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THE**

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ON

*Democratic
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How The New Crimes Act Amendments Make A Hidden Attack on Democratic Rights

Once more the democratic rights of the Australian people are under attack by the Menzies Government.

A new Crimes Act Amendment Bill brought down early this month is designed to give this Government far reaching dictatorial powers over the Australian people.

It is a hidden attack.

In his speech to Parliament Sir Garfield Barwick sought to exploit the people's love of Australia by saying that these vicious amendments are necessary for defence and security.

This is not true. The political and industrial amendments introduced are not necessary for the defence and security at all.

They are designed to cripple the Labour Movement, to silence the critics of the Government's foreign and domestic policy.

They are aimed to stop workers organising for the economic improvement of their lives, to silence those who speak out for peace and friendship with all nations.

The new amendments have met with widespread opposition.

Unionists Opposed To Bill

Union policy is against the use of the political and industrial sections of the Crimes Act.

On many occasions the A.C.T.U. Congress have carried resolutions calling for their repeal.

These new amendments not only retain all the worst sections of the political and industrial sections of the Crimes Act but add many new and objectionable features.

Trade Union Conferences and meetings of workers have declared their opposition to the new amendments and have made that opposition known to the Parliamentary Representatives.

Even the Sydney Morning Herald in its editorial columns and special articles has expressed concern.

It is natural enough that these amendments should be opposed.

Firstly they are introduced by a Government which has during its term of office made many attempts to restrict the democratic liberties of the Australian people.

Workers' Meetings Spied On

In recent times it has had its security police attend a meeting of public servants in Wynyard Park Sydney taking notes and in effect trying to intimidate the public servants from proceeding with their economic demands.

It has refused permission to the noted British anthropologist Professor Max Gluckman to visit New Guinea basing its action upon a secret police report.

It has recently introduced an Act to give the Government power to tap the telephones of any citizen.

It has inserted into the Arbitration Act penal powers which allow the Unions and individual unionists to be heavily fined for taking part in ordinary industrial activities.

Trade Unionists see these new amendments as a further restriction of their rights, they are actually political penal powers.

Onus Of Proof

An important consideration to be kept in mind when examining the amendments is that any action taken under them places the onus of proof on the person charged.

The political sections of the Crimes Act state that the averment of the prosecutor is sufficient proof, the accused then has to prove his or her innocence.

This is a big departure from the accepted principles of justice.

The amendments greatly widen the definition of treason.

Previously treason could only be committed at a time of war

New Definition

The amendments create a completely new kind of treason.

Thus the new section 24(D) states that it is treason if a person "assists by any means whatever an enemy at war with the Commonwealth, whether or not the existence of a state of war has been declared;"

This very plainly means that if Australian troops are engaged in some so called police action, as in Malaya for example, then it is treason to assist by any means whatever anyone opposing them.

The declaration by Labour Leader J. B. Chifley some years ago opposing the use of Australian troops in Malaya could be classed as "treason" under these amendments with the death penalty applying.

This section is further widened by the inclusion of a statement that a person is guilty of treason if he "forms an intention" and "manifests that intention by an overt act."

With a large force of secret police whose existence and very position depend on continuance of cold war policies and attitudes it is not hard to imagine an "overt act" being cooked up.

During World War I when the working class were determinedly opposing conscription, 12 workers were jailed under the forerunner of this present Crimes Act, the War Precautions Act.

After a great deal of public agitation a Royal Commission inquired into the arrests and found that these men were jailed on framed up charges.

These amendments provide the opportunity for further framed up charges.

Attempts To Make People Informers

The section also creates an offence punishable by life imprisonment if a person knows that another person intends to commit "treason" and does not give that information to the authorities.

When this section is examined in detail it is seen that the provisions are intended to intimidate all opposition to the foreign policy of the Menzies Government.

Menzies' Intentions Clear

The new section given the title of "treachery" shows very clearly the intentions of the Menzies Government.

The word treachery is deliberately used to cause prejudice against people charged under this section.

It attempts to convey the impression that people charged have acted against the interests of the people and the nation.

It starts off by referring to the "overthrow of the constitution of the Commonwealth by revolution or sabotage", and quickly proceeds to set out sections relating to the overthrow by force or violence of the established Government of the Commonwealth, of a State or of a "proclaimed country".

The section goes on to make it an offence punishable by imprisonment for life if a person "assists by any means whatever an enemy of and at war with a *proclaimed country* whether or not the existence of a state of war has been declared."

In an editorial in the issue of September 26 the Sydney Morning Herald stated: "This is a remarkable provision and to many people will be unacceptable. It is so loosely drafted that as it stands it could be used to suppress public discussion of the Government's foreign policy."

It is indeed a strange and monstrous concept, that a Government seeks to give itself the right to deal with people solely because they oppose policy or actions of some other country.

Legal Opinion

A special legal correspondent writing in the Sydney Morning Herald of the same date stated "in the creation of an offence constituted by acts directed against proclaimed countries is a serious and important extension of the law. For example, the words 'assisting by any means whatever an enemy of and at war with a proclaimed country' could include a wide range of political and industrial activities which are at present lawful".

The Government seeks to give some veneer of respectability to this astounding provision by stating that a proclaimed country is only one which has been proclaimed as such by a vote of both Houses of Parliament.

When one remembers that both Houses of Parliament are controlled by this Government then it is clear that this provision is flimsy protection indeed.

Wide Definition

Concern about this particular section is increased when the definition of proclaimed country is examined, for it means

- "(a) a colony, overseas territory or protectorate of that country, and
- (b) a territory for the international relations of which that country is responsible."

Here is a scandalous clause indeed.

The Government could proclaim America under that provision and then opposition to any of the territories or colonies of America or of any country that the U.S. claims to be responsible for could be proclaimed as treachery.

At the present time America, by its own Government's spokesman, admits to having 250 bases in foreign countries.

It has set up organisations such as N.A.T.O., Seato, the Anzus Pact, the Organisation of American States, and indeed declares itself to be responsible for the international relations of two-thirds of the world.

So that an ordinary expression of opinion contrary to the policy of the U.S. Government could cause a person to be charged under this section.

It must also be remembered that the Federal Government has bound Australia to the S.E.A.T.O. and A.N.Z.U.S. organisations

Declarations from these sources state that it is considered that Formosa, Cambodia, Burma, South Korea and other Asian States fall within their orbit

So that opposition to the corrupt Chiang Kai-shek dictatorship could be classed as treachery.

When the Australian troops were engaged in the Korean War the rule of Syngman Rhee was denounced by many working class leaders in Australia as being

corrupt and opposition expressed to the use of Australian troops to prop up such dictatorships.

If these amendments had been law such expressions of opinion could be classed as treachery.

But life has shown the opinion to be correct for the South Korean people have risen in anger and thrown out the venal and corrupt Syngman Rhee.

Directed Against Trade Unions

The new provision of the offence of "sabotage" is aimed directly at the Trade Union Movement.

A penalty of imprisonment for 15 years is provided for any act of sabotage.

This is defined as the "destruction, damage, or impairment for a purpose prejudicial or intended to be prejudicial to the safety or defence of the Commonwealth, of any article."

We quote only the final paragraph — "any article":

"(d) that is in or forms part of a place that is a prohibited place within the meaning of section 80 of this Act; article includes any thing, substance or material."

When one looks at the present Act to see what is a prohibited place it is defined as —

"any railway, road, way, or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith,) or any place used for gas, water, electricity works, or other works for purposes of a public character. . ."

So that building workers, seamen, waterside workers, railway workers, transport workers, and all groups of workers associated with any of the wide range of industries named could be affected.

A strike by any group of workers for a wage demand could be declared "sabotage."

The present railway workers' struggle for a £2 Industry Allowance could be declared.

If building workers on a job even remotely connected with the industries mentioned took action in support of the present £4 over-Award campaign then that action could be declared "sabotage".

These are but two examples of the dictatorial powers directed against the workers, certainly a drastic extension of the already oppressive penal powers of the Arbitration Acts.

All Strikes "Sabotage", Say Bosses

Very frequently strikes by workers are described in the daily press and by Liberal Party spokesmen as being sabotage.

It is not hard to imagine that this section could and would be used to prevent workers in a wide range of industries from taking action in support of their economic demands, under the spurious claim that such actions would be sabotage.

Added to the wide description of sabotage the section contains a provision relating to proof which departs very far from the ordinary common law principles relating to proof of criminal intent.

The section states that on a prosecution under this section it is not necessary to show that the accused person was guilty of a particular act.

Even if an act is not proved against him, he may be convicted if "from the circumstances of the case, from his conduct, or from his known character as proved it appears that his purpose was a purpose prejudicial", etc.

Professor Stone's Warning

In a letter to the Sydney Morning Herald on September 26, Professor Julius Stone, of the Sydney University, stated "clearly, on any view this provision of the Bill should be carefully re-canvassed before enactment."

The provision will give to this Government or any of its secret agents the opportunity of accusing militant workers and having them convicted not on the basis of anything they have done, but on their known character, or their past working class activities.

In his letter Professor Julius Stone states "that our criminal courts for many centuries have rejected, as conducive to undue prejudice and confusion of issues, certain methods of proof."

He goes on to say that in particular the question of accepting as proof a person's reputation has been rejected over the centuries.

"Information" Means "An Opinion"

In the section of the Act headed Espionage and Official Secrets there is a definition of what is meant by "information."

Information according to the new Crimes Bill Amendments means —

"Information of any kind whatsoever, whether true or false and whether in a material form or not, and includes

(a) an opinion — and

(b) a report of a conversation.

The section relating to espionage and official secrets has been widely extended to include the words "or a foreign power" in several places.

The present Act relates only to the passage of information that may be useful to an enemy.

The new amendments remove this important limitation and extend it to a "*foreign power*."

So that the mere exchange of opinions or ordinary books and printed materials can be made an offence with a seven year jail sentence.

Again the section saying that in any prosecution nothing has to be proved against a person, he may be convicted on the basis of his conduct, or from his known character as proved, is also included.

Strike At Basis Of Democracy

Taken together all the amendments that are proposed relating to political or industrial questions strike at the very heart of Australian democracy.

It is generally recognised that everyone is entitled to certain fundamental rights of citizenship.

These are —

1. The right to know and to cross-examine anyone who alleged a person guilty of a crime.
2. The right to be tried by a jury of fellow citizens.
3. The right to demand that the prosecution prove guilt, the accused person to be presumed innocent until the jury is satisfied beyond reasonable doubt of his or her guilt.
4. The right to refuse to answer all questions which tend to expose a person to any criminal charge.
5. The right to be free from imprisonment or held in custody unless charged with a certain definite offence.

All these fundamental rights are abolished under the Crimes Act and its amendments.

Safeguard Removed

The Menzies Government has not only introduced new offences of the far-reaching and harsh nature previously outlined, it has also provided ample means for their use against persons.

Clauses have been inserted to facilitate prosecution and remove normal safeguards.

A typical example relates to the printing or publishing of a book, periodical, pamphlet, hand-bill, poster or newspaper.

The amendments (section 85C) states that the imprint appearing thereon is evidence that the person specified in the imprint actually printed or published the material.

In the present Act there is a safeguard, that it is evidence "unless proved to the contrary."

Now even this small safeguard has been removed in the amendments and the way left wide open for a frame-up.

Material can be printed with a person's name put on it without his knowledge or consent, yet in a prosecution the mere fact that his name is printed thereon is sufficient evidence of guilt.

Frame-up Easily Possible

The road is certainly opened for the professional pimps, perjurers and frame-up merchants to do their work.

This opportunity is further opened as a result of the provision relating to search.

Here any Justice of the Peace can issue a search warrant.

This allows for premises to be entered if necessary by force at any time; allows the premises and every person found therein to be searched.

But not only every person on the premises but every person whom the holder of the warrant reasonably believes to be about to enter or to have recently left the premises or place.

So that a search warrant could be issued for one place and persons searched anywhere else.

It allows for the breaking open and searching of any cupboard, drawer, chest, or truck, or any receptable. It allows for anything to be seized not only in regard to any offence but any suspected offence which has been, is being, or is about to be committed against that part of the Act.

Secret Trial

In case those reading this may think that it would be possible for rights to be protected by bringing out evidence of improper actions before an open court the proposed new section 85B effectively prevents that.

It allows the Judge or Magistrate if satisfied that such a course is "expedient" to order a Court to be closed, the public excluded and no report at all to be published.

This section also provides that the Judge or Magistrate can issue an order ensuring that no person has access to, either before, during or after the hearing of the application or proceedings to any material or document in connection with the case.

Staggers Imagination

Upon reading these proposals it may stagger the imagination of many people, who think that perhaps this Government would not use these powers unless absolutely necessary.

The record of the leader of the Government needs only to be examined to dispell such illusions.

Prior to the last World War Mr. Menzies declared his admiration for Hitler and his support for the Fascist rule that Hitler sought to impose on the whole world.

When the Waterside Workers of Port Kembla refused to load pig-iron for Japan because they said it would come back to Australia in the form of bombs, Menzies as Attorney-General introduced laws to force workers to provide the Japanese warlords with war material.

Brisbane Line Plan

When our nation was threatened by the Japanese invaders he put forward a plan to surrender all Australia north of Brisbane to the Japanese fascists.

In 1950 he introduced the Communist Party Dissolution Act which sought to give many of the powers now included in these new amendments, and in some respects sought to give complete dictatorial powers to a three-man executive committee between Parliamentary sessions.

This Act was strongly opposed by the whole Trade Union Movement, both in job and public agitation and by legal action.

The Unions challenged the validity of the Act and took a case to the High Court, the Judges of which by a six to one majority rejected the Act.

The Unions were not deterred by the fact that then, as now, the Menzies Government sought to introduce dictatorial powers under a screen of anti-Communism.

It is well known that anti-democratic forces use the cry of anti-Communism to conceal their attacks on democracy.

In 1951 that was the screen. It was rejected by the Unions, which played a leading part in the 1951 referendum campaign which resulted in the overwhelming defeat of the attempt to shackle the Unions and restrict the people's rights.

Menzies Contemtuoues Of People's Rights

Menzies' most recent utterances are of the most warlike character, his whole attitude is one of contempt for the rights of the people.

The penal powers introduced by this Government have been used on many occasions against different sections of the Trade Union Movement.

There is no doubt that the draconic powers in these amendments will be used, and used against the people's interests.

Unionists must rally to see that the danger is made known to all, that action is taken by the people to defeat this attack upon their democratic rights.

Tell M.P.'s Of Opposition

Members of Parliament must be told that Australians want more democracy not less.

Trade unionists will fight with all means at their disposal to prevent these coercive laws being imposed on the Australian people.

We expect our political representatives to do the same.

Circulate the material in this pamphlet and other working class publications among the people.

The Australian Trade Union Movement has a proud record of struggle for the democratic rights of the people.

United action by Trade Unionists and all sections of the people will ensure that this attack upon our democratic rights is defeated.

Amendments