equally certainly that period has also dawned in our own history. If we understand these things, and if we understand the background against which it is happening, we may also with great justification say to these people who are responsible for this state of affairs: "It is not the franchise you want; it is my country you want."

Let us make no mistake. I am perhaps in a position to understand this better than hon. members because these documents come before me daily. I have insight into these things which hon. members for understandable reasons do not have. I am acutely aware that the basis of everything that is happening, that the impetus behind these things that are happening, is to be found in the fact that there are people in South Africa, in Southern Africa and in the world, who hold the view that the White man has no place here in South Africa; that he is not only a trespasser here, but that he is a trespasser who has to be removed as soon as possible. That appears from the documents that come before me and I shall produce the proof. If there is one thing that is very clear if one sees these occurrences in their proper perspective, it is this: Because the basis of this conflict is a conflict against the White man, it is immaterial what political policy is necessarily being applied in a country. Kenya pursued a policy of equality in every respect, and faithfully carried out that policy. That did not stop the Mau-Mau from perpetrating the most horrible murders perhaps known in world history. Angola pursues an official policy of assimilation. That did not prevent 2,000 White people, according to Press reports, dying under horrible circumstances. The Federation pursued a policy of "partnership". That did not prevent the occurrence of more misdemeanours in the Federation than in the Republic of South Africa. The Republic of South Africa pursues a policy of apartheid. Here it also occurred.

What then is the background of these two movements in South Africa which are responsible for the Government coming to Parliament in this manner? The African National Congress was founded in 1912. Their objects, as announced by it at the time, were fourfold: (1) To unite all Bantu in the Union of South Africa (as it was at the time), the Protectorates and South West Africa; (2) to promote and to protect the interests of the Bantu; (3) to oppose all discriminatory legislation; and (4) to strive for the franchise for all people above the age of 18 years, irrespective of race, colour or sex. Therefore that principle to which I have referred is not a new one; it is a principle contained in the original deed of establishment of 1912. Nor are difficulties and problems in connection with it new. Older members, as children in those days, will remember the I.C.U. and Kadali, when Ballinger was his private secretary.

At the time of the establishment of this African National Congress communists and Communism had of course not yet become as prominent as they became later on. But as this movement grew and as Communism developed in the world and took shape, Communism also seeped into this movement. Hon. members must understand very well that many of the files I am working with to-day date from the 'twenties; others from the 'thirties; others from the 'forties when hon. members opposite were in power. So the picture has been built up from the files which are in my possession. In 1936 particularly a radical change occurred in the affairs of the A.N.C. when one J. B. Marks—I think all hon. members know him as one of the communist agitators of the past—became the Secretary-General of the African National Congress. From that moment Communism took over the African National Congress hand over hand and made it its tool. In 1947—I get this from the files of those times when this Government was not in power—there were no fewer than seven communists on the Executive Committee of the A.N.C. In 1949 we find that Moses Kotane, the Secretary-General of the Communist Party, was put on the National Executive Committee of the A.N.C. So there were communists not only within the A.N.C., but they now publicly proceeded to create a link between the Communist Party on the one hand and the A.N.C. on the other. Of course, as hon. members are aware, the A.N.C. is a Bantu organization. But parallel with this Bantu organization, the other communist organizations, communist-controlled organizations or communist-inspired organizations grew and came to the fore. There was, so far as the Indians were concerned, the Indian National Congress. There was the South African Coloured People's Organization. And after the banning of the Communist Party there was the Congress of Democrats which, as is universally admitted, also by the Opposition, was the continuation of the Communist Party in South Africa. All these various groups together, Whites, Indians, Coloureds and Bantu, in some cases out-and-out communistic, in some cases communist-inspired, constituted the Congress Alliance. The Congress Alliance consisted (and the communists saw to that) of the leading communists or their fellow-travellers so that they gained absolute control over all these organizations. No wonder then that all these organizations came together at Kliptown in Johannesburg on 25 and 26 June 1955, and drafted the well-known "Freedom Charter", the Freedom Charter which is nothing else but the communistic blueprint for Southern Africa.

Amongst themselves there was peace between these groups. They were quite satisfied to co-operate with one another on the basis on which they achieved co-operation in order to achieve the same objects. But gradually quarrels and rows ensued within the African National Congress, not quarrels and rows about the ultimate object of everything, not quarrels and rows about what they ultimately wished to bring about in South Africa, but quarrels and rows among themselves on the one hand in consequence of jealousy, and on the other hand as a result of the charge made by certain A.N.C. members against others that White Communism had gained too strong a hold on the movement and was exercising too much influence upon it. That is why there was the clash between Sobukwe on the one hand and the A.N.C. leaders Mandella, Nokwe, Tambo and Luthuli on the other hand. Sobukwe and his followers adopted the standpoint that they were no longer prepared to associate themselves with the A.N.C. because they believed that too much White communistic influence had infiltrated into that organization, and also because they believed that action should be taken more expeditiously than the programme thus far had been. That is why they broke away in 1959 and established the Pan African Congress.

It is interesting to note, Mr. Speaker, that when the Congress Alliance met at Kliptown in June 1955 another body also was present there, a body which professes that it is not communistic, and some of its members in fact are not communists; I am assuming that the majority of its members are not communists, and that was the Liberal Party. They also were present at this conglomeration to which I have referred. Hon. members who do not know the history may have an idea that these stirrings and incidents that happened, happened only yesterday or the day before; that it is merely the result of my actions or the actions of the Government, or whatever it may be. I say, Mr. Speaker, that these things have a long history, such a long history that the Committee on Foreign Affairs of the American Congress gave instructions, before this Government came into power, that there should be an inquiry into the activities of the leading communists and how they are linked together outside Soviet Russia. That Committee completed its work and reported to Congress early in 1949. I have the official document as submitted to Congress and as it was released here. It is interesting to note that this was before the Suppression of Communism Act was passed in 1950. It is interesting to note that the names and the biography of each one of them is set forth in that document. They had to compile a list and eventually they compiled this list, a list consisting of 506 names of people, people whom they called the most important communist leaders in the world outside Soviet Russia—506 dangerous people. It is interesting to note that 39 names are given for France, and 14 for the small South Africa. The findings of this Committee are interesting, viz.—

> In origin many of them are not proletarians and at least one out of five has had university training. There is a substantial sprinkling of professionals amongst them, including teachers, architects, doctors, engineers, lawyers and economists.

I may refer to it now, for the matter has been disposed of. During the past few days a man called Masondo, if my memory serves me correctly, received 12 years for sabotage. He was a lecturer at a university college at the age of 26 years. He can never plead that he did not have chances; at 26 years of age he was a lecturer at a university college and he had every opportunity for advancement. He could have become a professor, which he could never have become under other circumstances. Yet he committed this crime.

I wish to refer to some of the names. Some of them have died; some of them are still very much in the picture which this Committee found to exist in South Africa. Lionel Bernstein: he is one of the people who have been placed under very severe restrictions in Johannesburg. Brian Bunting: another man who has been placed under restraint. Fred Carneson: a man who has been placed under very severe restrictions by me. Dr. Dadoo: who has fled and is somewhere overseas at present. Michael Harmel: a man who has not worked throughout the past 20 years, but who is living in more comfortable circumstances that many of us in this House. His name was mentioned at that time already as one of the leading communists. Moses Kotane: leader of the African National Congress and of the Communist Party. Harry Naidoo: a person against whom we also had to take steps. Ponen: against whom we had to act. Then I refer here to one person, merely to bring the argument into focus clearly, Betty Sachs: she became very ill and to the best of my knowledge she has died. Her description, according to this Committee, is as follows—

> Foremost woman leader of South African Communist Party. Born in England. Wife of Dr. George Sachs, well-known surgeon in Cape Town. Journalist. Worked on the *Cape Times*. Now editor of the *Guardian*, a weekly which is responsive to South African Communist Party. Communist member, Cape Town City Council 1943-6. Did not stand for re-election in 1946 because of ill-health. Defeated for re-election August 1947. Charge of sedition against her in connection with 1946 strike at Witwatersrand gold mines withdrawn in August 1947.

You will recall, Mr. Speaker, that there was a strike that had a bloody end in 1946. Hon. members from the Rand are aware of it. That strike of 1946 very clearly showed that it had been organized by the communists of that time, and some of them are still the communists of to-day. Now people tell me that it is an easy matter to bring these people before the courts and to prosecute them. Do you know, Mr. Speaker, that that case which was brought against those people lasted from 1946 to 1947, and that ultimately nothing came of it? Nothing came of it, not because the Government of the day was unwilling to act, but nothing came of it because these people carry on in a way in which normal people do not carry on; because they do not play the game according to the rules; because they expect others to observe the Queensberry rules, but they do not allow themselves to be bound by any rules whatsoever. Those same

their discretion. I merely wish to give the magistrate the discretion to refuse bail when he deems it necessary, and I have reason to believe that there is not a single hon. member who will quarrel with me because I am doing so. The magistrate may then also, as hon. members will find, add certain conditions when he releases the person on bail. But I think it is fit and proper that magistrates should have this power, and I think it is fit and proper that these subversive elements should understand that bail will in future not be a right, but a privilege which it will be within the discretion of our courts to grant or to refuse.

Clause 2 of this Bill is a consequential amendment and therefore I need not go into it.

Clause 3 of the Bill relates to the definition of "place". Now I am aware that as it stands here it sounds very funny, but those are the ways and methods of the legal draftsmen. Here a definition of "place" is given, and it flows from the fact, and hon. members must bear this in mind, that the Cape Court and the Full Bench of the Transvaal have held that the old definition is a valid one and that action in connection with it was in order, but in spite of the two court decisions (and they are the only two in my favour) I should like to state very clearly in this new definition what Parliament means by it. That is why it is said here—

> "place" means any place, whether or not it is a public place, and includes any premises, building, dwelling, flat, room, office, shop, structure, vessel, aircraft or vehicle, and any part of a place;

Now if a place is not a place hereafter, it will not be my fault! Before hon. members perhaps ask me this question: "But do you now want to restrict a person to a room or to a vessel or to an office or to a shop or to an aircraft or a vehicle?" I should like to say this: No, but the definition has to be like this, because if we make a study of the 1950 Act, we find that the word "place" plays a role in respect of two matters. It plays a role in so far as the Minister is empowered to say to a certain individual: You have to stay at this place; you may not remove yourself from this place. That is what is popularly called "house arrest" or "24 hour" or "eight hour" arrest or whatsoever one may wish to call it. That is the one side of the matter, that you can tell a man that he has to remain at a certain place. The other side of the matter is that you must be able to say to a man: You may not be at a certain place. You must be able to say to a man: "You may not board a ship," or "You may not board an aircraft or a vessel"; "You may not enter this office or that building or that shop." If hon. members were to ask me whether that is necessary, I shall tell them that it has definitely been found to be necessary in practice. We have applied it with good results, and there will be court cases from which hon. members

will be able to understand better how necessary it is that it should be inserted in the principal Act.

Then we come to Clause 4. This is a long clause and it has been drafted in a complicated manner. I appreciate again that the principle of this is drastic. The principle is nothing more nor less than that the Minister is given the right further to detain a person—that is to say, in respect of a person only who is serving a term of imprisonment, and not just any person, and this does not apply to every person serving a prison sentence either but only to certain persons. It is not just every kind of imprisonment, but imprisonment under the laws referred to in this clause; in other words, it is imprisonment that is concerned with the security of the state. It does not relate to imprisonment in respect of any other crime. Then the Minister may cause such person to be detained in custody for a longer period. I want to tell hon. members why we are inserting this clause. We may find it necessary. Hon. members are as aware as I am that Sobukwe will have served his sentence on 3 May and if hon. members have read their newspapers, they will know as well as I do that he was firstly the leader of the P.A.C., and I can tell hon. members there has been no change of heart in him during the time he has not been in our midst. I want to put it to hon. members candidly, so that they may place themselves in my position. If the Government—and the Government has to consider this matter—comes to the conclusion, having regard to the circumstances as they have developed, and the facts as exposed in the Snyman Report, that it would be failing in its duty to the peaceful citizenry if it were to set this man free, this clause will be used to keep him there longer. Sir, I know it is challengeable. I know the principle is that here is a man who has served his sentence but having regard to the circumstances, the Government may decide that it may be necessary for the security of the state to do so. For here we are dealing with a person—let me say this—who has a strong, magnetic personality, a person who can organize, a person who feels that he has a vocation to perform this task, well knowing what methods will be applied, as I have told the House earlier. That is the principle of Clause 4.

The principle of Clause 5 deals with persons who overseas make public appeals to Governments, bodies or organization to use force against South Africa. Let me put it very clearly to hon. members that anybody may do so, should he wish to be so unpatriotic as to besmirch his fatherland here and abroad, but I think hon. members will agree with me that nobody should have the right to do so. If he does so within the jurisdiction of our courts we can indict him, but nobody ought to have the right to appeal in a foreign country to foreign authorities to perpetrate armed aggression against South Africa. And if a person does that, he ought to be liable to punishment. I have been advised by the Attorneys-General

that this is not a punishable offence and that is why I am introducing the clause to make it a punishable offence for a person to advocate the use of force of arms against his own country. It does not concern criticism, but it concerns the use of arms against the fatherland.

But there is another aspect of the matter which is more important, and that is the second part of this clause. It deals with persons from the Republic who proceed abroad to be trained as saboteurs. Hon. members will find that in (b)*ter* of Clause 5. Now I can tell hon. members the *modus operandi* is as follows. They slip out of the Republic by various routes. They meet in a camp just outside Dar-es-Salaam. There they are provided with travel documents, officially, by the Government of Tanganyika. With those travel documents they then proceed to Addis Ababa and some remain in Ethiopia while others go to Egypt and some to Ghana and there they are trained as saboteurs in sabotage camps. [Interjection.] Yes, the hon. member may very well ask whether that is the thanks South Africa deserves from Ethiopia. Then they are trained as saboteurs, and they return to South Africa. Now I want to tell hon. members candidly what my problem is. I can prove to the Court that he comes from this country. I can prove that he departed unlawfully from the country. I can prove to the court that he went to that camp, and that he received training as a saboteur there. That is not my problem. I can prove all that, but according to the Attorneys-General that is no crime. When he returns, I cannot charge him with anything, save that he left the country unlawfully and the maximum penalty for that is two years' imprisonment. Therefore I do not wish to take administrative action against him. I say we should make it a crime for any man from this country to be trained as a saboteur in a foreign country, and when he returns we should be able to punish him, and the punishment prescribed in the Bill is the same as for sabotage, viz. a minimum of five years with further punishment in the discretion of the court. I believe hon. members will agree with me that we cannot permit people to receive such training in the countries I have mentioned.

I should like to say this, though. I know that Leballo is a braggart, and that is why I have never contradicted him. I wanted him to put his foot into it, and now he has done so. Now I should like to read a letter from him to one of his confidants here to indicate to hon. members the mentality of this type of person. He writes as follows from Cairo—

> I am leaving Cairo to-morrow. I had the great honour of being received by President Nasser. The interview with him lasted half an hour. He treated me with great friendship. He is a great friend of the African people. If we trust him and do as he tells us we will have our freedom as the Algerian people who trusted him and were guided by him have theirs. I was surprised. He knows everything that goes on in South Africa. He says the White man is really a coward and will run as the French did in Algeria. With the help of Egypt, Ghana and Algeria and our brothers on the African Continent, we shall yet drive the White man into the sea and possess this beautiful land of ours. Nasser is a wonderful man and a great leader. He reminds you of a lion. He is a giant in body and in mind. His power fills the room where he is. Every time he mentioned Verwoerd's name and the way he is oppressing the poor Africans, "my South African brothers", he called us, his face became full of hate and bitterness. A dark cloud came over his face and sparks seemed to fly out of his eyes. He told me he has two ambitions in life, to drive the Jews out of Palestine and the last White man out of the African Continent. He says the world does not realize how strong Egypt is. The world thinks it is the Egypt of the playboy Farouk. He says he has hired the best German scientists who are working for him day and night making rockets and other weapons which are not possessed by any other country. He said that when the time comes—and it will be sooner than Verwoerd thinks—the whole of Black Africa with Egypt, Algeria and Ghana in the lead will march on South Africa and the White man will be driven out or butchered. Kuanda, he said, has promised full use of Northern Rhodesian territory, and other African leaders without one exception have promised full use of their territories to attack South Africa. Meanwhile the White man must be struck down wherever possible. The policy in Algeria was right. A Frenchman was killed on sight wherever possible, and the French ran for their lives. "Kill the White pigs," he said, "Kill, kill, kill!" he roared like a lion. "That is the only policy that will succeed."

I say Leballo is a liar and a braggart and I cannot vouch for the truth of what is written here, but particularly I wished to show the mentality of this type of person we are dealing with.

Clause 6 of this Bill provides merely that there may be joint trials of persons for these crimes, and it is not necessary to dilate upon that. Clauses 8, 9, 10 and 11 deal more particularly with the recommendations of the Snyman Report. It will be noted that in Clause 11—the others are consequential—effect is given to the Snyman Report, and that preparatory examinations are dispensed with when in the opinion of the Attorney-General there will be interference with witnesses, or that witnesses will be intimidated, or when he deems it to be in the interests of the security of the State or in the public interest. It will be noted that the Snyman Report recommended that special courts should be established, and in Clause 11 (2) effect is given to that recommendation. This sub-section provides as follows—

A summary trial in a superior court may be held at any time determined by the Attorney-General and at any place so determined within the area of jurisdiction of the division of the Supreme Court concerned.

In referring to special courts, the Snyman Report did not mean that they should be courts of three Judges or this or that. All that was intended by the recommendation was that these cases should be brought to trial as soon as possible and that accused persons should be dealt with as expeditiously as possible, and that is what this clause does.

Clause 12 deals with the onus of proof in respect of crimes committed outside the Republic. Hon. members will recall that last year the principle was discussed of reports appearing in other newspapers, and which may under certain circumstances be accepted as *prima facie* evidence of the commission of such crimes.

Clause 13 deals with an amendment of the Post Office Act. Under our legislation at the moment—and hon. members who are interested might compare our Post Office Act with the British Post Office Act—the position is that if the Attorney-General happens to hear that there is postal matter in existence that may shed light upon a crime, he may request the Postmaster-General to hand that postal matter over to him, and then the Postmaster-General has to hand that article over to him. That has been our law since 1910, and during all hese years the law has been applied accordingly. We are still applying that principle, but we are merely going further now and saying that not only shall the Attorney-General have the right to direct the Postmaster-General, after hearing that there is such a postal article in existence, to give it to him, but the Postmaster-General is now given the right to say to the Attorney-General: I have here with me a postal article I reasonably suspect of containing evidence of a crime. Then the Attorney-General may say: Give it to me. The Postmaster-General or his officials do not open it. He only has to have a reasonable suspicion that it contains evidence of a crime, and he can then report it to the Attorney-General. As the law stands now, he dare not do so. What is the position now? Firstly, communist literature is sent through the post. All of us are aware of it and we want to put a stop to that. But that is not all. I have said by way of an interjection—and the hon. the Leader of the Opposition will recall it—that Pogo have changed their name to the Night Club for their own purposes. In the meantime they have already changed their name once again, but I leave it at that. Now it happens that Leballo and his people are sitting in Maseru. They send telegrams to their people here in the Republic, openly through the Post Office. The whole thing deals with night clubs and jive sessions. It is a simple code to decipher if one knows it, and according to law the Post Office has to deliver it. That is valuable evidence. In the normal course we must wait until the telegram is delivered and

then if there is a court case, we may ask the Postmaster-General for the original as it was handed in, to be used in evidence. But now we cannot obtain the original because the telegram was dispatched from Maseru. Hon. members will appreciate my difficulty from the point of view of evidence. In order to rectify this matter, it is necessary to have this clause. I want to go so far as to say that according to my interpretation this clause does not even go as far as the British Post Office Act, but I leave it at that.

I now come to Clause 14. Hon. members will recall that the Snyman Report found as a fact that Pogo is the same as the P.A.C., and he has drawn attention to the tremendous waste of time involved when in every specific case—and I have said how many cases are pending—lengthy evidence has to be led to show that Pogo is the same as P.A.C. All we are doing now is to incorporate that recommendation in this Bill. We are doing it in this manner, and that is the only way in which it can be done, by saying that the State President may by proclamation announce that B organization is the same as A organization, which is a prohibited organization. We have here four prohibited organizations, the Communist Party, the Congress of Democrats, the A.N.C. and the P.A.C. The State President may issue a proclamation declaring that Pogo is a continuation of the P.A.C. and the court must then accept that as proof that the two are the same. I need not dilate upon that, because it has been fully motivated in the Snyman Report, and as I understood the position, all of us have accepted the recommendations of the Snyman Report.

Clause 15 deals with the judgment in the Nokwe case. It really is of interest to lawyers only and I do not want to detain the House long on that. Clause 15 merely inserts the words "or objects similar to the objects of any such organization". Briefly the position was that Nokwe and others were convicted by a regional court of continning the A.N.C. The court found that the organization they were dealing with was similar to the A.N.C. but it said that the fact that it was similar in every respect did not mean that it was the continuation of that organization. That is why we are now inserting these words to put the matter beyond all doubt.

Then I come to Clause 16. After dealing with the other clauses I shall revert to this clause. Clause 17 I can, and do, assume to be perhaps the most contentious clause in the Bill. Let me say at once that it is a clause one lays before the House of Assembly with some reluctance, and will apply with reluctance. But in recent times it has become very clear to me—and I had very lengthy discussions with the police officers in connection with this matter—that it is absolutely essential that we should have this clause at this stage. The principle of the clause is that a person—and again not just any person—who is connected with crimes affecting the security of the State, and only such a person, may be

detained by a police officer—in other words, by a lieutenant or a person of higher rank—for interrogation, and until he has answered those questions to the satisfaction of the Commissioner of Police, but in no case for longer than 90 days. I appreciate it is not a provision that is proper in peacetime. I appreciate the responsibility that rests upon me in asking the House for this, but in regard to certain cases that are now pending, and which are of absolutely vital importance to us, we would have been able to make much more progress if he had had this provision. We would have been in a very much better position than we are in now. That is why, in spite of this, I have no hesitation in commending to the House that this clause be approved in this form. I repeat that South Africa is not the only country where people are so detained. In other countries of the world it has also been done when in the opinion of their Government, rightly or wrongly, it was necessary to do so. I do not wish to mislead anybody in respect of this section. This section then provides that nobody shall have access to the detainee without permission, and unfortunately it also provides—but this is absolutely necessary, and I shall give the reasons for this in the Committee Stage if I am requested to do so—that such a person shall not have access to his legal adviser without permission. I as a lawyer realize what I am doing here. I realize that I shall probably incur the displeasure of my own colleagues but I am prepared to do so for the sake of the security of the State, which I believe is at stake here. Hon. members will also find that *habeas corpus* is suspended here. It is necessary to do so, and in the Committee Stage I shall give the reasons for it.

Clause 18 deals with protected places, namely certain places of strategic importance and of vital importance to our economy, and provides that those places may be designated as protected places, and that people who are not authorized to be there may not be there; and that it should be properly fenced in and demarcated, and that the Minister may act in connection with it.

Those are briefly the principles contained in this Bill. Now I have been asked whether this Bill gives effect to the Snyman Report. It does in fact do so. I took the liberty of submitting this Bill to the hon. Mr. Justice Snyman as it stands now, after it had been drafted, and I did so by way of a letter, and I have his permission to read it to the House. This is what I wrote him—

> With reference to your interim report on the Paarl riots, I take the liberty to forward herewith a copy of a Bill I propose to lay before Parliament for its consideration as soon as possible. You will note that the Bill does not deal only with the matters dealt with in your report, but also with other related matters. As regards the question of special courts, I specially draw your attention to Section 11 (2). It think that is what you had in mind as I understood it.

Because I had a discussion with the hon. Judge about it, as to what exactly he meant by special courts, as it is capable of more than one interpretation—

> I shall appreciate it if you will inform me as soon as possible whether this gives effect to your recommendations, or what comments you have to offer.

Thereupon I received the following reply from the hon. Mr. Justice Snyman—

> In reply to your letter of the 16th instant I should like to inform you that the Bill you were kind enough to forward to me for comment covers the points mentioned by me in paras. 25 and 26 of my interim report. Clause 11 (2) gives a correct reflection of what I meant by "special courts". I note that some of the other provisions of the Bill also relate to subversive activities. If I may comment upon it, I should like to mention that my inquiry has led me to the following conclusions:
>
> (1) Although the P.A.C. movement is widespread, it does not enjoy very extensive voluntary support in the Republic. The vast majority of the Bantu population are peace-loving and law-abiding. However, they are living in fear of the P.A.C. (or Pogo, as they call it). On many occasions, and wherever I was making inquiries, I found proof that the ordinary Bantu looks to the White man as his protector. This is the very reason why I so urgently recommended that steps be taken for their protection.
>
> (2) The P.A.C. itself suffers from a serious lack of proper organization and discipline. In particular there is a struggle for leadership among potential leaders. A good deal of the rash acts of violence we have experienced were planned and executed by such undisciplined persons with a view to their own aggrandisement, and in the hope that thereby they would increase their status and their chances of leadership. The hostility towards the traditional tribal system of the Bantu also follows from this craving for leadership. The tribal chiefs stand in the way of that.
>
> (3) The acts of the P.A.C. are twofold: Firstly, they want to compel the Bantu to accept their leadership by the cruel and violent manner in which they deal with the unwilling Bantu people; secondly, once that has been achieved, they want to drive the White man out of the country and take over the Government.
>
> (4) The State must prepare itself for the position that the attacks and other activities of the P.A.C. will probably continue for several years, because the posi-

tion will have to be faced where fugitives will constantly attempt to continue the movement from outside the Republic. For this purpose they are availing themselves of the protection given to them by other countries (including the neighbouring states). The P.A.C. is also being provided with financial support, training and advice from such places.

5) A further difficulty the State has to contend with is that imprisonment restrains such evildoers temporarily only. Imprisonment, from the nature of things, seldom if ever serves as a deterrent to them, for when they are released they are lauded and so encouraged to resume their activities. Therefore steps are necessary to deal with this position. However, I have to point out that to send such persons back to their tribal areas after their release also creates problems. Complaints have been made to me that such persons will not adapt themselves to the tribal customs and ignore and undermine the tribal authority. Such persons could also very easily continue their activities from there, or flee the country and continue their subversive activities from elsewhere.

6) Another point I should like to mention is that of the onus of proof in cases where the security of the State is at stake. It is an established and salutary requirement in our common law of evidence that in a criminal matter no person shall be convicted of a crime unless the State can prove his guilt beyond reasonable doubt. That is in contrast with the onus of proof in civil matters where decisions are given according to the balance of probabilities. It may happen in a criminal trial that a Judge may not believe the story of an accused because it conflicts with the probabilities, yet he has to accept it and discharge the accused if it is reasonably possible that the accused's story may be true. This onus of proof in criminal law may therefore have the effect that steps cannot be taken against persons who in all probability are involved in the plots against the State. Yet such persons may in all probability be engaged in exerting themselves to overthrow the State and to endanger the lives of its citizens. In my view the Legislature should consider whether a procedure cannot be created to deal with such subversive activities outside the ordinary criminal processes.

7) In conclusion I note that in Clause 17 you are making provision for the detention of certain persons for interrogation for not more than 90 days. That of course is a principle which conflicts with the principles of our common law, and a departure from such a principle could never be subscribed to in normal times. However, the question arises whether, having regard to the circumstances as exposed during my inquiry, and the "cold war" here and in the world, the present time may be regarded as normal. So I am reluctant to comment upon the matter, but in this connection I endorse the proposition recently stated by ex-Judge H. de Villiers that the security of the State sometimes requires that the rights of the individual shall be restricted, reluctantly but necessarily. I do not wish to create an impression of despair by what I have said. There is no need for that, but the P.A.C. is a cancer in our community, particularly to the Bantu people. I am offering these comments because I think it can be exterminated provided it is dealt with firmly. It should not be permitted to develop.

Yours faithfully,

J. H. SNYMAN.

Those are the comments I have received from the Commissioner who has an intimate knowledge of these matters.

I should like to conclude by saying that I have no hesitation in submitting this Bill to the House; that it should be clearly understood that I am not introducing this Bill as an act of panic, but that I am doing so knowing that the South African Police as well as the citizens of South Africa, to whatever political party they may belong, will together exterminate this cancer in our national life; that hereby we are creating weapons to exterminate those cancers in our national life. I have said on previous occasions that we have had much success and we are very thankful for it. From the very nature of things, I cannot give hon. members the assurance that we are out of the wood. As far as I am concerned, I know the difficulties and problems facing us. I go to bed with them and I rise with them. I know exactly what the problems and difficulties are. It worries me and it bothers me from the very nature of things because I am bearing the responsibility in connection with it, but from the bottom of my heart I wish to give that assurance to the House this afternoon that although those worries are with me constantly these days, I have never worried about one thing; I have never for a single moment been worried about the fine future of this Republic of South Africa, our fatherland.

Sir DE VILLIERS GRAAFF: Before dealing with the contents of this Bill or the case which the hon. Minister has made for it I should like once again to associate myself with the remark made by the Minister and complete the remarks which I myself made only a day or two ago in this House, expressing a sincere debt of gratitude to the S.A. Police for the job that they have done in respect of the situation which has been painted to us both by the hon. the Minister and by the Commissioner who inquired into the Paarl riots and the circumstances surrounding it.

Having said that, I think, Sir, that we must all appreciate that we face to-day the end of another melancholy chapter of the deterioration of the position in respect of race relations in South Africa under this Government. The hon. the Minister was careful to-day not to speak of crises; he was careful to-day to state his case moderately, but nevertheless to leave the impression, as I think he meant to do, that we have faced and are facing a serious situation. He did not recall the contents of the Interim Report of the Commissioner, Mr. Justice Snyman, which revealed that a shocking state of terrorism had developed in certain of the Bantu urban townships in and around this part of the world.

The MINISTER OF JUSTICE: I dealt with that in the Senate.

Sir DE VILLIERS GRAAFF: The hon. the Minister may have his excuses for not saying so, but it is nevertheless right that I should remind the House that that was one of the matters dealt with in that report and that particular emphasis was laid on it. I think we must also call to mind that that report indicated that in many respects the ability of the Government to protect the law-abiding Natives was not what it should be. I think that report indicated also the tragic situation that the Government was unable to protect its own witnesses in many cases between preparatory examination and trial and for that reason made certain recommendations to the hon. the Minister.

The MINISTER OF JUSTICE: Surely you know what the position is.

Sir DE VILLIERS GRAAFF: I do know what the position is, tragically. I think it is a most tragic position, and what makes it so tragic is that warnings have been given repeatedly from this side of the House as to the dangers of a situation developing of the kind which we have seen developing, as reported in that commission's report. Sir, in 1950 when the Suppression of Communism Act was under discussion, I well remember that I myself said that the Government did not seem to appreciate that if they are going to destroy Communism, they must assist in removing the causes for its very existence. I remember saying (Col. 9126)—

> The foundations of our democracy are always subject to attack, both from the right and from the left. From both they can be protected to a large extent by cutting away the very ground upon which the attack is based, by removing the causes which render that ground a fruitful seedbed for the dissemination of undemocratic ideologies.

The MINISTER OF TRANSPORT: In what countries of the world have they succeeded in doing that?

Sir DE VILLIERS GRAAFF: The hon. inquisitive Minister of Transport wants to know in what countries in the world they have succeeded in doing that. I would suggest to the Minister that he should make a point of studying—I think I have recommended it to him before—the history of Communism in Great Britain and the loss of its influence and the deterioration of its power, and the history of Communism in the United States of America and how it has been destroyed.

An HON. MEMBER: You are excelling yourself in platitudes.

The MINISTER OF TRANSPORT: I have read it.

Sir DE VILLIERS GRAAFF: I do not think the Minister has read it. I think the Minister must go and read the book "I Lead Three Lives"; I think he must read the "Story of the Pentagon" and a few others and perhaps we will get the Minister educated in due course in the study of Communism, because he seems to have the idea that you can defeat ideologies with legislation. You cannot. You can only defeat ideologies by placing against them ideologies which get so much more public support that those other ideologies vanish. I want to recall again that in 1953 when we were faced with the Public Safety Act I myself had to say (Col. 1095)—

> The time has arrived for us to get together in the spirit of our forefathers to find a solution for this problem. . . . While we can see that these powers are necessary at the moment we realize that they bring us no nearer to a solution. They are merely a stop-gap and I think hon. members on that side of the House would do well to reconsider their attitude with regard to these matters.

In the third-reading debate on the Public Safety Bill the warning was given again. In 1960 when the Unlawful Organizations Bill was before this House, ten years later, I said—

> Now, we have said that we are prepared to co-operate to restore law and order but the restoration of law and order is not enough. I am afraid that if this Government stays in power, no matter what powers we give them there may well still be recurrences of these incidents. I believe we will never get to the end of these troubles until we have got rid of this Government.

Later on in the same debate I said—

> The alternative is going to be more friction, more frustration, more powers to the Government, more disorder, more banning and ultimately perhaps a racial explosion.

The time has come when there must be a reappraisal.

Then in 1962 when the Sabotage Act was before this House I had to say (Col. 6113)—

> My own belief is that this Government is bound to fail if it continues on its present course. My own belief is that it is bound to have to ask for new powers continually.

Then in Column 6114 I said that it would have to ask for more severe and greater despotic powers and then I went on to say: "It is my great fear that we shall be proved correct again." Well, we have been proved to be correct again, to my great regret, to my very great regret. This Government has had to come again for the umpteenth time to ask for more power: 1950, 1953, 1956, 1960, 1962, and now 1963—each time for more drastic powers for the Government to contain the situation. The Minister is warning us that he does not believe himself that this is the end either. He believes that he is going to have to come to Parliament for more powers. Sir, what are the causes which have led to this situation?

The MINISTER OF COLOURED AFFAIRS: Read your Press and your own remarks.

Sir DE VILLIERS GRAAFF: Sir, I do not intend ignoring a man who has the impudence to make a statement of that kind because you see, Sir, that is the attitude of mind that is leading to the trouble in South Africa to-day. Always blame somebody else; never look in your own heart and see what mistakes your own Government has made. That is the tragedy. We have warned the Government time and again that they are unable to protect the law-abiding Natives in our big urban centres who have become nothing more nor less than a rootless proletariat with no real stake in the maintenance of law and order. We warned that they were becoming a fertile seed-bed for the dissemination of foreign ideologies, ideologies which are unwelcome to us. We have warned that the position is aggravated because all over the world the tendency is in the direction of greater rights to the individual; here in South Africa the trend is in the direction of diminishing rights to the individual. We pointed out how important it is to have respect for human dignity. Here in South Africa we see less and less regard for human dignity. Sir, we have warned the Government that they are breaking down the bridges for consultation but they continue on that road and they are beginning to reap the whirlwind as a result of what they have sown. Now, Sir, one is faced with something else and a result of some of the evidence led before the commission and recent convictions in the courts here in Cape Town; we have seen that corruption amongst certain of the administrators in those urban townships must also be a factor which makes it easier to intimidate people into following organizations of this kind.

The MINISTER OF INFORMATION: What about talking about some of the town councillors?

Sir DE VILLIERS GRAAFF: I would not deny that for a moment; it might well contribute. Perhaps the hon. the Minister knows more about that than I do and I am not trying to imply anything; I am merely saying that the Minister knows more about that than I do. I believe that where you have corruption on the part of people who are in charge of vast masses of individuals of this kind, you create a most unhappy situation.

We know that the Government is asking for greater and greater powers. We know the legislation that they have had to put on the Statute Book and we have heard to-day from the hon. the Minister the history of what started the A.N.C.; how it divided to become the A.N.C. and the P.A.C. and how the P.A.C. became Poqo. Sir, I think the Minister has left out some rather important aspects of that history. I think he has left out the starting of the youth movement in 1944 which developed into the P.A.C.; I think he has left out the starting of the women's movement in 1944. I think he has forgotten the comparative period of peace while the Natives' Representative Council acted to an extent as a safety valve and to a limited extent as the mouthpiece for certain of the ideas for which that organization stood. I think he has forgotten the comparative period of peace during the time that the old United Party was in power before the present Government took over.

The MINISTER OF JUSTICE: Was there bloodshed in 1946?

Sir DE VILLIERS GRAAFF: I remember the bloodshed in 1946. I know all about it. Does it compare with what has happened since? Sir, where are we to-day; what is the stage we have reached? We have had a restrained report from the Minister and we have the report of the Snyman Commission to which we should have regard. The Minister has not talked to-day about there being calm and peace in South Africa. He has warned us that there may be further trouble.

The MINISTER OF JUSTICE: I said so all along in every speech I made.

Sir DE VILLIERS GRAAFF: I do not deny that; I do not know why the Minister interjects. He warned us that there may be further trouble. He has told us to-day that he does not say that the P.A.C. or Poqo is broken but he believes it has been given very severe blows and that it is by way of being in retreat and that it is in a situation where there is every chance of his being successful against it. I think he has indicated that a very serious situation exists, and indeed I think we accept those facts given by the Minister. He has also indicated that despite the powers that he has, he wants more powers to deal with this situation. Now, Sir, how is this situation to be dealt with? I remember that at the time the Public Safety Bill was under discussion this very matter arose and I said that if the Minister was asking for more powers, then he should show us that the existing powers he has are inadequate. He should show us that the powers he has taken are not too wide for the purposes they are intended to serve, and he must tell us that there is a state of affairs in the country which may lead to an emergency at any time if this Bill is not in operation. Well, what powers has the Minister? He has the power, of course, to declare an emergency under the Public Safety Act and he has the power to make regulations which will be subject to review by this House in due course, but he is apparently not satisfied with that. He is asking for permanent powers. Is it because he believes that he is going to be faced with this situation for a long time, that he is not satisfied with emergency powers of a temporary nature? You see, Sir, one has to test this.

The MINISTER OF JUSTICE: Are you asking me to declare an emergency?

Sir DE VILLIERS GRAAFF: I am asking the Minister whether he has not powers to declare a state of emergency and I am asking him what his reasons are for not wishing to take that step, and I am asking him whether he is unwilling to take that step because the emergency regulations that he will promulgate will be of a temporary nature and will be subject to review by this House.

The MINISTER OF JUSTICE: Because it is not necessary to declare an emergency.

Sir DE VILLIERS GRAAFF: No, it is not necessary and yet the hon. the Minister wants further powers normally associated with an emergency. Sir, this melancholy progress of asking for more and more powers we have seen in various countries of the world before. We have seen it to some extent in Kenya; we saw it to an extent in Rhodesia; we saw it in Algeria, and the Minister to-day quoted to us what happened in Northern Ireland before the 1922 Treaty, where those powers existed apparently for nearly 40 years and were apparently finally abrogated only when peace was made between Sinn Fein and the British Government and when they gave up their intention of trying to incorporate Ulster into Ireland. But we all know that the main battle was lost by the British Government. They gave Ireland their independence. Sir, in Algeria we have the same sad sort of story. There you have a whole series of organizations aimed at "liberation" which have sprung up, been suppressed and emerged again to continue the struggle in some form or other. The first outbreak of terrorism took place in 1945 under Messali Hadgi and Ferhat Albas. Their organization was called the Friends of the Manifesto of Liberty, the F.M.L. Then you had the formation of the Organization Speciale. Then you had Ben Bella escaping to Egypt in 1952 and the formation of the N.F.L. I think we all remember how many times the N.F.L. was alleged to be broken and how often it re-appeared.

The MINISTER OF JUSTICE: In other words, we must hoist the white flag?

Sir DE VILLIERS GRAAFF: That is an example that I am not prepared to follow, but I have hope for this country; I have confidence in this country. I have confidence in its people of all races. That is where I differ from my hon. friend. He seems to have no confidence that he can make proper South African citizens of the non-European population of South Africa; that is his trouble. He has no hope, no faith. Three hundred years of civilization to him means nothing. He is prepared to give up and decide that he can only live with them here by separating the country and living perhaps on terms of internal hostility. You see, Sir, each time we have had this sort of legislation we have had another story, another situation. It started in 1950 with the story of the poisoned wells. In 1953 we had the riots; in 1956 there was something else; in 1960 we had our troubles and so it went on year after year. Here we again find ourselves in the melancholy position that the Government of the day has come to us and says that it needs these powers to maintain law and order in South Africa because that is what it amounts to and it has used the occasion of the presentation of the Snyman Report to come to Parliament to ask for those powers. Sir, we have debated this matter before, and I gave the Minister the assurance from this side of the House that in so far as his legislation carried out the recommendations of the Snyman Report and was reasonable, it would have the support of this side of the House, and those provisions have the support of this side of the House. But the hon. the Minister has seen fit to use this occasion also to ask for further powers, some of which are understandable and some of which will have our support; some of which we do not regard as understandable and some of which will not have our support. I regard this as being a Bill, the main principle of which is to give effect to the recommendations of Mr. Justice Snyman. Therefore the Minister will have our support at the second reading, but I want to tell him at the same time that there are certain clauses in this Bill which we cannot support. We are worried about Clauses 1 and 2 where the entire principle in respect of bail is changed. It is not changed only in respect of cases affecting the safety or the security of the State, but the entire common law principle is changed as the Minister knows. Why is that? He has made out a case for it in cases where the security of the State is concerned, but he has taken wider powers than are necessary—perhaps for

technical reasons—but we have had no explanation and I want him to know that we regard those clauses with the greatest suspicion. In Clause 4 he has taken the power to detain in prison or elsewhere a man who has expiated his crime, who has served the sentence imposed upon him by the court for what he did because the Minister fears that there may not have been a change of heart and that that man may be a nuisance again. I can conceive that there are cases where there would be difficulties of that kind. I want to give the Minister the assurance that as far as we are concerned we cannot agree to his having unlimited powers under this clause. We shall move amendments in the Committee Stage to limit that clause, to cut it down and to see that there is reference either to some other body or that some other rights are accorded to the prisoners concerned.

The PRIME MINISTER: And if a man remains the leader of a revolutionary organization?

Sir DE VILLIERS GRAAFF: The hon. the Prime Minister puts an interesting hypothesis which has not been proved.

The MINISTER OF TRANSPORT: [Inaudible.]

Sir DE VILLIERS GRAAFF: I remember that hon. Minister saying to me that there will be compensation for the traders in the Transkei. He is still saying it but we know nothing about it as yet. Perhaps he is the seer who sees ahead for the Government.

When evidence is advanced which proves his association—and the Prime Minister can prove it—surely there is another way out straightaway. You can charge the man. Why take administrative powers? You can charge him before the courts. If he has been associated with that organization during his time in gaol, if he has communicated with them or if he is still accepted as their leader and he accepts that leadership, you can charge him straightaway; you have made it an unlawful organization. What worries us is this administrative power which will give that Minister the power to detain an individual or individuals—no one knows how many—for all time; he can keep them in prison for the rest of their lives without any case before a court of law, without any chance of the matter being reviewed or discussed and without our knowing what the reasons are. We cannot agree to a power of that kind.

There are certain other clauses which give us difficulty. I refer to Clause 8. The hon. the Minister has indicated that Clause 8 applies only in respect of offences against the safety of the State. That is the clause which takes away from the accused the right to preparatory examination. The preparatory examination can be suspended by the Attorney-General, as I read it, in all cases, cases entirely unconnected with the security of the State. Surely, Sir, that is not what the Minister needs. That is not what he wants to do. That has nothing to do with the security of the State or with the fighting of the P.A.C. or Poqo. Then we have the renewal of this hardy annual of the 12 days detention in Clause 9. We have some doubts about the *prima facie* case the Minister is trying to make in Clause 12.

Then we come to Clause 17 which is abhorrent to this side of the House, the clause which is anathema to any lawyer. It was interesting to note in what a restrained manner the hon. the Minister placed it before this House. We cannot agree to that clause. That is the clause which allows a police lieutenant to hold a man for 90 days *in communicade*, to question him, not allowing him to see a doctor, not allowing him to see his lawyer, not allowing him to be in touch with his family, to keep him in solitary confinement for 90 days; they need not even give him reading matter. In fact they do not give them reading matter if it is to be applied like they do in the special Transkei emergency regulations. I do not know whether the hon. the Minister in the course of his wanderings has ever been in solitary confinement.

The MINISTER OF JUSTICE: I know more about it than you will ever know.

Sir DE VILLIERS GRAAFF: I wonder. I was in solitary confinement on many occasions. I know how long 30 days can be.

The MINISTER OF JUSTICE: I had 42 days.

Sir DE VILLIERS GRAAFF: I had 30 in succession and a good few more afterwards on various occasions. What I want to know is this: All of us who practise law have had experience of the sort of thing that sometimes happen when people are being interrogated. We on this side of the House cannot support this clause at all. This clause will be opposed by this side of the House in Committee to the full and we cannot give the Minister any support for it. I do not believe that the Minister has made out any case for it at all; no case whatsoever.

When I say that we are prepared to support the Minister at the Second Reading may I say that we have to do it with great regret, because once again we are faced with legislation by this Government which is part of a patchwork. It is just an attempt to stop up the holes that have been created as a result of the sort of situation which has arisen under the policies of this Government. We have seen it coming; we have warned of the sort of situation that is developing and we have tried times without number to say to the hon. the Minister and his supporters on that side of the House that until you have amongst your urban Bantu a responsible class of person, a middle-class if you like, with a stake in the maintenance of law and order, you are perpetuating a seedbed in which organizations of this kind are going

to give support or be able to intimidate people to come to their assistance. We have said to them time and again, Sir, that while you prevent these people from having any outlet at all for their political aspirations, however limited, in respect of the areas in which they live and in respect of the Parliament which controls their destiny, you run the risk that they will be ready convertees to people who want them to use other methods.

The PRIME MINISTER: Why do you blame the urban Bantu for what the miscreants are doing?

Sir DE VILLIERS GRAAFF: The Prime Minister asks why I blame the urban Bantu for what these miscreants are doing. That is not what I said. That was not what I intended to say. I think the hon. the Prime Minister should realize that very rapidly. It is most significant that the A.N.C., the P.A.C., Poqo and all these organizations get their following in the urban areas. They do not get their support in the reserves but in the big urban townships.

The PRIME MINISTER: They get very little following.

Sir DE VILLIERS GRAAFF: If the following is so little why all these precautions?

The MINISTER OF TRANSPORT: There is intimidation.

Sir DE VILLIERS GRAAFF: I am so pleased that the Minister has said that. He has said what I told him at the time of the bus-strike when he came to this House as a big man and told us how he was going to break the bus-strike. We all know what happened: The bus-strike nearly broke him. We warned the hon. the Minister at the time that that bus-strike existed because he and his Government were unable to protect the ordinary law-abiding Native in the urban townships. We told him that because he could not protect them they were subject to the intimidation of these people and that was why so many of them had been forced to participate in that strike. We still have that tragic situation, Sir. Take the record of Poqo; I have it here. I have the record of what has been going on, in, and around these urban townships since 1961. This is not guesswork; this is the evidence led by the barrister who appeared for the police at the commission of inquiry at Paarl. Here they refer to the activities of Poqo in Langa—

> March 17, 1962: Sergeant of Police stabbed to death. April 30th: About 300 members of So and So of Bantu clash with Poqo members and there was bloodshed in the location. July 29: A Constable So and So was stabbed to death. September 26: Bantu Sergeant Maquata was murdered.

In 1963 a White man was murdered at Langa. Let us go into the position at Paarl. Let us see what happened in Paarl in November last year before those riots, before the difficulty arose and before proper police protection was given. Then I make the charge, as I made it once before, that this Government has been unable to protect the ordinary law-abiding Bantu in these great urban townships. That is one of the reasons why they are so subjected to intimidation and why organizations of this sort are able to flourish there.

This Government has come to us again to-day once more to ask us to help them with patch-work. Because we are a responsible Opposition and because we want to see law and order maintained as much as they do, we are prepared to assist them in respect of the recommendations of the Snyman Commission and in respect of those people who go outside South Africa for training as saboteurs or those who try to incite others to violence against South Africa. We shall give that support. I know they will come again. It will not be long and they will be before this House again and they will be asking for more powers. They will do so because nothing is being done to remove the causes of organizations of this kind being able to get a following. That is the tragedy of the situation. The only difference is that next time they will have learned from their failures. Next time they will be more adept and next time the Minister will ask for even further powers. Where is there a country in the world to-day where the Government has asked for the powers which this Government has had to ask? It is, as I say, the end of another melancholy chapter and I know another will begin. Until we can get it into the minds of this Government that it is vitally necessary for them to change their approach we are going to be faced with this situation time and time again. Nevertheless, Mr. Speaker, we have to support the second reading of this Bill. We shall reserve our opposition to those particular clauses I have indicated in the Committee Stage.

Mrs. SUZMAN: I listened with a great deal of interest to what the hon. the Minister of Justice had to tell us this afternoon. I also listened with great interest to what the Leader of the Opposition has just said. I must say that what the Minister of Justice told us did not come as any surprise to me. We have been hearing the same story in South Africa since the Nationalist Party Government came into power, since 1950 when the first measure to take great powers was introduced, namely the anti-communist measure of 1950 and where we were told about poisoned wells, since the Criminal Law Amendment Bill, since the Public Safety Bill and since the so-called whipping Bill of 1953. We heard the same story when further amendments were introduced to the anti-communist legislation in 1956 and 1957. We heard the same story in 1960 when the Unlawful Organizations Act was passed and the A.N.C., the P.A.C., and allied organizations were banned.

Last year, when the Sabotage Act was introduced, one would have thought that the hon. the Minister had taken all the powers that were necessary, all the necessary powers to put down subversion and all the powers to deal with the so-called crisis situation which he said had arisen and for which he had to have very special powers. Now, Sir, to our astonishment we have to learn that the hon. Minister has not got sufficient powers and that he has to have greater powers because a new development has arisen in South Africa namely the development of Poqo which has struck terror in the hearts of members opposite and which organization, I may add, has been effectively dealt with, according to the Minister of Justice, certainly according to the Commissioner of Police, by the existing powers which the Minister has. Despite this the Minister is now asking for greater powers in terms of the recommendations of the Snyman Commission Report, as he says. I say that the Bill which is being introduced in Parliament to-day goes far beyond the additional powers suggested in the Snyman Commission Report. Despite the lesson which the Minister read to us this Bill does not translate into law the additional powers suggested in the concluding remarks of Judge Snyman.

I say that I was not particularly surprised at what the Minister had to tell us this afternoon. We have heard this story over and over again and I have no doubt that other situations will arise which will again entail very much the same story, if not poisoned wells or sabotage or murder, about some other terror which will mean the taking of still greater powers by this hon. Minister.

What does surprise me is that the hon. the Leader of the Opposition, after mentioning all the facts and after mentioning that he himself warned the Government when the whipping Bill was up for discussion in 1953 (the United Party supported that Bill), after telling us that last year when further powers were taken to ban unlawful organizations (which the United Party also supported) and when the Sabotage Bill was passed, he had warned the Government that those measures would have no effect whatsoever on the conduct of terror and subversion in South Africa, he nevertheless, when this measure comes before Parliament, says that he is going to support the principle of it because it translates into practice the recommendations of the Snyman Commission Report. When he went through the Bill himself he mentioned, as far as I can remember, Clauses 1, 2, 4, 8 and 17 as being the clauses which the official Opposition was going to oppose in the Committee Stage. These are the very crux of the Bill; these are the very essence of this Bill. How can one possibly support the principle of a Bill when you are going to vote against those clauses which contain the very crux and essence of it? I am going to vote against those clauses most decidedly at the Committee Stage. [Interjections.] I am going to be logical and I am going to vote against the second reading of this Bill as well. These clauses contain the very principle of the Bill and I cannot under any circumstances bring myself to support a Bill which embodies the sort of emergency regulations which are now being translated into permanent legislation in South Africa. That is what this Bill amounts to. The sort of regulations which the Government takes in emergency conditions are now being translated into the permanent legislation of South Africa so that the Government does not have to proclaim a state of emergency. The hon. the Minister himself, when he had a Press interview yesterday, more or less told the Press, if he was correctly quoted, that certain aspects of this Bill were similar to Proclamation 400, aspects where people can be held for interrogation for instance without trial. That is absolutely true. They are similar to Proclamation 400. Does this mean that South Africa and the Opposition party accepts the principle of the extension of an emergency regulation like Proclamation 400 to the whole of South Africa without the declaration of a state of emergency? I cannot imagine what has happened to South Africa. The hon. the Minister mentioned that he was prepared to face any charges which were brought against him for abusing the powers which he had already taken. He quoted with some considerable glee—that is the only way I can describe it—that Patrick Duncan had been used against him on an occasion and that Luthuli had been used against him on other occasions. He said he was quite sure that the examples would not be used against him in future.

Dr. COERTZE: Do you hold a brief for him as well?

Mrs. SUZMAN: I shall tell the hon. member for Standerton (Dr. Coertze) exactly how I feel about that. Long before the final chapter of the struggle which is going on in this country is written a great number of other people who were formerely peace-loving people will be driven to desperate acts of recklessness.

Dr. COERTZE: Is that a threat?

Mrs. SUZMAN: It is not a threat; I am in no position to threaten but I am in a position to warn. The tragedy of South Africa is that people who should have opposed this Government are becoming intimidated by it and they are no longer opposing this Government. The very essence of this Bill which the hon. the Leader says he is going to oppose at the Committee Stage, he is supporting at the second reading in principle. That, perhaps, is even a greater tragedy for South Africa, the fact that the very people who should be putting up a fight against this Government, the people who should be showing South Africa how to oppose this sort of measure, are meekly sitting by and conniving with the Government in carrying out such a measure. [Interjections.] The hon. member talks about Nasser and Israel. I should like to tell him that had it not been for the Jews of Israel putting Nasser in his place just a couple of years ago the continent of Africa would have looked very different to-day. The hon. member might remember that. I am getting tired of this anti-semitic attitude.

I want to say something about the diminishing rule of law in South Africa. I know it is something which the hon. the Minister of Justice does not really treat with a great deal of respect. On one occasion I quoted a definition of the rule of law from the International Commission of Jurists. The hon. Minister waved it aside and said it was not worth the paper it was written on.

Dr. COERTZE: I agree with him.

Mrs. SUZMAN: I am sure the hon. member for Standerton agrees with him. I rather imagine that in an international legal council it is unlikely that either the hon. Minister of Justice or the hon. member for Standerton would carry very much weight. But the International Council of Jurists does carry some weight. I want to try to say something about the rule of law, that is, if I can do so amongst all these interjections. To me, Sir, this question of the rule of law is of paramount importance. The Bill which we are considering to-day is completely undermining the fundamental principles of the rule of law, the rule of law which is synonymous with civil liberty as far as I am concerned, synonymous with the ordinary freedoms of the individual, of which one of the most important is that he should not be held by the State unless he has been duly charged before a proper court of law, unless he has been properly tried openly, publicly and objectively by an impartial court of law. There are two fundamental clauses in this Bill which completely overrides the rule of law. The one is Clause 4 and the other is Clause 17. Clause 4 allows the hon. Minister to continue to hold in permanent imprisonment people who have already served certain sentences, people who have been tried before a court of law, who have been found guilty of a crime, have been imprisoned and who have served their term of imprisonment. Normally in any ordinary country such a person would be free unless he commits another crime. The Minister, without any further trial, without any further recourse to legal appeal, without any redress, without any access to legal advisers, may indefinitely hold a person who has already served his sentence for his crime. I believe that that is a clause which fundamentally subverts the rule of law in South Africa.

I also take exception to Clause 17. It contains this drastic provision whereby any member of the police force above a certain rank may, upon the suspicion that something is about to happen or that a person has information that something is about to happen, hold such a person for interrogation for 90 days and on his release apparently can rearrest him and rehold him for a further 90 days, again and again, because the law says specifically from time to time. I therefore presume that it can be repeated over and over again. What sort of evidence that is worth anything in a properly constituted court of law does the Minister think he is going to get after a person has been interrogated for 90 days? Does it not occur to him that the sort of interrogation that takes place under conditions like those can lead to perjured evidence and to disclosures which do not have a grain of truth in them? This objection of mine is however only a side issue. My basic objection to this clause is that it overrides completely every single fundamental principle of the rule of law.

The MINISTER OF JUSTICE: Do you object to that in principle at all times?

Mrs. SUZMAN: I object to that sort of interrogation by a police officer in principle, yes. I am against that form of interrogation at all times.

The MINISTER OF JUSTICE: Yet you supported that 20 years ago.

Mrs. SUZMAN: I am not talking about a time of war. I better clear up this point right away. I do not agree that South Africa is at war. I do not agree that it is in a state of emergency. If it is in a state of emergency the Minister has all the powers which he needs to declare a state of emergency. He has the power in such a case to interrogate people and to detain them and so on. States of emergency are one thing but to introuce such legislation as this as a permanent feature on our Statute Book, legislation which applies only to a state of emergency, is, I believe, repulsive to every person with democratic inclinations. I do not believe that South Africa is in a state of emergency. If she is it is the Minister's duty to declare that state of emergency. I do not believe that South Africa is in a state of war. Hon. members opposite have forgotten what war means. They may have forgotten it because not many of them experienced it. [Interjections.] I certainly made a better contribution than some hon. members opposite. I certainly did not go against my country's efforts. I certainly did not agitate against and spy on my country.

An HON. MEMBER: Which is your country?

Mrs. SUZMAN: This is my country, just as it is the hon. member's country.

To me the rule of law means very simply, as I understand it (I am an ordinary citizen and not a lawyer), that there are several fundamental differences between a decision given under the normal rule of law and a decision given in an arbitrary fashion by State officials. I would say that the distinctions are as follows that at least the ordinary courts operate in public, the accused has the right to use a trained legal adviser, the charges against him

NOES—40: Basson, J. A. L.; Basson, J. D. du P.; Bloomberg, A.; Cadman, R. M.; Eaton, N. G.; Emdin, S.; Field, A. N.; Fisher, E. L.; Gay, L. C.; Gorshel, A.; Graaff, de V.; Hickman, T.; Higgerty, J. W.; Hourquebie, R. G. L.; Hughes, T. G.; Lewis, H.; Malan, E. G.; Miller, H.; Mitchell, D. E.; Mitchell, M. L.; Moolman, J. H.; Odell, H. G. O.; Oldfield, G. N.; Plewman, R. P.; Radford, A.; Raw, W. V.; Ross, D. G.; Russell, J. H.; Steenkamp, L. S.; Streicher, D. M.; Suzman, H.; Taurog, L. B.; Thompson, J. O. N.; Timoney, H. M.; van Niekerk, S. M.; Warren, C. M.; Waterson, S. F.; Wood, L. F.

Tellers: H. J. Bronkhorst and A. Hopewell.

Clause accordingly agreed to.

On Clause 4,

Mr. M. L. MITCHELL: This is the clause which in effect gives to the Minister the power of internment in respect of people who have been in prison. The power of internment contained in this clause is far more severe than any power of internment we have ever seen in this country even during wartime. I say that because during the last war there was at least a certainty as to when the order would lapse, when the war ended. In that sense there was a definite period. But there is no definite period contained in this clause. I must say that the attitude of the hon. the Minister, when he moved the second reading and spoke of this clause and other clauses, was reassuring in the sense that even the Minister felt that he had himself many qualms about introducing a Bill containing powers so wide and so drastic as these. These powers are in fact greater in many respects than those a court of law would have, inasmuch as a court would not be able to keep a man in prison throughout his living life. Mr. Justice Snyman found that there was an urgent and difficult situation which had to be met, and the Minister has indicated that he wants these powers to deal with that situation. But we must presume that this situation will not be with us for ever—at least we hope not. In those circumstances such a clause as this should not form part of our permanent law. I do not think anyone would disagree with that, that such a clause should never be part of our permanent law, or of any country that calls itself a democracy. I think if it were a permanent part of our statute law, it would do South Africa great harm and therefore I wish to move the amendment standing in my name on the Order Paper, subject to this further amendment to it, that for "1 June" I would like to substitute "30 June", so that it will then read—

> To insert the following new paragraphs to follow the proposed paragraph (a)*bis*, inserted by paragraph (a):
>
> (a)*ter* Subject to the provisions of paragraph (a)*quat* the provisions of paragraph (a)*bis* shall lapse on 30 June 1964.
>
> (a)*quat* The operation of the provisions of paragraph (a)*bis* may from time to time by resolution of the Senate and the House of Assembly be extended for a period not exceeding 12 months at a time.

We find a similar provision in the so-called 12-day detention Act which was passed in 1961 and one relevant clause of which we are being asked to-day to extend for a further year. I move that amendment in the hope that the hon. the Minister will accept it, and I do so in the sense that if the Minister does accept it he will be doing South Africa a great service so far as our overseas critics are concerned. We have all seen what was published in the London *Times*. We got a very bad Press especially because this was apparently to become a permanent part of the laws of our country. I hope that the Minister will accept this amendment.

*Mr. J. A. L. BASSON: I want to move an amendment which does not appear on the Order Paper but which reads as follows—

> To add the following provisos at the end of the proposed paragraph (a)*bis* inserted by paragraph (a):
>
> Provided that the Minister shall not exercise his powers under this paragraph unless he has first consulted with a committee to be appointed by the Minister consisting of a Judge of the Supreme Court, a magistrate of the district in which the prisoner in respect of whom the notice is to be issued lives and a senior police officer; Provided further that if the committee does not concur in any notice issued by the Minister under this paragraph, the committee shall forthwith draft a report setting out its reasons for such disagreement, and the Minister shall lay such report upon the Tables of the Senate and the House of Assembly within 14 days of the receipt of the report if Parliament is then in session or, if Parliament is not in session, within 14 days of the commencement of the next session of Parliament.

We are aware of the fact that certain occasions may arise when the Government requires more powers than it would normally require. Let me say at once that we who have tried to make a study of the ways in which Communism infiltrates into countries and the methods it uses, are fully aware of the fact that powers over and above the normal powers have to be taken by the authorities but at the same time, as the hon. the Minister himself said, any member of this House and any person living in a civilized country where law and order prevail is loath—and I think that this holds good for the hon. the Minister himself—to give these powers to one person, no matter what Minister it may be. The hon. the Minister also said that he did not like this clause at all himself but had of necessity to assume these powers. I think that the hon. the Minister will agree that this type of legislation is viewed with suspicion throughout the whole world. At the same time I want to say that we on this side of the House appreciate the difficult position in which South Africa finds herself and we want to help. I hope that the hon. the Minister will see his way clear to accept this amendment because all it does is this: It simply states that the Minister should act on advice although he need not even follow that advice. He can always send that person to gaol against that advice but there will then be some measure of control and a notice will at least have been issued. Parliament will then be able to take note of these facts. The Minister will then act on the advice of that committee consisting of one of his own Judges, one of his senior magistrates and one of his senior police officers. Once the committee has advised him and notwithstanding that advice he still feels compelled to send a person to gaol without trial—although I do not think that this will ever happen, his hands will at least be reasonably clean so that he can tell the world: I did the best I could under the circumstances; I did not take that step because of my personal hatred for or to revenge myself against that person but I took it in consultation with my senior officials. It was only then that I decided to take that step because the safety of the State is of far greater importance than the convenience of the individual. I think that the hon. the Minister should consider this matter seriously and if he has any objections he should discuss the way in which those objections can be overcome with his officials. This will be to the advantage not only of South Africa but also of the hon. the Minister. If he has reasons for not being able to accept the amendment I would like to hear them. I realize that it may be inconvenient for him to refer the matter to a committee, but South Africa's good name is worth that little extra effort. I believe that the hon. the Minister will give serious consideration to my suggestion and if perhaps he wants to discuss the matter with his officials—unfortunately I did not have the time to give notice of this amendment—I hope that the hon. the Minister will move of his own accord that the consideration of this clause stand over until the other clauses have been disposed of so that the hon. the Minister can have the opportunity of discussing this matter with his officials. I repeat that where we on this side are now giving the Minister these powers, although not happily—it is no pleasure for us to give him these powers, just as little as it is a pleasure for the hon. the Minister to assume them—so that he can continue to keep South Africa safe, so that he can continue to deal with those evildoers some of whom come from overseas and others of whom are in the country, to restrict their activities, he must do so in such a way that South Africa's good name will not suffer unnecessary harm or his good name as Minister will not be blackened in any way. I make this appeal in all earnestness and as one who is nothing but well disposed towards the hon. the Minister in his efforts to maintain law and order. Before I sit down let me just say that I believe that where a person has served his sentence there must be good reasons before the hon. the Minister makes use of this power. I know that he will not make use of it unnecessarily but I think that it is dangerous to leave it at the discretion of one Minister only.

Mrs. SUZMAN: I think it is really unimportant whether the powers granted to the hon. the Minister are granted with love or without it. This is the most important clause in the whole Bill. It goes against normal democratic practice in the Western world. It allows the hon. the Minister to continue to hold in prison by way of preventive detention, or by any other name one wishes to give to it, any person. In Ghana it is called preventive detention, and the same kind of clause is now being introduced into our legislation. It allows the Minister to detain people indefinitely, people who have already served a sentence of imprisonment for the crime they have committed. To my mind, whether the amendment moved by the hon. member for Durban (North) is accepted or not, is not the important issue because I do not believe that the hon. the Minister should have such powers for one day, let alone one year. Hon. members have forgotten two very important issues when they think that this makes such a difference. The first is that these powers of review by Parliament year after year have come to mean precisely nothing. To put them in now is simply a façade and it will not make the slightest difference, because if the Minister wishes to continue with these powers beyond a year he will come back to Parliament and the entire Government side will vote with him in the way he wishes it to vote. [Interjection.] The hon. member here is surely inferring that if the Minister accepts this amendment of his it will make this clause all right. I do not agree that it does make this clause all right. I do not believe that it helps in the slightest, because experience has shown that. There have certainly been two instances that I can quote, in my time in Parliament, where this limited power has been given and Parliament had to review such extensions of time. The one is the detention without bail Act and the other, of course, is the Unlawful Organizations Act. If I remember correctly, that also stipulated a time period, and all the hon. the Minister had to do was to come to this House and to extend it again for another year; he has already done it twice.

The MINISTER OF JUSTICE: And it is being made permanent in this measure.

Mrs. SUZMAN: As the hon. the Minister says it is being made permanent this year.

This is going to be made permanent too, irrespective of whether this right of review is granted or not because this is the old slippery slide away from democratic practices. Once you give way on principle, then as far as I am concerned the battle is lost and it is no good putting a time period to this and say that it must be brought back to Parliament for review and reconsideration, because the fact of the matter is that if the Minister wants to keep this going, he will keep it going. As far as I am concerned, the principle of this thing should be opposed and not the length of time for which this thing is going to be introduced. If there is an emergency, then declare an emergency and then the hon. the Minister can take the necessary powers which are recognized by every country as necessary in times of emergency. A country may have to declare martial law or may have to declare a state of emergency. Where is the emergency in this country that necessitates legislation like this? What is happening? Are people running around the streets of South Africa armed with guns, crouching behind trees, worried about their lives? Life outside in Adderley Street, and in Eloff Street and in Church Street, Pretoria, and everywhere else in South Africa is proceeding right at this minute in a normal fashion at a time when emergency regulations are virtually being imposed on the country. The hon. the Minister of Finance sits there smiling benignly and well he might, because he is doing his best to persuade the entire world that South Africa is at peace, that South Africa is in a fine economic state and that investors should pour money into this country to exploit our wonderful resources.

Mr. B. COETZEE: That is only because your friends do not get their way.

Mrs. SUZMAN: If "my friends" do not get their way and if the Government is able to prevent what the hon. member for Vereeniging mistakenly calls my friends from getting their way, then there is all the more reason why there is no need for these new powers. The Minister has managed to control everything under his vast, extensive powers already. That is the other point which the Opposition has forgotten when it thinks that this question of review in a year's time is going to make the slightest difference. Has the Opposition forgotten the powers that the Minister took in 1962 to ban and to place people under house arrest? If he has the slightest doubt about people and wishes to restrict them, he already has enormous powers which I for one object to most strongly. He already has those powers and the Opposition knows that he has those powers to house-arrest people, to restrict people, to guard them day and night if he so wishes. There is not the slightest justification, in a country which is not at war, in a country which is not in a state of emergency, in a country which has the impertinence to profess to be a democratic country, for giving the Minister any such powers. I say that whether the Opposition is prepared to give the Minister those powers for one day or one year, as far as I am concerned this is an appalling clause and it should be opposed tooth and nail by anybody who has one jot of democratic blood in his veins. I move—

To omit paragraph (a).

That in effect, if accepted, would mean the omission of the whole clause bar one subsection.

The MINISTER OF JUSTICE: I was surprised—and I want to say agreeably surprised—to hear the hon. member for Houghton (Mrs. Suzman) describe South Africa as a most peaceful country. I agree with her. While she was speaking I happened to recall that a lady by the name of Mrs. Suzman, if I am not mistaken, appeared in a film called "Sabotage in South Africa", and the impression that that particular lady created was just the reverse. Be that as it may, there is a difference of principle between the hon. member for Houghton and myself and I am afraid we cannot agree on any of the principles which she advocates as far as this Bill is concerned. I do not want to be discourteous to the hon. member but because there is this . . .

Mrs. SUZMAN: Basic.

The MINISTER OF JUSTICE: Yes, the hon. member is right; she has now given me a second chance. I say that because there is this basic difference of principle between the hon. member and myself I will not reply to her arguments as far as all the clauses are concerned. If I do not, I will only be treating the hon. member as most husbands treat their wives and that is to listen to them and then not do what they are told to do.

I want now to deal with my hon. friend the hon. member for Sea Point (Mr. J. A. L. Basson) and his amendment. I am well aware of the fact that the hon. member is in earnest as far as this matter is concerned. I am also fully aware of the fact that the hon. member is being honest in regard to his amendment and this whole matter. I regret, however, that I cannot accept his amendment for various reasons which I want to give the hon. member. I do not want to suggest for one moment that there is nothing in the argument of the hon. member. On the contrary, at first glance I am inclined to think that there may perhaps be a great deal in his argument which is worth while considering. As the hon. member knows, I was only given notice of his amendment at a very late stage. It was therefore not possible for me to discuss the amendment and its consequences with the law advisers. Therefore I do not know how it can be applied. When I was still a little inexperienced I accepted amendments as a Deputy Minister in the past which landed me in hot water with the law advisers. I accepted those amendments out of the goodness of my heart. Therefore viewed from that angle alone it will not be possible for me to accept the amendment. But I do not want to make this my excuse. There are other aspects of the matter. The hon. member's amendment mentions a Judge who must be called in in connection with this matter. He does not specify in his amendment whether this has to be from division to division. There are no regulations which provide how these meetings shall take place. These are all shortcomings that I have noticed simply in passing. This is a matter that one has to consider carefully.

But there is another aspect and I think that the hon. member will agree with me in this regard. I would be very afraid of one thing, were I to accept his amendment. No matter what we here in South Africa have to say about these matters and no matter how the hon. member and I understand these things, the world sees them as political matters and as political matters only. Our Bench, particularly our Supreme Court, has a very high reputation, a reputation not only for the thorough work that it does but for its impartiality and, what is very important, its independence in so far as the Government of the day is concerned. The whole world accepts the fact—and that is how it should be—that our Bench does not take instructions from the Government and that, when it deems fit, it does not hesitate to give its honest opinion in its judgments, even though its opinion may differ from that of the Government of the day. This has always been the position and this is as it must always stay, and we are very proud of it. We are proud not only of the whole Bench as such but of our Judges as individuals. I am very afraid, particularly since I have not been able to consider this amendment thoroughly, that it may very easily be said when one makes use of a Judge for this purpose, that he is only a "stooge" of the Government and that he does what the Government tells him to do. But apart from this point, in practice one cannot summarily bring a Judge into a Bill until one has consulted the Bench. The Judges may have very serious doubts about the whole matter and may object very strongly to being involved in this connection. And so, even though one wants to consider adopting an amendment of this nature, one cannot possibly do so until one has consulted the Bench. One must at least give the Judges the opportunity of putting their point of view in this connection. I am sure the hon. member appreciates my difficulty and the problems in that regard. But there is another aspect of the matter. From the nature of the case a great deal of time is lost if one has first of all to make use of this machinery. Just before a person is released information may be forthcoming which is of such a nature that one has to try to detain that person, but if one has first of all to make use of this machinery, that person will simply escape. I am aware of the fact that the hon. member holds certain views in regard to this matter and I do not want to summarily reject those views. I want to give the hon. member the assurance that I will remember and consider the principle that he has mentioned here because I feel that there is something in what the hon. member has said. But for the present it will not be possible for me to accept the hon. member's amendment.

As far as the amendment of the hon. member for Durban (North) (Mr. M. L. Mitchell) is concerned I have listened to his argument and I must concede at once that I think the hon. member is right, but before I deal further with his arguments, the hon. member in passing referred to criticism in the London *Times*. Naturally the London *Times* forgot all about its own 1922 Act to which I made reference yesterday, but that is just by the way. Sir, I think the Committee will be interested in this cable which the hon. the Prime Minister received this morning. It was addressed to "Hendric Furwrd, Cape Town". It comes from Latvia. It was re-directed from Pretoria and it arrived here this morning.

Mr. RUSSELL: Did the Postmaster detain it?

The MINISTER OF JUSTICE: This cable was sent by the journalists of the Soviet Latvian Republic, and it says—

> We, the journalists of the Soviet Latvia, are protesting against the persecution of the journalists in the South African Republic. We demand categorically to set them free . . .

And I hereby set them all free as far as the Press gallery is concerned. It goes on to say—

> . . . And allow them to work again at the newspapers.

I want to make it perfectly clear that the newspapers will appear to-morrow and that all journalists will be at their posts to-night and to-morrow. Be that as it may, as I have said there is substance in the hon. member's argument. I think he is correct in saying that it is not the intention—and I said so yesterday—to keep these people in prison for ever but only for such time as it is necessary to detain them. I think the hon. member has helped me by moving this amendment; I thank him and I accept the amendment.

Mr. CADMAN: I am very glad that the Minister has accepted the amendment by my hon. friend, the member for Durban (North) (Mr. M. L. Mitchell). I feel that in accepting that amendment the Minister is progressing along the right road.

Mr. FRONEMAN: Always.

Mr. CADMAN: Not in the sense always of the turn of phrase used by the hon. member for Houghton (Mrs. Suzman), but he is progressing. I should like to come to the amendment moved by the hon. member for Sea

Point (Mr. J. A. L. Basson). As I understood the Minister, he has not rejected that amendment outright. He has given it some thought and as I understood him he would like to give it further thought. I trust that I am correct in saying that he intimated that he would give further consideration to that amendment and possibly accept it or introduce an amendment along those lines. I hope I am correctly interpreting the hon. the Minister's mind when I say that he has not shut his mind entirely against the amendment moved by the hon. member for Sea Point but that there is a possibility that an amendment along those lines might still be introduced when this legislation comes before the Other Place.

The MINISTER OF JUSTICE: No, I am afraid I cannot promise that at all. It is something to be considered as far as the future is concerned but I cannot bind myself as far as the Other Place is concerned.

Mr. CADMAN: Well, the Minister will consider the question of introducting an amendment in the future along the lines of the amendment moved by the hon. member for Sea Point.

The MINISTER OF JUSTICE: I will seriously consider it.

Mr. CADMAN: I would like to urge upon the hon. the Minister that he should move a little faster in this regard and that he should consider moving an amendment of that kind in that form in the Other Place. One of the Minister's difficulties in accepting the amendment was his disinclination to have Judges of the Supreme Court associated with making a decision which might be of a political nature. Sir, one can understand that difficulty and it is something that no one would wish to see, but I wonder if the Minister has considered appointing a retired Judge as one of the members of the proposed board. A retired Judge would not be subject to that disqualification or difficulty and yet in the public mind he would have the stature and the independence of mind to give people confidence that any order which the Minister might make in terms of this section would be made after the matter had been considered by, if you like, an independent judicial mind. I am not casting any aspersions on the Minister in making these suggestions, but he knows as well as I do that when there is a difficult decision to be made, however much careful thought one might give to that decision, one very often arrives at a decision which one is sure is right until the matter is considered by someone quite unconnected with the affairs that one is dealing with, and it does happen that when that takes place one realizes that that decision should be reversed. It is to provide a safeguard of that kind that the hon. member has moved his amendment. I think it is a most desirable safeguard if this power is to be exercised by the Minister. Apart from that, the hon. the Minister said only yesterday that he realized that this was a stringent measure which is not usually resorted to in peacetime. That feeling is shared not only by members on this side of the House but by many people outside of this House. If it were known that any decision that the Minister might make under these powers, should they become law, had also received the attention of other persons, particularly by a panel made up as the hon. member has suggested, then quite a lot of the present disquiet would be dissipated, because people would feel that not only was the decision made subject to other guidance but that if there was disagreement between the Minister and people independent of the Minister, that disagreement would be made known in this House. There would be that outlet, that safety valve, and I believe it would not only make the Minister's task easier in the sense that there would be less responsibility on his shoulders for the exercise of a stringent power such as this, but it would make the community outside this House less afraid of the exercise of this power because it would not be exercised by one man alone. For those reasons I hope that however soon this legislation might come before the Other Place, the Minister will go out of his way to consider moving in the Other Place an amendment along the lines of the amendment moved by the hon. member for Sea Point, and I most urgently commend him to take that course of action.

*The MINISTER OF JUSTICE: While I was listening to the arguments of the hon. member who has just sat down, my thoughts went back to a period many years ago. I want to tell the hon. member that no matter how strong his argument may sound, there is also another point of view. I can discuss this other point of view because I have had experience of it. When a Government assumes powers of this nature, my attitude has always been that it has to accept personal responsibility for the powers that it assumes; that it dare not offload that responsibility on to the shoulders of anyone else. That responsibility must rest more specifically upon the shoulders of the Minister advising the Government to assume those powers. I know that it is a responsibility but since I am seeking these powers I and I alone must accept the responsibility for those powers because I am the head of this Department. Not only do I have to be responsible for them to hon. members opposite and to hon. members on this side, but what is very important, I must be responsible for them to my own conscience, and I have to live with it! I have told the hon. member that there is another side to the question. A previous Minister also assumed powers of this nature some years ago. He appointed people to exercise those powers on his behalf. I do not want to say anything about those people. They are no longer with us and one does not speak ill of the dead, but I cannot speak well of them. The principle that I want to emphasize is that the Minister—he is only human—from time to time shirked his responsibility by saying: "It was not I who took those steps but those

people." If one addressed the Minister and asked him: "Why did you do that?" or "Why did you intern that man?" he simply replied: "No, it was not I; it was Sir So-and-so or Col. So-and-so; they were the people who made that decision." My view is that we dare not let this happen. The Government of the day and the Minister entrusted with these powers have to accept personal responsibility for them. The argument of the hon. member that one has to appoint someone to be, as it were, a judge of review in connection with the matter does appear to be a plausible one. I know that too; it did happen in those days. The hon. member may take my word for it that about six weeks after a person arrived at the internment camp at that time, he received a formal little document telling him why he was there. That document simply served to tell him what he already knew, namely, that he was there. Nevertheless, he was told in the document that he could appeal to the person whom the hon. member had in mind and his appeal had to be in sextuplicate. The hon. member may take my word for it that everyone appealed consistently and no one ever heard anything more of that appeal until precisely 12 months later. Exactly 12 months later one received a formal document telling one that one's appeal had been considered and rejected.

*Mr. HUGHES: That shows how thoroughly those appeals were considered.

*The MINISTER OF JUSTICE: Strangely enough, as far as I know not one single appeal was upheld over all those years and that little document remained the same throughout that time. Do hon. members know why this was so? It was because there was no personal responsibility. The one simply offloaded the responsibility on to the other. I know that there were good reasons for it but I just want to paint the other side of the picture—that there was a great deal to be said against it. When one asks for powers of this nature one must not seek to avoid the personal responsibility imposed. I do not want to avoid the personal responsibility that I must bear in this connection. In asking for these powers I must bear that burden and if the Government asks for them it must bear that burden too. One must consider these matters very carefully indeed before one decides to summarily offload that responsibility. That does not mean to say that I will not be prepared to consider further representations from the hon. member for Sea Point in that connection and then to make my decision in the light of those representations. But we must not expect things to run as smoothly as the hon. member may perhaps think they will run.

Mr. HOURQUEBIE: I should like to say firstly that I am very pleased that the hon. the Minister has indicated that he is prepared to give further consideration to the amendment moved by the hon. member for Sea Point (Mr. J. A. L. Basson). Despite the difficulties to which the Minister has drawn our attention I believe that this is a worthwhile amendment and one which should be introduced, if not in the exact form in which it has been moved, then in a closely similar form.

I should like to deal briefly with one or two of the points raised by the hon. the Minister with a view to discussing with him the difficulties and the objections which he has drawn attention to. First of all I should like to deal with the Minister's last point namely, that he believes that in a case of this sort where a Government, through a Minister, takes such drastic powers the Minister and the Minister alone should remain personally responsible for the consequences of his action. I agree entirely with that sentiment. I do not think however that this amendment in any way removes the responsibility from the Minister. On the contrary, the responsibility is still solely the Minister's. The sole object of this amendment is to provide a safeguard, not for the Minister, not to assist him in coming to a decision, but a safeguard for the person against whom the Minister has acted in this way. The safeguard is this: If these three people do not agree with the Minister they will then report the matter and that report will have to be tabled in the House, so that there will be an opportunity of discussing the situation in a case where the board has disagreed with the Minister's findings. I should like to make the point very clearly that the responsibility all along remains solely with the Minister.

The other point which the Minister raised was the question of the time taken if he has to submit decisions to the board for their consent before he can act. I readily concede that in some cases this may prove a serious difficulty for the Minister. If, as I have suggested, the whole purpose of the amendment is to provide a safeguard for the individual, not to assist the Minister in coming to a decision, it seems to me that the amendment could be introduced in the form that the Minister can act and thereafter hand the matter to the board for their consideration and decision, so that if they disagree they can put in this report which will be tabled. The individual will then have the safeguard in the same way that he would have if the amendment was accepted in precisely the form in which it has been moved. Alternatively, the amendment could be accepted in the form in which it has been moved with the proviso that should the Minister consider there is not sufficient time to consult the board before acting, he can act and thereafter submit the matter to the board for their decision. I do not believe that the question of the time factor is a real problem.

The third point which the Minister raised was the question of the appointment of a Judge and the fact that he might be accused of being a Government stooge. I can see that in a situation such as this, a situation which has political implications, there is that danger. I believe however that that danger has been met by the suggestion made by the hon.

member for Zululand (Mr. Cadman), I would suggest to the hon. the Minister that there are really no difficulties in accepting the amendment moved by the hon. member for Sea Point, perhaps in the slightly amended form which I have suggested. I would urge the hon. Minister at some stage, and as soon as possible, to accept this amendmend.

*Mr. J. A. L. BASSON: I am pleased that the hon. the Minister has reacted favourably to my suggestion. I would be the last person to try to force this on the hon. the Minister and to say that he should not have the opportunity of giving full consideration to all the consequences of this amendment. It was for this reason that I stated at the start of my speech that the hon. the Minister could move that this clause stand over until the other clauses had been disposed of. But I do not think the hon. the Minister was quite right in saying that this committee that I am now proposing could be used to relieve the hon. the Minister of responsibility. That is not so.

*The MINISTER OF JUSTICE: I was merely raising a different argument.

*Mr. J. A. L. BASSON: Yes, I realize that. Actually my suggestion gives the hon. the Minister more responsibility and makes more demands of him. The final decision rests with the Minister. That committee is merely advisory. It can make no decisions.

*Mr. VAN DER MERWE: Then what will be the use of it?

*Mr. J. A. L. BASSON: Its use will be—and I am not casting any reflection upon the hon. the Minister—that the Minister will not be able to come to Parliament with permanent legislation in terms of which he will be able, for whatever reason at all, to have a person imprisoned practically for life. I take it that there will not be many of these cases. From the nature of things there will not be hundreds of them. There will only be a few of these evildoers. In any case the hon. the Minister will not of his own volition imprison a person for life without a trial. I believe that in any case the Minister will be advised by his Department and by the police.

*The MINISTER OF JUSTICE: By the police and three magistrates.

*Mr. J. A. L. BASSON: There we have it; the police and three magistrates. It is a good thing for the world to know that this is the practice at present. That is why I say that the hon. the Minister can have no objection. If this is the practice he ought to have no objection to writing this provision into the Bill and letting the world know that we in this country have a Minister of Justice who is not a dictator; that our Minister of Justice has to deal with a difficult position here but nevertheless maintains the usual "rule of law" as far as possible. If a retired Judge and a senior police officer and a retired magistrate say that a person cannot be detained any longer, the Minister will have to have courage to say that he is going to detain that man notwithstanding that advice. So if the Minister is seeking an opportunity to act forcefully, he will have plenty of opportunity to do so. Not that I think that such a position will ever arise because I think that those magistrates and senior police officers will be reasonable people; I also think that the Minister will act reasonably in such cases. I believe that he will act reasonably and will have to act reasonably because he is Minister of Justice. I think that the Minister will act wisely in order to show the world that we are doing our best under these difficult circumstances but that the world must accept the fact that we have evildoers in this country who have to be dealt with in a certain way which may perhaps not be quite as conventional as the way of the rest of the world.

*The MINISTER OF JUSTICE: Mr. Chairman, I hope you will permit me to repeat what I told the hon. member for Sea Point by way of interjection, perhaps more for record purposes than for anything else. I just want to say that it speaks volumes that the case of a person who is being restricted will be dealt with through the usual channels. That is to say, in practice it will not be considered by one police officer but by various police officers; that it will eventually reach the Commissioner of Police, and we are very grateful for this not only as far as the present incumbent of the post is concerned but in regard to those who we have had and whom we may have in the future. They are honourable people in whom we all have confidence. From there it goes to the Department of Justice, and, as I said, to three magistrates. It goes to the Under-Secretary, to the Deputy-Secretary and to the Secretary. These are all people who in their time were senior magistrates. Each of them considers the case. That is why in practice we can be assured that such person will be treated fairly. The initiative is not taken by the Minister because he may perhaps have developed a grievance against someone or other. That simply does not happen in practice. We have now considered the pros and cons of this matter but it is, or will simply not be, possible at this stage or by the time I find myself in the Other Place—meaning the Senate—to give a decision in this regard. But I want to invite the hon. member to give further consideration to this matter himself and to take the liberty of making representations to me in this regard so that we can discuss the matter. But I think that for the present we must leave the matter at that.

Mrs. SUZMAN: The Minister and I certainly have fundamental differences of opinion. What he has just said has been quite startling to my mind. The fact that the hon. the Minister thinks that because in the case of a man who has already served a sentence in gaol, a sentence to which he was committed by a proper court, will be kept in gaol for as long as the Minister desires—it may be for ever although it cannot be for ever because nobody lives for ever, not even the Minister—he now tells us that it is not really only he who is going to make the decision, although he has made it quite clear that he takes full responsibility for it.

The MINISTER OF JUSTICE: They ultimately lay it before me.

Mrs. SUZMAN: Of course. I am the last person to take the responsibility off the Minister's shoulders. He has broad shoulders and he enjoys carrying responsibilities and I will be the last person to deprive him of that pleasure. What he does tell us is that he is in fact not the only person who will have weighed up this case; it has been to a senior police officer, to the Commissioner of Police, to the Under-Secretary for Justice and to the Secretary for Justice—all admirable characters I admit. But not one of these people, not all of them sitting together, not the Minister himself sitting with all of these people, as far as I am concerned, constitute an adequate substitute for a court of law where ordinary judicial proceedings are followed and where the ordinary rule of law is followed; a court of law where a man has to be charged with a crime, found guilty and convicted before he can be sent to gaol. None of this applies. A man can simply be kept in gaol after he has served his sentence for the crime which he has committed. My contention is that that man is entitled to go free after he has served his sentence and until he has committed another crime he is entitled to remain free. That is normal procedure everywhere in the world.

I want to ask the hon. the Minister a question but I shall wait until he returns to his seat. I know he does not agree with what I say but I am sure he will answer my question.

The MINISTER OF JUSTICE: Yes. I am still on question terms with the hon. member . . .

Mrs. SUZMAN: That is something! I am glad that I am not completely incommunicado the way other people will be with the hon. the Minister. While we are still on the question of putting the question I want to take advantage of this privilege. I want to ask the Minister how anybody is going to know whom he has in fact kept under preventive detention. As far as I know there is nothing in this law which makes it obligatory for the Minister to Table any names, to publish those names or to make the world at large know that he is keeping anybody from Sobukwe down to any other person who has served a prison sentence for any political crime under these various acts in preventive detention. How are we to know, how is the world to know, how are in fact the relatives of such a person to know? I was glad to hear from his second-reading speech that certain privileges, like visitors and so on, will be allowed. But that is not the same as an official publication of such names. Even in a state of emergency names are available to members of this House and to the Press. They are not printed as such, but documents are available at the Minister's Department which can be scrutinized and those names can be published. It is no good saying that word will get around because the newspapers will publish the names because we know that in terms of the Prisons Act the Press cannot do that unless they have official authority to do so. I want the Minister to tell this House how he is going to let us know officially who the people are that he is holding in preventive detention after those people's prison sentence has expired.

The MINISTER OF JUSTICE: It gives me great pleasure to answer the hon. member's question. The Act makes it obligatory upon me to lay the names on the Table of the House.

Mrs. SUZMAN: Will that section apply in this case?

The MINISTER OF JUSTICE: Yes. If I do not do that I am of course guilty of an offence. Apart from that the hon. member is entitled, as all hon. members are, to Table a question as to whom and how many are being detained.

Mrs. SUZMAN: The matter is not as simple as that. I have had experience of how questions are replied to. The other day I tabled a question in connection with Proclamation 400 which applies to the Transkei at the moment. The reply I got from the Minister in charge of that particular Department, the Minister of Bantu Administration, was that it was not in the public's interest to disclose that information.

The MINISTER OF JUSTICE: I do not want to discuss the hon. member's fears. All I can tell her is that it is obligatory upon me to lay the names on the Table.

Mrs. SUZMAN: At the beginning of the Session?

The MINISTER OF JUSTICE: Within a fortnight after the start of the Session and a fortnight after I have detained him if the House is in session.

Question put: That all the words from the commencement of paragraph (a) to the end of the proposed paragraph (a)*bis*, proposed to be omitted, stand part of the clause.

Upon which the Comittee divided:

AYES—85: Badenhorst, F. H.; Bekker, G. F. H.; Bekker, H. T. van G.; Bekker, M. J. H.; Bezuidenhout, G. P. C.; Bootha, L. J. C.; Botha, H. J.; Botha, M. C.; Botha, P. W.; Botha, S. P.; Cloete, J. H.; Coetzee, B.; Coetzee, P. J.; Cruywagen,

W. A.; de Villiers, J. D.; de Wet, C.; Diederichs, N.; Dönges, T. E.; du Plessis, H. R. H.; Faurie, W. H.; Fouché, J. J. (Sr.); Fouché, J. J. (Jr.); Frank, S.; Greyling, J. C.; Grobler, M. S. F.; Haak, J. F. W.; Hertzog, A.; Heystek, J.; Hiemstra, E. C. A.; Jonker, A. H.; Jurgens, J. C.; Keyter, H. C. A.; Knobel, G. J.; Kotze, G. P.; Kotzé, S. F.; Labuschagne, J. S.; le Roux, P. M. K.; Loots, J. J.; Louw, E. H.; Luttig, H. G.; Malan, W. C.; Marais, J. A.; Maree, W. A.; Martins, H. E.; Meyer, T.; Mostert, D. J. J.; Mulder, C. P.; Muller, S. L.; Niemand, F. J.; Otto, J. C.; Pelser, P. C.; Potgieter, J. E.; Rall, J. J.; Rall, J. W.; Sadie, N. C. van R.; Sauer, P. O.; Schlebusch, A. L.; Schlebusch, J. A.; Schoonbee, J. F.; Serfontein, J. J.; Smit, H. H.; Stander, A. H.; Steyn, F. S.; Steyn, J. H.; Treurnicht, N. F.; van den Berg, G. P.; van den Berg, M. J.; van der Walt, B. J.; van Niekerk, G. L. H.; van Rensburg, M. C. G. J.; van Staden, J. W.; van Wyk, G. H.; van Wyk, H. J.; van Zyl, J. J. B.; Venter, M. J. de la R.; Venter, W. L. D. M.; Viljoen, M.; Visse, J. H.; von Moltke, J. von S.; Vorster, B. J.; Vosloo, A. H.; Waring, F. W.; Wentzel, J. J.

Tellers: D. J. Potgieter and P. S. van der Merwe.

Noes—46: Barnett, C.; Basson, J. A. L.; Basson, J. D. du P.; Bloomberg, A.; Bronkhorst, H. J.; Cadman, R. M.; Connan, J. M.; Dodds, P. R.; Durrant, R. B.; Eaton, N. G.; Emdin, S.; Field, A. N.; Fisher, E. L.; Gay, L. C.; Gorshel, A.; Graaff, de V.; Henwood, B. H.; Hickman, T.; Higgerty, J. W.; Hourquebie, R. G. L.; Lewis, H.; Malan, E. G.; Miller, H.; Mitchell, D. E.; Mitchell, M. L.; Moolman, J. H.; Moore, P. A.; Odell, H. G. O.; Oldfield, G. N.; Plewman, R. P.; Radford, A.; Raw, W. V.; Ross, D. G.; Russell, J. H.; Steenkamp, L. S.; Streicher, D. M.; Suzman, H.; Taurog, L. B.; Thompson, J. O. N.; Timoney, H. M.; van Niekerk, S. M.; Warren, C. M.; Waterson, S. F.; Wood, L. F.

Tellers: A. Hopewell and T. G. Hughes.

Question accordingly affirmed and the amendment proposed by Mrs. Suzman negatived.

Amendment proposed by Mr. J. A. L. Basson put and the Committee divided:

Ayes—46: Barnett, C.; Basson, J. A. L.; Basson, J. D. du P.; Bloomberg, A.; Cadman, R. M.; Connan, J. M.; Dodds, P. R.; Durrant, R. B.; Eaton, N. G.; Emdin, S.; Field, A. N.; Fisher, E. L.; Gay, L. C.; Gorshel, A.; Graaff, de V.; Henwood, B. H.; Hickman, T.; Higgerty, J. W.; Hourquebie, R. G. L.; Hughes, T. G.; Lewis, H.; Malan, E. G.; Miller, H.; Mitchell, D. E.; Mitchell, M. L.; Moolman, J. H.; Moore, P. A.; Odell, H. G. O.; Oldfield, G. N.; Plewman, R. P.; Radford, A.; Raw, W. V.; Ross, D. G.; Russell, J. H.; Steenkamp, L. S.; Streicher, D. M.; Suzman, H.; Taurog, L. B.; Thompson, J. O. N.; Timoney, H. M.; van Niekerk, S. M.; Warren, C. M.; Waterson, S. F.; Wood, L. F.

Noes—86: Badenhorst, F. H.; Bekker, G. F. H.; Bekker, H. T. van G.; Bekker, M. J. H.; Bezuidenhout, G. P. C.; Bootha, L. J. C.; Botha, H. J.; Botha, M. C.; Botha, P. W.; Botha, S. P.; Cloete, J. H.; Coetzee, B.; Coetzee, P. J.; Cruywagen, W. A.; de Villiers, J. D.; de Wet, C.; Diederichs, N.; Dönges, T. E.; du Plessis, H. R. H.; Faurie, W. H.; Fouché, J. J. (Sr.); Fouché, J. J. (Jr.); Frank, S.; Greyling, J. C.; Grobler, M. S. F.; Haak, J. F. W.; Hertzog, A.; Heystek, J.; Hiemstra, E. C. A.; Jonker, A. H.; Jurgens, J. C.; Keyter, H. C. A.; Knobel, G. J.; Kotze, G. P.; Kotzé, S. F.; Labuschagne, J. S.; le Roux, P. M. K.; Loots, J. J.; Louw, E. H.; Luttig, H. G.; Malan, W. C.; Marais, J. A.; Maree, W. A.; Martins, H. E.; Meyer, T.; Mostert, D. J. J.; Mulder, C. P.; Muller, S. L.; Niemand, F. J.; Otto, J. C.; Pelser, P. C.; Potgieter, J. E.; Rall, J. J.; Rall, J. W.; Sadie, N. C. van R.; Sauer, P. O.; Schlebusch, A. L.; Schlebusch, J. A.; Schoeman, B. J.; Schoeman, J. C. B.; Serfontein, J. J.; Smit, H. H.; Stander, A. H.; Steyn, F. S.; Steyn, J. H.; Treurnicht, N. F.; van den Berg, G. P.; van den Berg, M. J.; van der Walt, B. J.; van Niekerk, G. L. H.; van Rensburg, M. C. G. J.; van Staden, J. W.; van Wyk, G. H.; van Wyk, H. J.; van Zyl, J. J. B.; Venter, M. J. de la R.; Venter, W. L. D. M.; Viljoen, M.; Visse, J. H.; von Moltke, J. von S.; Vorster, B. J.; Vosloo, A. H.; Waring, F. W.; Wentzel, J. J.

Tellers: D. J. Potgieter and P. S. van der Merwe.

Amendment accordingly negatived.

Amendment proposed by Mr. M. L. Mitchell put and agreed to.

Clause, as amended, put and the Committee divided:

Ayes—86: Badenhorst, F. H.; Bekker, G. F. H.; Bekker, H. T. van G.; Bekker, M. J. H.; Bezuidenhout, G. P. C.; Bootha, L. J. C.; Botha, H. J.; Botha, M. C.; Botha, P. W.; Botha, S. P.; Cloete, J. H.; Coetzee, B.; Coetzee, P. J.; Cruywagen, W. A.; de Villiers, J. D.; de Wet, C.; Diederichs, N.; Dönges, T. E.; du Plessis, H. R. H.; Faurie, W. H.; Fouché, J. J. (Sr.); Fouché, J. J. (Jr.); Frank, S.; Greyling, J. C.; Grobler, M. S. F.; Haak, J. F. W.; Hertzog, A.; Heystek, J.; Hiemstra, E. C. A.; Jonker, A. H.; Jurgens, J. C.; Keyter H. C. A.; Knobel, G. J.; Kotze, G. P.; Kotzé, S. F.; Labuschagne, J. S.; le Roux, P. M. K.; Loots, J. J.; Louw, E. H.; Luttig, H. G.; Malan, W. C.; Marais, J. A.; Maree, W. A.; Martins, H. E.; Meyer, T.; Mostert, D. J. J.; Mulder, C. P.; Muller, S. L.; Niemand, F. J.; Otto, J. C.; Pelser, P. C.; Potgieter, J. E.; Rall, J. J.; Rall, J. W.; Sadie, N. C. van R.; Sauer, P. O.; Schlebusch, A. L.; Schlebusch, J. A.; Schoeman, B. J.; Schoeman, J. C. B.; Serfontein, J. J.; Smit, H. H.; Stander, A. H.; Steyn, F. S.; Steyn, J. H.; Treurnicht, N. F.; van den Berg, G. P.; van den Berg, M. J.; van der Spuy, J. P.; van der Walt, B. J.; van Niekerk, G. L. H.; van Rensburg, M. C. G. J.; van Staden, J. W.; van Wyk, G. H.; van Wyk, H. J.; van Zyl, J. J. B.; Venter, M. J. de la R.; Venter, W. L. D. M.; Viljoen, M.; Visse, J. H.; Vorster, B. J.; Vosloo, A. H.; Waring, F. W.; Wentzel, J. J.

Tellers: D. J. Potgieter and P. S. van der Merwe.

Noes—46: Barnett, C.; Basson, J. A. L.; Basson, J. D. du P.; Bloomberg, A.; Bronkhorst, H. J.; Cadman, R. M.; Connan, J. M.; Dodds, P. R.; Durrant, R. B.; Eaton, N. G.; Emdin, S.; Field, A. N.; Fisher, E. L.; Gay, L. C.; Gorshel, A.; Graaff, de V.; Henwood, B. H.; Hickman, T.; Higgerty, J. W.; Hourquebie, R. G. L.; Lewis, H.; Malan, E. G.; Miller, H.; Mitchell, D. E.; Mitchell, M. L.; Moolman, J. H.; Moore, P. A.; Odell, H. G. O.; Oldfield, G. N.; Plewman, R. P.; Radford, A.; Raw, W. V.; Ross, D. G.; Russell, J. H.; Steenkamp, L. S.; Streicher, D. M.; Suzman, H.; Taurog, L. B.; Thompson, J. O. N.; Timoney, H. M.; van Niekerk, S. M.; Warren, C. M.; Waterson, S. F.; Wood, L. F.

Tellers: A. Hopewell and T. G. Hughes.

Clause, as amended, accordingly agreed to.

On Clause 5,

Mr. HOURQUEBIE: I move as an amendment—

To omit all the words after "that" in line 41, up to and including "that" in line 46.

The object of this amendment is to do away with the minimum sentence of five years' imprisonment. I wish to make it clear at the outset that I concede that the crimes dealt with in this clause are very serious ones and that persons convicted of such crimes deserve heavy penalties, but as I shall show presently I do not believe that it is necessary or desirable for this House to impose a minimum sentence in order to ensure that an appropriate punishment is imposed on those convicted. I believe that the various Acts in which minimum sentences have been imposed in the past few years have shown quite clearly the danger of this course, the danger of denying the courts the discretion as to minimum sentences. That danger lies in the fact that injustices may be done, and injustices are done, in individual cases if the court's hands are tied. I need hardly say that it is essential that every act of a court of law should be a just act and not an unjust act. Mr. Chairman, the reason why in individual cases an injustice is done is because in individual cases there are circumstances which make it unjust to impose the severe penalties which are laid down as a minimum. I believe, Mr. Chairman, that the legislation whereby compulsory whipping was introduced has shown beyond any doubt the dangers of a minimum sentence, but I believe equally that this is not the only instance where that danger has become apparent as a result of minimum sentences.

Last year, when this House debated and passed the General Law Amendment Bill which contained in the sabotage clause a minimum penalty of five years' imprisonment, we on this side of the House objected to the imposition of a minimum penalty, and the argument which the hon. the Minister advanced in support of imposing a minimum was this (Col. 7115 of Hansard)—

> It is also true as regards the minimum penalty of five years' imprisonment that the Bar Council has put it to me that it is opposed in principle to all minimum penalties because its attitude is that this is a matter which should rest exclusively in the discretion of the courts. My attitude on the other hand was that although I subscribed to the general principle that one should interfere as little as possible with this discretion of the courts, we are here dealing with such an exceptional case that Parliament not only has the right, but I believe that Parliament would neglect its duty if it did not make it clear how strongly it felt about these acts.

That was the argument advanced by the hon. Minister for imposing the minimum sentence in that instance, and I take it that this will be his argument again to-day, perhaps with some other arguments added to it. I would therefore like to deal with that argument of the hon. the Minister, and I would like to make two points: Firstly, on the hon. Minister's own admission the Bar Council indicated to him that it was against the principle of minimum sentences. That in itself, I suggest, ought to induce the Minister not to impose such sentences in legislation, because the Bar Council is a very responsible body; it is made up of all shades of opinion, political and otherwise, and in expressing its opinion to the hon. Minister it was certainly not doing so in any partial spirit. So I suggest that that in itself is a sufficient reason why the Minister should accept the amendment which I have moved. I go further and I say that it is really quite

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