

IN DEFENSE OF DEMOCRACY

Lee Lam Thye is Deputy Secretary-General of the DAP and has served the party in various national positions since 1974. After serving as Executive Secretary of the National Union of Commercial Workers he entered full-time politics in 1969 and was elected SA for Bukit Nenas, Selangor, in the 1969 General Elections at the age of 23. In 1974, he was elected Member of Parliament for Kuala Lumpur Bandar and successively re-elected as MP in 1978, 1982 and 1986. He is now serving his fifth term. During the period when Sdr. Lim Kit Siang was detained under "Operasi Lalang" in October 1987, he served as Acting Parliamentary Opposition Leader and Acting Secretary-General of the DAP. He has attended numerous international conferences both as a parliamentarian and on behalf of his party, and has also travelled extensively as guest of foreign countries. In 1986, he was chosen as a recipient of the Ten Outstanding Young Malaysians Award by Jaycees Malaysia. A life member of PEMADAM, he was appointed as a member of the Anti-Dadah National Council of PEMADAM in June 1989. Currently, he also serves as honorary adviser of numerous trades, community and welfare associations in the Federal Territory.

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**IN DEFENSE OF
DEMOCRACY**

Lee Lam Thye



The Lam Thye Magic: A national and international award-winning Press photo titled 'The Saviour', showing a grief-stricken urban squatter clinging to the MP for Bukit Bintang.

Photographer: Alfred Quek. 1985

FOREWORD

Sdr. Lee Lam Thye has proved that he is a first-rate political leader when he held the Democratic Action Party together during the Party's darkest days in the 18 months of Operation Lallang from October 27, 1987 to April 19, 1989, when virtually the entire political leadership was removed from the scene.

DAP went through its greatest political trauma in its 21-year party history when 16 DAP leaders, including 10 DAP Members of Parliament and State Assemblymen; involving the National Deputy Chairman, one National Vice Chairman, the Secretary-General, one Deputy Secretary-General and six DAP State Chairmen, were detained under the Internal Security Act in the Operation Lallang dragnet.

With such a vacuum in national leadership, and at a time when fear stalked the land, it was no easy task for anyone to hold the DAP together, and it is a tribute to Sdr. Lee's leadership qualities that he has proved the prophets of doom wrong in their forecast of the inevitable disintegration of the DAP. On the contrary, Sdr. Lee was able, during the period, to infuse into the Party a fighting spirit and continuing sense of purpose, showing to Malaysians a dimension of his political leadership and character unknown to many.

This is why at the first meeting of the DAP Central Executive Committee which I attended after my release from Kamunting Detention Centre, I tabled a motion to place on record the Party's appreciation and thanks to Sdr. Lee for his sterling performance as Acting DAP Secretary-General during the trying months of Operation Lallang. This motion was unanimously adopted by the Central Executive Committee which met in Penang on 21st May 1989.

This book is a collection of speeches and statements made by Sdr. Lee during the 18 months under Operation Lallang. They relate the political developments which proved a nightmare for democracy and human rights. After the arbitrary and undemocratic arrests of leaders and representatives from a whole spectrum of national life, both in the political opposition and the non-partisan civic groups, a relentless process was started to erode further whatever was left of the fundamental rights of Malaysians as guaranteed by the Malaysian Constitution.

The limited basic liberties of free speech, assembly and association were further curtailed by legislative actions. Meanwhile the cardinal principle of the Independence of the Judiciary and the doctrine of the Separation of Powers came under the most serious assault in the history of Malaysian nation-building, resulting in the sacking of the Lord President, and two Supreme Court Judges – while at one time, six out of nine of the Supreme Court Judges were themselves on trial for 'judicial misbehaviour' for showing their judicial independence from the political masters of the day.

Although Operation Lallang has ended, with the release of all political detainees by April 19, 1989 and the lifting of all restrictions on all detainees under the operation by, the damage done to the Malaysian body politic, democracy and human rights have yet to be undone.

The single most important question today is whether the people of Malaysia have allowed Operation Lallang to create in them such a great fear of the Internal Security Act as to cow them into a nation of sheep, keeping everyone an unhealthy distance from involvement and commitment in public and political affairs in Malaysia.

Democracy in Malaysia can only take root and flourish if Malaysians are prepared to make a commitment to defend and speak up for democracy and human rights, and do not allow the Internal Security Act and other repressive laws to stifle their struggle for freedom, equality and justice. As a first step, Malaysians must liberate themselves from the fear of the ISA, for once this can be achieved, then the people would have broken the chains fettering their minds and spirit in the fight for democracy and human rights.

LIM KIT SIANG

October 1989

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A reputation of constituency service that grew into a legend.

INTRODUCTION

The impact was sudden. At one moment the Democratic Action Party was moving decisively at the forefront of a growing people's movement for democracy against an increasingly authoritarian government riddled with financial scandals. The next moment, the dynamo of this movement, DAP Secretary-General and Parliamentary Opposition Leader, Sdr. Lim Kit Siang was detained under the Internal Security Act. Of the 109 arrested, 16 were from the DAP. Seven of these 16 were issued two-year detention orders. In one stroke, the party was practically decapitated.

The October 27 1987, Operation Lallang – the code name for the mass arrests under the ISA – was an exercise in an administration of fear designed to repress the growing demands for government accountability and democracy. The staggered arrests of a wide cross-section of citizens and the clamp down on freedom of information was an orchestrated intimidation of the people.

Using the ISA, Dr. Mahathir succeeded in isolating the main leaders from the party and the urban electorate that supported them. Then, using the mass media, an attempt was made to scare the people into believing that the DAP was responsible for undermining the security of the country and creating fear amongst the people. There was increased tension in the country but this was created and fanned by a split in the ruling elite. Dr. Mahathir's strategy was to use the opportunity to crush the DAP.

The thinking was that, under the pressure and without the central guidance of the DAP leaders under detention, the party will be racked with internal conflicts resulting in the erosion of public support and the eventual end of the DAP. To this end, the mass media was made to play up reports of internal struggles for power and the notion that, without the Kit Siang factor, the DAP will fall apart.

Under these trying conditions, the choice of Sdr. Lee Lam Thye as Acting Secretary-General and Acting Opposition Leader was therefore a crucial choice. The immediate effect of the choice was felt outside the DAP first. The choice of Lee Lam Thye as party helmsman diffused the target of the Mahathir government's propaganda onslaught against the DAP. Malaysians psyched out and intimidated by the government's administration of fear were relieved.

The link between the people at large and the DAP was secured by what can only be described as the 'Lam Thye Magic'.

The magic of Lee Lam Thye lies in the leadership style nurtured by him over the years since 1969, when he won his first public office as state assemblyman for Bukit Nanas at the age of only twenty-two. Ever since then, he has painstakingly served the interests of his constituents. Looking after the immediate needs of the poor and downtrodden, his grassroots service centres gave new meaning to the term constituency service. In 1974, he won the parliamentary seat of Kuala Lumpur and since then he has kept his urban electorate, thrashing all opponents by huge majorities. Over those years his stature as a constituency serviceman grew into a legend.

This itself is a great achievement, but what made his achievement unique is the fact that he was an opposition MP. His stature was so established that even government ministers openly praised him. The ruling Barisan government with all its powers of patronage did not have a single MP who could match Lee Lam Thye's reputation. He had established a style and reputation accepted and well liked by Malaysians of all races. When Lee Lam Thye accepted the leadership of the DAP, he blunted the negative attacks marshalled against the DAP by the Prime Minister and chorused by the government controlled mass media.

But while the strength of his national stature was rock solid, he faced several problems. Within the DAP, he faced attitudes that were used to the hard-hitting style of Lim Kit Siang. There were expectations of him to continue that style. He needed time to work out his own approach and pace. But there was no time as the Mahathir government pushed relentlessly with a series of repressive measures designed to entrench his power through a broad based attack on the fundamental liberties of the people. The first parliamentary session following Operation Lallang saw a series of amendments tightening already repressive legislation. There was a multi-pronged attack against the Federal Constitution, freedom of speech and assembly, freedom of information, the separation of powers, etc. As Acting Opposition Leader he had to lead the defence against these broad attacks against democracy. At the same time, he travelled across the country to meet party leaders and members to rebuild confidence and maintain unity. He had to initiate a national and an international campaign to release Lim Kit Siang and all other detainees.

It was a severe test of the political maturity, endurance and stamina of Lee Lam Thye. Within the DAP and nationally there was great interest in his performance. Questions were raised on whether the DAP would hold together under his leadership, let alone perform as a credible opposition. To make the task more difficult, there was no shortage of speculation in

the press on a crisis of leadership within the DAP. Plots and counter-plots and intrigues of all sorts were reported. All eyes were on the mid-April 1988 Eighth DAP National Congress which was to elect the next central executive committee.

This congress proved to be a milestone not only for Lee Lam Thye but also for the DAP. Delegates who had seen the struggle and performance put up by Lee Lam Thye in the past five and a half months since the Operation Lallang crackdown responded wholeheartedly to the table-thumping opening address by Lee Lam Thye calling for total unity in the party to face the challenges ahead. Since that confirmation of his leadership at that congress, Lee Lam Thye has never looked back but has grown from strength to strength.

The ordeal faced by the DAP during and after the Operation Lallang crackdown has served to test and strengthen the party. It has laid to rest that boring and oft repeated tirade by some that Lim Kit Siang is a dictator, that the DAP is a one man show ...etc. What has emerged is a clear view of a collective leadership in exercise. The skills and talents of a Lim Kit Siang, a Karpal Singh and a Lee Lam Thye and a host of others is the blend that packs the power in the DAP. Lee Lam Thye has contributed decisively to this power. He has broadened and entrenched the DAP into the people's movement for a better democratic Malaysia.

This slim volume contains a selection from the many speeches and press statements given by Lee Lam Thye during the dark days following the Operation Lallang crackdown.



The Party's helmsman detained under the ISA.



For him, a severe test of political maturity, endurance and stamina.

ISA Charges Biased, Distorted, Tendentious, Baseless

Royal Address. Dewan Rakyat, March 9th 1988

THE first meeting of the 2nd session of the Seventh Parliament is convened at a most crucial time in the history of our nation, in view of the many problems confronting the nation since its attainment of independence 31 years ago. We are faced with a series of major and urgent problems which will affect not only our economic recovery but also the restoration of national and international confidence in our system of government. Of utmost concern to Malaysians are the events arising from the October 27 episode which have seen the suppression not only of His Majesty's loyal Opposition but also of public dissent through the application of repressive legislations such as the Internal Security Act.

END OF LIBERAL POLICY

Mr. Speaker, 1987 was indeed an eventful year which marked the beginning of the end of the much vaunted 'open and liberal' policy of the Barisan Nasional Government under the leadership of the Prime Minister. The era of openness and liberalism, promised by the Prime Minister when he assumed office in 1981, has now been replaced by one of repression and suppression. The Prime Minister inflicted a severe and lethal blow to freedom and democracy when the Government launched a nation-wide crackdown in October last year, resulting in the arrest of politicians, educationists, trade unionists, academicians, church workers and environmentalists. Of these, 38 of them still continue to be detained under the Internal Security Act and they include the Leader of the Opposition and the Member for Tanjong, and 6 other DAP Opposition members from this august House.

Press freedom was placed in serious jeopardy with the passage of the Printing Presses and Publications (Amendment) Act whose provisions are so draconian and obnoxious that it would lead to a timid and submissive press, which would not, for the sake of its existence, publish any news or articles that could cause "public alarm" and invite a maximum penalty of \$20,000 in fines or three-year imprisonment. The amendments to the Police Act are no less draconian. With its horrendous penalties which provide for a minimum fine of \$2,000 and up to a maximum of \$10,000 as well as a mandatory jail sentence of not more than a year, peaceful demonstrations and gatherings to express the legitimate grievances of the people would become a thing of the past.

The massive crackdown on dissidents in the country has not resolved the many ills of the nation. The multifarious problems which confront Malaysia still remain. The issue of the appointment of Headmasters and Senior Assistants not educated in Mandarin to Chinese Primary Schools has yet to be resolved; the problems of the influx of illegal Indonesian and Philipino immigrants has not been halted; the NEP has yet to succeed in creating national unity; problems of corruption, misuse of authority and the abuse of power continues unabated. The crisis of confidence continues with foreign investors having little confidence in Malaysia and flocking in droves to our immediate neighbours especially to Thailand to realise their investment plans.

NEVER BEFORE IN OUR HISTORY

It is against this grim background that I wish to debate the Royal Address. I would like to touch on the subject of national security as mentioned by the Yang di Pertuan Agong and in this connection, I would refer to 'Operation Lallang' in which out of the 106 persons detained under the Internal Security Act, 38 were formally served with 2-year detention orders at the end of December 1987 and are now incarcerated in the Kamunting Detention Camp.

Of these 38 persons, seven are Members of this august House, viz, the Parliamentary Opposition Leader and MP for Tanjong, Sdr. Lim Kit Siang, DAP Deputy Chairman and MP for Bukit Gelugor, Sdr. Karpal Singh, DAP Vice Chairman and MP for Kepong, Sdr. Dr Tan Seng Giaw, DAP Deputy Secretary General and MP for Ipoh, Sdr. P. Pato, DAP CEC Member and MP for Pasir Pinji, Sdr. Lau Dak Kee, DAP Selangor Vice Chairman and MP for Puchong, Sdr. V. David, and the DAP's 1990 National Task Force Secretary and MP for Kota Melaka, Sdr. Lim Guan Eng. Of the remaining 31 ISA detainees, 10 are from PAS, 2 from PSRM, 10 christians associated with church work, 2 Chinese educationists while the rest are academics, environmentalists and individuals.

Never in the history of Malaysia has such a wide spectrum of people ever been arrested under the ISA. A careful perusal of the so-called allegations of fact preferred against the detainees will show that these allegations are either distorted, biased or tendentious. The 10 christians who were associated with church work together with the academics and individuals were accused of being involved in "activities promoting communist influence and ideology in certain circles in Malaysia." The seven DAP MPs were accused of "continuously carrying out activities which inflamed racial sentiments among the various races in the country" and that their activities "could give rise to the emergence of an atmosphere of tension and animosity amongst the various races in the country, and could be detrimental to national security."

DAP LEADERS DETAINED UNDER THE OCTOBER 27TH CRACKDOWN



Lim Kit Siang



Karpal Singh



Dr. Tan Seng Giaw



P. Patto



Hu Sepang



Kerk Kim Hock



Lau Dak Kee



Dr. V. David



Lim Guan Eng



Dr. Eng Seng Chai



Ngoi Thiam Woh



Song Sing Kwee



You Jioh Hua



Sim Tong Hin



Wee Choo Keong



Yang Kar Ming

POLITICAL BUNKUM

The grounds of detention and allegations of fact preferred against the 7 DAP MPs are either distorted, biased or tendentious, and are completely without basis. The real reason for their detention is purely political and has nothing to do whatsoever with national security, and their detention is a gross abuse of power. Furthermore, the so-called allegations of fact preferred against them were never mentioned during their initial detention under Section 73(1) of the ISA. For example, the Opposition Leader and DAP Secretary General, Sdr. Lim Kit Siang, has ten allegations of fact preferred against him but during the 54-days of interrogation in Kuala Lumpur, he was never confronted with any single allegation of fact as contained in all the ten allegations.

Why withhold confronting the detainee and in this case, Sdr. Lim, with the allegations of fact which the authorities had prepared to formally detain him? By confronting Sdr. Lim with this allegation, surely Sdr. Lim could have the opportunity to rebut or explain himself unless the whole interrogative detention was just an "eye-wash" as the decision to formally detain him had been a political decision which had already been taken! It is also most unfair to prefer allegations of fact, some of which are 5 years old. As an example, in the first allegation of fact against Sdr. Lim, Sdr. Lim is alleged to have said on 14 January 1983 that "the implementation of the one-culture policy had degraded the other races in the country." I challenge the authorities to prove that these words were actually used by Sdr. Lim. Why are the authorities afraid to prove that these words were actually used by Sdr. Lim? Why are the authorities so shy to produce a transcript of Sdr. Lim's speech supporting the allegation of fact? Again, why wasn't Sdr. Lim asked to explain this speech of his made on 14 January 1983, during the 54-day interrogation period?

The 'one-language, one-culture' policy was promulgated by the Barisan Nasional government at the first meeting of Parliament after the 1982 general elections. The DAP has been very critical of the government's 'one-language, one-culture' policy because the said policy ignores the multi-racial, multi-lingual sensitivities in Malaysia. The 'one-language, one-culture' policy, in fact, violates the very spirit and essence of Article 152 of the Malaysian Constitution which makes it very clear that while the Malay language shall be the national and official language, the teaching, learning, use and study of other languages are given constitutional recognition and guarantee.

How could the criticism of the 'one-language, one-culture' policy of the government constitute "inflammation of racial sentiments" when it is spoken

out within the parameters of democracy and the constitution without any incitement or encouragement to resort to violence? If criticism of the cultural policy of the government could be defined as "inflammation of racial sentiments" to bring it within the scope of the ISA, then this will be the death of democracy in Malaysia, for any criticism of the government could be brought within the ambit of such allegations!

VICTIMISING DAP MPs

The so-called allegations of fact preferred against Sdr. Lim Kit Siang and the 6 other DAP MPs are untenable and insupportable. Many of these issues are spoken by DAP MPs in Parliament. Do we have a situation whereby the ISA could be misused by the authorities to penalise and victimise MPs for raising certain issues, if they repeat them outside the House? There might be an ethnic dimension in the speeches and statements made but this applies to all political leaders in our multi-racial society, and this does not mean that a speech or statement is made in order to incite racial sentiments, animosity or ill-will. On this basis, the DAP will be able to prepare grounds of detention under the ISA of Barisan leaders and Ministers including the Prime Minister for allegedly "carrying out activities which inflamed racial sentiments amongst the various races in the country", "activities that could give rise to the emergence of an atmosphere of tension and animosity amongst the various races in the country and could be detrimental to national security".

We in the DAP have taken up issues laden with ethnic sentiments, not to exploit or inflame racial feelings, but to defuse them by trying to get the government, which in fact created these issues, whether out of sheer insensitivity or deliberately, to realise their seriousness. The DAP's actions have all these years been guided by the spirit of contributing to nation-building, by quenching racial fires and not sparking them. These issues were invariably started or sparked off by the Barisan Nasional leaders either at Federal or State level and the DAP moved in to defuse the racial potential which would surely undermine national unity and understanding if allowed to ferment and fester.

If the various issues raised had indeed "inflamed racial sentiments" why wasn't the Standing Orders invoked to stop our seven detained MPs from speaking as the Standing Orders prohibit speeches which create racial hatred or ill-will? Furthermore, there are enough laws in the country for the government to invoke to charge the seven detained DAP MPs for making racially inflammatory speeches, like the Sedition Act for example. In the past, the Government defended the ISA on the ground that it was difficult to produce evidence to obtain conviction in a court of law in the case of communist or pro-communist elements for their subversive activities. Now, the ISA is being

used against even those involved in syndicates forging identity cards and passports!

THE UMNO CULPRITS

We can produce proof that those guilty of inflaming racial sentiments, racial animosity and threatening national security, particularly in the months leading to the grave situation last October, came from the ranks of the Barisan Nasional parties, particularly UMNO and UMNO Youth. The Minister of Sports and Culture, Datuk Najib Tun Razak, the Information Minister, Datuk Mohamed Rahmat, the Education Minister, Anwar Ibrahim, and the Menteri Besar of Selangor, Datuk Muhammad bin Muhammad Taib, made very racial, racist and provocative speeches in the months leading up to October 27. The Malaysian people and in fact the whole world knows who actually inflamed racial sentiments, created racial animosity and threatened national security and no amount of government propaganda can rewrite this part of our political history!

In fact, if there are any persons who ought to be detained, these are the very people. Yet they are walking free, and are now calling for goodwill and understanding amongst the people. I am not suggesting that these Ministers and UMNO leaders be detained under the ISA but in the name of justice and fair play I urge the component parties of the Barisan Nasional to recognise their responsibility for creating the unprecedented racial tension last October and the Crisis of Confidence in the last five years. Malaysia does not need a racial holocaust before Malaysians affirm and resolve to start anew and it was for this very reason that our detained Secretary General, Sdr. Lim Kit Siang, suggested in his budget speech on October 26, 1987, that an all-party National Consultative Council be formed to discuss and thrash out issues especially sensitive issues.

This proposal was not accepted and Malaysia missed this potential to mobilise a new national resolve to work out a new national consensus and unity to prepare Malaysia to meet the challenges of the 21st century. Malaysia can only have a future if the Barisan Nasional government can rise above party and intra-party preoccupations, and take the longer and larger national perspective as to what is good for the nation and people, rather than with consolidating positions or outmanoeuvring political opponents. The seven detained DAP MPs are definitely not threats to national security but mere political victims and scapegoats.

The real reason for their detention under the ISA, was to punish and victimise them for legitimately championing the rights of Malaysians to democracy, justice and government accountability, in particular over the various government scandals like the North-South Highway contract of

United Engineers Malaysia and its involvement with UMNO. The crackdown also aims to cripple and paralyse the DAP's political progress, at a time when it is reaching out to the Malays in Felda schemes and the kampongs.

CONDITIONS IN KAMUNTING

The DAP demands the release of the seven DAP MPs immediately and unconditionally, or charge them in a court of law. Similarly, the DAP demands the release of all other ISA detainees forthwith or have them produced in a court of law. Everyday of their incarceration is a reminder of the gross injustice done unto them. The DAP also calls for the repeal of the ISA which is a threat to freedom and democracy and an affront to human dignity and the rule of law.

I also wish to take this opportunity to refer to the conditions at Kamunting Detention Camp. Presently, families of the detainees are allowed weekly visits of up to 30 minutes. Such visits take place under the most inhuman conditions. The detainees are separated from their families by a glass partition. The detainees have no opportunity to touch, hug or embrace their loved ones.

Furthermore, Special Branch officials are always present during these visits. There is absolutely no privacy between the detainee and his family. Although the detainees are allowed to see their counsel, such meetings are again conducted under the watchful eyes of the Special Branch. There is no client-lawyer confidentiality.

I ask the Home Minister to explain to this House why detainees are meted such inhuman treatment. Even criminals at the Pudu jail are entitled to confidentiality when meeting their counsels, but in Kamunting, such confidentiality is denied to the detainees. Detaining them without trial is already bad by itself but to deny these detainees the right to even touch or hug their loved ones is unthinkable. Furthermore, the right to meet their loved ones and counsel in complete privacy is also denied. This is inhuman.

The Home Minister must also explain to this House why magazines and newspapers such as the *Far Eastern Economic Review*, *Asiaweek*, *the Economist*, *Asian Wall Street Journal*, *Aliran Monthly* and *the Rocket* sent to the 7 DAP MPs in the Kamunting Detention Camp have been held up. This is nothing but a deliberate attempt to deny them publications which are freely available in the country. Why must these publications be denied them when they are not banned or proscribed? Even specially designed Chinese New Year cards are not allowed to be sent out by the 7 detained DAP MPs. Neither are they allowed to receive specially designed greeting cards sent to them by party members and well-wishers.

The Home Minister must also explain why the 7 DAP MPs, professionals and businessmen detained have been forbidden to write to party members, friends and well-wishers. When the detainees were initially brought to the Kamunting Detention Centre, they were allowed to write four letters a week to anyone they wish. However, this privilege was withdrawn on 13th February 1988, and they are now only allowed to write four letters a week to members of their family only. The Home Minister must also explain why are MPs and State Assemblymen denied the opportunity to visit ISA detainees when it was the practice in the past to allow elected representatives to visit the detainees.

MOST OPPRESSIVE GOVERNMENT

Is the Barisan Nasional government, under the leadership of Dr. Mahathir Mohamed, out to prove that it is even more authoritarian and oppressive compared to the previous governments headed by Tunku Abdul Rahman, Tun Abdul Razak and Tun Hussein Onn? Finally, on the subject of the ISA detention, let me categorically refute the recent allegations by the Prime Minister that the 1987 October arrests and subsequent detentions had succeeded in bringing peace and harmony to the country. By saying so, the Prime Minister implied that those who had been detained are dangerous and are bent on creating tension and chaos.

The Prime Minister's statement is totally irresponsible, unwarranted and uncalled for. As I said earlier, if the Government has evidence that their activities are prejudicial to internal security, as claimed, then why are they not tried in an open court. I would like to put on record once again, that the DAP leaders detained are patriots and nationalists whose loyalty and love for the nation and people is beyond question. Their commitment, dedication and devotion to peace, freedom and parliamentary democracy is second to none.

The DAP agrees that the mass media has an important role to play in educating society. However, the Government should realise that this objective can only be met if there is press freedom in the country. We are apprehensive, how the mass media can achieve its objective of educating the people following amendments to the Printing Presses and Publications Act in December last year which aim to eliminate press freedom and turn all publications and newspapers into mere government gazettes.

What is even more damaging is the decision of the government to revoke the licences of three major newspapers in the country, namely, *The STAR*, *SIN CHEW JIT POH* and the *WATAN* following the crackdown in October last year. The Government's undemocratic decision not only constituted a



Meeting Jim Bolger, New Zealand Parliamentary Opposition Leader to discuss ISA arrests in Malaysia.



Commenting on the ISA arrests on SBS-TV, Australia.

threat to freedom of information but also left almost a thousand newspaper employees and their dependants out of work and thus further aggravated the unemployment problem. I would like to take this opportunity, to call on the Home Affairs Ministry to allow the resumption of the three major newspapers in the interest of the nation so that they can continue to play their role in educating society and providing information so vital for a modern society like ours.

NATIONAL UNITY

What I consider most significant in the Royal Address is the reference to unity as the basis for creating a strong nation that is multi-racial and multi-lingual. The Yang di-Pertuan Agong had reminded all concerned, especially political parties, societies and the media to be responsible and moderate in their actions and statements so as not to jeopardise our national unity. While His Majesty's call is to be welcomed, what remains to be done is for everyone to prove, not by words but by deeds, that he is prepared to be responsible and moderate in his actions and statements.

Are all leaders of the component members of the Barisan Nasional prepared to be responsible and moderate in their actions and statements? It will not serve any purpose to call on all political parties and societies to be responsible and moderate if the component members of the Barisan Nasional are not prepared to set an example in this regard. The DAP is convinced that the politics of moderation is the key to Malaysia's survival and success as a multi-racial country. In a multi-racial country like Malaysia, extremism of any form will not only be dangerous but will destroy the very fabric of our heterogeneous society.

What is of paramount importance to Malaysia in the remaining decade of the eighties and nineties is the achievement of national unity. Without national unity, no amount of military expenditure and hardware can defend Malaysia. Without national unity, the nation will never be secure, peaceful and prosperous. We are of the view that the time has come for the Government to review its national unity policy and find ways of promoting racial unity as efforts made so far have failed to achieve this paramount objective.

With this in view, the DAP proposes the setting up of a Royal Commission to be headed by the former Lord President, Tun Mohamad Suffian and consisting of heads of political parties, educationists, religious leaders and distinguished independent persons to make an indepth study into the factors which impede unity and recommend ways to overcome them. The DAP is prepared to play a role in this Commission to help find the answers to the problem of racial polarisation in the country as it is the biggest cause of national disunity.

Karpal's Rearrest a Contempt of the Judiciary

Press Statement, March 10th 1988

THE DAP deplores and condemns in the strongest terms possible the rearrest and detention of its Deputy Chairman and MP for Jelutong, Sdr. Karpal Singh, under the ISA. Sdr. Karpal was arrested at a police checkpoint at Nibong Tebal yesterday at 7.30 pm, and was taken to the Penang State Police Contingent Headquarters.

Earlier in the morning, Sdr. Karpal was set free by the Ipoh High Court. Mr. Justice Peh Swee Chin, in his 27-page judgement on the application for a writ of habeas corpus by Sdr. Karpal had ruled that one of the six allegations against Sdr. Karpal was incorrect, and that "no proper care, caution and responsibility; was exercised by the authorities in preparing the allegations of fact. Justice Peh also lambasted the authorities for the "casual and cavalier attitude" in issuing the detention order. The arrest and detention of Sdr. Karpal makes a mockery of and is sheer contempt for the rule of law and renders nugatory and meaningless the decision of the High Court. It is also an act of gross injustice which no person with a conscience can accept. It is also a double tragedy when a man is rearrested and detained after he has been set free by the High Court.

What redress does a citizen have if, after proving that his detention was mala fide, he is rearrested and detained? The rearrest has clearly shown the government's utter contempt and complete disregard for the doctrine of separation of powers when the Executive rearrests a person ordered to be set free by the Judiciary. Sdr. Karpal's release by the High Court itself is a vindication of the DAP's charge that his arrest and the detention of 6 other DAP MPs and others was merely a political decision in finding scapegoats and sacrificial lambs and has nothing whatsoever to do with national security. The DAP demands their immediate and unconditional release.

I was informed by Mrs. Karpal Singh last night that when Sdr. Karpal was brought to the Penang Police Contingent Headquarters, he was in severe pain. Although Mrs. Karpal produced a letter from the Ipoh General Hospital which stated that Sdr. Karpal needed to be hospitalised, the police refused to hospitalise him and Sdr. Karpal was forced to spend the night in the police lock-up. This is most inhuman and demonstrates a complete lack of human compassion and sensitivity on the part of the authorities. The whole world knows that Sdr. Karpal is ill and yet the authorities are bent on punishing him further by

refusing him to be hospitalised. I call on the Prime Minister, Dr. Mahathir Mohamad, who is also Home Minister to look into this matter immediately and ensure that Sdr. Karpal is hospitalised and provided with adequate medical care and attention.

Urgent Motion on Rearrest

Dewan Rakyat, March 11th 1988.

YB Tan Sri Mohd Zahir bin Ismail
Speaker
Dewan Rakyat
Kuala Lumpur
11-3-1988

YB Tan Sri

Notice is hereby given under Standing Order 18 (2) that I propose to adjourn the sitting of the Dewan Rakyat to discuss a definite matter of urgent public importance and my motion reads:—

“That this House under Standing Order 18(1) be adjourned to discuss a definite matter of urgent public importance and this is in regard to the rearrest of the DAP Deputy Chairman and Member of Parliament for Jelutong and the State Assemblyman for Bukit Gelugor under the ISA by officers of the Special Branch at a police road block at Nibong Tebal at about 7.30 pm on 9.3.1988, while he was returning from Ipoh to Penang after having sought his release from the Ipoh High Court yesterday through an application for habeas corpus which was granted by Justice Peh Swee Chin.

“At the High Court in Ipoh yesterday, Justice Peh Swee Chin in his judgement ordered the release of Sdr Karpal Singh when he ruled in his 27-page judgement that one of the six allegations against Sdr Karpal Singh pertaining to his arrest under the ISA was incorrect.

"The allegation referred to is that Sdr. Karpal Singh had used the issue of appointing non-Mandarin qualified Headmasters and Senior Assistants in the National Type Chinese Primary Schools to incite racial sentiments of the Chinese community at a gathering in front of Bangunan Tuanku Syed Putra, Lebuhr Downing, Pulau Pinang on 10th October 1987;

"The allegation was not true as at the material time and date, Sdr. Karpal Singh was at the Penang High Court attending to a matter at that time;

"Justice Peh Swee Chin in his judgement had ruled that the allegation was incorrect and the error arose because "no proper care, caution and responsibility" was exercised by the authority concerned in preparing the allegations of fact;

"That this matter is of public importance because the arrest and subsequent detention of an elected MP in the person of Sdr. Karpal Singh under the ISA and his application for writ of habeas corpus which resulted in yesterday's High Court judgement had generated both national and international public interest affecting the liberty of an individual, the right of a parliamentarian and the rule of law;

"The re-arrest of Sdr. Karpal Singh is utter contempt for the judgement by the High Court, makes a mockery of the rule of law and amounts to an encroachment into the independence of the judiciary;

"The re-arrest has clearly shown that the doctrine of the separation of powers has been grossly disregarded;

"That this matter is also of urgent public importance which must be discussed in this House because this is a matter which affects the liberty and freedom of a Parliament and above all, a matter which affects the independence of the Judiciary and the Rule of Law as contained in the Rukunegara which this Parliament has pledged to uphold.

The rearrest of Sdr. Karpal Singh is most unjust, and will not be accepted by any Malaysian with conscience. And this House should resolve that he be freed or released immediately. Moreover, Sdr. Karpal Singh is in ill-health as attested by a doctor who reports that he is suffering from "severe backache caused by the degenerative process of the spine and the disc prolapse."

Thus, this House should see to it that he be given immediate treatment by medical experts in the hospital concerned.

Thank you.

Yours faithfully

Lee Lam Thye
Acting Parliamentary Opposition Leader
Acting Secretary General DAP



Judiciary under Siege

Debate on the Constitutional (Amendment) Bill 1988.
Dewan Rakyat, March 17th 1988.

THE DAP views with utmost concern the Constitutional (Amendment) Bill 1988 which has been presented to Parliament by the Prime Minister. The DAP strongly opposes the proposed amendments which represent another attempt by the Executive to further usurp the powers of the Judiciary which amounts to a serious attack on the doctrine of the Separation of Powers.

Constitutional developments in Malaysia since Merdeka in 1957 mark the progressive usurpation of the powers of the Legislature and the Judiciary by the Executive, gravely upsetting the doctrine of Separation of Powers and making a mockery of the concept of the Rule of Law. With the latest batch of amendments to the Constitution, Malaysia has reached a stage where the Executive has no more respect for the Legislature and the Judiciary. In a true democracy, the personal rights of a citizen, in particular the fundamental rights of personal liberty, freedom of speech, assembly, association and belief are protected by the Judiciary against an arbitrary government.

However, looking at the various constitutional amendments which had been passed in this august House in the past and now, we have reached a stage where the Judiciary is excluded from protecting the citizen from arbitrary government encroaching on the fundamental liberties of the people through the multiplication of non-justiciable laws, or laws which could not be challenged in a court of law. We have, therefore, come perilously close to destroying the doctrine of Separation of Powers and the Rule of Law which are designed to ensure that Malaysians live under a government of laws and not of men.

JUDICIAL POWERS DELETED

Before I comment on some of the proposed amendments to the Constitution which have serious consequences for the people and the nation, I have to express our deepest regret over the inadequate time given to members of this House to debate such an important bill which has far-reaching implications for the country. One would have expected the Government to be fair and provide adequate time not only for the MPs but also Malaysians

from all walks of life to give their views on such an important bill which provide for drastic and far-reaching amendments to our Federal Constitution. Why the indecent haste on the part of the Government to bulldoze these highly controversial amendments through Parliament?

The Prime Minister in his book "The Malay Dilemma" had criticised the former Prime Minister and Bapa Malaysia, Tunku Abdul Rahman, for rushing through constitutional amendments in Parliament. He is now doing the very thing he spoke out against. Mr. Speaker Sir, the most controversial and obnoxious amendment is Clause 8 of the Bill which seeks to amend Article 121 of the Federal Constitution which vests judicial powers of the Federation in the High Courts and Subordinate Courts.

This provision will now be deleted and be replaced by a new clause under which the powers and jurisdiction of these courts are conferred by or under Federal Law.

Article 121 (1) states:

"The judicial power of the Federation shall be vested in two high courts of co-ordinate jurisdiction and status, namely:

- (a) one in the States of Malaya, which shall be known as the High Court in Malaya and shall have its principal registry in Kuala Lumpur;
- (b) one in the State of Sabah and Sarawak, which shall be known as the High Court in Borneo and shall have its principal registry at such place in the States of Sabah and Sarawak as the Yang di-Pertuan Agong may determine;
- (c) and in such inferior courts as may be provided by Federal law;

Under the proposed amendments, the words "the judicial power of the Federation shall be vested in" are deleted and replaced with "There shall be two High Courts of co-ordinate jurisdiction and status. A new clause also declares that these courts shall not have jurisdiction in any matter which falls within the jurisdiction of the Syariah courts. We strongly oppose this amendment which strikes at the heart of the system of Government as envisaged under the Malaysian Constitution.

SEPARATION OF POWERS

Our Federal Constitution clearly provides for three branches of the State exercising distinct and separate functions often described as the doctrine of the Separation of Powers. Of this, the Judiciary exercises the judicial power in the Federation in as much as the Executive power vested in the Yang di-Pertuan Agong who governs through the Cabinet while the legislative power is vested with Parliament. The amendment which aims to delete the words "judicial power" is clearly an attempt to remove the vesting of such powers

in our High Courts. This amendment tends to create doubts as to the nature and functions of the Courts because it is inherently the duty of the Courts of Law to exercise powers which are judicial in nature.

By this amendment it will deny the courts their rightful role as arbiters in disputes between citizens and between citizens and the Government. In the past and till the present moment, the courts played a protective role in defending the rights and liberties of the citizens against any interference of them by the Legislative and the Executive arms of government. It is this function which made the concept of judicial power a cornerstone and an indispensable feature in our democratic system of government. The proposed amendment as provided for under Clause B is clearly designed to curtail the powers the Courts had exercised so far. Furthermore, it is also aimed at preventing the Courts in checking the abuses and excesses of the Executive. With the amendment it will mean that from now onwards the Courts can only decide on subjects assigned to them by Parliament under written law.

ATTORNEY-GENERAL UNFETTERED

Another very drastic and controversial amendment is Clause 10 of the Bill which seeks to add to Article 145 a new Clause (3A) which will enable Federal law to confer on the Attorney General power to determine the courts in which, or the venue at which, any proceedings which he has power to institute shall be instituted or to which such proceedings shall be transferred. This amendment is obviously brought in to rectify judicial decisions in which the Attorney General's certificate of transfer had been challenged in the recent past.

It now gives the Attorney General unfettered powers to decide the courts in which or the venue at which any proceedings which he has power under Clause (3) to institute shall be instituted or to which the proceedings shall be transferred. This amendment is clearly designed to allow the Attorney General to have government cases heard before "friendly judges" in "friendly venues". What is even more shocking is that the amendment will allow the Attorney General to transfer part-heard cases to another court should he find the proceedings unfavourable to the government.

PUZZLING AMENDMENT

Clause 2 of the Bill seeks to amend Article 5 (b) to provide that a person, other than a citizen, who is arrested or detained under the law relating to immigration must be produced before a magistrate within 14 days and not within 24 hours. This amendment is puzzling. If our general law provides

that a citizen must be produced before a magistrate within 24 hours of his arrest, why should we make a difference as regards a foreigner where the period is now 14 days when the offence relates to immigration only.

If someone has committed an offence under our immigration laws and he is a foreigner, the proper action to take is deportation or a trial before our Courts. It seems baseless to have distinction in the law when such distinction does not exist in the death penalty for foreigners in connection with drug trafficking offences. At a time when Malaysia is making serious efforts to encourage more foreign tourists to visit Malaysia, such an amendment to Article 5 (b) may cause undue alarm to foreign visitors.

The DAP cannot accept these amendments to the Constitution in particular amendments to Article 121 and Article 145 which amount to a severe attack on the doctrine of the Separation of Powers and the conferment of unfettered powers to the Attorney General to pick and choose the courts of his liking, to hear cases instituted by him. Mr. Speaker Sir, The Constitution is sacrosanct and making amendments to the Constitution is a serious and sacred exercise which must be carried out with the utmost care, caution and with the highest sense of responsibility. Such an exercise will only be meaningful if it is carried out in the interest of the nation and the people and in the fulfilment of democracy and justice and not in total disregard and contempt for the Judiciary.

MORE JUDGES NEEDED

There are certainly other more important amendments which should have been considered in the interest of justice. One such amendment which is long overdue and which should have been introduced is with regard to Article 122 pertaining to the appointment of judges. Under Article 122A pertaining to the Constitution of High Courts, it has been provided that the number of High Court Judges in the High Court in Malaya shall not exceed 27. This said Article should have been amended to provide for the appointment of more judges for the High Court in Malaya to cope with the huge backlog of court cases. There are inadequate judges at the moment and as a result of the huge backlog, cases pertaining to death penalty offences have to wait for as long as 3 to 4 years to be tried in Court. As the saying goes, "Justice Delayed is Justice Denied" and it is therefore of utmost importance that more judges should be appointed through amendment to Article 122A of the Constitution.

In conclusion, I would like on behalf of the DAP to state once again our uncompromising opposition to the 1988 Constitutional Amendment Bill particularly amendments to Article 121 and 145 based on the facts presented earlier. Our opposition is not based on emotion but on our perception of

what the Constitution should be to fulfil the hopes and aspirations of all Malaysians who subscribe to the doctrine of the Separation of Powers, the Rule of Law and Justice. In fact, what I would have to point out here is that making piece-meal amendments to the Constitution is undesirable, what more if such amendments are inimical to the national interest. What we should have is a full review of the Malaysian Constitution after 30 years of Merdeka. In this connection, the DAP reiterates its call for the immediate establishment of a Constitutional Review Commission to truly incorporate the philosophy of the Rukunegara and the aspirations of Malaysians of all communities for a truly just and democratic Malaysian nation.



Addressing Malaysian students on human rights issue in Auckland University, New Zealand.



With John F. Robertson, New Zealand Chief Ombudsman to discuss ombudsman system in Malaysia.

Amendments to Serve Umno Baru

Debate on Societies Act (Amendment) Bill 1988

Dewan Rakyat, March 18th 1988

The 1988 Societies (Amendment) Bill has been introduced with the obvious intention of serving partisan party interest for it cannot be denied that if it had not been because of Umno's problem leading to its deregistration and the subsequent formation of Umno Baru, some of the major amendments as contained in this Bill would not have been introduced. It is indeed an irony that Umno had become the victim of the Societies Act 1966 — the very law which the Umno controlled Government enacted in Parliament. It is a mistake of its own making.

The DAP has been most vociferous in its opposition to the Societies Act since its introduction, because of the many undemocratic and unjust restrictions it imposed on legitimate political parties. When the Societies Act was amended in 1981, the DAP severely criticised the amendments then for giving the Registrar of Societies wide and sweeping powers which enabled him to virtually control the administration and operations of all societies in the country. We even strongly criticised those very provisions which now seem to have necessitated the present amendments, but strangely enough, MPs from the Government Bench including those in Umno then attacked the DAP for having criticised the Government on those obnoxious amendments. But today the truth has prevailed.

DR. MAHATHIR'S SELF INTEREST

The DAP agrees that there are certain aspects of the Societies Act 1966 which have to be amended in the interest of justice, rationality and administrative efficiency. However, many of the amendments which the Government is now introducing to the Act only serve to protect and perpetuate the interests of a particular party i.e. Umno Baru and a particular individual in power i.e. Datuk Dr Mahathir Mohamed. Take for example Clause 7 of the Bill which seeks to introduce a new section 17B pertaining to the vesting, in a new registered society, of property of a society whose registration has been cancelled.

The said amendment gives powers to the Official Assignee to apply to the High Court to transfer the assets of a de-registered society to a newly registered society, if the conditions and rules of the new society are similar to those of

the old society and if the majority of the persons who are lawful members of the old society, immediately before the cancellation of its registration, are members of the new society. The proposed amendments are obviously tailored to overcome the legal impediments standing in the way of Umno Baru in taking over the assets of Umno which was declared an unlawful society on February 4, 1988 and subsequently deregistered by the Registrar of Societies.

The proposed new sub-section 17(3) empowers the Registrar of Societies or the Official Assignee to require or authorise the "governing body of a society or any person who was then or at any time previously an office-bearer, member or employee of that society to furnish to the Registrar or the Official Assignee as the case may be, or to such other person as the Registrar or the Official Assignee may specify, any information in relation to the property, affairs, business, accounts or books of that society, or any other matter relating to that society." The proposed amendment is very wide and all-embracing and is certainly introduced to enable Umno Baru to take over the properties owned by Umno. It is common knowledge that Umno has a fleet of companies in which shares were held on its behalf by trustees appointed by its Treasurer. With the proposed amendment, all persons holding shares on behalf of Umno will be compelled to furnish the information required. Failure to do so would result in that person being charged under new-section 17(4) which provides for a penalty, upon conviction, to imprisonment for five years, or to a fine of ten thousand or both.

UNLAWFUL BRANCHES

Clause 5 of the Bill seeks to amend Section 12(3) of the Societies Act 1966 to render unlawful only the branch of a registered society and not the society itself should a registered society establish the branch without the prior approval of the Registrar of Societies. Amending the Act so that only the unregistered branch or branches of a registered society and not the society as a whole, would become unlawful, makes sense. For there is no reason to penalise an entire organisation when the offence is confined to one or some of the branches of that body. However, the question to be asked is why make the amendment now when in the first place there should not be such a drastic provision in the Societies Act. Again, if Umno had not been a victim of this provision, I am certain that the said provision would not have been amended.

PREVENTING OBJECTIONS

A new Section 17(4) is introduced to discourage any person who was a lawful member of the old society and who is not a member of the new society

from objecting to the application of the Official Assignee to transfer the assets to the new party. Although, the said person will be paid compensation for his share of the new assets of the old society, the person concerned is "liable to personally indemnify the new society for any debt or liability of the old society and all its branches." This is a most horrendous provision which will deter any person from objecting to the application of the Official Assignee.

Section 49 is being amended by inserting the words "other than a society which is a political party". Again, this amendment is designed to save Umno Baru Leaders from being prosecuted for offences which they have committed when they became office-bearers of Umno Baru without obtaining the prior written permission of the Registrar of Societies as required under Section 49. If the government wants to amend Section 49 to exempt political parties from the said provision, why hasn't it also amended Section 9A (1) which prohibits ISA detainees from holding positions in a registered society. If the Government was fair, it should have amended the said section to allow all ISA detainees including the 7 DAP MPs to continue to hold positions in their respective organisations.

A 48-HOUR REGISTRATION

The amendments to the Societies Act which have been introduced have been clearly designed to help Umno overcome the many irregularities which unfolded after the ruling by the Kuala Lumpur High Court on 4th February 1988 declaring it an unlawful society. I do not think that there has been any branch of a society, let alone a society, which has been registered in less than two days after submission of the application to the Registrar of Societies for registration! Umno Baru has managed this feat. It would be interesting to look back and analyse the events following the deregistration of Umno by the Registrar to show how the Prime Minister could abuse his position as Home Minister, to control and direct the Registrar of Societies.

Former Prime Minister, Tunku Abdul Rahman submitted an application to register Umno Malaysia on 8.2.1988 and the Prime Minister submitted one on 9.2.1988 for the registration of Umno 88. However, the application for the registration of Umno Malaysia was rejected without any reasons assigned thereto. Similarly Umno 88's application was also rejected - both on 10.2.1988. Applicants for Umno 88 were told that registration could not be done as Umno had not been deregistered. Two days later on 12.2.1988, Umno was deregistered and an application for Umno (Baru) was submitted on 13.2.1988 (Saturday). On 15.2.1988 (Monday), the application for Umno (Baru) was approved. This showed how efficient the Registrar was. How-

ever, who would believe if the Prime Minister says that he has no hand in getting the application to be approved in less than 48 hours when everyone knows that as the Minister of Home Affairs he is the "boss" of the Registrar.

It would be interesting to note in this House that it took as long as 6 months and 6 days and three attempts for the DAP to be registered in 1966 whereas it took less than 48 hours to register Umno (Baru) and over a week-end! This is "justice" or perhaps the Chairman of the DAP who is also the Member for Seremban is not as influential as the Prime Minister. If it is so, he cannot be blamed because he would not want to abuse his position.

ABUSE OF POWER

In conclusion, allow me to state that the proposed amendments to the Societies Act have far-reaching implications and should be referred to a Select Committee to enable the widest and most thorough public discussion and examination before they are brought into this House to be passed. The DAP also wishes to take this opportunity to suggest that political parties should be excluded from the Societies Act which was enacted basically to deal with secret societies. We propose that there should be a separate legislation with justified controls for political parties to enable them to function freely and democratically and not subject to very stringent restrictions as they are now under the Societies Act.

Finally, we are convinced that the amendments before us go to show how blatant one can be about the perpetuation of one's self-interest and power and this will create doubts among the public about one's ability to rule with justice and fairness. It has now reached a stage when the leadership does not even attempt to camouflage its obsession with its own position and power. Laws, government officials and public institutions are all utilised to the fullest to secure the interests of the leader. The DAP therefore opposes vehemently these amendments which are partisan and self-serving, and not in the national interest.

ISA White Paper a Pack of Lies

Debate on White Paper.

Dewan Rakyat, March 24th 1988.

THE White Paper released yesterday by the Government in Parliament as an "information document" blamed Opposition politicians, religious and other pressure groups as having exploited sensitive issues and inflamed sentiments to a point where bloodshed was imminent and "the arrest of 106 people under "Operation Lallang" became necessary." The DAP has studied the Government White Paper, in particular the various allegations made against the Leader of the Opposition and 6 other DAP MPs. We categorically reject the totally unfounded, grossly distorted and baseless allegations as contained in the White Paper.

The White Paper is an attempt to discredit the DAP at a time when the party has made impressive political gains in the last elections and when it has begun to make inroads into the rural areas to speak up for the rural poor as evidenced by our recent success in setting up DAP branches in Felda Land Schemes. The White Paper is also aimed at stifling dissent as evidenced by the unfounded allegations made against those pressure groups and Chinese educational bodies which aim to fight for the constitutional rights of the people.

What I propose to do here is to reply to the various allegations made against the DAP which unfairly and inaccurately accuse DAP MPs of having exploited the Education Act, the development of Bukit Cina, the losses incurred by deposit-taking co-operatives (DTCs), the school pledge, the University of Malaya ruling on elective subjects, the language used in signboards and the posting of senior assistants and afternoon supervisors without Mandarin qualifications to Chinese Primary Schools. A careful perusal of the so-called allegations preferred against the DAP detainees will show that the allegations are either distorted, biased or tendentious. The DAP totally repudiates these allegations which are completely without basis. The political activities of the DAP and the 7 DAP leaders under detention have been completely legal, conducted in an open manner and within the parameters of the Federal Constitution.

The activities of the DAP detainees are completely consonant with DAP's political principles which are for a multi-racial, multi-cultural and multi-religious Malaysian nation. As elected representatives of the people, the 7

DAP MPs have a paramount duty to perform on behalf of their electorate to speak up against government policies which are unfair and unjust and detrimental to national interest and national unity. As Malaysia is firmly founded upon the parliamentary democratic system, it is the inherent right and responsibility of an opposition MP to criticise any government policy that infringes the rights of the people and encroaches upon Constitutional guarantees. With this as the background, I would like to reply point-by-point to the various allegations against the DAP as stated in the White Paper.

EXPLOITATION OF SENSITIVE ISSUES

The White Paper blamed opposition MPs from the DAP as having exploited various sensitive issues and inflamed communal sentiments and this was cited as the main cause "for the tense situation that prevailed in 1987". The DAP is not a communal party and does not believe in "exploiting" issues even if they have an ethnic dimension, to gain political support. The DAP does not regard those issues mentioned in the White Paper ranging from Bukit Cina to the Deposit-Taking Co-operatives as sensitive because these are the very problems facing the people and are related to their constitutional rights. As MPs, the 7 DAP detainees who have been approached by their constituents have the right to bring up the matters to the attention of the authorities concerned for the purpose of seeking redress.

Even if the mentioned issues are regarded as "sensitive" by the Government, we in the DAP have brought them up not to exploit but to defuse them by attempting to seek the attention of the Government to apply its mind to these problems which after all had been created by the Government itself. By so doing, the DAP is not only performing its duty as an opposition party and the spokesman of the people but is also making its contribution to assist the Government in resolving problems. The issues mentioned were invariably created by the Government either at Federal or State levels and the DAP moved in to defuse the racial potential which would surely undermine national unity and understanding if these issues are allowed to ferment and fester.

THE BUKIT CINA ISSUE

According to the White Paper, the DAP turned the Bukit Cina subject into a communal issue in order to provoke the emotions of the Chinese into becoming hostile towards the Government and the Malays. The DAP categorically refutes this allegation which is one-sided and untrue. The DAP should not have been blamed for the Bukit Cina issue. If there is anyone who must bear full responsibility for allowing the Bukit Cina issue to ag-

gravate racial polarisation, he is none other than the Malacca Chief Minister who had plans to level Bukit Cina for development in utter disregard of the historic, cultural and religious significance of Bukit Cina. For four to five centuries, Bukit Cina has been the community trust property of the Chinese for religious purposes and there are 12,500 graves on the ancient cemetery.

In view of the nature and significance of Bukit Cina, which symbolises the cultural roots of the Malaysian Chinese in Malaysia and their contribution to the building of Malaysia today, it should not be levelled and developed. What the DAP sought to do in the entire Bukit Cina controversy was to get the Malacca State Government to understand that respect for the various cultural and religious sensitivities in a multi-racial country like Malaysia is a prerequisite to successful nation-building. Even former Prime Minister, Tunku Abdul Rahman had commented in the *STAR* Publication in December 1984: "Bukit Cina is very sensitive to the Chinese community and Malacca was the earliest settlement of Malaysian Chinese. So, if the dead bodies have to be transferred, it is natural that the Chinese would object to it. There are many other places in Malacca that can be used for development purposes. The best way to handle Bukit Cina is not to touch it."

CULTURE, RACE AND RELIGION

It was also stated in the White Paper that the DAP created fear and concern among the non-Malays and aroused anti-Government and anti-Malay sentiments by bringing up the issue that the Government practised a policy of "one-language and one-culture". It cannot be denied that the "one-language, one-culture" policy was promulgated by the Barisan Nasional Government in the first meeting of Parliament after the 1982 general elections.

The DAP has been very critical of the government's "one-language, one-culture" policy because the said policy ignores the multi-racial, multi-lingual and multi-realities and sensitivities of Malaysia. The "one-language, one-culture" policy in fact violates the very spirit and essence of Article 152 of the Malaysian Constitution which makes it very clear that while the Malay language shall be the national and official language, the teaching, learning, use and study of other languages are given constitutional recognition and guarantee. How could the criticism of the "one-language, one-culture" policy of the government constitute "inflammation of racial sentiments" when it is spoken within the parameters of parliamentary democracy and the constitution without any incitement or encouragement to violence?

THE DEPOSIT-TAKING CO-OPERATIVE ISSUE

The White Paper has accused the DAP of "exploiting" the Deposit-Taking

Co-operative issue and "disregarding its repercussions on relations between the races and public order." This is totally baseless and untrue. It should be pointed out that the DTC issue is not a racial issue. It was an issue that adversely affected as many as 588,000 depositors and many of them are in the low-income groups such as hawkers, housewives, labourers and small businessmen. They lost their life-savings because of mismanagement and breach of trust involving DTC directors connected with the MCA, a component member of the Barisan Nasional.

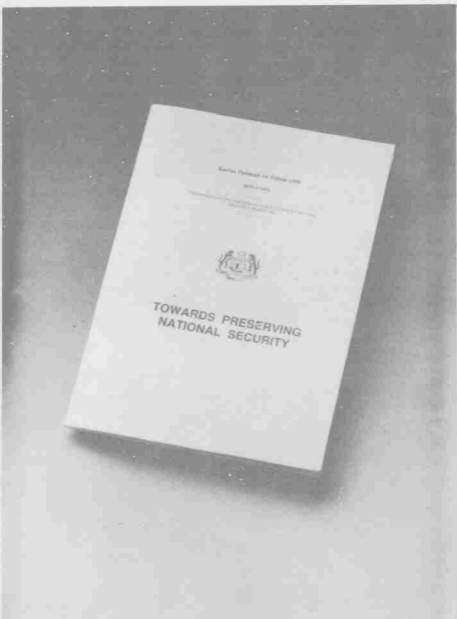
The DAP had to expose the issue because there were attempts by top Barisan Nasional leaders to cover up the DTC scandal when they came out with public statements to say that everything was all right with the DTCs at the height of the DTC crisis. Although most of the cheated victims were Malaysian Chinese, the essence of the issue was not racial or ethnic at all. It is a case where the poor of one community in our society were cheated by their so-called leaders and prominent businessmen of their community. The DAP fought the co-operative issue as hard as it fought for the well-being of the Felda settlers. Of course, the DAP blamed the MCA because most of the culprits were former MCA leaders like Datuk Kee Yong Wee and Dr Tan Tiong Hong. The DAP also blamed the Government for not rescuing the DTCs in an effective manner as it rescued Bank Rakyat and Bank Bumiputra. We accused the Government of practising double standards. We stand by that position even now.

THE ELECTIVE SUBJECT ISSUE

The White Paper made reference to the DAP's 'exploitation' of the issue of elective subjects in the University of Malaya which contributed to the increasing tension and polarisation between the Malays and non-Malays. The DAP spoke out against the University of Malaya Senate ruling on elective courses not because we wanted to exploit the issue but to remind the University of Malaya Senate about the sensitivities of a multi-racial population in Malaysia. What the DAP stated was that the University of Malaya Senate must be responsible for racial polarisation both inside and outside the campus in view of its ill-considered and highly provocative decision to ban Chinese and Tamil languages as a medium of instruction for elective courses. As regards the demonstration at the entrance of the University of Malaya, it has to be pointed out that it was a peaceful demonstration which should be allowed in any democratic country. In any event, the problem would not have emerged if the University Senate had given its due regard to the sensitivities of a multi-racial country and repealed its decision so that Chinese and Tamil languages are restored as the medium of instruction for elective courses.

In conclusion, I have to point out once again that the DAP totally rejects this White Paper as all the allegations made against the DAP leaders are totally without basis. The allegations are in fact gross distortions of speeches made by the DAP leaders. The criticism made by them against the Government, no matter how unpalatable they may be to the Government, cannot be construed as prejudicial to national security. These criticisms are perfectly legal and within the framework of our Parliamentary democracy. If their speeches had been judged to incite racial sentiments or to threaten public security, they can always be apprehended and charged under the Sedition Act, the Police Act and other relevant legislations. Why detain them under the ISA and deny them an opportunity to defend themselves in an open court.

The DAP once again categorically denies its leaders had aroused racial sentiments. The DAP's record and its commitment to multi-racialism are well-known to all. Every action of the DAP is motivated by our concern and love for the country and the multi-racial peoples of Malaysia. Those who should be arrested and detained are those very culprits who have actually incited racial sentiments and have threatened national security such as, certain Ministers, Menteri Besars, MPs and certain Exco members from the Barisan Nasional. The arrest and detention of the DAP MPs is mainly the result of Barisan Nasional politics. They are the victims of the current crisis within the dominant party of the Barisan Nasional.



Government's White Paper on the October 27th crackdown

Call for Party Unity

DAP Acting Secretary General Sdr Lee Lam Thye's Opening Address at the Eighth DAP National Congress, Kuala Lumpur, April 16th 1988.

SIGNIFICANCE OF THE DAP 8TH NATIONAL PARTY CONGRESS

THE Eighth DAP National Congress is convened at a very crucial juncture in the party's 22-year history and in the wake of the many disturbing developments in the country since the 1986 general election which do not augur well for the future of Malaysia. The Congress is also being held at a time when the DAP is going through a period of trial and tribulation with 7 of its top leaders including the Party Secretary General, Sdr Lim Kit Siang, serving a 2-year detention order under the ISA in Kamunting.

Despite the many odds and challenges the DAP is facing at this very critical moment of the party's history, this Eighth National Party Congress must play a positive role to reassure the people that the DAP, far from being deterred by the present challenges and hardships, is able to prove its maturity as a political movement and continue to provide leadership and guidance to the nation to meet the challenges of the 1990s. This is very essential in view of the confidence and trust the people placed in the DAP not only in the last general election but since the birth of the party in 1966. We have to live up to the expectations of all Malaysians who want to see the DAP as the custodian of public interests and the watchdog for parliamentary democracy and government accountability.

This Eighth DAP Congress should be an occasion for the DAP to take stock and to review political developments in the country for the purpose of enabling the party to analyse these developments and to take a clear-cut and unambiguous stand on each and every issue affecting the future of this country. After having been in existence for 22 years, the DAP, which is fully committed to its political mission to create a democratic socialist Malaysian Malaysia, continues to fight an uphill battle and confront the various undemocratic forces bent on its very destruction. Forces which it had to contend with throughout its existence.

But despite the pressure brought to bear upon the DAP, the party leaders have in their political struggles demonstrated that they are Malaysians of

conviction and mettle who cannot be easily intimidated and cowed or deflected from their political ideals and commitments. I take this opportunity to salute the seven DAP leaders under detention i.e. Sdr. Lim Kit Siang, Sdr. Karpal Singh, Sdr. Tan Seng Giaw, Sdr. P. Patto, Sdr. Lau Dak Kee, Sdr. V. David and Sdr. Lim Guan Eng. These Magnificent Seven are men of firm political conviction and indomitable spirit. Their immense sacrifices are worthy of emulation by all party comrades and should spur us to continue the exemplary work done by them.

ISA DETENTIONS RESOLVE NOTHING

The massive crackdown and detentions under the ISA have not in any way resolved the many ills confronting the nation. The multifarious problems which confronted Malaysia since Merdeka still remain. The issue of the appointment of Headmasters and Senior Assistants not educated in Mandarin to Chinese Primary Schools has yet to be satisfactorily resolved; the problem of the influx of illegal Indonesian and Filipino immigrants has not been halted, the NEP has yet to succeed in creating national unity, the problems of corruption, misuse of authority and the abuse of power continues unabated. The crisis of confidence lingers on with foreign investors having little confidence in Malaysia and are flocking in droves to our immediate neighbours, especially to Thailand to realise their investment plans.

If there is anything that has been achieved by the October 1987 crackdown, it is the aggravation of the crisis of confidence which has plagued the country since the Mahathir Administration took office in 1981. The wrongful arrests and detentions is not only an act of gross injustice but a major blow and setback for parliamentary democracy and human rights in Malaysia. The 1986 general elections was called in the midst of an unprecedented crisis of confidence and in the words of Dr. Mahathir, "the Government decided to hold an election in order to wipe out allegations that the Government does not have the support of the people and that its policies were not accepted by the people".

Although the Barisan Nasional won about 83.6 percent of the parliamentary seats, the crisis of confidence in the government which had plagued the Government since the 1980s had not only failed to be resolved but had deepened and intensified. One would have expected the Government, with the election victory it commands, to take the necessary steps to arrest the slide in public confidence and embark on the task of national reconciliation and the restoration of public confidence. However, this was not done and the Government had allowed the crisis of confidence to further deteriorate. A major factor contributing to the deepening of the crisis of confidence is

the unjustified crackdown on Opposition members, pressure groups and others in October last year.

DAP A BEACON OF HOPE

Despite the uphill battle, the DAP remains steadfast in its struggle to bring about a more fair and more just Malaysian nation for all. The DAP offers the last beacon of hope to bring about peaceful and democratic change in the country. It is confident of playing a crucial role in this regard. The 1986 general elections has seen the emergence of the DAP as the second largest political party in the country after UMNO. The DAP secured almost a million votes in the 1986 general election and this represents 20.3% of the popular votes cast.

The DAP's electoral performance in the 1986 general elections represented a significant aspiration of a substantial section of the Malaysian people, and a truly democratic government should come to terms with such an aspiration by reassessing government policies and help bring about greater national unity rather than by riding roughshod over these legitimate aspirations by incarcerating Opposition MPs and denying the people representation in Parliament.

It must be borne in mind that the Barisan Nasional only secured 55% of the popular vote and it is now doubtful whether it still continues to sustain this support in view of the serious split within UMNO which ended in UMNO being declared an unlawful society, and the formation of UMNO Baru, and it is not surprising if the electoral support for the Barisan Nasional has fallen below the 50% mark, thus making the Barisan Nasional in reality a government of the minority instead of the majority. However, what we have witnessed lately is that the Barisan's brute majority has degenerated into the tyranny of the majority which is the biggest threat to parliamentary democracy and freedom.

WAYS TO RESOLVE THE CRISIS

If the Government sincerely wants to resolve the crisis of confidence in the country, then it must be prepared to undertake the following:—

- (1) Conduct a frank and thorough reassessment of its nation-building policies to determine which are the factors that undermine national unity and destroy public confidence and take steps to overcome them;
- (2) Be prepared to fully restore parliamentary democracy and be more tolerant of dissent and opposition in the country;
- (3) Be prepared to accept the genuine grievances of the people and

take steps to find remedies to these grievances;

- (4) Abolish the Internal Security Act and repeal all the repressive and obnoxious features contained in the Official Secrets Act, the Printing Presses and Publications Act, and the Police Act in order to prove that the Government is truly democratic;
- (5) Be prepared to be fully accountable to the people for all its actions and that it will not cover-up the various financial scandals in the country;
- (6) Release immediately and unconditionally all those who have been detained under the Internal Security Act;
- (7) Be prepared to prove that it is truly a government by the people, of the people, and for the people, and not for the personal interests of leaders of the Barisan Nasional;

DAP REJECTS GOVERNMENT WHITE PAPER

The Government's White Paper on the October 27th crackdown is nothing more than a "whitewash" to cover up the real causes which led to the aggravation of racial tension prior to the mass arrests under the ISA. The White Paper has failed miserably to convince thinking Malaysians that the Government's analysis of what led to that crackdown is fair, just and balanced. It will certainly not convince anyone that the DAP is the primary cause of the October events.

The Government should not underestimate the people's intelligence, for even with its control over the mass media, the Government will never be able to convince anyone that the White Paper is a credible document. The people have their own eyes to see, their own ears to hear and their own minds to judge. If the White Paper has succeeded in anything, it is that the credibility gap of the Government has further widened. The DAP rejects in toto the White Paper as it is totally biased, baseless, tendentious and a gross distortion of facts.

This is the reason why during the debate on the DAP's motion in the recent sitting of Parliament to discuss the White Paper, I had specifically challenged the Government to agree to the setting up of an Independent Royal Commission of Inquiry to inquire into the White Paper to determine the veracity of the various allegations made against the DAP, PAS, and all other relevant organisations. The individuals and groups who have been accused of carrying out nefarious activities have not been given the chance to explain their position. The right to defend oneself, the right to be heard, is what natural justice is all about. To deprive a human being of such elementary justice is one of the greatest acts of inhumanity.

Mindful of the fact that the truth must prevail, the DAP has set-up a Special Committee to study in depth the Government White Paper and will produce its version soon to counter the government's version. At this Eighth DAP National Congress, the DAP once again condemns the unjustified arrests and detentions of 7 DAP leaders and others under the ISA. We maintain that their arrests and detentions are solely politically motivated to appease the extremists within Umno caught in their own internal power struggle. It was an obvious attempt by the Government to stifle and suppress dissent in the country and the arrests have left behind another black mark on Malaysia. It constitutes a grave setback for parliamentary democracy.

The DAP once again demands that the Government release all those detained immediately and unconditionally failing which they should be tried in an open court of law. In this connection, the DAP also condemns the ISA and calls for its abolition.

DAP PROPOSALS ON NATIONAL UNITY

It is essential for the DAP as the largest parliamentary opposition to reiterate and reassert its stand on the subject of national unity which is a crucial factor in ensuring the survival of a multi-lingual, multi-cultural and multi-religious country like ours. It is an irony that although we have a National Unity Department, the objective of achieving national unity appears to be more and more distant.

In fact it is a sheer waste of public funds to support and sustain the National Unity Department when it is just an "eyewash" and is incapable of doing anything to promote national unity. The DAP calls for the abolition of the National Unity Department if it is not able to play any meaningful role in checking racial polarisation which is the single biggest problem facing the country since independence more than 31 years ago.

The Government must have a better perception of the causes of racial polarisation and be prepared to take bold and effective steps to tackle the problem which, if not satisfactorily resolved, will affect not only our economic recovery but also the restoration of national and international confidence in our system of government. The DAP strongly recommends the following measures if racial polarisation is to be tackled effectively:

- (1) Barisan Nasional Ministers, Deputy Ministers, Menteri Besar and MPs in particular from Umno should stop raising any racial, language, cultural and religious issues which create racial tension and animosity amongst the various races in the country;
- (2) A National Consultative Council on ethnic relations comprising top party leaders from all political parties and other social reform organisations and religious groups including selected individuals

- should be set up to defuse racial tension in the country and find positive ways to fight racial polarisation;
- (3) An independent, autonomous research institute on race relations should be set up to make an indepth study into the root causes of the present state of racial polarisation and propose remedies to overcome the problem.

ROYAL COMMISSION OF INQUIRY

The system of parliamentary democracy in Malaysia which is more than a quarter of a century old is today facing severe threats arising from the various undemocratic actions of the Barisan Nasional Government which have resulted in the erosion and diminution of the parliamentary democratic process in the country. The habitual misuse of Parliament by the Barisan Nasional Government in using its brute majority to bulldoze through various repressive and obnoxious laws is to be strongly condemned as such laws have posed a serious threat to the very survival of parliamentary democracy in Malaysia. The DAP feels that it is time for the Government to conduct a deep and thorough re-examination of our system and functioning of parliamentary democracy and in this connection, we urge the Government to set up a Royal Commission to study the functioning of parliamentary democracy for the last 30 years and make recommendations for its improvement and advancement.

RELEASE DETAINEES CAMPAIGN

The DAP will intensify its national and international campaign to secure the release of the 7 DAP leaders and other ISA detainees. The international campaign has been very productive with more than 80 international organisations and individuals so far having protested to the Prime Minister on the arrests and detentions and calling for the immediate release of the detainees. On 31st March 1987, a mass signature campaign was launched by the party to collect signatures for a memorandum of appeal to be sent to the Prime Minister calling for the release of all ISA detainees.

BATTLE OF TANJONG II

My address to this Congress will not be complete without mentioning the Battle of Tanjong II. The DAP must be totally committed to the Battle of Tanjong II which symbolises the aspiration and the determination of the party to continue to lead and inspire the people of Penang to provide political leadership in Malaysia. The Tanjong II battle must serve to break the pendulum

theory which implies that the general elections swing back and forth every round from Opposition to the Government and back.

We must break this pendulum theory to ensure not only that the pendulum does not swing back to the Barisan Nasional in the next general election but swings even more to the DAP to take the party to greater heights of political success not only in Penang but also in Malaysia. This is the biggest political challenge facing the party after this party congress. We all must respond to this challenge with greater determination and deeper confidence.

RALLYING CALL FOR PARTY UNITY

Having stated earlier in my opening remarks about the significance of this Eighth party congress, I would like to emphasize at this Congress and to bring to all the delegates the message from our Secretary-General who although is not physically present in our midst is concerned about the future of the party. The message which I wish to convey is the message of unity and solidarity. Nothing is more important in this Congress than a total 100% demonstration of party unity and solidarity by party delegates to show to the people and the nation that the DAP has matured as a political movement after 22 years of its existence.

Party delegates have a duty to the party to prove their maturity to the people and the country in order to strengthen public confidence in the leadership of the DAP to face the many challenges of the 1990s. A total demonstration of party unity in this Congress is all the more essential not only to nail the lies, venom and vicious speculations about the impending disaster for the DAP which has been appearing in certain Barisan controlled or influenced newspapers but also to prove that the tremendous sacrifices made by our seven comrades under detention in Kamunting are not in vain.

I do not believe that the recent press speculations leading right up to this Congress have any basis for I truly believe that our leaders and members are mature enough not to allow their differences and likes or dislikes with one another destroy all that the party has achieved in the last two decades. Remember, fellow comrades, "*UNITED WE STAND, DIVIDED WE FALL*" and we must not fail for the sake of the party, the nation, the people and our very dear comrades who are now languishing in Kamunting.



Party Leaders at the Eighth DAP National Congress. Kuala Lumpur, April 1988.



Delegates demonstrate their solidarity and party unity at the Congress.

Lam Thye Stamps His Mark

Special message to party at the conclusion of the
Eighth National Congress. April 18th 1988.

THE unprecedented show of unity and solidarity at the concluded DAP 8th National Party Congress enables the party to step forward with greater confidence to provide leadership to the people to face the multiple challenges of the 1990s. Unity and solidarity within the party is most essential at this juncture of the DAP's 22-year history not only to prove the prophets of doom wrong regarding their wild and baseless speculations about the DAP but also to ensure the party's continued survival as the custodian of public interests and the watchdog for parliamentary democracy and government accountability.

Crucial issues were discussed at the Congress and important resolutions were passed by the delegates. What is important now is for party leaders and members to give meaning to the deliberations of the Congress and to ensure that the unity and solidarity which prevailed throughout the 2-day Congress is translated into positive action in the interests of the party and the nation. We have emerged from the Congress more determined and resolute to live up to the expectations of our detained party leaders to keep the flag flying high and to seek the realisation of the party's long-term political objectives so clearly spelt out for the coming Battle of Tanjong II.

Party leaders at all levels must now rise up to the occasion to redouble their efforts in the pursuit of the DAP's objectives. The DAP is poised at a historic moment. It is the leadership and the members who will determine the future of the party— whether it will reach a higher plateau of political achievement and smash the pendulum theory of all the past general elections or that we will make the next general elections a mere repeat performance of the 1982 general elections debacle for us.

Party delegates at the concluded Congress have clearly decided the message to be sent out to the people, a message that is loud, clear and unequivocal, that is — whatever the trials and tribulations that the party leaders are undergoing, the party is prepared to be more united and more committed to the Battle of Tanjong II and the 1990 Political Movement — a movement to

arouse the consciousness of the people and to mobilise their energies to determine what the future of Malaysia should be. The newly elected 20 member Central Executive Committee has an immense task to perform over the next three years and it is imperative for all party leaders and members to give their fullest support and co-operation to the CEC to carry out this task.

The Sacking of Tun Salleh

Press Statement, May 31st 1988.

THE DAP is deeply shocked by the unprecedented move by the Prime Minister, Datuk Seri Dr. Mahathir Mohamad to advise the Yang di Pertuan Agung to remove Tun Salleh Abas as Lord President under Article 125 (3) of the Federal Constitution.

Article 125 (3) of the Federal Constitution reads: "If the Prime Minister, or the Lord President after consulting the Prime Minister, represents to the Yang di Pertuan Agung that a judge of the Supreme Court ought to be removed on the grounds of misbehaviour or of inability, from infirmity of body or mind or any other cause, probably to discharge the functions of his office, the Yang di-Pertuan Agung shall appoint a tribunal in accordance with Article 125 (4) and refer the representation to it; and may on the recommendations of the tribunal remove the judge from office."

The alleged misbehaviour of Tun Salleh Abas as intimated to him by the Prime Minister on 27th May in the presence of the Deputy Prime Minister, Encik Ghafar Baba, and the Chief Secretary to the Government, Tan Sri Sallehuddin Mohamed, was that he (Tun Salleh) had written to the Yang di Pertuan Agung and the Rulers in defence of the Judiciary against constant attacks by the Prime Minister and that he had expressed partiality in respect of Umno cases.

The DAP is surprised that these alleged grounds which are unsubstantiated, tenuous and misleading constitute "misbehaviour" to warrant his removal from office as Lord President. Furthermore, the DAP feels that this is a deliberate, calculated and orchestrated move by the Prime Minister to intimidate the Judiciary in view of the Umno suit which is due for hearing very soon before the Supreme Court. The Prime Minister's advice to the Yang di Pertuan Agung to invoke Article 125 (3) of the Constitution is highly deplorable, unprecedented and constitutes a serious and direct attack on the independence of the Judiciary and challenges the integrity and impartiality of the judges.

Of late, the Prime Minister has been fiercely critical of the Judiciary. He even went to the extent of removing their judicial powers by amending Article 121 of the Federal Constitution. During the debate on the amendment to Article 121 of the Federal Constitution during the March meeting of Parliament, the Prime Minister made a scurrilous, blistering and unprecedented attack on judges and the independence of the Judiciary. Last

month, the Prime Minister again criticised and made vitriolic attacks on the written judgement of Justice Harun Hashim with regard to the Umno suit.

The DAP calls on the Prime Minister to respect the independence of the Judiciary as enshrined in the Federal Constitution and refrain from attacking or interfering in the affairs of the Judiciary in order to fully restore public confidence in the Judiciary. The DAP warns the Prime Minister to cease and desist from attacking the Judiciary. The DAP also urges the Yang di Pertuan Agung to reconsider his decision to appoint a tribunal to remove Tun Salleh Abas from his position as Lord President.

Institute a Fair Tribunal

Press Statement, June 1st 1988.

THE DAP has studied the Statement from the Prime Minister's Department issued yesterday evening on the suspension of Tun Salleh Abas as the Lord President. The DAP cannot remain unconcerned over this important development in the nation as it is a matter of great public interest.

We again express deep shock over the suspension of Tun Salleh Abas as Lord President. We feel that this is a very serious development in the country which will further affect public confidence in the doctrine of the Separation of Powers, the administration of justice and the independence of the Judiciary which is so fundamental to law and order in any State. Over the past months, the Judiciary has been under severe attack by the Prime Minister. He even saw fit to amend Article 121 of the Federal Constitution to remove the judicial powers of the judges and this constitutes a grave attack on the doctrine of the Separation of Powers and the independence of the Judiciary.

This latest development over the suspension of Tun Salleh Abas as the Lord President is a matter of grave public concern and interest. The Malaysian public have a right to know in full the grounds for his suspension. From the statement issued by the Prime Minister's Department yesterday evening, it is shocking to note that when Tun Salleh requested to know the grounds for his removal, the Prime Minister said it was not possible to enumerate the grounds except that "it was due to the letter sent by Tun Salleh to the Yang di Pertuan Agong".

The DAP suggests that Tun Salleh's letter should be made public as it is in the public interest to do so. Furthermore, it is a matter of natural justice that Tun Salleh should be informed of the grounds for his removal so that he can defend himself and "clear his name" as he has requested.

In view of the fact that Tun Salleh in his letter of May 29th 1988 has asked for a tribunal to be set up under Article 125 (3) to inquire into the allegations made against him in order to safeguard the interests of the Judiciary and the nation, and taking into account the fact that the PM's Department in its statement yesterday evening had announced that a tribunal will be set up to hear his case, the DAP suggests the following:-

- (1) The tribunal should be properly constituted befitting its status

in hearing a case of such important nature. We suggest that it should be headed by the former Lord President Tun Suffian and made up of former and present judges of eminence and high public standing and integrity;

- (2) The tribunal proceedings should be open to the public as the matter pertaining to the removal of Tun Salleh from office is of grave public importance and interest;

The DAP once again views with utmost concern the issue pertaining to the removal of the Lord President from office as this will further jeopardise not only national but also international confidence in our system of government and the administration of justice. It is highly deplorable that this matter has come to the fore at a time Malaysia is already plagued with immense problems with serious repercussions and far-reaching implications for the future of our country. Irrespective of the outcome of the tribunal proceedings, this latest development can only further aggravate the crisis of confidence in the country which is seriously affecting our national economic recovery.

More Amendments to Shackle Opposition

Press Statement, July 3rd 1988

THE DAP expresses opposition in the strongest possible terms over the proposed amendments to the Parliament Standing Orders which, if passed, will not only pose a grave obstacle to MPs discharging their duties as the people's elected representative but constitute a mockery to the meaning and functioning of Parliament as a forum to voice out the people's fears, hopes and aspirations.

The proposed amendments initiated by the Executive are clearly designed to 'fix up' the Opposition, in particular the DAP MP's who have hitherto been exercising their rights to bring up issues and problems affecting the interests of the people and the nation. If the proposed amendments, particularly that pertaining to the introduction of a new Standing Order 18 which places severe restrictions on any member proposing adjournment of the House to discuss a matter of urgent public importance, it will mean that more and more restrictions will be imposed on DAP MP's who want to raise issues of specific interest and are of urgent public importance.

The proposed requirement that a member who wishes to ask leave to move the adjournment of the House shall give at least a day's notice to the Speaker before the commencement of the sitting clearly does not make sense because by giving at least a day's notice, the matter referred to can no longer be regarded as urgent. Furthermore, it is most unfair for any member not to be allowed to rise and move the adjournment in the House as is presently the case. By so doing, the Speaker is in fact preventing the member concerned to raise any definite issue of urgent public importance in the House for public information which he should be entitled to even if the Speaker is not prepared to allow the House to be adjourned for reasons he has to give the House.

Increasing the number of members from the present 15 to 20 required to give support to the request for the adjournment of the House even after leave has been granted by the Speaker to the member concerned to move the adjournment of the House is clearly meant to prevent the DAP from moving the adjournment when the number of DAP MP's present in the House now is 19 with 5 others in detention. The proposed amendment to Standing Order 46 to increase from the present 15 members to 25 members required to call

for a division of votes is clearly directed at the DAP again when we only have 24 elected MPs. It will thus no longer be possible for the DAP to call for a division of votes over any controversial bill to be passed by the House in the future during the life-span of this Seventh Parliament.

On the question of increasing the quorum from the present 26 to 45, we are of the view that while there is a need to increase the number for the quorum to cater for the increase in the number of seats in the House, we are not clear what is the basis for arriving at the number of 45. This needs to be clearly spelt out for the information of all the MPs. And if there is a need to increase the quorum, why can't the Parliament also increase parliamentary time for the transaction of Parliamentary business? Why can't the sitting time be extended from the present 6.30 pm to 7.30 pm or even 8.00 pm? Why is there no provision for this in the proposed amendments?

For example, why can't specialist parliamentary select-committees to enable MPs to specialize and take part in various decision-making processes of national policies be set up? But what is most shocking and despicable about the proposed amendments which must be strongly condemned is to empower the Speaker of the Dewan Rakyat to appoint the Opposition Leader if there is a doubt as to who should hold the office. This will virtually authorise the Speaker to appoint whom he likes or favours to be the leader of the opposition although it has been worded in a different manner.

A doubt should never arise because the opposition party with the largest number of MP's should be entitled to elect a person of their choice to be the leader of the opposition and such a decision is to be conveyed to the Speaker whose duty is to make the announcement to the House. There shall also be a Deputy Opposition Leader's office in view of the fact that the proposed amendments also provides for a Deputy Leader of the House on the Government side.

Apparently, the proposed amendments are meant to suit the political motive of the Government to deny the largest parliamentary opposition party, namely the DAP whatever rights they still presently enjoy under the existing Standing Orders to speak up for the people by raising issues of public interest and standing up for justice. The whole exercise is clearly politically motivated and not guided by genuine democratic practices. After seeing a guided democracy in the country, we are now witnessing a guided Parliament to suit the whims and fancies of the ruling Barisan Nasional.

Crisis Deepens as more Judges Suspended

Motion of urgent public importance.
Dewan Rakyat, July 7th 1988.

YB Tan Sri Mohd Zahir bin Ismail
Speaker
Dewan Rakyat
Kuala Lumpur
7-7-1988

YB Tan Sri,

NOTICE is hereby given under Standing Order 18(2) that I propose to adjourn the sitting of the Dewan Rakyat to discuss a definite matter of urgent public importance and my motion reads:—

"That this House under Standing Order 18 (1) be adjourned to discuss a definite matter of urgent public importance and this is in regard to the suspension of five Supreme Court Judges under Article 125 (5) of the Federal Constitution;

"The five suspended judges are Tan Sri Datuk Wan Suleiman; Datuk George Seah; Tan Sri Datuk Mohd. Azmi; Tan Sri Dato Seri Eusoffe Abdoolcader and Tan Sri Datuk Wah Hamzah;

"THAT this matter is of public importance because the suspension has caused public alarm, grave anxiety and utmost concern among all sections of the population throughout the country;

"THAT this matter is of public interest because the entire nation was shocked by the news of the suspension which is totally unprecedented in the history of the country's Judiciary and perhaps in the world;

"The public are gravely concerned over the suspension as the matter seriously affects the administration of justice, the independence of the Judiciary and the upholding of the Constitution;

"The matter is also of public interest because the suspension undermines business confidence as evidenced by the "fall" in the KL Stock Exchange

yesterday, and has seriously shaken both national and international confidence in the Government affecting political and economic stability;

"THAT this matter is also of urgent public importance because with the suspension of five judges yesterday and Tun Salleh Abas recently, the Supreme Court is now left with only four judges, of whom two are involved in the Tun Salleh Abas Tribunal, namely Tan Sri Abdul Hamid and Tan Sri Lee Hun Hoe; and this affects the administration of justice and the discharge of judicial functions of the Supreme Court;

"THAT this matter is urgent because of the large number of urgent appeals pending in the Supreme Court, and this included the UMNO appeal, which need to be adjudicated. The suspension of the mentioned judges has affected the hearing of all the urgent appeals in the Supreme Court which has a vital role to play in exercising its functions to dispense justice."

Yours faithfully

LEE LAM THYE
Acting Opposition Leader
MP for Kawasan Bukit Bintang

ISA Amendments to fix Kit Siang

Press Statement, July 15th 1988.

THE production of the amendments to the ISA by the Federal Counsel in the Penang High Court this morning to press for the dismissal of Lim Kit Siang's habeas corpus application has exposed the real intention of the Government to rush through amendments to the ISA in the Dewan Negara for Royal Assent and publication in the Gazette. Despite what had been stated by Deputy Home Affairs Minister, Datuk Megat Junid, there is not a shadow of doubt that the purpose of pushing through the ISA amendments with indecent haste is to frustrate and 'fix' Lim Kit Siang's habeas corpus application.

Judging from what happened at the High Court this morning, Datuk Megat Junid has been exposed and proven wrong when he said the purpose of the ISA amendments is not to victimise Lim Kit Siang. The following events have clearly shown that the ISA amendments are designed to 'fix' Kit Siang's habeas corpus application.

The amendments to the ISA were debated and passed on the last day of the 2-week sitting of the Dewan Rakyat which sat from 27-6-88 to 8-7-88. After getting them passed in the Dewan Rakyat on the 8th of July 1988, the amendments overshot other bills and came up in the Dewan Negara for debate on the 2nd day of its sitting. This was on the 12th of July, a day before Kit Siang's habeas corpus was due to be heard. The amendments were passed on the same day after an extended sitting. Hearing on Lim Kit Siang's habeas corpus application was postponed for two days at the request of the Federal Counsel on the grounds that the Home Affairs Minister had to be contacted to file his affidavit.

Subsequently, the hearing was postponed to today, the 15th of July. When hearing started this morning, the Federal Counsel informed the Court that at 8.45 am this morning he was handed a copy of the gazetted ISA amendments and he requested that the application be dismissed based on the amended provisions of the ISA. The Court was informed that the amendments to the ISA (known as the Internal Security (Amendment) Act 1988) were given Royal Assent on the 14th of July 1988 and gazetted on the 15th of July 1988.

From the events which transpired, from the date of the introduction and the bullet train passage of the ISA amendments in the Dewan Rakyat and then

to the Dewan Negara right up to the dates of Royal Assent and publication in the gazette, there is not the slightest doubt that the whole exercise was carried out for the purpose of 'demolishing' Lim Kit Siang's habeas corpus application. (The unlawful imprisonment came about because on the date his detention order was supposed to take effect, Lim Kit Siang was not present at the Kamunting Detention Camp but was only sent there 3 days later)

The DAP strongly condemns the Internal Security (Amendment) Act 1988, and in particular the manner in which it was introduced and passed. The Act was rushed through with indecent haste just for the purpose of 'killing' Lim Kit Siang's application and to deny him his right to be free. It is a gross violation of Article 5 of the Federal Constitution pertaining to personal liberty. It is indeed a shameful act and today is a day of shame on the Government. The DAP calls on all Malaysians who cherish freedom and justice to oppose and condemn the ISA (Amendment) 1988 which constitutes a gross infringement of our Constitutional safeguards on personal liberty and freedom.

Dr. Mahathir Bent on Crushing DAP

Press Statement, Sept. 27th 1988.

THE Prime Minister and Minister of Home Affairs, Datuk Seri Dr. Mahathir Mohamed, has rejected the appeal by the 5 detained DAP leaders to hold posts in the DAP. Their appeals were made separately on the 26th of July this year by the party's solicitors, Messrs K.C. Cheah & Co. The decision of Dr Mahathir was conveyed to Messrs K.C. Cheah & Co, in a letter dated 23 September 1988. No reasons were given for the rejection.

The 5 DAP leaders viz Sdr Lim Kit Siang the DAP Secretary General and Opposition Leader, Sdr Karpal Singh the DAP Deputy Chairmn, Sdr P. Patta the DAP Deputy Secretary General, Sdr Lau Dak Kee and Sdr Lim Guan Eng, both CEC members, had through their solicitors appealed to the Home Minister against the decision of the Registrar of Societies in rejecting their application to hold office in the DAP. The 5 detained DAP leaders were elected by party delegates at the last Party Congress held on 16 April 1988. Dr. Mahathir's rejection of the appeal by the 5 DAP leaders comes as no surprise to the DAP. Not only has Dr Mahathir detained our 5 leaders unjustly but he has now gone one step further to deny them the right to hold office in their own party. This is not only an act of double injustice but political persecution and victimisation. Not content with a pint of blood, Dr Mahathir now wants a pound of flesh from our detained leaders.

In rejecting the appeal, Dr Mahathir has also breached the very solemn undertaking that he gave to Parliament during the debate on the Societies Amendment Bill on 18 March 1988. During the debate on the Societies Amendment Bill, I had called for the amendment of Section 9 of the Societies Act to enable ISA detainees to continue to hold office in their respective organisations. This is necessary and justified as ISA detainees are not charged in court and are not criminals convicted of any wrong-doings. Neither have they been incarcerated for flouting the Societies Act. I had also raised the question of the 5 DAP leaders holding positions in the party. Dr Mahathir's reply as published in the Hansard of 18 March 1988 was:

"I do not know whether I have the powers to exempt DAP members and leaders presently under detention but since the DAP has not made any application to exempt their leaders from the provisions of

are even forced to give-up their positions in the party. This is the height of injustice, political persecution and victimisation designed to cripple the DAP.

Let me tell Dr. Mahathir that no amount of persecution, intimidation or victimisation will deter the DAP from pursuing its noble ideals and objectives. Let me also remind him that the Barisan Nasional government obtained only 55% of the total votes in the 1986 general election and Urban Malaysia has rejected his and the Barisan Nasional's policies. If a general election is held now, with the growing resentment in the Malay community, he and the Barisan Nasional will be trounced and thrashed in the general elections! Finally, we demand that the 5 detained DAP leaders and all other ISA detainees including leaders from Tung Chao-Chung, PAS, PSRM and Church groups be released forthwith unconditionally.

An Impoverished Judiciary

Debate on 1989 Ministry of Justice estimates.

Dewan Rakyat, Nov. 15th 1988.

SPEAKING on the Ministry in general and of the Judiciary in particular, the allocation for the Ministry of Justice totalling \$57.7 million is insufficient and should have been increased, in view of our improved economy, to ensure the effective dispensation of justice.

I find the allocation of \$32.1 million for the Judiciary in respect of operating expenditure to cover the salaries of members of the Judiciary and their back-up staff as grossly insufficient. I also find that the number of posts for the Judiciary has not been increased. The 2,298 posts in the Judiciary has remained the same in respect of 1987, 1988 and now for 1989.

With such a small allocation for the Judiciary and the poor salaries for members of the Judiciary and the magistrates in particular coupled with the inadequate staffing of the department, one wonders how justice can be effectively and speedily administered. It should be noted here that our courts are not only self-financing but consistently produce a huge surplus of revenue and if such revenue is ploughed back to the courts, it will enable more staff to be recruited to tackle the ever increasing backlog of court cases.

It is a fact that the salaries of our Judges and magistrates are low compared to other countries who have adopted the English Common Law system. It is very important that Judges and magistrates are well paid and in this connection, I feel that there should be a review of the salaries of the members of the Judiciary. In view of the improved economy, the Government should have reviewed the salaries of the members of the Judiciary with a view towards increasing their salaries and also increasing the back-up staff to ensure the effective administering of justice.

JUDICIARY AND COURT STAFF OVERWORKED AND UNDERPAID

It is not incorrect to say today that the Judiciary and the court's staff are overworked and underpaid. In particular, the Government should concentrate on beefing up the Subordinate Courts as more and more cases are being handled by them following the amendment to the Judicature Act by Parliament. We must now look at the Judiciary and the Courts as service oriented as they perform a very important role in administering justice to all aggrieved parties.

brought to trial within a reasonable period of time. Compliance with Section 259 of the Criminal Procedure Code which says that no one can be detained for more than 7 days at a time and therefore all remand cases have to be reviewed every eighth day is still inadequate if there is a shortage of magistrates, courts and police personnel.

INDEPENDENCE OF THE JUDICIARY

Mr. Chairman, on the subject of the Judiciary, I wish to emphasize once again on the necessity for the Independence of the Judiciary to be upheld at all times and that judges must always remain free to judge. It cannot be denied that the removal of the Lord President and two other Supreme Court Judges recently, as well as the amendment to Article 121 of the Malaysian Constitution in March this year constituted a serious assault on the Judiciary and the destruction of judicial independence. The doctrine of the "Separation of Powers" which provides for the judiciary to be separate from and independent of the other two branches of the State which is the Executive and the Legislative, must be respected and upheld at all times.

It would be difficult for the Judiciary to perform its role as an impartial arbiter if it is stripped of its power and jurisdiction vested in it. An independent Judiciary that is not subservient to the Legislature or the Executive, either in theory or in practice, is often regarded as the bastion of parliamentary democracy. That bastion is under seige today. In the last one year, a political leadership with dictatorial tendencies has mounted one assault after another against the bastion of democratic rule. I wish to take this opportunity to seek clarification from the Minister concerned as to why the post of Lord President has not been filled since the removal of Tun Salleh Abas on August 8, 1988 and why Tan Sri Abdul Hamid Omar still remains as Acting Lord President.

COURT OF CIVIL AND COURT OF CRIMINAL APPEAL NEEDED

Finally, Mr. Chairman, I wish to suggest a third tier for the judicial process which is not only necessary but essential. When the Supreme Court was established it was meant to replace the Privy Council. However, it has only succeeded in replacing the Federal Court. It is important that without disturbing the structure of the Supreme Court, a Court of Civil and a Court of Criminal Appeal should and could be set up within to satisfy the third tier. This would lead to an improvement in the quality of the judgements and would serve the cause of justice.

Defending the Workers

Debate on the Industrial Relations (Amendment) Bill 1988
Dewan Rakyat, Dec. 5th 1988.

THE Industrial Relations (Amendment) Bill 1988 contains 15 amendments to the Industrial Relations Act 1967 which, according to the Minister concerned, are to guarantee the rights of workers and to promote industrial harmony. The Industrial Relations Act 1967 aims to provide for the regulation of relations between employers and workmen and their trade unions and the prevention and settlement of any differences or disputes relating to matters on claims for recognition by unions, salary schemes and conditions of service as well as other matters arising therefrom.

With this in view, it is necessary for the Government and in particular the Labour Minister to ensure that amendments made to the IRA, contribute to the promotion of industrial harmony and not disharmony. After having gone through the proposed amendments, I am not at all convinced that the amendments are in the interest of labour as claimed by the Labour Minister when introducing this Bill.

While I am prepared to be positive and welcome those amendments which are progressive and conducive to industrial harmony, I have to state my strong objection and disapproval of a number of important amendments in this Bill which are highly obnoxious and against the interests of labour.

UNION CLAIMS DELAYED

Firstly, I refer to Clause 4 of this Amendment Bill which seeks to amend Section 12 of the IRA to extend the waiting period from three months to six months before a trade union would be allowed to submit a fresh claim for recognition after an earlier claim had been rejected.

I do not agree with this amendment. It is my view that the proposed extension of the waiting period from 3 to 6 months on submission of fresh claims by unions for recognition will only lead to a delay in resolving recognition claims. Moreover, the waiting period extension may be exploited by managements opposed to unionisation to win over the workers and frustrate the union in seeking a fresh claim for recognition. The Labour Minister's claim that it will pose administrative problems to the authority concerned and the management if unions are to submit fresh claim for recognition

at the end of the three month waiting period is totally unjustified.

Clause 5 seeks to introduce a new subsection (3) to Section 14 of the IRA to provide that "the terms of a collective agreement shall not be less favourable than the provisions of the Wages Councils Act 1947 and the Employment Act 1955". This amendment is to be welcomed.

Similarly, I welcome Clause 8 which seeks to amend Section 20 of the IRA so that all dismissal cases involving both unionised or non-unionised workers are covered by Section 20(1). Increasing the time frame from 30 days to 60 days to enable the dismissed employee to make representations to the Director General for Industrial Relations for reinstatement is a step in the right direction as it provides adequate time for the dismissed employee to make appeals. I am also in agreement with the amendment to Section 20 which allows a dismissed worker to file his representation without waiting for the expiry of the dismissal notice.

WORKERS RIGHT OF REPRESENTATION DENIED

I have to raise a very strong objection to the introduction of a new subsection 7 to Section 20 whereby representation by an advocate, adviser or consultant is not permitted at conciliation proceedings for dismissal cases under Section 20 of the IRA. Not permitting representation by an Advocate is a retrogressive step which will definitely be to the disadvantage of the dismissed workman. Why should there be a bar to legal representation if a dismissed workman who is not a union member is unable to present his case himself?

Bearing in mind that not all cases are referred to the Industrial Court, a proper presentation of the workman's case may at times involve legal arguments to convince the officer conducting the conciliation proceedings that the workman has got a good case for reference to the Industrial Court. If the settlement is not reached at the conciliation proceedings the officer has to submit a report and recommendations to the Labour Minister for him to decide whether to refer the case to the Court or not, and unless the officer is properly guided he will not be able to furnish a proper report for the Minister's consideration.

The Government's claim that allowing legal representation will delay conciliation proceedings because of long legal arguments is totally unacceptable and should be rejected. Legal questions cannot be avoided at conciliation proceedings on dismissal cases and legal representation should not be denied to a dismissed employee fighting for his reinstatement. Furthermore, employers or their officers attending conciliation proceedings may themselves be legally qualified or learned in the law and thus have an advantage over

the workman. Companies can afford to employ lawyers as their company staff or officers to present their case against dismissed employees and if the latter is denied legal representation it will be an act of injustice.

It must be realised that not all workmen are members of trade unions and therefore non-unionised workmen may not have the benefit of being represented by a trade union official or an official from an organisation of workmen such as the MTUC to appear for a dismissed employee. Thus, the constitutional right of a person and in this case a dismissed employee to be represented by a lawyer should be maintained.

I note that the Amendment Bill still retains Section 20 (3) whereby the Minister has a discretion whether to refer a case of dismissal to the Industrial Court or not. In cases of dismissals it would be more appropriate if all dismissals are referred to the Industrial Court if they are not resolved at the conciliation stage. This Section 20 should be amended to make it compulsory to refer all dismissal cases to the Industrial Court if they cannot be resolved at the conciliation stage. Clause 9 seeks to amend Section 21 to remove the membership of the Independent panel member in the Industrial Court. I have no objection to this amendment.

Clause 10 (b) seeks to amend Section 22 to empower the President of the Industrial Court to select its panel members. I disagree with this proposed amendment. The selection of panel members ought not to be done by the President as he himself or the Chairman under him will be sitting to hear disputes. The President should not be permitted to select the persons to sit with him or the Chairman as this can lead to abuse. He may only select persons who will always agree with him. The Industrial Court being the adjudicator should not select the persons to hear a dispute. The present legislation in this regard whereby the Minister appoints the members to constitute the Court to hear disputes should be maintained.

Clause 12 seeks to insert a new Section 23A to set out the qualifications of a President and a Chairman of the Industrial Court. According to the amendment, the President and all Chairmen of the Industrial Court must be legally qualified and have at least 7 years experience as an Advocate & Solicitor or have served 7 years in the legal and judicial service. I support this amendment as proceedings in the Industrial Court are becoming more and more legalistic today.

As regards Clause 14 which enables the Minister concerned to refer a trade dispute to the Court, either on his own motion or upon receiving a notification from the Director General of Industrial Relations, I have no objection. I also support Clause 16 which seeks to amend Section 29 of the IRA to make it clear that the jurisdiction of the Industrial Court is not limited to hearing trade disputes and references under Section 20 (3)

but extends to all manner of proceedings before it.

Clause 19 seeks to amend Section 56 of the IRA to facilitate the enforcement of orders made by the Industrial Court. In the event of non-compliance with an Order, whether for the payment of money or otherwise, the Registrar of the Industrial Court may send a copy of the order to the Senior Assistant Registrar of the High Court or the Registrar of the Sessions Court. After the order has been recorded it will be enforceable as a judgement of the High Court or the Sessions Court. I am in full support of this amendment. I have been constantly reminding the Labour Ministry in Parliament about the serious problem of non-compliance of industrial court awards. I am pleased to note that my complaints had been noted and Section 56 of the Act is now amended to facilitate the enforcement of Industrial Court awards.

STOP SWEEPING POWERS OF MINISTER

Clause 20 seeks to amend the Schedule of the Industrial Relations act to widen the scope of essential services by including the storing and bulking of commodities and any industry declared by the Minister as essential to the economy of the country. Accordingly, a new item 17 is to be added to the Schedule of the Act whereby the Minister can declare any industry as an essential service.

By bringing this amendment, the Government is widening the scope drastically of "essential services" as any industry can be termed an "essential service" by the Minister concerned. By the addition of this item 17 to the Schedule of the IRA, the scope of Section 43 of the Act (which imposes restrictions on strikes and lock outs in essential services) is further widened. In view of the reasons above, I am strongly opposed to Clause 20 of this Amendment Bill and it is my view that the Labour Minister should not be given sweeping powers to classify any industry as an essential service in the name of preserving the national economy.

Finally, in presenting my views on the Industrial Relations (Amendment) Bill 1988, I have tried to be fair in my criticisms of the Bill. I have supported those amendments which I regard as progressive and in the interests of promoting industrial harmony. But I certainly disagree and have to state my strong objections to a number of clauses in this bill, particularly Clause 20, Clause 8 and Clause 4, which I am convinced will not help in promoting industrial harmony. I regret that the Minister concerned has not taken heed of the call by MTUC to drop these highly controversial amendments from the Bill. Lastly I wish to suggest to the Minister not to rush this bill through Parliament but to have it referred to a Parliamentary Select Committee with a view towards further discussing and resolving those controversial amendments.

Tengku Razaleigh's Private Bill

Debate on motion for a Private Member's Bill to amend the Societies Act.
Dewan Rakyat, Dec. 6th 1988.

THE motion before the House seeks to introduce a Private Member's Bill to amend the Societies Act 1966. Motions to introduce private member's bills are a common feature in a parliamentary system where MPs from both the ruling party and the opposition freely amend existing laws if they feel there are weaknesses or lacuna in such laws or bring in new legislation which they feel is imperative.

The DAP is no stranger to such motions. In the 1970s, DAP MPs sought to introduce several Private Member Bills such as the Anti-Corruption Act to make the Agency an independent and autonomous body answerable to Parliament; requiring MPs to vacate their seats should they defect from their party to another party; fixing minimum wages for workers and the repeal of Section 21 (2) of the 1961 Education Act. In order to restrict opposition MPs from introducing Private Member Bills, the Government amended the Standing Orders in 1981 whereby Private Member Bills were placed right at the bottom of the order of business and as such, no Private Member Bills saw the light of day. Thus this is the first time in seven years that a motion of this nature is given time to be debated and for reasons best known to the Barisan Nasional Government, particularly Umno Baru.

The Member for Gua Musang has introduced this motion to introduce a Private Member's Bill to amend the Societies Act and as he declared last night, his intention in wanting to amend the Societies Act was to revive the Umno of 46. While we do not want to interfere in the internal affairs of Umno, we support this motion as we feel several provisions of the Societies Act ought to be amended to remove the draconian and restrictive aspects of it as the original intention of introducing the Societies Act in 1966 was to prevent secret societies from infiltrating societies and associations. Thus, in allowing this motion to seek the leave of the House to introduce a Private Member's Bill to amend the Societies Act it will open a full-scale debate on the Societies Act, particularly as to how it affects the functioning of political parties.

One draconian and manifestly unjust feature of the Societies Act is Section 9A(1) which prohibits ISA detainees from holding positions in a regis-

tered society. This section should be amended to allow ISA detainees to continue holding posts even if they are under detention or have been conditionally released. The five DAP MPs currently under detention are Sdr. Lim Kit Siang, Sdr. Karpal Singh, Sdr. P. Pato, Sdr. Lau Dak Kee and Sdr. Lim Guan Eng and they are the victims of Section 9a(1) of the Societies Act which prohibits them from holding positions in their own party. Their appeal to the Home Affairs Minister dated 26th July 1988 to allow them to hold positions in the party was rejected by the Home Minister in September 1988 without assigning any reason whatsoever.

The 5 detained leaders have not violated the Societies Act or for that matter been tried in an open court of law for any infringement. When I raised this matter during the debate of the Societies Amendment Bill on 18th March 1988, the Prime Minister assured me that he would rectify this injustice by allowing them to hold office if they appeal to him. But this promise has been breached following the rejection by the Minister concerned. While DAP leaders were denied justice, the Registrar of Societies had no hesitation or compunction in exempting the President of Umno Baru and its leaders from the provisions of Section 49 of the Societies Act which they had clearly violated by holding positions in Umno Baru without obtaining the written permission of the Registrar of Societies which offence carries a penalty of \$5,000 fine upon conviction or 3 years jail or both.

The DAP is highly dissatisfied with the Societies Act and I call on this august House to grant leave to the Member for Gua Musang to introduce his bill to amend the Societies Act. I urge all MPs irrespective of their political affiliation to stand up and be counted on this motion which is vital not only in the fight for the removal of unfair and unjust provisions in the Societies Act but also the right of any member of this House to be allowed to move a non-government bill for consideration by this House.



First elected as MP for Kuala Lumpur Bandar in 1974.

18 JUL 1990



Garlanded by party supporters after election victory in 1974.

