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PARLIAMENTARY DEBATES

DEWAN NEGARA (SENATE)

OFFICIAL REPORT

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FEDERATION OF MALAYA
DEWAN NEGARA (SENATE)
Official Report

First Session of the First Dewan Negara

The Senate met at 9.30 o'clock a.m.

PRESENT:

- The Honourable Mr. President (DATO' HAJI ABDUL RAHMAN BIN MOHAMED YASIN, S.P.M.J., P.I.S.).
- „ the Minister of Justice (TUN LEONG YEW KOH, S.M.N.)
(Appointed).
- „ TUAN HAJI ABBAS BIN HAJI MOHAMED (Trengganu).
- „ ENCHE' ABDUL HAMID BIN MAHMUD, J.M.N. (Appointed).
- „ ENCHE' AHMAD BIN SAID, A.M.N. (Perak).
- „ ENCHE' A. M. ABU BAKAR, J.M.N. (Appointed).
- „ ENCHE' ABDUL WAHAB BIN IDUS, P.J.K. (Negri Sembilan).
- „ ENCHE' AMALUDDIN BIN DARUS (Kelantan).
- „ MR. CHAN KWONG HON, A.M.N., J.P. (Selangor).
- „ MR. CHEAH SENG KHIM, J.P. (Penang).
- „ DATO' DR. CHEAH TOON LOK, J.M.N., J.P., Dato' Maha
Kurnia (Appointed).
- „ MR. CHOO KOK LEONG (Appointed).
- „ MR. J. E. S. CRAWFORD, J.M.N., J.P. (Appointed).
- „ ENCHE' DA ABDUL JALIL (Trengganu).
- „ ENCHE' HASHIM BIN AWANG, J.P. (Penang).
- „ MR. KOH KIM LENG (Malacca).
- „ DATO' LEE FOONG YEE, J.M.N., P.P.T., J.P. (Negri Sembilan).
- „ MR. LIM HEE HONG, A.M.N. (Appointed).
- „ ENCHE' MOHD. SALLEH BIN MOHAMED ARIFF (Malacca).
- „ ENCHE' MOHD. ZAHIR BIN HAJI ISMAIL (Kedah).
- „ ENSKU MUHSEIN BIN ABDUL KADIR, J.M.N., P.J.K.
(Appointed).
- „ MR. ATHI NAHAPPAN (Appointed).
- „ MR. S. P. S. NATHAN (Appointed).
- „ ENCHE' NIK HASSAN BIN HAJI NIK YAHYA, J.M.N.
(Appointed).
- „ TUAN HAJI NIK MOHD. ADBEB BIN HAJI NIK MOHAMED
(Kelantan).
- „ TOK PANGKU PANDAK HAMID BIN PUTEH JALI, P.J.K.
(Appointed).
- „ RAJA RASTAM SHAHROME BIN RAJA SAID TAUPHY (Selangor).
- „ DATO' SHEIKH ABU BAKAR BIN YAHYA, D.P.M.J., P.I.S., J.P.
(Johore).

The Honourable DATO' G. SHELLEY, P.M.N., J.P. (Appointed).

" TUAN SYED AHMAD BIN SYED MAHMUD SHAHABUDIN, J.M.N. (Kedah).

" TUAN SYED BAHALDIN BIN SYED NOH, J.P. (Perlis).

" MR. T. H. TAN, J.M.N. (Appointed).

" DATO' E. E. C. THURASINGHAM, D.P.M.J., J.P. (Appointed).

" MR. S. O. K. UBaidULLA (Appointed).

" ENCHE' WAN AHMAD BIN WAN DAUD, P.J.K., J.P. (Perlis).

" DATO' WAN IBRAHIM BIN WAN TANJONG, J.M.N., J.P., Orang Kaya Indera Maharajah Purba Jelai (Pahang).

" MR. YAP KHEN VAN, A.M.N., J.P. (Pahang).

" MR. YEOH KIAN TEIK (Perak).

IN ATTENDANCE:

The Honourable the Minister of Finance, MR. TAN SIEW SIN, J.P.

" the Minister of the Interior, DATO' SULEIMAN BIN DATO' HAJI ABDUL RAHMAN, P.M.N.

" the Minister of Health and Social Welfare, DATO' ONG YOKE LIN, P.M.N.

PRAYERS

(Mr. President *in the Chair*)

BILLS

THE COMMON GAMING HOUSES (AMENDMENT) BILL

Second Reading

The Minister of Justice (Tan Leong Yew Koh): Sir, I beg to move that a Bill intituled "an Act to amend the Common Gaming Houses Ordinance, 1953", be read a second time.

Engku Muhsein: I beg to second the motion.

The Minister of Finance (Mr. Tan Siew Sin): Mr. President, Sir, some difficulty is experienced in obtaining expert evidence in cases of illegal gaming. This Bill will permit the Court to refer to a book entitled "Gambling Games in Malaya" by Mr. C. T. Dobree and to such other books or articles on gaming as the Court may consider authoritative on the subject. The book by Mr. Dobree was recently published, and he is regarded as an authority on gambling in this country, having served in the Federation of Malaya Police Force from 1928 to 1955 when he retired with the rank of Assistant Commissioner of Police in the Secret Societies Department, Police Headquarters.

There is a precedent for this Bill in Section 25 of the Societies Ordinance, 1949, under which the Court is allowed to refer to works of secret societies.

Mr. Yeoh Kian Teik: Mr. President, Sir, before this Bill is passed, I would urge the Minister concerned to reconsider approving in Parliament a textbook by a living author. Although there is a precedent under the Societies Ordinance, 1949, I feel that this House should not merely follow a precedent but should consider this matter on its merits.

Now, section 2 of the amendment gives the Court a discretion whether to adopt or to follow the authority contained in this book. Sir, as an advocate and solicitor, I strongly uphold the freedom of the Court to exercise its judicial discretion. If you say that this clause is merely permissive—why, Sir, then amend the Common Gaming Houses Ordinance to provide for official recognition of this textbook? The Court is not going to be bound, because the clause is permissive. If, on the other hand, this is not permissive, then we are attempting to fetter the exercise of the Court's discretion. And in the explanatory statement contained therein it says "In view of the difficulties attending the giving of expert

evidence in the matter of illegal gaming, it is proposed" to amend this Ordinance.

Sir, the law is the law, and if the Police seeks to prosecute any person for any contravention of the law it must prove its case, and I strongly oppose any attempt to assist the Police in proving the case against any subject of the Federation. There is no necessity to give official recognition to any textbook. If we follow the same precedent, the case may arise in the future when we will again be asked to recognise another textbook and it goes on and on and on; and though we do not now fetter the Court's discretion, in the end we will fetter the Court's discretion. Therefore, Mr. President, Sir, I urge the Honourable Minister to reconsider this matter. Thank you.

Mr. J. E. S. Crawford: Mr. President, Sir, I rise to say that I cannot agree with my Honourable and learned friend Mr. Yeoh Kian Teik, because I cannot quite see the reason put forward—that the author is still alive. If his book is the best book on the subject, do we have to wait until unfortunately the gentleman is dead before we adopt his book?

Dato' Dr. Cheah Toon Lok: Mr. President, Sir, I wish to support the very strong arguments of my Honourable friend opposite. I am going to give you the point of view of a layman. The first is that we have committed ourselves, whether we like it or not, to a type of royalty which we have got to pay for the use of this textbook. The second point is that we are going to change the law to suit the evidence that is deduced in the textbook, according to the explanatory statement. The third point is that you have given a chance to the gambler to change the type of gambling, the type of games, so that these types of games do not come within the purview of that textbook. So those points arise which will at once tell you that this textbook is absolutely useless, because the textbook is supposed to give good evidence regarding gaming. Then, if you want to change the law to suit the evidence in the textbook, you will have to produce another textbook and say that this textbook is no longer necessary;

and then the revised edition of this textbook will be used later and so on *ad infinitum*. Thus there is no end as to what type of textbook to be used as evidence in a Court of Law.

I do not think that this is a very good Bill to bring before the House for adoption. I think we must know what type of textbook is brought to us. As laymen we must see whether this textbook is correct or not. Now, we are going to pass a book which we do not know. I have not seen the textbook and, I believe, Honourable Members have not seen the book at all. To ask us to pass a book we have not seen, I, merely as a scientific man, will not agree to it. Thank you.

Dato' E. E. C. Thuraingham: Mr. President, Sir, I most humbly apologise for not having been in time to hear the interesting debate. I wholeheartedly support the Honourable and learned Mr. Yeoh Kian Teck's protest against this Bill. This is an unusual Bill.

The Honourable Leader of the House, having been a leading lawyer of great distinction himself, I do not think, would have come across such legislation in this country or anywhere. The facts have been taken up very well by the last speaker. I, myself, wish to ask, in respect of the Government's claim, that "In view of the difficulties attending the giving of expert evidence"—what are the difficulties of getting and giving expert evidence? I really do not know. There had been many cases in which expert evidence had been given and conviction secured.

Secondly, the Government by introducing this Bill confesses to its inability to make out a case according to the law, which is, that in matters of this kind an expert must be called and an opportunity given to the accused to cross-examine this expert; and thereafter the learned Magistrate or Judge decides on the merits of the prosecution. Finally, there is a conviction or an acquittal.

Textbooks are referred to by lawyers and judges everywhere, but you do not find any book being singled out and brought to the notice of the Judge by legislative sanction. Usually, a book gets the status of an authority after it

has been in use in the Courts for many years, after the book has been reviewed by learned Judges of the High Courts and Court of Appeal. Thereafter it has what we call judicial sanction. There is no judicial sanction for this book.

Sir, my humble suggestion is that this Bill be passed—if the law officers think fit—by deleting this reference to Mr. Dobree's book. In any prosecution under this Ordinance, you may refer to any published book or article on the subject of unlawful gambling which the Court may consider to be authoritative on the subject to which it relates. That will give ample opportunity to any learned Magistrate to refer to the book of Mr. Dobree. The lawyers will comment on it; if there is an appeal, the Judges will comment on it; and if it goes further the Lords of Appeal in England will comment on it; thereby gathering momentum for this book, which is a very good analysis of the gambling that is going on here; thus judicial sanction will gradually, by experience, by discussion, be granted to this book. I think that it is very unfair on the accused to drop this on him. His area of defence is lessened. He cannot cross-examine the prosecution; he has to bring another expert himself to contradict those words of Mr. Dobree's book which is a very expensive matter.

The law in this country as in the United Kingdom is that the accused should be given every chance and every opportunity to defend his case, and no presumption—either in this manner by legislation or in any other manner—that he is guilty is permitted before he opens his case. I earnestly hope that my view is accepted, and this view is supported by many learned counsels in this town from whom I have enquired. I hope that this reference to Mr. Dobree and his book will be deleted and the Bill passed for what it is worth.

Mr. S. O. K. Ubaidulla: Mr. President, Sir, I want to raise a point of order. I would like to have a ruling from you, because similar incidents may happen again.

Sir, I would like to know whether it is quite in order for the Government to present a Bill where reference is

made to a particular book—and a copy of that book has not been given to every member in this House. It is a very important matter as, if a ruling is not given now, in future such incidents may recur. I think the Government has made a mistake in not presenting us with copies of the book to which reference has been made.

Mr. Athi Nahappan: Mr. President, I rise in support of my Honourable friend Dato' Thuraisingham and the first speaker, the Honourable Mr. Yeoh Kian Teik. Sir, the Court has an inherent power to take judicial notice of recognised and established authorities for the purpose of establishing evidence. That is the power of the Court, which is inherent. Under that power the judge or magistrate can refer to any established textbooks in order to make up his mind; so there is nothing to prevent the magistrate to refer to this book or any other book if he wants to consult. Singling out a particular book for parliamentary approval is a very rare thing. To my knowledge as a lawyer, I have not come across any instances where Parliament has given its approval or recognition for a particular book.

Sir, as it has been pointed out, this amendment is not imperative. It is a permissive clause which says "the Court may refer to this book or any other book." If that is so, the Court is not bound to consult this book; the Court may consider any other book as well. If that is the intention of this House, then there is no need at all to single out this particular book. In that context the amendment that has been proposed by the Honourable Dato' Thuraisingham would serve the purpose. If it is the intention of Parliament that there is no recognised authority in Malaya in respect of this matter and that some kind of particular recognition should be given to this book so that the Courts may freely use it, Sir, that would be an extraordinary procedure because a book has to gain its authoritative status in course of time by being constantly used in Courts. Then only it reaches that status. I do not know what degree of authoritative status this book enjoys

in Malaya, and it is a bit out of the way that Parliament should recognise this book and give its approval for its adoption in Court. Therefore, I think, considering the inherent power of the Court, the amendment that has been proposed would be adequate for the purpose of resorting to textbooks in the matter of games.

Dato' Suleiman: Mr. President, Sir, it is indeed very interesting to hear so many members of the legal profession speaking in this august Chamber this morning on a subject that relates very much to their own interests. (*Laughter*). This is one subject which has come before this august Chamber in which all these legal practitioners have had to speak without being paid anything for it. Except for the Honourable Dato' Thuraisingham, I believe the other two Members cannot claim to have much practice of law in this country. I do not mean to say, by that, that they are not very good legal practitioners. They may be good. But what I say is that they may not have had enough practice in this type of cases, especially cases under the Common Gaming Houses Ordinance. I can assure this august Chamber that if they get this type of cases, they are very, very profitable cases.

Let me, therefore, reply to the first Honourable Member. I will not go according to the precedence of how they got up to make their speeches, but let me first reply to the Honourable Mr. Ubaidulla—since Mr. Ubaidulla is not a legal practitioner, therefore I will give him the precedence in my reply. Now, Sir, Mr. Ubaidulla asked that books be supplied to Members of this House. I would have put the question this way to this House, if I were in his place: could any of the legal practitioners, as Members of this august House, supply him any information, or, has anyone of them got a copy of this book in this House? I am sure none of them has.

Mr. S. O. K. Ubaidulla: That is all the more reason why we should be supplied with a copy.

Dato' Suleiman: The fact is that none of them has got a copy of this book.

I would say this to Mr. Ubaidulla: that from the Government side there are the legal draftsman from the Attorney-General's Chambers, and the Attorney-General, and the others, the Judges, the Chief Justice and so on, to whom this has been referred to, and I think I can safely say that they have no objection helping the accused, that they should have this book. It is not the practice to give a copy of a book to any of the Honourable Members here, because if we do that, then when we try to ban certain publications it would be very difficult indeed to supply them with such publications (*Laughter*).

Now, Sir, let me come to the Honourable and venerable member of the legal profession who sits in this august House, the Honourable Dato' Thuraisingham. The Honourable Dato' says that Government or the Police admits its inability to give evidence in this type of cases and then continues to say that it is unfair to the accused. But, Sir, neither ingenuity, nor number, nor quality of members of the Police Force would be able to detect evidence and bring it to Court to get a conviction when there are legal practitioners of the standing of the Honourable Dato' Thuraisingham and the others of this august House who would be defending the very accused persons whom the law, whom the prosecution, brought to Court and alleged that they have committed an offence under the Common Gaming Houses Ordinance. The accused, Sir, from my very short experience on the law bench, and from my very short experience as a legal practitioner—during that short period I had many cases under the Common Gaming Houses Ordinance—I found them very interesting, very profitable, very easy to get acquittal. It has been found after some considerable experience of Police prosecutions, that it is not easy to convict. Yet—here I am sure my very, very old friend, the Honourable Dato' Thuraisingham and the Honourable Mr. Ubaidulla and these two Honourable Members of this House and the other Honourable Members of this House will agree with me—gaming is rampant in this country.

because by their nature the Malays, the Chinese, the Indians, the Ceylonese (*Laughter*), the Europeans—I am sure my Honourable friend Mr. Crawford will agree with me too (*Laughter*)—that it is in our nature to gamble. Now, Sir, what we are trying to do is to limit the extent of gambling.

Now, under the Common Gaming Houses Ordinance only certain types of gaming are indictable, although most types of gambling in this country are illegal. Therefore we must enforce it, and to enforce it it has been found, after considerable experience, that presumptions are required, and that when presumptions are not sufficient, then, when there are authors who have considerable experience in tackling, or in investigating this type of cases, and have written a book on a particular subject, surely—Honourable Members of this House will agree with me—it is to the credit of the Government to suggest that such a book should be used in the Court. Sir, I have read quite a lot of books written by Henry Cecil on legal humour. Henry Cecil is the author of "Brothers in Law" and many other books, and in one of those books—the title of which I cannot remember this morning—a High Court Judge found that due to personal and family reasons, he wanted to raise £20,000. As a Judge, Sir, he had no other means of raising this money and he thought that the only way to get this money was to go betting at the race course. Now, just before he went, he met a very close friend who told him of a very good tipster, and he followed this tipster. He won up to £10,000, and he had not got the other £10,000 yet. But before he got that other £10,000, he found that the tipster—a man who did not gamble on very high principle—was actually a member of the church. I believe he was—I may be mistaken about his title—at least, I think, he was in charge of a small church—something like a rector, so the Judge was very surprised indeed. So, you see, Sir, when Judges go to the race course—of course, it is very commendable from my point of view and it is quite legal to gamble

there—and when members of the church turn tipsters, it is very difficult indeed, when offences had been declared illegal, to try to get evidence that will convince the Court, for, as our law stands, a man is presumed innocent until he is proved to be guilty. That is the reason why so many flourishing legal practitioners become Members of this august House, as you have seen here this morning, and they cannot but have flourishing practice and successful appearance, as you can see here this morning from their portly appearances (my Honourable friend Dato' Thuraisingham, the Honourable Mr. Athi Nahappan and the Honourable Mr. Yeoh Kian Teik) how successful they are.

Now, Sir, what these amendments try to do is in the Explanatory Statement of the Bill:

"In view of the difficulties attending the giving of expert evidence in the matter of illegal gaming, it is proposed"

Now, I would have expected that these legal practitioners with considerable experience would have got up and said: "This is a wonderful thing that Government has done, and we will now exercise our ingenuity how to beat what has been written by the author of this book." The Honourable Mr. Nahappan said, "Why should it be necessary to bring forward this amendment and give this book the authority when judges have got an inherent discretion to refer". But, Sir, no book can become an authority unless it has been referred to in a decided case and had through constant reference become an authority. That, Sir, I contend, is one of the reasons. I have left the practice of law so long that I am not able to produce many other reasons. I am sure if my Honourable and learned friend Dato' Thuraisingham would like to speak on the Government side, he would speak indeed very powerfully and eloquently, for it has often been said that lawyers, legal practitioners, can speak on either side and on both sides (*Laughter*).

This morning, the Honourable Members of the legal profession chose to speak on the other side (*Laughter*).

But what astounded me is this: they haven't made a very good case on the other side and they haven't been very eloquent. I therefore can assure this House that if they had spoken on the other side, everyone of them would have made a very eloquent speech. That alone is sufficient to show that we need this amendment.

Mr. Tan Siew Sin: Mr. President, Sir, I am neither a lawyer nor am I an expert on illegal gaming, but I am told that the position is not as simple as those who have opposed this amendment Bill have tried to make it out to be. In the first place, it is necessary, I am told, in cases of this nature for the expert witness to be a real expert in the particular game in which he is giving evidence. Now, I have got the book before me, and if you look through this 150-page book you will find descriptions—very detailed descriptions—of something like 100 games. . .

Dato' Thuraisingham: Price?

Mr. Tan Siew Sin: That is irrelevant.

It is apparent that if the Government is to be able to prosecute successfully in such cases, the Police Force have to find expert witnesses in something like 100 games, and that is not so easy. I believe that in the past, Sir, evidence in such cases was normally given by detective sergeants. I think Honourable Members will agree that this is not desirable, even on one ground alone, and that is that in order to become an expert the Police will have to make the detective sergeant take part in illegal gaming before the Court will consider him an expert, and obviously that is not desirable from any point of view. This book has been highly commended by a former President of the Sessions Court. In his Foreword, he writes as follows:

"It has been a great privilege and of great interest to me to be permitted to read Mr. Dobree's book in its manuscript form.

For the Police and the Courts, this book will fill a long-needed gap. The policeman will find that it gives him just this information which he has never been able to find elsewhere. Every magistrate, when he obtains a copy of this book, will wonder how he managed to try any cases under the Common Gaming Houses and Betting Ordinances

before its acquisition. As a reference book in every case it will prove invaluable."

One Honourable Member stated that we are committed to a royalty on this textbook. That is not so. In fact, I think this point is quite irrelevant.

He also made the point that gamblers may vary their gambling games as a result of this textbook being made authoritative for this purpose. If that were to happen, Sir, then this textbook will obviously no longer apply, and objections on that ground alone will fall to the ground.

He further made the point that we do not know anything about the book. This is not a secret textbook—it is on sale, it is published and can be obtained by anybody who is prepared to pay the price. I should emphasise that Section 2 is merely permissive. It does not say that the Court must regard this book as an authoritative book—what it says is that the Court may refer to this book, and the reason why Mr. Dobree's name has been specifically mentioned is that it is a rule of evidence, I am told, that no reference may be made to a living author, and in order that this book may be regarded by the Courts as an authoritative work, reference must be made to it specifically in legislation. If any reference either to Mr. Dobree or to his book were to be deleted from the legislation, it would mean that the Courts and the Police would not be able to refer to this book at all, and, as I have already tried to point out, without this book it would be extremely difficult for the Government to prosecute successfully for the simple reason that it does not have enough detective sergeants or enough police officers who would be expert in the hundreds—literally hundreds—of gaming cases which are being brought before the Courts in this country in the course of a year. Any attempt, therefore, to oppose this Bill is in effect an attempt to obstruct the Police in its work of detecting and punishing illegal gaming, and by the same token an attempt really to aid and abet illegal gaming in this country. Therefore, I commend this Bill. . . .

Mr. Yeoh Kian Teik: Mr. President, I rise on a point of order: Is the Honourable Minister trying to impute?

Mr. Tan Siew Sin: I am not trying to impute anything. I am just trying to state the facts of the case, and I think it is for this House to judge. I therefore, Sir, commend this Bill to this House, and I hope it will get the support which it deserves.

Tun Leong Yew Koh: Mr. President, I would like to reply to the statement of my learned scientist friend the Honourable Dato' Dr. Cheah Toon Lok. He said that this Bill, if passed, will enable gamblers to change their games. Sir, I don't think that will happen. You take the example of "chap-ji-kee". Hundreds of cases have been prosecuted in the Courts and successfully prosecuted, and yet people still continue to play "chap-ji-kee"—they don't vary the game at all.

Now, if this Bill is passed, it will save the Police tremendous expense in getting experts, and it will also help the defence. If you want to prove what is "chap-ji-kee" and every time you prosecute such a case, you have to produce experts, and look at the amount it will cost the Police and the defence. The defence will say it is not "chap-ji-kee" and this book will prove whether it is or is not—Dobree's book.

With regard to the statement that there is no precedent, there are two instances in the Societies Ordinance, 1949: the "Hung Society" is quoted as an authority, as is also G. Schlegel's book "Thian Ti Hwui", another book quoted in that Ordinance.

With regard to the argument of my Honourable and learned friend Mr. Yeoh Kian Teik, he said that if this law is passed, the discretion of the Court will be fettered. Now, how can you fetter the discretion of the Court by giving extra discretion to the Court?

Question put, and agreed to.

Bill accordingly read a second time and committed to a Committee of the whole House.

House immediately resolved itself into a Committee on the Bill.

Bill considered in Committee.

(Mr. President in the Chair)

Clause 1 ordered to stand part of the Bill.

Clause 2—

Dato' E. E. C. Thuraisingham: Mr. President, Sir, I wish to move an amendment, namely, that in Clause 2 (a) the words:

"to the book 'Gambli g Games i Malaya' by C. T. Dobree and"

and the word 'other' following the words 'to any' be deleted. The amended sub-section will then read as follows:

"(2) In any prosecution under this Ordinance, the Court may refer, for the purposes of evidence, to any published books or articles on the subject of a lawful gaming which the Court may consider to be of authority on the subject to which they relate."; and".

I do not wish to repeat what I have said before except to say that the Minister has not replied except to reiterate that the Government finds it difficult to get expert evidence.

The Honourable Mr. Tan Siew Sin yesterday started his speech by saying that he was very honoured to be here in the Senate and to address this House, that he felt it a great privilege to come here. I am glad that he feels that it is a great privilege and honour to come here, and we are in turn greatly honoured—continuously honoured by his presence and his advice to us. But to impute motives to the lawyers in this Assembly certainly is hardly in keeping with the words he uttered. I don't think we have any more to hear. We have only the legal sense to appreciate what great harm will be done in the dispensing of justice, if any old book, which we haven't seen but is highly commented on by somebody who writes a foreword—anyone who writes a foreword to a book does not condemn it—is made an authority. Lawyers don't go on that sort of arguments at all. This is fundamental to justice and we should not allow it to go unchallenged. Why such a hurry at all? Why not accept this amendment, and come on again. Let us all have a chance to look at the book, let the magistrate have a chance to look at the book, let the judges have a chance to comment on it, and I think you will agree that we are

doing the right thing to accept this amendment. I don't think the Government wants to accept it, but one doesn't want to make heavy weather or to be unpleasant over such a small matter. It is not such a very great matter. Many prosecutions are successful. I know it, I have been practising for many years, and I think, Sir, the Honourable and learned Leader of this House is also aware of that in his long and distinguished practice at the Malayan Bar. I think this Bill was misconceived—for the moment. It might be justified later on as time goes on.

I may say that contrary to what the Honourable Mr. Tan Siew Sin said, the two experts that have been called in Court were not detective sergeants at all but Superintendents of Police, men of education and service in the Force, and they have carried prosecutions to convictions because they themselves are experts and the lawyers have recognised that they are men of integrity who tell the truth and who have not come to Court to get convictions but to advise the judge on the justice that must be meted out at all times in our Courts.

Dato' Suleiman: Mr. President, Sir, I am not taking part in this duel between the Honourable the Minister of Finance and the Honourable Dato' Thuraisingham, because they are both able, but I would like to comment on the amendment.

If my memory serves me right, in a constitutional case which came before the Johore Court in 1929, Dato' Sir Roland Braddell was on one side—the Government side—and when speaking he quoted from his book on the Constitution of Johore. It was then decided that he had to get the Court's permission to quote this book as authority because he himself was present in Court—this is in accord with what the Honourable the Minister of Finance has just now read out, that is as the author is living the book cannot be quoted in Court.

Now, Sir, I would like to say this. I am sure the Honourable Dato' Thuraisingham and other members of the legal profession here will agree with

me that none of them had read this book, because if anyone had read it they would have said just now that they had read the book. The Honourable Mr. Ubaidulla has said that he did not know anything about it. Since no Honourable Member has got up and said that he knew anything about it, then I would presume that none of them had read the book. I admit that I have not. I feel that, as none of us had read it, if other Honourable Members are entitled to speak, so am I.

Sir, I am sure that the Honourable Dato' Thuraisingham agrees with me that it would be good, that it would be fair and to the advantage of all parties that books written by persons or others who know something about the subject they write about could be quoted in Court, even though the author of a book is still alive. I am sure that the Honourable Dato' Thuraisingham will admit that this is a good book. But I am sure he will say that he has not read it—or if he has read it, he could give his answer afterwards—(which I consider to be a neutral answer); or else that it is a good book and it would be very good and useful in Court. If that is so, then we must insert the name of Dobree in the Bill, otherwise as my Honourable colleague, the Minister of Finance, has said just now that when a person is living his work cannot be cited in Court. It is very necessary to have this book. If you want to make use of his experience, you have to call in an expert. This will cost more money to the prosecution and it will have to ask for money from Government; and the Department concerned will bring the matter through the Ministry of Justice, and the Minister will have to come here for more money—and I am sure that on the question of finance both Houses will turn it down. Even if this House would be willing to give the necessary finance, because members of the legal profession here are sympathetic, the members of the legal profession in the Dewan Ra'ayat—there are four in the Opposition—will not agree to the majority view.

I am sure that the Honourable Dato' Thuraisingham, because of this and on the grounds indicated by the Honourable the Minister of Finance just now, would be the first to agree that without the name of Dobree that book will not be able to be used in Court.

Dato' Dr. Cheah Toon Lok: Mr. President, Sir, I was very glad to hear the Honourable the Minister of Finance saying that there was no royalty attached to the book. But, normally, of course, we know that when you want to quote a book, even a dramatic play or even a piece of music, you have got to pay royalty on it; and if the writer of the book does not want to claim royalty it is very good of him.

Nevertheless, I think, it is morally wrong for us to induce people to change the methods of gambling. The Honourable the Minister of Justice has said just now that the game of *chap ji ki* has not changed in its method of gambling. I cannot argue against him in that matter, because I do not know how the game of *chap ji ki* is conducted or played (*Laughter*). But I want to know whether Mr. Dobree is a great gambler or is he not; whether he knows all the hundred games as to describe them. If he is, then I think the Government should have prosecuted him long ago for being a gambler (*Laughter*).

I know, Sir, that there are so many games which have changed their character in Malaya. Formerly they started with horse racing, pakau and mahjong, and now there comes a book telling us that there are over 100 games being played. That means the games have changed their character and gamblers have found new ways of getting income. Therefore, I believe, it is wrong to encourage the publication of a book whereby chances are given to ingenious people to change the methods of gambling. Formerly we have not heard of 100 characters, but now we have 100 character, 1,000 character and even 10,000 character games. So, the methods of gambling have changed. But is it morally right for us to give persons a chance of changing the methods of gambling? I think it is morally wrong. Of course, law is

founded on fact; but the fact is that if a form of gambling is changed, can you then say the law is based on fact? If a book is not correct in its description of a game, then it cannot be proved in a Court of Law, unless you get an expert who is better than Mr. Dobree to say that the facts he has described in that book are correct. Then, of course, the book as it stands would not be good evidence. You have got to get another expert—in fact I would say that the expert is the banker of the game—to say whether the book describing the games as Mr. Dobree was playing them is correct. Then only could the book be an expert evidence on the games described. I repeat, Sir, that I think the man to say whether the games are correctly played or not is the banker of the game and not Mr. Dobree as he only plays it.

Mr. J. E. S. Crawford: Mr. President, Sir, I would like to point out to the Honourable Doctor that Mr. Dobree has not only been a Police Officer, but he also became an expert on the subject. He is, like the Honourable Doctor, a scientist and after having taken a great interest in gambling matters became a living expert—and his book is therefore an authority.

On the question of royalty, I do not think that this is quite understood. The book is a book of reference and is on sale in the open market, and anyone can go and buy copies of it. There is no question of royalty—you pay the price of the book and the author gets a proportion of that money.

Mr. Yeoh Kian Teik: Mr. President, Sir, my objection is not to the inclusion of the name of Mr. Dobree itself. I am sure that this book is a good book. Though I have not read it, as suggested by the Honourable the Minister of the Interior, I accept that this is a good book. I am opposed to the principle of legislating recognition of any textbook. If we have a precedent to-day merely because the Police are unable, or find it difficult, to prove a case against the accused, what is there to prevent this House from legislating in the future to assist the Police in other criminal cases, for instance, motor car accident cases?

If there is no direct evidence of an accident, the Court normally acquits the defendant. As the Police often find it difficult to establish the case because there are no independent witnesses, are we to legislate to help the Police in establishing a case? No! Mr. President, Sir, if there is difficulty in the law, the law itself should be considered for amendment. But certainly this House should not lend its aid to assist the Police in establishing a case.

Now the Honourable the Minister of Finance has said that, if we do not support this amendment, we are trying to obstruct the Police. Sir, with respect to the Honourable Minister, I cannot agree with his statement. If we, merely by opposing any Bill, are obstructing the Police then in future this House will not consider any opposition at all to any Bill put up in this House. This learned book by Mr. Dobree is, we are asked to agree, to be used in the Court, but on the other hand the amendment says "may be used". Now if the Court chooses to ignore what is stated in this amendment what legal sanction is there against the Judicial Officer exercising his discretion in rejecting Mr. Dobree's very good book? Sir, the law, we know, is flexible. It must change from time to time as conditions in society change. But in that book the words are printed and they are fixed—it is inflexible. Are we to say that the law, because we adopt that book, should also be inflexible? Therefore, Mr. President, Sir, I fully support my Honourable friend Dato' Thuraisingham in his proposal that the words he suggested to be deleted should be deleted.

Mr. Lim Hee Hong: Mr. President, Sir, I am neither a gambler nor a lawyer and I think my opinion is unbiased. I agree with the Honourable the Minister of Justice that it is not easy for promoters of a game to change it. As far as I know, *chee fah* is one of the most popular games in the country, and I also know that many promoters have been prosecuted and banished, but still the game is as flourishing to-day as ever.

I personally know Mr. Dobree, when he was in the country, and I have a great respect for him. He is supposed

to be quite an expert in gambling affairs and he is a great authority on this matter. Personally, I think that his book will serve as a very good reference book in the administration of justice in this country, and I agree with the Honourable the Minister of Finance that it is only by legislation we can make use of this book in the Court.

Enche' A. M. Abu Bakar: Mr. President, Sir, the Bill is a very simple one, but I see from the several eloquent speeches made by members of the legal profession and by the Government Bench, I feel that it has become more important than the Supply Bill which we discussed and passed yesterday. And I am sure that Members of the House of Representatives will be shocked to know tomorrow in the press what we have been doing to-day over a simple Bill that they have passed without any comment.

Sir, from the remarks made by the Honourable the Minister of the Interior, we know that this matter has been referred to the Legal Draftsman, the Legal Department, the Attorney-General and the Chief Justice for their comments; and if I am not mistaken, they themselves have given a favourable report. Furthermore, the necessity for moving this Bill, as reported by the Honourable the Minister of Finance, is necessary to have the name of Mr. Dobree inserted, so that when reference is made to his book, there will be no demand by the defendant counsel that Mr. Dobree should be present himself to prove the authority of his report on it. Sir, if this arises—we have heard from the last speech of the Honourable the Minister of the Interior that Dato' Roland Braddell had to be present in a constitutional case *re* the Constitution of Johore, when it was before the Court of Johore—if such be the case, every time this book is referred to, and if this Bill is not approved as it is, Mr. Dobree has to fly from England to Malaya to appear in Court and this House and the Dewan Ra'ayat would have to approve further supplementary budgets to meet his expenses. Sir, to avoid all these unnecessary delays and expenditure,

which we have been debating yesterday to approve—even for a small figure—during which my Honourable friend Mr. Cheah Seng Khim has given a bouquet to the Honourable the Minister of Finance for having pruned the Budget to the limited requirements for the year 1960, I do not see any reason why there should be so many speeches made against it in connection with the introduction of this amendment Bill. I hope my Honourable friends in this House will give more considerate thought and take this as a simple matter, just for reference, and leave it as it is and approve the Bill.

Mr. Tan Siew Sin: Mr. President, Sir, I wish to correct any misunderstanding which a remark of mine might have caused, particularly to my Honourable friend Mr. Yeoh Kian Teik. I did not mean by that remark to suggest that the lawyers, or the Honourable Members, who opposed this Bill had dishonourable motives; all I meant to suggest was that the effect of that opposition, however well-intentioned the motives might have been, would be to obstruct the course of justice. I wish to make that quite clear.

I must stress that Government cannot accept the amendment. As I have stated already, the position is quite clear. Even the Honourable Mr. Yeoh Kian Teik admits that this book is a good book and our difficulty is a practical one. We just do not have enough expert witnesses to present evidence, or to give evidence, in the hundreds of gambling games which are played in this country, and the only way to simplify the work of the Police is to allow them to refer to this book. Under our present rules of evidence we cannot do so, because the author of this work is still alive, and in order to get round this difficulty it will have to be stated specifically in the law that the Court may refer to this book. I think it is as simple as that.

Tun Leong Yew Koh: Mr. President, Sir, when Sir Thomas Grimsby, addressing Lord Birkenhead in the course of a gambling case, said he

thought that billiards were played with dices, Lord Birkenhead replied: "Balls, Sir Thomas, balls." (*Laughter*).

Dato' E. E. C. Thuraisingham: Mr. President, Sir, I am very thankful to the Honourable Minister of Finance for explaining his speech. Reference has been made to Sir Roland Braddell. I most carefully avoided mentioning the name of Sir Roland Braddell; I know the evidence mentioned by Sir Roland Braddell. Sir Roland Braddell wrote many years ago a book on gaming and his book is referred to, and has been referred to, by lawyers for nearly 35 years, but the Government did not find it necessary to pass legislation to include that book as an authority to guide the magistrates: why then Dobree of yesterday, whom I knew very well. Why do you want it added? It is at best a book from the point of view of a police officer, which he was. I think it is a much more serious matter than what the Honourable Mr. A. M. Abu Bakar said—it is a matter of justice. We must not only do justice but must appear to do justice—that is the fundament of law, you cannot escape.

I am very sorry that I cannot withdraw this amendment, because several other speakers have spoken in support of it. But I do think that the Honourable Minister of Justice can well give an undertaking to say that this book shall not prejudice an accused, or raise any presumption against an accused—a simple, straightforward undertaking which I am sure the lawyers who are present here would accept. They must accept it as it is an undertaking that in no manner will any presumption be raised against the accused by our legislating for the inclusion of Dobree's book.

Dato' Suleiman: Mr. President, Sir, I would like to explain to the Honourable Dato' Thuraisingham that when I referred to Dato' Sir Roland Braddell I was referring to something that he had written on the Constitution of Johore—it was in connection with a case about the Constitution of the State of Johore. I was not referring to

Dato' Sir Roland Braddell's commentary on Common Gaming cases—that commentary was on the law of gaming and that could be used in Court and there was no need for legislation. But this book explains how gambling is being conducted, how certain games of gambling are being played and carried on and the book cannot be cited in the Court as the author is still living; and that is the point which I would like to explain to the Honourable Dato' Thuraisingham.

Now, I must apologise to the Honourable Dato' Dr. Cheah Toon Lok, because I forgot to reply to him in the first place just now, and when he got up the second time, I felt that I have to reply to him. When I rise to reply to him, I recollect a certain proverb in English and I hope I quote it right. It is this—

"The mistakes that doctors make are found six feet under the ground, while the mistakes that lawyers make are hanging six feet above the ground." (*Laughter*).

So, perhaps, knowing this fully well, the Honourable Dato' Dr. Cheah got up and, confidently and eloquently, joined issue with members of the legal profession on an illegal matter. And I also know fully well that nobody in this House—particularly the members of the legal profession—if any matter is brought up about medicine, would dare to tread. This reminds me of the proverb "Fools rush in where angels fear to tread." Sir, the eloquence of the Honourable Dato' Dr. Cheah Toon Lok on legal matters has so stunned me that I almost forgot the second proverb. I would ask the Honourable Dato' Dr. Cheah Toon Lok to try, in future, when legal members speak on the other side, to speak for this side. Then he would be quite safe: in other words, always choose the safe side when a doctor would like to speak on law. Then he will be always right. And I hope he will always remember in his practice too that the customers are always right.

In this case, Sir, it would be difficult, as my Honourable colleague the Minister of Finance has said just now in his reply, to accept this amendment; because if it was accepted, then

without the name of Dobree being mentioned, the book will not be able to be cited. Further, may I say to Members of this House that there have been precedents for amendments of this nature. Sir, in the Societies Ordinance, 1949 (No. 28 of 1949), which has been mentioned by my Honourable colleague the Minister of Justice just now, under section 25 (2), it says—

"In any prosecution under this Ordinance, the court may refer, for the purposes of evidence, to any of the following books:

'Thian Ti Hwui', the Hung-League or the Heaven-Earth League by G. Schlegel,

'The Triad Society' by W. Stanton,

'The Hung Society or the Society of Heaven and Earth' by J. S. M. Ward and W. G. Stirling."

Of course, I may say that the name of the other book is not so flowery as those mentioned here, but as I have said there have been precedents, and I would ask Honourable Members of this august Chamber to accept.

Dato' Dr. Cheah Toon Lok: Mr. President, Sir, I purposely did not want to mention my profession, because there are many cases of neurosis coming to me on account of gambling. People sit up to 5 or 6 o'clock gambling, and they come to the doctor in the morning, because they are upset. I do not want to see the population of this country inflicted with neurosis.

Speaking about the matter of law, the law is a matter of logic, a matter of something which we put on paper saying that such and such a thing must be done. Any reasonable man understands the law.

I understand that some of my Honourable friends, who went to get law certificates, only read at the Bar for 1½ years. When you want to become a doctor, you have got to spend 7 years to become one. So, I think law is a very simple thing (*Laughter*). Scientifically, we are better trained to judge from the evidence. I have asked so many lawyers whether they have studied epistemology. I said: "Well, have anyone of you heard of the word 'epistemology'?" They said they haven't. I said: "My God, lawyers

have not heard of 'epistemology'. It is a science of knowledge."

The President: You are not in order.

Dato' Dr. Cheah: I hope my Honourable friend will not think that just because a doctor stands up to speak on the question of law, he does not know anything about it. It has occurred to me that because I have got so many cases of neurosis caused by gambling I feel that I have got to say something about it.

Tun Leong Yew Koh: Sir, just now I was asked to give an assurance that in using the book by Dobree, no presumption would be raised against the accused. Sir, this book by Dobree only tells you how a game is played—it does not say whether a game has been played. So, there is no presumption at all against the accused.

Question put, amendment negatived.

Clause 2 ordered to stand part of the Bill.

Bill reported without amendment: read the third time and passed.

THE BETTING (AMENDMENT) BILL

Second Reading

Tun Leong Yew Koh: I beg to move that a Bill intituled "an Act to amend the Betting Ordinance, 1953" be read a second time.

Enche' Nik Hassan: I beg to second the motion.

Mr. Tan Siew Sin: Sir, this Bill proposes to amend the Betting Ordinance, 1953, in the same way that the Common Gaming Houses (Amendment) Bill proposes to amend the Common Gaming Houses Ordinance, 1953, and for the same reasons as I gave when moving the second reading of the Common Gaming Houses (Amendment) Bill. There is, therefore, no need for me to amplify further.

Question put, and agreed to.

Bill accordingly read a second time and committed to a Committee of the whole House.

House immediately resolved itself into a Committee on the Bill.

Bill considered in Committee.

(Mr. President *in the Chair*).

Clauses 1 and 2 ordered to stand part of the Bill.

Bill reported without amendment: read the third time and passed.

THE HOUSING TRUST (AMENDMENT) BILL

Second Reading

Tun Leong Yew Koh: Sir, I beg to move that a Bill intituled "an Act to amend the Housing Trust Ordinance, 1950" be read a second time.

Mr. President, Sir, this is a very simple Bill, which proposes an amendment to enable the Deputy Chairman to carry out certain routine duties which may otherwise be delayed when the Chairman may not be immediately available.

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

The Minister of the Interior (Dato' Suleiman): Mr. President, Sir, in July this year a Deputy Chairman was appointed to the Housing Trust in accordance with the provisions of section 5 of the Ordinance. The purpose of this appointment was to relieve the Chairman, who is at present myself, from the day to day administration of the Housing Trust affairs. In order to achieve this object, therefore, it is proposed to amend the Housing Trust Ordinance itself.

Question put, and agreed to.

Bill accordingly read a second time and committed to a Committee of the whole House.

House immediately resolved itself into a Committee on the Bill.

Bill considered in Committee.

(Mr. President *in the Chair*).

Clauses 1 and 2 ordered to stand part of the Bill.

Bill reported without amendment: read the third time and passed.

THE OATHS AND AFFIRMATIONS (AMENDMENT) BILL

Second Reading

Tun Leong Yew Koh: I beg to move that a Bill intituled "an Act to amend the Oaths and Affirmations Ordinance, 1949" be read a second time.

Mr. President, Sir, it is customary in most countries for the law to provide for the recognition of oaths and affidavits taken or made in other countries. No such provision is contained in the present law of the Federation. The object of the present Bill is to give recognition to oaths and affirmations taken in other countries. It will be noted, however, that the draft Bill provides that no oaths for the purpose of the Constitution can be taken outside the Federation except before a diplomatic or consular officer of the Federation who is himself a citizen of the Federation.

Engku Muhsein: I beg to second the motion.

Question put, and agreed to.

Bill accordingly read a second time and committed to a Committee of the whole House.

House immediately resolved itself into a Committee on the Bill.

Bill considered in Committee.

(Mr. President *in the Chair*)

Clauses 1 and 2 ordered to stand part of the Bill.

Bill reported without amendment: read the third time and passed.

MOTIONS

STANDING ORDERS, DEWAN NEGARA

Tun Leong Yew Koh: Mr. President, I beg to move,

That pursuant to Standing Order 76, the First Report of the Standing Orders Committee tabled as DN. No. 1 of 1959, be adopted.

There is little I need say about the amendments we are now proposing to

the Standing Orders *ad interim* which we adopted in September. Honourable Senators have had these proposals for some days, and have had an opportunity to study them. I do not therefore propose to give any analysis of the amendments, but will of course be glad to enlighten any Honourable Senator if any of our proposals are not entirely clear. Most of the amendments are drafting ones, and the remainder in effect amplify the procedure which we must adopt not only in ordering of our own business, but in the manner in which we receive business from and transmit business to the other House.

In view of what has happened in another place, I feel I should perhaps point out to Honourable Members that the Committee recommends the insertion of a new paragraph to Standing Order 36 reading as follows:

"(9) It shall be out of order to use—

- (a) treasonable words;
- (b) seditious words;
- (c) words which are likely to promote feelings of ill-will or hostility between different communities in the Federation".

On this subject, Sir, there is an excellent editorial in today's "Straits Times". We on the Committee considered this rule, which is based on a similar rule for the United Kingdom House of Commons, to be truly self-evident, and I may say that I for one—and I think I speak for all members of the Standing Orders Committee—am most astonished that anyone could challenge its propriety. It is because we have the privilege, the power, of free speech here that we consider we should exercise responsibility. Power without responsibility is a terrifying evil. As for the application of the Order, we can, I feel sure, rely upon the good sense of our Members and ultimately on your sincere guidance, Sir. What we do not want to see, however, is our Assembly converted into a forum for treasonable, seditious attacks, or a battleground for communal strife.

Before I conclude, I should like to express the appreciation of the Standing Orders Committee to those learned members of the Attorney-General's

staff who assisted us in our deliberations. I should in particular like to thank the Parliamentary Draftsman, Mr. Hugh Hickling, whose skill and ingenuity has rendered our task so much easier.

Sir, I beg to move.

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

Question proposed.

Enche' Da Abdul Jalil: Tuan Yang di-Pertua, terhadap pada pindaan kapada Standing Orders 36 saya suka mendapat tahu sedikit apa-kah huraian yang di-kehendaki dalam bahagian (c) "words which are likely to promote feelings of ill-will or hostility between different communities in the Federation". Saya minta-lah Menteri yang berkenaan menyebutkan dua tiga contoh perkara yang boleh di-ertikan ill-will yang di-kehendaki itu.

Enche' Nik Hassan: Tuan Yang di-Pertua, sa-bagai sa-orang Ahli Select Committee, perkara Standing Orders saya rasa ada baik, saya berchakap membéri fahaman kapada Ahli kita di-sini. Dalam perkara 36 perkataan dalam bahagian 36 (c) yang mana perkataan bagaimana-kah perkataan² yang boleh di-sifatkan sa-bagai perkataan yang menyakitkan hati atau membangkitkan perselisihan di-antara kaum. Saya rasa, Tuan Yang di-Pertua, perkataan² ini apabila di-chakapkan di-dalam Dewan ini maka Tuan Yang di-Pertualah sa-baik² orang yang menentukan perkataan itu boleh membangkitkan perselisihan kaum atau perkataan itu boleh menumpahkan darah ra'ayat negeri ini. Perkara itu ada-lah terlatak kuat-kuasa-nya pada Tuan Yang di-Pertua bagi Dewan ini, kira-nya tidak ada bab yang menyebutkan perkara yang sa-umpama ini maka sudah tentu-lah Dewan ini akan terpaksa membahathkan satu² perkara itu dengan panjang lebar dan mengambil keputusan bagi menentukan satu² perkataan itu boleh membangkitkan perselisihan di-antara kaum atau tidak. Saya rasa sa-baik-nya-lah kita serahkan perkara ini kapada Tuan Yang di-Pertua Dewan ini yang mana kita perchaya, semua Ahli Dewan ini perchaya

bahawa keputusan Yang di-Pertua itulah dapat menentukan ketenteraman Dewan ini yang boleh menyelamatkan penduduk ra'ayat negeri ini. Sekian-lah sa-bagai menjawab kapada Ahli Yang Berhormat tadi. (*Tepok*).

Enche' A. M. Abu Bakar: Mr. President, Sir, I take this opportunity of congratulating the Standing Orders Committee for putting up this recommendation to insert a new Clause 36 (9) (a), (b) and (c). Having personally experienced all the three items previously, and with the Constitution giving full freedom to Members of this House to speak on whatever matters—whether it is communal, seditious or treasonable within the four walls of this House—and the Press having the freedom to publish same, which would thereby easily become accessible to everyone in the country, the things which may create tension. That is why this clause referred to is most welcome. Having experienced this nature of things, in 1957, to this aspect, once again I welcome the additions. I for one will be most happy to see that the Honourable President of this Chamber is the only person to judge during a speech of each Honourable Member whether he falls within the categories (a), (b) or (c). Sir, if this clause is not inserted in the Standing Orders, there will be difficulty for you to assess the degree of speech which will no doubt come under this class, to which you will object, and possibly we may have to debate again whether a speech made by a Member comes within the three categories or not. To have these safeguards written is more welcome than to have a debate or argument in this House. As such, Sir, I once again thank the members of the Standing Orders Committee in foreseeing what actually happened before this country became independent and having this clause inserted in the Standing Orders now will be safeguard for the future.

Mr. T. H. Tan: Mr. President, I rise as a member of the Standing Committee which helped to draft the Standing Orders. I suggest to the Honourable Member concerned who wanted some examples of what words are likely to promote feelings of ill-will,

hostility between the different communities in the Federation that rather than think of what words that are likely to be used, that he should accept this particular provision in the spirit which all of us have, and that spirit is that all the different communities in this country should live in harmony. The time of elections is over and during that period of elections we have heard words which in fact might have caused ill-will and hostility. Now that the election campaign is over, I suggest that we should do everything we can to promote racial goodwill and harmony, and I think that this provision would be very helpful towards that end.

Dato' G. Shelley: Sir, the English language is a very subtle language and those three words that have been brought up for debate may be given a very wide interpretation. Behind them could lie a multitude of sins, and we are placing our trust on the President to interpret the words in the able way that he no doubt will be interpreting them. As a member of the legislature for the past ten years, I feel that we can accept the risk. There is no doubt that a risk exists, but having served in the Legislative Council for the past ten years, I feel, Sir, that the Speaker will not overstep the bounds and will follow the practice of predecessors who have been in the Chair as Mr. Speaker in the Legislative Council. I suggest that the House can accept these words with complete confidence that the President will exercise his rights in an able manner. (*Applause*).

Mr. A. Nahappan: Mr. President, Sir, we have seen elsewhere the appalling generation of heat on this matter. Sir, restrictions of this nature are not uncommon. As it is, there are a number of restrictions listed, quite apart from these three to be added under Rule 36 of the Standing Orders. Members of this Honourable House are not allowed to make any reference to a matter which is *sub judice*, to use offensive or insulting language about members of this House or impute improper motives to any other Senator, and so on. All these are restrictions. If we are going to oppose these restrictions merely on the ground that the Constitution has

given us freedom of speech, then you can as well object to all the other restrictions imposed upon us under Rule 36.

What we are asked to use is good sense in our freedom of expression. In the Constitution, the ordinary citizen is given freedom of speech under Article 10. At the same time there are certain restrictions which can be imposed on that freedom of speech by the Parliament. We Members of Parliament who have arrogated to ourselves that right of free speech should not be shy of introducing such restrictions upon ourselves in the interests of the country, for we are expected to lead, and if our duty is to lead we must not use such words as will cause friction in the country between communities or which may be construed as seditious or unreasonable.

We have great confidence in you, Sir, as the President of this House, and we should voluntarily submit ourselves to you in giving you the discretion to decide as to whether we speak words in a parliamentary manner and in a manner not contrary to what has been introduced in this amendment. I do not see any sense at all in the arguments put forward elsewhere on the pure and simple theory of freedom of speech. There is no absolute freedom of speech anywhere, and even in the foremost democratic countries that is so. There are some restrictions which the citizens have voluntarily imposed upon themselves, and there are restrictions which are imposed on them by the legislative bodies.

Therefore, I wish to join my Honourable friend Mr. Abu Bakar in congratulating the members of the Standing Orders Committee in having introduced this desirable restriction upon us. We should not consider it in any way an infringement upon our freedom of speech. Under Article 63 of the Constitution, the validity of proceedings in the Parliament or any Committee thereof shall not be questioned in any Court. So far as that privilege is concerned, it is there. There is no infringement of that privilege, which has been given by the

Constitution. What is now being introduced is the restriction which is to be exercised by you, Sir, on us, if we happen to use such words as may be construed seditious, treasonable, or which may create a condition of animosity between the various communities. Sub-paragraph (c) is particularly a very tricky and delicate matter, and our politics in this country is to a great extent non-communal. Even His Majesty's Government, though it is composed of three communities, in sentiment and spirit, it has always been non-communal. In view of this we do not want to say anything that will create prejudice, hatred, animosities between communities. Any wrong ideas starting from this House can create a condition of tension, a condition of animosities. There are ever so many delicate subjects touching on cultures, touching on language touching on communities and so on—and in all these we have to exercise a great deal of caution in our speeches. So, Sir, we, as members of the Upper House of Parliament, should voluntarily accept these restrictions, even though the Constitution has given us a good measure of freedom of speech.

Enche' Da Abdul Jalil: Tuan Yang di-Pertua, saya suka menyatakan yang saya tidak hendak menentang apa yang terkandung dalam Fasal 36 ini. Saya hanya mahu tahu bagaimana-kah contoh yang di-katakan boleh mēnērbikan pērsēlisehan kaum itu. Sa-bēnar-nya saya faham dalam Dewan ini kita tidak harus mēngēluarkan pērkataan² yang tidak begitu bagus dan boleh mēnērbikan pērsangkitan kaum itu, tētapi kita tidak-lah dapat mēnurut pērbahathan² kalau ada pērkara² yang kita tidak begitu faham, dan ada-nya pērkara² sa-umpama ini tidak-lah mēnyēnangkan. Sēkali lagi saya ulang: saya tidak-lah mēnentang, saya chuma mahu tahu huraian-nya sahaja.

Engku Muhsein: Yang Bērhormat Tuan Yang di-Pertua, bērkēnaan dēngan Standing Order ini, saya rasa, sa-lain daripada atoran² yang mēngēnai pada Ahli² Dewan Yang Bērhormat; ini juga mēliputi atoran² mēngēnai pēmērhati² dan lain² pērkara bagi orang yang bukan ahli kapada Dewan ini.

Bērhubong dēngan pērkara ini, saya rasa satu pandangan yang bērat mustahak-lah di-ambil untuk mēnjaga nama baik Dewan Nēgara yang di-hormati ini. Hari ini saya tērbacha di-dalam surat khabar "Straits Times" (11/12/59) muka 6 "Senators pass \$889 millions Bill in 70 minutes". Chara² bagini yang di-buat oleh orang² asing yang duduk dalam Dewan ini ia-lah satu kēbebaskan yang tēlah di-gunakan oleh mēreka, saya rasa untuk mēngēlirukan orang ramai pada apa yang sa-bēnar-nya tērjadi dalam Dewan ini.

Kita sēmuā tahu, kalmarin atau sa-malam kita tēlah mēshuarat dari jam 10 sampai 1.15, sambong balek pada pukul 2.30 sampai jam 4 pētang. Ini satu contoh, bukan-nya 70 minutes atau 1 jam 10 minutes sa-bagaimana yang di-reportkan oleh *Straits Times* ini. Saya harap-lah *Straits Times*, sa-bagai surat khabar yang tinggi mutu-nya yang bērmōgah dēngan bērita² yang boleh di-pēgang, tidak-lah chuba hēndak mēngēlirukan orang ramai dēngan bērita²-nya. Saya rasa chakap² bagini hēndak mēnjatoh dan mērosakkan nama baik Dewan Nēgara ini. Ini tēntu-lah tidak tērmasok di-bawah 3 pērkataan khianat dan bēbērapa pērkara lagi itu, tētapi chara tidak lang-song itu ia-lah satu pērbuatan yang tidak masok 3 itu, itu pun hampir masok. Dan mustahak-lah di-bēri pandangan yang bērat.

Jika saya tidak salah, sa-malam juga saya ada tērbacha atau 2 hari yang lampau saya ada tērbacha dalam surat khabar bērkēnaan dēngan ahli² pēm-bērita tidak di-bēnarkan oleh Speaker Bērmuda—Barbados—saya tidak ingat, di-West Indies sana tidak di-bēnarkan masok, oleh kērana bērita² yang di-buat barangkali tidak bēnar atau mēngēlirukan. Saya tidak chadangkan mēsti pērkara ini di-jalankan di-sini. Saya sēntiasa bērfahaman mustahak surat² khabar di-bēnarkan dan di-bēri sēgala kēmudahan² untuk mēreka, tētapi hēndak-lah mēreka bēri pula pada orang ramai chērita², pērkara² yang sa-bēnar-nya tēlah bērlaku di-sini. Boleh jadi bērita baik, chērita tidak baik, itu saya tidak kira. Tētapi bēri-lah pērkara yang sa-bēnar-nya tērjadi di-sini.

Tetapi dengan chara² yang bagini, saya rasa patut-lah Dewan ini juga mengambil pandangan yang berat dan, Tuan Yang di-Pertua, rasa saya tentu-lah berkuasa meminta surat khabar yang berkenaan ini tidak mengulang kekêliruan yang bagini pada masa akan datang. Kerana jikalau orang ramai membaca tentu-lah terkêjut, Dewan Ra'ayat 7 hari bermêshuarat, tiba²—Dewan ini satu jam sa-puloh minit sahaja. Saolah², mêngant² Dewan Tinggi barangkali orang-nya tidak gagah hendak berdiri, nanti sakit pinggang, jadi terpaksa-lah tidak mahu comment banyak atau pun saolah²-nya Dewan ini menjadi macham rubber stamp.

Ini-lah nampak-nya chara-nya chuba hendak di-presentkan-nya, hendak ditunjukkan oleh berita yang berupa bagini. Jadi, itu-lah sahaja pandangan saya dalam perkara berita² yang dengan sa-chara yang tidak lansong hendak menjatuhkan maruah nama baik Dewan Nêgara yang di-hormati ini. (Têpok).

Enche' Nik Hassan: Tuan Yang di-Pertua, sa-bagai sa-orang Ahli yang terpilih dalam Jawatan-Kuasa mengatorkan Pindaan Undang² Peratoran Mêshuarat ini, saya menguchapkan tahniah kapada saudara saya Ahli Yang Bêrhormat daripada Trêngganu Enche' Da Abdul Jalil kita, kerana dia telah mêmberi sokongan yang pênoh kapada Bab 36 mêngenai perkataan² yang mana telah di-bangkitkan dengan hebat di-dalam Dewan Ra'ayat. Di-dalam Dewan Ra'ayat, Ahli² Party Islam dan juga Ahli² Pêmbangkang telah mêmbangkang dengan keras-nya dan Ahli² Pêmbangkang berpêri² mêmbangkang di-atas perkara² Bab 36 ini. Jadi, ini-lah satu perkara yang saya chukup-lah rasa terima kaseh dan mêmberi tahniah kapada-nya, kerana saudara kita ini dapat mênêkan sêntimen Party-nya dan bêsama² dengan kita mên yokong di-atas susunan ayat² yang ada di-dalam Standing Orders ini.

Saya rasa, (Têpok) ini patut-lah di-bêritahu kapada orang ramai supaya mêreka itu mêngerti chara bêmmain politik di-dalam nêgara kita ini. Sêkian, terima kaseh. (Têpok).

Dato' Dr. Cheah Toon Lok: Mr. President, Sir, I wish to draw the attention of the House to the importance of speeches that are made here not containing treasonable words, seditious words and words which are likely to promote feelings of ill-will or hostility between different communities in the Federation, owing to the fact that these speeches are published verbatim as is the case of speeches made in the House of Commons in the U.K. You can order and buy a copy of Hansard and I used to order and buy Hansards just for the purpose of enlightenment and pleasure. Here we also have speeches published verbatim by the Government Printer and these books are published and sold throughout the Federation of Malaya and throughout the world, and if the speeches spoken in our august Assembly were to contain words which are treasonable, seditious and so on, they will serve as propaganda against our country. Therefore I think that this part of the legislation is very necessary.

Question put, and agreed to.

Resolved,

That, pursuant to Standing Order 76, the First Report of the Standing Orders Committee tabled as DN. No. 1 of 1959, be adopted.

COMMITTEE OF SELECTION

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

That, pursuant to the Standing Orders of the Dewan Negara, as amended by the recommendations proposed in the First Report of the Standing Orders Committee, the following Senators be elected members of the Committee of Selection:

The Honourable the Minister of Justice
(The Honourable Tun Leong Yew Koh,
S.M.N.)

The Honourable Mr. T. H. Tan, J.M.N.

The Honourable Nik Hassan bin Haji Nik Yahya, J.M.N.

The Honourable Enche' Ahmad bin Said,
A.M.N.

Engku Muhsein: Sir, I beg to second the motion.

Question put, and agreed to.

Resolved,

That, pursuant to the Standing Orders of the Dewan Negara, as amended by the recommendations proposed in the First Report of the Standing Orders Committee, the following Senators be elected members of the Committee of Selection:

The Honourable the Minister of Justice
(The Honourable Tun Leong Yew Koh,
S.M.N.)

The Honourable Mr. T. H. Tan, J.M.N.

The Honourable Nik Hassan bin Haji Nik
Yahya, J.M.N.

The Honourable Enche' Ahmad bin Said,
A.M.N.

ADJOURNMENT

Mr. President: The meeting is adjourned *sine die*. The date of the next meeting will be notified to Honourable Members later on.

Adjourned at 11.46 o'clock a.m.