

THE
PARLIAMENTARY DEBATES

OFFICIAL REPORT

[VOLUME 1]

PROCEEDINGS AND DEBATES OF THE FIRST SESSION OF THE
FIRST PARLIAMENT OF GUYANA UNDER THE
CONSTITUTION OF GUYANA.

19th Sitting

Tuesday, 22nd November, 1966

NATIONAL ASSEMBLY

The Assembly met at 2 p.m.

Prayers

[*Mr. Speaker in the Chair*]

Present:

His Honour the Speaker, Mr. A. P. Alleyne.

Members of the Government

Ministers

<i>The Honourable L. F. S. Burnham, Q.C.</i>	<i>- Prime Minister</i>
<i>Dr. the Honourable P. A. Reid</i>	<i>- Minister of Home Affairs</i>
<i>The Honourable P. S. d'Aguiar</i>	<i>- Minister of Finance</i>
<i>The Honourable N. J. Bissember</i>	<i>- Minister of Housing and Reconstruction (Leader of the House)</i>
<i>The Honourable R. E. Cheeks</i>	<i>- Minister of Local Government</i>
<i>The Honourable E. F. Correia</i>	<i>- Minister of Communications</i>
<i>The Honourable Mrs. W. Gaskin</i>	<i>- Minister of Education and Race Relations</i>
<i>The Honourable L. John</i>	<i>- Minister of Agriculture</i>
<i>The Honourable R. J. Jordan</i>	<i>- Minister of Forests, Lands and Mines</i>
<i>The Honourable M. Kasim</i>	<i>- Minister of Works and Hydraulic</i>
<i>The Honourable W. O. R. Kendall, C.B.E.</i>	<i>- Minister of Trade, Shipping and Civil Aviation</i>
<i>The Honourable D. Mabraj</i>	<i>- Minister of Health</i>
<i>The Honourable C. A. Merriman</i>	<i>- Minister of Labour</i>
<i>The Honourable J. H. Thomas</i>	<i>- Minister of Economic Development</i>
<i>The Honourable S. S. Ramphal, C.M.G. Q.C.</i>	<i>- Attorney-General and Minister of State</i>

Parliamentary Secretaries

Mr. D. B. deGroot	- <i>Parliamentary Secretary, Prime Minister's Office</i>
Mr. G. Bowman	- <i>Parliamentary Secretary, Ministry of Labour</i>
Mr. O. E. Clarke	- <i>Parliamentary Secretary, Ministry of Education and Race Relations</i>
Mr. P. Duncan	- <i>Parliamentary Secretary, Ministry of Local Government</i>
Mr. J. G. Joaquin, O.B.E., J.P.	- <i>Parliamentary Secretary, Ministry of Works and Hydraulics</i>
Mr. C. V. Too-Chung	- <i>Parliamentary Secretary, Ministry of Finance</i>

Other Members

Mr. W. A. Blair	Mr. T. A. Sancho
Mr. J. Budhoo	Mr. F. Singh
Mr. W. G. Carrington	Mr. R. Tello, Deputy Speaker
Mr. R. G. B. Field-Ridley	Rev. A. B. Trotman
Mr. H. Prashad	Mr. H. M. S. Wharton, J.P.

Members of the Opposition

Dr. C. B. Jagan, Leader of the Opposition	Mr. J. R. S. Luck
Mr. A. Chase	Mr. D. C. Jagan
Mr. B. H. Benn	Mr. H. Lall
Mr. Ram Karan	Mr. M. Khan, J.P.
Mr. R. Chandisingh	Mr. Y. Ally
Mr. H. J. M. Hubbard	Mr. L. Linde
Dr. Charles Jacob, Jr.	Mr. R. D. Persaud
Mr. C. V. Nunes	Dr. S.A. Ramjohn
Dr. F. H. W. Ramsahoye	Mr. E. M. Stoby
Mr. E. M. G. Wilson	Mr. S. M. Saffee
Mr. M. Hamid, J.P.	

Clerk of the National Assembly	- Mr. F. A. Narain
Deputy Clerk of the National Assembly (ag.)	- Mr. M. B. Henry.

Absent:

Mr. M. Poonai
Mr. M. Bhagwan - on leave.

2.10 p.m.

OATHS

The oath of allegiance and the oath of office were made and subscribed by Mr. Marcellus Feilden Singh.

PRESENTATION OF PAPERS AND REPORTS ETC.

The following Paper was laid:

Survey of Rice Marketing Board and Rice Development Company by Urwick, Orr & Partners International Limited. (12th August, 1966). [Minister of Trade, Shipping and Civil Aviation.]

PERSONAL EXPLANATIONS

APOLOGY BY THE PRIME MINISTER

The Prime Minister (Mr. Burnham): At yesterday's sitting of the House when you had made a Ruling with which I, personally, disagreed, I permitted my personal conviction to gain ascendancy over what is my clear duty as a Member of this House and Head of Government, and that is, at all times to accept without question in public, the Speaker's Ruling. I did make a remark, sir, which was within public hearing, and which was overheard by members of the public.

I should like to assure you, sir, that I concede I was in error, and that Members of this House, in my opinion, should by no word or action contribute or show any disrespect for the Chair

or the House. I did apologise to you personally in your Chambers during the short suspension which you took, after the misunderstanding took place. But since my remarks were made within public hearing, after reflection I considered it my bounden duty to make my apologies in public and in this House, lest there be any misunderstanding. I want to assure you, sir, that my apologies are without reservation, and I hope that I shall never be considered one who seeks to question the paramountcy of the Speaker, and the fact that he controls the House. I assure you, once again of the absence of reservation in my apologies.

MOTIONS RELATING TO THE BUSINESS OR SITTINGS OF THE ASSEMBLY AND MOVED BY A MINISTER

The Leader of the House (Mr. Bissember): I move that the proceedings on the National Security (Miscellaneous Provisions) Bill be exempted from the provisions of Standing Order 9 in order that the sitting may continue until midnight.

Question put, and agreed to.

PUBLIC BUSINESS

BILL - SECOND READING

NATIONAL SECURITY (MISCELLANEOUS PROVISIONS)

BILL

The Assembly resumed consideration of a Bill intituled:

"An Act to make provision for divers matters touching on National Security." [The Minister of Home Affairs.]

Mr. Speaker: When the Adjournment was taken at midnight, the hon. Mr. Persaud had spoken for 18 minutes.

Mr. Persaud: When the Adjournment was taken last night, I was pointing out to the House that people in this country are losing faith and confidence in the Judiciary. I also seized the opportunity to cite a particular case where the court was adjourned in New Amsterdam and the Judge came to Georgetown for direction.

Recently, there was another incident in our courts where a Judge of this land used the law relating to the Statute of Limitation to rob a poor widow of her money. From a legal standpoint this is correct, but morally it is scandalous for a Judge sitting in the courts of this country to do such a thing. It is for this reason and other reasons that are well known to many people in this country that we have our reservations with respect to this Bill that is before the House, and in particular, the Tribunal --

The Prime Minister: fo a point of order. Under Standing Order No. 35 (5) and (8) it is stated:

(5) "No Member shall impute improper motives to any Member of either Chamber of the Legislature."

(8) "The conduct of the Governor or Officer administering the Government, Members of either Chamber of the Legislature, Judges of the Supreme Court or other persons performing judicial functions shall not be raised except upon a substantive motion moved for the purpose."

I submit that not only is my hon. Friend out of order, but he is scurrilously attacking members of the Judiciary in this House. [Mr. Luck: "He is saying only the truth."]

Mr. Speaker: A point of order has been made. I uphold the objection. The hon. Member will refrain from making such remarks.

Mr. Persaud: We would like to be satisfied that there is a Tribunal for justice. We must be satisfied, as citizens of this land, that we will get justice. I have no intention of imputing improper motives to members of the Judiciary, and that is why last night when your Deputy was presiding, I made the point that if there was a substantive Motion before the House, I would have named the Judge. I was merely stating facts that are known to the people.

The Prime Minister: To a point of order!

Mr. Speaker: If the hon. Member persists in doing that, I will ask him to discontinue his speech.

Mr. Persaud: In a recent issue of the *Catholic Standard* there is a headline entitled, "Dilemma of Democracy". In that article, while the journal tried heavily to support this Bill which is before the House, it expressed great reservations.

2.20 p.m.

In the *Catholic Standard* of November, 1966, it is stated:

"It seems to us that the country must go along with this Bill, repugnant though some of its features are. It certainly could have been a great deal worse."

This is a clever attempt to support the Bill; nevertheless, the *Catholic Standard*, a newspaper owned by a religious body, has reservations about this Bill before the House.

Only a few days ago a Member resigned from this National Assembly, and he mentioned this Bill as one of the reasons why he decided to resign. He said that he could not support this Bill. He could not support the Bill because in his party's manifesto - the U.F. manifesto this is what is written:

"There is always a danger that a Government may use the pretence of reasonable limitation as an excuse for suppressing the freedoms altogether."

I have said that there are a number of incidents and cases that could be cited to support my argument and the reservations that we on this side of the House entertain that justice will not be given by any political tribunal. The *Catholic Standard* wants us to trust the Government in the hope that the Government will administer this law justly for all.

Take the case of Dr. Chandra of the Mahaica Hospital. This is a very recent case. I have been informed that someone had stolen something from the institution; the police was called in to investigate the matter, and the police felt that a prosecution should have been brought against the person involved.

Mr. Speaker: What has that to do with the matter before the House?

Mr. Persaud: We have been asked to trust that this law will be administered justly. The members of the Opposition are arguing that this law will be misused by the Government, and I am citing incidents to show where the Government has discriminated against many people and every effort has been made by the Government to condone certain things. What I am saying is re-

[MR. PERSAUD]

levant to the debate. We are satisfied and convinced, like many people in this country including Dr. Richmond, that the Government will misuse this law.

In this very House we were given the assurance that the people of this country could bring any matter before the Ombudsman and that he would be permitted to investigate all matters. We said that the office of Ombudsman was very important, but what is the position of the Ombudsman today? This officer has no office; we do not know where he works. Is it true that this officer will be given the office which should have been given to the Leader of the P.P.P.?

The hon. Attorney-General is a learned person, and he knows that this Bill has serious political implications in it. These political implications must be taken into consideration when dealing with important matters in this House. This Government, as a matter of duty, should endeavour to create in the minds of the population of this country that justice will be upheld. This Government's record has shown that this is not an easy matter and that justice will be for some and injustice for others.

We cannot support the Bill before the House. I wish to join with the hon. Leader of the Opposition (Dr. Jagan) in urging the hon. Minister of Home Affairs (Dr. Reid) to withdraw it, because

it will not do the country any good. In a previous Security Report several names were cited as being associated with acts of terrorism. I can remember some of those names very clearly: Philippy, Chippy Graham and so on. It is significant to remember that these people are today closely associated with the hon. Prime Minister. Chippy Graham is still in charge of security for the P.N.C.

This Bill, according to the hon. Minister, aims at creating laws to protect the national security of this country. How can the Minister argue in favour of this? There is evidence against the P.N.C. A report was presented by the police and it indicated that certain people were involved in illegal acts. Today those very people are closely associated with the Government. How can certain people believe what this Government says? How can the Opposition believe what this Government says? I am charging the Government with discriminating against a certain section of the community. Who are the detainees? Who are the terrorists named in the report submitted by the police? But who are the detainees - Ramlall and others? It shows clearly that this Bill has been brought here to suppress certain people.

I want the hon. Minister of Home Affairs to tell this House when he will return the guns to their legitimate owners. I make this point because I am informed that the Government has decided

to deprive certain owners of their guns permanently. I am also informed that in a short while the Government will pursue a policy of redistributing firearms to certain people. We are very suspicious of the Government in this matter, because we feel that when the distribution takes place it will be a question of giving arms only to the supporters of the Government.

Mr. Speaker: Time!

Mr. Hamid: I beg to move that the hon. Member be given 15 minutes to conclude his speech.

Mr. Ally Secoded.

Question put, and negatived.

The Minister of Agriculture (Mr. John): In my contribution to this debate I propose to deal with four points. First, I shall seek to show that preventive detention does not bear the hallmark of a particular ideological content. Secondly, I wish to show that the theory that preventive detention is repugnant to the rule of law has been exploded by modern jurists. Thirdly, I shall seek to show that, contrary to much of what has been said here, there are many more countries that have the same form of preventive detention that we have been made to understand from the trend of the debate should not exist here.

2.30 p.m.

Fourthly, I shall deal very shortly with the question of the

definition of ammunition as set out in this Bill. I would like to refer to an article on "Justice and State Security" in the Journal of the International Commission of Jurists. In it the question of preventive detention has been discussed very fully. It raises this point -

"Any Government, whatever it is, whatever its political form, however it came to power, must tackle a number of imperative tasks:

1. It must maintain order. This task for a government is so fundamental that theologians take it into consideration in assessing the legitimate power of the state and the obedience that is its due.
2. Any government must ensure the proper functioning of the public services for which it is responsible and which are necessary for the smooth development of social life in the society which it governs.
3. Any government must obviously ensure the survival of the nation, its independence and its autonomy as a nation, and therefore must use all lawful means against those whose activities could bring about the extinction of the nation, its annexation to a foreign country or its enslavement.

[MR. JOHN]

4. Any government must **protect its own authority and safety**. If this were not so it would disappear or at least be paralysed and would be unable to carry out its functions.
5. The state must **ensure justice, the Rule of Law** which is the fundamental requirement of any organized society. "

Members who have contributed to this debate, not only here but elsewhere, have sought to make out as though preventive detention is something which exists only in one or two countries. Indeed, the hon. Member, Mr. Ashton Chase, who offered twenty-one points, which I have conveniently reduced to three or four - it is just a matter of subdivision - also wrote an article in the *Mirror* of Monday, November 14, where he did not make twenty-one points; he made nine. Among the nine points that were made in that article was one that nowhere else except in Kenya and in the first days of South Africa and Rhodesia, is there such a law.

Unfortunately, I do not think the hon. Member has done much research. I would refer to another article in the *Journal of the International Commission of Jurists*, Winter 1964. The article deals with the rule of law in Somalia and the merits and demerits of preventive detention were being analysed. On page 294 there appears this statement:

"Provisions relating to preventive detention are found, in some form or other, in most of the English-speaking countries such as the United Kingdom, . . .

I know that will surprise many and I shall deal with the relative legislation in a short while -

". . . India, Pakistan, Ceylon, Canada, Burma, Australia, New Zealand and Malaysia. The main reason for retaining provisions relating to preventive detention is that the security of the State is not only threatened by war - prospects of war are nowadays far remote - but also by subversion, disorders and national calamities; and everywhere it is recognized that preventive detention is a necessary evil and has come to stay. The question to be considered is - how to impose reasonable restrictions on the exercise of the powers of preventive detention?"

I refer to this - I have not dealt yet with the Preventive Detention Act of India, but I thought I would deal with this because it is important to remove much of the misunderstanding that has been brought out here as to the existence of preventive detention and any feeling that preventive detention is only limited to countries that have a particular type of ideology.

It might surprise the hon. Members who are propounding this to hear that the Northern Ireland Government which is responsible for security in its own province has power to order the arrest of any person; and to hold that person without trial for as long as it likes, subject only to the detainee's right to appear before a special committee of lawyers who sit *in camera*, are appointed by the Minister of Home Affairs, and make their report in secret to that Minister. That is Northern Ireland; that is the Special Powers Act. It does not matter by what name the Act is called, because a rose by any other name is just as sweet. Whether it is a Public Security Act, or a Preventive Detention Act or a Special Powers Act it does not matter. [Interruption.]

Unfortunately this only came to light in Ireland when a few stones were thrown at the car of the head of state a few months ago. When the judges looked at the preventive detention order and went back to the Act it was found that the provision does not exist only in time of war. The latest body to be proscribed under the Act, which has hitherto been exclusively used against people hostile to Ulster's British connection, is the Ulster Volunteer Force. It goes on to say that the Government of the Irish Republic - that is Northern Ireland - has almost identical powers of detention without trial, which it has used against its own ultra-patriots. Some have argued that if you live in a country in which a tolerably large minority of people disagree with the basic premises of the constitution, and are prepared to

use force to change it, such powers are necessary.

That is to answer the argument which has been brought here and to explode the theory that preventive detention is repugnant to the rule of law. That attitude of mind is changing today. Jurists no longer argue that. They say you must bring about the sort of conditions to ensure that preventive detention operates without fear.

In comparing various Acts on preventive detention both in some territories I have called and in some other territories, I am sure hon. Members will be convinced, at the end of this debate, that we have gone very far in endeavouring to ensure that preventive detention, as introduced, will be made to work under conditions in which they need have no fear. Of course, hon. Members have chosen a few other countries where preventive detention exists. Perhaps they do not know that the Constitutional Amendment Act of Malawi of November, 1964, provides for preventive detention and there is a right of review every six months. Here it is three. Our regulations provide that you may arrest or confine a man for eight days without an order being made if an officer has reason to believe he is likely to act in a manner prejudicial to the security of the state.

2.40 p.m.

I am only mentioning this in order that hon. Members may see how far we have gone to endeavour to make the operation of the system reasonably certain. I can assure hon. Members that the

[MR. JOHN]

power which we seek to vest in the Minister of Home Affairs will be used only after matured deliberation and where the exigencies of good order and tranquillity demand.

Much has been said about the position in India. Members could not deny that preventive detention exists in the Indian Republic. Some Members seem to think that it was only a war-time measure. Perhaps if they had read Indian legal history they would have known that preventive detention, in one form or another, has existed for a long number of years, and certain parts of the Ordinance were substantively enacted. This was enacted in 1950 and it has been re-enacted from time to time. It was not there, as one Member said, as a war-time measure only. That is wrong, and I am sure that there are other aspects of the position in India that hon. Members have not adverted to because whereas here the only person who is entitled to make a Detention Order is the hon. Minister of Home Affairs, in India, there is a large category of persons who can exercise preventive detention right away; it is not exercised at the highest level of the Government.

Preventive detention in India can be exercised by magistrates, assistant district magistrates, the Commissioner of Police for Bombay, Calcutta or Hyderabad, collectors for the State of Hyderabad. The ambit of the persons who can enforce preventive detention under the Indian Constitution is much wider than that

which we have in this Bill. That is one of the several ways in which what we have here differs quite a lot from that which takes place elsewhere. We are fortified, from the history of the security position as given by the hon. Minister of Home Affairs, that it is important to have such a law on our statute-book.

Mention was made about the Constitution. The framers of the Constitution made provision for inserting the law of preventive detention. Other countries have gone further and amended the Constitution and then proceeded to pass the law of preventive detention. The Constitution was there to be studied. Hon. Members knew that this Bill was coming up so they had quite a lot of time to exercise their minds over it. In other words, this Government is not bringing something, as members of the Opposition say, conceived in haste. They knew, from the time the Constitution framers drafted the Constitution, that there was ample scope within the ambit of the Constitution for the Government to introduce a law of preventive detention, when and if it became necessary to do so. To my mind, therefore, there should be no reason for complaints.

Some hon. Members have strayed into various fields. One hon. Member said that he suspected the Government might want to incarcerate him. I think we ought to allay his fears. This Government will incarcerate no one if he behaves himself. One hon. Member said that, rather than making laws for the security of the State, we must sit down and concentrate upon economic

co-operation between the various sectors of the populace. The security of the State is very often *sine qua non* to an economic move-on.

We must have peace and tranquillity in this country. This Government is sure that it has laid the basis for greater peace which will bring about the understanding that it is really serious in maintaining its duty and its responsibility to the nation. I do not have to repeat what I have already read in this article about the duties that a Government owes to the people and to the State. I hope that hon. Members will come around to see the reason and the wisdom behind the measure which has been propounded here today.

I desire to deal with one last point because I do not think we ought to make this debate too long; hon. Members have convinced us of their intention to prolong the debate. The point I would like to deal with is the definition of the word "ammunition" in the Ordinance. This point was made by one lawyer and one or two laymen. I was very surprised that my hon. and learned Friend made that point because all he has to do is to look at the Explosives Ordinance, which has been

on our statute-book for the last seven years, and he will see over 100 items that are defined as explosives. At the end of the Ordinance it is stated that, apart from the 100 odd items that are defined as explosives, any other item or thing which the Governor in Council deems as explosive will be explosive.

In matters of internal security you have got to ensure that you cover everything because this is something that you cannot play with. That is why it has become necessary to make the definition of the words "ammunition" or "explosive" in the Ordinance as wide as possible so as to ensure that people do not, by small technicalities, get out of the way of the law. If hon. Members will only take a simple look at the definition of the word "explosives" in the Explosives Ordinance, they will see that the position has not been very different there where the entire page defines it and, at the end of it, it is stated that anything which is published in the *Gazette* and which is deemed to be explosive shall be added to the list.

That is all I wish to add to this debate and I ask hon. Members on the other side to support this Bill.

Mr. Hubbard: The Bill before us is a piece of legislation which is permitted by our Constitution. This Constitution is a document devised by rascals for manipulation by rogues. It is therefore not surprising that we are now engaged in discussing restrictions on the liberty of the individual which even the tyrannical British were afraid to include formally in normal law.

2.50 p. m.

Sir, this Constitution is a strange document. It is almost as strange as the measure that we are asked here to pass. For instance, the drafter of this leg-

[MR. HUBBARD]

islation - [The Prime Minister: "Draughtsman."] The man who wrote this Bill also wrote the Constitution which gave away countless acres of land to the British. No doubt he would write the law to give away Ankoko. [The Prime Minister: "Fenton wrote that."]

One of the puzzling things is that they should have incorporated into this so-called National Security Bill, provisions for the control of explosives. It is the kind of hodge-podge drafting that we expect to come out of the Attorney-General's office - the office which had the distinction of putting a Bill before this House with five foolscap pages of Amendments.

Our Explosives Ordinance is antiquated. It needs revision. We had a United Nations Expert working on it for a long time and one would have expected that, on the basis of the advice of that expert, we would have had a comprehensive law dealing with explosives and ammunition and being as punitive as possible over the movement and control of explosives. I, myself, in the days when the hon. Minister of Home Affairs was hoarding detonators in his yard, was very concerned over the slack manner in which the Government permitted explosives to be handled and carried, and I was the one who got the United Nations Expert to give priority consideration to this question.

At present, we do not have a new Explosives Ordinance, we have to turn to the National Security

Bill. If I remember well, one of the anomalies of the Explosives Ordinance was the fact that a man was able to carry a large quantity of gelignite or dynamite without having a licence, and people in all innocence might look to the Explosives Ordinance for guidance, since it is a substance necessary for mining, and then find themselves trapped by the National Security Bill in which they do not expect to find anything relating to their industrial activities. This is again typical of the Government's action of going behind the pawnbroker's screen to do everything it wants. It is a testimony to the great influence that the leader of the United Force has over the members of this Government, that they should adopt his professional techniques in the business of the Government. [The Prime Minister: "Be of good behaviour."]

Quite apart from other things that have been mentioned, I am disturbed over the obvious carelessness with which the drafting and the preparation of this Bill have been handled. In the Explanatory Memorandum of the Bill, it is stated in the last Clause which is Clause 7, as follows:

"Finally, clause 36 of the Bill provides that in the event of conflict between the provisions of the Bill and any other law, except the Constitution, the provisions of the Bill will prevail."

But when I look at the Bill, sir, there is no Clause 36. It is spirited away behind the pawnbroker's screen and no longer exists, and this is what we are

paying \$4,000 a month for; \$4,000 a month to a man who cannot be sufficiently careful when he is promulgating provisions to deprive the people of their liberty. He cannot even get right a reference to a Clause. I understand that, in terms of today, people are now saying that he is worth more than \$4,000 a month.

The other things that worry me about this Bill are not necessarily its mechanics. Let us not forget that all that is proposed here, and worse, have been enforced throughout the period of the life of this Government. When I oppose this Bill I am not thinking of my own liberty. [Mr. deGroot: "You are just not thinking."] I am not thinking of the liberty of my comrades who are dedicated to bringing a better life to the people of this country because the better life that we have created is clear for all to see when they compare the fall in their living standards of today. We must, in assessing the reasons for this legislation, ask ourselves why the Government has been impelled, first of all, to get constitutional authority for enacting preventive detention.

3 p.m.

Secondly, the Government is writing preventive detention into the ordinary law of this country; so that we have this anomalous situation where courts require that charges made against individuals must be proved; they require that persons who accuse others must appear before the courts and have their accusations tested by examination, cross-examination and re-examination; they require

that evidence should be tested by the production of other evidence; they require that the accused person should know all of the facts relating to the charge that is laid against him, and all of that paraphernalia.

Now, in the same ordinary law we are creating a parallel system to what must be called injustice where persons are held in detention. They are told the reason why they have been held in detention, but they are not confronted with their accusers; they do not then know their accusers, and they are given no opportunity to test evidence which is put before the court. Here you have two principles which are in direct conflict.

The Government has argued that in certain times it is necessary to have measures which go beyond the provisions to which we normally refer as justice. The Government claims that there are times when it is necessary to forestall action that is suspected, or things that might be undertaken so as to safeguard the general population from the unreasonable, sometimes malicious, minority. I agree that this is necessary and that all States' constitutions provide for such circumstances.

It is set out in our Constitution that where there is war, or where there is a threat of war, and where two-thirds of all the Members of this National Assembly pass a Resolution declaring that democratic institutions are subverted, then Regulations may be made and all sorts of legislation can be brought into force. It is a little difficult for us to un-

[MR. HUBBARD]

derstand why the Ministers should want to substitute one thing for another. They have all the powers already. They had some of my comrades in prison, but they have released them. Having released them and declared that the situation has improved, they can go no further. They now come and ask us to give them powers which are far more sinister because such powers will give them less trouble.

Now, the scheme in this legislation is to do two things; it is to safeguard good order, good Government and public safety and, apart from that, if you examine the Bill, you will see that there are several separate provisions in respect of explosives. There is the question of safeguarding democratic institutions not defined anywhere in the Bill.

When there is a threat to democratic institutions, it is to be the function of a tribunal, where the majority of its members are to be appointed by the Prime Minister - one Chairman to be appointed by the Chancellor, and the two members to be appointed by the hon. Prime Minister will have a majority vote - to deal with certain matters. That is to say that the Prime Minister's nominees can override the others. In the other case there will be nominations by the Chancellor, but there is a distinction and there is also a difference. Why is the Government seeking to introduce these absurd provisions?

This Government has been in office for not quite two years. It is, I think, a little over

twenty-three months since the Government has been in office, but in that period of time the economic position of this country has declined disastrously. The cost of living has gone up. The cost of living, according to the consumer retail price index figure, rose by 7.8 points in the period of the life of this Government; in the period from 1958 until the end of 1964 the consumer price index figure rose by 10.9 points only; so that the retail consumer price index figure reflects the terrible pressure that has been put upon the ordinary people.

There are among the working class a number of what are known as respectable working people whose dollar has shrunk so much that, instead of buying a pound of beef on a Saturday, they have to buy a quarter pound of beef. They are afraid to go and buy it themselves and they have to get others to buy it for them.

3.10 p.m.

The fact of the matter is that the economic situation of the country has deteriorated so disastrously that the Government feels it necessary to invest itself with special powers in order to prevent the hungry working-class people from getting at it. Since this Government came into office the discontent, the frustration, the disillusionment of the working people has grown so great that we have had more strikes in the period of this Government's lifetime than we have ever had in any comparable period of the life of any Government, even including the Interim Government which was graced by the Attorney-General's father,

his cousin and his aunt and was a Gilbert and Sullivan farce.

The Government's administration of this country has been so terrible that the Sugar Producers' Association has felt that it is within its right and duty now to bring forward an anti-strike rule which it has not used since 1953. In 1953 the Sugar Producers' Association felt that it could not apply the rule any longer as it produced too many worries, but under this Government, which is so benevolent to expatriate capital - it gives to sugar, free of charge, the land which belonged to us - the Sugar Producers' Association does not feel that it is necessary for it to observe the ordinary norms of industrial relations. The Government has so mismanaged the affairs of this country that, in a country like ours where there is no sophisticated means of trading and where people usually use currency for moving goods, the currency in circulation at the end of 1964 was \$47½ million in banknotes. The last publication revealed it was now a little over \$27 million.

These are inescapable signposts of the decay of the economy of this country. Also, many people who have not yet felt sufficiently afraid to run have put wings upon their cash and sent it out. I notice that one of the apologists for the Government in today's newspaper was recommending that exchange control should be re-established so as to curb what this gentleman picturesquely referred to as "vagrant dollars". The rascal dollars have gone already and the remaining vagrant dollars are now to be restrained.

When I was a little boy I read a tale of a man who did not lock up his horse and after the horse had run away he wanted to lock his stable. We on this side of the House have advised the Government. The Government has not taken our advice. By rejecting our advice it has to come to the House and seek this kind of repressive and punitive legislation. What is disturbing, is the quality of the persons who will administer these provisions. We have heard of the Cendrecourt affair. I have with me the text of a communication from the chairman of the clerical section of the Transport Workers Union to the general president of the union, Mr. Carrington, to the general secretary of the union, to the Industrial Relations Officer at the Transport and Harbours Department, to the President of the Federated Union of Government Employees and to the Ombudsman. I think it would ornament this record and illuminate our minds. Have I your permission, sir, to read it?

Mr. Speaker: Yes.

Mr. Hubbard: It begins:

"Dear Brothers,

Because of the widespread publicity and distortion of facts, I think it my duty to make this report to you. The *Evening Post* headlined it as a 'National Disgrace', but I would prefer to refer to it as a 'Flagrant Denial of Justice'. Let me begin from the beginning.

About 8.00 p.m. on the 8th August, 1966, (exactly

[MR. HUBBARD]

eight (8) days after Cendrecourt had assumed duty as Acting Assistant to Marine Superintendent), at the monthly Statutory Meeting of the Central Executive of the Transport Workers' Union, the Marine Sections reported that Cendrecourt was hostile to Marine Personnel. I immediately promised to investigate this report."

Mr. Speaker: I am sorry to interrupt you, but has the letter any bearing on this legislation?

Mr. Hubbard: I submit there is a general bearing because there is profound disquiet outside about the possible misuse of this Bill. The Catholic body has said that it trusts the Government, but the Bill can be misused. It is therefore relevant that when extraordinary powers are given to any person or any body of persons that one should satisfy oneself as to the rectitude of those persons who are to exercise those powers. For that reason the letter is relevant.

Mr. Speaker: Proceed.

Mr. Hubbard: I quote again -

"On the 9th August, I visited Cendrecourt at his Office and told him of this allegation which he denied. I further expressed the view that he, having worked for many years as Purser on all the Department's Services should not find it difficult to understand the members of the ships' crews.

On Sunday September 11, at a meeting of the Marine Sections, the question of victualling, overtime, and footwear for Marine Personnel was discussed; Cendrecourt's hostility was discussed and many floor members laid great emphasis on his strike breaking activities in 1963, and also his political associations.

I am happy however to record here, that a Senior Officer of the Marine Executive vehemently protested the inclusion of politics, etc., and threatened to withdraw from the meeting.

As you are well aware, strike action was taken on the 12th September, 1966. When I was on the way to the Acting Minister of Communications, Mr. R. Jordan, to discuss the "2 Hour Strike" by Clerks on the overtime issue, I tried to include three other matters for discussion with the Minister, but the President refused to allow it because they were not properly ventilated at Management's level. I admitted that I was wrong and I congratulated the President for reminding me of the correct procedure.

At the Monthly Statutory Meeting held on the evening of 12.9.66, a letter dated 12.9.66 from the Marine Section was read outlining the reasons for the strike which were -

1. Overtime for Officers.
2. Victualling of Crews.

3. Footwear for Marine Personnel and the removal of Cendrecourt.

When the Chairman called for the ratification of the strike action, I enquired if the normal procedure was adhered to concerning Cendrecourt's matter, that is, was this matter discussed at Branch Head's (Marine Superintendent) level? The reply given, gave me the impression that there was no proper discussion at this level. Here I must mention that the recognized procedure when there is a breakdown, or disagreement between the Sectional Representatives and their respective Branch Heads this fact has to be submitted in writing or by verbal report to . . . "

3.20 p.m.

Mr. Speaker: I am sorry, but I cannot see that this letter has any bearing on this matter. Discontinue the letter.

Mr. Hubbard: I will not read the whole thing, I will read a part of it.

Mr. Speaker: Discontinue the letter.

Mr. Hubbard: As you wish.

Mr. Speaker: I think your time is up.

Mr. Ram Karran: I beg to move that the hon. Member be given an extension of 15 minutes continue his speech.

Mr. Wilson seconded.

Question put, and negatived.

Mr. Wilson: I rise in opposition to the National Security Bill. The Minister tried to tell us why such a measure is necessary. Hon. Members on this side of the House gave several reasons why the measure is unnecessary. Anyhow, I shall try to put myself on the Government's side - [An hon. Member (Government): "Are you crossing the Floor now?"] - and give two reasons why the Government feels that the Bill is necessary. The first reason is this: The Government came into office by fraud, so it is suspicious and feels that it will be removed. It is suspicious of everyone around it. But the Government should give back what it has stolen. The members of the Government feel that they must try to secure themselves against any removal.

Secondly, this Government is carrying on the affairs of the country in such a manner that it is becoming increasingly unpopular so it is afraid that the people will remove it by force. When I say "people", I mean the supporters of the Government, so the Government must safeguard itself against such an eventuality.

For what purposes will this Bill be used? We know what the Government has been doing all the time under the emergency. In the first place, this Bill is going to be used against the political opponents of the Government. It is going to be used against those who cannot see eye to eye with the Government, those who have the courage not to stoop, those

[MR. WILSON]

who have the courage to align themselves with some other party or organisation outside of the Government. In short, as the situation now stands, this Bill is going to be used, in the first instance, against the members, supporters and sympathisers of the People's Progressive Party. There is no other purpose for which it can be used at present.

What did we see as soon as this Coalition Government was formed? We saw that Chippy Graham and other detainees who belong to the P.N.C. were released. All the P.N.C. supporters were released and most of the P.P.P. supporters were left behind. If the members of the Government had thought that the time had come when persons must be released, one would have expected that they would have released everyone. They released their supporters and did not impose any restrictions on them. Are they saying that the members of the P.P.P. were detained justifiably but that the members of the P.N.C. were detained wrongfully?

Since it is the same authority that detained both P.N.C. and P.P.P. supporters, then they were all detained wrongfully and a working-class Government, coming into power, should release everyone without any restrictions whatsoever. The files were there; there must have been something that the Security Police reported on the P.N.C. supporters. If the Government denied what the Security Police said about the P.N.C. supporters, then it should also deny what the

Security Police said about the P.P.P. supporters. This information came from the same source, and if the information as far as the Government's supporters are concerned is wrong, then it should also be considered wrong as far as the P.P.P. supporters are concerned.

What did we find? This Government has been in office for nearly two years and it is only recently that all the detainees have been released. Up to now, about eight of the former detainees are still under restrictions of various sorts, irritating restrictions which deny them the right of freedom of movement, freedom of association.

We can come to no other conclusion than that this Government is going to exercise the powers which it seeks through this Bill in a partisan manner. That is clear from its behaviour since it assumed office. The Government is in a hurry to get this Bill passed because, as I said before, of its rising unpopularity. The Government's supporters are becoming disgruntled and unhappy. There are strikes and rumours of strikes. This Government is not happy about this situation with so many strikes from its own supporters. The Prime Minister is the President of the Guyana Labour Union, and yet his union is carrying out strikes to undermine the economy of his Government. He cannot be happy about this. He is saying, "But we are not going to pass any legislation to restrict your right to strike; that is your fundamental right."

3.30 p.m.

This is a clandestine way of bringing about a situation where the workers are going to be chained and that is why they will not be able to exercise their freedom. [Mr. Merriman: "You were wearing a chain for a long time. Where is it?" - Another reason why they are bringing forward this measure is the disillusionment on the part of their supporters. There is need now to divert the people's attention from what is the true situation in the country. That is one of the techniques of tyrants, of despots and of Fascists. The people's attention must be diverted from the real situation, from the sufferings.

This Bill is going to give the Government power to create a lot of scapegoats just as this Government is using the Ankoko affair to divert the people's attention from the true situation, from the rising cost of living and from the rise in unemployment. People are starving. They are suffering. The children roam the streets. [Mr. Wharton: "Where?" -] Go about the streets and you will see the children naked and wandering about. They have no clothes to wear. They have no food. They almost have no homes. Yet the Government is going to employ Welfare Officers to carry naked and hungry children to school! This is not going to fool the people. This sort of trickery will not succeed for long. You can fool some of the people some of the time but not all the people all the time. This Bill that you are bringing to stifle the

expression of the Opposition will not succeed for long.

I wish to read from a book entitled, *The FBI Nobody Knows* by Fred J. Cook. It gives an example of how informers are used to get people detained. [Mr. Bissenber: "Where is the book?" -] Here it is. [The Prime Minister: "Page?" -] Page 151. [The Prime Minister: "Author?" -] Fred J. Cook. [Mr. Joaquin: "Paragraph?" -] Yesterday, the Minister of Home Affairs asked us for increased provision for security. We want to know what he is going to do with this money. Now, I quote:

"The unravelling of the fantasy began --

[The Prime Minister: "You are not reading from the book." -] This (indicating a typewritten sheet) is from the book. [Laughter.]

"The unravelling of the fantasy began with the exposure of Denis Healy. The government's star informer, it developed, had been rather well paid for informing. At first he had been put on the payroll at a salary of \$25 a week; later, as his information got better, he had been paid \$75 every two weeks. His wife, too, had been compensated. In all, it was admitted, the FBI had paid out some \$1,300 to the Healys since the previous October 10 - compensation, it was explained, to reimburse them for time lost from their regular jobs and to pay them for expenses they had incurred in aiding the government."

[MR. WILSON]

[Mr. Kendall: "What does that mean?"] It shows how people have been paying others to manufacture evidence to get people detained.

It goes on:-

"These details suggested the possibility that the Healys might have informed for pay, but more damaging was Healy's admission that in his enthusiasm for the cause he had aided and pushed the plotters onward in their plot, helping to create some of the evidence against them.

The matter of the arsenal the plotters had amassed was a key item. Healy testified that he had gone to his National Guard commander and had obtained his cooperation (Healy understood the FBI had paved the way for this) to let him 'borrow' rifle and machine-gun ammunition to give to the Christian Fronters. Even the ammunition used in the rifle practice the FBI had filmed had been obtained not by the plotters but by Healy. He had used FBI funds to purchase it. He had used FBI funds, too, he conceded to treat the conspirators well; they had dined on pheasant at \$2.50 a head and had been supplied liquor - all courtesy of the FBI. The testimony at this point began to take on the odious overtones of the activities of an agent provocateur. The line between the activities the Christian Fronters had under-

taken on their own initiative and those they had undertaken on Healy's active stimulation and encouragement became blurred."

Even the ammunition used in the rifle practice which the FBI filmed had been obtained, not by the plotters, but by Healy.

This is one of the methods that this Government intends to use in order to put people in trouble, people whom they believe to be their enemies. Now that I have come to the question of the people, I would say that with all of these machinations you cannot destroy the people, the people are indestructible.

3.40 p.m.

They are plotting to destroy the P.P.P. and its supporters, but they must realise that the people are indestructible. I have an extract here of a speech or address given by the hon. Prime Minister in June 1963 at Bourda Green when he was referring to the use of force. At the back of this "Preventive Bill" is the intention to use force to rule the people. They do not want to rule by a consensus, although they are always talking about consultative democracy. Here is what the hon. Prime Minister said about the use of force:

"Force has never subdued a nation that does not want to be subdued. Though it may subdue men for a time it is not a permanent means of subjugation."

This Bill is not based on the philosophy which relates to these words.

That is why it is our contention that this Bill has been introduced because this Government is afraid. The members of the Government, having stolen our seats from us, now have to use force to keep themselves in power. They will have to use force and introduce some sort of machinery in order to keep the people quiet.

I have been carrying on an institution since the time of my incarceration without cause. This Bill will only be used against the enemies of the P.P.P. and innocent people. [Dr. Reid: "The enemies of the P.P.P.?"] I am sorry, I should have said the members of the P.P.P. and the people associated with them. I really mean the enemies of the Government and the supporters of the P.P.P. It will be used against persons who are not supporting this Government.

For instance, let us take Rajpaul, who was the head of the Displaced Persons Association. As a displaced person, he decided to lead other displaced persons to get their rights. That is why he was detained on the occasion of Her Majesty the Queen's visit along with myself. Let me refer to a Crusade publication dated 13th June, 1966. In this publication the Crusade for Civil Rights warned the people about what is going to take place in this country. I quote:

"It will be agreed by all freedom loving people that the restrictions and the curfew imposed upon the released men is a degrading curtailment of their RIGHT OF MOVEMENT AND ASSOCIATION. It

is also a bombastic show of power which reveals a PUERILE MENTALITY on the part of the Government."

The hon. Minister will have the power to say how a man must be punished and where he must be carried. He can say whether a man should be put in a dark room, in a pond of water and so on. I sometimes carry my chain to demonstrate and warn people about what is waiting for them. I want to show them that the Minister has the power to put them in chains. I wish to say that this Crusade will see to it that the people are warned. We will crusade against the Bill, and we will invite Guyanese to become watchmen. We must sound the alarm and make them beware of the thief who steals our rights and tries to rob us of everything.

The publication goes on to state:

"As watchmen or vigilantes it is our responsibility to sound the alarm when the thief (dictatorship, fascism) steals or attempts to rob anyone of us of our Civil liberties - Guyana Crusade for Civil Rights invites you to join its Vigilante Service by carrying our vigils . . ."

The Crusade sets itself up as a watchman for the people. We will sound the alarm to the people. We will carry out our exercise every week. We know that it will worry you and we may be detained, but the Crusade's philosophy will live on - the people are indestructible and the idea is growing.

[MR. WILSON]

I should like to give a word of advice to the Government. It may be called a prophecy or prediction, but I know what is going to happen. I am one of the oldest Members of this House, and I think I can look into the future and tell you what is going to happen. The members of the Government are going to have all of these repressive measures; they will push a man until he can go no further; they will stifle the expressions of the people by driving fear into them, but after a time there will be an explosion.

Anyone who knows anything about psychology will tell you that that is true. If an individual cannot express his dissatisfaction, the time will come when he can bear things no longer and he will explode. One day the nation will explode, and those who are sitting on top of the machinery of oppression will be in trouble. If you sit on a powder keg and it explodes, you know what will happen. I am warning this Government not to suppress freedom of movement. Do not rule by fear. Even the hon. Prime Minister said that force will only succeed for a time.

3.50 p.m.

When people feel that they cannot stand the repression any more they will explode and then they will come into their rights. Will this Government heed this warning? Will members of the Government let better counsel prevail and withdraw this atro-

cious Bill? Will they let Guyanese live in freedom and love? This Bill is not informed by love; it is informed by hatred and repression. My appeal to members of the Government is that they withdraw the Bill and let consultative democracy prevail.

Mr. Speaker: I shall call on the hon. Minister to reply if there are no more speeches.

Mr. Lall: Article 1 of the Declaration of Human Rights states quite clearly that human beings are born free and equal in dignity and rights. They are endowed with reason and conscience. All persons should act towards one another in the spirit of brotherhood. May I ask if this repressive Bill is projecting the spirit of brotherhood? May I also ask if this iniquitous Bill is designed to suppress the conscience of the nation? I want to warn the members of the Government that the conscience of a nation cannot be suppressed by closing the prison door on it.

This Bill is designed to suppress the militancy of the working class people in Guyana. It is designed to suppress the militant trade union leaders. People do not strike because they like to strike, but because they are exploited by people like the sugar producers, Booker Bros., Sandbach Parker and Company. If I am permitted to take time off to quote from the trade union press, we shall see where militant leaders are being put behind bars because they make represen-

tations on behalf of workers without fear or partiality.

One hon. Member said that there was a similar Bill in India and in other countries, but wherever suppressive measures exist, whether in Africa, Russia or Cuba, true and God-fearing people criticise such measures.

I had the honour to meet Mr. Daupe when I was in Europe. He is the General Secretary of the All-Indian Trades Union Congress. He is a feeble person, but he is strong in spirit and in will-power. Because he and other trade union leaders demonstrated against the high cost of living in India, they were arrested by Indira Gandhi's Government and put behind bars. True trade union leaders all over the world have to raise their voices against the suppression of civil liberty, and that is what is happening here in Guyana.

The Bill is designed to suppress the freedom and liberty of the people of Guyana, in particular the freedom of the working class people and their militant leaders. I would like to give a word of advice to the present Government.

Sitting suspended at 4 p.m.

4.37 p.m.

On resumption

Mr. Lall: I was showing, from this pamphlet, how suppressive measures have been used, in

all parts of the world, by Governments that have no regard for members of the working class or their leaders. These measures are used to suppress the liberty of the people.

In South Africa, in Rhodesia, we saw where the rule of law was suspended. The Ian Smith regime in Rhodesia has banned the civil liberty of the people by taking away the rights of four million Africans. But this has not daunted the spirit of the Rhodesian people. They are still fighting back the Smith regime most vehemently.

4.40 p.m.

In South Africa we observed that the dignity of human beings is being put on trial. The spirit of the South Africans was not daunted. They are continuing their struggle and you can be sure that at the end they will win out. Their struggle might be long and dreary, but beyond every dark cloud there is a silver lining and so long as the people are fighting militantly to maintain their honour and their liberties, they will win in the long run.

Now, in Guyana, then British Guiana, during the period of 1953 - 1957, we saw how the British soldiers and local police were hounding the people like dogs. But this did not deter the spirit of the Guyanese people. They fought the oppression. That was the "marking time" period. Some of us were gaoled, some of us were detained. But

[MR. LALL]

the struggle did not stop, and no Bill, no matter how suppressive it is, can stop the vanguard of the people from marching to freedom and liberty.

In South Africa they are locking up trade union leaders under the pretext that they are carrying on acts of communism. These boys must find some excuse to lock up and detain militant leaders. I have in my hand here the manifesto of the People's National Congress. Maybe the "late" Member of Parliament and of the U.F., Dr. Richmond, saw the handwriting on the wall. He stood up like a very good gentleman, not like my friend Mr. Cheeks, and showed his opposition to the Bill. I wish to quote from page 2 of *The New Road* - "The New Road to Detention."

"The People's National Congress refuses to be part of this mime, this exercise in cynical entertainment. Our Party really wants to build a new Guyana where a man is a man and not a miserable creature hunted and penned in an inglorious spot. The P.N.C. wants to, and if given the opportunity, will establish a new and free society."

This is the new and free society the P.N.C. is establishing now, by suppressing the will of the people by this legislation.

In the place of the National Security Bill, I thought they

would have brought the Severance Pay Bill on which all of us had agreed in this House. It is now two years and nothing has been done to establish that Bill. If that Bill were established, it would mean that people who have had years of service, whether they were working with Government or private employers, would have to be given a lump sum when they are thrown out of their jobs. Proper reasons would have to be given before they could be thrown out of their jobs, and if they were thrown out, they would have to be given severance pay. But instead of this Severance Pay Bill we have the National Security Bill.

The National Security Bill is designed to thwart the militancy of the working class of this country. The doors of liberty and freedom are now being bolted and barred in the faces of the Guyanese people, and if these doors have to be opened by force, let them remember who made the challenge because, as I have said before, the people will be on the march. No punitive legislation can suppress the will of the people.

We have had similar legislation in the United States of America where the agents of the F.B.I. were used against the workers and their leaders.

4.50 p.m.

I want to quote from Page 121 of a book called *The F.B.I. Nobody Knows*. This book was written in 1922 when the railroad

workers went on strike in America because their wages were cut by 15 per cent. It states:

"The only 'proof' that Burns ever adduced was one indisputable fact - that there were a growing number of serious strikes by American workmen. To the type of probusiness mentality that viewed every strike as an evidence of rampant radicalism, no other 'proof' was really needed. From this astigmatic viewpoint, the events of 1922 must have seemed justification for the howls of alarm.

The nation was in the throes of a depression. Jobless men walked the streets by the millions. Harding's battle cry, 'Back to normalcy,' brought the derisive taunt from *The Nation* that the President was now learning 'slowly and painfully' what should have been patent, 'that you cannot turn back the hands of time . . .'

Although suppressive measures were used in 1922 in America, the workers were still on the march and little by little the then President and his Government realised that they could not turn back the hand of time. The same thing can take place in this country. I have said before that, no matter what suppressive measures you may use, the will of the people will still remain on the march forward.

The F.B.I. spent thousands of dollars to obtain true information as well as false information. Despite the amount of money voted for that purpose, the workers still remained on the march. That is exactly what is happening in Guyana today. The hon. Minister of Home Affairs will be given power over and above the supreme authority of this country, and when he speaks he lays emphasis on certain words. He is the supreme being in Guyana today.

If we were to examine this Bill carefully we would see that the appointment of a tribunal is only a farce, because the hon. Minister has the overriding power. What are we doing with justice in this country? We have several Judges in this country, but if the supreme commander (the Minister of Home Affairs) says to lock up Cheeks he will be locked up. It is quite clear that the duties of the tribunal will be completely void. The person who drafted this piece of legislation should be sent back to school or to the schools of law, because justice must appear to be done.

This Bill is giving all the power in the world to the hon. Minister of Home Affairs. Why are you giving one man so much power? Even Christ consulted his disciples, but in this case if the "Doctor of jail or detention" says that you must go to that inglorious pen known as Sibley Hall, then nobody can save you. The tribunal can make whatever

[MR. LALL]

recommendation it wishes, but the hon. Minister of Home Affairs is not obliged to accept it because he has overriding authority.

My advice to this Government is to withdraw this measure. If the hon. Minister has a soft spot in his heart, he should withdraw the Bill. It will be an indignity for the Speaker to sit in his Chair while such a piece of legislation is passed in this House. Let us have legislation in this House that will benefit the working-class people. We are only here for a time; we shall pass through this world but once, and anything we can do to save our working people from exploitation and poverty we must do now.

5 p.m.

I appeal to members of the Government to save themselves from this piece of dishonourable legislation. If they do not wish to save their souls it is a matter for them. For the sake of justice, for the sake of fair play, for the sake of the dignity of the human being, I appeal to them to withdraw this measure. When they shall have done so they will have done a service to the community. Freedom and liberty are cherished by everyone. That is why we have the courts of law. Every man must have the right to defend himself when accused, but under this Bill we are seeking to introduce a measure whereby the normal practice will be suspended and power and authority

will be given to one individual. It does not matter who the individual is, power goes to one individual. For God's sake let us preserve liberty and freedom in this country. Do unto others as you would they should do unto you. For that reason, I advise the Government to withdraw the Bill and I thank you, sir, for the latitude you have given me. [Applause.]

Mr. Saffee: I am not interested in the propaganda value of the Bill. This might be very appealing to some people. I am not interested in delivering political punches. My approach to this measure is based on a realistic and practical outlook. I want to assume that the Government has introduced this measure in all sincerity and earnestness to provide security for the nation as a whole. [Hon. Members (Government): Hear, hear!"] As far as I am concerned the safeguarding of the security, freedom and liberty of all the people of this country, is necessary. Every precaution should be taken, and must be taken, to provide that security.

What I am concerned about is that the measures that are being taken to provide this security are not based on democratic principles. I am not opposed to the powers that will be vested in the Minister of Home Affairs. I am not against any individual, but what I consider a flagrant transgression of democratic principles is that this Bill gives too much authority to one

man. Whether a man be black or yellow, whether he be the hon. Dr. Reid or the hon. Mr. Bissember, it does not matter. I am considering the principle that an individual is being given power under this Bill to say who is to be detained, when he is to be detained and where he is to be detained. Nobody will be able to question the Minister's decision. This principle I do not support.

Let me assume that the Minister of Home Affairs is a reasonable man; he is a Guyanese and he has the country's interest at heart and will not attempt to use these powers which are given to him to arrest Guyanese and to detain them. But let me ask what assurance can he give to this House and to the people of this country that if he resigns or dies, the man who succeeds him will not use these powers which are to be vested in the Minister of Home Affairs to detain people wrongfully? What guarantee has he to give this House and the nation as a whole?

Are we not aware that people in this country have diverse political opinions and diverse political views? Are we not aware that political philosophies that differ from each other are being propagated in this country? What will happen if certain people get into power and this law is there? Would they hesitate to use it against people whose political views differ from theirs? The Government tells us that this law is necessary and will not be used unless the situ-

ation needs it, but when it is on the statute-book it becomes a permanent feature. This I am opposed to, because as I said it cuts across democratic principles. It cuts across the concept of democracy as we understand it in this country. Why does this Government put a damper on freedom and liberty? The other course is open to it. What the Government is doing is to make emergency measures a permanent feature in this country.

5.10 p.m.

This Government is trying to put on our Statute-book emergency laws, laws which are used only when there is an emergency, when there is a threat to the peace and security of the nation, when Government needs extraordinary powers to deal with an extraordinary situation. This Government is going to make permanent laws which should only be of a temporary nature. This is wrong and cuts across democratic principles.

We have been told by the hon. Minister of Home Affairs, in his opening remarks - I have no doubt that the hon. Gentleman is sincere in what he says - that a man must not be allowed to use his personal freedom to interfere with the freedom of others. I am totally in agreement with this, but this is the wrong way of tackling the problem. Let the normal course of the law operate. Why should we substitute an individual for the courts of this country? It is rather unfortunate for our young nation to

[MR. SAFFEE]

start promulgating dictatorial laws which do not belong to a democratic society.

If there were a threat to security, if there were explosions and violence, if people were sabotaging and blowing up buildings, I would have been the first person to ask the Government to take the necessary steps to deal with such a situation. But I cannot give my support to a measure which will make such laws a permanent feature of the laws of this land.

All the people and all the political leaders of this country should strive more earnestly to widen our limited reservoir of goodwill and harmony. Where are we going? What are we doing? This young nation, just suffering the pangs of birth, is going through very difficult times. Will we help in any way by trying to create a situation whereby that limited goodwill and harmony which exist will deteriorate further?

As I see it, there are people of different political views and there are different political parties in this country. The other day I was listening to a political meeting at Bourda Green and I overheard one person telling another that the Bill is a good Bill, but that the man in whose hands the Bill will place power, is a man who cannot be trusted. The other night I heard one person telling another that

this is the right Bill because the Government has got to lock up all the communists in this country, and that unless it has the power to lock them up, it cannot do so. People associated with different political parties react differently to the measures in this Bill. I suppose they have very good reason for reacting differently.

What do we do? Are we helping in any way? Are we trying to improve the political climate? Are we trying to improve the situation generally? If the leaders of the political parties and the Members of this honourable House choose to tell me that, generally, there is peace, quietness and harmony in this country, they will be deceiving themselves and their countrymen as a whole. We must face reality. The situation in this country needs greater harmony, goodwill and understanding. We do not need laws which will create further distrust, disharmony and fear in the community. As I said before, this is a young country. We have many difficulties to face. Let us lead this country on the road to progress and advancement. Suppressive laws which give unlimited powers to a Government do not help a country. They have failed and they will always fail. People will continue to oppose oppressive laws which trespass on the freedom and dignity of men.

South Africa is a glaring example. Today the whole world is opposed to what is happening in that country, a country which

has, on its statute-book, discriminatory and suppressive laws against one section of the community. This country does not need oppressive laws. This country does not need laws which will send people into concentration camps. This country needs goodwill which will help the people to come together, talk over their differences, and see how best they can get on with the job of nation-building.

I cannot support this measure because it is a suppressive measure. I cannot support this measure because it will intensify the fears of a certain set of people in this country. This is something which all of us are conscious of. Our country is divided. It is no sense fooling ourselves; this is a fact. We must have the courage and understanding to face realities, and this measure will in no way alleviate the fears of a certain section of the community. As a Guyanese I should like to see an improvement - not a deterioration - in the situation. I want us to move forward. This measure will certainly have an adverse effect on the racial situation.

5.20 p. m.

It was clearly said that one section of the community is in power. It is said openly in the streets, all over the place, that that section is using its position to discriminate against the other section. This sort of thing only gives further ammunition, it does not help. It only

creates more opportunities for those who are interested in creating hostility. Oppressive laws will not help us. They will create further suspicion in the community. Already there is a rising tide of fear and anxiety. I want to impress upon the Government that this is a fact, and it must have the courage, it must have the perspective to look into this problem realistically. If it does, it will certainly move forward.

I know there are many who will tell us about the rascalities of the Americans, and the rascalities of the British. They will tell us all about the tyranny, the villainy which goes on in the western part of the world, but they will not tell us what happens in places such as Cuba and China. But we hear it over the radio, and we read it in the magazines. In Cuba, people who are not sympathetic with the Government are thrown behind bars, they are destroyed. Some of them run away. We must have the picture of both sides.

I want to be realistic, I want to face facts, I want to show that I look at these things with an open and impartial mind. We hear a lot about the glories and splendour of Cuba. We hear a lot about progress in that country. But we do not hear about the bad things. I, for one, do not quarrel with a man because of his political philosophy, but under no circumstances will I support dictatorship of the Right or dictatorship of the

[MR. SAFFEE]

Left. I believe in democratic ideals and democratic principles. I believe in parliamentary democracy. The people must have the final say about who should be in power, and so on. We do not want to have on our statute-book, laws which put power into the hands of one man who will be able to say who should be locked up. This smacks of communism. This is what is happening in Cuba, and this is alien to our society. Why do you try to implant such destructive elements in our society? This is dictatorship! This Bill will give dictatorship to an individual and this cuts across democratic principles. This is what I am opposed to.

I have a copy of an official bulletin issued by the British Information Services in Georgetown. What people are looking forward to today is what the leaders of the nation tell them from time to time. They are looking forward to the fulfilment of these promises and if they do not see the fulfilment of the promises that have been made, and are still being made from time to time, then doubts and suspicion are bound to step in. I wish to quote a section of Mr. Burnham's speech which appears in this bulletin - I am afraid there is no number on the page - under the heading Official Opening Speech by Mr. Anthony Greenwood at the Independence Conference, which was held in London, 1965. I quote:

"The Draft Constitution contains several provisions in enshrining the independence of the Judiciary and the enshrinement of human rights, but it is not so much what is written in the Constitution as the spirit in which it is worked that counts, and as we cut the political chains which have bound us to Britain in the past, we still take with us the legacy of the democratic concept while we embark upon building our new nation, a nation in which we hope to abolish poverty, unemployment .

Here it is, we are given the assurance that further steps will be taken to protect our liberty, our human rights. It is not, as the Prime Minister said, what is written in the Constitution, but it is the spirit how the Constitution works. This is what we are looking forward to, sir. You said that you are dedicated to the preservation of democratic rights, human rights. Today, we have before the National Assembly a Bill which is going to take away human rights, a Bill which will give the Government absolute power, a Bill which will wipe away those rights which you, as Prime Minister of the country, at the Independence Conference, said that you would strive to maintain. We are now asked to pass a Bill which will destroy those rights which you, yourself pledged to protect.

5.30 p.m.

This is what I am against. I am against the trespassing on the

rights of the citizen. I ask the hon. Prime Minister to review what he has said, and to give further consideration to the measure before the House. This Bill cuts across what he himself has said at the Constitutional Conference when we were asking the British Government to get out of this country and let us take over our responsibilities. Do not let us go back on our words.

The people are looking upon the Prime Minister as a man who told the British Government that he was out to protect civil liberties and human rights. He must not tell us now that it was only a matter of words. We want to see the spirit of the Constitution in everything that is done in this country. It is not merely a question of what is written on paper; it is a question of whether the Prime Minister is prepared to live up to what is written on paper. I hope that the leaders of the nation will endeavour to live up to what is written in the Constitution, and put everything into practice. Let them put into practice the spirit that is so necessary to move this nation forward.

I repeat that this Bill cuts across the Government's own pronouncement. When our Prime Minister went before the United Nations, he told the world that the country was moving forward; that substantial normalcy had returned to the country and so on. If you tell the world that the country is moving forward rapidly and the people are returning to

normalcy, why are you now saying that we should have a Preventive Detention Act under which you can detain people and put them in prison? That is what the Prime Minister said, and this Bill cuts across his own pronouncement. The Ambassador to the United States, Sir John Carter, has also spoken about things returning to normalcy.

Mr. Speaker: The hon. Member has exhausted his time.

Mr. Persaud: I beg to move that the hon. Member be given 15 minutes more to complete his speech.

Dr. Ranjohn seconded.

Question put, and agreed to.

Mr. Saffee: They have told the world that things have gone back to normalcy, and now the hon. Minister is telling us that we must have detention laws. The people outside who may be interested in investing in this country will have to think again. I know that the Government is trying to get people to invest money in this country, but if it introduces a Detention Bill it will have an adverse effect on the people who desire to invest money here.

At the moment we are facing a heavy depression in this country. Any man in the street will tell you that something is wrong with our economy. I am not an expert in economics, but I know that something is wrong. The

[MR. SAFFEE]

Government has experts at its disposal, and people with the necessary expertise should advise the Government that something is radically wrong with the economy of this country. Everyone knows that there is an economic depression in this country. What is responsible for this? This type of contradiction will not help us, because the people who desire to invest money in the country may change their minds when they hear that the Government is introducing measures to detain people. Some people will be inclined to believe that the country is not stable and that things are contrary to what the hon. Prime Minister and the Ambassador to the United States said in the U.S.A.

I have mentioned these things in order to bring to the Government's attention that what it proposes to do here will not only create doubts in the minds of people locally, but will also prevent outsiders from investing money in this country. The Government should give further consideration to this measure which it is trying to make law.

I have here a copy of what is called the Universal Declaration of Human Rights. I shall quote from the preamble of the Declaration:

"Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the

human family is the foundation of freedom, justice and peace in the world.

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in the larger freedom. . ."

This is human liberty, and people all over the world have striven for ages to defend and protect and preserve these

things. If any attempt is made to destroy human liberty or human freedom, then there is bound to be opposition to it. This is the time for those who are believers in freedom, in democracy and in the rule of law to get up and express in no uncertain terms their opposition to this Bill.

I do not support this measure because it cuts across the very fabric of our society. I am a firm believer in the democratic way of life, in democratic ideals, and in the parliamentary system of Government. I hate dictatorship either by the Right or by the Left. I have a copy of a book here entitled "Freedom of Democracy".

5.40 p.m.

I wish to quote from this book, *Freedom and Democracy*. It is a quotation from the great Englishman. Burke.

"Liberty is a good to be improved, not an evil to be lessened. It is not only a blessing of the first order, but the vital spring and energy of the State itself, which has only so much vigour as there is liberty in it."

In the circumstances I cannot support a measure like this. It is against my concept of democracy. I list six reasons for the rejection of the Bill. One, the Bill is ill-timed. The situation in the country, as claimed by the Government itself, does not warrant the use of these powers. Two, it vests arbitrary powers in the hands of one individual.

Three, it substitutes an individual for the Courts. If a person is charged with an offence he must have the liberty to go to the Courts to have the matter tried by an impartial judge. Under this law, this will not happen, for the Minister will have the power to detain a person for three months. Four, the Bill lays a foundation for dictatorship. Five, it gives permanency to emergency powers, which are not normally needed unless there is a grave threat to the peace and security of the nation. Finally, this measure will drill a dangerous hole in the fabric of our society.

I am sure that if this Bill is passed it will lay the foundation for deterioration in law and order. I am not opposed to, nor do I have any acrimony towards, the individual in whose hands this power is to be placed, but he cannot control a situation like this for ever, and who knows who will replace him? It is therefore wrong to give power to an individual. It cuts across democratic principles as we understand them. [Applause.]

Mr. Jagan: We have heard from the Minister of Home Affairs and the Minister of Agriculture that there are provisions in Acts in other countries which are similar to the provisions in this Bill. We should consider not the question of whether there are similar provisions in other countries, but whether the conditions in our country today warrant the introduction of these

[MR. JAGAN]

provisions. There is no doubt that there are preventive measures in other countries, but there is, too, no doubt that we do not find similar provisions in many other countries. For instance, in England, during time of war there has been emergency legislation enacted for limited periods of time, but emergency regulations were repealed soon after the termination of the war and regulations dealing with preventive detention were also repealed immediately the war ended.

We have heard from the hon. Minister of Agriculture about the rule of law. He said that the conception of the International Commission of Jurists on the rule of law had watered down. One of the fundamental principles in all democratic societies is that an individual is presumed to be innocent unless the contrary can be proved. The Minister is not here, but I am sure he would agree with me that during peacetime a measure such as this would be regarded as contrary to the rule of law.

A preventive detention Act gives to a Minister executive powers which, during a crisis, should only be exercised by the executive. The whole concept of preventive detention, as I have said, is that it cuts across the fundamental principle that a person who is accused of a crime has to be brought before the Courts, where he should be proved guilty. The alternative to that

is that the individual must establish his innocence.

Much has been said about preventive detention in India. May I be permitted to quote passages from this book, entitled *Fundamental Rights in India*, and written by Alan Gledhill. I quote one sentence dealing with preventive detention:

"No offence is proved, no charge formulated, and the justification of such detention is suspicion or reasonable probability, and not criminal conviction, which can only be warranted by legal evidence."

May I also, as I am dealing with this book, cite another passage. Preventive detention has taken away the powers of the Courts. Instead of judges and juries, in certain cases, being given the power to determine whether a person is innocent or guilty, now the power will be given to a Tribunal composed of members of the judiciary or such members who are qualified to be judges.

5.50 p.m.

On page 61 of this same book, dealing with the restriction of freedom of association, the author states:

"It was held, both in the Madras High Court and on appeal in the Supreme Court, that the Act, even as amended, was unreasonably restrictive of the Right of freedom of association. The Supreme Court said that to impose restrictions without allowing their grounds to be

tested by judicial inquiry was strong evidence of unreasonableness. A summary and largely one-sided review of grounds by an Advisory Board was no substitute for judicial inquiry."

These are some of the principles of the rule of law.

During the debate on the Labour Relations Bill in 1963, the hon. Minister of Housing and Reconstruction (Mr. Bissember), who was then a member of the Opposition, also had cause to refer to the rule of law. He cited a passage from a book entitled *Cuba and the Rule of Law* which was published by the International Commission of Jurists. The passage that the hon. Minister cited appears on Column 1986 of the *Hansard* of 19th April, 1963. It reads as follows:

"The Commission is dedicated to the support and advancement of the Rule of Law. It has defined this term as:

The principles, institutions and procedures, not always identical, but broadly similar, which the experience and traditions of lawyers in different countries of the world, often having themselves varying political structures and economic background, have shown to be important to protect the individual from arbitrary government and to enable him to enjoy the dignity of man.

In this perspective, the Rule of Law emerges as a dynamic concept which should

be employed not only to safeguard and advance the civil and political rights of the individual in a free society, but also to promote social, economic and cultural conditions under which his legitimate aspirations may be realized."

Apparently, Members on the other side have now forgotten about the rule of law which they so often spoke about when they were in the Opposition.

Let us look at provisions in this Bill which will enable the Minister to detain persons on suspicion without trial. May I refer, first of all, to Clause 4(1) of the Bill which states:

" 4.(1) Subject to the provisions of section 6, the Minister may, if satisfied with respect to any person that, with a view to preventing him acting in any manner prejudicial to public safety or public order or the defence of Guyana, . . . "

I will just stop there for a minute. The Minister is only required to be satisfied, not "reasonably satisfied". My hon. and learned Friends on the other side will agree with me that there is a distinction between a person being satisfied and a person being reasonably satisfied. In support of my proposition, may I cite a passage which deals with this matter.

As I have said, in England also, during the war, there were provisions for preventive detention. A person was detained and,

[MR. JAGAN]

as a consequence of his detention, he subsequently brought an action for wrongful imprisonment. The case I wish to refer to is *Liversidge v. Anderson*. Most of my hon. and learned Friends will remember this case very well. This case is referred to in *The All England Law Reports 1941, Vol. 3*. Justice Viscount Maugham, dealing with this provision, referred to the provision as it was in 1947. This appears on page 347 of this book:

"The Secretary of State if satisfied with respect to a particular person that with a view to preventing him acting in any manner prejudicial to the public safety or the defence of the realm it is necessary to do so may (*inter alia*) make an order directing that he be detained."

Your Honour will observe that he only then used the words "if satisfied". Defence Regulation 18B that was in force during the last war, however, reads as follows:

"If the Secretary of State has reasonable cause to believe any person to be of hostile origin or associations and that by reason thereof it is necessary to exercise control over him he may make an order against that person directing that he be detained."

Dealing with the difference of words Viscount Maugham says this on page 348 of this book:

"The third observation is that the words 'has reason-

able cause to believe' are not without a probable meaning. It may well have been thought desirable to draw the attention of the Secretary of State to the fact that, in certain cases, and in particular in cases in which he was considering the serious step of depriving a person of his liberty for an uncertain period, he must himself have considered whether there was reasonable cause for forming the belief which would justify his action. On the other hand, I suppose he might be 'satisfied' of some fact by the report of one of his subordinates in whom he placed complete confidence."

You will see that there is a difference. Previous to 1939, when Regulation 18B was enacted in England, they had only used the words that the Secretary of State had to be satisfied. But that was subsequently changed to state that the Minister must have reasonable cause for suspicion. Now, it is important because if a person has to question his detention, there is that difference which may tend to be in his favour.

6 p.m.

If we move to Clause 5 (1), it is stated that:

"Any person in respect of whom a detention order is in force may be arrested without warrant by any policeman and may be detained in such place and such conditions as the Minister may

from time to time direct. . . " These are very sweeping powers.

The Minister has also referred us to the Preventive Detention Act in India, but if the Minister were to go through that Act, he would see that there is no such provision for conditions as stated in this Clause. Under the provisions in this Bill, a person can be detained and his detention can continue if the Tribunal so recommends. That is under Clause 6 (1).

Clause 6 (2) reads as follows:-

"The references in subsection (1) of this section to a period of three months include references to any lesser periods that amount in the aggregate to three months:

Provided that no two such lesser periods shall be aggregated for this purpose if the period between the expiration of the first and the commencement of the second is more than one month."

As I understand that provision, it means that the Minister could detain a person for 32 days, release him, pick him up the very next day, detain him for another two months, release him another day and continue in that manner, thereby preventing the whole intention of the Tribunal. My hon. and learned Friend, the Prime Minister may say that no one would act in that way. [The Prime Minister: "The Bill does not provide for that. A month

has to elapse before you can pick him up again."] We are coming to that. If we move further -- [The Prime Minister: "If you do not have a month in between, you would get three. It is a question of mathematics, not law."]

Under Clause 6 (3) it is stated that once a Tribunal has recommended that a person should be released, he should not be detained again within six months on the same grounds, so it follows that after the six months he could be detained again on the same grounds. I have said and I will show that, under the Clause dealing with restriction, the whole usefulness of this Tribunal that would be established under section 7 of this Bill could be avoided.

The hon. Member Mr. Oscar Clark said at a meeting - it was reported in the *Chronicle* - that the Tribunal would be made up of members of the Judiciary. This is not so. Maybe he did not read the Bill or he was trying to mislead his audience. Under Clause 7 (2) - if I may read it for the benefit of my hon. Friend - it is stated as follows:

"The Tribunal shall consist of a chairman and two other members who shall be appointed by the Chancellor from among persons who are Judges of the Supreme Court of Judicature or who are qualified to be appointed as Puisne Judges of the High Court."

The hon. Member Mr. Bowman said, "Well?" apparently, he has not seen the distinction either. [Mr. Bowman: "No."] Listen and

[MR. JAGAN]

Under the provision, the Chancellor has the right to choose the members from the Judiciary, or he need not choose any person from the Judiciary.

We have also seen that, under Clause 5 (2), a detainee would be permitted to be represented by a legal adviser. I thought that the draughtsman would have been present when this aspect of the matter was being debated. As I have said, under Clause 5 (2) it is stated in no uncertain terms that the legal adviser for the detainee should be there to represent him at the hearing. But let us move to Clause 9 (3) and see what is to be enacted. It is my submission that Clause 9 (3) is contrary to what is stated in Clause 5 (2) - that the detainee would have the right to be represented at the hearing. Clause 9 (3) reads as follows:

"The Tribunal shall, from such proceedings before it as shall be held for the purposes of subsection (1) of this section, exclude any person not being the detainee, who shall be present at the proceedings, or his legal representative or a policeman having custody of the detainee . . ."

It goes on to mention other persons who may be excluded. Therefore, when one reads Clause 9 (3) which states that, at a hearing where the person is to be tried before this Tribunal his legal representative may be excluded, what is the use of stating in Clause 5 (2) that the person

would be allowed at the earliest opportunity, without delay, to consult a legal adviser of his choice who would be able to represent him?

6.10 p.m.

Surely, something is wrong in the provisions of Clause 5 (2) and Clause 9 (3). We have heard so much about this tribunal. Let us for the sake of argument say that the tribunal has heard the case of a detainee, and has ruled that there is not sufficient cause why this person should be detained. Under this provision, when it becomes law, the person detained would have to be released. But look at the power the hon. Minister of Home Affairs has after the detainee is released by the tribunal! If the tribunal has decided that there is not sufficient cause for the man to be detained, under Clause 12 (1) -

"The Minister may, if satisfied with respect to any person (whether the Tribunal has given any report in his favour in accordance with subsection (1) of section 10 or not) that, with a view to preventing him from acting in any manner prejudicial to public safety or public order or the defence of Guyana, it is necessary so to do, make an order for all or any of the following purposes, that is to say -

- (a) For securing that, except in so far as he may be permitted by the order, or by such authority or

person as may be specified in the order, that person shall not be in any such area in Guyana as may be so specified."

Even if the Tribunal has decided that there is not sufficient cause for any person to be detained, the Minister under Clause 12 (1) can have him taken up and restricted to certain areas. The Minister can direct that such a person should not enter any area in Guyana that is excluded in the order. The Minister may decide to do anything he likes. If he is satisfied that the Tribunal should not have released a detainee, all he has to do under Clause 12 (1) is to put the man under restriction and send him to some remote area. This is a very serious piece of legislation. [Mr. Cheeks: "Conditions in this country make that necessary."] It is obvious that the hon. Minister of Local Government has not read this Bill. The Minister can send a detainee anywhere he likes. He can send him to the western part of Ankoko.

Mr. Speaker: Time!

Mr. Chandisingh: I beg to move that the hon. Member be given 15 minutes to complete his speech.

Mr. Ran Kurrin seconded.

Question put, and negatived.

Mr. Luck: I rise to oppose the passage of this Bill because I see in it not a mere prelude to tyranny, but I see tyranny it-

self. Men of conscience are revolted by the thought that persons can be detained without cause being shown, and only a man of paltry spirit would support arbitrary detention without trial of any human being. It augurs a poverty of spirit.

On behalf of this Bill, it is being urged that these powers of preventive detention will be exercisable under the scrutiny of a Tribunal. This reminds me that the Tribunal is very similar to a previous Tribunal appointed in this country in the year 1954 - the powers are identical; the procedure is the same. I refer to the Tribunal set up by the British Government in this country in 1954 under the then emergency laws. It had at its head Sir Peter Bell. Other members of the Tribunal were comprised of Carlos Gomes, a prominent Catholic, Mr. Rampersaud, or some such responsible Indian, and another person.

At the time the lawyers in the P.P.P. decided that the persons who were then in arbitrary detention would not go before the Tribunal. On the advice of Mr. L.F.S. Burnham of the P.P.P., strongly supported by Mr. Rudy Luck, we took a unanimous decision that we would have nothing to do with the diabolical Tribunal. What the Commission was called upon to do was farcical, and it must be recorded in the history of this country in some paper that Mr. Burnham took the view quite explicitly that the

[MR. LUCK]

appearance of any person before such a Tribunal was an utter waste of time.

6:20 p.m.

We attacked the Tribunal on many grounds. The main ground was that, even if the men who comprised the Tribunal were of the utmost integrity, their powers were very limited and the procedure before it, where a man had to prove himself innocent of charges, the precise nature of which he did not know, was perverse. Mr. Burnham, as I said before, refused to have anything to do with a Tribunal, the procedure before which was so perverse and so diabolical and acted on this view when defending Martin Carter and Rory Westmaas.

We are now told by the same gentleman that a Tribunal so composed would defend the liberty of the subject. Surely this is evidence of confusion in the thinking of Mr. Burnham? Whatever may be his confusion, I will tell hon. Members that, in the former case, we attacked the Tribunal and the upshot of it was that one week after the first meeting of the Tribunal, Mr. Carlos Gomes resigned and stated his reasons in public. Hon. Members will be surprised to know that Mr. Carlos Gomes, a pillar of the Church at a time when communism was a live issue, not a dead one as it now is, came out into the open and said he refused to have anything to do with such

a farcical judicial enquiry. He said this publicly not privately.

Mr. Burnham, as he was before, was better than the Mr. Burnham of today, as everybody knows. He was clearly right at that time. Mr. Carlos Gomes was clearly right, when he said that people were locked up with no chance of defending themselves and that he would have nothing to do with so irregular a procedure. This Tribunal is even worse than the one set up previously.

With your permission, sir, I should like to read a passage from Dr. Richmond's memorable letter of resignation, which appeared in Tuesday's *Mirror*. Whatever may be Dr. Richmond's shortcomings - and, of course, he is a typical middle-class Guyanese with all the limitations of that type of person and of that upbringing - his letter I would wish to have recorded for all posterity. I read from page 4 of the *Mirror*:

"I oppose preventive detention because it poses a grave threat to the freedom of the individual, because it is contrary to our national interest and our national unity; I oppose it because it is not necessary."

The truth is that, in this short passage, Dr. Richmond has spoken all there is to say on this Preventive Detention Bill. It is unnecessary; it is contrary to our national interest and to

our national unity; it poses a grave threat to the freedom of the individual.

In the course of my speech I have dealt with the Tribunal because this, I feel, was the trap used to convince the members of the United Force that they would have some say in the arbitrary locking up of people. They believe that because of the origin of the judiciary they will have something to do with decisions.

The work of the Tribunal will be wholly farcical. Anyone who wants to do some research will find that Mr. Linden Forbes Sampson Burnham, in the year 1954, maintained that the procedure before such a Tribunal was wholly perverse and an appearance before it was a total waste of time. He so advised Martin Carter and Rory Westmaas.

One gentleman, who had been detained without any charges being laid, did appear before the Tribunal against our advice. When he appeared before the Tribunal, one of the charges he had to answer, charges which were held against him to justify his detention, was that he knew Dr. Jagan. Mr. Burnham knows of this.

That was the Tribunal of 1953, and believe it or not that man's imprisonment was upheld by the Tribunal. There were thirteen charges and the only one that could stand was that the man knew Dr. Jagan.

Sitting suspended at 6.30 p.m.

8.15 p.m.

[*Mr. Deputy Speaker in the Chair*]

On resumption —

Mr. Deputy Speaker: When the suspension was taken the hon. Member Mr. Luck was speaking.

Mr. Luck: I regard the point as well taken, and very well made, that this Bill violates, if not the letter, at least the spirit of the Fundamental Rights Clause in our Constitution. Clause 16 (1) of the Bill empowers a policeman above the rank of inspector to search any premises at any time. Certainly, I regard Clause 16 (1) of this Bill as a violation of the Constitution. This is connected with the continuation of the emergency until such time as this Bill is passed.

You will recall I have said before, in this House, that the prediction that the emergency will continue to a given time is itself evidence of a violation of our constitutional right and I cannot help wondering whether, in a very short while, an intelligent Guyanese will not observe with equal justice, as was observed by a very intelligent Russian, and I use the words of the Russian: "Every country has its Constitution; ours is absolutism moderated by assassination."

[MR. LUCK]

I take the opposite view from that advanced by members of the Government. I say that freedom is a very tender plant and, in these emerging countries, it needs the most careful nurture. We are emerging from a nightmare. At the best of times, in the best circumstances, and with the utmost care, freedom stands in danger in this country. Ours is a society dominated by intolerance, and the only thing we can tolerate in this country is intolerable wrong. Guyanese, by and large, are very intolerant, but, due to our heritage of slavery, it was a condition of survival that we should learn to tolerate wrongs.

It is precisely because of the past divisions in our country, of the deep suspicions, of the previous hatreds and wrongs on both sides, that we ought not to seek to establish an absolute Government in this country - and this is absolutism personified. I am sure that the hon. Prime Minister read the book - I have said it before, it is the book he used for his Guiana scholarship - about the benevolent despots. What a misfortune for this country that his young and plastic mind should have been nurtured on such vile food. There is no such thing as a benevolent despot.

8. 20 p. m.

I have already adverted to the deep suspicions and, indeed, hostilities which prevail in this

country. In support of this I desire to quote a very apt passage from the very excellent *New English Bible* text published by Oxford and Cambridge. This is from the Gospel according to St. Paul, Romans I: Verse 29. Let us understand what is going to happen just now. This is what St. Paul said to the Romans:

"They are filled with every kind of injustice, mischief, rapacity, and malice; they are one mass of envy, murder, rivalry, treachery, and malevolence; whisperers and scandal-mongers, hateful to God, insolent, arrogant, and boastful; they invent new kinds of mischief, they show no loyalty to parents, no conscience, no fidelity to their plighted word; they are without natural affection and without pity. They know well enough the just decree of God, that those who behave like this deserve to die, and yet they do it; not only so, they actually applaud such practices."

The appositeness of this quotation is justified. It is made clear when half the country thinks this of the other half. Let us not fool ourselves. Just as Jordan of Wismar said these words applied to the P.P.P., so it is clear that the P.P.P. believes these words are amply justified, but in relation to the P.N.C. In such a situation, in such a country, do we proceed under a cloak of unjust laws to seek the establishment of the dominance of merely a section of the country over the other sec-

tion? Do we do this? Do we seek to make an absolute dictatorship based only on the leadership of a faction?

For myself, I do not believe that the powers conferred on the Minister of Home Affairs, and on the Government, should be entrusted to any man, however wise, for again in the words of St. Paul in his memorable Epistle to the Romans at verse 10:

"There is no just man, not one;
No one who understands, no one who seeks God.
All have swerved aside, all alike have become debased;
There is no one to show kindness; no, not one.

Their throat is an open grave,
They use their tongues for treachery,
Adders' venom is on their lips,
And their mouth is full of bitter curses.

Their feet hasten to shed blood,
Ruin and misery lie along their paths,
They are strangers to the high-road of peace,
And reverence for God does not enter their thoughts."

The power hereby claimed, clearly ought not to be exercisable by anyone, much less this Government. As I said before, this country literally hangs in the balance. No reading of history can justify the arrogant

assumption implicit in this Bill that the people who support the P.P.P. will be cowed, will be brow beaten, will be conquered by this Government. There can be nobody who reads history who can come to such a false conclusion. What then is the purpose of bringing this Bill? Again I adopt Dr. Richmond's argument that this Bill is contrary to national unity. Those who support this side of the House will remember to their dying days the ineffectiveness of the police to give them protection. This ineffectiveness in times past amounted to the gravest dereliction of duty. Do you expect those who support this party on this side of the House not to have deep thoughts, a sense of grave wrong, when they find that the police are now so very active and so very efficient? Those of us who work for Guyana must work towards an identity of interest between the major races in this country, and anybody who does not do this is a traitor to Guyana.

The possibilities of mischief in this country are endless. Evil-minded persons can make a hornet's nest in the lives of the people of this country. I sometimes wonder whether the purpose of the whole exercise in this country is not to let the whole world know what dire effects from civil discord flow. I look around and I see hard-hearted men, vile traitors to the cause of this country promoting the most vicious tyranny, rampant racialism. The interest of this country cannot go forward on the basis of permanent division of the races in this country. It cannot go forward as a Police State when only one side of

[MR. LUCK]

the country has confidence in the policemen. This is simple common sense.

Mr. Deputy Speaker: You have another minute.

Mr. Luck: So serious are the mistakes in this country that I sometimes wonder whether powerful nations are not keeping in reserve the gravest civil discord in this country as a means of sabotaging Afro-Asian unity. May I say this: I believe that the union of the Afro-Asian countries is an indispensable requisite.

8.30 p.m.

Mr. Deputy Speaker: Time!

Mr. Ran Karan: I beg to move that the hon. Member be permitted to speak for half an hour.

Mr. Deputy Speaker: I have the Speaker's record before me, and I have to be guided by it. Anyway, is it agreed that the hon. Member should speak for another 15 minutes?

Question put, and negatived.

Mr. Linde: "Except the Lord build the house, they labour in vain that build it; except the Lord keep the city, the watchman waketh but in vain." Hon. Members have referred to the Constitutions of many countries - India for instance - and pointed out that restrictions do not prevent violence. There is evidence to show that no man-made legislation can prevent violence. [Hon. Members (Government): "We cannot hear you."]

Actually a very confusing state of affairs exists here. The hon. Minister of Home Affairs does not seem to know what he is doing. Is he aware of the everyday occurrences in this country? Almost every day people are choked and robbed in the streets, and I am sure he will read about these things in his files. Is it due to arrogance and contempt that the Government must proceed with this Bill? Since this is a controversial or national issue, let us deal with it in a national way. Let us take a referendum and let the people decide whether they want a National Security Bill or not.

The hon. Prime Minister has indicated to me that provisions are made in the Constitution for a referendum; therefore, let the people decide the matter. I am sure that the people would prefer freedom - freedom from fear, and freedom to walk the streets in peace. The people are afraid to walk with money in their pockets; they are also afraid to walk without money, because they will be beaten when the choke-and-rob boys find them without money. It seems as though we are at the end of our tether and do not know where to turn.

Last night I took up a book written by Billy Graham entitled, *Time is Running Out*. [Hon. Members (Government): "We cannot hear you."]

Mr. Deputy Speaker: Can the hon. Member come a little nearer, so that we may hear him.

Mr. Linde: Last night I took up a book written by Billy Graham entitled *Time is Running Out*, and

I quote: "Where are we going?". The scripture can answer these questions, and I should like to refer to scripture in order to answer these questions.

Mr. Bissenber: The Shorthand Writer cannot hear you.

Mr. Chase: Hon. Members on that side are making too much noise.

Mr. Deputy Speaker: Will the hon. Member speak a bit louder, so that the Shorthand Writer can record his speech; he can come nearer, if he wants to.

Mr. Chase: He should speak from his seat.

Mr. Linde: I will read from Isaiah 59, verse 14:

"And judgment is turned away backward, and justice standeth afar off: for truth is fallen in the street, and equity cannot enter."

The hon. Minister says that this Bill is to promote justice, but it is contrary to our national interest. [Hon. Members (Government): "We cannot hear you."] I will turn to the scripture and read from James, Chapter 5, in order to show the reason for certain things.

8.40 p.m.

"Go to now, ye rich men, weep and howl for your miseries that shall come upon you.

Your riches are corrupted, and your garments are moth-eaten.

Your gold and silver is cankered; and the rust of them shall be a witness against you, and shall eat your flesh as it were fire. Ye have heaped treasure together for the last days.

Behold, the hire of the labourers who have reaped down your fields, which is of you kept back by fraud, crieth: and the cries of them which have reaped are entered into the ears of the Lord of sabaoth.

Ye have lived in pleasure on the earth, and been wanton; ye have nourished your hearts, as in a day of slaughter."

No doubt it is in the interest of your rich American friends that this Bill is introduced so as to silence the opposition!

This Government insists that there is tranquillity. If there is tranquillity, why should we have a Bill like this? Let me read clause 4 (1):

"Subject to the provisions of section 6, the Minister may, if satisfied with respect to any person that, with a view to preventing him acting in any manner prejudicial to public safety or public order or the defence of Guyana, it is necessary to provide for his preventive detention, make an order -

(a) directing that he be detained."

What right has any Minister to do this? Who made him a

[MR. LINDE]

judge? This Bill will have repercussions. I ask hon. Members to vote against it because we want peace and tranquillity in this country. [Applause.]

Mr. Rau Karran: History has a way of repeating itself. Tonight we see the hon. Minister of Home Affairs trying to enact legislation, which in theory and in fact is just as false and vulgar as the theory enunciated by his predecessor in history. The only difference is that in the case of the first Ptolemy, his contention was false, but nevertheless it was academic. It took a large number of intelligent people to the scaffold.

In this case, our friend across the Table is initiating legislation which contains the means for making arbitrary assaults on the liberty of men. The first observation I should like to make is that limitations are to be put on freedom. But what about property? Absolutely nothing is done in that direction. The hon. Attorney-General has already conceded, by transporting 90,000 acres of the country's land to the sugar producers, the head of which body, you will remember, sat at this Table and prompted the then Leader of the Opposition on the introduction of the system of proportional representation. Senator Anthony Tasker sat here and propounded the theory of proportional representation, and the British Government, the Americans and our friends across the Table saw an opportunity to defeat the Guyanese people and to install themselves.

Should a severe crisis arise in this country everyone will be required to defend the nation against it and, according to the Constitution, adequate compensation will have to be paid for damage. But is any compensation offered in this Bill for the limitation of freedom? [Interruptions.] I know that hon. Members on the other side can only speak from their seats. If, for instance, the lands belonging to Demba are required, then the taxpayers will have to make full compensation promptly, but no provision is made in this Bill for the maintenance of those who will be incarcerated under this measure.

Here we have the philosophy of the rich and the wealthy. Malan, Verwoerd and such Fascists would turn in their graves if this Bill had any reference to property. I am sure my hon. Friends on the other side would not like to disturb the dead and therefore, in this Bill, they have subscribed to the theory of Fascism.

It is interesting to know that the hon. Member who is piloting this Bill in the Assembly - a Bill for national security, it is alleged - is the same person who entered this Chamber via Hansard, thus preceding his physical entry. I quote from a speech by the then Premier and Minister of Development and Planning. This is what he said about the hon. Minister.

Mr. Deputy Speaker: From what document are you quoting?

Mr. Rau Karran: From Hansard.

Mr. Deputy Speaker: What date?

Mr. Ram Karran: Thursday, 28th March, 1966. I read from column 1487:

"I recall also that on one occasion, just before the riot took place, when leaving the Public Buildings I saw the same individual standing at the back door where my car was parked, and he struck my car and me personally with a picket. This was not an ordinary individual but a leading member of the P.N.C., who was a candidate for the Pomeroun River."

The hon. Minister (Dr. Reid) entered this Chamber via Hansard before his physical entry. This is the type of individual who is piloting this Bill and who will have control over the freedom and the lives of citizens. It is the same individual who stored detonators in his yard for use against the same people for whom he now directs arbitrary punishment. He very nearly killed his poor innocent wife. The hon. Minister, whose heavy hand will administer the provisions of this Bill, has already shown what he can do, yet the Government entrusts him with such wide powers.

8.50 p.m.

It will be interesting also to know what he has already done towards the freedom of a section of the Guyanese people who were protesting and taking legitimate action to protest against arbitrary rule. I refer to the case of the rice farmers who came out-

side this very Public Buildings to protest against the taking away of the rice industry from the rice producers. Police dogs were let loose on them and they were surrounded and intimidated by policemen. Not long ago, when the Rice Marketing Board had made a decision fixing the price of rice, and it was forwarded to my friend the hon. Minister of Trade, Shipping and Civil Aviation (Mr. Kendall) - I do not know how those subjects got together - it was alleged that he called the Chairman of the R.M.B. and told him, in no uncertain terms, what a fool he was and that the matter should be recommended.

Mr. Deputy Speaker: I should like to refer to Standing Order 48(1) which states:

"On the second reading of a Bill a debate may arise covering the general merits and principles of the bill."

A discussion of the personality of the mover of the Bill is not permitted within this scope.

Mr. Ram Karran: I should like to refer to Clause 5, subsection 3 of this Bill:

"(3) Without prejudice to the generality of the powers conferred on the Minister by subsection (1) of this section, the Minister may give directions -

(a) as to the internal management of and otherwise in connection with any such place as mentioned in that subsection;

[MR. RAM KARRAN]

- (b) as to the maintenance, discipline and punishment for breaches of discipline of detainees;
- (c) in writing authorising the taking of a detainee to any place where the Minister is satisfied his presence is required in the interests of justice, or for the purpose of any public or other inquiry or in the public interests or in the interest of the detainee."

I am contending that the hon. Minister of Home Affairs is not a fit and proper person to exercise these powers having regard to the use of his powers with respect to incidents at the R.M.B. and outside these Public Buildings. I submit that I have not transgressed the Standing Orders of this House.

Further, I wish to say that, after the Minister had directed the Chairman of the Rice Marketing Board to recommit a matter which had already been decided upon, the rice farmers of this country, comprising a large section of this country's population, having solicited the assistance of the members of the R.M.B. and not to be steam-rollered by the Minister of Trade, Shipping and Civil Aviation, went to the R.M.B. to express their disapproval and to protest very peacefully by picketing. But what occurred? Eighty of them were arrested, taken to prison, and kept there until midnight. My hon. Friend Mr. Chase defended them in court.

They had to go to Leguan and various parts of the country and then return, on various occasions, to appear before the courts. Eventually they were acquitted, but they suffered, physically and financially, to a very great extent. I fear - and many people in this country also fear - that the arbitrary powers given to my hon. Friend, the Minister of Home Affairs, under this Bill, will be abused as these two incidents have shown.

But what did our Prime Minister say about peaceful picketing when he was on this side of the House? Perhaps if I quote from the *Hansard*, the hon. Minister of Home Affairs and his colleagues on that side would see what was the feeling of the hon. Prime Minister when he was Leader of the Opposition. I quote Column 1485 of the *Hansard* of 28th March, 1963: This is what Mr. Burnham said:

"For some time it has become a tradition in this country which, as far as I recollect, dates right back into the 40's, for persons or groups to put forward their points of view, or to show their dissatisfaction with one situation or another, or their disapproval of one measure or another, by peaceful demonstration and the carrying of placards or pickets. As I was entering this Chamber this afternoon originally I saw a number of persons carrying placards which indicated that they were protesting against what, to them, appeared to be an unreasonable refusal on the part of the Government to

hold a by-election for the constituency of Houston. They were also protesting against what they considered the undemocratic attitude of this Government in not permitting radio time to persons other than Members of the Government.

Maybe I can say definitely that there are some amongst us here who agree with those protests. There may be others who do not agree at all. There may be others who, as private individuals, agree, but because of certain other considerations cannot openly or verbally express their disagreement. The point is not whether or not the objections, the protests or marks of disapproval are justified; it is whether the people of Guiana have lost their democratic right to express by peaceful picketing one point of view or another."

I commend this *Hansard*. Further, I ask the hon. Minister of Home Affairs and his colleagues to reconsider whether what was said in March 1963 does not apply to the citizens of this country today. Has the situation changed merely because there has been a change in the Government? One would like to see the tradition, so long acquired, so long won, maintained. But it seems to me as if several things have changed irrevocably for the worse, as we have seen in the case of the R.M.B.

In no part of the country - except at the Ministry of Works and Hydraulics and in certain

other Government institutions - are there less earnings than at the R.M.B. Of course, hundreds of people have been laid off at the Ministry of Works and Hydraulics. I refer to this Ministry because I am sure, as night follows day, that this Bill will be used to harass not only rice farmers but the employees of this and other Ministries. After all, we have a tradition which these puppets of imperialism are bent on carrying out, as has happened in the sugar industry, where there has been police persecution and shootings.

I warn the citizens of this country today that these glorious puppets of imperialist rule, who have introduced this serious measure allegedly for the security of the country, are going to uphold the tradition of the imperialists and will shoot them down and lock them up whenever they feel like doing so.

9 p.m.

In the instance to which I referred earlier, the magistrate released all these people with very caustic comments, but the fact is that they have not been compensated either for their time, humiliation or *manhandling*, or for the money which they had to spend to retain lawyers.

This is the same hon. Minister who last night had the temerity to stand up in this House and suggest that I was involved in destroying Arthur Abraham and sending his innocent children to heaven. I thought that the Standing Orders and the Rules of this House would enforce his

[MR. RAM KARRAN]

apology immediately. However, I leave it to him to apologise when he next gets up on his hind legs. We all know that Arthur Abraham was sacrificed, possibly for two reasons, one, that he was an embarrassment to the hon. Minister of Finance who then had been found with secret documents and who went to the Governor before his departure to the U.K. and told him that he did not want to leave these shores to go to the Constitutional Conference while under a charge. He was sure that the police would not charge him because the then Security Chief was playing with somebody close to him, but he was not sure that the Director or Public Prosecutions would not have taken action against him for having secret documents. As I said, Arthur Abraham was a threat to the hon. Minister of Finance because he felt that Arthur Abraham, who had charge of the documents found in his possession, might reveal how he came by them. Somebody had to be found so after Mr. Abraham was sent out of this world, a Member of this Parliament was picked up and detained without trial so that no effective blow could have been struck against the Fascist dictatorship that lived on from that day to the present time.

It was alleged that I had something to do with Mr. Abraham's death. Has no mention been made of the numerous names that appeared on that document, copies of which have been seen by so many people? Has no mention been made of Mr. Fairbairn of illustrious fame, and of Chippy Graham? Has any mention been made of the

chaps who traversed this country from one end to the other killing innocent people? This was during the tenure of office of the hon. Prime Minister as Mayor of Georgetown. I want to tell you what went on and what is likely to go on. When the prisoners were given bread, they found it had pieces of soap in it. That is what they were given to eat. I fear for the future of the people in this country.

When the hon. Prime Minister sat as the Mayor of Georgetown, a Town Constable in the performance of his duty arrested a policeman in plain clothes, but when the Town Council brought action against this policeman the matter was dropped. When I drew it to the attention of Governor Luyt, he said a settlement had been effected. But that is the sort of thing that has been going on and will continue to go on in this country, particularly with the passage of this Bill.

I read two subsections of this Bill and my hair stood on end when I read them. Clause 5 (3) (b) reads as follows:

"as to the maintenance, discipline and punishment for breaches of discipline of detainees. . ."

Imagine the hon. Minister saying that a Member of this House has been responsible for a criminal offence and he has to be charged for breaches of discipline!

Clause 5 (3) (c) reads as follows:

"in writing authorising the taking of a detainee to any

place where the Minister is satisfied his presence is required in the interests of justice, or for the purpose of any public or other inquiry or in the public interest, or in the interests of the detainee. . . "

Do you know what flashed across my mind? Lumumba! It was an order similar to this that took him out to his doom!

Serious things are ahead and this Bill will apply not only to people like us on this side of the House, it may well apply to you, sir. It can apply to anyone. I remember a night long ago when a colleague of mine, Mr. Jardim was taken away to detention. I heard about his detention the night at 10 p.m., and I went to make arrangements for a watchman or someone to protect his wife and children, considering the very abrupt removal of this man from his home. I was driving through Bel Air Park to go there. I met a policeman and asked him where Jardim lived and he directed me. The next day the Minister told me, "Last night at 2 a.m. you were in front of Professor Arthur Lewis' house. You were there for illegal purposes. You must behave yourself." [Laughter.] This is not a matter for laughter.

9.10 p.m.

You cannot say that I did not warn the population about these things. Most of us have records already and we know what is in store for us, but I am still warning those who have a lot to lose. This is only Cain's hand made long to stretch to any corner of this country and hold people.

It was a bit refreshing to hear the hon. Minister of Agriculture making his contribution to this Bill. I can now see the reason why he was prevented from speaking last night when he approached the Prime Minister who was then sitting in the chair of the Minister of Communications. The Minister of Agriculture said that he supported the Bill because of Government's concern over the protection of people and the preservation of itself. If this measure is going to be used for the protection and preservation of the Government, then a very serious state of affairs exists.

One would have thought that any Government would protect itself by its actions; by the passage of laws beneficial to the community and so on. When the hon. Minister of Agriculture gets on the Floor of this House and tells us that this measure is necessary for the protection and preservation of the Government, then God help us.

Mr. Deputy Speaker: Your time is up!

Mr. Hubbard: I beg to move that the hon. Member be given 15 minutes to complete his speech.

Mr. Lack seconded.

Question put, and negatived.

Mr. Benn: This country is a vast country which needs a great deal of development. Those who were opposed to the P.P.P.'s administration, even though the administration was not entirely P.P.P., could not help recognising the economic and social de-

[MR. BENN]

velopment in this country. During the periods 1957 - 1961 and 1961 - 1964, with all of the difficulties put in the way of the then Government by those who were opposed to certain propositions, improvement could be seen. I refer to the Labour Relations Bill and one or two other matters to which certain people were opposed, but one could not but recognise that in every field of human endeavour there was considerable improvement in this country. No one with any sense of honesty could doubt the presence and the implementation of the economic schemes in the country at the time. I refer to drainage and irrigation schemes large and small; the acceleration of agricultural development; the improvement of social and health services; and, if I may use the word, the "escalation" of educational opportunities for the broad masses of the Guyanese people from primary to university education.

During those periods the cost of living was contained to what it was seven years ago. All through those periods opposition continued unabated and freely by the vested interests and those who were paid or duped. The then Government was made the principal enemy of the country in spite of the positive direction of its programme. Today the cost of living is extremely high in this country.

The present Government - the coalition of the P.N.C. and the U.F. - has been in office for almost two years. Unlike the previous administration it has

the full support and backing of the British and United States administrations, and it has started with the support of one of the most powerful sections of the Guyanese community. It may be said that the Coalition Government opened its innings with the goodwill of many.

It is true that there will be difficulties in any administration. I know what the previous administration had to face, and for that reason the Coalition Government deserves my sympathy. However, there are still many more positive things to be done in a country which is underdeveloped and shows many signs of backwardness in many places.

9.20 p.m.

The Government still has an opportunity to carry out agricultural development and drainage and irrigation schemes. It still has an opportunity to do something for the health services which are in great need of assistance. The Government still needs to look into the serious problems of the standardisation of textbooks and the spiralling rise in the cost of living, which problems throw great burdens on the people of this country.

If we are to take the members of the Government at their word, on the attainment of Independence they had this to say in the Throne Speech. I read from page 2:

"At home, a seven year development programme has been drafted, and approved by the Legislature. This programme which promises the ex-

penditure in the public sector alone of approximately \$300 million is aimed at increasing rapidly and significantly the gross national product and national income per capita and laying the foundations of a strong and economically sound Guyana where want, poverty and unemployment will be abolished. The productivity of our nation will have to be increased considerably and the fruits of this productivity fairly divided. There will be place neither for exploitation nor sloth.

"The successful execution of this programme is dependent upon the enthusiastic and intelligent co-operation of all sections of the nation and community."

Here we have the Government's call for "the enthusiastic and intelligent co-operation of all sections of the community". It appears that in order to secure this "enthusiastic and intelligent co-operation of the community" the community will have imposed upon it a Bill of this nature which threatens to take away its fundamental rights and freedoms.

This, it seems, is to be the means by which the Government hopes to secure the enthusiastic and intelligent co-operation of the people in order to carry out the development programme. In spite of these words, these hopes and these statements, what do we find? What is the background to the Bill? Because of the misunderstanding of the cultural background of a section of our people

and the psychological attitude of others, the very difficulties which emanate from our economy and, if I may be generous to say this, because of the misunderstanding or failure to recognise the very nature of imperialism, the whole Guyanese society, rather than being in a period of consolidation after Independence, is like a tortured brute running from pillar to post trying to destroy everything that comes into its way.

We are told that workers are being laid off, and that this is due to financial problems. We know that the strike movement in Guyana is beyond the wildest dreams of trade unionists in the most highly developed countries. We know that though the Government made propositions through the Agricultural Loans Bill for assistance to agriculture we are yet to see some positive step in this direction. We know that there is fear from top to bottom in the sugar industry and there is, too, an inability to settle outstanding problems. We know that the cost of living is spiralling to such an extent that the Government has been forced to set up a Committee, which Committee reported even though it received no memorandum and then came back to ask for memoranda in order to write another report. We note that in this confusion the Guyana Trades Union Council, which supports the Government, has publicly stated its intention not to go before this Committee.

We note that crime is on the increase, so much so, that the hon. Minister of Education, speaking to a group of graduate teachers -

Mr. Deputy Speaker: The hon. Member has been speaking for the last 15 minutes, exactly fifty per cent of his allotted time, and I cannot see the relevance of his speech to the Bill. I know that you have the necessary experience and I hope that you will be a little more relevant.

Mr. Benn: I am glad you recognise that I have the necessary experience. Crime rate is rising so rapidly that the hon. Minister of Education said that "choke and rob" activities were due primarily to our system of education. Lastly, the Government has announced a threat by a foreign power over the sovereign rights of this country. In this predicament, in this period when there is inability to move forward as they had hoped, the members of the Government have to find scapegoats. The scapegoats that they have sought and found are their opponents, or persons whom they imagine to be opponents, persons whom the Minister of Home Affairs declared had been burning between the period of 1962 to 1964.

9.30 p.m.

It is necessary for the Government to bring this Bill to let the people of this country feel that the problems of this country are not due to the Government's failure to do what it hoped to do, but because of other people and other things. In this predicament, one cannot help feeling sorry for the Government in its confusion, and one can remember the cry of depression, pessimism and despair that emanated from a distinguished theologian when he said:

"Oh wretched man that I am, for the good that I would that I do not, and the evil which I would not that I do".

The Government spends time extending the emergency, detaining and releasing people, and taking credit for releasing them. The Government spends time in pushing around some trade unionists, as in the case of the G.A.W.U., and the M.P.C.A., in choking the rice industry and, by imposing the measures in this Bill, it has found an opportunity to hide its errors.

History has a queer way of repeating itself, and if we cast our minds back to the rise of Fascism in Germany, we would recognize that the rise of Hitler was helped by conditions - economic and social conditions and depression - like those obtaining in Guyana, perhaps even worse conditions because they had just been defeated in war. It was this attitude of depression on the part of the people, who had nothing to use as a sheet-anchor, that gave Adolph Hitler the opportunity to rise up and become the master of that country. Guyana, to some extent, is faced with similar conditions.

We are told by the Minister that this Bill is not going to do anybody any harm unless he has a guilty mind. A statement that comes very often from the other side is: "Do nothing, fear nothing. There is nothing to be afraid of as the Bill is in the interest of the people." But the Nazis also said this when they promulgated their Fascist law and this law, incidentally, was

described as a law for the protection of the people. With your permission, I should like to quote from a book named *Hitler, A Study in Tyranny* by Alan Bullock to show that the same words used by the hon. Minister were said by Hitler when he spoke before the Reichstag. This appears on page 269 of this book:

"The Government (he declared) will only make use of these powers in so far as they are essential for carrying out vitally necessary measures. Neither the existence of the Reichstag nor that of the Reichsrat is menaced. The position and rights of the President remain unaffected. It will always be the foremost task of the Government to act in harmony with his aims. The separate existence of the federal States will not be done away with. The rights of the Churches will not be diminished, and their relationship to the State will not be modified. The number of cases in which an internal necessity exists for having recourse to such a law is in itself a limited one. All the more, however, the Government insist upon the passing of the law. They prefer a clear decision."

In promulgating the law the Nazis said the same thing that, unwittingly perhaps, was said yesterday by our Minister of Home Affairs when he moved the Second Reading of this Bill. On page 273 of this book, referring to their attitude to the trade unions, the Nazis promised in the following words:

"Workers! Your institutions are sacred to us National Socialists. I myself am a poor peasant's son and understand poverty, I myself was seven years in one of the biggest industries in Germany and I know the exploitation of anonymous capitalism. Workers! I swear to you we will not only keep everything which exists, we will build up the protection and rights of the worker even further."

These are the promises the Nazis made to the German people, to the churches, to the trade unions, indeed, to every section of the German people.

Today the members of this Government make these same promises to the people, telling them that while they sharpen this knife to cut their throats, they must not be afraid. It appears that the Government does not recognise that large sections of the Guyanese people are against this measure. It appears that the Government feels that, because it is able to use its dogs to silence the Opposition, all sections of the community are in favour of this Bill. This is not so. There is absolutely no need for this Bill at this time.

My hon. Friends on this side have spent a great deal of time explaining why this Bill is unnecessary. The Government is wondering how to do things more positively, how to carry out schemes, and how to fulfil many of its recent promises to bring happiness and joy to the broader sections of the Guyanese people. There is so much to be done. If the Government could only settle

[MR. BENN]

the problem of the sugar workers, if it could only settle the problem in the rice industry, if it could only settle the problem of the spiralling cost of living, it would be making a greater contribution to the development of this country. But no, we are told that we must be happy, that this Bill is in our interest and that we have nothing to fear.

9.40 p.m.

This type of talk fools no one and as I said some months ago when I spoke on the extension of the emergency, many people who today feel that this Bill will not affect them will wake up one day to find that it is too late and it may really be said, "Too late shall be the cry." It is easy to make jokes about a serious matter such as the promulgation of a Bill which threatens to take away the liberty of the individual.

The hon. Prime Minister is wont to say that all over the world this type of legislation exists. The hon. Prime Minister has always said, "Do not tell me anything about those countries. Let us deal with our own conditions." [The Prime Minister: "Ask Nunes."] The hon. Minister of Home Affairs read a quotation to show that in highly developed countries it is easy for the Governments to spend large sums of money to track down criminals.

Mr. Deputy Speaker: You have another minute.

Mr. Benn: We cannot see with other people's eyes. The condi-

tions in this country do not call for this law, and I call upon the Government to take steps to bring relief to the people, rather than take steps which will give the people the impression that the Sword of Damocles is hanging over their heads.

Mr. Deputy Speaker: Your time is up.

Mr. Nunes: I beg to move that the hon. Member be given another 15 minutes to continue his speech.

Mr. Ally seconded.

Question put, and negatived.

Dr. Ramsanoye: A people who have been long subverted tend to lose their moorings after they have achieved their freedom. This Bill is evidence that, in this country today, 5 months after Independence, this Government as guardian and trustee of the rights of the Guyanese people is losing its moorings. The Bill itself is an *in terrorem* exercise; it is the result of a studied perpetration of rascality on the part of the British Government.

In 1961, the Constitution granting this country internal self-Government was drafted, and in that Constitution there was provision for protection from arbitrary arrest or detention. The provision was contained in Article 4. In that provision which carried certain exceptions, there was no power to pass legislation for preventive detention. If preventive detention had to become law, it had to become law

in pursuance of another Article of the Constitution granting emergency powers.

When this Coalition Government went to Britain in 1965 to negotiate the Independence Constitution, the British Government actively conspired with it and in the end it created an institution the Constitution of which included articles to provide that laws may be passed for preventive detention in this country. The relevant article of course, is drafted so that preventive detention could be legislated for in almost unrestricted terms, for article 5 of the Constitution of Guyana states, among other things, that:

"No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases, that is to say -

- (k) subject to the provisions of the next following paragraph, for the purposes of his preventive detention."

This is a serious inroad. If certain fundamental changes in the status and position of this country did not take place on the 25th May, 1966, this country by virtue of her connections with Great Britain would have had to adhere to the Statute of Europe. Article 15 of the Statute of Europe had provided that where a territory acted in derogation of that article, a report had to be made to the Council.

When Independence was coming, the U.K. Government knew that that safeguard, a safeguard which

almost amounted to a safeguard of public opinion for reasons which I would not give, would have to be taken away because Guyana was to become independent, and could no longer be a country adhering to the Statute of Europe. There was a court dealing with human rights established under that Statute. The British resolutely refused to allow cases from Great Britain to go to the Council of Europe at Strasbourg, and as a result, territories adhering to Britain were also denied the right to go to the Council of Europe at Strasbourg in cases involving violations of fundamental rights. Britain, of course, had to do this because it had to have people imprisoned in Kenya, in Central Africa, in Nigeria, and, of course, in British Guiana as it then was.

9.50 p.m.

Britain would not allow the Court at Strasbourg to inquire into violations of fundamental rights. Despite mounting pressure from countries in Europe it would not allow the Court to deal with these matters. For all these years we have been denied the right to go to the Council of Europe. To add a political insult to what has already been done paragraph (k) has been included in this one-sided Constitution.

I say that this is a studied exercise in political rascality. The U.K. Government would not have done this unless it was preparing for these present conditions. That is why this country is in a condition of peace and public tranquillity while this legislation is being passed. It

[DR. RAMSAHOYE]

is being passed because of a previous arrangement made that it will be put on the statute book. The people in the U.K. have their own interests to be protected by this legislation. This is a political exercise; this legislation is not being enacted to deal with public order and breaches of the peace. No one on this side of the House will ever believe that. This legislation will be placed on the statute book so that whenever it becomes necessary it can be used as an instrument for the suppression of the political Opposition.

This country is not Malawi. This country is not a country where, upon going into independence, there was not even one native lawyer, as has happened in some states of Africa. This is a country with educated people, with a fairly advanced legal profession; it has a Police Force and a Defence Force. No one can tell us that in this small area of over 200 miles of coastland security could not be dealt with without sacrificing the liberties of the people. No one in his right senses would believe that. No one would believe that in a country as advanced as this, it is impossible to maintain security in the absence of this Bill. It is not fair, because it is not intended to protect the security of the State and to do all the things we have heard.

This Bill will be kept here for a more sinister purpose, so that when the mounting voices of protest begin to rise and spread they can be silenced. It is be-

ing enacted because opposition will be taken so long as certain conditions exist in this country. If the Government will not change its ways, then the people will oppose what they feel is wrong. Therefore instruments are necessary to suppress the people.

It is a privilege, at this particular time of our country's history, to be able to say a few words of dissent. The instrument is the main thing in this political configuration. We will see whether the promise which has been given will be kept. We were told that this legislation is only going to be used to protect the security of the State, public peace and public order. We will soon see whether it is going to be used for political repression and suppression.

These emergency powers are dangerous powers. There is no authority or body in this country that can convince this Government that this is so. Quite recently the Chief Justice of India had to make certain observations which I think hon. Members of this House will do well to listen to.

The Chief Justice of India, Mr. Gajendragadkar, had this to say:

"When we come across orders of this kind by which citizens are deprived of the fundamental rights of liberty without a trial on the ground that the emergency proclaimed by the President in 1962 still continues and the powers conferred on the appropriate authority by the Defence of India Rules justify the deprivation of such

liberty, we feel rudely disturbed by the thought that the continuous exercise of the very wide powers conferred by the Rules on the several authorities is likely to make the conscience of these authorities insensitive; if not blunt, to the paramount requirement of the Constitution that even during an emergency the freedom of the Indian citizens cannot be taken away without the existence of justifying necessity specified by the Rules themselves. The tendency to treat these matters in a somewhat casual and cavalier manner which conceivably results from the continuous use of such unfettered powers may ultimately cause a serious threat to the basic values on which the democratic way of life in this country is founded."

Suffice it to say that no judge in this country, in my opinion, will come out in these terms against this or any similar legislation for very different reasons, because judges in this country are not in any way insulated from terror. I do not blame them. If we want judges to be independent, then we must insulate them from terror.

In this country, as far as I can see and as far as I can remember, since that memorable Friday in 1962, no one is insulated from terror. It is of paramount importance that the members of the judiciary should be independent and be able to give their judgments without fear. If that is to be so, then they must be protected and be

able to give their judgments in the light of the law and the Constitution which they are called upon to administer, and such judgments should be able to command the general consensus of feeling and opinion on the legal side.

Make no mistake about it, the same laws that are being introduced here have been interpreted differently from country to country. In Burma in 1950 the Commissioner of Police brought a case against an individual under section 5 of their Public Order legislation, and the Statute was construed by the Supreme Court of Burma —

Mr. Deputy Speaker: This sitting is suspended for 15 minutes.

Sitting suspended accordingly at 10 p.m.

10.22 p.m.

On resumption

Mr. Deputy Speaker: I assume that the hon. Member, Dr. Ramsahoye, will continue his speech.

Dr. Ramsahoye: I was referring to the case of Tinsa Maw Naing v. Commissioner of Police, which was decided in 1950. The case is one in which the Burmese Public Order (Preservation) Act was being construed. In that country the provision authorising preventive detention was couched in the same language as clause 4 of the Bill which this Government now proposes, in that it says the Minister may, if satisfied, make an order.

DR. RAMSAHOYE

In Burma, the judges of the Supreme Court were told that following the English decision in *Liversidge v. Anderson*, it was not open to them to make any objective enquiry as to whether the Commissioner of Police was satisfied before he detained, but the judges of Burma said that where the rights of the subject, which shall be held so sacred, were in question they could not shrink from their duty of enquiring into the material on the basis of which the Commissioner of Police made his order. In that case they released the detainee. In India, in the same year, in *Gopalan v. Madras*, Indian judges held the other way. They held that the test was subjective and that the Courts were in no position to review it.

I cite these two examples to show that in the same way as constitutional rights and liberties may be eroded by process of judicial construction, it is also possible for judges, who are determined to protect the liberties of the subject, to go the other way as they did in Burma.

So far as the context of this country is concerned, I have spoken of the necessity for judicial insulation from terror before you can expect judicial activity which will go along this pattern. In Ireland, earlier in this century, there was much controversy about preventive detention and the construction of the laws relating to preventive detention. The Irish Constitution, that is, the Constitution of the Republic of Ireland, provides among other things that a citizen

shall not be deprived of his personal liberty except in accordance with law. In that country, legislation was introduced in 1924 providing for arbitrary detention for temporary periods. In that case the Act was to last six months. Mr. Justice Pim had this observation to make in the case of *R. O'Connell v. Military Governor of Hare Park Camp*. It is reported in 1924 2 IR at page 104 that Mr. Justice Pim thought that -

"it would be possible . . . to argue successfully that a permanent law giving the Executive power to deprive any citizen of his liberty without trial was contrary to the spirit of Article 6, and therefore a violation of the Constitution; but that is a very different thing from a temporary law made in abnormal times and for a temporary purpose."

Article 6 had provided that no citizen should be deprived of his personal liberty save in accordance with law and that judge was clearly of the opinion that Parliament passing a law could not have been sufficient to deprive a person of his personal liberty. This is significant, but in that case he allowed it to pass because he said it was a temporary measure for a temporary purpose and in abnormal times. If he had to consider the constitutionality of this Bill, there is no doubt whatever that he could not have upheld it.

Though the item to which I refer gives power to enact laws relating to preventive detention, the spirit of this Constitution

could not allow laws of this nature to be enacted in times of peace, eighteen months at a time, renewable at annual intervals thereafter. The Bill violates the spirit of the Constitution and there is certain judicial opinion which will be against an exercise of this sort. That is not all. Other judges in Ireland have, of course, upheld preventive detention, but judicial opinion has also been the other way.

10.30 p.m.

In the case of *The State v. Lennon and A.G. in Ireland*, reported in 1940, a man named Burke was arrested and taken to detention barracks in Dublin for offences against the State Act, 1939. The Minister of State had, of course, authorised his detention. His brother obtained a conditional order of habeas corpus and, in the course of his judgment, that great judge, Gavan Duffy, had these observations to make in granting the order of habeas corpus.

"The Minister has to be 'satisfied'. There must be countless occasions in the official life of a Minister of State on which he has to be satisfied as to particular facts before taking a particular course, occasions on which nobody would for a moment expect him to act judicially in order to be satisfied; otherwise the daily routine of administration would become impossible. But under s.55 the Minister, who may be any Minister of State, is not exercising any normal

function of his office; he is exercising a most exceptional statutory power, and a man's liberty depends on his exercise of it. The authority conferred on a Minister by s.55 is an authority, not merely to act judicially, but to administer justice, and an authority to administer criminal justice and condemn an alleged offender without charge or hearing and without the aid of a jury. The administration of justice is a peculiarly and distinctly judicial function, which from its essential nature does not fall within the executive power and is not properly incidental to the performance of the appropriate functions of the executive; consequently a law endowing a Minister of State, any Minister, with these powers is an invasion of the judicial domain and as such is repugnant to the Constitution . . . In my opinion, the saving words in the declaration that 'No citizen shall be deprived of his liberty save in accordance with law' cannot be used to validate an enactment conflicting with the constitutional guarantees. The opinion of Mr. Justice Fitzgibbon in *Ryan's Case* is relied on . . . but it does not apply, in my judgment, to a Constitution in which fundamental rights and constitutional guarantees effectively fill the lacunae disclosed in the polity of 1922. The Constitution, with its impressive Preamble, is the Charter of the Irish People, and I will not whittle it away."

[DR. RAMSAHOYE]

Then there was an appeal; but the Supreme Court refused to entertain the appeal, holding that it did not lie against the granting of an order of habeas corpus. Subsequently, the Irish Government passed another law and the judges then upheld it. I refer to this to show that judicial minds have been divided from country to country on these questions.

It is not easy for one to say that a law of this nature is constitutional or that it is not constitutional, for in matters like these one never knows where the judges will turn. Of course, in this country we know. We have no difficulty for the reason I have given. But let us not forget that this Bill itself is a grave inroad upon personal liberty, and the manner in which it has come to life can only be gleaned from a further examination of the articles of the Constitution itself.

The Constitution, of course, starts with a preamble. The preamble is short but it is, of course, no less impressive. It acknowledges reverence for the Deity but, may I remind Members of the House, so does the Constitution of South Africa where God's guidance is asked for in the policy and practice of Parliament. It affirms the entitlement of all men to the fundamental rights and freedoms of the individual. It recognises that the said rights and freedoms are best established and secured in a

democratic society founded upon the rule of law. It further states:

"Now, therefore, the following articles, which make provision for the government of Guyana as such a democratic society, shall have effect as the Constitution of Guyana."

Looking at this preamble, one gets a guide to the spirit, and now one sees these inroads by way of preventive detention.

I have referred to the Constitution of Europe, and particularly to articles 5, 7, and 16 where derogation from article 5 is only permissible in certain instances of war and emergency. Let us understand my position. I do not say that, in times of emergency, a Government must not have power, in the interest of peace and security, and that a Government should not have power, if it is necessary, to imprison people if the public peace is to be preserved. But anyone who has any grasp, however feeble, of the legal system of this country - if of no other - would know that, in the laws of this country, in a single day laws of this nature could be promulgated. A State of Emergency could be declared from the Cabinet Room and receive its signification from the Governor-General. Any Attorney-General who is ready and willing to deal with these subjects must have the Emergency Regulations permanently on his files. He can send them to the printers and have them released. Let us realise that, in

this country, within a matter of hours, we can have laws to provide for preventive detention.

Our argument is that this Bill is a violation of the spirit of the Constitution; it is a denial of fundamental rights of the people. To have a Bill like this in times of peace and tranquillity, when the courts, the Police and the Defence Forces are functioning, and clearly denying a man access to the normal courts of the land, where he can have his rights determined by accusatorial process, after putting up his defence - -

Mr. Deputy Speaker: Time!

Mr. Bissember: I should have indicated that, with the agreement of the hon. Leader of the Opposition (Dr. Jagan) two extensions will be given to the hon. Leader and the hon. Members Dr. Ramsahoye and Mr. Chase.

Mr. Deputy Speaker: The hon. Member may proceed.

Dr. Ramsahoye: I do not, for one moment, wish in this House to challenge the opinion of those who think that this legislation is constitutional and right. There is another place where points of a purely technical nature could be raised. I wish to ask this Government, the hon. Attorney-General and his legal advisers, to look once again at the very provisions which allow them the right to draft laws for preventive detention to see whether they really have an accu-

rate grasp of the meaning and purport of the various provisions of article 5. Maybe the Government is sure of its ground. Maybe the Government feels that, whatever case may be propounded before the courts, it could not succeed, in the present circumstances.

I think it is necessary for the members of the Government to read, again and again, the provisions of this article, to see its various implications and the numerous technical points which arise out of the article itself and out of the provisions of the Bill.

10.40 p.m.

The Bill as drafted has certain provisions which are, in part, borrowed from the great Republic of India. The Statute of Europe provides that where a man is detained, the grounds for his detention have to be communicated to him promptly. Under article 22 of the Indian Constitution, the grounds of detention must be communicated to a person when he is detained and there is no circumscription of this provision that the grounds must be communicated to the person.

In this Bill I notice there is a provision that the grounds for detention must be given but that no defect of any kind in the statement of the grounds shall invalidate the order. Let us look at article 5 (3) which states that;

[DR. RAMSAHOCYE]

"Any person who is arrested or detained shall be informed as soon as reasonably practicable, in a language that he understands, of the reasons for his arrest or detention and shall, be permitted, at his own expense, to retain and instruct without delay a legal adviser of his own choice, being a person entitled to practise in Guyana as an advocate or solicitor, and to hold communication with him."

This is a further act of rascality evidenced in paragraph (6). It states:

"Nothing in the provisions of paragraphs (3) and (4) of this article shall apply to any person arrested or detained by virtue of the provisions of any law providing for preventive detention except in so far as the provisions of the said paragraph (3) require that he shall be permitted to retain and instruct a legal adviser and to hold communication with him."

In other words, the reason for a man's arrest does not apply if he is taken under preventive detention. Why this reversal from the Indian Constitution? Of course the hon. Attorney-General and his legal adviser know why. They must have read the Constitution of India and they must have read how seriously the Indian Supreme Court feels about cases

when the grounds are vague or when supplementary grounds were introduced, because in all such cases the detainees were released. That is why they have decided to close the gap. In times of peace this Bill should be scrapped. Do not come here in conditions of peace and tranquillity and make such serious provisions concerning fundamental rights. It is a sad thing. This legislation would be interpreted to grant wide powers to the Government. It will be used to punish people for other offences in the last resort, and men would be convicted by what the Minister believes, what he thinks. When I say that I do not mean in the line of subversion or breach of the peace; I mean that in an ideological sense.

Many arguments have been raised that this power is being put in the hands of one man in a country which is so sharply divided. But the reason this is being done is that the simple political principles have not been followed. One should never believe that constitutional guarantees are upheld by judges acting alone. Constitutional guarantees are upheld when they take deep roots in the minds of the entire body politic. Everybody must be for the Constitution. One half of the population must not feel that the constitutional guarantees will be upheld for the other half but not for them.

When the P.P.P. was in Government from 1961-1964, the hon. Prime Minister used to talk

about a national consensus. There is every reason why he should seek a consensus now. But he does not bother. This Bill is being railroaded in this House. Every effort has been made to have it passed as quickly as possible, for what reason nobody knows! This Bill is a most important document in the legal history of this House and this nation. I say it is a serious thing because it is being passed in conditions of peace and tranquillity. It is no use telling us that you have to guard the interest of all and therefore sacrifice the rights of a few. You have a legal system. You have a system by which men could be charged by the police if they are guilty of offences. In England people are brought to justice before the ordinary courts of the land.

The hon. Minister of Agriculture referred to Australia. In Australia there is only preventive detention where immigration laws have to be upheld by the Courts. It is the same in Canada and the same in New Zealand. But it is a mark of incompetence for people to seek to have these powers in times of peace.

10.50 p.m.

I have said over and over again while we have been debating extensions of the emergency that the use of these powers perpetually must tend to make the Government insensitive, and they must tend to make policemen, who are supposed to make inquiries, short-circuit investigations, for they find it much easier to do

things this way than to go through the hard task of the ordinary procedure. These are the dangers in having legislation of this nature. We must not forget that this legislation is setting up parallel tribunals: the courts on one side and the tribunals on the other side. There is provision in the Constitution for the enforcement of fundamental rights and freedoms.

It is not necessary for the Government to use this type of legislation. There are provisions in the Bill of Rights that can be used in the courts. There is also Article 19 of the Constitution, and Rules can be drafted to provide procedures whereby people can approach the courts. Instead of doing this, the Government is going to erode fundamental rights. How fantastic! Then we hear clamours for more and more power. This is a clear abuse of legislative power. Why do we have a Bill of Rights? The Bill of Rights is intended among other things to protect a citizen from the abuse of legislative as well as executive power. However, so far as preventive detention is concerned, once that Tribunal is established, a man can be detained for no longer than three months unless the Tribunal has reported before the expiration of the said period of three months that there is, in its opinion, sufficient cause for such detention. That is the only safeguard a detainee has. When we consider and analyse everything, that is the final analysis that we arrive at. That is all the safeguard that we have in this country against the abuse of legislative power.

DR. RAMSAHOYE

This Bill is foreign to the spirit of the Constitution, and it is creating inroads in the personal liberty of the citizen which will certainly lead to provocation. I would consider this Bill as an act of political provocation, despite the fact that there may be a clamour for it on the other side of the House. Reason must on reflection prevail. Some people, at least, even though they have to vote against their consciences, must realise that legislation of this nature is like a cancer which eats at the very root of our society. Why must men live with this type of legislation hanging over their heads?

I do not care who drafted this Bill. Whoever drafted this Bill must have realised that the creative powers of a nation must be subject to terrible restraints when men have to live under conditions of fear which a Bill of this nature must engender. To tell a man who is detained that he has the right to consult his counsel at his own expense is a farce. Suppose he cannot afford to have counsel? Has the hon. Attorney-General ever been to a court to see a layman floundering and trying to present his case? Do you think that a layman can properly present his case? [An hon. Member (Government): "Some laymen can present a case better than some lawyers."] Do you really think that a layman can properly present his case in courts following English procedure without legal assistance?

I have heard criminals cross-examine witnesses much better

than some counsel; I have heard criminals making better submissions and speeches than some counsel, but I am not here to make a joke about this serious matter. What I am saying is that in the normal course of human activity the layman will flounder if he attempts to present his case in a court following English Rules and Procedure without adequate legal assistance, and that when we are dealing with Constitutional guarantees this Government should borrow from the U.S.A. just like it borrows money. Let the hon. Attorney-General say what he thinks about this matter.

I know that in the Supreme Courts of the U.S.A. a man has a right to be represented by counsel. If a man's rights are going to be infringed upon, then do not tell him that he must obtain counsel at his own expense. If he cannot afford the expense of securing counsel, then he will certainly be left at the mercy of the Government. If we have liberty in our bones, we cannot sit here and erode the Constitutional provisions in this manner.

We have had experience in this sort of thing. Governor Luyt, as he then was, used this power to stop the Constitutional machinery of the last Government from functioning in June, 1964; he used it to imprison, without charge or trial, members of the Legislative Assembly; he used it because he intended to break the Government at that point, and he intended further to divide Guyanese people so that in their weak state they could be pounced upon by imperialist vultures.

He set the example which, of course, this Government would not have failed to follow.

Governor Luyt has now gone to South Africa to teach the theory of what he practised here. He must have been a great man to have got that job in South Africa. He has done a good job here for the British Government. Our duty now is to create conditions so that the people he has divided may live together in unity.

This law is intended to be a piece of political blackmail. We know that it will be used to imprison people. We know what the Government used to do when it imprisoned people. It used to interrogate them and give all sorts of promises in order to get information. Third-degree measures were being used to get information. There is provision in this Bill to lock up a man and then set him free before the three-month period so that he will not have to go before the Tribunal.

11 p. m.

This is it: blackmail. No provision is made in this piece of legislation for the hardship which detainees must suffer when they are pulled away from normal conditions of life with all their obligations and commitments. Let us hear from the Government what concrete proposals they intend to make and let us have it set out in law for everyone to be able to interpret what conditions the Government proposes to have the incarcerated men live under. We do not wish these things to be in the Minister's discretion. Let us know that the Minister will

make a law telling us under what conditions these men will be obliged to live.

We cannot for one moment countenance the provisions of this Bill. They are unreasonable; they are unnecessary; they seek to erect a banner of despotism in a country where a wilderness is being created from the point of view of ideological thought. This Government could willingly create a physical wilderness in this country; this Government will willingly stultify all processes if it thinks by doing so it could remain perpetually in power. But where does it get the nation? Where does it get the people? What good will it do to us if we have to live in conditions of distrust and distress?

We have heard this clamour for power and more power. We have seen important matters left unattended to; we have seen democracy sacrificed and fundamental rights and freedoms ridden roughshod over by men greedy and lusting for power. This is a sad moment in the history of this country. This is the period at which men in Europe, accustomed to govern the whole world from Westminster, will be able to say that all the techniques have worked; this is the time at which they could say that democracy is not made for us. Now they must be having their triumph. Everything they have planned has worked. They have a belief - and make no mistake about it - that democracy is only found in Anglo-Saxon institutions, and we have made it true by our own default. No one will ever believe that we have the capacity to live as

[DR. RAMSAHOYE]

free men. No one will ever believe that we can run this country without wartime powers in peacetime. No one will believe that we are capable of governing this country as they govern England, Australia, New Zealand and Canada. We have brought it all on ourselves. We have proved their point and we have proved their point by our own default.

It is not true that we cannot provide the leadership in a country like this to lead the people towards the creation of free institutions. It is not true at all. It is that we have renounced our own independence; we have decided not to assert ourselves. The leaders of this country have themselves to blame for not having the people united in a common consensus. This has come about, but the blame is not even at all, because some powers are greater than ever and elements are fighting it. It is a pity. I never expected to see the day when legislation of this nature would be put on the statute-book of this country. I do not feel now that it is impossible for the people of Guyana to govern themselves without recourse to these extraordinary measures.

History is being made. We all will stand at the bar of judgment. Whatever use is going to be made of this piece of legislation we shall soon see. Whatever reasons were advanced to the United Kingdom, which reasons they must have accepted for the variation of their provisions of the 1961 Constitution, we shall

soon know, but it is a fundamental truth that ideas are much more explosive than policy. This is a lesson which the hon. Minister of Home Affairs appears not to grasp. People will begin to use these powers. Already you are using these powers; already you are preventing men from going to places where they can get work and from living where they can get accommodation suitable to them; already, I suppose, you are planning to lock up more people by passing this legislation.

By doing this, members of the Government certify to the external world that peace and tranquillity can only exist in conditions of dictatorship and despotism. Let me remind all those who speak that they probably speak only for themselves. Whether the people of this country will ever have a chance to raise their voices through the ballot-box against measures of this nature, and other measures which will come, we do not know. Whether elections in this country will be fair if held, we do not know. We know what happened in this country between 1962 and 1964, and we know how the affairs of this country were settled across the seas by men who had only an economic interest. We could have exercised a better judgment, but the time is too late.

Those of us who feel that we are doing right should be wished good luck, but this Government already has a long history of manipulations against the rule of law. Preventive detention, restriction of movement, detention under inhuman conditions, are all sins this Government has com-

mitted. This is the last straw! We cannot sleep over our fundamental rights; we must assert them. Now is the time to assert them. Let us not believe that we can only assert ourselves when we are inspired from outside. Let us realise in our own interest that a country like this, situated as it is, with a population disposed as it is, with a Government established as it is, could have done better if only the members of the Government wanted to try. The fact that they are not trying is the fault of no one. The fact that they seek to rush this piece of legislation through, at this time, without any consultation is a matter for them. But we on this side must raise our voices in protest at this new incursion upon the democratic freedoms.

I have been to conferences abroad and I have heard men talk about freedom and talk about the rule of law. I have taken my seat with them and they have debated these matters for days. Yet this country is at the feet of a despotism which violates every concept which the rule of law embraces and we hear nothing from them.

11.10 p.m.

They talk about Cuba, they talk about Spain, and they talk about South Africa. The same thing is happening in Guyana and no one says anything in those centres of the world where those democrats are supposed to be found. But when the day of reckoning comes, they will make no excuses for having neglected this land.

This Government grasps these powers with clamorous attitudes. It is grasping for political power to exercise arbitrary and despotic power. We know what happened between 1962 and 1964. We understand. We do not forget how it was motivated and how it started. We do not forget what Dr. Richmond said recently about occurrences in 1962. These are fundamental truths. It was from those days that democracy in this country began to sag and those people who have always wanted to make sure that democracy should not exist in this country, are now in agreement with this Bill.

One last thing I wish to say is this: never mind this victory, the power still rests with the people. A new battle is going to be fought and I sincerely hope that this process which is now being set into practice, will be reversed in the interest of the good name of our country. [Applause.]

The Attorney-General (Mr. Ramphal): There were moments, Mr. Speaker, during the speech of my hon. and learned Friend, particularly towards the end of his speech, when, much as I admired the rhetoric, I was bound to feel, as I suppose all hon. Members were moved to feel, that he had wandered into a mythical land and had begun to speak on an imaginary Bill.

Throughout history one of man's most challenging problems in his pursuit - as it has been our pursuit in Guyana - of an ordered society has been the need to reconcile the freedom of the

[THE ATTORNEY-GENERAL]

individual, the liberty of the citizen, with the liberty and the freedom of all other individuals and the legitimate interests of the society as a whole, of which the individual is but a part. In the course of history there have, regrettably, been some notable occasions on which mankind has lapsed inglorious in this pursuit. The history of our own times is replete with examples of totalitarian regimes, whether they take the form of Fascist dictatorships of the Right or communist tyrannies of the Left, in which even the pretence of reconciliation - of holding the balance fairly between the rights of the individual and the interest of the society - has been abandoned altogether. The attainment of that balance and the achievement of that reconciliation are the very essence of democratic Government and it is in their pursuit that the Government brings this Bill for the consideration of this honourable House.

Guyana's Constitution recognises this central theme of constitutionalism. Several hon. and learned Members and several hon. Members have already referred to the basic opening chapter of the Bill of Rights in our Constitution which expresses this pursuit of balance in an ordered society. The hon. Minister of Home Affairs, in moving the Second Reading of this Bill, and my hon. and learned Friend Dr. Ramsahoye, in his speech a moment ago, quoted from this section. The language of this provision emphasises that, in guaranteeing to the individual rights and freedoms which have become his by virtue

of his human personality which has been acknowledged universally, they should adhere in the individual.

The Constitution, therefore, and inevitably, must subject these rights in the language of the Constitution with respect for the rights and freedoms of others and for the public interest and, in their enumeration in the Constitution, it is essential, if one is to define the rights of the individual with any particularity, as mankind certainly, since the last war, has thought it fit in the interest of the individual to seek to do, to attach to them limitations, being again in the language of the Constitution, designed to ensure that the enjoyment of those rights and freedoms by any individual does not prejudice the rights and freedoms of others or of the public interest. In the very act of declaring and enshrining the rights of the individual, the Constitution of Guyana recognises, and in this we are by no means unique, that there will be occasions in the affairs of the country on which those rights and those freedoms will need to be subordinate to the interest of the country as a whole. Anyone who reads the provisions of our Bill of Rights with care, and those who are familiar with these matters, will recognise the degree to which we have paid the closest attention to the precedents of other countries and of conventions, as the European Convention, to which a great deal of very distinguished and learned time has been devoted.

11.20 p.m.

Anyone who reads this document with care will appreciate how

great an effort has gone into this business of crystallising in our Constitution, a balance between the rights of the individual and the legitimate interests of the State.

I have said that in doing this we have been neither novel nor original. Ever since the end of the last war great energy has been devoted to this very difficult and complicated question, and some of the world's most liberal spirits have been involved in this exercise. This particular issue was based on the balance of the rights of the individual against the interests of the State. One occasion on which this question was specially considered was at the International Congress of Jurists in New Delhi in 1959 and few have expressed better the need for realism in striking the balance I have been talking about than the Prime Minister of India, Mr. Jawaharlal Nehru, in his speech inaugurating the Congress. If I may be permitted to read a few short sentences from that speech, they will, I think, illustrate adequately what this great man, speaking not as a lawyer but as a public figure familiar with the basic problem of balancing, had to say to that international gathering.

"The Rule of Law requires many other things; equal treatment, no racial discrimination and all that. Yet, we know that all of this takes place, and therefore it is outside the pale of law.

The Rule of Law requires that individual rights should be

protected, and they should be protected, of course; and as our Attorney General pointed out to you, our Constitution in India lays special stress on the rights of the individual. And if I may say so, it is not our Constitution only, but the whole background of our ancient law also says so."

Now, in protecting the rights of an individual, no law permits that individual to function in a prejudicial manner against his neighbour. The law is supposed to curb the prejudicial instincts of the individual. Some line has to be drawn somewhere and the line may vary otherwise the individual would become a menace to society, or a group may become a menace to society. I am merely putting before this distinguished audience some difficulties that arise because we lived in obviously changed, times, and times change with amazing rapidity. As Mr. Nehru said on that occasion:

"All this leads one to think that the Rule of Law, which is so important, must run closely to the Rule of life. It cannot go off at a tangent from life's problems and be an answer to problems which existed yesterday and are not so important today. It has to deal with today's problems."

I shall have more to say at a later stage about the manner in which the Government of India has dealt and is continuing to deal with some of the problems of today. It is in furtherance of these ideas that our Independence

[THE ATTORNEY-GENERAL]

Constitution has faced squarely the problems of preventive detention. Acknowledging how important a weapon this system has become in the armoury of a democratic society against those who would destroy its basic character and institutions, the Constitution has set out to impose restrictions of its own which have two related and yet separate purposes, related in the sense that they both deal with this fundamental question to which I have referred, separate in that they are in a sense Complementary.

[*Interruption*] I was saying that the Constitution has set out to impose restrictions of its own which, on the one hand, recognise the legitimacy of legislation providing for preventive detention and, on the other, circumscribe the power of this Parliament to so provide by requiring its compliance with a variety of procedural and substantial safeguards written in the Constitution itself.

In this regard, and in relation to the experiences of other countries in their reconciliation of the requirements of the rule of law with the necessity for preventive detention authority, nothing is perhaps more relevant than the fact that it arises out of the basic precedence to which attention was paid when the Constitution of Guyana was being drafted, namely, the Constitution of India. We have heard it said that the provisions for preventive detention authorised by virtue of the Constitution of India arose out of the problems of partition. They, of course, arose out of those problems only in

part. They came at the end of the period of emergency which partition created in that vexed area of the world, and I think I can do no better than to read from a document on preventive detention which I shall have need to refer to later in my speech. It was published in a Journal of the International Commission of Jurists and written by a man who was a Judge of the distinguished Supreme Court of India. He spoke about the considerations on which the Indian legislation proceeded. He talked about the problems of partition and the problems of transition through Independence and the aftermath of war.

Mr. Luck: To a point of order. Is the hon. Attorney-General quoting and can we have the reference? [**Mr. Bissenber:** "Shut up."]

The Attorney-General: I thought I had made it clear that I was reading from the Journal of the International Commission of Jurists volume 391, page 94 - and perhaps my hon. and learned Friend, if he chooses to take interest in the matter may take notice of this reference.

"....The aftermath of the war had also driven herds of men - homeless, desperate and reckless - into the country over the borders of Assam and Bengal. And above all, disruptive communist elements, bent on violence and the overthrow of law and order by striking at vital necessities of government like railways, telegraphs, post offices and the police, and by endeavouring to suborn the army began to raise their

heads. It was also found that in some isolated areas witnesses were either terrorised or killed so that the normal function of the courts in certain classes of cases could not continue. The newly formed independent government of India decided therefore that it could not afford to take risks and that a period of stability was essential if the country was to settle down."

11.30 p.m.

In the course of the debate hon. Members referred to the Preventive Bill of India and said that our Bill was different. I should like to say that Sardar Vallabhbhai patel defended the Indian Preventive Detention Bill in the following words:

"The majority of detainees are Communists. Our fight is not with Communists or those who believe in the theory of Communism but with those whose avowed object is to create disruption, dislocation and tamper with communications, to suborn loyalty and make it impossible for a normal government based on law to function. Obviously we cannot deal with these people in terms of ordinary law ... When the law is flouted and offences are committed there is the criminal law which is put in force. But where the very basis of law is sought to be undermined and attempts are made to create a state of affairs in which, to borrow the words of the father of our Prime Minister 'men

would not be men and law would not be law' we feel justified in evoking emergent and extraordinary laws ... There are also anti-social elements raising their heads... When you say civil liberty should not be interfered with I endorse it. I appreciate what is civil liberty but I hate criminal liberty to commit violence against innocent peoples; to remove rails from the railway tracks and wreck trains and kill those in them; to dislocate communications; to set fire to public property; to attack warders in jail and kill them; to attack the police."

Let us, therefore, have an end to this talk about constitutional impropriety and violations of the rule of law. The provisions of the National Security (Miscellaneous Provisions) Bill that deal with preventive detention, that is, the provisions of Part II of the Bill, pay the closest possible respect to the mandates of the Constitution and, as I shall show later, go far beyond what is required by the Constitution in throwing up shields in protection of the individual. Indeed, I noted with some interest recently that the official publication of the Opposition Party was good enough to recognise that the Bill - while criticised in other respects by the writer - could not be said to be in violation of the Constitution. Let it therefore be acknowledged that the measure which is now before the House seeks to do no more, indeed it does somewhat less, than is specifically authorised by our national Constitution. Perhaps

[THE ATTORNEY-GENERAL]

what hon. Members opposite are now indulging in is a rather circuitous procedure for advancing a case for yet another constitutional amendment which their self-imposed absence from the London Conference deprived them of the chance of putting forward - though they have never before challenged the propriety of this provision.

The Minister of Home Affairs in introducing the Bill has quite properly reminded this House of the events of the not very distant past and has drawn the attention of hon. Members and, through the proceedings of this House, - let us continue to be realists - of the community, to the dangers of complacency and the need to guarantee for the society as a whole - and this applies to every single Guyanese whether he lives at Skeldon or New Amsterdam, at Mahaicony or Buxton, in Georgetown or Leguan, in the Pomeroon or in the Rupununi - and whose dearest wish is to live in peace with his neighbour, to bring up his family free from fear and distrust and to pursue his work in the knowledge that he shall reap its reward - to guarantee for the society the maintenance of the peace and stability we have now achieved and to deter any who may be tempted, for whatever motive, to turn us on the road back. That there are those among us who may be so tempted few in this society will deny - after all the threats of the Tri-continental Conference were as explicit as any in Mein Kampf itself - and the Government owes an obligation to other citizens when it lifts the pro-

tective mantle of the emergency provisions to ensure that there remains, albeit dormant, adequate authority to deal swiftly and effectively with threats to the safety of the public and the maintenance of order.

And when authority of this nature is being taken so that all men of peace in the society could walk free and without fear it comes strangely from some hon. Members opposite who are in other contexts and in other places full of praise for regimes that have used imprisonment, banishment and exile without trial to crush not only the freedom of the individual but the very human spirit itself - it comes strangely from these gentlemen to hear a protest that the heavily circumscribed authority conferred by this Bill in absolute compliance with the requirements of the Constitution is inimical to the society and contrary to the rule of law.

11.40 p.m.

These hon. Members say that these provisions are inimical to the society and contrary to the rule of law. They are inimical, yes, but only to the interests of those whose will it is to subvert the society - [Applause (Government).] - and they are contrary, yes, but only to the designs of those who are willing to take advantage of and abuse the forms and institutions of our democracy and the procedures of our legal system. I say in all seriousness that no amount of argument, of sophistry, or of rhetoric could ever justify the right of a handful of men and women to destroy for a whole community the chance

it has won to rebuild the national edifice in which all Guyanese may dwell in peace.

Nor has our society been unique in finding it necessary to uphold the authority of the state and to reserve the power of preventive detention as a deterrent against people of this kind. A large number of countries have found it necessary to take, and often to use, such powers, and even mature societies, whose social and political conditions have produced stability over many years, have found it necessary to adopt the machinery of preventive detention when basic national interests and the survival of the society seem to be in peril.

To a long established society this threat to survival, this peril, may seem sufficiently clear and present to justify the assumption of powers of preventive detention only in time of war, and very large societies have sought, and used, these powers only on these occasions, but to a small and to a young society, whose social and political patterns are still being evolved and whose basic institutions are still being raised, that peril to survival may exist in normal times much more than in times of war, and the time of transition over the period of independence makes such a society particularly vulnerable to a degree that longer established societies can never be.

Then, there are threats that particular societies face that others do not. A society, for example, that is cleft by racial, tribal or other sectional interests, is particularly vulnerable

to the excesses and machinations of those who are prepared to ride these differences in pursuit of their own inglorious ends.

So, too, are societies faced with the problem of containing groups within their midst who are dedicated to the overthrow of democratic institutions themselves and, worse still, where that dedication is an apostolic propagation of alien creeds, and where those who indulge in this evangelism are in receipt of material assistance and support from outside the society. [Applause (Government.)]

Two such countries, within the Commonwealth itself, have been the Federation of Malaya and the Republic of India. In our own times we have seen Malaya with its special communal problem, posed by large Malay and Chinese communities, and threatened at one time by Communist penetration from the north and, at another time, by a nationalist confrontation from the south, come to grips with this basic problem of the need to deter those who would overthrow the state itself.

When, arising out of the calamitous emergency in Malaya that ended in 1960, Malaya found it necessary to guarantee the peace that it had fought so hard to win, it did this principally by enacting its Internal Security Act. If I may read again from the Journal of the International Commission of Jurists for the Winter 1961 on the subject of preventive detention in Malaya, this is what the commentator said:

[THE ATTORNEY-GENERAL]

“With the end of the State of Emergency, the Emergency Regulations, which gave the Executive far-reaching powers of detention and supervision lapsed. The Internal Security Act was enacted to give the Federal Government the powers of preventive detention and supervision which the Government considered necessary to combat subversion and other forms of organised violence.”

The provisions of the Bill we are debating today in this House fall very far short of the authority taken by the Government of Malaya to protect the integrity of that state in 1960.

What Malaya did in 1960 was itself merely a reproduction of the processes that had been adopted across the Straits of Malacca in 1949 by the New Republic of India. Faced as India was by the problem of partition, by the problems of independence and its traditions, India recognised - and I have already drawn attention to the provisions of the Act and the considerations on which it was passed in the language of Jawaharlal Nehru - that it was necessary for the machinery of preventive detention to be enforced if the calm that had been produced by 1949 was to prevail and the new state was to preserve its integrity for the great destiny to which it was so obviously committed.

It is unnecessary for me to do more by way of reference to the considerations which led the

Indian Government to take this course. Much has been said about the size of India. India is, of course, a large country of very many millions, and numbers there quite obviously do not have the same meaning that they have with us, but I draw an opposite conclusion on this disparity between the size of India and the size of Guyana, between the many millions of India and our hundreds of thousands. No amount of rationalising can erase the fact that the central Government of India and the Governments of the states of India - but perhaps more notably the state of Kerala - faced as they were with the threat of a totalitarian communist regime, had to make constant use, long after the problem of partition had passed, of these powers to save the states, the Republic and the ordinary peaceful, decent people of India from those who were prepared to destroy them and their society.

11.50 p.m.

One does not need to go back to the earliest examples after partition to establish this. Not many years ago, towards the end of 1962, many hon. Members on both sides of the House will remember, Detention Orders had to be made in India against a large number of persons associated with the Indian Communist Party, including members of the party's Politbureau. More recently, over 800 persons were detained in India for their activities in connection with the same organisation. Let it not therefore be pretended that preventive detention in India is a left-over from the problems of partition.

I have mentioned the examples of Malaya and India because I think it would be acknowledged universally that these two countries represent a bastion for democracy in one of the most troubled areas of the world. The Government of India, in particular, under the inspiration of Gandhi and under the leadership of Nehru for so many years of its early life, and then later on under the leadership of Mr. Shastri and now Pandit Nehru's daughter, Indira, has been steadfast and resolute in its determination to keep India the democratic and free society that the Constitution of India ordained, and there are few anywhere in the world - and I ask: Are there any here today? - who will say that when these great Indian leaders found it necessary, in the pursuit of democracy, to take and to exercise these powers of preventive detention, they were demonstrating traits of dictatorship, totalitarianism, or any of the other epithets of abuse that have been hurled at this Government in the course of this debate. Let us bear in mind - and, when the time comes, we shall document this at length, if necessary - that the powers which are being sought in this Parliament fall short of the authority which has been sought and has been used by the Government of India.

A great deal has been said, both inside and outside of this Parliament, of the degree to which the Bill fetters the power of the executive in relation to the exercise of the powers of preventive detention. I acknowledge that there is a sense in which it is regrettable that it should be necessary to enact pre-

ventive detention legislation, and no amount of liberalisation in the terms of the provisions avoids the occasion for regret altogether. But the fault here lies within the society itself for it is out of the conditions of the society that the need for the legislation arises and we must all hope, and work towards this end, that it will itself help to create the conditions out of which it may become possible to enable the Bill to lapse and be terminated without recourse having been made to its use.

But when the good faith of the Government in bringing forward the legislation is being questioned, when allegations are being hurled that the Bill represents an attempt by the Government to take to itself autocratic powers - my hon. Friend allows himself the extravagance of saying "Police State" - when it is suggested, in some way that I have not been able to comprehend, that this Bill seeks to destroy the Opposition and prevent elections, then it becomes relevant, it becomes necessary to examine the provisions of the Bill, to desist from talking in areas of generality, and to see whether it is the case that the Government has sought to assume the maximum power available to it under the Constitution and to avoid all challenge of its exercise of the authority it has taken by excluding, as far as is constitutionally possible, all possibility of restraint, or whether, in fact, in framing the provisions of the Bill, the Government has taken as little authority as is necessary to protect the interests and welfare of the whole community, and has even, within the limited

therefore, to these questions that I should now like to turn.

scope of the provisions, imposed restraints of one kind or another designed to safeguard the individual, on whom the powers are being exercised, against abuse or excess of authority. It is, therefore, to these matters of major importance in the provisions of the Bill itself that I suggest the attention of this House ought to be directed and that we should cease to concern ourselves, in this forum, with uninformed vituperation. It is

ADJOURNMENT

Resolved, "That this Assembly do now adjourn until Wednesday, 23rd November, 1966, at 2 p.m."
[**Mr. Bissember.**]

Adjourned accordingly at 12 midnight.