

SPEECH BY THE DEPUTY PRIME MINISTER ON  
THE SECOND READING OF THE MALAYSIA  
BILL AT THE DEWAN RAKYAT ON  
15TH AUGUST, 1963

The purpose of this Bill is to give effect to the constitutional arrangements made for the Federation of the Colonies of North Borneo and Sarawak and the State of Singapore with the existing States of the Federation of Malaya so as to form the Federation which will be known as "Malaysia".

It will be of interest to recount briefly the events which preceded the final agreement for the establishment of Malaysia entered into by the Federation of Malaya, the United Kingdom, North Borneo, Sarawak and Singapore in London on the 8th July, 1963.

On 27th May, 1961, the Prime Minister of the Federation of Malaya, Y.T.M. Tunku Abdul Rahman at a press luncheon in Singapore first publicly introduced the subject of Malaysia. The idea caught the imagination of the public in all the territories concerned though, from the outset, it was opposed by certain interests.

Malaysia was first jointly discussed by the leaders of the Borneo territories, Singapore and the Federation of Malaya at the Commonwealth Parliamentary Association Regional Meeting held in Singapore in July, 1961. As a result of a preliminary examination, delegations from North Borneo and Sarawak took the initiative in proposing the formation of a Malaysia Solidarity Consultative Committee with the object of collecting and collating views and opinions concerning the creation of Malaysia and of initiating and encouraging discussions on Malaysia. The Committee met in Jesselton, Kuching, Kuala Lumpur and Singapore on various dates between August, 1961 and February, 1962. Taking into account the expressed wishes of the Borneo people that their

territories should have certain local safeguards, the Committee recommended the establishment of Malaysia with a strong Central Government in which should be vested full control of such matters as external affairs, defence and security. They recommended acceptance of the principle that Malaysia should have a constitutional Head of State and recommended the continuance of the present system of the appointment of His Majesty the Yang Di Pertuan Agong<sup>1</sup>. The sovereignty of the Rulers of the existing States would be guaranteed and the new States would each have its own Head of State and its own Constitution. Islam would be the official religion of Malaysia but, in accordance with the existing provisions of the Constitution of the Federation of Malaya other religions could be practised in peace and harmony in any part of Malaysia. Special safeguards were recommended for the Borneo territories in respect of immigration into those territories subject to the right of the Central Government to ensure the admission of persons whose presence in the State was necessary in order to enable the Central Government to carry out its responsibility and the right of any citizen to enter for the purpose of exercising his rights in connection with the functioning of parliamentary democracy. The Committee accepted the view that Malaysia should have a national language and that it should be the national language of the existing Federation. Various recommendations were made by the Committee in regard to representation in the Federal Parliament, elections, citizenship, finance and the special position of the indigenous peoples of the Borneo territories. I shall refer to these matters in greater detail shortly.

Whilst the deliberations of the Malaysia Solidarity Consultative Committee were proceeding, negotiations were taking place between the Governments of the Federation of Malaya and Singapore for the entry of Singapore into Malaysia and broad agreement was reached in August, 1961. A memorandum setting out the Heads of Agreement between the two Governments was published as Singapore White Paper Command No. 33 of 1961. These Heads of Agreement were subsequently endorsed in a referendum by an overwhelming majority of the people of Singapore.

<sup>1</sup> D. Y. M. M. Tuanku Syed Putra Ibni Almarhum Syed Hassan Jamallullail.

Tunku Abdul Rahman's proposals for Malaysia were welcomed by the British Government and the Prime Minister accepted an invitation by the British Government to visit London in November, 1961, for discussions with the object of reaching an understanding on the broad issues and to prepare the way for consultation with the Borneo territories regarding Malaysia. In a series of meetings in London, British and Malayan Ministers examined the proposal to create Malaysia and concluded that it was a desirable aim but decide that, before coming to any final decision it was necessary to ascertain the views of the people of the territories concerned. It was accordingly decided to set up a Commission to carry out this task and to make recommendation. A Commission, which has become known as the Cobbold Commission, was set up consisting of nominees of the two Governments, and arrived in Kuching on 19th February, 1962.

The Commission toured North Borneo and Sarawak extensively. The itinerary of the Commission was so planned that representatives from every district in each territory had an opportunity to meet the Commission which held fifty hearings at thirty-five different centres. All persons who wished to submit written memoranda were invited to do so. In response to this invitation the Commission received some 2,200 letters and memoranda. An open invitation to appear before the Commission was extended to all persons who wished to give oral evidence and full advantage was taken of this invitation and the Commission was able to meet and talk with large numbers of individuals and bodies. Over 4,000 persons appeared before the Commission as individuals or representatives of groups.

The report of the Cobbold Commission was published in June, 1962, and, in addition to certain detailed recommendations, the Commission recommended that a decision of principle about the future of the Borneo territories should be taken by the Governments as soon as possible. The Commission unanimously agreed that the formation of Malaysia was in the best interests of North Borneo and Sarawak.

The Cobbold Report was considered in detail by Malayan and British Ministers in a series of meetings in July, 1962, and, in light of the report and the agreement reached between the Governments

of the Federation of Malaya and Singapore, the British and Malayan Governments agreed in principle to the establishment of Malaysia and decided to establish an Inter-Government Committee on which the British, Malayan, North Borneo and Sarawak Governments would be represented. The task of the Commission was to work out the detailed constitutional arrangements, including the safeguards for the special interests of North Borneo and Sarawak covering such matters as religious freedom, education, representation in the Federal Parliament, the position of the indigenous races, control of immigration, citizenship and the State Constitutions. The Minister of State for Colonial Affairs, Lord Lansdowne, the Chairman of the Committee, and myself (the Deputy Prime Minister of Federation of Malaya), the Deputy Chairman, visited North Borneo and Sarawak in August, 1962, and the first meeting of the Committee was held in Jesselton on 30th August, 1962.

On 12th September, 1962, a motion was unanimously adopted by the Legislative Council, North Borneo, welcoming the decision in principle to establish Malaysia and a similar motion was adopted without dissent by the Council Negeri of Sarawak.

Meetings of the Inter-Governmental Committee and its five—sub-committees took place between September and December, 1962, and the recommendations of the Committee were published in February, 1963. These recommendations form the basis of the constitutional arrangements for Sabah and Sarawak set out in the Malaysia Bill. The report of the Inter-Governmental Committee was adopted by resolutions of the legislatures of North Borneo and Sarawak.

On the 8th July, a formal agreement for the establishment of Malaysia was entered into between the Federation of Malaya, the United Kingdom, North Borneo, Sarawak and Singapore. This agreement has been published as a White Paper and annexed to it is the Malaysia Bill substantially in the form in which it is now presented to this House.

I come now to the general provisions of the Bill.

## PART I—PRELIMINARY

This part of the Bill deals with its coming into operation and with the mechanics of the Bill.

Honourable Members will note a corrigendum to Clause 2 enabling the Bill to be brought into operation on a day subsequent to 31st August, 1963. This has been rendered necessary by the necessity of giving the Secretary General of the United Nations an opportunity to assess the views of the people of the Borneo territories in accordance with the agreement recently reached at the Manila Meeting. (This corrigendum is made after consultation with the other Governments who were parties to the Malaysia Agreement).

Clause 3 provides that certain sections of the Act are to be inserted as article of the Constitution. These are listed in order in the First Schedule to the Bill and sections which are to be inserted in the Constitution are distinguished in the text of the Act by a marginal note giving their numbers as articles.

## PART II—THE STATES OF THE FEDERATION

Clause 4 provides that the name of the Federation shall be "Malaysia" and that the State of the Federation shall be the nine States of the existing Federation individually and the States of Sabah, Sarawak and Singapore.

## PART III—GENERAL CONSTITUTIONAL ARRANGEMENTS

### TITLE I—GENERAL PROVISIONS AS TO FEDERAL AND STATE INSTITUTIONS

#### Chapter I—Preliminary

This chapter provides the necessary interpretation of constitutional terms.

## Chapter II—Heads of State

This chapter provides for the Heads of State of Sabah, Sarawak and Singapore to be members of the Conference of Rulers except for purposes connected with the Muslim religion. Honourable Members will note that the expression "Governor" is defined in Clause 5 as meaning a Head of State, by whatever title he is known, in a State not having a Ruler.

## Chapter III—Parliament, Legislative Assemblies and State Constitution.

Clause 8 provides for the number of appointed members of the Senate to be increased from 16 to 22 and Clause 9 provides that the House of Representatives shall consist of 159 elected members being—

- (a) 104 members from the States of Malaya, that is to say the States comprised in the existing Federation;
- (b) 16 members from Sabah;
- (c) 24 members from Sarawak; and
- (d) 15 members from Singapore.

Clause 10 increases the number of members of the Election Commission from 2 to 3 and provides for separate reviews of constituencies by the Election Commission under Article 113 (2) in respect of the States of Malaya, the Borneo States and the State of Singapore. The latter provision is necessary because a specified number of seats in the House of Representatives will be allocated to the States of Malaya, Sabah, Sarawak and Singapore respectively. The position of the States of the existing Federation in regard to the review of constituencies will not be disturbed.

Clause 12 provides—

- (a) in relation to a Borneo State, until the end of August, 1975, or earlier with the concurrence of the Head of State, the State Constitutions as in force on Malaysia Day will be permitted to continue in operation notwithstanding their inconsistency with the provisions of Part I of the Eighth Schedule to the Federal Constitution;

*(b)* in relation to Singapore, the provisions of Part I of the Eighth Schedule to the Federal Constitution will not be applied but the Constitution of the State as in force on Malaysia Day may not be amended in respect of any matter dealt with by those provisions unless the effect of the amendment is to bring the provisions of the State Constitution closer to those of Part I of the Eighth Schedule or the amending enactment is approved by act of the Federal Parliament.

The effect of Clause 12 (2) is to ensure, as recommended in paragraph 20 (2) of the Report of the Inter-Governmental Committee, that the question whether a provision of a State Constitution is inconsistent with the provisions of Part I of the Eighth Schedule to the Federal Constitution should ultimately be determinable by the Courts.

#### Chapter IV—The Judiciary

This chapter provides for the establishment of a Federal Court and three High Courts. The High Courts will be—

- (a)* one in the States of Malaya;
- (b)* one in North Borneo and Sarawak; and
- (c)* one in the State of Singapore.

The Federal Court, which will have its principal registry in Kuala Lumpur, will have the following jurisdiction—

- (a)* exclusive jurisdiction to determine appeals from decisions of a High Court or a judge thereof (except decisions of a High Court given by a registrar or other officer of the court and appealable under federal law to a judge of the court); and
- (b)* such original or consultative jurisdiction as is specified in Articles 128 and 130.

Honourable Members will note that the existing Articles 128 and 129 are repealed by section 3 and the First Schedule to the Bill and that the new Article 128 set out in Clause 14 of the Bill is substituted

for them. The new Article 128 confers on the Federal Court jurisdiction to determine—

- (a) whether a law is invalid because it makes provision with respect to a matter with respect to which the legislature making the law has no power to legislate; and
- (b) any disputes between States or between the Federation and  
a State.

Jurisdiction to determine constitutional questions is also conferred on the Federal Court by Clause 14 (2).

The jurisdiction other than that conferred on the Federal Court is vested in the High Courts and such inferior courts as may be provided by federal law.

Clause 15 to 22 provide for the constitution of the Federal Court and High Courts, the appointment and transfer of judges and their qualifications and various ancillary matters.

## TITLE II—CITIZENSHIP

Clauses 23 to 34 of the Bill deal with the subject of citizenship.

The provisions of the Bill do not affect the existing rules as to citizenship in relation to the States at present comprised in the Federation of Malaya, though the form of the Constitution will be altered by putting the rules relating to citizenship by operation of law into the Second Schedule to the Constitution as Parts I and II of that Schedule (Clause 23 (1) (a) and (b)). These provisions, as at present, will only be able to be amended by a two-third majority under Article 159 (3). The existing Second Schedule to the Constitution (Supplementary provisions relating to Citizenship) is amended by the inclusion of the three sections set out in Part III of the Third Schedule to the Bill and by the miscellaneous amendments set out in Part IV of that Schedule. The existing Second Schedule to the Constitution, as so amended, will become Part III of the Second Schedule to the Constitution but will remain amendable by a simple majority under Article 159 (4) (a), (Clause 24 (2) and Clause 33 (3)).

There are special provisions of a transitional nature under which persons connected with the Borneo States will become Federal citizens (Third Schedule, Part I, section 2) or will be entitled to registration as citizens (Clause 26). In general, outside Singapore, birth or residence anywhere in Malaysia will make a person a Federal citizen or qualify him for registration or naturalisation under the same conditions as at present. Equally, birth or residence in Singapore will, under corresponding conditions, make a person or qualify him to be a Federal citizen but as a citizen of Singapore. Except as regards naturalisation, the right to citizenship of Singapore will depend on provisions contained in the Federal Constitution of Singapore which correspond to those contained in the Federal Constitution in relation to Federal citizenship and these provisions of the Singapore Constitution will be amendable only with approval given by act of the Federal Parliament (Clause 23 (2)). Clause 23 also provides that every citizen of Singapore will be a Federal citizen by operation of law and that citizenship of Singapore shall not be severable from citizenship of the Federation. However, a Singapore citizen who loses his citizenship of Singapore or of the Federation loses the other also (Clause 23 (3)).

Naturalisation of Singapore citizens, as of others, will be a matter for the Federal Government (Clause 27), whose existing powers to deprive persons of citizenship will also extend to Singapore citizens (Clause 30). It will be possible, under Clause 28 and corresponding provision in the Singapore Constitution, for a Federal citizen who is not a Singapore citizen to become one, and vice versa, under conditions corresponding to those for acquisition of Federal citizenship by a foreigner.

The effect of the citizenship provisions of the Bill in relation to citizens of Singapore may be summarised as follows—

- (a) a citizen of Singapore will, by virtue of such citizenship, be a citizen of Malaysia;
- (b) birth or residence in Singapore will only count for the purpose of acquiring citizenship of Malaysia through citizenship of Singapore, but the Federal Government may treat such residence as residence in the Federation outside Singapore for the purpose of naturalisation as a citizen other than a citizen of Singapore;

- (c) the Federal Government will have exclusive authority to grant citizenship by naturalisation but, in the case of a person to be naturalised as a citizen of Singapore, only with the concurrence of the Singapore Government;
- (d) the Federal Government will have authority to register a citizen of Singapore as a citizen of Malaysia (other than by virtue of citizenship of Singapore) if he satisfies all the requirements of Article 15 or 15A for citizenship by registration of wives or minor children of citizens or of Article 19 for citizenship by naturalisation;
- (e) the Federal Government will have authority to deprive persons of Malaysian citizenship on all grounds;
- (f) after Malaysia Day a person who was a citizen of Singapore prior to Malaysia Day will be liable to be deprived of his citizenship on any ground arising before Malaysia Day upon which he could have been deprived under the law in force prior to Malaysia Day provided proceedings are commenced before or within two years after Malaysia Day;
- (g) in respect of deprivations pending on Malaysia Day the Federal Minister will delegate his functions to a State authority and, in respect of proceedings commenced on or after Malaysia Day he will be empowered to do so;
- (h) deprivation or renunciation of Malaysian citizenship of a citizen of Singapore would involve loss of Singapore citizenship;
- (i) a citizen of Singapore who is deprived of, or renounces, his citizenship of Singapore (except on acquiring citizenship of Malaysia by registration), will cease to be a citizen of Malaysia and shall not, except with the approval of the Federal Government, be eligible for registration as a citizen of Malaysia or of Singapore; and
- 0) a person who has renounced or been deprived of his Malaysian citizenship would not be eligible to be registered as a citizen of Singapore except with the approval of the Federal Government.

The difference in the position and rights of a Federal citizen according as he is or is not a Singapore citizen will depend on Clause 31 of the Bill under which clause the right to stand or vote at elections to Parliament or to a State Legislative Assembly in or out of Singapore will depend on a person being or not being a Singapore citizen. For international purposes all Federal citizens will have the same status and, except as provided in Clause 31 (Franchise) and Clause 60 (Power to limit freedom of movement), Singapore citizens will have the same civil rights under the Constitution as other citizens.

### TITLE III—LEGISLATIVE POWERS AND ADMINISTRATIVE ARRANGEMENTS

The conditions peculiar to the new States require that the legislative and executive powers conferred on them should be different from those laid down in the Ninth Schedule to the existing Constitution as applicable to the States of the existing Federation. Clause 35 and the Fourth Schedule to the Bill set out the matters in respect of which the new States are to have exclusive or concurrent legislative competence. In the case of Singapore, which for a number of years had complete internal self-government, education and labour will be on the State List and a number of commercial or industrial subjects will be on the Concurrent List. It is to be observed that, under Article 74 of the Federal Constitution which is not amended, the Federal Parliament may make laws with respect to any matter enumerated in the Concurrent List and, under Article 75, any State Law which is inconsistent with the federal law will be void to the extent of the inconsistency.

It is also provided (Clause 35 (3)) that the legislature of a Borneo State may make laws for, imposing sales taxes and any sales tax so imposed shall be deemed to be among the matters enumerated in the State List but no such State sales tax shall be discriminatory between goods of the same description according to the place in which they originate and the charge for any federal sales tax has priority over a State sales tax.

Clause 37 empowers Parliament by law to delegate legislative authority in respect of a matter enumerated in the Federal List to the legislature of a State subject to such conditions or restrictions (if any) as Parliament may impose and Clause 38 enables such legislative authority and also executive authority for a State to administer specified provisions of any federal law to be delegated by order. Any such order is required to be laid before each House of Parliament (Clause 38 (5)).

Clause 39 amends Article 150 of the Constitution to enable the special powers of legislation under the article to be exercised in the event of His Majesty the Yang Di Pertuan Agong being satisfied of the existence of a grave emergency whereby the security or economic life of the Federation or any part thereof is threatened whether by war, external aggression, internal disturbance or otherwise. A proclamation of emergency, however, will not extend the powers of Parliament with respect to any matter of Muslim law or the custom of the Malays or with respect to any matter of native law or custom in a Borneo State nor will any provision of an emergency law which is inconsistent or relating to religion, citizenship or language be valid.

Under Article 4 of the existing Constitution the power to question the validity of any law made by Parliament or the legislature of a State on the ground that it makes provision with respect to a matter with respect to which the legislature had no power to make laws, is confined to proceedings between the Federation and a State. Clause 40 amends Article 4 to enable a law to be questioned on this ground by an individual person in proceedings commenced with the leave of a judge but the Federation and any State concerned will be entitled to be a party to any such proceedings.

Clause 42 excludes the Borneo States and Singapore from Parliament's power to pass uniform laws in relation to land or local government and Clause 43 modifies Article 91 (National Land Council), Article 92 (National development plan), Article 94 (Federal powers in respect of research) and Article 95A (National Council for Local Government) in the following manner:

- (i) The National Land Council (Article 91) and the National Council for Local Government (Article 95A).

The new States will be represented in these Councils but the State government will not be required to follow the policy formulated by them until—

(a) As regards the National Land Council, in the case of Singapore, Parliament with the Concurrence of the State government so provides; and

(b) as regards the National Council for Local Government, in the case of any new State, until Parliament with the concurrence of the State Legislative Assembly so provides.

(ii) National Development Plan (Article 92)—

No area in the new States shall be proclaimed a development area under Article 92 without the concurrence of the State Government.

(iii) The agricultural and forestry officers of the Borneo States shall not be required to accept professional advice given under Article 94 (1) (under which the Federation may conduct research, give advice and technical assistance, etc., in respect of matters in the State List) but are required to consider such advice.

So long as a new State is not required to follow the policy formulated by the National Land Council or the National Council for Local Government, the representative of the State on the Council will not be entitled to vote on questions before the Council. But, where a State becomes obliged to follow the policy so formulated, its representative will become entitled to vote and, therefore, the number of Federal representatives in the council will be increased by one so as to preserve the existing balance (Clause 43 (2) and (4)).

#### TITLE IV—FINANCIAL PROVISIONS

##### Chapter 1—Borneo States

The financial arrangements between the Federation and the Borneo States are embodied in Clauses 45 and 46 and the Fifth Schedule to the Bill but are, under Clause 47, subject to review by

agreement between the Governments (or, in matters of disagreement, on the arbitration of an independent assessor). Reviews are to be made initially at the end of five years or ten years and thereafter if required by either Government at intervals of not less than five years.

## **Chapter 2—Singapore**

Under Clause 48, the financial arrangements between the Federation and Singapore will depend upon an agreement between the two Governments. This agreement is set out as Annex J to the Malaysia Agreement and includes the arrangements for a common market. Under Clause 8 of the Agreement the arrangements for the division of revenue between Singapore and the Federation will remain in operation until 31st December, 1964, and shall then be subject to review. Subsequently there will be a similar review in respect of each period of two years. In default of agreement between the two Governments any issue in dispute will be referred to an independent assessor appointed jointly by the two Governments. In default of agreement between the two Governments on the choice of an assessor the Lord President of the Federal Court, after considering the views of both Governments, will appoint an assessor from among persons recommended by the International Bank for Reconstruction and Development as being persons enjoying an international reputation in finance. The recommendations of the assessor will be binding on both Governments.

## **Chapter 3—General**

This chapter contains provisions relating to the borrowing powers of, and State audits in, the Borneo States and Singapore.

Clause 51 provides that the rules for determining the rate at which a State road grant is payable by the Federation to the States of the existing Federation shall be the same as if the Malaysia Act had not been passed.

## TITLE V—PUBLIC SERVICES

Clauses 52 and 53 provide for the re-establishment of a Federal Judicial and Legal Service Commission under the chairmanship of the Chairman of the Federal Public Services Commission. The members will be the Attorney-General and one or more other members appointed by H.M. the Yang Di Pertuan Agong, after consultation with the Lord President of the Federal Court, from among persons who are or have been Judges. The Commission will have jurisdiction over all members of the Judicial and Legal Service but this does not include Judges of the High Courts of the Federal Court.

Clause 54 provides for the establishment in the Borneo States and Singapore respectively of branches of the Judicial and Legal Service Commission. The clause will have effect until the end of August, 1968, and thereafter until the Federal Government determines to the contrary or, in relation to Singapore, until Parliament otherwise provides by an Act passed with the concurrence of the Governor.

Clause 55 establishes in the Borneo States and Singapore branches of the Federal Public Services Commission with jurisdiction in respect of members of the General Public Service of the Federation employed in a federal department in a Borneo State or in Singapore. The clause will have effect for the same period as Clause 54.

Clause 57 extends the jurisdiction of the Police Force Commission (except as regards disciplinary control) to members of the public service of a Borneo State seconded to the Police Force and authorises the Police Force Commission to exercise disciplinary control over such persons unless there is established in the State a board for this purpose consisting of:

- (a) The Chairman of the State Public Service Commission;
- (b) the State Legal Adviser;
- (c) the Senior Officer of Police in the State; and
- (d) a representative of the Officer of Police in general command of the Police Force.

Clause 58 amends Article 132 of the Constitution by substituting new Clauses (3) and (4) for the existing Clauses. The principal effects of the substitution are:

- (a) to exclude from the public service, not only Ministers or Assistant Ministers, Chief Ministers or any other member of the Executive Council of a State, but also any political officer by whatever name he may be known; and
- (b) to exclude Judges of the Federal Court or a High Court from the public service.

Clause 59 increases the maximum number of members of the Public Services Commission from eight to ten.

## TITLE VI—PROTECTION OF SPECIAL INTERESTS

### **Chapter 1—General**

Clause 60 amends Article 9 of the Constitution so as to enable Parliament by law, so long as a State is in a special position as compared with the States of the existing Federation, to impose restrictions, as between that State and other States, on the rights of movement and residence conferred by Clause 2 of Article 9. This power of Parliament is, however, subject to the limitation that no restriction on the right of movement between the State of Singapore and the States of the existing Federation shall be imposed except by a law relating to labour or education or to any matter in respect of which, because of the special position of Singapore, it appears to Parliament to be desirable to prevent the enjoyment of rights both in the State of Singapore and in the States of the existing Federation.

Clause 60 (2) enables a law passed under Clause 3 of Article 9 to be passed before Malaysia Day. The purpose of this is to enable the Immigration Act, restricting immigration into the Borneo States, to be passed before Malaysia Day in accordance with the recommendation of the Inter-Governmental Committee.

Clause 60 (4) provides that restrictions on the right to form associations conferred by Article 10 (1) (c) may be imposed by any law relating to labour or education as well as by law passed in the interest of security, public order or morality. This amendment is necessary because the State of Singapore will have legislative and executive power in relation to labour and education.

## Chapter 2—Borneo States

Clause 61 makes special provision for the use of the English language in the Borneo States. It provides that no Act of Parliament terminating or restricting the use of the English language for any of purposes mentioned in Clauses (2) to (5) of Article 152 of the Constitution shall come into operation as regards the use of the English language until ten years after Malaysia Day in any of the following cases:

- (a) the use of the English language in either House of Parliament by a member for or from Sabah or Sarawak;
- (b) the use of the English language for proceedings in the High Court in Borneo or in a subordinate court in Sabah or Sarawak, or for such proceedings in the Federal Court as are mentioned in Clause (4); and
- (c) the use of the English language in Sabah or Sarawak in the Legislative Assembly or for other official purposes (including the official purposes of the Federal Government).

It is also provided by this Clause that no such Act of Parliament as is mentioned in Clause (1) thereof shall come into operation as regards the use of English in the High Court in Borneo or for proceedings in the Federal Court on appeal from the High Court in Borneo or arising from proceedings before that Court until the Act has been approved by the legislatures of the Borneo States.

Finally it is provided in Clause 61 (5) that, notwithstanding anything in Article 152, a native language in current use in a Borneo State may be used in native courts or native law and, in the case of Sarawak until otherwise provided by enactment by the State legislature, by a member addressing the State Legislative Assembly.

Clause 62 provides that the provisions of Clauses (2) to (5) of Article 153, so far as they relate to the reservation of positions in the public service, shall apply in relation to natives of the Borneo States as they apply in relation to Malays. It also provides that in a Borneo State Article 153 shall have effect with the substitution of references to natives of the State for references to Malays and that no reservation of a fixed proportion of scholarships or other educational privileges shall be reserved for natives.

Clause 62 (5) authorises a State law in a Borneo State to make provision for the reservation of land for natives of the State or for alienation to them, or for giving them preferential treatment as regards the alienation of land by the State.

Under Clause 64 no Act of Parliament providing special financial aid for the establishment or maintenance of Muslim institutions or the instruction in the Muslim religion of persons professing that religion shall apply to a Borneo State without the consent of the Head of that State.

Under Clause 64 (2) where a Federal law provides aid for the establishment or maintenance of Muslim institutions or instruction in the Muslim religion by way of grant out of public funds in States other than Sabah and Sarawak, there shall be paid by the Federation to the Government of Sabah or Sarawak and applied for social welfare purposes in the State amounts which bear to the revenue derived by the Federation from the State in the year the same proportion as the grant bears to the revenue derived by the Federation from other States in that year.

Clause 65 authorises the inclusion in the Constitutions of Sabah and Sarawak of provision that an enactment of the State legislature under Article 11 (4) controlling or restructuring the propagation of any religious doctrine or belief among persons professing the Muslim religion shall not be passed except by a specified majority not exceeding 2/3rds of the total number of members of the State Legislative Assembly.

Clause 66 lays down constitutional safeguards in respect of the Borneo States. Clause 66 (1) provides that no amendment of the Federal Constitution modifying its application to a Borneo State shall be made by a simple majority of the Federal Parliament under Article 159 (4) (*bb*) unless the modification is such as to equate or assimilate the position of that State under the Constitution to the position of the States of the existing Federation. Furthermore, no amendment to the Federal Constitution shall be made without the concurrence of the Head of a Borneo State if the amendment relates to any of the following matters:

- (*a*) citizenship;
- (*b*) the constitution and jurisdiction of the High Court of the State;
- (*c*) the distribution of legislative and executive functions and the financial arrangements related thereto;
- (*d*) religion, language and the special position of natives of the State; and
- (*e*) the quota of members of the House of Representatives allocated to the State in proportion to the total allocated to other States on Malaysia Day.

Clause 66 (4) extends this protection to any rights and powers conferred by Federal law on the Government of a Borneo State as regards immigration into the State.

### Chapter 3—Singapore

Under Clause 67, until otherwise provided by enactment of the Singapore Legislative Assembly, the English, Mandarin and Tamil languages may be used in the Legislative Assembly and the English language may be used for the texts of all bills and enactments of that legislature.

Clause 68 provides that nothing in the Federal Constitution shall prohibit or invalidate any provision of State law in Singapore for the advancement of Malays but there shall be no reservation for

Malays of positions in the public service to be filled by recruitment in Singapore, or of permits or licences for the operation of any trade or business in Singapore.

Clause 69 lays down constitutional safeguards for Singapore by providing that no amendment shall be made to the Federal Constitution without the concurrence of the Governor of Singapore if the amendment affects the operation of the Constitution in relation to Singapore as regards any of the matters specified.

## TITLE VII—SUPPLEMENTARY

This part of the Bill contains minor and consequential and transitional provisions and repeals.

## PART IV—TRANSITIONAL AND TEMPORARY

### Chapter I—General

This chapter contains provisions for the continuation and modification of present laws, succession to property, rights, liabilities and obligations, the continuation of criminal and civil proceedings and succession on future transfers of responsibilities.

Clause 79 makes provision for the vesting of defence lands in Singapore and Clause 80 makes temporary financial provisions for Sabah and Sarawak in respect of the period up to 31st December, 1963.

### Chapter 2—State Officers

This chapter contains the customary provisions for the preservation and protection of pensions of serving officers.

Clause 85 provides for the transfer to the Police Force of the Federation of all persons who immediately before Malaysia Day were members of the Police Force in Singapore. Such a person:

- (a) shall be employed on terms and conditions not less favourable than those applicable to him immediately before Malaysia Day;

(b) unless and until he elects to the country,—

(i) shall not be liable to be transferred without his consent to a post outside Singapore; but

(ii) shall not be eligible for promotion to such a post.

### Chapter 3—The Courts and the Judiciary

This chapter contains transitional and temporary provisions relating to the courts and judges.

### Chapter 4—Parliament and Legislative Assemblies

Clause 93 provides for the first elections and appointments of senators from the Borneo States and Singapore.

Clause 94 provides for the election of the members of the Federal House of Representatives and the State Legislative Assemblies in the Borneo States.

There will be a period of indirect elections which shall be, for elections to the House of Representatives the period up to the first dissolution of Parliament occurring after the end of August, 1968, and for elections to the Legislative Assembly, the first dissolution of that Assembly so occurring. However, H. M. the Yang Di Pertuan Agong with the concurrence of the Head of a Borneo State may by order reduce the period of indirect elections.

During the period of indirect elections the members of the House of Representatives from the State shall be elected by the State Legislative Assembly in accordance with such procedure as may be prescribed by order of the Head of State made with the concurrence of H. M. the Yang Di Pertuan Agong. Such order may either require elections to be made from among members of the Assembly or permit others to be elected. During the period of indirect elections in a State elected members of the State Legislative Assembly shall be elected as may be provided by Federal or State law.

Clause 95 makes provision for the election in Singapore of members of the Federal House of Representatives and the State Legislative Assembly.

*a)* ELECTIONS TO THE FEDERAL HOUSE OF  
REPRESENTATIVES

Until the second general election after Malaysia Day, elections in Singapore to the House of Representatives will be conducted in accordance with State law passed with the concurrence of H.M. the Yang Di Pertuan Agong. However, after the first elections, these elections will also be subject to Federal law (Clause 95 (1)). As Federal law prevails over State law in accordance with Article 75, the subject of elections in Singapore to the House of Representatives will, after the first elections, in effect be concurrent.

For the purposes of the first elections in Singapore to the House of Representatives, the electoral rolls in force immediately prior to Malaysia Day may be used and consequently, in respect of these elections only, Article 119 (Qualifications of Electors) and 30A (Franchise of Singapore and other Citizens) will not apply (Clause 95 (2)).

*(b)* ELECTION TO SINGAPORE LEGISLATIVE  
ASSEMBLY

The subject of elections to the Singapore Legislative Assembly will be concurrent for five years after Malaysia Day and thereafter until Parliament with the concurrence of the State Government provides otherwise (Clause 95 (3) and (4) and the Fourth Schedule to the Bill Part II—List III *(b)*—Item 20).

Until the first revision of the electoral rolls after Malaysia Day, Article 119 and Article 30A will not apply in respect of elections to the Singapore Legislative Assembly (Clause 95 (5)).

Clause 96 provides for the delimitation of constituencies in the Borneo States for the first direct elections and for the first elections in Singapore to the House of Representatives to which (Clause 95 (1)) does not apply, i.e. the second general election held after Malaysia Day and subsequent elections.

The constituencies will be delimited by order of H.M. the Yang Di Pertuan Agong giving effect, with or without modifications, to the recommendations of the Federal Election Commission (Clause 96 (1) and (6)). The report of the Election Commission and the draft order are required to be (Clause 96 (5) and (9)).

In making its recommendations, the Election Commission is required to take into account the principles' set out in Section 2 of the Thirteenth Schedule to the Constitution (Clause 96 (2) (a)).

#### First Schedule

This schedule indicates which sections of the Act are to be inserted as articles of the Constitution and the manner in which they are to be inserted.

#### Second Schedule

The Schedule provides for the application to Sabah, Sarawak and Singapore of Part I of the Eighth Schedule to the Constitution (final provisions) in the same manner as it applies to the States of Penang and Malacca, except for the modification enabling the Speaker to be a person who is not a member of the State Legislative Assembly provided that he is qualified to a member.

#### Third Schedule

This Schedule contains the provisions regarding citizenship related to Title II (Clause 23 to 34) of the Bill.

#### Fourth Schedule

This Schedule contains the special legislative lists for the Borneo States and Singapore.

#### Fifth Schedule

This Schedule, which is related to Title IV—Chapter 1 (Clauses 45 to 47) (Financial provisions in respect of the Borneo States), specifies the special grants to the Borneo States and the additional sources of revenue assigned to them.

#### Sixth Schedule

This Schedule contains minor and consequential amendments to the Constitution.

Sir, I beg to move.