

[25/5/50]

MEMORANDUM SUBMITTED BY THE CENTRAL COMMITTEE
OF THE COMMUNIST PARTY OF SOUTH AFRICA TO THE
SELECT COMMITTEE ON THE UNLAWFUL ORGANISATIONS
BILL.

1. Threatened with forcible disbandment, facing the prospect of endless persecution of our members, we have every right to expect from the instigators of this measure a precise statement of the charges levelled against us, the evidence on which they are based, and an opportunity to make our reply before an impartial tribunal. Instead, we have received nothing but abusive and uncorroborated statements, and a fait accompli in the form of a Bill. Consequently, we are compelled to speculate about the reasons that motivate this unprecedented attempt to outlaw a minority political opinion, and to examine the Bill as a political rather than a legal instrument.

2. The Unlawful Organisations Bill is undoubtedly a measure which touches most deeply the very basis of the political and constitutional structure of the Union of South Africa. Its powers are so wide, and the right of organisations and individuals to present a civilised defence before the Courts of our country are so undermined, that if it were carried into effect, this Bill would constitute a complete abrogation of the rule of law in South Africa and would substitute the hateful order of a police state, comparable only to that which existed in Nazi Germany before the last war. This fact has been realised by large sections of our population and numerous organisations, including churches. As proof of this, one can only refer to the widespread nature of the protests and opposition which the publication of this Bill has engendered throughout South Africa.

3. This measure deprives individuals and organisations of the basic human rights of freedom of speech, press and assembly, and one may well ask why it is being introduced in the first place, and secondly, what is the necessity for the speed and indecent haste in which the Government proposes to force this measure through. For the very manner in which this matter is being handled indicates the character of the policy of this Government whose aim is the complete suppression of democratic rights in South Africa, first by depriving the Non-Europeans of indirect representation, and then the institution of a police state in which all so-called un-national elements will be deprived of their rights, and finally, the ultimate aim of the Nationalist Party will have been realised, namely, a fascist republic for South Africa.

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The threat to democracy is not from the Communists but comes from the Nationalist Government itself with its secret controlling organisations like the Broederbond, with its Greyshirt supporters, and its objective of a one party state.

4. We are confident that the main reason for introducing this legislation, and indeed its main aim, is to stifle the demand so vigorously advocated by our Party for democratic rights and equality for all in South Africa, Unable to succeed in any legal charge against our Party, the Government is now attempting to suppress our demand for democracy by illegalising not only our Party but ultimately any organisation which preaches for equality and against apartheid. There can be little doubt that once the Communist Party of South Africa is outlawed all those individuals, organisations, churches and institutions who raise the demand for an end to racial discrimination in South Africa will be brabbed in terms of this Bill and declared illegal. The second reason can be found in the strained international situation which exists in the world today. This is due to the intensive preparation by the Anglo-American powers for an aggressive war against the Soviet Union and the People's Democracies of Europe and China, a policy to which our Government has declared its support. Evidence of this is the fact that similar socalled "anti-communist" measures are simultaneously being enacted in many parts of the British Empire and other countries. The reason for these attacks upon the Communists is that nationally and internationally we have raised the demand for peace, for destruction of atomic weapons and exposed the war preparations now being made. It is also in order to crush those who are leading the fight for peace today that these anti-communist measures are being taken.

5. We now propose to discuss aspects of our Party's constitution and policy that have been systematically misrepresented by our political opponents.

International Established in 1921, the Communist Party was formed by amalgamating the Independent Socialist League, itself an offshoot of the S.A. Labour Party, with other political organisations sharing similar viewpoints. The founders included persons prominent in the labour and trade union movement, who from the outset, made the Party an integral part of the working class movement. While affiliated to the Communist International until its dissolution in 1942, the Party has throughout been an autonomous body, operating under its own constitution and working out

its own policy. The assertion that we are, or have at any time been, under 'foreign' domination, or that we have acted as 'agents' of the Soviet Union, is without foundation in fact. We have been no more bound by our international affiliations than, for instance, have the trade unions or Labour Party or other organisations by their membership of international bodies.

6. With no element of conspiracy, secrecy or illegality in our constitution and organisation, we, like other political parties, have relied on propaganda and education to gain adherents and to convince people that our policy is correct and merits their active support. Our methods have been those normally used under the parliamentary system: the distribution of leaflets, pamphlets and newspapers; the holding of meetings, lectures and study classes; the organisation of demonstrations, petitions and deputations. When we have considered laws of a political nature to be undemocratic or otherwise objectionable, we have attempted to obtain public support for their rejection or modification and for the adoption of different laws and policies. There is nothing that is or has been illegal or undemocratic in these methods; to condemn aspects of the social system, to create in people a consciousness that change is necessary, to organise them to apply pressure on the government, these are activities that are essential for the well-being of a democracy and are the traditional technique of social change.

7. Our political work has been carried on among all the racial groups. We have contested elections in wholly European constituencies, in mixed and in African constituencies. Our appeal has been addressed to all sections of the population. It is, indeed, our multi-racial composition and the universality of our programme that distinguishes us from other South African political parties. We are, in the first place, socialists, and for us socialism is a way of life in which there is no place for any kind of sectional privilege, whether possessed by a class, a sect, a sex or race. There is no basis for the charge, tirelessly repeated and never substantiated, that our activities have been confined to the Non-European peoples, that it has been our aim to create hostility against the Europeans. Being neither racialists nor narrow nationalists, our chief message has been the need of inter-racial unity for the establishment of a universal and genuine democracy.

8. Unlike other parties, much of our work has been carried on among the disenfranchised Non-Europeans. Nothing in the law or constitution prohibits political activity among them. Though denied the franchise, they are not denied freedom of political action. Any party that claims to represent Non-European interests is entitled to use the normal methods of political action to organise opinion, including that of the disenfranchised majority, to achieve a change in laws and policies. This point was made by the Appellate Division in a case (Rex vs. Roux and Ngedlane, 1936 A.D. 271) involving a charge of laesa majestas based on an article calling on people to protest against pass laws, liquor laws and other forms of oppression. 'Die Unie', said Judge Beyers, 'is 'n demokratiese staat, en 'n men sou so 'n prosekusie onder Krygwet of onder 'n outokrasie kan verstaan, maar nie in 'n verligte eeu en geslag nie, waar die regering van die staat gegrond is op die vrye en onbelemmerde volkswil, en waar dit iedere burger vry staan om sy mening omtrent die openbare staat van sake en die politiek vrylik te uiter..... Daar is twee politieke partye in die Unie wat openlik die vryheid van hul lede om oor 'n verandering van die regeringsvorm van die Unie te praat en dit te bepleit, verkondig'. He added that if the contention of the Crown in this case were accepted, members of these parties, and anyone else who maintained that Parliament made laws oppressive of the public or of certain sections, would be guilty of laesa majestas. 'Soiets sou ongetwyfeld die end van volksregering wees' (p.293).

9. Like other political parties, again, we have maintained cordial and often close relations with other organisations with whom we have one or more aims in common. The accusation that our members 'penetrate' other organisations, attempt to 'capture' them 'from within', or 'use them' for 'political' aims, is untrue and not even comparable with the accusations levelled against the Nationalist or United Party in relation to such bodies as the Dutch Reformed Church, the S.A. Agricultural Union, the S.A. Mineworkers Union, the Sons of England or the Jewish Board of Deputies. Our members openly advocate our party policy in the organisations to which they belong; they are known to be Communists, and, if they are elected as office bearers, it is because of recognition by their fellow members of the work they have done and the prestige they enjoy.

10. Being a working class party, our members are expected to join

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trade unions and take an active part in strengthening them in supporting their efforts to improve wages and working conditions. In accordance with our principles, and because of the neglect by the older unions to perform this function, some of our trade union members have done much to organise trade unions among the lower-paid workers and improve their conditions. An outside observer, Mr. E.W. Bussey of the British Trade Union Congress, has described the position in the following terms: 'It was crystal clear to me that the Communist Party in South Africa has played an important part in voicing the needs of the Native workers, and have assisted in the organisations which are at present operating. I find it difficult to comment unfavourably against such a development. The present position is due, in my opinion, to the lack of foresight by the Government of South Africa which has denied to the Native workers the right of a trade union organisation in the industries in which they are working, and to the conservative policy of a number of the Trade Union Organisations'.

11. Our party has never assumed responsibility for the administration of trade unions and has never attempted to dictate policy to them. In industrial, as on other matters, we from time to time formulate policy and our members attempt to gain support for it from their fellow trade unionists. Decisions, to be effective, cannot however be imposed 'from without', but must be taken by the membership after full and free discussion. Consequently, we have always supported the maximum amount of democratic discussion and self-rule by members of trade unions.

12. It is no less inaccurate to allege that we 'use' other organisations such as the African National Congress or the South African Indian Congress. Although members of our party have been prominent in these bodies, they differ fundamentally from our party both in composition and in policy. They consist exclusively of persons belonging to one racial group; our party is multi-racial. They approach matters from the viewpoint of their national interests; we from an inter-national, inter-racial and working class viewpoint. We support and work with these organisations in so far as their policy agrees with our own.

13. It has frequently been asserted that our party aims to change the order of society by force and violence. The Unlawful Organisations Bill itself makes that assertion. These allegations are sheer fabrication and a complete falsification of the fundamental aims and methods of the Communist Party. Our party stands for a radical transformation of South African society and for its conversion to a true democracy, not by force or violence. No evidence or proof

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has ever been adduced to substantiate the allegation that the Communist Party has advocated the violent overthrow of the state. During 1947 and 1948, after police seizure of all the documents and records of the Communist Party and its branches throughout the country, its leaders were placed on trial on charges of sedition and incitement to public violence. Despite exhaustive enquiry the evidence led by the police itself established so conclusively the innocence of the Communist Party on these and any charges, that the Crown was unable even to frame an indictment. On two occasions the Judges of the Supreme Court dismissed the charges without the Communist Party being called upon to give evidence in its defence.

14. Thus both the truth and our Courts of Law have cleared the Communist Party of the false accusations that it promotes violence or has induced others to exercise violence.

Political opponents make the tenacious assertion that it is part of our philosophy to organise violent revolution and civil war. We consider it worthwhile to quote an extract from the judgment of Mr. Justice J. Evatt, formerly Foreign Minister in Australia, where, in 1932, after a lengthy argument, he gave his considered opinion of this allegation:

*Tendentious
having an
undefining
purpose
and declared*

"The King Against Hush: Ex parte Devanny.

48 (Australian) Commonwealth Law Reports 487 (1932).

"The Defendant was charged with soliciting contributions of money for an unlawful association, namely, the Communist Party of Australia".

"Held, by Gavan Duffy C.J. Starke, Disson, Evatt and McTiernan J.J. (Rich J. dissenting), that the averments and evidence did not establish the offence charged.

Per Evatt J.:-

"There is much in the matters averred and printed to suggest that the Communist Party advocate that the whole Parliamentary machine must be completely changed - transformed - revolutionised, in order that a monopoly of political power shall be given to the working class, and that owners of private industries, property and wealth shall be dispossessed without compensation; further, that it is highly probable that so great a change, whether or not it is approved by the majority or ordained by law, will not be acquiesced in without resort to force on the part of those dispossessed, that, in this sense, a violent civil upheaval will, almost certainly, accompany the proposed transformation of society and that actual civil violence and disturbance will accompany the attempted socialisation of industry".

"In order to determine the bearing of all these matters,

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reference would have to be made to the leading exponents of more modern Socialist thought, from Marx and Engels onwards. It is a subject upon which every student of history, political science, sociology and philosophy should be tolerably well informed. Even the averments in the present case include a historical reference to the three Internationals. In the ultimate ideal of a classless society, the Communist movement has much in common with the Socialist and working class movement throughout the world. They all profess to welcome a revolutionary change from the present economic system, which, conveniently enough, is called Capitalism, and the more violent protagonists of which are now called Fascists. The doctrine of the class struggle raised a dispute as to fact, rather than opinion. It is not a question whether it is desirable to have a struggle between a property-less class and a property-owning class, but whether such struggle exists in fact. The Communists claim that democratic institutions conceal, but do not mitigate, the concentration of political and economic power in the property-owning class, and, that, for such dictatorship, there should be substituted the open, undisguised dictatorship of the property-less classes. They say that it is extremely probable that a violent upheaval will ensue when the time comes to effect such substitution. (Encyclopaedia Britannica, 12th ed., vol. 30, p. 732 (R.P. Dutt); c.f. Laski's Democracy in Crisis, pp. 194, 226, 227, 241)".

"When the time comes". "It is, it would seem from the writings in evidence, the element of time which must be closely examined in determining whether at the present, or in the near, or very far distant, future there is to be any employment of violence and force on the part of the classes for which the Communist Party claims to speak. "The inevitability of gradualness" as a Socialist and Labor doctrine, the Communists reject. But they believe and advocate that a Socialist State must inevitably emerge from the very nature of capitalist economy. But when? So far as the evidence placed before us goes, there is no answer to this question. So that one possible argument, which may be open to the Communist Party in explaining their reference to physical force, is that force and the threat of force are far distant from the present or the near future. The history of the attempts and failures of Communism to gain control of other political movements of the working classes may tend, upon close analysis, to show that, to turn the phrase, Communism illustrates the gradualness, the extreme gradualness, of inevitability".

15. There is no justification whatever for any law to disband and dissolve the Communist Party of South Africa. No such law, moreover, can possibly hope to crush the desire of the over-

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whelming majority of the people in South Africa of all races for a society based on justice and equality, in which every individual is afforded equal opportunity. Many millions of people in the world today have accepted socialism as the only decent and sane order of society, and no government in South Africa, no matter how harsh its measures, can deprive those who are fighting for socialism of their passionate desire for peace and security for all, which we believe is only possible under the socialist order.

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58 Burg Street,
CAPE TOWN.
May 25, 1950.

I.O. HORVITCH.
NATIONAL CHAIRMAN.

MOSES M. KOTANE.
NATIONAL SECRETARY.