# The Communist Party Dissolution Act 1950

After the Second World War ended with the defeat of Germany and Japan in 1945, a new global conflict between Communist and non-Communist blocs threatened world peace. The Cold War, as it was called, had substantial domestic repercussions in Australia. First, the spectre of Australians who were committed Communists perhaps operating as fifth columnists in support of Communist states abroad haunted many in the Labor, Liberal and Country parties. The Soviet Union had been an ally for most of the war, and was widely understood to have been crucial to the defeat of Nazism, but was now likely to be the main opponent if a new world war broke out. The Communist victory in China in 1949 added to these fears. Second, many on the left feared persecution, as anti-Communist feeling intensified around the world. Such fears were particularly fuelled by the activities of Senator Joe McCarthy in the United States of America. McCarthy's allegations that Communists had infiltrated to the highest levels of American government gave him great power for a brief period, but he over-reached himself in a series of attacks on servicemen in the US Army in 1954, after which he was censured by the US Senate.

Membership of the Communist Party of Australia peaked at around 20,000 during the Second World War, and in 1944 Fred Paterson won the Queensland state seat of Bowen for the party. Although party membership began to decline after the war, many Communists were prominent in trade unions, as well as cultural and literary circles. Opposition Leader Robert Menzies believed that the socialist ideas which influenced Labor measures such as the attempt to nationalise the banks in 1948 were akin to Communism. Such fears were heightened during a 9-week Queensland rail strike the same year. The Communist Party played a prominent role in this and the Coal Miners' strike of 1949. Such strikes led to massive economic and social disruption – so much so that Ben Chifley's Labor government sent in troops to provide coal for essential services such as electricity generation, and prosecuted Communist union leaders who were jailed for their part in the strike.

When Menzies swept into power at the federal election in December 1949, his policy included the banning of the Communist Party. The coalition's *Communist Party Dissolution Act 1950* became law on 20 October 1950. The Act included three measures to deal with communism:

1. The Communist Party was declared to be an unlawful association and, as such, was to be dissolved, its property forfeited without compensation.

2. The Governor-General was authorised to declare bodies (such as trade unions) communist affiliates. The Governor-General could declare these bodies unlawful, satisfied that their existence was prejudicial to Australia's security and defence.

The Governor-General was authorised to declare a person as a communist and engaged, or likely to engage, in activities prejudicial to Australia's security and defence. Effectively, such a person could not be employed by the Commonwealth. Furthermore, such a person could not hold office in a labour union or industry vital to Australia's security and defence.

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The Communist Party and several unions launched an immediate challenge in the High Court, former attorney-general in the Curtin and Chifley Labor governments, Dr H.V. Evatt, appearing for the Waterside Workers Federation. On 9 March 1951 the High Court, by a majority of 6 to 1, ruled the *Communist Party Dissolution Act 1950* unconstitutional. In summary, the High Court decided that because Australia was not in a state of war the government did not have the power to proscribe organisations. Moreover, the Act prevented the Communist Party and its members from disproving allegations made against them. The High Court ruled the threat posed by the party did not warrant the imposition of such peremptory legal penalties.

The Menzies government then put the issue to the people via a constitutional referendum on 22 September 1951, seeking to change the constitution to give Parliament the power to ban the Communist Party. For such a change to the Constitution to succeed the referendum had to pass with a double majority, in accordance with Section 128 of the Australian Constitution. This meant that a majority of all electors nationally would have to vote yes, and a majority of states would have to vote yes, for the change to become law.

The proposed constitutional amendment was rejected by the voters under both requirements, winning the support of 49.44% of the national vote and being approved by only 3 states: Queensland, Tasmania and Western Australia. However, had only 30,000 people in South Australia or Victoria voted *Yes* rather than *No* the proposal would have succeeded.

Following the Korean War, the Soviet invasion of Hungary in 1956, and growing rejection of Soviet leader Josef Stalin within the Communist movement after his death, membership of the Communist Party in Australia declined and deep divisions emerged among its members. Many rank and file members left the party because of its leadership's tenacious loyalty to policies increasingly understood to be dictated principally by the national interests of the Soviet Union. Even so, fear of the party's influence was to be a major factor in the devastating Labor Split of 1954-55 and it remained a constant element in federal election campaigns until the 1970s.

By the early 1960s some 5,000 members remained in the Communist Party. Although it adopted policies influenced by the growing independence from the Soviet Union of some European communist parties, and opposed the Warsaw Pact invasion of Czechoslovakia in 1968, membership fell below 1,000 by 1990. The following year it disbanded. The name was reclaimed in 1996 by the former Socialist Party of Australia, which had been formed following disaffection within the Communist Party in 1971. Another splinter group, the Communist Party of Australia (Marxist-Leninist), also split away in 1964 following the breakdown of relations between the Soviet Union and China. It too has suffered ongoing internal divisions.


**Further Reading**

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