

[NOV. 1969]

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NOTE: The appendices above contain both factual information and comment.

The submissions have been prepared by the Acting President of NUSAS, Mr Clive Nettleton and the President-Elect, Mr Neville Curtis with the assistance of an ad hoc committee appointed for that purpose only.

Submissions to the Commission of Inquiry into Matters Relating to the Security of the State from the National Union of South African Students.

A. Preamble

- (1) The Commission is used to refer to the Commission of Inquiry into matters relating to the Security of the State
NUSAS is used to refer to the National Union of South African Students
SRC is used to refer to a Student Representative Council at a University or college affiliated to the National Union of South African Students
Security system is used to refer generally to those organisations and their members concerned with the security of the state.
- (2) Submissions are made in response to clauses 2 and 3 of the terms of reference of the Commission :
 - (2) "Any matter which, in the opinion of the Commission, constitutes a threat to the efficient functioning of the security organisations, the harmful effects, if any, which their activities might have on the state or its citizens, and of the anomalies which might possibly arise as a result of the operations of any of the said organisations or of the actions of persons attached to or in control of them.
 - (3) Any further aspect concerning the security structure of the State".
- (3) All submissions to the Commission have been made from documents and press cuttings already in the possession of NUSAS or which have been accumulated and correlated for the purposes of NUSAS, and from which material has been selected for the purpose of the Commission.
- (4) Since the information contained in all submissions has already appeared in the student or national press or in documents published by NUSAS, or is otherwise public knowledge, NUSAS requests permission from the Commission that Clause 8 of the Regulations governing the Commission (Proclamation No. 244 of 1969) be suspended only insofar as this clause applies to these submissions from NUSAS to the Commission.

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- (5) All submissions have been prepared by the Acting President of NUSAS, Mr Clive Nettleton and bb the President-Elect of NUSAS, Mr Neville Curtis with the assistance of an ad hoc committee appointed for that purpose.

- (6) Oral evidence on behalf of NUSAS will be given either by Mr Clive Nettleton or Mr Neville Curtis in the presence of a legal expert of their choice, if required.

B. Introduction

- (7) NUSAS is concerned at the number of incidents involving students and members of the academic community, and members of the Security System. NUSAS believes that as it is now constituted and as it now operates, the security system can be used, and is being used to intimidate individuals and organisations engaged in legitimate activities.
- (8) NUSAS is concerned that certain legislation now current in South Africa undermines the rights of students and citizens before the law, and allows members of the security system to act in the manner described above.
- (9) NUSAS is concerned that the above threaten the proper working of the academic communities in South Africa, and undermine its intellectual and moral strength and hinder it in the pursuit of truth and the acquisition of knowledge.
- (10) NUSAS is concerned that the above threaten the rights of students and members of the academic community, as citizens, and threaten the proper functioning of democracy in South Africa.
- (11) Each of these concerns is dealt with in detail in the submissions that follow, and stem from the broad concern of NUSAS as expressed in its constitution :
"Clause 3: Objects of NUSAS
Item b: To promote and defend democracy in student affairs, in the universities and in South Africa
Item e: To promote the educational and general interests of students and to guard their rights as citizens".
- () Submissions are made on the basis of policy of NUSAS, of which relevant sections are contained in Appendix A; on the basis of recorded instances involving students and the security system of which some are contained in Appendix B; on the basis of action taken against office bearers of NUSAS itself which is discussed hereunder.

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C. Incidents involving students and the security system

- (13) In recent years the number of incidents involving students and members of the security system has increased drastically. These incidents have taken a number of forms amongst which are - surveillance, warnings, intimidation, requests to inform (spy) and administrative reprisals. These incidents have either directly involved members of the security system, or apparently been based on information from them.
- (14) Surveillance: Known members of the security system have followed students or student leaders who have been engaged in official or personal activities; have maintained a conspicuous watch on premises occupied permanently or for the purposes of some student activity; have apparently opened or delayed personal and official post of students; have "tapped" personal and official telephone calls; have conducted extensive research into the background of students.
- (15) Warnings: Students approached by known members of the security system and warned to stop participating in student or in political activities; warned that they were under observation; warned that they might suffer consequences; warned that their parents would be informed of their activities; warned that NUSAS was a dangerous organisation, etc.
- (16) Intimidation: Students interviewed in lonely spots; students persistently watched or strongly or persistently warned or kept under surveillance; students persecuted for petty offences.
- Request to inform: Students approached to inform on their fellows, on staff or on activities of student organisations; on a regularly paid basis or for other financial reward or to avoid reprisals of various sorts; or to join students organisations or to insinuate themselves into groups of students.
- (18) Administrative action: Students suffering loss of passports, deportations, loss of state scholarships or employment apparently on security recommendations; students being deprived of scholarships or educational opportunities; detentions without trial; bannings; loss of citizenship.

- (19) Spies: Members of the security system passing as students or members of staff who are in fact full time agents engaged in the pursuits listed above or in other pursuits amongst the academic community and its members; some of whom have been discovered.
- (20) Frequency: No comprehensive list is in the possession of the National Union (the last resident who began compiling one was banned before he could finish), but in the last 3 months of 1968 some 60 cases of the incidents above were recorded. These included 21 students expelled, 7 held in confinement, 11 claimed to have been approached to inform, 5 interrogated or warned, 10 questioned about passports, 2 withdrawn passports, 2 lost citizenship, 2 deported. Many more incidents over the last few years have occurred. Some of these are attached as appendices.
- (21) In many cases students are too scared of reprisals from the security system to report these incidents to student or university authorities, even though they are perfectly innocent and have engaged in legitimate activities; in many other instances they are reported on condition that they be kept completely confidential, as the students involved while again innocent and legitimately occupied, fear that they may be "smeared" or may lose educational or career opportunities.
- (22) In all too many cases students are too afraid to communicate with anyone and either drop out of all student activities, cease to express their legitimate views, leave the country or enter the employ of the security system. Brigadier P.J. Venter, Head of the Security Police, is on record as saying "If we have had twelve failures recently - as reported in the press - then you could assume on the law of averages that we have had 100 successes." (Rand Daily Mail, October 23, 1968)
- (23) NUSAS believe that the occurrence of the type of incident listed above is undeniable. The appendices record a number of such incidents and these constitute what we believe is a shocking breach of the Rule of Law (see separate section); a danger to the academic community (see separate section); and virtual persecution of NUSAS and its office bearers (see separate section).

D. The Informer System

(24) There can be little doubt on two points; first that students have been approached by the security system to inform; second, that members of the security system are engaged in spying among the academic community, (See the cases of Kleinschmidt and Morris in the appendices, as well as a number of others).

(25) The Head of the Security Police, Brigadier P.J. Venter has made the following remarks to the press:

On claims by Natal University students that they had been approached to spy:-

"We make approaches from tea boy to managing director if we have reason to believe anything untoward is going on in any big organisation."

"I haven't only approached students, but I emphatically deny that I have approached students for the purpose of spying on other students."

(Star, October 26, 1968)

On a claim by a NUSAS official that he had been approached:-

"I would not admit it even if it were true but I deny that it is true".

(Rand Daily Mail, October 23, 1968)

made to students. But what is disturbing is that the Brigadier confesses that he would not tell the truth in this regard anyway.

(26) NUSAS regards both of these facts as highly undesirable, particularly in conjunction with the wide scope of existing legislation, and the opportunities that exist for the abuse of administrative powers by the state; and because of the inherent unreliability of such a system and the ease with which it can be abused.

We quote below a number of remarks to substantiate these views:

Daily Dispatch; July 5, 1967

"It is an extraordinary commentary on our times that special branch detectives should be called on to interest themselves in the personnel attending a congress of university students. Not by the wildest stretch of imagination could we visualise

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that national security could be endangered by the utterances of young men and women meeting together in an academic atmosphere to discuss educational matters of common interest and their share in the country's future."

Daily News; October 22, 1968

"....., one of the Government's chief targets has frequently declared that all its documents are open to inspection. Instead the police seem to prefer the deplorable - and intimidatory - method of rewarding people who purvey gossip to authorities who have the power to punish people without trial."

Sunday Times; Editorial. October 3, 1969

("At a trial in the Supreme Court, Cape Town, a Security Police spy, despite his intriguing title of X54 was exposed as a liar. The presiding judge, Mr Justice Theron, quite rightly expressed his sense of shock that a spy could be placed in a position where he had an interest in the arrest of members of the public.)

The case has important implications. In the interests of public security the State is today armed with enormous powers. People can be arbitrarily detained and held incommunicado for months on end without any right of recourse to the courts. When the state takes this kind of action it is often on the basis of 'information' received from agents, spies or informers. The 'information' may be true or false; the point is that with the detainees deprived of access to the courts, there is no adequate way of testing the truth of the information."

- (27) NUSAS is particularly concerned with the abuses which the informer and spy system is liable to; the suffering which it has caused; and the moral and intellectual degeneration which it condones:

The Star; Editorial. October 23, 1969

"If the Security Police really believe that the universities are incubators of subversion they are quite right to employ authentic policemen to keep an eye on the campus.

But when they claim that the use of paid student informers is 'normal' they make all decent people sick.

There may be a better way of poisoning the South African community, already fragmented and suspicious but we have yet to hear of it."

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N.I. Robinson, The Star; October 19, 1968

"The police trapping system is objectionable enough and has been criticised lately by Mr Justice Ludorf, because it is difficult to distinguish between catching a crook and creating one. But it may have a rough kind of validity as being the only way of catching the very experienced criminal. The employment of student informers does not have that justification. It puts a premium on the sneak and gives a sort of official blessing to the cultivation of a nation of jackals. It either rewards people for what they are supposed automatically to do or for nothing, namely reporting crime; Or it rewards them for doing something completely amoral, authoritarian and Communistic - conveying gossip about noncrimes to an authority which has the power to punish them without trial."

- (28) The effects of the security system on the academic community are dealt with in the following section.

E. The Academic Community

- (29) Ideally the University is an institution where research and investigation can be freely pursued, where ideas can be freely exchanged and discussed and where knowledge can be fostered by dispute, and the clash of opposing viewpoints; that is a forum for the expression of ideas.
- (30) Two aspects of the security system presently operating in South Africa have deleterious effects on the capacity of the universities to offer such a forum. There are the use of informers, and the existence of laws which allow the Executive of the State unrestrained action.
- (31) The belief that security police, informers or spies exist on campus has obvious effects on universities. Students and teaching personnel alike become reluctant to express their views in lectures, in meetings, or in conversations.
- (32) This is compounded by the fact that the State is empowered to arrest an individual without trial, to detain the individual without trial, or to prosecute otherwise against him without trial, a uncertainty exists as to what may or may not be said.
- (33) This in turn is further compounded by the fact that the definition of Communism in the Suppression of Communism Act (for example) is so wide and the provisions regarding the "furthering of the aims of Communism" appear to have such wide application that it is difficult if not impossible to determine the difference between lawful actions and speech, unlawful actions and speech and actions and speech which, while lawful, are liable to be visited with security attention or penalties in the form of restrictions.
- (34) The existence of such provisions in the laws relating to security matters has an inevitable inhibiting effect on one of the essential functions of the university - the provision of a forum in which ideas can be expressed without fear. This has, in fact, been the case and South African universities are being rendered infinitely poorer thereby.

(35) Individual staff and students are not the only victims of this uncertainty - student organisations suffer from it equally, and with equally bad affects. The limitations thus placed on creative or original thinking bode ill for the future of South African universities and can only add to the already excessive number of intelligent and trained thinkers leaving this country, and to an increasingly inadequate education for those who remain.

(36) In a letter to the Prime Minister, the Honourable B.J. Vorster, Professor P.V. Tobias, Professor of Anatomy at Witwatersrand University, past President of the Institute for the Study of Man, and world-renowned academic has said:

"Every time another student who has been denied a passport accepts a one-way exit permit (as his only way of taking up a fellowship or scholarship for study abroad) our country is denied another potential leader.

It is terribly sad to think of the number of young lives which have been stunted at the most important moment in their intellectual growth.....

In grief rather than anger, I therefore implore you, Sir, and through you the Government of the Republic of South Africa, to discontinue the policy of discrimination against student leaders who are active in NUSAS and who strongly oppose - by legal means - the policies presently pursued by the Government of the Republic of South Africa. Incalculable harm is being done to some of the finest products of English culture in South Africa, and to students who are showing qualities of leadership and intellect of the highest order. The harm is, of course, not limited to the student victims of these actions; it radiates beyond and produces an unhealthy atmosphere among staff and students which is inimical to the functioning of the university and to the education of students. It is clear, too, that these wider effects are not by any means confined to English-medium universities; many of our academic colleagues at Afrikaans medium universities are no less unhappy and dispirited by these developments.

I believe it would therefore be in the interests of the academic community at large if the persecution of student leaders and of NUSAS were discontinued."

(December 20, 1968)

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- (37) So responsible a person as Professor I.D. MacCrone, immediate past Principal of the University of the Witwatersrand, has commented on the use of informers:

Professor I.D. MacCrone, then Vice-Chancellor of Witwatersrand University in the Rand Daily Mail of October 12, 1968 on the Kleinschmidt issue:

"I am very disturbed and distressed that this (approaches to inform) should be happening on our campus. There is no evidence to my knowledge of anything subversive happening on the campus. I am quite certain there is not. If the police have doubts I would have preferred them to see me first."

- (38) The more general effects which members of the academic community feel as citizens are also of concern to NUSAS. These are dealt with in their context in the next section.

F. The Rule Of Law

- (39) The Rule of Law is a topic on which the commission will have received more than sufficient evidence, and we do not propose to make a lengthy submission in this regard. However, we are aware of the implications of this for South Africa and for the security system which operates in the Republic and we would like to submit the following as the basic requirements for the existence of the rule of law in any country:
- (a) Persons should not be imprisoned or apprehended without being charged in a court of law.
 - (b) The courts of a country should be impartial.
 - (c) The courts should be in a position to protect the individual from unlawful or excessive interference by the Government.
 - (d) A person on trial should be accused in an open court; be given the opportunity of denying the charge and of defending himself; and he should be given the choice of a counsel.
- (40) This is of course a fairly narrow definition of the Rule of Law and is negative and protective rather than positive. A far wider definition has been given by the International Commission of Jurists which stated in the Declaration of Delhi (1959) "...The Rule of Law is a dynamic conceptwhich should be employed not only to safeguard and advance the civil and political rights of the individual in a free society, but also to establish social, economic, cultural conditions under which his legitimate aspirations and dignity can be realised."
- (41) It is with both these definitions in mind that we approach the Rule of Law in South Africa and the infringements of it which we believe have been made in the name of the Security of the State.
- (42) It is clear that there is a need in all modern countries for a defensive security system, but it is uncertain just how far the State would go in taking steps to maintain its security. However, it is all too often the case that the Government takes on itself emergency powers which are not justified and the Rule of Law is violated in the interests

of a state of emergency that may not exist.

- (43) Such powers very often result in the curtailment of the rights of the individual, and this curtailment of the rights of the individual is harmful both to the individual and therefore to the state.

(4)

sidiers run contrary to the rule of law. These are The Suppression of Communism Act, the Criminal Procedure Act, the General Law Amendment Act (as amended), and the Terrorism Act. It is our opinion that all these laws place excessive power in the hands of the executive and that they deny all individuals the protection of the courts, and allow the possibility of executive action against the individual without giving him the opportunity to defend himself.

- (45) In this regard it is important to note that the information provided by informers may be unreliable and that great injustices may be perpetrated by denying the individual access to the courts. The unreliability of information can be seen clearly in the case of the banning of Mr Ian Robertson, the 1966 President of NUSAS, and the replies given in Parliament by the then Minister of Justice, Mr B.J. Vorster on this issue is dealt with in detail in the appendices.
- (46) Even by the government's own definition of the Rule of Law - quoted as number (c) in our definitions (South Africa and the Rule of Law - Department of Foreign Affairs) these laws are an infringement. The provision of indefinite detention in solitary confinement, the allowing of executive action in the form of banning orders and the detention of witnesses, none of which are subject to test in court, are all violations of the Rule of Law, even in its narrowest interpretation.
- (47) NUSAS has also taken policy on the so-called BOSS Bill (Resolution 49 of 1969) which is quoted in full in Appendix A. It would seem to us that the secrecy with which the Bureau is cloaked and the provision for a member of the

executive to prevent a person from giving evidence, even in his own defence are in direct conflict with the principles of the Rule of Law.

(48) The detentions of persons for long periods of time without access to the courts is one of the most disturbing features of the security legislation in force in South Africa today. NUSAS is concerned that such detentions have been made and has repeatedly called for action in this way to be substantiated in the courts or for the persons concerned to be charged. It seems that in spite of the immense number of laws protecting the security of the state, there are still many actions which are considered crimes by the executive for which there are no laws. With the introduction of Clause 29 a man may be prevented from giving evidence on a matter which it would be no offence to give evidence. In terms of the Suppression of Communism Act a man may be banned, without being guilty of the offences for which the minister is empowered to execute such an order, but is unable to clear himself by testing the decision in court.

(49) Section 10 is also extremely harmful in that it can prevent the public from becoming aware of the scope of police activities. Under this clause people can disappear and the fact that they have been taken away by the police may not be printed in a newspaper or even communicated to anyone else. As an editorial in the Rand Daily Mail puts it:

"If Clause 29 is a gross violation of the Rule of Law, as the lawyers have said, then Clause 10 is no less a violation of democracy. You do not have secret political police in anything remotely resembling a democratic country: it is only in totalitarian states such as Stalinist Russia that people disappear in the middle of the night and no-one dares even to mention the fact."

(50) With the sort of action that has been taken against students in the past, and with the detention of students this year, we are disturbed about the possibility of action being taken against our fellow students which we will not be able to

communicate. This clause would seem to us to have been brought in in order to cover up the errors made by the Security Police, and also to allow them to get away with it. There is no way of ensuring that the individual is given protection against this type of action - and the prevention of publication of anything other than official pronouncements has given rise to grave suspicion about the real intentions of this law.

- (51) Much of the action taken by the security forces against students - such as the surveillance of students and action against NUSAS office bearers (dealt with separately) as well as action against other groups, seems to us to have been taken in the interests of the National Party and not of the state. This is a subject of much confusion in this country, and the use of the security forces against people to the 'right' as well as to the 'left' politically of the National Party seems to bear out the feeling that the interests of one political party are being identified with those of the state, and the security forces are being used to maintain the status quo.
- (52) This practice is harmful both to the state and to the individual citizen, in that it limits his field of free activity. Students holding controversial views are virtually assured of being harrassed by the police and there is a constant fear of action being taken against them. We would stress that this action is taken, not because they are involved in ny illegal activities, but because they are opposed to the National Party and are actively, albeit legally engaged in trying to combat them. Executive action, or police action is then taken against them in terms of the security legislation which is contrary to the concept of the Rule of Law.
- (53) NUSAS has t en accused of all sorts of devious dealings, but it has never transgressed the law and we have on at least seven occasions called for a judicial commission to be set up to investigate our activities. But, in spite of this, action is taken against us, and because no court can enquire into the powers of the executive in certain areas, we have been unable to establish our

innocence. (See below).

- (54) A great deal of manpower seems to be used to keep the affairs of students under strict observation and it is our contention that this is extremely harmful both to the individuals concerned as students and as well as to the universities.
- (55) These harmful effects, particularly as they have been applied to NUSAS are dealt with in greater detail in the next section.

G. Action against NUSAS

- (56) In this section, action by the state against office bearers of the National Union are dealt with in some detail. All such action was apparently directed on information provided by the security system, or for security reasons. Not one of the persons involved in such action (persecution) was ever brought before a court of law or ever found guilty of any offence at all.
- (57) It is argued that all these actions (and others) are plainly and simply abuse of the powers of the security system either by individuals therein, or by those persons who run them; and that these constitute a gross infringement of individual rights, amounting to virtual persecution of these students by the state.
- (58) (a) 1964 Mr C.J. Driver, then President of the National Union, held for 28 days under the 90 day detention clause. On his release, Mr Driver was told by a member of the security police that there was not any suspicion at all that NUSAS had been involved in any extra-legal activities.
- (b) 1966. Mr I.A. Robertson, then President of the National Union, banned in terms of the Suppression of Communism Act. The then Minister of Justice, the Honourable B.J. Vorster, stated that he did not, inter alia, contest the fact that the activities of the National Union fell wholly within the law.
- (c) 1967. Mr John Daniel, the acting President of the National Union, refused a passport to travel to the United States of America.
- (d) 1967. Dr R. Hoffenberg, Chairman of the National Union Advisory Panel, banned.
- (e) 1967. Mr John Sprack, President-Elect of the National Union, served with a deportation order before taking office.
- (f) 1968. Mr Duncan Innes, then President of the National Union, refused a passport to take up a travel scholarship (Abe Bailey) to the United Kingdom.

- (g) 1968. Mr A. Murray, Deputy Vice-President of the National Union, deported before he could take office.
 - (h) 1967. Mr C.R. Ragaven, former Deputy Vice-President of the National Union, banned and subsequently refused a passport to study in the United Kingdom.
 - (i) 1968. Mr C.J. Driver (above) refused a passport renewal. Mr J. Daniel (above) again refused a passport.
 - (j) 1969. Mr P. Harris deported; Mr I. Kirby deported; Mr P. Behr refused a passport. All office bearers of SRCs affiliated to the National Union.
- (59) It is worth noting the following points:
- (a) In only one instance (Robertson) were any reasons given for these actions, and in that instance the reasons were contradictions and confused.
 - (b) That in none of the abovementioned cases was any of the individuals arraigned on any charge before any court of law for any offence.
 - (c) That in all cases reasons were requested but refused, and that on at least 4 occasions deputations saw the relevant Honourable Minister with no effect.
 - (d) That in all cases the personal lives and careers of these individuals were irreparably damaged by these actions, and that all but Mr Innes have been forced to leave South Africa, the country of their birth or adoption, permanently.
 - (e) That on all of these occasions, the National Union has been smeared by association or openly as a suspicious organisation, a threat to the state (etcetera, ad infinitum) but that not one of these allegations have ever been substantiated in any court of law.
- (60) In addition to action against office bearers, a number of other steps have been taken to curtail or restrict activities of NUSAS or its office bearers.
- (61) The residence of the President and Vice-President has been kept under almost constant surveillance in one way or another, telephone calls to and from NUSAS Head Office are

- often irregular, or delayed, and appear to be tapped fairly frequently; post to and from NUSAS Head Office is also irregular and appears to be tampered with, particularly overseas post; on official visits to affiliated campuses and other educational institutions the President and Vice-President and other office bearers have been followed.
- (62) Seminars and congresses of NUSAS are kept under surveillance and at almost every such national event in recent years persons tentatively identified as informers have been noted.
- (63) Office bearers at all levels in NUSAS have been approached and warned; or approached and told to withdraw, or approached and asked to inform (see appendix)
- (64) Other students have been approached to inform on activities of NUSAS, its office bearers and persons associated with it (see appendix).
- (65) Attacks on NUSAS have been made from every level in the Government, and notably from the Honourable Mr B.J. Vorster in his capacity both as Minister of Justice and Police, and then as Prime Minister. The number of these attacks both inside and outside of Parliament is high and in most cases there has been an implication (smear) of subversive or communistic activities. Although these have not been substantiated, they have continued. (See below).
- (66) NUSAS has been banned from almost every state-run educational institution in the country despite the often expressed wishes of the students at these institutions to the contrary.
- (67) Cases are on record of students at these institutions being detained simply because they have been associated with NUSAS. (See appendix).
- (68) State educational opportunities and state employment have been withdrawn from students simply because they have been associated with NUSAS. (See appendix).

(69) It should be noted

(a) That NUSAS has frequently called for a commission of inquiry to be established (judicial or otherwise) to investigate the affairs of NUSAS and has offered to place all material in its possession before such a commission and to render it all possible assistance, in order that the good name of NUSAS might be vindicated and the attacks on the organisation and its office bearers ended.

No response has ever been made to this request, but the actions against office bearers have continued.

(b) That at no time has the organisation been indicted before a court of law for any offence and that at no time have any office bearers, while in office or in an official capacity, been indicted of any offence.

(70) NUSAS can only assume that the actions taken against it and its office bearers have been taken because they disagree with the policy of the government.

(71) This assumption implies abuse of the powers of the state by the government, and this implication we regretfully submit is a most serious one and constitutes a shocking testimony to the abuse which is possible in terms of the legislation current, and security system as now constituted.

(72) In the appendix t, this section (appendix C) we cite the case of Ian Robertson, President of NUSAS who was banned under the Suppression of Communism Act in 1966. The remarks made by the then Minister of Justice and Police, the Honourable B.J. Vorster, and the confusion evident behind them are eloquent testimony to the nature this abuse.

(73) If NUSAS and its office bearers do not know why action is taken against them, how can they change? And if it is because they are engaged in legitimate activity, why should they cease?

- (74) The general point has already been made that where there exists wide definition of offences (as under the various acts cited elsewhere) and where there exists positive evidence that informers and spies are at work; there will be great uncertainty as to what activities and speech are lawful; as to what activities and speech are unlawful; and as to what activities and speech, while lawful, will incur surveillance or security system action.
- (75) The specific point is now made that where these conditions exist and where this uncertainty exists, fear will flourish. This fear of the state and its office bearers if prevalent to an extraordinary degree amongst the academic community. It is the fear of innocent people, that they are liable to persecution by the government, using the powers of the state; and be it rational or not it is a direct consequence of the legislation now current, and of the security system as it is now operated. (This fear even extends to submitting to this commission.)
- (76) We close this section by referring again to the words of that renowned and responsible academic, Professor Tobia (who himself was a President of NUSAS some 20 years ago); and his unanswered letter to the Prime Minister (which is attached in full, as appendix D).

APPE X A

- (1) Resolutions forming part of the correlated policy of NUSAS as at July 1969, relating to aspects of the security system.

NUSAS records that

the Suppression of Communism Act of 1950, as amended in 1954, 1962 and 1965 provides that

- (a) the Minister of Justice may deem any person to be a communist
- (b) such person has to redress to law
- (c) the effects of the Act are retrogressive
- (d) any person whether named as a communist or not, may be banned by the Minister and prohibit from holding public office, attending gatherings, leaving defined areas or belonging to any organisations
- (e) the Minister can prohibit any gathering in any public place for specific periods

notes that

the acts

- (a) have been misused to restrict legitimate opposition to the Government
- (b) creates an atmosphere of fear and suspicion in which authoritarian control is accepted

deplores

the widespread negation of the freedom of the individual and the abrogation of the rule of law contained in the Act

reaffirms

its belief that a society can only achieve peace and security through the freedom of the individual.

NUSAS notes that

in terms of the Suppression of Communism Amendment Act 1967

- (a) the onus falls on intending legal practitioners to prove to any court of law at which they seek admittance that they have not been 'listed' or previously convicted of offences under the Act
- (b) any 'listed' person will be struck off the roll of legal practitioners
- (c) such action is retrospective

believes that
the courts should retain the sole right to decide who shall be deemed fit to practise law

fears that
the Act as amended might

(a) intimidate South African law students from participation in legitimate opposition organisations

(b) discourage lawyers and advocates from undertaking the defence of persons charged of 'political' offences

declares
its opposition to this amendment.

NUSAS records that

the Criminal Procedure Act of 1955 as amended in 1965 and the General Law Amendment Act of 1961, 1962, 1963, 1964 and 1966

(a) enable the police to enter all gatherings or meetings without warrant

(b) empower the Minister of Justice at his discretion to enforce certain increased restrictions on people banned under the Suppression of Communism Act, to prohibit gatherings, and to extend the sentence of certain political prisoners without further trial

(c) render as an offence the reproduction in any way of opinions of a banned person

(d) empower the Minister of Justice to place people under district or house arrest and forbid social contact without prior charge in the courts

(e) empower commissioned police officers to arrest anyone without warrant and detain him in solitary confinement for questioning for up to 90 days repetitively without access to courts of law

(f) empower the Attorney General to issue warrant for the arrest and detention for up to 6 months of any person he considers able to give state evidence in criminal proceedings

notes that
these acts

(a) abrogate the rule of law by allowing the Minister to act against the individuals while denying them free access to public courts

- (b) deprive citizens of protection from police intimidation in their freedom to associate and assemble
 - (c) have been misused to restrict opposition and consolidate government power
- condemns

these acts.

NUSAS states

its firm opposition to the Terrorism Act of 1967 for the following reasons:

- (a) that a person may be detained by a police officer for an indefinite period without trial or access to normal legal procedure
- (b) that the Act removes judicial discretion from the courts by providing a minimum sentence of 5 years where the death penalty is not given
- (c) that in a number of instances the onus of proof is shifted from the state to the accused
- (d) that people may be held in detention without being informed of the nature of their offence
- (e) that the provisions of the Act include not only people actively participant in the acts of terrorism but apply with equal force to those who are merely supposed by a police officer to hold information relevant to such acts
- (f) the vagueness of section (a), subsection 2(c) relating to the embarrassment of the State
- (g) that in addition it is not necessary for the state to prove that the acts were wilful
- (h) the number of people under indefinite arrest need not be released, even to Parliament
- (i) that the Minister was not prepared to give an assurance in Parliament that even the next of kin would be notified of the arrest

reaffirms

its belief in the Rule of Law and in the competence of an independent judiciary.

- (2) Resolutions taken at the Annual Congress of NUSAS in July 1969 relating to aspects of the security system.

That this Student Assembly noting

- (1) that action in the form of passport refusals, visa refusals, special branch intimidation, interrogation and recruiting of informers was taken against at least 65 students at the end of last year
- (2) that this type of activity seems to be a deliberate campaign on the part of the Government to intimidate students and prevent them from expressing their opinions freely especially when these opinions are in opposition to the Government's present racist policies and actions with regard to South Africa in general and to the universities in particular

endorses

the actions of those students who, despite the vendetta continue to protest against government policies which are in conflict with the ideals for which this National Union stands

urges

students to continue to protest strongly against such intimidatory and unjustified attacks.

Bureau of State Security

That this Student Assembly noting

- (1) the establishment of the Bureau of State Security by the Public Services Act
- (2) Clause 10 of the General Law Amendment Act which plans wide and undefined restrictions on the publication of information
- (3) Clause 29 of the same act which
- (i) invades the power of the courts to guarantee to the citizen his elementary right to the production of evidence in his favour
- (ii) gives an extensive exercise of power to the executive
- (iii) extends the prohibition beyond the state documents and their contents, and allows the prohibition of all evidence on a particular topic, and
- (iv) circumvents the safeguards laid down in Van der Linde v. Calitz, 1967 (2) S.A.L.R. 239 (A.D.) by

page twenty-six

the Chief Justice, the Honourable Mr Justice L.C. Steyn

noting further

the strong opposition and criticism from

- (a) members of the judiciary
- (b) the legal profession
- (c) the jurists
- (d) the opposition and the press

believing that

the wide powers of B.O.S.S. represent a most serious further
inroad into the Rule of Law in South Africa, and a striking
attack on the liberty and security of the individual citizen

therefore condemns

the Government for its disregard for the jurisprudential traditions of South Africa and the Rule of Law and for its apparent desire to be able to silence all forms of effective criticism and opposition by means of executive action.

Detentions

That this Student Assembly is deeply dismayed

at the increasing number of detentions without trial including
those of John Schlapobersky and Philip Golding, students at the
University of the Witwatersrand

therefore calls on

the Ministers of Police and Justice to charge them in a court of law or to release them immediately.

- (3) Sections of the resolutions forming part of correlated policy of NUSAS as at July 1969, which are relevant to the security system.

NUSAS considers

the following to be infringements of educational freedom :

The presence of Security Branch of the police at meetings at universities;

Attempts by the police to intimidate students;

Police interrogation of students by the police on their political views when applying for passports;

searching, interrogation and detention of students and NUSAS officials;

APPENDIX B

(1) Affidavits

There are a number of affidavits in the possession of NUSAS sworn by students who have been approached in one way or another by of the security system. Most of the students involved are not prepared to disclose their names, and many more students are not even prepared to swear affidavits or identify themselves in any way to any security or government authority for fear that this will be used against them. The fear extends to submitting evidence to this Commission and is one of the most unfortunate aspects of the security system.

- (i) Student questioned by plain-clothes and uniform police who wanted him to describe the opinions and attitudes of his fellow elected SRC members to them. Questioners disclosed to him that they had done a considerable amount of research into his background and had been keeping him under surveillance. He declined to give information or to withdraw from his elected position. (He subsequently lost his teaching bursary from the State and was informed that the State would never employ him as a teacher despite his training.)
- (ii) Student questioned by a man who identified himself positively as a member of the security force. Warned to be "careful". Indicated that he had been under surveillance for some time. Questioned about his involvement in NUSAS and warned that "NUSAS is not just a student organisation". This was not substantiated. Student was told that he was being questioned because he had changed from one university to another. (Stellenbosch to Pretoria).
- (iii) Student office-bearer of an SRC approached to give information on members of a NUSAS Local Committee on which he had served. A "considerable sum of money was offered to him but he refused and said he was not interested.

- i) Student approached by man who identified himself positively as a member of the security system and warned not to engage in any political activity. He did not do this. Subsequently "there were four attempts made to pressurise me out of politics. Not once did the special branch approach me personally but instead they went to my father (with whom I live and on whom I am totally dependent). He was informed of the company I was keeping, of what I was doing (of my public and personal activities) and impressed on him the great difficulties I would find myself in should I not cease all my political activities.
- "All that I was doing was perfectly legal ...
- "My father appears to have heeded their advice and was sufficiently intimidated, by virtue of his concern for my welfare, to have been instrumental in forcing me out of my political activities."
- (v) Female student approached by a man who identified himself as Lieutenant in the Security Police who suggested "it might be of advantage to me to meet him. She refused three times on separate occasions but finally agreed. Was driven out to lonely spot in the country and asked for information on the political activities of her fellows. Was offered "his support to me in the SRC elections and said he had influence right through to Pretoria so if I needed any help at all he could arrange it." Also given evidence that she had been under surveillance for some time and that her personal and public background had been researched at some length. Told that informing on her fellows was "my citizens duty". She reported this to the University authorities and was not approached subsequently.
- (vi) Student stopped by university staff member who is also a police reservist and requested to come with him for questioning by a Captain in the security police. Student questioned and warned. Subsequently threatened by this police reservist at a student demonstration and photographed by him. Student concerned that "Since Mr - had on two occasions to my face shown such strong personal antagonism to me, made me worried that he would

make rather embroidered reports, even half-truths to the police."

These affidavits are each in their own way typical of other instances which the writers have personal knowledge of from their own period of some years in student affairs.

Other examples are quoted elsewhere but typical features in all cases are:

- (1) Indications that the student has been under surveillance and that his record and background have been researched in detail, without his knowledge, in cases of approaches to inform, or openly, in cases of warnings.
- (2) In all cases warnings (threats) or rewards (bribes) offered to students to inform on their fellows, or on activities of student organisations; or to disengage themselves from "political" activities.
- (3) In all cases students were involved in legal and legitimate student or political affairs ...

(2) Incidents involving members of the security system and students

(i) Rhodeo August 28, 1969

A student reported that he had been approached surreptitiously" by "the Special Branch" who he said had been "hounding him" for some years. He reported that offers of amnesty had been offered him when he was faced by an AWOL charge in the army; and that letters reminding him of favours done and of information they would gladly receive from him had been received.

(ii) Dome October 29, 1969

The editor of Dome was questioned by two men who identified themselves as "officials of the Department of the Interior". They wished to see his passport, his identity card. They questioned him about his travels and plans for remaining in the country. Subsequent checks proved that the men were involved with the Security Police.

- (iii) Rand Daily Mail October 11, 1968
A student claimed that "security police had given him a 'friendly warning' to expect trouble if he received any more publicity in the press through his participation in student protests". He was approached twice; once during a demonstration and once privately. "He warned me that I was a foreign student and a fool to get involved in student politics ... and told me I was in a very precarious position." "As he left he warned me that if I told anyone about the interview I could expect trouble."
- (iv) Sunday Express October 27, 1968
Two Christian students and three student leaders questioned. One subsequently questioned on two further occasions
- (v) Sunday Tribune September 21, 1969
Member of staff indicates that he had been kept under surveillance and that samples of his work have been photostated and removed by members of the security police.
- (vi) The Star June 17, 1969
Eighteen year old high school pupil detained by the security police. His mother not told what law he was being held under. Still under detention.
- (vii) Nux May 9, 1969
NUSAS local chairman questioned on two occasions about an alleged letter to the Prime Minister, and about NUSAS and student activities, asked for samples of his handwriting and had his room searched.
- (viii) The Star October 22, 1968
Ten students - eight at university and two at training college - claimed that they had been asked by the security police to spy on campus. Students did not wish to be identified for "fear of intimidation". Subsequently withdrew their claims.
- (ix) Sunday Times November 17, 1968
Girl student "breaks down" after questioning for 45 minutes by police officers about her membership of a student organisation. Requested not to mention that she had been questioned.

- (x) Sunday Express November 17, 1968
"At least ten foreign students" questioned on their movements and "five others" questioned by members of the special branch. Three foreign students told to leave South Africa.
- (xi) Rand Daily Mail June 17, 1969
Student removed from lectures by members of the security branch and detained. Held for some weeks and eventually released with no charges being pressed.
- (xii) Rand Daily Mail October 12, 1968
University principal reveals that "a number of cases of students being approached by the security police to act as informers had been reported to him recently."
- (xiii) Verbal report:
Two students and a residence dean questioned on student organisation in October, 1968
- (xiv) Verbal report:
Student confesses to being employed as informer retained at R30-00 per month. Asked for information on NUSAS, office bearers and fellow students. Now left, but was office bearer on NUSAS local committee in his informer capacity.
- (xv) Verbal report:
Office bearer in student christian organisation currently being harrassed to inform on student organisation
- (xvi) Verbal Report:
Five students requested to present themselves for questioning at John Vorster Square. All office bearers in student organisation. Subsequently questioned.
- (xvii) Verbal Report:
Student reputed to be an informer on a retainer of R15-00 per month. (there are innumerable cases of this nature.
- (xviii) Verbal Report:
Student on NUSAS local committee while on commando training approached by sergeant and asked to "keep eyes and ears open on the campus."

(ixx) Verbal report:

Students approached during protest in October 1968 and requested to join NUSAS local committee and inform on their activities.

NOTE: ALL THESE VERBAL REPORTS HAVE BEEN MADE TO STUDENTS HOLDING RESPONSIBLE POSITIONS IN STUDENT ORGANISATIONS

This incident is quoted in some detail as typical of many others

In March this year, the UCT student newspaper Varsity published a detailed series of allegations against Mr Michael Morris. Its strong and subsequent allegations received considerable national press publicity. This led to confirmation from the Officer Commanding of the Security Police in Cape Town, Colonel C.J. Rossouw, (Cape Times - March 22, 1968) that Mr Morris was a member of his staff.

The main focus of press allegations concerned Mr Morris' approach, at the beginning of the year, to Miss Ivana Krupicka, a secretary employed by the UCT SRC. Initially, Mr Morris had invited her out for coffee to discuss poetry. ("We had met briefly before at a poetry reading, and he said he wanted to show me his latest book of poems. We had coffee together and discussed poetry", Miss Krupicka told the Cape Times, March 22, 1969, in an interview). Only at a later meeting did he admit to her that he was working for the security police.

Miss Krupicka said, "He knew I was friendly with Duncan Innes, the NUSAS President, but we did not discuss him or any other student leaders. Then he started dedicating poems to me and said he was in love with me. I found this embarrassing but felt sorry for him so I agreed to see him once or twice after that. Altogether I saw him four times. When he kept telephoning me, I told Mr van der Merwe (then SRC President) who informed him that he was not to interfere with SRC staff." (Cape Times, March 22, 1969)

The Varsity article (March 19, 1969) further alleged that Mr Morris gave a detailed description of the inside of her flat, intimated to her that he knew how to get into her flat by climbing onto the balcony from outside, and boasted that he could get into her flat more quickly than she could.

Miss Krupicka, who is a Rhodesian citizen, appeared on a list of foreign students that the Minister of Police and the Interior, the Honourable S.L. Muller, cited as having taken part in a sit-in demonstration at UCT last year. The Varsity attack further alleged that Mr Morris told her that she could trust him and that she would need friends in the future.

In a comment on this episode, the NUSAS President (then), Mr Duncan Innes, told the Cape Times (March 22, 1969), "I know

that Miss Krupicka was worried by his persistence and in fact did not want the matter publicised as he led her to believe that Government retribution against her would follow."

Other incidents involving Mr Morris also appeared in the Press at the time. Varsity (March 22, 1969), reported that Mr Morris has visited the home of Miss Jenny Frazer, a secretary in the NUSAS office and Mr Michael de Bliquey, editor of the Progressive Party journal, Indaba on March 15. Mr Morris had told them that he was looking for a former tenant, whose passport had expired. He identified himself as Constable Michael Morris No. 49322 when challenged. He said he was from the passport police and denied that he was from the Security Police. Subsequently, Miss Frazer and Mr de Bliquey learned from neighbours that Mr Morris had questioned them about their activities.

Varsity (March 19, 1969) also reported that Mr Morris had formerly been a member of the Liberal Party, the South African Institute of Race Relations and the National Thinkers Forum. The paper also alleged that he had questioned one of their staff members (Mr Keith Gottschalk) about student affairs, particularly about NUSAS and the Rational Thinkers Society.

Comment

It is submitted that Mr Morris' behaviour (as described in brief above) cannot, by any stretch of the imagination, be justified on the grounds that he was protecting the security of the State.

In one case in particular, that of Miss Krupicka, his actions clearly constituted a gross invasion of privacy.

The implications of a case of this sort are far reaching. Firstly, it leads to a widespread feeling among students that any association with student organisations like NUSAS whose policies oppose the present government may lead to intimidation and victimisation by staff of the security police, not stopping short of interference in their private lives.

Secondly, it leads to the belief that the fact that their activities are perfectly legal and open (NUSAS files and records have always been freely available for inspection) is no guarantee that they will not be subjected to harassment

by the Security Police.

Thirdly, particularly among young female students, it leads to the fear that mere friendship with high NUSAS office bearers could result in being placed in acutely embarrassing situations by the attentions of the security police staff.

Fourthly, students are aware that the executive have sweeping powers to take stringent action against individuals and organisations without reference to a court of law, and that this action is of necessity taken largely on the basis of reports made by the staff of the security police.

Behaviour by the security police as that described above does not lead to students having any great confidence in the reliability of such reports. The possibility in such circumstances that a female student might feel that unless she co-operated, victimisation could follow as a result of an unfavourable report cannot be entirely ruled out as being far-fetched.

The detrimental effect of cases like the Michael Morris case, which received widespread press publicity, on the free exchange of ideas at a university and the lawful political activities of students cannot be underestimated. They can only add to an atmosphere of fear and suspicion vis-a-vis politics in general. A distrust of politics in general, it is submitted, is not healthy among the citizens of any state as it leads to citizens evading their responsibilities to their country.

It is hard to see any benefit to state security deriving from the activities of Mr Morris and it is submitted that any that may arise from this kind of behaviour are far outweighed by the harmful effects that result.

(4) The Kleinschmidt Case

Under the heading, "Student tells full story", the Rand Daily Mail ran a report on a student who was approached to inform. The article is quoted in full as typical of many others.

"The 22-year old student who claims the security police tried to recruit him to spy on the campus activities, said yesterday he wanted his name revealed so that he could tell his full story.

He is Mr Horst Kleinschmidt, a final-year B.A. student at the University of the Witwatersrand, who will write his teachers diploma through the Johannesburg College of Education next year.

He is Vice President of the Students Representative Council at the College and the Transvaal regional director of the National Union of South African Students.

Mr Kleinschmidt says that, in return for passing on information about student activities and groups at the university it was suggested to him

- * That R2,200 of bursary loans he is required to pay back might be paid for him
- * That he would get the opportunity of taking another degree at the university - so that he could remain on campus
- * That he would receive regular payment.

Yesterday he recounted the full sequence of events connected with his claim:

He said he was approached by telephone on September 16. The caller, who wished to remain anonymous, said he wanted to talk to him 'and you can consider it official'.

At their first meeting, in a Braamfontein restaurant, the man identified himself as 'an official of the state', and later showed him a police identity card, said Mr Kleinschmidt.

'I was rather nervous about this meeting, so I arranged to have five of my friends sitting in the restaurant before I arrived.'

Kleinschmidt told the man at the outset that if he represented any underground group, he was not prepared to talk to him.

'He replied "It depends on which underground you mean - Left or Right". He spoke for some time about communism and asked

if I would be prepared to fight if the United Nations troop invaded South West Africa', said Mr Kleinschmidt whose parents live in South West Africa.

He said he knew all about my family and said wasn't it true that my father was a staunch Nationalist.'

The man indicated there was a particular student society at the University of the Witwatersrand in which he was interested - The Human Rights Society.

Mr Kleinschmidt said the man then made an offer to pass on information: 'If I was going to work for them, he said, he would supply the questions and I would supply the answers. He said we could come to terms as to payment - that I should work out what I needed. When I told him that I had about R2,200 in bursary loans to pay back, he said that was not his problem and could be negotiated.'

The man, said Kleinschmidt, had been very well informed about his background and knew that as a high school pupil he had been interested in entering the diplomatic service.

'In fact, he asked me whether I'd ever thought that working in the Diplomatic Corps would involve spy work as well, and said this would be ideal training.'

Later he could go into diplomatic training school. The man also suggested that - since Mr Kleinschmidt was ending his degree at university this year - he should take another degree there. When Mr Kleinschmidt mentioned that his fellow-students might be resentful if they found out about his informing, the man said he would have protection from 'the highest authority'. The man insisted that he should not give his reply at that stage but said he would get in touch with him again.

'At our second meeting, I asked why they had picked on me. He said I seemed an ideal person because of my German-Nationalist background, that he had seen some articles I had written and knew that I was an "accurate worker" and that they needed someone who was respected on campus.'

'I also asked why they had to do things on this secretive basis - that if asked, all student files would be open to them because we had nothing to hide. He claimed that one particular group, which they wanted me to infiltrate was having secret meetings. When I said I could not accept the offer and said I

thought it terrible to tempt people with money for ideas and information he said he was sorry about this, but he did know that I was in financial difficulties. He said I was quite at liberty to give information free; that I should still consider it my duty to pass on information to him.'"

Comment:

The Kleinschmidt case raised the whole question of the morality of paying informers, students or others, to spy on students or for that matter, any other citizens. (We do not claim that students should enjoy any special privileges in this regard).

Firstly, it is submitted, that the reliability of reports made to security police by informers is open to question.

- (a) Clearly all citizens have a duty to report any crimes to the police. A citizen who is not prepared to do so without monetary or other incentive should not be relied on.
- (b) The temptation for an informer to invent or exaggerate evidence must always exist particularly in view of the fact that the large sums paid to any informer would not be justified if he failed to produce evidence of value to the security police. An informer might well feel the need continually to justify his employment.
- (c) Informers in general come from every walk of life and certainly must lack the training necessary for accurate observation.

Where a court case follows, a safeguard does exist in that an informer's evidence may be tested in open court. However, no such safeguard exists with regard to executive action, where the individual concerned has no recourse to the courts and may not even know what he is accused of doing or saying.

Further, it is submitted that informers in general, being untrained, are not versed in what constitutes a threat to the security of the state and are likely to abuse their position and to report on much that concerns the private lives of those spied on. The use of informers has then the harmful effect of infringing the right to privacy of the citizen.

In addition, in the course of his activities, an informer is bound to report on the perfectly lawful political activities of those he spies on. The knowledge that informers exist and do report on perfectly lawful activities creates an atmosphere

where citizens are inhibited from taking an interest in politics in general to the detriment of the country as a whole. Further, it is submitted, that in the case of information made available by informers which does not bear on the security of the State, the Government has no right to solicit such information in such a fashion, but can obtain it through normal channels.

The Kleinschmidt case also illustrates that members of the security police are able to exert and do exert unfair pressures on prospective informers in the form of threats and bribes.

Finally, in certain circumstances, the danger exists that informers may actually incite persons engaged in lawful activity to engage in unlawful activity, in order that he may inform on them, thereby justifying his employment. (Instances of this are in fact reported to have occurred.)

APPENDIX C

The Banning of Ian Robertson, 1966 President of NUSAS

- (1) This incident is cited as an example of the use of executive power which cannot be tested in court and which we believe indicates a lack of proper information before action is taken.
- (2) On May 11, 1966, the then President of NUSAS, Mr I.A. Robertson was banned in terms of the Suppression of Communism Act. This led to wide-scale protest by students who asked that Mr Robertson either be charged in a court or that he be released from a punishment which he did not deserve.
- (3) On May 25, a delegation of students met with the then Minister of Justice, the Honourable B.J. Vorster. During the interview the delegation asked that Mr Robertson be given a chance of defending himself and of refuting whatever allegations had been made against him in court. This request was refused. The Minister said that Mr Robertson didn't have to be a communist to be banned. This matter was brought up in Parliament and reasons for the banning were requested. The issue here is that the Minister was either unable or unwilling to give any real reason for the banning.
- (4) In reply to the leader of the Opposition who asked that Mr Robertson be brought before a court in order to answer any charges which might be put against him, Mr Vorster said:
"...I restricted the young man in terms of an obligation imposed upon me and the authority conferred upon me by the Act and taking into consideration the facts and circumstances ... I was mindful of the fact that I had to prevent a second Leftwich affair and that is why I took action. Did the young man tell the Honourable, the Leader of the Opposition what he did in Swaziland? Did he perhaps tell him who it was he went to Basutoland to seek liaison with"
Later the Minister said:
"Did this young man perhaps tell the Honourable the Leader of the Opposition with what overseas bodies he sought liaison, to put it mildly which are hostile to the Republic? Did he tell the Honourable member that he served on the committee of a communist front organisation Defence and Aid? ... Sir, this young man had every

opportunity to make representations to me. As a matter of fact, I invited him to do so and to furnish me with explanations. Up to the present, I have heard nothing from him. The only communication I have had from him is one in which he asked me for a permit to leave the country and that I granted readily."

- (5) In the debate which followed, the following points were made:
- (a) Mr Robertson had never been to Swaziland. The Minister corrected this to Bechuanaland, and it was later found that Mr Robertson had not been there either.
 - (b) Mr Robertson had written to the Minister to ask for reasons for his banning order. The Minister had replied that he had issued the order in terms of the powers conferred on him by the Act. Apparently, also in terms of the Act, he considered that it was not in the public interest to disclose the reasons for the banning.
 - (c) No mention was made by the Minister of illegal activities undertaken by Mr Robertson, nor was there any indication that any of his activities might have served to further the aims of communism.
 - (d) Later on in the debate it was pointed out that although Mr Robertson had been an ex officio member of the Defence and Aid Committee, he had in fact never attended any of their meetings. This was not denied by the Minister.
 - (e) It was also pointed out that at the time when Robertson had been on this committee, Defence and Aid had been a legal body.
 - (f) The question of the position of NUSAS was also raised. It was pointed out that NUSAS had asked for a commission of inquiry to be instituted if there was any suspicion about its activities. Mr T.G. Hughes asked the Prime Minister (formerly Minister of Justice) in the debate on the police vote to tell the house what it was that made NUSAS dangerous. "There is a dispute going on now about NUSAS being in affiliations with other organisations. I would like to ask the Prime Minister to tell us either that his suspicions against NUSAS are groundless or that he will hold an enquiry ... If NUSAS is an organisation which is suspect and harmful to our children and to the country, it is only right that the country should be told, and it should be stopped if the Prime Minister is right and he can do that by holding a public enquiry

as they have in fact demanded of him."

- (7) In reply to these and other points which were raised, the Prime Minister replied:
- (a) That he had never given reasons for the banning - "that has never been done."
 - (b) "I resolved that I would regard it as my positive duty not to allow a second Leftwich case. That was the basis of my decision. I do not mean by that that Robertson or anyone else was on the point of committing sabotage. I never suggested that, but only potentially ... an atmosphere has been created and charged for that to happen with a man of Robertson's calibre."
 - (c) Referring to the interview which the NUSAS delegation had had with him, the Prime Minister said, "They had an interview with me, and I was very pleased to see them, because, as I told them, I wanted to ascertain 'what makes your minds tick'; I wanted to see whether their attitudes and their views corresponded with the reports one reads in the newspapers and elsewhere from time to time and... I was shocked because their views were much worse than I had thought. But I want to say no more about that. I gave my warning in that regard. They asked me whether I had restricted him because he was the leader of NUSAS ... and I told them unequivocally 'no', that I had no reason to presume that he was a communist; I had restricted him because I wanted to prevent a repetition of what had happened in the past."
 - (d) Later on, Mr Vorster said, "Let us see to it that the leftist and pink elements in such a student organisation are not given free rein."
 - (e) Mr Vorster was asked whether he had told NUSAS or Robertson what the charges were against Robertson. He replied, "I did not go into specific details, but the young people knew exactly what I was speaking of. The Honourable member would not think that they are not aware of the things that are happening."
- (8) It is still a mystery to NUSAS officials what the reasons for the banning of Ian Robertson were - certainly those who went to the interview were no clearer in their minds as to what the reasons had been nor are the answers any clearer today than they were then. The general belief in

NUSAS is that this action was taken out of spite because the Government found itself unable to stop the late Senator Robert Kennedy from visiting this country, and it was Ian Robertson who had invited him to come here. There is also a feeling that it was an attempt to intimidate students and prevent them or frighten them out of accepting positions in NUSAS.

- (9) Apart from the obvious confusion which exists in this case, there are a number of points which should be made. Firstly, the fact that the Minister of Justice admitted that a person did not have to be a communist to be banned in terms of the Suppression of Communism Act. This means that the legislation in this regard is so open-ended that the ordinary person can never really know whether he is in any way furthering the aims of communism, and it appears that even this is not necessary to warrant a banning order. This we would submit is a clear violation of the Rule of Law, particularly as the Minister of Justice does not have to substantiate his allegations in a court of law.

The second issue is that raised by the Minister's reasons which he gave to the request from Mr Robertson that he be given reasons for this banning. These were vague (as the Act permits) and, when coupled with the claims by the Minister that he had invited Mr Robertson to furnish him with explanations - seem to add up to a digression from the principle that a man shall be held to be innocent until he is proved guilty. Here the onus is on the man to prove, in answer to the vaguest accusation, that he is innocent. He is punished and then told that he may be forgiven his punishment if he is able to prove that he is innocent.

APPENDIX D

Letter from Professor P.V. Tobias to the Prime Minister, the Honourable B.J. Vorster written on December 20, 1968

The Honourable The Prime Minister
The Honourable B.J. Vorster
Union Buildings
Pretoria

Dear Mr Prime Minister

I write to express my deep and growing concern at the many administrative actions which have been and are being, taken against student leaders at the English-medium Universities.

As a South African-born scientist whose father was born in England and whose mother was born in the Orange Free State, and who has represented his country at some twenty international meetings in many parts of the world, I am in a position to report on the unfavourable impression made upon my scientific and medical colleagues abroad by such actions as, for example, the refusal of a passport to student D. Innes of the University of Cape Town so that he is unable to take up an Abe Bailey Travelling Fellowship to the United Kingdom. All over the world such actions are closely followed. There is little doubt that they serve as a serious deterrent to foreign academics who may contemplate taking up a position in South Africa and to South African expatriates who are considering the possibility of returning home and whom your Government, Scientific Advisory Committee and C.S.I.R. are doing so much to attract back to South Africa. I speak feelingly on this matter for two main reasons:

- (1) I have been personally responsible for a small "brain-drain-in-reverse", in that I have persuaded two senior scientists, one a South African expatriate of many years' standing, and the other a Hollander, to come to South Africa and accept positions at South African Universities; and I have attracted a number of pre-doctoral and post-doctoral fellows to spend periods of time studying and researching in South Africa.
- (2) So far, I have persistently refused all efforts to attract me to positions in various other parts of the world, including other African territories, Britain, Canada and the United

tes of America, from which I have received some extremely tempting offers, involving pay and status far higher than I at present enjoy in South Africa. The two latest such offers have come to me as recently as 1968.

Thus I am able to speak with some confidence and authority on the effects on colleagues abroad of the growing and long list of departmental actions against student leaders and staff members, mainly at the English-medium universities in South Africa.

However, I am writing this letter to you, Sir, not so much because of those reactions abroad, as for the effects on our own students and on the atmosphere in our own institutions. Many of the students who suffered under the Government's actions are among the finest intellects in the country and they possess qualities of leadership which I believe that the country can ill do without. Every time another student who has been denied a passport accepts a one-way exit permit (as his only means of taking up a fellowship or scholarship for study abroad), our country is denied another future potential leader. It is terribly sad to think of the number of young lives which have been thus stunted at the most important moment in their intellectual growth. Some of these students have left the country for good. Others have chosen to stay on in South Africa and to make the considerable personal sacrifice of not taking up grants, bursaries or scholarships for study tours or visits abroad.

It grieves me to think of the possibly irreparable effects of such actions, firstly, on some of our best young English-speaking manhood, and secondly, on the country's future growth in the scientific, academic and technological fields.

For some time, I have contemplated writing to you, Sir, but have thus far refrained from doing so. Now, however, my decision to write has been precipitated by the case of Mr Duncan Innes. The denial of a passport to this Cape Town student has effectively robbed him of the chance of accepting an Abe Bailey Travelling Fellowship to make an educational visit to, and tour of, the United Kingdom. As a former Abe Bailey fellow, I know just how much that tour meant in my life. It provided my first opportunity of travelling overseas, so important a part of a young person's education. The academic contacts I made on the visit played no small part in moulding any subsequent academic and research development. The wonderful benefits of such

visits which, as you know, are enjoyed annually by groups of students from Afrikaans-medium and English-medium universities in South Africa - have been denied to Mr Innes, by the refusal of his passport. It is indeed a heavy punishment.

One may well be forgiven for asking for what is he being punished? As far as can be gauged by the intelligent man-in-the-street he has been guilty of no offence; no charges have been preferred against him: his own principal and vice-chancellor, Sir Richard Luyt has vouched for him. Why then is he being made the victim of so heavy a punishment? Why is he being deprived of at least R1,000 which may be considered the monetary value of his award and of a far greater, indeed incalculable sum which might be the educational and cultural value of the trip?

An objective outsider would surely be forgiven for concluding that his "offence" has been to accept the presidency of the National Union of South African Students. Seen in the context of a number of bannings, passport refusals and other restrictive measures and intimidatory measures against leaders of the 44-year old National Union of South African Students, and of its constituent Students' Representative Councils at English-medium universities, it seems not unreasonable to infer that the latest action against a student leader is part of a long-term programme of restricting and intimidating student leaders who play an active part in running NUSAS.

One may well ask: is the policy and are the actions of the National Union such as to deserve this treatment? Some years ago a number of student leaders were found in the law courts to have become embroiled with various illegal activities and entangled in illegal actions. Obviously such actions, on being proven in a court of law, justified penalties being taken against the individuals concerned by the State and Judiciary. More recently, although no further court cases have been brought against members of the National Union's leadership, the campaign against the leaders of NUSAS has continued unabated. No reasons are given. Students, academics and the thinking man-in-the-street are therefore forced back upon surmise as to the reasons for the continuance and even increase in this campaign. It is unthinkable that the Government of a modern state would continue to threaten and punish an organisation and discriminate against its leaders today for misdemeanours allegedly, and in some cases shown to have been, perpetrated by their predecessors as

student leaders some years ago. This would amount to a form of vendetta or persecution for guilt by association, which would seem to be wholly incompatible with the principles of justice and judicial procedure to which the State of South Africa is supposed to subscribe.

If therefore we exclude this possibility, we are driven back to the conclusion that the campaign against the English-speaking student leaders is being mounted and intensified because the National Union of South African Students represents a powerful body of organised opinion strongly opposed to the prevailing governmental policy of racial separation in academic institutions and in general. Yet opposition to apartheid or separate development or multiracialism is no crime in the eyes of the law of our land. Thousands of people in South Africa believe the English-speaking students of South Africa are doing the right thing in putting out - for the last 20-odd years - feelers of friendship and bridges, between students of different races both here and internationally. Thousands agree with them that the criterion of studentship is and should be the only basis for membership of a National Students' Union. Great numbers realise that these principles to which generation after generation of English-speaking students have subscribed by majority vote, are part of the cultural and idealistic heritage which South Africans of English descent have inherited.

As recently as November 10, 1968, Sir, you are reported to have said at the Pretoria College of Education that both sections of the White population of South Africa realised that there could be co-operation only on the basis of mutual respect for each other's language and culture. Since the concept of a national students' union open automatically to all students in their capacity as students is part of the English tradition and culture, surely the adherence of the English-language student bodies to the open students' union should be respected as much as other component parts of that cultural tradition. That cultural tradition has become virtually world wide for many years past, at least in all those parts of the world where students have a free choice in the matter: and this is a further reason why an open-membership should be permitted to the National Union of South African Students.

This policy of open-membership, I may add, has permitted NUSAS to maintain fruitful and constructive avenues of contact with

student bodies in many other parts of the world. It is abundantly clear that student bodies abroad are not willing to co-operate or even maintain contact, with any student body in South Africa which is based on an exclusive or sectional membership. Thus, NUSAS has, by its very policies - and lathough these policies are not the same as the Government's policies - done a tremendous amount to combat the isolation between South African students and the rest of the world. The value of this role cannot be over-estimated. Our students, through the exchanges, tours, conferences and international representation thus made possible, have benefitted inestimably. Much good has thereby been done to the health of the academic world in South Africa.

In grief rather than anger, I therefore implore you, Sir, and through you the Government to discontinue the policy of discrimination against student leaders who are active in NUSAS and who strongly oppose - by legal means - the policies presently pursued by the Government of the Republic of South Africa. Incalculable harm is being done to some of the finest products of English culture in South Africa, and to students showing qualities of intellect and leadership of the highest order. The harm is, of course, not limited to the student victims of these actions; it radiates beyond and produces an unhealthy atmosphere among staff and students which inimical to the functioning of the university and to the education of students. It is clear too that these wider effects are not by any means confined to English-medium universities; many of our academic colleagues at Afrikaans-medium universities are no less unhappy and dispirited about these developments.

I believe it would therefore be in the interests of the academic community at large if the persecution of student leaders and of NUSAS were discontinued. I earnestly beseech you, Sir, to give these sentiments your serious consideration.

I have the honour to be, Sir, your obedient servant.

(Professor) P.V. Tobias

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Head of the Department of Anatomy, President of the Institute for
for Study of Man in Africa 1956 - 1968

P.S. May I assure you, Sir, that this letter to you comes from my heart and conscience; I have not been solicited to write it by NUSAS or by any other group, nor am I connected with any political party.

APPENDIX E

The University ("Tribal") Colleges

All the submissions above have been based on, refer to, and have been submitted in respect of students of all races at institutions catering for all races. However, conditions, with respect to the security system are far worse on the campuses of the University Colleges, which, as you well know are reserved for students of different ethnic, non-white, racial and language groups. These conditions have been of concern to the National Union for some time and this concern is growing.

The regulations governing students at the colleges are strict in the extreme and the students have many academic and other grievances; if only by comparison with conditions at the white universities these conditions are in themselves bad, but magnified as they are by the additional burden which the security system imposes on college life and on the students, these conditions are a far cry from those which we regard as necessary to contribute to the proper functioning of higher education.

Students on the campus live in fear of any political activity or discussion at all, and in fear of the slightest complaint about academic, educational or other matters of concern to them.

Stories and evidence of informers are so numerous as to constitute the basis for responsible estimates that as many as one in every twelve students is a paid informer.

Administrative action against students by the State and by the state controlled college authorities is a matter of growing concern, as is the consequent and not unnatural identification by students on these campuses of all state departments and action, and the state as a whole with the abuses perpetrated them by the security system.

If white students are afraid, and they are, so much more so are non-white students; and if the rights of white students and citizens are infringed, and they are, so much more so are the rights of non-white students and citizens.

The security system, we contend has far less respect for the rights of non-white students and impinges far more readily and frequently on their lives than it does on their white compatriots. This we believe constitutes a further gross injustice and one that

is made possible largely by the nature of the present legislation, and the present manner of operation of the security system, and the consequent inability of students and citizens to defend themselves before the courts.

Efforts made by the National Union in the past to attempt to alleviate these conditions have met with little success. NUSAS officials have been prevented access to the campus or to the students. A call for a state commission of inquiry was ignored by the Government, as were various motions and resolutions. We believe that the situation warrants immediate action, but are not even in a position to compile sufficient information to justify this concern, without fear of reprisal. The introduction of recent legislation (Bureau for State Security, General Law Amendment Act, 1969) will, we believe, facilitate a further deterioration in conditions both at these colleges, and at all others.

We submit below a brief account of events at Fort Hare late last year in this regard. It should be noted that all the events at Fort Hare stem from a concern on the part of the students at the internal educational conditions prevalent at ForttHare.

Fort Hare 1968

During the night of August 17, 1968, a number of slogans appeared on the walls of campus buildings at Fort Hare. The pretext appears to have been the inauguration of Professor J.M. de Wet as principal of the college. After the slogans appeared, according to Rhodeo (September 5, 1968) "eighteen campus leaders were summoned to appear before the rector. Seventeen arrived, The eighteenth was a man called Methodist. Methodist also brought a tape recorder to the recent UCM (University Christian Movement) congress. The rest were warned by the Rector that they would be expelled if the campus unrest continued. Over the next few days, all 17 were taken, one by one, for questioning by the special branch.

The students reacted by holding a student body meeting at which it was resolved that the students would hold a sit-down outside the college administrative buildings, until the Rector addressed them. A sit-down consequently followed on August 28. It continued until August 30 when student vacation started. After the vacation the sit-down was resumed despite a n