

## MISCELLANEOUS INFORMATION.

## Memorandum.]

The attention of all members of the Force is directed to the judgment of Mr. Justice Kennedy in *McLean v. Harvey*, which is published below.

D. J. CUMMINGS, Commissioner of Police,  
Wellington, 4th December, 1942. (S. 42/894.)

In the Supreme Court of New Zealand,  
Otago and Southland District,  
(Dunedin Registry).

Between  
NAIDA ALICE McLEAN,  
Appellant,  
and  
WILLIAM JAMES HARVEY,  
Respondent.

Hearing, November 17, 1942; judgment, November, 20, 1942. Counsel: *White* for appellant; *Adams* for respondent.

## Judgment of Kennedy, J.

This is an appeal on point of law from the determination of a stipendiary magistrate convicting the appellant of participating in the activities of a subversive organization.

The Public Safety Emergency Regulations 1940, Amendment No. 1, provides that a subversive organization means any organization for the time being declared by the Attorney-General under Regulation 2A to be a subversive organization for the purposes of these regulations. Regulation 2A provides that, if the Attorney-General is satisfied that any of the purposes, methods, or activities of any organization has a subversive tendency or may be injurious to the public safety or is likely to lead to attempts to influence the public, the Government, or any local authority or public body otherwise than by lawful and constitutional means, the Attorney-General may, by notice published in the Gazette, declare the organization to be a subversive organization for the purposes of the regulations.

By notice published in the Gazette dated October 21, 1940, the Minister, reciting that he was satisfied that the methods and activities of a certain organization or organizations—namely, the organization or organizations known as "Jehovah's Witnesses" or "Witnesses of Jehovah," "The Watch Tower Bible and Tract Society," and "The International Bible Students' Association" have a subversive tendency and may be injurious to the public safety, declared the said organization to be a subversive organization for the purpose of the Public Safety Emergency Regulations 1940 and its Amendments.

By Regulation 2A (3) it is an offence for any person to invite any person to attend any meeting held or proposed to be held by or for the purposes of a subversive organization or to use premises for its purposes or to permit premises to be so used and, finally, it is an offence to (c) "participate in the activities . . . of any subversive organization."

By notice dated May 8, 1941, the Minister so far relaxed the prohibitions as to consent to meetings in buildings or tents of which no public notice was given and which were restricted to members or former members of the organization and which were held for no other purpose than "for study of the Bible, prayer, or worship." The regulations forbade the continuance of the activities of the subversive organization and the participation in them by any person because its general methods or tendencies were deemed subversive and contrary to the public safety. It may be that some of the activities of the organization were innocent and some were otherwise—but, as it was obviously impossible to sever the good from the bad, as a matter of State policy, participation in any of its activities was forbidden.

The appellant was a member of Jehovah's Witnesses. She was with two others. She called at houses and ostensibly invited those interested to read the Bible, but under cover of this, it may possibly be inferred really engaged in propaganda. It is clear that had there been proof that what was being done was an activity of the organization, the learned Magistrate might well have found that the offence was committed and entered a conviction accordingly.

There was, however, no evidence as to what the activities of the organization were and no proof that this was an activity of the organization. But it was said that this proof emerged from certain admissions made, or if it did not, then the Court should take judicial notice of the methods or activities of the organization. It was said that the accused had admitted that what she was doing was an activity of the organization in conversations reported by Constables Harris and Clark. Both repeated these conversations to the Court, but the "we" used therein might refer equally well to the two or three persons engaged as to the organization.

I conclude then that there was no evidence showing that what the accused and others were doing was an activity of the organization. It would seem that it would have been easy for anyone acquainted with the methods and activities of the organization to have deposed to this, but no witness was asked any questions about it.

There remains the question whether the Court should take judicial notice of the method of approach as being an activity of the organization. I do not think that it is so notorious that it can be taken judicial notice of and there must, in my view, be proof of it. The result is that there is not sufficient evidence to warrant the conviction. The appeal is allowed and the conviction is set aside. This judgment should not, however, encourage the belief that what was done is, in all circumstances, within the law.

## Memorandum.]

## Collection of Agricultural and Pastoral Statistics.

The collection of agricultural and pastoral statistics for the coming year will be wholly undertaken by the Police. For this purpose Constables in charge of stations will be appointed sub-enumerators for their respective sub-districts. In no case should a non-commissioned officer collect the statistics. At stations where a non-commissioned officer is in charge the collection must be undertaken by the Inquiry Constable. Each sub-enumerator shall be responsible for the collection of returns for all holdings that come within the scope of the inquiry in his sub-district.

The collection will commence in February or March according to locality, and will be completed as early as circumstances permit without undue interference with police duties.

Lists of occupiers of holdings as returned previously will be supplied by the Government Statistician to sub-enumerators for their guidance in tracing holdings. Sub-enumerators are, however, to ascertain locally any changes of occupancy of holdings.

Sub-enumerators shall collect returns personally from occupiers within easy reach without incurring any expenditure on account of meals or locomotion. In other cases the schedules are to be posted or otherwise distributed by sub-enumerators to occupiers for completion and return.

Particulars on schedules shall be scrutinized by sub-enumerators and transcribed into collection-books for despatch to the Government Statistician.

For their services in checking lists, distributing and collecting schedules, and posting the details into the collection-books, sub-enumerators will following recommendations made by me be paid 8d. per schedule collected, less Social Security and National Security charges. Payment will be made by the Government Statistician to the sub-enumerator on completion of the collection in his sub-district.

No payment for meals or locomotion expenses will be made, and it is expected that all returns that cannot be obtained during the ordinary course of police duty will be collected by post. It is desirable, however, that sub-enumerators should get in touch with as many occupiers as possible and personally collect particulars from them to ensure accuracy of the returns.

Stamps required for outwards postage of schedules or for any necessary toll calls are to be requisitioned for on the local Postmaster, the Police Officer to sign as Sub-enumerator of Agricultural and Pastoral Statistics, and to make the claim chargeable to the Census and Statistics Department.

The Postal Department has undertaken to charge the Census and Statistics Department a fixed sum per annum to cover all short-paid and unpaid inwards postage, and accordingly no payment for inwards postage will need to be made by sub-enumerators.

Correspondence on ordinary routine matters in connection with the collection shall be direct between the Government Statistician and the sub-enumerators. Communications regarding special points which may affect the Police Department shall be made through the usual police channels.

A supply of books, schedules, and envelopes, together with full instructions as to the method of collecting and posting the returns, will be issued to sub-enumerators by the Government Statistician.

Sub-enumerators will understand that all individual particulars are strictly confidential and must not be divulged under any circumstances. Inquiries for individual particulars, from any source whatsoever, must be referred to the Government Statistician.

This Department has in the interests of economy agreed to the work being undertaken entirely by the police without the engagement of civilians in any district, and the co-operation of the members of the Force concerned is requested to make the returns as complete and accurate as possible.

D. J. CUMMINGS, Commissioner of Police.  
Wellington, 8th December, 1942. (P. 42/33.)

## EXTRACTS FROM NEW ZEALAND GAZETTE

## Declaring a Place to be a Prohibited Place under the Defence Emergency Regulations.

Area at Mount Pleasant. The boundaries of the prohibited place referred to are defined in New Zealand Gazette, 1942, page 2843.

## Regulations controlling the Admission of Persons to Te Rapa Racecourse while it is used or occupied by the Waikato Trotting Club.

(See New Zealand Gazette, 1942, page 2859.)