

**IN-CONFIDENCE**

**Parliamentary Commission of Inquiry**  
G.P.O. Box 5218,  
Sydney, N.S.W. 2001.

**FILE No.**

C 19 /

ARCHIVAL ACTION

FORMER PAPERS

## LATER PAPERS

**TITLE**

## ALLEGATION No. 6.

## Related Papers

[illegible]

**FILE NO.**

C. 19

MEMORANDUM RE MATTERS NUMBERED 6 AND 36

Matters Raised With Counsel Assisting But Where No Decision Had  
Been Made Whether To Draw Allegations

Allegation No.6 - Safety deposit boxes and overseas shares

It was alleged that in 1975 the Judge had had allotted to him a parcel of shares in a Swiss bank, the shares being of considerable value. It was also alleged that he had in 1975 become the holder, with others, of safety deposit boxes in Switzerland. Photocopies of documents were provided in support of the allegation.

At the relevant time it was not unlawful under the Banking (Foreign Exchange) Regulations for a resident of Australia to hold a safety deposit box in Switzerland but it was unlawful to own, without approval, foreign securities.

The provenance of the photocopies provided was such that there was some ground, based on a report to the Attorney-General by J T Howard in 1976, for suspecting that they may have been forgeries. Nonetheless those assisting the Commission did not feel able to disregard entirely the possibility that the documents were genuine. The documents had not been referred to or dealt with in the report by Mr Howard.



It was decided to ask the Commonwealth Government to approach the Swiss Government with a view to establishing whether or not the documents were authentic, and this step was duly taken on 17 July 1986.

Before any approach was made, it became clear that the Parliamentary Commission of Inquiry would not proceed to finality and was likely to be terminated. Therefore no further action was taken.

Allegation No.36 - Extra-curial intervention concerning submissions of litigant before the High Court

It was alleged that the Judge, whilst a Justice of the High Court, and during the course of a case upon which he was sitting, had communicated improperly with the Premier of a State, that State being a party or intervener in the case before the High Court. The purpose of the communication, it was alleged, was to persuade the Premier to direct counsel appearing for the State to alter the submissions being put to the Court.

Upon preliminary investigation, the person who was alleged to have been told of this incident by the Judge denied that he had been so informed by the Judge and gave a version of events which suggested that a remark of his own had been misinterpreted and ascribed to the Judge.

Those assisting the Commission proposed to interview the Premier of the State and counsel allegedly involved. Before those steps were taken it became clear that the Parliamentary Commission of Inquiry would not proceed to finality. Therefore no further action was taken.

[REDACTED]  
S Charles

[REDACTED]  
M Weinberg

[REDACTED]  
A Robertson

[REDACTED]  
D Durack

[REDACTED]  
P Sharp

[REDACTED]  
A Phelan

21 August 1986



HOWARD

REPORT

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1	Identification Sheet dated 3 February 1976.
2	Identification Sheet and Authority to Engage a Lawyer dated 3 February 1976.
3	Indemnity in blank.
4	List of Telephone Numbers; Attorney-General and Secretary, Attorney-General's Department.
5	List of Surnames.
6	Sheet headed "Mr J.P. Howard's visit to Switzerland" dated 4 February 1976.
7	Swiss Commercial Register Entry - Overseas Development Bank (S.a) Geneva.
8	Swiss Commercial Register Entry - Philippe Angeloni, ODE Services SA, Geneva.
9	Translation Article 271 Swiss Criminal Code.
10	Verification of Telex Numbers.
11	Swiss Commercial Register Entry - Bank of America, Zurich.
12	Company Registration Document - CEM Management AG, Zurich.
13	Request for Assistance dated 18 February 1976 (and attachments).
14	Explanatory Chart prepared for Swiss Police.
15	List of Payments made by Fancher to Sundermann.
16	Declaration by Philippe Angeloni dated 23 February 1976 together with translation French/English.



M. p. 17, p. 20 (para 124)

ATTORNEY-GENERAL'S DEPARTMENT

FROM THE SECRETARY  
CANBERRA

GS 10,000  
SF 40000  
SF 5000

References to Sundermann

- P. 3 (para. 10)
- P. 4 (para. 17)
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- P. 18 (paras 110-15, 118) - SEE ESP. para (114).  
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- P. 19 (paras 119, 120, 122, 124)
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- P. 21 (paras 136, 137, 142) - SEE ESP para (142)
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Feb 76.

**Andres-Angrisano**

**A**

AAG AG, Erlenholzstrasse 7, 8006 Zürich  
AAG AG, Birmensdorf 9, 8150 Stettlen  
AAH AG, Hiltzweg 1, 8150 Stettlen  
Abel SA, Sierrenzerstr. 21, 4000 Basel; c/o Calez-BA  
AG, Basel (0.0)  
abs Willi, Zeughausstr. 59, 3250 Lyss  
Absmann Andres AG, Lyss (0.75)  
ab-Bartschi Hans Ulrich, Tannacker 35,  
71 Aetlingen  
Adrich, Decolietage AG, Lohn (0.05)  
ad-Murphy's, Landstr., 5412 Gebenstorf  
ADSA AG, Gross AG, Gebenstorf (0.06)  
ads-Hodes Ernst, Eythalde 16, 4912 Aarwangen  
adr Andreas AG Land-und Industriemaschinen,  
Gwangien (C.?)  
ds-Krahenbühl Frieda, Seelandweg 11, 3250 Lyss  
Drmann Andres AG, Lyss (0.75)  
Eben Swan, Mattenweg 1, 3322 Schonbühl-Urtenen  
Ed Textilien AG, Bern (0.05)  
ed-Sverris, Oslo/N  
Edin AG, Zug (1.5)  
es Charlotte, Hubelgut, 3065 Mobslettlen  
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eto Leo, Amiswilserstr. 4, 8590 Romanshorn  
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es Frederick W., r. Bersonnex 3, 1200 Genève.  
ence St James  
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Alice, r. du Lac 1, 2520 La Neuveville  
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 k Paul André & Cie SA, La Neuveville (0.15)  
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e Teetum AG, Basel (0,1)  
Angherrn Doris, 8800 Thwil  
k Heer & Co AG, Thwil (1,0)  
Angherrn Ernst, Kellerweg 52, 8055 Zurich  
e Schweizerische Kaseunion AG, Bern (11,563)  
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e Charles Fulton (Switzerland) AG, Zurich (0,1)  
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SYDNEY.

8 March 1976

The Secretary,  
Attorney-General's Department,  
CANBERRA.

(Through First Assistant Secretary,  
Justice and Family Law Division)

REPORT ON VISIT TO SWITZERLAND  
5 FEBRUARY TO 26 FEBRUARY 1976 (INCLUSIVE)

Background

1. On 3 February 1976 I attended a conference held at the Attorney-General's office, 9th Floor, Temple Court, Elizabeth Street, Sydney. I was briefed at the conference on the alleged existence in Switzerland of two documents, namely -

- (a) a four page mandate dated 3 April 1975 addressed to the Overseas Development Bank, Geneva, apparently signed by Dr J.F. Cairns and Mr R.F. Connor; and
- (b) a letter, date unknown, signed by Mr G. Harris, directing the distribution of commissions.

Each of these documents related to the proposed borrowing of four billion U.S. dollars and payment of resulting commissions.

2. I was given copies of various documents, to be described later in this Report, on 3 February. On that day, also, I was given three documents, copies of which are now annexed and marked 1, 2 and 3. Two originals of document marked 3 were provided, in blank. All three documents were placed in envelopes and sealed. I was instructed that I could only open the envelope containing the original documents in blank, marked 3, on the express instructions of the Attorney-General. Additionally, for purposes of communication with Australia I was given two additional documents, copies of which are now annexed marked 4 and 5.

3. On the evening of 3 February 1976, I telephoned Dr Daniel Wyss, Attorney-at-Law, of Zurich and arranged an appointment for the afternoon of Thursday 5 February 1976.

4. On the morning of 4 February 1976, while again on the 9th Floor of Temple Court, I received by departmental safe-hand messenger :

- (a) two brown sealed envelopes, one marked 'Original Statement' and the other marked 'Handwriting Samples'. Both envelopes were noted that they could be opened only with the express written or verbal consent of the Attorney-General;



- (b) a copy of the Hansard Report on proceedings in the House of Representatives which took place on 9 July 1975;
- (c) copies of Statutory Declarations of A.J. Crawford and T.E. Khemlani, both dated 3 November 1975 (but with Annexure No. 82 only to Mr Khemlani's affidavit);
- (d) copies of Foreign Affairs telexes GE 10344; GE 10345; GE 10347 and GE 14842;
- (e) a sample of the handwriting of the Australian Ambassador to Switzerland.

5. I had been informed at the conference held on 3 February 1976 that the material described in paragraph 4(b), 4(c) and 4(d) above, would be provided by way of background material.

#### Task

6. The departmental messenger also provided a document headed "Mr J.T. Howard's visit to Switzerland - Steps that will be taken by Howard". A copy of that document is now attached, marked 6.

#### Summary of Performance of Task

##### Wednesday, 4 February 1976

7. I left Sydney at 4.30p.m. on Qantas Flight QF 1 for Frankfurt.

##### Thursday, 5 February 1976

8. On arrival at Frankfurt, I changed to Swissair Flight SR 531 and arrived in Zurich about 11.30a.m. On arrival at the Novapark Hotel, I telephoned Dr Daniel Wyss and arranged to visit his office at 2.00p.m. that day. I also received a message to telephone Mr Fraser at the Embassy in Berne. He said the Federal Department of Justice and Police should be told of my arrival in Switzerland. In the circumstances, I agreed the Department should be so informed.

9. I attended on conference with Dr Wyss at his office between 2.15p.m. and 6.00p.m. At that stage, on instructions, he was not shown the contents of the documents I had brought with me, other than two notarised statements of the signature of one Jochen Sundermann, one dated 26 November 1975 and the other dated 27 November 1975.

10. The following synopsis of the answers to the questions posed as "Step One" in attachment 6 emerged from the conference:

- (a) Rate of payment would be in accordance with Zurich Code (same rate as for Dr H.R. Steiner in Barton matter; rate unchanged since 1975), namely between S.Fr 180 and S.Fr 200 per hour - foreign language consultation rate.
- (b) Open at this stage - some concern, however, re Article 271 of Swiss Federal Criminal Code - need to clear with Federal Government in Berne.

- (c) Copy of entry for Overseas Development Bank (S.a) of Geneva made from 1975 Swiss Commercial Register (annexed and marked 7). Angeloni not a director of bank, more a manager. He was, however, a director of ODB Services SA of Geneva. A copy of the relevant extract from the Swiss Commercial Register was made (annexed and marked 8). A further search would be required from the Geneva Register of Commerce to establish any change in directors since 1975, should the information be required.
- (d) As shown on Annexure 7: Appony's name does not appear in Swiss Commercial Register or in Geneva Phone Book.
- (e) Not known - Stoeffli's name does not appear in any Zurich or Geneva Law List; not listed in Swiss Commercial Register; not in Zurich Phone Book.
- (f) No record of Sundermann's name in list of directors of Swiss companies or in Zurich Phone Book (Dr Wyss thought German address shown on notarised statement was probably correct).
- (g) Notarisation could be verified. Dr Wyss knows the notary who has in fact witnessed his (Wyss') signature on a contract. One of Sundermann's signatures was notarised by the notary, the second by his locum or deputy. Sundermann should also have signed entries in ledger kept by the notary which correspond with the numbers shown on the actual notarisation.
- (h) Telex numbers used by Sundermann and Stoeffli not shown in the Zurich Telex Directory. Number used by Kaufmann verified as belonging to Bank of America.
- (i) No handwriting experts as such; Canton Police will do on request on payment for service.
- (j) Not relevant at this stage.

11. The two large brown envelopes received from the Attorney-General, together with the sealed envelopes containing the two originals, marked 3, were placed in a large envelope, this was marked "Australian Govt. Property", then sealed by me, then placed in Dr H. Walder's (senior partner in Walder, Wyss, Maier) safe deposit box at the Swiss Banking Corporation, Lowenstrasse Branch.

12. I telephoned Mr Fraser in Berne. He said Federal Department of Justice and Police had been notified by Mr Beyersdorff, Third Secretary. He gave me details of advance of travelling allowance approved by Attorney-General's Department, Canberra. He mentioned that the Ambassador was in U.S., returning on 19 February.

13. At 8.30p.m. Zurich time (6.30a.m. Sydney time) I telephoned the Attorney-General at his home and informed him of paragraph 10, (a) to (h). He then had to leave to catch plane to Canberra. He said he would ring me during the day.

Friday, 6 February 1976

14. At 6.30a.m. I telephoned Mr A. Menzies and filled in gaps in paragraph 10 (a)-(j) which I had been unable to complete with Attorney-General.

15. At 8.30a.m. the Attorney-General rang. He had spoken with Mr Menzies. He told me to show the documents to Dr Wyss. I suggested I should consult with Dr Walder as well. The Attorney-General told me Stoeffli is the solicitor for the directors of the Overseas Development Bank; he does not speak English; he lives in a village between Lachen and Zurich, in direction of Baden about 30 miles from Zurich. To call him back at 9.30p.m. Zurich time (7.30a.m. Sydney time).

16. At 10.45a.m. I attended a conference with Dr Wyss. Dr Walder was present from about 11.30a.m. to 12 noon. Shown documents and telexes, particularly six conditions in telex of 24 January 1976. Dr Walder expressed concern at proceeding beyond this stage due to Article 271 "..... without having permission to do so .....". Translation of Article 271 is annexed and marked 9. He suggested that he could contact Berne and put the matter to the Federal Department of Justice and Police in the abstract, leaving out relevant details. Perhaps it could be regarded as a civil matter. I told him I would discuss this with the Attorney-General. Dr Walder knew the Overseas Development Bank was adversely known (I.O.S./Cornfield scandal). He thought documents were the work of parasites who live on the edge of Zurich economic dealings; there could be political implications unless cleared with Berne.

17. A check on the Swiss Telephone Directory showed there were three places called Lachen. Dr Wyss checked with Telephone Service to 29 January 1976 - no record of Stoeffli in any of three areas. Dr Wyss arranged with his telex operator to check on the three telex numbers appearing on the telexes handed to me in Sydney on 3 February 1976, mentioned in paragraph 2 above. The verification of these numbers appears on a telex message, now annexed and marked 10. Bank of America telex number in order; Sundermann's last telexes came from CEM Management AG, Geroldswil; the number used by Stoeffli was the telegraph counter at the Zurich Railway Station. CEM Management AG not listed in Commercial Register (as at 19 November 1975) or in Zurich phone book. No action taken to check CEM Management AG until clearance with Berne.

Conference concluded about 1.15p.m.

18. At 9.30p.m. I telephoned the Attorney-General in Sydney. I made the following points :

- (a) I had shown the Swiss lawyers the relevant documents; I gave Dr Walder's views.
- (b) There was concern by both Dr Walder and Dr Wyss as to Article 271.
- (c) Dr Walder says believed civil matter at this stage but it may develop - clear with Berne in abstract.
- (d) I should perhaps call to Berne and see Mr Schmid of Department of Justice and Police.

I gave further information re telex addresses and told of inability to trace Stoeffli in public records - he suggested Electoral Roll - I mentioned problem of Article 271.

19. At 10.45p.m. the Attorney-General rang back. Stoeffli lives at Meilen where he is a partner in a law firm - suggested I visit there Sunday. He will call me on Sunday night in Zurich with further views.

Saturday, 7 February 1976

20. I checked Volume 15 Zurich District Telephone Directory under Meilen (about 30 km from Zurich but nowhere near Lachen, which is on the other side of lake) - no record of Stoeffli.

21. At about 10.00p.m. the Attorney-General called. Sundermann's address provided (same as on notarised statement); stays at hotel at Geroldswil. Told Attorney-General that I would visit Meilen on Sunday 8 February 1976. To ring him at 8.00p.m. Sunday, Zurich time (6.00a.m. Monday Sydney time). Do not use names initially in Berne. Go direct to the Department of Justice and Police in first instance. Discuss the second matter with the Embassy.

22. I checked the telephone directories - there are a number of lawyers living at Meilen but apparently no legal practices there. Three hotels at Meilen. One hotel only at Geroldswil; no Sundermann in alphabetical listing.

Sunday, 8 February 1976

23. At 8.00a.m. I rang Dr Wyss. Told him I intended visiting Meilen. I then visited Meilen by train, returning to Zurich about 12.45p.m. Mainly villa type dwellings (Vaucluse style) lakeside. Small commercial centre. No attorneys-at-law in commercial centre at all.

24. At about 7.00p.m. Dr Wyss rang the telephone office from his home. There was no late listing for Stoeffli at Meilen.

25. At 8.00p.m. I rang Attorney-General from Dr Wyss' home. Reported on observations at Meilen and also the check on the late telephone listing. I proposed a visit to Berne on Monday 9 February 1976 and suggested the Department of Justice and Police might already have some knowledge of the Ambassador's difficulties with the people from Queensland in December 1975; I suggested that in the initial discussion German and Swiss names might be given but not other; as an alternative give names of two Federal politicians but do not identify Ambassador. Given instructions to play by ear. To telephone Canberra at 8.30a.m. Tuesday (30.30p.m. Monday Berne time).

Monday, 9 February 1976

26. At 9.15a.m. attended on Dr Wyss. Discussed wording of telexes and whereabouts of telegraph counter at the Railway Station. I obtained additional photocopies of documents annexed as 7 and 8. Also obtained extract from Swiss Commercial Register on Bank of America (annexed and marked 11).

27. I then attended the Zurich Commercial Registry with Dr Wyss (Borse - Stock Exchange Building) and obtained a copy of the registration of CEM Management AG of Zurich. It was noted the company provided management

services to hotels. One of the directors was a well known and respected Zurich lawyer. A copy of the registration certificate is annexed and marked 12.

28. I left Dr Wyss at about 10.15a.m.

29. At 12.10p.m. I left Zurich by train for Berne, arriving there at 2.00p.m. I booked in at the Hotel Baren, telephoned Mr Schmid, informed him that I would like to discuss a matter other than that of the Bartons. He asked me to call at his office at 5.00p.m.

30. I called on the Federal Department of Justice and Police at 5.00p.m. and saw Mr Schmid. I put the problem to him in the abstract. I did not identify the two members of Parliament or the person from the Embassy in Berne, but merely referred to them as such. He knew of the foreign loan dealings (Khemlani) and of the change in Government in Australia. He did not know of any visit by Australians to Switzerland in November/December 1975. I mentioned the purported mandate and also the accompanying letter. I mentioned Sundermann and Stoeffli by name.

31. I told Mr Schmid we had consulted with lawyers in Zurich who were concerned, as we were, with Article 271. Mr Schmid was of the view there could be difficulties with Article 271 as lawyer's client would be the Australian Government. He thought it an appropriate case for a Request for Assistance. This need not come from the Embassy as it was up to the Australian Government how it did its business. He suggested I could make request on basis of present identification (the Commonwealth Attorney-General was the proper enquiring authority) and there should be a result in a few days. A request passed on through Swiss Ambassador in Canberra would help but not necessary. Ask for whereabouts of Sundermann and Stoeffli, then questions which want answers. Ask to be present at execution of Request as this does not offend against Article 271 - ask complimentary questions. He agreed to examine draft, if prepared; would also assist with typing.

32. I told Mr Schmid I would have to telephone the Attorney-General tonight for instructions. I asked Mr Schmid whether there was a place for Walder, Wyss and Kaier in proposed Request. He said that if delivery of the documents was refused, it might be possible to maintain a civil action ordering that they be handed over. He thought it unlikely they would not be handed over if they existed, and if the persons exist.

33. I gave Mr Schmid handwritten particulars of Sundermann and Stoeffli. He will see if either is known at all. I left his office at 6.15p.m.

34. I returned to the Hotel Baren and drafted a Request for Assistance. At 10.30p.m. I rang the Attorney-General - I was told the call was unanswered.

35. At 11.00p.m. I telephoned Mr Menzies. I informed him the Attorney-General's number was not answering, that the call to the Attorney-General would be lengthy and suggested a tape recording might be made. I have him the telephone number of the hotel.

36. At 11.30p.m. the Attorney-General's secretary rang. I asked her to take down in shorthand:

- (a) the result of the company search on CEM Management AG;
- (b) notes on my discussion with Mr Schmid;

(c) translation (Dr H. Steiner's) of Article 251 of the Swiss Penal Code;

(d) the draft Request for Assistance.

(The line was particularly bad; she could hear me, I could barely hear her; the line was lost at one stage; however, she rang back and the message was completed.)

Tuesday, 10 February 1976

37. At 9.00a.m. I attended on Mr Schmid re Mr Sundermann's domicile. Mr Schmid had mentioned there was a town called Schmitten in Switzerland. It was apparent, however, Mr Sundermann's home was in West Germany.

38. At 11.00a.m. I visited the Embassy to discuss the Barton matter. Mr Beyersdorff was away sick. I saw Mr Fraser, who said he would like to sit in on Barton discussions with Mr Beyersdorff. I was to call back on Wednesday 11 February 1976. I left the Embassy at 12.30p.m.

39. At 5.00p.m. I visited Mr Schmid. I was told the only information on Sundermann was that contained in an Interpol Request from Australia in December 1975. Canberra was informed then that Sundermann was not adversely known in Switzerland. There was no record of Stoeffli. I told Mr Schmid I would telephone him on the following morning.

40. At 11.40p.m. I telephoned the Attorney-General. I gave him the information on Sundermann and Stoeffli received from Mr Schmid. He did not want a direct approach at this stage but wished to know if there was any objection to meeting with Mr Sundermann (meeting to be arranged through Australia). Sundermann may have additional information. It was now claimed in Australia Stoeffli was a partner in a law firm called "Capal Gustus Ltd" of Meilen. I was to check with Swiss lawyers whether Mr Laddemann of the Swiss National Bank, Zurich, can authorise disclosure of documents. I was to check with Swiss lawyers :

- (a) liability under Swiss Law for release of documents;
- (b) authority for release of documents - can Laddemann of National Bank give this, as is now claimed;
- (c) and mainly, how far we can go within authority - to be cleared with Mr Schmid.

I was to telephone the Attorney in Sydney at 6.30a.m. Thursday, Sydney time.

Wednesday, 11 February 1976

41. At 9.15a.m. I called on Mr Schmid. I told him I had discussed the matter with the Attorney-General. The question was whether taking the steps (six points in the telex dated 24 January 1976) would offend against Swiss Law, that is meeting Sundermann, and assuming documents exist, obtaining copies etc. Mr Schmid said in his view, this would offend against Article 271, and the situation would be similar if Swiss lawyers acted for us in meeting Sundermann. They would be acting as agents for Australia.

42. I asked what of a private citizen coming to Switzerland to make an enquiry. Mr Schmid said this would be in order but not if the enquiry were being made for a foreign government. I believe he was trying to say



that in this situation, a private citizen would have no interest in making an enquiry; it would be different with a government. In any case, between individuals, the enquirer could well be jeopardised by the person from whom he is making the enquiry.

43. I asked Mr Schmid if Sundermann was adversely known to police. Mr Schmid produced a file and said the only reason his name was recorded was the Interpol request from Canberra on 23 December 1975 (IP/6103/75; IP/d220/75) - same for Stoeffli. It is known that Sundermann stays regularly at the Geroldswil Hotel and that he makes many phone calls. This information had come from Zurich, where the contact was Detective Kurt Glanzmann, who visited Australia last year on a counterfeiting case. Geroldswil was a small area. Most people who go there get to be known by police. Sundermann has been there continuously recently; no reason to believe he was not presently there.

44. I asked what the steps would be following a Request for Assistance. Mr Schmid replied that it would be sent to Zurich, Mr Glanzmann would call out with me and ask about the documents and the lawyer, Stoeffli. I could offer indemnity and I could ask questions. There was no problem with such a request; Mr Schmid gets them daily. He mentioned in passing that most enquiring authorities go direct to the person they wish to see, they fail to get anywhere, then come back to the Federal Department asking for assistance. Another alternative would be an Interpol Request, details would have to be provided, the procedure on receipt would be exactly the same as on lodgment of a Request for Assistance. He preferred the Request for Assistance.

45. I then asked in what circumstances could permission be granted in terms of Article 271. He answered that the Minister of Justice and Police determines such matters, a cause has to be shown on a government to government basis. It would take about one month for a decision from the time the request was received by his department. He would have to point out to the Minister that there were alternatives available; most difficult in the circumstances. He said if we wanted the benefit of his experience in these circumstances, we should request assistance. He could check to see if Sundermann was at the Geroldswil Hotel now. The local police go to inspect the guests' identity dockets often; the check would be not on Sundermann alone but on all guests; this was normal practice.

46. I told Mr Schmid I would telephone him tomorrow after visiting the Swiss lawyers in Zurich. I left his office at 10.30a.m.

47. At 11.00a.m. I visited the Embassy. Mr Beyersdorff was absent sick until the end of the week. I told Mr Fraser I would continue my discussions on civil recovery in the Barton matter with the lawyers in Zurich and that I would telephone him from Zurich on the next day. I left the Embassy about 12 noon.

48. I caught a train at 12.55p.m. for Zurich and arrived there at 2.15p.m. I booked in at the Glockenhof Hotel.

49. At 3.10p.m. I called on Dr Wyss. Dr Walder was also present for about twenty minutes. In answer to my specific questions they said :

- (a) If the documents are held by a person, other than a bank, no difficulty in his releasing them or making copies of them.

- (b) If the documents are claimed to be the property of a bank, then Article 47 of the Banking Law prevails, but bank could volunteer them (as in the Barton case). The bank would be liable for disclosure.
- (c) There was no known provision for the National Bank to authorise disclosure to a third party. It is a fiscal controller (the Swiss Government's bank) concerned with fiscal policy, not dealings between banks and their clients.

50. Mr Lattmann was believed to be Deputy Manager of the Legal Department. There is no listing of the National Bank in the Commerce Directory as it is a government organisation. The National Bank is at Borsenstrasse 16, while the Bank of America is at Borsenstrasse 15, across the street. Kaufmann's name not shown in Bank of America's Commercial Directory listing.

51. No record of Capel Gustus Ltd or of any phonetically similar name at Heilen in legal practice or otherwise - looked under C, K and G; also in Commerce Directory. Only one lawyer, Keppel, who lives and works in Zurich.

52. I telephoned Mr Schmid from Dr Wyss' office. There is no central roll of voters in Switzerland - they are kept on a canton basis. He will ask Detective Glanzmann to check on Zurich roll for Stoeffli and contact me. He will also check again on telex.

53. I left Dr Wyss' office at 5.00p.m. and returned to my hotel.

54. At 5.45p.m. Detective Glanzmann telephoned. He said he would call by later with information discussed with Mr Schmid.

55. At 6.15p.m. Detective Glanzmann called. Stoeffli is unknown from a check of voters. The telexes came from the Hauptbahnhof station. I was shown Sundermann's hotel forms. These showed him staying at a number of hotels in 1975 in Zurich, improving in quality towards the end of the year. He had stayed continuously at the Hostellerie, Geroldswil since 4 January 1976.

56. At 8.25p.m. I telephoned Attorney-General; number not answering after ten minutes.

57. 8.35p.m. Telephoned Mr Menzies. I informed him I was unable to contact the Attorney-General. He suggested I try later as the Attorney-General would be on that number.

58. 8.45p.m. Telephoned Attorney-General again. I informed him of my discussions with Mr Schmid, Dr Wyss and of the later information from Detective Glanzmann. He said he would call me at night in the next day or so.

Thursday, 12 February 1976

59. In Zurich.

Friday, 13 February 1976

60. At 7.50a.m. the Attorney-General rang. He informed me re 57210A TXKB CH and of Bank of America Box No. 377. I informed him the telex number

had already been checked out and that the Bank of America Box owned by Sundermann was supposed to contain photocopies of the mandate only, the lawyer Stoeffli having the original. The Attorney mentioned there had been a press statement. The alternatives were, if Sundermann was honest, then there was a lot more information; do not desire this to dry up; possibility of meeting without Swiss policeman revealing his identity initially. Query if it could be organized this way with Howard and Swiss gentleman approaching Sundermann.

61. Explain to the Federal Department that if fraudulent, equally important that the matter be handled discreetly. Can the detective photograph the documents, if they exist? Important for the Attorney-General to find out the identity of the lawyer, if he exists. He is pressing for further information in Australia. Indicate to Federal Department that further information coming; if honest he knows of other transactions. If fraud, serious fraud on the Australian Government. Other serious allegations are being made. To telephone at 7.00a.m. Saturday, Sydney time.

62. At 10.00a.m. I called on Dr Wyss. I informed him of the situation to date. I also discussed civil recovery in the Barton matter; Dr Steiner, who is familiar with Barton matter, is now back from Army service. I made three calls from Dr Wyss' office. I informed Mr Schmid I would be in Berne that afternoon and asked if he could spare me some time. I telephoned Mr Fraser and told him I would call at the Embassy that afternoon (he was at a luncheon between noon and 2.15p.m.). I telephoned Mr Glanzmann; he was out but Dr Wyss asked another officer to inform Mr Glanzmann that I was returning to Berne.

63. I left Zurich by train at 11.20a.m. and arrived in Berne at 12.30p.m., booking in at Hotel Baren.

64. At 1.45p.m. I called at the Federal Department and saw Mr Schmid with his colleague Dr Frei. The background was covered for Dr Frei as Mr Schmid said it was best if somebody else in Department knew of matter. I put the Attorney's views that if Sundermann were honest, it was suggested more information was available - he did not wish him to be frightened off. I put the Attorney's proposal on approach to Sundermann. Mr Schmid said, however, it was necessary for Swiss police (maybe Mr Glanzmann, it is up to the Canton) to identify himself discreetly. He would have in his possession a document from the District Attorney's office; also authority for my presence. I would be present throughout questioning. I would put questions (turn deaf ear to this). The initial introduction would be in German; all would be translated into English. If Sundermann honest, he had nothing to fear from this approach (Sundermann would realise he was a foreigner in Switzerland - could be refused permission to stay if refused to co-operate and evidence of wrong doing). It was in his own interests to produce Stoeffli and the documents. If whole thing fraud then a matter for the Swiss police who would examine evidence to see whether an offence had been committed against Swiss Law. Did not understand need for indemnity for it seemed neither Sundermann nor Stoeffli had committed any offence against Australian Law. There would be no difficulty giving the indemnity if this was required.

65. There would be no difficulty photocopying documents. If the documents exist and they are available, there is no objection to the originals being taken to Australia. Sundermann was not compelled to answer any questions. It was unlikely he would refuse. Voluntary assistance is not

based on a treaty. Mr Schmid will be at his office at 8.00a.m. on Saturday if I required to contact him then. The conversation then moved to the treaty with the U.S. on Mutual Assistance in Criminal Matters; the Frister case; extradition generally and requests to withdraw on compassionate grounds. The meeting concluded at 4.15p.m.

66. I called at the Embassy at 4.45p.m. Mr Beyersdorff is still away ill; back on Monday when Barton matter can be discussed between self, Fraser and Beyersdorff. I left the Embassy at 5.30p.m.

67. At 8.55p.m. I placed a call to the Attorney-General which came through at 9.20p.m. I informed him of my meeting with the Federal officials by reading my notes. He said only additional information was that the firm Capal Gustus Ltd was registered in August 1975 and that the phone number should be available by ringing information. It was located in a building called Schaulhausplatz. Stoeffli was a man about 40. Some discussion with Attorney on name and whether anybody else had ever seen Stoeffli - negative. Attorney suggested perhaps meeting could be arranged in Bank of America with Sundermann. I reminded Attorney of conditions in Kaufmann's telex which our Swiss lawyers regarded as incomprehensible. The hotel is the only place he is known at. Direct approach favoured by Swiss police. If anything turns up on Stoeffli's address, ring on Sunday morning; if nothing, wait until Attorney calls me. Call completed 9.40p.m.

Saturday, 14 February 1976

68. I called on Mr Schmid at 9.00a.m. I have him the additional information on Capal Gustus (or Kaepfel, Kepel or Kaepel) and claimed name of building. He said he would have the Zurich Canton Police check the matter out first thing on Monday morning. I left his office at 9.30a.m.

Sunday, 15 February 1976

69. In Berne.

Monday, 16 February 1976

70. At 8.30a.m. I telephoned Mr Schmid re additional enquiry on Stoeffli. He said he would call me back at 11.00a.m.

71. At 10.55a.m. Mr Schmid called back - negative on all counts (location, firm name, telephone number).

72. At 11.00a.m. I placed a call to the Attorney-General in Sydney. Referred to Canberra. I informed him of the advice from Mr Schmid. He said he was causing a telex to be sent from Australia that night seeking production of the documents in Switzerland before the end of the week. He expected delay to the request from Sundermann. He asked whether a check could be made to see if Sundermann cleared out. I reminded the Attorney that the Ambassador was returning to Berne on Thursday 19 February. Perhaps the documents could be produced the day before, Wednesday 18 February. I told the Attorney I would remain in Berne and deal with the Embassy on the Barton matter until further notice. I asked his permission to clear the draft Request with Mr Schmid. He said he would leave this to my discretion. Call concluded about 11.20a.m.

73. At 11.30a.m. I called on Mr Schmid. I informed him of the Attorney's proposal. I asked whether Sundermann could be checked on discreetly to see if

he cleared out after the telex was received. He said he could arrange this as Geroldswil was a small place and the policeman knew everybody. I gave him draft Request and the relevant documents/telexes to copy.

74. At 11.45a.m. I called at the Embassy and saw Mr Beyersdorff. Between 2.00p.m. and 5.00p.m. I discussed the Barton matter with Messrs Fraser and Beyersdorff. Told them N.S.W. Attorney-General would ask for more information from Banque Populaire Suisse; also discussed civil recovery. Told them decision expected from Appeal Court in Paraguay before end of week.

75. At 5.30p.m. I rang Mr Schmid from the hotel; to pick up document at 8.30a.m. tomorrow.

Tuesday, 17 February 1976

76. 7.00a.m. Deputy Crown Solicitor, Sydney rang.

77. At 8.15a.m. I called on Mr Schmid; relevant documents had been copied and they were now returned; draft Request had been typed up; draft amended and corrected. Mr Schmid had sent a telex to Zurich asking to be notified of any exit by Sundermann. He would telephone me at Embassy or hotel.

78. 10.00a.m. at Embassy with Mr Beyersdorff working through attachments on Barton papers. I originated a telex to Attorney-General's Department, Canberra re lawyers fees and other matters. Left Embassy 5.40p.m.

79. 6.00p.m. rang Mr Schmid; his number not answering.

Wednesday, 18 February 1976

80. 12.15a.m. Attorney-General rang. I advised him of my discussion with Mr Schmid, that the draft Request had been typed up and that copies of relevant telexes and documents handed over and copied. He said that he had arranged for a telex to be sent to Sundermann suggesting a meeting with Sundermann and Stoeffli at which draft undertaking would be shown in return for viewing documents held by Stoeffli. He did not expect any reply. He wished to examine draft Request in detail - thought it would be lodged in the morning (Wednesday 18 February in Berne) - wanted me to call him on Canberra 73 3979 after 7.00a.m. Berne time. Told him one day might elapse before Canton could proceed because of the passage of documents from Berne to Zurich. Call completed 12.25a.m.

81. Called Attorney-General at 7.00a.m.; not available. I will be called back.

82. 7.45a.m. Attorney-General called. Instructed to make Request to the Department of Justice and Police this morning, Berne time - several changes of a minor nature required (these were recorded on the actual typed draft). He thinks Sundermann may have learned of enquiries through source in Australia. Some suggestion Sundermann claims he has a mandate from the present Government - no substance - says this gives him authority to raise loan. Sundermann perhaps being manipulated by somebody else. Discuss own protection; threats made to others; look to own safety; discuss with Federal Department, be sure protected; this all important when presence made known.

83. Some suggestion Albert Morris? Daily Mirror? Daily Mail? Brother of Ambassador's wife may be in Geroldswil. Sundermann has box No. 378 Bank

of America also. May contain second telex (notarised); another transaction. Ring at Parliament House at 12.30p.m. Berne time (10.30p.m. Canberra time). Call concluded 8.05a.m.

84. 8.10a.m. telephoned Mr Schmid. With Royal Canadian Mounted Police representative until 9.30a.m.; call at office then.

85. 9.30a.m. attending Mr Schmid and Dr Frei. Informed them of two discussions with Attorney. Nothing from Zurich to indicate Sundermann has moved out. Amended draft including Attorney's amendments of this morning given to Mr Schmid who arranged typing, photocopying and collation. Left Federal Department at 11.00a.m.

86. 11.05a.m. Telephoned Mr Beyersdorff at Embassy. Advised him I will attend about lunch time; to continue with translation of attachments.

87. At 11.30a.m. I returned to the Federal Department where the Request was signed and handed over to Mr Schmid. The procedure now is that copies will be sent to both Zurich and Geneva today. I should stay in Berne tonight and go to Zurich tomorrow morning. In Zurich, the Request goes first to the District Attorney, then to the Canton Police. In Geneva the Request goes first to a Judge, then to a Mr Thomkins, an English speaking member of the Canton of Geneva Police. Request executed first in Zurich then in Geneva. I can be present at both. Only thing which will precipitate either is Sundermann endeavouring to leave. To call at the Federal Department before 5.30p.m. A copy of the Request, Identification Sheet dated 3 February 1976 and Attachments A to K are annexed, marked 13. I returned to my hotel at 12 noon.

88. Call placed to Attorney-General at 12.25p.m. Connected at 1.10p.m. I advised Attorney :

- (a) Request lodged.
- (b) Procedure to be followed.
- (c) Observations on use of word "Lawyer".
- (d) Funds for out of pocket expenses.

He asked that I ring at 8.30a.m. Thursday, Sydney time. Ask Mr Schmid to check on reporter, if possible (my views given - perhaps too much action near hotel). To ring Mr Harders if any precipitant action during day. Reminded two brown envelopes not to be opened.

89. 2.00p.m. at Embassy with Mr Beyersdorff on Barton matter. The Ambassador returned early and asked to see me. Discussed Barton matter and other general topics for about twenty minutes. Left Embassy at 5.30p.m.

90. 10.30p.m. I called the Attorney-General on Canberra 73 3979, advised him that I had remained at Embassy or hotel since Request made; no further advice from Federal Department; last saw Dr Frei at 2.15p.m. with amendment; documents still in Berne at that stage. Mentioned that Ambassador had returned early; general talk. I had already arranged with Dr Wyss to call at his office in Zurich on Thursday 19 February. I will ask Mr Schmid at 7.30 a.m. tomorrow to check on Morris at Geroldswil; however, I thought this was pushing too much as Swiss Federal Department pretty busy.



Thursday, 19 February 1976

91. 7.00a.m. called Attorney-General - unavailable, will call me back.
92. 7.30a.m. Attorney-General telephoned. No further developments; call just before 1.00p.m. Zurich time (11.00p.m. Canberra time) on 73 3979; if anything emergent after, on 73 2589 or to Mr Harders on Canberra 81 2603. Call 8.15a.m. Canberra time on Friday (10.15p.m. Zurich time). Some discussion about envelopes. I am to have discretion in emergent circumstances. No problem with Indemnity envelopes, however. Call completed 7.37a.m.
93. 8.55a.m. called at Federal Department (Mr Schmid). I was given a photocopy of Request. He arranged I call on Detective Glanzmann at 2.00p.m. in Zurich. District Prosecutor had copy of Request and attachments together with an explanatory telex. Unlikely ready to proceed today. Early a.m. tomorrow more likely. Perhaps I can go to Geneva on Friday evening. Mr Thomkins telephoned and told to expect me. He had copy of Request. I was given his telephone number in Geneva. Mr Schmid would be absent on Friday. I was to call Mr Wyssmann on Friday or Saturday, if required. Mr Schmid hoped to see me in Berne on Monday evening, 23 February. There might be some difficulty with Geneva Bank; sensitive; all right for Mr Thomkins but perhaps not for me.
94. 9.30a.m. called at Embassy and saw Mr Boyersdorff. I drafted a second telex for despatch to Australia on Barton matter.
95. 11.10a.m. caught train to Zurich, arriving at 1.00p.m. Booked in at Hotel Glockenhof.
96. 1.20p.m. rang Attorney-General and informed him of discussions with Mr Schmid. He said to bear in mind that Sundermann now claimed Harris' lawyers were asking for the return of the documents. Best to proceed this afternoon. I said Mr Schmid had reservations. Ring Sydney office 9.00a.m. Friday (11.00p.m. Zurich time). Call completed 1.30p.m.
97. 2.00p.m. called on Walder, Wyss and Maier. Saw both Dr Wyss and Dr Steiner. Given quick background since last visit. Some discussion re Bartons.
98. 2.30p.m. with Mr Glanzmann at Canton Criminal Branch. Covered Request in detail; then Request with attachments; then over the same material with a female translator English/German. Telexes and background covered again. Chart prepared (annexed and marked 14). Checked with Geroldswil - Sundermann there at present; police station is next to hotel. Goes out mainly at 11.00a.m., sometimes 6.30a.m. Arrangements made for Mr Glanzmann to pick me up at 6.00a.m. at Hotel Glockenhof. Translator to be present from 7.00a.m. Authority arrived at 5.00p.m. from District Prosecutor for investigation to proceed with me present. Checked Visitors Bureau. Only Albert Morris recorded in Zurich - arrived for a visit September 1975 - English national. Left about 7.00p.m.
99. 11.00p.m. call placed to Attorney-General. Not answering. Alternative number not answering - tried Mr Harders and Mr Menzies; cannot get through - operator will try all three in succession.
100. 11.30p.m. through to Mr Menzies. Advised him of events of afternoon. He will arrange for Attorney-General to be advised.

Friday, 20 February 1976

101. 6.00a.m. with Mr Glanzmann, by car to Geroldswil. Met by local detective at Hostellerie Geroldswil.

102. 6.30a.m. accompanied two policemen to Mr Sundermann's room (No. 354). Knocked on door. Opened by Sundermann in pyjamas. Mr Glanzmann shows badge and identifies parties. Identifies me by reference to District Prosecutor's authority. Sundermann writes down names and agrees to come to Canton Police Headquarters. Mr Glanzmann asks Sundermann where his documents are. Sundermann answers that some are in his room, some are at his bank. Mr Glanzmann remains with Sundermann while he dresses; I wait with other policeman in cafe.

103. 7.00a.m. Sundermann arrives with Mr Glanzmann, carrying a brief case. All have coffee. Sundermann says he has phone calls and appointments today. He says in English to me "more discreet ways of doing things". I refer to "When in Rome etc" and say "This is a matter for Switzerland".

104. About 7.20a.m. Mr Glanzmann, Sundermann and I leave Geroldswil by car. Sundermann does not speak during the journey. Arrive Canton Police Headquarters at 7.55a.m. Female German/English translator I had met the afternoon before ready.

105. 8.00a.m. interview with Sundermann commences. The procedure adopted was that I would ask a question in English; this would then be translated into German by the female translator; Mr Glanzmann would take down the question on a typewriter; Sundermann would reply in German with Mr Glanzmann recording the reply in German; the translator would give me a contemporaneous translation of Sundermann's reply, in English. This procedure was varied where Sundermann would not answer directly or he prevaricated with his reply. In that situation, Mr Glanzmann would follow up with questions to the point of his own selection. This system had a weakness in that Sundermann, who spoke good English, could ponder on his proposed reply for some time before he was required to give it.

106. The interview with Sundermann lasted for 12 hours concluding at 8.00p.m. The Record of Interview appears as a 31 page document which was signed by Sundermann on completion. The only break occurred between 3.45p.m. and about 5.00p.m. when Sundermann, Mr Glanzmann and I went first to the Bank of America, where Sundermann removed some documents from his safe deposit box No. 377. As Sundermann had agreed voluntarily to open his box and permit all documents dealing with Australian loans to be removed, Mr Glanzmann suggested that only he should accompany Sundermann into the Bank. On returning to Police Headquarters from the bank, I was dropped off near Walder, Wyss and Maier to pick up the Indemnities and other documents, which had been left there for safekeeping.

107. The following is a short summary of some of the matters covered in the interview with Sundermann :

- (a) In mid November 1975 he was introduced to Fancher and Rao at Ascot in Zurich by Richard Todd, President of Whitney, Todd and Co. of New York.
- (b) Todd had told him there was a serious partner from Australia here in Zurich; he should "try again to get that deal through; not possible shortly before elections".

- (c) Found contrary to what Todd (an associate of John Bracey) said, Fancher was here to check on mandates.
- (d) He, Sundermann, came into contact with Stoeffli. Stoeffli telephoned him (for no apparent reason).
- (e) He used to meet Stoeffli by arrangement at the Zurich Railway Station and have a cup of coffee with him; he did not know where he lived or worked or how to contact him; Stoeffli always telephoned him at his hotel; nobody else knew Stoeffli, only Sundermann; saw him as late as last Monday (16 February); thinks in retrospect Stoeffli may have been a 'con man'.
- (f) Arrangement made with Neue Bank for Overseas Development Bank to send mandate from Geneva to Zurich so that he could inspect it to make his notarised statement of 27 November 1975 (shown as Attachment A to the Request for Assistance (annexure 13)). Apparently Stoeffli photocopied it at the same time. He had to pay the Swiss Franc equivalent of U.S. \$10,000 to the courier, did not get a receipt, did not know the courier, could not describe him. He obtained the money to pay the courier from Fancher personally at the Chase Manhattan Bank, Zurich. The money was placed in an envelope at the bank and not opened by him before he gave it to the courier.
- (g) He claims he met Angeloni of the Overseas Development Bank once in the spring of 1975. Has never seen him since. Says he has never met Appony, who is not a director of the Overseas Development Bank, but of a finance institution associated with it.
- (h) He says he obtained another 40,000 Swiss Francs from Fancher sent by telegraphic transfer to the Chase Manhattan Bank, Zurich, early in December 1975. The Swiss Franc equivalent of U.S. \$10,000 was to be paid as grease money to Diebold of the Depositen and Effectenbank, Zurich. Apparently this was to enable the 'telex' which is now attached as B to the Request for Assistance (annexure 13) to be copied. He gave the money to Diebold personally and did not get a receipt - "Who gives a receipt for grease money"? The rest of the telegraphic transfer was to cover his expenses.
- (i) He received another telegraphic transfer of 5,000 Swiss Francs at the Chase Manhattan Bank, Zurich, sent by Fancher on 2 or 9 February 1976. 3,700 of this was to cover his expenses and the remainder was an advance.
- (j) Stoeffli speaks no English so the telexes shown as attachments C, E, F and G were written out, not by Stoeffli, but by Sundermann. He says he obtained Stoeffli's signature on each of the original telexes but now cannot locate them; when asked why a German speaking person would sign telexes written in English, Sundermann said Stoeffli obviously trusted him.
- (k) He asked Kaufmann of Bank of America to send the telex shown as attachment D to the Request (annexure 13). This agreement was voided on 30 January 1976 when he retrieved the envelope from the Bank of America. He did this because of Fancher's delay (on the new transaction?) but had forgotten to mention it to Fancher.

- (1) He said he was allowed to make a copy of the Harris letter also. He said he thought he had passed on a copy of that letter by telex to Fancher. He was unable to produce a copy of the telex but said there was a copy of the Harris letter placed in the envelope with the four page mandate. It was pointed out this was at variance with the statement shown in the telex from Stoeffli, attachment C to the Request for Assistance (annexure 13). He said this was an oversight. He could not recall the date on the Harris letter or the address from which it was sent.
- (m) Said he felt sure the Neue Bank would have a copy of the telex from the Overseas Development Bank stating the mandate would be sent to Zurich by courier.
- (n) He spoke to Fancher often by telephone; he regarded him as his business partner; spoke to him two or three times last night (19 February 1976) "about a new investigation I was supposed to make for him concerning a person called Murphy and the Philippines loan". Claims he met Murphy "a lawyer in London about two years ago in discussions about shady Filipino deal - now member of Australian High Court". Said he would perhaps "locate him (Murphy) via a business partner in Amsterdam".
- (o) He and Fancher also have a deal which Fancher is proposing through Sundermann/Virginia Institute U.S.A./Australia "which we tried through Bank of America in Zurich but obviously we cannot go any further with Bank of America". Will try direct via Virginia.
- (p) Fancher offered him a deal in meat; "for him to sell meat, large quantities of meat".
- (q) Fancher never said he had the authority of the Australian Government. Fancher told him there is a representative from "Herren Ellicott" in Zurich with a letter for me. He had stated earlier Fancher had the authority of "Mr Petersen".
- (r) The indemnity (which was read to Sundermann) only related to offences against Australian law. He said Fancher had said the indemnity would cover non-Australians who had broken "the Swiss Bank Secret".

108. Sundermann summarised the payments he had received from Fancher. These are shown in his handwriting as annexure 15. He said he was prepared to go to the Chase Manhattan Bank on Monday morning with Mr Glanzmann to obtain confirmation of these figures. He said he would also go to the Neue Bank (Dr Korber) and ask for a copy of the telex to that Bank from the Overseas Development Bank, Zurich.

109. Sundermann had two large parcels of documents relating to Australian loans. One parcel came from his briefcase and the other came from his Bank of America box. He said that whereas he did not object to the Zurich police copying his documents, he would not agree that these should be made available to the Australian Attorney-General. He said he had his partners to think about. He gave his partners as Angeloni (Overseas Development Bank), Diebold (Depositen and Effecten Bank) and Stoeffli.

110. Mr Glanzmann spoke to his superiors as he desired to arrest Sundermann for falsifying documents. They would not agree with his proposal.

He then arranged for Sundermann to return to Police Headquarters on Monday 23 February at 8.00a.m. when the visit to the Chase Manhattan Bank would take place. Mr Sundermann's passport and the documents which had been photocopied were returned to him.

111. During the day I made two telephone calls. At 12.35p.m. I spoke to Mr Fraser at the Embassy. He said the Ambassador had signed a letter to Banque Populaire Suisse on the further request for information for New South Wales. I said I would call on Monday to complete the attachment to that letter. At 6.00p.m. I spoke to Mr Thomkins in Geneva. He said the Request had not at that stage been received from the Judge. He was off duty on Monday 23 February. I made tentative arrangements to meet him on Tuesday morning.

112. I left Police Headquarters with Mr Glanzmann about 8.30p.m.

113. At 9.45p.m. I placed a call to the Attorney-General in Sydney. I informed him of developments since last I spoke to him. I gave a summary of the events of the day and of Sundermann's planned return on Monday next. The Attorney thought he should have been detained; possibly evidence from Australia to show the documents were fraudulent. I mentioned the Swiss Police were not prepared to detain him and that his passport had been returned.

114. I told the Attorney that in my opinion Sundermann was a low echelon confidence man; he had a veneer of knowledge of the Khemlani affair; he built on that and so long as Fancher was prepared to pay (a sum in excess of S.Pr 60,000 was claimed to have been received), he gave him documents which were fabricated. The additional matters in Sundermann's possession of which photocopies had been made (Close, payments to High Commissioner, London etc.) added nothing; they also appeared to have been fabricated. I read one of the telexes to the Attorney. Attorney said we would want copy of the Record of Interview. I said in the interview Sundermann made admissions of breaches of Swiss labour and migration laws but the Zurich Police considered these were matters for federal officials. I have details of Sundermann's claims about Stoeffli.

115. I informed the Attorney it was proposed to visit Geneva on Monday when the matter with Sundermann was completed and that I would have to stop off at Berne to complete the letter to the Banque Populaire Suisse on Barton. The Attorney told me to look to my own safety. I said that I would go to Geneva on the following morning and return to Zurich on Sunday night. He asked that I call at 10.30p.m. Monday night Zurich time at Parliament number. If not there, leave a message with Andrew Kenzies saying where I could be contacted. Call completed about 10.15p.m.

Saturday, 21 February 1976

116. To Geneva by train; left 8.10a.m., arrived 11.55a.m.

Sunday, 22 February 1976

117. To Zurich by train; left 7.15p.m., arrived 10.55p.m.

Monday, 23 February 1976

118. I arrived at Canton Police Headquarters at 7.35a.m. and had a discussion with Mr Glanzmann. Mr Sundermann arrived at 8.00a.m. and asked to speak to Mr Glanzmann privately. Mr Glanzmann told me Sundermann said

that in 30 minutes, he (Glanzmann), will receive a telephone call telling him that the matter is completed. In addition, the Australian Attorney-General was not to have access to the photocopied documents.

119. At 9.00a.m. Mr Glanzmann received a telephone call from Mr Fancher in Australia. I was seated next to Mr Glanzmann and could hear an American voice speaking on the telephone. He told Mr Glanzmann that the telex from the Neue Bank has been in the possession of Mr Spann, Queensland Premier's Department, since December 1975 - it had been given by Sundermann. He has "told Ellioott of this three times, Greenwood of this once and the head of Attorney-General's, four times". He "gave undertaking over his signature that Mr Sundermann's name would not be used. The authority to do that came from the Premier of Queensland, the authority of Malcolm Fraser, the authority of Senator Greenwood". Claim by me that "protection from Ellioott fabrication. Ellioott gave it to Petersen. Mr Spann was present - taken down by K. Hughes". Mr Fancher asked Mr Glanzmann to verify this with Mr Spann. Spann's home number was 07-59-18-15; his office number 07-221 and 592. Mr Fancher asked that Mr Glanzmann call him back on 070/911.811 or 911.711.

120. At my request, Mr Glanzmann then asked Fancher whether he had paid any money to Sundermann. Fancher answered that the "last" sum paid a number of weeks ago was Swiss Francs 5,000 from private funds for Sundermann's expenses - fares of bankers from London. Mr Glanzmann asked how it was paid. Fancher said by telex Bankers Trust, New York City to Chase Manhattan, Zurich or perhaps to Bank of America. Mr Glanzmann then asked about other payments. Fancher said "What do you want, an audited statement or something. Its a private affair and none of your concern". Mr Glanzmann concluded the call at 9.25a.m.

121. At 9.40a.m. Mr Glanzmann called Berne (Department of Justice and Police) to mention about the phone call and ask about release of the photocopied documents. I also spoke to Mr Schmid indicating that I would call the Attorney-General to mention the phone call from Fancher.

122. Mr Glanzmann told me the federal officials agreed with his proposal to visit the Neue Bank about the Overseas Development Bank telex and his proposal to visit the Chase Manhattan Bank as Sundermann would be authorising the release of the information in each case. The Request would be presented to the Overseas Development Bank, Geneva. If all banks refused information, then this might conclude Australia's Request for Assistance. The second matter, payments claimed to be made by Sundermann to Swiss bankers for disclosure of information, would be a matter for the Swiss police. The photocopied documents could not be made available to the Australian Attorney-General without clearance from the Federal Department of Justice and Police.

123. I pointed out to Mr Glanzmann the patent faults in the documents taken from Mr Sundermann (Close documents and the like).

124. Mr Glanzmann then left with Sundermann for the Neue Bank and the Chase Manhattan Bank.

125. At 10.00a.m. I placed a call to the Attorney-General in Canberra from the Canton Police Headquarters.

126. At 10.35a.m. Mr Lack, who is in charge of the Fraud Squad, answered a call on Mr Glanzmann's phone. The call was from Australia. Mr Lack speaks little English and asked me to take the call. I heard Fancher asking for



Mr Glanzmann. I said in French for him "to wait a moment, please". Fancher said "Doesn't anybody there speak English". I handed the phone back to Mr Lack who said Mr Glanzmann was out for an hour. Fancher left the same numbers as before on which he could be called back.

127. 10.45a.m. advised Canberra number not answering. A call was then placed to Mr Harders at his home. This came through after about 15 minutes. I informed Mr Harders of the developments of the morning. He will contact the Attorney in Sydney and inform him of my call. 11.25a.m. call completed.

128. 11.30a.m. Mr Glanzmann returned with photocopies of the last two receipts for the payments made to Sundermann by Fancher (27 November and 2 February 1976). These were given by Chase Manhattan to Sundermann. Bank also had a copy of the receipt for the first payment but when Mr Glanzmann identified himself as a policeman, the bank withdrew it as it was a payment made at the request of the customer in person, not by telex to Sundermann. They were told by a receptionist at the Neue Bank that Dr Korber was too busy to see Sundermann.

129. 12 noon Attorney-General telephoned. I repeated the information I had given Mr Harders; brought it up to date with information given to Mr Glanzmann by Chase Manhattan. I also read from a telex dated 16 January 1976 to Fancher from Sundermann, particularly the second paragraph. This was one of the telexes received by the police from Sundermann's Bank of America box. I told the Attorney I would go to Berne to see the Federal officials and the Embassy, then to Geneva regarding the Overseas Development Bank enquiry. The Attorney said to press the Federal officials for copies of documents on Australian foreign loans held by Sundermann; asked if any follow-up possible on Mr Donaldson and Murphy matter. I told him this was mentioned in the photocopied documents and appeared to be the extent of the enquiry. He asked me to ring at 10.30p.m. today Swiss time, if any developments. Watch to my own safety. Informed him of notes from list of telephone numbers held by Sundermann. Call completed 12.25p.m.

130. Mr Glanzmann said Sundermann was returning on Tuesday 24 February to visit the Neue Bank again. Sundermann had a late morning appointment that day and had left Police Headquarters. I had earlier asked Mr Glanzmann whether Sundermann could be asked to voluntarily surrender his passport. Mr Glanzmann checked with his superiors, who would not agree with proposal. I told Mr Glanzmann I would call him from Geneva.

131. Caught 1.10p.m. train to Berne; arrived 2.40p.m.

132. I called at the Embassy on arrival, saw Mr Beyersdorff, then Mr Fraser; read telex from Australia, then Ambassador's letter to Amonn and its attachment. Attachment amended, then added to. I informed Embassy I had been granted one or two days recreation leave which I would take in Geneva. Left Embassy 3.30p.m.

133. 3.40p.m. arrived at Department of Justice and Police. Saw Mr Schmid and later Dr Frei. I advised them of events in Zurich. Mr Schmid rang Geneva; I am to call Mr Thomkins 8.00a.m. Tuesday 24 February. All documents from Zurich will be made available to us but through the Department of Justice and Police. Left department 4.40p.m.

134. 4.04p.m. train to Geneva; arrived 6.50p.m.

Tuesday, 24 February 1976

135. 8.00a.m. rang Mr Thomkins - out - to call back.

136. 8.30a.m. Mr Thomkins telephoned; picked me up at 9.00a.m. Then to Surete Headquarters where I briefed Thomkins; he rang Judge - a non-English speaker - documents still in English; appointment made for 3.30p.m. at Palais de Justice. Mr Thomkins produced some papers on Sundermann which indicated that he came under notice in October 1974 in connection with some financial operation. No police investigation, however, as no complaint made.

137. I telephoned Mr Glanzmann from Police Headquarters. There was a further call from Mr Fancher during Monday afternoon but the line failed before they spoke. Sundermann rang him this morning saying that the matter was finished and Howard would receive instructions to return to Australia immediately.

138. 12.15p.m. call placed to Mr Harders (I was unaware where I could contact the Attorney-General) - rang on outside line from Treasury, Geneva, as I was unable to ring from a public telephone at the local Post Office. Call came through at 12.30p.m. I informed Mr Harders of developments to date, particularly for the afternoon. To call the Attorney at Parliament House at 10.30p.m. Geneva time.

139. 12.35p.m. rang Mr Fraser, Embassy Berne. Suggested telex to Australia re receipt of letter by Professor Amonn.

140. 3.15p.m. I met Mr Thomkins at Palais de Justice, then at 3.30p.m. called on Juge d'instruction K. Dinichert. Juge did not speak English. Used chart (annexure 14) with Mr Thomkins assisting. Juge Dinichert dictated a notice to the Overseas Development Bank asking for answers to questions in the Request; copies of documents and a deposition from Mr Angeloni.

141. 4.15p.m. left Palais de Justice with Mr Thomkins, then walked to Overseas Development Bank on the Rue de Rhone. He suggested he see Mr Angeloni, who he had met on a former occasion, in the first instance. As there was no legal obligation for the bank to answer the questions in the Request, he would ask Mr Angeloni if he had any objection to seeing me.

142. 5.45p.m. Mr Thomkins returned. Mr Angeloni agreed to answer questions and to make a deposition at Police Headquarters at 9.00a.m. Wednesday 25 February 1976. He told Mr Thomkins he did not know Sundermann and that Overseas Development Bank had never had a four page mandate signed by two persons. Sundermann was either mad or a crook; did not know Harris; Overseas Development Bank received no money from Sundermann; the Pakistani drove him mad; he never regarded him as serious; Overseas Development Bank trying to live down I.O.S. scandal; a new image; if it did not answer questions, then suspect. Mr Thomkins to arrange for photo and copy of Sundermann's deposition from Zurich. To pick me up 8.30a.m. Wednesday. Parted at 5.55p.m.

143. 10.30p.m. rang Attorney-General. Call came through at 10.40p.m. Informed him of developments since we spoke in Zurich yesterday. I am to call at 10.30p.m. tomorrow night. Call completed 10.55p.m.

Wednesday, 25 February 1976

144. 8.30a.m. Police called. 8.45a.m. with Mr Thomkins. Statement and photo from Zurich had not arrived; call placed to Mr Glanzmann in Zurich - Korber of Neue Bank claims Bank Secrecy in respect of the purported telex between Overseas Development Bank and Neue Bank.

145. 9.00a.m. Mr Angeloni arrived. Mr Thomkins suggested he should speak to him alone in the first instance and take a deposition, then I see him with Mr Thomkins.

146. 10.15a.m. Mr Thomkins completed interview with Mr Angeloni. Mr Thomkins informed me Mr Angeloni did not change facts from those of last evening and that a deposition had been taken.

147. 10.25a.m. I then spoke to Mr Angeloni with Mr Thomkins present. Mr Angeloni was shown the chart (annexure 14) and photocopies of Khemlani documents dealing with the Overseas Development Bank. He was then shown attachments A, C, D, E, F, G, H, I, J to the Request for Assistance (annexure 13). He claimed unbelievable; he was told of allegations in Sundermann's deposition, namely, passage of mandate via Neue Bank, payment to courier, return of mandate, his being Sundermann's business partner. Angeloni denied all strongly, said there was never any telex from Overseas Development Bank to Neue Bank; he would take this up with Korber direct.

148. Mr Angeloni was then asked by Mr Thomkins if he wished to vary his deposition; Mr Angeloni said the only variation he wished to make was one associated with Khemlani. After refreshing his memory from the documents shown (the annexure to Khemlani's Statutory Declaration), he wished to vary a date from February 1975 to March 1975. This variation was then typed on the deposition and Mr Angeloni signed the document in my presence. A copy appears as annexure 16.

149. Mr Angeloni then added that this was the second time he had been asked about the mandate. In early December 1975, an Englishman living in Australia, then in Geneva, telephoned him at his home one Saturday night. He said he wanted to discuss this four page document and as he had come from round the world, could Mr Angeloni at least give him ten minutes of his time. Angeloni saw him ? on Monday following for a short period; he produced a passport as identity - his first name was John but Angeloni could not remember his surname. He said he was there in a private capacity representing business interests who would be prepared to pay a large sum of money for the document he described. Angeloni said he told John ? that he was not in a position to discuss a banking matter, even if the document existed but that if the document existed, it could no doubt be withdrawn by the Government, on the Bank being given a reason why the document should be returned. Nothing more was heard of the matter until yesterday when Mr Thomkins called. He said he would check with the Neue Bank and advise Mr Thomkins.

150. Mr Thomkins said there was no record of Fancher in the Hotel Register going back to November 1975. He then gave me a copy of Mr Angeloni's statement.

151. I left Geneva at 12.45p.m. and arrived at Berne at 2.30p.m.

152. I called on Mr Schmid at the Federal Department. I showed him the copy of Angeloni's statement. He said there was no objection to my retaining this as it was the practice in Geneva to make copies available this way. Mr Thomkins had called him and Angeloni was still checking on the telex Overseas Development Bank/Neue Bank. He said Mr Glanzmann had run into some difficulty with Diebold. To call on Glanzmann early a.m. Thursday 26 February.

153. I made arrangements for the despatch of the reply to the Request for Assistance to Australia. I prepared two large envelopes addressed to Mr A.C. Menzies at his address in the Administrative Building. Mr Schmid will place the Reply in the smaller of the envelopes, seal it, then place that envelope in the larger, sealing it with tape and wax. Mr Schmid will then arrange for the envelope to be taken by hand to the Embassy (Mr Fraser). Mr Schmid thought it would be ready in a few days.

154. I then called at the Embassy and saw Mr Fraser. I mentioned that I had ran into Mr Schmid who had undertaken to gather some material for Mr Menzies; I mentioned Mr Schmid was Switzerland's Interpol contact; the material was to be delivered in an envelope to the Embassy and that it was to be sent on, as received, by safe hand bag.

155. The Barton matter was discussed with Mr Fraser, then with Mr Beyersdorff. I asked Mr Beyersdorff to arrange for some company registration material to be obtained, possibly from the Trade Representative or Dr Steiner, if Trade could not help. I left the Embassy about 4.30p.m.

156. Left Berne at 5.45p.m.; arrived Zurich 7.40p.m.

157. I telephoned Mr Glanzmann at his home after arriving at the Hotel Stoller. He said Diebold was no longer at the Depositen and Effecten Bank but that he was bound by the "Bank Secrecy". He claimed no payment received, no document made available to be copied - very little else. He would take legal advice about Sundermann's allegations against him. Neue Bank would not discuss the matter. Sundermann claims he holds an account with somebody else, therefore, he is unable to authorise disclosure by himself. He had telephoned Glanzmann and seemed confident nobody could touch him. I told Mr Glanzmann I had discussed the additional documents with Mr Schmid. Fancher is not recorded at any hotel in Zurich back to November 1975. He had not called Mr Glanzmann since Monday afternoon last. I made arrangements to meet Mr Glanzmann on the following day at 8.00a.m.

158. Call placed to Attorney-General 10.30p.m. I spoke from 12 midnight to 12.15a.m. and reported on developments of the day. He asked that I call at 11.00p.m. Thursday, Sydney time.

Thursday, 26 February 1976

159. 8.30a.m. with Mr Glanzmann to Police Headquarters. He read to me Diebold's four page deposition; it covered all relevant aspects. In summary Diebold called Sundermann's allegations "a dirty lie".

160. After a discussion with Mr Glanzmann, it appeared three matters had yet to be covered :

- (a) a check to be made to see if Mr Close was in Zurich in January 1976;

- (b) a check was to be made with Mr Farnum of the Seattle First National Bank, Zurich to see if his bank sent the copied telex (attachment B to the Request for Assistance, annexure 13);
- (c) a check to be made at the Bank of America, Mr Kaufmann to see if the signatures on the letter which had been attached to the envelope were his (the envelope was that referred to in attachment C to the Request for Assistance, annexure 13).

161. Mr Glanzmann telephoned Mr Farnum. He agreed to see Mr Glanzmann and myself at 11.30a.m. Mr Glanzmann then telephoned Mr Kaufmann at the Bank of America. He also agreed to an interview. Mr Glanzmann said Kaufmann had, on the earlier visit with Sundermann, confirmed that he had sent a telex to Australia at Sundermann's request.

162. I then visited the Hotels' Registration Section of Police Headquarters with Mr Glanzmann. There had been nobody by the name of Close, a citizen of the United Kingdom, recorded as having resided in Zurich since June 1975, when two English students by that name visited the city. Left Police Headquarters 10.30a.m.

163. Arrived Bank of America 10.50a.m. Mr Kaufmann became available after about 15 minutes. He asked for my identification. Kaufmann then read the telex (attachment D to the Request for Assistance, annexure 13). He said he had sent it at Sundermann's request; Sundermann was a customer of the bank and his account was debited with the cost of the telex plus the cost of the bank's time in discussing the matter. Kaufmann thought the transaction very strange and insisted that the last paragraph in the telex (and on the typed sheet attached to the envelope) should be included. The telex is identical in wording with the typed sheet on Bank of America paper which was stuck on front of the empty envelope in the Bank of America box. Kaufmann confirmed the signatures on the sheets were his and Sundermann's; also the notation dated 30 January 1976 voiding the arrangement was his handwriting. Sundermann did not on 30 January 1976 indicate why the envelope was being removed; Sundermann was entitled to remove the envelope as he desired by virtue of the instructions on the front of the envelope. Kaufmann said he knew of Panther (confirmed from the telex attachment D to the Request for Assistance, annexure 13).

164. Kaufmann was joined by another Swiss employee of the bank at this time. The second officer gave a telephone number on which Sundermann could be contacted (the Geroldswil number). Kaufmann asked for some details of what Sundermann was involved in. Glanzmann said no objection, so a very brief outline was given without details. Later, the second officer said he had another document which showed a telephone number in Germany (?) on which Sundermann had been contacted. He then left the room with Kaufmann for about ten minutes and returned saying the information would be passed on to the police later on.

165. At about 12 noon, Mr Glanzmann and I arrived at the Seattle First National Bank to see Mr Farnum. Mr Farnum was shown the transcript from the House of Representatives debate of 9 July 1975 relating to his bank. He said friends in Australia had sent him copies of all newspaper reports (his file was a large folder containing between two and three hundred folios). He showed me last telex to him from Mr Connor dated 8 April 1975 (amended on the following day). He said that was the last dealing between his bank and Australia on loans.

166. He was then shown the copied telex appearing as attachment B to the Request for Assistance (annexure 13). He said the Seattle First National Bank did not send the purported telex to the Depositen and Effecten Bank; no record at all; nothing since April 1975 on any Australian loan matter. He indicated his file - there appeared to be only newspaper reports thereafter.

167. I asked if he knew Sundermann (he threw his arms in the air and gave a thumbs down sign). He produced a card from Sundermann. He said Sundermann came to see him once - associated with Liechtenstein registered company based in Munich with an office in Zurich. The company was run by one of the best known swindlers in Europe. He showed a document from that company dealing with Australian loans. Sundermann was on brokers' black list in Zurich - the brokers met regularly and passed information of common interest to the group. Sundermann was well known to the group as a would-be financier who talked big but never produced a dollar. Farnum said he did not know how he (Sundermann) lived, and many others like him. He said he did not rate Khemlani much better. He said Jha (Khemlani's associate) had a Nepalese passport and the other (? Dr Sinh) was a Pakistani, but with a British passport. He said the Australian loan of \$U.S. 4 billion was never taken very seriously "there would not be that number of U.S. dollars in Switzerland". He said photocopied documents re Australian loans popped up everywhere - passed by hand between people who all wanted to make something for themselves - many had now gone out of business or left Switzerland. In summary, Sundermann lowest class of con. man. He suggested an enquiry of a number of hotels might show Sundermann had unpaid bills there.

168. He then explained about telex despatch. He said it is possible to fabricate any telex which on its face appeared genuine, i.e. request/reply. He pointed out attachment B to the Request for Assistance (annexure 13) did not purport to be a photocopy of a telex - bank/bank telexes had a special key which verified them as genuine. He said he was sorry he could not help further. He did, however, mention that an Australian, Peter Barberrich, of Sydney, visited his bank about December 1974 or January 1975 wanting to lend Australia money through brokers - Farnum thought he was mad.

169. At 12.50p.m. I telephoned the Attorney-General and informed him of -  
(a) Diebold's deposition;  
(b) interview with Kaufmann;  
(c) interview with Farnum;  
(d) my views in summary form.

I gave him details of my proposed flight bookings and obtained approval to return to Australia.

170. I departed Zurich for Rome at 3.00p.m. on Alitalia Flight 401, arriving Rome 4.15p.m.

Friday 27 February 1976

171. I departed Rome at 8.10p.m. for Sydney on Qantas Flight QF6 and arrived in Sydney at 8.10a.m. Sunday 29 February 1976.



Observations

172. I am of the view that the four page mandate and the Harris letter, if they ever existed at all, were fabricated by Sundermann. This view is held by virtue of :

- (a) my observation of Sundermann during his interview on 20 February 1976;
- (b) the strange story about the passage of the documents;
- (c) the payments made to him by Fanoher which encouraged the fantasy about the documents;
- (d) the introduction of Stoeffli into the matter;
- (e) the depositions of Diebold and Angeloni on the matter;
- (f) Farnum's views on Sundermann;
- (g) a comparison between the documents (A,B,C,E,F,G,H,J) attached to the Request for Assistance (annexure 13) which all originated from Sundermann, and those removed from his briefcase and Bank of America box (the latter on their face coming from other sources) all have the stamp of having been composed by one person;
- (h) Sundermann's admission that he did his own typing and prepared or despatched his own teleprinter messages;
- (i) Kaufmann's interview about the envelope, and its removal by Sundermann.
- (j) Sundermann's inability to produce a copy of the Harris letter (which he claimed he had copied) or the telexes signed by Stoeffli.
- (k) Sundermann's desire that the Australian Attorney-General should not have access to his documents.

173. I am unable to say whether Sundermann thought the matter up himself or whether he was put up to it by somebody else. It seems to have been his sole occupation since mid-November 1975 and he appears to have been willing to keep sending documents so long as money came from Australia.

174. The Reply to the Request for Assistance might throw some further light on these observations when the Reply is received in Australia.

175. I should comment on the goodwill demonstrated by the Swiss during the performance of this task. The Federal officials consulted in Berne, together with the Canton officials in Zurich and Geneva with whom I was associated, were most helpful and obliging.

[REDACTED]  
(J. T. HOWARD)





1.  
ATTORNEY-GENERAL OF AUSTRALIA  
PARLIAMENT HOUSE  
CANBERRA A C T 2600

3 February 1976

This is to identify Mr James Thomas Howard  
who is an officer of the Australian Attorney-General's  
Department. Mr Howard is the holder of Official  
Passport No. [REDACTED]. His signature appears below.

A large black rectangular box redacting the signature of R.J. Ellicott.

(R.J. Ellicott)  
Attorney-General of Australia

Signature of Mr James Thomas Howard

.. A large black rectangular box redacting the signature of Mr James Thomas Howard.

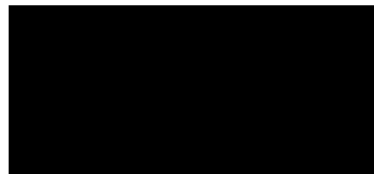


ATTORNEY GENERAL OF AUSTRALIA  
PARLIAMENT HOUSE  
CANBERRA A C T 2600

3 February 1976

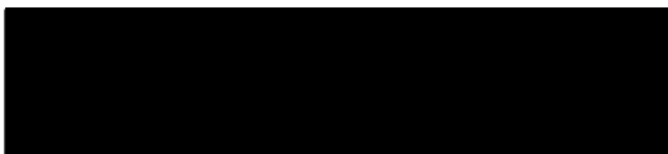
This is to identify Mr James Thomas Howard who is an officer of the Australian Attorney-General's Department. Mr Howard is the holder of Official Passport No. [REDACTED]. His signature appears below.

Mr Howard is authorised by me to consult a Swiss lawyer of his choosing on matters arising out of a proposed borrowing in 1975.



(R.J. Ellicott)  
Attorney-General of Australia

Signature of Mr James Thomas Howard





ATTORNEY GENERAL OF AUSTRALIA  
PARLIAMENT HOUSE  
CANBERRA ACT 2600

WHEREAS

(hereinafter called "the informants") have provided to me as Attorney-General of the Commonwealth of Australia certain information as to the contents of documents allegedly given by Australian Ministers of State and a person known as George Harris in connection with the raising overseas of a loan of \$US 4,000 million for the Commonwealth of Australia and have produced the originals of the said documents and handed over to persons on behalf of the Commonwealth photostat copies thereof (further photostats whereof are herewith annexed and marked "A" and "B") and have agreed that the said originals will be placed

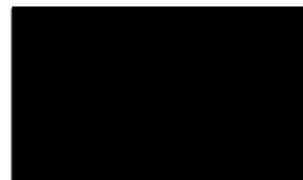
and will be accessible to the Attorney-General of the Commonwealth of Australia and other representatives of the Australian Government on request and subject to the law of Switzerland will be available for production to any Court or tribunal in Australia inquiring into the matter

I, ROBERT JAMES ELLICOTT, as Attorney-General

of the Commonwealth of Australia, HEREBY UNDERTAKE that I shall not take, nor shall I cause or consent to any other person taking, criminal proceedings against the informants in Australia or elsewhere in respect of any offence against the law of the Commonwealth of Australia arising out of the circumstances in which the said documents were given by the said Ministers and by the said Harris

AND FURTHER UNDERTAKE that the Commonwealth will not, except as required by law, disclose to any person not a Minister, officer or employee of the Commonwealth or of the Government of a State of the Commonwealth verbally or in writing the names of the said informants or any of them or their connection with the said documents or either of them or the said proposed transaction and in the event of the said originals or either of them being produced as aforesaid will take all steps practicable to ensure that neither the name nor the identity of any of the informants is disclosed to the public in the course of any proceedings.

Dated the                                      day of                                      1976.



(R.J. Ellicott)  
Attorney-General

4.

SECRET

ATTORNEY-GENERAL

Parliament House:                   73 3979  
  73 1245  
  72 7057  
  72 6150

Admin. Building:                   73 3979  
  73 1245  
  61 3407  
  61 3408

Sydney Office:

9th Floor, Temple Court,  
75-85 Elizabeth Street,  
Sydney.       2000

Phone Numbers:                   232 2645  
  232 2544  
  232 2102  
  232 1072

Home:    Sydney   [REDACTED]

MR HARDERS

Office:                    Canberra   61 2353

Home:                    Canberra   [REDACTED]

SECRET

Wyss	-	Wyss
Stoeffli	-	the lawyer
Sundermann	-	the financier
Lademann	-	the company officer
Angeloni	-	the first director
Appony	-	the second director
Connor	-	the first man
Cairns	-	the second man
Brennan	-	the officer
Harris	-	the accountant
Close	-	the bookkeeper

Mr J.T. Howard's visit to  
Switzerland

Steps that will be taken by Howard

First Step

On Thursday (5 February) Mr Howard will consult a Swiss lawyer on the following matters:

- (a) rate of remuneration of lawyers;
- (b) whether, without reference to the Swiss Government but nevertheless without breach of Swiss law, an inquiry can proceed limited to inspecting the documents in question and making arrangements for their safekeeping and ultimate production;
- (c) the identity and location of the offices of the Overseas Development Bank;
- (d) the identity of the directors of that Bank;
- (e) the identity and place of business of Stoeffli;
- (f) the identity and place of business of Sunderman;
- (g) whether it is possible to verify the notarisation of Sunderman's statements;
- (h) whether it is possible to prove the despatch by the purported senders (or at least telex machines under their control) of the telexes purporting to be sent by Sunderman and others;
- (i) whether it would be possible to engage and use the services of a handwriting expert to establish authenticity of signatures appearing on documents produced; and
- (j) physical safety of possible meeting places.

Conclusion of Step One

Having dealt as far as possible with the matters listed above Mr Howard will 'phone the Attorney-General at 6.30am. Australian time Friday 6 February 1976.

He will proceed further in accordance with the instructions then given to him by Mr Elliot.

4/2/76



d'articles en cuir et dérivés, d'articles de voyage et de mode et d'articles-souvenir, etc. Exploit. du bar-rest.-tea-room «Concorde», rue de Berne 3. Admin.: Charles Saellos, de G. Cap. 0.05. T. 1000. (4.12.67, 11.3.69)

**Overgaz. (S.a.)** Quai des Bergues 23 (étude Brunshwig). Fabrication, vente et distrib. du gaz liquéfié de pétrole, du gaz d'éclairage et de chauffage ainsi que des produits résiduels etc. Admin.: François Brunshwig, de G. à Vandœuvre. Dir.: Moïse Fradis, apatride à New York. Cap. 0.1. T. 1000. (1.11.60, 3.7.73)

**Overseas Development Bank. (S.a.)** Rue du Rhône 40. Exploit. d'une banque, spécialement en vue de répondre aux besoins de crédits émanant d'industries et d'autres entrepr. dans les pays en voie de développem. Prés. du cons. d'adm.: Edouard Aubert, de G. Membres: Jean-Pierre Aubert, de G. Hanspeter Brunner, de Winterthour à Küssnacht. Ulrich Zimmermann, de et à Bâle. Dir.: Beat Schatzmann, de Lenzbourg à G. Günther Woernle, de nat. allem. à Apples. Dir. adj.: Philippe Angeloni, de Bardonnex à Vernier. Sous-dir.: Willi Huber, d'Unterunkhofen à Corsaux. René Limacher, de Schupfheim à Viry. René Müller, de Spiez. Prs.: Claude Czech, de Plan-de-Ouates. Wilma Mazeau, de nation. fr. à Peron (Ain, F.). Cap. 22.5. T. 1000. (22.1.61, 18.11.74)

**Overseas Finance and Trading (Geneva) Ltd. (S.a.)** Rue de Chantepoulet 5. Commerce international de produits et articles de toutes natures, etc. Prés. du cons. d'adm. et Dél.: Joseph Jaclom, de nation. israël. Secr.: Henri-Paul Brechtel, de G. Membres: Jacques Cottier, de G. Cap. 2.0. T. 1000. (13.3.61)

**Overseas Marketing SA.** Rue du Rhône 62. Recherche de clientèle, étude de marchés, négociation de contrats entre l'Europe, d'une part et l'Afrique et le Moyen-Orient, d'autre part, portant notamment sur des équipements industriels. Admin.-Prés.: Ahmed Ibrahim, de nation. algérien. à Marseille. Vice-Prés.: Raymond Luscher, de Genève à Troinex. Secr.: Jacques Revacrier, de et à Laconnex. Cap. 0.05. T. 1000. (11.7.74)

**Overseas Mooney Distributors Ltd. (S.a.)** Bd des Philosophes 15, chez Pallerga SA. Import. et distrib. en Europe, au Moyen-Orient et en Afrique du Nord des avions de la marque «Mooney», etc. Admin.: Peter Notz, de Chardonnay. Cap. 0.05. T. 500. (12.1.67)

**Overseas Nominees SA.** Quai des Moulins 5. Inscription à son nom en qualité de nommée, p. compte de tiers, de toutes valeurs mobilières étrangères, etc. Prés. du cons. d'adm.: Paul Chevallier, de G. Secr.: Casper Branger, de Davos à Crans-près-Céligny. Membres: Raymonde Schrickler, d'Aegerten à Versoix. Hugnette Lehmann, de Nenchâtel. Can. 0.1. T.

cières ou commerciales, principalement avec l'étranger et les pays d'outre-mer, etc. Admin.: Joseph Reiser, prés., de Charmoille (BE). Paul Chevallier, secr., de G. François Brunshwig, de G. Prs.: Casper Branger, de Davos au Grand-Saconnex. Aliane Dumont, de Bonfol. Gérard Falcheri, de nation. fr. à Thônex. Cap. 0.25. T. 10 000. (2.6.53, 19.11.74)

**Overstintec S.A.** Rue Ami-Lullin 4. (Société de Contrôle Fiduciaire SA). Particip. financière et techn., notamm. par la mise à disposition du personnel techn. spécialisé, etc. Prés. du cons. d'adm.: Marcel Neri, de G. Secr.: Maurice Reiser, de Charmoille. Membres: Georges Walter Huc, de nation. fr. à Paris. Germaine-Gratude L'Eplattenier, des Geneveys-sur-Coffrane. Claude Lipsky, de nation. fr. à Paris. Cap. 0.05. T. 1000. (4.3.64, 5.6.70)

**Owen Metzger Consultants SA.** en liquidation. Rue du Mont-Blanc 3 (Société Anonyme Fiduciaire Suisse). Fourniture de tous conseils dans le domaine de l'organisation, de l'économie et de la gestion d'entreprises, etc. Liq.: Société Anonyme Fiduciaire Suisse, à G. Cap. 0.05. T. 1000. (22.10.70, 4.10.74)

**Ox S.A.** Rue Gutenberg 5. Fabrication et vente de bretelles, ceintures et tricots et de tous autres objets similaires, notamment ceux portant la marque «Cavaliers». Prés. du cons. d'adm.: Jules-Robert Baumann, d'Hirzel. Secr.: Just-Robert Catala, de Larnay à Lancy. Cap. 0.05. T. 500. (3.9.35, 13.7.65)

**Ozarowski, Vve Albert.** Rue du Vieux-College 9. Confection p. hommes et dames, commerce de trousseaux, à l'ens. «Au Troussseau du Léman». Ryfka O. de G. (AP 27.12.60, 25.2.74)

**Paborex S.A. (Dissoute.)** Rue Versonnex 7. Importation et exportation de tous articles d'horlogerie et de bijouterie, etc. Admin.: Jean-Jacques Pache, d'Epalinges à Chêne-Bourg. Cap. 0.05. T. 1000. (17.11.55, 6.8.71) △

**Pabrugz S.A.** Place du Nôlard 11, chez Pierre-Alphonse Pilet, notaire. Toutes opérations immob. ainsi que particip. à toutes entreprises, financières, industr., commerciales ou autres. Admin.: Maurice Picot, de Coligny à Chêne-Bougeries. Cap. 0.05. T. 1000. (16.12.58, 19.9.73)

**PAC, Programmation, Analyse et Conseils SA.** Quai Wilson 41, chez J. Tritten. Organisation, analyse, programmation et traitem. de l'information dans le domaine de l'informatique et toute action y relative. Prés. du cons. d'adm.: Jacques Tritten, de La Lenk i.S. Secr.: Pierre Francey, de Montagny-les-Monts. Membre: Lars Istad, de nation. suéd. à Stockholm. Cap. 0.05. T. 500. (27.10.69)

**Paccard, M. et Mme.** Pl. des Eaux-Vives 11. Bar-hôtel «Hôtel des Eaux-Vives». (S.coll.) Roger P. et Dazica P., tous deux de Chêne-Bourg. (25.10.74)

carres à toutes entreprises établies en Suisse ou à l'étranger, gestion d'un portefeuille, etc. Admin.-Prés.: Pierre Folliet, de Vernier à Coligny. Secr.: Arnold Widmer, de G. à Thônex. Membre: Georges Mock, de Genève à Troinex. Cap. 0.05. T. 1000. (2.8.38, 12.7.74)

**Pache, Eliane.** Rue de Carouge 38. Débit de tabacs, vente de journaux. Eliane P.-Dufey, d'Epalinges. (4.7.68)

**Pache & fils SA.** Rue du Simplon 5-7. Exploit. d'un atelier de gravure industrielle ainsi qu'achat, vente et fabrication d'enseignes et lettres relief en toute matière. Admin.: Marcel Pache, de Marin-Epagnier. Cap. 0.05. T. 1000. (AP 26.12.51, 24.7.74)

**Pache, Louis.** Cours de Rive 4. Débit de tabacs, vente d'articles-souvenir. Louis-Simon P., d'Epalinges. (5.6.64)

**Pache, Mathilde.** Rue John-Grasset 3. Fumisterie. Mathilde P.-Pecora, de G. (17.6.69)

**Pachère, Mme V.** Rue de la Terrasse 27. Commerce de tabacs, journaux, papeterie et librairie. Violette-Alice P., de Schelten. (13.8.61)

**Pacifi S.A. (S.immob.)** Rue de la Bûcherie 2 (Choisy, Dumont & Cie). Siège admin.: Lausanne, rue du Maupas 2 (Société pour la gestion de placements collectifs GEP SA). Prés.: Jean Perret, d'Essertines-sur-Yverdon à Lausanne. Membres: Ernest Batel, de Marcligny à Lausanne. Roland Rime, de Lausanne à Pully. Cap. 0.05. T. 1000. (3.1.51, 9.1.74)

**Pacifi SA.** Rue Pierre Fatte 17, chez Jacques Bercher. Immobiliers, participations et commerce d'objets d'art. Admin.: Jacques Bercher, d'Etoy à Chêne-Bougeries. Cap. 0.05. T. 1000. (24.2.71, 8.8.73)

**Pacor SA.** Rue du Rhône 11, chez Luthi & Cie, successeurs de Dupin SA. Achat, vente, représent., import. et export. de tous produits bruts ou manufacturés. Prés. du cons. d'adm.: Bernard Luthi, de G. Secr.: Jean-François Luthi, de G. Cap. 0.05. T. 1000. (25.8.65)

**Pactis SA.** Place de la Fusterie 2. Affaires immob. et immeubles. Admin.: Jean Wuarin, de Cartigny à Chêne-Bougeries. Cap. 0.05. T. 500. (26.6.72, 25.10.73)

**Pac West Services SA.** en liquidation. Rue Charles-Humbert 9, chez Mandaco, Mandat et Contrôle Fiduciaire SA. Rendre tous genres de services comptables, publicitaires et administr. à des sociétés affiliées, etc. Liq.: Mandaco, Mandat et Contrôle Fiduciaire SA. Cap. 0.05. T. 1000. 100. (11.11.70, 26.2.74)

**Paddy SA.** Rue du Rhône 92, chez Borel, Barbey et Charmant Immeubles, etc. Prés.: Alfred Borel, de G. à Chêne-Bougeries. Vice-prés.: Werner Lier, de G. à Thônex. Secr.: Patrick Lier, de G. à Corsier. Cap. 0.05. T. 1000. (7.10.65, 30.12.74)

**Padico S.A.** Bd du Théâtre 12, chez Madeleine Wiedmer. Administr. de participations à toutes entre-

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## frequency

Mikros SA, Fribourg (0.05)  
 Mogg Ltd., Fribourg (0.05)  
 MVS Services SA, Fribourg (0.12)  
 Novartis Verlag AG, Schaffhausen (0.075) [P]  
 Numilair SA, Fribourg (0.05)  
 P1 Travel SA, Fribourg (0.05)  
 Pause Café SA, Fribourg (0.05) [P]  
 Picco SA, Fribourg (0.05)  
 Polysar International SA, Fribourg (1.0)  
 Production Treize SA, Fribourg (0.05)  
 Profimark SA, Fribourg (0.05)  
 Promedica SA, Fribourg (0.0) [P]  
 Promoflamm SA, Fribourg (0.1)  
 Quadracast Systems SA, Fribourg (0.2)  
 Regenbogen-Kunst und Film AG, Fribourg (0.05)  
 Road Racers SA, Fribourg (0.05)  
 Rue Daniel-Jeanrichard No 32 Le Locle SA, Fribourg (0.05)  
 SA de Participation Financière de la Fabrique de Chocolat et de Produits Alimentaires de Villars, Fribourg (0.1)  
 St Bernhardstrasse 63 Zürich SA, Fribourg (0.06)  
 St. Beicaud SA, Fribourg (0.05)  
 St. Marktgasse 23 Winterthur SA, Fribourg (0.06)  
 St. Marktgasse No 2 Bern SA, Fribourg (0.06)  
 St. Mary Centre 1 SA, Fribourg (0.05) [P]  
 St. Mary Centre 2 SA, Fribourg (0.05) [P]  
 St. Mary Centre 3 SA, Fribourg (0.05) [P]  
 St. Mary-Centre Garage SA, Fribourg (0.05) [P]  
 St. Obere Gasse No 17 Coire SA, Fribourg (0.05)  
 St. Rue Leopold-Robert 28 ce La Chaux-de-Fonds SA, Fribourg (0.06)  
 St. Sunshine-Towers SA, Fribourg (0.05) [P]  
 Ski-Lift Schwarzsee-Bad AG, Schwarzsee/Plattenen (0.2)  
 Ste des Latex SA, Fribourg (0.265)  
 Steibor International SA, Fribourg (0.5)  
 Stephens-Adamsen Morse International SA, Fribourg (0.2)  
 Sunshine SA, Fribourg (1.2) [P]  
 Synthetic Elastomers Development SA, Fribourg (0.265)  
 Terec Holding SA, Fribourg (0.265)  
 The Fielding Corporation SA, Fribourg (0.05)  
 Trane SA, Fribourg (11.345)  
 Tridem SA, Fribourg (0.05)  
 Valflamme SA, Villars-sur-Glâne (2.0) [P]  
 Villars Holding SA, Fribourg (0.05)  
 Vey Jean-Pierre, rue du Lac 1, 2520 La Neuveville  
 Val André & Cie SA, La Neuveville (0.15)  
 Vey Marcel, bd. Pérolles 4, 1700 Fribourg  
 Veypharm SA, Fribourg (0.05) [P]  
 Vey Marguerite, r. Fries 1, 1703 Fribourg  
 Veypharm SA, Fribourg (0.05)  
 Vey Paul, r. du Lac 1, 2520 La Neuveville  
 Valmmo SA, Bienne (0.225)  
 Val André & Cie SA, La Neuveville (0.15)  
 Vey Pierre Dr., r. du Château 6, 1203 Geneva  
 Val SA, Genève (0.1) [P]  
 Institut de recherches pharmacologiques Irep, Genève (0.3)  
 VEP SA, Genève (0.24)  
 Valmunion SA, Genève (0.1) [P]  
 Vintograph SA, Vernier (0.2)  
 Vermoprint SA, Vernier (0.2)  
 Wedermann AG, Zürich (0.2) [P]  
 Vey Pierre, av. du Midi 5, 1700 Fribourg  
 Les Combès-La Roche, La Roche (0.06)  
 Vey Pierre, 7 ch. des Deux-Communes, 1226 Thonex,  
 Marie-Claire SA  
 Vey-Claire SA, Thonex (0.05)  
 Vey Pierre, 1627 Vaulruz  
 Village des Colombettes SA, Vaulruz (0.05) [P]  
 Vey Richard, c/o Rouge SA, 1026 Denges  
 Vey SA, Denges (0.065)  
 Vey-Bise Renée, r. Zaehringstr. 102, 1700 Fribourg  
 Vey-Bise SA, Fribourg (0.3) [P]  
 Luzi Kollektiv AG, Stettfurt (0.054)  
 Luzi, Halde Atrium 4, 8603 Schwarzenbach  
 Ulrich Schumpf AG, Uster (0.4)  
 Hataliko, Aspermonstr. 17, 7000 Chur  
 Unger AG, Chur (0.3)  
 Uenelo, Hauptstr. 93A, 7531 Mustair  
 Uen Andy AG, (0.1)  
 Stephen, Hauptstr. 93A, 7531 Mustair  
 Uen Andy AG, (0.1) [P]  
 U James, ch. Recluses 8, 1213 Pt-Lancy  
 Cite Verdoyante SA, Morges (0.05)  
 Umplex SA, Genève (0.1)  
 Jean-Pierre, ch. Montagne 80,  
 Chêne-Bougeries  
 Uieu Watch SA, Bienne (0.75)  
 UITER SA, Site Horlogère de Production et de  
 Participation, Neuchâtel (1.0)  
 Juste Marc, ch. Recluses 8, 1213 Petit-Lancy  
 Ueler SA de Gérance de Fondues, Genève (0.075)  
 Uetto Angelo, Kreuzbuchstr. 27, 6000 Luzern,  
 Uurg  
 Uighetto AG, Luzern (0.3) [P]  
 U Emil, 8488 Turbenthal  
 Uegsthoof Hotel Baren AG, Turbenthal (0.6)  
 U Hans, Bahnhofplatz 1, 3005 Bern,  
 Ummo Weissenstein,  
 Uobenges, Weissenstein, Bern (0.33)  
 Jacques, Villa Chanle-bise, 1868 Colombey  
 Beaumont, Lausanne (0.05)  
 Jean-François, ch. du Mont 22, 1000  
 Ue

e. Bureau Technique Christian Andrieux SA, Saint-Gulpien (0,02)  
 Anel Henri, r. Bonivard 25, 1643 Vevey  
 k. SA du Journal L'Est Vaudois, Montreux (0,3)  
 Anel Alfred, En Carroz, 1882 Gryon  
 k. Téléphoneur Le Barboleusaz-Les Chaux-de-Gryon SA, Gryon (0,6)  
 Anex Frédéric, av. Victor-Ruffy 30, 1000 Lausanne  
 k. Motacila Alpa Holding SA, Genève (0,05)  
 Anex Jean-Claude, Candolle 9, 1200 Genève  
 k. Polycomex SA, Genève (0,05)  
 e. Sect. SA d'Etudes et de Représentations Techniques Industrielles, Genève (0,3)  
 Anex Jean-Claude, 1751 Prez-vers-Noraz  
 e. Lauriat Anex SA, Fribourg (0,33)  
 Anex Louis, Châlet Horizon, 1885 Chesieres  
 k. Tele-Skis Bretagne SA, Villars-sur-Ollon (0,48) [P]  
 Anex Marius, Syndic Services des Eaux, 1682 Gryon  
 k. Site des Forces motrices de l'Avancin, Box (7,095)  
 Anex Paul, Dr. ch. des Noyers 7, 1860 Aigle  
 k. SA du Journal L'Est Vaudois, Montreux (0,3)  
 Antossi-Rossati Rina, Milano  
 e. Groupement Maritime Commercial, Rossan, Chiasso (0,05) [P/D]  
 Angehrn Albert, Othmar-Schoeckstr. 39, 9008 St. Gallen  
 k. Lienhard AG, Erlen (7,0)  
 Meister Stahlbau AG, St. Gallen (1,0)  
 e. Obiga AG, Wil (0,05) [P]  
 k. Otto Zimmermann AG Wil, Wil (0,3)  
 Angehrn Alfred, Paradieshofstr. 42, 4000 Basel  
 e. Technum AG, Basel (0,1)  
 Angehrn Doris, 8300 Thalwil  
 k. Heer & Co AG, Thawil (1,0)  
 Angehrn Ernst, Thurnweg 52, 8055 Zurich  
 k. Schweizerische Kaseunion AG, Bern (11,563)  
 Angehrn Jürg P., Leugrueb 9, 8126 Zollikon  
 e. Charles Fulton (Switzerland) AG, Zurich (0,1)  
 Angehrn Otto Prof. Dr., Dufingerstr. 6, 4000 Basel  
 k. Financière de Presse SA, Fribourg (0,3)  
 Angehrn Willi, Höhenstr. 1c, 5300 Wittenbach  
 e. Fuller AG, St. Gallen, St. Gallen (0,1)  
 Angehrn-Andreas Welter, Poststr., 5110 Degersheim  
 e. AG für technische Projektierungen, Zurich (0,05)  
 Angehrn-Hegmann Albert, Neugasse, 5113 Degersheim  
 Gebr. Angehrn AG, Degersheim (0,6) [P]  
 Angehrn-Müller Paul, Bergwaldstr. 38, 9000 St. Gallen  
 Cash + Carry Angehrn AG, Gossau (0,0)  
 Angehrn-Popp Feli, Lärchensteig, 9202 Gossau  
 Cash + Carry Angehrn AG, Gossau (0,0)  
 Angehrn-Weibel Kurt, Signalstr. 17, 5000 Rorschach  
 Ingenieurbau WAG AG, Arbon (0,5)  
 Angel Henri, Belmont, 1000 Lausanne  
 St. Casabel SA, Lausanne (0,05)  
 Angel Michel, av. de Fionmont 11, 1000 Lausanne  
 Soteco SA, Lausanne (0,05)  
 Angele Georg, Rosengartenstr. 27, 5000 St. Gallen  
 Gärtner-Bau AG, St. Gallen, St. Gallen (0,1) [P]  
 Angele Josef, Schweiz  
 Ce Ce AG, Zollikon (0,3)  
 Angele Karl, Grafenwaldweg, 3315 Betschanden  
 Bauka AG, Decken und Bausteinfabrik, Betschanden (0,1)  
 Angele Manfred, In der Mursen 10, 8122 Pfäfers (Fallanden)  
 Unex Trade AG, Zurich (0,05) [P]  
 Angeli Rolf, Vordorf, 3714 Frutigen  
 Jost AG Frutigen, Frutigen (0,15)  
 Angeli-Nielsen Ellen, av. de Chantemerle via Triane 1006 Pully  
 Donine SA, Lausanne (0,05)  
 Angelini Amalie, Hotel Beau-Sejour, 1635 Chesieres  
 Hotel Beau-Sejour Chesieres, Oron (0,05)  
 Angelini Andre, Hotel Beau-Sejour, 1635 Chesieres  
 Hotel Beau-Sejour Chesieres, Oron (0,05) [P]  
 Angelini Terenzio, Getzstr. 19, 9000 St. Gallen  
 Beratung Planung und Treuhand AG, Steg (0,05) [P]  
 Angel Maria, Seltione 47-51-57, 2000 Neuchâtel  
 Mario Barco SA, Neuchâtel (0,05)  
 Angelini Jean-Michel, rte Mâche 146, 2504 Biel  
 AFA Organisation AG, Brugg (0,1) [P]  
 Anlaue Decoration SA, Aegerten (0,05)  
 Angelini Philippe, r. Oscar Bider 9, 1200 Genève  
 DDB Services SA, Genève (0,05)  
 Anjez Agnès, 1782 Bellaux  
 Elegancy SA, Fribourg (0,05)  
 Anjez Albert, Sous Chany, 1564 Domdidier  
 Sam SA, Domdidier (0,05)  
 Anjez Fernand, La Condemina, 1680 Romont  
 St. Aruffens-Romont SA, Romont (0,12) [P]  
 Anjez Georges, manuisane, 1711 Corminboeuf, harpenie  
 Georges Angeloz SA, Entreprise de manuisane et harpenie, Corminboeuf (0,05)  
 Anjez Jules, av. de Beauregard 3, 1700 Fribourg  
 Andrey Angeloz SA, Fribourg (0,1)  
 Anlaue Bernard, r. Pedro-Meylan 2, 1200 Genève  
 Opticam SA, Genève (0,05) [P]  
 Anrer Altona, Altemannstr. 44, 3000 Bern  
 Anrevit AG, Bern (0,05) [P]  
 Anrer Hannz, Altemannstr. 44, 3000 Bern  
 AnrerTAG, Bern (0,05)  
 Anrert René, Im Zythus, 6301 Hünenberg  
 Anrert AG, Hünenberg (0,05)

[illegible]

Translation of Art. 271 of the Swiss  
Criminal Code

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Prohibited actions on behalf of a  
foreign state

Who, within the territory of Switzerland, without having  
permission to do so, is acting on behalf of a foreign  
government in an official matter \*

Who is engaged in such activities on behalf of a foreign  
(political) party or on behalf of any other foreign  
organization

Who is giving assistance to such activities

shall be punished by penal servitude,  
in a severe case by hard labor.

( \* as distinguished from a mere civil matter )

⊕

57753 team ch

⊕

tx inf zurich a

folgende telex-nr. sind in unserem verzeichnis nicht angegeben,  
koennten sie uns bitte die namen bekannt geben:

nr. 53866 hoge

nr. 53325 boim.

nr. 57210 jtxkb

alle in der schweiz.++

1051/kap mom bitte

53866

cem management ag

geroldswil

mom

53325

bank of america

zuerich

mom

57210

telegraphenamt schalter bahnhof

zuerich

+?

vielen dank. bibi++

⊕

tx inf zurich a

57753 team ch



## Handelsregister des Kantons Zürich - Hauptregister

Laufnummer		Karte	Rechtsnatur		Eintragsdatum	Löschungsdatum	Übertrag von		Übertragen auf	
1	2	3	4	Aktiengesellschaft	5 14.2.1972	6	7	8	9	10
Ref.	Firma			Ref.	Sitz	Ref.	Adresse		Ref.	Statutendatum
1	CEM Management AG			1	Zürich	1	Morgartenstrasse 3, Zürich 4		1	11.2.1972
Ref.	Grundkapital		Aktien		Ref.	Zweck, Bemerkungen				
	Nominalbetrag	Liberierung								
1	Fr 400'000.-	Fr 200'000.-	14	400 Namenaktien zu Fr 1'000.-	17	1 Leitung, Administration, Koordination sowie Beratung von Hotels, Restaurants, Weinhandlungen und von auf diesem Gebiet tätigen Dienstleistungsbetrieben; Gesellschaft kann Liegenschaften erwerben und verwalten. 1 Verwaltungsrat von einem oder mehreren Mitgliedern. Generalversammlung bestimmt über die Zeichnungsberechtigung der Verwaltungsratsmitglieder. Im übrigen bestimmt der Verwaltungsrat Unterschriftsführung.				
Ref.	Sacheinlagen, Sachübernahmen, Verrechnung, persönliche Vorteile, Genussscheine									
Ref.										
Ref.	Publikationsorgane									
1	SHAB									

## Zeichenerklärung:

M = Mitglied  
D = Direktor  
ZB = Zeichnungsberechtigter  
b. a. = beschränkt auf

EU = Einzelunterschrift  
KU = Kollektivunterschrift  
EP = Einzelprokura  
KP = Kollektivprokura

GU = Gesamtunternehmen  
HS = Hauptsitz  
HN = Hauptniederlassung  
ZN = Zweigniederlassung

Ref.		Tagebuch		Publikation SHAB			Ref.		Tagebuch		Publikation SHAB			Ref.		Tagebuch		Publikation SHAB		
Z	Nr.	Nr.	Datum	Nr.	Datum	Seite	Z	Nr.	Nr.	Datum	Nr.	Datum	Seite	Z	Nr.	Nr.	Datum	Nr.	Datum	Seite
20	21	22	23	24	25	26	20	21	22	23	24	25	26	20	21	22	23	24	25	26
st	1	1253	14.2.1972	50	29.2.1972	514														

Ref. Nr.			Verwaltung, Zeichnungsberechtigte									
EI	As	L6	Personalangaben				Eigenschaft			Zeichnungsart		
27	28	29	30	31	32	33	34	35	36	37	38	39
1			Dr. Heinz Reichwein, von Zürich, in Rüschlikon				Abkürzung: VR = Verwaltungsrat					
1			Caspar E. Manz, von Zürich und Wila, in Maur				Präsident des VR	ZB	KU	zu zweien		
1			Peter H. Müller, von und in Zürich				Vizepräsident und Delegierter des VR	ZB	KU	zu zweien		
1			Christoph Thut, von Obereinfelden, in Lausanne				M des VR	ZB	KU	zu zweien		
							M des VR	ZB	KU	zu zweien		

9. 11. 1976





1. The Australian Government seeks the assistance of the Government of Switzerland in connection with enquiries being made about alleged actions of Australian citizens in organizing loans in the currency of the United States of America.
2. It is claimed that a person Werner Stoeffli who may be in Switzerland has custody of a four page document which allegedly shows that the Overseas Development Bank, Geneva, was on 3 April 1975 authorized by two persons, ministers in a former Government of Australia, to irrevocably accept loan funds totalling four billion Dollars U.S. on certain interest rates and conditions of repayment.
3. The document also allegedly implies that certain payments were to be made to the two ministers, and that a further sum of money was to be paid on the instructions of one George Harris, all from the amount borrowed.
4. It is also claimed that Werner Stoeffli, mentioned in paragraph 2, a lawyer in Zurich has a letter signed by the said George Harris which purports to indicate the division of the sum of money mentioned above.
5. Attached and marked "A" is a copy of a document which purports to be a summary prepared by one Jochen Sundermann of

the document mentioned in paragraph 2, above, dated 3 April 1975. It is noted Mr. Sundermann appears to have had the summary notarized by a notary in Zurich on 27 November 1975.

6. Mr. Sundermann has also apparently had another document dated 8 July 1975 notarized, a copy of which is attached marked "B", relating to the purported loan.
7. Attached and marked "C" is a copy of a telex dated 8 December 1975 received in Australia purporting to come from Werner Stoeffli in Zurich in which it is suggested that two directors of the Overseas Development Bank, Geneva, allowed Mr. Sundermann to make notes of the document dated 3 April 1975, those notes now being embodied in the notarized statement appearing as Attachment "A". From information supplied to the Australian Attorney-General, it is claimed the directors are named Messrs Angeloni and Appony. It is also noted Mr. Stoeffli claims Mr. Sundermann was given a closed envelope containing photocopies of the document dated 3 April 1975.
8. Attached and marked "D" is a copy of a telex received in Australia dated 8 December 1975 in which one Kaufmann, of the Bank of America, Zurich, acknowledges that the Bank of

America, Zurich Branch, holds a "closed signed envelope" in care of Mr. J.D. Sundermann.

9. Attached and marked with the letter "E" is a copy of a telex received in Australia dated 10 December 1975 apparently from Zurich telex no 57210 A where Mr. Stoeffli confirms that the copy document handed to Mr. Sundermann, apparently that document enclosed in the signed closed envelope, mentioned in paragraph 7, above, was a copy of the original held by him.
10. Attached and marked with the letter "F" is a copy of a telex dated 19 December 1975 apparently from Zurich no 57210 A TXKB CH in which Mr. Stoeffli states that Mr. Sundermann's notarized statement corresponds with the original (presumably the document dated 3 April 1975) which is deposited with him.
11. Attached and marked with the letter "G" is a copy of a telex dated 9 January 1976 apparently from Mr. Stoeffli in Zurich which relates to the purported instructions given by Mr. George Harris for the distribution of commissions from the alleged loan. He also indicates that he will sign the original of the telex and pass it to Mr. Sundermann.
12. Attached and marked with the letter "H" is a copy of a telex dated 13 January 1976 apparently from Zurich telex no 53866 HOGE CH in which Mr. Sundermann refers to the letter

addressed to the "Geneva Bank".

13. Attached and marked with the letter "I" is a copy of a telex sent to Mr. Sundermann at Zurich telex no 53866 HOGE CH on 24 January 1976. That telex sets out as steps (1) to (6) the Australian Government's views on the matter. The written undertaking referred to is an indemnity/immunity sometimes given where a person volunteers information which might well be self-incriminating and such undertaking gives him immunity from prosecution under Australian Federal Law.
14. It would appear Mr. Sundermann received the telex shown as "I" for its receipt is acknowledged in a telex dated 25 January 1976 from Mr. Sundermann in Zurich (Attachment "J").
15. Attached and marked with the letter "K" is a further telex sent on 25 January 1976 to Mr. Sundermann at Zurich telex no 53866 HOGE CH which re-states the views of the Australian Government on the matter of authenticating the validity or otherwise of the purported letter dated 3 April 1975 to the Overseas Development Bank, Geneva, and the purported letter written by Mr. George Harris.
16. The Government of Switzerland will appreciate that doubts have been cast by the allegations of persons apparently

called Jochen D. Sundermann and Werner Stoeffli on the integrity of an official of the Australian Department of Foreign Affairs and on former members of the Australian Government.

17. Specifically, the Australian Government seeks information on:

- a) the identity and present location of Jochen D. Sundermann;
- b) the identity and present location of Werner Stoeffli;
- c) the identity and whereabouts of the two directors of the Overseas Development Bank, Geneva, referred to by Mr. Stoeffli, and the circumstances in which they received the purported four page document dated 3 April 1975;
- d) the circumstances in which the purported letter from Mr. George Harris was received by the officers of the Overseas Development Bank, Geneva;
- e) whether the four page document dated 3 April 1975 and the letter signed by George Harris did ever exist;
- f) if the said four page document and letter did exist, where are they at the present time;
- g) whether photo-copies of the documents mentioned, namely the document dated 3 April 1975 and the letter from George Harris might be provided to the Australian Government;

- h) whether the originals of the document and the letter mentioned above might be held by either the Government of Switzerland or the Canton Authorities pending further request from the Australian Government;
- i) if it is established that the document and the letter mentioned above do not, and have not in fact existed, then the reason Mr. Sundermann and/ or Mr. Stoeffli prepared the documents and telexes attached hereto suggesting an officer of the Australian Department of Foreign Affairs and former members of the Australian Government were participating in illegal conduct.

18. It is an offence against Australian Federal Law for an officer of the Australian Public Service or for a member of the Government to request or obtain commissions for performance of his public duties.


19. As the reputations of a senior officer of the Australian Department of Foreign Affairs and of two former Australian ministers who are still members of the Australian Parliament, have been threatened<sup>he</sup> by these allegations, early assistance would be appreciated.

20. The Australian Government undertakes that any information provided pursuant to this request will not be used for fiscal purposes. As for political element, the two former

ministers mentioned are no longer members of the Government but are presently elected members of Parliament. There is no military or foreign exchange element in the matter.

21. An officer of the Australian Attorney-General's Department presently in Bern who has been identified to the Federal Department of Justice and Police is authorized to present this Request for Assistance to the Federal Department of Justice and Police and it is requested that he be present on the execution of the Request.

Bern, 18 February 1976



(James Thomas Howard)

An officer of the Australian  
Attorney-General's Department





ATTORNEY-GENERAL OF AUSTRALIA  
PARLIAMENT HOUSE  
CANBERRA A.C.T. 2600

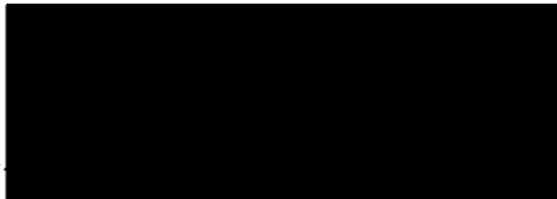
3 February 1976

This is to identify Mr James Thomas Howard  
who is an officer of the Australian Attorney-General's  
Department. Mr Howard is the holder of Official  
Passport No. [REDACTED]. His signature appears below.



(R.J. Ellicott)  
Attorney-General of Australia

Signature of Mr James Thomas Howard



SECRET

Letter signed by me this date : 1)

Letterhead of Dr. Cairns ( 4 pages ) addressed to :

The Management

Overseas Development Bank, Geneva Switzerland

Page 1 : Irrevocable acceptance of funds of total 4 Billion Dollar US in one lot accepted only. To be used for the Ministry of Energy of Australia and to be placed on the European Dollar Market in London in Prime Bank for one month maximum and to be made available in 4 tranches by instructions of Dr. Cairns.

Page 2 : Terms and conditions

7,9 % compound interest rate for 20 years at 91 % Emission.

Irrevocable instructions for pay out :

2 % each for both the signatories, 5 % at disposal of

Mr. George Harris to be divided in 7 equal parts and to be paid by instructions of Mr. George Harris. These "Terms and conditions" of this page No. 2 are only valid in connection with the additional instructions on page 3 of the document.

Page 3 : As the Central Bank of Australia and the Government itself could only accept 100 % Emissions and/or effective rates, the ODB Geneva will have to guarantee, that they re-figure the offer to 8,4% or 8,5 % maximum with an Emission of 100 %, however, they have to guarantee the pay-back of the balance between 100 % and 91 % as on page 2 of this document.

Page 4 : Statement, that this document is only valid, if all the 4 pages are kept together and that it is a legal and approved undertaking.

signed and sealed

co-signed and sealed

Dr. Cairns

Ministry of Energy

Connors

dated, April 03rd '1975

unquote

Jochen Sundermann

German Passport

Zuerich, November 27th '1975

Ämtliche Beglaubigung

Die Echtheit der umstehenden, in unserer Gegenwart beigesetzten  
Unterschrift des sich durch Reisepass legitimierenden  
Herrn Jochen Suniermann, geb. 1939, deutscher Staatsangehöriger,  
Parkstr. 5, 3684 Schmitten,  
wird hiermit ämtlich bezeugt.

Zürich, den 27. November 1975

Kontr.Nr. 2859

Gebühr: Fr. 5.--

Notariat Enge-Zürich



B

Telex referring Loan Australia  
=====

To :

Depositen & Effectenbank, Zuerich, Dir. Heinz Diebold  
quote

we hereby confirm with our full responsibility of the undersigned, that we, the Government of Australia and Central Bank, accept a loan on compound interest basis up to the value of four billion US Dollar and state, that we will irrevocably accept funds, if offered through Prime Bank of investors.

We accept the following terms and conditions :

20 years compound interest at 8,2 % at 9% emission against ICC note 222, latest revised edition.

Please notice, that we could only by law accept Prime offers with full banking responsibility.

Dr. Cairns

O'Connor  
Ministry of energy

Smart

unquote

sent by Seville First National Bank, Zuerich  
Dir. Dr. J. Farnum

Telex No. two referring to above, respective emission :  
=====

These are our irrevocable instructions for the distribution of the emission 100 % less 6 % = 94 % emission, accepted in mandate :

Dr. Cairns 2 %

Ministry of energy 2 %

BTA - Mr. Smart 1 %

Trustee banks, funding banks and brokers total 1 %

Paybacks referring No 1 through 3 to be guaranteed by your bank and to confirmed into Swiss Volksbank Zuerich according to our instructions to follow at later stage.

same signatuers.

dated July 8th 1975

unquote

Be glaubigung siehe Rückseite!

Jochen Sundermann  
West-German Passport  
Zuerich, November 25th 1975

CLONE

Berlaubnisschein

Die Echtheit der umstehenden, in unserer Gegenwart beigelegten Unterschrift, des sich durch deutschen Reisepass Nr. 482/1968 legitimierenden Herrn Jochen Sondernann, geb. 1939, deutscher Staatsangehöriger, wohnhaft in D-3654 Schmitten, Parkstrasse 5, Deutschland, wird hiermit beglaubigt.

Zürich, den 26. November 1975

BK Nr. 2848

Gebühr: Fr. 5.--



Notariatsamt  
Nr. 12, Postfach, Zürich-1  
Tel. 0041 (0)44 251 11 11

V#  
QLDPREM AA41418

TELEX AUSTRALIA AA 41 418 QLD PRIM  
ATTN. H.WILEY F A N C H E R, JF, ESQ.

THIS IS TO CONFIRM, THAT TWO DIRECTORS OF THE OVERSEAS  
DEVELOPEMENT BANK IN GENEVA ALLOWED MR. JOCHEN SUNDERMANN  
TO MAKE NOTES OF THE 4 PAGE MANDATE OF THE GOUVERNMENT OF  
AUSTRALIA. MR. JOCHEN SUNDERMANN PERSONALLY MADE THE NECESSARY  
NOTES IN ORDER TO ENABLE HIM TO MAKE A NOTARIZED STATEMENT OF THE  
DOCUMENT SIGHTED BY HIM ON NOVEMBER 27TH 1975.  
I HAVE HANDED TO HIM A CLOSED ENVELOPE WITH PHOTOCOPIES OF SAID  
4 PAGES, WHICH HE HAS DEPOSITED AT BANK OF AMERICA ZUERICH BRANCH.

STOEFFLI, WERNER  
LAWER  
ZUERICH, DECEMBER 0808TH 1975

⊕  
QLDPREM AA41418V#  
QLDPREM AA41418  
PGM AA BNE 015

QLDPREM AA41418  
53325 BOAM CH

OLD PRIM AUSTRALIA

DECEMBER 08, 1975

ATTENTION WILLY FAUCHER

DEAR SIR,  
WE WERE IN CONTACT WITH MR. J.D. SUNDERMANN, AND HE ASKED US TO RELAY  
THESE INSTRUCTIONS TO YOU:

WE CONFIRM THAT MR. SUNDERMANN HAS GIVEN US (BANK OF AMERICA, ZURICH  
BRANCH) ONE CLOSED SIGNATURED ENVELOPE WHICH WE WILL HOLD IN CARE OF  
HIS NAME.

WE UNDERSTAND IN ORDER FOR THE ENVELOPE TO BE REPOSSESSED BY  
MR. SUNDERMANN A POSTAL RECEIPT ADDRESSED TO TX AUSTRLIAN  
AA 41418 OLD PRIM, ATTN WILLY FAUCHER, MUST BE SHOWN TO US AT LEAST  
TEN DAYS OLD.

THE BANK OF AMERICA DOES NOT KNOW WHAT THE ENVELOPE CONTAINS, AND  
TAKES NO LIABILITY ONLY TO THE EFFECT OF THE INSTRUCTIONS ABOVE.  
WE ARE ALSO UNDER THE OPINION THAT THESE CONDITIONS ARE SUBJECTED TO  
CHANGE ONLY BY MR. SUNDERMANN, AND WHEN OR WHAT HE DOES WITH THE  
ENVELOPE THE BANK TAKES NO LIABILITY TO MR. SUNDERMANN OR THE THIRD  
PARTY MENTIONED IN THE INSTRUCTION LETTER ABOVE.

KAUFMANN

BANK OF AMERICA ZURICH/SWITZERLAND

QLDPREM AA41418  
53325 BOAM CH



E

⊕  
QLDPREM AA41418

FOR THE ATTENTION OF H. WILEY FANCHER, JR, ESQ.

REFERRING TO MY TELEX DATED DECEMBER 08TH'1975 I WISH TO  
CONFIRM THAT THE COPY I HANDED TO MR. JOCHEN SUNDERMANN IS  
A TRUE COPY OF THE ORIGINAL HELD BY ME.  
FURTHERMORE I CONFIRM A VERBAL STATEMENT MADE BY THE TWO DIRECTORS  
OF OVERSEAS DEVELOPEMENT BANK IN GENEVA, THAT THE ORIGINAL  
MANDATE WAS SEEN BY THE AMBASSADOR IN BERN AND WAS VERBALLY  
CONFIRMED AS BEEING LEGAL.

STOEFFLI, WERNER  
LAWER  
ZUERICH, DECEMBER 10TH'1975

⊕  
QLDPREM AA41418  
57210A

F

VB  
QLDPREM AA41418  
57210A TXKB CH  
QLDPREM AA41418  
57210A TXKB CH

ATTN. H. WILEY FANCHER, JR., ESQ.

WITH REFERENCE TO MY TELEX SENT TODAY DECEMBER 19TH'1975  
I WISH TO CONFIRM THAT I HAVE SIGHTED THE REPORT/STATEMENT  
BY MR. JOCHEN SUNDERMANN DATED NOVEMBER 27TH'1975 (NOTARIZED)  
LODGED WITH BANK OF AMERICA BOX 377 AND THAT THIS REPORT/  
STATEMENT CORRESPONDS TO THE ORIGINAL, WHICH IS DEPOSITED WITH ME.

FURTHERMORE I WISH TO POINT OUT, THAT MR. JOCHEN SUNDERMANN, STILL  
CANNOT SHOW ANY EVIDENCE THAT NO OFFICIAL INVESTIGATIONS ARE  
BEING STARTED AGAINST ANY NON-AUSTRALIANS AND STILL HAS NO  
COMMITMENT FOR NEW TRANSACTION.

REGARDS,

STOEFFLI, WERNER  
LAWER  
ZUERICH, DECEMBER 19TH'1975

6  
ALDPREM AA41416

ATTN. P. WILEY FANCHER, ESQ.

THIS IS TO CONFIRM THE TWO POINTS IN THE LIST OF COMMISSION-  
INSTRUCTIONS GIVEN BY MR. GEORGE HARRIS REGARDING THE AUSTRALIAN  
LOAN TRANSACTION :

POINT ONE OF LIST :

QUOTE

AUSTRALIAN EMBASSADOR IN BERN AND HIS ASSOCIATES AT HIS FREE  
DISCRETION AND WITHOUT RESPONSIBILITY OF THE ISSUER OF INSTRUCTIONS  
UNQUOTE

POINTS TWO THROUGH SIX ARE ALL AMERICAN, EUROPEANS, PAKISTANI.

POINT SEVEN OF LIST :

QUOTE

GEORGE HARRIS AND ASSOCIATES

UNQUOTE

I STATE HEREWIHT, THAT I WILL SIGN THIS TELEX AND WILL PASS IT  
ON TO MR. JOCHEN GUNDERMANN FOR HIM TO KEEP IT SAFE AND SECRET  
IN HIS BANK OF AMERICA BOX IN ZUERICH.

STOEFFLI, WERNER

LAWER

ZUERICH, JANURARY 09TH 1976

H  
GLDPREM AA41418  
53866 HOGE CH

ATTN. H. WILEY F. A N C H E R , ESQ.

WITH REFERENCE TO OUR TELEPHONE CONVERSATION I WISH TO POINT OUT, THAT IN MY OPINION WE WOULD GET MORE INFORMATION AND PROBABLY THE FULL ORIGINAL TEXT OF THE LETTER ADDRESSED TO THE GENEVA BANK. HOWEVER, IN THE MOMENT EVERYBODY IS ASKING ME TO PRODUCE TO DOCUMENT BEING PROMISED AS WELL AS PROOF OF THE FORTHCOMING TRANSACTION, SO THAT CREDIBILITY HAS GOT TO BE BUILT UP AGAIN BY ME BEFORE I WOULD DARE TO APPROACH THEM AGAIN. IT WAS A PITY THAT THE EMBASSY IN BERN WARNED SOME BANKERS IN SWITZERLAND, SO THAT IN THE MOMENT EVERYBODY IS WORRIED UNTIL THE VERY MOMENT, WE ARE COVERED BY THE OFFERED DOCUMENT OF YOURS. ON THE OTHER HAND I AM CONVINCED, THAT IN CARMZEEEEEE CASE OF FAILURE, THEY RATHER CALL ALL DOCUMENTS/COPIES E T C BACK BY GIVING YOU 10 DAYS NOTICE AS PROMISED IN THEIR AGREEMENT.

HOPING TO HEARING FROM YOU SOON,  
I REMAIN YOURS

JOCHEN SUDERMANN ZUERICH JAN.13TH'1976 / 21.30HRS.

53866 HOGE CH

GA  
020  
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AA40420

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020  
INTLX 242032Z  
AA40420

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NC

GA  
020  
INTLX 242034Z  
AA40420  
GA  
4553866+  
53866 HOGG CH  
QLDPREM AA41418

FOR PERSONAL ATTENTION MR JOCHEM SUNDERMAN

THE AUSTRALIAN ATTORNEY-GENERAL HAS SAID THAT HE WILL GIVE AN APPROPRIATE UNDERTAKING BUT ON THE FOLLOWING CONDITIONS:-

- (1) THAT A TELEX MESSAGE SETTING OUT A FULL COPY OF THE TWO ORIGINAL DOCUMENTS (THE MANDATE TO THE OVERSEAS DEVELOPMENT BANK AND THE LETTER SIGNED BY MR G HARRIS) IS SENT THROUGH ME TO HIM;
- (2) THAT, UPON HIS BEING SATISFIED THAT THESE COPIES JUSTIFY FURTHER ENQUIRY, TWO PERSONS ARE TO BE PERMITTED TO INSPECT THE ORIGINALS ON BEHALF OF THE AUSTRALIAN GOVERNMENT AND TO TAKE PHOTOGRAPHS THEREOF;
- (3) THAT AT THE TIME OF INSPECTION A PHOTOSTAT COPY OF EACH OF THE ORIGINALS BE HANDED OVER IN EXCHANGE FOR THE WRITTEN UNDERTAKING;
- (4) THAT IT IS ACKNOWLEDGED THAT THE UNDERTAKING IS GIVEN ON THE CLEAR UNDERSTANDING THAT NO MONIES OR OTHER CONSIDERATION HAVE PASSED OR ARE TO PASS FROM THE QUEENSLAND OR AUSTRALIAN GOVERNMENTS TO ANY OF THE DIRECTORS OF THE OVERSEAS DEVELOPMENT BANK OR TO MR SUNDERMAN OR TO MR STOEFFLI OR TO ANY OTHER PERSON IN RETURN FOR THE DOCUMENTS;
- (5) THAT IT IS ACKNOWLEDGED THAT MR FANCHER HAS NOT BEEN ACTING AND IS NOT ACTING IN CONNECTION WITH THE MATTER AS AN AGENT OF OR WITH ANY AUTHORITY WHATSOEVER FROM THE AUSTRALIAN GOVERNMENT;
- (6) THAT THE ORIGINALS BE PLACED IN A SAFE DEPOSIT ACCESSIBLE TO THE AUSTRALIAN GOVERNMENT AND THE QUEENSLAND GOVERNMENT.

4553000+  
53366 HOGG CH  
QLDPREM AA41418

FOR PERSONAL ATTENTION MR JOCHEM SUNDERMAN

THE AUSTRALIAN ATTORNEY-GENERAL HAS SAID THAT HE WILL GIVE AN APPROPRIATE UNDERTAKING BUT ON THE FOLLOWING CONDITIONS:--

- (1) THAT A TELEX MESSAGE SETTING OUT A FULL COPY OF THE TWO ORIGINAL DOCUMENTS (THE MANDATE TO THE OVERSEAS DEVELOPMENT BANK AND THE LETTER SIGNED BY MR G HARRIS) IS SENT THROUGH ME TO HIM:
- (2) THAT, UPON HIS BEING SATISFIED THAT THESE COPIES JUSTIFY FURTHER ENQUIRY, TWO PERSONS ARE TO BE PERMITTED TO INSPECT THE ORIGINALS ON BEHALF OF THE AUSTRALIAN GOVERNMENT AND TO TAKE PHOTOGRAPHS THEREOF:
- (3) THAT AT THE TIME OF INSPECTION A PHOTOSTAT COPY OF EACH OF THE ORIGINALS BE HANDED OVER IN EXCHANGE FOR THE WRITTEN UNDERTAKING:
- (4) THAT IT IS ACKNOWLEDGED THAT THE UNDERTAKING IS GIVEN ON THE CLEAR UNDERSTANDING THAT NO MONIES OR OTHER CONSIDERATION HAVE PASSED OR ARE TO PASS FROM THE QUEENSLAND OR AUSTRALIAN GOVERNMENTS TO ANY OF THE DIRECTORS OF THE OVERSEAS DEVELOPMENT BANK OR TO MR SUNDERMAN OR TO MR STOEFFELI OR TO ANY OTHER PERSON IN RETURN FOR THE DOCUMENTS:
- (5) THAT IT IS ACKNOWLEDGED THAT MR FANCHER HAS NOT BEEN ACTING AND IS NOT ACTING IN CONNECTION WITH THE MATTER AS AN AGENT OF OR WITH ANY AUTHORITY WHATSOEVER FROM THE AUSTRALIAN GOVERNMENT:
- (6) THAT THE ORIGINALS BE PLACED IN A SAFE DEPOSIT ACCESSIBLE TO THE AUSTRALIAN GOVERNMENT AND SUBJECT TO THE LAW OF SWITZERLAND, ARE TO BE AVAILABLE TO THE AUSTRALIAN GOVERNMENT FOR TENDER BEFORE ANY AUSTRALIAN COURT OR TRIBUNAL OR PERSON OR PERSONS TAKING EVIDENCE ON BEHALF OF ANY SUCH COURT OR TRIBUNAL.

I WOULD APPRECIATE YOUR EARLY ADVICE OF YOUR AGREEMENT TO THESE ARRANGEMENTS.

J BJELKE-PETERSEN, PREMIER OF QUEENSLAND.

GAJJRFRZHVX  
53366 HOGG CH++

SENT AT 7.40 0 PM ON 24.1.76

J  
CLDPREM AA41418  
CLDPREM AA41418

ATT.: J. BUELKE - PETERSEN, ESQ.  
PRIMER OF QUEENSLAND

REF: YOUR TELEX DATED JANUARY 25TH, 1976

- 1) STOEFFLI HAS PROMISED FULL WORDING OF MANDATE (GENEVA BANK)  
ON YOUR TELEX MACHINE AFTER UNDERTAKING HAS BEEN DELIVERED  
TO ME.
- 2) NO COPIES ARE ALLOWED OFFICIALLY BECAUSE IT IS  
A VIOLATION OF SWISS LAW.

REGARDS JOCHEN SUNDERMANN  
ZURICH, JANUARY 25TH, 1976

P. S.: IN MY OPINION (PROVIDED THINGS WORK OUT ALLRIGHT) I COULD  
POSSIBLY GET A PHOTOSTAT COPY PRIVATELY.

=DDP

CLDPREM AA41418  
CLDPREM AA41418



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INTLX 2521465  
AA47420H

GA  
4553866+  
53866 HOOE CH  
JLDPREH AA41418

FOR PERSONAL ATTENTION MR JOCHEN SUNDERMAN

MESSAGE NO AG/P2

THE ATTORNEY-GENERAL HAS ASKED ME TO EMPHASIZE THAT IT IS TO BE CLEARLY UNDERSTOOD THAT NONE OF THE STEPS SET OUT IN MY TELEX OF THE 24TH JANUARY, 1976 (AND FOR REFERENCE PURPOSES THAT MESSAGE WILL BE NUMBERED AG/P1) AND NO ACTION FOR THE PURPOSE OF FULFILLING ANY OF THOSE STEPS IS TO BE TAKEN IF IT IS CONTRARY TO THE LAW OF SWITZERLAND.

I WOULD APPRECIATE A TELEX REPLY TO MY TELEX OF THE 24TH JANUARY (NO AG/P1).

J BJELKE-PETERSEN, PREMIER OF QUEENSLAND

\*  
QAIPDWZNR  
53866 HOOE CH++

.SENT AT 8.45 PM ON 25.1.76

Australia

Zürich

Berne

Geneva

- {Wiley Fancher Jr  
U.S.A. Citizen  
living in Australia}

Telex Old Prem AA 41418

- {J. Bjelke-Petersen  
Premier du  
Etat Queensland}

- George Harris.
- J.M. Cairns MP
- R.F.X. Connor MP.

Australian  
Attorney-General.

- {Jochen D. Sundermann  
(Lender's Agent)  
Telex 57210A  
53866 HOGE CH}
- {Werner Stoeffli  
(Lawyer)  
Telex 57210A}
- {Kaufmann  
(Bank of America  
Zürich).  
Telex 53325}

- Ambassador d'Australie.

Very far in date  
to get back.

Overseas Development  
Bank.

Directors.

Ph. Angeloni  
? Appony.

- Document?
- ① Mandates of  
4 Pages dated  
3 April 1975  
signed Cairns/Connor.
  - ② Letter signed by  
George Harris.

gesamt US \$ 18.000

SCHWEIZER FR

---

SFR

40.000,-

---

SFS

5.000,-



Genève, le 25 février 1976.

Département de justice et police

CORPS DE POLICE

SÛRETÉ

## DÉCLARATION

Je me nomme ANGELONI Philippe, né le 3.8.45 à Genève, Genevois, marié, directeur-adjoint à l'OVERSEAS DEVELOPMENT BANK S.A. Genève, 40 rue du Rhône, domicilié 9 rue Oscar-Bider, 1220- Avanchet Parc/Genève.

Je prends note que je suis entendu par vos services à la demande de M. DINICHERT, Juge d'instruction, dans le cadre d'une commission rogatoire d'Australie apportée par M. James Thomas HOWARD, substitut du Procureur général d'Australie à Canberra. Vous m'informez qu'il n'existe aucun accord d'entraide judiciaire entre la Suisse et l'Australie.

Je suis directeur-adjoint de l'OVERSEAS DEVELOPMENT BANK S.A., Genève, depuis fin 1974. En avril 1976, j'aurai accompli 10 ans de service dans cet établissement.

J'ai pris bonne note de la lettre de M. DINICHERT, Juge d'instruction, que vous m'avez remise le 24.2.76. Dans l'intérêt de l'enquête et pour montrer la bonne foi de notre établissement, je répondrai comme suit aux questions posées. Il est bien entendu qu'il s'agit d'une affaire pénale, soit de corruption, soit d'escroquerie, et que ces renseignements seront transmis via la Division fédérale de police à Berne, avec les réserves d'usage.

Je n'ai jamais eu connaissance et je n'ai jamais possédé un document du 3.4.75, de 4 pages, soi-disant signé par MM. CAIRNS et CONNOR, dans lequel figureraient les commissions prévues pour MM. CAIRNS, CONNOR, George HARRIS, Keith BRENNAN, dans le cadre d'un emprunt de 4 milliards de dollars USA sollicité par le Gouvernement australien.

J'affirme ne pas connaître les personnes ci-dessous dont vous me donnez les noms :

- a) Jochen D. SUNDERMANN, né 15.2.39, Allemand,
- b) Werner STOFFLI, avocat de Zurich (?),
- c) George HARRIS.

Je fais toutes réserves sur les déclarations que M. Jochen SUNDERMANN aurait faites sur moi à la Police cantonale de Zurich.

Je ne connais absolument pas le soi-disant ALFONY qui serait directeur d'une société financière affiliée à O.D.B. Je ne vois personne portant un nom approchant.

Sauf erreur en février 1975, la banque a été approchée par un homme d'origine asiatique, accompagné de deux partenaires de même origine. L'intéressé était porteur de documents australiens officiels l'autorisant à rechercher des fonds pour le Gouvernement australien de l'époque. Après les contrôles d'usage, nous avons accepté d'agir en qualité de "trustee". Ce rôle consistait à transmettre à M. COMOR, Ministre des Mines et de l'Energie d'Australie, toutes offres de fonds que l'intéressé aurait pu nous faire parvenir, et inversement de transmettre à un bailleur de fonds éventuel l'acceptation ou le refus que nous aurions pu recevoir de M. COMOR. Il n'a jamais été question de solliciter des offres de fonds mais notre fonction ne devait consister qu'à transmettre les informations précitées. A la fin du deuxième trimestre de 1975, nous avons renoncé à poursuivre cette affaire, devant l'inanité des efforts de l'intéressé.

L'intéressé a versé à O.D.B., SERVICES S.A. Genève, dont je suis administrateur, une somme approchant Fr. 22.000.-, pour services administratifs rendus sur base de factures dûment établies et comptabilisées.

A vos questions, je réponds formellement que je n'ai jamais bénéficié personnellement d'une rémunération quelconque. Conformément à la pratique bancaire, tous les documents émanant de notre établissement portaient deux signatures. En ce qui concerne O.D.B. SERVICES SA., Genève, j'ai la signature individuelle.

Vous me présentez une mauvaise photo de Jochen D. SUND RMANN en me précisant que l'un de ses yeux présente une anomalie ; je ne reconnais pas cet individu.

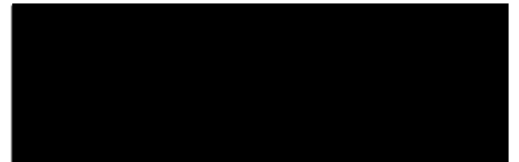
Contrairement à ce qui est dit ci-dessus, je pense que l'inconnu de type asiatique nous a contacté plutôt en mars 1975 qu'en février.

Après lecture faite, persiste et signe :

décl. R. Thomkins, IPa.

assisté de :

M. James T. HOWARD,  
Subst. PG d'Australie,  
Canberra.



ROUGH TRANSLATION

Geneva, 25 February 1976

DECLARATION

My name is Angeloni, Philippe, born 3.8.45 at Geneva, a Genevan, married, Assistant Manager of the Overseas Development Bank S.A., 40 Rhone Street, Geneva, living at 9 Oscar-Bider Street, Avanchet Park, 1220 Geneva.

I take note that I am questioned by your service at the request of Mr Dinichert, an Investigation Judge, in the course of a Rogatory Commission from Australia brought by Mr James Thomas Howard, delegated by the Attorney-General of Australia, Canberra. You have informed me that there does not exist any treaty of mutual judicial assistance between Switzerland and Australia.

I have been Assistant Manager of the Overseas Development Bank, Geneva, since 1974. In April 1976 I would have completed 10 years service with that establishment.

I have noted well the letter of Mr Dinichert, Investigating Judge, dated 24.2.76 which you have handed to me. In the interests of the inquiry and to show the good faith of our establishment, I reply thus to the questions posed. It is well understood that this concerns a penal matter, possibly corruption, possibly swindling, and that this information will be sent via the Federal Division of Police in Berne, with cautions as to its use.

I have never had any knowledge of, and I have never possessed, a document dated 3.4.75, of 4 pages, signed on its face by Messrs Cairns and Connor, which provides for commissions for Messrs Cairns, Connor, Harris, Keith Brennan in the structure of a borrowing of 4 thousand million U.S.A. dollars solicited by the Australian Government.

I affirm that I do not know the persons below whose names you gave me :

a) Jochen D. Sundermann, born 15.2.39, German

b) Werner Stoeffli, lawyer of Zurich ?

c) George Harris

I reserve everything on the declarations that Mr Jochen Sundermann has made against me to the Cantonal Police in Zurich.

2.

I absolutely do not know the so-called Appony who is supposed to be a director of a financial company affiliated with O.D.B. I have not noticed anybody with a similar name.

Allowing for slips, in February 1975, the bank was approached by an Asian gentleman, accompanied by two partners of the same origin. The interested party was carrying official Australian documents which authorised

him to look for some funds for the Australian Government <sup>of</sup> at the time. After personally checking, we agreed to act in the status of a trustee. This role consisted of transmitting to Mr Connor, Australian Minister for Minerals and Energy, all offers of funds which the interested party would have caused to arrive with us, and inversely, to transmit to the money-lender eventually the acceptance or the refusal which we would have received from Mr Connor. It was never a question of soliciting offers of funds, for our function was not to consist of anything other than the transmission of <sup>above mentioned</sup> precise information. At the end of the second trimester of 1975, we gave up dealing with this matter because of the <sup>deposition</sup> ~~inane~~ remarks of the interested party.

The interested party has assigned to O.D.B. Services S.A. Geneva, of which I am the Administrator, a sum of about Fr. 22,000 for administrative services rendered based on a correctly drawn up business invoice.

As to your questions, I formally reply that I have never benefitted personally from a remuneration of any kind. Conforming to banking practice, all documents emanating from our establishment carried two signatures. In that which concerns O.D.B. Services S.A., Geneva, I am individual signatory.

You have shown me an unclear photo of Jochen D. Sundermann, specifying that one of his eyes has an anomaly. I do not recognise that individual.

Contrary to what I have said above, I think that the unnamed Asian contacted us more likely in March 1975, than February.

After having read, confirmed and signed :

P. Angeloni

before R. Thomkins

<sup>As witness</sup>  
assisted by

James T. Howard

Delegated by the Australian  
Attorney-General, Canberra.



**National  
Crime Authority**

GPO Box 5260, Sydney, NSW 2001  
Telephone (02) 265 7111  
Telex 23575

OFFICE OF THE CHAIRMAN

CRIMINAL-IN-CONFIDENCE

23 July 1986

The Hon. Sir George Lush,  
Presiding Member,  
Parliamentary Commission of Inquiry,  
11th Floor, ADC House,  
99 Elizabeth Street,  
SYDNEY. N.S.W. 2000.

Dear Sir George,

Further to our discussion last week, I enclose a copy of a further document which has since come into the Authority's possession. The source of the document also provided the material we spoke about last week.

According to the informant, the document represents a holding of 400 shares which in 1985 were valued at \$600,000.

As with the material we spoke about last week, the Authority has not itself conducted an investigation concerning the document and is consequently not in a position to attest to its authenticity or otherwise.

Yours sincerely,

Mr Justice Stewart

Annexe  
Encl.

Diese Mitteilung trägt keine Unterschrift.  
Cette communication ne porte pas de signature.  
This notification does not require a signature.





## SCHWEIZERISCHE BANKGESELLSCHAFT

UNION DE BANQUES SUISSES  
UNIONE DI BANCHE SVIZZERE  
UNION BANK OF SWITZERLAND

8021 ZUERICH

MR. LIONEL KEITH MURPHY

MARCH 3RD, 1975  
WVI2-MUADepot-Nr.  
Dépôt No  
Sec. Acc. No

384.841.42

Betrifft  
Concerne  
Re

ORDINARY GENERAL MEETING

Wir beziehen uns auf Ihre bei uns per  
Nous nous référons à votre dépôt chez nous au  
We refer to the following deposit as of

27.02.1975

deponierten  
de  
in your sec. account

400

AKT SCHWEIZ. BANKGESELLSCHAFT

FR 500

und gestatten uns, Sie auf die bevorstehende Generalversammlung dieser Gesellschaft aufmerksam zu machen. Als Beilage erhalten Sie die entsprechende Einladung, die Traktandenliste und allfällige weitere Unterlagen, soweit uns solche zur Verfügung gestellt worden sind. Sofern Sie selbst an der Versammlung teilnehmen oder einen Beauftragten dorthin entsenden wollen, bitten wir Sie, uns dies mittels beiliegendem Auftragsformular möglichst bald mitzuteilen, damit wir Ihnen rechtzeitig eine Eintrittskarte beschaffen können. Sollten Sie dies nicht beabsichtigen, sind wir gerne bereit, die Vertretung Ihrer Stimmrechte im Sinne der Zustimmung zu den Anträgen des Verwaltungsrates kostenlos zu übernehmen. Im Falle Ihres Einverständnisses bitten wir Sie um Rücksendung der beiliegenden Vollmacht. Wenn uns eine generelle Vollmacht vorliegt, werden wir Ihre Titel ohne Gegenbericht vertreten lassen.

L'assemblée générale des actionnaires de cette société ayant lieu prochainement, nous nous permettons de vous adresser la convocation y relative ainsi que l'ordre du jour et autre documentation disponible. Si vous désirez assister personnellement à cette assemblée ou si vous envisagez de vous y faire représenter, nous vous saurions gré de nous le faire savoir rapidement au moyen de la formule ci-jointe, afin que nous puissions vous procurer à temps une carte d'entrée. Mais si telle n'était pas votre intention, nous serions volontiers disposés à représenter sans frais vos actions et d'approuver les propositions du conseil d'administration. Dans ce cas, nous vous prions de nous retourner la formule de pouvoir ci-incluse. Si vous nous avez déjà donné un pouvoir général, nous représenterons automatiquement vos titres, à moins que vous nous donniez un avis contraire.

We wish to draw your attention to the forthcoming General Meeting of the Shareholders of said Company and send you the notice of meeting, the agenda and other pertinent material in our possession. In the event that you wish to attend the General Meeting yourself or delegate some authorized person, we ask you to inform us as soon as possible so that we can obtain a card of admission for you in time. If this is not your intention, we shall be pleased to vote your shares free of charge within the meaning of an approval of the proposals of the Board of Directors. In case of your agreement, kindly return the enclosed power of attorney. Should we be in possession of a general power of attorney, we shall have your securities voted unless we hear from you to the contrary.

Antwort erbeten bis  
Réponse jusqu'au  
Please reply by

13.03. NOON

Hochachtungsvoll - Vos dévoués - Yours very truly  
SCHWEIZERISCHE BANKGESELLSCHAFT  
Union de Banques Suisses - Union Bank of SwitzerlandBeilage  
Annexe  
Encl.Diese Mitteilung trägt keine Unterschrift.  
Cette communication ne porte pas de signature.  
This notification does not require a signature.

Mr Lindsay Burdekin

then, to the Lindsay-high expenditure this ditute on Common-1984-85 is \$7.4m in Thursday Island and a Mackay. The airport t will soon be referred ding Committee on

ortant question about ur predecessors, par-ng financial misman-er Treasurer. If one has been made of this discredited former he has completely ed over a total disin-the important Com-this country. The a situation in which dget was about 20 d by more than half g that Government's

, of course, about the year's Budget com-riod in office. What k at the non-capital mer Government's ased by 31 per cent start to redress the rred as the former ay out. It took the overnment expendi-abandoning import-of the Common-ts and this neglect a the first instance in Commonwealth blic housing. There support for the ac-wealth, whether in r for its own em-fence services. We billion headache in of accommodation

taxpayers, thanks

ight honourable an interest in de-What happened ling administration 'defence personnel

was reduced to an appalling situation. We now have to redress that problem. If one looks at the record of the former Government's seven Budgets one finds that there were dramatic real declines in capital expenditure which managed during one famous year to decline in real terms by 22 per cent. In five of its seven Budgets there was a dramatic real decline of capital expenditure. This Government has been the first to recognise that there are important differences between capital and recurrent expenditure in our Budget. For the first time we have identified not only the scale of the disaster which we inherited in this area but also the way in which we will redress the problem in this Budget and in future Budgets.

#### SUPPRESSION OF THE PRESS

**Mr STEELE HALL**—I address my question to the Prime Minister. It concerns the subject of the suppression of the Press. In view of the fact that the Attorney-General, in the Senate today, twice confessed to having attempted to suppress a story that was to be published in the *Age*, I ask: Why did a senior adviser to the Prime Minister, Mr Peter Barron, visit the *Age* last Thursday to have discussions with the *Age*? During those discussions, did he seek to suppress publication by the *Age* of material relating to the possession of a safe deposit box in the Union Bank of Switzerland held jointly by a judge of the High Court of Australia and Miss Junie Morosi?

**Mr HAWKE**—Before I give the unequivocal negative to that, may I say that the Opposition, in its desperation—week after week it refuses to address any question to the Government and its Ministers about the Budget and the economy—is sinking further and further into the mire of the gutter. Here we have another example. The answer to the honourable member's question is yes, there were discussions between Mr Peter Barron—

*Opposition members interjecting—*

**Mr HAWKE**—'Woof, woof'—we have a pack of baying woof-woofers. Yes, Mr Barron had discussions with the Editor of the *Age* and no—unequivocally no—there was no such request as alluded to by this desperate and fast-disappearing member.

#### ROYAL COMMISSION ON ESPIONAGE

**Mr JACOBI**—I address my question to the Prime Minister; and this matter ought to occupy the Fourth Estate for some time to come. In the light of recent media speculation, can the Prime Minister advise when the Petrov records will be released?

**Mr HAWKE**—Not only will the Fourth Estate be interested; will those opposite, who have this desperate desire for early and immediate release, be interested. Under normal circumstances, the records of the Royal Commission on Espionage—which is colloquially referred to as the Petrov Royal Commission—would be progressively released over the next three years. However, I am very pleased to be able to inform the House that I have approved arrangements allowing for the accelerated release as a single package of the records of the royal commission, related Cabinet material and contemporaneous Prime Minister's departmental files. That will be done on Monday, 24 September 1984.

*Opposition members interjecting—*

**Mr HAWKE**—I am glad to see the approbation with which that announcement is greeted by honourable members opposite. Of course extensive consideration has been given to whether any material should be exempted under the provisions of section 33 of the Archives Act.

**Mr SPEAKER**—Order! The honourable member for Curtin and the honourable member for O'Connor shall cease their conversation.

**Mr HAWKE**—They cannot hide their glee and anticipation. After that extensive consideration about the provisions of section 33 of the Archives Act, I am very pleased to say that, in the end, nothing that affects the meaning or the historical substance of the records has been withheld. Obviously, there will be a great deal of interest in these records. Therefore, in anticipation of this interest, the Australian Archives is preparing multiple copies of the key documents and these will be available on 24 September at the Mitchell, Australian Capital Territory, office of the Archives.

#### NATIONAL CRIME AUTHORITY

**Mr PEACOCK**—My question is directed to the Special Minister of State. Is it a fact that Mr Costigan has referred 42 separate lines of investigation, not termed reference under the National Crime Authority Act yet, to the National Crime Authority and to its transition team for the drafting of references to the intergovernmental committee? Is it a fact that the 42 separate lines of investigation have been set out in the form of references and each reference has been given a code word? Is it a fact that within the National Crime Authority the 42 separate lines of investigation have now been downgraded to the status of 'material' only? Is it the case that some of the more controversial areas will now never see the light of day as formal references and that the

23 July, 1986

STRICTLY PRIVATE & CONFIDENTIAL

Mr. P. Brasil  
Secretary  
Attorney-General's Department  
Robert Garran Offices  
BARTON ACT 2600

Dear Mr Brasil,

Re: Mr Justice I. K. Murphy

I refer to your recent letter concerning certain overseas documents which came into the possession of the Parliamentary Commission of Inquiry by way of two Statutory Declarations made at Melbourne on 17 June, 1986.

I note the view expressed in that letter that the documents which relate to accounts and safety deposit boxes are bank documents, and hence subject to Swiss Banking Secrecy Laws. I note also that since January 1983 the Swiss Federal Act on Mutual Assistance in Criminal Matters has permitted the lifting of bank secrecy in certain cases, including those matters set out in Article 63 (3) of that Act, which provides:

"The following are in particular considered as proceedings carried out in criminal matters:

- (a) The prosecution of criminal offences (Art 1, Para 3);
- (b) Administrative measures against an offender;
- (c) Execution of sentences and pardon;
- (d) Compensation for unjustified detention."

Article 1, paragraph 3 provides that the Act shall apply only to criminal matters in which an appeal to a Judge can be made according to the law of the requesting State. I am advised by

Counsel Assisting that this latter provision would seem to pose no difficulties so far as the Parliamentary Commission is concerned given the ample possibilities of judicial review, and the ultimate justiciability of any decision that Mr Justice Murphy is guilty of "proved misbehaviour".

I am advised that it is not clear what meaning is to be attributed to Article 63(3), bearing in mind that what has been provided is a translation, and possibly an inadequate translation. The words "in particular" do not sit happily in the first line of the Article. It may be that these words suggest that items (a)-(d) are not intended to be exhaustive of those matters which may be the subject of mutual assistance under the Act.

Even if this were not so, Counsel Assisting the Commission have advised that in their view a strong case can be made that the Parliamentary Commission of Inquiry is, for relevant purposes, engaged in determining whether the Judge has committed serious criminal offences. The fact that the Commission's task is to report to Parliament its opinion on this question is not decisive of the issue whether this is a "proceeding carried out in criminal matters." It is Counsel's view that the role of the Commission in investigating allegations that the Judge has committed serious criminal offences might be sufficient to bring its proceedings within Article 63 (3)(a). Much would depend upon the manner in which a Swiss Court would go about the task of construing Swiss legislation. It could be argued that the role of the Commission is somewhat akin to that of a Magistrates' Court conducting a preliminary hearing (which is administrative in character) in order to determine whether a prima facie case of criminal conduct has been established. On a broad view of Article 63 (3)(b) it could be said that the role of the Commission involves the taking of "administrative measures against an offender" since an adverse report might well lead to the Judge's removal from the High Court by the Governor-General upon advice from the Executive Council.

In light of these matters it is requested that further consideration be given to the question whether, for the purposes of a request to the Swiss authorities, the proceedings of the Commission may be categorised as in the nature of "proceedings carried out in criminal matters" within the meaning of the Swiss Act.

I note your concern that the information which was supplied to you was insufficient to enable a request to be made. You indicate that any request must identify the offence in respect of which assistance is sought. We were informed by those who produced these documents to the Commission that the Judge was said to have been involved in a conspiracy (contrary to Section 86 (1) of the Crimes Act 1914). The intention of the conspirators was said to have been to receive secret commissions in respect of the large sums of money which were to be borrowed at the time of the so called "Loans Affair." It is certainly

true that if these safety deposit boxes were opened on the Judge's behalf, and at his behest, the timing of that event coupled with the identity of the co-box holders would suggest that this could amount to an overt act in support of the existence of such a conspiracy.


You also refer to Article 4 of the Act. It is suggested that if the evidence disclosed that the Judge had committed offences of this nature while Attorney-General, and then while a Justice of the High Court, they would certainly be sufficiently important to warrant a request being made for assistance.

As at present advised, the Commission can stipulate that the proceedings to which this request relates do not involve a political or military offence (Article 3 para 1) nor an offence aimed at reducing fiscal duties or taxes, nor an offence involving currency trading regulations or economic policy (Article 3 para 3).

In the light of the considerations set out above, and the developing urgency of the matter, it is requested that there be set in train immediately a request to the Swiss Authorities to consider the relevant documents with a view to their possible authentication.

It is requested also that you set in train as soon as possible whatever steps are required to determine whether the document which purports to indicate a shareholding in the Union Bank of Switzerland is genuine. I understand that Swiss Law may permit a search of the Register of Shares. I should mention that any shareholding which is as large as that disclosed by the document in question (worth we have been told close to \$750,000 in 1975) would raise very serious questions about the manner in which the shares had been acquired and from whom. The existence of such a valuable parcel of shares in the hands of the Judge in 1975 would also tend to corroborate a number of other allegations which have been made to this Commission.

Yours sincerely,



J F Thomson  
Secretary

CONFIDENCE



RECEIVED 2 JUL 1986

RECEIVED 2 JUL 1986

ATTORNEY-GENERAL'S DEPARTMENT

SECRETARY'S OFFICE

TEL: 71 9000

ROBERT GARRAN OFFICES  
NATIONAL CIRCUIT  
BARTON A.C.T. 2600

EX86/9066

The Secretary  
Parliamentary Commission of Inquiry  
GPO Box 5218  
SYDNEY NSW 2001

Dear Mr Thomson

Mr Justice L.K. Murphy

I refer to your letter of 17 July 1986 in which you request that an approach be made to the Swiss authorities as soon as possible to establish whether certain documents referred to, copies of which were enclosed in your letter, are authentic.

The documents the subject of your letter insofar as they purport to relate to accounts and safety deposit boxes are bank documents and hence subject to the Swiss Banking Secrecy laws. "Banking Secrecy" under Swiss law precludes any person working in a bank, be he or she an officer, employee, authorized agent or auditor, divulging any information whatsoever about any matters dealt with in the course of employment. This includes knowledge of whether any person is a client of the bank, no matter whether temporarily or permanently, whether the client is a Swiss or a foreigner, whether the client resides in Switzerland or abroad and whether the bank transacts business for the client in Switzerland or abroad. The secrecy extends to all details relating to transactions made by the bank with or for the client. Bank secrecy may, however, be lifted if the client expressly authorizes the bank to disclose information.

Since, January 1983, the Swiss Federal Act on Mutual Assistance in Criminal matters has permitted the lifting of Bank secrecy in certain cases involving proceedings carried out in criminal matters or matters involving the retrieval of the proceeds of crime. Article 63(3) of that Act is as follows:

*in Swiss  
see esp. final para  
JT*

*22/7*

*JD ✓*

IN CONFIDENCE

**IN CONFIDENCE**

- 2 -

"The following are in particular considered as proceedings carried out in criminal matters:

- a. the prosecution of criminal offences (art. 1, para. 3);
- b. administrative measures against an offender;
- c. execution of sentences and pardon;
- d. compensation for unjustified detention."

Article 1, paragraph 3 provides that the Act shall apply only to criminal matters in which an appeal to a judge can be made according to the law of the requesting state.

I am of the view that the proceedings of the Parliamentary Commission cannot be categorized as "criminal proceedings" within the meaning of the Swiss Act, and that, accordingly, a request cannot be made pursuant to it.

Even if the Commission proceedings could be so categorized, the information furnished is insufficient to enable a request to be made. Firstly, any request to the Swiss authorities must identify the offence in respect of which assistance is sought. Article 4 of the Act requires the Swiss authorities to reject a request for assistance if the importance of the offence does not justify the carrying out of the mutual assistance proceedings. Secondly, any request must stipulate that the proceedings to which it relates do not involve a political or military offence (art. 3 para. 1) nor an offence which appears to be aimed at reducing fiscal duties or taxes or which violates regulations concerning currency trade or economic policy (art. 3 para. 3).

I have also considered whether there are any other avenues of obtaining the information you seek, and have come to the conclusion that they are precluded by Swiss law.

Article 271(1) of the Swiss Penal Code is as follows:

"(1) Whoever performs, without permission, acts for a foreign state on Swiss territory which are within the authority of an administrative agency or a public official,

whoever performs such acts on behalf of a foreign party or another foreign organization,

whoever furthers such acts,

will be punished by imprisonment, in grave cases by confinement in a penitentiary."

**IN CONFIDENCE**

**IN CONFIDENCE**

- 3 -

Additionally, pursuant to Swiss banking law it is an offence, punishable by 6 months imprisonment or a fine of 50,000 Swiss francs, to violate or induce another to violate banking secrecy.

With respect to the document which purports to indicate a shareholding in the Union Bank of Switzerland, it may be that Swiss law permits a search of the Register of Shares. Please advise me, in the light of the above information regarding the other documents, whether you wish inquiries to be made. Any such inquiry would be conducted through the Australian Embassy in Bern.

Yours sincerely



P BRAZIL

**IN CONFIDENCE**





# Parliamentary Commission of Inquiry

*Presiding Member* : The Hon. Sir George Lush  
*Members* : The Hon. Sir Richard Blackburn, OBE  
The Hon. Andrew Wells, QC

G.P.O. Box 5218  
Sydney, N.S.W. 2001  
Telephone: 232-4922

## STRICTLY PRIVATE AND CONFIDENTIAL

Mr P Brazil  
Secretary  
Attorney-General's Department  
Robert Garran Offices  
BARTON ACT 2600

Dear Mr Brazil,

Re: Mr Justice L K Murphy

I refer to discussions held on 20 June 1986 between yourself, Mr Stephen Charles QC, Senior Counsel Assisting the Commission and Mr D Durack, Solicitor Instructing Counsel, in relation to certain overseas documents which came into the possession of the Commission by way of two statutory declarations declared at Melbourne on 17 June 1986.

I also refer to a document provided to the Commission on 3 July 1986 known as the "Howard Report".

The documents attached to the statutory declarations suggest, if genuine, that a safety deposit box was obtained and a numbered Swiss bank account was opened in the name of Lionel Keith Murphy (the Judge) on the 11 March 1975. On that date an East German national named Jochen Karl Zundermann paid 50 Swiss francs at the Zurich branch of the Union Bank of Switzerland to open a safety deposit box number 8343 in the names of the Judge and Edward Gough Whitlam. The next document indicates that the Union Bank of Switzerland in its vault facilities held the safety deposit box number 8597 on behalf of the Judge and Miss Junie Morosi for 12 months from 11 March 1975. A further document shows a receipt numbered 816 for 70 Swiss francs which bears the date 4 April 1975. This document relates to safety deposit box number 8343 and purports to show that Junie Morosi was assigned the keys to the box designated for the Judge and Edward Gough Whitlam.

The final document appears to disclose that the Judge had been allotted 400 shares in the Union Bank of Switzerland, shown to have been worth 500 Swiss francs each at the time. The document appears to be a notice of a forthcoming general meeting of the shareholders of the said company. A similar

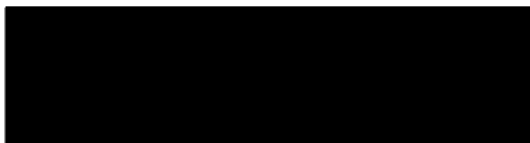
document has come into the possession of the Commission (but not from the statutory declarations referred to above) dated 5 March 1973 which suggests that Dr James Ford Cairns had been allotted 250 of the same shares.

I attach hereto copies of the statutory declarations and accompanying documents referred to above together with a copy of the document relating to Dr Cairns.

Counsel assisting the Commission have perused the Howard Report which you provided but have come to the conclusion that it is of no assistance in relation to the status of the documents. The report does not refer in any way to these documents and it appears that Mr Howard was not aware of their existence at the time he wrote his report. There are extensive references in the report to a Jochen Dieter Sundermann and it may be that this person is one and the same Jochen Karl Zundermann, the East German national referred to previously as paying 50 Swiss francs to open a safety deposit box in the name of the Judge and Edward Gough Whitlam, but at present we are unable to reach any concluded view.

As discussed previously with Mr Durack, it is now considered necessary that an approach be made on a government to government basis to establish whether or not the documents are authentic or otherwise. I therefore request that the said approach be made to the Swiss authorities as soon as possible and that the Commission be advised as to the result of those inquiries.

Yours sincerely



J F Thomson  
Secretary

17 July 1986

## Sensitive

**I**N RECENT years the Swiss have become rather sensitive to the issue of, or rather the attacks on, their bank secrecy laws.

So much so that the big three banks have produced a little pamphlet, 'Secrecy in Swiss Banking', with the subtitle 'Separating Fact from Myth' more directly reflective of their feelings.

One might note that it is not just an issue for outsiders, particularly the US regulators, as the "Left" (to the extent that the term has any meaning in a country like Switzerland) managed to get the issue put to referendum last year.

Secrecy won by a three-to-one margin.

This endorsement by the electorate is, appropriately, one of the arguments put by the big three in their pamphlet. But it makes a number of other more fundamental points:

(1) Individual rights to privacy are basic to individual liberty, and in Switzerland individual liberty and private property are considered indivisible. In particular, Swiss bank secrecy has acted as a life preserver for political refugees.

Continued: PAGE 27

## From PAGE 25

(2) Banking secrecy is not peculiar to Switzerland, rather the international norm. The difference is that the Swiss protect it with criminal penalties (which is understandable in the context of the first point).

(3) Bank secrecy is not absolute. In specific circumstances, notably criminal matters, the Swiss authorities will grant access to banking records.

Importantly, the Swiss had made significant concessions to accommodate foreign interests, but with rigid protections such as limiting use of information to the specific object for which it was obtained.

In the delicate area of insider trading, the Swiss have established — admittedly unsatisfactory to the regulatory bloodhounds — mechanisms for proving "innocence" (but not guilt).

However, the Swiss are themselves now proposing to ban insider trading in Switzerland itself and that would dramatically increase international access to bank records.

The Swiss insist that attempts to



## COMMENT

TERRY MCCRANN

get access to records take place in accordance with these arrangements.

Understandably, they tend to get a little cross when the American bloodhounds in particular try to sidestep them and get the information by brute force.

(4) There is no such thing as an anonymous numbered account.

The customer's name is known to the bank. It has to be to establish the contractual relationship between the two: a bank can't sue a number.

The numbered account is used to restrict the identity to a limited circle of executives.

The banks say that today numbered accounts are opened only when the depositor is already a customer of the bank — or, if a new customer, when the bank has established through interviews and references that he/she has legitimate reasons.

# Judge rules Swiss banks must open books for probes

By a special writer  
P. Dow Jones

A FEDERAL judge in New York has issued a formal ruling that Swiss banks can not lean on secrecy laws to stonewall probes into possible US securities law violations.

The opinion, issued this week, caps an eight-month campaign by the US Securities and Exchange Commission (SEC) to pierce the tightly guarded secrecy code in its investigation of alleged insider trading in St Joe Minerals Corp.

However, Securities lawyers say the ruling by Federal judge Milton Pollack will have far-

## Banking

reaching effects on cases involving Swiss secrecy

Ultimately, say some lawyers, the Swiss banks will find it more difficult to guarantee their clients total secrecy in transactions.

The opinion follows an earlier breakthrough in which Judge Pollack told Banca Della Svizzera Italiana that he might bar it from further investment in US markets if it did not satisfy SEC inquiries on the St Joe matter.

Last week, under threat of such sanctions, the bank obtained waivers from certain customers and passed on information to the SEC investigators.

These disclosures led the SEC investigators to Giuseppe B. Tome, an Italian financier until recently associated with Baird Patrick and Co, a New York securities house.

Mr Tome, whether acting for clients or for his own account, put through a flurry of orders to buy St Joe stock and options just before a takeover bid for St Joe by Seagram Co.

As a result of the Seagram merger offer, the value of the purchases put through by Banca Della Svizzera, largely on behalf of Mr Tome, soared in value, producing overnight profit of about \$US2 million. That money has been frozen in the US, since the SEC began its insider-trading probe last March.

In addition to his connections in the US financial community, Mr Tome had close ties with Seagram and with Edgar Bronfman, its chairman. He advised the company on its currency position, and managed \$10 million of the company's capital.

## Franc fortune hidden illegally in Switzerland

PARIS: WEDNESDAY

TEN per cent of France's national fortune is hidden in secret Swiss bank accounts out of reach of French tax authorities, a socialist member of the Swiss Parliament said on Tuesday.

Mr Henri Ziegler, in Paris to address the National Assembly finance commission now investigating illegal outflow of money to Switzerland, said that some 650,000 French citizens held numbered accounts in Swiss banks, representing 500,000 million French francs (\$75,454 million).

\*Swiss banking secrecy laws

are helping capitalists violate fiscal law and contravene rules on money transfers abroad," Mr Ziegler told Radio Monte Carlo network.

Accusing Swiss banks of "complicity", Mr Ziegler said millions of French francs passed into Switzerland illegally each week.

Although contrary to French laws, Switzerland has no such restrictions and unlimited amounts in any currency can be legally imported.

A private company in Zurich openly offers to smuggle francs through isolated border points.

United Press International

## Secrecy of Swiss banks threatened: leaked paper

ZURICH, 19 July. — The traditional secrecy of the numbered Swiss bank account, the financial status symbol of the world's super-rich, is under threat from two groups of Swiss politicians.

And Swiss banks are preparing for what may be a long fight to try to preserve it.

Under Swiss law, bank employees giving information about account holders now must be prosecuted and may be fined up to \$23,220 or given six months in prison. Only if a client can be linked to an offence which is a crime in Switzerland can the information be given.

But the 'Weltwoche' newspaper recently published extracts from a leaked preliminary draft of a Government paper that would make infringement of banking secrecy liable to prosecution only if the client lays charges.

Cautious Swiss bankers, who believe their country's lucrative banking system relies on its reputation for absolute discretion, oppose this reform. They say that in practice many clients would never lay charges. Some would fear that to do so would destroy the secrecy they opened the account to obtain. Others are too far away.

The Government paper, due out late this northern summer or early in the autumn, is a response to a proposal for a binding referendum by the Socialist Party.

If this were passed, Swiss or foreign tax inspectors who suspected tax evasion, as opposed to tax fraud, would be able to get access to information about accounts.

The sources said the Swiss Parliament is expected to debate the referendum plan this northern autumn and agree that voters should go to the polls probably in the spring of 1981.

They said the Government might try to get its banking law bill incorporating its proposed changes on secrecy through Parliament by autumn next year or might await the result of the referendum.

The National Bank has already forced the private Swiss banks to let a little light into the world of the numbered account.

In 1977, invoking powers to act if it feels its monetary policy is jeopardised, it concluded an agreement with them to check the identity of customers opening accounts.

At the end of last month, this was extended a little to include checking the identity of customers seeking to carry out cash transactions involving sums exceeding \$232,000 and of those who rent bank safes.

# glimpse behind the veil

From ROBERT L. JACKSON

WASHINGTON, 1 Sept. — The United States and Switzerland have agreed to clamp down on illegal insider trading through the use of secret Swiss bank accounts.

In a memorandum of understanding signed by both countries, Swiss officials agreed to help the US Securities and Exchange Commission identify investors who use privileged information and hide behind the anonymity of Swiss banking procedures to make illegal profits in the stock of US companies.

US law already forbids corporate officials or their relatives or friends from using so-called "inside" or non-public information about an approaching event, such as a takeover bid, to make quick profits by trading in a firm's securities.

The agreement calls for Swiss bankers to freeze the account of a US client who is being investigated by the SEC for suspected inside transactions. Until now, Swiss officials could not co-operate with SEC probes because insider trading was not illegal in Switzerland and so was not covered by the 1977 Mutual Assistance Treaty between the two countries.

Officials said the new pact was a "provisional measure" to be used until the Swiss enacted their

own law banning insider trading, which they were expected to do within the next two years.

Under terms of the memorandum, requests by the SEC for information will be made through the Department of Justice and the Swiss Federal Office for Police Matters to a three-member commission to be appointed by the Swiss Banker's Association.

The commission will then ask the Swiss bank to submit a detailed report on the transaction in question. Officials said the bank would be expected to freeze the account of its client up to the amount of profit realized in the transaction.

The client must also be notified by the bank of the SEC's inquiry.

The officials said an important case that led to the agreement was the takeover bid for St Joe Minerals by Seagram.

The SEC charged last year that Giuseppe B. Tome, an Italian investor, had misused advance information he had obtained from Seagram's chairman, Edgar Bronfman, to purchase St Joe stock and options through a Swiss bank.

Although it was ultimately unsuccessful, the takeover bid sent prices in St Joe securities skyrocketing, yielding Tome about \$US2 million.

Bronfman was cleared of any involvement in Tome's transactions.

—Los Angeles Times

# Changes to Swiss secrecy planned

FINANCIAL REVIEW

## Banking

The Swiss Government has released the draft of a banking law which would open chinks in Switzerland's traditionally impregnable bank secrecy laws.

The draft has been drawn up by a commission set up by the Government to overhaul the 1934 legislation which governs Swiss banking.

In its most noteworthy innovation, the legislation would make it easier for authorities in other countries, such as the US Securities and Exchange Commission, to investigate possible violations by Swiss banks abroad and by foreign banks in Switzerland.

The commission's chairman, Mr Kurt Hauri, said publication of the draft legislation would take about two years.

Swiss bankers, who have bristled at any proposal to restrict the way they do business, will be asked to submit their views.

Public sentiment has risen recently in Switzerland in favour of relaxing the country's bank secrecy laws, and the present draft is viewed by some analysts as a government

effort to pre-empt attempts by Switzerland's small Socialist Party to push far tougher banking guidelines in a referendum expected in early 1984.

Mr Hauri said the present draft would not affect a Swiss-American agreement signed in September to curb insider trading through Swiss accounts.

The Swiss Finance Ministry last year endorsed a proposal to make insider trading illegal.

This would enable Swiss banks to divulge information on criminal matters.

But Mr Hauri said this proposal had been separated from the draft legislation to permit an earlier enactment into law.

Mr Hauri said the draft legislation would allow Swiss bank supervisory authorities to inform similar agencies in other countries when it suspected the interests of bank creditors were being jeopardised.

— New York Times

## Swiss bank 2 'arrested'

GENEVA, 6 Oct. — Two employees of the huge Union Bank of Switzerland have been arrested on suspicion of having broken Swiss banking secrecy laws by disclosing details on thousands of French account holders to the French authorities, according to unconfirmed Press reports.

Both suspects were employed at the bank's computer centre in Lau-

sanne, where much of its confidential information is electronically stored. One of the suspects was reportedly arrested on Tuesday, the second yesterday.

Banking circles here are deeply worried about the possible repercussions to Switzerland's reputation for reliability and discretion.

—Guardian

# Swiss wash their hands of dirty money

From NORRIS WILLATT, of the  
London Observer, in Lugano

It's now official: Swiss banks won't accept any more "dirty money", that is, funds they know or suspect to be the proceeds of criminal activities, such as counterfeiting, fraud, robbery, kidnapping.

The new policy, unofficially announced last June, has now been formalised by an official convention between the Swiss Bankers' Association, to which most Swiss banks belong, and the Swiss National Bank, the central bank of the country.

In view of the news, one point needs to be cleared up fast. The Swiss do not consider "dirty" money includes cash deposited in their banks in violation of exchange control regulations

in the country of origin, or to evade the payment of taxes there. This will probably be a relief to many people.

The Swiss don't have any exchange controls (and so don't see why they should respect those imposed by other governments) and tax evasion isn't a criminal offence. However, as part of the new code of good behavior, Swiss bankers do promise not to encourage foreigners to export capital illegally by such actions as appointing agents abroad to drum up such business and providing couriers to transport the funds.

The new banking code seems designed to preserve as far as possible Switzerland's reputation as a safe haven for cash, securities and other assets whose owners want (including from perfectly proper motives) to conceal them from prying eyes; but at the

same time to get rid of the bad odor created by some recent Swiss banking scandals.

From now on, in theory at any rate, any Swiss banker who is asked by a foreigner to become trustee or custodian for cash, securities, the contents of a safe deposit box, or any other type of asset will be expected to satisfy his own mind that the assets are not the proceeds of criminal activities before consenting.

If he feels any doubt, he will be expected to demand that the foreigner provide proof of identity, including a signature witnessed by a consular official. The responsibility also extends to the identification of the beneficial owner of the assets, in cases where an intermediary is used; a written statement will be required setting out clearly who really owns or controls the funds. Simi-

lar documentation will be required for letter box companies in Switzerland under foreign control.

If it is evident to the banker, or he strongly suspects, that the funds are "dirty", under the convention he is required to refuse them. For obvious reasons, the banks have never admitted that they handle that kind of business but the evidence at times has appeared incriminating.

For instance, just as the details of the new convention were being announced, the border police in Italy seized a large haul of 100,000 lire bank notes from a motorist coming from Switzerland, some of whose serial numbers coincided with those of ransom money paid over early in 1976 to secure the release of a kidnapped Italian film producer. The case is not isolated.



# SWISS BANKS' MYSTIQUE UNMASKED

THE tight little world of Swiss banking was in turmoil last week.

The spreading scandal at Credit Suisse, one of the nation's Big Three, was the largest in Swiss history — with losses expected to hit \$US400 million (\$A396 million) or more — and it threatened to undermine the mystique that has made Switzerland the world's money magnet.

The scandal was intensified when another, smaller bank closed its doors and two of its officers committed suicide.

There were calls for reform. Government denunciations and threats of a crackdown on the whole industry.

"Credit Suisse has given us all a black eye," worried a banker in Zurich — and, although nobody expected any revolutionary reforms, it seemed likely that Swiss banking would never be quite the same again.

So far, the scandal has had no impact on Switzerland's lagging economy and the banks — the nation's biggest single industry — have suffered no major loss of deposits. There have been minor withdrawals of foreign funds, including some Arab oil money, and some switching of funds from one Swiss bank to another.

A prominent Geneva banker, conceding that the scandal was worrisome, nevertheless offered a bet that "a year from now it will be as if nothing had happened. If the truth be known, basically those who bank here do not have that many other places to go." But that could change if faith in the system were to ebb, and that was precisely the danger.

The mystique of Swiss banking has always been that the Swiss could somehow handle dirty money with clean hands. Operating behind a legal wall of secrecy that protects depositors from the scrutiny of even Swiss Government inspectors, the banks have taken money from practically anyone, with no questions asked, on the premise that it will be guarded honesty.

Significantly, mishandling of money and violation of the secrecy laws are considered serious crimes in Switzerland but tax evasion or violation of national currency restrictions are shrugged off.

The Swiss have occasionally fretted about their image as "gnomes of Zurich" — the president of the Swiss central bank recently called the tainted money "unpleasant" — but the bankers have always defended their system as the world's last repository of undiluted capitalist rectitude.

That image has survived even the failure of 28 Swiss banks in the past seven years, each of them laid to special circumstances or a few rotten apples who were probably foreigners. But the Credit Suisse scandal has struck at the heart of the image.

It's clear now that top management of one of the nation's most illustrious banks knew for at least eight years that trouble was brewing in one of its branches but failed to intervene while the profits were rolling in.

"The Credit Suisse headquarters deserves to be reproached," said Bernard Mueller, head of the Swiss Banking Commission, in an

unusually blunt statement last week.

As it turned out, Ernst Kuhrmeier, the manager of the Credit Suisse branch in Chiasso on the Italian border, had systematically funnelled \$US868 million (\$A815 million) of Italian lire — much of it smuggled across the border — into a Lichtenstein holding company in which he had a secret interest.

Kuhrmeier offered his Italian clients high returns, and in many cases guaranteed their investments. He did not, however, inform his home office about the guarantees, as required.

In 1969, Credit Suisse management reportedly learned of Kuhrmeier's activities and he was ordered to stop making unauthorised guarantees. But management apparently didn't follow up to see that the order was obeyed and it simply wasn't. What's more, Kuhrmeier issued guarantees on an additional \$US140 million (\$A131 million) of loans made by Italian banks.

*'Credit Suisse  
has given us  
all a black  
eye' — worried  
Zurich banker*

The Lichtenstein company, Texon Finanzanstalt, invested the money mainly in Italian companies dealing in wine, plastics and resort management and became an important client of Credit Suisse itself.

But Texon Finanzanstalt's investments eventually turned sour and Credit Suisse — under prodding by its big competitors, who feared the entire banking system was being jeopardised by the Chiasso machinations — finally cracked down on Kuhrmeier.

He and an assistant are now in jail, while Credit Suisse's chief executive, Heinz R. Wuffli, has resigned, along with his deputy, Serge DeMieville, and the bank's honorary chairman, Felix Schult-hess. Last week, the bank appointed a new chief, Rainer E. Gut, to try to deal with the mess.

That may take years. The bank has taken over Texon and says there are at least some assets to cover the more than \$US400 million (\$A396 million) in deposits and guaranteed loans. Speculation now is that the loss

will ultimately come to at least \$US400 million (\$A390 million) and may run to \$US700 million (\$A659 million).

The bank says its top officers did not know Kuhrmeier had flouted their orders but other Swiss bankers believe they simply looked the other way. "As long as the Chiasso operation seemed successful," said one Zurich banker last week, "no one wanted to ask any embarrassing questions."

The turmoil in Swiss banking exploded after an awesome surge of new business from foreigners — Arabs awash in petrodollars, Frenchmen and Italians fearful of Communist takeovers at home, Britons and Americans smuggling their nest eggs out from under the scrutiny of the tax collector.

It's estimated that one-third of the liabilities of Swiss commercial banks are now owed to foreigners — and this doesn't count billions of dollars in trust accounts, which aren't reported to banking authorities.

As the money flowed in, the normally play-it-safe Swiss bankers came under pressure to put the money to work at a greater than normal return. They began to speculate in foreign exchange and real estate, sometimes at perilous risks.

It was just such a scenario that culminated in the closing of Leclerc & Co., a small private bank so discreet that its only visible signs was a small brass doorplate marked "L & Cie".

Bertrand de Mural, its chief executive and a prominent member of Geneva's financial community, shot himself the day before the bank was closed. Twenty-four hours later, the body of the bank's former manager, Charles Bouchaud, was found floating in Lake Geneva, and the bank's principal owner, Robert Leclerc, was hospitalised with what was reported to be a heart attack.

He and his customers had made a fortune in the 1960s investing in real estate but didn't bail out before the market went bust. Although other private bankers offered de Mural a standby credit of nearly \$US10 million (\$A9.4 million), the bank's losses could be almost four times that.

The scandals have left the Swiss banks shocked — and wide open to criticism. "Even in New York, there was gossip about Credit Suisse beginning half a year ago," says an American source. "Now, that should have been a red flag to any auditor — if we were picking it up in New York, what the hell were the auditors and top management of Credit Suisse hearing in Switzerland? The answer is that the Swiss couldn't examine a large bank if they wanted to."

# Inside trader probe: SEC bid to curb Swiss banks

By TIM CARRINGTON  
of AP-Dow Jones

THE United States Securities and Exchange Commission has thrown down the gauntlet in its campaign to ferret out insider traders who may be hiding behind the secrecy of Swiss banks.

In a move lawyers say is without precedent, the agency has asked a Federal judge to curb a foreign bank's trading in US securities markets unless it starts providing information

on its clients and their market purchases. The case involves Banca Della Svizzera Italiana, which is charged with putting through trades for insiders who had advanced knowledge of Seagram Co's takeover bid for St Joe Minerals Corp earlier this year.

The SEC succeeded in freezing some assets of the Swiss bank, but has made practically no headway in wrenching information from the bank

about its clients. The bank's attorneys say it cannot disclose information about its customers because such disclosures would violate Swiss law.

The SEC has, for the time being, ruled out the more laborious method of pursuing its case through requests for data under a US-Swiss treaty. While the bank maintains that this is the appropriate path to pursue, the agency believes a court order, backed by threats of a trading freeze, would be faster and more efficient.

Moreover, the SEC contends that the laws governing the US securities markets should take precedence over the Swiss secrecy laws, which it says are "clearly not inviolate."

"Certainly the Swiss secrecy laws shouldn't be used to circumvent the laws and duties of confidentiality in the US. Moreover, the Swiss Government wouldn't welcome the stigma of being a haven for recreant securities opportunists who would use its country's well-intended secrecy laws to circumvent such confidentiality obligations."

In addition, the SEC insisted that if the bank provided information under a court order, there would not be any prosecution in Switzerland for breaching the secrecy laws, particularly if there are heavy penalties for failing to comply.

Wilkie, Farr and Gallagher, lawyers for Banca Della Svizzera Italiana, said they would file a response to the SEC

request this week. Initially, however, an attorney from the firm said the sanctions requested by the agency were "totally unreasonable."

The bank's attorneys also warned that the SEC may be cutting off foreign investment funds.

"What you'd be doing — were they to succeed — is to cut foreign institutions out of the capital markets," said one attorney. He added that the Congress, rather than a district court, can better address the complex question of regulating international market participants.

The SEC appears to be engaged in a broader probe for insider trading under the Banca Della Svizzera Italiana. In addition to seeking data on purchases in St Joe, the agency has asked for trade data on a handful of other companies involved in takeovers. SEC attorneys would not comment on investigatory efforts beyond the St Joe case.



Next week Switzerland votes in a referendum on whether to modify the legendary obligation of Swiss bankers to keep secrets. W. L. LUETKEIMAN, Financial Times discusses the arguments for and against forcing the 'g' Zurich to become stool pigeons.

THE Alps are not going to disappear on May 20, though they very well might if you were to believe some of the more intemperate participants on the current debate in Switzerland about the hallowed institution of bank secrecy.

On that Sunday the Swiss electorate is to decide in a referendum whether to modify the Swiss banker's legendary duty to keep mum about his clients' affairs.

One side in the argument claims that, in its present form, bank secrecy has made Switzerland a haven for dirty money of every kind, a god-send for tax defrauders and for unscrupulous operators cheating exchange controls in their own countries and, especially, in the Third World.

The other says the charges are vastly exaggerated and sees the proposal as a deliberate attack on proven Swiss institutions.

Two key passages in the motion to be placed before the voters ought to be quoted in detail. One says that "banks, financial institutions and others that professionally take on deposit . . . or manage assets of third parties are obliged to give information to the authorities and courts in criminal and taxation matters" and the other that "the principle that support is given to criminal procedures abroad in cases including taxation and currency offences is to be settled by legislation."

If a majority of the voters approve and if, in addition, majorities in more than half of the 25 cantons do so, the proposals will become part of the Swiss constitution. A legend will have ended.

Will it really happen? Swiss voters can be unpredictable. They can also look beyond their own immediate interests. Popular votes endorsing increases in local taxation are not uncommon.

But laying open one's affairs to the tax collector is another matter: how many people, in Switzerland or

# Swiss bank secrecy legend under threat

*Banking*  
FINANCIAL REVIEW

elsewhere, would happily abolish their own tax fiddles? Public opinion polls have been taken privately: from what is known, there is no majority in favour of the constitutional amendment.

Technically, this amendment is known as a popular initiative, because it was put on to the ballot on the demand of the Social Democratic Party after it had secured the necessary 100,000 signatures. Popular initiatives are hardly ever accepted by the electorate, though they can indirectly bring about profound change.

The origins of the initiative go back to the 1970s and even beyond. Bankers, never popular as a breed, were widely blamed for a number of ills. Their prowess and the aura of secrecy attracted floods of foreign money into Switzerland, so the argument went, and thereby drove up prices.

Moreover, the influx was pushing up the exchange rate to the disadvantage of manufacturing industry. The money shop, in a frequently heard phrase, was hurting the Swiss work shop.

Matters were brought to a head in 1977 when Credit Suisse, one of the big three Swiss banks, was gravely damaged by illegal operations of staff at its Chiasso branch. (The bank subsequently repaired the damage from its own resources without resort to any outside help.)

The Socialists felt that the time had come to move.

Their case that bank secrecy was being used to cover a multitude of sins won sympathy

among many people outside the party ranks.

Dr Markus Lusser, director-general of the Swiss National Bank, suggested as long ago as 1981 that the banks should devote more attention to improving the quality, rather than the quantity, of their business, adding: "To put it concretely, qualitative growth means a more prudent selection of their clientele."

Just how much dubious foreign business has been

tors in Third World countries, including rulers in shaky positions, to pile up illegal nest-eggs in Switzerland.

Dr Hans Mast of Credit Suisse, a doughty fighter in the banks' cause, has estimated that Third World deposits in Swiss banks, excluding those from OPEC and excluding those of assured cleanliness such as inter-bank or central bank deposits, total SwFr. 8 billion-10 billion. Obviously, not all of that money is dirty.

Mr Rainer E. Gut, chair-

says. "But let were to pass probably more out of Switzerland banking initiative through."

The banks that if the vote to go against money would try, capital short, and in habitually am the world - first link in the very well be the conclusion another matter

Since Switzerland publish a capital balance of a little firm which to base. But the country probably also a capital, and savings are ha

If the referendum bank secrecy would drastic, a cushion to absorb at least partially capital imports reduced, and exports with

Similarly the banking overstating they argue inflows, att. secrecy, are exchange rate exporters. The on current a good Swiss a performance toward explain of the franc. Instead of co

*But laying open one's affairs to the tax collector is another matter: how many people, in Switzerland or elsewhere, would happily abolish their own tax fiddles? 9*

accepted, unwittingly or otherwise, by Swiss bankers and others, such as lawyers acting as trustees, is a matter of debate, based inevitably on very few known facts.

Dr Rudolf Strahm, a secretary of the Socialist Party and one of the chief personalities associated with the initiative, says he cannot tell how much money has been moved to Switzerland in breach of their own laws by foreigners.

"Money cannot be dyed to identify what is legal and what is illegal," he says. But he adds that anything between "several dozen and one hundred billion" francs in illegal money and other assets may be deposited in Switzerland.

Naturally the banks contest these figures, and especially the claim that bank secrecy enables unscrupulous opera-

man of Credit Suisse, goes on to the offensive. "I am sure," he says, "there is much more money resulting from the flight of capital, whatever definition you want to give to that, in other financial centres than there is in Switzerland."

To Mr Gut the banking initiative is one more left-wing attack on a political and economic system that has served Switzerland well. "If this banking initiative were to be accepted, it would be an indication to the world that . . . our political system had received a big dent."

To ram home his point that the entire Swiss system is coming under attack, Mr Gut instances the support that is being solicited for a referendum to abolish the Swiss Army.

"It hasn't got a chance," he

in a referendum on whether to modify the  
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# bank secrecy: d under threat

FINANCIAL REVIEW



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Mr Rainer E. Gut, chair-

says. "But let's assume that it  
were to pass. That would  
probably move more money  
out of Switzerland than if the  
banking initiative were to go  
through."

The banking side argues  
that if the vote on May 20 were  
to go against secrecy much  
money would leave the coun-  
try, capital would become  
short, and interest rates —  
habitually among the lowest in  
the world — would rise. The  
first link in the argument may  
very well be sound; whether  
the conclusion is inevitable is  
another matter.

Since Switzerland does not  
publish a capital amount of its  
balance of payments, there is  
little firm evidence upon  
which to base the argument.  
But the country is a gross and  
probably also a net exporter of  
capital and net domestic  
savings are habitually large.

If the referendum were to  
end bank secrecy the conse-  
quences would no doubt be  
drastic — but there is a  
cushion to absorb the blow at  
least partially. In the end gross  
capital imports might be  
reduced, and gross capital  
exports with them.

Similarly the supporters of  
the banking initiative are  
overstating their case when  
they argue that capital  
inflows, attracted by bank  
secrecy, are pushing up the  
exchange rate and damaging  
exporters. The usual surpluses  
on current account and the  
good Swiss anti-inflationary  
performance go a long way  
toward explaining the strength  
of the franc.

Instead of considering what

will happen if the initiative  
goes through, it is probably  
more rewarding to consider  
what will happen if it fails —  
and what has already begun to  
happen in response to the  
initiative.

The banks have entered into  
a gentlemen's agreement with  
the Swiss National Bank in  
which they undertake not to  
lend active support to illegal  
capital exports from other  
countries. Also, they check the  
identity of new clients with  
great care, lest they be crooks.

The agreement is not water-  
tight, but some hefty fines of  
up to SwFr 500,000 have been  
inflicted on banks that have  
been remiss. The money goes  
to the International Red  
Cross.

The parliament has passed  
legislation to permit the ren-  
dering of assistance to foreign  
States investigating tax eva-  
sion. Under certain safe-  
guards, evidence may be re-  
quisitioned from a bank in  
cases of tax fraud. In Swiss  
law tax fraud requires an  
element of falsification or  
forgery of documents, and a  
tax declaration is not consid-  
ered a document.

The Government, by  
decree, has extended the con-  
cept of fraud for purposes of  
international assistance, to  
include devices such as the  
spinning of a tissue of lies to  
camouflage tax evasion. That  
decree is controversial and  
may have to be tested in the  
courts.

On the Swiss side it is  
claimed that the entire row  
with the US about the  
so-called 'Marc Rich' affair

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**Swiss poll warning**  
ZURICH, 24 Feb. — Union Bank of Switzerland president Nikolaus Senn warned there will be a massive outflow of funds from Switzerland if a referendum calling for an erosion of Swiss banking secrecy succeeds.

Addressing a Press conference, he said the Socialist Party motion to be put to a vote on 20 May will probably lead to a collapse of prices on Swiss houses, if approved.

There will be a massive rise in domestic interest rates to levels at least as high as in neighboring countries. Tens of thousands of jobs will be lost in Swiss banks, he said.

The referendum calls, among other things, for Swiss banks to open their books to Swiss or foreign authorities investigating suspected tax evasion or currency control offences.

might have been avoided if the US had applied for judicial assistance instead of relying on fines to squeeze documents out of the Swiss commodities dealer.

This is not strictly a case of banking secrecy, but much the same considerations apply. The Swiss considered that the case was covered by their laws against economic espionage, and that the US courts were wrongfully trying to encroach upon Swiss sovereignty.

The reforms so far made have narrowed the scope of Swiss banking secrecy. Together with two spectacular coups said to have been made by French investigators on the trail of illegal capital exports, they have prompted some allegations that the whole edifice is collapsing.

That is not true. The Swiss definition of tax fraud for purposes of international assistance is restrictive, and offences against foreign exchange controls are not considered a matter permitting such assistance to be given.

Neither case in which French investigators are said to have gained access to secret information has so far been clarified. There is no precise evidence as to what they got hold of.

Both cases occurred in Geneva, very close to the French border. Further inland, it is likely to be very much harder to wheedle papers out of a bank employee, if that is what really happened.

Many thoughtful members of the Swiss establishment recognise that the issue of bank secrecy poses a grave dilemma. Their tradition tells them that the State has no business poking into their own affairs; they like to think of their compatriots as honest men who do not swindle the tax collector.

They also know that the system is liable to abuse. They would be happiest if the banks themselves were to police themselves ever more strictly. Some of these people may vote for the initiative simply in order to teach the bankers a lesson.

## WHAT THE RULES ARE

BANKERS everywhere are expected to keep their clients' secrets. Up to a point, at least in theory, that is even so in the Soviet Union.

Yet the concept of bank secrecy is associated in everyone's mind with the banking community in Switzerland.

Swiss banking secrecy is unusual because:

- Secrecy is protected not only by the civil but also by the criminal law. A banker or bank employee can be jailed for up to six months or fined up to 50,000 francs (about £16,000) for betraying a professional secret.

- Numbered accounts, meaning anonymous accounts, are permissible. The identity of the clients is known only to selected members of the bank's management.

- Tax evaders can profit from Swiss bank secrecy. A Swiss bank may not divulge information about its clients' affairs to the authorities except where crime is involved. Tax evasion is not considered a crime. Tax fraud is, but it is narrowly defined.

- Switzerland declines to help other countries in tracing funds transferred to Switzerland allegedly in breach of the exchange control of those countries.

Switzerland has barely any exchange controls and they are not backed by sanctions of criminal law. That excludes any possibility in such cases of giving investigators from other countries assistance under laws and agreements for mutual international assistance in criminal matters.

- If a Swiss public prosecutor receives information that bank secrecy has been infringed he must investigate and, if appropriate, prosecute. That makes banking secrecy even more stringent than the professional secrecy of, say, doctors or lawyers, where the case would be taken up only if an injured party lodges a complaint.

Some or all of those features of Swiss law have parallels abroad.

What makes Switzerland unique is that this well-protected edifice of banking discretion exists in one of the leading financial centres of the world with a reputation for political and economic stability and a high concentration of banking expertise.

Even without the advantage of Swiss-style secrecy, the Swiss franc would generally be considered a secure home for anyone's money.

MEMORANDUM

TO: S. CHARLES QC  
M. WEINBERG  
A. ROBERTSON  
D. DURACK  
A. PHELAN  
F. THOMSON

FROM: P. SHARP

RE: (1) ALLEGED ACQUISITION BY MURPHY OF A SAFETY  
DEPOSIT BOX IN SWITZERLAND ON 11 MARCH 1975

(2) ALLEGED ACQUISITION OF 400 SHARES IN THE UNION  
BANK OF SWITZERLAND ON 27 FEBRUARY 1975 (WORTH  
APPROXIMATELY \$700,000 IF STILL HELD TODAY).

Legislation: The Banking Act 1959

Exchange control in Australia, including inter-alia, the control of certain payments, transactions and foreign securities is administered by the Reserve Bank under the Banking (Foreign Exchange) Regulations made under section 39(1) of the Banking Act 1959 which states: -

" where the Governor General considers it expedient to do so for purposes related to -

- (a) foreign exchange or the foreign exchange resources of Australia;
- (b) the protection of the currency or the protection of the public credit or revenue of Australia; or
- (c) foreign investment in Australia, Australian investment outside Australia, foreign ownership or control of property in Australia or of Australian property outside Australia, or Australian ownership or control of property outside Australia, or of foreign property in Australia.

Section 39(2) specifies the regulations authorised to be made by the Section including:

- (i) "the control or prohibition of the taking, sending or transfer of any securities to a place outside Australia (including the transfer of securities from a register in Australia to a register outside Australia), and of the bringing, sending or transfer of any securities to Australia from a place outside Australia (including the transfer of securities from a register outside Australia to a register in Australia);
- (q) provides for penalties in relation to offences under the regulations;

Section 39(8) defines "foreign securities" as securities or other property included in a class of securities or property specified in the regulations as foreign securities; and "securities" as including shares.

Section 39A provides, that the Act shall have extra-territorial application.

Section 39B provides that a taxation clearance issued under Section 14C of the Taxation Administration Act must be produced before the Reserve Bank may give an exchange control authority in certain circumstances, including where a notice in writing is published pursuant to Section 39(B)(2).

#### Banking (Foreign Exchange) Regulations

Due to various amendments to the regulations, including exemptions gazetted pursuant to reg.38 which were not operative at the relevant time, I have set out the relevant provisions as they appeared in 1975:

r4(2) For the purposes of the definition of "foreign securities" in subsection 39(8) of the act, the following classes of securities or property are foreign securities:

- (a) securities the principle of or interest from which is repayable or payable in any country outside Australia or in any money other than Australian money;
- (b) securities the funds necessary for the repayment or payment of the principal of or interest from which are provided from any country outside Australia;
- (c) securities that are registered outside Australia;
- (d) securities that are situated outside Australia;
- (e) debts or moneys due or accruing due to a person in Australia by a person in a country outside Australia;
- (f) rights to receive payment of moneys in a country outside Australia; and
- (g) rights to receive payment of moneys of (sic) a country outside Australia.

Control of certain payments and transactions;

r8(1) subject to this regulation, a person shall not, except with the authority of the bank -

- (a) .....



(c) draw, issue, or negotiate any bill of exchange or promissory note, enter into any contract or agreement (not being a contract or agreement for the purchase of goods), allot or transfer any security, or acknowledge any debt, so that a right (whether actual or contingent) -

(i) to receive a payment, or any valuable consideration; or

(ii) to the performance of any service,

whether in Australia or elsewhere, is created or transferred in favour of a person who is not a resident;

(Reg 8 was further amended by SR222 of 1975 gazetted 23 December 1975 but the amendment is not relevant for present purposes).

#### Control of Foreign Securities

Regulation 34 was inserted by S.R. 265 of 1974 and provides:

34(i) subject to sub-regulation (2), except with the authority of the bank -

(a)....

(b) a resident, or a person acting on behalf of a resident, shall not buy, borrow, sell, lend or exchange, or otherwise deal with, foreign securities that are outside Australia.

(2) Sub regulation (1) does not apply to the acquisition of foreign securities otherwise than for valuable consideration.

Regulation 42 provides that it is an offence to contravene or attempt to contravene any of the provisions of the Regulations.

QUESTION (1) - Whether at the time of acquisition, 11 March 1975, it was illegal for an Australian citizen to own a safety deposit box in Switzerland.

It seems that regulation 8(1) would not apply to a contract entered into between Murphy and the Swiss bank, as, even if it could be said to be a contract for the performance of a service, it does not create a right to the performance of that service in favour a person who is not a resident. The right to the service if the provision of a safety deposit box could be said to be such, would appear to reside, in the honourable L.K. Murphy.

On 23 December 1974 a Notice pursuant to section 39B of the Banking Act was published in the special Commonwealth Gazette which provided, interalia, that;

"The Treasurer, in pursuance of sub-section 39B(2) of the Banking Act 1959-1974, directed that the following acts or things are acts or things to which section 39B of the Act applies:

- (1) the entry by a person into a contract agreement or arrangement to which a person who is in, or is a resident of, or a person on behalf of a person who is in, or is a resident of, a place specified in the Schedule is a party, being a contract agreement or arrangement for or in relation to -

- (a) ....



- (b) the sale, purchase (including the granting of an option to purchase) acquisition or disposition of securities, land or other property, or of any interest in securities land or other property, other than the sale or purchase through a member of the Australian stock exchange of securities listed on an Australian stock exchange;
- (c) ....
- (d) the performance of any service;

The schedule to that notice included Switzerland.

Unlike reg 8 the notice did not require that the right to the performance of the service be created or transferred in favour of a person who is not a resident.

In view of that notice it may be arguable that between 23.12.74 and 12.12.83, when parts of 8(1)(c) were exempted, any person wishing to acquire a safety deposit box had to comply with the provisions of section 39B which required that a taxation clearance must be produced before the Reserve Bank may give an exchange control authority. However it seems to me that the objectives of the Legislation governing exchange control are directed to regulating capital flows by restricting the transfer of money, assets and rights into and out of Australia. To argue that the provision of a safety deposit box involves a transaction of that nature, requiring the issue of a certificate, would seem to be stretching the intention of the legislation.

QUESTION (2) - Whether an acquisition of shares in an overseas bank in February 1975 constituted an offence at that time.

Regulation 34 governs the control by the Reserve Bank of foreign securities owned or to be acquired by Australian residents.

The regulation must be read in light of pronounced government policy at the time. This general policy, up until approximately December 1983 and the floating of the dollar was one which I am informed by an officer of the Reserve Bank did not permit investment in overseas banks. This is confirmed to some extent in a booklet dated June 1980 published by the Reserve Bank entitled "Exchange Control" which states 'This general policy towards direct investment overseas does not apply to investment in purely financial enterprises'.

Prior to 1972 portfolio investment overseas was not permitted at all. From September 1972 some modest portfolio investments overseas were permitted. (Parliamentary Debates 26.9.1972) subject to certain conditions. The conditions were that residents apply for Reserve Bank approval, and applications by individuals were limited to \$10,000 in any period of twelve months (although applications in excess of this amount would be considered in special circumstances). In addition the Notice of 23.12.74 would require compliance with S39B if the transaction was one falling within the Notice, which would include a purchase of securities in Switzerland.

These conditions continued until 1980 when in his statement on 31 March 1980 the Treasurer Mr Howard increased the limit for overseas investment from \$10,000 to \$40,000 for individuals.

In view of the stated Government policy applicable to shares in overseas banks and the annual limitations on overseas investments by Australian residents it would seem highly unlikely that approval under reg 34, if sought, would have been

granted by the Reserve Bank, given that the investment was in an institution excluded from direct investment overseas and that the amount involved at the time would have been approximately twenty-five times the individual limit on such investment.

It would therefore appear that if no such approval was sought or granted the Honourable Lionel Keith Murphy may have committed an offence under regulation 42, assuming that he purchased the Shares and assuming the validity of the Share certificate.

0076M

COPY OF STATEMENT BY THE TREASURER, THE HONOURABLE JOHN HOWARD, MP

PORTFOLIO INVESTMENT OVERSEAS

In my statement of 8 July, 1981, in connection with a proposal by MIM Holdings Ltd for investment in ASARCO Inc. I stated that the Government was reviewing existing policy on outward portfolio investment. This review has now been completed and a significant relaxation of the existing policy has been decided upon.

This review was undertaken against the background of a net external surplus of the private sector in 1980-81 of some \$2850 million, approaching twice the Budget time estimate and three times the outcome in 1979-80.

While this injection of liquidity from abroad is a positive demonstration of the growth and development presently taking place in the Australian economy, it is not without difficulties so far as the task of domestic monetary management is concerned.

With this in mind, the Government has during the course of the past financial year allowed the exchange rate to appreciate as well as taking other measures to offset the monetary impact of these private sector transactions, including acceleration of the pace of sale of Treasury Notes and recent adjustments to yields on government securities.

Although the level of domestic interest rates is an important factor in achieving monetary objectives in any year, it is also a factor influencing private capital inflow.

- . individuals could invest up to \$40,000 in equities and real estate, including \$10,000 in eligible fixed interest investments;
- . substantial private companies could invest up to \$250,000 in equities and real estate, including \$100,000 in eligible fixed interest investments; and
- . public companies and institutions could invest up to \$2.5 million in equities and real estate, including \$1 million in eligible fixed interest investments.

Fixed interest investments which are eligible are those in marketable fixed interest securities with not less than one year to run to maturity at date of purchase and which are traded on a recognised securities market overseas.

Investment in banks, money markets and similar short-term deposits and direct loans to non-residents are not eligible.

19 July 1981

## SUPPLEMENTARY INFORMATION

### PORTFOLIO INVESTMENT OVERSEAS

Refer statement by the Treasurer on 19 July 1981.

Subject to the prior approval of the Reserve Bank in each instance, Australian residents may undertake portfolio investments overseas on the following basis:

#### Equities and real estate

No limit as to amount in eligible investments.

#### Fixed interest securities

- . Individuals - up to \$10,000 per annum.
- . Substantial private companies - up to \$100,000 per annum.
- . Public companies and institutions - up to \$1 million per annum.

These limits are administered on a financial year basis which for individuals is 1 July to 30 June; for companies it is normally their accounting financial year. The limits are not cumulative.

"Substantial private companies" are those which have been operating for at least five years during the last three of which they have had tangible assets exceeding \$250,000. For related private companies tangible assets exclude intra-group loans and in general only one company within the same group would qualify for an entitlement.

#### Eligible investments

- . Real estate and equity interests in incorporated and unincorporated enterprises.
- . To the extent shown above, marketable fixed interest securities with not less than one year to run to maturity at date of purchase and which are traded on a recognised securities market overseas.

#### Remittances

Once Reserve Bank authority to undertake an investment programme overseas has been obtained, the investor's own bankers are generally able to approve an application for provision of the necessary foreign currency upon production of the Reserve Bank letter of authority and evidence that the amount is due.

STATEMENT BY THE TREASURER, THE HONOURABLE JOHN HOWARD, M.P.

OUTWARD PORTFOLIO INVESTMENT BY MIM HOLDINGS LIMITED  
IN ASARCO INC.

The Government has approved a proposal by MIM Holdings Limited to make certain share purchases from Asarco Inc.

In the light of current monetary circumstances and the strength of the external account the Government has also commenced a review of existing policy with regard to restrictions on outward portfolio investment.

The MIM proposal contained three parts:

- . The immediate purchase by MIM of 2.5m shares of common stock in Asarco for US\$141.25m (about \$A122m) to bring MIM's total interest in Asarco to 10.5%.
- . Purchases by MIM within twelve months on the open market or otherwise of additional shares of common stock in Asarco to bring MIM's share to approximately 16% of the issued and outstanding common stock. A significant feature of this agreement is that Asarco will not attempt to control MIM with respect to the shares owned by MIM in Asarco.
- . As an integral part of this overall proposal Asarco has agreed that it make available 22m shares, slightly over 10% of its shareholding in MIM, for sale to Australian interests.

The Government has also decided that as a result of these share purchases and sales MIM would be considered to be about 60% Australian owned for the purposes of developing local resources within the foreign investment guidelines.

In granting this approval the Government has judged that the MIM proposal is clearly in the national interest. While a number of considerations had a bearing on this decision perhaps the most important was that the proposal will result in a significant increase in the Australian ownership of a major company operating in Australia. In addition, the capital outflow that will result from the proposal was seen as not inconsistent with current monetary policy considerations.

Canberra

8 July 1981



STATEMENT BY THE TREASURER THE HON. JOHN HOWARD, MP

PORTFOLIO INVESTMENT OVERSEAS

31 MARCH 1980

I wish to inform the House of modifications to the amounts and categories of portfolio investment overseas that may be undertaken by Australian residents.

Prior to September 1972, there was a virtual embargo on all portfolio investment overseas by Australian residents. Since that date, some modest portfolio investment overseas has been permitted. Exchange control approval has generally been given for investments by institutional investors, public companies, and the like of up to \$1 million in any period of 12 months. Individual investors have normally been permitted to invest up to \$10,000 in any 12 month period.

Eligible investments have included portfolio investment overseas in stocks and shares and purchases of real estate, but have not included investment in loans or other fixed interest securities.

The whole question of exchange control, including portfolio investment overseas, is currently under notice before the Committee of Inquiry into the Australian Financial System and the changes that I am announcing today are of course without prejudice to any recommendations in the exchange control area which might come from that Committee and are essentially adjustments within existing policy.

The modifications will take effect from 1 April 1980.

They include increases in the limits for overseas equity and real estate investment, and a widening of the range of eligible investments including, within limits, certain longer-term fixed interest securities.

The new annual limits for equity and real estate investments are being increased from \$10,000 to \$40,000 for individuals, and from \$1 million to \$2,500,000 for listed and substantial unlisted public companies and institutions. Substantial private companies, which meet certain financial standards, will be eligible for an annual maximum investment of \$250,000. The increases in these limits somewhat more than offset the effects of inflation since the present limits were set.

Within the new limits, individuals may now also invest annually up to \$10,000, substantial private companies may invest up to \$100,000 and public companies and institutions may invest up to \$1 million in marketable fixed interest securities with not less than one year to run to maturity at date of purchase. Investments in bank, money market and similar short term deposits, as well as loans to non-residents, will continue to be not permitted.

## SUPPLEMENTARY INFORMATION

### PORTFOLIO INVESTMENT OVERSEAS

Refer statement by the Treasurer on 31 March 1980.

Subject to the prior approval of the Reserve Bank in each instance, Australian residents may undertake portfolio investments overseas on the following basis:

#### Annual amounts

- individuals \$40,000 - including \$10,000 in eligible fixed interest investments;
- substantial private companies \$250,000 - including \$100,000 in eligible fixed interest investments;
- public companies and institutions \$2.5 million - including \$1 million in eligible fixed interest investments.

These limits are administered on a financial year basis which for individuals is 1 July to 30 June; for companies it is normally their accounting financial year. The limits are not cumulative but in special circumstances two years' entitlements may be allowed together to permit a specific investment project to be accomplished.

"Substantial private companies" are those which have been operating for at least five years during the last three of which they have had tangible assets exceeding \$250,000. For related private companies tangible assets exclude intra-group loans and in general only one company within the same group would qualify for an entitlement.

#### Eligible investments

- real estate and equity interests in incorporated and unincorporated enterprises;
- to the extent shown above, marketable fixed interest securities with not less than one year to run to maturity at date of purchase and which are traded on a recognised securities market overseas.

#### Remittances

Once Reserve Bank authority to undertake an investment programme overseas has been obtained, the investor's own bankers are generally able to approve an application for provision of the necessary foreign currency upon production of the Reserve Bank letter of authority and evidence that the amount is due.

STATEMENT BY THE PRIME MINISTER, THE RT. HON. WILLIAM McMAHON, CH, MP  
IN THE HOUSE OF REPRESENTATIVES, CANBERRA

OUTWARD PORTFOLIO INVESTMENT

28 SEPTEMBER, 1972

Following my announcement on policy changes in respect of overseas investment, I now wish to give details of the new exchange control policy which will apply for the time being to portfolio investment abroad by Australian residents.

Persons or companies wishing to invest abroad should apply by letter through their bankers for the necessary Reserve Bank authority. Applications by individuals for amounts up to \$10,000 in any period of twelve months in total will normally be readily approved. Institutional investors, public companies and the like can normally expect to be permitted to make investments up to \$1 million in any period of twelve months. Applications for amounts in excess of the amounts mentioned will be considered in special circumstances.

Eligible investments will include portfolio investment overseas in stocks and shares and purchase of real estate, but will not include investment in loans or other fixed interest securities.

The general arrangements will, of course, be subject to review from time to time.

This policy change is the first significant relaxation in the almost complete embargo on portfolio investment overseas which had operated since exchange control measures were introduced in 1939. Policy towards direct investment overseas has, however, been very liberal for a number of years and will continue unchanged.

# COMMONWEALTH OF AUSTRALIA

## SPEECH

BY

**The Rt Hon. W. McMAHON, C.H., M.P.**

**Prime Minister**

ON

## **Overseas Investment in Australia**

### **Ministerial Statement**

*[From the 'Parliamentary Debates', 26 September 1972]*

Mr McMAHON (Lowe—Prime Minister)—by leave—Last May, the Treasurer (Mr Snedden) tabled in this House a Treasury economic paper entitled 'Overseas Investment in Australia'. In doing so, he identified 3 problems associated with overseas investment. They were the high level of capital inflow and the potential problem that creates for managing the domestic economy; the suggestions of exchange rate speculation to which such inflows give rise, and the possible consequences of that; and, the sheer growth of foreign ownership and control of important elements of our economy. Since May this year, the Government has been conducting a review in depth of our policy towards overseas investment. We were aided in this by the public debate which the Treasury economic paper generated.

Today I want to announce the Government's decisions to date arising out of that review. Before doing so, however, I wish to make clear the Government's view of the past and future role of overseas capital. Overseas capital has played a vital role in Australia's development. It has added considerably to the resources available for

our growth. It has brought with it valuable technological know-how and access to overseas markets; it has created new industries. As a result, Australia is a larger nation, and a more prosperous one. The inflow of capital has been associated with increasing overseas ownership and control of industry in Australia. This has been one cost of the increased growth which has come from welcoming overseas capital. In the past, this has been a cost which, in our judgment, has been outweighed by the benefits. Nonetheless, our policy has been to encourage overseas capital to come insofar as practicable on a joint basis—and in close co-operation with Australian-owned enterprises. But circumstances change and so must policies.

In the past 2 years, capital inflow has increased dramatically. In 1969-70, net apparent capital inflow was \$797m. In 1970-71, it was \$1,418m. Last year, it was \$1,841m. A very high level of capital inflow seems in prospect again this year. Until 2 years ago, capital inflow, by and large, was broadly matching our deficit on the current account of the balance of payments. That is, the overseas capital was

being used to add to the resources available in the economy. Without it we could not have sustained a large net inflow of goods and services from the rest of the world. That situation has now changed. In 1970-71 net apparent capital inflow exceeded the current account deficit by \$598m. In 1971-72, the excess rose to \$1,443m. Between end-June 1970 and end-June 1972, official reserve assets rose from \$1,538m to \$3,764m. They now exceed \$4,100m.

In brief, in the past 2 years, capital inflow has resulted chiefly in a build-up of international reserves rather than an addition to resources actually being used in the economy. The greater part of this recently increased inflow has been in respect of company borrowings. Exchange control approvals of gross borrowings abroad rose from \$568m in 1969-70 to \$1,222m in 1970-71 and to \$1,681m in 1971-72. With the existing unimpeded access to overseas lenders, our ability to use monetary policy effectively has been called into question. The House may recall that the Treasury economic paper said that 'private capital flows have now acquired a practical potential to nullify the effects of monetary policy on internal economic conditions.' To date, this has not happened. But the build-up in liquidity which is proceeding will, if allowed to go unchecked, produce some headaches for the future.

As a separate but related matter, the Government has also been considering the growth of overseas ownership and control of Australian industry. We need to be sensible about this. We all want to see a bigger Australia. We all want the tangible benefits that access to overseas capital and skills brings us. Yet there is legitimate cause for concern. The right balance between our desire for an Australian Australia and for greater growth and prosperity must be struck. After 20 years of vigorous growth, we are today a relatively wealthy nation. We have less need to depend on overseas capital for our growth today than we did some years ago. We can afford now to trade off, at the margin, some of the benefits of overseas capital for a greater Australian share in our industry and resources. We can do it, too, without frightening off overseas capital. Overseas investors are expecting us to move. In

brief, the policies which have served us well in the past now need modifying.

I turn now to the 4 specific decisions we have taken as a result of our review to date. Three relate to the problem of net capital inflow and the fourth to the problem of overseas control of our industry. I begin with the first of the 4 decisions, that is:

#### **Exchange Control on Short-Term Borrowings Overseas**

The largest part of net capital inflow is accounted for by borrowings overseas by Australian residents, including foreign companies resident in Australia. We have decided to act to reduce the level of short term borrowings. The Reserve Bank will, from tomorrow, refuse exchange control approval for all overseas borrowings which would be repayable, or carry options to repay, in 2 years or less. Loan agreements which have already received exchange control approval will not be affected.

With a view to rendering the proposed measure effective, the present sterling area exemption, under which, inter alia, borrowings in Australian dollars from sterling area residents are not subject to exchange control approval, will be terminated forthwith. For the sake of administrative simplicity, at any rate in the early stages of the scheme, borrowings totalling less than \$100,000 in any one year will be exempt. The appropriateness of this exemption limit will be reviewed from time to time. I come now to the second decision which concerns:

#### **The Borrowing Guidelines**

Since May 1965, the Government has laid down certain guidelines which have limited the freedom of overseas-owned companies to borrow in Australia. One effect of the guidelines has been to require overseas-owned companies to bring in funds from overseas in place of the funds which they have not been permitted to borrow locally. This effect was appropriate to the circumstances formerly prevailing, but the circumstances have changed. The need now is to limit overseas borrowings, not to encourage them. Accordingly, the Government proposes to abolish the guidelines forthwith.



### Portfolio Investment Overseas by Australian Residents

At present, portfolio investment abroad by Australian residents is not permitted. Our decision is to relax this policy while retaining the need for exchange control approval of such transactions. Details will be announced shortly by the Governor of the Reserve Bank. The effect of these decisions will be to moderate the level of net capital inflow from overseas. They may, as a result, have some effect on the Australian capital market and will, incidentally, restore to Australian financial institutions some of the business which, in recent times, has been going abroad. I want to emphasise that developments in our own market will be watched very carefully to ensure that there are no untoward consequences. With liquidity presently at a high level, no transitional difficulties are foreseen.

Mr Speaker, at this point I turn to the question of overseas ownership and control. In this area of policy, the Government has long made it plain that the most welcome overseas capital is that employed in partnership with Australian-owned capital. However, the trend towards increasing overseas ownership has gone on. The time has come to consider more direct action to influence that trend. Our balance of payments on current account has improved greatly and, with that, our need for overseas capital has lessened. Our own Australian industry is more advanced and technologically capable than 10 or 20 years ago and can, if given the chance, effectively partner overseas companies. Action in the field of foreign ownership and control generally raises complex problems. We have undertaken an initial study of these problems, but their resolution will require more detailed study and further time for careful consideration. That work is now in hand. Its results will be announced as soon as practicable. However, in respect of one particular form of overseas ownership and control, we have decided that action can be taken without awaiting the final outcome of that full review.

I refer to the subject of our fourth decision:

### Foreign Takeovers

No aspect of overseas investment has excited more attention than this question. Foreign takeovers result in control as well as ownership passing from Australian to foreign hands. This aspect causes particular disquiet. Sometimes foreign takeovers also have the objective, or at any rate the effect, of limiting competition. In such cases, disquiet is justifiably intensified. On the other hand, foreign takeovers can revive an ailing company or may be made at a price permitting the Australian recipients to reinvest the proceeds at a considerably increased return. Australian as well as overseas investors have rights at stake and our policy must be such that their interest is not prejudiced—except when the interest of the nation requires it. The Government's longstanding policy has been that it reserves the right to do all in its power to prevent a particular takeover when, in the circumstances of the case, it is considered by the Government to be against the national interest. Moreover, under the policy announced on 24th May last by the Attorney-General on restrictive trade practices and monopolisation, takeovers which are likely to limit competition will be subject to examination and report by the monopolies commission which is to be established. This applies whether the bidding company be foreign or Australian.

We think, however, that the time has now come to introduce a new approach for the control of foreign takeovers. The Government intends to legislate for the prevention of foreign takeovers it considers would be against the national interest on the basis of criteria which I shall indicate. The legislation will apply to acquisitions of shares or other assets by overseas interests which might reasonably be expected to result in control of an Australian business passing to overseas interests. In the case of company takeovers, there will be a presumption that acquisition by any one overseas interest or associated group of 15 per cent or more, or by overseas interests in the aggregate of 40 per cent or more, of the voting power of an Australian company could constitute a takeover. For this purpose, overseas interest will include an Australian-incorporated company in which any one overseas interest or group holds

15 per cent or more of the voting power or in which overseas interests have in the aggregate 40 per cent or more of the voting power. Cases where control of a business would pass into overseas hands through acquisition of all, or a substantial part, of the assets of the business will also be subject to the measures.

The measures may also apply to the transfer of a significant part of the ownership or rights over a valuable or potentially valuable mineral area, such as can occur through transactions known in the mining industry as 'farm-ins'. If overseas interests demonstrate that an acquisition would not give a significant degree of foreign control, the measures will not apply. They will also not apply if the takeover would simply transfer control from one overseas interest or group to another. The measures will, in general, apply to cases where the company concerned, whether listed or unlisted, has assets of more than \$1m. Australian governments have already taken action to restrict foreign investment in certain industries of national significance—notably banking, airlines and radio and television broadcasting. Cases may arise where an Australian company involved in a takeover proposal is considered by the Government to be an economically strategic industry leader or to be so large that the takeovers would significantly affect the relative balance of Australian-overseas ownership and control of the industry concerned. The proposed legislation will include a power, in those circumstances, for the Government to take direct action to prevent the takeover if it judges such action appropriate.

Foreign takeover proposals judged by the Government to warrant detailed investigation as to whether they would be against the national interest will be referred to an independent authority—including official Government representation—which will analyse each such proposal and report on it to the Government. Decisions on individual cases will be taken—I stress this—by the Government, after consideration of the independent authority's report. There will be a time limit of one month, measured from the date of notification of a takeover to the Government, or the date of the making of

a public announcement concerning the takeover, for reference of takeover proposals by the Government to the independent authority. Proposals not referred in that time will be free to proceed. There will be a further time limit of 3 months maximum from the date of reference for report by the authority, unless extended by the Government in special circumstances.

For the purpose of references to and reports by the independent authority, the first criterion to be applied in judging whether a proposed foreign takeover would be against the national interest will be: Whether, against the background of existing circumstances in the industry concerned, the takeover would lead, either directly or indirectly, to net economic benefits in relation to such matters as production, prices, quality and range of products and services, and efficiency and technological change which would be sufficient to justify the increased degree of foreign control of the particular industry that would result from the takeover.

If the proposed takeover is judged to be not against the national interest on this basis, the following additional criteria will also be taken into account: Whether, after the takeover, the firm concerned could be expected to follow practices consistent with Australia's interest in matters such as exports, imports, local processing of materials produced, research and development and industrial relations, including employee protection; and whether the takeover would have adverse consequences in terms of the Government's objectives for defence, environmental protection or regional development.

In making judgments as to whether particular foreign takeovers would be against the national interest on any of the foregoing grounds, due weight will be given to: The extent of Australian participation in ownership and management that would remain after the takeover; and the interests of shareholders of the company subject to the takeover and the attitudes of its board of directors. Pending the enactment of legislation and establishment of the independent authority to be provided for in it, the measures I have outlined for the control of foreign takeovers will be brought into immediate effect on an interim basis.



## Statutory Rules

1974 No. 265

### REGULATIONS UNDER THE BANKING ACT 1959-1974.\*

WHEREAS the Banking (Foreign Exchange) Regulations made under the *Banking Act* 1945-1953 were, by virtue of section 29 of the *Banking (Transitional Provisions) Act* 1959 and an instrument under that section published in the *Gazette* on 14 January 1960, continued in force notwithstanding the repeal made by the *Banking Act* 1959 and were amended as provided by that section:

AND WHEREAS those Regulations as so continued in force and amended were again continued in force by virtue of section 4 of the *Banking Act* 1974 notwithstanding the repeal of section 39 of the *Banking Act* 1959-1973 made by the *Banking Act* 1974:

AND WHEREAS, by section 4 of the *Banking Act* 1974, those Regulations as continued in force by that section may be amended or repealed by regulations under section 39 of the *Banking Act* 1959-1974:

AND WHEREAS, by section 39 of the *Banking Act* 1959-1974, it is provided that, where the Governor-General considers it expedient to do so for purposes related to—

- (a) foreign exchange or the foreign exchange resources of Australia;
- (b) the protection of the currency or the protection of the public credit or revenue of Australia; or
- (c) foreign investment in Australia, Australian investment outside Australia, foreign ownership or control of property in Australia or of Australian property outside Australia or Australian ownership or control of property outside Australia or of foreign property in Australia,

he may make regulations, not inconsistent with that Act, in accordance with that section:

AND WHEREAS I, the Governor-General of Australia, acting with the advice of the Executive Council, consider it expedient, for purposes related to the matters specified in paragraphs 39 (1) (a), (b) and (c) of the *Banking Act* 1959-1974, to make the following Regulations:

NOW THEREFORE I, the Governor-General, acting with the advice of the Executive Council, hereby make the following Regulations under the *Banking Act* 1959-1974.

Dated this nineteenth day of December, 1974.

JOHN R. KERR  
Governor-General.

By His Excellency's Command,

J. F. CAIRNS  
Treasurer.

\* Notified in the *Australian Government Gazette* on 23 December 1974.



## AMENDMENTS OF THE BANKING (FOREIGN EXCHANGE) REGULATIONS\*

Commence-  
ment.

1. These Regulations shall come into operation on the date fixed under section 2 of the *Banking Act 1974*.

Definitions.

2. Regulation 4 of the Banking (Foreign Exchange) Regulations is amended—

(a) by omitting the definition of “foreign securities”; and

(b) by adding at the end thereof the following sub-regulation:—

“(2) For the purposes of the definition of ‘foreign securities’ in sub-section 39 (8) of the Act, the following classes of securities or property are foreign securities:—

- (a) securities the principal of or interest from which is repayable or payable in any country outside Australia or in any money other than Australian money;
- (b) securities the funds necessary for the repayment or payment of the principal of or interest from which are provided from any country outside Australia;
- (c) securities that are registered outside Australia;
- (d) securities that are situated outside Australia;
- (e) debts or moneys due or accruing due to a person in Australia by a person in a country outside Australia;
- (f) rights to receive payment of moneys in a country outside Australia; and
- (g) rights to receive payment of moneys of a country outside Australia.”.

Control of  
purchase, &c.,  
of foreign  
currency.

3. Regulation 5 of the Banking (Foreign Exchange) Regulations is amended—

(a) by omitting sub-regulations (1) and (2) and substituting the following sub-regulations:—

“(1) Subject to sub-regulation (3), except with the authority of the Bank—

- (a) a person shall not, either on his own behalf or on behalf of another person, buy, borrow, sell, lend or exchange in Australia, or otherwise deal in Australia with, foreign currency; and
- (b) a resident, or a person acting on behalf of a resident, shall not buy, borrow, sell, lend or exchange outside Australia, or otherwise deal outside Australia with, foreign currency.

“(2) Subject to sub-regulation (3), except with the authority of the Bank, a person shall not be a party to a transaction that has the effect of or involves a purchase, borrowing, sale, loan or exchange of, or that otherwise relates to, foreign currency, being a transaction that takes place in whole or in part in Australia or to which a resident is a party.”; and

(b) by adding at the end thereof the following sub-regulations:—

“(7) For the purposes of this regulation—

- (a) where a body corporate that is not a resident has a place of business in Australia, the body corporate shall be deemed to be a resident in relation to the affairs of the

\* Statutory Rules 1946, No. 191, as amended by Statutory Rules 1947, Nos. 65 and 102; 1948, Nos. 39 and 165; 1950, No. 46; 1952, Nos. 15 and 80; 1953, No. 24; 1954, No. 96; 1959, No. 8; 1965, No. 168; 1967, No. 70; 1970, No. 130; 1973, Nos. 72 and 197; and 1974, Nos. 56 and 97.

body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business; and

- (b) where a body corporate that is a resident has a place of business outside Australia, the body corporate shall be deemed not to be a resident in relation to the affairs of the body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business.

"(8) In this regulation, 'person' or 'resident' does not include the Bank."

4. Regulation 7 of the Banking (Foreign Exchange) Regulations is amended— Control of money orders.

- (a) by omitting paragraph (a) of sub-regulation (2) and substituting the following paragraph:—

"(a) to a person who is not a resident;"

- (b) by omitting from sub-regulation (3) the words "person permanently resident out of Australia" (wherever occurring) and substituting the words "person who is not a resident"; and

- (c) by omitting sub-regulation (6).

5. Regulation 8 of the Banking (Foreign Exchange) Regulations is amended— Control of certain payments and transactions.

- (a) by omitting paragraph (a) of sub-regulation (1) and substituting the following paragraph:—

"(a) make any payment in Australia to, by the order of, or on behalf of, a person who is not a resident or place any sum in Australia to the credit of any such person;"

- (b) by omitting from paragraph (c) of sub-regulation (1) the words "person resident out of Australia" and substituting the words "person who is not a resident";

- (c) by omitting from paragraph (d) of sub-regulation (1) the words "person resident out of Australia" and substituting the words "person who is not a resident";

- (d) by omitting from sub-regulation (2) the words "person not resident out of Australia" and substituting the word "resident";

- (e) by omitting from sub-regulation (3) the words "person not resident out of Australia" (wherever occurring) and substituting the word "resident"; and

- (f) by omitting paragraphs (a) and (b) of sub-regulation (4) and substituting the following paragraphs:—

"(a) where a body corporate that is not a resident has a place of business in Australia, the body corporate shall be deemed to be a resident in relation to the affairs of the body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business;

"(b) where a body corporate that is a resident has a place of business outside Australia, the body corporate shall be deemed not to be a resident in relation to the affairs of the body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business."

Control of  
certain  
transfers, &c.,  
of property.

6. Regulation 9 of the Banking (Foreign Exchange) Regulations is amended—

- (a) by inserting in sub-regulation (1) after the word "land" the words "that is in Australia";
- (b) by omitting from sub-regulation (1) the words "person resident out of Australia" (wherever occurring) and substituting the words "person who is not a resident";
- (c) by omitting from sub-regulation (2) the words "person resident out of Australia" and substituting the words "person who is not a resident";
- (d) by omitting sub-regulations (3) and (4); and
- (e) by omitting paragraph (a) of sub-regulation (5).

Special  
provisions for  
making certain  
payments.

7. Regulation 11 of the Banking (Foreign Exchange) Regulations is amended by omitting sub-regulation (6).

8. Regulation 34 of the Banking (Foreign Exchange) Regulations is ~~repealed~~ and the following regulation substituted:—

Control of  
foreign  
securities.

"34. (1) Subject to sub-regulation (2), except with the authority of the Bank—

- (a) a person shall not, either on his own behalf or on behalf of another person buy, borrow, sell, lend or exchange, or otherwise deal with, foreign securities that are in Australia; and
- (b) a resident, or a person acting on behalf of a resident, shall not buy, borrow, sell, lend or exchange, or otherwise deal with, foreign securities that are outside Australia.

"(2) Sub-regulation (1) does not apply to the acquisition of foreign securities otherwise than for valuable consideration.

"(3) For the purposes of this regulation—

- (a) where a body corporate that is not a resident has a place of business in Australia, the body corporate shall be deemed to be a resident in relation to the affairs of the body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business; and
- (b) where a body corporate that is a resident has a place of business outside Australia, the body corporate shall be deemed not to be a resident in relation to the affairs of the body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business.

"(4) In this regulation, 'person' does not include the Bank or an agent of the Bank."

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9. Regulation 37 of the Banking (Foreign Exchange) Regulations is repealed. Power to obtain information.
10. Regulation 39 of the Banking (Foreign Exchange) Regulations is amended by omitting from sub-regulation (1) all words from and including the words "for the protection of the currency" and substituting the words "for a purpose in relation to which these Regulations make provision". Authority of Bank.
11. Regulation 40 of the Banking (Foreign Exchange) Regulations is amended by omitting paragraph (a). False statements.
12. Regulation 42 of the Banking (Foreign Exchange) Regulations is amended by omitting from sub-regulation (1) the words "Ten thousand dollars" and substituting the words "One hundred thousand dollars". Offences.
13. Regulation 43 of the Banking (Foreign Exchange) Regulations is repealed and the following regulation substituted:—
- " 43. (1) Where a person has been convicted by a court of an offence against these Regulations, the court may, if it thinks fit, order the disposal in accordance with the directions of the Bank of any Australian currency, foreign currency, goods or other property in respect of which the offence was committed that the person is entitled to sell or of which he is entitled to procure the sale.
- " (2) A person who is ordered by a court under sub-regulation (1) to dispose of property shall comply with that order." Property obtained in contravention of Regulations.
14. The Banking (Foreign Exchange) Regulations are amended by adding at the end thereof the following regulation:—
- " 45. No act or thing done, or contract or other transaction entered into, is invalid or unenforceable by reason only that the provisions of these Regulations have not been complied with." Validation.



**BANKING (FOREIGN EXCHANGE) REGULATIONS  
EXEMPTIONS**

Reserve Bank of Australia in pursuance of Regulation 38 of the Banking (Foreign Exchange) Regulations hereby—

- (1) Revokes the exemptions dated 27 September 1972 of payments to, by the order of, or on behalf of, persons resident out of Australia from the application of Regulation 8 (1) of those Regulations.
- (2) Revokes the exemption dated 21 October 1976 relating to the entering into of any contract of insurance (not being a policy as defined in sub-section 4 (1) of the *Life Insurance Act, 1945*) and any contract of re-insurance (not being a contract of re-insurance of a policy as defined in sub-section 4 (1) of the *Life Insurance Act, 1945*), from the application of Regulation 8 (1) (c) of the Regulations.
- (3) Exempts from the application of Regulation 8 (1) (a) of the Regulations, the making of any payment in Australia to, by the order of, or on behalf of, a person who is not a resident, other than a person resident in a country specified in a current notice issued by the Treasurer under section 39B of the *Banking Act, 1959*, and the placing of any sum in Australia to the credit of any such person.
- (4) Exempts from the application of Regulation 8 (1) (c), the entering into of any contract or agreement (not being a contract or agreement for the purchase of goods) and the acknowledgment of any debt, so that a right (whether actual or contingent)—
  - (i) to receive a payment, or any valuable consideration; or
  - (ii) to the performance of any service,whether in Australia or elsewhere, is created or transferred in favour of a person who is not a resident, other than a person resident in a country specified in a current notice issued by the Treasurer under section 39B of the *Banking Act, 1959*.

Dated at Sydney this twelfth day of December 1983.

For and on behalf of the Reserve Bank of Australia.

R. A. JOHNSTON  
Governor

**BANKING (FOREIGN EXCHANGE) REGULATIONS  
EXEMPTIONS**

Reserve Bank of Australia in pursuance of Regulation 38 of the Banking (Foreign Exchange) Regulations hereby—

- (1) Revokes the exemption dated 20 December 1978 relating to goods exported from Australia otherwise affected by Regulations 16, 17 and 19 of those Regulations.
- (2) Exempts from the application of Part III of those Regulations goods exported from Australia.

Reserve Bank of Australia in pursuance of Regulation 16 also hereby revokes the approval dated 24 December 1979 in respect of goods exported from Australia, notified in the *Gazette* on 2 January 1980.

Dated at Sydney this twelfth day of December 1983.

For and on behalf of the Reserve Bank of Australia.

R. A. JOHNSTON  
Governor

**BANKING (FOREIGN EXCHANGE) REGULATIONS  
EXEMPTION**

Reserve Bank of Australia in pursuance of Regulation 38 of the Banking (Foreign Exchange) Regulations hereby exempts from the application of Regulation 7 of those Regulations any person taking or sending money out of Australia by means of a money order issued in Australia and payable out of Australia.

Dated at Sydney this twelfth day of December 1983.

For and on behalf of the Reserve Bank of Australia.

R. A. JOHNSTON  
Governor

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1974 NO 265

1975 - NO 222

R 5 -

1974 - NO 265.



## BANKING.

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BANKING (FOREIGN EXCHANGE) REGULATIONS.<sup>(a)</sup>STATUTORY RULES 1947, No. 65.<sup>(b)</sup>

Before regulation 1 of the Banking (Foreign Exchange) Regulations the following heading is inserted:—

## "PART I.—PRELIMINARY."

Regulation 7 of the Banking (Foreign Exchange) Regulations is amended—

(a) by omitting from sub-paragraph (i) of paragraph (a) the word "Five" and inserting in its stead the word "Ten";

(b) by omitting from sub-paragraph (i) of paragraph (b) the word "Five" and inserting in its stead the word "Ten"; and

(c) by omitting paragraph (c) and inserting in its stead the following paragraph:—

"(c) In the case of money taken or sent to a country not included in the sterling area, the purpose for which the money may be taken or sent shall be—

(i) the payment of sustenance;

(ii) the payment of a subscription to a journal or periodical the importation of which into Australia is not prohibited;

(iii) the making of a gift or a donation to a person or body (corporate or unincorporate);

(iv) the payment for a service;

(v) the payment for the issue of a birth, marriage or death certificate; or

(vi) the payment of fees, rents or taxes."

Regulation 8 of the Banking (Foreign Exchange) Regulations is amended—

(a) by omitting from paragraph (b) of sub-regulation (1.) the word "or";

(b) by inserting in paragraph (c) of sub-regulation (1.), before the words "or acknowledge", the words "transfer any security"; and

(c) by adding at the end of sub-regulation (1.) the following word and paragraph:—

" ; or (d) transfer any securities on a register in Australia to a person resident out of Australia."

<sup>(a)</sup> Previous Regulations, see Commonwealth Statutory Rules 1945-46, p. 422.  
<sup>(b)</sup> Made under Banking Act 1945 on 21st May, 1947; notified in Gazette on 23rd May, 1947.

STATUTORY RULES 1947, No. 102.<sup>(c)</sup>

## Definitions.

Regulation 4 of the Banking (Foreign Exchange) Regulations amended by omitting from the definition of "sterling area" the words "Egypt, the Anglo-Egyptian Sudan,".

STATUTORY RULES 1948, No. 39.<sup>(d)</sup>

## Definitions.

Regulation 4 of the Banking (Foreign Exchange) Regulations amended—

- (a) by inserting in the definition of "sterling area", after the word "territories", the words "(other than Palestine," and
- (b) by omitting from that definition the word "Transjordan" and inserting in its stead the word "Burma".

STATUTORY RULES 1948, No. 165.<sup>(e)</sup>

## Definitions.

Regulation 4 of the Banking (Foreign Exchange) Regulations amended by omitting the definition of "sterling area" and inserting in its stead the following definition:—

"'sterling area' means all parts of His Majesty's dominions (except Canada and Newfoundland), and includes all British mandated territories, all British protectorates and protected states, Eire, Iraq, Burma and Iceland:".

BANKING (GOLD) REGULATIONS.<sup>(f)</sup>STATUTORY RULES 1947, No. 63.<sup>(g)</sup>

## The Schedule.

The Schedule to the Banking (Gold) Regulations is amended by adding at the end thereof the following persons:—

"Rural Bank of New South Wales;  
The Ballarat Banking Company Limited;  
The State Bank of South Australia;  
The Rural and Industries Bank of Western Australia."

STATUTORY RULES 1948, No. 151.<sup>(h)</sup>

## The Schedule.

The Schedule to the Banking (Gold) Regulations is amended by omitting the words "Garrett and Davidson Proprietary Limited" and inserting in their stead the words "Garrett, Davidson & Matthey Pty. Limited".

- (c) Made under *Banking Act 1945* on 21st July, 1947; notified in *Gazette* on 4th August, 1947.
- (d) Made under *Banking Act 1945* on 11th March, 1948; notified in *Gazette* on 15th March, 1948.
- (e) Made under *Banking Act 1945* on 21st December, 1948; notified in *Gazette* on 6th January, 1949.
- (f) For previous Regulations, see Commonwealth Statutory Rules 1945-46, p. 413.
- (g) Made under *Banking Act 1945* on 21st May, 1947; notified in *Gazette* on 23rd May, 1947.
- (h) Made under *Banking Act 1945* on 1st December, 1948; notified in *Gazette* on 9th December, 1948.

Regulation 13 of the Commonwealth Statutory Rules 1945-46, p. 413, omitting the words "and" and "poultry, eider and fr"

For previous Regulations, see Commonwealth Statutory Rules 1945-46, p. 413.

EXCISE. See EXCISE.

## BANKING ACT.

## BANKING (FOREIGN EXCHANGE) REGULATIONS.

STATUTORY RULES 1960, No. 8. (a)

Commence-  
ment.

1. Regulation 2 of the Banking (Foreign Exchange) Regulations is repealed.

Parts.

2. Regulation 3 of the Banking (Foreign Exchange) Regulations is repealed and the following regulation inserted in its stead:—

"3. These Regulations are divided into Parts, as follows:—

Part I.—Preliminary (Regulations 1-4).

Part II.—Monetary Control (Regulations 5-12).

Part III.—Control of Proceeds of Exports (Regulations 14-32).

Part IV.—Securities (Regulations 33-35).

Part V.—Miscellaneous (Regulations 36-44)."

Definitions.

3. Regulation 4 of the Banking (Foreign Exchange) Regulations is amended—

(a) by omitting the definition of "British trust territory"; and

(b) by omitting the definitions of "sterling area", "the American Account area" and "the Bank" and inserting in their stead the following definitions:—

" 'sterling area' means Australia, the United Kingdom, New Zealand, the Union of South Africa, India, Pakistan, Ceylon, Ghana, Malaya, Burma, Iceland, the Republic of Ireland, the Hashemite Kingdom of the Jordan and Libya, and includes—

(a) a colony, overseas territory or protectorate of a country specified in this definition; and

(b) a territory for the international relations of which a country so specified is responsible;

" 'the Bank' means the Reserve Bank of Australia."

Control of  
money orders.

4. Regulation 7 of the Banking (Foreign Exchange) Regulations is amended by omitting sub-regulation (4.) and inserting in its stead the following sub-regulation:—

"(4.) The amount of money so taken or sent out of Australia by any one person to a person or persons in any one week shall not exceed in the aggregate Ten pounds."

Control of  
certain  
payments and  
transactions.

5. Regulation 8 of the Banking (Foreign Exchange) Regulations is amended—

(a) by omitting paragraph (b) of sub-regulation (1.);

(b) by inserting in paragraph (c) of sub-regulation (1.), before the word "transfer", the words "allot or";

(a) Made under the *Banking Act 1959* on 14th January, 1960; notified in the *Gazette* on 14th January, 1960.

(c) by omitting paragraph in its stead the fol

"(d) make an  
nizes or  
to a pe

(d) by omitting from s  
"Australia";

(e) by inserting in para  
word "transfer"

(f) by inserting after  
regulation:—

"(3A.) A pers  
by paragraph (a  
or by paragraph

6. Regulation 10 of the 1  
repealed.

7. Regulation 13 of the 1  
repealed.

8. Regulation 15 of the 1  
amended by omitting from th  
"Trade and Customs" and in  
and Excise".

9. Regulation 19 of the 1  
amended by omitting sub-regul

10. Regulation 23 of the  
amended by inserting in para  
word "Minister", the words "

11. Regulation 27 of the  
repealed.

12. Regulation 30 of the  
amended by omitting from sul

13.—(1.) Regulation 34 of  
is repealed and the following

"34.—(1.) Subject to the  
other than the Bank or an ager  
of the Bank, acquire, dispo  
securities.

"(2.) The last preceding  
tion of any foreign securities c



(c) by omitting paragraph (d) of sub-regulation (1.) and inserting in its stead the following paragraph:—

“(d) make an entry in a register in Australia that recognizes or gives effect to a transfer of any securities to a person resident out of Australia.”;

(d) by omitting from sub-regulation (2.) all words after the word “Australia”;

(e) by inserting in paragraph (b) of sub-regulation (3.), before the word “transfer”, the words “allot or”; and

(f) by inserting after sub-regulation (3.) the following sub-regulation:—

“(3A.) A person shall not receive any payment prohibited by paragraph (a) of sub-regulation (1.) of this regulation or by paragraph (a) of the last preceding sub-regulation.”.

6. Regulation 10 of the Banking (Foreign Exchange) Regulations is repealed.

Provision with respect to certain foreign corporations controlled from Australia.

7. Regulation 13 of the Banking (Foreign Exchange) Regulations is repealed.

Acquisition of foreign currency.

8. Regulation 15 of the Banking (Foreign Exchange) Regulations is amended by omitting from the definition of “the Minister” the words “Trade and Customs” and inserting in their stead the words “Customs and Excise”.

Definitions.

9. Regulation 19 of the Banking (Foreign Exchange) Regulations is amended by omitting sub-regulation (4.).

Applications for licences.

10. Regulation 23 of the Banking (Foreign Exchange) Regulations is amended by inserting in paragraph (b) of sub-regulation (1.), after the word “Minister”, the words “or the Bank”.

Terms and conditions of licences.

11. Regulation 27 of the Banking (Foreign Exchange) Regulations is repealed.

Licensee may be required to sell goods in certain circumstances.

12. Regulation 30 of the Banking (Foreign Exchange) Regulations is amended by omitting from sub-regulation (1.) the figures “, 27”.

Exercise of Minister's powers and functions by certain officers.

13.—(1.) Regulation 34 of the Banking (Foreign Exchange) Regulations is repealed and the following regulation inserted in its stead:—

“34.—(1.) Subject to the next succeeding sub-regulation, a person, other than the Bank or an agent of the Bank, shall not, without the authority of the Bank, acquire, dispose of or otherwise deal with any foreign securities.

Control of foreign securities.

“(2.) The last preceding sub-regulation does not apply to the acquisition of any foreign securities otherwise than for valuable consideration.”.

(2.) An authority given by the Commonwealth Bank of Australia under the regulation repealed by the last preceding sub-regulation has effect after the commencement of this regulation as if it were an authority given by the Reserve Bank of Australia under the regulation inserted in the Banking (Foreign Exchange) Regulations by that sub-regulation.

Declaration by  
travellers.

14. Regulation 36 of the Banking (Foreign Exchange) Regulations is amended by omitting sub-regulation (6.) and inserting in its stead the following sub-regulation:—

"(6.) In this regulation, 'officer' means a person who is an officer of Customs for the purposes of the *Customs Act* 1901-1959, an officer of the Department of Immigration or a member of the Police Force of the Commonwealth or of a State or Territory of the Commonwealth, and includes a person authorized by the Bank to act as an officer for the purposes of this regulation."

Power to  
obtain  
information.

15. Regulation 37 of the Banking (Foreign Exchange) Regulations is amended by omitting from sub-regulation (5.) the words "Trade and Customs" and inserting in their stead the words "Customs and Excise".

False  
statements.

16. Regulation 40 of the Banking (Foreign Exchange) Regulations is amended by omitting from paragraph (a) the words "Trade and Customs" and inserting in their stead the words "Customs and Excise".

First  
Schedule.

17. Form C in the First Schedule to the Banking (Foreign Exchange) Regulations is amended by omitting the words "His Majesty King George the Sixth in the sum of \_\_\_\_\_ pounds, to be paid to His Majesty and his successors." and inserting in their stead the words "the Commonwealth of Australia in the sum of \_\_\_\_\_ pounds, to be paid to the Commonwealth of Australia."

Second  
Schedule.

18. The Second Schedule to the Banking (Foreign Exchange) Regulations is repealed.

#### BANKING (GOLD) REGULATIONS.

STATUTORY RULES 1960, No. 9. (a)

Citation.

1. These Regulations may be cited as the Banking (Gold) Regulations.

Definition.

2. In these Regulations, "the Act" means the *Banking Act* 1959.

Delivery of  
gold.

3.—(1.) The prescribed amount for the purposes of paragraph (a) of sub-section (1.) of section 42 of the Act is Twenty-five pounds.

(2.) A person who is required, in pursuance of section 42 of the Act, to deliver gold, may deliver that gold to any person specified in the Schedule to these Regulations.

(a) Made under the *Banking Act* 1959 on 14th January, 1960; notified in the *Gazette* on 14th January, 1960.

4.—(1.) The Treasurer may (including any officer employed by a Government or by a local authority)

- (a) to furnish to the Treasurer directs other person required
- (b) to attend and give other person as

with respect to any act, transaction of the Act, or to which any person is required to produce all books, documents under his control relating to such

(2.) The Treasurer may be given on oath or affirmation for the purpose the Treasurer or person administer an oath.

(3.) A person shall not—

- (a) refuse or fail to comply with the summons of either court
- (b) with intent to evade, mutilate, deface, or destroy any other paper.

Penalty: One hundred pounds

(4.) Where a person is obliged by regulation, he shall not refuse to give the answer might tend to incriminate him but the answer given by him shall not be used in proceedings against him other than the answer or in respect of the offence

5.—(1.) In this regulation—

"officer" means a person for the purposes of the *Customs Act*, an officer of the Department of Immigration or a member of the Police Force of the Commonwealth, and includes a person authorized by the Reserve Bank to act as an officer for the purposes of this regulation;

"traveller" means a person

(2.) A traveller shall, if required,

- (a) declare whether or not he has any gold
- (b) produce any gold which he has

Penalty: One hundred pounds

(3.) An officer, and any person acting as a traveller and examine and search him for the purpose of ascertaining



## Statutory Rules

1975 No. 222

### REGULATIONS UNDER THE BANKING ACT 1959-1974.\*

WHEREAS the Banking (Foreign Exchange) Regulations made under the *Banking Act 1945-1953* were, by virtue of section 29 of the *Banking (Transitional Provisions) Act 1959* and an instrument under that section published in the *Gazette* on 14 January 1960, continued in force notwithstanding the repeal made by the *Banking Act 1959* and were amended as provided by that section:

AND WHEREAS those Regulations as so continued in force and amended were again continued in force by virtue of section 4 of the *Banking Act 1974* notwithstanding the repeal of section 39 of the *Banking Act 1959-1973* made by the *Banking Act 1974*:

AND WHEREAS, by section 4 of the *Banking Act 1974*, those Regulations as continued in force by that section may be amended or repealed by regulations under section 39 of the *Banking Act 1959-1974*:

AND WHEREAS, by section 39 of the *Banking Act 1959-1974*, it is provided that, where the Governor-General considers it expedient to do so for purposes related to—

- (a) foreign exchange or the foreign exchange resources of Australia;
- (b) the protection of the currency or the protection of the public credit or revenue of Australia; or
- (c) foreign investment in Australia, Australian investment outside Australia, foreign ownership or control of property in Australia or of Australian property outside Australia or Australian ownership or control of property outside Australia or of foreign property in Australia,

he may make regulations, not inconsistent with that Act, in accordance with that section:

AND WHEREAS I, the Governor-General of Australia, acting with the advice of the Executive Council, consider it expedient, for purposes related to the matters specified in paragraphs 39 (1) (a), (b) and (c) of the *Banking Act 1959-1974*, to make the following Regulations:

NOW THEREFORE I, the Governor-General, acting with the advice of the Executive Council, hereby make the following Regulations under the *Banking Act 1959-1974*.

Dated this twenty-second day of December, 1975.

JOHN R. KERR  
Governor-General.

By His Excellency's Command,

PHILLIP LYNCH  
Treasurer.

\* Notified in the *Australian Government Gazette* on 23 December 1975.

## AMENDMENTS OF THE BANKING (FOREIGN EXCHANGE) REGULATIONS\*

Repeal of  
regulation 3.

1. Regulation 3 of the Banking (Foreign Exchange) Regulations is repealed.

Control of  
certain  
payments and  
transactions.

2. Regulation 8 of the Banking (Foreign Exchange) Regulations is amended by omitting paragraph (d) of sub-regulation (1) and substituting the following paragraph:—

“(d) make an entry in a register in Australia that recognizes that a person who is not a resident is the holder of securities.”.

3. The Banking (Foreign Exchange) Regulations are amended by inserting after regulation 38 the following regulation:—

General  
authorities.

“38A. (1) The Bank may issue a general authority authorizing a person, or persons included in a class of persons, specified in the authority or all persons to do an act or thing, or acts or things, specified in the authority, the doing of which, except with the authority of the Bank, would otherwise be prohibited by these Regulations.

“(2) The provisions of these Regulations prohibiting the doing by a person of an act or thing, being an act or thing that the person is authorized to do by a general authority issued under sub-regulation (1), do not apply in relation to the doing of that act or thing by that person.”.

Authority of  
the Bank.

4. Regulation 39 of the Banking (Foreign Exchange) Regulations is amended by adding at the end thereof, the following sub-regulation:—

“(4) In this regulation, ‘authority’ includes a general authority issued under regulation 38A.”.

\* Statutory Rules 1946, No. 191, as amended by Statutory Rules 1947, Nos. 65 and 102; 1948, Nos. 39 and 165; 1950, No. 46; 1952, Nos. 15 and 80; 1953, No. 24; 1954, No. 96; 1960, No. 8; 1965, No. 168; 1967, No. 70; 1970, No. 130; 1973, Nos. 72 and 197; and 1974, Nos. 56, 97 and 265.

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under section 39

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AND WHERE  
acting with the  
poses related to  
the Banking Act

\* Notified in the

General  
auth



# TAXATION ADMINISTRATION ACT 1953

*Incorporating all amendments by legislation made to 31 May 1980*

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*Taxation Administration Act 1953*

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## FIRST SCHEDULE

Amendments of Acts

## SECOND SCHEDULE

Citation of Acts Amended



## TAXATION ADMINISTRATION ACT 1953

An Act to provide for the administration of certain Acts relating to Taxation, and for purposes connected therewith

### PART I—PRELIMINARY

Heading inserted  
by No. 133,  
1974, s. 3

1. This Act may be cited as the *Taxation Administration Act 1953*.<sup>1</sup>

Short title

2. (1) The Acts specified in the first column of the First Schedule to this Act are amended as respectively specified in the second column of that Schedule.<sup>2</sup>

Amendment  
of Acts

(2) An Act specified in the first column of the Second Schedule to this Act, as amended by this Act, may be cited in the manner specified in the second column of that Schedule opposite to the reference to that Act in the first column.

(3) The *Social Services Contribution Assessment Act 1945-1948*, in so far as it is in force by virtue of section thirty-four of the *Income Tax and Social Services Contribution Assessment Act 1950*, has effect as if—

Amended by  
No. 95, 1959, s. 3

(a) after the definition of “contributor” in sub-section (1) of section five the following definition were inserted:

“‘Deputy Commissioner’ means a Deputy Commissioner of Taxation referred to in the *Taxation Administration Act 1953*;”; and

(b) the definitions of “the Commissioner” and “the Second Commissioner” in sub-section (1) of section five were omitted and the following definitions were inserted in their stead:

“‘the Commissioner’ means the Commissioner of Taxation holding office under the *Taxation Administration Act 1953-1959*;

## s. 2

“ ‘the Second Commissioner’ means a Second Commissioner of Taxation holding office under the *Taxation Administration Act 1953-1959*; ”.

Interpretation

Amended by  
No. 95, 1959,  
s. 4; No. 59,  
1979, s. 3

3. In all Acts, whether passed before or after the commencement of this Act, including this Act, unless the contrary intention appears—

“Deputy Commissioner of Taxation” means a Deputy Commissioner of Taxation referred to in this Act;

“Second Commissioner of Taxation” means a Second Commissioner of Taxation holding office under this Act;

“the Commissioner of Taxation” means the Commissioner of Taxation holding office under this Act.

Heading inserted  
by No. 133,  
1974, s. 4

## PART II—COMMISSIONER OF TAXATION, SECOND COMMISSIONERS OF TAXATION AND DEPUTY COMMISSIONERS OF TAXATION

Commissioner  
and Second  
Commissioners of  
Taxation

Amended by  
No. 95, 1959, s. 5

4. There shall be a Commissioner of Taxation and two Second Commissioners of Taxation, who shall be appointed by the Governor-General.

Tenure and  
salary of  
Commissioner  
and Second  
Commissioners

Sub-section (1)  
amended by  
No. 95, 1959, s. 6

5. (1) The Commissioner of Taxation and each Second Commissioner of Taxation shall, subject to the next succeeding subsection, be appointed for terms of seven years respectively and shall be eligible for re-appointment.

Amended by  
No. 95, 1959, s. 6

(2) If the person who is appointed Commissioner of Taxation or a Second Commissioner of Taxation is, at the time of his appointment or re-appointment, over fifty-eight years of age, the term of his appointment or re-appointment shall be the period which will expire upon his attaining the age of sixty-five years.

Amended by  
No. 95, 1959, s. 6

(3) The Commissioner of Taxation and the Second Commissioners of Taxation are not subject to the *Public Service Act 1922-1953*.

Amended by  
No. 95, 1959, s. 6

(4) In the event of the illness, absence or suspension of the Commissioner of Taxation or of a Second Commissioner of Taxation, or in the event of a vacancy in the office of the Commissioner of Taxation or of a Second Commissioner of Taxation, the Governor-General may



s. 5

appoint a person to be Acting Commissioner of Taxation or Acting Second Commissioner of Taxation, as the case may be, during the illness, absence or suspension of, or until the filling of the vacancy in the office of, the Commissioner of Taxation or the Second Commissioner of Taxation.

(5) An Acting Commissioner of Taxation or an Acting Second Commissioner of Taxation has all the powers, and may perform all the functions and duties, of the Commissioner of Taxation or of a Second Commissioner of Taxation, as the case may be.

Amended by  
No. 95, 1959, s. 6

\* \* \* \* \*

Sub-section (6)  
omitted by  
No. 133, 1974,  
s. 5

5A. (1) The Commissioner of Taxation and the Second Commissioners of Taxation shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, they shall be paid remuneration at the respective rates that were applicable immediately before the commencement of this section.

Remuneration and allowances of Commissioner and Second Commissioners

(2) The Commissioner of Taxation and the Second Commissioners of Taxation shall be paid such allowances as are prescribed.

Inserted by  
No. 133, 1974,  
s. 6

(3) This section has effect subject to the *Remuneration Tribunals Act* 1973-1974.

6. (1) The Commissioner of Taxation or a Second Commissioner of Taxation may be suspended from office by the Governor-General.

Suspension or removal of Commissioner or Second Commissioner

(2) The Minister shall cause to be laid before each House of the Parliament a statement of the grounds of suspension within seven sitting days of that House after the suspension.

Sub-section (1)  
amended by  
No. 95, 1959, s. 7

(3) The Commissioner of Taxation or the Second Commissioner of Taxation, as the case may be, shall be restored to office by the Governor-General unless each House of the Parliament, within fifteen sitting days of that House after the statement has been laid before it, declares by resolution that the Commissioner of Taxation or the Second Commissioner of Taxation, as the case may be, ought to be removed from office.

(4) If each House within that time so declares, the Commissioner of Taxation or the Second Commissioner of Taxation, as the case may be, shall be removed from office by the Governor-General accordingly.

(5) The Commissioner of Taxation or a Second Commissioner of Taxation shall not be removed from office except as provided by this section.

Amended by  
No. 95, 1959, s. 7

## s. 6A

References  
to Second  
Com-  
missioners  
Inserted by  
No. 95, 1959, s. 8

6A. Any reference in an Act (other than this Act or the *Social Services Contribution Assessment Act 1945-1948*, in so far as it is in force by virtue of section thirty-four of the *Income Tax and Social Services Contribution Assessment Act 1950*), or in regulations under an Act, to the Second Commissioner of Taxation shall be read as a reference to a Second Commissioner of Taxation.

Deputy  
Com-  
missioners of  
Taxation

7. There shall be such Deputy Commissioners of Taxation as are required.

Delegation  
Sub-section (1)  
amended by  
No. 133, 1974,  
s. 7

8. (1) The Commissioner of Taxation may, in relation to a matter or class of matters, or in relation to a State or part of the Commonwealth, by writing under his hand, delegate to a Deputy Commissioner of Taxation or other person all or any of his powers or functions under this Act or an Act which is an Act with respect to taxation (except this power of delegation).

(2) A power or function so delegated may be exercised or performed by the delegate with respect to the matter or to the matters included in the class of matters, or with respect to the State or part of the Commonwealth, specified in the instrument of delegation.

(3) Where, under any Act, the exercise of a power or function by the Commissioner of Taxation is dependent upon the opinion, belief or state of mind of the Commissioner of Taxation in relation to a matter and that power or function has been delegated in pursuance of this Act, that power or function may be exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.

(4) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Commissioner of Taxation.

(5) A delegation under this section may be made subject to a power of review and alteration by the Commissioner of Taxation, within a period specified in the instrument of delegation, of acts done in pursuance of the delegation and a decision given upon such a review or alteration shall be deemed to be the decision of the Commissioner of Taxation.



# TAXATION ADMINISTRATION ACT 1960

*Reprinted as at 30 June 1984*

## TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Extension of term of office of Commissioner of Taxation

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An Act to extend the Term of Office of the Commissioner of Taxation

### Short title

1. This Act may be cited as the *Taxation Administration Act 1960*.<sup>1</sup>

### Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup>

### Extension of term of office of Commissioner of Taxation

3. Notwithstanding the provisions of sub-sections (1) and (2) of section five of the *Taxation Administration Act 1953-1959* but subject to the other provisions of that Act, the Commissioner of Taxation holding office at the date of commencement of this Act shall continue in his office until and including the third day of April, One thousand nine hundred and sixty-one, being the day next preceding the sixty-sixth anniversary of his birth.

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### NOTE

1. Act No. 1, 1960; assented to and commenced 31 March 1960.

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## s. 14A

PART IV—EXCHANGE CONTROL—TAXATION  
CERTIFICATESPart IV inserted  
by No. 133,  
1974, s. 10**14A.** In this Part, unless the contrary intention appears—

Interpretation

“Australian tax” means tax imposed by a law of Australia or of a Territory;

Inserted by  
No. 133, 1974,  
s. 10; amended  
by No. 19, 1979,  
s. 109“Board of Review” means a Board of Review constituted under the *Income Tax Assessment Act* 1936-1974;

“Commissioner” means the Commissioner of Taxation;

“Deputy Commissioner” means a Deputy Commissioner of Taxation;

“tax clearance certificate” or “certificate” means a certificate issued under section 14C;

“Reserve Bank” or “Bank” means the Reserve Bank of Australia;

“Second Commissioner” means a Second Commissioner of Taxation;

“Supreme Court” means—

(a) the Supreme Court of a State; or

(b) the Supreme Court of the Australian Capital Territory or the Supreme Court of the Northern Territory of Australia, being a Court having jurisdiction in the proceedings concerned;

“taxation law” means a law of Australia or of a Territory imposing a tax or otherwise dealing with Australian tax.

**14B.** Where—Applications  
for issue of  
certificates(a) a person proposes to do an act or thing the doing of which, without the authority of the Reserve Bank, is prohibited by regulations made under section 39 of the *Banking Act* 1959-1974; andInserted by  
No. 133, 1974,  
s. 10(b) by virtue of paragraph (a) of sub-section (1) of section 39B of that Act, the Bank is not permitted to grant that authority unless there is produced to the Bank, in respect of that act or thing, a certificate issued under section 14C of this Act, or the Bank has, under paragraph (b) of sub-section (1) of section 39B of the *Banking Act* 1959-1974, refused to grant that authority unless there is produced to the Bank such a certificate,

the person may apply in writing to the Commissioner for the issue of a tax clearance certificate under section 14C of this Act in respect of that act or thing.

**14C.** (1) Where—Issue of  
certificates

(a) application is made to the Commissioner under section 14B for the issue of a tax clearance certificate in respect of an act or thing proposed to be done by the applicant; and

Inserted by  
No. 133, 1974,  
s. 10

## s. 14C

- (b) the Commissioner is not authorized by section 14D to refuse to issue the certificate or, if he is so authorized, he is of the opinion that it is not necessary, for the purpose of protecting the revenue of Australia, to withhold the issue of the certificate,

then, subject to sub-section (2), the Commissioner shall issue the certificate.

(2) The Commissioner may, before issuing a certificate under sub-section (1), require the applicant, or any other person or persons, to give to the Commissioner such undertaking or such undertakings in relation to the proposed act or thing as the Commissioner considers necessary for the purpose of protecting the revenue of Australia, being an undertaking or undertakings which the Commissioner is satisfied will be carried out.

(3) The Commissioner may require any person who gives, or any persons who give, an undertaking for the purposes of sub-section (2) to agree to pay to Australia in the event of a breach of the undertaking such amount as is specified in, or is to be ascertained in accordance with, the undertaking and, if a court is satisfied that a breach of the undertaking given for the purposes of sub-section (2) has occurred, the court may order the person, or all or any of those persons, as the case may be, to pay to Australia, as a debt due to Australia, such amount, not exceeding the amount so specified or to be ascertained, as the court determines to be appropriate having regard to all relevant matters, including the nature of the undertaking, the nature and extent of the breach, the circumstances in which the breach took place and the nature and extent of any benefit or advantage in relation to the application or operation of a taxation law which will be, or may reasonably be expected to be, received or obtained, or has been, or could reasonably have been expected to have been, received or obtained, by that person, by one or more of those persons, or by any other person, as a result or by virtue of the breach.

(4) A court may, for the purposes of sub-section (3), treat a person as a person who will receive or obtain or has received or obtained, as a result or by virtue of a breach of an undertaking, a benefit or advantage in relation to the application or operation of a taxation law, being a taxation law with respect to a tax on incomes, if the person has not become, or could not reasonably be expected to have become, or will not become, or may not reasonably be expected to become, liable to pay tax or the liability of the person to pay tax has been, or could reasonably be expected to have been, or will be, or may reasonably be expected to be, reduced, by reason that—

- (a) the person has not, or could not reasonably be expected to have, derived, or will not, or may not reasonably be expected to, derive income that the person would have, or could reasonably be expected to have, derived, or will, or could reasonably be expected to, derive, if the breach had not taken place; or

## s. 14C

- (b) the person has, or could reasonably be expected to have, incurred, or will, or may reasonably be expected to, incur, a loss or outgoing that the person would not have, or could not reasonably be expected to have, incurred, or will not, or may not reasonably be expected to, incur, if the breach had not taken place,

but this sub-section shall not be taken as limiting the generality of sub-section (3).

(5) The Commissioner may institute a proceeding in any court, being a court having jurisdiction in proceedings for the recovery of debts up to an amount of not less than the amount that could be recovered in that proceeding, for the recovery on behalf of Australia of a debt referred to in sub-section (3).

**14D.** (1) Where application is made to the Commissioner under section 14B for the issue of a tax clearance certificate in respect of an act or thing proposed to be done by the applicant, the Commissioner may refuse to issue the certificate if the applicant does not satisfy the Commissioner that the act or thing will not, or may not reasonably be expected to, involve or assist in, or be associated with, the avoidance or evasion, whether in Australia or elsewhere, of Australian tax by the applicant or by another person and, without limiting the generality of the foregoing, does not satisfy the Commissioner that—

Grounds on which issue of certificates may be refused  
Inserted by  
No. 133, 1974,  
s. 10

- (a) a person (whether or not the applicant), either alone or in association with another person and whether in Australia or elsewhere, as a result or by virtue of the doing of the proposed act or thing or of an associated act or thing proposed to be done or done—

- (i) will not, or may not reasonably be expected to, receive or obtain; or
  - (ii) has not, or could not reasonably be expected to have, received or obtained,

a benefit or advantage in relation to the application or operation of a taxation law, and the act or thing, or the associated act or thing—

- (iii) would not be done, or could not reasonably be expected to be done, or done in the same form or in the same way; or
    - (iv) would not have been done, or could not reasonably have been expected to have been done, or done in the same form or in the same way,

but for that benefit or advantage; and

- (b) as a result or by virtue of the doing of the proposed act or thing or an associated act or thing proposed to be done or done, an amount of Australian tax that will become, or may reasonably

## s. 14D

be expected to become, or has become, or could reasonably be expected to have become, payable will not be, or may not reasonably be expected to be, or has not been, or could not reasonably be expected to have been, able to be collected.

(2) A person may, for the purposes of sub-section (1), be treated as a person who will receive or obtain or has received or obtained, as a result or by virtue of the doing of an act or thing, a benefit or advantage in relation to the application or operation of a taxation law, being a taxation law with respect to a tax on incomes, if the person has not become, or could not reasonably be expected to have become, or will not become, or may not reasonably be expected to become, liable to pay tax or the liability of the person to pay tax has been, or could reasonably be expected to have been, or will be, or may reasonably be expected to be, reduced, by reason that—

- (a) the person has not, or could not reasonably be expected to have, derived, or will not, or may not reasonably be expected to, derive income that the person would have, or could reasonably be expected to have, derived, or will, or could reasonably be expected to, derive, if the act or thing had not been, or were not, done; or
- (b) the person has, or could reasonably be expected to have, incurred, or will, or may reasonably be expected to, incur, a loss or outgoing that the person would not have, or could not reasonably be expected to have, incurred, or will not, or may not reasonably be expected to, incur, if the act or thing had not been, or were not, done,

but this sub-section shall not be taken as limiting the generality of sub-section (1).

(3) For the purposes of this section—

- (a) the Commissioner may have regard to arrangements, understandings and practices not having legal force in the same manner as if they had legal force; and
- (b) the fact that an act or thing is, forms part of or relates to an ordinary commercial or family dealing is irrelevant.

(4) Where the Commissioner refuses to issue a tax clearance certificate, he shall cause to be served on the applicant for the issue of the certificate notice of the refusal.

**14E.** (1) A Second Commissioner has all the powers and may perform all the functions of the Commissioner under this Part.

(2) The exercise of a power or the performance of a function of the Commissioner under this Part by a Second Commissioner does not prevent the exercise of that power or the performance of that function by the Commissioner.



## s. 14E

(3) The Commissioner has, in relation to an act of a Second Commissioner, the same powers as if that act were done by himself.

(4) Where, under this Part, the exercise of a power or the performance of a function is dependent upon the opinion, belief or state of mind of the Commissioner in relation to a matter, that power may be exercised or that function performed by a Second Commissioner upon the opinion, belief or state of mind of that Second Commissioner in relation to that matter.

(5) A reference in this Part to the Commissioner shall be deemed to include, in respect of matters as to which a Second Commissioner has exercised a power or performed a function of the Commissioner conferred upon him by this Part, a reference to that Second Commissioner.

14F. (1) In this section, unless the contrary intention appears, "officer" means—

Secrecy  
Inserted by  
No. 133, 1974,  
s. 10

- (a) a person who is or has been appointed or employed in the service of Australia; or
- (b) any person to whom powers or functions have been delegated by the Commissioner under this Act,

and who, by reason of that appointment or employment or in the course of that employment, or by reason of, or in the course of carrying out powers and functions under, the delegation, as the case may be, may acquire or has acquired information with respect to the affairs of any other person disclosed or obtained under this Part.

(2) Subject to this section, an officer shall not, either directly or indirectly, except for the purposes of this Part or otherwise in the performance of his duties as an officer, and either while he is, or after he ceases to be, an officer, make a record of, or divulge or communicate to any person, any information acquired by him by reason of, or in the course of, carrying out powers or functions under this Part, with respect to the affairs of any other person disclosed or obtained under this Part.

Penalty: \$1,000 or imprisonment for 1 year.

(3) An officer shall not be required to produce in court any application, certificate, undertaking or other document made or given under or for the purposes of this Part, or to divulge or communicate to a court a matter or thing that has come to his notice in the performance of his duties as an officer under this Part, except when it is necessary to do so for the purpose of carrying into effect the provisions of this Part.

(4) Nothing in this section prevents the Commissioner, a Second Commissioner, a Deputy Commissioner or a person authorized by the Commissioner, a Second Commissioner or a Deputy Commissioner, from communicating any information to—

- (a) a Board of Review; or

## s. 14F

- (b) a person performing, as an officer, a function or duty arising under an Act administered by the Commissioner, for the purpose of enabling that person to carry out that function or duty.

(5) Any person to whom information is communicated under subsection (4) and any other person under his control are, in respect of that information, entitled to rights and privileges and subject to obligations and liabilities under sub-sections (2) and (3) as if they were officers.

(6) An officer shall, if and when required by the Commissioner, a Second Commissioner or a Deputy Commissioner to do so, make an oath or declaration, in a manner and form approved by the Commissioner, to maintain secrecy in conformity with the provisions of this section.

(7) Any reference in a provision of an Act administered by the Commissioner, being a provision that relates to the observing of secrecy by persons who are officers for the purposes of that provision, to any other Act administered by the Commissioner shall be read as including a reference to this Part.

## Objections

Inserted by  
No. 133, 1974,  
s. 10

**14G.** (1) Where an application is made under section 14B for the issue of a tax clearance certificate and the application is refused, the applicant may, within 60 days after service on him of notice of the refusal, post to or lodge with the Commissioner an objection in writing against the refusal stating fully and in detail the grounds on which he relies.

(2) The Commissioner shall consider the objection, and may either disallow it or allow it.

(3) The Commissioner shall cause to be served on the objector notice of his decision.

(4) A person who is dissatisfied with the decision of the Commissioner on an objection by that person may, within 60 days after service on him of notice of that decision, request the Commissioner, in writing, to refer the decision to a Board of Review for review.

References  
to Board of  
Review and  
appeals and  
references to  
courts

Inserted by  
No. 133, 1974,  
s. 10

**14H.** (1) Where a person has, in accordance with sub-section (4) of section 14G, requested the Commissioner to refer a decision to a Board of Review, the Commissioner shall, if the person's request is accompanied by a fee of \$2, refer the decision to a Board of Review as soon as is practicable after receipt of the request.

(2) On the review—

- (a) the person who made the request is limited to the grounds stated in his objection; and
- (b) the burden of proving that the issue of a tax clearance certificate should not have been refused lies on that person.

## s. 14H

(3) A Board of Review has power to review a decision referred to it under sub-section (1), and for the purpose of reviewing such a decision, a Board of Review has all the powers and functions of the Commissioner under this Part in relation to an application made under section 14B for the issue of a tax clearance certificate, and the Board may confirm the decision of the Commissioner or give directions to the Commissioner to issue a tax clearance certificate, being directions which may specify any undertaking or undertakings to be given for the purposes of sub-section (2) of section 14C.

(4) Upon the request of the Commissioner or the person who requested the review, the Board shall, when giving its decision, state in writing its findings of fact and its reasons in law for the decision.

(5) The Commissioner or the person who requested a review by a Board of Review may, within 30 days after the date of the decision, appeal to a Supreme Court from any decision of the Board under this section which involves a question of law. Substituted by No. 19, 1979, s. 110

(6) The Board of Review shall, upon the request of the Commissioner or the person who requested a review by the Board, refer any question of law arising before the Board of Review to such Supreme Court as is agreed upon by the parties or, in the absence of agreement, to such Supreme Court as the Board of Review considers appropriate. Substituted by No. 19, 1979, s. 110

(6A) An appeal or reference to a Supreme Court under this section shall be heard by a single Judge of the Court. Inserted by No. 19, 1979, s. 110

(6B) Except as provided in sub-section (6C), an appeal does not lie from the decision of a Supreme Court constituted by a single Judge on an appeal or reference under this section. Inserted by No. 19, 1979, s. 110

(6C) The Commissioner or the person who requested a review by the Board of Review may appeal against the decision of a Supreme Court on an appeal or reference under this section— Inserted by No. 19, 1979, s. 110

- (a) by leave of the Federal Court of Australia, to that Court; or
- (b) by special leave of the High Court, to that Court.

(6D) An appeal does not lie from a decision of the Federal Court of Australia in a matter under this section unless the High Court gives special leave to appeal. Inserted by No. 19, 1979, s. 110

(7) If a tax clearance certificate is issued as a result of a reference to a Board of Review under sub-section (1) (whether or not there is an appeal or reference to a Supreme Court under sub-section (5) or (6)), the fee paid in accordance with sub-section (1) in respect of the reference to the Board of Review shall be refunded to the person who requested the review. Amended by No. 19, 1979, s. 110

## s. 14HA

Jurisdiction  
of Supreme  
Courts of  
Territories

Inserted by  
No. 19, 1979,  
s. 111

**14HA.** (1) Jurisdiction under section 14H is conferred on the Supreme Court of the Australian Capital Territory or the Supreme Court of the Northern Territory of Australia only in a proceeding arising out of an application made under section 14B by a person who, at the time of the institution of the proceeding—

- (a) in the case of an individual—was ordinarily resident in the Australian Capital Territory or the Northern Territory, as the case may be; or
- (b) in the case of a company—had its principal place of business in the Australian Capital Territory or the Northern Territory, as the case may be.

(2) In this section, “the Australian Capital Territory” includes the Jervis Bay Territory.

Transfer of  
proceedings

Inserted by  
No. 19, 1979,  
s. 111

**14HB.** (1) A Supreme Court in which proceedings under section 14H have been instituted (whether it has jurisdiction in the proceedings or not) may, if the Court thinks fit, upon the application of a party made at any stage in the proceedings, by order, transfer the proceedings to another Supreme Court having jurisdiction under that section.

(2) Where proceedings are transferred from a Court in pursuance of this section—

- (a) all documents filed of record in that Court shall be transmitted by the Registrar or other proper officer of that Court to the Registrar or other proper officer of the Court to which the proceedings are transferred; and
- (b) the Court to which the proceedings are transferred shall proceed as if the proceedings had been originally instituted in that Court and as if the same proceedings had been taken in that Court as had been taken in the Court from which the proceedings were transferred.

Com-  
missioner  
may obtain  
information  
and evidence

Inserted by  
No. 133, 1974,  
s. 10

**14I.** (1) For the purposes of this Part, the Commissioner may, by notice in writing, require any person, whether an applicant for a certificate or not, including any officer employed in or in connexion with any department of a government or by any public authority—

- (a) to furnish the Commissioner with such information as the Commissioner requires;
- (b) to attend before the Commissioner, or before an officer authorized by the Commissioner for the purpose, at a time and place specified in the notice, and then and there answer questions; and
- (c) to produce to the Commissioner any books, documents and other papers in the custody or under the control of the person.

## s. 14I

(2) The Commissioner may cause copies to be made of, or extracts to be taken from, any books, documents or other papers which are produced to the Commissioner in pursuance of paragraph (c) of sub-section (1).

(3) A person, not being the applicant for the issue of a tax clearance certificate, who, in relation to an application for the issue of a certificate, is required in pursuance of paragraph (b) of sub-section (1) to attend before the Commissioner or an officer authorized by the Commissioner is entitled to payment of an allowance in respect of his expenses of an amount determined by the Commissioner in accordance with the regulations.

**14J.** (1) For the purposes of this Part, an officer authorized by the Commissioner to exercise powers under this section—

- (a) may, at all reasonable times, enter upon any land;
- (b) shall have full and free access at all reasonable times to all books, documents and other papers; and
- (c) may take extracts from, and make copies of, any books, documents or other papers.

Access to  
books, &c.  
Inserted by  
No. 133, 1974,  
s. 10

(2) An officer who enters upon land in pursuance of sub-section (1) is not authorized to remain on the land if, on request by the occupier of the land, he does not produce a certificate issued by the Commissioner certifying that he is an officer authorized to exercise powers under sub-section (1).

**14K.** (1) A person who—

- (a) fails or neglects to comply with a requirement of the Commissioner as and when required under sub-section (1) of section 14I;
- (b) without just cause or excuse shown by him, refuses or neglects to attend and answer questions when required by the Commissioner or an officer authorized by him, or to answer truly and fully any questions put to him, or to produce a book, document or other paper required of him, by the Commissioner or any such officer; or
- (c) makes in, or in connexion with, an application under section 14B a statement that is false or misleading in a material particular, or makes a false or misleading answer, whether orally or in writing, to a question put to him by the Commissioner or an officer authorized by the Commissioner,

Offences  
Inserted by  
No. 133, 1974,  
s. 10

is guilty of an offence punishable, on conviction, by a fine not exceeding \$500 or imprisonment for a period not exceeding 6 months.

(2) Upon the conviction of a person for an offence against paragraph (a) or (b) of sub-section (1), the court may order him, within a time specified in the order, to do the act which he has failed, refused or

## s. 14k

neglected to do, and a person who does not comply with such an order is guilty of an offence punishable, on conviction, by a fine not exceeding \$1,000 or imprisonment for a period not exceeding 1 year.

(3) An order under sub-section (2) may be given orally by the court to the defendant, or may be in writing and served in such manner as is prescribed.

Application  
of Part  
outside  
Australia

Inserted by  
No. 133, 1974,  
s. 10

14L. This Part applies both within and without Australia.

Jurisdiction  
of courts

Inserted by  
No. 133, 1974,  
s. 10

14M. (1) A provision of the *Judiciary Act* 1903-1973 by which a court of a State is invested with jurisdiction with respect to offences against the laws of Australia has effect, in relation to offences against this Part not committed within any State, as if that jurisdiction were so invested without limitation as to locality.

(2) Subject to the Constitution, jurisdiction is conferred on the several courts of a Territory, within the limits of their several jurisdictions other than limits as to locality, with respect to offences against this Part not committed within a State or within another Territory.

(3) The trial on indictment of an offence against this Part not committed within a State may be held by a court of competent jurisdiction at any place where the court may sit.

Notices

Inserted by  
No. 133, 1974,  
s. 10

14N. A notice that is required or permitted by this Part, or the regulations made for the purposes of this Part, to be given to or served on a person by the Commissioner may, without prejudice to any other method of service, be given or served personally, or by post addressed to the person at his place of residence or business last known to the Commissioner or at an address that, under the regulations, is his address for service for the purposes of this Part.

Report by  
Com-  
missioner

Inserted by  
No. 133, 1974,  
s. 10

14O. (1) The Commissioner shall furnish to the Treasurer annually for presentation to the Parliament a report on the operation of this Part.

(2) In the report the Commissioner shall draw attention to any breaches or evasions of this Part, or breaches of undertakings given for the purposes of sub-section (2) of section 14C, which have come under his notice.

Practice and  
procedure of  
Supreme  
Courts

Inserted by No.  
19, 1979, s. 112

14P. (1) Until regulations have been made under this Act for or in relation to the practice and procedure of a Supreme Court in proceedings to which this section applies, and so far as regulations so made do not make adequate provision, the High Court Rules as in force under the *Judiciary Act* 1903 immediately before the date of commencement of this

s. 14P

section apply, so far as practicable, to and in relation to a proceeding to which this section applies in like manner as they applied immediately before that date to and in relation to the like proceeding in the High Court.

- (2) This section applies to a proceeding in a Supreme Court, being—
- (a) an appeal under this Part to that Supreme Court; or
  - (b) a reference under this Part of a question of law to that Supreme Court.

## PART V—MISCELLANEOUS

15. If the Commissioner of Taxation or a Second Commissioner of Taxation was, immediately before his appointment, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act* 1928-1973 applied—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service as the Commissioner of Taxation or a Second Commissioner of Taxation shall be taken into account as if it were service in the Australian Public Service; and
- (c) the *Officers' Rights Declaration Act* 1928-1973 applies as if this Act and this section had been specified in the Schedule to that Act.

Heading inserted  
by No. 133,  
1974, s. 11

Officers'  
Rights  
Declaration  
Act

Substituted by  
No. 133, 1974,  
s. 11; amended  
by No. 59, 1979,  
s. 5

\* \* \* \* \*

Section 16  
repealed by  
No. 216, 1973,  
s. 3

17. (1) In this section—

“decimal currency” means the currency provided for by the *Currency Act* 1965;

“law of the Commonwealth” has the same meaning as in section 10 of the *Currency Act* 1965;

“officer” means the Commissioner of Taxation, a Second Commissioner of Taxation, an officer of the Public Service of the Commonwealth or a person employed under Division 10 of Part III of the *Public Service Act* 1922-1964;

“taxation law” means any law of the Commonwealth of which the Commissioner of Taxation has the general administration;

“the previous currency” means the currency provided for by the *Coinage Act* 1909-1947.

Powers of  
taxation  
officers in  
relation to  
references to  
currency, &c.

Inserted by  
No. 155, 1965,  
s. 3

## s. 17

(2) An officer may, in the exercise of, or for the purpose of exercising, any power under a taxation law or in the performance of, or for the purpose of performing, any function under a taxation law—

(a) treat—

- (i) a reference in a law of the Commonwealth;
- (ii) a reference in a bill of exchange, promissory note, security for money, contract or agreement (whether the contract or agreement is in writing or not), deed or other instrument; or
- (iii) a reference in any other manner,

to an amount of money in the previous currency as a reference to a corresponding amount of money in decimal currency and treat such a reference to an amount of money in decimal currency as a reference to a corresponding amount of money in the previous currency;

- (b) treat an amount of money in the previous currency as a corresponding amount of money in decimal currency and treat an amount of money in decimal currency as a corresponding amount of money in the previous currency; and
- (c) express an amount of money in either decimal currency or the previous currency.

(3) For the purposes of paragraphs (a), (b) and (c) of the last preceding sub-section—

- (a) the amount of money in decimal currency that corresponds with an amount of money in the previous currency; and
- (b) the amount of money in the previous currency that corresponds with an amount of money in decimal currency,

shall be calculated on the basis of the equivalents specified in sub-section (4) of section 8 of the *Currency Act* 1965.

**Regulations**

Inserted by  
No. 133, 1974,  
s. 12; amended  
by No. 19, 1979,  
s. 113

**18.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act, and, in particular—

- (a) for and in relation to the practice and procedure of a Supreme Court in proceedings to which section 14P applies; and
  - (b) prescribing penalties, by way of fines not exceeding \$250, for offences against the regulations.
-



## THE SCHEDULES

FIRST SCHEDULE<sup>2</sup>  
AMENDMENTS OF ACTS

Section 2 (1)

\* \* \* \* \*

SECOND SCHEDULE  
CITATION OF ACTS AMENDED

Section 2 (2)

First Column	Second Column
<i>Gift Duty Assessment Act</i> 1941-1950	<i>Gift Duty Assessment Act</i> 1941-1953
<i>Officers' Rights Declaration Act</i> 1928-1940	<i>Officers' Rights Declaration Act</i> 1928-1953
<i>Sales Tax Assessment Act</i> (No. 1) 1930-1942	<i>Sales Tax Assessment Act</i> (No. 1) 1930-1953
<i>Sales Tax Procedure Act</i> 1934-1940	<i>Sales Tax Procedure Act</i> 1934-1953
<i>Stevedoring Industry Charge Assessment Act</i> 1947	<i>Stevedoring Industry Charge Assessment Act</i> 1947-1953
<i>War-time (Company) Tax Assessment Act</i> 1940-1947	<i>War-time (Company) Tax Assessment Act</i> 1940-1953
<i>Wool Tax Assessment Act</i> 1936-1952	<i>Wool Tax Assessment Act</i> 1936-1953

Amended by  
No. 28, 1953,  
s. 1; No. 39,  
1953, s. 5;  
No. 40, 1953,  
s. 1; No. 52,  
1953, s. 1

## NOTES

1. The *Taxation Administration Act* 1953 (a) as shown in this reprint comprises Act No.1, 1953 as amended by the other Acts specified in the following table:

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Taxation Administration Act</i> 1953	1, 1953	4 Mar 1953	1 Apr 1953	
<i>Income Tax and Social Services Contribution Assessment Act</i> 1953	28, 1953	15 Apr 1953	15 Apr 1953	—
<i>Entertainments Tax Abolition Act</i> 1953 (b)	39, 1953	30 Sept 1953	1 Oct 1953	—
<i>Pay-roll Tax Assessment Act</i> 1953	40, 1953	2 Oct 1953	1 Oct 1953	—
<i>Estate Duty Assessment Act</i> 1953	52, 1953	28 Oct 1953	28 Oct 1953	—
<i>Salaries Adjustment Act</i> 1955	18, 1955	10 June 1955	10 June 1955	S. 3 (2)
<i>Salaries (Statutory Offices) Adjustment Act</i> 1957 (b)	39, 1957	12 Sept 1957	1 July 1957	—
<i>Taxation Administration Act</i> 1959	95, 1959	4 Dec 1959	4 Dec 1959	—
<i>Salaries (Statutory Offices) Adjustment Act</i> 1960 (b)	17, 1960	17 May 1960	17 May 1960 (c)	—
<i>Salaries (Statutory Offices) Adjustment Act</i> 1964 (b)	75, 1964	5 Nov 1964	5 Nov 1964 (d)	—
<i>Taxation Administration Act</i> 1965	155, 1965	18 Dec 1965	14 Feb 1966	—
<i>Statute Law Revision (Decimal Currency) Act</i> 1966	93, 1966	29 Oct 1966	1 Dec 1966	—

## NOTES—continued

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Salaries Act 1968 (b)</i>	120, 1968	2 Dec 1968	2 Dec 1968 (e)	—
<i>Statute Law Revision Act 1973</i>	216, 1973	19 Dec 1973	31 Dec 1973	Ss. 9 (1) and 10
<i>Taxation Administration Act 1974</i>	133, 1974	9 Dec 1974	Ss. 1 and 2: Royal Assent Ss. 3, 4, 7, 8, 10, 11 and 12: 23 Dec 1974 (see <i>Gazette</i> 1974, No. 103D, p. 1) Remainder (ss. 5, 6 and 9): 1 July 1976 (see <i>Gazette</i> 1976, No. S107, p. 1)	S. 9 (2)
<i>Jurisdiction of Courts (Miscellaneous Amendments) Act 1979</i>	19, 1979	28 Mar 1979	Parts II-XVII (ss. 3-123): 15 May 1979 (see <i>Gazette</i> 1979, No. S86, p. 1) Remainder: Royal Assent	Ss. 110 (2) and 125-127
<i>Taxation Administration Amendment Act 1979</i>	59, 1979	15 June 1979	15 June 1979	—

- (a) This citation is provided for by the *Amendments Incorporation Act 1905* and the *Acts Citation Act 1976*.
- (b) The *Entertainments Tax Abolition Act 1953*, the *Salaries (Statutory Offices) Adjustment Act 1957*, the *Salaries (Statutory Offices) Adjustment Act 1960*, the *Salaries (Statutory Offices) Adjustment Act 1964* and the *Salaries Act 1968* were repealed by section 7 of the *Statute Law Revision Act 1973*. That section provides that the repeals do not affect the operation of any amendment made by a repealed Act.
- (c) Section 2 of this Act provides that the amendments made by this Act shall be deemed to have taken effect on 3 December 1959.
- (d) Section 2 of this Act provides that the amendments made by this Act shall be deemed to have taken effect on 1 November 1964.
- (e) Section 2 of this Act provides that the amendments made by this Act shall be deemed to have taken effect on 1 December 1968.

2. S. 2 (1) and First Schedule—Sub-section 2 (1) and the First Schedule amended the following Acts:

*Entertainments Tax Assessment Act 1942-1949*  
*Estate Duty Assessment Act 1914-1950*  
*Gift Duty Assessment Act 1941-1950*  
*Income Tax and Social Services Contribution Assessment Act 1936-1952*  
*Officers' Rights Declaration Act 1928-1940*  
*Pay-roll Tax Assessment Act 1941-1942*  
*Sales Tax Assessment Act (No. 1) 1930-1942*  
*Sales Tax Procedure Act 1934-1940*  
*Stevedoring Industry Charge Assessment Act 1947*  
*War-time (Company) Tax Assessment Act 1940-1947*  
*Wool Tax Assessment Act 1936-1952*.

The First Schedule as contained in the *Taxation Administration Act 1953* (No. 1, 1953) was amended by the *Entertainments Tax Abolition Act 1953* (No. 39, 1953).

Particulars of the Acts amended and the amendments made by sub-section 2 (1) and the First Schedule as amended may be found in the annual volume of Acts for 1953, pp. 6 and 151.

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5

**Validation and transitional provisions**

Banking Act s 5(1)(a) confers the widest discretion on the court to reach its decision in the light of all the circumstances of the case, this power is a judicial power. Proper construction of s5(1)(a). See also Constitution Ch III. *Talga Ltd & Ors v MBC International Ltd and Ors* (1976) 9 ALR 359

Held: (1) On proper construction of s5(1)(a) the power to hold it is just and equitable that an act etc should be treated as valid is judicial not legislative power; (2) the widest discretion is given the court and decision of primary judge to treat particular loan agreements as valid notwithstanding absence of Reserve Bank approval should be affirmed; (3) per Gibbs J: it cannot be said that the provision is a law with respect to contracts and not with respect to any subject of Commonwealth power. *Talga Ltd v MBC International Ltd* (1976) 9 ALR 359; 50 ALJR 619; 133 CLR 622; 11 ALR 123

8

**Banking business not to be carried on without authority**

Contracts made by a body corporate carrying in a banking business in breach of section are not vitiated. *Yango Pastoral Co Pty Ltd v First Chigago Australia Ltd* (1978) 21 ALR 585; 139 CLR 410; 53 ALJR 1 on appeal from 30 FLR 129

A contract made in the course of carrying on a banking business in breach of section will be enforced by the courts. *Ibid*

Pt IIa

Bank Mergers heading and s38A ins [01] s32

Third Sch

ins [01] s33

Banking Regulations 1966

Reprinted to 31 Oct 1982

Banking (Foreign Exchange) Regulations 1946

Reprinted to 31 Aug 1981

Regs (passim)

Considered. *Talga Ltd & Ors v MBC International Ltd & Ors* (1976) 9 ALR 359

Held not inconsistent with Prices Regulation Act (Vic). *Bradshaw v Gilbert's Australasian Agency (Vic) Pty Ltd* [1952] ALR 969; 86 CLR 209; 26 ALJ 447

(Passim) Legislation with respect to foreign currency is valid under Constitution s 51(xii). *Watson v Lee* (1979) 26 ALR 461; 54 ALJR 1; 141 CLR 374

Reg 8

Held that this might be relied on as a defence to an action on a contract involving payment outside Australia. *T M Duche & Sons (UK) Ltd v Walworth Industries (Aust) Pty Ltd* (1958) 62 SR (NSW) 165; 79 WN (NSW) 27

Whether client could recover money handed to solicitor to carry out illegal transaction, and misappropriated by third party. *Sykes v Stratton* [1972] 1 NSWLR 145

Effect of regulation considered. *Keenco v SA & Territory Air Service Ltd* (1974) 8 SASR 216; 23 FLR 155

In relation to a completed transaction of acquisition of shares by an Australian company and two foreign companies pursuant to a takeover agreement, held: (1) Regulation 8(1) was valid and applied to the transaction but did not prevent the property from passing; and (2) in the circumstances rectification of the register should not be ordered on the application of the Australian company. *Amid Pty Ltd v Beck & Jonas Pty Ltd* (1974) 11 SASR 16; 24 FLR 313

Obligation imposed by Foreign Judgments (Reciprocal Enforcement) Act 1973 (NSW) on judgment debtor to pay amount of judgment once judgment registered in State is not inconsistent with reg 8. *BP Exploration (Libya) Ltd v Hunt* [1980] 1 NSWLR 496; (1980) 47 FLR 317

Reg 42

The forfeiture prescribed by par (2) is a penalty. *Fazio v Spitz* (1972) 21 FLR 154

Reg 45

Transaction is not invalid where there is a knowing breach of the Regulations. *Re Nidamon Pty Ltd and Companies Act*. (1982) 44 ALR 406

Banking (Gold) Regulations 1960-1974 (Rp 1966)

Repealed by Banking (Gold) Regulations Repeal Regulations 1976 No 19

Banking (Savings Banks) Regulations 1960

Reprinted to 31 January 1980

Am

1982 No 206

Banking (Statistics) Regulations 1962

Reprinted to 29 Feb 1980

Am

1980 Nos 167, 210, 371; 1982 Nos 144, 213

BANKING (FOREIGN EXCHANGE) REGULATIONS  
TAX SCREENING AND OTHER REQUIREMENTS

EXPLANATORY NOTES

I INTRODUCTION

The requirements outlined below relate mainly to the screening of certain transactions for taxation purposes. Apart from these requirements, the only transactions for which Reserve Bank approval is needed are:

- . investment at interest in Australia by foreign governments, agencies of foreign governments other than those akin to private sector commercial entities, and central banks;
- . the taking out of Australia by a traveller of more than \$5,000 in Australian notes and coin;
- . the sending out of Australia of any amount of Australian notes and coin.

It is the responsibility of dealers to see that the necessary documentation (a tax clearance certificate or completed declaration form) is supplied before specified transactions take place. It is an offence for a person to supply false or misleading information to a dealer.

II TAX SCREENING REQUIREMENTS

For tax screening purposes, transactions are considered in the following categories:

- A. transactions requiring presentation of a tax clearance certificate;
- B. transactions requiring completion of a declaration form.

While the tax screening requirements outlined below apply only to foreign exchange payments (and equivalent \$A transactions) in these two categories, dealers are required to note on the relevant internal office voucher relating to every payment the reason for the transaction.

CATEGORY A(1)

Before a foreign exchange dealer provides foreign currency in respect of, or otherwise undertakes, a transaction in this category, the customer must present a tax clearance certificate. The dealer must sight the certificate and note the internal office voucher accordingly.

Transactions in this category involve

- (a) the purchase in Australia of foreign currency by a person; or
- (b) the taking or sending out of Australia of Australian currency or foreign currency by a person; or
- (c) the placing of any currency in Australia to the credit of a person who is not a resident;

where the currency is to be transferred to a place specified in the list set out below or to Vanuatu or is to be applied for the benefit of a person who is in, or is a resident of, or a person on behalf of a person who is in, or is a resident of one of the places listed below or in Vanuatu.

Bahamas  
 Bermuda  
 British Channel Islands  
 British Virgin Islands  
 Cayman Islands  
 Gibraltar  
 Grenada  
 Hong Kong  
 The Isle of Man  
 Liberia  
 Liechtenstein  
 Luxembourg  
 Nauru  
 Netherlands Antilles  
 Panama  
 Switzerland  
 Tonga

In the case of the places listed above, tax clearance certificates are required for the following transactions -

- (i) a loan or repayment of a loan;
- (ii) payment for the acquisition of securities, land or other property or options thereto or of any interest in securities, land or other property or options thereto, whether situated in Australia or elsewhere, other than the purchase through a member of an Australian stock exchange of securities or options listed on an Australian stock exchange;
- (iii) payment of any royalty or licence fee;
- (iv) payment for the performance of any service;

3.

- (v) payments associated with the creation or establishment in a place specified in the list above of any trust; or
- (vi) payment of moneys into a trust fund created, established, held, managed or operated in a place specified in the list above.

In the case of Vanuatu, tax clearance certificates are required for all transactions other than -

- (i) the purchase, taking or sending of currency for the purpose of travel outside Australia;
- (ii) payment in relation to a policy of life assurance;
- (iii) donations or bequests to charitable organisations or religious bodies where such donations or bequests would give rise to an allowable deduction in accordance with Section 78 of the Income Tax Assessment Act 1936;
- (iv) payment for the purchase through a member of an Australian stock exchange of securities or options listed on an Australian stock exchange;
- (v) payment of dividends or interest on securities listed on an Australian stock exchange that are registered in the name of a holder whose address on the register is a place outside Australia;
- (vi) payments of \$200 or less.

Category A(2)

As with Category A(1), a foreign exchange dealer must sight a tax clearance certificate and note the relevant internal office vouchers accordingly.

Transactions included in this category comprise

- (a) the purchase in Australia of foreign currency; or
- (b) the taking or sending out of Australia of Australian currency or foreign currency; or
- (c) the placing of any currency in Australia to the credit of a person who is not a resident,

by, or on behalf of, a person who has emigrated from Australia within the previous twelve months, or who intends to emigrate from Australia, where the amount involved, together with the amount of any similar transaction by or on behalf of that person within the preceding twelve-month period, is in excess of \$A50,000 or its equivalent in foreign currency.

Category B

For transactions in this category, the customer must complete a declaration form in duplicate before a foreign exchange dealer provides foreign currency in respect of, or otherwise undertakes, a transaction. Once the dealer has received the completed declaration form, the transaction may be undertaken. Prior reference to the Reserve Bank is not required.

The originals of declaration forms for Category B transactions are to be forwarded by dealers to the Australian Taxation Office in the capital city of the State or Territory concerned (through the dealer's capital city office at weekly intervals).

For transactions in joint names, both parties are required to sign the declaration form; for company transactions, an authorised officer of the company is to sign. Dealers must see that all sections of declaration forms have been completed.

Statements made in declaration forms are subject to the provisions of the Banking (Foreign Exchange) Regulations (as are statements made to dealers regarding anything to which the Regulations apply). It is an offence to provide false or misleading information.

Transactions in this category are those involving amounts in excess of \$A50,000 or its foreign currency equivalent for:

- direct investment overseas;
- gifts (other than donations by charitable and religious bodies, the income of which is exempt from tax), sustenance payments and trust distributions;
- loans to non-residents;
- \*portfolio investment overseas (equities, real estate and all types of interest bearing investments including short term placements of funds);
- \*repayments of borrowings from overseas;
- payment of:
  - . interest ) other than on securities listed on an
  - ) Australian stock exchange that are registered
  - . dividends) in the name of a holder whose address on the
  - ) register is a place outside Australia.
  - . service fees;
  - . royalties;
- futures operations overseas;
- travel expenditure by an individual.

\* Short term transactions with overseas financial institutions on dealers' own account are excepted from the above requirements.

**NOTE:** Value may be given by dealers for \$A items received from overseas for payment provided, where any items exceed \$A5,000 and do not bear any evidence that they were cleared for use overseas, particulars are to be advised by the dealers to the Australian Taxation Office within a month of receipt.

III INVESTMENT BY FOREIGN GOVERNMENTS,  
GOVERNMENT AGENCIES AND CENTRAL BANKS

Any proposal by or on behalf of foreign governments, government agencies other than those akin to private sector commercial entities, or central banks to invest funds at interest in Australia must be referred to the Reserve Bank for determination.

Foreign government agencies akin to private sector commercial entities are those which, by virtue of their function, are not holders of any of the official foreign exchange reserves of the country concerned and act independently of government as far as their investment decisions are concerned.

Other non-residents may deposit funds at interest and make other interest bearing investments in Australia without formality.

Reserve Bank of Australia  
SYDNEY

17 January 1985



## ATTACHMENT

### NOTES ON FREQUENTLY OCCURRING TRANSACTIONS

#### Agreements, contracts and arrangements with non-residents

No requirements.

#### Australian notes and coin

It is an offence for travellers to take with them on departure from Australia more than \$5,000 in notes and coin, except with the authority of the Reserve Bank.

#### Borrowings from non-residents by Australian residents

- . No requirements if overseas sourced.
- . If funds are Australian sourced, "Non-resident \$A accounts" may apply.

#### Capital raising in Australia by non-residents

- . Establishment of Australian registers of overseas companies and the listing of overseas shares on Australian stock exchanges - no requirements.
- . Loans to non-residents
  - where described in Category A transactions, tax clearance certificates required;
  - in other cases up to \$A50,000, no requirements; above \$A50,000, a completed declaration form required (see Category B transactions).

#### Capital repatriation by non-residents

- . For Category A transactions, tax clearance certificates required.
- . Other cases, no requirements.

#### Current payments

These payments are of a non-capital nature and include:

- advertising, fares, freight, insurance, charter fees etc.;
- all types of income, e.g. commissions, professional fees, salaries, dividends, interest, pensions, profits, rents etc.;
- export promotion and overseas representation expenses;
- royalties, service fees, patents and trademarks.

2.

- . For Category A transactions - tax clearance certificates required.
- . For Category B transactions (i.e. payments in excess of \$A50,000 for interest and dividends other than interest or dividends on listed securities in the name of non-residents, service fees and royalties) - a completed declaration form required.

Despatch of Australian currency (excluding notes and coin) other than that purchased from a dealer for use overseas

Australian currency (excluding notes and coin) other than that purchased from a dealer may be taken or sent from Australia as follows -

- . to Vanuatu in excess of \$200 are Category A transactions, tax clearance certificates to be obtained before despatch;
- . other Category A transactions, tax clearance certificates to be obtained before despatch;
- . Category B transactions, completed declaration form to be sent to the Australian Taxation Office.

Value may be given for items received from overseas for payment provided, where any items exceed \$A5,000 and do not bear any evidence that they were cleared for use overseas, particulars of the items are to be advised by the dealer to the Australian Taxation Office within a month of receipt of the items.

Direct investment in Australia by non-residents

No requirements related to tax screening. Overseas investors (or local parties acting on their behalf) need to take account of the Foreign Takeovers Act and the Government's foreign investment policy.

Direct investment overseas by Australian residents

Direct investment normally implies the acquisition of a sizeable interest in a business and a direct say in how the business should be run.

- . For Category A transactions - tax clearance certificates required.
- . For Category B transactions - a completed declaration form required.
- . For other transactions, no requirements.

Donations, gifts, sustenance payments, trust distributions

- . For Category A transactions - tax clearance certificates required.
- . For Category B transactions - a completed declaration form required.
- . For other transactions, no requirements.

Export proceeds

No requirements.

Foreign currency accounts

- . Foreign currency accounts may be established in Australia or overseas. The Reserve Bank may require information about these accounts at any time.
- . Funding of accounts outside Australia and transfers from Australia by Australian residents require
  - for Category A transactions, a tax clearance certificate;
  - for Category B transactions, a completed declaration form required;
  - for other transactions, no requirements.

Futures operations

- (a) Operations by Australians on overseas futures markets -
  - . for Category A transactions, tax clearance certificates required;
  - . for Category B transactions, a completed declaration form required.
- (b) Operations by non-residents on futures markets in Australia, no requirements.

Gifts

[See "Donations, gifts, sustenance payments, trust distributions"]

Guarantees by Australian residents

Guarantees in Australian or foreign currency by or on behalf of Australian residents may be issued without formality.

Guarantees by non-residents

No requirements.

[See "Current payments" regarding payment of fees]

Imports

- . For payments to Vanuatu of more than \$A200 or its foreign currency equivalent, tax clearance certificates required.
- . For other import payments, no requirements.

Interest bearing investments by non-residents

- . For transactions involving foreign governments, agencies of foreign governments other than those akin to private sector commercial entities, and central banks - all approaches to be referred to the Reserve Bank for determination.
- . For other transactions, no formalities except where the transaction is being conducted by a third party on behalf of an unidentified principal, the transaction may proceed if supported by a certificate along the following lines:

"We are assured, against enquiry, that this transaction does not involve any investment by foreign governments, agencies of foreign governments other than those akin to private sector commercial entities, or central banks."

Loan repayments (including prepayments)

- . For Category A transactions - tax clearance certificates required.
- . For Category B transactions - a completed declaration form required.
- . For other transactions - no requirements.

Loans to non-residents

- . For Category A transactions - tax clearance certificates required.
- . For Category B transactions - a completed declaration form required.
- . For other transactions - no requirements.

Merchant trade

- . Where payments of more than \$200 to Vanuatu are involved, tax clearance certificates required.
- . For other transactions, no requirements.

Non-resident \$A accounts

There are \$A accounts conducted in Australia for -

- (a) persons permanently resident out of Australia but not Australian residents temporarily abroad;
  - (b) companies incorporated out of Australia - but not their offices in Australia;
  - (c) overseas offices of companies incorporated in Australia;
  - (d) foreign governments or countries - but not their Australian embassies or consulates or the staff resident in Australia of such embassies or consulates;
  - (e) overseas offices and agencies of Australian banks;
  - (f) overseas banks.
- . For transactions by non-residents, no requirements.
  - . For credits to such accounts by Australian residents
    - where Category A transactions involved, tax clearance certificate required;
    - where Category B transactions involved, a completed declaration form required if account with dealer; if account not with dealer, send completed declaration form direct to the Australian Taxation Office.

Portfolio investment in Australia by non-residents (other than interest bearing investment)

- . No requirements.
- . Overseas investors (or local parties acting on their behalf) need to take account of the Foreign Takeovers Act and the Government's foreign investment policy.

Portfolio investment overseas (purchase of real estate, equities and all types of interest-bearing investments including short term placements of funds) by Australian residents

- . For Category A transactions - tax clearance certificates required.
- . For Category B transactions - a completed declaration form required.
- . For other transactions, no requirements.

Sustenance payments

[See "Donations, gifts, sustenance payments, trust distributions"]

Travel and emigration

- . For travel purposes (excluding emigration)
  - transactions up to \$A50,000, no requirements;
  - transactions in excess of \$A50,000 (Category B), a completed declaration form required.
- . For emigration, i.e. by or on behalf of a person who intends to emigrate or who has emigrated during the preceding twelve months
  - transactions up to \$A50,000 by or on behalf of the person in a twelve month period, no requirements;
  - where if the amounts involved, together with the amount of any other emigration funds obtained during the preceding twelve months, total more than \$A50,000 or its foreign currency equivalent by or on behalf of the person, tax clearance certificate required.

Note 1: The stipulation of a figure of \$A50,000 by or on behalf of a person is to be strictly adhered to and must not be taken to mean an average of \$A50,000 for each emigrating member of the family of the person by or on behalf of whom the transaction is made - remittances in the names of children will usually be 'on behalf of' the actual owner of the funds - usually a parent.

Note 2: Although the declaration form includes a "box" for emigration, there will not on the basis of the present thresholds be a need to use this "box".

Trusts

Transactions representing distributions by trusts in Australia - see "Donations, gifts, sustenance payments, trust distributions".

Transactions relating to trusts outside Australia as described in -

- . part 1 (v) and (vi), and
- . part 2

of Category A, may be undertaken provided an original tax clearance certificate has been produced.

Underwriting and sub-underwriting

No formalities apply to Australian residents entering into underwriting or sub-underwriting agreements in respect of capital raisings either in Australia or overseas.

Refer to "Current payments" regarding payment of fees due to non-residents.

Reserve Bank of Australia  
SYDNEY

17 January 1985







## BANKING (FOREIGN EXCHANGE) REGULATIONS NOTICE OF AUTHORITIES GRANTED TO DEALERS

IT is hereby notified for public information that the Reserve Bank of Australia has granted to the persons set out in the appendix hereunder a general authority operative from 25 June 1984, to engage in foreign currency transactions, as follows:

### BANKING (FOREIGN EXCHANGE) REGULATIONS AUTHORITY

Reserve Bank of Australia in pursuance of Regulation 38A of the Banking (Foreign Exchange) Regulations hereby grants authority to

1. buy and sell foreign currency;
2. place to the credit in Australia of a person who is not a resident
  - (a) any amount of currency representing cover for Australian currency, (other than notes), sold by the Dealer for taking or sending from Australia;
  - (b) any amount of currency for any other purpose.

This authority does not apply to the placing of any Australian currency at interest to the credit of any non-resident who is a government, an agency of a government or a bank, but is otherwise given on condition that, in respect of the transactions authorised above, the Dealer will:

1. comply with the requirements relating to tax screening set out in the Schedule to this authority;
2. comply with such limits on its foreign exchange positions as may be imposed by the Reserve Bank;
3. provide such returns and information as the Reserve Bank may require from time to time; and
4. comply with any directives and guidelines issued by the Reserve Bank from time to time.

## SCHEDULE

### PART I

#### TAX SCREENING

For the purposes of tax screening, transactions have been divided into three categories, A, B and C, which are detailed below:

##### • Category A

Transactions for any of the purposes described in Part II of this Schedule.

##### • Category B

Amounts in excess of the equivalent of \$A50,000 in respect of:

- direct investment overseas;
- gifts (other than donations by charitable and religious bodies, the income of which is exempt from tax), sustenance and trust distributions;
- loans to non-residents;
- portfolio investment overseas;
- repayments of borrowings from overseas.

##### • Category C

Amounts in excess of the equivalent of \$A50,000 in respect of:

13445/84 Cat. No. 84 6098 1 Recommended retail price 20c (plus postage)

- travel expenditure;
- remittances relating to futures operations overseas;
- payment of any interest, dividend, service fee or royalty.

### THE CONDITIONS:

1. The Dealer must conform with tax screening requirements set out below, relating to the following transactions undertaken by it:

- (a) the sale of foreign currency;
- (b) the sale of Australian currency, (other than notes), for use outside Australia;
- (c) the placing of any amount of currency to the credit in Australia of a person who is not a resident.

#### 2. Category A transactions:

Before the Dealer undertakes any transaction described in Part II of this Schedule, it must receive an original tax clearance certificate issued by the Australian Taxation Office in respect of that transaction.

#### 3. Category B and C transactions:

A completed and signed declaration form in duplicate (in the form prescribed by the Reserve Bank) must be received by the Dealer and:

- (a) if it relates to a Category B transaction, the Dealer must refer the declaration form to the Reserve Bank and may not undertake the transaction until:
  - (i) a clearance for it to proceed has been received from the Reserve Bank; or
  - (ii) if required by the Reserve Bank, until an original tax clearance certificate issued by the Australian Taxation Office in relation to the transaction has been produced to it;
- (b) if it relates to a Category C transaction, the Dealer may complete the transaction, but must send the original declaration form to the Australian Taxation Office in the State or Territory concerned no later than a week after the date of the transaction.

4. When Australian currency (other than notes and coin), is received from overseas for payment and does not bear any evidence that it was cleared for use outside Australia, full particulars of any item in excess of \$A5,000 must be advised to the Australian Taxation Office within one month of the date of receipt by the Dealer.

### PART II

An Act or thing for which a tax clearance certificate is required is either:

1. (a) the purchase in Australia of foreign currency by a person;
- (b) the taking or sending out of Australia of Australian currency or foreign currency by a person; or
- (c) the placing of any currency in Australia to the credit of a person who is not a resident,

where the currency is to be transferred to a place specified in the list of places set out at the conclusion of this Schedule, or is to be applied for the benefit of a person who is in,

or who is a resident of, or a person on behalf of a person who is in, or who is a resident of, a place specified in that list and is either:

- (i) a loan or repayment of a loan;
- (ii) consideration for the acquisition of securities, land or other property or options thereto or of any interest in securities, land or other property or options thereto, whether situated in Australia or elsewhere, other than consideration for the purchase through a member of an Australian stock exchange of securities or options listed on an Australian stock exchange;
- (iii) payment of any royalty or licence fee;
- (iv) payment for the performance of any service;
- (v) in relation to the creation or establishment of any trust in a place specified in the list at the conclusion of this Schedule; or
- (vi) payment of moneys into a trust fund created, established, held, managed or operated in a place specified in that list.

2. (a) the purchase in Australia of foreign currency by a person;

(b) the taking or sending out of Australia of Australian currency or foreign currency by a person; or

(c) the placing of any currency in Australia to the credit of a person who is not a resident,

where the currency is to be transferred to Vanuatu or is to be applied for the benefit of a person who is in, or who is a resident of Vanuatu, or where the currency is for payment of moneys into a trust fund created, established, held, managed or operated in Vanuatu;

#### OTHER THAN

- (i) the purchase, taking or sending of currency for the purpose of travel outside Australia;
  - (ii) the making of a payment in relation to a policy of life assurance;
  - (iii) the making of donations or bequests to charitable organisations or religious bodies where such donations or bequests would give rise to an allowable deduction in accordance with section 78 of the *Income Tax Assessment Act 1936*;
  - (iv) payment of the consideration for the purchase of securities or options listed on an Australian stock exchange, purchased through a member of an Australian stock exchange;
  - (v) the payment of any dividend or interest on securities listed on an Australian stock exchange that are registered in the name of a holder whose address on the register is a place outside Australia; or
  - (vi) the making of a payment of \$200 or less.
3. (a) the purchase in Australia of foreign currency;
  - (b) the taking or sending out of Australia of Australian currency or foreign currency; or
  - (c) the placing of any currency in Australia to the credit of a person who is not a resident,

by, or on behalf of, a person who has emigrated from Australia within the previous twelve months, or who intends to emigrate from Australia, where the amount of currency, together with the amount of any other transactions of the nature described in this paragraph undertaken by or on behalf of that person within the preceding twelve-month period, is in excess of fifty thousand dollars in Australian currency or any equivalent in foreign currency of that sum.

The list of places referred to in this Schedule is as follows:

Bahamas  
Bermuda  
British Channel Islands

British Virgin Islands  
Cayman Islands  
Gibraltar  
Grenada  
Hong Kong  
The Isle of Man  
Liberia  
Liechtenstein  
Luxembourg  
Nauru  
Netherlands Antilles  
Panama  
Switzerland  
Tonga

This instrument will come into operation on 25 June 1984.

Dated at Sydney this 22nd day of June 1984.

For and on behalf of the Reserve Bank of Australia.

M. J. PHILLIPS

Chief Manager

International Department

#### APPENDIX

Australia and New Zealand Banking Group Limited

Australian Bank Limited

Bank of New Zealand

Bank of Queensland Limited

Banque Nationale de Paris

Commonwealth Trading Bank of Australia

Launceston Bank for Savings

National Commercial Banking Corporation of Australia Limited

The Rural & Industries Bank of Western Australia

The Savings Bank of South Australia

The Savings Bank of Tasmania

State Bank of New South Wales

The State Bank of South Australia

State Bank of Victoria

Westpac Banking Corporation

AMP Acceptances Ltd

Amro Australia Ltd

Associated Midland Group Ltd

AUC Holdings Limited

BA Australia Ltd

Barclays Australia Ltd

BT Australia Ltd

Capel Court Corporation Ltd

Chase-N.B.A. Group Ltd

Chemical All-States Ltd

Citicorp Australia Holdings Ltd

Elder's Finance and Investment Co. Ltd

European Asian of Australia Ltd

Hill Samuel Australia Ltd

Kleinwort Benson Australia Ltd

Lloyds International Ltd

Societe Generale Australia Ltd

Wardley Australia Ltd

Dated at Sydney this 22nd day of June 1984.

For and on behalf of the Reserve Bank of Australia.

D. N. SANDERS

Deputy Governor

#### BANKING (FOREIGN EXCHANGE) REGULATIONS AUTHORITY

A. Reserve Bank of Australia in pursuance of Regulation 38A of the Banking (Foreign Exchange) Regulations hereby grants a general authority to persons in Australia to:

- (1) sell foreign currency to an authorised dealer;
- (2) buy foreign currency from an authorised dealer;

(3) place any amount of currency of a person who is not a resident;

(4) take or send from Australia

(a) Australian currency issued dealer for use overseas;

(b) Australian currency not purchased from overseas;

B. This authority is given subject to:

1. in respect of any transaction A (2), (3) and (4) (a):

(a) where the account of the transaction referred to in paragraph A (2), (3) and (4) (a) is an authorised dealer certificate issued by the Reserve Bank of Australia, the person carrying out the transaction must produce the authority;

(i) if the transaction is carried out by the authority;

(ii) if that person is not an authorised dealer to produce such authority;

(b) where the account of the transaction referred to in paragraph A (2), (3) and (4) (a) is an original tax clearance certificate issued by the Australian Taxation Office, the person carrying out the transaction must produce the authority; and

(c) the person carrying out the transaction must produce a completed and signed declaration (in the form prescribed by the Reserve Bank of Australia) in which the person carrying out the transaction is not to receive more than the amount of the transaction or its equivalent in foreign currency for any of the following:

- direct investment overseas;
- gifts (other than donations to religious bodies the income of which is exempt from tax), sustenance and travel expenses;
- loans to non-residents;
- portfolio investment overseas;
- repayments of borrowings;
- travel expenditure;
- remittances relating to foreign income or
- payment of any interest or royalty.

2. in respect of any transaction A (4) (a), any person taking currency out of Australia may not do so for the purpose for which it was taken.

3. in respect of any transaction A (3), (but only where the account of the transaction is not a resident is conducted in the name of an authorised dealer) and the transaction described in paragraph A (3), the person carrying out the transaction must obtain the authority described in the Schedule.

(a) the person carrying out the transaction must obtain the authority described in the Schedule.

(b) the person carrying out the transaction must produce the authority to the Reserve Bank of Australia for clearance, and must produce a declaration form in duplicate.

- (3) place any amount of currency to the credit in Australia of a person who is not a resident; and
- (4) take or send from Australia:
  - (a) Australian currency purchased from an authorised dealer for use overseas; and
  - (b) Australian currency (other than notes and coin) not purchased from an authorised dealer.

B. This authority is given subject to:

1. in respect of any transaction described in paragraphs A (2), (3) and (4) (a):

- (a) where the account of the person who is not a resident referred to in paragraph A (3) is conducted in the books of an authorised dealer, an original tax clearance certificate issued by the Australian Taxation Office must be produced to the authorised dealer by the person carrying out a transaction pursuant to this authority:

- (i) if the transaction is described in the Schedule to this authority; or
    - (ii) if that person is requested by the authorised dealer to produce such certificate;

- (b) where the account of the person who is not a resident referred to in paragraph A (3) is conducted in the books of a resident, other than an authorised dealer, an original tax clearance certificate issued by the Australian Taxation Office must be obtained by the person carrying out a transaction pursuant to this authority, if the transaction is described in the Schedule to this authority; and

- (c) the person carrying out a transaction pursuant to this authority must produce to the authorised dealer a completed and signed declaration form in duplicate (in the form prescribed by the Reserve Bank), if the transaction is not described in the Schedule, the amount of the transaction is in excess of \$A50,000 or its equivalent in foreign currency and the transaction is for any of the following purposes:

- direct investment overseas;
- gifts (other than donations by charitable or religious bodies the income of which is exempt from tax), sustenance and trust distributions;
- loans to non-residents;
- portfolio investment overseas;
- repayments of borrowings from overseas;
- travel expenditure;
- remittances relating to futures operations overseas; or
- payment of any interest, dividend, service fee or royalty.

2. in respect of any transaction described in paragraph A (4) (a), any person taking or sending Australian currency out of Australia may not use that currency except for the purpose for which it was obtained.

3. in respect of any transaction described in paragraph A (3), (but only where the account of the person who is not a resident is conducted in the books of a resident other than an authorised dealer) and in respect of any transaction described in paragraph A (4) (b), before undertaking the transaction:

- (a) the person carrying out the transaction pursuant to this authority must obtain a tax clearance certificate from the Australian Taxation Office, if the transaction is described in the Schedule to this authority;

- (b) the person carrying out the transaction pursuant to this authority must produce to the Australian Taxation Office for clearance, a completed and signed declaration form in duplicate (in the form prescribed

by the Reserve Bank), if the transaction is for an amount in excess of \$A50,000 in respect of:

direct investment overseas;

gifts (other than donations by charitable or religious bodies the income of which is exempt from tax), sustenance and trust distributions;

loans to non-residents;

portfolio investment overseas;

repayments of borrowings from overseas; and

- (c) the person carrying out the transaction pursuant to this authority must provide to the Australian Taxation Office within a week of the transaction's being completed, a completed and signed declaration form in duplicate (in the form prescribed by the Reserve Bank), if the transaction is for an amount in excess of \$A50,000 in respect of:

travel expenditure;

remittances relating to futures operations overseas;

payment of any interest, dividend, service fee or royalty.

C. In this authority, the term "authorised dealer" shall mean any person who is authorised by a general authority issued under Regulation 38A of the Banking (Foreign Exchange) Regulations, to buy and sell foreign currency.

#### SCHEDULE

An Act or thing for which a tax clearance certificate is required is either:

1. (a) the purchase in Australia of foreign currency by a person;
- (b) the taking or sending out of Australia of Australian currency or foreign currency by a person; or
- (c) the placing of any currency in Australia to the credit of a person who is not a resident,

where the currency is to be transferred to a place specified in the list of places set out at the conclusion of this Schedule, or is to be applied for the benefit of a person who is in, or who is a resident of, or a person on behalf of a person who is in, or who is a resident of, a place specified in that list and is either:

- (i) a loan or repayment of a loan;
- (ii) consideration for the acquisition of securities, land or other property or options thereto or of any interest in securities land or other property or options thereto, whether situated in Australia or elsewhere, other than consideration for the purchase through a member of an Australian stock exchange of securities or options listed on an Australian stock exchange;
- (iii) payment of any royalty or licence fee;
- (iv) payment for the performance of any service;
- (v) in relation to the creation or establishment of any trust in a place specified in the list at the conclusion of this Schedule; or
- (vi) payment of moneys into a trust fund created, established, held, managed or operated in a place specified in that list.

2. (a) the purchase in Australia of foreign currency by a person;
- (b) the taking or sending out of Australia of Australian currency or foreign currency by a person; or
- (c) the placing of any currency in Australia to the credit of a person who is not a resident,

where the currency is to be transferred to Vanuatu or is to be applied for the benefit of a person who is in, or who is a resident of Vanuatu, or where the currency is for payment

of moneys into a trust fund created, established, held, managed or operated in Vanuatu;

## OTHER THAN

- (i) the purchase, taking or sending of currency for the purpose of travel outside Australia;
  - (ii) the making of a payment in relation to a policy of life assurance;
  - (iii) the making of donations or bequests to charitable organisations or religious bodies where such donations or bequests would give rise to an allowable deduction in accordance with section 78 of the Income Tax Assessment Act 1936;
  - (iv) payment of the consideration for the purchase of securities or options listed on an Australian stock exchange, purchased through a member of an Australian stock exchange;
  - (v) the payment of any dividend or interest on securities listed on an Australian stock exchange that are registered in the name of a holder whose address on the register is a place outside Australia; or
  - (vi) the making of a payment of \$200 or less.
3. (a) the purchase in Australia of foreign currency;
- (b) the taking or sending out of Australia of Australian currency or foreign currency; or
- (c) the placing of any currency in Australia to the credit of a person who is not a resident,

by, or on behalf of, a person who has emigrated from Australia within the previous twelve months, or who intends to emigrate from Australia, where the amount of currency, together with the amount of any other transactions of the nature described in this paragraph undertaken by or on behalf of that person within the preceding twelve-month period, is in excess of fifty thousand dollars in Australian currency or any equivalent in foreign currency of that sum.

The list of places referred to in this Schedule is as follows:

Bahamas  
Bermuda  
British Channel Islands  
British Virgin Islands  
Cayman Islands  
Gibraltar  
Grenada  
Hong Kong  
The Isle of Man  
Liberia  
Liechtenstein  
Luxembourg  
Nauru  
Netherlands Antilles  
Panama  
Switzerland  
Tonga

This instrument will come into operation on 25 June 1984.

Dated at Sydney this 22nd day of June 1984.

For and on behalf of the Reserve Bank of Australia.

D. N. SANDERS  
Deputy Governor

BANKING (FOREIGN EXCHANGE) REGULATIONS  
EXEMPTION

Reserve Bank of Australia in pursuance of Regulation 38 of the Banking (Foreign Exchange) Regulations hereby exempts from the application of sub-regulation 5 (1) of the Regulations

- (a) any person who, either on his own behalf or on behalf of another person, borrows, lends or exchanges foreign

currency in Australia or who otherwise deals (except by way of buying or selling) with foreign currency in Australia;

- (b) any resident, or any person acting on behalf of a resident, who borrows, lends or exchanges foreign currency outside Australia or who otherwise deals (except by way of buying or selling) with foreign currency outside Australia;
- (c) any person who, either on his own behalf or on behalf of another person, buys or sells foreign currency in the form of coin in Australia; and
- (d) any resident, or any person acting on behalf of a resident, who buys or sells foreign currency in the form of coin outside Australia.

This instrument shall come into operation on 25 June 1984.

Dated at Sydney this 21st day of June 1984.

For and on behalf of the Reserve Bank of Australia.

D. N. SANDERS  
Deputy Governor

BANKING (FOREIGN EXCHANGE) REGULATIONS  
VARIATION OF EXEMPTIONS

Reserve Bank of Australia in pursuance of Regulation 38 of the Banking (Foreign Exchange) Regulations hereby varies the Exemptions dated 15 January 1981 from Regulations 5 (1), 5 (2) and 5 (4) of the Regulations by removing the concluding words, as follows:

"AND conditions of the exemptions in paragraphs (1) and (2) are that

- (a) the resident of Australia buying foreign currency in terms of paragraph (1) or receiving payment of foreign currency in terms of paragraph (2) shall as soon as practicable sell for Australian currency that foreign currency to a bank in Australia;
- (b) the exemptions may not be utilised in connection with transactions of a capital nature."

This instrument shall come into operation on 25 June 1984.

Dated at Sydney this 21st day of June 1984.

For and on behalf of the Reserve Bank of Australia.

D. N. SANDERS  
Deputy Governor

BANKING (FOREIGN EXCHANGE) REGULATIONS  
EXEMPTION

Reserve Bank of Australia in pursuance of Regulation 38 of the Banking (Foreign Exchange) Regulations hereby

1. revokes the exemption dated 3 February 1984 relating to sub-regulation 8 (1) (a) of the Regulations;
2. revokes the exemption dated 12 December 1983 relating to sub-regulation 8 (1) (c) of the Regulations;
3. exempts from the application of sub-regulation 8 (1) (a) of the Regulations any person who makes any payment in Australia to, by the order of, or on behalf of a person who is not a resident;
4. exempts from the application of sub-regulation 8 (1) (c) any person who draws, issues or negotiates any bill of exchange or promissory note, who enters into any contract or agreement (not being a contract or agreement for the purchase of goods), who allots or transfers any security, or who acknowledges any debt, so that a right (whether actual or contingent)
  - (i) to receive a payment, or any valuable consideration; or
  - (ii) to the performance of any service, whether in Australia or elsewhere, is created or transferred in favour of a person who is not a resident; and

5. exempts from the application of sub-regulation 8 (1) (d) any person who, in Australia that recognises the resident is the holder of securities.

This instrument shall come into operation on 25 June 1984.  
Dated at Sydney this 21st day of June 1984.  
For and on behalf of the Reserve Bank of Australia.

BANKING (FOREIGN EXCHANGE) REGULATIONS  
EXEMPTION

Reserve Bank of Australia in pursuance of Regulation 38 of the Banking (Foreign Exchange) Regulations hereby exempts from the application of sub-regulation 5 (1) of the Regulations

- (a) any person who makes any payment in Australia to, by the order of, or on behalf of a person who is not a resident;
- (i) the receipt by any person of a payment in Australia; or
- (ii) the creation or transfer of a right (whether actual or contingent) to receive a payment in Australia; and
- (b) any person who draws, issues or negotiates any bill of exchange or promissory note, who enters into any contract or agreement (not being a contract or agreement for the purchase of goods), who allots or transfers any security, or who acknowledges any debt, so that a right (whether actual or contingent) to receive a payment in Australia is created or transferred in favour of a person who is not a resident; and

This instrument shall come into operation on 25 June 1984.  
Dated at Sydney this 21st day of June 1984.  
For and on behalf of the Reserve Bank of Australia.

BANKING (FOREIGN EXCHANGE) REGULATIONS  
EXEMPTION

Reserve Bank of Australia in pursuance of Regulation 38 of the Banking (Foreign Exchange) Regulations hereby exempts from the application of sub-regulation 5 (1) of the Regulations any person who makes any payment in Australia to, by the order of, or on behalf of a person who is not a resident, or to a person who is not a resident, or to a person who is not a resident.

This instrument shall come into operation on 25 June 1984.  
Dated at Sydney this 21st day of June 1984.  
For and on behalf of the Reserve Bank of Australia.

BANKING (FOREIGN EXCHANGE) REGULATIONS  
EXEMPTIONS

Reserve Bank of Australia in pursuance of Regulation 38 of the Banking (Foreign Exchange) Regulations hereby exempts from the application of sub-regulation 5 (1) of the Regulations any person who takes, sends or transfers any security, or who acknowledges any debt, so that a right (whether actual or contingent) to receive a payment, or any valuable consideration, is created or transferred in favour of a person who is not a resident; and

This instrument shall come into operation on 25 June 1984.  
Dated at Sydney this 21st day of June 1984.



5. exempts from the application of sub-regulation 8 (1) (d) any person who makes any entry in a register in Australia that recognises that a person who is not a resident is the holder of securities.

This instrument shall come into operation on 25 June 1984.  
Dated at Sydney this 21st day of June 1984.

For and on behalf of the Reserve Bank of Australia.

D. N. SANDERS  
Deputy Governor

#### BANKING (FOREIGN EXCHANGE) REGULATIONS EXEMPTION

Reserve Bank of Australia in pursuance of Regulation 38 of the Banking (Foreign Exchange) Regulations hereby exempts from the application of sub-regulation 8 (3) of the Regulations:

- (a) any person who makes any payment to any resident as consideration for, or in association with:
- (i) the receipt by any person of a payment, or the acquisition by any person of any property, outside Australia; or
  - (ii) the creation or transfer, in favour of any person, of a right (whether actual or contingent) to receive a payment or acquire property outside Australia; and
- (b) any person who draws, issues, or negotiates any bill of exchange or promissory note, who enters into any contract or agreement (not being a contract or agreement for the purchase of goods), who allots or transfers any security, or who acknowledges any debt, so that a right (whether actual or contingent) to receive a payment in Australia is created or transferred in favour of a resident as consideration for, or in association with, any matter referred to in sub-paragraph (i) or (ii) of the last preceding paragraph.

This instrument shall come into operation on 25 June 1984.  
Dated at Sydney this 21st day of June 1984.

For and on behalf of the Reserve Bank of Australia.

D. N. SANDERS  
Deputy Governor

#### BANKING (FOREIGN EXCHANGE) REGULATIONS EXEMPTION

Reserve Bank of Australia in pursuance of Regulation 38 of the Banking (Foreign Exchange) Regulations hereby exempts from the application of sub-regulation 9 (1) of the Regulations the sale, loan, transfer, mortgaging or charging of any security or land that is in Australia by, by the order of, or on behalf of, a person who is not a resident to another person who is not a resident, or to a person acting on behalf of such a person.

This instrument shall come into operation on 25 June 1984.  
Dated at Sydney this 21st day of June 1984.

For and on behalf of the Reserve Bank of Australia.

D. N. SANDERS  
Deputy Governor

#### BANKING (FOREIGN EXCHANGE) REGULATIONS EXEMPTIONS

Reserve Bank of Australia in pursuance of Regulation 38 of the Banking (Foreign Exchange) Regulations hereby exempts from the application of sub-regulation 33 (1) of the Regulations any person who takes, sends or transfers any securities to any place outside Australia.

This instrument shall come into operation on 25 June 1984.  
Dated at Sydney this 21st day of June 1984.

For and on behalf of the Reserve Bank of Australia.

D. N. SANDERS  
Deputy Governor

#### BANKING (FOREIGN EXCHANGE) REGULATIONS EXEMPTION

Reserve Bank of Australia in pursuance of regulation 38 of the Banking (Foreign Exchange) Regulations hereby

1. revokes the exemption dated 30 August 1973 relating to sub-regulation 34 (1) of the Regulations;
2. exempts from the application of sub-regulation 34 (1) of the Regulations
  - (a) any person who, either on his own behalf or on behalf of another person, buys, borrows, sells, lends or exchanges foreign securities that are in Australia or who deals otherwise with such securities that are in Australia; and
  - (b) any resident, or any person acting on behalf of a resident, who buys, borrows, sells, lends or exchanges foreign securities that are outside Australia or who deals otherwise with such securities that are outside Australia.

This instrument shall come into operation on 25 June 1984.  
Dated at Sydney this 21st day of June 1984.

For and on behalf of the Reserve Bank of Australia.

D. N. SANDERS  
Deputy Governor

#### COMMONWEALTH OF AUSTRALIA

Banking Act 1959

#### REVOCATION OF NOTICES UNDER SECTION 39B

I, PAUL KEATING, the Treasurer, in pursuance of sub-section 39B (2) of the *Banking Act 1959*, hereby revoke—

- (a) the notice in writing dated, and published in the *Gazette* on, 23 December 1974 directing that the acts or things therein specified are acts or things to which section 39B of that Act applies; and
- (b) the notice in writing dated 5 February 1981, and published in the *Gazette* on 10 February 1981, varying the first-mentioned notice.

Dated 19th June 1984.

PAUL KEATING  
Treasurer

#### BANKING (FOREIGN EXCHANGE) REGULATIONS REVOCATION OF THE APPOINTMENT OF AGENTS OF RESERVE BANK OF AUSTRALIA

IN pursuance of Regulation 44 of the Banking (Foreign Exchange) Regulations, the Reserve Bank of Australia hereby revokes the appointment of the persons set out in the Schedule as Agents of the Bank in respect of all the provisions of the Regulations.

#### SCHEDULE

Australia and New Zealand Banking Group Limited  
Australian Bank Limited  
Bank of New Zealand  
Banque Nationale de Paris  
Commonwealth Trading Bank of Australia  
National Commercial Banking Corporation of Australia Limited  
Westpac Banking Corporation

Dated at Sydney this 25th day of June 1984.

For and on behalf of the Reserve Bank of Australia.

R. A. JOHNSTON  
Governor

## BANKING.

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## BANKING (FOREIGN EXCHANGE) REGULATIONS.

STATUTORY RULES 1953, No. 24.<sup>(a)</sup>

1. Regulation 18 of the Banking (Foreign Exchange) Regulations is amended by omitting sub-regulation (3.) and inserting in its stead the following sub-regulation:—

“(3.) A special licence shall be a licence to export, during a period extending from the date of the grant of the licence to a date specified therein, goods of a class or kind specified in the licence from a place and to a country so specified.”

2. The First Schedule to the Banking (Foreign Exchange) Regulations is amended by omitting from Form B the words—

“The above-named applicant hereby applies for a special licence to export goods from—  
to the following countries:—”

and inserting in their stead the words—

“The above-named applicant hereby applies for a special licence to export from to [name countries] goods of the following classes or kinds:—”

## BANKING (GOLD) REGULATIONS.

STATUTORY RULES 1953, No. 104.<sup>(b)</sup>

1. These Regulations shall come into operation on the third day of December, One thousand nine hundred and fifty-three.

2. Regulation 3 of the Banking (Gold) Regulations is amended by omitting from sub-regulation (1.) the words “sub-section (1.) of”.

<sup>(a)</sup> Made under the Banking Act 1945 on 21st March, 1953; notified in the Gazette on 26th March, 1953.

<sup>(b)</sup> Made under the Banking Act 1945-1953 on 30th November, 1953; notified in the Gazette on 2nd November, 1953.

# RESERVE BANK OF AUSTRALIA

## Exchange Control



# **EXCHANGE CONTROL**

**RESERVE BANK OF AUSTRALIA**  
**1980**



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## **PREFACE**

This booklet includes summaries of exchange control policies current at date of publication — they are subject to change at any time. Enquiries as to the current position may be made at any branch of the Reserve Bank of Australia or at its head office, Sydney, N.S.W.

The booklet does not convey any authority or exemption in respect of any transaction subject to the provisions of the Banking (Foreign Exchange) Regulations. Whilst the booklet provides broad criteria against which transactions are tested, individual applications need to be examined in detail.

Copies of the Banking (Foreign Exchange) Regulations and a guide to foreign investment in Australia may be obtained from the Australian Government Publishing Service bookshops.

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## I BACKGROUND AND LEGAL BASIS OF EXCHANGE CONTROL

Exchange control commenced in Australia on 28 August 1939, six days before the outbreak of World War II; it has operated continuously ever since.

For sixteen days to 13 September 1939 exchange control rested on the Defence (Monetary Control) Regulations issued under the Defence Act. Those Regulations were then replaced by the National Security (Monetary Control) Regulations following the passing of the National Security Act.

On 12 December 1940 the National Security (Exchange Control) Regulations were promulgated to consolidate the provisions of the National Security (Monetary Control) Regulations and the National Security (Securities) Regulations which had been made in October 1939 to provide control over overseas assets of Australian residents.

Power to control exports proceeds was incorporated in the National Security (Exchange Control) Regulations in December 1943; previously this power had been exercised under the Customs Act.

The National Security (Exchange Control) Regulations remained in force until 31 December 1946. They were then replaced as from 1 January 1947 by the Banking (Foreign Exchange) Regulations made under Section 29 of the Banking Act 1945.

The Banking Act 1945 was replaced by the Banking Act 1959, when the original Commonwealth Bank was separated into its trading activities (to become the Commonwealth Banking Corporation) and its central banking activities (to become the Reserve Bank — and the legal successor of the Commonwealth Bank).

The Banking (Foreign Exchange) Regulations were continued in force by virtue of the Banking (Transitional Provisions) Act 1959, as if they had been made under the Banking Act 1959. This changeover became effective 14 January 1960 and it was not until 1973 that any amendment to the Banking Act 1959 was made insofar as it relates to exchange control.

The 1973 amendment to the Banking Act was the first attempt to provide a legal basis for exchange control to be used to combat foreign transactions having tax avoidance implications.

This was followed in December 1974 by further amendments to the exchange control part of the Banking Act to:

- broaden the base of exchange control by taking advantage of all constitutional powers of Government in relation to financial aspects of overseas transactions;
- provide for the Banking (Foreign Exchange) Regulations to apply to transactions entered into outside Australia (i.e. to have extra-territorial application);
- provide that for civil purposes contracts and transactions entered into or done without any necessary exchange control authority shall not, for that reason, be deemed to be invalid or unenforceable. (These provisions do not automatically extend to cases in which legal proceedings had commenced prior to 3 December 1974; in these cases the court has discretion to hold that it would be just and equitable for the contracts and transactions to be treated as valid. Specifically, these provisions do not remove liability for penalty for non-observance of the Banking (Foreign Exchange) Regulations.);
- provide a firmer legal basis for tax screening. (Concurrently the Taxation Administration Act was amended and in effect moved from the Reserve Bank (where the 1973 amendment to the Banking Act had placed it) to the

Tax Commissioner the onus of deciding whether tax avoidance or evasion is involved in an exchange control transaction. Tax-type appeal provisions are included.).

In relation to residential status which is paramount in the administration of exchange control, the 1974 amendments to the Banking Act provide that:

- natural persons are residents if they are ordinarily resident in Australia;
- corporations are residents if they are incorporated in Australia;

but special provisions exist so that for the purposes of the affairs conducted by them:

- overseas offices of Australian corporations are treated as non-residents;
- Australian offices of overseas corporations are treated as residents.

The present position is that exchange control in Australia is administered by the Reserve Bank under the Banking (Foreign Exchange) Regulations made under section 39(1) of the Banking Act, 1959, which states:

"Where the Governor-General considers it expedient to do so for purposes related to —

- (a) foreign exchange or the foreign exchange resources of Australia;
- (b) the protection of the currency or the protection of the public credit or revenue of Australia; or
- (c) foreign investment in Australia, Australian investment outside Australia, foreign ownership or control of property in Australia or of Australian property outside Australia, or Australian ownership or control of property outside Australia or of foreign property in Australia,

he may make regulations, not inconsistent with this Act, in accordance with this section."

The 1974 amendments to the Banking Act also incorporated — at section 39B — provisions for the granting of exchange control authorities by the Reserve Bank to be subject to taxation clearance in certain circumstances.

There was a complementary amendment to Part IV of the Taxation Administration Act.

The promulgation of the 1974 amendments to both Acts was accompanied by a notice under section 39B of the Banking Act which was published in the Australian Government Gazette of 23 December 1974—see Appendix I.

The practical effect of these provisions is that a taxation clearance issued under section 14C of the Taxation Administration Act **must** be produced before the Reserve Bank may give an exchange control authority for:

- New Hebrides — transactions, agreements and payments of a capital nature and several of a current nature with certain limited exceptions;
- the 18 other places listed — transactions, agreements and payments of a capital nature;

and in any other case the Bank **may** require a tax clearance to be produced before giving an exchange control authority.

## II OBJECTIVES OF EXCHANGE CONTROL

The original purpose of exchange control was to conserve foreign currency — marshal receipts and ration payments — to assist in the prosecution of World War II. As part of the process, the major part of Australia's international reserves were channelled into the central bank. These days exchange control is largely concerned with the regulation of capital inflows and outflows.

Exchange control thus is an important part of general economic policy. Obviously, it bears on the balance of payments and exchange rates. Also it affects domestic economic conditions through its impact on the money supply, interest rates and availability of capital. Exchange control also complements foreign investment policy.

Regulation of capital flows is accomplished by supervising and if necessary restricting the transfer of money, assets and rights (and ownership thereof):

- into and out of Australia;
- within Australia on non-resident account;
- outside Australia on Australian account.

## III ADMINISTRATION OF EXCHANGE CONTROL

Subject to any directions of the Treasurer, the Reserve Bank, in administering the Banking (Foreign Exchange) Regulations, may in respect of any provision of the Regulations:

- grant an exemption;
- at its absolute discretion, grant an authority either conditionally or unconditionally and in either specific or general form.

The Bank may similarly revoke or vary an exemption or authority, but **retrospective authorities cannot be given.**

The Regulations also provide that the Reserve Bank may appoint agents and, to assist in the practical day-to-day operation of exchange control, the trading banks in Australia have been so appointed. This enables them, under delegated authorities from the Reserve Bank, to deal on the spot with almost all personal and commercial payments of a non-capital nature; they also have a role in assisting to supervise the return of export proceeds.

In certain categories of payments (e.g. imports, travel, sustenance and gifts) there are limits on trading bank delegations and applications outside those limits have to be referred to the Reserve Bank.

Applications for authority may be made either by application form or by letter. Exchange control forms currently in use are:

Form A1 — Overseas Payment — other than Travel Expenditure and Emigration.

Form A3 — Travel Expenditure and Emigration.

Form NR — Credit to a Non-Resident Account.

Form S — Dealings in Securities.

#### IV REGULATIONS OF PARTICULAR SIGNIFICANCE

- regulation 5 — buying, borrowing, selling, lending or exchanging or otherwise dealing in foreign currency, or transactions having the same effect, and the fixing or authorising of rates of exchange;
- regulation 6 — taking or sending Australian or foreign currency out of Australia;
- regulation 8 —
  - payments in Australia on non-resident account
  - crediting Australian accounts of non-residents
  - drawing, issuing or negotiating bills of exchange or promissory notes in favour of non-residents
  - agreements (other than for the purchase of goods) creating rights in favour of non-residents to receive payment or valuable consideration or to performance of services
  - allotment or transfers of securities to and their registration in names of non-residents
  - compensating transactions, e.g. payment within Australia as quid pro quo for payment outside Australia;
- regulation 9 — transfers of Australian security or land between non-residents;
- Part III — control of proceeds of exports;
- regulation 33 — taking or sending securities out of Australia including transfers to overseas registers;
- regulation 34 — control of foreign securities owned or to be acquired by Australian residents;
- regulation 41 — arrangements to evade the Regulations;
- regulation 42 — offences and penalties (up to \$100,000 or 5 years imprisonment and forfeiture provisions);
- regulation 43 — divestiture provisions for currency and property acquired in contravention of the Regulations;
- regulation 45 — non-invalidity, for civil purposes only, of acts or things done without any necessary authority of the Reserve Bank — liability for penalty for breaching Regulations remains.

#### V GENERAL POLICY OUTLINE

Exchange control policies are formulated by the Government with the advice of the Reserve Bank and the Treasury.

Policy formulation takes account of obligations assumed by membership of international organisations such as the International Monetary Fund and the Organisation for Economic Co-operation and Development — both of these encourage codes of liberalisation in international trade and payments.

Australia is an original member of the International Monetary Fund and joined the Organisation for Economic Co-operation and Development in 1971.

In regard to outward payments, after the end of World War II in 1945, the severity of restrictions fluctuated in accordance with the state of the balance of payments but there was a general trend towards relaxation. In 1960 general import licensing for balance of payments purposes was abolished. Today control is focussed on capital investment abroad on resident account and access to Australian capital and money markets by non-residents; all current account transactions are readily approved provided that, where applicable, any necessary authorities have been obtained to underlying agreements.

On the inward side, export proceeds have always had to be sold into the national reserves. As regards capital inflow, until 1972 there were practically no restrictions — Australia had almost an "open door" approach to foreign investment here and Australian residents were freely permitted to borrow from overseas. Since 1972 selective foreign investment policies have operated and from time to time there have been restrictions on overseas borrowings by Australian residents.

A general summary of exchange control policies in Australia today is that:

- outward remittances of a non-capital nature on either resident or non-resident account are readily authorised as is repatriation of capital by non-residents;
- limits apply to residents making portfolio investments overseas and direct investments overseas are subject to special tests;
- some current account transactions are subjected to timing requirements and to special scrutiny or procedures to establish that they are not in fact capital transactions;
- authority is needed prior to entering into contracts with non-residents involving capital transactions (borrowings, issue of securities, etc.) and most current transactions, but not contracts for the purchase of goods;
- all proceeds of exports from Australia must be accounted for in terms of the national reserves;
- selective inward foreign investment policies operate largely according to the area into which the investment is being directed and whether new or take-over proposals are involved;
- overseas borrowings may be made by Australian residents on normal commercial terms and conditions (such borrowings have at times in the past been subject to special controls — see Appendix II);
- non-residents may not, generally speaking, borrow funds or raise capital in Australia though there are certain exceptions for trade credit;
- generally speaking, all foreign exchange transactions in Australia must be done through banks in Australia at rates of exchange fixed or authorised by the Reserve Bank;
- forward exchange cover in the official market is available from banks in Australia to Australian importers and exporters; capital transactions may not be covered;

**Note:**

Tax clearance requirements apply to certain transactions involving countries prescribed from time to time in the Australian Government Gazette — see Appendix I.



## VI ASPECTS OF CURRENT POLICY

These are discussed under the following headings:

- Borrowing and capital raising in Australia by non-residents (including establishment of Australian registers and listing of overseas shares on Australian stock exchanges)
- Borrowing overseas by Australian residents
- Capital repatriation
- Current payments
- Direct investment in Australia by non-residents
- Direct investment overseas by Australian residents
- Donations by charitable and religious organisations
- Export proceeds
- Export promotion and overseas representation expenses
- Foreign currency accounts
- Forward exchange
- Futures operations
- Gifts, sustenance and legacies
- Guarantees by Australian residents
- Guarantees by non-residents (including letters of comfort etc.)
- Imports
- Interest bearing investments by non-residents
- Leads and lags
- Loan repayments (including pre-payments)
- Merchant trade
- Non-resident accounts
- Portfolio investment in Australia by non-residents (other than interest bearing investments)
- Portfolio investment overseas by Australian residents
- Service, knowhow and royalty agreements; purchase and sale of copyrights, patents and trade marks
- Travel and emigration
- Underwriting and sub-underwriting

### **Borrowing and capital raising in Australia by non-residents (including establishment of Australian registers and listing of overseas shares on Australian stock exchanges)**

In general, non-residents may not raise funds in Australia either for use here or to be remitted abroad although special consideration is given to applications for buyer credit to finance exports of Australian capital goods.

Where non-residents acquire assets in Australia they are expected to pay in full by inward remittance to settle the transaction.

Consistent with this policy, authority is not generally given for companies incorporated overseas, whose shares are foreign securities so far as Australian residents are concerned, to:

- establish Australian registers of their shares or other securities; or
- list any securities on Australian stock exchanges.

The main exceptions to this policy comprise companies whose securities were listed before the advent of exchange control. Special permission has been given for a few other companies where the bulk of their assets is located in Australia.

### **Borrowing overseas by Australian residents**

Subject to any borrowing controls in force for the time being (see Appendix II and note below), authority is generally given for Australian residents to borrow from non-residents provided that:

- the overall cost payable to non-residents is not excessive in relation to current interest rates appropriate to the market in which the currency is to be borrowed;
- where foreign currency is borrowed — the funds are brought to Australia immediately on drawdown and in the currency borrowed, although consideration is given to drawings being retained overseas to meet approved commitments falling due within one month of drawdown; retention for longer periods is subject to special consideration;
- where Australian currency is borrowed — the funds emanate from a bank account in Australia of an overseas bank;
- the length of the borrowing is commensurate with its purpose;
- any proposed security arrangements are consistent with normal financial practice.

If the borrower is a foreign corporation for the purposes of the Foreign Takeovers Act 1975, the proposal may be subject to screening by the Foreign Investment Review Board as for a direct investment in Australia by a non-resident.

All borrowing proposals need to be authorised by the Reserve Bank before loan agreements are entered into.

The information usually required for Reserve Bank processing of loan applications is:

- names and addresses of borrowers and lenders;
- currency, amount, term, interest rate (and any other costs payable to non-residents) and repayment arrangements;
- security to be offered;
- purpose for which the funds are to be applied;
- timing of proposed drawdown(s);
- copy of proposed agreement, if available.

#### **Note:**

The Government is prepared to provide in respect of major projects, longer term assurances of freedom from future adverse changes to the controls on overseas borrowings which might prejudice forward plans for funding. Assurances are only available in respect of projects involving estimated capital expenditure of \$500m or more. Applicants are required to demonstrate that there is a very high probability of the project being

commenced within three years and no assurances are available in respect of borrowings with a repayment term of less than four years. Assurances are conditional upon satisfactory arrangements being reached with the Reserve Bank in respect of timing of drawdowns.

### **Capital repatriation**

Authority is normally granted for the repatriation of capital by non-residents but no advance commitments are given with respect to the provision of foreign currency.

However, for transactions meeting all exchange control criteria, the necessary foreign exchange would be withheld only in very exceptional circumstances. Australia values greatly the international reputation it has built up in this respect over many years.

### **Current payments**

The remittance of amounts properly due to non-residents is readily authorised for items of a non-capital nature such as interest, dividends, service fees or royalties. However, in most cases the authority of the Reserve Bank is required before Australian residents enter into agreements which provide for payments of this type to be made to non-residents.

Payments due for services must be made within six months of their becoming contractually due; dividends and interest must be paid within one month of becoming payable. Dividends, in respect of which no date for payment is specified, must be paid within three months of declaration.

### **Direct investment in Australia by non-residents**

Selective encouragement of foreign investment in Australia is a basic policy objective of the Government. It is an important element of this policy that Australians be given the maximum opportunity to participate as fully and effectively as practicable in the ownership and control of Australia's industries and natural resources.

In the administration of its foreign investment policy the Government is advised by the Foreign Investment Review Board and all enquiries should be addressed to —

The Executive Member  
Foreign Investment Review Board  
C/— The Treasury  
CANBERRA, A.C.T. 2600

Not all foreign investment proposals are examinable by the Board and those that are not may automatically proceed subject to normal exchange control requirements where applicable.

In the case of examinable proposals, exchange control authorities, where required, may be given subject to the condition that any necessary clearance under the Government's foreign investment policy is obtained.

Exchange control authorities are conditional upon the full purchase price of shares or other assets to be acquired by, or loans to be made by, non-residents being provided in full by cash from overseas or its equivalent; non-resident borrowing in Australia for such purposes or deferred payment is not generally permitted.

If capital is to be provided by way of loan, the policy previously described under the heading "Borrowing overseas by Australian residents" applies.

### **Direct investment overseas by Australian residents**

Direct investment normally implies the acquisition of a sizeable interest in a business and a direct say in how the business should be run; a controlling interest is not necessarily looked for.

Authority is normally given to direct investment proposals which comply with one or more of the following criteria:

- involve a significant measure of Australian managerial participation in the overseas enterprise and the export of managerial or technical skills; or
- promote Australian exports; or
- protect an existing Australian investment abroad.

Applications should be submitted to the Reserve Bank, supported by details of the proposed venture and such additional information as profitability estimates, background feasibility studies, assessment of future funds requirements, etc.

Where the proposal relies upon the first criterion at least part of the initial remittance should be to acquire a sizeable equity interest in the venture. Applications should also include details of the positions to be filled by Australian board members, manager(s)/technician(s) and evidence that the persons involved possess the necessary capacity and expertise.

For proposals involving promotion of exports, details of export contracts, assessments of promotional projects etc., should be supplied.

Where the protection of an existing investment is involved, details are required of the financial position of the overseas enterprise and what efforts have been made to raise funds overseas.

Authority for the provision of capital, which may be in cash or kind, is conditional upon any return of capital being remitted to Australia together with all net earnings although necessary retentions for financing growth in working capital and for firmly planned future expansion are permitted. Use of the overseas enterprise is not permitted for transactions which would not be authorised if initiated directly from Australia.

This general policy towards direct investment overseas does not apply to investment in purely financial enterprises. These propositions are subject to case-by-case consideration. Against a policy of not allowing non-residents to raise funds in Australia, it would be inconsistent to allow Australian residents to set up or to buy enterprises abroad to lend Australian source funds. But this does not mean authority is not given at all, for instance where the main source of loanable funds is to be other than Australian.

### **Donations by charitable and religious organisations**

Donations by bona fide charitable and religious organisations to non-residents are readily authorised although lists of donors or other evidence may be called for to substantiate the genuineness of applications.

### **Export proceeds**

All proceeds of exports must be received in Australia by one of the methods approved by the Reserve Bank, namely:

- payment must either be in a foreign currency (which must immediately be sold to a bank in Australia) or in Australian currency from a bank account in Australia of an overseas bank;
- proceeds must be received in Australia as soon as practicable after payment which may not be later than six months after exportation, or

earlier than one month before exportation unless the export value of the goods does not exceed \$10,000 when payment may be made up to six months before exportation.

Any variation from these approved general methods of payment requires specific Reserve Bank authority.

Deferred or accelerated payments may be authorised where it can be demonstrated that the terms exporters wish to offer or accept are necessary to match — but are not more generous than — international trade practice between arms' length (i.e. unrelated) parties for the particular goods involved.

Proceeds may not be retained abroad, even temporarily, without Reserve Bank authority. Against specific application, the Reserve Bank will consider allowing retention abroad for up to a maximum of one month for the purpose of meeting within that time an exporter's firm approved commitments.

### **Export promotion and overseas representation expenses**

The provision of funds for up to one year ahead is authorised for bona fide export promotion and overseas representation expenses. Returns of expenditure with documentary support may be called for by the Reserve Bank.

### **Foreign currency accounts**

Permission for the conduct of foreign currency accounts in Australia or the conduct by Australian residents of foreign currency accounts outside Australia is only given in special circumstances. All applications are subject to individual consideration by the Reserve Bank and in general:

- Australian residents are only permitted to conduct foreign currency accounts with banks in Australia or overseas for such purposes as:
  - meeting commercial commitments which cannot conveniently be met by individual remittances through the Australian banking system;
  - receiving foreign currency accruals to facilitate their remittance to Australia or their use abroad for approved purposes;
  - paying small frequently recurring transactions.
- Non-residents of Australia are only permitted to conduct foreign currency accounts with banks in Australia where there is a clear need to do so and the account will be funded from a foreign currency or equivalent source.
- Accounts must be conducted on a credit basis.
- The Reserve Bank reserves the right to call for statements of account and details of transactions.

### **Forward Exchange**

- **Forward exchange cover between a foreign currency and Australian currency —**

Forward exchange cover in the official market is limited to export and import transactions of Australian traders and to some related invisibles transactions. Capital transactions are not coverable. Transactions must be based on firm underlying commercial contracts. There must be evidence of a firm foreign currency risk on the part of the Australian trader and the amount and delivery date of currency in relation to that risk must also be firm.

Applications must be lodged with an Australian trading bank within one week of the trader first acquiring the \$A/foreign currency exchange risk.

For a transaction to be eligible for forward exchange cover it must conform with exchange control requirements and any necessary exchange control authorities must have been obtained.

- **Forward exchange cover between foreign currencies —**

Authority is generally available for Australian residents to enter into forward contracts between foreign currencies with a bank in Australia or direct with a bank overseas where:

- a genuine underlying current or capital transaction exists;
- the transaction is not contrary to exchange control policy at the time.

The facility is not available to vary the currency denomination of risks of a non-delivery type such as equity investments or balance sheet exposures.

### **Futures operations**

Futures operations are permitted:

- by non-residents on the Sydney greasy wool, the boneless beef and live cattle futures markets —but not on other futures markets.
- by Australian residents on overseas markets to enable them to undertake:
  - arbitrage operations where the Sydney greasy wool futures market is involved on one side;
  - genuine hedging — but not speculative — operations.

**Note:**

For exchange control purposes “genuine hedging” is regarded as use of a futures market to protect against adverse price movement in the physical commodity by those who produce, process or otherwise actually trade in it. If a person has no such interest in the physical commodity, use of a futures market will generally be regarded as speculation.

For all approved operations, the provision of funds is authorised to enable settlement of resultant commitments due to non-residents. Any profits made by Australian residents on operations undertaken in overseas markets must be brought to Australia unless their use for some other purpose is approved by the Reserve Bank.

### **Gifts, sustenance and legacies**

Gifts and sustenance payments to non-residents are readily authorised although for large transactions some evidence of both donor's and beneficiary's financial circumstances may be called for to substantiate bona fides.

There are no restrictions on the remittance of current legacy distributions to beneficiaries permanently resident outside Australia, regardless of whether the deceased was resident in or out of Australia at date of death, assuming in the latter case the funds would have been eligible for remittance if the deceased had survived.

### **Guarantees by Australian residents**

The issue of guarantees in Australian or foreign currency by or on behalf of Australian residents is permitted where the underlying transactions conform with exchange control policy. Guarantees in respect of obligations not connected with Australia are not generally permitted. Wherever possible guarantees should be for fixed terms which should be as short as possible consistent with the transactions being guaranteed.

Applications for the issue of guarantees must be authorised by the Reserve Bank before any engagements are entered into. In respect of capital transactions authority will not generally be given for guarantees to be issued in a form which provides an automatic means of payment in the hands of a favouree, e.g. a standby letter of credit.

In the event of recourse under an approved guarantee, application for remittance to meet the obligation is to be made to the Reserve Bank; the application will be treated as if currency was being sought to settle the primary obligation.

### **Guarantees by non-residents (including letters of comfort etc.)**

Authority is normally given for Australian residents to enter into arrangements for non-residents to guarantee commercial obligations in Australia provided that short of genuine default it is not intended that recourse under the guarantee will provide the primary cash flow for performance of the obligation.

Wherever possible, guarantees should be for fixed terms as short as possible consistent with the transactions being guaranteed.

Applications must be submitted to the Reserve Bank for consideration before any engagements are entered into including execution of any security to be given for establishment of a guarantee facility.

If an obligation is to be guaranteed on behalf of a company which is a foreign corporation for the purposes of the Foreign Takeovers Act 1975, the proposal may be subject to screening by the Foreign Investment Review Board as for a direct investment in Australia by a non-resident.

In the event of need arising for recourse under an approved guarantee arrangement:

- the party in whose favour the guarantee has been established is to give the Reserve Bank notice of intention to exercise rights under the security — by telephone in urgent cases with written confirmation following;
- any resultant inflow of funds into Australia, in the hands of the party in whose favour the guarantee has been issued, will not be subject to any borrowing controls applicable at that time (e.g. minimum term repayment embargo or variable deposit requirement);
- the defaulting party is promptly to advise the Reserve Bank in writing of the full circumstances in which default has taken place. Against review of these circumstances the Reserve Bank reserves the right to impose on that party conditions as applicable to a direct overseas borrowing.

### **Imports**

The provision of funds to pay for imports is authorised where goods have been shipped to Australia or are due to arrive in Australia within one month. Earlier payment may be allowed in special circumstances but not generally in advance of a firm order being placed.



Payment for imports must be made not later than six months after arrival of the goods into Australia unless a longer period has been approved by the Reserve Bank as normal commercial practice — interpreted as internationally accepted trade terms for the goods concerned between arms' length (i.e. unrelated) parties.

Payments for goods on consignment must be made within six months of arrival of goods or within one month of receipt of sales proceeds, whichever is the longer.

Proof of arrival of goods in or their movement to Australia must be sighted by importers' bankers.

### **Interest bearing investments by non-residents**

With the exception that overseas banks, governments, central banks and other government agencies may not generally invest funds at interest in Australia, other non-residents may deposit funds at interest and make other interest bearing investments in Australia subject to observance by the accepting institution of any borrowing controls current from time to time. (See Appendix II)

### **Leads and Lags**

The following rules apply to the timing of international payments — any variations require Reserve Bank authority:

- **Imports**

Payment may be made up to one month prior to expected date of arrival of goods in Australia or upon earlier shipment, and must be made no later than six months after arrival of goods.

- **Exports**

Payment may be received up to one month prior to shipment of goods from Australia (six months in the case of goods not exceeding \$10,000 in value) and must be received no later than six months after shipment.

- **Payment for services**

Payment may not be made earlier than necessary to reach destination on due date, and must be made within six months of becoming due.

- **Interest and dividends**

Payment may not be made earlier than necessary to reach destination on due date, but must be made within one month of becoming due.

- **Other payments and receipts**

Other outward payments may not be made earlier than necessary to reach destination on due date.

Foreign currency may not be bought spot to be held against future commitments including as cover for letters of credit.

One month has been prescribed as the maximum for the receipt by brokers, solicitors and the like of overseas funds in advance of and for settlement of specific share acquisitions, property purchases and the like.

### **Loan repayments (including prepayments)**

Repayments of overseas borrowings and prepayments provided for in loan arrangements are readily authorised provided a loan has run for any minimum period stipulated in the exchange control authority. Prepayments not provided for in authorised loan arrangements are considered on their merits including any penalty interest involved. All payments must be made direct to lenders or their order in discharge or reduction of indebtedness.



### **Merchant trade**

Funds are authorised for Australian traders to buy goods overseas for sale overseas where the following conditions are met:

- the applicant is acting as a genuine trader in goods and not just as a financial intermediary;
- the transaction is to be carried out at a profit to the Australian trader based on a normal commercial "mark-up" on cost price and not, for example, just at a margin on any finance the trader is to provide or arrange;
- the goods have been both ordered and sold firm;
- sales proceeds are to:
  - be sold immediately to a bank in Australia where they are received in foreign currency;
  - emanate from an overseas bank's account in Australia where they are received in \$A;
- leads and lags rules are to be observed.

Other cases are considered on their merits but would not normally be authorised where:

- participation is by an Australian financial intermediary (e.g. bank, merchant bank or confirming house) on non-resident account;
- goods are to be bought overseas and held overseas for future sale.

### **Non-resident accounts**

Non-residents may conduct accounts in Australia to receive from and pay to Australian residents amounts due in Australian currency. Australian banks, stockbrokers and nominee companies have certain general authorities to conduct such accounts; other Australian residents need specific Reserve Bank authority to do so. Special rules apply to accounts of overseas banks, central banks, governments and government agencies; basically they may only hold essential working balances.

Consistent with the policy that non-residents may not borrow in Australia, accounts must be conducted on a credit basis unless Reserve Bank approval is obtained to overdraw which, generally speaking, is not available.

Transfers between non-resident accounts are permitted in circumstances where the receiving non-resident has a use for the funds within a time (usually one month) for which an Australian bank would otherwise be authorised to sell Australian currency.

Balances in non-resident accounts may be converted into foreign currency for remittance overseas. In addition, balances in accounts of overseas banks (but not of other non-residents without specific Reserve Bank authority) may be used to pay for exports from Australia.

Subject to any borrowing controls in force from time to time (see Appendix II), funds in non-resident accounts (other than funds of overseas banks, central banks, governments and government agencies) may be invested at interest.

### **Portfolio investment in Australia by non-residents (other than interest bearing investments)**

There is no exchange control limitation on purchases of shares on Australian stock exchanges by non-residents but beyond certain percentages of ownership buyers need to take account of stock exchange rules, the Foreign Takeovers Act 1975 and, in the case of uranium company shares, the

Government's Australian equity and control rules under its foreign investment policy.

To avoid continual reference to the Reserve Bank, Australian brokers have been given a general authority to buy and sell shares (and to sell but not to buy fixed interest securities) on behalf of non-residents, subject to ensuring that payment for purchases is received promptly from overseas or from the proceeds of the sale of other Australian securities on non-resident account. Brokers furnish the Reserve Bank with returns of transactions undertaken, supported by bank confirmation of inflows; proceeds of sales are freely remittable abroad.

Because of possible implications for any borrowing controls in force from time to time (see Appendix II) each purchase of fixed interest securities by a non-resident requires the specific authority of the Reserve Bank.

#### **Portfolio investment overseas by Australian residents**

Australian residents may undertake portfolio investments overseas up to the following annual amounts:

- individuals \$40,000 — including \$10,000 in eligible fixed interest investments;
- substantial private companies \$250,000 — including \$100,000 in eligible fixed interest investments;
- public companies and institutions \$2.5m — including \$1m in eligible fixed interest investments.

These limits are administered on a financial year basis which for individuals is 1 July to 30 June; for companies it is normally their accounting financial year. The limits are not cumulative but in special circumstances two years' entitlements may be allowed together to permit a specific investment project to be accomplished.

"Substantial private companies" are those which have been operating for at least five years during the last three of which they have had tangible assets exceeding \$250,000. For related private companies tangible assets exclude intra-group loans and in general only one company within the same group would qualify for an entitlement.

Eligible investments include real estate and equity interests in incorporated and unincorporated enterprises. They also include to the extent shown above, marketable fixed interest securities with not less than one year to run to maturity at date of purchase and which are traded on a recognised securities market overseas. However, investments in bank, money market and similar short term deposits and direct loans to non-residents are not permitted.

Overseas portfolio investments once made may not be dealt with in any way without Reserve Bank authority. If frequent switching of investments is intended, the Bank is prepared to grant general authorities subject to periodical reporting requirements.

Income and any sales proceeds must, in the normal course, immediately be remitted to Australia. However, if reinvestment overseas is firmly intended application may be made to hold such funds abroad for up to one month and to invest them at interest during that time. In the case of income, the one month is not regarded as commencing until retentions aggregate \$2,000 for individuals, \$10,000 for substantial private companies and \$50,000 for public companies and institutions. Funds brought to Australia in terms of these requirements may, within the following two months, be remitted abroad again for reinvestment without further charge against annual entitlements.

**Service, knowhow and royalty agreements; purchase and sale of copyrights, patents and trade marks**

These agreements are all subject to regulation 8 of the Banking (Foreign Exchange) Regulations and the authority of the Reserve Bank should be obtained before they are entered into; the Bank is unable to grant retrospective authorities.

Authority to enter into all normal commercial arrangements is freely given. Similarly, approval is given to pay, or to receive, fees due under authorised agreements. Outward payments may be dealt with by trading banks without reference to the Reserve Bank if banks know that underlying agreements have been authorised.

Fees receivable by Australian residents constitute foreign securities and under regulation 34, other than to have them remitted to Australia, they may not be dealt with without Reserve Bank authority.

**Travel and emigration**

Beyond certain limits banks refer applications to the Reserve Bank but general policy is that:

- authority is readily given for all necessary amounts to cover the overseas travelling expenses of Australian residents having regard to the purpose, duration and circumstances of journeys;
- provided they can substantiate that they have taken up permanent residence abroad or firmly intend to do so, emigrants may transfer their total assets from Australia. In certain circumstances intending emigrants may be allowed to transfer funds abroad in advance of departure from Australia to purchase a dwelling in the country they intend to live in.

It is an offence for anyone leaving Australia to take out more than \$250 in Australian notes and \$5 in Australian coin. Offenders are liable to prosecution and penalties can include forfeiture of the money.

**Underwriting and sub-underwriting**

Australian residents require the authority of the Reserve Bank before entering into underwriting or sub-underwriting agreements in respect of overseas issues. Authority is usually given on condition that any shortfall that has to be taken up is disposed of within a reasonably short period of time and the full foreign currency proceeds are sold to a bank in Australia. Alternatively, provided the security is an eligible type, authority would be given for all or part of any shortfall to be held within the provisions of portfolio investment policy.

**VII LODGING APPLICATIONS FOR  
EXCHANGE CONTROL AUTHORITIES**

Applications preferably should be lodged with applicants' own bankers, but may be lodged with the Reserve Bank either direct by applicants or by their accountants, solicitors or financial advisers.

The Reserve Bank has its head office in Sydney, N.S.W., and branches in the capital cities of all other States and in Canberra and Darwin. Branches deal direct with most transactions which are beyond trading bank delegations and refer to head office only special categories of transactions. Consultation ahead of proposals being firmed up is welcomed.

## BANKING ACT 1959

Notice under Section 39B published in  
**Special Commonwealth Government Gazette**  
**No. 103E, on Monday, 23 December 1974**

The Treasurer, in pursuance of sub-section 39B (2) of the *Banking Act 1959-1974*, directed that the following acts or things are acts or things to which section 39B of the Act applies:

- (1) the entry by a person into a contract, agreement or arrangement to which a person who is in, or is a resident of, or a person on behalf of a person who is in, or is a resident of, a place specified in the Schedule is a party, being a contract, agreement or arrangement for or in relation to —
  - (a) the borrowing or lending of money or the assignment of a debt;
  - (b) the sale, purchase (including the granting of an option to purchase), acquisition or disposition of securities, land or other property, or of any interest in securities, land or other property, other than the sale or purchase through a member of an Australian stock exchange of securities listed on an Australian stock exchange;
  - (c) the payment of any royalty or licence fee or the making of any similar payment; or
  - (d) the performance of any service;
- (2) the creation or establishment in a place specified in the Schedule of any trust;
- (3) the payment of moneys into a trust fund created or established in a place specified in the Schedule;
- (4) the giving or issuing by a person of a guarantee or indemnity in respect of the repayment of a loan made to or by a person who is in, or who is a resident of, a place specified in the Schedule; and
- (5) the doing of any act or thing:
  - (a) by a person in relation to:
    - (i) moneys or other property situated in the New Hebrides;
    - (ii) the sending or transfer of moneys or other property to or from the New Hebrides;
    - (iii) a contract, agreement or arrangement to which a person who is in, or is a resident of, or a person on behalf of a person who is in, or is a resident of, the New Hebrides is a party;
    - (iv) the creation or establishment in the New Hebrides of any trust;
    - (v) the payment of moneys into a trust fund created or established in the New Hebrides; or
    - (vi) the giving or issuing by a person of a guarantee or indemnity in respect of the repayment of a loan made to or by a person who is in, or who is a resident of, the New Hebrides; or
  - (b) by a person who is in, or who is a resident of the New Hebrides;
  - (c) the making of a payment in relation to a policy of life assurance;
  - (d) the doing of any act or thing in relation to the provision of moneys for the purpose of travel outside Australia;
  - (e) the receipt in Australia of moneys in respect of payments other than capital payments;
  - (f) the making of donations or bequests to charitable organizations or religious bodies;
  - (g) the acquisition or disposition through a member of an Australian stock exchange of securities listed on an Australian stock exchange, the consequential registration on a register in Australia of any such acquisition or disposition of securities and the despatch from Australia of any certificate in relation to those securities;
  - (h) the payment of any dividend or interest on securities listed on an Australian stock exchange that are registered in the name of a holder whose address on the register is a place outside Australia;
  - (i) the settlement by a bank in Australia of local exchanges effected in the New Hebrides; or
  - (j) the making of a payment of an amount of \$50 or less.

## SCHEDULE

Bahamas  
 Bermuda  
 British Channel Islands  
 British Virgin Islands  
 Cayman Islands  
 Gibraltar  
 Grenada  
 Hong Kong  
 The Isle of Man  
 Liberia  
 Liechtenstein  
 Luxembourg  
 Nauru  
 Netherlands Antilles  
 Panama  
 Solomon Islands  
 Switzerland  
 Tonga

## BORROWING CONTROLS

**Controls on overseas borrowings are currently suspended.**

### **History:**

Borrowing controls were first introduced on 27 September 1972 when an embargo was placed on borrowings which were repayable in two years or less.

On 27 December 1972 the embargo was supplemented by a variable deposit requirement (VDR) on borrowings longer than the embargo period. Under this scheme a proportion (initially 25%) of funds borrowed had to be lodged in Australian currency with the Reserve Bank as an interest-free non-assignable deposit until loan repayments were made.

Subsequent changes in the operation of the borrowing controls were:

- 26 October 1973 — VDR increased to 33 1/3%;
- 25 June 1974 — VDR reduced to 25%;
- 8 August 1974 — VDR reduced to 5%;
- 11 November 1974 — VDR suspended and embargo reduced to 6 months;
- 17 January 1977 — embargo increased to two years and VDR reactivated at 25% with provision for release on repayment or after 3 years, whichever was earlier; also borrowings to finance certain classes of capital expenditure in the mining and manufacturing sectors, though subject to the embargo, were exempt from VDR;
- 7 July 1977 — embargo reduced to six months and VDR suspended.
- 9 June 1978 — six months embargo suspended.

**While they operated, the borrowing controls did not apply to:**

- borrowings to finance overseas trade on normal trade credit terms;
- borrowings aggregating \$200,000 or less (\$100,000 between September 1972 and July 1977) in any period of 12 months.

National Library of Australia card number and  
International Standard book number ISBN 0 642 90127 9

Discussion 14/7/86, Notes of Ned Borden.

Wilson & Foley Sunday

Re documents

Stephen Foley:

Said:

Swiss Bank docs: Wilson & Ed Foley  
about 4 May 1984. — W & F in Switzerland on Loans Affairs  
= staying at separate hotels <sup>Investigation</sup>  
documents left under doors at hotel hotels -  
not known who provided docs. — New docs.  
— no idea that they existed - no fee or reward  
sought for this material.

Mr Boorie? -

Mark W. Can someone who may have provided  
the documents would be prepared to talk to  
someone from the this Commission.

{ Documents in Murray Quartermine &  
relation to the Little.

No way of knowing who put them  
under the hotel door.

- Re Mall - he would inst. contact with us -  
Mall was supposedly a wanted man -

Documents from Mall or Francha? - No not  
likely - not possible re Francha - unlikely from Mall.

(Francha died some time before they went to Europe)

Francha made allegations against Murphy - Francha  
interested in the loans affair & to that extent -

Stephen & Foley when in Europe made it clear that  
they were interested in investigating various people

people in the loans affair - for that presumably documents came to her.

Re Mandates to draw up or borrow the sum - Sanchez says that Murphy, Cairns etc were to receive massive kick backs. -

Sanchez had material - signed statements - affidavits etc wordings of the mandates given by the trust went to arrange the loan with kick backs to Aust -

Documents had seals - of public notaries: - Langs said that that the

Mr. Sundermann was these affidavits - that ~~representatives~~

Couldn't find him - but clearly he existed

~~Sundermann~~ was a fringe financial operation ie ~~as~~ a known operator & someone shady. -

- Party to the funding of the \$4<sup>b</sup>. an intermediary best of knowledge - not paid money..

Another character Zundermann - Same person?

Unclear. - Sundermann clearly lived but Zunderman only a postal address East German address - West German passport. - Zundermann's postal address

S. Charles: re share registers - Melb sol. made inquiries about opening a Swiss acct - Report prepared by Age solutions: Lytleth - The Information highly secretive. - Cie shares in the bank Union Bank of Switzerland. -

Blacker shares worth considerably more than their face value - supposition that they are heavier shares, these are usually the type that people (also etc) to purchase.



In about 75 nominal value 500 miss from each  
heavier month, about 600 - 700 - Today \$310 each.

Beaver \$1655 each month today well in excess of  
\$600,000.

Believed documents to be genuine - but never able to prove  
to the satisfaction of Age lawyers that genuine

S. Charles Mall had motive to create this type of doc.

1) leverage.

2) preparing ground to handle

Charles Mall starting point but not all the time throughout  
but certainly possibility that they could be fakes.

S.C. Assuming genuine docs. what was the motive  
of person producing?

Only that helpful to our enquiries re loans  
affair - Docs or docs correspond with the period  
when the illegal evidence was going on - it time when  
major stuff going on - Union Bank was the first  
approached by Khemlani. - came from <sup>a source</sup> within the  
bank.

Q. If bank man why? -

A. Delighted getting info. from someone  
from inside the bank -

Quartermaine lied to us - selectively lied  
throughout - perjured himself in S. African courts

Re money movement: <sup>Sundt</sup> ~~Sundt~~ Murphy was involved -  
Quartermaine needed good backing to bring action  
against Mall in S. Africa. - (put up \$100,000 to bring action)

Murray Quarlesman  
managing director

Quarlesman Travel Group, Fountain's Mall  
(4)

Hugh St. <sup>4</sup> OLD HAM  
Hampshire  
Tel 25671-3474  
Telex 858186.  
Visa PP.

Marshall questioned Quarlesman -

Q said met

met Murphy twice in

Q in May 1983. said knew him - met once  
twice - Martin Place office - Q. Pres of  
Inquest Agent Assoc. met at cocktail party  
with UTA Quarlesman. Pres rep of Elect  
Dobson Regional Manager in Sydney -  
Mrs Murphy paid \$1 plus all travel

Hotel Express Q. Pres Rep.

~~not~~

Murphy appointed: Monosi & Quarlesman  
as managing directors.

Aranda Ethiopian airlines and Hotel Express

COA Quarlesman married to Kenneth McKenzie (100<sup>2</sup>)  
Both declared involved in Mall schemes.

Re Bank document

Authenticity of Swiss material?

- Re checks on opening accounts in various names -  
done through solicitors through Union Bank rep  
here in Sydney - concludes can't open account  
in motor name - personal attendance not required  
not need to write providing details etc - Signature  
must be verified. = open box - attend &  
appoint sub & accountant to act as Trustees:

Re source of funds?

Wrote West G. Police re

Sunderman - <sup>Sally</sup> Murphy had

code name L.M. Blake - Quarlesman key to  
Canberra connection

(5)

Cutting from newspaper - Ireland MP. Denis Lunt  
with Moll. (Creighton - Brown) -  
Share Certificate - Shows Creighton - Brown as  
share holder -

Re Mogil Ltd S.A. Quatermaine shown in share  
register

S. Charles: an application for shares by Murphy?  
by observation - you have to be there with your  
passport and complete the material - where to  
send copies, ? who collect they? -

Q Re marking money: ? what for:

A: Tax money: Moll scheme was tax  
money taken off share to buy goods etc - (antiques)  
receipts & by Tiller & Co which shows they  
gave money approval for money to go out & gold  
etc to come back. - Moll says that was the  
loss gold - also - certificates to be over -

When Q questions Q says Moll the man, I just  
signed the documents.

Q. jumpy about political connections -  
Diamond said to be a gift for favours rendered  
by Mr. Murphy. is a knock back.

Quatermaine handled the Carbone connection -  
Blake (is Murphy) - Q what Murphy doing?

A: L. M. Blake moves a large amount of money  
through Paris - marked through Switzerland then  
money then forwarded to an account -

Q: Moll looked after the dollars.

Q. looked after other things (Carbone connection)  
also Carbone doing using the pipeline  
Murphy a client & used the pipeline out

1972-75

(6)

Murphy being used  
to exert whatever political pressure  
provided with funds etc. - not make link  
that 400,000 came from Moll link  
diamond etc.

Murphy tells letter to Quat. and says  
use your connections to stop the scandal.

Federal police saw Tills: in 1983 documents.

(Copy of Tills Q. letter held here).

(provided last week by the two journals.)

Murphy's involvement see above

Re kickbacks - from windings - vast amounts to  
go to Murphy, Cairn & Connors.

Murphy's role: A/S of Aust 13/9/74. even meeting at  
Lodge William, Murphy, Cairn, & Connors, (about Kerr).

Even committee authorized borrowing of  
\$4,000 m. by Connors. (Temporary (20 years) ∴ didn't  
have to go through loans council. Murphy said  
that could be done: Murphy a signatory to  
the mandate - bypassed parliament & loans council. Murphy  
may have made a more active role in seeking the funds.

Re Farcha investigation - came about from a  
meeting: Fraser, Greenwood, Lyns, Premiers & Liberal  
leaders etc. To discuss what to do about supply.  
Anthony said approached by Wiley Farcha re material  
on loans affair. To. contacted Farcha - F. contacted  
Todd a Californian character + Qld agent before in Qld.  
Qld A/S in Switzerland  
In course of this came in contact with Anderson

Kickback said to be 25% -

Murphy said to have played a major behind the scenes  
role.

Gene Fuler  
Monsieur Moll

7.

Lanka enquiry (in Switzerland) -

Kickback set up with 3 banks. - Sundaraman involved in the negotiation with Banks.

Caris, Conrad, Smart - (80M each). - Letter from one banker to another - refers to ~~the~~<sup>the</sup> Commission Murphy, Caris, & Conrad. (of I.B.) is around 40M ea (and 12 to the author of the document)

3rd doc. bearing name Murphy - (comm.).

document bears seal of notary public - who confirms that it is his signature. - (now miss judge.) -

English trans. -

Re kickbacks: working the loan - the interest rate inflated by 7-9% but ~~settled~~ at 8.3% then amount paid back at the end of the period money washed through the various banks.

Start off with 4.3% - ~~then~~ at 7.1.

Shows 4.3% ~~at~~ 8.3% but really 4.3% @ 7.9%.

common practice - throughout the Sundaraman documents called re-figuring the loan sums (Khemlani talks about this type of arrangement in his statements).

Q. Where did the \$400,000 shares come from? (not Moll, not loans) - Sumise: money made legitimately? - have invested money overseas, evaded tax? perhaps washed through the Moll pipeline. -

- Jo Keenan (as a protection) is an old policeman went with the old group to investigate the matter

\* Filer. Q. - says not my letter, <sup>its a</sup> Moll forgery.

(8)

NCA press: Quarantine letter asking refund on  
12 Aeroplan tickets issued through Ethiopian  
airlines.

Said to be a KGB exercise (S.C.). - A conclusion that KGB operation  
laying to move 4B. into govt. - would not have been  
known by Treasury officials.

Murphy & wife and part of that ring - Monosi  
part of that ring - in spy ring -  
Greenwood asked loads of questions - ~~also~~ Ditchburn / Elliot  
about 10/12 - finally read them into record -  
Murphy stormed out - some questions answered.

Greenwood's former secretary said he was onto something  
W.C. Wentworth believed Ethiopian airlines were  
a bit strange. - felt Ethiopian airlines front  
for something else.

Ditchburn / Monosi constantly saw  
Murphy / wife ~~14,000~~ 20,000 airline travel  
courtesy of Ethiopian airlines.

murphy ordered Yugoslav embassy summerhouse  
be dropped at the time of the raid: -

Suggestions on how we can pursue these matters

Swiss documents issue:

Power to go to the Swiss Authorities. — precedent exists for point to point. — Need to go to the bank — Visit by Peter Barron to Ag. to suppress the info. on boxes. (see Burns) (Editor)

article 14/9/84

Re KGB: Barron came as emissary of P.M.

re enquiries about various people P.M. wanted Barron to tell them that he understood that it was in relation to a matter of <sup>treason</sup> ~~treason~~ (known persons in the ALP) — P.M. would not do anything to suppress the ~~the~~ article. Told not at that stage.

~~Amsterdam~~

HENDRINA BOEF 24/6/79.

Diamond Valuation Certificate (documents provided)

Boef.

Hendrina Boef: In Amsterdam. (dying of cancer) stones like this quite regularly traded between Mall customers: it is her signature — she has been interviewed by police (Dutch.) who verifies that her signature.

Lead Pol. asked Dutch police to make enquiries on their behalf.



Vic Editor for the Australian }  
Marshall is his deputy.

(next weekend he has commitments - homecoming during  
the week evening etc - any time.)

Fed Police - raided Chattermaine

*Unconnected*

It is 10 O'Clock Sunday morning 6th July conference in my chambers. Present: Durack, Wilson and Foley. We are just discussing with Messrs Wilson and Foley the statutory declarations which were sent by them to the Parliamentary Commission and the document attached to those statutory declarations and we have just been told something of the background to that investigation which produced these files. Mr Wells and I are on an investigation to the Age which started probably 2 or 3 years ago and it went on for quite a long time. It involved numerous trips to Europe. In the course of one trip to the best of my memory was started in April 1984. We went to Europe for 6 weeks and during the course of that trip we came across with the documents that are referred to here.

Q. Was that the first time you came across the document in particular?

A. These particular documents, yes. But we gathered other documents previous to that but they didn't relate to Justice Murphy.

Q. Can you tell us in general terms what the nature of the investigation was at the time?

A. Well like a lot of things, you start out with an investigation. You go down a certain trail and come across other things and that was pretty well how our interest in this matter started. As I say, it originally started probably 3 years ago when we followed certain lines and that involved tax evasion, tax avoidance, movement of money in and out of Australia, Swiss bank accounts,.....that was essentially an investigation of tax evasion, money moving on a massive scale. It had elements of the Nugan Hand Bank in it. A

lot of those earlier things couldn't be proven, it was just things that were thrown up by people who wanted to encourage us to go down certain tracks.....what we really should have been looking for.

Q. You say that these documents came into your possession almost by accident?

A. Well, we followed this exercise right through. At one juncture at early 84 probably about March April we came across an aspect of what is generally known as the 'Loans Affair' The late Whitlam governments loan activities in 1975. We recovered a lot of material in Australia to do with that period. And it became apparent to investigate this fully we would need to go overseas to try to track down some of the people involved and try to validate some of the documents.....across to Australia and that's the point where we went to Europe probably around April 1984. It took us some six weeks to investigate what's generally known for these purposes as the Loans Affair. Every course of that investigation came across with this document.

Q. I think you can assume for the purpose of this discussion that we are reasonably familiar with the background of the Loans Affair and that you are not talking to someone that doesn't understand what you are talking about. Can you tell us which country you recovered the documents in?

A. These were recovered in Switzerland. I think, I'm not certain exactly, round about early May, middle of May.

Q. Were they volunteered to you or did you have to search them out?

A. We didn't search them out as such. We weren't aware of them but.

Q. Can you tell us something of the circumstances in which you came into their possession?

A. Well, we made a number of contacts in Switzerland and attempted to stand up some of this new material we recovered.....Loans Affair. That I think is fair to say of people that had connections with us that people dealing with the Swiss Banks from that channel - that source that these were provided. We didn't actively seek these because we weren't aware of the fact.

Q. ....or did you pay for them?

A. We didn't pay money for them. They were just produced to us. We were because of our interest in the Loans Affair making inquiries about the people featuring in these documents. Justice Murphy

Q. You distinguished between documents that you recovered from Bank sources and documents that you recovered from people who just dealt with banks? Did you get these documents from a bank source or from somebody who dealt extensively with Swiss banks?

A. Well, we didn't get them from bank sources or bank employees. It's our belief that they originated from the bank. It must have been got with the cooperation of people within that bank. We didn't come into direct contact with employee of the bank - an ex employee of the bank.

Q. Did you take steps to investigate the authenticity of those documents?

A. As much as we could but the difficulty was - you know this is a fairly delicate matter.

Yes we know that.

A. You have to appreciate that in Switzerland the bank is practically inviolate. You just can't walk into the country and make enquiries about bank accounts. I think you probably risk prosecution, possibly be charged for probing into what is regarded as very confidential affairs. So we weren't able to go to the bank. We couldn't have gone to the bank to validate them but when we came back to Australia we attempted to substantiate to the best of our ability and I think we were only able to establish satisfactorily that the people whose signatures appear on them were officers of the bank at that time. There are no signatures.....  
.....  
.....

Q. There was no attempt made to get copies of those gentleman's signatures and compare those with the signatures of those on the documents?

A. Only in as much that I think on one document there's a signature here that is documented .....This is the safety deposit rental contract bearing the names .....Carl Sundamann Lionel Keith Murphy and Edward Gough Whitlam and the name at the bottom which looks like Teiger.

Q. Yes, and what do you say about that signature. Have you attempted to authenticate that signature as being a -

A. We haven't been able to authenticate that signature, but on another document this appears to be a safety deposit box contract for 12 months - renewal of a contract

between Lionel Keith Murphy and Juni Morosi. There appears to be the same name signature Teiger on this document.

Q. Have you ascertained that Mr Teiger was an employee of that bank have you?

A. We understand he was but we haven't been able to interview anyone from the bank concerned. The Union Bank in Switzerland - we have attempted to find out if there is an employee of that name or was an employee of that bank directly, but the Swiss banks are very loathe to disclose that information. I think from memory we attempted through a Swiss Bankers' Association which is a kind of umbrella group for all of the banks in Switzerland to find out if in fact this officer worked for the bank as the other officers worked for the banks connected with the Loans Affair. We were able to substantiate from that Group that an officer from another bank did work in the bank concerned, but not in this case. They would not answer our queries on this. We did put some queries to the Swiss Bankers' Association but they weren't forthcoming on this particular officer. On another officer

Q. So the position is that none of the signatures on any of the documents which you have given us or the names of the persons whose signatures appear, have been confirmed as actually being employees of the organisations.....on the documents? Can you tell us - You've told us what steps you took to try to authenticate those names. Have you taken any steps to find out whether any person of that name exists in the city itself, where the bank is located.....His name appears in a telephone directory or some.....or anything of that kind?

- A. Well, the difficulty is that we were doing this 9, 8 or 9 years after the document was signed. We were Switzerland 2 years ago.....We did look up phone books, not just for these people but others. These people who were Swiss bank officials, Swiss nationals. We did a lot of checking through phone books but as we say we were covering something that was 9 years old.
- Q. What I was asking was, did you check phone books for example for this person.....You have to decipher the name first.
- A. We did as best Tegr which is all we can make out. It wasn't easy to decipher that signature.
- Q. Do you know how long Swiss banks retain records of persons who have safety deposit boxes?
- A. No we don't.
- Q. What about shares? Is there not some mechanism in Switzerland for looking at Company records..... include the shareholders of companies.....?
- A. I think in the case of.....shares apparently in the Union Bank of Switzerland. To the best of our knowledge I think they were made out to 'bearer'. Bearer wouldn't be easy to trace within that organisation. Again you are dealing with a Swiss bank which is the largest bank in Switzerland and because of the banking secrecy laws in that country it's nigh impossible to find this information out without going to the bank and seeking its cooperation.
- Q. Can I ask whether you checked the apparent authenticity of the document including matters such as the logo on the top of the document?

A. Yes, the basic checks were done in terms of checking the logo, the style of the document.

Q. The translations?

A. The translations. They were all identical to others we hold for other people judged eminent which have been checked and where people confirm that these are yes.

Q. We are now looking at the Swiss Bank Cooperation. A document which is bearing the name Lionel Keith Murphy. A notice to bank shareholders to attend.....It's a notice to bank shareholders - a proforma letter in some respect to shareholders of the bank advising them to of a forthcoming bank audit check. It refers to an amount of 400 shares AKT which is the Swiss/German shares - Sweitz Bank Gesellschaft which is the German name for the Swiss Bank Corporation. Sorry the Union Bank of Switzerland. And 500 .....is the nominal value of the shares. They also refer to a number which is apparently the number of the security account within that security account of 400 shares are deposited. The nominal value of those shares is 500 Francs Swiss but if they were bearer shares they were worth considerably more. I think they were worth approximately \$300 American. The sum amount if they were bearer shares would be approximately at that time would be about 700,000. There's nothing on this document to suggest that they are bearer shares.

Q. That's information that presumably you have been given by the source of this document?

A. Yes.



Q. Are the people in Switzerland that you know that are Swiss bank interesting.

A. Not the person who supplied me with the document but with by other people.

Q. Who told you that these would be 'bearer' shares.

A. Well, we made some inquiries about shares and how it works and we can't say categorically that they are bearer shares but if they are made out to bearer they are worth considering more than.....

Q. You have outlines for us something of the way in which the Swiss Exchanges would work in this country if you had a large parcel of shares in what is presumably a Public Company. I believe that in Switzerland it would be very easy indeed to find out who the shareholders are and if they are shareholders in some sort of nominal corporate. Knowing that doesn't seem to be the position on this document. The shares seem to be in the name of the Judge himself. Is there no equivalent system in Switzerland for finding out who the shareholders are, or were of a particular company?

A. Short of going to the bank with some kind of authority to investigate a particular client you believe to .....money from an illicit source, no. I think the laws in Switzerland are such that other countries or other governments can't pry into the Swiss Bank accounts unless they believe that the money there are the assets of some proceeds of a criminal activity or ill-gotten gains.

Tax evasion

I think things have changed in the last couple of years as far as the Swiss banks are concerned. It's become

SIDE 2

Q. Can you tell us how much investigation you actually made into the.....conciliatory share document. What steps you took to attempt to identify them.

A. Just the share document?

Q. Yes, just the share document for the moment. We'll separate the other afterwards.

A. I think we made some inquiries to find out was there an essential register of a bank shareholder which is acceptable.....My memory is hazy.... I think we were told that this was not the case.

Q. ....Car Register?

A. ....Not accessible.....Public Inquiry about it....I.....I think we did make some inquiry to see if it was a share register.

Q. Did you sight anything other than photo copies of these.

A. No - just photocopies.

Q. Can you tell me this. The person who gave you the document, can you tell us who that was?

A. Well, it's not that easy.....It's terribly difficult for us to commence an investigation without knowing the origins of the document

A. I think at this stage we must say no for the simple reason that we saw a number of people. We don't know precisely who it was individually made those available. They came into our possession..... and we were under no illusions that if those documents had been found on us in Switzerland - if we had been picked up by the police there, we would have been inside. We would have breached the Swiss code. We would have been inside the French Tax authority in a similar exercise and this is well known, well documented and they could be taken to court for it .....enormous amount of.....

Well I want you to understand that any inquiries we make in Switzerland will be made on a government to government basis.

Well you can do that. There is that facility but as working....journalists we took considerable risks in getting.....Had we been caught with them we could have faced some kind of prosecution. Once we got them we didn't hang on to them very long.....  
.....It was too risky

Q. Did you ever see this gentleman Sukeman.

A. No, but we did attempt to trace him.....He had a postal address on one document and a passport. ....You will observe that the passport number is in fact an East German passport DER not West German although his postal address is ..... is in West Germany.

Q Do you know anything about Mr Sundermann?

A Not this particular Sundermann, no.

Q Another Sundermann?

A Well in the course of the Loans Inquiry Affair we were looking at a different person with a similar name. A .....Sundermann. Similar but different surname.

Q .....Sundermann had a I think West German passport

A West German passport, a West German address.

Q We are able to establish the fact that he had

Q Spelt in the same manner as this Sundermann except what "s".

A And he has a different middle name.

Q Are their two "n"'s .....

A Yes

Q .....

A That crossed our minds.

Q Passport numbers

A Passport numbers are different, the addresses were different.

Q A number of people we spoke to had met Yokeman .....Sundermann.

A Yes

Q And described him as a West German

A .....We had his birth date. We had is age

Q Sundermann with an "s"

A We know nothing about .....at all.

Sundermann for a time lived in West Germany when he met some people we were able to interview about which we checked through police sources but through using his passport he was born in West Germany.....

We had a description of him but all attempts to find him failed to this difficulty or changed his name.....

We were told he gone .

He featured promptly in the last ..... Sundermann. Zundermann we know nothing about apart from the information on that.

Q .....come at all in your investigations.

A No, nothing

Q Do you interpret these documents as having a connection with .....

A Well only in that its the same kind. The Whitlam Government receiving of those loans, .....January, February, March 1979. The dates on some of these documents are of that period. It is certainly true the Whitlam Government initially try to marshall funds through the Union Bank of Switzerland in I think, January 1975. Some of these documents bear

March dates and February dates. I think after the failure of the attempt through the Union Bank of Switzerland which is coincidentally this bank here, they went through other channels in Switzerland for money .....

There were a number of suggestions floating around that attempts were made it is said by the Queensland Government to embarrass the Labor Government by the use of forged documents and so forth. However, could this be part of that exercise, remnants of it and not your investigations.....

A We recovered some documents in Queensland. This is what started us on the original ..... and was the reason why we went to Switzerland for six weeks in 1984 was to try and validate these documents as much as possible. We were able to corroborate some of those key documents in as much as the stamps ..... validated. These were .....public stamps, witnessed Attorney stamps. They took the form basically as Statutory Declarations I suppose we call them. Some of them swearing that the wording of a particular document or the seal on a ..... rather than to corroborate that the seals were genuine.

That was sworn before a General ..... No 1 interested document which bore the name of Lionel Murphy, Rex ..... and Jim Cairns was a German document ..... communication between two bankers before the stamp of the notary public ..... when shown the document or when his office was shown the document after validating the seal. To that extent we believe that these documents were genuine.

Q That demonstrates that somebody actually did swear the contents in his office but it does not demonstrate the truth of the contents.

A No

I dont recall any suggestions that the Queensland Government is dealing with forged documents..

There is no suggestion of that. We have gone back over that period very fully. We have gone back over the Hanzard records.

I think what was said at the time by the then Liberal Country Party they had been unable to substantiate the documents, but I dont think any proper investigation was ever carried out anyway, as far as any Government is concerned

.....

Well they were in Government. I dont think there is any point pursuing it any further. The Government was in power. The statement was made by the then Attorney General, Bob Ellicott. They had examined these documents and could find no support for the allegations made.

Q May I suggest that you get the documents that you annexed to your statement and did the declarations come from the one source or did they come from different sources. In other words did the company document come from a different source from the documents dealing with the bank boxes.

A They fall into two categories. Allotment of shares document and there is a document which talks about certain boxes held by the Judge with others.

The difficulty is that we don't know the original primary source so we can't ..... We don't know precisely yet as I say they were made available to us. Literally, almost literally falling off the back of a truck situation where they came in an envelope under the door of the hotel. So who precisely put them there we don't know. But they were made available after speaking to people in ..... but certain characters and individuals such as

Mainly people mentioned here so we do not know at all the person who put those documents. This is quite typical, the emergent in an envelope under the door

We understand ..... for security reasons what we believe to be in our best interests at the time. We were aware that they were under surveillance at different times. Not specifically at that time. We had had well I had my family here ..... extremely jumpy. We thought that if anything did happen we would rather be in different hotels. We had been discussing several people ..... about the people concerned.

Another thing we are looking at as far as we are concerned was Whitlam was supposed to have shares and/or had bought a Chalet, one of the ..... we were unable to find the proof although we were at one stage actually sighted a document which allegedly Whitlam's shares and the steel company.

It mainly was his signature.

His name, that was exactly right. So the document was useless to us



To the way of ..... investments  
 ..... they're faceless corporations,  
 faceless companies that are registered in places like  
 Williamstein, they call it Un..... I detect  
 they have ..... who will perhaps be lawyers or  
 accountants business representatives who might be Swiss  
 nationals. But they register these Cust.....  
 foundations..... In places  
 like Switzerland it is very difficult to find out the  
 beneficiary of

Would this be typical ..... which would  
 give rise to some cause for concern that these people  
 had their names openly on the safety deposit box title  
 and on the shares .....unusual.

Well there would have to be a record I suppose of their  
 interest in this, there has to be some record somewhere  
 that you are the beneficiary shares

But it might be done through some sort of .....  
 corporation

It could be.

We cant explain this fully but our reading of it is that  
 in this document the safety deposit rental contract  
 bearing the name of Lionel Keith Murphy and Gough  
 Whitlam it would appear that Mr Y.....  
 was the Trustee of this box on behalf of the clients,  
 Murphy and Whitlam.

Murphy by this time had already been appointed to the  
 High Court. He had been on the High Court for over a  
 month.

That's correct.

Whitlam was then the Prime Minister of Australia and there is an accompanying document which you may have seen as being receipt of keys to this document box No 8343 which is a receipt for two keys, deposit and two keys, I think. This is made out to Miss Juni Morosi, the box number corresponds with this one. I think the dates.

Q. Do you know if Miss Morosi was overseas at that time?

A I think she was.

She did go overseas about that time but whether she was actually in Switzerland we have been unable to

This document seems to indicate that she personally received the relevant keys.

That's apparently so.

That would have been difficult to authenticate at least to that extent

#### NEW TAPE

We have now taken photocopies of a document which was marked 7 across the right hand top.

Q. Can you tell us who put that mark in? It was a European 7.

A. I did.

Q. Alright. And did you receive the photocopy in the form in which it appears now, or did you actually sight the card.

A. It was a photocopy.

Q. It wasn't an actual.....?

A. No. But I'm not sure.....

Q. You said this came into your possession later?

A. It wasn't.....Put the two pieces together. I think the one backed onto the other.

Q. Can you tell us approximately when those documents or photocopies came into your possession?

A. It would have been again in 1984.

Q. On the same trip or on a later trip?

A. A later trip.

Q. When was the later trip. What date was that?

A. When was it? We were away all of October 84.

A. One was 4 weeks and one was 6 weeks.

Q. Then the two of you were in Switzerland together again?

A. Yes, Yes.

Q. Did these documents come into your possession again in Switzerland?

A. Yes.

Q. The document appears to be a letter that was written on October 5th or 6th of 1972. This one I take it did not come into your possession in the same way as the others, slipped under the door. It came to you from a person.

A. It came from a person, yes.

Q. And once again without nameing that person you are able to tell us whether that person was a Swiss national?

A. A European.

Q. A European with connections in Australia? You don't know whether that person had ties in Australia, or who had lived in Australia?

A. No.

Q. Was the document shown to you, to the both of you? Together, or to you alone?

A. No, it came to me alone.

Q. And again, there was no money paid over for the document, or anything of that kind.

A. No.

Q. And at this stage you would not be prepared to name the person.

A. No.

Q. Would you be prepared to enquire whether that person would object to being seen by the officers of the Parliamentary Commission of Inquiry?

A. I will try.....

Q. Could I ask that again in relation to the other documents, or any person that you spoke to in Switzerland who might be able to throw a light on those documents? Could you make enquiries, and find out whether that person would be prepared to speak at a Parliamentary Commission of Inquiry?

A. Please don't feel that we are being uncooperative or evasive

Not at all. We can understand your situation.

You've probably dealt with journalists before. We feel ethically bound to keep faith.

Q. We understand your position. I hope you understand ours. We are following up material which has been put to us pursuant to the advertisement by statutory declaration. We have to do everything we can.

A. We are willing to help as far as we possibly can. Some matters.....

Q. Are there any other documents of this type which might throw a light on or help to authenticate these proved deposit boxes or safe deposit boxes and allocation of shares documents?

A. There is other stuff that the Age in particular....shows that people Swiss Bank..... and they are similar to those.

Q. Is that material that you provided to the 'Age' through your own investigative.....?

A. We have these names of people on these.....

Q. The other Australian citizens. Do they include politicians also?

A. No. I dont think so.

Q. Do you have any objection to us approaching the 'Age' in relation to that material, asking for it or such other material that you produced that er is relevant?

A. As far as I know we left it.....

Q. Did you resign because of some dispute over these investigations. I just get the impression that you were very disappointed with the 'Age'.

A. ....put a lot of time and effort .....would like to see them publish it.....

Oh. The Chief of Staff.....

A. Been promoted to the Chief of Staff in the course of the investigations. In fact just on the eve of..... material.....  
The team was broken.

Q. Were you given a reason as to why the story would not be run although it had been approved by the legal department?

A. Well. We are talking about a very wide.....We wrote ..research.....Loans Affair. We incorporated this information in it, but in a form in which we could identify.....political figures and senior politicians.....shares.....

Q. So that made part of a very wide range of investigation which was written and cleared for publication.....November 84 .....just before that.....election. It could have run before the Federal Election.....I was promoted to Chief of Staff in 19.....the team was broken up.....Although we were a little surprised .....we were approached only quite recently by the 'Age' insisting that they have all the facts. They had all the copy that we wrote in their possession. We left all the copy.....

Q. The reference to Mr Murphy on this document headed number 7 which you've put a line through. Were you told that that related to Mr Justice Murphy. On its face there must be tens of thousands of Mr Murphys around the place. Were you told that that letter.....

A. I was told, yes.

Q. Did you see any document that might

A. I was led to believe that that card was on Murphy's file.....

Q. You were told that that was Mr Justice Murphy?

A. ....Lionel

.....  
No that's right....

Q. The person who showed you that photocopy or gave it to you told you that (a) He had.....which indicated that he had an account with that bank and secondly that it was on his file? Did he tell you that there was other material on the file that he could obtain for you?  
.....

Q. As recently as 1984 the bank still retained a file in the name of Lionel Keith Murphy?

.....

Q. Do you have any other document which shows a relationship between Murphy and the Union Bank of Switzerland? Any other documents?

.....

Q. Is there anything else that at this time you could assist us with again in terms of authentication. Have you tried to check out Mr Sunderman through whatever sources you can. Find out something about him. I know he's an East German. I know its very difficult. He's obviously an East German who can move around?

A. No. I have on a number of occasions asked..... You talk about trying to ascertain if someone like Juni Morosi was in Europe at a certain time. ....did the obvious.....tried to get airflight movements on people like Morosi. the judg and other people. The movements in fact are interesting in that they are incomplete and did come from Australian Federal Police file. The computer broke down.....They are incomplete in as much as on certain flights it shows them coming in from somewhere but doesn't really show them going out. At the.....office it shows them going out to somewhere but they never come back in. In other words the files are.....this has been confirmed to me by.....or if you were a powerful man with a man in high places.....the file just disappears. You can make a flight going in and out and it won't show on the records.



Q. You say that you've got the AFP records showing flights. Could we get copies of those?

A. Through the AFP I'm sure you could.

Q. No. I mean through you?

Q. They won't reveal any sources.....

A. ....investigation also put in Ethiopian Airlines.....

Q. ....Did it come into your office.

A. Yes.....we know of it.

Q. It is a matter that interests us.

A. ....as a result of the exercise there it shows.....This might be of interest to you....it shows (There seems to be a crackling of lots of documents at this stage)

Sorry. I'm looking for the record. Oh there it is. The person named in that reference. The wife of a former West Australian business man who dealt with Murphy at the time.

Q. Who is that?

A. Lionel...Murray Vernan Quartermain.

Q. Quartermain tiller....Surfers.....

A. You know about that do you?

Q. Yes. Are you following that up yourselves?

A. Well, we did that.

Q. Oh I see.

A. We wrote a story for the 'Age' last year. Our investigations.....  
We named tiller. I think we named Quartermain because he wrote .....

Q. You didn't name Murphy?

Q. Tiller announced the letter in question as a forgery didn't he?

A. yes and .....

Q. Did you know Mole yourself?

A. Oh yes. We did a long story.....the tiller story.

Take copies of these documents David while you are at it. We have a press clippings service but I don't think we've been very comprehensive about what we've picked up.  
I'll.....the machine for the moment.

Tapes 3 & 4 - D Durack

Q What about the Australians?

A .....

.....Investigations over the last few days we've come across a number of other things

Q .....we've exhausted everything we can possibly say about these documents. The Swiss Bank can tell us that.....four boxes

Q How large would it be?

A Not much larger than an average suburban letterbox I suppose.....the sort you could documents in or some small bag. It's not a very large

Q ....been able to find out whether it would be possible for anyone to go along and open a box in the name of another person without that person being aware of.....

A Yes.....

....that's what I was saying.....

As an exercise ....The Age lawyers, Gilletts, took that and I think what happened was that Gilletts engaged a Sydney law firm to approach the .....bank in Switzerland..... and to make inquiries as to whether an account or a safety deposit box - you must have an account first to operate a safety deposit box.....

Q So there's no way you can just go in and get a safety deposit box?

A No you have to have an account first.....It will be a numbered account, the holder of the number will be a person.....

We went through the tax accounts with the lawyers.....this exercise testing whether anyone could come into a bank in Switzerland .....and open an account

.....you need a passport, you need a statutory declaration, some form of identification.....I couldn't go into the bank and open an account

The bank's reputation suffers needlessly ..... Swiss banks pride themselves ..... it would be farcical for anyone to walk in off the streets and open an account .....

Q Of course they'd only take the matter further if the documents ..... if the document itself is a forgery it doesn't matter. If the document can be produced regardless of the fact .....

A Well that's what - we can't sit here and tell you that they are genuine documents or copies of genuine documents

Q You can't

A We believe they probably are but to all intents and purposes they ..... distinguishing features ....

that's correct. Nobody profited from these documents

Q Did anyone profit from any of the investigations carried out for .....

A We .....

Q ..... talking about people who gave you information.....

A legal profesional services, yes but .....

What did we estimate that list .... total value  
Well if they're made to bearer

...somewhere we have written down as the value of shares.....worth at the time .....6 or 7 hundred thousand (million?) dollars

.....records of the company's books.

This is for personal services only when you open a Swiss bank account you have the option of all bank correspondence forwarded to you personally, forwarded to an address you nominate or nominate.... Most people who are operating Swiss bank accounts don't want ..... to Australia. So in this case they nominate, I think, a representative of the bank to be a proxy at the meetings and they have nominated for the bank to withhold or retain all correspondence. The bank goes with the keys to the box - you can possess the keys or you can

nominate officers of the bank to hold the keys in trust for you and I think that's what happened in the case of the safety deposit box referred to here. They are issued with two keys and both keys are withheld by the bank - retained by the bank.

A If you want to get into it you have to go there, you have to show your ID, provide the identity as required to get those keys .....

But that document apparently signifies that Juni Morosi is the person who paid 70 Swiss francs, that is apparently a receipt and that would seem to signify that she personally paid over that sum of money and did receive keys to operate those safety deposit boxes. Is that the translation that you have?

I think that's how

the form was authorised .....  
while she was there. For one year from the 11th

Yes they're ....

What is significant and what people overseas showed us about the significance of this whole thing was .....the fact that he is a Swiss German. That is significant.

Q In what sense is that significant?

A .....Authenticity is not but it is significant in the overall that someone from the Eastern bloc should have opened an account for these two people given ....

Q Assuming that .....I don't dispute with you the dates .....or the significance of the materials .....questions ....of authentication.

A Just from looking at it you cannot authenticate. What needs to be done now, it seems to us, would be, as you say, government to government level to try and find out. There are sufficient markings on those documents, signatures on that document, numbering on that document to be able to trace and to determine whether they are genuine documents.

On this one you will note - the one in which Lionel Keith Murphy, and Junie Morosi hold a safety deposit box dated 4 April 1975, you will notice is only the bottom half of this form.

Somebody has whited out - who that might have been we have no idea. Once again it's a size 4 box. It's significant that Junie Morosi's name is spelt with an 'e' whereas it's normally spelt with an 'i'. I don't

know. I think she does spell it with an 'ie'.

Does she?

Yes, well I think when she came to public attention they spelt it both ways.

Q Can you tell us how it was Mr Steele Hall came to raise this matter in the Parliament?

A .....This is the incident .....considerable outburst and Mr Hall raised the question and Mr Hawke took him to task.

Well, this is September 84 which is some months after we recovered the documents. You must remember that nothing had been public, noone outside The Age was shown the documents, certainly in Australia, the only people who knew about this investigation, because it was a very sensitive investigation, was the editor, Creighton Burns, and that's how we

Q Were you working in conjunction with Bob Bottom and.....

A Not at all. Completely and utterly separate from.

We reported only to the editor.....consulted on everything. We would have numerous sessions, long sessions.....This went on for well over a year. How this came out - this was devastating.....Noone could explain how he became aware of it - how Steele Hall became aware of it. They had their leak from within The Age. Well that's what we believed at the time and still do. There was no other way that anyone who didn't have the document, but he knew enough to be able to say it was Junie Morosi, a Judge of the High Court and he named the bank and he was quite explicit that it was a safety deposit box and not a Swiss bank account.

Q He didn't refer to the share application

A No, he just refers to the box

You see here that Mr Peter Baron was referred to in the questions. Baron came to see Creighton Burns about a week before this occurred. Creighton Burns told us about it after the meeting with Baron.

He found out about.....volunteer it

Well, it's hardly likely the connection between Baron and Steele Hall but things were discussed at that meeting with Baron and Baron knew quite a bit about the investigation.

Q About your investigation?

A About our investigation .....and then this question about .....I don't know what the intention was.

Q Did you say that you yourself

A He seemed to think, Steele Hall that is, seemed to think that Baron had come to see the Editor of The Age to nobble the inquiry, suppress publication of the story about a High Court judge and Miss Junie Morosi having a Swiss bank account. That wasn't what Peter Baron came to see the editor of The Age at all. ....understanding that subject hadn't been discussed between Creighton Burns and Peter Baron at all ....Not the specifics of the box, no. The people .....yes but not specifically the box.

Q And you yourselves hadn't been dealing with Steele Hall.....

A Absolutely not.

He got his information muddled that's what happened in this case. He knew of the visit of Baron but then half the office did because Baron was known to a lot of senior journalists at The Age - a lot of senior executives said Oh, Peter Baron, I didn't know who Baron was. Marshall didn't know who Baron was. A lot of senior journalists knew Baron and said oh Baron.....

Q Were there other journalists at The Age who would have been aware of the nature of your investigations and what you had turned up?

A No. They knew we were on to something, it's pretty obvious in an office when two people are working on something that's pretty intense. They don't appear in the paper for a long time, they're away from the office a lot. They're always seen in the editor's office. Journalists are naturally inquisitive. They know something's up but they don't know precisely what and that's the whole point of this exercise that Creighton Burns insisted that it be kept very quiet to our chests. We didn't .....

We had the ridiculous situation where we were in an office without any direct lines and we were trying to authenticate some of this stuff. For instance, phoning people, having to ask .....confirm if I wanted to open a box how much would it cost me. That sort of thing.

Q Did you confirm that?

A Oh yes. Those prices are correct.

A It was very difficult and we had to finally move out of The Age and it took a lot of convincing that we actually needed a private line and moved into a private office somewhere .....

middle of the newsroom everyone is there.

.....It wasn't interesting really, didn't really see the significance of that at all. He said so what.

Q Can I tell you this. We will not, of course, reveal the source of these documents but making any approach to government for assistance we would simply indicate that we had received stat decs from journalists and the name of the journalists and that these documents had been produced to us. We don't want to jeopardise you and your ventures at all but we do need some specifics if we could get as far as ...on this investigation. Obviously, the documents had come to you from one of a number of sources that you spoke of in Switzerland. Would you be prepared to tell us the names of some of the members of the individuals you spoke to in Switzerland - from whom the documents might have come?

A I would be loathe to give you that right now. I can't speak for Stephen but it seems to me that

Well, there's a question of ethics involved.

Q We understand

of confidentiality and let me just say again that Swiss banks are very security conscious, they have laws protecting the security of their stock and the information they hold and any officer who divulges that may .....

Q We understand but at the same time you would understand our difficulties. We can't just produce these documents and hand them up to the Commissioners and say there you are. The rules of our Commission are such that no findings will be made adversely except on admissible evidence .....admissible in court. That means that somehow or other these matters would have to be fully and totally investigated and authenticated and the proof obtained of not only I suppose what the documents on their face signify but if there is some more sinister connotation to them - tax evasion or something of that nature would be one level and we want to know about it. We simply want to know what bearings you might have based on your investigations as to what the documents signify.



A We can .....that but you have to spare a thought to the contacts that we might have .....sensitivity on it.

Q Can I just .....the contacts that you have spoken to, the people that you've spoken to, were they Swiss nationals or were they Australians?

A Swiss nationals.

Q .....no Australians.

A No Australians.

Q These documents have not come from Australians.

A We did speak to Swiss nationals.....  
They are residents. They are under laws of their country - one of the great problems of this exercise is that we took a risk, other people took risk in the interests of making something available and which should be made available. We can't do any more to validate them because we don't have the resources to go to the government or an investigatory authority in an official capacity. We're just journalists, that's all.

But we also feel some responsibility to some of the people who have assisted.

Q Is it your belief that these documents came .....

A Well, let's put it this way. I can't say yes or no to that but we believe they are photocopies of records kept by the bank and we could get hold of them and that to get them would have involve somebody in the bank to make them available. Now we never came into direct contact with anyone in the bank, don't know any identities, don't know positions held. If they're authentic then I think some of them.....

Q Can I ask you - you spoke of these documents appearing in envelopes. Did all the documents you have given us appear in the same envelope? And was it directed as it were to Mr Justice Murphy or did the envelope contain other material as well.

A No, just these separate documents. Now these are quite separate from other loans affair material which we recovered last.....Australia and took to Switzerland in an attempt to validate with a lot of other

Q Did you show that material to people in Switzerland?

A Yes

Q and the net result of that was these documents became available

A Justice Murphy or Lionel Murphy, Senator Murphy .....in relation to these they relate to the loans affair .....Attorney-General of Australia his name appears in a number of these loans affair documents held with the government in an attempt to borrow money. We took those to Switzerland to try and validate them.

Q Are those the documents that you discovered in Australia

A In Australia from Queensland .....

In other.....

Q The net result of that was these documents that are attached to your statutory declarations were all included in an envelope without any .....without any other documents without any explanation without a covering note or anything like that.

A That's correct.

Q Are you able to tell us exactly when the documents came into your possession.

.....

A We left I think just before Easter - April 84 - to the best of my memory we got these documents May 1984

Q .....

A Yes I think so

.....

Q Can you tell us which hotels you were staying at at the time

A I can. I was staying at the, English translation, City hotel or hotel in the city. Marshall was staying at the.....

Q You got them on the same night. Did you get the documents on the same occasion.

A Yes. ....

Q Can you tell me actually what occurred after you got the documents. Did you take any steps to do anything with them.

A Well we left .....

We made photocopies. We went in and out of Zurich a fair bit. We tended to stay out of Zurich , sometimes other countries, other cantons.

A We didn't ever take these documents

I think we left the country after that .....I couldn't swear to it. I must think about it carefully. We either went to another canton well away from Zurich or we went across the border.

Q Did you take these documents to any person, official person, in Switzerland and showed them to that person?

A No.

Q Did you have a solicitor or lawyer

A No.

Q whose advice you could seek over there?

A Yes. But I think to show him these documents would compromise the position.

Q So you didn't show him these documents?

A Not these documents. While examining other documents which we brought from Australia but I think these would have compromised him.

Q Could you tell us the name of the lawyer who assisted you.

A His name was Dr Robert Erri.

Q And he was from Zurich?

A He was an attorney in Zurich.

He assisted us but again it was a fairly delicate matter. He took considerable personal risk..

He gave us a written assessment of the document we had brought to him.....

Q He was able to give you information as to how the Swiss banking system operated and who you might go to .....?

A No. We didn't go that far. His brief was to mainly because of the language problem we don't speak the language. Also it was probably wise to have somebody in attendance to carry out some checks on these documents. Not these ones.

Q I understand.

A But if it came to some being published and there was ever court action or something like that and we were asked what steps did we take to validate the documents if necessary we could have pointed to an independent counsel who undertook to check these. He did that. That was all he was asked to do was to help validate the seals of the notary public and attempt to find some of the people named there held the positions which they did or were known to exist at the time and that's purely the job he was given.

Q Is there anything else you can, at this stage, tell us about? These documents might assist in full publication.

Q Did you have some contact in Switzerland who was able to give you information for example about the operation of the Swiss banking system general information, Swiss banking laws being a practical operation?

A Not so much a person as reading. Just general research on the Swiss banks.....

Q Part of the preparation that you did for the tax evasion exercise?

A We spoke to people in the Reserve Bank, the Australian Treasury Department. Is it legal to operate a Swiss bank account? It may be now but at the time it wasn't. What were the Australian currency requirements? How much could you take out? We did all those sorts of things.

Q Could you tell us about what you know about the legality or otherwise of operating a Swiss bank account in 1975?

A I think it was then against the laws of Australia to operate a Swiss bank account or any foreign bank account without a tax certificate issued by either the tax department or the Reserve Bank.

Q So even if the account was nothing more than a safety deposit box and you weren't accruing interest or income on that account I think you'd have to disclose it. A lot of Australian businessmen would need to operate overseas bank accounts because their businesses .....for foreign dealings and they were presumably checked by the tax department or the Reserve Bank for some authority to operate. But in 1975 and earlier you

would have needed some sort of official clearance to operate .....bank account. Certainly with the legal .....shares in a foreign bank.

Q You're certain of that. What was the.....?

A We were able to check that.

A The Reserve Bank told us.

.....I think we've got that in writing somewhere. They sent a book, they sent a journal.

Q Could we ask you, you say that you got that in writing. I presume you got other matters in writing that would throw some light on this aspect of the investigations. Would it be possible for us to obtain copies of that file or correspondence that you had of those types of inquiries?

A I don't quite follow.

Q Well you say that you obtained examples of letters in writing from the Reserve Bank indicating that it would be illegal

A No, we don't have that.

Q The brochure? Could we get a copy of that?

A Yes.

Q Have you any other documents that have come into existence that don't necessarily reveal the sources of this material that came to you in Switzerland that might throw light on these documents?

A Not on this.....No.

A As he says, we've got snippets of information which comes from our own investigations which show that if you want to open a Swiss bank account you have to front up, you have to go there, you have to show them your passport.

Q You don't have anything in writing from, say, Swiss banks that sets that out.

A I think we might be referring to that exercise which we went through with The Age .....We've got a copy of that report, I think.

A We could make that available to you because they wanted precisely what you are asking .....what was required and the Swiss banks were very adamant. In

fact, they investigated the lawyer and asked him the questions.

Q Who currently, as it were, has the rights over this story? Is it The Age or yourselves?

A .....We have probably a certain property in the information, property in the work. A lot of it was done in our own time. The Age .....

Q What are you proposing to do with this story at this stage.

A Well, we'll let it die.

Q It's not in publishable form at this stage, obviously.

A Well it was. That is precisely what

A We wrote a lot on the loans affair. Peter Bartlett is, Gillets from The Age.

Q Would you mind if we took a copy of that?

A For what purpose?

Q Our own files or records .....in this matter. No other purpose.

A We wrote after going to Switzerland, we wrote a series of articles on the loans affair of which this became.....

Q Was this published in The Age.....

A No we wrote this in about November 1984 after some months and months of investigations.

A The lawyers, Gillets, passed it for publication. It was purely an editorial decision..... A decision ..... But the lawyers passed it, cleared it of any defamatory material. Never saw the light of day.

Q You made mention of the fact that you have a similar document bearing the name of Dr James Ford Cairns with a number indicating that he has been credited with 250 shares in tthe same bank.

A Cairns doesn't fall in to your....

Q No but we don't have that background

A No

Q Is that a document that came to you in the same bundle of documents.

A I think the Cairns material came subsequently later.....in the investigations.

Q In similar form to the .....

A It's in similar form but we didn't feel that it related directly to Justice Murphy.

Q .....to authenticate this material and it would that bears a date two years earlier. Would you object if we took a copy of that document as well. Again, this is not within our terms of reference but it is designed to help authenticate.

A It's also never been written about, that document that you're holding in your hand

Q No

A which appears to be a bank officer's card

Q What's that date?

A 1972. There's no initial on it and there's no

A .....letter of September 25, 1972. We send you in the enclosure the promised statement of your current account for September 30, 1972, Yours faithfully, H Tiegewell(?)

Q Was that document included in the documents that were in the envelope or did you obtain that.....

Q We're starting a new topic at this stage - the matter of the Quartermaine/Teller/Murphy connection - and we've just been told a moment ago that there is a tape in existence of an interview between Marshall, Wilson and Quartermaine in which Quartermaine asserts that he knows Justice Murphy and it's that tape which is in existence that could be provided to us - the transcripts at least. Could you elaborate on that?

A Yes, I think it was 1983.....Perth when we interviewed Quartermaine. He had recently come - returned from South Africa where he had successfully seen Christo Moll.....

promissory notes for 400 odd thousand dollars that he claimed .....

On his return to Australia, Quartermaine continued to make a number of allegations .....Moll .....

Some of the allegations made differed from the.....alleged links in Hand .....

It was at that time .....diamond mines ..... couriers had gone out of the country.....gone into Switzerland with gold and that sort of thing. It became obvious to me at any rate that Quartermaine was giving me selective information. He told me for arguments sake that Moll once lived in a place called Ardmoor Park in Singapore which was a building which was very close to where Hand .....

A Hand lived in the same apartment block - a very posh apartment block with several hundred apartments in it.

A And it later came to my notice that Quartermaine also lived in the same apartment block but he omitted to say



that. We got pictures of the block and had a look at it  
- there were thousands of people  
living.....  
..... He was giving me selective  
information. He also made allegations  
about.....Royal Commission and I spoke to some of  
the investigators who later told me that.....

Q The Nugan Hand Inquiry?

A That's the one, yes.  
They thought that Quartermaine was in fact a nut  
case.....nothing to  
substantiate it. These investigators actually went to  
Singapore to try and check out what he was saying.  
Later, a document came into .....  
and cheque stubs, cheque book stubs, with certain names  
written on them. Among the names on the back of one of  
these stubs was that of Senator Murphy and also the  
words, Ethiopian Airlines. We wrote about that in The  
Age. We wrote a story saying exactly what was on it and  
in the interview I had with Quartermaine he admitted  
knowing Murphy. He didn't admit to knowing him as well  
as I'm told he did know him but he said yes he had met  
him on a number of occasions that he had actually been  
to his office in Martin Place.

Q While he was Attorney-General or while he was a Judge of  
the High Court.

A I think the time frame we are talking about he was then  
Senator Murphy, Attorney-General, possibly just before  
he came into Government. He was in Opposition. If I  
could just jump - Murray Quartermaine was retiring  
president of the Airline...travel agent, travel agents'  
association and he admitted to meeting Lionel Murphy at  
airline functions but this admission dovetails with  
other information we received which pointed to a  
connection between Quartermaine and David Ditchburne,  
husband of Junie Morosi, and Morosi which fascinated  
us. We wanted to know more about this connection  
briefly referred to with Ethiopian Airlines. It  
transpired that there was more than just a casual  
association between Murray Quartermaine and Justice  
Murphy or Lionel Murphy and Morosi which revolved  
around two central figures: 1) Quartermaine's then  
wife, Ute, a German, was the Perth sales representative  
for Ethiopian Airlines at the time David Ditchburne, the  
husband of Junie Morosi, was the airline's regional  
manager, but at the time Ingrid Murphy was Ethiopian  
Airlines public relations officer working

on a salary of \$1 a year but free air travel.

Q Do you know whether she did actually perform any services for the airline?

A I believe she did functions but there's no evidence that she performed actual work.

A The airline does not operate in Australia. I questioned Quartermaine about that. "Free tickets, he said. That's the only reason they do it - free tickets." He was saying to me basically that if you are going anywhere via the top end of Africa then they require people in this country to onward book which made no sense at all travelwise and that's.....there's something odd about this. We then examined the Hansard reference and we saw Ivor Greenwood and Willy Wentworth and asked them the same thing at that time.....about Ethiopian Airlines ..... Justice Murphy, or Murphy, Attorney-General, Senator stood up in the House and stormed out - refused to answer questions. Why?

He appeared very sensitive to questions about Ethiopian Airlines, his involvement and his wife's involvement with Ethiopian Airlines. Knowing this we were spurred to go on. We looked deeper into that group of people and associations. I mentioned that Ute Quartermaine was associated with Ethiopian Airlines as was David Ditchburne and Ingrid Murphy. We were told that in fact Ute Quartermaine was a friend of Ingrid Murphy and a friend of Junie Morosi. In fact Senator Lionel Murphy, the Attorney-General appointed Ute Quartermaine a civil marriage celebrant at about the same time he appointed Junie Morosi as a civil marriage celebrant. There was another link between Quartermaine - Murray Quartermaine, Junie Morosi and David Ditchburne in a company. Quartermaine was in the travel business, he was a travel agent. Ditchburne and Morosi before they became involved with the Labor Government were also in the travel business, airline agencies, hotel agencies. One agency was called Hotel Express. Ditchburne, Morosi and Murray Quartermaine were involved in that.....so there was a business link between those people which dated from the late 60s. So this became the basis of further examination. From that we went forward looking at these things ..... So that when you come across an allegation and note on the back of a cheque book referring to the diamonds for Ingrid Murphy through companies associated which

would help demonstrate the association with one another, with Murray Quartermaine offshore that involved Ethiopian Airlines there was some basis for questioning Quartermaine whether in fact he had ever provided the diamonds for Ingrid Murphy.....

.....he admitted knowing Lionel Murphy and that he had met several times.....

Q What about.....Teller?

A Teller, too, at the same time I was over there.

A Teller was a Moll client, Moll/Quartermaine client. Moll and Quartermaine were the partners in that business

.....  
Teller was one of their clients. In fact a director of some of the companies. He was one of the principal doctors involved in the tax.....  
buying diamonds or pretending to buy diamonds as a tax.....operating a Swiss bank account.

Q Did he stay with .....Mr Justice Murphy

.....Murphy didn't even come into .....

.....just looking into the tax laws. Teller and his wife both sat me down in their lounge and gave me a very plausible - how they had lost money through this fellow Moll. Moll had simply left the country and never come back. At that stage I had heard that there was more to it than that but I didn't have any proof. I had nothing. I had no documents. It was just something I had been told that I was trying to..... He gave me a perfectly plausible explanation that Moll was the rogue that had done the duck and everybody had been caught but he was such a glib liar and so persuasive and his knowledge of finance was so good that they would simply sign documents without reading anything.

.....  
They saw him as a life saver in terms of their tax policies.

.....  
He was the chairman of the company that provided the

service that they were advised by exceptionally good accountants and lawyers who devised this commodity trading scheme - advised them on how to set up these balance sheets documents.....to trade in diamonds .....

Q These didn't entail futures, did they?

A No. This was just buying basically diamonds .....gold and silver. They were the commodities that they dealt in. They were just fictitious. They provided the paper work for tax reasons to support the losses but there was no evidence of these transactions in diamonds running into millions of massive losses.

Q What about this letter that Teller says was a forgery? Can you tell us a little about that?

A Only that we believe it to be genuine. We don't believe it was a forgery at all.

Q What does the letter .....?

A Have you looked at the company yet.

Q The last name.....?

A He talks about generally Tiller writing I think to Quartermaine asking to exercise his friendship with Lionel Murphy to bring pressure to bear on the Finance Department then investigating the documents. ....

Q Well, it would be relatively simple to get a handwriting expert to investigate the signature on the letter.

A I believe that he identifies it as his signature but said I didn't write it but he did swear that it was his signature.

A The leading WA surgeon under tax office scrutiny discussed with a Perth businessman the futility of making further inducements to departmental officials and urged him to seek support from a powerful public figure in Canberra to avoid what he calls a public scandal. Basically Teller, as Steve says, Tiller writes to Quartermaine and says use your "political connections in Canberra to confuse the tax man's inquiries." In that letter he actually mentions Murphy by name. Allegations had also earlier been made that the tax man was

receiving a kick back and that's why he turned a blind eye to this knowing that .....until such time the plug was pulled and then he had to do something about it.

Q Can you tell me this? Is Quartermaine -- are his whereabouts known?

A Quartermaine left the country while under investigation owing I'm told \$800,000 in tax. .... \$800,000 he owed and that's confirmed by some investigator who is in a position to know. He left the country and the Federal Police didn't even know he'd left the country .....

Q The tax office made no attempt to.....?

A He was under investigation by the Federal Police as was the whole .....

Q Do you know where he is at the moment?

A Yes, I do.

A He works for Alan Bond in London. He's in London -- he's outside of London. I've got an address and a phone number. He's running a travel business which is .....We haven't been able to investigate it.

Q Can you supply us with the address?

A Yes.

A He went -- when he left Australia a year or so ago he was under .....he was under Federal Police investigation. The tax department had hit him with a bill, a massive tax bill which he hadn't paid and yet he was allowed to leave the country. He was at that time working for Alan Bond airships country based in London as the public relations officer.

Q What about Christo Moll? Do you know where he is?

A No. The basis on which the Moll investigation was.....a number of things ..... was that Moll in turn made a number of allegations about Quartermaine, also about politicians and he named the politicians. This was how Steve got to be involved. He

happened to be sitting next to me in The Age  
.....Some of the names that were coming out of the  
trial in Victoria were interesting to me and the  
allegations were interesting obviously - Nugan Hand. I  
was a new boy here. I'm originally from South Africa.

TAPE 7 - D Durack

Some of the allegations made in court over Seymour Industries and we received them on AMP copy paper..... and some of the papers.....

What's this all about? And the name Ethiopian Airlines came up and he said, well he knew who they were and then I started to dig into files and find out all about them and kept it in the back of my mind. Nothing was ..... at that stage and the names were just there

Q What was.....saying in the court proceedings about Justice Murphy

A Nothing

A Nothing in the court proceedings  
He was telling .....in court, he was telling other reporters Quartermaine was telling other reporters what .....the background.....Quartermaine was directing a diatribe against Moll and vice versa. They were at each other's throats.

A Quartermaine was actively courting the press out of this. I know because my colleagues were involved in it and I used to hear it. He was actively courting the press and taking them to lunch and giving them stories which were subsequently proved to be absolute nonsense. At that time I didn't know it. I took on board what he was saying say it back to me and I made calls.....what did he say? Who does he know? And the name Murphy came up.

I think from memory just the name - an association.....

Q But he wasn't alleging anything

A Well no he was saying that people were behind Quartermaine. Quartermaine was broke yet he was able to coax \$100,000 from the pockets ..... before he could proceed in this civil action.....He was able to engage some of the best counsel.....Well a lot of money for this court case yet .....

.....  
Moll believed that Quartermaine was put up to this by .....by powerful interests, people in high places who wanted to see him destroyed..... credibility and you had to wonder who was behind Quartermaine because he's not that bright. He didn't have a lot of money yet he was able to mount this case.

Money seemed no object to him. So we became interested in who are the people behind him? Who are these people? .....Mole as having something to do with Lionel Murphy and Junie Morosi..... Well that was the bait for us..... we discovered after .....Ethiopian Airlines and.... business association between Quartermaine and Morosi which is extraordinary. Quartermaine would never talk about that side of his business .....

Q These two inquiries .....one into the loans affair and the other into Christo Moll's tax evasion .....had their origins quite separately.

A No, well the whole thing began with Christo Moll and Quartermaine court case. That is the starting point.

Q The catalyst for the loans affair?

A That's correct.

The catalyst - Murphy's name popped up on the other side of the world with.....Marshal, the credited correspondents in Australia for the .... Daily Mail who were covering this case. He was getting calls from news editors ..... This was being played back each month.

Q Does Moll say that he knows Mr Justice Murphy?

A No, he doesn't - never met him. Moll said that Quartermaine, in the company, was the man who handled the political accounts. What political accounts? Well, he was in Canberra removing money every few days - one of them being Murphy, another being Whitlam ....and they had codes. He had the codes. Quartermaine had the codes.

A I've always said that was the side of the business he wanted privy to.....aware of as Chairman. Moll was responsible for administering the affairs of .....business people, some accountants, some lawyers. He looked after that side. Quartermaine introduced the other element which was vaguely described as the sort of Canberra section - people in Canberra.

Q Any other person that would have had any dealings with that connection or that side of the business?



A Yes, .....former officer  
commanding the SAS in Perth. He was  
involved.....

Q You mean in Murphy's .....?

A Yes, in the Murphy.....  
Let me just give you this broader picture because it is  
important. Investigation proved later and recovery of  
documents was proved later that Quartermaine was in fact  
having .....stories that people like Teller and  
Quartermaine and Raflo(?) and others were simply  
pointing the finger and saying Moll is the man who  
orchestrated this whole thing. He was the one. He  
didn't come back. Why didn't he come back? We've even  
recovered documents which show that a meeting was held  
offshore by these people and Moll, it was decided at the  
meeting, that Moll should be told not to come back which  
was what he told us all along but noone had believed  
it. He had been told not to come back because the tax  
man will get you and then you'll have to talk. Then  
you've had it.

Q Our concern is that while we look at.....and of  
course specifically Mr Justice Murphy and the  
involvement he had with these characters. Are there any  
other persons currently in Perth, perhaps, who might  
have some knowledge of any sort of Canberra connections?

A Without any doubt. You take Quartermaine. He's  
now.....

Q Also in the.....

A .....She's living in Perth. She's  
the woman who wrote that letter on Ethiopian Airlines  
letterhead what? Two years ago? .....

.....she was married to Quartermaine.

Q They're now separated, are they?

A No. Divorced. She's married to a doctor in Canberra,  
Kennedy, who is a prominent figure in the group, he was  
a director of some of their companies.....

Q .....Swiss Bank?

A And the Swiss Bank. She is also on the evidence of that  
the Perth connection to Ethiopian Airlines. She was a  
friend .....She was a  
marriage celebrant appointed by Senator Lionel  
Murphy.....we never approached her  
.....but I think knows a

lot about her, Murray Quartermaine's connections with Canberra. She once in a domestic row said I know a lot about you, Murray, and I don't like it. I want to get out. She probably does know a lot. We certainly weren't able to crack that but she would know.....

A What we believe we've stumbled on, and I say this with due respects, knowing that I cannot .....

2780A

✓ LEGALLED BY PETER BARTLETT 1.4.85 . MW.

wilson/foley    april 1    docos....3

A mysterious East German appears to have set up safety deposit boxes and numbered Swiss bank accounts in the names of key members of the Whitlam Government in 1975.

According to documents held by 'The Age' a person shown only as Jochen Karl Zundermann, who tendered an East German passport as proof of identity, opened a box in the names of Lionel Murphy and Gough Whitlam on 11 March 1975.

At the time Mr Whitlam was Prime Minister of Australia and ~~Mr Whitlam~~ <sup>LIONEL,</sup> Murphy was Attorney-General. He later became a Justice of the High Court.

Other documents show that a second box was set up in the names of Mr Murphy and former Labor government aide, Miss Junie Morosi, and that shares in the Union Bank of Switzerland were recorded in the name of the former Treasurer, Dr Jim Cairns.

There is no indication, nor suggestion by 'The Age', that any of those referred to were aware of banking arrangements made in their names.

The one document appears to show that on 11 March 1975 Mr Zundermann paid 50 Swiss francs at the Zurich branch of the UBS to open safety deposit box number 8343 on behalf of two clients.

Those clients are listed as Lionel Keith Murphy and Edward Gough Whitlam. The document bears the signature of two authorised officials of the bank.

Mr Zundermann is shown to have given a West German postal address, but East German passport numbered 682951 dated 14 August 1972 as proof of identity.

This newspaper also holds a Union Bank of Switzerland receipt number 816, for 70 Swiss francs, which bears the words 'Miss Junie Morosi'. Dated 4 April 1975, the document relates to UBS safety deposit box 8343, and purports to show that Miss Morosi was assigned the keys of the box designated for Murphy and Whitlam.

According to another UBS document bearing security account number 384.841.42, the name Lionel Keith Murphy appears prominently in a four-sided panel.

Dated 3 March 1975, the paper indicates that the client has been allotted 400 shares in the Union Bank of Switzerland, shown to have been worth 500 Swiss francs each at the time.

"We wish to draw your attention to the forthcoming meeting of the shareholders of said company," the document says in part, "and send you notice of the meeting, the agenda and other pertinent material in our possession."

It invites the client to inform the bank whether he/she will attend the meeting, or if they would prefer to sign power of attorney for the bank to act on their behalf.

A similar document bearing the name of Dr James Ford Cairns and numbered 432.715.001 indicates that the client has been credited with 250 shares in the same bank.

An order form bearing the same coding and client is also in possession of this newspaper.

END



SAFE DEPOSIT RENTAL CONTRACT

Designation:

Mr. Jochen Karl ZUNDERMANN  
1000 Idar-Oberstein  
Postfach 11578

BRD.

Monthly rent(s) from the

Union Bank of Switzerland, Zurich in its vault facilities,

the safe deposit box No. 8343 Size 4

for a period of twelve months and continuing

to the end of the year 1975, to said safe deposit box.

The monthly charge shall be Sfr 50.--

The contractual relationship is subject to the Conditions Governing the Rental of Safe Deposit Boxes in the vault that were furnished to me, this and to the General Conditions listed on the reverse side.

Executed in duplicate in Zurich, March 11th, 1975

The Client: MURPHY Lionel Keith  
WHITLAM Edward Gough

The Owner: UNION BANK OF SWITZERLAND

42069 /GUR/HSK

Puss NR. 682951

DDR. 14.8.1972



The entire contractual relationship between the client and the Union Bank of Switzerland shall be governed by the Bank's General Conditions as from time to time in effect. Certain kinds of transactions are subject in addition to the special regulations issued by the Bank, in particular the deposit of securities and other valuables for safe custody (custodianship), savings books and savings accounts, deposit books and deposit accounts, check books, safe deposit boxes and night depositories.

Any losses resulting from the Bank's failure to recognize legally insufficient legitimation and forgeries shall be born by the Client, unless the Bank is guilty of gross negligence.

All legal aspects of the relationship between the Client and the Bank shall be governed exclusively by Swiss law. Place of performance, as well as exclusive place of jurisdiction for any kind of legal proceeding and place of foreclosure, but the latter only for Clients with foreign domicile, shall be **Zurich**. However, the Bank shall also have the right to sue the Client at any competent court of his domicile or at any other court having jurisdiction.

The contractual relationship is subject to the Conditions Governing the Rental of Safe Deposit Boxes in the vault that were furnished to me / us and to the General Conditions listed on the reverse side.

The Client(s): **Mr. Lionel Keith Murphy**  
**Miss Junie MORRIS**

H. J. Rogers



N<sup>o</sup> 816

QUITTUNG für Fr.

70

Von MEROSE Junie (Miss)

Franken siebsig

Miete für Schrankfach-Nr. 8343

für die Zeit vom 11.3.1975 bis 11.3.1976

inkl. Fr. 20.— Schlüsselaufbewahrung

empfangen zu haben, bescheinigt

SCHWEIZERISCHE BANKGESELLSCHAFT

Kundentresor:

Zürich den 4. April 1975  
3052/GUP/MBA

455 H 2.76



50

4

## SCHWEIZERISCHE BANKGESELLSCHAFT

UNION DE BANQUES SUISSES  
UNION DE BANQUE SVIZZERE  
UNION BANK OF SWITZERLAND

8021 ZUERICH

MR. LIONEL KEITH MURPHY

MARCH 3RD, 1975  
WVI2-MUADedot-Nr  
Depot No  
Sec. Acc. No

384.841.42

Schrift  
Concours  
A

ORDINARY GENERAL MEETING

Wir beziehen uns auf Ihre bei uns per  
Nous nous référons à votre dépôt chez nous au  
We refer to the following deposit at of

27.12.1975

deponierten  
at  
in your sec. acc. unit

400

AKT SCHWEIZ. BANKGESELLSCHAFT

FR 500

und gestatten uns, Sie auf die bevorstehende Generalversammlung dieser Gesellschaft aufmerksam zu machen. Als Beilage erhalten Sie die entsprechende Einladung, die Traktandenliste und allfällige weitere Unterlagen, soweit uns solche zur Verfügung gestellt worden sind. Sofern Sie selbst an der Versammlung teilnehmen oder einen Beauftragten dorthin entsenden wollen, bitten wir Sie, uns dies mittels beiliegendem Auftragsformular möglichst bald mitzuteilen, damit wir Ihnen rechtzeitig eine Eintrittskarte beschaffen können. Sollten Sie dies nicht beabsichtigen, sind wir gerne bereit, die Vertretung Ihrer Stimmrechte im Sinne der Zustimmung zu den Angelegenheiten des Verwaltungsrates kostenlos zu übernehmen. Im Falle Ihres Einverständnisses bitten wir Sie um Rücksendung der beiliegenden Vollmacht. Wenn uns eine generelle Vollmacht vorliegt, werden wir Ihre Titel ohne Gegenbericht vertreten lassen.

L'assemblée générale des actionnaires de cette société ayant lieu prochainement, nous nous permettons de vous adresser la convocation y relative ainsi que l'ordre du jour et autre documentation disponible. Si vous désirez assister personnellement à cette assemblée ou si vous envisagez de vous y faire représenter, nous vous saurions gré de nous le faire savoir rapidement au moyen de la formule ci-jointe, afin que nous puissions vous procurer à temps une carte d'entrée. Mais si telle n'était pas votre intention, nous serions volontiers disposés à représenter sans frais vos actions et d'approuver les propositions du conseil d'administration. Dans ce cas, nous vous prions de nous retourner la formule de pouvoir ci-incluse. Si vous nous avez déjà donné un pouvoir général, nous représenterons automatiquement vos titres, à moins que vous nous donniez un avis contraire.

We wish to draw your attention to the forthcoming General Meeting of the Shareholders of said Company and send you the notice of meeting, the agenda and other pertinent material in our possession. In the event that you wish to attend the General Meeting yourself or delegate some authorized person, we ask you to inform us as soon as possible so that we can obtain a card of admission for you in time. If this is not your intention, we shall be pleased to vote your shares free of charge within the meaning of an approval of the proposals of the Board of Directors. In case of your agreement, kindly return the enclosed power of attorney. Should we be in possession of a general power of attorney, we shall have your securities voted unless we hear from you to the contrary.

Antwort erbeten bis  
Réponse jusqu'au  
Please reply by

13.03. NOON

Hochachtungsvoll -- Vos dévoués -- Yours very truly  
SCHWEIZERISCHE BANKGESELLSCHAFT  
Union de Banques Suisses -- Union Bank of Switzerland



SCHWEIZERISCHE BANKGESELLSCHAFT

UNION DE BANQUES SUISSES  
UNION DE BANQUE SVIZZERE  
UNION BANK OF SWITZERLAND

8021 ZUERICH

Dr. James Ford CAIRNS

MARCH 5th, 1973  
WV18-CUA

Depositor  
Deposito No 492.715.001  
Sub Acc No

Subject  
ORDINARY GENERAL MEETING  
Re

Wir bezogen uns auf Ihre bei uns per  
Nous nous référons à votre dépôt chez nous au  
We refer to the following deposit as of

02.03.1973

deposierten  
de  
in your acc. account

250	AKT SCHWEIZ.BANKGESELLSCHAFT	138.001
	FR 500	VAL.No.

und gestatten uns, Sie auf die bevorstehende Generalversammlung dieser Gesellschaft aufmerksam zu machen. Als Beilage erhalten Sie die entsprechende Einladung, die Traktandenliste und übrige weitere Unterlagen, soweit uns solche zur Verfügung gestellt werden. Sofern Sie selbst an der Versammlung teilnehmen oder einen Beauftragten dorthin entsenden wollen, bitten wir Sie, uns dies mittels beiliegenden Auftragsformular möglichst bald mitzuteilen, damit wir Ihnen rechtzeitig eine Eintrittskarte beschaffen können. Sollten Sie dies nicht beabsichtigen, sind wir gerne bereit, die Vertretung Ihrer Aktienrechte im Sinne der Zustimmung zu den Anträgen des Verwaltungsrates kostenlos zu übernehmen. Im Falle Ihres Einverständnisses bitten wir Sie um Rücksendung der beiliegenden Vollmacht. Wenn uns eine generelle Vollmacht vorliegt, werden wir Ihre Aktien ohne Gegenbericht vertreten lassen.

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Antwort erbeten bis  
Réponse jusqu'au  
Please reply by

16.03. EARLY

Hochachtungsvoll - Vos dévoués - Yours very truly  
SCHWEIZERISCHE BANKGESELLSCHAFT  
Union de Banques Suisses - Union Bank of Switzerland

Beilage  
Annexe  
Encl

Bitte nicht unterschreiben!  
Celle-ci n'est pas à porter de signature

An/A/To

Auftrag  
Ordre  
Order

von/du/from

Schweizerische Bankgesellschaft

Union de Banques Suisses

Union Bank of Switzerland

Emissionen

1021 ZUERICH

Dr. James Ford CAIRNS

Ihr Schreiben vom / Votre lettre du / Your letter of

ARCH 5TH 1973

W18-CUA

Dépôt Nr.  
Dépôt No.  
Soc. Acc. No.

492.715.001

datum  
concerne  
du

ORDINARY GENERAL MEETING

Sie verwahren für mich/uns per

J'ai/nous avons en dépôt chez vous au

You hold in safekeeping for me/us as of

02.03.1973

250

AKT SCHAFELZ BANKGESELLSCHAFT

FR 500

138.001

VAL. Nr.

Ich/wir erteile(n) Ihnen die Vollmacht, mit Substitutionsrecht meine/unsere Aktien dieser Gesellschaft an der Versammlung zu vertreten und hierfür das Stimmrecht im Sinne der Zustimmung zu den Anträgen des Verwaltungsrates auszuüben

Par la présente, je vous autorise/nous vous autorisons à représenter avec droit de substitution mes/nos actions de cette société lors de l'assemblée et d'exercer le droit de vote en approuvant les propositions du conseil d'administration

I/we hereby appoint you attorney and proxy with full power of substitution to vote my/our shares of said Company at the Meeting of the Shareholders and to vote the shares within the meaning of approval of the proposals put forth by the Board of Directors



IDENTIFICATION		DETAILS					MOVEMENT DETAILS		DOCUMENT DETAILS				OTHER DETAILS	
FAMILY NAME	GIV. NAME	GIV 2	D.O.B.	COB	SM	COC	MOVEMENT PT	FLIGHT	PP/VISA NUM	ENTRY	V CATS	APS	STATED	SOURCE
MOROSI	GUGLIELMO	ENRIC	150635	CHIN	MM	A	A230276	KI BR211	162430	X			C 100 N	60661507P
MOROSI	GUGLIELMO	ENRIC	150635	CHIN	MM	A	D260376	KI PR212	162430	X			E 140 N	611909465
MOROSI	GUGLIELMO	ENRIC	150635	CHIN	MM	A	A090476	TU PR215	162430	X			C 140 N	61286239E
MOROSI	GUGLIELMO	ENRIC	150635	CHIN	MM	A	D280576	KI PR212	162430	X			E 300 N	61911006L
MOROSI	GUGLIE MO	ENRIC	150635	CHIN	MM	A	A090876	KI PR211	162430	X			C 2M N	62607204X
MOROSI	GUGLIE MO	ENRIC	150635	CHIN	MM	A	A030177	KI PR211	162430	X			C 150 N	7001471X
MOROSI	GUGLIELMO	ENRIC	150635	CHIN	MD	A	D201277	KI PR212	906813				E 90 N	74550086X
MOROSI	GUGLIELMO	ENRIC	150635	CHIN	MD	A	A301277	KI PR211	906813	X			C 90 N	74420900P
MOROSI	GUGLIELMO	ENRIC	150635	PRCH	MM	A	A250874	KI QF275	162430	X		0	C 80 N	42526076T
MOROSI	GUGLIELMO	ENRIC	150635	CHIN	MM	A	D161276	KI PR202	162430			00	E 150 N	64361265T
MOROSI	GUILLERMO	ROBER	091158	PHIL	MM	A	A260573	SY QF583	243200000	0			1 N	011140845
MOROSI	GUILLERMO	ROBER	091158	PHIL	MM	A	A100173	SY QF263	624320000	1			1 N	00103692A
MOROSI	GUILLERMO	ROBER	091158	PHIL	MM	A	D120573	SY QF530	624320000	0			1 A	009430092
MOROSI	GUILLERMO	ROBER	091158	PHIL	MM	A	D261273	SY QF276	162432	0			1 A	02653493X
MOROSI	GUILLERMO	ROBER	091158	PHIL	MM	A	D070176	KI QF276	162432				E 1M N	60356013C
MOROSI	GUILLERMO	ROBER	091158	PHIL	MM	A	A070276	KI QF275	162432	X			C 1M N	60552458A
MOROSI	JOEL	TIMOT	170468	A	MM	A	D070174	SY PR212	471559	0			1 590 N	00032313L
MOROSI	JOEL	TIMOT	170468	A	MM	A	A120974	KI PR201	471559	X		0	C N	427713065
MOROSI	JOSEPH	MARIO	190352	PHIL	M	A	A170173	SY QF263	14660000	1			0 N	00130154T
MOROSI	JOSEPH	MARIO	190352	PHIL	MM	A	D221073	SY QF276	14660000	0			1 A	02125292A
MOROSI	JOSEPH	MARIO	190352	PHIL	MM	A	A131173	SY QF275	14660000	0			1 N	02350856L
MOROSI	JUNIE		260733	CHIN	FM	A	D120375	KI QF1					E 140 A	51015637Z
MOROSI	LEONOR		130952	FM	PHIL		P261076	291076		0			N76409926	STAT. CHNG
MOROSI	LILIA		080422	PHIL	FM	A	D231276	KI PR202	37314			00	E 270 N	64416024Z
MOROSI	LILIA		080422	PHIL	FM	A	A200177	KI PR201	37314	X			C 270 N	70180681G
MOROSI	MARGARET	ANN.	171060	PHIL	FN	A	A100173	SY QF263	624330000	1			1 N	00103691X
MOROSI	MARGARET	ANN	171060	PHIL	FN	A	D120573	SY QF530	624330000	0			1 A	00943010P
MOROSI	MARGARET	ANN	171060	PHIL	FN	A	A260573	SY QF583	624330000	0			1 N	01114071X
MOROSI	MARGARET	ANN	171060	PHIL	FN	A	D261273	SY QF276	387335	0			1 A	026534925
MOROSI	MARGARET	ANN	171060	PHIL	FN	A	A240174	KI QF275	387335	0		0	1 300 N	003556515
MOROSI	MARGARET	ANN	171060	PHIL	FN	A	D070176	KI QF276	387335				E 1M N	60356014G
MOROSI	MARGARET	ANN	171060	PHIL	FN	A	A090276	KI QF275	387335	X			C 4M N	60562921G
MOROSI	MARGARET	ANN	171060	PHIL	FM	A	D080177	KI QF27	387335				E 1M N	703555015
MOROSI	MARGARET	ANNE	171060	PHIL	FN	A	A130277	KI QF28	387335	X			C 1M N	706540965
MOROSI	MARGARET	ANNE	171060	PHIL	FN	A	D290777	KI QF3	387335				E 140 N	72622428L
MOROSI	MARGARET	ANNE	171060	PHIL	FM	A	A170877	KI QF4	387335	X			C 140 N	72734603X
MOROSI	MARK	ANTHO	210643	NGUI	MM	A	D191173	SY PR212	624250000	0			1 A	02343322Z
MOROSI	MARK	ANTHO	210643	PHIL	MM	A	A090574	KI PR201	162425	X		0	C 6M N	41403040A
MOROSI	MARK	ANTHO	210643	PHIL	MM	A	D130674	KI PR202	162425				D 18M N	41822751E
MOROSI	MARK	ANTHO	210643	PHIL	MD	A	A181275	KI PR201	162425	X			C 2Y N	53943413X
MOROSI	MELODY	L	201244	FM	PHIL		P090476	120476		0			N7511474	STAT. CHNG
MOROSI	MICHELLE	ANNE	180366	A	FN	A	D070174	SY PR212	471557	0			1 590 N	00032311C
MOROSI	MICHELLE	ANNE	180366	A	FN	A	A120974	KI PR201	471557	X		0	C N	42771307X
MOROSI	MODESTA		150634	PHIL	FM	A	D100973	SY PR212	833370000	0			1 A	01805882P
MOROSI	MODESTA		150634	PHIL	FM	A	A181073	SY PR207	833370000	0			1 N	02140464C
MOROSI	MODESTA		150634	PHIL	FM	A	D160677	KI PR202	383885				E 200 N	72201299T
MOROSI	PATRICIA		290657	PHIL	FN	A	A300677	KI PR201	383885	X			C 150 N	72104435X
MOROSI	PATRICIA	DIANA	290657	PHIL	FN	A	D150275	KI QF276					E 140 N	50595212X
MOROSI	PATRICIA	DIANA	290657	PHIL	FN	A	A100173	SY QF263	624570000	1			1 N	00103655P
MOROSI	PATRICIA	DIANA	290657	PHIL	FN	A	D120573	SY QF530	624570000	0			1 A	00943007P
MOROSI	PATRICIA	DIANA	290657	PHIL	FN	A	A260573	SY QF583	624570000	0			1 N	01114083L
MOROSI	PATRICIA	DIANA	290657	PHIL	FN	A	D261273	SY QF276	387336	0			1 A	02653491L
MOROSI	PATRICIA	DIANA	290657	PHIL	FN	A	A240173	I QF275	387336	0		0	1 300 N	00355650L

IDENTIFICATION		DETAILS					MOVEMENT DETAILS		DOCUMENT DETAILS				OTHER DETAILS	
FAMILY NAME	GIV NAME	GIV 2	DOB	COB	SM	COC	MOVEMENT PT	FLIGHT	PP/ISSA NUM	ENTRY	VCATS	AP	STATED	SOURCE
MOROSI	THERESA		081018	CHIN	FM	A	D221073	SY QF276	269090000	0			1	A 02125293E
MOROSI	THERESA		081018	CHIN	FW	A	A281073	SY QF275	269090000	0			1	N 02207785P
MOROSI	THERESA		081018	CHIN	FW	A	A230374	KI QF275	526909	0		0	1	170 N 40895177C
MOROSI	THERESA		081018	CHIN	FW	A	D300974	KI QF1	708455				E	N 42986734C
MOROSI	THERESA		081018	CHIN	FW	A	A111074	KI QF8	708455	X		00	C	120 N 43051812K
MOROSI	THERESA		081018	CHIN	FW	A	D251274	KI QF276	708455				E	50 N 44055669P
MOROSI	THERESA		081018	CHIN	FW	A	A291274	KI QF275	708455	X			C	50 N 44031395Z
MOROSI	THERESA		081018	CHIN	FW	A	D220475	KI QF276	708455				E	140 N 51305813C
MOROSI	THERESA		081018	CHIN	FW	A	A060575	KI QF275	708455	X			C	140 N 51494211G
MOROSI	THERESA		081018	PRCH	FW	A	D070675	KI QF3	708455				E	1M N 1946034A
MOROSI	THERESA		081018	CHIN	FM	A	A250675	KI QF4	708455	X			C	180 N 52020204C
MOROSI	THERESA		081018	CHIN	FW	A	D250675	KI QF276	708455				E	140 N 52073287Z
MOROSI	THERESA		081018	CHIN	FW	A	D180876	KI QF276	708455				E	100 N 62883284X
MOROSI	THERESA		081018	CHIJ	FW	A	A290876	KI QF275	708455	X				62746209C
MOROSI	THERESA		081018	CHIN	FW	A	D030777	KI QF27	708455				E	72485438C
MOROSI	THERESA		081018	CHIN	FW	A	A180777	KI QF28	708455	X			C	1 N 72365284G
MOROSI	THERESA	BRITT	081018	PRCH	FM	A	A260473	SY QF275	269090000	0	M		2	N 00868933S
MOROSI-DITCHBURN	JUNIE		260733	PRCH	FM	ENGL	A200473	SY PA811	607460000	0	M	R	2	N 00815161C
MOROSI-DITCHBURN	JUNIE		260733	CHIN	FM	UK	D270773	SY PA812	607470000	0			1	A 01440015G
MOROSI-DITCHBURN	JUNIE		260733	CHIN	FM	A	A310575	KI GA898	11643	X			C	190 N 50964447I
MOROSI-DITCHBURN	JUNIE		260733	CHIN	FM	A	D220475	KI QF276	11643	X			E	80 A 51305859G
MOROSI-DITCHBURN	JUNIE		260733	CHIN	FM	A	A010575	KI PR201	11643	X			C	80 A 51445901G
MOROSI-DITCHBURN	JUNIE		260733	CHIN	FM	A	D220575	KI QF5	11643	X			E	240 A 51744186Z
MOROSI-DITCHBURN	JUNIE		260733	PHIL	FM	A	A010675	KI QF8	11643	X			C	110 A 51805124X
MOROSI-DITCHBURN	JUNIE		260733	CHIN	FM	A	D110776	KI QF1	836632				E	180 N 62384003A
MOROSI-DITCHBURN	JUNIE		260733	CHIN	FM	A	A310776	KI QF275	836632	X			C	200 N 62457270L
MOROSIN	ANNA	ESTER	250753	ITAL	FM	A	D190373	SY QF278	57960000	0			S	A 00543967Z
MOROSIN	ANNA	ESTER	250753	ITAL	FM	A	A040973	SY QF742	57960000	0			1	A 01831662C
MOROSIN	DINO	FRANC	081224	ITAL	MM	A	A101073	ME AZ1754	812170000	0			1	Q 02079265S
MOROSIN	ELISABETH		061214	ITAL	FM	A	D300474	KI AZ1789	530667				E	900 N 41345700Z
MOROSIN	ELISABETT		061214	ITAL	FM	A	D251277	KI QF59	530667				E	150 N 74544016E
MOROSIN	ELISABOTT		061214	ITAL	FM	A	A040874	KI QF6	530667	X		0	C	900 N 42310147Z
MOROSIN	ERNESTO		080412	ITAL	MM	A	D300474	KI AZ1789	530666				E	900 N 41345701C
MOROSIN	ERNESTO		080412	ITAL	MM	A	A040874	KI QF6	530666	X		0	C	900 N 42310146T
MOROSIN	ERNESTO		080412	ITAL	MM	A	D251277	KI QF59	530666				E	150 N 74544017K
MOROSIN	FRANK	JOSEP	120966	A	MM	A	D100773	SY AZ1789		0			1	A 01313138E
MOROSIN	FRANK	JOSEP	120966	A	MM	A	A101073	ME AZ1754	812180000	0			1	G 02079263G
MOROSIN	GIULIANO		110147	ITAL	MM	ITAL	D190373	SY QF278	722297000	0			S	A 00543966I
MOROSIN	GIULIANO		110147	ITAL	MM	ITAL	A040973	SY QF742	722297000	0		R	1	A 01831663G
MOROSIN	JOHN	ROBER	240561	A	MM	A	D100773	SY AZ1789		0			1	A 01313140A
MOROSIN	JOHN	ROBER	240561	A	MM	A	A101073	ME AZ1754	812180000	0			1	Q 02079262C
MOROSIN	LODOVICO		190724	ITAL	MM	A	D210577	KI TE6	648566				E	6M N 71856464X
MOROSIN	LODOVICO		190724	ITAL	MM	A	A160877	KI QF2	648566	X			C	3M N 72731853P
MOROSIN	LUIGI		070532	ITAL	MM	ITAL	D111073	ME QF737	297670000	0			1	A 02050947X
MOROSIN	LUIGI		070532	ITAL	FM	ITAL	A291173	SY QF732	297670000	0		R	1	A 02457286Z
MOROSIN	MADDALENA		120724	ITAL	FM	A	D100773	SY AZ1789		0			1	A 01313139K
MOROSIN	MADDALENA		120724	ITAL	FM	A	A101073	ME AZ1754	812180000	0			1	Q 02079264L
MOROSIN	MARIA		190113	ITAL	FW	A	D170575	KI QF5	844821				E	3M N 51715694L
MOROSIN	MARIA		190113	ITAL	FM	A	A170875	KI QF006	844821	X			C	3M N 52520519P
MOROSIN	NOEMI		090426	ITAL	FM	A	D210577	KI TE6	648567				E	6M N 71856462L
MOROSIN	NOEMI		090426	ITAL	FM	A	A:60877	QF2	648567	X			C	3M N 72731851E
MOROSIN	PIERIN		191140	FN	ITAL		A161174	AZ1760	10909236	B	3M V1282R	V	B	3M A 43566841E
MOROSIN	PIERINA		191140	ITAL	FN	ITA	D150275	KI AZ761					D	3M A 50595692L



IDENTIFICATION		DETAILS					MOVEMENT DETAILS		DOCUMENT DETAILS				OTHER DETAILS	
FLY NAME	GIV NAME	GIV 2	DOB	COB	SM	CCX	MOVEMENT PT	FLIGHT	PP VISA NUM	ENTRY	VCATS	APS	STATUS	DATE
RPHY	LINDA		100854	NZEA	FN	NZEA	D070675	KI QF858					C 110 N	519462097
RPHY	LINDA		190956	SCOT	FM	UK	A250876	TU BA888	5907024X	B 10W	T79		B 2M V	627364892
RPHY	LINDA		131056	CANA	FN	CANA	A180277	KI QF4	195747	A		R	C 130 N	706908061
RPHY	LINDA	ANNE	230663	A	FN	A	D290375	KI QF1					E 4M N	511162587
RPHY	LINDA	ANNE	230663	A	F	A	A270775	KI QF2	746885	X			C 4M N	522154747
RPHY	LINDA	BARBA	300647	SCOT	FN	UK	A060577	EA BA888	794454	A	K520	A 002	A 160 N	716720070
RPHY	LINDA	JANE	240157	A	FN	A	D030575	KI TE556					E 160 N	515828085
RPHY	LINDA	JANE	240157	A	FN	A	A180575	KI QF337		X			C 160 N	515270577
RPHY	LINDA	JOYCE	070952	ENGL	FM	UK	A121076	KI JL771	8763805T	B 1M	V122		B 1M N	63424673E
RPHY	LINDA	JOYCE	070952	ENGL	FM	UK	D311076	KI BA889	8763805T				D 210 N	63701243K
RPHY	LINDA	MAREE	010957	A	FN	A	D270277	KI QF50					E 140 N	708704070
RPHY	LINDA	MAREE	010957	A	FM	A	A130377	KI TE221		X			C 140 N	70930216E
RPHY	LINDA	MARGA	230154	SCOT	FN	UK	D081274	KI BA951	479619				E 1Y N	43795391E
RPHY	LINDA	MARGA	230154	SCOT	FN	UK	A091175	PE QF8	479619	A		R	C 11M N	53554976G
RPHY	LINDA	MARGA	230154	SCOT	FN	BRIT	D080276	KI QF001	479619				F 13Y N	60740189T
JRPHY	LINDA	MARGA	230154	SCOT	FN	BRIT	A300777	KI QF2	479619	A		R	C 5M N	72461507P
JRPHY	LINDA	MARLE	020858	A	FN	A	D010877	KI PA812	561761				E 600 N	72853858C
JRPHY	LINDA	MARLE	020858	A	FN	A	A290977	KI UT562	561761	X			C 600 N	73273201G
JRPHY	LINDA	MARY	260450	ENGL	FN	ENGL	D160673	SY PATRIS	728660000	O			1 0	012479315
JRPHY	LINDA	MAY	090552	ENGL	FM	UK	A121174	PE QF008	737148	A	K56	M	A 11M U	43481804T
JRPHY	LINDA	MAY	090552	ENGL	FM	ENGL	D050376	PE SQ307	737148				E 11M U	61036830T
JRPHY	LINDA	MAY	261096	A	FW	A	D081273	SY QF372		O			1 A	02492272X
JRPHY	LINDA	MAY	261098	A	FW	A	A281273	SY QF365		O			1 N	02753363G
JRPHY	LINDA	MICHE	050462	A	FN	A	A040574	FR AUSTRA	266935	X		O	C 15M N	41372408P
JRPHY	LINDA	PATRI	210157	A	FN	A	D100273	SY JL772	673260000	O			7 A	00321359P
JRPHY	LINDA	SANDR	220648	USA	FN	AMER	A210973	SY TE855	645200000	O	6M	PB2VIC	1 70 N	01956429P
JRPHY	LINDA	SHARO	310571	A	FN	UK	D270375	PE SA241		X			F 1M U	51061013K
JRPHY	LINDSAY		021206	NZEA	MM	A	A090476	KI TE005					C 290 N	61252348E
JRPHY	LINDSAY		310116	NZEA	FM	A	D030375	KI TE308		X			E 200 N	50912473Z
JRPHY	LINDSAY		310116	NZEA	FM	A	A230375	KI TE221		Y			C 200 N	508670625
JRPHY	LINDSAY		280639	A	FN	A	A091176	KI PA812	395958	X			C 1M N	63756460C
JRPHY	LINDSAY	FRANC	021206	NZEA	MM	A	D110376	KI TE308					E 1M N	610817745
JRPHY	LINDSAY	IDA	310116	NZEA	FM	A	D300476	KI QF007	249589				E 470 N	615325411
URPHY	LINDSAY	IDA	310116	NZEA	FM	A	A140676	KI GA898	249589	X			C 120 N	61992545A
URPHY	LINDSAY	IDA	310116	NZEA	FM	A	A030877	KI GA898	249589	X			E 290 N	72666040C
URPHY	LINDSAY	IDA	010216	NZEA	FM	A	D060777	KI QF27	249589				E 290 N	72495346E
URPHY	LINDSAY	JOHN	011054	A	MM	A	D060175	KI TG982	451136				E 1M V	50153152A
URPHY	LINDSAY	JOHN	011054	A	MM	A	A260175	TU QF186	451136	X			C 1M V	50352811A
URPHY	LINDSAY	RAYMO	131145	A	MM	A	A060474	PE SG308	987360	O		O	1 24M N	41094347E
URPHY	LINLEY	CLAIR	250149	A	FN	A	A050973	SY BA812A	396910000	O			1 N	01837684T
URPHY	LINLEY	C AIR	250149	A	FM	A	D020575	PE CX170	39691				E 6M N	515657345
URPHY	LINLEY	C AIR	250149	A	FN	A	A151075	KI TG981	39691	X			C 6M A	53241962L
URPHY	LINLEY	CLAIR	250149	A	FN	A	D281277	PE QF721	902639				E 360 V	74623268T
URPHY	LIONEL	GRANG	171115	A	MM	A	D061176	EA TE806					E 170 G	63930132A
URPHY	LIONEL	GRANG	171115	A	MM	A	A231176	EA QF82		X			C 170 G	63841603P
URPHY	LIONEL	KEITH	300822	A	MM	A	D140473	SY QF530	81000000	O			2 A	00728313C
URPHY	LIONEL	KEITH	300822	A	M	A	A230473	SY QF740	81000000	O	M		1 N	00860496E
URPHY	LIONEL	KEITH	300822	A	MM	A	A260573	SY QF736	81000000	O			1 N	011835045
URPHY	LIONFL	KEITH	300822	A	MM	A	A210274	KI TE377		O		O	1 30 A	00530587C
URPHY	LIONEL	KEITH	300822	A	MM	A	D270677	KI QF5	13501				E 1M A	72273181K
URPHY	LIONEL	KEITH	300822	A	MM	A	A210777	KI QF6	13501	X			C 1M A	723823945
URPHY	LIONEL	KEITH	310822	A	MM	A?	A020273	SY QF531	81000000	O			B A	00294393C
URPHY	LIONEL	KEITH	310822	A	MM	A	D201273	SY PA812	9081	O			1 A	02613631K
URPHY	LIONEL	KEITH	310822	A	MM	A	A130174	KI PA811	9081	X		O	C 230 N	00274201T
URPHY	LIONEL	KEITH	310822	A	MM	A	D190274	KI QF372		O			1 20 N	0067803X
URPHY	LIONEL	KEITH	310822	A	MM	A	D200674	KI QF276					E 140 N	41776559C
URPHY	LIONEL	KEITH	310822	A	MM	A	A280674	KI PA211	9081	X		O	C 80 N	41911704A
URPHY	LIONEL	KEITH	310822	A	MM	A	D010774	KI QF1	9081				E 70 A	42072214E
URPHY	LIONEL	KEITH	310822	A	MM	A	A080774	KI QF2	9081	X		O	C 70 A	42160079E
URPHY	LIONEL	KEITH	310822	A	MM	A	D120774	EA QF284					E 30 N	42111691E

Zurich, October 5,

Dear Mr. Murphy,

Referring to our letter of  
September 25, 1972, we send  
you in the enclosure the  
promised statement of your  
current account per Sep-  
tember 30, 1972.

Yours faithfully,



UNION BANK OF SWITZERLAND  
SCHWEIZERISCHE BANKGESELLSCHAFT  
UNION DE BANQUES SUISSES  
UNIONE DI BANCHE SVIZZERE

With Compliments

8021 Zurich, Bahnhofstrasse 45

Telephone 051 29 44 11



Request for  
Is 'RECEIVED' 3 JUL 1986

OFFICE OF THE  
SECRETARY TO THE  
ATTORNEY-GENERAL'S DEPT  
BARTON A.C.T. 2600

SECRET

Mr David Durack  
Instructing Solicitor  
Parliamentary Commission of Inquiry  
GPO Box 5218  
Sydney 2001

Dear Mr Durack,

In response to your letter, I forward herewith a copy of the "Howard" report. I would like to be consulted if, after having examined the report, the Commission were at a subsequent stage to wish to cite the report to persons outside the Commission.

Also I would be grateful for the return of the copy of the report when the Commission has concluded its dealings with the matters to which it relates.

Yours sincerely

[Redacted signature]  
P Brazil

3 July 1986

SECRET



IN CONFIDENCE

PARLIAMENTARY COMMISSION OF INQUIRY

GPO Box 5218  
SYDNEY NSW 2001

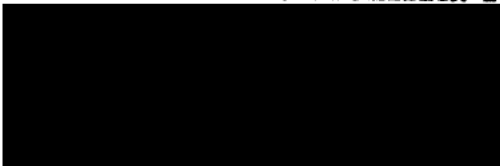
Ph : (02) 232 4922

Mr Pat Brazil  
Secretary  
Attorney-General's Department  
Robert Garran Offices  
National Circuit  
BARTON ACT 2600

Parliamentary Commission of Inquiry - Murphy J

I refer to our discussions of today.

I would appreciate it if a copy of the "Howard Report" could be forwarded to the Commission for perusal.



D N Durack  
Instructing Solicitor

20 June 1986

Extract from Weinberg/Phelan Memorandum  
dated 3 July 1986 (full copy on File C51

## ALLEGATION 6 SAFE DEPOSIT BOXES AND SHARES

If no money left the country, and no money or assets were smuggled into the country, there would appear to be no offence committed under the Banking (Foreign Exchange) Regulations. We are unaware of any statute which requires a declaration of assets acquired overseas except pursuant to the provisions of the Income Tax Assessment Act. Even that may be limited to certain specific purposes such as income derived from overseas. There does not appear to have been any register of pecuniary interests in existence at the time that these alleged documents came into existence.

A number of questions have to be asked. What if anything was put into these safe deposit boxes? What was intended to be put into these safe deposit boxes? Is there something sinister about the fact that the Judge was to have such a box at around the time of the loans affair? What is in the boxes today?

Perhaps more serious is the document which suggests that the Judge had allotted to him a parcel of shares of very considerable value. How did he acquire the money to pay for these shares? Did he pay for them? Did someone make a gift of the shares to him? Who was that? If such a gift was made, why was it made? Was the Judge expected to perform some service in exchange for the gift? Was the Judge aware that a parcel of shares had been made over to him? This allegation could lead anywhere. The question arises what should be done at this stage?

It is plain that there is not sufficient basis at the moment to formulate a specific allegation in precise terms arising out of the existence of these documents. The first thing to be done is to ascertain whether they are genuine. If they are genuine, can it

be determined whether the Judge was a party to their coming into existence? If so, what has happened to the shares? Would it be possible to determine whether any monies that were used for the purchase of the shares were the proceeds of illegal sources, or alternatively monies upon which tax was not paid? Would it be possible to examine the Judge's tax records?

It seems necessary to interview the two journalists who drew these documents to our attention. This should be done as a matter of some priority. In the end, either the journalists are able to give us some additional information which will allow meaningful investigations to be continued, or the matter will have to simply be left as an allegation which is reported to the Commissioners, but upon which no admissible evidence can be obtained.

Doc 0034M

RECEIVED 18 JUN 1986

I, MARSHALL DAVID WILSON

of P.O. Box 642 E

Melbourne 3001

in the State of Victoria

do solemnly and

sincerely declare

THAT

the following documents bearing the name of a Lionel Keith Murphy were recovered by me in Europe during the course of a journalistic investigation in 1984.

They are submitted in good faith and I believe them to be photocopies of originals from the files of the Union Bank of Switzerland in Zurich.

According to the dates it would appear Mr Murphy was at the time a Judge of the High Court of Australia.

His name appears on three documents, two for the joint rental of a safety deposit box with other parties and one which shows that shares in the UBS were attributed to his name.

The fourth document relates to Mr Murphy's partnership in a safe deposit box with Edward Gough Whitlam, but shows that a Miss Junie Morosi holds the keys.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false Declaration punishable for wilful and corrupt perjury.

DECLARED at *Melbourne* in the  
State of Victoria this *17<sup>th</sup>*  
day of *Jan* One Thousand  
nine hundred and *86*.  
Before me

  
  
B. T. MANGBRIDGE  
Commissioner for Affidavits & Declarations

I, STEPHEN JOHN FOLEY

of 999 Toorak Road Camberwell 3124  
Melbourne

in the State of Victoria  
do solemnly and

sincerely declare

THAT

the following documents bearing the name of a Lionel Keith Murphy were recovered by me in Europe during the course of a journalistic investigation in 1984.

They are submitted in good faith and I believe them to be photocopies of originals from the files of the Union Bank of Switzerland in Zurich.

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The fourth document relates to Mr Murphy's partnership in a safe deposit box with Edward Gough Whitlam, but shows that a Miss Junie Morosi holds the keys to that box.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false Declaration punishable for wilful and corrupt perjury.

DECLARED at *Melbourne* in the  
State of Victoria this *17<sup>th</sup>*  
day of *June* One Thousand  
nine hundred and *86*  
Before me

*[Redacted]*  
*[Redacted]*  
GIVEN UNDER MY HAND AND SEAL OF OFFICE  
GIVEN UNDER MY HAND AND SEAL OF OFFICE



# SCHWEIZERISCHE BANKGESELLSCHAFT

UNION DE BANQUES SUISSES  
UNIONE DI BANCHE SVIZZERE  
UNION BANK OF SWITZERLAND

8021 ZUERICH

MR. LIONEL KEITH MURPHY

MARCH 3RD, 1975  
WVI2-MUA

Depot-Nr.  
Dépôt No  
Sec. Acc. No

384.841.42

Betrifft  
Concerne  
Re

ORDINARY GENERAL MEETING

Wir beziehen uns auf Ihre bei uns per  
Nous nous référons à votre dépôt chez nous au  
We refer to the following deposit as of

27.02.1975

deponierten  
de  
in your sec. account

400

AKT SCHWEIZ.BANKGESELLSCHAFT

FR 500

und gestatten uns, Sie auf die bevorstehende Generalversammlung dieser Gesellschaft aufmerksam zu machen. Als Beilage erhalten Sie die entsprechende Einladung, die Traktandenliste und allfällige weitere Unterlagen, soweit uns solche zur Verfügung gestellt worden sind. Sofern Sie selbst an der Versammlung teilnehmen oder einen Beauftragten dorthin entsenden wollen, bitten wir Sie, uns dies mittels beiliegendem Auftragsformular möglichst bald mitzuteilen, damit wir Ihnen rechtzeitig eine Eintrittskarte beschaffen können. Sollten Sie dies nicht beabsichtigen, sind wir gerne bereit, die Vertretung Ihrer Stimmrechte im Sinne der Zustimmung zu den Anträgen des Verwaltungsrates kostenlos zu übernehmen. Im Falle Ihres Einverständnisses bitten wir Sie um Rücksendung der beiliegenden Vollmacht. Wenn uns eine generelle Vollmacht vorliegt, werden wir Ihre Titel ohne Gegenbericht vertreten lassen.

L'assemblée générale des actionnaires de cette société ayant lieu prochainement, nous nous permettons de vous adresser la convocation y relative ainsi que l'ordre du jour et autre documentation disponible. Si vous désirez assister personnellement à cette assemblée ou si vous envisagez de vous y faire représenter, nous vous saurions gré de nous le faire savoir rapidement au moyen de la formule ci-jointe, afin que nous puissions vous procurer à temps une carte d'entrée. Mais si telle n'était pas votre intention, nous serions volontiers disposés à représenter sans frais vos actions et d'approuver les propositions du conseil d'administration. Dans ce cas, nous vous prions de nous retourner la formule de pouvoir ci-incluse. Si vous nous avez déjà donné un pouvoir général, nous représenterons automatiquement vos titres, à moins que vous nous donniez un avis contraire.

We wish to draw your attention to the forthcoming General Meeting of the Shareholders of said Company and send you the notice of meeting, the agenda and other pertinent material in our possession. In the event that you wish to attend the General Meeting yourself or delegate some authorized person, we ask you to inform us as soon as possible so that we can obtain a card of admission for you in time. If this is not your intention, we shall be pleased to vote your shares free of charge within the meaning of an approval of the proposals of the Board of Directors. In case of your agreement, kindly return the enclosed power of attorney. Should we be in possession of a general power of attorney, we shall have your securities voted unless we hear from you to the contrary.

Antwort erbeten bis  
Réponse jusqu'au  
Please reply by

13.03. NOON

Hochachtungsvoll - Vos dévoués - Yours very truly  
**SCHWEIZERISCHE BANKGESELLSCHAFT**  
Union de Banques Suisses - Union Bank of Switzerland

Beilage  
Annexe  
Encl.

Diese Mitteilung trägt keine Unterschrift.  
Cette communication ne porte pas de signature.  
This notification does not require a signature.



SAFE DEPOSIT RENTAL CONTRACT

The undersigned,

Mr. Jochen Karl ZUNDERMANN  
D 6580 Idar-Oberstein  
Postfach 11578

BRD.

herewith rent(s) from the

Union Bank of Switzerland,

Zurich

in its vault facilities,

the safe deposit box Nr. 8343 Size 4

for a period of twelve months and confirm(s)

to have received the two keys belonging to said safe deposit box.

The rental charge shall be Sfr. 50.--

The contractual relationship is subject to the Conditions Governing the Rental of Safe Deposit Boxes in the vault that were furnished to me / us and to the General Conditions listed on the reverse side.

Executed in duplicate in Zurich, March 11th, 1975

The Client(s): MURPHY Lionel Keith  
WHITLAM Edward Gough

The Owner: UNION BANK OF SWITZERLAND

42069 / GUR/HSK

Pass NR. 682951

DDR. 14.8.1972



The contractual relationship is subject to the Conditions Governing the Rental of Safe Deposit Boxes in the vault that were furnished to me / us and to the General Conditions listed on the reverse side.

The Client(s): Mr. Lionel Keith Murphy  
Miss Junie MORROW

*H. Tregidger*



N<sup>o</sup> 816

QUITTUNG für Fr.

\*\*\*70.\*\*\*

Von MAROSI Junie (Miss)

Franken siebzig=====

Miete für Schrankfach-Nr. 8343

für die Zeit vom 11.3.1975 bis 11.3.1976

inkl. Nr. 20.-- Schlüsselaufbewahrung

empfangen zu haben, bescheinigt

SCHWEIZERISCHE BANKGESELLSCHAFT

Kundentresor:

Zürich, den 4. April 1975  
3052/GUP/MBA