his comment Clause 7 (3) of the Bill in regard to the addition of new Clause (7) to Article 38 of the Constitution. The words "as a whole" here means "the

Federation as a whole"; it is not a question of extending, partly or wholly, the religious acts or observances to Sabah and Sarawak. This is taken from Article 38 (2) (b) of the Constitution which reads:

"(b) agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole,"

This means to the whole of the Federation; and the phrase "as a whole" does not qualify the words religious acts, observances or ceremonies.

Enche' K. Karam Singh: Mr Chairman, Sir, there is one clarification which I would like to make, and that is this question of autonomy for Singapore in these two subjects. Sir, there is autonomy for Singapore in labour and education, but for some time to come, Mr Chairman, Sir, the actual position will be that the Federation will have both autonomy and central powers over a vast variety of subjects, because of the fact that for some time the Alliance Government will have, at least until the next elections, the majority in this House. So, by that very fact this question of autonomy, in the context of the present situation in this House, will be that the Alliance Government would exercise both autonomy and central powers in a variety of subjects. Therefore, Mr Chairman, Sir, this question of autonomy is really not so clear-cut as it is made out to be—and, in fact, it is other than what it is made out to be. Again, that is apparent from the fact that Sarawak, Sabah and Singapore together will have 55 seats and the Federation would have 104 seats—almost twice the number the other three States will have. So, in that itself, Mr Chairman, Sir, this question, of autonomy and central powers in certain subjects, is wiped out by the fact of the overwhelming representation obtained by the Federation of Malaya—and to that extent this question of autonomy is qualified and changed.

Clauses 6 to 10 inclusive ordered to stand part of the Bill.

Clauses 11 to 15:

Wan Mustapha bin Haji Ali (Kelantan Hilir): Mr Chairman, Sir, I would

like to touch on Clause 14, Jurisdiction of Federal Court. I am glad that the Honourable the Deputy Prime Minister is here, being a lawyer himself, but in this respect what I am worried about is that under Clause 14 the Federal Court shall, to the exclusion of any other court, have jurisdiction to determine—(a) is quite satisfactory because it says—

“any question whether a law made by Parliament or by the Legislature of a State is invalid on the ground that it makes provision with respect to a matter with respect to which Parliament or, as the case may be, the Legislature of the State has not power to make laws.”

In other words, it is quite easy for the Federal Court to decide whether a law passed by Parliament or by a State Legislature is invalid because it has no power to enact such a law. So there is no prejudice or favour there. But in the case of (b)—because the Honourable the Deputy Prime Minister knows that justice must not only be done but also must be seen to be done—when there is any dispute on any question between the States, or especially, between the Federation and any State, even between a State in the present Federation of Malaya and the Federation, what then will be the position? For instance, if there is a dispute by Perak against the Federation as regards any question, for instance, the challenging of this Malaysia Bill, then the case will be heard by the Federal Court, judges to which are appointed under Clause 17 of this Act. As I have said earlier, the appointment of judges to the Federal Court, and even the Chief Justices, is made on the recommendation of the Prime Minister himself. Well, when there is a big issue or dispute between the States and the Federation, I am at a loss as to how the judges, especially when, as I have said, the Prime Minister has patronage over their appointment, are going to decide on it. Perhaps the Deputy Prime Minister can enlighten me on that.

Enche' K. Karam Singh: I think that the Honourable Member for Kelantan Hilir has raised a subject which it is worthy for the House to note, because Mr Chairman, Sir, we note that today the judiciary of our

country is headed by a non-citizen, and it has already appeared in the papers that a non-citizen would become the Chief Justice of Malaysia. Mr Chairman, Sir, if there is a dispute between the legislative body of a State and the Central Parliament—perhaps the Central Parliament may be more progressive, or perhaps the State Legislature may be more progressive—we leave it in the hands of this foreign-dominated judiciary to act as a counter-weight to either Parliament or to the State Legislature, and as the judiciary is constituted today . . .

The Minister of Finance (Enche' Tan Siew Sin): Mr Chairman, Sir, may I rise on a point of explanation. I think there is no such thing as Chief Justice of Malaysia.

Enche' K. Karam Singh: Lord President. It does not matter what we call him, Sir. Whether it is Chief Justice, Lord President or something else, it still means that the chief officer of the judiciary will be a non-citizen and I will be glad if the Minister of Finance can deny that a non-citizen will head our judiciary.

Mr Chairman, Sir, on this—I am speaking purely on national policy and the interests of this nation—you leave the decisive power of a casting vote to a non-citizen to decide either against the Centre or against a State. This casting vote or decisive factor should not be left in the hands of a non-citizen, because that would be allowing the British Government, indirectly, to influence the internal judicial process and the internal affairs of our country and, indirectly, to participate in the politics of our country because a dispute between a State and the Central Legislature would essentially be a political dispute. So, Mr Chairman, Sir, if the Government is truly desirous of having an independent Malaysia, and not a Malaysia tied to the British, I want the Government in this House to say that a citizen of this country will be the Lord President of Malaysia. Otherwise, it is a slur upon our citizens—to say that our own citizens, our own lawyers and our own judges cannot be the Lord President, or the

Chief Justice of Malaysia. To the extent that the Government does not make it a condition that a citizen must be head of our judiciary, to that extent the Alliance Government is betraying this country, betraying to the detriment of this country and enabling Britain to dominate our judiciary.

Enche' Tan Phock Kin: I rise to seek clarification from the Honourable the Deputy Prime Minister. Under the provisions of this Bill, we have three high Courts—one for each territory. I would like the Honourable Deputy Prime Minister to enlighten this House whether this arrangement is arrived at because of judicial necessity, or is it because of political necessity.

The other question that I have is covered by Clause 60. So I shall wait until later on to put it to the Minister.

Enche' Liu Yoong Peng (Rawang): I think the question of the Lord President of Malaysia is very important, because in the new Federation not only disputes between citizens will eventually be decided in the Federal Court, but also disputes between the States and disputes between the Federation Government, and State Governments will be decided there. Therefore, the Lord President of the Federal Court is going to be an overlord over some matters relating to the Central Government as well as the States. For instance, in Annex "J" of the Agreement between the Governments of the Federation of Malaya and Singapore on Common Market and Financial Arrangements, Section 8, it is stated that—

"... the Lord President of the Federal Court, after considering the views of both governments, shall appoint an assessor from among persons recommended by the International Bank for Reconstruction and Development as being persons enjoying an international reputation in finance. The recommendations of the assessor shall be binding on both governments. Such reviews shall have regard to all relevant factors."

So, in fact, in the event of financial disputes between the Federation Government and the Singapore Government, the Governments will have to resort to the decision of the Lord President of the Federal Court. Therefore, in the interests of our country,

I think that the Lord President should be a citizen of our country.

Tun Haji Abdul Razak: Mr Chairman, Sir, in reply to the Honourable Member for Kelantan Hilir, I would like first to explain to him that a dispute on any question between States, or between the Federal Government and any State Government, obviously is a matter of great importance and, I think, that such a matter should only be determined by the highest Court in the land—that is the Federal Court. There is no question that it should be determined in any other Court, and that is why Clause 14 excludes any other Court from having any decision on this matter. Also the Federal Court consists of three Judges, the Lord President and two Judges, and the Lord President of the Federal Court has no casting vote. Sir, it is here where the Honourable Member for Damansara is wrong. I do not know where he gets it from. Being a lawyer, it is surprising for him to say that the Lord President has a casting vote; he has not got a casting vote; the three members of the Federal Court have equal status.

Now, Sir, I must say that the Honourable Member for Damansara is always confused in his thoughts, in what he wants to say or said. In one moment he advocates an independent Judiciary and all that, and he criticised the appointment of judges on the advice of the Prime Minister and all that. Now, he is questioning the independence of the Judiciary. I am surprised that he, being a lawyer brought up in the tradition of the English law, should have said all these things. He should have known that a judge is a person who has been trained in the law and that before a man can be appointed a judge, he had to be a practising advocate for more than ten years; and although for a time the Lord President of the Federal Court may be a non-Federal Citizen, at the moment the majority of our judges are all Federal Citizens with the exception of two—all the other judges are Malayan citizens.

The question of a dispute between the Central and State Governments is

not a political issue, but it is a matter of law and a question of fact. That is why it is decided that the matter should be decided or determined by the court. If it is a political matter, then the proper place to decide it is this House. This is a question of law and a question of fact. The court, as we all know it in this country, is independent of the executive and legislative, and that is why we thought it right and proper that a question of this nature, a question of dispute between the Central Government and any State Government, should be decided by the Court.

As regards the question of the Honourable Member for Tanjong, we have three High Courts under the Bill. This, I must admit, is both political and judicial. It is necessary, as you will appreciate, that the Borneo territories are separated from us by many hundreds of miles; there should be a separate High Court; and in the case of Singapore it has its own High Court now. So, I think it will be only right that the present position should be maintained when these territories join Malaysia.

Enche' Liu Yoong Peng: Mr Chairman, Sir, referring to what I said just now, I would like to say that I was not saying that a dispute between a State Government and the Federal Government should not be decided in the Federal Court. There is the so-called independence of the judiciary; and the judiciary can subject its dispute to an independent court. What I am saying is that the Lord President should be a citizen of the country, because no matter how much we can trust the integrity and the independence of the judiciary, the question of loyalty is also very important. If we have a citizen who has the loyalty of this country at heart, then I am sure a fair decision can be obtained. The judiciary will still be independent; it will still be unbiased; but there is still the added element of loyalty; and that is why I think it most important in this matter.

Enche' Tan Phock Kin: Mr Chairman, Sir, I am afraid that the Honourable Deputy Prime Minister is not very

convincing with regard to his answer to my question. If he had said that the reasons are political, then I have nothing to say. However, he has said that it is political and judicial and I am afraid I have to take him to task. The only reason which the Honourable Deputy Prime Minister can advocate with regard to the establishment of separate High Courts is that the Borneo territories is hundreds of miles away. It must be realised that there are countries whose political boundaries are very much bigger than Malaysia, and yet they do not establish regional High Courts as advocated by the Honourable Deputy Prime Minister. However, his argument cannot be applied to Singapore, which is just a few miles over the Johore Causeway. I submit here, Sir, that the only conclusion one can reach on this question of the establishment of three High Courts is that it is purely due to political expediency, because of the fact that there are already High Courts in existence in Singapore today, and there are Chief Justices having already been appointed. So, due to political rather than judicial necessity, the establishment of three High Courts have been agreed to. I must point out here, Sir, that this concept of three High Courts is inconsistent with the theme which the Government bench has been harping all along for a very long time—a strong central Government; and I submit that this is inconsistent with the concept of a strong central Government. Besides, Sir, we must realise that it is deplorable that the Government concerned should resort to measures which are contrary to national interests merely for political expediency.

Enche' K. Karam Singh: Mr Chairman, Sir, I am surprised that the Honourable Deputy Prime Minister is deliberately trying to misconstrue what I said. I said that the Federal Court dominated by a foreigner would have a casting vote—not the individuals of the Court—in a dispute between the Centre and the State; and on his false assumption, he has tried to impute that I do not know the structure of the judiciary. That is wrong, Mr Chairman, Sir.

Another point which has arisen from the Honourable Deputy Prime Minister's speech—and of which I think any Government would be ashamed—is for him to have stated that the judges and the Lord President have to have a number of qualifications: for instance, having practised as a lawyer for ten years and other qualifications. But he failed to mention one very vital fact and that is whether the Lord President must be a citizen. I would ask the Honourable Deputy Prime Minister to state whether it is so immaterial to this House and to this country whether the Lord President is, or is not, a citizen of this country. Again, the Honourable Deputy Prime Minister was very indignant at my trying to overthrow, or at the supposed attempt on my part to subvert the independence of the Judiciary. I would like to tell the Honourable Deputy Prime Minister that the independence of the judiciary would be more secure with one of our own citizens as the Lord President than an alien, or a non-citizen being the Lord President, because the independence of the judiciary would be compromised to the extent that the Lord President is not a citizen and there may be outside influences which may flow to our judiciary by that fact.

Mr Chairman, Sir, there is another point that the Honourable Deputy Prime Minister has failed to see—he does not practise and, perhaps, it may be because of that that he is, therefore, short-sighted regarding the working of the judiciary. Sir, what he does not know is that, although there would be three judges in the Federal Court, the Lord President is a non-citizen and he would have a very important bearing, because the Lord President would have immense prestige; in fact, the highest prestige that can attach to the judiciary, and that cloak of prestige would not be worn by a citizen of this country. That fact, Mr Chairman, Sir, would have immense influence upon the course of our judiciary and upon the course of the political development of our country. I would ask the Honourable Deputy Prime Minister whether he is aware of this, or is he not.

Wan Mustapha bin Haji Ali: Mr Chairman, Sir, I am afraid the Honourable Deputy Prime Minister has not answered my question. According to him, when there is a dispute between the State and the Federation, a very vital issue, it would be tried by the Federal Court. Of course, I agree with that, but my worry was, when I spoke just now, how could the Federal Court, which consists of a Lord President and the Judges—since they are appointed or recommended by the Honourable Prime Minister, who is the Head of the Central Government—decide the dispute between the Federation and the State without prejudice or without impartiality? Of course, the judges try to be impartial, they are learned in the law, but when the case is 50:50, when the decision is against the Federation to the advantage of the State, what would be the position?

As regards Clause 14 (1) (a), it is quite easy—that is the case where there is a question of whether a law made by Parliament or the legislature of a State is valid. In that respect it is quite easy for the Federal Court to decide, because that is a matter of interpretation of the law. But in paragraph (b) the question at issue is a dispute between any State and the Federation, and when there is a dispute, this dispute will be tried by the Federal Court, which consists of the Lord President and various judges, who are appointed or recommended by the Honourable Prime Minister himself. Sir, what I was trying to point out was that justice cannot be seen to be done. It is not a question whether it is tried by the Federal Court. It should be tried by the Federal Court, being the highest court, but the question is, can the dispute be tried by such a court and justice seen to be done?

Tun Haji Abdul Razak: Mr Chairman, Sir, we have already debated at length on the question of the appointment of judges. I think we all agreed that the appointment of the judges and the Lord President for 5 years is the right way of doing it. I must resist, and I must resent, any attempt by Honourable Members of this House to cast aspersions on the independence of the

judiciary, particularly on the independence of the judges; I think we have no ground, we have no instance, to say that the judges of our High Court, or the Lord President of the Federal Court and the judges, have in any way, at any time, shown that they are influenced in their decisions. To be fair to them, they have followed the highest traditions of the law, and I think it is not right for us here to cast any aspersions on their independence without any concrete evidence. We here have full confidence in the integrity and independence of our judges. They are men of standing and they have been trained in the tradition of the law, and they have upheld the tradition of the law.

Enche' K. Karam Singh: Mr Chairman, Sir, Standing Order 36 (1)

Mr Chairman: He has a right to explain.

Enche' K. Karam Singh: I did not cast any aspersions on anyone. I only wanted that the Lord President should be a citizen. The Honourable Deputy Prime Minister is being irrelevant, because I did not cast any aspersions.

Tun Haji Abdul Razak: The Honourable Member did say, Sir, that he considered the present Lord President of the High Court is less independent than if he were a citizen of this country, and I think to that extent he did cast aspersion on the person of the Lord President of the High Court.

Sir, I only want to add one small point in reply to the Honourable Member for Tanjong. It is true, as he said, that this idea of having three High Courts in the various territories is both political and judicial. But we have these three High Courts, particularly in the Borneo territories because of their distance from our national capital. It must also be remembered that we are a Federation, and it is very unusual in any Federation to have a unitary court, and to some extent we have got to respect the wishes of the people of these territories which have their own courts and which are now in existence, particularly in Singapore. I think it is only right that the present

arrangements should as far as possible continue.

Enche' Lim Kean Siew: Mr Chairman, Sir, I think it would have been, perhaps, more direct if the Honourable the Deputy Prime Minister had stated that this is a political expediency—this creation of a Federal Court and the maintenance of these three High Courts of the various States of Borneo and Malaya. Mr Chairman, Sir, the point is that when we want to do something, we must have reasons for doing it. The Honourable Deputy Prime Minister's argument is that the Government has created something, and if the Opposition wants to destroy it, they must give their reasons for it. In our arguments here, we are saying that there is no proper ground for the creation and the maintenance of three High Courts and the Federal Court, which include a President, called a Lord. Mr Chairman, Sir, the arguments given by the Deputy Prime Minister for the maintenance of three High Courts is, firstly, the distances involved. How far is Singapore from Johore Bahru? $1\frac{1}{2}$ miles. Is that a distance? In that case we can say Penang is farther from the mainland than Singapore is (*Laughter*). Therefore, there should be a High Court in Penang. That kind of argument is an insult to our intelligence. His second argument is that we are a Federation and not a unitary State, and because we are a Federation, we should have three High Courts. In that case, because we are a Federation we should have 14 High Courts, because there are 14 States: one High Court for Kedah, one High Court for Penang, one High Court for Pahang, one High Court for the King's former State, Perlis, one High Court for Selangor, etc., and then one High Court for Sabah and another High Court for Sarawak, because certainly Sarawak is farther from Sabah than Singapore is from Malaya. So these two arguments that we must have three High Courts because of the distance and because we are a Federation, are spurious. In fact, they are patently invalid arguments. Cannot the Deputy Prime Minister find some better reasons to give us? (*Laughter*).

Mr Chairman, Sir, I certainly cannot say that anybody has or has not been partial in our High Courts. How can I? After all, to err is human and the Privy Council has upset about five decisions from our Court of Appeal in the Federation in the last one year. I do not know what that means. Does that mean that there is no impartiality, or does that mean that there is incompetency? Whatever it is, decisions from our Court of Appeal have been upset in the Privy Council. As it is, it is true that one cannot talk of partiality. At the same time, it is as difficult to say that there is no impartiality, as it is to say that there is impartiality. It is difficult to prove impartiality. What the Honourable Member for Damansara says is this: that the Federal Court is going to decide matters of the Constitution and the Federal Court is going to decide constitutional affairs as between the State and the Federal Governments and by right it should be a Federal Citizen who should be the Lord President.

Are we going to say that our Federal Citizens are not competent enough to be the Lord President of the Federal Court? Are we trying to state that according to the Constitution the person who is going to be the Chairman of our Federal Court need not be a Federal Citizen and that Federal Citizenship is irrelevant to this matter? Imagine as the Lord Chief Justice of England a Frenchman or an Indian or a Negro. Would the people of England stand it? Imagine the President of the Supreme Court of America being a Malayan, for example, like the Malayan Ambassador to the United Nations, the Minister without Portfolio, who is at the moment sitting in the lobby having his coffee. Would the Americans stand it? That is a constitutional question. Now for the Honourable Deputy Prime Minister to say that because we say that, we are therefore insulting our present Chief Justice of Malaya is to deliberately cause confusion by putting into this argument personal considerations and emotionalism. We are not interested in the person of the Chief Justice of Malaya at the moment. We are not interested in individual personalities.

What we are stating is the constitutional principle. Should or should not the Lord President of the Federal Court be a Federal Citizen? That is our question. Did the Deputy Prime Minister answer that question? Is there no person in Malaya who is a Federal Citizen who can be Lord President of the Federal Court? The present Minister of Transport is qualified judicially (*Laughter*). He has completed 10 years practice. He can be the Lord President. Why not? Or are you trying to say that he is not competent enough.

The Minister of Transport (Dato' Sardon bin Haji Jubir): Mr Chairman, on a point of clarification, I have no intention of becoming the Lord President.

Enche' Lim Kean Siew: I am glad at the humility of the Minister, but then for the sake of the national interest, I am sure he would not refuse (*Laughter*). Well, Mr Chairman, now I come to a more serious problem, and that is the question of precedents. We have the example of India—of the High Courts of Madras, Calcutta and the various States of India having concurrent jurisdiction and therefore their decisions are of equal binding force to other courts of inferior jurisdiction. If we have three High Courts in Borneo, Singapore and Malaya, then the decisions of the High Courts of Singapore and Borneo will have as much effect and will accord equal precedents as the decisions of the High Court of Malaya. We have, for example, at the moment conflicting views with regard to what is causing death by a rash act. According to the decision of the former Chief Justice, Murray Aynsley, in the Singapore High Court, any negligent act which causes death is thereby a rash act. Many people in Singapore have been convicted for causing the death of people with a motor vehicle when it has been found that they have been guilty to some degree of negligence which is criminal. In Malaya the line of authority is entirely different. In order to have a person convicted of causing death by a rash act, his negligence must be of such a rash nature as to be tantamount to the negligence required

by manslaughter in England. In other words, the person must drive and be negligent to such an extent that it can be said that he did not care whether or not he would kill a person by his negligence and that he was completely reckless and he was grossly negligent in his negligence and that he drove with such negligence that he knew well that he would probably kill and he did kill that person with that negligence. Now when you have a clause of equal jurisdiction, then the courts will find it very difficult as to which decision to follow. If under this Bill we have a High Court in Singapore within the Federation of Malaysia and we have also a High Court in Malaya, then we can use the decisions of Singapore in Malaya, and in fact argue against those decisions by the decisions of the Malayan High Court. In that case there would be contradiction which will put us in the same position as the Indian Courts. It is wellknown among the practitioners and amongst the judges that the Indian decisions are more than useless because of this fact. One can quote a decision from Madras and counter-quote another decision from Calcutta and so contradict. Is it not better therefore to have one High Court with Judges belonging to this one High Court? The only point here in the creation of the three High Courts is in fact to have three Chief Justices. That means two more than necessary. Surely one Chief Justice for the whole of the Federation is enough. We can't even compare ourselves to one Indian State because one Indian State may even be twice as big as the Federation of Malaysia put together in numbers of population and in the complexities of its problems. To have three High Courts means to have two more Chief Justices and then when we invite them to state functions the question of who is to sit next to the Prime Minister becomes difficult.

Mr Chairman: Order, order, the time is up.

Encke' Lim Kean Siew: I stop here, Sir.

Clauses 11 to 15 inclusive ordered to stand part of the Bill.

Sitting suspended at 1 p.m.

Sitting resumed at 4.30 p.m.

(*Mr Speaker in the Chair*)

EXEMPTED BUSINESS

(*Motion*)

Tun Haji Abdul Razak: Mr Speaker, Sir, I beg to move,

That notwithstanding the provisions of Standing Order 12, the House shall not adjourn this day until after the Malaysia Bill shall have received its Third Reading.

Dato' Dr Ismail: Sir, I beg to second the motion.

Question put, and agreed to.

Resolved,

That notwithstanding the provisions of Standing Order 12, the House shall not adjourn this day until after the Malaysia Bill shall have received its Third Reading.

THE MALAYSIA BILL Committee

House immediately resolved itself into a Committee of the whole House.

Bill considered in Committee.

Clauses 16-20—

Wan Mustapha bin Haji Ali: Mr Chairman, Sir, I am speaking in respect of Clause 16 on the constitution of the High Courts. Sub-clause (2) states :

"Any person qualified for appointment as a judge of a High Court may sit as a judge of that court, if designated for the purpose (as occasion requires) in accordance with Article 122B."

In other words Sir, normally he must be a citizen. Then we have Clause 19, paragraph (b) of which says :

"for the ten years preceding his appointment he has been an advocate"—

In other words he is an advocate and solicitor who is in practice for the last ten years; then he can be appointed as a judge of a High Court, provided he is also a citizen. But, Sir, sub-clause (3) of Clause 16 says :

"For the despatch of business of the High Court in Borneo in an area in which a judge of the court is not for the time being available to attend to business of the court, the Yang di-Pertuan Agong acting on the advice of the Lord President of the Federal Court, or for an area in either State the Governor of the State acting on the advice of the

Chief Justice of the court, may by order appoint to be judicial commissioner in that area for such period or for such purposes as may be specified in the order an advocate or person professionally qualified to be admitted an advocate of the court."

My submission is this: why should a judicial commissioner be appointed where there is no time qualification? Mr Chairman, Sir, it will be noted that in the appointment of a judicial commissioner, the Yang di-Pertuan Agong or the Governor of a State, again acting on the advice of the Chief Justice, or Lord President, as the case may be, can appoint any person as long as he is an advocate or a person professionally qualified. In other words, a lawyer who has been in practice for the last one month can be appointed as a judicial commissioner having the same status of the judge of a High Court. Let us take the case, for instance, of a State Secretary: he has never practised law; he is a professionally qualified person; he may be a State Secretary for ten years doing administrative work; he may be qualified, but he is not in practice; he is out of touch; and yet he can be appointed as a judicial commissioner.

Enche' Lim Kean Siew: As the Minister of Transport.

Wan Mustapha bin Haji Ali: The Minister of Transport was in practice. Sir, what I am saying is that a person who is qualified—a professional lawyer—might not have been in practice and has been in the administrative service for the last thirty years, and he might be in his retiring age, and such a person can be appointed a judicial commissioner. Under this sub-clause (3) of Clause 16, there is no qualification as required by Clause 19—and in Clause 19 it seems that where an advocate and solicitor has been in practice for ten years, he cannot be appointed unless he is a citizen. According to Clause 16 (3), as long as he is an advocate, as long as he has the professional qualification, whether he is a citizen or not, he can be considered for appointment. I say that it is a very high responsibility to give to such a person, and it is quite dangerous to appoint a person of this type to be

a judicial commissioner exercising the duty of a judge.

Tun Haji Abdul Razak: Mr Chairman, Sir, this is only a special arrangement necessary for the Borneo territories. As Honourable Members know, the Borneo territories are so extensive and there are only a few judges and not many magistrates. Therefore, in case of an emergency, when judges are not available, because there are only a couple of judges for the whole of Sarawak and North Borneo, it is necessary to appoint someone to do the work as judicial commissioner; further a judicial commissioner has got limited functions to perform really. I can assure the Honourable Member that this is only in case where a judge is not available that the Yang di-Pertuan Agong may appoint someone to be a judicial commissioner—not a judge.

Clauses 16 to 20 inclusive ordered to stand part of the Bill.

Clauses 21 to 25 inclusive ordered to stand part of the Bill.

Clauses 26-30—

Enche' V. Veerappen (Seberang Selatan): Mr Chairman, Sir, I am at a loss to understand why Clauses 21 to 25 should have been taken at a stretch, because from Clause 23 onwards the subject matter is different—according to the title, it is "Citizenship". I would like to know what arrangement the Clerk to the House has as regards the reading out of the clauses.

Mr Chairman: The procedure is laid down in the Standing Orders.

Enche' V. Veerappen: I should have thought that it would be much better if we go by subjects, titles, or chapters.

Mr Chairman: There is no such order at all. The Clerk can take any clause or a group of clauses according to the Standing Orders. It is up to you to be careful so that you get up to speak on the clause or clauses that I propose. We are now on Clauses 26 to 30.

Enche' V. Veerappen: Mr Chairman, Sir, the residential qualification for persons to become citizens

Mr Chairman: Under what Clause is that?

Enche' V. Veerappen: Clause 26 and all of those Clauses which require residential qualification. I would like to have clarification from the Honourable Deputy Prime Minister as to whether, in the case of persons who have resided in Singapore and who have applied for federal citizenship, their period of residence in Singapore could not be taken as period of residence in the Federation, as Singapore is already a part of the Federation. Also this applies very badly in the case of a woman who marries a federal citizen who is not a Singapore citizen. As all persons in the Federation are federal citizens, whether they are Singapore citizens or not, the period of a two-year residential qualification is very unkind, because a woman, who has resided in Singapore for any length of time, if she should marry a federal citizen who is not a Singapore citizen, then I should say the period of residence in Singapore should be taken as qualifying; if not, she will have to reside for two years more before she could apply for citizenship. I think that is very unfair.

The other point, Mr Chairman, Sir, is the question of Singapore citizens in the Federation. We have, Singapore citizens who up to now have been aliens in this country, and they have to carry red identity cards. What I would like to know—and this is in the minds of thousands of people—is, whether these people after Malaysia Day, when they become federal citizens, would they be still carrying red cards, or would they be carrying blue cards just like citizens of this country?

Dato' Dr Ismail: Sir, the Honourable Member for Seberang Selatan spoke on Clause 26, that is Citizenship by Registration. Now, in Clause 26, it is definitely stated that it is designed solely for those who reside in the Borneo territories. As I have mentioned in my speech in reply to the Honourable Member on the question of citizenship, this can be treated as a provisional clause which will lapse when this kind of citizens have all acquired their citizenship.

Clause 27 (1) is Citizenship by Naturalisation—and I think that Clause is very clear. It deals here with citizenship by naturalisation for citizens of Singapore who also will become Malaysian citizens by virtue of being Singapore citizens and also those who want to become Malaysian citizens direct.

Now, Sir, for the benefit of the Honourable Member, I better read Clause 27 very slowly and carefully. It says:

“Subject to Clauses (7) and (9), the Federal Government may, upon application made by any person of or over the age of twenty-one years who is not a citizen, grant a certificate of naturalisation to that person if satisfied—

(a) that—

(i) he has resided in the Federation outside Singapore for the required periods”;

and if you read Clause 27 (3), it says:

“The periods of residence in the Federation or the relevant part of it which are required for the grant of a certificate of naturalisation are periods which amount in the aggregate to not less than ten years in the twelve years immediately preceding the date of the application for the certificate, and which include the twelve months immediately preceding that date.”;

and this Clause 27 (1) (a) (ii) says:

“he has resided in Singapore for the required periods and intends, if the certificate is granted, to do so permanently,”

This refers to those who want to acquire citizenship of Singapore.

Now, let us refer to Clause 27 (4). It says:

“For the purposes of Clauses (1) and (2) residence before Malaysia Day in the territories comprised in the Borneo States shall be treated as residence in the Federation outside Singapore;”

that is for naturalisation for direct Malaysian citizens—

“. . . and for purposes of Clause (2)—(which is in regard to citizenship of Singapore)—

—“residence before Malaysia Day in Singapore shall be treated as residence in the Federation.”

Now, as regards the registration of identity cards, it is not mentioned here that we want to alter, but I think we will extend the type of registration cards we have to the Borneo territories and Singapore.

Enche' Lim Kean Siew: Mr Chairman, Sir, perhaps the Honourable Minister of Internal Security would be so kind as to explain to this House, why there should be Clause 26 (d). Clause 26 (d) deals with the case of a person who makes application for registration as a citizen before 1971—and it says:

“except where the application is made before September, 1965, and the applicant has attained the age of forty-five years at the date of the application, that he has a sufficient knowledge of the Malay language or the English language or, in the case of an applicant ordinarily resident in Sarawak, the Malay language, the English language or any native language in current use in Sarawak.”

Now, obviously here two points have to be noted. Firstly, what happens after 1971? Will the language qualification be necessary. Secondly, why is a person ordinarily resident in Sarawak, able to obtain citizenship if he knows the Malay or English language or any native language in current use in Sarawak (which we all know comes up to more than 15) and yet when it comes to Sabah it requires a sufficient knowledge of the English language or the Malay language only? So, obviously, when it comes to Sabah the knowledge of a native language is no qualification and is not necessary. Supposing at the moment there are about 245,000 Kadazans—to which Donald Stephens claims he belongs—and supposing a North Bornean Kadazan (or a Dusun) applies to become a federal citizen and he does not know Malay or the English language, what then? It would appear here that, if he does not know English or the Malay language and knows only Kadazan, he would not be able to obtain his citizenship papers. Now, there is another case of the Chinese people brought up amongst the Kadazans who can only speak Kadazan and Chinese, in that instance they would apparently be disqualified. But when it comes to Sarawak, then any native language in current use in Sarawak is a sufficient qualification.

The next question I would like the Honourable Minister of Internal Security to explain is sub-clause (2) of Clause 27 which says:

“... in such special circumstances as it thinks fit, upon application made by any

person of or over the age of twenty-one years who is not a citizen, grant a certificate of naturalisation to that person if satisfied—

- (a)
- (b), and
- (c) that he has an adequate knowledge of the Malay language.”

It appears that Clause 27 (2) makes it conditional that a person must know Malay and only Malay, and even if he knows English he is not qualified. Will the Honourable Minister of Internal Security explain why this Clause is necessary and what are the special circumstances which the Government will think fit to issue certificates under this clause?

The Honourable the Deputy Prime Minister said the other day that a Singapore citizen is not under double jeopardy and need not obtain approval of both the Singapore and the Federal Governments. Could he explain what is the meaning of Clause 27 (7) at page 16. This sub-clause says—

“A certificate of naturalisation as a Singapore citizen shall not be granted without the concurrence of the government of Singapore.”

This would appear to me to mean that Singapore citizenship can be granted by the Federation Government and that the citizenship cannot be granted without the concurrence of the Government of Singapore. The word “concurrence” means “two” in this instance and therefore surely it would mean that unless the Singapore Government agrees the Federation Government cannot issue such a naturalisation certificate. It would also mean, as a corollary, that even though the Singapore Government may agree to grant such a certificate, the Federation Government may not agree to it. It would appear by this clause obviously that a Singapore citizen can obtain his citizenship either through the Federation Government or through the Singapore Government, and if he wishes to obtain it through the Federation Government, the Government must obtain the agreement of the Singapore Government. What I think has not been clarified sufficiently is that (if we may refer back to a clause which has in fact been passed, i.e., Clause 23 (3)) “Citizenship of Singapore shall not be severable from citizenship

of the Federation, but a Singapore citizen by the loss of either shall lose the other also So, therefore, even if a person obtains his citizenship papers under Clause 27—and in that case he could either be a Federal citizen or a Singapore citizen—cancellation by the Singapore Government of his citizenship papers would automatically cancel his citizenship obtained from the Federation Government. The opposite is also true; if the Federation Government cancels his citizenship, he then loses his Singapore citizenship. Therefore, by Clause 23 (3) and Clause 27 (7) a Singapore citizen can—and I emphasise can—be placed in double jeopardy. He can obtain his citizenship from both the Singapore and the Federation Governments, but when he obtains it from the Federation Government, he must get the concurrence of the Singapore Government, and if it is cancelled he will lose his Singapore citizenship also. Surely then unless a good reason is forthcoming, this is a prejudice which the Singapore citizens must suffer from.

Enche' V. Veerappen: On a point of clarification, are we on Clause 28 also?

Mr Chairman: Yes.

Enche' V. Veerappen: Clause 28 (2) says: "In relation to Singapore citizens Articles 15 and 15A shall apply to entitle or allow them to be enrolled as citizens who are not Singapore citizens, in the same way as those Articles apply". Now Article 15 of our Constitution says—

"Any woman who is married to a citizen is entitled, upon making application to the Federal Government, to be registered as a citizen if she satisfies the Federal Government—

(a) that she has resided continuously in the Federation for a period of not less than two years immediately preceding the date of the application."

I was pointing out this to the Minister, but he did not give any explanation to that just now. The point is that any woman who marries a citizen has to wait for two years before she can apply for her citizenship even though she may be of good character, which the Minister of Internal Security should be able to know since internal security

will come under his control. I ask him whether this two-year qualification should not be waived in the case of a woman from Singapore whom our Federal citizen from, say, Johore marries. I think this requirement is too unkind to a woman who marries a Federal citizen. Since Singapore becomes part of the Federation, I think it is fair to make that request, and I hope the Government will consider it.

Dato' Dr Ismail: As regards the date September, 1971 mentioned by the Honourable Member, as I have said, Clause 26 is to be temporary. So it is hoped that by September, 1971 that clause will lapse. Then he mentioned the matter of Clause 27 (2) The Federal Government may, in such special circumstances as it thinks fit, . . . grant a certificate of naturalisation By the way, when I introduce this question of citizenship I am the Minister of the Interior. Sir, as the Honourable Member knows, the question of naturalisation is a discretion on the part of the Government; it is not mandatory. So we have got to consider the type of person he is before we decide whether we want to give him a certificate of naturalisation or not.

Enche' V. Veerappen: On a point of clarification.

Dato' Dr Ismail: I am replying to your colleague, not to you.

Mr Chairman: He is replying to the Honourable Member for Dato Kramat, not to you.

Dato' Dr Ismail: Now let me go back to the question of Clause 27 (7). Sir, all certificates of naturalisation will be given by the Central Government, but in the case of Singapore if we want to issue a certificate of naturalisation we shall not give it without the concurrence of the Singapore Government. As I said in my speech in reply to the Honourable Member in the general debate there is no such thing that if you apply for Singapore citizenship that you must have the concurrence of the Federation Government; similarly, in the case of the Federal citizenship, an applicant need not have the concurrence of the Singapore Government

before we can issue him with a Malaysian citizenship. But in this case, if the Federation Government is going to issue a certificate of naturalisation, naturally it must have the concurrence of the Singapore Government because we are issuing Singapore citizenship.

As regards the query raised by the other Member of the Socialist Front about waiving the period of two years for Singapore women, I think we do not consider that necessary because even if we look at it from the point of matrimonial relationship, from Johore to Singapore it is only 17 miles and if she decides to stay with her husband she could stay there for two years and get the benefit of the clause. But if she decides for the husband to visit her occasionally, she can stay in Singapore. There is no hardship about it at all. The distance is so short, and the pleasure of the hunting lies in the chase (*Laughter*).

Enche' Tan Phock Kin: Mr Chairman, Sir, on this question of citizenship, I would like to seek clarification from the Minister of the Interior with regard to one feature of this Constitution, that is to say the clear distinction between citizens as such and citizens who are Singapore citizens. It appears to me that the Minister has been stressing all along the desire for unity and that if there is any

Dato' Dr Ismail: May I know what clause the Honourable Member is referring to?

Enche' Tan Phock Kin: Clause 28—Transfer of citizenship to or from Singapore. It appears to me that there is no provision whatsoever to eliminate this feature in the Constitution in course of time. This will remain a permanent feature. We will have two types of citizens—a citizen and a citizen who is a Singapore citizen. No assurance has been given to us that this is only a temporary feature and that in course of time this will disappear. In the light of this, I would like the Minister of the Interior to kindly explain to this House as to how this will be consistent with the objective of the Alliance Government.

Dato' Dr Ismail: Sir, the Honourable Member for Tanjong must be hard of hearing. I have said that Clause 26, Citizenship by Registration, is transitional or temporary, but I never did say that Clause 28 is transitional or temporary, and I made it clear, when replying to Honourable Members, that Government's concept of Malaysia in regard to Singapore is that Singapore would like to have its own citizenship in addition to Malaysian citizenship. Of course, if you try to argue this one from the Honourable Member's concept of Malaysia, then it will look ridiculous, but from the Government's concept of Malaysia, this is not ridiculous, because it is in accordance with the desire of the people of Singapore.

Enche' Tan Phock Kin: Mr Chairman, Sir, it appears to be that the Honourable Minister of the Interior is rather inconsistent with the general view-point, or the general statement of policy, as enunciated by Ministers of the Government from time to time. It has been stated that it is the desire to build one nation with one citizenship and with one national language. So, I must point out that this is inconsistent with that very concept of nation building. It is all very well to say that we must have a Singapore citizenship, because of the fact that the people of Singapore want a citizenship of their own—but that is quite beside the point: we are arguing on the objective of the Government. I am not saying that the Government should agree to our objective, but this is an objective enunciated by the Alliance—they are going to build one nation with one national language. It appears that this is inconsistent . . .

Mr Chairman: We have debated on the principle of the Bill a whole day and now you are coming back to the principle.

Enche' Lim Kean Siew: Mr Chairman, Sir, surely the question of citizenship is very important. If we have not understood the Minister of the Interior properly, it may not be due to bad hearing but due to bad enunciation.

It is quite clear Mr Chairman, Sir, that a Singapore citizen cannot become

a Federal citizen unless there is a concurrence of the wishes of both Governments.

Dato' Dr Ismail: No.

Enche' Lim Kean Siew: Even then, it would appear that before a person can become a Federal citizen, he has to lose his Singapore citizenship. I believe I am correct. That seems to be the tenet of the clauses of this Bill. It would appear that if a person wishes to transfer himself, then he can only transfer himself under Clause 28. What would be the practical effect of such a request for transfer? Perhaps, the Minister of the Interior can tell us.

Enche' V. Veerappen: Mr Chairman, Sir, as a further clarification, I would like to know from the Minister as to why we should have two types of citizenship. Pardon me, Sir, if I proceed with this, although there has been quite a lot of argument going on. We have been given to understand that this is because of the special position of Singapore. We also know that in the Federation we have nine State nationals: you have the Selangor State national, the Perak State national, and so on—and it looks as if people in Penang and Malacca, like myself, have no State nationality; and may be we belong to the Queen of England (*Laughter*); and the same differentiation could be made in the case of Singapore. Why was this citizenship introduced? Was it to confuse the people and to make a Federal citizen worse than he is, or to make a Singapore citizen better than he is, or was it just for political convenience? How can we bring difficulties to the people just for the political convenience of a few?

Enche' Lim Kean Siew: Mr Chairman, Sir, Clause 28 (1) reads very clearly as follows:

"The Federal Government may, upon application made by any Singapore citizen of or over the age of twenty-one years, enrol him as a citizen who is not a Singapore citizen, if the Federal Government is satisfied that, had his application been for the grant under Article 19 of a certificate of naturalisation as a citizen who is not a Singapore citizen, the conditions of paragraphs (a) (i), (b) and (c) of Clause (1) of that Article for the grant of the certificate would be fulfilled."

Article 19 of the Malayan Constitution reads as follows:

"Subject to Article 21, the Federal Government may, upon application made by any person of or over the age of twenty-one years, grant a certificate of naturalisation to that person if satisfied—

(a) that he has resided in the Federation during the twelve years preceding the date of the application, for periods amounting in the aggregate to not less than ten years;"

Clause 28 (3) reads as follows:

"(3) A citizen enrolled as being or not being a Singapore citizen by virtue of this Article or by virtue of any corresponding provision in the Constitution of the State of Singapore shall be or not be a Singapore citizen accordingly from the day on which he is so enrolled."

By putting these clauses together, it would appear that a person cannot become a Singapore citizen unless he permanently wishes to reside in Singapore, because all our conditions on naturalisation require that a person must have resided for a certain number of years either in the Federation or in Singapore, and then he must have intended to remain there permanently before he can become a citizen. So, the effect of Clause 28 (3) would be that a Singapore citizen can only become a Singapore citizen when he has declared his intention to live there permanently. Therefore, as soon as he declares that, he cannot then shift over to the Federation and stay there for, say, 10 years, and then abandon his Singapore citizenship and say that, "I wish to apply for Federal citizenship because I have now resided 10 years in the Federation", because it can then be argued that since he is a Singapore citizen he must be deemed to have intended to reside in Singapore, and, therefore, very strict proof will be required before he can satisfy the Government that he has abandoned his Singapore residence. That is the first point. The second point is this: if I do not like the Singapore Government and I am a Singapore citizen and I decide to become a Federation citizen, I must then, in spite of the fact that I might have been born in Singapore and I might have been resident in Singapore for the last forty years, I would, in spite of that, have to come to the Federation, stay here for

ten years continuously, before I can apply for a Federation citizenship, which means that for ten years I would have no political rights in the Federation whatsoever. Surely, this coupled with the fact that the Singapore citizenship is put under double jeopardy of the two Governments, requiring in some cases their concurrent approval, would mean that the Singapore citizen is doomed for life to be a Singapore citizen thus to be put at the mercy of the Singapore Government.

Enche' Tan Phock Kin: Mr Chairman, Sir, I seek further clarification on Clause 28 (1), and this pertains strictly to the question of a Singapore citizen wanting to be a citizen who is not a Singapore citizen. It is understandable that prior to the establishment of Malaysia, we may think in terms of loyalty to the Federation and loyalty to Singapore. But, with the establishment of Malaysia, there is no question of allegiance, except allegiance to His Majesty the Yang di-Pertuan Agong and allegiance to the Federation of Malaysia. In other words, residence whether in the Federation of Malaya, or in Singapore, or in the Bornean territories, irrespective of where it is, should be considered as residence in the Federation of Malaysia. I see no reason whatsoever why differentiation should be made with regard to residence in Singapore, or residence in the Federation outside Singapore. Once you have that distinction, it makes the whole Federation of Malaysia a farce. People will not think in terms of loyalty to the Malaysian Federation. If you do not treat people alike, naturally, they have every good reason to feel disloyal, and I submit here that this particular clause in eliminating, or in differentiating, residence in Singapore is a very retrogressive step. We are undoing our efforts to build a common nationality with this particular clause, and I hope that the Honourable the Minister concerned can give an explanation to this matter.

Enche' K. Karam Singh: Mr Chairman, Sir, I should say that the few clauses we are going over now are the muddiest (*Laughter*) in the whole Bill—and they are the most unclear. Mr

Chairman, Sir, if this Government were sincere, then we would have a crystal-clear declaration of the rights of citizenship, but what we have here, as I have pointed out, is really very muddy water and it is very difficult to make anything of it. What emerges from these clauses, Mr Chairman, Sir, is that Singapore is being treated like a political untouchable

Mr Chairman: Order! order! We are not debating any more on the principle of the Bill. We are now debating Clauses 26 to 30. Will you confine your observations to those, and do not repeat the points which have already been dealt with by your colleagues.

Enche' K. Karam Singh: Mr Chairman, Sir, I do not think I have to be reminded not to debate on the principle of the Bill, because I am speaking on Clause 26, Sir.

Mr Chairman: All right, please proceed.

Enche' K. Karam Singh: Mr Chairman, Sir, the Federation Government is treating Singapore like a political untouchable; otherwise, why should we in Clause 26 have this very sinister enactment. I read, Mr Chairman, Sir:

"26. Subject to Article 18, any person of or over the age of eighteen years who is on Malaysia Day ordinarily resident in a Borneo State is entitled, upon making application to the Federal Government before September, 1971, to be registered as a citizen if he satisfies the Federal Government—

(a) that he has resided before Malaysia Day in the territories comprised in those States and after Malaysia Day in the Federation outside Singapore"

Why should there be this distinction? If we are creating one country and one State, why should there be this differentiation of residence in a particular part? Why should Singapore be separated? My submission is that we have failed to create a single country or a single State by making this differentiation between Singapore and the Federation and the Bornean territories—by making this differentiation we have failed to create a single country or a single State.

Further, this condition of residence for qualifying for citizenship will fail in the creation of a single nation. We will have a multiple nation made up of

various types of citizenships. So, Mr Chairman, Sir, as I have said, it would be wise for the Government to withdraw these rather muddy provisions (*Laughter*) and make a single citizenship provision for all the peoples of these territories so that we can create—if we have the intention of creating—a single country and a single united people.

Enche' Lim Kean Siew: Mr Chairman, Sir, it is good to laugh at my Honourable friend when he is talking, but Clause 27 (4) makes the muddy water even muddier. Sub-clause (4) of Clause 27 says,

"For the purposes of Clauses (1) and (2) residence before Malaysia Day in the territories comprised in the Borneo States shall be treated as residence in the Federation outside Singapore;"

Now, it is obvious that this part regards it as residence outside of Singapore, if a person has been residing in those territories before Malaysia Day. And, the second part of this sub-clause goes on to say:

" . . . and for purposes of Clause (2) residence before Malaysia Day in Singapore shall be treated as residence in the Federation."

This makes it very clear that after Malaysia Day no residence in Singapore will be counted as residence outside of Singapore. But why this distinction? Why not just say that—

"For the purposes of application of citizenship, where a person has given up his Singapore citizenship residence in Singapore shall be counted as residence in the Federation, and, provided a person does not intend to go back to Singapore and no longer intends to reside permanently in Singapore and has decided to reside permanently in the Federation outside of Singapore, he shall be entitled to citizenship of the Federation."

Why should it be that where a person has been a Singapore citizen, which according to Clause 23 is not severable from the citizenship of the Federation, be disqualified from applying for Federation citizenship and his residence in Singapore be considered as if it is residence in a foreign country?

Dato' Dr Ismail: The provisions of this Bill on citizenship are only muddy to the members of the Socialist Front who try to argue them on the basis of

their concept of Malaysia. However, there is one point where they would really like to be enlightened, and I have much pleasure in enlightening them—that is, whether a citizen of Singapore, who is also a Malaysian citizen, can become a direct Malaysian citizen. They can do that in two ways—it is so elementary my dear Watson—one is by a transfer of citizenship under Clause 28 (1), in which case he has to comply with the conditions of paragraph (a) (i), and I read para. (a) (i) "that he has resided in the Federation other than Singapore for the required period".

Enche' Lim Kean Siew: Other than Singapore—that is exactly my point.

Dato' Dr Ismail: Let me finish, Sir.

Mr Chairman: No interruption, please.

Dato' Dr Ismail: Paragraphs (a) (i), (b) and (c) of Clause (1), he must fulfil all those things and he also must fulfil the required period of residence in the Federation outside Singapore. That is, he can acquire it by transfer. But he can also acquire it by naturalisation—that is under Clause 27 (2). You asked me just now about "in such special circumstances". I was answering you in bits and pieces because I know you would keep on talking. Now I will give you the answer in full. "In such special circumstances" refers to Clause 27 (4) which reads "and for purposes of Clause (2) residence before Malaysia Day in Singapore shall be treated as residence in the Federation." So if a Singapore citizen wants to become a direct Malaysian citizen by naturalisation the period that he resided in Singapore can be counted as period of residence in the Federation. I hope I make myself quite clear on that point. If not, I can repeat and try to make it more simple for the Honourable Member by using clearer language. But I hope he understands what I say about the two methods: by transfer and by naturalisation. And for the purposes of naturalisation, periods of residence in Singapore can be counted as periods of residence in the Federation. But in the case of transfer you must reside in the Federation outside Singapore.

Enche' Lim Kean Siew: He might have used the words of Connon Doyle, but I am afraid that he did not use his logic (*Laughter*). What he has tried to explain to this House is exactly the problems I have raised. Section 27 1 (a) says that the Federation Government may give a certificate of naturalisation to any person when he has resided in the Federation outside of Singapore for the required periods, and Article 19 requires that the residence required for Federal citizenship is 10 years out of 12 years. Therefore, he must come and stay here for 10 years.

Dato' Dr Ismail: No, he stays in Singapore.

Enche' Lim Kean Siew: Section 27 (1) (a) says "that he has resided in the Federation outside Singapore". I did not realise that

Dato' Dr Ismail: Will the Honourable Member please read Clause 27 (4): "and for purposes of Clause (2) residence . . . in Singapore shall be treated as residence in the Federation". It is quite clear enough.

Enche' Lim Kean Siew: Para. (a) (i) of Clause 27 (1) says "outside Singapore". Now outside does not mean inside (*Laughter*) and if the Honourable Minister of the Interior is trying to argue that Clause (4) makes it in any way different, may I enlighten him and read it again. Clause (4) reads—

"For the purposes of Clauses (1) and (2) residence before Malaysia Day in the territories comprised in the Borneo States shall be treated as residence in the Federation outside Singapore; and for purposes of Clause (2) residence before Malaysia Day in Singapore shall be treated as residence in the Federation."

Clause 27 (1) (a) deals with residence in the Federation outside Singapore—residence in the Bornean States for example. So Clause (1) does not apply to this section. What applies is Clause (2). For the purposes of Clause (2) residence before Malaysia Day in Singapore shall be treated as residence in the Federation, not after Malaysia Day. Now, Clause (2) says,

"Subject to Clause (9)—which means a person must swear oath of allegiance to the Federation Government—the Federal Government may, in such special circum-

stances as it thinks fit, upon application made by any person of or over the age of twenty-one years who is not a citizen, grant a certificate of naturalisation to that person if satisfied—

(a) that he has resided in the Federation for the required periods and intends, if the certificate is granted, to do so permanently;"

That means 10 years out of 12 years again. Clause (4) of section 27 says—"for the purposes of Clauses (1) and (2) residence before Malaysia Day in Singapore shall be treated as residence in the Federation." I quite understand that. My question is, what happens for residence after Malaysia Day, not before Malaysia Day? I know that before Malaysia Day residence in Singapore is counted. Before Malaysia Day is pronounced, the people in Singapore who want Federation certificates had better come across the Causeway on a bicycle quickly before 12 o'clock strikes Provided they can do that they will be safe because as soon as they reach the shores of the Federation at the stroke of 12 they can then ask the Federation Government to take into consideration their residence in Singapore, but the poor unfortunate person who has had a tyre puncture and who had to push his cycle reaches Malaya after the stroke of 12 can no longer have his residence in Singapore counted for Federation citizenship. That is my point (*Interruption*).

Mr Chairman: Have you finished?

Enche' Lim Kean Siew: No. But the point is that any period of residence after Malaysia Day in Singapore cannot, I emphasise, cannot be counted as residence in the Federation. We are not arguing on the question of transfer. I am arguing on Clause 27 (4). Let us deal with that first.

Dato' Dr Ismail: Mr Chairman, Sir, I will speak clearly and very slowly. Clause 27 deals with citizenship by naturalisation. Clause 27 (1) is a normal thing that an applicant must do before he can qualify for naturalisation. In other words, if he wants to become a direct Malaysian citizen, this is what he must do: he has resided in the Federation outside Singapore for the required period—that is not less than

ten years out of 12 years; then if he wants to become a citizen of Singapore, he must reside in Singapore for a period of ten years out of 12. So there are two types there: Clause 27 (1) refers to an applicant who wants to be naturalised either as a direct Malaysian citizen, or he wants to become a Singapore citizen. If he wants to become a Malaysian citizen, he must reside ten years out of 12 in the Federation outside Singapore; and if he wants to become a Singapore citizen, then he must reside in Singapore ten years out of twelve.

Clause 27 (2) is a special case, where it is at the discretion of the Government if it likes to do so. In other words, we can give to this class of people a naturalisation certificate without his having to reside in the Federation outside Singapore. His period of residence in Singapore too can be counted—that means that the Government can give that concession as a special case.

Enche' Lim Kean Siew: Before Malaysia Day?

Dato' Dr Ismail: Before Malaysia Day is another factor. Now, what do we want to do before Malaysia Day? If a person, who has resided in Singapore, if he wants to become a citizen, we must count that period too. If we do not say "residence before Malaysia Day" then that period will not be counted. So, after Malaysia Day if he wants to become a Singapore citizen he must reside there ten years out of twelve. "Before Malaysia Day" is just to allow those people who reside in Singapore to qualify that period for the period of qualification as a citizen of Singapore; and the same thing applies for those who want to acquire Malaysian citizenship. The period of residence anywhere outside Singapore before Malaysia Day can be counted. To give an example, let us take the case of a person in Singapore. That person resides in Singapore before Malaysia Day—say, he has resided there for eight years—and on Malaysia Day he has resided in Singapore for eight years; so, he needs only to qualify for two years to get ten out of 12 years in Singapore to qualify for Singapore

citizenship. If we do not say that the period of residence in Singapore should be counted, then those eight years will not be counted. We want to be fair to all people. In some cases, for example, if a person has resided in Johore eight years before Malaysia Day, and then he needs to have only two years before he can be naturalised. Therefore, if we do not say "the period before Malaysia Day" should be counted, then he will lose those eight years. I think I have made it clear now.

Enche' Lim Kean Siew: Am I therefore correct if I understand that as regards sub-paragraph (i) of Clause 27 is as explained by me? Does the Honourable Minister of the Interior agree with me?

Dato' Dr Ismail: Yes, that is correct.

Enche' Lim Kean Siew: That is what I said. (*Laughter*).

As regards Clause 27 (2), residence before Malaysia Day is counted but not after Malaysia Day—after Malaysia Day is the answer "Yes" or "No"? (*No Answer*).

I now come to my third point, which is application for transfer. Under Clause 28 (1) a person can apply for transfer: it says here,—

“ . . . any Singapore citizen of or over the age of twenty-one years, enrol him as a citizen who is not a Singapore citizen, if the Federal Government is satisfied that, had his application been for the grant under Article 19 of a certificate of naturalisation as a citizen who is not a Singapore citizen, the conditions of paragraphs (a) (i), (b) and (c) of Clause (1) of that Article for the grant of the certificate would be fulfilled.”

As regards the question of the transfer of citizenship from Singapore to the Federation of Malaya, it is subject to a residential qualification of ten years out of 12 years in the Federation of Malaya. Therefore, if I am correct in all these three points, the Singapore citizen suffers a jeopardy. I am suggesting that it would make more sense if sub-clause (4) of Clause 27 could be changed, and instead of saying that the period cannot be counted, it would be better to say that periods of residence in any of the Federation States can be taken as residence in the Federation for

the purpose of application for citizenship, so that a person, who stays in Singapore, if he wishes, can apply to become a Federal citizen. As it is, if he is a Singapore citizen and if he applies to become a Federation citizen, he must start all over again as if he was a "freshy", except that the period of residence before Malaysia in Singapore can be counted. That is why I say this is unfair and I hope that I have made myself very clear.

Enche' Zulkiflee bin Muhammad: Tuan Pengurus, saya tidak hendak memudahkan citizenship di-Singapura ini. Yang menjadi soal kapada saya ia-lah di-antara sharat² (qualifications) bagi membolehkan orang mendapat naturalisation ini ia-lah "he has an adequate knowledge of the Malay language". Kita tahu bahawa Singapura itu ada-lah sa-buah pulau yang penoh dengan orang yang tidak berapa tahu bahasa Melayu. Saya hendak tahu daripada Yang Berhormat Menteri Dalam Negeri bagaimana-kah yang sa-benar-nya standard yang di-tetapkan bagi memberi ta'rif kapada "adequate knowledge of the Malay language", sebab di-dalam hal ini amat mustahak kita terangkan dalam Dewan ini supaya kita tahu dan dengan yang demikian ra'ayat yang akan datang ini tidak-lah membanjiri negeri ini dengan tidak diketahui oleh kita kadar-nya? Kapada Persekutuan Tanah Melayu ada-lah rengan sadikit, sebab ramai orang di-sini yang tahu bahasa Melayu. Tetapi dengan dasar multi-lingualism yang ada di-Singapura itu kalau tidak di-awasi, maka dengan sendiri-nya kera'ayatan ini akan jadi kera'ayatan yang terlalu mudah, sebab saya tahu sa-tengah orang chakap di-pereksa fact: "ini tangan, ini anak tangan." Jangan-lah sampai berlaku di-dalam untuk mengetahui "adequate knowledge" itu kita mempermudahkan. Dan ada-kah "adequate knowledge" ini relative atau bersangkut orang itu dengan kerja-nya atau "adequate knowledge" ada standard khas atau pun Kementerian ini belum menentukan sa-suatu dan akan di-tentukan kemudian?

Dato' Dr Ismail: Tuan Pengurus, berkenaan dengan soal "adequate knowledge of the Malay language"

itu kita akan laksanakan kerja-nya macham yang kita ada sekarang ini juga. Kita akan adakan Board. Tetapi kalau Ahli Yang Berhormat itu ingat ia-itu dalam Perlembagaan Persekutuan Tanah Melayu dahulu kita katakan "elementary" atau pun mengetahui bahasa Melayu yang rendah. Itu bagi orang yang registration; itu sudah ditarek balek. Sekarang tinggal "by naturalisation" yang kita katakan mesti ada "adequate knowledge" atau mengetahui chukup bahasa Melayu itu akan di-tentukan oleh Board yang akan di-lantek mentafsirkan sama ada orang yang meminta kera'ayatan itu mengetahui chukup bahasa Melayu atau tidak.

Clauses 26 to 30 ordered to stand part of the Bill.

Clauses 31 to 35—

Enche' Lim Kean Siew: Mr Chairman, Sir, I just want to ask the Honourable Minister of Interior to explain Clause 30 (6). Clause 30 (6) reads—

"(6) Without prejudice to the foregoing Clauses, where on Malaysia Day"

Mr Chairman: Order, order, Clause 30 already stands part of the Bill. Now we are dealing with Clauses 31 to 35.

Enche' Lim Kean Siew: Oh! I see.

Enche' K. Karam Singh: Mr Chairman, Sir, the people of Singapore have for long feared that for them this Malaysia would still mean their being confined to Singapore and not being able to share in a common political life with the people of the Federation. Mr Chairman, Sir, now the fears of the Singapore people in their crystallised form would take on the language of Clause 31. To understand its implication more clearly, I would like to read, with your permission, Sir, Clause 31. I quote:

"31. (1) Notwithstanding anything in Article 47, a Singapore citizen is not qualified to be an elected member of either House of Parliament except as a member for or from Singapore; and a citizen who is not a Singapore citizen is not qualified to be a member of either House for or from Singapore.

(2) A Singapore citizen shall not be qualified to be an elected member of the Legislative Assembly of any State other than

Singapore, and a citizen who is not a Singapore citizen shall not be qualified to be a member of the Legislative Assembly of Singapore.

(3) Notwithstanding anything in Article 119, a citizen is not entitled to vote in a constituency in any election to the House of Representatives or a Legislative Assembly if—

- (a) the constituency is not in the State of Singapore and he is on the qualifying date (as defined in that Article) a Singapore citizen; or
- (b) if the constituency is in the State of Singapore and he is not on that date a Singapore citizen."

Mr Chairman, Sir, these sub-clauses of Clause 31 clearly show to us that the political activity in standing for election and voting for the people of Singapore is localised to Singapore, and no Federation citizen can go to Singapore and stand for election there to the central Legislature. So, we ask, where is there a common State created for the people of Singapore and the people of the Federation? This Clause 31, Mr Chairman, Sir, only strengthens the separation at the Causeway between the Federation and Singapore, and in no way bridges the narrow strip of water which nature has placed between Singapore and us. Mr Chairman, Sir, this separation in the name of union, and in the name of merger, is actually a very flagrant act of hypocrisy. Mr Chairman, Sir, this Clause 31 clearly reveals to us and to the world at large that Singapore is not being merged with the Federation, and a single State is not being created, and a single people is not being created, on the other hand, the old division

Mr Chairman: Order, order, I have warned you time and again. We have already debated the principle of this Bill for four days, and this very point on which you now speak has been raised during the debate on the principle and was replied to by the Government. About three or four hours have been taken up on that very point alone—I still remember. Will you go into the details of this Bill rather than the principle, because we have already debated the principle.

Enche' K. Karam Singh: So, Mr Chairman, Sir, the political limits of the rights of the people of Singapore are

still the limits of Singapore. The boundaries of Singapore have not been enlarged to the boundaries of Malaysia. That is all I have to say, Mr Chairman, Sir. I have to point out that this clause is not a gift to the people of Singapore, but a legislative sore in the Constitution of Malaysia.

Enche' Lim Kean Siew: Mr Chairman, Sir, could the Honourable Minister of the Interior explain Clause 33 (1) for insertion of a Clause (3) to Article 25. The new clause reads as follows:

"(3) A person who on Merdeka Day became a citizen by operation of law as having been a citizen of the Federation immediately before that day shall not be deprived of citizenship under Clause (1) or (2) of Article 24 by reason of anything done on or before that day; but in the case of any such person Clause (2) of Article 25 shall apply equally in relation to a period of residence in foreign countries beginning before Merdeka Day and in relation to such a period beginning on or after that day."

Now, Mr Chairman, Sir, if we read Clause 30 (6) which I referred to just now, it would appear that even if a person is a citizen by operation of law, he may be deprived of his citizenship. Mr Chairman, Sir, the ways by which we can obtain our citizenship is: firstly, if we were a British subject on Merdeka Day; secondly, if we were born on or after Merdeka in the Federation of Malaya. Clause 30 (7) and this Clause 33 (1)—with this new Clause (3)—seem to give the Government power to deprive a person who is by operation of law a citizen. Normally a person is a citizen by operation of law who is not a person naturalised. We would like the Honourable Minister of the Interior to tell us how the operation of this clause is to be limited, so that the people who have a birthright to be a citizen of this country shall not be affected.

Enche' Tan Phock Kin: Mr Chairman, Sir, I would also like to seek clarification on Clause 33 (1) whereby a provision is made to deprive the citizenship of a person, who is a citizen by operation of law, because of his absence from the Federation of Malaya before Merdeka Day and—this is very important—"before Merdeka

Day" is more or less an unlimited concept. It is from the day he was born until Merdeka, and during that period it would be unreasonable for the Government to expect that a person who is a citizen by operation of law to register annually at a Malayan Consulate his intention to retain his citizenship. This may be reasonable after Merdeka, but before Merdeka, is it reasonable to expect persons, who are students in a territory where there is no Malayan Consulate or Malayan Representative, to register themselves, because of the fact that they have been away for more than five years and that because they have not registered themselves, we are going to deprive them of their citizenship? This, I submit, Sir, is a very unreasonable step for the Government to take. I believe that there are many loyal Malayan citizens by operation of law, who will be an asset to this country being deprived of their citizenships, because they happen to be studying overseas for more than five years without registering themselves with a Malayan Consulate or a Malayan Embassy—and it must be pointed out that during the time when they were studying there was no such thing as a Malayan Consulate in existence in the country where they were studying. In the light of this explanation, I feel that the Honourable Minister concerned will take very serious consideration of this particular case and, I hope, that he will consider whether it would be reasonable or otherwise to delete this particular provision from the Bill.

Dato' Dr Ismail: I need not reply to the observation made by the Honourable Member for Damansara, because he chose to speak on the principle of the Bill when we are discussing the details. It is suffice for me to say that what he calls inequalities are really corresponding rights enjoyed by Singapore citizens and Malaysian citizens.

As regards the observations made by the Honourable Member for Dato Kramat, I would like to tell him—first of all to the general observation—that there are various kinds of people acquiring citizenship by operation of

law as enumerated in Article 14 of the Constitution.

Now Clause 33 (1) says—

"A person who on Merdeka Day became a citizen by operation of law as having been a citizen of the Federation immediately before that day shall not be deprived of citizenship under Clause (1) or (2) of Article 24 by reason of anything done on or before that day".

Now I shall read Clauses (1) and (2) of Article 24:

"(1) If the Federal Government is satisfied that any citizen has at any time after Merdeka Day acquired by registration, naturalisation or other voluntary and formal act (other than marriage) the citizenship of any country outside the Federation, the Federal Government may by order deprive that person of his citizenship.

(2) If the Federal Government is satisfied that any citizen has at any time after Merdeka Day voluntarily claimed and exercised in a foreign country any rights available to him under the law of that country, being rights accorded exclusively to its citizens, the Federal Government may by order deprive that person of his citizenship."

To continue with Clause 33 (1), ". . . but in the case of any such person Clause (2) of Article 25 shall apply". Now, Clause (2) of Article 25 reads—

"(2) The Federal Government may by order deprive of his citizenship any person who is a citizen by registration under Article 17 or a citizen by naturalisation if satisfied that he has been ordinarily resident in foreign countries for a continuous period of five years (whether beginning before, on or after Merdeka Day)"

To continue with Clause 33 (1), ". . . Clause (2) of Article 25 shall apply equally in relating to a period of residence in foreign countries beginning before Merdeka Day and in relation to such a period beginning on or after that day." I think it is quite clear if you read it in conjunction with the present Constitution.

Enche' Lim Kean Siew: He does not deal with our point. Our question is, is it reasonable? Secondly, I think my Honourable friend from Tanjong wanted to know whether after Malaysia Day this clause would apply to Singapore citizens. Since Singapore citizens did not come under our Constitution, they did not need to have to register at a

Malayan Consulate, and since on Malaysia Day they may have been absent for more than five years without registering at a Malayan Consulate, they would automatically by this section lose their citizenship unless the Minister will put it on record that these people will not be affected by this clause. Otherwise a large proportion of Singapore citizens may lose their citizenship through no fault of their own since they were not required before Malaysia Day to register themselves annually at a Malayan Consulate.

Dato' Dr Ismail: I will give an assurance that I will not cause any injustice.

Enche' Lim Kean Siew: I cannot hear you.

Mr Speaker: He said that no injustice will be done.

Enche' Lim Kean Siew: Thank you.

Clauses 31 to 35 inclusive ordered to stand part of the Bill.

Clauses 36 to 40—

Enche' Lim Kean Siew: I would like to ask a very simple question now to the Minister of Internal Security. Clause 39 (1) removes certain words from Article 150 of our present Constitution. Mr Chairman, Sir, to make it clear I would read Article 150 as it now stands—

"If the Yang di-Pertuan Agong is satisfied that a grave emergency exists whereby the security or economic life of the Federation or of any part thereof is threatened, whether by war or external aggression or internal disturbance, he may issue a Proclamation of Emergency."

Mr Chairman, Sir, the words "whether by war or external aggression or by internal disturbance" are now to be deleted. So it would now read—

"If the Yang di-Pertuan Agong is satisfied that a grave emergency exists whereby the security or economic life of the Federation or of any part thereof is threatened, he may issue a Proclamation of Emergency."

Could the Minister of Internal Security tell us why has it been found necessary to remove the words "whether by war or external aggression or by internal disturbance"? What other

factor or condition does he envisage which will arise which will create a situation of grave emergency that is not created by war or external aggression or internal disturbance? Does it mean a superimposed disturbance from the heavens or subterraneously? I do not know, since this clause excludes internal disturbance, external aggression and war.

Tun Haji Abdul Razak: Mr Chairman, Sir, I explained yesterday—I think the Honourable Member was not in the House when I explained—that under modern conditions we might have a situation where the security and the economic life of the country will be threatened and where a grave emergency exists even though there may not be actual war, external aggression or internal disturbance. Honourable Members are familiar with the words "cold war". And we may have confrontation and all that sort of things which endanger the economic life of the country. Under those conditions the Government must be able to govern the country, and under those conditions it will be necessary for an emergency to be declared as the Government must have the necessary powers to govern the country. I think that is clear, Sir. Under modern conditions, I say again, we may have a situation where the security of the country and the economic life of the country is threatened and we may have to proclaim an emergency without an overt form of external aggression or war or even internal disturbance.

Enche' Lim Kean Siew: Is the learned Deputy Prime Minister saying that the cold war is a matter of grave emergency, or that confrontation has so far created a situation of grave emergency, because if that is so, then it would appear that as soon as any situation is threatened, even if any political party's power is threatened in any area, an emergency could be declared. Perhaps the Deputy Prime Minister can explain it.

Tun Haji Abdul Razak: It is very difficult to visualise a real situation, but we may have a situation as a result of confrontation or cold war. We may

be surrounded and there may be a blockade and we will not be able to get our supply of food and so on even though no actual war has been declared. I think if there is a situation like that in the country with serious economic troubles, then in such a situation we have to declare an emergency. This is the sort of situation in which the Government considers it necessary that the Government should have the necessary powers to govern the country, because the Government is responsible for the safety and welfare of the people and the country.

Enche' Tan Phock Kin: I am afraid the explanation is far from convincing. If the Honourable the Deputy Prime Minister is correct that a position arises in which food cannot be obtained, surely under such circumstances the country will come under internal disturbances. Somebody must be creating some trouble to sabotage the transport system, so much so that food cannot be obtained and shops cannot be opened.

It appears to me, Sir, that this particular amendment is put in not so much from any actual concern, but as a guise to get more powers, and we must see here that in this provision the Government is asking for absolute powers to do things which in no democracy would anybody expect a government to do. We are asked in this particular provision in the Bill to give the Government absolute powers to act in whatever way it thinks fit. Those powers may be abused, and one can just imagine that, in a country like ourselves should such powers be abused, it will bring an end to parliamentary democracy, because we feel that there is no good reason whatsoever why this particular provision should come into being. The clause as it now stands in the Constitution with the provision "whether by war or external aggression or by internal disturbance" covers everything that we can think of; and the move of the Government to eliminate all those conditions indicates very clearly that what the Government is trying to do is to have absolute powers, perhaps to suppress their political opponents.

Enche' Lim Kean Siew: Mr Chairman, Sir, if we take this amendment alone, and in isolation of any other provision of the Constitution, we can accept that due to inability, or error, or inefficiency, our constitution writers have slipped in that clause by error, and it should now be removed. If, however, we do not accept that that is the position (that this clause was put in due to error, or inefficiency, or inability) then we must ask ourselves if the situation in Malaya has changed so materially as to require that this clause should now be removed.

Mr Chairman, Sir, if we were to examine the other clauses, we would find that, in fact, the constitutional position has materially been changed—and it has been changed because States have come into our Federation with restrictions; and, under the normal event, certain things, or certain acts, affecting the other States, cannot be passed without concurrently getting the approval of the other States. Sir, the effect of a proclamation of emergency gives the Federal Government complete power to move in spite of the fact that there is agreement, in spite of the fact that we need to have the concurrence of the State Governments concerned. Clause 39, sub-clause (2), of the Bill reads:

“(2) x x x x
 ‘(5) Subject to Clause (6A), while a Proclamation of Emergency is in force, Parliament may, notwithstanding anything in this Constitution, make laws with respect to any matter, if it appears to Parliament that the law is required by reason of the emergency; and Article 79 shall not apply to a Bill for such a law or an amendment to such a Bill, nor shall any provision of this Constitution or of any written law which requires any consent or concurrence to the passing of a law or any consultation with respect thereto, or which restricts the coming into force of a law after it is passed or the presentation of a Bill to the Yang di-Pertuan Agong for his assent.’”

It is clear that as soon as a proclamation is declared, the Government can move without consultation, or without consent, or without concurrence of the State Government concerned. Therefore, I argue that this would destroy all the rights reserved, or any right reserved

for the various States under this constitutional agreement.

Now, Mr Chairman, Sir, Clause (6), as proposed here (Clause 39 of the Bill) makes my observation clear, because Clause (6) says :

"(6) Subject to Clause (6A) no provision of any ordinance promulgated under this Article, and no provision of any Act of Parliament which is passed while a Proclamation of Emergency is in force and which declares that the law appears to Parliament to be required by reason of the emergency, shall be invalid on the ground of inconsistency with any provision of this Constitution."

Sir, Clause (6) makes it clear that nothing that is done, no law that is passed, and no effects of any such law passed, when a proclamation of emergency is in force, shall be invalidated irrespective of any constitutional agreement with the States of Singapore and Borneo. Now, we can therefore pass a law which can bring about an internal disturbance, continue the emergency until the law is carried into effect, and after everything is done and the people are dead and buried, we can then remove the emergency. Until then, nothing that is passed shall be invalidated, but the effects of this, even though the emergency has been declared to be ended, even then the effects of those ordinances can have after effects which may continue as something permanent.

Now, Mr Chairman, Sir, Clause (6A) shows that the Government intends to carry out very drastic changes, because Clause (6A) keeps a reserve for the consent of the States only in certain matters. It says :

"(6A) Clause (5) shall not extend the powers of Parliament with respect to any matter of Muslim law or the custom of the Malays, or with respect to any matter of native law or custom in a Borneo State; nor shall Clause (6) validate any provision inconsistent with the provisions of this Constitution relating to any such matter or relating to religion, citizenship, or language."

Therefore, since Clause (6A) is now trying to leave matters of citizenship, religion and language from the effects of such a proclamation, it is quite clear, apart and outside of these matters, that the Government intends and will carry out, without consultation with the States, drastic changes which it has been forced to agree to in the Agree-

ment. This brings me back to the statement by the Honourable the Minister of Finance the other day when he denied that the Agreement with the Singapore Government is no more than the pangs of birth suffered by a woman in distress. His argument is that with the pangs of birth will come the joy of babyhood and motherhood. I am afraid that these may be the false pangs of labour and the baby may still take a long time to come. (*Laughter*). And so, perhaps, the Honourable Minister of Internal Security will answer directly whether or not this will be used—that is to say the powers of proclamation—when there is, for example, a labour problem leading to strikes (whether or not the strikes will affect the companies concerned) since, in any event, any strike is bound to bring about some internal disturbance. Secondly, will the Government use these powers of emergency against demonstrations of the people against certain measures, which demonstrations the Government has been given an assurance will not lead to rebellion or revolt, or national disturbance of any large scale? Also, will the Minister let us know whether or not these powers will be used against agitators for political and civil rights either in Singapore, or Borneo or in any of the Malayan States, which agitation shall go no more than beyond that which is accepted in democratic practice?

Dato' Dr Ismail: Sir, I wonder whether the Honourable Member for Dato Kramat is really afraid of the emergency laws, or of the person, myself, administering the Law. (*Laughter*). If the latter is the case, he has no cause to worry.

Enche' Lim Kean Siew: Sir, on a point of information—it is very difficult to disconnect the Minister of Internal Security from his job because he is so impressed by his job that he cannot but preface his remarks with, "I shall lock you up". (*Laughter*).

Dato' Dr Ismail: Well, I am glad that the Honourable Member has not said that I have abused the powers, because he knows that I have, with a clear conscience, carried out my duties to the country, especially with regard

to the preservation of the Socialist Front Party. (*Laughter*).

Sir, he has mentioned the abuse of powers. Well, Sir, any power can be abused—for example, the power or privilege to speak in this House; it can be used rightly, or it can be abused. But such is the practice of parliamentary democracy that we have to pay this and I think it is quite worth paying for. Now, am I to assume the Honourable Member for Dato Kramat speaks for the Socialist Front when he criticised this Bill? He gives me the impression that he agrees with the Emergency power but that he only criticised the extent of that power. From the way that he spoke he only argued against the extent of the power to be given to the Government. So, I suppose, I am allowed to assume that in future the Socialist Front will no longer query the necessity of the emergency power for this country, because all that he has done is to criticise the degree of the power that is to be given to the Government. I am sure the Honourable Member has great faith in me, especially in the way I have administered this power—it has never been abused, and it is done very judiciously.

Now, the Honourable Member has mentioned about letting out matters relating to religion, citizenship or language. But, these are not matters that are affected in the case of an emergency. He has asked for an assurance. Well, Sir, as far as this Government is concerned, there is no need for us to give an assurance, because our performance with regard to the way in which we have administered this law has reflected the confidence of the country in us, which has never been abused. You have seen the many strikes that had taken place, and we had never used this power to end the strikes in this country. He knows very well the Railway Strike which had gone on for a long time—and we had never used this power to curb the strike. If the Honourable Member were to read carefully Article 150 (1) he will see that it says, "that a grave emergency exists". Now, Sir, it is not so much the powers given to the Government: it is the question of

who is the Government that will administer these powers. As long as the Alliance Government is the Government, I am quite sure the country is quite confident that these powers will never be abused—and have they been abused?

Now, on this question of the cold war, or confrontation, is whether it is really necessary for us to invoke the power of the emergency. Sir, this is a matter of degree. If you carry the confrontation too far, we will have to suffer, and we may have to invoke the power of the emergency in order to save our country and our citizens—and it is the same thing with the cold war. I am sure that in regard to the Honourable Member's Party, I have saved it from quite a number of people—due to my good work I have saved it from them. We know, and they know, how clever these people are in subversion, and in a cold war. I am sure they will be more ingenious than they have been so far. So, I think, the country has no worry at all so far as the Alliance Government is concerned in the administering of these powers.

Enche' K. Karam Singh: Mr Chairman, Sir, the Socialist Front must take this Minister to task for saying that he has never abused his powers. The extent of the abuse of his powers is evidenced by the overflowing detention camps, (*Laughter*) and the fact that this Minister made a false statement in this House about Enche' Ahmad Boestamam. Even Mr Profumo fell from his ministership for giving a false statement. English Ministers may be more immoral, but they can resign when they tell falsehoods in the Parliament—but not Members of the Alliance Government. Sir, even the Honourable Prime Minister is tainted with this Minister's falsehood, and yet he has not dared to bring up the integrity of his Party in this House. That shows what an undignified Government is in power, which can tell flagrant falsehoods before this House. Mr Chairman, Sir, this same Minister is responsible for arresting a member of Party Ra'ayat—a Chinese girl—just for learning the Malay language. The Police questioned her, "Why are you learning the Malay

language? Do you want to learn the Malay language, stand for election and overthrow this Government?" What is wrong in learning the Malay language, the National language, standing for elections, defeating the Alliance Government and changing the Constitution by constitutional means

Enche' Abdul Samad bin Osman (Sungei Patani): On a point of Order—Standing Order 36 (1) says:

"A Member shall confine his observations to the subject under discussion and may not introduce matter irrelevant thereto."

Mr Chairman: I think what you have spoken just now is irrelevant.

Enche' K. Karam Singh: Mr Chairman, Sir, the Chair did not see fit to rule out the remarks of the Honourable Minister when he said he had been doing a favour to my Party and things like that. (*Laughter*). As he has made those insinuations, I think, I have a right to vindicate my Party and it is in order, because I cannot leave matters alone in this Chamber while my Party is being insulted. So, Mr Chairman, Sir, this Minister and this Government—it is the collective responsibility of the Cabinet—have shown to this country that they are not fit to tell the truth and they abuse their rights by arresting people whose aspiration is to learn the National language. And, if the Minister takes me to task, I am prepared to substantiate every word of what I say. I hope the Honourable Prime Minister will take note. (*Laughter*).

Mr Chairman, Sir, my Honourable colleague, the Member for Tanjong, has asked the reason for the necessity to omit the words "whether by war or external aggression or by internal disturbance". The only reason is that this Government wants the right for the Cabinet to meet somewhere and satisfy itself that there is a grave emergency, whereby the security or economic life of the Federation or any part thereof is threatened—just for this small group of people to satisfy themselves; and, having satisfied themselves, an emergency can be proclaimed. Mr Chairman, Sir, the omission of these words "whether by war or external aggression or by internal disturbance" is an act on

the part of this Government to throw away all qualifications that must attend a declaration of emergency. All that they now have to do is to induce themselves into a subjective state of satisfaction that a grave emergency to the security or economic life of the Federation or any part thereof exists. Once they get into that subjective state of mind, they satisfy themselves and they satisfy His Majesty the Yang di-Pertuan Agong, that an emergency can be declared. Just as simple as all that. That is why, Mr Chairman, Sir, my Party is very greatly perturbed at these almost absolute powers, this unlimited arrogation of powers, by the Cabinet to itself. Mr Chairman, Sir, I would like to stress that we do not fear these powers for ourselves—we are prepared to face any action that the Government may take upon us—but we feel that the use of these arbitrary powers—not only their abuse but their use by the Government—on the democratic rights of the people would be very bad. That is the contention of my Party. Thank you, Mr Chairman, Sir.

Wan Mustapha bin Haji Ali: Mr Chairman, Sir, I would like to associate myself with the Honourable and learned Member for Dato Kramat in that Clause 39 of this Bill has the intention of deleting the words "whether by war or external aggression or by internal disturbance" from Article 150 of the Constitution. Is it the intention of the Government to alter drastically the original provision as provided in the present Constitution? Originally the intention of the Legislature, as stated in the constitutional document, was that:

"If the Yang di-Pertuan Agong is satisfied that a grave emergency exists whereby the security or economic life of the Federation or of any part thereof is threatened, whether by war or external aggression or internal disturbance, he may issue a Proclamation of Emergency."

By deleting these three important phrases, it would give the Government wide powers and the Government can abuse them as long as they are satisfied that there is a grave emergency, because the important words there are ". . . is satisfied that a grave emergency exists". Emergency can always

be proclaimed by the Yang di-Pertuan Agong when there is a war, external aggression or internal disturbance. My submission here is that even "internal disturbance" refers to war; in other words, it does not mean that internal disturbance is political disturbance. By deleting these words, the Government can, if it thinks fit, arrest anybody in the Opposition Parties when it thinks that it is going to lose elections by pretending that the economic life of the State is threatened because its power is lessened. The Honourable Minister of Internal Security has stated just now that he can assure this House that he would not abuse the powers. Then why take the trouble to delete these words? If he is honest that the Government is not going to abuse the powers, then why is it making a farce of deleting these three important phrases, "whether by war or external aggression or by internal disturbance"? The fact that it is going to delete them gives suspicion that it might abuse these powers later on when the time comes and then the powers may be used for oppression and there might even be political oppression. I think that if the Government is really in earnest and wants to rule this country according to law and order, then these phrases should not be deleted.

Enche' Lim Kean Siew: Mr Chairman, Sir, of course the Government may argue that since it has not abused this provision it will therefore never abuse this provision, but who can it convince? If that were so, as my Honourable friend has said, why not then remove this clause. Obviously this clause is to enlarge the powers of the Government, and once the powers of the Government are enlarged, they can then state that they are acting within the law and therefore not abusing their powers. It is just like saying that I would be abusing the privileges of this House if I walk in the Chamber whistling, or without shoes and without my coat and tie as long as the rules of decorum exist. But if I were to remove those rules of decorum allowing me to whistle and sing as I come in and without shoes and coat and tie, I would then not be abusing the privileges of this House. It is quite clear that no pro-

clamation could have been made before the amendment of this Article, because, as the Constitution now stands, the only time when the Yang di-Pertuan Agong may declare a state of emergency is when there is war or external aggression or internal disturbance. It is only under those conditions that a state of emergency can be declared and to act in any other way would have been an abuse of the present Article of the Constitution.

Mr Chairman, Sir, I say quite categorically that this can, and certainly will, be used against education in Singapore, which the Government abhors. Education has caused trouble enough for the Government in Malaya—in 1956, 1957 and 1958 and it led to the break up of the M.C.A. in 1959. Certainly those were disturbances under which, as I envisage it, the Government would proclaim an emergency; therefore since the only place that can have such a problem is Singapore, it is aimed and will be used against Singapore. Also, the Singapore unions are strong and it can then also be used against the Singapore unions. It is no use arguing that it has never been used in Malaya, because we know that the Malayan trade unions are not strong enough. This is not an industrial country. This is a semi-agricultural country and therefore the power of the labour force in Malaya cannot be as strong as it is in Singapore and therefore it is quite likely that this proclamation will be used against the labour force of Singapore. How can you deny that?

It has been stated that from my argument I am not against these powers but against their extension. Let it be placed on record that I am against these powers and I will always and continuously be against such powers, because either we are going to succeed democratically or, let us not be hypocritic, rule this country by dictatorial means. It has been said that the Government has never abused the powers, that every arrest is correct and every person detained has been rightly detained. After all, the Government is in possession of the facts. No one knows. But I honestly doubt this. We

have a Minister without Portfolio here, who has been a specialist in the Special Branch. Perhaps he can tell us how people are detained (*Laughter*). I do not know, of course. Mr Chairman, Sir, if it appears that I have given indication that I support the idea of these powers. I wish to correct this. I do not support it. If, on the other hand, it still appears that I am in agreement with these emergency powers, then may I liken myself to a horse that for many years had been bridled and blinkered and has been pulling the milk cart from station to station and from house to house and no longer knows what freedom means. I mean that kind of horse is so used to the bridle and chains of serfdom that even when the blinkers are removed from his eyes and the bridle from his shoulders and he is put in a meadow, he does not run but stands still waiting for instructions, because out of habit he has now become used to his chains of serfdom. The fact that Malaysians have not risen against this situation is because we have been brought up under colonialism and we have been so used to being kicked around that we are happy that there are less people kicking us around today than before. But the fact remains that we are still being kicked around. I can assure the Minister that many people today dare not criticise the Government, or any section of it, or any institution with Government support, because they feel that, if they do so, they would be disloyal and might lose their jobs or come under the surveillance of the Special Branch.

Mr Chairman, Sir, in dictatorship, it is not the power that is used that makes the dictatorship. It is the suggestion of power that is the terrifying thing. One is not terrified of one's father because the father has inflicted punishment on the child for his wrong doing, but the suggestion of power in the father. So also, when the child is in school, it is not that the school teacher can hang the boy up on the rafters by his hands or by his feet, but it is the suggestion of power that frightens the boy. We have come to a position now whereby we are not only cowed but dare not criticise the Government. Every time

we criticise the Government, we are anti-Alliance, and therefore anti-Government, and therefore anti-Party, and therefore disloyal and therefore treasonable and should be hanged! (*Laughter*).

Mr Chairman, Sir, there are two ways in which dictatorship can be established. One is that it is established directly by bullying methods as has been happening in Singapore; the other one is by the slow process of pervasion and perversion. I have given the example of the islands of Pulau Langkawi. There, the sea is eating into the islands of Pulau Langkawi. At low tides we see the overhang and caverns; at high tides the sea covers the overhang and we see the island, perfect in shape and form. Nevertheless, the process of erosion is going on under the surface of the water not visible to the human eye.

Mr Chairman, Sir, I say this not because I am personally attacking any of the Ministers concerned. I have no doubt that the Minister of Internal Security, in spite of his thunderous sounds and in spite of his blasters, is, in fact, a very kind-hearted person (*Laughter*)—so kind-hearted that I am sure he will cry at the sight of a mouse in the mouse-trap. But the question is this. We cannot guarantee that the process of law cannot be abused by the officers of the Government; we cannot accept that infallibility—I repeat the word infallibility—of human judgment; we cannot depend upon the infallibility of human intelligence. We cannot depend upon the infallibility of human reasoning and it is this that makes it necessary to put up a structure which would contain human power and maintain principles congenial to our political beliefs. Otherwise, why have the Constitution; otherwise why have the laws; otherwise, why do we have democratic practice? It is this structure which we introduce which we hope will curtail our own desires and the desires of absolute power of those who may take over from us. I am certain that the Honourable Minister of Internal Security cannot say that he will forever be the Minister of Internal Security. Who knows that one day he may

even be the Prime Minister! Then some other Minister may take over his place. Who knows that in a month's time, or in a year's time, he may decide suddenly that he is getting tired of Internal Security and may wish to travel abroad to the United Nations, thus allowing somebody to take over his place. In that instance, can he guarantee that his successor, coming after him, will have exactly the same measure of judgment and the same measure of reasoning? If he can, then we must bow and agree to this Bill. But let us put it the other way and let us exaggerate it further. There are many political parties here. Would he have reliance on any of our political parties carrying out the emergency powers given under the Constitution in the same way as he will?

Mr Chairman, Sir, emergency powers should only be introduced during a period of grave emergency, and it is known throughout the democratic countries that grave emergency only arises when there is an external aggression such as war and so on, or an internal disturbance to overthrow the Government, such as revolution, or when there is a serious drought where you need to mobilise the people, as has happened in Pakistan. But merely to put forward a *carte blanche* for the declaration of emergency is, I think, serious. It has been said by all philosophers, both religious and non-religious, that the best rule and the best power is when one rules according to the wishes of the people. But the question of emergency powers is a direct contradiction of that principle, which has, for the last 4,000 years, been a principle of rule accepted by the Greek, Roman, and Christian philosophers and even by the Muslim theologians, and by those from the civilisation of the Hwang Ho basin. We all know what happened to the first Emperor of China, Shih Huang Ti, when he burned all the books of Confucius and wanted to establish totalitarianism in China? He was the first, and not Hitler, to try to introduce totalitarianism. What happened after his death? There was a resurgence of liberalism, there was a resurgence of learning and there was a

resurgence of learning of Confucius tenets to such an extent that the need for education is even today strongly enforced in the minds and the cultures of the Chinese and the Japanese peoples. We all know what happened to Emperor Hirohito and what General MacArthur did to him. He removed him of his godliness to destroy totalitarianism. If we have this clause, it might appear harmless, but there is no saying to what extent this process will continue down to the very roots of our democratic political existence.

Dato' Dr Ismail: Mr Chairman, Sir, I am usually a tolerant man and I am prepared to accept all the accusations in my capacity as the Minister of Internal Security in this House, but when I am accused of falsehood, I must categorically deny that statement. The Honourable Member tried to liken me to Profumo. There is a lot of similarity in the two cases (*Laughter*). First and foremost I deny that there was falsehood; in the second place, in the case of Profumo, there is Christine Keeler; and in my case, there is Boestamam (*Laughter*). If I ever be accused guilty of the same offence that Profumo has done to Christine Keeler, as I would do to Boestamam (*Laughter*), that I will never do.

Clauses 36 to 40 ordered to stand part of the Bill.

Clauses 41-45—

Enche' V. Veerappen: Sir, Clause 43 (3) says "Under Article 92 no area in the State shall be proclaimed a development area for the purposes of any development plan without the concurrence of the Governor". Sir, this does not apply only to the new States which will join the Federation. The definition of the word "Governor" as stated in Clause 5, includes any Head of State who is not a Ruler. Therefore, I take it that this also applies to the States of Penang and Malacca, but I am rather sceptical of this requirement. I do not know why the normal phraseology, which is usually "Governor-in-Council", is not written down, but just "Governor". In view of the fact that the appointment is made by the Yang di-Pertuan Agong and in

view of the fact that the State Government will not be consulted on this matter, and I also think that there are other provisions where just the term "Governor" is used and not "Governor-in-Council", I would like the Minister to clarify.

Enche' Mohamed Asri bin Haji Muda: Tuan Pengurus, saya hendak berchakap dalam Clause 45 (2) ia-itu perkara State road grant bagi negeri Sabah dan Sarawak. Sahabat saya Ahli Yang Berhormat dari Bachok telah membangkitkan perkara ini waktu membahathkan perkara ini pada dasarnya dahulu, tetapi nampaknya belum ada penjelasan yang jelas bagi Rumah ini tentang soal bahawa negeri Sabah akan mendapat pemberian kerana jalan raya negeri-nya sa-banyak \$4,500 atas tiap² satu batu yang telah di-tetapkan sa-banyak 1,151 batu.

1,151 batu ini, Tuan Pengurus, adakah di-dasarkan di atas taraf dan darjah jalan raya yang sama dengan darjah jalan² raya negeri bagi Persekutuan Tanah Melayu ini, atau pun jumlah yang 1,151 batu itu di-sifatkan semua jalan raya yang ada di-dalam negeri Sabah? Negeri Sabah yang penduduk-nya hanya 450,000 orang sahaja lebeh kurang dan luas-nya negeri itu tidak sa-berapa mana jika di-bandingkan dengan negeri² di-Persekutuan Tanah Melayu ini saperti negeri Pahang sendiri yang ta' sampai beribu batu jalan² raya negeri-nya. Jadi, dengan di-letakkan di-dalam Rang Undang² ini sa-banyak 1,151 batu jalan² raya dalam negeri Sabah sahaja yang di-sanggup oleh Kerajaan Pusat akan di-beri State road grant sa-banyak \$4,500 sa-tahun itu, menjadikan negeri Sabah akan dapat menerima sa-banyak 5.2 juta ringgit atau \$5,179,500 bagi tiap² sa-tahun. Ini satu pemberian yang besar dan ini-lah barangkali yang di-sebutkan oleh sahabat saya Ahli Yang Berhormat dari Bachok, bahawa boleh jadi jumlah jalan raya yang di-peruntokkan ini merupakan satu pemberian sa-bagi sagu hati kepada negeri Sabah. Lebih² lagi telah di-tetapkan bahawa pemberian jalan itu ia-lah bagi tahun 1964 dan 1965, pada hal beberapa hari baru² ini kita telah meluluskan satu

pindaan Perlembagaan tentang pemberian wang bagi jalan² raya negeri, dan pemberian wang bagi jalan² raya negeri telah di-sebutkan dalam pindaan Perlembagaan baharu² ini hampir sama keadaan, atau kaedah yang sedia ada, bukan-lah di-tetapkan jumlah \$4,500 pada tahun² yang tertentu, tetapi ini bergantong kepada jumlah keseluruhan-nya mengikut pukul rata bagi dua tahun yang terdahulu daripada pemberian tahun itu.

Jadi, ini erti-nya dengan memasukkan perkara yang saperti ini di-dalam Rang Undang² ini, erti-nya negeri Sabah akan mendapat pembahagian State road grant yang berlainan daripada negeri² yang ada di-dalam Persekutuan Tanah Melayu sekarang. Demikian pula Sarawak, walau pun tidak di-sebutkan jumlah jalan raya-nya, tetapi pemberian bagi jalan raya bagi negeri Sarawak itu bergantong kapada persetujuan di-antara Kerajaan Pusat dengan Kerajaan Negeri Sarawak itu sendiri. Jadi di atas persetujuan itu pun, kita perlu juga mendapat tahu ia-itu di-asaskan persetujuan itu di atas apa, ada-kah di-asaskan di atas semua jalan yang ada bagi semua darjah, atau taraf jalan raya yang ada di-Sarawak itu, atau pun bagi satu darjah atau standard jalan raya yang bersamaan dengan State road dalam negeri² di-Persekutuan Tanah Melayu ini. Kalau-lah di-asaskan kapada pukul rata semua sa-kali, saya rasa ini satu sifat yang tidak adil, maka tepat-lah saperti tuduhan yang di-katakan bahawa pemberian State road grant yang akan di-beri kepada negeri Sabah dan Sarawak itu ada-lah di-asaskan di atas asas yang tidak tegas saperti ini ia-itu berdasarkan kapada sagu hati, atau pujok rayu sa-mata² bagi menyebabkan negeri Sabah dan Sarawak itu bersetuju masok Malaysia ini.

Tun Haji Abdul Razak: Sir, I would just like to reply to the Honourable Member for Seberang Selatan. Now, Article 43 (3) refers only to the new States—the Borneo States and Singapore, as he can see from the notes on the sideline, and the word "Governor" here means "Governor-in-Council" quite obviously, because

"Governor" has no executive powers. A Governor acts on the advice of the Executive Council, that means "Governor-in-Council".

Enche' Lim Kean Siew: Mr Chairman, Sir, I only stand up to say that I am prepared to give way to my Honourable friend the Minister of Finance.

Enche' Tan Siew Sin: Mr Chairman, Sir, I wonder if the Honourable Member for Pasir Puteh was present in this House when I explained at some length, in fact considerable length, the principles on which we based the financial arrangements which have been decided for the Borneo States. I sincerely hope he was not present, because, if he had been present, I can only come to the conclusion that either he does not understand me or he was fast asleep. I do not think it is right for me to repeat what I told the House yesterday, but if he likes, I can send him a copy of the speech I made yesterday evening which will explain in full why we have arrived at such arrangements. Broadly speaking, if we had applied the Federal Constitution or, rather, the financial provisions of the Federal Constitution to the Borneo States, Sarawak would have been left with a very large deficit and Sabah would have hardly anything left with which to carry on State development projects, and hence the reason for these special arrangements. I should explain that in regard to the rate of road grant, we have accepted rather low standards of width for the Borneo States for the following reasons. Firstly, cost of road maintenance is much higher in Borneo than in Malaya. Secondly, in the Federation much of the heavy road maintenance plant used by the States is purchased by the Federal Government; this will not be so in Borneo. Thirdly, the specifications for roads required in Borneo are lower than those required in the Federation owing to the small number of motor vehicles in use there. In both the Federation and the Borneo States the rate of road grant will be based on the estimated cost to the State of maintaining the roads eligible for the grant. The rate fixed for the Borneo

States was determined after a thorough examination by the Treasury and the Public Works Department of the actual costs incurred. To put it briefly, Sir, the conditions in Borneo are rather special and hence we felt that rather special arrangements have to be made for them.

Clauses 41 to 45 inclusive ordered to stand part of the Bill.

Clauses 46-50—

Enche' Liu Yoong Peng: Mr Chairman, Sir, Clause 48 (1) (c) states:

"48. (1) The Federal Government and the government of Singapore may from time to time enter into agreements providing for all or any of the following matters:

- (a) x x x x
- (b) x x x x
- (c) the inclusion of Singapore in a common market with the rest of the Federation, the establishment of a Tariff Advisory Board and the laying down of conditions for the levying of import and export duties in relation to goods imported into or exported from Singapore;"

Sir, I think that this provision in respect of agreements between the Federation Government and the Singapore Government on such matters is very important. But in view of the fact that the Federation Government and the Singapore Government have not been able to see eye to eye in so many matters, the question of reaching agreement in these matters is not so simple. Therefore, there are the many fears which have been raised in the Report on the Economic Aspects of Malaysia by a Mission of the International Bank for Reconstruction and Development. There are a few things which I must raise here, because I understand that in Singapore when the matter of a common market was raised in the Singapore Legislative Assembly, the Prime Minister of Singapore, Mr Lee Kuan Yew, thought that he could rely on the Rueff Report and he believed that Mr D. Marshall was not so much an expert as Mr Rueff. He thought that the common market had been approved by the Rueff Report and that it was good to rely on this as his guide for agreeing to the common market. However, Sir, I am afraid that if we look through the Rueff Report very

carefully, we will find that the Rueff Report gives a great deal of alarm, or rather it points out a lot of things which it thinks the Federation Government as well as the Singapore Government should take into consideration, if they are going to be successful in launching the common market.

Sir, on page 75 of the Report it is stated, "unless the necessary precautions are taken, a change in the conditions in which trade is conducted at present may lead to serious adverse effects on employment"—I am referring to the latter part of paragraph 184. In order to enable Honourable Members to get a fuller picture I will read the whole of paragraph 184 which reads:

"In the case of Singapore, the entrepot trade and tourism together contribute about 20-25 per cent of the national products"—

I am afraid that this is repetition, but since the Minister of Commerce and Industry does not seem to understand, I think I had better read it—

"and it is estimated that entrepot trade employs directly about 70,000 persons or 14 per cent of the labour force; but indirect effects on employment and national income are, of course, much higher. Although it is very difficult to ascertain the number of people employed in the entrepot trade, as distinct from other forms of trading, there is no doubt that, unless the necessary precautions are taken, a change in the conditions in which trade is conducted at present may lead to serious adverse effects on employment, if not on national income."

The emphasis here is on employment. We know that in Singapore the entrepot trade is not being conducted only by the big business companies, where people from Jakarta can just send a wire and they will get the goods they want, but also in small business centres, in shops, in window shopping areas. There are also tourists and other people who just go to Singapore to enjoy themselves and to buy things which they think are cheap. Therefore, in the case of the coming into force of the common market, if the Government were to wire off the free zone, to limit that free zone only to Telok Ayer, or may be also the Harbour Board area, and of course Blakang Mati—which I do not see how it can be of use very much—the rest of Singapore Island, especially most of the business area,

is not going to enjoy the benefit of the free zone. That means that goods that have been brought into the business area, if they are taxable, if they are goods that are subject to tariff, they would have been taxed. Of course, for those people like wholesalers, who may be able to keep their goods in so-called bonded warehouses in the free zone, they may not suffer so much, because they may not need to rely on those goods in the bonded warehouses, because as long as they have samples they will be satisfied—although in this respect, I am a bit doubtful whether it would be convenient.

Mr Chairman, Sir, traders in North Bridge Road, South Bridge Road, rely for most of their trade not on big wholesale business but on customers going to their shops, especially the women who would like to pick and choose their cloths taking one or two hours in doing so. This type of business definitely is going to suffer. Therefore, Sir, if we look at the trade problem of Singapore today, the big business people, who have wholesale business, are not going to suffer much. So far as the Socialist Front is concerned . . .

Mr Chairman: Order, order. The sitting is suspended till 8.30 p.m.

Sitting suspended at 7.00 p.m.

Sitting resumed at 8.30 p.m.

(*Mr Speaker in the Chair*)

THE MALAYSIA BILL

House immediately resolved itself into a Committee of the whole House.

(*Mr Speaker in the Chair*)

Clauses 46-50—

Enche' Liu Yoong Peng: Mr Chairman, Sir, I was talking on Clause 48 (1) (c) in regard to the inclusion of Singapore in a common market with the rest of the Federation, the establishment of a Tariff Advisory Board and the laying down of conditions for the levying of import and export duties in relation to goods imported into or exported from Singapore. This is to be

agreed upon between the Federal Government and the Government of Singapore from time to time.

As I have pointed out, since the Federal Government has not been able to see eye-to-eye with the Singapore Government most of the time, therefore, it is important for us to see that this question of common market is going to benefit Malaysia. As we know, the judgment of the Prime Minister of Singapore regarding the benefits of the common market is based on his trust in the Rueff Report, because he told Mr David Marshall that Mr David Marshall was not such an expert as Mr Rueff and, therefore, he refuted the argument of Mr David Marshall that the common market was not so good for Singapore. Since this Rueff Report has been praised sky-high by Mr Lee Kuan Yew, I think it would be all right for me to give it the respect which Mr Lee Kuan Yew wants it to have. Since he agrees with the Rueff Report that the common market is good for Malaysia, or for Singapore, I wish to point out that the Rueff Report is not as straightforward as Mr Lee Kuan Yew likes it to be, or thinks it is.

On page 75, in regard to the entrepot trade, it is stated that

"unless the necessary precautions are taken, a change in the conditions in which trade is conducted at present may lead to serious adverse effects on employment."

I emphasise the word "employment". We know that the entrepot trade of Singapore directly involves about 14 per cent of the labour force of Singapore, and the indirect effects on employment are even higher. This means that the many people who are not directly in the entrepot trade are, nevertheless, depending on the entrepot trade people for their livelihood directly or indirectly. So, I think it is quite safe for us to assume that, if all these factors were taken into consideration, at least a quarter of the labour force in Singapore would be affected by the entrepot trade. And, as I have pointed out, in this entrepot trade it is not merely those big wholesalers who would be most affected in terms of employment. There are many people in

Singapore who depend for their livelihood not entirely on wholesaling, but many of them depend for their livelihood on retail sales: for instance, the rows and rows of shophouses in the business areas of Singapore as well as those smaller stores in Change Alley and such places, and the many other petty retailers. These people earn their livelihood by trade, but not necessarily by wholesale trade. I think it could be quite safe for us to say that such retailers—these small traders and people who depend on such petty trade—consist of quite a high percentage of the people in Singapore.

As we know, once a common market is introduced into Singapore and as time goes on provision will have to be made to see that only certain areas of Singapore will be under free zone, and only those goods that are in the free zone will be exempted from direct taxes. Therefore, those people who earn their livelihood outside the free zone—those people who sell clothes, textile materials and many other goods—will be subject to tariffs and therefore the cost of their goods will be higher than they are now. We all know that one of the attractions of Singapore to people in the other parts of the Malaysian territories, and the people in the Malay Archipelago as well as abroad, is that Singapore in a way is a good shop-window and people go there for shopping and to buy things. Once most of these goods sold in shops outside the free zone area are more costly, then Singapore will lose much of the business that accrues to it in this way so far. The economist may be able to argue that the loss to the gross national product from any diminution in such trade will not be very much compared to other incomes. But, as I have pointed out, many people struggle for their livelihood, merely to get enough for their living, in this way, and therefore if, because of the ending of tariff protection, Singapore ceases to be a shop-window, then the tourists and others will no longer like to go to Singapore.

Tuan Haji Ahmad bin Saaid: On a point of order under Standing Order 36 (1). The Honourable Member is

speaking on behalf of Singapore. Has he got a mandate from the Singapore people to speak here?

Mr Chairman: I think the Honourable Member is quite in order. He is speaking on the common market. Please proceed.

Enche' Liu Yoong Peng: For his information, Sir, I was born in Singapore and I have a right to speak. But anyway this question is quite irrelevant, because our loyalty shall be to Malaysia whether we are Malayans or Singaporeans. In the case of the tourists and others who go to Singapore, once the attraction of Singapore as a shop-window is lost, then these people may not go to Singapore and so many of these petty traders, retailers and small shopkeepers are going to suffer for it. This is a very serious problem, because labour is one of the most dynamic problems in a city. Therefore, since the entrepot trade of Singapore involves 20 to 25 per cent of the national product, and indirectly it will be more because of the people indirectly affected by it, unless Singapore's industrialisation is able to absorb these people who are going to be affected by the common market arrangements, it is very important that we should take great care to see that the entrepot trade of Singapore is not going to be affected in this way. Again, if we look at the Rueff Report, we will find that under paragraph 185—the latter part of it states—

"The proposed establishment of a Malaysian common market will accelerate this process since, to enjoy the benefits of regional integration, Singapore will have to apply the common protective tariffs whether or not the protected products are made in Singapore. It is imperative to devise and put into force adequate arrangements to protect the entrepot trade from being adversely affected by such developments."

I have already spoken about the entrepot trade. Well, here it is stated that "Singapore will have to apply the common protective tariffs whether or not the protected products are made in Singapore." This is something which we should consider, because we know that the goods which come into Malaya at present come under tariffs. Of course, there are many kinds of tariffs—some are classified as protec-

tive tariffs, and some are classified as non-protective or revenue tariffs. So far as the protective tariffs are concerned, once Malaysia is established those products that at present are subject to protective tariff in Malaya will be extended to Singapore as well, whether or not the protected products are made in Singapore. That means to say that if there are no factories in Singapore that are manufacturing certain products, say, motor car tyres for example, even then the Singapore people would have to pay more for motor car tyres because in Malaya there is a Dunlop Factory that manufactures motor car tyres and the Malayan Government is giving protection to this Dunlop Factory by imposing a protective tariff on motor car tyres. I am merely giving an illustration—I am not saying that this is not a good thing. I am merely pointing out the implications. So, the Dunlop Factory in Malaya will enjoy the protection of the Malayan tariffs. And for the sake of the Dunlop Factory of Malaya, I suppose, if we the citizens of Malaya were to concede to pay for the extra cost of the tariff protection imposed on the tyres, as in Singapore there is not a similar factory, Singapore would have to pay more for that product. In this sense, the Singapore people are being asked to shoulder the burden of higher cost without the benefit of that industry being established in Singapore itself. This will apply as soon as Malaysia is established, although the Singapore Government can delay it for one year. In order not to make it too long, I do not propose to go into the relevant sections—and I suppose if I am wrong the Minister will point it out to me—but from memory I understand that the Singapore Government will be able to delay it for one year only, if it considers that all the items of goods are already under tariffs, which can be considered as protective tariffs that are already applicable in Malaya. Therefore, we can see that as soon as Malaysia is established, or for the most one year since then, the Singapore Government will have to pay more for many of these goods. In so far as the non-protective tariffs, or the revenue tariffs, are concerned,

although the Singapore Government can delay it for five years, sooner or later they will have to pay for the revenue tariffs that are imposed in Singapore.

On the problem of tariffs, so far as the protective tariffs are concerned, there is a provision that the Tariff Advisory Board should only allow those industries that are able to manufacture certain products in sufficient quantities to be supplied in Malaysia—it is only then that they would be allowed protection. Therefore, small factories that are not going to produce significant quantities are not likely to get tariff protection and in that sense, from the rate-payers point of view, from the citizens point of view, they are not likely to be subjected to an over burden of tariffs or the higher cost of the protective tariffs. So far as the non-protective tariffs or revenue tariffs are concerned, I think the position is not very clear. Revenue tariff means a tariff which is imposed not for the sake of protecting any industry of Malaya, but simply because the Government thinks that as it is short of money it wants more money, and it, some how or other, tries to get money from somewhere and decides to get it by way of imposing a tariff on goods imported into this country, and this is known as a revenue tariff.

Sir, on this question of revenue tariffs, I have certain observations to make. For instance, let us suppose there is a factory in Johore Bahru for the so-called manufacture of textiles. In actual fact it may be importing manufactured cloths from Hong Kong into Malaya—and these cloths are exempted from tax. In the factory the cloths are dyed and they are then considered to be manufactured products, or locally manufactured cloths, for sale in Malaya. Since these so-called Malayan-made cloths are not produced in sufficient quantities for the whole of the Malayan market at the moment, I do not think any tariff imposed can be considered as protective tariff. Those people, who are interested in the matter, when they are faced with the problem of deciding whether it is a protective tariff or not, would be able

to argue that it is not a "protective tariff" but that it is a "revenue tariff", because the definitions of "protective tariffs" and "revenue tariffs" are such that even when there are certain factories producing certain goods, if they are not produced in sufficient quantities, it can be argued that those tariffs that are imposed are not for the purpose of protection and that they are for the purpose of revenue. Therefore, I think this is where the danger lies, because some capitalists may be interested in having a factory in Malaya and because they can get cloths from Hong Kong cheaply and because the factory is under pioneer status, these cloths can come in as raw materials and be exempted from taxation. Once the cloths are in Malaya, they are under tariff protection and, therefore, they can be sold in Malaya—but Malaya is not a country that produces cotton and, so far as the textile industry is concerned, Malaya will not have raw material for the textile factory.

Mr Chairman: Order, order. You seem to have been arguing on general principle rather than on details. We have already debated on the general principle for the last four days and I think it is better if you confine yourself to the details of the provisions in the Bill which the House is now debating; otherwise, there will be no end to it. If you have any problems or questions you can raise them and the Minister in charge will reply to them.

Enche' Liu Yoong Peng: I am actually going into the very detail at the moment, because I am not concerned with the general principle. I am touching on the detailed aspects of the common market as it applies to the industry.

Mr Chairman: But that is general. We are now dealing with Clauses 46 to 50. Can you point out under which clause you are now speaking?

Enche' Liu Yoong Peng: Yes, Sir. I am dealing with Clause 48 (1) (c) which says "the inclusion of Singapore in a common market with the rest of the Federation, the establishment of a Tariff Advisory Board and the laying down of conditions for the levying of

import and export duties in relation to goods imported into or exported from Singapore"; and I am going to show, Sir, how, by having a factory in Malaya, they are not going to have mass production and the Singapore people thereby have to bear the heavy cost of the products through the imposition of this import duty. I think this is quite relevant to the matter under discussion.

Mr Chairman: If you want any clarification from the Minister, he can reply to you. If you keep on talking on these details, there will be no end. It will be difficult for the Minister who will have to reply to your points. Classify your points, say what you want, then the Minister can answer your questions. It would be so much easier, otherwise it will take a long time. We may have to sit for the whole of tonight if you were to go on like this.

Enche' Liu Yoong Peng: I certainly want the Minister to reply to my points. The particular point which I want the Minister to consider is about the danger of having a non-protective or revenue tariff imposed in Malaya and getting the citizens to bear the cost of it unnecessarily; but the Minister has not understood what I wanted him to answer.

Mr Chairman: He will reply to your questions once you have finished. Have you finished?

Enche' Liu Yoong Peng: No. I have not finished yet. I am afraid if I do not clarify these points, the Minister will not be able to make head or tail of it. Therefore, Sir, he will be unable to

Mr Chairman: I am sure he will be able to reply. Make your speech as short as possible.

Enche' Liu Yoong Peng: As I was saying, Sir, in the case of this factory which, for example, makes textiles, this factory is not able to supply the goods for the whole of Malaysia. We need so much goods which cannot be produced by this factory. The population of Malaysia is ten million and the amount of goods the people of Malaysia require

is so tremendous that this factory is not able to supply the demand, but because some interested parties want to protect this factory, certain tariffs are imposed at the moment in Malaya, and in the future in Malaysia, and therefore as a result of this the people in Malaya, and later Malaysia, will have to buy more costly products because of the tariff that is imposed for the benefit of the capitalists who own that industry. This is a problem. I think that the Government should pay particular attention because we have been talking all the time that one of the attractions of Singapore is because of the low cost of the goods that they sell. But if in Malaya a few capitalists are going to open up factories and use raw materials from outside to make goods and then with tariffs imposed the people in Malaysia are going to pay higher for the products; and the people in the entrepot trade are going to suffer very much. So, these are dangers which I think we should bear in mind. As far as I can see, Sir, the Federation Government, the Ministry of Finance in particular, has not been able to see these dangers. Sir, the Prime Minister of Singapore, Mr Lee Kuan Yew, because he is over-confident—I do not know where he got the idea that the Rueff Report favours a common market very much—says "O.K." to everything, and therefore we, the citizens of Malaya and in future Malaysia, will have to suffer for the lack of consideration of the implication of the common market and the tariff applications in this respect.

I think you, Sir, meant that I should not put in too many points at a time. So I will just stop for a while to allow the other side to answer my questions.

The Minister of Commerce and Industry (Dr Lim Swee Aun): Sir, I must thank the Honourable Member for Rawang for filibustering because he has given us on this side of the House the time to gather a quorum of two-thirds majority. The Honourable Member has dwelt in detail what the implications of the common market are, and because the common market is an important economic problem of

Malaysia, I think it would be fair, as I had not the opportunity to reply to him at the second reading of this Bill, to take this opportunity to talk at length to his satisfaction as to what a common market means.

The Honourable Member, who is the shadow Minister for Commerce and Industry of the Socialist Front, has quite correctly stated that our present economy is largely dependent upon the sale of export-earning primary commodities like rubber and tin. Now, these primary commodities are exported to advanced countries which manufacture them into goods and then we in turn reimport these manufactured goods. Sir, I think it is fair, although we have already got a two-thirds majority, to give them a full explanation of the common market.

The Malayan economy is dependent upon rubber and tin but because prices of these two commodities are falling, we must look for an alternative source of revenue. Rubber which used to be worth \$1.06 in 1960 has now dropped to 68 cents a pound. That is due to competition from synthetic rubber and also from releases from the stockpile. Our second export is tin. Tin earns for us about 15 per cent of our total exports; but we produce 40 per cent of the world's tin and yet the total production of the world's tin is less than what is required by consumers. Now, if there had been a free market, the price of tin today would be anywhere around £1,000 per ton, but because of the releases from the United States tin stockpile, the price of tin has been depressed to round about £900 a ton. Therefore, we cannot expect the earnings from tin to make up for the losses in the drop in the price of rubber.

Mr Chairman, Sir, Singapore, Penang and Labuan are free ports—by "free port" we mean that on these islands there is no import duty; but these free ports also depend upon entrepot trade for their business. Entrepot trade means trade in importing goods from outside the country, breaking bulk, and then re-exporting to another country—that is entrepot trade; but unfortunately

there is a lot of mix-up in the definition of what entrepot trade is and what a free port is.

Now, Sir, the entrepot trade of Singapore and Penang depends mainly on the entrepot trade of primary products like rubber, tin and pepper, which come from Indonesia and the Borneo territories and which are, or are not processed in Singapore and Penang, and then re-exported to foreign countries. That is the major part of the entrepot trade. This entrepot trade is not growing as fast as one would expect, in fact, it is declining. Because of this, it is apparent that we must diversify our economy, otherwise our Malaysian economy would be in a jam, if we were too dependent on rubber and tin. We all know this fact. We all know that diversification is essential. Therefore, we have already taken action in our First and Second Five-Year Plans to diversify our economy, to diversify our agriculture and also to start industrialisation.

In the early part of this year, our Governments—the Singapore Government and the Federation Government—felt that, because of the impending formation of Malaysia, we should invite experts from the World Bank to come and advise on how to integrate the economy of the Malaysian States into one unit—the economic integration of Malaysia—and also to advise on the feasibility and how to start a common market. We have talked about this common market with Singapore for several years—it is nothing new. This Mission of nine world known economists—not theorists but people who really work on economics, who are economic experts of Governments, who have given advice to developing countries—came here under the leadership of Mr Rueff, and they found that our economic situation and our economic problems were exactly the same as what we ourselves had already known, and they agreed that the answer is greater diversification.

With the formation of Malaysia itself, the physical formation of Malaysia, our market has already expanded; and not only has this expanded our

market but it has also diversified our economy, because there is pepper, there is coffee, and there are other things grown in the Borneo territories which are not grown here. With this formation of a common market, it would help us to have freer movement of our agricultural produce—that is to say things like vegetables, fruits, maize, fish and livestock products. As it is, recently, because of the barrier, in Johore Bahru there was an egg-and-chicken war between Singapore and Malaya, but with a common market for these agricultural produce there will be no necessity for another egg-and-chicken war. This may seem frivolous, but it is an important economic problem, because recently America has threatened to take economic retaliation on the European market also because of an egg-and-chicken war.

Sir, the main incentive of the diversification of the economy in Malaysia is industrialisation. With industrialisation we expect to get more industries going which in turn means more employment, and if there is more employment there will be more people using locally manufactured goods. It will mean less necessity of importing foreign goods, hence a saving in foreign exchange. The problem now is, how do we start this common market? The common market is a progressive thing. It is not something that comes out "bang" tomorrow, everything is common market. It cannot be done that way without upsetting the entrepot trade of Penang and Singapore. That is why in our London Agreement we made it clear that we must safeguard the entrepot trade of Penang, Singapore and Labuan.

In our London Agreement—Annex "J" of the London Agreement—we define what entrepot trade is. Section 4 (5) says:

"For the purposes of this agreement, the entrepot trade of Singapore means trade in goods and products imported into Singapore from outside Malaysia and primary products imported into Singapore from other parts of Malaysia, which goods or products, whether further processed or not, are subsequently re-exported from Singapore to destinations outside Malaysia."

This excludes your imported primary products like rubber, tin and pepper.

Further to make sure that these primary products, which are the major part of the entrepot trade of Singapore, are not adversely affected, in paragraph 1 at the beginning of Annex "J" we have said that the common market shall not affect goods and products of which the principal terminal markets lie outside Malaysia. So, the entrepot trade of Singapore is not only preserved, but we also make sure that it does not get damaged. The entrepot trade of Penang and Singapore is vital to them, but to the Central Government it is equally important, because it earns foreign exchange for us; and because of that no Central Government would be foolish enough to destroy the entrepot trade of Singapore and Penang.

Now, Sir, how do we introduce this common market? The first thing we have to do is to enact a law for the setting up of a Tariff Advisory Board. We have a Bill coming up subsequently in this respect. This Tariff Advisory Board will consist of a Chairman and three Deputy Chairmen. The Chairman will be a neutral person agreed to by Singapore and us, and the rest of the panel will consist from between eight to twenty people representing these territories. Whenever any product is considered to be suitable as a product to be included in the common market, this product must be presented to the Tariff Advisory Board for consideration. The Tariff Advisory Board, before it can decide to put on protective duty, must consider the following points:

- (a) the need for a balanced industrial development throughout Malaysia;
- (b) the interests of the entrepot trade of Singapore, Penang and Labuan;
- (c) the interests of existing industries and of consumers in Malaysia, including cost of living, cost of production of industries and in particular of export industries and cost of development works in the public sector of the national economy;
- (d) employment and national income in Malaysia;
- (e) Federal and State revenues.

Therefore, it can be seen that this Tariff Advisory Board, before it can put on protective duties on any particular product to be included in the common market of Malaysia, must consider carefully all these points. So, all those arguments put up by the Honourable Member for Rawang that it will destroy the entrepot trade, it will kill everybody's living, is nonsense, because all these facts are before him and he should have studied them.

Sir, there is one point which I must take up. During the debate on the Second Reading of this Bill, the Honourable Member did go on the same theme that the reason why we want a common market is because Singapore must industrialise—because Singapore must industrialise, therefore, we have a common market; because we have a common market it will destroy Singapore's entrepot trade; and because it will destroy entrepot trade, there will be economic chaos. Therefore, he states that the most important thing is that we must find employment for the people. And his answer to all these problems is that the only way to do it is the Russian way. It is obvious where he got his political and economic direction from.

Enche' Liu Yoong Peng: Now, Mr Chairman, Sir, since the Minister of Commerce and Industry has alleged a number of things against me, I think I should clarify for his benefit. He said that the Tariff Advisory Board has so many things to consider. Of course, I think that the members of the Board, as economists, will have many things to consider, and I think they should consider them. But, the crucial thing here is that the Tariff Advisory Board is advisory—and advice is not binding. The Tariff Advisory Board can always advise the Government and the Ministry of Finance, in particular, but the Minister of Finance may disagree. Therefore, that is where high politics come into play. Although I am quite prepared to respect the views of the economists, but when politics is mixed up with economics, then I am not quite sure where the decision will lead us. That is why I want to point out the danger in that respect.

On the point about Russia, I wish to say that when I mentioned that Russia did not want war, I was merely thinking of what the Minister of Works, Posts and Telecommunications had been telling me—that the Russians do not want war, they want peace, they are having a high standard of living, and, therefore, they are quite happy. So, I am just reflecting the thoughts of an Alliance Minister. If one of the Alliance Ministers can agree with it, I do not see why the others cannot agree with it as well?

The Honourable Minister has already answered a number of points, but I still got a number of details of which I am not so sure as to what the position will be like with regard to this common market, especially with regard to this free zone. So far as the free zone is concerned, as I have pointed out, it is most likely that in Singapore it will be limited to the Telok Ayer area and may be the Singapore Harbour area, and certainly it would include Blakang Mati, which is not an area very much liked by the people. As we know, the amount of goods that can be classified as entrepot trade goods are so tremendous that I just wonder how these goods can be properly handled in the seemingly very limited space that the Government can provide in Singapore. I think I would ask this question first because too many questions may confuse.

Enche' Tan Phock Kin: Mr Chairman, Sir, may I add one more question to that of the Honourable Member for Rawang? It is with regard to the statement made by the Honourable Minister concerned that as far as the common market is concerned, the Tariff Advisory Board will be guided by certain economic principles stated in the Report. I ask this, because I had the occasion to read a statement by none other than the Honourable Minister of Finance to the effect that if the Singapore Government is to be led by the same group of people, he will see to it that economic pressure will be applied. So, does that reflect the Government's view, or does it only reflect the view of the Honourable Minister of Finance? The statement

was made to a section of the Malayan Chinese Association.

Enche' Tan Siew Sin: Mr Chairman, Sir, it is not at all correct to say that I made a statement to the effect that if the Singapore Government were headed by the present people who are in control, economic pressure will be applied to Singapore. I do not know where the Honourable Member obtained such a statement. I hope he does not allow his imagination to run riot at this hour of the night.

Enche' Tan Phock Kin: If he is going to make a denial of it, I would like to say that it is all over the papers. He can refer to them.

Mr Chairman: Clauses?

Enche' Tan Phock Kin: Mr Chairman, Sir, I have a few questions to be directed to the Honourable the Minister of Finance with regard to the Bornean States—they are on Clause 46 (1), "Special grants and assignments of revenue to Borneo States", and Clause 47 (1), "Reviews of special grants to Borneo States." In view of these special grants, money must be obtained from somewhere. Can the Honourable Minister of Finance enlighten this House from where he expects to get the money for grants of this nature, and will this affect our development projects and whether he can give an assurance to this House that with the coming into force of Malaysia the burden of taxation of the people of this country will not be increased?

Then, Sir, on the financial arrangements with Singapore, it has been stressed time and again that we must have a strong Central Government, and a strong Central Government must, of course, have full powers in finance. Here, Sir, we find that Clause 48 (1) (a) says that—

"the manner in which the revenue derived by the Federation from Singapore or any part of that revenue is to be collected and accounted for, and the division of it between the Federation and the State;"

Arising from this, Sir, we have to look into the agreement with Singapore to see how revenue is being collected. It appears here, Sir, that the Singapore Government will be responsible for

collecting the bulk of the revenue from Singapore. The only exceptions are listed in paragraphs (a), (b) and (c). So, can the Honourable Minister enlighten us as to how this came about—whether it is due to any laxity on his part, or whether it is due to their great desire to have Malaysia.

Enche' Tan Siew Sin: Mr Chairman, if the Honourable Member for Tanjong had taken care to listen properly yesterday, when I made my speech on the second reading, he would have discovered that I tried to make it clear that if we had applied the full provisions of the Federal Constitution to the States of Sabah and Sarawak—and I repeated it again earlier this evening—Sarawak would have been left with a very large deficit and North Borneo, that means Sabah, would not have been left with sufficient funds to carry out its development projects. He should have realised from the statement which I made earlier this evening and from the statement I made yesterday, that these clauses really represent a division of the revenue derived from the two Borneo States themselves. As a result of these two or three clauses here, the proportion which would be retained by the Federal Government would be less than if the present financial provisions of the Federal Constitution had been applicable, but it should be made clear that this money is really derived from the two Borneo States concerned. So, there is no question of the present Federation of Malaya subsidising the two Borneo States in so far as their recurrent expenditure is concerned. In so far as development expenditure is concerned, I have tried to make it clear yesterday that, as a result of the aid which we had been promised—both by the Singapore and the British Governments—it is likely—I cannot guarantee the future—it is likely that a very large part of the \$500 million which had been quoted in the report of the Inter-Governmental Committee can be found from the States themselves and from these two sources. In so far as Singapore is concerned, the arrangements arrived at, as the Honourable Member himself is well aware, have been arrived at after very arduous

negotiations and I think the final result represents a fair compromise of what should be due to the Federal Government and what should be due to Singapore. There are, of course, many ways of dividing Singapore revenue as between the Federal and State authorities, but the method of apportionment, i.e. percentage method which we have decided on, I think, is as good as any. In any case, we have also agreed that if in the course of the next 18 months or thereabouts one party or the other should feel that it has not got a fair share of the revenue proceeds, as the Honourable Member and the House know, there is provision for review and for subsequent reviews after that. So I think eventually the arrangements will be fair to all concerned.

Enche' Tan Phock Kin: I am afraid that the Honourable Minister of Finance, either deliberately or otherwise, has failed to answer one very important question: will the burden of taxation on the people of this country after Malaysia be increased?

Enche' Tan Siew Sin: As the Honourable Member for Tanjong is well aware, I think it is not possible, nor is it desirable, for me to tell the Honourable Member what taxation proposals I have for the future.

Enche' Tan Phock Kin: We are debating the Malaysia Bill and all these factors are important to enable us to determine whether or not to support the Bill. If we know very well that our financial resources are ample and that we are in a position to assist people, then that will be a very good reason to persuade members of this House to support the Bill. I personally feel that this is a very relevant point. If we are asked to support the Bill, we must know our financial position—whether we are able or unable to embark on this Malaysia. I feel, Sir, that the Minister is not doing his duty in refusing to disclose to this House the financial position of this Government.

Enche' Tan Siew Sin: I think, Mr Chairman, Sir, the Honourable Member for Tanjong is denser than I had given him credit for. If he had heard my remarks properly, he would have

deduced, if he has any sense at all, that I said with regard to the recurrent expenditure that we do not have to subsidise Sabah, in the case of Sarawak the subsidy is very small, and Singapore financially is in a very strong position. With regard to development expenditure, Singapore obviously does not need any subsidy and, as I said before, the \$500 million which has been noted in the report of the Inter-Governmental Committee could probably be found from Singapore and the resources of the two Borneo Governments themselves. To add up, I think it is possible, even indeed probable, that the Federation will not have to finance the three newly joining members to any very great extent, if at all.

In regard to future taxation proposals, as I have said, I am not obviously in a position to reveal anything.

Clauses 46 to 50 inclusive ordered to stand part of the Bill.

Clauses 51-54—

Enche' Tan Phock Kin: I rise to seek clarification on the Judicial and Legal Service Commission.

Mr Chairman: Under what clause?

Enche' Tan Phock Kin: Clause 52 (1), Sir. It would be noted that apart from the Judicial and Legal Service Commission in the Federation, we have the so-called branches of such a Commission in the other territories—in Singapore and in Borneo—and the composition of the so-called branches is listed in this Bill. May I know from the Minister concerned the necessity for this arrangement?

Tun Haji Abdul Razak: Mr Chairman, Sir, it is necessary to have the branches of the Judicial and Legal Service Commission in the various territories for efficiency in the administration and for convenience. Obviously if we have one Commission here, the members of the Commission will have to travel to the various territories all the time. So it is convenient to have these branches—as we have in the case of the Public Services Commission—in these territories.

Enche' Tan Phock Kin: May I know to what extent does the Commission here have control over the branches? Are the branches responsible to the main Commission in Kuala Lumpur?

Tun Haji Abdul Razak: We have control to the extent that we have two representatives designated by the Federal Government and members of the Commission are appointed by His Majesty the Yang di-Pertuan Agong.

Clauses 51 to 54 inclusive ordered to stand part of the Bill.

Clause 55—

Tun Haji Abdul Razak: I beg to move a small amendment to Clause 55 (7) as in the amendment slip which has been circulated to Honourable Members and which reads as follows:

Clause 55, page 34, in the second line of sub-clause (7), after "a Borneo State" insert "or Singapore."

This amendment is necessary in order to give the branch of the Public Services Commission in Singapore, as well as the Borneo territories, jurisdiction in regard to the filling of vacancies in Federal departments by officers seconded from the States.

Enche' K. Karam Singh: Mr Chairman, Sir.

Mr Chairman: On the amendment only—if you want to talk on that, you can, but not otherwise.

Amendment put, and agreed to.

Enche' K. Karam Singh rises.

Mr Chairman: The Committee is debating Clause 55 as amended. If you want to debate on that, you can.

Clause 55, as amended, ordered to stand part of the Bill.

Clauses 56-60—

Enche' Zulkiflee bin Muhammad (Bachok): Tuan Pengerusi, di-dalam Bab 60 ini ada-lah satu perkara yang telah saya terangkan dahulu berkenaan dengan penahanan orang² ka-Persekutuan Tanah Melayu; saya telah di-berikan jawapan oleh Yang Berhormat Menteri Dalam Negeri chara penahanan

itu boleh di-jaga dan di-kawal dengan menggunakan Clause 60. Tetapi, Tuan Pengerusi, saya rasa apa yang saya mushkilkan maseh ada lagi di-sini dan pada pendapat saya perkara ini patut di-lakukan oleh Kerajaan dengan halus.

Tuan Pengerusi, sub-clause (3) yang berbunyi:

"(3) So long as under this Constitution any other State is in a special position as compared with the States of Malaya, Parliament may by law impose restrictions, as between that State and other States, on the rights conferred by Clause (2) in respect of movement and residence:

Provided that no restriction on the right of movement between the State of Singapore and the States of Malaya shall be imposed by virtue of this clause except by a law relating to labour or education or to any matter in respect of which, because of the special position of the State of Singapore, it appears to Parliament to be desirable to prevent the enjoyment of rights both in the State of Singapore and in the States of Malaya."

Nampaknya, Tuan Pengerusi, sub-clause (3) yang ada di-dalam ini sengaja di-buat bukan-lah hendak menjaga Persekutuan Tanah Melayu, tetapi ia-lah untuk menjaga Singapura sahaja; tidak ada di-dalam sub-clause ini yang akan membolehkan penggunaan sub-clause ini bagi kepentingan Persekutuan Tanah Melayu walau pun ada di-sebut "to prevent the enjoyment of rights both in the State of Singapore and in the States of Malaya", tetapi tujuannya yang besar menurut fahaman saya ia-lah kalau sa-kira-nya kepentingan labour and education di-Singapura itu mementingkan supaya di-tahan pergerakan orang² dari Singapura ka-Persekutuan Tanah Melayu atau pergerakan orang dari Tanah Melayu ka-Singapura bagi kepentingan labour and education, baharu-lah dapat digunakan sub-clause ini. Jadi, nyata kepada kita bahawa sub-clause ini tidak dapat mengawal Persekutuan Tanah Melayu. Saya ingin tahu dari-pada Timbalan Perdana Menteri Yang Berhormat, bagaimana-kah clause ini sampai jadi bagitu sa-hingga menyebabkan Persekutuan Tanah Melayu terdedah kepada perpindahan yang akan membahayakan-nya, sebab apa yang di-sebutkan di-sini ia-lah "relating to labour and education" dan sebab pun kita boleh menggunakan sub-clause ini

ia-lah kerana menjaga special position of the State compared with the States of Malaya.

Enche' V. Veerappen: Mr Chairman, Sir, I am quite concerned about the fact at Clause 58 which says,

"The Public Service shall not be taken to comprise—

- (a)
- (b)
- (c) office of judge of the Federal Court or High Court; or
- (d) the office of member of any Commission . . .
- (e) such diplomatic posts as the Yang di-Pertuan Agong may by order prescribe . . ."

In view of what is happening in this country, where even the post of the office of the elected Council was in question as to whether it is public service or not, I think these exceptions which are given here would give a lot of loopholes, because the term "public service", when taken in the context of any action in the Court, means a lot. I would ask the Deputy Prime Minister to clarify.

In regard to Clause 60, Mr Chairman, Sir, I am rather perturbed over this question in sub-clause (4) which includes a new clause in our Constitution. The new clause reads:

"(3) Restrictions on the right to form associations conferred by paragraph (c) of Clause (1) may also be imposed by any law relating to labour or education."

I am particularly concerned about education, and I wonder whether this is intended to apply to the University Socialist Club of Singapore and whether it would be extended to exclude the University Socialist Club from forming an association, because that is an association as you will understand, Mr Chairman, Sir, I hope the Honourable Deputy Prime Minister will clarify.

Tun Haji Abdul Razak: Tuan Penggerusi, bagi menjawab Ahli Yang Berhormat dari Bachok, saya suka terangkan bahawa kita tidak menukar peraturan yang ada sekarang ini ia-itu sekarang ini ada-lah pergerakan atau movement di-antara Singapura dengan Tanah Melayu ini ada-lah bebas,

melainkan kita ada kuasa bagi menahan sa-siapa yang di-fikirkan membahayakan kapada keselamatan kita. Jadi, menurut pindaan ini pun, chadangan kita bagitu juga ia-itu keadaan yang ada sekarang ini tidak-lah hendak ditukarkan, tetapi kuasa yang ada di-bawah "restricted residence" ada-lah berjalan dalam negeri ini, sa-siapa yang di-fikirkan merbahaya kapada tempat itu, boleh-lah di-tahan daripada bergerak kapada sa-suatu tempat itu. Jadi, kita tidak-lah dengan ini mendah, atau pun mengechiwakan kedudukan Persekutuan Tanah Melayu, sebab kita ia-lah, keadaan tidak menukarkan keadaan yang ada pada hari ini. Tetapi, berkenaan dengan hal labour and education, kita Kerajaan Pusat ada-lah berkuasa hendak menghadkan perkara ini, kerana kita ta' hendak orang² dari Singapura dapat mempunyai dua faedah—bagi Singapura dan juga bagi negeri ini Persekutuan Tanah Melayu. Jadi itu-lah tujuan kita mengadakan provisio ini.

Mr Chairman, Sir, on the point raised by the Honourable Member for Seberang Selatan, I think Clause 58 makes it quite clear in regard to the various offices or posts that are excluded from the definition of "public service". I think all Members of Parliament and Legislative Assemblies are excluded, and there should be no doubt about this under the Constitutions, and I am not sure where the Honourable Member has any doubt. Under this, I think, it is clear—the various posts that are excluded from the definition of the "public service".

On the question of restricted residence in Clause 60, as I have explained just now, the purpose of this proviso to sub-clause (3) is to enable us to prevent people of Singapore from enjoying double benefits under education and labour, because education and labour are subjects within the jurisdiction of the Singapore Government. So we will have the power to stop people of Singapore from enjoying benefits under this if we so desire.

Enche' Zulkiflee bin Muhammad: Tuan Penggerusi, saya rasa apa yang di-terangkan oleh Timbalan Perdana

Menteri itu tidak-lah dapat di-terima, kalau mengikut apa yang di-bahathkan di-sini. Sebab jelas daripada sub-clause ini, tujuan yang besar dari awal lagi ia-itu mengatakan ia-lah untuk menjaga kepentingan Singapura, bukan untuk menjaga kepentingan Persekutuan Tanah Melayu. Terang-lah :

“Provided that no restriction on the right of movement between the State of Singapore and the States of Malaya shall be imposed by virtue of this Clause except by a law relating to labour or education or to any matter in respect of which, because of the special position of the State of Singapore.”

Jadi, yang saya hendak bahathkan sa-malam sa-telah berbangkit perkara ini ia-itu sa-kira-nya membahayakan Persekutuan Tanah Melayu, kemasukan orang² dari segi labour, atau education. Bagaimana kedudukan perkara ini, ada pun kalau sa-kira-nya berkenaan dengan keselamatan, tentu-lah perkara itu memang ada kita mempunyai kuasa restriction, dan itu tidak-lah dengan clause ini, tetapi dengan clause yang ada dalam Constitution yang sekarang ini pun di-tulis ia-itu :

Subject to any restriction imposed by any law relating to the security of the Federation.

Yang menjadi soal ia-lah perpindahan yang timbul kerana labour. Maka apakah satu jaminan bahawa ini dapat di-pelihara bagi kepentingan Persekutuan Tanah Melayu.

Enche' V. Veerappen: Mr Chairman, Sir, I am afraid that the Deputy Prime Minister, shall I say, is rather trying to confuse me. Clause 60 (1) relates to the restriction of movement, which prevents the enjoyment of rights in the States of Malaya and also in Singapore, where as Clause 60 (4) is different. Clause 60 (4) adds a new Clause to our Constitution and restricts the freedom to form associations. The new Clause reads :

“Restrictions on the right to form associations conferred by paragraph (c) of Clause (1) may also be imposed by any law relating to labour or education.”

Forming an association, Mr Chairman, Sir, I submit, is entirely different from enjoying the rights in the two territories. That means people from Singapore will

be prevented or restricted from forming associations in Singapore.

Enche' Tan Phock Kin: Mr Chairman, Sir, Clause 60 (1) is making a very fundamental change. From the Constitution, we also see that Part II deals with fundamental liberties and Clause 60 (1) will do away with the fundamental liberties which were guaranteed to us in the Constitution. It states that notwithstanding the provisions of Articles 9 and 10, the Government can do certain things with regard to restricting the movement of people and with regard to association. Members of this House will note that, as time goes on, what has been guaranteed in the Constitution is slowly being got rid of under the guise of amendments to the Constitution. I am afraid, Sir, that this is a very dangerous practice. Once the Government uses the communist tack themselves, they are going to go to an extent in which the democratic rights of the people and fundamental liberties are going to be removed. If the Government does not believe that we should enjoy such fundamental liberties, then it should not have them written in the Constitution; but to have them written in the Constitution and to modify them later on to such an extent that we no longer enjoy them is to deceive the people. When the people of this country first approved the Constitution, they had this in mind—they feared that certain rights must be embodied in the Constitution. I think it was the Reid Commission which expressed the fear of a certain section of the community and, in fact, they gave the assurance that in this country fundamental liberties will not be tampered with and that the Government will not go to the extent of tampering with the fundamental liberties of the people. But merely to satisfy the fears of a certain section, they had this section on fundamental liberties written into the Constitution, and the Alliance Government was one of the parties which approved the Constitution. Conditions at that time were far worse than what it is today. If the fear of the Government of being overthrown by an armed revolt is prevalent today, it would have been

much worse at the time when the Constitution was written; and I cannot see any reason whatsoever for the Government to change its stand. I hope the Honourable the Deputy Prime Minister can enlighten us on this.

Tun Haji Abdul Razak: Sir, I would like to explain that this amendment to Article 9 is necessary because, as Honourable Members are aware, the people from the Borneo territories have asked for this special arrangement with regard to immigration, and that is why it is necessary to have this amendment to enable them to restrict movement between the States of Malaysia and the Borneo territories. It is not the intention to restrict movement in any other way.

Now, Sir, as regards Clause 60 (4), it is necessary to restrict or to pass laws to restrict the right to form associations conferred by paragraph (c) of Clause (1), because Singapore has not only executive but legislative powers as regards labour and education. Therefore, it is necessary for us to have this power in case we find it necessary to restrict the formation of associations by the citizens of Singapore, who are Malaysian citizens. That is all that is intended here.

Berkenaan dengan pertanyaan Yang Berhormat dari Bachok, saya suka terangkan bahawa menurut proviso Parliment ada-lah berhak mengadakan undang² kalau hendak menahan pergerakan orang dari Singapura berkaitan dengan labour dan education. Berkenaan dengan hal lain ia-itu security and public order semua sudah ada dalam Fasal 9 (2). Jadi ini-lah tambahan-nya, sebab Singapura berkuasa dalam labour dan education.

Enche' V. Veerappen: Mr Chairman, Sir, I am sorry to interrupt. From the reply of the Honourable the Deputy Prime Minister, I am given to understand that because Singapore has special powers with regard to education and labour, we have to have this. But Singapore does not have or the Constitution of Singapore does not guarantee the fundamental liberties of the citizen; it is the Federal Constitution which guarantees, and therefore it is for us to

protect, although we give them the power to legislate in matters of education and labour. In other words, we have taken upon ourselves the liberty of restricting the liberties of our citizens.

Clauses 56 to 60 inclusive ordered to stand part of the Bill.

Clauses 61 to 65—

Enche' K. Karam Singh: Mr Chairman, Sir, I think when our good friend Tuan Syed Nasir reads Clause 61 of this Bill, I am sure he is going to jump up with rage, because Clause 61 says—I will read it a little to convey its full meaning to some of our Members who may not have read this Bill, especially some of the backbenchers of UMNO:

“No Act of Parliament terminating or restricting the use of the English language for any of the purposes mentioned in Clauses (2) to (5) of Article 152 shall come into operation as regards the use of the English language in any case mentioned in Clause (2) of this Article until ten years after Malaysia Day.”

Mr Chairman, Sir, this means that English is going to continue for ten years after Malaysia Day, that is, if things go on well and there is no act of God ten years from now. I am surprised that our Honourable friend from Johore Tenggara is not even aware of this, and I hope the poor Member will listen so that we can enlighten him.

Mr Chairman, Sir, we know that every year we have a Language Month, Bulan Bahasa Kebangsaan, the beginning of which is heralded with very great celebrations; we are called to the Stadium Merdeka and all that. But now I wonder whether Bahasa Kebangsaan is *Jiwa Bangsa* or English is *Jiwa Bangsa*.

Mr Speaker: Have you to go all over that again?

Enche' K. Karam Singh: Just a little, Sir. Do we have to have two *Jiwas Bangsa*—English and Malay? This is fundamental, because we cannot have a nation with a split mind, or a nation with a split *jiwa*; and I am sure that had the backbenchers of the UMNO been aware of this they would have

revolted—but they have been kept in blissful ignorance.

Mr Chairman, Sir, is it possible to create a single nation which is divided on its language, which is divided on its tongue. Can that nation be united? I hope, Sir, after Malaysia Day is proclaimed

Enche' Tan Siew Sin: Mr Chairman, Sir, I rise on a point of order. Standing Order 55 (1) reads as follows:

"Any Committee to which a Bill is committed shall not debate the principle of the Bill but only its details."

I submit, Sir, that the Honourable Member has obviously flagrantly violated this particular Standing Order.

Enche' K. Karam Singh: Mr Chairman, Sir, what the Minister of Finance wants us to do is to keep quiet and let this Bill go through. I am not speaking on the general principle. I am speaking on Clause 61, and that refers to the English language, and I hope that the Minister will not be so brave as to try to stop me from speaking on that.

Mr Chairman: But the Committee to which this Bill has been committed shall not debate the principle but only the details.

Enche' K. Karam Singh: Sir, I am touching on the details. I am speaking on the language question—Clause 61. I hope that we do not have the spectacle after Malaysia Day is proclaimed of Tuan Syed Nasir calling up our children and asking them to make English the *jiwa* of our *bangsa* due to the great emphasis laid on English. This is an absurd position—the Government itself does not know what its own language policy is; it does not know for what it is preparing the people.

Enche' Tan Siew Sin: Mr Chairman, Sir, on a point of order—Standing Order 43 reads as follows:

"Mr Speaker in the House or the Chairman in Committee shall be responsible for the observance of the rules of order in the House and Committee respectively, and his decision on any point of order shall not be open to appeal"

The Honourable Member is obviously flouting your ruling in the matter and continues to speak on the principle of the Bill.

Mr Chairman: I think I have told you just now that we are not debating the principle of the Bill but the details only.

Enche' K. Karam Singh: Could you please tell me what do you mean by "details", Sir?

Enche' Tan Siew Sin: That is not for you to ask.

Enche' K. Karam Singh: (*To Enche' Tan Siew Sin*) You are not the Speaker, or Chairman. I will listen only to the Chair.

Mr Chairman: I gave my ruling just now. I told you that the Committee should not debate the principle—that is my ruling. You can speak on the details only. You understand what it means.

Enche' K. Karam Singh: Mr Chairman, Sir, I was just talking on the details of this Bill—the details in respect of Clause 61: the extension of English for ten years from Malaysia Day. I have to speak on that. I cannot speak on anything else.

Mr Chairman: Proceed.

Enche' K. Karam Singh: Mr Chairman, Sir, this provision in this Bill shows that those people sitting in the Cabinet have no policy on the language of this country—in fact, they are standing up to interrupt me in order to prevent me from revealing their weakness. On the one hand they are deceiving the people with the slogan "Bahasa Jiwa Bangsa" and here they are enacting an Act to subvert the fundamental and supreme position of our National language by allowing English to continue for another ten years—that is my submission to this House.

Dato' Mohamed Hanifah bin Haji Abdul Ghani (Pasir Mas Hulu): Tuan Pengerasi, dalam Clause 61 ini ia-itu memberi tempoh bagi kegunaan bahasa Inggeris dalam masa 10 tahun sa-lepas tertuboh-nya Malaysia. Tempoh-nya sangat-lah lama, wal hal kita di-Tanah Melayu sekarang ini sedang menggunakan bahasa Melayu, atau bahasa kebangsaan sa-bagai bahasa resmi negeri ini yang akan dapat berjalan dalam tahun 1967 dengan mendapat kelulusan

Parlimen, dan sa-kira-nya sampai dalam tahun 1967 kelak, negeri² Borneo itu belum juga dapat menjalankan penggunaan bahasa Melayu sa-bagai bahasa resmi bagi negeri² itu, bahkan terus-menerus menggunakan bahasa Inggeris, maka tidak-lah dapat kita menyamakan penggunaan bahasa Melayu di-dalam Malaysia ini, wal hal sa-bagaimana yang kita ketahui ia-itu sa-bagaimana yang telah di-terangkan oleh pehak Kerajaan, atau Parti Perikatan bahawa wilayah² di-Borneo itu sangat suka hati dan gembira hendak masok di-dalam Persekutuan Malaysia ini, oleh sebab itu sa-kira-nya mereka itu tergesa² hendak masok Malaysia, atau suka hendak masok Malaysia, maka patut-lah mereka itu bersetuju supaya dapat menyamakan tempoh penggunaan bahasa Inggeris, sa-bagaimana yang kita gunakan di-Tanah Melayu ini ia-itu sampai tahun 1967 tetapi kalau mengikut tempoh yang ditetapkan itu, maka penggunaan bahasa Inggeris akan habis tempoh-nya dalam tahun 1973.

Tuan Pengerusi, memberi tempoh dengan bagitu lama akan melambatkan lagi usaha kita yang hendak menggunakan bahasa Melayu sa-bagai bahasa kebangsaan di-dalam Persekutuan Tanah Melayu ini yang telah memberi tempoh dalam masa 10 tahun, walau pun pehak Dewan Bahasa dan Pustaka sedang menjalankan gerakan penggunaan bahasa Melayu di-dalam negeri ini, tetapi pehak Kerajaan belum lagi nampak-nya giat menggunakan bahasa Melayu, dan sa-kira-nya Kerajaan memberi tempoh 10 tahun lama-nya bagi penggunaan bahasa Melayu di-wilayah² Borneo itu sa-lepas Malaysia, maka ini akan melambatkan penggunaan bahasa Melayu di-sana. Oleh itu, saya suka menerangkan kapada pehak Kerajaan, kalau pehak negeri² itu sunggoh² hendak masok Malaysia, maka patut-lah mereka itu bertolak ansor sa-bagaimana yang telah di-tetapkan dalam Article 152 dalam Perlembagaan Persekutuan, dan dengan chara yang demikian itu kita akan dapat menggunakan bahasa Melayu di-dalam Malaysia, dan sa-kira-nya mengikut tempoh sa-bagaimana yang di-tetapkan oleh Kerajaan itu, maka usaha² yang sa-macham ini

akan melambatkan penggunaan bahasa Melayu sa-bagai bahasa resmi bagi Malaysia.

Enche' V. Veerappen: Mr Chairman, Sir, for the enlightenment of the Honourable the Minister of Finance and the House I would like to say that we are not trying to delay. I will try to confine myself to just one word in Clause 61, which contains five sub-clauses—and sub-clause (2) has three sub-sections. Sir, I am just going to confine to one word in sub-clause (1) of Clause 61 which reads :

“(1) . . . the use of the English language in any case mentioned in Clause (2) of this Article until ten years after Malaysia Day.”

The word is “ten”. In our Constitution, Sir, it is provided that, in the Malay States, or shall we say, the States of Malaya by which they will be known, whether the representations of those eleven States use English or not in this House in this country, is to be decided by this House—and as the Members from Borneo and Singapore will also be Members in this House, they will have the privilege of deciding together with us whether we use English or not in this House after 1966. Therefore, this provision for ten years is not necessary, because by it we have the ridiculous position of people sitting here who will have that privilege or right in this House. So, even in this House we have a difference—a difference of those people speaking a language, which we the elected representatives of the people of this country have no right to speak. Mr Chairman, Sir, it is most untenable and most ludicrous situation.

Clause 61 (2) (a) says,

“(a) to the use of the English language in either House of Parliament by a member for or from a Borneo State;”

I do not know why this special privilege should be given. It is most untenable and I hope the Honourable Deputy Prime Minister will clarify. Thank you, Mr Chairman, Sir.

Tun Haji Abdul Razak: Tuan Pengerusi, saya hendak menerangkan berkenaan dengan soal bahasa ia-itu pada masa kita di-Tanah Melayu ini menchapai kemerdekaan dan membuat Perlembagaan ini dahulu kita telah

menetapkan ia itu kita benarkan dua bahasa di-gunakan dalam tempoh 10 tahun. Jadi bagi hendak mengadakan perkara ini kapada orang² di-wilayah² Sabah dan Sarawak, kita membenarkan juga mereka itu menggunakan bahasa Inggeris dalam tempoh 10 tahun salepas Malaysia. Kita hendak-lah ingat bahawa mereka itu telah beberapa tahun di-bawah pemerintahan British dan telah menggunakan bahasa Inggeris. Pelajaran di-sana boleh di-katakan semua dalam bahasa Inggeris. Sebab itu-lah tidak munasabah kita hendak paksakan dalam tempoh tiga empat tahun mereka menggunakan bahasa Melayu. Dengan sebab mereka itu berkehendakkan perkara ini di-jalankan sama dengan keadaan kita dahulu pada masa kemerdekaan di-jalankan dalam tempoh 10 tahun. Jadi kita fikir ada-lah munasabah di-benarkan mereka menggunakan dalam tempoh 10 tahun, ini tidak berma'ana yang dasar kita hendak mengembangkan dan meninggikan taraf bahasa kebangsaan kita di-Persekutuan Tanah Melayu dan juga Malaysia. Kita akan teruskan dasar itu. Apabila bahasa Melayu—bahasa kebangsaan di-beri keutamaan yang sa-benar—harga yang sa-penoh-nya tentulah mereka itu dari Sabah dan Sarawak juga akan mempelajari bahasa ini dengan kedua-nya dapat di-gunakan barangkali kurang daripada tempoh 10 tahun itu.

There is no need for the Honourable Member for Damansara to remind us about our policy on the National language. I must say that the policy of the Alliance Government is to make Malay the sole National language within 10 years after independence. We shall carry out that policy and there is no need for him to appeal to the United Malay National Organisation Members here in this House or outside, because the UMNO know how to look after themselves and how to decide matters for themselves. (AN HONOURABLE MEMBER : Hear! Hear!) In this Bill we have tried to be fair to the people of the Borneo territories. They have accepted Malay as the National language, but they have asked that they be given time before they are forced to use the language, and they have been

given ten years as we were given under our present Constitution. Obviously as they have had education all the years in English, it is very difficult for them in a matter of a few years, as we here found it too, to switch completely to Malay. That is why we have given this concession to them and I think it is fair. This is also the concession that we have had for ourselves—ten years after Independence; and they too should have ten years after Malaysia.

Enche' V. Veerappen: Mr Chairman, Sir, according to our Constitution, in 1967 we have to debate this question of whether we use the English language as another official language or not. Could the Honourable Deputy Prime Minister tell us whether the people in Borneo, since they have English as one of their official languages, would be participating in the matter in this House and deciding for us whether we, the representatives of the States of Malaya, have to use the English language or not. Would they be permitted to do so?

Tun Haji Abdul Razak: This is a matter for Parliament to decide. of course, they may have a say, but they cannot stop us from deciding on what we want to do with ourselves. But, under this Bill, they would be given ten years after Malaysia Day, but we can decide for ourselves in 1967 that we will use only Malay.

Clauses 61 to 65 inclusive ordered to stand part of the Bill.

Clauses 66 to 70—

Dato' Mohamed Hanifah bin Haji Abdul Ghani: Tuan Pengerusi, dalam Clause 68 yang berbunyi:

“Nothing in Clause (2) of Article 8 or Clause (1) of Article 12 shall prohibit or invalidate any provision of State law in Singapore for the advancement of Malays; but there shall be no reservation for Malays in accordance with Article 153 of positions in the public service to be filled by recruitment in Singapore, or of permits or licences for the operation of any trade or business in Singapore.”

Tuan Pengerusi, dalam clause ini tidak ada di-sebutkan hak istimewa orang Melayu yang ada di-sharatkan dalam Perlumbagaan, Artikel 153 wal hal pe-hak Menteri Pertanian sa-bagai ketua

UMNO di-Singapura telah memberi pengakuan kapada orang² Melayu di-Singapura bahawa dengan jadi-nya Malaysia kelak maka orang Melayu di-Singapura juga akan dapat hak istimewa sa-bagaimana yang ada di-dalam Tanah Melayu. Mengikut Bill ini tidak ada sharat² sa-bagaimana yang ada dalam Artikel 153. Tuan Pengerusi, walau pun ada sharat² yang telah diberikan kapada orang Melayu di-Tanah Melayu mengikut Artikel 153 umpamanya Scholarship, Public Service dan sa-bagai-nya tetapi maseh lagi orang Melayu tertinggal di-belakang dan tidak dapat mengatasi dengan sa-penoh-nya hak istimewa untuk orang Melayu itu, dan maseh ada orang Melayu tertinggal di-belakang daripada bangsa asing pada hari ini. Tetapi dengan keadaan yang tidak ada di-sebutkan langsung hak² istimewa mengikut Artikel 153 yang terdapat di-Persekutuan Tanah Melayu ini, alang-kah lebuh tinggal-nya orang² Melayu di-Singapura itu. Kalau kita di-sini ada hak istimewa yang belum dapat di-nikmati dengan sa-penoh-nya bagaimana-kah orang² Melayu di-Singapura itu dengan sharat Clause 68 ini dapat orang² Melayu kita di-sana faedah atau dapat memajukan dalam segala lapangan.

Maka ini-lah satu chara, Tuan Pengerusi, yang di-berikan kapada ra'ayat Singapura, tetapi tidak dapat di-satukan, maka itu-lah sebab-nya kami di-sini memang menentang terus Undang² Malaysia ini dengan sebab Undang² itu tidak menjaga Tanah Melayu ini.

Tun Haji Abdul Razak: Tuan Pengerusi, saya telah terangkan dalam masa menjawab pindaan ini ia-itu fasal 68 menyebutkan bahawa Kerajaan Singapura mustahak membuat Undang² dan peratoran² bagi kemajuan orang² Melayu di-Singapura, tetapi Kerajaan Singapura tidak berkehendakkan untuk menentukan reservation di-dalam bab itu; apa yang di-katakan oleh rakan saya Yang Berhormat Menteri itu ia-lah orang² Melayu di-Singapura ada berhak menerima keistimewaan-nya menurut fasal 153 saperti orang² Melayu di-Tanah Melayu ini. Ini ada-lah pindaan; jadi itu-lah perjanjian yang di-buat.

Clauses 66 to 70 ordered to stand part of the Bill.

Clauses 71 to 75 ordered to stand part of the Bill.

Clauses 76 to 80—

Enche' K. Karam Singh: Mr Chairman, Sir, Clause 76 (3) reads as follows :

"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 section 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."

Mr Chairman, Sir, I think the people who drafted this Bill must have been singularly unimaginative and the Government must have been equally glass-eyed when it allowed this provision to escape into this Bill, because when we say that the Attorney-General, on the application of any party interested in any legal proceedings, shall certify to certain effect and for the purposes of those proceedings, such certificate shall be final and binding on all courts, this is a very strange legal provision because if the Attorney-General is given such a power, in whatever respect it may be, he would in fact be constituting himself the highest court of appeal in this country. His certificate will be binding even upon a judge and upon the court. Here it says, "any party interested in any legal proceedings". If the Attorney-General's certificate is in favour of one party, what is the position of the other party? Then what is the use of the other party proceeding with the matter in court, seeing that the certificate of the Attorney-General will already be binding upon the court and not even a judge can refuse to be bound by that certificate? This is a very strange provision, because normally the parties will have to present their case and the judge will have to decide on the merits or demerits, on the rights and wrongs of a case. But here even the judge is not independent. In fact, the judge has

to accept the certificate of the Attorney-General as if it was a law, as if it was an Act of Parliament. It leads to that absurdity.

Further, to obviate the necessity of my rising again, I refer to Clause 77 (5) where a similar provision is again made. It reads :

"The Attorney-General shall, on the application of a party to any proceedings, certify whether any, and if so what, substitution of one party for another is to be made by virtue of sub-sections (2) and (4) in those proceedings or for the purpose of any appeal arising out of them, and any such certificate shall for purposes of the proceedings or any such appeal, 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."

Mr Chairman, Sir, this is a repetition of the provision in Clause 76. But my strongest objections are directed against Clause 76 (3) and I would ask the Deputy Prime Minister whether he would reconsider and withdraw this great power which is proposed by this Act to place in the hands of the Attorney-General.

Tun Haji Abdul Razak: Mr Chairman, Sir, I am sorry the Honourable and learned Member for Damansara has not even read the Constitution. Clause 76 (3) is in the present Constitution under Section 68 (5). It is taken word by word from that Article. Obviously, Sir, someone has to certify the rights, liabilities and obligations of the Government of the Federation or a State. There must be someone to do it and the proper person to do it is the Attorney-General. This certificate will not operate to prejudice the rights and obligations of the Federation and any State as between themselves. This certificate is only to certify the rights, liabilities and obligations of the Federal Government or of the State Governments. It is not a new or novel provision. It has been in the Constitution all these years and the Honourable learned Member has never seen it before.

I think it is the same way with Clause 77 (5), to which also the Honourable Member referred. It is necessary in the administration of criminal proceedings for someone to

certify, and I think the proper person is the Attorney-General.

Enche' K. Karam Singh: Mr Chairman, Sir, it does not mean that if this provision is not new, it should not be a matter for reconsideration, because, as I have said, I am dealing with Clause 76 (3) where it is stated that "The Attorney-General shall on the application of any party". There may be various circumstances and I would ask the Deputy Prime Minister to reconsider the position and not just stick to it because it has been in the previous Constitution. Anything is liable for reconsideration if there is any likelihood of it being illogical.

Clauses 76 to 80 inclusive ordered to stand part of the Bill.

Clauses 81 to 85 inclusive ordered to stand part of the Bill.

Clauses 86-90—

Enche' K. Karam Singh: Mr Chairman, Sir, I refer to Clause 89 which is on the subject of "Continuance in office of existing judges", and it reads :

"(1) Subject to the provisions of this section, on Malaysia Day the persons holding office immediately before that day as judges of the Supreme Court of Sarawak, North Borneo and Brunei and of the Supreme Court of Singapore shall become judges of the Federal Court and of the High Courts as follows:

(a) the Chief Justice of the Federation shall become Lord President of the Federal Court,"

Mr Chairman, Sir, we have, in fact, covered this ground in the earlier debate on the judiciary. However, here again we are faced with the fact that the Chief Justice of the Federation has already been appointed by this Bill to be the Chief Justice, to be the Lord President of the Federal Court. Here again, I would ask whether these are not the results of British pressures, as they are being evident in the new amended Constitution which provides for the Act of Malaysia, or whether it is not the work of expatriate secretaries who have stipulated this into our new Constitution. Sir, to stipulate for the Chief Justice or the Lord President of the Federal Court in this Act, I think, is going a little too far to ensure a sort of right of succession to this

high office. So, Mr Chairman, Sir, again I would urge upon this Government to reconsider its stand in the interest of the development of this nation to see that a citizen is made the Chief Justice of these new States.

Tun Haji Abdul Razak: Mr Chairman, Sir, obviously on Malaysia Day we will have to have Lord President of the Federal Court, and the obvious person to be appointed Lord President of the Federal Court is the Chief Justice of the Federation. I would like to inform the Honourable Member for Damansara that there are no expatriate secretaries at all now. I think he is completely out of date with the Malayanisation programme of the Government. As I said, there are only two judges now who are not citizens of this country. So our policy has always been to Malayanise our public service, and there is no question that we will not appoint a Malayan citizen or a Malaysian citizen to any high office, if there is one suitable for that appointment.

Enche' K. Karam Singh: Mr Chairman, Sir, I would like to ask the Honourable Deputy Prime Minister whether he is saying that if we are fit to be independent, if we are fit to be called a great nation, we are not fit to produce from among our citizens the Lord President of the Federal Court. Is this what the Honourable Deputy Prime Minister of this country saying? Mr Chairman, Sir, is the Honourable Deputy Prime Minister not even prepared to face this fact in this House?

Clauses 86 to 90 inclusive ordered to stand part of the Bill.

Clauses 91 to 96—

Dato' Mohamed Hanifah bin Haji Abdul Ghani: Tuan Pengerusi, saya hendak berchakap dalam Clause 94 (2) yang mengatakan :

"The period of indirect elections in any State shall be, for elections to the House of Representatives, the period up to the first dissolution of Parliament occurring after the end of August, 1968, or, for elections to the Legislative Assembly, the first dissolution of that Assembly so occurring."

Maka alang-kah baik-nya kalau tarikh Ogos, 1968, itu tukar kepada tahun

1964, kerana apa-lah ma'ana-nya Demokrasi Berparlimen kalau ada anggota²-nya yang tidak di-pileh oleh ra'ayat. Maka kita berharap supaya Demokrasi Berparlimen itu dapat dijalankan dengan sa-benar-nya supaya tiap² wakil di-pileh oleh ra'ayat. Dan tentu-lah dunia akan ketawa melihat kita mengamalkan demokrasi, tetapi ada anggota yang tidak di-pileh oleh ra'ayat. Maka tarikh 1968 itu patut di-ganti dengan tahun 1964.

Enche' V. Veerappen: Mr Chairman, Sir, I refer to Clause 94 (3) in regard to indirect representation in the House of Representatives, that is, in this House. It says:

"During the period of indirect elections . . . by order of the Governor made with the concurrence of the Yang di-Pertuan Agong; and the order may either require the elections to be made from among members of the Assembly . . ."—that is in the Borneo States—" . . or permit others to be elected."

I am rather wondering, Mr Chairman, Sir, what "others to be elected" means, and I would like to seek clarification. Would it mean, for example, members from the gallery over there? (*Laughter*) And, could they be elected to the House of Representatives? I would seek clarification because it concerns us, and we are the people who must guard our rights. (*Laughter*).

Tun Haji Abdul Razak: Tuan Pengerusi, berkenaan dengan pandangan dari Ahli Yang Berhormat wakil Pasir Mas Hulu, saya perchaya wakil Pasir Mas Hulu ini ta' faham sa-benar²-nya democracy. Jadi, pilehan raya yang democracy ini ada banyak—bukan pilehan macham di-sini sahaja; indirect election itu pilehan raya juga. Di-Sarawak dan Sabah sana ada pilehan raya, pilehan raya indirect election. Jadi, Ahli² yang akan duduk di-Dewan ini yang mewakili Sabah dan Sarawak ia-lah Ahli² yang di-pileh menurut indirect election, bukan-nya Ahli² yang di-lantek; yang di-pileh oleh wakil², yang di-pileh oleh ra'ayat. Jadi banyak ada negeri² yang memakai chara indirect election, bukan ta' ada election.

Now, as regards the question raised by the Honourable Member for Seberang Selatan, the question of election

of representatives from Sabah and Sarawak to the House of Representatives is a matter to be prescribed by regulations by their Governments with the concurrence of the Central Government. This matter has not been finalised yet, but this Clause 94 (3) permits elections to be made either from members of the Legislative Assemblies or others. "Others" would mean those whom they consider suitable to represent Sarawak and Sabah in the House of Representatives. Obviously, they would elect their own men from their own territories. This is a matter for them to do, and this is a matter that will be prescribed by regulations with the concurrence of the Federal Government, because the Federal Government must have a say in this as they will become members of the House of Representatives.

Enche' V. Veerappen: Mr Chairman, Sir, as a fitting finale to our very important debate, could I prevail upon the Honourable Deputy Prime Minister to accept one word and move that amendment himself. I just want him to add the word "qualified" after the word "others", otherwise it may mean that anybody could be elected.

Enche' Mohamed Asri bin Haji Muda: Tuan Pengerusi, sa-benar-nya berbangkit-nya perkara ini ia-lah di atas mushkil-nya Ahli Yang Berhormat dari Pasir Mas Hulu ia-itu berkenaan dengan masaalah tidak ada-nya pilehan raya di-Borneo. Jadi sekarang perkara ini telah di-terangkan oleh Timbalan Perdana Menteri ia-itu kata-nya sunggoh pun Ahli² itu datang dari Borneo dudok di-dalam Dewan ini pada masa akan datang dengan tidak di-pileh sa-chara langsung, akan tetapi kata-nya mereka itu telah melalui pilehan raya sa-chara tidak langsung, dan ada negeri yang mengikut ka-edah seperti ini, akan tetapi, Tuan Pengerusi, saya rasa perkara ini terlalu ganjil dalam sa-buah Dewan Ra'ayat seperti kita ini akan ada dua jenis ahli. Satu daripada-nya ahli yang di-pileh sa-chara langsung, dan satu lagi ahli yang di-pileh dengan tidak sa-chara langsung. Jadi, democracy apa-kah nama-nya, saya ta' tahu, barangkali democracy tidak masak—ada sa-paroh

di-pileh dan ada sa-paroh tidak di-pileh. Saya fikir elok-lah di-adakan pilehan raya dalam tahun 1964 supaya tidak ada bedza-nya wakil² yang dudok di-dalam Dewan Ra'ayat ini mengikut pilehan raya.

The Prime Minister: Tuan Pengerusi, saya suka hendak memberi keterangan sadikit berkenaan dengan pilehan raya yang di-adakan di-Borneo itu. Ini-lah pertama kali-nya di-adakan pilehan raya di-Sabah dan Sarawak. Jadi ini ada-lah untuk melatah ra'ayat² di-sana untuk memahami chara² pilehan raya yang di-adakan dalam Majlis² Tempatan, dan apabila mereka itu telah di-pileh dalam Majlis² Tempatan, maka daripada situ pula mereka itu di-pileh bagi Dewan Division (Divisional Advisory Council) dan daripada Dewan Division itu mereka pula di-pileh bagi Dewan Negeri. Di-dalam Dewan Negeri itu berkuasa-lah Governor untuk melantek ahli² yang pada pandangan-nya berpatutan dan ada pula kelayakan untuk menduduki dalam Majlis Dewan Negeri. Jadi, ini ada-lah susah sadikit bagaimana charanya yang di-jalankan melalui pilehan raya yang telah di-buat di-Sarawak itu. Untuk mengadakan pilehan raya di-Sarawak itu kepada Council Negeri sa-bagaimana yang kita ada sekarang ini, tentu-lah akan mengambil masa sadikit.

Pada tahun 1964 saya bimbang dan bagitu juga Kerajaan bimbang bagi negeri Sarawak itu, ada-kah chukup masa bagi pehak orang² di-sana memahami benar² tentang democracy yang kita jalankan di-sini. Kita di-sini pun mengambil masa yang panjang juga, dan dengan kerana itu, kita patut-lah memberi peluang kapada mereka itu dengan memberi masa yang chukup panjang, dan kalau di-pendekkan masa yang singkat itu dengan di-buat chara yang sa-macham ini, saya fikir masa-nya ada-lah terlalu singkat. Jadi dengan kerana itu hendak-lah di-beri peluang kapada mereka di-sana supaya mereka itu dapat berlatah bersama² dengan kita untuk mengambil bahagian dalam pilehan raya sa-bagaimana yang kita adakan peratoran pilehan raya yang berjalan di-negeri kita ini, dan

saya harap peratoran yang sa-macham ini dapat kita jalankan di-sana.

Enche' Zulkiflee bin Muhammad: Tuan Pengurus, saya ada satu sahaja hendak minta penjelasan ia-itu yang patut di-terangkan oleh Yang Berhormat Perdana Menteri. Boleh-kah saya bertanya kepada Yang Berhormat Perdana Menteri—di-dalam rundingan²-nya di-antara Kerajaan Persekutuan Tanah Melayu dengan Kerajaan² Negeri di-Borneo itu, ada-kah benar ikhtiar² bagi menimbaangkan perkara itu supaya negeri² Borneo itu dapat di-adakan pilehan raya-nya terdahulu daripada tahun 1968? Maksud saya, Tanah Melayu dahulu kita adakan bertingkat² itu betul, tetapi pada mula² di-adakan pilehan raya dalam tahun 1952 itu ia-lah untuk memileh ahli² di-dalam Dewan ini. Jadi ahli² Council yang sa-tengah² daripada mereka itu ada-lah mendapat kuasa daripada ra'ayat, kalau umpama-nya pehak negeri² di-Borneo itu mendapat sa-kurang²-nya 42 orang, dua puluh orang daripada-nya itu di-pileh, saya rasa itu ada sedap sadikit kalau hendak berunding dengan orang² yang di-pileh, atau pun sa-kurang²-nya sa-tengah daripada-nya, walau pun umpama-nya sa-belum tahun 1968. Kita bukan-lah berchakap sa-mata² kerana ta' berasa sedap dengan orang² yang tidak di-pileh, tetapi dia sendiri sa-bagai wakil ra'ayat. dia hendak-lah di-pileh oleh ra'ayat sendiri.

Dato' Mohamed Hanifah bin Haji Abdul Ghani: Tuan Pengurus, saya hanya hendak minta satu sahaja ia-itu saya suka mengingatkan kapada Yang Berhormat Perdana Menteri, sa-masa kita mengadakan pilehan raya dahulu, kita belum pernah menempoh apa² pun di-dalam pilehan raya sa-belum daripada itu, dan bagitu juga pilehan raya yang telah di-adakan dalam tahun 1955 dahulu, rasa saya belum ada gangguan apa² pun, dan sa-kira-nya pehak wilayah² di-Borneo itu tidak payah mengadakan pilehan raya-nya pada masa ini oleh sebab hendak belajar chara² pilehan raya, maka saya rasa kalau kita boleh menempoh keadaan yang saperti itu, tidak ada sebab mengapa mereka tidak boleh berbuat demikian.

Enche' Liu Yoong Peng: Mr Chairman, Sir, from what I have heard from the Prime Minister, when he stated that the people of the Borneo territories have to be taught democracy for some time, am I to understand that this is going to be the Malaysian version of guided democracy? (Laughter).

Enche' K. Karam Singh: Mr Chairman, Sir, it is very surprising that the Honourable the Prime Minister should have agreed to this question of indirectly nominated, or indirectly chosen, or indirectly elected people to come into the House of Representatives, the House of the people, the Dewan Ra'ayat; and still more surprising is the championing of these undemocratic measures by the Honourable the Prime Minister in this House. Clause 94, says:

“(1) In the Borneo States there shall be a period of indirect elections to the House of Representatives and to the Legislative Assembly

(2) The period of indirect elections in any State shall be, for elections to the House of Representatives, the period up to the first dissolution of Parliament occurring after the end of August, 1968, or, for elections to the Legislative Assembly, the first dissolution of that Assembly so occurring:

Provided that with the concurrence of the Governor of a State the Yang di-Pertuan Agong may by order direct that this subsection shall have effect in relation to the State with the substitution of an earlier date for the end of August, 1968.”

Mr Chairman, Sir, it says “the period up to the first dissolution of Parliament occurring after the end of August, 1968”. What, Mr Chairman, Sir, if the first dissolution of Parliament after August, 1968 occurs around 1973? There is a possibility, Mr Chairman, Sir, of 1972 or 1973. So, for this period, the Honourable the Prime Minister said “temporary”. This can go into a decade or almost a decade. It is this provision which would lend substance to the contentions of those who say that Malaysia is nothing but neo-colonialism. This is proof that Malaysia is nothing but neo-colonialism in respect of those States, because this system of nomination, this system of indirect choosing, and all that, occur only

under colonial conditions. Full direct adult suffrage is a mark of parliamentary democracy. So, we find that even after this so-called independence for these Bornean territories through Malaysia for almost ten years the Prime Minister is still proposing to stick to almost a system of nomination. It can be said that if it is not direct election, it would amount to a system of nomination. Whatever the meaning of it, it will still not be an election by direct elections. So, Mr Chairman, Sir, if this Government wants to show that it is really democratic, that these countries are going to get genuine independence, this provision should be struck off from this Bill: otherwise, it is nothing but a continuation of the old colonial status of those territories through Malaysia, that even in Malaysia they still do not come to a stage of full democratic rights exercised on the basis of adult suffrage. Thus, Mr Chairman, Sir, we have the overall picture of, for instance, the Federation of Malaya and Singapore having direct elections but these Bornean territories not having them. This is a contradiction, and this contradiction goes against democracy fundamentally.

Mr Chairman, Sir, I would say that this mentality of having nominated people, almost nominated people, to the House of Representatives could invalidate the character of the House of Representatives as a house of representatives. It will no longer be a pure house of representatives. Its purity will be defiled by a system of nomination. All I can say is that it is high time that the Alliance Cabinet, which is pretending to be the champion of freedom in these countries, it is high time that this so-called anti-colonial leaders in the Alliance Cabinet got rid of these colonial superstitions, colonial political superstitions, from their minds, because this system of nomination is a colonial superstition, a colonial political superstition—in our *bahasa kebangsaan* “*keperchayaan kolor*”—which is inconsistent with democracy and freedom. So, I would ask the Alliance Government to delete this and substitute undiluted democracy in place of the colonial provision.

Dato' Dr Ismail: Mr Chairman, Sir, I am not surprised that Honourable Members of the Opposition are suffering from mental fatigue, having tried to go through the provisions of this Bill, especially when some of them have not prepared their homework before hand. The question is democracy and elections. Now, it is agreed that in a democracy the representatives of the people are elected and not nominated. Sir, I would like to point out to Honourable Members of the Opposition that—and I think they will agree with me—America is one of the democracies as we understand it.

Enche' Lim Kean Siew: I do not agree with you.

Dato' Dr Ismail: If you do not agree, then probably your concept of democracy may be the peoples' democracy of the Soviet Union. If you believe in that kind of democracy, then you should expound it to the electorate of this country, but I think that the people of this country really believe in democracy in the democratic sense of the word.

In America, with regard to the President of the United States of America, the candidates for office of President are really elected by indirect elections: there are what you call conventions and they are financed by the Government of the United States of America. What happens in these conventions is that people from the States elect their representatives

Enche' K. Karam Singh: Mr Chairman, Sir, Standing Order 36 (1)

Tuan Syed Ja'afar bin Hasan Albar (Johor Tenggara): Boo!

Enche' K. Karam Singh: Sir, has the Member for Johor Tenggara the right to boo at me? Sir, the Minister is irrelevant because ours is not a presidential system of government. So, in introducing reference to America which has a presidential system of government, he is utterly wrong and utterly irrelevant; it only serves to confuse the issue. Unless the Minister is proposing to advocate for this country a presidential system of government, his remarks would be out of order.

Dato' Dr Ismail: Sir, I am just giving an example of what a democracy does; there you can have direct and indirect elections. In a democratic country you can have

Enche' K. Karam Singh: Mr Chairman, Sir, Standing Order 36 (1).

Dato' Dr Ismail: Sir, may I have your ruling as to whether I am relevant or not?

Enche' K. Karam Singh: Sir, Standing Order 36 (1) says:

"A member shall confine his observations to the subject under discussion and may not introduce matter irrelevant thereto."

My submission is that the American elections in respect of the office of the President is utterly irrelevant to the Malaysian Constitution. Malaysia has as its Head of State the Yang di-Pertuan Agong. Sir, I would ask for your ruling that reference to the American system of presidential elections be declared irrelevant to this debate.

Mr Chairman: It is relevant: it is only given as an example.

Dato' Dr Ismail: Thank you, Sir. As I was saying, in one of the great democracies, the election of the President is done by indirect elections.

Enche' Lim Kean Siew: Mr Chairman, Sir, on a point of order—Standing Order 36 (1): I am afraid that it cannot be called an example.

Dato' Dr Ismail: Mr Chairman, Sir, you have ruled me as relevant. So, I do not think Standing Order 36 (1) applies.

Enche' Lim Kean Siew: Mr Speaker, Sir,

Mr Chairman: Sit down. I have given my ruling just now that it is only an example.

Enche' Lim Kean Siew: Mr Chairman, Sir, I was rising on a point of order—Standing Order 36 (1): you must hear me; you cannot ask me to sit down without hearing my complaint.

Enche' Tan Siew Sin: Mr Chairman, Sir, on a point of order—I suggest that the Honourable Member for Dato Kramat is downright discourteous to the Chair. (*Interruption*).

Enche' Lim Kean Siew: I am rising under Standing Order 36 (1).

Mr Chairman: I have given my ruling just now that he is relevant—and he has the right to explain that one.

Dato' Dr Ismail: As I was saying, Sir, in democratic America the election of the President, in the primaries, it is done by indirect elections. So, indirect election is not inconsistent with the concept of democracy. To go further, even in the election of the President of the United Nations Assembly, it is done by indirect election, because the President of the Assembly is elected by member countries, and the Government in power in every country send their representatives there who elect the President of the Assembly. I think there is no better example. Even if Honourable Members of the Socialist Front, who draw their inspiration from some type of democracy, I think they cannot say that the United Nations is not a good example of a democratic institution—and there we have indirect elections. There is nothing mentioned in this case here about nomination, and I submit that indirect election is as good as direct election. It depends on the country as to what type of election is adopted.

Enche' Lim Kean Siew: Mr Chairman, Sir, as a matter of fact, I had not intended to speak on this section, but we cannot allow the Honourable Minister of Internal Security to mislead the House and the public at large. He was referring to the presidential elections relating to presidents. Mr Chairman, Sir, I bow to your ruling, but I think the debate would have been cut short if he had been ruled irrelevant. Surely, representatives to be elected under Clause 94 cannot be in anyway related to the election of the President of the United States, nor can such representatives be in any way identified with the President of the United Nations which has no executive and legal powers over any particular State.

Mr Chairman, Sir, if the Honourable Minister of Interior had been more honest and had admitted that we cannot have direct elections because the people are not yet ready, and that we must

have indirect representation for the next few years, and had he put the position clearly before the country, we would have no quarrel with him. But to argue round the point and to say that indirect election is equal to and is as good as direct election is patently to put forward a false case before the public. Nowhere in the world, when we deal with elections on the American pattern, has representatives been elected by indirect elections. Presidential elections of the United States of America are entirely different from elections to the House of Representatives, and the Senate of the United States of America. They are all by direct elections. As for the question of the indirectness of the presidential elections, we must not forget that the representatives of the States, who go into the National Conventions, are directly elected by the people and they themselves cast their votes as representatives. Here, indirect elections to the House of Representatives do not mean definitely that the elected members will elect their own members. Elected members together with Government appointees may nominate representatives, what we are asking for is a definition of the term indirect representation in this context. We are not asking for anything difficult. We want it recorded in this House so that when we bring up the question of indirect elections again, at least we will have had the definition of this phrase. But, by deliberately misleading this House and saying it is equivalent to the presidential elections of America is absurd, because not one of the representatives of the Bornean States will have the power of the President of the United States of America, and certainly the President of the U.S.A. is bound by the Senate and the House, whereas here the representatives who are indirectly elected will themselves partake in the passing of laws as Members of the House of Representatives. In America the position is entirely different. As for the United Nations Assembly, let us not stretch the absurdity to the point of ridiculousness.

The Prime Minister: Mr Chairman, Sir, what the Honourable Minister was trying to do was to refute the charge

that this form of indirect election is a guided democracy as had been charged by the Honourable Members of the Opposition bench. He tries to prove that even in America, a country well-known for its democratic principle, there are indirect elections, and so what is wrong with indirect elections in the case of Borneo. It is provided under Clause 94 (2) that with the concurrence of the Governor of a State, the Yang di-Pertuan Agong may by order direct that there can be elections earlier than the second dissolution of the House. It is for Members of this House, once the representatives from the Bornean territories are with us, to guide them along the right lines—and, perhaps, out of their own choice and their own desire, they may be as fully representative as we are in this House. The only thing we are asking this House to do is to bear with these people, who for the first time have known elections and the only means of returning them to this House is through indirect elections—and by indirect elections it means that they will be elected by all the people, the registered voters, in the territories of Borneo. Mixed with these people are a few nominated members, who have been nominated by the Governor himself. But, to try and force them now, before they can get their seat in this House, to stand on an equal footing with us here who have had so many years of experience of democratic elections is not fair. We have got to give them a little time to study and to know how democracy works. If we can give them a good example, guidance and advice, I have no doubt that they can pick up as fast as we did ourselves.

Enche' Lim Kean Siew: Mr Chairman, Sir, I am very glad that the Honourable Prime Minister had seen it fit to put the position clearly before this House. If have to admit that this is guided democracy, let us not accuse anybody else of that point. The other point I would like the Honourable Minister to explain is this: the proviso says, "With the concurrence of the Governor of a State"—it does not say the Governor-in-Council—so I wonder if the Governor here is taking the advice of the Executive Council.

Enche' K. Karam Singh: Mr Chairman, Sir, from the explanation of the Honourable Prime Minister, it is obvious that he has accepted that the Honourable Minister of Interior was not talking logic (*Laughter*) when he tried to connect two disjointed matters—for instance, the colonial system of nomination to the American presidential elections. Now, Mr Chairman, Sir, no matter how high precedents the Minister of Interior may try to quote, or whatever authority he may try to refer to, he cannot hide the fact that what is happening is nothing but a denial of democracy—not a practice of democracy, but a denial of democracy. And, he is appearing in his representative role for the Alliance as a bare-faced apologist for colonialism. Mr Chairman, Sir, if the Minister of Interior believes so much in having these indirect elections and says that America is even having it, why not have the entire Parliament by indirect elections—if he believes so much in that principle? Why is he himself here on direct elections? Let him get out and come back by indirect elections. That shows the absurdity of his position. What is he practising and what is he preaching?

Enche' Ibrahim bin Abdul Rahman (Seberang Tengah): On a point of order under Standing Order 44 (1), the Honourable Member is making the most tedious repetitions I have ever heard in my four years as a member of this House. He is repeating again and again.

Mr Chairman: That is all right. Proceed.

Enche' K. Karam Singh: I was just pointing out to this House that if this Minister—and this backbencher supports this Minister in his twisted logic—believes so strongly in the principle and justice of this backward, this throw-back to a colonial system, then why is he in this House on direct elections? I would welcome the statement of that Minister, because it exposes the Alliance Government as apologists for imperialism and colonialism. And if these people continue with this, then all I can say is that it is worse than guided democracy;

it is misguided democracy. That is all I have to say.

Clauses 91 to 96 inclusive ordered to stand part of the Bill.

Schedules 1 to 6 inclusive ordered to stand part of the Bill.

Preamble

Enche' K. Karam Singh: Mr Chairman, Sir, I was speaking on the preamble and then we decided to go on to the cart. Now we are back on the horse. As I was saying, in this preamble, which is the premise of this Act, there is a fundamental defect, because, although in the first part it says “on behalf of the Federation it has been agreed” and secondly “the Conference of Rulers has consented”, nowhere is there mention made in this preamble that North Borneo and Sarawak have also consented and agreed. Mr Chairman, Sir, I will show that the Alliance Government has not dared to put into the preamble the agreement by North Borneo and Sarawak to enter into this Federation of Malaysia because they have not got a proper agreement. Had there been a proper agreement they would have put it into this preamble. Further the fact that there will be no directly elected representatives in the Malaysian Parliament from the Bornean territories even after Malaysia Day, according to Clause 94, shows that even after Malaysia there will be no democratic representatives of the North Bornean States.

Mr Chairman, Sir, I would mention another fact. On behalf of North Borneo and Sarawak certain people signed the Malaysia Agreement in London. Among them was a person supposed to be the Chief Minister-designate.

Mr Chairman: Order, order. Will you confine your observation to this preamble only—there are four paragraphs there; that is all. I cannot allow you to make any observation outside this preamble.

Enche' K. Karam Singh: I am saying that there is a fundamental defect in this preamble. That is my contention, Sir. I am dealing with the defect. So,

we have a so-called Chief Minister-designate signing that agreement. Now, neither a President-elect nor a President-designate or a Chief Minister-designate has any legal standing in any Constitution.

Mr Chairman: It has no connection with this preamble. I don't see any connection at all.

Enche' K. Karam Singh: So, I would submit that there has been no proper agreement by the Bornean territories to this Agreement, and because of that, as a historical fact, this Agreement would fail because it has not the democratic support of the people of the Bornean territories, and this Bill dares not state that it has the democratic assent of those people. That is all.

Tun Haji Abdul Razak: I have said many a time, and this is the last time I am going to say it. We have debated the Agreement signed in London and it is clear that the representatives of the Bornean territories and Singapore have agreed to this Constitution being embodied in this Bill. And this is an amendment to our Constitution and there is no necessity to mention about the parties to that Agreement. That is a separate matter, and the preamble needs only say that it has been agreed

on behalf of the Federation Government. That is clear, Sir. The Agreement is an accepted document as everyone knows. It is tabled in this House and it is a public property now. Everybody knows that there has been an agreement.

The preamble ordered to stand as the preamble of the Bill.

Tun Haji Abdul Razak: Mr Chairman, Sir, I beg to move that the Bill be now reported back to the House.

Question put, and agreed to.

House resumes.

Third Reading

Tun Haji Abdul Razak: Mr Speaker, Sir, I beg to report that the Bill has been considered in Committee and agreed to with amendment. I accordingly move that it be read a third time and passed.

Enche' Tan Siew Sin: Sir, I beg to second the motion.

Question put, and agreed to.

Tun Haji Abdul Razak: I call for a division, Sir.

The House divided: Ayes 73; Noes 15; Abstentions Nil. (*Applause*).

AYES

Tunku Abdul Rahman Putra Al-Haj	Enche' Abdul Rauf bin A. Rahman	Enche' Hussein bin To' Muda Hassan
Tun Haji Abdul Razak bin Dato' Hussain	Enche' Abdul Razak bin Haji Husin	Enche' Hussein bin Mohd. Nordin
Dato' Dr Ismail bin Dato' Haji Abdul Rahman	Enche' Abdul Samad bin Osman	Enche' Ibrahim bin Abdul Rahman
Enche' Tan Siew Sin	Toh Muda Haji Abdullah bin Haji Abdul Raof	Enche' Ismail bin Idris
Dato' V. T. Sambanthan	Tuan Haji Abdullah bin Mohd. Salleh	Enche' Ismail bin Haji Kassim
Dato' Suleiman bin Dato' Haji Abdul Rahman	Enche' Ahmad bin Arshad	Enche' Kang Kok Seng
Dato' Haji Sardon bin Haji Jubir	Enche' Ahmad bin Mohamed Shah	Enche' Lee San Choon
Dato' Ong Yoke Lin	Tuan Haji Ahmad bin Saaid	Enche' Lee Seck Fun
Enche' Mohamed Khir bin Johari	Enche' Ahmad bin Haji Yusof	Enche' Lee Siok Yew
Enche' Bahaman bin Samsudin	Tuan Haji Azahari bin Haji Ibrahim	Enche' Lim Joo Kong
Enche' Abdul Rahman bin Haji Talib	Enche' Aziz bin Ishak	Enche' T. Mahima Singh
Dr Lim Swee Ann	Enche' Chan Chong Wen	Enche' Mohamed bin Ujang
Capt. Haji Abdul Hamid Khan bin Haji Sakhwat Ali Khan	Enche' Chan Siang Sun	Enche' Mohamed Abbas bin Ahmad
Enche' Cheah Theam Swee	Datin Fatimah binti Haji Hashim	Enche' Mohamed Nor bin Mohd. Dahan
Enche' V. Manickavasagam	Enche' Geh Chong Keat	Enche' Mohamed Yusof bin Mahmud
Tuan Haji Abdul Khalid bin Awang Osman	Enche' Hamzah bin Alang	Tuan Haji Mokhtar bin Haji Ismail
Enche' Mohamed Ismail bin Mohamed Yusof	Enche' Hanafi bin Mohd. Yunus	Tuan Haji Othman bin Abdullah
Enche' Abdul Ghani bin Ishak	Enche' Harun bin Abdullah	Enche' Othman bin Abdullah
	Enche' Hassan bin Mansor	

Enche' Quek Kai Dong
 Tuan Haji Redza bin Haji Mohd.
 Said
 Enche' Seah Teng Ngiab
 Tuan Syed Esa bin Alwee
 Tuan Syed Hashim bin Syed
 Ajam
 Tuan Syed Ja'afar bin Hasan
 Albar

Tuan Haji Ahmad bin Abdullah
 Dr Burhanuddin bin Mohd. Noor
 Tuan Haji Hasan Adli bin Haji
 Arshad
 Tuan Haji Hassan bin Haji
 Ahmad
 Tuan Haji Hussin Rahimi bin
 Haji Saman

Enche' Tajudin bin Ali
 Enche' Tan Cheng Bee
 Enche' Tan Tye Chek
 Tengku Besar Indra Raja ibni
 Sultan Ibrahim
 Dato' Teoh Chee Chong
 Wan Suleiman bin Wan Tam

Wan Yahya bin Haji Wan
 Mohamed
 Enche' Yahya bin Haji Ahmad
 Enche' Yeoh Tat Beng
 Enche' Yong Woo Ming
 Puan Hajah Zain binti Sulaiman
 Tuan Haji Zakaria bin Haji
 Mohd. Taib

NOES

Enche' K. Karam Singh
 Enche' Lim Kean Siew
 Enche' Liu Yoong Peng
 Enche' Mohamed Astri bin Haji
 Muda
 Dato' Mohamed Hanifah bin
 Haji Abdul Ghani

Enche' Ng Ann Teck
 Enche' Tan Phock Kin
 Enche' Too Joon Hing
 Enche' V. Veerappen
 Enche' Zulkiflee bin Muhammad

ABSTENTIONS

Nil

Bill accordingly read the third time *Adjourned at 11.25 p.m.*
 and passed.