

MEMORANDUM RE MATTERS NUMBERED 4, 5, 7, 8, 9, 10, 12, 17, 19,
21, 22, 28, 29, 30, 31, 32, 34, 35, 37, 38, 41.

Matters Raised with Counsel Assisting but not Drawn as Specific Allegations in Precise Terms.

This memorandum deals with 21 matters which in the opinion of those assisting the Commission could not or, after investigation, did not give rise to a prima facie case of misbehaviour within the meaning of Section 72 of the Constitution. It is therefore proposed that these matters not be drawn as specific allegations in precise terms and that there be no further inquiry into them.

Matter No.4 - Sala

This matter involves an allegation that the Judge, whilst Attorney-General, wrongfully or improperly ordered the return to one Ramon Sala of a passport and his release from custody.

All the relevant Departmental files have been examined as also has been the official report of Mr A.C. Menzies.

The available evidence supports the conclusion of Mr Menzies that there was no evidence of any impropriety on the Judge's part. While it is true to say that there was room for disagreement about the directions given by the Judge and that the Australian Federal Police objected to the course taken, the action by the Judge could not constitute misbehaviour within the meaning of Section 72 of the Constitution. We recommend that the matter be taken no further.

Matter No.5 - Saffron surveillance

This matter consisted of an allegation that the Judge, whilst Attorney-General and Minister for Customs and Excise, directed that Customs surveillance of Mr A.G. Saffron be downgraded. The gravamen of the complaint was that the Judge had exercised his Ministerial powers for an improper purpose.

This matter was the subject of a Report of Permanent Heads on Allegations in the National Times of 10 August 1984. That Report pointed out, as an examination of the files of the relevant agencies confirms to be the case, that apart from one document entitled "Note for File" prepared by a Sergeant Martin

on 30 January 1975 there was no record of any Ministerial direction or involvement in the matter. That note for file attributed to a Kevin Wilson the statement that the A-G had directed that Saffron was not to receive a baggage search. When interviewed by the Permanent Heads Committee, Mr Wilson said that in all his dealings with the matter he believed that the direction came from the Comptroller-General. The conclusions of the Report of Permanent Heads appear at paras 45 and 46. Those conclusions were that the decision to reduce the Customs surveillance of Saffron to providing advice and travel details was reasonable and appropriate and that it was more probable than not that the decision to vary the surveillance of Saffron was made by the then Comptroller-General. This, it was concluded, did not rule out the possibility that the Minister spoke to the Comptroller-General who may have reflected the Minister's views when speaking to a Mr O'Connor, the officer in the Department who passed on the directions to the police.

It is recommended that the Commission proceed in accordance with Section 5(3) of the Parliamentary Commission of Inquiry Act and, having regard to the conclusions of the Permanent Heads Inquiry, take the matter no further.

Matter No.7 - Ethiopian Airlines

This matter was the subject of questions in the Senate in late 1974 and 1975. The contention was that the Judge, whilst Attorney-General, behaved improperly by accepting free or discounted overseas air travel as a result of his wife's employment with Ethiopian Airlines. Investigation revealed nothing improper in the appointment of Mrs. Murphy as a public relations consultant nor in the fact that in lieu of salary she acquired and exercised entitlements to free or discounted travel for herself and her family.

Whatever view one may take as to the propriety of a law officer accepting free or discounted travel in the circumstances set out above, the facts disclosed could not, in our view, amount to misbehaviour within the meaning of Section 72 of the Constitution and accordingly we recommend the matter be taken no further.

Matters No.8 and 30 Mrs Murphy's diamond; Quartermaine - Moll tax evasion.

These matters were the subject, in late 1984, of questions in

the Senate. It was alleged that the Judge had been involved, at some stage during or prior to 1979, in a tax avoidance scheme in Western Australia involving one Christo Moll, Murray Quartermaine and others and that Mrs Murphy had either purchased or been given a diamond by Moll.

Material was provided to the Commission in support of these claims and consisted of two diamond valuation certificates, a cheque butt of Moll's with the name Mrs L Murphy and a letter dated 18 June 1979 allegedly written by a Dr Tiller, one of the participants in the scheme, to Quartermaine, implicating the Judge in their activities.

These matters were investigated by the Commission and those investigations confirmed the conclusion to which the Australian Federal Police had earlier come that the documentation provided in relation to the alleged diamond was unreliable and in all likelihood false and that the letter from Dr Tiller was probably false and possibly written by Moll to discredit Quartermaine.

In the light of these circumstances it is in our view impossible to conclude that there is any prima facie evidence

of misbehaviour within the meaning of Section 72 of the Constitution and we recommend that the matters be taken no further.

Matter No.9 - Soviet espionage

Two individuals jointly made the claim that the Judge was a Soviet spy and a member of a Soviet spy ring operating in Canberra. This allegation was supported by no evidence whatever and rested in mere assertion of a purely speculative kind.

We recommend that the Commission should make no inquiry into this matter.

Matter No.10 - Stephen Bazley

Information was given to those assisting the Commission that Stephen Bazley had alleged criminal conduct on the part of the Judge. The allegation was made in a taped interview with a member of the Australian Federal Police and was that the Judge wanted Bazley to "knock out" George Freeman. Bazley said that the request had been passed on to him by a named barrister on an occasion when, according to Bazley, he and the barrister went to the Judge's home in Sydney.

The New South Wales Police had investigated this allegation in 1985 and the staff of the Commission was given access to the relevant New South Wales Police records.

Those records showed that the conclusion of the police investigation was that the allegation was 'a complete fabrication' and that further enquiries would be a 'complete waste of time'. These conclusions were based on Bazley's lack of credibility, his refusal to assist the New South Wales Police in their inquiry into this allegation, his refusal to adopt the statement he had made to the Australian Federal Police and the clear and comprehensive denial by the barrister in a signed statement that he had or would have spoken to Bazley in the terms alleged. Indeed the barrister said that he had met Bazley only twice, once when he had acted for him and once when Bazley had approached him in public and the barrister had walked away.

There being no material which might amount to prima facie evidence of misbehaviour within the meaning of Section 72 of the Constitution we recommend the matter be taken no further.

Matter No.12 - Illegal immigration

It was alleged that the Judge had been involved in an organisation for the illegal immigration into Australia of Filipinos and Koreans. It was not made clear in the allegation whether the conduct was said to have taken place before or after the Judge's appointment to the High Court. No evidence was provided in support of the allegation.

Those assisting the Commission asked the Department of Immigration for all its files relevant to the allegation. Examination of the files provided to the Commission revealed nothing to support the allegation; neither did inquiries made of the New South Wales Police which had made some investigations into the question of the involvement of Ryan or Saffron in such a scheme.

There being no material which might amount to prima facie evidence of misbehaviour within the meaning of Section 72 of the Constitution we recommend the matter be taken no further.

Matter No.17 - Non-disclosure of dinner party

This matter involved an assertion that the Judge should have come forward to reveal the fact that he had been present at a dinner attended by Messrs Ryan, Farquhar and Wood once it was alleged that there was a conspiracy between Ryan, Farquhar and Wood. It was not suggested that what occurred at the dinner was connected with the alleged conspiracy; neither was there evidence of a public denial by any of Messrs Ryan, Farquhar and Wood of the fact that they knew each other.

In the absence of such suggestion or denial there would be no impropriety in the Judge not coming forward to disclose the knowledge that he had of such an association. The absence of action by the Judge could not constitute misbehaviour within the meaning of Section 72 and we recommend that the Commission should do no more than note that the claim was made.

Matter No.19 - Paris Theatre reference, Matter No.21 - Lusher reference, Matter No.22 - Pinball machines reference

These matters came to the notice of the Commission by way of

the so-called Age Tapes transcripts (Volume T1A, p.22 - 20 March 1979, Volume T1B, pps. 107-108, 7 February 1980). On the hypothesis that the transcripts could be proved, there were several conversations between the Judge and Morgan Ryan which included observations by the Judge first, that there was something in the newspaper about the Paris Theatre and that Ryan should know "what's bloody well on"; second, a conversation in which a discussion occurs about "every little breeze" and "the Lush or is it going to be the three board of ..."; and, third, a conversation where Ryan asked the Judge not to forget those " pinball machines ... ".

These three matters, to the extent they suggest a continuing and close relationship between the Judge and Ryan are covered by Allegation No.40.

These conversations could also lead to the inference that the Judge was involved in various kinds of sinister activities with Ryan. However, since they consist only of cryptic references not capable of investigation as allegations of substance, it is recommended that, except as part of Allegation No.40, these matters should merely be noted by the Commission but not investigated further.

Matter No.28 - Statement after trial

This matter was referred to in the House of Representatives (see pages 3447-8 of House of Representatives Hansard of 8 May 1986).

It was suggested that the Judge's comments, made immediately after his acquittal, that the trial was politically motivated constituted misbehaviour.

We submit that the conduct alleged could not on any view constitute misbehaviour within the meaning of Section 72 of the Constitution and that the Commission should merely note that the matter was brought to its attention.

Matter No.29 - Stewart letter

This matter was referred to in the House of Representatives (see p. 3448 of the House of Representatives Hansard of 8 May 1986).

Mr. Justice Stewart, in the course of the Royal Commission of

Inquiry into Alleged Telephone Interceptions, sent a letter to the Judge which contained seven questions. The letter was sent to the Judge in March 1986 shortly before the Judge was due to be re-tried. It was suggested that the Judge's failure to respond to that letter constituted misbehaviour.

The view has been expressed (Shetreet, Judges on Trial, p 371) that the invocation by a judge of the right to remain silent "was an indication that his conscience was not clear and he had something to conceal. Such a judge could not properly continue to perform his judicial functions without a cloud of suspicion." Nevertheless, we submit that in the particular circumstances of this case the conduct alleged did not constitute misbehaviour within the meaning of Section 72 of the Constitution and that the Commission should merely note that the matter was brought to its attention.

Matter No.31 - Public Housing for Miss Morosi

It was alleged that in 1974 the Judge requested the Minister for the Capital Territory to arrange for Miss Morosi to be given priority in the provision of public housing.

We submit that the conduct alleged could not on any view constitute misbehaviour within the meaning of Section 72 of the Constitution and that the Commission should merely note that the matter was brought to its attention.

Matter No.32 - Connor view of the Briese matter

(See attached memorandum of M. Weinberg and A. Robertson dated 16 July 1986).

Matter No.34 - Wood shares

This matter consisted of an allegation that in the late 1960s the Judge, whilst a Senator, was given a large parcel of shares by another Senator, Senator Wood. The inference the Commission was asked to draw was that there was something improper in the transaction.

The allegation was supported by no evidence whatever. As the former Senator who allegedly gave the Judge the shares is now dead and the shares cannot be identified, we recommend that the Commission should do no more than note that the claim was made.

Matter No.35 - Soliciting a bribe

It was alleged that in 1972 or 1973 the Judge, whilst Minister for Customs and Excise, solicited a bribe from Trevor Reginald Williams. Williams was at the time involved in defending a customs prosecution and he asserted that the Judge offered to "fix up" the charges in return for the payment of \$2000.00.

Williams was interviewed but the facts as related by him did not, in the view of those assisting the Commission, provide any evidence to support the claim.

There being no material which might amount to prima facie evidence of misbehaviour within the meaning of Section 72 of the Constitution we recommend the matter be taken no further.

Matter No.37 - Direction concerning importation of pornography

There were two allegations concerning the same conduct of the Judge whilst he was Attorney-General and Minister for Customs and Excise.

The allegations were that in 1973 the Judge had issued a direction that Regulation 4A of the Customs (Prohibited Imports) Regulations, as they then stood, should be ignored with the result that pornography was imported without any written permission and thereby contrary to the regulations.

Investigations showed that the direction emanated from a meeting in June 1973 between the then Senator Murphy and senior officials of his Departments, the Attorney-General's Department and the Department of Customs and Excise. The direction given was under the hand of a G E Sheen for the Comptroller-General and was in terms that "customs resources engaged in screening imported goods should be primarily concerned with the detection of prohibited imports other than material which offends Regulation 4A ... For the time being there are to be no prosecutions under the Customs Act for offences involving pornography."

The direction resulted from the Attorney-General agreeing with proposals in a departmental paper on censorship policy. At that time it was proposed by the Government that the regulations be amended to correspond with Government policy.

It was noted in the Minutes of the meeting in June 1973 that the Attorney-General agreed that it would be necessary to compromise in the implementation of policy in order to meet the requirements of the current law.

The direction was continued until the amendments to the legislation were made in February 1984.

We submit that there is no conduct disclosed which could amount to misbehaviour within the meaning of Section 72 of the Constitution. We recommend that the matter be taken no further.

Matter No.38 - Dissenting judgments

A citizen alleged that the Judge through "continued persistence in dissenting for whatever reason, can engender towards him such disrespect as to rank his performance to be that of proved misbehaviour".

We submit that the conduct alleged could not on any view constitute misbehaviour within the meaning of Section 72 of the Constitution and that the Commission make no inquiry into this matter.

Matter No.41 - Comment of Judge concerning Chamberlain committal

In answer to questions put to him in cross-examination during the Judge's second trial, Mr Briese SM gave evidence that the Judge had commented on the Chamberlain case. The context of the comment was that a second coroner had, that day or recently, decided to commit Mr and Mrs Chamberlain for trial on charges relating to the death of their daughter. The Judge's remark was to the effect that the decision by the Coroner was astonishing.

It was suggested that this conduct by the Judge might amount to misbehaviour in that it was a comment upon a matter which might, as it did, come before the Judge in his judicial capacity: it was therefore, so it was said, improper for the Judge to make known to Mr Briese his view of the decision to commit for trial.

We submit that the Chamberlain case was a matter of general notoriety and discussion, that the Judge's comments were very

general in their terms and that therefore the Judge's conduct could not amount to misbehaviour within the meaning of Section 72. We recommend that the matter be taken no further.

[REDACTED]

S. Charles

M. Weinberg

[REDACTED]

D. Durack

[REDACTED]

P. Sharp

[REDACTED]

A. Phelan

21 August 1986

MEMORANDUM RE ALLEGATION NO 32

We have been invited to draft an allegation based upon the views of Mr Xavier Connor in his report to the second Senate Committee in 1984. In that report, Mr Connor suggested that even if it could not be shown that the Judge intended that Briese approach Jones with a view to inducing Jones to act otherwise than in accordance with his duty, the mere act of inviting Briese to make enquiry of Jones as to how the case against Morgan Ryan was progressing might amount to misbehaviour within the meaning of Section 72 of the Constitution. The difficulty which we have in drafting an allegation along those lines arises from Section 5 (4) of the Parliamentary Commission of Inquiry Act 1986. That sub section provides the Commission shall not consider -

- a) the issues dealt with in the trials leading to the acquittal of the Honourable Lionel Keith Murphy of certain criminal charges on 5 July 1985 and 28 April 1986 and, in particular, the issue of the Honourable Lionel Keith Murphy's guilt or innocence of those charges; or

- b) whether the conduct to which those charges related was such as to constitute proved misbehaviour within the meaning of Section 72 of the Constitution except to the extent that the Commission considers necessary for the proper examination of other issues arising in the course of the Commission's inquiry.

It is plain that there is a difference between the version given by Briese of the relevant conversation and that given by the Judge. That difference was fully explored during the course of the Judge's trials. It is impossible to know whether the jury which acquitted the Judge at his second trial did so merely because they were not satisfied that he had the requisite intent to pervert the course of justice, or because they were not satisfied that Briese's version of the conversation was correct. On any view the content of that conversation is central to the charge as laid against the Judge and ultimately disposed of by his acquittal. It seems to us that to raise this matter as a specific allegation in precise terms is to breach Section 5 (4) in that the matter in question is "an issue dealt with in the trial leading to the acquittal" of the Judge in the relevant sense, and to consider it would be

to consider "whether the conduct to which those charges related" was misbehaviour. We consider that the Commission is not empowered to consider the Connor view of the Briese matter except to the extent that it considers it necessary to do so for the proper examination of other issues arising in the course of the inquiry. We recommend that Allegation No 32 not proceed.

[REDACTED]
M Weinberg

[REDACTED]
A Robertson

16 July 1986

MEMORANDUM

ALLEGATION NO. 37 - PHOTOGRAPHY DIRECTION

TO: S. Charles Q.C.
M. Weinburg
D. Durack
P. Sharp
A. Phelan
F. Thomson

FROM: A. Robertson

Date: 11th July 1986

Further to my earlier memorandum on this allegation, the Secretary of the Attorney General's Department has now forwarded a document entitled "Notes on meeting with Attorney-General - 7 June 1973."

I attach a copy of those notes and do no more than draw attention to the following:

1. It appears from paragraph 5 that the Notes that either the Attorney General's Department or the Department of Customs and Excise had recently completed a paper on censorship policy.
2. It appears that a proposal of that paper was that "It would be necessary to compromise in the implementation of policy in order to meet the requirements of the current law - see paragraph 6 of the notes. To reach a definite conclusion it will of course be necessary to obtain a copy of the 1973 paper on censorship policies.

For the sake of completeness I think that that report should be obtained even though, from everything I have seen so far, there would be no possible ground for alleging misbehaviour.

0111M

Alan, herewith paper on
concernship policy
referred to in
para 15 of notes
of meeting with
Att/Gen
on 7/6/73.
No
37



ATTORNEY-GENERAL'S DEPARTMENT
SECRETARY'S OFFICE

TEL: 71 9000

ROBERT GARRAN OFFICES
NATIONAL CIRCUIT
BARTON A.C.T. 2000

FACSIMILE NO: (062) 73 1137

TO: David Durack
.....
FROM: Prof. Atwell
.....
DATE: 30/7/86
TIME: 3.25 PM
NO OF PAGES
TO FOLLOW: 3
MESSAGE:
.....
.....
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Collector of Customs,
New South Wales
Victoria
Queensland
South Australia
Western Australia
Tasmania
Northern Territory

LITERATURE CENSORSHIP -

The operation of the arrangements contained in memorandum of 21/3/73 and previous memoranda have been reviewed in consultation with officers of the Attorney-General's Department. This review has been undertaken having particular regard to the practical experience gained in implementing the Government's announced policy in relation to censorship, viz;

- . it shall be a person's right to be free to read or view whatever he may wish, and
- . persons (and those in their care) be not exposed to unsolicited material offensive to them.

It is visualised that the Government's policy will eventually be implemented by controls at the point of sale/^{and} display. These controls will probably be complemented by strengthened legislation in relation to matter which may^{be} dispatched through the post.

In short the Customs role in censorship matters will, in the future, progressively diminish.

However, until such time as the necessary legislation has been introduced which will enable the policy to be implemented along the lines mentioned above, there remains a need to retain Regulation 4A of the Customs (Prohibited Imports) Regulations in order that the second component of the policy can be given legal effect.

~~On the basis that,~~ For the time being at least, Customs resources engaged in screening imported goods should be primarily concerned with the detection of prohibited imports other than material which offends Regulation 4A. However, Customs will continue to seize privately imported pornography:-

- . if it comes to notice because a passenger blatantly but unsuccessfully attempts to conceal it;
- . if it is deliberately brought to the attention of an officer;
- . if it comes to notice in the course of examination for other Customs purposes; and
- . if imported by first class mail, the material ~~is~~ is known before examination to be unsolicited.

For the time being there are to be no prosecutions under the Customs Act for offences involving pornography.

Where seizures are made the importer is to be acquainted with the provisions of Sections 205/7 of the Customs Act.

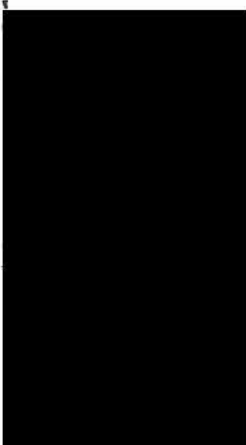
170

14 JUN 1973
A.M./P.M.

Where, because of a seizure, an importer questions the implementation of the Government's censorship policy he is to be informed -

- the full implementation of that policy must await changes in legislation, and
- while the Regulation 4A provisions exist they cannot be ignored by officers of this Department.

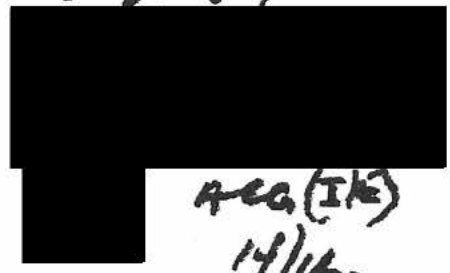
Please bring to the attention of this office any major difficulties experienced in implementing the arrangements embodied in this and previous memoranda.



(G.E. Sheen)
for Comptroller-General

Let's Draft all state memoranda re censorship but your consideration

B.K. H/O



*Acc (IK)
14/6/73*



ATTORNEY-GENERAL'S DEPARTMENT

SECRETARY'S OFFICE

TEL: 71 9000

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

EX86/9066

4 July 1986

Mr D H Durack
Instructing Solicitor
Parliamentary Commission of Inquiry
GPO Box 5218
SYDNEY NSW 2001

Dear Mr Durack

I refer to your letter dated 2 July 1986 and now forward
herewith a copy of the note of what appears to be the meeting
on censorship that was referred to in your letter.

Yours sincerely



P. BRASIL

Document 146 226

Notes on Meeting with Attorney-General - 7 June 1973.

Subject: Pornography and General Censorship Policy

Present:	Mr. B.J. O'Donovan	}	Attorney-General's Department
	Mr. J. Somerville		
	Mr. G.W. Sheldon		
	Mr. A.T. Carnody	}	Department of Customs and Excise
	Mr. J.T. O'Connor		
	Mr. G.B. Sheen		
	Mr. H. Bates		

The Attorney-General first discussed the case of a man who had concealed a number of pornographic publications by strapping them to his legs in an attempt to import them into Australia. The publications were seized in accordance with arrangements made between the Secretary of the Attorney-General's Department and the Comptroller-General of Customs on the treatment of imported pornography.

2. Two issues were raised - first, was the act of concealment an offence and, if not, should the law be amended to make it an offence; second, did the publications in fact come within the scope of Regulation 4A of the Customs (Prohibited Imports) Regulations and if so, why?

3. The first issue was purely a Customs matter. The second involved future policy on censorship and action to be taken by Customs in accordance with the policy.

4. The Attorney-General restated the Government's policy on censorship stressing again that the freedom of people to read, hear and see what they wish in public and in private was to be balanced by the freedom of persons, and those in their care, from unsolicited material offensive to them. In this context he said that he would not intervene to stop a current prosecution in Alice Springs because the charges were based on the display of material.

Where?
department

5. The Attorney-General had with him a copy of the recently completed paper on censorship policy (copy attached); as he had not yet studied it fully he was given a resume of the proposals. He agreed that the legislation in the ACT and NT and other areas of Commonwealth responsibility (e.g. airports) controlling the sale and display of publications should be amended in accordance with the policy before any action was taken to repeal Regulation 4A of the Customs (Prohibited Imports) Regulations. He said that appropriate legislation for the Territories and other areas should now be prepared and also that discussions should be held with HMG's Department on the strengthening of laws dealing with the transmission through the mails of unsolicited material likely to be offensive to some people.

6. The Attorney-General agreed that until changes in legislation were completed, in particular the repeal of Regulation 4A, it would be necessary to compromise in the

Document U 11/5

implementation of policy in order to meet the requirements of the current law. Customs will therefore seize privately-imported pornography:-

- . if it comes to notice because a passenger blatantly but unsuccessfully attempts to conceal it;
- . if it is deliberately brought to the attention of examining officers;
- . if it clearly comes to notice in the course of examination for other Customs purposes of parcels post;
- . if imported by first class mail the material is known before examination to be unsolicited.

7. There will be no prosecutions for the importation of pornography or other currently prohibited publications, but if publications are seized (and occasions are expected to be few) the importer will be told clearly of his rights under Sections 205/207 of the Customs Act. If the importer questions the implementation of the Government's censorship policy he must be told frankly that full implementation must await changes in the law.

8. In the course of discussion on the legislative changes, the Attorney-General's attention was drawn to the proposal for Commonwealth/State meetings - both Officials' and Ministers'. He seemed receptive to the idea, but did not give a decision; the minute containing argument for the meetings had not yet reached him.

9. The Attorney-General made an interesting and possibly highly significant comment on television censorship. When it was pointed out that the Minister for the Media was the responsible Minister the Attorney-General said that he thought that he was responsible for all censorship.

[Redacted]

[Redacted]

[Redacted] . Somerville,
 stant Secretary

14/6/73

MEMORANDUM

TO: S. CHARLES
M. WEINBERG
A. PHELAN
P. SHARP
F. THOMSON
A. PHELAN

FROM: A. ROBERTSON

RE: ALLEGED DIRECTION TO CUSTOM OFFICERS BY MURPHY J. AS
MINISTER FOR CUSTOMS AND EXCISE AND ATTORNEY-GENERAL

On file number C7 there are two allegations going to the same conduct of the Judge when he was Attorney-General and Minister for Customs and Excise.

One allegation is from Mrs Cains who is a member of the House of Assembly of the Australian Capital Territory. She expresses her allegation to be whether Mr Justice Murphy issued a direction that the law of the land was to be ignored. The law of the land in question is regulation 4A of the Customs (Prohibited Imports) Regulations as they stood until amended on 1 February 1984.

The second allegation is from a Mr B.A. Peachey. It is that Murphy J:

- (a) caused and authorised a Ministerial direction to be made to the Department of Customs and Excise that its officers should not enforce the provisions of Regulation 4A in relation to the importation of pornography in full knowledge that officers of the department were being instructed not to enforce statutory regulations;
- (b) that the Ministerial direction was contrary to the Minister's duty and oath as a Minister of the Crown to uphold the law of the Commonwealth.

Mr Peachey annexes a number of documents to his statutory declaration chief amongst which is a memorandum from a Mr Sheen for the then Comptroller-General of the then Department of Customs and Excise to each of the Collectors. That memorandum set out the Government's announced policy in relation to censorship and then refers to proposed amendments to regulation 4A. The memorandum goes on to say:

"for the time being at least Customs resources engaged in screening imported goods should be primarily concerned with the detection of prohibited imports other than material which offends Regulation 4A. However, Customs will continue to sieze privately imported pornography: -

- . if it comes to notice because a passenger blatantly but unsuccessfully attempts to conceal it;
- . if it is deliberately brought to the attention of an officer;
- . if it comes to notice in the course of examination for other Customs purposes; and
- . if imported by first class mail, the material is known before examination to be unsolicited.

For the time being there are to be no prosecutions under the Customs Act for offences involving pornography."

At the relevant time regulation 4A read as follows:

4A(1) this regulation applies to goods that, whether of their own nature or having regard to any literary or other work or matter that is embodied, recorded or reproduced in, or can be reproduced from, the goods -

- (a) are blasphemous, indecent or obscene; or
- (b) unduly emphasise matters of sex, horror, violence or crime, or are likely to encourage depravity,

and to advertising matter relating to such goods.

- (2) The importation of goods to which this regulation applies is prohibited unless a permission, in writing, to import the goods has, after the Attorney-General has obtained a report from the person or persons for the time being authorised by the Attorney-General to give such a report for the purposes of this regulation, been granted by the Attorney-General.

It appears that the application of regulation 4A by the officers of Department of Customs was in accordance with instructions issued nationally (i.e. the Comptroller-General's memorandum) following a Ministerial direction in 1973. It also appears that the Ministerial direction emanated from a meeting between the then Senator Murphy and senior officials from his departments, the Attorney-Generals Department and the Department of Customs and Excise. Enquiries are being made so as to obtain a copy of the note of that meeting. A request has also been made for any submissions which directly preceded the meeting in the first half of 1973 and any instructions which directly followed it. Inquiries are being made both with the Attorney-Generals Department and the Australian Customs Service.

In the meantime, the following observations may be made.

First, it cannot be said that the importation of goods falling within the regulation 4A(1) were all subject to a permission. No permissions appear to have been either asked for or given in terms of sub-regulation 4A(2). It does appear that the direction given was a direction to allow the importation of prohibited imports falling within regulation 4A(1).

Secondly, one may assume that this direction was given in anticipation of an amendment to the regulations.

Thirdly, although the direction was subject to some modification by memoranda dated 5 April 1977 and 3 May 1980, the basic policy of non-enforcement of regulation 4A was continued by various Ministers until the regulations were amended on 1 February 1984.

Fourthly, it is not accurate to say as Mrs Cains does in paragraph 3 of her letter that "as the Mahoney report made in 1983 found, it was quite improper for the direction to have continued in force without action being taken to introduce validating legislation". What Mr Mahoney in fact said at paragraph 5.75 of his report was:

"in my view it is quite improper that the responsibility placed on Customs Officers by the direction should continue. I recommend that the conflict between regulation 4A and the Customs direction be resolved without delay."

These allegations may be analysed further when material from the Attorney-General's Department and the Australian Customs Service is obtained. At that stage, if then considered desirable, it should be possible to formulate a specific allegation in terms either of the Crimes Act or of common law offences relating to misconduct in public office.

On present information the most that could be said about Murphy J. is that, assuming a relationship between him and Saffron and assuming that at that time Saffron had an interest, known to Murphy J. in importing pornographic material, his motive in directing that the regulation not be enforced was improper.

A. ROBERTSON
3/7/86
Doc. 0018M

linkless -> file

PRIVATE AND CONFIDENTIAL

Dr David Charles
Secretary
Department of Industry, Technology and Commerce
Edmund Barton Building
Kings Avenue
BARTON A.C.T. 2600

Dear Dr Charles,

Re: Mr. Justice L. K. Murphy

I refer to my letter of 13 June 1986 addressed to Mr. T. P. Hayes (copy attached).

I advise that the Commission has received a submission which inter alia claims that "on or about May 1973 the Honourable Lionel Keith Murphy did cause and authorize a ministerial direction to be made to the Department of Customs and Excise that its officers should not enforce the provisions of regulation 4A of the Customs (Prohibited Imports) Regulations in relation to the importation of pornography".

In this regard I enclose herewith a copy of a note by R. J. Carnody (then First Assistant Secretary Compliance) to Senator Evans dated 29 March 1984 in response to a parliamentary question. This note refers to the "ministerial direction in 1973" being a note of a meeting between Senator Murphy, who was then Attorney-General and Minister for Customs and Excise and senior officials of both Departments.

I would appreciate it if a copy of the note of meeting referred to above and any submissions made by the Department to Senator Murphy (as he then was) prior to the said meeting and any other relevant documents (including the "additional instructions" mentioned in the penultimate paragraph of the attached copy note) could be forwarded to the Commission as soon as possible.

Note

In a Hall of Ind. Tech. Comm.
re: say that the papers
concerned are with Comptroller General
of Licences. She will pass this request
to him with a note letting him know
she has 'insist' on. J.T. 2/17

I am writing to you on the assumption that the relevant papers are under your control as Secretary of the Department of Industry, Technology and Commerce. You might please let me know if this assumption is wrong and this letter should be directed elsewhere.

Yours sincerely

A solid black rectangular redaction box covering the signature of J. F. Thomson.

J. F. Thomson
Secretary

3 July 1986

CONFIDENTIAL

Mr P Brazil
Secretary
Attorney-General's Department
Robert Garran Offices
BARTON A.C.T. 2600

Dear Mr Brazil,


Re: Mr Justice L. K. Murphy

I refer to a telephone discussion on 30 June 1986 relating to a "ministerial direction in 1973" concerning Regulation 4A of the Customs (Prohibited Imports) Regulations.

In this regard I enclose herewith copy of note by E. J. Carmody (then First Assistant Secretary Compliance) to Senator Evans dated 29 March 1984 in response to a parliamentary question. This note refers to the "ministerial direction in 1973" being a note of a meeting between Senator Murphy, who was then Attorney-General and Minister for Customs and Excise and senior officials of both Departments.

I would appreciate it if a copy of the note of meeting referred to above and any submissions made by the Department to the Attorney prior to the said meeting and any other relevant documents could be forwarded to the Commission as soon as possible.

Yours faithfully



D Durack
Instructing Solicitor

2 July 1986

Extract from Weinberg/Phelan Memorandum
dated 3 July 1986 (full copy on File C51

ALLEGATION NO. 37 - INSTRUCTIONS TO CUSTOMS OFFICERS
RE. PORNOGRAPHY

We have been told that a decision was taken by the Judge when Attorney-General to instruct customs officers to decline to enforce the law pertaining to the importation of pornographic material. If the Judge did do this whilst Attorney General, he might be guilty of the misdemeanor of misconduct by an executive or administrative official of the Crown. This Common Law offence is set out at paragraph 21 - 205 of Archbold. There it is suggested that wilful neglect to perform a duty which an executive official of the Crown is bound to perform constitutes a Common Law Misdemeanor. We should obtain Customs files which might support the suggestion that such a direction was given by the Attorney General. There may also be documentation in the Attorney-General's Department relating to this matter. The Customs Officers Association might also have some record of any such directive if it had been issued. It appears that the Family Team have obtained certain documents by FOI. These should be examined, and the members of that Team spoken to.



Australian Capital Territory
House of Assembly

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

Dear Sir

In preparing a submission to the Joint Select Committee on Video Material, it was found that on 15 June 1973 the Department of Customs and Excise issued a memorandum purporting to instruct Customs officers to ignore pornography unless they could not avoid doing so, as in cases where a passenger "blatantly" attempted to conceal such material. The circular added, "For the time being there are to be no prosecutions under the Customs Act for offences involving pornography".


The Family Team was unable to ascertain the level at which this direction was taken. However, in view of the gravity of the direction and the circular's reference to Government policy, it appears that the decision would have had at least the concurrence of the responsible Minister. This was Senator L Murphy (as he then was), who was at the time both Attorney-General and Minister for Customs and Excise.

No action was taken to amend the Customs legislation so as to give Parliamentary sanction to the change in administrative practice. As the Mahoney Report (made in 1983) found, it was quite improper for the direction to have continued in force without action being taken to introduce validating legislation.

I submit that the Commission should establish whether Mr Justice Murphy was personally responsible for issuing a direction that the law of the land was to be ignored and, if this was the case, should consider whether this constituted misbehaviour and a ground for removal from the High Court.

If called upon, I would be pleased to assist the Commission in this matter.

Yours sincerely


(Mrs) Bev Cains MHA
Leader of the Family Team

19 June 1986

✓
✓2. In Charles
his box - for adm. please
2 Bill - new file C7(?)
" Pornography - Alleged
Direction to Customs Officers
- ACT House of Assembly
(Mrs B. Cains) "

PARLIAMENTARY COMMISSION OF INQUIRY

GPO Box 5218
SYDNEY NSW 2001

Ph : (02) 232 4922

20 June 1986

Mr B A Peachey
[REDACTED]

Dear Mr Peachey,

I acknowledge receipt of your letter of 18 June 1986 and the statutory declaration that accompanied it.

Yours sincerely,

J F Thomson
Secretary

RECEIVED 20 JUN 1986

18th June, 1986

The Secretary,
Parliamentary Commission of Enquiry,
8th Floor A.D.C. House,
99 Elizabeth Street,
Sydney. N.S.W. 2000.

Dear Sir,

Please accept my Statutory Declaration and evidence enclosed and place it before the Commission.

All evidence was obtained through the Freedom of Information Act.

Yours faithfully,

B.A. Peachey.

✓ in Charles
2 file

Encl:

STATUTORY DECLARATION

I, BRIAN AIDEN PEACHEY of [REDACTED] in the State of Western Australia, Company Director, do solemnly and sincerely declare that:

1. I make this Declaration in support of my submission to the Parliamentary Commission of Enquiry pursuant to the Parliamentary Commission of Enquiry Act 1986.
2. My submission relates to the conduct of the Honourable Lionel Keith Murphy in his capacity as Attorney General and Minister for Customs and Excise in 1973.
3. I say that on or about May 1973 the Honourable Lionel Keith Murphy did cause and authorise a ministerial direction to be made to the Department of Customs and Excise that its' officers should not enforce the provisions of regulation 4A of the Customs (Prohibited Imports) Regulations in relation to the importation of pornography.
4. I say that the ministerial direction was made by the Honourable Lionel Keith Murphy:
 - (a) In full knowledge that officers of the Department of Customs and Excise were being instructed not to enforce statutory regulations;
 - (b) Contrary to the Honourable Lionel Keith Murphy's duty and oath as a Minister of the Crown to uphold the land of the Commonwealth.
5. I exhibit hereto true copies of documents relevant to my submission and marked appropriately:
 - 'a' Mahoney report 1983.
 - 'b' Memo to Attorney General (Mr. Evans) 19th March, 1984. Letter attached 15th June, 1973.
 - 'c' Minute paper dated 31st May, 1983.
 - 'd' Memo to Attorney General from J.M. Button undated.
 - 'e' re. Administrative Directions undated.
 - 'f' Sundry items related concern of Customs Officers.

and I make this declaration by virtue of Section 106 of the Evidence Act 1906.

Declared this *19th*)
day of *June* . 1986)
Before me:)

A.

(44)

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ATTACHMENT "A"

MAHONY REPORT 1983

CUSTOMS (PROHIBITED IMPORTS) REGULATIONS: REGULATION 4A

5.56 The Attorney-General has administrative responsibility for this regulation which provides:

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"4A. (1) This regulation applies to goods that, whether of their own nature or having regard to any literary or other work or matter that is embodied, recorded or reproduced in, or can be reproduced from, the goods -

- (a) are blasphemous, indecent or obscene; or
- (b) unduly emphasize matters of sex, horror, violence or crime, or are likely to encourage depravity,

and to advertising matter related to such goods.

(2) The importation of goods to which this regulation applies is prohibited unless a permission, in writing, to import the goods has, after the Attorney-General has obtained a report from the person or persons for the time being authorized by the Attorney-General to give such a report for the purposes of this regulation, been granted by the Attorney-General.

(2A) The Attorney-General may, by writing under his hand, after consultation with the Ministers of State of the States with responsibility for censorship, authorize a person or persons to give reports for the purposes of this regulation.

(3) A permission under this regulation shall be subject to such conditions imposing requirements or prohibitions on the person to whom the permission is granted with respect to the custody, use, reproduction, disposal or destruction of the goods, or with respect to accounting for the goods, as the Attorney-General thinks necessary to ensure that the goods are not used otherwise than for the purpose for which he grants the permission."

5.57 On 15 June 1973, the Department of Customs and Excise issued a memorandum which set out the policy and procedures to be followed in relation to the operation of regulation 4A.

"LITERATURE CENSORSHIP -

The operation of the arrangements contained in memorandum of 21/3/73 and previous memoranda have been reviewed in consultation with officers of the Attorney-General's Department. This review has been undertaken having particular regard to the practical experience gained in implementing the Government's announced policy in relation to censorship, viz;

- it shall be a person's right to be free to read or view whatever he may wish, and
- persons (and those in their care) be not exposed to unsolicited material offensive to them.

It is visualised that the Government's policy will eventually be implemented by controls at the point of sale and display. These controls will probably be complemented by strengthened legislation in

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relation to matter which may be despatched through the post. In short the Customs role in censorship matters will, in the future, progressively diminish.

However, until such time as the necessary legislation has been introduced which will enable the policy to be implemented along the lines mentioned above, there remains a need to retain Regulation 4A of the Customs (Prohibited Imports) Regulations in order that the second component of the policy can be given legal effect.

For the time being at least, Customs resources engaged in screening imported goods should be primarily concerned with the detection of prohibited imports other than material which offends Regulation 4A. However, Customs will continue to seize privately imported pornography:-

- . if it comes to notice because a passenger blatantly but unsuccessfully attempts to conceal it;
- . if it is deliberately brought to the attention of an officer;
- . if it comes to notice in the course of examination for other Customs purposes; and
- . if imported by first class mail, the material is known before examination to be unsolicited.

For the time being there are to be no prosecutions under the Customs Act for offences involving pornography.

Where seizures are made the importer is to be acquainted with the provisions of Sections 205/7 of the Customs Act.

Where, because of a seizure, an importer questions the implementation of the Government's censorship policy he is to be informed -

- . the full implementation of that policy must await changes in legislation, and
- . while the Regulation 4A provisions exist they cannot be ignored by officers of this Department."

5.58 Successive responsible Ministers since 1973 have agreed that their Government's policy was that it was an individual's right to be free to read or view whatever he might wish provided that other individuals were not exposed to unsolicited material offensive to them.

5.59 As to the manner in which regulation 4A is applied at present, the Collector said:

"The general approach that Customs officers have worked on is based on instructions we have received that it is the Government's intention that people should be able to read, see and hear as they wish and if an individual coming through the airport had in his possession a small

quantity of goods that may be subject to the provisions of that regulation the likelihood would be that those goods would not be detained from that person.

If, on the other hand, a person came in with substantial quantities of goods that we believed may be subject to the provisions of regulation 4A the practice should be that those goods would be referred to the censorship office for determination as to their classification under regulation 4A provisions."

5.60 Submissions were received from the Chief Censor, Film Censorship Board and from the Australian Festival of Light and Community Standards Organisation (Queensland). The ACOA and the COA commented on the operation of this regulation. Mr A. Watson, Honorary Secretary of the Council for Civil Liberties in NSW made an oral submission.

5.61 The Chief Censor was critical of standards of Customs control procedures relating to importations of films and videotapes and their movement and storage prior to either registration or rejection by the Board established under the Customs (Cinematograph Films) Regulations.

5.62 Regulations 11 and 12 of those regulations prohibit the delivery of films from Customs control until registered or, in the case of related advertising matter, passed by the Board. Regulation 13 provides that films shall not be registered if they are:

- (a) blasphemous, indecent or obscene;
- (b) likely to be injurious to morality or to encourage or incite to crime;
- (c) likely to be offensive to the people of a friendly nation or to the people of a part of the Queen's dominions; or
- (d) depict any matter, the exhibition of which is undesirable in the public interest.

5.63 The Chief Censor stressed the need for all films and videotapes, regardless of quantity to remain under Customs control until censorship formalities have been completed. It was stated that movement of these goods on continuing permission under section 40AA inhibited desirable levels of Customs checks and eroded controls generally. There was a perceived need to improve Customs supervision of these transactions to ensure that goods are not released by Customs prior to registration by the Film Censorship Board.

5.64 In his response, the Collector stated:

- (a) current section 40AA arrangements for delivery of films and videotapes for commercial purposes were introduced in 1975 following a practice which relies on obligations placed on an importer who avails himself of concessions granted under the provisions of the Act in relation to storage and control of goods;
- (b) there were only two incidents in recent years referred to Customs by the Film Censor's Office which suggested breaches of screening;

- (c) for this reason and because the goods were generally free of duty, follow-up of these controls attracted a low Customs priority;
- (d) the control procedures were introduced in 1975 in consultation with the Chief Censor's Office; and
- (e) general censorship policy and controls are presently under review by Customs Central Office and the Attorney-General's Department.

5.65 Submissions from the Australian Festival of Light and Community Standards Organisation (Queensland) drew comparison between regulation 4A which the organisation described as "clear and precise" and the current policies of non-enforcement of these provisions by Customs. The submissions sought from this Review a recommendation that regulation 4A as it applies to prohibition of importation of indecent or obscene goods be again enforced using the definitions of "indecent" and "obscene" in the decision of the High Court in *Crowe v. Graham and Others* (41 A.L.J.R. 408).

5.66 In response, the Collector stated that:

- (a) Customs application of regulation 4A is in accordance with instructions issued nationally following a Ministerial direction in 1973 that resources engaged in screening imported goods should be primarily concerned with the detention of prohibited goods other than material subject to regulation 4A;
- (b) conflict between legislation and departmental instructions was highlighted in a report by a Task Force enquiry into allegations about the Customs Service in New South Wales in March 1981; and
- (c) discussions between the Attorney-General's Department and Customs Central Office are in progress with a view to putting to Government, options for legislative and/or procedural amendments in relation to regulation 4A.

5.67 I have concluded that I should not make the recommendation sought by this organisation on the grounds that the regulation applies nationally whereas the Review is concerned primarily with Customs administration and procedures in N.S.W., and that the subject matter of the regulation is for Government to determine.

5.68 The ACOA submitted:

- (a) if the application of regulation 4A is to be changed, the legislation should be amended to give effect to that change;
- (b) if there is to be a direction about how a law is to be applied, the direction should be a matter of public record so that the public understands that there has been a direction.

5.69 The COA which was critical of the administration of regulation 4A, made a number of submissions including:

- (a) "... the law of the land, as enacted by Parliament, is ignored by bureaucrats on the grounds that pornography is too hot for governments to handle. Customs officers are forced to contend with this spurious situation, despite the findings of the Task Force and undertakings that the conflict between the law and government policy would be resolved. Huge profits made by persons trading in pornography are used to finance smuggling of drugs."
- (b) "... there are issues for instance on the regulation 4A material which are not clear and, if we are going to vigorously pursue Customs regulations, breaches of them, I think the exceptions need to be identified."
- (c) "... nor does there seem to be anything done about people who have child pornography in their possession, if it is a small quantity. I think it is suggested ... that we currently have a practice that we are using and quite honestly there is no practice that we really are aware of that is being used consistently."

3.70 The COA submitted further that officers are not clearly directed that they will not be pursuing matters of pornography and that if an officer had an hour to spare a short jaunt around Sydney would disclose plenty of opportunities for him to investigate illegal importations of pornography.

3.71 The COA expressed disappointment that the Chief Film Censor did not appear at a public hearing so that the COA could raise issues.

3.72 Mr Watson of the Council for Civil Liberties submitted:

- (a) the Council supported the view that there should not be a conflict between regulation 4A and a direction that it should not be enforced in the case of material for personal consumption;
- (b) the conflict should be resolved clearly in favour of the status quo practice rather than in favour of enforcing the existing regulation;
- (c) if regulation 4A is to stand rather than the existing practice, the regulation is not efficient, and it cannot be impartially applied;
- (d) Customs officers were not appropriate for the job of making decisions whether material, which may offend against the regulation, should be seized;
- (e) the initial decision to seize goods under regulation 4A was highly subjective and basically partial on the part of particular Customs officers;
- (f) where the law falls outside the line of practice and community standards, there is potential for corruption;
- (g) because of difficulties arising out of differing censorship laws of the States and the Commonwealth, the Customs direction tried to make the role of the Customs officer in relation to regulation 4A feasible, practical and rational in line with community standards while refusing to change the regulation. Clearly the gap should be resolved;

- (h) the regulation is unenforceable as it now stands because it is so far outside community expectations and standards and the present practice is unfair to Customs officers; and
- (i) it is inefficient and dangerous for the notion of impartiality to allow the situation to remain in its present form but equally dangerous to revert to the situation that the film censors and others say it should be.

5.73 The Task Force dealt at some length with the problems arising out of regulation 4A and stated:

"The Task Force is of the view that the administrative difficulties caused by the inconsistent policy and treatment of pornography should be remedied by the issue of clear and precise instructions to officers. It is the Task Force's view that the only instruction that could be issued consistently with present legislation is one to the effect that officers should detain any goods coming to their notice which appear to them to fall within the terms of the regulations, for referral to Attorney-General's Department.

Discussions currently are underway between senior officers of BACA and the Attorney-General's Department with a view to resolving these problems."

5.74 The submissions and views mentioned show clearly that neither regulation 4A nor the Customs direction is being administered effectively. The direction places Customs officers in a difficult position in requiring them to apply a regulation only in the manner provided in the direction when they are expected to deal with passengers and goods according to law. The Attorney-General's Department stated in January 1983 that regulation 4A had been the subject of discussion between officers of that Department and the Department of Industry and Commerce and that action is proceeding.

5.75 In my view it is quite improper that the responsibility placed on Customs officers by the direction should continue. I recommend that the conflict between regulation 4A and the Customs direction be resolved without delay.

This is the paper marked A referred to
 in the affidavit/declaration of Brian Aiden PEACHEY
 sworn made before me this 19th day of June



file

Mr Evans

QUESTION TO YOU BY SENATOR HARRADINE - OUR PHONE
CONVERSATION OF 28 MARCH 1984

To the best of my knowledge the document referred to in Paragraph 5.66(a) as a "Ministerial direction in 1973" is a note of a meeting between Senator Murphy, who was then Attorney-General and Minister for Customs and Excise and senior officials of both Departments.

The record deals with the administration of the controls over imported literature, principally those within the scope of Regulation 4A of the Customs (Prohibited Imports) Regulations, in short, blasphemous, indecent or obscene publications.

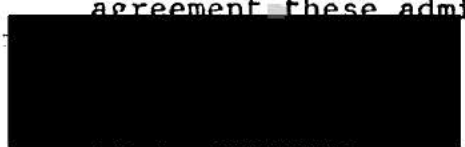
The document records discussions with a Minister of a previous Government and is, I believe, not available to the present Government in terms of convention.

I understand that you advised Senator Harradine that the document was not a public document and that he asked a further question whether it was possible to have a copy of the Central Office direction relating to the administration of these controls.

An instruction of 15 June 1973 which was the major policy and procedural statement, is reproduced in the Mahony Report at pages 100/101. A copy of the memo is attached for you to provide to Senator Harradine.

For your information there have been additional instructions issued by way of Central Office memorandum to the Collectors of Customs in the States amplifying those procedures. These include memos dated 5 April 1977 and 3 May 1980. Copies of these instructions are attached.

On 1 February 1984, Regulation 4A of the Customs (Prohibited Imports) Regulations was amended to give effect to Government policy on censorship and to remove any conflict between the law and Departmental instructions. New administrative instructions (copy attached) were circulated to Collectors on an interim basis pending formal approval by the Minister for Industry and Commerce and the Attorney-General, who are currently considering the document. Following the Ministers' agreement these administrative instructions will be published.



(R.J. CARMODY)
First Assistant Secretary
Compliance

29 March 1984

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CANTERA, A.C.I. 2600
TELEPHONE 73 0414
Reply to "The Comptroller-General"
Quote 09. 73/648

DEPARTMENT OF CUSTOMS & EXCISE

15 June 1973

Collector of Customs,
NEW SOUTH WALES
VICTORIA
QUEENSLAND
SOUTH AUSTRALIA
WESTERN AUSTRALIA
TASMANIA
NORTHERN TERRITORY

LITERATURE CENSORSHIP -

The operation of the arrangements contained in memorandum of 21/3/73 and previous memoranda have been reviewed in consultation with officers of the Attorney-General's Department. This review has been undertaken having particular regard to the practical experience gained in implementing the Government's announced policy in relation to censorship, viz;

- . it shall be a person's right to be free to read or view whatever he may wish, and
- . persons (and those in their care) be not exposed to unsolicited material offensive to them.

It is visualised that the Government's policy will eventually be implemented by controls at the point of sale and display. These controls will probably be complemented by strengthened legislation in relation to matter which may be despatched through the post. In short the Customs role in censorship matters will, in the future, progressively diminish.

However, until such time as the necessary legislation has been introduced which will enable the policy to be implemented along the lines mentioned above, there remains a need to retain Regulation 4A of the Customs (Prohibited Imports) Regulations in order that the second component of the policy can be given legal effect.

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For the time being at least, Customs resources engaged in screening imported goods should be primarily concerned with the detection of prohibited imports other than material which offends Regulation 4A. However, Customs will continue to seize privately imported pornography:-

- . if it comes to notice because a passenger blatantly but unsuccessfully attempts to conceal it;
- . if it is deliberately brought to the attention of an officer;
- . if it comes to notice in the course of examination for other Customs purposes; and
- . if imported by first class mail, the material is known before examination to be unsolicited.

For the time being there are to be no prosecutions under the Customs Act for offences involving pornography.

Where seizures are made the importer is to be acquainted with the provisions of Sections 205/7 of the Customs Act.

Where, because of a seizure, an importer questions the implementation of the Government's censorship policy he is to be informed -

- . the full implementation of that policy must await changes in legislation, and
- . while the Regulation 4A provisions exist they cannot be ignored by officers of this Department.

Please bring to the attention of this office any major difficulties experienced in implementing the arrangements embodied in this and previous memoranda.



(G.E. Sheen)
for Comptroller-General

This is the paper marked ^B referred to
in the affidavit/declaration of *Brian Aiden Peachey*
made before me this 19th day of





MINUTE PAPER

CONFIDENTIAL

11K (ARM) 204
DEP SEC. MR UCHTOMI
1957 mc

MINISTER

C.C. Minister Assisting

For Urgent Information

REPORT ON SUGGESTIONS OF CORRUPTION IN THE CUSTOMS ADMINISTRATION RELATING TO THE IMPORT OF PORNOGRAPHY

- . You called for a report on suggestions made in an interview on the Television Ten program "Good Morning Australia" on 19 May on corruption in the hierarchy of the Customs administration in the handling of imports of pornography. Mr Spanswick, General Secretary of the Customs Officers Association, participated in the interview.

BACKGROUND ON ADMINISTRATION OF PORNOGRAPHY IMPORTS

- . Regulation 4A of the Customs (Prohibited Imports) Regulations, put very simply, prohibits the import of pornography without the approval of the Attorney-General's Department.
- . Since 1973, however, the policy of successive Governments has been based on the principle that it is the basic right of adults to make their own decisions as to what they wish to read, hear and see. Customs operational guidelines reflect this policy.
- . The guidelines specify controls over commercial shipments which may be subject to censorship decisions
 - only limited attention is directed at private importations by passengers or through the parcels post.
- . The Customs Officers Association view is that any importation which might be subject to Regulation 4A should be detained and referred to the Attorney-General's Department for censorship decision. That approach, whilst consistent with the law, is not in accord with Government policy.
- . Since 1973, there has been an expectation that the law relating to pornography would be changed to reflect the policy. The carriage of the necessary changes was with the Attorney-General's Department, which is responsible for censorship. The Task Force (referred to below) highlighted the anomalous situation between the law and the Customs guidelines and discussions were pursued with the Attorney-General's Department. Late last year the previous Government agreed to proposals to amend the law, but the elections intervened.

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- . The matter is still under discussion with the Attorney-General's Department.
- . Mr Mahony, in his report to you recommends that the conflict between Regulation 4A and the Customs guidelines be resolved without delay.

SUGGESTIONS OF CORRUPTION

- . Immediately following the Television Ten interview, the Collector, New South Wales, wrote to Mr Spanswick asking that he provide any details he might have regarding the suggestions of corruption, so that they might be properly investigated.
- . Mr Spanswick has responded to the Collector, New South Wales, (copy attached). That response provides no details of any corruption.

COMPLAINTS ABOUT ADMINISTRATION OF IMPORTS OF PORNOGRAPHY

- . Mr Spanswick, on the television and in his letter, asserted that:
 - (1) In recent days in Sydney officers seized a substantial amount of pornography, including child pornography, which was subsequently returned to the owner;
 - (2) The Department does not and has not fulfilled its obligations to forward all pornography to the Attorney-General's Department for censorship classification.
- . So far as (1) is concerned, there has been no such occurrence in recent times. It is believed Mr Spanswick was referring to an incident in May 1980, when a quantity of pornography, including child pornography, was inadvertently returned to its owner.
- . This incident was investigated by a Task Force set up by the then Minister for Business and Consumer Affairs. The Task Force recommended that the policy relating to the import of pornography be clarified; certain management practices in New South Wales be reviewed; and that a Customs officer be moved to a non-operational area.
- . The first recommendation was taken up with the Attorney-General's Department (see above); the management supervision and operational direction of a particular area in the New South Wales Collectorate were tightened; but as no misconduct was proven against the officer involved, the recommended move was not made.
- . As regards (2), all Collectors of Customs with the exception of Victoria have confirmed that they are operating in accordance with the departmental guidelines for handling importations of pornographic material.

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- There has been a misunderstanding of the guidelines in Victoria in respect of the treatment of single copies of pornographic material imported by private individuals by mail. This has been corrected.

CONCLUSIONS

- (1) No evidence has come forward of corruption within the Australian Customs Service in relation to the import of pornographic material.
- (2) There has been no recent incident in Sydney of seized pornography being returned to the owner, as claimed by Mr Spanswick. The reference is believed to be to a 1980 occurrence which was investigated by a Task Force.
- (3) There continues to be a need to bring the present law relating to the import of pornography into conformity with Government policy and the administration of that policy.

RECOMMENDATIONS

We recommend that:

- (1) You write to the Attorney-General stressing the importance of bringing the law and its administration into conformity. Mr Mahony's recommendation to you on this matter is relevant. A suggested letter to the Attorney-General is attached for your consideration.
- (2) No public statement is necessary on the outcome of the inquiry you directed be undertaken: rather that you draw on the attached points in response to any questions posed in the Parliament or by the media.

- I would like the opportunity to discuss this matter with you at your convenience.



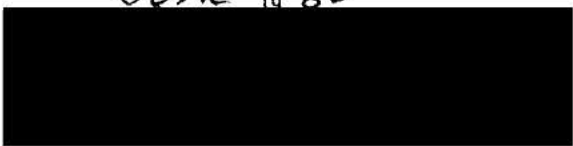
(M.D. Lightowler)
Deputy Secretary

31 May 1983

This is the paper marked E referred to
in the affidavit/declaration of BRYAN AIDEN PEACHRY
sworn/made before me this 19th day of
June 19 86

Noted and agreed
1/6/83
I do not feel the need for a
discussion unless you feel
a compelling need. Tho think is
clear and explicit.

CONFIDENTIAL



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CC

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CONFIDENTIAL

My dear Attorney-General,

The administration of Commonwealth censorship controls in respect of imported pornographic material has created a difficulty for the Australian Customs Service in recent years. This difficulty has arisen because of the dichotomy between the legal requirements of Customs legislation and the operating instructions issued to Customs officers, which are designed to reflect the censorship policy of successive Governments since 1973.

The matter has been addressed in the Review of Customs Administration and Procedures in New South Wales. The Review Report has not yet been made public, but does recommend in relation to censorship that the conflict between Regulation 4A of the Customs (Prohibited Imports) Regulations and Customs procedures be resolved without delay.

The situation has come into a high public profile from time to time as a result of public statements by union officials, State parliamentarians and lobby groups. Such statements have lead to considerable media interest. The recent statement by Mr F. Spanawick, General Secretary of the Customs Officers Association of Australia, on the Television Ten program "Good Morning Australia" is a case in point. There is no reason to expect that similar situations will not arise again in the future with the attendant criticism of the Government.

Officers of our Departments have been discussing for some time proposals to amend relevant Customs and other legislation to remove these anomalies. I am writing to seek your co-operation in according a high priority to the drafting and promulgation of this new legislation.

With kindest regards,

Yours sincerely,

This is the paper marked "D" referred to in the affidavit/declaration of Bryan Aiden PEACH sworn/made before me this 19th day of JUNE 1986

(John H. Button)

Senator the Hon Gareth Evans,
Attorney-General,
Parliament House,
CANBERRA ACT 2600



AS(BP) for file

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F.D. A.W. Lachka *10/10/73* *180*
1/1/74 *1/1/74* *1/1/74* *1/1/74* *1/1/74*

The Administrative Directions on procedures of treatment imported pornographic material as set out in C.O. Memo C73/648 5.4.77 are oriented to child pronography.

However, this directive must be read in conjunction with that issued on 15.6.73, which, inter alia, indicated that the detection of pornography was to be accorded low priority in comparison with resources deployed to detect other prohibited material. This is pertinent in that additional resources have not been allocated in an attempt to intercept all importations of child pornography.

Notwithstanding there is a general awareness, given current priorities and resources, that where possible the question of child pornography is given the emphasis requested in the memo of 5.4.77. In particular, where any importations of child pornography come to notice they are not released without reference to the A.G.'s Department.

Insofar as the specific directives contained in the later memo are concerned there is some deviation, viz :-

- (a) Commercial imports of publications by parties to the undertaking system :

Invoices are screened by Parcels Post

Staff who have for reference an updated list of prohibitions furnished by A.G.'s.

Doubtful material is referred to A.G.'s,

for decision. The invoices are not referred to A.G.'s consistent with historical rejection of this arrangement by the latter Department.

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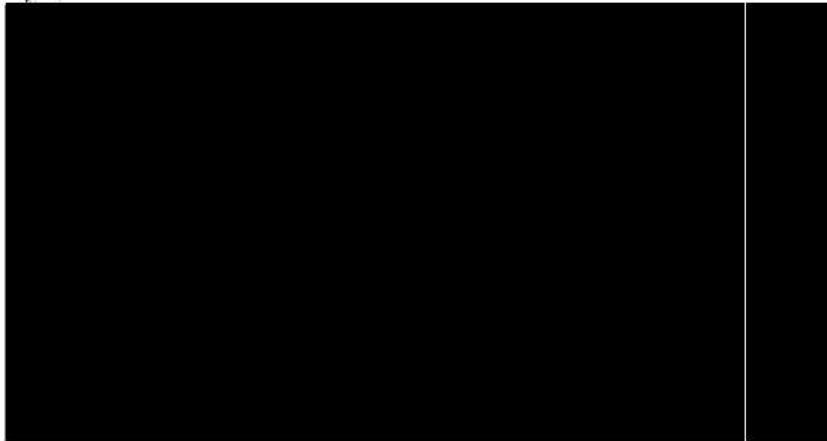
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(b) Other commercial imports of publications:

At Parcels Post these are carded and addressees requested to attend for examination. Doubtful material is similarly referred to A.G.'s Department.

The remaining instructions contained in memo of 5.4.77 are being followed.

Reverting to 1973 memo current, practice at Parcels Post in respect of single item private importations (other than child pornography) which are listed as prohibited on A.G.'s list are being delivered. This practice is contrary to direction and indeed the provisions fo Reg. 4A. The practice will be stopped immediately.



This is the paper marked 'E' referred to in the ~~official~~ declaration of Brian Aiden PEACHEY made before me this 19th day of JUNE 1986



Officers Association of Australia

(Fourth Division)
FEDERAL COUNCIL

to be addressed
Secretary



XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
G.P.O. BOX 4787,
SYDNEY. 2001.
19.5.83.

The Collector of Customs,
New South Wales,
Department of Industry and Commerce,
G.P.O. Box 8,
SYDNEY. 2001.

Dear Sir,

I refer to your letter of this day concerning a Channel 10 television programme "Good Morning Australia" on which I appeared.

You would undoubtedly be aware that "pornography" is allowed into Australia contrary to the Customs Act.

The particular event in question is not of very recent days, but, it is recent enough to warrant concern and there has been no change of written policy between that event and the present day.

We understand the old policy which was enforced when the incident occurred has not been changed since the event. Under these circumstances, it is apparent that if the same circumstances occurred on this day, the same result would ensue.

The Association does not believe that the fault of this policy lies only with our Department. Government has been aware of the difficulty and could have assisted before this time.

However, the Department does not and has not fulfilled it's obligations to forward all goods in this class of imports to the respective authority as is required by the Legislation.

I feel sure our Department would be happy to support my Association in a call for a formal external enquiry which could draw home the anomalies between the Legislation and the practice.

There is sufficient information from other sources such as the "Costigan Report" which gives rise to the belief that "pornography" is part of syndicated crime. Current Departmental practice appears to support opportunities for criminals to promote their enterprise and the social consequences that follow.

Rather than pursue yet another single instance of wrong doing, we suggest the proper way to handle this matter is through a formal enquiry mentioned above or in due course, through a National Crime Commission.

Yours faithfully,

[Redacted signature block]

R.G. Spenswick,
General Secretary.



MINUTE PAPER

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54 MR CARMODY
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DEP SEC. MR UCHTOMLI
~~1357~~ ml

MINISTER

C.C. Minister Assisting

For Urgent Information

REPORT ON SUGGESTIONS OF CORRUPTION IN THE CUSTOMS ADMINISTRATION
RELATING TO THE IMPORT OF PORNOGRAPHY

- . You called for a report on suggestions made in an interview on the Television Ten program "Good Morning Australia" on 19 May on corruption in the hierarchy of the Customs administration in the handling of imports of pornography. Mr Spanswick, General Secretary of the Customs Officers Association, participated in the interview.

BACKGROUND ON ADMINISTRATION OF PORNOGRAPHY IMPORTS

- . Regulation 4A of the Customs (Prohibited Imports) Regulations, put very simply, prohibits the import of pornography without the approval of the Attorney-General's Department.
- . Since 1973, however, the policy of successive Governments has been based on the principle that it is the basic right of adults to make their own decisions as to what they wish to read, hear and see. Customs operational guidelines reflect this policy.
- . The guidelines specify controls over commercial shipments which may be subject to censorship decisions
 - only limited attention is directed at private importations by passengers or through the parcels post.
- . The Customs Officers Association view is that any importation which might be subject to Regulation 4A should be detained and referred to the Attorney-General's Department for censorship decision. That approach, whilst consistent with the law, is not in accord with Government policy.
- . Since 1973, there has been an expectation that the law relating to pornography would be changed to reflect the policy. The carriage of the necessary changes was with the Attorney-General's Department, which is responsible for censorship. The Task Force (referred to below) highlighted the anomalous situation between the law and the Customs guidelines and discussions were pursued with the Attorney-General's Department. Late last year the previous Government agreed to proposals to amend the law, but the elections intervened.

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- . The matter is still under discussion with the Attorney-General's Department.
- . Mr Mahony, in his report to you recommends that the conflict between Regulation 4A and the Customs guidelines be resolved without delay.

SUGGESTIONS OF CORRUPTION

- . Immediately following the Television Ten interview, the Collector, New South Wales, wrote to Mr Spanswick asking that he provide any details he might have regarding the suggestions of corruption, so that they might be properly investigated.
- . Mr Spanswick has responded to the Collector, New South Wales, (copy attached). That response provides no details of any corruption.

COMPLAINTS ABOUT ADMINISTRATION OF IMPORTS OF PORNOGRAPHY

- . Mr Spanswick, on the television and in his letter, asserted that:
 - (1) In recent days in Sydney officers seized a substantial amount of pornography, including child pornography, which was subsequently returned to the owner;
 - (2) The Department does not and has not fulfilled its obligations to forward all pornography to the Attorney-General's Department for censorship classification.
- . So far as (1) is concerned, there has been no such occurrence in recent times. It is believed Mr Spanswick was referring to an incident in May 1980, when a quantity of pornography, including child pornography, was inadvertently returned to its owner.
- . This incident was investigated by a Task Force set up by the then Minister for Business and Consumer Affairs. The Task Force recommended that the policy relating to the import of pornography be clarified; certain management practices in New South Wales be reviewed; and that a Customs officer be moved to a non-operational area.
- . The first recommendation was taken up with the Attorney-General's Department (see above); the management supervision and operational direction of a particular area in the New South Wales Collectorate were tightened; but as no misconduct was proven against the officer involved, the recommended move was not made.
- . As regards (2), all Collectors of Customs with the exception of Victoria have confirmed that they are operating in accordance with the departmental guidelines for handling importations of pornographic material.



MINUTE PAPER

Gas Compliance

Spal

Deputy Secretary
(Mr R. Carmody)

DISCUSSION WITH R.G. SPANSWICK OF COA

In the course of a telephone conversation on 19 January, Mr Spanswick referred to proposed changes to legislation governing pornography and new departmental guidelines which his Association is currently examining.

Spanswick said that the Daily Telegraph had contacted him at 3 pm that day regarding an article on pornography that the newspaper was proposing to publish in next Sunday's edition. Spanswick said that the article was "not his responsibility" and that he had been asked by a reporter whether past quotes by Spanswick regarding pornography were still relevant. I gather this relates to an alleged lack of definitive procedures in Customs (in Spanswick's view) covering the examination, detection and referral of pornographic material. Spanswick apparently told the reporter that "nothing except the legislation had changed and therefore his quotes about inadequate procedures were still valid".

*In see
your report
please refer
to with H.S.*

Spanswick went on to say that two container loads of hard core pornography had been released in Sydney this week (owner of one is allegedly Gordon & Gotch) and "six more shiploads are on the way from Rotterdam and San Francisco to take advantage of the 1 February change to the legislation".

I reiterated that Spanswick had been asked formally to comment on the proposed departmental procedures (by A.S. Barrier Policy) and that that was a proper forum to air his views. He said that his views might be different to those of his members and that responses from his State Branches were coming in very slowly and would be forwarded in due course - hopefully before 31 January.

For information. Spanswick said the press might be seeking Departmental comment.

*What is the position re
implementation date (b)*

[Redacted]
[Redacted]
(G.W. Mann)
Assistant Director

20 January 1984

*Checked with N.S. W
The knowledge of any recent impositions of
pornography. (The Australian SAC (barrie))*

J. 20/1

[Signature]

1
SPANSWICK: TALK BACK

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A. G. BARRICK BARRY 133
COPY FOR INFO
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Well the problem is this that some ten years ago the Customs Officers at the workplace were given some administrative direction concerning pornography material and they were directions inter alia - see it, but don't see it, in other words, just let it all pass through. Now that of course was contrary and is still contrary ~~say~~ February 1 to the legislation and the Customs Officers Association for a long time now have been complaining about the implementation of what was suggested as the Government Administrative direction giving the views of the people and that direction was inter alia people ought to be allowed to see and hear what they want.

Yes

Now on the 1st February as I understand it providing it goes through the various houses of the Parliament those administrative directions by a Government of that day will be formalised and things will continue as they have done for the past 10 years. (But the fact is that now more people are aware of the fact that you see it but don't see it.) Well I think those people who count that is organised crime and people who would wish to make money out of our children understood it for a long time and I think those facts which my association has been concerning itself with and has drawn to attention of Customs administration over a number of years in various reviews have come to light and I recall the Marr Report into organised crime in Vic. clearly indicated that our children were being prostituted and used and abused and its been our view for a long time that the administrative arrangements and the directions given to our officers at the work place would significantly if not totally contribute to a market such as been identified in recent days would bring that market into being. Now we have it. What we do with it God only knows except that I feel sorry for those parents and families and group of people who have been associated and experienced the pain as a result of what I contend to be nothing more than disgraceful operation directions to public servants be them Customs officers and a direct conflict and contravention of the people's legislation.

Well does your organisation - association intend to do anything

Well we were asked by the administration on about the 9th January to give some comment about the new laws and the association operational directions that go with them. We were asked to comment by the 16th of this month and I indicated to the management that that wouldn't be possible due to our internal organisation's timetable but we will be making some comment about it but the interesting thing is all that is happening is that new legislation will formalise the previous administrative directions which did cut across and still cut across the people's legislation.

Well what were you knocking back over the past ten years what sought of things were being confiscated.

Well - (Spanswick)

If anything (interviewer)

Well I don't think it would be unfair to say that nothing was. Nothing was being confiscated.

It didn't matter how bad the pornography was it was still allowed to get through on that direction that you were all given.

(interviewer)

When you see something but don't see it it's difficult for anybody be it a Customs officer end of the Attorney-General or the Film Censorship Board to determine what you're looking at. In other words if you are judging a book by its cover and then you're told not to see it in any event.

And that wasn't the law of the land though was it.

It still isn't

It still isn't yet you were given a direction and your officers were given a direction that at times must have been very difficult to complete, very difficult to comply with.

well it was easy to comply with because it didn't take much time at all for the officers to see some thing and not see it and just let it go but I might add.

but you can't tell me that there were officers who would have balked at that or who would have wanted to balk at that.

There were a number of officers who did and that was why the Customs officers association continually made representations to management about it and the more recent representation was made to a review and that review was sparked by the colour television affair you might recall that

Yes I think we talked about that

Yes well during that review it was a review of Customs administration procedures in the state of NSW and was conducted by Mr Frank Mahony MBE and his recommendations in relation to our representations on this particular issue were simple and straight forward that the officers ought to comply with the legislation.

What exactly does the legislation say

Well the legislation

I mean give it to us in a nutshell if you can

In layman's terms it might be better.

Yes.

But inter alia the legislation currently prohibits the importation of any goods that are considered by the film censorship board to be goods that are unduly emphasising matters of sex violence horror crime and any material currently that is thought to be material unduly emphasising sex and if we are talking about pornography that is the issue. Then that material is prohibited by the film censorship board now unfortunately to have any material determined by the board to be out the board has to see it. And to do that we've got to forward it to them and unfortunately for a number

of years almost ten we have been working under administrative direction to see things but not to see it if you don't if you comply with that position nothing goes to the film censorship board and it is interesting to note I might add that during the review of customs administration and procedures in NSW the head of the film censorship board did make representations to Mr Mahony on this issue and express considerable concern about it.

Well who was it that gave you the direction, that you were to see but not to see

Well it was allegedly a government direction by the Minister of the day and I understand it was in 73/74

So it didn't reflect the law of the land it was just one man's decision

Well one or a number but it certainly wasn't a matter that was debated in the people's place, the Parliament and the legislation currently stands which is contrary to the administrative directions which my members and officers have been working under for ten years.

So it certainly wasn't well known that you saw but didn't see how its quite well known, the flood gates open I take it.

Well unfortunately yes I suppose one would make that statement from a position that he might want to take on the issue. But I say unfortunately for a number of reasons and if I could outline to them to you quickly the first one is that in 74 when I first was given the direction that we were talking about I concerned myself with that and went to the Collector of Customs NSW at that time and said look if we are not careful that is to say if we comply with what you are requiring us to comply with we might find ourselves in a position where our children will be prostituted and abused as a result of a market created by your directions, and of course a little while after that a further addition to our directions was handed down and that was Oh see it but don't see it but

If you see child pornography then seize it but unfortunately the first part of the direction doesn't give you a chance to implement the second part because you never get a chance to send it anywhere to determine what you are looking at. That's the first concern. The second concern is that nowadays in overseas countries there are said to be certain movies which people take delight in and those movies are where people physically kill each other.

Yes they're SNUFF movies or whatever they call them.

That's right.

Have you seen those in Australia.

Well I haven't. I understand from some of my people that work on the street a little that there are some here not as readily available as ordinary child pornography and I don't mean ordinary in that fashion but ordinary child pornography but they are here and of course the fact that they are under the current procedures that my officers are required to work I've got no doubt that in less than perhaps another ten years the problem of that will be created by that sort of a movie will be just as bad as the current problem we are experiencing relating to the abuse of our children.

Where do all these videos go. I take it they come in containers and there must be dozens of containers that come to Australia filled with pornographic material.

40
Tonne

Well my information is that only 2 or 3 days ago two containers were cleared in Sydney and they were 20 tonne containers and I understood they were full.

And that material would go to Sex shops and to video lending libraries.

Yes I understand that. And what concerns me most of all about that particular clearance was that it was given to me but Customs officers in attendance were making flamboyant statements that they weren't

really concerned about these two containers and they were using a rubber stamp accordingly and that their position was such that the 1st of February would just formalise what they had been doing for a long time in any event so away you go with two twenty tonne containers. Now if that is the way the administration are going to continue to allow our Customs officers to address situations like that then I have no doubt that in a number of years be it 4, 5 or 6 that we will have those SNUFF movies that you referred to here readily available and create yet another conflict on the living standards of our people.

You see Bob most people listening to us talk would imagine that your officers were charged with a very difficult job of making sure that this sort of material did not get into Australia. To hear you say what you said to me this morning must be a shock to a lot of people.

Well

It's a shock to me I tell you Bob

Well you can imagine how I feel, I'm a serving officer I feel

Bob what would you like people to do.

Well I don't know. I think it is a bit late, people might decide if they have any knowledge about the consequences of what has been happening in relation to child pornography and what could happen in relation to SNUFF movies they ought to go to their local members, they ought to jump up and down like crazy. If for no other reason than to have some peace of mind come along through proper and forceful procedures laid down by the Customs bureaucracy.

Well what is the point of having a law if it is not going to be enforced. If you are going to really introduce pornography I'm not saying that politicians of either party are interested in bringing or allowing pornographic material to come into Australia but let's just make it a bi-partisan issue and if you are really going to say that let politicians stand up there and say this is our official attitude with regard to the

importation of pornography into Australia. Let us know clearly how they stand but to say one thing which has got a nice polite acceptable face and then to turn around and say to you and your officers see it but don't see it that's just not on.

Well it is on and it has been on for a considerable amount of time and it really concerns me to understand that there is a law be it a law on pornographic material or other that there is a law of the people which is pretty sensitive and it is caused in my view our child pornography market and all that goes with that the suffering, its been a law which has been just shoved aside by person by a person or persons unknown and the sad state of affairs to think that the people's law be it that or any other can be just set aside knocked about and not adhered to. If it's a bad law change the damn law, if it's got some merit to it then let us enforce it.

Yes I couldn't agree with you more Bob, and I thank you for your time.

This is the paper marked ^E referred to
in the affidavit/declaration of Brian Arden PERCHAY
sworn/made before me this 19th day of
JUNE 19 86

