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Monday  
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# PARLIAMENTARY DEBATES

DEWAN RA'AYAT  
(HOUSE OF REPRESENTATIVES)

OFFICIAL REPORT

## CONTENTS

### **BILL—**

**The Constitution (Amendment) Bill [Col. 4163]**

DI-TERBITKAN OLEH THOR BENG CHONG, A.M.N.,  
PEMANGKU PENCHETAK KERAJAAN  
PERSEKUTUAN TANAH MELAYU  
1962

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FEDERATION OF MALAYA  
**DEWAN RA'AYAT**  
(HOUSE OF REPRESENTATIVES)

*Official Report*

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Third Session of the First Dewan Ra'ayat

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*Monday, 29th January, 1962*

*The House met at Ten o'clock a.m.*

PRESENT:

- The Honourable Mr. Speaker, DATO' HAJI MOHAMED NOAH BIN OMAR,  
S.P.M.J., D.P.M.B., P.I.S., J.P.
- .. the Prime Minister and Minister of External Affairs,  
Y.T.M. TUNKU ABDUL RAHMAN PUTRA AL-HAJ, K.O.M.  
(Kuala Kedah).
- .. the Deputy Prime Minister, Minister of Defence and  
Minister of Rural Development, TUN HAJI ABDUL RAZAK  
BIN DATO' HUSSAIN, S.M.N. (Pekan).
- .. the Minister of Internal Security and Minister of the Interior,  
DATO' DR. ISMAIL BIN DATO' HAJI ABDUL RAHMAN, P.M.N.  
(Johor Timor).
- .. the Minister of Finance, ENCHE' TAN SIEW SIN, J.P. (Melaka  
Tengah).
- .. the Minister of Works, Posts and Telecommunications,  
DATO' V. T. SAMBANTHAN, P.M.N. (Sungai Siput).
- .. the Minister without Portfolio, DATO' SULEIMAN BIN DATO'  
HAJI ABDUL RAHMAN, P.M.N. (Muar Selatan).
- .. the Minister of Transport, DATO' SARDON BIN HAJI JUBIR,  
P.M.N. (Pontian Utara).
- .. the Minister of Health and Social Welfare, DATO' ONG YOKE  
LIN, P.M.N. (Ulu Selangor).
- .. the Minister of Commerce and Industry, ENCHE' MOHAMED  
KHIR BIN JOHARI (Kedah Tengah).
- .. the Minister of Labour, ENCHE' BAHAMAN BIN SAMSUDIN  
(Kuala Pilah).
- .. the Minister of Education, ENCHE' ABDUL RAHMAN BIN  
HAJI TALIB (Kuantan).
- .. the Assistant Minister of Education, ENCHE' ABDUL HAMID  
KHAN BIN HAJI SAKHAWAT ALI KHAN, J.M.N., J.P.  
(Batang Padang).
- .. the Assistant Minister of Rural Development, TUAN HAJI  
ABDUL KHALID BIN AWANG OSMAN (Kota Star Utara).

- The Honourable the Assistant Minister of Commerce and Industry, ENCHE' CHEAH THEAM SWEE (Bukit Bintang).
- .. the Assistant Minister of Labour, ENCHE' V. MANICKAVASAGAM, J.M.N., P.J.K. (Klang).
- .. the Assistant Minister of the Interior, ENCHE' MOHAMED ISMAIL BIN MOHAMED YUSOF (Jerau).
- .. ENCHE' ABDUL GHANI BIN ISHAK, A.M.N. (Melaka Utara).
- .. ENCHE' ABDUL RAUF BIN A. RAHMAN, P.J.K. (Krian Laut).
- .. ENCHE' ABDUL SAMAD BIN OSMAN (Sungai Patani).
- .. TUAN HAJI ABDULLAH BIN HAJI ABDUL RAOF (Kuala Kangsar).
- .. TUAN HAJI ABDULLAH BIN HAJI MOHD. SALLEH, A.M.N., P.I.S. (Segamat Utara).
- .. TUAN HAJI AHMAD BIN ABDULLAH (Kota Bharu Hilir).
- .. ENCHE' AHMAD BIN ARSHAD, A.M.N. (Muar Utara).
- .. ENCHE' AHMAD BOESTAMAM (Setapak).
- .. ENCHE' AHMAD BIN MOHAMED SHAH, S.M.J. (Johor Bahru Barat).
- .. TUAN HAJI AHMAD BIN SAAID (Seberang Utara).
- .. ENCHE' AHMAD BIN HAJI YUSOF, P.J.K. (Krian Darat).
- .. TUAN HAJI AZAHARI BIN HAJI IBRAHIM (Kubang Pasu Barat).
- .. ENCHE' AZIZ BIN ISHAK (Muar Dalam).
- .. DR. BURHANUDDIN BIN MOHD. NOOR (Besut).
- .. ENCHE' CHAN CHONG WEN, A.M.N. (Kluang Selatan).
- .. ENCHE' CHAN SIANG SUN (Bentong).
- .. ENCHE' CHAN SWEE HO (Ulu Kinta).
- .. ENCHE' CHAN YOON ONN (Kampar).
- .. ENCHE' CHIN SEE YIN (Seremban Timor).
- .. DATIN FATIMAH BINTI HAJI HASHIM, P.M.N. (Jitra-Padang Terap).
- .. ENCHE' GEH CHONG KEAT (Penang Utara).
- .. ENCHE' HAMZAH BIN ALANG, A.M.N. (Kapar).
- .. ENCHE' HANAFI BIN MOHD. YUNUS, A.M.N. (Kulim Utara).
- .. ENCHE' HARUN BIN ABDULLAH, A.M.N. (Baling).
- .. ENCHE' HARUN BIN PILUS (Trengganu Tengah).
- .. TUAN HAJI HASAN ADLI BIN HAJI ARSHAD (Kuala Trengganu Utara).
- .. ENCHE' HASSAN BIN MANSOR (Melaka Selatan).
- .. ENCHE' HUSSEIN BIN To' MUDA HASSAN (Raub).
- .. ENCHE' HUSSEIN BIN MOHD. NOORDIN, A.M.N., P.J.K. (Parit).
- .. TUAN HAJI HUSSAIN RAHIMI BIN HAJI SAMAN (Kota Bharu Hulu).
- .. ENCHE' IBRAHIM BIN ABDUL RAHMAN (Seberang Tengah).
- .. ENCHE' ISMAIL BIN IDRIS (Penang Selatan).

- The Honourable ENCHE' KANG KOCK SENG (Batu Pahat).
- .. ENCHE' K. KARAM SINGH (Damansara).
- .. CHE' KHADIJAH BINTI MOHD. SIDEK (Dungun).
- .. ENCHE' LEE SAN CHOON (Kluang Utara).
- .. ENCHE' LEE SECK FUN (Tanjong Malim).
- .. ENCHE' LEE SIOK YEW, A.M.N. (Sepang).
- .. ENCHE' LIM JOO KONG, J.P. (Alor Star).
- .. ENCHE' LIM KEAN SIEW (Dato Kramat).
- .. DR. LIM SWEE AUN, J.P. (Larut Selatan).
- .. ENCHE' LIU YOONG PENG (Rawang).
- .. ENCHE' T. MAHIMA SINGH, J.P. (Port Dickson).
- .. ENCHE' MOHAMED BIN UJANG (Jelebu-Jempol).
- .. ENCHE' MOHAMED ABBAS BIN AHMAD (Hilir Perak).
- .. ENCHE' MOHAMED ASRI BIN HAJI MUDA (Pasir Puteh).
- .. ENCHE' MOHAMED DAHARI BIN HAJI MOHD. ALI (Kuala Selangor).
- .. ENCHE' MOHAMED NOR BIN MOHD. DAHAN (Ulu Perak).
- .. DATO' MOHAMED HANIFAH BIN HAJI ABDUL GHANI, P.J.K. (Pasir Mas Hulu).
- .. ENCHE' MOHAMED SULONG BIN MOHD. ALI, J.M.N. (Lipis).
- .. ENCHE' MOHAMED YUSOF BIN MAHMUD, A.M.N. (Temerloh).
- .. TUAN HAJI MOKHTAR BIN HAJI ISMAIL (Perlis Selatan).
- .. NIK MAN BIN NIK MOHAMED (Pasir Mas Hilir).
- .. ENCHE' NG ANN TECK (Batu).
- .. ENCHE' OTHMAN BIN ABDULLAH (Tanah Merah).
- .. ENCHE' OTHMAN BIN ABDULLAH, A.M.N. (Perlis Utara).
- .. TUAN HAJI REDZA BIN HAJI MOHD. SAID (Rembau-Tampin).
- .. ENCHE' SEAH TENG NGIAB (Muar Pantai).
- .. ENCHE' D. R. SEENIVASAGAM (Ipoh).
- .. ENCHE' S. P. SEENIVASAGAM (Menglembu).
- .. TUAN SYED ESA BIN ALWEE, J.M.N., S.M.J., P.I.S. (Batu Pahat Dalam).
- .. TUAN SYED HASHIM BIN SYED AJAM, A.M.N., P.J.K. (Sabak Bernam).
- .. TUAN SYED JA'AFAR BIN HASAN ALBAR, J.M.N. (Johor Tenggara).
- .. ENCHE' TAJUDIN BIN ALI, P.J.K. (Larut Utara).
- .. ENCHE' TAN CHENG BEE, J.P. (Bagan).
- .. ENCHE' TAN PHOCK KIN (Tanjong).
- .. ENCHE' TAN TYE CHEK (Kulim-Bandar Bahru).
- .. TENGKU BESAR INDERA RAJA IBNI AL-MARHUM SULTAN IBRAHIM, D.K., P.M.N. (Ulu Kelantan).
- .. DATO' TEOH CHZE CHONG, D.P.M.J., J.P. (Segamat Selatan)

- The Honourable ENCHE' TOO JOON HING (Telok Anson).  
 .. ENCHE' V. VEERAPPEN (Seberang Selatan).  
 .. WAN MUSTAPHA BIN HAJI ALI (Kelantan Hilir).  
 .. WAN SULAIMAN BIN WAN TAM, P.J.K. (Kota Star Selatan).  
 .. WAN YAHYA BIN HAJI WAN MOHAMED (Kemaman).  
 .. ENCHE' YAHYA BIN HAJI AHMAD (Bagan Datoh).  
 .. ENCHE' YEOH TAT BENG (Bruas).  
 .. ENCHE' YONG WOO MING (Sitiawan).  
 .. PUAN HAJJAH ZAIN BINTI SULAIMAN, J.M.N., P.I.S. (Pontian Selatan).  
 .. TUAN HAJI ZAKARIA BIN HAJI MOHD. TAIB (Langat).  
 .. ENCHE' ZULKIFLEE BIN MUHAMMAD (Bachok).

## ABSENT:

- The Honourable the Minister of Agriculture and Co-operatives, ENCHE' ABDUL AZIZ BIN ISHAK (Kuala Langat).  
 .. ENCHE' V. DAVID (Bungsar).  
 .. TUAN HAJI HASSAN BIN HAJI AHMAD (Tumpat).  
 .. ENCHE' KHONG KOK YAT (Batu Gajah).  
 .. ENCHE' QUEK KAI DONG, J.P. (Seremban Barat).  
 .. ENCHE' TAN KEE GAK (Bandar Melaka).

## IN ATTENDANCE:

- The Honourable the Minister of Justice, TUN LEONG YEW KOH, S.M.N.

## PRAYERS

(Mr. Speaker *in the Chair*)

**THE CONSTITUTION  
(AMENDMENT) BILL**

**Second Reading**

**The Deputy Prime Minister (Tun Haji Abdul Razak):** Mr. Speaker, Sir, I beg to move that a Bill intituled "an Act to amend the Constitution of the Federation" be read a second time.

Mr. Speaker, Sir, Honourable Members will recall that in moving the second reading of the Constitution (Amendment) Bill, 1960 I stated that the present constitution of the Federation was promulgated on the day we achieved independence and was the charter of our Nation and the framework within which the aims of our society and the aspirations of our people might be achieved through a democratic process based on the principles of parliamentary democracy. This is the

principle which is enshrined in our Constitution in which we all strongly believe and which we are pledged to uphold and cherish. However, I also stated then that as conditions changed and as our young and newly independent Nation developed and matured and as we gained experience in the working of the Constitution, it was apparent that certain amendments were necessary to meet the changing needs of our people and our country. It is the duty of the Government to keep the working of our Constitution under constant review so that its provision, wherever necessary, can be adapted to our requirements and our needs.

As a result of this review the Government put forward certain amendments in the 1961 Constitution (Amendment) Bill which was duly approved by this House. In continuation of that review the Government now proposes further amendments to our Constitution as embodied in this Bill before the House.

These amendments, Sir, have only been put forward after careful consideration lasting more than a year and after considering the views of all sections of the community. Government fully realises that an amendment to our Constitution is a serious and a solemn undertaking and that it is only after careful consideration and having satisfied itself that it is in the true interest of our country and our people, that the Government has decided to put forward these amendments.

These amendments deal with three important matters, first citizenship, second delimitation of constituencies and third Finance. Of these, the first two are perhaps the most important and ones which Honourable Members would wish to give a very close scrutiny. Other matters dealt with in the Bill are of much less importance and there is perhaps no need for me to dwell on them at great length.

Now, Sir, before turning to the specific provision of the Bill relating to citizenship, there are one or two general observations which I would like to make. The Constitution of the Federation was promulgated in 1957 and has thus been in operation for over four years. It is, I think, fair to say that the Citizenship provisions in the Constitution which were accepted after very careful consideration of the views of the various communities in this country, were designed on liberal lines. When we achieved independence in 1957, we were engaged in the supreme task of launching a newly independent country and it was our intention, the intention of the Alliance Government, that all persons of goodwill and good conduct and who have no other home but this country should become citizens after they qualify under the conditions laid down in the Constitution. I am sure, Sir, Honourable Members of this House including Honourable Members of the Opposition would agree that our Citizenship provisions have been framed in a generous manner because it is our honest and sincere intention to bring together all persons who regard this

country as their home and object of their loyalty as citizens so that we could build a strong, united and independent Nation. So generous has been our Citizenship policy that a number of people have acquired a status to which they have no right and already, 1,400 people have been deprived of citizenship which they obtained by means of false representation. As Honourable Members are aware, when the extent of this state of affairs became known, Government decided to offer an Amnesty to those persons who had obtained citizenship improperly and they were permitted to surrender their certificates without penalty. This Amnesty period ran from July to December 1960 and some 12,000 people took advantage of the Government's offer.

Therefore, Sir, under these circumstances, it was only right, proper and prudent that Government should re-examine our Citizenship provisions to ascertain whether loopholes could not be tightened, so that, in the interest of our country and in the interests of our people of all races who owe their loyalty to this country, people who have no right to be citizens and who obviously have no attachment to this country should not be allowed to become citizens. Therefore, in the light of all these occurrences Government decided to re-examine and review our Citizenship requirements.

Now, the first amendment of importance relates to Clause 1 (b) of Article 14 of the Constitution. This Clause provides that every person born within the Federation on or after Merdeka Day is a citizen by operation of law. This basic principle, Sir, will remain untouched but the Government only proposes to have one minor modification to which I will refer in a moment. But, Sir, in the true interest of our country, it is the bounden duty to all of us, Members of this House in particular, of all Parties, to see that those who become citizens of our country in the future will be truly identified with this country and be prepared with all good faith and

sincerity to play their part in the future development of this country. It is our duty to see that those who are given the inalienable rights in our Constitution are people who will uphold and cherish our heritage and defend our country and all that it stands for with their lives. As I have just stated, paragraph (b) of Clause I of Article 14 provides that a child born within the Federation on or after August 31, 1957, is a citizen by operation of law. There are at present two exceptions to this i.e. a child of a foreign diplomat born in this country or a child of an alien born in any place under enemy occupation.

Clause 2 of the Bill, subject to an amendment in Committee, seeks to add a third category by providing that a person will not acquire citizenship by operation of law by reason of birth in the Federation, if at the time of the birth neither of his parents was a citizen or a permanent resident in this country. This amendment will not, of course, apply to persons born in the Federation before the amendment comes into force. It will not prejudice rights already acquired, nor will it operate so as to render the child stateless. Sir, it is only fair, in my view, that children of persons who have no right to be in this country and who have no attachment to the country should not have the right to become citizens by operation of law. After discussions with various interested people and in particular at the request of Members of the Malayan Chinese Association and the Malayan Indian Congress, I propose to move an amendment at the Committee stage to make this amendment clear and also to clarify the meaning of permanent residence. Under this amendment, any person on production of proof will be able to obtain a certificate from Government to show that he is permanently resident, even if he is not in possession of any document issued under Federal Law to show that he had permission to reside permanently in the Federation. This provision will apply largely to people from Singapore who, at the moment, are allowed free

access to the Federation without being required to obtain a permit. I would also like to add that the possession of a red Identity Card will be accepted as evidence of permanent residence (*Applause*). It is not the intention of Government, as can clearly be seen from past action to administer the law so as to cause difficulties to people who are genuinely resident in this country permanently. The intention of Government, as I have said, is to stop those who have no attachment to the country from acquiring citizenship by operation of law. I would also add that it is now proposed to amend Clause (2) (c) of the Bill in Committee so that it will be clear that this provision will apply in respect of either parent. Consequently, a child born within the Federation on or after the coming into force of the Bill will be a citizen by operation of law under Article 14 (1) (b) if either of his parents was, at the time of his birth, a citizen of the Federation or a permanent resident therein (*Applause*).

Clause 2 (3) of the Bill makes minor amendments relating to Article 14 (1) (d) of the Constitution. As there are no Malayan Consulates in Singapore, Sarawak, Brunei and North Borneo, provision is made for the registration of births in these territories to be made with the Federal Government. This amendment merely rectifies an omission in the existing Constitution.

Clause 3 of the Bill relates to Article 15 of the Constitution which refers to the acquisition of citizenship by registration by the wives and children of citizens. A woman married to a citizen is entitled under the existing Article 15 (1) to be registered as a citizen, but the amendment will restrict this right to cases where the lady has lived continuously in the Federation for not less than two years, and intends to reside here permanently and is of good character.

These amendments are to my mind fair and fully justified, but I can assure this House that there will be no difficulties in cases of genuine marriages, that

is to say, for a Federal Citizen who genuinely wants to get married outside and bring his wife to settle here permanently. There are special provisions in the Second Schedule to the Constitution as amended by Clause 27 (2) of the present Bill regarding the calculation of periods of residence and cases will be dealt with sympathetically under these provisions. It will also be possible, in genuine cases, for a wife to obtain permit to live permanently in this country. The new Article 15 (2) will give discretionary power to register any minor child of a citizen as a citizen on application by his parent or guardian.

It is also proposed at the Committee Stage to introduce amendments to Clause 3 of the Bill to make clear that existing provisions of Article 15 (1) will continue to apply to any woman who married a citizen prior to the coming into operation of Clause 3 and that existing Article 15 (2) will continue to apply in respect of minor children of a person who was a citizen prior to the coming into operation of Clause 3. These amendments will make it clear that the amendments to Article 15 of the Constitution will only apply to cases taking place after the coming into force of the amendments.

Sir, Clause 4 proposes to introduce a new Article 15A which gives the Government discretionary power to register any minor as a citizen if there are special circumstances.

Clause 5 repeals Article 17 of the Constitution which relates to citizenship by registration of persons resident in this country since before Merdeka Day. Now, Sir, more than 4 years have now elapsed since Merdeka and it is thought that ample opportunity has been afforded to persons wishing to take advantage of this Article and Article 15 (2) to register themselves or their children as citizens. It was made clear at the time of promulgating the present Constitution that Article 17 was intended to be temporary and it is not considered reasonable that facilities such as these, which are not found in Constitutions of other coun-

tries, should be made available indefinitely. It was intended to be temporary to enable persons who are permanently resident in this country at the time of Merdeka to obtain citizenship if they so wished. It is considered that the period of 4 years is more than ample for these people to apply for citizenship if they had wanted to do so. For the future it is considered appropriate that the citizenship based upon residence only should be obtained by naturalization on the ground that those seeking this status had made their home in this country. Article 17 provides for a person to claim citizenship based on residence qualification and not birth. It has been alleged in some quarters that by deleting this Article the Alliance Government has broken its pledge to the people. This, Sir, is certainly not true. In its memorandum to the Reid Commission, the Alliance Party made clear the distinction between citizenship claims founded on birth and those founded on residence alone. As regards birth, Article 16 makes it clear that a person born in the Federation before Merdeka Day has a right to obtain citizenship if he has the required residential qualifications. But the Alliance Party also recommended that those 'aliens' who had not been born in this country but resided here before and after the date of Independence should also be eligible to become citizens. Therefore, it is clear, that persons not born in the country should only be eligible to become citizens by naturalization and that granting of citizenship should be at the discretion of the Government. Article 19 provides for citizenship by naturalization which is akin to the provision of Article 17. Therefore, Sir, no right has been taken away but only provisions which were intended to be temporary to provide facilities for a certain group of people to obtain citizenship after Merdeka. Parallel provision still exists in Article 19 and therefore, the right of persons resident but not born in this country to obtain citizenship is still available.

Honourable Members will observe that the repeal of Article 17 is expressed

to be without prejudice to any application for registration made before the coming into operation of this repeal. The reason for this saving is, of course, that as between applicants who have the requisite qualifications for registration when the repeal comes into operation, it would be unfair to discriminate on the ground that one application may have been dealt with and another not. The two cases will have equal merit and it is due only to administrative difficulties that they will not be able to be dealt with simultaneously. I would also wish to add, Sir, that after discussion with Members of the Alliance in this House and at the request of the Malayan Chinese Association and the Malayan Indian Congress it is intended to give a short period of grace before this Clause is put into effect to enable those who are eligible and who genuinely want to become citizens but have not had opportunity to do so, to apply to register as citizens under the present Article 17 (*Applause*).

Sir, under Section 1 (c) of the Schedule to the Bill it is intended to repeal Clause (4) of Article 18. It is clearly not conducive to public good that a person who has acted in a manner prejudicial to the security of the country should be registered as a citizen and it is to this end that the presumption of good character contained in the existing Article 18 (4) is to be deleted. A person who has not been convicted of any criminal offence may nevertheless be a person of bad character and it is clearly undesirable that such person should be registered as a citizen.

Sir, I mention just now that persons who apply for citizenship by naturalization under Article 19 must have made this country their home. Clause 6 of the Bill therefore seeks to amend that Article by requiring an applicant to have resided in the Federation for the year immediately preceding the application.

Clause 7 of the Bill repeals Article 20 which provides special conditions

for the naturalisation of members of the Armed Forces. In view of the fact that citizenship is a requirement on enlistment into the Armed Forces, this Article is no longer necessary and it is accordingly decided that it should be repealed.

Article 23 of the Constitution relates to renunciation of citizenship and Clause 8 of the Bill makes a minor amendment to this Article. As the Constitution stands, a citizen cannot renounce his citizenship unless he is actually a citizen of another country. Certain foreign citizenship laws, however, debar an individual from becoming a citizen until any previous citizenship has been renounced, and this amendment is designed to facilitate that process.

Article 24 of the Constitution deals with deprivation of citizenship by reason of the acquisition of foreign citizenship or the exercise of foreign citizenship rights. Clause 9 makes certain amendments to that Article. Under Article 24 (2) a person may be deprived of his citizenship if the Federal Government is satisfied that he has at any time after Merdeka Day claimed, voluntarily claimed and exercised, in a foreign country rights available to him under the law of that country being rights accorded exclusively to its citizens. For this purpose the exercise of rights conferred on citizens of a Commonwealth country which are not available to other Commonwealth citizens is deemed by the existing Article 24 (3) to be the exercise in a foreign country of rights accorded exclusively to its citizens. The definition of "Commonwealth country" in Article 160 (2) does not however, except by special Act of Parliament, include Colonies, Protectorates, Protected States or other territories administered by the Government of a Commonwealth country. Such territories are, however, included in the definition of "part of the Commonwealth". In the context of Article 24 (2), there is no reason to distinguish between different territories within the Commonwealth and

Article 24 (3) is therefore amended to include all such territories.

Clause 9 (3) of the Bill also introduces new Clause (3A) into Article 24. This clause is intended to make it clear that for the purpose of deprivation under Article 24 (2), and under that clause as applied by Article 24 (3), voting in a political election in a place outside the Federation constitutes the exercise of a right available under the law of that place, whether the vote is cast in that place or outside it. But whether or not the exercise of a vote is a right exclusively accorded to the citizens of the place where the election is held—i.e. whether by exercising it a Federal citizen imperils his citizenship—depends on whether the law of that place restricts the franchise to its own citizens. On the other hand, the new clause provides that, after a date to be appointed, application for, or the use of, a passport of another country will constitute the exercise of a right available under the law of that country exclusively to its citizens, and consequently will be a ground for deprivation.

Now, Clause 10 (2) of the Bill introduces a new clause in Article 25. The effect of this clause will be to render a citizen by registration under Article 17 or a citizen by naturalisation liable to be deprived of his citizenship if, without the approval of the Federal Government, he accepts any office or appointment under a foreign Government in any case where an oath of allegiance is required in respect of such appointment. An amendment to be moved in Committee will provide that this new provision will not have retrospective operation or apply to acts done before citizenship was acquired.

Clause 10 (3) of the Bill reduces from 7 to 5 years the period of residence abroad which, unless the specified conditions are fulfilled, will render a citizen by registration under Article 17, or a citizen by naturalisation, liable to deprivation. The intention of this amendment is clear.

It is essential that citizens who obtained that status by registration or naturalisation should continue to maintain a close and genuine contact with this country.

Paragraph 3 of the Schedule of Minor and Consequential Amendments has the effect of deleting Clause (3) of Article 26 of the Constitution. It will be recalled that this particular Clause places a 12 months restriction on deprivation of citizenship granted by mistake. The existing prohibition of deprivation under Article 26, unless conducive to the public good, is maintained by a new Article 26B (2) (a).

Clause 11 introduces a new Article 26A which provides that where a child of a citizen has been registered under the new Article 15 (2) the child may, if still under the age of 21, be deprived of citizenship in the event of his parents renouncing or being deprived of that status. Under an amendment to be introduced in Committee, the liability of a child to be deprived of citizenship under this clause will be limited to cases where the parent has renounced his citizenship or has been deprived under Article 24 (1) (voluntary acquisition of other citizenship) or Article 26 (1) (a) (Citizenship obtained by fraud). From this it is clear that the child will not be punished for the sins of the father. Clause 11 also inserts a new Article 26B which is designed to ensure that deprivation does not result in statelessness, and that it is confined to cases where continued citizenship would be contrary to the public good. An amendment to be moved in Committee will except from the provision as to statelessness deprivations under Article 26 (1) (a). The result will be that deprivation resulting in statelessness will be prohibited except where the citizenship was obtained by fraud or misrepresentation.

I come now to Clause 26 which amends the oath of allegiance which new citizens are required to take. All citizens of the Federation owe allegiance to the Sovereign and this amendment is designed accordingly.

Clause 27 (1) and (3) of the Bill relate to section 4 of the Second Schedule to the Constitution, which enables the Minister to delegate his functions under the Constitution relating to citizenship. That section, as it stands, is defective in two respects. First it contains a verbal error ("of" instead of "or"). Secondly, the power of delegation conferred by the existing section is unjustifiably wide. No order of deprivation of citizenship has ever been made except by the Minister personally; and the Government feels that the section ought in terms to be limited to matters of machinery only. Provision is made for the retrospective operation of any delegation made under this amendment within one month of its coming into force. The reason for this is that, although no delegation has ever been made of any of the vital functions of the Government under Part III of the Constitution, delegations have from time to time been made of purely administrative functions. Having regard to the verbal error I have already mentioned, and to the somewhat complicated history of the Second Schedule—at one time the registration authority was the Election Commission; later the Minister took over the administration as well as the substantial powers—it seems desirable to have a clear provision for validating former delegations, provided that they fall within the scope of the delegations which the Minister is now empowered to make.

Clause 27 (2) of the Bill amends section 20 of the Second Schedule which defines residence for the purpose of Part III of the Constitution. Under the proposed amendments, periods of service on Government duty outside this country will count for residence, but periods in which a person was not lawfully resident in the Federation, or was only temporarily resident under any pass or exemption order issued or made under the Immigration Ordinance, 1959, or was in lawful custody (other than in a mental hospital) in the Federation, may not be treated as residence for the purpose of

obtaining citizenship under Part III. There is an important exception to this, to which I have already referred in connection with Article 15. The Minister is given power to allow time spent in the Federation under the authority of a temporary pass to count towards qualifying for citizenship.

Such then are the citizenship amendments contained in the Bill. I will only repeat what I said earlier, that these amendments have been proposed after 4 years experience of the working of the Constitution. Honourable Members will agree that when it has been discovered that bogus citizens have been enrolling in thousands, the Government would clearly be failing in its duty if action was not taken to correct this state of affairs. We fully realise the importance of the citizenship issue in the context of present day Malaya, and in framing these amendments we have kept that principle very much in mind. In short, our object has been to make our citizenship procedure realistic; to place no hindrance on the *bona fide* applicant who is prepared to play his part in building the new Malaya, but at the same time to ensure that the stream of bogus citizens who have been acquiring that status during the last 4 years is obviated.

Sir, I will now deal with those parts of the Bill which relate to the delimitation of constituencies and connected matters. These are Clauses 14, 20, 22 and 31 of the Bill. Broadly, it is proposed to retain the existing number of 104 members of the House of Representatives and to lay it down that in future, the final authority for the delimitation of constituencies will be the Dewan Ra'ayat instead of the Election Commission.

The amendment in Clause 14 of the Bill proposes to retain the existing figure of 104 members for the Dewan Ra'ayat. This figure, as Honourable Members are aware was obtained by doubling the fifty-two constituencies created for the elections to the last Federal Legislative Council in 1955. It is considered that in view of the

localities that have developed in relation to the existing constituencies since that time, there is merit for such retention. I am sure Honourable Members will agree with me that the present set-up has worked very satisfactorily. Therefore, to alter these constituencies, reducing the total membership to 100, as at present required by the Constitution, would only invite administrative complications and also result in considerable expenditure and inconvenience.

Clauses 20, 22 and 31 relate to the procedure for altering the boundaries of constituencies. Under the present proposals, the Elections Commission, after holding a review as the Constitution provides, will formulate provisional recommendations, framed in accordance with the principles set out in Part I of the new Thirteenth Schedule introduced by Clause 31. The recommendations will be published, and the Commission will revise them in the light of any representations received and submit them to the Prime Minister. The results of the Commission's work will be laid before the Dewan Ra'ayat and unless the Commission has recommended no change the Prime Minister will lay a draft Order giving effect to the Commission's recommendations, with or without modifications. On the draft Order being approved by not less than half of the total number of members of the House, it will be submitted to His Majesty for the making of an Order in terms of the draft. The Order will not affect constituencies until the following General Election. The procedure for altering boundaries is based upon that adopted in the United Kingdom, by the House of Commons (Redistribution of Seats) Acts, 1949 and 1958 and I am sure Honourable Members will agree that the proper authority for deciding on the delimitation of constituencies is this House.

Honourable Members will observe that Section 2 of the new Thirteenth Schedule specifies certain general principles which, as far as possible, are to be taken into account in de-

limiting constituencies. These are known and accepted principles and were taken into account when delimiting the present constituencies. There is therefore no new principle which has been brought in. One of these principles is the weightage of rural constituencies for area. Basically, the number of electors in each constituency ought to be approximately equal except that, having regard to the greater difficulty of reaching electors in country districts and other disadvantages affecting rural constituencies, weightage for area may be given to rural constituencies to the extent that in certain instances rural constituencies may contain as little as half the number of electors in an urban constituency. This is not a new principle. It is to be found in the existing Constitution and is accepted in other countries. The percentage of weightage now suggested is that recommended in the Report of the Committee appointed in 1953 to examine the question of elections to the Federal Legislative Council. In other words, the purpose of this amendment is merely to permit the retention of the existing constituencies and not to bring in any new principle.

I will now deal with amendments proposed to financial provisions of the Constitution. Clause 12 seeks to amend Article 35 (1) of the Constitution, which at present requires Parliament by law to provide a Civil List of the Yang di-Pertuan Agong and also a Civil List of the Raja Permaisuri Agong. It would appear inappropriate to have two Civil Lists and it has in fact been the practice for the provision for the Raja Permaisuri Agong to be included in the Civil List of the Yang di-Pertuan Agong. The amendment now provides for a single Civil List which will include provisions for the Raja Permaisuri Agong.

The next financial amendment is in Clauses 17 which I will take together with Clause 19 later. In the meantime I will deal with Clause 18. Article 99 (1) of the Constitution at present requires the Yang di-Pertuan Agong in respect of every financial year to

cause to be laid before the House of Parliament a statement of the estimated receipts and expenditure of the Federation for that year and, unless Parliament in respect of any year otherwise provides, that statement shall be so laid before the commencement of that financial year. It may well happen, as in the case of the Budget for this year that, it is not practicable or convenient for the Budget debate to begin before the beginning of the year to which the Budget relates. In such a case it would still be necessary for the Estimates of Expenditure to be laid on the Table before the beginning of the year, since otherwise Ministries and Departments would have no basis for their operations after 31st December. It would clearly be undesirable, however, for the Revenue Estimates to be made public before the Minister of Finance had announced any proposed changes in the tax structure in his Budget Speech. The first part of Clause 18 therefore makes it possible for the publication of the Revenue Estimates to be delayed until after the beginning of the new financial year.

The second part of Clause 18 seeks to add another paragraph to Clause (3) of Article 99, which specifies the categories of payments for which provision does not have to be included in the annual Estimates, namely, payments from the proceeds of loans raised for specific purposes and from trust monies. The trust funds with which the existing paragraph (b) of Clause (3) of this Article is obviously intended to deal are monies of which the Federation is not the beneficial owner but which it has received subject to a trust. The suggested new paragraph (c) would cover the case of Government monies appropriated to statutory trust funds in accordance with the procedure laid down by Section 10 of the Financial Procedure Ordinance, 1957.

I will now deal with Clauses 17 and 19. Under the existing provisions of the Constitution, State Governments are entitled to impose royalty on

minerals mined within their borders and the Federal Government is entitled to impose export duties thereon. It is clearly inequitable that any mine should have to pay both royalty and export duty on the same product or that the same product should pay different rates of royalty depending upon the State in which it is situated. Experience has shown that it is not always easy to obtain agreement between the States and the Federal Government on the rate of taxation to be imposed on any particular mineral or the share of such taxation which should be retained by the Federal Government and the State Government concerned respectively. To overcome this difficulty it has been decided to amend Article 110 of the Constitution so as to enable Parliament to legislate on the proportion of export duty which is to be paid over by the Federal Government to the States in respect of each mineral and the conditions to which such assignment will be subject. The proposed paragraph (3A) of Article 110 gives the necessary power whilst at the same time recognising that the individual States have a valid claim to a share of the revenue derived from any mineral mined within their respective borders.

As Parliament will provide for the States to receive a fair proportion of the export duty on minerals, it follows that the States' power to impose royalties or similar charges should also be subject to such limitations as Parliament sees fit to impose. Such limitations can be imposed in future by virtue of the proposed paragraph (3B) of Article 110 of the Constitution. One of the main objectives of amending Article 110 is to ensure uniformity of treatment of mines throughout the Federation. It has been decided therefore that Clause (4) of Article 76 of the Constitution should be amended so as to enable Parliament to legislate on the terms of mining leases. By virtue of such legislation Parliament would be able to ensure not only the uniformity of mining leases throughout the country but also that excessive burdens are not placed on individual

mines by the insertion of high rates of premium and other onerous conditions in the terms of individual leases.

The House should know that the States have been receiving the proceeds of the 10% ad valorem export duty on iron ore ever since the beginning of 1956. Nearly all the past duty has been paid over, but there are a few cases where the exact amounts have not yet been verified; the payments in these cases will be made as soon as we know the figures. These past payments have been extra statutory, though the States may well think them nonetheless beneficial for that. The present amendment to Article 110 is not retrospective; obviously, it could not have been made retrospective to a time before Merdeka Day. I, therefore, invite the House, in passing the clause, to give an implied sanction to the payment to the States of these past duties. The assignment of this revenue to States has undoubtedly been beneficial in promoting the States' co-operation in the spectacular development of the iron ore industry in recent years.

Should the House approve the present amendment proposed to Article 110 of the Constitution, the Government proposes to introduce immediately a Bill to authorise the assignment in future to the States of such proportion of the proceeds of the export duty on iron ore as is considered equitable.

The Bill which we have before us contains several other proposals for amendment; there are only two of them which require any time to explain.

First, Clause 16. In our Constitution, as in many others, it is fundamental that the financial initiative should rest with the Government. Accordingly, Article 67 provides that Bills and amendments making provision for taxation, expenditure and other financial matters can only be introduced or moved by a Minister. But as the Article stands it is not clear what is meant by "making

provision". If for example, a Bill provides for establishing a new Government service, which will inevitably involve expenditure, is that a Bill making provision for Expenditure? This amendment proposed by Clause 16 will make it clear that Article 67 covers both direct and indirect financial consequences. But the Government realises that it would be wrong to go too far and to prevent any amendment being moved by a private member if it had any financial consequences, however remote. To avoid this Clause 16 is drafted so that Article 67 will only operate if the Minister of Finance signifies that the Bill or amendment has financial effects which are not merely incidental or insubstantial.

Next, Sir, I turn to Clause 24. The House will remember that as the Constitution stands Article 2 enables new States to be brought into the Federation by an ordinary Federal Law, that is a law passed by a simple majority of this House; and under Article 159 (4) (b) the same majority suffices for consequential amendments of the Constitution necessitated by a law under Article 2. The Government is advised that the wording of Article 2 and Article 159, in their present form, does not quite fit the amendments which will be required on the establishment of the Federation of Greater Malaysia. Clause 24 will give the necessary flexibility, both at the the initial stage and thereafter.

The remaining Clauses of the Bill can be dealt with very shortly. Clause 13 clarifies the law as to the formal exercise of the executive power of the Federation, and will relieve His Majesty of a number of administrative acts, many of them trivial, which can properly be done by the Cabinet or by a Minister acting under Cabinet authority. Clause 15 aims at unifying the staffs of the two Houses of Parliament with obvious advantages from the point of view of recruitment. Clause 21 and 23 are no more than clarification of the law relating to the terms of office of the Judges and of

members of the Election Commission. Clause 28 brings the compulsory provisions of State constitutions into line with the amended Federal Constitution and with current practice. Clause 30 fills a gap in the application to the Constitution of the Statutory rules of interpretation. Clauses 1 and 33 govern the timing of the changes we are making, and Clauses 32 and 34 and the Schedule contain a number of consequential amendments.

Such, then, is the Bill which the Government invites the House to debate and to read a second time. I do not wish to minimise the importance of some of the changes we propose. But as I have already said they are put forward after long and anxious deliberation. We have realised all along that it would be easy enough for men of ill will to misrepresent our proposals. That we cannot help. We believe, however, that the great majority of the people of this country will not be misled. These matters are not always easy to understand at first sight. Some genuine doubts have been expressed. The amendments to the Bill we have put forward and which you, Sir, will allow us to discuss at a later stage, are designed to allay these doubts. As I have said in the beginning, and I repeat it again, these amendments have been put forward as a result of very careful consideration in the light of experience gained in the working of our Constitution for the last 4 years. These amendments have not brought any new principle nor have we departed from the principles enshrined in our Constitution. However, we are a young nation and our Constitution was promulgated on the day we achieved independence. Obviously, it is our duty to see that our Constitution works well and in the true interest of our country and in particular satisfies the needs, aims and aspiration of our people. It was never intended that the Constitution once promulgated should not be amended. But the provisions for amending the Constitution are clearly designed so as to be neither so difficult as to produce

frustration nor so easy as to weaken seriously the safeguards which the Constitution provides. For this reason the amendments to the Constitution must obtain the support on the 2nd. and 3rd. reading of two-thirds of the Members at each of the Houses of Parliament. It is, Sir, after due consideration of the interest of our young country and young nation and with the sole object of maintaining a stable and united Nation that the Government has decided to put these amendments to the House.

Therefore, this Bill before the House, Sir, is fully within the spirit of the Constitution which we promulgated four years ago and contain such changes—and only such changes—as are needed for the peace, progress and stability of our country and our people and it is in this spirit that I commend this Bill to the House.

Sir, I beg to move.

**The Minister of Internal Security and Minister of the Interior (Dato' Dr. Ismail):** Sir, I beg to second the motion.

**Enche' Lim Kean Siew (Dato Kramat):** Mr. Speaker, Sir we have heard some bold words this morning, but I am afraid that the main issue in this Bill has been glossed over with the statement that no new principles have been introduced into this amendment. With the greatest respect to the Honourable Deputy Prime Minister, in fact new principles have been introduced. But before I go into that, I should like to remind the House briefly how this Constitution came into force.

Since the end of the Japanese Occupation, the people of Malaya as a whole, through different organisations of different political ideologies, have struggled against colonial rule to establish a new Malayan nation; and after many years of struggle and at the cost of thousands of lives and sufferings to millions in Malaya, the British Government decided to grant a Constitution for an independent Malaya. Now, Sir,

this new Government was to be democratic in form, guaranteeing basic rights which in the words of Mr. King, who is an American and former Lecturer of Economics in the University of Hongkong, who came to Malaya on the staff of the United Nations Commission for Asia and the Far East, introduces principles which "are fundamental to a free society," thus concluding "the trend which the British introduced gradually from the beginning of the protectorate." In his words again, "The Constitution is the supreme law of the land . . . with provisions for the enforcement of the *rule of law*; *habeas corpus* or liberty of the person or persons; freedom of movement, speech, assembly and association; freedom of religion; rights to education and property." A State in which slavery is forbidden and it is also stated that no provisions of any law shall discriminate against any citizen or class of citizens by reason only of religion, race, descent or place of birth.

Mr. King came and studied the Reid proposals and he studied our Constitution, and this is what he wrote:

"To these guarantees of fundamental rights there was an exception, of course, which gave to the Malays (a political definition is given to this term in the Constitution) a special position in employment as Government officers and in land reservation. These special rights are limited by the Constitution to a period of 15 years, but it does not concern us here, though I would like to prove how fallacious arguments on these rights have been."

Sir, on his return from London in 1956, the Honourable the Prime Minister had this to say:

"I need the help of all the people who look to Malaya as their land and the object of their undivided loyalty to achieve this noble aim of improving the life and conditions of the people. This is my call to you all—to take your place in the building up and defence of your country. A new Malayan nation will,

by the grace of God, be born, and it will be born, if possible, by 31st August, 1957."

The launching of the new Malayan nation was a promise to the people of a new nation with equal political rights for every citizen, irrespective of his origin, living within a democratic pattern guaranteeing freedom of speech, of assembly and association, rule of law and freedom of religion. Sir, perhaps it is not realised here what we really mean by democracy in Malaya. Many people talk of democracy but very often they do not realise what democracy means, and since this Amendment Bill is introducing, under Clause 31, page 10, in the new Thirteenth Schedule in section 2 (c), "constituencies which in some cases would contain as little as one-half of the electors of any urban constituency," I am afraid that one of the foremost fundamentals of democratic representation has been attacked.

Mr. Speaker, Sir, democracy can be both direct or representative. Direct democracy means a democracy where-by every question that involves law, every question that involves the person is referred directly to the person for his vote in every case. Indirect democracy is where the representatives, like ourselves, come to this House to represent the people, voting on their behalf in a representative capacity.

Aristotle had this to say of democracy:

"A democracy is a state where the freemen and the poor, being in the majority"—

and I wish to emphasise "*being in the majority*"—

"are invested with the power of the state. The most pure democracy is that which is so called principally from that equality which prevails in it; for this is what the law in that State directs; that the poor shall be in no greater subjection than the rich; nor that the supreme power shall be lodged in either of these but that both shall share it. For if liberty and equality, as some persons suppose, are chiefly to be bound

in a democracy, it must be so by every department of government being alike open to all; but as the people are the majority, and what they vote is law, it follows that such a state must be a democracy."

Mr. Speaker, Sir, the whole point about rural representation which may come down to as little as half of an urban area is this: where there is an urban electorate of 10,000 and a rural electorate of 10,000 the rural electorate can send two representatives to the House in opposition to one representative from an urban area, so that when it comes to the question of voting in the House the two representatives from the rural areas will have two votes to one of the urban area so that they have the majority of two to one, although they may represent the minority in the country. Sir, of course, Aristotle was dealing with democracy of the state of Greece where every citizen had a right to vote, had one vote each, and where democracy was direct. But today, we have representative democracy in all modern states which means that in all legislative business of the nation, the people no longer participate directly but through their representatives, like us. We represent the people. But how would we feel if I were to say, "Look, I represent 2,000 people and all my friends here represent 2,000 people each and we can have as much voice or can have more voice than any of you across the floor, who each represent 20,000 people but have only one vote as compared with ten votes that we possess here." Can the House in that instance say that what is passed by this Parliament is passed by the majority of the people in this land?

**Tuan Syed Ja'afar bin Hasan Albar (Johor Tenggara):** Yes.

**Enche' Lim Kean Siew:** Well, I notice that the former Assistant Minister of Broadcasting is broadcasting again! (*Laughter*) Mr. Speaker, Sir, the tradition of democracy and the history of democracy is a very long history indeed and has been established through many, many years of struggle

across many lands, and in the time of the French Revolution, when the French Republic was introduced, Rousseau had this to say—"that no law is proper unless it is expressed by a general will and is a consensus of opinion of the whole community, and that no man is morally responsible for a law unless he participates in the formation of that law." On the principle that it is the majority view of the people that must prevail in a democracy, and that it is the reason why a democracy is opposed to a totalitarian state, we cannot expect the representatives of a minority section of the people to have a majority voice in Parliament. And here, Mr. Speaker, Sir, I wish to point out very clearly that it is not my intention to be racialistic, neither do I intend to be racialistic of communalistic. Rural people comprise many races; urban areas also contain a lot of different peoples, and as a person succeeds, it is the tendency, under the present capitalistic structure, for the person to move from the rural areas into the towns. People like those living in Petaling Jaya; people living in Kampong Bahru in Kuala Lumpur; people living in Tapah; people living in Johore Bahru, Muar, Batu Pahat; people living in Sungei Patani, Gurun.....

AN HONOURABLE MEMBER: Dato Kramat!

**Enche' Lim Kean Siew:** Yes, and Dato' Kramat, where I come from. Those are the people who live in the town areas. Are they to have representatives which will equal less to the representatives of the people from the rural areas?

Now, it is stated here that the amendment is only for the alteration of some constituencies—some constituencies. Of course, because if you say "all constituencies" people may get frightened, and so you say "some constituencies". But "some of the constituencies some of the time" may equal "all constituencies all the time" (*Laughter*). If we accept that this

amendment will only affect some of the constituencies and not the majority—the people will only be satisfied if they feel that the expression of the majority is going to prevail—then we are faced with this problem. If certain sections of our population are given weightage of vote which can be equivalent to twice that of another person living in another constituency, are we not introducing the principle of apartheid into this country? Are we not introducing the principle of first class and second class citizens?

Proper representative democracy, as is understood in the United States of America, Great Britain, and, indeed in all other countries of the world which are democratic, has a framework within its Constitution which will guarantee to every section of the people an equal voice in Parliament—district for district; in other words, the constituencies and the representatives to the House shall represent approximately an equal number of citizens of that country. Without this equality, democracy will be a mockery—it will become a distortion in a hall of mirrors. I shall deal with this point in detail later on.

Now, we will remember—in fact, I would say that the ink is hardly dry on our Constitution—that the Reid Commission was invited to Malaya, first, to make the Reid Commission Report, and to draft our present Constitution—and I am sure that our Deputy Prime Minister will not have so short a memory as not to remember that he was the Chairman of an *Ad Hoc* Committee of the Alliance which submitted a memorandum to the Reid Commission. When the Reid Commission came to Malaya undoubtedly many a memorandum was submitted to and examined by the Reid Commission, and it decided to adopt the memorandum submitted by the Alliance. The Reid Commission came with the approval of the present Alliance who was then in power. It consisted of constitutional experts from the Commonwealth, including India, and it came with the acceptance

of the present Government. The Constitution was not imposed upon our Government, but it was based upon the Alliance memorandum. It was not imposed by this Government, and it was introduced by this Government into this House.

Sir, the Constitution was passed with the active participation of the present Government in power, and the Government cannot say that it has been taken by surprise, nor can it say that the Constitution was imposed upon it. Yet in the last few years the Government has seen fit, persistently and continuously, to eat into the Constitution and to corrupt it by legislation and laws and acts which are not only against the Constitution as recommended by them and as introduced by them, and as it was first envisaged, but it has also attacked the fundamental spirit under which our nation was born.

Mr. Speaker, Sir, with your permission I shall read a few extracts of what our Honourable Prime Minister had to say when the proposals were introduced into this House. He said:

“As the Leader of the Party in the Government in this House, it is my duty to introduce this resolution, which was to change the Bill into the Constitution.”

Then he went on to say:

“The London Talks of January, 1956, paved the way for the appointment of the independent Constitutional Commission” — and I wish to emphasise the word “independent”.

“The members of the Commission arrived in the Federation in June last year. They then spent many months touring the country and talking to people from all walks of life and they received representations from all communities representing a wide variety of interests. The Report of the Commission shows that the members gained a very full knowledge of the conditions in our country today and of the problems which we shall have to solve. They approached their difficult task in a most business-like manner and I am glad to have this opportunity to pay tribute to them. I am personally most grateful to Lord Reid

and his colleagues for what they have done for our country.

We spent many long hours in the Working Party discussing every aspect of the future constitutional arrangements for our country."

"A formula was agreed upon by which it was decided that in considering the rights of the various peoples in this country no attempt must be made to reduce such rights which they have enjoyed in the past. As a result you find written into this Constitution rights, of the various peoples, they have enjoyed in the past and new rights, in fact, accorded to new people whom it was the intention to win over into the fold of the Malayan Nation. I refer to Citizenship rights."

".....there can, I consider, be no doubt whatsoever that these Constitutions will provide the independent Federation of Malaya with a firm foundation on which the people of this country can build a great, prosperous and united nation."— and here it says in the Hansard there was applause, which is missing in this House today.

"We appreciate the fact that our Constitution cannot alter the provisions of the law of other countries. This being so, the status of a person who is already a citizen of another country as well as a citizen of the Federation will not be altered after Merdeka Day."

"All those who are citizens of the Federation before Merdeka Day will become citizens of the new Federation, and any person born within the Federation on or after Merdeka Day will become a citizen automatically." — and here I wish to emphasise the word "automatically".

It is automatic because it is the fundamental right of all human beings that they should have a State and should belong to the State in which they were born and which shall bring them up. It is no solace to a child to tell him, "Your mother is not a Federal citizen; your father is absent, he has gone to Indonesia, Timbuctoo, or England. If you want citizenship you can go to England, you can go to America or Timbuctoo....."

AN HONOURABLE MEMBER: Or Russia.

**Enche' Lim Kean Siew:** Yes, also Russia. Then when it came to the question of rights of women, it was not that the Government did not envisage the present situation, which has been put forward by the Honourable the Deputy Prime Minister, because the Honourable the Prime Minister had this to say:

"It has been agreed, however, that a woman who is married to a citizen should be entitled upon making application to be registered as a citizen provided her marriage has been registered in accordance with any written law."

To add a further safeguard, the Honourable the Prime Minister went on to state:

".....to ensure that marriages are not arranged for the sole purpose of enabling women to obtain citizenship without having to comply with the normal conditions....."—the marriage must

be registered—

"Thus a woman will be liable to be deprived of her citizenship if she has obtained that citizenship by virtue of her marriage to a citizen and if her marriage is dissolved otherwise than by death within a period of two years."

Therefore, the Government cannot now say that what it said scarcely four years ago are no longer true. If this is a new Government, we may understand that there might be some excuse for some of the amendments, but this Government did envisage such a situation and the Prime Minister stated so in this House.

The Prime Minister then ended his memorable speech in this way:

"As I explained at the beginning of my speech, the proposals now before this Council have been most carefully worked out. We have had to take account of the various conflicting interests, and I do not believe that a better Constitution could have been devised in the circumstances of our country today.

"The economical future is bright; the country must not be held back by the selfish and unyielding attitude of any

individual or groups of individuals. The Constitutions provide the framework for a happy and contented Federation. Let us make it work and build for ourselves and our descendants a Shangri-La whereby we can all live in peace, happiness and prosperity."

Have these words now become empty, meaningless, phrases? Has the Shangri-La changed in the last four years, or is this the Shangri-La we are supposed to have?

In seconding the proposals at that time, the Honourable the present Finance Minister had this to say:

"This is a historic and solemn occasion....."

(Laughter). And then he went on to elucidate:

"In the last analysis, the pillar of Malayan independence is communal unity and understanding in general and Sino-Malay unity and understanding in particular. Without it no constitution will work whether written or unwritten, perfect or imperfect."

I think he is quite right. He went on:

"With it, the Constitution we are asked to approve today can be a sound and solid foundation on which to build for the future."

In another place he says:

"We believe ourselves firmly in these fundamental principles of democracy as is evidenced in the draft Constitution before this House today, but we cannot allow malcontents to prostitute the processes of democracy in the name of democracy in order to kill democracy itself."

**Dato' Dr. Ismail:** It is true!

**Enche' Lim Kean Siew:** Yes. In that case, why have we changed one of the fundamental principles of the Constitution, i.e. the need for equality of representative democracy in Parliament?

The Honourable the Minister of Finance then went on to say:

"We are entering a new, and let us hope, a glorious chapter in our chequered

history. As my Honourable friend, the Chief Minister, who has sacrificed so much in order to lead this country to unity and freedom, has repeatedly told us, we must gradually break down the barriers of communal suspicions and fears, which have hitherto separated us, each community into its own watertight compartment."

We must look at this draft Constitution as the composite whole and not as the singular piece of work.

He went on further—and this I would like the Honourable the Deputy Prime Minister to take note of:

"I cannot allow this occasion to pass without paying a tribute to my Honourable friend, Dato' Abdul Razak, the Chairman of the Alliance Political *Ad Hoc* Committee, on whose proposals the new Constitution has largely been based."

Mr. Speaker, Sir, there is another fundamental point in the amendment of the Constitution which I think the Honourable Deputy Prime Minister has glossed over and it is this: Formerly the Election Commission acted under the Constitution. No Government in power could attempt at any time to influence it. No Government, no matter how it desired to keep itself in power, could have altered the cause of that Election Commission. Now, first of all, the Election Commission no longer has the power to delimit constituencies as it wishes. It has to recommend the delimitation of the constituencies and it will then be introduced by the Prime Minister who will present it to the House and such delimitation can be passed by a simple majority.

AN HONOURABLE MEMBER: No!

**Enche' Lim Kean Siew:** I think simple majority, Mr. Speaker, Sir, is more than half.

**Mr. Speaker:** No interruption please!

**Enche' Lim Kean Siew:** Sir, if those on the other side of the House do not know what they are talking about, they should not try to confuse me.

**Mr. Speaker:** Please proceed!

**Enche' Lim Kean Siew:** Section 10 in the Thirteenth Schedule reads as follows:

"If any draft Order referred to in Section 9 (i.e. recommendations) is approved by the House of Representatives by resolution supported by the votes of not less than one-half of the total number of members of that House, the Prime Minister shall submit the draft Order to the Yang di-Pertuan Agong."

This is simple majority. Therefore, the representation of the people to this House can be changed and altered and amended by one-half of the representatives of this House. This, together with the power now given to the Government in the proposed amendment in Clause 21, page 6, which reads as follows:

"Article 114 of the Constitution is hereby amended by the insertion after Clause (5) of the following Clause:

"(5A) Subject to the provisions of this Article, Parliament may by law provide for the terms of office of members of the Election Commission other than their remuneration."

gives tremendous power of control by the Government over the Election Commission. "Oh!", you can say, "yes, terms of office cannot mean anything." No, I say this is the power, whether the Government knows it or not, it gives to the Government to say to the Election Commission on its appointment, "We will pay you so many thousand dollars a month and your terms of office shall be three years and you shall delimit the State of Kedah or Johore." And, in fact, by a selective process, by a choice of States for delimitation, the Government can and the Government will maintain itself in power, even if it is to maintain itself in power by a simple majority of one, so that any Government who gets into power can continue to maintain itself in power by this process of choosing the areas for delimitation and then delimiting it as it thinks fit. The Constitution, in order to prevent that, has given the Election Commission the power to delimit without the House interfering with

its work. But now this principle has been largely encroached upon and it can be done by a simple majority.

In the United Kingdom the Constitution is unwritten, but it is practically unchangeable. In the United States of America any amendment to the Constitution requires at least two-thirds of the majority of both Houses—that is the Upper House and the Lower House—and it must also be endorsed by at least three-quarters of the States of the Union; in other words, all the States must endorse any law passed by two-third majority of the Houses before it can even become law. And this is being attacked, and attacked bitterly by these amendments, by the powers given to the Government to control the Election Commission in the delimitation of the constituencies by simple majority. We know also for example, that in France any amendment to the Declaration of Rights which was promulgated in 1789 (over 100 years ago) must be by special sitting of the Chamber of Deputies; and this is also true in Switzerland where such changes must be referred to the people by referendum.

In all these countries special procedures are followed and special methods are adopted to safeguard the fundamental rights of the people. Yet in this one of the most fundamental rights of the people of Malaya—the right to equality of representation—the Government has thought fit to seek to amend our Constitution by slipping this amendment bill after a long list of items which has taken the House nearly three weeks to consider—these amendments being introduced by the backdoor together with a long list of other amendments, like financial provisions, which really are not controversial at all. This is an attempt to slip in by the backdoor.....

**Mr. Speaker:** Are you going to be long?

**Enche' Lim Kean Siew:** Yes.

**Mr. Speaker:** I would like to suspend the meeting.

**Enche' Lim Kean Siew:** Very well.

**Mr. Speaker:** The sitting is suspended for 15 minutes.

*Sitting suspended at 11.45 a.m.*

*Sitting resumed at 12.10 p.m.*

(Mr. Speaker in the Chair)

**Enche' Lim Kean Siew:** Mr. Speaker, Sir, before the recess I was interrupted when I was dealing with the question of majority. So I have had the time to look up Article 159 of the Constitution and Clause (3) of this Article reads as follows:

"A Bill for making any amendment to the Constitution (other than an amendment excepted from the provisions of this Clause) shall not be passed in either House of Parliament unless it has been supported on Second and Third Readings by the votes of not less than two-thirds of the total number of members of that House."

The phrase in the present Amendment Bill reads, ".....not less than one-half of the total number of the Members of the House." So in one case two-third is required and in the other case only half. I hope I have made my point clear and the House will not further be confused in this matter.

Mr. Speaker, Sir, it is very unfortunate that this Bill was not put in separately and no special sitting of the House was called. I understand that only three days will be given to debating this Bill; and in view of its seriousness and importance it is most unfortunate that this should have been so. It is clear that it affects not only one of the fundamental rights of democracy, not only does it affect the question of weightage to be given to every voter and to every constituency but it is bound to bring about a lot of misunderstanding between those people living in the town areas and those people living in the countryside areas. We cannot hope to forge a new united nation, we cannot hope to forge a patriotic Malayan people as long as we have laws such as this which is bound, Mr. Speaker, Sir, to

be interpreted and interpreted more strongly as a law which is discriminatory, a law which is going to affect the equality of rights, a law which is going to affect the equality of political power between the various sections of this country.

Again, Sir, our Honourable Prime Minister has stated, when he spoke on Article 153 of the Constitution on the 10th July, 1957, as follows:

".....we must never forget that our main object is to unite our people. We should do all we can to remove communal barriers and help build a united and patriotic Malayan people."

But can we in this House really say that this amendment is not bound to have repercussions which may affect the question of unity? If it does affect the question of unity, if it does affect the question of peace, the Internal Security Act will be invoked and when the Internal Security Act is invoked we get repressive measures. If we get repressive measures we can end up by destroying democracy itself and here I would like to read the words of Mr. Carnell on the prospects of parliamentary democracy in the Federation of Malaya and Singapore. He did this when he was a University Lecturer on Commonwealth Government in Oxford University. Therefore he is a man whose words we must give weight to and this is what he said—and he warned us—and this as early as in 1955:

"The greatest challenge to democracy in Malaya and Singapore is how to combat communism without its becoming totalitarian in its methods. Malaysians have only two alternatives. They may follow India, Ceylon and Indonesia and recognise the Communist Party with all the obvious dangers that that course of action may precipitate or they may follow Thailand, South Vietnam, Philippines and Formosa and continue to outlaw communism but at the price of diminished, if not, extinguished, liberties. Whichever course they adopt, there may be equal threat to the survival of parliamentary democracy."

If we bring about this bias between the urban and the rural people, if, we

bring about the inequality of the status between the rural people and the urban people, how do we think the urban people will take it? We know that they have the economic power in their hands; we know that they have the power of organisation; we know that they have the ease of communication in which to organise. We ourselves, in our recent history, have seen how some organisations have been able to organise themselves on communal lines so easily, so quickly and so effectively.

Sir, is this amendment really necessary? Why do we not introduce a law instead whereby if we should find that it is necessary to give weightage to any area at any time, we would be able to bring about a special Bill; by which every time we want to delimit any area we could introduce a Bill in Parliament? This amendment, however, will give a statute which is going to be written into this document called "The Malayan Constitution" to be enshrined for ever. This amendment gives power to a small group of two or three people with a simple majority in this House to keep perpetuating a feeling of grudge by maintaining themselves in power but it will lead, as I said, to the invocation of the Internal Security Act, which may lead to repressive measures which may threaten democracy itself.

Now, Mr. Speaker, Sir, why do I stand up and speak so strongly today? *(Laughter)*.

**Dr. Lim Swee Aun (Larut Selatan):**  
Not very strong!

**Enche' Lim Kean Siew:** Some people may think this is funny, but I certainly don't, and it is our children who are going to suffer—not my children alone, everybody's children here. I speak strongly today because this is an Act which is the last in a series of Acts which have slowly encroached upon the principles of democratic practice. It is unfortunate that the world today finds itself in a position where in the words of the Honourable Minister of Finance "democracy is being killed

in the name of democracy itself." What he said in 1957 is becoming true today! He is prophetic in that sense! *(Laughter)*.

Now, I say, Mr. Speaker, Sir, that the spirit and letter of our Constitution is being eaten away slowly by an insidious process, and throughout all these years there has been a slow gnawing away of our fundamental democratic rights and liberties such as the fundamentals I will now deal with.

First of all, what we ask for and what is stated by many writers about democracy is that there must be freedom of movement, freedom of speech, freedom of association and freedom from arbitrary arrests. The first thing that happened after Merdeka which attacked Article 5 of our Constitution which reads as follows:

"No person shall be deprived of his life or personal liberty save in accordance with the law."

was the amendment to Article 149 in 1960 which allowed for the termination of the Emergency Regulations and the introduction of the Internal Security Act. I remember we came here and warned this House in no uncertain terms that if we allowed the amendment to Article 149, the Government would be bound to introduce something to take the place of the Emergency Regulations. The Emergency Regulations allowed for arbitrary arrests, allowed for arbitrary detention without trial, on the excuse that there was a period of Emergency, and because we were in a period of Emergency, the Emergency Regulations were renewed from year to year and every year they had a new life. Then suddenly in 1960 came the amendment to Article 149 which allowed for a permanent law, the Internal Security Act, to be enacted with the power of arbitrary arrest even during times of non-emergency, and the great task of explanation fell heavily upon the "wise head" of our Honourable Minister of Justice who had to bear the main brunt of this burden and to

talk about democratic rights and the right to justice of people whilst hanging over our heads was the Internal Security Act. Now the power of arbitrary arrests and detention may be applied throughout the whole of our Malaysian territories if Malaysia should come into being, and that coupled with the personality of our Honourable Minister of Internal Security, who keeps on saying "I will lock up everyone who causes trouble", makes me shiver (*Laughter*). Of course, it is very fortunate that we do not have the former Assistant Minister of Broadcasting as the Assistant Minister of Internal Security; otherwise, it might even be worse (*Laughter*). And you see, Mr. Speaker, Sir, because of the attitude that we adopt here in Parliament, and because people refuse to accept their political responsibilities as they would not realise that they are not only responsible to their Parties but in fundamental rights and liberties and on democratic principles they are responsible ultimately to the people who elected them into office, we have this slow change of attitude which has introduced over this land a feeling that the whims of the person prevail over democratic rights. That with the Internal Security Act has led to many other infringements into the fundamental democratic rights upon which the Malayan nation was born. The Internal Security Act has also affected the freedom of the Press.

**Enche' Mohamed bin Ujang (Jelebu-Jempol).** On a point of order under S.O. 36 (1), I think the speaker is irrelevant. The Internal Security Act has nothing to do with this Bill.

**Mr. Speaker:** He is now on democracy. Please proceed.

**Enche' Lim Kean Siew:** Because of the Internal Security Act another fundamental principle of our democratic rights has been infringed upon—the right of speech and the freedom of the Press. The Press itself is the contact between the people and the Government. Without freedom of the Press we cannot have the democratic right to listen and to communicate,

and yet why is it that the Press now tremble at every phone call from the Ministry? (*Laughter*). It is not my habit to mention names in this House. Therefore I will not do so; but the House can take it from me that because of our laws the Press are put in a position where they have to please the Government. For example, it is now required that a Press should renew its licence from year to year. When was that law introduced? Was it not introduced during the period of the Emergency? Why is it necessary for the Minister of Internal Security to require newspapers and the Press to supply names of their contributors and their staff at this stage when the Emergency is officially a thing of the past?

**Mr. Speaker:** Don't dwell too long on that.

**Enche' Lim Kean Siew:** I am afraid, Sir, that as this is very important, I have to speak about it. Freedom of the Press is fundamental to democratic rights.

**Mr. Speaker:** Don't dwell too long on that point.

**Enche' Lim Kean Siew:** I will mention only two instances to illustrate my point. The *Utusan Melayu* and the fact that its editor after two years as editor was suddenly suspended and found to be subversive and not permitted to return into Malaya. I need not go further into it. Everybody knows what happened. At that time I felt very strongly though I did not say very much in this House. Perhaps, I was guilty of not having represented the electorate who put me into this House; or maybe because my electorate, or most of them, do not read the *Utusan Melayu*, and therefore this did not affect them. But, nevertheless, the point is this: the suggestion of power is worse than the inflicting of the power itself. When one has a suggestion of power, one can bring about terror, and that is the fundamental principle of totalitarianism—the suggestion of power. This suggestion of

power over all presses in the country was displayed in the instance of the *Utusan Melayu*. Then, of course, we remember the instance of the *Saturday Post*, a tabloid weekly, which should have never been taken seriously at all. It was a paper that was not serious, it was quite irresponsible, and yet the power given to the Minister of Internal Security was used to stop its production. Why? Because we are getting into a climate where we are used to totalitarian methods.

**The Minister without Portfolio (Dato' Suleiman bin Dato' Haji Abdul Rahman):** On a point of order. Though the Honourable Member is speaking on democracy, but surely he could not mention specific cases, especially when the Bill on Internal Security was debated and passed by this House, when he could have spoken on that subject instead of now.

**Mr Speaker:** I have warned you not to dwell too long on that point—we are not discussing the Internal Security Act at all.

**Enche' Lim Kean Siew:** Yes, I was going to show how in the process in the last two years, first of all by the amendment to Article 149 which led to the enactment of the Internal Security Act, and the Internal Security Act which led to repressive measures, our freedom is being slowly eaten away—and nobody can refute the logic and the relevance of what I was saying.

**Dato' Suleiman:** I don't, Mr. Speaker.

**Enche' Lim Kean Siew:** Very well. What about the *Eastern Horizon*? The *Eastern Horizon* has been banned in Malaya—the only country in the world to have banned it. The only country in the world—I emphasise. Is it because it was published by the wrong printers? No other nation in the world has banned *Eastern Horizon* which after all is published in the British Colony of Hongkong. If what I say is considered to be not important, then I challenge the past Minister of

the Interior—or is he still the Minister of the Interior staying in Australia, I am not sure (*Laughter*)—to give me by his own efforts a complete list of banned publications without recourse to the proper authorities concerned within the next 48 hours. The list is now so long that it is almost impossible to compile it.

**Dato' Suleiman bin Dato' Haji Abdul Rahman:** Mr. Speaker, Sir, since I have been challenged, may I ask this House whether we should fight here or outside (*Laughter*).

**Mr. Speaker:** Order, order. I hope in future Honourable Members will not use this word “challenge” to one another. I have heard a lot of it and I think it is time now when we must stop using that word “challenge” (*Laughter*).

**Enche' Lim Kean Siew:** This is not a challenge to fight—I meant to produce a list of banned publications. I would not dare to fight him (*Laughter*).

The next fundamental of democracy is freedom of speech, and that also has been heavily attacked (though many of us are not aware of it, because many of us do not feel it in this House) in recent years. Go outside to the people—the man in the street—and ask him how he feels? Does he dare to stand up in a public platform and criticise the Government? He will not dare because he knows very well that the Police have a very bad habit of coming up with a tape recorder and placing it right in front of the speaker's platform and placing the car by the side of the platform in order to show everybody that the speech is being taped; that suggestion of power I have been talking about. If people are afraid to speak and the Press is controlled, how can we know what the people want? The whole principle of the practice at Hyde Park in England is this: that if we let people speak and express their views, they rid themselves of the aggression, they rid themselves of their frustration. The Hyde Park soap-box orators fulfil a fundamental function of democracy

and they represent the people who are unhappy and they stand up and they speak and nobody cares, (*laughter*) and they speak for hours. And after they have spoken, the people feel happy (*Laughter*). The fact that many of us here are allowed to speak in this House has to a large extent made the people feel that at last their grievances are being heard: though this is a mistaken impression it is the psychology of the people. Many people support the people who oppose. Why—because these people who oppose are symbols of their own frustration and of their own unhappiness. If we do not allow that safety valve of the freedom of speech, we may develop a situation whereby an explosion will occur instead, and this is really a matter which we all must consider seriously.

Freedom of movement is yet another principle of democracy fundamental in democratic practice. Not only do we now have the Internal Security Act but we also have the Restricted Residence Ordinance which restricts this freedom. Many people have been detained and they have been released. But the Government has restricted them to certain areas and say in effect to them, "You shall not move or leave the limits of Town "X". You must go into your house and stay there from 6 p.m. to 6 a.m. You shall not take part in political activities. You shall not take part in trade union activities. And you shall report to the Police Station "Y" once a month." Is that not in effect imprisonment? Even criminals in the most developed countries are allowed limited freedom in special cases; and juveniles especially are allowed to stay in a home without guards. We have got such "home" situated on the way to Waterfall Gardens, Penang. It is a social reform home. The gates are always open and the boys are allowed to go home if they wish. It represents an attempt at moulding a character, at developing a character, and at changing a character by persuasion and by corrective measures. But the Restricted Residence Ordinance is an attempt to mould by repressive and oppressive measures.

How do these two principles tie up together? We who are not restricted may laugh at the inconvenience that may be caused to the people restricted. But suppose it happens to one of us. There was a certain Mr. Lee, who was for many years assisting a political party which was in supremacy. He lived in Penang, and still lives in Penang. At the by-election of the Honourable Member for Teluk Anson, he left the Association referred to this morning by the Honourable the Deputy Prime Minister as I think, the MCA, and when he spoke against the Alliance he was immediately detained. He was restricted under the Restricted Residence Ordinance and was brought up in a special hearing and was finally released because the Chief Minister was one of the witnesses who vouched for his character.

**Dato' Suleiman:** Mr. Speaker, Sir, I must rise again on a point of order. The Honourable Member is giving many instances of specific cases and you, Sir, have warned that he should not dwell too long on that point. If he is speaking on democracy, surely he should not mention specific cases, and if he were to give too many specific instances he can go on till Doomsday (*Laughter*). Coming to the point of democracy, I think he should give the definition of democracy without having to give specific cases which we have heard before.

**Mr. Speaker:** You are allowed to speak on democracy—that is the point you can raise. Do not dwell too long on other matters like the Internal Security Act, the Restricted Residence Ordinance, and all that. You can speak as short as possible, but you must go back to the point at issue before the House.

**Enche' Lim Kean Siew:** That is quite so, Mr. Speaker, Sir. I quite agree. But I am, unfortunately, speaking to an audience that keeps on laughing because they do not know what I am talking about (*Laughter*), and I must illustrate.

**Mr. Speaker:** Don't dwell too long on that.

**Enche Lim Kean Siew:** This restriction of our freedom of movement may be extended when Malaysia comes into being into Malaysia by restricting people of other territories such as Singapore, Brunei, Sarawak and North Borneo from coming into Malaya. It may prevent us from going to Sarawak, Brunei or North Borneo. Unless this House realises that it is the fundamental right of every citizen to move as he wishes within the territory of which he is a citizen, this may be the end of our freedom of movement. Of course, Mr. Speaker, Sir, I was mentioning a Mr. Lee as an example of Ministerial exercise of arbitrary power. Now, in order to please the Minister of the Interior, I will not refer to it again. But there are other instances which I would like him to note. There are other instances of many young boys who cannot move freely, Sir, because of the use of the arbitrary powers given in the Internal Security Act which has now become the ordinary law of our land based on the principle of arbitrary arrest, which should by right be allowed only in times of emergency for the security of the State and the security of our country.

Last but not least, we come to the freedom of the Judiciary. Our Constitution has been amended to do away with the freedom and the impartiality of our Judiciary. The term of office of our Judiciary was controlled and maintained in the Ordinance itself, but by the last amendment the term of office of the Judiciary can now be dealt with by Parliament. If that does not ensure that all judges should toe the line on political affairs, I do not know why it was introduced.

Now, we come to the further encroachment or attack on the fundamental rights that must be enshrined in any Constitution that pretends to be democratic—and that is the automatic right to citizenship by marriage and by birth. As I have read

out just now, the Honourable Prime Minister has said that a person does become a citizen automatically and that if any marriage is genuine and properly registered, then a two-year period is sufficient. Then, why is it that under Article 15 it should be enacted as such:

“(1) Subject to Article 18, any woman who is married to a citizen is entitled, upon making application to the Federal Government, to be registered as a citizen if she satisfies the Federal Government—

- (a) that she has resided continuously in the Federation for a period of not less than two years immediately preceding the date of the application;
- (b) that she intends to reside permanently therein; and
- (c) that she is of good character.”

Mr. Speaker, Sir, is not that atrocious? If a woman is married to a man for two years, has she got to prove to the Federal Government that she is of good character. Is the husband going to be told that he is married to a woman of bad character who cannot become a citizen because she is a woman of bad character? That, Sir, puts the label of immorality not only on the wife but also on the husband. Surely, if any one of us has a wife, and she has been a wife for two years, it must be that she is of good character. Does anyone want to keep as wife a woman of bad character? *(Laughter)* Or, are we so morally depraved? Why should she have to prove to the Government that she is a woman of good character if she has been married for two years and her marriage has not broken up?

Now, Sir, this question of good character could be used politically against a person who is politically active and opposed to the Government. A wife may be told “If your husband is not going to keep quiet, we are going to say that you are not a woman of good character politically.” It does not say in this amendment that “good character” means good moral character. It merely says, “good

character". The Honourable the Deputy Prime Minister has said this morning that a person may be of bad character although he may not have been convicted in a criminal court. So, we can have a bad character even if there has been no conviction. Is that not absurd from a legal point of view?

Sir, another point is that a woman is entitled to register only if she has been here for not less than two years and has proved her intention to stay here permanently. Are we trying to imagine a situation where a woman is married to a man, has stayed here two years and does not intend to stay here permanently? What is the point of marrying a Federal citizen who is living in this country, if she does not intend to stay permanently after she has been here for two years? Can't we presume that if a woman has stayed two years that she wants her marriage to exist, that she wants her children, that she wants to stay with her husband and family? Yet this amendment requires that after two years, she must prove that she wants to be here permanently. What kind of a wife is she who is married to a Federal citizen, stays for two years with the husband, and yet does not intend to stay here permanently?

Why is it necessary to introduce "character" into our citizenship laws in this way? Is the Government trying to say, or trying to guarantee, that all citizens are of good character and that all persons of bad character are not citizens? Can the Government say that all who are citizens in Malaya are persons of good character—and that is why they are citizens—and it does not want them to be corrupted by persons of bad character? Shall I cite to the Government instances of relatives of Members of this House who have committed offences and are still citizens? Do I need to prove the absurdity of this section or clause? Surely our own citizens have committed crimes. Some of our relatives have committed crimes; some of our relatives have been imprisoned.

Does that mean to say that they should not become Federal citizens? How can you take into consideration the question of character on a matter of fundamental rights? Besides, what does this Government mean by good character? Surely we can see in this amendment a weapon which can be used against husbands who are politically opposed to the Government. And if that is so, that is really a gross breach of our duties indeed!

Further, to understand this more clearly, we have to look into the question of the child. In the proposed Clause (2) of Article 14, as set out in the proposed Amendment Bill—top of page 2—as amended by this notice of amendment, which is the third of a series, issued on the 19th January, 1962, it says:

"A person is not a citizen by virtue of paragraph (b) of Clause (1) if, at the time of his birth,—

.....  
(c) neither of his parents was a citizen of the Federation and neither of them was a permanent resident therein."

and for the purpose of permanent residence, the proof would be permission or a certificate from the Federation Government. And to add insult to injury, having discriminated against the wife, we find that there is an attempt to discriminate against the children as well.

Sir, this new section proposes that if neither father nor mother is a citizen, then unless one parent can produce the permission of permanent residence, it is assumed that the child is not a citizen. You say the man must produce a red card or the man must produce a blue card. Well, there may be a lot of people whose parents are not citizens, and who may leave their children behind. What is going to happen to those children. In this instance, I must warn the House that we cannot go by the number of persons who are going to be discriminated against. Even if one person can be deprived unrighteously of his right

to citizenship by birth, it is sufficient for us to look at the Bill twice.

Supposing we get a man coming here on business—and there are many thousands of Indonesian people who come here on business—stays with a woman (and the woman is not a citizen) and then leaves after fathering a child. Is it any solace to the child to say to the child, “Your father is a citizen of Indonesia, go back to Indonesia. It is unfortunate that you are living here, it is unfortunate that your mother is living here, but since your mother happens to be a daughter of somebody who is not a citizen and is not a Federal Citizen, you also will not have the Federal citizenship.” Now, the burden of proof that is required under this section, is placed upon the child to prove that either one of his parents has a permit or a certificate to remain here permanently, and that will be difficult since by the time the child grows up he may have lost track of his parents. .

It is, Mr. Speaker, Sir, my contention that a person who is born here must automatically become the citizen of the Federation, especially as other parts of our Constitution make it automatic that if the child is taken away by the father for a continuous period of five years, he loses his citizenship and adopts a new citizenship. There is no need for this provision, absolutely none at all.

Mr. Speaker, Sir, let us find out what, in fact, this Bill intends to amend. Let us find out what are the sections that the Government intends to remove. Before I begin this, I would like to say this. I know for a fact that the Election Commission has completed, or almost completed, its work on the delimitation of constituencies under Article 46 of the Constitution. It has finished its work; it has spent two years on it; and it is prepared to delimit the constituencies and bring them down to one hundred. But if I am not wrong, the Honourable Deputy Prime Minister has stated that it will be expensive to delimit the constituencies and bring

them down to one hundred under Article 46. If that were true then the delimitation being carried out is a waste of time and I say that time has therefore been wasted and money has been spent. But that is not true. Therefore, this amendment to Article 46 is completely unnecessary. I will now come back to my main point.

Under Articles 113 to 116, power is given to the Election Commission without any interference to delimit the constituencies, and Article 113 (2) of the Constitution says as follows:

“After the first delimitation of constituencies in accordance with Articles 116 and 117 the Election Commission shall, at intervals of not more than ten nor, subject to Clause (3), less than eight years, review the division of the Federation and the States into constituencies and make such changes therein as they may think necessary in order to comply with the provisions of those Articles;

And the provisions of those Articles say that the constituencies shall be more or less the same. Now it is intended to change this Article to read as follows:

“.....the Election Commission shall..... review the division of the Federation and the States into constituencies and recommend such changes therein as they may think necessary in order to comply with the provisions contained in the Thirteenth Schedule.”

So the provisions of Article 116 and 117 are removed and the power given to the Election Commission is also removed. The Commission may now only make recommendations to the Parliament whereas formerly they had the right under the Constitution to delimit constitutionally as they see fit, they were equal to the Judges, nobody could interfere with their terms of office and no one could tell them what to do. That was considered fundamental because every person in power has the desire always to twist the law in order to maintain himself in power. This is a fundamental basis of the Constitution which everybody knows that must be maintained, and yet it is to be removed. For what

reason? No reason was given by the Honourable Deputy Prime Minister. He has only in effect said, "Well, we have not changed the principle, but some rural constituencies shall contain as little as one-half of the electorate, of the people of the urban areas, but the principles are the same." I say the principles are no longer the same, because these Articles have been changed. The power to delimit the constituencies is tied down by Article 116, and Article 116 (3) reads:

"Constituencies shall be allocated to the several States in such manner that the electoral quota of each State is as nearly equal to the electoral quota of the Federation as it can be without causing undue disparity between the population quota of that State and the population quota of the Federation."

It establishes there the first principle, namely that as between the States themselves the representation of the States to Parliament shall show no disparity or bias to any State but that it should more or less be proportionate to the population of each State. It guarantees some kind of proportion between the population of the State and the population of the whole of the Federation in order to ensure that representation is equal and proportional. That is to be now removed. That is the first point. My other point concerns Article 116 of the Constitution.

Now, Clause (4) of Article 116 states:

"Each State shall be divided into constituencies in such manner that each constituency contains a number of electors as nearly equal to the electoral quota of the State as may be after making due allowance for the distribution of the different communities and for differences in density of population and the means of communication; but the allowance so made shall not increase or reduce the number of electors in any constituency to a number differing from the electoral quota by more than fifteen per cent."

And Clauses (5) says:

"In this Article—

- (a) "electoral quota" means the number obtained by dividing the number of electors in the Federation or a State by the total number of constituencies or, as the case maybe, the number of constituencies in that State....."

So it guarantees proportional and equal representation not only as to population but as to electors, citizens to citizens; it guarantees that as between States representation shall be proportionate and that within the State itself the constituencies shall be proportionate to electors—all that is now thrown aside.....

**Mr. Speaker:** Time is up. The meeting is suspended till half-past four this afternoon.

*Sitting suspended at 1.00 p.m.*

*Sitting resumed at 4.30 p.m.*

(Mr. Speaker in the Chair)

## THE CONSTITUTION (AMENDMENT) BILL

### Second Reading

*Debate resumed.*

**Enche Lim Kean Siew:** Mr. Speaker, Sir, Article 116 is to be amended and replaced by the Thirteenth Schedule whereby the Election Commission, whose terms of office is to be decided by Parliament, can only make recommendations on the principles on the delimitation of constituencies as set out in paragraph 2, Part I of the Thirteenth Schedule which is at page 10 of the amendment Bill which reads as follows:

"The following principles shall as far as possible be taken into account in dividing the Federation and the States into constituencies pursuant to the provisions of Articles 116 and 117:

- (a) while having regard to the desirability of giving all electors reasonably convenient opportunities of going to the polls, constituencies ought to be delimited so that they embody complete administrative districts, and do not cross State boundaries;

- (b) regard ought to be had to the administrative facilities available within the constituencies for the establishment of the necessary registration and polling machines;
- (c) the number of electors within each constituency ought to be approximately equal except that, having regard to the greater difficulty of reaching electors in the country districts and the other disadvantages facing rural constituencies, a measure of weightage for area ought to be given to such constituencies, to the extent that.....”

I think the whole effect of the amendment is as corrected: “in some cases a rural constituency may contain as little as one half of the electors of any urban constituency;”

The first thing to note is that the proportion that is fixed by the Constitution in relation to the States and the Federation as regards population quota and the States *inter se* regarding electoral quota is to be removed. The point we must remember is this: we can keep dividing any State such as Kelantan or Kedah to as many constituencies as would be equal to twice those in urban areas provided that we do not have any rural constituency with less than half the electorates of an urban area; by that process we can have, for example 40 or 50 representatives from Kedah and Kelantan to about 120 representatives from the whole of the Federation Parliament by the pure process of selecting our States with which to divide. The argument of course can only be understood if we take this illustration. If there are 100 electors in a rural area and 100 electors in an urban area, it would mean under this Bill, that the 100 electors in the rural area can have two representatives—in other words, one for 50—whereas in the case of the urban areas there will be only one representative.

Let us go back to the hypothetical case of Kedah. Let us imagine that Kedah now has eight town constituencies and 16 rural ones. By the present amendment the 16 con-

stituencies can easily become 32 as opposed to eight in the urban areas. I am not giving proper figures, I am giving general figures to show how from eight to 16 you can get eight to 32. This could easily apply equally to Selangor; it can apply equally to Perak; it can apply equally to Kelantan; and it can apply equally to Johore. And since there is no guarantee in the 13th Schedule that the constituencies shall be proportionate as between the States to the Federation, we can get three or four States being delimited to any amount within the declared limits of the 13th Schedule whilst other States need not be delimited at all, thus giving some States a higher representation than others in Parliament. And by a grasshopper technique, the leadership of any government who wish to stay in power can select special States in their favour and delimit them. Thus, for example, if the Government find that they are losing power and control in all the States whilst passing over other States where the electorate is against them except in Kedah, they can tell the Election Commission, “Go and delimit Kedah.” And Kedah could be delimited so that more representatives will be returned from that State and having been returned they can spend another five years trying to cultivate the support of the electorate of another State such as Johore. Then when it comes to the next election, the Government will say, “Well, this time we will get a delimitation on Johore.” And thus by a slow process a small caucus of people will remain in continued control of the Government; and that is why the framers of our present Constitution had seen fit to set out the rules controlling delimitation under Sections 113, 116 and 117 of the present Constitution to make certain that such a situation as envisaged by me will not arise.

Furthermore, Mr. Speaker, Sir, under Section 114 (5) it is provided that—

“Parliament shall by law provide for the remuneration of members of the Election Commission, and the remunera-

tion so provided shall be charged on the Consolidated Fund."

Thus, we can see that by this section, no power is given to Parliament to exercise any control whatsoever over the Election Commission. Yet this safeguard is to be taken away and power is being given to the Government thus to influence the Election Commission indirectly. And what did the Honourable the Deputy Prime Minister say? He said that the final authority was formerly not in the Dewan Ra'ayat and now the final authority is to be put in the Dewan Ra'ayat and not in the Election Commission. Is that not a change of fundamental principles? Of course, Sir, it is. It is a complete change, and unless the members of this House sit up and realise that—we are not always going to have the same government from year to year; Governments may change; delegations may change; and representatives may change—power is to be handed to a simple majority in this House to perpetuate itself by control over the Election Commission, democratic change is threatened. If we realise that the government in power is not suitable and we wish to remove it, remember this: that that government may retain power by this means of control of the Commission and prevent such democratic change. For example, if the PMIP got into power, imagine what they could do (*Laughter*).

The Government has rightly expressed abhorrence over the apartheid policy of South Africa, but what is it trying to introduce into Malaya under these amendments? Surely it is trying to introduce the patrician and pleb system of the old Roman Empire, consisting of a privileged and an under-privileged class. It is my belief, Sir, that the Government cannot deny that these attempts are directed to give a bias to elections, that the Government is moved not from the standpoint of a Malayan Government but assumes a racialistic standpoint; and it is also my belief that this is destructive to the constitutional and fundamental rights which the Prime

Minister offered us in 1956 guaranteed under the present Constitution, which is barely four years old. Do not all these, in fact, make the Government guilty of unconstitutional conduct? And do not these acts show the Government to be disloyal or disaffected towards the Federation under Article 25 of the Constitution? Article 25 has not been amended and it says that "the Federal Government may by order deprive of his citizenship any person who is a citizen by registration under Article 17 or a citizen by naturalisation if satisfied that he has shown himself by act or speech to be disloyal or disaffected towards the Federation." Now I ask the Government to take action against those people who would subscribe to this amendment Bill, because it shows disloyalty to the Federation.

Mr. Speaker, Sir, if it is the intention of the Government to right wrongs, if they think that certain constituencies should be given special treatment, then I ask that the Bill be not presented in this fashion but that every time the Government wishes to delimit any constituency, power could be given to the Government to bring in a separate Bill regarding such constituency alone so that it could bring it before the House for full discussion. And to get such a Bill approved for the delimitation of that constituency, the Government must have at least a two-thirds majority. In this case since the whole power is handed to the Election Commission (which is under the control of Parliament by simple majority) whose proposals of delimitation need the recommendation of the Prime Minister to Parliament, Sections, 8, 9, 10 and 11 of the 13th Schedule must apply, in which case this House may only by simple majority approve this delimitation. If this House rejects that Bill, it may be amended and presented again by the Prime Minister for approval, again by a simple majority of this House. What does that mean? It means that, *ad hoc*, the whole thing is taken out of the Constitution and placed into the 13th Schedule, which conflicts with the

spirit of Article 139 which requires a two-thirds majority to amend any provision of the Constitution, thus defeating the spirit of the Constitution which requires two-thirds majority to change any of the fundamental rights of the citizens of Malaya.

Representation, Mr. Speaker, Sir, I respectfully submit, is a matter regarding fundamental rights, and surely if the Government had intended to stick to the constitutional principles, then delimitation at least would or should require in every case a two-thirds majority, not half, assuming that we agree on weightage—which we do not. Assuming that we agree on weightage, at least give this House the respect of having to require that the Government obtain a two-third majority before it can change any of our constitutional right of representation—that the government obtain the approval of at least two-thirds of the representatives of this House for any such demand.

It is absurd to require that future changes of representation should require only the approval of a simple majority in this House because..... because even now the Government was elected by a total number of 795,877 votes as opposed to 751,587 votes given to the Opposition. So, proportionately the people whom we represent in the Opposition is nearly equal to that which this Government is supposed to represent, and yet we do not have anywhere near half the number of the representatives in this House. Imagine what would happen if in effect the urban constituencies in future were cut down by half. It is quite possible then that Government representatives in this House, who represent less than half the people of this country, could vote to change representation in Parliament if they only have a simple majority. We might get the absurd figure, for example, of a Government with about the votes of 400,000 people changing the constituencies against the wishes of the representatives who may very well represent people who may number over a million. If you

go into the matter carefully and deeply, you will realise how dangerous this is, because one small group of people, clever people, can maintain themselves in power by the simple process of delimitation.

Sir, we cannot deny that if this Bill was passed that what can happen could be this. Firstly, racialism may be used as a reason for any amendment to any constituency's representation, thus dividing the country not only into privileged and under-privileged classes as regards citizenship but also into racial districts, because districts may be selected according to racial lines. How then can we have a united Malayan people? How can we hope that one day we can call ourselves "Malayans"? There is bound to be resentment.' Secondly, with this one to two ratio, the ultimate result will be that representatives of less than 50 percent of the electors can change constitutional representation when representatives of the majority of electors being less in number in this House, would not be able to carry through the wishes of the majority of the people of Malaya.

Again, it has been said by Mr. Carnell, whom I have referred to this morning, as follows:

"Parliamentary government in Malaya can never hope to satisfy the deep social frustrations of the communists, and those in sympathy with communism, unless it can provide something more than mere ballot boxes. It must be built upon a ground structure of community development in the widest sense, on responsible trade unionism, community projects, voluntary bodies and youth organisations in which the socially adrift members of Malayan society may find opportunities both for service and leadership."

"Here Malaysians might well learn from India. Not only are the community projects one of the main sheet anchors of Indian democracy, but India's leaders themselves have set a high standard of social service and self-sacrifice. The wealth of individuals is rapidly being liquidated. Princes and landlords have voluntarily agreed to the loss of their lands and fortunes. The professional

middle class accepts a scale of taxation which is penal even by British standards. The whole tone of India's great experiment in democracy is one of austerity. Are Malaya's leaders prepared to make such sacrifices?"—and I repeat that question: Are Malaya's leaders prepared to make such sacrifices?"

"There would seem to be little evidence of such leadership at the moment."—and I have a copy of Mr. Carnell's pamphlet here for anybody who wants to refer to it—

"The characteristic feature of Malayan society is still its extreme materialism and the measurement of a man's worth is wholly by the wealth he can flaunt. All the while such values persist it may be confidently predicted that communism will continue to attract the youths of Malaya."

In other words, if the Government wishes to maintain itself in power, it does not have to employ such trickery as delimitation, but it should set an example and start national projects which will give people confidence, in the Government. However, unfortunately in Malaya the opposite is becoming more truer and truer. Instead of diminishing wealth, rapacious landlords and business tycoons become more rapacious and more greedy daily—their ranks are swelling with new recruits while the people ache and groan under their heels. And instead of necessary and popular reforms required to keep the Government in power, the Government attempts to maintain power by the suppression of liberties of the people; and those who oppose, as demonstrated above, are silenced. There is a danger that unless this trend is stopped, the Government may very well be surrounded and run by men whose sycophantic "Yes, Sir" may reverberate empty through the halls of Government.

Sir, in 1954 we were promised a nation of happy united peoples and an amnesty was offered. Alas! That was not to be. In 1957 we were promised a Shangri-La. Alas! The Constitution is to be changed. In 1959 the Malayan Chinese Association

was split on two issues. One was on education and the other was on representation—and I hope I am not wrong if I say that the Honourable the Minister of Justice did in 1959 assure the people that there would be no amendments to our Constitution (*Applause*) and the Honourable the Prime Minister also said so; and the success in the 1959 elections of many of our representatives here today was based on this promise. The Alliance promised in effect that there would be no change on education and of the Constitution.

When Dr. Lim Chong Eu withdrew, the late Tun Cheng Lock Tan's letter was published by Mr. Yong Pung Hou, and the late Tun Cheng Lock Tan said, "I support your demand for the coming meeting of the Alliance."—and this was on representation of the Malayan Chinese Association to this House. We of the Socialist Front fearing such changes asked the people to give us at least one-third representation in this House; we feared that there might be amendments to the Constitution and we needed one-third to safeguard the Constitution. But the Government assured the people and said, "No. The Constitution will not be amended. Give us more than two-third." More than two-third majority was given to the Government on such a promise and what has happened today?

Mr. Speaker, Sir, the Education Ordinance was changed, the Constitution was amended in 1960, and now the Constitution is to be amended again. If we do not stand firm now for our own principles and our own rights, how far backward are we still going to retreat? Let the Government remove the whip and let each man vote according to his conscience, let each man vote as he thinks he should vote. Unless a strong protest is made now, when will such encroachments cease? We have seen amendment after amendment to this Amendment Bill, and the Honourable the Deputy Prime Minister said this morning that certain amendments were made because of

representations of the Malayan Chinese Association and the Malayan Indian Congress. They had pleaded with him, so it seems. I ask: Did they plead with him on their bended knees, or did they plead as men?

Mr. Speaker, Sir, in view of the fact that there had to be amendment after amendment, I would like to ask this: Did they plead as representatives of themselves or as representatives of the people, or as representatives of their Parties? In other words, was this ever referred to their Parties, or did they choose themselves to amend this Bill? If so, then I ask this question: Are they not ashamed of themselves? We have a very noble task to perform in Parliament. This is a new democracy. The reason why many of us are here is because we believe that we would be able to do something for those who voted us in. It is because we believe that the Constitution could achieve something for our children; it is because we believe that in South-East Asia among all new emergent independent countries, we at least could do something that is different. We are here to protect our Democracy. But what are we presented with today but an attempt to destroy democracy? The Honourable the Minister of Finance has said that we must not have democracy destroyed in the name of democracy. And I say "Yes"—and this Bill is a major step towards the final destruction of constitutional progress in this country. And we must vote against it. Thank you.

**Enche' D. R. Seenivasagam (Ipoh):** Mr. Speaker, Sir, I would like to start by congratulating the Honourable the Deputy Prime Minister, not for the substance of what he said, but for the brilliant manner in which he has tried to hoodwink and camouflage the sinister motive of the amendments proposed in this Bill. In that respect the Honourable Deputy Prime Minister did an almost perfect job, but not perfect enough to camouflage sufficiently the motive which is obvious to those who would be considering these amendments.

Sir, I would also at this early stage like to refer to a short remark made by the Honourable Minister of Justice in the year 1954 on Sunday, the 13th June, at the Hotel Majestic, Kuala Lumpur—and that short statement gives us an indication and explains to a large extent, one remark made by the Honourable Deputy Prime Minister this morning. I quote the exact words of the Honourable Minister of Justice, who spoke on that faithful morning:

"The Malays ask for, have faith in, and reply upon, our loyal support in their struggle for self-government. God help us, our children and our children's children, if we should fail the Malays in any way at this critical juncture of the struggle. I have frequent contacts with the Malays, both their leaders and kampong people, and I can claim to know intimately their outlook in life, susceptibilities and feelings. They are equally apt to regard anyone who is not with them as against them."

Mr. Speaker, Sir, I regret, if that is a true analysis of our brethren.

This morning the Honourable Deputy Prime Minister has said words to the effect that evil men may try to mislead the people on these proposed amendments. If that is an indication of the attitude taken by the Deputy Leader of this country, then I shudder to think what justice and what fairness we will be getting in this country.

Here, I would refer to a speech which the Honourable Prime Minister made in Ipoh—I think, on the 14th or 15th of this month—when he referred to the People's Progressive Party of Malaya as "devil's disciples"; and he said words to the effect that the "devil's disciples" would be opposing these amendments. Even at this stage when we have not made one single statement on the proposed amendments to the Constitution, the Prime Minister of this country thought it fit to say that we were going to oppose the amendments. Perhaps, it was a question of conscience being pricked. I shall in the course of my address refer largely to statements

made on that fateful Sunday in June, 1954, by various personalities who sit in this House and some who no longer sit in this House.

Mr. Speaker, Sir, the proceedings of this House today, when we are asked to give our support to this Bill to amend our Constitution, will take its place in the history of this nation as the day of shame and an occasion when the elected Government of the Federation of Malaya blatantly and without conscience—I repeat the words “without conscience”—is attempting to mutilate the sacred Constitution of our land. Sir, it is particularly a sad occasion, a very sad occasion, because the very persons, who brought in the Federal Constitution in 1957, are now from time to time trying to violate what has been described as “a sacred document”.

Sir, the proposed amendments are certainly not minor ones. They are certainly not a tidying-up process; but they certainly do touch the very foundation of the Constitution, because in the Constitution of any country, the fundamental issues of citizenship and other freedoms are found in it, and in our country the Election Commission was also one of the important factors considered by the Reid Commission. Mr. Speaker, Sir, if these amendments get through this House, they will shake the very foundation of our Constitution. The Bill and the proposals therein constitute a challenge to the Malayan people. It is not a challenge to the Opposition, it is a challenge to the people of the Federation of Malaya in particular, and it is also a challenge to the Malaysian people of the Malaysian world. And I say this—that when these proposed amendments come into this House at this stage, it will be well for the people of the Borneo territories and the Malaysian group to think well before they accept bare promises.

This Bill itself and the proposed amendments go a long way, in fact long enough, to prove that promises made to political allies can, within a short space of time, be easily for-

gotten; and in the course of my talk, I will try to prove by the actual words used—I can produce tape-recordings if I am asked to produce them—that promises were made; definite, specific, promises were made on the 13th June, the fateful Sunday in 1954, at the Hotel Majestic by the leaders of the UMNO to the leaders of the MCA.

Mr. Speaker, Sir, what is today going to be a tragedy of the Malayan people can well be the tragedy of the Malaysian people in the future, if they come in with their eyes closed, or are unaware of what is happening in this country today. It is, therefore, more regrettable than ever that at this stage, when the Government rightly or wrongly is trying to build up Malaysia, these matters should be put to this House even without giving sufficient time for the Malayan people to consider them.

This morning the Honourable Deputy Prime Minister made a very significant statement when he said that the amendments had been put forward after consulting the views of all sections of the community. Mr. Speaker, Sir, it is pertinent to ask by what method were the views of all sections of the community ascertained. As far as I am aware—if I am wrong I am subject to correction always—there was never any attempt to get public views or opinions of the communities that reside in this land. If the Honourable Deputy Prime Minister meant the views of his Party and of the Members of the Alliance, that is a different matter. But I think the time has come that even the Government must realise that the partners in the Alliance do not in their own right represent their communities any more, because sitting in this House on the Opposition Benches is the majority party which represents the views of certain communities in this country, and I do not think that the MCA or the MIC can properly, fairly or justly, say that they any longer represent the majority views of their communities. That is proved at the Parliamentary Elections held in 1959, because if you take

constituency by constituency, you must agree that the Socialist Front and the People's Progressive Party of Malaya represent the majority views. On those lines, therefore, I should like at the appropriate stage to get clarification of what is meant by "these amendments have been put forward after consulting the views of all sections of the community."

Mr. Speaker, Sir, when the Reid Commission came here, it is true that all sections of the community from all walks of life were consulted and ample opportunity was given to them to put forward their views individually or collectively to that Commission. But I say that in introducing this Bill no such opportunity was given to the people of the Federation to express their views. Sir, we of the People's Progressive Party of Malaya stand vehemently one hundred per cent opposed to this Bill in its entirety, because it is not possible, and it would not be convenient, to divide the Bill into various sections and for us to say we can support this, we cannot support that. But the safest course for us is to oppose it in its entirety, because we oppose all the major amendments which the Bill proposes to make—on citizenship, on elections and on other matters which have been proposed there. We oppose it on various grounds, one of them being that it constitutes a breach of faith to the people of the Federation and will be a betrayal of some of the fundamental rights of the generations to come in this country. We oppose it on the ground that it is a gross betrayal of a secret promise—and I emphasise the words "a secret promise"—made by UMNO leaders to MCA in 1954 on the 13th June at the Majestic Hotel when these two Parties were discussing constitutional proposals for Malaya and its inhabitants. The secret promise, Mr. Speaker, Sir of which I am speaking, was in fact made on questions pertaining to the proposed amendments which now stand before us, in particular to citizenship. It is a fact, and I shall prove it in the course of my talk by quoting the

exact words of the Honourable the Prime Minister of the Federation of Malaya, by quoting the exact words of the Honourable Minister of Justice, by quoting the exact words of the late Tun Tan Cheng Lock, who spoke at that meeting when it took place on a very important occasion.

Mr. Speaker, Sir, in the world many nations have Constitutions—some of them are written, some of them are unwritten. The written constitutions are drawn up, they are approved and accepted as the supreme law of the land. Such constitutions are treated as sacred documents; they are never treated as ordinary laws of the land which can, within reason, be amended from time to time. They are not interfered with by the governments of those lands without a specific mandate from the people of those countries, and here it is pertinent to say, as the Honourable Member for Dato Kramt has said, that during the 1959 elections in the Federation the Alliance Party, which has come into power again with a substantial majority, did not indicate at any time to the people of this country that they would amend, or had in mind to amend the Constitution of this country. I say that the Alliance has a mandate to govern this country in accordance with the Constitution of this country which exists. I say that the Alliance has no mandate from the people to amend the Constitution itself in so fundamental a thing as citizenship rights and other matters which are before us. I say that, for that purpose, it is the duty of any respectable government either to go back to the people on elections and ask them for their mandate, or by some other process as a referendum to get the views of the people of this country; and I say that it is disgraceful haste for a government to ask the people to accept the amendments after publishing the Bill on, I think, the 2nd or 3rd of this month and having it debated in this House so shortly afterwards. There is no doubt that this Bill was presented and read the first time in the Dewan Ra'ayat in order to be

printed on the 20th of April, 1961. But, Mr. Speaker, Sir, none of us saw this Bill until about the 2nd or 3rd of this month—if I am not making a mistake.

Mr. Speaker, Sir, within the short space of four years from the attainment of independence the Government, if this Bill gets through, would have made about 50 amendments to the Constitution—50 amendments from 1957. Surely, I think everyone in this House must agree that this is an all time record in world history, an all time record which it would be hard to beat in the future, and the Federation Government will, if there is a competition, take first prize for irresponsibility and recklessness on a matter of such paramount importance, because I have tried to search, I have tried to get knowledge from books available and I cannot find any country in the world which has amended its constitution in such a reckless manner as the Alliance is now trying to do within the short space of four years. It makes the situation all the more fantastic when one recalls that it was the Alliance which accepted the Constitution in its original form as being fair and just to the people of this nation. Mr. Speaker, Sir, the proposed amendments invade several issues—several vital issues, such as citizenship, electoral issues, independence of the Election Commission, to mention a few. Those are only to mention some; those are matters of the greatest importance to the people, and they are some of the matters which bind a nation together. If you remove those rights or the safeguards, which are in the Constitution, for those rights, then you get a nation of people who have no confidence in the future, who will lose confidence in this thing we call democracy; they will be bitter; they will be disillusioned and forever remember with bitterness all those who support this act of treachery to subvert the Constitution of this country.

Mr. Speaker, Sir, let me now try to back up our stand with as much

tact as possible. To do this with any degree of usefulness or clarity, one must take our memory back to as far back as 1954 and the years that immediately followed, for it is in those years that the foundation, if I may use the word, of Sino/Malay co-operation in this country was laid. Those were the years when UMNO and MCA—it is no use talking about MIC as they did not even go to London for the constitutional talks, they even did not bother. Therefore, I confine myself to UMNO and MCA. It was during those years that the Alliance of UMNO/MCA was trying to lay the basis for non-communal harmony in this country. Therefore, that is the most important period, that is the period when the MCA asked for certain promises and UMNO gave those certain promises in secret. Those promises were made known to the General Committee of the MCA on the 13th June, 1954. Mr. Speaker, Sir, from there we will, of course, have to go to the Reid Commission and finally to the proclamation of independence itself. Those are the relevant periods on the issues now facing us in these amendments. Now, in and around the year of 1954 when the Malayan people were seeking independence, we will all admit that the most powerful political organisation in this country was the Alliance of UMNO/MCA—the MIC joined in at a later date after saying, “May I come in?”. As such, this organisation of UMNO/MCA and later the MIC, three communal organisations, each perhaps powerful in their own right, each perhaps at that stage was justified in saying, “Our voice is the voice of our community.” On that basis, the MCA negotiated with the UMNO.

Mr. Speaker, Sir, these two organisations considered this matter—considered very strongly, very seriously the question particularly of citizenship. They also considered such questions as language, education and other matters. It was, of course, realised that independence would come to this country only if the three major races put up a united front. UMNO, there-

fore, had to serenade the MCA, With regard to the MIC, there was no need even to serenade them, because its leaders were so confident of getting a square deal from UMNO that the President did not even want to go to London for the Constitutional Talks. Mr. Speaker, Sir, that was the position in 1954, at the time of what has now been known as the "Lyttleton proposals"; and we all know what they are. In the quest for independence and in view of the apparent reluctance of the colonial powers to give up their possessions, it became necessary in 1954 for UMNO to take a very important step. UMNO, then under the leadership of the Prime Minister now, had to consider taking firmer action to make Britain realise one thing—that independence for Malaya could not be held back much longer. UMNO, therefore, decided to boycott the Lyttleton proposals, particularly in relation to elections. It was contended that they were not democratic plans for democratic elections in this country. UMNO took up the stand by saying that those proposals would not give the elected members the opportunity to express the wishes of the people of this country. That was correct. And therefore UMNO, as an organisation, decided to boycott and called out its members and supporters from the Legislative Council and other subordinate bodies in this country as a sign of protest and an indication that they were not satisfied with the Lyttleton proposals. Now, UMNO, if they did it alone, would not be of much use. They had to show England that the people of Malaya were united in their demand for independence. UMNO, therefore, called upon its partner, the MCA, to stand shoulder to shoulder on this move, on this vital issue of the Lyttleton proposals.

Mr. Speaker, Sir, this is perhaps the most important period in the history of this country and it will be *the* most important period in the history of this country for all time, because, if at that time the MCA had not stood with UMNO, things in Malaya today might have been

different. In this period, matters—again, matters such as citizenship, equality of the people and other matters of importance—were discussed between these two partners. Certain terms, certain assurances were made and given by the leaders of UMNO to the leaders of MCA. This was the period, Mr. Speaker, Sir, when persons like the Honourable the Minister of Justice described the principle of *jus soli* unmitigated, unadulterated—described the principle of *jus soli* as the birth-right of the Chinese in this country. Mr. Speaker, Sir, where has that birth-right gone? Where is the glory of that birth-right which the Honourable the Minister of Justice spoke on that fateful Sunday, 13th of June? Mr. Speaker, Sir, this was also the period with the big names in the MCA—Colonel Lee, the Honourable the Minister of Justice, the Honourable Too Joon Hing, now the Member for Teluk Anson, and, of course, the late Tun Tan Cheng-Lock. Mr. Speaker, Sir, throughout this period, of course, there was pervading the name of Mr. T. H. Tan, the Executive Secretary of the MCA.

Mr. Speaker, Sir, when UMNO called upon the MCA to join in the proposed boycott, the MCA called an emergency meeting of what has been described as a "top secret meeting of the General Committee of the MCA". That was a fateful day on which the MCA had to decide whether it was going to throw in its lot with UMNO and demand independence, or whether it was not going to throw in its lot with UMNO. Mr. Speaker, Sir, this meeting, as I said, was held in Hotel Majestic, Kuala Lumpur, on the 13th of June, 1954. Among the leaders of UMNO, who addressed the meeting, was the President of UMNO, whom we know as the Prime Minister of the Federation of Malaya and still the President of UMNO. And among the MCA leaders, who addressed the meeting were the President himself, the Honourable the Minister of Justice and several others. Those speeches, those observations have a very great bearing on what is happening in this

country today. From those speeches, from those observations we will know whether there has been a breach of promise, whether there has been a breach of faith to the people of this country. Mr. Speaker, Sir, behind closed doors, to the General Committee of the MCA were given the assurances and the promises of which I talk. Such promises had so far been kept secret from the rank and file of the MCA, and even up to today I do not think the rank and file of the MCA know of those secret promises which were made. Those promises were on the vexed question of citizenship, on the vexed question of equality. On those assurances, on those promises given by the Prince, the Prime Minister of this country, the MCA General Committee decided to throw in its lot with UMNO and stand shoulder to shoulder with them.

Mr. Speaker, Sir, I will now quote the exact words, to start with, which were said or spoken by the late Tun Tan Cheng-Lock, and this is what he said which is relevant to our debate. The whole speech is, of course, available to anyone who wants to refresh his memory, and I can always produce the speech on tape or in writing—I have both. This is what the President said:

“This meeting has been called to get the views of the MCA members as to whether they will give support to a call to all MCA Members of the Federal Legislative Council, State and Settlement Councils, Municipal Councils, Town Councils, Government and semi-Government Committees to act jointly with their UMNO colleagues when it becomes necessary for UMNO members to resign from these bodies.”

Then, another quotation—

“UMNO and MCA have formed a political alliance with the object of obtaining independence for Malaya by graduated stages and by constitutional means. It is realised that as far as the Chinese are concerned, there are several issues of outstanding importance still unsettled, such as the question of citizenship, franchise, immigration and national schools. We have the assurance of

UMNO leaders that once the Alliance is returned to power, these questions can be satisfactorily and equitably settled.”

Another quotation—

“There is no reason to doubt the sincerity of UMNO leaders. Mr. T. H. Tan, our Executive Secretary, who went to London together with Tunku Abdul Rahman, and with him and Dato' Razak negotiated with Mr. Lyttleton, reports that he is convinced of the sincerity and integrity of UMNO. Mr. Tan has strongly cautioned against giving the Malays, i.e. UMNO, any feeling of being let down by the MCA. Conversely, Mr. Tan is convinced that the Malays will not let down the Chinese. The Malays realise as much as we do that the only hope for Malaya lies in the co-existence, on an equal basis, principally of Malays and Chinese and also of the other communities.”

Mr. Speaker, Sir, that is a short extract from the speech made by the President and I read that for one purpose. If that does not prove anything, it does not show anything much; but taken with what I am going to read subsequently, it proves a lot. That ends the extract which I intend to read from the President's speech, that is the late Tun Tan Cheng-Lock. I read that to show that at that early stage UMNO and MCA both realised that the question of citizenship must be settled. That extract shows that the MCA trusted UMNO to be fair and just. Those are the two inferences you can draw from that speech.

Mr. Speaker, Sir, I will go on to read the speech of the Honourable the Minister of Justice which is the most illuminating of all the speeches. Here in fairness to everybody, including the Honourable the Prime Minister, I feel compelled to read the whole of it—it is a short speech. I quote:

“I second the amended motion moved by Colonel Lee. We Chinese have come to a very critical stage in our history in this country. We have come to the crossroads at which we have to choose between alternative courses of action. Our happiness and the happiness of our children and our children's children will depend on our proper choice. We have

at this moment confronting us a momentous issue, a grave political problem, which demands our immediate solution. Whether we and our posterity are to live in peace and harmony in this country will depend upon our decision today. We have on the one hand the British Colonial Government administering the business of this country whose primary and most important purpose is, naturally, to the benefit of the mother country. The interests of the country are at best of secondary importance to it. The British Colonial Government has sincerely promised self-government to the people, but it is fulfilling such promise in a half-hearted manner. It proposes election in such a way that there is no guarantee that the electorate representatives will be able to carry out the wishes of the people. We have on the other hand a powerful organisation representing 90 per cent of the Malay population vigorously demanding self-government. When I say 90 per cent of the Malay population, I speak from personal experience of attending many UMNO meetings in kampong and country districts. With this organisation, MCA has formed an alliance. We owe the alliance to the genius and foresight of Colonel Lee.

Now, the MCA happens to be the largest and most powerful organisation which claims to be really representative of the Chinese in this country, and whatever MCA does can be taken as the action of the Chinese community as a whole. The question for us to decide is: "(i) whether on the one hand we should go all out in support of the Malays in their struggle for self-government—when I say go all out I mean we should march shoulder to shoulder with the Malays, even through prison doors, if necessary; or (ii) whether on the other hand we should submissively fall in step with the British in their colonial policy with the hope of getting whatever favours or benefits they have given, or may be expected to give. I have searched my mind and examined my conscience in all seriousness and have come to the conviction beyond all doubt that the only course open to us is that we should throw in our lot with the Malays."

Then the Honourable Minister goes on to say:

"I give you my views:

(1) As long as the colonial system of government remains in this country, we Chinese will never get a square deal.

Look at the Federation of Malaya Agreement in which by a stroke of the pen a million of us were deprived of our birthright to *jus soli*."

I pause there for a moment—by a stroke of the pen a million Chinese were deprived of their birthright to *jus soli*. Mr. Speaker, Sir, what is happening to that birthright of the million Chinese in this country?

"(2) The Immigration Control Ordinance under which we shall never be able to invigorate our race with new blood."

In other words, the Honourable Minister at that time wanted the Chinese to be invigorated with new blood—I take it from China, of course. What is happening to immigration now?

"(3) The Education Ordinance is slowly strangling to death our language and culture."

What is happening now?

"(4) The Lotteries Ordinance which destroys our welfare work by depriving us of the means of helping the underprivileged and the distressed. The Registration and Licensing of Businesses Ordinance, which discriminates again and aims to strangle small Chinese businessmen in their infancy and to deprive them of the chance of gradually building up and for further expansion.

The British Colonial Government is not going to be with us for ever and it is going and will go overboard. What ephemeral benefits have they conferred upon us.

General Templer himself once told me that self-government and independence may be with us sooner than many of us thought. I appeal to all those who wish to put their eggs in one basket under colonial rule to weigh this well."

Then, Mr. Speaker, Sir, he goes on with his reasons why they should throw in their lot:

"The British Colonial Government has never given, or even offered us equal citizenship. On the other hand, it is the sincere promise and aim of UMNO leaders to give us equality. It is owing to the present delicate political situation that they have not been able to publicly declare the purpose."

Gentlemen, they have not been able publicly to declare the purpose of giving equal citizenship to all Malayan Chinese—perhaps, this birthright was taken away by the Federation of Malaya Agreement.

“From my frequent contacts with them in dealing with present-day problems, I am convinced beyond any reasonable doubt of their loyalty and sincerity. The future happiness and prosperity of this country depends upon the friendship, goodwill and loyal co-operation of the two major races living side by side in this country. Both the Malays and we Chinese fully know and appreciate their importance. Everyone of us should do everything within his power not to injure but to strengthen the friendship, goodwill and loyal co-operation subsisting between the Malays and the Chinese. Even the British Colonial Government has preached from the house-top that there could be no self-government and independence unless the two races could live in harmony side by side. While both self-government and independence are in the offing, it is up to us to promote harmony which is so essential and vital to our future co-existence. The Malays have asked for, have faith in and rely upon our loyal support.”—I have read that first.

“I foresee with horror the fate of those who sit on the wall and watch with indifference others making sacrifices in the coming struggle. Gentlemen, I have finished.”

That was the speech of the Honourable the Minister of Justice. Two significant points stand out. The Honourable Minister, addressing the General Committee of the MCA, condemned the Federation of Malaya Agreement quite rightly, because by a stroke of the pen it deprived Malayan Chinese of the principle of *jus soli* or citizenship by birth. Then he went on to say, “The Colonial Government has never promised equal citizenship to the Chinese” and he added, “but UMNO has promised equality, but they cannot declare that promise publicly because of the delicate political situation at that time”—in 1954. Mr. Speaker, Sir, the proper inference is that UMNO accepted the principle of *jus soli* without any qualification. They accepted the principle of *jus soli* where one million Chinese would be reinstated

with the principle of *jus soli*, and this is further confirmed by another speech of the Honourable the Prime Minister himself, a prince in his own right, whose words were accepted by the Malayan Chinese Association. Now, I will read two extracts of the Prime Minister's speech to the MCA Committee on that fateful Sunday. Mr. Speaker, Sir, before I do that, I would like to say that what I am now reading are important matters and I am reading them exactly, word for word, as said on that morning. I am not adding one word, I am not subtracting one word, and this is what the Honourable the Prime Minister said to the MCA General Committee that morning:

“There are still a small section of Malays who are still distrustful of the Chinese. When UMNO vote to give rights to those born in this country, voting rights as the first step, they look at our action with awe and suspicion.”—

that was speaking about Lyttelton's talk and other matters. Then he went on to say:

“The greater number of Malays believe in the honesty and sincerity of their leaders and approve wholeheartedly our action. This proposal, however, has been turned down by the Colonial Secretary, but that is immaterial. The principle of *jus soli* has been accepted by UMNO and the rest will follow.”

What does that mean? Mr. Speaker, Sir, the principle of *jus soli*, which means citizenship by birth has been accepted by UMNO—the words of the President of UMNO to the MCA in a serenade to join the UMNO in that boycott. Those are unqualified words. There was an unqualified secret promise made which the Honourable the Minister of Justice said they could not publicly say at that time. What is the position now? Is that promise going to be kept? Is the word of UMNO given through their President in 1954 going to be kept, or going to be violated to the everlasting shame of the Alliance Government?

Mr. Speaker, Sir, it is a reasonable inference to draw that if UMNO

thought that its leader had not promised the principle of *jus soli* to the MCA, then the situation might well have been different. The situation might have been that the MCA might not have decided to join the boycott and throw in their lot with UMNO, because it is clear that the Prime Minister, or rather the President of the UMNO, has at that time specifically picked on *jus soli* and made a promise that the UMNO accepted the principle of *jus soli*. I ask Honourable Members, particularly of the MCA and the Malayan Indian Congress, "Is that not going back on the word given in 1954 to the MCA; do you know of that promise; were you ever told of that meeting; do you ever know the existence of such a meeting at the Majestic Hotel?" I ask you to consider carefully, consider it according to your own conscience, and, as the Honourable Minister of Justice said, "I have searched my conscience", I ask you to search your conscience.

Mr. Speaker, Sir, on that basis, on that promise, the foundation of co-operation between UMNO and MCA stood. The future of the people of this country had been placed into the hands of the UMNO on a secret promise, the MCA fully believing that that promise will be kept for all times. What is happening today? What is the Alliance Party, or I should say, UMNO doing? It is clear from the Honourable Deputy Prime Minister's opening speech that the MCA was not consulted before this Bill was put out. It is clear that the UMNO is deviating from the secret promise which it made and which was put forward with such emphasis to the General Committee of the MCA.

Mr. Speaker, Sir, I cannot understand why UMNO leaders made that promise that UMNO had accepted the principle of *jus soli* or citizenship by birth, if it did not intend to implement that promise. Subsequent events after Merdeka clearly showed that this promise which was put to the General Committee was being slowly but surely violated from time to time. I call upon

the MCA Members not in the sense of a challenge, because I do not think that this is an occasion so light that challenges can be thrown, but I call upon them as citizens of this country, as fellow-legislators, as fellow-parliamentarians, to consider well what is happening. I ask them to search their conscience and do what decency and honesty of purpose must surely compel them to do—that is to oppose the move to amend the Constitution which is so blatantly a breach of what was promised in 1954 and which at that time vastly influenced the leaders to throw in their lot with UMNO. Mr. Speaker, Sir, I ask them to consider—gentlemen of the MCA and, I might add, of the MIC—whether they will be doing right to support a move which so clearly modifies—I use the word "modifies" and I do not say "destroys" here—the principle of *jus soli* to such a large extent that it becomes a mere farce on a piece of paper in which there is not much *jus soli* left. Mr. Speaker, Sir, we all as human beings pass through this world only once, we are a passing parade, and we do not last forever. Let us at least in this do something which is right for posterity to remember.

Mr. Speaker, Sir, we come with that promise, with that co-operation, which UMNO got, to the period of the Reid Commission. Before that there was a talk in London, I think, in 1956. The Honourable Prime Minister went there with representatives of his party, representatives of the MCA—and, of course, the MIC chose to leave it all in their hands—and they came back with the promise of Merdeka in 1957 and there was set the basis for the Reid Commission to come to this country. Mr. Speaker, Sir, I take it that it was necessary for the Reid Commission to come to this country, because this country had circumstances peculiar to itself which required very careful attention before a constitution could be brought out which would satisfy at least the larger proportion of the population in this country. Sir, the Honourable Member for Dato Kramat read an extract of the Honour-

able Chief Minister at the time when he introduced the motion to accept the proposals on the Constitution. Now, that extract clearly shows that even the Alliance was satisfied that the Reid Commission had done a proper and thorough job of work. Before the Reid Commission came here—and here it is necessary for us to recall that delegations went to London—a delegation from the Chinese Guilds and Associations, for instance, led by people like Mr. Humphrey Ball, Honourable Mr. Tan Kee Gak, Mr. Lau Pak Khuan and several other persons went to London demanding what? They demanded the principle of *jus soli*, a principle which the President of the UMNO had accepted but which nobody in the country knew, because they could not declare it publicly because of the delicate political situation then.

AN HONOURABLE MEMBER: No!

**Enche' D. R. Seenivasagam:** You can speak later. Don't interrupt. Mr. Speaker, Sir, that being the position, these people from the Guilds and Associations also went to London to demand equality and citizenship by birth, to mention two. What happened, Mr. Speaker, Sir? They were branded, if I may use the word, as *Kuomintang* hirelings, disloyal elements, trying to create trouble in this country. I cannot understand it, when we realise that UMNO itself had accepted that principle of *jus soli*.

Then came the Reid Commission to Malaya. Memorandum after memorandum were sent to it. The MIC sent one, the PPP sent one on its own, the MCA sent one on its own, the UMNO sent one on its own. So did several other Guilds, Associations, public bodies and individuals. All shades of opinions were sent, but outstanding among these, as far as the Reid Commission was concerned, was the document known as "The Political Testament of the Alliance Party". The Reid Commission's recommendations follow very closely the recommendations of the Alliance Political

Testament. Mr. Speaker, Sir, citizenship by right of birth was recommended by the Reid Commission and, finally, when it came as the Constitution of this country the principle of *jus soli* or citizenship by birth was recognised as far as persons born in this country after independence day are concerned. There you have the first deviation from the promise which the Prime Minister gave to the MCA; you get the first deviation from the stand of the Honourable Minister of Justice that one million Chinese were deprived by the stroke of the pen of the principle of *jus soli*; and there you get the first stage when the MCA started to draw back—Mr. Speaker, Sir, very good. Then came the Commission itself. Its report was debated in the former Legislative Assembly. There began again the first glimmer, the first indication, that the Alliance Party, although accepting the major part of the recommendations made, had made alterations here and there which did not satisfy some leaders of the MCA—people like Mr. S. M. Yong spoke out at the Legislative Council meeting condemning the Report; people like Mr. Devaser also condemned the Report; people like representatives from the Guilds and Associations said, "We are not satisfied with it, because it gives us "second-class citizenship" and we want *jus soli*, unmitigated, untarnished." There came the first deviation from an understanding come to between the two parties.

Mr. Speaker, Sir, then came the acceptance of the Constitution. Four years have passed. Even to this very minute we have not been told by anybody what is the problem which has come up which necessitates this change in citizenship. What is that you call "in the light of experience"? What is the experience? Is it suggested, Mr. Speaker, Sir, that there are so many thousands of illegal citizens in this country that we must tighten up this law? If that is so, you are not tightening up this law. If a man can tell lies that he has resided here for 8 years and get citizenship by registra-

tion, he can equally tell lies that he has resided here for 10 years and get his citizenship by naturalisation. Then, where is your argument that you are tightening the laws because people who are not entitled to citizenship have been getting citizenship? Mr. Speaker, Sir, we are not told how many such illegal citizens got their citizenship and by what method. What is the fraud? Is it under residential qualifications, or what is it? How will this help to solve that situation? Are you trying to say that if a man can tell lies that he lived here for seven years, he cannot tell the same lies for naturalisation? Mr. Speaker, Sir, what is the necessity to further violate the principle of *jus soli*. Are you not deviating from the established practice of democracy which has lasted for a hundred years? Are you not deviating from the constitutional set up in countries like India? Why do you want to deviate from something which has been so long established and for which men have fought throughout the generations to preserve? Why is it necessary to deviate from it? And here again the Honourable the Deputy Prime Minister's observation is very interesting.

With regard to the Election Commission, the Honourable the Deputy Prime Minister said, "Oh, we are following the English system where parliament has the last word". Good enough! But when it comes to *jus soli* you do not want to follow the principles of the English system, you want to adopt your own system. What is the meaning of it? What is the logic in that? When it suits you, you follow England; when it doesn't suit you, you don't bother about England. You follow them either in both, or you don't follow them in both. Make up your mind one way or another. Why deviate in one and in regard to another say that you are following England.

Mr. Speaker, Sir, therefore, the motives are not as simple as they have been made out to be by the Honourable the Deputy Prime Minister. There

can be only one reason, and that is this: that the Government of the Federation wants to have less and less citizens in this country by registration, application and by the principle of *jus soli*. That is the only reason why this law is being amended. Mr. Speaker, Sir, it is very, very clear to us that MCA was not consulted as a body—I emphasise as a body—before these amendments were brought into this House. The MIC was not consulted as a body. If the Cabinet said that they had consultations, I say that the MCA did not refer it to their respective organisational level, and the MIC certainly did not even think of it. Mr. Speaker, Sir, it has been said that subsequently appeals and representations were made by MCA and MIC for certain amendments. As the Honourable Member for Dato Kramat asked, "What representations"? Begging representations, or demands as equal partners on behalf of the people? If so, why did the MCA not demand *jus soli* back in the Constitution, which was promised to them for the people of this country? Why do you go further back? When are you going to stop? Where is the limit? When is the sell-out going to end? Mr. Speaker, Sir, is it going to end at all?

Mr. Speaker, Sir, I will come back to citizenship at a later period of my talk but now I go on to the Election Commission. The Reid Commission made recommendation for a special procedure in the Federation. They bore in mind the racial make up of the nation; they bore in mind that there must be an independent organisation to deal with elections—a specific recommendation which was accepted by the Alliance Party which is still in power today. Today the Alliance Party says that system is no good. Why it is no good, we have not been told. We have only been told that England does this thing. Mr. Speaker, Sir, but we know why they say it is no good. We know that the Report for Delineation came out. We know that UMNO opposed that Report at various levels. We know that the

Alliance Party tried to influence properly—I do not say improperly. The Election Commission stood firm on their stand; the Election Commission would not stay down on their stand. And now we get this attempt to take away the power of the Election Commission. What inference can you draw? What is the only logical inference you can draw? I say the only logical inference you can draw is that you are not satisfied with an independent Election Commission which still has justice and fairness, you want to have the power in your hands to do what you like, to monkey about with the constituencies in this country. I say that is a most improper and base motive to have. There can be no other interpretation of this attempt to take away all the powers of the Election Commission. Where is the sanctity of free elections, where is the sanctity of democratic elections if the Party in power, as the Member for Dato Kramat says, can change constituencies from time to time? And what democracy are you talking about when so blatantly and so clearly you are giving yourself power to use it, perhaps in a crude way, to give double vote to rural folk as against urban population, because that is the net result of the implementation of the recommendations made in this amendment. Surely, Mr. Speaker, Sir, there could be no greater violation of democracy as we know it, or as it should be known, in this country.

Now, it has been suggested that these amendments do not affect many people. But if they do not affect many people, why do you want to change the laws? If it does not affect many people, then it does not help you very much. Then what is the need to change it? The fact is that it affects millions of people—perhaps the million Chinese who were deprived of their birth-right by the stroke of the pen. Is it suggested that if Article 17 of the Constitution is removed it makes no large difference to a large number of people in this country? Does not one realise that in the amendment the

question of knowledge of the Malay language is an important issue? Does one not realise that under Article 17—where you become citizen by registration—you are only to have an elementary knowledge of the Malay language? Do you not realise that where you become citizen by naturalisation, you have to have an adequate knowledge of the Malay language? And I ask, how many new villagers who are entitled to citizenship on all other grounds have an adequate knowledge of the Malay language? How then can you say it makes no difference? How then can our friends of the MCA sit here and just keep quiet? (*Laughter*). What is the definition of “adequate knowledge”? You can give any promise you like. You can say, “We won’t make it too hard”. Then why change “elementary” to “adequate”? Why not use the word “elementary” then? Use it for naturalization—say elementary language. If there is going to be no difference, why do you use two different terms? Surely, Mr. Speaker, Sir, it is quite clear that they are two different words, with two different meanings, with two different standards which the Government must apply, or indeed intend to apply. If it can be shown to me that there is no difference, then I will be glad if the Honourable the Deputy Prime Minister will amend the word “adequate” to “elementary” when the time comes in the Committee stage, so that we will know clearly what the Government wants these people to do. Assurances alone will not be sufficient. Let it be amended to “elementary”—let the Honourable the Deputy Prime Minister tell us what he means by “elementary”. You say there is no intention to hinder the people in this country becoming citizens, but do you realise—gentlemen, I am sure you do—that for registration under Article 17 of the Constitution you have to be resident in this country in the aggregate to a period of only eight years? Do you realise that for naturalisation under Article 19 you have to be in this country for a period of ten years before you can get your citizenship?

Is that not a fundamental difference? Why remove Article 17? If a man is loyal enough and fit enough to become a citizen by naturalisation under Article 19, what is the necessity to remove Article 17? The Honourable the Deputy Prime Minister told us that Article 17 was only temporary. But I ask the Honourable the Deputy Prime Minister, where is it stated that it was temporary—in any of the debates in 1956 on the Constitution? Never, never! In fact, the Honourable the Chief Minister boasted about Article 17—he said: “See, we have Article 17 for the people. Never was it said that it was temporary. I said never. Show us in any official record where you said that it was temporary for people to get citizenship under Article 17? Therefore, Mr. Speaker, Sir, it is wrong, very wrong, to mislead the people of this country by saying that these measures are necessary for the people of this country themselves. Article 17 was an Article put into the Constitution—put in at the request of the MCA perhaps—and people like Mr. Yong Pung How, like Mr. Devaser will be able to throw light on this matter, as indeed Mr. Devaser has done through the columns of the newspapers that he was in the Committee which studied the Reid Commission Report and which dealt with the Reid Commission Report. Article 17 is there specifically to meet the case of people living in this country, people who were living here on Merdeka Day—there are thousands of them who have not got citizenship. The Honourable the Deputy Prime Minister said that in response to the plea of the MCA there will be a period of time before Article 17 is finally taken away. Now, why is it that you want to give a period of time and then take it away? What is the necessity? Is it just to say, “All right. You are asking for something, here is a small bone. Take it.” But the Honourable the Deputy Prime Minister did not tell us for how long it is going to remain there—one month, one week? I ask that if that is so, at least to some extent to satisfy the people of this country to

give them a breathing space, tell us in this debate for how long Article 17 will be left in the Constitution for the people to take advantage of it. Under what provision is it going to be left there, I do not know. But I guess it will be under the question of “This Act shall come into . . . the different parts shall come into force at different times,” and I think, in fairness to the people, it is the duty of the Honourable the Deputy Prime Minister to tell us for how long Article 17 is going to be left in the Constitution of this country.

Mr. Speaker, Sir, the argument that there is no intention to give undue hardship to people who want to get citizenship, who rightfully should get it in this country, is again not a convincing story when we consider that a further requirement had been required of people who want to get citizenship under Article 19—that is the addition of sub-paragraph (e)—“that he has resided continuously in the Federation for a period of not less than one year immediately preceding the date of the application.” Mr. Speaker, Sir, when the Constitution was approved by the same Alliance Government—almost by the same people who sit there now—this requirement was not there. Why is it necessary now? What is the necessity to insert an additional burden, an additional difficulty on people who are obviously loyal citizens of this country, or would be loyal citizens of this country, who have been living here for years and years? And it is suggested that the intention is not to give trouble to the people of this country. How can such a statement be accepted in the face of such conflicting provisions which so clearly show that the intention is to restrict, not facilitate, persons who want to become citizens of this country?

Mr. Speaker, Sir, with regard to wives, I do not know the reason for this amendment. During the debate on the Constitutional proposals the Honourable the Prime Minister, as the Member for Dato' Kramat said, took

great pains, and particular attention was drawn to the House to where the Chief Minister said: "Provision is there to see that bogus marriages do not take advantage of this provision." Now, if the Alliance thought at that time the protection was there, what has gone wrong now? Can the Honourable the Deputy Prime Minister give us statistics of how many such bogus marriages have wrongfully got their citizenship under Article 18? Is there any information that this Article has been misused by persons? If you are going to amend something, surely you must have good reasons for it. You are not amending the ordinary law, you are amending the supreme law of the country! What is the necessity for this amendment? For instance, under the old Article 15 relating to married women, a married woman had the right to come to this country, but under the amendment, I wonder whether she has the right to come to this country. Under Article 15 of the Constitution as it now stands, any woman who is married to a citizen is entitled, upon making application to the registering authority, to be registered as a citizen. Whether she is living in this country or anywhere, it does not matter; she has an absolute right the minute she is married to a citizen to be registered as a citizen. Therefore, she can even become a citizen of this country on proof of her marriage even if she is in India or elsewhere in the world. Under the amendment, this is what it says in Article 15 of the Constitution:

"(1) Subject to Article 18, any woman who is married to a citizen is entitled, upon making application to the Federal Government, to be registered as a citizen if she satisfies the Federal Government—

- (a) that she has resided continuously in the Federation for a period of not less than two years immediately preceding the date of the application."

Mr. Speaker, Sir, perhaps this is a matter more for clarification than for comment. What is the intention here? She can only get her citizenship if

she proves that she has resided continuously in the Federation for a period of two years. The question arises: Has she got a right to come to the Federation on her marriage; or does she require permission to come to the Federation? If she requires permission, on that basis, I say it is a nonsensical change. If she has a right to come to the Federation, then I ask that that position should be made clear, not by assurances but by amendment to Clause 3, because assurances given by one government can be broken by another government.

Then, of course, Mr. Speaker, Sir, the question: Does she intend to reside permanently in this country? That matter has already been touched on and I do not intend to carry that further.

Mr. Speaker, Sir, the most important, perhaps, on this question of citizenship, the deprivation of citizenship, is this matter of a child of a citizen, in that if his father's citizenship is taken away his citizenship will also go. I cannot see the purpose. It is said or being suggested from some quarters that you are doing a good thing to the child, because it will give him a chance to go away with his father to become a citizen of that country. Mr. Speaker, Sir, I think that is a most illogical argument. The fact that the citizenship of a person has been revoked should not have any effect at all on the son's status or the child's status. It is contrary to all known laws of civilised countries, and I say that if this amendment were to go through, then we in the Federation will be showing to some extent that we are not civilised, because we will be doing a cruel act as that boy can never know what his father did, and neither can he be held responsible for his father's act. I do not think that we want to be known as an uncivilised lot of people, and I ask the Honourable the Deputy Prime Minister to consider seriously what is the need to insert this new clause. It was not in the original Constitution: you accepted that, you give it to the people, you

gave your promise that this would be the basis of our nation. If you cannot give more solid reasons, then do not tamper with the Constitution.

Mr. Speaker, Sir, what we are asked to do today is to completely frustrate the Constitution of this country—to frustrate it in such a manner and to such an extent that people like Lord Reid and other Members of that Commission will shudder with horror to think that they gave us the basis of a Constitution which can so easily be violated from time to time, even to the extent of saying that in some matters you do not need that two-third majority to amend the relevant Article of the Constitution. Why is it necessary to lay down that specific provision that you do not need a two-third majority, for example, to amend the Constitution so far as other territories can come into this land? Why? Is it because you want to have in this country, for all time, perhaps, a rule by one section of the nation as against a united section of people? Are you laying the foundation because you know that in 1964, perhaps—or if not in 1964 perhaps five years after that—the time will come when there will cease to be on the Government benches anybody representing the MCA or MIC? Do you realise that now, and that is why you are making this amendment while the going is good before you lose the opportunity.

Here, Sir, I would like to refer to the 1959 election campaign all of which was taken down on tape by all political parties. One of the strongest campaigners was the Honourable the Minister of Justice, who went to the extent of telling the people when speaking to the urban population, "Be careful. If you vote for the PMIP, do not forget that when they come into Parliament, they can amend the Constitution to your disadvantage. Vote for MCA candidates, because we can protect the Constitution." The theme song of the campaign was "Vote for MCA, because the MCA can protect the Constitution from being changed." I do not think that will be

denied. In fact, I think, the Honourable Member for Telok Anson will confirm that that was his theme also—before 1959 (*Laughter*)—and he honestly intended to do that. However, when he found that he could not do that, he walked out like a gentleman (*Laughter*). That is why I say that it is a fraud, a flagrant fraud on the people of this country. In 1959 you knew very well, according to the Honourable the Deputy Prime Minister, that this matter has been under constant review: and the MCA, if they are equal partners, and if the MIC, if they are equal partners, should have known in 1959 that this was being reviewed, and yet the members of the MCA stood on the platform saying, "Vote for the MCA candidates, we can protect the Constitution. If you vote for PMIP, they can amend the Constitution." Where is the theme, where is the promise which you made to the people? How can you sit in this House? How far can it get? How thick can the skin get for you to sit here now and say, "We accept the amendments to the Constitution."?

Mr. Speaker, Sir, the MCA has the audacity to issue a press statement saying that there are bad elements in this country who will take communal lines on this amendment, saying that we are talking nonsense, when we spoke of the principle of *jus soli* being violated, saying that we are speaking rubbish when we say that these amendments will affect certain sections of this country to a large extent. Mr. Speaker, Sir, I would say this: that any person who supports the amendments to this Constitution will be supporting an act which will go down in history as something which can never be forgotten, never be forgotten by their own selves, because they know very well that they are doing wrong. I am not appealing to them to join the Opposition, I am not appealing to them because I know it will have no effect, but I am asking them to realise that by supporting this Amendment they are supporting people like the Member for Johore Tenggara, (*Laughter*), supporting persons of the

calibre with the intention of Members like the Member for Tenggara, who will do anything in this country, I say, to subvert the Constitution to the disadvantage of the majority of the people of this country just to remain in power in this House. Therefore I ask "Do you think it is worthwhile? What is the benefit?"—and as the Honourable the Minister of Justice of the colonial rule said, "Don't put all your eggs into one basket". I say, "Remember, the Alliance rule does not last forever in this country."

Mr. Speaker, Sir, there are several provisions which have to be touched on, and one is the question of the Judiciary. The last amendment to the Constitution added an amendment about Judiciary. Now, this amendment to the Constitution also has an amendment to the question of Judiciary. It has been suggested by the Honourable Member for Dato Kramat that that amendment, saying that the terms of office and conditions of service should be fixed by Parliament in future, can be used to such an extent that the Judiciary will not be independent. With that proposition, I agree—whether it is the intention of the Alliance Party, the Alliance Government, to use that provision for that purpose now is another question; it may be for purely administrative purpose. But when we amend the Constitution, we must always bear in mind that persons other than ourselves may sit in this House at some stage in the history of this country. If you amend the Constitution today, you give powers whereby the Judiciary can be interfered with. If you get into power a political organisation which is unscrupulous, what is going to be the position? You will get judges in this country without a backbone; you will get justice thwarted; you will get the citizens discontented, dissatisfied with the administration of justice. We must remember that on the question of justice all matters come before a court of law. Matters are challenged in court. You will get election petitions; you will get corrupt practices at elections being brought up to court; you will get

treason, sedition, offences of a political nature coming to court; and if judges are not going to be independent men, if they are not going to feel independent, if they are not going to know that they cannot be removed, or that they cannot be interfered with unduly and unnecessarily by Parliament, then I agree with the Honourable Member for Dato Kramat that it is a dangerous provision to exist in this Bill. Sir, if that Article is there, we must be told why it is there, what is the purpose of it. The Honourable the Deputy Prime Minister did not think it fit to tell us why it was there. If I remember correctly—I am subject to correction—he just passed over it and never bothered to tell us one single explanatory note on this matter. It is significant, and I ask that the matter be clarified as soon as possible.

Mr. Speaker, Sir, it has also been suggested that the amendment with regard to relationship between State and Federal Parliaments is not of a great controversial nature in this proposed Amendment. I agree with that because they are not matters which touch on the rights of a citizen. However, on the question of the Election Commission, the significant fact is this: the Election Commission in future, to my mind, need not exist because it can do nothing, it can do absolutely nothing. It is a mere post office. It does what the Cabinet asks it to do—sends the papers up and if the House is not satisfied, the Prime Minister sends it back; it goes back and the Parliament can do what it likes. There is no independence, and an example of that is very clear: the Election Commission has recommended now that the "Code of Good Behaviour" should be extended to Parliamentary elections; the Alliance Government has rejected it, and rejected it *in toto*. Why do you reject the "Code of Good Behaviour"? Why do you want to use bad elements in your elections at parliamentary level? You saw it worked at the Local Council level, it worked well, and it worked so well that in most of the Local Council elections, the Opposition parties won.

Is that why you do not want it to work at Federal level? Is that why you are now interfering with the Election Commission? Is that why you want to nullify the work of the Election Commission?

Mr. Speaker, Sir, the debate on this Bill is undoubtedly going to be somewhat heated. It is unfortunate that the time given to this House and the time given to the people of the Federation of Malaya is so short. I take very strong exception when the Honourable Deputy Prime Minister tried to mislead—I do not say intentionally, but certainly it has the effect of trying to mislead—when he said that communities of Malaya were consulted. How could such a statement be made in this House when nobody knew about this Bill until the 2nd or 3rd of this month? Now, would it be asking too much if we say to the Government to recall this Bill, introduce it again at a later date—six months perhaps—carry on what you carried out in 1956 when the Reid Commission was here, and to go to the people and ask them? Let all people in this country have an opportunity to demonstrate, if they want, peacefully, to give you their views by memoranda, in person. Let the people say whether they want their rights taken away; let all people have an opportunity to do that; and then you come into this House and do what you like. But do not, I say, think that it is easy to get away with it just because you have a sufficient majority in his House. Mr. Speaker, Sir, the fact that you have a majority means only one thing. It means that you can do it, if you want to do it. It does not justify your action. Your action can only be justified if you are doing a thing which will be in accordance with the wishes of the people of this country. It is clear from the protests which have come in. There was a protest at the Town Hall, many people attended it—two hundred over—(laughter), and I am coming to that.

The Malayan Trade Union Congress representing a large section of the

people have protested against it. What are you going to do about that? (Laughter) The Honourable Minister of Justice can only laugh, because I hope (laughter) that he is not going to swallow his own words which he spoke in 1954. I hope he will realise that he raised the question of *jus soli* for the one million Chinese in this country who were deprived of it by the Federation of Malaya Agreement for which Dato' Onn bin Ja'afar was blamed. I hope those words will not be swallowed up. I hope the Minister of Justice will stand up and say what his stand is, as to whether there has been a breach of promise and whether there has been a removal of the right to citizenship which he said he fought for and which he promised the General Committee of the MCA.

Mr. Speaker, Sir, the protest meeting at the Town Hall opened the eyes of the people because here, fortunately, most of the newspapers gave it banner headlines. An interesting thing in regard to the Constitution and its Amendment came out of that meeting; it was organised not by any political party but by a public spirited individual, and politicians and members of the legal profession were called on to speak. Mr. Speaker, Sir, on the Constitution there can be no doubt that the most capable men, the most learned men, would be men who are qualified in law to express their views. I do not stand in that qualification. I say that the Bar Council of the Federation of Malaya stands with that qualification. The Bar Council of the Federation of Malaya submitted a memorandum. We were informed at that meeting that the Federation of Malaya Bar Council asked for permission to release that memorandum. That permission was not given by the Federal Government. Why? Is it because that memorandum by learned men, experienced in the laws of the Constitution, put forward such powerful arguments against this Amendment that the Government is afraid to give permission to release that document to the public? I ask the Honourable Deputy Prime Minister to

tell us why that permission was not given to the Federation Bar Council. I make this statement on a statement made by Mr. Devaser at that public meeting saying that permission had been asked for and no permission had yet been given.

Mr. Speaker, Sir, in regard to the Trade Union Congress, many a time the Government has said that they are a responsible body of persons, that they are not trouble-makers like Opposition parties, that they are not communists like Opposition parties, that they are not communalists like Opposition parties, but that they are a responsible organisation in this country. Are you going to give any consideration for their views? One of their views is that insufficient time has been given to the people of this country, and indeed to them, to study this Amendment (*Interruption*).

Mr. Speaker, Sir, I would refer to Standing Orders and ask you, Mr. Speaker, Sir, if Honourable Members making unseeming remarks to order them out of the Chamber.

**Mr. Speaker:** May I appeal to Honourable Members that there should be less interruption in this House while an Honourable Member is speaking? Proceed.

**Enche' D. R. Seenivasagam:** Mr. Speaker, Sir, the Trade Union Congress has given some very substantial reasons, reasons which have been advanced in this House by the Honourable Member for Dato' Kramat and some of them by me. The most important thing is that they are a non-political organisation, they are not politicians, they look after large sections of the pupile. Sir, as Parliamentarians are sitting in this House for this whole month, political parties have not had an opportunity to put their views to the people, to get their electorates to give their views on this matter. Is it then asking too much, to ask this Government to give consideration to the views expressed by the public up to now, which are views against the Constitution?

**Mr. Speaker:** Order! Order! Time is up. The House is adjourned till ten o'clock tomorrow morning.

*Adjourned at 6.30 p.m.*