

SPEECH BY THE HON'BLE MINISTER OF EDUCATION IN
MOVING A BILL ON "UNIVERSITIES AND UNIVERSITY
COLLEGES"

AT THE DEWAN RA'AYAT ON 17.3.71

Mr. Speaker, Sir,

I beg to move that a Bill intituled "An Act to provide for the establishment, maintenance and administration of Universities and University Colleges and for other matters connected therewith" be read a second time.

2. This Bill contains the provisions of the Emergency (Essential Powers) Ordinance No. 74 of 1971 promulgated by the Yang di-Pertuan Agong on 10th February this year. This Bill also contains certain other new provisions which I shall touch briefly in the course of my speech.

Leave Out. 3. Immediately after the proclamation of Ordinance No. 74, those concerned, especially the Council of University Malaya and student bodies of the University of Malaya expressed their objections over certain provisions of the Ordinance. Their objections were considered by the Government. Some of the objections have been accepted and accordingly amendments have been included in this Bill but some cannot be accepted by the Government.

4. The views of the Government towards universities are as follows:-

Universities anywhere in the world do not exist in a vacuum. Our universities in particular certainly do not. While I am in agreement with the concept of academic freedom, it is necessary, however, to remember always that like other freedoms, it is not absolute. It is subject to qualifications imposed by national, financial and other practical considerations. In order to maintain its academic standards and thus ensure its repute in the international academic world, a university will require vast amounts of public funds and in that process it will have to bear constantly in mind the national aspirations and needs as interpreted by the Government. In this regard it is important to remember that even universities not dependent on public funds have to bear in mind and to some extent conform to the wishes of their private benefactors.

5. It is necessary, Mr. Speaker, Sir, to understand the background leading to this Bill. In 1968, the Government appointed a Committee headed by the Hon'ble Tan Sri Justice M. Suffian to draft the Constitution of the University of Penang which would include such transitional provisions as might be deemed necessary to bring the University into being. Another Committee with the same Chairman and with virtually the same membership sat to consider and prepare a draft Constitution of the Universiti Kebangsaan. The two Committees completed their task in 1969 and 1970 respectively.

6. The two Reports have been studied in detail by the Government and the Constitution which was recommended for the University Kebangsaan formed the basis for the Schedule to this Bill, as a model constitution. X①

7. The object of the Act is to provide for the establishment, maintenance and administration of Universities and University Colleges and for other matters connected therewith. With this Act, it will not be necessary to have an Act of Parliament every time a University or University College is to be set up in future. The Yang di-Pertuan Agong needs only establish it by an Incorporation Order pursuant to sections 6 and 7 (in respect of University) and section 22 (in respect of University College) of the Act. The Act also provides for a uniform procedure for the establishment of a University and a University College respectively.

8. The object of the Schedule to the Act is to ensure a maximum possible degree of uniformity in the Constitutions of all Universities.

9. Mr. Speaker, Sir, I do not propose to explain in detail the provisions of the Act and the Schedule section by section, but merely to highlight certain important provisions. First and foremost, section 3 of the Act gives the Minister of Education the responsibility for the general direction of higher education and for the administration of the Act. For this purpose, section 4 empowers the Minister of Education to appoint any person or body to investigate into any of the activities or the administration of any higher educational institution and to report to him the result of such as an investigation. These provisions are necessary if the Minister of Education is to effectively determine the general direction of higher education in this country.

10. Section 8 of the Act is intended to safeguard the Constitution of the present and future Universities from major deviation, thereby ensuring a maximum degree of uniformity. However, section 26, which is a new provision, enables the Yang di-Pertuan Agong to exempt, vary or add to the Constitution so as to render some degree of flexibility, where necessary.

11. Section 23 of the Act makes it an offence for any person to establish, form, promote or do anything or carry on any activities for the purpose of establishing or forming or promoting the establishment or promotion of a University or University College except in accordance with the provisions of the Act. The Act also prescribes that no higher educational institution or person shall issue to or confer on any person any degree or diploma purporting to be a degree or diploma issued or conferred by a University or University College unless it is made in accordance with the provisions of the Act, as per section 24 (2).

12. Section 15(1) and 22 of the Act and section 50 of the Schedule absolutely prohibit students of a higher educational institution as a group or body from having any affiliation with any political party or a trade union body or other organisation registered or incorporated under any written law relating to the registration of societies and trade unions. I would like to clarify this important provision in case it might be misunderstood by certain quarters. The provision does not prohibit a student body from having any affiliation with another student body established under the constitution of another University or University College or under the Education Act, 1961. But the provision prohibits affiliation with another student body registered and incorporated under the law relating to registration of societies. However, the proviso to section 50 of the Schedule, which is another new provision, gives discretionary power upon the University Council and the Minister of Education to approve affiliation with another student body registered under any law relation to the registration of societies, and affiliation with any international student body respectively. X (3)

13. Further, section 15 (1) and 22 of the Act prohibit the student as a group or body from doing anything which can be construed as expressing support, sympathy or opposition to any political party or trade union established and registered under the law relating to the registration of societies or trade unions or to any unlawful group or body of individuals. ⁽⁴⁾ The word "anything" covers a very wide range of activities or actions. The question of what act amounts to expressing support, sympathy or opposition to a political party or trade union shall always be a question of fact and only a court of law is competent to decide whether or not a particular act can reasonably be construed to amount to a guilt under section 15 (1) which will merit the punishment provided for in section 15 (3) of the Act. However, I wish to state categorically here that it is not the intention of the Government by the Act to impose restrictions on Universities in their pursuit of normal academic activities, such as research, enquiry and objective analysis into such matters. ⁽⁵⁾

⁽⁶⁾ 14. The law does not prevent students in their individual capacity from taking an active part in political or trade union activities, but section 15 (2) prohibits them from becoming office bearers in such organisations. The reason for this is that as an office bearer, the student will be entitled to express the voice of the party or union with authority which may sometimes be in conflict with, in particular, his interest in the student body and, in general, with the principal objective of the University as an educational institution. The provisions of section 15 (1) of the Act and section 50 of its Schedule are necessary because a Students' Representative Council or a student body established under sections 48 and 49 respectively is not required to be registered under the Societies Act No. 13 of 1966. Instead, the Constitution of SRC and the student body will have to be approved by the University Council and will be effective only upon such approval. If the students choose to take part in the activities of a political party or trade union, in their individual capacity, they will be equally subject to the laws of the country which are applicable to other politicians and trade unionists. ⁽⁷⁾

15. Section 48 of the Schedule provides for the establishment of Students' Representative Council consisting of all the students of a University and section 49 provides for the establishment of other student bodies catering for special interests. It is to be pointed out here that unless an order under section 26 of the Act is made by the Yang di-Pertuan Agong, the Council established under section 48 must be styled as Students' Representative Council (SRC) or Majlis Perwakilan Pelajar (MPP) and that the Constitution of the SRC shall contain all the matters set out in subsections (4) to (12) of section 48 of the Schedule. The SRC must have a President, a Vice-President, a Secretary and a Treasurer, who shall be its office bearers as per section 48 (4). Section 16 of the Act and section 51 of its Schedule provide that the power of control of SRC lies with the University Council. It is desirable that the objects and functions of the SRC should be clearly defined as in subsection (8) of section 48. Briefly, the view of the Government is that a University is an educational institution and such privileges as students enjoy, in contrast to the rest of the Community, should be related to the main purpose of a University. This explains why it is expressly provided in subsection (10) that the SRC or any of its office bearers shall not apply the fund of the SRC directly or indirectly for the promotion of the objects of a political party or a trade union body or for the promotion of the objects of any organisation to which it is not affiliated. In order to safeguard the fund, subsection (11) of section 48 requires that its accounts shall be audited by independent persons appointed by the University Council and paid for by the SRC.

L.O. 16. Tuan Yang Di-Pertua, as I have said, since the enactment of Ordinance No. 74, there have been representations, objections and criticisms made by students organisations and university authorities, particularly those in the University of Malaya.

The Government has considered all these representations, objections and criticisms very carefully. The Government has accepted some of them and has accordingly made provisions in the Bill, while others are not acceptable to the Government.

L.O. 17. Suggestions that the following provisions in the Bill be deleted cannot be accepted by the Government:

(a) Prohibition of students' activities in Clause 15 and section 50 of the Schedule.

(i) Prohibiting any student body in a university from affiliating etc., with any political party or trade union etc.

(ii) Prohibiting a student in a university from becoming an office bearer in a political party or trade union.

All these, however, do NOT prevent students in their individual capacity from having or expounding their personal political views.

(b) The objects and functions of a student body other than those specified in section 48 (8) of the Schedule.

L.O. 18. As regards affiliation with another student body in the country or with any international student body, a proviso has been put in section 50 of the Schedule, which is not in Ordinance 74, to make such affiliation possible.

In this connection, amendments will be moved, of which notice has already been given, to delete the words.

(i) "or any other organisation" in proviso (a) to section 50 of the Schedule, and

(ii) "or with any other international organisation" in proviso (b).

In order to conform with the objects and functions of a student body specified in section 50 of the schedule, the proviso to section 48 (10) has been amended accordingly.

L.O. 19. The Government is aware of the concern of the University of Malaya Council regarding certain provisions in the schedule. The Government is also aware that the University of Malaya has been in existence for some years and is quite well established, and that being so, it has certain well established practices and traditions.

It may be that certain provisions in the schedule, which is a model constitution for a university, are impracticable as far as the University of Malaya and the student body or bodies therein are concerned. To meet this, clause 26 in the Bill has been added. This provision is not in Ordinance 74.

This clause (26) empowers the Yang Di-Pertuan Agong to exempt, vary or add to any of the provisions of the SCHEDULE. The University of Malaya Students Union concern regarding the provision in Section 48 (4) of the Schedule pertaining to the composition of a student body's committee and also to retention of its present name can be met by this clause (26).

Any application by a university for exemption etc., under this clause will be given due consideration. The Government has the interest and welfare of a university as much as the university authorities.

- L.O.
20. (a) A university established under this Bill will be an autonomous body and apart from the Government. It will be a body corporate with perpetual succession and with specific powers - see clause 7.
- (b) No Minister will be a member as a Minister of any of its authorities. There are, however, provisions enabling Government to appoint some persons to serve on the Court and Council. We regard it as important to the viability of the University that the Government should in this way be associated with it. No doubt the University will want academic staff, buildings and equipment of the highest quality so as to establish and maintain high academic standards ensuring its reputation not only in Malaysia but also in the international academic world.

To do this it will require huge amounts of public funds and, to ensure that they will be forthcoming, it is in the University's interests that Government representatives should sit on some of its authorities but not on the Senate.

- (c) The concept of academic freedom has two aspects - personal and institutional. It involves the relationships of the individual teacher to his colleagues, his pupils and his institutions. It involves the relations of academic institutions to society and the institutions of Government.
- (d) For the individual teacher academic freedom means the absence of discriminatory treatment on grounds of race, sex, religion and politics; and the right to teach according to his own conception of fact and truth, rather than according to any pre-determined orthodoxy. It involves, further, freedom to publish and, subject to the proper performance of allotted duties, freedom to pursue what personal studies or researches are congenial. Such freedom may be permitted in Western countries where a sophisticated public does not get excited over racial or religious issues.

In the Government's view Malaysia has not yet developed sufficient sophistication to permit total freedom in this respect and in the interests of the public as a whole it is necessary that the individual teacher should conform to the law that has been laid down by Parliament to play down racial and religious animosities.

- (e) The freedom of the individual teacher is also limited through his position as a member of a department and of an institution, and in his relations with his colleagues. The concept of proper academic freedom does not include the right to refuse to perform a due share of necessary duties or to accept an assigned place in work demanding co-operation, but it clearly includes the right to some participation in the formation of common policy. Although the realization of freedom in this connection may bring considerable difficulties in detail, there is no great difficulty in the general principle. I hope that the authorities of the University will generate the necessary atmosphere to win the enthusiastic co-operation of all its staff.
- (f) As regards the relations of the University to society and the institutions of Government, the following question arises: when an autonomous institution is mainly dependent for its income not on the fees of pupils, nor on private endowments, but on subventions from the State, how far should it have independent powers of initiative and final decision? Such a position of material dependence is in fact today the position of the University of Malaya and the other universities. So far in the history of this country the activities of the University of Malaya have been remarkably immune from interference or control by the Government. Even though the growing financial needs of that University have increasingly made the Government the provider both of recurrent and of capital grants, exceptional care has been taken by Government to see that these subventions are made in a way that involves the minimum of interference with the policy of the University. The same care will be taken in regard to the other universities. It must, however, be said that in the determination of the aggregate amount to be spent from public funds, the Government necessarily has the last word and a wise university that wishes to start a new course or in any way venture into new fields will naturally want to take into account the Government's responsibility for national development and for a fair and equitable distribution of the country's wealth among all sections of the community. Subject to this, the Government believe that academic freedom is a necessary condition of the highest efficiency and the proper progress of academic institutions, and that encroachments upon their liberty, in the supposed interest of greater efficiency, would in fact diminish their efficiency and stultify their development.

Mr. Speaker, Sir, I beg to move.



No Siri	610
No Penerimaan	3/84