

**Volume II
No. 3**



**Tuesday
10th May, 1960**

PARLIAMENTARY DEBATES

DEWAN NEGARA (SENATE)

OFFICIAL REPORT

CONTENTS

The Land (Group Settlement Areas) Bill (Continued) [Col. 203]

The Constitution (Amendment) Bill [Col. 204]

[illegible]

FEDERATION OF MALAYA
DEWAN NEGARA (SENATE)
Official Report

Vol. II

Second Session of the First Dewan Negara

No. 3

Tuesday, 10th May, 1960

The Senate met at Ten 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).
- „ ENCHE' CHAN KWONG HON, A.M.N., J.P. (Selangor).
- „ ENCHE' CHEAH SENG KHIM, J.P. (Penang).
- „ DATO' DR. CHEAH TOON LOK, J.M.N., J.P., Dato' Maha Kurnia (Appointed).
- „ ENCHE' CHOO KOK LEONG (Appointed).
- „ ENCHE' J. E. S. CRAWFORD, J.M.N., J.P. (Appointed).
- „ ENCHE' DA ABDUL JALIL (Trengganu).
- „ ENCHE' HASHIM BIN AWANG, J.P. (Penang).
- „ ENCHE' KOH KIM LENG (Malacca).
- „ DATO' LEE FOONG YEE, J.M.N., P.P.T., J.P. (Negri Sembilan).
- „ ENCHE' 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).
- „ ENCHE' ATHI NAHAPPAN (Appointed).
- „ ENCHE' S. P. S. NATHAN (Appointed).
- „ ENCHE' NIK HASSAN BIN HAJI NIK YAHYA, J.M.N. (Appointed).
- „ TUAN HAJI NIK MOHD. ADEEB BIN HAJI NIK MOHAMED (Kelantan).
- „ TOK PANGKU PANDAK HAMID BIN PUTEH JALI, P.J.K. (Appointed).
- „ RAJA RASTAM SHAHROME BIN RAJA SAID TAUPHY (Selangor).

The Honourable DATO' SHEIKH ABU BAKAR BIN YAHYA, D.P.M.J., P.I.S., J.P. (Johore).

„ 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).

„ ENCHE' T. H. TAN, J.M.N. (Appointed).

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

„ ENCHE' 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., P.J.K., Orang Kaya Indera Maharaja Purba Jelai (Pahang).

„ ENCHE' YAP KHEN VAN, A.M.N., J.P. (Pahang).

„ ENCHE' YEOH KIAN TEIK (Perak).

IN ATTENDANCE:

The Honourable the Deputy Prime Minister and Minister of Defence (TUN ABDUL RAZAK BIN DATO' HUSSAIN, S.M.N.).

„ the Minister of Finance (ENCHE' TAN SIEW SIN, J.P.).

„ the Minister of the Interior (DATO' SULEIMAN BIN DATO' ABDUL RAHMAN, P.M.N.).

„ the Minister of Commerce and Industry (ENCHE' MOHAMED KHIR JOHARI).

PRAYERS

(Mr. President *in the Chair*)

(Mr. President *in the Chair*)

Clauses 1 to 33 inclusive ordered to stand part of the Bill.

ADJOURNMENT

(Motion)

The Minister of Justice (Tun Leong Yew Koh): Sir, I beg to move that the Senate, at its rising this day, do stand adjourned to Monday, 20th June, 1960, at 10.00 a.m.

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

Question put, and agreed to.

Resolved,

That the Senate, at its rising this day, do stand adjourned to Monday, 20th June, 1960, at 10.00 a.m.

The Schedule ordered to stand part of the Bill.

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

THE CONSTITUTION (AMENDMENT) BILL

Second Reading

Tun Leong Yew Koh: Mr. President, Sir, I beg to move that a Bill intituled "an Act to amend the Constitution of the Federation" be read a second time.

Sir, once again, we have the advantage of having with us to-day my Hon'ble and learned friend, the Deputy Prime Minister, who will I am sure assist us in considering this vitally important and admittedly controversial Bill.

Bill committed to a Committee of the whole House.

House immediately resolved itself into a Committee on the Bill.

For my part, I intend to touch on only one or two matters which particularly affect my Ministry.

BILLS

THE LAND (GROUP SETTLEMENT AREAS) BILL

The week before last, much heat was generated in the Lower House when the amendment of the Constitution was debated. It was only right and proper that this should be so. A Constitution should not light-heartedly be amended.

Personally, as I sat in the Dewan Ra'ayat, I got the impression that the difficulties before us was being unduly magnified by the opposition.

We were told that the Government was out to destroy all that was good.

We were accused of behaving like Nazis.

We were accused of tampering with the fundamental liberties of the individual.

We were charged with almost every crime in the calendar except, perhaps, indecent exposure. (*Laughter*).

All this arose because we asked for a modicum of extra power to deal with those who threatened our national security.

But it was quite right that our intentions should be challenged. That is the essence of Parliamentary democracy.

I believe that we can meet this challenge without difficulty, particularly in the more or less detached atmosphere which exists in this house.

Let us face facts as they are, and not as they might be.

We have by our own efforts, and with the assistance of our friends and allies, defeated a brutal and armed attack by the Malayan Communist Party.

This Party has had recourse to arms, which has placed it beyond the pale. When an organisation uses force, it automatically renounces any semblence of integrity, and can never again be trusted.

The fact that it is beaten with its own weapons—the weapon of force and armed intimidation—does not clothe it with a newly acquired respectability. Its integrity remains forfeit in the eyes of peace-loving men.

That is why I cannot understand the mentality of those who say "legalise the Malayan Communist Party".

I am not suggesting that they are basically dishonest, unless perhaps they

heard a shrimp whistle. I do not accuse them of that.

What I do suggest is that their thinking is absolutely muddled.

They are saying in effect: "Let's all be democratic. Let everyone say what he likes. Let the Communists spread and propagate communism. If they get into power, good luck to them. If, after that, the people get tired of them, they will be chucked out at the next election."

What wishful thinking! I challenge those who hold this view to go to Moscow or to Peking and there preach liberal democracy, socialist democracy, fascism, nazism or any of the other -isms. Any person who did that would not survive for long.

Indeed, he would not know what had hit him: the Communists in China shoot people in the back of the head.

I could sympathise with the move to recognise the Communist Party if communism was a reversible process.

But it is not. I defy anyone to cite a single instance in which a communist party, once entrenched, has been dislodged. The party is the state, and the state the party. Any opposition is ruthlessly exterminated.

If ever Malaya becomes a Communist State, it is likely to remain a Communist State for generations.

Do those of the Left Wing in this Country honestly believe that they would enjoy one single fundamental liberty under such a regime? I suggest that they would probably be the first to be shot.

Let us therefore have less nonsense, less spurious liberalism. Nobody need fear the extra powers we seek for ourselves—that has been made abundantly clear by the Alliance Government.

If anyone is afraid, I suggest he may have a guilty conscience.

I for one have always firmly believed that a Constitution must contain checks and balances to prevent undue powers being exercised by the executive.

But if we impose all the checks which our ingenuity can devise, we are likely to render ourselves totally powerless.

We must have the power to deal with irresponsible or malicious agitators.

This power we shall exercise with the greatest restraint.

But if we lack these powers—if we are subject to so many checks that we are rendered supine—our enemies will use the very safeguards devised for the honest man to institute a system where all safeguards go by the board.

Let us make no mistake. Liberalism will only work when everyone abides by liberal rules. We are liberals, and we intend to abide by our rules. But if others intend to follow their own rules, we shall compete with them on their own terms, on their own pitch.

The Alliance Government gives this guarantee: We shall not be the initiators of suppression; but we shall retaliate against those whose long-term aim is to suppress our liberties.

My Malay friends have a very apt pantun, the second couplet is as follows—

"Ingat, ingat zaman sekarang—

Muka-nya manis, hati-nya busok".

"In this modern age, we must beware of a vicious heart disguised by a glib tongue."

Let me turn to the last point I wish to make.

There has been much criticism elsewhere concerning the abolition of the Judicial and Legal Service Commission.

We have been told that the independence of the Judges is at stake; that they will be political puppets manipulated by the Prime Minister.

What utter nonsense!

In England, the Judges are appointed by the Queen on the advice of the Lord Chancellor, who is a politician (albeit invariably a distinguished barrister in his own right).

In India, the Judges are appointed by the President—who is a politician—after consultation with such other Judges as he thinks necessary.

In the United States, the Judges of the Supreme Court are appointed by the President, who stands for election every four years.

Is it true to say that in these countries the Judges toady to the executive? If anything, the opposite is true.

If anything, they tend to assert their independence by giving the benefit of any doubt NOT to the State, but to the individual.

What is the safeguard? Surely, it is this: every action by a Judge is a public act, and is observed not only by the public but by the other Judges. A Judicial decision or direction is not a hole-in-the-corner or covert act: it is done in the limelight of publicity.

A Judge who allows himself to be swayed by political motives would soon hear about it from his brethren, if not from the press before then.

It has been argued that the Prime Minister is likely to appoint his favourites, on a party political basis, to the Bench.

He still has to consult the Chief Justice. In recommending a new Chief Justice, he would seek the views and recommendation of the outgoing Chief Justice.

In the appointment of Judges, I think it most improbable that the Chief Justice would fail to consult the other Judges and prominent members of the Bar. This is what in fact happens in England.

In other words, there is little change from the past practice. The old Judicial and Legal Service Commission consisted of the Chief Justice, the Attorney-General and two Judges sitting with the Deputy Chairman of the Public Services Commission.

It is still perfectly open for the Chief Justice to consult his colleagues, and I am sure that that will be done.

I therefore commend this bill to Hon'ble Members, and hope they will consider it with both care and sympathy. (Applause).

Enche' Abdul Hamid bin Mahmud: Sir, I beg to second the motion.

The Deputy Prime Minister (Tun Abdul Razak): Mr. President, Sir, I am very grateful to you for the opportunity of speaking on this important Bill in this House. As I reminded the Lower House, the present Constitution which was promulgated on the day we achieved Merdeka is really

the frame-work within which the aims of our society and the aspirations of our people may be achieved through a democratic process based on the principles of democracy. This is the principle which is enshrined in our Constitution and which we all strongly believe in and which we are pledged to uphold and cherish. However, as our country progresses and as our society evolves we must inevitably be continually reviewing the shape of this frame-work of our country. As conditions change, as our young and newly independent country develops, and as we gain experience in the working of this Constitution, it will from time to time be seen to need amendments. Therefore, Sir, it must always be the duty of the Government in power to keep the working of the Constitution under constant review and to change it where necessary to meet the needs of the country.

The Constitution accordingly provides under Article 159 the machinery for its own amendment, designed in accordance with the principle laid down by the Constitutional Commission to the effect that "it is important that the method of amending the Constitution should be neither so difficult as to produce frustration nor so easy as to weaken seriously the safeguards which the Constitution provides". For this reason an amendment to the Constitution must obtain the support on second and third readings of two-thirds of total members in each House of Parliament. Now the Government, in placing these amendments before Parliament, has given them the most careful consideration. It was only as a result of experience so far gained and in considering the true interests of our country and the progress of our nation that the Government has decided on these amendments.

Now, this Bill, as the House is aware, contains a number of amendments but I hope to speak only on the more important provisions and shall refer the House to the explanatory statements for any elucidation that Members may require on the others.

This House will be aware that an important amendment to the Bill as originally published was made when the Bill came before the Lower House for its second reading. The original Clause 30, which sought to create a new Article 150A, has been deleted, and subsequent clauses require to be re-numbered accordingly. At the same time Clause 28 was amended in order to expand Article 149.

Now, Sir, my honourable and learned friend the Minister of Justice has already spoken on the need for preventive detention to preserve the democratic ideals for which we stand. I would like to emphasise that the principle of preventive detention in the law of a country is not a new thing at all. In many other countries preventive detention has become a permanent feature of the law of those countries. The Constitution of our great neighbour India has accepted preventive detention as a normal and permanent feature. The object of having this provision of Preventive Detention is to prevent anti-social and subversive elements from imperilling the welfare and security of our country, particularly of a young nation like ours. We have had, as the House is aware, twelve and a half years of the Emergency and although this Emergency is about to come to an end we know only too well how dangerous it is to allow such a situation to arise again. It is therefore the incumbent duty of the Government of the day to see that the Communists and their Agents are prevented from carrying out their object and their plan. The power of Preventive Detention is merely to prevent a person from acting in a particular way and from achieving his object. It is not punitive but merely preventive. Every country which lives under the direct threat of communism and wishes to remain free has to face the established fact—established in the writings of the communist themselves—that one of the policies of communism is to undermine democratic Government by every subtle weapon of subversion that can be contrived without an open breach of the law. Country after country has found that one

weapon is essential in defence against such an attack, the detention of agents to prevent them proceeding with their plans.

The situation in this country demands that the Government assumes this weapon of defence and we would be failing in our duty utterly if we allowed ourselves to be deterred from doing so. As I said, every country which desires to be free from communist threat of domination has this provision in its permanent law and we here need not go further than across the Straits of Johore, to our neighbour in Singapore. It is the proposal of the Government to have similar provisions for preventive detention in our permanent law as they have in Singapore.

Now, Sir, since the Bill has been published, there has been a lot of talk about freedom of thought, freedom of expressions and freedom to exercise any ideology one likes; and it has also been suggested that as a democratic country we should allow the Communists to exercise their philosophy. As I have explained to the Lower House, we in this country not only have to contend with communist ideology but we have also to contend with communism in practice. We have to contend with the aims and methods of the communists, and we know what their aims and what their methods are. We have had twelve and a half years of that. So, I would suggest that it is quite wrong for us to talk of fundamental liberties and freedom of thought to people who do not believe in these things. I suggest it is also wrong for us to talk on democracy to people who believe in democracy only as a means to kill democracy.

Now this provision in the law will be subject to safeguards, and Clause 31 of the Bill lays down the proposed safeguards. Every citizen detained has the right to have his case considered by an advisory board under the chairmanship of a person who is, or who has been, qualified to be a judge. This is already in our Constitution, and the amendment to the article provides that the final decision on continued detention shall in future rest with the Government, which alone is

responsible for security and alone has access to the fullest information. Subversion is a threat against the security of the country and against constituted authority. Therefore the proper authority to deal with subversion is the Government itself.

Clause 28 seeks to amend Article 149 of the Constitution. The special powers of Parliament to make laws in this article are confined to conditions of organised violence, but we know from experience that a very serious threat to this country could develop to public safety without the actual threat of organised violence and the wording of this article has therefore been expanded to include attempts to stir up communal hostility and attempts to upset the established order by unlawful means and by the latest amendment to include any act which is prejudicial to the security of Malaya or any part thereof. The Constitution at present provides for such a law to lapse after a period of one year; this country is likely to have to deal with the remnants of the communist terrorist organisation operating on the border for some time to come and we consider it a sufficient safeguard that Parliament should be able to annul the special legislation by resolution at any time.

Clause 29 seeks to amend Article 150 of the Constitution. Similarly we feel that it is a sufficient safeguard if Parliament may annul by resolution an Emergency Proclamation and the Ordinance made thereunder. The present requirement for positive approval by Parliament could hamper the Government of the day in dealing with a national crisis in time of war or a grave national emergency. Now this Article 150 deals only with cases of great national emergency such as a war. I should like to assure this House, Sir, that there is no question of the intention of Government to by-pass Parliament in this respect. Parliament must, in accordance with Article 150 (2), be summoned as soon as possible.

Clause 14 seeks to amend Article 119 of the Constitution. The present qualification of six months residence in a constituency has been found unsatisfactory in various ways. One is that it is very difficult to establish, when

revising the rolls, exactly how long a person has resided in a constituency. Another difficulty is that a move of a few miles may disqualify a person from voting, with the further complication that such a move may disqualify him as a State voter while leaving him eligible as a Federal voter thus producing anomalies between the Federal and State rolls. Another complication is that persons serving the Federation abroad cannot qualify as voters. Now this amendment will substitute residence on a given date as the qualification and will permit legislation for the registration of absent voters.

Now, Clause 12 of the Bill seeks to amend the Constitution by adding a new Article 95A. It has been felt for some time that in the field of Local Government, which at present is the responsibility of the State Governments, there should be a fair degree of uniformity as in Land Administration. In the case of land administration, as the House is aware, there is provided under the Constitution the establishment of the National Land Council and it has been found in practice that by means of this National Land Council it has been possible to achieve a considerable degree of co-ordination in Land Administration throughout the country. The Federal Government, therefore, on the initiative of my friend and colleague the Minister of the Interior, has had this matter of co-ordination in Local Government affairs discussed with the Mentri-Mentri Besar and Chief Ministers of the States and, as a result of these discussions, it has been agreed with the State Governments that there should be established a National Council for Local Government on the same lines as the National Land Council. It is hoped that with the establishment of this National Council for Local Government there will be continuous consultation between Federal and State Governments on matters of policy, on matters affecting local Government and by this means it is hoped that it will be possible to achieve a fair degree of uniformity and co-ordination in Local Government affairs.

Now, Clause 32 seeks to amend Article 154 by deleting sub-clause 3 thereof. Nevertheless, the intention of the present Constitution as stated in the sub-clause is that the Federal Government should have the power to legislate on Local Government in the Federal Capital, but this power can only be exercised on the removal of the State Capital elsewhere. But, as the House is aware, removal of the State Capital from Kuala Lumpur is an immense task and is likely to take many years. However, as Kuala Lumpur is to all intents and purposes the National Capital, it is considered desirable that the Federal Government should have the power to legislate on Local Government matters in the Federal Capital. After all, the ultimate responsibility for the good Government of our National Capital should lie with the Federal Government and with Parliament. Therefore, both the Federal Government and the State Government of Selangor have agreed that the operation of sub-clauses 1 and 2 of this Article should not be delayed any longer, and it has therefore been decided that sub-clause 3, which is really the suspending clause, should be deleted. This is the purpose of this amendment.

Sir, my Honourable and learned friend the Minister of Justice has already spoken about Clause 15 which amends Article 122 dealing with the Judiciary, and I have little to add except to remind the House that the method of appointment of judges which we are now proposing to adopt is one originally recommended by the Reid Commission based on practice elsewhere. The Commission's recommendation was not accepted at the time, but we have now after further thought come to the conclusion that they were right. I would also make the point that the appointment of an official on the advice of the Prime Minister is perfectly compatible with independence. As the House is aware the Auditor-General is appointed on the advice of the Prime Minister and, therefore, no one can say that any political pressure has been brought to bear on the work of the Auditor-General. There are, however, examples

in the Constitution. Indeed as the Constitution stands at present, the Prime Minister has already had a say in the appointment of a Chief Justice; and also the House will be aware that no change is proposed to the safeguard whereby a judge can be removed only on the recommendation of a judicial tribunal.

Sir, in the proposed amendment there are in my view adequate safeguards in the appointment of judges by the Prime Minister on the advice of the Chief Justice—and also the Conference of Rulers will have to be consulted. It will always be the practice of the Prime Minister to recommend for appointment as judges persons who command the respect both of the Bench and the Bar. In the past, judges were appointed from serving officers and people who are members of the judicial and legal service. But in future it is intended to appoint as judges people who are not members of the judicial and legal service. It is also intended to appoint judges from people who are practising or who are in private practice (*Applause*) and, therefore, Sir, I suggest that on that ground alone, the appointment of judges by the Judicial and Legal Service Commission is no longer appropriate. The Government should be responsible for this and, therefore, I think it is only right and proper to follow the practice in most countries which adopt the system of law that judges be appointed on the advice of the Prime Minister. I have, Sir, taken the trouble to verify this and I think in most countries, even in Ceylon, Pakistan—which, of course, has no Constitution at the moment—and India too, in all these countries in the appointment of judges the Prime Minister has a say.

Now, Sir, with the introduction of these new arrangements for the appointment of Judges, it is no longer necessary to retain a separate Commission for the remaining members of the judiciary and legal services. They can in the future be dealt with by the Public Services Commission along with other members of the public service. This, of course, as the House is aware, is intended to simplify the administration and to reduce expenditure.

Now, Clause 26 of the Bill seeks to amend Article 145 of the Constitution. Under the present arrangement the Attorney-General, who is the Government's chief legal adviser, must be a permanent official in the judicial and legal service. It is not possible under the present Constitution to have as Attorney-General a political man as is the practice in several other countries including the United Kingdom. The Government is of the view that with the progress of our country and of our democratic institutions, it may prove desirable at some future date to have an Attorney-General as a member of the Government and as a member of Parliament. It may be convenient, and even desirable, for the chief legal adviser to the Government to sit in this House to explain and answer legal matters. Now, this amendment makes it possible, should it prove desirable in the future to appoint an Attorney-General from outside the judicial and legal service.

Now, Clause 24 seeks to amend Article 144 of the Constitution. As the House is aware, under Part X of the Constitution there are various Service Commissions in this country. Although the various responsibilities of these Commissions are similar, the actual duties vary considerably and, the amount of work they have to undertake also varies considerably. The Public Services Commission, since its establishment, has been carrying out a very heavy burden of work in connection with the administration of the services under its jurisdiction and is carrying out the functions entrusted to it under the Constitution. Indeed, the Public Services Commission has been so over-burdened with work that there have been, from time to time, complaints of delay in carrying out certain of its functions. Therefore, in the light of experience gained over the last two years, the Government has reached the conclusion that it will be more satisfactory and, indeed, it will be in the interests of efficiency if some of the work now entrusted to the Public Services Commission could be delegated to officials under the jurisdiction of the Commission and the Commission itself were left with

more time to concentrate on more important or major functions of permanent appointment, substantive promotion and of the disciplinary field. I am advised that in the United Kingdom these are the only functions which the Public Services Commission has.

I must make it clear, as there has been a lot of allegations, that there is no intention on the part of the Alliance Government to exercise influence in the public service. Indeed, the principle that the public service should be free from political influence is one which the Alliance Government itself from the beginning has asked to be included in the Constitution, and it is proposed that such delegation should be made by law. What is intended to be done by the amendment is that certain of the less important functions of the Public Services Commission should be delegated to *ad hoc* boards of permanent officials of members of the public service themselves. This is done in order to keep the public service free from the less important work. As I have said, the present Public Services Commission is over-burdened with work and there have been complaints of delay in the exercise of its functions. Now, as I said, safeguards to the public civil service are still under the Constitution as amended and I would like to assure this House that there is no intention at all that any political influence may be brought to bear on the public service.

It has also been suggested that with the new amendment, the Ministers can dismiss civil servants whenever they like. This is far from the truth, Sir, because public servants are appointed according to the terms of service and they can only be dismissed according to the terms of service. They cannot be dismissed by the Ministers.

Sir, I think Honourable Members of this House will probably have seen from the newspapers that the Staff Side of the Whitley Council for Divisions I to IV have shown considerable concern, particularly over the new clause (5) of Article 144, which permits the delegation of certain

powers of the Service Commissions to a board of officials, and have gone to the length of suspending ordinary meetings of the Whitley Council until a special meeting can be held. I have already said in the Lower House that the Government regards this action as somewhat hasty. It has already been pointed out that clause (5) of Article 154 is merely an enabling provision, and the Staff Side have been assured that they will be consulted on the law or regulations to be made under the amended Constitution. This change will only take effect when the legislation has been passed. When the Government intends to pass legislation obviously members of the Staff Side of the Whitley Council will be consulted. Now, I repeat that assurance here, and I hope that members of the Staff Side of the Whitley Council will reconsider their attitude so that discussion of this important issue can be conducted in a normal atmosphere.

Clause 22 seeks to amend Article 140. This amendment proposes to create a new Police Force Commission in place of the Police Service Commission. As a result of experience of the working of the Armed Forces Council which administers the affairs of the Armed Forces, it has been found that this Council provides a very useful and successful machinery for dealing with a disciplined force. Indeed, the Armed Forces Council has been working very well to the satisfaction of all concerned. Now, the Police Force is a disciplined force, and it is therefore thought that it would add to efficiency and economy of administration if matters pertaining to the Police Force are administered by a Commission similar to the Armed Forces Council. This is the purpose of the amendment.

Now, under Clause 17 opportunity is also taken to insert an express statement that members of the Public Service hold office at pleasure. This does not affect disciplinary procedure under the Constitution and this provision does not bring in any change. But it is the present practice, and it is only intended to make this clear in the Constitution. It is the practice at the

moment that all members of the Public Service hold office at the pleasure of the Crown. Of course, if they are going to be dismissed or their tenure of office terminated, their pension rights under their terms of office will be safeguarded. But that is the principle in most countries. That is why we decided to make it clear in the Constitution.

Also, the opportunity is taken to exclude diplomatic posts abroad from the scope of the Public Services Commission and to provide for appointment to be made by Government. This follows existing practice, which has been adopted with the agreement of the Public Services Commission.

Clauses 2 and 34 seek to amend Part III of the Second Schedule. At present, responsibility for registration of citizens is divided between the Government and the Elections Commission. As the House is aware, in all countries, citizenship is entirely a matter for the Government. Therefore, it is thought it would be convenient and that it would reduce the cost of administration if the administration of citizenship is under one authority, that is, the Government.

Clause 7 seeks to amend Article 48 of the Constitution. The Government regards the present disqualification for Parliament as unduly narrow in one respect in that a person who has been sentenced to prison for any period up to two years or a fine of any size can still become a Member of Parliament. The Government believes this to be undesirable, and proposes to make the disqualification one year's imprisonment and a fine of \$2,000, and this disqualification is to last for five years from the date of release from prison, as at present, or from the date of imposition of the fine. As regards the fine, this disqualification can be withdrawn at any time at the pleasure of His Majesty the Yang di-Pertuan Agong.

Clause 13 seeks to amend Article 144 of the Constitution. The Government holds the view that the Elections Commission should be absolutely independent, and should not only be so in law but be actually so in practice. Therefore, the Government proposes to

tighten up the qualifications for members of the Commission. It is considered not quite compatible with the independence of the Commission if members are allowed to hold any paid employment outside the duties of his office. Provision has therefore been included for members to be removed if they engage in any employment outside the duties of their office.

The other amendments which are of interest to the House are those in Clauses 8, 9 and 10. Clause 8 provides that the President and the Speaker cannot be members of State Legislative Assemblies since it conflicts with the independence of their position.

The amendment under Clause 10 seeks to permit Assistant Ministers to take part, like Ministers, in the proceedings of both Houses, so that they can share Parliamentary duties as the Government's spokesmen with Ministers.

These, Sir, are briefly the important amendments which I have tried to explain to the House. There are of course other amendments in the Bill which are of lesser importance and are non-controversial. I would not wish to take up the time in explaining them now, as I think they are adequately explained in the note at the back.

Sir, as I said at the beginning, this Constitution is the framework of our society, and it is in this Constitution that our ideals are enshrined. Therefore, it is necessary that we should see to it that we have a constitution which can work for the peace and good government and happiness of the people of this country. It is true that amendment to the Constitution is an important matter, and I do not think that the Lower House and this House should pass this Bill without proper scrutiny. But I do wish to ask Honourable Members to look at these matters in the true perspective and consider them in the true interests of our nation. As I said, the Government does not take these amendments to the Constitution lightly. We have considered this matter very carefully, and it is after very long consideration that we have decided that these amendments are necessary. It is, as I say, necessary to shape a

Constitution which can work smoothly and efficiently for the good government of our country, and in the light of experience—and we have had for two and a half years the first experience we have ever had of working a constitution for an independent country—we consider that this Constitution needs amendment.

Therefore, Sir, I ask this House to consider these amendments carefully and to agree to them today. *(Applause)*.

Dato' E. E. C. Thuraisingham: Mr. President, I wish to speak on a few of the clauses in this Bill. The Honourable and learned Minister for Justice and also the Honourable and learned Deputy Prime Minister have explained the reasons for Clauses 16 and 26. I am satisfied that the course adopted by Government in amending the articles in the Constitution are properly taken and in conformity with the practice in independent countries. The other point I wish to speak at greater length is Clause 28 seeking to amend Article 149.

With your permission, Sir, I wish to take my Honourable friends a little back in the history of this country. The Japanese invaded Malaya in 1941. The country, then, divided itself into pro-Japanese and pro-British. The communities and individuals started accusing each other of all sorts of things—disloyalty, treachery—and when these accusations and counter-accusations came to a head, the Japanese, with the characteristic alertness of an Occupying Power, ruthlessly killed such communal demonstrations and turned this country into a fearful place. We heard no more of communal talks at that time. Time went on, and the liberation came. Practically all of us—some of them young boys—remember the tremendous upheaval in this country in the interim before the British troops came in. The murders, the atrocities, some of which they had learned from the Japanese, the private revenges that were going on, the looting and the complete disregard for law and order was rampant till the British came in and restored order. Even they, at the beginning of the

re-occupation, were toying with the ideas which were natural to them. The idea that they should not be repressive, that they should not be harsh on offenders. I myself advised British Government in the Executive Council that the trend of events in this land would not be corrected unless we used more ruthlessness methods to match the ruthlessness of the bandits and the bad elements of this country. I was over-ruled. The British sense of justice did not allow it. But as days passed by and the Emergency became a desperate situation, the Emergency laws were passed. Thereby, gradually, the Emergency was dispelled, till to-day, on the independence of this country, by our good and watchful government, we see the Emergency ending on the 31st July.

When you look back on these things, two things stand out very clearly: that the cause of most of these troubles were intolerance and disloyalty. Intolerance among communities and individuals in this multi-racial society, and disloyalty to the Government of that time—disloyalty to the British people when they went away, disloyalty to the Japanese when they were here. Everywhere where disloyalty emerged, tension arose, violence was resorted to, because people were willing to be disloyal to the Government and began to distrust each other and would not tolerate everybody else's way but their own.

The two sub-clauses in this Clause 28 seek to kill these two great evils—to excite dissatisfaction against the Yang di-Pertuan Agong or any Government in the Federation, that is, to curb disloyalty, which has been the cause of great dissatisfaction and violence and hatred in this country for many years from 1941. Clause (c) states that anyone who seeks to promote feelings of ill-will or hatred between different communities or races or classes of the Federation. Therefore, I think that these amendments in Clause 28 amending Article 149, is proper in the circumstances in which we have lived and now live.

In former times, there was always a third hand—the hand of the foreign ruler. He, with detachment, but fair

treatment, prevented any racial discrimination. On independence, we are governing ourselves and there is no third hand. The Government of this country, being the master has all power in its hands, and should hold alight the torch of fairness and justice if the communities are to live in peace, amity and tolerance.

Article 88 of the Constitution makes it the duty of the Government to regard every citizen as equal in the eyes of the law. In this country of many races, there is bound to be differences. There will be differences of religion, differences of language, differences of racial origin, differences in culture. Only toleration and tolerance to your neighbour's peculiarities; his colour, creed and religion and toleration alone would make it possible for peace and harmony in this country. Therefore, anyone who seeks to create ill-will among the communities does this country a great disservice. He will be a traitor if at any time any man wished to stir up discrimination among the races here. Therefore, if the Government takes power under this Article to nip in the bud any such intention, I am sure it is rightly taken. We have heard often communal talks, communal accusations from some of our politicians. They are the very people who look for the mote in their brother's eye and forget the beam in their own eyes. Such people should know quickly that there is a law in the permanent Constitution against persons who have this design to bring discontent among the races.

Much has been talked of personal freedom and human rights in the Lower House and outside.

Freedom as understood in England is with the background of England, where there is homogeneity among the people. They have a standard of education higher than what we have and, above all, they have a loyalty, an abiding loyalty, to come to the rescue of their country and their people in times of emergency. That is why they take personal freedom with great pride and never misuse it. I would like in this connection, with apologies to the legal Members, to read, Sir, a very latest pronouncement on personal freedom by

a wellknown jurist, a former chief justice of Great Britain, Sir Alfred Denning in his book *Freedom under the Law*:

"By personal freedom I mean the freedom of every law-abiding citizen to think what he will, to say what he will, to go where he will on his lawful purpose without let or hindrance from any other person. Despite all the great changes that have come about in the other freedoms, this freedom has in our country remained intact. It must be matched, of course, with social security, by which I mean the peace and good order of the community in which we live. The freedom of the just man is worth little to him if he can be preyed upon by marauders or thieves. Every society must have the means to protect itself from them. It must have the power to arrest, to search and to imprison those who break the law. So long as those powers are properly exercised they are themselves the safeguard of our personal freedom."

You will see, therefore, that in the circumstances of this country, where there are seeds of communal differences and where disloyalty is possible to the king and crown, we must take steps to nip them in the bud and tell the world and our people that we would not tolerate any attempts to destroy the freedom we enjoy to-day—the freedom law-abiding people enjoy to-day cannot be destroyed by people who design to destroy our freedom. It has also been said that there is likelihood that these clauses may be used by this Government or other Governments for political purposes. I personally have faith in this Government (*Applause*). There are many lawyers in this Government. I do not think these lawyers will ever attempt to use these special powers for political reasons and I also think they would not dare to do so because they are lawyers and because also there was a politician, in a country nearby, who used such powers and was hoisted on his own petard. I am sure that I am voicing the sentiments of people of my age and people who have lived throughout our lives in this country when I say that this Government has taken these powers because they are necessary to safeguard our freedom and independence, and once and for all the people of this country must be told that never again would this Government or any other Government hereafter tolerate disloyalty or intolerance. (*Applause*).

Enche' Athi Nahappan: Mr. President, Sir, I would like to associate myself with the very brilliant and thought-provoking speech by my Honourable friend Dato' E. E. C. Thurai-singham. The amendments to the Constitution have received adverse criticisms from the Opposition Members in the Lower House. That was not unexpected. But what was glaring was the absence of realism on the part of most of the Opposition Members—indeed, many of them took a jaundiced view of the matter.

Like all written Constitutions, our Constitution is amendable. We carved it from the experiences of other countries and from our own experience. It is not conclusive of human thought and there is no finality about its provisions; they are subject to alterations, modifications and eliminations if necessary. The Constitution itself is not sacred, nor the provisions that it embodies. What is important are the fundamental principles universally accepted by those who believe in democracy as essential to social existence. Even the fundamental principles are not inflexible; sometimes limitations have to be imposed upon them as circumstances warrant and permit. A country, therefore, must be ready to impose limitations upon itself when necessary. Such limitations would reflect the extent of maturity and responsibility a country is capable of shouldering. Lack of willingness to self-impose such limitations when necessary may destroy the very values we are anxious to protect. The framers of our Constitution are the present rulers of the country. They who conceived it have now introduced certain amendments to it. India within five years after the birth of her Constitution passed more than 10 legislations amending the Constitution. We, since Merdeka and for the first time within three years, are now considering a major amendment to the Constitution, and we do so in the light of experience. If we do not pay heed to our own experience, then we would be taking refuge in a fool's paradise. We all know the first duty of a government is to rule wisely and rule well. The worst crime of a government is to sleep over its vigilance. For the past 12 years

Malaya has had to pay price for the lack, or absence, of vigilance in 1948.

Let us take a look at our post-war history. The sign was crystal clear on the wall in 1948. The situation could have been averted and we might have saved ourselves from the treacherous and brutal expressions of violent Communism. In 1946 and 1947 the Communists betrayed the respect and recognition shown to them. They were nourishing discontent in a systematic way and they infiltrated into the trade unions and controlled the Pan-Malayan Federation of Trade Unions. They were luring the youths into the network of the so-called New Democratic Youth League; they were making disguised inroads into various political parties; they were ready to strike and strangle the economic life of the country and capture the Government by the ear. Yet the Government of the day, though colonial in form but faithful to the fundamental principles of human rights as enunciated by the English Common Law, was blissfully complacent of the approaching octopus of Communism. Then what happened? It is not to exaggerate, I think, to say that it was the *Straits Times* which galvanised the Government into action by telling the civil Government then "to do or die". The *Straits Times* merely cried out the public furore. Now, do we want our free, democratic and responsible Government to be blissfully unmindful of the present situation and smugly suffer or permit the cancer of Communism to eat into the flesh of our body politic? Have we not paid the price so dearly by fear and anxiety, by blood and lives, by property and comforts? Are we going to kid ourselves by platitudinous and airy politics as voiced by the Opposition? It has been suggested—why be afraid of subversion? Let the Communist Party function constitutionally; everything would be wonderful. In other words, it is said, to tame the Communists into constitutional behaviour. It is all very well in England and to an extent in India, where we have seen this taming process. In England the Communists have been effectively tamed because the people there would not submit to political intimidation and chicanery.

In India the electorate is articulate and not so susceptible to political intimidations. They have seen enough of Communist somersaults through the "Quit India" movement in 1943 and recently in respect of the Sino-Indian border clashes and in the matter of Tibet. But in Malaya, where thuggery and intimidation are rampant and the people are so vulnerable to such elements, can we really tame the Communists into constitutional behaviour? I doubt it seriously. Every country has its own peculiar background and what is feasible in one country may not be necessarily so in another country.

The Alliance Government has been elected into power by a vast majority of the people. To that extent they enjoy the mandate of the people. The people of the country, being the ultimate authority, have a right to expect their Government to continue to maintain peaceful conditions, which is the primary source for all other developments. In view of the present situation of the country, if the Government wants to have sufficient teeth in its authority in the absence of the emergency powers, then all right-thinking people should say, "Go ahead and be discreet about it." You cannot contain Communism with weak-kneed policies, in the same way as the Communists are not prepared to take free enterprise with placidness. So many words have been extravagantly spilled about the sanctity of liberty in the Lower House. Liberty does not arise out of a vacuum; it is correlated to social responsibility. If liberty invades social responsibility then that liberty has to be liberated or denied, and that is what this constitutional amendment sets out to do on the principle "you cannot have your cake and eat it".

I should like to quote the opinion of a great socialist political philosopher—with your approval, Sir—Harold Laski, about liberty. No man was emotionally more attached to the philosophy of liberty than perhaps Harold Laski. What does he say in his book named "Political Grammar" or "Grammar of Politics?" He says:

"Historic experience has evolved for us rules of convenience which promote right living and to compel obedience to them is

a justifiable limitation of freedom. To permit such compulsion is to invade liberty, but it is not necessary to destroy the end liberty seeks to serve."

Amendments restricting liberty in certain circumstances are merely rules of convenience. We do not, of course, like these rules, but they are necessary evils. Our likes and dislikes are dependent upon the interests and wellbeing of the country that warrant them, and that is the bitter reality of the day.

Now let us look at the amendment itself. What does it propose to do? It is not introducing anything new or dramatic in the political life of this country. We have suffered inconceivable and irksome restrictions on our liberties for 12 years. Now with the abolition of the Emergency Regulations all these restrictions would go and would leave dangerous elements to undermine the peaceful life of the country if unchecked. We do not want the ugly story of 1948 to repeat itself. So, Article 28 of the Constitution (Amendment) Bill amends Article 149 of the Constitution. Article 149 of the Constitution is amended to include four new sub-clauses in respect of which Parliament may pass legislation. Now, as to the sub-clause under (b), it says: "To incite disaffection against the Yang di-Pertuan Agong or any Government in the Federation;" or (c) "to promote feelings of ill-will and hostility between different races or other classes of the population; or (d) to procure the alteration, otherwise than by lawful means, of anything by law established; or (e) which is prejudicial to the security of Malaya or any part thereof." As to sub-clause (b), it is my opinion that it would be better if the word "Ruler" was used instead of "any Government in the Federation". As to the meaning of "dissatisfaction", I have been cracking my head just to find out what exactly it means. It is commonly used in political subjects such as this. Now, the short Oxford English dictionary says: "Disaffection" means absence or alienation of affection or goodwill. And what is the definition of "affection" in the same dictionary? It says: "to love". This is the dictionary available in the Parliament Library here. Now, every good citizen is, of course, expected to love the Yang di-Pertuan Agong and the Ruler of the

State to whom he shows personal allegiance and loyalty and love. But I am wondering whether he is expected to show love to any government. In political science, isn't there a difference between a government, a State, and a Head of State? I think the words "any Government" are ambiguous, since it is not the same as "any Ruler" and since the words "Yang di-Pertuan Agong" are used, perhaps it would be better that the word "Ruler" is used in place of "any Government". I am just putting this as a suggestion for the consideration of the Government.

Now, as to sub-clause (c), one has a fair idea as to what would create feelings of ill-will and hostility between different races. The Honourable Dato' Thuraisingham, in a moving manner, pointed out the ill-will created during the war, and how it was solved ruthlessly by the Japanese Government. We are people of commonsense and we can, somewhat, figure out what would constitute ill-will between races. Hostility, I think, is stronger than ill-will. But what will amount to ill-will between races may be incapable of easy interpretation. In a free democracy there is reasonable scope to ventilate critical views on matters of public interest. What views will create ill-wills between races depend necessarily on the subject or sensitivity of a race. A subjective reaction may not always be a correct yardstick for justification or otherwise. Further, in a democratic country, there seems to be a reasonable degree of criticism so that mutual tolerance will grow. In the end, tolerance is a better safeguard than constitutional provisions. On the other hand, such a provision as sub-clause (c) is necessary, at least for some time, because Malaya is in its early embryonic period in its political cohesion. At this time we need statesmen and sober politicians and not sabre-rattling, fire-spitting, cheap and third rate politicians who can sparkle off explosive situations by reckless and stupid clap-trap indulgences! (*Applause*).

As to sub-clauses (d) and (e), they are undoubtedly necessary, and I am sure all Members will receive them in the same way. Now, as to the justification of these provisions, one is that after

the cessation of the Emergency Regulations, the Government should be in a position to introduce legislation which may be inconsistent with the provisions of the present Constitution, and the other is that this sort of provision is not novel but is adopted in other countries, chiefly India. I have gone through the Indian Constitution quite laboriously as a matter of comparative study. In fact, what we are introducing to-day are almost identical with the Indian provisions. Our Article 5, sub-clauses (3) and (4) are very similar or in fact identical with Article 22, clauses 1 and 2 of the Indian Constitution. Our Article 5, sub-clause (3) says:

"Where a person is arrested he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice."

And Article 5 (4) says:

"Where a person is arrested and not released he shall without unreasonable delay, and in any case within twenty-four hours, be produced before a magistrate and shall not be further detained in custody without the magistrate's authority."

And our Article 5 (2) provides for remedy by *habeas corpus*. But these provisions are not applicable to an enemy alien. Our Constitution stops at that, under Article 5, sub-clause (5). The Indian Constitution goes a step further and says under Article 22, clause 3, of their Constitution that these provisions do not apply to a person arrested or detained under any law providing for preventive detention.

Article 151, sub-clause (1), of our Constitution provides that where a person is detained, the authority shall, as soon as may be, communicate to such persons the grounds of his arrest, and shall give him an early opportunity of making representations against the order. This is the same as Article 22, Clause 5, of the Indian Constitution. Article 151 (1) (b), which is the same as Article 22 (4) of the Indian Constitution, has been amended, in that, the Advisory Board is to recommend to the Agong. Article 22, Clause 7 of the Indian Constitution, provides that the Indian Parliament may prescribe as to the circumstances under which, (a) a class or classes of cases in which a person may be detained for a period

longer than three months under any law providing for preventive detention without obtaining the opinion of an advisory board in accordance with the provision of sub-clause (a) of Clause 4; and (b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention.

Sir, I should like to ask your indulgence for laboriously bringing out these comparisons, because our Members here, both in this House and the Lower House, should not think that our Parliament is the first Parliament to produce all these restrictive limitations upon our freedom. The Indian Constitution to my mind appears to be even harsher than ours. We have drawn our provisions from the Indian Constitution to a great extent and India is considered to be the bastion of democracy in Asia—that is a matter of opinion. When India could have such clauses in its Constitution, why not we have them when we have just completed a ghastly war against terrorism and may well face a greater concealed menace in the nature of subversion. On this ground alone we have every justification for supporting the amendment.

Apart from India, Sir, England—the Mother of Parliamentary Democracy, where lawyers go to learn the question of civil liberties—have had such arbitrary powers during war-time and the most relevant of the defence regulations to a person's liberty was Regulation 18 (b) of that country. Under this Regulation the Home Secretary was empowered to detain without trial anyone who he had reasonable cause to believe came within the specific category of suspects. I know that such regulation is not in force now, but I am only stating that to show that even in a democracy there will be an occasion when civil liberties will have to be limited—it may be a period of war, it may be a period of Emergency, it may be a period of terrorism. It is only a question of degree, but the principle of curbing liberties is accepted in every democratic country which recognises and respects fundamental human liberties, and Malaya is not entirely free from the occasion warranting such limitation on human liberties.

Let me now take you to Russia—I am about to conclude my speech. In Russia—those who are interested in Communism should know under Article 7 of the Russian Code there is a provision authorising the detention of persons without trial and the material words are “who are a danger to the State either by reason of their dangerous association or by reason of their previous activities”—just “previous activities,” and that is what Communism provides.

We have heard of all manner of criticisms as though we are now going to live in a prison camp with all our liberties being taken away by the Government of the day. I venture to say that all these criticisms are very superficial and as I have said earlier are the result of having a jaundiced way of thinking. Therefore, I call upon the Honourable Members of this House to accept these reservations in the interest of our country, to voluntarily submit ourselves to such limitations, because we are mature people; to go through these, in order to put down this menace of thuggery and intimidation that this country faces. Sir, only the other day, a member of my profession was suddenly subjected to an acid throwing act. This is the sort of life that we are having in this country; this is the sort of intimidation that is going on in this country. If that is what we face, then why not we face realities and facts? Why all these platitudes and claptraps about fundamental rights? If we deserve human rights then we must defend and value them. If we have people who do not respect and value them, then we must deny those human rights to such people until they are made to respect these liberties. So, there is an excellent case in this country for such limitations. These are introduced not so soon after independence, as we have had three years.

We are now doing away with the Emergency Regulations and in place of the Emergency Regulations, the Government wants to adopt a policy of strength. If the Government is going to sleep over its vigilance, then later on the Government will be accused by the very people who have put this

Government in power. The people fundamentally and essentially, and as a matter of primary importance, want peaceful conditions here. If the Government is incapable of creating peaceful conditions, then that Government is not fit to rule this country. If the Alliance Government is to rule this country in an effective manner, in a peaceful manner, in a progressive manner, then it cannot afford to adopt a weak-kneed policy. It has got to put teeth in its power in curbing down these treacherous elements in this country. (Applause).

Enche' S. O. K. Ubaidulla: Mr. President, Sir, four members of the legal fraternity have spoken before me, but I am not fortunate enough to be the fifth member.

Sir, I wholeheartedly welcome the amendments to the Constitution, especially, the powers for preventive detention of subversive elements. Sir, this is the only way to defend democracy. Beware of the Communist vultures hovering overhead to prey upon democracy at the slightest sign of weakness. What they did in Korea and French Indo-China is still green in our memory. If the popular Government in power did not pluck the loopholes in the Constitution it would tantamount to betray the people who have voted it in power.

Sir, one Honourable Member of the Opposition speaking in the Lower House said that the Alliance held no mandate from the people to amend the Constitution. The Alliance Party not only had the mandate of the people but also the sanction of the Constitution. The comfortable majority, with which the Alliance Party was returned to the Parliament not once but twice, is the mandate from the people. The Constitution may be amended with a two-third majority. This provision in the Constitution is the sanction from the Constitution to amend the Constitution.

Another Honourable Member of the Opposition in the Lower House harangued and said that no Government in the world could succeed to destroy communism. He, Sir, blurted out the whole truth. He tells the Government, "Yes, you have defeated

violent communism in Malaya, but it will creep in through subversion." Sir, are we not justified in asking for power for preventive detention after hearing such an assertion? Certainly our stemming subversion has injured the Opposition. The same Honourable Member some time ago opposed the continuance of the Emergency laws. Now he opposes the detention laws so that lawlessness will be the order of the day and the Opposition can fish in the troubled waters and finally dream of walking into the *Istana Negara* to receive His Majesty's command to form a Cabinet. Later the same Honourable Member advocated that communism be legalised. He cited the example of India and Ceylon. Conditions obtaining in India and Ceylon are different. Communism in Malaya cannot be legalised for several reasons. If I may, I would like to state a few reasons. In Malaya communist literatures are in sectional languages and they preach subversion. Communism in Malaya practised violent communism and did not preach its principle by peaceful methods. Communism in Malaya encouraged secret societies and actively participated in their activities. Malayan communism is international communism and is not patriotic to Malaya.

Members of the Opposition in the Lower House seldom, in my observation, made useful contributions to the debate. Their non-acceptance of the Government's statement on the 1958 public accounts was a monument of indifference. Sir, there was not a ray of disintegrity on the part of the Treasury, nor was there any misappropriation. Indeed every item of the expenditure of the \$110 million for the Education had proper receipt. What the Auditor-General said was that the accounts were not kept in an auditable manner. I have been serving in the Public Accounts Committee for nearly five years. This sort of complaint has often been made by the Auditor-General. To receive accounts more in a methodical manner, we in the Public Accounts Committee suggested internal auditing. This is being put into practice where our staffing position is satisfactory. Yet, Sir, the Opposition

insisted on making malicious and meaningless charges. They made every endeavour to twist and turn the facts. It all looked like that they were all trying to hide the sun with their handkerchiefs. Sir, I am really shocked by the way the Opposition was building a mud-wall which would be washed away with the facts. They were throwing away the good of the country into the ditch for the popularity of their party. What is the reason for the Opposition to refuse to see the truth, to hear the truth and speak the truth? There can be only two reasons. They might not have had the elementary knowledge of accountancy. This I can understand, but when somebody who knows says it, why not try to learn? The second reason may be perhaps they knew that there was nothing wrong in the \$110 million, but yet they made all the noise for the consumption of their constituency. Sir, this is not the way for the Opposition to become popular. I pity our Opposition and I pity their incapability of making themselves heard in one end in the Parliament. The Government, that did not misuse the Emergency laws for nearly eleven years, is not likely to do so under the detention powers. So, Sir, the proof is before the people and the people can trust the Alliance Government and its wise men who will lead the country to peace and prosperity. (*Applause*).

Dato' Dr. Cheah Toon Lok: Mr. President, Sir, I hold in my hand the Symbol of our courage and independence—a book of our Constitution. This Symbol has led the people, through the leadership of the Alliance Government, from the wilderness of subjugation to the promised land of peace, progress, unity and independence.

Now, I have been asked, and my people have been asked to support—and we swarmed to support—this Constitution as loyal subjects and to approve changes in the Constitution to meet the challenge of a transitory world. But have we got the moral courage to date to face the fact that even according to Article 3 of our Constitution, we have not the courage

to implement its provision? Article 3 of the Constitution says this:

"Islam is the religion of the Federation; but other religions may be practised in peace and harmony in any part of the Federation."

To the Buddhists, to-day is a triple sacred day—the birth, the enlightenment and the passing away of Lord Buddha, the teacher of peace and enlightenment. In every part of the country, or rather in Penang, in Kedah, in Malacca, in Singapore, the Buddhists are given a religious holiday to celebrate the occasion; but I am sad to say that in the Federation of Malaya, in the Mother of our Parliaments, even to-day I, as the President of the Buddhist Association, Kedah, have to attend this meeting on a most sacred day, and I hope that the Honourable the Minister of the Interior, who is supposed to be in charge of this will do his best to give us the Buddhists a holiday—a day once in a year only—to observe this religious day, so that we will loyally, faithfully and staunchly support not only His Majesty the Yang di-Pertuan Agong but also all Governments that are in the Federation.

I have observed, Sir, that all the two lawyers have spoken this morning and all of them, Sir, I may say, were expressing platitudes. (*Laughter*). They are only theoretical. They do not understand the meaning of communism. (*Laughter*). They have talked of the ways and means, only the simple systems, of which they themselves are aware of—the semantics which they have used. As you know, to-day we live in a world of a system of symbols, the symbols of mathematics, linguistics, music, ritualistics and so on. But the most effective are the symbols of mathematics—the only true system is the mathematical system which is purely scientific in nature. That is why all scientists talk in the same language in all countries—but not the lawyers.

Some lawyers do not understand Communism. Modern Communism arose out of a doctrine of one man only, the experiments of a scientist named Professor Pavlov of the University of Leningrad. He was experimenting on dogs, the conditioning of dogs

subjected to a process whereby when you tell a dog to do like this, the dog will follow you and at a sign from you the dog will take food from you—in other words you are conditioning the dog to respond to certain signs, etc., from you in a certain manner. But it so happened that Professor Pavlov was caught by the Communists and they understood that he was doing a very great experiment which the Communist leaders tried to find and failed. So, the Professor was “invited” to what was at that time called Moscow and he was confined there for six months to produce a book—the book is known as “The Conditioning of Human Beings”—not animals—and he was given everything to carry out experiments on persons. Actually within six months the book was ready, and there was a big banquet given in honour of the Professor and he was given the pride of place. He brought his manuscripts and Lenin then said, “Gentlemen, we have the means of conquering the world to-day; this is our Bible.” It was not spiritual but physical in character. The Bible referred to was the book written by Professor Pavlov on the conditioning of human beings, how to bring human beings to a way of thought, to a certain condition. When the book was read to the assembly, the people clapped their hands. They gave the highest honours to this old man and he was then given awards. To-day the Bible of Communism is scientific in nature. You cannot fight it with words, with semantics, with all the claptraps about this cause and that cause. This is something which some lawyers do not understand. There are two planes—the material plane and the plane of thought; and you are only fighting on one plane, the material plane, which is unimportant, because those chaps are controlling the thoughts and when your thoughts are controlled you act like puppets.

The Honourable the Minister of Justice has told me that there is a Department of Psychological Warfare. Psychological warfare is a process where the Russians are using psychology to help their cause and we will

have also to use psychology too, and I would suggest that we should have a Department of Psychology Planning. This is in the plane of thought, not the material plane, which is not important, because when you fight a man and kill him another man comes up. They have adherence to the cause. So, if you influence the brain the man remains an automaton. I suggest to Government that it is important to establish a Department here in our University, a Department which I would call—of course, you will not understand it—Para-psychology Department. Para-psychology is above the psychology as understood by the Russians, as understood by Professor Pavlov. It is on a different plane altogether, and we will be able not only to control the material process engineered by the Communists in this country, but we can also control the thought process. So, I suggest from a scientific point of view that that is the most adequate measure to meet the menace of Communism in our country.

We, of course living in Malaya, are still very new in our thoughts—political thoughts and other thoughts. But there are certain basic thoughts which human beings have attained up to this 20th Century. The first basic thought we have is: Liberty within the Law. The second is: Justice. The third is: Humanity. The fourth is: Mercy. Those are the highest attainments of the human mind to-day, and I believe that the Alliance Government, with proper direction, will be able to attain those particular lines of thinking—the highest in the world—and will be able to bring in a new nation—not thinking in racial terms or communal terms, a new nation dedicated to the proposition that in the eyes of God all men are brothers.

Enche' T. H. Tan: Mr. President, Sir, we have before us amendments to the Federal Constitution which our elected Government has obviously found necessary in the light of experience. With the impending end of the Emergency on the 31st July next, the state of emergency will be officially over, but in the national interest we should always be ready to fight militant Communism whenever it

threatens our peace and security. The past twelve years, and particularly in the last five years of rule by our own elected Government, have shown the people of this country have rejected Communism. However, the Communists are not likely to give up. We will be deluding ourselves if we think that the Communists and their fellow-travellers will turn a new leaf and will be peaceful law-abiding people after July 31st. They had their chance to turn a new leaf at the Baling Conference. They spurned that opportunity and chose to fight an elected Government. This indicates clearly that the Communists will resort to other methods now that they have lost the shooting war. The easiest method to them is probably subversion. It is therefore in the interests of our national security that our Constitution should be amended to make provision for Government, by Act of Parliament, to have adequate powers to deal with subversion and to give effective protection to our citizens. The Government should lose no time to introduce appropriate legislation to deal with subversive elements. To critics of such legislation, I say that no-one except subversive agents need to harbour any fear of laws designed to ensure the security of the State, and those who think that His Majesty's Government may enforce anti-subversion laws indiscriminately can take heart from the fact that our elected Government has applied the Emergency Regulations with less severity and with more justice and humaneness than the Colonial regime under a military governor that preceded it.

Mr. President, Sir, whilst His Majesty's Government is going about the business of introducing legislation or laws consequential to the amendments to our Constitution after they are approved by this House to-day, I hope the Government will take proper and effective measures to deal with gangsterism, acid throwing and kidnapping. I contend, Sir, that the proposed amendments to Article 149 are wide enough to allow of this. I think it may help in dealing with the problem of gangsterism if the Registration of Societies Ordinance is tightened up; it

may even help to check subversion if this Ordinance is amended to ensure that social clubs or associations are not turned into political cells by subversive opportunists. One can hardly be accused of being alarmist if he speaks on the growing incidence of kidnapping and acid-throwing in this country. The present laws are apparently inadequate, and the Government will have the support of the people if it introduces legislation to make kidnapping and acid-throwing crimes punishable with death. It is not too much for the people of this country to ask for the supreme penalty for these dastardly crimes. We can temper justice with mercy by letting those accused of kidnapping and acid-throwing have a fair trial, but once proved guilty, justice should be meted out resolutely. I would also like to suggest, Sir, that the present laws should be tightened up to ensure that corrosive acids are only available to industry, medical practitioners and others who have a legitimate use for them, and even in these cases every transaction should be properly recorded. Evidence should also be kept of the name, address and identity card number of every employee to whom such acid is issued.

Mr. President, Sir, the other amendments to our Constitution are mainly of an administrative nature. These amendments have been found necessary in the light of the past five years of elected Government, and in my view they deserve the full support of Honourable Members of this House.

Enche' Yap Khen Van: Mr. President, Sir, I wholeheartedly support this amending Bill before the House, and with your permission, Sir, I take this opportunity to congratulate the Alliance Government for its foresight, prudence and initiative, particularly in regard to the very important amendment of Article 149 of the Constitution. This amendment seeks to provide anti-subversive laws to replace the Emergency Regulations when the Emergency will have been officially declared at an end soon.

Sir, although the Communist terrorists have suffered a crushing defeat, and, apart from the minor mopping up

operations, all is now quite on the fighting front, no one should be lulled into a false sense of security. Communism in Malaya has not been eradicated. The Communists will resort to subtle tactics to undermine our social structure in their attempt to achieve their aim of taking over our country and imposing their rule over us. Sir, in this connection His Majesty the Yang di-Pertuan Agong, in his Gracious Speech at the opening of the Second Session of Parliament in April last, had sounded a note of caution against attempts by the forces of subversion and said that the danger was a very real one.

Sir, the threat of subversion is there. In the face of this situation, our Government would be failing in its duty if it did not seek to have the necessary weapon to deal effectively with subversion whenever and wherever it may show itself.

Sir, as this amending Bill is aimed at safeguarding the security and peace of this country, every loyal Malayan citizen should give it the support it deserves. (*Applause*).

The Minister of the Interior (Dato' Suleiman): Mr. President, I felt very glad indeed when I just came into this Chamber this morning to hear for the first time the outright condemnation of Communism and the practices adopted by its followers in this country. But a few minutes ago there came an anti-climax (*Laughter*), an anti-climax in the person of my Honourable friend Senator Dato' Dr. Cheah Toon Lok, who, I may say, has through his vocation as a practitioner of medicine, like many other medical practitioners in this country, has made his fortune (*Laughter*) and could afford the luxury of giving full freedom to his flights of fancy. Now, of course, if we were to take all these into consideration and view the speech made by the Honourable Senator Dato' Dr. Cheah Toon Lok, it sounds very amusing and of course drew peals of laughter in this House. But, unfortunately, what the Press will put out will probably produce quite a different effect. What effect it will be will be welcomed by the

followers of Communism. Such wavering minds and vacillating stands offer fertile grounds for the breeding of Communism in thoughts and its agents. As I say, it may not be the personal conviction of the Honourable Senator the Doctor, but when I had put forward for him this claim, that when he could afford the time to give free rein to his flights of fancy, he came this morning and probably remembered the time he entered the lecture hall—and this place, this hall of wisdom which I expected from the Senators, the elder Statesmen to give advice from experience and wisdom, his well of knowledge—he might have likened it also to that lecture hall, and theorises. But then in that lecture hall the professor preaches theories. Here, I hope and believe, in this hall of wisdom, Senators will preach practice—practical methods to deal with the problems and how to deal with the problems confronting the people in this country.

Sir, there is only one and only way of how to deal with communism in this country in the future—and this has been the case in the past—and that is for us not to make democracy the excuse. The word democracy has been very much abused. It has been put forward as the excuse for not wanting to take any action at all against communism. I have twice stated in the Lower House that so far as I am concerned, there are only two divisions of people in this country: they are anti-communists and pro-communists; there is no middle course. In other countries there might be any number of courses—and in the matter of degrees also—to deal with communism in many stages, because communism has not openly adopted the use of arms. However, here in this country, I do not think anyone would dare to say that communism or rather the communists have not adopted an armed struggle. Can we therefore only preach and try to stop the armed struggle, which they have lost? They are now trying to win the minds of the people of this country by denouncing armed struggle, and resorting to the use of subversion. If we want to fight we must use both methods: that is to take very firm action in practice and also in the democratic way of

thinking. The democratic way of thinking is surely not—I stand to correction by the Honourable Senator Dato' Dr. Cheah Toon Lok—to say that what the legal Senators in this House have said about communism is childish. If that is so, then with due respect to the Honourable Senator I feel that either the legal Senators are childish or that Senator Dato' Dr. Cheah has gone into his second childhood (*Laughter*). I am forced between these two views now: one is that my colleagues in the legal profession are children; and if I do not believe that, then I have got to believe that my other colleague, the Senator Doctor, has gone into his second childhood. So, I am forced to ask Senator Dato' Dr. Cheah Toon Lok to be more practical and, from the legal angle, to accept the view of the legal Senators.

I have once spoken in this august House before, saying that it would be Senator Dato' Dr. Cheah's flight of fantasy when he entered the realm of legal argument. But this morning, for reasons of his own, he again tried to be the Opposition in this House. Now, it is very interesting to have an Opposition in this House—it may be diverting—but it is not at all comfortable or good for the people of this country if that Opposition is not constructive—and the Opposition generally when it has nothing constructive to say tends to be destructive. The only wicket I have got to stand on is that Senator Dato' Dr. Cheah has asked me to stand up and give a reply when he quoted Article 3 of the Constitution, otherwise I do not feel like getting up, because whether they be legal Senators or medical Senator, they are my close colleagues.

Since he almost challenged me to stand up and reply to his speech and has asked me to consider giving a holiday to members of his Association, or members of his Society, since he is the President of the Buddhist Society, I am afraid I must be firm with the medical Senator (*Laughter*). I must give a very decisive reply that I cannot even consider giving a holiday, because he has given a very poor excuse—that we lack moral courage and that we have

not implemented Article 3. Let us read Article 3:

"Islam is the religion of the Federation; but other religions may be practised in peace and harmony in any part of the Federation."

Does that mean, therefore, that if these Buddhists do not get a holiday to-day—and their President, who happens to be a Senator, chooses here this morning to say so—that they cannot practise Buddhism because of no holiday? What about the various States in the Federation. Some States have their holiday, half a day on Thursday and a full day on Friday; some States have their holiday, half a day on Saturday and a full day on Sunday. Does that mean, therefore, that Islam is not the religion of the Federation and only half of it, because some States have their holiday on Sunday which is a Sabbath day for the Christians? It does not follow that Islam is not the religion of the States. Does it mean therefore that only a State which has its holiday on a Friday, which is the holiday for Muslims, follows the Islamic religion, whereas in all the other States Islam is not the official religion? Therefore, if I were to consider what the Medical Senator has asked me to do, I will get into trouble with some of these States. But that is not the real point. I have got a stronger point to oppose the Medical Senator (*Laughter*). He happens, as I have said in my speech just now, to be a millionaire. So, he does not think about the number of holidays in this country. But we, who are very poor in comparison, must think of the number of holidays to be given in this country. Holidays mean money to the Government. If the Minister of Finance, who is sitting in front of me, were to get up and speak on the cost of a day's holiday to the Government and to the industry, I am sure that most of us who try to bring prosperity to this country would advocate that there be no holiday at all. Then, I feel equally sure that the Medical Senator will get up again and say that that is very bad from the health point of view (*Laughter*). So, with due respect to my Honourable colleague, the Medical Senator, I would say that it is not possible for me even to consider it because, if I remember it

correctly, no official application has been made by the Medical Senator to me for the Buddhist holiday. Whereas the Labour people asked for a holiday for Labour Day and there are followers of other religions who have asked me to declare a holiday for them. If I were to be fair and just, basing on priority and economic reasons, surely the Buddhist holiday would come very low in the list of priority even if we try to extend the number of holidays. As I have said, I really feel very sorry. I can say that I felt as if I was riding in a plane and dreaming of how wonderful the world was and all of a sudden the plane ran into an air-pocket and I felt a terrible bump—my inside felt very funny indeed when I heard the speech of the Medical Senator. He had produced a complete anti-climax to the speeches which had been made by the Honourable Dato' E. E. C. Thuraisingham and the Honourable Senator Enche' Athi Nahappan.

As I have said at the beginning, it has fallen to my lot to deal with gangsters and secret societies; and it has fallen to my lot to see that not only members of the profession to which I belong should be protected against acid throwing, but also I would have to protect members of the medical profession from getting hurt. I have, therefore, to be very firm with the Senator or Senators—and in the Lower House with Members of the Lower House—not only when they spoke against pro-communism or non-communism. As I have dealt with the P.M.I.P. objection there, I will be equally severe with Honourable Members who speak on the non-communist side and I cannot help it. Here again I may be wrong, but after all as the Malay saying goes "*rumbut sama itam, arti berlain lain*"—we may have black hairs, but we have different views—I surely can be allowed to infer and form my opinion on the speech made by the Honourable Senator; and the only opinion I can form is that, to be very, very fair to the Medical Senator, I concede that his speech is a non-communist speech, but then as far as I am concerned a non-communist is a pro-communist. That is my trouble now. So,

while it is very nice for the Medical Senator to have a chat with me outside—or when crossing the ferry from Penang to take the train, we can chat—you can give me your frank views; and even if you were to tell me that you have got no objection to communism and so on, I will not take an official objection to it. But it is very difficult for me, if I were to hear in this House some speech which would help the communists and communism. I divide the people who help communists and communism into three classes: first, the intellectuals who knowingly and consciously help the communists; secondly, those who knowingly and unconsciously help; and then the most regrettable category of those who unknowingly and unconsciously help. The really big ones are those who belong to the first category—the intellectuals who knowingly and consciously help. But equally bad is the second class, who can also be considered intellectuals—those who knowingly and unconsciously help communism in what it intends to do in this country. I am sorry that I have to speak in such very strong terms, but I have got very strong feelings against the communist practices in this country. I have been to my constituency where I have requested the Malays to have communal cooking, where I have asked them to increase their hours of curfew; and further I have asked them to sacrifice many things and they have done what I asked of them.

In the first Federal elections I toured my constituency and made several speeches but I was never asked the question as to what would the Alliance Party do if the Alliance won the general election. However, I was asked that question in a remote village in Tanjong Adang and I was so surprised that such a question was asked of me in this remote village. I was not prepared for an answer. So, I told that I had an answer, but I would like to know the reason for such a question. Then the women there said that some of them had lost their husbands; some of them had lost their sons; some of them had lost their fathers; and some of them had lost their brothers. Further, a few of them, who were present,

asked me to look at them: they were the victims of communism or communists, whichever way you like it; they were disabled, they were injured and they could no longer earn their livelihood. These people were very bitter and they told me in Malay: *saya tida redza kalau* Malayan Communist Party *di-akui* which means that they will never forgive if the Malayan Communist Party were to be recognised and these words were spoken to me in that election campaign. I know how they suffered and also their sufferings. I feel very strongly and I will always support strong action. I am prepared to take strong action. I will not tolerate a person with a fickle mind, a wavering mind, who tries to find excuses for them by mentioning such words as liberty, freedom and human rights, etc. They are very high sounding words, but they mean nothing to those people who have suffered. While the medical Senator and I could afford to give flight to our fancy and we could afford the luxury of thinking—communism in principle may be good, but it depends on who carry them out and we may speak to one another in theory—but unfortunately you and I who have been elected, who have been sent to this Parliament (you in this august House of the Senate and I as a representative of the people in the House of Representatives and an elected Minister) must not try to give way to our thoughts and our minds must be used to find ways and means as to how to effectively to deal with this menace.

Mr. President, Sir, and Honourable Members, my speech may seem strong, but I am sure that the medical Senator knowing me well knows what I mean and, I think, what I intend to say. My friend is a very good Senator and he understands it. So I will leave it at that.

One thing more, Sir—I am very glad to hear the outright condemnation of communism and the practice adopted by its followers in this country; for the first time it has been openly, and in no uncertain terms, voiced in this House—so far I have not heard it even in the Lower House. For that I am very glad indeed. (*Applause*).

Dato' Dr. Cheah Toon Lok: On a point of clarification, Sir. I would like to tell the Honourable Minister of the Interior that I am anti-communist: so anti-communist that I brought in two suggestions—one is to fight it on the material plane which is stated in our Constitution and the other on the plane of thought. I have been in the District War Executive Committee in my State and we fought communism on the psychological and material plane.

Every time I have got to give suggestions about how our pamphlets are going to these villages, and we have got to fight in the other plane, the plane of thought, and I agree absolutely that it is necessary to have this Clause in the plane of matter. I absolutely agree to it. I am anti-Communist, I am not a Communist or pro-Communist, I am absolutely in my way of life anti-Communist, and I am afraid my Honourable friend has misunderstood me. The only word on which I think he misunderstood me was on the word "platitude" because I said that the lawyers were using platitudes, that is, repetition of the commonplace. It does not mean childish, it merely means repetition of the trivial. That is what I meant, but I am very glad to hear the explanation of the Minister of the Interior about his way of thinking about my attitude. May I assure him that I am anti-Communist and not a Communist, but anti-Communist, and I brought in two suggestions only.

To condemn a man for bringing in suggestions for improving the country, I think, is a very bad attitude to adopt. I think it is a very undesirable attitude to adopt. At the same time, about the Vesak Holiday, I am so sorry about it but I asked him just as a gesture of goodwill to the Buddhists to give one day's holiday in the year. I did say moral courage and I brought in the word just to tell him that we have sometimes to do things with courage. I only asked the Government, or asked him, as the Minister of the Interior, to show a gesture of goodwill towards my people. Maybe he misunderstood my words, maybe my semantics were incorrect, or maybe I didn't say it in

the proper way, but may I assure him that I am anti-Communist and that I brought in only two suggestions—to fight on the material plane and to fight on the plane of thought.

Dato' Suleiman: Mr. President, Sir, I would like, for the information of the Honourable Senator, to point out that I am not alleging him to be Communist, neither do I allege him to be a non-Communist. What I said is that I classify people into three classes: those who knowingly and consciously help the Communists, those who knowingly and unconsciously help the Communists, and those who unknowingly and unconsciously help the Communists. That is all I meant—it is up to the Senator to choose. I don't know to what class he belongs: he may not belong to any class at all. What I am saying is that I may be 100 per cent anti-Communist, but if in my speech I were to unwittingly help the Communists, then I am doing great harm.

Enche' A. Nahappen: Mr. President, Sir, I think the meaning of "platitude"—I am not quite sure it means "repetition"—perhaps it means "high-sounding".

Raja Rastam Shahrome bin Raja Said Tauphy: Mr. President, Sir, I am sure those peace-loving people and those who regard Malaya as their home will highly appreciate the proposed provision against subversion. The state of emergency will come to an end on 31st July this year, and so will the Emergency Regulations. But, I am not quite so sure whether Communism and all that it stands for will end on the 31st July, 1960. It is known, that the Communists will try to undermine and overthrow orderly government, and that is by subversion. I feel, Sir, it is most difficult to tackle subversion, which is an intricate problem and far from simple. Why I say that, Sir, is that subversion can be in the form of picnics or excursions in the countryside. We can never tell whether they are really picknicking or sight-seeing, unless you are in the party or happen to be in the party, and it is very difficult, really, to find out when these exist. Therefore, I think the

Government must take precautionary measures. Unless we do so, I am afraid the ugly head of Communism will rise again and strike us—then, God bless this country!

I also entirely endorse the suggestion by my Honourable friend Mr. T. H. Tan that we should provide capital punishment for acid throwing and kidnapping. I think it is high time. It is getting too far in this country, and it is, I think, already reaching its height. I commend this to the serious consideration of this House, and I am sure the Minister concerned will see his way to provide this capital punishment for these two serious offences.

Enche' J. E. S. Crawford: Mr. President, Sir, the Commission which helped to formulate our Constitution allowed for its amendment by a two-thirds majority in both Houses. Our Government quite rightly have now decided to introduce some essential amendments. I know the Opposition, especially in the Dewan Ra'ayat, strongly object to it, but I think time will tell, Sir, that the Alliance Government and the majority of the people in this country were quite right in wanting to amend the Constitution where necessary. In conclusion, Sir, I would like to misquote the famous saying of Sir Winston Churchill:

"Never will so few owe so much to so many"! (*Applause*).

Dato' Sheikh Abu Bakar: Yang Berhormat, Dato' Yang di-Pertua, saya bangun mengambil peluang sedikit di sini melafadzkan sukachita berkenaan dengan Rang Undang² Pindaan—Undang² Tuboh Persekutuan Tanah Melayu yang ada di-hadapan kita ini. Saya menguchapkan sukachita dan terima kaseh ia-itu saya telah menanti² jika sakira-nya ada kritik² atau ucha-pan daripada Ahli² pembangkang tetapi nampak-nya tiada apa². Ini semua-nya, Yang Berhormat Dato', menunjukkan ia-itu negeri kita ini mustahak pada masa ini mengadakan dan meluluskan Undang² saperti ini. Juga, Dato' Yang di-Pertua, sebab²-nya chukup terang ia-itu saperti dalam kata bahasa Inggeris (Nobody has a leg to stand upon against the introduction of this amendment

bill), terutama-nya sa-kali ia-itu dibawah artikal 28, saperti yang dilapadzkan oleh Yang Berhormat Dato' E. E. C. Thuraisingham dan juga Yang Berhormat Enche' Athi Nahappan.

Dato' Yang di-Pertua, dengan adanya artikal ini, akan terselamat-lah kita semua daripada sengsara dan 'azab yang kita telah tanggongi sa-lama 12 tahun daripada komunis² dan juga subversive element yang senentiasa tidak sunyi hendak mengachau negeri kita ini. Saya di-sini, Dato' Yang di-Pertua, mengambil peluang berchakap sadikit, ia-itu saya menguchapkan lagi sa-kali dengan kebenaran Dato', ribuan terima kaseh saya dan tawatho' di-atas titah ka-bawah Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong, pada masa ka-bawah Duli itu membuka Parlimen pada 19 April yang lalu itu. Ka-bawah Duli Yang Maha Mulia pada masa itu telah mengishtiharkan tamat-nya dharurat dan satu Rang Undang² titah-nya yang akan menggantikan itu-lah Undang² yang ada di-hadapan kita ini. Tetapi nampak-nya, pada masa Rang Undang² itu di-bahathkan di-dalam Dewan Ra'ayat sadikit daripada Parti Pembangkang telah melawan dan menyering dengan keras-nya di-atas Rang Undang² itu. Dan sa-orang daripada Ahli yang tersebut telah berkata dan menudoh Kerajaan dengan perkataan bahawa-sa-nya Kerajaan telah memberhentikan suatu dharurat tetapi membuat lain pula dengan mengadakan atoran dan peratoran 10 kali ganda kurang bagus-nya.

Dato' Yang di-Pertua, saya tidak fikir sa-orang pun boleh melupakan yang kita sa-lama 12 tahun telah menanggongi 'azab sengsara dan kesusahan kerana dharurat itu.

Kedua-nya, beberapa ribu nyawa yang telah terkorban kerana-nya. Dan ketiga-nya, bermillion² ringgit yang telah kita belanjakan kerana hendak mendapat keamanan dan kesenangan yang kita ada pada masa ini. Dato' Yang di-Pertua, saya sokong penoh segala perkataan yang telah di-lapadzkan oleh Yang Berhormat Timbalan Perdana Menteri tadi dan Undang² ini telah di-perbuat dengan teliti-nya dan di-selidek terlebih dahulu sa-belum Rang Undang² itu di-bawa di-Dewan

Negara ini. Saya perchaya, ia-itu sakalian mereka itu yang ta'at dan setia kepada negeri ini dan Undang²-nya, neschaya tiada-lah takut ia di-atas adanya atoran dan peratoran di-dalam Rang Undang² ini.

Enche' Abdul Hamid bin Mahmud: Tuan Yang di-Pertua, saya sukachita pada hari ini mendengar semua Ahli² berchakap ada-lah menyokong di-atas pindaan ini tetapi saya tidak tahu-lah kemudian daripada ini (*Ketawa*). Perlembagaan, ada-lah Undang² pokok bagi satu² negeri. Perlembagaan ini ada-lah barang yang hidup, barang yang boleh hingga daripada satu masa kasatu masa mengikut perkembangan politik, perkembangan hidup dalam satu² negeri. Tidak ada negeri yang mempunyai perlembagaan yang tidak ada berpinda. Dengan sebab itu, saya rasa, chadangan Kerajaan hendak meminda Perlembagaan kita pada hari ini, ada-lah satu chadangan yang biasa dan perkara ini sangat² mustahak bila kita memandang suasana keadaan negeri kita pada masa ini dan apa akan terjadi pada masa akan datang. Kerajaan yang bijak ia-lah Kerajaan yang dapat menyukat apa yang terjadi di-masa yang akan datang, 10, 20, 30 tahun akan datang, itu-lah Kerajaan yang bijak. Kerana Kerajaan yang tahu hanya apa yang terjadi hari ini di-baiki hari ini dan esok untuk esok bukan-lah Kerajaan boleh memberi kebajikan dan kebahagiaan kepada ra'ayat dalam satu² negeri.

Dalam Fasal 49, dalam Perlembagaan, memang sudah ada kuasa ia-itu kuasa untuk Kerajaan mengawal negeri ini daripada subversive. Tetapi kuasa yang ada dalam Perlembagaan yang lama itu tidak ada di-terangkan dengan detail-nya sebab itu sekarang di-tambah "A" sampai "E". Dengan tambahan "A" sampai "E" sekarang ini, ada juga sangkaan daripada gulongan² ra'ayat yang memikirkan Kerajaan ada berchita² hendak menindas gulongan yang bukan ra'ayat yang berjuang kerana hendak menegahkan democracy dalam negeri ini, fahaman ini ada-lah fahaman yang salah. Kerajaan terpaksa juga mendirikan negeri kita ini dengan aman dan damai. Satu chadangan Undang² dharurat, akan dihapuskan sedangkan orang komunis

yang bersenjata maseh lagi berperang melawan kita walau pun kita kata dia tidak begitu active pada hari ini. Sabenar-nya dia belum menyerah diri. Semua kepala² komunis maseh berada di-sempadan, dengan sebab itu, apabila undang² ini di-hapuskan nanti, boleh jadi Ketua Komunis yang ada pada hari ini akan menjadi rol ini yang dikatakan subversion ia-itu masokkan semangat dia sendiri, masokkan sa-suatu pertubohan dalam menggunakan buroh², sekolah² dan kapada kumpolan orang ramai. Komunis ada-lah satu faham yang kita semua tahu bertentangan dengan masyarakat lain ia-itu bertentangan dengan segi ugama, bertentangan dari segi ekonomi, bertentangan dari keadaan masyarakat keadaan negara kita hari ini.

Pada prinsip komunis ada-lah satu fahaman yang tidak boleh hidup semeja dengan masyarakat tanah ayer kita Malaya pada hari ini. Sa-telah 12 tahun orang² komunis telah memberontak dengan senjata dan membunuh beribu² orang, membinasakan harta bermillion dan Kerajaan telah menghabiskan wang lebeh dari satu million, kerana menentang keganasan komunis, tetapi orang² komunis itu maseh ada tidak mahu mengaku kalah; walau pun dia kalah.

Satu perkara yang akan timbol ia-itu masa'alah subversive yang menjadi tanggung-jawab ra'ayat yang besar supaya dalam masyarakat kita tidak ada semangat komunis itu meresap masok. Sa-bagaimana di-chakapkan oleh Menteri Dalam Negeri tadi perkembangan komunis boleh jadi datang dari komunis dengan sengaja kapada masyarakat kita, boleh jadi di-keluarkan oleh sa-suatu orang dengan tidak sengaja, tetapi perkara itu ada-lah perkara persetujuan dengan kehendak² komunis. Ini ada-lah chara atau jalan fahaman komunis itu berkembang. Orang² komunis bila masok sa-suatu pertubohan dia tidak mengaku diri-nya yang dia itu komunis, tetapi dia masok chara biasa, orang tidak sedar dia itu siapa. Saya suka menerangkan bahawa sa-orang wakil Malayan Communist Party, Rashid Maiden, apabila dia ditangkap di-bawa oleh Kerajaan dan di-kurong atau di-tahan di-Melaka dimana dia telah menerangkan yang dia

itu bukan komunis, dia telah meninggalkan hutan mahu masok dalam tanah menjadi orang yang baik sahingga Ketua-nya Cheng Peng yang pada masa itu perchaya yang dia itu sudah berubah, akhir-nya dia di-beri kepercayaan, jadi oleh kerana malu di-hantarkan bekerja jauh dalam hutan. Apa sebab-nya dia lari masok ka-dalam hutan sampai ka-hari ini? Ini-lah chorak yang di-jalankan meliputi supaya boleh masok mengambil peranan sahingga kepala² itu dia ber-sidang pula di-kalangan masyarakat yang tidak mengambil berat dalam perkara ini. Lagi satu perkara yang saya suka terangkan bahawa bila sa-orang komunis masok dalam Communist Party dia memikirkan ra'ayat tidak suka, tetapi dia masok sa-suatu parti komunis itu dengan menjalankan rule atau pertubohan persekutuan itu supaya ra'ayat itu perchaya.

Lepas perang dunia kedua, keadaan negeri komunis di-Bolgaria telah diadakan pilihan raya di-mana parti komunis telah tidak di-setujui oleh ra'ayat pada masa itu. Keputusan-nya Party Social Democrat telah dapat berkuasa serta membentok Kerajaan Champoran (Coalition Government). Sa-lepas dia berkuasa, dia bertukar memegang kuasa Ketua Polis, kemudian menukar Ketua Tentera, sa-lepas itu dia menjalankan ranchangan-nya berdasarkan kapada komunis dan mana² pehak yang menentang dia, dia tangkap. Akhir-nya negeri Bolgaria itu menjadi sa-buah negeri komunis sampai-lah pada hari ini. Kita tidak mahu dalam negeri kita keadaan yang saperti itu berlaku. Sa-lain daripada pindaan ini ada-lah pindaan yang semata² untuk melichinkan pentadbiran negeri kita ini. Di-antara perkara² yang di-pinda yang saya nampak mustahak ialah berkenaan dengan memperbaiki perlembagaan—perhubungan dengan Surohanjaya Pilihan Raya negeri ini. Sharat² yang di-masokkan itu ia-lah supaya orang yang menjadi Ahli Surohanjaya Pilihan Raya negeri ini tidak berasa berat sa-belah atau pun betol² neutral. Jadi, orang yang ada perhubungan, ada berkaitan—engage dengan mendapat fa'edah wang atau bertambah orang semacamah itu tidak boleh atau tidak di-benarkan dudok menjadi

Ahli Surohanjaya Pilehan Raya. Saya percaya pindaan ini pindaan yang perlu supaya sunggoh²lah ahli² atau Pegawai Surohanjaya Pilehan Raya itu menjadi di-tengah² betul dengan tidak berat sa-belah. Dalam masa yang lampau saya nampak ada satu perkara yang timbul ia-itu-lah berkenaan dengan simbol. Di-Singapura tidak dapat di-adakan simbol "Bulan Bintang", tetapi di-Malaya dapat. Perkara itu ada-lah perkara yang mengenai ugama, sebab orang² Melayu suka atau mengambil berat dalam hal ugama; walau pun "Bulan Bintang" itu bukan perkara ugama. Dengan di-adakan perkara itu boleh merusot, boleh menyalah faham di-antara orang² yang bukan atau pun bukan ahli dalam ugama. Dia tidak faham, merosakkan iman dan menghilangkan keperchayaan pada-nya.

Pada pendapat saya di-beberapa tempat yang saya tahu ada orang² kampung memikirkan bahawa Bulan Bintang itu ada-lah satu daripada perkara yang wajib. Dalam pilehan raya dia memikirkan bahawa kalau tidak percaya Bulan Bintang ada-lah salah. Ini tektik yang rosak.

Kedua, pada satu masa dahulu Pengerusi Pilehan Raya telah mengeluarkan satu statement dalam surat² khabar, kapada orang ramai menerusi radio bahawa bangsa² asing yang telah mendaftarkan diri-nya menjadi ra'ayat sa-lepas merdeka sudah banyak, sekian² ribu. Dalam tahun yang akan datang boleh jadi bangsa² lain akan menjadi sama banyak atau lebih daripada bilangan Melayu. Kenyataan ini ada-lah satu kenyataan yang menakutkan, satu kenyataan yang boleh mengugot orang² Melayu daripada dapat berbaik², atau pun bersatu padu di-antara satu kaum dalam negeri ini, pada hal dasar Kerajaan kita hendak menjadikan satu bangsa Malayan patoh di-antara semua kaum dengan tidak kira ugama, kulit, bangsa dan 'adat resam. Di-pandang dari sini saolah² Pegawai Pilehan Raya ada-lah tidak betul dalam soalan ini, oleh itu, dengan pindaan ini ada-lah menjadi satu kebaikan pada ra'ayat negeri ini.

Ada satu pindaan yang lain yang saya fikir mustahak yang saya hendak chakapkan di-sini, dengan sebab itu

pindaan perlembagaan yang di-bawa pada hari ini ada-lah sangat² menasabah dan saya percaya akan mendapat sokongan daripada kita sekalian. Saya dengar ada sa-orang di-antara pemimpin parti pembangkang mengatakan dia bersetuju pindaan subversion communist di-masokkan ka-dalam perlembagaan ini, tetapi dia tidak setuju termasuk dengan detail², membangkitkan perkauman, membangkitkan semangat ugama dengan memecah-belahkan, membangkitkan daripada kalangan perpaduan ra'ayat, di-masokkan dalam perlembagaan ini yang mana saolah² hendak menindas parti serta hendak menentang Kerajaan. Ini-lah satu perkara yang tidak logik, tidak menasabah, kerana satu perkara yang boleh mendatangkan huru-hara dalam negeri ini di-samping akan timbul bermacam² perubahan. Oleh itu, kita tidak mahu perubahan dalam satu negara demokrasi yang membuat se-chara kekerasan, jika sakira-nya mahu di-adakan satu tujuan yang baik dengan persetujuan ra'ayat seluruh-nya ada-lah satu halal. Ma'ana-nya dari segi halal dalam perlembagaan, dan saya fikir tidak patut Kerajaan akan menyekat bagi chita² sa-suatu pembangunan atau satu² gulungan ra'ayat negeri ini.

Saya harap Ahli² Dewan ini daripada semua gulungan akan memberi sokongan yang penoh terhadap pindaan ini, mudah²an hasil-nya akan kita dapat nanti. Sa-bagaimana di-Singapura parti² yang menentang pindaan perlembagaan itu yang mana dengan ada-nya perlembagaan di-Singapura keselamatan umum terjamin ia-itu Kerajaan Lim Yew Hock dahulu, tetapi bila Kerajaan lain berkuasa pula maka undang² itu terus di-pakai, di-ikut sa-bagaimana yang di-jalankan pada masa dahulu. Kita berharap Malaya pun akan begitu juga apabila parti² lain naik memerintah Kerajaan Negara ini undang² negeri ini akan berjalan saperti itu.

Sitting adjourned at 1.00 p.m.

Sitting resumed at 2.30 p.m.

(Mr. President in the Chair)

THE CONSTITUTION (AMENDMENT) BILL

Debate resumed on Question "That the Bill be now read a second time."

Question again proposed.

Enche' Da Abdul Jalil bin Haji Awang: Tuan Yang di-Pertua, saya telah mengikuti perbahathan yang berlaku di atas pindaan Perlembagaan yang di-bentangkan dalam Dewan ini. Saya percaya bahawa tidak ada orang yang bersetuju dengan kominis dan saya percaya bahawa tidak ada orang yang sukakan anasir² subversive yang membuat kachau dalam negeri kita ini. Pada saya satu perkara yang mendatangkan kebimbangan sa-telah saya mengikuti perbahathan yang berlaku tadi ia-lah nampak-nya pihak Kerajaan menganggap siapa² yang tidak menyertai-nya ada-lah musuh-nya. Maka ini ada-lah satu perkara yang sangat² membimbangkan, kerana sa-siapa yang tidak menyertai Kerajaan, erti-nya mereka itu musuh Kerajaan. Ini-lah yang menjadi kebimbangan kepada parti² politik yang lain daripada Parti Perikatan; kalau-lah Kerajaan dapat memberi pengertian yang betul dalam erti kominis atau subversive itu dengan tidak mengambil fahaman yang saya sebutkan tadi, maka soal kebimbangan itu tidak akan ada. Tuan Yang di-Pertua, kita pernah mendengar bahawa pemimpin² dari bangsa² Asia pernah di-katakan kominis oleh orang² yang berfahaman kapitalis, tetapi mereka juga di-gelar reaksioner oleh orang² yang berfahaman kominis, jadi mana-kah yang kita hendak fahamkan erti kominis itu yang sa-benar-nya; kepada kominis, orang yang tidak menyertai-nya di-katakan reaksioner, kepada kapitalis, siapa yang tidak menyertai-nya di-katakan kominis. Maka kalau kita dapat adakan satu garisan bahawa bukan-lah semua orang yang tidak bersetuju dengan satu² dasar itu kominis, tidak-lah susah usul ini di-terima Dalam ucapan Yang Berhormat Menteri Ke'adilan ada menyatakan bahawa Kerajaan mahu mengambil kuasa lebih besar dalam perkara ini untuk semantara sahaja, ini juga menjadi kebimbangan, kerana biasa di-katakan: "all power corrupts, and absolute power corrupts absolutely". Kalau-lah kebebasan demokrasi itu di-jamin, maka tidak-lah patut pindaan ini di-lakukan, biar pun di-katakan ia hanya di-tujukan kepada anasir² yang betul² jahat dalam negeri ini, tetapi kebimbangan parti² politik itu ada juga alasan-nya

dari pengalaman² yang telah di-lalui, Tuan Yang di-Pertua.

Jadi dalam menghadapi soal ini kita harus memikirkan bahawa bukan-lah semua orang yang tidak bersetuju dengan Kerajaan itu bererti kominis sa-bagaimana yang di-bayangkan oleh Yang Berhormat Menteri Dalam Negeri tadi. Sa-bagai parti yang terang² bertentangan dengan ideology kebendaan ia-itu ideology kominis, Islam ada-lah memperchayai ada-nya Tohan, ada-nya perkara² ghaib, tetapi kominis tidak percaya kepada perkara² ini; orang yang mengatakan bahawa orang yang percaya kepada Tohan itu pro-communist atau suka kepada komunis, itu ada-lah sangkaan yang sukar dapat di-terima. Dan lagi saya perlu menjelaskan di-sini, Tuan Yang di-Pertua, bahawa perkataan dalam pindaan yang di-sebutkan dalam Fasal 28 (c) di-sini menyatakan "to promote feeling of ill-will and hostility between different races or other classes of the population" saya suka juga mendapat penerangan di-sini bahawa kami Parti Islam, umpama-nya, ada-lah memperjuangkan bahawa nationality bagi negeri ini ia-lah "Melayu"; bukan berdasarkan "race" atau pun keturunan. Jadi jika kami memperjuangkan satu nationality "Melayu" maka boleh-kah perkara ini di-anggap sa-bagai satu perasaan perkauman? Perkara ini juga mendukachitakan pihak kami, dan saya rasa ini perlu mendapat penjelasan daripada pihak Kementerian yang bersangkutan dalam hal ini.

Enche' Ahmad bin Said: Tuan Yang di-Pertua dan Ahli² Yang Berhormat sakalian, Duli Yang Maha Mulia Yang di-Pertuan Agong telah mengistiharkan bahawa Undang² Dharurat akan di-tamatkan pada 31 July yang akan datang ini, maka mustahak di-adakan pula satu undang² bagi menjaga segala penyeludupan fahaman komunis yang ada dalam negeri kita ini. Dengan tidak shak lagi tujuan Kerajaan hendak mengadakan hal ini ia-lah dengan sebab memikirkan betapa bahaya-nya gerakan pengganas komunis yang telah bermaharajalela lebih 12 tahun dalam negeri kita ini, dan telah menjalankan keganasan yang hebat di-mana telah

berlaku beberapa banyak belanja, nyawa dan harta-benda ra'ayat negeri ini. Dan sungoh pun kita perchaya sekarang dengan chara kekerasan telah nampak reda, tetapi di-takuti gerakan penyeludupan di-kalangan ra'ayat akan berkembang, jadi mustahak di-ambil satu langkah bagi menchegeh gerakan ini. Dengan sebab itu-lah mustahak-nya Kerajaan mengadakan pindaan dalam Perlembagaan ini yang membolehkan Kerajaan bertindak bagi menyekat-nya. Tetapi malang-nya di-dalam Dewan Ra'ayat sa-bagaimana yang kita tahu, parti yang terdiri daripada pihak pembangkang telah mendatangkan kechaman² dan tentangan² yang hebat mengatakan Kerajaan hendak menjalankan kuku besi. Dan sa-kejap tadi Yang Berhormat sahabat kita wakil dari Trengganu telah mendzahirkan rasa kebimbangan, barangkali Kerajaan hendak menggunakan supaya hendak menindas parti atau pun orang yang tidak sa-faham dengan Kerajaan. Hal ini saya rasa tidak menjadi perkara yang susah hendak kita fikirkan, di-sebabkan chita² Kerajaan ada-lah dengan tulus ikhlas-nya dan telah terzahir dengan jelas-nya kepada kita semua yang tujuan-nya hendak menyekat supaya gerakan komunis tidak lebeh jauh menjalar dalam negeri kita; bukan-lah bertujuan hendak menindas pada pihak² yang tidak bersetuju dengan Kerajaan, apa-tah lagi pemimpin parti yang membangkang Kerajaan.

Kita tengok pengalaman yang telah sudah dan yang di-dengar daripada pemimpin yang membangkang, Kerajaan telah memberi kebebasan yang penoh kepada mereka. Dalam masa kempen, pihak PAS umpama-nya, telah menudoh Tengku Abdul Rahman Yahudi dan sa-bagai-nya, pihak kita dan juga Parti Perikatan tidak mengambil apa² langkah pun. Bahkan ada di-antara parti pembangkang ia-itu Enche' Seenivasagam, umpama-nya, telah menchuba menarek Yang Teramat Mulia Tengku ka-Mahkamah hendak di-bicarakan dengan sebab satu siaran yang di-fikirkan oleh Enche' Seenivasagam boleh di-bawa ka-Mahkamah tetapi pendirian Tengku tegas dan menyatakan bersedia menghadapi Mahkamah, ini-lah kebebasan dalam masa kita memerintah, kita

tidak bermaksud menindas parti yang membangkang kita. Kechurigaan yang di-suarakan oleh pihak saudara kita tadi sa-olah² takut kepada bayang². Parti Islam sa-Tanah Melayu yang chuba hendak menentang di-dalam Dewan Ra'ayat dan di-dalam Dewan ini, dan chuba hendak menanggohkan undang² ini sa-lama 6 bulan untuk membinchangkan-nya. Saya takut mereka itu takutkan bayang² hantu, nanti terpelok bangkai yang busok, saya ta' fikir yang mereka itu hendak memelok bangkai yang busok. Saya menyokong sa-penoh²-nya terhadap pindaan Perlembagaan yang di-bawa oleh Timbalan Perdana Menteri.

Enche' Amaluddin bin Darus: Tuan Yang di-Pertua, masa'alalah yang kita hadapi sekarang, satu masa'alalah yang besar mengenai pindaan perlembagaan, ia-itu sebagai undang² yang kekal bagi sa-buah negara yang merdeka. Saya harap dalam menerima ucapan saya dalam masa'alalah ini biar-lah dengan penoh perasaan yang dapat memikirkan sedalam²-nya atas kehendak² ucapan saya. Jika saya membangkang pindaan ini saya harap jangan timbul salah terima dan timbul salah teka pula. Kita baharu sahaja mendengar titah di-raja ia-itu mengishtiharkan tentang akuan bagi menghapuskan Undang² Dharurat di-Persekutuan Tanah Melayu. Kita semua tahu apakah Undang² Dharurat itu dan mengapa di-adakan Undang² Dharurat semenjak bertahun² ini, dan kita bergembira benar apabila undang² itu mahu di-hapuskan apabila negara kita telah terjamin dari keganasan² yang menyebabkan timbul ada-nya Undang² Dharurat. Akan tetapi, soal Undang² Dharurat yang akan di-hapuskan itu ada-lah satu masa'alalah dan soalan yang di-kaitkan dengan pindaan perlembagaan ini yang menjadi permanent law atau undang² yang kekal yang mana itu satu masa'alalah yang lain pula. Itu-lah fahaman dari saya, tetapi malang-nya saya nampak dari sini sa-sudah Kerajaan hendak memadamkan Undang² Dharurat, tetapi Kerajaan akan mengambil pula sa-bahagian daripada Undang² Dharurat itu di-pindahkan dan di-kekalkan dalam Perlembagaan Persekutuan Tanah Melayu. Saya fikir, Polis boleh mendapat kuasa saperti yang sedang

ada untuk menjalankan segala usaha mencari dan membongkar atau men-chengkam segala usaha pehak² yang chuba hendak membangun kekacauan dalam negeri ini dan memang Polis mempunyai kuasa² ini sa-kira-nya Kerajaan berpendapat bahawa kesan² kejahatan komunis itu maseh kuat dan negara maseh dalam terancham atau merbahaya, maka mengapa mesti Undang² Dharurat itu di-tarek balek? Mengapa tidak di-kekalkan sahaja Undang² Dharurat, dan ha-nya di-tempat² yang aman sahaja di-mana jika perlu di-tarek kembali sekatan² makanan dan sa-bagai-nya yang tak perlu di-adakan, tetapi masa'alah yang sabenar-nya ia-lah negara dalam bahaya yang kerana itu di-fikirkan oleh Kerajaan bahawa bila Undang² Dharurat di-hapuskan patut di-masokkan kuasa² di-dalam perlembagaan. Saya tidak setuju di-masokkan dalam perlembagaan sa-bahagian daripada Undang² Dharurat. Mungkin saya akan di-tempelak, di-tempelak hebat kapada Persatuan Islam, sebab menentang pindaan perlembagaan sedangkan usaha Persatuan Islam dalam kempen-nya, dalam manifesto-nya dalam masa pilihan raya dahulu kita telah menyebutkan dengan terang² bahawa kita tidak berapa setuju dalam beberapa perkara terhadap perlembagaan dan kita ingin benar untuk meminda Perlembagaan Persekutuan Tanah Melayu; akan tetapi apabila sampai masa ini Kerajaan Perikatan hendak meminda tetapi kita menentang. Oleh itu, saya berharap supaya sama² kita faham yang ingin di-pinda oleh Persatuan Islam sa-Tanah Melayu itu ada-lah lain, dan apa yang akan di-pinda oleh pehak Kerajaan Persekutuan Tanah Melayu hari ini yang pindaan-nya dikemukakan sekarang saperti yang telah saya katakan tadi akan mengambil sa-bahagian daripada Undang² Dharurat dan mengekalkan dalam Perlembagaan Persekutuan Tanah Melayu, dan oleh kerana Undang² Perlembagaan ini ia-lah satu pindaan yang utama kapada negara maka dari sini akan timbol-lah berbagai² keadaan masa hadapan yang mungkin apa yang di-chakapkan oleh sahabat saya Enche' Da Abdul Jalil tadi akan terjadi. Sebab apa yang akan terjadi esok? Kita tak dapat menduga

hari ini, sekali pun saya perchaya selama Kerajaan Perikatan memerintah dan selama ada Tunku Abdul Rahman yang berkuasa memimpin Kerajaan Perikatan hari ini maka saya perchaya tidak-lah akan terjadi perkara² yang di-bimbangkan, tetapi siapa-kah yang akan dapat menjamin bahawa Kerajaan sekarang ini akan kekal selama²-nya? Siapa-kah akan dapat menjamin tiap² kali pilihan raya Perikatan akan dapat memerintah dalam negeri ini dan pimpinan yang ada dalam negeri ini akan terjamin? Saya bimbang jika kemenangan sa-suatu parti yang tidak bertanggung-jawab, dan kalau pemimpin² parti itu pula tidak mengenal tanggung-jawab maka kuasa yang besar ini akan di-pergunakan untuk meleborkan, bukan sahaja PMIP, tetapi juga pemimpin² Perikatan itu bersama², maka dengan sebab itu Persatuan Islam membantah kerana perkara ini kita pandang dari kacha mata kita, juga kita pandang dari segi kebimbangan terhadap masa'alah² yang akan di-dapati di-hadapan dalam sa-buah Kerajaan yang berpandukan sa-buah perlembagaan.

Tuan Yang di-Pertua, kapada perkataan subversion atau maksud² yang menchegeh subversive communist, saya mahu menegaskan bahawa dalam Persatuan Islam sa-Tanah Melayu tidak ada membimbangkan dan tidak boleh meragukan, sebab saya ingat benar, juga semua, semua pegawai² Persatuan Islam sa-Tanah Melayu yang mana kita telah sebutkan dengan tegas ia-itu fahaman yang tak berTohan mesti berlawanan dengan ugama. Dasar yang kita, pegang dengan tegas bahawasa-nya komunis ada-lah musuh negara, dan dengan tegas komunis tidak boleh bertapak dalam negeri, communism tidak boleh di-benarkan berkembang atau mengembangkan sayap-nya ada-lah sama dengan Kerajaan dan kerana itu tentu-lah disokong oleh Persatuan Islam sa-Tanah Melayu, sebab jika PAS memerintah Tanah Melayu dengan dasar ugama yang di-perjuangkan, maka ini tidak ada perbedzaan dalam menentang komunis kerana di-antara golongan yang berTohan dengan yang tidak berTohan ada-lah tak boleh berkawan. Dengan sebab itu, saya menyokong

Kerajaan dalam usaha menghancurkan komunis habisan² dan menghancurkan faham communism habisan², tetapi dalam pengertian yang diterangkan dalam subversion golongan yang menimbulkan sa-suatu keadaan yang boleh menimbulkan keadaan yang berlain dengan dunia demokrasi seperti ada pula pindaan² dalam Clause 28. (a) " against the Yang di-Pertuan Agong or any Government." Ini menyamakan kedudukan Yang di-Pertuan Agong dengan Kerajaan, kerana Kerajaan dan Yang di-Pertuan Agong yang tidak dapat di-keritik, tidak dapat di-keritik raja ada-lah kena pada tempat-nya tetapi Kerajaan ada-lah di-pilih oleh ra'ayat mengikut keadaan masa, mengikut proses pilihan raya, mengikut proses yang dapat di-adakan 5 tahun sekali. Maka Yang di-Pertuan Agong dengan Kerajaan tidak boleh di-samakan, tetapi dengan ada-nya pindaan ini menyebabkan kebimbangan dan tidak shak lagi kebimbangan pasti ada. Ini-lah sebab-nya Persatuan Islam tidak dapat menerima pindaan perlembagaan ini, bukan keseluruhannya pula, tetapi beberapa perkara sahaja malang-nya perkara² yang tidak di-setujui itu menjadikan terpaksa di-tentang oleh Persatuan Islam Bill ini.

Kita khuatir, saya perchaya Ahli² Yang Berhormat semua faham apa yang di-khuatirkan atau di-tentang oleh PAS ia-lah beberapa perkara yang ada dalam Bill ini yang sekali pun kita menaruh baik sangka kepada Kerajaan hari ini namun kita menaruh churiga kalau undang² yang berkecualan dalam negeri ini apabila di-gunakan oleh Kerajaan² yang lain tidak di-pertanggung-jawabkan dalam keadaan ini. Saya bimbang hal ini akan terjadi bagi orang² yang berkuasa dengan membawa satu contoh sa-bagaimana yang telah terjadi di-waktu Jepon ia-itu ta'at setia kepada negara dan kepada Kerajaan Jepon sehingga terjadi pada satu masa waktu saya berada di-Kulim, Kedah, di-mana Tunku Abdul Rahman memegang jawatan District Officer (sekarang Perdana Menteri) di-Kulim, Kedah, beberapa orang² Melayu, China, dan Indian telah di-tahan, kerana beberapa

kesalahan yang kechil, tetapi kerana orang² Jepon menyangka semua komunis dan oleh kerana itu, telah di-panchong, di-tikam dan di-bunuh. Kejadian ini berlaku tak jauh dari rumah saya dan rumah Tunku Abdul Rahman. Ini-lah yang kita bimbangkan, dan yang kita khuatirkan, kalau kejadian ini semua-nya berlaku bila sa-buah Kerajaan mahu menjalankan pekerjaan itu. Oleh kerana itu, saya berharap bila saya menentang Rang Undang² ini atas segi ini, maka janganlah di-tudoh saya pro-Communist, saya berlindung kepada Allah daripada menyokong Communist dan sa-bagai-nya.

Saya berharap pehak Kerajaan dalam perkara ini tidak memandang pehak pembangkang yang menentang pindaan perlembagaan ini, dengan pandangan yang bukan² sabagaimana perbincangan di-Dewan Ra'ayat sa-hingga tudoh menudoh dan sa-hingga perkataan pun terkeluar yang non-Communist tanda pro-Communist dan sa-bagai-nya maka kechewa benar-lah kita hidup dalam negara demokrasi ini. Saya ingat sa-buah pantun Melayu yang menyebutkan, ekor-nya—ekor pantun itu (*Ketawa*) bunyi-nya, saya pendekkan sahaja

Engku Muhsein: Kepala-nya mana?

Enche' Amaluddin bin Darus: pantun itu: "Melukot di-tepi gantang, buka sanggol chari kutu, sebab takut 'akal pun hilang, segala tunggol di-sangkalan hantu." Kerajaan Perikatan akan mendapati Persatuan Islam sa-Tanah Melayu ia-itu rakan yang paling hampir sekali dalam usaha menentang komunis, tetapi kalau dalam tuduhan-nya terlalu sahingga PAS di-tudoh pro-Communist dan Communist, maka sangat-lah keterlaluan. Ini-lah saya menyampaikan pendapat saya dan sikap Persatuan Islam sa-Tanah Melayu dalam perkara ini yang kerana kita tidak dapat menerima-nya pindaan ini.

Enche' S. P. S. Nathan: Mr. President, Sir, A great deal has already been said in the Dewan Ra'ayat and it is therefore not necessary for me to go over the old ground. I would however wish to refer with special

emphasis to provisions of particular reference to workers.

I wish to emphasise, and emphasise most strongly, that the Malayan Trade Union Movement is a free, democratic and responsible movement. The movement will not be shaken in its determination to maintain its independence. It will also continue its policy of non-alignment with any political party including the party in power. The movement will co-operate with Government in the national and workers' interests. It will also retain its right to criticise the Government on any measures which may adversely affect Malayan workers. The Malayan Trade Union Movement will not be influenced by empty blandishments. It is committed to the voluntary system of industrial relations and is anxious to make its contributions to the development of full industrial democracy.

The Malayan Trade Union Movement warmly welcomes the reiteration of Government's labour and trade union policy embodied in the address from the throne when His Majesty the Yang di-Pertuan Agong opened the Parliament last April. We look forward to its energetic implementation. I wish to take this opportunity to warn employers that advantage should not be taken of the rapid pace of industrial development now taking place to exploit workers. The days of exploitation of workers are over with the disappearance of the Colonial regime. In free Persekutuan Tanah Melayu workers have a right to expect ever rising standards of living and a greater measure of social security. Workers are no longer content to live in abject poverty and obscurity. They have a right to better standards of living and must get them if industrial peace is to continue.

Malayan workers also warmly welcome the timely warning administered by the Hon'ble Minister of Labour to employers recently. Certain employers have come to regard Government's industrial development programme as an invitation to undermine trade unions. This is an unhealthy trend and must be firmly curbed. The Hon'ble

Minister of Labour listed four anti-trade union practices resorted to by certain employers.

These are:

- (a) Replacing existing labour by fresh labour on a communal basis.
- (b) Replacing direct labour with contract labour.
- (c) Refusing to recognise unions which had shown responsibility; and
- (d) Asking individual employees whether he or she belonged to a trade union or not.

I repeat the warning that if employers took advantage of the restrictive provisions of the Trade Unions Ordinance, 1959, and the current rapid pace of industrial development to undermine responsible and representative trade unions then the door would be thrown wide open to all kinds of irresponsible elements to be encouraged to take advantage of the situation and cause disruption of industry. Here is a real threat to industrial peace. Workers have no illusions; it is either good industrial relations or disruption of industry.

I would refer to two particular amendments to the constitution which have caused considerable concern to the Malayan Trades Union Congress. These refer to (a) the Public Services Commission and (b) Subversion provision.

With regard to amendment of Article 144 on the Public Services Commission, it should be explained that as a result of agitation by Staff Associations and Unions of Government Employees over a number of years the provision of a number of Service Commissions found place in the Federation of Malaya Constitution, and removed allegations of discrimination, manipulations, favouritism, and prejudices in appointments, promotions, etc. The MTUC supported the creation of a Public Services Commission as a wholly independent body free from all political or communal bias with full power for appointment, promotion and disciplinary action within the services. Objections have been raised to the proposed amendment for the delegation

of certain powers of the Commission to a Public Officer or Board of Public Officers. It is considered that any such delegation would quickly lead to the original dissatisfaction in the Public Services and deterioration in efficiency. I would strongly urge that no amendments to provisions providing for the Constitution and functions of the Public Services Commission be made without prior consultation with and agreement of the appropriate Whitley Council.

The MTUC, has also expressed considerable concern over new Article 150A on subversion. This House must regard with considerable abhorrence any attempt by Government to transfer wholesale obnoxious provisions of the Emergency Regulations to the amended Federation of Malaya Constitution. Fundamental liberties are basic and it is the sacred duty of any democratically constituted government to safeguard these rights. The government has already assumed powers for dealing with undesirable criminal elements. It would be dangerous for the Government to assume also powers of detention by the simple formality of an order by the Minister. Reference to essential services in this provision is ominous.

The provisions of the Trade Unions Ordinance, 1959, are contrary to the provisions of ILO Convention No. 87—Freedom of Association and Protection of the Right to Organise. Therefore, the Federation of Malaya has not been able to ratify this Convention. It carries a stigma in the eyes of the world.

The strike weapon is a legitimate weapon in the armoury of trade union practices and the MTUC has gone far enough to reduce the threat of strikes. There is already a long list of services gazetted as "essential services" under the Trade Disputes Ordinance No. 4/1949 as follows:

- (a) any hospital, clinic, sanatoria or other institution for the care of the sick;
- (b) any system of public conservancy or sanitation;
- (c) any railway service;
- (d) any section of a Government or industrial establishment, on

the working of which the safety of the establishment, or the workmen employed therein depends;

- (e) any postal, telegraph or telephone service;
- (f) any industry or Government undertaking which supplies power, light or water to the public;
- (g) any public health service;
- (h) any industry, government undertaking or service which the Minister of Labour if satisfied that Public emergency or public interest so requires, by notification in the *Gazette* to be a public utility service for the purpose of Ordinance No. 4/1949 (Trade Disputes) for an initial period of six months and thereafter by extension for further periods;
- (i) fire services in the Federation of Malaya;
- (j) storage, transport and supply of petroleum products;
- (k) ferry services in Penang, Johore, Selangor, Pahang, Kelantan, Trengganu and Perak;
- (l) public transport—Road passenger services.

Unions in these services must give two weeks notice of intention to go on strike and must go on strike within six weeks from date of decision to resort to strike action. A further safeguard has been agreed in the NJLAC, i.e., inclusion of a specific clause in the agreed dispute procedure to provide that, where a breakdown of negotiations occurs, neither party will call a strike or declare a lockout until the expiry of a minimum period of 14 days' notice. Since Merdeka there has been no evidence of resort to extreme measures by Unions and it would be unfortunate if government attempts to assume legislative measures which might be construed as hostile to trade unions. The MTUC urges most strongly that it should not make the Trade Union Movement as the target for its subversive measures.

Enche' Mohamed Zahir bin Haji Ismail: Tuan Yang di-Pertua, saya

merasa dukachita kerana mendengar ucapan² yang menyatakan bahawasanya Kerajaan hendak membuang Undang² Dharurat, sa-lepas daripada itu mengambil sa-bahagian daripada itu balik. Ada juga tudohan² yang menyatakan bahawa Kerajaan hendak mengawal hak kebebasan berchakap dan hak mengeluarkan fikiran dan sa-bagai-nya. Yang sa-benar-nya, Tuan Yang di-Pertua, bukan-lah begitu. Undang² di-bawah Article 149 (1) yang lama itu maseh ada lagi dan nampak-nya parti² pembangkang tidak pun membangkang undang² yang ada itu. Undang² Artical 149 (1) di-bawah Perlembagaan kita membolehkan Kerajaan menjalankan kerja² sa-bagaimana yang di-jalankan di-bawah keadaan dharurat—hanya yang berbedza yang Kerajaan hendak buat sekarang ia-lah berkenaan dengan Article 149 sub-section (2): ia-itu pada masa dahulu undang² yang telah di-keluarkan oleh Kerajaan itu, jika sa-kira-nya ta' di-mansokhkan di-dalam masa sa-tahun akan ta' berjalan kuat-kuasa-nya sa-lepas daripada sa-tahun itu.

Jadi tudohan² yang menyatakan Kerajaan hendak memansokhkan keadaan dharurat, kemudian hendak memasokkan sa-bahagian daripada Undang² Dharurat itu, tentu-lah tidak kena. Dan lagi ada tudohan² yang menyatakan: siapa² yang tidak menyertai Kerajaan, maka mereka itu-lah musuh-nya. Pada fikiran saya, jika sa-kira-nya begitu keadaan sekarang, maka tentu-lah parti² lain ta' boleh bertanding dalam Pilihan Raya yang lepas.

AHLI² YANG BERTHORMAT : Hear, hear.

Enche' Mohamed Zahir: Tetapi kita telah menjalankan kerja² dengan perasaan dan kehendak² yang di-tentukan oleh Perlembagaan negeri ini. Dan lagi ada yang menyatakan bahawasanya pindaan Section 28 (c) itu tidak-lah memberi satu perasaan yang seronok atau pun jaminan kapada parti² yang lain: ia-itu berkenaan dengan "to promote feelings of ill-will and hostility between different races or classes of the population." Ini, Tuan Yang di-Pertua, jika sa-kira-nya mana² parti di-dalam kempen-nya hendak mengeluarkan perasaan yang boleh menjadi huru-hara dan yang boleh menjadikan

orang² dalam negeri ini bermusohan², tentu-lah parti itu tidak patut di-benarkan berjalan. Kerana akan menjadi huru-hara dalam negeri kita ini. Sebab itu-lah undang² ini di-kehendaki benar² di-adakan.

Pindaan yang hendak di-buat itu hanya hendak membaiki tentang chakap²-nya sahaja ia-itu tentang Article 149 (1) itu di-ubah di-adakan regulation *a, b, c, d, e* dan hanya sharat² dalam Article 149 itu di-pinda: ia-itu dahulu-nya, jika sa-kira-nya undang² ini tidak di-batalkan dalam masa sa-tahun akan terbatal-lah dengan sendiri-nya sa-lepas daripada sa-tahun. Sekarang di-pinda sedikit ia-itu undang² ini, jika sa-kira-nya berjalan kuat-kuasa-nya, maka ia ta' terbatal, melainkan di-batalkan oleh "Act of Parliament." Itu-lah sahaja perbedzaan-nya.

Oleh yang demikian, saya hairan mendengar banyak chakap² yang menyatakan kita ini hendak menyekat hak kebebasan dan hendak mengadakan satu Kerajaan dictator dan sa-bagai-nya. Saya rasa tuduhan² ini tentu-lah tidak menepati. Dan lagi sebab-nya undang² ini di-kehendaki, bagaimana yang di-terangkan tadi, bagi pehak saya yang datang dari Kedah yang berdekatan dengan negeri sa-belah utara, di-sana ada tempat² yang di-kehendaki keadaan sa-umpama ini di-teruskan. Oleh yang demikian, patut-lah kita semua bersetuju dan menyokong penoh di-atas undang² ini.

Berkenaan dengan perkara *b, d* dan *e*:

(b) to excite disaffection against the Yang di-Pertuan Agong or any Government in the Federation; or

(d) to procure the alteration, otherwise than by lawful means, of anything by law established; or

(e) which is prejudicial to the security of Malaya or any part thereof.

Sharat² ini, Tuan Yang di-Pertua, ia-lah hukuman² ka-atas orang yang menderhaka dan saya rasa ta' patut-lah siapa² pun mengeluarkan fikiran membangkang. Dan lagi jika sa-kira-nya mereka membangkang pada tempat itu,

Tuan Yang di-Pertua, saya rasa tentulah ta' kena. Patut-nya mereka membangkang perkara ini dalam Undang² Penal Code, kerana Undang² Penal Code telah menetapkan siapa² hendak menderhaka, hendak menjatuhkan Kerajaan, hukuman-nya ada-lah sangat berat. Tetapi apabila sampai sa-takat ini manakala kita hendak menchegeh perkara jahat itu berlaku, ia-itu masa perkara itu kechil lagi, maka ada pula bangkangan² dari orang² yang mana bangkangan² itu ta' patut di-keluarkan.

Enche' Nik Hassan: Dato' Yang di-Pertua, apabila Dewan Ra'ayat meluluskan pindaan kepada Perlembagaan ini dan hari ini kita akan meluluskan pindaan Perlembagaan ini maka kita telah membukakan satu lambaran sejarah yang baharu dan kita akan menchiptakan satu lagi daripada sejarah pergerakan negeri kita sa-telah kita 2½ tahun berjalan semenjak kita ada-nya satu Perlembagaan bagi negara kita ini. Walau pun kita di-tentang, kita di-kata dan di-tudoh dengan berbagai² tuduhan tetapi perubahan masa berjalan, fahaman ini tidak boleh di-tentang dan tidak boleh di-sekat lagi. Kerana kemajuan-nya dan chorak-nya mesti di-jalankan terus walau pun di-sekat, di-tentang oleh pehak² sempit fahaman-nya.

Dalam menyokong chadangan pindaan Perlembagaan ini, saya rasa, tidak banyak saya boleh berchakap memberi penerangan dengan kerana sa-orang daripada saya telah berchakap—Lawyer yang mempelajari Undang² telah pun menguraikan satu-persatu bab² yang hendak di-pinda itu. Sunggoh pun perselisihan di-dalam satu perahu di-antara Lawyer dan Doctor yang ada di-dalam perahu Perikatan tetapi saya rasa perselisihan itu bukan-lah perselisihan ideology tetapi perselisihan kerana berlainan ilmu yang di-pelajari waktu mereka berada di-England dahulu. Jadi perselisihan faham yang sa-umpama ini, kita rasa mudah di-damaikan tetapi perselisihan fahaman politik, perselisihan fahaman ideology masing² ini-lah payah hendak di-satukan dan hendak di-baiki.

Banyak orang berkata, perkara yang paling mudah di-dalam dunia, ia-lah membangkang di-atas perkara orang

lain buat. Itu-lah perkara yang paling mudah. Siapa² hendak menchari kerja yang paling mudah, ia-lah menyatakan ta' betul kepada perkara yang orang lain buat, itu perkara sangat mudah. Jadi, hari ini, dalam Dewan ini, kita telah dengar satu daripada Ahli daripada Parti Islam Sa-Tanah Melayu berkata, dengan kerana satu, dua, tiga perkara yang dia tidak bersetuju dengan Perlembagaan ini dengan kerana itu semua pindaan Perlembagaan ini tidak boleh di-terima dengan tidak menyebutkan Bab mana, butir mana dan tidak kena sebab apa, dan mana perkataan yang lebeh baik untok di-tambahkan di-atas perkara itu. Bahkan chuma di-kata, dengan kerana tidak puas hati, kerana tidak bersetuju pada satu, dua, tiga perkara, ka-semua-nya sakali Bab yang ada di-dalam bagitu tebal pindaan Perlembagaan tidak boleh di-terima. Ini kerja yang paling mudah, kerja yang paling mudah ia-lah kita mengatakan ta' betul kepada apa perkara yang di-lakukan oleh orang lain. Dan perkerjaan yang paling mudah lagi, ia-lah kita marah kepada orang yang takut, marah kepada orang yang takut chukup mudah dan sa-hingga kalau ada sa-saorang itu hendak buat kerja, kita suroh, mudah sangat, itu kerja yang paling mudah.

Dan satu kerja yang paling mudah dalam dunia ini, ia-lah kepada perkara yang orang lain buat. Jadi kita jangan buat, kata sahaja ta' betul kalau apa yang orang buat, ini perkara yang paling mudah dalam dunia ini. Saya rasa, perkataan kominis subversion ini bukan sahaja dalam Dewan ini telah berbangkit bahkan di-dalam Dewan Ra'ayat pun di-bangkitkan. Banyak orang memikirkan dan Ahli Yang Berhormat daripada Kelantan berkata, yang di-tentang ia-lah kerana tidak di-sebutkan perkataan kominis. Tidak di-sebutkan, Undang² pindaan ini di-bentangkan dengan kerana tidak ada di-sebutkan dalam-nya itu perkataan subversive kominis.

Saya suka-lah hendak menasehatkan kepada Ahli Yang Berhormat, kominis ini bukan orang bodoh. Komunis ini orang cherdek. Saya kata cherdek kerana kita tidak tahu siapa yang kominis. Kalau kita sebut kominis subversive, ta' tahu siapa-kah yang boleh

menyatakan, Dollah kominis, siapa boleh menyatakan, Ah Chong, kominis. Sa-orang itu kominis, siapa hendak kata kawan itu kominis. Mana satu perkataan yang kita boleh ta'arifkan ma'ana-nya kominis. Ini-lah satu masa'alah, masa'alah yang kita mesti faham. Kerana itu, orang yang cherdek bukan-lah orang bodoh dan dia boleh menyeludop dalam mana² pertubohan, dalam mana² parti, dalam mana² gerakan untuk meruntuhkan gerakan itu. Ini-lah satu perkataan yang penting yang luas, yang paling susah hendak di-atorkan.

Dalam ucapan-nya yang panjang lebar serta membangkang Perlembagaan ini, sa-orang daripada Ahli Yang Berhormat Parti Islam sa-Tanah Melayu berkata Tunku Abdul Rahman itu tidak boleh kekal. Tunku Abdul Rahman, pemimpin Perikatan, yang dia sendiri ada keperchayaan tidak akan kekal menjadi Perdana Menteri dan mentadbirkan Kerajaan. Tidak siapa boleh menyatakan sa-orang itu kekal dalam dunia ini. Tidak siapa hidup nyawa akan kekal di-nyawa. Tiap² orang mesti mati tetapi apa yang kita mahu kekalkan di-negeri kita ini ia-lah fahaman politik. Fahaman yang di-bawa oleh sa-orang pemimpin, Tunku Abdul Rahman, Perdana Menteri kita telah mengadakan satu fahaman yang baik untuk menyatu-padukan ra'ayat daripada semua gulungan. Daripada semua kaum, semua ugama supaya bersatu-padu dalam satu chara yang baik dalam negeri kita ini hidup dengan aman dan ma'amor. Itu-lah fahaman politik yang di-bawa oleh Tunku, Yang di-Pertua, Perdana Menteri kita. Dan fahaman politik ini mestilah di-kekalkan sa-kira-nya kita mahu kapada satu Kerajaan yang baik.

Jadi, kalau sa-kira-nya fahaman itu di-sokong, di-satukan, di-kuatkan dan di-amalkan oleh Parti Perikatan dan kira-nya di-setujui oleh Parti Islam sa-Tanah Melayu maka terima-lah fahaman yang sa-umpama itu supaya di-jalankan dan di-kekalkan di-dalam negara ini, baharu-lah keamanan, kema'amoran dan kebahagiaan itu akan dapat di-chapai. Saya berasa terkejut apabila sa-orang daripada wakil Ahli Yang Berhormat di-sini

berkata, dia takut apabila Perlembagaan ini di-terima nanti satu parti yang tidak bertanggung-jawab akan naik memerintah negeri ini dan akan melakukan segala kekejaman di-atas ra'ayat pada Parti Islam sa-Tanah Melayu dan juga Perikatan.

Saya faham maksud perchakapannya itu ia-lah di-tujukan kapada Parti Socialist atau Parti Front Socialist atau pun Socialist Ra'ayat. Dua parti sa-lain daripada Parti Perikatan dan Parti Islam sa-Tanah Melayu. Jadi, sa-kira-nya bagini-lah ketakutan-nya terhadap kapada parti², sa-lain daripada Perikatan dan Parti Islam sa-Tanah Melayu, saya rasa, kita orang Perikatan-lah yang lebeh gentleman dan lebeh berani daripada Parti Islam sa-Tanah Melayu. Saya sanggup meletakkan satu pindaan yang mungkin di-satu masa mereka boleh menggunakan untuk menghancurkan parti kita tetapi oleh kerana memikirkan mustahak-nya bagi pimpinan negara ini, bagi menyelamatkan negeri ini, bagi memperbaiki dan menjaga ra'ayat negeri ini terselamat seluroh-nya, saya sangat menerima kaseh apa sahaja hukuman yang hendak di-lakukan oleh pehak yang kejam tidak takut sa-bagaimana orang yang berfahaman dengan fahaman yang lain daripada fahaman kominis.

Jadi, saya rasa kita tentu megah ma'ana-nya kita lebeh berani daripada orang ini yang selama ini mengagong²-kan mempuniyai satu fahaman, fahaman yang berani berkorban. Kominiis ini ada-lah satu gulungan yang cherdek pandai yang saya katakan itu, oleh kerana, gerakan kominis ini bukan sahaja gerakan dalam negeri, gerakan kominis boleh berlaku di-tiap² negeri dan sa-kira-nya kita bacha di-dalam Kertas Puteh yang di-keluarkan oleh Kerajaan dalam tahun 1959 dahulu di-mana di-keluarkan satu Kertas Puteh No. 23 tahun 1959. Saya telah bacha dalam Majlis Meshuarat Undangan Persekutuan tahun 1959 di-mana dalam Kertas Puteh ini menunjukkan bagaimana halus-nya, bagaimana chermatnya gerakan kominis ini sa-hingga mereka ini boleh mempengaruhi badan², boleh menyeludop masuk di-dalam badan² yang bergerak dengan chara haram dalam negeri ini dan boleh mempengaruhi badan² ini dengan

menghantarkan wakil-nya pergi bermeshuarat di-mana² perhimpunan komunis yang ada di-luar tanah ayer.

Saya rasa perlu saya bachakan satu daripada perkataan, huraian Kertas Puteh ini yang berbunyi:

"Gabongan Pemuda Pemudi Democratic Dunia pula telah mengumumkan sokongan penoh kepada chadangan Majlis itu hendak mengadakan Persidangan Pemuda Pemudi Afrika-Asia pada tahun 1959. Persidangan ini telah pun mengadakan peluang² bagi Gabongan Pemuda Pemudi Democratic Dunia untuk mendirikan perhubungan dengan Pertubohan² Pemuda Pemudi yang bukan Komunis di-Asia dan Afrika, dan beberapa orang penduduk Tanah Melayu telah terbabit."

..... beberapa orang penduduk Tanah Melayu telah terbabit. Ini bermakna ada pemuda tanah ayer kita ini telah di-hantar untuk berunding masuk bermeshuarat dalam satu badan perhimpunan yang di-anjorkan oleh gerakan komunis. Ini-lah chara yang halus, chara yang baik, chara yang chermat yang di-lakukan sa-hingga Menteri dalam Negeri berkata bahawa dengan tidak di-sedari, dengan tidak di-rasai mereka itu bersama² dengan komunis dalam gerakan mengembangkan fahaman komunis. Saya rasa patut-lah ahli² politik yang ada di-dalam parti² siasah yang chuba hendak menentang perkara ini agar menghalusi sedikit, berchermat sedikit dalam kerja²-nya itu.

Perlembagaan ini waktu di-susun oleh Lord Reid dahulu telah pun ditentang hebat oleh parti² yang menentang Perikatan, tetapi apabila perlembagaan ini telah di-susun menjadi satu perlembagaan yang kita ikut pada hari ini yang mana sudah dua tahun setengah keamanan dapat di-jaga, di-kawal, di-susun dengan baik dan segala perkara yang berlaku dalam negeri ini menunjukkan bahawa kita telah mempunyai satu perlembagaan yang sederhana yang dapat menyusun dan memandukan ra'ayat kepada jalan yang baik. Saya rasa tidak banyak perkara yang saya hendak berchakap dalam perkara ini, tetapi saya rasa pindaan perlembagaan ini dengan memasukkan Bab 149 dalam perlembagaan ini dengan pindaan² yang berikut itu ada-lah menjadi tanggung-jawab parti yang berkuasa ini, kerana dalam masa pilihan raya pada tahun 1959

dahulu kita telah mengadakan satu chogan supaya ra'ayat memberi kepercayaan kepada kita. Kita telah mengadakan satu asas untuk mendapatkan kemenangan, untuk mendapatkan mendet daripada ra'ayat. Tujuan kita yang besar semasa kita menghadapi pilihan raya dahulu ia-lah dengan tujuan kiranya di-beri mendet oleh ra'ayat maka kita akan mengekalkan keamanan dan kita akan mengadakan ke'adilan dalam negeri ini, kita akan menjalankan supaya negeri ini ma'amor dan baik.

Keamanan tidak akan dapat di-ator dalam sa-suatu negeri sakira-nya tidak ada undang² yang baik yang boleh mengatorkan keamanan bagi negeri ini. Banyak orang memikirkan keamanan itu boleh di-jalankan dengan chara kekerasan, dengan chara undang² dan ada orang memikirkan keamanan negeri ini boleh di-jalankan dengan chara memberi, dengan chara menggunakan ilmu psychology untuk memandukan ra'ayat supaya negeri ini aman.

Kerajaan kita pada hari ini boleh mengadakan dua perkara sekali. Perkara satu kita mengadakan perlembagaan dan undang² bagi mengawal tata tertib bagi negeri ini dan kita telah pun ada fahaman ugama yang kuat, keperchayaan ugama yang kuat dalam negeri ini. Kita tahu ideology komunis itu boleh di-hanchorkan dengan satu fahaman ideology yang lain. Dalam perlembagaan kita ini kita telah akui bahawa ugama Islam ada-lah satu ugama resmi dan ugama negara ini yang bermakna Islam telah menjadi satu ideology bagi Kerajaan ini dan Kerajaan ini ada-lah meresmikan Islam sa-bagai ugama negara-nya. Fahaman Islam dan fahaman ugama dalam negeri ini ada-lah satu perkara yang menjadikan hebat, menjadikan satu perkara yang boleh menyekat fahaman komunis itu menjalar dalam fikiran ra'ayat dan sa-lain daripada itu kita dapat, kita patut mengadakan satu undang², satu peratoran bagi menjaga tata tertib ra'ayat. Apabila kita telah dapat mengadakan keamanan, baharu-lah ke'adilan boleh di-ator. Apabila kita telah mengadakan ke'adilan, baharu-lah kema'amuran itu datang kepada ra'ayat. Kita tidak boleh ada kema'amuran sakira-nya negeri ini

kuchar-kachir. Kita boleh buat gedong sa-berapa besar, kita boleh mengadakan mesjid negara dengan sa-berapa besar sakira-nya tidak ada huru-hara dalam negeri ini, sakira-nya negeri ini tidak di-kawal keamanan-nya maka apa-kah yang kita boleh buat? Duit yang banyak beratus² million itu untuk menghapuskan gerakan komunis, maka baharu-lah kita boleh mengadakan satu Kerajaan yang baik, boleh membena negeri dan boleh mendatankan kema'amuran kepada ra'ayat.

Saya hairan-lah kira-nya dengan tujuan yang baik ini dapat juga Kerajaan ini tentang daripada pehak yang sama tujuan-nya. Saya suka hendak bachakan satu manifesto daripada Party Islam sa-Tanah Melayu di-mana dalam pilehan raya kata-nya dalam manifesto Party Islam sa-Tanah Melayu ia-lah berusaha bagi mendapat kema'amuran, keamanan dan ke'adilan. Dia akan berusaha mendapatkan kema'amuran, ke'adilan dan keamanan. Keamanan boleh di-lakukan, boleh di-atorkan sakira-nya kita ada peratoran undang² yang tertentu bagi menjaga keamanan, ke'adilan dan kema'amuran. Ini-lah dia yang saya nampak tidak ada satu sebab pun kenapa mereka menentang satu undang² yang mempunyai tujuan yang sama. Apa yang di-tujukan, apa yang di-kehendakkan-nya oleh parti yang berkenaan itu? Saya rasa tidak perlu-lah saya menerangkan lebeh lanjut daripada ini, tetapi saya suka hendak menerangkan semasa lepas daripada masa kita makan tadi, saya chuba membuka buku Dictionary dalam bilek khutub-khanah (library), kerana saya hendak menchari ma'ana-nya kepada perkataan subversion itu, yang di-kehendakki supaya di-terangkan Communist subversion, tidak memadai perkataan subversion ma'ana-nya di-fikirkan satu perkataan yang longgar. Saya tengok dalam Shorter Oxford English Dictionary yang ada di-khutub-khanah menerangkan perkataan "Subvert"—To overturn, overthrow (a condition or order of things, a principle, law, etc.). To bring about the overthrow or ruin (a person, people, or country, a dynasty, etc.). Jadi, hendak meruntuhkan, hendak mengkhianatkan satu Kerajaan dengan chara menyeludop untuk tujuan khianat.

Kalau sakira-nya undang² ini di-ator dan di-susun dengan tujuan hendak menjaga pengkhianatan itu tidak berlaku, kenapa di-tentang? Tujuan hendak menghapuskan pengkhianatan dalam sa-satu negeri bila kita menentang sa-satu tujuan hendak menghapuskan pengkhianatan berma'ana kita menyokong supaya ada pengkhianat. Ini satu perkara yang ganjil dan pelek. Pengkhianatan mesti di-hapuskan, walau pun siapa juga di-fikirkan baik, pengkhianatan itu tidak boleh di-biarkan. Sa-kira-nya kita menchuba hendak menghapuskan pengkhianatan, maka chuba kita di-tentang yang berma'ana tentangan itu datang daripada orang belom faham daripada apa yang berlaku. Apa yang di-ma'anakan kepada apa yang ada dalam undang² ini. Ini-lah sahaja, Tuan Yang di-Pertua, dan saya uchapkan terima kaseh, kerana saya telah mengambil masa yang panjang sedikit, minta ma'af dan saya telah padankan ma'ana-nya, kalau sakira-nya kita hendak mengekalkan keamanan, mengekalkan keperchayaan kita maka kekalkan keperchayaan supaya boleh menyertai fahaman politik yang boleh di-atorkan oleh Perdana Menteri kita hari ini untuk menyatu padukan ra'ayat dalam negeri ini. Perdana Menteri tidak boleh kekal memerintah, tetapi faham politik, susunan politik yang ada itu boleh di-kekalkan sakira-nya kita memberi keperchayaan kepada-nya. (*Tepok*).

Tun Abdul Razak: Mr. President, Sir, with your permission I wish to reply very shortly indeed on behalf of the Government to a number of points raised in this debate on the amendment to the Constitution. I am very grateful to many Honourable Members who spoke in support of this Bill. Indeed, many Honourable Members in this House are playing the rôle, as they should do, of elder Statesmen in supporting and advocating tolerance, racial unity, peace and happiness in this country.

I would not wish, Sir, to go into controversy as to whether or not lawyers are engaged in platitudes or not. But, I would like to assure the Honourable Dato' Dr. Sheah Toon Lok, who is not in his chair at the moment, that we are today engaged in

the debate on the Constitution of the country. Naturally, we should be battling with words and we are not mixing what he should probably know as vaccine or paraffin.

Now, a few Honourable Members have spoken on the new Article 149. Sir, clause 28 (1) (b) of the new Article 149 reads:

"to excite disaffection against the Yang di-Pertuan Agong or any Government in the Federation;"

(these words are found in the law of sedition in this country and they are not new at all) and paragraph (1) of the same Clause says:

"If an Act of Parliament recites that action has been taken or threatened by any substantial body of persons, . . ."

so these conditions must be satisfied before Parliament can pass an Act. By amending this Constitution, Mr. President, Sir, no action can be taken against any person. Parliament will have to pass a law and in the law the definitions of the words will be made. Therefore, merely by amending the Constitution today, it does not mean that we can now take anyone to court for disaffection or for promoting feelings of ill-will or hostility. A law will have to be passed and the definitions of the various words will be given.

Now, Sir, my Honourable friend, Mr. Nathan has spoken about a number of things which I think I have not found in this Bill before us today (*Laughter*). He has spoken about Article 150A which has been deleted from this Bill. So, I do not suppose I need reply to him at all.

Sir, a number of Honourable Members spoke about the definition of the word "subversion". Well, Sir, we in this country have now known what we mean by subversion. I think all of us are clear on the meaning of subversion

and I would like to assure Honourable Members that there is no need to be frightened of the use of this Constitution or law, unless they are people who support, and are in sympathy with, the Communist Party. We in this country know who are our enemies, and we know who are the people acting against the security of this country. It is only against those people that we intend to use the law which we propose to pass in Parliament in due course. As many Honourable Members say, we all believe in democracy and, if we believe sincerely in democracy, then obviously that democratic way of life is worth defending. Therefore, we must have ways and means to defend the way of life to which we are accustomed. That is why it is necessary for Government to have these powers under the Constitution, in order that we will have laws which can deal effectively against people who do not believe in our way of life, who do not believe in democracy and who only use democracy to destroy democracy.

Well, Sir, once again I am grateful to the Honourable Members for all the support they have given to this Bill and I am sure we in the Government are indeed satisfied that Honourable Members have understood the case and have given their support to this very important legislation of amendment to our Constitution. (*Applause*).

Question put, that the Bill be read a second time.

Tun Abdul Razak: On a point of order, Mr. President, Sir, I think it will be necessary for this House to have a vote on this in this House because the amendment must be passed by two-third majority.

The House Divided: Ayes: 32; Noes: Nil; Abstentions: 5.

AYES

Tun Leong Yew Koh
Dato' Wan Ibrahim bin Wan
Tanjong
Enche' Yap Khen Van
Enche' Abdul Wahab bin Idus
Dato' Lee Foong Yee
Enche' Chan Kwong-Hon
Raja Rastam Shahrome bin
Raja Said Tanphy
Wan Ahmad bin Wan Daud
Tuan Syed Bahaddin bin Syed
Noh
Enche' Ahmad bin Said
Enche' Yeoh Kian Teik

Enche' Mohamed Zahir bin
Haji Ismail
Tuan Syed Ahmad bin Syed
Mahmud Shahabudin
Enche' Abdul Hamid bin
Mahmud
Nik Hassan bin Nik Yahya
Dato' Dr. Cheah Toon Lok
Dato' Sheikh Abu Bakar bin
Yahya
Enche' Koh Kim Leng
Enche' Mohamed Salleh bin
Mohd. Ariff
Enche' Cheah Seng Khim

Enche' Hashim bin Awang
Dato' G. Shelley
Enche' A. M. Abu Bakar
Engku Muhsein bin Abdul
Kadir
Enche' T. H. Tan
Enche' S. O. K. Ubaidulla
Enche' Choo Kok Leong
Enche' J. E. S. Crawford
Enche' Lim Hee Hong
Tok Pangku Pandak Hamid
bin Puteh Jali
Dato' E. E. C. Thuraingham
Enche' Athi Nahappan

NOES

Nil

ABSTENTIONS

Tuan Haji Nik Mohamed Adeeab
bin Haji Nik Mohamed
Enche' Amaluddin bin Darus

Enche' Da Abdul Jalil bin Haji
Awang

Tuan Haji Abbas bin Haji
Mohamed
Enche' S. P. S. Nathan

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 to 35 inclusive ordered
to stand part of the Bill.*

Bill reported, without amendment.

Question. That the Bill be read a
third time and passed, put.

The House divided: Ayes: 32;
Noes: Nil; Abstentions: 5.

AYES

Tun Leong Yew Koh
Dato' Wan Ibrahim bin Wan
Tanjong
Enche' Yap Khen Van
Enche' Abdul Wahab bin Idus
Dato' Lee Foong Yee
Enche' Chan Kwong Hon
Raja Rastam Shahrome bin
Raja Said Tanphy
Wan Ahmad bin Wan Daud
Tuan Syed Bahaldin bin Syed
Noh
Enche' Ahmad bin Said
Enche' Yeoh Kian Teik

Enche' Mohamed Zahir bin
Haji Ismail
Tuan Syed Ahmad bin Syed
Mahmud Shahabudin
Dato' Sheikh Abu Bakar bin
Yahya
Enche' Koh Kim Leng
Enche' Mohamed Salleh bin
Mohd. Ariff
Enche' Cheah Seng Khim
Enche' Hashim bin Awang
Dato' G. Shelley
Enche' A. M. Abu Bakar
Engku Muhsein bin Abdul
Kadir

Enche' T. H. Tan
Enche' S. O. K. Ubaidulla
Enche' Choo Kok Leong
Enche' J. E. S. Crawford
Enche' Lim Hee Hong
Tok Pangku Pandak Hamid
bin Puteh Jali
Dato' E. E. C. Thuraisingham
Enche' Abdul Hamid bin
Mahmud
Nik Hassan bin Nik Yahya
Dato' Dr. Cheah Toon Lok
Enche' Athi Nahappan

NOES

Nil

ABSTENTIONS

Tuan Haji Nik Mohamed Adeeab
bin Haji Nik Mohamed
Enche' Amaluddin bin Darus

Enche' Da Abdul Jalil bin Haji
Awang

Tuan Haji Abbas bin Haji
Mohamed
Enche' S. P. S. Nathan

Bill accordingly read the third time
and passed.

*Adjourned at thirty minutes past
four o'clock p.m.*