would ensure that the point of view of the legal profession is put when legal aspects of regional problems are relevant.

Thirdly, the fact that the world is shrinking and that the problems of one country within the region are, in a very real sense, the problems of the others, make it very desirable indeed for legal education, legal research, and comparative legal studies to be pursued vigorously on a regional basis. One very important existing problem has to do with the quality of the administration of the courts of justice, of the police, and of the legal profession in all countries in the region. We are faced, for example, in Australia with the need to ensure that proper provision is made in these respects in New Guinea. Australia and the Australian legal profession can help other developing countries by participation in the discussion of problems arising in these fields and perhaps in other more practical ways.

Fourthly, a Regional Law Association when formed would not be a meeting place only for the officers of the constituent legal bodies. It would doubtless organise regional law conventions at which lawyers of all countries could meet together, get to know one another, and establish relations of goodwill.

An enterprise of this kind is regarded by the Law Council of Australia as being a practical contribution to understanding within the region in which Australia must forever live. Lawyers are important in all the countries of the region. It is essential that they should be able to help one another in carrying out the work that they do within their own countries and which is so essential to the well-being of those countries.

The South African General Law Amendment Act, 1963

The South African Government is now holding over 500 people, black and white, men and women, young and old, in solitary confinement, suffering, according to reliable reports, great distress of body and mind, in various prisons of the South African Republic, who may be thus detained, if the Government is so minded, for the term of their natural lives. They are to be held without charge and without trial, and *without hope of redress,* for the General Law Amendment Act, 1963, which furnished the authority for their detention, specifically provides that "No court shall have jurisdiction to order the release from custody of any person so detained", *but*—generous dispensation—"*the said Minister* may at any time direct that any such person be released from custody": s. 17 (3).

I have before me, as I write, a photostatic copy of this statute, which comprises the most alarming collection of laws that one is likely to find solemnly inscribed in the statute book of a modern State. Such is the South African's respect for law that (paradoxically enough) the whole scheme must be spelt out thus in black and white, a public confession of the country's complete and utter forsaking of the rule of law.

I shall not dwell in this article on the other provisions of the Act; the power given to "the Minister" to hold, for such period as he determines, persons serving sentences of imprisonment even after the sentences have expired, no matter what the crime, or however short the original sentence, "if he is satisfied that (the person) is likely to advocate, advise, defend or encourage the objects of communism" (defined so as to include any attempt to change the existing political, social or economic order by means defined in such wide terms that almost any agitation could be brought within the definition); the retrospective imposition of the death penalty upon any person who is *or was* resident in the Republic and who has at any time *since* 1950 either advocated "the achievement by violent or forcible means of any object directed at bringing about any political, industrial, social or economic change within the Republic by the intervention of or in accordance with the directions or under the guidance of or in co-operation with or with the assistance of any foreign Government or any foreign or international body or institution" (such as, for example, the United Nations), "or the achievement of any of the objects referred to in paragraphs (a) to (d), inclusive, of the definition of 'Communism' ", or has "undergone any training outside the Republic or obtained any information from a source outside the Republic which could be of use in furthering the achievements of any of the objects of Communism . . . and who fails to prove beyond a reasonable doubt that he did not undergo any such training or obtain any such information for the purpose of using it or causing it to be used in furthering the achievements of any such object"; the provision whereby the State President may by proclamation declare *conclusively* that *any* body named is in fact identical with an unlawful organisation already so declared under the Act, with all the consequences thereby entailed—forfeiture of property, criminal offence to be associated with it, *et cetera.*

For of what importance are these things when placed beside the power of arbitrary arrest? That power is given by s. 17 in the following terms:

> "17. (1) Notwithstanding anything to the contrary in any law contained, *any commissioned officer* as defined in section one of the Police Act, 1958 (Act No. 7 of 1958), may from time to time *without warrant* arrest or cause to be arrested *any person whom he suspects upon reasonable grounds* of having committed or intending or having intended to commit any offence under the Suppression of Communism Act, 1950 (Act No. 44 of 1950), or under the last-mentioned Act as applied by the Unlawful Organisations Act, 1960 (Act No. 34 of 1960), or the offence of sabotage, or who in his opinion is in possession of any information relating to the commission of any offence or the intention to commit any such offence, and detain such person or cause him to be detained in custody for interrogation in connection with the commission of or intention to commit such offence, at any place he may think fit,

until such person has in the opinion of the Commissioner of the South African Police replied satisfactorily to all questions at the said interrogation, but no such person shall be so detained for more than ninety days on any particular occasion when he is so arrested." (My emphasis.)

It has already been held that a person arrested under this section may at the end of ninety days be re-arrested, and so on *ad infinitum*, thus justifying the boast of the Minister for Justice (sic) that persons may be held under this legislation, as he whimsically put it, "this side of eternity"—and this in fact has frequently happened.

The possible effects of this legislation cannot be overstated. Under its authority the police could arrest, for example, every Member of Parliament—any critic of the Government, black or white—a barrister who was thought to have received in his professional capacity information relating to the commission of an offence—all blue-eyed babies—the Chief Justices, or any judge —or any other person whosoever. *"Send not to ask . . . it tolls for thee".*

Now the final result of the South African Government's racial policies is clear for all to see; the demise of freedom and democracy for black or white, brown or brindle, is here solemnly foretold in the two official languages, English and Afrikaans. The United Opposition Party, which had long since ceased to represent an effective oposition, endorsed its own death certificate, and voted the Bill into law. The one dissentient vote was that of a woman.

South Africans might well ponder the words of Abraham Lincoln: " 'A house divided against itself cannot stand.' I believe this Government cannot endure permanently, half slave and half free." And again he said, "In giving freedom to the slave, we assure freedom to the free—honourable alike in what we give and what we preserve." The recent legislation in South Africa has proved the impossibility of maintaining the paradox of parliamentary democracy for the few combined with subjugation of the many; in the end there must be freedom for all, or freedom for none.

The Johannesburg Bar Association issued a Press Statement relating to the Bill before it became law, in which it said that it was "gravely concerned at a number of the provisions of the General Law Amendment Bill, 1963, and in particular at those provisions which in its view will have as their consequence the virtual abrogation of the Rule of Law in South Africa. The provisions concerned are those empowering detention for the purposes of interrogation by the police; entitling the Minister of Justice in effect to extend prison sentences in certain cases; creating offences retrospectively; and excluding the jurisdiction of the Courts to enquire into the factual basis of any proclamation by the State President declaring any organisation to be the same as an unlawful organisation." Its outspoken condemnation of the detention provisions deserves to be quoted in full; the publication of such condemnation, at that place and time, required a degree of courage of which their fellow-lawyers in other countries will be proud, and can only hope to emulate in similar circumstances. It reads as follows:

"Detention

This provision contravenes the fundamental principle of the jurisprudence of every civilised country (other than totalitarian states) that persons are not liable to be imprisoned without trial. Under that section, any person whoever he may be, will be liable to arrest and incarceration at the will of a junior police officer.

It is true that, in times of crisis, such as war, provisions for the detention of persons who at liberty might endanger the safety of the State, are sometimes necessary. Such provisions do not, however, form part of the permanent law of the land; they terminate on the cessation of the emergency.

The proposed provision is quite different. It is not a temporary measure, designed to deal with a state of emergency, but is to be a permanent statute, available to be used whether or not there is a state of crisis. And its purpose is not to restrict the liberty of persons dangerous to the State, but to make provision, as part of our normal procedure, for a police inquisition. Such a provision is contrary to all our principles of fairness and justice.

It is one of the Judges Rules, which were formulated by the Judges of the Supreme Court more than thirty years ago, and issued as administrative directions to the police, that no suspect who has been detained should be subjected to interrogation by the police.

It is also a principle of our law (subject only to minor statutory exceptions) that no person is compellable to answer questions, save in a Court of law before a judicial officer, where he is safeguarded by the rules of evidence, and protected against intimidation and degradation. Moreover, every person enjoys in a Court of law the privilege against self-incrimination, a privilege which, like the other protections afforded by the law, exists not to give immunity to the guilty but to safeguard the innocent.

These principles can be of no avail to a person, who has been arrested at the whim of any police officer, detained thereafter for up to ninety days at a time at any place, without communication with family or friends, without the comfort and assistance of legal advice, and without recourse to the Courts, which will not be entitled even to enquire whether the powers have been misused or abused for improper motives.

Under a system which renders any citizen liable to be interrogated on the mere suspicion of a police officer, abuse and tyranny are inevitable. Where the jurisdiction of the Courts to enquire into the detention is completely ousted, the danger is extreme that a police officer will become a local tyrant, misusing his power for political or personal ends, and that the way will be opened to blackmail and the evil of false informers.

The Minister of Justice has stated in the House of Assembly that it was his duty to see that there was no misuse of the powers he requested. But he also recognised that there has been such misuse in the past. The Minister himself cannot personally control interrogations, and the Bill itself provides no safeguards against abuse. That being so, there is a grave danger that the use of physical brutality or more subtle methods of 'brainwashing' may be employed in the course of interrogation.

A matter of direct concern to the legal profession is that under this provision, an attorney or an advocate would be liable to arrest and detention for interrogation because a police officer believes that he has obtained from his client, whom he may be

defending, information relating to the commission of any of the offences referred to. That is a serious invasion of the fundamental principle of the administration of justice that a person is free to seek legal advice in the confidence that his legal adviser is not compellable to disclose what has been communicated to him in the privacy of the consultation room. A further possible consequence of the provision is that legal practitioners may be deterred from undertaking the defence of persons charged with any of the offences specified in the provision, and this would seriously impair the due exercise of the proper function and duty of legal advisers towards persons seeking their services."

Nothing daunted, the Nationalist Government enacted the legislation, and the fears of the Bar Association have been fully realised in fact. Already an African lawyer has been detained under the Act—Mr. A. L. Sachs, son of Mr. E. S. Sachs, well-known trade union leader, who is now Secretary of the English Defence and Aid Fund in London. Just before Christmas, it was reported in the press that sixty leading South African psychiatrists, psychologists and medical specialists had condemned in a public statement the solitary confinement of persons detained under the new law which they said was associated with "intense distress and impairment of certain mental functions".

The Government has sown the wind and will reap the whirlwind, unless it can turn again before it is too late. A statement issued by the International Commission of Jurists in Geneva on 15th May, 1963, after a detailed examination of the new Act, concluded as follows:

"South Africa is now more than ever a Police State. In its laws and procedures it is embodying many of the worst features of the Communist Stalinist regime. Liberty is gone. Justice is blinded and maimed despite the efforts of the Bench and the Bar to save such remnants as still remain in that unfortunate country. The measures introduced by the South African Government call for strong condemnation by all the civilised world."

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Legal Education in New South Wales

In the last issue of the Gazette, an article under the above heading was sub-titled "A Crisis". It discussed the very serious situation which now exists in the field of legal education in New South Wales.

Another item in the Gazette reported that the recently formed Sydney University Law Graduates Association has, as one of its major aims, obtaining recognition of the urgent need for a new Law School for the University of Sydney. A detailed resolution of the Association was published which expressed grave concern about the present accommodation for the Sydney Law School, and called upon the Governments of the Commonwealth and New South Wales to take note of the crisis of legal education in New South Wales, to act during the current triennium to solve the problem of accommodation for legal education, and to give substantial financial backing to the University as a matter of urgency to provide a new building for the Law School.

All those connected with the Law appreciate the needs of the Sydney University Law School, and, since the publication of the last issue of the Gazette, an Action Committee has been formed under the chairmanship of the Chief Justice of New South Wales to take all steps necessary to see that the Law School is provided with a proper building on a suitable site.

Although no official announcements have been made, the Committee has been working actively, and there are reasons to believe that an early solution will be found to the Law School's site and building problems.

It is interesting to note that, in the resolution of the Sydney University Law Graduates Association, a recommendation was included "that the new Law School should provide as far as possible for all who are capable of and desire to read Law without limitations of quota". This, doubtless, represents the point of view of graduates of Sydney University, but that University is not the only University now in the field with a claim to provide legal education in the future.

The University of New South Wales is undoubtedly interested in this field and the new Macquarie University, to be established on the north side of the Harbour, will also wish to stake a claim to have a Law School.

One extremely interesting question currently being debated in circles interested in legal education in Sydney, is whether the provision of a site and a building for Sydney University, which now seems likely to be made, will carry with it the condition that it should be of a size and kind sufficient to provide, as the Sydney University Law Graduates Association recommends, "for all who are capable of and desire to read Law without limitations of quota".

The University of New South Wales became interested in the establishment of a Faculty of Law at a time when Sydney University had announced its quota restrictions on entry to its Law School. Everyone is, of course, waiting to see whether Sydney University will be expected, in return for the provision of a good building on a suitable site down-town, to withdraw its quota restrictions and take all comers for some period of years. No one knows the answer to this question, but, when it is given, it may help or hinder the other Universities in their plans to establish Law Schools.

The problem is complicated by the growing realisation that those who sit for the examinations of the Barristers Admission Board and the Solicitors Admission Board, should no longer be left to their own private reading, but should be assisted by some kind of tuition. Sydney University has, in general, been opposed, so far as can be gathered, to instruction by correspondence and other similar techniques. Another interesting