

SPEECH BY THE DEPUTY PRIME MINISTER
ON THE SECOND READING OF THE IMMI-
GRATION BILL AT THE DEWAN RAKYAT ON
21ST AUGUST, 1963

Mr. Speaker, Sir,

I beg to move that the Bill intituled "An Act to extend and adapt the Immigration Ordinance, 1959, for Malaysia, and to make additional provision with respect to entry to the States of Sabah and Sarawak", be read a second time.

As Honourable Members are aware, since the day that this idea of Malaysia was conceived, the representatives of the Borneo States had made it clear that although they accepted the concept of Malaysia in principle, they consider it essential that in view of the small size of their population and the undeveloped nature of their territories, they should be protected against unrestricted movement of people into their territories.

They made their position clear in the Malaysia Solidarity Consultative Committee, 1961, and that Committee explained and discussed this question at length. That Committee came to the conclusion that, while recognising the need for these territories to achieve rapid progress and development which made it necessary to attract labour and technicians from outside, they considered that the territories themselves should be in a position to determine the rate and the scope of their development, taking into account the population problems which such development might create as well as the desirability of keeping in step with the general trend of development of Malaysia as a whole. The people of Borneo territories were anxious and nervous that by federating with the more advanced States in the present federation of Malaya and Singapore, their future position in their own States should not in anyway be prejudiced. The Prime Minister, at one of the meetings of the Solidarity Consultative Committee, gave an assurance that there would be no

unimpeded migration into the Borneo territories and that when Malaysia is established constitutional provisions whereby control of such movement would be effected, would be devised by constitutional experts. This assurance was very much welcomed in the Borneo territories and went a long way to calm their fears and anxieties.

When the Cobbold Commission went to ascertain the views of the Borneo territories on Malaysia, they also considered this matter very carefully. Representations were made by all sections of the Community in the Borneo territories to the Cobbold Commission that they would not agree, under any circumstances, to all unrestricted migration to their territories. Therefore, the Cobbold Commission in paragraph 140 (g) of its Report unanimously recommended that control over immigration into any part of Malaysia from outside should rest with the Central Government, subject to the proviso that such entry into Sabah and Sarawak should also require the approval of the State Government concerned, but that the Federal Government should guarantee unrestricted entry for purposes of employment of persons recruited by the State Government, except on grounds of security. In relation to the question of entry from any other Malaysian territory into Sabah and Sarawak, the Commission recommended that this should be subject to the control of the State concerned provided that the free movement of persons in the service of the Central Government was guaranteed.

When the Inter-Governmental Committee was appointed by the Governments of UK, Federation of Malaya, Sabah and Sarawak, representatives of this Committee went round to various parts of the country and met leaders of the people at various levels. In all these meetings, immigration was the subject which they invariably raised with the Committee. The people asked that they should have control of immigration.

The Inter-Governmental Committee discussed and considered this matter very carefully and made the following specific recommendations on this matter—

- (a) immigration into Malaysia should remain on the Federal List, but legislation should be enacted by the Federal Parliament to ensure that entry into Sabah or Sarawak would require the approval of the State Government except in the cases mentioned below;

- (b) the Federal Constitution should be amended to enable the Federal Parliament to legislate to control the movement of persons between the existing Federation and a new State or between new States on any ground i.e. not merely by laws relating to security, public order, public health or the punishment of offenders;
- (c) the Federal Government should undertake to pass before Malaysia Day a law giving effect to these arrangements relating to immigration and coming into operation on Malaysia Day, the draft of which would be agreed by the Governments of the Borneo States and scheduled to the formal agreement for the establishment of Malaysia;
- (d) the Federal Constitution should be amended to provide that this law may not be amended or repealed in its application to a Borneo State without the concurrence of the Government of the State concerned;
- (e) the Federal Constitution should be amended to provide that the provisions referred to in sub-paragraphs (b) and (d) may not be amended or repealed in their application to either of the Borneo States without the concurrence of the Government of the State concerned; and
- (/) the law referred to in sub-paragraph (c) should contain provisions to secure that—
 - (i) any persons from outside Malaysia whose entry into a Borneo State the Government of that State considers is necessary for State purposes shall be given entry except in cases where the Federal Government, which will be consulted for this purpose, considers that it is desirable in the national interest that entry should be refused;
 - (ii) subject to Article 9 (1) and to sub-paragraph (iv) below, admission to a Borneo State will not be granted to any other person or class of persons, whether from inside or outside Malaysia, without the approval of the Government of the State concerned;

- (iii) subject to Article 9 (1) and to sub-paragraph (iv) below, any person who is present in a Borneo State contrary to the provisions of sub-paragraph (ii) above or whose presence is otherwise unlawful, whom the Government of the State wishes to be removed from the State, shall be so removed;
- (iv) the provisions outlined in sub-paragraphs (ii) and (iii) above do not apply to members or officers of the Federal Government or any person or class of persons whose temporary presence in the State the Federal Government, after consultation with the State Government, considers is necessary in order to enable the Federal Government to carry out its constitutional and administrative responsibilities or any citizen who enters for the purpose of exercising his rights in connection with the functioning of parliamentary democracy in Malaysia or any part thereof, or any person who belongs to the State, i.e. who is a permanent resident of the State or who is a citizen of Malaysia on account of connection with the State; and
- (v) no person who resides temporarily in the State in accordance with sub-paragraph (iv) shall by reason of such residence be deemed to belong to the State or to be a citizen of Malaysia on account of connection with the State for the purposes of that sub-paragraph.

This Bill before the House is in the form of the draft agreed by the Governments of the Borneo States and scheduled to the formal agreement and gives effect to the recommendations of the Inter-Governmental Committee.

We have therefore accepted two principles in this Bill, as a result of prolonged negotiations between representatives of the two territories, i.e. Sabah and Sarawak, and as I have said, in order to allay their fears and anxieties. First we accepted the principle that as the two territories have a small population in relation to their

size, it is essential to provide them protection against unrestricted movement of people from other parts of the Federation. Under Section 6 of the Bill, the right to enter a Borneo State is therefore limited to particular classes of citizens. First, of course, there are those who belong to the State and they are defined in Section 11. The second category consists of people, i.e. members of Federal or State Governments, judges, Federal officers, etc. and those people whose presence in the Borneo territories is necessary for the discharge of constitutional and administrative responsibilities of the Federal Government. Also, under Section 7, those persons who are engaging in legitimate political activities also are entitled to enter the Borneo State. In the interest of parliamentary democracy and in order to see that immigration control is not used to stifle political opposition, this section is inserted in the Bill.

Now under section 8, the Federal Government has the right, after consultation with the State authority, to override State power to veto a citizen's entry into the State where his entry is required to enable the Federal Government to carry out its responsibilities and this power is exercisable in relation to either individuals or in relation or to classes of persons.

The other principle which we have also accepted is that the question of entry from outside the Federation into any of the Borneo States should rest with the Central Government and these powers are exercisable by the Controller in accordance with the directions given to him by the Minister. However, while the Central Government should have power over all entries from outside the Federation, we consider it is legitimate that we should assure the Borneo States that if they require people from outside for their own State purpose then we should not unduly restrict their requirements. The Borneo States are undeveloped and they will in future require, as we do here, assistance of experts and technicians from outside to carry out their development but the Central Government will have the power to refuse entry from outside the Federation for purposes of State Government if the Central Government considers desirable in the national interest that such entry should be refused. In other words, if the Central Government considers that the persons required by the Borneo State to assist them in the development can

be found in other parts of Malaysia, then these persons should not be brought from outside, for example, if there was an application for entry of labour from outside Malaysia and if it is found that no efforts had been made to recruit labour from other parts of Malaysia, the Central Government would then be in a position to say that such an entry from outside Malaysia would be against the national interest. Again, if there was an application for entry into the Borneo State for State purpose for a person who is considered a security risk, then it is open to the Central Government to refuse his entry. I consider these safeguards are reasonable and these are the safeguards which the State Government have asked because, as I have said, they have their fears and their anxieties in these initial years until they feel that they are one with us and the Central Government here in Kuala Lumpur is their Government.

The other parts of the Bill are of somewhat lesser significance. Part I is merely formal and deals with the extension of the present immigration laws of the Federation to Malaysia as a whole instead of the Federation of Malaya only as it now stands. The present laws of the new States are accordingly repealed. This change produces no significant effect since the present laws of the new States are very like and in some respects identical with the Federation law which is now being extended.

Part II of the Bill deals with the administration of immigration in the Borneo States. The special immigration control in the Borneo States will be administered by the same Federal officers as administering the overall control for Malaysia and is a matter for the Federal authority subject to special rights conferred on State authorities.

SECTION 5. This section is the core of Part II. It gives the State authorities in a Borneo State (although immigration remains a Federal subject and is administered by Federal officers) the power to say that a person shall not be admitted to the State except on conditions acceptable to the State authorities and that persons not acceptable shall not be admitted, or if already present subject to removal shall be removed. These powers are purely negative, and do not replace or cut down the powers of the federal authorities.

The result is that a person's presence in a Borneo State (unless he has a right to be there) has to be acceptable to both the State and the Federal Authorities. This is subject to certain exceptions in sections 8 and 8, which I have already referred to.

Accordingly the Controller in a Borneo State will have to work to instructions from the State authorities as well as from the federal Minister. In order to make this effective, sub-section (2) provides that the Minister shall not allow an appeal from a decision of the Controller without the concurrence of the State authority, in any case where directions to the Controller from the State are in point; sub-section (3) provides that the Minister shall not grant exemptions from the immigration control without the concurrence of the State authority. There is a similar provision in sub-section (2) of section 4 to prevent regulations being used to defeat the powers of the State authorities—e.g. by not allowing to be attached to Passes etc. for entry to the State the kind of conditions which the State authority may want to require under section 5. This section is, of course, subject to certain exceptions in sections 8 and 9.

SECTION 10 is a temporary provision to give certain potential citizens in a Borneo State the same rights.

SECTION 11 defines those citizens who are to have a free right of entry into a Borneo State on the ground that they belong there. They are of two classes—first those who are at any time permanently resident there (or have been to a date two years or less previously) and secondly those whose right to citizenship depends on a connection with the State. The second class will consist of persons born in the Borneo State when the parents or one of them is permanently resident there; but it includes also those who are ordinarily resident in the State on Malaysia Day and who become citizens automatically on that day or register as citizens under the special provision in the Malaysia Bill.

Part III of the Bill deals with a number of matters, such as carrying of a passport or similar travel document and section 16 of that Part enables the Minister, by an order made before Malaysia Day, to make supplementary provision of a transitional nature.

It will be seen from the above recommendations that while it is agreed that immigration should be a Federal matter, the Borneo territories are allowed certain safeguards. Of course, there is no restriction to persons in the employment of the Federal Government to go to the Borneo territories and there is no restriction to the Federal Government to sending officers and others to the territories in the discharge of the Federal Government's constitutional and administrative responsibilities. There is also no objection to persons going to the Borneo territories to carry out legitimate political activities. But persons outside these categories will not be allowed to enter the Borneo territories without the consent of the Government of the State concerned, except the Federal Government has the final say in that the Federal Government could refuse the entry of any person to a Borneo State if it considers it is the national interest to do so. It is agreed that it is not very desirable to have these restrictions of movement in what is virtually one sovereign independent State, but it should be appreciated that Malaysia is a Federation of States and that the new States of the Borneo territories decided to enter the Federation out of their own free will and we here to some extent must respect their wishes and must understand their fears and anxieties. Although the Borneo territories have had many common ties with us for generations, they have been separated constitutionally and administratively from the States of Malaya. They were under different administration and they were separated from us by many hundreds of miles of sea. It will take some time for them to realise after Malaysia that they belong to one country and one nation. It will take them some time to realise that Kuala Lumpur, which will be the national Capital, is their national Capital. It will take them some time to realise that the Central Government in a Federation is a Government established by all the constituent States and that they have a say in carrying on the Government. It is in fact their Government as much as it is ours. In the same way in Malaya in 1948 when the present Federation started some of the former unfederated Malay States, e.g. Kedah, Kelantan and Trengganu found it difficult to reconcile to the fact that they are under one Central Government and that to all intents and purposes they belong to one country with other States. It is difficult for a man from such out of the way place as Alor Star to accept Kuala Lumpur as his National Capital. But times have changed all this. Now

everyone of us in Malaya wherever we come from regard ourselves as members of one Nation. In the same way in the Borneo territories, it is hoped that in the course of time when their representatives have sat with us in this House and their officers have worked with us in the Central Government and in the Federal Departments and they are represented in the highest body of Governmental hierarchy, their fears and anxieties will fade away, but we have to give them time to do this. Therefore, it is necessary for us to have this legislation to allay their fears and anxieties and we hope that time may not be far distant they themselves will agree to do away with some of the provisions of this legislation.

Sir, I beg to move.