

Volume I
No. 2



Saturday
12th September, 1959

PARLIAMENTARY DEBATES

DEWAN NEGARA (SENATE)

OFFICIAL REPORT

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KUALA LUMPUR
PRINTED AT THE GOVERNMENT PRESS BY B. T. FUDGE
GOVERNMENT PRINTER
1959

FEDERATION OF MALAYA
DEWAN NEGARA (SENATE)
Official Report

First Session of the First Dewan Negara

Saturday, 12th September, 1959

The House met at 11.20 o'clock a.m.

PRESENT:

- The Honourable DATO' HAJI ABDUL RAHMAN BIN MOHAMED YASIN, S.P.M.J.,
P.I.S. (Johore) (*President*).
- „ the Minister of Justice, TUN LEONG YEW KOH, S.M.N.
(*Nominated*).
- „ Dato' Orang Kaya Indera Maharajah Purba Jelai, WAN
IBRAHIM BIN WAN TANJONG, J.M.N., P.J.K. (Pahang).
- „ MR. YAP KHEN VAN, A.M.N., J.P. (Pahang).
- „ ENCHE' ABDUL WAHAB BIN IDUS, P.J.K. (Negri Sembilan).
- „ DATO' LEE FOONG YEE, J.M.N., P.P.T., J.P. (Negri Sembilan).
- „ MR. CHAN KWONG HON, A.M.N., J.P. (Selangor).
- „ RAJA RASTAM SHAHROME BIN RAJA SAID TAUPHY (Selangor).
- „ ENCHE' WAN AHMAD BIN WAN DAUD, P.J.K., J.P. (Perlis).
- „ TUAN SYED BAHALDIN BIN SYED NOH, J.P. (Perlis).
- „ TUAN HAJI NIK MOHAMED ADEEB BIN HAJI NIK MOHAMED
(Kelantan).
- „ ENCHE' AMALUDDIN BIN DARUS (Kelantan).
- „ ENCHE' DA ABDUL JALIL BIN HAJI AWANG (Trengganu).
- „ TUAN HAJI ABBAS BIN HAJI MOHAMED (Trengganu).
- „ ENCHE' AHMAD BIN SAID, A.M.N. (Perak).
- „ MR. YEOH KIAN TEIK (Perak).
- „ ENCHE' MOHAMED ZAHIR BIN HAJI ISMAIL (Kedah).
- „ TUAN SYED AHMAD BIN SYED MAHMUD SHAHABUDIN, J.M.N.
(Kedah).
- „ DATO' SHEIKH ABU BAKAR BIN YAHYA, D.P.M.J., P.I.S., J.P.
(Johore).
- „ MR. KOH KIM LENG (Malacca).
- „ ENCHE' MOHAMED SALLEH BIN MOHAMED ARIFF (Malacca).
- „ MR. CHEAH SENG KHIM, J.P. (Penang).
- „ ENCHE' HASHIM BIN AWANG, J.P. (Penang).
- „ DATO' G. SHELLEY, P.M.N., J.P. (*Nominated*).
- „ ENCHE' A. M. ABU BAKAR, J.M.N. (*Nominated*).
- „ ENGKU MUHSEIN BIN ABDUL KADIR, J.M.N., P.J.K.
(*Nominated*).
- „ MR. T. H. TAN, J.M.N. (*Nominated*).

The Honourable Mr. S. P. S. NATHAN (Nominated).
 „ Mr. S. O. K. UBaidULLA (Nominated).
 „ Mr. CHOO KOK LEONG (Nominated).
 „ Mr. J. E. S. CRAWFORD, J.M.N., J.P. (Nominated).
 „ Mr. LIM HEE HONG, A.M.N. (Nominated).
 „ TOK PANGKU PANDAK HAMID BIN PUTEH JALI, P.J.K.
 (Nominated).
 „ DATO' E. E. C. THURaisINGHAM, D.P.M.J., J.P. (Nominated).
 „ ENCHE' ABDUL HAMID BIN MAHMUD, J.M.N. (Nominated).
 „ NIK HASSAN BIN HAJI NIK YAHYA, J.M.N. (Nominated).
 „ DATO' DR. CHEAH TOON LOK, J.M.N., J.P., Dato' Maha Kurnia
 (Nominated).

PRAYERS

ANNOUNCEMENT BY THE PRESIDENT

The President (*Translated from Malay*): Honourable Members, before we proceed to the business in the Order Paper, I would like to inform the Senate that after my election as President yesterday morning, I was received in audience by His Majesty the Yang di-Pertuan Agong in the afternoon.

ADDRESS BY HIS MAJESTY THE YANG DI-PERTUAN AGONG

The President (*Translated from Malay*): Honourable Members, I would like to inform the Senate that His Majesty has this day been pleased to address Parliament. For greater accuracy I have obtained a copy of His Majesty's Most Gracious Speech, which I now direct formally to be laid on the Table of this Senate. I further direct that the Speech be printed and included in the Parliamentary Debates.

Mr. President, Mr. Speaker, Members of Parliament,

Less than two weeks ago We spoke to the nation on the occasion of the second anniversary of our Merdeka, the day of freedom for the Federation of Malaya. We told Our people then that shortly it would be Our duty to take part in an historic occasion for our country—the opening of our new Parliament, the very crown and climax of our Constitution.

Yesterday all of you were sworn in as members of one house—either the Dewan Negara or the Dewan Ra'ayat—and subsequently you elected, in separate meetings, the President of the Senate and the Speaker of the House of Representatives.

Now the time has come for Us as the Sovereign Ruler of this nation to attend in this place, and with all the ceremonial dignity of Our high office formally to establish for all time and for all men the Parliament of the Federation of Malaya, which We, by Proclamation under our Sign-manual and the Seal of the Federation, have summoned.

It is not Our intention here to-day to make what has traditionally become known as the Speech from the Throne, the formal statement of the future policies and objectives of Our Government, made by us as Head of State in the presence of all members of the Legislative Authority. We will make that speech at the opening of the Budget session of Parliament in November.

It is Our intention here to-day to focus the attention and the interest of Our people on the lasting national importance of this event in which we are now all taking part.

Before We do this We wish to say that this particular place of assembly of the elected representatives of Our people has a personal significance for Us, and by natural implication a special significance for all Malaysians.

For it was in this building, in another form and in another place, and at a time of great national rejoicing that We were enthroned and took the Oath of Office as the first Sovereign of our new State, declaring that We would justly and faithfully perform Our duties as Yang di-Pertuan Agong in the just Government of the Federation of Malaya in accordance with its laws and Constitution.

And it was in this place, too, that on another momentous occasion We exercised Our royal prerogative under our Constitution to grant honours and awards to many men and women who had distinguished themselves in the service of our country.

It seems that this noble hall, the setting not only for royal occasions but for events of international importance, both grave and gay, this is a place of destiny in the story of our nation.

Is it not most fitting, therefore, and is it not a good omen for our future that in this place of destiny We, the Head of State, should preside in the name of all Our people at this ceremony which is without question a moment of destiny for all Malaysians?

A few moments ago We referred to Our public comment that the establishment of this Parliament was the crown and climax of our Constitution; in fact, it is the very essence.

It is the crown because under our Constitution the Legislative Authority of the Federation is vested in Parliament, which consists of Ourselves as Yang di-Pertuan Agong and two Houses representing the people.

It is the climax because with the establishment of Parliament the Constitution of our country is given full effect for the first time.

To state this as a fact is simplicity itself, but behind this fact we in Malaya to-day can look back on years of effort, years of resolve, years of patience. The Constitution of the Federation of Malaya is in itself a democratic achievement of the highest order.

It is the product of many minds working with a common aim, to evolve a basic charter for this new Malayan nation of ours—a charter drawn from our past experience and suited to the conditions of our surroundings and way of life—a charter of our firm faith in the concepts and traditions of parliamentary democracy—and finally, and most important of all, a charter of our common belief that certain fundamental liberties are essential to the dignity and self-respect of man.

These fundamental liberties are written into our Constitution. They include the liberty and equality of persons under the law, the basic freedom of speech and freedom of worship. The Constitution proclaims Islam as the official religion of the Federation and makes Malay the official language.

The Constitution assures the right to our subjects to worship in their own religions and to preserve their own languages and culture. It also confers citizenship on a wide category of persons who are prepared to make the Federation their home and the object of their loyalty.

This Constitution, unique in many ways, is a comprehensive declaration of duties and responsibilities, authority and prerogatives, affecting all organs of the State and all citizens of the land. In more symbolic terms it is the compass which will guide us through the unknown future.

In general, this Constitution vests Our office of Yang di-Pertuan Agong with executive authority on the advice of our Government; establishes Parliament as the maker of our laws; preserves the status and dignity of Our Brother-Rulers; defines the powers of the Federation Government and of the various States of our united nation; provides for amendment of the Constitution should this be found necessary; and asserts the electoral rights of citizens in our democracy. In this way it ensures that the voice of the people is the will of the people.

In particular, this Constitution is the guardian of the rule of law. It protects the integrity, the freedom from influence, and the independence of our Courts and our Judges and our Law Officers and the Members of our various Commissions of the Public Service, responsible for appointments and discipline. In this way it ensures the security, integrity and impartiality of the Civil Service.

The Constitution belongs to all of us—it belongs to Us as the Yang di-Pertuan Agong, it belongs to you as the Members of Parliament, it belongs to the people as the fount of power.

The Prime Minister, the members of his Cabinet, the Senators and the Members of the House of Representatives have all sworn that they bear true faith and allegiance to the Federation of Malaya and that they will preserve, protect and defend its Constitution.

Therefore, We wish all Our subjects on this historic day to know and understand that the Constitution of the Federation of Malaya, our charter of rights and liberties, is now, finally and completely, in operation and with the establishment of this Parliament under the Constitution, a new era begins for our nation.

It is Our earnest hope that as many as possible of Our subjects will take early opportunity to make themselves familiar with our Constitution, and with the powers and procedure of our Parliament.

We mentioned earlier that we in Malaya had dedicated ourselves to the principles of parliamentary democracy. The establishment of this Parliament is the newest link in the chain of developments of the parliamentary ideal.

Centuries of thought and experience have contributed to the evolution of the parliamentary system. These may be reduced to three main characteristics. The first is that laws must be made by a legislature of persons elected by citizens at regular intervals by means of secret ballot. The second is that the executive authority must answer to the elected legislature. The third is that there must exist in the State what is commonly known as the "rule of law". All these characteristics apply in the Federation of Malaya to-day.

We would like to recall at this point the declaration made by the first Prime Minister of the Federation, Tunku Abdul Rahman Putra Al-Haj, when he moved the second reading of the Federal Constitution Bill as Chief Minister in the days immediately before our Independence.

Speaking in the Federal Legislative Council, only sixteen days before Merdeka, he said:—"It must be remembered that the freedom to which we aspire is the freedom to govern ourselves under a system in which parliamentary institutions shall be exclusively representative of the people's will".

That declaration is now a reality. Two years ago we in Malaya had fought and won by peaceful and constitutional means the struggle to attain our independence. We have every right to be proud of the way in which this was done.

Now, two years later, moving again in the ways of peace, climbing steadily step by step along the path of a Constitution of our own devising, we in Malaya have now reached a new summit of national achievement by deciding the type of independence in which we choose to live. We have every right to be proud of the way this has been done.

From this summit we can look two ways. We can look back across many centuries which disappear in the darkness of time and legend. We know that all those countless years of the past, all those unnumbered millions of people who lived before us in this land, are part of the Malayan story, and have helped to make us what we are to-day at this turning-point in our history.

From this summit, too, we can look forward with greater hope and confidence, surer faith and understanding, to the immediate prospect before us, which in itself disappears into the brightness of a future as yet unrecorded.

The events which are being commemorated here to-day with all the honours of the Malayan state are not designed for ourselves alone in our own times. The reason why we are all assembled here is to do honour to an historic occasion of tremendous significance for our future.

We are pulling a switch which starts two dynamos of democracy—our Constitution and our Parliament—to serve the political needs of this new nation now and of generations of Malaysians not yet born.

It is Our hope that historians of the future who look back on these events will record that what we have done in Malaya to-day we have done well.

Therefore, We urge all of you, the members of this new Parliament of ours, always to approach your deliberations as law-makers in the highest spirit of dedicated service to our nation.

We urge that your bearing should be related to the importance of your tasks and consonant with the dignity of the House.

We urge you always to remember that you are the representatives of all the people without exception, and that what you do here shall be done for the benefit of all the people.

We urge you to conduct your affairs in such a way that the Parliament of the Federation of Malaya will be a shining beacon of democracy at its brightest and best.

From this day onwards, this Parliament of ours will be the centre of national attention for all Malaysians wherever they may be. The progress of this Parliament will be watched not by Malaysians alone.

We are sure that throughout the free world where parliamentary institutions are the guardians of democracy the future of this Parliament will be followed with keen interest and goodwill.

We have no doubts at all that you will bring a healthy Malayan outlook to our affairs at home and abroad, and in doing so demonstrate to all men that, even though ours is a small nation, our Parliament can play both a distinctive and a distinguished role.

May your decisions be wise and just, your ideas constructive, and your achievements noble. May your Parliament win and keep the respect and regard of all Malaysians. May you assure peace, prosperity and justice for all our subjects.

May your debates in this House be carried out in the true traditions of Parliament. It is Our earnest hope and desire that however hard your feelings may be on any particular subject or matter which is brought up in this House for discussion that you will adhere strictly to the Standing Orders and to the principles of parliamentary democracy.

May you show respect for one another and for each other's opinions, even though your views may be diametrically opposed. It is Our expectation that Honourable Members will fight their battles in this House on the best of terms and in a spirit of goodwill for one another.

As you enter upon your duties in this first Parliament, confident of fulfilling the high hopes in the hearts of Our people, may the blessings of God guide and keep you.

In particular, We ask the blessing and the guidance of God for Our Prime Minister and the members of his Cabinet, upon whom devolve the responsibility for direction and decision, for leadership and administration of the policies of Our Government.

It is now Our great privilege as the Head of State in this third year of Our reign formally to declare, so that all men everywhere may know, the establishment, now and forever, of the Parliament of the Federation of Malaya.

MOTIONS

STANDING ORDERS OF THE DEWAN NEGARA

The Minister of Justice (Tun Leong Yew Koh): Sir, I beg to move,

That the Draft Standing Orders of the Dewan Negara, copies of which have been circulated to Members by the Clerk to the Senate, be adopted as the Standing Orders of the Senate *ad interim*.

I do not propose, Sir, to discuss the draft Standing Orders in detail, for the simple reason that, if adopted, they will be referred to a Standing Orders Committee to be established under draft Standing Order 71. Any comments upon the draft which Honourable Members may have should, if the motion be approved, therefore be addressed, Sir, to that Committee. However, it may be of interest to the House if I offer some general comments upon the draft.

Until the Federal Constitution itself became fully effective, upon the dissolution of the last Legislative Council, no Upper House of Parliament existed. In consequence there was no model for the preparation of Standing Orders for the Dewan Negara, and it became necessary—and that in some haste—to prepare draft rules of procedure regulating our conduct and affairs, for it seemed eminently desirable to have some rules of procedure rather than none.

The only local model to hand lay in the Standing Rules and Orders of the Legislative Council itself. These—which were prepared in 1948 by a Select Committee of the Legislative Council, on which sat one distinguished and Honourable Member of this House,

namely, Dato' E. E. C. Thuraisingham—continued with amendment for the life of that Council itself. They were studied with some care by Mr. D. W. S. Lidderdale, the Fourth Clerk to the House of Commons, in the light of experience gained in the procedure of the Legislative Council, and he made a number of proposals for amendment to the Standing Rules and Orders of that Council.

It was considered that the Standing Rules and Orders of the Council, amended to incorporate such amendments as experience had shown to be necessary, constituted a useful point of departure in the preparation of draft Standing Orders for the Dewan Ra'ayat; and, in fact, such a draft is now under consideration by that House which, if it adopts the draft, will then refer it for the consideration of a Sessional Committee of the House, the Standing Orders Committee.

As you will appreciate, Sir, the affairs of our two Houses, constituting as they do, with His Majesty, the Parliament of our nation, are closely intertwined, and the procedures of our two Houses must be complementary each to the other, if we are to conduct our affairs with a minimum of difficulty. In consequence, the draft Standing Orders now before Honourable Members are based on those laid before the Dewan Ra'ayat: but they have, of course, been modified in order to conform to the constitutional position of our Chamber.

I do not propose to say much about the draft Orders since, if they are

adopted, the Standing Orders Committee will consider them in detail: and if any Honourable Member has any comments upon them, I would suggest with respect, Sir, that they be submitted to that Committee for its consideration. There are, however, one or two matters which need particular mention.

First, in the matter of a quorum, the Constitution itself is silent on this point and since, by Article 62 of the Constitution, this House can—subject, of course, to the provisions of the Constitution itself and of any Federal law—regulate its own procedure, it is up to us to prescribe our own quorum. In consequence, draft Standing Order 13 provides for a quorum of ten Senators, excluding the Chair. That is roughly a fraction in excess of one-quarter of our total number of thirty-eight; and I might add here that the quorum of the former Legislative Council consisted of one-quarter of the total number of members and that proposed by the draft Standing Orders of the Dewan Ra'ayat is similarly one-quarter, that is twenty-six Members.

The only other matter of immediate consequence lies in the proposal implicit in draft Standing Order 71, that there should be a Standing Orders Committee consisting of yourself, Sir, as Chairman and four other Senators to be elected by this House. It is that Committee which will consider in detail the Standing Orders now before us and recommend amendments thereto.

By virtue of draft Standing Order 88, it is proposed that our procedure should follow that of the United Kingdom House of Commons in all cases in which neither our own Orders, nor our own practice, provide a solution. Such an adoption may perhaps be regarded as an indication of the regard with which we in this the youngest Parliament of the Commonwealth hold the "Mother of Parliaments" at Westminster. But, of course, in time we shall fully develop our own practice with its own national character. In the meantime, we should, I suggest, be content to profit from the experience of those who have faced similar problems in the past.

These are then the draft rules regulating the procedure of our House, and they are designed to facilitate despatch of our business. They can only be effective, of course, if they are applied with courtesy, dignity and restraint. We are after all the Second or Upper House of Parliament and, as such, we have special responsibilities to the nation and to the States—for all of us are either appointed by His Majesty, or elected by the State Legislative Assemblies. In consequence, Sir, I do not think that we can ever become detached from the realities of political life, or lose that vitality which we must possess, if we are to be fully effective as a second Chamber. And, if we are to be fully effective, we can only be so through the application of the discipline imposed by our own procedure.

One final point, Sir, the application of our rules of procedure depends in large measure upon you as President of this Chamber. I am confident that all of us here are sensible of the responsibilities that office imposes, and I am sure that each of us will do what he can to ensure that your duties are as little onerous as possible. To do that we must, I suggest, always bear in mind the terms of the Oath which we have taken as Senators and conduct ourselves at all times with a sense of charity to each other, and a consciousness of the dignity of our office. In this way, Sir, we shall assist each other, yourself and our nation.

In conclusion, I would propose, Sir, that if the draft Orders are adopted, they become effective from the conclusion of to-day's business and that they be thereupon referred to the Standing Orders Committee.

Sir, I beg to move.

Mr. T. H. Tan: Mr. President, Sir, I beg to second the motion moved by the Honourable the Minister of Justice.

Question put, and agreed to.

Resolved,

That the Draft Standing Orders of the Dewan Negara, copies of which have been circulated to Members by the Clerk to the Senate, be adopted as the Standing Orders of the Senate *ad interim*.

STANDING ORDERS COMMITTEE

Tun Leong Yew Koh: Sir, I beg to move.

That in pursuance of paragraph (1) of Standing Order 71, the following Senators, namely,

The Minister of Justice

Mr. T. H. Tan

Enche' Nik Hassan bin Haji Nik Yahya

Raja Rastam Shahrome bin Raja Said Tauphy

be elected as Members of the Standing Orders Committee under the Chairmanship of the President.

Engku Muhsein (*Translated from Malay*): Mr. President, Sir, I rise to second the motion by the Honourable the Minister of Justice.

Question put, and agreed to.

Resolved,

That, in pursuance of paragraph (1) of Standing Order 71, the following Senators, namely,

The Minister of Justice

Mr. T. H. Tan

Enche' Nik Hassan bin Haji Nik Yahya

Raja Rastam Shahrome bin Raja Said Tauphy

be elected as members of the Standing Orders Committee, under the Chairmanship of the President.

ADJOURNMENT

Tun Leong Yew Koh: Sir, I beg to move that the Senate do now adjourn.

Mr. T. H. Tan: Sir, I beg to second the motion.

The President (*Translated from Malay*): Honourable Members, the Senate is adjourned. The date of the next meeting of the Senate will be notified to all Honourable Members in due course by the Clerk.

Senate adjourned at 11.42 a.m.