

**SPEECH BY THE DEPUTY PRIME MINISTER ON
THE SECOND READING OF THE CONSTITU-
TION (AMENDMENT) BILL AT THE DEWAN
RAKYAT ON) 15TH AUGUST, 1963**

Mr. Speaker, Sir,

I beg to move that the Constitution (Amendment) Bill be read a second time. Although this is a short Bill to amend our Constitution, the amendments proposed are important and it is necessary that these should be effected before Malaysia. Some of the amendments are minor and non-controversial, and it is hoped that the House will be able to accept them without debate. The main amendments are to Article 12 of the Constitution and to Article 50 (3), and also to repeal provisions of the Constitution which are found to be no longer necessary.

Now, Sir, Clause 2 of the Bill is to amend Article 12 of the Constitution so that not only the Federal Legislature but also the State Legislatures shall have the power to enact laws enabling the States to give financial assistance to Muslim religious institutions and for the purpose of giving instruction in the Muslim religion.

Clause 3 (1) repeals Article 50 (3). Article 50 (3) provides that a person's nomination for election to Parliament is void if his election would or might be void. Honourable Members will appreciate that this provision would result in a situation whereby an unsuccessful candidate, who obtains the next largest number of votes will be elected instead of there being a fresh election. Besides, there are also objections to the use of the words "might be void", because the meaning is not quite clear. It is, therefore, proposed to repeal Article 50 (3).

Clause 3 (2) removes a conflict between Article 118 and Section 5 of the Seventh Schedule to the Constitution. Article 118 provides that disputed elections to the Senate shall be decided by an election petition, whereas Section 5 of the Seventh Schedule provides that they shall be decided by the Senate.

Clause 4 introduces a new Clause, Clause 6A, to Article 144. The new Clause will empower the Public Services Commission to delegate minor disciplinary powers to officers of the Armed Forces, or the Police, where a member of the general public services is employed by them. This amendment is, of course, of practical value in order to assist the Public Services Commission in work connected with minor disciplinary matters.

Clause 5 replaces the present definitions of "federal purposes" and "state purposes" in Article 160 (2) with new definitions. The present definition of "federal purposes" is such that all purposes connected with a matter in the Concurrent List are federal purposes, even though the matter is one about which a State has legislated and Parliament has not. The new definition of "federal purposes" is more precise. The same applies to the new definition of "state purposes".

Clause 6 amends the Legislative Lists in the Ninth Schedule to ensure that, where Parliament or a State Legislature legislates on matters in the Concurrent List, it can also legislate on certain incidental matters such as offences and fees.

Clause 7 amends Section 2 (a) of the Tenth Schedule to clarify that in calculating State road grant the cost of, for instance, equipment provided by the Federal Government is not brought into account.

Sir, as I have explained, Clause 8 proposes to repeal a number of provisions which have already out-lived their purposes. This Clause provides for the repeal of a number of provisions in the Constitution which are now spent. These are as follows:

Article 16—

The words "except" where the application is made within one year after Merdeka Day in paragraph (d) of Article 16 can no longer have effect, as the period specified has already expired.

Article 18

Clause (4) of Article 18, presumption of good character, can now be repealed, because since 21 June, 1962, it is only applied for the determination of applications made before that date, and all such applications have now been dealt with under the Constitution (Amendment) Act, 1962, Schedule, section 1 (c) in force on the 21 June, 1962.

Article 71—

Clause (4) of Article 71 conferred powers on Parliament, if at any time after the 30th June, 1959, it appeared that the Constitution of any State did not contain the provisions set out in Part I of the Eighth Schedule. As that date has since passed, these powers can be exercised, and the words, "after the thirtieth day of June, 1959" as superfluous.

Article 109—

In Clause (2) of Article 109, the provision in paragraph (a) relating to the first financial year after the commencement of Part VII is now spent and can be deleted with the consequential deletion of the word "succeeding" in paragraph (b).

Article 131—

Clause (2) of Article 131 makes provision for appeals to the Privy Council until Parliament otherwise provides. The Parliament has now made such provision under Appeals from Supreme Court Ordinance, 1958; and consequently Article 131 (2) is spent and can be repealed together with the cross reference to it in Article 131 (1).

Article 139—

The relevant date laid down in Clause (3) of Article 139 has now passed, and the Clause can, therefore, be repealed together with the words "after the relevant date" in Clause (2). The powers conferred by Clause (2) can now be exercised without qualification as to time.

Article 159—

Clause (2) of this Article makes provision regarding amendment to the Constitution before Parliament was constituted in accordance with Part IV of the Constitution. As Parliament has now been constituted, this provision is spent and can be repealed.

Article 160—

The definition of "Legislative Council" is spent and can be repealed.

Article 161—

This Article brought the Constitution except as otherwise specifically provided into operation on Merdeka Day. It operated on Merdeka Day and has no further use. It is, therefore, repealed.

Article 162—

Clause (4) of the Article conferred certain powers on His Majesty the Yang Di Pertuan Agong within a period of two years beginning with Merdeka Day. The period having now expired, the powers can no longer be exercised, and the Clause can be repealed as spent.

Articles 163, 164 and 165—

All these three Articles contain temporary provision in respect of periods which have now ended. The Articles are consequently spent and can be repealed.

Article 166—

With the exception of Clauses (3) and (8) of the Articles which contain continuing provision, this Article operated on Merdeka Day to vest property or to reserve land, property and land, to which it relates became vested or reserved on Merdeka Day. The Article has, therefore, operated and can be repealed with the exception of Clauses (3) and (8).

Article 167—

Except for Clauses (6) and (7) which are of continuing effect, the whole of this Article operated on the transfer of rights, liabilities and obligations on Merdeka Day. It is now, therefore, spent and can be repealed.

Articles 168 and 170 to 173—

Article 168 provides for the continuance of legal proceedings pending immediately before Merdeka Day and is now spent and can be repealed.

Article 170 made temporary provisions regarding the registration of citizens during a period of one year after Merdeka Day and is therefore, consequently now spent.

Article 171 made provision for the constituencies for the first elections after Merdeka Day and is now spent. It can, therefore, be repealed but without prejudice to the operation of any law referring to the number of constituencies specified in Article 171 (2), that is State constituencies.

Article 172—With the establishment of the new Federal Courts and High Court, the continuance of the Supreme Court existing immediately before Merdeka Day will no longer be necessary, and the Article can be repealed without prejudice to the continuance of the Supreme Court up to Malaysia Day.

Third Schedule—

Section 9 of this Schedule which relates to the election of the Yang di-Pertuan Agong which took place prior to Merdeka Day is spent and can be repealed.

Seventh Schedule—

Section 1 (1) provides for the first election of Senator after the dissolution of the Legislative Council of the State and is now spent.

Sections 6 and 7 relating to the terms of office of Senators elected at the first election are also spent.

Tenth Schedule—

Sections 1 and 2 provide Capitation Grant in respect of the financial years beginning 1st January, 1959, and this is now

Eleventh Schedule—

Section 21 and section 25 of the Interpretation and General Clauses Ordinance, 1948, were applied in relation to the coming into operation of the Constitution on the 31st August, 1957, and these are also spent.

Twelfth Schedule—

This applied certain provisions of the Federation of Malaya Agreement, 1948, to the last Federal Legislative Council until that Council was dissolved. That Council was dissolved on the 27th June, 1959, and the provisions of the Schedule are therefore

Mr. Speaker, Sir, these are the provisions with which it is proposed to amend the Constitution. As I said, some of them are minor and non-controversial, and it is hoped that the House will be able to accept them without debate. Sir, I beg to second the motion.