

Changes won't affect

NST - 9 MAR 1993

I HAVE explained at length on Jan 18, 1993, the Government's objective in amending the Federal Constitution with regard to the immunity of the Rulers, that is, their immunity from being subjected to court action in a normal court of law for any wrongdoing.

The amendments are made because it is felt that the immunity of the Rulers from legal proceedings would no longer be in line with the spirit of the times.

With these amendments, it is believed that the public's ire towards the Rulers or the system of constitutional monarchy could be avoided because the *rakyat* would now be protected by law from injustices by the monarchs. With that, we hope the Rulers will not commit them anymore.

With these amendments, the relationship between the Rulers and the *rakyat* will be more harmonious, with both sides having well-defined rights guaranteed by law, no longer only subject to customary laws that are easily misconstrued or misinterpreted.

The *rakyat* will no longer be annoyed with the Rulers because whatever they do now would be limited to what is allowed under the law. If the *rakyat* were to commit an offence against the Rulers, the punishment would be decided by the judge in the Special Court where normal law reigns supreme.

After it was debated, the Constitution (Amendment) Bill 1993 was passed in accordance with the constitutional provisions with more than a two-thirds majority of the Dewan Rakyat and Dewan Negara. Adhering to procedure, this Bill was sent to the Yang di-Pertuan Agong for the royal assent.

After receiving it, the Yang di-Pertuan Agong, according to our Constitution, is faced with two options:

- to give his assent to the Bill within 30 days; or,
- to return the Bill to Parliament stating his reasons for not giving his assent, so that Parliament may reconsider or revise it.

Now, the Yang di-Pertuan Agong has returned the Bill

with several suggestions for change for Parliament to consider. If Parliament passes this Bill, with or without incorporating such changes as suggested, it will be returned to the Yang di-Pertuan Agong. If the Yang di-Pertuan Agong gives his assent, it will become law. And if he does not give the royal assent it will still become law after 30 days.

The changes made to the Bill in question are the result of several deliberations between the Government and the Rulers. The changes were made to render the changes more specific and to preserve the dignity of the Rulers.

The changes did not alter the main objective of the Constitution (Amendment) Bill 1993 which was passed by Parliament, which is, to ensure that the Rulers are subject to the laws of the nation. The only difference is that they can only be brought before the Special Court. The original provision in the Constitution that says that the Rulers cannot be brought before an ordinary court of law still holds.

These modifications require two new additions to the Bill. The first is with regard to the position of the Yang di-Pertuan Agong or

formed according to the Constitution of the State to carry out the duties of the affected Ruler. To allow for the functions of a Ruler to be carried out by a Regent or Council of Regency, the Eighth Schedule of the Federal Constitution will have to be amended.

The modifications, I believe, were suggested by the Rulers because it would be strange and unacceptable to the public, as well as the Rulers themselves, if a Ruler who is brought before the Special Court continues to function as a Ruler or he continues to be the Ruler even after being sentenced, or while serving the sentence handed out by the Special Court.

According to clause 4 of Article 71 of the Federal Constitution, the State Constitution must contain provisions as stated in the Eighth Schedule of the Federal Constitution. As such, in accordance with the amendments being made to the Eighth Schedule, the State Governments are also required to amend their respective State Constitutions so that their State Constitutions will be in line with the provisions under the Eighth Schedule of the Federal Constitution.

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the Ruler should he face legal action. The Yang di-Pertuan Agong should cease to carry out his function as the Agong while facing legal action. The same holds true for the Ruler of a State. If the Raja were to face legal action, he would have to stop functioning as a Ruler, and if found guilty and subject to a penalty of imprisonment for more than one day, he would have to step down from the throne unless given a pardon.

During the period when the Ruler ceases to function as the Ruler, a Regent or a Council of Regency will be

It is thus hoped that the State Governments will respect both the Rulers' decision as well as the Federal Constitution by making the required amendments.

In the event that the State Constitutions are not amended to bring them in line with the amendments that are being made to the Eighth Schedule, Article 71, clause 4 of the Federal Constitution allows the legislation of a law at the Federal level to enable the provisions under the Eighth Schedule of the Federal Constitution to be enforced in the respective States.

main objective

Constitution (Amendment) Bill 1993 in the Dewan Rakyat yesterday

With this, we hope that the amendments will be carried out by all State Governments.

Another modification is that no action can be instituted against the Rulers without the consent of the Attorney-General. This is to guarantee that the Rulers are not dragged to court by parties out to embarrass them or on unfounded reasons.

The Government supports the Constitution (Amendment) Bill, which has been agreed to by the Conference of Rulers, because it is in line with the original amendment. The amendment is for the good of the people, Rulers and Government. Not only will it bring justice to all parties concerned, but it is also congruent with the nation's administration and in line with present-day attitudes towards the system of Rulers.

The consent of the Rulers for the Constitution (Amendment) Bill is a positive move for the future of the constitutional monarchy and parliamentary democracy in the country.

The Government greatly appreciates the wisdom of the Rulers in agreeing to the modified constitutional amendments.

With the approval of the Constitution (Amendment) Bill by Parliament and with the consent of the Yang di-Pertuan Agong, we are confident that all parties concerned will once again be able to devote their atten-

tion and efforts towards the nation's development and progress.

The discussion over the amendments to the Constitution that will provide the *rakyat* legal protection from any pressures or threats from the Rulers has taken a considerable length of time. Occasionally we have heard criticisms that the attacks on the Rulers, regarding their actions, behaviour and lifestyles have been excessive.

It ought to be remembered that up till 1990, there was no one who would openly criticise or admonish the Rulers. This could have been a result of Malay custom or it could be due to fear of contravening the Sedition Act.

However, the General Election of 1990 had fuelled resentment against the Kelantan Ruler because he had actively and openly campaigned on behalf of a certain party of his uncle. The *rakyat* are unable to accept not only the covert political actions of the Ruler, but also his attempt to promote his family to higher positions — it is a form of nepotism that is both feudalistic and undemocratic.

From that point onwards, the *rakyat* began to criticise the Ruler openly. They did not feel the need to restrain themselves anymore. What the Kelantan Ruler had done opened a can of worms. Unfortunately, the stink that emanated stuck also to the other Sultans. As the Malay saying goes, *kerana*

seekor kerbau membawa lumpur, habis semua terpalit juga (if one buffalo is muddied, the whole herd gets dirty).

Because of the Kelantan Ruler, the customary regard and fear of the Malays for the law also evaporated. As such, when the Gomez incident occurred, the *rakyat* began criticising the Rulers with even less restraint. The Government, which is elected by the *rakyat* who adhere to the rule of law, cannot remain silent. It is to protect the *rakyat* that the amendments are

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being made to the Constitution through the Bill that was debated by the Dewan on Jan 18 and 19, 1993.

The Kelantan Ruler ought to realise the implication and consequences of involving himself in the party politics of his family. But it appears that he is not aware of this.

In his endeavour to reject the amendments which have been agreed to by the Rulers, the Kelantan Ruler had, among other things, alleged that the parliamenta-

ry sitting which debated the constitutional amendments on Jan 18 was invalid. He alleged that the sitting was invalid.

I am afraid that the Kelantan Ruler may have again opened another can of worms. Whenever one party makes an accusation against another, a third party can also hurl the same accusation.

If this august Assembly

These institutions, from the earliest times, did not materialise on their own, but are the result of the agreement between the people and those who were empowered to rule, the result of a social contract such as that between Demang Lebar Daun and Sang Sapurba Trimurti Tribuana.

When we became independent in 1957, the Rulers officially signed the Federa-

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has been falsely accused by the Kelantan Ruler, this House too can make the accusation, with valid reasons, that perhaps the appointment and installation of the Kelantan Ruler as the Ruler of that State was not valid. Perhaps there are others who have a greater right.

If such accusations start, perhaps they will spread and be continued, and the mud will stick to the bodies of other people.

We do not have a grudge against the Kelantan Ruler. But his antics over the issue of the amendments to the Constitution are disconcerting. Not only is the central Government not respected, but the other Rulers are not respected as well.

If, after holding an orderly meeting, the Conference of Rulers does not keep to its earlier decision, who will respect the meeting of the Conference of Rulers or the Conference or the Rulers? I do not wish to forecast the effects that would follow the loss of trust and respect to-

tion of Malaya Agreement and accepted the fundamental laws, that is, the Constitution of the nation which determined the respective position, place and role (of various people). The acceptance of these laws meant that all parties placed themselves below the rule of law. The question of Rulers being above the law does not arise.

The only provision was that Rulers may not be brought before courts that at that time were established under the Constitution. Not to be brought before the court does not mean being exempted from the provisions of this nation's laws. Indeed, not to be brought before the court is itself a law, and it is under this law that Rulers cannot be taken to court. If this is deemed to be a privilege of the Rulers, this privilege is maintained by the amendment proposed by the Conference of Rulers.

It is now proposed that a special body be set up to try Rulers who commit offences under the nation's laws. This Special Court is not meant for the people, but for the Rulers. It does not strip the privileges of the Rulers since they cannot be brought before a normal court of law, but adds to that privilege by creating a Special Court for Rulers.

For the people, what is important is that they have the protection of the law from any abuse of position by the Rulers. For the Rulers, their privileges are maintained. For the country, the concept of constitutional monarchy and parliamentary democracy attain a meaning that is more accurate and which is clearer.

For these reasons, I support the amendments that have been proposed by the Yang di-Pertuan Agong, and which have been agreed to by the Conference of Rulers, to the Bill to amend the Federal Constitution that was passed by this House on Jan 19, 1993.

□ *Lat is being held over.*