IN-CONFIDENCE

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

FILE No. C 31/

ARCHIVAL ACTION

FORMER PAPERS	LATER PAPERS

TITLE ALLEGATION NO 18

Related Papers

1 Folio No.	2 Referred to	3 Date	4 Cleared	5 Resubmit	1 Folio No.	2 Referred to	3 Date	4 Cleared	5 Resubmit
10-43	A. Phelan	11.8.86							

FILE No. C. 31

REGISTER OF DOCUMENTS RETURNED IN RESPONSE TO SUMMONS AT COMMISSION HEARING 31 JULY 1986

PREMIER'S DEPARTMENT - Mr G Gleeson

Returned to Mr L. Le Compte, Senior legal officer, Premiers Dept, 21.8.86. A. Phelan.

1. Application by Mr W Jegorow for position of Chairman, Ethnic Affairs Commission, dated 28 January 1977.

2. Set of documents circa 1977-1978 relating to the appointment and extensions of appointment of members of Ethnic Affairs Commission.

3. File (80/7218) relating to Mr Jegorow as Deputy Chairman of Ethnic Affairs Commission.

4. File (80/8450) relating to Remuneration - Mr Jegorow - Deputy Chairman, Ethnic Affairs Commission.

5. File (84/1242) entitled Police Aged Tapes Allegations re W Jegorow.

ETHNIC AFFAIRS COMMISSION - Mr P Totaro

Collected from this Commission by an officer of the EAC 22.8.86: A. Phelan

1. File (E/79/2022) - Subject - W Jegorow. <u>Administration Deputy Chairman</u>

2. Personal File - Jegorow - Wadim (Bill) - Forestry Commission of NSW - Nos P2157, S7114.

3. Personal File - W Jegorow, Premier's Dept No S7114.

NSW PUBLIC SERVICE BOARD - Ms C Williams

Returned to Ms Williams, Legal Section, PSB, 21.8.86 A. Phelan

1. File 79/982 - Premier's Dept

   Reps by W Jegorow, Regards Fees being paid to position of Deputy Chairman, Ethnic Affairs Commission.

2. File 79/5678 - Premier's Dept

   Establishment of a Position: Consultant, Ethnic Communities.

To: Mr A Phelan
Director Research

11 · 8 1986.

RE: ALLEGATION NO. 18 - APPOINTMENT OF BILL JEGOROW

The Allegation

It is alleged that Justice Murphy in or about March 1979, and whilst a Justice of the High Court of Australia, agreed with Morgan Ryan that he, the Judge, would speak to the then Premier of New South Wales, the Honourable Neville Wran, for the purpose of procuring the appointment of Wadim Jegorow to the position of Deputy Chairman of the Ethnic Affairs Commission of New South Wales. Further, the Judge subsequently spoke to the Premier for that purpose, and later informed Ryan that the Premier had told him that Jegorow would be appointed to the position.

Investigation of the Allegation

I have now had an opportunity to review the material on the State Public Service files relating to the appointment of Bill Jegorow as the Deputy Chairman and full-time Commissioner of the Ethnic Affairs Commission in October 1980.

It seems to me that the material contained on the files suggests that the appointment of Jegorow to that (and other) positions was made on the basis of recommendations emanating from State Government Departments and based on valid and appropriate staffing considerations.

The purpose of examining the file material was to determine whether the decision to appoint Jegorow to the position of Deputy Chairman appeared to be made on normal Public Service merit considerations or whether the appointment was a unilateral decision by the Premier at the relevant time which would support the contention that Justice Murphy had sought to influence the then Premier concerning the appointment. As mentioned above,

the file material supports a conclusion that the appointment was based on the normal Public Service considerations.

However, that is not to say that Justice Murphy did not contact the then Premier about the appointment of Jegorow. There are of course the recorded telephone discussions between Morgan Ryan and Justice Murphy and Morgan Ryan and others. (Attachment A). (ff36-33)

It should be remembered that Justice Murphy in his discussion with Ryan merely said;

> "I talked to him (Neville) and he is appointing that fellow (Jegorow) to Deputy Chairman" and; (f35)
>
> "He'll give it to him. But I think your fellow might have been wanting to make it some long tenure or something....He said he wasn't doing that." (f35)

It may well be that, based on the material contained on the State Public Service files, a plan to appoint Jegorow to a senior ethnic affairs position was already contemplated and the then Premier merely communicated that intention to Justice Murphy.

Again it should be noted that Ryan appears, from his later discussions with others, (in relation to the information he received from Justice Murphy), that he has a propensity to embellish. The conversation quoted in part above is translated by Ryan in a later discussion with Jegorow to..

> "You're getting that appointment..don't push this ten year business...just take the appointment and then we'll make it ten years okay?."..All I know was that he just said to tell me that you are getting that appointment as Deputy Chairman, but not to push the ten year part of it, because, er, we can talk about that later.." (f34)

and in a later discussion on the matter with Boyd, Ryan said;

> "...just before I left for overseas I got in touch with N, you see, the trump. I said to him, you owe us one favour. You're always f.... howling about this fellow, but I said, but please appoint him to this f.... job and get him off my back, that big Jegorow... I just got the phone call a minute ago. It was from his ....er, you know, the other trump. And he said, by the way, he said, er Nif said to tell you that he's given that big bastard the appointment...". (f34)

There is no information available, to the best of my knowledge, which confirms that Ryan had any discussion with the then Premier on the matter. Rather, in a recorded conversation between Ryan to Justice Murphy, Ryan seeks to persuade Murphy to contact the Premier. Ryan says inter alia ..

> "...Did you ring Nift?..Please get onto him for that Jegorow. They're driving me mad.
>
> ...I do work for a lot of those groups and they all want him to get the job....
>
> ...will you ring him, please, and talk to him about it, please." (f 35)
>
> Justice Murphy responds: "Okay." (f 35)

Public comments were later made by the then Premier and Justice Murphy concerning the alleged approach from Murphy to the then Premier on the Jegorow appointment and while neither party confirms that the conversation took place, it could also be said that their comments do not amount to denials.

On 23 May, 1984 in Parliament the then Premier said in response to questions;

> "(Jegorow)..has more contacts than anyone I know. I would not know whether anyone rang to ask me to give Bill Jegorow a lift up the ladder, but I do know that he probably rang about 5,000 people to try to get one, including members of the Opposition. Anything that Bill Jegorow has, he got on his merits..." (Attachment B). (f 29)

In the Senate c.) 29 February, 1984 Senator Sir John Carrick asked the then Attorney-General Senator Gareth Evans;

> "At either of his meetings with the Judge referred to in the Age tapes, did the Judge deny that he had promised the solicitor he would speak to someone in support of an application for a position in the New South Wales Public Service. If he did not deny the conversation, does the Attorney-General believe that such action is improper for a person in high judicial office or does he share the view of Mr Temby QC? Mr Temby said in his opinion:

> There is nothing unusual about people in high places suggesting or urging that given individuals should be appointed to particular government positions.
>
> Does he take 'people in high places' to mean senior members of the judiciary?" (f28) (Attach C)

Senator Gareth Evans responded inter alia;

> "I did ask the judge in question what the nature of the conversation if any, might have been with the solicitor about the particular matter concerning the appointment of a senior New South Wales public servant to a position of comparable status and salary and whether or not the judge had in fact undertaken to have any conversation with anybody about that particular appointment. As I recall it, the judge's answer was that he had had such a conversation to the extent that he could recall it with the solicitor in question and that his response would be that if the occasion arose he would see what the situation was with the appointment in question and let the solicitor know.
>
> I certainly do not regard that conversation as being in any way improper nor any follow-up conversation that the judge might have had in response to that. To argue otherwise is to elevate in a very tendentious way, for reasons of conspicuous political motivation, an exchange which would be regarded as certainly perfectly familiar and routine in the dining rooms and smoke rooms of the Melbourne Club, the Athenaeum, the Australia Club and all the rest of the places where the establishment go to play and to talk. Certainly under no circumstances would I regard conversations of the kind in question as in any way giving rise to the kind of impropriety or indeed even judiciousness to which Mr Temby referred. (Attachment C) (f28-27)

The Temby opinion quoted in the above question was tabled in the Senate on 28 February, 1984. (Attachment D) That opinion says in part;

> "If it be the case that (the Judge) used influence or persuasian, direct or indirect to have him appointed to that position then that carries no consequence so far as criminal conduct is covered. There is nothing unusual about people in high places suggesting or urging that given individuals should be appointed to particular Government positions. It would of course be a matter of great concern if that was done in order to secure some favour or for any sort of consideration. One can imagine circumstances in which the taking of steps to secure such an appointment could be by reason of accompanying circumstances be criminal in nature. There is nothing in the material I have seen to suggest any such accompanying circumstances.

I cannot think that any further investigation of the matter is likely to be at all fruitful." (f 25)

I have attached a schedule of the Public Service (and other) appointments of Jegorow and I have included the alleged recorded conversations. (Attachment E). (ff 19-15)

The material shows that Jegorow was not appointed to the position of Deputy Chairman at about the time of the alleged conversations (ie 20/3/79). Rather he was appointed (on 22.10.79) to the position of Consultant, Ethnic Communities in the Premiers Department. (f 11A)

It can be seen from the schedule of events at Attachment E that some move for Jegorow was appropriate at that time because Jegorow was faced with the prospect of disciplinary actions because of the amount of time he was spending on Ethnic Affairs Commission work. (Attachment E1) (f 14) Jegorow himself had written to the Premier seeking a move to an area related to Ethnic Affairs. (Attachment E2) (f 13).

It was on 13 October, 1980 that Jegorow was appointed to the position of Deputy Chairman and full-time Commissioner of the Ethnic Affairs Commission on the recommendation of the Assistant Secretary, Community Relations Division (Attachment F1) (f 12) This was a sideways move for Jegorow being at the same salary, and again from the information on the State Public Service files it seems that some move for Jegorow was appropriate.

There was some adverse reaction to the appointment of Jegorow from the Commission itself and from the Public Service Union. The Commission and the Union expressed disappointment that the position was not advertised. However it has been pointed out by the then Premier that the appointment of Jegorow to the Deputy Chairman's position was a Statutory Appointment and did not require the approval or involvement of the Public Service Board.

There is no suggestion that Dr Peponis who was the part-time Deputy Chairman of the Ethnic Affairs Commission was forced from that position to make way for Jegorow. Dr Peponis resigned in early July 1980 because of his commitments as a footballer and Medical Practitioner. (Attachment G). (F10)

Conclusion and Recommendation

It seems from the available material that Justice Murphy may well have approached the then Premier of N.S.W. concerning the possible appointment of Jegorow to the position of Deputy Chairman of the Ethnic Affairs Commission.

Neither the then Premier nor Justice Murphy confirm that Justice Murphy made the approach. However, the recorded conversation between Ryan and Justice Murphy suggest that the approach was made. Justice Murphy says ...."I talked to him (Neville) and he is appointing that fellow (Jegorow) to be the Deputy Chairman.

As mentioned earlier the issue appears to me to be whether an approach was made by Justice Murphy to the Premier to appoint Jegorow not whether the Premier acted on that approach. If the approach was made then that creates questions concerning the Judge. However, if in response to that approach the Premier took steps which he otherwise would not have then that clearly is conduct which may be improper by the Premier. However, again as mentioned earlier the appointment of Jegorow seems to be based on sound and normal Public Service considerations.

In my view the available material points towards the Judge approaching the Premier as contended by the Judge "to see what the situation was concerning the appointment in question and let the solicitor know."

In any event the view of Mr Temby Q.C. is relevant when he says that there is nothing unusual about people in high, places suggesting or urging that given individuals should be appointed to particular government positions.

While Mr Temby Q.C. sees nothing unusual about people "suggesting or urging" there is nothing to confirm that it could be put as highly as this and it may well have been no more than an enquiry.

In view of the circumstances it is recommended that no further inquiries be made in this matter.

N. Jordan. 11.8.86.

ATTACHMENT A

BILL JEGEROW

Wadia (Bill) Jegerow was born about 1934. He has a Bachelor of Arts, Diploma of Social Studies and is a barrister. In 1973 he was awarded the Medal of the British Empire by the Liberal Government.

He was a parole officer from 1958 to 1965, and from that year until 1970 practised at the bar. In 1970 he joined the Forestry Commission as a Legal Officer, being promoted to Senior Legal Officer in 1974. He remained in that position until October 1979.

In May 1977, he was appointed part-time deputy chairman of the Ethnic Affairs Commission. He has been an ALP alderman on the Ashfield Council since 1959. Jegerow was founding chairman of the New South Wales Ethnic Communities Council.

Jegerow was appointed as a temporary Consultant (Ethnic Communities), Premier's Department from 22 October, 1979. Dr G. Peponis was apparently part-time Commissioner and Deputy Chairman of the Ethnic Affairs Commission in 1979, and resigned 31 July, 1980, making way for Jegerow. He was appointed full-time Deputy Chairman from 13 October, 1980.

His appointment in 1980 sparked a public service reaction. A SMH story of 2[illegible]October, 1980 reads:

> Staff at the NSW Ethnic Affairs Commission appealed to the Public Service Association yesterday against the appointment of Mr Bill Jegerow as full-time Deputy Chairman of the Commission.
> Mr Jegerow was for the past year a consultant on ethnic affairs to the Premier, Mr Wran. His appointment was approved yesterday.
> On Monday an industrial officer from the association will advise commission staff of possible industrial action in protest against the appointment.
> The NSW Ethnic Communities Council, of which Mr Jegerow was the founding chairman, wrote to Mr Wran yesterday calling for the $35,000 position to be advertised.
> The Public Service Association sent a telegram of concern to Mr Wran late yesterday. Ethnic Affairs Commission staff told officials of the union there was no budget provision for the senior appointment.
> They said the 12 part-time commissioners on the Commission had not been consulted on the appointment. They were concerned that the appointment would reduce career opportunities of senior staff at the Commission...

From the transcripts:

19 March, 1980 - In from (s.l.) Fred Cross to Dorothy. Wants to speak to Morgan. Dorothy tells him to ring around 8.30 - 9.00 tonight (Sunday).

> In from Fred to Morgan. Fred wants to know if Morgan will be in the office tomorrow evening around 5. Morgan says, No, I'm going away tomorrow and I won't be home for 10 to 14 days.
> Ryan: What's happening?
> Fred: There's a few things I want to discuss with you, primarily Phil [Bill?] asked me would I make sure I'd make a call to you and discuss something concerning racing.

Ryan: Who's that?
Fred: (s.l.) Jenga [pencilled note over reads Jegerow]. And I know... (inaudible).
Ryan: Well, what's he doing now?
Fred: Well, he's got himself in a very invidious situation or very awkward situation in other words... suspected by the Public Service Board to be examined under section (56 or 66), where in fact they were... right to the bloody point.
Ryan: Well, mate, he can hang off for 10 days, can't he?
Fred: (inaudible)
Ryan: Okay.
Fred: I'll see you when you get back. I've got two or three other issues and I won't...
Ryan: Righto mate.

In from Jay Jegerow for Morgan. Not home. Leaves message for Morgan to ring him. 20236 x 605.

20 March, 1979 - Ryan to male at Lionel Murphy's phone number.
Ryan: Morning. Did you ring Nift'?
Male: No.
Ryan: This is the time when you get him - when he's kissing her goodbye.
Male:
Ryan: Well, I'm just speeding to the airport. Please get onto him for that Jegerow. They're driving me mad.
Male:
Ryan: Well, I mean, I do work for a lot of those groups and they all want him to get the job.
Male:
Ryan: I just can't work it out. I don't know how people are appointed to jobs. They never appoint anybody that they can use. They always appoint somebody whose going to knife them in the back.
Male"
Ryan: But Jegerow is suited for this job, mad and all as he is.
Male: Has he applied for it?
Ryan: Yeah.
Male: When do the applications... Who makes the appointment?
Ryan: The Premier himself. It's to be done within the next ten days.
Male: Yes, there would be a lot of things probably easier done in the Public Service Board after all.
Ryan: Will you ring him, please, and talk to him about it, please.
Male: Okay...

31 March, 1979 - In to Ryan from Lionel Murphy.
Murphy:... I talked to him and he is appointing that fellow to Deputy Chairman.
Ryan: Mmm.
Murphy: No, not down there. Neville is appointing Jegerow.
Ryan: Oh is he? Oh, that's good. He's getting the appointment?
Murphy: Yeah.
Ryan: Good, you're sure of that? 'Cause I was going to ring him on Monday morning.
Murphy: He told me.
Ryan: Okay, Righto.
Murphy: He'll give it to him. But I think your fellow might have been wanting to make it some long tenure or something. Don't know what it is. He said he wasn't doing that...making...
Ryan: Righto.

Ryan to Jegerow.
Jegerow: Hello.
Ryan: Oh Bill, it's Morgan Ryan.
Jegerow: Oh Morgan, God bless you and love you. How are you?
Ryan: Good. Now I only got back this morning.
Jegerow. Yup.
Ryan: And the trump rang me. I had a short conversation. You're getting that appointment. But you won't be getting it for... Don't be pushing this ten year business, or whatever it is.
Jegerow: I'm not. I'm not pushing anything.
Ryan: Just take the appointment and then we'll make it ten years. Okay?
Jegerow: Oh Morgan, you're a beauty. Look, when am I going to shout you a big fat dinner?
Ryan: Don't worry about that. But you'll get the appointment. But don't bother telling anybody yet. I don't know whether it's been made official or anything else. All I know was he just said to tell me that you are getting that appointment as deputy chairman, but not to push the ten year part of it, because, er, we can talk about that later.
Jegerow: Er, um, ah, just one thing. Just tell him - this might sound very foolish, very foolish. But don't let him kae the announcement for a little while.
Ryan: I don't think it will be. Probably, I don't know. I just got the message now and I haven't bothered... I mean... I might tell Bruce, but I'm not ringing up Freddy and all these fellows.
Jegerow: No, of course not. I'm not going to tell any bastard myself.
Ryan: Yeah. Yeah.
Jegerow: But mate, I think you have already covered me, and I am eternally grateful. Tell him that, er, Bill is not as silly as sometimes he may appear to be, which I am sure that the trump appreciates too.
Ryan: Righto.
Jegerow: I have seen certain things in parliament which made it clear what was going to happen.
Ryan: Hmm.
Jegerow: But tell him that, er, well...
Ryan: Don't worry about it. I won't be seeing him for a few days, Bill.
Jegerow: But above all, Morgan, please impress upon him with great sincerity, that I am a loyal friend.
Ryan: Okay. Righto.
Jegerow: Please impress this upon him.
Ryan: Okay, I've done that...

Ryan to male at Gary Boyd's phone number.
Ryan: I just thought I'd ring you back and tell you. It's a funny thing. I set about to accomplish all these things that we don't... But it might be of some benefit... I just got a ring to tell me... just before I left for overseas I got in touch with N, you see, the trump. I said to him, You owe us one favour. You're always fuckin' howling about this fellow, but I said, but please appoint him to this fuckin' job and get him off my back, that big Jegerow... I just got the phonecall a minute ago. It was from his...er, you know, the other trump. And he said, By the way, he said, er, Nif' said to tell you that he's given that big bastard the appointment...
(They both laugh)
Ryan: ...as permanent deputy chairman or someone of the Ethnics Commission.
Boyd: Jeez, I wish we could use him.
Ryan: Now, he'll take that over, because he can really run it.

Boyd: Right.
Ryan: That Italian fellow they've got...
Boyd: Totara.
Ryan: He'll just run over him now... But what I... just remember this, won't you?
Boyd: Yeah.
Ryan: When I bark, Jegerow or whatever...
Boyd: ...jumps.
Ryan: Jumps.
Boyd: Oh, that's good. Well, we'll have to see what we can do with him.
Ryan: So I just thought that, as I said, you accomplish them and you never know. The appointment won't probably be made for a year or two and I don't (unreadable), but it'll be (unreadable) soon.
Boyd: (unreadable)
Ryan: Oh. (laughs)
Boyd: You know, it's so fucking (unreadable). Oh that's good. (laughs)
Ryan: As a matter of fact, not only has he been told how, but he was first told the law, the rules. You know, there is a lot of new appointments in the next few months.

In. Dorothy answers. Bill Jegerow calling for Morgan. She tells him that Morgan is in and that she gave him Bill's message. Morgan is having a swim at the moment. Bill will call back in half an hour.

Bill Jegerow in for Morgan. Morgan not in.

1 April, 1979 - Out 7979187. Morgan to Bill Jegerow (his position to deputy chairman to the Ethnics Commission has been confirmed). Bill's end is hard to hear. Morgan: All I know is that you got the appointment and that is it.

On 23 May, 1984, Wran spoke on this issue in the House in response to questions to him from the National Times. He argued:

1. That Jegerow had been appointed on Gleeson's recommendation to be Wran's advisor, and that it was with the approval of the Public Service Board.

2. That the initial appointment as consultant somehow removed suggestions 'patronage, preferment, corruption.'

3. That the appointment to Deputy Chairman was to no higher a salary than that as consultant.

4. That Jegerow 'has more contacts than anyone I know. I would not know whether anyone rang me to ask me to give Bill Jegerow a lift up the ladder, but I do know that he probably rang about 5000 people to try to get one, including members of the Opposition. Anything that Bill Jegerow has, he got on his merits.'

All of the inquiries to which I have referred are going on. The Opposition says that we should not worry about authenticity, whether the tapes are fair dinkum. If the Opposition had its way, anyone could say anything about a person but then that person would have to spend the time and the trouble and go through the agony and expense of clearing his name. I always said that this was a put-up or shut-up measure. However, it does not preclude any person raising any matter in this House. It does not preclude any person going to the Ombudsman, the police or the Crown advocate. All of these facilities are in existence. What the measure proposes is not a substitute for anything; it is something in addition. Anyone listening to the humbugs from the Opposition today would think that in some way the door was being closed to examination or investigation of complaints, genuine or otherwise, whereas the opposite is the truth. On many occasions the *Age* newspaper has reported—indeed, time and again this has been referred to also both inside and outside this House by one or two members of the Opposition; I think the Opposition Whip and probably the honourable member for Lane Cove—that a senior New South Wales politician was contacted by a High Court judge.

Mr SHEAHAN (Burrinjuck), Minister for Planning and Environment [3.7]: I move:

That the Premier, Mr Wran, be allowed to continue his speech for a further period of 15 minutes.

Mr Fisher: We have had enough.

Mr WRAN: The honourable member will have had enough by the time I have finished with him.

Motion for extension of time agreed to.

Mr WRAN: They have said that as a result a senior New South Wales public servant got his job. That is all recorded in the *Age* newspaper of 11th February, 1984. Every time the *Age* newspaper comes back to the *Age* tapes, it says that the biggest crime that the New South Wales Government committed was that a senior politician was contacted by a judge. Everyone knows that that senior politician has to be me because I am the one that that newspaper wants to knock over all the time; I am the one who is up for grabs. That newspaper has a conviction—I think rather sensibly—that until it gets ri dof me there is no chance of getting rid of the Government. I say that with due respect to all of my colleagues.

[*Interruption*]

Mr WRAN: The Deputy Leader of the Opposition should not get excited. I might have to take her for a walk up and down The Hermitage this afternoon. That was a great crime that the New South Wales Government had committed. The date on which this public servant was promoted was given. Ordinarily I would not have mentioned this matter but the honourable member for Lane Cove said that the *Age* tapes showed a depth of corruption in the New South Wales Government. The honourable member for Lane Cove said that the tapes are said to be taken illegally. One assumes that they were tapes and that if they were taken they were taken illegally. It is an offence under the Telecommunication (Interception) Act to publish or attempt to publish the contents of those tapes. He hawked those tapes to one of Sydney's newspapers. Before the election he went to an editor of one of Sydney's newspapers, at the direction of the Leader of the Opposition, with a view to having those tapes published in Sydney and to having the unidentified and unidentifiable transcripts published in Sydney.

The Leader of the Opposition and the honourable member for Lane Cove conspired to have these tapes published; they endeavoured to persuade a newspaper editor in this city to publish the tapes. It is to the credit of the newspaper editor that he would have nothing to do with it; he would not publish the tapes. The Leader of the Opposition and the honourable member for Lane Cove should feel proud of themselves, that they wanted this unidentified and unidentifiable material published. Because they have copies of the material they know perfectly well that there is nothing on those tapes or in those transcripts that reflects adversely upon the New South Wales Government. They built up this image, as did the *Age* newspaper, that there was something grievously wrong. Always the *Age* refers to the appointment of this man to a senior public service position as a result of intervention by a judge.

I apologize to the man who has been the subject of what I have said, for I must mention his name; the rebuttal will be ineffective and will lack understanding unless I do so. The *Age* did not have any worry about mentioning his name. I received a telex message from that newspaper asking me for all sorts of details about his appointment. I pointed out to the *Age* that I had an election campaign at the time and I had one or two more important things to do than to engage in correspondence with that newspaper. The other day I received another telex message from that newspaper in which it was said I had more time now to answer. That was true. It is boring to take part in debate in this House. Members of the Opposition will have to buck themselves up. In the second telex message the newspaper said I had more time to provide the answer. I am sure my answer will be fully reported on the front page of the *Age* newspaper. The gentleman referred to was Mr Bill Jegerow.

Mr Peacocke: Who?

Mr WRAN: Jegerow. You are the only one, Gerry, who would not know him. The allegation was that a judge had got in touch with me and, as a result of his persuasiveness, I had appointed Jegerow to be the deputy chairman of the Ethnic Affairs Commission, This is supposed to be the grievous crime that took place. The material on the tapes was referred to the Attorney General who said there was no impropriety. Mr Temby, the federal Crown Prosecutor, said there was no impropriety, but that did not stop the *Age*. That newspaper still could find some deep criminal activity, as does the honourable member for Lane Cove and as does the honourable member for Gordon. When the *Age* sent me this second telex message, despite the fact that I did not have much time I directed a missive to the Secretary of the Premier's Department in these terms:

> I refer to recent publications by "The Age" Newspaper and the "National Times" Newspaper of what are alleged to be secret Police tape recordings of telephone conversations between various persons. In particular, I refer to the allegation concerning a high level appointment made by the New South Wales Government.
>
> These tapes have been made available to the Government and the Attorney General has informed me that the tapes refer to the appointment of a Mr W. Jegerow, presumably to a position in 1979.
>
> Since Mr Jegerow, who was formerly an officer of the Forestry Commission, was appointed by you to a position in the Premier's Department in 1979, I should like to have a full report concerning all the circumstances pertaining to Mr Jegerow's transfer from the Forestry Commission and his subsequent appointments both as a Consultant in the Premier's Department and as Deputy Chairman of the New South Wales Ethnic Affairs Commission.
>
> I should like this report to be submitted—

Et cetera. I received a report from the Secretary of the Premier's Department and I shall read the summary, which stated:

> 1. Mr W. Jegerow, Senior Legal Officer, Forestry Commission, on my recommendation—

That was the recommendation of the Secretary of the Premier's Department. The summary continued:

> —as head of the Department and with the approval of the Public Service Board was appointed under Section 75 of the Public Service Act in a temporary capacity as Consultant (Ethnic Communities) Premier's Department. He took up duty on 22nd October, 1979.

Honourable members should remember that the *Age* allegation was that it was some time before that, in 1979, he was supposed to have been appointed deputy chairman of the Ethnic Affairs Commission. The report continued:

> 2. As a result of this appointment to the Premier's Department, Mr Jegerow's appointment as Deputy Chairman of the Ethnic Affairs Commission—

That was an appointment without salary, I might say. The report continued:

> —was not renewed—

He did not even get his honourary appointment back. The report continued:

> —from 1st December, 1979, when the Commission was reconstituted.
>
> Dr G. Peponis—

He was Australia's captain in Rugby League. I provide that information to honourable members opposite. The report continued:

—was appointed Part-time Commissioner and Deputy Chairman for four years.

3. Following the resignation of Dr Peponis on 31st July, 1980, Mr Jegerow was appointed as full-time Deputy Commissioner from 13th October, 1980, and thus relinquished his position as Consultant, Ethnic Communities, in the Premier's Department. The salary for the position of Deputy Chairman was the same as he received as a Consultant, namely, Grade 12. A and C Division rates.

The suggestion in the *Age* newspaper, the suggestion that the Opposition endeavoured to conjure up, was that in some way a judge had spoken to me and, as a result, I had brought someone in to a highly paid job in the public service: patronage, preferment, corruption. It turns out, first, that he was appointed not to the deputy chairmanship of the Ethnic Affairs Commission but as a consultant on ethnic communities in the Premier's Department on the recommendation of a senior public servant, and with the concurrence and approval of the Public Service Board. Eighteen months later, when Peponis left, Jegerow became the deputy chairman at a salary exactly the same as he received before this appointment.

Mr Peacocke: The Premier said before that Mr Jegerow did not get paid.

Mr WRAN: Gerry, I will explain it all to you later. You are a bit slow this afternoon. This has been the big issue around which the black clouds of corruption were allowed to gather over New South Wales, fostered by the *Age* and aided and abetted by the Leader of the Opposition annd the honourable member for Lance Cove. Who is Mr Jegerow? I have not much time, nor has the House, but it is sufficient to say that Mr Jegerow received public commendation from no less a person than the Rt. Hon. J. M. Fraser for his great contribution to the multicultural society. He has received commendation from no less a person than the Hon. E. G. Whitlam. Again, in this House he has received commendation from the former Leader of the Opposition, Mr John Mason. I paraphrase Mr Mason's words when he said that the multicultural policies of the New South Wales Government were policies for which the New South Wales Government could take into credit because they were all the work of Mr Bill Jegerow. This is the man who became the deputy chairman of the commission.

Mr Jegerow's record shows that he was a foundation chairman of the Ethnic Communities Council of New South Wales. His disciplinary qualifications included Bachelor of Arts, Diploma of Social Studies, Barrister at Law. He was awarded the Medal of the British Empire by the Liberal Government in 1973. In 1982 he received the Qantas ethnic communities award. This fellow that we plucked out of the air to give a job in the Public Service joined the New South Wales public service in 1953 as a cadet child welfare officer. He remained in the public service until 1965 and practised at the bar between 1965 and 1970. He joined the public service as a legal officer in the Forestry Commission, in 1970, and became a senior legal officer in 1974. He retained that position until October 1979. In May 1977, more than two years before the *Age* alleged his preferment, he was appointed part-time deputy chairman of the Ethnic Affairs Commission. That was the job we were supposed to give him. In October 1979 he was appointed consultant, as I have said, with the Ethnic Communities Division in the Premier's Department, and in October 1980 as deputy chairman and commissioner of the Ethnic Affairs Commission. In October 1982 he was reappointed deputy chairman of the Ethnic Affairs Commission.

In addition to these appointments and awards Mr Jegerow has held the position of alderman in Ashfield municipal council continuously from 1959 to date. He served as a member of the Good Neighbour Council of New South Wales from 1956 to 1978. He was elected unanimously as the first honorary life member of the Federation of Ethnic Communities Councils of Australia in December 1983. He served as a councillor and union representative of the New South Wales Public Service Professional Officers Association. He was a foundation member, secretary and later then president of the Bankstown district civil rehabilitation committee. He worked as a parole officer, from 1958 to 1965 in the New South Wales Department of Prisons and acted as senior and principal parole officer as required. My recollection is that he is the president of the Commonwealth Confederation of Ethnic Associations and in the past few weeks has entertained the Prime Minister and other dignitaries.

There is only one thing I would like to say about Bill Jegerow. He has more contacts than anyone I know I would not know whether anyone rang to ask me to give Bill Jegerow a lift up the ladder, but I do know that he probably rang about 5 000 people to try to get one, including members of the Opposition. Anything that Bill Jegerow has, he got on his merits. In the multicultural society in which we live Bill Jegerow has a good reputation and is regarded in all political quarters as a man who has earned his position as the deputy chairman of the Ethnic Affairs Commission. It has been absolutely outrageous of the *Age* to feign an issue to hurt this Government. The attack was picked up by members of the Opposition and it has exploded in their faces. I have no doubt I shall read all that in the front page of the *Age* tomorrow.

I do not think I need take up the time of this House much longer except to bring honourable members back to what we are really debating, which is whether the House should agree to bills that stem from Labor Party policy in the 24th March elections, and for which we have a mandate. The bills now before the House reflect the policy that I put to the people in those elections. I give members of the Opposition credit for the fact that they did not make much complaint about the inclusion of sunset clauses. When I have flicked through Liberal Party documents I have noted that on several occasions the Leader of the Opposition is credited with saying that the policy of the Liberal Party is to insert sunset clauses in legislation in order that the law on that matter can be reviewed regularly and dealt with appropriately by the Parliament. He did not mind telling a few white fibs to the news media about that when he was tackled on it. The reality is it is in Liberal Party policy to have sunset clauses. With unique and innovative legislation like this, obviously it is a sensible provision to insert. I commend the bills.

ATTACHMENT C 28

undertaken on this site? Finally, what other exploration is the Japanese Power Reaction and Nuclear Fuel Development Corporation carrying out in Australia?

Senator Walsh—An ore body, estimated to contain some 15,000 to 20,000 tonnes of uranium oxide, has been discovered about 900 kilometres east of Perth by the Japanese Corporation named by Senator Mason. It is not correct that it is entirely staffed by Japanese. I understand that there is a Japanese manager but other than the manager Australians have been employed in the past. At present the work force is very small although I cannot be precise about that. I am not aware of the letters PNC being etched into the ground in some way, but the news of this discovery is not new. Indeed, there have been several Press reports since it was originally discovered, I believe, in 1979. As far as I know there has been no attempt to keep it secret but nobody has been particularly excited about it. Ore was sent to Japan for testing in 1982.

In regard to the question 'Why is the Government allowing this exploration' although I am not sure whether an active exploration program will continue, the major answer to that question is that it is a State matter. There may be some provision under the Atomic Energy Act—I do not want to be definitive about this without further advice—under which the Commonwealth could stop the subsequent extraction of uranium ore if it cared to invoke the rather draconian powers of that Act. But the exploration activity, in the general sense of course within a State, is something over which the Commonwealth Government has no control.

Regarding the question of mining that ore body it is quite clear from the statement of Government policy announced on 8 November I believe it was, or certainly thereabouts, that there will be no prospect of this mine being allowed to produce or being allowed to export at least while that present policy is maintained. Whether it is a commercial proposition is a separate question and I have no information on that. As far as I know, the Japanese corporation to which Senator Mason referred is not conducting any other mining or exploration activities in Australia, but if there is any activity of which I am not presently aware I will send that information on to Senator Mason later.

Senator MASON—I ask a supplementary question. My question to the Minister has not been answered and it was a fairly complex question. Is the Corporation entirely Japanese-owned?

Senator WALSH—Sorry, yes.

TOLPUDDLE MARTYRS

Senator HEARN—I address my question to the Minister representing the Minister for Administrative Services. The year 1984 is the 150th anniversary of the conviction and transportation to Australia of the Tolpuddle Martyrs. In the *Mercury* newspaper on 22 February, Melbourne historian Dr Bernard Barrett called for a memorial plaque to be erected in honour of the Tolpuddle Martyrs in Tasmania. I understand that in 1970 the Methodist Church donated and erected a plaque in honour of the Tolpuddle Martyrs at the old Hobart Trades Hall. As the Commonwealth Government has acquired this building, could the Minister inform me of the present whereabouts of this plaque?

Senator GIETZELT—Senator Hearn has raised a very interesting question relating to a part of our history. I am sure she will appreciate I would not have any personal knowledge of the whereabouts of the plaque nor of the circumstances which have prompted her to raise the question. I will undertake to discuss the matter with the Minister for Administrative Services whom I represent in this place and get an early reply.

AGE TAPES

Senator Sir JOHN CARRICK—My question is directed to the Attorney-General. I ask: At either of his meetings with the judge referred to in the *Age* tapes, did the judge deny that he had promised the solicitor he would speak to someone in support of an applicant for a position in the New South Wales Public Service? If he did not deny the conversation, does the Attorney-General believe that such action is improper for a person in high judicial office, or does he share the view of Mr Ian Temby, QC? Mr Temby said in his opinion:

> There is nothing unusual about people in high places suggesting or urging that given individuals should be appointed to particular government positions.

Does he take 'people in high places' to mean senior members of the judiciary?

Senator GARETH EVANS—Without wishing to create a precedent in this answer in the sense that I do not think it will be appropriate for every last single matter of detail to be the subject of individual question in this Parliament and the extraction of a response from me, I am perfectly prepared to answer that particular question insofar as it has attracted so much publicity.

I did ask the judge in question what the nature of the conversation, if any, might have been with

the solicitor about the particular matter concerning the appointment of a senior New South Wales public servant to a position of comparable status and salary and whether or not the judge had in fact undertaken to have any conversation with anybody about that particular appointment. As I recall it, the judge's answer was that he had had such a conversation to the extent that he could recall it with the solicitor in question and that his response would be that if the occasion arose he would see what the situation was with the appointment in question and let the solicitor know.

I certainly do not regard that conversation as being in any way improper nor any follow-up conversation that the judge might have had in response to that. To argue otherwise is to elevate in a very tendentious way, for reasons of conspicuous political motivation, an exchange which would be regarded as certainly perfectly familiar and routine in the dining rooms and smoke rooms of the Melbourne Club, the Athenaeum, the Australia Club and all the rest of the places where the establishment go to play and to talk. Certainly under no circumstances would I regard conversations of the kind in question as in any way giving rise to the kind of impropriety or indeed even judiciousness to which Mr Temby referred.

Senator Sir JOHN CARRICK—I ask a supplementary question. Since the Attorney-General has indicated for the rather whimsical reason I believe that because of the publicity given to the matter he would tell us something of the conversation with the judge concerned, will he now tell us what Minister in the New South Wales Government the judge contacted as revealed by the tapes?

Senator GARETH EVANS—No.

SOCIAL SECURITY ACT

Senator COATES—Does the Minister for Social Security agree that the term 'dependent female' in the Social Security Act is inappropriate when it refers to a male living with a woman who is working or drawing some other income, such as invalid pension or unemployment benefit? Has the Minister given any thought to changing the terminology so that a male dependant does not have to be claimed as a dependent female? Can the Minister propose changes to the legislation to neutralise those terms and otherwise desex the Social Security Act in the spirit of the Sex Discrimination Bill?

Senator GRIMES—Like Senator Coates, I believe the term 'dependent female' applied when there is a male partner in such a relationship is not only inappropriate but is also quite ridiculous. I might add I am not the only one who thinks so. Judge Fitzgerald, in a Federal Court judgment in October last year or the year before last in what was known as the Linehan case, said that he suspected also that the term was offensive to many people. I am pleased to say that I and my Department at the moment are removing the term from the Act as soon as possible, probably this session I would expect when we introduce a Social Security Amendment Bill which includes technical amendments of this type, and will replace it with terminology consistent with the terms used in the Sex Discrimination Bill which was passed through this place in 1983. It will make no practical difference to the payments made to such people, but it will remove the misleading description from the situation. I do not know about desexing and whether that is a good term for what we are doing to the legislation, but we are certainly trying to remove discrimination from the legislation.

AGE TAPES

Senator COLLARD—My question is addressed to the Attorney-General. Why was it necessary for the Attorney and the head of his Department to have two meetings with the judge referred to in the *Age* tapes? Was there some matter left over from the first interview on 15 February which required clarification at the second meeting on 25 February? Apart from the Attorney, the judge and Mr Pat Brazil, was anyone else present at either meeting? Finally, how long did each meeting last? Was the judge played the tape recordings at either meeting?

Senator GARETH EVANS—There was a matter which had not been discussed at the first meeting on which it did seem appropriate to have the judge's response in the light of other material that I had received, including questions that had been raised about the technical authenticity of the tapes by Ms Mary Gaudron in her opinion which did justify a second meeting. Each meeting took about 20 minutes to half an hour, no more than that. No other persons were present except myself, Mr Brazil and the judge in question.

RICHMOND BY-ELECTION

Senator SIBRAA—My question is directed to the Minister representing the Special Minister of State. Is the Minister aware that during the recent Richmond by-election the Commonwealth Electoral Officer for Richmond ruled that only two scrutineers for each candidate would be allowed at each polling place when the votes were counted. As some polling places had more than

ATTACHMENT D

The *Age* newspaper has now called for a Royal Commission, and no doubt others will be minded to do likewise. But there is simply no evident necessity for any step of this kind now to be taken. The Government has acted quickly, responsibly and responsively. It has put in train a full, independently supervised investigation of the circumstances in which this material was obtained and the Federal offences its contents might reveal. That investigation will be conducted competently and with vigour. As I said at the ANU conference last weekend:

'It is not necessary, and indeed it is quite destructive of some of the very values it is sought to preserve--including in particular public confidence in the executive, legislative and judicial institutions of government--for every piece of scuttlebutt or tale of scandal to result in a full-scale, full-length Royal Commission.

'The three most recent Commissions of Inquiry in New South Wales--the Street Royal Commission into the ABC allegations against Neville Wran, and the Cross Inquiries into the Sinclair and Bottom allegations--should have amply demonstrated by now that where there is smoke, there is not always fire.

'They should also have graphically demonstrated the kind of damage, humiliation and hurt that even the most ill-justified muck-raking can cause its victims.

'It is not good enough for a newspaper--whether its motives be high-minded, political, cynical, or just plain circulation-greedy--to publish salacious gossip about people in high places, to disregard the illegal or privacy-invading (or both) circumstances in which it was obtained, to deliberately generate an atmosphere of disquiet, and then to thunder about the necessity for a Royal Commission to allay the very fears which it alone has generated.'

The investigation of crime is not a matter for amateur sleuths operating in the public arena or public forums. The way in which this whole matter has been developed and manipulated has been against the public interest. It has outraged privacy and threatens basic human rights. If crime is to be detected, and offenders brought to justice, it will be done not by sensationalism of a salacious press story or a muck-raking question, but by careful sifting and proper professional police investigation under independent supervision. That is the course which this Government has chosen to follow in this matter, and that is the course to which we intend to stay. I seek leave to incorporate the Temby opinion and the Solicitor-General's opinion in *Hansard* for convenient reference.

Leave granted.

The document read as follows---

Opinion of Mr Ian Temby Q.C., 21 February 1984

(Edited only by the exclusion of names, identifying characteristics, and certain information supplied by the AFP)

OPINION

I am instructed that "The Age" newspaper in Melbourne recently furnished to the Attorney-General 524 pages of documents, which are or purport to be comments on and transcripts of intercepted telephone conversations, and some tapes of intercepted telephone conversations. Copies of each have been made available to me. I have been instructed by the Acting Crown Solicitor to advise with respect to them as a matter of some urgency. I have not personally checked the transcripts of the tapes for accuracy. For the purposes of this opinion I assume that they are accurate. I have advised that this should be checked. It should be stressed that little is known as to the provenance of the material made available to me, and that it appears to have been abstracted selectively: the documents are not continuous or complete.

Whether the documents or the tapes, or both, are genuine, in whole or in part, is not known to me or to those who instruct me.

It appears from the material I have seen that on a number of occasions [the Judge . . .] had telephone discussions with [the Solicitor]. A matter of particular concern is whether [the Judge] has, or may have on the basis of the material, committed any criminal offence. I am also asked to give consideration to whether the material, assuming it to be genuine, could warrant the conclusion that "the ground of proved misbehaviour" could be made out or supported as against [the Judge] pursuant to section 72 (ii) of the Constitution: in that event he could be removed from office by the Governor-General on an address from both Houses of Parliament. That is of course a matter upon which only the Parliament could decide, if it chose to embark upon the exercise. It is thought appropriate that I should also comment as to whether, on the same assumption, the conduct of [the Judge] appears to have been injudicious. According to the Macquarie Dictionary, "judicious" means "(1) using or showing judgment as to action or practical expediency; discreet, prudent, or politic (2) having, exercising or showing good judgment; wise, sensible, or well-advised: a judicious selection", and to act injudiciously is to act in a manner which does not display these characteristics.

I have been instructed to peruse the documents with care and advise as to any offences against Federal law which they disclose, or any further enquiries which should be made on the basis of them. In that context I should say that it is police officers who have particular skills in relation to detection and investigation of alleged criminal behaviour. Lawyers do not have that expertise. I will do my best to make such suggestions as may be useful.

The first general point to be made is that the material I have seen could not of itself warrant the laying of charges against anybody. Neither the tapes nor the documents are original, and it may be that they have been fabricated. The first step, if any aspect of the matter is to be taken further, is to establish their authenticity. That might be difficult. It is not likely that those who prepared the tapes or documents will co-operate in disclosing the role they played. And if the tapes are genuine there will be great difficulty in proving the identity of any speaker to the high criminal standard of proof, at least in the absence of an admission.

Q.C., 21 February 1984

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Speaking generally, no person is obliged to give information to investigating police officers, particularly information which may be of an incriminating nature.

The second general point I make is that even if the material is authentic, and the identity of the speakers can be established, it does not follow that what has been said by any individual is true. It is not unusual for men to brag, to claim greater power than they have, even to tell simple untruths.

The material I have seen covers an extraordinarily wide ground. In the circumstances those who instruct me have agreed that one broad aspect should be put on one side. It appears that there may have been one or more conspiracies to [. . .] using illegal means to do so. A man named [. . .], a former employee of the Department of [. . .] features largely in the material. It appears that at some stage he was the subject of a departmental investigation. A charge was brought against [the Solicitor] in relation to [. . .] matters. He was convicted, and has appealed. In the circumstances it is thought best not to deal in this opinion with any aspect of these matters, including [the Former Employee's] involvement.

There are various references in the material to [the Judge]. I deal with each of them which may be of any significance.

In a summary of a conversation between [the Solicitor] and a man named [. . .] it appears that one or other mentioned that 'a girl has to be arranged for [the Judge]'. Assuming that this was in fact said, it cannot be concluded that it was seriously meant: the comment could have been jocular. If it was seriously meant, it does not follow that anything of the sort was done on that or any other occasion. And if it was, it could not support a conclusion of criminal conduct on the part of any person. The matter does not warrant further investigation. Indeed how the matter could be further investigated I do not know: no details are available as to time or place. All of this can be said with equal force in relation to a statement in what appears to be a general commentary on the tapes, namely that [the Solicitor] organised girls for [the Judge] when time permits.

The transcript of one of the taped telphone conversations between [the Judge] and [the Solicitor] refers to [. . .] and [. . .]. Presumably those referred to were [. . .] and [. . .], who acted for [. . .], the complainant against [. . .]. Assuming the tape to be genuine, it contains nothing which is of a surprising nature. One cannot expect the defendant in criminal proceedings to be consistently charitable towards the complainant and those perceived to be associated with him. Some would think to be inappropriate certain of the language used by [the Judge] and the matters casually adverted to by him, given the high office that he holds. However, assuming the tape to be genuine, it is of a private telephone conversation which according to law should have remained private.

On a couple of occasions [the Judge] intimated to [the Solicitor] that he should, or perhaps they should, be careful as to what they said over the telephone. This is equivocal. It could not support the conclusion that [the Judge] had been guilty of criminal or other misconduct.

In March 1973 [the Judge] and [the Solicitor] had a conversation in which the former told the latter [. . .] is . . . appointing [a Public Servant] as Deputy Chairman of an unidentified body. The latter expressed himself to be pleased. There was talk about the tenure of the appointment. It appears that [the Judge] may have taken some steps to secure the appointment. That would be clear beyond argument if he is the unidentified male in another telephone conversation with [the Solicitor] who was asked to ring [. . .] 'for that [Public Servant]', and agreed to do so. And in another telephone conversation between [the Solicitor] and an unidentified male person, the former said that when he backed the appointee as Deputy Chairman of the [. . .] would jump. In that telephone conversation [the Solicitor] was advising the person he called of the appointment of 'that big [Public Servant]' to the position in question. It seems unlikely that the other party to that conversation was [the Judge].

I am instructed that a New South Wales Government Directory published in 1982 shows that a [the Publish Servant] was then Deputy Chairman of the [. . .] of that State. If it be the case that [the Judge] used influence or persuasion, direct or indirect, to have him appointed to that position, then that carries no consequence so far as criminal conduct is concerned. There is nothing unusual about people in high places suggesting or urging that given individuals should be appointed to particular Government positions. It would of course be a matter of great concern if that was done in order to secure some favour, or for any sort of consideration. One can imagine circumstances in which the taking of steps to secure such an appointment would be by reason of accompanying circumstances be criminal in nature. There is nothing in the material I have seen to suggest any such accompanying circumstances. I cannot think that any further investigation of the matter is likely to be at all fruitful.

In the transcript of one of the tapes of a conversation between [the Solicitor] and a man named [. . .] who I understand to be a lawyer, the former asked whether the latter was "sweet with any of the Judges in Canberra" to which he received a coy reply. [The Solicitor] said that a horse trainer friend of his had a son who had bashed some fellow and it was desired to save him from the can. He then suggested that money might be put forward to that end. The matter was not taken further. A credulous cynic might conclude from this that an attempt was to be made to bribe a Judge of the ACT Supreme Court. I do not think the matter can be taken further as against any party. If the tape is genuine it would not warrant the laying of any charge against either [the Solicitor] or [. . .]. And police officers can hardly be asked to go through the embarrassing ordeal of approaching all of the Judges who sit in the ACT Supreme Court and asking each if he has taken or been offered any bribes lately. As I have been dealing with [the Judge] it should be said that he of course sits on [. . .] which does not deal with cases of [. . .]. This conversation clearly has nothing to do with him.

There is nothing in the material I have seen, assuming its authenticity, which would prove or in any way support the conclusion that [the Judge] has been guilty of misbehaviour within the meaning of section 72 (ii) of the Constitution. At least ordinarily such misbehaviour must be in a matter pertaining to the office held although conviction for an infamous offence which renders the person concerned unfit to exercise the office is apparently sufficient. Quick & Garran, "The Annotated Constitution of the Australian Commonwealth", 731; Halsbury, "The Laws of England", 4th Ed., Vol. 8, 680; The Early of Shrewbury's case, 9 Co. Rep. 42.

Has [the Judge] acted injudiciously? On the material I have seen his conduct cannot be so categorised, unless it

be established that he well knew that a man with whom he was having frequent dealings was of poor reputation. [Judges] occupy lofty and rather isolated positions, and it may be that [the Judge] did not know in any detail what [the Solicitor's] reputation was. Even if he did, there is room for debate as between persons of good sense and goodwill as to whether any people, including those who hold high office, should be tradaced by reason of the reputation of their friends and acquaintances, in the absence of actual and established improper conduct on their part.

It places a Judge in an invidious position if he has frequent dealings with any person of poor reputation. Presumably (the Judge) now realises this and will act more carefully in the future than he has done in the past. If there is doubt in this regard, it may be that he should be approached and advised as to the desirability of not further nurturing the relationship he has with (the Solicitor) if it presently remains on foot.

Except in relation to the aspect to be dealt with in conclusion, I can find nothing in the material which provides any strong indication that any breach of Federal law has been committed by any person. Nor do I think there are any obvious lines of enquiry open to police officers. It is hard to see what course could be usefully followed by an officer who was required to conduct a supplementary investigation in relation to Federal offences.

I should say that the material I have seen is not consistently salubrious. Several of those who have spoken, if they could be identified, would be hard put to deny general involvement in activities including illegal bookmaking, racefixing, bribery, and prostitution. However these are matters for the State authorities to pursue. And charges of criminality cannot be preferred with any prospects of success unless particulars of the conduct involved, including time and place, can be provided and established.

As a general rule a person who intercepts a communication passing over a public telephone service commits an offence, and this has been so at all material times. See section 5 (1) of the Telephonic Communications (Interception) Act 1960 and section 7 (1) of the Telecommunications (Interception) Act 1979. It does not necessarily follow that evidence cannot be given of an unlawfully intercepted telephone conversation. See Bunning v. Cross (1978) 141 CLR 54, and R. v. Padman (1979) 25 ALR 36.

I am instructed that none of the permitted circumstances of interception occurred in relation to any of the material I have seen. It follows that unless the material is spurious, some people at present unknown have committed offences. The matter should be investigated in detail. I think this should be done by officers of the Australian Federal Police. It would be presumptuous of me to suggest how the investigation be conducted. I can say that I have discussed the matter with Superintendent Brown of the Australian Federal Police, and that which he has suggested seems entirely sensible. In the course of those investigations there should be, and I have no doubt there will be, interviews conducted with respect to one present and one former officer of the AFP, named (. . .) and (. . .) respectively. The material does not establish that either has been guilty of any criminal misconduct, but suggests that each may have been used improperly by criminal elements. It may very well be the case that there is no substance in any of this, but it needs to be looked into.

If any aspect of the matter appears to have received insufficient attention, or if any questions arise, I will be pleased to address them.

(SGD IAN TEMBY)

Perth
21 February 1984

In the matter of section 72 of the Constitution

"OPINION"

1. I am asked the meaning of "misbehaviour" in section 72 of the Constitution, and, in particular, whether misbehaviour for this purpose is limited to matters pertaining to the judicial office in question and conviction for a serious offence which renders the person concerned unfit to exercise the office.
2. So far as relevant, section 72 provides—
   72. The Justices of the High Court and of the other courts created by the Parliament—
   (i) Shall be appointed by the Governor-General in Council;
   (ii) Shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity;
3. Clearly the ambit of the grounds for removal from office embraced by section 72 is limited by comparison with the position of judges under English law. Section 72 gives conscious effect to the principle that the judiciary in our Federal system should be secure in their independence from the legislature and the executive. This was a matter which considerably exercised attention in debates during the drafting processes leading to its final formulation. Quite deliberately, the conventional grounds for termination of judicial tenure were narrowed.
4. The English position is that judges hold office during good behaviour or until removed upon address to the Crown by both Houses of Parliament.
5. Coke described the grant as creating office for life determinable upon breach of condition: *Co. Litt.* 42a. Now tenure is until retiring age. A judge may be removed by the Crown for misbehaviour (or want of good behaviour) without any address from Parliament. The position as to such misbehaviour is conveniently summarised by Todd, *Parliamentary Government in England*, ii, at 857-8—

   'The legal effect of the grant of an office during "good behaviour" is the creation of an estate for life in the office.' Such an estate is terminable only by the grantee's incapacity from mental or bodily infirmity, or by his breach of good behaviour. But "like any other conditional estate, it may be forfeited by a breach of the condition annexed to it: that is to say, by misbehaviour. Behaviour means behaviour in the grantee's official capacity. Misbehaviour includes, firstly, the improper exercise of judicial functions; secondly, wilful neglect of duty, or non-attendance; and, thirdly, a conviction for any infamous offence, by which, although it be not connected with the duties of his office, the offender is rendered unfit to exercise any office or public franchise. In the case of official misconduct, the decision of the question whether there be misbehaviour rests with the grantor, subject, of course, to any proceedings on the part of the removed officer. In the case of misconduct outside the duties

of his office, the misbehaviour must be established by a previous conviction by a jury.

6. The contrasting Parliamentary jurisdiction to address for removal is described by Todd (at 860) as an additional power unrelated to breach of condition which –

> . . . the constitution has appropriately conferred upon the two Houses of Parliament – in the exercise of that superintendence over the proceedings of the courts of justice which is one of their most important functions – a right to appeal to the crown for the removal of a judge who has, in their opinion, proved himself unfit for the proper exercise of his judicial office. This power is not, in a strict sense, judicial; it may be invoked upon occasions when the misbehaviour complained of would not constitute a legal breach of the conditions on which the office is held. The liability to this kind of removal is, in fact, a qualification of, or exception from, the words creating a tenure during good behaviour, and not an incidental or legal consequence thereof.
>
> In entering upon an investigation of this kind, Parliament is limited by no restraints, except such as may be self-imposed.

7. The position is much the same in Canada: section 99 of the *British North America Act* provides that judges "shall hold office during good behaviour, but shall be removable by the Governor-General on Address of the Senate and House of Commons". Likewise for the States of the Commonwealth. Indeed, many of the precedents cited by Todd as establishing Crown rights to remove for misbehaviour or upon address by Parliament concern judges with an Australian connection: Justice Willis was removed from the Bench in Upper Canada in 1829 and later from the Supreme Court of New South Wales in 1846; also debate concerning Justice Boothby of the Supreme Court of South Australia, 1861-1867; and Sir Redmond Barry (over the curious issue of taking vacation without leave) 1864-1865, discussed in some detail in Todd, Ch. VI.

8. Todd (at 860-1) emphasises obvious inhibitions upon the exercise of the discretionary powers of Parliament–

> Nevertheless, since statutory powers have been conferred upon Parliament which define and regulate the proceedings against offending judges, the importance to the interests of the Commonwealth, of preserving the independence of the judges, should forbid either House from entertaining an application against a judge uless such grave misconduct were imputed to him as would warrant, or rather compel, the concurrence of both Houses in an address to the crown for his removal from the bench. 'Anything short of this might properly be left to public opinion, which holds a salutary check over judicial conduct, and over the conduct of public functionaries of all kinds, which it might not be convenient to make the subject of parliamentary enquiry.'

9. Under our Constitution Parliamentary address is the only method for judicial removal. The reason sufficiently is summarised by Quick and Garran, *The Annotated Constitution of the Australian Commonwealth*, 733-4, under the heading "Reasons for Security of Judicial Tenure":

> The peculiar stringency of the provisions for safeguarding the independence of the Federal Justices is a consequence of the federal nature of the Constitution, and the necessity for protecting those who interpret it from the danger of political interference. The Federal Executive has a certain amount of control over the Federal Courts by its power of appointing Justices; the Federal Executive and Parliament jointly have a further amount of control by their power of removing such Justices for specified causes; but otherwise the independence of the Judiciary from interference by the other departments of the Government is complete. And both the Executive and the Parliament, in the exercise of their constitutional powers, are bound to respect the spirit of the Constitution, and to avoid any wanton interference with the independence of the Judiciary. "Complaints to Parliament in respect to the conduct of the Judiciary, or the decisions of courts of justice, should not be lightly entertained . . . Parliament should abstain from all interference with the judiciary, except in cases of such gross perversion of the law, either by intention, corruption, or incapacity, as make it necessary for the House to exercise the power vested in it of advising the Crown for the removal of the Judge". (Todd, Parl. Gov. in Eng., i. 574.)

Hence the structure of the Constitution itself explains this direct limitation upon the power of judicial removal. The desire is to protect the judiciary as the interpreters of the Constitution.

10. Clearly section 72 excludes all modes of removal other than the one mentioned. This deliberate limitation, apparent from the terms of the section, is emphasised by permissible consideration of legislative history. To paraphrase what Stephen J. said in *Seamen's Union of Australia* v. *Utah Development Co.*, (1978) 144 C.L.R. 120, 142-4, it is from the successive drafts of the Bills which ultimately became our Constitution that the true role of section 72 emerges; its history and origins cast light upon meaning, the precise effect of which may otherwise be subject to some obscurity.

11. The first draft of the Commonwealth Bill of 1891 departed from English and colonial precedent and tied revocation of office held during good behaviour to address from both houses. At Adelaide, in the 1897 Bill, this intention was made clear. In committee, tenure was further secured by resolution to limit parliamentary power of intervention to cases of misbehaviour or incapacity. The clause read:

> 72. The Justices of the High Court and of the other courts created by the Parliament:
>
> (i) Shall hold their offices during good behaviour;
>
> (ii) Shall be appointed by the Governor-General in Council;
>
> (iii) Shall not be removed except for misbehaviour or incapacity, and then only by the Governor-General in Council, upon an Address from both Houses of the Parliament in the same Session praying for such removal.

In the Melbourne session on the 31st January 1898 Mr Barton successfully moved that tenure be further secured by providing that a parliamentary

address must pray for removal "upon the grounds of proved misbehaviour or incapacity".

12. Although their Honours regarded it as unnecessary then to consider the extent to which the Debates may be regarded in the construction of the Constitution, in *Re Pearson; Ex Parte Sipka*, (1983) 57 A.L.J.R. 225, 227, Gibbs C.J., Mason and Wilson JJ. accepted Griffith C.J.'s dictum in *The Municipal Council of Sydney* v. *Commonwealth*, (1904) 1 C.L.R. 208, 213-214, that it is permissible to have regard to Convention Debates, "for the purpose of seeing . . . what was the evil to be remedied". Perusal of the Adelaide and Melbourne Convention Debates confirms the extent to which the delegates desired to deal with the need adequately to safeguard the independence of the judiciary as an essential feature of the separation of powers in the Federal system. Todd's summary of the English position (set out in paragraph 5 above), which was read by Mr Isaacs at Adelaide on 20th April 1897 (Convention Debates 984-9), was the received meaning of misbehaviour. Each of the successive amendments to the draft clause was intended further to limit, for the purpose of the Constitution, the power of removal to a single specific and narrow basis related solely to the established ground of removal for breach of condition for good behaviour. The general discretionary power of Parliament to address for removal on grounds other than misbehaviour, in the technical sense understood by the delegates, was eliminated; with the function of finding such misbehaviour vested in the Parliament rather than in the Executive.

13. What then is proved misbehaviour or incapacity? Incapacity is easily dealt with: it extends to incapacity for mental or physical infirmity, which always has been held to justify termination of office: see Todd, at 857. The addition of the word "incapacity" does not alter the nature of the tenure during good behaviour; it merely defines it more accurately: see Quick and Garran, at 732.

14. As noted in paragraph 5 above, Todd, at 857-8, purported exhaustively to define misbehaviour as breach of the condition for judicial office held "during good behaviour" as including—

    (1) the improper exercise of judicial functions;
    (2) wilful neglect of duty or non-attendance; and
    (3) the conviction for any infamous offence, by which, although it be not connected with the duties of his office, the offender is rendered unfit to exercise any office or public franchise.

    Todd's commentary, at 858, was that the decision of whether the first category of misbehaviour is constituted rest with the Crown. However in the case of the third category misconduct outside the duties of office, he stipulated misbehaviour must be established by previous conviction by a jury. Similiary Halsbury's Laws of England, 4th ed, viii, para. 1107, which accepts Coke's statement that "behaviour" means behaviour in matters concerning the office and also the exceptional case of conviction upon indictment for any infamous offence of such a nature as to render the person unfit to exercise the office. Much might be said as to the received meaning of infamous offence. It is discussed in R. v. Richardson (1758) 1 Burr. 517, in the context of removal from office. Bacon's Abridgement, 7th ed., iii, 211 regarded such offences as embracing convictions for treason, felony, piracy, praemunire, perjury, forgery, and the like, together with crimes with penalty "to stand in the pillory, or to be whipped or branded". All this is somewhat archaic for contemporary definition. Maxwell J. in re Trautwein, (1940) 40 S.R. (N.S.W.) 371, warned against exhaustive definition, and adopted the sensible approach of having regard to the nature and essence of a proved offence without attempting a definition or enumeration of the crimes which fall within the expression. To his Honour (at 380) infamous crime was one properly described as "contrary to the faith credit and trust of mankind". Such ambulatory approach seems appropriate to give continuing content to any limitation expressed by reference to infamous offence, although it certainly does not close the otherwise open texture of meaning

15. However defined, Todd's third category of breach of condition for office held during good behaviour requires conviction for offence. Hence it is curious that, without comment, Quick and Garran (at 731) accept Todd's three categories as defining misbehaviour for the purposes of section 72. However a definition requiring conviction for offence in misbehaviour not pertaining to office does not rest easily with Quick and Garran's clear recognition of the essential limitation of section 72 requiring address of Parliament upon the proved ground of misbehaviour as the sole basis for removal (at 731)—

    > The substantial distinction between the ordinary tenure of British Judges and the tenure established by this Constitution is that the ordinary tenure is determinable on two conditions; either (1) misbehaviour, or (2) an address from both Houses; whilst under this Constitution the tenure is only determinable on one condition—that of misbehaviour or incapacity—and the address from both Houses is prescribed as the only method by which forfeiture for breach of the condition may be ascertained.

    Obviously "proved misbehaviour" is to be established to the Parliament and, whatever the offence, such proof is not predicated upon anterior conviction in a court of law.

16. The ultimate requirement of section 72 is for address upon "proved misbehaviour". Quick and Garran's views (at 732) are—

    > No mode is prescribed for the proof of misbehaviour or incapacity, and the Parliament is therefore free to prescribe its own procedure. Seeing, however, that proof of definite legal breaches of the conditions of tenure is required, and that the enquiry is therefore in its nature more strictly judicial than in England, it is conceived that the procedure ought to partake as far as possible of the formal nature of a criminal trial; that the charges should be definitely formulated, the accused allowed full opportunities of defence, and the proof established by evidence taken at the Bar of each House.

    Odgers, *Australian Senate Practice*, 4th ed. 598, suggests, without discussion, that the probable procedure would be by way of joint select committee, with the accused being allowed full opportunities to defend himself. However it is difficult to see how Parliament adequately could discharge its obligation to address upon "proved" misbehaviour if

the trial function were to be delegated (cf. *FAI Insurances Ltd.* v. *Winneke* (1982) 41 A.L.R. 1, 17 per Mason J., discussing delegation of enquiry by Governor-in-Council). Todd, ii, 860-875, requires "the fullest and fairest enquiry into the matter of complaint, by the whole House, or a committee of the whole House, at the Bar, notwithstanding that the same may have already undergone a thorough investigation before other tribunals" such as a select committee.

17. Inasmuch as the Convention Debates reveal mischief intended to be dealt with, clearly it was contemplated that Parliament could fix its own procedures: see *Convention Debates*, 20th April 1897, 952, (Mr Isaacs and Mr Barton) and 959-960 (Mr Kingston). At the Melbourne Convention it was made clear that the judge would be entitled to notice and to be heard: (see *Convention Debates*, 31st January 1898, 315, (Mr Barton)). Hence Parliamentary discretion as to mode in which power should be exercised is in the context of obligation that charges be formulated, and full opportunities for defence be furnished, before finding of proved misbehaviour.

18. Quick and Garran reject any analogy between the Parliamentary discretion to address on grounds which do not constitute a legal breach of the condition on which office is held and the position which obtains under section 72. After reciting Todd's summary of the discretion in parliament and in particular his conclusion that parliament is 'limited by no restraints except such as may be self imposed' (set out in paragraph 6 above), the authors note (at 731)—

> These words are quite inapplicable to the provisions of this Constitution. Parliament is 'limited by restraints' which require the proof of definite charges; the liability to removal is not 'a qualification of, or exception from, the words creating a tenure,' but only arises when the conditions of the tenure are broken; and though the procedure and mode of proof are left entirely to the Parliament, it would seem that, inasmuch as proof is expressly required, the duty of Parliament is practically indistinguishable from a strictly judicial duty.

19. The conferring of exceptional function to find proved misbehaviour is not equated to vesting discretion in Parliament to define misbehaviour constituting breach of condition of office. The general power of a Parliament to address for removal where there is not technical misbehaviour is negated by section 72. The power is limited to address only upon proof of misbehaviour, and neither House is at large to define and recognize misbehaviour as it pleases. Misbehaviour, as a breach of condition of office in matters not pertaining to the office, has a meaning related to offences against the general law of the requisite seriousness to be described as infamous. To this extent it has an ascertainable meaning, even if content varies in particular circumstances. In consideration of the issue of proved misbehaviour Parliament is obliged to apply this meaning.

20. The inquiry is whether the offence is of such nature as to render the person unfit to exercise the office, although it is not committed in connection with the office. The notion that private behaviour may affect performance of official duty was expressed by Burbury C. J. in Henry v. Ryan, (1963) Tas. S.R. 90, 91:

> . . . misconduct in his private life by a person discharging public or professional duties may be destructive of his authority and influence and thus unfit him to continue in his office or profession.

Sir Garfield Barwick, in opinion of 18th November 1957 on clauses of the Reserve Bank, Commonweaqlth Bank and Banking Bills of 1957, dealing with office held 'subject to good behaviour', wrote—

> Good behaviour . . . refers to the conduct of the incumbent of the office in matters touching and concerning the office and its due execution, though the commission of an offence against the general law of such a nature as to warrant the conclusion that the incumbent is unfit to exercise the office would be a breach of the condition of good behaviour even though the offence itself was unrelated to the duties and functions of the office . . .
>
> There is, in my opinion, no significant difference between a condition of good behaviour and a condition against misbehaviour. Indeed, in the older books the word 'misbehaviour' is often used as synonymous with a breach of good behaviour. Thus, the 'misbehaviour' in the Bill will be held to refer to conduct touching and concerning the duties of the member in relation to the office, but will also include acts in breach of the general law of such a quality as to indicate that the member is unfit for office.

I concur with this opinion. It represents a contemporary statement of the quality of offence not pertaining to office which may constitute misbehaviour. As discussed in paragraph 14 above, the content of offence so expressed is much the same as what may now be understood as embraced by infamous offence.

21. It follows that the terms of section 72 dictate meaning for 'proved misbehaviour'. The fundamental principle of maintaining judicial independence is recognised by excluding all modes of removal other than for misbehaviour as a breach of condition of office. In matters not pertaining to office, the requirement is not conviction for offence in a court of law. Inasmuch as Parliament considers the matter, the question is whether there is proved offence against the general law 'of such a nature as to warrant the conclusion that the incumbent is unfit to exercise the office'. Pariament is not at large to define proved misbehaviour by reference to its own standards or views of suitability for office or moral or social character or conduct. The Parliamentary inquiry is whether commission of an offence of the requisite quality and seriousness is proved. Parliament would act beyond power if it sought to apply wider definition or criteria for misbehaviour than the recognised meaning of misbehaviour not pertaining to office.

22. Parliament has, of course, a residual discretion not to address for removal, even if proved misbehaviour is found.

23. Accordingly the question asked in paragraph 1 is answered:

> Misbehaviour is limited in meaning in section 72 of the Constitution to matters pertaining to—

(1) judicial office, including non-attendance, neglect of or refusal to perform duties; and

(2) the commission of an offence against the general law of such a quality as to indicate that the incumbent is unfit to exercise the office.

Misbehaviour is defined as breach of condition to hold office during good behaviour. It is not limited to conviction in a court of law. A matter pertaining to office or a breach of the general law of the requisite seriousness in a matter not pertaining to office may be found by proof, in appropriate manner, to the Parliament in proceedings where the offender has been given proper notice and opportunity to defend himself.

GARRY GRIFFITH
Solicitor-General

Canberra
24th February 1984.

Motion (by Senator Gareth Evans) proposed:

That the Senate take note of the statement.

Senator DURACK (Western Australia) (5.20)—The Opposition is not satisfied with the statement which has just been presented to the Parliament by the Attorney-General (Senator Gareth Evans) in relation to the *Age* tapes. The Opposition believes that this matter, which the Government accepts is of great importance, should be the subject of full debate in this Parliament after there has been further and more adequate time to consider the statement and the opinions that are attached to it; although, of course, I acknowledge that we were given—and I thank the Attorney for having given—the usual notice in relation to them. However, it is a matter on which I propose at this stage simply to make a few general comments and seek leave to continue my remarks in an early debate, which I am hopeful can take place tomorrow.

In the statement that he has just read the Attorney has attempted to defend the Government's actions by seriously questioning the authenticity of the material, and the motives and ethics behind its publication. However, it seems that the Attorney is totally confused on the question of authenticity. Obviously the material was authentic enough for the Government to decide to appoint a special prosecutor and to set up a joint police task force. Clearly the New South Wales Government, after initially attempting to denigrate the material, also felt there was enough substance in it—or there was certainly enough pressure being brought on the Government—to ask for a proper inquiry into the whole matter. The Attorney himself emphasised that fact from the word go. He was concerned not simply with investigating the illegality of the circumstances by which the material was obtained but with investigating the contents of the material. Obviously it was authentic enough for the Attorney himself to speak to the judge. Also it appears from the opinion of the Solicitor-General of New South Wales, and indeed from Mr Temby's opinion, that they believed that there was sufficient substance in it for further investigation. Senator Evans, in his joint statement of 17 February with the Special Minister of State (Mr Young), appeared basically to accept the authenticty of the tapes. Indeed, he raised the question of authenticity only in relation to the conduct of the judge.

I must say that I was very surprised by the vehemence of the Attorney's attack on the *Age* newspaper. I do not believe that that attack is justified. The Attorney must be living in an unreal world if he believes that a newspaper which has a reputation for investigative journalism would be so trusting of the probity of government simply to hand over material to law enforcement authorities, some of whom were alleged to be involved in the matters raised, and trust in their determination to put things right. In the Opposition's view the *Age* handled this matter quite responsibly. It avoided publishing names of those involved and has passed the material only to the Federal Attorney-General. As the *Age* stated, after successive royal commission inquiries into matters involving the spread of organised crime in our community, it would have been acting against public interest if, after having satisfied itself as to authenticity, it had decided not to publish. That is a matter which it said it investigated. It obtained legal advice in relation to the matter before doing so.

We do not believe that it is possible—or that it would be responsible—for this Parliament simply to dismiss the question of the conduct of the judge. The Attorney's discussion on that matter needs much further consideration. All we are told is that the judge specifically denied some matters of fact or—I quote from the statement—'gave explanations which put those allegations in a rather different context than that evident at first sight'. Certainly the Opposition believes that the sort of behaviour alleged in the published material, as I said when the *Age* first published the material, would be viewed with great concern by the overwhelming majority of the community.

Although this perhaps needs further discussion and consideration, we do not accept at this stage the restricted view of misbehaviour as outlined in the opinion of the Solicitor-General. But certainly, if there is some constitutional problem about the meaning of misbehaviour or Parliament is restricted in what action it can take in that way, a responsible debate in the Parliament—I agree

ATTACHMENT E

APPOINTMENT DETAILS - JEGOROW

9.3.53 - First entered Service with Child Welfare Department.

11.3.57 - Department of Child Welfare - Appointed as Professional Assistant (Research).

8.9.58 - Department of Prisons, N.S.W. - Appointed as Parole Officer, Prison Field Service.

15.6.65 - Resigned Service.

27.1.70 - Re-entered Service - Senior Legal Officer, Forestry Commission.

May 1977 - Appointed Part-time Member of Ethnic Affairs Commission. Position vacated November 1979.

22.10.79 - Consultant, Ethnic Communities, Premier's Department (Grade 12). He ceased to be a part-time member of the Commission. Appointment to be reviewed in 12 months. (On 11th December 1979 the Premier, by a memo to all Ministers, drew attention to the appointment of Mr Jegorow as Consultant on Ethnic Affairs.)

13.10.80 - Appointed Deputy Chiarman and full-time Commissioner of the Ethnic Affairs Commission. Salary continued to be his then current Grade 12 plus allowance.

12.1.81 - Governor in Council included position of Deputy Chairman and full-time Commissioner in a schedule to the Statutory and Other Officers Remuneration Tribunal Act and in terms of Section 11(2)(b) of the Act the holder was required to devote the whole of his time to the duties of his office.

10.10.82 - Re-appointed as Deputy Chairman and full-time Member for a further two years commencing 13th October 1982.

FURTHER INFORMATION

1. In 1970 the Crown Colony of Fiji selected Mr Jegorow from a list of applicants to be Crown Counsel for a period of 2½ years from July 1970. The application had been made while Mr Jegorow was still practising as a Barrister-at-Law. Leave without pay applied for. Position not taken up.

2. In August 1971 Mr Jegorow applied for two years leave without pay to take up a position of Magistrate in the Crown Colony of Hong Kong which he had also applied for before rejoining the Service in 1970. Included in the names given in his application from whom further particulars regarding Mr Jegorow was the name of Mr M.F. Farquhar O.B.E., Chairman of Stipendiary Magistrates. Public Service Board declined to approve the application for leave without pay.

3. March 1972, Mr Jegorow resigned from the Service to take up the position as Magistrate in Hong Kong. Took up appointment, but on 19th April withdrew resignation for personal reasons (his mother took ill) and returned to the Forestry Commission.

.../2

4. June 1974 - Mr Jegorow was selected for appointment within the Australian Public Service (Attorney General's Department). Forestry Commission obtained an up-grading of Mr Jegorow's position. He remained with the Forestry Commission.

5. January 1977 - Prime Minister Fraser asked for Premier's agreement to Mr Jegorow being appointed to the Australian Ethnic Affairs Council. Agreed to by State. At first his attendance at meetings was to be on leave without pay with fees being retained by him. After review, Public Service Board approved of his having paid leave with fees being remitted to the State.

6. August 1977 - Forestry Commission informed Public Service Board that Mr Jegorow's frequent absences on ethnic affairs matters were creating difficulties and the Commission asked the Board to consider placing him elsewhere so he could attend to community interests. Public Service Board unable to help "at this stage" (28.9.77).

7. 8th March 1979 - Forestry Commission informed Mr Jegorow that notwithstanding the work he was performing for the Ethnic Affairs Commission, the performance of his duties at the Commission was unsatisfactory and unless there was an immediate and sustained improvement, the Commission had no alternative but to report to the Public Service Board and request Mr Jegorow to show cause why he should not be charged with a breach of discipline under Section 56(2)(e). ATTACH E1 (F14)

8. 12th March 1979 - Mr Jegorow wrote to the Premier about the Forestry Commission's letter of 8th March and sought assistance to enable him to work on a full-time basis in the Ethnic Affairs area. (ATTACH E2 f13)

Recorded conversations here on 20/3/79 31/3/79

9. 23rd August 1979 - Forestry Commission wrote to the Public Service Board supporting an application by Mr Jegorow for leave to attend to a specific ethnic affairs matter, but again expressed concern at the effect his ethnic affairs work was having on his performance.

10. 12th October 1979 - Chairman, Public Service Board, informed Forestry Commission that Mr Jegorow would be transferred to Premier's Department.

11. 16th October 1979 - Secretary'Premier's Department formally wrote to Public Service Board requesting establishment of position Consultant, Ethnic Communities, and advising of proposal to appoint Mr Jegorow.

12. 1st November 1979 - P.S.B. formal advice of approval for the temporary appointment of Mr Jegorow as Consultant, Ethnic Communities.

PERSONAL DETAILS

Qualifications

Leaving Certificate 1952; B.A. 1956; Diploma of Social Studies 1956; Barrister-at-Law 1964; Public Service Examinations - R122 and R125.

Awards

Mr Jegorow is an M.B.E., awarded in January 1973.

.../3

Associations:

- Foundation Chairman of Ethnic Communities Council of NSW.
- Alderman, Ashfield Municipal Council, 1959 to date.
- Councillor and Union representative, NSW Professional Officers Association.
- January 1970 - Appointed Legal Officer, Forestry Commission.
- 1977 - Part-time Member and Deputy Chairman, Ethnic Affairs Commission.
- 1981 - Elected Chairman of Federation of Ethnic Communities Councils.

W. JEGOROW APPOINTMENTS TO

ETHNIC AFFAIRS COMMISSION

4th May 1977	Appointed part-time Commissioner and Deputy Chairman with the initial appointment of the Ethnic Affairs Commission under the 1976 Act for a 12 month period from 2nd May, 1977.
26th April 1978	Jegorow and other members of the Commission term extended until 30th November 1978.
22nd November 1978	Term on Ethnic Affairs Commission extended until 1st December 1979 or such earlier time as the appointment section of the 1976 Act was repealed or re-enacted, which ever date occurred first.
7th June 1979	Mr Rath's submission about the appointment of the Commission under the recently enacted 1979 Ethnic Affairs Commission Act reports that "Mr Jegorow, present Deputy Chairman, has made representations to be appointed to a full time position. At a recent deputation with the Premier the Ethnic Communities Council proposed there be three full time positions." He also reported that: "Position of Deputy Chairman 14. Mr. Jegorow is the existing Deputy Chairman. He had made representations to have the Deputy Chairman position created as a full-time position. It is known that his services as Legal Officer, Forestry Commission have been adversely commented upon, mainly because of the official time that he appears to devote to ethnic affairs matters. It would be extremely difficult not to appoint Mr Jegorow to the position of Deputy Chairman, recognising his standing in the ethnic communities. Under the basis proposed for rotating membership his appointment as Deputy Chairman would be for 2 years." (See tab "A"). Additional comments about Mr Jegorow arguing why he might not be appointed see tab "B".
25th July 1979	Recommendation to Premier on appointments to the Commission. Mr Jegorow recommended for re-appointment.
Undated	See tab "C". Premier specifically omitted Mr Jegorow from names approved for appointment to the Commission.

.../2

18th October 1979	Memo indicating Dr Peponis to be invited join the Commission. He was subsequently invited to become Deputy Chairman which he accepted.
28th November 1979	Members of the new Ethnic Affairs Commission apointed (not including Mr Jegorow). Dr Peponis appointed Deputy Chairman.
31st July 1980	Dr Pepinos resigned his position as Deputy Chairman of the Ethnic Affairs Commission because of commitments as a foot baller and Medical Practitioner.
August 1980	Premier expressed appreciation to Peponis and was informed by Department memo that Dr Totaro would be asked to furnish a list of names for filling the vacancy and appointment as Deputy Chairman.
30th September 1980	Mr Rath forwarded a submission, see tab "D" recommending that Mr Jegorow be appointed Deputy Chairman of the Ethnic Affairs Commission. Mr Rath pointed out it was known that Mr Jegorow does not wish to transfer to the Ethnic Affairs Commission. However it is considered that his contribution does not justify him occupying the present position (Consultant on Ethnic Affairs). Premier accepted recommendation.
8th October 1980	Mr Jegorow appointed full time Commissioner and Deputy Chairman of the Ethnic Affairs Commission for two years commencing 13th October 1980.
14th January 1981	Executive Council approved regulation including the position of Deputy Chairman of the Ethnic Affairs Commission in the Schedule to the Statutory and Other Offices Remuneration Act and required that Mr Jegorow devote the whole of his time to the duties of his office (Deputy Chairman and full time Commissioner).

ATTACHMENT E1

6T 4681

FORESTRY COMMISSION OF N.S.W.

Forestry House,
91-95 Clarence Street,
Sydney

Postal address: Box 2667, G.P.O. Sydney 2001
Telegrams: Newforests, Sydney
Telephone 2 0236 Ext. 403 ARC:BD
In your reply please quote P.2157

8th March, 1979.

Mr. W. Jegorow,
Senior Legal Officer,
HEAD OFFICE.

Performance of Duties - Mr. W. Jegorow

I refer to the several discussions with you over recent months regarding your performance of duties as the Commission's Senior Legal Officer. During the course of these discussions I have pointed out to you on several occasions that I have become increasingly dissatisfied with the manner in which you have been discharging your responsibilities and that it is becoming evident that you are not devoting the degree of time and attention to your work that could reasonably be expected from an officer of your status and salary.

It is appreciated that during 1977 and 1978 you were obliged to devote a proportion of your time and efforts to the work of the Ethnic Affairs Commission, but I would remind you of your assurance that, following the submission of that Commission's Report to the Government in the latter part of 1978, these extraneous demands on your time would become minimal. However, as indicated to you in this morning's discussion, there is evidence that you are neglecting to devote the expected time, diligence and interest to your Forestry Commission duties.

Accordingly, this letter is to confirm that, unless there is an immediate and sustained improvement in your work performance, the Commission will have no alternative but to report this matter to the Public Service Board and to request you to show cause why you should not be charged with a breach of discipline in terms of Section 56(2)(c) of the Public Service Act, 1902.

This matter will again be reviewed at the 31st March and, in the meantime, you are instructed -

(i) to report to me (or the Assistant Secretary in my absence) whenever the occasion arises for you to leave the Head Office building during working hours;

(ii) to avoid during working hours telephone discussions or personal interviews that are not related to your official duties with this Commission;

(iii) to submit for my perusal all files that are dealt with by you each day;

(iv) to ensure the rules relating to flextime are strictly observed.

[redacted]

A. R. COCKS,
Secretary.

13
ATTACH. E2

[redacted]

12th March, 1979.

Hon. N. K. Wran, Q.C., M.P.,
Premier,
SYDNEY .. 2000.

URGENT AND PERSONAL

Dear Mr. Wran,

As Commissioner and Deputy Chairman of the N.S.W. Ethnic Affairs Commission I receive very many calls for advice and assistance in respect of migrant and ethnic matters, and your colleague Mr.M.Maher,M.P. and others are aware of this.

Many of these calls occur whilst I follow my full time occupation as Senior Legal Officer of the Forestry Commission of N.S.W. and I also have to apply for Special Leave in order to attend meetings of the Ethnic Affairs Commission.

The Secretary of the Forestry Commission in the letter of 8th March, 1979, copy herewith, states that since 1977, when you appointed me to the Ethnic Affairs Commission, I have not been able to carry out fully my duties as Senior Legal Officer and indicating that disciplinary action may be taken against me.

For the reasons set out above any member of the Public Service could be placed in a very invidious position in trying to serve the State in two capacities.

I therefore seek your assistance in resolving the present situation by enabling me to work on a full time basis in the area of ethnic affairs.

I would be most grateful if you could see me personally regarding this matter.

Yours sincerely,

W. JEGGROW

FOR YOUR INFORMATION, PLEASE.

Advised of my absence on leave from 22/3 to 6/5/79, the Premier has been granted leave from 8/5 to 27/6/79

10/5

20/5/79
Noted

SECRETARY 20/3

(1) Commissioner (& file)
(2) R/L Secty 21.3.79

1 Commissioner
MR. ASSISTANT COMMISSIONER
2 WALKER

21st 20/3/79

28/3/79.

MR. W. JEGOROW

12
ATTACHMENT F

There are three options available :-

1) Full-time Member (or Deputy Chairman) of the Ethnic Affairs Commission.

This is not regarded as desirable.

I feel that it would make the position of the Chairman quite difficult and in turn he would not be able to perform the liaison role with ethnic communities that is envisaged.

2) Appoint to the Premier's Personal Staff.

This is also not favoured.

It would create jealousies within the ethnic affairs area and with the Ethnic Affairs Commission. Likewise, it means another person reporting directly to the Premier and this can produce more problems for the Premier.

3) Appoint to the Premier's Department Staff.

The duties can be defined to meet the Premier's needs. It distances Mr. Jegorow from the Premier and puts him under the control of the Secretary.

This is the preferred option. However, Mr. Jegorow should not be re-appointed to the Ethnic Affairs Commission if he is going to be an officer of the Department, or on the Premier's Personal Staff.

Suitable titles would be :-

Principal Ethnic Liaison Officer, Premier's Department

Principal Consultant, Ethnic Communities, Premier's Department.

Special Adviser, Ethnic Affairs, Premier's Department

My own preference is :-

a) Appoint Mr. Jegorow as Principal Consultant, Ethnic Communities, Premier's Department.

b) That he not be re-appointed to the Ethnic Affairs Commission.

c) The Public Service Board be asked to fix a salary of

Secretary.
18th September, 1979

PREMIER

11A

The Secretary,
Premier's Department,
SYDNEY.

P.2157

403

23rd October, 1979.

Transfer of Mr. W. Jegorow, Senior Legal Officer, Forestry Commission, to Premier's Department.

Following upon the recent discussions concerning the transfer of Mr. W. Jegorow to a position associated with ethnic affairs matters within the Premier's Department, arrangements were made for Mr. Jegorow to report to your Department at 9 a.m. on Monday, 22nd October, 1979.

Mr. Jegorow's service, leave and salary records will be forwarded at an early date.

A. R. COCKS

A. R. COCKS,
Secretary.

Forwarded forthe information of the Public Service Board - P.S.B. 79/982.

A. R. COCKS,
Secretary.
23rd October, 1979.

The Secretary,
PUBLIC SERVICE BOARD.

ATTACHMENT F1

MR. W. JEGOROW - APPOINTMENT AS DEPUTY CHAIRMAN
ETHNIC AFFAIRS COMMISSION

1. Mr. Jegorow has acted in the position of Consultant on Ethnic Affairs since 22nd October, 1979.

   It is considered that his experience and contacts in the ethnic affairs area might be better utilised if he were transferred to the Ethnic Affairs Commission.

2. It is known that Mr. Jegorow does not wish to transfer to the Ethnic Affairs Commission. However, it is considered that his contribution does not justify him occupying the present position.

3. The Ethnic Affairs Commission Act provides that full-time Commissioners (in addition to the Chairman) can be appointed to the Commission.

4. The position of Deputy Chairman has been vacant since the resignation of Dr. Peponis.

5. Mr. Jegorow was formerly the Deputy Chairman of the Commission when he was with the Forestry Commission and before his appointment to his present position.

   It is RECOMMENDED for the Premier's consideration that Mr. Jegorow be appointed as Deputy Chairman of the Ethnic Affairs Commission for a period of two years on his current salary of $29.447 (Grade 12) and allowance of $484, from 13th October, 1980.

   An Executive Council Minute is herewith.

[redacted]

19/9/80.

P. Rath,
Assistant Secretary,
Community Relations Division.

Secretary [redacted]

1/10/80

ATTACHMENT G

[redacted]

[redacted]

[redacted]

July, 1980.

14 JUL 1980

1.

The Premier,
State Office Block,
Macquarie Street,
SYDNEY. N.S.W. 2000.

Dear Premier,

After careful consideration over the past few months I have come to the decision that I should resign from my present position as Deputy Chairman of "The Ethnic Affairs Commission of New South Wales."

There are several reasons behind this decision and I shall endevour to explain my current situation to you.

Firstly, during this current year, I have found it increasingly difficult to fulfill my obligations as a Commissioner. Due to my commitments both as a footballer and a medical practitioner I have been forced to miss several monthly meetings.

I feel that it is unfair to the other commissioners that I be given such liberties. I also feel that I am not capable at present to participate enthusiastically as I would like in the commissioners projects.

[redacted]

Phoned by Kathy Williams, PSB [redacted]

Only one file has been located: dealing with allowances paid to members of the EHC. Another file, entitled 'Pearce's Dept - Chairman, Deputy Chairman EHC - Vacancies', which was created in 1976 was destroyed in 1980. Ms Williams said the destruction of such a file after such a short life was not unusual.

Told her that subject to any further advice from this Commission, a person from the PSB should attend on the return date to declare the one file in existence and explain the destruction of the other. She agreed that this could be done.

29.7.86

COMMONWEALTH OF AUSTRALIA

Parliamentary Commission of Inquiry Act 1986

SUMMONS TO APPEAR BEFORE THE COMMISSION

Served AP 25/7/86.
GS

Mr John Ducker
Chairman
Public Service Board
47-53 Macquarie Street
SYDNEY 2000

I, Sir George Hermann Lush, a member of the Parliamentary Commission of Inquiry appointed under the Parliamentary Commission of Inquiry Act 1986 hereby summon you, pursuant to sub-section 11(1) of that Act

(a) to appear before the Commission at the hearing to be held in the Hearing Room, 8th Floor, 99 Elizabeth Street, Sydney, on Thursday 31 July 1986 at 10.00 a.m. to give evidence in relation to the matters into which the Commission is inquiring and to produce this summons and the documents described in the Schedule; and

(b) to attend from day to day unless excused or released from further attendance.

SCHEDULE

All papers, files and documents relevant to the appointment of Wadim Jegarow to any position with the Ethnic Affairs Commission.

All papers, files, and documents relating to the creation of the position of full time deputy chairman of the Ethnic Affairs Commission.

Dated 25 July 1986

[redacted] .....
Presiding Member

COMMONWEALTH OF AUSTRALIA

Parliamentary Commission of Inquiry Act 1986

SUMMONS TO APPEAR BEFORE THE COMMISSION

Served AP 25/7/86
CP

Mr Gerry Gleeson
Secretary
Premiers Department
State Office Block
Premiers Wing
Macquarie Street
SYDNEY 2000

I, Sir George Hermann Lush, a member of the Parliamentary Commission of Inquiry appointed under the Parliamentary Commission of Inquiry Act 1986 hereby summon you, pursuant to sub-section 11(1) of that Act

(a) to appear before the Commission at the hearing to be held in the Hearing Room, 8th Floor, 99 Elizabeth Street, Sydney, on Thursday 31 July 1986 at 10.00 a.m. to give evidence in relation to the matters into which the Commission is inquiring and to produce this summons and the documents described in the Schedule; and

(b) to attend from day to day unless excused or released from further attendance.

SCHEDULE

All papers, files and documents relevant to the appointment of Wadim Jegarow to any position with the Ethnic Affairs Commission.

All papers, files, and documents relating to the creation of the position of full time deputy chairman of the Ethnic Affairs Commission.

Dated 25 July 1986

[redacted]
Presiding Member

COMMONWEALTH OF AUSTRALIA

Parliamentary Commission of Inquiry Act 1986

SUMMONS TO APPEAR BEFORE THE COMMISSION

Served MH 25/7/86.

Mr Paolo Totaro
Chairman
Ethnic Affairs Commission
ADC House
189 Kent Street
SYDNEY 2000

I, Sir George Hermann Lush, a member of the Parliamentary Commission of Inquiry appointed under the Parliamentary Commission of Inquiry Act 1986 hereby summon you, pursuant to sub-section 11(1) of that Act

(a) to appear before the Commission at the hearing to be held in the Hearing Room, 8th Floor, 99 Elizabeth Street, Sydney, on Thursday 31 July 1986 at 10.00 a.m. to give evidence in relation to the matters into which the Commission is inquiring and to produce this summons and the documents described in the Schedule; and

(b) to attend from day to day unless excused or released from further attendance.

SCHEDULE

All papers, files and documents relevant to the appointment of Vadim Jegarow to any position with the Ethnic Affairs Commission.

All papers, files, and documents relating to the creation of the position of full time deputy chairman of the Ethnic Affairs Commission.

Dated 25 July 1986

[redacted] .....
Presiding Member

attempted to phone
Regan (no answer).

CS
23/1/86

The Hon Mr N K Wran QC
Level 20
Aetna Life Tower
Cnr Elizabeth and Bathurst Streets
SYDNEY NSW 2000

Dear Mr Wran,

PARLIAMENTARY COMMISSION OF INQUIRY - MR JUSTICE L K MURPHY

As you may be aware the Parliamentary Commission of Inquiry established pursuant to the Parliamentary Commission of Inquiry Act 1986 has commenced its task of inquiring into and advising the Parliament whether any conduct of the Honourable Lionel Keith Murphy has been such as to amount, in its opinion, to proved misbehaviour within the meaning of section 72 of the Constitution.

Mr S Charles QC, Senior Counsel assisting the Commission, has informed me that he would be assisted by having a discussion with you in relation to some aspects of the Commission's Inquiry. Accordingly, I should be glad if you would contact Mr Charles on telephone number (02) 232 4922 to arrange a suitable time for an appointment to be made.

Yours faithfully

[redacted]

Sir George Lush
Presiding Member

21 July 1986

ALLEGATION NO 18

Particulars of Allegation

The Honourable Lionel Keith Murphy, in or about March 1979, and whilst a Justice of the High Court of Australia, agreed with Morgan Ryan that he, the Judge, would speak to the then Premier of New South Wales, the Honourable Neville Wran, for the purpose of procuring the appointment of Wadim Jegarow to the position of Deputy Chairman of the Ethnic Affairs Commission of New South Wales. Further, the Judge subsequently spoke to the Premier for that purpose, and later informed Ryan that the Premier had told him that Jegarow would be appointed to the position.

It will be contended that this conduct by the Judge amounted to misbehaviour within the meaning of Section 72 of the Constitution in the following respect -

> entering into an agreement to influence the making of a Public Service appointment, and actually intervening to achieve that purpose.

As such it constituted conduct contrary to accepted standards of judicial behaviour.

Extract from Weinberg/Phelan Memorandum

dated 3 July 1986 (full copy on File C51

ALLEGATION 18 THE JEGOROW APPROACH

Statement of Offence

Misconduct by an officer of Justice - Common Law Misdemeanor. Particulars of offence. The Judge, at the request of Morgan Ryan, approached the Premier of New South Wales on behalf of a Mr. Jegorow who had sought appointment as Deputy Chairman of the Ethnic Affairs Commission of New South Wales. In so doing, the Judge misused his position of office, and acted without proper motives.

Witnesses to be interviewed

1. Morgan Ryan

2. Bill Jegorow

3. Relevant police officers who would be in a position to authenticate the accuracy of the transcript containing the alleged Jegorow conversation. Note this occurred in March 1979 - it is to be found in transcript 1 a. at pages 22, and 47 to 49,

4. Neville Wran

5. Garry Boyd

Material to be examined

Public Service Board files pertaining to appointment and the creation of the position (New South Wales Public Service Board). Also Premier's Department files relevant to the

appointment. Also we should speak to the Public Service Association to see what records they have relating to the matter. See Sydney Morning Herald 25 October 1980. See also Ethnic Affairs Commission files pertaining to this matter. In addition we should speak to Doctor Peponis to see whether any pressure was placed upon him to terminate his position early.

ROYAL COMMISSION OF INQUIRY INTO ALLEGED TELEPHONE INTERCEPTIONS

Commissioner: The Hon Mr Justice D. G. Stewart
Acting Secretary: K. E. Ransome

G.P.O. Box 7060
Sydney, N.S.W. 2001
Australia.
Telephone: (02) 265 7255

25 March 1986

PRIVATE AND CONFIDENTIAL

The Honourable Mr Justice L.K. Murphy,
The High Court of Australia,
PARKES ACT 2600.

Dear Judge,

As you would be aware, I have been commissioned by the Governments of the Commonwealth, New South Wales and Victoria to inquire into certain alleged unlawful telephone interceptions in New South Wales and, in particular, whether there exists information or material that discloses the commission or the possible commission of criminal offences.

Included in the material which has been produced to the Commission is a quantity of documents which purport to be transcript, summaries and other records of intercepted telephone conversations. There are also some tape recordings which purport to record telephone conversations. Among these are conversations which apparently were intercepted while passing over the telephone system to and from the telephone service situated at the home of Mr Morgan John Ryan.

The Commission has had produced to it a number of statements and records of interview and has heard a considerable amount of evidence in relation to these alleged conversations. Some of the conversations appear to be conversations between Ryan and yourself or conversations between Ryan and others in which reference is made to yourself. Witnesses before the Commission have stated that they have knowledge of other conversations between Ryan and yourself which are not recorded in the documents and tape recordings of conversations.

Where the Commission has received evidence of conversations which suggest possible criminal activity and where the matter is of significance the Commission has, subject to certain constraints, sought evidence from the persons who could be expected to have knowledge of these conversations or the matters referred to therein. It is to be expected that the Commission will be obliged to make some reference to such conversations in its report albeit in a confidential section thereof.

The Commission would, in the ordinary course of events have sought to hear evidence from you in relation to some conversations purporting to be between Ryan and yourself and Ryan and others. However, as you are presently awaiting trial in the Supreme Court of New South Wales in a criminal matter and as that matter may raise questions of your association with Ryan the Commission has decided, having regard to section 6A(3) of the Royal Commissions Act 1902 and the decision of the High Court in Hammond v Commonwealth of Australia and Others (1982) 42ALR327, to invite you to make such response as you see fit in relation to the material set out in the schedule accompanying this letter.

It should be understood that as presently advised the Commission does not propose to invoke any of its powers in order to obtain from you a response. If you choose to respond you may do so by letter, written or verbal statement, sworn evidence or some other method elected by you. If a written document is furnished by you the Commission would wish to have some verification of the fact that the document is genuine. If you choose to give evidence that evidence would, consistently with the Commission's practice to date, be given in camera. You will be aware that there are certain protections afforded to witnesses under the legislation governing the conduct of this inquiry.

As indicated above the items in relation to which your comments are invited are set forth in the schedule attached to this letter. Each item does not necessarily involve an allegation of possible criminal activity by you. It should not be assumed that the material set out in the schedule is evidence which has been accepted by the Commission, nor should it be regarded as a verbatim account of the evidence of any particular witness or a verbatim extract from any document. Each item represents an attempt to set out the substance of the more important material which concerns you.

Item 7 does not arise from a telephone conversation but was the subject of direct evidence given by a witness who was called in respect to a related matter.

As the Commission is required to report to the commissioning Governments by 30 April 1986 I should be grateful if you would let me have a reply by 4 April 1986.

Yours sincerely,

[redacted]

Mr Justice Stewart

Commission to the Hon. Mr Justice L K Murphy 25 March 1986

SCHEDULE

Item 1:

In April 1979 you had a telephone conversation with Ryan. In the conversation reference was made to Robert Yuen who was then living near your residence at Darling Point.

You said that Yuen had complained to you regarding an alleged casino that he, Yuen, had been conducting in Dixon Street, Sydney. The substance of the complaint was that Yuen had been paying money to Detective Chief Superintendent Patrick John Watson of the New South Wales Police but had been subject to police action in respect of the casino. During the course of the conversation you said: 'this is a disgraceful turnout ... who is this fellow called Watson ... I want to talk to you about this I've a good mind to speak to 'N' about it'.

Item 2:

Early in 1980 Abraham Gilbert Saffron in a telephone conversation told Ryan that he wished to obtain a lease of premises known as Luna Park. Ryan then telephoned you and you said in relation to the matter 'leave it with me'. A short time later you telephoned Ryan and said that you had spoken to 'Neville' and he is going to try to make some arrangements for Saffron to get the lease.

Item 3:

Early in 1980, in a telephone conversation Saffron told Ryan that he wanted the contract to remodel the Central Railway Station in Sydney for which tenders had been called. Ryan then rang you about the matter and you said 'leave it with me'. Sometime later you rang Ryan and told him that the contract would go to Saffron.

Item 4:

In the context of questions being raised by the New South Wales Parliamentary Opposition regarding the prosecution of persons named Roy Bowers Cessna and Timothy Lycett Milner and Ryan's participation in the matter, on 11 March 1980 in a telephone conversation Ryan told you that Milton Morris put John Mason into power and that Morris borrowed some money from Ryan. Ryan further said that Morris was repaying him in a way which was defrauding the Taxation Department. Ryan said that he would ring Morris and threaten to reveal this. In a telephone conversation you told Ryan that you had made arrangements for Ryan to meet Morris on the steps of Parliament House.

Item 5:

On 20 March 1979 in a telephone conversation Ryan requested you to ring Mr N K Wran the Premier of New South Wales for the purpose of securing the appointment of Wadim Jegerow to the position of Deputy Chairman of the Ethnic Affairs Commission and that you agreed to the request. On 31 March 1979 you telephoned Ryan and told him 'I talked to him and he is appointing that fellow to be Deputy Chairman ... Neville is ... appointing Jegerow ... He'll give it to him but I think your fellow might have been wanting to make it some long tenure or something, he said he wasn't doing that'.

Item 6:

Early in 1981 in a telephone conversation Ryan asked you if you had been able to find out whether Detective Sergeants D L Lewington and R A Jones of the Australian Federal Police were approachable. Lewington and Jones were then investigating an immigration conspiracy in which Ryan was alleged to be involved. You replied that you had made some inquiries and that the answer was definitely 'no', both officers were 'very straight'.

Item 7:

About the end of 1979 you invited Detective Chief Inspector D W Thomas of the Commonwealth Police to a luncheon at the Arirang House restaurant at Potts Point. In addition to yourself and Thomas, Assistant Commissioner J D Davies and Ryan were present. During that luncheon you said to Thomas that you and others needed someone in the new Australian Federal Police to be an informant. You said 'We need to know what is going on. We need somebody at the top'. In return for this you offered to have Thomas promoted to the rank of Assistant Commissioner in the Australian Federal Police the formation of which was then imminent.

That's true