

BANNED PEOPLE MAY NOT ATTEND PARTIES

They Have Common Purpose—Friendship, Conversation

THE appeal by Sam Kahn, banned M.P. for Cape Western, against his conviction for failing to comply with a banning order has been dismissed by the Cape Town Supreme Court. The court held that it was illegal for a banned person to attend a social gathering.



Mr. Sam Kahn

After setting out the definition of a "gathering" in the Act as meaning: "any gathering, concourse or procession . . . of any number of persons having a common purpose, whether such purpose be lawful or unlawful," Justice Steyn said that the Crown had failed to show that the occasion was anything more than "what is ordinarily described as a social gathering or party."

Discussing whether or not a party could be said to have a common purpose, the judge said that it seemed to him that the question must be answered affirmatively.

"Once a social 'party' is assembled, its object is social intercourse and the common purpose of those present is collectively to participate in social intercourse. Those present do not merely have the same purpose. There is another link, and indeed a closer relationship between those who are present thereat.

FRIENDSHIP, CONVERSATION
"They are there to become acquainted or ripen their friendship,

to converse with one another and to take part in anything which their host may have had in view in bringing them together, e.g., the welcoming of a special guest, dancing, etc. They therefore assemble with the aim or object of doing something collectively, with not only the same, but also a common purpose, viz., participation in social intercourse. Even though that "common purpose" is quite untainted with illegality, the 'party' would nevertheless appear to constitute a gathering as defined in the Act . . ."

VIRTUAL OSTRACISM

But, the judge commented, this definition is very wide, "so wide that it can be argued that it covers every occasion on which two or more persons are present together . . . if it is established that their meeting or assembling is not fortuitous." It could never have been the intention of the Legislature that in the exercise of such power by the Minister the word gathering should be so widely applied "thereby virtually ostracising him (the banned person) from his fellow human beings." Many illustrations had been given in argument—among them persons assembled in places of worship or amusement or at sporting events.

The Court was, however, concerned only with the particular facts of the case before it. The word "gathering" had been defined in the Act and, said the Judge, "it is the duty of the Court to give it some meaning. The fact that the width of the definition may lead to harsh results appears to me to be irrelevant . . ."

AUTOCRATIC POWERS

"The Act confers autocratic powers and its provisions are drastic and it must have been within the Legislature's contemplation that the Minister should, when he deem fit, take drastic action in order to restrict a listed person's activities severely so as to prevent underground plotting and propaganda."

MEETING AND CONVERSING

Discussing the nature of the party, the Judge said, "It was a 'party' of a social nature . . . those present had, at the very least, a 'common purpose' to participate in social intercourse by meeting and conversing with one another and by spending the evening in one another's company.

"It seems to me therefore, that the appellant did attend a 'gathering' within the meaning of the Act."

The Court also rejected the contention that it was necessary for the Minister to inform a person that he was considering banning him before doing so, or that the banned person had the right to be heard before being banned.

Justices Ogilvie Thompson and Watermeyer agreed.

Mr. D. B. Molteno, Q.C. and Mr. I. S. Bleiman (instructed by T. H. Snitcher and Co.) appeared for Mr. Kahn.

An appeal has been noted.

VERWOERD'S SCHOOLS WILL BE EMPTY

A.N.C. Comment On Minister's Threat

JOHANNESBURG.

OFFICIALS of the A.N.C. here have interpreted Dr. Verwoerd's reaction to the decision of the A.N.C. Conference to withdraw African children from Bantu education schools as "a clear sign that he takes a very serious view of a step that, if successful, would deprive his schools of young African minds to deform into the apartheid pattern."

Dr. Verwoerd is reported to have stated that the withdrawal of African pupils from schools "would not harm the Government," as new pupils would be found to replace the ones who left.

Mr. Oliver Thambo, acting secretary-general of the A.N.C., told *New Age*—"When Dr. Verwoerd says that children who boycott Bantu Education schools will lose their places, which will be filled by others, he forgets to ask himself—Who will these others be? Does he perhaps imagine African parents will be eager to send their offspring to schools for apartheid, where the doctrine of African inferiority will be imprinted on their impressionable minds?"

He said the A.N.C. was preparing instructions to all the branches on the carrying out of the resolution condemning Bantu Education which was passed at the conference.

WON'T BE INTIMIDATED

"The African people are not going to be intimidated by Dr. Verwoerd's statement. He comments so early after the passing of the resolution because he is worried at the determined opposition to his schemes.

"To warn the parents about their children being replaced by other children when withdrawn is to miss the point that we are going to stop both those who are attending school as well as those who are not yet attending school from doing so.

"We trust that most of the churches will continue to support us on this issue, as they have done on past issues, since it is clear that this education is incompatible with Christian precepts."

Mahomed Goes To The Mountain

A large contingent of Indian youth left Johannesburg last week in a specially chartered bus on a holiday tour of Natal and surrounding districts. The tour was organised by the Indian Youth Congress (I.Y.C.). The tourists will visit places of historical interest.

On their itinerary is a visit to Chief Luthuli, banned president of the A.N.C., who has been ordered by Swart not to move out of his home district.

Youth Against Slave Act

JOHANNESBURG.

African students and youth have called a mass conference of youth to be held in the Mathlaba Hall, Sophiatown, on January 9 to fight against the "Slave Education" Act, the introduction of apartheid into the nursing profession, and Swart's youth labour camps. The conference is called by the Anti-Bantu Education Student Action Committee, and is open to all youth.

"We feel particularly strongly about the Bantu Education Act, which is deliberately calculated to retard the acquisition of knowledge by African scholars. The Act is Verwoerd's blueprint for the mental enslavement of the African people," an organiser said.

NEW AGE

Registered at GPO as a Newspaper

Vol. I, No. 11 THURSDAY, JANUARY 6, 1955 PRICE 3d.

EDITORIAL

SLOW DEATH WITHOUT TRIAL

RECENT court decisions have brought home to South Africans the viciousness of the powers which the Nationalist Government has conferred on Swart by means of the Suppression of Communism Act.

SWART HAS THE POWER TO SENTENCE ANY PERSON, WHETHER HE WAS EVER A COMMUNIST OR NOT, TO SLOW DEATH, WITHOUT TRIAL OR THE RIGHT OF APPEAL.

Does this sound far-fetched? The Suppression Act has given Swart the power to forbid any person from being present at any "gathering" under pain of imprisonment.

And the definition of a "gathering" in the Act is "so wide that it can be argued that it covers every occasion on which two or more persons are present together . . . if it is established that their meeting or assembling is not fortuitous." This is the view of the full bench of the Cape Division of the Supreme Court.

The court did not find it necessary to decide whether or not such an interpretation is correct. The matter was left open.

But it is a possible interpretation. And this means that every banned person—and over 200 people have already been banned—must live knowing that he is liable to arrest and imprisonment if he goes about his normal life. One man has already been sentenced for, among other things, drinking "refreshments of the nature of tea" in company.

A banned person may not sit down at table with his family to eat a meal. He may commit a crime even if he sits in his room alone and his wife comes into the room to give him his food. He may not stand in a bus queue to catch a bus nor board a bus where there is no queue. He may not go into a shop to buy his food. If his teeth rot he may not go to a dentist, and if he is dying he may not call a doctor. If a friend calls at his house he must turn him from the door. He may not play with his children nor take them to school.

If he does any of these things he is liable to immediate arrest. And anyone who, knowing that he was banned, conversed with him might also be liable to arrest for assisting him in the crime.

The police have not been slow to use the Act. The action of the Cape police in leading a raid on a Christmas Eve dance to see if there were any banned people dancing shows that it will be enforced with an energy verging on sadism.

We have put the position starkly because it is necessary for people to be shocked out of their apathy. The Suppression Act and all the fascist legislation of which it is the symbol must be wiped out of the statute books and relegated to the darker chapters of South Africa's history.

To do this we must have the fullest unity of all those who are horrified by the fascism Strijdom stands for. There must be built up the very broadest possible resistance to speed the inevitable doom of oppression in South Africa.

The Congresses are leading the way to this unity and the Congress of the People will cement it together.

THERE IS NO TIME TO LOSE.

WHAT'S IMPORTANT ABOUT JANUARY 27?

Two important things are due to happen in the week of January 27.

One is the opening of Parliament.

The other is the beginning of a regular eight-page *New Age*.

The first event is, unfortunately, pretty certain to happen, whether you like it or not. But the latter event depends on you.

We're determined that our eight-page issue should begin on January 27. Are you equally determined? If so, let us have your contribution now—no matter how small (or large).

January 27 is only three weeks away!

Collection Number: AG2887

Collection Name: Publications, New Age, 1954-1962

PUBLISHER:

Publisher: Historical Papers Research Archive, University of the Witwatersrand

Location: Johannesburg

©2016

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is held at the Historical Papers Research Archive, University of the Witwatersrand, Johannesburg, South Africa.