

## RUSSELL AND THE OTHER DORA, 1916–18

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During the First World War Russell frequently complained about unwarranted encroachments by the wartime state on the sphere of individual freedom. He experienced such encroachments very directly. The Defence of the Realm Act (DORA) was the legal instrument through which most official reprisals were visited on him—punitive measures arising from his dogged support for conscientious objectors and a negotiated peace. Under this emergency legislation he was twice convicted and had his freedom of movement curbed. This harsh treatment is well known, but the literature on Russell has not yet systematically examined his relationship with this “other DORA”. Using the Russell Archives, his *Collected Papers*, and government records in the UK’s National Archives, this paper seeks to establish the legal, administrative and political contexts in which he was prosecuted and sanctioned extra-judicially, and where he sometimes benefitted from DORA’s formidable powers being set aside.

### I. INTRODUCTION

In First World War Britain the acronym “DORA” (for Defence of the Realm Act) was frequently anthropomorphized into a “cruel and capricious maiden who at the snap of her fingers could close down a newspaper, requisition a ship, or prohibit whistling for cabs”<sup>1</sup>—or even, as Arthur Marwick’s classic social history of the

<sup>1</sup> MARWICK, *The Deluge* (1965), p. 36.

Home Front might have added, hound and ultimately imprison the Hon. Bertrand Russell, one of the most distinguished living fellows of Trinity College, Cambridge. Hastily enacted after the outbreak of war but the product of years of (inconclusive) deliberations,<sup>2</sup> DORA was, in essence, a “skeleton” statute, with an administrative frame fleshed out by an ever-expanding body of Defence of the Realm Regulations (DORRs).<sup>3</sup> Such extensive delegation of legislative authority (by Order in Council) is integral to modern public administration. It was far less characteristic of early twentieth-century governance, although not so atypical of British practice as presumed by those who detected in DORA a recrudescent Tudor despotism or an alien, Continental bureaucracy. Together with DORA, two other contentious measures were forged into a menacing trident of coercive wartime controls. In July 1915 the Munitions of War Act imposed strict workshop discipline and curtailed the free movement of labour, while the following March the legislation of conscription overturned the supposedly venerable practice of volunteer military service. The extraordinary reach of DORA probably made it the most potent statutory symbol of official resolve to subordinate, if necessary, all aspects of social, economic and political life to the imperatives of total war.<sup>4</sup>

<sup>2</sup> See RUBIN, “The Royal Prerogative or a Statutory Code? The War Office and Contingency Legal Planning, 1885–1914” (1987).

<sup>3</sup> A single-clause Defence of the Realm Act came into force on 8 August 1914, four days after Britain declared war on Germany. Its scope was broadened by an amending law of 28 August before both statutes were superseded on 27 November by the Defence of the Realm Consolidation Act—the legislation to which the acronym “DORA” therefore usually refers. Two amendments to this third DORA were carried in March 1915: one curbed the jurisdiction of the military in DORA cases; a second anticipated the comprehensive war production and civilian manpower controls ushered in four months later by the Munitions of War Act. Four other, more narrowly conceived DORAs were enacted subsequently. These selectively authorized the state purchase of the liquor trade, protected the Crown against the loss of public money expended on requisitioned property, penalized speculative trading in foodstuffs, and affirmed the purchase price for a consignment of beans, peas and pulses. But the majority of controls and prohibitions pertaining to the defence of the realm were effected by DORA’s auxiliary code of regulations. An initial batch, 31 in all, was introduced on 12 August 1914, and after 85 more Orders in Council—adding new powers and amending others—some 260 DORRs were in force by the war’s end.

<sup>4</sup> See, for example, this entry from BEATRICE WEBB’s diary, which is striking because she was far from unfavourably disposed, as a Fabian socialist, to the steady forward march of war collectivism: “The Munitions of War Act and the Defence of the Realm Act, together with the suppression of a free press, has been followed by the Cabinet’s decision in favour of compulsory military service. This decision is the last of a series

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Dismayed by the transformation of the state into an instrument of compulsion rather than of the orderly progress achieved by the New Liberal welfare reforms of the pre-war era, Russell and other hostile voices lambasted these war measures as perversely ironic by-products of a vaunted fight for freedom. DORA's foes protested not only the suppression of anti-war dissent but also, *inter alia*, the encroachment of "competent military authorities"<sup>5</sup> on civil jurisdictions, internment without trial (DORR 14B), and the punitive treatment of women arising from bungled attempts at reducing venereal disease in the armed forces (DORR 40D).<sup>6</sup> One overarching objection to DORA targeted the elasticity of its ordaining powers, which had been "so construed as to include within their ambit almost every portion of our social and civil life".<sup>7</sup> Some draconian DORRs appeared only tangentially connected

of cleverly devised steps, each step seeming at once harmless and inevitable, even to the opponents of compulsion, but in fact necessitating the next step forward to a system of military and industrial conscription" (1 Jan. 1916; *Diary* 3: 244). KENNEDY has argued that, while seemingly entrenched, voluntarism in recruiting was an essentially Victorian convention (*The Hound of Conscience* [1981], pp. 1–5).

<sup>5</sup> For most of the First World War, Home Forces on mainland Britain were split into seven District Commands, for each of which officers with the designation of Competent Military Authority (CMA) were responsible for administering and enforcing DORA. (In July 1918 these military districts were made coterminous with those of the police in a reorganization driven less by the requirements of home defence than a perceived need to streamline military aid to the civil power: see MILLMAN, "British Home Defence Planning and Civil Dissent, 1917–1918" [1998], pp. 227–8.) CMAs were also appointed in each of the areas (more than 60) into which the District Commands were subdivided, and at the highest levels of the army's political and military leadership the same powers were conferred on members of the Army Council and the Military Intelligence branch of the War Office. Competent *Naval* Authorities were similarly empowered on the islands off the north-east and west coasts of Scotland and in all major ports and dockyards, while many powers were vested in the civilian bureaucracy—the Treasury and Board of Trade, for example, and such war-time administrative creations as the Ministries of Munitions and Food—as DORA was fashioned into an instrument for marshalling the nation's productive and material resources. As the government department to which the police were ultimately answerable, the Home Office had an understandably central role in the implementation of DORA. If cases with censorship implications (something of particular relevance to the present paper) were brought to the attention of district or area CMAs, they were instructed to report to the War Office, which was bound, in turn, to consult with the Home Office on such matters.

<sup>6</sup> On the DORR 14B and 40D controversies, see, respectively, SIMPSON, *In the Highest Degree Odious: Detention without Trial in Wartime Britain* (1992), ch. 2, and BUCKLEY, "The Failure to Resolve the Problem of Venereal Disease among the Troops in Britain during World War I" (1977).

<sup>7</sup> "Defence of the Realm Acts", *Parliamentary Debates* (Lords), 5th ser., 24 (7 March

with the stated purposes of the statute. These were not administrative details, so complaints went, but discrete powers warranting their own legislative sanction. This circumvention of Parliament and the corresponding growth of unchecked executive discretion was the second general grievance levelled at DORA. Russell, for example, drew on this strain of criticism in objecting to the imposition, “Behind the Back of the People”, of a new DORR (27C) requiring all pamphlet literature to be passed by censorship authorities before publication.<sup>8</sup>

It was politically prudent for Russell and others to focus on the distortion of hallowed constitutional norms rather than on the rights of an embattled anti-war minority. Yet this critique was slightly artificial, given that an overwhelmingly pro-war Parliament would probably have assented willingly to the embodiment in *statutory* form of many contentious regulatory powers. A similar point could be made about the courts, which invariably upheld the executive’s broad construction of DORA’s keynote enabling provision.<sup>9</sup> Parliamentary sovereignty and the rule of law were nevertheless vigorously championed in wartime Britain by liberals and socialists drawing on a case against bureaucratic, unaccountable, even un-English, government mounted in the pre-war era by the influential conservative jurist A. V. Dicey.<sup>10</sup> Whereas Dicey was opposed to the drift of Edwardian social policy on ideological as well as constitutional grounds, many of DORA’s detractors (including Russell) had previously applauded the judicious

1917): 402–24 (at 416). The quoted speaker, Lord Parmoor, was nominally Conservative but also a staunch parliamentary advocate for civil liberties—including those of imprisoned conscientious objectors.

<sup>8</sup> “The New Dictatorship of Opinion”, prepared in November 1917 as a leaflet for distribution by the National Council for Civil Liberties (82 in *Papers* 14).

<sup>9</sup> In a handful of cases concerned with property rights and in which the litigation dragged on after the Armistice, the statute’s delegating authority *was* eventually circumscribed (see RUBIN, *Private Property, Government Requisition and the Constitution, 1914–27* [1994], chs. 6–8). In the heat of war, however, courts at all levels were more inclined to act in the spirit of the landmark majority ruling made by the Law Lords in the case of *Rex v. Halliday*, which rejected a challenge to executive detention by DORR 14B: “However precious the personal liberty of the subject may be,” Lord Atkinson declared, “there is something for which it may well be, to some extent, sacrificed by legal enactment, namely, national success in the war, or escape from national plunder or enslavement” (quoted in CARR, *Delegated Legislation* [1921], p. 30).

<sup>10</sup> Most notably, in the chapter on French *droit administratif* in Dicey’s frequently revised and reprinted *Introduction to the Study of the Law of the Constitution* (1885): see COSGROVE, *The Rule of Law: Albert Venn Dicey, Victorian Jurist* (1980), pp. 91–102.

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deployment of state power for progressive ends.<sup>11</sup> Yet, responding to the erosion of civil liberties under the cover of a national emergency, they retreated after August 1914 into a rearguard defence of liberal fundamentals.<sup>12</sup> Conservative political and legal voices were more comfortable with the maxim that in war, *salus reipublicae suprema lex*.<sup>13</sup> But they returned to an old line of attack post-war, sensing that the techniques of governance embedded in DORA were not merely “for the duration” but likely to stay and impede the restoration of business as usual in the social and economic spheres.<sup>14</sup> Russell was an acerbic critic of both DORA in particular and the wartime state in general. But he was also one of DORA’s more notable victims.<sup>15</sup> Certain particulars of his travails with this “other DORA”<sup>16</sup> will be familiar.<sup>17</sup> Yet no study of Russell’s peace campaigning in the First World War has been dedicated to the emergency legal instruments by which he was repeatedly targeted, or the political and bureaucratic influences on the judicial proceedings and administrative actions against him.

## II. LEGAL ACTION AND INACTION

Curiously, Russell was quite unperturbed by DORA’s initial pursuit. This began in May 1916 after six members of the No-Conscription Fellowship (NCF) were found guilty under DORR 27 of spreading reports likely to “prejudice recruiting”, for distributing a widely circulated leaflet of which Russell was the anonymous author (see *Papers*

<sup>11</sup> See *Papers* 12: xxxiii—although Russell was *not* in sympathy with the social theory undergirding the New Liberal programme, tinged as it was with the philosophical idealism he had rejected (*ibid.*: 31). In 1910 Russell published a stinging attack on Dicey—not on the legal thinker’s anti-statist animus but, rather, on his equally forthright opposition to women’s suffrage (*ibid.*: 27).

<sup>12</sup> See FREEDEN, *Liberalism Divided* (1986), ch. 2.

<sup>13</sup> I.e., the welfare of the state is the highest law.

<sup>14</sup> See, for example, HEWART, *The New Despotism* (1929), a tirade against government by bureaucracy written by a Lord Chief Justice who as a wartime Solicitor General had been responsible for upholding the very powers he came to disparage.

<sup>15</sup> See Appendix for descriptions, with quotations, of DORRs used or contemplated for use against Russell, and details of their application to him.

<sup>16</sup> Russell first met Dora Black, his second wife, in 1916 (see *SLBR* 2: 189).

<sup>17</sup> In addition to *Papers* 13 and 14, see RUSSELL, *A Pacifist at War*, ed. Griffin (2014); CLARK, *The Life of Bertrand Russell* (1975), pp. 282–304, 337–44; MONK, *Bertrand Russell: the Spirit of Solitude* (1996), pp. 463–82, 520–4; and VELLACOTT, *Conscientious Objection: Bertrand Russell and the Pacifists in the First World War* (2015), ch. 7 and pp. 223–36.

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13: 370). When Russell confessed in a letter to *The Times*<sup>18</sup> that he had written the so-called Everett leaflet,<sup>19</sup> the authorities were more or less obliged to prosecute him as well. He too was charged under the same clause of DORA 27 and tried at the Mansion House, where on 5 June he was found guilty and fined £100 by the Lord Mayor of London. Russell had rather goaded the authorities into acting against him and was blasé about his punishment—even though he did (unsuccessfully) appeal his conviction a few weeks later.

While not wanting others penalized for what he had written, Russell also welcomed the publicity of a trial in open court. Frustrated that no verbatim record of the proceedings seemed to have been made by any NCF members in attendance, he complained the next day to his friend and political associate Clifford Allen that “absolutely the only point of making a speech and defending myself was to have it reported” (6 June 1916; *Papers* 13: 377). Notwithstanding this apparent oversight, the NCF also appreciated the propaganda value of trial proceedings. After eight members of its national committee were convicted in another “prejudicing recruiting” trial three weeks before Russell’s, the organization’s weekly newspaper, *The Tribunal*, expressed satisfaction that the substance of the pamphlet at the centre of that case, *Repeal the Act*, had been “made known in every home in the country, and to every soldier who reads a daily paper.”<sup>20</sup> Representing himself, Russell did not attempt a technical defence but simply and defiantly reiterated the message of the leaflet that had brought him to trial—with its impassioned justification of absolute freedom of conscience and blistering attack on the British Government’s punitive treatment of conscientious objectors (C.O.s).

Not surprisingly perhaps, the authorities began to question the wisdom of laying charges in such DORA cases. “Prosecutions of authors ... are not much use”, minuted Sir Ernley Blackwell, chief legal assistant at the Home Office on 14 June 1916. “They go back to their press and print leaflets which keep within the law but do just as much to instigate active resistance to the Military Service Acts as would leaflets containing one or two expressions which would justify a conviction

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<sup>18</sup> “Adsum Qui Feci” [I’m the one who did it], 17 May 1916, p. 9 (54 in *Papers* 13).

<sup>19</sup> I.e., *Two Years’ Hard Labour for Refusing to Disobey the Dictates of Conscience* (1916; 19 in *Papers* 13), protesting the plight of Ernest F. Everett.

<sup>20</sup> “The Result of the Government Prosecution”, no. 10 (25 May 1916): 1.

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under R. [DORR] 27.”<sup>21</sup> Instead, Blackwell favoured a more unrestricted application of another DORR, 51, which authorized the seizure and destruction of objectionable literature as well as the confiscation of printing equipment.

Slightly uncomfortable with this draconian power at his disposal, the Liberal Home Secretary, Herbert Samuel (Russell’s friendly sparring partner on BBC radio in the 1950s<sup>22</sup>), instructed that anti-war material be suppressed under DORR 51 only if it had featured already in a successful DORR 27 prosecution.<sup>23</sup> Accordingly, both *Two Years’ Hard Labour* and *Repeal the Act* were added to a Home Office “Hostile Leaflets” circular, which had been compiled in March 1916 and was regularly updated with instructions for local constabularies to seize and destroy stockpiles of embargoed literature in their jurisdictions.<sup>24</sup> A published record of Russell’s trial (56b in *Papers* 13)—an NCF note-taker had been present after all—suffered the same fate. Ironically, this pamphlet (*Rex v. Bertrand Russell*) was placed on the “Hostile Leaflets” circular not because of anything newly “prejudicial”, but

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<sup>21</sup> HO 45/10742/263275/179 (“War: Anti-Recruiting and Peace Propaganda, Meetings, Marches and Speeches”), National Archives, UK.

<sup>22</sup> When they frequently sat on the same panel of the BBC Overseas Service’s long-running discussion programme, *London Forum*. See, for example, 38, 53, 67 in *Papers* 26 (forthcoming); 5 in *Papers* 28; 45 in *Papers* 29.

<sup>23</sup> See BONE, “Beyond the Rule of Law: Aspects of the Defence of the Realm Acts and Regulations, 1914–18” (1994), p. 147. Samuel explicitly ruled out the suppression of another Russell pamphlet, *Why Not Peace Negotiations?* (61 in *Papers* 13), not only on these narrow legal grounds but also because it had never been intended “to use the powers of the Executive to prevent people advocating negotiations for peace, inconsistent with the national purpose though such advocacy is” (to Sir Edward Troup, 30 Oct. 1916, HO 139/23/96 [Pt. 2], National Archives, UK).

<sup>24</sup> See also n. 66. A half-hearted attempt to bring DORR 51 into closer conformity with the rule of law had been made by the introduction of DORR 51A in May 1915. DORR 51A offered the owners of confiscated literature (or printing machinery) the chance of redress if they could demonstrate to a magistrate “why the articles so seized should not be destroyed”. But this entitlement to restitution was distinctly flawed, for injured parties appeared in court burdened with an à priori presumption of guilt. A semblance of due process was eventually added to the administration of DORR 51 as well, by the establishment in January 1918 of a Home Office Advisory Committee to make recommendations about publications confiscated by the police. This body was set up in the first instance to adjudicate on a large backlog of dissenting literature seized in a flurry of recent raids. Although this quasi-judicial tribunal was chaired by a High Court Justice, it was nevertheless attacked for merely providing cover for the suppression by administrative order of material never condemned in a court of law (see BONE, pp. 182–6).

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because it contained Archibald Bodkin's case for the prosecution, which quoted at length from the condemned Everett leaflet. Even though the sole objective had been to publicize Russell's "defence", the Crown counsel's address was added to the pamphlet, Russell explained to Liberal MP C. P. Trevelyan (a colleague in the Union of Democratic Control [UDC]), because "we thought it unfair to print it without the prosecution" (22 Oct. 1916; *Papers* 13: 378).

Sir Charles Mathews, Director of Public Prosecutions (DPP), concurred with Blackwell's advice that "the day for the prosecutions of individuals ... is past, and that it is to the seizure and destruction of seditious and pro-German 'literature' our efforts ought to be directed in future." Mathews was commenting on a speech by Russell in Cardiff on 6 July 1916 (63 in *Papers* 13), a transcript of which had been sent to the Home Office by a reporter from that city's *Western Mail*.<sup>25</sup> Russell fully expected to be charged over this address, which he commenced by saying, "I do not believe there is now any good and valid reason why this war should continue to be prosecuted." In forwarding the relevant papers to the DPP, Sir Edward Troup, permanent secretary to the Home Office, suggested that virtually the entire speech could be construed (under DORR 27) as "likely to cause disaffection". Troup singled out as especially egregious a passage about Russian war aims in the Near East, which was also likely under the same DORR "to prejudice His Majesty's relations with foreign powers".<sup>26</sup> Nevertheless, he was dubious about proceeding against Russell, since he would mount "a clever defence, and would publish it as a pamphlet." Mathews agreed that a conviction could be secured, but at the cost of giving "publicity to opinions which, but for the prosecution, would

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<sup>25</sup> The newspaper's slanted coverage of the Cardiff speech ("Called a Traitor", 7 July 1916, p. 3) also quoted two jingoistic hecklers: Lovat Fraser, an associate of press baron Lord Northcliffe, and Captain W. H. Atherley-Jones, a Welsh army officer. A Home Office review was prompted by the latter's dispatch of excerpts from Russell's address to a national newspaper, the *Daily Express* (see *Papers* 13: 420-1).

<sup>26</sup> The following passage is highlighted in the transcription of Russell's speech obtained by the Home Office: "The Russian desire to possess Constantinople is, I think, the main cause of the continuation of this war now. There is one other cause—though of this we cannot be sure—which is much more sinister than the Russian desire for Constantinople. You will notice in those terms read in the *Express* that the Germans suggested autonomy for Poland. Autonomy for Poland is not a thing that the Russian Government desires. I do not know, but I think it is not unlikely that one of the things we are fighting for now is to prevent the liberty of Poland" (*Papers* 13: 428).

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remain stillborn—a remedy which ... is worse than the disease.” But the DPP did want the Official Press Bureau to instruct newspapers to refrain from reporting public meetings attended by Russell, and any pamphlets or leaflets authored by him to be pre-emptively confiscated—with the Cardiff speech used as justification should such brusque action be publicly challenged. The possibility of again *prosecuting* Russell, however, was definitively ruled out when the Home Secretary minuted that this would be “inadvisable”.<sup>27</sup>

The same hesitancy about indicting Russell was evident a few months later when it became clear that his open letter to Woodrow Wilson—imploping the American President to broker peace between the European powers (2 in *Papers* 14)—had been smuggled out of the country before excerpts from it appeared in the *New York Times* and other American newspapers.<sup>28</sup> The British Government had a *locus standi* in the form of DORR 24, which prohibited non-postal communications overseas. Although not conceived as a weapon in the battle against dissent—DORR 24 was a bona fide counter-espionage measure effected by an early DORA Order in Council—it was easily adaptable to such a purpose. Russell certainly anticipated “trouble over my letter to Wilson”, he told Lady Ottoline Morrell on 11 January 1917.<sup>29</sup> Reviewing the cases against both Russell and C. P. Trevelyan (who seemed to have used similarly furtive means to send a message to President Wilson), Sir Ernley Blackwell had “little doubt that the letter was written by Russell and sent by special messenger in contravention of R. [DORR] 24. The same is probably true of Trevelyan’s.” But he advised against searching for the requisite proof because neither letter contravened DORR 27.<sup>30</sup>

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<sup>27</sup> Mathews to Blackwell, 28 Aug. 1916; Troup to Mathews, 25 Aug. 1916; Samuel (minute), 1 Sept. 1916, HO 45/11012/314670 (“War: Pacifist Activities of Bertrand Russell”), National Archives, UK. Photocopies from this bulky Home Office file were obtained by the Russell Archives and accessioned as RA Rec. Acqs. 903c-k.

<sup>28</sup> “Mysterious Girl Brings Russell’s Peace Plea Here”, 23 Dec. 1916, pp. 1, 3. The letter had not been transported to the United States by any “mysterious girl”—although the sister of Russell’s former American lover, Helen Dudley, was suspected of thus conveying it by both British authorities and Russell himself (see *Auto.* 2: 31). The courier was actually Philip Sargent Florence, with whom Russell was acquainted through C. K. Ogden, editor of *The Cambridge Magazine* (see *Papers* 14: 9).

<sup>29</sup> No. 1,513, Morrell papers, U. of Texas at Austin (copy in RA).

<sup>30</sup> Blackwell (minute), 20 Jan. 1917, HO 45/11012/314670/12.

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This cautious counsel reflected sensitivity to the effects of any prosecutions on neutral American opinion, although rather less to the outraged feelings of Russell's domestic critics. In a stern editorial rebuke entitled "The Pacifist at Large", *The Morning Post* pilloried Russell as a person "so troublesome that the Government have been obliged to restrict the range of his activities."<sup>31</sup> Readers of this Conservative daily's leader might have inferred that Russell's "activities" needed to be checked further in light of his wilful and "unpatriotic" evasion of the censorship and the "signal disservice" to his country he had performed by exaggerating for anti-British American audiences the extent of peace sentiment in Britain. Russell was attacked not only in the right-wing press but also in the House of Commons, where the new Home Secretary, Sir George Cave, had to field a pointed question from disgruntled Conservative backbencher J. G. Butcher, one of the anti-war movement's most vocal and persistent critics.<sup>32</sup>

Blackwell's legal reasoning, however, makes it surprising that no DORR 24 charge was laid against Russell in respect of "For Conscience Sake", an article which had accompanied the letter to Wilson on its clandestine transatlantic journey and was then published in *The Independent*, a pro-neutral New York weekly (6 in *Papers* 14). This piece attacked the British Government's civil liberties record and Russell's own harsh treatment by DORA. For good measure, it also reprinted all of the judicially condemned Everett leaflet. In this instance, official inaction may be explained by a loophole in DORR 24, which was closed in July 1917 by extending its coverage from "letters" and "written messages" to "memoranda".<sup>33</sup>

<sup>31</sup> 11 Jan. 1917, p. 6. The quoted passage refers to the "prohibited areas" order served on Russell by the War Office on 1 September 1916 (see pp. 111–14 below). For Russell's reply, see *idem.*, 15 Jan. 1917, p. 8 (7 in *Papers* 14).

<sup>32</sup> "Press Censorship", *Parliamentary Debates* (Commons), 5th ser., 90 (12 Feb. 1917): 263–5.

<sup>33</sup> Since December 1916 a related DORR, 24B, had proscribed the unlicensed export of printed matter to neutral or enemy states and was invoked in the case brought against UDC leader E. D. Morel in September 1917 (see n. 77 below). Even before the promulgation of DORR 24B (in July 1916), an export embargo was placed on *The Tribunal*. Although this legally questionable ban on its circulation overseas (see BONE, pp. 164–6) was far from the gravest threat to the newspaper's survival (see n. 58 below), it persisted through and beyond Russell's editorship during 1917. The same prohibition was applied to other dissenting publications and, more contentiously (in March 1917), to the leading Radical-Liberal weekly, *The Nation* (see HAVIGHURST, *Radical Journalist: H. W. Massingham* [1974], pp. 250–6).

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Russell had a third narrow escape from DORA's clutches after he attended and briefly addressed a storied gathering of anti-war socialists in Leeds on 3 June 1917. This demonstration of militant Labour's solidarity with the Russian Revolution made the British Government jittery. The meeting *might* have been prohibited under DORA 9A, and follow-up events in Glasgow and Birmingham *were* cancelled under this restriction of the right of public assembly.<sup>34</sup> In the aftermath of the Leeds Convention, the DPP advised against laying any charges, even though some speakers may have contravened DORA 42. (There had been calls for an immediate peace and the establishment of British Soldiers' and Workers' Councils in emulation of the Russian Soviets.) Russell, it seems, was not among those deemed to have spoken seditiously. Both he and James Ramsay MacDonald, a future Labour Prime Minister, had been "more careful", the DPP's office reported (quoted in *Papers* 14: 173). Indeed, Russell restricted his short speech in support of a conference resolution on civil liberties (40 in *Papers* 14) to praising the determination of imprisoned C.O.s. But even speakers less circumspect in their choice of language escaped prosecution.

### III. RUSSELL RESTRICTED—BY ADMINISTRATIVE ORDER

This apparent reluctance to enforce DORA's censorship powers through the courts was consistent with the policy of judicial (as opposed to administrative) restraint favoured at the Home Office. Even Cave, Samuel's more hardline successor, warned his Cabinet colleagues that "prosecutions for seditious speeches are seldom advisable."<sup>35</sup> Although Russell was spared another DORA prosecution for twenty months, other reprisals quickly followed his June 1916 conviction: he was barred from travelling to America to teach at Harvard and dismissed from his Trinity College lectureship.<sup>36</sup> Then, on 1 September, he was served by the War Office with an order under DORA 14 forbidding him from entering any of Britain's "prohibited areas". These covered almost the entire coastline, military and naval installations, and some centres of war production. Since the restricted zones were out of bounds by default only to enemy alien civilians, Russell

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<sup>34</sup> See WHITE, "Soviets in Britain: the Leeds Convention of 1917" (1974), pp. 186–9.

<sup>35</sup> CAB 24/4/G173, 13 Nov. 1917 ("Pacifist Propaganda"), National Archives, UK.

<sup>36</sup> See *Papers* 13: lx–lxiv and DELANY, "Russell's Dismissal from Trinity" (1986).

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was indignant that his loyalty was being thus impugned. He complained immediately to Ottoline that the War Office was invoking “a power conferred on them for dealing with spies, and they choose to suppose that I want to give military information to the Germans. It makes my blood boil” (1 Sept. 1916; *Papers* 13: 453). Herbert Samuel was initially uncomfortable with the sanction, noting internally that there was “no suspicion, of course, that he [Russell] is an enemy agent”. The Home Office only wanted a one-off order to stop Russell from travelling to meet a group of c.o.s in Haverhill, Suffolk. The idea for a blanket ban was the brainchild of the fledgling internal security agency MI5, whose chief, Colonel Vernon Kell, considered it a useful safeguard against Russell “airing his vicious tenets amongst dockers, miners and transport workers”.<sup>37</sup>

Neither of Russell’s convictions under DORR 27 elicited quite the unanimity of outrage as the curtailment of his freedom of movement. DORR 14 was another contentious tool of emergency executive discretion which, like DORR 51, sidestepped ordinary judicial processes. Although a somewhat novel imposition, Russell’s exclusion from Britain’s prohibited areas was not the first such application of DORR 14 for blatantly political ends. At the height of the craft unions’ struggle against the “dilution” of skilled labour in Glasgow in April 1916, six members of the militant Clyde Workers’ Committee had been deported from that city under the same DORR.<sup>38</sup> Russell had little chance of overturning the order in court because in May 1916 a loose construction of DORR 14—based on “honest”, as opposed to “reasonable”, grounds for suspicion—had been affirmed by Lord Chief Justice Reading in *Rex v. Denison*.<sup>39</sup> The *Law Journal* nevertheless complained that even this executive-friendly ruling could not be stretched “to the length which appears to have been assumed in Mr. Russell’s case”.<sup>40</sup>

Russell was more hopeful, he wrote to Ottoline, about drumming

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<sup>37</sup> Samuel (minute), 1 Sept. 1916; Kell to Blackwell, 3 Sept. 1916, HO 45/11012/ 314670, National Archives, UK. Samuel’s biographer observes that the prohibition was authorized in the Home Secretary’s absence by his senior officials, Troup and Blackwell, and suggests that he might have cancelled the order on returning had it not already been served (see WASSERSTEIN, *Herbert Samuel* [1992], p. 193).

<sup>38</sup> See McLEAN, *The Legend of Red Clydeside* (1983), pp. 81–3.

<sup>39</sup> See “Law Report, May 22”, *The Times*, 23 May 1916, p. 3. The unsuccessful applicant was a German-born hairdresser.

<sup>40</sup> “Restricted Residence”, 9 Sept. 1917, p. 447.

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up “a great agitation to have the order rescinded” (9 Sept. 1916; *Papers* 13: 472). Such efforts both inside and outside Parliament proved fruitless, however, as the British Government dug in its heels. Despite his earlier misgivings, Samuel now stoutly defended official policy from the fierce attacks of Russell’s supporters in the House of Commons.<sup>41</sup> The Home Secretary was ably abetted by David Lloyd George, who justified the summary treatment of Russell on the grounds that “prevention is better than prosecution.” The next day (19 October 1916), Ottoline’s husband, Philip, Liberal MP for Burnley, threw this legally dubious dictum back at Russell’s wartime nemesis:

The right hon. Gentleman the Secretary for War said that it was easier to prevent than to prosecute.... Of course in a certain way it is much easier to govern by administrative order than by process of law. It is much easier to say: “Oh, no, we shall give an order to stop it beforehand rather than prosecute afterwards, and after treasonable utterances.” It is easier, but is it the way to allow fair freedom of opinion in this country? Is it carrying out the undertaking which the Government gave when the Defence of the Realm Act was passed that they would not do anything to suppress fair political opinion?<sup>42</sup>

Such parliamentary protests<sup>43</sup> may have been rhetorically powerful, but they did not ease Russell’s plight. The ban actually remained in effect until July 1918 when, in a gesture singularly lacking in magnanimity, it would be withdrawn when Russell’s movements were far more seriously constrained by his confinement to Brixton Prison. As

<sup>41</sup> See, for example, “Consolidated Fund (No. 5) Bill”, *Parliamentary Debates* (Commons), 5th ser., 86 (19 Oct. 1916): 864–82 (at 878–82). Yet Samuel was never at ease in his role as apologist for DORA. Some months after leaving Cabinet when the Lloyd George Coalition was formed in December 1916, the Liberal ex-Home Secretary longed for that moment when “the Defence of the Realm Acts, with all their prolific offspring of Orders in Council and Regulations, will disappear into the limbo of forgotten things to the profound relief of a long-suffering nation” (*The War and Liberty and an Address on Reconstruction* [1917], pp. 58–9). When unburdened by office Samuel also lobbied his successor to soften a new and disputed DORR, 27C: see Samuel to Cave, 27 Nov. 1918 (copy), CAB 24/34/GT2820 (“Censorship of Leaflets”), National Archives UK, and pp. 121–2 below for the wider controversy.

<sup>42</sup> “Mr. Bertrand Russell’s Lectures”, *Parliamentary Debates* (Commons), 5th ser., 86 (18 Oct. 1916): 538–40 (at 539); “Defence of the Realm Act (Mr. Bertrand Russell’s Lectures)”, *ibid.* (19 Oct. 1916): 825–39 (at 830).

<sup>43</sup> C. P. Trevelyan also spoke up for Russell: “Mr. Bertrand Russell”, *Parliamentary Debates* (Commons), 5th ser., 88 (28 Nov. 1916): 288–300 (at 288–92).

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a great lover of the sea,<sup>44</sup> Russell personally chafed under the restrictions placed on him by DORR 14. On a professional level, he was soon prevented from delivering his autumn 1916 lecture series, “The World as It Can Be Made”, in three of the five cities in which he was booked to speak.<sup>45</sup> On 16 October, however, partially confounding Colonel Kell’s desired silencing of Russell, the opening lecture (entitled “Political Ideals”) was read *in absentia* to a large labour gathering in Glasgow by Robert Smillie, President of the Miners’ Federation.

Shortly after the prohibited areas ban was imposed, the War Office offered to lift it so long as Russell promised “not to continue a propaganda which, if successful, would in their opinion militate to some extent against the effective prosecution of the war.”<sup>46</sup> In a published commentary on this overture from the War Office, Russell raised some practical objections to such a compact, “First and foremost”, however, he refused to make it on principle:

... I cannot acknowledge the right of the War Office to prevent me from expressing my opinions on political subjects. If I say anything which they think prejudicial to the conduct of the war, they can imprison me under the Defence of the Realm Act, but that is a proceeding to which I am not a party, and for which I have no responsibility. If, however, I enter into a bargain by which I secure certain advantages in return for a promise, I am precluded from further protest against their tyranny. Now it is

<sup>44</sup> “I can’t tell you how I long for the SEA”, he wrote Ottoline from prison on 21 August 1918, after learning that the prohibited areas order had finally been lifted (*CLBR*, [russell-letters.mcmaster.ca/brixton-letter-75](http://russell-letters.mcmaster.ca/brixton-letter-75)). On 12 December 1916 Russell had visited the Sussex coast to attend the court-martial of Clifford Allen at Newhaven Fort. Somewhat surprisingly, he had been allowed to do so (subject to strict conditions) by the garrison commander, whose permission was required by DORR 29B (irrespective of the application to Russell of DORR 14) since the fort was located in a “special military area” and therefore even more off-limits than a prohibited area. A leaf in Russell’s Defence of the Realm Permit Book (see *Papers* 13; Plate VIII, and [www.humanities.mcmaster.ca/~bertrand/misc.html](http://www.humanities.mcmaster.ca/~bertrand/misc.html)) shows that the necessary authorization was refused but that “special arrangements” were made for him to observe his friend’s military trial. The same file (RA2 712) also contains a letter from the garrison commander instructing Russell to proceed directly from the station to the court-martial, and the pass (typed on a small slip of paper) with which he must have travelled, stipulating that he “be attended by an escort during his time in Newhaven”.

<sup>45</sup> Russell was banned from Glasgow, Edinburgh and Newcastle but allowed to speak in Birmingham and Manchester. The lectures were later published in the United States as *Political Ideals* (1917; Pt. VI in *Papers* 14).

<sup>46</sup> Sir Reginald Brade to Russell, 11 Sept. 1916 (copy), HO 45/11012/314670, National Archives, UK.

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just as imperative a duty to me to fight against tyranny at home as it is to others to fight against the Germans abroad. I will not, on any consideration, surrender one particle of spiritual liberty.<sup>47</sup>

Indeed, Russell consistently balked at such bargaining, even when (in the spring of 1918) he was facing imprisonment after a second conviction on DORA charges and the equally disturbing possibility of being conscripted after his release.<sup>48</sup> “I will not give an undertaking to avoid propaganda”, he told his friend Gilbert Murray—despite having resolved several months previously to return to philosophy. “Although I see no present likelihood of altering this intention”, he continued, “I will not be under any honourable obligation not to alter it” (2 April 1918, RA Rec. Acq. 71e). The ethical distinction he drew was “between an intention and a promise”, he explained further to Murray two days later, and he would “give no promise, express or implied.”<sup>49</sup>

Ironically, a unilateral concession that Russell *could* have accepted without qualm seemed imminent just before he fell foul of DORA once again. In December 1917 Frank Russell discreetly informed General George Cockerill (Director of Special Intelligence at the War Office and an official with whom Russell had personally dealt [see 69 in *Papers* 13]) that his brother was intending to pull back from organized peace work and that, therefore, the prohibited areas ban might be dispensed with safely.<sup>50</sup> Russell’s acting chairmanship of the NCF and his editorial role at *The Tribunal* were both about to end. By 18 December

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<sup>47</sup> “Bertrand Russell and the War Office” (1916; 70 in *Papers* 13: 461).

<sup>48</sup> On Russell’s second trial and conviction under DORA 27, see pp. 116–18 below. In April 1918, the Military Service (No. 2) Act increased the upper-age limit of British conscripts from 45 to 50. Since teachers older than 45 were exempt from the provisions of the amended legislation, Russell, in prison, grew increasingly preoccupied with obtaining academic employment of some kind as insurance against being called up after his release. Nevertheless, “the unnerving prospect of a military call-up hung over the 46-year-old BR throughout his imprisonment” (*CLBR*, [russell-letters.mcmaster.ca/brixton-letter-6](http://russell-letters.mcmaster.ca/brixton-letter-6)).

<sup>49</sup> *SLBR* 2: 143. Murray and Russell disagreed vehemently over the merits of the war, although less sharply in 1918 than in 1915, when they published rival accounts of Britain’s pre-war diplomacy (see 37 in *Papers* 13). Despite these recent political differences, Murray assiduously lobbied professional philosophers to petition the Home Secretary for Russell to be spared the harsh conditions and strict discipline to which second-division prisoners were subject. Towards the end of Russell’s sentence Murray also spearheaded the so-called “fellowship plan” (see n. 48 above, and *CLBR*, [russell-letters.mcmaster.ca/general-annotation/59](http://russell-letters.mcmaster.ca/general-annotation/59)).

<sup>50</sup> See *Papers* 14: xlix, 391.

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he had already presented the lectures from which his *Introduction to Mathematical Philosophy* (1919) would emerge in Brixton Prison, and, in a further demonstration of professional intent, he was scheduled to deliver another series, “The Philosophy of Logical Atomism”, in the new year. The War Office was amenable to rescinding the DORR 14 order, and both the Home and Foreign Secretaries concurred by mid-January 1918.<sup>51</sup> But any chance of Russell obtaining this concession quickly disappeared, for the article that triggered his second DORA prosecution, “The German Peace Offer” (92 in *Papers* 14), was already in print. After it came to the notice of the Home Office, Sir Ernley Blackwell minuted ominously that he had “called General Cockerill’s attention to Russell’s article in the *Tribunal* of 3 Jan.”<sup>52</sup>

#### IV. THE ROAD TO BRIXTON PRISON

This fateful piece of political commentary contained the ill-judged sniping at the strike-breaking proclivities of the American military for which Russell was charged early in February 1918, under DORR 27, with prejudicing “His Majesty’s relations with foreign powers”. Ironically, Russell’s journalistic involvement with the NCF weekly was supposed to have ceased with the appearance of his previous article on 27 December 1917. But he agreed to contribute two further pieces while one of *The Tribunal*’s new co-editors, Lydia Smith, recovered from illness (*Papers* 14: 389). The allegedly prejudicial aside was quite tangential to the article as a whole, which unenthusiastically predicted the spread of revolutionary violence across Europe should peace feelers from the enemy camp—treated by Russell as sincere—continue to be rebuffed by Allied statesmen.<sup>53</sup>

After Russell was convicted at Bow St. court on 9 February, Gilbert Murray was indignant at this “further persecution” of his friend. Having read “The German Peace Offer”, Murray could not “understand how any honest magistrate can have persuaded himself that there was anything in it to deserve punishment” (10 Feb. 1918, RA

<sup>51</sup> Copies of this correspondence are in HO 45/11012/314670, National Archives, UK.

<sup>52</sup> 17 Jan. 1918, *ibid.*

<sup>53</sup> For Russell’s commentary on “The German Peace Offer”, see “Draft of Defence” (95 in *Papers* 14), prepared for his appeal, shortly before the pitiless terms imposed on the Bolsheviks by the Treaty of Brest-Litovsk (3 March 1918) led Russell to re-appraise both German diplomacy and his own exertions for peace (*ibid.*, 388–9).

Rec. Acq. 71f). Whether in good faith or not, Sir John Dickinson had found Russell guilty of what he called a “very despicable” offence and imprisoned him for six months in the second division—the maximum term at his disposal.<sup>54</sup> The offence was *so* despicable, in fact, that Russell had already committed it four months previously in a satirical piece for *The Tribunal* that drew no official ire—despite imagining a British war leader thinking that if organized labour was flexing its political muscle at the war’s end, “we may hope to have an American garrison in the country ready to shoot down strikers.”<sup>55</sup>

According to the *Morning Post*’s earlier hostile characterization, Russell was “an extremely troublesome person”<sup>56</sup> and was regarded as such by government officials as well as this Conservative voice of the British officer class. But if Russell’s generally vexatious conduct was the underlying cause of his prosecution in 1918, why had he remained at liberty (albeit subject to the constraints of DORA 14) until the final months of the war? A close legal reading of his writings from *The Tribunal* and other publications might well have uncovered infractions of DORA just as likely to result in a conviction as that for which he *was* summonsed early in 1918.

Unfortunately, no completely satisfactory explanation of Russell’s second DORA trial has emerged in the two decades since the case was last considered in depth, in *Collected Papers* 14. The Home Office file on Russell’s wartime pacifism sheds light on his first DORA 27 case, some suspected breaches of DORA that were *not* acted upon, as well as the unsuccessful appeal of the 1918 conviction and his and Frank Russell’s dealings with the Brixton authorities. But there are no departmental minutes or legal opinions on the merits or pitfalls of charging Russell in connection with “The German Peace Offer”.<sup>57</sup> Since the publisher of *The Tribunal*, Joan Beauchamp, was tried on the same charge as Russell, a Home Office file on the NCF may have held the missing information. But these records were destroyed, as reported

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<sup>54</sup> See “Mr. Bertrand Russell Sentenced”, *The Times*, 11 Feb. 1918, p. 2.

<sup>55</sup> “Imperialist Anxieties” (1917; 65 in *Papers* 14: 298).

<sup>56</sup> See n. 31 above.

<sup>57</sup> See HO 45/11012/314670. No files on Russell have been released under the stringent 75- or 100-year rules, to which certain records of the intelligence and security services are subject. But the apparent lack of anything newly accessible in the UK’s National Archives that can easily be associated with Russell does not preclude the dispersal in other files of some such relevant documentation.

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more than twenty years ago by the editors of *Collected Papers* 14, who also surmised that that “this weekly, rather than Russell, was intended as the primary victim of the crackdown.”<sup>58</sup>

Referring to his proposed cessation of peace work (of which the War Office had been made aware by Frank), Russell himself was convinced that “the authorities realized that if they wished to punish me they must act at once, as I should not be committing any further crimes.”<sup>59</sup> Eighteen months previously, a defiant and hopeful Russell had more or less welcomed his DORA prosecution. But he had wearied of his administrative role inside the NCF and was depressed at the apparent futility of his political campaigning. By early 1918 he was unwilling “to martyr himself for a cause in which there was no longer any hope of success” (*Papers* 14: 385).

It is conceivable that the legal action against Russell was taken in a fit of pique over his apparent failure to abide by intentions communicated to the War Office by his brother. On 14 March 1918 Frank Russell complained to General Cockerill about his brother’s “vindictive” treatment. But the Director of Special Intelligence insisted that the decision to prosecute had rested with the DPP alone and that he, Mathews, was unaware of Russell’s impending departure from the political fray. “No proof of vindictiveness can, therefore, be drawn from the facts”, Cockerill replied three days later. Notwithstanding the General’s explanation, “the belief that Russell had been singled out for persecution persisted in NCF memory as late as the 1970s.”<sup>60</sup>

Whatever political and legal considerations influenced the decision to prosecute Russell again, this course was rather at odds with the disinclination to proceed in such DORA cases.<sup>61</sup> The authorities

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<sup>58</sup> P. 390. On the persistent harassment of *The Tribunal* and its eventual recourse to clandestine publication, see KENNEDY, pp. 247–51.

<sup>59</sup> To Gilbert Murray, 15 Feb. 1918; *Auto.* 2: 81.

<sup>60</sup> *Papers* 14: 391, where the Frank Russell–General Cockerill exchange is also quoted.

<sup>61</sup> In March 1918 several police chiefs expressed frustration at the reluctance of area Competent Military Authorities (to whom constabularies deferred in such matters) or the DPP to act against local peace campaigners and pressed the Home Office (unsuccessfully) for leeway to initiate proceedings themselves (HO 45/11007/271672/228 [“Extract from Minutes of Conference of Chief Constables for District 1 Held on 6th March 1918”], National Archives, UK). Glamorgan’s pugnacious Chief Constable was especially frustrated; he considered that disloyalty was rife in South Wales and needed to be deterred by prosecuting the worst offenders. This had occurred more routinely until the end of 1916, before when only a handful of reported infractions (including Russell’s Cardiff speech) had *not* been prosecuted. HO 45/10743/

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seemed especially reluctant to indict prominent peace advocates, such as Russell, Trevelyan, E. D. Morel, and Independent Labour Party MP Philip Snowden. In September 1916, for example, the Foreign Office pressed the DPP to act against Morel under DORR 27, after taking particular umbrage at his critique of pre-war Allied diplomacy, *Truth and the War* (1916). Mathews agreed that the UDC leader's work was "of a most objectionable" character and possibly in prejudice of Britain's relations with foreign powers. Yet he advised against laying charges because "in Morel a defendant might be discovered to whom, provided he could secure a larger publicity for his mischievous propaganda, a prosecution might not be unwelcome."<sup>62</sup> This counsel was similar to that which Mathews had given the Home Office in discouraging legal action over Russell's Cardiff speech.

On 15 December 1916 Sir Ernley Blackwell of the Home Office minuted that if "the [peace] movement remains small, prosecution would do more harm than good. If the movement grows to considerable dimensions prosecutions will not repress it."<sup>63</sup> This assessment was increasingly accepted at the highest levels of government, where a shift in emphasis from proscription to public persuasion occurred over the next year, with the creation in June 1917 of the quasi-independent (but Treasury-funded) National War Aims Committee the most notable institutional change.<sup>64</sup> Inside the War Cabinet, the social-imperialist Lord Milner displayed particular enthusiasm for

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263275/284 has the particulars of all DORR 27 cases submitted by the Glamorgan county constabulary from the start of the war until November 1917. See also HOPKIN, "Domestic Censorship in the First World War" (1970), pp. 166–7.

<sup>62</sup> See Lord Newton (assistant under-secretary) to Mathews, 20 Sept. 1916, FO 395/15/169424, National Archives, UK, and Mathews to Foreign Office, 10 Oct. 1916, FO 371/2828/3255/202398. In a note filed with the latter communication, Newton complained that the "Public Prosecutor will always find some excuse for not acting."

<sup>63</sup> HO 45/10786/297549/50 ("Publications: *Labour Leader* and Independent Labour Party Press"), National Archives, UK.

<sup>64</sup> See MILLMAN, *Managing Domestic Dissent in First World War Britain* (2000), ch. 9. There is a vast literature on the subject of war propaganda generally, in which this author's detailed study stands out for its provocative analysis of the Lloyd George Coalition's propaganda machine in terms of a multifaceted counter-revolutionary strategy, proto-fascist in character, which was crafted in the final year of the war as insurance against civil strife but never fully implemented. For an excellent and still useful overview, covering the censorship of war news and the manipulation of foreign as well as domestic opinion, see SANDERS AND TAYLOR, *British Propaganda during the First World War, 1914–1918* (1982).

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buttressing the pro-war sentiments of British workers.<sup>65</sup>

Yet these more purposeful approaches to propaganda were still fortified by DORA. In the last year of the war more than ever, the authorities favoured constraining dissent by administrative as opposed to judicial means. Sir George Cave, the Conservative politician and lawyer who succeeded Samuel at the Home Office in December 1916, showed far less scruple than his predecessor about the seizure and destruction of anti-war literature under DORR 51. In October 1917 he defended his less measured application of this power after suppressing an issue of Sylvia Pankhurst's *Workers' Dreadnought*: "If we do not seize the paper until after a prosecution," he told MPs, "it is too late, because the paper is already published."<sup>66</sup> In a short statement also announcing the appointment of a Home Office Advisory Committee to consider what materials confiscated under DORR 51 should be destroyed, Cave informed the House of Commons early in 1918 that twenty-four such search and seizure raids had been carried out by police from September to November of the previous year.<sup>67</sup>

Cave's preference for the containment of dissent extra-judicially was manifest in his department's leading role in the promulgation on 16 November 1917 of DORR 27C, which imposed a hitherto unheard-of preventive censorship. In "The New Dictatorship of Opinion" (82 in *Papers* 14), Russell castigated this novel edict, which had been introduced (like all DORRs) without parliamentary scrutiny and required any pamphlet, leaflet or circular about the war or future peace terms to be approved by the Official Press Bureau. (By the same Order

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<sup>65</sup> See STUBBS, "Lord Milner and Patriotic Labour, 1914–1918" (1972), and MILLMAN, *Managing Domestic Dissent*, pp. 112–16.

<sup>66</sup> "Workers' Dreadnought (Seizure)", *Parliamentary Debates* (Commons), 5th ser., 98 (29 Oct. 1917): 1,178–9 (at 1,179). During Cave's wartime tenure of the Home Office several items were added to the "Hostile Leaflets" circular in this peremptory fashion, including soldier-poet Siegfried Sassoon's famous anti-war statement, partly authored by Russell and made public initially in a Commons speech by a sympathetic Liberal MP. A "Hostile Leaflets Consolidation List", issued by the Home Office on 1 July 1918, contained only one title by Russell: *Two Years' Hard Labour*, the embargo on *Rex v. Bertrand Russell* presumably having been lifted (see HO 158/20, National Archives, UK). But the prohibited literature did include two issues of *The Tribunal*: those of 15 November 1917, which featured Russell's scathing attack on a mooted token concession to imprisoned C.O.s (81 in *Papers* 14), and of 14 February 1918, containing front-page coverage of his Bow St. trial five days previously.

<sup>67</sup> "Police Raids", *Parliamentary Debates* (Commons), 5th ser., 101 (17 Jan. 1918): 482–3. See also n. 24 above.

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in Council, DORR 51 was amended as well, to allow for the seizure and destruction of material printed or distributed in contravention of DORR 27C.) Returning to the attack in *The Tribunal*, Russell forecast that, “In consequence of this new Regulation, the Government can (and doubtless will) suppress all expression of opinion in any way critical either of its war aims or of the conduct of the war....”<sup>68</sup>

Russell was not mistaken on the latter score, since his civil libertarian’s disquiet was echoed in some pro-war circles, where it was feared that the application of DORR 27C to the patriotic press might foreclose any questioning of British domestic policy or Allied strategy. On this occasion, the peace movement’s interests intersected with those of a more powerful constituency, and, as a result, an amending Order in Council was issued a few weeks later (on 10 December). Russell was gratified, he told his NCF colleague Catherine Marshall, “by the prospect of 27C being practically withdrawn” (29 Nov. 1917; *Papers* 14: 343). Yet even the amended DORR remained a useful weapon in the government’s anti-dissenting arsenal. Although the prior approval provision of 27C was removed, the printers of leaflets were still required to *submit* copy at least 72 hours before publishing. The authorities were therefore better able than previously to monitor the output of pacifist literature and already equipped with DORR 51 to suppress allegedly objectionable material.<sup>69</sup>

This further extension of DORA was bound up with attempts, both official and unofficial, to discredit and marginalize anti-war dissent by exposing the enemy influences behind it—about which Russell wrote witheringly in *The Tribunal*.<sup>70</sup> The peace movement was placed on the defensive not only by DORR 27C but by a series of coordinated Metropolitan Police raids targeting different individuals and groups.<sup>71</sup> Although the ensuing inquiries yielded no evidence of British pacifists in the pay of German agents, the associated political hysteria was helpful in constricting dissenting propaganda. The ultimately forlorn quest

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<sup>68</sup> “Boloism in Power” (1917; 84 in *Papers* 14: 366).

<sup>69</sup> Systematic scrutiny of dissenting propaganda was but one feature of the heightened political surveillance that operated under the Lloyd George Coalition after December 1916 (see MILLMAN, *Managing Domestic Dissent*, pp. 178–9).

<sup>70</sup> See n. 68 above and “Who Is the British Bolo?” (1917; 83 in *Papers* 14).

<sup>71</sup> See *Papers* 14: xlv and, for an account by the lead investigating officer, the memoirs of BASIL THOMSON (Assistant Commissioner of the Metropolitan Police and head of its Criminal Investigation Department): *The Scene Changes* (1937), pp. 394–5.

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for a “British Bolo” reflected official concerns about deteriorating civilian morale and burgeoning support for a negotiated peace.<sup>72</sup> The endorsement of this keynote dissenting demand by a Conservative ex-Foreign Secretary, Lord Lansdowne, added much-needed respectability to the campaign to moderate British war aims—as well as speaking to establishment doubts that the war was winnable.<sup>73</sup> Allied strategy was certainly faltering late in 1917. On the Western Front, the costly Passchendaele offensive petered out just as Italy’s continued participation in the war was placed in jeopardy by the disastrous defeat of its Second Army at Caporetto in the Austro-Italian theatre. To the east, the second Russian Revolution installed a Bolshevik regime unequivocally committed to peace and whose immediate publication of Tsarist secret treaties confirmed the suspicions of Russell and other dissenters about grasping Allied war aims (see *Papers* 14: 350).<sup>74</sup>

At home, the obvious strains of the war on the civilian population—high prices and food shortages in particular—were feared as solvents of an already weakened patriotic resolve. An incipient domestic crisis deepened in the new year with the launch of a fresh “comb-out” of

<sup>72</sup> “Boloism” became a byword for disloyalty and defeatism after French spy Paul-Marie Bolo (a.k.a. Bolo Pasha) was arrested on suspicion of treason in September 1917—a charge on which he was convicted by court-martial the following February and executed two months later. One of Russell’s points, however, was that the revelations about Bolo had not discredited France’s peace party, but rather, a section of the nation’s jingo press, whose promotion of territorial aggrandizement had been funded by Bolo, he argued, “as a means of combating the peace party in Germany” (“Boloism in Power”; *Papers* 14: 366). The search for British “enemies within” also had a populist dimension, which was stoked by right-wing newspapers and tacitly condoned or even abetted by the authorities. The disruption of anti-war meetings was a favourite ploy, and Russell witnessed such organized rowdiness at first hand when in July 1917 a follow-up meeting to the Leeds Convention (see p. 111 above), at the Brotherhood Church, Southgate, was violently broken up (see *Auto.* 2: 31–2). Dissent clearly had a “hyper-patriotic” face, grounded in the resentments of a war-weary middle class, as well as its more familiar pacifist aspect. Both tendencies could be vexing to the British Government, the former when its frustrations were directed not at the peace movement, but at the supposed weakness and incompetence of the nation’s political leadership (see GREGORY, *The Last Great War* [2008], p. 233ff., for several different manifestations of patriotic protest).

<sup>73</sup> On how this loss of confidence influenced British strategic thinking, see MILLMAN, *Pessimism and British War Policy* (2001). On the significance of the “Lansdowne Letter” to anti-war dissent, see, for example, CEADEL, *Semi-Detached Idealists: the British Peace Movement and International Relations* (2000), pp. 231–3.

<sup>74</sup> For an international perspective, see STEVENSON, *1917: War, Peace, and Revolution* (2017), chs. 7–9.

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skilled workers for the army, bitterly resented and resisted by their craft unions.<sup>75</sup> An intermingling of strategic and political considerations finally persuaded Lloyd George to elaborate British war aims in a clever speech to trade union leaders delivered two days after the appearance of “The German Peace Offer”. The Prime Minister borrowed from the Labour Party’s reformulated foreign-policy plan (of which Russell approved) and anticipated the liberal spirit of President Wilson’s “Fourteen Points”, but he did not dispense with Germany’s unconditional surrender as his overriding objective.<sup>76</sup>

The decision to charge Russell early in 1918 was made against this tumultuous backdrop. Although it is unlikely that any overarching political concerns were voiced in missing government documents, the edginess in official circles at a critical juncture of the war is worth noting in relation to Russell’s second DORA trial. These anxieties may have had some bearing on the abandonment of a previously exhibited restraint in the prosecution of anti-war speakers and writers. Russell was undoubtedly a bothersome irritant to the authorities (as indeed was Morel<sup>77</sup>), not to mention the patriotic press and public. But it was a more dangerous confluence of peace sentiment with working-class unrest that placed British officialdom on a higher state of alert early in 1918, as the editors of *Collected Papers 14* argue (pp. 385–6). Brock

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<sup>75</sup> On the grievances of working-class consumers and the industrial unrest, see GREGORY, pp. 194–208, 213–16.

<sup>76</sup> Russell voiced scepticism about the Prime Minister’s speech in his final article for *The Tribunal*, “The Bolsheviks and Mr. Lloyd George” (1918; 93 in *Papers 14*). In his penultimate contribution (i.e., “The German Peace Offer”) he praised Labour’s “Memorandum on War Aims” as “on the whole very sane” (*Papers 14*: 399).

<sup>77</sup> After proceedings against Morel were again ruled out in February 1917 (see FO 395/140/25424/33266, National Archives, UK), he was finally charged that September, under DORR 24B, with attempting to convey without a permit one of his pamphlets to a French pacifist in Switzerland. An additional charge of incitement was brought against Morel under DORR 48, because he had allegedly approached a third party (Ethel Sedgwick, a niece of the Foreign Secretary, Arthur Balfour) to transport the material in question. The advantage of these indictments to the Crown was that Morel could not (as in a DORR 27 case) place British foreign policy under potentially embarrassing courtroom scrutiny—even though his published writings were “patently the cause of the Government’s determination to prosecute him” (CLINE, *E. D. Morel, 1873–1924* [1980], p. 111). Morel was convicted and sentenced to six months in the second division of Pentonville Prison. His emergence from there in such physically broken condition persuaded a badly shaken Russell (whose conviction was then under appeal) that he must do everything possible to ensure that his sentence, if upheld, be served in the far less cruel and punitive confinement of the British penal system’s first division (see *Papers 14*: 393).

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Millman emphasizes the extent of such fears and how the wartime state responded vigorously to neutralize a possible revolutionary defeatist challenge.<sup>78</sup> Its preventive measures ranged far beyond the incarceration of a troublesome “Pacifist at Large”. Even if the political situation was not quite so parlous, working-class discontent was very real and peaked early in 1918 when, according to Adrian Gregory, “prospects never seemed bleaker” on either the home or battle fronts.<sup>79</sup> The same historian, however, characterizes the official response as “domestic appeasement”, rather than a prelude to counter-revolution. The British Government’s position may have been shored up by its intensified propaganda efforts, but “it was the background of food subsidies, war bonuses and a cautious approach to the manpower problem that defused tension.”<sup>80</sup>

When Russell entered Brixton Prison on 1 May, the outcome of the war was still uncertain. In two spring offensives Germany had come close to breaking through on the Western Front. A third such assault made some progress late in May, but left advancing troops badly exposed when their forward movement was stalled—with American forces a crucial factor for the first time in these defensive operations. Writing to an NCF associate from his prison cell on 17 June, Russell gloomily predicted that the military stalemate would last “about another ten years”.<sup>81</sup> But his forecasts grew more sanguine after Austro-Hungarian forces were routed on the Piave in the Italian theatre and as Germany’s last offensive gambit was contained and then repulsed by a successful counter-attack in the second Battle of the Marne.<sup>82</sup> Ironically, the political fears that may have landed Russell in prison were gradually eased when he was behind bars. The spectre of continued strategic impasse—or, worse, battlefield reverses—spilling over the English Channel into political revolt faded further as Russell’s sentence neared its end in the late summer, and a rapid succession of Allied victories fatally weakened German resistance.

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<sup>78</sup> *Managing Domestic Dissent*, chs. 10 and 11.

<sup>79</sup> *The Last Great War*, p. 213.

<sup>80</sup> *Ibid.*, p. 204.

<sup>81</sup> *CLBR*, [russell-letters.mcmaster.ca/brixton-letter-20](http://russell-letters.mcmaster.ca/brixton-letter-20) (to Gladys Rinder).

<sup>82</sup> “One begins to see a possible end to the war”, he wrote Ottoline on 14 August, “the end of next year, I should guess” (*CLBR*, [russell-letters.mcmaster.ca/brixton-letter-70](http://russell-letters.mcmaster.ca/brixton-letter-70)). On the increasingly fluid military situation across multiple fronts, see STEVENSON, *With Our Backs to the Wall: Victory and Defeat in 1918* (2011), chs. 1–2.

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## V. CONCLUSION

With a deliberately exaggerated flourish the Liberal *Daily News* of 2 December 1914 had expressed alarm at the new Defence of the Realm Act.<sup>83</sup> This consolidating measure conferred powers on the state “ample enough to turn this country into a Socialist Mecca or to start an unending stream of heads rolling into the mud of Tower Hill; and between these two extremes there is space for an infinity of lesser plagues and vexations.”<sup>84</sup> The many “lesser plagues and vexations” for which DORA would be responsible over the next four years (including such curious rules as one against dog shows: DORR 9DD) lie far beyond the remit of this paper. The same applies to the proliferation of statist economic controls under DORA’s statutory umbrella. Russell’s head did not roll “into the mud of Tower Hill”, but during an intense phase of political engagement he was fined, restricted in his freedom of movement, and finally imprisoned by DORA’s sanction.

These reprisals touch on the broader question of how profoundly this emergency legislation affected civil liberties in wartime Britain. Given the latitude afforded by DORA, Russell and the peace movement *might* have been more ruthlessly suppressed—like their counterparts in other combatant nations. Yet a degree of official caution has been noted in the administration of DORA, which effectively authorized any action judged expedient for the defence of the realm. But such moderation was shaped more by instrumental considerations than principled reservations about enforcing Britain’s emergency legal code and applied more to the prosecution of DORA cases than to the use of its powers extra-judicially. Moreover, the containment of anti-war dissent involved much else besides the selective application of DORA. For the bulk of a patriotic public, DORA was a sometimes irritating but not disproportionate legal response to the crisis of war. The critics of this “other DORA” (Russell among them) were usually an isolated minority. Yet if he and those who protested his maltreatment had been less vigilant guardians of liberties under stress, Russell, for one, might have been ensnared more often and easily by “the Hydra-headed monster which ... grew out of the phrase ‘defence of the realm’.”<sup>85</sup>

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<sup>83</sup> I.e., the Defence of the Realm Consolidation Act (see n. 3 above).

<sup>84</sup> “The World We Live In”, p. 4.

<sup>85</sup> ALLEN, *Law in the Making* (1927), p. 462.

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## APPENDIX: DORRS INVOKED AGAINST RUSSELL

\*Source: *Defence of the Realm Manual*, 4th ed., rev. to 31 May 1917. (Manuals of Emergency Legislation.) Edited by Alexander Pulling. London: HMSO, 1917. Except for DORR 51, *ibid.*, 6th ed., rev. to 31 Aug. 1918 (1918).

DORR No.	Official Description*	Selected Text*	Application to Russell
<p><b>14</b> (Issued by Order in Council, 28 Nov. 1914)</p>	<p>Power to remove suspects from specified areas.</p>	<p>[As amended to 23 March 1915] Where a person is suspected of acting, or of having acted, or of being about to act in a manner prejudicial to the public safety or the defence of the Realm and it appears to the competent naval or military authority that it is desirable that such person should be prohibited from residing in or entering any locality, the competent naval or military authority may by order prohibit him from residing in or entering any area or areas which may be specified in the order....</p>	<p><i>1 Sept. 1916–11 July 1918:</i> Barred from entering all prohibited areas scheduled to the Aliens Restriction Act.</p>
<p><b>24</b> (Order in Council, 28 Nov. 1914)</p>	<p>Prohibition on non-postal communications to or from United Kingdom.</p>	<p>[As amended to 23 March 1915] No person shall without lawful authority transmit (otherwise than through the post) or convey, to or from the United Kingdom, or receive or have in his possession for such transmission or conveyance, any letter or any written message for any other person....</p>	<p><i>Jan. 1917:</i> Prosecution for covert transmission to US of open letter to President Wilson (<b>2</b> in <i>Papers 14</i>) contemplated, but no legal action taken.</p>
<p><b>27</b> (Order in Council, 28 Nov. 1914)</p>	<p>Prohibition on spreading of false or prejudicial reports and against prejudicial performances or exhibitions.</p>	<p>[As amended to 23 Nov. 1916] No person shall by word of mouth or in writing or in any newspaper, periodical, book, circular, or other printed publication, (a) spread false reports or make false statements; or (b) spread reports or make statements intended or likely to cause disaffection to His Majesty or to interfere with the success of His Majesty's forces</p>	<p><i>June 1916:</i> Tried and convicted for contravening clause (c) in the Everett leaflet (<b>49</b> in <i>Papers 13</i>). Fined £100. <i>Aug. 1916:</i> Prosecution over Cardiff</p>

DORR No.	Official Description*	Selected Text*	Application to Russell
		<p>or of the forces of any of His Majesty's Allies by land or sea or to prejudice His Majesty's relations with foreign powers; or (c) spread reports or make statements intended or likely to prejudice the recruiting, training, discipline, or administration of any of His Majesty's forces or the discipline of any police force....</p>	<p>speech (6 July 1916; <b>63</b> in <i>Papers</i> 13) contemplated for contraventions of clauses (a) and/or (b), but no legal action taken. <i>Feb. 1918:</i> Tried and convicted for contravening clause (b) in <i>The Tribunal</i> (<b>92</b> in <i>Papers</i> 14). Sentenced to six months in prison.</p>
<p><b>42</b> (Order in Council, 28 Nov. 1914)</p>	<p>Prohibition against causing mutiny, &amp;c., or impeding production of war material.</p>	<p>[As amended to 15 Feb. 1916] If any person attempts to cause mutiny, sedition, or disaffection among any of His Majesty's forces or among the civilian population, or to impede, delay, or restrict the production, repair, or transport of war material, or any other work necessary for the successful prosecution of the war, he shall be guilty of an offence against these regulations.</p>	<p><i>Aug. 1917:</i> Prosecution over speech to Leeds Convention (3 June 1917; <b>40</b> in <i>Papers</i> 14) contemplated, but no legal action taken.</p>
<p><b>51</b> (Order in Council, 28 Nov. 1914)</p>	<p>Power to search premises, &amp;c.</p>	<p>[As amended to 21 Dec. 1917] The competent naval or military authority, or any person duly authorised by him or any police constable may, if he has reason to suspect that any house, building, land, vehicle, vessel, aircraft, or other premises or any things therein are being or have been constructed used or kept for any purpose or in any way prejudicial to the public safety or the defence of the Realm, or that an offence against these regulations is</p>	<p><i>Summer 1916:</i> The Everett leaflet (<b>49</b> in <i>Papers</i> 13) and <i>Rex v. Bertrand Russell</i> (<b>56b</b> in <i>Papers</i> 13) made liable to seizure and destruction after being placed on the Home Office "Hostile Leaflets" circular.</p>

DORR No.	Official Description*	Selected Text*	Application to Russell
		being or has been committed thereon or therein, enter, if need be by force, the house, building, land, vehicle, vessel, aircraft, or other premises at any time of the day or night, and examine, search, and inspect the same or any part thereof, and may seize anything found therein which he has reason to suspect is being used or intended to be used for any such purpose aforesaid, or is being kept or used in contravention of these regulations ... [and] may order anything so seized to be destroyed or otherwise disposed of.	<i>Nov. 1917: The Tribunal</i> dated 15 Nov. (containing 81 in <i>Papers 14</i> ) added to the "Hostile Leaflets" circular.

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