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"If you have nothing to hide, you have nothing to fear"?

An Examination of the 1977 Security Intelligence Service Amendment Bill and Protest Directed Against It.

Tom Scott's Christmas cartoon for OASIS (Organisation Against the SIS).

A thesis presented in partial fulfilment of the requirements for the degree of Master of Arts in History at Massey University

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CONTENTS

ACKNOWLEDGEMENTS 1

ABBREVIATIONS 2

INTRODUCTION 3

CHAPTER ONE

"The Powles Report and the Bill" 11

CHAPTER TWO

"Legislative Debate and an Emerging Movement" 23

CHAPTER THREE

"Protest Mobilised" 51

CHAPTER FOUR

"Dwindling Action" 82

CHAPTER FIVE

"A Protest Movement Diminished" 91

APPENDIX

"Examples of Advertising" 102

BIBLIOGRAPHY 104

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Cover illustration by Tom Scott, from Ron Smith, *Working Class Son*, p. 181.

ABBREVIATIONS

Institutions

ATL	Alexander Turnbull Library
JCBR	JC Beaglehole Room, Rankine Brown Building, Victoria University of Wellington
MU	Massey University Library (Turitea)
NA	National Archives

Groups

BCNZ	Broadcasting Corporation of New Zealand
CARE	Citizen's Association for Racial Equality
CORSO	Council of Organisations for Relief Services Overseas
COSS	Campaign to Oppose the Security Service
CPNZ	Communist Party of New Zealand
CSSO	Combined State Services Organisation
FOL	Federation of Labour
GCSB	Government Communications Security Bureau
HART	Halt All Racist Tours
MUSA	Massey University Students' Association
NZCCL	New Zealand Council for Civil Liberties
NZSIS	New Zealand Security Intelligence Service
NZUSA	New Zealand University Students' Association
OASIS (B)	Organisations Against the Security Intelligence Service Bill
PSA	Public Service Association
SUP	Socialist Unity Party
VUWSA	Victoria University of Wellington Students' Association
WMLO	Wellington Marxist-Leninist Organisation

INTRODUCTION

In 1977, following an investigation of the SIS by the Chief Ombudsman Sir Guy Powles, Robert Muldoon's National Government introduced the Security Intelligence Service Amendment Bill to amend the 1969 legislation governing the Security Intelligence Service (SIS). A protest movement emerged, that opposed both the changes proposed by the Bill, and the organisation it affected. The 1969 Act has been amended three times: in 1977, 1996 and 1999. This thesis focuses on the amendments introduced by legislation in 1977, reaction to the Bill and the mobilisation of a movement to protest the Bill, and the extent to which protest influenced the proposed legislation.

The Bill attracted a widespread movement opposed to its provisions. Many protest movements from the 1970s and 1980s have been examined by scholars, such as Kevin Clement's examination of the anti-nuclear movement in *Back from the Brink: The Creation of a Nuclear-Free New Zealand*[1]; Elsie Locke's history of the peace movement – *Peace People*[2]; and Trevor Richard's work on the anti-apartheid movement – *Dancing on our Bones.*[3] However, the opposition to the SIS and the 1977 SIS Amendment Bill has yet to be adequately discussed in an historical context. Protest against the Bill drew upon past movements, particularly through the involvement of 'veterans' of protest groups such as the Committee on Vietnam, and also influenced movements that followed it, such as the anti-apartheid protests in 1981. This thesis, in attempting to place the anti-SIS Bill movement in an historical context, seeks to answer the following key questions. What did the Bill propose, and why was it introduced? How and why were people opposed to the Bill? To what extent were they successful in meeting their objectives?

The first question is addressed in chapter one, and examines the assertion of the Prime Minister that the Bill was based on the report on the SIS by the Chief Ombudsman Sir Guy Powles. It examines the origins of the Bill, including the

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[1] Kevin Clements, *Back from the Brink: The Creation of a Nuclear-Free New Zealand*, Wellington: Allen & Unwin, 1988.
[2] Elsie Locke, *Peace People: A History of Peace Activities in New Zealand*, Christchurch: Hazard Press, 1992.
[3] Trevor Richards, *Dancing on our Bones: New Zealand, South Africa, rugby and racism*, Wellington: Bridget Williams Books, 1999.

report of Powles and the events that led to his investigation. Chapter one also discusses the provisions of the Bill in detail, as they relate to the Powles report.

Chapters two, three and four address the second question, discussing the establishment, mobilisation and actions of the protest movement that emerged following the Bill's introduction to Parliament in September 1977. In particular, chapter two covers the first Parliamentary debate of the Bill, the growth of the protest movement and its first actions in September. Chapter three concentrates on the emergence of two threads of opposition, with different methods of opposing the Bill, as the protest movement reached its peak in terms of popular support and public participation in protest. It also discusses changes made to the Bill prior to the second reading in Parliament. Chapter four deals with the ebbing of protest against the Bill, as it progressed through the Parliamentary processes towards its final reading.

Chapter five concludes the thesis by examining how the movement adapted following the Bill's passage into statute, during the late 1970s and early 1980s. It also answers the question on the 'success' of the protest movement. This chapter will evaluate the different actions of the groups opposed to the Bill, in relation to their stated intentions

The time parameters of this thesis include a core period and two peripheral periods. The core period is from September to November 1977, relating to the period during which the Bill was introduced to Parliament, and in which the protest movement was formed and most active. On the periphery, the immediate context of this thesis covers the years 1974 to 1977, in which key events occurred that impacted on the events during the core period in 1977. The wider context extends back to 1941, to the establishment of the first incarnation of the SIS. Beyond 1977, this thesis also takes in the period from 1977 to 1987, covering the evolution of the protest movement and reaction to the Bill's passage into statute.

Protest against the SIS Bill in 1977 drew upon previous protest movements, both in terms of methods of protest, which Lisa Sacksen described as "tried and true"[4], and in terms of the people involved. Sacksen, who was the New Zealand University Students Association (NZUSA) president during the

[4] Interview with Lisa Sacksen, 10 October 1977.

protests and one of the key figures in organising the movement, said that the protest against the SIS Bill in 1977 was a continuation of a struggle that reached as far back as the Waterfront dispute in 1951. The anti-SIS Bill movement in 1977 was not a spontaneous, 'spur-of-the-moment' decision, but part of what Sacksen described as an ongoing "intergenerational struggle" against overbearing state power.[5]

While the 1977 anti-SIS Bill movement may have emerged in a general context of protest during the 1960s and 1970s, it had a direct antecedent of its own. In the early 1970s, a group was founded known as COSS – Campaign to Oppose the Security Service. Few details about the organisation are known, though having found its third newsletter, it clearly produced at least two others. The third newsletter, published in October 1975, relayed information to members about the activities of the SIS, and kept them informed of upcoming protest action. It discussed the alleged connection between the National Party and the SIS, and planned to distribute leaflets around two marginal Wellington electorates, "to ensure that the full extent of SIS/National Party infamy is made known to electors before the election."[6] At least one person involved in COSS became involved in the movement against the SIS Bill in 1977. Amanda Russell, who was identified in the COSS newsletter as a member of the group, became the full-time organiser of the main group set up to oppose the SIS Bill in 1977. However, no further information has been found, nor have other newsletters been located, and the organisation remains largely anonymous and obscure.

Very little secondary material has been produced that discusses the 1977 SIS Amendment Bill, or the protest movement that emerged to protest its provisions. There is slightly more information on the NZSIS and related organisations such as the Government Communications Security Bureau (GCSB), however these also only mention the 1977 SIS Bill, and the protest against it, in passing.

Michael Parker's *The SIS* was published in 1979, and focuses on the organisation as a whole. Though it does not cover the protests, and only makes passing references to the 1977 Bill, it provides a general history of the

[5] Interview with Lisa Sacksen, 10 October 1977.
[6] COSS newsletter, October 1975, Elsie Locke Papers, 2001-243-2/3, ATL.

organisation from its foundations in the 1940s, and offers an insight into the workings of the SIS. This insight, however, was vehemently attacked by critics. For example, Wellington publisher and civil liberties campaigner Hugh Price, in a review for the *Listener*, wrote: "His book is badly written in a jejune style, which is at its worst in Chapter 9, 'The SIS Man.'"[7] Price gave an example from Parker's book: "The SIS man must be open, alert, inquisitive, mature, impartial, patriotic, have a good education, and a strong sense of integrity..."[8] Price's review concluded, "By ignoring all critical comment... Parker has produced a 'half' book. He has given us some interesting information, but he has failed to penetrate his subject."[9] Price's analysis of Parker's book is accurate: his account of the SIS is superficial, and reads as if he is engaging in a 'public relations exercise' for the SIS, a sentiment shared by another reviewer, Patrick Mulrennan.[10] Mulrennan's review in *Socialist Action* sparked a libel suit, which ruled in Parker's favour and cost the publishers of *Socialist Action* $16,000 in damages and legal costs.[11] Despite this, it becomes clear from reading *The SIS* that Parker was enamoured with the lifestyle of the espionage world, and was captivated by the mystery and aura that surrounded the secret organisation. Michael Parker ultimately fails to provide the critical analysis his subject requires.

Hugh Price also wrote the first retrospective examination of the Bill as a statute 'in action'. His article appeared in a small book published by the Council for Civil Liberties in 1985, titled *Civil Liberties in a Changing New Zealand.* This was a collection of papers presented at a seminar in 1984. Price's article examined the practice of the 1977 Amendment Act over the eight years since its passage into law, and discussed whether the objections voiced in 1977 were warranted.[12] He concluded that the Act "has turned out as badly as was predicted."[13] Price's article is illuminating, revealing in a concise and precise manner the actions of Muldoon and the National Government in relation to the

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[7] *NZ Listener,* November 3, 1979, p. 56.
[8] *NZ Listener,* November 3, 1979, p. 56.
[9] *NZ Listener,* November 3, 1979, p. 56.
[10] *Civil Liberty* 41 (1991), p. 22.
[11] *Civil Liberty* 41 (1991), p. 22.
[12] Hugh Price, "The SIS in 1984: Eight Years After the 1977 Act", in *Civil Liberties in a Changing New Zealand*, Wellington: Gondwanaland Press, 1985, p. 55.
[13] Price, "The SIS in 1984", p. 62.

SIS legislation. However, as Price's article is specific to the legislation and the way it has been used, he does not cover protest action against the Bill.

Barry Gustafson's biography of Muldoon is an engaging and informative account of perhaps the most memorable politician of the last 30 years. In one section, Gustafson relates the background to the Bill's introduction, and the subsequent clash between Muldoon and one of his backbenchers Michael Minogue over the provisions of the Bill. Gustafson's account is insightful, revealing in a clear fashion the relationship between Minogue and Muldoon.[14] However, Gustafson does not discuss the actions of protesters, Muldoon's response, or even Muldoon's thoughts about the Bill. This is not unexpected, as the 1977 SIS Amendment Bill was only a brief event amongst a large number of events covered by Gustafson. Gustafson's book is very useful in its revealing portrayal of Muldoon, with him emerging as a man who is willing to concede very little.

The memoirs of Ron Smith are one of the few works to make direct reference to the protests against the 1977 SIS Bill. Smith was a member of the Communist Party and later became involved with the Wellington Marxist movement in the early 1970s that was known first as the Wellington Marxist-Leninist Organisation (WMLO) before it merged with the Northern Communist Organisation to become the Worker's Communist League (WCL).[15] Smith declared that, "the Worker's Communist League played a leading role in much of the activism of the 1975-85 decade, in particular the 1981 Springbok tour, the women's liberation movement, the mass trade-union actions of 1979-83, and the anti-SIS Bill campaign."[16] Smith's memoirs provide an interesting overview of the protest methods used, but he makes little reference to details of the level of involvement of the WCL and it's predecessors in organising the protest actions against the Bill.

The history of the Public Service Association (PSA), *Remedy for Present* Evils, written by Bert Roth, also makes a direct reference to the protest activity.

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[14] Barry Gustafson, *His Way: A Biography of Robert Muldoon*, Auckland: Auckland University Press, 2000, p. 196.
[15] Ron Smith, *Working Class Son: My Fight Against Capitalism and War: Memoirs of Ron Smith, a New Zealand Communist*, Wellington: R J Smith, 1994, p. 162.
[16] Smith, *Working Class Son*, p. 162.

Roth recalled how the Bill threatened the civil liberties of the members of the PSA, and the response of the organisation to that threat. He stated that the PSA "urged the Government to withdraw the Bill, and they co-operated with other organisations in a nation-wide campaign of protests, including one of the largest ever meetings in Parliament grounds on 14 October, which was followed by a march of thousands to the SIS headquarters in Taranaki Street."[17] However Roth's account, like Smith's, is also brief, and offers few details about the protests.

In December 1978, an article by Professor W T Roy, of Waikato University, appeared in *Political Science*, which set out to

> examine the growth of intelligence services in New Zealand, consider the public debate attending the passage of controlling legislation, attempt to explain the sources of public concern in the issues and their motives, and finally to evaluate the extent to which the concern expressed has been effective in moulding legislation and establishing control.[18]

This article gave a brief account of the establishment of the SIS, and recounted in a similarly brief fashion the opposition the SIS has faced since its inception. The article's coverage of the Bill's provisions and the response of protesters is, however, lacking in various places, and ultimately fails to comprehend the diversity of groups protesting, or the rationale behind their opposition. Roy denigrates the protesters against the Bill, and protest in New Zealand in general, reducing the action to "a bit of a lark",[19] stating

> In a basically dull society the thought of being a successful rebel leads readily to the turning of a blind eye to the reality of the situation, which is that, in the New Zealand context, little if any protest has ever been more than marginally effective. Meanwhile, the holder of the fantasy can experience the delicious titillation of feeling sufficiently important or even dangerous to be the subject of surveillance, though without running the risk of transportation to an

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[17] Bert Roth, *Remedy for Present Evils: A History of the New Zealand Public Service Association from 1890*, Wellington: New Zealand Public Service Association, 1987, p. 254.
[18] W T Roy, "Cloak and Dagger in Fantasyland: The SIS Debate in New Zealand", *Political Science*, 30 (2), December 1978, p. 97.
[19] Roy, "Cloak and Dagger in Fantasyland", p. 103.

> antipodean Gulag Archipelago. Hence the whole exercise of protest devolves into a form of sport without danger...[20]

Professor Roy's article was the first such attempt to present an analysis of the 1977 Bill and protest directed against it. However, he failed to penetrate the depth of the protest movement, and ultimately presented protest against the Bill as being little more than a 'sport'.

These works represent the greatest contribution to the historical account of protests against the 1977 SIS Bill in secondary literature thus far. They all, however, fall far short of providing a comprehensive survey of the Bill, it's origins, and the protest movement that emerged to oppose the Bill's provisions. This gap in the historical record provides the greatest justification for this thesis.

Much of the information within this thesis is drawn from primary sources such as newspapers, the papers of politicians and organisations including minutes and correspondence, legislation, and oral history. The newspapers consulted are from as broad a range as possible. This includes the Auckland-based *New Zealand Herald*, the Wellington-based *Evening Post* and the Christchurch-based *Press*. The *Dominion* was sought, but was unavailable from either the National Library or any Wellington public library. The unpublished manuscripts were all selected initially from a keyword search of TAPUHI,[21] with the number of collections expanding as material was consulted and further words and names were added to the search. These included the papers of Walter Scott and the New Zealand Council for Civil Liberties, the Federation of Labour, the National and Labour Party papers, and other individuals such as Elsie Locke, Freda Cook, Bert Roth and Ron Smith. A limited amount of government-related material was sourced from the National Archives, such as the Cabinet Papers for 1977. Three interviewees for oral history were selected on the basis of availability, and their prominence, both within the movement and in the material relating to the protests.

However, access to restricted papers has created a barrier to an examination of all relevant primary source material. This includes much within

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[20] Roy, "Cloak and Dagger in Fantasyland", p. 103.
[21] The search engine for the National Library's catalogue of archives and unpublished manuscripts. See http://tapuhi.natlib.govt.nz. Viewed 20 February 2004.

the Muldoon Papers. For security reasons, the papers of Robert Muldoon are restricted, and though limited access was granted, the approval to examine files was on a 'case-by-case' basis, and each item had to be individually assessed for access. A few files were released, but a full examination of all relevant files was not possible within the allotted timeframe. Other collections that were restricted were the Mary Batchelor Papers and the papers of Dr Sutch. Mary Batchelor was a backbench Labour MP in 1977 who was involved in a special committee hearing submissions on the Bill. A request to gain access to papers lodged with the Alexander Turnbull Library was never acknowledged. Permission to access to the Sutch Papers was withdrawn at the request of the family, as they did not wish to have painful memories dredged. Their request was respectfully granted. Although access to those materials that were restricted may have contributed to a richer understanding of the background and context, it is not believed that such restrictions have hampered the examination of the core issues or the conclusions of this thesis.

CHAPTER ONE

The Powles Report and the Bill.

The 1977 Security Intelligence Service Amendment Bill was, according to the Prime Minister, based on a report on the SIS commissioned by the Labour Government and conducted by the Chief Ombudsman, Sir Guy Powles, between 1975 and 1976. The connection between the report and the Bill was emphasised by the National Government during the Bill's introduction in September 1977, and vehemently disputed by its opponents. This chapter will examine the origins of the report on the SIS, and the recommendations it made. It will also examine the Bill itself, discussing the key provisions. In doing so, this will answer the questions: what was the Amendment Bill, and where did it come from? Finally, this chapter will address the question, to what extent was Powles' report on the SIS the basis of the Bill? In answering this question, this chapter will highlight the differences between the two and shed light on the causes of opposition towards the Bill.

On 8 August 1975, the Prime Minister Bill Rowling commissioned the Chief Ombudsman, Sir Guy Powles, to conduct an investigation into the activities of the SIS.[22] The purpose of the investigation, according to its Terms of Reference, was "to ensure that the functions of the New Zealand Security Intelligence Service are in conformity with both the needs of our country and the character of our society and our democratic form of Government."[23] The boundaries of the commission were wide, and covered both the practical activities and the administrative processes of the SIS.[24] However, the Terms of Reference do not explain why the investigation was commissioned in the first place.

The driving reason behind the inquiry seems to have been a widespread concern about the activities of the SIS, and the potential for infringement of civil liberties. An editorial in the *New Zealand Herald* described the purpose of the

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[22] Sir Guy Powles, "Security Intelligence Service: Report by Chief Ombudsman", *AJHR*, 1976, Session I, A. 3a, p. 2. (Hereafter, "Powles Report").
[23] Powles Report, p. 4.
[24] Powles Report, p. 4.

inquiry as "the allaying of any public misgivings about the role of the Service."[25] These "misgivings" had existed for years, as represented by the long-standing opposition of the New Zealand Council for Civil Liberties to the SIS,[26] and had resurfaced in two incidents between 1974 and 1975.

If public concern was the driving reason behind the SIS inquiry, the timing is noteworthy. While Rowling stated that "my decision to ask Sir Guy to take on this task is not related to any particular event"[27], the *Herald* claimed, "the call for an inquiry into the activities of the Security Intelligence Service has been intensified since a member of the service was suspended this week for allegedly leaking a confidential document."[28] Although the inquiry may not have been directed at a particular incident, certain events were likely the catalyst for the inquiry's commission.

The Sutch case was the first instance in New Zealand of a person being tried for offences against the Official Secrets Act.[29] It involved the surveillance by the SIS, and the eventual prosecution, of Dr William Ball Sutch. Dr Sutch was a senior public servant who served a variety of Ministers and Prime Ministers "from the time he joined the staff of Finance Minister Gordon Coates in 1932"[30], until he retired in 1965, as the Secretary of Industries and Commerce. In 1958 Dr Sutch was appointed to this position against the advice of the Security Service (as it was then known, later to become the Security Intelligence Service), on the grounds that he was considered to be a security risk, the information having come from American intelligence agencies.[31]

In 1974, nine years after Sutch's retirement, he resurfaced in routine surveillance of the Soviet Embassy in Wellington. The SIS discovered that Sutch "was in communication with members of the staff of the Embassy."[32] The staff member was identified as Dimitri Razgovorov, First Secretary of Soviet Embassy and a KGB officer.[33] The SIS advised Prime Minister Norman Kirk

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[25] *New Zealand Herald*, 2 August 1975, p. 6.
[26] *Civil Liberty*, 46, (1994), p. 4.
[27] *New Zealand Herald*, 1 August 1975, p. 1.
[28] *New Zealand Herald*, 1 August 1975, p. 1.
[29] Michael Parker, *The SIS*, Palmerston North: Dunmore Press, 1979, p. 144.
[30] Gustafson, *His Way*, p. 192.
[31] Keith Sinclair, *Walter Nash*, Dunedin: Auckland University Press, 1976, p. 342.
[32] Robert Muldoon, *Muldoon*, Wellington: A.H. & A.W. Reed, 1977, p. 170.
[33] Gustafson, *His Way*, p. 192.

"not to prosecute Sutch but to seek an explanation from him for his contacts with Razgovorov...."[34] Kirk rejected this advice, and instead authorised further surveillance.[35] This surveillance led to the interruption of a clandestine meeting between Razgovorov and Dr Sutch by the SIS and Police officers, at which point Dr Sutch was detained by Police. Razgovorov, however, claimed diplomatic immunity and went free.[36] Dr Sutch was charged "under the Official Secrets Act 1951 that 'on or about 18 April 1974 and 26 September 1974 in Wellington, for a purpose prejudicial to the safety or interests of the State, he obtained information which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy."[37] Dr Sutch pleaded not guilty to this charge.[38]

The trial of Dr Sutch took place between 17 and 21 February 1975. The prosecution's case rested upon proving a technical breach of the 1951 Official Secrets Act. Under Section Four,

> the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or outside New Zealand, shall be evidence that he has, for a purpose prejudicial to safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy.[39]

The defence argued that the fact that Dr Sutch had been retired for 10 years, coupled with the fact that the Crown had not shown what information was allegedly being passed, meant that the prosecution was asking the jury to make a deduction in the absence of proof.[40] After five days of evidence, the jury retired for seven hours of deliberation before returning a verdict of not guilty.

The trial of Dr Sutch aroused concerns about both the Official Secrets Act 1951 and the SIS itself. The section of the Act under which Sutch had been charged placed the onus of proof on the accused – Sutch was required to prove the innocence of his meetings with Razgovorov. This ran counter to the traditional form of the Westminster justice system, where the accused is

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[34] Gustafson, *His Way,* pp. 192-193.
[35] Gustafson, *His Way*, p. 193.
[36] Parker, pp. 142-143.
[37] Margaret Hayward, *Diary of the Kirk Years*, A.H. & A.W. Reed: Wellington, 1981, p. 316.
[38] Parker, p. 147.
[39] Parker, p. 145.
[40] Parker, p. 153.

presumed innocent until proven guilty. The strange inversion of justice contained in the Official Secrets Act, brought into the public spotlight by the trial, was a significant factor in sparking demands for a revision of the Official Secrets Act. The Labour Government even took steps to create fresh legislation in this field, but was defeated at the General Election before it could be introduced.[41]

Calls for a review of the SIS were made concurrently with the criticisms of the Official Secrets Act. The criticisms of the SIS revolved around suspicions that the SIS possessed information about Sutch that had not been released at the trial, concerns about the methods through which the SIS had acquired its information, and a general vagueness about the powers of the SIS and the boundaries within which it operated.[42] The New Zealand Council for Civil Liberties called for a review of the SIS in June 1975, suggesting, "that a committee of the House of Representatives should be set up with full powers to inquire into the Security Intelligence Service."[43]

The concerns about the propriety of the actions of the SIS did not end with the Sutch trial. In July 1975, a confidential paper containing copies of a police interview job sheet was leaked to an Auckland businessman, Paul Freeman.[44] The subject of the police interview was Gerald O'Brien, Labour MP for Island Bay. He had been interviewed regarding his relationship with Dr Sutch, who was being investigated by the Police and SIS at the time. During the interview, O'Brien revealed personal observations that the late Norman Kirk had made about Bill Rowling, Roger Douglas and Colin Moyle, who were all senior Cabinet Ministers at the time.[45] Freeman passed these documents to the Prime Minister, Bill Rowling, at Auckland airport. An internal SIS investigation uncovered that an SIS officer, Rohan Jays, had leaked the documents. Though he denied he was responsible, Jays resigned and left the country.[46]

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[41] *New Zealand Herald*, 11 March 1975, p. 3.
[42] Michael Bassett, *The Third Labour Government: A Personal History*, Dunmore Press: Palmerston North, pp. 216-217; *New Zealand Herald*, 4 March 1975, p. 3.
[43] Press Statement, 21 June 1975, NZCCL Records, 93-122-6/3, ATL.
[44] Powles Report, p. 103.
[45] Bassett, p. 261.
[46] Powles Report, p. 103.

The Jays affair, as it came to be known, was suspected by Labour MP Michael Bassett as being part of a 'dirty tricks brigade'.[47] The document's potential for damage to the Labour Party implied that the leak was politically motivated, and renewed suggestions that the SIS was partisan, and operating with the National Party on a "*quid pro quo*" basis.[48] This incident contributed to renewed demands for an investigation of the SIS.

Both the Sutch case and the Jays affair highlighted flaws within, and increasing public concern about, the SIS. Though Rowling denied there was any causal link between the two events and the inquiry, it seems clear that they had a catalytic effect. Supporting this notion, Powles himself acknowledged the relevance of the two events in the introduction to his report:

> Furthermore, it appeared to me that the two most recent and most publicised matters relating to the Service, namely the Sutch case and the Jays affair, were in a somewhat special position in relation to my inquiry. I did not construe my terms of reference as meaning that I was to concern myself with these incidents, other than to ascertain in what way they threw light upon the methods of operation of the Service.[49]

Sir Guy Powles' investigation took longer than expected, and was not completed until after the 1975 General Election. The Labour Government was ousted in 1975, and the National Party became the Government. The report was submitted to the new Prime Minister, Robert Muldoon, in May 1976, with an expurgated version submitted to Parliament in August 1976, censored of material deemed security sensitive. This report made thirty-six recommendations. Many were of a minor nature, and others, while important, were less controversial in the subsequent drafting of the Bill. The section that follows will discuss briefly five key recommendations that had a significant impact on the 1977 SIS Amendment Bill. They are the concept of Ministerial Responsibility; the recommendation of a warrant system for the interception of communications; a prohibition on the disclosure of sensitive information; a prohibition on identifying SIS officers; and changes to the appeals procedure. The

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[47] Bassett, p. 263.
[48] Bassett, p. 218.
[49] Powles Report, pp. 16-17.

recommendations have been examined because they were among the most important issues taken up by protesters.

The concept of Ministerial Responsibility was addressed in the section of Powles' report that dealt with the control of the operations of the SIS. The principle of Ministerial Responsibility held that the Minister for a given department was answerable to Parliament for the actions of that department. Powles recommended that the concept of Ministerial Responsibility, as expressed by a more positive and active relationship between the Minister and the Director of the Service, be encouraged. The Minister in charge of the SIS, theoretically privy to the information and actions of his department, was liable to answer questions in the House about the Service. Powles' recommendation would see the relationship between the Director and the Minister developed, to put into practice the concept of Ministerial Responsibility, and allow the Minister and Parliament to exist as a check on the SIS. In practice, Powles recommended that "the Service each year present a programme budget to its Minister", and that the Service present matters to the Minister for consultation and decision.[50] Furthermore, the principle of Ministerial Responsibility would be complemented by the introduction of an interception warrant system.

Prior to 1977, the Security Intelligence Service had carried out its interception duties – telephone tapping, mail interception and 'bugging' – without express legal authority for such actions. At best, the authority to intercept communications came from the 1954 Post Office Act, which provided for "tapping" a telephone to check for faults or to follow-up subscriber claims of abusive calls. The interception of mail also came under this Act, but only for the purposes of ensuring an efficient mail service. Sir Guy rejected outright the continuation of illegal acts of interception, and recommended a warrant system similar to that operating in Britain.[51]

Powles proposed that, where the Director was able to satisfy the Minister that the information sought was obtainable in no other legal way, was related to activities prejudicial to national security, and was important enough to justify the measure, an application to the Minister in charge of the Service for a warrant to

[50] Powles Report, p. 56.
[51] Powles Report, p. 59.

intercept communications could be made. The Minister could then issue a warrant, subject to criteria specifying the type of communication to be monitored; the identity of the persons whose communications would be intercepted; and the person who could make the interception. The warrant would be valid for 90 days.[52] Powles further proposed that the Minister in charge of the SIS report to Parliament annually on the issuing of warrants, reporting on the number of warrants issued, the average length of time the warrants were in force, the methods used and an assessment of the importance of the warrants.[53]

Powles was adamant that the ultimate authority for issuing warrants be the Minister in charge of the SIS, connecting the principle of Ministerial Responsibility to the warrant system. He considered recommending a number of people with whom the authority could be vested, such as "the Commissioner of Security Appeals, another Minister, or a judicial officer"[54], but rejected them on the grounds that, firstly, the Minister

> is responsible for the service; secondly because (unlike the situations where a judicial officer grants a warrant) the grant is likely to be part of an ongoing intelligence exercise not resulting in court proceedings; thirdly because of the problems of properly briefing a person in issuing a warrant; and fourthly, because judicial officers should not be involved in what is essentially executive business.[55]

Powles argued that by involving the Minister in the interception warrant system the Service would be brought out of its self-imposed isolation and secrecy and compel it to inform the Minister of its activities. It would also put the Minister in a position to control the Service and prevent it from exceeding its authority, for example by limiting the warrant or rejecting it outright.

In the seventh section of his report, dealing with the administrative function of the Service, Powles made two recommendations that were significant to the 1977 SIS Amendment Bill. Powles noted that the 1969 Act contained no prohibition on the "unauthorised disclosure of the information by a member of

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[52] Powles Report, p. 60.
[53] Powles Report, p. 60.
[54] Powles Report, p. 57.
[55] Powles Report, p. 57.

the Service."[56] He recommended that such a prohibition be included in any amending legislation, a proposal that would safeguard the information held by the Service about New Zealanders from harmful or malicious disclosure. The second was a safeguard for the members of the Security Intelligence Service. Powles recommended that "consideration be given to inserting in the Act a provision...restricting the publication in the news media of the fact that any person is a member of or connected in any way with a member of the Service, except with the written consent of the Minister...."[57] This recommendation was a concession to the disadvantageous nature of the Service, characterised by "limits on civic and social life, public exposure, with wives and families exposed to unpleasant situations."[58] It also ensured the operational efficiency inherently necessary for a secret organisation.

Powles also made nine recommendations to the Security Appeals process, designed to tweak, rather than overhaul, the system. The process was governed by the Commissioner of Security Appeals, set up under the 1969 SIS Act to provide an avenue for people who felt that actions or reports of the Service had adversely affected their livelihood or career.[59] Among Powles' recommendations was the suggestion that unsuccessful appellants to the Commissioner be notified of the reasons for refusal.[60] He also recommended easing the prohibition on disclosing details of cases before the Commissioner. The 1969 Act prohibited the disclosure of applications, evidence, proceedings, or any decision of the Commissioner, an offence punishable by a fine of up to $200 or up to six months jail.[61] Powles suggested that the prohibition only apply to evidence or proceedings. This would allow a concluded appeal to be published, and allow the appellant to "clear his name of a shadow which has been cast upon it by actions of the Service."[62] Finally, Powles also recommended fixing a flaw from the original Act that required the Commissioner, upon completing his inquiries, to "forward to the complainant his findings regarding the

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[56] Powles Report, p. 79.
[57] Powles Report, p. 82.
[58] Powles Report, p. 81.
[59] New Zealand Security Intelligence Service Act, 1969, clauses 14 and 17.
[60] Powles Report, p. 88.
[61] New Zealand Security Intelligence Service Act, 1969, clause 23(2).
[62] Powles Report, pp. 93-94.

complainant."[63] Powles recommended that the flaw be corrected, substituting the second "complainant" for "complaint".[64]

The overarching intention of Powles' recommendations was for the best possible compromise between civil liberty and the necessity of intelligence gathering in New Zealand. Powles noted, "the striking of the correct balance in the methods of control - as in the operation of the Service itself - will involve some restraints on the most efficient means of the gathering of intelligence, and may on the other hand require some restriction on individual rights and on the usual system of accountability."[65] For example, Powles' recommendation regarding the system of interception warrants acknowledged the need to accommodate the Service's functions as an intelligence gathering unit, but also considered the importance of legality and the protection of privacy and civil liberty wherever possible. The Service was able to intercept communications, but was governed by the Minister in charge of the SIS and a series of conditions and limitations, such as the 90-day limit and the annual report to Parliament, that restricted its use and guarded against abuse.

While it is clear throughout the report that Powles was focussed on maintaining a delicate balance between the control of the Service and the restriction of individual rights, Powles was also concerned about the aura of mystery that surrounded the SIS. Concurrent with his attempts to achieve a balance, Powles also sought to bring the SIS into the open and encourage greater transparency about the actions of the Service. When discussing the vetting system, which was dealt with internally without legislation, he recommended, "an unclassified document be issued within the State Services setting out as far as practicable the manner in which vetting is undertaken... Such a document would...go a long way towards dispelling the misunderstanding and apprehension which surrounds the security vetting procedures."[66] Another example of his desire to make the Service's actions more transparent is found in Powles' recommendations for amending the appeals process. In discussing the prohibition on publishing details of the process of an appeal before the

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[63] New Zealand Security Intelligence Service Act, 1969, clause 21(1a).
[64] Powles Report, p. 93.
[65] Powles Report, p. 51.
[66] Powles Report, p. 38.

Commissioner of Security Appeals - applications, evidence, proceedings and decisions - Powles believed the prohibition was excessively restrictive. "... It seems clearly to prohibit a person from publishing decisions which may clear his name of a shadow which has been cast upon it by actions of the Service."[67] His recommendation suggested that only evidence or proceedings before the Commissioner should be restricted, allowing past cases and decisions to be published.[68] It would also bring to an end the cloistered existence of the Service, where mistakes could be covered up with little public accountability.

Muldoon asserted on several occasions that Powles' report, submitted in July 1976, became the basis for the 1977 amending legislation. On the surface, much of the Bill resembled the recommendations made by Powles, although the extent to which Powles' report was the basis for the Bill is arguable.

The first clause to introduce an amendment was clause two, governing definitions. The term "terrorism", which was to be included in the definition of "security", was defined as "advocating, threatening, or using violence to coerce, deter, or intimidate (a) the lawful authority of the State in new Zealand; or (b) the community throughout New Zealand or in any area in New Zealand for the purpose of furthering any political aim."[69]

Clause three amended the functions of the Service, adding a fourth - "to inform the New Zealand Intelligence Council of any new area of potential espionage, sabotage, terrorism, or subversion in respect of which the Director has considered it necessary to institute surveillance."[70] This was contrary to a suggestion Powles made in his report, namely that unless a person or group is actually engaged in espionage, sabotage or subversion then the SIS should not gather intelligence about that person or group.[71]

Clause four introduced the single greatest change, the interception warrant system. It provided for the issuing of warrants by the Minister in Charge of the SIS, for the interception of communications, upon application from the

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[67] Powles Report, pp. 93-94.
[68] Powles Report, p. 94.
[69] Clause 2, New Zealand Security Intelligence Service Amendment Bill, *Bills M-Z*, Wellington: Government Printer, 1977.
[70] Clause 3, New Zealand Security Intelligence Service Amendment Bill, 1977.
[71] Powles Report, p. 30.

"Director, or by a person authorised in writing in that behalf by the Director."[72] The conditions that were to be met before the warrant issued included satisfying the Minister that the act was necessary to detect "activities prejudicial to security" or to gather foreign intelligence essential to security, that the value of the communication justified the action, and that the communication could not be obtained any other legal way. The warrant to be issued would also specify the type of communication, the identity or class of person or persons, or location to be surveilled, and also the person to make the interception. The warrant could also direct state employees to assist the SIS in carrying out an interception warrant, or request any member of the public to likewise assist.[73]

Complementing the warrant system, the Minister was required to report to Parliament annually on the warrants issued. The report made "shall have regard to (a) the number of warrants issued... (b) the average length of time ...warrants were in force; and (c) the methods of interception and seizure used..."[74] A general assessment of the importance of the warrants was also required. Finally, clause four indemnified any persons executing an interception warrant from any criminal or civil legal action.[75]

The sixth clause of the Bill prohibited the unauthorised disclosure of information by any present or former employee or officer of the SIS acquired as a result of their employment by the SIS. Disclosure of the existence of an interception warrant was likewise prohibited. Clause seven prohibited the publication or broadcasting of details identifying a person as a present or former member of the SIS, or that a person was connected in any way with a member of the SIS. Such actions were punishable with fines or imprisonment.

Clauses eight to thirteen amended the appeals process, by substituting residency for citizenship as grounds for allowing a complaint to proceed before the Commissioner of Security Appeals. Clause ten governed the complex proceedings of the Commissioner, making a number of minor administrative changes to the Principal Act. Under clause eleven, the Minister could issue a certificate specifying that certain matters before the Commissioner be not

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[72] Clause 4, New Zealand Security Intelligence Service Amendment Bill, 1977.
[73] Clause 4, New Zealand Security Intelligence Service Amendment Bill, 1977.
[74] Clause 4, New Zealand Security Intelligence Service Amendment Bill, 1977.
[75] Clause 4, New Zealand Security Intelligence Service Amendment Bill, 1977.

disclosed in the interests of security. Clause thirteen restricted the publication of reports of evidence or proceedings before the Commissioner, or any decision of the Commissioner except with the written permission of the Minister.

The differences between the recommendations of Powles and their implementation in the Bill suggest that each had a different aim. The Bill's overarching intention becomes clear when held against the Powles Report. Where Powles' recommendations favoured a compromise between enabling the SIS to carry out its functions, and protecting the civil liberties of the public, the Bill favoured extending the powers of the SIS without the same compromise. For example, the interception warrant system proposed by the Bill lacked the 90-day limit proposed by Powles, and made it compulsory for state employees to assist the SIS, potentially against their will. The protection against public exposure of SIS officers was made retrospective, protecting former as well as current officers, running counter to Powles' attempts to make the Service more open and transparent. Likewise, the Bill rejected Powles' recommendation to make available for publishing the decisions of appeals to the Commissioner of Security Appeals, denying a significant suggestion to pull back the veil of secrecy.

While it would be ridiculous to suggest that the Bill was drafted with conspiratorial intentions to strip away civil liberties, nevertheless the Bill was significantly different from the Powles report in that it rejected a number of suggestions to make the Service less mysterious and more open. An article in the *Evening Post* that examined the differences between the report and the Bill queried whether such differences "shifts the balance between the conflict over principles of security operations and an open society excessively towards the advantage of the Service."[76] When compared with the Powles report, the overarching intention of the SIS Amendment Bill seems to be more concerned with extending the abilities of the SIS than with creating a more equitable balance between its powers and the civil liberties of the public. It was this distinction that many protesters drew upon following the Bill's introduction.

[76] *Evening Post*, 12 October 1977, p. 13.

CHAPTER TWO

Legislative Debate and an Emerging Movement

Opposition to the 1977 SIS Amendment Bill revolved around the Bill's passage through the legislature, between September and November 1977. This can be seen in three corresponding stages. The first stage, during September, was a process of raising awareness. The second stage, during October, saw the movement operating at its peak, in terms of supporters and actions. The third stage, during November, was characterised by dwindling support for opposition to the Bill.

This chapter aims to answer the question of who was opposed to the Bill, and why? To this end, it examines the first stage of opposition, including early examples of opposition, and the introduction of the Bill to the House, analysing the first formal political debate of the issues and establishing the composition of opposition to the Bill within Parliament. It will also examine the immediate public reaction to the Bill, including the controversy that centered around Muldoon's reaction to a critical current affairs programme on the Bill, followed by an investigation of the formation of the organised opposition movement, and their actions in raising awareness. Finally, this chapter will explore the first demonstrations against the Bill, including their methods and arguments, thus illustrating the development of a protest movement and offering some explanations for the way in which it emerged.

The Powles report was tabled in the House on 6 August 1976. Apart from a brief Parliamentary debate on 18 August 1976, and a handful of reports in newspapers, very little was said about it at this point in time. No mention was made about how, or if, the report would be implemented in legislation until an editorial in the *New Zealand Herald* on 25 May 1977, which stated that "the Government now proposes to adopt some, or all, of Sir Guy Powles' recommendations on the subject and hopes that the necessary legislation will go through Parliament this session."[77] Minutes of a Cabinet meeting five days later show that the Cabinet Committee on Legislation was still awaiting instructions

[77] *New Zealand Herald*, 25 May 1977, p. 6.

on the SIS Amendment Bill as at 30 May 1977.[78] By 4 July, the status of the Bill was upgraded to "being drafted", a status it retained until a meeting of Cabinet on 5 September 1977, where it was reported that the Bill was "with Cabinet or caucus."[79] The Government seems to have made no official announcement of its intentions at this stage.

Even with the very limited publicity to this stage, a few people began to express reservations about the upcoming Bill. On 1 July 1977 G.H. Andersen, secretary of the Northern Drivers Union, wrote to the secretary of the Auckland District Council of the Federation of Labour, requesting that a motion be put to the council, "that the Council request the Federation of Labour to vigorously oppose the moves to legalise phone tapping by the S.I.S."[80] While he made no specific reference to the legislation – the drafting process had not then been completed – Andersen's letter is evidence that awareness existed of the plans by the Government to introduce such legislation. The Auckland District Council endorsed the motion, and its Secretary Peter Purdue wrote to Jim Knox, the Secretary of the Federation of Labour, advising him of the motion.[81]

The Federation of Labour (FOL) then began a stream of correspondence with the Prime Minister regarding the intentions of the Government to legislate for interception of communications. Archival collections do not record the first letter from the FOL to Muldoon, but Muldoon's reply of 8 August 1977 effectively shut the door to any discussion of the Bill before it's introduction to Parliament:

> I think it would be inappropriate for me to comment in detail at this juncture when legislation has not yet been introduced into the House. I would also ask you to suspend judgement on this question until you have had an opportunity to study the proposed legislation.[82]

Knox replied to Muldoon on 24 August, requesting a copy of the legislation, so that the FOL "could do as suggested, 'suspend judgement until we have had an opportunity to study the proposed legislation' before it is introduced

[78] "Legislative Programme", 5 September 1977, Cabinet Minutes, AAFD 811 W3738 626 22/2/1, NA.
[79] "Legislative Programme", 5 September 1977, Cabinet Minutes.
[80] G H Andersen to P Purdue, 1 July 1977, FOL Records, MS-Papers-4100-19/01/18, ATL.
[81] P Purdue to W J Knox, 22 July 1977, FOL Records, MS-Papers-4100-19/01/18, ATL.
[82] Muldoon to Knox, 8 August 1977, FOL Records, MS-Papers-4100-18/41/17, ATL.

in the house."[83] Muldoon's reply, predictably, refused to give the FOL any such copy but stated, on 8 September (the day the Bill was introduced to Parliament), that "the Bill will, of course, be subject to the normal Parliamentary process and be open to amendment in the House."[84] However, in spite of Muldoon's assurance to the FOL, these 'normal Parliamentary processes' were challenged when he stated publicly that the Bill would not be sent to a Parliamentary Select Committee. Muldoon had declared two days earlier: "I certainly do not want to give some of the fringe elements the opportunity they would only be too glad to take advantage of, of making a lot of irrelevant submissions."[85] The FOL seized upon this apparent contradiction, and pledged to ask Muldoon to confirm the intentions of his letter to the FOL, "that the Bill will be forwarded to the Select Committee and in accordance with normal Parliamentary procedures, the FOL will take an opportunity of making submissions to the Select Committee."[86] The reply came from Muldoon's Private Secretary, G B Nelson, in Muldoon's absence, that the Prime Minister's decision not to send the Bill to a Select Committee would be upheld.[87]

The earliest mention of the Bill in the National Party caucus was on 18 August 1977, when Muldoon explained that a Bill on the SIS would be introduced in about two weeks.[88] The following week, caucus conducted its first discussion of the Bill's provisions, and in the same week it was announced publicly that a Bill based on the Powles report would soon be introduced.[89]

Evidence of an early awareness of the detail in the Bill can be found in daily newspapers. A letter to the editor of the *New Zealand Herald* on 26 August 1977 by a person using the pseudonym "Post Office Technician" objected to the plans by the Government to make legal the tapping of telephones by a Government agency. The letter referred to a new law that "could prevent me

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[83] Knox to Muldoon, 24 August 1977, FOL Records, MS-Papers-4100-18/41/17, ATL.
[84] Muldoon to Knox, 8 September 1977, FOL Records, MS-Papers-4100-18/41/17, ATL.
[85] *Press*, 6 September 1977, p. 3.
[86] Minutes of FOL National Executive, 20 September 1977, FOL Records, MS-Papers-4100-10/27, ATL, p. 2.
[87] G B Nelson to Knox, 30 September 1977, FOL Records, MS-Papers-4100-18/41/17, ATL.
[88] National Party Caucus Minutes, 18 August 1977, New Zealand National Party Papers: Further Records, 89-075/005/1, ATL, p. 6.
[89] *New Zealand Herald*, 26 August 1977, p. 3.

from adhering to the policy that the citizens of New Zealand are entitled to a private telephone conversation." Demonstrating a willingness to oppose the measures, the author made it clear that he or she "would not be party to telephone tapping unless written authorisation was provided by the subscriber affected."[90]

Further letters to the editor of the *New Zealand Herald* appeared over the following days, attacking the general intent of any such legislation. "Disappointed", a National party supporter, believed the proposed new law was in opposition to statements made by politicians all over the world that the Government would never infringe on the civil rights and freedoms of its citizens.[91] "Ex-Cheka" believed that any potential clandestine activity would not be conducted over the telephone or through the mail system, and so implied that such means of interception were irrelevant.[92]

These examples indicate that, although the majority of people would have had little or no idea what the Bill would specifically include, some were aware of the implications of such a Bill. It is possible that, by looking at the Powles report, they were able to deduce what the Bill might contain. The key issue, however, is that some people were conscious of the Bill, even as it was being drafted, and all were wary of its provisions.

Muldoon's introduction of the Bill rested on defusing what he saw as a potentially controversial situation. He anticipated that it would be met with resistance from "civil liberties groups"[93], and this was reflected in the National Party caucus minutes. Muldoon referred to the Bill as "highly controversial", and stated that the "Government will be attacked." As a result of this, Muldoon was anxious to pass the SIS legislation as quickly as possible, before the end of the year.[94] His introductory speech sought to defuse the potential controversy by drawing connections with the former Chief Ombudsman - Sir Guy Powles, and the Labour Party, and associate what he believed would be a controversial issue with groups traditionally sympathetic to concerns about civil liberties, in an attempt to allay fears that the Bill would be detrimental to civil liberties.

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[90] *New Zealand Herald*, 26 August 1977, p. 6.
[91] *New Zealand Herald*, 2 September 1977, p. 6.
[92] *New Zealand Herald*, 3 September 1977, p. 6.
[93] National Party Caucus Minutes, 25 August 1977, p. 4.
[94] National Party Caucus Minutes, 25 August 1977, pp. 3 -7.

Muldoon opened the debate by stating explicitly that the Bill was based on "the report of Sir Guy Powles".[95] He praised Powles, saying his "investigation into the Security Intelligence Service was typical of the thorough and humane approach that characterised all his work and deservedly gave the office of Ombudsman in New Zealand an international reputation."[96] While these phrases may appear completely innocent, Muldoon was acutely aware of the credibility Powles possessed. Muldoon, in National Party caucus minutes, identified Powles as a "civil liberties man."[97] Furthermore, the minutes make it clear that Muldoon believed the integrity of Powles could be used to "counter [the] allegations of civil liberties groups."[98] However, the minutes do not state what allegations or which groups. Muldoon's association of the Bill with Powles was designed to confer upon the Bill an aura of respectability.

Muldoon discussed the Bill together with the ways in which the Government had acted on all the recommendations of the Powles Report. He pointed to areas where the Government had accepted, or explained why the Government had rejected, some of Powles' recommendations. In addition to the changes being introduced by legislation, Muldoon also addressed those changes suggested by Powles not requiring legislation that had been implemented by internal processes, such as amendments to the vetting system, communication between departments, and the professional relationship between the Service and the Police, among others. This ranged beyond the traditional scope of an introductory speech, which is designed to simply introduce the Bill and its provisions. However, in covering such wide ground, Muldoon gave the first public account of the Government's response to Powles' investigation.

Muldoon also drew connections between the Bill and the Labour Party. He sought to pre-empt the question of whether a Service was necessary, by quoting both Kirk and Rowling as two Labour Party Prime Ministers who had made use of intelligence provided by the SIS, and thus clearly supported the notion of a Security Intelligence Service. Muldoon also emphasised the explicit connection between Rowling and the Powles Report, which Muldoon claimed

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[95] *NZPD*, 413 (1977), p. 2781.
[96] *NZPD*, 413 (1977), p. 2782.
[97] National Party Caucus Minutes, 25 August 1977, p. 4.
[98] National Party Caucus Minutes, 25 August 1977, p. 4.

was the basis of the Bill, as Rowling had commissioned the inquiry into the SIS in the first place. Having drawn these connections, Muldoon then declared, "It is my belief, therefore, that much of the Bill will be supported by both sides of the House, and that debate on its various clauses will be aimed at securing a bipartisan approach."[99]

Muldoon concluded his speech by announcing officially that there would be no select committee process. Earlier media reports had quoted Muldoon saying, "I certainly do not want to give some of the fringe elements the opportunity they would only be too glad to take advantage of, of making a lot of irrelevant submissions."[100] However, in his speech to Parliament, rather than referring to 'fringe elements', he referred to the opportunity for "interested parties... [to] make representations to either the Government or the Opposition..."[101] Muldoon presented the absence of Select Committee hearings in a positive light. He also pointed to a recent precedent, the Contraception, Sterilisation and Abortion Bill, which had similarly been refused a Select Committee, in an attempt to illustrate that the action was not so unusual.

Muldoon was the only Government member to speak on the Bill, a point that was not lost on the Opposition. They speculated that, "the Prime Minister is not allowing anyone else on the Government benches to speak on this matter"; "it is the Prime Minister's intention to stop Government members from expressing their opinions freely"; and "pressure has been put on Government members not to speak on the introduction of the Bill."[102] Muldoon's speech, together with the absence of any supporting Government speakers, his haste to have the Bill passed, and his refusal to send it to a select committee, seemed to suggest that Muldoon was keen to avoid an in-depth, public discussion of the Bill.

In reply, Rowling rejected Muldoon's appeal for bipartisan support, pointing to the absence of select committee discussions and the selective use of Powles' recommendations. He argued that the SIS Amendment Bill was different to the Contraception, Sterilisation and Abortion Bill, to which Muldoon had

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[99] *NZPD*, 413 (1977), p. 2782.
[100] *Press*, 6 September 1977, p. 3.
[101] *NZPD*, 413 (1977), p. 2786.
[102] *NZPD*, 413 (1977), p. 2793.

drawn a comparison when he explained there would be no Select Committee, as "that measure was the subject of a very searching commission, and people from one end of New Zealand to the other were able to give evidence before legislation was prepared. This legislation emerges fresh, as it were."[103] He also criticised Muldoon for pre-determining who was suitable to present submissions to a select committee.[104]

Rowling did not deny that he supported the SIS, as Muldoon had quoted, stating, "I have made no bones about the fact that I am strongly in favour of such a service." Instead, he attacked Muldoon directly, questioning whether Muldoon was generally suitable to be in charge of the SIS, and particularly whether he was suitable to issue interception warrants with the required objectivity. Rowling declared, "...the Prime Minister, in 18 months of office, has been at pains to put down minority groups of all kinds...it is perfectly clear that people would like to see a considerably more independent person involved in such an authorisation."[105] Muldoon replied to this point by re-iterating the arguments offered by Powles, and re-emphasising Powles' liberal background.[106]

Rowling also commented on the absence of a time-restriction on interception warrants and the extension of anonymity to former members of the Service.[107] He asked why Powles' recommendations were changed, and concluded that while these and other issues remained debateable, bipartisan support was not possible. Muldoon replied, offering reasons why the changes had been made. He explained that the sparse number of warrants would mean that a specific time-limit on warrants would reveal "too much information about a particular warrant"[108], though he did not offer further clarification how this could happen. In relation to the extension of anonymity, Muldoon stated that it had been changed to offer security to those who, "following honourable retirement"[109], could be subject to abuse and harassment.

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[103] *NZPD*, 413 (1977), p. 2787.
[104] *NZPD*, 413 (1977), p. 2787.
[105] *NZPD*, 413 (1977), p. 2787.
[106] *NZPD*, 413 (1977), p. 2788.
[107] *NZPD*, 413 (1977), p. 2787.
[108] *NZPD*, 413 (1977), p. 2789.
[109] *NZPD*, 413 (1977), p. 2789.

Following Muldoon's rebuttal the Labour Party's Justice spokesperson, Dr Martyn Finlay, rose to speak. He rejected Muldoon's argument, and hence Powles' argument, for making the Minister in Charge of the SIS responsible for issuing interception warrants, on the grounds that as part of any given operation, the Minister is unable to "give the question...the detached consideration that is important and necessary."[110] Finlay argued that "there ought to be a need for a person of integrity, judicial experience, and detachment to be convinced of the need to issue any such authority before it is issued..."[111] Finlay envisaged an independent person, neither a politician nor a judge, as a judge may "be called upon to review the procedure in due course."[112]

Finlay's final point was directed at the decision to refuse select committee proceedings. He recapped the various reasons Muldoon had given, and illustrated how they had shifted:

> His first reason was that he did not want groups that would make the committee a sounding board for their views. The second ground stated today was that he would not expose the Security Intelligence Service to cross-examination..... The third reason seems to be a counter reason, because on the radio today the Prime Minister was quoted as saying he had reservations about some provisions in the Bill.[113]

Finlay referred to the original Act, which had gone before a select committee, and had heard evidence in public. Finlay asked why the same shouldn't apply for the present Bill.[114] Muldoon offered no reply to this question.

A third speaker from the Opposition was Jonathan Hunt. He also called for the Bill to be sent to a Select Committee, arguing that as the Bill covered a delicate subject, "for that reason alone this controversial and potentially divisive measure should be accorded the widest possible scrutiny and comment before it becomes law. Therefore it must be referred to a committee."[115] He referred to the Listening Devices Bill that went before the Statutes Revision Committee and heard submissions from "so-called minority fringe groups" including the New

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[110] *NZPD*, 413 (1977), p. 2790.
[111] *NZPD*, 413 (1977), p. 2790.
[112] *NZPD*, 413 (1977), p. 2790.
[113] *NZPD*, 413 (1977), pp. 2790-2791.
[114] *NZPD*, 413 (1977), p. 2790.
[115] *NZPD*, 413 (1977), p. 2792.

Zealand Law Society, the New Zealand Police Association, the International Commission of Jurists and even the SIS itself.[116]

Hunt also observed a pattern in what he saw as the selective way the Government had implemented Powles' recommendations.

> The parts of the ombudsman's report [which] have not been implemented ... are the recommendations allowing widening of the Service. Page 81 of the report states: 'a less secretive approach by the Service would assist in achieving a better public understanding.' Clause 7 will make the approach more secretive.[117]

Hunt was also concerned that despite a year of drafting, according to the Prime Minister, there were still technical difficulties. He pointed to the fact that a person could unwittingly reveal details about staff of the SIS, and still be fined under the Bill, because the word "knowingly" was not included.[118]

The final speaker for the Opposition was Dr Gerald Wall. Wall's brief speech drew particular attention to Muldoon's domination of the Government's contribution to debate. Except for a few interjections, no one other than the Prime Minister had spoken in support of the Bill. Wall made no other criticisms of the Bill. The vote was then put and the first reading of the Bill was passed by a majority of 21 votes. The Opposition moved that the Bill be sent to the Statues Revision Committee, but was defeated by the same margin.[119]

The first Parliamentary debate on the Bill set the tone for the conflict that was to follow, and established the position of both the National and Labour parties on the issue. The points on which the Opposition based their argument revolved around Muldoon's strong-hand tactics, seemingly represented by the lack of his colleagues' contribution to the debate, and the unilateral decision to refuse a select committee to publicly discuss the issues. Muldoon himself was attacked, his suitability to issue warrants impartially drawn into question. Finally, the interception warrant system as a whole emerged as the clear focal point for concern about the Bill.

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[116] *NZPD*, 413 (1977), p. 2792.
[117] *NZPD*, 413 (1977), p. 2793.
[118] *NZPD*, 413 (1977), p. 2793.
[119] *NZPD*, 413 (1977), p. 2794.

The major daily newspapers covered the Bill's introduction, with varying levels of detail. Both the *Herald* and the Christchurch *Press* gave the Bill front-page space. The *Herald*'s article settled for a description of the Bill's clauses, while the *Press* focussed on the confrontation between the Government and the Opposition, headlining the piece, "Opposition Fails to Get S.I.S. Measure Before Committee."[120] Both publications included supporting articles that covered in greater detail the Parliamentary debate, examining the arguments put forward by the Government and the Opposition. The *Evening Post*, in stark contrast, relegated the issue to page two, cursorily explaining what the Bill contained.

In the first few days after the Bill was introduced, a number of editorials appeared, along with letters to the editor. Both the editorials and the letters expressed unease at some of the provisions, particularly the notion of communications interception. They mostly covered arguments already expressed in Parliament and in the few letters to newspapers earlier in the month, with the exception of an editorial in the *New Zealand Herald* on 10 September 1977. It noted that the Bill gave the highest authority over security to a politician and an organisation with no real accountability. This concern was encapsulated by the question, "Who watches the watchdogs?"[121]

The print media's coverage of the Bill was uncontroversial. It reported the Parliamentary debates dutifully, presenting the arguments of both sides with a modicum of editorialising. However, only a few days later, a television current affairs show called *Dateline: Monday* was broadcast, presenting a hard-hitting attack on the Bill.

The *Dateline* programme, which went to air on 12 September 1977, presented a pre-recorded report that focused primarily on the issue of communications interception. It used extensively critical comments from politicians and representatives of interested groups. Among the politicians included were Labour leader Bill Rowling, and backbencher Jonathan Hunt. Hunt had established himself as an early critic of the Government's intentions to legislate in support of the SIS, making reference to the proposed legislation in a speech to Labour Party meeting in Blenheim, declaring that the legislation was a

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[120] *Press*, 9 September 1977, p. 1.
[121] *New Zealand Herald*, 10 September 1977, p. 6.

"major step towards the death of individual freedom."[122] A National Backbench MP, Michael Minogue, also appeared in the programme, offering comment critical of the Bill. Minogue had, since his election to Parliament in 1975, acquired a reputation as an outspoken conscience of the National Party's policy on matters involving secrecy and civil liberties. Other commentators included Ivan Reddish, a representative from the Post Office Association; and Keith Ovenden, political analyst, former editor of the newspaper *The Week*, and son-in-law of the late Dr Sutch. No explicitly supportive position of the Bill was represented on the programme. The reporter was Simon Walker, with Ian Fraser as presenter of the live portion of the program. Incomplete notes from the TVNZ archive[123] suggest that other commentators such as National Backbench MP Barry Brill were present during the live portion of the program, though no transcripts or footage of this section have survived to confirm this.

The pre-recorded report can be divided into three sections. The first illustrated the past activities of the SIS, including the Sutch Case, which was labelled a failure for the SIS, and an instance of telephone tapping of a Czechoslovakian diplomat in Wellington in the early 1960s. It also referred to the retrieval by the SIS of security files found amongst the papers of Walter Nash by Keith Sinclair whilst writing the former's biography, and attempts by the SIS to have passages in the biography deleted. The sum effect of these examples was to show that the SIS was an active agency in New Zealand, and to illustrate the methods, sometimes illegal, they employed.[124]

The second section attempted to demonstrate the simplicity of telephone tapping and 'bugging'. It showed a 'technician' entering 'Parliament' and modifying a telephone jack to intercept its calls. It also showed how a basic radio microphone could be used to intercept conversations over a significant distance. An unidentified voice-over announcer declared that it was "the ease of tapping phones that arouses most concern",[125] yet this seemed to be a general concern

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[122] *New Zealand Herald*, 1 September 1977, p. 14.
[123] The TVNZ Archives at Avalon hold a copy of the *Dateline: Monday* programme for 12 September 1977, and also have an assortment of related papers, such as production notes.
[124] Film footage of *Dateline: Monday*, 12 September 1977, TVNZ Archives.
[125] *Dateline: Monday*, 12 September 1977, TVNZ Archives.

about the privacy of communications rather than a specific attack on the SIS or the Bill.

The third section of the programme was the most critical of the Bill. It focussed on three main areas: vague definitions of key terms, suppression of media reporting about the SIS, and Ministerial authority for interception warrants.

Michael Minogue expressed concern about the definitions of subversion, espionage, and the ways in which dissent and protest were identified and distinguished from subversion. He argued that a loose definition could be construed by the SIS to justify surveillance of a wide group of citizens: "Look at the definition of espionage. Under the act, it says it means any offence against the Official Secrets Act, 1971, which could benefit the Government of any country other than New Zealand.... But this sort of definition justifies a watch by the S.I.S. on every civil servant in this country."[126]

The voice-over announcer alluded to Watergate and the role President Richard Nixon played in the scandal. This was in reference to the Bill's provision for preventing unauthorised disclosure of the names of SIS officers. Simon Walker, the reporter, produced a list of names of SIS officers, and claimed that were the proposed legislation to be passed, such an act would be illegal. Walker claimed it would also prevent the public from discovering a Watergate-type scandal in New Zealand.[127]

Finally, the question of Ministerial authority for issuing interception warrants was addressed. The concern was that the Minister in Charge of the SIS would use interception warrants for political purposes. The spectre of Watergate was raised again when Jonathan Hunt stated, "We cannot trust political figures not to act politically."[128] Rowling, when asked if the Labour Party could be a target, admitted the risk existed, and that it was time to get rid of that risk: "Where there is doubt, doubt should be removed." Such doubt could be removed, argued Rowling, by placing the power to issue warrants outside the political arena.[129] The programme noted the possibility of Supreme Court judges as an

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[126] *Dateline: Monday*, 12 September 1977, TVNZ Archives.
[127] *Dateline: Monday*, 12 September 1977, TVNZ Archives.
[128] *Dateline: Monday*, 12 September 1977, TVNZ Archives.
[129] *Dateline: Monday*, 12 September 1977, TVNZ Archives.

alternative to Ministerial warrants. Minogue supported the suggestion: "If we cannot trust our judges, in this context, who can we trust? ...If you're telling me the only person we can trust is a politician I would laugh and say that's nonsense."[130] The programme ended with a shot of an office pot plant being used to conceal a microphone.

The show provoked an immediate reaction from Muldoon, and sparked a controversy that dominated the major daily newspapers for days. Muldoon objected to the show, claiming it was "the most unbalanced television programme he had seen in all the time he had been in politics."[131] He also laid a formal objection with the Broadcasting Corporation of New Zealand (BCNZ), claiming bias and unbalanced reporting.

Muldoon also attacked Minogue for breaching caucus conventions and criticising legislation accepted by caucus.[132] Muldoon even threatened to withhold his support for Minogue when nominations were called for Minogue's Hamilton West seat in the 1978 General Election.[133] Muldoon called for an emergency caucus meeting to give Minogue an opportunity to justify his actions, but that meeting was delayed for several days, when Minogue was unable to attend due to prior obligations. The row between Muldoon and Minogue overtook the issue that had sparked the confrontation, as political cartoonists demonstrated.[134]

Meanwhile, it emerged that Muldoon saw the *Dateline* programme while entertaining the Director of the SIS, Paul Molineux, and had not even seen the complete programme.[135] These details further inflamed the situation, suggesting to some members of the public that there was a personal relationship between the Prime Minister and the Director of the SIS that could affect the objectivity of their professional relationship.[136] Furthermore, Muldoon's response was seen as

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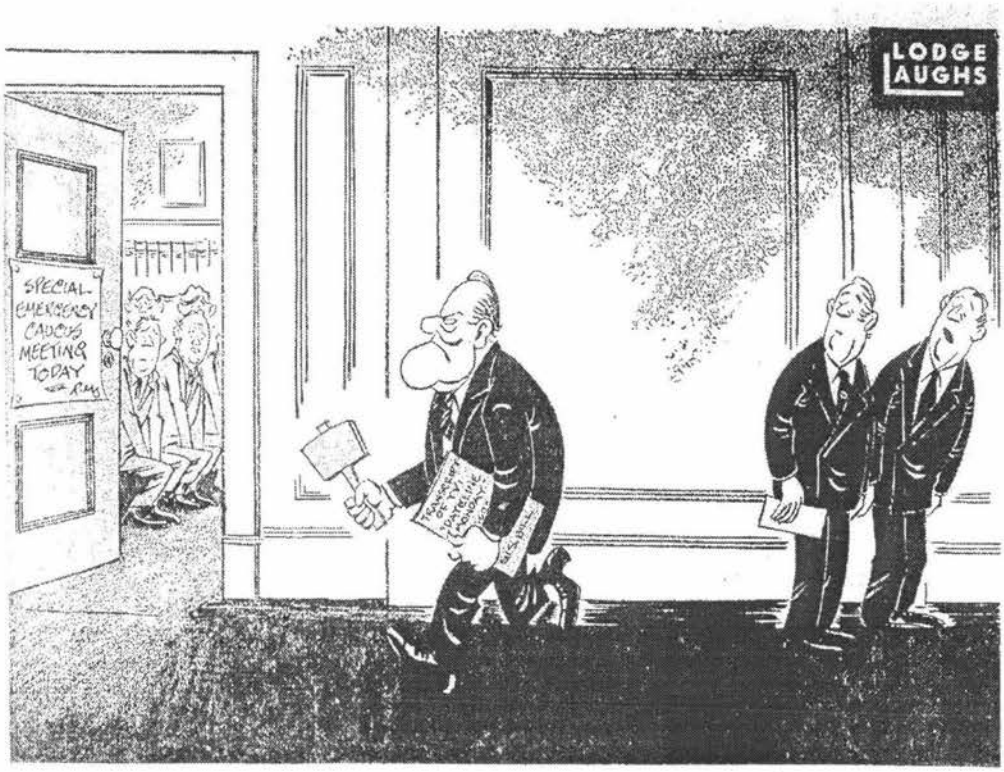
[130] *Dateline: Monday*, 12 September 1977, TVNZ Archives.
[131] *Evening Post*, 13 September 1977, p.1.
[132] *Evening Post*, 13 September 1977, p. 1.
[133] *Press*, 13 September 1977, p. 1.
[134] See Plate One and Two, overleaf.
[135] *Evening Post*, 15 September 1977, p. 1
[136] *New Zealand Herald*, 17 September 1977, p. 6.



"I think it's a device for tapping troublesome MPs."

Plate 1: "I think it's a device for tapping troublesome MPs."
Cartoon by Neville Lodge, *Evening Post*, 13 September 1977, p. 14."

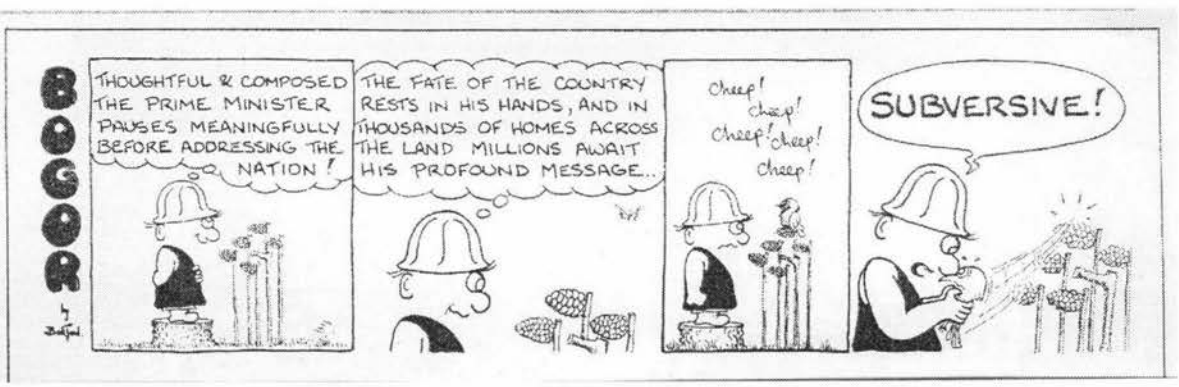


Plate 2: Burton's *Bogor* cartoon captured the public's sense of suppression, and the dominance of Muldoon, particularly his tendency to react quickly to confrontational situations.
Listener, 19 November 1977, p. 11.

even more reactionary when it emerged that he had only seen part of the programme.[137]

The caucus meeting was eventually held on 15 September 1977. Minogue was asked to explain his involvement in the programme. He revealed that he had given an interview on 7 September, the day before the Bill was introduced. His comments were recorded, and then edited for inclusion in the programme. Minogue emphasised that he had made it clear to the interviewer, Simon Walker, that he was discussing the Powles Report, not the legislation.[138] Minogue maintained that the fracas between the Prime Minister and himself was simply a misunderstanding, and resolved, "to work together in the interests of Party and Parliament."[139] The general consensus of the meeting was exercise to caution when being interviewed by certain journalists. Muldoon stated explicitly, "I won't be interviewed by Walker."[140] Minogue also agreed to make a written complaint to the BCNZ, supporting the complaint laid by Muldoon.[141]

However, the true extent of the rift between Muldoon and Minogue was less amicable than newspaper accounts suggest. Gustafson's biography of Muldoon recalls a private meeting between the two men, where Muldoon stated bluntly, "You have no future in this party. You will resign and spend the rest of your term as a National Independent or an Independent, as you will."[142] Minogue's reply was similarly brief: "I think you are a bloody poor judge of character."[143] According to Gustafson, "this exchange set the scene for the relationship with Muldoon over the following seven years...."[144] This exchange, together with the cartoons in plates one and two, illustrates the impact of Muldoon's character and personality, a quick temper and a stubbornness that had a strong effect both within caucus and among the public.

The impact of the programme and the resulting controversy can be seen on two levels. On the first level, the show succeeded in broadcasting to a wide audience flaws within the Bill. Karl du Fresne, a television critic for the *Evening*

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[137] *New Zealand Herald*, 20 September 1977, p.5; *Press*, 15 September 1977, p. 16.
[138] National Party Caucus Minutes, 15 September 1977, p.1.
[139] National Party Caucus Minutes, 15 September 1977, p.2.
[140] National Party Caucus Minutes, 15 September 1977, p.4.
[141] National Party Caucus Minutes, 15 September 1977, pp. 3-4.
[142] Gustafson, *His Way,* p. 196.
[143] Gustafson, *His Way,* p. 196.
[144] Gustafson, *His Way*, p. 196.

Post, picked up on the show's educational role. He expressed his support for the programme, declaring it to be an example of "constructive bias",[145] voicing concerns that had been muffled by the Government's decision to refuse Select Committee hearings. He wrote: "In the circumstances I think that it was entirely responsible and justifiable for *Dateline* to do what the Parliamentary process has evidently failed to do – namely, to allow opponents of the bugging laws to voice their fears."[146] Du Fresne also felt that the show had made an impact on many people who had watched it: "...there are many viewers who hadn't given much thought to the legislation before the programme but now have serious misgivings about it."[147]

On a second level, Muldoon's swift judgement of a partial viewing of the *Dateline* programme reinforced doubts about his ability to issue interception warrants. Correspondents to the newspapers wondered, if Muldoon acted so rashly on the matter of a television programme, how might he act on a request to authorise communications interception? Marion Kirk wrote to the *Herald*, "the decision to allow the SIS to tap telephones should not rest with a person who condemns a television programme when he has seen only half of it, who publicly attacks one of his own caucus members without verifying his facts...."[148] Judith Cornwell, writing to the *Press*, believed that as Prime Minister and Minister in Charge of the SIS, Muldoon had to be very responsible, but left the hanging question: what if that person is not responsible?[149] Muldoon, in reacting so quickly and so harshly, raised this question in the minds of many members of the public.

Furthermore, Muldoon's attack on Minogue was seen as suppressing opinion. This followed questions raised about the absence of other Government speakers during the introductory debate, and concerns about the lack of Select Committee discussions. Again, letters to the editor expressed concern about Muldoon's reaction to Minogue's comments. 'Anti-dictatorship' wrote to the *Herald*: "It looks as though we are to lose our freedom of speech now.... For

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[145] *Evening Post*, 17 September 1977, p. 14.
[146] *Evening Post*, 17 September 1977, p. 14.
[147] *Evening Post*, 17 September 1977, p. 14.
[148] *New Zealand Herald*, 20 September 1977, p.5.
[149] *Press*, 15 September 1977, p. 16.

once someone has been able to have a say (on television) without being rudely interrupted, as is the case when Mr Muldoon is on a programme...."[150] D Holmes wrote: "It is incredible that Mr Muldoon attempts to block freedom of speech, and from a member of his own party at that."[151] Further exacerbating Muldoon's position, Minogue was seen by some as the victim, and enjoyed support for expressing his opinion. The *Evening Post* reported: "From Mr F L Curtin, who is chairman of Mr Minogue's electorate of Hamilton West, comes one of the most perceptive comments made about this affair. He has said that there was 'a groundswell of support' for him as a person who was prepared to speak his mind."[152] Despite Muldoon's efforts to contain the damage caused by the *Dateline* programme, by attacking both the programme and Minogue, he assisted the process of raising public concern by drawing attention to the programme and the man who had criticised the Bill. The force of his attack was taken negatively, and resulted in positive support for Minogue.

The *Dateline* programme, and the resulting debacle between Muldoon and Minogue, was seen "by some political observers"[153] to be a diversionary tactic to draw people away from the issues.[154] Minogue was determined to look beyond the personal differences to debate the issues of the Bill, yet found himself inexorably drawn back into the fray.[155] Nevertheless, the controversy contributed to the wider public awareness about the Bill and the diversity of concern. The negative impact on the Government was caused not only by a critical current affairs show, but also by Muldoon, whose reactions were seen as equally harsh and heavy-handed.[156] It was from this point that public awareness began to increase, and the need for an organised, structured opposition became more apparent.

The Bill provoked a strong, but divided, reaction from the public. Letters to the editor of various daily newspapers show a degree of division amongst individuals that either supported or opposed the Bill. However, within a week of

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[150] *New Zealand Herald*, 20 September 1977, p. 5.
[151] *New Zealand Herald*, 20 September 1977, p. 5.
[152] *Evening Post*, 15 September 1977, p. 4.
[153] *Evening Post*, 14 September 1977, p. 1.
[154] *Evening Post*, 14 September 1977, p. 1.
[155] *Evening Post*, 17 September 1977, p. 3
[156] *Evening Post*, 15 September 1977, p. 4.

the Bill's introduction, an organised front of opposition emerged that drove the protests against the Bill. The dominant force of that organised opposition was the group Organisation Against the SIS Bill (OASIS (B)).

On either 10 or 11 September 1977, a small group of approximately twelve people met at a house in Tinakori Road in Wellington to discuss the Bill and ways to organise opposition to it. Dave MacPherson, one of the twelve, recalled that the house belonged to Rona Bailey. Bailey was a former member of the New Zealand Communist Party who, like Ron Smith, became a key figure in the Wellington Marxist-Leninist Organisation. She was also a veteran of past movements such as the anti-Vietnam war movement. MacPherson himself had been previously involved in protest movements while in Australia prior to the introduction of the SIS Bill, such as the anti-Vietnam and anti-apartheid movements, and was in 1977 the New Zealand University Student Association (NZUSA) research officer.[157] Exact details of those attending the meeting are unknown, though it is likely that Walter Scott, a prominent civil libertarian and pro-chancellor of the Victoria University of Wellington Council, was present. MacPherson also recalled that representatives of unions were prominent - this would likely have included Jim Delahunty, a Public Service Association representative and Pat Kelly, president of the Wellington Trades Councils, both of who were closely involved in protest during later weeks.

From this meeting came the decision to hold a further, public meeting, to rally groups to oppose the Bill. A letter, notifying people of this public meeting, was posted out by Walter Scott. The meeting would be held at the Rimu Room of the Willis Street YWCA in Wellington on 18 September 1977, the objective being to discuss the Bill and methods of opposition.[158] In addition to the letter, Dave MacPherson recalls the conscious tactic of "snowballing", where each person was urged to bring two or three people to the next meeting. Subsequent meetings were always arranged before the end of each meeting, rather than contacting people afterwards with a date and venue.[159]

The public meeting on 18 September attracted approximately 250 people, representing a wide and diverse number of organisations and groups. They

[157] Interview with Dave MacPherson, 16 October 2003.
[158] "Open Letter from Walter Scott", 12 September 1977, ATL, NZCCL Records, 93-122-5/1.
[159] Interview with Dave MacPherson, 16 October 2003.

included union groups such as the Coachworkers Union – represented by G Clarke, the Public Service Association - represented by Ron Smith and Jim Delahunty, the National Union of Railwaymen, and D Morgan representing the Seamen's Union. Student groups such as the Victoria University of Wellington Students Association (VUWSA) and the New Zealand University Students Association were represented by Lindy Cassidy and Lisa Sacksen respectively. Keith Locke was present, representing the Socialist Action League; the Communist Party of New Zealand was also present, represented by someone identified only as "Price". Religious groups represented included the Anglican diocese, the New Zealand Student Christian Movement, and the Joint Committee of Methodist and Presbyterian Publications. A number of other groups were present at the meeting, such as the Working Women's Alliance, the United Nations Association, as well as D McNaught of Amnesty Aroha, T Truell of CORSO, and P Shannon representing the New Zealand section of Women's International League for Peace and Freedom.[160]

Three speakers addressed the meeting. Jim Delahunty spoke as a representative of the Public Service Association. In that regard he spoke about the ramifications of the Bill for members of his union, namely that they could be directed to assist the SIS. Such coercion, argued Delahunty, could restrict the assistance unions could offer to its members.[161]

Pat Kelly, president of the Wellington Trades Council, spoke regarding the wide definition of terms such as "terrorism". This, he argued, could have an effect on groups such as the Federation of Labour, whose constitution could be liberally interpreted as designed to "bring on the downfall of the State,"[162] and thus be labelled as 'terrorists'. He also made explicit the need to co-ordinate opposition against the Bill, saying that they should "have mass meetings to spread as widely as possible the need to pressurise to withdraw the Bill."[163]

George Rosenberg, a lawyer and a member of the New Zealand Council for Civil Liberties, expressed concern about the discrepancies between the

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[160] Minutes of Founding Meeting of OASIS (B), 18 September 1977, New Zealand Labour Party Papers: Head Office Records, 95-229-64/18, ATL, pp. 3-4.
[161] Minutes of Founding Meeting of OASIS (B), 18 September 1977, p. 1.
[162] Minutes of Founding Meeting of OASIS (B), 18 September 1977, p. 1.
[163] Minutes of Founding Meeting of OASIS (B), 18 September 1977, p. 1.

Powles Report and the Bill, and the system of interception warrants. He argued that the Bill was designed to centralise power in the hands of the Executive. Rosenberg said "The intention of the Bill is to give the PM and the Government more power and to remove that power from public scrutiny."[164]

Following these speakers, discussion from the floor ensued. Varying degrees of opposition were expressed, ranging from demands that the Bill be thrown out and the SIS be disbanded, to lobbying for amendments to the Bill and restricting the activities of the SIS.[165] George Rosenberg and Jim Delahunty proposed a motion, "that this meeting totally oppose the SIS Amendment Bill and set up an organisation for that purpose."[166] However, this was opposed by a speaker from the floor, who suggested that "it would be better to try to get amendments to the Bill [because] the Government has too large a majority for us to defeat the whole Bill."[167] Two others present at the meeting - David Tripe, a student – disagreed, expressing the former sentiment, stating, "If we take out the bits we find repugnant their will be no Bill left – we can make no significant amendments and need to chuck the whole thing out." L Jobson supported Tripe, stating, "The idea of amending the Bill wouldn't work because it would be defeated in the House by the large Government majority – it needs to be defeated outside Parliament."[168] An argument emerged, between those who favoured nothing less than total opposition to the Bill, and those who believed seeking amendments would be more productive.

Dave MacPherson recalled, "that once politicians or the 'powers that be' had decided on a course of action, it was very difficult to get them to change it."[169] He believed that OASIS (B) had few hopes of changing the Bill, and many were more concerned with mounting a challenge to the 'ruling class' though some believed it could be changed.[170] A consensus was reached, resulting in a new motion, carried unanimously, which ultimately decided OASIS (B)'s focus:

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[164] Minutes of Founding Meeting of OASIS (B), 18 September 1977, p. 2.
[165] Minutes of Founding Meeting of OASIS (B), 18 September 1977, p. 2-4.
[166] Minutes of Founding Meeting of OASIS (B), 18 September 1977, p. 2.
[167] Minutes of Founding Meeting of OASIS (B), 18 September 1977, p. 2.
[168] Minutes of Founding Meeting of OASIS (B), 18 September 1977, p. 2.
[169] Interview with Dave MacPherson, 16 October 2003.
[170] Interview with Dave MacPherson, 16 October 2003.

> This meeting considers that the SIS Amendment Bill should be taken as the maincore of ongoing opposition to 'creeping fascism', organised from this meeting, and in order to build the widest public opposition to it, to call for support from other organisations and individuals opposed to the anti-democratic moves of the Government.[171]

The meeting then elected an organising committee of 25 people. Walter Scott was elected President, Jim Delahunty as Chairman, and Edward Smith as Treasurer. Amanda Russell, who had been involved in an earlier organisation established to oppose the SIS – COSS – was elected as Secretary and full-time organiser.[172] A follow-up meeting was planned, to be held at the Wellington State Opera House on 10 October 1977.

Two threads of opposition within the fledgling movement began to emerge as early as the founding meeting of OASIS (B), and were present throughout the period of the movement. Though unified in their opposition to the SIS Amendment Bill, both threads held different opinions on the best course of action. The first thread advocated total opposition to the Bill and pushed for its unqualified withdrawal. They saw no value in trying to amend the Bill, believing that only direct action outside Parliament could derail the Bill. This 'hardline' approach was contrasted by an alternative which conceded the likelihood of having the Bill withdrawn was small, and thus sought to improve a Bill they believed would be passed regardless. These 'threads' were not completely separate, but rather indicated the different approaches taken by those who were determined to fight the Bill.

The day after OASIS (B) was formed, the Executive Committee of the New Zealand Council for Civil Liberties met. It was moved by Rosenberg that the committee endorse the aims of OASIS, and delegated to the "President [Walter Scott], Chairman [Nat Dunning] and Secretary [Ventry Gray] the right to lend appropriate support."[173] It was also moved that $100 be donated to a committee set up to oppose the Bill. It was further proposed that the President, the Chairman,

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[171] Minutes of Founding Meeting of OASIS (B), 18 September 1977, p. 3.
[172] OASIS (B) Newsletter, 25 September 1977, p. 1, New Zealand Labour Party Papers: Head Office Records, 95-229-64/18, ATL.
[173] Minutes of Executive Committee of NZCCL, 19 September 1977, NZCCL Records, 93-122-1/1, ATL, p. 2.

the Secretary and Mr. Cullen meet with selected Parliamentarians to discuss the Bill.[174]

The minutes of the Executive Committee do not record the extent of the discussion, yet these motions convey a great deal. The connection between OASIS (B) and the civil liberties movement was strong, and it was strongest within the NZCCL, based in Wellington and presided over by Walter Scott, who had convened the public meeting that formed OASIS (B). The commitment of the NZCCL to opposing the Bill is evident in the support given to OASIS (B), and in the establishment of a separate committee for the purpose of opposing the Bill, with the not inconsiderable donation of $100.

On 20 September 1977, a letter from Ken Douglas, Secretary of the Wellington District Council of the Federation of Labour to W J Knox, Secretary of the National Executive of the Federation of Labour, communicated the unanimous decision of its Management Committee. It advised the National Executive of its intention "to undertake a series of activities designed to consolidate opposition to the Government's continuing attacks...."[175] Presented to the meeting of the National Executive on the same day, the letter identified the SIS Bill as being directed specifically at the trade union movement and sought National Executive endorsement of its motions on the issue. Among those motions was a recommendation that the National Executive call an "urgent meeting of the Joint Council of Labour"[176], a body "for communication between the political and industrial leaderships of the Labour movement".[177] Another moved that George Rosenberg, "a representative of the organization against the proposed legislation be invited to address the September meeting of the [Wellington District Trades] Council."[178] The National Executive endorsed all the motions in the letter, and called an urgent meeting of the Joint Council of

[174] Minutes of Executive Committee of NZCCL, 19 September 1977, p. 2.
[175] K G Douglas to W J Knox, 20 September 1977, FOL Records, MS-Papers-4100-19/19/23, ATL, pp. 1-2.
[176] Douglas to Knox, 20 September 1977, pp. 1-2.
[177] Barry Gustafson, "Labour Party" in Gold, Hyam (ed.), *New Zealand Politics in Perspective*, Auckland: Longman Paul, 1985, p. 154.
[178] Douglas to Knox, 20 September 1977, pp. 1-2.

Labour to discuss the SIS Bill and the ramifications for the trade union movement.[179]

The exchange between the Wellington District Trades Council and the National Executive of the Federation of Labour represented a good example of the "snowball" strategy employed by OASIS (B). Pat Kelly, who spoke at the OASIS (B) founding meeting, carried back to the Wellington District Trades Council (of which he was president) the aims and intentions of OASIS (B), to gather widespread support for organised opposition to the Bill. The letter from the secretary, Ken Douglas encapsulates the result of that action, and the subsequent action of the Federation of Labour National Executive illustrates how the "snowball" grew. From that one person a regional organisation, and then a national organisation, was spurred into action and marked the involvement of the trade union movement in organised opposition to the Bill.

Student associations had been involved in OASIS (B) from the beginning, through their representatives: Dave MacPherson attended the very first meeting, and was joined by NZUSA president Lisa Sacksen and Victoria University of Wellington Student Association (VUWSA) president Lindy Cassidy at the first public meeting on 18 September. The Victoria University Student Representative Council, on 21 September, also held a meeting to discuss the SIS Bill.[180] In much the same way that Pat Kelly had relayed the outcome of the founding meeting of OASIS (B) to the Wellington Trades Council, Lindy Cassidy and Lisa Sacksen conveyed to students at the Student Representative Council meeting the need for organised opposition. Two motions were put, the first that VUWSA expresses total opposition to the Bill; the second that if the Bill becomes law, VUWSA actively contravenes clauses 6 and 7 of the Bill.[181] The arguments put forward in favour of the motions pointed out that the new Bill would prevent students identifying officers on campus. This was a form of protest used by students in the past, most notably in the exposure of David Godfrey, an SIS officer who in 1966,

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[179] Minutes of FOL National Executive, 20 September 1977, p. 2.
[180] *Salient*, 26 September 1977, p. 2.
[181] Clauses 6 and 7 related to the unauthorised disclosure of information and the unauthorised disclosure of details about staff, respectively.

while enrolled as a student at Auckland University, submitted several reports on "matters connected with the University."[182]

However, the motion recommending that VUWSA actively contravene clauses six and seven was objected to, on the grounds that a written policy of law breaking "would ruin our public relations."[183] David Tripe, present at the meeting that founded OASIS (B), responded, arguing that

> a massive and active opposition could render the Bill unoperable. Unless we make our stand now, we will become puppets in a puppet state controlled by a little man at the top. We are the public, and what happens to public relations then? If we back down now, then soon there will be nowhere to back down to.[184]

The arguments over the second motion, indicating a struggle within NZUSA similar to that within OASIS (B), led to an amendment being mooted that advocated moral and financial support in favour of less explicit action.[185] The motions were passed, along with a further motion that pledged support for a public meeting and a march organised by OASIS (B). Again, the process of "snowballing" was effective in securing student support for planned and organised protest against the SIS Bill.

Opposition was expressed at other universities, in particular Massey University. The Massey University Student's Association's (MUSA) Executive Committee met on 12 September, just days after the Bill was introduced and just hours before the *Dateline: Monday* programme was broadcast. It unanimously passed a motion to contribute financially to a protest advertisement to be placed in the *Evening Standard.*[186] It also organised a student rally on 20 September, to protest the Bill.[187] No mention was made of the rally in the local newspaper, the *Evening Standard*, nor was it reported in the student newspaper *Chaff*, as it had already printed its last issue for the year prior to the rally.

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[182] "Report of the Inquiry into Administration of the Security Service so far as it relates to Attendance of Officers thereof at a University", *AJHR*, 1966, H.48, p. 16. For further information on these events, see also *Civil Liberty* 36 (1989), pp. 12-13.
[183] *Salient*, 26 September 1977, p. 2.
[184] *Salient*, 26 September 1977, p. 2.
[185] *Salient*, 26 September 1977, p. 2.
[186] Minutes of Meetings of MUSA Executive, 12 September 1977, 4.1/1/1 Vol 3, Jan 1976 - Nov 1978, MU, p. 2.
[187] Minutes of Meetings of MUSA Executive, 19 September 1977, p. 2.

David MacPherson recalled that those student associations with a history of activism on contentious issues were similarly active on the SIS Bill issue. The campuses he identified as being significantly active were Wellington, Auckland, and Palmerston North. The Canterbury and Otago student associations had only small groups opposed to the Bill.[188] Lincoln had little or no involvement. MacPherson recalled that Waikato's response was a surprise, as they usually followed the approach of Lincoln, but in this case Waikato was quite active, partly because of the keen interest in the issue of its association president, Doug Driver.[189] However, the hub of student opposition to the Bill, according to NZUSA president Lisa Sacksen, was the Victoria University Students Association, primarily because of its close association with NZUSA.[190] It is possible that because of Victoria University's central location and proximity to the political nexus, students there had an increased political awareness and greater opportunities to effectively express their opposition.[191]

In the same week as the SRC meeting, the Victoria University Council held a meeting, at which pro-chancellor Walter Scott moved the following motion:

> Bearing in mind that the university is constituted for the advancement of knowledge and the dissemination and maintenance thereof by teaching and research, and believing that these aims can be fully achieved only if their pursuit is unimpeded by any restraint on the free play of ideas and argument anywhere on campus, this council is strongly of the opinion that the security intelligence service amendment Bill now before the house will, if enacted, seriously threaten the ability of the university to discharge its constitutional obligations and calls on the Government to withdraw it.[192]

The motion was passed. The result was that the VUW council came out in public against the Bill, and increased pressure on the Government to reaffirm its statement that only "fringe groups" were concerned about the Bill. Walter Scott's close involvement with both the NZCCL and OASIS (B) is significant.

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[188] Interview with Dave MacPherson, 16 October 2003.
[189] Interview with Dave MacPherson, 16 October 2003.
[190] Interview with Lisa Sacksen, 10 October 2003; Interview with Dave MacPherson, 16 October 2003.
[191] Interview with Lisa Sacksen, 10 October 2003.
[192] *Campus Muse*, 3 October 1977, Walter Scott Papers, MS-Papers-87-178-2/03, ATL.

Canterbury University, on 1 November, discussed a motion similar to Walter Scott's. Introduced by Professor I A Snook, the motion read: that the Bill "failed to acknowledge the traditional role of the university to disseminate knowledge in an atmosphere free from intervention from any other institution, including the State."[193] However, it was argued by the Chancellor, Mr J N Matson, that the university could not set itself above the law. The council settled upon a revised version of Professor Snook's motion, which instead made a request to the Government "that the university's teaching role be not hindered by the proposed legislation."[194] Though less damning than the Victoria University Council motion, the action indicated dissatisfaction throughout academic institutions about the possibility of SIS surveillance within the university's campus.

During September 1977, much of the work done by OASIS (B) and other groups to establish a movement against the SIS Bill revolved around raising awareness. This was the first step of the process of opposing the Bill, and revolved around networking and word-of-mouth dissemination. Publicity material, though available, was not in great evidence until the movement achieved 'critical mass' in October, when major public demonstrations began to emerge. However, September 1977 was not solely a period of movement building and passive awareness. Towards the end of the month, two demonstrations gave a foretaste of the action that was to follow in October.

The first public demonstration against the Bill occurred in Auckland on 23 September 1977. Organised by the Auckland Council for Civil Liberties, the president Barry Littlewood said they expected "hundreds of people to turn up for this protest march because this Bill affects every section of our society."[195] Approximately five hundred people participated in the protest, which the *Herald* described as "orderly", and amusing to the Friday night shopper.[196] The protest included a number of political groups as participants, including the Labour Party,

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[193] *Press*, 2 November 1977, p. 11.
[194] *Press*, 2 November 1977, p. 11.
[195] *New Zealand Herald*, 23 September 1977, p. 3.
[196] *New Zealand Herald*, 24 September 1977, p. 3.

Social Credit Political League, and the Socialist Unity Party.[197] The coverage of this protest was, however, limited.

The Security Intelligence Bill would permit your phone to be tapped, your mail opened, your private papers investigated, on the say-so of a politician.

OPPOSE

THE

SECURITY INTELLIGENCE BILL

and join the

MARCH TONIGHT

September 23, from CPO, 7.15 pm, to the PUBLIC MEETING at the TOWN HALL CONCERT CHAMBER at 8 pm

Speakers: Walter Pollard, University Lecturer; David Lange, Lawyer, MP; Bill Andersen, Chairman Auckland Trades Council; Barry Littlewood, President ACCL

AUCKLAND COUNCIL FOR CIVIL LIBERTIES, PO Box 6582, Auckland.

Plate 3: Advertisement from *New Zealand Herald* for the first Auckland march against the Bill, *New Zealand Herald* 23 September 1977, p. 4.

The second public demonstration of protest was on 27 September 1977. Following up their initial SRC meeting, VUWSA held a forum on the SIS Bill at Union Hall. The forum was addressed by speakers including Jim Delahunty, Pat Kelly, David Lange and Walter Scott. Dave MacPherson recalled how the speakers rallied the crowd:

> Lange spoke and gave a really good speech, it fired people up.... Because they were fired up by Lange's speech, they were in a mood to march. Within 20 minutes this march was leaving with about 500 people, because people had been running around campus with megaphones telling people that there was a march to the SIS headquarters...[198]

[197] *New Zealand Herald*, 24 September 1977, p. 3.
[198] Interview with Dave MacPherson, 16 October 2003.

The impromptu march attracted significant media attention. *Salient* declared, "the demonstration was even the first item on the 6.30pm news."[199] The number of people at this march is also significant - Dave MacPherson recalled that this figure was similar to the numbers of students participating in marches on a different issue - student bursaries. He suggested that this indicated the issue was at least, if not more, significant than the bursary issue.

These first demonstrations illustrate how direct action against the Bill emerged. For some it was relatively spontaneous. It was well supported, and peaceful. The turnouts for both these demonstrations were respectable, particularly given the short notice, and demonstrate the large degree of concern held by many people.

The month of September was a period of movement building for the opposition to the SIS Bill. By the end of the month, two spheres of opposition had emerged: the Parliamentary opposition and the public opposition, each containing further strands. The Labour Party and the National Party backbencher Michael Minogue emerged as clear critics of the Bill within Parliament, while OASIS (B), along with the student associations and the Council for Civil Liberties, rallied the various groups and individuals from the public that opposed the Bill. Within OASIS (B) too, there were further threads, with varying degrees of opposition emerging as early as the founding meeting. These differences in approach were to become more apparent during the month of October.

[199] *Salient*, October 3 1977, p. 6.

CHAPTER THREE

Protest Mobilised

The month of October was characterised by the mobilisation of protest. The protest movement expanded their activities of raising awareness and educating people about the Bill to include an active platform of demonstrations, rallying and lobbying for changes to, or the abandonment of, the Bill. During October, OASIS (B)'s support grew at an astonishing rate, culminating in one of the largest demonstrations held in Wellington. Also, the arguments against the Bill were better argued, but with that came a clearer sense of divergence over the best course to take in opposing the Bill. The Labour Party also entered the public forum by establishing a committee to hear submissions in lieu of a Parliamentary select committee. This chapter will examine these events, roughly in chronological order, to discover how the movement to oppose the Bill developed and adapted to the shift in action.

The Labour Party's key response to the SIS Amendment Bill was to establish a committee to receive and hear submissions from the public. This correlated with one of the main concerns expressed by the Opposition during the first reading, that Muldoon had unilaterally and arbitrarily dismissed the possibility of select committee hearings. The decision to form the committee, called the Labour Party Justice and Human Rights Committee, was announced on September 23. Its chairman was to be a senior Labour MP, former Attorney General Dr Martyn Finlay. He described it as "the next best alternative"[200] to a proper select committee, made necessary by the National Party's "stubborn refusal"[201] to provide a suitable public forum for concerned organisations and individuals to air their grievances. National MPs were invited to sit on the committee, alongside Labour MPs, but none accepted. The members included two junior MPs, Mary Batchelor and Richard Prebble, and Junior Whip Trevor Young. It also included two senior MPs under the Rowling Government, former deputy Speaker and Chairman of Committees Jonathan Hunt, and former Minister of Maori Affairs and Minister of Lands, Mat Rata.

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[200] *New Zealand Herald*, 23 September 1977, p. 5.
[201] *New Zealand Herald*, 23 September 1977, p. 5.

The process was designed to be very similar to a formal select committee. Members met at pre-appointed times, received written submissions, and despite the limited time available to them, held two open sessions where they heard oral arguments supplementing written submissions. The committee declared it received approximately 250 submissions,[202] though no copies of many of these submissions have survived. A draft report dated 10 October identified about 26 formal submissions received from a diverse range of individuals and groups, and provides much of the information regarding the positions of the various groups. They included the PSA and Combined State Services Organisation (CSSO), NZCCL, FOL, Citizen's Association for Racial Equality (CARE), the Association of Broadcasting Journalists and the New Zealand Law Society, and individuals such as publisher Hugh Price, history lecturer Peter Munz and Professor John Roberts, and the Anglican and Roman Catholic Bishops of Christchurch, Pyatt and Ashby respectively.[203]

The "select committee", as an avenue of protest, was a contrast to the approach of OASIS (B). Where that organisation sought to oppose the Bill through raising awareness, mobilising people to protest and demonstrating their opposition through marches and rallies, the Labour Party committee presented the public with an opportunity to protest by laying down their concerns on paper and presenting their arguments for opposing the Bill. That is not to say that one "avenue" was better than the other, rather they existed as complementary alternatives.

The arguments put forward by the various groups ranged from outright opposition to the whole Bill, to concerns about approaches to communications interception and ill-defined words. This reflected the structure of opposition expressed at the founding meeting of OASIS (B), where the opposition seemed to be divided between those advocating the Bill's complete abandonment, and those who believed that was unlikely, and so advocated lobbying for changes to the Bill. However, the majority of submissions shared a number of points. They included general concerns about excessive power being vested in the SIS and its Minister without proper safeguards, and unreasonable extensions to secrecy

[202] *NZPD,* 414 (1977), p. 3722.
[203] "Synopsis of Submissions made to the Caucus Committee on the SIS Amendment Bill", Frank Rogers Papers, MS Papers 2212-124, ATL, pp. 1-7.

within the organisation. Nearly all the submissions were concerned about the extent to which the Bill was at variance with the Powles Report, particularly the belief that "where [Powles'] recommendations were used, they [were] significantly altered."[204] Furthermore, many submissions also pointed to the shift in "tenor" from the Powles Report, which "was designed to legalise and open up SIS activities", to the Bill, which "makes [the SIS] more clandestine than before."[205]

A concern raised almost exclusively by the PSA, the CSSO, the Post Office Association, and the Association of Broadcasting Journalist, specifically affected as they were, was regarding the provision in the Bill for "direction" of state employees to assist the SIS in executing interception warrants. The CSSO saw this provision as "conscription" to the SIS.[206] The PSA stated, "It is abhorrent that any employee may be required to act contrary to his or her conscience."[207] The Post Office Association believed that such direction would make "the Post Office, *ipso facto*, an official information gathering agency for the SIS."[208] The Association of Broadcasting Journalists were also concerned about the extent to which the "direction" of state employees could be taken, specifically whether state-employed journalists could be directed to assist the SIS. Their submission recalled that the SIS had, in the past, approached journalists for that very purpose.[209]

Coupled to all of their concerns about "conscription" to the SIS was their concern about clause 6, which contained a provision that prevented any person disclosing the fact they had assisted in the execution of an interception warrant, or had even been approached by the SIS.[210] Hugh Price, a publisher, was similarly concerned about censorship in the Bill, as contained in clause 7. He feared that by restricting the publication of information regarding SIS officers,

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[204] "Draft Report of Opposition Caucus Committee Set Up To Hear and Consider Representations On The New Zealand Security Intelligence Service Amendment Bill", Frank Rogers Papers, MS Papers 2212-124, ATL, p. 6.
[205] "Draft Report of Opposition Caucus Committee", p. 6.
[206] "Synopsis of Submissions", p. 4.
[207] "Synopsis of Submissions", p. 1.
[208] "Synopsis of Submissions", p. 6.
[209] "Synopsis of Submissions", p. 5.
[210] "Synopsis of Submissions", p. 1.

"investigative journalism... [would] be stifled."[211] It also offered cover to any "misdemeanours by SIS agents" and would prevent the uncovering of scandals such as the Watergate affair, or the infiltration of British Intelligence by Soviet agents during the 1950s and 1960s.[212]

The inclusion in the Bill of poorly defined words and vague and ambiguous language was another common argument put forward in submissions. The Woburn branch of the National Union of Railwaymen was particularly concerned about the definition of 'subversion', namely that it "could be applied to union officials going about their legitimate union business."[213] Bishops Pyatt and Ashby were similarly concerned about the Bill's inclusion of 'potential subversion.'[214] Professor John Roberts, a Victoria University lecturer in political science, saw the problem as wider, incorporating a whole range of potential acts. Professor Roberts related his argument back to the Powles Report, which had recommended explicitly that "intelligence [should] not be obtained regarding any person or body which is not actually engaged in espionage, sabotage or subversion...."[215] Roberts argued that the Bill had not only rejected Powles' recommendation, it had enacted the opposite.[216] Professor of History Peter Munz supported this, and argued that 'potential subversion' was "a completely subjective concept, governed by a person's political experience and an assessment of how societies operate."[217] The interpretation of 'potential' acts was thus reliant on the quality of analysis by SIS officers.

Many of the groups had more general concerns about the Bill. A common example was the belief that the Bill generally had "insufficient safeguards". This view was expressed by Political Studies lecturers J R Flynn and G A Wood, the Kapiti branch of the Women's Electoral Lobby, the New Zealand Council for Civil Liberties, the CSSO and the New Zealand Law Society.[218]

A few groups offered, in addition to their critiques of the Bill, suggestions for safeguards against abuse of the powers conferred by the Bill. The PSA

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[211] "Synopsis of Submissions", p. 2.
[212] "Synopsis of Submissions", p. 2.
[213] "Synopsis of Submissions", p. 1.
[214] "Synopsis of Submissions", p. 2.
[215] Powles Report, p. 30.
[216] "Synopsis of Submissions", p. 3.
[217] "Synopsis of Submissions", p. 5.
[218] "Synopsis of Submissions", pp. 2-7.

summarised the position of these few when it stated that if the Government persisted in pushing the Bill through Parliament, "the Association would suggest that some alteration be made to the content of the various clauses of the Bill."[219]

The PSA suggested that, if the 'direction' of state employees in clause four was to remain, a 'conscience' clause should be added to allow state employees to refuse to act contrary to their consciences.[220] Another suggestion made by both the NZCCL and CARE was that Powles' recommendation of a ninety-day limit on interception warrants be included in the Bill.[221]

Professor John Roberts suggested a system for ensuring appropriate safeguards against abuse of the warrant system in clause four. He recommended that interception warrants be divided into foreign and domestic warrants. The Minister could then issue warrants for foreign operations while warrants for domestic operations could be issued by an independent person, such as the Commissioner of Security Appeals, who already had clearance to review security files in his role investigating complaints from the public regarding the SIS.[222] This answered the argument proposed by both Muldoon and Powles - that it was impractical to adequately brief anyone other than the Minister in Charge of the SIS - because, according to Professor Roberts, "these difficulties are most likely to arise in connection with counter-espionage activities involving a foreign power."[223] Such a division would also potentially satisfy critics that feared political use of the powers of interception, by divesting the powers for internal surveillance of citizens in the hands of the Commissioner of Security Appeals.

An alternative recommendation for instituting a safeguard in clause four came from university lecturers J R Flynn and G A Wood. In their submission to the Labour Party committee, they proposed that "a warrant should carry the counter-signature of a judicial officer", to give each warrant a judicial, as well as political, assessment.[224] Furthermore, they proposed that each warrant should have 18 to 24 months to produce results, after which period the existence of the

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[219] Submission of PSA to Robert Muldoon, Walter Scott Papers, 87-178-1/07, ATL, p. 2.
[220] Submission of PSA to Robert Muldoon, p. 3.
[221] Submission of NZCCL, Frank Rogers Papers, MS-Papers-2212-124, ATL, p. 4; "CARE Submissions on the Security Intelligence Service Amendment Bill", Walter Scott Papers, 87-178-1/07, ATL, p. 3.
[222] "Synopsis of Submissions", p. 3.
[223] *Evening Post*, 11 October 1977, p. 6.
[224] "Synopsis of Submissions", p. 2.

warrant should be communicated to the subject, or court proceedings issued.[225] However, this suggestion did not answer, as Professor Roberts had, the question of adequately briefing the judicial officer to act as a counter-signatory.

Roberts also proposed an amendment to clause three. He believed that the process whereby the SIS informed the New Zealand Intelligence Council of new areas of subversion, in which it had already instituted surveillance, was significantly worse than Powles' suggestion. His suggestion was that Powles' original recommendation be implemented, that the SIS consult the Intelligence Council *before* it institutes surveillance in new areas of subversion.[226]

A further suggestion put to the Labour Party committee came from the New Zealand Law Society. It believed that the potential existed for innocent individuals to be affected by communications interception. This begged the question - what of the information obtained in the course of an interception that was not relevant to the investigation? This concern was also illustrated by the *Dateline: Monday* programme in their 'reconstruction' of a request by an SIS officer to install monitoring equipment in the house of a Czechoslovakian diplomat's neighbour.[227] The reconstruction implied that details of illegal gambling conducted by the neighbor would be intercepted along with details of the Czechoslovakian's conversations. What would the SIS do with such information, irrelevant to their investigation but illegal nonetheless? The New Zealand Law Society proposed, "that there should be provisions to restrain the use of information not related to security."[228] However, they did not provide details of such a provision.

Other suggestions for amendments to the Bill came from outside those submissions made to the Labour Party committee. The *Evening Post*, for example, offered some suggestions in an editorial. The editorial criticised the hysterical approach "from the fringe groups whose political finesse runs to painting slogans on walls...",[229] (as had occurred recently, to be discussed shortly) implying that such attitudes precluded a reasoned approach. It favoured a

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[225] "Synopsis of Submissions", p. 2.
[226] "Synopsis of Submissions", p. 3.
[227] *Dateline: Monday*, 12 September 1977, TVNZ Archives.
[228] *Evening Post*, 12 October 1977, p. 6.
[229] *Evening Post*, 12 October 1977, p. 4.

reasoned approach, noting that "there is also evidence that many New Zealanders with no political axe to grind are genuinely concerned with some provisions of the Bill..."[230] The editorial identified with this latter approach, and offered suggestions for improving the Bill, rather than advocating its wholesale abandonment. It recommended, "that some outside check on the issue of warrants is necessary."[231] The independent authority suggested was the Privacy Commissioner, "a post usually held by the Ombudsman."[232] This suggestion was very similar to that proposed by Flynn and Wood to the Labour Party committee. The editorial also suggested that the 'direction' in clause four contained an element of coercion, and should be reworded to allow any citizen the right to refuse to assist the SIS.[233] Its third suggestion was that clause seven, restricting the publication of information regarding staff of the SIS, be reworded to be more flexible, and so allow "some way in which the role of the Service can be responsibly examined."[234]

The Labour Party committee may have been, as Muldoon decried "an opportunity to gain some [political] support at a time when they are politically desperate."[235] Whether political or not, it met it's declared purpose insofar as it facilitated public discussion of the Bill's provisions. It also highlighted the various degrees of opposition to the Bill. An increasing, and perhaps grudging, acceptance that the Bill would be passed resulted in many submissions including suggestions for improving the Bill.

The movement to oppose the SIS amendment Bill reached its height in October, concurrent with the Bill's higher place on the Parliamentary agenda. October saw the number and size of public protests rise significantly, from a number of small protests, with less than a hundred active participants, to the major demonstration of the movement, involving nearly 15,000 people. There were also a number of protests involving techniques other than marches and demonstrations. This section will examine those protests, and the process of building the momentum of the movement.

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[230] *Evening Post*, 12 October 1977, p. 4.
[231] *Evening Post*, 12 October 1977, p. 4.
[232] *Evening Post*, 12 October 1977, p. 4.
[233] *Evening Post*, 12 October 1977, p. 4.
[234] *Evening Post*, 12 October 1977, p. 4.
[235] *NZPD*, 414 (1977), p. 3713.

In the first days of October, a number of acts of graffiti were carried out as protests against the SIS Amendment Bill. In Wellington, a war memorial and the marble facing of the incomplete Beehive were defaced with spray-painted anti-SIS slogans such as "ReS.I.S.ist", "Stop SIS Bill", and "Smash SIS Bill." Other targets included Victoria University, Hataitai Tunnel, Wellington Railway Station, Kelburn Post Office, the Cable Car terminal and Courtenay Place.[236] However, no group came forward to claim responsibility for these acts. Similar acts of vandalism were also performed in Palmerston North, where anti-SIS slogans were spray-painted on the house and driveway of the National Party MP John Lithgow. Similar slogans were also painted on the Civic Centre, the Clocktower, and the Public Relations Office.[237]

On 7 October, a Friday evening, a march was organised by the Canterbury Council for Civil Liberties. Approximately 40 protesters marched from the Bridge of Remembrance to Cathedral Square in Christchurch, chanting anti-SIS Bill slogans and waving banners and signs such as "Who Bugs the Buggers", "Do YOU Trust Muldoon?" and "Muldoon – Hitler of the Pacific."[238]

This was the first such public demonstration against the Bill in Christchurch. It was quite different in many ways from the first Auckland demonstration, two weeks earlier. Both had been planned by the local branch of the Civil Liberties organisation, but Auckland had followed their protest up with a public meeting, addressed by several keynote speakers. The Christchurch protest had no such meeting planned. Though it may be a result of insufficient coverage in the media, the Christchurch protest was relatively anonymous, with no groups or key individuals identified, whereas the Auckland protest included several political groups and academics. The Christchurch protest was also considerably smaller, dwarfed by the Auckland protest's 500 participants. This may have been the result of prior advertising for the Auckland march, and which appears to have been absent for the Christchurch protest.

The same day, in Auckland, a very different sort of protest arose at Auckland University. A Government speaker, the Minister of Trade and Industry Mr Adams-Schneider, addressed a meeting of students on the topic of "the small

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[236] *Evening Post*, 3 October 1977, p. 10.
[237] *Evening Standard*, 11 October 1977, p. 1.
[238] *Press*, 8 October 1977, p. 6.

business agency, the Pacific Islands industry development scheme, and NAFTA."[239] The protest was a disruption of the address by students heckling, throwing paper, and shouting over the Minister. The students were agitating for a discussion of the SIS Bill. The Minister complied, and abandoned his speech to answer questions on the Bill. However, when the question and answer session became aggressive, the Minister left the room.[240]

The report gives no indication of the size of the audience. Neither is it clear whether the protest was spontaneous or planned in advance. It is likely, given that the Minister's visit would have been scheduled ahead of time, that the students who disrupted the meeting attended with that intention in mind. However, the action of the heckling students achieved little more than a disruption when the Minister retreated rather than continue the debate.

On 10 October, a public meeting organised by OASIS (B) was held in the Wellington State Opera House, attended by nearly two thousand people.[241] The speakers included Walter Scott and Tim McBride from NZCCL, NZUSA president Lisa Sacksen, Labour MP Trevor Young, PSA president Jim Turner, and Wellington Trades Council president Pat Kelly. No indication was given of the composition of the audience, though it is likely that members of the organisations represented by the speakers would have comprised a significant proportion of the audience.

The meeting served two purposes. It continued the process of educating people about the Bill by providing a forum for speakers to address a large crowd on the issues surrounding the Bill. It also presented an opportunity for the organisers, OASIS (B), to attract support for their next event, a mass demonstration on October 14. They also attracted financial support, with a collection raising $1200 towards the costs of the campaign.

The meeting in Wellington was matched by a similar meeting held in Christchurch on the same day. The Christchurch meeting, held at the Town Hall, was organised by the Canterbury Council for Civil Liberties, and attracted approximately 1100 people.[242] This represented a remarkable achievement over

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[239] *New Zealand Herald*, 8 October 1977, p. 4.
[240] *New Zealand Herald*, 8 October 1977, p. 4.
[241] *Evening Post*, 11 October 1977, p. 3.
[242] *Press*, 11 October 1977, p. 1.

its previous event, which had attracted only 40 people. The meeting was addressed by nine speakers, following a similar format to the Wellington meeting. The speakers included two Canterbury university academics: Dr Kevin Clements, Canterbury university lecturer in sociology, and Professor Wilmott. The speaking line-up also featured the MP for Avon, Mrs Mary Batchelor, who was also on the Labour Party Justice and Human Rights Committee, and the presidents of the Canterbury Trades Council and the Canterbury Council for Civil Liberties, Wes Cameron and Wolfgang Rosenberg, respectively. The meeting, described by reporters as "noisy", "passed a motion of total opposition to the SIS Amendment Bill, and urged its immediate withdrawal."[243] No mention was made, however, of plans for future protests.

On the same day, the Prime Minister delivered a speech in support of the Bill, to a function for 1200 National Party supporters at Barber Hall in Palmerston North. Two hundred demonstrators picketed the function, though reports do not indicate which groups, if any, they represented. They arrived ahead of the guests and formed a gauntlet leading to the entrance to the venue, waving placards and banners, chanting anti-SIS slogans and distributing leaflets.[244] Once all the guests were inside, however, police locked the doors and formed a cordon outside. This discouraged many protesters who left, though a few remained until Muldoon left. One of the participants, Rosemary Baragwanath, stated "the protest was held because the SIS Bill was close to its second reading in Parliament...and as much attention as possible should be drawn to it."[245]

The picket in Palmerston North was followed by a meeting in Feilding on October 13. It was addressed by J Smith, from the Palmerston North Trades Council, B MacDonnell from the PSA, and Tim McBride from the NZCCL.[246] Organised by the Feilding Branch of the Labour Party, 80 people attended the meeting, which examined provisions within the Bill.[247]

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[243] *Press*, 11 October 1977, p. 1.
[244] *Evening Post*, 11 October 1977, p. 7.
[245] *Evening Standard*, 11 October, p. 1.
[246] *Evening Standard*, 11 October, p. 1.
[247] *Evening Standard*, 14 October, p. 1.

The first two weeks of October saw the two threads of opposition to the Bill within OASIS (B) become clearer. These threads were not, however, completely separate or incongruous. They shared the common goal of opposing the Bill, and sought its withdrawal, but they differed on the best course of action in the event the Bill was passed. Many of those who presented evidence to the Labour Party Justice and Human Rights committee favoured the approach, that if the Bill would not be withdrawn, it should be amended. The alternative approach sought the Bill's withdrawal through direct action, the predominant message conveyed by the protest marches, pickets and vandalism. This approach reached its peak, in terms of numbers participating in the public protests, on October 14, with a mass demonstration in Wellington, and concurrent demonstrations in Auckland, Christchurch and Dunedin.

The Wellington march was organised by OASIS (B), the culmination of the 'snowball' tactic they had employed since the organisation's founding meeting. Support for OASIS (B) had grown rapidly, with attendance at meetings and demonstrations leaping from 250 at the first public meeting on 18 September, to 2000 at the public meeting in Wellington on 10 October. Building on the effects of the 'snowball tactic', and utilising other means of publicity, the main demonstration in Wellington on 14 October attracted between 12,000 and 15,000 participants. MacPherson revealed that organisers had planned for approximately 5000 people for the mass demonstration, but their expectations were greatly exceeded.[248] Including the concurrent protests in Christchurch and Dunedin, the total number of people protesting the Bill approached 20,000.[249] The extremely large participation represented a victory for organised protest, and gave OASIS (B) "a shot in the arm."[250]

The large awareness campaign was undoubtedly a factor in the great numbers attending the Wellington demonstration. Large advertisements appeared in the *Evening Post*,[251] including a ¾ page notice from OASIS (B). This notice served two purposes, advertising the march, and also publicised the names of over three hundred of its supporters. This last purpose may have been in response

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[248] Interview with Dave MacPherson, 16 October 2003.
[249] *Press*, 15 October 1977, p. 6.
[250] Interview with Dave MacPherson, 16 October 2003.
[251] *Evening Post*, 8 October 1977, p.2; 13 October 1977, p. 19. See appendix for examples.

to a criticism raised by a letter to the editor of the *Evening Post*. "PH M" wanted a "public exposure of this organisation, and its personnel, finances and supporters."[252] OASIS (B) also conducted a mass leafleting of Wellington Mailboxes, covering 85,000 households, and even conducted 'cold-calling', telephoning people to raise awareness of the Bill. Dave MacPherson, however, recalled that this last method was not particularly successful.[253] The staff of Gear Meat Shops placed a notice similar to OASIS (B)'s, expressing their "opposition to the SIS Bill and support our colleagues in the trade union movement in their action against the Bill becoming law." The notice published their names, sixty-seven in total, and was placed *in lieu* of their attendance at the demonstration.[254] Exhortations to attend the demonstration were also made at public meetings.[255] The trade union movement, present at the demonstration in large numbers, were also encouraged to stop work and attend: "At a meeting last night the Wellington Trades council decided to call on its union affiliates to cease work between 11am and 2pm on October 14 so that members could participate in the demonstration."[256] This statement was followed up by a large public advertisement placed by the Trades Council in the Wellington *Evening Post*.[257]

The protest in Wellington on 14 October had two main parts. The first was a rally outside Parliament. Protesters began arriving at Parliament Grounds by 11am, with approximately 250 people present by 11.30. By midday, the crowd inside Parliament grounds had grown to more than 3000 people. A platform had been constructed on Molesworth Street adjacent to Parliament for speakers to address the crowd. Ken Douglas, secretary of the Wellington Trades Council, was the first to speak, denouncing the Bill and the Government. He declared that, "the National Government was determined to take away all the freedoms and powers that the New Zealand people had left."[258] He was followed

[252] *Evening Post*, 7 October 1977, p. 8.
[253] Interview with Dave MacPherson, 16 October 2003.
[254] *Evening Post*, 12 October 1977, p. 17.
[255] Interview with Dave MacPherson, 16 October 2003.
[256] *Evening Post*, 4 October 1977, p. 7.
[257] *Evening Post*, 8 October 1977, p.2.
[258] *Evening Post*, 15 October 1977, p. 1.

by Jim Turner, who feared "the Bill would give the 'Secret Police' the right to do anything they liked..."[259]

The second part of the protest followed when, around 12.45pm, the bulk of the rally marched to Taranaki Street, where the SIS Headquarters were located. At one stage of the march, the column of people stretched from the corner of Manners and Willis Streets to the National Party Headquarters in Customhouse Quay, a distance of approximately one kilometre. Reporters estimated that between 10,000 and 15,000 people were involved. [260] The organisation and management of the march was evident, with marshals identified by armbands controlling the marchers,[261] though Dave MacPherson conceded it was a "shambles", having only planned for a crowd size of about 5000.[262] The police, however, described the behaviour of protesters as "generally good."[263] As the marchers arrived at the SIS Headquarters on Taranaki Street, they were confronted by a cordon of about 60 police officers. Missiles such as eggs, paint bombs and rocks, and even the sticks from placards were thrown at the building.[264] A few windows were smashed, bringing reinforcements out of the building, and the total number of police to 100.[265] More speeches were delivered, this time from a parked truck - Jim Delahunty promised further marches, capitalising on the success of the current march: "We'll have five marches if we have to, and each one will be bigger than this."[266] Lisa Sacksen's address highlighted the strength of feeling on the issue, stating that some "may have to give up their lives" to prevent the erosion of civil liberties.[267] The march dispersed just before 2pm, in accordance with the timetable advertised by OASIS (B) and the Wellington Trades Council.[268]

Though media reports described the events as "orderly", four arrests were made towards the end of the picket outside SIS Headquarters: "They were hauled bodily out of the crowd and back into a police van parked in a side-street behind

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[259] *Press*, 15 October 1977, p. 6.
[260] *Evening Post*, 15 October 1977, p. 1.
[261] Interview with Lisa Sacksen, 10 October 2003.
[262] Interview with Dave MacPherson, 16 October 2003.
[263] *Evening Post*, 15 October 1977, p. 2.
[264] *Press*, 15 October 1977, p. 6.
[265] *Press*, 15 October 1977, p. 6.
[266] *Press*, 15 October 1977, p. 6.
[267] *Evening Post*, 15 October 1977, p. 2.
[268] *Press*, 15 October 1977, p. 6.

the SIS building."[269] Police later said, they "would be charged for minor offences."[270] Those arrested were Sean Tuohy, an 18-year old student; Ghulam Khan, a 20-year old student; and Donald Franks, a 29-year old factory hand, all on charges of disorderly behaviour. They pleaded not guilty in the Magistrates Court on 20 October, and were remanded for hearings in late November. A fourth, 24-year old computer programmer Kim Patrick, was arrested for throwing a rock "slightly larger than a cricket ball through the window. It had landed near a group of people working on the top floor."[271] He was fined $100, and ordered to pay damages of $40 for the broken window.[272]

The march, attracting such a large number of people, was hailed as the largest civil liberties demonstration in New Zealand's history.[273] It was coordinated with other similar demonstrations in Christchurch and Dunedin, though Wellington was clearly the focal point. For example, rather than arrange separate marches, both Auckland and Massey University arranged transport and accommodation for students interested in participating in the Wellington march.[274] In both Christchurch and Dunedin, however, crowds of between 2000 and 2500 people gathered to listen to speakers denouncing the Bill and the Government, and to express their opposition. The protesters in Christchurch rallied outside the Headquarters of the SIS, located in the Guardian Exchange Building in Hereford Street, where eight speakers spoke for approximately 45 minutes. The speakers included Murray Horton, former leader of the Progressive Youth Movement (PYM), Father J Consedine from the National Association of Priests, and others from the Socialist Unity Party (SUP) and Youthline.[275] They then marched to Cathedral Square, from where they dispersed. The groups involved in the protest were identified by banners that included trade unions and a dominance of political parties - the Labour party, the Values party, the

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[269] *Evening Post*, 15 October 1977, p. 2.
[270] *Evening Post*, 15 October 1977, p. 2.
[271] *Evening Post*, 21 October 1977, p. 11.
[272] *Evening Post*, 21 October 1977, p. 11.
[273] OASIS (B) Newsletter, 27 October 1977, New Zealand Labour Party Papers: Head Office Records, 95-229-64/18, ATL, pp. 3-4.
[274] Minutes of Meetings of MUSA Executive, 3 October 1977, 4.1/1/1 Vol 3, Jan 1976 - Nov 1978, MU, p. 2; *Craccum*, 3 October 1977, p. 5.
[275] *Press*, 15 October 1977, p. 6.

Communist Party of New Zealand (CPNZ), the Socialist Unity Party (SUP) and the Socialist Action League.[276]

The protest in Dunedin was reported to be "one of the biggest demonstrations to be held in Dunedin."[277] OASIS (B) reported little protest activity regarding the Bill in Dunedin to date, with the Otago University Students' Association representing one of the few voices against the Bill in that city.[278] The association had stated its opposition to the Bill on 4 October, and an attempt was made to replicate the motion presented to the Victoria University Council by Walter Scott.[279] No information has been found to ascertain whether they were successful. The protest in Dunedin on 14 October attracted 2500 people, who marched down the main street of Dunedin. At the end of the march, a meeting was held where a statement from the Post Office Association was read that stated they would refuse to comply with directions issued under the Bill, and the Association would not support any member who chose to comply.[280] The meeting then "unanimously passed a resolution calling on the Government to withdraw the Bill."[281]

In an extreme contrast, the action planned for Auckland by the Eden Branch of the Labour Party attracted a paltry 20 people to Albert Park. This may be explained by students travelling to Wellington to join the main demonstration, or by poor weather on the day, or by alternative plans by the Auckland Council for Civil Liberties for a march the following day.[282] The ACCL's rally was considerably more successful, attracting 4,000 to Albert Park, from where they marched to the SIS headquarters on Queen Street.[283]

The cumulative total of protesters on October 14 sent the strongest signal of the entire campaign that people were dissatisfied with the proposed legislation. The timing of the protest was critical, designed to raise the greatest awareness -

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[276] *Press*, 15 October 1977, p. 6.
[277] *Press*, 15 October 1977, p. 6.
[278] OASIS (B) Newsletter, 27 October 1977, pp. 3-4.
[279] Otago University Student Union to Walter Scott, 30 September 1977, Walter Scott Papers, 87-178-2/03, ATL.
[280] *Press*, 15 October 1977, p. 6.
[281] *Press*, 15 October 1977, p. 6.
[282] *New Zealand Herald*, 15 October 1977, p. 3.
[283] OASIS (B) Newsletter, 27 October 1977, pp. 3-4.

both the Government's awareness of the protesters, and the public's awareness of the issues - as close to the second reading debates as possible.

Muldoon, however, deflected the impact of the event on Government thinking by declaring to reporters, asking his opinion on the demonstrations: "I don't know. I wasn't there."[284] Nevertheless, at a special meeting of the National Party caucus at 2.55pm that day, the Government discussed in depth the individual clauses of the SIS Bill, and the amendments to be proposed during the second reading of the Bill.

The caucus meetings on 14 October and 18 October were two vitally important Government meetings, where the Government discussed possible changes to the Bill. The minutes of these meetings give the strongest indication that the Government was sincere in it's undertaking to seriously consider constructive criticisms of the Bill.[285] Accompanying the minutes of the 14 October meeting was a document, of unknown authorship (though likely by officials), tabled before caucus, titled "Notes On Submissions Received On The New Zealand Security Intelligence Service Bill."[286] This document examined many of the concerns raised by critics of the Bill, both in public and directly to the Government, and either defended the Government's position or conceded an amendment. This section will look at the Government's response to the criticism of the Bill, and the changes it accepted.

The first issue was the relationship between the SIS and the New Zealand Intelligence Council, as laid out by clause three of the Bill. The Government responded to suggestions that the advice of the Council should be sought before new areas of subversion were placed under surveillance on grounds of practicality. The report stated: "Before the Service approached the Intelligence Council when operating in a new area it would obviously have had to have obtained some intelligence on that area."[287] The report rejected any changes to clause three.

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[284] *Evening Post*, 15 October 1977, p. 56.
[285] *Evening Post*, 10 October 1977, p. 13.
[286] "Notes On Submissions Received On The New Zealand Security Intelligence Service Bill", New Zealand National Party Papers: Further Records, 89-075-005/1, ATL.
[287] "Notes On Submissions Received", p. 1.

On the matter of authorising interception warrants, the report acknowledged suggestions of the Minister either consulting an independent person, or having warrants countersigned. However, the document only deals with the first, and avoids discussing the possibility of countersignatures. It ultimately dismissed consultations as ineffective:

> There seems little point in requiring another Minister to be consulted as such consultation could take place in any event if the Minister thought it was necessary; consulting the Leader of the Opposition would involve him in what is essentially a decision by the executive; and involving the Privacy Commissioner could undermine his position.[288]

Again, the report rejected any changes to the system of authorising warrants. The arguments put forward, however, failed to appreciate the purpose of the suggestions. In having countersignatures on the warrant, or outside consultations, the process was intended to be a safeguard against abuse, and free from political orientation. To assure such impartiality, involving outsiders in executive business seemed to be necessary. Furthermore, the report precluded a discussion of alternative authorising bodies for interception warrants: "There now appears to be general acceptance that the Minister should have prime responsibility for issuing a warrant."[289] Neither did the report discuss Professor Roberts' suggestion of separating types of interception warrant.

The report to Parliament on interception warrants, which the Minister was expected to present annually, was acknowledged within the report as being too restrictive in its initial form. It conceded a minor, yet not insignificant, change to the wording of the subclause: "It is suggested that Clause (4) be amended by deleting the words 'and shall have regard to' and made it requisite for the Minister to report on the number, type and length of duration..."[290]

A facet of the Bill that had aroused plenty of public concern was the direction of state employees by the SIS executing an interception warrant. The report explained the inclusion of this 'direction' "because of the necessity of obtaining assistance of, for example, people in the Post Office to intercept mail

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[288] "Notes On Submissions Received", p. 1.
[289] "Notes On Submissions Received", p. 1.
[290] "Notes On Submissions Received", p. 2.

or tap a telephone."[291] The report also acknowledged that concern about the clause had come largely from the CSSO and the PSA.[292] The report concluded that "one omnibus clause *requesting* both members and non-members of the Public Service"[293] to assist the SIS would be necessary, and proposed to amend clause four accordingly. The report also proposed to lift the prohibition on naming former members of the SIS, under clause six of the Bill, because "the Service has now reconsidered its position and accepts that the Bill as at present drafted is too restrictive."[294] The report also confirmed a statement released by Muldoon that a new clause would be inserted that provided for the destruction of irrelevant information obtained during the course of executing an interception warrant.[295]

Three further points were raised, all of which were recommended to be put to the Parliamentary Counsel for consideration and possible redrafting. The first referred to technical aspects of inaccurate wording as identified by Sir Alexander Turner, former president of the Court of Appeal, in a newspaper article,[296] such as the provision that required the Minister to "include in the warrant such terms and conditions as the Minister considered advisable in the public interest. Turner felt this was inaccurate, and believed the Minister should be obliged to so include, rather than conferring the discretion to include such terms.

The second item for consideration by the Parliamentary Counsel was the possibility of including a clause that would restrict the powers of an interception warrant with regard to privileged conversations, "by...referring to relationships already recognised by law."[297] The third issue was another technical matter. Within clause seven, governing the unauthorised publication of information regarding staff, a sub clause stated: "Nothing in this section shall restrict the broadcasting or reporting of proceedings in Parliament."[298] The concern the report acknowledged was that by engraving the unwritten right of the press to

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[291] "Notes On Submissions Received", p. 3.
[292] "Notes On Submissions Received", p. 3.
[293] "Notes On Submissions Received", p. 3.
[294] "Notes On Submissions Received", p. 3.
[295] "Notes On Submissions Received", p. 3.
[296] *New Zealand Herald*, 7 October 1977, p. 6.
[297] "Notes On Submissions Received", pp. 6-7.
[298] Clause 7, New Zealand Security Intelligence Service Amendment Bill, 1977.

report the proceedings of Parliament, it was placing it in a vulnerable position whereby it could conceivably be repealed. The Government was concerned that removing the provision from the Bill would appear to be removing the right. The recommendation of the report was to refer the question to the Parliamentary Counsel.[299]

The report that was laid before caucus is particularly important, as it sheds light on the areas it considered changing, and the advice it was given in regard to those areas. It is also revealing insofar as it illustrates, to a limited degree, where the pressure for changes was felt by the Government. For example, the report acknowledged the strong pressure brought to bear by the CSSO and the PSA on the matter of the 'direction' of state employees.[300] Ultimately, this document represented the blueprint for the changes that were made to the Bill during the second reading of the Bill.

The second reading debate took place on 18 October 1977. Prior to the session of Parliament, a special National Party caucus meeting was held to confirm the decisions on amendments to the Bill. The items that had been referred to the Parliamentary Counsel were dealt with summarily. On the matter of the terms and conditions to be inserted in the warrant by the Minister, the Parliamentary Counsel suggested that "such terms 'if any' the Minister considers necessary" would clarify the need for restraint.[301] It was also conceded that privileged conversations between, for example, a lawyer and client could not be obtained by an interception warrant.[302] Only two people discussed the issues - Muldoon and Minogue. The minutes do not convey any animosity between the two, and it seems that Minogue was largely satisfied with the amendments as proposed.

Muldoon introduced the Parliamentary debate, and highlighted the changes proposed by the Supplementary Order Paper. They were the introduction of a new sub clause protecting privileged communications; an amendment to clause four, giving discretionary power to the minister to add terms or conditions to a warrant, rather than requiring it; clause four now

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[299] "Notes On Submissions Received", p. 5.
[300] "Notes On Submissions Received", p. 3.
[301] National Party Caucus Minutes, 18 October 1977, p. 1.
[302] National Party Caucus Minutes, 18 October 1977, p. 1.

required the minister to give specific details in his annual report to Parliament.[303] A new clause providing for the destruction of irrelevant information was introduced, and references to "direction" of state employees, and prohibitions on disclosing details about former members of the Service were deleted.[304] Muldoon intimated that further amendments were possible, as representations on the Bill were still being received and indicated that any such amendments would likely be introduced during the Committee stages of the Bill.[305]

Muldoon also criticised the Opposition, in particular the Leader of the Opposition Bill Rowling, for what he described as "a complete about-face", implying that he was hypocritical to oppose the Bill when he clearly supported the Service, having authorised the investigation of Dr Sutch when Rowling was Prime Minister.[306] Muldoon stated, "I find it incredible and deplorable that men who, as Cabinet Ministers, properly supported the service have taken the attitude that they have taken in the last month – appearing on public platforms with people whose publicly avowed objective is to bring down this country."[307]

A total of 23 Members spoke on the Bill, with Opposition speakers outnumbering Government speakers nearly two to one. An exhaustive coverage of each speaker's arguments would be futile, as many covered similar territory and few contributed anything constructive to the debate. It should suffice to summarise the positions demonstrated by both camps in the debate.

The speakers for the Government, such as the Minister of Trade and Industry, Lance Adams-Schneider and the Minister of Labour, J B Gordon, followed the lead of the Prime Minister, and argued that the attitude of the Opposition was shameful. They drew a connection between their opposition to the Bill as equating with opposition to the SIS, and denigrated them for failing to support the necessary work of national security. Adams-Schneider continued this line: "The Labour Opposition has given clear evidence in this speech – as has already been given by the action of other Opposition members – that in the

[303] *NZPD*, 414 (1977), pp. 3711-3712.
[304] *NZPD*, 414 (1977), p. 3712.
[305] *NZPD*, 414 (1977), p. 3711.
[306] *NZPD*, 414 (1977), p. 3712.
[307] *NZPD*, 414 (1977), p. 3713.

future the Labour Party will be weak on matters dealing with subversion, terrorism and security."[308]

Government speakers also criticised what they saw as hollow Opposition criticisms, suggesting that Labour attacked the Bill without suggesting a viable alternative. The Minister of Labour, J B Gordon, stated

> after listening to the two leading speakers for the Labour Opposition, we should at least have found out what their alternative is.... is he, [Rowling] as the Minister who was previously in charge of the Act and the administration of security, prepared to say, 'let us go back to the status quo?' Would we go back to the status quo under Labour? The people of New Zealand are entitled to know what the alternatives are.[309]

Some Government members alleged that two factions existed within the Labour Party, and that the anti-SIS faction was leading the other by the nose. Adams-Schneider led the argument with an attack on Labour MP David Lange as "...the latest recruit to the part of the Parliamentary Labour Party which today is dominating the thinking of the party." He alleged that the Deputy Leader of the Opposition, Bob Tizard, who was renowned for publicly opposing the SIS, headed the left-wing faction of the Labour Party: "Those people have a powerful influence in the party, and it is a tragedy. For a long time they have been divided, but now we find that the left-wing influence, headed by the Deputy Leader of the Opposition and now supported by the new recruit, the member for Mangere [David Lange] and others is dominating the party."[310]

They extended this to a description of the wider opposition to the Bill, and used this as a justification for listening to only the 'moderate' groups. Government speakers thus identified two streams of opposition: Adams-Schneider said that

> two kinds of people in New Zealand are opposed to this legislation: the moderate people, who are genuinely concerned...and those people who are opposed to the Bill because they are opposed to any form of Government as it has been practised by successive

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[308] *NZPD*, 414 (1977), p. 3718.
[309] *NZPD*, 414 (1977), p. 3724.
[310] *NZPD*, 414 (1977), pp. 3718-3719.

Governments for over 100 years, and over the last 30 years by successive Labour Governments and National Governments.[311]

Other Government members pointed to the amendments put forward on the Supplementary Order Paper, suggesting they answered the majority of criticisms from "moderate" critics of the Bill. George Gair acknowledged the "moderate" groups and their concerns: "I should like to draw their attention to the very considerable implications of the Supplementary Order Paper presented today. I believe those points which are valid and are worth making have been adequately accomplished in that Supplementary Order Paper. We have met those obligations in full measure."[312] However, of the second group, Gair said, "those who feel there is no good in the Security Intelligence Service, either belong to very misguided groups... or they are people who are not friends of New Zealand."[313] For such people, Gair implied, there was no reasoning.

Government speakers also claimed that estimates of widespread public opposition were exaggerated, and doubted the extent of public concern. This was a point raised by National MP Warren Cooper. He declared that, "in 6 or 7 weeks, I have had two letters from constituents in my electorate of Otago Central about the Government's intention to pass the Security Intelligence Service Amendment Bill. If Opposition members were honest about it, they would probably admit to having had not many more."[314] Cooper was attempting to play down the public reaction to the Bill, ignoring at the least the substantial public demonstrations in Wellington, Christchurch, Dunedin and Auckland only days earlier.

The Opposition's response to the Government during the debate was divided into three types. The first defended the position of the Labour Party and the public opposition to the Bill. Martyn Finlay stated plainly that the allegations that he was opposed to the SIS were wrong: "I give the firmest and most categorical denial I can to the Prime Minister's assertion that I am or have been an opponent of the Security Intelligence Service as such."[315] He also rejected

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[311] *NZPD*, 414 (1977), p. 3718.
[312] *NZPD*, 414 (1977), p. 3731.
[313] *NZPD*, 414 (1977), p. 3731.
[314] *NZPD*, 414 (1977), p. 3747.
[315] *NZPD*, 414 (1977), p. 3714.

claims that the public opposition were left-wing radicals. Finlay argued that far from being "just communists", concerned citizens represented very moderate groups such as

> the Public Service Association, the National Union of Railwaymen, the National Association of Priests, Bishop Pyatt and Bishop Ashby, the Women's Electoral Lobby, the PEN organisation, the Council for Civil Liberties, the Federation of Labour, the Combined State Services Organisations, the United Nations Association of New Zealand, the Association of Broadcasting Journalists, the Post Office Association, the Public Questions Committee of the Presbyterian and Methodist Churches, the National Council of Women, the National Youth Council and the New Zealand Law Society.[316]

The intentions of these arguments were to refute the claims of the Government, and to shore up their position on the Bill.

Other Opposition speakers delivered addresses that attacked the Government. Jonathan Hunt, for example, criticised the Government's selective use of the Powles Report, and then hiding behind Powles' liberal background as a defence against those who criticised the Bill. "Opposition members are concerned at the way in which the report has been used selectively, modified alarmingly, and finally set up as a shield for the Government to hide behind when the storm of criticism broke."[317] Sir Basil Arthur also attacked the Government for hypocrisy. Imitating the debating strategy of the National Government for dredging history to use as ammunition against its opponents, Arthur referred to the National Party's 1975 Election Manifesto: "The pamphlet, which the National Party distributed from North Cape to Bluff, stated: 'We will bring in laws to ensure that your privacy is totally protected from any form of electronic device.'"[318] Arthur argued in time-honoured fashion that the Government, in introducing the Bill, was breaking an election promise to protect citizens from electronic surveillance.[319]

However, the bulk of the Opposition's argument revolved around criticising the Bill itself. The areas that speakers focussed on were the failure of the Bill to adopt Powles' recommendation of a limit of 90 days on interception

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[316] *NZPD*, 414 (1977), p. 3714.
[317] *NZPD*, 414 (1977), p. 3735.
[318] *NZPD*, 414 (1977), p. 3753.
[319] *NZPD*, 414 (1977), p. 3753.

warrants,[320] and the inclusion of 'potential' subversion as a legitimate area for the SIS to investigate without first consulting the New Zealand Intelligence Council.[321] Finlay argued that the definition of 'terrorism' was useless, by failing to account for the true motives of such acts:

> What is really aimed at is hijacking and, to a lesser degree, kidnapping.... But will this Bill help in any way to curb those unmentionable offences against mankind? If a terrorist or terrorists seized an Air New Zealand plane or tried to enter New Zealand through the international airline network, it would not be a challenge to the lawful authority of the State in New Zealand or to further a political aim – at any rate not a political aim in New Zealand. So, when it is said that this is a weapon against the international terrorist, this is not saying the truth.[322]

The argument left hanging the question: if the Bill were so ineffective, what would it be effective against? The implication was that the Bill would be directed internally, at legitimate dissent and union activity.

The Opposition also attacked safeguards within the Bill. These included the details to be specified in the interception warrant. The possibility arose, argued Finlay, that "eavesdropping will involve not only suspects but non-suspects."[323] This argument was a fledging of the arguments that had been expressed more clearly by other groups, and had already been largely answered by the Government in its Supplementary Order Paper, where it included a new sub clause to require all non-relevant information, collected during the execution of a warrant, to be destroyed. Later during the debate, Lange supported Finlay, arguing that the new sub clause was still insufficient, and seemed to require that notes and records of the communication were required to be destroyed, but no provision was made for the communication itself.[324] "...it does not say anything about the basic communication. You cannot keep a note you have made; you have to destroy it, but you are allowed to keep the communication."[325]

Other safeguards that the Opposition attacked was the potential for breaches of confidentiality as a result of an interception warrant. Finlay

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[320] *NZPD*, 414 (1977), p. 3728.
[321] *NZPD*, 414 (1977), p. 3715.
[322] *NZPD*, 414 (1977), p. 3716.
[323] *NZPD*, 414 (1977), p. 3716.
[324] *NZPD*, 414 (1977), p. 3729.
[325] *NZPD*, 414 (1977), p. 3729.

connected this argument to his concern about the effect of warrants on "innocents". This argument had been expressed by groups and individuals to the Labour Party Justice and Human Rights Committee, that there was nothing to prevent an interception warrant being issued to intercept communications that were traditionally privileged. Finlay used the example of "Youthline", where "...confidentiality is so vital a part of the advisory and helpful service it gives..."[326] Other examples commonly cited were the lawyer-client relationship, or the relationship between a priest and his penitent. Again the Supplementary Order Paper had already answered this concern.

Other speakers attacked the Bill from a different angle. For example, Bill Rowling attacked the necessity of the Bill. He cited an interview with Powles on *Morning Report*, where Powles declared that no immediate threat existed that warranted the changes proposed by the Bill. "He said then that he did not believe there was a subversive threat in New Zealand."[327] This followed public statements by Powles that the Bill was quite different from his recommendations.[328]

Richard Prebble attacked the Bill for proposing restrictions on civil liberties that were far greater than necessary. He referred to American legislation on a similar topic, the Foreign Intelligence Surveillance Bill 1977, which, among other things, included a 90-day limit on interception warrants.[329] It was particularly pertinent, he argued, because "Sir Guy Powles tells us that, in essence, we need this Bill to protect the secrets of the United States" yet "the United States itself does not demand restrictions of the sort contained in the Bill before us."[330]

The last Government speaker of the debate was Michael Minogue. Minogue, who had earlier clashed with the Prime Minister over his opposition to aspects of the Bill implored Members, particularly those on the Opposition benches, to be constructive: "At this hour of the night, it is unwise for us to become as fixed on personalities as we seem to be."[331] Minogue reminded the

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[326] *NZPD*, 414 (1977), p. 3716.
[327] *NZPD*, 414 (1977), p. 3722.
[328] *NZPD*, 414 (1977), p. 3723.
[329] *NZPD*, 414 (1977), p. 3740.
[330] *NZPD*, 414 (1977), p. 3740.
[331] *NZPD*, 414 (1977), p. 3766.

House of the gist of the Prime Minister's speech, before proceeding to his suggestions. He suggested that the definition of "subversion" required amendment: "Sir Guy asks at page 29, 'Is it a proper function of the Security Intelligence Service to monitor dissent and protest?' Of course, the Prime Minister has already answered that question by saying no, it is not.... But my fear is that, in terms of the current definition, the Service in future, or some other people who may sit here in future years, may not understand matters that way."[332] Minogue also proposed to seek a satisfactory amendment to the definition of espionage: "I refer to the current definition, which relates espionage to the Official Secrets Act, and says that espionage is an offence against the Official Secrets Act.... It is extremely wide, and in my view it is far too wide to provide a legitimate area of operation for the Security Intelligence Service."[333]

Minogue's speech was relatively short, confining the greater part of his speech to these suggestions. In both cases, he sought to outline the areas of his concern, and that he would pursue amendments before the committee stages of the Bill. The Opposition speakers that followed Minogue, however, saw this as avoiding the issues, and accused Minogue of pandering to Muldoon. Russell Marshall stated: "After listening to his speech I can assure the member for Hamilton West that he no longer need worry about whether the Prime Minister will endorse him for the National Party selection for his seat."[334] Marshall also referred to previous statements made by Minogue, alleging that Minogue in failing to criticise the Bill further had reneged on his pledge to fight the Bill. Marshall said that the Opposition "can only be disappointed that the champion of freedom of speech, the person who has been hailed by the community at large and by people from all political parties as the one member of the Government caucus who was going to stand up against the worst aspects of the Bill, seems to have lost a great deal of his concern."[335]

Accompanying the debate on the Bill by Parliamentarians was the last major demonstration against the Bill. Overshadowing a lunchtime rally outside Parliament was a planned disruption of Parliament from the public galleries.

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[332] *NZPD*, 414 (1977), p. 3767.
[333] *NZPD*, 414 (1977), p. 3767.
[334] *NZPD*, 414 (1977), p. 3768.
[335] *NZPD*, 414 (1977), P. 3768.

Dave MacPherson, recalling his involvement in the disruptions of Parliament, declared that the protests were planned and organised within OASIS (B), despite newspaper reports of the organisation distancing itself from the disruptions. MacPherson qualified this, however, saying that it was organised between a few people within OASIS (B), and wasn't discussed openly.[336]

The spark for the outbursts was Muldoon's opening speech. Muldoon began his speech by quoting from a book called *A Man Called Intrepid*, about British intelligence operations following the Second World War. MacPherson recalled he yelled from the gallery: "*Mein Kampf*", when Muldoon announced he would read from a book.[337] The first outburst resulted in a warning from the Acting Speaker of the House, J R Harrison, saying: "there are certain people in the public gallery who seem to think that this is their house."[338] This brought a response from the protesters: "It is our house, we pay for it!"[339] Within minutes a second outburst resulted in the Acting Speaker ordering a section of the public galleries cleared, saying: "There are certain people in the public gallery on my left who will withdraw forthwith."[340] A protester replied: "I suggest the people below bringing in the SIS Bill be the ones to withdraw forthwith!"[341]

The second outburst involved draping the National Flag over the balcony and a rendition of *God Defend New Zealand* by about 20 people.[342] The intention was to portray the demonstrators as patriotic and loyal, in part answering critics that accused those who opposed the Bill as being disloyal to New Zealand. It also returned the criticism, suggesting that the National Government, in introducing the legislation was being disloyal to New Zealand.[343] The outburst also included a speech, delivered by Neil Gray, one of the protesters. He was seated in the gallery directly opposite the Acting Speaker, and during the interruption stood up and delivered a speech criticising the Government. It was during this interruption that security guards removed the protesters. MacPherson described the guards as slightly elderly, and not accustomed to vigorous

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[336] Interview with Dave MacPherson, 16 October 2003.
[337] Interview with Dave MacPherson, 16 October 2003.
[338] *NZPD*, 414 (1977), p. 3710.
[339] *Press*, 19 October 1977, p. 1.
[340] *NZPD*, 414 (1977), p. 3710.
[341] *Press*, 19 October 1977, p. 1.
[342] Interview with Dave MacPherson, 16 October 2003.
[343] Interview with Dave MacPherson, 16 October 2003.

opposition. He instructed his fellow protesters to lock their arms under the arms of the chair, forcing the guards to forcibly remove them, thereby creating a bigger scene.[344]

The effect of this interruption was to hold up Parliament for about 15 minutes.[345] Muldoon finished his speech without further interruption from the galleries, and several speakers that followed, both Government and Opposition, deplored the display of the protesters. Martyn Finlay said, "...in my opinion the disorder that marred the proceeding of this democratic institution at the opening of the debate was unseemly, unnecessary and unhelpful."[346]

Aside from disruptions from the Public Galleries, the Acting Speaker and his Deputy were frequently forced to bring to order the members of Parliament, as the debate became heated. At 10.20pm, a second public disruption occurred, when the tone of the debate sparked reaction from the Galleries. Warren Cooper, a Government speaker, was justifying political authority for interception and the necessity of the SIS:

> Where will the civil rights be, by the way? I should like to see some of these civil rights people on a hijacked jumbo jet with a bren gun up their backsides, yelling out 'Civil rights'. They would not be in the race. I think a few of them should take off and look around, and see some of the tremendous threats that communist countries...[347]

His sentence was cut off by boos and hisses from the public gallery, who were warned by the Acting Deputy Speaker that further interruptions would result in all galleries being cleared.

Cooper was followed by the Opposition speaker Sir Basil Arthur. He also contributed to the charged atmosphere, reacting to the decision by the Prime Minister that broadcasting of the debate would not be extended beyond 10.30pm. The decision was used by Arthur to attack the PM, describing him as an unsuitable person to administer the interception warrant system:

> If anybody had any doubts about the legislation, or the reason for its not being passed in its present form, those doubts would have been

[344] Interview with Dave MacPherson, 16 October 2003.
[345] *Evening Post* 19 October 1977, p. 2.
[346] *NZPD*, 414 (1977), p. 3714.
[347] *NZPD*, 414 (1977), p. 3750.

> dashed entirely by the last few words from the Prime Minister.... That is the man who will decide; and he decides tonight, unilaterally, dictatorially, that the broadcasting of the debate will be curtailed in 15 minutes time."[348]

His vehement words were followed by disruption in the public galleries and a barrage of points-of-order by Government MPs to the Acting Speaker, who had just resumed the Chair. Muldoon informed the Acting Speaker that his Deputy had issued an ultimatum, it had been overstepped, and that the galleries should be cleared as a result. Approximately 150 people were escorted out of Parliament, with six people refusing to leave their seats. Guards and Police were forced to carry them out to the corridor, where they were escorted out of Parliament. Following their ejection, they sat outside Parliament; by 11pm, over 100 maintained their vigil.[349]

Five arrests resulted from the disruption of Parliament. The five were Brian Taylor, a 24-year-old student; Bernadine Doyle, a 20-year-old nurse, Sally Swartz, an 18-year-old student; Frederick Bowden, a 19-year-old clerk; and Trevor Mallard, a 23-year-old schoolteacher. They were all charged with wilful trespass, except for Bowden who was charged with "encouraging people to obstruct the Police in the execution of their duty."[350] They were tried before the Magistrate's Court on 30 November 1977. Brian Taylor was tried separately, convicted, and fined $50 for "encouraging people to obstruct police in the execution of their duty."[351] No details have been found regarding the outcome of the other arrests.

The disruptions of Parliament followed the rapid, but powerful mobilisation of opposition to the Bill. Though deplored by many, it was startlingly effective in communicating the strength of feeling about the Bill. Rowling stated to reporters: "I just think they could have served their cause much better by being articulate and having said what they wanted to say in more appropriate places than making a noise in the gallery which the debate was in

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[348] *NZPD*, 414 (1977), p. 3751.
[349] *Press*, 19 October 1977, p. 1.
[350] *Evening Post*, 30 November 1977, p. 16.
[351] *Evening Post*, 1 December 1977, p. 33.

progress."[352] However, the report also stated, "Mr Rowling commented he could understand the depth of feeling against the Bill."[353] Although the disruptions were planned by a small group within OASIS (B), the organisation publicly dissociated itself from the disruptions.[354]

A circular to members of the Wellington Marxist-Leninist Organisation, to which many of OASIS (B)'s organising committee belonged, heavily criticised the disruption of Parliament: "Whatever admiration which we may have for the personal courage and devotion to the cause which those who disrupted Parliament undoubtedly have, we must not lose sight of the fact that it was politically unwise in the present political conditions in New Zealand. It was a protest that belonged to another time."[355] While the unidentified author of the circular conceded that the action was taken "as a means for keeping up the momentum of the mass struggle following the mass demonstration on Friday 14 October",[356] it feared that such "spontaneity" could disorganise "the forces, not of the Government, but of the revolution."[357] By disrupting Parliament, the Government could have used the demonstration "to remove the most active and daring leaders of the movement...through jailing them. This would have dealt the struggle against the SIS Amendment Bill a severe blow without any gains to compensate."[358]

Continuing its criticism of the disruption, the circular also argued that such "counter-productive" action could have alienated the liberal elements of the movement:

> The liberals may have been upset by the action which did not contribute in any positive way to the building of the united front against the SIS Amendment Bill. The movement still needs the broadest possible unity....When taken in connection with the overall aims of the progressive movements, the potential loss of the liberals was too great a risk to take.[359]

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[352] *Evening Post*, 19 October 1977, p. 2.
[353] *Evening Post*, 19 October 1977, p. 2.
[354] *Press*, 19 October 1977, p. 1.
[355] "Urgent Circular to all WMLO Members", October 1977, Ron Smith Papers, 94-189-2/6, ATL, p. 1.
[356] "Urgent Circular to all WMLO Members", October 1977, p. 1.
[357] "Urgent Circular to all WMLO Members", October 1977, p. 1.
[358] "Urgent Circular to all WMLO Members", October 1977, p. 1.
[359] "Urgent Circular to all WMLO Members", October 1977, p. 2.

In a practical sense, the disruption of Parliament also led to the loss of a privilege, the right to use amplifying equipment in Parliament grounds. "This right was rescinded by the Speaker because of the demonstration in the galleries.... The Speaker's concession was one which could be used for later demonstrations. Now that right will have to be won again."[360] These comments suggest that WMLO, closely connected with OASIS (B), felt the disruption of Parliament had a devastating effect on the overall movement. Furthermore, they viewed the protest against the Bill as part of an ongoing struggle. OASIS (B)'s public dissociation from the disruption of Parliament is likely a result of its dissatisfaction with the short-term aspirations of the small group involved.

The second reading marked a watershed in the progress of the Bill, and opposition to it. From the Government perspective, the Bill had passed its second reading, though Muldoon remained disappointed that bipartisan support was still not forthcoming.[361] For those opposed to the Bill, with the objective of throwing the Bill out, it was a further step along the road and though it represented a failure to meet their objective, awareness of the Bill and its provisions was peaking, with impressive levels of support. For those striving to improve the Bill, some measure of success was tangible, with amendments improving, albeit marginally, the original Bill. Overall, the Bill had only three more hurdles to pass before being passed into legislation: the committee stages, the third reading, and royal assent.

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[360] "Urgent Circular to all WMLO Members", October 1977, p. 2.
[361] *Evening Post*, 19 October 1977, p. 2.

CHAPTER FOUR

Dwindling Action

Protest action against the Bill following the second reading debate was characterised by dwindling numbers of people participating in public demonstrations. The vigour of these protests was also diminished. Nothing following the second reading could match the force of 12,000 people and, with one exception, no protest managed to attract more than a few hundred people. This chapter covers those last few protests against the Bill, to illustrate the movement's closing actions, and examine the reason behind its diminished impact. This chapter will also examine the final Parliamentary stages of the Bill, as it passed through Committee and into the Third Reading.

On 21 October, six days after the Auckland Council for Civil Liberties-organised march down Queen Street, another protest march was held in Auckland. A group of about 300 demonstrators gathered outside the headquarters of the SIS in Auckland, the ASB Building on the corner of Queen Street and Wellesley Street, at 8pm. They marched from the ASB Building down Queen Street to the intersection with Customs Street. The demonstration then marched back up Queen Street to the SIS headquarters, whereupon the group sat down in the middle of the intersection, disrupting traffic for 20 minutes.[362]

The same day a march was held in Christchurch, following a route similar to that taken by previous protests in Christchurch. Four hundred people marched to Cathedral Square where they released 1000 helium-filled balloons bearing an anti-SIS Bill message. The rally at Cathedral Square was addressed by several speakers, including a representative of the Canterbury Council for Civil Liberties, Wes Cameron, and a representative from the National Association of Priests, Rev. Consedine. Answering claims that the anti-SIS Bill movement would die once the Bill was passed, these speakers declared that if the Bill became law then the focus would shift from marches and rallies to civil disobedience.[363]

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[362] *New Zealand Herald*, 22 October 1977, p. 1.
[363] *Press*, 22 October 1977, p. 3.

On 28 October, a stop work meeting was held in Masterton, planned by the Wairarapa District Trades Council of the Federation of Labour, and attended by over 100 people.[364] The line-up of speakers at the protest meeting included the President of the Wellington Trades Council, Pat Kelly, Labour MP Gerald O'Brien and George Fraser. The last two were unique in that they communicated their feelings about the Bill arguing from personal experience of the SIS. Gerald O'Brien had been involved in the Jays Affair[365], through interviews with the police, which were passed to the SIS and subsequently leaked. It is likely that, in light of his experience with the SIS, O'Brien held animosity towards the organisation. O'Brien himself stated at the Wairarapa stop-work meeting: "I have been a victim of the irresponsibility of the SIS.... In attempting to establish the absurdity of the charges against [Dr Sutch], I co-operated with the police and agents for the SIS. No explanation has been given on how the police file got into strange hands. If a case is to be made for the SIS, let this question be answered first."[366]

George Fraser was a journalist and a former undercover operative during the 1950s for the Police Special Branch, the predecessor of the Security Service. In 1959, Fraser moved to the United States, with the assurance of the SIS that the FBI would assist him and his family. However he was given no such assistance and was forced to eke out an uncertain existence for two years before the New Zealand Consul in San Francisco assisted their return to New Zealand. Fraser attempted to secure support from the SIS on his return, either in the USA or New Zealand, but to no avail. He eventually found work within the Public Service, though he was unable to transfer his years with the SIS to his new job for advancement along the pay scales.[367]

Fraser addressed the meeting from the unique perspective of intimacy with New Zealand's intelligence community, his critical viewpoint sharpened by the Service's abandonment of him and his family. Fraser had become disillusioned with his work with the Service, and stated that his years working for

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[364] *Evening Post*, 29 October 1977, p. 1
[365] See Chapter One.
[366] *Evening Post*, 29 October 1977, p. 1
[367] Hugh Price, "Epilogue" in George Fraser, *Seeing Red: Undercover in 1950s New Zealand*, Palmerston North, Dunmore Press, 1995, pp. 157-159.

the Service "weren't worth a cracker."[368] He raised two issues: the first questioned the need for a separate Service. His opinion on "subversion", in particular relating to communists, was that "they are not foreign agents working towards a foreign takeover in New Zealand. They are some of the most loyal New Zealanders within the community working in their particular but partisan way towards a a better deal for the average New Zealand worker."[369] The second issue was that if a Service was deemed necessary, it should not be separate, but integrated with the Police Force, as it had been prior to 1956.[370]

Pat Kelly's address was a call to 'rally the troops', and press the value of continued protests. He advised members to "disrupt everything to get those bosses scurrying up the steps of Parliament to get the Bill repealed. Continue to protest; make smokos last an extra half hour; stop work half an hour earlier. The fight is on and will continue until the Bill is repealed in its entirety."[371] This reflected the opinions and expectations of earlier protest meetings, and further ingrained the intentions of the movement to mount a campaign of civil disobedience against the Bill. It is not known, however, whether such action was taken.

On 2 November, coinciding with the resumption of the Committee stages of the Bill, a group of approximately 200 protesters returned to Parliament grounds to demonstrate against the Bill, though no attempt was made to disrupt proceedings as had been done during the second reading debate. The group was addressed by the president of the Public Service Association, Jim Turner, and Labour MP Martyn Finlay, along with representatives from the Values Party, OASIS (B), Halt All Racist Tours (HART), and Gay Rights.[372] Turner spoke about the movement's unequivocal dissatisfaction with the changes to the Bill: "They've amended it twice and it's still a bad Bill.... all the amendments in the world won't make it acceptable."[373] The tenor of this speech suggested that this protest was clearly not interested in seeking any changes to the Bill, other than the complete withdrawal of the measure.

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[368] *Evening Post*, 1 November 1977, p. 38.
[369] *Evening Post*, 1 November 1977, p. 38.
[370] *Evening Post*, 1 November 1977, p. 38.
[371] *Evening Post*, 29 October 1977, p. 1.
[372] *Evening Post*, 2 November 1977, p. 44.
[373] *Evening Post*, 2 November 1977, p. 44.

The common denominators in all the protests following the second reading debate were reduced numbers of public participation, and a shift towards greater emphasis on a direct action approach rather than seeking further amendments. A number of possibilities exist that could explain these changes. One possibility is that when the Government removed the provision that obliged state employees to assist the SIS, they also removed a key objection of a large proportion of the opposition's supporters. The provision would have had a direct effect on state employees, which through the PSA and the CSSO represented the largest support base for the protest movement. The PSA membership in 1977 was 64,503[374], while the CSSO represented nearly 175,000 members.[375] Though obviously not all members of the two organisations participated, and without an exact breakdown of participation in protest by group allegiance, it is likely that the PSA and the CSSO represented the greatest proportion of participants. If their key concern was answered by the amendments to the Bill, then it is further likely that they withdrew from active participation.

Alternatively, the WMLO feared that the disruption of the second reading of the Bill would alienate the liberal elements within the movement. A circular, which identified the liberal element as "significant", was issued following the disruption that stated: "When taken in connection with the overall aims of the progressive movement, the potential loss of the liberals was too great a risk to take."[376] It is possible that the disruption of Parliament was as damaging as the WMLO believed it could be, and the drop in numbers participating in the movement was, in part, attributable to the disruption of Parliament.

In addition, the distinction between those in the movement that sought the Bill's withdrawal unconditionally, and those that believed the best approach lay in securing amendments became acute following the second reading debate. While nearly all those involved in the movement would have supported the Bill's withdrawal, those who favoured seeking amendments may have withdrawn from active participation when it seemed that their actions had netted a result in the form of changes to the Bill. Consequently, this may have resulted in the aim of the direct action supporters becoming dominant.

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[374] Roth, p. 307.
[375] "Synopsis of Submissions", p. 4.
[376] "Urgent Circular to all WMLO Members", October 1977, p. 2.

Parliament took urgency on the Committee stage of the SIS Amendment Bill on 28 October 1977, following the Government's mini-budget. The Labour MP Martyn Finlay denounced this arrangement as cynical:

> What is more, the proceedings have been smothered by a mini-Budget, introduced before the Bill came up for discussion. Obviously that will take precedence, and there will be little public reporting of this debate.... As I have said, that is characteristic of what I can only describe as a casual, offhand, arrogant attitude to the Bill.[377]

Neither was this ignored by the media, as one reporter concluded: "There was probably no accident in the two events coinciding. Mr Muldoon has a shrewd understanding of how the news media operates, and would have been all too aware that the good news in the mini-Budget would gain much greater prominence than further debate on the SIS Bill."[378]

The committee stages involve the 'nuts and bolts' discussion of a Bill. During this phase, all proposed amendments to the original Bill were moved and voted on. In addition to the amendments proposed during the second reading of the Bill, the Government moved a range of further amendments that expanded the changes mentioned earlier.

The definition of 'terrorism', as provided for by clause two of the Bill, was amended by removing the word 'advocating', and supplementing the terms 'planning' and 'attempting to use violence' "...to coerce, deter, or intimidate (a) the lawful authority of the State in New Zealand; or (b) the community throughout New Zealand or in any area in New Zealand for the purpose of furthering any political aim."[379] This made the definition less passive, with an emphasis on action as a cause for SIS involvement. However, the amendment failed to answer the criticism of Finlay that terrorists rarely had a political aim, particularly within New Zealand, but rather would likely seek financial gain.[380] Furthermore, Labour MP Dr Gerald Wall criticised the vague notion of

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[377] *NZPD*, 415, 28 October 1977, p. 4049.
[378] *Evening Post*, 29 October 1977, p. 4.
[379] *NZPD*, 28 October 1977, pp. 4059-4060.
[380] *NZPD*, 414, 1977, p. 3716.

'violence' within the definition, which he said, "was so wide as to relate to a picket preventing people going on to a ferry."[381]

Clause three, which provided for the functions of the SIS, was amended to make explicit that the SIS was not to "institute surveillance of any person or class of persons by reason only of his or their involvement in lawful protest or dissent."[382] This change was a significant concession that curiously received little or no publicity in the media. It was also a hard-won victory for Michael Minogue. National Party caucus minutes indicate that Muldoon and Minogue argued over the details of such an amendment: the original amendment made no reference to dissent or protest. Minogue, however, felt that the amendment, in failing to make this explicit, was "not meeting Powles".[383] Minogue felt that it would be a small concession to specifically exclude dissent as an area in which the SIS could institute surveillance. The Prime Minister argued against such detail, stating that it was "not a small concession if it would hamper the work of the SIS."[384] Although Minogue had a measure of support from some of his colleagues, such as Edward Latter, the meeting agreed to proceed with the original amendment, noting the reservation of Minogue. Curiously though, without further documentation, the amendment *was* altered at some point between 28 October and 2 November, and moved by Muldoon in its final form during the committee stage. This fulfilled the first of Minogue's stated aspirations during the second reading debate.

Clause four, being the most controversial and widely-debated clause of the Bill, attracted a number of small but significant changes. These changes included allowing applications for interception warrants from the Director or Acting Director of the SIS only; the exclusion of the Police computer database at Wanganui as a source that could be intercepted under a warrant; and a regulation allowing a certificate from the Attorney-General to be sufficient evidence of an interception warrant in Court.[385] The committee stages also passed a number of amendments to clause four that had been discussed during the second reading

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[381] *Evening Post*, 3 November 1977, p. 3.
[382] *NZPD*, 2 November 1977, p. 4140.
[383] National Party Caucus Minutes, 27 October 1977, p. 7.
[384] National Party Caucus Minutes, 27 October 1977, p. 6.
[385] *NZPD*, 415, (1977), pp. 4142-4143.

debate, such as the removal of the "direction" of state employees, and the obligation of the Minister to include certain details in his annual report to Parliament.[386]

Clause four (b), which covered the destruction of irrelevant material and introduced during the second reading debate, was moved during the committee stages in an expanded form, purportedly because of Labour MP David Lange's criticisms.[387] The extra detail essentially required that *copies* of communications intercepted and later deemed irrelevant to the inquiry were to be destroyed. Provision was made for the return of the original communication, where possible, or the destruction of said communication, subject to the approval of the Director.[388] Despite these changes, Opposition speakers were still dissatisfied with the clause, and criticised the fact that the person making the interception, not the Director, was given the authority to determine what was or was not relevant. They also claimed that the clause now allowed officers "to burn the evidence of interceptions, so that there would be no evidence of how people had been adversely affected by the seizure of communications."[389]

Muldoon moved two further changes of a less controversial nature during the committee stages. In clause six, a new sub section was added that prohibited officers knowingly disclosing information acquired during the course of an interception warrant, except in the course of his or her duty.[390] In clause seven, the prohibition on identifying former members of the SIS was removed, as discussed during the second reading debate.[391] No changes were made to clauses eight to fourteen, which dealt with the process of appeals to the Commissioner of Security Appeals, beyond those contained in the original amendment Bill.[392] The long and weary committee stages of the Bill, which took the greater part of 14 hours, were completed at approximately 5am.

The third reading of the Bill on 4 November was little more than a ritual. The purpose of the third reading phase of the Parliamentary process is to report

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[386] *NZPD*, 415, (1977), pp. 4142-4143.
[387] National Party Caucus Minutes, 20 October 1977, p. 10.
[388] *NZPD*, 415, (1977), pp. 4151-4152.
[389] *Evening Post*, 3 November 1977, p. 3.
[390] *NZPD*, 415, (1977), p. 4152.
[391] *NZPD*, 415, (1977), p. 4153.
[392] *Evening Post*, (1977), p. 3.

to Parliament the decisions made by the Committee of the Whole. The Minister of Justice, David Thomson, opened the debate in Muldoon's absence, referring to the changes made to the Bill as discussed above. He also referred to the Opposition's failure to contribute practical suggestions on the Bill. Supporting the Minister of Justice, a Government backbencher Barry Brill, stated,

> the Leader of the Opposition told the House a few moments ago that the only amendment of any substance was that which excluded the direction to Post Office servants. When that amendment, which he praised a few moments ago, came up in the Committee stage, the Leader of the Opposition and all his colleagues...voted against it.[393]

The Opposition accounted for its lack of contribution to the Bill by claiming that, "because the Bill was in such a mess...it was incapable of being made into a decent piece of legislation. It should be thrown out, and the Government should start from the ground again..."[394] The Opposition's efforts to have the Bill referred to a select committee had failed, and thus they adopted the position that the Bill should be withdrawn. In particular, the Opposition reiterated its argument that the Bill had ranged too far from Powles' recommendations, and that "protection against abuse is not to be found."[395]

The National Government, despite the public's fear that the Bill would be pushed through Parliament without consulting the public, managed to incorporate some publicly-mooted suggestions, and produced a Bill that made minor improvements to the operational machinery of the legislation governing the SIS. However, the Bill as it passed still failed to incorporate the intention of opening the Service to greater controls and removing the secrecy, as Powles had outlined in his report.

Following the third reading there were two demonstrations against the Bill, both on 11 November 1977. The first, in Napier, involved a march down Emerson Street to the Sound Shell on Marine Parade. The organiser was Denis O'Reilly, a local social worker. The protest meeting was supported by Napier's Labour MP Gordon Christie, who led the march down Emerson Street. Joining Christie and also speaking at the meeting was the Labour candidate for Hastings,

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[393] *NZPD*, 415, (1977), p. 4223.
[394] *NZPD*, 415, (1977), p. 4220.
[395] *NZPD*, 415, (1977), p. 4222.

David Butcher; Duncan White, a representative from the Values Party; Alan Rhodes and John Yelash, two spokespeople from the group that organised the demonstration. Approximately 80 to 100 people joined the march to Marine Parade.[396]

Yelash was to present the main feature of the meeting, a reading out of names of SIS officers. However, the list he was to read from was removed from his house the day before the demonstration, and instead Yelash was only able to quote about 18 names as opposed to the nearly 140 names contained in the list. A replacement copy was to be sent to Napier from Wellington, and would be mailed out to those who signed the mailing list.[397]

The last demonstration of any considerable size to oppose the Bill was in Wellington, on 11 November. The march, dubbed the 'March for Democracy',[398] involved over 1000 people.[399] However, the question of how the movement could be sustained once the Bill became law was becoming more apparent. George Rosenberg, a member of the New Zealand Council for Civil Liberties and one of the organisers of the march, believed that opposition would continue. He drew attention to the large crowd that had gathered, and claimed that it showed "that people still think it is worthwhile voicing their opposition publicly."[400] However, the dwindling size of protests indicated that the methods would undoubtedly change. Rosenberg expected that OASIS (B)'s long term aim would be altered, to push "to have the Bill repealed"[401] and although "he did not think that any more public marches would be organised, the organisation [OASIS (B)] would try to keep the issue in the public eye."[402]

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[396] *Daily Telegraph,* 12 November 1977, p. 4.
[397] *Daily Telegraph,* 12 November 1977, p. 4.
[398] *Evening Post*, 11 November 1977, p. 22.
[399] *Evening Post*, 12 November 1977, p. 3.
[400] *Evening Post*, 12 November 1977, p. 3.
[401] *Evening Post*, 12 November 1977, p. 3.
[402] *Evening Post*, 12 November 1977, p. 3.

CHAPTER FIVE

A Protest Movement Diminished

The protest movement, having developed rapidly to establish opposition to the Bill, also diminished rapidly once the Bill was passed into law. However, vestiges of the opposition remained. This chapter examines how the protest movement responded once the Bill became law, and how they adapted to the change. It also includes a brief synopsis of opposition to the SIS and its legislative framework in the years that followed. This final chapter will discuss the extent to which the movement achieved its aims, and could be considered successful in its opposition.

The civil liberties movement's opposition to the Bill had been part of a long history of opposition to the SIS.[403] Their intention in opposing the Bill was split onto two levels: repeal the Bill, if possible, or have the Bill amended. Regardless of the outcome, the NZCCL were committed to oppose the SIS in the long-term.

Following the passage of the SIS Bill into legislation, the issue arose at subsequent meetings of the NZCCL executive. Their response to the Bill as legislation revolved around securing a pledge from the Labour Party that, upon their being re-elected in the 1978 General Election, the SIS Amendment Act would be repealed. The Executive Committee, on 21 November 1977, "agreed that the Chairman [Nat Dunning] would consult with Mr Lange about the Labour Party's attitude to future amendments.... The Chairman would then write to Mr Rowling regarding the repeal of both the SIS Amendment and Official Secrets Act."[404] Lange served as something of a 'go-between', being both a Labour MP and an executive Vice-President on the Auckland Council for Civil Liberties. Subsequent meetings of the Executive Committee recorded updates on the process of securing the pledge of the Labour Party. However no firm pledge was received until May 1978. A reply from Rowling was tabled which simply stated

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[403] Sonya Reesby, *Putting Common Sense Into Public Affairs: the origins of the New Zealand Council for Civil Liberties*, BA Honours Research Exercise (Massey University), 1999; New Zealand Council for Civil Liberties, *Report on the New Zealand Security Service Intelligence Act 1969*, Wright & Carman: Trentham, 1971, p. 4.

[404] Minutes of Executive Committee of NZCCL, 21 November 1977, p. 1.

that "a Labour Government would repeal the SIS Amendment Act."[405] The NZCCL sought to capitalise on this pledge, and inquired about the views of the Labour Party on the 1969 SIS Act and the Official Secrets Act.[406] A reply by Rowling, received in July 1978, stated that, "until the Labour Party's programme was progressively released he was unable to give an assurance about its attitude to the repeal of the main SIS Act and of the Official Secrets Act."[407] The NZCCL, however, heard nothing further and agreed at the meeting on 21 August 1978 to drop the matter from its agenda, almost one year since the introduction of the SIS Amendment Bill. The SIS as an organisation, and the new amendment Act as part of the legislation that governed that organisation, remained a key concern of the civil liberties movement, as illustrated by the issue's frequent appearance in the newsletter *Civil Liberty*,[408] though it was subsumed as part of its overall mandate.

The Federation of Labour had little to say about the Bill after it was passed into legislation. The Annual National Conference of the Federation of Labour, held between 1 and 4 May 1978, made passing references to the new SIS Amendment Act and the involvement of the FOL in opposing it during 1977. Bill Rowling addressed the conference, and re-asserted the position of the Labour Party: "We will get rid of the Secret [sic] Intelligence Service Amendment Act and we will recognise that the Trade Union Movement, like any other organisation in this country, has the right to an active interest in any event or development that is likely to intrude on the life of themselves or their families."[409] The Amendment Act was also referred to by the Policy Committee, in dealing with a remit from the Wellington, Taranaki and other District Trades Councils, and the Coach and MotorBody Worker's Union. It requested, "that the NZFOL *actively* oppose the Government's anti-strike and anti-union laws and measures, especially the Industrial relations Amendment No 2 Act, the SIS Amendment Act...recognising that all these and other measures represent

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[405] Minutes of Executive Committee of NZCCL, 15 May 1978, p. 1.
[406] Minutes of Executive Committee of NZCCL, 15 May 1978, p. 1.
[407] Minutes of Executive Committee of NZCCL, 3 July 1978, p. 2.
[408] See particularly *Civil Liberty* 7 (February 1978); *26th Annual Report, For the Year Ended 31 March 1978*, NZCCL, p. 4; *Civil Liberty* 46, (July 1994), MU, pp. 4 - 11.
[409] "Minutes of FOL National Conference 1978", ATL, Federation of Labour Records, MSX-2402, p. 82.

nothing less than a dangerous trend towards fascism in New Zealand."[410] The recommendation of the Policy Committee was adopted by the conference. Despite this, no further active opposition was taken by the Federation of Labour in respect of the SIS Amendment Act 1977.

The mainstay of opposition to the SIS Amendment Bill, OASIS (B), became simply OASIS following the Bill's passage into legislation, and was restructured to pursue the aim of opposing the Amendment Act through civil disobedience. Shortly after the Act was passed, the new OASIS, with a new chairperson Alick Shaw, a member of the Wellington Marxist-Leninist Organisation,[411] held a meeting attended by approximately 100 people to discuss the plans for future opposition. The outcome of that meeting was a plan of civil disobedience, revolving around releasing a document identifying SIS officers and signed by those concerned about the SIS and associated legislation. A press statement released by OASIS stated that the document would initially be signed by "a small number of well-known people...OASIS will also organise 500 signatories to the same document to back up these people...this would be followed by a nation-wide collection of thousands of signatures on a similar document also breaking the law."[412] This process would begin by compiling a mailing list of people prepared to participate in the civil disobedience campaign. However, no evidence has been found of this campaign proceeding as planned. The document that emerged from the meeting, designed to gather a mailing list, stated that

> there are significant limitations on the action we can take and a scheme has been devised which we believe will involve a large number of New Zealanders thereby creating real difficulties for the Government, minimising the risk of prosecution...we do not intend to proceed with the campaign until we are assured that at least 500 people are prepared to take part in it.[413]

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[410] "Minutes of FOL National Conference 1978", p. 86. (Emphasis added.)
[411] Smith, p. 173.
[412] Press Release from OASIS, JCBR, NZUSA Records, Series A, Box 13.
[413] "Will You Help To Smash The Act?", NZUSA Records, Series A, Box 13, JCBR.

Beyond this meeting, there are no references to OASIS or its activities. This would suggest the new OASIS failed to attract the 500 people necessary to pursue this line of action.

The year following the Bill's passage into legislation was an election year. In late 1978, the New Zealand Foundation for Peace Studies conducted a survey of electoral candidates and voters on peace and security issues. This particular survey incorporated a question that related to the passage of the SIS Amendment Act. The question essentially asked whether the New Zealand Security Intelligence Service should be strengthened, continued along present lines (in accordance with the recently passed 1977 SIS Amendment Act), modified to preserve civil liberties, or 'other', which the survey noted usually favoured the abolition of the Service.[414] Electoral candidates for both the major parties favoured the line expressed by their respective parties, with 66.7% of National candidate responses choosing 'continued along present lines', while 88.4% of Labour candidate responses favouring 'modified to preserve civil liberties.' Tellingly, 13.3% of National candidates favoured the predominant Labour response, while 2.3% of Labour candidates favoured strengthening the SIS. 6.7% of National candidates and 4.7% of Labour candidates believed the SIS should be abolished altogether, suggesting there was greater dissension within the major parties over the SIS Amendment Bill than was confessed in public in 1977.

Though hardly a central election issue, politicians from both major parties declared that the 1978 election would vindicate their relative positions. Though Labour won more votes nationally than the National Party, the Government was re-elected in 1978 election with a healthy majority of seats[415], and it seemed that National had been vindicated. However, comparing the results of the survey with actual election figures, a different picture emerges. The survey asked all participants to identify the party they voted for at the 1978 election. This was then used to relate responses to questions to voting patterns.

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[414] Stephen Levine & Paul Spoonley, *Waging Peace: A Study of Public and Parliamentary Attitudes Towards Peace and Security Issues*, Auckland: New Zealand Foundation for Peace Studies, 1978, p. 27.

[415] This was a symptom of the disproportionate electoral system, 'First Past the Post'.

	Action Supported					
Total National Voters	**Strengthened**	**Preserved**	**Modified**	**Abolished**	**For Govt Actions**	**Against Govt Actions**
680991	256053	222003	159352	9534	478056	168886
Total Labour Voters	**Strengthened**	**Preserved**	**Modified**	**Abolished**	**For Govt Actions**	**Against Govt Actions**
691076	81547	76709	487900	22806	158256	510705
Total Social Credit Voters	**Strengthened**	**Preserved**	**Modified**	**Abolished**	**For Govt Actions**	**Against Govt Actions**
274756	43411	48082	156886	13188	91494	170074

Table 1: Table showing number of voters in 1978 General Election[416] according to party allegiance and survey response categories

Utilising the responses of participants that voted for one of the three main parties at the 1978 election – National, Labour and Social Credit – proportions were obtained of the total number of voters for each party who identified with a particular response. This resulted in the total number of voters, across party lines, which identified with a certain response. The four key responses were then split into two rough categories that corresponded to the two main positions of the debate on the Bill. Those who favoured strengthening the SIS, or continuing along present lines, were deemed to support the actions of the Government in 1977. Those who favoured modifying the SIS to preserve civil liberties, or abolishing the SIS, were deemed to be 'against' the actions of the Government in 1977. The results, as a percentage of the total voting turnout in 1978, were approximately 43% in favour of the Government's actions, and 50% opposed to the Government's actions. By this analysis, the Government was not vindicated in its actions at the 1978 election, and suggests that the protest movement in 1977 was more successful in persuading the wider public about the risks of the legislation than the 1978 election result indicates.

While it is clear that the anti-SIS Amendment Bill movement did not survive in its original form for any substantial period beyond the passage of the Bill, the opposition of 1977 was present in the heritage of two key anti-SIS

[416] Clifford Norton, *New Zealand Parliamentary Election Results, 1946-1987,* Wellington: Victoria University of Wellington, 1988, p. 6.

events during the 1980s. The first concerned an attempt to rejuvenate the OASIS organisation; the second was an attempt to amend, through Parliament, the legislative framework passed by the National Government.

In April 1986, an organisation calling itself OASIS published a newsletter called *Big SISter*, however it has not been possible to determine whether the group had links with the OASIS groups of 1977. Also, where the earlier OASIS groups were 'against' the SIS, the group formed in the 1980s was aimed at 'abolishing' the SIS. Their publication, however, worked towards fulfilling the aim stated by George Rosenberg on 11 November 1977 that "the organisation would try to keep the issue in the public eye."[417] The stated purposes of the newsletter was to "provide information on the activities of the SIS and related intelligence agencies; promote the legislative restructuring of the SIS to reduce its functions to espionage prevention only; press for an immediate change in the worst aspects of the SIS Act 1969 (amended 1977)"[418] The publication acknowledged the publicly-available sources of information about the SIS, which included works by Roger Boshier and Hugh Price.[419] Roger Boshier had written a key article on the SIS in the 1960s, and had been used as a reference for subsequent attacks on the SIS. Hugh Price, a member of the NZCCL, had spent a considerable amount of time collecting information about the SIS.

Very little is known about the 1980s OASIS organisation. The lack of information about the group would suggest that they were unable to inspire a new mass movement to oppose the SIS. The newsletter concluded by stating that, "if sufficient people indicate an interest in joining the organisation...OASIS will present a higher public profile."[420] Even if OASIS survived, the absence of a high profile would suggest that the organisation failed to attract sufficient numbers. No examples of further newsletters by the organisation have been found, although further research may uncover more information about this group.

In 1987, an amendment Bill was introduced to Parliament that sought to remove the power to issue interception warrants from the Minister in Charge of the SIS, and place that power in the hands of the Chief Justice. The Bill was not

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[417] *Evening Post*, 12 November 1977, p. 3.
[418] "Big SISter", no 1, April 1986, Elsie Locke Papers, 2001-243-213, ATL, p. 1.
[419] "Big SISter", no 1, April 1986, p. 1.
[420] Big SISter, no 1, April 1986, p. 4.

introduced by the Labour Government, although it was very similar to an item on its 1984 election manifesto. It was introduced by Neil Morrison of the Democratic Party (formerly the Social Credit Political League), a minor Parliamentary Party that shared the Labour Party's policy pledge to "repeal those portions of the New Zealand Security Intelligence Service Act which authorise the Prime Minister, rather than a High Court judge, to issue an interception warrant."[421]

The Labour Party supported the introduction of the Bill, although the debate indicated that the Party had conflicting views on the implementation of its policy. Richard Northey, the Labour MP for Eden, supported the Bill but drew attention to aspects which needed rethinking, such as the question of whether a High Court judge or the Chief Justice should have power to issue warrants instead of the Minister in Charge of the SIS. He also questioned the absence of the 90-day restriction that Sir Guy Powles had advocated in 1976.[422]

The conflict within the Labour Party on the issue was much touted by the National Party. They referred to the Labour Party's hesitation to act on its election manifesto, having held power for two years already, recalled the Labour Party's vociferous opposition of the SIS Amendment Bill in 1977, and consequently denounced the Labour Party for being hypocritical. Muldoon criticised the Prime Minister, David Lange, for changing his views on the SIS now that Labour was in Government: "The Prime Minister has changed his view, as I suggest any Prime Minister would do upon assuming that office and being briefed in detail on what the SIS does and the reasons for its actions."[423] The National Party, for its part, saw no need to amend the legislation, and pledged to oppose the Bill.

The Bill passed its first division with a clear majority of 13, and it was referred to the Justice and Law Reform Select Committee for further analysis. Parliament adjourned five months later on 29 July 1987 for the General Election, and despite a pledge that the Bill would be dealt with in the following session of Parliament, the Committee never reported on the Bill, and as a result it never returned to Parliament for further discussion. Indeed, the National Party had

[421] *NZPD*, 478, (1987), p. 7149.
[422] *NZPD*, 478, (1987), p. 7147.
[423] *NZPD*, 478, (1987), p. 7148.

predicted that a lack of enthusiasm from the Labour Party would see the Bill 'buried' in the election, and Select Committee processes. The Democratic Party having failed to secure their seats in Parliament, were unable to press for further action, and their proposal to amend the 1977 amendment act languished.

Given that the 1977 Bill passed into legislation, and survived the first attempt at amendment ten years later, was the 1977 protest movement successful? To ascertain the extent to which they achieved their stated goals, the actions of the various groups must be weighed against their stated intentions.

Both threads of the public opposition to the Bill shared the common goal of having the Bill withdrawn, and raising public awareness to that end. On this goal, they were only partially successful. They failed to have the Bill withdrawn, though they were quite successful in raising people's awareness and mobilising them within a short period of time. However, the two threads of public opposition diverged on the best alternative route: the first group advocated further protest, in the form of civil disobedience, to make the Act unworkable; the second group, realising that the Bill would likely be passed, sought to have the Bill amended during its passage through Parliament.

The first thread, as represented by groups such as OASIS and NZUSA, and members of the Wellington Marxist-Leninist Organisation, made several statements during the campaign that declared a willingness to breach clauses of the proposed legislation, with a view to rendering the Bill inoperable. The main method was publishing details of SIS officers, as had been done in the past. However, as an earlier section of this chapter revealed, this was not carried out by OASIS following the Bill's passage into statute.

Dave MacPherson, one of the key figures of OASIS both before and after the Bill was passed, offered a reason for the failure of OASIS to follow through on its claims. He said that there was not a great desire to carry on against the Act, and that threats of civil disobedience were not followed through because the organisation lacked a focus. While the Bill as it was passing through Parliament had provided a tangible target, legislation already on the statute books was less so, and there seemed little point in maintaining a permanent harassment of the

SIS.[424] Furthermore, other issues such as the anti-apartheid movement began to receive greater attention, and drew valuable time and resources away from a battle that had already been fought.

Ultimately, the first thread of opposition failed to have the Bill withdrawn, and it failed to mount a substantial campaign of civil disobedience against the 1977 Amendment Act. Despite this, both Lisa Sacksen and Dave MacPherson believed the protest was successful, insofar as the campaign raised awareness. Sacksen, commenting on the long-term effects, said, "the more people you persuade that these things are going on and they're bad, the next time it comes around you'll have more chance [of securing a change]."[425] MacPherson agreed with this sentiment, and commented that the protests were very successful in raising awareness and capturing the public's attention, and also created opportunities for people to meet with other like-minded people. His own involvement with the Wellington Marxist-Leninist Organisation stemmed from his involvement in the protests against the SIS Bill.

The second thread of opposition, which included groups such as NZCCL, PSA, and the New Zealand Law Society, favoured seeking amendments to the Bill, and proposed a number of changes, as detailed in chapter three. In only one case was there a clear association between a suggestion made by a group or individual protesting the Bill, and an amendment to the Bill - the suggestion of the PSA and the CSSO that the 'direction' of state employees be removed from the Bill. Of the few other changes made to the Bill, some were in line with suggestions made by those protesting the Bill, such as the removal of the prohibition on exposing former SIS officers, though such a clear identification of the source of the change is not possible. However, it is likely that the Government's reconsideration was influenced to some degree by the impact of the protests.

On the surface of it, the second thread of opposition was moderately successful in pursuing amendments to the Bill. Though not all suggestions were incorporated, the few that were included related to provisions within the Bill that protesters found distasteful. However, on another level, the protesters were

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[424] Interview with Dave MacPherson, 16 October 2003.
[425] Interview with Lisa Sacksen, 10 October 2003.

ultimately unsuccessful in that the overarching intention of the Bill, as described in chapter one, remained: the Bill still provided for interception warrants, governed by the Minister in Charge of the SIS, and the mystery and secrecy that Powles had sought to dispel remained in many cases, and was strengthened in others. Hugh Price also believed that the movement ultimately failed, as the Bill was passed and never repealed. In his retrospective look at the Bill turned Act, in 1985, he concluded that,

> The 1977 Act has turned out as badly as was predicted. The Prime Minister has used the personal powers conferred upon him by the Act to issue interception warrants...without any real safeguards for the public. The PM's annual report to Parliament, which tells us practically nothing...is certainly no safeguard, and the appeals procedure gives no redress... Censorship is extended.[426]

Discussing the Bill recently, however, he queried whether the Bill might have gone further had no protest emerged to challenge it.[427]

A possible reason for the lack of success in securing more substantial amendments lay in Muldoon's personality. Dave MacPherson stated that, "once politicians or the 'powers that be' had decided on a course of action, it was very difficult to get them to change it."[428] In particular, though Muldoon may have believed that he was protecting the interests of national security, neither was he likely to concede much on an issue he had adopted personally, as Gustafson illustrated in his passage on the conflict between Muldoon and Michael Minogue. Thus, it was not a lack of persuasive arguments by the protesters, but rather the stubbornness of Muldoon himself that kept the movement from achieving greater success.

In addition to this the National Government, and Muldoon in particular, stood to gain considerable powers over communications interception. Though Muldoon asserted throughout the Bill's passage the powers could not be abused, several examples in the years that followed confirmed the fears of many protesters that the Bill could be used for political purposes. In 1980, Muldoon released to the public a list, which he claimed was given to him by the SIS, of

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[426] Price, "The SIS in 1984", pp. 62-63.
[427] Interview with Hugh Price, 24 October 2003.
[428] Interview with Dave MacPherson, 16 October 2003.

Socialist Unity Party members who were also members of the New Zealand Labour Party.[429] The NZCCL declared the information "was being used for narrow political purposes to score a point, in the eyes of some members of the public – against the Labour Party."[430] A second example occurred in 1981, during the Springbok Tour, when Muldoon released a report from the SIS, entitled "Polarisation and fragmentation of the anti-Springbok rugby tour movement." This report identified fifteen 'radicals' and 'subversives' who, it claimed, had penetrated the broad movement and represented "a considerable law and order problem."[431] Geoff Chapple described the release of the report as "another attempt to use Government power against the protest." In light of Muldoon's use of the SIS for political purposes in the years following the Bill's passage into legislation, it seems self-evident that he would fight strongly for the powers the Bill would confer upon the Government. Thus the possibility of substantive amendments was never likely. This fact was conceded by many of the protesters.[432]

Overall, the movement to oppose the SIS Amendment Bill was successful in respect of its ability to rally people and raise awareness of concerning issues. A clear example of the extent to which people were aware of the issues was the inclusion of a question on the SIS Bill in a survey of voters and electoral candidates on attitudes to security and defence issues in 1978. In a practical sense, however, it was ultimately unsuccessful in having the Bill withdrawn, substantially amended, or later repealed. Nevertheless, the lack of success is less a reflection of the effectiveness of the methods of protest, but rather is indicative of the Government's resolve on the matter.

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[429] Price, "The SIS in 1984", p. 62.
[430] Price, "The SIS in 1984", p. 62.
[431] Geoff Chapple, *1981: The Tour*, Wellington: AH & AW Reed, 1984, p. 236.
[432] Interview with Dave MacPherson, 16 October 2003.

APPENDIX

Examples of Advertising

NEW ZEALANDERS
who will be next?

The SIS Amendment Bill undermines the basic democratic principles of

★ *FREEDOM OF SPEECH & PRESS*
★ *THE RIGHT TO PRIVACY*

We the undersigned demand that the Bill be withdrawn:

— Because it will allow the SIS to get "interception warrants" to open our mail, tap our tele phones, bug our homes and enter our houses to intercept any communication, without time limit or challenge.

— Because State Servants can be directed and the public requested to assist the SIS in such work.

— Because if we expose the fact that we have been approached by the SIS we risk a $2,000 fine or two years imprisonment.

The Bill prevents anyone from revealing SIS activity authorised by an interception warrant. It forbids the identification of present or past SIS agents. It constrains the Press from investigating the Security Intelligence Service. The SIS will be beyond the scrutiny of the public, scrutiny which is essential for democracy.

WHO WILL WATCH THE WATCHERS?
DO WE WANT A POLICE STATE?

"FIRST THEY CAME FOR THE COMMUNISTS... AND I DID NOTHING BECAUSE I WASN'T A COMMUNIST. THEN THEY CAME FOR THE JEWS...AND I DID NOTHING BECAUSE I WASN'T A JEW. THEN THEY CAME FOR THE TRADE UNIONS AND AGAIN I DID NOTHING BECAUSE I WASN'T A TRADE UNIONIST. THEN THEY CAME FOR THE CATHOLICS — I DID NOTHING BECAUSE I WAS A PROTESTANT. THEN THEY CAME FOR ME...AND BY THEN IT WAS TOO LATE!"

PASTOR MARTIN NIEMOLLER
REFERRING TO PRE-WAR NAZI GERMANY

And many others whose names for one reason or another do not appear.

RALLY AT PARLIAMENT
FRIDAY 14th OCTOBER
12 NOON

IT'S TIME TO STAND UP AND FIGHT!

I wish to join others in opposing the SIS Bill.
Please send me more information.

Name .....

Address .....

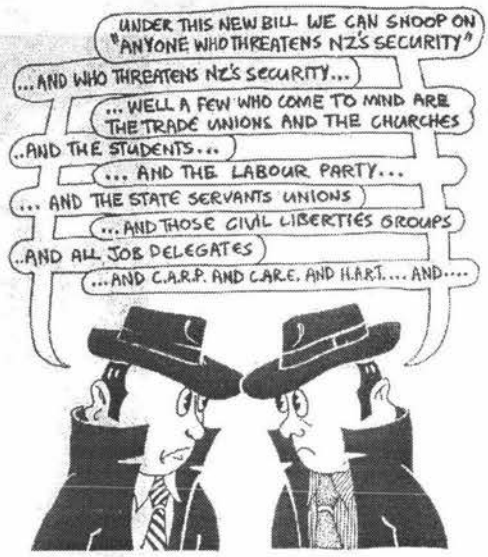
.....

Phone .....

Post to: OASIS (B)
P.O. Box 9096
WELLINGTON

Plate 4: Advertisement by OASIS (B), listing individuals supporting the movement, and notifying the public of the upcoming demonstration. Also featured is a coupon to apply for membership to OASIS (B), and a quote from Pastor Martin Niemoller, urging people not to ignore issues because they may seem to be unaffected. *Evening Post*, 13 October 1977, p. 18.

STOP THE SIS BILL



Representatives of all the unions which are grouped in the Wellington Trades Council have pledged full support for a:

RALLY IN PARLIAMENT GROUNDS 12 NOON FRIDAY 14th OCTOBER

What's it got to do with the unions?

Everything. In organising to protect our living standards we often come into conflict with the Government. Under this bill the Government could tap our phones, open our mail and search our offices if we oppose any Government policy. The bill does not only affect unions, civil liberties groups, church leaders, students, and the Labour Party have all voiced their opposition.

To build an effective protest members are urged to STOP WORK BETWEEN 11 A.M. AND 2 P.M. AND JOIN THE RALLY.

The Wellington District Trades Council is made up of the following Unions . . .

Plate 5: Advertisement placed by the Wellington District Trades Council, notifying the upcoming demonstration. The advertisement also suggests that the SIS Amendment Bill could potentially allow monitoring of trade union organisations. *Evening Post*, 8 October 1977, p. 2.

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