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THE PUBLIC SAFETY CONSERVATION ACT

A.J. LOGAN

Long essay presented in partial fulfilment of the requirements for the degree of Bachelor of Arts (Honours) in History at the University of Otago, 1976.
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Abbreviations

A.C.        Appeal Cases
A.J.H.R.   Appendices to the Journals of the House of Representatives
G.L.R.        Gazette Law Reports
H.C. Deb 5S  House of Commons Debates 5th Series
M.C.D.        Magistrates Court Decisions
N.Z.L.R.    New Zealand Law Reports
N.Z.P.D.   New Zealand Parliamentary Debates
O.D.T.        Otago Daily Times
S.R.        Statutory Regulations
INTRODUCTION

The Public Safety Conservation Act is an important but little known piece of legislation. It confers upon the Government very broad powers in times of 'emergency' and has been invoked with sweeping effects. This study recounts the history of the Act and evaluates its significance. Chapter One examines its origins, contents, enactment and impact in 1932. Chapter Two describes its use in September 1939, prior to and following the outbreak of war, and analyses the administration of the Censorship and Publicity Emergency Regulations as a case-study in the scope and implications of the Act. Censorship has been selected in part because it fits into the larger pattern of civil liberties with which the Public Safety Conservation Act is, inter alia, concerned. It is also a choice of convenience, for the papers of the press censor, J.T. Paul, are deposited in the Hocken Library. Chapter Three summarises the use of the Act during the 1950-1 industrial ferment and assesses public reaction to it. Public opinion features prominently in this chapter because these years mark the first extensive public examination and discussion of the Act and its immense powers. This summary suggests how far the public are prepared to tolerate its application.
The opening years of the Depression were marked by an increasing scale of protest and disorder. As the effects of the Depression were felt the unemployed began to organise, at first locally, then nationally through the National Unemployed Workers movement. Processions, deputations and meetings became a recurrent feature of depression life. Violence followed. During 1931 a number of clashes recurred between police and demonstrators.¹ The general election held late in the year was marred by the menacing reception accorded Coalition leaders.² But 1931 was nothing compared to 1932. Police statistics chart the increase. There were sixteen prosecutions for seditious offences and 143 cases of inciting lawlessness. This compared to an average of 1.1 and 10.2 for the other years of the decade.³

The year began with demonstrations in Dunedin in support of demands for greater relief on 8 and 9 January. After these demands had been rejected by the Otago Hospital Board on two successive days, demonstrators marched on Wardell’s grocery store in George Street to obtain provisions. The shop was protected by a cordon of police who kept the demonstrators at bay, but who could not prevent its windows being knocked out. The unemployed

As early as March 1931 the Government feared civil unrest and instructed the armed forces to safeguard arms and ammunition: Navy Secretary to Commodore Commanding N.Z. Station, 28 March 1931, Navy Department 68/15/7.


G. Fraser, Ungrateful People, Auckland, 1952.
only dispersed when relief parcels were supplied by South Dunedin grocers and arrangements made for improved relief facilities.4 Violence flared again in Dunedin in mid-April. The Mayor's Relief Depot had its windows broken. A taxi in which the mayoress was travelling was mobbed.5 On 9 April crowds wandered city streets, extorting meals from hotel keepers and restauranteurs and provisions from grocers.6 The following Monday a section of the unemployed attempted to storm the Hospital Board's premises and were repulsed only by a police baton charge.7 A relief strike was called on 12 April, pickets were active and in part successful.8 But protest lost its intensity and by the weekend it was all over.

The focus at once switched to Auckland where a relief strike had been organized. On Wednesday 13 April crowds of unemployed demonstrated at the Auckland Town Hall and later at the offices of the Auckland Star where police and demonstrators clashed when a truck tried to force its way through the crowd.9 On Thursday night, the unemployed joined public servants and marched up Queen Street to the Town Hall. Police locked the doors once the Town Hall was full, and barred the entry of the unemployed. When the police moved in to disperse the crowd fighting broke out. As police and protesters fought a pitched battle outside the Town Hall a section of the crowd swept along Queen Street smashing shop windows and looting their contents. Some 460 windows were broken; initially damage was estimated at £100,000. Three policemen and five civilians were seriously injured and admitted to hospital; another two hundred received medical attention. More than thirty

5 O.D.T., 9 Apr. 1932.
6 ibid., 11 Apr. 1932.
7 ibid., 12 Apr. 1932.
8 ibid., 13 Apr. 1932.
9 O.D.T., 14 Apr. 1932.

A minutes sheet of a meeting on 10 Apr. of the Council of the Auckland Provincial Unemployed Workers' Association set down this form of protest for Wednesday and Thursday. It was to culminate in an ultimatum on Friday, giving Government one hour to concede its demands, after which the leaders would not be responsible for what happened, Coates Mss Box 8, file U.
arrests were made that night. Although special constables were enrolled and members of the armed forces deployed in city streets, more windows were broken and more clashes with police occurred in Karangahape Road the following night. Widespread violence was anticipated on Saturday night, but only a few windows were broken in Symonds St and food obtained from shops in Devonport without payment, and the crowds that gathered were quickly dispersed. On Sunday crowds assembled near the Auckland Domain, although police had forbidden a Labour Party rally there; no incidents were reported however.

The riots were only the most forceful and spectacular manifestation of discontent with the Government. There was a steady stream of deputations to ministers in Wellington, many threatening violence. Relief strikes were held in several centres. Relief work in the country was refused. Evictions were resisted. Trade unions, hit by reduced wages and voluntary arbitration, promised a general strike, while wage cuts and dismissals had created a spirit of mutiny among public servants. Dissatisfaction was also reported amongst people who normally would have supported the Government. Gordon Coates' brother, Rodney, blamed the riots on the "the Herald and its cartoons

11 O.D.T., 16 Apr. 1932.
12 Naval Officer in Chief, Auckland District, to Commodore Commanding N.Z. Station, 16 Apr. 1930, telegram, Navy Department 05/15/7.
13 ibid., see O.D.T., 18 Apr. 1932.
14 O.D.T., ibid.
19 See Government's reaction in debate on Finance Act 1932, also Public Service Journal 1932, and Katipo 1932.
21 N.Z. Herald.
The edge of militancy was sharpened by the Communist orientation of the unemployed. The Communist Party furnished much of the leadership of the unemployed workers' movement. Its paper, the Red Worker was the organ of the N.U.W.M., and its handbills called for "strikes, demonstrations and militant action." Protesters sung the "Red Flag" and the "International" at the root of the disturbances, from which "the criminal element" had profited. The Government and press also blamed the Labour Party and trade unions. They had forecast violence; at times they seemed to welcome it. The annual conference of the Labour Party committed the party to agitate to compel the Government to reverse its economic policies or resign.

J.A. Lee told a Dunedin audience:

22 N.Z. Worker - Labour.
23 published by Auckland branch of New Zealand Farmers' Union.
24 Rodney Coates to J.G. Coates, 19 Apr. 1932, Coates Mss.
25 Naval Officer in Chief Auckland District to Commodore Commanding N.Z. Station, 17 Apr. 1932, Navy Department 08/15/7. Lab. MPs reported the same sentiments N.Z.P.D. vol. 232.
26 e.g. "Strike!" Coates Mss Box 8, file U.
27 e.g. C.D.T. 9 and 19 Jan. 1932; see other descriptions of riots in press too.
28 Commodore Commanding N.Z. Station to Minister of Defence 15 Apr. 1932, Navy Department 08/15/7.
29 Naval Officer in Chief Auckland District to Commodore Commanding N.Z. Station, 17 Apr. 1932, ibid.
30 Minister of Justice to Minister of Employment, 15 Apr. 1932, Coates Mss Box 8, U.
32 e.g. J.A. Lee, "Is There An Explosion Coming?" N.Z. Worker, 16 Mar. 1932.
33 Report of Labour Party Annual Conference, Coates Mss Box 8, File U.
"They must either have the removal of the present Government by constitutional means, or they were going to see in New Zealand violence such as they had never seen before."\textsuperscript{34}

Labour speakers had shared platforms with leaders of the unemployed and spoken in the same idiom.

To the Government it might have seemed that the first shots of insurrection had been fired in Auckland and Dunedin. It seemed to face an exponentially escalating scale of disorder. The disturbances in Auckland had revealed "how hopelessly unprepared we are to handle mobs or union strikes."\textsuperscript{35} The Government moved to fill the gap. The Prime Minister, George Forbes, promised to maintain law and order:

"... we will not tolerate for one instant disorderly outbreaks and destruction of property, and injury to policemen during the carrying out of their duty.\textsuperscript{36}

In Auckland, special constables were sworn in. Public buildings were guarded by members of the Army and Navy, wearing battle dress and fully armed. They also patrolled streets. Two squads of Waikato Mounted Rifles were brought into the city. Public meetings were banned. Windows were boarded up in the city and suburbs. Stand-down week was postponed. In Wellington, where rumours of insurrection were rife, the doors of Parliament were reinforced, traffic through the grounds restricted, the galleries of the House were to be watched and Forbes provided with a bodyguard. Warships scheduled to leave the port remained.\textsuperscript{37} The Leader of the Opposition, Harry Holland, prophesied that events in Auckland and Dunedin were only "the gathering of the storm."\textsuperscript{38} The Government feared he was right.

The Government's response to the riots quickly shifted from an enunciation of the customary platitudes and precautions capable of preventing further immediate outbreaks of disorder to proposals

\textsuperscript{34} O.D.T., 4 Apr. 1932.
\textsuperscript{35} Rodney Coates to J.C. Coates, n.d. (mid April 1932), Coates Mss.
\textsuperscript{36} N.Z.F.D. vol. 232 pp. 118-9.
\textsuperscript{37} O.D.T., 18 Apr. 1932.
\textsuperscript{38} N.Z.F.D., op. cit., p. 119.
to bolster law and order in the longer term. On Friday, 15 April the leader of the Legislative Council, Sir James Parr, indicated that the Government might introduce emergency legislation to deal with the situation. During the weekend it was reported that the Government was planning to establish a corps of citizens, organized on a national basis, with a nucleus of returned servicemen and legion of frontiersmen, to assist police in preventing recurrences of trouble. There was also a suggestion that Labour Party meetings would be restricted.

On Sunday the Government announced that it would present emergency legislation to Parliament, on the next sitting day, Tuesday, 19 April, and pass it immediately through all its stages. Cabinet had met twice on Sunday and afterwards, in a press statement, Forbes said that the "Government desired to secure adequate authority to back the forces of law and order in meeting a situation which had not previously been encountered in New Zealand. He added that the Bill would be a short one, though he was unable to indicate what form it would take as inquiries into exactly what amplified powers would be necessary had not yet been completed. Forbes said he expected the Bill to be readily endorsed by all sections of the House; "there could be no objection to the proposal to take power to protect property and to preserve law and order." However, the Otago Daily Times correspondent reported that ministers expected some "very straight

39 b. 1869, N.Z.; barrister; former mayor of Auckland, M.P. for Eden (1914-26).
40 N.Z.P.D., op. cit.
41 O.D.T., 16 Apr. 1932.
42 ibid.
44 ibid.
45 ibid.
46 Newspapers however reported Bill would be based on South Australian Public Safety Preservation Act: O.D.T., 19 Apr. 1932; see also supra p.
47 ibid.
talking" from the Opposition before the Bill was passed.\footnote{ibid.}\footnote{ibid.} \footnote{ibid.}
Cabinet considered a draft bill on Monday afternoon and finalised its composition on Tuesday morning.\footnote{ibid.}

The Bill was a brief one. The Governor-General was empowered in section two to declare a state of emergency if it appeared to him that public order was or was likely to be imperilled, or if interference with the supply and distribution of food, water, fuel or light or the "means of locomotion" was, or was likely to deprive the community or a substantial proportion of the community of the "essentials of life". The Proclamation of emergency might apply to the whole, or any part of the country and remained in force for one month. If Parliament were in session, it had to be advised at once; if in recess, within fourteen days of the commencement of the next session.

While the Proclamation of emergency was in force, the Governor-General could, by Order in Council, make "all such regulations as he thought necessary ... for the conservation of public safety and order and for securing the essentials of life to the community." He might delegate wide powers to ministers, departments and other persons in the service of the Crown or acting on its behalf, and might make regulations "incidental" to those powers in order to make them effective. The regulations need not have been limited in effect to the area in which the Proclamation of emergency was in force. Regulations gazetted had to be laid before Parliament as soon as possible after they were issued, and had to be confirmed within fourteen days, but only if Parliament was sitting. All regulations were to have "effect as if enacted in this Act," and were revoked on the expiry of the Proclamation of emergency (unless the Proclamation was renewed or continuing legislation enacted by Parliament). Breaches of the regulations were punishable, on summary conviction, by three months imprisonment or a fine of up to £100 (now $200) or both. In any prosecution, the court would, at its discretion, hear evidence not normally admissible. No regulation was to be invalid because it dealt with a matter covered by another Act or was in any way repugnant to (i.e. inconsistent) with another Act.
In cases of emergency and where a proclamation of emergency could not be issued, the senior local police officer would assume responsibility to issue the orders and instructions necessary in his opinion for the preservation of life, the protection of property and the maintenance of order.

Clause five of the Bill conferred protection upon persons acting in the execution or intended execution of the Act and its regulations, against claims for loss, damage or injury. Such persons were still liable for criminal charges. Property taken or used under the Act was to be compensated.

According to Forbes the Public Safety Conservation Act was based on the British Emergency Powers Act 1920. Newspaper reports, prior to the introduction of the Bill, stated that it would follow the South Australian Public Safety Preservation Act 1930. Indeed, it seems to be an amalgamation of both. The South Australian Act was entitled an "Act to make Provision for the Protection of the Community in Cases of Emergency"; as was the New Zealand Act. The text of the Public Safety Conservation Act cited the imperial statute as a source.

The South Australian Act authorised the Governor to issue a proclamation of emergency if, in his opinion, "the public safety or order is, or is likely to be, imperilled." The Emergency Powers Act enabled the King to proclaim a state of emergency if

"at any time it appears to His Majesty that any action has been taken or is immediately threatened by any persons of such a nature and on so extensive a scale as to be calculated, by interfering with the supply and distribution of food, water, fuel, or light, or with the means of locomotion, to deprive the community of the essentials of life."

52 e.g. O.R.T., 19 April, 1932; also Coates N.Z.P.D., op. cit. p. 201
53 South Australia, Statutes 1930, No. 1951.
In the New Zealand Act these two powers were synthesised to form a single section and extend the authorisation granted to the executive. The regulation-making powers vested in the Governor-General in Council, the King in Council and the Governor of South Australia were almost identical. The penalties in the British and New Zealand Acts were the same. The indemnity contained in the Public Safety Conservation Act was copied from its South Australian model. The Public Safety Conservation Act was a scissors-and-paste composition, an exercise in legislative plagiarism.

The Public Safety Conservation Act, however, was not wholly derivative. Section 4 was an indigenous invention. The Public Safety Conservation Act was drawn up to protect public order, the Emergency Powers Act to feed the community. The Public Safety Conservation Act harnessed both objectives in tandem. Most important of all, the other enactments contained a number of safeguards not repeated in the New Zealand legislation. The South Australian Act was limited in its operation to six months, and it was allowed to lapse. The British Act also restricted executive power. Unlike under the New Zealand Act, if Parliament was adjourned or prorogued when a proclamation of emergency was made, it had to reconvene within five days of the proclamation. The declaration of the state of emergency and any regulations promulgated as a result, were thus automatically subjected to parliamentary scrutiny. The Emergency Powers Act, furthermore, specifically stated that no regulations could impose compulsory military service or industrial conscription, make it an offence to strike or persuade others to strike, alter existing legal procedures or confer any right to punish by fine or imprisonment without trial. These protective provisions were deliberately omitted from the Public Safety Conservation Act. Of course, provisos can be eliminated by a simple parliamentary majority, but few Governments would be willing to so overfly assail individual rights and well-established liberties. The restraints may, in fact, be only moral and political, but it is significant that a Government, the Lloyd George coalition, not renowned for its good faith and sensitivity to principle, saw fit to enshrine some of the main canons of modern democracy in this Act. It is
appallingly significant that the Forbes Government was not only indifferent to those rights, but seems to have contemplated abrogating them. Forbes gained the consent of the House to take urgency and introduced the Public Safety Conservation Bill. In a brief and rather inadequate speech, Forbes enlarged on the objects of the Bill:

"What is proposed in this Bill is that the forces behind law and order should be given every support in cases of disturbance and that adequate provision should be made to cover other emergencies such as earthquakes and conflagrations." 55

Legislation was to have been brought down after the Napier earthquake of 1931; this Bill provided the machinery sought by local authorities to handle natural disasters and also countered the current civil unrest. Forbes stressed the devolution of authority to the senior local police officer: the man on the spot must be equipped to deal with an emergency.

"I feel sure that this Bill will appeal to all commonsense members as a necessary precaution to meet times of disorder. I consider that it can be safely left to the police to take charge in cases of fire, upheaval, earthquake or anything of that kind, and to remain in charge during such times of emergency. The senior police officer will be the rallying point. The discretion shown by the police in the past gives us every reason to believe that similar discretion will be exercised in the future under the powers conferred on them by this Bill, and that nothing will be done other than in the interests of public safety." 56

Labour, however, strenuously opposed the passage of the Bill - so strenuously that the House did not rise until 5.08 a.m. on Wednesday morning. 57 Labour's objections to the Bill were many: in particular, it attacked the strategy behind the Bill, the economic policies of the Government which they claimed had produced the present crisis, and, in a more technical sense

54 Labour opposed the taking of urgency but lost the division 41:20 J.H.R. 1932, p.84.
55 N.Z.P.D., op. cit., p.175.
56 N.Z.P.D., op. cit., p.175.
the provisions contained in the Bill.

Labour speakers developed the theme that the unrest which had occurred could only be attributed to the Government's policies - to deflationary wage cuts, slashed pensions, stingy ration provisions. The Government had manufactured a highly explosive time bomb. Mason threw the words of the Bill back to the Government: ..."Is it not for the lack of the 'essentials of life' that we have had these disturbances in Auckland?" It could only be defused by the Government reversing its disastrous economic mismanagement that caused people to starve in the land of milk and honey. According to this analysis, bringing down the Public Safety Conservation Bill was futile. It would not feed the hungry, clothe the naked, provide homes for evicted tenants, or create jobs for the workless. The time bomb would tick on. Bill Parry (Auckland Central), who spearheaded Labour's assault on the Bill, outlined Labour's position:

"All that these people are asking is that the Government shall put into operation a plan of reproductive work that will give all willing workers an opportunity to earn a wage comparable with a decent standard of living for themselves, for their wives and families, failing which they ask that the Government shall administer ... the payment of sustenance."59

If the Government would do that all would be well. He added that lawlessness had bred lawlessness; if the Government had implemented the sustenance provisions of the Unemployment Act 1930, there would have been no rioting.

Labour speakers argued that repressive measures, and they stigmatised this Bill as "one of the most dangerous Bills that have been placed before the Parliament of this country," could only exacerbate the position. Holland called it "another consignment of petrol thrown on the flames."61 Not only was it provocative,

60 ibid., p. 191.
61 ibid., p. 234.
but it could not work. Bob Semple, as always, was forceful in his denunciation of the Bill:

"I wonder has the minister studied the history of the past. No matter what country you go to, whenever the rod of tyranny, coercion or cruelty of any kind has been used indiscriminately against a section of the people, or against a nation, it has served no good purpose... Look at Ireland. For many years efforts were made by coercion. Did that stop them? Eventually the Irish people gained their point. Go to Russia, where they asked for bread and got bullets and batons. Did that stay the hand of the Russian people? It inspired them to action and they went on with grim determination feeling that some day they would conquer and they did. The lash upon the shoulders of the hungry is not going to prevent the men and women of this country fighting for what they believe is right." 62

Although the Bill did not specify what powers the Government would take and Forbes did not, at any time, suggest any of the powers the Government might assume, Opposition Members of Parliament feared that the traditional outlets of dissent and discontent might be blocked. In particular, they opposed the banning of public meetings. That would only multiply discontent. J.A. Lee described the public meeting as a "safety valve":

"If you sit on the safety valve and suppress the ordinary meetings, you gradually create a state of imaginary security and some day when the inevitable explosion takes place, it goes further than it would have, if ordinary meetings were permitted." 63

Labour also detected a sinister connection between the Coalition's oppressive economic policies and the new instrument of repression it was proposing. The latter was designed to make the former more palatable by batoning men back to work at pittance wages, locking up dissenters, and stifling the normal avenues of protest. Holland remarked:

62 ibid., p. 217.
63 ibid., p. 180.
"As I read the Bill, it appears to me that the Government senses the position which will result from the carrying into effect of its own legislation with regard to the reduction of wages and salaries and pensions, and also with regard to its policy as it affects unemployment... The Government is setting out to bludgeon both the unemployed and the employed... down to coolie conditions in this country."  

Turning to the contents of the Bill, Labour contended that all the powers needed by the Government were already on the statute book. James O’Brien (Westland) pointed out that there had been no need for such legislation in times when far greater upheavals had disturbed the country. Holland examined the Crimes Act 1908 and the Police Offences Act 1927, which he argued furnished the Government with all the powers it required to deal with the situation, except the right "to suppress the political meetings of his (Forbes) parliamentary opponents." He accused Forbes of intending to do this by Order in Council. Later, Forbes was to imply that this was a possibility, when he held Labour responsible for the violence which had occurred. During the Committee stages, however, Forbes assured the Opposition that he would not interfere with their public meetings and this assurance was reiterated in the third reading debate, at Labour's initiative, so that Forbes's undertaking could be written into the parliamentary record, as Committee proceedings were not reported in the Parliamentary Debates. The Bill was subjected to detailed clause-by-clause analysis by Holland himself, and Labour's lawyers, H.G.R. Mason (Auckland South) and F.W. Schramm (Auckland East). Dealing with clause 3, which conferred vast regulation-making powers on the Government,

64 National Expenditure Adjustment Bill.  
66 ibid., p. 225.  
67 ibid., p. 197.  
68 ibid., pp. 228-231.  
69 O.D.T., 21 April, 1932.  
70 ibid., pp. 234-5.
through the Governor-General in Council, Schramm asked:

"...whether it is contemplated by means of regulation to abrogate the ordinary provisions of the civil law, whether it is possible by these regulations to deny the right of the trial to those who may be arrested during the time that this emergency Proclamation is in force, whether it is possible to deny the right of trial by jury, whether it is possible to deny a person reasonable right of bail and whether it is possible to suspend the provisions of the Habeas Corpus Act, which is centuries old, giving the right to the individual to apply for a speedy trial?"\(^{71}\)

Schramm was firmly of the opinion that all these things were within the competence of the Government under the Bill. Mason considered the practically unfettered legislative powers conferred on the executive, effectively constituted the Government as absolute dictators, with no limit whatever to the scope of their authority.\(^{72}\) Holland regretted the omission of the safeguards contained in the Emergency Powers Act 1920 (U.K.).\(^{73}\)

Clause 3 which allowed the courts to hear evidence not normally admissible in criminal proceedings also stimulated Labour's indignation. Mason asked:

"If a man cannot be convicted on ordinary evidence, why should he be convicted at all? ... It simply means the conviction of anyone who is obnoxious to the Government, obnoxious to the Head of the Police Force ... or obnoxious to such other official who happens to be administering the law."\(^{74}\)

Holland considered it iniquitous that while "the rules of evidence that safeguard the interests of the burglar, the murderer, or the child ravisher (in his opinion 'rightly protected') the political offender is not to have any such safeguard."\(^{75}\)

In Committee, Labour moved that the words widening the type of evidence that might be submitted to the courts be deleted.\(^{76}\)

\(^{71}\text{ibid.}, p. 190.\)
\(^{72}\text{ibid.}, p. 188.\)
\(^{73}\text{ibid.}, p. 197.\)
\(^{74}\text{ibid.}, p. 184.\)
\(^{75}\text{ibid.}, p. 197.\)
\(^{76}\text{J.H.R.}, p. 86: amendment defeated 39:21.\)
However, Forbes insisted that there was nothing to be afraid of as the accused would still have the benefit of the doubt. This provision was necessary, he said, because "in a mix-up" it might be difficult to produce ordinary evidence."\(^77\)

Clause 4, which empowered the local senior police officer to increase emergency powers of his own initiative, was treated with suspicion. Many Labour speakers condemned the abdication of vast powers by the civil authorities and their exclusion from democratic accountability, as being in conflict with the British constitutional tradition. Mason was not reticent:

"We know that in Russia under the Czar a special Police Force had powers of that description. That did not make for peace, order, or good government in that country. On the contrary, it produced conditions which made possible in that country the extreme, violent and sudden revolution which overthrew the Government. We are not used to having the Police made dictators, made utterly irresponsible and put above all civil power, as they are here."\(^78\)

Labour, however, did not force a division on this clause in committee.\(^79\)

Clause 5 conferred an indemnity upon the Crown and any minister, officer or person acting under the provisions of the Bill. Compensation, however, would be paid for property taken or used in execution of the Bill. Mason was scathing:

"Naturally property is sacred ... but no matter what the indignity, no matter what the suffering, no matter what the pain may be to any person, he is to have no remedy." He suggested that although individual servants of the Crown might not be personally liable for acts performed in good faith, the state should undertake to compensate those who have been injured.\(^80\) Schramm considered this provision opened the way to victimisation for one's

\(^77\) O.D.T., 21 April, 1932.
\(^78\) N.Z.P.D., op. cit., p. 185.
\(^79\) J.H.R., op. cit., p. 87.
\(^80\) N.Z.P.D., op. cit., p. 185.
political beliefs and persecution for participation in industrial disputes. Although Labour speeches were full of praise for the ordinary police, men whose memories went back to 1913 reacted bitterly to the enrolment and deployment of special constables and the protection they were given under this clause. Teddy Howard (Christchurch South) articulated the consensus: "If you give a man a stick, he will want to hit some one." Incidents were cited of specials wrongfully attacking innocent bystanders and by their mere presence inflaming the crowd. Bill Jordon (Manakau), himself a former policeman, condemned the use of untrained men and horses. W.E. Barnard objected to the clause which made "the special ... the sole judge of his own action." But Forbes was adamant; if specials were made liable for their actions, "that would make the whole Bill useless." Forbes does not seem to have contemplated Labour's alternative proposal that the state accept responsibility and reimburse those injured by persons acting on its behalf.

Labour's attitude in the debate was clear, coherent and consistent. The Party presented a formidable array of skilled speakers - led symbolically by its Auckland members - to hammer home the objections it had to the Bill. It offered sustained, often scalding criticism of Government policies and upset the Government's intention of enacting the Bill as quickly as possible.

For its part, the Government scarcely condescended to participate in the debate on the second reading. Only two ministers, Coates and Forbes, spoke during the debate. Coates gave a wandering speech, punctuated with prolonged exchanges with Labour members and with lengthy digressions on unemployment relief, provision of rations and the labour camp schemes. Nevertheless, two consistent themes did emerge: first, that by obstructing the Government's measure to maintain law and order, Labour was

82 Ibid., p. 221.
83 Ibid., p. 186, 181.
84 Ibid., p. 186.
85 O.D.T., 21 April, 1932.
86 Ibid.
countenancing disorder; and further that Labour was implicated in the unrest which had taken place. Since Labour had organized meetings, held demonstrations, stirred up resentment against the Government and proclaimed that violence was inevitable, Labour should accept responsibility for the natural consequences of its actions. These themes were taken up in reply by Forbes. He professed to be surprised at the opposition to the Bill: "One would have thought that in view of the damage recently done by a lawless mob in Auckland, there would have been no two opinions about strengthening the hand of the Government to protect the persons and property of New Zealanders." He commented that while the Government stood for law and order, Labour appeared to champion disorder and disruption.

The Government was supported by only three backbenchers. The absence and non-participation of Government members, including ministers whose responsibilities were affected by the Bill, irritated Labour speakers. The small number of Government supporters speaking to the Bill was not, as Holland suggested, "eloquent testimony to the lack of popularity of the Bill." Rather their refusal to participate in the debate must be ascribed to the Government's intention of rushing the Bill into law in the shortest possible time. They were not prepared to delay this process by matching the Opposition speaker for speaker, nor were they willing to provide Labour "with ammunition to keep us here all night."

The three Government backbench speakers deprecated the riots, praised the police, defended the special constables, attacked the "wreckers and destroyers" and indicted the Labour Party for adopting a position which could only encourage further violence. Law and order, they argued, must be upheld, but they did not

87 ibid., pp. 198-201.
88 ibid., p. 227.
89 ibid.
90 ibid., p. 224.
91 ibid., p. 174.
92 ibid., p. 204, R.A. Wright.
demonstrate how the Bill would achieve that goal, nor did they discuss any of Labour's substantive criticisms of the Bill.93

The Government's debating performance was dismal. Forbes was uninspired, Coates erratic and weak; the other speakers were not men of political stature or oratical substance. Nevertheless, the Coalition objective was not to display its rhetorical wares, but to convert its Bill into law, and minimise the disruption to its legislative programme. In doing so, it let the debate go by default; it lost the battle but won the campaign; it had its majority and that was that.

Two Independents spoke in the debate. They steered a path between the two parties. Although both pointed to shortcomings in the Bill, they both supported the Bill in the division on the second reading but abstained from voting on the Bill in its later stages. This suggests that while they were prepared to support the Government's cry of law and order, they were unhappy with the contents of the Bill. G.C.C. Black (Motueka) contrasted the Public Safety Conservation Bill with the British Emergency Powers Act 1920. He conceded that there were circumstances in which it was proper for emergency powers to be vested in the Government but that individual rights should be entrenched in any legislation giving the Government such powers. He recommended, therefore, that the powers the Government was attaching to itself should be qualified by the provisos present in the British Act.94 H. Atmore (Nelson) shared Labour's analysis of the situation. Discontent had been ignited and fuelled by distress. Only bold, comprehensive economic policies could overcome it. He accused the Coalition of trying to stifle criticism of its chronic misgovernment and said he did not believe that the powers entrusted to senior police officers had been justified.95

Shortly after midnight the Bill was given a second reading by 46 votes to 21. In Committee its clauses were approved by 39 votes to 21. At 5.00 a.m. it was read a third time by 37 votes

94 ibid., pp. 214-216.
95 ibid., pp. 222-4.
The Public Safety Conservation Bill was presented to the Legislative Council at 10.30 a.m. on 20th April. Parr moved the suspension of standing orders to allow the Bill to be passed in a single sitting. Introducing the Bill, the Leader of the Council stated the Bill was being passed in response to the Auckland riot and hinted darkly at "other matters within the knowledge of the Government." Parr admitted that the powers in the Bill were "very wide and drastic" but "unfortunately necessary." The Council accorded the Bill a warm reception. Colonel G.J. Smith thought the need for this kind of legislation was "readily apparent". G. Witty described the Bill as the only way of dealing with the situation and S.J. Garland thought the Bill tempered justice with mercy. Members, however, dismissed the penalties as being too light. Only D. Bundo was hesitant to support the Bill, saying its greatest virtue was that it could be repealed at short notice. No opposition was expressed. The Bill was passed by acclamation and after forty-five minutes deliberation, the Council rewarded itself with a six day's adjournment.

Despite this apparent urgency in enacting the Public Safety Conservation Bill, the Governor-General did not assent to the Bill, until 3 May. This indicates that the Government may have found less need for the Bill than it expected, or that the pressure to pass the Bill was inspired

98 ibid., p. 236.
99 ibid., p. 237.
100 ibid., p. 238.
101 ibid., pp. 236, 237, 238.
102 ibid., p. 239.
103 ibid.
104 J.E.R., 1932, p. 142.
by the desire to avoid too great a dislocation of its tight
legislative time table.

It is interesting to compare and contrast the debates on the
New Zealand Public Safety Conservation Act and those on the
British Emergency Powers Act. The Emergency Powers Act was
brought down late in 1920. The coal-miners had begun a
national stoppage - in itself an alarming enough situation, but
the miners were, through the 'Triple Alliance', combined with the
railwaymen who voted to strike in support of the miners and the
transport workers who were expected to follow suit. 105 The
Government introduced the Emergency Powers Bill to "overcome strike
action which interfered with the life of the community." 106 The
Prime Minister, Lloyd George, described it as one "with which any
Government ought to be equipped for feeding the community." 107
The Leader of the Opposition, W.H. Adamson, opposed the Bill
because in the circumstances it was provocative, and the powers
it contained were too wide to be put in the hands of any
Government. 108 Labour won wide support for its stand. The
Liberal leader, H.H. Asquith, considered the Bill's terms "very
elastic and very risky." 109 Conservatives such as Lord Robert
Cecil and Sir William Joynson-Hicks, 110 men who might have been
presumed to support the Government on this issue, objected to the
timing and scope of the Bill. This diverse but widespread
opposition caused the Government to take a cautious approach. 112
The Bill's passage was delayed, and the Government accepted a
number of amendments moved by Labour members or substituted its
own, better drafted, often more restrictive amendments. As a
result, a state of emergency was limited to one month, Parliament

106 133 H.C. Deb. 58, col 1399, A. Bonar Law; these powers had
formerly been available under the Defence of the Realm
Regulations.
107 ibid., 1453.
108 ibid., 1407.
109 ibid., 1418.
110 ibid., 1430.
111 ibid., 1422-3.
112 Government may also have been influenced by a desire not to
inflame the industrial situation.
was required to reassemble within five days (not fourteen) if it was not sitting when a state of emergency was declared, the regulations issued under the Bill had no validity unless they were confirmed within seven days (not fourteen) and were not to make it an offence to strike or persuade others to strike, or to introduce military or industrial conscription, and the words "or other necessities" were omitted from clause 1 after "food, water, fuel or light or the means of locomotion." A number of Labour revisions, however, were rejected. These included the excision of the power to make regulations "for the preservation of the peace", and the safeguarding of the Trade Union Acts from amendment by regulation.

The introduction of the Emergency Powers Bill created a potentially explosive situation in Parliament. The Government revealed its intention to fight the strike, while the Labour benches were full of trade union officials, including the railwaymen's leader, J.H. Thomas, highly suspicious of the Liberal-Tory coalition. Nevertheless, the debate lacked the rancour characteristic of the Public Safety Conservation Bill debate. In contrast to the Forbes Government, Lloyd George and his ministers were prepared to discuss and justify the Bill and its powers, despite their anxiety to procure its enactment. They were also ready to listen to the consensus of the House of Commons and alter the Bill accordingly. The feeling of the House was that Parliament was the guardian of the people's rights and the proper scene of law-making. Any powers conferred, therefore, should be subject to parliamentary examination and confirmation as soon as possible, and it was Parliament's duty to see that the legislative powers delegated to the Crown were so restricted as not to imperil fundamental freedoms. These sentiments made nonsense of party lines and the Government accepted these principles. Another feature it is important to note is the much more sophisticated approach adopted by Labour. By proposing amendments in Committee, the Party could influence the shape of the Bill and protect the interests it professed to represent. Of greater significance, however, was the British Government's willingness to endorse these amendments. It did not negate the basic objectives of the Bill.
but it agreed to preserve democratic forms and principles.

The riots of April 1932 generated a broad discussion of the questions of law and order, and unemployment in the metropolitan press. All papers condemned the riots unequivocally, and some newspapers demanded new legal sanctions against disorder. The *Dominion* 13 April, in an editorial commenting upon the Dunedin disturbances, was sympathetic to people whose feelings "may be rather raw at present" but after the Auckland riot its magnanimity disappeared: "The Government should see that the agitators are placed where they can no longer use their corrosive propaganda." The next day, it advised the Government to ensure that the police were adequately supported against sudden emergencies. The *N.Z. Observer* demanded stiffer penalties: "short of the lash", goal was the only place fit for the stone-throwers, thieves, hooligans and agitators.

The *New Zealand Herald*, in a somewhat hysterical response to the riots, urged a comprehensive programme of repression. The leaders of the unemployed ought to lose the privileges of citizenship, seditious propaganda must be eradicated, mass meetings and processions barred, a citizens' guard be established to strengthen the hand of the police and the police themselves should form a special riot squad.

Most newspapers, however, adopted a more judicial approach. Of these the *Auckland Star*, cool even in the heat of battle, was typical:

"It goes without saying that law and order must be enforced with the sternest and most impartial hand, and naturally the Prime Minister in his reference to the trouble in the House last night stressed the Government's duty in this respect. The Government, however, has another duty and that is to improve its policy of unemployment relief."  

113 *Dominion*, 13 April, 1932.  
114 *Dominion*, 15 April, 1932.  
115 *Dominion*, 16 April, 1932.  
118 ibid., 16 April, 1932.  
119 *Auckland Star*, 15 April, 1932.
The editorial went on to say that the Government had shown too little imagination, adding: "There has been too much talk of new plans and not enough action." The Evening Post assessed the situation in almost identical terms. The Evening Star took a similar slant on events. It argued that the unemployed could not be allowed to rule cities or intimidate businesses and, in a negative vein, proposed measures to make picketing illegal and to curb subversive propaganda, but insisted these must be balanced by a more constructive programme - "problems will not be improved on by breaking heads" - including the abolition of stand-down week, increased relief for women and the institution of the dole.

Truth, while calling vaguely for "drastic measures" and better police organization to prevent further disturbances, also considered it was "high time" that the Government gave proper consideration to constructive criticism and valuable suggestions, which had been offered on unemployment policy. The Christchurch Press did not consider the unemployment question but did urge local authorities and the Government to stand firm and the public to support them. The paper refuted, however, any suggestion that the Government should embark on any "unnecessary or extreme" course such as enacting emergency legislation, instituting a "New Guard" or requiring newspapers to close their columns to criticism of the Government.

There was, among newspapers, agreement that the problems posed by the riots should be tackled on two fronts, by taking firm, decisive action against outbreaks of disorder, and by overhauling the Government's unemployment policies which were so obviously unsound. There was no uniform demand for new laws, draconian punishments, or fresh restraints on civil liberties, and no demand at all for the blanket provisions of the Public

120 ibid.
121 Evening Post, 15 April, 1932.
122 Evening Star, 12 April, 1932.
123 Truth, 21 April, 1932.
124 Christchurch Press, 16 April, 1932.
Safety Conservation Act. When the press urged the Government to stand firm, they meant within the existing legal framework – with perhaps one or two small adjustments.

Within this content, reaction to the Public Safety Conservation Act was divided. Some papers were reluctant to approve it. The Press consoled itself with the thought, that if there had to be a Bill, then this was the best kind, for, in practice it changed nothing. "It is better for the Government to prepare powers that will be dormant than to vex and disturb the country with unnecessary, immediate restrictions." The Otago Daily Times commented that

"It might have been supposed that the Government already possessed all the authority that is required by it for the suppression of public commotion and public disorder and that legislation of the character that is provided in the Public Safety Conservation Bill ... is not really necessary. It is hardly to be credited that even the ugly scenes in Auckland last week ... constituted a justification for legislation covering the possibilities inherent in a 'state of emergency'. The resources at the disposal of the Government ... were so plainly adequate to that occasion as to afford a reasonable ground for the expectation that a recurrence of disorder of this particular kind is unlikely." But "if there is any doubt on this point – as clearly there is there should be no objection ... to the enactment of provisions that strengthen the hand of the Government." The Otago Witness, likewise, considered that the Act duplicated the already ample powers of the Government. It hoped, however, that it would have a beneficial "psychological effect upon any person in New Zealand who might be tempted into believing that he can, with comparative immunity, flout the laws of this country." It was, therefore, "a wise precaution, even though it is very unlikely recourse to it will be necessary."

125 Press, 19 April, 1932.
126 O.D.T., 20 April, 1932.
127 O.D.T., 21 April, 1932.
128 Otago Witness, 26 April, 1932.
Another group of papers admitted the powers embodied in the Act were vast, but saw no real danger in them. The Dominion labelled the power in the Act "far-reaching and severe" but said it was in the community's interest and no harm could come to the law-abiding. The leader-writer accepted Forbes' promise that the Bill would only be invoked in "absolute necessity and then for no longer than necessary" and shared Forbes' confidence in the judgement of the Police and their disposition to act with moderation. The editorial believed that the procedures for parliamentary scrutiny of any regulations made were sufficient protection for the public against abuse. The Auckland Star said "nobody likes to see introduced such a Bill for the preservation of law and order, as the Government has passed, just as nobody likes to take nasty medicine. Unfortunately, emergency conditions require emergency measures." It too thought that there was nothing in recent weeks which could not be dealt with under the existing law, but "quite rightly the Government is taking no chances." The Government had taken a "proper precaution" and the Labour Party should have acknowledged it. The Herald called the Bill's contents "wide and drastic" but insisted no law-abiding citizen need fear this application and considered the Bill's safeguards adequate.

The Evening Star was of the opinion that this Act was "one which any loyal, conscientious and courageous administration" would sponsor. The Star, however, repeated that in addition more had to be done in the way of unemployment relief. The Evening Post chose to ignore the Bill and lashed out at Labour's attitude in the debate, accusing the Party of exploiting a deplorable situation to score cheap points over the Government and of failing to stand up unequivocally for law and order by supporting the Bill.

129 Dominion, 20 April, 1932.
130 Auckland Star, 20 April, 1932.
131 N.Z. Herald, 20 April, 1932.
132 Evening Star, 20 April, 1932.
133 Evening Post, 20 April, 1932.
The metropolitan press generally accepted the Public Safety Conservation Act with unqualified approval, but in some quarters the reception given the Act was cool and endorsement rather tentative. Nevertheless, all papers put the best possible construction on the Government's intentions, stressed the safeguards, meagre though these were, and in the final analysis welcomed it as legislation in the best interests of the community.

Two newspapers did not adhere to this orthodoxy. Predictably they were Labour's New Zealand Worker, and the Communist Red Worker. The New Zealand Worker had dissociated itself from the riots. One of the reasons it advanced was that they would lead to retaliation and the invasion of such popular rights as freedom of speech and freedom of assembly.134 Discussing the proposal for extraordinary legislation, the paper declared

"panic-stricken measures of this kind will be of no avail unless the authorities tackle the unemployment problem on more generous lines and reverse their savage policy of reducing the people's standard of living to a harsh and desperate poverty."135

Labour's opposition to the Bill in the House of Representatives guaranteed that the New Zealand Worker would be hostile to it. Its report of the parliamentary debate was headlined:

"Dictatorship Established by Parliamentary Enactment Government Becomes Panicky - It Causes Trouble with Irresponsible Special Constables Baton Brigade as Cure for Poverty."136

In a later article, "Turning New Zealand into a Vast Prison - Civil War Waged on Workers", the Worker claimed that the Forbes Government intended to use the Public Safety Conservation Act "to stifle criticism and bludgeon and gaol objectors into silence."

In conjunction with the Government's other measures, it had been framed to turn New Zealand into a "slave camp" with "the mass of the unfed population intimidated into cringing servitude."137

134 N.Z. Worker, 20 April, 1932.
135 ibid.
136 ibid., 27 April, 1932.
137 ibid., 11 May, 1932.
The Red Worker was in no mood to compromise. Its editorial exposed the class bias of the law and the courts. Justice was blind to acts of brutality against the working class. The scales of justice were weighted to enslave the working class. The Public Safety Conservation Act conformed to this paradigm.

It was another step in the development of an open class dictatorship. The effects of the Act were misrepresented as being the creation of "a state force of specials, a New Zealand New Guard, with unlimited powers to act as bashers and even to shoot down the toilers". The Red Worker continued:

"Police are given practically unlimited powers, and meetings and demonstrations are to be prohibited at short notice. Mass action is the strongest reply to these measures."

While the Public Safety Conservation Act was capable of doing all these things, and more, its powers, for the time being at least, were frozen.

The Public Safety Conservation Act did not spark a national controversy, but the riots did cause opinion to divide between those who favoured a policy of repression to combat the repercussions of unemployment and economic distress, and those who preferred a policy of greater and more effective relief to stop trouble at its source. To some extent these were merely differences of emphasis, as few denied the need to maintain law and order. But some were for strong-arm methods alone, while others counselled moderation, a firm hand and a generous heart. The latter was adopted by the Labour Party, the former by the Coalition Government. The newspapers reflected this discord of opinion. The Auckland Farmers' Union did not temporise: "There is only one thing to be done, to stand pat on the Constitution", and it prepared the outlines of an organization to save that constitution. The President of the New Zealand Farmers' Union declared that "we have no sympathy with socialistic and communistic utterances" and indicated that his organization could be relied on to ensure

138 Red Worker, 26 April, 1932. This edition was later held to be seditious, O.D.T., 14 June, 1932.
139 Farming First, 10 May, 1932, p. 3.
stability of Government. The N.Z. National Review urged the Government to ruthlessly stamp out the revolutionary element "which now threatens to wreck not only shop windows, but the very social system itself."141

On the other hand, the N.Z. Mercantile Gazette, a compendium of trade information, advised the Government to supply food to all unemployed men to prevent them coming into conflict with the police.142 In Auckland, businessmen met Labour M.P.s and resolved to lobby the Government to ease the conditions of unemployment.143 Representations were made to the Governor-General on the question of relief by Auckland businessmen on 15 April.144 In the Outlook, A.G.B. Fisher, professor of economics at the University of Otago, deplored the tendency to regard the unemployed as a distinct section of the community, requiring special treatment and stern handling, and denied that the problems of unemployment could be solved by strong leadership.145

This analysis does not suggest that the Public Safety Conservation Act was unwelcome - clearly, as the absence of hostile reaction reveals, it was not - but it does indicate that enthusiasm for the new enactment was, at the least, subdued in many quarters.

In the early 1930's, the murmurings of a suppressed liberalism, struggling to make itself heard, could be perceived in some quarters. Lawyers,146 accountants147 and Chambers of Commerce148 expressed their concern about "a new despotism", government by regulation.

140 President's Address to the Annual Conference of the N.Z. Farmers' Union, 7 July, 1932, pp. 15-16.
141 N.Z. National Review, April, 1932.
142 Mercantile Gazette of New Zealand, 20 April, 1932.
143 Tony Simpson, The Sugarbag Years, p. 126.
144 C.A. Archer to J.G. Coates, 21 April, 1932, Coates Mss
145 Outlook, 2 May, 1932, pp. 36-7.
147 The Accountants' Journal, 20 June, 1932.
148 The Associated Chambers of Commerce of New Zealand, Report of Annual Conference 1936, remit 13, p. 73; also Otago Witness, 14 June, 1932.
In part this was an instinctive reaction to the large corpus of regulations, by-laws, ministerial orders, and directives with which professional men and businessmen were bound to comply. They complained that the delegated legislation was not publicised, that it encouraged the hurried passage of ill-conceived and poorly drafted Bills and that it deprived the public of the right of consultation in legislation. The debate, however, was also conducted on a higher level: The New Zealand Law Journal stated:

"The liberty of the subject is a matter of concern of every one of us; once and for all a curb should be put on further restricting that liberty without the subject's knowledge or comment, except as expressed in the constitutional manner through his representative in Parliament, and safeguarded by the availability of a ready recourse to the courts in all circumstances." 149

The Public Safety Conservation Act did not meet these criteria but, significantly, it was not considered in this discussion of Government powers.

The Public Safety Conservation Act did not stimulate a community wide debate. There were too many bread and butter issues which had priority over abstract discussions of civil rights, the separation of powers and of other intellectual niceties. The unemployed were fighting off destitution and demonstration. 150 The trade unions were floundering in the quicksands of voluntary arbitration. 151 Public servants were contesting another substantial wage cut. 152 Farmers were worried about prices, about bankers and other creditors and about the "bastards in town ... always wanting something more." 153 Businessmen looked gloomily at depressed markets, lower interest rates and credit contraction. Professional men suffered a decline in clientele. If any one did think about it, the last thing they wanted to see was a pack of louts beating up

150 see N.Z. Worker 1932; Red Worker 1932.
151 see Transport Worker 1932; N.Z. Worker 1932.
152 see Public Service Journal 1932; Katipo 1932.
153 J. Malgun, Man Alone, Hamilton, 1960, p. 73; see Farming First, May 1932.
policemen, smashing property, looting shop windows or Red agitators preaching revolution. In contrast to the very concrete threat of economic hardship, the Public Safety Conservation Act seemed an unreal liability. Nobody lost a job because of it, it did not slash wages or send anyone into bankruptcy. While its powers remained unused, its existence went almost unremarked. There were no victims and no villains, no injuries were sustained; no injustices cried to be avenged. Section 59, Finance Act 1932, menaced dissident civil servants. The sedition prosecutions hit Communist writers, printers and publishers. Specials briefly roamed the streets any way. Consequently the impact of the Public Safety Conservation Act was slight; the Act was submerged by other, more potent issues. Few recognized a new oppressor; few greeted a powerful protector.

The Public Safety Conservation Act was primarily a measure to combat the rioting which had preceded its enactment. It was widely anticipated that regulations would soon be issued to put it into effect.154

Regulations were in fact drawn up, but they were never issued and their contents are unknown.155 The circumstances in which they were drafted suggest that these were formed to deal with civil disturbances. The regulations would not, however, have duplicated existing legal powers. The Government had, for instance, full powers to deploy the armed forces to curb rioting. The Crimes Act authorised any one to use force in proportion to the danger apprehended to terminate riots.156 If the Riot Act were read, requiring the rioters to disperse within one hour, any degree of force could be used to arrest rioters defying that injunction.157 A meeting of representatives of the armed forces and police in October, 1932, shows how the Act might have been used in this respect.

As a result of the conference,158 the police intended to apply for military assistance only if the situation got beyond

154 Evening Star, 20 April, 1932; Auckland Star, 18 April, 1932.
155 Police Record Book, 1932, Police Department 1/35.
156 ss 67-71 Crimes Act 1908.
157 ss 103-7 Crimes Act 1908.

the control of the police and any special constables. In such cases naval and army parties would come out as formed units, bearing arms and prepared to use those arms. Naval detachments were to be used only in quelling actual riot or in guarding Government property. Regular soldiers could be used in addition as police, in such duties as patrolling streets, but should not wear military uniforms and should act under police supervision. There was no statutory authority for the employment of Territorials or the Royal Naval Volunteer Reserve (N.Z. Division) in such circumstances.159 This would be met by regulations made pursuant to the Public Safety Conservation Act. The meeting agreed that this should happen only in "very extreme and vital cases ... as it is most undesirable that auxiliary forces should ever be used for these duties. Cases where auxiliary forces would be wanted cannot actually be imagined." It was decided regular troops should be called out first but as they numbered only 346 and were scattered all over the country in small units, it would probably also be necessary, they thought, to use Naval Forces, followed by the Territorials and finally the R.N.V.R. Legal opinion indicated that the senior police officer in any area could not order out the armed services under Section 4 of the Act, but the police could request assistance, the local army or navy officer having a discretion whether to comply. "If there was actual rioting, there is no doubt he would comply at once." In a very grave crisis, the local military or naval officer might, on his initiative, use the auxiliary forces. The conference noted, however, that such cases "are almost impossible to imagine in New Zealand and are really not worth consideration."160

Other powers the Government might have considered were the regulation of meetings and demonstrations, an expansion of police

159 R.N.V.R. forces from H.M.S. Philomel were used in Auckland on 13 April - apparently illegally and contrary to Naval policy; see also Naval Sec. to Commodore Commanding N.Z. Station 1 June, 1932, Navy Department 06/15/7.

160 Instructions were issued to troops on handling disputes: Civil Disturbances; notes for Officers leading with Parades; Navy Dept. 06/15/7. General Staff Northern Command to all Officers Permanent Forces 26 April, 1932; Navy Dept. 06/18/7.
powers of search and seizure, the creation of lesser offences (of "sedition" for example) which could be dealt with in summary proceedings and reversing the onus of proof. The availability of special constables and reserve forces obviated any need for a corps to maintain law and order.

It is difficult to see that the Public Safety Conservation Act had any affect on New Zealand in 1932. Its powers were not invoked, but could its mere presence have had a depressant effect on unrest in New Zealand towns?

The events of May, 1932 disprove such an assumption. May Day was celebrated in the main centres with meetings, demonstrations, the singing of the Red Flag and fierce denunciations of capitalism and the Government. The focus, however, soon narrowed to Christchurch and Wellington. Christchurch had experienced minor industrial trouble in April. That multiplied with a vengeance when the tramwaymen struck, amid allegations of political and industrial victimisation, when twelve men, including the union president were sacked, as part of a cut-back in services. The strike was waged with a great deal of bitterness. Strike-breakers were harrassed by pickets. Attempts were made to derail trams, windows were smashed in shops whose proprietors were believed to be special constables, gangs of men attacked trams and attempted to put them out of action by removing their fuses, and rocks were thrown through tram windows. Strikers tried on some mornings to prevent trams leaving their sheds. On one afternoon they gathered in Cathedral Square, jeering trams, blocking traffic and scuffling with police. Tension grew when a meeting of unemployed voted heavily in favour of a relief workers strike. The unemployed had already been prominent in the agitation associated with the tramway's dispute and the possibility of even

161 Otago Witness, 3 May, 1932.
163 Otago Witness, 10 May, 1932 and 17 May, 1932.
164 C.D.T., 12 May, 1932.
greater disturbances seemed high. In fact the strike passed virtually without incident. Police precautions, including the use of several thousand specials and the restraint exercised by the leaders of the unemployed sufficed to contain the situation.

The disturbances in Wellington were of a greater magnitude if shorter duration. On May 7, several hundred demonstrators were prevented by police from marching on Parliament or to the Town Hall. The following day, a Communist rally was held at the Basin Reserve. Two days later, relief workers went on strike. After a meeting at Trades Hall, a Committee of Action was set up to investigate ways and means and report the next day to a Basin Reserve meeting. Following the morning meeting at the Basin Reserve, the unemployed marched to Parliament. The gates were closed, the grounds patrolled by mounted and foot police, and all but one of the doors to Parliament Buildings was barred. Coates received a deputation. The crowd outside waited expectantly, one section was militant – ready to go "over the top". Late in the afternoon, the deputation returned with Coates' promise to reply to their demands the next day. For some this was the final straw. Part of the crowd surged into Lambton Quay, unprotected by the police whose forces were concentrated at Parliament, and went on the rampage, smashing windows, looting their contents, overturning carts and cars. Before the police recovered, headed off and dispersed the mob $2,000 worth of damage had been done and 169 windows broken. On May 4, further meetings were held at Trades Hall until the unemployed moved from there to a vacant section in Cuba Street. Fighting broke out between the police and the crowd; in a brief but violent battle the unemployed were routed.

165 Otago Witness, op. cit.
166 O.D.T., 12-24 May, 1932.
167 Otago Witness, 10 May, 1932.
168 Red Worker, 16 May, 1932.
169 O.D.T., 10 May, 1932.
171 O.D.T., 13 May, 1932; Otago Witness, ibid.
There were a number of lesser incidents. In Christchurch an unemployed leader received six weeks' imprisonment for advocating a hunger march to Forbes' farm at Cheviot.\footnote{172} In Wellington, a leader of the U.W.M. received three months' gaol for telling an audience: "There is only a quarter of an inch of plate glass between a hungry man and a full stomach. Necessity is the mother of invention. A hungry stomach has no conscience."\footnote{173} In Auckland there was another relief strike,\footnote{174} while nationally resistance grew to the camps scheme.\footnote{175} A Russian seaman was arrested with a bomb in the vicinity of Government House, Auckland; two others were found at his home.\footnote{176} While in Huntly seventy to eighty men entered the Farmers Trading Company store, asking for goods to the value of £50, to be charged to the local hospital board; when this was refused, they helped themselves.\footnote{177}

It was expected after the riot on May 10 the Government would declare a state of emergency, but this was not considered by an Executive Council meeting the next morning.\footnote{178} After the riots there was no shortage of advice to the Government to take strong action. Truth raged against "the sinister hand of Communism" and said it was high time "we took the kid gloves off to extremist agitators." "Those of foreign birth should be booted right out of the country without ceremony, while the native born apostles of violence should be given stiff terms of imprisonment."\footnote{179} The \textit{Evening Post} rebuked Forbes for ever having allowed the demonstration to take place,\footnote{180} and after the Cuba Street affray counselled "firm discipline and condign punishment" against those responsible.\footnote{190} The \textit{Press} exhorted the "sober" sections of the community

\begin{footnotes}
\item[172] \textit{Otago Witness}, 10 May, 1932.
\item[173] \textit{ibid.}
\item[174] \textit{ibid.}
\item[175] \textit{ibid.}
\item[176] \textit{ibid.}, 24 May, 1932.
\item[177] \textit{ibid.}
\item[178] \textit{Auckland Star}, 11 May, 1932.
\item[179] \textit{Truth}, 19 May, 1932.
\item[180] \textit{Evening Post}, 12 May, 1932.
\item[181] \textit{ibid.}, 13 May, 1932.
\end{footnotes}
to resist the "rogues ( who ) are being encouraged directly by fanatics and indirectly by fools." In its opinion, stiffer sentences were necessary and freedom of assembly had to be limited. The Herald supported the demand for the prohibition of public meetings and processions. The Dominion expounded a more comprehensive programme, including the formation of a police riot squad, the banning of meetings and demonstrations, and the formation of an adequate reserve of special constables but most of all it urged that the Government make the "fullest possible use" of the powers conferred on it by the Public Safety Conservation Act, especially in order to outlaw Communists. However, the Auckland Star rejected the demand for new powers: "What is needed is the more effective handling of the existing machinery for the maintenance of law and order, not the creation of new machinery." That essentially was the Government's view. It announced it did not intend to seek powers under the Public Safety Conservation Act. Forbes said the police and special constables were strong enough to cope with any situation that might arise. Nevertheless, "to prevent misunderstandings," Forbes emphasised that "we shall deal severely with any such illegal actions and that the maintenance of law and order in the community shall be our paramount consideration at all costs."

The continuance of unrest reveals that the Public Safety Conservation Act had little effect on inhibiting disorder. Yet after May, 1932, nothing recurred on a similar scale, whereas it might have been expected things would get worse as the depression lingered on. A number of reasons stand out. The riots had a cathartic effect; "To them it was the releasing of accumulated desire, a payment for the long weeks and months of monotony and

184 Dominion, 11 May, 1932.
185 Dominion, 12 May, 1932.
186 ibid., 11 May, 1932.
187 ibid., 12 May, 1932.
188 Auckland Star, 12 May, 1932.
189 Dominion, 13 May, 1932.
uneasiness and anxiety that could be satisfied like this in a few moments of freedom and destruction."190 Despite some politicians and most newspaper editors, the riots were a spontaneous conflagration and not part of a master plan of revolution. The riots however did cause many of the unemployed to become wary of their leaders, organisations and protests. Curbs on freedom of meeting and speech limited the likelihood of unrest. The police, reinforced by large battalions of specials, had shown themselves capable of suppressing any trouble which might occur. The transfer of unemployed men from the cities into rural relief work and labour camps thinned the ranks of the "revolutionary" armies. Finally people adjusted to the depression; violent anger was converted into tranquil resignation.

The Public Safety Conservation Act fits into a pattern of disregard for democratic means and heavy-handed tactics on the part of the Coalition. The Finance Act 1932 extended the life of the current parliament to four years. In the same Act, the Government nobbled the civil servants. It gave itself power to dismiss civil servants without notice.

"If guilty of conduct calculated to incite grave acts of injustice, violence, lawlessness or disorder, or that by public statements, or statements intended for publication in New Zealand or elsewhere, he has sought to bring the Government of New Zealand into dissipate, or that in any matter his conduct has been gravely inimical to the peace, order or good government of New Zealand."191

The most militant of the state service unions, the Post and Telegraph Employees Association, was stripped of its privileges. It lost the right to make representations to the Government or Department on behalf of its members. Its journal, Katipo, was banned from Post Office premises. The Department ceased to collect subscriptions for the Association. Leave on full pay for delegates to attend Association meetings was cancelled. Officials of the organization were forbidden to enter departmental buildings, and Association's notices were not to be displayed there. The Director-General formed a Post and Telegraph Guild, membership of which was compulsory for officers of class 6 and above.192 Academic freedom

190 J. Mulgan, Man Alone, p. 56.
192 Dominion, 18 May, 1932.
was stifled in the universities by ministerial fiat; student newspapers suppressed or censored; campus debates regulated; and the appointment of a temporary lecturer, J.C. Beaglehole, was not renewed after he had defied the "guidelines" for academic staff making public statements. The entry into New Zealand of members, adherents, supporters of the Third International was prohibited. The police established a section to observe political activities. Meetings and free speech were circumscribed. On the eve of the 1935 election, Friendly Road station was jammed on the orders of the Postmaster-General, Adam Hamilton.

In aggregate all these things contributed to the fall of the Coalition. Of them all, the extension of the life of Parliament and the jamming of 12B were undoubtedly the most decisive. The actions against universities and the public services created hostility within those sections of the community. Compared with these grievances, the Public Safety Conservation Act was a dead issue. Its repeal was not included in Labour's manifesto, though an election pamphlet by J.A. Lee, in which he depicted a Government "drunk with power and mad with the lust to impose cruelty upon cruelty" referred to the Public Safety Conservation Act:

"The Government took unto itself powers to declare a State of Emergency and completely suppress political liberty. The Bill also indemnified the Crown against any misdemeanour perpetrated by a special against an innocent elderly citizen."

But the Act remained, and Labour grasped its powers with a vengeance.

193 F.A. de la Mare, Academic Freedom in New Zealand, Auckland, 1935. George Fraser, Ungrateful People, pp. 55-4.
194 O.D.T., 18 April, 1932.
195 Fraser, op. cit., p. 57.
196 Noonan, op. cit., p. 64.
Chapter Two  THE WAR AND CENSORSHIP

On 1 September, 1939, Germany invaded Poland. On the receipt of advice from the United Kingdom, Cabinet held "amid an air of tension ... that was inescapable" a lunch-time meeting at which the heads of the armed forces and members of the Council of Defence were present. After Cabinet broke up, the acting Prime Minister, Peter Fraser, announced he would make a statement to the House later in the afternoon. When Fraser returned to the Chamber he informed "a grimly silent House" that the Governor-General had declared a state of emergency under the Public Safety Conservation Act. This, he explained, would provide the machinery for the Government to take, by Order in Council, all precautionary measures required. For the time being the Government sought only powers to impose censorship, call up service reserves, stabilise prices, ensure the safety of merchant vessels and use land for defence purposes. Other powers would be taken as needed.

The events of 1 September and the weeks that followed were the culmination of years of defence planning by the Committee of Imperial Defence (1933-5), the Organization for National Security, and the Council of Defence. Provisional plans did not mention the Public Safety Conservation Act or the making of emergency regulations. In September 1938, the Crown Law Office advised

199 Permanent Secretary Prime Minister Dept. to Army Secretary, 2 September, 1939, Army Dept. MO/8/10.
200 Evening Post, 2 September, 1939.
201 Evening Post, 1 September, 1939.
202 Dominion, 2 September, 1939.
203 The proclamation was on the grounds that the public safety was or was likely to be imperilled.
204 N.Z.P.D., vol. 256, p. 19, in addition coastal batteries and close defences were manned, military guards placed on key points, enemy vessels seized, secrecy imposed on the public service; surveillance began for hostile acts; Army H.Q. memo 25 September, 1939, Army Dept. MO/8/10, War declared 3 September, N.Z. Gazette, 1939, p. 2321.
205 ONS K/3; ONS K/8, Army Dept. MO/8/1.
that the Act would provide sufficient legal authority for the making of regulations on any matter arising out of a war.\textsuperscript{206} Its very broad powers allowed the Government to legislate on a wide range of topics at a moment's notice. It allowed the Government's emergency programme to be implemented in full, without delay while enabling legislation was passed by Parliament.\textsuperscript{207} Furthermore, to enact emergency legislation in peace-time would hold up other legislation for a war which might never occur\textsuperscript{208} and would expose Labour to hostile parliamentary and public criticism. Its very broad powers would stimulate charges of a socialist dictatorship. The Government preferred to await circumstantial justification for its actions. However, a proclamation of emergency required monthly renewal, and there was considerable doubt as to the real scope of the regulation-making provisions of the Act.\textsuperscript{209} Further legislation, an Emergency Regulations Act, would therefore be passed to validate and continue the regulations issued pursuant to the Public Safety Conservation Act, and grant authority for further regulation-making.\textsuperscript{210}

Another problem was the timing of a Proclamation of Emergency. There was a case for taking emergency powers earlier than at the declaration of war.\textsuperscript{211} In particular, it was only under the Public Safety Conservation Act that Territorials and Reserves could be mobilised without war being declared. Alternatively, the various Defence Acts would have to be amended. It was proposed that a

\textsuperscript{206} Secretary ONS to Secretary Labour Department, 24 September, 1938, Labour Dept. 7/8/22.

\textsuperscript{207} Transition from Peace to War, ONS 114 July, 1939, Army Department MO/8/1.

\textsuperscript{208} United Kingdom passed Emergency Powers (Defence) Bill on 24 August, 1939; C.I. Nowat, Britain Between the Wars, p. 646.

\textsuperscript{209} Chairman, Executive Committee, Organization for National Development, 1 December, 1944, Labour Dept. 7/8/25.

\textsuperscript{210} Secretary ONS to Secretary, Labour Dept. 24 September, 1939, Labour Dept. 7/8/22; also ONS 114.

\textsuperscript{211} N.Z. Government War Book, Governor 49/49, The procedure was recommended by U.K. Government, Secretary of State for Dominion Affairs to Governor-General, Secret Despatch C 53, 5 June, 1939, Governor 2/96.
proclamation of emergency be issued coincidentally with the
initiation of the precautionary stage,212 but planning proceeded
on the basis that the Act might not be used. The War Book, which	
tabulated action to be taken by Government Departments prior to,
and on the outbreak of war, divided procedures to be followed
during the precautionary stage into two categories, according
to whether a proclamation of emergency was issued or not.213
It was not until 5 August, 1939 that Fraser, at a meeting of the
Council of Defence, ruled that a proclamation of emergency would
be made on the institution of the precautionary stage.214

The regulations were prepared by committees of the C.I.D.
and later the O.N.S. These comprised representatives of the
Police, Armed Forces and Government Departments. The task of
each committee was to define the policy to be applied in event of
war, the machinery to administer it, and to draft legislation
giving it legal effect. This work was subject to the review of
Cabinet, the Council of Defence and the Crown's legal advisers.
Once regulations had been drawn up, they were entrusted to the
Department primarily responsible for their administration. The
Department had them printed, obtained the approval of the Minister
in charge of the department and forwarded them to the Prime Minister's
Department215 which was responsible for obtaining the declaration
of a state of emergency and the promulgation of the regulations
under it.216

Between 1 and 11 September thirty-four regulations were
issued. These covered a wide range of subjects, but broadly they
fit into three main categories: defence, economic and security.217

212 Minutes War Book Committee, 26 July, 1939, Army Dept.
MO/8/1. Precautionary stage was when relations with
enemy so strained that precautionary measures necessary
O.N.S. 114; O.N.S. Navs.
213 War Book, Governor 49/49.
214 Secretary, Council of Defence to Army Secretary, 8 August, 1939,
Army Dept. MO/5/8.
215 Secretary, O.N.S. to Officer in Charge, Industrial Division,
216 N.Z. Government War Book, Governor 49/49.
Within the ambit of the first category were the Defence Emergency Regulations and the Naval Mobilisation Emergency Regulations which permitted the Government to mobilise the nation's reserve forces. The Defence Emergency Regulations licensed the armed services to use land for defence purposes, subject to compensation. The Shipping Control Emergency Regulations authorised the Naval Board to require British shipping to observe defensive codes. The transfer and sale of ships, aircraft, and their equipment could not proceed without government approval. Powers were taken to seize enemy shipping while motor vehicles could be impressed for the use of the armed forces or for any other national purpose.

By far the most numerous of the regulations gazetted were those for the economic management of the country. A Ministry of Supply was established with powers to control the supply of goods. Subsidiary authorities were established over oil fuel, sugar, wheat and flour, foodstuffs, timber and medical supplies. Controllers were also set up over mining, building, factories and electricity. Controllers were

218 Shipping Transfer Emergency Regulation, Aviation E.R.
219 Shipping Detention Emergency Regulations.
220 Motor Vehicles Emergency Regulations.
221 Supply Control Emergency Regulations.
222 Oil Fuel Emergency Regulations.
223 Sugar Emergency Regulations.
224 Wheat and Flour Emergency Regulations.
225 Foodstuffs Emergency Regulations.
226 Timber Emergency Regulations.
227 Medical Supplies Emergency Regulations.
228 Mining Emergency Regulations.
229 Building Emergency Regulations.
230 Factory Emergency Regulations.
231 Electricity Emergency Regulations.
vested with wide powers to regulate production, distribution and use of goods, to fix conditions of sale, to buy, sell or deal in commodities, to seize supplies in New Zealand, to require traders to pool stocks and storage, to limit the number of traders, and to take all other necessary steps. Sometimes the traders could not act without the consent of the Controller. No medical supplies could be sold, delivered or otherwise disposed of without approval. Nobody could sell or lease any forest without the permission of the Timber Controller. Some Controllers merely regulated. The Factory Controller was directed to organize and promote factory production in the public interest, establish precedence and order of urgency, secure the supply of labour and materials. He could order the increase or reduction of the manufacture of any particular goods. He might also require the production of goods of a particular description and in a specific quantity. Other powers went further. The Oil Fuel Controller was given powers of absolute control over the import, sale, distribution and use of fuels, including the right to regulate, restrict or prohibit its use, as a cleaner, in public transport, private motor vehicles, boats and aircraft. He might withhold supplies altogether, limit the number of distributors, sell oil fuel at specific grades and without brand names. With extensive powers of examination, the controller could elicit information from consumers and traders.

In addition, no vessels trading with New Zealand could be withdrawn from that trade without the Government's agreement.\(^{232}\) The export of goods had to be licensed by the Minister of Customs.\(^{233}\) Hoarding was prohibited. Prices of goods and services were frozen at their level on 1 September, 1939, though the Minister of Industries and Commerce could grant exemptions.\(^{234}\)

On the level of economic warfare, trading with the enemy became illegal, and the Attorney-General could vest enemy property which had to be registered in the Public Trustee in his capacity as Custodian of Enemy Property. The Minister of Industries and Commerce could appoint the Public Trustee as Receiver of firms

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232 Shipping Transfer Emergency Regulations.
233 Export Prohibition Emergency Regulations.
234 Price Stabilisation Emergency Regulations.
and persons declared to be enemy traders. A list of contraband goods was gazetted.

Finally, a number of restraints were placed on civil liberties. Persons aged sixteen years or over could not leave New Zealand without the written permission of the Minister of Internal Affairs or the Under Secretary. All aliens were required to register with the police and to carry a certificate of registration. Police officers or servicemen could arrest any alien whom "he has reason to believe ... is guilty of conduct injurious to the public safety or the interests of His Majesty." No person was allowed to change his name without approval. Persons landing in New Zealand would not be admitted without a valid passport. The Government was empowered to seize and recall passports. Finally, the Government assumed very broad powers of censorship which will be examined at length here.

It would be interesting to know how many of the regulations issued under the authority of the Public Safety Conservation Act were validly made. The Governor-General could make regulations for the "conservation of public safety and order", "for securing the essentials of life to the community", and for purposes incidental to those objectives. Those Regulations which restricted civil liberties, mobilised the armed forces and assisted in the defence of New Zealand were adequately comprehended by the term "public safety and order". It is less easy to tell which of the economic regulations can be legitimately related to the Act. That depends very much on the construction given to the words, "essentials of life". On any construction, the regulations governing oil, sugar, wheat and flour, foodstuffs, electricity, mining, and medical supplies come clearly within the terms of the Act. It may, however, be a tortuous exaggeration of the powers of the Act to read it as

235 Enemy Trading Emergency Regulations.
236 Contraband Emergency Regulations.
237 Overseas Passenger Emergency Regulations.
238 Alien Control Emergency Regulations.
239 Change of Name Emergency Regulations.
240 Passport Emergency Regulations.
241 Censorship and Publicity Emergency Regulations.
envisaging regulations affecting timber, building, price stabilization, a general power of supply control and of supervision of factory production. Nevertheless in time of war all these powers were obviously desirable and probably essential. The courts, had the issue arisen, might have, as a matter of policy, resolved not to frustrate the onerous task undertaken by the Government. This would certainly have been in line with the decisions of English courts - much to their obvious embarrassment after the war. The issue, however, never came up. Parliament duly passed on 11 September the Emergency Regulations Act which validated and continued the regulations made. It, also, extended the penalties to twelve months' imprisonment or a £200 fine.

Looking at the regulations as a whole, it is important to note that this extensive corpus of legislation, promulgated by Order in Council, conferred extensive powers, established new offices, and necessitated the expenditure of public funds on an extensive scale. In normal times, such powers as the Oil Fuel Controller or the Factory Controller possessed would only be instituted by statute. This method of law-making allowed a period of public debate, consultation with interested parties, publicity of the contents of the legislation and a process of justification, defence and amendment. Instead such powers were rustled through by legislative sleight of hand while public attention was riveted on the epic events in Eastern Europe and was weighing the toils of peace or war. Nothing illustrates more poignantly the immense powers concentrated in that meagre, almost fleshless Act, lurking in the anonymity of the statute book. There is no question, however, that a substantial degree of internal discipline and state paternalism was required if New Zealand was to discharge its war obligations effectively and efficiently. Most of the powers were exercised but slightly and beneficially, but the hand of authority could still be misguided and clumsy in its handling of civil rights. In addition, many of these regulations, especially those of an economic nature were continued into peace-time, most were revoked in the late 1940's, but some remained in force until the late fifties.

There was a wide spectrum of reaction to the Proclamation of

242 See Blair, J. to Thompson, Auckland Milk Council (1942) N.Z.L.R.
Emergency and the assumption of emergency powers. The metropolitan press in a rare gesture of magnanimity to the Labour Government it despised and distrusted, commended the Government for the immense preparations it had made and congratulated it on having taken wise steps to meet the new situation. The measures that the Government had taken were essential and deserved the approval of the whole community. The Herald spoke for the rest when it said:

"No possible exception can be taken to the action of the Government in assuming emergency powers ... In peace-time Government by regulation is quite properly regarded with suspicion, but in a time of emergency, such as undoubtedly exists at the present, the Executive must have freedom to act, along generally approved lines of policy without being subjected to delays of parliamentary procedure. Resolute and determined action is essential under existing conditions and the absolute minimum of time should be spent in argument... The Government's duty is now to drive straight ahead with the execution of its emergency plans... (T)he Government is entitled to expect national respect for its decisions, while the people, as a whole, have a duty to respond by making every effort to carry on business as usual."

The Censorship and Publicity Emergency Regulations were accepted without comment, or were acknowledged to be a necessary adjunct to the effective prosecution of the war. The press offered its cooperation to the Government, though the Auckland Star admonished the Government to keep the public fully informed.


244 N.Z. Herald, 4 September, 1939.

245 Auckland Star, 7 September, 1939.
Hostile comment focused on the Price Stabilisation Emergency Regulations. The Manufacturers' Federation considered that the regulations would create enormous problems for its members because of the constantly rising prices of raw materials and wild oscillations of exchange rates. The Canterbury Chamber of Commerce preached the doctrine of Adam Smith. It affirmed:

"that the great progress in human affairs during the last two centuries would not have occurred if men had not been forced to experiment and speculate in production, to exchange labour and its products on terms of mutual agreement and to utilise to the full a self-correcting system of pricing, marketing and credit ... The economic system by which we live cannot be kept going by magistrates and policemen."

The annual Conference of the Associated Chambers of Commerce also protested against the Price Stabilisation Emergency Regulations.

Other interest groups responded more warmly to the Government's measures. The Sawmillers' Association pledged its members to cooperate with the Government. Auckland grocers rationed sugar without waiting for Government directives. Petrol retailers announced their intention to assist the Government as much as possible. The Federation of Labour endorsed the Government's decisions and undertook to collaborate with them to the fullest extent possible.

Others, while in general prepared to support New Zealand's war effort, feared that New Zealand would copy the totalitarian techniques it was pledged to fight against. The Leader of the Opposition, Adam Hamilton, noted: "By a strange paradox it is in times of grim defence of our cherished heritage of liberty,

247 Canterbury Chamber of Commerce Economic Bulletin No. 178 November, 1939. See also Special Bulletin No. 179 Nov. 1939.
248 Associated Chambers of Commerce Annual Conference 1939, p. 38.
250 Evening Post, 8 September, 1939.
251 Dominion, 5 September, 1939.
252 C.D.T., 5 September, 1939.
freedom and justice that we interfere most with the things we hold most dear. J.A. Lee called on Parliament to jealously guard the freedoms of New Zealanders as that when the war ended, "having destroyed the Hitlers we may not be a mere reflection of German Fascism here in New Zealand." In the Labour movement some unions expressed similar sentiments. The Union Record conceded that the defence of the country required some limiting of the rights of free speech, free assembly and free press, but added that these restrictions sprung up like "a group of poisonous fungi" on the outbreak of any war. The National Council of the Printers' Union declared: "We are mindful of the fact that in the fight against Nazism we must guard ourselves against a similar type of dictatorship being imposed on ourselves."

The Peoples Voice was vociferous in its defence of civil liberties. It denounced the Public Safety Conservation Act as dictatorial and recalled its origins "during the days of the (workers') struggle against Tory rule." It asked "Can we really fight Fascism and at the same time take away these elementary rights of freedom of speech and thought which are the staying power, the moral strength of democracy?" The fortnightly, Tomorrow, considered that the use of the Public Safety Conservation Act got the war "off on the wrong foot." "We are told that this war is 'different'. But it is already taking the same toll of democratic rights as the last war to save democracy." The student newspaper, Salient, stated: "To have a mere profession of democratic rights is not sufficient, it must be a reality." It was especially critical of the censorship

254 ibid., p. 101.
255 [Union Record, 20 October, 1939; Auckland Drivers, Carpenters and Shipwrights Unions.
256 Imprint, November, 1939.
257 People's Voice, 8 September, 1939.
258 ibid., 15 September, 1939.
259 Tomorrow, 13 September, 1939.
260 ibid., 24 January, 1940.
261 Salient, 20 September, 1939.
provisions, "To disallow criticism is to stifle criticism and this is the first step towards fascism." 262 In the Outlook, the journal of the Presbyterian Church, a correspondent condemned the totalitarian standard of state policy at home and abroad, urged Christians to support the principles of freedom of home, and asked the Outlook to maintain its "freedom of prophesying", regardless of regulations to the contrary. 263 The editor of the Outlook replied, however, that he would "render to Caesar the things that are Caesar's" by obeying the laws of the land, such restrictions being necessary for the welfare of the community. 264

The New Zealand Financial Times took a lone stance:

"Some of the greatest assets of the community are being sacrificed by repressive and oppressive legislation. Free speech was threatened, trade and commerce were placed in thrall, the freedom of men and women to guide their own lives and govern their own action was curtailed." 265

It called for a middle class awakening to cut loose the stranglehold of the socialist hydra.

To begin with it seemed that those who believed in fighting Fascism on the home front as well as in Europe would have strong allies in the Labour Government. Labour, after all, had thrived on democracy and the championship of human freedoms. It had been resolute in its opposition to the European dictators. It had suffered persecution where fundamental rights had been withdrawn. In September 1939, Fraser appeared to share the fears of many: "I can only say that the Government brings forward this legislation in a very humble spirit; there is not one trace of any desire on the part of the Government ... to be a dictator in matters affecting people's lives, their property and their liberty." 266 But only weeks later, the Labour organ, the Standard, asked "Can Democracy stand the Strain of War?" 267 It argued that lest democratic

262 Salient, vol. 3 No. 2 (1940).
263 Ibid., 27 September, 1939.
264 Ibid., 2 October, 1939.
267 Standard, 8 October, 1939.
freedom be the cause of New Zealand's downfall, it was necessary to uphold rigidly the rule of law. Labour had begun to sound the tocsin of patriotism. In February 1940, the Prime Minister, M.J. Savage, in a broadcast to the nation, railed against the "growth of crooks and ingrates ... of ideological freaks and ne'er do wells, having the urge to propagate error," and the Attorney-General, H.G.R. Mason, warned that the "Government and people of this country will not tolerate freedom being prevented to impede the course of freedom." In May Fraser, now Prime Minister in name as well as fact, threatened: "anyone who stands in the way will be swept aside."

These attitudes determined the administration of the Censorship and Publicity Emergency Regulations. These had been drawn up by the Censorship and Publicity Committee of the O.N.S. and were derived in part from British models, and in part from the system in force in New Zealand during the First World War. Originally it had been intended to initiate Post and Telegraph censorship under the Post and Telegraph Act 1928, and take further powers and add penal sanctions once the Emergency Regulations Act was passed. The use of the Public Safety Conservation Act enabled the Government to impose a comprehensive system of censorship at once, and prior to the outbreak of hostilities.

The objectives of post and telegraph censorship were to prevent military information reaching the enemy which might prejudice allied operations or endanger the defence of New Zealand, to stop dissension in New Zealand, to maintain civil and military morale, to sustain good relations between New Zealand and friendly countries, and to collect information of military, economic, and political significance.

268 Tomorrow, 21 February, 1940.
269 ibid., 7 February, 1940.
270 Wood, People at War, p. 137.
271 O.N.S. 89 Censorship and Publicity O.N.S. Papers.
There was something to be said, however, for the appointment of a man experienced in Post Office procedures to such a position. Under the regulations, the Controller of Censorship and the post and telegraph censors appointed by him could open, detain or delay any postal packet and examine, detain, delay any telegraphic message. The Controller could also close or take possession of any telegraph station. Telegrams had to be written in uncoded English or French. It was illegal to communicate with any person in enemy territory. If the Controller had reasonable grounds to suspect that any person was engaged in correspondence injurious to the public safety or conduct of the war, he could direct, by notice in the Gazette that no postal packets or telegrams could be forwarded to such a person.\textsuperscript{272} It became unlawful to conduct correspondence otherwise than by normal postal channels. Police and Customs officers were empowered to search the baggage and persons of people embarking from or landing at a New Zealand port or aerodrome, and seize any letters discovered. Police and Custom's officials could arrest without a warrant any person whom they suspected on reasonable and probable grounds of dispatching a written communication by means other than post.

It was incumbent on the defendant to prove he had complied with the regulations. It was also an offence to in any way obstruct the censorship. It was unlawful to communicate any military or shipping information, or

"any other matter whatsoever, information as to which would or might be directly or indirectly useful to any state with which His Majesty is at war."

Post and Telegraph censorship was established by Part II of the Censorship and Publicity Emergency Regulations. Its administration was in the hands of the Controller of Censorship, subject to the review of the Censorship and Publicity Board. The Committee recommended that the Controller be a man of "naval, military or air experience", either an officer with administrative training, or a civil servant with war or Territorial background.\textsuperscript{273}

\textsuperscript{272} No such notices were issued.

\textsuperscript{273} This board never functioned.
A former director-general of the Post and Telegraph Department, George McNamara, was appointed controller of Censorship and held that post for the duration of the war. McNamara appears to have had some military experience. The appointment created a minor furor, as McNamara had been Director-General during the 1930s when the Post and Telegraph Employees Association was undermined and Scimgeour's radio broadcast jammed.

Censorship of postal and telegraph communication was largely performed by permanent officials of the Post and Telegraph Department under the supervision of the Controller of Censorship. Though as the need for censors grew, and the military effort reduced the personnel of the department, retired officials and professional men were employed. At its peak the censorship was administered by up to 250 censors, distributed among the postal centres, according to need.

The censoring of overseas telegraphic communication was carried out by a team of sixteen full-time censors under the command of the Chief Telegraph Censor. These officials were based at Auckland, the New Zealand cable terminal, and Wellington where there was a high-speed radio channel link with the United States. Censorship of telegraphic messages was done part-time by staff in Christchurch, Dunedin and the coastal radio stations. In addition, the Controller of Censorship maintained a small secretariat and employed a group of translators.

As the Controller was authorised to open, delay or detail any postal packet, this entitled him to open inland mail as well as

275 W.G. Cooper, Postal & Telegraph Censorship in New Zealand, 1944 — a report for U.K. Government, appended to War Narrative. Cooper was secretary to the Controller of Censorship. This report was compiled for the U.K. Government for historical or honorific purposes in late 1944.
277 Cooper, op. cit., p. 2.; 220 persons engaged in P. & T. Dept. August, 1944, Director-General Post & Telegraph Dept. to Assistant Secretary, War Cabinet, 30 August, 1944; Navy Dept. 17/11.
278 Cooper, p. 5.
overseas correspondence. In practice, this was done rarely. There was a groundswell of feeling in the community that such interference was improper and unjustifiable. It was also beyond the resources of the Post and Telegraph Department to mount full censorship of overseas mails, let alone implement complete internal censorship. It was also believed that such censorship would be useless. Nevertheless, rumours circulated to the effect that mails were being opened and read, if not censored. It was admitted by the Government that some internal censorship operated. Occasionally it was temporarily imposed for security reasons over a limited area. Inland mails from the Whangaroa Peninsula in North Auckland were censored, while defence experiments were being conducted there. Censorship was placed on inland communications, both postal and telegraphic, from post offices in the vicinity of military camps during 1942 to keep their location secret. News about troop movements were also to be suppressed. The censorship was supposed to be warned in advance of troop movements by the Security Intelligence Bureau and take precautions to prevent the diffusion of this information through internal as well as external channels of communication, but often the Security Intelligence Bureau was not informed of impending troop movements, or failed to convey the information to the Controller of Censorship. References in overseas work, especially telegrams, were immediately suppressed, but the internal services were not covered. All mail addressed to suspected persons, whether it originated from within or outside New Zealand, was examined. The list of suspected persons consisted largely of aliens and persons of alien birth. There was also a number of British subjects whose mail was scrutinised.

279 O.N.S. 89.
282 Report of Wellington Censorship Liaison Officer, 7 September, 1943, Navy Dept. 17/11/1 and 5 April, 1943, Navy Dept. 17/11/1. In 1941 the Navy appointed Censorship Liaison Officers to the censorship in Auckland and Wellington; these filed weekly and later monthly reports; hereafter the reports of the Censorship Liaison Office in Wellington will be referred to as: "Wgtn C.L.O." and in Auckland: "Auck. C.L.O."
by censors: pacifists, communists, Jehovah's Witnesses and others suspected of causing disaffection, including the Social Credit campaigner, John Hogan. The information gathered by these means was primarily of a political nature and was made available to the police. Information concerning aliens, extracted from their correspondence, was used against them in the hearings of the Aliens Authority. Censors and police had the advantage of reading mails posted before war broke out but not yet forwarded, which revealed the true sympathies of many aliens and defined the potential fifth column. Records were kept of 8,000 persons. So far as this work was related to the security of the country it was justified. More sinister was the covert surveillance of political dissidents. Pacifism may have seemed treacherous, Communists for a time a potential fifth column, the Jehovah's Witnesses a Satanic fringe, the Social Creditors financial wreckers, but it is unlikely the war effort was advanced or the security of the nation enhanced by reading their correspondence. How the information gathered in this way was used is unclear. It is unlikely that the police would present evidence gleaned from correspondence in court, especially if that source of information was useful to them. It may, however, have led them to other evidence of offences, which could be used with impunity. At any rate, communists and pacifists suspected their mail was being watched and were no doubt cautious. Presumably the data compiled from these researches only satisfied the bureaucratic yearn for knowledge and assured the authorities such groups were small and impotent.

Despite the blanket powers nominally wielded by the Controller of Censorship, the exercise of these powers was in fact severely circumscribed by the restraints of staffing and storage, and by the belief that the mails should be kept moving unless the results

284 War Narrative p. 5; Minutes of ad hoc committee on censorship, 15 July, 1941, Navy Dept. 17/11/2.
286 War Narrative, p. 6.
287 see People's Voice, 1939-40, passim.
288 Wood, People at War, p. 155.
to be gained by censorship outweighed the disadvantages of censorship. All mail to servicemen overseas was censored. Outward letters from prisoners of war were also censored as a matter of routine. All airmail was supposed to be submitted to complete censorship. In fact, the censorship was inundated by 40,000 airmail letters a week. An attempt was made to censor all those addressed to servicemen. This too was done imperfectly. Parcels and freight carried by air were dangerous on two counts. They could be instruments of sabotage, or they could contain censorable material such as letters, books, papers, maps and sketches. Air-freight was examined by Customs officers, and by Post and Telegraph officials, if posted, as well as by the airlines themselves. Union Airways staff also inspected freight and parcels transported by their planes. Passengers' baggage and persons were also liable to inspection by Custom's officers. Parcels handled by the Post and Telegraph Department were subject to token examination only, with very occasional checks of the contents of suspect parcels. Inward freight directed to persons on the suspect list was sent to the Controller of Censorship for examination.

Only a small proportion of surface mail was opened. Most of this was first class sea mail. In January, 1942, the War Cabinet directed that mail conveyed by sea must be delayed at least two weeks. It was expected that the delay would render less dangerous "hot" information of immediate value to an enemy, such as the date of a ship's departure from a New Zealand port. It would not deprive the enemy of the benefit of information of permanent value, such as the erection and siting of defence fortifications.

289 War Narrative.
290 War Narrative.
291 Naval Memo n.d. (Jan./Feb. 1944?) Navy Dept.
292 Navy Office Minutes, 1 Feb. 1944, Navy Dept. 17/11/2.
293 Minutes Ad Hoc Committee on Freight, 15 Jul. 1941 Navy Dept. 17/11/2.
296 See 294 above.
297 Navy Office Minutes, Sept. 1944, Navy Dept. 17/11.
The scope of the censorship was also limited to certain countries. All correspondence with enemy countries was terminated on the commencement of hostilities and was returned to senders. Mail to British and Allied countries was censored. Only selected neutral countries had their mails examined. These were principally countries contiguous to Germany, Italy and Japan or others such as the South American states, which were considered unreliable. Censorship on European mail was complete from early 1940. From late 1941 mails to the Far East and the United States were censored. During 1942, censorship was imposed on all mails to the Pacific Islands and Australia.298

In all about a third of all mail leaving New Zealand was thought to pass through the hands of the censor.299

Occasionally special restrictions were imposed. An example of this was when all overseas mails were detained for two weeks at the request of the Australian censorship authorities to protect the convoy bringing the Australian contingent back from the Middle East.

Inwards mail was directed through the censorship for two reasons. Firstly it was hoped to intercept propaganda and other material detrimental to New Zealand's part in the war. Propaganda originating from Communist, pacifist and Jehovah Witness sources was regulated by the Censorship.300 For a time Esperanto publications came under suspicion because of their internationalist flavour.301 Secondly, a survey of correspondence from enemy territory could reveal information of value to the Allies. Letters from enemy territory, usually addressed to aliens resident in New Zealand, provided little information of assistance to the Allied war effort. A letter from a German to his son interned at Pahiatua, revealed that a new naval construction was taking

298 War Narrative, pp. 4-5.
299 Wgtn. C.L.O., 5 April, 1943, Navy Dept. 17/11/1.
300 War Narrative, p. 2, 13; such propaganda was detained and destroyed, or if innocuous released; i.e. general anti-war literature passed, but not anti-current war.
301 ibid.
place near Kiel.  Other information disclosed the location of a defence works in Norway and a large new factory in Austria. Little else of value was obtained by these means.

Telegrams were also subjected to censorship. Inwards telegrams were made as indefinite as possible, even though the damage had probably already been done. All overseas cables were examined. The greatest difficulty arose in respect of telegrams dealing with shipping and trade matters. The Navy transmitted messages in code for shipping companies. From August 1941 these restrictions were extended to American shipping as well as British and Allied vessels. All outgoing and inward press cables were liable to examination by the Director of Publicity. Cables lodged by passengers and crews of ships were held for a couple of days, then sent undated and without the office of origin.

The primary objective of post and telegraph censorship was to prevent the passage of military information to the enemy. This necessitated the stopping of the following kinds of information: troop movements in or out of New Zealand; the number, disposition, location, strength and equipment of the armed forces; the movements of ships and convoys, including the ports and dates of departure and arrival, the routes followed, equipment and defences on board, escorts and their positioning, cargoes and troops carried; the location of military bases, camps, aerodromes, ammunition dumps, munition works, communication posts, oil installations, radio stations, and from 1944 the closing down of any of these; the movements of aircraft and flying boats; the equipment, capacity and armament of military aircraft, vehicles and vessels; the arrival of American military personnel in New Zealand and reports of operations.

302 Controller of Censorship to Naval Secretary, 14 March, 1944, Navy Dept. 17/11.
303 War Narrative, p. 12.
305 See Navy Dept. 17/11/4.
306 Acting P.M. to Secretary of State for Dominion Affairs, 28 August, 1941, Navy Dept. 17/11/4.
307 See infra pp. 86-7.
Potential propaganda was stifled by the deletion of such dangerous comment as "slanderous" references to Americans, news of disturbances between New Zealand soldiers and American servicemen, false reports of a sinister nature, rumours of crew unrest on the H.M.S. Leander, news of plane crashes, unduly alarmist and pessimistic letters.309

It was widely suspected that this latter form of censorship involved the excision of political comment hostile to the Labour Government. This was contended by the National Party, though without a great deal of conviction. In 1944 a parliamentary committee was set up to examine allegations of politically motivated postal censorship. It found that while most of the complaints were either not conclusive, or that censorship had been made on other grounds, or by other authorities, in some cases the censors had exceeded their duties.310 The Opposition argued that the Committee had made an unsatisfactory investigation of the issues raised. It alluded to evidence, such as letters from "the boys" overseas advising their parents not to make political comment in their letters as this was going out, which had not been produced before the committee.311 It also charged that if political censorship was occurring, it would not be found in written directions.312 Among the allegations was a statement by Frank Langstone, M.P. for Waimarino that a letter to his son, a prisoner of war in Greece, concerning his return from Canada, had been returned by the censorship with the instruction that political references be omitted.313 Another concerned a letter from a Wellington man to his son in the Middle East. The writer could not recall the deleted words but the sentences preceding and following were patently anti-Labour, implying that the soldiers' vote for Labour had been obtained by electoral malpractice and

309 Material excised taken from reports of Auckland and Wellington C.O.0s in Navy Dept. files headed 17/11/1.
312 ibid., p. 52.
313 ibid., p. 59, F.W. Didge; Langstone had resigned from Cabinet on his return.
that servicemen had been gullible by "Fraser-Jones-Skinner propaganda." 314 Two cases of unjustified political censorship were established. 315 The Controller of Censorship had directed that nothing was to be passed which was contrary to the national interest; party interests were not to be equated with national interests; phrases such as "corrupt Government" and "trickery Government" were damaging to the national interest and ought to be excised. On the other hand, the Controller urged that every person has the right to air his opinion on political matters and this right should not be unduly fettered. 316 Fraser defended the right of the censorship to safeguard the national reputation but considered the reputation of the Government entirely separate. He added, however, that individual censors were often far too strict. 317 In practice, it was difficult not to link the interests of the Government to those of the country, while censors naturally tended to err on the side of caution. The author of the War Narrative reports that statements to the effect that the Government had infuriated the people to the brink of revolution were deleted, as were sweeping condemnations of New Zealand life, such as the claim that New Zealand doctors were the sons of wealthy sheep farmers who bribed their way to their qualifications. Assertions that the Labour Government had a secret understanding with the enemy, or that its war effort was weakened by Nazi, Communist or pacifist sympathies, were also cut. 318

Most of the problems which arose with respect to censorship were associated with the military aspect of censorship. The war unleashed a whole range of unusual activities which correspondents could not resist the temptation to write about—the embarkation of troops for the Middle East, the crash of a Flying Fortress nearby, the heroic exploits of the Archilles, a new defence post nearby, a new aerodrome, or an army

314 ibid., p. 69, Combs.
316 A.J.H.R. op. cit., Controller of Censorship to Chief Postal Censor, 8 February, 1940.
318 War Narrative, pp. 19-20.
Seamen and passengers posted letters and despatched telegrams full of the detail of their voyages. The arrival of American troops in New Zealand created immense difficulties. The United States government wished to conceal the news that New Zealand was being used as an American base, and this ban applied to New Zealand mails. Army censorship prevented U.S. servicemen from revealing their stationing in New Zealand, but they sought New Zealanders to act as intermediaries, posting or writing letters on their behalf. In June 1942, 252 intermediary letters were detected. In April 1943, the Auckland authorities were receiving an average of eighty a day. The ban on disclosing the American presence in New Zealand continued long after New Zealand ministers, American officials and overseas newspapers and periodicals had revealed that American troops were based in New Zealand. McNamara lobbied the American authorities persistently to have the ban withdrawn. The restriction, however, was retained till the end of November 1942, though from September the censorship decided simply to hold mail mentioning the American presence until the prohibition was lifted, subject to the requirements of military and propaganda censorship.

Excisions in letters were made by scissors. If the letter was written on both sides of the page, this was done by scraping with a knife. If the deletions could not be made, or if the letter was addressed to a country with which postal communications had ceased, or if the deletions could not be made without destroying the letter, then it was returned to the sender with a note outlining the reasons. It was preferred to return letters where there had been a breach of the regulations as this served a useful educational

319 ibid., p. 12. 60% of letters intercepted after departure of First Echelon discussed its embarkation.
321 Auck. C.L.O., 1 May, 1943, ibid.
322 Wgtn. C.L.O., 3 September, 1942; Naval Office Minutes 4 September, 1942; ibid.
323 ibid.
325 Wgtn. C.L.O., 10 October, 1942, 17/11/1.
purpose. Where this was not possible - where for instance the sender's address was unknown - letters were amended and forwarded. Where serious breaches occurred, the matter was referred to the Police, who interviewed the offenders. In January 1942 the War Cabinet decided that prosecutions should be instituted for breaches of the regulations. In the same month, the Security Intelligence Bureau interviewed 103 offenders, but only one or two cases were referred to the Police for prosecution. It was McNamara's intention to secure as many prosecutions as possible - though this resolve coincided with a drop in the number of offences. Up to September 1944 there were 148 prosecutions with penalties ranging from 10/- to £40. The highest penalty was imposed on a man who concealed a letter to the United States in the Christmas issue of the New Zealand Free Lance. He gave detailed reports of ships, operations, tactics, losses; the text of the letter made it apparent that he was deliberately evading the law. Servicemen who were discovered to have seriously broken the regulations were reported to the Army, Navy or Air Departments for appropriate action.

In the early years of the war, breaches of the regulations were numerous. The Royal Commission on Shipping Losses reported in March 1941 that large sections of the community had frustrated the operation of the censorship. In evidence to the Commission, McNamara said in one week 118 cables revealed the location of troops, naval and air force units. Three radio messages from Wellington Radio revealed ship routes, and 10

326 Auck. C.L.O., 3 December, 1941, Navy Dept. 17/11/1.
327 Wgtn. C.L.O., 3 February, 1942, ibid.
328 ibid.
329 ibid.
330 Wgtn. C.L.O., 5 March, 1942. ibid.
331 Cooper, op. cit., p. 4.
332 Controller of Censorship to Naval Secretary, 8 July, 1943, Navy Dept. 17/11.
333 117 prosecutions were brought up to June, 1943, Wgtn. C.L.O., 1 June, 1943, ibid.
334 Royal Commission on Shipping Losses, Paul Mss, 425.
press cables disclosed troop movements. "He says that kind of thing is going on all the time." The Commission had been constituted after shipping losses off New Zealand coasts as a result of enemy action and claims by survivors that the German raiders have an advance of movements in and out of New Zealand ports. In only one case did the Commission find a probable link between indiscreet communications and the sinking of a ship. This was in the case of the Holmwood, sunk between the Chatham Islands and Lyttleton following a plain language radio message between New Zealand and the Chathams, the dispatch of a "Has Arrived" cable in the shipowners private code, and a Morse conservation on the wireless operator's furniture. In the other incidents, alternative explanations seemed more probable but the Commission did not entirely discount the possibility that intercepted mails could have directed the enemy to some vessels.

In January 1942 a total of 103 postal breaches were reported in Wellington; in the same period 44 telegrams were suppressed, 105 altered and 575 delayed. In subsequent months the number of postal breaches declined dramatically to single figure totals. The number of telegrams which required censorship, however, remained constantly high - though the month to month totals varied considerably.

This drop in offences was attributed to the results of public education, to a judicious stream of prosecutions and to visits by the police (S.I.B.) to follow up offences. In early 1943 the Auckland Censorship Liaison officer could say, "even doubtful topics are being discussed in an extremely guarded manner, and the Wellington officer believed the public was

335 People also failed to respond to pleas from Fraser down to write legibly and briefly, post early, and include their names and addresses, Navy Dept. 8/8.
336 "Telegraph" included in the censorship context, wireless, radio telephone and Morse messages.
338 see Wgtn. C.L.O. and Auck. C.L.O. 1942-5 ibid.
339 Naval Office Minutes, 3 August, 1942, ibid.
"fully alive to its responsibilities", the breaches being so trivial that they required only censorship action.\textsuperscript{341} This was qualified by the equal conviction that in any period free of prosecutions the number of offences showed an immediate tendency to rise, and the dismissal by magistrates of charges as trivial was regretted.\textsuperscript{342} The regulations were designed to curb the careless and quieten the garrulous. In the later years of the war this objection was achieved. The number of prosecutions was but a fraction of the total that might have been brought; while the number of prosecutions, coupled with the very real chance of being detected, acted as a deterrent to would-be offenders.

The Censorship was interested in other enclosures in correspondence besides the text of letters. The transfer of securities and money from New Zealand was checked with the Reserve Bank to ensure that the Bank's consent had been obtained and to verify that the transfer was for the purposes the Bank had agreed to. Information of currency and securities held abroad by New Zealand residents and companies as well as inwards transfers were also reported to the Bank.\textsuperscript{343} Postal packets containing goods or commodities were detained unless a Custom Department or ministerial permit had been obtained.\textsuperscript{344} Maps, photos and plans were forwarded only if innocuous.\textsuperscript{345} The export of postage stamps was generally permitted only if the Custom's Department's approval was given. The despatch of official seals and stamps to any of the censorable countries was not permitted. The postage of newspapers, books, documents and official publications was restricted, preferably to those cases where the sender was the printer, publisher or a newsagent and the bona fides of the addressee were established. In this aspect of his work the

\textsuperscript{341} Wgrt. C.L.O., 12 February, 1943, \textit{ibid.} see also Navy Office Memo to Minister of Defence, 3 August, 1943, Navy Dept. 17/11.

\textsuperscript{342} Auckland C.L.O., 1 September, 1943, Navy Dept. 17/11/1.

\textsuperscript{343} Memo, Assistant Secretary War Cabinet to Prime Minister, 8 February, 1944, Navy Dept.

\textsuperscript{344} \textit{ibid.}, Controller of Censorship to Naval Secretary, 5 July, 1944.

\textsuperscript{345} Memo for Prime Minister, \textit{op. cit.}
Controller of Censorship collaborated with the Director of Publicity. Records were examined for concealed messages and codes. Braille texts were referred to a Braille reader. Horoscopes were expertly examined. Music and games played through, shorthand and codes were returned, even if innocuous and decipherable. Pen friend letters were suppressed whether or not they breached the regulations. Over fifty mail bags were destroyed at the end of the war as a result.

During 1943 as the tide of war began to ebb, discussions opened in departmental circles on relaxing the stringency of censorship policies. In October, the fourteen day delay on surface mails was debated. It was decided, however, to maintain it for the time being, despite the obvious decline in danger and in breaches of the regulations, because New Zealand was being used as a military base in the Pacific War. The duration of censorship was also received, but it was resolved to continue the censorship until the cessation of hostilities in Europe and against Japan. The principal reasons for this decision were that in neutral and occupied countries there were Japanese diplomatic and consular staff or spy rings and persons ill-disposed to the Allied cause, that Japanese submarines were still active in the Pacific, and that a relaxation in censorship might indicate the war had reached a stage where less effort in other spheres might be permitted.

In September 1944 a conference of departmental representatives received the censorship in light of the new war situation. It

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346 Memo for Prime Minister, op. cit.
347 War Narrative, p. 21.
348 Wgtn. C.L.O., 1 June, 1942, Navy Dept. 17/11/1.
349 War Narrative, p. 11A. The Controller had no power to destroy mail. 'Harmful' propaganda was also destroyed.
350 Navy Office Minutes, 21 October, 1943, Navy Dept. 17/11.
351 Assistant Secretary War Cabinet to Navy Secretary, 22 November, 1943, Navy Dept. 17/11, Navy Secretary to Assistant Secretary War Cabinet, 3 December, 1943, ibid.
352 Chief of Air Staff to Assistant Secretary Cabinet, 7 December, 1943, ibid.
353 Minutes of Inter-Departmental Committee, 7 September, 1944, ibid.
noted that enemy naval activity had been substantially reduced and was on the verge of being totally defeated, that operations in Europe had been successfully launched and were progressing satisfactorily and that the prospect of air mail being interrupted was so remote it could be disregarded. As a result surface and air mail was subject to only token examination although full censorship was maintained on mails addressed to certain neutral countries.\(^{354}\) Parcels would still be examined. Packages and freight carried on international flights would still be inspected, but this requirement was lifted from internal flights. Special restrictions might, however, be imposed from time to time to safeguard particular military operations and ship movements.

On September 3, 1945, Air Vice Marshall Leonard Isitt represented New Zealand at the signing of Japan's terms of surrender in Tokyo Bay.\(^{355}\) On September 3 the censorship of overseas telegrams ceased and the directing of mails through the censorship authorities ended on September 6.\(^{356}\) The censorship regulations were revoked the same day.\(^{357}\) The Controller of Censorship's office closed on 28 September.\(^{358}\)

The operation of post and telegraph censorship excited a degree of public indignation, comments being passed on unwarranted delays of mails, unnecessary deletions, and indefensible political interference. The administrators of the system were equally critical of public behaviour. There is no doubt that the system of postal and telegraph censorship was essential. On the whole, the New Zealand Censorship followed fairly acceptable principles. Most mail was not opened; in general examination was confined to overseas correspondence; the bulk of deletions were made for

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\(^{354}\) e.g. Switzerland, Spain, Sweden, Iran, South and Central American States.

\(^{355}\) Wood, \emph{op. cit.}, p. 5.


\(^{357}\) S.R., 1945/127.

\(^{358}\) Cooper, \emph{op. cit.}, p. 9.
military reasons; the number of prosecutions was small and prosecution was only a final resort in any particular case; the penalties were slight, and prosecutions were only begun after other methods had failed. Towards the end of the war, a system of review was operating from within. Nevertheless, some aspects of the censorship might legitimately be questioned: spying on political dissidents; the detection of propaganda belonging to dissidents; the use of censorship to disclose offences to the police, Reserve Bank, Customs Department and aliens' tribunals - all raise interesting questions as to the methods of censorship authorities in a democratic society. Inevitably any censorship must be tainted with sinister connotations; this New Zealand war censorship was no exception and its reputation was not undeserved.

Press censorship was in the hands of a Director of Publicity: his control also extended to books, periodicals, films and plays. Regulation 13 prohibiting the publication of information of military value and of material likely to affect the war effort applied as much to the press as to letter writers, if it were published without the consent of the Director of Publicity. It was also an offence to publish "subversive statements" that were likely to cause disaffection, interfere with the success of the armed forces, prejudice recruiting, disrupt civil or military morale, cause undue alarm, incite opposition to the administration of justice, or interfere with the supply of goods or provision of services related to the war. The Director of Publicity had power to issue notices to newspapers prohibiting the publication of any information or require that articles be submitted for approval prior to publication. It was an offence to defy any such prohibition or indicate that the censor had refused permission for publication. In any prosecution the accused had to prove he had complied with the regulations. In addition to any other penalty court could order the confiscation of any letter-press, documents or graphic representation. Any publication issued less than once a month, was obliged to submit to the Director any copy relating to the war.

359 Reg. 14 Censorship & Publicity Emergency Regulations; as modified by Public Safety Emergency Regulations S.R. 1940/26.
The Censorship and Publicity committee had recommended that the Director of Publicity be "a man of outstanding ability with a thorough knowledge of newspaper procedure and fully appreciate the potentialities of broadcasting. He should also be in the complete confidence of the Government." The man appointed was J.T. Paul, a former editor of the Otago Witness (1924-32), then on the staff of the Otago Daily Times. As Paul had a long association with the Labour Party, he undoubtedly enjoyed the confidence of the Labour Cabinet, but his appointment engendered suspicion of politically-inspired censorship. To some extent, his appointment was balanced by that of J.H. Hall, a former editor of the Dominion, as his deputy. Hall, however, soon became a war correspondent. Paul defined his position:

"My responsibility is to assist in the promotion of the war effort and to preserve the morale of the people in relation to the war, and generally to prevent the publication of any matter calculated to help the enemy, or create any impression in his mind that we are not either sincere or united in our effort."

This objective was implemented in one of several ways. To a large extent editors were required to act as their own censors, blue-pencilling material in breach of the regulations. However, editors could only protect themselves entirely against contravening the regulations by submitting articles to the Director of Publicity for examination. These directives were embodied in 122 telegrams and 93 memos issued during the war period. Those articles submitted - the Auckland Star paid £20 a week in postal and telegraph charges for the privileges - were referred by

361 Paul had been a founder, president and candidate of the N.Z.L.P. see A.H. McLintock ed. An Encyclopaedia of New Zealand, p. 758; Paul also had some experience in broadcasting.
362 Dominion, 2 September, 1939.
363 Replaced by J.W.T. Polland of South Island Promotion Board.
364 D. of P. to editor, Greg River Argus, 27 January, 1941, Paul MSS 428.
365 D. of P. to editors, 23 June, 1941, Paul MSS 471.
366 Reg. 13 (2) (b).
367 H. Witheford, Press Censorship War Narrative Chapter 1, p. 4.
Paul to the Department concerned:

"In factual matters for press publication I am necessarily guided by the Navy, Army and Air Departments and in matters of national policy regarding the conduct of the war, the Government and the War Cabinet must necessarily be the deciding voice." 369

If the article was held to be contrary to the war effort, it would not be approved for publication. Alternatively amendments would be made to the copy of the article. The Army Department corrected spelling, improved grammar, streamlined sentences and repaired factual inaccuracies. 370 Sometimes the Department substituted its own story. A Press Association cable on the loss of the Niagara off Auckland was replaced by a Navy draft. 371

Publications were also sent to the Controller of Censorship for translation; this was the case, for example, when German verse appeared in *Helvetia*, the journal of the Swiss Benevolent Society of New Zealand. 372 Matters affecting the economy were referred to the minister of Finance. 373 Other matters were decided in consultation with the Prime Minister, in whose Department at Parliament Buildings, the Directors of Publicity was installed. Paul's diaries, incomplete as they are, reveal him in constant, usually daily, contact with the Prime Minister, Peter Fraser, on censorship matters. 374 It was after consultation with the Acting Prime Minister, D.G. Sullivan, that Paul prohibited the publication of S.C. Holland's statement on the War Accounts Committee; Holland was at the time deputy chairman of the War Cabinet. 375 This process of consultation was capable of abuse. On one occasion Paul complained that after he had forwarded an

369 D. of P. to editors, 23 June, 1941, Paul Ms 471.
370 Army Dept. files 288/2/4 series.
371 Paul Ms 432.
372 D. of P. to Controller of Censorship, 6 August, 1940, Paul Ms 158.
373 D. of P. to Minister of Finance, 7 March, 1941, Paul Ms 417.
374 Paul Ms 683.
article for perusal, it had been placed in the hands of a branch of intelligence, which had begun inquiries into the source of the information contained in the article. Paul regarded this as a breach of trust with the press and refused to act as an intermediary, as a party to prosecution. It would seem, however, that the Director of Publicity and his staff did not infallibly relay articles for departmental vetting and this caused "many technical blunders." Articles were also submitted by the Controller of Censorship who turned over publications, manuscripts, and other such material intercepted in the post, while the telegraph censors channelled inwards and outwards overseas press cables through the Director of Publicity.

In addition to injunctions by cable and letter, the Director of Publicity also issued to editors defence notices which defined what military data might be published and what must be withheld. In some cases, the Director advised editors on their treatment of news. For instance, he suggested that editors eliminate detailed descriptions of ill-treatment of prisoners of war so as not to cause unnecessary suffering and anxiety to next-of-kin. As Rommel bore down on Egypt, the War Cabinet, through the Director of Publicity, asked the press to "avoid overemphasis of the Middle East in headlines."

Contacts were also made in other informed ways - by phone and by interview. In January 1941, Paul phoned the editors of the Auckland Star and New Zealand Herald to caution them on the treatment of the stories of ship-wrecked survivors who were being landed at Auckland.

376 D. of P. to Navy Secretary, 9 January, 1942, Navy Dept. 17/11/2.
378 Paul Mss 418 and 630.
379 Paul Mss 630.
380 Paul Mss 423. These did not apply to official Govt. releases, material approved by D. of P., Parliamentary debates or papers, or information published overseas.
381 D. of P. to editors, 16 April, 1943, Paul Mss 413.
382 D. of P. to editors, 30 June, 1942, telegram War Narrative p. 5.
383 13 January, 1941, Diary, Paul Mss 683.
Perhaps the most controversial procedure followed by the Director of Publicity was his practice of delaying the publication of certain news items until the minister or official implicated could reply to it, rebutting the accusations made, offering an explanation or admitting the accuracy of the report. This procedure was illustrated most dramatically in the Ostler case. Ostler, the son of a Supreme Court judge and a Communist, who had been charged with making a subversive statement, alleged in court that he had been approached by the Solicitor-General, with the authority of the Prime Minister and Attorney-General, with an offer to withdraw the prosecution if Ostler accepted a "soft" posting in the Army. Paul held up publication of Ostler's charges until the Solicitor-General had prepared a denial. 384

When the New Zealand Financial Times submitted an article on the chronic tyre shortage, Paul suggested to Walter Nash, the Minister of Finance, that an explanation be released to coincide with its publication. 385

The essence of the censorship regulations was to prevent information of military significance reaching the enemy. In this respect much the same criteria were applied as in postal and telegraphic censorship. 386 Paul also included the date, place and circumstances of casualties, court-martial reports, meteorological information, espionage, allegations reflecting on the conduct of campaigns, or implying neglect of soldiers' conditions, and information prejudiced to the national war effort, Allied cause or interests of prisoners of war. 387 Much of this military censorship was of a highly technical nature. 388 A list of stops and releases drawn up by the armed forces included:

"Mark iv Valentine Tanks: Pass photographs showing the exterior of the tank during training or on manoeuvres or articles describing them or their part in manoeuvres. Stop photographs or written description of interior of these tanks."

384 D. of P. to editor O.D.T., 1 April, 1941 Paul Mss 413.
385 D. of P. to Minister of Finance, 7 March, 1941, Paul Mss 417.
386 See supra.
387 D. of P. to editors, 23 June, 1941, Paul Mss 471.
388 Paul Mss 412 contains examples of stops and releases.
"radio location (of aircraft) equipment: stop all photographs or detailed descriptions. Newspaper articles may include the phrase "radio location equipment" in such contexts as "W.A.A.C. (sic) personnel are being trained in the use of radio location equipment." 389

Sometimes references to equipment and weaponry were suppressed altogether.390 The armed services required the deletion of servicemen's names, or the substitution of fictitious names in reports of military operations.391 The movements of high ranking officers were withheld from publication.392 Maps, diagrams and descriptions of tactical techniques were excluded.393 During 1942 the publication of the names of military camps was not permitted,394 though certain exemptions were allowed in 1943, when some camps were used to accommodate the furlough drafts.395 Shipping losses were not publicised because they heartened the enemy by acknowledging his success and because they were an index to Allied naval strength.396

When the Nelson Evening Mail submitted "A Soldier's Diary: the Voyage of the Second Echelon", it was refused approval for publication, because the article's day by day commentary broke every rule laid down by the Navy397 - including names and descriptions of escorts and transports, dates of arrival and departure, ports called at and routes followed.398

389 Secretary External Affairs to First Secretary N.Z. Legation Washington, 21 March, 1945, Army Dept. 288/2/4 vol. 2.
390 Army Office Minutes, N.d., ibid.
391 Naval Secretary to D. of P. 19 January, 1943, Navy Dept. 17/11/2.
392 Adjutant-General to D. of P. 5 January, 1944, Army Dept. 288/2/4.
393 Adjutant-General to D. of P. 6 May, 1942, Navy Dept. 17/11/2.
395 Adjutant-General to D. of P. 13 May, 1944, ibid.
396 Secretary of State for Dominion Affairs to Prime Minister 3 December, 1942, Paul Mss.
397 Naval Secretary to D. of P. 5 February, 1940, Navy Dept. 17/11/2.
398 Paul Mss 412.
The Auckland Star was prosecuted for disclosing the existence of a secret radio on the island of Tarawa in the Gilbert and Ellice Island group, in recounting the sea-rescue of survivors from a sunken merchant vessel.\textsuperscript{399} The articles had not been submitted to the Director of Publicity.\textsuperscript{400} Fraser ordered the prosecution of In Print in January 1943, when it published the news that New Zealand workers were engaged in the construction of large air base in Fiji.\textsuperscript{401} The editor of the New Zealand Observer was fined for permitting the publication of an item which stated that a young Auckland pilot would shortly bring the first Mosquito fighter from Britain to New Zealand.\textsuperscript{402}

Complaints by servicemen were deleted. The Army prohibited publication of an article on the Women's Auxiliary Army Corps because it placed too much emphasis on their hardships and did not mention that the women received free uniforms, free multi clothing, bedding, rations, medical and dental care.\textsuperscript{403} Remarks such as "the commander ... ordered me off an obviously senseless task" were not allowed to stand.\textsuperscript{404} References to the shooting of prisoners,\textsuperscript{405} derogatory comments on Allied forces, such as Greeks\textsuperscript{406} and Australians,\textsuperscript{407} but especially Americans\textsuperscript{408} were excised. Some censorship however was hardly of a military nature. An article intended for publication in the New Zealand Free Lance was vetoed because "by placing so much credit on the operation on

\textsuperscript{399} Auckland Star 31 March, 1942, 4 April, 1942, Paul Mss 461.
\textsuperscript{400} Police Minutes, 9 April, 1942, ibid.
\textsuperscript{402} Jones & Bell (1943) 3 M.C.D. 294.
\textsuperscript{403} Adjutant-General to D. of P., 12 January, 1944, Army Dept. 288/2/4.
\textsuperscript{404} Adjutant-General to D. of P., 18 December, 1944, ibid.
\textsuperscript{405} ibid.
\textsuperscript{406} War Narrative, Chap. 5, p. 7.
\textsuperscript{407} D. of P. to Adjutant-General, 11 January, 1944, Army Dept., \textsuperscript{op. cit.}
\textsuperscript{408} see Infra.
Private Fitzgerald ... it implicitly suggests that the officers and non-commissioned officers in the party failed in their duty. 409

Censorship of the press was not limited to the suppression of military information but was interpreted to protect "the national war effort". In practice the term "national war effort" was construed very broadly. This involved protection of the men responsible for directing and executing the national war effort. Paul justified the temporary suppression of the Ostler case on this ground:

"If a judge's son could obtain preferential treatment in the army over a cook's son, then public faith in the fairness of rights in the army would be destroyed and public morale must in consequence suffer. And if a judge's son could secure immunity from prosecution on a charge of subversion directly related to the war, then the foundation of justice regarding court charges arising out of the war, would be held to be polluted and public morale must in consequence suffer to a point endangering public safety." 410

But court proceedings are public property; suppression allowed a public official to exculpate himself and his political masters, while it is inconceivable that the allegations could have damaged the war effort. Attacks by appellants before the military service Appeal Boards on the men responsible for the conduct of the war were prohibited. 411 The character of ministers was not to be attacked in press columns: "the anonymous letter writer dipping his pen in poison was not going to reflect on the integrity of men who were responsible for the country's war effort." 412 A letter addressed to an overseas weekly describing Fraser as "a great judge of war righteousness, picking the ones he does not have to go to" and Semple as "urging his men to go to war, when he with the same opportunity preferred the safety of a cell, was stopped. 413 Papers like The People's Voice

409 General Officer Commanding New Zealand Expeditionary Force in the Pacific to Army Headquarters, Wellington, 28 June, 1944 Army Dept. 288/2/4.
410 D. of P. to editor O.D.T., 1 April, 1941, Paul Mss 413.
411 D. of P. to editors, 23 June, 1941, Paul Mss 471.
413 21 April, 1940, Paul Mss 630.
and Tomorrow which contrasted the Labour soapbox orators of 1914–18, with the cabinet ministers of 1939–45 were suppressed. Fraser was anxious to prosecute the New Zealand Herald for publishing a letter calling on the military authorities to take charge of New Zealand's dealing from "the muddling politicians and their talk", but Paul and others considered it a weak case. 414

The censors also protected the system of military service. The press advertisements of the Pacifists and the opponents of conscription were suppressed. 415 Fraser told representatives of these groups this was because they were encouraging people to break the law. 416 Indictments of the military service system by appellants appearing before appeal boards were not to be published. 417 Paul was also responsible, for procuring at Fraser's direction, the refusal of the Wellington City Corporation to hire the Town Hall to the Wellington Peace Committee. 418

Comment on aliens was restricted. The names of those interred were not to be published. Pressure was brought on Truth to moderate the tone of its acidic attacks on aliens in New Zealand, although an official notice was not endorsed by Fraser. 419 Articles on aliens and internal security which appeared in the Waikato Times and Waikato Independent led to their editors being summoned to Wellington by Paul, on Fraser's instructions, to discuss breaches of the regulations. 420 The editor of the Dominion agreed to discontinue the publication of letters of an anti-alien bias. 421

414 1, 10, 15 January, 1942, Diary Paul Mss 683.
415 7 January, 1941, Paul Mss 683.
416 ibid.
417 D. of P. to editors 23 January, 1941, Paul Mss 471.
418 Paul Mss 483, January, 1940.
419 Paul Mss 434.
420 2 and 3 September, 1940, Paul Mss 683.
421 ibid.
Information on "subversive strikes" was censored. When railwaymen at the Woburn workshops including men involved in the manufacture of munitions, went on strike in March 1941, the Director of Publicity prohibited publication, without his approval, of news items on the stoppage. Paul justified this step:

"In other circumstances and in less serious times, the railway strike could be classed as a "merely domestic occurrence". In this instance, it was an illegal strike in defiance of a law made necessary because the Dominion is at war and concerned directly a body of workers manufacturing munitions. Within a short time of its occurrence certain bodies of workers passed resolutions in support of the illegal strike and statements were being prepared to justify this action and designed to bring the illegal strike to a successful conclusion."

In Parliament, the Opposition proposed to move the adjournment to discuss this use of the censorship but Fraser informed Holland that they would be off the air and that the debate would not be published in the press. The issue, however, was debated on the Address in Reply. Fraser declared he had no intention of allowing a handful of Communists to wreck the war effort; by depriving the strikers of publicity, it was hoped to deny them support and weaken their morale, and prevent the strike spreading. A similar veil of secrecy was thrown over the Westfield freezing works strike in January 1942 and the Huntly coal strike in mid-1942 but it was not applied in the final years of the war. Paul also requested that newspapers exclude reports which implied that only by striking could workers obtain redress of their grievances. Discussion of police wages and conditions in

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422 D. of P. to editors, 23 June, 1941, Paul MSS 471
423 D. of P. to editors, 19 March, 1941, telegram N.Z.P.D. vol. 259, p. 73.
424 D. of P. to editor, C.D.T., 1 April, 1941, Paul MSS 413.
426 24 and 26 January, 1942, Diary, Paul MSS 683.
427 War Narrative, chapter 6, p. 14.
428 Memo for Prime Minister, nd, Paul MSS 424.
429 D. of P. to editors, 15 November, 1943, Paul MSS 471.
the press, including the Police Journal, was vetoed. Fraser was abrupt: "There will be no right for the forces of law and order to agitate during the war period," we cannot trifle with fire. Discussion was later forbidden of Police Regulations which required policemen and their wives to obtain the consent of the Commissioner of Police before taking any employment outside the force.

Reports and comments on rationing—methods, stocks, orders, use of goods, allocation of supplies, refusal of supplies were prohibited. Threats by Wellington butchers to break the meat pricing regulations were countered by a directive preventing publication of any report inciting any person to commit an offence against emergency legislation.

Articles on shortages were also suppressed, whether the shortages were of military material, or of stocks of food, fuel, or other necessities. Paul claimed that the publicity of shortages on the outbreak—in the early stages—of the war would have been unfair because the Government had scoured the world and expended every ounce of energy and resource "in quest of needed goods and raw materials." He also insisted that if shortages were published, they would only be aggravated by demand and hoarding, and affect the lower income groups most severely. The scope of this prohibition varied from time to time. In January, 1942 it applied to shortages of all commodities, but was later reduced to imported goods. However, the New Zealand Herald published a report of a potato shortage and by nightfall "the shortage had become a famine," the full prohibition was restored. An article submitted on the shortage of tyres and its debilitating

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431 ibid., p. 73.
432 ibid., p. 325.
433 D. of P. to editors, 19 November, 1943, Paul MSS 471.
434 D. of P. to editors, 3 December, 1943, Paul MSS 413.
435 D. of P. to editors, 23 June, 1941, Paul MSS 471.
436 D. of P. to editors, 23 June, 1941, Paul MSS 471.
437 Comment on Newspaper Proprietors' Association Statement 27 October, 1942, Paul MSS 418.
438 War Narrative, Ch. 6, p. 2.
effect on the national war effort was denied authority for publication, after consultations with Nash because it could only aggravate the situation.439

To promote the national war effort it was also considered vital to cool sectarian controversy within New Zealand. Statements by the Orange Lodges' organ, the Nation, to the effect that "neither the (Roman Catholic) Church, the Pope, the Vatican nor any good Catholic is anti-Hitler, or anti-Fascist" were considered subversive. As were John A. Lee's tirades against "Fascist-blessing cardinals".440 Refutations of these assaults by Zealandia were equally spirited.442 Zealandia also waged war on the Communists, calling Stalin "a blood-thirsty Georgian bandit", and Communists as a whole "tyrannical gangsters". This stimulated a hostile reaction in some Labour Party and trade union circles.443 Paul approached each party to quell the fury of ideological warfare. In a telephone conversation with the editor of Zealandia, Paul asked him to "soft pedal ... in order that I may demand the same from the Nation and ... the Communist or near Communist organizations and papers."444 The printers of the Nation were advised that portions of the paper were subversive.445 Certain publications of the Jehovah's Witnesses were not permitted to be sold or distributed also.446 The Rationalist pamphlet, No Friend of Democracy, by Edith Moore, which documented the association of the Catholic Church with the totalitarian regimes in Germany, Austria, Italy, Spain, Portugal and Vichy France, was seized.447 Fraser defended this action:

439 Minister of Finance to D. of P., 11 March, 1941, Paul MSS 417.
440 War Narrative, Ch. 5, pp. 3-4.
441 Solicitor-General to D. of P., 22 January, 1943, Paul MSS 415.
442 War Narrative, op. cit., p. 3.
443 ibid., pp. 2-3.
444 Telephone Transcript, 29 September, 1941, Paul MSS 638.
445 War Narrative, Ch. 5, p. 6.
"In New Zealand we are fortunate in having a people united in support of our Democratic cause, including all our churches, and their clergy and their adherents. This is true of the Catholic Church equally with all others. Anything that would destroy this harmony and unity in support of our war effort could not be permitted."448

The Communist press posed particular problems for the censorship. The People's Voice, initially did not oppose the war but contended it should be fought on two fronts against Hitler in Europe and against the reactionary forces in Britain and New Zealand – the Chamberlains, the Ramsay MacDonald style Labour politicians, pro-Fascist Tories, including Hamilton, 'would be New Zealand Fuehrer.'449 It questioned the war effort by urging the New Zealand government to introduce real measures to conscript wealth,450 to protect civil liberties and living standards, to reject conscription of men, to democratise the armed forces and nationalise essential industries.451 Increasingly, the People's Voice transmitted Russian policy statements declaring the war to be an imperialist contest for world domination, an exercise in "senseless and insane brutality" in which the working class could only be oppressed further.452 In December 1939, the National Committee of the Communist Party expressed its total opposition to the war;453 communists associated themselves with pacifists and the anti-conscription movement. In April 1940, the editor of the People's Voice was convicted of publishing subversive statements under Regulation 14 in two issues454 which referred to soldiers' disruption of free speech and anti-war meetings, denounced the "war criminals" in the British Cabinet, expressed opposition to men enlisting in the armed forces, objected to the despatch of military units overseas,

448 N.Z.P.D., op. cit.
449 People's Voice, 8 September, 1939, 13 October, 1939.
450 ibid., 6 October, 1939.
451 ibid., 17 November, 1939.
452 ibid., 27 October, 1939.
453 ibid., 8 December, 1939.
454 ibid., 9 and 16 February, 1940.
"exposed" "anti semitic and pro Fascist sympathies" in the British Government and alleged British-Finnish intrigues against the Soviet Union. These were held to be subversive on the grounds that they brought British Government into hatred and contempt, interfered with the success of military operations, prejudiced recruiting and jeopardised morale.

These measures failed to silence the People's Voice and the circulation it claimed leapt to over 10,000 copies a week. On May 29, 1940, the Censorship and Publicity Emergency Regulations were simplified to allow the Attorney-General to order the sequence of any printing press used for the publication of any subversive statement and likely to be so used in the future. Under these regulations, the plant and machinery of the People's Voice was hauled from its foundations and deposited in a garage at the Auckland police station. But the People's Voice was not mute; a cyclostyled newsheet was distributed.

From the anonymity of the underground, starved of funds and a regular reading public, it intermittently hurled defiance at Fraser, the Labour Government and "New Zealand's Fascists", and preached its message of "peace and socialism" throughout 1940-1.

However, in 1940 the Party established a monthly publication, In Print which survived the censorship, although from February 1942 it was required to submit all articles relating to the war to the Director of Publicity prior to publication. The attack on the Soviet Union by Hitler reversed the Party's anti-war stance. The imperialist war became a "peoples' war" and no sacrifice was too great to ensure victory. In 1943, the People's Voice resumed publication legally.

455 People's Voice, 23 February, 1940.
456 S.R. 1940/93.
457 People's Voice, 7 June, 1940.
458 24 and 26 January, 1942, Diary, Paul MSS. 683.
459 S.W. Scott, "The Peoples' War".
Another left-wing publication, *Tomorrow*, was also suppressed. It had earned notoriety by opening its columns to J.A. Lee and W.E. Bernard. In Paul's words the fortnightly "approaches the present crisis (the war) in much the same insidious manner as it deals with problems of politics - and the Government", in his opinion, calculated to detract from the national war effort. *Tomorrow* fought strongly against the erosion of civil liberties and questioned searchingly the high policy of the war - though not the justice of the war itself. In May 1940, the Christchurch superintendent of Police informed the journal's printer that if he continued to print *Tomorrow* he would run the risk of having his equipment seized. As a result, the printer refused to handle any further issues of *Tomorrow* and no other printer could be found. Consequently, *Tomorrow* announced its temporary suspension of publication - it proved to be its epitaph.

The third periodical to be suppressed was *Democracy* produced by the Social Credit campaigner, John Hogan. It offended the Government by its unrelenting condemnation of the war to which it called a swindle and a hoax. Fraser described its contents as "atrocious" and Paul wrote that its suppression was due to its desire to destroy the means of financing the war.

The final issue of *Democracy* was headlined "Dictatorship in New Zealand" and alleged that the censorship had prevented comment on the Budget and Liberty Loan. Hogan also incurred the displeasure of the American authorities for his articles on the "American invasion", masterminded, he maintained, from Wall Street. Of all the papers suppressed, this one seems to have provoked the greatest adverse public response. Protests came from the Auckland Branch of the Farmers Union, a public meeting

460 D. of P. to Prime Minister, 7 October, 1939, *War Narrative* Ch. 3, pp. 3-4.
461 *Tomorrow*, 29 May, 1940. The Editor was also approached.
462 D. of P. to editor Christchurch Star-Sun, 29 June, 1942, *ibid.*
463 *Democracy*, May 1942, *ibid.*
464 Controller of Censorship to D. of P., 9 June, 1942, *ibid.*
at Te Puke, petitions were forwarded to Coates (Kaipara), F.W. Doidge (Tauranga) and P. Neilson (Dunedin Central) and letters of protests poured in from large numbers of people, many of them claiming to be Labour supporters, who favoured free speech and free credit. 465 Hogan attempted to circulate a surreptitious newsletter through the post, but invariably this was intercepted by postal censors. 466

The economist and writer, W.B. Sutch, was also a victim of this policy. Fraser vetoed the publication of the centennial history of social security, The Quest for Security in New Zealand, because its account of events since 1900 might endanger national unity and so impair the war effort. An abridged version, Poverty and Progress, was rejected on the same grounds. The manuscripts, however, were returned to Sutch with the advice to keep them locked up for a very long time; instead he had them published elsewhere — and was drafted into the army as a result. 467

These publications were suppressed because they were deemed to divide New Zealand at a critical period and so diminish the efficacy of the national war effort. Only the People's Voice opposed the war absolutely. The other papers appear to have exercised legitimate criticism of the methods by which the war was being conducted. New Zealand was not united, and no amount of suppression or censorship would have made it so, though the views advanced by these papers were shared by few. The Government looked at it differently:

"A statement calculated to weaken our unity within either the British Commonwealth or New Zealand is subversive in effect. A statement which creates disharmony or disunity among us by inflaming one section of our people against another, does certainly tend to interfere with the disruption of the morale of the civil population, because mutual goodwill and confidence are essential to unity, and unity is essential to morale." 468

465 Paul Mss 435.
466 Controller of Censorship to D. of P., 18 November, 1942, ibid.
467 W.B. Sutch, Quest for Security in New Zealand, p. XIV.
Publicly, at least Fraser insisted that the newspapers were "opposing our war effort and endeavouring to destroy that war effort"; anyone who opposed these suppressions was inspired only "by stupid antagonism to the Government", was constituting "himself an advocate of subversion", and had no limits to his "unscrupulousness". 469 It was also awkward for a Labour Government to face hostile critics on the Left while the Government was under pressure from conservative and moderate groups to take a firm line and prove its loyalty to King and Empire. 470 According to its own standards the banning of these publications was not wrong. All, in one way or another, contradicted the national war effort. The more pertinent question is whether the criteria shaped and applied by the Government and its Director of Publicity were proper ones.

Censorship of a political nature was not restricted to comment on New Zealand's war effort, but extended to attacks on Allied Governments. These were construed as disrupting civil morale if within the Empire, 471 or as embittering relations between His Majesty's subjects and friendly foreign states, if without. 472 The People's Voice editor was prosecuted in 1940 because his paper contained articles critical of the British war cabinet, Conservative members of Parliament and occasionally Labour leaders, as well as urging that war should be fought as much against Chamberlain as Hitler. 473 John A. Lee risked the same fate when he launched a scalding attack on the British ruling class "the vile gang" and "vicious Parliament" "of Colonel Blimp, of Montagu Norman, of Fascist-blessing Cardinals", "of Chamberlain and similar criminals". 474 He was saved only by the Solicitor-General who ruled that although the passages were subversive, he could not recommend a prosecution as a jury was unlikely to convict Lee. 475 The New Zealand Railway Review submitted an

470 D. or P. to Editor, Greg River Aigas, 27 January, 1941, Paul Misc. 428.
471 para d.
472 para h.
473 People's Voice, 19 April, 1940.
475 Solicitor-General to D. of P. 22 June, 1943, ibid.
article which had been published in the English Railway Review. It was an indictment of the British Government's war management. It began:

"There is almost as little practical criticism of the course of the war in England as there was in Germany ... But pretending all is well in the state of public affairs when nothing is well is little short of treason to the welfare of the community and safety of the state."

The writer proceeded to list a succession of major blunders in the conduct of the war, attacked Churchill, and concluded that the Allied cause was in the hands of "General Incompetence." David Wilson, leader of the Legislative Council, wrote in a note:

"If there was an article likely to do more harm to the war effort than this I cannot conceive what else they could have said. It is astonishing that any editor should have even thought of publishing it."

Pressure was brought to bear on the Grey River Argus because its "Magazine Page" concealed "if cuttings and articles called from publications in other parts of the world and taken generally all are casting reflection on the British Government and suggesting that the war is of Britain's making and for capitalist purposes." Paul told the editor that the Magazine Page "would be relished by Dr Goebbels for the reason that it seldom contained anything favourable to the men who were carrying out the great responsibility of conducting the war, or even to the nation on whose behalf they are shouldering that responsibility."

It was considered immaterial that the articles in question had been published previously in Britain:

476 Copy in Paul Mss 426.
477 Memo to D. of P., 22 January, 1941, ibid.
479 D. of P. to Editor Grey River Argus, 27 January, 1941, ibid.
"The publication of certain controversial matters is made much less dangerous in its influence in a country like Great Britain, than in a small community like our own. Topics which are discussed in a thickly populated country are considered in their own special setting and in relation to the conflict of opinion, but when one side only is presented in a small community the general effect may be dangerous." 480

The Magazine Page was dropped. The Prime Minister emphasised the danger of such statements getting into enemy hands for propaganda.

Greatest difficulties arose, however, in respect of the American troops in New Zealand. As with postal censorship initial difficulties centred on keeping secret the presence of U.S. troops in New Zealand. 482 The lifting of the ban raised new problems. Articles mentioning American soldiers had to be approved by the U.S. authorities 483 and the provision defining a subversive statement as one that would tend to prejudice relations between New Zealand and friendly foreign states was reinstated in the Censorship and Publicity Emergency Regulations, and the Public Safety Emergency Regulations. 484 The Auckland Star however published articles which had not been scrutinised by the American censors and which dwelt on the harmful social consequences - drinking, wenching, and brawling - of the concentration of American servicemen here. These articles angered the Americans but although the Solicitor-General had no doubt that they were subversive, a prosecution would not be wise as the allegations were essentially true and it would be difficult to convince any one else that a desire to improve the social climate was subversive. Paul simply told the Star's editor that there was little point in commenting critically on

480 D. of P. to Editor, op. cit.
481 20 January, 1941, Diary Paul Mss 683.
482 Paul protested at the ban as "unwise, unnecessary ... if not indeed worse".
483 War Narrative, Ch. 8, p. 1.
484 S.R. 1942/53.
on an unavoidable situation. In November 1943, Paul set down rules for the press in their treatment of news items covering American soldiers. Most of these were of a military nature, but the deal also included "any proceeding in New Zealand courts in which U.S. servicemen were involved as witnesses or parties." The memorandum concluded:

"Editors are earnestly requested to assist in the maintenance of the good relations between New Zealand and the United States at present existing by referring to the appropriate censorship authority prior to publishing any article, news item or illustration which might prejudice good relations, or which might cause discontent between the armed forces, merchant marines or citizens of the two countries." 486

In line with these principles, news of riots between American servicemen and New Zealand troops and citizens was suppressed. 487 Publication of a remit of the Otago Provincial Council of the Farmers Union, alleging U.S. troops in the Pacific area received better rations than New Zealanders, were deferred until the result of an army enquiry could be produced to refute the accusation. 488

It was also the censorship's practise to hinder the publish of material critical of neutral countries, whose hostility was feared. This attitude was adopted to both Italy and Japan, before they threw themselves into the war against the Allies. 489 This policy lay behind a request to Truth to withdraw copy critical of the sale of Corriedale breeding stock to Japan. 490

485 War Narrative, Ch. 8, p. 3.
486 D. of P. to editors, 3 November, 1943, Paul Mss 471. Truth's publishing of U.S. servicemen as correspondents in divorce proceedings was considered "highly improper and contrary to the public interest". War Narrative Ch. 8, p.6.
488 D. of P. to editors 15 December, 1943 D. of P. to editors 3 November, 1943 telegram ) Paul Mss 471.
489 ibid., Ch. 2, p. 1.
490 5 July, 1940, Diary Paul Mss 683.
It was also the Director of Publicity's job to examine press cables and manuscripts being sent overseas for publication. In practice, the Chief Telegraph Censor referred only important or controversial telegrams to the Director censoring the remainder himself in conformity with rules laid down for ordinary telegrams. Those passed to the Director's office in Parliament were largely of a political nature, concerned with the internal problems of the war effort and the policy guiding New Zealand. Cables not approved for dispatch included: the complaints of farmers, employers and unionists about economic conditions; an analysis of the economic and racial problems of Western Samoa; a statement that the Labour Party's policy was to end capitalism so that businesses no longer wanted to make profits but provide jobs and services; allegations that New Zealand harboured enemy agents transmitting shipping news to German raiders and that many aliens in New Zealand were Nazis; a report of the growing sentiment that the troops in the Middle East should be withdrawn and redeployed against Japan.

A telegraphic report of a speech of the Leader of the Opposition was drastically amended:

"Sidney G. Holland, newly elected Leader National Party which present Government displaced in 1935 in his first public statement on political aims vigorously criticised national war effort. Stop. He complained that those who quote never made success of anything were destroying the success of others unquote demanded freedom from trade union mass dictatorship Stop Zealand had learn value of hard work Holland declared it was absurd say country making maximum effort when 50,000 men have been withdrawn from production and those remaining at home not working longer hours. Stop Complaints of continuance public works programme which should have its heads directed to production purposes Stop Called Parliament largely a mockery because democratic system not functioning as should demanded trimming of administrative branches power govern by decree restoration law—making function to Parliament."

491 7 January, 1940, Diary, Paul Mss 683.
492 Paul Mss 630.
493 ibid., underlined portions deleted.
The underlined sections were deleted as misleading and likely to convey an incorrect impression of the national war effort to foreign readers. A cable report describing Lee’s expulsion from the Labour Party was altered to remove inter alia a statement of the "Lefts" war aims, Barnard’s criticism of a "yes-man attitude to Britain" and of the failure to conclude a war veteran in the Cabinet but his denunciation of the lack of democracy within the Labour Party was left in. Paul withheld two articles for the New Statesman in London, one a political analysis, severely critical of both major parties, the other a short story is brief passage of which dealt with the attitudes to and experiences with New Zealand women of American marines. Fraser admitted that the first article ought to have been allowed to proceed, but he labelled the record as "literary filth and immorality" - "When it comes to a question of protecting the womanhood of this country, I make no apology."

It would seem that the censorship exercised in various press cables was more stringent than that operating internally. It is inconceivable that Paul would have dared amend Holland's speech for local consumption in the way he did for overseas readers. Nevertheless, it is difficult to say that this censorship was of a party advantage to Labour, or falsely raised the stature of its leaders. Trenchant criticism of the Labour Party by Barnard and Holland was allowed to stand, but anything reflecting adversely on the war effort or on the national prestige was deleted.

It was also the responsibility of the Director to examine incoming press cables, newspapers, books and periodicals. What principles were applied in the respect of the censorship are unknown. As Director of Publicity Paul was also responsible for the censorship of films, broadcasting and plays. Broadcasting scripts were given to him for examination and he was responsible for drawing up the code of conduct as a guide.

494 D. of P. to Quentin Pope, 12 February, 1941, ibid.
495 Paul Mss 630.
for M.P.s and imposing censorship on the broadcast of parliamentary proceedings. The satirical play "Jonnalio" written by the Communist Gordon Watson, was banned by Paul. Films on war topics were censored by the Director in addition to the film censor. "I Gave My Life", a story from the Russo - Japanese War and, the "Fighting 69th", a story of Americans in the first World War crammed with "gruesome long battle scenes ... suitable ... if peace psychology necessary" were two not to be shown.

Throughout the war, the Press and Paul fought a sporadic battle over the extent of the censorship. The press alleged that the censorship was unduly restrictive, that it unfairly eroded editorial discretion, that it circumscribed freedom of speech, that it was tuned to the dictates of political expediency, that it concealed remediable weaknesses in the war effort and that it menaced public morale by hiding the truth. Friction was inherent in the operation of the censorship: the desire to publish full and free comment and news clashed with the executive necessity to suppress information and opinion in the interests of the national war effort. Equally at the root of this seeking conflict was the conviction that the censorship was serving party political purposes. After all, who was the Director of Publicity but a man who from time immemorial it seemed had been associated with the Labour Party - and there he was lodged in the Prime Minister's office running the censorship. Nothing could be more self-evident.

For his part, Paul subscribed to different canons of thought. Newspapers could not be relied on to censor themselves.

497 Paul Mss 458.
498 Paul Mss 637.
499 16 January, 1940, Diary Mss 683.
500 4 October, 1940, ibid.
501 Paul Mss 418 and 419; These objections were taken up by the National Party.
"If a burglar steals, the life of the victim is not immediately endangered. Punishment through the process of the law can be adequate. But when, in war-time, information of value to the enemy is published, a fine or even imprisonment cannot undo the harm. Prosecution might even extend the damage and increase the danger."502

He insisted that the censorship and press was, however, cooperative and amiable, claiming that only a fraction of the newspapers disputed the censorship and those that did misrepresented the true position. Paul was, however, impatient of criticism:

"The role of Sir Ora e sits easily on those who have spent their lives in producing newspapers. There is no other section of men who are always so terribly right, who never hesitate to criticise individuals and institutions, who have never lost a war, who express so profoundly the truth on all questions and who at the same time are themselves immune from press criticism."503

Furthermore, Paul and his colleagues were irritated by the cry of freedom of the press: to them in New Zealand freedom of the press was a sham. The press was conservative and pro-National; it was in the hands of an oligarchy of wealthy, monopoly and privilege - of rich capitalists, squatters, owners of slum property, insurance magnates and bankers - and dedicative to protect their interests - above all from the Labour Party, the enemy of wealth and privilege; to campaign against the censorship was spuriously political." Labour members quoted with relish, if a little out of context, Stanley Baldwin, the former British Conservative Prime Minister:

"The press assumed power without appreciation and authority without responsibility, the prerogative of harlots, right down the ages.504

"What are their methods? Their methods are direct falsehood, misrepresentation, half-truths, distortion of the speaker's meaning ... and suppression."505

503 Notes on Newspaper Proprietors Association Statement of 7 October, 1942, 26 October, 1942, Paul Mss 418.
505 ibid., p. 536, Chapman.
The climax of the clash between press and censor was the Billens case. Billens, the editor of the Manawatu Times, wrote an editorial in which it was alleged he revealed that certain information had been suppressed by order of the director of publicity: "There is an element of grim humour in the fact that all those recent cases of suppression concern the workers, for whose special interest the Government exists or claims to exist." The prosecution claimed that this statement could be related to three directive

1. that relating to the Police Regulations concerning the outside work of policemen or their wives,
2. that referring to butter-rationing and strike action,
3. that requiring editors not to publish material counselling breaches of the emergency regulations.

At first instance the magistrate held that the editorial disclosed the existence of the second directive, and was thus under Regulation 16. On appeal, the Chief Justice agreed with the magistrate, but the other two judges allowed the appeal. The majority view was that the three directives were ultra vires, as the Directors could not claim in good faith that they were essential for the protection of the public safety. They also found that in Regulation 16 (5) did not apply to daily newspapers. The implications of this were immense. It suggested that if challenged a great many of the directives of the Directors of Publicity were in fact invalid. It is also significant that the Chief Justice in his dissenting judgement, although he did not decide on the validity of the Director's notices, expressed surprise at the subject matter of the directives. The decision also allowed newspapers to tell their readers what material had been withheld by the censor.

506 Police and Billens (1943) 3 N.C.B. 394.
508 ibid., 727, 731.
509 ibid., 728, 734.
Paul believed the press had collectively dressed up the Billens case as a cause célébre. Dealing with the Full Courts decision he wrote to Fraser:

"Summing the matter up, it may be said that only the Chief Justice dealt with the matter submitted to the court on the footing of what it truly was - viz., a pure question of law as to the meaning of certain words in a subsection of a regulation. The other two judges, to a very great extent, have misconceived the nature of the issue submitted to them, and to have thought that their views on the policy aspects of censorship had some relevance. This was incorrect as this sense had already been decided by Parliament."

Paul agreed that the decision hinged solely on the meaning given by the Court to regulation 16(5) and the comments on the directives were made obiter and in no way limited the competence of the censorship - in this he was almost certainly mistaken; as a result the regulations did not acquire any amendment. At that late stage of the war, as the censorship was being progressively relaxed, the issue did not arise again.

The Billens case furnishes an interesting appraisal of the press censorship. While no one could dispute the necessity for regulating the indiscriminate diffusion of military information, the censorship went far beyond that in an effort to preserve morale and deny the enemy propaganda material. The suppression of military information cannot in principle be questioned, although in individual cases the censor may have erred. There was also a case for controlling news of shortages, strikes in key industries and to protect aliens. But to stifle controversy, to protect ministers and officials from public scrutiny and criticism, to bar questioning of the morality of the war, war aims and war methods, and criticism of allied governments

510 D. of P. to Prime Minister, 19 August, 1944, Paul Mss 424.
511 D. of P. to Prime Minister n.d. ibid.
and nations, simply because these subjects were awkward, embarrassing or inconvenient, was to break the bounds of prosperity and necessity. This latter form of censorship severely distorted the presentation of news and expression of opinion to an extent that did little to consolidate or expedite the prosecution of the war by New Zealand. The Billen's decision implied that in this respect Paul, and with him Fraser, had grossly exceeded his authority. From Fraser, however, there were no apologies: in the conduct of a war a democracy must be as efficient as a dictatorship and that meant some suspension of democratic habits. The administration of the censorship, like the handling of aliens and pacifists, the treatment of the conscription issue, and the disciplining of the Labour Party and trade unions, bears eloquent testimony to the imprint of Fraser's authoritarian hand.

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Chapter Three  INDUSTRIAL CONFLICT 1950-1

The powers embodied in the Public Safety Conservation Act remained dormant until they were invoked once more in the intense industrial warfare of 1950-1. In June 1950 work stopped on the Wellington waterfront over the rates for handling lampblack on the freighter, 'Myrtlebank'. The Minister of Labour, W. Sullivan, persuaded the Waterfront Industry Commission to recommend to the appellate Waterfront Industry Authority that watersiders' demands be granted. For the time being the dispute was over, but it had only been postponed.\(^{514}\) Another dispute arose over tea-breaks and the New Zealand Herald referred to the Public Safety Conservation Act - "the people should know the powers are there.\(^{515}\) Then, in September, the 'S.S. Asuncion de Larrinaga'\(^{516}\) berthed at Wellington carrying a further cargo of lampblack. On 6 September the gang unloading the vessel ceased work at 4 p.m., claiming an extra 2/6 per hour for working the ship. The Waterfront Industry Authority, however, awarded 1/6 per hour plus a bonus of 10/-a day. On 12 September the gang was placed on penalty and Wellington watersiders stopped work in sympathy, except to handle perishable goods. Dunedin and Napier watersiders struck in support on 13 September and the New Plymouth union came out on 14 September. The Prime Minister, S.C. Holland, and the Minister of Labour met union leaders but after protracted discussions no settlement was reached and a national strike began at 11.30 a.m. on 15 September. Discussions between the ship-owners, the union and between the parties and the Government failed to solve the crisis. The New Zealand Herald suggested it was time to take the wraps off the Public Safety Conservation Act:

515 Ibid., p. 51
516 on this dispute: S.S. Asuncion de Larrinaga, Labour Dept. 3/5/365; also Bassett, pp. 52-60.
"The Government has acted in the latest trouble so far without avail. The people will look to Mr Holland for firm and decisive action. But they should clearly understand all that may be involved if the Government invokes its wide powers, especially those conferred by the Public Safety Conservation Act. There is, in fact, no limit to the powers that the Government may exercise or in their impact on all sections of the community, the guilty and the innocent alike. If, however, there is no alternative, save the power of the state to restore industrial law on the waterfront, then the Government must go ahead, confident that it has the support of the vast majority of the people." 517

On 18 September there was a lengthy Cabinet meeting at which the Commissioner of Police and law draftsmen were present. The following day Holland informed the waterside leaders that unless work was resumed at all ports the Government would proclaim a state of emergency under the Public Safety Conservation Act. That night in Parliament Holland was in a fighting mood. The dispute was, in his opinion, "part and parcel of the cold war":

"The Government is determined that the full force of the state and all the resources at its disposal will be brought to bear in dealing with the situation."

Regulations were being prepared and they were to be laid before Parliament the next day. Nevertheless, Holland did add that he hoped commonsense would prevail and the strikers would return to normal work. 518

Work was not resumed. Instead, the watersiders ceased to unload perishable goods, and the proclamation of emergency was duly issued. Beneath the headline, "Mr Holland Grasps the Nettle", the Herald welcomed this new move, rather than patch up some.

517 N.Z. Herald, 16 September, 1950.
settlement at the "cost of industrial disruption over a period and of a reckoning delayed." Now the Government "can dissolve the waterside workers union, it can freeze the union's funds; it can deal with its leaders, it can employ the armed forces of the Crown against picketing and other acts likely to create violence; it can use whatever labour it likes on the wharves; it can invoke a civil form of martial law." These steps were not taken "wantonly" but were forced on the Government by the known influence of Communists among the watersiders and the "cold war they were waging throughout the Free World. 519 Most papers agreed. 520 Only the Southern Cross, the Labour Party daily, dissented:

"There was ample alternative provision in existing legislation for handling the industrial dispute ... (but) ... the Government had preferred to invoke slump legislation passed by its Tory predecessors." 521

The Government, however, stayed its hand. The Leader of the Opposition, Peter Fraser, met representatives of the waterside workers and Trades' Union Congress the same evening. After the House rose, Fraser, accompanied by several Labour M.P.s, the waterside leaders and the T.U.C. officials approached Holland and other Cabinet ministers and asked them to call a compulsory conference between employers and watersiders in an effort to settle the dispute. In the early hours of the next morning, Cabinet agreed to this course of action. 522 There are several reasons which may have explained the Government's thinking. Lampblack, as Holland himself conceded, was a filthy and obnoxious substance 523 and the watersiders could count on some public sympathy on this score alone. In addition, the Waterfront

520 See Labour Department file on dispute.
Industry Authority had somewhat *perversely* overrided the recommendation of the Waterfront Industry Commission — a recommendation dispatched at Sullivan's direction — on the rates for handling lampblack. In 1949 Holland had campaigned on a manifesto which emphasised the compulsory conference as means of smashing industrial stalemates; now Fraser asked him to honour that promise. As well the Government's action looked unduly precipitate. The national stoppage had commenced on 15 September, on the 19th a bare four days later, the Government was assuming powers no other Government had dared use. The press may have been delighted but could Holland be so sure of the public? And then there was Fraser, an opponent whom Holland had every reason to fear and respect. The Labour Party and the watersiders were making a united approach — and the Federation of Labour could be relied on to back the Labour Party. All these were issues Fraser could exploit and, Holland knew, would not hesitate to do so. Parliament, then in session, would furnish him with a national platform. It was an offer that was not easy to refuse and the Government yielded.

The following day Holland asked the House of Representatives to approve and notify the Government's action in declaring a state of emergency. Fraser asked that the motion be withdrawn lest it prejudice the success of the compulsory conference, but Holland, to disguise his *retreat* did not accede to this request. 524 Speaking to the resolution, Holland was much more moderate than he had been the day before:

"What is the duty of a Government? The duty and responsibility of a Government is to ensure that the *rule* of law and the observance of legal decisions of statutory authorities set up by law and to ensure a fair and just administration of the enforcement of the decision of courts that have been set up. We also have a duty, too, to ensure and to guarantee the public safety to the people whom we represent. We have a duty to ensure the uninterrupted supply of the necessities of life to those people who need them." 525

525 *ibid.*, p. 2532.
The Government, he argued, was committed to acting in the national interest and it was moving only after "mature consideration". He rejected any allegation that the Government was using "bulldozer tactics", rather the proclamation of emergency was a last resort and was taken only to discharge the "simple duty" the Government owed to the people of New Zealand. It was a more subtle, more sophisticated defence of Government action than the sabre-rattling, Red baiting rhetoric of the previous day.

Fraser conceded that the Government was obliged to keep the country running as normally as possible and that no one section of the community should be allowed to dominate a democratically elected government. He added, however, that the watersiders had a good case and that the waterfront tribunals had handled the dispute badly. The leader of the Opposition argued that the use of the Public Safety Conservation Act was precipitous, and that to affirm its use would be "a false step"; he warned that unless the situation was treated delicately a general strike might result.\textsuperscript{526}

Sullivan threw caution to the winds. In his opinion, lampblack was only an excuse for trouble: "if it was not lampblack, it would probably be something else."\textsuperscript{527} The present regime on the waterfront could not be allowed to continue: "There is a duty devolving upon everyone of us to get rid of this black mark on the industrial escutcheon of New Zealand."\textsuperscript{528} The Opposition resisted the temptation to rise to this challenge. Nash simply repeated that the Government's action was to be regretted, but that no further Labour members would debate the issue or force the Government to a decision for fear or jeopardising an amiable settlement to the dispute.\textsuperscript{529} Labour at least was keeping its record clean.

\textsuperscript{526} Ibid., pp. 2540-3.
\textsuperscript{527} Ibid., p. 2545.
\textsuperscript{528} Ibid.
\textsuperscript{529} Ibid., 2546.
Meanwhile representatives of the New Zealand Waterside Workers Union and the shipowners met under the chairmanship of J.A. Gilmour, S.M. Unanimous agreement was resolved on the procedure to be followed in adjudicating on the watersiders' claims. This machinery was activated on 22 September, and the Wellington Port Committee agreed to the watersiders' demands. The strike was over and the proclamation of emergency was cancelled on 4 October. 530

Reviewing the strike, the Dominion praised Cabinet's "bold and determined action" for mending the economic dislocation threatened on the waterfront. 531 The Herald, however, felt cheated:

"There can be general sympathy with the Government in its reluctance to take strong measures ... But it should not be forgotten that matters of high principle are at stake. The present state of suspended emergency arises not from dispute but from defiance ... Since Tuesday night the suppression of defiance has assumed more and more the character of a settlement of a dispute ... (I)t seems that a settlement may be reached by reopening a matter judicially determined and yielding to the strikers ... Even when the state assumes extended powers as it does under the proclamation of emergency it has a duty to exercise those powers responsibly. But its duty is toward all the people, not toward a group who can tyrannise the whole country by breaking their pledged word." 532

The Southern Cross saw the dénouement of the strike as a victory for Fraser's moderation over Holland's senseless provocation and clumsy grasp of sensitive industrial issues. 533

As for the watersiders, they were inclined to thumb their noses at the Government:

"There is a debit - and its all on the side of the Government.

"Take its denial of depression connections. Less than a year in office and all it knows is to turn back to a 1932 slump law which ends all civil liberties.

530 Labour Dept., op. cit.
531 Dominion, 25 September, 1950, Labour Dept. op. cit.
532 N.Z. Herald, 21 September, 1950, ibid.
533 Southern Cross, 22 September, 1950, ibid.
"Take its slogan: "The Government must govern." On Saturday, September 16, the Auckland Herald told the Government to bring down the 1932 Public Safety Conservation Act ... On Monday, September 18, the shipowners gave the Government an ultimatum that unless all ports were working by Wednesday, their crews would be paid off."

"And sure enough, when Wednesday came, the Herald and the shipowners could have been pardoned for thinking THEY were governing the country — for down came the 1932 Public Safety Conservation Act.

"...The naked power of the state was ranged alongside the shipowners. All forces were marshalled to uphold the Authority ... to smash the union...

"We have seen who was upheld and who ceases to exist."

Comment on the strike in the Transport Worker concluded by citing Harry Holland's "immortal words":

"We know they shout for law and order, but our cry is for liberty and justice. AND WE ARE GOING TO GET IT." 534

The waterfront simmered on.

The events of 1950 anticipated the momentous "151 days" of 1951. The use of the Public Safety Conservation Act broke new ground in industrial relations. Emergency powers may have been threatened before, but now they were brandished out in the open. It was implicit in this action that they would be unsheathed again, if there was further trouble. This time the Government had held back; the sword had been raised, but the blow had not fallen. The Government may well have hoped that would be sufficient to deter trade unions from edging towards the brink. The ultimate weapon had been flaunted publicly, who would risk testing its capacity? Nevertheless, the Government could not afford to be caught bluffing. An ultimate weapon would not be much value, if the firing pin was found to have been removed. And the attitude

of some sections of the press (and probably the National Party), coupled with the irritating and brazenly pugnacious stance of the watersiders made it inevitable that any future dispute would be less easily resolved and more likely to explode into a gigantic industrial conflagration.

Before the descent into the inferno, New Zealand was subjected to a rash of lesser strikes during late 1950 and early 1951. These were crowned by the national railway strike over the Christmas period. The Railway Tribunal had announced hourly increases for railway workers on 1 December, 1950. These were considered insufficient. At midnight on 20 December Auckland railwaymen stopped work. They were joined by other railway workers on the 23rd. It was widely expected that the Government would resort to emergency powers to try to end the strike. In fact, a Cabinet Committee, chaired by the deputy prime minister, K.J. Holyoake, was set up to draft proposals for a settlement of the strike and to plan and organize "emergency measures required to ensure the maintenance of vital services and supplies for the civil community." The strike, however, ended abruptly on New Year's Day. It had embraced 17,402 male workers and 418 females; 95,604 more days were lost and £120,000 in wages.

The industrial ferment on the waterfront bubbled over again in February 1951. The Arbitration Court announced a 15% general wage order at the end of January. The New Zealand Waterside Workers' Union, whose members were not covered by the wage order, sought an increase from 4/3 to 6/- an hour; this was qualified, however, by an alternative demand of 5/2 and a minimum of 4/10. The shipowners offered an hourly rate of 4/7½; although this was 15% up on the previous award of June 1950, it was only 9% up on the latest wage increase. The shipowners refused to entertain any higher rate and insisted that the dispute be taken to arbitration. The watersiders for their part refused to discuss

537 Secretary to the Cabinet to Secretary of Labour, 28 December, 1950, Labour Department, op. cit.
538 Summary, op. cit.
anything less than the 4/101/2 and rejected arbitration in favour of direct bargaining. On 13 February the national executive of the N.Z.W.W.U. imposed an overtime ban. The waterfront award allowed individuals to decline overtime but not a corporate refusal. The watersiders were placed on penalty, thus cutting work on the waterfront to two days a week. By 19 February the employers were refusing to engage men at all unless they contracted to perform normal work, including overtime. The ports became idle. Naturally, the Government intervened and tried to persuade the watersiders to go to arbitration. When this failed, the Government began to assert more direct pressure. On September 20 the Minister of Labour suspended Commission control of the waterfront, but as no work was being performed, that move had no immediate effects. The papers had already predicted that the Government would take stronger action - including the proclamation of state of emergency, and the issuing of emergency regulations. This prediction could be based both on the Government's action during the last waterfront dispute and on Sullivan's assurance that the Government would maintain essential food services. The proclamation was duly gazetted on February 21. It was issued on the grounds that action had been taken "by certain persons and bodies of persons of such a nature and on so extensive a scale, as to be calculated, by interfering with the supply and distribution of food and fuel, and with the means of locomotion, to deprive the community of the essentials of life." The following day, after a Cabinet meeting, the Governor-General in Council promulgated the Waterfront Strike Emergency Regulations. The watersiders, however, were given three days in which to make this peace or face the consequences - the full blast of the state's legal artillery: it was war, pronounced Holland.
The Waterfront Strike Emergency Regulations effected a number of substantial changes in the law. "Strike" was re-defined to include any discontinuance of employment "whether by refusing overtime or otherwise." The Minister of Labour was empowered to direct, by notice in the Gazette that a strike cease within a stated period of time; if it was not terminated, it would then be a "declared strike" to which the regulations applied. Any union, union official and union member who was a party to a "declared strike" was guilty against the regulations. Union officials were required to prove they had opposed the continuance of the strike, if they wished to establish this innocence. The Minister could appoint a receiver to take possession of the funds and records of a union engaged in a "declared strike", and suspend any award applying to the union. The Government could replace strikers by servicemen. It was an offence to counsel a breach of the regulations, to encourage others to cease work, to give any assistance to strikers, to publish any statement or display any poster that supported a declared strike, to threaten or insult anybody to induce them to strike or to commit any other offence against the regulations. Police were given extensive powers to disperse pickets, to regulate meetings, to ban demonstrations and to search persons for evidence of or to prevent breaches of the regulations.

A notice gazetted simultaneously with the promulgation of the regulations called on the watersiders to resume normal work by 8.00 a.m. on Monday 26 February, or the stoppage would become a "declared strike" to which the regulations applied. This notice, the title of the regulations, and the circumstances in which they were issued, appeared to confine the operation of the regulations to the N.Z.W.W.U. This had the effect of accentuating the isolation of the watersiders and reinforcing the split between the F.O.I. and T.U.C. The Government hoped to succeed.
by perpetuating the tradition of divide and rule in the trade union movement. Had the regulations had general effect the main body of trade unions may have felt obliged to oppose them and to aid the watersiders. Not all the regulations were confined to a "declared strike", the provisions relating to counselling strikes, meetings, processions, picketings and police powers of entry, search and seizure applied to other trade unions as well. The miners' strike called in protest at the emergency regulations, was not a "declared strike", but under the emergency regulations the Police were able to disperse picketers, halt demonstrations, cancel meetings, restrict their means of publicity and search premises. The regulations were also intended to deter unions aligned with or sympathetic to the N.Z.W.W.U. from lending it their support. The provisions relating to a declared strike might be applied to them, their members and officials, and it was unlawful to give any industrial, financial or moral assistance to the strikers. Finally the regulations were framed to weaken the striking union, by undermining the morale of its members, stripping it of its financial resources and depriving it of the instruments of publicity and the industrial weapons essential to bring the strike to a successful conclusion. Against these odds, the strikers might back down.

The regulations failed in their immediate objective to induce the watersiders to surrender. They may have stiffened their resistance: if they were to realise their demands or if they were convinced of the justice of their case, they would have to fight. The three-day pause gave the watersiders a chance to come to terms but they declined the opportunity. The regulations were also unsuccessful in limiting the intent of the strike; to a certain extent, they escalated the scale of the strike.

546 O.D.T., 3 April, 1951.
547 ibid.
During the "151 Days", 8,533 watersiders were on strike, 463,128 man days were lost and £1,534,108 in wages. In all, however, 22,173 workers struck, costing the country 1,118,612 man days (2.5 times the days lost in the waterfront stoppage) and £3,027,223 in wages (2 times). Five, not one, unions were de-registered and replaced by fifty-two new unions. The regulations succeeded in magnifying the dispute, expanding the disruption and doubling the loss suffered.548

Seamen walked off boats worked by servicemen.549 Harbour Board employees were suspended for refusing to cooperate with troops.550 In Auckland, cool store workers refused to load out butter.551 Drivers in Auckland and Wellington refused to service the wharves,552 and railwaymen declined to work with servicemen.553 The miners began a national strike to demonstrate their hostility to the regulations.554 In early March, freezing workers in Wellington, Taranaki, Nelson and Marlborough struck with one or two exceptions.555 Killing also ceased at the Whakatu and Toomana works.556 At Burnside, Dunedin,557 at the Canterbury Frozen Meat Company works and at Borthwicks at Belfast, labourers failed to load out meat for export.558 Work on the Mangakino hydro-electric power project stopped.

The bulk of trade unions, however, under the guidance of the F.O.L., remained loyal. And as the strike lengthened into weeks and the weeks into months, support for the watersiders began to evaporate. In early April, the railway unions withdrew their

548 A.E. Sockett, Factual Survey of the Waterfront Dispute, Navy Dept., 8/12/22A.
549 O.D.T., 28 February, 1951.
550 O.D.T., 1 March, 1951.
551 ibid.
552 ibid.
553 Factual Survey, op. cit.
554 O.D.T., 3 March, 1951.
555 O.D.T., 16 March, 1951.
557 O.D.T., 22 March, 1951.
558 O.D.T., 17 April, 1951.
objections to working with service labour. 559 Through March and into April, drivers' unions, with the exception of Wellington, voted to resume normal work. 560 Freezing workers gradually relinquished their objections to servicemen and to the emergency regulations. 561 Work recommenced at Mangakino at the beginning of April. 562 Harbour Board employees returned to work at the end of March. 563 Many miners also drifted back to work— at the end of the dispute there was 2,000 miners at work, but another 4,000 on strike. 564 The only other sustained opposition came from the seamen who consistently refused to take to sea ships which had been loaded by service gangs and strenuously opposed the Emergency Regulations. 565 This was despite the fact that the seamen's president, F.P. Walsh, was also vice-president of the F.O.L. It probably suited Walsh to have his stance blurred, while his unique position insulated the union from the full blast of Government hostility. Support from cement workers at Golden Bay and Portland continued until the Government succeeded in creating new unions at the latter in mid-April, and at the former in early May. 566

The effects of the expanded strike were immense. 76,000 tons of cement were lost because of the waterfront dispute, 567 import licences to the value of 190,000 tons were required. 568 Sugar supplies were low. 569 Confectionary and biscuit manufacturing was

559 O.D.T., 4 April, 1951.
561 O.D.T., 27 March, 1951, 29 March, 1951, 3 April, 1951,
4 April, 1951, 5 April, 1951, 10 April, 1951, 17 April, 1951.
562 O.D.T., 3 April, 1951.
564 Factual Survey, op. cit.
565 O.D.T., 10 April, 1951.
566 Bassett, op. cit., pp. 130-1.
567 Factual Survey, op. cit.
568 O.D.T., 1 May, 1951.
569 O.D.T., 27 February, 1951.
out. To make up the deficit the Government imported 9,500 tons of sugar, and subsidised it by £170,000, so that it could be sold at the same price as sugar refined in New Zealand. The miners’ strike kept 400,000 tons of coal in the ground. Consequently, rail services were slashed and gas rationing instituted in some cities. In addition air and rail freight services were booked up weeks in advance and the inter-island ferries operated on alternate day service manned only by ships’ officers. Manufacturers complained of being “throttled” by the strike. They could not obtain raw materials, nor could they market their products. Many reduced production; some closed down. Importers reported a pronounced decline in business as millions of pounds of goods were detained in ships’ holds and waterfront sheds. Wool sales were cancelled at the height of the Korean war boom and wool store workers laid off. In the southern North Island, butchers’ shops were out of fresh meat in early March. Until the freezing works reopened, the demand was only partially relieved by butchers killing their own stock. Overseas mails were delayed. Consumer goods, especially household supplies, were scarce.

571 Factual Survey, op. cit.
572 Ibid.
573 O.D.T., 26 March, 1951, 11 April, 1951, 21 April, 1951.
574 O.D.T., 7 March, 1951, 19 April, 1951, 3 May, 1951.
576 O.D.T., 9 April, 1951.
578 O.D.T., 31 March, 1951, 8 May, 1951.
580 O.D.T., 28 February, 1951.
581 O.D.T., 14 April, 1951.
582 O.D.T., 3 March, 1951.
583 O.D.T., 29 March, 1951.
584 O.D.T., reported in Dunedin shortages of tobacco, sugar, salt, matches, milk bottles, medical supplies, textbooks.
The Nelson fruit crop was left to rot. There was some truth in
the Standard's hyperbole:

"Today the wheels of industry are turning at
half-speed, many factories have closed,
thousands of workers and their families
are living at subsistence level, essential
foodstuffs are critically short, innumerable homes
are without heating, the aged are suffering
misery, and the general condition of the
economy gives cause for grave concern." 585

The inconvenience and loss caused by the strike was
diminished by the Government's use of servicemen under the
Regulations. This also blunted the effectiveness of the strike
as an industrial weapon. Servicemen moved on to the wharves at
Auckland and Wellington on 27 February. By the end of March,
3,200 servicemen were engaged at ports around the country.
Members of the armed forces also loaded out meat from freezing
works and dairy produce from cool stores and worked mines on the
West Coast, while some 170 naval ratings manned coastal
freighters. 586 Men were also employed in auxiliary functions
as cooks, stewards, drivers, mechanics, medical orderlies and
clerks, while women operated wharf cafeterias. 587 To release
personnel for these duties it was necessary to postpone the intake
of recruits under the compulsory military training scheme and
recall the New Zealand naval squadron from exercises with the
Australian fleet. 588

The shipping companies facilitated the deployment of troops
on the wharves by providing idle passenger vessels as barracks
for men on wharf duties. The Government, however, received
compensation for the use of troops from the shipowners, totalling
£140,000, at 4/7½ per man per hour. 589 The funds accumulated
in this way provided a welfare fund for servicemen. 590 Every

586 A.E. Bockett, Factual Survey of the Waterfront Strike 1951,
p. 40, Navy Dept. 8/12/22A.
587 Army Dept. 270/5/17.
588 Factual Survey, op. cit.
589 Factual Survey, p. 51.
590 C.D.T., 13 May, 1976, used for army leave centres.
member of the armed services received a gratuity of 2/- per
day from February 27 to July 13. An additional 5/- per day
was paid to men for the period they were directly employed in
emergency duties.591

"Servicemen worked with a will. There was no 'spelling'
no working hour about, as existed prior to the strike. They
did not cease work for showers of rain and their efforts to get
the job done were an inspiration to all.592 It was variously
estimated that the work rate of servicemen was 15-100% better
than the old unionists, and 10% better than the new.593 However,
servicemen worked only an eight-hour day, compared to the
usual eleven hour day, and they handled only produce and
foodstuffs that could be moved faster than manufactured goods.
The novelty of work factor and sense of adventure must also be
taken into account.594 In aggregate servicemen handled 778,193
tons of merchandise.595 The goods handled by servicemen were
largely foodstuffs and fuel essential to the life of the
community. The Government also undertook to maintain meat
supplies for Britain.596 It could not, however, prevent a
bumper apple crop in Nelson of 600,000 cases being destroyed, nor
could it prevent the shortage of many commodities.

The Government claimed,597 and even hostile critics did not
deny it, that while the regulations were severe on paper, in
practice they were applied extremely leniently.598 In all, only
twenty-six prosecutions were brought under the regulations and of
those over half were dismissed.599 The regulations, however,

591 Factual Survey, p. 52.
592 ibid. p. 47.
593 ibid.
594 ibid., p. 48.
595 ibid., p. 41.
596 C.D.T., 2 March, 1951.
598 see Labour intr.; also e.g. Here and Now, June, 1951;
strike pamphlet, Workers v Holland.
599 Dept. of Statistics, Justice Statistics 1951.
were operated more indirectly, more subtly and much less dramatically. For example, although it was an offence to give any contribution to a striker, the Government did not interfere with the activities of relief agencies; it did withhold social security payments and back pay due to strikers. The emphasis of the regulations as a whole was on inhibiting normal political and trade union activity. This was most conspicuous in respect of newspapers and periodicals. Lest they encourage the strike, the media declined to comment adversely on the Government's stance or print any statement in support of or in justification of the strike. The Press Association, however, advised its members to publish the statements of the Leader of the Opposition, Walter Nash, regardless of whether or not they were in breach of the regulations. Waterside leaders were not so fortunate. Union journals, political party publications, the student press, and left-wing papers acknowledged that the regulations substantially affected their contents. These restrictions, however, bred an acridly exuberant underground press. Equally vexatious was the police power to control meetings, whether public or private. Nash claimed that the police had told him not to speak on the emergency regulations at Hamilton, although he in fact did so, and that the Auckland City Council had refused him the Town Hall for a public meeting at the direction of the police. There is no conclusive evidence on this latter point, but the police did prevent, at about that time, two Auckland Labour M.P.s from

601 Basset, **Confrontation**, pp. 232-3.
602 **Transport Worker**, 7 March, 1951; **Challenge**, 1 March, 1951.
604 **Salient**, 26 April, 1951.
605 **Here and Now**, May, 1951.
holding political meetings. These incidents strongly support the contention that the Police were opposed to the Nash meeting taking place; the Government rapidly withdrew the prohibitions when the matter was made public. Watersiders were also prevented from addressing public meetings or union gatherings outside their own industry. This ban was relaxed briefly in late May and early June but was reinstated after a series of successful meetings. As a result contact between watersiders, seamen, miners, Public Works' employees, and other striking unions was reduced. Meetings organized by the T.U.C. were cancelled. For a time in late March, watersiders were ejected from the halls they were leasing and generally meetings could only proceed if police were present. The ambit of the regulations extended beyond unions involved in the dispute. A meeting of the Wellington Painters' Union called to discuss the emergency regulations was called off by the Police. Demonstrations by strikers were turned back. Picketing rarely occurred. Normal democratic activity was circumscribed, but with the exception of the underground press and the financial aid extended to strikers, defiance of the regulations was infrequent and haphazard.

The watersiders created a psychological fortress of no surrender with renewed conviction in the justice of their cause.

607 ibid., pp. 127-9, W.T. Anderton.
608 Meetings of 2,000 Dunedin (O.D.T., 25 May, 1951), Christchurch (ibid., 7 June, 1951), Wellington (ibid., 4 June, 1951) and 9,000 Auckland Domain (ibid.) re-imposed - O.D.T., 9 June, 1951.
610 O.D.T., 9 March, 1951; ibid., 13 April, 1951.
611 O.D.T., 28 March, 1951, 13 April, 1951, 1 April, 1951, 30 March, 1951.
612 Southern Cross, 9 March, 1951.
613 Marches in Dunedin, Auckland and Wellington stopped; see also People's Voice, 11 April, 1951 - Auckland street meetings and O.D.T., 3 May, 1951 - capping processions banned.
The regulations also brought into the field new opponents for the Government to unhorse, escalating the extent of the strike and multiplying the economic and social damage consequent upon it.

The regulations were also the weapons which enabled the Government to succeed. They allowed the Government to maintain, in at least skeleton form, New Zealand's transport infrastructure and snatched away the unions' avenues of protest. The unions were reduced to a passive role. The initiative to shape and command events lay largely in the Government's hands.

The Government defended the regulations on three levels. Firstly, the Government guaranteed to supply food and other essential commodities to New Zealanders and to ship foodstuffs to the United Kingdom. Without the regulations that would have been impossible. Secondly, the Government affirmed its intention of compelling the watersiders to adhere to the "Industrial Conciliation and Arbitration" concept of industrial relations. Sullivan said:

"In New Zealand, we have all the machinery necessary to settle any dispute, but when certain union leaders destroy that machinery and the endeavour to force their demands by direct action, and when unsuccessful declare a collective hold-up, a situation is created, which cannot be tolerated."615

Thirdly, the circumstances justified a severe curtailment of traditional freedoms. Sullivan told Parliament:

"I think it could be argued that during the war period the people of New Zealand surrendered many liberties so that they might retain their over-all liberty; I think it can be rightly said that in the last few months our country has been passing through what we might call a 'cold war' necessitating a similar surrender of liberties."616

615 O.D.T., op. cit.
616 N.Z.F.D., op. cit., p. 245.
By the time Sullivan made this speech it was an old theme. At the outset, he had insisted "these tactics are part of a world-wide movement to wreck our democratic system." The troops were fighting in Korea, at home they were working on the wharves; it was the same war. The policy of the N.Z.M.W.U. was decided in the Kremlin. Rather than suppressing freedoms, the Government was in fact defending them. Any temporary curtailment of liberty was preferable to final, irreversible suppression of all freedoms should the Communists triumph. Besides, it was pardonable to be indifferent to the rights of those who had placed no value on freedom: "You cannot have kid-glove methods when you are dealing with people who do not fight according to the Queensbury rules." National backbenchers went further. Leon Gotz considered that the watersiders were no longer human beings and were no longer worthy of human rights. Dean Eyre deplored the inconsistency whereby Communists were shot by New Zealand soldiers in Korea, but in New Zealand allowed the freedom of the city. The war imagery suggested a crisis that demanded strong-arm methods; the "Red scare" created a sense of national peril which strengthened the hand of the Government. The war metaphor also went some way to neutralising Labour attacks. In the Second World War, Labour had placed drastic limits on the exercise of fundamental rights. It was impertinent of Labour to object to National doing the same thing.

On the regulations themselves, Government members argued that Labour regulations had been equally, if not more repressive, that the regulations broke no new legal ground - trial by jury was not an inalienable right, and the onus of proof was frequently reversed - and that the regulations, although severe on paper, had been applied extremely leniently in practice. If Labour was so upset by the Public Safety Conservation Act, why had it

617 O.D.T., 24 February, 1951; 27 February, 1951; also 28 February, 1951, Holland.
619 ibid., p. 117.
620 ibid., pp. 81-2.
not repealed the Act during its fourteen year rule. Finally many National speakers alleged that the regulations had been drawn up by the previous Labour administration, and some cited the former Minister of Labour, Angus McLagan, as being responsible. For Labour, Mason denied that any such regulations had ever come before Cabinet, although he admitted they may have been drawn up by officials during Labour's tenure of power. Another former cabinet minister, T.H. McCombs, was less equivocal: "It is a lie." The issue was confused by Holland, who in the same speech blamed Labour for drafting the regulations and claimed them as his own unique creation. As Nash remarked, "Those two statements cannot be reconciled.

The Labour Party, for its part, endeavoured to make the regulations into a constitutional "cause célèbre". Labour's first objection was to the timing of the proclamation of emergency and the issuing of the emergency regulations. It contended that the Government had plunged the country into a campaign of industrial warfare precipitately and perhaps unnecessarily. Its spokesman called on the Government to follow the same procedure which had been successfully adopted the previous September – convene a compulsory conference between the shipowners and the watersiders. Turning to the regulations, Nash defined Labour's attitude:

"I was in accord with the Government's action in taking powers to get supplies to the people ... (But) ... To me those regulations are the most menacing regulations ever written into the laws of this country ... These regulations represent the nearest approach to dictatorship that we have ever had. It is as bad as it could be ... I mean every word I say ... They deny the right of freedom of assembly ... They deny the right of free speech ... The third point is

621 *bid.*, p. 211.
625 *bid.*, p. 263.
626 *Southern Cross*, 1 March, 1951.
just as menacing. The Government has taken steps to prevent help of any kind being given to the wives and children of waterside workers if their husbands or children's fathers are parties to a declared strike ... I cannot think of anything worse than those three things." 627

Nash also objected to police searching private homes. In essence "there is no democracy in this." The regulations were "unchristian", perhaps the most damning criticism Nash could make. Other Labour speakers described the regulations as Fascist - reminiscent of the methods of Hitler and Mussolini, and imitative of Stalin. Under the regulations, there was no free press, free trade unions, free assembly, or free speech; that was Fascism. That was the real threat, not the Communist bogey. In these circumstances it was not surprising that so many men were on strike.

They had fought two world wars against Fascism and they were not going to put up with it at home, when they had destroyed it abroad. 628

When the Minister of Railways, W.S. Gosman, said that Hitler was right when he spoke of wiping out trouble makers like transferable diseases, 629 the Opposition considered it had proved its point. 630

Unfavourable comparisons were drawn between the Waterfront Strike Emergency Regulations, and the Bill of Rights 1789, the declaration of Human Rights, Magna Carta, the contents of the British Emergency Powers Act and the stance of the National Party while in Opposition.

That the regulations had not been rigidly enforced took some of the sting out of Labour's attack, but as Mason perceived that did not absolve the Government.

"They have been operated in a way to make people fear ... one cannot think of anything of that sort outside such places as Russia, Germany, or countries of that description. In no democratic country with our tradition - has one seen anything ... as intimidatory to the press ... Further than that, nobody wants to have their rights dependent on the whims of officials and Governments." 631

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629 ibid., p. 71
630 ibid., p. 150, J. Mathieson.
The Labour Party President, A.H. Nordmeyer, argued that in a democracy, heavy sacrifices of civil liberties could be excused if workable objectives were being sought. The Government, in his opinion, however, was pursuing a phantom. Harsh measures would not impose peace on the waterfront or in industry generally. Labour also maintained that all the powers necessary to uphold law and order were adequately available elsewhere in other legislation. The regulations were unduly repressive because they went beyond what was necessary to protect public order. Finally, Labour condemned the failure of the Government to summon parliament to debate the emergency. The Government had assiduously avoided summoning parliament until the last possible moment. It was obliged to pass an Imprest Supply Bill by 30 June, so Parliament reopened in the final week of that month. By that time, the strike was obviously broken, the Government's objectives largely met and the issues raised by the dispute already assuming a rather dated appearance. By refusing to convene parliament earlier, National had muted Labour's protest, taken the heat off itself, and allowed its conduct to go without effective challenge.

The Standard, went further than most Labour M.P.s; it asserted that recent events had revealed the potency of the Public Safety Conservation Act. "Most democratically minded people will agree that it is wrong for any Government to use such sweeping powers in time of peace." The assumption of emergency powers without reference to Parliament was nauseating to all democrats." The regulations were "repugnant to a liberty-loving people." The "first job" of the next Labour Government would be to repeal the Public Safety Conservation Act.

Those most affected by the emergency regulations - the strikers - reacted predictably and bitterly. The regulations sustained new grievances and gave them broader grounds on which

632 ibid., pp. 134-5.
633 ibid., p. 272-3, T.H. McCombs.
to seek support. New Zealand had become a "police state", the regulations were "Fascist". Holland was elevated to stand alongside the Mussolinis; the Minister of Police W.H. Fontane, kept devilish company with Franco and Peron; Sullivan was nicknamed "Benito." Who were the real wreckers but the National Government, smashing hard-won popular and trade union liberties, destroying the forty-hour week, seizing property, breaking into homes and paying fawning homage to bloated tycoons.

"The Holland Government now stands revealed for what they really are, a bunch of political fascists, without storm-troopers, brown-shirts and concentration camps, but all these and other things, including the gas chambers could soon follow." 635

The Transport Worker prescribed the cure:


Denied the right to discuss the strike, the Transport Worker vent its fury upon the regulations. The Government was advised to reissue the old leaflet, "Russianizing New Zealand", an attack upon Labour's administration as "Russianizing New Zealand" 637 "He's breaking the regulations Chief!" was a constable's report on the subversive utterances and other infringements of the regulations by Jesus Christ. 638 Poetry was invoked:

635 Wellington W.M. U. To the Public of New Zealand, 5 May, 1951, G.A.L.
636 Transport Worker, 9 March, 1951.
637 ibid., 13 April, 1951.
638 ibid., 15 May, 1951.
"Force and Violence
Saw it all around,
Democracy trampled.
And clubbed to the ground.

Saw the beating
Freedom took.
Won't read about that
In a civics book." 639

Old clippings from British newspapers in the 1930's were resuscitated - "Remember how it started?" 640

Particular aspects of the regulations were singled out for special comment. The Government's undertaking to maintain the circulation of essential goods was mocked:

"The Emergency Regulations - where's it got them? Have legal phrases moved an ounce of cargo? Would a mountain of paper clauses burn a pit top winding mill?"

As for the servicemen, they had been forced to "scab" on the wharves. Despite the short work hours and "treachery praise," they were still down to "dead slow." 641 Strikers were incensed by the wide discretionary powers given to the police. That was "storm-trooper mauling" of innocent citizens. 642 The suppression of news and comment was a recurrent theme. "Being the truth, this pamphlet is illegal." But "can 'it is an offence to publish' stop the truth, seal up men's minds - even stop this one pamphlet." 643 Why should the Government suppress the news? - "because it had something of real importance to hide from the public." 644 "That's how poor the shipowner's case is!" 645

639 ibid.
640 ibid., 13 April, 1951.
641 Workers v Holland, Holland v New Zealand, G.A.L.
642 ibid.
643 ibid.
644 The other side of Government Propaganda, G.A.L.
645 Who Uses Violence? G.A.L.
In April, the executive of the N.Z.W.W.U. sent a cable to the United Nations, asking that action be taken against the New Zealand Government for introducing regulations which breached certain articles of the Declaration of Human Rights. It was alleged the regulations contravened Article 12 - no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence - Article 19 - everyone has the right to freedom of expression and opinion - Article 20 - everyone has the right to freedom of peaceful assembly and association - Article 23 (4) - everyone has the right to form and join trade unions. The United Nations Organization, however, had no power to influence events in New Zealand. The attitude of the strikers to the courts was ambiguous. The denial of trial by jury was deplored, even though this limited the size of the penalties strikers might suffer. The watersiders put more faith in "twelve ordinary men" than a single "representative of the bosses." However, when the courts dismissed charges preferred by the police, the watersiders welcomed a new ally, "an independent and fearless" magistracy.

Revocation of the regulations became the first step to a settlement; repeal of the Public Safety Conservation Act, the ultimate goal. At the strikers' public meetings, resolutions were carried unanimously demanding that the regulations which were the "negation of democracy" be immediately withdrawn. The Auckland Domain meeting also called for the repeal of the original legislation of the next session of Parliament. Nash was congratulated on his democratic principles.

The Communist Party felt obliged to support the working class struggle. It too was quick to diagnose the regulations as Fascist:  

646 Transport Worker, 13 April, 1951.  
647 "We Accuse", Paul Mss 450.  
648 Transport Worker, 13 April, 1951.  
649 Freezing Workers, Strike Bulletin, 7 May; G.A.L.  
651 ibid., 4 June, 1951.  
"Sidney George Holland obviously thinks the
*Magna Carta* outmoded by *Mein Kampf*.

The *People's Voice* recounted the origins of the Act in the
dark days of depression and said it should never have been
allowed to remain on the statute book. "Fulfilling the
traditional role of social democratic parties, the Labour
Government let the vicious act remain on the statute book to be
used as a bludgeon against the workers." The paper then
proceeded to compare English Tories (in the Emergency Powers' Act)
and "New Zealand champions of democracy". 653

The trade union branch of the Labour movement was divided
in its attitude to the regulations. Miners, seamen, drivers,
some freezing workers, cement workers and harbour board employees,
demonstrated their hostility to the regulations and the use of
servicemen on the wharves. The Railway Tradesmen's Association
declared the regulations to be "a complete negation of democracy"
and an obstacle to any settlement. 654 The Amalgamated Society
of Railway Servants alleged that by tampering with the freedom of
the press, Holland had put the clock back two hundred and fifty
years. 655

It was significant, however, that this opposition from
unions was neither unanimous nor generally enduring. Of the miners,
the Otago-Southland group never struck, the open-cast mines quickly
reopened, and some of the underground men resumed work. 656 Most
of the unions involved in direct protests lifted their strikes
or black bans by early April. While this does not necessarily
imply a loss of hostility to the principles embodied in the
regulations, it does suggest that these groups found the regulations
less obnoxious than they originally appeared, because no doubt of their
restrained application. With the exception of the seamen, all
these unions were affiliated to, or sympathetic to the T.U.C.


656 *Factual Survey*, O.D.T., 25 Mar, 28 Mar, 4 Apr., 19 Apr, 1951

The seamen were also divided, but remained on strike.
Other unions in the T.U.C. were more hesitant. The Auckland and Wellington Carpenters' Unions, for example, refused to support the watersiders or condemn the emergency regulations. Some angry words were spoken about militant unions dictating to the public and about unskilled workers earning more than skilled tradesmen. The national journal of the Carpenters' Unions, however, came out strongly against the regulations and legislation based on them. The Labourers' Unions did not support the watersiders by industrial action, but they did oppose the regulations. Challenge accused the Government "of acting like Nazis in an occupied country." "The aim was shown to be this - you can speak as you like, so long as you say what the authorities want, when they want it and in a form approved by a constable" as well as to crush any union "which raises its head." It was a struggle "for war or peace, starvation or prosperity, slavery or freedom." At a meeting of 2,300, in the Dunedin Town Hall, Barnes was accompanied on stage by representatives of the Tramways Union, the Railway Tradesmen's Association, the Amalgamated Society of Railway Servants, the General Labourers' Union, the Seamen's Union, the Otago-Southland Freezing Workers Union, in addition to local watersiders, although most of these unions had ceased to show active opposition to the regulations or the Government.

The majority of the trade unions behaved quite differently. Most had a vested interest in the arbitration system the watersiders seemed intent on sabotaging. Most lacked the esprit de corps and militant motivation which distinguished the watersiders and their supporters. Above all, they were affiliated to the F.O.L. and the watersiders to the T.U.C., and the F.O.L. was quite content to see its rival broken. The

657 O.D.T., 7 March, 1951.
659 Challenge, 1 September, 1951.
660 ibid., 1 April, 1951.
661 ibid., 1 May, 1951.
Federation's policy was that the N.Z.W.W.U. had only itself to blame for its predicament. As a result, the emergency regulations did not become an issue for the Federation. Comment on the regulations could only hearten the watersiders; in a sense, it meant open support for them in their campaign against the Government. Public statements by F.O.L. spokesmen were barren of reference to the regulations, resplendent with condemnation of the watersiders and lavish with praise for the Government's actions. Attempts to raise issue of the regulations from the floor at the F.O.L. Conference in April were disallowed. This line was adopted by its affiliates. The New Zealand Timber Workers Union, for instance, condemned the "power-drunk" leaders of the watersiders, described the strike as a "foolhardy", "Communist plot" which would abrogate hard-won liberties if successful. It preferred courtesy and cooperation in industrial relations to confrontation.

In the State Services some alarm was expressed at the Government's action. The Public Service Association refrained from commenting on the merits of the dispute itself or on the declaration of emergency, but it objected to those regulations which limited the freedom of the press, reversed the onus of proof in criminal trials, eroded the principle of the forty-hour week, weakened the right to combine and to strike and made it illegal to give relief to strikers. Submissions to this effect were made to the Attorney-General, in a letter which described the regulations as "a danger to a democratic community and an unnecessary offence to workers and their organizations.

664 ibid.; see also F.O.L. Bulletins 1950-1.
666 N.Z. Timber Worker, June, 1951.
667 ibid., April, 1951.
668 Public Service Journal, March 1951.
669 ibid., April, 1951.
The Attorney-General, however, replied that the Government would not entertain any suggestion of modifying the regulations but he assured the P.S.A. that the regulations had been used "very sparingly" and that the Government would err on the side of leniency. 670 Some branches, but only a minority and these the smaller ones, 671 refused to associate themselves with the attitude of the national executive. This difference of opinion stemmed from a reluctance to be identified with the watersiders and a sense of loyalty to the Government in office, especially in times of crisis. 672 Others, however, believed that the duties of a citizen to speak out against bad or indifferent laws outweighed any duty to the Government 673 and that "unless civil rights ... are clamantly championed, they tended to be whittled away." 674

At the annual conference of the Post Office employees, a motion was moved to express disapproval of the Waterfront Strike Emergency Regulations. The proposer argued the regulations undermined a number of fundamental freedoms and made democracy "a hollow sham". This motion was withdrawn and replaced by another which endorsed those sections of the regulations which moved supplies and safeguarded public order, but opposed those which attacked the freedom of speech, communication and assembly, and infringed the basic rights of the individual. 675

Opposition to the regulations was also expressed by a number of left-wing publications. Writers in Landfall were distressed that freedom of speech and assembly had been swept away overnight. 676 The press was taken to task for accepting without protest the restraints placed on its freedom to report and comment.

670 ibid., March 1951.
671 ibid., April and May, 1951.
672 ibid., May 1951.
673 ibid.
674 ibid., President P.S.A., J.P. Lewin.
675 Katipo, 23 September, 1951. Motion passed unanimously.
676 Landfall, June 1951, No. 18.
Charles Brasch condemned the Government for treating the regulations as "praiseworthy and not a "deplorable necessity." A.R.D. Fairburn conceded that the regulations had been lightly administered, but although the "gun was not loaded, that was still no excuse for pointing it." He also rejected the contention that civil liberties had to be suspended in abnormal times: "If we object to prostitution on moral grounds, we can hardly condone it when a woman pleads that she only takes to it in abnormal circumstances." Here and Now echoed the same criticisms. The rationalisation behind the regulations, according to the magazine, was the same philosophy that approved "man-traps and spring-guns to keep out poachers." "Imagine a man who held up a gun and robbed a citizen at the point of a gun, claiming credit for not shooting." The implication of the regulations was that "the exercise of civil liberties is not a right of (our) own choosing; but a privilege to be determined by some one else." In that case, "freedom was on the run, and so are we." Here and Now also castigated the Labour Government for failing to repeal the Public Safety Conservation Act. When the matter had been raised, it said Labour had looked embarrassed and tried to change the subject. Frank Langstone, the former Labour cabinet minister, who had spoken during the passage of the Act, published a pamphlet, bitterly critical of the Act and its regulations: "Read this pamphlet and decide for yourself whether freedom of speech and thought still reign in New Zealand." It incorporated statements on liberty, excerpts from the Act and regulations, comparisons with British legislation and brief editorial comment. Langstone and Here and Now agreed that a proclamation of emergency had not been justified in the circumstances.

677 ibid., September 1951
678 ibid.
679 Here and Now, June 1951.
680 Here and Now, April 1951.
681 Liberty 1951.
682 Here and Now, July 1951; Langstone, op. cit., p.11.
The Churches were a microcosm of the conflict of opinion in society at large. Ideologically the Churches were hostile to the concepts of class war, social antagonism and industrial conflict which saturated speeches of the waterfront leaders. Christian teaching preferred "peace and goodwill to all men". The Scriptures were also averse to the rampant materialism which so obviously inspired the watersiders' case. Hence, the Outlook called for a Christian doctrine of work to break the "psychological grip of class struggle." The Public Affairs Committee of the Christchurch Anglican Diocese condemned the selfish attitude to work and responsibilities found prevalent in all sections of the community; this judgement was in part qualified by an indictment of those who scorned manual work and who had nothing but contempt for those, like watersiders, engaged in un congenial occupations. The New Zealand Methodist Times rebuked trade union leaders for their "serious abuse of power - a deep-seated desire in the human heart", stressed the importance of serving others, and emphasised the individual's duty to the state and obligations to Caesar. The Catholic Church enunciated its strike doctrine: the cause of the strike must be just, there must be reasonable chance of success, the benefit to be gained must not be out of proportion to the harm inflicted, before the strike was initiated, every effort must be made to secure a settlement. On these grounds, mixed with some harsh comments on Communists, the Tablet disallowed the waterfront strike.

Some, however, were impelled to criticise the manner in which the Government combatted the strike. The Presbyterian journal, the Outlook, gave lukewarm approval to the Government, saying that it had handled the dispute with "as much wisdom and honesty as we are probably entitled to expect from any people in their position," and accused Holland of "self-satisfaction and

683 Outlook, 20 March, 1951.
self-righteousness." The regulations, the Outlook noted in a rare editorial, converted New Zealand, in law at least, into a totalitarian state, though in practice things had not been so bad. The Outlook held, however, that "as a matter of elementary justice" the "proscribed group" should have been allowed to state its case. The Public Affairs Committee of the Presbyterian General Assembly held discussions with the Minister of Labour and between watersiders in conjunction with the Methodists, approached the Prime Minister to ask that the regulations be modified or repealed. Holland's response was that the Churches ought to keep out of this sort of thing and he hinted that Communists had something to do with their attitude. The delegates believed, however, they had been responsible for the Government allowing watersiders to address public meetings and be reported in the press, albeit temporarily. A limited survey showed that Presbyterians were deeply divided on the question; those who mentioned the emergency regulations did so only to condemn them — though interestingly this group included one Government supporter. The Public Affairs Committee of the Methodist Church agreed with its Presbyterian counterpart but it declined to make a public statement because this would be subject to "gross misrepresentation," an indication that the Committee did not want opposition to the regulations to be confused with support for the watersiders. The annual conference of the Methodist Church passed a resolution which, while acknowledging that the Government had a clear duty to protect law and order, criticised the whittling down of vital freedoms that were the essence of true democracy. The conference was harshly critical of the Police Offences Amendment Bill which kept alive many of

686 Outlook, 15 May, 1951; see also 'AMR' in 10 April, 1951.
687 ibid., 19 June, 1951.
689 Outlook, op. cit.
691 Methodist Church of N.Z., Minutes of the Annual Conference 1951.
of the canons enshrined in the Waterfront Strike Emergency Regulations. The New Zealand Methodist Times had a different view:

"We ourselves are fully persuaded that no real threat to our cherished freedom seriously existed, except on the part of some of the strikers; the Government was apparently gravely concerned over this and took to itself unwanted powers lest the situation imperil our national life." 693

Despite the glib attitude of the Tablet, its correspondence columns reflected a sharp diversion of opinion between those who regarded the regulations as a reminder of the "penal laws of Old Ireland" and those who insisted that "you do not cure a cancer with rose water." 694 In the Church of England, only the Christchurch Diocese seems to have considered the question; it side-stepped the question as a "party-political" one. 695 The Student Christian Movement, however, faced the issues squarely, and was uncompromisingly hostile. The regulations were, in its opinion, "a threat not far removed from terrorism." It saw four freedoms as being endangered by the regulations - freedom of discussion, freedom of assembly, freedom from arbitrary police interference, and the right to a fair trial. Christians, it argued, were obliged to defend the rights of others and succour people in distress even if that was illegal. In summary, the regulations were "a gross and unpardonable abuse of the power entrusted to the Government by the citizens of the land and ultimately by God." 696

Support came for the Government from the press. Up and down the country, the metropolitan press chorused its applause for the Government's actions. The "only possible course" ruled the Otago Daily Times. 697 "There is no alternative" agreed the Press. 698

692 ibid., p. 75
693 N.Z. Methodist Times, 22 September, 1951.
694 Tablet, 30 May, 1951.
695 Year Book, op. cit.
696 Student, 1951, no. 4.
697 O.D.T., 23 February, 1951.
698 Press, 23 February, 1951.
Extensive powers were essential to meet the situation, believed the Christchurch Star-Sun. The Evening Star declared that the Government would have the support of all responsible-minded New Zealanders. "There will be no hesitation in backing the Government to the hilt "echoed the Auckland Star." "The great majority of citizens will welcome the Government's decisions" affirmed the Herald. The Otago Daily Times concurred.

The press as a whole accepted the Government's case and made it its own. It was the responsibility of Government to protect the welfare of its people by ensuring the steady flow of supplies. The Government had another duty, to insist on law and order on the waterfront, to demand that the system of arbitration and conciliation erected for the proper and orderly resolution of industrial disputes be followed. The papers had had enough of men who "make trouble for trouble's sake," of "jungle tactics" of "fantastic tomfoolery," of "petty czars and their vampirish extractions," of the "organized Frankenstein ... that will enslave New Zealand," of an "ugly naked challenge to the comfort and security of the home, to honest work, to those decent human relations on which society is based."

699 Christchurch Star-Sun, 23 February, 1951.
700 Evening Star, 27 February, 1951.
701 Auckland Star, 23 February, 1951.
703 O.D.T., 23 February, 1951.
704 Press, 22 February, 1951; Dominion, 23 February, 1951.
706 O.D.T., 16 February, 1951.
707 Christchurch Star-Sun, 20 February, 1951.
708 Auckland Star, 22 February, 1951.
709 N.Z. Observer, 28 February, 1951.
710 Christchurch Star-Sun, 28 February, 1951.
711 N.Z. Herald, 28 February, 1951.
"Nobody welcomes the necessity to use force to quell it; but if all else fails as it has failed here then to shirk the use of force is to surrender to cowardice."

"They must be taught a lesson." But worse than that the watersiders' actions were Communist inspired. On the successful defeat of the strike hinged the fate of the Free World.

Some papers qualified their approval. The editor of the Otago Daily Times pointed out that the Government was running the risk of sparking a massive industrial conflagration, but added it was worth taking that chance. The Press reminded readers that "force is a two-edged weapon" and whatever the result of the dispute it would leave scars. The New Zealand Observer thought the Government had chosen its ground badly, making its stand at the peak of the export season. Most papers approved of the three-day delay before the regulations came into force. It was widely hoped that in the interim the watersiders would see sense and save the country the agony of industrial confrontation. Only the Herald dissented; it regretted that the Government had allowed the watersiders the grace to plot further mischief. Some papers felt obliged to assure the public that the Government's measures were not anti-democratic, but were undertaken in defence of democracy. All in all, however, all papers would have agreed with the Dominion when it said:

"The means to be adopted are drastic. Nothing less than these regulations could have sufficed."

713 Auckland Star, 22 February, 1951.
716 Press, 26 February, 1951.
720 Dominion, 23 February, 1951.
Further support for the Government came from those sections of the community hardest hit by the strike. Manufacturers lost vital supplies of raw materials and were cut off from their markets. Production was cut; profits trimmed. Retailer's supplies of stocks dried up. Importers looked on helplessly as £15,000,000 of goods was tied up in ships idle in New Zealand ports. Importing houses faced mounting overdrafts, loss of reputation, increased costs, dislocation of credit facilities and goods redirected to other destinations. Farmers too were upset by the stoppage. With the exception of meat for Britain, exports of primary produce stopped and killing was interrupted at some freezing works. Prices were high, but New Zealand could not get to the market place.

Despite these hardships, these interest groups readily rallied to the Government, "believing that the loss in business is a small price to pay, if the oft-recurrent waterfront trouble can be settled once and for all" and because "the alternative - appeasement - means the payment of a still higher price." Comment on the emergency regulations was consistently favourable. While no one denied that the Government had assumed far-reaching powers and using extraordinary methods, it was agreed that the results could only be beneficial. The circumstances required and justified drastic measures; the Government could not afford to be half-hearted in repulsing a state of siege imposed by Communists and fellow travellers on New Zealand. Labour's allegations of a "police state", however, were "puerile hysterics."

721 N.Z. Retailer, 10 May, 1951.
The president of the Associated Chambers of Commerce spoke out for the assertion of law and order against the "subtle and insidious" "infiltration of Communist and socialist principles":

"Raise the standard against Communism and its fellow travellers. Stand firm for the liberties which are the bread of life to us and in which our traditions are steeped. Build up the walls, man the ramparts, fight the battle for King and Country." 727

The Dominion president of Federated Farmers was right behind the Government's stand for the rule of law, although he rejected any suggestion that farmers should be used as strike-breakers as in 1913. 728 Manufacturers and employers offered the Government their full support on any action it considered necessary to bring the waterfront crisis to an end. 729 Most of these groups would have agreed with the Chambers of Commerce when they said: "The Government has handled the dispute in a fair, dignified and reasonable manner." 730

The Returned Servicemen's Association sounded the reveille. Major-General Sir Howard Kippenberger rallied his men behind the Government. "The R.S.A. will stand unhesitatingly for law and order and we are not afraid of the consequences." 731 Ex-servicemen among the watersiders protested. In Auckland an unusually large meeting only approved Kippenberger's statement after sustained heated discussion and loud interjecting. 732 A deputation of returned watersiders asked to address the R.S.A. annual conference in Christchurch. Kippenberger replied: 'I can see no benefit can be gained by hearing the views of another minority group." 733

727 N.Z. Commerce, July 1951.
728 O.D.T., 8 March, 1951.
729 O.D.T., 7 April, 1951.
730 N.Z. Commerce, June 1951.
731 R.S.A. Review, May 1951; see also April 1951.
732 O.D.T., 21 April, 1951.
733 O.D.T., 21 June, 1951.
Two Government supporters queried the desirability of the emergency regulations. The *New Zealand National Review* described them as excessive, even though they had not been strictly enforced. They had, according to the *Review*, produced too many unpleasant incidents that had tarnished the good work of the Government. It cited in particular, the strikes against the regulations, the political meetings affair in Auckland, police harassment and the implication by the press that Nash's statements on the strike were illegal and that he was liable for prosecution. 734 On the other hand, the *New Zealand Observer* believed that the regulations were ineffectual. It was infuriated by the extension of the strike, the flood of underground literature and the freedom of movement and action given to union leaders. It canonized a new saint, W.F. Massey, and called for the methods of 1913 - "short, sharp and effective." 735 There were, it insisted, thousands of "loyal, stout-hearted citizens, utterly sickened, disgruntled and provoked beyond further endurance. They want a chance to settle this business once and for all." 736 Holland declined the mantle offered him:

"Our methods have kept goods flowing to the people and have resulted in work being resumed in many ports, freezing works, cement works and on the railways and in the coal mines and public works construction all without broken heads and pickets and practically no arrests and imprisonments ... we could not have done these things without the regulations." 737

On 11 July the Government, as it was required by law, asked the House of Representatives to approve and confirm the proclamation of emergency and regulations. In the course of the debate Holland made an unusual announcement. He informed the

735 *N.Z. Observer*, 23 April, 1951.
House that he intended to advise the Governor-General to dissolve Parliament and call an election:

"In view of the charges made against the Government and in view of the serious decisions we have taken in the course of the strike and its management, we say it is right and proper that the people who entrusted us with the responsibility of Government should have the very earliest opportunity their view as to whether we have forfeited their confidence." 738

The watersiders hailed the "Government's resignation" as their triumph. 739 The Communist Party was more perceptive: it was a "crafty trick". 740 Labour, taken by surprise, tried to look enthusiastic. 741

The election was set for 1 September. The Waterfront Strike Emergency Regulations were in part repealed on 18 July. 742 Holland claimed that the other regulations were being continued in force to allow police inquiries to be completed. 743 The


739 *N.Z. Transport Worker*, July 1951.


742 not repealed were: Regs. 1 & 2 formal and interpretative offences arising out of declared strike including press, etc. censorship. receiverships.

Reg. 4

Reg. 7 Minister of Labour must consent to registrations of Trade Unions.

Reg. 9M employment of armed forces.

Reg. 10 control of admission to
defences to counsel breach of
regulations or cessation of work.

Reg. 12 threats and intimidation.

Reg. 13 picketing

Reg. 14 search and entry and seizure

S.R. 1951/162

remainder, however, were revoked on 26 July.744

The election campaign was vigorous and enthusiastic. Party leaders addressed full houses in the metropolitan areas.745 Candidates attracted sizeable audiences to their local meetings. The waterfront dispute generated a lot of heat. Holland and Sullivan both faced noisy audiences, yelling interjections, giving Nazi salutes, and thundering, "Heil Hitler".746 In Wellington Sullivan was forced to abandon a meeting because of the hostility of the audience.747 On election eve fifty police struggled to clear a path for Holland's car as crowds of 1,000 swarmed around it and blocked the street, following an election address in Wellington.748 The National Party did not seem to care; these tactics, it contended, were winning it "thousands of votes."749 brisk exchanges also occurred at a local level, between candidates and between candidates and audiences. Labour candidates described their opponents as "Fascist", "the real wreckers", talked of a "police state" and "totalitarian regime."750 National candidates replied that Labour was "hand in glove" with the strikers, a Communist or near-Communist front, pledged to restore Barnes and Hill and continue its crippling policy of appeasement in industrial relations.751

744 S.R. 1951/175
745 see O.D.T., 8 August (Nash, Camar), 9 August (Nash, Timaru), 11 August (report on Nash campaign), 14 August (Holland, Christchurch), 15 August (Nash, Wellington), 17 August (Nash, Gisborne), 22 August (Holland, Palmerston North, Nash, New Plymouth), 24 August (Nash, Christchurch, Holland, Gisborne).
746 see O.D.T., 15 August (Holland, Dunedin), 17 August (Holland, Camar), 25 August (Holland, Auckland, Sullivan, Mangakino ), 22 August (Sullivan, Dunedin).
747 O.D.T., 18 August, 1951.
748 O.D.T., 31 August, 1951.
751 O.D.T., 16 August, 1951 (Bodkin, Central Otago), 20 August, 1951 (National Party advert). Bassett, op. cit. p. 200 argues this was nationwide.
The General Election saw the National Party returned with a majority of twenty seats. This was interpreted by the party as an unequivocal vindication of the policies pursued during the waterfront dispute, including its use of emergency powers under the Public Safety Conservation Act. This contention had some substance to it. National picked up four Labour seats – Gisborne, Napier, Lyttleton and St Kilda, the latter two held by former Labour cabinet ministers, T.H. McCombe (Education) and F. Jones (Defence) – and improved its performance in 64 electorates over its 1949 vote. In twelve electorates this increase was 5 - 10% on the vote National had received in 1949. In another eleven electorates this improvement was in excess of 10%. Thirteen of these seats were held by Labour, and included such Labour strongholds as Onslow, Sydenham, Island Bay, Grey Lynn, Hutt, Mornington and Miramar. Significantly, National improved markedly in the port electorates, Gisborne, Napier, Tauranga, New Plymouth, Nelson, Lyttleton, with slightly smaller increases in Gisaru (two ports in Gisaru and Port Chalmers), Westland (Greymouth) and Buller (Westport). National also gained ground in the mining electorates of Raglan, Buller and Westland. National increased its percentage of the votes cast in seventy-one seats. In aggregate, National gained 54.5% of the poll, an increase of 1.6% on its 1949 total.

In contrast, Labour fared poorly. Its share of the total vote slid from 46.3% in 1949 to 44.8%. Its total vote fell in electorates; in thirty-seven by more than 5%, and in twelve of these by more than 10%. Prominent falls occurred in such traditionally radical seats as Arch Hill, Auckland Central, Brooklyn, Wellington Central, Buller, Christchurch Central, Dunedin Central, Island Bay, Lyttleton, Miramar, Ponsonby and Sydenham. The decline in Labour support was most marked

753 In part this may have been due to the retirement of W.E. Parry, a long-standing Labour member.
754 Wellington Central suffered a declining population.
in farming and wealthy urban areas, such as Eden, Hawkes Bay, Hobson, Remuera, Taranaki, Waikato, Waitemata, Waitomo, Awamoa, Clutha, Egmont, Hamilton, Hauraki, Marsden, Mount Victoria, Pahiatua, Piako, Patea, Rangitikei, Waipara, and Wallace. Most, if not all, of this fall in support was translated into non-voting. Where Labour did manage to increase its vote, this was due largely, if not entirely, to the expanding size of the electorate, and was matched or more frequently overshadowed by National gain. Labour improved its percentage of the poll in only six electorates. In one, Waitakere, this was attributable to new housing. In two, this was because of the absence of rival left-wing candidates who had stood in 1949. In only three — Franklin, Palmerston North and Central Otago — this may have reflected a small transfer of allegiance from National to Labour.

However, National's claim cannot be excepted in its entirety. Participation in the election was at a low level. There was only a 88.83% poll, compared with 93.5% in 1949 and 91.25% in 1954. This low level of participation was most marked in those seats where Labour did worst. In Arch Hill, for instance, only 86% voters turned out; in Auckland Central 80%; in Christchurch Central 82.7%; in Hobson 83.85%; in Piako 83.25%. High polls (90% plus) were recorded at most marginal seats, including St Kilda (92.6%), Napier (92.25%) and Gisborne (91.58%), although there were still low polls for those seats. In particular, Labour supporters elected not to vote. However, National lost support in thirteen electorates; in two of these, Wellington Central and Auckland Central, Labour lost votes faster. Significantly, the National vote fell in eight electorates held by Cabinet ministers: Central Otago, W.A. Bodkin, Minister of National Affairs; Eden, W.A. Fortune, Minister of Police; Egmont, E.B. Corbett, Minister of Lands; Karori, C.M. Bowden, Minister of Customs; Pahiatua, K.J. Holyoake, Minister of Agriculture; Piako, W.S. Goosman, Minister of Works; Remuera, R.W. Algie, Minister of Education; Waitomo, W.J. Broadfoot.


756 J.A. Lee in Grey Lynn polled 2,627 votes in 1949; F. Langstone in Roskill polled 1,097 votes in 1949.
Postmaster-General. All electorates had experienced some growth in population. In no case was the loss of support greater than 3%, and, with the possible exception of Central Otago, the loss of votes was not reflected in greater support for Labour. Each minister accumulated more than 60% of the votes balloted. The sitting national members for Franklin and Palmerston North had their majorities reduced. On election night, Labour held Palmerston North, but when the special votes were counted, National retained it with a majority of 200. Labour's inroads at Frankton were minute by comparison. The National candidate still won 69.1% of the poll. In a number of other seats National gains faded to keep pace with growth in the size of the electorate. National supporters too were prepared to abandon their party, though to a much lesser extent than Labour supporters, and though few were prepared to cross party lines. This discontent, or complacency, focused most sharply on party leaders.

It must also be recalled that a small shift in voting behaviour has wide repercussions in an electorate the size of New Zealand. The roll in 1951 was 1,166,375, of whom 1,036,137 voted. A few hundred votes here, or there, can make a considerable difference. As it was, on election night, National had made a net gain of one seat. It had won Gisborne and St Kilda but lost Palmerston North. Special votes toppled Lyttleton and Napier and restored Palmerston North. At Lyttleton, H.R. Lake had a majority of 133, in Napier A.J. Tait a majority of 44, in St Kilda, J.G. Barnes a majority of 336, and in Gisborne Captain H. Dudfield of K. Force 338. It was no surprise to see Napier and Gisborne return to Labour in 1954 and St Kilda and Lyttleton in 1957, (even allowing for boundary changes). National's gross total of

757 O.D.T., 3 September, 1951.
758 Hobson and Clutha also saw falls in the National vote.
759 In 1949 Labour majorities - in Gisborne 489
     Lyttleton 978
     Napier 477
     St Kilda 331
votes was only slightly larger than that which it had achieved in 1949 and it failed to gain seats which looked ripe for the picking - such as Waimarino (1949 majority 202), Waitakere (544), Wellington Central (575) and North Dunedin (559).

The issues submitted to the electors were much more complex than the request for a simple endorsement of the Government's use of emergency powers, as Holland had implied on 11 July, or its handling of the waterfront dispute as a whole. The strike certainly played a key part in the campaign. Holland set the pace in his opening address:

"It was no ordinary strike. It was a deliberate plot to overthrow constitutional government, a deep-laid conspiracy with Communist origin and backing. It was part of a world-wide plan to wreck the economies of democracies ... (A) challenge was thrown down to the state. With full knowledge of what was involved, we took up the challenge. We did not surrender. But political Labour sat on the fence, ignored the Federation of Labour, and hoped that the Government would fail. Never has there been such a betrayal. To vote National means firmness, resolution and justice. It means you support a showdown with men who hold the country to ransom. To vote for Mr Nash and his clan, is to vote for Barnes, Hill and Dremman.760 It is a vote for appeasement and surrender of the way of life we hold dear."761

Labour, National candidates claimed, had been for the watersiders and against the Government: it would be "lined up" by the "wreckers". There were more battles to be fought and Labour could not be trusted to fight them. For its part, Labour repudiated the use of the "big stick" and pledged to bring the parties to an industrial dispute together. The Government, Labour contended, had never been sincere in trying to settle the waterfront dispute. Labour undertook to amend the Public Safety

760 A. Dremman, member N.Z.W.W.U., only confessed Communist at executive level.

761 O.D.T., 14 August, 1951.
Conservation Act to require the assembly of Parliament within ten days of a proclamation of a state of emergency. Finally, Labour promised to restore watersiders to their normal jobs, if they accepted the rules, and so long as no other person was displaced. This plank made a vote for Labour seem like a vote for Barnes, Hill and Drennan. In addition, the advocacy of the Labour cause by waterside and T.U.C. officials, their endorsement of Labour's stance during the dispute, and their presence at the Labour Party Conference made Labour an unpopular choice. When Labour stated: "Holland broke his word (on compulsory conferences) ... he's liable to break YOU ... For Democratic Government vote Labour." National asked "... did the Emergency Regulations affect you adversely in any way?" But the waterfront was not the only big issue. Opening his election campaign, Holland dealt with inflation, the sale of state houses, protection of local industry, the abolition of hospital board rating, compulsory military training of twenty year olds, and increases in social security benefits. He promised that the price of bread would be reduced by 1d a loaf, flour by 1/6 per 25lbs, butter 4d per lb, tea 3d per lb, gas 2/6 per 1,000 cubic feet and petrol 2d per gallon, through an increase in subsidies from £5.75 million to £13 million. These price reductions came into effect on 28 August, 1951. The flat tax rebate would rise from £10 to £15, and the surcharge would be cut from 15% to 10%. Universal superannuation would be doubled, although it would be taxed. Housing suspensory loans would be raised by £200. In addition, National took advantage of the economic upswing; prosperity made National respectable. Nash presented a similar package. The tax rebate would rise to £15 and the minimum taxable allowance to £150; tax concessions would be granted to certain

762 O.D.T., 15 August, 1951.
763 Dick Scott, op. cit., p. 122 - reprints of Party Political posters.
764 O.D.T., 29 August, 1951.
765 O.D.T., 14 August, 1951.
industries. All Social Security benefits would be increased and a cost of living allowance of £26 paid to all pensioners earning less than £500 p.a. Labour also promised free specialist, doctor, ambulance and optical services, 100,000 houses in five years, although the sale of state houses would cease, a £10 grant for every pupil entering secondary school, the restoration of import controls, a programme of slum clearance and the expansion of food and gas subsidies. As Labour and National bided for votes, the waterfront dispute, and the issues raised by it, were obscured. At the local level, candidates spoke on a wealth of issues: hydro-electric development, transport services, local schools, foreign affairs, the press, pensioner housing, the running down of involuntary welfare organisations.

The election suggests a number of things. If people were dissatisfied with the Government's handling of the strike, they would not have returned National so convincingly. This, however, is qualified by a number of other considerations. The low poll indicates a lack of confidence in both parties. This was most marked in ministerial seats. This suggests that some National supporters had difficulty in reconciling themselves to the Government's methods, or that they disliked the socialist tinge its economic policy was acquiring, or that they confidently expected an overwhelming victory for National and did not bother to vote. The host of social issues also detracts from National's claim that the electors had endorsed its handling of the dispute. Voters were not asked to approve or reject the emergency regulations, the smashing of the N.Z.W.W.U., or the Government's conduct of the dispute as a whole. They were required to approve or reject a set of policies and personalitites that were much wider than the waterfront dispute. It should be recalled that about the same time the Australian people confirmed the Menzies Government in power but almost simultaneously decisively rejected its Communist Party Dissolution Act in a referendum. New Zealanders returned the National Party, but pressure groups overwhelmingly opposed its Police Offences Amendment Bill which kept many of the principles.
of the emergency regulations alive. The numerically small movements in popular support also count, to some degree, against the election being a full-scale vindication of National, as does its failure to build substantially on the victory of 1949, despite apparently favourable circumstances. It should also be noted that the vote for Labour, plus non-voting, exceeded the total National vote. On proportional representation, National would have had a majority of six.\(^{768}\)

The election was less an endorsement of National than a rejection of Labour. The abstention of Labour supporters inflated National's success. To some extent, Labour may have failed to mobilise support as successfully as usual. The snap election had caught Labour organizationally and financially unprepared.\(^{769}\) It would be wrong, though, to stress this factor as Labour hit the campaign trail first, nominating candidates, holding meetings and knocking on doors, well in advance of National.\(^{770}\) As well, Nash and other Labour leaders had criss-crossed the country in a series of meetings prior to the opening of Parliament. More fundamental causes lay at the basis of Labour's failure. Labour was tainted with association with the watersiders. It was alienated from the Federation of Labour—partly by the waterfront dispute and partly by the coolness between Nash and Walsh. As the election campaign got under way there were reports of a serious rift in the Labour movement. Moderate trade unionists found that Labour's support of the industrial conciliation and arbitration system was suspect, that Labour had betrayed the P.O.L. and was vulnerable to Communist influence.\(^{771}\) They were totally out of sympathy with the watersiders and found Labour's stance equivocal. They no doubt approved Holland's stand on arbitration and Communism but were unwilling to convert that into a general endorsement of National policy, or abandon decisively their

traditional political loyalties. National's "Labour-like" economic policy made it less imperative to vote Labour. More surprising is the dissipation of Labour support in the port electorates. In the township of Lyttleton, the Labour vote was down 16.5%, the poll down 9.7%; the National vote up 8.7%. In Port Chalmers in the Oamaru electorate, Labour's support fell 4.6%, the poll 2%, but National improved 3.7%. In Gisborne city, Labour dropped 14.8%, and that in the predominantly Labour-voting section of the electorate. This may suggest that watersiders were less than happy with Labour's support during the strike. This attitude contradicted that of strike leaders, strike bulletins and union journals. This drop of support in maritime districts was paralleled by a similar decrease in mining areas. A more probable explanation is that new unionists, workers dependent on the operation of the ports, and others from businessmen to shipgirls, whose livelihood was affected by the disruption of the waterfront strike, held Labour responsible.

As a sequel to the events of 1951, the Labour Government in 1960 passed an amendment to the Public Safety Conservation Act, requiring Parliament to reconvene within seven days of a proclamation of emergency or within seven days of the return of the writs following a general election. For the Opposition, J.H. Marshall, the deputy leader of the National Party said:

"... no Opposition would object to the calling of Parliament together ... I think that the fact that Parliament is in session can be a guarantee that a Government will not exceed proper limits in dealing with the emergency and that the rights of the minority can at least be safeguarded. ... That is desirable and no doubt especially desirable in a time of crisis, when influences are at work, which might lead a Government to take extreme action ..." 772

It had been a different story in 1951.

Nash, now Prime Minister, considered the amendment an "improvement," 773 but parliamentary scrutiny is an ineffective

773 ibid.
restraint, as rarely will a Government be unable to carry its measures through the House. It did reinforce the moral and political checks on Government action, but may well have been more effective to repeal the legislation altogether or to insert provisions limiting the scope of executive action. Labour's amendment was both one of a frustrated Opposition and a Government comforted by the broad powers of the Act.

The events of 1950-1 introduced a new factor to industrial relations: the Public Safety Conservation Act. It became an uncertain but menacing limit on the ambit of union activity. The decline in industrial stoppages following the strike can in a large part be attributed to its presence.774 If the arbitration system was Labour's leg iron, the Public Safety Conservation Act defined the area in which it was interned.

774 N.S. Woods Industrial Conciliation and Arbitration in New Zealand. Industrial peace was also due to sustained prosperity and a successful incomes policy.
The Public Safety Conservation Act has been used as a measure to uphold public order, to facilitate the defence of New Zealand, to impose extensive economic controls, to break strikes and to diminish civil liberties to a marked degree. It was enacted as a short-term remedy for a particular problem - unemployed unrest - but it was unnecessary to curb that. Yet the Act remained, and provided the machinery for later Governments to affect far-reaching if temporary changes in the law. The contents and operation of the Censorship and Public Emergency Regulations and the Waterfront Strike Emergency Regulations show to what extent the omnibus powers of the Act can be used and demonstrate the toll levied on recognized democratic freedoms and principles. It is perhaps no coincidence that in both major applications of the Act the liberty of the Press has been the first to be attacked. As the Act stands, freedoms regarded as fundamental exist only at the tolerance of the Government.

It is worth considering the contents of the Act at greater length. Many of the powers embodied in this Act are vested in the Governor-General. This is a legal fiction; he exercises these powers in name only, acting as he does, by convention, solely on the advice of his ministers. In this perspective the exercise of the Governor-General's powers in sections two and three become a political act and the restraints of parliamentary scrutiny simply become formal ratification. The Government may act in two sets of circumstances. Firstly it may utilise the act where the welfare of the community is jeopardised through its being deprived of the essentials of life. This might arise from a natural disaster - earthquake, fire, flood, storms - or from war - invasion, naval bombardment, aerial attack - or from internal instability - strikes, sabotage, chronic lawlessness. There can be little objection to a Government ensuring that its citizens are fed and sustained with the essentials of life. Indeed, it might be expected that the Government would maintain the machinery needed to discharge its obligations in this respect. Nevertheless,
the Government itself decides when an emergency situation has arisen, and having declared a state of emergency, the Government assumes powers which go far beyond anything necessary to continue the provision of the "essentials of life." This was illustrated in 1951. Natural disasters are now dealt with by the Civil Defence Act. Secondly a state of emergency may also be declared to protect the "public safety or order". Just what is encompassed by those words is far from clear; it may be anything from incipient revolution to strike action to widespread opposition to a Government or particular government policies, to constitutional deadlock, or to a Springbok rugby tour. Such a declaration will normally be heavily coloured with political connotations and in the aftermath of a proclamation, normal political activities and recognized civil liberties will be imperilled. It should be borne in mind, though, that the powers enshrined in this Act are residual powers: a government will rarely use them without justification or a show of justification - though that will not preclude abuses - and ultimately it will be answerable to the electorate, unless it is a full-blooded revolutionary government, a highly improbable eventuality in New Zealand.

The individual citizen and the community at large would seem to have little protection from the abuse of the immense powers in the Public Safety Conservation Act. Can a proclamation of emergency be challenged in a court of law? The terms of section 2 would appear to exclude such a possibility. This was the view taken by a Full Bench of the Supreme Court in 1951:

775 This also occurred during the British General Strike in 1926; C.L. Mowat, Britain Between the Wars, (London 1955), p. 318.

776 This was mentioned by the Prime Minister, N.B. Kirk, in a letter to the New Zealand Rugby Union in February, 1973. T.J. McRide, Civil Liberties in New Zealand; states of emergency were declared in several Australian States during the South African rugby tour of 1972.
"The question whether the Proclamation was necessary or reasonable is one that it is not open to the appellant, for, by the use of the words in 32(1), "If at any time, it appears to the Governor-General," an absolute discretion is given which cannot be challenged except on the ground that the subject matter is outside the ambit of the power. The Governor-General has plenary authority to decide the question whether it is necessary." 777

However, the question whether a proclamation of emergency is justiciable or not, was recently discussed by the Privy Council, by whose decisions New Zealand courts are bound. Their Lordships did not decide the issue, but described the law as "unsettled and debatable." 778 They assumed for the purposes of the case, that the question was justiciable and held on the facts that the proclamation was justified. The decision in this case suggests that even if the courts do not that they may review the institution of a state of emergency, they will tolerate a fair degree of executive discretion. The appellant, N., was the Chief Minister of Sarawak. The Governor of Sarawak purported to dismiss N. from office after half the members of the legislative 779 wrote to the Governor expressing no confidence in N. The Sarawak High Court ruled, however, that the Governor could not, in the circumstances, dismiss N. Consequently the Head of the Malaysian Federation, on the advice of the Federal Cabinet, proclaimed a state of emergency in Sarawak, and issued regulations terminating N's tenure of office. Article 150(1) of the Malaysian Constitution reads:

"If the Yang di Pehluu Agong is satisfied that a grave emergency exists whereby the security or economic life of the Federation, or any part thereof is threatened, he may issue a proclamation of emergency." 780

778 Ningkan v Government of Malaysia (1971) A.C. 379; at p. 392 A – B.
779 21/42 members.
780 ibid., 379ff.
The Privy Council held that a constitutional impasse in the Sarawak legislature sufficed to justify the proclamation of emergency; a breakdown of stable government may have endangered the security of the federation — although it did not in fact do so, nor at the time the proclamation was made, did this seem likely. It should also be noted that a constitutional crisis is usually super-charged with political considerations. The judgement also emphasised that any one challenging a declaration of emergency must prove that it was unnecessary or issued in bad faith; it conceded that it was a difficult burden to discharge.

The power to make regulations is governed by much the same considerations. The words, "the regulations so made shall have effect as if enacted in this Act," were intended to stop the courts pronouncing on the validity of the regulations made pursuant to the Act. This expression is now rarely used and has received little judicial consideration. A late nineteenth century decision supported the view that the courts could not review the regulations. This was contradicted by another, later House of Lords' decision that it did not deny them the right to see if the regulations came within the scope (intra vires) of the Act. This decision has been followed in New Zealand. Where the words, "to make all such regulations as he thinks necessary" have been used, the courts have at times regarded it as conferring an unfettered discretion on the law-making authority. But the Privy Council has held that although the courts cannot canvas the considerations which may have led the Governor-General to believe the regulations were necessary:

"That does not allow him to do whatever he may feel inclined, for whatever he does must be capable of being related to one of the prescribed purposes and the Court is entitled to read the Act in their way."

781 Ningkan v. Government of Malaysia, _op. cit_. , p. 391C-F
783 Minister of Health v. R. _ex p_. Yaffe (1931) A.C. 494.
786 A.G. for Canada v. Hallett & Carey (1952) A.C.
Thus, the very terms of the regulation must create the inference that the law making agency, whether deliberately or inadvertently, did not form the relevant belief. The majority in the Billens held, for instance, that Paul had misdirected himself as to the law in issuing the directives in question. In a wartime decision, Blair J. suggested that the Price Stabilisation Emergency Regulations 1939, which froze prices of goods and services at their level on 1 September, 1939, subject to the consent of the Minister of Industries and Commerce or the Price Tribunal to any price increases, and which were issued pursuant to the Public Safety Conservation Act, were probably ultra vires.

The courts have also discussed holding regulations invalid on the grounds that they are unreasonable or because they were made in fraudem legis (i.e. not for their ostensible purpose). The same considerations have been suggested to apply to proclamation of emergency; but there are no reported cases of either regulations or proclamations being disallowed for these reasons. They are, on the contrary, a large number of authorities which state that the courts have no concern with the reasonableness of the regulations or the policy behind them. While they may conceivably form a basis for a case, however weak, to challenge abuses of authority, statements made, obiter dicta even of the highest authority, such as by judges of the House of Lords, carry less weight than precedents decided on the basis that unreasonableness and good faith are not tests the courts are competent to conduct. It is also important to point out that in times of war and emergency, the courts had been at their least robust in defence of civil liberties and at their most deferent to executive authority.

789 McEldowney v. Forde op. cit., per Lord Hodson, p. 643 F.
790 e.g. Carroll v. Attorney-General (1933) N.Z.L.R., 1461.
791 See e.g. Burton v. Power (1940) N.Z.L.R., p. 305; Leversidge v. Anderson, op. cit. This was admitted in Read v. Smith (1959) N.Z.L.R.
that the New Zealand judicial tradition is to give all legislation "such a fair large and liberal" interpretation as shall best ensure the objects of the Act. The courts are required to do this by S5(j) Acts Interpretation Act 1924. While they seldom refer to this provision, decisions are arrived at on this premise. Legal cases are to some extent a toss of the coin; but the record of the courts scarcely inspires confidence.

A further question raised by the regulation—making provisions of the Act relates to S3(7)—no regulation shall be invalid because it is repugnant to any other enactment. Conversely it would seem any regulation could repeal or amend or supersede any Act or a provision of an Act. This would enable the rights contained in the Habeas Corpus Acts, for instance, or the legal procedures in the Crimes Act, such as the right to be defended (S354), or rights of appeal (S5380-399), to be removed. Here Parliament would appear to have revived the "suspending and dispensing" prerogative removed by the Bill of Rights 1688.

But there are limits even to this power. In Thompson v. Auckland Metropolitan Milk Board, Blair J. held that the Price Stabilisation Emergency Regulations 1939 which prohibited price rises without the consent of the Minister of Industries and Commerce, or the Price Tribunal, did not invalidate the special price-fixing procedures contained in the Auckland Metropolitan Milk Act 1933. Invoking the maxim, "Generalia specialibus non derogant,"

"I cannot read such a general regulation, even though subsequently validated, as implicitly repealing a special statute dealing with a special position and a special case as the Auckland Metropolitan Milk Act is."

Had the regulation stated the Auckland Metropolitan Milk Act was no longer of any effect, or had specifically fixed the price of milk in that area, then the Act apparently would have suspended. The decision appears to only marginally impinge on the very

792 S5(j) was explicitly invoked in Hewett v. Freider, op. cit.
793 (1942) N.Z.L.R. 42.
794 Generalities do not derogate from particular provisions.
substantial powers of the Act.

This examination should make two points clear. Firstly that the powers entrusted to the Governor-General, but in practice Cabinet are very broad; secondly that the restraints upon the use of those powers are very slight. Parliamentary scrutiny, if it occurs, is a purely nominal control; Cabinet will almost always command a parliamentary majority. Judicial review is unlikely to impinge on the validity of either a proclamation of emergency or most of the regulations which might be promoted under the Act.

One other feature of the Act calls for comment; that is S3(4) which permits the presentation of evidence, in prosecutions brought for offences against the regulations, not normally admissible in criminal proceedings. Of all the powers in the Act, this is potentially the most corrosive of individual civil liberties. The rules of evidence have been evolved to ensure that the accused's right to fair trial is not prejudiced. This provision allows those rules to be put aside. Among the types of evidence which may be submitted to the court, and which are not usually admitted, are the evidence of previous convictions or acquittals, hearsay evidence, evidence demonstrating that the defendant is of a character which makes him likely to have committed the offence, "confessions" gained by fear of prejudice, violence, actual or threatened, hope of advantage or unfair procedures and involuntary confessions. In joint trials statements made by one of the accused are usually admissible against him only; under this provision such evidence may be used against other defendants.

A further check on the execution of the processes embodied in the Act in an informed and articulate public opinion. The events of 1932, 1939 and 1951 justify little faith in its efficiency. In each case, other factors have distorted or obscured the Act and its applications; social and economic problems in 1932; war in 1939; industrial anarchy and Communism in 1951. Throughout there has been a reluctance to make a perhaps unreal distinction between
ends and means. Everyone agreed that cities should not be subjected to mob rule, that war had to be won, and that a new deal on the waterfront was desirable; how these goals were attained seemed less important. On each occasion, minority groups who were despised and distrusted by the community at large bore the brunt of the attack - unemployed, pacifists, communists, watersiders. And this in a social context which stressed conformity and order and respectability and yearns for the strong man at the helm, whether his name is Muldoon or Massey, Fraser or Coates, Holland or Seddon. As for the Press, it uniformly subscribes to the conservative paradigm which turns these convictions into fetishes. Dissenting opinion has been limited to ill-fated Labour publications and other left-wing journals, limited in circulation, polemical and self-opinionated.

Finally there is an absence of constitutional restraints. New Zealand has no written constitution or bill of rights which safeguards fundamental liberties. Our courts do not test the validity of statutes, or rule on their justice or reasonableness. Nor has there been any attempt to insert provisos in the Public Safety Conservation Act such as are contained in the Emergency Powers Act.

The Act remains a potent restraint on the exercise of political and industrial protest. While it in no way threatens the day to day activities of pressure groups, political parties or trade unions, it sets a real, if undefined limit on the scope and intensity of their agitation. Once invoked, its repercussions can be immense. In that case, even the ordinary practices of citizens, press and political and industrial bodies can be severely circumscribed.

796 Only possible exception to this is the reserved sections of the Electoral Act 1956, requiring a 75% majority in the House of Representatives for amendment or repeal.
APPENDIX

THE PUBLIC SAFETY CONSERVATION ACT 1932

1932, No. 3.

An Act to make provision for the protection of the community in cases of emergency. (20 April 1932)

1. Short Title - This Act may be cited as the Public Safety Conservation Act 1932.

2. Issue of Proclamations of Emergency

(1) If at any time it appears to the Governor-General that any action has been taken or is immediately threatened by any persons or body of persons of such a nature and on so extensive a scale as to be calculated, by interfering with the supply and distribution of food, water, fuel, or light or with the means of locomotion, to deprive the community or any substantial portion of the community of the essentials of life, or if at any time it appears to the Governor-General that any circumstances exist, or are likely to come into existence, whereby the public safety or public order is or is likely to be imperilled the Governor-General may, by Proclamation approved in Executive Council (hereinafter referred to as a Proclamation of Emergency), declare that a state of emergency exists throughout New Zealand or, according to the tenor of the Proclamation, throughout any area or areas that may be specified or defined in the Proclamation in that behalf.

(2) No such Proclamation shall be in force for more than one month, without prejudice to the issue of another Proclamation at or before the end of that period.

(3) Where a Proclamation of Emergency has been made, the occasion thereof shall forthwith be communicated to Parliament if Parliament is then in session, and if Parliament is not then in session, shall be communicated to Parliament within fourteen days after the commencement of the next ensuing session.

Cf. Emergency Powers Act 1920, s. 1 (U.K.)

3. Emergency regulations -

(1) Where a Proclamation of Emergency has been made, and so
long as the Proclamation is in force, it shall be lawful for the Governor General, by Order in Council, to make all such regulations as he thinks necessary for the prohibition of any acts which in his opinion would be injurious to the public safety, and also to make all such other regulations as in his opinion are required for the conservation of public safety and order and for securing the essentials of life to the community. Without limiting the generality of the authority conferred by the foregoing provisions of this sub-section, any regulations as aforesaid may confer or impose on a responsible Minister of the Crown, or on any Department of State, or any persons in the Service of the Crown or acting on behalf of the Crown, such powers and duties as the Governor-General may deem necessary for the preservation of peace and order, for securing and regulating the supply and distribution of food, water, fuel, light, and other necessities, for maintaining the means of transit, transport, or locomotion, and for any other purposes essential to the maintenance of public safety and order and the life of the community; and may make such provisions incidental to the powers aforesaid as may appear to the Governor-General to be required for making the exercise of those powers effective.

(2) Any regulations made under the authority of this section may apply throughout New Zealand, notwithstanding that a Proclamation of Emergency may have been issued only in respect of a limited area or of limited areas, or may, according to the tenor of the Order in Council by which such regulations are made, apply only within the area or areas specified or defined in the Proclamation of Emergency.

(3) Any regulations so made shall be laid before Parliament as soon as may be after they are made, and shall not continue in force after the expiration of fourteen days from the time when they are so laid before Parliament unless a resolution is passed by (the House of Representatives) providing for the continuance thereof.

(4) Every person who commits, or attempts to commit, or does any act with intent to commit, or counsels, procures, aids, abets, or incites any other person to commit, or conspires with
any other person (whether in New Zealand or elsewhere) to commit any offence against any regulation shall be liable on summary conviction before a Magistrate to imprisonment for a term of three months or a fine of one hundred pounds, or both such imprisonment and fine, together with the forfeiture of any goods or money in respect of which the offence has been committed. In any prosecution for any such offence the Court may admit such evidence as it thinks fit, whether such evidence would be admissible in other proceedings or not.

(5) The regulations so made shall have effect as if enacted in this Act, but may be added to, altered, or revoked by resolution of (the House of Representatives) or by regulations made in like manner and subject to the like provisions as the original regulations. All regulations made under the authority of this section and not theretofore revoked shall expire on the expiration of the Proclamation of Emergency by virtue whereof they were made, but may be revived either in whole or in part by any subsequent Proclamation of Emergency.

(6) The expiry or revocation of any regulations so made shall not be deemed to have affected the previous operation thereof, or the validity of any action taken thereunder, or any penalty or punishment incurred in respect of any contravention or failure to comply therewith, or any proceeding or remedy in respect of any such punishment or penalty.

(7) No regulation under this Act shall be deemed invalid because it deals with any matter already provided for by any Act in that behalf, or because of any repugnancy to any such Act.

(8) Nothing in this Act or in any regulation under this Act shall be so construed or shall so operate as to take away or restrict the liability of any person for any offence punishable independently of this Act.

In subss. (3) and (5) the references to the House of Representatives were substituted for references to both Houses of Parliament by s. 2 (4) of the Legislative Council Abolition Act 1950.

As to the validation of emergency regulations made under this Act before 14 September 1939, see s. 5 of the Emergency Regulations Act 1939.

4. **Special provisions applicable pending issue of Proclamation of Emergency**

(1) In any case of public emergency whether arising from earthquake, fire, flood, public disorder, or otherwise however, in which, owing to the suddenness of the occurrence, the interruption of communications, or any other cause, the foregoing provisions of this Act cannot be put into operation immediately, the senior officer of the Police Force present in the locality shall assume responsibility for the issuing of all orders and instructions necessary in his opinion for the preservation of life, the protection of property, and the maintenance of order. The authority conferred by this section shall cease and determine on the issue of a Proclamation of Emergency under section two hereof.

(2) Every person who obstructs or interferes with any officer of police or other person in the execution of any orders or instructions given by or with the authority of the senior officer of the Police Force as aforesaid commits an offence against this Act and shall be liable to the same penalty as if he had committed an offence against regulations made under the authority of the last preceding section.

5. **Protection of persons acting under authority of this Act or of regulations thereunder.**

No action, claim, or demand whatsoever shall lie or be made or allowed by or in favour of any person against the Crown, or any Minister of the Crown, or any officer or person acting in the execution or intended execution of this Act or of any regulations thereunder, for or in respect of any damage, loss, or injury sustained or alleged to have been sustained by reason of anything done or purporting to be done under the authority of this Act or
of regulations as aforesaid, save only in respect of reasonable compensation for any property used or taken for or on behalf of the Crown in pursuance of any powers conferred by this Act or by regulations under this Act.

S 2 (1) amended by S 58 (1) 1962 No. 36 and by S 19 (1) 1968 No. 133. After "imperilled" insert:—
"and a state of national emergency or of civil defence emergency has not been declared under the provisions of the Civil Defence Act 1962 in respect of those circumstances."

S 4 (1) amended by S 58 (2) (a) 1962 No. 36 and S 19 (2) 1968 No. 133. After "emergency" insert:
"other than an emergency in respect of which a state of national emergency or of civil defence emergency has been declared under the provisions of the Civil Defence Act 1962."
2. Parliament to meet after issue of Proclamation of Emergency

Section 2 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsections:

"(3) Where a Proclamation of Emergency has been made, the occasion thereof shall forthwith be communicated to Parliament.

"(4) If when a Proclamation of Emergency is made -

"(a) Parliament has been prorogued until a date more than seven days after the date on which the Proclamation of Emergency is made; or

"(b) Parliament has been dissolved or has expired and no Proclamation has been made summoning Parliament to meet on a day not later than seven days after the date on which the Proclamation of Emergency is made, -

a Proclamation shall be made appointing a day for the meeting of Parliament, being a day not later than seven days after the date of the making of the Proclamation of Emergency or, where the Proclamation of Emergency is made after the date on which Parliament has been dissolved or has expired and before the latest day appointed under the Electoral Act 1956 for the return of the writs for the election of the members of Parliament, a day not later than seven days after the latest day so appointed; and Parliament shall accordingly meet and sit on the day so appointed.

"(5) If on the date when a Proclamation of Emergency is made Parliament has been adjourned until a date more than seven days after the first-mentioned date, the Speaker of the House of Representatives shall forthwith, by notice in the Gazette, summon the members of Parliament to meet on a day specified in the notice, being a day not later than seven days after the date of the making of the Proclamation of Emergency; and Parliament shall accordingly meet and sit on the day so specified."
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