

## Extract from **A History of the Askin Government 1965-1975**

by Dr. Paul Loughnan

### **The Summary Offences Act and the Georges River By-Election**

The third and final session of the 42<sup>nd</sup> Parliament opened on 6 August 1969 and ran for five months until it was dissolved on 13 January 1971. The most significant announcement in the Governor's address was the controversial *Summary Offences Bill*, which was to replace the *Vagrancy Act* and amend the *Police Offences Act*.

During an anti-war rally in July 1968 at Sydney University, students lifted a Mini Minor motor vehicle occupied by a police sergeant who was allegedly tape recording the speeches, and ingloriously dumped it and its occupant on the road outside the university grounds. Another incident occurred when the police had apprehended and handcuffed a national service "draft dodger" on the Sydney University grounds. The students crowded the police, removed the handcuffs with bolt cutters and declared the "University to be a sanctuary".<sup>1</sup> However, the incident at the university on 1 May 1969 when Sir Roden Cutler, the Governor of NSW, was hit with tomatoes was the last straw for Askin and his Government.

This precipitated a meeting between the Commissioner of Police and Askin to determine legislation that would give police the powers to deal with the growing civil dissidence. Askin established a committee comprising representation from the Attorney General's Department, the Police Department and the Commonwealth Attorney General's Department. The aim was to "adopt the existing law as far as possible to meet the situation" without being seen as an attack on civil liberties.<sup>2</sup> This was the catalyst for Askin's stringent stance on law and order which was made manifest in the proposed "summary offences" legislation.

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<sup>1</sup> Sol Encel, "Vicissitudes of a Vice-Chancellor", *Minerva: A Review of Science, Learning and Policy*, London, Vol.45, No.4, p.476.

<sup>2</sup> *Cabinet Papers*, 7 July 1970, See Cabinet Statement. Summary Offences Bill – Review of Police Offences Act, 1901 and Vagrancy Act, 1902. Presented by the Chief Secretary and dated 28 May, 1970, p.6

The Governor, while attending an arts graduation ceremony, was caught in a melee involving militant students protesting against the presence of the university regiment. It was “an organisation which [demanded] unquestioning obedience from its members”.<sup>3</sup> The students considered it anachronistic and incongruent with an environment of anti-war sentiment. Subsequently, the university was sympathetic to the student union, which had apologised to the Governor, and ceased using the regiment at official functions. Cutler, who had had his right leg amputated and was awarded the Victoria Cross (VC) during WW2, said in his speech that the demonstration was “not personal”.<sup>4</sup> He then thanked the Vice-Chancellor, Bruce Williams, for the warm welcome and added, “I hope you make it less warm in future”.<sup>5</sup>

In contrast to the view of the Governor, Askin unleashed all of his pent-up fury at the University. The *SMH* reported that the “government from the premier down acted violently to the news of the incident while the tabloids were concerned with the drama of the event and the aftermath. Askin stated that the “onus lies heavily on the University to impose a bit of expelling”.<sup>6</sup> He then warned the University that the government would “step in and take the action which may be deemed appropriate”, thus effectively threatening its autonomy through the withdrawal of government funding.<sup>7</sup> The education minister, Charles Cutler, said that students would not be allowed to “disrupt our way of life, whether they are ratbags, louts or politically inspired people”.<sup>8</sup> This attitude echoed Menzies’ response when he was confronted by a Student Action group protesting about the Government’s restrictive immigration policy at a LP rally during the 1961 election campaign. “I detest some of these wretches that get into universities...About half of them would not be at universities but for my government ... They are a collection of ratbags and larrikins”.<sup>9</sup> Menzies reiterated this sentiment during a series of lectures at the University of Texas in

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<sup>3</sup> *SMH*, 2 May 1969, p.1.

<sup>4</sup> *Daily Mirror*, 2 May 1969, p.2; *The Sun*, 2 May 1969, p.2.

<sup>5</sup> *SMH*, 2 May 1969, p.1.

<sup>6</sup> *Daily Telegraph*, 3 May 1969, p.1; *SMH*, 3 May 1969, p.1.

<sup>7</sup> *Daily Mirror*, 2 May 1969, p.2.

<sup>8</sup> *SMH*, 3 May 1969, p.1; *Daily Telegraph*, 3 May 1969, p.3; *The Sun*, 2 May 1969, p.1.

<sup>9</sup> Gerster and Bassett, *Seizures of Youth*, p.37.

November 1969. Charles Cutler and Askin, who completed their political indentures during the sober and comfortable era of Menzies, were unable to draw on any experience to deal with a new radical generation. Fortunately, the Vice-Chancellor, who was well aware of the simmering university campuses and the detrimental effect on the university's reputation, was able to defuse the situation after a parley with Charles Cutler. Askin withdrew his statement and he and Charles Cutler emphasised that they had no intentions of interfering with the autonomy of the university.<sup>10</sup>

The polarising effect of the new protest and social movements became patently evident around the time of the incident involving the Governor at Sydney University. In an article published in the *SMH*, the Vice-Chancellor presented an analysis of the role of Universities. The principal thesis was that in order for a university to conduct higher education, which was the examination and the "search for a better understanding of the nature of society", its autonomy from the state was paramount.<sup>11</sup> There was no place for intimidation within or outside the university. If intimidation was substituted for argument and reason, then the "university would have failed in its responsibility to encourage and protect the spirit of critical enquiry and its expression".<sup>12</sup>

In a *SMH* editorial the police were advised to refrain from using force or provocation. Instead, they were encouraged to allow the "youthful high spirits a loose rein and arrest as few demonstrators as possible". The editorial cited the *National Service Act (1964)* as a reasonable grievance for students. "Instead of becoming too rigid, fearful or high-minded about demonstrations, the government should be ready to listen to the students' complaints".<sup>13</sup> The view expressed in a respected and balanced broadsheet such as the *SMH* made Cutler's and Askin's attitude appear unreasonable and archaic. This view was also becoming the accepted norm in the broader community.

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<sup>10</sup> *SMH*, 3 May 1969, p.1; *Daily Telegraph*, 3 May 1969, p.2.

<sup>11</sup> *Daily Telegraph*, 3 May 1969, p.3.

<sup>12</sup> *SMH*, 3 May 1969, p.8.

<sup>13</sup> *ibid*, 19 April 1969, p.2.

Carrick, in a letter to Askin on 6 May 1969, stressed that the students should not be singled out for punishment. His prophetic advice, that if the grievances of the majority of the demonstrators were appreciated then they would reject the militant minority, was proved accurate at the first Moratorium in May 1970. Carrick also advised against additional legislation to deal with the dissidence and espoused that “it is essential that we [LP] are regarded as the trustees of civil liberties”. Askin’s reply demonstrated that he was baffled by new social movements. “I don’t think we as a government can remain quiet when her Majesty’s representative is pelted with rotten fruit”. He then intimated to Carrick in confidence that according to a “worrying confidential police report”, there was no alternative but to legislate.<sup>14</sup> It is ironic that Askin, who probably carried an SP Book instead of a rifle during his war service, was rigid to the extreme in his attitudes towards civil liberties. In contrast, Carrick and Tom Uren who both suffered the horrors of Changi and the Burma railway, considered civil liberties sacrosanct. Uren, ALP MHR for Reid, advocated a peaceful protest to demonstrate to the Federal Government the feelings of “a great many people of this country over the Vietnam war”.<sup>15</sup>

The anti-war, anti-conscription demonstrations first became a law and order issue when the Federal Government introduced the *National Service Amendment Bill* on 1 May 1968.<sup>16</sup> Penalties for non-compliance were doubled and failure to respond to a call-up notification was punishable by a maximum incarceration for two years.<sup>17</sup> This was the genesis of the conservatives’ campaign against the anti-war movement. The campaign reached its zenith during the lead up to the first moratorium, 8 May 1970, and the period prior to the second moratorium on 18 September 1970.<sup>18</sup> The Federal Government’s law-and-order issue, which was based on the claim that the moratorium would lead to violence between the anti-war demonstrators, the police and pro-war demonstrators, proved unfounded. The first moratorium march was

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<sup>14</sup> ML MSS. 2385, Y4705, Item 11: March-December, 1969, Liberal Party Papers.

<sup>15</sup> *SMH*, 9 May 1969, p.9.

<sup>16</sup> Peter Edwards, *A Nation at War: Australian Politics, Society and Diplomacy During the Vietnam War 1965-1975*, Sydney, 1997p.217.

<sup>17</sup> *The Australian*, 13 June 1970, p.1; *The Australian*, 14 September 1970, p.2.

<sup>18</sup> Malcolm Saunders, ‘Law and Order’ and the Anti-Vietnam War Movement: 1965–72, *AJPH*, Vol.28, No.3, p.372; *The Australian*, 27 August 1970, p.1; *The Australian*, 28 September 1970, p.2.

given support by a broad cross-section of the community in all the capital cities. The police reported that “it was Sydney’s biggest and most peaceful protest”. The moratorium showed that large demonstrations dealing with controversial and inflammatory issues could be conducted peacefully. Both Askin and the Police Commissioner agreed.<sup>19</sup>

This was not the desired result of the conservatives. The Federal Government ramped up their campaign in preparation for the second moratorium. This resulted in the most aggressive law and order campaign undertaken by a federal government. The aim was to deprive the moratorium of respectability and legitimacy by associating it with lawless anarchy. This would engender fear into the new middle class who would then be less inclined to support and participate in the protest. The rationale was that the law and order issue would highlight the undemocratic lawless moratorium, thus deflecting the attention away from Vietnam and conscription. The federal Government’s rhetoric was also focused on associating the ALP with the Moratorium in order to garner political capital at the impending Senate election in November 1970.<sup>20</sup> The more violent and unruly the moratorium, the greater the political gain for the conservative federal and NSW governments.

In the midst of the federal government’s campaign, ten of Askin’s backbenchers initiated their own campaign against the dissident students by attacking what they described as blasphemy and obscenity in the university student newspapers. The backbenchers high-jacked question time on three consecutive occasions beginning on 10 March 1970. They used it as a forum by raising the issues through pertinent questions in order to pressure the government to intervene. Willis, the Chief Secretary, quelled the backbenchers by threatening the newspapers with prosecution. The Vice-Chancellor expressed concern to the Cabinet that an over-reaction by the government would inflame an already volatile situation.<sup>21</sup> After a “sit-in” by Sydney University students, who were demanding student representation on the university board, the unruly backbenchers threatened to high-jack question

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<sup>19</sup> *SMH*, 9 May 1970, p.2.

<sup>20</sup> Saunders, ‘Law and Order’ and the Anti-Vietnam War Movement: 1965–72, p.372.

<sup>21</sup> ‘Australian Political Chronicle January-April 1970’, *AJPH*, Vol. 16, No.2, pp.238-239.

time again. On 26 March 1970, the backbenches were curtailed by an agreement between Askin and the opposition to abolish question time.

The radical backbenchers were extreme, even by Askin's standards. There were ten of them; T.F.Mead, M.W.J. Hough, W.P. Coleman, J.L. Barraclough, L.W. Mutton, G.G.T. Jackett, S.G. Mauger, K.R. Doyle, J.F. Cameron and Mrs E. Furley MLC. The following extract from the statement they issued on 24 April 1970 exemplifies their incredibly skewed ideology. "This country is faced with a danger far greater than it has ever known [the new social movements], and the tragedy of it is that most Australians don't know or don't care or are hapless in apathy that blinds them".<sup>22</sup>

If Askin had followed Carrick's advice and endeavoured to understand the grievances of the demonstrators then he might not have been punished at the Georges River by-election. Instead, he had his own idea of how to deal with the dissenting students by way of the *Summary Offences Bill*. It was essential to restrain the extreme members of the government from attracting unwanted attention. This was possibly Askin's ulterior motive for shutting down question time. The contents of the bill had not been released even to the cabinet, and already there had been speculation in the media that it was excessive and a threat to civil liberties. The hysterical claims by the backbenchers were temporarily muted by the peaceful May moratorium. However, Askin was able to appease them with the proposed *Summary Offences Bill* and the law-and-order campaign at the Georges River by-election.

In the wake of the incident involving the Governor at Sydney University in 1969, Askin, in his role as Minister for Police, discussed with Police Commissioner, Norman Allan, the legislative options available to increase police powers that would better enable them to deal with "sit-ins" and street demonstrations. On 7 July Willis issued to the cabinet a minute for discussion and consideration in relation to the *Summary Offences Bill*. The two most disconcerting elements were the provision for an "agent provocateur" and the concept of an aggravated offence. Allen strongly advocated the "agent provocateur" provision, "because of the continually changing

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<sup>22</sup> 'Australian Political Chronicle January-April 1970', *AJPH*, Vol. 16, No.2, pp.238-239.

society in which we live today”.<sup>23</sup> He considered that it was necessary for police to act with impunity regarding accusations of provocation. The concept of an aggravated offence was predicated on the public’s perception that offensive behaviour involving one person in company was more serious than an individual acting alone. It seems that these provisions were designed to give the police carte blanche when they were dealing with demonstrations. They were outlined in a letter from Allen to the Chief Secretary which was most probably covered with Askin’s fingerprints.<sup>24</sup> This supposition is premised on Askin’s detestation of public dissent and demonstrations, along with his indifference towards the growing understanding of the anti-Vietnam demonstrations by the electorate.

The death of Douglas Cross, LP MLA for Georges River, on 9 July 1970, precipitated an optional by-election for the government. Although the by-election was not mandatory, due to the impending state election in early 1971, Askin decided to risk it before the boundary changes took effect at the state election, since these favoured the ALP in Georges River. It also created the opportunity for the government to campaign on the issue of law and order. Askin was confident of holding the seat because he was convinced that the general public wanted action on public dissidence, and he said that “the bulk of the public will be solidly behind the *Summary Offences Bill*”.<sup>25</sup> The by-election also dovetailed with the federal government’s law and order campaign against the September Moratorium.

The overall theme of the law and order campaign of the LP was that it supported “social change” and that it was dedicated to the preservation of “individual liberty”. The LP was adamant that it encouraged “dissent and demonstrations as valid democratic weapons”. Under the cover of their rhetoric they attempted to instil fear into the electorate by condemning the “militant minority, who cry liberty in order

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<sup>23</sup> *Cabinet Papers*, 7 July 1970, See Letter dated 3 July ,1970 addressed to the Under Secretary, Premier’s Department – Commissioner’s Office, SUBJECT: Proposed Summary offences Bill. REFERENCE: Your confidential memorandum of the 5 June, 1970, Ref. Schedule A, p.2.

<sup>24</sup> *Cabinet Papers*, 7 July 1970, Confidential memorandum addressed to Under Secretary, Premier’s Department from Police Commissioner, Norman Allan, dated the 5 June 1970.

<sup>25</sup> *SMH* 6 September 1970, p.182.

to practise anarchy”.<sup>26</sup> McCaw, the Attorney General, argued that “public exaltation to destroy laws ... inevitably leads to the destruction of the institution of free speech, free association, free press and the parliament. The alternative is anarchy followed by dictatorship”. Askin had urged the judiciary to “make an example [of] lawless minorities who go beyond what most of the community regards as a fair go... The penalties are there, it is up to the courts to enforce them”.<sup>27</sup> As outlined in their by-election manifesto, the LP identified the minority as all those who demonstrated against the Vietnam War. “These people are the destroyers of liberty ... They are fully prepared to destroy the liberty of others in order to reach their own goals”.<sup>28</sup>

Askin’s overall strategy was that a victory in the by-election would translate into a mandate for the *Summary Offences Bill*. Through the implementation of the legislation, the Government could claim that it had saved the electorate from anarchy. This paved the way for the government to contest the 1971 election on law and order. It also complemented the government’s good record of reform, stability and the favourable financial deal Askin had brokered with Gorton. The challenge for Askin was to create a political environment that validated his law and order policy at the by-election.

After the Moratorium committee had set the date for the second moratorium to be held over three days, 18-20 September 1970, Askin chose the 19 September 1970 as the date of the by-election. The coincidence was uncanny; the commentators concurred that it was probably a tactical move. On 8 July 1970, Willis turned the already simmering campuses into a “powder keg”, by prosecuting the director and editors of the University of New South Wales publication *Tharunka* for obscene publication under the *Obscene and Indecent Publications Act*.<sup>29</sup> The rumblings that the *Summary Offences Bill* contained stringent anti-demonstration legislation had mobilised the students and the unions to demonstrate.<sup>30</sup> Allen inflamed the volatile situation by withholding his decision on the issuing of permits for

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<sup>26</sup> Liberal Party Papers, Mitchell Library, ML MSS. 2385, Y4705, Item 2.

<sup>27</sup> ‘Australian Political Chronicle May-August 1970’, *AJPH*, Vol. 16, No.3, p.402.

<sup>28</sup> Liberal Party Papers, Mitchell Library, ML MSS. 2385, Y4705, Item 2,

<sup>29</sup> ‘Australian Political Chronicle May-August 1970’, *AJPH*, Vol. 16, No.3, p.401.

<sup>30</sup> *SMH*, 23 July 1970, p.6; *The Australian*, 10 July 1970, p.1.

the moratorium march. The NSW moratorium convenor Ken McLeod, confirmed that “the moratorium is fully committed to a policy of non-violent action”, as was the case in May.<sup>31</sup> On the afternoon of Friday 18 September, when the march was to commence, the marshals were unaware whether permission had been granted for the use of the city streets.<sup>32</sup> When the *SMH* enquired into the status of the permit situation, the police declined to cooperate and Allen was unavailable for comment.<sup>33</sup> It would appear that Allen had deliberately left the moratorium committee in the dark regarding the permission from the Police Department for the march. This was probably intended to create confusion and encourage the protesters to march and inadvertently break the law.

It would appear that the ruse on the part of Askin and Allen was to antagonise the demonstrators. Allen predicted that the demonstrators would “take over the city by insurrection”.<sup>34</sup> By coincidence a LP convention was scheduled for the Friday night at the Sydney Town Hall which Askin probably hoped would be a catalyst for confrontation. Askin pre-empted his desired outcome on the eve of the moratorium when he taunted the ALP MLAs in parliament with accusations that they were “in favour of what certain ratbags propose to do, or might do, in the form of public demonstrations with violence”.<sup>35</sup> Askin’s tactic was to detonate the “powder keg” at the Friday demonstration, the day before the by-election.<sup>36</sup> The shocking violence that Askin anticipated would generate extensive media coverage. It would fan the smouldering fear and anxiety in the electorate, already cultivated by the conservatives’ campaign. The voters would then seek refuge in the law-and- order legislation.<sup>37</sup>

The moratorium was to commence at 2pm on Friday 18 March 1970, with a rally at Wynyard Park. The protesters were then to march to the intersection of

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<sup>31</sup> *The Australian*, 16 September 1970, p.8; *Daily Telegraph*, 18 September 1970, p.15.

<sup>32</sup> *The Australian*, 18 September 1970, p.7.

<sup>33</sup> *SMH*, 18 September 1970, p.1.

<sup>34</sup> *SMH*, 22 September 1970, p.2; *The Australian*, 19 September 1970; p.1 *The Australian*, 30 September 1970; p.8.

<sup>35</sup> *SMH*, 18 September 1970, p.7; *Daily Telegraph*, 16 September 1970, p.12.

<sup>36</sup> *The Australian*, 3 October 1970, p.6.

<sup>37</sup> *The Australian*, 26 September 1970, p.10.

George and Park Streets, opposite the town hall, for a one-hour anti-conscription forum. The march was then to proceed down George Street to Victoria Park for an evening rally commencing at 7pm.<sup>38</sup>

The moratorium committee first became aware of the status of their permit application when the march left Wynyard Park. They were unaware that the police had redirected the route away from the town hall. The protesters at this point were immediately “dispersed by a flying wedge of more than one hundred police”. This was “the first hint of major trouble ... fists flew and several were arrested”. The estimated number of 8,000 protestors then “battled against police to get to George Street. The “worst violence” began when the police, who were following “a carefully prepared plan designed to keep the demonstrators away from the town hall”, wrangled them towards Hyde Park. When the crowd propped, the police “plucked violently struggling men and women from the pavement and hustled them into waiting police vans. Punches were thrown as police and demonstrators grappled on the road ... about 1000 demonstrators eventually reached the town hall where they sang”.<sup>39</sup> The demonstration concluded in Victoria Park with an “almost picnic air about it”.<sup>40</sup>

By the time Askin arrived at the Sydney Town Hall to attend the LP state convention only “a few of the demonstrators were sitting on the steps outside”.<sup>41</sup> Askin was probably self-satisfied with the outcome of the plan to keep the protesters away from the town hall and the LP conference which had provoked the violent struggle between the police and the protesters at Wynyard Park. This was widely covered by the media and at this stage Askin would have been confident that it would auger well with his ruse to convince the voters at the Georges River by-election to endorse his law-and-order legislation. It was reported that he was “unduly smug about the events of moratorium day”.<sup>42</sup> In his opening address at the

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<sup>38</sup> *SMH*, 18 September 1970, p.1.

<sup>39</sup> *SMH*, 19 September 1970, p.1; *The Australian*, 24 September 1970, p. 18; *Daily Telegraph*, 19 September 1970, p.1.

<sup>40</sup> *SMH*, 19 September 1970, p.9; *Daily Telegraph*, 19 September 1970, p.3.

<sup>41</sup> *SMH*, 19 September 1970, p.1.

<sup>42</sup> *SMH*, 27 September 1970, p.54.

convention, Askin said that the “public is on our side in the worrying atmosphere that obtains today”. He praised the police: the Commissioner and those with him “know what to do...and today they did it in a magnificent fashion.<sup>43</sup> The Commissioner fully understands my Government’s policy ... to exercise restraint...and not to worry about trivial breaches ... but if there are incidents ... an irresponsible minority should not be allowed to hold the city to ransom”.<sup>44</sup>

Askin informed the conference that he had driven through the streets of Sydney for a “first hand” view of the melee. Despite the confrontation between the protesters and the police the demonstration concluded peacefully at Victoria Park. There was no evidence of torched motor vehicles or smashed shop windows which had been a common occurrence in Paris demonstrations. It was astonishing that the only dangerous characteristics Askin identified in the protesters, who were supposed to hold the city to ransom, was that “they were a pretty scruffy lot indeed. Most of them needed a haircut and a wash”. Askin then assured the conference that the LP would win the by-election with “a loss of a few votes due to the personal following of Doug Cross”.<sup>45</sup>

Askin’s ruse was a dismal failure and demonstrated his poor judgement in relation to the law-and-order issue.<sup>46</sup> The Georges River by-election was a disaster for the Government and Askin was out-campaigned by the young Frank Walker and the ALP. The Georges River electorate was considered a “fairly representative seat” of the state. The ALP campaigned on the cost of living and education, ignoring the issue of law and order.<sup>47</sup> They won the seat with a 9% swing that would translate into a six-seat majority if it was repeated at the general election.<sup>48</sup> Frank Walker, the newly elected member for Georges River, found that the main concern of housewives was the cost of living and that “people just weren’t interested in law and

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<sup>43</sup> *The Australian*, 19 September 1970, p.5.

<sup>44</sup> *SMH*, 19 September 1970, p.9.

<sup>45</sup> *SMH*, 19 September 1970, p.9; *Daily Telegraph*, 19 September 1970, p.6.

<sup>46</sup> *The Australian*, 21 September 1970, p.1

<sup>47</sup> Don Harwin, ‘1971’, *The People’s Choice*, p.49.

<sup>48</sup> *SMH*, 27 September 1970, p.1; *The Australian*, 26 September 1970, p.10.

order. To them law and order means protection from crime, not demonstrations”.<sup>49</sup> Some of the voters would probably have been parents and grand-parents of the demonstrators or even demonstrators themselves. They certainly would have been unimpressed with Askin constantly haranguing their children. Askin had no children; perhaps that made it harder for him to understand the baby-boomer generation who had not lived through the Depression or World War Two.

The by-election was a paradox insofar as the electorate embraced the traditional way by protesting at the ballot box. In turn the voters dismissed the conservative notion that other forms of protest such as street demonstrations were a threat to democracy. The electorate was in the process of breaking out of the out-dated and comfortable cocoon of the Menzies' era.

The impact of the protest movements of the 1960s was manifest in the views expressed by the media commentators and the various interest groups in the aftermath of the Moratorium and the by-election.<sup>50</sup> In a letter to the editor of the *SMH*, the correspondent postulated that the discriminatory use of the police force against political enemies should not be tolerated and argued that this action posed a greater threat to democracy than demonstrations.<sup>51</sup> Photographs produced by the ABC confirmed “that police constables removed their identification badges then punched and kicked demonstrators”.<sup>52</sup>

The *SMH* editorial echoed Tom Uren's assessment “that many police behaved in a controlled and responsible manner. But others did not ... Therefore it must be suspected that their conduct reflected the attitude of some senior police officers”.<sup>53</sup> Allan's conduct came under scrutiny when it was ascertained that about 173 marchers were arrested out of a Sydney crowd of approximately 15000, compared with 4 from a Melbourne crowd of 50,000.<sup>54</sup> Dr Allan Lay, a Methodist

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<sup>49</sup> *SMH*, 21 September 1970, p.12; *Daily Mirror*, 7 September 1970, p.18.

<sup>50</sup> *The Australian*, 23 September 1970, p.3.

<sup>51</sup> *SMH*, 21 September 1970, p.1.

<sup>52</sup> *ibid*, 22 September 1970, p.4.

<sup>53</sup> *ibid*, 22 September 1970, p.2.

<sup>54</sup> *SMH*, 24 September 1970, p.1.

minister who participated in the march, posited that the moratorium alerted the community to “the use of a police force to inhibit the freedom of assembly and the free expression of opinion” which underpinned the democratic process at the ballot box. The NSW Council of Civil Liberties released a pamphlet, “The Right of Peaceful Assembly”. The thesis of Justice Hope, outlined in the pamphlet, concerned the decision-making process for public demonstrations after the debacle at the September moratorium. He posited that public demonstrations should be dealt with by a magistrate. This avenue would be available in the case where the police and the protest group failed to reach an agreement. This process would keep the policing separate from politics and any “associated odium”.<sup>55</sup>

Perhaps the most poignant views towards the law-and-order policy of the conservative governments were those expressed by some young Liberals, the future custodians of LP philosophy. A booklet titled, “The Present Crisis in Universities”, authored by three members of the Sydney University Liberal Club, was sent to all LP politicians. Its purpose was “an attempt to offset interference by the government in university activities”. The authors described it as “an un-hysterical evaluation of student dissent”. They debunked the rhetoric that the student demonstrations were controlled by communists. It was conceded that some students were misguided and subversive but they were not communists. They argued that the demonstrations were another form of “pressure group tactics”, similar to that of the RSL or the AMA. It was posited that there were “very few violent extremists on the lunatic left”. The authors also echoed Carrick’s advice that, “Tolerance of legal dissent is the greatest weapon in limiting the numbers of such militants”.<sup>56</sup>

The ALP pursued Askin and Allen with a vengeance. Gough Whitlam, now the leader of the federal ALP, who had been informed by senior police officers, said that “some young policeman who had been corrupted by military service in Vietnam had besmirched the reputation of the NSW police force”.<sup>57</sup> Syd Enfield called for a Royal Commission after Allen agreed to conduct an internal enquiry. Enfield claimed that it

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<sup>55</sup> *SMH*, 28 September 1970, p.7.

<sup>56</sup> *SMH*, 25 September 1970, p.8; *The Australian*, 19 October 1970, p.4.

<sup>57</sup> *SMH*, 25 September 1970, p.1.

was justified by the complaints of reputable citizens and photographic evidence. He regarded the actions of Allen as irresponsible and that he was in no position to conduct an impartial enquiry.<sup>58</sup>

Askin heeded the warning he was given by the voters which was demonstrated by his improved results in the subsequent election. He abandoned the hubris that had blinkered his judgement and re-engaged with the voters. Subsequently, the *Summary Offences Bill* was diluted. Askin then trained his sights on the environmental issues in consideration of the electorate.

The idea of the *Summary Offences Bill* was to review the *Vagrancy Act 1902* and the *Police Offences Act 1901*, “because some offences were incongruous in the modern society”.<sup>59</sup> These acts were to be replaced with the *Summary Offences Act*. This created an opportunity for Askin to subtly introduce stringent law and order legislation.<sup>60</sup> The by-election defeat, along with opposition in the cabinet, stymied his plan.<sup>61</sup> Maddison, the Attorney General, expressed his position at a LP campaign dinner in Newcastle, “There would be no future for the LP if it did not acknowledge the right to dissent ... The essence of LP philosophy is the balance between civil liberties and the protection of the rights of its citizens”.<sup>62</sup>

Askin was adamant that the bill was not diluted, despite his blustering rhetoric before the by-election. Hills derided it as a “damp squib”. The anomalies and anachronisms were addressed in the *Summary Offences Act*. Penalties for living off the earnings of prostitutes or for providing premises were doubled. The concept of an “aggravated offence” was diluted to apply only to “sit-ins” in private and government buildings. “Agents provocateur” failed to pass the scrutiny of the cabinet.<sup>63</sup>

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<sup>58</sup> *ibid*, 24 September 1970, p.1.

<sup>59</sup> *Cabinet Papers*, 7 July 1970, See Cabinet Statement. Summary Offences Bill – Review of Police Offences Act, 1901 and Vagrancy Act, 1902. Presented by the Chief Secretary and dated 28 May 1970, p.6.

<sup>60</sup> *The Australian*, 16 October 1970, p.3.

<sup>61</sup> *The Australian*, 11 November 1970, p.7.

<sup>62</sup> *SMH*, 17 October 1970, p.5; *The Australian*, 13 July 1970, p.4.

<sup>63</sup> *Cabinet Papers*, 13 October 1970, See Press Statement by the Premier: Summary Offences Bill. See also Chief Secretary’s Cabinet Minute: Summary Offences Bill – Refusal of Approval for Procession; *Cabinet Papers*,

After the Georges River by-election, Askin was keen to pursue an issue that would deflect attention away from the *Summary Offences Bill*. Pollution which had become a concern in the electorate was the solution. It had become an acceptable political issue by 1970 after the Senate Select Committee on water pollution found that “we are still living in our own filth”, and that all levels of government dealing with the issue boarded on “chaotic”.<sup>64</sup> Sydneysiders had become disgusted with the prospect of continually sharing the beach with their own waste. The pollution problem was further manifest on 25 July when a “rotten egg gas”, odour, which became known as the “big stink”, emanated from an unknown source in one of the industrial areas and enveloped the city. The July petrol strike further illuminated the issue when the city’s air pollution decreased by 50% because of the reduced number of motorists. The public reaction was demonstrated in the Morgan Gallup poll at the end of 1970. It showed that 78% of motorists were in favour of the introduction of lead free petrol even though it would cost an extra 3 cents per gallon.

Askin and his Government had good reason to savour the success of their first term which was reflected in the decisive 1968 election victory. Instead of capitalising on his good fortune Askin allowed hubris to undermine his proven art of politics and embraced conservatism over pragmatism. Askin was clearly bewildered by the protest movements but unlike his contemporaries such as Carrick and Sir Roden Cutler, he refused to engage with the sentiments of the demonstrators. His entrenched conservatism culminated in the “law and order” legislation. As a result, the Georges River by-election was a disaster. Askin’s attempt to exploit the “law and order issue” was poor judgement and a blot on his otherwise discerning leadership.

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3 November 1970, Summary Offences Bill – Cabinet statement presented by the Chief Secretary dated 2 November 1970.

<sup>64</sup> *SMH* 27 July 1970, p.1; *SMH* August 6 1970, p.11; Horne, *A Time Of Hope*, p.78; *Cabinet Papers*, 4 August 1970.