When Australia said NO!

SEPTEMBER 22 is the 15th Anniversary of the defeat of the Menzies Government’s attempt, by referendum, to obtain power to suppress the Communist Party.

Suppression of communism is a long-standing plank in the platform of the Liberal Party.

The election of the Menzies Government in December 1949 coincided with America’s stepping-up of the “Cold War”. the Communist Party an unlawful association, to dissolve it, Chairmanship of Senator Joseph McCarthy, was engaged in an orgy of red-baiting, blackmail and intimidation.

This was the situation when Menzies, soon after taking office, visited the United States to negotiate a big dollar loan.

On his return from America, Menzies dramatically proclaimed that Australia had to prepare for war “within three years”.

To forestall resistance to the burdens and dangers involved in this, and behead the people’s movement of militant leadership, Menzies, in April 1950, introduced a Communist Party Dissolution Bill in the Federal Parliament.

The Bill commenced with a series of recitals accusing the Communist Party of advocating seizure of power by a minority through violence, intimidation and fraudulent practices, of being engaged in espionage activities, of promoting strikes for purposes of sabotage and the like.

Had there been one atom of truth in these charges, the Government possessed ample powers under the Commonwealth Crimes Act to launch an action against the Communist Party.

Charges Not Sustained

However, the Government, knowing full well the falsehood of its accusations, feared that, notwithstanding the class-biased
nature of the Crimes Act, it might find difficulty in substantiating them in open Court.

There had already been a thorough judicial inquiry into the aims and activities of the Communist Party by a Victorian Royal Commission, presided over by Supreme Court Judge, Sir Charles Lowe.

Not one of the anti-Communist charges contained in the Preamble to Menzies' Bill was supported by the findings of the Lowe Royal Commission.

Later, the Petrov Commission, after a massive witch-hunt, failed to unearth a single Communist “spy”.

This should be expressly noted, in view of the fact that the Holt Government is preparing to dust-off and re-hash these charges in a White Paper today.

The Communist Party Dissolution Bill set out to declare the Communist Party an unlawful association, to dissolve it, and to seize its property without compensation.

Prime Minister Menzies, in introducing the Bill in Parliament, said it was to dispose of the Communist Party “without humbug and without appeal”.

The Bill also provided for the outlawing of any other organisations declared to be espousing “communist views” and for the seizure of their property without compensation.

The definition of “communist views” was so broad that any organisation or person advocating peace, higher living standards, or any one of the other many progressive policy points of the Communist Party, could be brought within its dragnet.

Under the terms of the Bill, Communists were prevented from holding office in trade unions or from being employed in any Government departments.

Under certain circumstances a trade union, if de-registered by the Court, could be dealt with under the Act.

There is evidence that the Industrial Groupers, forerunners of the D.L.P., were in collusion with the Menzies Government and ready to seize leadership in unions from which Communists were excluded from office.

This would have had the effect of converting the trade unions into “tame-cat” unions, warned against by the late Ben Chifley.
During the second reading of the Bill, Prime Minister Menzies read to the House a list of 53 persons who, he alleged, were Communists holding high office in the trade unions.

The next night, flushed with embarrassment, he had to retract with regard to at least five of the persons wrongly named.

This incident is not recorded in the Sydney Daily Telegraph's song of praise for "The Wit of Robert Menzies".

"Pure fascism"

The true character of the Bill was seen in democratic circles beyond the Communist Party.

Labor leader Ben Chifley described the Bill as the first step towards a totalitarian state.

Deputy Leader Dr. Evatt said that Menzies' purpose was to destroy the political power of Labor.

The Labor Party leader in the Senate, Senator McKenna, described the legislation as "pure and simple fascism".

A.C.T.U. president, Mr. Albert Monk, declared the Bill to be "the first step towards totalitarianism".

A large number of university professors in Sydney and Melbourne and many prominent authors wrote letters to the newspapers criticising the Bill.

An Australian People's Assembly for Human Rights, held in Melbourne on September 14-17, and attended by 417 delegates representing 467,000 citizens, condemned the Bill.

While the struggle outside parliament reached a high level, the struggle inside was hampered by the Rightwing influences still strong in the Labor Party.

The Labor Party, which still controlled the Senate, decided not to oppose the Bill in principle, but to move a series of amendments.

These were not accepted by the Government and the Bill, substantially in its original form, was passed onto the Senate.

The Labor-controlled Senate amended the Bill and sent it back.

The Liberal-controlled lower house deleted the Senate's amendments and sent the Bill on for the second time.
Succumbing to the threat of a double dissolution, the Labor Party, against the wishes of Chifley and Evatt, reversed its attitude and let the Bill go through the Senate without further amendment.

The Communist Party and several trade unions affected by the Act immediately sought an injunction from the High Court, restraining the Government from acting, pending the hearing of a challenge to the Act's validity.

Sir Owen Dixon heard the application in Melbourne and granted the injunction sought. The case came up for hearing in the High Court on November 14, 1950, and judgment was given on March 9, 1951.

Dr. Evatt, who was briefed by the Waterside Workers' Federation, headed the panel of 12 counsel appearing separately for the Communist Party and ten trade unions.

*High Court's majority ruling*

Garfield Barwick, later to become a Knight and Minister in the Menzies Cabinet, led the 10 counsel the Government briefed.

The hearing lasted 19 days and was concluded on the eve of the law vacation in December.

On March 9, 1951, the High Court announced its judgment.

Six judges held that the Communist Party Dissolution Act was void under the Constitution.

Only the Chief Justice, Sir John Latham, a former Attorney-General in the Bruce-Page anti-Labor Government, held that the Act was valid.

On July 5, 1951, a Referendum Bill, seeking an alteration to the Constitution giving the Government power "to deal with Communists and Communism" was brought in.

The Communist Party responded by initiating what proved to be the greatest mass political campaign yet waged in defence of democratic rights in Australia.

The Party opened a £40,000 ($80,000) Referendum Campaign Fund with the aim of taking the case for "NO" into every home in the Commonwealth.

In Sydney alone five million leaflets were distributed and 140,000 posters put up.
Other sections entered the battle. "Vote No" committees were set up in unions, work places and localities. Carloads of city workers took the campaign to the countryside.

Rightwing influences in the Labor Party were thrust into the background as the A.L.P. joined in the mass campaign.

Labor leader Dr. Evatt met with a rousing reception from meetings of 700 railway workers at Eveleigh and 500 at Clyde.

In the initial stages of the campaign the prospects of success for a "No" vote did not appear to be over bright. Government spokesmen got the running in the mass media. Public opinion polls estimated that 80 per cent of the people were in favor of the Government's proposals.

Undismayed by such gloomy forecasts, advocates of a "No" vote intensified their campaigning, chalking, painting and pasting up their message on what finally appeared to be every available wall, post, rock, road and tree in the country. Some of these signs are to be seen to this day.

On the eve of the vote Australian Public Opinion Polls published its final conclusion—"Yes will win on September 22" and forecast an overwhelming majority for "Yes" in all States.

One Sydney metropolitan daily, also anticipating such a result, printed its next day's poster in advance—"Bob's Your Uncle!"

When the numbers went up, however, the Public Opinion Poll had to eat its words and the newspaper had to scrap its poster.

To alter the Australian Constitution it is necessary for both a majority of the States and a majority of the people as a whole to vote in favor.

Neither of these requirements was fulfilled in the September 22, 1951, Referendum.

Three States—New South Wales, Victoria and South Australia—voted NO, while three States—Queensland, Western Australia and Tasmania—voted YES.

The people as a whole voted 2,317,927 in favor of the Government's proposals and 2,370,009 against.

The majority—52,082—for "NO" was a slim one but it was an historic victory, halting the Menzies Government's plans to shackle Australian democracy and silence the voice of Peace.
It was at least comparable with the great anti-conscription victories of World War I.

International Repercussions

The victory also had important international repercussions. It put Australia in the unique position of being the only capitalist country in the world where the people, being given the democratic opportunity, voted to uphold the Communist Party's right to legal existence.

This had considerable impact on the struggle for democratic rights in other countries, including the struggle against McCarthyism in the United States.

However, it would be wrong to think that the 1951 Referendum victory put a full stop to reaction.

Having been denied general powers of suppression, the Menzies Government set out to obtain them piecemeal, by a series of amendments to existing legislation such as the Arbitration Act and to the Commonwealth Crimes Act in 1960.

This policy is continuing under the Prime Ministership of Holt, who is preparing to launch, by way of a White Paper, yet another communist witch-hunt, aimed above all at the mounting opposition to the Government's Vietnam policies.

This, too, can be defeated.