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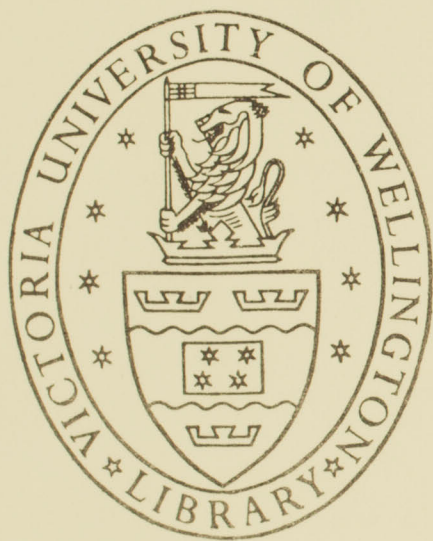


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Research paper for Special Projects
LL.M. (LAWS 539)

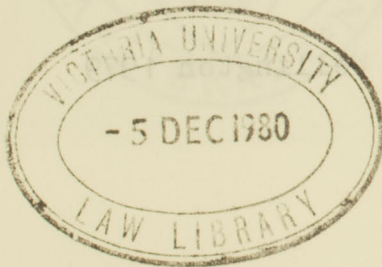
Law Faculty
Victoria University of Wellington

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Henry Addison

CONFLICT IN THE FASHION INDUSTRY 1978

Research paper for Special Projects
LL.B. (Law 33)
Law Faculty
Victoria University of Wellington



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INTRODUCTION

This paper is an analysis of events surrounding the freezing industry during 1978 and the various "conflicts" that arose from those events. "Conflict" in the freezing industry developed not only at the industrial level but also at the political and constitutional levels. In determining whether "conflict" existed at any point I did not have recourse to an exhaustive definition.

"Conflict" is an ambiguous term and its definition is largely superfluous - we recognise "conflict" instinctively when we see it.

"There are no heroes in any dispute, only humble survivors" - Mr. T. Wereta, president of the Otago-Southland branch of the Meat Workers' Union.

Although this analysis describes national developments in the freezing industry during 1978 particular emphasis has been placed on the local situation pertaining in Southland. This reflects the fact that Southland was the focal point of much of the conflict - principally because of the Ocean Beach freezing workers prosecutions and their aftermath.

The chronology of events has been presented in some detail. I believe this is necessary to gain a proper understanding of how events unfolded and the manner in which various conflicts were resolved. However, there is also the point that the events themselves are

1. V. Aubert, The Hidden Society (1965) p. 84.

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1 V. Aubert, The Hidden Society (1965) p. 84.

intrinsically interesting.

One point that should be made clear is that this paper is concerned with how conflict manifested itself in the freezing industry in this period and not with what many would describe as the underlying source of conflict in the industry itself - such aspects as the monotony of the work, the chaotic wage structure, the number of unions within the industry and so on. Such issues, although occasionally touched upon, are outside the scope of this paper.²

Finally, it will be evident reading through this paper that the majority of background information was culled from newspaper reports, periodicals and Hansard. This reflects the recentness of the events portrayed - much of the occurrences in the freezing industry last year are regarded by the parties concerned as politically "sensitive" and hence confidential. Consequently, first-hand prime source material was unobtainable.

2 For analyses of these questions see:
A.J. Geare, "The Problem of Industrial Unrest: Theories into the causes of local strikes in a New Zealand Meat Freezing Works". Journal of Industrial Relations, Vol 14, March 1972. D.J. Turkington, Industrial Conflict: A Study of Three New Zealand Industries Methuen, Wellington 1976.

Chronology of Events

Background

29 November 1975

The National Party wins an unexpected overwhelming victory in the General Election. National's electoral support based to a large extent on its avowed "tough" trade union policy - committed to reintroducing criminal penalty provisions in the Industrial Relations Act (previously removed by the Labour Government).

The National Party's policy on the freezing industry was set out in their election manifesto as follows:

"National will legislate to make freezing works an essential industry under the first schedule of the Industrial Relations Act and will include a penalty to be imposed on the union for failure to kill all stock on hand before taking strike action. Likewise, the employers will be liable for a penalty for an unjustified lockout."

23 November 1976

In accordance with its electoral promises the Government passes the Industrial Relations Amendment Act (No 3) which reintroduces penal provisions in the principal Act. A new section is also inserted - section 125A "Strikes and lockouts affecting export slaughterhouses". This section in its subsequent application produces great controversy

and conflict in the freezing industry. Section 125A(1)(a) provided that:

"(1) Every person commits an offence and shall be liable on conviction by the Industrial Court to a fine not exceeding \$150 who, being a worker employed in an export slaughterhouse within the meaning of the Meat Act 1964 -

(a) Strikes without that worker or his union on his behalf having given to the worker's employer, within the 14 days before the date of commencement of the strike, not less than 3 days' notice in writing, signed by him or on his behalf by his union, of his intention to strike."

The intention behind the 3 days notice requirement embodied in section 125A was to give freezing companies time to clear their sheds of stock before strike action began and to allow stock in transit to be killed. The latter consideration directed at relieving farmers from bearing the costs of transporting stock backwards and forwards to works.

14 June 1977

Freezing workers at the Ocean Beach works in Southland walk off the job leaving 440 carcasses unprocessed - immediate strike action. These carcasses subsequently condemned at an estimated loss of \$8000 (figure given in Southland Times 22/5/78). Alleged breach of section 125A Industrial Relations Act in that required 3 days notice not given.

8 September 1977

Information filed in the Industrial Court by the Department of Labour under section 125A against those Ocean Beach freezing workers who struck on 14th June. The Department, as prosecuting authority, instituting proceedings after a great deal of political pressure from the National Party caucus and farmer organisations.³

The killing season had had a slow start because of industrial troubles (a 10 day national shutdown in October 1977 over a tradesmen's dispute and other isolated disputes in individual works) and bad weather. The result was that the lamb kill was substantially down on the same period in 1976. Then, with a dry spell in the new year (subsequently developing into a drought), farms quickly lost feed and farmers flooded the works with stock. However, frequent industrial flare-ups at freezing works had thwarted farmers plans to have their stock killed in prime condition with works management sending back stock.

In his speech Mr Gordon replied to critics calling for stern action by the Government against erring unionists, in the following terms:

"Since I am cast in the role of trying to preserve some sanity, some peace and some progress on the industrial front, let me point out to those who suggest such action as farmers attacking picket lines, farmers killing stock in freezing works, getting the army in to shift frozen produce to

³ This political pressure acknowledged by the Dunlop Report at Annex 1 p. 4.

STAGE I - EVENTS LEADING UP TO THE FREEZING WORKERS'
WAGE SETTLEMENT

26 January 1978

Mr Gordon, the Minister of Labour, made a "keep cool" speech to farmers following evidence of farmer frustration over the slow killing rate in freezing works.

The killing season had had a slow start because of industrial troubles (a 10 day national shutdown in October 1977 over a tradesmen's dispute and other isolated disputes in individual works) and bad weather. The result was that the lamb kill was substantially down on the same period in 1976. Then, with a dry spell in the new year (subsequently developing into a drought), farms quickly lost feed and farmers flooded the works with stock. However, frequent industrial flare-ups at freezing works had thwarted farmers plans to have their stock killed in prime condition with works management sending back stock.

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"to the wharves, and the navy to sail it goodness knows where, that today's situation is in no way akin to the early decades in this country".

One thing this country can not afford is an industry shutdown for six months to a year, and possibly in some plants, permanent shutdown".⁴

Comment: The whole tenor of Gordon's statement conciliatory - designed to defuse farmers' anger over stoppages. The Government's conviction that the country could not afford a prolonged strike in the industry shapes its actions towards the freezing workers throughout the year, as will be shown. However, Gordon's comments also reflect the seriousness of the situation and the real anger of farmers. The basis of the farmers' resentment illustrated by stoppage statistics:

In the year ended 31 December 1977 Meat Export Works had 195 stoppages involving 80,462 workers with 176,245 working days lost.⁵ However, this represented an improvement on the previous years figures when 118 stoppages occurred involving 102,821 workers with 227,296 working days lost.⁶ This result was reversed in the case of the Otago-Southland employment district, however. There Meat Export Works had 26 stoppages in 1976 involving 10,353 workers with 18,558 days lost and an estimated loss

4 The Daily Telegraph 26 January 1978.

5 Department of Labour Report 31 March 1978 p. 55.

6 Department of Labour Report 31 March 1977 p. 15.

in wages of \$613,640. The corresponding figures for 1977 were 27 stoppages involving 15,694 workers with 54,805 working days lost and an estimated loss in wages of \$1,752,238.⁷

N.B. These figures are not absolutely accurate as there is no statistical methodology in New Zealand industrial relations i.e. there is no mandatory requirement on employers or unions to supply figures so those provided inevitably represent an underestimation.

16 February 1978

Mr Gordon, the Minister of Labour, when discussing the recent industrial situation in the freezing industry at a Rangitikai by-election meeting said:

"There has been a justifiable reason for most freezing works stoppages over the last 12 months. I can be quite precise, and say that since I had all the unions into my office a year ago, with one exception I have not found a significant case where there has not been justifiable reason for stoppages, barring one under consideration now".⁸

Comment: This statement represents a continuation of the conciliatory remarks previously made by Gordon. Significantly, by absolving the unions from blame he is by implication inferring that management are primarily responsible for recent stoppages. It is also worth noting that this statement was made in a predominantly rural electorate where farmer agitation over industrial activity is present.

7 Labour Department source.

8 The Southland Times 16 February 1978.

7 March 1978

30,000 freezing workers started a national 24 hour stoppage to protest the breakdown in their award negotiations. Their action, taken at the height of the killing season, closed 39 works and left thousands of head of stock in yards. "There were 60,000 lambs in the yards in Southland alone, as well as about 1500 cattle. Throughout the country it was estimated that there were 300,000 lambs in yards as well as many thousands of cattle".⁹

The award talks broke down when the Freezing Companies Association refused to meet the union's wage demands. However, the companies claimed that they could not raise their offer because of Government regulations forbidding freezing workers from passing on in increased charges to farmers wage increases above 7.5 per cent. Mr Peter Blomfield, executive director of the Freezing Companies Association, said it would be impossible for freezing companies to meet the union's claim unless the regulations were amended: "We have made our maximum offer, the industry cannot afford to pay wages which it can not recover".¹⁰ However, the Government was reluctant to amend the regulations because of the precarious economic position of farmers.

Farmer reaction to the stoppage was swift and angry. For example, Mr Brian Chamberlain, president of Auckland

9 Evening Post 7 March 1978.

10 Auckland Star 7 March 1978.

Federated Farmers stated:

"We've got enough problems in farming now without having to put up with this sort of thing. I can't stress enough how important it is for the works to be kept open.

But it's time for the concept of passing on costs to the farmer to be re-examined. Farmers are fed up with always having to pay the price. We've reached breaking point with increased costs. The time has come to take a stand. Farmers are now prepared to force the issue over pay talks.

Farmers' costs have increased by 17 per cent this year and sheep-farmers' net incomes will be down by 40 per cent. We can't let this sort of thing carry on or we'll end up getting nothing. It's unfortunate that the freezing industry has been singled out, but no way can farmers continue to pay for rising costs.

Although its inconvenient to have this stoppage, farmers are looking to the future and saying we've got to stand firm".¹¹

The Government's reaction to the strike was muted. Mr Fordon described it as "nothing short of criminal" and hinted at a law change to enable the persons responsible to be prosecuted'.¹²

11 Federated Farmers Press Release 7 March 1978.

12 Evening Post 8 March 1978.

Comment: This strike represented yet another setback at the peak of the killing season for farmers already battling drought conditions. Farmer frustration and anger growing - result that pressure on Government to resolve the situation without, however, increasing costs to farmers. All three parties were in a cleft stick situation. The companies, bound by regulation not to go above a pass-on rate of 7.5 per cent said they could not offer more than that figure. Similarly the union, with a new national secretary (Mr Kennedy) facing his first major test, could not accept less than other major unions had settled for. The Government meanwhile although it had laid down a tough wage policy also wanted to keep the freezing works open and killing stock. The dispute had in effect brought the Government's wage policy into question.

8 March 1978

Following the national shutdown of freezing works the union initiated a series of selective 24 hour rolling strikes in support of its award claims. A daily list of works to be involved in strike action had been drawn up - the result of the first rolling strike was that 7 works were closed.

Meanwhile in Wellington 'Mr Gordon made a sharp attack on freezing industry employers and put responsibility for the Government imposed ceiling squarely in their laps'.¹²

Mr Gordon explained that during 1977 the Government had become concerned that the level of wage increases being contemplated in the industry was likely to lead to an unwarranted increase in killing charges on the farming community. Consequently, "the Government warned the companies ... that any further move to increase wage rates must be borne by way of a productivity payment, and not in higher killing charges to farmers. Their failure to comply with this request led to the imposition of the 7.5 per cent ceiling regulation".¹²

Comment: The Meat Workers Union action in instituting rolling strikes a tactic designed to keep pressure on the freezing companies - the latter unsure from one day to next whether a particular works would be open. However, this measure also had the effect of keeping pressure on the Government to come up with a solution. Incidentally, the union's activity was legitimate - under the Industrial Relations Act the only time a union is allowed to strike is during award negotiations.

Gordon's statement represents a significant change of tact - the previous day he had labelled the union's strike action as 'criminal' but now blaming the freezing companies. In effect saying that their soft wages policy directly responsible for the present situation. This the first manifestation of the antagonism that developed between the Government and freezing companies as the year progressed.

9 March 1978

The Freezing Companies Association replied to the union's program of rolling strikes by issuing an ultimatum to the union demanding a written, unqualified assurance by midday that killing would resume as normal at all works or else all freezing works would close by Monday (12 March).

The national secretary of the Meat Workers' Union, Mr A.J. Kennedy stated that the companies ultimatum represented a major escalation of the pay dispute. 'He believed that farmers who had criticised the union for its disruptive tactics this week would be even angrier at the companies' action'.¹³ Mr Kennedy 'was not worried by a statement from the Minister of Labour, Mr Gordon, that those responsible for the strike could face prosecution "I've been elected to do a job and I'll do it. Mr Gordon has been elected to do his job and I suppose he will carry on with it".'¹³

Farmer reaction to the ultimatum was ambivalent. While some criticised the companies initiative as irresponsible, at a national level no statement was forthcoming from Federated Farmers. It appears that the majority of farmers tacitly acquiesced with the companies action.

Comment: The ultimatum was an escalation of the dispute - necessity for Government intervention becoming more pronounced. Kennedy's blase remarks on question of possible prosecutions interesting - demonstrates his recognition that prosecutions unrealistic.

¹³ The Dominion 9 March 1978.

12 March 1978

In an attempt to resolve the steadily deteriorating pay dispute the Government called a meeting involving both parties and senior Cabinet ministers. Participants in the discussion were Mr. Kennedy, national secretary of the Meat Workers' Union; Mr Blomfield, executive director of the Freezing Companies Association; Mr MacIntyre, Minister of Agriculture; Mr Gordon, Minister of Labour; and the Prime Minister, Mr Muldoon.

13 March 1978

Following two meetings with the parties Mr Muldoon cast doubts on the figures presented by the freezing companies to support their stance in the pay dispute. The Prime Minister stated he did not accept the companies figures - and Mr Blomfield, representing the companies, agreed that some figures were only estimates rather than precise predictions.¹⁴

The outcome of the meeting was a decision that killing would continue at all works while government officials carried out a detailed survey of companies to see what effect union claims would have on the industry's costs. Mr Kennedy said the union would agree to continue normal killing "in the meantime" but cautioned that rank and file members were becoming restless because of the slow progress of talks.

14 Reported in "The Dominion" 13 March 1978. Interestingly, the freezing companies had initially claimed that the union's pay claim would cost \$40 million - however, by the end of the week this figure had been trimmed to \$22 million. These figures quoted in "The Dominion" 20 March 1978.

Comment: Mr Muldoon's rejection of the companies' figures a rebuff to the employers. Clear that the Government leaning toward the union point of view at expense of employers - continuation of trend begun by Gordon.

17 March 1978

Emergency meeting of Federated Farmers called to consider a "crisis situation" in the farming industry, arising from drought conditions throughout the country and also the longer-term problems outlined in the report of the Agricultural Review Committee released 16 March.¹⁵

The latter report showed that:

1. Net real incomes of sheepfarmers likely to decline by 40 per cent in 1977-78. During the current killing season processing costs for lamb had increased by 11 per cent. The farmer now received only 41 per cent of carcass value compared with 60 per cent in 1973-74 season.¹⁶
2. Farming industry beset by rising costs across the board. 'Inflation of costs has meant that investment in farm production is increasingly unprofitable, and this is reflected in static and declining levels of sheep and cattle'.¹⁷

The emergency meeting was also called to consider the announcement by the Meat Workers Union (on 16 March) that

15 Committee made up of representatives of the Ministry of Agriculture and Fisheries, Federated Farmers and the meat, wool and dairy boards.

16 These figures from report, quoted in "Auckland Star" 18 March.

17 Quotation from report cited in "The Dominion" 14 March.

industrial action might be taken on Monday, 20 March. Commenting on this proposed action Mr A. Wright, president of Federated Farmers said:

"We are shocked that such an action should be contemplated in such a serious drought situation. We sincerely hope that during the remainder of this week a settlement is found which operates within the guidelines of the Government's regulations.

As the Agricultural Review Committee's Report clearly indicates, farmers can no longer absorb increased costs.

The Federation stands firmly behind Government's regulation to limit the pass-on of increased wages in high killing charges and therefore remains opposed to any amendment to these regulations".¹⁸

Comment: The union's notification of possible renewed strike action increased pressure on the Government to come up with an immediate solution. The Agricultural Review Committee report clearly demonstrated the serious financial position of farmers - such that they could not realistically absorb increased killing costs. Further, Federated Farmers adopting a militant position and demanding that the Government should enforce its regulatory power in holding down killing charges.

18 Federated Farmers Press Release.

20 March 1978

The Prime Minister, Mr. Muldoon revealed details of an agreement, negotiated between the Meat Workers' Union and the Government, designed to settle the pay dispute:

1. The union's wage claims to be trimmed by \$3 million.
2. The freezing companies to absorb \$3 million above their maximum under the 7.5 per cent recovery regulations (i.e. companies to absorb \$11 million in all).
3. The Government to subsidize freezing workers' wages by \$3 million, a payment ostensibly classified as "drought relief for farmers".

This agreement would remain in force till July 31 and be the subject of a new regulation. In announcing the settlement Mr Muldoon made it clear that an important consideration from the Government's viewpoint in entering into the pay agreement was that 'the Government expected that negotiations on an industry award for next season would be commenced and completed before the start of the new kill season'.¹⁹

Comment: This pay agreement broke new ground in New Zealand's industrial history as it represented the first time a Government had intervened in a wage settlement to the extent of contributing taxpayers' funds in the form of a subsidy. However, the settlement was also unprecedented in that the

¹⁹ Evening Post 20 March 1978.

Government, after consulting the union, had effectively dictated the wage rate to the employers. From the freezing companies perspective the settlement was a humiliating fait accompli - they were not present during the negotiations and were not consulted. The companies non-participation reflected the Government's belief that their position during the dispute was highly unreasonable and misleading. Thus, Mr Muldoon accused the Freezing Companies Association of misleading statements and stated that:

"The evidence has come to me that their past actions to a very considerable extent are responsible for chaos in the wage system and in the meat processing industry".²⁰

Another factor was that Mr Muldoon had a better personal working relationship with Mr Kennedy than Mr Blomfield. Thus, while the Prime Minister labelled the latter's public statements as "totally unhelpful" he described Mr Kennedy in these terms:

"Whereas I could disagree with some of his statements he certainly is a very straightforward person, and we've been able to get to grips with the issues very well indeed".²¹

It should be noted that the Government's action was also contrary to the provisions of its own Industrial

20 The Auckland Star 22 March.

21 The Dominion 21 March.

Relations Act in that section 84 provides that unsettled award proceedings are to be dealt with by the Industrial Commission.

22 March 1978

The Government's use of taxpayers funds to subsidize the freezing workers' wage settlement and the manner in which it had regulated the wage rate drew hostile reaction from farmers throughout the country. Mr Wright, the president of Federated Farmers, typified farmer reaction:

"The agreement reached between the freezing unions and the Government creates a number of dangerous precedents.

While we appreciate the desire of Government to get the current dispute settled as soon as possible, it is unacceptable for the Government to dictate the level of wages which any employer should pay to its employees. As has been pointed out, wages are only one part of any industrial negotiation and Government's involvement at this stage will obviously make the employers' role in settling the other issues extremely difficult.

It is simply a smokescreen to describe the subsidy on freezing workers' wages as drought assistance to farmers. It must be seen for what it is - a taxpayer subsidy to one section of the work force which many believe already enjoys relatively high wage levels.

Farmers are fed up with the annual round of disputes taking place during the season and insist that these can be settled before the commencement of each season. I have agreed to the shortened award on the specific understanding that prior to the commencement of the main killing season next October a new award will be settled and binding on both parties".²²

28 March 1978

Mr Muldoon, in an apparent attempt to quell the vociferous business and farmer criticism of the Government's action, gave a number of reasons justifying the wage settlement:

1. When the meat season was at its peak about \$20 million per week is paid out to farmers. "Any disruption in this cash flow could have serious effects on the short-term liquid position of farmers and their financiers."²³
2. Approximately one million head of stock was slaughtered each week 'and the retention of this stock on farms would make severe inroads into feed stocks normally stored for winter use but already being used because of the drought'.²³ (N.B. At this time 40 areas had been declared drought and disaster areas).

22 Federated Farmers Press Release 21 March.

23 Evening Post 28 March 1978.

3. 'A strike in the freezing industry would curtail not just the slaughtering of livestock but also the flow of meat from the works to overseas markets.

"Any such disruption to our exports would be critical at this time and could lead to the cancellation of contracts and the potential loss of markets".²³

The Prime Minister concluded by stating that "the cost to New Zealand taxpayers and freezing works of the Government's action is relatively small compared with the losses to the farmers and the nation which would have been caused by a strike and the disruption in our exports".²³

Comment: The reasons put forward by Mr Muldoon do appear valid. It is undoubtedly true that the country could not afford a prolonged freezing works strike at this stage of the killing season particularly in view of the prevailing drought conditions. However, it is also evident that much of the farming community (and even some National M.P's²⁴ were angry and frustrated by the pay agreement. Farmers felt that the Government had wasted a perfect opportunity to force a showdown with the union and that by taking the union's side against the Freezing Companies Association the Government had in effect "sold out". This attitude is clearly demonstrated in a speech given by Mr Paul Pederson, Chairman of the Waverley branch of Federated Farmers:

"Farmers nation-wide were extremely disappointed and angry at the Prime Minister's decision.

Most farmers were disappointed that a showdown wasn't forced between the employers and union on this issue.

24 For example, see comments by Mr Falloon, National Party member for Pahiatua at New Zealand Parliamentary Debates 1978 p. 259.

This is certainly the feeling of farmers in this region.

The situation was desperate, as far as farmers were concerned, and we felt it couldn't have got much worse.

The freezing industry at that stage were prepared to say they had gone as far as they could go, and the farmers were backing them.

Then Mr Muldoon stepped in".²⁵

The intensity of rural feeling also reflected the unfulfillment of farmers' expectations as the Government had consistently maintained that it would deal forcefully with militant unions. For example, in a widely reported speech Mr Muldoon had stated that "militant trade unionists are traitors and saboteurs, and deserve to be treated accordingly. If the militant extremists are of a mind to step out of line, they will get it where the chicken got the axe".

25 Wanganui Chronicle 20 April.

STAGE II - EVENTS LEADING UP TO THE FARMERS PROTEST
SLAUGHTER

5 April 1979

The national secretary of the Meat Workers Union, Mr A.J. Kennedy, in a prepared speech to a union conference in Wanganui, warned that if any prosecutions were instituted against freezing workers for leaving stock unslaughtered during recent strikes they would be the last.

"There would be consequences. It would sink the legislation for good and all. No-one would want it to happen again.

It's the old story. The Minister can use his prerogative, but that can't keep the industry going. He may use the legislation some time or another, but he may be surprised if he does.

Freezing workers won't stand for that. They're not pussy-footers. Looking at the practicabilities of it, it wouldn't make sense.

I am quite sure realistic employers wouldn't want it to happen. I think the Government really knows better anyway".²⁶

Mr Kennedy said Mr. Gordon "chucked in" statements, threatening freezing workers with prosecutions, from time

26 The Wanganui Chronicle 5 April 1979.

to time" to placate the vitriolic spirits of the farming community", but he knew this was not where the answer lay.

Mr Kennedy said his union knew the agreement to slaughter all stock on hand before taking industrial action was broken from "time to time", but the Government knew the agreement was honoured "by and large".

Interdependence was the key note in the industry. "It is only as strong as its weakest link. Co-operation has got to be won. When you fight, the other person always fights back. We need responsibility in our industry and you won't get that with penalties.

If penalties were applied our boys would have a field day. The companies would go mad".²⁶

Comment: Mr Kennedy's address has been cited in some length as it represents a highly significant statement of union attitude. It demonstrates that:

1. The freezing workers union not intimidated by the penalties in the Industrial Relations Act - Kennedy considers it unrealistic to utilise them (a view shared by many observers of industrial relations). Consequently, this raises the question of utility of penalties if they fail to achieve their designed objective - which is presumably to discourage strikes. This point will be developed later.
2. In admitting that agreement to slaughter stock on hand breached occasionally Kennedy acknowledging that the national union unable to guarantee the conduct of its rank and file. This clearly illustrated by subsequent events in Southland.

3. Kennedy's comments that freezing workers wouldn't stand for prosecutions and that they would 'sink the legislation for good and all' highly prophetic in light of the ultimate fate of the Ocean Beach prosecutions.

Kennedy's speech represents a "back-off" warning to the Government - in effect a message cautioning the Government against being pressurised into pursuing prosecutions.

10 April 1978

Mr Wright, president of Federated Farmers, issued a warning to the Meat Workers Union that a more responsible attitude from the union was expected by farmers following the wage settlement:

"While farmers obviously will be pleased to quit old ewes, prime lambs, and cattle, particularly during the drought, their reaction against the manner of settling the dispute will become very bitter if works stoppages continue and the other issues are not resolved soon.

Unless there is a drastic improvement in the industrial situation in the freezing industry, the Federation will have no option but to suggest that Government give serious consideration to revoking the regulations [authorising the wage subsidy]. The onus is now squarely on the shoulders of the executive of the New Zealand Meat Workers Union to honour its side of the agreement with Government".²⁷

27 Federated Farmers Press Release dated 10 April 1978.

Comment: This statement demonstrated that while farmers reluctantly compelled to accept the fact of the pay agreement still ready to press for confrontation with the union if further industrial conflict.

12 April 1978

The Prime Minister, Mr Muldoon, commenting on an inquiry from Mr G.J. Pullar, president of the Southland branch of Federated Farmers about what the Government would do in situations where freezing works were closed down by strikes in which the unions failed to give the required 3 days' notice said that the Government would prosecute in any case where the evidence showed a prosecution was warranted.

"The collection of evidence takes some little time, and there is a further delay before a hearing can be arranged. None of the alleged breaches has been pigeonholed and work is actively proceeding in the Labour Department on all of them".²⁸

Comment: Muldoon's remarks appear to be designed to "placate the vitriolic spirits of the farming community" - to borrow Mr Kennedy's phrase. Although breaches perhaps not pigeonholed not pursued with any great vigour either. Only prosecutions instituted since legislation introduced two years previously those against Ocean Beach freezing workers. This despite a period of great industrial unrest

with consequent stoppages in the industry.

April 17 1978

Industrial Relations Amendment Act passed creating the Arbitration Court to replace the Industrial Court. The legislation also provided that jurisdiction over actions brought under section 125A Industrial Relations Act to be transferred to the Magistrates Court:

'section 147(2) Magistrates Courts shall have (to the exclusion of the Arbitration Court) jurisdiction to hear and determine any action for the recovery of any penalty provided for in section 81 or section 125 or section 125A of this Act'.

Comment: This change in jurisdiction would inevitably delay the hearing of the Ocean Beach prosecutions as writs and informations had been previously laid in now defunct Industrial Court.

April 24 1978

A Wellington based comparative survey of pay rates in 17 freezing works published.²⁹ The survey revealed that as a result of the pay settlement agreed between the Government and the Meat Workers' Union each freezing worker had received on average an additional \$1500 per year. The Government imposed agreement had increased wages for most categories of freezing workers by an average 20 per cent

29 Reported in The Southland Times 24 April 1978

e.g. stockmen a 21.6 per cent increase from \$8,963 to \$10,900, slaughtering assistants a 19.3 per cent rise from \$7,350 to \$8,872, fellmongery workers a 20.1 per cent rise from \$6,863 to \$8,245 and so on.

The survey concluded that the freezing industry's wage structure was now far ahead of award rates in other industries.

Comment: The magnitude of these wage increases make the earlier pay dispute over the 7.5 per cent limit seem absurd. Further, the proportionate rise in wages is more pronounced when it is remembered that they are the product of a short award due to expire on September 30. Further rises in wage levels inevitable after that date with new award coming into force.

The extent of these increases would inevitably reinforce the impression of those farmers, employers and others who maintained that freezing workers were overpaid - particularly provocative to sheep farmers whose income had fallen dramatically (around 40 per cent) partly due to industrial action. Also on April 24 the Minister of Labour, Mr Gordon criticised the Alliance meatworks in Southland for its "quite unjustifiably soft wages policy".³⁰ The Alliance management, under pressure from its shed union, had agreed that a \$6 a day hygiene regulations, productivity and manning payment in force at the shed would now be paid to any man who turned up at the works no matter for how much of the day.

³⁰ Evening Post 20 April 1978

Mr Gordon commented: "I can imagine the feelings of the farmers who want to get stock into that works and then find after a two hour kill a large percentage of the workforce might disappear off to say a race meeting or any other function.

This sort of disruption is unacceptable in itself but for the men concerned to also receive the full \$6 a day payment is completely incomprehensible".³⁰

Comment: This type of artificial leapfrogging in wage rates in the freezing industry had been particularly serious in Southland works. It represented just one example of events in the industry that had alienated local farmer opinion and would be a contributing factor in the subsequent farmer/freezing worker confrontation. The irony of the situation is that in this particular instance the meatworks concerned, Alliance, is a farmer-director company i.e. a farmers' cooperative.

1 May 1978

Announced that Southland's 3 freezing companies will lose more than \$5 million as a result of the season's disastrously low killing rate.³¹ The low throughput at the works, occasioned by industrial action, meant that works from outside Southland whose kills are nearly completed would step in. As many as 450,000 ewes and lambs would have to be sent north for processing. This represented a loss in income of over \$5 million to the companies which would seriously affect their profitability. Although farmers

³¹ The Southland Times 1 May 1978.

were generally reluctant to send stock north because of transportation costs (\$2 a head) they were compelled to do so as they could not keep them on the farm indefinitely (at a cost per head of \$1 a week) as they lost condition.

However, to add salt to farmers' wounds not only had the low throughput at Southland works immediately increased their costs (in terms of transportation, feed requirements etc.) but it would also result in higher killing charges next season. This was because killing charges are determined on the companies previous season's balance sheets which would inevitably be less profitable and hence charges would increase. Thus a vicious cost circle to Southland farmers.

Comment: This represented yet another factor contributing to local farmer discontent.

5 May 1978

Mr Gordon reiterated that the Government intended to ensure a new award for the freezing industry was finalised before the start of the new killing season:

"The Government, and we believe both the parties directly concerned, agree with the Federated Farmers request that a new award should apply before the start of the season.

It is to be clearly understood that it is the Government's intention to ensure that that is achieved.

Should the parties fail to reach agreement, the Government may well act again to ensure a smooth start to the killing season round October 20, the normal date".³²

Comment: Gordon's statement indicates the importance the Government attached to an early negotiated award. This was not merely because of the economic benefits that would accrue to the country from a strike free killing season but also because the Government had put its credibility on the line by linking such an award to the greatly criticised freezing workers' wage settlement. It would obviously be embarrassing to the Government especially in an election year if its claim to having 'bought' peace in the industry proved worthless.

In the same speech Mr Gordon strongly rejected suggestions he had received from certain farming elements that the Government deregister the Meat Workers' Union:

"While I can fully sympathise with an angry farming industry which faces the return of stock to the farm and hardship through delayed killing, suggestions now being made by certain farmer groups that they will withhold stock till the union is deregistered or one union is set up in the whole industry, won't do anything constructive for individual relations in that industry in the short term".³²

32 The Dominion 5 May 1978

Mr Gordon said that deregistration of the union would probably bring the freezing industry to a stop and "that won't resolve the deep-seated and complex problems in the industry. The law must be administered with basic commonsense, and, where appropriate justice".³²

Gordon also revealed that 3 of 4 cases of breach of the 3 days notice of strike action by freezing workers were under investigation.

"Let me also add that in no way have I stayed any move to take a prosecution against a union or group of workers for breach of the law as it now stands, be that action by farmers, by my own department, or any other affected organisation, the S.P.C.A. and all.

They have the right to prosecute given the evidence".³²

Comment: A placatory speech by Gordon designed to deflect those farmers agitating for confrontation with the union through resort to deregistration. Gordon's reference to prosecutions no doubt intended to demonstrate that the Government is doing something to reprimand errant unionists. Further, he appears to be gently reminding those dissatisfied with the Government's actions that they themselves could bring prosecutions if they wished.

15 May 1978

Heylen research poll published³³ revealing a new low in the Government's approval rating (down from 37.4 per cent in March to 31.9 per cent). The poll, taken on 29 April, also

showed that the satisfaction rating with Mr Muldoon as Prime Minister slumped from 40.7 per cent to 31.3 per cent. Mr Muldoon said 'that the major cause in the rating drop - which he considered an accurate representation of public opinion - was industrial trouble.

"I think from the messages received by me there is a very strong public feeling that the Government has not been tough enough in the industrial field and this clearly was reflecting on myself as leader of the Government".

'Asked if the Government in this case would be cracking down on unions in view of this attitude, Mr Muldoon replied:

"No, I think we will try to make it clear to the public just how tough we have been".³³

Comment: I would suggest that a major component in the decline in the Government's popularity was public dissatisfaction over its handling of the freezing industry - particularly the subsidized wage settlement of 20 March which alienated many traditional National Party supporters.

The poll was obviously bad news for the Government with an election approaching. Consequently, it might be expected that the Government would act to reinforce the credibility of its 'anti-militant union' image - perhaps by pursuing further prosecutions?

17 May 1978

In a speech to Manawatu Federated Farmers Mr Gordon urged farmers to "cool" their attitudes to the freezing industry.

The Minister of Labour said that New Zealand's industrial society today was not the same as in 1951 "if I may cite a year that seemingly some farmers would like to see repeated. Perhaps some of the younger farmers in New Zealand need to be reminded that a National Government succeeded in 1951 in breaking a long and tragic strike on the waterfront, only because it had the full backing of the F.O.L."³⁴

Mr Gordon said it was easy in times of stress for the farmer "to think evil of everything. I suggest with respect that those thoughts have to be called to a realisation of the facts of life. Published reports that farmers should go in and man freezing works themselves would be no solution".³⁴

Comment: Yet another in a series of conciliatory speeches by Gordon aimed at farmers. However, the very fact that he has to repeatedly attempt to defuse the situation in this manner illustrates the intensity of farmer feeling over industrial difficulties in the freezing works.

19 May 1978

Freezing workers in Southland and in works from the centre of the North Island northwards imposed a load out ban in support of their claims for the 1973 cost-of-living order of 8.5 per cent to be paid on incentive contracts. Other freezing works throughout the country already had this payment incorporated into their incentive contracts.

The industrial action was authorised on a national basis under a resolution adopted by the N.Z. Meat Workers' Union.

22 May 1978

Commenting on prosecutions against Ocean Beach freezing workers Mr Gordon said that the actions still stand under the amended legislation transferring jurisdiction to the Magistrate's Court. However, he expressed some doubt as to the wisdom of pursuing them:

"I think it may be an understatement that when the prosecution takes place some skin and hair is going to fly, but seemingly that is what Federated Farmers want".³⁵

Comment: Gordon publicly acknowledging that pursuing prosecutions would not achieve anything constructive - merely exacerbate already precarious situation in freezing industry i.e. suggestion that farmers want conflict for conflicts sake. His statement also implicitly recognises the influence of Federated Farmers in the prosecution question.

25 May 1978

Workers at 15 freezing works renewed their load-out ban in support of their incentive pay dispute. The union had previously lifted the ban to enable discussions on the issue

³⁵ The Southland Times 22 May, 1978.

to proceed with the Freezing Companies Association. The decision to reimpose the ban was made after the union rejected the companies proposal to take the dispute before the Arbitration Court.

Comment: This fresh outburst of industrial action tended to negative Government claims that the subsidized wage settlement of 20 March but 'bought' peace and goodwill in the freezing industry.

29 May 1978

Compulsory conference on the incentive pay dispute, ordered by the Minister of Labour, failed to get underway because of the refusal by the Freezing Companies Association to talk with the union while industrial action continued.

31 May 1978

As load-out bans and go-slows continued in 20 freezing works 6 were closed (including 3 Southland sheds) because freezing chambers were filled to capacity. 'A companies spokesman said that workers refusing to load out were being told that they were on strike. Other workers were being suspended under the Industrial Relations Act, which provides for suspensions where there is no normal work because of the strike action of other workers'.³⁶

Comment: Apparent that situation deteriorating - at this stage dispute all the potential of developing into a full-scale

national strike in the freezing industry. Already over half the country's works affected. Further, hostile reaction inevitable in those areas where works closed among those farmers with stock still to be killed because of the drawn-out killing season (e.g. Southland). However, no statement made by Federated Farmers about dispute.

1 June 1978

Two days of conciliation talks set down between freezing company and meat workers' assessors over a new award failed to get underway because of the continuing dispute over back pay for incentive contract workers. The employers said they were prepared to meet but only if all bans and go-slows were first lifted. However, the union would not accede to this.

Meanwhile, in a new development to the dispute the Freezing Companies Association applied to the Arbitration Court for a hearing under section 119C of the Commerce Act. The Court set down the application for next week.

N.B. Under section 119C 'Failure to resume work where public interest affected' the Arbitration Court may order a resumption of full work and at the same time determine the procedure for the settlement of the issue of the strike, if it is satisfied that the economy, including its export trade, is "substantially" affected, or there is every likelihood that it will soon be affected. Or it may order a return to work if the economy of a particular industry or industries is "seriously affected", or it is clearly evident that it will soon be affected. Go-slows and load-out bans are strikes

under the wider classification brought in under amendment No. 7 to the Industrial Relations Act in 1976. Any reduction of the normal output or rate of work is defined as a strike.

Comment: The companies resort to the Arbitration Court a change in tactics designed to break the deadlock that had developed between the parties. Obviously an unwelcome move from the union's perspective - the latter had already rejected a previous proposal to go to the Court.

The Government's role throughout the duration of this dispute strangely passive - its non-participation (apart from calling the abortive compulsory conference) perhaps explainable by the great criticism its last act of intervention attracted (wage settlement dispute). However as that may be, the failure of the conciliation talks to get underway a clear blow to the Government's hopes of having an early award negotiated.

6 June 1978

Union strike action in support of the incentive contract pay dispute continued with 25 freezing works seriously affected. In response the companies had closed several works and suspended thousands of freezing workers.

8 June 1978

Dispute resolved by the parties during the luncheon adjournment of an Arbitration Court sitting. The Court was due to hear the Freezing Companies Association's application

for a return to work order under the Commerce Act. The back-to-work procedure agreed to by the parties involved 4 points³⁷:

1. The compulsory conference originally ordered by Mr Gordon on the 26th May to resolve the issue would be resumed.
2. That all bans and restrictive practices by both parties would be lifted upon the conference resuming.
3. That the application by the employers under the Commerce Act be withdrawn.
4. No party to have counsel present at the conference.

After the settlement was announced Mr Kennedy when asked about the position of Southland freezing workers who had voted 5-to-1 in favour of maintaining the load-out bans replied:

"I am confident that in the light of the agreement reached there'll be no problem in lifting the bans, but I realise they won't be very happy about it".³⁷

Comment: The companies ploy in resorting to the Court was a success. The union, unwilling to have the Court handle the issue, agreed to cease industrial action (presumably because it recognised it was on weak ground? or because it did not want to be seen defying a Court order?)

³⁷ Evening Post 9 June 1978.

Kennedy's prediction that Southland freezing workers would lift their load-out ban subsequently proved to be incorrect. The fact that the national union was unable to persuade its rank-and-file members to honour such agreements negotiated at a national level a recurring source of conflict within the industry.

9 June 1978

Those Ocean Beach freezing workers who had walked off the job on 14 June 1977 summoned to appear in Invercargill Magistrate's Court on 27 July on charges of striking illegally. The Department of Labour prosecuting 192 workers under section 125A Industrial Relations Act. 35 summonses which had been returned not served being sent out for personal service.³⁸

Also on 9 June 250 angry Southland farmers ignored police warnings and loosed 1500 starving sheep in Invercargill's main street as a demonstration against continued industrial action at local freezing works. Farmers trucks and mobs of sheep disrupted streets for about an hour before the sheep were herded on to a vacant lot and protest slaughtered by their owners. The carcasses were eventually dumped outside the city's abattoir.

Most of the farmers' trucks were adorned with anti-union and anti-Government slogans complaining about the failure to slaughter stock on time. One Te Anau farmer articulated the farmers' sense of grievance by 'pointing to a pile of half dead sheep on the back of his truck: "Look at those animals - they have been booked into the freezing works

38 The Dominion 9 June 1978.

since November. Those ewes were worth \$7.50 per head at Christmas time - they are worthless now".³⁹

During the demonstration angry groups of farmers and freezing workers confronted one another but no violence occurred.

Following the protest Federated Farmers, Southland, issued an ultimatum to the Meat Workers' Union that unless there was normal work for the remainder of the season, a ban would be placed on the off-season employment of all freezing workers in Southland and the federation would campaign for the union's deregistration. Farmers also said that unless some satisfaction was received soon, they would contemplate further protests along the same lines.

Comment: Farmers frustrations, which had been building throughout the year boiled over in this unprecedented cathartic demonstration. The immediate catalyst was the decision by Southland freezing workers that they wouldn't comply with the directive of their national union and lift the load-out bans. This meant that the works - which had been plagued by their worst season for stoppages in memory - would remain closed (they had been closed since 31 May). This proved to be the proverbial last straw for farmers still desperate, even at this late stage of the season, to have stock killed. However, there was a number of factors which had contributed over time to this expression of farmer discontent e.g. the freezing workers

39 The Dominion 10 June 1978.

subsidized wage settlement in March still rankled as did the wage leapfrogging that occurred from one Southland works to the next.

The farmers action saw the conflict in Southland 'transformed' from one essentially limited to the industrial scene (i.e. employer/employee) to one of actual physical confrontation between farmers and freezing workers. Further, the farmers' demonstration, although clearly successful in its aim of increasing public awareness of problems in the meat industry, represented, along with the employment ban, a marked escalation in conflict.

10 June 1978

In Wellington Mr McLagan, the chief executive of Federated Farmers commenting on yesterday's action by Southland farmers said that "Federated Farmers could certainly understand their frustration. There is a very critical position particularly in Southland where the ewes should have been killed in February. There's no grass left for them to eat and now they're virtually worth nothing".⁴⁰

'Mr McLagan said he felt the slaughter was the result of a build-up of desperation that a strike-free killing season had not continued after the Government's intervention in March. And the suggestion from Southland meatworkers that they would not be resuming normal killing on Monday

40 Evening Post 10 June 1978.

had been too much for farmers'.

"This sort of action is new in New Zealand and I'm not surprised that the farmers feel this way. This would be a last resort and its indicative that they're completely fed-up.

We will have to consider what sort of action we can take. We've got to get some sense back into the situation".⁴⁰

Comment: Although the national executive of Federated Farmers making sympathetic noises (could scarcely do otherwise) significantly it made no strong statement directly criticising the union or advocating deregistration as might be expected in the circumstances. Instead adopting a "wait and see" approach.

12 June 1978

After hearing from their national secretary, Mr Kennedy, Freezing workers at Southland's four works decided to lift their load-out bans. Their decision brought them into line with other works which had lifted their bans on 8 June and cleared the way for a conference between the Meat Workers' Union and the Freezing Companies' Association over the back-pay issue. (The companies had refused to negotiate with the union until all industrial action had been lifted).

The load-out bans had been in force for about 5 weeks in Southland and 3 of the local works were forced to close. The fourth - Ocean Beach - closed because of an unrelated

dispute.⁴¹

In Wellington Mr Muldoon claimed that the decision of the Southland freezing workers to return to normal work 'was an indication of the settlement imposed on the industry by the Government earlier this year'.⁴¹ However, when asked whether the Government could intervene again as it did on that earlier occasion the Prime Minister said 'no one had given him any suggestions as to how he could step in'.⁴¹

Meanwhile, 'farmers who slaughtered old ewes in Invercargill on Friday as a protest against the load-out bans were not expected to take any further action following the workers' decision. They had threatened to load the frozen meat on to the railway wagons themselves or even take over a freezing works if the bans continued'.⁴¹

Comment: The decision to lift the bans eased the immediate tension although farmer feelings were still running high - as threat to take over freezing works demonstrates. However, it is unclear what influence the farmer demonstration had in persuading the freezing workers to resume normal work - the workers apparently agreed "reluctantly" to lift the load-out ban.⁴²

Mr Muldoon's comments indicate that while the Government was willing to take the credit for the return to work it was anxious not to be embroiled in the dispute.

41 Evening Post 12 June 1978.

42 Southland Times 16 June 1978.

14 June 1978

Despite the lifting of the load-out ban normal killing had resumed at only 2 Southland works. 'At Makarewa only 31 lambs were killed before slaughtermen held a meeting and then went home, and at Ocean Beach work did not even begin'.⁴²

Comment: Without discussing the merits of these stoppages it was clearly highly provocative for these men to strike after they had agreed to return to work only two days' previously and with feelings still running high after the farmer protest slaughter. This development was widely interpreted as providing additional justification for the farmers' protest.⁴²

16 June 1978

In Parliament Mr Gordon in replying to a question from Mr Faulkner, the Opposition spokesman on Industrial Relations said:

"It is my belief that the offence provisions in the industrial relations legislation will ultimately lead to more stability The law was being defied without penalties. I can inform the member that in an increasing number of cases the law is now being observed, particularly with regard to notice of intention to cease killing at freezing works".⁴³

43 New Zealand Parliamentary Debates 1978 p. 951.

44 The Auckland Star 19 June 1978.

Comment: Gordon's statement scarcely credible in the light of recent developments in the freezing industry. It is suggested that in maintaining the pretence that the legislation was working successfully Gordon motivated by political considerations rather than by the reality of the situation.

19 June 1978

The Minister of Labour revealed that he had been warned that violence could erupt in Southland over continuing freezing works stoppages. 'Mr Gordon said the police had claimed that if one punch had been thrown at a recent confrontation there would have been a fullscale riot.

"A senior Labour Department official advised me feelings were running so high that unless the situation was cooled someone could be killed".

"I replied: 'You've got to be joking'".

"He said: 'I'm not. Unless we get some results soon, someone will get hurt'".⁴⁴

In an attempt to 'cool' the situation Gordon disclosed he would have separate talks with the various parties in Invercargill on Wednesday (21 June). In the meantime a conciliator and a senior departmental official had been dispatched to Southland to try and resolve the dispute which had closed the Makarewa and Ocean Beach works.

44 The Auckland Star 19 June 1978.

Comment: The situation in Southland had become so serious - at flashpoint - that the Government compelled to intervene - although adverse to doing so. (re Muldoon's remarks of 12 June).

Also on 19 June Gordon received approximately 1,000 telegrams from individual farmers supporting Southland Federated Farmers call for the Ocean Beach sub-branch of the Meat Workers Union to be deregistered.⁴⁵ However, the Minister said that 'while he could well understand farmer reaction was running high, deregistration was a line of last resort and a move that could not be taken lightly.

"Because of this, I would ask the industrial committee [of Southland Federated Farmers] to consider very carefully the aftermath that could follow. I want to know whether they are aware of what the after-effects might be - whether other unions will do their work, or whether there will be a complete shutdown".⁴⁵

Meanwhile, the national executive of Federated Farmers released the following press statement:

'The large number of telegrams received from individual Southland farmers today clearly reflects the depth of feeling of these farmers at the current industrial position in the freezing industry in Southland.

Many farmers still have stock, particularly old ewes, on the farm which should have been killed months ago.

45 The Dominion 20 June 1978.

46 Federated Farmers Press Release 20 June 1978.

Many of these old ewes are near to starvation level and are eating what feed is available which should be kept for breeding stock. Obviously the effects of this situation following a long drought are going to be reflected in lower lambing percentages and lamb and wool weights next season, if not for several seasons.

Federated Farmers fully appreciates the deep anger and frustration of the Southland farmers at the continued disruption to killing at some works in the Province'.⁴⁶

Comment: Gordon's remarks an admission that deregistration unrealistic - would automatically exacerbate and escalate the conflict. This fact recognised by the national executive of Federated Farmers who had not supported the deregistration call.

21 June 1978

Mr Gordon held separate talks in Invercargill with the industrial relations committee of Federated Farmers (Southland), representatives of the Meat Workers' Union and the Southland Trades Council. The dominion president of Federated Farmers, Mr Wright, also met the Minister and afterwards stated that he would recommend national support of Southland Federated Farmers' demand for union deregistration if a settlement could not be reached by Friday (23 June).⁴⁷

Meanwhile the secretary of the Meat Workers' Union, Mr Kennedy said that Mr Gordon had given the union "an impartial

⁴⁷ New Zealand Herald 22 June 1978.

hearing". In relation to deregistration threats he laconically said it would be irresponsible of the union not to consider the possibility of such a move.⁴⁷

Comment: Debatable to what extent Mr Wright's support for deregistration genuine. Appears to be a tactic designed to put pressure on the union and Government to resolve the situation and perhaps also intended to reassure angry local farmers that the national executive did support their position.

22 June 1978

The Prime Minister said that there was a "considerable possibility" that work would resume at the Ocean Beach and Makarewa works following discussions between the respective parties⁴⁸ - discussions facilitated by the visit to Southland by the Minister of Labour who had managed to get the parties together.

However, Mr Muldoon warned that 'the attitude of the Government caucus was that if the Government were faced with continuing disputes in the freezing works, and if it were of a mind to deregister any part of the Meat Workers' Union caucus would unanimously support that action. At present deregistration was not being considered because of the possibility that killing would be resumed'.⁴⁸

The Prime Minister concluded by stating that 'the Government wanted to see the remainder of the season concluded

48 Evening Post 22 June 1978.

with stock being killed, then for negotiations to proceed on an award for the new season'.⁴⁸

Comment: Muldoon's assertion that continuing disputes might lead to deregistration an apparent sop to farmers' anger. Such statements increasingly unconvincing, hollow - if the Government was serious about deregistration it would have acted previously. In fact, the Government was unwilling to move against freezing workers because this would undermine the negotiations for a new award which it was pinning so much faith upon.

Mr Gordon, upon his return from Southland was confident that the parties now saw each other's viewpoint and that the dispute would soon be resolved. He said that the parties 'came together, during his visit and the atmosphere was very good apart from with Federated Farmers. "They just did not want to change from the request for deregistration. The industrial executive of Southland Federated Farmers did not see fit to change its mind although the national president had a different view".⁴⁸

However, Mr Owen Buckingham an organiser of the Southland farmers' action committee that had staged the protest slaughter said that Mr Gordon 'had "completely misjudged" the opinion of the public during his visit to Invercargill'.⁴⁹ Mr Buckingham said that while the Minister had agreed with everything said at his meeting with farmers he had not put

49 Southland Times 23 June 1978.

up any reasonable argument against deregistration of striking freezing workers at the Makarewa and Ocean Beach works.

Mr Buckingham added that the action committee had further protests planned if normal work was not resumed.

Comment: Southland farmers, in a militant mood, considered Gordon's emphasis on conciliation inappropriate. They wanted action not placatory statements. However, significant that Mr Wright representing the national executive of Federated Farmers apparently adopted a more moderate view. It appears that the frustrations of Southland farmers had blinded them to the realities of the situation - apparent to the Government and Federated Farmers - that deregistration not an available option. However, the Government's refusal to take 'positive' action clearly alienating a significant body of farmer opinion in Southland.

The Minister of Labour's initiative in visiting Southland was proved successful when it was announced late on the night of 22 June in a joint statement from union and management that the dispute had been resolved.⁵⁰ The settlement followed a meeting between the parties under the chairmanship of industrial conciliator Mr W. Grills. However, no details of the agreement were released - merely stated that the Ocean Beach and Makarewa freezing works would resume killing on Monday (26 June) after a 3 week closure.

Comment: Although Gordon's moderate approach seemingly justified it is doubtful whether the settlement appeased those local farmers who in effect were 'out for blood'.

50 Reported in The Daily Telegraph 23 June 1978.

STAGE III - CHRONOLOGY OF EVENTS LEADING TO DISPOSAL
OF OCEAN BEACH PROSECUTIONS

30 June 1978

The Department of Labour announced it had initiated prosecutions against various branches of the Meat Workers' Union for alleged illegal strikes. The Department alleged breaches of section 125A of the Industrial Relations Act in that during the freezing works dispute of May-June 1978 the union or branches of the union had failed to give the statutory 3 days' notice of strike action.⁵¹

The freezing works concerned in the prosecutions are Ocean Beach, Mataura and Makarewa (Southland), Burnside (Dunedin) and Waingaura (Masterton). However, the Department revealed that it is considering further proceedings against workers at other freezing works and also the Drivers Union for alleged breaches of section 81 of the act.

In confirming the prosecutions the acting secretary of Labour Mr. F. Roe said:

"As a policy we investigate all these alleged breaches. We have a duty to see that the legislation is complied with. The minister (Mr Gordon) does not have any say. He can ask us what we are doing, but the enforcement is up to us. We make the decision on it".⁵¹

⁵¹ Reported in The New Zealand Herald 20 June 1978.

Comment: The timing of this announcement, coming little over a week since Mr Gordon experienced farmer anger at first hand in Southland, very convenient from the Government's perspective. It would, to some extent, deflect mounting criticism that the Government had gone 'soft' on militant unions. However when examined in the light of previous union and indeed ministerial statements⁵² concerning the utility of penalties there latest prosecutions appear misguided.

The manner in which Mr Roe, emphasised the Department's independence from the Minister significant - particularly since Gordon had made a parallel statement to the same effect in Parliament a few days previously.⁵³ It appears that the Department and the Minister were anticipating that this might become an issue and were taking precautions accordingly.

3 July 1978

Conciliation talks aimed at settling a new award for the freezing industry resumed in Christchurch following the abortive meeting of 1 June. At this stage just over 3 months till commencement of new killing season.

52 For example, Kennedy's speech of 5 April.

53 New Zealand Parliamentary Debates 1978 p. 1305.

54 Reported in The Southland June 8 July.

6 July 1978

Freezing workers at all 4 Southland sheds imposed a ban on the slaughter of stock belonging to the 4 members of the industrial relations committee of Southland Federated Farmers and 2 other farmers (Messrs Buckingham and Slee) who had organised the protest slaughter of 10 June. This action was taken in retaliation for a Federated Farmers (Southland) ban on the off-season employment of freezing workers from Ocean Beach and Makarewa who had not resumed normal work after their national union had directed them to lift load-out bans on 8 June. The employment ban had received wide-spread farmer support and was affecting significant number of freezing workers looking for work in the off season.

Comment: This development represented a change in emphasis on the union's part. Previously the freezing workers had consistently maintained that they had no argument with the farmers, however, their latest action acknowledged that this was no longer so. The farmers' off-season employment ban and the freezing workers' retaliatory killing ban represented the renewal of direct confrontation and the inevitable escalation of conflict.

10 July 1978

Settlement reached between Federated Farmers (Southland) and the local branch of the Meat Workers' union under which Federated Farmers agreed to lift its off-season employment

ban in return for an end to the killing ban.⁵⁵

However, this settlement resulted in a split in local farmer ranks between the moderates and the more militant farmers. The farmers' action group, which had been responsible for the protest slaughter demonstration in Invercargill 'claimed the Federated Farmers executive had backed off and is not supporting its rank and file'.⁵⁵ Mr Buckingham, one of the group's organisers, said that his group wanted an assurance from the freezing workers that they would kill all stock in transit before withdrawing labour. Otherwise the action group would be forced to reimpose the employment ban. Mr Buckingham said that 'while the employment ban would not carry as much weight as when Federated Farmers were responsible for it ... they have no doubt about the support from the grass roots level of the Southland farming community'.⁵⁵

Comment: It is not hard to understand why a section of farmers dissatisfied. Federated Farmers (Southland) appeared to have capitulated when confronted with the union's killing ban. They had been seeking some assurance that stock in the works or in transit would be killed before any future stoppage (ironically this was what section 125A Industrial Relations Act was designed to achieve) and that normal dispute procedures would be followed. However, no such assurance was embodied in the settlement reached. Union representatives merely promised further discussions on the issue.

⁵⁵ Reported in The Otago Daily Times 11 July.

This development did reveal that some farmers (i.e. those who supported Federated Farmers line) not prepared to engage in further confrontation. (Perhaps those farmers who had managed to get their stock killed?)

11 July 1978

The Southland farmers action group reimposed its off-season employment ban on freezing workers after a meeting of 250 farmers voted to this effect.

12 July 1978

The Meat Workers' Union, after consulting with the F.O.L., announced it was withdrawing from talks to fix an award for next season and from all Government and quasi-Government committees because of the Court action about to be taken against Ocean Beach freezing workers. The union stated that it would only resume award negotiations when the prosecution issue was resolved.⁵⁶

Significantly, "it is understood the union told F.O.L. executive members and the Minister of Labour, Mr Gordon that if the F.O.L. and Federated Farmers made a strong joint approach to the Attorney-General, Mr Wilkinson, to stay the legal proceedings, the meat workers would reconsider their decision'.⁵⁶

56 Reported in The Auckland Star 12 July.

However, Mr Gordon although expressing bitter disappointment with the union's action 'said any decision to withdraw the charges would not lie with him'.⁵⁶

Comment: The union's policy of non-cooperation, if maintained, would effectively destroy any chance that an award agreement could be negotiated before the new killing season began - which the Government had been pinning its hopes on. This development also represented the first occasion on which a possible stay of the Ocean Beach prosecutions had been raised publicly. In this regard the reference to a joint F.O.L./Federated Farmers approach to the Attorney-General was a realistic assessment that politically dropping of the prosecutions could only be achieved with the agreement of Federated Farmers.

13 July 1978

On the issue of Ocean Beach freezing workers prosecutions the national president of Federated Farmers, Mr A. Wright, said he had no intention of asking for the withdrawal of prosecutions "at this stage. Such a move will not be initiated by Federated Farmers".⁵⁷ However, Mr Wright said he did intend to hold talks with Government and the F.O.L. on the issue.

18 July 1978

In an address in Masterton the Prime Minister emphasised that the Government was not going to stay the prosecutions against the Ocean Beach freezing workers:

57 The Daily Telegraph 13 July.

"We can't say, 'here's the law, let's ignore it'.

There cannot be one law for someone who holds up a dairy and another for a freezing worker who walks off the job, even though he has agreed to kill available stock".⁵⁸

Comment: A clear, direct, unambiguous statement by Mr Muldoon in support of the rule of law. Significantly made in a predominantly rural electorate which had experienced recent unrest at its local freezing works and which was also a marginal National seat. However, Mr Muldoon's speech was as much for the benefit of National M.P's as it was for public consumption. A number of National backbenchers - in particular Mr N. Jones M.P. for Invercargill and Mr R. Austin M.P. for Awarua - had made it clear they would not tolerate the prosecutions being withdrawn. The Prime Minister's speech thus also intended to avert any split developing in the Government caucus.

19 July 1978

Two hour meeting held between the secretary of the Meat Workers' Union, Mr Kennedy, and the Prime Minister (Mr Muldoon), the Minister of Labour (Mr Gordon) and the Minister of Agriculture (Mr McIntyre). The meeting was called by the Government to express its displeasure at the union's withdrawal from award talks and to remind Mr Kennedy that those talks

58 The Evening Post 19 July.

were a condition of the Government's contribution to the March pay agreement.

Following the meeting Kennedy stated that negotiations for a new award could resume despite the Ocean Beach prosecutions:

"All things are possible. We might go back to wage talks despite the prosecutions. We are incurable optimists. We believe no situation is so tight that it can't be resolved, particularly when all parties have the interests of the country at heart".⁵⁸

However, Mr. Kennedy's optimism proved ill-founded as the union's national executive subsequently decided to maintain its non-cooperation policy.

Comment: At this point an impasse had developed. None of the parties concerned prepared to make a concession which could resolve the situation. Both the Government and the union unable to move from their entrenched positions as both too much at stake. Only Federated Farmers really free to take an initiative, which it was unprepared to do.

24 July 1978

In its editorial "The Dominion" concisely stated why the Government could not negotiate over the prosecution issue:

⁵⁸ Star Daily Times 24 July 1978.

"The Prime Minister must of course uphold the law, even if in hindsight it appears ill-conceived and ill-applied. The prosecutions have to go ahead. If Mr Muldoon were to suggest otherwise he would bring down such a storm on his head from an already querulous farming community as to imperil his Government's re-election chances".

25 July 1978

Mr A. Wright, the president of Federated Farmers, briefed Federation delegates on the outcome of his recent discussions with the F.O.L. over the situation in the Southland freezing industry. 'Mr Wright said he had to convey to delegates the fact that the federation is not backing down over the Southland issue, and that a sane and sensible solution could be found to an inflammable situation'.⁵⁹ However, although he considered there was little likelihood of a settlement while the prosecutions were pending Federated Farmers were still adamant they should go ahead.

Mr Wright added that if a solution was to be found freezing workers would also have to lift their 'intolerable' killing ban on Messrs Buckingham and Slee, the founders of the farmers action group. The two farmers had already been asked to lift their employment ban 'and they had replied they would be happy to do so when freezing workers followed proper dispute procedures'.⁵⁹

⁵⁹ Otago Daily Times 26 July 1978.

⁶⁰ Otago Daily Times 28 July 1978.

Comment: Federated Farmers apparently unaware that its stated objectives inconsistent i.e. 'a sane and sensible solution' in reality incompatible with continuing prosecution action.

27 July 1978

Prosecution of those Ocean Beach freezing workers charged with breaching section 125A on 14 June 1977 begins at Invercargill's Magistrate's Court. Of the 192 cases brought before Mr Willis S.M. 163 defendants entered not guilty pleas. Of the remaining summonses there was no proof of service for 5 and 24 had not been served. Interestingly, prior to the hearing 3 of the defendants had pleaded guilty by letter to the charge. However, Mr McClelland Q.C. appearing for the freezing workers asked for these pleas to be vacated and pleas of not guilty entered, which was granted by Mr Willis.⁶⁰

All cases were adjourned until August 31 for fixtures to be made. However, before that date the Court would have to rule on Mr McClelland's objection that it had no jurisdiction to deal with the charges. (Defence maintained that the cases should have been heard in the Industrial Court - now defunct).

Comment: A number of significant points emerged from this preliminary hearing:

1. The proceedings, which were expected to be a formality as under the Act individual defendants not obliged to appear, took 4½ hours. This resulted from counsel's insistence

60 Otago Daily Times 28 July 1978.

that the charge be read individually to each man (and in some cases translated). A highly effective tactic adopted by the union which demonstrated the inappropriateness of the Court setting for mass prosecutions. Obvious that if the prosecutions proceeded the legal machinery would have severe difficulties in coping with the workload. Thus, Mr. McClelland, who intended to defend each charge, predicted a hearing of at least 4 weeks and probably considerably more depending upon what evidence the Crown gave⁶¹ and after that there was the possibility of appeals.

This obviously not palatable news for the Government (and to a certain extent Federated Farmers) which had wanted the prosecutions concluded as quickly as possible and award negotiations resumed. It appeared likely that Court proceedings would continue into the new killing season.

2. 29 of 192 summonses not served (approximately 15 per cent). This after a period of almost 13 months after the offences allegedly occurred. Even allowing for the somewhat transitory nature of work in the freezing industry this raises some doubts as to the diligence of the prosecuting authority (the Labour Department).

3. Mooted demonstrations by freezing workers and the farmers action group outside the Court did not eventuate. This against a background of extra police on duty in Invercargill in case of confrontation. However, both sides apparently wished to avoid conflict e.g. Kennedy: "During the meeting,

61 Evening Post 31 July 1978.

we instructed our people to be orderly and restrained, even in the face of incitement".⁶²

4. The proceedings at Invercargill represented the first mass trial of workers since World War II when freezing workers in Auckland (March 1942) and Waikato coal miners (September 1942) were prosecuted for striking in contravention of the Strikes and Lockouts Emergency Regulations 1939.

9 August 1978

A new farmers group, the Meat Producers Securitit (M.P.S.), intent on protecting the interests of meat producers, publicly revealed its existence.⁶³ The M.P.S. was formed in Taihape in June but had kept a low profile till now.

In a public letter to Mr Gordon, Mr Rae, the chairman of the 'Securitit' issued an ultimatum demanding Government action on the stalled freezing industry award talks by August 31:

"In the event that the award talks have not been reconvened by the 31st August, or any of the other demands made actioned, the Securitit intends calling for a "load in ban" on all livestock for slaughter in pre-selected areas. The M.P.S. will also maintain a watching brief on all abattoirs in the selected area while the load in ban is in force.

62 Otago Daily Times 27 July 1978.

63 The Wanganui Chronicle 9 August 1978.

Producers of meat, livestock owners, buyers, processing facilities, transporters and wholesale and retail outlets who attempt to defy the ban will have their actions identified and published".⁶³

Comment: The formation of the M.P.S. an example of a number of farmer pressure groups that had sprung up throughout the country. Significantly, the M.P.S., like the Southland farmers action group, divorced from Federated Farmers - reflects growing feeling that the latter not militant enough in pushing the farmers' case. The M.P.S. concerned with the Governments perceived inaction over the continuing precarious situation in the freezing industry. The Government had taken no new initiative since the Ocean Beach prosecutions commenced in Southland.

14 August 1978

Mr Gordon, in a speech to the Bureau of Importers and Exporters in Auckland revealed that "the Government is ready to act, even if reluctantly"⁶⁴ to prevent a repetition of the previous 'abysmal' killing season. However, he added: "I'm crossing my fingers and knees in the hope some responsibility and common sense will prevail, despite the pending Court session at Invercargill in respect of the Ocean Beach works".⁶⁴ The Minister did not specify the likely nature of possible Government action in the event 'common sense' did not prevail.

64 The Auckland Star 15 August.

Comment: Gordon's statement demonstrates the Government's awareness that it would have to act in the face of mounting rural pressure if the stalemated situation in the freezing industry continued. However, at this stage, no indication that any of the parties prepared to make a concession to 'common sense':

1. Federated Farmers (and other more militant farmer groups) still adamant that prosecutions should proceed but also that the freezing industry award should be finalised before the new killing season begins (mid October).
2. The Meat Workers' Union still refusing to enter into conciliation proceedings while the Ocean Beach prosecutions unresolved.
3. The Government eager to see new award concluded but politically committed to continuing with the existing prosecutions. In fact, the Government going ahead with further prosecutions.⁶⁵

25 August 1978

The Meat Workers' Union announced that it had accepted the principle that any stock in yards or in transit from farmers' properties should be killed before an industrial stoppage began. This development followed a meeting between the Freezing Companies Association, Federated Farmers and the union. The Government and Federated Farmers had been pressing

⁶⁵ Department of Labour had initiated further prosecutions on 30 June.

for such an acknowledgement from the union for some time.

Comment: The union's action represented a significant conciliatory gesture and demonstrated to its critics that it could act 'responsibly'.

28 August 1978

The Government reported to be drafting 'tough' legislation to use against the Meat Workers' Union as a contingency in the event of the deadlock over award negotiations continuing. However, the Government was playing its cards close to its chest e.g. Mr Gordon said "It would obviously be provocative to discuss them. We are relying on the goodwill of the parties, but we are preparing for eventualities. If they let us down, 'then the Government might have to act unilaterally'".⁶⁶

The Government also reiterated it would not withdraw the Ocean Beach prosecutions. Mr Muldoon stated, "There is no thought of this. The circumstances are different"⁶⁶ [i.e. from those pertaining at Bastion Point]. Similarly, the Attorney-General (Mr Wilkinson) said that nothing he had seen would support his entering a stay of proceedings:

"Once a prosecution is started it has to be dealt with by the Court unless it is withdrawn by the prosecuting officer, with the leave of the Court, or a law officer exercising his special power of entering a stay of proceedings".⁶⁷

66 Otago Daily Times 28 August.

67 Evening Post 28 August.

Comment: Although the Government raising the spectre of possible law changes still principally relying on the 'supposed goodwill' it gained with the union over the March wage settlement agreement. It is suggested that references to new legislation merely designed to pressure the union - unlikely that the Government really believed that a change in legislation could solve (rather than exacerbate) what had become an essentially human problem.

29 August 1978

The Southland farmers' action group lifted its employment ban against freezing workers, following the union's agreement (25 August) to kill stock in transit. Mr Buckingham, one of the group's leaders said that the killing ban "has served its purpose and farmers must appear to be in the right spirit to co-operate in such an agreement".⁶⁸

Comment: This brought the action group back into line with Federated Farmers (Southland) which had lifted its employment ban on 10 July. However, the action group's principled stand had been successful in publicising their position. The lifting of the employment ban drew no reaction from the local shed unions as to whether as expected they would in turn lift their killing ban on Messrs. Buckingham and Slee.

Also on 29 August the national executive of the Meat Workers' Union held a two hour meeting with the Prime Minister and the Minister of Agriculture (Mr McIntyre) on the stalled award negotiations. After the meeting Mr Kennedy said the

68 The Dominion 29 August.

union had not changed its stand "but we are open to new circumstances as they eventuate. As always we are in a position of flexibility".⁶⁹ Mr Kennedy revealed that September 11 had been tentatively set for a resumption of conciliation talks 'but events would determine whether the union would attend'⁶⁹ (i.e. referring to outcome of Ocean Beach prosecutions).

Mr Kennedy, while admitting that the Prime Minister had made it clear that prosecutions would proceed, warned that "Quite evidently, unless there is some adjustment, it will be difficult for us to have the necessary influence with our people when it comes to have a trouble-free season".⁶⁹

In contrast, Mr Muldoon's comments following the meeting were brief - merely said there had been "a little progress but not much".⁶⁹

Comment: Although Kennedy's attitude eminently reasonable clear that nothing substantial achieved - the union not about to reverse its policy of non-cooperation. Thus, while the Government remained convinced of the union's good intentions time was nevertheless running out to negotiate a new award.

30 August 1978

Mr Wright, the president of Federated Farmers said that the Federation fully supported the agreement on the killing stock in transit reached on 25 August. However, "one of

⁶⁹ The Dominion 30 August.

the Federation's major concerns is the delay in conciliation proceedings for the new season's award. The current prosecutions in Southland have meant that conciliation proceedings have been adjourned. Should the Southland proceedings be further delayed, which in the course of law is possible, award negotiations will not be completed before the commencement of the killing season".⁷⁰

Mr Wright further added that "the Federation is of the opinion that, in future, prosecutions should only be made when there is a serious breach of this agreement. Prosecutions over trivial matters only inflame the situation and do little for the industry at large. However, the Federation would be very firm that where a major breach occurred and stock were returned to farmers, prosecutions should be carried out".⁷⁰

Comment: Mr Wright's statement significant in that it represented the first occasion on which the Federation had softened its stance on the question of prosecutions. In fact stating that some stoppages (depending on their disruptive effect) acceptable to farmers. Similar to Kennedy's remarks on 5 April that sufficient if the killing out agreement honoured "by and large".

31 August 1978

Following a National Party caucus meeting, which discussed Mr Wright's statement of the previous day, the Prime Minister

⁷⁰ Federated Farmers Press Release 30 August.

said that caucus attitude on the prosecution question was now mixed. "There are those who say you must charge ahead and there are those who say if Federated Farmers take this line perhaps the Government should have another look at it".⁷¹ Mr Muldoon considered Mr Wright's statement to be "very important and I think significant in terms of what might happen this year in the season".⁷¹

When asked if it was possible the prosecutions against Ocean Beach freezing workers might be withdrawn Mr Muldoon said "Oh, anything's possible ... but I couldn't give you the odds".⁷¹

Comment: It appears the Government was reading a lot into Mr Wright's statement - apparently treating it as if it were a request that prosecutions should be withdrawn. At this stage clear that the Government debating whether or not to proceed with prosecutions.

However, this new development unpopular with many Government back-benchers. Thus, Mr Dail Jones, M.P. for Waitemata, for example warned that withdrawal of the prosecutions would be a "gross breach of the rule of law. Any such step would be a subversion of our court system and a first step in the breakdown of a democracy. A decision by the cabinet to stop prosecutions ... would amount to an interference with the course of justice".⁷²

71 The Dominion 1 September 1978.

72 New Zealand Herald 1 September 1978.

Ironically, at the same time as the Government caucus was debating whether or not to withdraw prosecutions the Labour Department was in the process of instituting further proceedings. On 31 August the Department issued summonses against two branch officials of the Westfield Freezing Company in Auckland charging them with breaching section 125A(4) Industrial Relations Act, which makes it an offence to "incite, instigate or abet any offence against this section, or assists any person who has struck ... in breach of this section, to continue to be a party to the strike". The charges related to a one-day walkout from the Westfield Works on May 19, when the freezing workers' 8.5 per cent incentive back pay row was at its height.

Comment: Labour Department adopting a new approach - avoiding the administrative problems inherent in prosecuting large numbers (as at Ocean Beach) and instead charging individual union leaders. However, the timing of these prosecutions unfortunate, with the national union executive engaged in delicate negotiations with the Government. It lessened the likelihood of an agreement emerging as the union was not prepared to commence award talks "while the Labour Department is misinterpreting the issues and camping on our doorstep".⁷³

1 September 1978

In Morning Report on the National programme the Prime Minister discussing the Ocean Beach prosecutions said:

73 Mr F. Barnard, president of the Auckland Freezing Workers Union reported in The New Zealand Herald 1 September.

"I would be prepared in the interests of good will to endeavour to persuade my colleagues to institute a clean-slate policy; in other words, wipe last year's slate clean and start again in an atmosphere of good will. I will be prepared to put that to my colleagues, but I would not even put it to my colleagues unless the representatives of the farming community, the executive of Federated Farmers, came along to me as leader of the Government and said they wanted it. Now the ball is in their court. They can come to the Government and say, 'We want a clean-slate policy', and I believe we could have the best season we have had for many years, because the atmosphere of good will is there.

Federated Farmers made their agreement last Friday with the freezing workers to reinstate the 3-days' notice and the unionists have said they will do their level best - I believe that - to see it is carried out. But as the leader of the law and order party I am not going to ask my people to withdraw those prosecutions until the farming community come along and say we want a clean slate policy, we want you to do it, and that is where it rests as of tonight".⁷⁴

Comment: This represents a fantastic statement by Mr Muldoon. In effect he was seeking to delegate the responsibility for determining the prosecutions to a third party i.e. the ultimate decision on whether the Ocean Beach freezing workers to be prosecuted placed in the hands of Federated Farmers.

74 Reported in New Zealand Parliamentary Debates 1978 p. 4099.

Obviously disastrous implications for the rule of law and due legal process.

However, this development clearly demonstrated that the Government wanted to withdraw the prosecutions but needed Federated Farmers public support before doing so in order to give the decision some degree of political acceptability. Federated Farmers, in effect being asked to save the Government's political neck.

2 September 1978

Mr Wright, the Dominion President of Federated Farmers responded to Mr Muldoon's speech of the previous day in these terms:

"The Federation is anxious to see that the new killing season opens on time and proceeds without trouble. However, I will not see the Federation used as a scape-goat for unsatisfactory industrial law. Should the Government see deficiencies in the law, it has both the responsibility and the ability to make the necessary changes.

The Federation has not changed its attitude regarding the prosecutions in Southland. These prosecutions are in the hands of the Court and in my opinion it is not the place or the right of the Federation to interfere in such legal proceedings.

The Federation has not asked for the prosecutions to be withdrawn and will not take the initiative for this to be done. Unless there is a groundswell of farmer opinion to the contrary. I can see no reason to change this attitude".⁷⁵

Comment: Federated Farmers quick to deny any involvement in the question of withdrawing prosecutions. Appeared to resent the Government's attempts to shift responsibility for the prosecutions onto the Federation as this would place it in an invidious position in relation to its own grass-roots membership. The Federation's response a clear rebuff to the Government.

4 September 1978

At a press conference following a Cabinet meeting Mr Muldoon said the Government did not intend to stop the Ocean Beach prosecutions:

"We are a party that supports the rule of law, and we are a law and order party, and having written the legislation the prosecutions are proceeding. And that's it".⁷⁶

However, at the same time as the Prime Minister was emphasising that the prosecutions would go ahead a different scenario was being painted by the M.P. for Kapiti, Mr Barry Brill:

"The Government would not instruct the department not to put up evidence, but it could say that it did not think

75 Federated Farmers Press Release 2 September.

76 New Zealand Herald 5 September 1978.

it was a good idea for the prosecutions to go ahead. The department might well then decide not to offer evidence, in which case the magistrate would probably dismiss the prosecutions".⁷⁷

Comment: Mr Muldoon's statement that the prosecutions would proceed a necessary consequence of the strong adverse reaction from farmers and National backbenchers (many of whom in marginal rural electorates) to the Government's suggestion that the prosecutions be withdrawn (albeit on the initiative of Federated Farmers).

Mr Brill's remarks, however, are highly significant in view of the ultimate fate of the Ocean Beach prosecutions. It raises the question as to whether he had merely anticipated subsequent events or whether he was a party to a decision already taken to deal with the prosecutions in this manner.⁷⁸ This point will be developed later.

5 September 1978

Following the Government's decision to proceed with the prosecutions the Meat Workers' Union reiterated that it would not participate in award negotiations until the situation was resolved "It's up to the Government now to go ahead and do its worst".⁷⁹

77 New Zealand Herald 4 September 1978.

78 Mr Brill, although a Government backbencher, a prominent lawyer who may have been consulted on the legality of this course of action. However, this admittedly speculation.

79 Mr J. Sneddon, assistant secretary of the Meat Workers' Union reported in the New Zealand Herald 5 September.

6 September 1978

Mr Anderson S.M. decides that the Magistrate's Court has jurisdiction to hear the Ocean Beach freezing workers prosecutions.

7 September 1978

Mr Muldoon announced that a "summit" conference on the freezing industry would be held on 13th September. The conference, suggested to the Government by Federated Farmers, would involve representatives of the Federation of Labour, the Meat Workers' Union, Federated Farmers, the Freezing Companies Association and senior Cabinet Ministers.

Comment: This conference represented the last opportunity to resolve the stalemated situation in the freezing industry before the hearings of the Ocean Beach prosecutions due to commence on 21 September.

13 September 1978

A draft agreement to resolve the impasse in the freezing industry arrived at on the second day of the Government sponsored conference involving all parties. The Government, represented by the Minister of Labour (Mr Gordon) and the Minister of Agriculture (Mr McIntyre) reported as having acted in a mediating role.⁸⁰

80 The Daily Telegraph 14 September 1978.

No details of the draft agreement were announced as it was dependant upon being ratified by the parties concerned and the Government caucus. However, Mr Gordon said the agreement involved "certain steps in regard to certain prosecutions"⁸⁰ but he declined to explain further other than that the prosecutions were those at Ocean Beach. Mr Gordon considered that notification of the agreement was all that was holding up the start of award talks.

Meanwhile the president of Federated Farmers, Mr Wright said that the federation had accepted the draft agreement in principle but that it would be considered by a meeting of provincial presidents "We accept it in principle, but all parties have an option to out if they don't agree".⁸⁰

Later that day Mr Kennedy announced that the union council had ratified the draft agreement. Mr Kennedy said that within the agreement there was provision for "having the [Ocean Beach] prosecutions dealt with to its [i.e. the union's] satisfaction".⁸¹

However, Mr Jackson, the Secretary of Labour, would not be drawn on whether the agreement meant that prosecutions would be dropped. "I would understand Mr Kennedy as wishing the prosecutions to, in some way, go away. That's not going to happen today, tomorrow, or even next week". 'But, he said it could not be taken from his words that the prosecutions were not going to be dropped'.⁸¹

81 Evening Post 14 September 1978.

Comment: At this stage clear that all parties have agreed on how the prosecutions are to be dealt with although the actual details confidential. However, an element of doubt raised by the ambiguous, indeed contradictory remarks of Jackson.

16 September 1978

A meeting of Federated Farmers provincial presidents called to discuss and ratify the draft industry agreement instead voted unanimously that prosecutions of freezing workers should go ahead.⁸²

Comment: The provincial presidents of Federated Farmers, more in touch with grass-root farmer opinion than their national executive colleagues, apparently found the proposed solution for dealing with the prosecutions repugnant. Their decision effectively left the peace plan, ratified by the other parties, in a state of limbo.

17 September 1978

Mr G.E. Gordon, the president of Rangitikei Federated Farmers, said that while farmers wanted a smooth start to the killing season they insisted that the law take its course on the prosecution of freezing workers:

"The tragic position now facing the Government, farmers and the country, is that the time is getting closer when we want a relaxed freezing industry to start work.

82 Evening Post 16 September 1978

"Time is marching on and the unions are playing for time knowing that as October and November draw closer, the pressure will come on them to process New Zealand's lamb crop. The Government has hinted at the prosecutions being stopped. But they brought in the law, imagine the roll-on effects with Bastion Point offenders and freezing workers flouting the law.

Law and order will go out the window. Should the Government withdraw prosecutions, it will show the law to be ineffective and show a bias.

Farmers are adamant that the law must be upheld and it is wrong for any Government to pressure any third party because of the failure of the law to cope".⁸³

Comment: Mr Gordon's speech has been quoted as he was one of the provincial presidents who had voted that prosecutions should continue and his remarks here are presumably a reaction to the solutions put forward in the draft agreement. Consequently, in this regard it is significant that his speech represents an impassioned plea to uphold the rule of law. (N.B. Similar responses forthcoming from other provisional presidents of Federated Farmers).⁸⁴

Mr Gordon's address also demonstrated that farmer opinion had still not grasped the political reality of the situation i.e. that their desire for a smooth killing season and for prosecutions to go ahead in fact mutually exclusive.

83 The Wanganui Chronicle, 18 September.

84 For example, see the remarks of the president of Hawke's Bay Federated Farmers reported in The Herald Tribune 21 September.

STAGE IV - WITHDRAWAL OF OCEAN BEACH PROSECUTIONS

21 September 1978

The first four prosecutions against Ocean Beach freezing workers were dismissed in the Invercargill's Magistrate's Court after Mr Anderson S.M. refused the prosecution's request for an adjournment. The Crown Prosecutor (Mr Laing) called the Secretary of Labour (Mr Jackson) to give formal evidence in support of the adjournment request. In his testimony Mr Jackson stated that:

1. "Currently the fact that these prosecutions are pending is preventing and in my judgement will continue to prevent, the negotiation of conditions of employment in the freezing industry in the coming season".⁸⁵
2. That 'at the industry conference at Parliament [on 14 September] a unanimous recommendation emerged that adjournments should be sought on the prosecutions. This was to enable the parties to meet to develop an agreement on killing stock before a stoppage and for Mr Jackson to prepare a report on the application of industrial relation legislation'.⁸⁶
3. 'That in his view the main purpose of the Industrial Relations Act was to improve industrial relations. He therefore considered that the appropriate course in the

85 Extract from Mr Jackson's testimony cited in New Zealand Parliamentary Debates 1978 p. 3728.

86 The Dominion 22 September.

circumstances was to seek an adjournment of proceedings'.⁸⁶

4. That he alone had made the decision to seek an adjournment: "I informed last week's conference that decisions as to prosecutions are made and determined by me without political direction. I further want to make it quite plain to Your Worship that I have not received any instructions from my Minister as to the course I should follow in deciding this matter. I have simply adopted what I consider the appropriate course that my department, as the prosecuting authority, should follow in the light of the recommendations from last week's conference".⁸⁷

5. "I have had legal advice that I am not subject to political direction from the Minister in charge of my department in regard to the taking of criminal proceedings under the Act. And indeed, that I should ensure that political considerations should be put on one side and disregarded when determining the institution and course of such proceedings".⁸⁸

However, the adjournment request was denied by Mr Anderson S.M. He said that it was now more than one year since the informations were first sworn in the Industrial Court and since the charges had by legislation been transferred to the Magistrate's Court the delay had been long enough. When the adjournment was refused the Crown Prosecutor said he would not be offering evidence against the four defendants

87 Extract from Mr Jackson's testimony cited in New Zealand Parliamentary Debates 1978 p. 3724.

88 ibid. p. 3727.

and Mr Anderson accordingly dismissed the charges for want of prosecution.

After the dismissal of the first 4 charges both counsel met and discussed the fate of the remaining prosecutions. The result was that when the Court reconvened at 2p.m. Mr Laing informed Mr Anderson S.M. that the remaining 188 charges were being withdrawn. The hearing was concluded with the Magistrate awarding costs to the defendants of \$2,245.

In Wellington a new killing agreement was signed at 3p.m. scant minutes after all parties (who had been attending a conference at Parliament) had learnt of the withdrawal of the remaining prosecutions. The agreement was signed in the Minister of Labour's office by representatives of the Federation of Labour, the Meat Workers' Union, North Island Freezing Workers' Association, Federated Farmers and the Freezing Companies Association.⁸⁹ The agreement specified that workers would kill all stock on hand and in transit before taking strike action, except where health or safety considerations involved. Part of the agreement called for a report on the penalty provisions of the Industrial Relations Act to be undertaken by Sir William Dunlop, a former Dominion President of Federated Farmers.

Comment: This development obviously a significant turning point in events. The most contentious issue to subsequently emerge was whether the Secretary of Labour (notwithstanding his

89 Reported in The Dominion 22 September.

emphatic remarks to the contrary) had acted under political direction such that there had been interference by the Government with the rule of law/due process. This point will be examined fully later. However, it is sufficient at this stage to point out that there was interference in due legal process in that Mr Jackson informed the Court he was seeking an adjournment in the interests of industrial harmony and not because of lack of evidence or any other legal consideration.

The withdrawal of prosecutions did of course have the positive effect of enabling the meat agreement to be concluded and cleared the way for negotiations on a new award to begin. In this respect it certainly met the interests of all parties (and especially the Government, which had the most to lose if the deadlocked industrial situation had not been resolved). However, the outcome at Invercargill also raised significant questions about the future validity of the Government's industrial relations legislation and the fate of other pending prosecutions.

Reaction to the withdrawal of the prosecutions was mixed.

1. The Minister of Labour expressed disappointment that the Court had not granted an adjournment and given the agreement a chance to work.⁹⁰ However, Mr Gordon added that "the Secretary of Labour, having made these decisions [i.e. not to offer evidence] receives my full support".⁹¹

90 Evening Post 21 September.

91 The Dominion 22 September.

2. Hard line Government backbenchers were distinctly unhappy with the turn of events. For example, Mr Dail Jones, the M.P. for Waitemata expressed disappointment at the dismissal of the prosecutions and stated "We spent a lot of time passing this legislation. I will be seeing what can be done to ensure that public servants cannot thwart us in this way".⁹²

The M.P. for Invercargill, Mr Norman Jones, went so far as to offer his resignation to his National Party electorate chairman and secretary because of the withdrawal of prosecutions. However, it was not accepted.⁹³

3. The freezing companies were relieved at the outcome (as might be expected) with Mr Blomfield, the executive director of the Freezing Companies' Association stating that there was now "no reason conciliation on next season's award should not go ahead as planned in early October".⁹⁰

4. No public comment was forthcoming from Federated Farmers. However, to many farmers groups (e.g. the Southland farmers action group) the withdrawal of prosecutions was interpreted as yet a further 'cave-in' to militant union demands.⁹⁴

5. There was almost universal praise for the actions of the magistrate from non-governmental quarters in not allowing the Court to be used for what were perceived as being political purposes.⁹⁴

92 New Zealand Herald 22 September.

93 Reported in The Evening Post 26 September.

94 See comments in The Southland Times 23 September.

22 September 1978 the policy guidelines laid down by the Government.⁹⁵

Stormy debate in Parliament over the withdrawal of the Ocean Beach prosecutions with Government members denying involvement in the decision and the Opposition claiming political interference by Government Ministers. However, leaving aside the political rhetoric a number of interesting points did emerge from the debate:

1. The Government stated it had no intention of changing the law following the result at Ocean Beach: "I say again, unequivocally, that the law is working. The Government has received more notices of strike action under the 3 day rule in section 125A. We are not discussing other sections The law is working and the Government has no intention of changing that section".⁹⁵

2. The Minister of Labour was at some points to emphasise he had given no political direction to the Secretary of Labour: "Personally, I am quite sensitive about this, because at no time have I issued instructions about prosecutions to an officer of the Crown or any administrator of the Government".⁹⁶

3. That the Government was aware that the Secretary of Labour would offer no evidence if an adjournment was not granted: "I can tell members that last Friday, a week ago today, he [i.e. Mr Jackson] decided that, if there were no willingness on the part of the court to grant a postponement, he would not produce evidence. That was his decision. He had to make

⁹⁵ Mr Gordon New Zealand Parliamentary Debates 1978 p. 3713.

⁹⁶ ibid p. 3712.

a decision, knowing the policy guidelines laid down by the Government".⁹⁷

4. It was revealed that Mr Jackson in an official letter to the solicitors of Federated Farmers as far back as 9 November 1977 had stated: "The Government has considered whether the proposed prosecutions should be abandoned. There are a number of factors which would favour such a course, not the least of which is the inevitable repercussions which your letter clearly acknowledges. I am authorised to inform you that, if the Southland Province of Federated Farmers should agree unconditionally to the proposed prosecutions being abandoned, the Government will consider the matter further".⁹⁸

Comment: Clearly emerges that the Government tacitly, if not expressly, had previously agreed with the Secretary of Labour's proposed course of action i.e. that if necessary no evidence should be offered. It is suggested that, notwithstanding any principle of departmental independence, if the Government had expressed a strong desire for the proceedings to continue the Secretary of Labour would certainly have felt compelled to do so.

Mr Jackson's letter of 9 November 1977 is significant in that it demonstrates that at that stage the Government was considering withdrawing the Ocean Beach prosecutions. Presumably it did not do so because the reaction of Southland farmers made such a decision politically unacceptable.

97 Mr Talboys, Deputy Prime Minister New Zealand Parliamentary Debates 1978 p. 3720.

98 Quoted in New Zealand Parliamentary Debates 1978 p. 3708.

23 September 1978

The prosecution question not completely resolved with Mr Kennedy warning that continuation of charges of incitement pending against union officials and workers at other works could jeopardise the meat industry agreement.⁹⁹

Comment: The union seeking to consolidate its gains still dangling the spectre of a chaotic killing season in support of its objectives. However, unlikely that these remaining charges would proceed in light of the Ocean Beach result - but dependant upon what recommendations contained in the Dunlop Report.

27 September 1978

The Southland Times "leaks" a summary account of what was decided at the top-level freezing industry conference of September 12. The report was prepared by the Freezing Companies Association's industrial executive officer Mr Ineson and was intended to be circulated solely to the general managers of freezing companies.

In his report Mr Ineson stated: "It was apparent that the Government required the farmers to change their position and agree to the annulment of the prosecutions, although there was no guarantee this would be approved by caucus".¹⁰⁰

⁹⁹ Reported in The Evening Post 25 September.

¹⁰⁰ Quoted in The Southland Times 27 September.

The report revealed that:

1. The position was deadlocked at the end of the first day of talks. 'The unions would do nothing while all prosecutions remained, farmers would not agree to the withdrawing of Ocean Beach prosecutions, and the Government was standing firm on those prosecutions'.¹⁰⁰

2. Real progress was first made on the morning of the 13 September when F.O.L. President Sir Tom Skinner expressed the view that 'pending prosecutions should be dropped and that those before the court should lapse "by virtue of the fact that the Department of Labour should offer no evidence"'.¹⁰⁰

'It was then agreed that if the conference proceeded satisfactorily, a joint application could be made by the parties to adjourn the hearings'.¹⁰⁰ However, the national president of Federated Farmers stood firm 'saying any decision reached and its implementation rested with the Government'.¹⁰⁰

3. A tough line was adopted by Mr Kennedy when the conference resumed. He said 'that under no circumstances would the executive condone the withdrawal of one set of prosecutions while the others remained'.¹⁰⁰

4. After discussing a set of recommendations put forward by the Freezing Companies Association the parties finally came up with the following agreement:

"We unanimously recommend that:

(A) Adjournments be jointly sought for all prosecutions to enable:

(i) The Freezing Workers' Union, the Federation of Labour (representing other unions), the Freezing Companies Association and Federated Farmers to develop an agreement on the killing out of stock before a stoppage.

(ii) Concurrently with (i), a comprehensive report to be prepared by the Secretary of Labour, Mr G.L. Jackson, on the application of the industrial relations legislation to date, the extent to which it is fulfilling the requirements of Government policy, and any changes that would be appropriate, for reference to Sir William Dunlop for his comments and report to Government.

(B) Depending on the outcome of (i) and (ii) above, an approach be made to the Government by each party requesting that the prosecutions be annulled.

(C) Subject to the Government acceding to the request of the parties, conciliation proceedings will commence forthwith between the freezing companies and the freezing workers' unions and the conciliation committee will resume".¹⁰⁰

Comment: Presupposing Mr Ineson's report is an accurate account of what occurred it shows that:

1. There was apparent agreement by all parties (including the Government and Federated Farmers) that all prosecutions (not just those at Ocean Beach) should be annulled. In any event the Meat Workers' Union made it plain that conciliation talks would not occur while prosecutions remained outstanding.

2. That while it is clear that all parties agreed to an adjournment of the cases they were apparently aware that Jackson would call no evidence if the adjournment request was refused and presumably agreed with this.

3. The question of what would have occurred if the Magistrate had granted an adjournment really remains unresolved. The agreement posits that the Government would, after receiving Sir William Dunlop's Report, have annulled the prosecutions at the request of the parties. However such a development, throwing ultimate responsibility onto the Government for the withdrawal of prosecutions, would clearly have been politically abhorrent to the Government with an election approaching. It is difficult to avoid the conclusion that, despite Ministerial statements to the contrary, the Government preferred to have the adjournment refused so that Jackson would offer no evidence and the issue would finally be resolved. If this is so then:

"The political realisation that any competent lawyer would know that the magistrate would not grant an adjournment endlessly in criminal proceedings was carefully worked out. The scenario is a very simple one. They had decided they would not offer evidence, and they could rely on the magistrate, being a proper judicial officer, to get them off the hook".¹⁰¹

Some support for this theory of a pre-conceived 'conspiracy' on the Government's part is gained from the remarks of Mr Barry Brill, the M.P. for Kapiti on 4 September, when he so uncannily

101 Mr Lange, M.P. for Mangere, New Zealand Parliamentary Debates 1978 p. 3722.

predicted what might occur. However, such a conspiracy theory, while perhaps consistent with the known facts and the parties perceived interests, remains a speculative, subjective conclusion.

27 September 1978

The Dunlop Report handed to the Minister of Labour. Meanwhile Mr Gordon reacted angrily to the 'leaked' summary report:

"The information alleged to have been made by the executive officer of the Freezing Companies Association (Mr C.R. Ineson) is totally incorrect and has been mischievously made".

Mr Gordon reiterated that he had made it quite clear to the conference that no undertaking could be given in respect of pending prosecutions'.¹⁰²

Comment: Mr Gordon's reaction reflected the fact that the question of the remaining prosecutions had become a sensitive political issue. Militant farmers groups and hard line Government backbenchers, faced with a fait accompli over the Ocean Beach prosecutions, were determined that the remaining charges should proceed.¹⁰³

¹⁰² Evening Post 27 September.

¹⁰³ See comments to this effect in The Southland Times 26 September.

STAGE V - THE DUNLOP REPORT AND ITS CONSEQUENCES

28 September 1978

The Dunlop Report publicly released.

The Report began with a mildly worded rebuke to the Government over its handling of industrial matters since regaining power in 1975: '... the Secretary of Labour's report highlights certain fundamental weaknesses in the present legislation and my own independent investigations have confirmed these. It is my view that the Government over-reacted to the removal of the penalty provisions from the original 1972 Industrial Relations Bill by the Labour Government'.¹⁰⁴

Sir William then went on to say that we was 'convinced that the criminal process is inappropriate in the enforcement of [industrial relations] legislation'.¹⁰⁴ A number of reasons were given why civil penalties would be more appropriate, such as that prosecuting authority would have greater flexibility, the Department could have regard to industrial and political factors and so on.

Accordingly, the Report made 2 major recommendations.

1. 'That the Government promote immediate legislation transferring the liability under sections 81, 125 and 125A of the Industrial Relations Act from one that is criminal in nature to one that is civil in nature'.¹⁰⁵

104 The Dunlop Report p. 1.

105 ibid. p. 3.

2. 'That the same legislation include a provision withdrawing all existing prosecutions'.¹⁰⁵

In regard to the Ocean Beach prosecutions Sir William, while not expressly stating that they were politically motivated, acknowledged that 'The Department came under a good deal of pressure, some of it political, to initiate action against those who stopped work at Ocean Beach'.¹⁰⁶ However, the Report does state that the Secretary of Labour was not acting subject to a political direction when he decided to offer no evidence.

Comment: It is debatable to what extent the Dunlop Report constitutes an independent, objective analysis of the industrial relations scene. A number of factors mitigate against such a conclusion.

1. The Report was prepared in great haste (from 13-26 September and presumably Sir William had little opportunity for 'independent investigations').
2. It relies almost exclusively on the report prepared by the Secretary of Labour (scarcely a neutral source in the circumstances).
3. Sir William was almost certainly aware of the view of the various parties who commissioned the Report and their expectations of what his recommendations would entail.

The reasons advanced in the Report justifying a change from criminal to civil liability are extremely vague (notions of flexibility etc.) and on examination are not highly

106 The Dunlop Report, Annex 1 p. 4.

persuasive. For example, the statement that 'The present legislation places those who oppose the strike but are nonetheless bound by the majority decision in an untenable position. Either they must leave the industry or carry the risk of criminal conviction, with all the consequences that this entails',¹⁰⁴ appears to overlook the fact that in essence a person opposing a strike would be in an equally untenable position with civil penalties. Moreover, Sir William nowhere in the Report addresses himself to the problems inherent in using civil penalties in matters of industrial relations e.g. the difficulties associated with third party litigants divorced from the realities of the industrial environment.

The Dunlop Report recommendation that industrial penalties should be made civil in nature was not a radical solution. Indeed, the Cabinet had already discussed such a development on 4 September (see the Auckland Star 5/9). Consequently, examining the entire circumstances, it appears that the Dunlop Report was a pre-conceived device to present the parties (and especially the Government which had the ultimate responsibility) with a face-saving solution on the prosecution question.

29 September 1978

Mr Gordon receives the reaction of the various parties involved in the freezing industry dispute to the Dunlop Report.

107 The Daily Telegraph 29 September.

108 Evening Post 29 September.

109 Evening Post 30 September.

110 Evening Post 29 September.

1. The Federation of Labour called on the Government to refer the report to the Industrial Relations Council for further discussion before making any changes to the law 'because some recommendations in the report were not in favour of the workers'.¹⁰⁷ The F.O.L. was particularly unhappy with the proposal that penalties become civil rather than criminal in nature. "That's just taking them from one court to another - the penalties are still there",¹⁰⁷ the F.O.L. secretary, Mr Knox said.
2. The Meat Workers' Union responded cautiously with national secretary Mr Kennedy describing the report as "far too vague" and stating that no official union reaction could be made until it was clarified either by Sir William or the Minister of Labour.¹⁰⁸
3. The Freezing Companies Association welcomed the report as "a positive step forward".¹⁰⁹ The association's executive director (Mr Peter Blomfield) 'said the association agreed in principle with the report, including the idea of changing from criminal to civil liability for offences against the Industrial Relations Act'.¹⁰⁹
4. Federated Farmers Dominion Council 'unanimously agreed to support some Dunlop recommendations which would set up an inquiry into the determination of pay rates and other issues in the meat industry'.¹¹⁰ However, the Federation made no direct comment on the two main Dunlop proposals - the

107 The Daily Telegraph 29 September.

108 Evening Post 28 September.

109 Evening Post 30 September.

110 Evening Post 29 September.

dropping of existing prosecutions and the change from criminal to civil liability. Instead, the Federation's press release contained a paragraph stating that the report "has been prepared by the Government and only Government has the authority and the responsibility to make the necessary changes and decide the future of pending prosecutions in the light of those changes".¹¹¹ This appeared to be a move to put total responsibility back on the Government.

The Federation's press statement concluded cryptically: "The continuation of Federated Farmers' support and cooperation is contingent upon the total removal of bans against the individual and a positive response to the Report from other parties".¹¹¹

Comment: The only party to positively endorse the Report was the Freezing Companies Association, although clearly only a matter of time before the union would do so as the Report did meet its demands that remaining prosecutions be extinguished. However, the crucial party in terms of implementing the Report's proposals was Federated Farmers and their response was ambiguous, so much so that Gordon said "at this stage, quite frankly, I am not too happy because I can't understand it fully".¹⁰⁹

Although Federated Farmers had agreed at the industry conference of 13 September that all prosecutions should be annulled a significant body of grass-roots farmer opinion was

111 Federated Farmers Press Release 29 September.

unhappy with the way events had developed. This had probably led to a reappraisal of the position by the national executive and hence the ambiguous nature of their response. However, the reference to the 'total removal of bans against the individual' almost certainly alluding to the killing bans in force in Southland against the leaders of the farmers action group.

30 September 1978

The Government's wage subsidy contribution to the March settlement finished on this date. Question of who was going to bear the cost of the Government's contribution now?

2 October 1978

A Government Cabinet meeting spent a considerable time discussing the Dunlop Report and also proposed legislation drafted over the weekend by the Minister of Labour, Mr. Gordon, and departmental officials. After the meeting Mr Gordon said he had presented 3 options to Cabinet. However, he would not divulge these options although he revealed that all involved legislation. 'Cabinet was "predisposed" to one of the options, which went "along the lines" of the Dunlop report, he said'.¹¹² Mr Gordon emphasised that the final decision on whether the industrial law should be amended would be made by the full Government caucus.

112 The Southland Times 3 October.

Meanwhile, Mr Gordon had received clarification over the weekend of Federated Farmers reaction to the Dunlop Report and 'it is understood ... that the farmers are unhappy with both the key Dunlop recommendations'.¹¹³

Also on 2 October the Secretary of Labour, Mr Jackson confirmed that he is the prosecuting agent for the 19 cases still pending against union workers and officials. The first of these prosecutions due to be heard on October 13. 'Asked if he had made any decision on what to do about these cases, Mr Jackson said: "The position will depend on developments in the meantime. I want to be very non-committal about it".¹¹³

Comment: At this stage the Government on the threshold of introducing legislation to withdraw the remaining prosecutions. A necessary development if the Government's objective of a new award and hopefully a strike free killing season to be achieved. However, with the farming community not convinced of the merits of the Dunlop proposals the Government clearly in danger of alienating a traditional area of its support.

3 October 1978

Special meeting of the full National Party caucus approved the Cabinet's recommendations concerning the Dunlop Report - the result was the introduction into Parliament that afternoon of the Industrial Relations

¹¹³ Evening Post 2 September.

Amendment Bill, which embodied the principal recommendations of the Dunlop Report. Clause 4 of the Bill provided that industrial penalties would now be civil rather than criminal in nature and that all informations laid under section 81 or section 125 or section 125A of the principal Act on or after 25 November 1976 to be withdrawn.

Comment: This decision certainly not unanimous. Certain hard line Government M.P's, such as the member for Invercargill, Mr N. Jones, were strongly opposed to the withdrawal of the remaining prosecutions. It is interesting to speculate what role the Prime Minister played in this decision. Mr Muldoon had just returned from an overseas trip and had been out of the country since the Ocean Beach prosecutions were dismissed on 21 September.

Farmer reaction to the new legislation was mixed:

1. At a national level the president of Federated Farmers Mr Wright adopted a moderate stance stating that:

"Government's decision to alter the law which shifts the penalties from the criminal to civil court should reduce the tensions to help overcome many of the current industrial problems.

The move made by Government today is realistic in the circumstances and I hopefully believe it should pave the way for a trouble free killing season".¹¹⁴

114 Evening Post 4 October.

2. In contrast farmer reaction in Southland to the legislation was extremely critical. Mr Buckingham, spokesman for the farmers' action group said that:

"National supporters are very disillusioned with the way the Government has carried on over this and there will be a protest of some sort.

For the sake of industrial relations, the Government has shown complete disrespect for the law. Where will Mr Kennedy finish up? If he can take the law now and change it to suit himself, what next? The ball's in his court.

There has got to be a stand made somewhere. I just wonder what compromise Mr Kennedy will make. It's all been one way so far".¹¹⁵

Mr Buckingham's sentiments were echoed in the comments of Mr Owen McStay the chairman of Federated Farmers (Southland) industrial relations committee who said that the Government's action was a demonstration of "sheer political expediency. They have taken the easy way out. The big question that everyone is going to ask now is, when the law is revised, will prosecutions go through or will this whole farcical business be repeated, with the Government giving in to the unions until all penalties are removed from the law?

They have pretty well bowed down to everything the union wants so far to get the conciliation talks".¹¹⁵

Comment: Mr McStay's last remark really succinctly sums up the Government's position throughout the year. Its prime motivation was the conclusion of a new award which would prevent a recurrence of the crippling series of stoppages that had plagued recent seasons. This consideration had shaped the Government's attitude toward the parties and explains its vigorous attempts to secure the goodwill of the Meat Workers' Union.

However, as demonstrated by the statements of Messrs Buckingham and McStay the Government's actions in this regard had effectively alienated farmer opinion. The new legislation retrospectively withdrawing prosecutions was the last straw. The question raised is to what extent agrarian disenchantment with the Government in Southland was reflected throughout the country?

Mr Wright's statement, although inherently reasonable, does mark an about-face from the previous stance of hostility towards the Dunlop proposals exhibited by the national executive of Federated Farmers. However, it appears that the national executive was in favour of the Dunlop Report throughout but could not publicly come out in favour of it because of adverse farmer reaction at the provincial level - but with the introduction of the Bill the necessity for restraint was no longer apparent.

In Parliament the Bill was introduced and read a second time on 3 October. During the introduction the Opposition welcomed that aspect of the Bill withdrawing remaining

prosecutions but criticised the change to civil liability. "It is attempting to apply some cosmetic treatment to make the legislation look different".¹¹⁶ The Labour Party objected that placing industrial matters before a civil court would not improve industrial relations:

"The Government is merely transferring disputes from criminal to civil courts in spite of past experience, in this country and overseas, that industrial relations matters cannot be dealt with effectively in civil courts. If courts are to be used in industrial relations matters industrial courts should be used ... One basic argument that business interests, legal commentators, and unions have raised against penalties in legislation of this kind is that in industrial matters the penalties are largely unenforceable, because of the large number of people involved. The ability to sue in civil courts - and we had that experience recently with people not involved in industrial matters - can give rise to all sorts of problems. Once people outside the industrial field are allowed to initiate civil action, it can cause great economic and social problems, and, of course, industrial disruption as well".¹¹⁷

However, the Prime Minister made the Government's position plain:

116 Mr Faulkner, Opposition Spokesman on Labour, New Zealand Parliamentary Debates 1978 p. 4064.

117 Mr Connelly, M.P. for Wigram New Zealand Parliamentary Debates 1978 p. 4068.

"I suggest that when members of trade unions leave stock in the yards to die they should be penalised. That is the issue - never mind the rhetoric, the oratory, or the play acting. As long as there is a National Government in office there will be penalties in industrial legislation".¹¹⁸

Comment: It is submitted that Mr Connelly's statement that civil courts are not the appropriate forum for dealing with industrial matters is correct for the reasons he outlines. It is further submitted that the validity of this argument was recognised by the Government (at least its moderate members). However, politically the Government was in a straitjacket - the National Party had been committed to industrial penalties since the Industrial Relations Act first formulated and to totally drop penalties at this stage could only be interpreted as an admission that its original policy was fundamentally incorrect. Such a move could prove politically disastrous (or interpreted as so) with a general election a mere 7 weeks away. The change to civil penalty provisions could however be portrayed as consistent with National Party policy.

Further, it is also evident that retention of penalties in some form necessary to gain the support of caucus for the legislation and to prevent an open split. Hard line National M.P's were clearly unhappy with the Government's handling of industrial matters. The M.P. for Invercargill, Mr N. Jones

118 Mr Muldoon, Prime Minister, New Zealand Parliamentary Debates 1978 p. 4064.

for example, was so disgruntled that he had publicly stated that he would vote against any measure withdrawing prosecutions.¹¹⁹

The Second Reading of the Bill was remarkable for the stinging criticism of the Government by one of its own members, Mr N. Jones, for failing to uphold the law:

'One thing I have in common with the people of Invercargill and most New Zealanders is that I think that people who break the law should be punished. I have been getting the message loud and clear from my people that with the passing of clause 5(6) the National Government is giving in to blatant political blackmail and the threat of widespread industrial disruption by a bloody-minded militant union. The inclusion of clause 5(6) means that the New Zealand meatworkers' union held a loaded pistol to the heads of the people and the Government and threatened to put the economy into disruption if the Government did not withdraw the prosecutions. The Government has backed off and withdrawn the prosecutions against that threat of blackmail. I know what I would have done

No matter what the withdrawal of the prosecutions means, no matter how the Government attempts to justify it, and no matter how intolerable the political pressure - and I appreciate that - and no matter how outrageous the militant unions' blackmail, nor how much the trend towards disruption of the economy, nor how much the

119 Southland Times 3 October.

country's economy would suffer if the freezing works remained closed throughout the first part of the season and the lambs couldn't get killed, all that is not the point. The point is that the withdrawal of the prosecutions by an Act of Parliament interferes with the law, and further erodes the rule of law".¹²⁰

Comment: Mr Jones' speech obviously embarrassing to the Government. However, it did accurately articulate the feelings of those groups in the country (such as the Southland farmers) who considered that the Government had capitulated to industrial blackmail. Further, Mr Jones' speech is significant for the manner in which the interest considerations that underpinned the Government's actions are clearly defined.

4 October 1978

Mr Kennedy, the Meat Workers' Union national secretary, commenting on the new legislation said that 'the decision on prosecutions of freezing workers had left the way open for negotiations of a new award. "As a consequence we will do all in our power to ensure that the new killing season gets away to a good start"'.¹²¹

Also on 4 October it was announced that conciliation talks on the freezing workers award would resume in Christchurch on 10 October, with Mr Blomfield, the executive

120 New Zealand Parliamentary Debates 1978 p. 4102.

121 Evening Post 4 October.

director of the Freezing Companies Association, stating that he thought the outstanding points in dispute could be resolved by Wednesday (11 October).¹²¹

Comment: The Government's objective of a new freezing industry award before the commencement of the killing season seemingly almost accomplished. The decision to introduce legislation withdrawing prosecutions vindicated - at least in terms of a resumption of conciliation talks.

5 October 1978

The Industrial Relations Amendment Bill received its third reading. During the committee stage the M.P. for Invercargill, Mr N. Jones moved that clause 5(6) the provision withdrawing remaining prosecutions be deleted. However, this was defeated 39-2 with Mr Rex Austin, the M.P. for Awarua voting with Mr Jones.

The Deputy Prime Minister Mr Talboys was the only Southland M.P. to support the withdrawal of prosecutions. "It is easy to take the course that is popular, but I don't feel that is my duty. I think I should also do what I think is the right thing", he said.¹²²

However, Mr Talboy's vote in favour of clause 5(6) drew an immediate, adverse reaction from Southland with a Gore High School teacher, Miss June Slee, the sister of farmers' action group leader Mr Sid Slee announcing she would stand against Mr Talboys in the election as an "alternative National" candidate.

¹²² The Dominion 6 October.

Miss Slee explained her action in these terms:

"We have an M.P. who has had an armchair ride for 21 years and now we, the people of Southland, want to do something about it. There is disenchantment with the Government's highhandedness. We feel the Government is slowly eroding personal freedom. It's frightening".¹²²

Upon being informed of Miss Slee's candidacy Mr Talboys agreed that many farmers wanted the prosecutions carried through "irrespective of the consequences".¹²²

Comment: Mr Talboy's last remark effectively summarised the position. A significant number of farmers wanted the satisfaction of seeing the meatworkers' union prosecuted and labelled criminally negligent no matter what the cost in industrial disruption.

Miss Slee's candidature arising from Mr Talboy's refusal to vote against withdrawing the prosecutions is symptomatic of the intensity of farmer feeling in Southland.

Comment: This development obviously a bitter blow to the Government. The latter had to a large extent put its credibility on the line through withdrawing prosecutions and other measures in order to achieve the conditions necessary for the settlement of a new award. However, this adjournment would suggest that the Government's efforts had not been fully appreciated by the parties i.e. that they were not in the proper manner.

¹²² Evening Post 9 October.

STAGE 6 - EVENTS SURROUNDING THE AWARD SETTLEMENT

9 October 1978

Conciliation talks between the Meat Workers' union and the freezing companies began following the dropping of prosecutions against freezing workers. 'A quick settlement is expected, although the union has made it clear no preconciliation "deal" on the size of the wage increase has been made'.¹²³

10 October 1978

Award negotiations breakdown with the parties disagreeing on the size of the wage increase to be granted. The employers offered 8 per cent inclusive of incorporation of the 1976 cost-of-living order and this year's general wage order while the union was holding out for 13 per cent plus incorporation. There was also disagreement over the issue of wages for freezer hands who were being asked to work in lower temperatures than usual because of overseas requirements.

Comment: This development obviously a bitter blow to the Government. The latter had to a large extent put its credibility on the line through withdrawing prosecutions and other measures in order to achieve the conditions necessary for the settlement of a new award. However, this adjournment tended to suggest that the Government's efforts had not been fully appreciated by the parties i.e. that they were not approaching the talks in the proper manner.

123 Evening Post 9 October.

12 October 1978

Farmer agitation growing once more in Southland over the continued union killing bans on the stock of Messrs Buckingham and Slee. These bans had been in force since 6 July but their existence had inclined to be overlooked in the light of recent developments in the freezing industry at a national level. Now, however, the issue had resurfaced with massive farmer support expected for the two men. Mr Buckingham revealed that "We've had a public assurance from Alan Wright, Federated Farmers' national president, that if the ban isn't lifted there'll be action taken at national level".¹²⁴

Comment: The action of the local shed unions in continuing the killing ban after the farmers action group had dropped its employment ban (29 August) can only be described as vindictive. Once again the local branches of the union had ignored a directive from their national executive.

The continued killing ban raised the possibility of renewed confrontation between farmers and freezing workers in Southland. It certainly kept local feelings running high and was a continual source of embarrassment to the Government and especially the Deputy Prime Minister Mr Talboys who was facing an electoral challenge from Mr Slee's sister standing as an 'independent National' candidate.

124 The National Business Review Vol. 8 No. 52 18 October 1978 p. 1.

20 October 1978

The first day of the new killing season. However, the conciliation talks on a new award were still adjourned through lack of agreement between the parties. The Government's objective of a concluded award prior to the killing season, which it had worked so hard for throughout the year, unrealised.

27 October 1978

Talks held between the Minister of Labour, (Mr Gordon) Department of Labour senior officials, the Meat Workers' Union and the Freezing Companies Association over the breakdown in award negotiations caused by the question of temperatures in freezing stores. As a result of the consultations terms of reference were drawn up for a committee of inquiry to consider the temperature issue.

30 October 1978

The freezing industry award negotiations broke down yet again. This time the parties could not agree on whether the issue of wages of freezer hands should be considered by the committee of inquiry set up on the 27 October. The companies' considered that wages were an integral part of the issue while the union maintained they were a separate issue which should be dealt with by the parties in conciliation.

The union threatened a national load-out ban at export works from midnight on Sunday (November 5) to protest at the breakdown in talks. Meanwhile, the reaction of the Government

was non-committal with Mr Gordon saying he was 'waiting to hear the views of the parties' before taking any action.¹²⁵

Comment: Prima facie the companies were correct. The question of wages was surely the issue between the parties i.e. whether freezer hands should be paid more (and if so how much more) for having to work at lower temperatures. At this stage no substantive progress on the body of the award claim had been achieved. Neither party acting with a sense of urgency.

2 November 1978

The union's threat of a national load-out ban was lifted after all parties agreed to a new formula to resume award talks. This development followed the intervention of the Minister of Labour in a mediating role.

Mr Gordon said all parties had now 'reached "general agreement" on the terms of reference of a committee of inquiry to investigate freezing chamber temperatures'.¹²⁶

Comment: The committee's terms of reference should have been clearly outlined at the first meeting of 27 October. In the meantime 5 days had been wasted.

15 November 1978

The freezing industry award talks broke down once more when the Auckland assessors (representing the Auckland Freezing Workers' Union) walked out in protest at a final offer from the employers. The negotiations were adjourned sine die

125 Evening Post 31 October.

126 Evening Post 2 November.

by the conciliator. 'The main point of disagreement was wages, and specifically the problem of arriving at an equitable formula for incorporating the 1976 cost-of-living adjustment and the 1978 general wage order into the award'.¹²⁷

'Mr Kennedy said that failing an acceptable improvement in wage rates being offered by the employers the union would refer the whole issue to its members. It was unlikely that the members' views would be known for at least a fortnight, because the union would be involved in conciliation talks for other awards such as the chemical manure and soap workers' awards.

This meant that if there is any industrial action it will not take place until after the General Election'.¹²⁷

Meanwhile, at the same time as the award talks were being adjourned the importance of a trouble free killing season to the New Zealand economy was underlined by the chairman of the N.Z. Meat Exporters Council (Mr. R. Cushen). In his report of 15 November to the council's annual meeting Mr Cushen predicted that meat exports would be worth \$1.5 billion in 1978-79 despite the lamb kill being down by approximately a million. This compared with meat exports of \$1.2 billion in the year ended 30 June 1978 out of a total export figure of \$3.4 billion.¹²⁸

127 Evening Post 16 November.

128 Reported in The Evening Post 15 November.

Comment: This most recent failure in the conciliation talks meant that a new award would not be concluded until after the General Election. The Government would clearly have preferred a settlement prior to the election as this would to some extent have helped to placate those farmers still angry at the Government's earlier actions. Further, the continued failure of the award negotiations provided ready political ammunition to the Government's opponents. Thus, Mr Rowling, the Leader of the Opposition, for example, said that the 'breakdown in the freezing industry award talks "made nonsense" of the claim by the Prime Minister (Mr Muldoon) that he and his Government had made great progress in getting a clean start to the killing season.

Through the campaign, Mr Muldoon had claimed that he was hopeful a settlement was close and that the contribution by the State to freezing workers' wages earlier in the year had helped create goodwill in the industry. These claims were now looking a bit tattered, Mr Rowling said. "Here we are getting into the killing season, and once again there were the traditional question marks over whether it would go smoothly".¹²⁸

17 November 1978

The saga of the freezing industry award negotiations took a new twist with Mr Barnard, the president of the North Island Freezing Workers' Federation accusing the freezing companies of deliberately aborting the award talks for political reasons.

Mr Barnard said that the cause of the breakdown was "too phoney to be true" and constituted "a dark plot to get back at Muldoon".¹²⁹ This was presumably referring to the fact that the Government throughout the year had tended to support the Meat Workers' Union at the expense of the Freezing Companies Association.

Mr Barnard added that: "We wanted them to show us the true figures in their wages offer but they camouflaged, and when they camouflage they have got something to hide".¹²⁹

However, Mr Barnard's comments were (not unexpectedly) totally rejected by the freezing companies. Mr Blomfield for the companies said: "I completely reject what Mr Barnard has said, and what Mr Kennedy is saying that the employers do not want to settle for political reasons. There is absolutely no justification for such statements".¹²⁹

Comment: Lacking access to the necessary information it is not possible to comment upon what the political motivations of either party were. However, it is true that the Freezing Companies Association might have felt it had been badly treated by the National Government in that the Government had in public during disputes consistently supported the union while at the same time making scathing remarks about the companies' position. It is also true that this latest breakdown in negotiations - coming two weeks before a General Election - could not have occurred at a more embarrassing time for the Government.

129 Evening Post 17 November.

However, it is suggested that it is more pertinent to view these statements as part of a process of manoeuvring by both parties to gain a position of advantage. In this particular instance by ascribing blame for the breakdown in negotiations to one another.

18 November 1978

The freezing companies announced that killing and processing charges would rise by about \$1 a lamb from the 20th November. In justifying the increase Mr Blomfield the executive director of the Freezing Companies Association said that a 'substantial part of the killing and processing charge increase involves the Government wage subsidy which the freezing companies have been absorbing since the beginning of last month'.¹³⁰ However, Mr Blomfield added that further increases would inevitably come into effect when the current Meat Workers' Award was finalised. 'Once all new awards and increased costs are absorbed, the farmers are likely to be paying about 25 per cent more than last season for killing charges'.¹³⁰

Farmer reaction to these increases was, as might be expected, extremely unfavourable. For example, Mr C.J. Nevill, chairman of the meat and wool section of Wairarapa Federated Farmers said that:

"Farmers could well be excused for thinking that the results of the Government's settlement of last season's freezing dispute had come home to roost in view of the

¹³⁰ Evening Post 18 November.

unprecedented dive in the lamb schedule.

These present increases have been announced before agreement has been reached in the latest round of wage talks. On past experience, it can be assumed that farmers will be asked to pick up the tab again to pay for the settlement.

What is particularly galling to farmers is that they have these costs thrust upon them, without any right to examine the firm's costing or to give evidence before the Price Tribunal when applications for increases are made".¹³¹

Similar sentiments were expressed by the national executive of Federated Farmers, with Mr Wright adding that:

"This mid-season increase in charges further strengthens the argument of the Federation that all award conciliation should take place prior to the commencement of the season and if agreement cannot be reached outstanding issues should automatically be referred to the Arbitration Court".¹³²

Comment: With the election a mere week away this development was clearly unwelcome from the Government's point of view. It would inevitably increase farmer dissatisfaction with the Government particularly as the companies had attributed the initial increase to the March wage settlement which at the time Mr Muldoon emphasised would not increase farmer's costs.

The timing of the companies' announcement, however, does perhaps give some credence to the union's claim that the Freezing Companies' Association was 'out' to get the Government in that the companies could presumably have delayed the increases for a further week if they so wished.

¹³¹ Evening Post 20 November.

¹³² Federated Farmers Press Release 18 November.

Also on 18 November Southland freezing workers voted to maintain their killing ban on Messrs Buckingham and Slee until the national meatworkers' award was signed. At this time the killing ban had been in force since 6 July - a total of over 19 weeks.

Mr Kennedy explained that the continuation of the ban 'related to the workers' feelings of frustration that the award was being held up by the employers. Mr Kennedy said that he had advised the Otago-Southland branch executive of the union that the ban should be lifted, but that the southern decision was out of his hands'.¹³¹

Comment: As previously stated these continued killing bans appeared to be no more than acts of sheer petty vindictiveness on the part of the local shed unions. Their effect, apart from causing hardship to the individuals concerned, was simply to keep farmer resentment in Southland simmering.

21 November 1978

The Prime Minister in Invercargill for election purposes personally intervened in the row over the killing ban on Messrs Buckingham and Slee. Mr Muldoon met with the executive of Southland Federated Farmers who had gathered earlier to discuss a full withdrawal of stock to freezing companies while the bans remained. However, as a result of meeting with Mr Muldoon Federated Farmers decided to wait till December 4 (when the award talks tentatively scheduled to resume) before taking further action.

'At a Press Conference following the meeting Mr Muldoon said he had suggested that the farmers accept at face value a resolution of the Otago-Southland Meat Workers' Union'¹³³ that the bans would be lifted when the national award talks were concluded. 'The Government's concern was that any precipitate action by local farmers could effect the continuing negotiations on the national meat workers' award' Mr Muldoon said.¹³³

The Prime Minister also criticised the freezing companies for lowering the meat schedule prices:

"I think the companies have been foolish to lower their schedule so much at this time when award negotiations are on and we're on the point of a General Election. The fat's now in the fire and their future is in the melting pot".¹³³

Comment: Mr Muldoon's remarks in relation to the killing bans issue conciliatory in nature i.e. cautioning restraint. However, the reality behind his statement is that he is willing to see the union's victimization continue if this will help safeguard the award negotiations.

The Prime Minister's statement on the lowered meat schedule represents an acknowledgement that the companies' action was politically damaging to the Government.

¹³³ Evening Post 21 November.

26 November 1978

The result of the General Election was the return of the National Government but with a greatly reduced majority. There was a nationwide swing of 4 per cent against the Government reflecting widespread dissatisfaction with its performance in office. The Government's perceived soft handling of the freezing industry (and industrial relations generally) undoubtedly contributed to dissatisfaction among traditional National Party supporters although to what extent can not be precisely calculated. However, in this regard the results in the 3 Southland seats, where the greatest impact could be expected, are significant:

Invercargill (Mr. N. Jones)	2466	} 1975 majority	} 144	} 1978 Polling Night Majority
Awarua (Mr. R. Austin)	2841			
Wallace (Mr. B. Talboys)	7294			

The most spectacular decline in the Government's support occurred in Invercargill which had been the centre for most of the unrest in the area. However, it is highly significant that the drop in Mr Talboy's majority of 2392 was roughly equal to the number of votes that Miss Slee the Independent National candidate received. (2,022 compared with Talboy's 8483). This gives some idea of the extent of disgruntled farmer opinion in the area.

134 Figures from Evening Post 28 November.

28 November 1978

The assistant national secretary of the Meat Workers' Union (Mr J. Sneddon) warned that freezing workers were threatening industrial action unless there was a prompt resumption of award talks.¹³⁵ "The feedback we are getting is that the workers are very impatient. They are frustrated with the delaying tactics". At this stage no date had been set for a return to the talks which broke off on 15 November.

5 December 1978

Mr Owen Buckingham, one of the leaders of the Southland farmers' action group instituted court action in an attempt to overcome the union's killing ban. Mr Buckingham applied to Mr Justice White in the Dunedin Supreme Court for an injunction to restrain the Southland Frozen Meat Company from committing a breach of its statutory obligation under section 34(1) of the Meat Act by refusing to give him an assurance that it would slaughter his stock forthwith. Alternatively, he sought a writ of mandamus to compel the Company to carry out its statutory duty and receive his stock for slaughter.

Mr Justice White reserved his decision.

8 December 1978

135 The Evening Post 28 November.

136 The Dominion 6 December.

Comment: Mr Buckingham clearly lost faith in negotiated efforts to resolve the dispute. Indeed, it is surprising that he did not resort to legal remedies earlier. However, it is also significant that his injunction application is directed against the company and not the union - presumably this is because he considers it advantageous to embroil the company in what is essentially a union/farmer dispute. However, most probably Mr Buckingham was told by Federated Farmers not to take action against the union as this would compromise the award talks.

Also on 5 December the national executive of Federated Farmers decided to postpone further action on the killing bans. Federation president Mr Wright said 'the decision was taken so as not to prejudice the outcome of award talks between the freezing companies and the Meatworkers' Union in Christchurch later this week'.¹³⁶ However, Mr Wright added that 'the decision was taken in the light of assurances that the ban would be lifted on Messrs Sid Slee and Owen Buckingham once the award had been settled'.¹³⁶

Comment: At this stage it is evident that Federated Farmers had abandoned the 2 Southland farmers as a matter of expedience. Earlier repeated promises of 'massive farmer support' had proved empty.

8 December 1978

The meat-workers' award was finally concluded. The settlement gave piece-workers an effective wage increase of 9.5 per cent and hourly workers 11 per cent.

¹³⁶ The Dominion 6 December.

Discussing the award the Minister of Labour, Mr Bolger said:

"I cannot follow all the ramifications, and indeed I doubt whether the farming community will be able to do so for several days. Naturally I am glad that the parties have reached unanimity, and it now remains for the killing sheds in Southland to lift their bans and we should be able to proceed with a killing season that has got away to a good start".¹³⁷

'Following the settlement, the secretary of the Meat Workers' Union, Mr A.J. Kennedy, said tonight that so far as he was concerned the union bans against two Southland farmers, Messrs Sid Slee and Owen Buckingham, were off. Mr Kennedy said he had the assurance of the Otago-Southland union executive that the bans would be lifted once the award was settled, and he had passed the assurance on to both Federated Farmers and the Prime Minister.'¹³⁷

Comment: This must represent one of the most protracted and controversial awards on record. The initial conciliation talks commenced as far back as the 1 June. Throughout this period the union, ably led by Mr Kennedy, had deftly manipulated the other parties' desire (particularly the Government's to have an early award concluded to achieve its objectives - most noticeably the withdrawal of all prosecutions against union members. However, this award, nurtured by the National Government, came too late to give that Government any political advantage.

¹³⁷ Evening Post 9 December.

10 December 1978

Mr T. Wereta the secretary of the Otago-Southland branch of the Meat Workers' Union revealed that 'slaughtering bans against farmer protest leaders Sid Slee and Owen Buckingham were still on and would remain so until rank and file members ... decided otherwise'.¹³⁸

Comment: This represented the second occasion on which the Southland shed unions had broken their word in relation to the lifting of the killing bans. The first was when the farmers action group had removed their employment ban on 29 August. The continuation of the bans was a provocative gesture considering that the issue was presently being deliberated by the Supreme Court. However, it also undermined Mr Kennedy's credibility by rendering his assurance to the Government and Federated Farmers worthless.

19 December 1978

Mr Justice White ruled in favour of Mr Buckingham's application for an injunction to compel the Southland Frozen Meat Company to accept his stock for slaughter. In the course of his decision the judge stated that: "what has been done by the defendant, and what has been threatened, are actions which are contrary to a guiding principle of the law that:

¹³⁸ The Dominion 11 December.

¹³⁹ The Southland News 15 December (case unreported to date).

"A man is entitled to exercise any lawful trade or calling as and where he will, and the law has always regarded jealously any interference with trade ... as it is public policy to oppose all restraints upon liberty of individual action which are injurious to the interests of the State".¹³⁹

The general manager of S.F.M. Mr Cushen said that the company would have to abide by the court's decision. 'He pointed out that the company had offered to take Mr Buckingham's stock in before, but he had not put sheep in because he knew they would not be killed. Whether the union would kill it now was a matter yet to be decided'.¹³⁹ However, no comment was forthcoming from the union on whether the bans would be lifted.

Comment: The Court's decision although formally only binding upon the company effectively placed the onus on the union to lift the killing bans. If the union did not then this would inevitably escalate the dispute since the company would be compelled to dismiss for disobedience those employees who refused to slaughter Mr Buckingham's stock. Such a development would then in turn inevitably degenerate into a full-scale strike or lock-out.

20 December 1978

Freezing workers in Southland, acting upon a recommendation from the union's national management committee, voted to remove the killing bans on Messrs Buckingham and Slee.

¹³⁹ The Southland Times 15 December (Case unreported to date).

ANALYSIS

1. Relations between the Parties

At a national level conflict in the freezing industry during 1978 involved 4 principal parties - the Government, the Freezing Companies Association, Federated Farmers and the Meat Workers' Union. While the freezing companies and the union were naturally full participating parties throughout, Federated Farmers, although at times a negotiating party, remained primarily an influential pressure group. The Government also played a hybrid role - at some stages directly involved as a party, while acting in a mediating capacity at others.

One of the factors that exacerbated conflict was the Government's failure to effectively fulfil the mediating role "In order that both parties shall have confidence in the mediator and be willing to co-operate with him and listen to his advice, it is important that they consider him impartial."¹⁴⁰ However, in dealing with the parties the Government did not exhibit impartiality. Throughout the year the Government tended to support, both privately and publicly, the union's position at the expense of the freezing companies. This was most apparent during the March wage settlement when the Government actually came to an agreement with the Meat Workers' Union and, without consultation, imposed it upon the companies (i.e. by regulation). In effect in this particular instance the Government had abandoned any pretence at mediation.

The Government's consistently sympathetic attitude towards the union can primarily be explained by the fact that the Government felt it had to gain the union's goodwill if it was to achieve its objective of an early negotiated award. However, the personalities of the individuals

140 T. Eckhoff, "The Mediator, the Judge, and the Administrator in Conflict Resolution." (1966) 10 Acta Sociologica., p.148

involved also played a part. Both Mr. Muldoon and Mr. Gordon had a better personal working relationship with Mr. Kennedy (union secretary) than Mr. Blomfield (executive director of the Freezing Companies Association). Thus, while Mr. Muldoon frequently publicly praised Mr. Kennedy - "I believe that the present leader of the union (Mr. A. J. 'Bluey' Kennedy) is a man of integrity."¹⁴¹ - he usually characterised Mr. Blomfield's attitude as "unhelpful".

The Government's support for the union throughout the year may also reflect a desire on its part to see Mr. Kennedy establish himself forcefully as union secretary to deny the aspirations of his rival Mr. McNulty, a self-confessed communist. There is little doubt that the Government preferred to see a 'moderate' at the head of the country's most powerful trade union.¹⁴²

It is probable that the Freezing Companies' Association deeply resented the Governments' pro- Meat Workers' Union attitude and decisions (such as the March wage settlement) which adversely affected its interests. Consequently, without advocating a conspiracy theory that the companies, as an act of retaliation, deliberately sought to embarrass the Government prior to the General Election, it appears more than coincidental that:

1. The report prepared by the Association, summarising the confidential industry conference of 12 September, was 'leaked' to the Southland Times. Moreover, the report, by intimating that the Government had undertaken to withdraw the remaining prosecutions against freezing workers, portrayed the Government in a poor light.

141 The Evening Post, 19 July 1978.

142 See comments by Mr. Thomson, the Minister of Justice, New Zealand Parliamentary Debates 1978 p.4082

2. That conciliation talks on a new award collapsed on 15 November - 11 days before the election. A development clearly politically damaging to the Government which had maintained that its actions during the year had brought peace and goodwill to the industry. However, there is no evidence (apart from highly subjective assertions by union representatives) that this breakdown was deliberately manufactured by the companies.

3. The companies' timing in announcing increased killing and processing charges to farmers on 18 November - a mere week before polling. These increases, for a variety of reasons, were highly embarrassing to the Government. However, once again there is no evidence that this action represented an attempt to discredit the Government. Indeed, if the companies had deliberately delayed their announcement till after the election it could have been legitimately charged that they were showing political favouritism to the National Party.

Each of the parties (with the noticeable exception of the Freezing Companies' Association) experienced a conflict of authority i.e. unable to speak for all their members. Thus, the national executive of the Meat Workers' Union could not control the local Southland shed unions (e.g. over the killing ban on Messrs. Buckingham and Slee). A somewhat ironic situation considering Mr. Kennedy used to be the Otago/Southland union branch secretary. Similarly, Federated Farmers could not keep local Southland farmers in check (e.g. in withdrawing the 'off-season employment ban on freezing workers). In fact, at one stage, there were 3 groups

purporting to speak on the situation in Southland - the national executive of Federated Farmers, Southland Federated Farmers and the farmers action group.

The fact that the parties could not restrain their members at a local level was a significant factor in escalating conflict both in Southland and at the national level.

...both parties want the same thing or commodity but there is not enough of it to satisfy both. A conflict of interest necessarily implies a consensus over the value of the object in dispute.¹⁴⁴ In contrast, a conflict of value is based upon a disagreement concerning the normative status of a social object.¹⁴⁵ An example of a disagreement is a disagreement over religion or ideology.

Albert considers that "the classification of concrete cases as belonging to the one or to the other may be difficult or impossible."¹⁴⁶ This is clearly illustrated by an examination of the principal conflict that occurred in the freezing industry in 1978, that relating to the prosecution of South Island freezing workers. That conflict comprised intertwined interest and value elements:

1. When the prosecutions were first laid in September 1977 the conflict was portrayed as one of values i.e. that freezing workers, notwithstanding their numbers and industrial leverage, were not above the rule of law. If they broke the law by not giving the required 3 days notice of work

143 V. Albert, *The Structure of Law*, p. 86

144 E. Kohn, 'Conflict, Language and the Law in a Technological World', *J.L.S.*, 1978, p. 121 at p. 121

145 Albert, *op. cit.* p. 86

146 Albert, *op. cit.* p. 86

Interest or Values?

In analysing the various conflicts that developed in the freezing industry during 1978 reliance has been placed on Aubert's conflict typology.

Aubert postulates that there are 2 distinct types of conflict :
'A conflict of interest between two actors stems from a situation of scarcity'¹⁴³ i.e. both parties want the same thing or commodity but there is not enough of it to satisfy both. 'A conflict of interest necessarily implies a consensus over the value of the object in dispute.'¹⁴⁴
In contrast, "a conflict of value is based upon a dissensus concerning the normative status of a social object."¹⁴⁵ An example of a dissensus is a disagreement over religion or ideology.

Aubert considers that 'the classification of concrete cases as belonging to the one or to the other may be difficult or impossible.'¹⁴⁶
This is clearly illustrated by an examination of the principal conflict that occurred in the freezing industry in 1978- that relating to the prosecution of Ocean Beach freezing workers. That conflict comprised intertwined interest and value elements:

1. When the prosecutions were first laid in September 1977 the conflict was portrayed as one of values i.e. that freezing workers, notwithstanding their numbers and industrial leverage, were not above the rule of law. If they broke the law by not giving the required 3 days notice of strike

¹⁴³ V. Aubert, The Hidden Society, p.86

¹⁴⁴ K. Moon, 'Conflict Management and the Law in a Technological World'.
V.U.W. Law Review, Vol. 9, No. 2, February 1978, p.121 at p.125

¹⁴⁵ Aubert, op.cit. p.89

¹⁴⁶ Aubert, op.cit. p.86

action then they should be prosecuted. However, there was also an interest element involved in the initiation of these charges i.e. the Government's interest in placating angry farmer opinion.

2. A strong interest component clearly emerged at the stage when the pending prosecutions prevented a new killing agreement from being concluded and conciliation talks from commencing. The Government, Federated Farmers and the Freezing Companies Association each for their own selfish (in the literal sense) reasons desired an early negotiated award and following from that a (presumably) strife free killing season:

(a) The Government had a national interest in having New Zealand's major export industry running smoothly but also a political interest in that it had staked its credibility (in an election year) on the achievement of an award prior to the killing season (a calculated political gamble).

"But, so much is at stake that the Government must insist on a settlement and a prompt start to the killing season so as to take advantage of the profitable Christmas lamb sales in Britain - and, closer to home, to pacify farmers before the election and retain a number of marginally-held seats."¹⁴⁷

(b) Federated Farmers. All farmers naturally had an interest in seeing an amicable killing season as this would cut the losses they experienced through

stock being returned from works, losing conditions and so on. Industrial stoppages in the freezing industry during the previous season had been estimated as costing sheep and beef farmers over \$36 million - a loss to each individual farmer of about \$1,900.¹⁴⁸

(c) Freezing Companies Association. The companies an obvious economic interest in reduced industrial disruption. As previously mentioned Southland's 3 freezing companies alone suffered a loss of income of over \$5 million through industrial action in the 1977-1978 season with a consequent serious affect on profitability.¹⁴⁹

3. The conflict was transformed back into one of values when the question of whether the prosecutions should be withdrawn was raised. Thus, when the prosecutions were withdrawn on 21 September the Government faced charges of having overturned the rule of law through political interference with a court proceeding. The Minister of Labour, Mr. Gordon, was also accused of deviating from the principle of Ministerial responsibility. Conversely, the Government met these charges by advancing another value perspective i.e. that the withdrawal of prosecutions was an independent, departmental, administrative decision and the Government would uphold the concept of a politically independent Department of Labour.

For example, Mr. Bolger, the Minister of Fisheries, stated:

148. These figures calculated from a postal survey taken by Mr. J. Prior, research fellow in agricultural policy at Lincoln College. Cited in New Zealand Parliamentary Debates 1978 p.4092

149. See Chronology of Events, 1 May.

"Let me repeat the facts. First, there was no political interference in the decision in Invercargill. An independent court and an independent senior public servant took steps yesterday that resulted in charges against Southland freezing workers being dismissed"¹⁵⁰

'Value aspects are apparent rather than real - a conflict is painted in value terms as part of a stratagem'.¹⁵¹ It is undoubtedly true that during the conflict over the Ocean Beach prosecutions what were essentially questions of interest were on occasions clothed in value terms. However, it is also undeniable that some protagonists genuinely interpreted the conflict as one of values e.g. militant farmers saw it as a "who governs the country/industrial blackmail" issue. Thus, Mr. Buckingham, the Leader of the farmers action group, commenting on legislation annulling prosecutions said:

"Where will Mr. Kennedy finish up? If he can take the law now and change it to suit himself, what next. The ball's in his court.

There has got to be a stand made somewhere. I just wonder what compromise Mr. Kennedy will make. It's all been one way so far."¹⁵²

150 New Zealand Parliamentary Debates 1978 p.3730

151 Moon, op.cit. p.126

152 Evening Post 4 October 1978

The Rule of Law

"National will maintain the Rule of Law. A National Government will uphold the principle that all citizens are equal before the law and equally subject to the law of the land, and that the law will be administered by open and independent courts, free from interference or direction by the Government."¹⁵³

In the aftermath of the dismissal of the Ocean Beach prosecutions the principal question that emerged was whether the Secretary of Labour, as prosecuting authority, had acted under political direction in not offering evidence i.e. whether the Government had politically interfered in a court proceeding. Despite emphatic denials by both the Secretary of Labour and the Minister (Mr. Gordon) that no political interference had occurred (subsequently substantiated by the Dunlop Report) this issue was hotly debated.

The decision at Ocean Beach resulted in a former Supreme Court Judge (Mr. Wilson Q.C.) publicly accusing the Government of attempting to manipulate the courts:

"One of the most depressing things about the Government's abandonment of the prosecutions of the Southland freezing workers is its cynical attempt to use the courts as an instrument of its policy and as a smokescreen to hide its political poltroonery."¹⁵⁴

Further, even some members of the Government - most noticeably the M.P. for Invercargill, Mr. Jones - were adamant that the Government's actions were in breach of the rule of law.

153 1975 National Party Election Manifesto

154 New Zealand Herald 28 September 1978

In relation to the circumstances surrounding the dismissal of the prosecutions it is true, as the Government claimed, that the law ran its course in the case as regards the technical requirements of the law. It was the magistrate - the independent court - who dismissed the charges. However, the magistrate's decision was in effect made for him by the Secretary of Labour who instructed the Crown Prosecutor not to offer evidence.

As previously stated, there was interference in due legal process in that Mr. Jackson informed the Court he was seeking an adjournment in the interests of industrial harmony, and not because of lack of evidence. At no time did the Secretary of Labour address himself to the legal point at issue - the legal grounds which existed for granting a further stay of proceedings. Moreover, the grounds on which he requested an adjournment were political in the sense that the industry peace agreement of 13 September depended on it.

Although Mr. Jackson denied there had been political pressure brought to bear on him, his decision to seek an adjournment and failing that to offer no evidence, was exactly what the Government wanted. The Secretary of Labour had informed Mr. Gordon and the Cabinet of his intended course of action at least a week previously. The Government, tacitly if not expressly agreed, by taking no steps to stop him. There is no way under the New Zealand Government system that Mr. Jackson could have pursued his stated course of action if the Government had demanded that the prosecutions proceed (notwithstanding principles of departmental independence to the contrary).

Consequently, although the proceedings may have been technically correct it is submitted that the dismissal of the Ocean Beach prosecutions

The Structural-Determinist Model

This paper has, up till this point, described events in the freezing industry during 1978 essentially in terms of the Interest-Group Interaction Model. However, here a crude attempt is made to analysis the situation through the Structural-Determinist or, more commonly, the Marxist model.

At first glance the Marxist model would appear to have little relevance to the 'conflicts' that developed in the freezing industry during 1978 in that Labour (the freezing workers) consistently triumphed over Capital (represented by the freezing companies and farmers).

Further, 'the role of the state in the social formation characteristic of the capitalist mode of production is that of the factor of cohesion of the total social formation... Since the state seeks to maintain a social formation characterised by the domination of Labour by capital the state must align itself with capital in the event of any serious threat to that domination.'¹⁵⁵ However, the freezing industry in 1978 was characterised by the state (i.e. the Government) consistently aligning itself with the workers, apparently at the expense of capital. That March wage settlement, imposed upon the freezing companies by the Government after negotiation with the union, is the prime example of this. The question raised is why didn't the institution's of the state act, at the behest of capital 'to defeat the social formation's most militant working-class organisation'?

The answer is quite simple:

1. There was no critical class conflict giving rise to a serious threat to capital's domination over labour.

2. In 1978 capital and its organ the State were in a weak position economically to engage in class conflict. The capitalist world adjusting to the realities of the situation - preventing the working class from revolution. Consequently, capital preferred to accommodate labour's demands to the extent that they did not fundamentally impinge upon its dominant position. In contrast, in the 1951 Waterfront Dispute, one of the reasons capital chose to confront labour was the surrounding beneficial economic conditions :

'Under normal circumstances there would have been strong economic arguments against prolonging a waterfront stoppage. Even with servicemen at work on the wharves New Zealand's export trade would in all probability be severely affected and overseas reserves run down. But 1951 was not a time of "normal circumstances". Export receipts for the previous year were at a record level due to the high demand caused by the Korean War. Reserves were high and so also was the Government's flexibility. If the cost of prolonging the dispute should be considerable, the country could probably afford it. As the Evening Post was later to say, it was buoyant economic conditions which enabled this dispute to become by far the longest, most widespread and most costly industrial struggle in New Zealand's history.'¹⁵⁶

3. The concept of false consciousness of the social economic realities. Here there is a disfunction between appearance and reality.

Conclusion Thus : the freezing workers achieved a substantial increase in wages during the year which appeared to recognise the value of their labour. However, these wage labour contracts disguised the fact that surplus labour was still unpaid and benefitting the capitalists. This false perception functions in favour of the dominant capitalist class to prevent social revolution.

general conclusion that the strike is a type of anti-social activity that should be penalised."¹³⁷

Further, it is clear from events in the freezing industry that imposing penalties does not stop industrial disruption but rather escalates it (as demonstrated by the union's response to the Ocean Beach prosecution). "Their intention is to reduce conflict, but their effect tends to be the opposite. They discriminate against one party in a situation that necessarily also involves another."¹³⁸

Consequently, it is concluded that faith in the efficiency of penalisation is a symptom of ignorance of the real causes of industrial conflicts and of the foundations of industrial peace. The fundamental basis of good industrial relations is the understanding of human relations and human interaction. Penalties do not address that.

The other positive aspect that developed from the strife-prone 1977-1978 season has been a relatively smooth killing season for 1979. Unfortunately there are no current statistics to reveal to what extent stoppages have declined although according to the labour department the drop in industrial disruption is considerable.

¹³⁷ Article by H. Dawson, former deputy Secretary of Labour, The Guardian 6 October.

¹³⁸ Dr. Harkington, V.S.N. Industrial relations course, The Guardian 20 Nov.

Conclusion

One positive aspect that emerged from developments within the freezing industry was the clear demonstration of the inappropriateness of penal provisions in industrial legislation. In the case of the freezing industry penalties did not achieve their purpose, presumably to discourage strikes. "The essential reason is that there is no general community consensus that the strike is a type of anti-social activity that should be penalised."¹⁵⁷

Further, it is clear from events in the freezing industry that imposing penalties does not stop industrial disruption but rather escalates it (as demonstrated by the union's response to the Ocean Beach prosecutions). "Their intention is to reduce conflict, but their effect tends to be the opposite. They discriminate against one party in a situation that necessarily also involves another."¹⁵⁸

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157 Article by H. Duncan, former deputy Secretary of Labour,
The Dominion 6 October.

158 Dr. Turkington, V.U.W. industrial relations centre,
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