

MEMORANDUM RE MATTERS NUMBERED 6 AND 36

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

Allegation No.6 - Safety deposit boxes and overseas shares

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

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

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

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

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

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

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

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

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

[REDACTED]
S Charles

[REDACTED]
M Weinberg

[REDACTED]
A Robertson

[REDACTED]
D Durack

[REDACTED]
P Sharp

[REDACTED]
A Phelan

21 August 1986

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]

A. Robertson
[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

*drawn but not served due to
winding up of Commission.
AS*

Particulars of Allegation

The Honourable Lionel Keith Murphy, on or about 20 April 1985, and whilst a Justice of the High Court of Australia, supplied to Pamela Whitty, secretary to Rodney Groux, photocopies of diaries belonging to Clarence Briese, in order that further copies might be made and retained by Groux. The Judge knew that the copies which he had in his possession had been made at a time when the diaries had been subpoenaed by his legal advisers in or about June 1985, during the course of his trial before Cantor J. and a jury in the Supreme Court of New South Wales. The Judge also knew that Cantor J. had during the trial, ordered that the Judge's legal advisers could have access to the diaries, but had made no order authorising the diaries to be photocopied, or distributed to any person other than the Judge or his legal advisers.

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

Contempt of Court

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

Served
30/1/86

Particulars of Allegation

The Honourable Lionel Keith Murphy, between the nineteenth day of June, 1985 and the twenty-fourth day of June 1985, at Sydney, and whilst a Justice of the High Court of Australia, being a witness upon his trial before Cantor J. and a jury in the Supreme Court of New South Wales on an indictment charging him with two counts of breaching Section 43 of the Crimes Act 1914 (Cth), knowingly falsely swore that the full extent of his past association with Morgan Ryan was as detailed at pages 421, 422, 423, 426, 427, 429, 439, 507, 527, 529, 557, 593, 594, and 595 of the trial transcript and was, in substance:

- (a) That Ryan's firm of Solicitors had briefed the Judge in the early 1950's on a regular basis. At that time the Judge and Ryan were on friendly terms - (page 421).
- (b) That the frequency of briefs delivered to the Judge by that firm had diminished by the end of the 1950's - (page 421).
- (c) That during the 1960's the association between the Judge and Ryan was limited to a few meals - (page 422), and other social occasions - (page 429).
- (d) That for up to three years prior to December, 1972 there had been no social contact at all between the Judge and Ryan - (page 422.)
- (e) That between December 1972 and February 1975 the Judge had no association with Ryan. - (pages 423, 426, and 557).
- (f) That there was contact between the Judge and Ryan in 1976 arising out of and relating to the private prosecution brought by Danny Sankey against the Judge and others. - (page 427.)

- (g) That there was thereafter little contact between the Judge and Ryan until 1979 when evidence was led for the first time in the Sankey prosecution - (page 427.)
- (h) That in 1979 the Judge and Ryan had approximately ten conversations all of which related to the institution of proceedings for malicious prosecution, or the recovery of costs incurred in the Sankey prosecution - (pages 527 and 593). There was also a dinner party at Ryan's home on 10 May 1979 which the Judge attended.
- (i) That during the first six months of 1980 the Judge and Ryan had approximately five conversations all of which related to the institution of proceedings for malicious prosecution arising out of the Sankey prosecution - (pages 527, 529 and 595).
- (j) That during the last six months of 1980 there were no communications between the Judge and Ryan - (page 529.)
- (k) That during the first six months of 1981 there were no communications between the Judge and Ryan - (page 529.)
- (l) That the first communication in 1981 between the Judge and Ryan was in or about September of that year when Ryan rang the Judge to discuss the fact that he, Ryan, had been charged - (page 439.)
- (m) That the next contact between the Judge and Ryan was a chance meeting in Martin Place, Sydney in April, 1982.

The evidence given by the Judge regarding the extent of his past association with Morgan Ryan was false, and false to his knowledge because:

- (i) The Judge and Ryan had been in regular social contact with each other up to 1975, and in particular between 1967 and 1975.

- (ii) The Judge and Ryan had been business associates during the period 1967-1975 and in particular had been partners in a number of restaurants and clubs, including the Venus Room.
- (iii) The Judge and Ryan had acted together on 17 January, 1975 to assist Charles John Bristow and Richard Wigglesworth, who had on that day, participated in carrying out a break-in at the premises of Junie Morosi.
- (iv) The Judge had lunch with Morgan Ryan in the latter part of 1979, together with Donald Thomas, and John Davies. Further, the Judge regularly had lunch with Ryan when in Sydney.
- (v) The Judge spoke to Ryan on several occasions between the eighteenth day of March 1979 and the ninth day of April 1979. These conversations did not relate to the institution of proceedings for malicious prosecution against Sankey and others, or the recovery of costs arising out of the private prosecution brought by Sankey against the Judge and others. The conversations in fact related to the appointment of Wadim Jegarow to the position of Deputy Chairman of the Ethnic Affairs Commission, arranging for harm to be caused to David Rofe QC, and some Police interference in the operation of an illegal casino run by Robert Yuen.
- (vi) The Judge spoke to Ryan on several occasions between the seventh day of February 1980 and the sixth day of May 1980. These conversations did not relate to the institution of proceedings for malicious prosecution against Sankey and others, or the recovery of costs arising out of the private prosecution brought by Sankey against the Judge and

others. The conversations in fact related to the Lusher Inquiry, pinball machines, arranging for harm to be caused to David Rofe QC, Milton Morris, Parliamentary attacks upon Ryan, the Central Railway complex, Luna Park, and two officers of the Australian Federal Police who were investigating the affairs of Ryan.

By testifying that the full extent of his association and dealings with Morgan Ryan throughout the relevant period was as set out in paragraphs (a) to (m), and by failing to give evidence as to the matters set out in paragraphs (i) to (vi), the Judge deliberately understated the frequency of his contacts with Ryan and misstated the nature of their association.

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

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

0143M

Particulars of Allegation

Served 20/1/86

The Honourable Lionel Keith Murphy, between the nineteenth day of June 1985, and the twenty-fourth day of June, 1985, at Sydney, and whilst a Justice of the High Court of Australia, being a witness upon his trial before Cantor J. and a jury in the Supreme Court of New South Wales, on an indictment charging him with two counts of breaching Section 43 of the Crimes Act 1914 (Cth), knowingly falsely swore that the only effort that he had made on behalf of Morgan Ryan so far as the criminal proceedings against Ryan were concerned was to approach Chief Judge Staunton in April 1982 in order to see whether something could be done to arrange an earlier trial for Ryan. The Judge also swore that he had only spoken to Mr Justice McClelland regarding this matter after he, the Judge, had spoken to Chief Judge Staunton.

The true position was, as the Judge then knew, that the Judge had spoken to Mr Justice McClelland in order to persuade him to approach Chief Judge Staunton on behalf of Ryan, and that he had done so before either Mr Justice McClelland or the Judge had approached Chief Judge Staunton. Accordingly, the testimony given by the Judge was false, and knowingly false in these respects.

The specific questions and answers which give rise to this allegation are set out at pages 508 to 509, 526, 531, and 532 of the transcript of the first trial. In particular, at page 508 the following passage appears;

q. Did you speak at some stage to Mr Justice McClelland as he then was, now Mr McClelland?

a. Yes.

- q. When was it that you spoke to him in relation to your visit to Chief Judge Staunton's chambers?
- a. It would be shortly after that - it would be some day or so after that, it may have been a little longer.
- q. How did you come to speak to him?
- a. We were talking together. We often spoke to one another and I think I raised the topic of Ryan and said something, I think I described him as "the poor little bugger", it's driving him mad. He ought to get it over and done with." And McClelland said, "It's Ryan's" - he said, "he had spoken to me about it and I have spoken to Staunton.", this is what McClelland was saying. And I said, "yes, Staunton told me you had already spoken to him." And McClelland said, "I have told him what to do, to get in touch with the Solicitor for Public Prosecutions and make an application there."

At page 526 the Judge responded to a question from the Prosecutor in these terms:

- q. When did he (Mr Justice McClelland) tell you that?
- a. He told me when I spoke to him.
- q. When was that in relation to your discussion, your face to face discussion as you say, with Chief Judge Staunton?
- a. Shortly after it.
- q. How long after it?
- a. It would be a day or two.
- q. A day or two.

a. At the most.

q. And how did it come about that you were in touch with Mr Justice McClelland, as he then was, a day or two after your discussion with Chief Judge Staunton?

a. Because I think I rang him up.

At page 532 the following passage appears:

q. Well, did you ring Mr Justice McClelland or did he ring you?

a. I think I rang him.

q. Did Morgan Ryan ask you to approach Chief Judge Staunton?

a. No.

q. You did it entirely off your own bat?

a. Yes.

q. So that you could help Morgan Ryan?

a. Yes.

q. The man to whom you referred I think as "the poor little bugger", something to that effect?

a. Yes.

q. And was that the only effort that you say you made in relation to Morgan Ryan so far as the criminal proceedings against him were concerned?

a. Yes.

q. The only effort you made?

a. Yes.

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

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

0142M

Steve Bassides & Co
Solicitors
1st Floor
44 Martin Place
SYDNEY NSW 2000

Dear Sirs

RE JUSTICE L R BURNBY

I refer to my letter of 15 July 1986 and to discussions between Mr S Charles QC and Mr F Gyles QC on 16 July 1986.

I attach hereto further allegations numbered 14, 24 and 39. (Allegation No. 24 was provided to Mr Gyles on 16 July 1986)

I also attach hereto amended allegations numbered 1, 25, 27 and 33 (amendments underlined in red). These amended allegations were also provided to Mr Gyles on 16 July 1986.

Yours faithfully



D J Durack
Instructing Solicitor

17 July 1986

ALLEGATION NO 14

Particulars of Allegation

During June and July of 1985, the Honourable Lionel Keith Murphy, a Justice of the High Court of Australia, was tried before Cantor J. and a jury in the Supreme Court of New South Wales on an indictment containing two counts. Both counts charged the Judge with breaches of Section 43 of the Crimes Act 1914 (Cth). The Judge's trial began on the fifth day of June, and ended on the fifth day of July. The Judge gave evidence on oath in his own defence. On the fifth day of July the jury returned verdicts of guilty on the first count and not guilty on the second count.

Thereafter, the Judge appealed to the New South Wales Court of Criminal Appeal, and certain questions of law were reserved for consideration by the New South Wales Court of Appeal arising out of his conviction. On the eighteenth day of November 1985, their Honours delivered judgment, and ordered that the Judge be retried on the count upon which he had been convicted previously.

On the fourteenth day of April 1986, the retrial of the Judge upon that count commenced before Hunt J. and a jury in the

Supreme Court of New South Wales. The Crown case concluded on the twenty-first day of April. A submission that there was no case to answer was made on behalf of the Judge, but that submission was rejected by the trial Judge. Counsel for the Judge then stated that he did not wish to open the defence case, but told the Court that the Judge would make a statement to the jury. The Judge did make such a statement pursuant to Section 405 of the Crimes Act 1900 (NSW).

In the course of that statement, the Judge said, "the next time I met him (i.e. Mr Briesé) was on Saturday 23 April 1983. This was fifteen months after I am supposed to have said something wrong or criminal to him - fifteen months after. It was at the Academy of Forensic Science Seminar at the University of New South Wales."

The Judge then went on to mention lunch, and he continued:

"...after the lunch I was just starting to walk back with someone else and Mr Briese came over and greeted me and joined us and I introduced the other person and then we walked, strolled, all the way up to the Lecture Room, about one hundred yards. It was for about three or four minutes he chatted away to me. Now, I thought he was very friendly to me, I just cannot understand - to my mind he could not have been nicer to

me, and this was after I am supposed to have invited him to do something criminal, to undermine, to subvert the justice, and pervert the course of justice."

✓ The statement proceeded:

"These allegations, the first I heard about them, was in middle of 1984. I have done my best to recall the exact words which passed between us but I had no idea when I was talking to him in January 1982 that out of the blue, years later it would be suggested that I had done something wrong or criminal." ✓

The Judge, by including these remarks in his statement suggested to the jury that the conduct of Briese in April 1983 was inconsistent with the alleged act of criminality on the part of the Judge having taken place, and that Briese's allegations against the Judge had been invented by Briese after that meeting in April 1983.

The Judge, through his Counsel, had previously disavowed any suggestion that there had been an allegation of recent fabrication made during the course of the cross-examination of Briese. This disavowal was made expressly, and in terms. By including in his statement the imputation that Briese had recently fabricated his allegations against the Judge, the

Judge deliberately and wilfully violated the principles laid down in *Browne v Dunn* (1893) 6 R 67. The consequences of this were that -

- a) Brieese was unfairly deprived of the opportunity of supporting his credibility and
- b) the Crown was unable to adduce evidence in support of its case which would have been relevant and admissible, had there been compliance with the rule.

It will be contended that the conduct of the Judge -

- a) in making a statement pursuant to Section 405 of the Crimes Act 1900 (NSW);
- b) in deliberately and wilfully including in his statement the imputation that Brieese had recently fabricated his allegations against the Judge, in circumstances where the Judge's Counsel had expressly and in terms disavowed any such suggestion;

amounted to misbehaviour within the meaning of Section 72 of the Constitution in that it constituted conduct contrary to accepted standards of judicial behaviour.

It will also be contended that the conduct set out in a) above constituted misbehaviour in the following further respects -

- a) putting his own interests above the standing and esteem of the Court of which he was a member;
- b) bringing himself, a Justice of the High Court of Australia, and thereby that Court, into disrepute.

ALLEGATION NO 24

Particulars of Allegation

The Honourable Lionel Keith Murphy, on or about the second day of April 1980, at Sydney or elsewhere, and whilst a Justice of the High Court of Australia, engaged in a telephone conversation with Dorothy Ryan, the wife of Morgan Ryan. During the course of that conversation, the Judge said to Mrs Ryan that her husband should arrange to have a Government member of the New South Wales Parliament assert that that member had made enquiries about Ryan, and that he, Ryan, had "come up smelling like a rose". By that statement, the Judge intended that the Member should convey that enquiries had been conducted, and that Ryan had been exonerated of any wrongdoing. The Judge knew that no such enquiries had been conducted at the time he made this suggestion. Further, the Judge intended that the statement by the member be made irrespective of whether any such inquiries be conducted. The Judge also knew that Ryan had not been exonerated of any wrongdoing.

At the relevant time, Morgan Ryan was under investigation by the Australian Federal Police for the part, if any, he had

ALLEGATION NO 24

Particulars of Allegation

The Honourable Lionel Keith Murphy, on or about the second day of April 1980, at Sydney or elsewhere, and whilst a Justice of the High Court of Australia, engaged in a telephone conversation with Dorothy Ryan, the wife of Morgan Ryan. During the course of that conversation, the Judge said to Mrs Ryan that her husband should arrange to have a Government member of the New South Wales Parliament assert that that member had made enquiries about Ryan, and that he, Ryan, had "come up smelling like a rose". By that statement, the Judge intended that the Member should convey that enquiries had been conducted, and that Ryan had been exonerated of any wrongdoing. The Judge knew that no such enquiries had been conducted at the time he made this suggestion. Further, the Judge intended that the statement by the member be made irrespective of whether any such inquiries be conducted. The Judge also knew that Ryan had not been exonerated of any wrongdoing.

At the relevant time, Morgan Ryan was under investigation by the Australian Federal Police for the part, if any, he had

played in the alleged illegal activities of Korean nationals who had obtained permanent resident status in Australia. It had also been alleged in the New South Wales Parliament that Ryan had been involved in perverting the course of justice in relation to summary proceedings in which Roy Cessna and Timothy Milner were the defendants.

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

urging or encouraging a person to cause a Member of Parliament to make false statements for the purpose of misleading or preventing legitimate enquiry into matters of public concern.

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

ALLEGATION NO 39

Particulars of Allegation

The Honourable Lionel Keith Murphy, on or about the sixth day of January 1982, at Sydney, and whilst a Justice of the High Court of Australia, engaged in a conversation with Clarence Briese, the Chief Stipendiary Magistrate for New South Wales, during the course of which the Judge spoke about a case that was then being heard before Bruce Brown, a Stipendiary Magistrate in New South Wales. That case was known colloquially as the "Greek Conspiracy" case. During the course of the conversation, the Judge described it as having been one of the greatest scandals in legal history. Further, the Judge said that it was "oppressive that 180 people could be charged with a single conspiracy". The Judge went on to say that the Magistrate would be a hero in the community if he dismissed the case, and, for emphasis, in one paragraph.

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

- a) expressing to a judicial officer of an inferior court a strong and concluded view as to the merits of a case which might come before the Judge in his judicial capacity;

further or in the alternative

- b) expressing such a view to a judicial officer of an inferior court in circumstances where it might be communicated to another judicial officer within the same court, who was then hearing the matter, and where this view, being known to be held by a Justice of the High Court of Australia, would or might influence, in the performance of his duties, the judicial officer then hearing the matter.

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

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MEETING WITH SUPERINTENDENT KEN DREW, CHIEF OF STAFF
TO THE NEW SOUTH WALES POLICE COMMISSIONER

At 2.30 on 16th of July, 1986 I met with Superintendent Drew at the 20th Floor of the Police Headquarters Building in College Street, Sydney. Also present were Patricia Sharp, Sergeant R Clarke of the Licensing Squad and Detective Sergeant R Lynch of the Breaking Squad.

I briefly outlined our function and said that we were seeking the co-operation of the NSW Police in relation to a number of allegations that had been made in relation to His Honour Mr Justice Murphy. We discussed briefly various provisions of our act.

As an opening gambit I suggest that the NSW Police Force must have collected a considerable body of intelligence on Abraham Saffron over the years. I asked whether any link between Saffron and His Honour had been uncovered at any time by the NSW Police. Superintendent Drew said that apart from what James McCartney Anderson had told Sergeant Warren Molloy (as to which see later) no link between Saffron and His Honour had come to light. That was confirmed by Detective Sergeant Clarke who from the early 1980's has been the Officer in Charge of the general licensing in the Kings Cross region; and by Detective Sergeant Lynch, who has been responsible for investigating the activities of Todor ('the Torch') Maximovich over the last few years. Sergeant Clarke said that Warren Molloy had a far more detailed knowledge of Saffron's operations because of his position as Special Licensing Sergeant in the Kings Cross region up until the time of the Bill Allen affair. Both Clarke and Molloy had at various times closed down The Venus Room, and Molloy is alleged to have a very detailed knowledge of the ins and outs so to speak of that establishment. Moreover, Molloy has been entertaining James McCartney Anderson in recent times. Apparently Anderson thinks that Molloy is a "good bloke" and is supposed to be singing like a canary to him. Molloy is overseas

until the 29th of July. Superintendent Drew is to arrange for us to meet Molloy as soon as possible after his return. He is also to arrange for us to see the people in charge of the Vice and Drug Squads in the late 70's early 80's. We were told that the Former Head of the Vice Squad, Ernie ('the good') Shepherd, may be able to tell us something about suggestions that Saffron procured females for His Honour. We were also told that the Vice Squad has been conducting a rather lengthy investigation into allegations that Phillipino girls were imported under some racket involving Morgan Ryan to work as prostitutes in The Venus Room. Details of that investigation are to be made available to us.

I then thought I would stir up the waters a bit by asking whether it had ever been explained of why when the NSW Police were busily tapping a fairly large number of known or suspected criminals in Sydney noone bothered to tape Abe Saffron's phone. There was an outbreak of mumbling by the police in the room at that juncture and I get the distinct impression that something very suspicious occurred at senior levels within the NSW Police Force to prevent such a tap being placed on Saffron's phone.

I then mentioned the statements by Egge to the Stewart Commission in relation to Luna Park and Central Railway, and the fact that very few of the other police examined by Stewart had been asked about those allegations. I gave him the attachment from the recent Stewart letter which listed all of the NSW Police Officers who'd worked for the BCI/TSU and asked Superintendent Drew to obtain for me the present location of each person listed therein. Superintendent Drew said he would do this (he complained of the logistics involved). He mentioned that the Police Commissioner had instructed police generally not to give evidence to other agencies without first being cleared by him. Superintendent Drew is to arrange clearance by the Police Commissioner. In any case, until that clearance is forthcoming, Superintendent Drew felt that none of the police would speak to us given that that instruction that is about not

speaking to outsiders had been drummed into them. I also asked Superintendent Drew to obtain, or at least locate, all of the diaries and notebooks of all of the people mentioned in that list for the relevant periods. He felt that those diaries may be with the National Crime Authority, but undertook to make enquiries. I specifically asked for the present location of [REDACTED] and Drew mentioned that he understood that [REDACTED] boat has recently been destroyed in a mysterious fire and he was not sure where he was presently hanging out.

I then said that with all of the information that was being gathered by the TSU/BCI there must have been some form of intelligence record created for each piece of information thus received. That is I felt it was an available inference that files would of been created within the BCI on His Honour if His Honour had been mentioned in any information gathered by the BCI/TSU. I asked Superintendent Drew to make inquiries to ascertain whether any such records exist and if so to obtain same. He felt that if any records had existed that they would have been destroyed. However he undertook to make the inquiries.

I then mentioned the evidence of Egge before the Stewart Commission concerning the Milton Morris allegation. In particular I mentioned Egge's statement that following the interception of a telephone conversation between His Honour and Morgan Ryan, wherein it was suggested that His Honour had set up a meeting between Morgan Ryan and Milton Morris on the steps of Parliament House, the BCI/TSU had staked out the steps to observe said meeting. I asked for all of the records of the BCI/TSU relevant to any such inquiry. I asked whether any stakeout might have been done by the Observation Squad, the BCI itself, or some other organisation and asked that all relevant records be checked. Superintendent Drew undertook to make those inquiries.

I also asked for all of the running sheets of the BCI/TSU for the period 1978 to 82 at least. Superintendent Drew believed

that these had been destroyed by Mr Blisset in the early 1980's following the disclosure about the existence of The Age tapes. However he undertook to make inquiries to see whether any of the running sheets still existed. I then turned to the matters disclosed in the second chapter of the second volume of the Stewart Commission Report. I asked whether any investigation had been carried out into any of the allegations raised by Stewart. Superintendent Drew told me that a Task Force had been established to thoroughly investigate all of the allegations. That Task Force is headed by Detective Superintendent Stephenson. Its establishment was delayed by Justice Stewart in handing over the relevant information, but now appears to be in full swing. All of the Stewart information is being fed into computer and I understand that police have begun their inquiries. Highest priority is the Cessna Milner Matter. Also high on the list is the alleged involvement of His Honour, Ryan, Saffron, the Yuens, and police in the Dixon Street Casinos matter. It will also appear that some further investigation has been conducted into the Lowe and Shaw attempt to influence Lewington. Superintendent Drew indicated that nothing had come of this investigation. Superintendent Drew then introduced me to Detective Superintendent Stephenson and told Superintendent Stephenson that he was to co-operate fully with our inquiry. I understand from what Superintendent Drew told me that this Commission will have full access to the ongoing investigations by the NSW Police into the various allegations raised by Justice Stewart. I intend meeting with Superintendent Stephenson at some date in the not too distant future, when the NSW Police inquiries have achieved some headway.

Finally, I mentioned the Morosi break-in in February 1975. After briefly outlining the charges brought (namely larceny and illegal use of motor vehicle) Superintendent Drew expressed his disbelief that such charges would have been laid in those circumstances - invariably, no matter what the amount involved, charges of break enter with intent are brought; moreover the charge under the Motor Traffic Act is "part of ancient

history". I asked Superintendent Drew to make inquiries to find out whether the break-in was ever reported to the NSW Police and if so, I asked him to obtain any of the files and papers that may still exist within the Police Archives relevant to that matter.

Superintendent Drew is to get back to me in the next couple of weeks in relation to all of these matters and in particular, to set up the meeting with Molloy and the other people previously mentioned.

Signed: 


Andrew Phelan

16.7.86

0110M

Steve Masselos & Co
Solicitors
1st Floor
44 Martin Place
SYDNEY NSW 2000

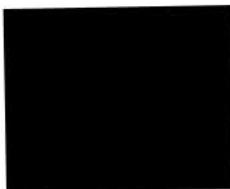
Dear Sirs

MR JUSTICE L K MURPHY

I refer to your letter of 14 July 1986 and to conversations between respective Senior Counsel in relation thereto.

In accordance with the statement of Senior Counsel Assisting the Commission I enclose herewith nine allegations. They will be considered at the Commission's hearing on Thursday next together with any other allegations, details of which are able to be provided before that date.

Yours faithfully



D N Durack
Instructing Solicitor

15 July 1986

ALLEGATION NO 1

Particulars of Allegation

The Honourable Lionel Keith Murphy, in or about the month of December 1979, at Sydney, and whilst a Justice of the High Court of Australia, engaged in a conversation with Donald William Thomas, then a Detective Chief Inspector of the Commonwealth Police in charge of the Criminal Investigation Branch for the New South Wales Region. The Judge spoke to Thomas regarding a social security conspiracy prosecution in the conduct of which Thomas had played a principal role. He extended an invitation to Thomas to meet Senator Donald Grimes, who in Parliament had strongly criticised the conduct of that case.

The Judge then spoke to Thomas about the impending formation of the Australian Federal Police. In the course of this conversation, the Judge said, "we need somebody inside to tell us what is going on", thereby conveying to Thomas that the Judge sought from him the provision of covert information relating to or acquired by the Australian Federal Police to unauthorised persons within the Australian Labor Party. The Judge said that in return for Thomas fulfilling the role which he had suggested, the Judge would arrange for Thomas to be

promoted to the rank of Assistant Commissioner in the Australian Federal Police. Thomas told the Judge that he would not be happy forming an affiliation with any political party. The Judge asked Thomas to think about the matter.

The said conversation occurred at a Korean restaurant during the course of a lunch attended also by Morgan Ryan and John Donnelly Davies, then the Assistant Commissioner, Crime, of the Commonwealth Police in Canberra. The Judge arranged for Thomas to attend the lunch for the purpose of holding the conversation set out above.

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

a) attempting to bribe a Commonwealth officer;

further, or in the alternative

b) urging or encouraging a Commonwealth officer to publish or communicate to unauthorised persons official information which it would be his duty not to disclose;

further, or in the alternative

- Ⓒ) for improper purposes, offering to intervene to secure
for a Commonwealth officer an appointment to a higher
rank.

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

ALLEGATION NO 2

Particulars of Allegation

The Honourable Lionel Keith Murphy, between the twenty-first day of April, 1980, and about the twenty-third day of July, 1981, at Sydney and elsewhere, and whilst a Justice of the High Court of Australia, did agree with Morgan Ryan and other persons unknown to make inquiries with a view to determining whether two officers of the Australian Federal Police, David James Lewington and Robert Allan Jones, could be bribed or otherwise influenced to act contrary to their duty as police officers.

Further, in a telephone conversation between the Judge and Ryan, which conversation occurred after the said agreement, Ryan asked, in substance:

"Have you been able to find out about those two fellows who are doing the investigation; are they approachable?"

The Judge replied, in substance, that he had made inquiries, and that the answer was definitely no, they were both very straight.

At all relevant times Lewington and Jones were conducting investigations into certain alleged illegal activities of Korean nationals who had obtained permanent residence status in Australia and into the part, if any, Ryan had played in those alleged activities.

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

entering into an agreement to investigate the possibility of bribing or otherwise improperly influencing Australian Federal Police.

not
criminal
conduct.
(too early
to be attempt
or conspiracy)

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

ALLEGATION NO 11

Particulars of Allegation

On the twentieth day of November, 1975, informations were laid by a private citizen, Danny Sankey against the Honourable Lionel Keith Murphy and other persons alleging an offence against Section 86 of the Crimes Act 1914 (Cth) and a conspiracy at common law. Between the first day of June, 1976, and the thirty-first day of October, 1976, at Sydney and elsewhere, and whilst a Justice of the High Court of Australia, the Judge agreed with Morgan Ryan and Abraham Gilbert Saffron that Saffron would arrange for an approach to be made to Danny Sankey in order to persuade him to withdraw these private prosecutions.

At the relevant time, as the Judge knew, Saffron was a person of ill-repute, and the Judge entered into this agreement in the expectation and with the intention that Saffron would cause Sankey to be improperly and unlawfully intimidated into withdrawing these private prosecutions.

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

- a) entering into an agreement to threaten or coerce a party to a cause in order to persuade him to discontinue his part therein;

conspiracy to
commit a
contempt of
Court.

further, or in the alternative,

- b) entering into an agreement to pervert the course of justice in relation to the judicial power of the Commonwealth.

S.42 (with Crimes
Act.

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

ALLEGATION NO 18

Particulars of Allegation

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

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

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

not
criminal
conduct

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

ALLEGATION NO 20

Particulars of Allegation

The Honourable Lionel Keith Murphy, on or about the thirty-first day of March 1979, and whilst a Justice of the High Court of Australia, did urge or encourage Morgan Ryan to cause harm to David Rofe, one of Her Majesty's Counsel.

Further, the Judge, on or about the seventh day of February 1980, and whilst a Justice of the High Court of Australia, again urged or encouraged Ryan to cause harm to Rofe.

From 1975 to 1979 Rofe had acted and appeared as Counsel for the informant in private prosecutions brought by Danny Sankey against the Judge and others upon a charge of conspiracy to effect a purpose that was unlawful under a law of the Commonwealth, and a charge of conspiracy at common law.

The Judge's purpose in urging or encouraging Ryan to cause harm to Rofe was to take revenge upon Rofe for what he had done in the conduct of these prosecutions.

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

Contempt
of
Court.

- a) urging or encouraging another to take revenge upon a person for what that person had done in the discharge of his duty in the administration of justice;

further, or in the alternative

Not criminal
offence.

- b) urging or encouraging a person unlawfully to cause harm to another.

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

ALLEGATION NO 23

Particulars of Allegation

The Honourable Lionel Keith Murphy, in or about March 1980, did agree to assist Morgan Ryan by arranging a meeting between Ryan and Milton Morris, a Member of the New South Wales Parliament, believing that the purpose of the meeting was to enable Ryan to threaten Morris with exposure of his alleged involvement in a tax evasion scheme in order to induce Morris to persuade the then Leader of the Opposition in the State of New South Wales, the Honourable John Mason, to desist from making speeches in Parliament attacking Ryan for his role in relation to summary proceedings in which Roy Cessna and Timothy Milner were the defendants. Further, the Judge did assist Ryan by taking steps to arrange such a meeting.

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

- a) agreement to assist another in making an unwarranted demand with menaces, and without reasonable cause;

not blackmail
or conspiracy

further, or in the alternative

- Article
9 Bill of
Rights.
- b) committing a breach of parliamentary privilege by agreeing to assist another in making an unwarranted demand with menaces upon a Member of Parliament acting in his parliamentary capacity.

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

ALLEGATION NO 25

Particulars of Allegation

The Honourable Lionel Keith Murphy, in or about January 1980, and whilst a Justice of the High Court of Australia, agreed with Morgan Ryan that he, the Judge, would make, or cause to be made, representations on behalf of interests associated with one Abraham Gilbert Saffron to persons in a position to influence the award of a contract to remodel the Central Railway Station in Sydney for the purpose of assisting those interests to obtain the contract. Further, the Judge subsequently made such representations, and informed Ryan that he had done so, and that the representations were likely to be successful.

At the relevant time, Saffron was, and was known by the Judge to be, a person of ill-repute.

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

a) entering into an agreement to intervene to influence the award of a public contract to a particular tenderer, and actually intervening to achieve that purpose;

further, or in the alternative

b) entering into an agreement to intervene to influence the award of a public contract to a tenderer associated with a person of ill-repute, and actually intervening to achieve that purpose.

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

ALLEGATION NO 27

Particulars of Allegation

The Honourable Lionel Keith Murphy, in or about the early months of 1980, and whilst a Justice of the High Court of Australia, agreed with Morgan Ryan that he, the Judge, would make representations on behalf of a company associated with Abraham Gilbert Saffron to the Honourable Neville Wran, then the Premier of New South Wales, in order to obtain a lease over premises in Sydney known as Luna Park. Further, the Judge subsequently made such representations, and informed Ryan that he had done so and that the representations had been successful.

At the relevant time Saffron was, and was known by the Judge to be, a person of ill-repute.

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

a) entering into an agreement to intervene to influence the grant of a lease of public land to a particular tenderer, and actually intervening to achieve that purpose;

further or in the alternative

b) entering into an agreement to influence the grant of a lease of public land to a tenderer associated with a person of ill-repute, and actually intervening to achieve that purpose.

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

(11)

ALLEGATION NO 33

Particulars of Allegation

The Honourable Lionel Keith Murphy, in or about April 1982, at Sydney and whilst a Justice of the High Court of Australia, held a private conversation with the Chief Judge of the District Court of New South Wales, James Henry Staunton. In that conversation, the Judge asked the Chief Judge to arrange for Morgan Ryan to receive an early trial on certain charges which were then pending in the District Court of New South Wales. Further, in this conversation, the Judge sought to persuade the Chief Judge that Ryan was a public figure, and as such was entitled to and should be granted an early trial.

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

- a) abusing his office as a Justice of the High Court of Australia;

further, or in the alternative,

- b) improperly attempting to influence a judicial officer in the execution of his duties.

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

M E M O R A N D U M

TO: Andrew Phelan

FROM: ~~Andy Wells~~ *AP*

DATE: 4th July, 1986

I provide the following observations in response to your request today to peruse your document entitled Brief Analysis of Certain Documents received from the office of the DPP on 19.6.86. As a reference I will refer to your paragraphs in item fashion.

Paragraph 8

██████████ when you speak to him, presents as a rather extraordinary individual. Although there are no signs of any remarkable degree of intelligence, he does seem to possess a remarkably good memory and is able to talk of quite complex matters for hours on end which I found defies the following for any length of time. He has referred from time to time to diaries and on one or two occasions, he has produced his current and recent diaries which from what I've seen of them do appear to contain some detail although I would expect they will be rather sketchy. To my recollection, he has never alluded directly to diary entries specifically in relation to this matter although he is given to rather expansive statements along the lines "I've got it all recorded, I'll show you, you'll see." I've also seen at his home items best described as scrapbooks containing paper clippings etc. relative to his many adventures and misadventures. Also in talking to Detective Inspector Frank Mellis stationed at Dee Why, he has described ██████████ as a good and credible witness after giving evidence recently.

Paragraph 9

You observe that it is the most remarkable feature of Davies' report that it contains no evidence whatsoever to the role of [REDACTED] and no reference to his being sighted at the scene. Again, this is not a particularly unusual situation. Whilst today the use of codes to describe informants has been formalised in the past for good reasons it was a generally accepted police practice to avoid wherever possible reference to an informant or the fact of an informant in writing. This was generally accepted to be on the grounds of secrecy and security designed to protect confidential sources. However, I note that in Davies' report to the Attorney-General (was it in fact Murphy at that time or could it have been Kipp Enderby?), Davies relates to the information regarding the attempted break in as coming directly from the Attorney-General at a meeting which took place at 9.00 a.m. on the 17th January, 1975. Further in the same first paragraph of Davies report, it is stated that one of the people involved in the planning of the break in had been introduced to a private enquiry agent "name supplied" who had turned informant and was, through an intermediary, reporting intended action to the A.G.

There is little doubt that [REDACTED] was the private enquiry agent nominated and that he, through an intermediary was reporting to the Attorney-General of the day. This of course dovetails with [REDACTED] statement when he says that he was dealing with Bill Waterhouse or that he told Bill Waterhouse of the matter and that he blamed Waterhouse for having doublecrossed him. Of course, it is not inconceivable that two intermediaries existed, e.g. [REDACTED] - Waterhouse - Ryan - Murphy. On these bases, I disagree with your comments in Paragraph 9. Accordingly and by extrapolation, it is not surprising that [REDACTED] was not caught at the scene of the crime or later sought. It is obvious he was the source of the information and therefore considered to have been acting as an agent.

Further in Paragraph 9, you observe that the police concerned took no action to follow up the matter of the suggestion by Ditchburn that two girls were in mortal fear of attack or retribution by [REDACTED]. If [REDACTED] had been acting as an agent as it appears, then the matter is explained particularly as the females concerned were interviewed and disclaimed any fear of [REDACTED] and in fact by their disclaimers suggested Ditchburn had been lying.

Paragraph 10

In the observation of Davies where he says "the charges were signed by Sergeant Lamb, and as they were laid under State Laws they would normally be presented to the Court by NSW Prosecutors. You might care to consider whether this course would be satisfactory in the present circumstances."

The above from my experience is a fairly common sense matter to raise. Predictably the Commonwealth Police used the resources of the Deputy Crown Solicitor in relation to legal matters. However then as now, from time to time, the resources of the State Police in the lower courts were utilised instead for matters of convenience and economy. Lamb was the informant I would assume because he was acting on the basis of being a citizen having witnessed a crime and was employing his powers as an ordinary citizen to bring a charge against an offender. It seems that Davies is simply asking the Attorney-General as to whether the matter should proceed by way of utilising the New South Wales Police Prosecutors in a State Court because they were state charges or whether the Attorney-General felt some other form of representation should be considered. It is obvious the Attorney-General felt the matter should apply as Mr Foord of Counsel eventually represented the Commonwealth in the matter. It is also probable the posing of the question belies previous discussion between the two on the subject.

It should not be overlooked that although State Laws applied in this matter, there was a strong Federal interest. Morosi at the time appears to have been a Commonwealth employee in a particularly sensitive area. Whilst State Police are empowered by Statute to act under Federal laws notably the Commonwealth Crimes Act, unfortunately the reverse does not apply, although in practice that would be a great boon to Federal Police. Generally Federal Police rely on the common law powers of arrest as citizens to effect arrests on state matters coming to their notice at times it is inappropriate or inconvenient to involve the State Police. Whilst there is some sensitivity between the State and Federal Police authorities as to one utilising the laws of the other, it is quite readily accepted that circumstances occur whereby common sense must apply.

Paragraph 11

Please see comments above.

Paragraph 12

The statement of Wigglesworth that he was unable to explain how Bruce Miles came to represent him at the Police Station on the night of the breakin. Had events progressed as suggested by [REDACTED] and he did complain to Waterhouse who in turn spoke to Morgan Ryan and Murphy (as did [REDACTED]), then it takes no quantum leap in imagination to deduce why Bruce Miles, Morgan Ryan's partner, appeared to act for Wigglesworth (who [REDACTED] knew well and who he probably recruited for the job).

As to the suggestion by Wigglesworth that he was raided shortly thereafter, I made no enquiries in relation to this however, have no reason to suspect the fact of a raid actually taking place. I make no comment as to why it took place except to say that [REDACTED] suggestion that Morgan Ryan was the source of the information would need to be explained more fully to be, in my

opinion credible. That is not to say that [REDACTED] allegation is unbelievable. It is not unconceivable to imagine Ryan was flexing his muscle a little. Of interest is the fact of Ditchburn's complaint to Lamb re. [REDACTED] threats to two females. On inquiry the allegation was found baseless. The making of the allegations against [REDACTED] could have a parallel in ill feeling towards Wigglesworth.

Paragraph 13 - Interview of Allan Felton

Having spoken to both Felton and [REDACTED] on the matter, I'm at a complete loss to deduce why [REDACTED] would suggest there were two breakins and Felton only one. One reason maybe that Felton having been charged and convicted of one breakin would be chary in admitting that a second had taken place. Were Felton right and only one had taken place, I just cannot see the rationale of [REDACTED] making such an allegation. It seems pointless and serves no use whatsoever.

I have not taken the matter as far as interviewing or approaching Marks or Reynolds who may be in a position to throw some light upon the sudden appearance of Mr Farquhar on the bench after Mr Lewer.

Paragraph 14 - Sankey Prosecution Allegation

As I mentioned the other day, I am not particularly privy to this area of investigation. I knew that Sankey had been spoken to by Rowe and Rushton but primarily that was all. I note that it is intended to speak to one James McCartney Anderson. Although I only met him once many many years ago, I feel great care should be taken in accepting what he has to say as I'm sure you already aware however, an area such as this and with people such as this, they cannot be summarily dismissed even when they recount the strangest of things. Anderson in recent years appears to have a relationship with John Dowd. Nothing untoward is suspected of Dowd.

Paragraph 18 - Pergery Allegation

Francisco or the name Francisco I assume to be that of a policeman who gave evidence before the Stewart Commission. Whilst I have met Francisco, I cannot throw any light on this particular aspect.

However, the folder described Bird McMahon was a matter I dealt with. I notice you use the term bizarre treatise when referring to the written material apparently produced by Fletcher. I suggest strongly we treat this matter as completely bizarre. I visited a (class) house in Newtown in an attempt to locate Mr Fletcher, however he and Anna McMahon were birds that had flown leaving a lot of debts behind. Whilst living at Newtown they had gone to considerable efforts to upgrade the premises but unfortunately their efforts had gone unappreciated by the managing agent. Apparently he had no taste for walls painted in gold paint and the branches of trees strewn throughout. Indeed the then current occupants of the premises who resembled something out of the Young Ones had been bemused by the fact that agents of a TV rental firm had repossessed their TV mistaking it for the TV of Mr Fletcher which from documentation Fletcher had left in the premises, he had sold at a hock shop. It was also of note that in some mail that had been delivered to the premises Mr Fletcher had made a bid for immediate media fame by offering to commit a public suicide for Mike Willesee. Unfortunately his offer had been turned down, with thanks, obviously in fear of arguments over residuals.

As to the name Minter, a former Assistant Private Secretary to Murphy, this may refer to June Walters who had been Murphy's Private Secretary about that time and a person who declined to most firmly to make any comments.

I understand Journalist, David Halpin did provide an unsigned statement. I had no contact with him personally.

I interviewed Francis Lesley William Gannell in Canberra. Gannell is a serving Federal Police Officer who was assigned in the early 70's to be Murphy's bodyguard, pursuant to certain allegations made against him over stands in relation to an issue effecting Yugoslav immigrants. Gannell does not enjoy a very high credibility rating, although I do feel that from taking his statement from him, he was telling the truth about this matter. He does not seem to be possessed of a strong recollection and in my opinion, at the time of taking the statement from him, it was unfair to expect him to recount as best he could his recollections having been given no notice or time to prepare. Having taken the statement from him, I cautioned the DPP staff that he should be fully debriefed by them before they considered using him so as to ensure he had resurrected his recollections properly and would not be placed in the invidious position of being forced to make a statement without due care and consideration. I do feel that Gannell is probably possessed of a considerable amount of information relative to his association with Murphy probably extra to that contained in his statement. He would be a person fearful of retribution, even if the spectre of same was only in his mind.

Paragraph 19 - the Story of Rodney Groux

As I said the other day, Groux in my opinion is a person without credibility who we have proven acted out out malice towards Minister John Brown. I have on your behalf requested the papers be raised and forwarded however, I understand they are somewhere between the AFP and DPP at this present stage and do not expect to receive a reply to my enquiries before Monday or Tuesday.

At our meeting the other day somebody raised the point that even though Groux may of had no credibility it did still appear to be a fact that he had received copies of the Briese diaries from Murphy. Personally I don't think that there is any doubt about this at all. He is corroborated independently by his ex-secretary, Pamela Whittey, a person I found quite credible

and unlikely to dishonestly support Groux. As far as I can estimate, it would appear that Groux did approach Murphy or Murphy approached Groux, subsequent to Groux having sent him a letter of support through a real estate agent named Lillian Kaneff who we interviewed.

I am inclined to the view that, having regards to Groux's antecedents and his general demeanour, he is a dangerously vindictive person who in a medical sense may well be considered something less than sane.

I was asked of my opinion as to whether he would be amenable to giving evidence if required. Apart from this relying on the direction of the wind at the given time I perceive that currently chances of his co-operating would be diminished except if he saw a way to personally vindicate the villification he received in Parliament or grandstand before an interested audience. In short, it is quite probable one could gently coerse him into attending if it was felt necessary. If one was to simply subpoena him, I feel it quite probable he would not answer the subpoena choosing to treat such a course of action as some plot generated within Government to persecute him.

Paragraph 33 - The Sala Allegations

There are a number of observations that can be made in relation to the Sala Affair. I must say that whilst I did not investigate this matter fully I was left with a sense of foreboding as to what had actually taken place. In my opinion, and I would be open to contrary views, there are a number of ways of looking at this matter. Firstly, it seems to be inescapable that something went wrong somewhere. Whether that happened because of undue influence being placed upon an Attorney-General or an Attorney-General being unduly influenced is not clear. I must say that in my reading of the documents, I was struck by the alleged suggestion by Dixon that Headland had stated that in relation to a discussion I think he had with

Davies to the effect that the Attorney-General had told Davies simply that he had made a mistake in being misled by Ryan. There seems to be a marvellous simplicity about this statement.

I notice in paragraph 35, 3rd line page 16 - Gannell quoting: "Gannell's recollection is that Customs wanted Sala deported because of the cost of keeping him in jail" goes against commonsense in that I can't imagine Customs having any regard for the cost of keeping anybody in jail. It simply does not affect Customs.

As a general observation, I think it should be said that when reviewing matters some 10 to 20 years old, one must take into account the philosophies and attitudes then existing. In this regard I note of recent years Government has felt it necessary to create the office of The Director of Public Prosecutions and I expect that part of the driving force behind this move, was a perceived need for independence and sophistication in the areas of criminal prosecution. I don't think it would be argued that today, we're alot more sophisticated than we were even 5 or 6 years ago in relation to these matters.

One matter that may bear investigation is my recollection that in The Age tapes, there was a record of a very brief conversation of a female in Sydney I think, ringing Morgan Ryan's business in Canberra, a Child Care Centre called Kiddycare or something similar to that, and asking for a Mrs Menzies. It is one of those niggling things who one does not know who Mrs Menzies is or more particularly, whether there is any connection between that Mrs Menzies and a wife or relative of Andrew Menzies.

Paragraph 37 - Property Transactions

The DPP analysis of the various property transactions by persons close to this matter has revealed nothing of significance. This is not surprising. It would be surprising if the public record

carried with it proof of wrongdoings by sophisticated individuals.

Paragraph 42 relates to conference notes apparently between Thomas and defence counsel over the evidence he was to give at the Murphy trial. I'm not privy to these notes and therefore can make no comment.

Paragraph 51

As to the motives of the Murphy Thomas luncheon, I think we can safely assume it did take place and if that is the case, are left with the simple question why was it held at all especially at a time that Davies was soon to retire? Even though Thomas did eventually retire on the grounds of ill health, my recollection is that it took place some two years later and I would be surprised if at that stage it was generally considered by anybody that Thomas had no future in the Australian Federal Police.

I agree with the observation that the two lunches were on the face of it completely separate. However one is left with the question that assuming Ryan approached Thomas with a view to offering him a bribe of which there is no doubt in my mind, it is obvious that Thomas was not considered a paragon of virtue at the time of the first luncheon. Had that been the case, something must have happened between the two luncheons to encourage Morgan Ryan to confidently put his own future at stake in offering a bribe to a senior police officer.

Paragraph 52 - The Clarity of Thomas's Recollection

Are we dealing with his actual recollections of words actually said or his recollections to the best of his ability? Thomas with his background would be quite used to the legal necessity of consolidating conversations heard in the past into the first person format as against the more usual civilian habit of not using direct quotations.

Unfortunately, I do not see it as terribly remarkable that Thomas failed to record his meeting with the Judge. I suppose the easiest way to example this is to ask what would you do in the same position - One person amongst three, or two policeman versus two professionals. The spectre of coming out of a skirmish under those circumstances unscathed would be rather remote. I would suspect that a normal human reaction to such an event would be simply to put it down to experience.

The fact that Thomas did not raise the matter apparently until after it was mentioned in a newspaper report again does not come as any great surprise. The newspaper report placed the matter in the public domain, was fairly recent, one or two years ago, at a time he was at the Sydney Bar trying to make a living as a Barrister. One would expect and hope that a Barrister being slated would be extremely sensitive in a situation where his good name and credibility hopefully derived a greater part of his livelihood.

Whilst Thomas must attract quite vigorous challenge, I would be surprised if his credibility was not intact in the end.

Paragraph 53

I believe that Davies does provide support for Thomas especially in light of the Age tape conversation which appears to have taken place between Morgan Ryan and Davies on the day of, or the day after the meeting between Thomas and Ryan alone, wherein Morgan Ryan is obviously concerned at Thomas's lack of interest in relation to accepting a bribe. I feel this conversation out of The Age tapes is probably quite damning towards giving the lie of affairs between Morgan Ryan and Davies at least. The reference to a cheque being forwarded to Davies is in my view, quite probably the \$1,200 that Davies was later to receive from the NSW Government. I appreciate that at the time of making your commentary, you were not privy to that item of information. As you say it does defy credulity that Davies

arranged the luncheon with the High Court Judge to discuss the future for Thomas in the legal profession. But then, why did he arrange the lunch?

Paragraph 54

I tend to agree with you that the fact of the later meeting between Thomas and Ryan has little probative value in relations to the questions raised by Thomas and Davies over the lunch with the Judge. But by the same token, they cannot be entirely divorced. As I said before, it appears odd that a solicitor attempts to bribe a senior police officer a relatively short time after they both lunched with a High Court Judge and a very senior police officer.

Paragraph 55

I agree

Paragraph 56

Whilst from my recollection the West matter by itself and considering its age puts it very much out in the cold.

As a final observation, I note that in the Commonwealth Police File entitled Felton, Allan Frank, there are paper clippings from the time shortly after the alleged break and enter on Morosi's townhouse. I notice that the Attorney-General referred to there as Enderby. I'm not particularly aware when Murphy ceased being Attorney-General when Enderby commenced. However the fact of Davies report being directed to the Attorney-General, it is of importance for us to know who the Attorney-General then was.

MINUTE TO ANDREW PHELAN

FROM ANDY WELLS

OBSERVATION COMMENTS ON MATERIAL RECEIVED BY THE PARLIAMENTARY
COMMITTEE OF INQUIRY FROM THE DIRECTOR OF PUBLIC PROSECUTIONS,
SYDNEY OFFICE

Introduction

This document is prepared simply as an outline of my knowledge in particular areas covered within the DPP material. The reference numbers co-relate to the numbers given to the items on the receipt supplied by David Durack to the DPP.

1 (a) Jill Nelson

Commentary

No knowledge however preparing summary of file as requested.

1 (b) Ramon Sala

Commentary

Subject of separate commentary. Only other comment to be made at this stage is that I believe that Sala and Senannes were suspected by the narcotics bureau of being part of a large drug ring centred in Israel. If this was the case, and there should be records to assist, then the spectre of an Israeli/Saffron link is raised. This probably would lead nowhere even if it were the case.

2.1 James Anderson

Commentary

Not interviewed by me but by DPP staff.

2.2 Bird/McMahon

Commentary

I've already commented on this matter and my observations on the paper requested by Andrew Phelan on his commentary.

2.10 Hagenfelds, Berita

Commentary

Hagenfelds allegedly for some years, Saffron's mistress. Recently she took out an action against Saffron or disaffection or some similar type of redress. She was represented at Court by Mr John Dowd, Shadow Attorney-General, New South Wales. It was felt on fairly reliable grounds that Hagenfeld if she were to co-operate, could provide some extremely relevant information. However, the fact is she refused to co-operate on the grounds, as I mentioned with Anderson, that her taking civil action against Saffron was one thing, but to co-operate in the Commissions area of interest was another thing. Apparently she felt that had she done so, she would have put herself in some degree of peril. I know that members of the NCA had also tried unsuccessfully to interview her. I am unaware if they eventually have been successful. I understand that her daughter with whom she lives and who I think maybe Saffron's daughter could not be trusted in that her loyalties lie predominately with Saffron.

2.11 Danny Hameiri

Commentary

Dr Danny Hameiri conducted a practice in Surrey Hills. He was a subject of a Medifraud investigation 80-81. The investigation was conducted by now Detective Inspector Ray Cooper. Hameiri was reputedly Saffron's Doctor or very close to Saffron and there are a number of summaries in the Age tape extracts dealing with the matter. You will note that the reason for Ryan allegedly offering Thomas a bribe was to assist Danny Hameiri. It is noted in The Age tape extracts that Ryan speaks with Garry Boyd who advises he knows John Brennan then and now the Chief of Investigations for Medifraud Inquiries in Sydney (I think he is employed by the Department of Health with an office at Strathfield). Whilst I spoke to Ray Cooper who told me that he was unaware of any overtures from suspicious quarters, in the light of all that's gone in the past, a close look at the way the Hameiri matter proceeded at Court may be worthwhile. On the face of it, it may be that even if undue influence was brought to bear it may not have been successful.

2.14 Miltie

Commentary

This refers to Kerry Miltie currently at the Bar in Victoria. Miltie was an ex-Queenslander and Federal Policeman who was in the thick of things during the aborted "Australia Police" days. To my recollection, I spoke to him by phone and he was unable to be of any assistance.

2.15 Milton Morris

Commentary

This refers to an ex-Minister or Shadow Minister in the New South Wales Parliament. From recollection The Age tapes extracts refer to I think, Ryan suggesting that he could bring pressure to bear on Morris over some suggested tax fiddle regarding a dairy in which he had an interest in order for Morris to induce the Liberal Party to refrain from pursuing criticism I think of Ryan. Morris was not interviewed. I think he is now out of Parliamentary life and possibly living in the country.

2.24 Taylor W

Commentary

This refers to Bill Taylor, an ex-Federal Police Officer who was very highly regarded in the intelligence area before his retirement to work for a consortium of motion picture producers in relation to the pirating of films and videos etc. Taylor was spoken to regarding any knowledge he had of Murphy or Saffron as he had prior to retirement that involved in gathering information on Abe Saffron.

2.25 Travel Movements

Comprises the travel movements of relevant individuals nothing of immediate relevance was apparent, except there may have been something of a pattern between Morgan Ryan's travel and that of Saffron. Suggest checking movements of Hagensfeld, Doreen Saffron and other associates.

2.29 Robert Yuen

Commentary

Yuen became of interest as it was suggested I think in The Age tapes that he was a person involved in the illegal gambling in the Chinatown area and one conversation suggested that I think, he had approached Ryan for assistance to get the police off his back and apparently independently of Ryan, made contact with someone of influence in the same block of flats in which he lived. The folder will show that Yuen lived in the same block of flats as Murphy.

3.2 Ian Alcorn

Commentary

Alcorn was another ex-Federal Policeman who prior to resignation, was involved in intelligence area and it was thought he may have had some information. He is now a Private Enquiry Agent based on the Gold Coast of Queensland. The telephone conversation with him, nothing of interest was raised.

3.8 Boyds

Commentary

Refers to Garry Boyd and his brother, Brian. Garry Boyd was a Chief of the Special Report Branch of the Immigration Department for a number of years and was strongly suspected over a number of years as being a person involved in dishonest activities. There is a note that [REDACTED] suggests Boyd was fairly close to Morgan Ryan and that they were both involved in immigration rorts together with Murphy. It should be noted that when

pressed on the subject, [REDACTED] was unable to produce any hard or suggest that he had any hard evidence. It appeared to be a matter of suspicions, no more. Nudge, nudge, wink, wink stuff.

3.9 Boyle

Commentary

This relates to Terry Boyle, another ex-member of the Federal Police who was the Arresting Officer in both the Sala affair and the Ian Green matter. Boyle is now a Private Enquiry Agent based in the Western Suburbs. He was quite a forceful person when in the Federal Police. Subsequent to his resignation, an article did appear in the National Times newspaper quoting him regarding his dissatisfaction with enquiries into the Sala matter. One point of interest, possibly no more, is that Boyle did say that when the Sala matter was at its peak that shortly before Sala actually left the country he, knowing Gannell was then bodyguard to Murphy, spoke to Gannell on a couple of occasions to warn Murphy of the Sala matter and the dangers involved. He claims that Gannell came back to him suggesting he had spoken to Murphy on the subject. However, when this was put to Gannell, he claimed that he could not remember if this was the case, also stated that there may have been a situation of Boyle believing he had greater access to Murphy than he in fact did. I recollect that Gannell seemed quite affected by this line of questioning, however was unable to work out whether that was from embarrassment of the fact he had not spoken to Murphy whilst claiming he had to Boyle, or whether the fact is he had spoken to Murphy and was frightened of the implications of recounting of what had taken place.

3.12 The Cessna-Milner matter

The Cessna-Milner matter is one that has also received a deal of publicity, and a deal of suspicion as to motives. To my knowledge there is no direct Murphy connection but certainly there seems to be a Bruce Myles cum Morgan Ryan cum Murray Farquhar connection. You may recollect this is a matter where the then Commissioner of Police, Merv Wood also became involved and the police prosecutors took a remarkable stance in relation to the matter.

3.19 Erica Enwright

Commentary

I think doesn't relate to this Inquiry at all. From recollection, it was a [REDACTED] suggestion that she had an association with Dr Edelstein.

3.53 Weinstock

Commentary

Dealt with separately.

3.54 Jack Whelan

Commentary

I have not read The Age tape extracts on Jack Whelan but some relevance may exist in that I think, and I repeat think, that Whelan and Thomas were friends when they were both in the NSW Police. It may be that Whelan knew Ryan and it may also be possible to read that Jack mentioned in The Age tapes conversations between Ryan and Davies as a reference to Jack Whelan as against Jack Davies, the

Commissioner of Police. There is a fair bit of speculation in this statement.

Rumour is that Whelan has or is about to resign from Police and set up shop with Nelson Chad on North Shore as inquiry agents. Whelan is also a Barrister.

Reference to Lever Arch Folders marked DPP Rushton: Murphy retrieval

Commentary

I assume these two volumes, which I haven't seen, comprises documents compiled by Steve Rushton of DPP.

- 4.11 Relates to a conversation with Kate Wentworth. I was present during one of those conversations with Miss Wentworth. From knowledge of the local press, you may note that Wentworth was recently involved in a fairly nasty divorce case with her ex-husband over an ex-husband while she did assist every care should be taken to maintain her allimony?? in this matter. As I recollect nothing of what she had to say was of great relevance or use. As a general comment, none of the other material seems to relate to anything I can really make any worthwhile comments about. N.B.: Wentworth paranoid about her current situation. Suggest advice before approaching. Can be very aggressive.

RECEIVED - 4 JUL 1986



National Crime Authority

CENTRAL OFFICE
GPO Box 5260, Sydney, NSW 2081
Telephone (02) 265 7111
Telex 23575

3 July 1986

The Secretary
Parliamentary Commission of Inquiry
8th Floor ADC House
99 Elizabeth Street
SYDNEY NSW 2000

Dear Sir,

I refer to the meeting of 17 June 1986 between Sir George Lush and Mr Justice Stewart, which was also attended by representatives of your Commission and the Authority, regarding information held by the Authority touching upon Mr Justice L.K. Murphy.

The following information is furnished pursuant to the notice dated 30 June 1986 issued under section 13(1)(a) of the Parliamentary Commission of Inquiry Act 1986 and the Commission's requests made pursuant to section 13(3).

1. Relationship between Murphy J. and A. Saffron

The only material on hand which was not supplied to the DPP, apart from that emanating from Mrs Opitz (see 2 and 4), is that contained in an interview by Authority investigators with James West, a former part-owner of the Raffles group. The relevant pages of the record of interview are enclosed as Attachment A. West lives at 1 Cunningham Street, Applecross in Western Australia.

2. Mrs Rosemary Opitz

Mrs Rosemary Opitz has told Authority investigators that she is prepared to talk to the Parliamentary Commission provided she is introduced to it by Authority Investigators Baker and Reid. She also requested that she not be interviewed at her home and that Baker and Reid be present at any interview. No undertakings as to those conditions were given to her. Opitz has told the investigators that she was introduced to Murphy J. at Saffron's premises at Lenthall Street, Kensington 10 or 12 years ago.

3. James McCartney Anderson

The Authority understands that you have made arrangements to interview this person in New Zealand.

4. Anna Paul

All that is presently known of Anna Paul is information provided by Opitz that Paul was a girlfriend of Murphy J "in the period between his first and second marriages". According to Opitz, Paul is now a resident of England but was recently and may still be in Australia. Again according to Opitz, Paul would be able to confirm the fact that Murphy dined on a number of occasions with Saffron. The Authority is not in a position to arrange an introduction to Paul. It is a matter that the Commission might take up directly with Opitz.

5. Steven Leslie Bazley

The Authority is not in a position to introduce the Commission to Bazley nor is it aware of any information from or relating to him which touches upon Murphy J.

6. 'Age Tape' Witnesses

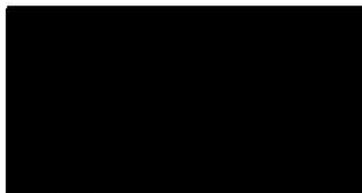
Enclosed as Attachment B is a list of persons who were attached to the New South Wales Police Bureau of Crime Intelligence and Technical Survey Unit during the periods when Morgan Ryan's telephone conversations were subjected to illegal interception. Some of those persons gave evidence to the Royal Commission regarding conversations involving Murphy J and those are identified in the Attachment. Others who were not questioned regarding the matter may be able to give evidence of such conversations.

7. Specific allegations

Enclosed as Attachment C is a document referring to information obtained by the Authority from the Royal Commission which relates to the 7 items referred to in the schedule to the letter of 25 March 1986 from Mr Justice D.G. Stewart to Mr Justice L.K. Murphy.

Please contact me if you require any further assistance in relation to these matters.

Yours faithfully,

A large black rectangular redaction box covering the signature area.

D.M. Lenihan
Chief Executive Officer

- JW But er, I fell out with him because he wanted me to do a few bloody things for Abe, and I wouldn't do them, and I wouldn't be in them, no way.
- 197 IR Can you tell us what they were?
- JW No, I don't think I should really.
- 198 IR OK.
- JW No, it was to do with the police force, and I respect the police anyhow.
- 199 Mm. Is he still alive, this Bill Nielson?
- JW Yeah.
- 200 IR Still a policeman?
- JW No, he ... he was retired. He retired er ... Inspector CIB.
- 201 IR Mm. Do you know if Abe Saffron had a replacement in the Police Force for him?
- JW I don't know about that, I wouldn't, I would not be one little surprised about it.
- 202 IR No, but you don't know of it.
- JW No, I don't know if it Ian, no.
- 203 IR Sure, Probably none of us would be surprised, but if we don't know, we don't know.
- JW Yeah, that's true, quite true, yeah.
- 204 IR OK.
- JW Well, Murphy is a, you probably know, Murphy's Abe's man, that's for sure.
- 205 IR Which Murphy?
- JW The magistrate that's up now in all the bloody court
- 206 IR Oh, Lionel Murphy.
- JW Yeah, whatever his name is, I don't
- 207 IR Er, the Judge.
- JW Yeah, the Judge.
- 208 IR Yeah, right. How did that knowledge come to you?

- JW I met him over there with Abe. I used to go a year.
Met quite a lot of people to
- 209 IR Was that Lodge 44?
- JW Yeah, Lodge 44, that's, that's the headquarters.
- 210 IR Yeah. Did Abe ever talk of his association with Murphy?
- JW Oh yes, that's for sure he did, yeah. I met quite a lot of
the chaps there that from America to. No doubt
he's involved which, I don't think I've got to tell
you know that anyhow don't you?
- 211 IR Oh, yes.
- JW See what I mean Ian
- 212 IR Yes, we know it, for sure. Um, but we need, we need
specifics.
- JW Mm. Mm.
- 213 IR Can you tell us who those people from America were?
- JW No, I couldn't tell you. I know they were top Mafia men,
anyhow.
- 214 IR Do you know their names?
- JW No, off hand I don't, no.
- 215 IR No, OK. Are you prepared to tell us of what Abe said of
his relationship with Murphy?
- JW Oh, not really, because er, I didn't know Murphy that well,
I met him there with Abe, a few times, and um what
they did between themselves, I think Abe pays him and
that's it. You know he's involved in all the
gambling around bloody Kings Cross don't you?
- 216 IR Mm. Did it concern you being in business with such a man?
- JW Yes, it did concern me pretty bloody badly too to,
well I rather respect my family but he didn't like it
very much at all.
- 217 IR Did it ever annoy him that you were more straight than he
might desire?
- JW Yes, yes it did. Because I think he thought he could
wanted to convert me.
- 218 IR Yes.

The following is a list of witnesses before the Royal Commission who were attached to the BCI and TSU during the periods that Ryan's telephone conversations were intercepted:

BCI

Anderson	Robert Charles
Aust	Bernard Frederick
Beaumont	Gary William
Brett	Mark Christopher
Cahill	John Edward
Calladine	Anthony Mervyn
Carrabs	Vincenzo Gino
Chambers	Warren Thomas
Champion	Alan Maurice
Choat	Jennifer Anne
Crawford	Ross Maxwell
Donaldson	Leonard Stuart
Dunn	Barry Wentworth
Durham	John Bruce Robert
Egge	Paul Leonard
Finch	Ian Charles
Foster	James Frederick
Francisco	John
Gilligan	Dennis Martin
Harvey	Rodney Graham
Jones	Albert John
Lauer	Anthony Raymond

McDonald	Kevin Edward
McDowell	Geoffrey Neil
McVicar	Brian Roy
Meadley	John Bradford
Morrison	Ross Page
Ogg	Michael Kevin
Owens	Geoffrey Richard
Palmer	John Ferdinand
Pryce	Bruce David
Rudd	Allan Leonard
Schuberg	Geoffrey Esmond
Shelley	Geoffrey
Shepherd	Robert Charles
Slade	George Walter
Sweeney	John Peter
Tharme	Michael
Treharne	Robert Ian
Vickers	Geoffrey William
Walter	Paul Thomas
Wares	Ian Neville
Whalan	Peter David
Wiggins	Ronald David
Williams	Terrence John
Withers	John Fenton
Wooden	James Edward

TSU

Brown

Huber

Johnson

Kilburn

Lewis

Lowe

McKinnon

Slucher

Smith

Stanton

Kevin Robert

Kerri Lynne

Richard Anthony

Roger

John Darcy

Paul Thomas

Warren James

Regby Francis

Grahame Phillip

Warren Sydney

Information available from the Royal Commission material supporting the seven items referred to in the Schedule to the letter of 25 March 1986 from Mr Justice D.G. Stewart to Mr Justice L.K. Murphy

Item 1, Robert Yuen: Casino

This matter is dealt with in detail in Volume Two of the Royal Commission Report at paragraphs 2.31 to 2.51. The references to the source material are in endnotes 40 to 60 on pages 88 to 89. Most of the material has been provided to the Parliamentary Commission. The balance of the material is available for inspection.

Item 2, Luna Park Lease

This matter arises from the supplementary statement and evidence of P.L. Egge which have been furnished to the Parliamentary Commission. Some background information was obtained by the Royal Commission. The facts appear to be as set out below.

On 27 May 1981 the New South Wales Government granted a lease of Luna Park for a term of 30 years to Harbourside Amusement Park Pty Ltd. Luna Park had been occupied for some years by Luna Park (NSW) Pty Ltd, initially pursuant to a lease and later on a tenancy from week to week, until 9 June 1979 when a fire occurred at Luna Park resulting in several deaths. There had been discussions between the Premier's Department and Luna Park (NSW) Pty Ltd concerning a new lease for the area, but no decision had been reached by the time of the fire. After the fire, tenders were invited for the future lease of the area. Originally the tenders closed on 23 November 1979 but on 17 January 1980 the NSW Government announced that all six tenders received had been unsatisfactory but that negotiations were continuing with the Grundy Organisation, which had come closest to meeting the Government's requirements. (TI/384)

On 12 March 1980 an advertisement appeared in newspapers calling for further tenders, the closing date for which was 17 June 1980. An interdepartmental committee was established to assess the tenders. The committee eventually

recommended that the tender, then in the name of Australasian Amusements Associates Pty Ltd, should be preferred. The Directors of Australasian Amusements Associates Pty Ltd included Sir Arthur George and Michael Edgley. The company experienced difficulty in obtaining registration under the name proposed and indicated that a new name would be chosen. In the meantime Australasian Amusements Associates Pty Ltd operated through a shelf company named Balopa Pty Ltd. The name of the company was subsequently changed to Harbourside Amusement Park Ltd which entered into the lease for the area. In 1981 the return of Particulars of Directors lodged at the Corporate Affairs Commission showed that on 7 October 1981 David Zalmon Baffsky a solicitor, was appointed as a director of the company. Baffsky is a member of the Sydney firm of solicitors, Simons and Baffsky, who regularly act for Saffron's companies. In 1982 the return of Particulars of Directors for the Company showed that Samuel King Cowper, a nephew of Saffron, had been appointed Secretary to the company. (TI/384)

There is no apparent reference to these matters in the documentary material, including available transcripts of tapes, or the tapes resulting from the interception of the telephone conversations of Ryan which were obtained by the Royal Commission. Sergeant P L Egge said that he recalled that Ryan had been involved in influencing the grant of the lease. In his supplementary statement Egge said: (Ss.342-343)

There is another matter which relates Saffron which I can't recall. I think this matter was also referred to on the transcripts that I do not precisely recall. After the fire at Luna Park a lease was to be granted the Reg Grundy Organisation. A draft lease was sent to the Grundy Organisation. Saffron then rang Ryan and said that he wanted the lease. Lionel Murphy was contacted by Ryan and requested to speak to Wran. So after this there was an announcement by the NSW Government that the lease was to be reviewed. The lease was then granted to a company which had a name like "Harbourside" of which Sir Arthur was the "front man". Based on the information which I gained from the transcript I believe that this was a Saffron owned or controlled company. Saffron's companies were incorporated by the same firm of solicitors. I cannot now remember a name of the firm. Some of these matters would not find their way onto the CIB dossier on Saffron as they were regarded as "too hot".

When giving evidence before the Commission, Egge said that the source of the information contained in his supplementary statement was the transcript of conversations intercepted on Ryan's telephone.

(E.854) He also said:

Well, in relation to it, Abe Saffron rang Morgan Ryan and said he would be interested in gaining the lease for Luna Park and Morgan Ryan said to Abe that it is going to the Reg Grundy organisation and Abe said, "Well, I want the lease". As the result of the conversation Morgan Ryan again got in contact with Mr Justice Lionel Murphy ... Mr Justice Lionel Murphy said, "leave it with me" and then after a short time Mr Justice Lionel Murphy rang back Morgan Ryan and said that he had spoken to Neville - only refer to as Neville - and said that he's going to try and make some arrangements for Abe to get the lease and either the next day or shortly therein after Mr Wran said that the Government is going to review the lease to Luna Park and a decision on the lease would be made by the Government within seven or fourteen days. I'm not sure of the period. (E.854-55)

When asked for the name of the solicitor to whom he was referring in his supplementary statement as regularly appearing for Saffron, Egge said that he could not remember clearly, but that the name Baffsky was familiar. Egge's allegation that Sir Arthur George was the 'front man' for a company in which Saffron had an interest was based, according to Egge, upon information contained in a BCI file that Sir Arthur George had been seen in Saffron's company and upon Egge's own research which he said he conducted into companies in which Saffron had a silent interest. In his original statement (S.538-545) Egge had explained that on his transfer to the BCI on 14 September 1979 he was utilised as a collator and analyst. Among the material available to him was a file of about 500 pages of transcript of intercepted telephone conversations involving Ryan, to which he frequently had reference as it 'formed the basis of Organised Crime in NSW'. It should be noted that although it may appear on a reading of Egge's evidence that he actually heard some telephone conversation as they occurred, this was not the case. (see E854)

The information provided by Egge emerged after the majority of material witnesses had given evidence and the Royal Commission did not recall those witnesses to establish whether they had any recollection of the conversations described by Egge. Two witnesses who followed Egge, however, said they recalled similar conversations.

Sergeant R I Treharne recalled similar but not identical conversations which he said he had listened to on tapes resulting from the interception of Ryan's telephone conversations. He had joined the BCI in January 1980 and had attended the offices of the TSU from time to time to transcribe tapes of conversations intercepted on Ryan's telephone service.

(S.428-9, Ss.251) When he gave evidence and was asked whether he remembered any such conversations as described by Egge, he said that he recalled that there was 'a fair amount of discussion as to gaining control of that lease'. He said that the discussion was between 'Saffron, Morgan Ryan and Jury - although I am unsure (of) Jury's participation'. (E.1011)

His comment on Eric Jury arose because he had referred to him earlier as being a party to suspicious conversations with Ryan. Treharne was unable to recall the conversations relating to Luna Park with any precision and said 'I know there were a number of conversations about it and Morgan Ryan felt that he could swing the lease'. He was unable to recall any other person with whom Ryan spoke by telephone concerning the Luna Park matter. (E.1012)

The other witness who said that he recalled the matter was former Sergeant M K Ogg who left the NSW Police to conduct his own business in 1982. Ogg had been a member of the BCI from February 1975 (Ss.319-324) and had typed transcripts of the intercepted telephone conversations of Ryan. Ogg said that he recalled conversations involving Ryan and the lease of Luna Park. He said he had either heard tapes or had read transcripts of the conversations. His recollection was that Ryan was trying to make representations to get the lease for a friend of his. He said that the friend's name was 'Colbron or something like that'. Although he was unable to be precise, he said that he had a 'feeling' that Ryan had made representations to Mr Justice Murphy. When asked for his recollection of any conversations, he said:

I cannot possibly actually recall the exact conversation on what he was going to do but I remember along those lines that were going to try and get the government to agree to this Company receiving the favour and getting the license for Luna Park.
(E. 1208)

'Colbron' may have been a reference to a solicitor, Warwick Colbron, who practised as Warwick A J Colbron, Hutchinson and Co at Bilgola Plateau. (Warwick A J Colbron, Hutchinson and Co were involved in attempts to procure a contract for the redevelopment of the Central Railway site (see Item 3).) After the tenders for Luna Park were first called, the tender from the Grundy Organisation was given qualified approval and negotiations that followed were conducted in the main on behalf of the organisation by Colbron. Correspondence was received by the Minister for Public Works from him on 16 April 1980 confirming that the group would be retendering. He again wrote on behalf of the Grundy Organisation on 23 May 1980, but when the successful tender, which was then in the name of Australasian Amusements Associates Pty Ltd, of June 1980 was received by the Government, Colbron was shown on the development proposal documents as one of 'The Development Team'. (TI/384).

If the conversations occurred, it is probable they would have taken place in January, February, March or April of 1980, for which period the Ryan transcript material is obviously incomplete. The major part of the material available for that period is the summaries prepared by Sergeant B R McVicar. The summaries commence with a reference to conversation on 7 February 1980 and then appear to be continuous until 24 February 1980, whereupon there are no references to any conversations until 9 March 1980, from when they appear to be continuous to 10 May 1980. McVicar was not recalled to give evidence of his knowledge of any such telephone conversations. Former Sergeant J B Meadley, who spent considerable time while he was attached to the BCI involved in surveillance of Ryan and who had heard tapes of Ryan's telephone conversations at the TSU from time to time, had no recollection of hearing any references in the Ryan conversations to Luna Park. (E.1083)

Documents obtained by the Royal Commission from NSW Government Departments relating to the lease are available for inspection.

Item 3, Central Station

This allegation also arises from the supplementary statement and evidence of P.L. Egge, copies of which have been furnished to the Parliamentary Commission. The Royal Commission conducted some preliminary inquiries into the matter. The facts appear to be as outlined below.

In 1977 the Public Transport Commission of NSW invited proposals for the redevelopment and modernisation of Central Railway Station. The closing date for submission of proposals was 7 September 1977. On the following day the general manager of the Property Branch of the Commission, A T Clutton, submitted a report on the proposals for consideration by the Commission. He advised that the proposal submitted by Commuter Terminals Pty Ltd was the preferred of only two proposals which in any way approached the requirements of the Commission. On 12 September 1977 the Commission decided to deal exclusively with Commuter Terminals for a period of 12 months with a view to negotiating a firm lease, subject to satisfactory evidence being produced that funds were available for its proposal. (TI/0372)

On 25 October 1977, the Premier of NSW, the Hon. N.K. Wran, Q.C., M.P., wrote to the Minister for Transport, Mr Peter Cox, stating that he was in agreement with the desirability of proceeding with plans to modernise and redevelop Central Station. In the letter he suggested that any public announcement not refer to the identity of the potential developer. Mr Wran agreed also with the proposal by Mr Cox that the project be considered by a committee of officers representing the Public Transport Commission, the Ministry of Transport, the Premier's Department and the Treasury. He also said that he preferred to wait until the committee had the opportunity of making recommendations before negotiations with Commuter Terminals commenced. (TI/0372 Folio 7)

The interdepartmental committee had several meetings in 1978. On 18 August 1978 the Minister for Transport advised the Premier that the interdepartmental committee recommended that the Commission be authorised to pursue the matter further with Commuter Terminals to establish the full extent of the company's proposals. On 31 August 1978 the Premier agreed with this recommendation.

On 13 September 1978 Clutton wrote to Messrs Warwick A J Colbron, Hutchinson and Company, the solicitors who had submitted the proposal on behalf of Commuter Terminals Pty Ltd, advising that authority had been given to pursue the matter further with the company. Contact between Clutton and Colbron is recorded in the diaries of Clutton obtained by the Nugan Hand Royal Commission (#009547). In 1979 and 1980 discussion continued with Commuter Terminals Pty Ltd, but in the meantime the interdepartmental committee had resolved that the Public Transport Commission should undertake a modified program of refurbishment. On 18 September 1980 the State Rail Authority wrote to Messrs Warwick A J Colbron, Hutchinson and Co to inform them that it had been decided that the Authority itself would undertake a program of restoration at the station. In the end result, Commuter Terminals Pty Ltd received no contract for any part of the work eventually carried out. The proposal of Commuter Terminals Pty Ltd disclosed that it was merely a corporate vehicle to unify a group comprising John Andrews International Pty Ltd, A W Edwards Pty Ltd and Warwick A J Colbron, Hutchinson and Company.
(TI/0372 Folio 52)

When giving evidence Egge told the Commission that he recalled this matter because it was discussed in the conversations contained in the transcripts of Ryan's intercepted telephone conversations. He said:

there was no announcement of anybody getting the contract but Abe rang up and said to Morgan Ryan that he would like the contract to remodel Central Railway Station. Apparently tenders were being called for the remodelling of Central Railways Station and Morgan Ryan got in contact with Mr Justice Lionel Murphy and arrangements were made for Abe Saffron to get the contract ... Morgan Ryan contacted - after receiving the phone call from Abe Saffron he contacted Mr Justice Lionel Murphy and Mr Murphy said "leave it to me" and I am not sure whether it was a short time or a week later or a day later or when that Mr Murphy rang back and said that the contract would go to Abe Saffron. (E.858)

Egge stated that he was confident that the particular incident could be corroborated by other police who had had access to the tapes or transcripts. A number of police witnesses who had been involved in the Ryan interception had already given evidence and they were not recalled in order to ascertain their particular knowledge of any such conversations. However, Sergeant R I Treharne, who gave evidence after Egge, said that he recalled similar conversations which he had heard at the time on tape recordings of Ryan's intercepted telephone conversations. Although Treharne had made no reference to the matter in his statements, when asked while giving evidence whether he remembered any conversation conducted on Ryan's telephone concerning a contract for the renovation of Central Railway Station, he said:

Similarly, there was a matter of discussion between some close associates of Ryan including Saffron and I believe there was an intention by Ryan to speak to somebody to persuade the Premier to assist in that regard, and I think it was a redevelopment of the Central railway site and they wanted to gain control of the leasing. (E.1012)

Treharne said that his recollection of the outcome of the conversations was that they were not successful, although he could not be sure of that. When asked whether he could recall any other subject being discussed on Ryan's telephone, which had not appeared in the material which had been shown to him, Treharne said:

Only my recollection of him talking in general terms to Mr Justice Murphy and either asking him to inquire through his contact with the Premier of a particular item, or that Morgan Ryan would bump into the Premier at the races and perhaps talk to him, but I have no recollection of what the actual matter was (E.1012)

In Volume TIC, the summaries prepared by Sergeant B R McVicar, at page 180 in an entry noted as being from a tape of 31 March 1980 the following appears:

Morgan rings Eric Jury ... Morgan will be seeing 'Nifty' in a week (Nev Wran) talk about Nifty having a son which they did not know about. Talk about the big Central Complex and a solicitor doing the submission, Solicitor's name is Colbron, Morgan will help to get it through for a fee. Talks about Sir Peter Able trying to get in on the act. Worth reading in full see page (1) tape 95. (T1C/180/42)

In an entry said to be from a tape of 3 April 1980 in the same material the subject seems to be mentioned again:

Lional Murphy rings Morgan. They talk about the new Central Railway Complex, Lional is very guarded with his talk and during the talk Commuter Terminal Pty Ltd is mentioned together with the word champagne. Worth reading in full (page 2) tape 98. (T1C/182/66)

An entry for 5 April 1980 records 'Eric Jory rings Morgan Ryan and they discuss in length the new Central Railway Complex. Also the company involved'. (T1C/183/50)

In the entries for the following two days, references are made to conversations between Ryan and Jury which may relate to the same subject. In an entry for 6 April 1980 the following appears:

Morgan rings Eric Jury. Discuss meeting between Morgan and Wran at the races and his warm reception. Further that Wran might see Morgan again at the races. Talk about some business deal that "Abe" will have to say in the background complain about Abe being a slow payer. They agree Wran is not a crook, not game, Wran worked out a deal with Murdock for his support. (T1C/183/73)

In an entry for 7 April 1980, the following appears:

In from Eric Jury to Morgan, race talk, Morgan met Wran at the races and he is now overseas. Eric wants Morgan to get onto Wran about the inquiries to which Morgan replied that everything was all right. (T1C/184/14)

Again in an entry for 8 April 1980 the matter could have been the subject of discussion between Ryan and Jury, in that the entry is in the following terms:

Into Morgan from Eric Jory, they talk about Morgan getting into Nifty Nev (Wran) about the contract. It's suggested that Nifty drop the matter if their mob does not get the contract. (T1C/185/12)

There do not appear to be any further references in the material to conversations concerning this matter.

It should be noted that the Royal Commission expressed reservations concerning the reliability of the McVicar summaries (Volume One paragraph 14.72; Volume Two paragraphs 2.60, 2.84, 2.105, 2.267) and the evidence of Egge (Volume Two paragraph 2.83). The Commission, in general, was not convinced that any of the transcript material in its possession was wholly accurate (see Volume One paragraphs 14.68-14.71).

Documents obtained by the Royal Commission from the State Rail Authority are available for inspection.

Item 4, Milton Morris

This matter is referred to in Volume Two of the Royal Commission Report at paragraphs 2.78 to 2.94. The source material is referred to in endnotes 89 to 108. Material which has not previously been provided to the Parliamentary Commission is available for inspection.

Item 5, Wadim Jegerow

This matter is referred to in Volume Two of the Royal Commission Report at paragraphs 2.72 to 2.77. The source material referred to in endnotes 81 to 88 has been furnished to the Parliamentary Commission.

Item 6, Lewington/Jones

This matter is referred to in Volume Two of the Royal Commission Report at paragraphs 2.296 to 2.303. The source material is referred to in endnotes 342 to 345. Material which has not been furnished to the Parliamentary Commission is available for inspection.

Item 7, D.W. Thomas

This matter arises from the statement and evidence of D.W. Thomas. It was not further investigated by the Royal Commission as it had little to do with the subject of the Royal Commission's inquiry and because of the considerations mentioned in the Commission's report at paragraph 2.43 of Volume Two. A copy of the statement and evidence of Thomas has been provided to the Parliamentary Commission.

M E M O R A N D U M

TO: S. Charles
A. Robertson
D. Durack
P. Sharp
F. Thomson

FROM: M. Weinberg
A. Phelan

DATE: 3rd July, 1986

We are circulating the rough product of a day's meanderings through the allegations as they seem to us to stand at present. We have followed the same numbering pattern as was used in the original memorandum headed Summary of Allegations (dated 15th June, 1986). This is for convenience only. We suggest that in future any work dealing with any allegation, adopt the same numbering scheme.

This memorandum merely attempts to focus with a little more precision upon the allegations originally outlined on 15th June. It is no sense a draft of specific allegations in precise terms. It omits reference to allegations 4 and 5 (Sala and Saffron - Customs). Alan Robertson has taken those on board.

In the next day or so, a flow of third draft allegations will commence. These will be in the form of specific allegations in precise terms. Please let us have your comments (oral or written) if anything seems to warrant immediate attention.

0048M

ALLEGATION NO. 1

Statement of Offence

In or about December 1979, the Judge attempted to bribe a Commonwealth Officer contrary to the provisions of Section 73 sub-section (2) of the Crimes Act 1914.

Particulars of Offence

In or about December 1979, Donald William Thomas, a Detective Chief Inspector of the then Commonwealth Police in charge of the Criminal Investigation Branch for the New South Wales region, attended a luncheon at the Arirang Restaurant in Kings Cross Sydney at the invitation of His Honour Mr Justice Murphy. Also present at that lunch were John Donnelly Davies, the Assistant Commissioner, Crime of the Commonwealth Police in Canberra, and Mr Morgan Ryan, Solicitor. During the course of the luncheon, the Judge spoke to Thomas regarding a Social Security conspiracy case in which he had been involved. Particulars of that conversation are set out in the attached statement of Thomas dated 3rd of December 1985. Further particulars of this conversation are set out in the confidential transcript of the Testimony given by Thomas before the Stewart Royal Commission on 3rd of December 1985 pages 3279 to 3296 inclusive copies of which are attached. There was also discussion between the Judge and Thomas about the possibility of Thomas fulfilling a particular role within the soon to be created Australian Federal Police. The Judge said to Thomas "We need somebody inside to tell us what is going on". He followed that with the suggestion that in return for fulfilling this role, the Judge would arrange for Thomas to be promoted to the rank of Assistant Commissioner. Details of that conversation are also set out in the statement and transcript referred to earlier.

Manner in which the case is put

Section 73 (3) provides: "In this Section; "bribe" includes the giving, conferring or procuring of any property or benefit of any kind in respect of any act done or to be done, or any forbearance observed or to be observed, or any favour or disfavour shown or to be shown in relation to a matter arising under a Law of Commonwealth or of a Territory or otherwise arising in relation to the affairs or business of the Commonwealth or of a Territory;

"Commonwealth Officer" includes a person who performs services for or on behalf of the Commonwealth, a Territory or Public Authority under the Commonwealth."

It is alleged that the Judge offered Thomas at least two benefits within the meaning of Section 73 sub-section 3:

- a. an invitation to meet his parliamentary critic in order to allay his concern about the constant attacks to which he was being subjected in relation to the Greek conspiracy; and
- b. the position of Assistant Commissioner in the soon to be formed Australian Federal Police. In return, it is suggested, the Judge made it clear to Thomas that he would be expected to keep the Judge's associates (presumably the Labor Party) informed of what was going on in the Australian Federal Police in a way which could not be done through proper avenues of communication.

Evidence to be obtained

The following witnesses will be called:

1. Thomas
2. Davies
3. Morgan Ryan

It will also be necessary to consider whether any evidence is to be led of the subsequent meeting between Thomas and Morgan Ryan in February 1980. If that evidence is thought relevant to the allegation against the Judge, a transcript of the tape recording between Ryan and Thomas should be supplied to the Judge. In addition, a statement should be obtained from Inspector Lamb. Any summons which is issued to these witnesses should include in its terms the requirement that they produce any diaries, notebooks, or memoranda which might contain matters relevant to these incidents. A separate summons should be directed to the Australian Federal Police in respect of any such documents which might have been handed to them by any of these police officers (in particular Davies) at the end of his period of office.

It appears that the Australian Federal Police are currently investigating the possibility of charging Morgan Ryan in relation to the events of February 1980. It would be desirable to obtain any file notes or other working documents which the Australian Federal Police have raised in relation to that investigation. A statement should also be obtained from His Honour's associate at the relevant time to see whether the account given by Thomas can be corroborated, at least as to the invitation. In addition one should examine the evidence given by Thomas during the course of the second Murphy trial, and the unsworn statement of His Honour dealing with that point. We should also put into this file the statement that has been

obtained by the DPP from Davies which seeks to explain the events from his point of view. Finally, it is understood that Morgan Ryan was questioned about the Thomas luncheon or luncheons before the NCA. The transcript of that evidence should be put into this file as well. It appears that the NCA have photocopies of certain diary entries in Morgan Ryan's diaries (which Ryan claims to have since lost). We must obtain the copies of those entries.

ALLEGATION NO. 2

The Lewington Allegation Statement of Offence

It appears to us that even if everything set out in Lewington's record of interview (answer 28 page 9 of that document) could be authenticated, it could not be said to amount to a criminal offence. Taken at its highest, it appears that on a previous occasion, Ryan had asked the Judge to make inquiries about the police officers who were conducting the investigation into Ryan's possible criminal conduct. Lewington recalls a conversation whereby Ryan said something to the effect of "have you been able to find out about those two fellows who are doing the investigation; are they approachable?". The Judge indicates that he has made some enquiries and that the answer was definitely no, the two police officers were both very straight. It seems to us that a request that another person make enquiries as to whether someone is corruptible falls short of a conspiracy to corrupt, and certainly falls short of an attempted bribe. Rather, it seems to be a preparatory act leading up to the commission of an offence which is too distant from the actual commission of the offence to be criminal when considered in isolation. It follows therefore that the Lewington allegation will have to be considered upon the footing that it demonstrates "misbehaviour" in a broader sense than that which was accepted as lying at the heart of that concept by the Solicitor General in his memorandum of 1984.

It would be argued that for a Justice of the High Court to provide assistance to a person who was interested in finding out whether two police officers could be bribed (whatever that assistance might be - either answering the question in the affirmative, thereby facilitating the offer of a bribe, or answering the question in the negative, thereby enabling the would be offeror to avoid putting himself at risk) constitutes very serious and improper behaviour. It may amount to misfeasance in a public office - this will depend upon our analysis of the law relating to that tort-misdemeanour.

Material to be examined

Two records of interview conducted between Detective Superintendent A. Brown and Station Sergeant David James Lewington dated 22nd February 1984 and 23rd February 1984. In addition, one should examine the findings of the First Senate Enquiry into the Lewington allegation - paragraph 61 of the First Senate Report August 1984.

Witnesses to be spoken to

1. Lewington
2. Jones
3. Lamb, - Detective Sergeant Carter, Detectives Harten, Harrison and Craig
4. [REDACTED]
5. Deputy Commissioner Farmer
6. Charles Kilduff

In addition to speaking to these witnesses, we should examine carefully:

- a. The Senate proceedings (first enquiry) and the Stewart Royal Commission investigation into this matter. It may be that if [REDACTED] is prepared to speak to us, he would be in a position to tell us who carried out the actual taping of the conversation.

It must be recalled that shortly after this incident, Lewington and Lamb were approached by two other officers of the New South Wales Police Force who attempted to bribe them. Apparently the two officers who made those bribe offers were Detective

Sergeant Shaw and Detective Sergeant Lowe. We should examine the New South Wales Police files relating to this matter and the AFP files as well.

0004M

ALLEGATION NO. 3 - ASSOCIATION WITH ABE SAFFRON

It is alleged that the Judge has had a long-standing association with Abe Saffron, a person of notoriously low repute. It is asserted that the Judge has been seen in Saffron's company on a number of occasions, and in a variety of different establishments. These include Lodge 44 (Saffron's headquarters) and the Venus Room.

A second allegation is made that the Judge was a silent partner in the ownership of the Venus Room to the extent of owning 5% of the shares in the managing company.

It is further alleged that there is a long history of the Judge receiving sexual favours from woman supplied by Saffron, or a known associate of Saffron's, one Eric Jury.

As to the suggestion of long association, it may be necessary to consider the status of the law of consorting in NSW. It seems inherently unlikely that the Judge's conduct, even if proved, would amount to consorting. It may be that one of the elements of this offence is that the person with whom one consorts must be a reputed thief. If this is a requirement, then plainly the offence of consorting could not be made out. As regards the second allegation (joint ownership of the Venus Room) it is likely that NSW law makes it an offence to be a part owner of a brothel knowing that the premises are being used for the purposes of prostitution. We should also examine the possibility of there being an offence of controlling a disorderly house (common law offence).

A final matter is the provision of women for sexual favours for the Judge. It is debatable whether this would amount to misbehaviour within the meaning of section 72. For what it is worth, our view is that it would fall short of such

misbehaviour. Such conduct could be regarded in some quarters as being scandalous or otherwise improper. But we believe that as a matter of law it could not amount to "misbehaviour" within the meaning of Section 72. The counter argument would be that the Judge's conduct is, in a sense, not "private". The Judge is putting himself in a situation where he might be subjected to threats of blackmail. In addition a number of people would know about his sexual conduct, and this would tend to bring the court into disrepute.

It is clear that even if these allegations do not amount to misbehaviour in themselves, they should be used as the basis for cross-examination of the Judge if he is required to give evidence. The allegations may also, of course, give colour to other allegations which might depend upon there being demonstrated an association between the Judge and Saffron in order to constitute misbehaviour. The witnesses to be spoken to in this regard are set out in the original memorandum prepared by M. Weinberg dated 15 June 1986 at page 7.

ALLEGATION 6 SAFE DEPOSIT BOXES AND SHARES

If no money left the country, and no money or assets were smuggled into the country, there would appear to be no offence committed under the Banking (Foreign Exchange) Regulations. We are unaware of any statute which requires a declaration of assets acquired overseas except pursuant to the provisions of the Income Tax Assessment Act. Even that may be limited to certain specific purposes such as income derived from overseas. There does not appear to have been any register of pecuniary interests in existence at the time that these alleged documents came into existence.

A number of questions have to be asked. What if anything was put into these safe deposit boxes? What was intended to be put into these safe deposit boxes? Is there something sinister about the fact that the Judge was to have such a box at around the time of the loans affair? What is in the boxes today?

Perhaps more serious is the document which suggests that the Judge had allotted to him a parcel of shares of very considerable value. How did he acquire the money to pay for these shares? Did he pay for them? Did someone make a gift of the shares to him? Who was that? If such a gift was made, why was it made? Was the Judge expected to perform some service in exchange for the gift? Was the Judge aware that a parcel of shares had been made over to him? This allegation could lead anywhere. The question arises what should be done at this stage?

It is plain that there is not sufficient basis at the moment to formulate a specific allegation in precise terms arising out the existence of these documents. The first thing to be done is to ascertain whether they are genuine. If they are genuine, can it

be determined whether the Judge was a party to their coming into existence? If so, what has happened to the shares? Would it be possible to determine whether any monies that were used for the purchase of the shares were the proceeds of illegal sources, or alternatively monies upon which tax was not paid? Would it be possible to examine the Judge's tax records?

It seems necessary to interview the two journalists who drew these documents to our attention. This should be done as a matter of some priority. In the end, either the journalists are able to give us some additional information which will allow meaningful investigations to be continued, or the matter will have to simply be left as an allegation which is reported to the Commissioners, but upon which no admissible evidence can be obtained.

ALLEGATION NO. 7 - FREE OR DISCOUNTED AIR TRAVEL

One inference which could be drawn from the fact that the Judge's wife worked for Ethiopian Airlines for a nominal fee of \$1 per year (that Airline being run by David Ditchburn in Australia) is that the Judge received a secret commission contrary to the provisions of the New South Wales or Commonwealth Legislation governing secret commissions. There might also be an offence of fraud on the Commonwealth in the non-economic sense (conspiracy to defraud in its broader aspect). The likelihood is that Mrs Murphy performed no services of any value to Ethiopian Airlines, but received this nominal fee and the right to travel overseas as a favour supplied to herself and the Attorney General in the expectation or hope that award would follow to Ditchburn and Morosi. It is plain that some reward did follow. Ditchburn was appointed to certain government positions, as was Morosi. It may be a long bow at this stage, but a permissible inference would be that the Judge thereby received a secret commission in exchange for rewards to Ditchburn and Morosi.

Persons to be interviewed

1. Ditchburn
2. Morosi

We should also examine the lengthy Hansard debate which occurred in relation to this matter. In addition, the Judge was cross-examined about it in his action against Mirror Newspapers in 1976. We would also need to know what ultimately happened to Ethiopian Airlines business in Australia. The Department of Aviation might be able to help. We should indicate that we do not regard this allegation as being one which should take high priority.

0038M

ALLEGATION NO. 8 - THE DIAMOND PURCHASES

Questions were raised in Parliament regarding certain diamond purchases worth \$7,800 allegedly made on Ingrid Murphy's behalf by a company associated with Perth tax fugitive Christo Moll. In 1984, The Age reported that notes on a cheque butt drawn on a company owned by Christo Moll indicated that money had been used for diamond purchases worth \$7,800 for Ingrid Murphy. A statement was read in the Senate on behalf of the Judge denying this.

There is a proof article obtained from The Age which discusses this matter and which also contains some photocopy documents. At this stage it is unclear precisely when this occurred. The newspaper article should identify that point. If it occurred while the Judge was Attorney-General, it might give rise to a suspicion that he had received a secret commission. Such a commission might relate to prosecution for tax fraud. We also have in our possession a valuation certificate prepared by a jeweller in Perth for a diamond apparently in the name of Ingrid Murphy. The authenticity of that certificate should be checked. One would have to find the original documents if possible, and of course speak to Christo Moll. Once again we believe that this matter should take low priority in terms of any allegations that are made. It is our belief that unless investigations throw up supporting material, it should be a matter that is simply drawn to the attention of the Commissioners but not proceeded with as an allegation.

ALLEGATION NO. 9 - SOVIET ESPIONAGE

This matter has not come to us as an allegation from the two reporters who are said to be responsible for originating it. We propose to speak to those reporters. If they are unprepared to make the allegation to us without prompting, it seems to us that its present status is such that it should not be proceeded with. Once again the Commissioners must be told that the allegation has been made. However, we do not believe that the resources of the Commission should be stretched to investigate a matter which is so inherently improbable in the absence of a complaint from those who are said to have first brought it to light.

0041M

ALLEGATION NO. 10 - THE STEPHEN BAZLEY APPROACH

We have been told that if asked, a gentlemen named Stephen Bazley will say that he was approached by Mr Justice Murphy in June 1983 with a view to enquiring whether he would be prepared to kill somebody for the Judge. It is thought that this Bazley was mistaken by the Judge for James Frederick Bazley, recently convicted of conspiracy to murder in Victoria. If this allegation is supported by Bazley, it would certainly amount to "misbehaviour" in our view though it might not amount to a criminal offence. It seems to fall short of any offence of conspiracy. It may be that Bazley would be in a position to add some specificity to it. For example, he might indicate who the alleged victim was to be. In that event, there might be a charge of incitement brought. We firmly believe that the odds against there being any substance to this allegation are enormous. Nonetheless, it seems to us that Bazley must be invited to speak to us. If he declines to do so, or does not make the allegation along these lines, then he should not be prompted. The matter should simply be referred to the Commissioners and again not proceed as an allegation. We understand that Bazley has a number of convictions which demonstrate that he would be a person of no credibility whatever.

ALLEGATION NO. 11 - STATEMENT OF OFFENCE ATTEMPTING
TO PERVERT THE COURSE OF JUSTICE CONTRARY TO SECTION 43
OF THE CRIMES ACT 1914 (COMMONWEALTH)

Particulars of Offence

In or about 1976, the Judge asked Abe Saffron to intercede on his behalf with Danny Sankey who had brought a private prosecution against the Judge and others for an alleged conspiracy contrary to Section 86 of the Crimes Act 1914. It must be contended that the Judge well knew that Saffron could apply considerable pressure of an impermissible kind to Sankey with a view to persuading him to withdraw the prosecution. It certainly appears that Saffron had no connection whatever with the matters that gave rise to the private prosecution brought by Sankey against the Judge. One would need to ask why a Justice of the High Court would ask a reputed criminal to make representations on his behalf to a person who had launched a private prosecution against him. It would be open to a court to conclude that this was an attempt by the Judge to place an implied threat at the head of Sankey. Such conduct might well amount to an attempt to pervert the course of justice. It might also amount to a conspiracy to pervert the course of justice. Wherever possible, it has been thought appropriate to charge a substantive offence rather than a conspiracy.

ALLEGATION NO.11 - SANKEY MATTER

His Honour Mr Justice Murphy in about 1976 alleged by asking Abe Saffron to intercede on his behalf with Danny Sankey (presumably to persuade him to withdraw the prosecution).

Material Enclosed

- 1) Brief details of allegations
- 2) Minutes of meeting between B. Rawe, S. Rushton and D. Sankey (Meeting 2.3.86)
- 3) Information from Anderson re the abovementioned matter in question, answer form.

Witnesses to be interviewed

1. James McCartney Anderson
2. Danny Sankey
3. Abe Saffron
4. Morgan Ryan
5. Rofe Q.C.
6. Christie
7. McHugh (currently Justice of the Court of Appeal)
8. Leo S.M.
9. Murray Farquhar

ALLEGATION NO. 12 - ILLEGAL IMMIGRATION RACKETS

We've been told that the Judge was involved in an illegal immigration racket regarding Philipino immigrants (particularly women). Irrespective of whether this occurred while he was Attorney General, or a Judge of the High Court, such conduct would constitute a criminal offence, and would amount to misbehaviour. It would amount to a conspiracy contrary to Section 86 (1) of the Commonwealth Crimes Act (conspiracy to defeat the execution of a law of the Commonwealth).

Matters to be investigated

The following witnesses should be interviewed:

1. Morgan Ryan
2. [REDACTED]

We do not at this stage recommend any further, or other investigations apart from speaking to [REDACTED] and raising the matter with Morgan Ryan if he is prepared to speak with us (which seems highly unlikely).

ALLEGATION NO. 13 - THE MOROSI BREAK-IN

(Break-in of Morosi's premises at [REDACTED] on 17 January 1975).

Attached Material:

- (a) Statement and particulars of Offence.
- (b) A statement given by [REDACTED] on 4 April 1986.
- (c) A report to the Attorney-General from the then Assistant Commissioner (Crime) J.D. Davies dated 17 January 1975.
- (d) A supplementary modus operandi report from Detective Inspector Tolmie then of the Commonwealth Police.
- (e) A note to the Officer in Charge of the Commonwealth Police Force dated 30 January 1975 from an officer within the office of the Deputy Crown Solicitor, Sydney.
- (f) A note dated 4 March 1975 from Sergeant Lamb to the Officer in Charge New South Wales District of the Commonwealth Police concerning an approach to him from Mr David Ditchburn.
- (g) A note dated 7 March 1975 from Detective Inspector Tolmie to the Officer in Charge New South Wales District, concerning certain enquiries of neighbours of the Morosi's.
- (h) A note dated 28 February 1975 to the Officer in Charge New South Wales District, from Constable First Class Jacobsen, concerning allegations re antecedents of Juni Morosi.
- (i) A statement by William Alexander Tolmie undated and unsigned concerning the arrest of Felton and Wigglesworth at the Morosi premises, and
- (j) A statement signed this time but undated by Sergeant Lamb in the same matter.
- (k) A note of an interview by A.C. Wells, dated 22 April 1986 with Richard Wigglesworth.

- (l) A file note in relation to contact of Wigglesworth.
- (m) File note dated 13 April 1986 by A.C. Wells concerning the interview of Alan Felton.

Witnesses to be Interviewed

- 1. [REDACTED]
- 2. Wigglesworth
- 3. Felton
- 4. Morgan Ryan
- 5. Bill Waterhouse
- 6. Assistant Commissioner Davies
- 7. Lamb
- 8. Farmer
- 9. Another Investigating Officer (name to be supplied)
- 10. Don Marshall at A.S.I.O.
- 11. Lewer S.M.
- 12. Farquhar
- 13. Judge Foord
- 14. Harkins (Deputy Crown Solicitor for NSW) at the relevant time.

Statement of Offence

Conspiracy to pervert the course of justice.
Misprision of felony.

Particulars of Offence

It is suggested that the Judge behaved in an improper fashion in arranging for Commonwealth police to be located at the premises belonging to Ms. Morosi when he learned that those premises were to be burgled. This conduct does not constitute any criminal offence. It might however constitute an overt act in relation to the conspiracy charged.

The manner in which the conspiracy would be alleged is as follows. It is said that the Judge (who was then Attorney General) was responsible for ensuring that two of the persons who participated in the burglary were not prosecuted. No motive can be ascribed to the then Attorney's conduct in this regard. It is impossible to understand why he would have intervened to ensure that two persons who were caught "red handed" committing a burglary would not be the subject of normal prosecution. It appears that Federal police released one of the burglars who was caught in the act. The proper charges to have been brought were state charges. Indeed, state charges, were brought against one of the three persons responsible for the burglary. It appears that the one person who was subjected to State charges was charged with an entirely inappropriate offence. He was charged with larceny rather than with the more serious offence of break, enter and steal. The documentation suggests an involvement by the Attorney in the entire course of what occurred after the break-in.

Material to be obtained

Commonwealth police files and Attorney General's files relating to this incident. If a transcript is available of the plea made on behalf of Felton, and the sentence imposed it should be obtained. If A.S.I.O. has a file which we can somehow obtain, we should make efforts to do so. It may be that Mr Ditchburn and Ms. Morosi could be spoken to as well - this is subject to further consideration. Finally, a negative search should be conducted of NSW police files to see whether the matter had been reported to the NSW police or not.

0007M

ALLEGATION NO. 14 - THE UNSWORN STATEMENT

There is no investigation required of this allegation. It seems to us that it cannot properly be regarded as a basis for a finding of proved misbehaviour. Accordingly we would recommend that the attention of the Commissioners be drawn to the fact that some have argued that the fact that the Judge made an unsworn statement warrants his removal but that Counsel assisting do not regard this as being an appropriate matter for further consideration.

0047M

ALLEGATION 15 - THE DIARY INCIDENT

Statement of Offence

Contempt of Court

Particulars of Offence

During the course of the committal hearing, certain diaries belonging to Mr Briese SM which had been subpoenaed for production were released into the custody of the firm of Freehill, Hollingdale and Page (Solicitors) who were acting for the Judge at his committal. The diaries were released to the Judge's legal advisors for the purpose of enabling them to be perused. We are not at this stage aware of the precise terms of any order that might have accompanied the release of the diaries. It seems to be an implied term of the release of any documents obtained pursuant to any form of court discovery that the documents will not be used for any purposes other than the specific purpose of the conduct of the proceedings then before the court. It would be implicit in any such release of documents that they were not to be photocopied, bearing in mind that they were released for a specific period of time only. Somehow, copies of relevant diary extracts came into existence, and found their way into the possession of Mr Rodney Groux. Mr Groux says that he was provided with these copies by the Judge. The firm of Freehill, Hollingdale and Page asserts that it was not responsible for any copies being produced of the diaries, though Clarrie Harders may concede that he caused this to be done.

Witnesses to be interviewed

1. Relevant persons at Freehill Hollingdale and Page
2. The Judge's Counsel at his Committal
3. Rodney Groux

4. Murray Gleeson QC (if he was not Counsel for the Judge at the Committal Hearing).
5. A secretary who is said to have made further copies of the diaries - Miss Whitty
6. The Minister, Mr Brown
7. Mr Luchetti (Employed by Brown)
8. Neville Wran
9. Briese's Solicitor

It should be noted that Groux alleges that the Judge asked him to participate in an investigation into the background of Briese and other prosecution witnesses in order to find discreditable material against them. In so far as Briese was concerned, there would be nothing wrong or improper in the Judge seeking to investigate the background of the main prosecution witness against him with a view to using that material for the purpose of attacking his credit. Had the Judge employed a private investigator to do this, no one could have levelled any criticism at him at all. Does the fact that the Judge has made use of a public servant to perform duties unconnected with his public service obligations (with the apparent approval of the Minister in charge) constitute an offence or otherwise discreditable conduct on the part of the Judge? Was Groux employed under the Public Service Act? Would the Minister have had authority to release Groux to perform duties that were non-public service related? If not, would the Judge have known this?

The Judge may have committed a different form of contempt of court if Groux's evidence is accepted. It appears that the Judge at one stage asked Groux to tape record proceedings which were being held in the Banco court - this was probably the trial. It would clearly be a contempt of court to switch on a tape recording device in the court precincts and secretly tape what is being said in court. If the Judge asked Groux to do this, he would have incited the commission of an offence - to wit contempt of court.

ALLEGATION 16 PERJURY

Statement of Offence-Perjury contrary to the provisions of the Commonwealth Crimes Act Section 35

We have carefully examined the evidence which the Judge gave on oath during the course of his first trial, and compared it with;

- a) the accounts he gave to the Attorney General in February 1984 when first called upon to explain certain passages in the Age Tapes;
- b) the 28 page letter which the Judge sent to the first Senate Inquiry in answer to its request for an explanation from him;
- c) his unsworn statement at his second trial.

We have been particularly mindful of the suggestion that the Judge may have committed perjury by attempting to understate the level of contact which he had with Morgan Ryan. We have concluded, however, that it is impossible to spell out any allegation of perjury in respect of this matter. The Judge was always extremely cautious in the manner in which he answered questions. He generally indicated that he was answering only to the best of his recollection.

It has been suggested to us, however, that the Judge may have committed perjury in a different respect. The Judge gave a detailed explanation of his approach to Judge Staunton with a view to getting an early trial for Morgan Ryan. The Judge said that this approach had taken place in about April of 1982. His evidence was that when he saw Judge Staunton (in person) Judge Staunton told him that he had already received a similar approach from Mr Justice McLelland. The Judge said at page 507 of the trial transcript that he had met Morgan Ryan at

Martin Place. Ryan had told him how upset he was about having being committed for trial. Ryan had also told him that he would not be able to get a trial for some 18 months. The Judge testified that he had approached Chief Judge Staunton in his chambers at an effort to get an early trial for Morgan Ryan. Judge Staunton told the Judge that Jim McClelland had already spoken to him about it. The Judge said that this conversation between himself and Staunton had been a person to person conversation. At page 508, the Judge denied having had any other conversation with Judge Staunton about that topic. It will be recalled that Judge Staunton was of the view that this conversation had been conducted over the telephone. The Judge testified that he spoke to Mr. Justice McClelland a day or so after his conversation with Judge Staunton in the Judge's chambers.

It appears that Mr. Justice McClelland has been expressing to a number of persons his remorse at having perjured himself during the course of the first (and second?) Murphy trials. It appears that Mr. Justice McClelland is saying that he himself committed perjury in two respects. The first is that it was quite common for Mr. Justice Murphy to refer to friends of his as mates. The second is that there was a conversation between Mr. Justice Murphy and Mr. Justice McClelland before the Judge ever approached Judge Staunton. During the course of that conversation, Mr. Justice Murphy attempted to persuade Mr. Justice McClelland to intervene on Ryan's behalf with Judge Staunton. The question arises whether the account given by Mr. Justice Murphy during his first trial in any way conflicts with this additional statement of events. It is certainly clear that Mr Justice Murphy has not told the "whole" truth, but it may be difficult to spell out a charge of perjury against him (even if Mr. Justice McClelland has perjured himself).

It should be noted that if Mr. Justice McClelland's "confession" is true, that may be used in a different way against Mr. Justice Murphy. This would be linked to Allegation No. 33 - the approach to Judge Staunton (see the original summary of allegations). If it was improper for Mr. Justice Murphy to approach Judge Staunton in an effort to get an early trial for Morgan Ryan, that impropriety can only be magnified by his having approached a Judge of the New South Wales Supreme Court with a view to getting him also to make such an approach. On one reading of the alleged conversation between McClelland and Murphy, it might be thought that the Judge was asking McClelland to do more than simply get an early trial for Morgan Ryan.

Witnesses to be interviewed

1. Mr. Justice McClelland
2. Judge Staunton of the District Court
3. Judge Foord
4. Morgan Ryan

If Mr. Justice Murphy went beyond simply attempting to gain an early trial for Morgan Ryan, plainly his conduct would amount to an attempt to pervert the course of justice.

ALLEGATION NO. 17

We have considered this matter, but we do not think that it is possible to spell out any allegation against the Judge which could amount to misbehaviour in the relevant sense. It is suggested that the Judge acted improperly in not coming forward to tell the authorities about the dinner he had attended at Morgan Ryan's house at which Farquar had been present together with Commissioner Wood after it emerged that there was an alleged conspiracy between Ryan, Farquar and Commissioner Wood. In the absence of any evidence which suggests that what occurred at the house was connected to that alleged conspiracy, it is impossible to say that the Judge has committed any offence or breach of propriety in failing to volunteer this information to the Police. At its highest, the matter might be the subject of cross-examination of the Judge if he is called upon to give evidence. In our view, Allegation No. 17 should be abandoned, save for an acknowledgement of the fact that it has been considered, and rejected.

ALLEGATION 18 THE JEGOROW APPROACH

Statement of Offence

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

Witnesses to be interviewed

1. Morgan Ryan
2. Bill Jegorow
3. Relevant police officers who would be in a position to authenticate the accuracy of the transcript containing the alleged Jegorow conversation. Note this occurred in March 1979 - it is to be found in transcript 1 a. at pages 22, and 47 to 49,
4. Neville Wran
5. Garry Boyd

Material to be examined

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

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

ALLEGATION NO. 19 - THE PARIS THEATRE

It appears to us at this stage that it is impossible to spell any allegation of criminal behaviour or other misconduct which would be capable of amounting to misbehaviour out of the alleged conversation between the Judge and Morgan Ryan pertaining to the application by the Paris Theatre to the Sydney City Council and the reference to what is obviously Gandali Holdings Pty. Limited. We need to examine the Sydney Morning Herald of the 20th March 1979 page 2 (referred to in the conversation) and an issue of the National Times dated 20th September 1985 in which Brian Toohey discussed this matter.

Action Required

It would be appropriate to find out all that we can about Gandali Holdings Pty. Limited. Certainly a company search should be undertaken. It would be worth considering whether the company itself appears in any of The Age material pertaining to Saffron. Enquiries may be made from the Corporate Affairs Commission as well. Even if this does not emerge as a specific allegation, it may be that it would provide useful material for cross-examination.

As regards the application by The Paris Theatre to the Sydney City Council, an approach should be made to the Sydney City Council for information pertaining to that application.

ALLEGATION NO. 20 - THE ROFE MATTER

Statement of Offence

Contempt of Court

Particulars of Offence

On or about the 31st March 1979, the Judge attempted to take or threaten revenge upon David Rofe QC, a person who had conducted a private prosecution against the Judge on behalf of one Danny Sankey, for what Rofe had done in the discharge of his duty, in the administration of justice, with intent to punish Rofe QC for his conduct. It is further alleged that on the 7th February 1980 the Judge again attempted to arrange for Rofe QC to be punished for his conduct of the prosecution against the Judge.

Witnesses to be Interviewed

1. David Rofe QC
2. Morgan Ryan
3. Mr. Bilinsky - Solicitor
4. the police officers who can authenticate the passages in The Age tapes dealing with these two conversations. See also the one tape recording of the Judge's voice that we actually have in our possession to determine whether there is a relevant reference to Rofe in that conversation. See also the Judge's explanation of his comments on the Rofe matter in answer to questions put by The Attorney General in February 1984 - see the aide memoire dealing with this.

ALLEGATION NO. 21 - THE LUSHER - BRIESE CONVERSATION

We are both convinced that if the Judge did have this conversation there is something quite sinister about it. At the same time, it is very difficult to pin down any allegation that can be made from a conversation of this type. Why was the Judge involving himself in the Lusher Board of Enquiry's activities into the legalisation of casinos in New South Wales? Why was he doing so at Morgan Ryan's request? What was the Judge supposed to do? What does it all mean? We do not, at present, see any way in which this conversation can be turned into an allegation. It may, however, form the basis of useful cross-examination. To that end, we need to obtain background information pertaining to the Lusher inquiry. It must be borne in mind, of course that Morgan Ryan was plainly involved in illegal casinos in New South Wales. And this whole topic cross references to the alleged involvement of the Judge on behalf of Robert Yuen in relation to a casino in Dixon Street.

ALLEGATION NO. 22 - PINBALL MACHINES

It seems to us that this conversation falls into the same category as the conversation discussed under allegation 21. Why was the Judge involving himself in representations to be made regarding the importation of illegal pinball machines which were not being subjected to lawful tax. To whom was the Judge to address his complaints? To whom was Morgan Ryan to give his information? If the conversation is accurately recorded, once again it bears a sinister connotation. This is accentuated by the fact that it is known that Abe Saffron (through his son Allan) was at this time actively seeking to obtain the exclusive rights to import a particular type of "pinball" machine. Was the Judge acting on behalf of Saffron or his interests? The only investigative step which should be taken is to raise the matter with Morgan Ryan. We are not optimistic that this will produce any worthwhile result.

ALLEGATION NO. 23 - THE MILTON MORRIS BLACKMAIL MATTER

We have considered this matter, and we take the view that even if the conversation set out in the transcript accurately records what the Judge says, his conduct cannot amount to any criminal offence. It is plain that the Judge has not aided and abetted counselled or procured the commission of the offence of blackmail. Nor has he entered into any conspiracy with Morgan Ryan in relation to it.

The question then arises whether the Judge's conduct in (apparently) taking no action once he has been informed by Morgan Ryan of his intent to blackmail Milton Morris is capable of amounting to "misbehaviour".

It appears however that Mr. Egge has been given an account of matters pertaining to Milton Morris and Morgan Ryan which, if accepted, would implicate the Judge in some form of conspiracy to commit blackmail, or at the least put him in the position of being an aider and abetter. See the transcript of the Stewart Royal Commission at page 850. It should be borne in mind that Commissioner Stewart determined that there was nothing whatever to blackmail Milton Morris about. It appears that he also drew an adverse inference against the veracity of Egge in regard to this matter.

Matters to be investigated

We should speak to the following witnesses:

1. Egge
2. [REDACTED]
3. Lamb

4. Milton Morris
5. Morgan Ryan
6. John Mason

We should also examine carefully the running sheets prepared by the Federal Police. Note: It seems to us that unless Egge can give evidence to substantiate his allegations of what he overheard on the tapes, the particular form in which this matter appears in the summaries does not reveal any misbehaviour on the part of the Judge capable of sustaining his removal. Once again, however, it would at the very least constitute a basis for cross-examination. Note: We should also speak to Bruce Miles regarding this matter. We should speak to "Reg" the Jeweller (whoever he might be). See the summary - 11 March 1980. We must also speak to McVicar who prepared the summary.

ALLEGATION NO. 24 - "SMELLING LIKE A ROSE"

There is a summary of this conversation which, even if it accurately records the substance of what occurred between the Judge and Mrs. Ryan does not seem to us to be capable of amounting to misbehaviour in the relevant sense. It is possible, for example, that the conversation amounted to no more than a joke. It could conceivably be the subject of cross-examination. The only person who might be spoken to regarding this matter is Mrs. Ryan.

0019M

ALLEGATION NO. 25 - CENTRAL RAILWAY COMPLEX

We should examine carefully the document headed "The Central Railway Complex" which was prepared by The Age. This assembles from The Age tapes all conversations which relate to that matter. These start with a conversation between Morgan Ryan and Eric Jury on March 31st 1980. In that conversation Ryan and Jury discuss the complex, and a solicitor doing the submission. The solicitor's name is Colbron. It is said that Morgan will help get it through for a fee. There is also discussion about Sir Peter Abeles trying to get in on the act. On April 3rd 1980, Lionel Murphy rings Morgan. They discuss the new complex. It is said the Judge is very guarded with his talk, and during the talk Commuter Terminals Pty. Limited is mentioned together with the word "champagne". The summary notes "worth reading in full".

The significance of the solicitor being Colbron is that he was formerly an Articled Clerk with the firm Morgan Ryan and Brock. He was also the solicitor to whom [REDACTED] turned after the Morosi breakin.

Investigative Steps Required

Persons to be spoken to:

1. Egge
2. McUicar
3. [REDACTED]
4. Eric Jury
5. Morgan Ryan

6. Colbron
7. Wran
8. David Hill
9. A Property Developer John Andrews
10. John Johnston State MLA
11. Stanley Edwards - Director of Commuter Terminals

It appears that files relating to the Central Railway Development are in the possession of the Stewart Enquiry - these should be examined. The documents are now probably with the NCA. There should be a further search done of Commuter Terminals. This may be a case where a search warrant would be justified. The company records relating to Commuter Terminals could be seized and examined. If investigations demonstrate that the Judge has involved himself on behalf of a company with links to Saffron, (even in the absence of any clear evidence of bribery or corruption) it may be argued that such conduct could amount to misbehaviour in a broad sense.

ALLEGATION NO. 26 - THE ILLEGAL CASINOS IN DIXON STREET

It is plain that if the Judge has assisted Robert Yuen in the manner suggested in The Age tapes, he has joined in a conspiracy of one sort or another. It is plain that there is a significant discrepancy in the records of the taped conversations. There is no record at all of an incoming call from the Judge to Morgan Ryan which Ryan refers to in his conversation with Saffron. It may be that Ryan was doing nothing more than big noting. It seems to us that there is no way that we will ever get any admissible evidence against the Judge regarding this matter unless Robert Yuen is prepared to come forward and substantiate the matters in the summary. Alternatively, Morgan Ryan could conceivably do so. Saffron might be spoken in this regard as well. It is really a question of what resources, if any, one would be justified in allocating to this matter bearing in mind that the reference in The Age tapes is not to a direct conversation between the Judge and Ryan at all. It may be a matter that would arise in cross examination. It may be that Andrew Wells, or the NCA have done some investigations into this matter. One would need to confirm that Robert Yuen was indeed living at the same address as the Judge. It is best to reserve judgement on this matter for the moment.

0021M

ALLEGATION NO. 27 - LUNA PARK - LEASE FOR SAFFRON

This matter arises in the course of the Stewart Royal Commission pages 854 to 855. Mr. Egge is giving evidence regarding the contents of a telephone conversation which he says was reduced to transcript, and which he claims to have read. We have not been able to find any reference to any such conversation in the actual Age tape transcripts themselves. There is further reference to this matter in Egge's supplementary statement dated 7th of August, 1985. Egge basically asserts that Morgan Ryan arranged for the Judge to intervene on behalf of Saffron in order to gain the lease for Luna Park in place of the Reg Grundy organisation which had been awarded that lease. It is said that a Saffron related entity ultimately acquired the lease.

Matters to be Investigated

The Corporate Affairs Commission should be approached regarding any investigations which have been conducted into this affair. In addition, it appears that the NCA may have information about the matter. It is clear that Egge must be interviewed, and obviously Morgan Ryan and Saffron would also be candidates for interview regarding this matter. It may be that the State Rail Authority is involved in this as well (Mr. Hill) and it is possible that Colbron might have some information also. If the owner of the land was the State Rail Authority, there should be files available. It is plain that the Reg Grundy organisation should be contacted as well. If Egge's evidence is true, it would appear that he would have seen a transcript which suggested that a conversation of this type had occurred. That transcript is not presently available to us. Where has it gone? Who prepared it? Who would be able to give evidence (direct evidence) of having heard the telephone conversation involving the Judge and Ryan?

0022M

ALLEGATION NO. 28 - THE MURPHY ALLEGATIONS RE. POLITICAL
NATURE OF HIS TRIAL

It appears that the Judge engaged in an emotional outburst at the conclusion of his trial alleging that the proceedings brought against him had been politically motivated. It was suggested in Parliament that this conduct on the part of the Judge might amount to misbehaviour. We have considered the matter, but we do not believe that this matter can give rise to an allegation against the Judge of conduct which could amount to misbehaviour in the relevant sense. The Judge has not attacked anything done by the Judge who presided over his trial. Nor has he attacked the Jury. He has merely suggested that the Director of Public Prosecutions brought these proceedings for political purposes. There would be many in the community who would agree, at least in the light of the DPP's own guidelines as regards prosecuting public figures. There seems to be nothing whatever improper (in the necessary sense) about the Judge's outburst.

ALLEGATION NO. 29 - FAILURE TO RESPOND
TO MR JUSTICE STEWART'S LETTER

It has been suggested that the Judge's failure to respond to Mr Justice Stewart's letter could amount to proved misbehaviour. This suggestion emerges in Hansard. We do not see any basis at all for the suggestion that the Judge's decision not to respond to the 7 matters raised in Mr Justice Stewart's letter could amount to misbehaviour in the relevant sense. We recommend that this not proceed as an allegation, other than to note the fact that it was made.

0024M

ALLEGATION NO. 30 - THE WILSON TUCKEY ALLEGATIONS

Wilson Tuckey alleged in Parliament that the Judge was involved in a tax scandal. Both The Sydney Morning Herald and The Age reported these allegations. Tuckey suggested that the Judge had assisted a Doctor Tiller and a Murray Quartermaine to avoid difficulties arising out of their tax evasion activities. The allegation apparently emanated from a letter which was said to have been written by Tiller. That letter came into the possession of The Age via Christo Moll. Tiller immediately denounced the letter as a forgery.

Action to be taken

1. Obtain copy of letter (or original if possible)
2. Interview Tiller
3. Interview Quartermaine (if possible)
4. Speak to Wilson Tuckey
5. Speak to Christo Moll?
6. Speak to Bob Bottom and David Wilson at Age.

We should initially obtain the Hansard reference so as to get a precise account of what Mr Tuckey said about this matter in Parliament. If the original of the letter can be obtained, it may be possible to determine whether Tiller is telling the truth when he claims it to be a forgery. There is no other action that is warranted at this stage.

ALLEGATION NO. 31 - THE JUDGE'S CONDUCT IN RELATION
TO JUNIE MOROSI

It has been asserted that the Judge's conduct in seeking to have preferential public housing made available for Miss Junie Morosi in 1974 was an impropriety of such magnitude as to justify removing the Judge for misbehaviour. We take the view that this is a matter which is (a) stale and (b) not of sufficient gravity to warrant investigation at this stage. We do not believe that, even if proved, it is capable of amounting to misbehaviour in the relevant sense. It seems to us to be markedly different from the Sala matter, particularly if a connection can be shown between the Judge and Saffron in that affair.

0026M

ALLEGATION NO. 32 - THE CONNOR VIEW OF MURPHY'S CONDUCT

Mr Connor took the view that even an enquiry by the Judge as to what was likely to happen to Morgan Ryan made to Briese with knowledge that Briese might seek that information (and no more) from the Magistrate conducting the committal, could amount to misbehaviour. This takes us into the realm of some of the matters that were the subject of determination during the course of the first and second Murphy trials. We believe that we ought to tread cautiously here, and it does not seem to us that this version of events would be sufficiently serious to amount to misbehaviour in the relevant sense. It must be common for Judges to ask questions of other judicial officers as to how a case is proceeding. If no more than that occurs, and no more is intended than that, it seems impossible to describe such conduct as amounting to misbehaviour sufficient to justify removal. We recommend that this allegation be not proceeded with other than to draw the attention of the Commissioners to the fact that it was made and suggested for a basis for removal.

ALLEGATION NO. 33 - THE APPROACH TO JUDGE STAUNTON

It seems to be common ground that the Judge approached Judge Staunton of the New South Wales District Court in an effort to get an early trial for Morgan Ryan. The Judge has given his version of that event in his evidence at the first trial. The Judge asserts that when he saw Staunton (on a face to face basis) Staunton told him that Mr Justice McClelland had already spoken to Staunton about the same matter. The Judge went on to say in his testimony at the first trial that he spoke to Justice McClelland a day or two after his conversation with Judge Staunton.

We have already examined the possibility of a charge of perjury being brought against Mr Justice Murphy in the light of the fact that Mr Justice McClelland may now be prepared to come forward and say that he, McClelland, had been telephoned by Murphy and asked to approach Judge Staunton on behalf of Morgan Ryan. It may be difficult to demonstrate a precise conflict between the account given by Mr Justice Murphy and this version of events if Mr Justice McClelland swears up to it. Rather, it would seem, Mr Justice Murphy's account of the matter is seriously flawed either through lack of recollection, or is misleading in a significant way.

Even if no allegation of perjury or other untruthfulness can be made against Mr Justice Murphy in respect of his evidence, it may be said that it was improper conduct on the part of a High Court Justice to approach a District Court Judge in an effort to get a speedy trial for a friend. There are many who would think that this was sufficiently grave conduct to amount to misbehaviour. It does not appear that Judge Staunton was offered any benefit in exchange for organising an early trial for Morgan Ryan. Nor was any pressure placed upon him to do so. It would follow that no criminal offence of any kind was committed, though one might give consideration to the question

whether there was an attempt to pervert the course of Justice. The argument against such a charge would be that it cannot amount to an attempt to pervert the course of Justice to bring on a trial sooner that might otherwise have taken place. One would need to examine carefully the judgement of the Court of Appeal (and of the High Court) in the Murphy matters and the law pertaining to attempting to pervert the course of Justice in order to see whether such conduct is capable of meeting that definition.

Persons to be interviewed

Judge Staunton and Mr Justice McClelland. In addition Morgan Ryan should be spoken to, and it appears, Judge Foord.

ALLEGATION NO. 34 - THE WOOD SHARES

This matter has been drawn to our attention. We believe it would be impossible to investigate it at this time. We understand that there would be nothing on any public register that could confirm the allegation. Companies would no longer be required to retain records of any shareholding of this nature. We recommend that the Commissioners have it drawn to their attention, but that we indicate that we are unable to adduce any evidence in support of it. We should add that no company was identified in the allegation, and Senator Wood is now dead.

ALLEGATION NO. 35 - THE WILLIAMS BRIBERY ALLEGATIONS

Statement of Offence

Soliciting a bribe whether at Common Law or pursuant to Legislation.

Particulars of Allegation

We have been told that a Trevor Williams may be prepared to come forward and give evidence of a demand made to him by the Judge of a bribe of \$1,000 in exchange for assistance in relation to difficulties that Williams was having with customs matters during the time that the Judge was Minister for Customs.

Matters to be investigated

1. Trevor Williams should be interviewed.
2. There may be departmental records of some problem that Williams was having with the Customs Department at the relevant time which may go part of the way towards confirming his allegation. If Williams is not prepared to assist us, or indicates that he would not support this story, we would recommend that the matter simply be drawn to the attention of the Commissioners and that they be told that there is no evidence which we would be in a position to call to support the allegation and it should not be proceeded with.

ALLEGATION NO. 36 - THE DAMS CASE ALLEGATIONS

This may not refer to the Dams case at all. If the Judge personally intervened with the Premier of New South Wales in order to have instructions given to the Solicitor-General to conduct the case for New South Wales in a different fashion, the Judge would have committed the Common Law misdemeanor of misconduct by an officer of Justice - see paragraph 24/29 of Archbold. Even if his conduct did not amount to this common law misdemeanor, it would almost certainly be regarded as misbehaviour within the meaning of Section 72 arising out of conduct pertaining to his office.

Matters to be investigated

1. Judge Staples to be interviewed
2. Brian Toohey to be spoken to
3. David Williamson to be spoken to
4. The Solicitor General for New South Wales to be spoken to
5. Neville Wran

When the name of the case has been discovered (if it can be discovered) the transcript of argument addressed by the New South Wales Solicitor General to the High Court should be obtained. It should be ascertained whether that argument changed tack between the first day, and the next day of argument.

0031M

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.

Memorandum to: Mr Charles
Mr Robertson
Mr Durack
Mrs Sharp
Mr Phelan

From: Mr Weinberg

SUMMARY OF STATEMENTS MADE BY MURPHY J.

(a) The Aide-Memoirs.

1. The first occasion that the Judge was asked for any comment regarding the "Age" tapes was 15 February 1984. There is an aide-memoire in existence which relates to the discussions between the Judge and the Attorney-General on each of those dates. If one goes to the document relating to 15th February, it is noted that there had been an interim report prepared by the Australian Federal Police for the Special Minister of State on 13th February which had concluded that the materials did not disclose any evidence of criminality and did not indicate any further lines of investigation to be undertaken. This conclusion was apparently reached by the DPP designate (Mr Temby). We should obtain a copy of Mr. Temby's report to the Attorney handed over on 15th February 1984. It appears that Mr Tenby had also considered whether the material showed "misbehaviour" within the meaning of section 72 of the constitution. It is said that the conclusion was negative on this aspect also. Mr Temby did however apparently indicate that the tapes disclosed "injudicious" behaviour.

2. The immediate response made by the Judge was to query the status and authenticity of the material. He suggested they might be forgeries. The Judge indicated that there was no way of knowing from the documents whether or not they were a complete and accurate record of the conversations they purported to cover. The Attorney-General noted these points and took the discussion to three main issues. These were:

- (1) The Rofe/Ellicott references
- (2) The reference to Jegorow's appointment
- (3) The references to obtaining girls for sex.

3. The Attorney-General said that a further issue that arose out of this was the Judge's relationship with Morgan Ryan, the solicitor.

4. As to the Rofe/Ellicott materials, the Judge noted that these conversations had to be related to his concern with the criminal proceedings brought by Sankey against himself and others. It should be remembered that the defendants in the criminal proceedings were discharged by the magistrate on 16th February 1979. The Judge indicated that he believed the proceedings had been conducted maliciously. He also indicated

that he believed that Mr Rofe's part in the prosecution had been more than that of counsel. He said the then Attorney-General, Mr Ellicott, was giving assistance to the prosecution. The Judge indicated that he had heard that a senior counsel had expressed the view that it was a clear case of malicious prosecution. The Judge conceded that he had opposed Ellicott's appointment as Chief Justice of the High Court. The Judge conceded that he might have made the references to Rofe and male homosexual bars.

5. The Jegerow appointment - the Judge said he might have spoken to Morgan Ryan about the appointment. He indicated that he had understood that Jegerow was well qualified. He said that his role would have been no more than was common in relation to pending appointments. He rejected the allegation of any special favours.

6. Obtaining girls - the Attorney-General referred to a purported summary of a conversation between Ryan and Jury on 5 April 1980 in which it was stated that "a girl has to be arranged for Lionel Murphy". The Judge said he did not know Jury and had no recollection of ever meeting him. He indicated that the statements in the summary and in his profile in this regard were untrue and totally without foundation.

7. Association with Ryan - the Judge said that he had known Ryan for many years. When it was suggested to the Judge that there might be possible adverse inferences drawn against him arising out of Ryan's association with Saffron, the Judge expressed the view that this represented guilt by association, and he rejected the concept.

NOTE - it appears that the Judge did not expressly deny any knowledge that Ryan had an association with Saffron, nor did the Judge expressly state that he had no association with Saffron himself. When asked about the "furtive" nature of a number of the conversations between himself and Ryan, the Judge did not deny the accuracy of those summaries, but rather said that he had always been circumspect in telephone conversations.

8. The Attorney-General also referred the Judge to the "Toorak Times" references to Ramon Sala and to allegations that the Judge, as Attorney-General had ordered the return of Sala's passport which enabled him to leave Australia. The Judge said he had no personal recollection of the Sala matter. He felt there would have been good reason for any action he had taken.

NOTE - it seems rather surprising that the Judge would say that he had no personal recollection of the matter when it appears to have been something of a cause-celebre in 1975.

9. A second meeting took place between the Attorney-General and the Judge on 24th February 1984. There is an aide memoire in existence of that meeting as well. The Judge indicated that he would object to the Temby opinion being tabled in Parliament, and said that this would amount to an invasion of his privacy. The Attorney then asked a number of questions of

the Judge concerning his association with Morgan Ryan. The Attorney-General asked the Judge whether he was aware of Morgan Ryan's association with Abe Saffron. The Judge said he was unaware of any such connection.

(b) The First Senate Inquiry

10. By letter dated 12 June 1984, the Judge was invited to appear before the Committee. The three matters which the committee desired to raise with the Judge were as follows:-

- (a) Alleged conversations in which he was a participant in the "Age" transcripts and summaries.
- (b) A statement by the Chief Stipendary Magistrate of New South Wales concerning conversations he claimed to have had with the Judge.
- (c) The Lewington allegation.

11. By letter dated 2nd July 1984, the Judge wrote to Senator Tate, and enclosed a 28 page response. He commenced by dealing with the alleged conversations in the purported transcripts and summary. The Judge commenced with the one conversation in which his voice appeared on an actual tape. He noted that there was a vast difference between what was on the committee's transcript of the copy tape, and the version prepared by the police. The Judge pointed out that the "Age" transcript was full of inaccuracies and gross distortions when compared with the committee's version of the tape. The Judge went on to say that in his view neither version were presented a genuine and accurate record of any conversation in which he had participated. He indicated that it represented the putting together of selected pieces of conversations to make an amalgam. He referred to an expert report which his solicitors had obtained on the tape. The expert had advised the Judge orally that it was possible to alter a tape so that the change could not be detected even with electronic equipment. He indicated that it was possible that what appeared to be his voice was not in fact his voice.

12. The Judge went on to apply the same criticisms to the other purported transcripts. He indicated his belief that these were not authentic and genuine records of any conversation in which he had participated. He said that they were manufactured. He concedes that he did know of the Paris Theatre. He denied having heard of any company known as Ken Darley Holdings Pty Ltd. He pointed out that he could not have said at the time of the purported conversation on 31 March 1979 which referred to the resignation of Mr Justice Jacobs "He's resigned". Mr Justice Jacobs did not resign until 6th April 1979. He said that it was possible he had been asked to make an enquiry whether it had been decided to appoint a Mr Jegarow to some position, and that he had made such an enquiry. The

Judge said he had no actual recollection of doing this. He said that if he had done so, it would not have been improper.

13. As to the "smelling like a rose" conversation, the Judge treats this as a summary which does not reflect any conversation he had with Mrs Ryan.

14. The Judge then goes on to deal in detail with the account given by Mr Briese concerning conversations he claimed to have had with the Judge, and which gave rise to the charge brought against the Judge. When dealing with the dinner party on 10th May 1979, the Judge described the persons who attended.

15. At page 10 of the Judge's statement, he described his version of the events of January 1982 (being the dinner at Mr Briese's home). The Judge said that Briese had told him that he would be having some other couples on that night, or would invite some other couples. At page 11, the Judge spoke of what occurred just before dinner. He described a conversation. He said "the other dinner guests arrived during the course of the conversation".

16. Finally, the Judge deals with the Lewington allegation. His response is a complete denial of having had the alleged conversation in 1981, or at any other time.

17. Finally, annexed to the Judge's statement, there is an annexure marked "A". This compares the two versions of the actual tape recording on which the Judge's voice appears. The differences between the police version, and the version prepared for the committee are brought out very clearly. It should be remembered that the Judge denies the accuracy of both versions. The Judge's criticism of the quality of the transcription appears to be well-founded. The version prepared for the committee is infinitely better than that prepared by the police officer who made the initial "Age" transcript.

18. In an annexure "B" to this document the Judge speaks of his association with Morgan Ryan. In the course of that statement, the Judge indicates that he had spoken to Morgan Ryan on a number of occasions after February 1975 in connection with the Sankey prosecutions, in which he was solicitor for Dr Cairns. After those cases were dismissed, the Judge said that consideration was given to instituting malicious prosecution action. The Judge went on to say that he spoke about this to Morgan Ryan on a number of occasions. This was because, in the view of the defendants, Dr Cairns had the strongest case for damages, and any action should be instituted by him in the first instance. After the High Court had moved to Canberra, and the proposed actions for malicious prosecution were not pursued, the Judge said he did not have very much contact with Morgan Ryan. In the last paragraph on that page, the Judge said that Morgan Ryan's absorbing interest has always been in

racing. The Judge said that he was not personally interested in racing. He said "while I was on quite friendly terms with Morgan Ryan, he was not a close friend".

(c) The Judge's Testimony at his first Trial.

19. The evidence commences at page 419 of the transcript. At page 422, the Judge gives an account of the amount of contact that he had with Morgan Ryan during the middle 60's and up until 1972. He said that he went out with him a few times, had some meals and so forth, and from then on saw very little of him.

20. At page 423, the Judge said that between 1972 and 1975 (his appointment to the High Court) he had no further association with Morgan Ryan.

21. At page 426 the Judge repeats that he did not see (to his recollection) Morgan Ryan between 1972 and 1975. He is then asked about contacts with Ryan from 1975 until 1980 approximately. He says that he did have contact with Ryan during that period.

22. At page 427, the Judge describes the nature of that contact. The Judge indicated that he did attend the 10 days of hearing of evidence at the Queenbeyan Court concerning the Sankey matter in 1979. His recollection was that Ryan attended also on one or two days. He said that he had contact with Ryan during that period. He said that they had discussed the case. At page 428 the Judge said that Ryan never attended any celebrations marking any of the high points of his life.

23. At page 429 the Judge indicated that he did not share any interests with Morgan Ryan. The Judge pointed out that Ryan's major interest appeared to have been racing - and he did not share that interest at all. The Judge described his social contact with Ryan as being "We went out for a few meals in the 50's and in the 60's went out a few times". The Judge said that he had been to Ryan's place for a Christmas party with his wife and on odd few occasions like that. The Judge said that he had never invited Morgan Ryan to come and inspect the High Court or to be shown around it. Nor had he invited Ryan to the opening of the High Court.

24. At page 439 the Judge is asked when he first became aware that Morgan had been charged. He answered that he had only become aware of this fact when it was reported in the newspapers. Presumably, this would have been shortly after the 6th or 7th August 1981. The Judge said that upon finding out, he did not ring Morgan Ryan. He said that shortly before going to China in October 1981, Ryan rang him. Ryan had told him that he had been charged. Ryan had asserted his innocence. The Judge asked Ryan who was appearing for him, and was told Bruce Miles. The Judge told him that this was foolish. The

Judge indicated that Ryan should get himself a really expert person to handle his defence. The Judge indicated that he had no further contact with Ryan up to 6th January 1982.

25. At page 441, the Judge indicates that in the course of his conversation with Briese, he told Briese that he was not interested in shares. The Judge said "I made up my mind long ago not to have anything to do with them". It should be noted that the Judge makes no mention during the course of his examination in chief of any other persons being present at the dinner party on 6th January 1982. At page 506, the Judge is asked whether, some time later than March 1982, he had had a meeting with Morgan Ryan. He answered Yes. At 507, the Judge said the meeting had occurred at Martin Place. He thought it was early April 1982. He said the meeting was accidental. The Judge said that Ryan had told him how upset he was about having been committed. Ryan had told him that he would not be able to get a trial for some 18 months. The Judge then went on to say that he approached Chief Judge Staunton in his chambers in an effort to get him an early trial. Judge Staunton told Murphy that Jim McClelland had already spoken to him about it. The Judge said that this conversation between himself and Staunton had been a person-to-person conversation. It appears that Chief Judge Staunton was of the view that it had been a telephone conversation.

26. At page 508, the Judge denied having had any other conversation with Judge Staunton about that topic. He was vague about whether there had been a telephone conversation. He then indicated that perhaps there had been a telephone conversation but that he had not gone into any details about the matter over the telephone. The Judge also indicated that he had spoken to Mr Justice McClelland a day or so after his conversation with Chief Judge Staunton in chambers.

27. At page 526, in cross examination, the Judge said that he had approached Chief Judge Staunton on behalf of Morgan Ryan because "he had been an old friend of mine and we were on quite friendly terms". It was put to the Judge that he and Ryan had been very good friends. He answered "We were friends, I would not say very good friends but we were friends and friends enough and old association enough for me to do that for him". The Judge was then asked "You have not given any evidence at all have you of any contacts with Morgan Ryan after the conclusion of the Sankey proceedings which resulted in you and the others being discharged - now have you?" The Judge answered, "Yes, I have". When pressed on the matter, the Judge indicated that he had given that evidence "this morning".

28. At the bottom of page 526, the Judge was invited to accept the proposition that there were a lot of other discussions between himself and Morgan Ryan after the conclusion of the Sankey proceedings and with respect to the possibility of bringing proceedings himself.

29. The Judge asked, "you mean after the discharge?" and on page 527, the Judge said "There may have been some but the substantial discussions about that were following the discharge which was at the beginning of 1979 and actually the proceedings dragged on on the question of costs well into 1980 and there were quite substantial discussions about the question of bringing proceedings during 1979". The Judge said that he had discussed the matter with Morgan Ryan because Ryan was acting for Dr Cairns, and the discussions were on Dr Cairn's instructions. Towards the bottom of page 527, the Judge said that there would have been somewhere up to about 10 discussions with Ryan in relation to these matters. He went on to say that in 1980 there may have been less than that.

30. At page 528, the Judge was asked whether in 1981 his interest in suing for malicious prosecution had revived. He denied communicating that interest in any way to Morgan Ryan in 1981.

31. At page 529, the Judge said that he might have discussed the possibility of malicious prosecution proceedings with Morgan Ryan four or five times during the first part of 1980. He was then asked, "Did you have any other contacts with Morgan Ryan from time to time during 1980?" Answer, "Not that I can recall". The next question was, "Did he ever telephone you to discuss matters of topical interest? Answer, "I think all the conversations I had with him were related to those proceedings"

32. The next question was, "You would have discussed other matters too, wouldn't you an old friend?" Answer, "Perhaps so, but they were related - I think any conversations were related to the proceedings in some way."

33. The next question was, "Are you prepared to tell the Court that you did not speak to Morgan Ryan that is on any topic in the last six months of 1980?" Answer, "I can't recall any occasion Mr Callinan."

34. The next question, "Are you prepared to deny it?" Answer, "Yes, I will deny it because in my belief I didn't talk to him. If you have an occasion to remind me, would you do so."

35. The next question was "In the first half of 1981 did you have any discussion with Morgan Ryan at all?" Answer, "None that I can recall."

36. At page 554C the Judge indicated that he retained his interest in finding out what was happening to Morgan Ryan throughout, but that he made no inquiry of Ryan about it.

37. At page 555 onwards, the Judge is questioned about his relationship with Morgan Ryan.

38. At page 556, the Judge concedes that he has been on first name terms with Morgan Ryan for some considerable time. He has been to one Christmas party at Ryan's house. He says that there were no other parties that he could recall.

39. At page 557, the Judge says that the work that he received from Morgan Ryan diminished in the latter half of the 1950s. He received some work from Morgan Ryan's firm in the decade between 1960 to 1970. The Judge repeats that between 1972 to 1975 he could not remember meeting Morgan Ryan during that period. He concedes that it is possible, but asserts that he does not remember any such meeting. The Judge indicates that there were communications from Ryan's firm to the Attorney-General's Department and to the Minister for Customs along with hundreds of other firms. The Judge does not think that there were very many such representations. He said that he acted responsibly and on advice.

40. Reference is made at 561 to Hansard of 6th March 1984 at page 440. There is a second reference to Hansard Senate 6th September 1984 at page 564.

41. At page 566 the detailed cross-examination regarding the Sala matter commences.

42. Pages 566 onwards should be read very closely. Reference is made to Mr Watson, the First Assistant Secretary of the Attorney-General's Department. He appears to have been third in seniority in the Department. Watson had apparently recommended to the Judge on the advice of Inspector Dixon that Sala's passport was overtly false and that Sala was a major drug trafficker and his passport ought not to be returned to him. The Judge indicated that he could recall that Watson took the view that the passport should not be returned to Sala. The Judge did not recollect having been told that Sala was probably a major drug offender. He said that because he had no recollection of that matter, he was prepared to deny that he had been so informed. The Judge had also been told by Mr Watson that the French Government would take the view that the passport ought not to be returned to Sala. The Judge said that that was contrary to the advice which had been given by the Department of Foreign Affairs. The Judge asserted that his understanding had been that the Department of Foreign Affairs saw no problem in the return of the passport.

43. At page 570, the Judge admits that he ordered that the passport be returned. He concedes that he made that order after representations were made by the firm of Morgan Ryan and Brock and after considering the position and getting the views of other persons. The Judge conceded that there had been conflict between departmental officers as to what should be done. The Judge says that he received advice from Mr Mahoney which conflicted with the advice given by Mr Watson. Mr Mahoney was the Deputy Secretary of the Department. It appears

that Mr Mahoney's advice is not recorded anywhere in the file which is being shown to the Judge. The Judge says that there will be nothing unusual about that. The Judge said that he was not responsible for the keeping of the files and there was nothing irregular about the fact that there was no diary note on the file recording Mr Mahoney's advice.

44. At page 571, it is put to the Judge that he was aware at the time (1974) that responsible police officers entertained the view that Sala was involved in a considerable illegal drug enterprise. The Judge replies, "Well, I don't recall that. The matters that were put to me, the consideration that was in my mind I will tell you if you wish." It appears to have been recorded on the official file that responsible police officers or a responsible police officer regarded Sala as a major drug trafficker. The Judge simply says that he has no recollection of this at all.

45. At page 572, it is noted that the representation was made by the firm of Morgan Ryan and Brock on the 27th May 1974. The Judge concedes that he made a decision that Sala's passport would be returned to him on 29th May - two days later. The Judge concedes that certain officials had a belief that Sala's passport was forged. The Judge said he had no belief of that nature and that was one of the matters on which he sought advice.

46. At page 573, the Judge said that he had an interest in whether or not the passport was forged. He said that he resolved this question by asking whether any police officer was prepared to lay a charge against the man for having a forged passport and the answer was "no". The Judge concedes that the passport was in official possession. He says it had been in official possession for some weeks. He concedes that he never suggested that it should be shown to French authorities so they might pass judgment on it. He concedes that the investigation into this matter was proceeding. The Judge said the issue so far as he was concerned was whether a man could be detained without a charge. The Department of Immigration wished him to go and he wished to leave the country and the Deputy Crown Solicitor had said there were no charges outstanding against him and none contemplated. The Judge said he could see no justification for keeping that man one instant in jail if no one was prepared to charge him. The Judge also said that other factors that had weighed with him were that the man had complained that he had been dealt with for political reasons in Spain, that he had been convicted of issuing propaganda contrary to the Franco regime and that he had been subjected to torture. The Judge conceded that he was unaware whether any checks had been undertaken as to the truth of these assertions by Sala.

47. At page 574, it is put to the Judge that the French Vice Consul had expressed a view about the validity of the passport. The Judge was then asked whether anybody had said

the passport was genuine. The Judge answered "no". Indeed, the only information which he had before him of an official kind questioned the validity of the passport. The Judge conceded that it was an offence against the laws of this country to travel on a forged passport. The Judge conceded that between the 27th May and 29th May he did not tell any police officer or communicate to any police officer that unless Sala were charged he would be released shortly and allowed to fly out of the country. The Judge said that he communicated with Mr Mahoney of the Department. The Judge conceded that this advice to Mahoney was not recorded in the file shown to him. He did not know whether it would be recorded in any other file.

48. At page 581, the Judge identifies a handwritten note on the file which suggests that rather than having received advice from Mahoney, Mahoney had agreed with what the Attorney-General had proposed to be done.

49. At page 582, the Judge denied that it was extraordinary that he had acted on the matter on the basis of a four or five line telegram from Morgan Ryan and Brock. He said there was nothing extraordinary about it at all.

50. At page 584, the Judge corrects Callinan and points out that the police could not launch a prosecution in respect of a forged passport. It seems the Migration Act does not allow the institution of prosecution in respect of these matters except by authorised officer of the Immigration Department. The Judge also said that the Deputy Crown Solicitor had said that there was no other proceeding contemplated against Mr Sala. That would be the Deputy Crown Solicitor of New South Wales at the relevant time. The Judge referred to section 27 of the Migration Act. At page 584, towards the bottom of the page the Judge gives a detailed explanation of why he allowed Sala to be released. He also explains why the passport was returned to Sala.

51. At page 585, the Judge is handed a different file relating to a man named Lasic and others. This also involved a representation from Morgan Ryan and Brock. It appears to have been made on 5th November 1974. This involved a deportation order on some Yugoslavs who were serving time in prison and who were to be deported after the expiration of their prison terms. The manner in which the Judge handled this matter was not the subject of criticism. Rather it was used by way of contrast with the way he had handled the Sala matter.

52. At page 586, a matter of Winfield was raised with the Judge. Once again this involved representations made on behalf of this man by Morgan Ryan on 19th February 1973. On that occasion the Judge advised that there was simply no power to do what was being requested of him in the matter. The Judge indicated that he had no recollection of this affair at all. It appeared to involve a bankruptcy.

53. Towards the bottom of page 586, the matter of Hatcher is taken up with the Judge. This involved representations being made by the Judge to the Treasurer to have costs for an action paid to Hatcher because of an action of the Commonwealth Government in having a double dissolution which had rendered his own litigation against the State of Queensland otiose. It appears that Mr Crean had declined the Attorney's request. Dr Cairns subsequently acceded to it. The Judge is unaware whether he put matters differently to Mr Cairns than had been put to Mr Crean initially. A payment of \$2,774 ex gratia was made to Dr Hatcher.

54. At the bottom of page 589, reference is made to a file of Chappel. Once again the Judge acted on the basis of proper advice given within his department.

55. At page 590, it appears that this summarises all the contacts that the Judge had with Morgan Ryan whilst he was Attorney-General. The Judge indicates that he could not recall having any contact with Ryan between 10th February 1975 (the date of his appointment) and the commencement of the prosecution against him by Sankey after 11th November 1975. The Judge did not think that he had referred Dr Cairns to Morgan Ryan as a solicitor. He had no knowledge of how Morgan Ryan started to act for Dr Cairns.

56. The Judge said that general matters in relation to the Sankey proceedings were referred to him for his consideration, see page 592. The Judge said there there was a flurrie of activity during 1976.

57. At page 593, the Judge repeats that he would have spoken to Morgan Ryan some 8 or 10 times during 1979. He says that would have included a discussion about the proposal to take action against Sankey for malicious prosecution. He was again asked whether he ever discussed other matters with Morgan Ryan. He says "I think they were all related to either this question of the costs or the action for malicious prosecution in all that time." The Judge concedes that Morgan Ryan might have called at his unit two or three times. Otherwise the communications were over the telephone. The Judge says that he thought that Ryan mentioned that he knew somebody else in the Judge's building. At the bottom of page 593, the Judge says that he could not recall discussing anything with Ryan except the proceedings.

58. At page 594, the Judge conceded that he had mutual friends with Ryan. He agreed that he had on occasions probably discussed these friends. At 594, bottom of the page, the Judge concedes that Morgan Ryan may have visited him when he was in the Senate in Canberra.

59. At page 602, the Judge is cross-examined regarding the dinner party at Mr Briese's house. It is put to him that there were no other guests present. The Judge recalls that there were. The Judge says that there were a number of other guests. He says he thought there were two other couples there. The Judge says he cannot recollect those other couples. One was a professional man who came a little later than his wife. The Judge has no recollection of who the other couple were. Neither couple participated in the conversation that had been related by the Judge to the Court. The Judge did not mention any other couples present at the Briese house on the evening of the dinner in the course of his examination in chief. Further, it was never put to Mr Briese that other couples were present.

60. The Judges then questioned in detail about the two couples on page 603. He says that the discussion concerning Morgan Ryan took place before the other couples arrived.

61. At page 612, the Judge is asked what was his practice with respect to the use of the telephone - did he prefer not to discuss sensitive matters on the telephone at that time. He answered that he was prepared to discuss matters freely on the telephone.

62. At page 622, the Judge is cross-examined about matters that he included in his statement of July 1984 to the Senate. It is plain that in that statement, when dealing with the Briese dinner, the Judge had indicated that there had been other dinner guests who had arrived during the course of the conversation.

63. At page 624, the Judge concedes that there is a difference between his account of the meeting with Chief Judge Staunton and that given by the Chief Judge. The Chief Judge said that the entire conversation had occurred on the telephone.

64. At page 634, the Judge is re-examined re the Sala matters. In particular at page 634, the Judge said that it was his view at the time that he did not have any power as Attorney-General to prevent the execution of the deportation order of the Minister for Immigration.

65. If one goes to page 664 (the evidence in chief of Ingrid Murphy) she also recounts the presence of four additional guests at the Briese dinner. She is unable to remember their names. She gives some description of them towards the bottom of page 664. She is cross-examined about this at page 676. There is further examination at page 679.

(d) The Unsworn Statement at his Second Trial

66. The next matter to consider is the unsworn statement made by the Judge at his second trial. Towards the bottom of

page 236, he refers to the lunch that Don Thomas spoke of. He says that he does not recall the remark that Thomas attributed to him, that is that he tried to have lunch with Morgan Ryan whenever he was in Sydney. He said he could not recall any other lunch apart from that one although it was possible that there were.

67. At page 237, the Judge said that Ryan had never had a meal at his home. He said that he was on quite friendly terms with him, but that they were not close friends. The Judge said that Ryan moved in different circles from him and his impression was that all of his close friends were race-goers. The Judge said that he no longer has any association with Ryan and as of now had not spoken to him for several years.

68. At the bottom of page 247, the Judge repeats that he spoke to Chief Judge Staunton about whether Ryan could get an early trial. He says, "To my mind this was perfectly proper, all that it would mean was that he would be dealt with according to law as soon as possible."

20 June 1986
2666A

MEMORANDUM

TO: Mr S Charles ✓
Mr M Weinberg ✓
Mr A Robinson ✓
Mr F Thomson ✓
Ms P Sharp ✓
MR A. PHELAN

FROM: Mr D Durack

SUMMARY OF DISCUSSIONS HELD ON 16 JUNE 1986

Documents Received

1. [redacted] manuscript
2. Computer print re C Moll - including known associates
3. Proof story re Moll - Murphy connection and cheque butt copies
4. Proof article by David Wilson re Age Tapes
5. Document re Saffron customs surveillance, etc.
6. Document headed "The Loans Affair The Public Record" and attachments
7. Swiss banking documents re C Moll and others
8. Document titled "Moll Profile"
9. Documents including material on Mrs Murphy - diamond valuation certificate and copy airline tickets involving Murphy's - also further documents re C Moll
10. Two tapes re West (Western Australia) - interview by Rodgers
11. Copy Power of Attorney Murphy-Wran
12. Document headed "Properties Owned By Lionel Murphy And Family"
13. Record of interview with R Sala and other documents re Sala

14. File Note re discussion with M Wilson re return of documents
15. Thirty-three files re A Saffron
16. Document headed "Preliminary Analysis of the New South Wales Police Tapes of Morgan John Ryan" and attachments thereto

Matters Discussed

1. We are told that the Sala matter and the Morosi break-in should be closely looked at
2. The Paris Theatre documents will be provided
3. We should look at the Hansard reports re Sala and downgrading of Saffron surveillance
4. NCA contact - best would be Phillip Bradley re Rosemary Opitz
5. A Wells from AFP would also be very useful to us
6. The Thomas affair - Morgan Ryan saying to Don Davies (AFP) - "Have you got your cheque yet?" - This is payment of State superannuation entitlement - it is alleged Murphy arranged for this cheque to be sent to Davies
7. It was said that Max Walsh could be worth speaking to re the judge's appointment to the High Court
8. Reference to Lewington matter
9. Reference to pinball machines
10. It may be worth speaking to Sir Collin Woods ex AFP Commissioner now in London
11. Reference to a Hansard report of 6 March 1980 re allegation by Mr Bert of bribery attempt by Morgan Ryan
12. Reference made to journalist Warren Owens on Sydney 288 3000 - a political reporter with the Sunday Telegraph re Murray Farquhar - connections
13. Reference to a Mr B Hogman at solicitors Dawson Waldron re case of Morosi v. News Limited

MEMORANDUM

TO: S Charles
M Weinberg
A Robertson
P Sharp
F Thomson
A PHELAN

FROM: D Durack

Discussions with a Barrister - 17.6.86

- . assisting on a Counsel to Counsel basis
(not representing views of DPP)
- . in prosecution pre 1975 incidents focused on were those to show:
 - (a) character of accused
 - (b) contact with Morgan Ryan
 - (c) nature of contact with Morgan Ryan
- . suggested we look at the Judge's statement to the 1st Senate Inquiry - sworn evidence in 1st trial and unsworn statement of 2nd trial re truthfulness of the evidence as a whole.

Period prior to 1975

- . prosecution looked at SALA, SAFFRON, HATCHER and two other matters re showing that Morgan Ryan had direct line to Attorney-General.

NOTE - Decision made not to lead material on Saffron as it was considered too "prejudicial" to the accused - there was no connection apparent at first trial between Sala and Saffron - not until second trial that connection became apparent.

- . re SALA matter need to speak to A Watson and Mahoney re advice given to the Attorney-General by AG's. (Police and Immigration files helped to identify the SALA/Saffron connection).

MOROSI BREAK-IN

- . helped show relationship between Murphy J and M Ryan
- . also showed possible offence of perverting the course of justice.
- . for X-examination purposes in second trial statements taken from people involved in break-in - possibly Felton and Wigglesworth.

NOTE - material not used as character not put in issue. DPP were in a position to lead evidence on this issue.

PERJURY

. did Murphy J. mislead jury in first trial on his relationship with Morgan Ryan - requires close study of evidence at first trial, other statements made by Murphy J. and what subsequent enquiries reveal etc.

NOTE: mention of 2 witnesses in trials.

(i) J. Troutman - Commonwealth driver - gave evidence in first trial - possible that Murphy J may have authorised him as a marriage celebrant and he could be a Phillipino

(ii) D Halpin - independent journalist - gave evidence in second trial - originally said that M Ryan was frequent visitor to Murphy's electorate office but in witness box changed his story completely.

PERIOD POST 1975:

. in second trial prosecution was going to put tape between Murphy and Ryan to Murphy in X-examination to show closeness of relationship.

. believed Murphy J would not give evidence as he was aware of what prosecution had:

- . Thomas lunch material
- . Morosi break-in
- . Age tapes material

. barrister saw nothing that indicated a commercial relationship between Murphy J and M Ryan.

. reference to Murphy J assets:

- . Red Hill ACT property approx \$400,000
- . Darling Point unit, NSW
approx \$400,000
- . Units in Queanbeyan, ACT
\$?
- . Shopping centre, ACT
\$?

NOTE: Units and shopping centre acquired in 1979 - all properties mortgaged

- . matters to be put to Judge post 1975:
 - . Thomas lunch
 - . Lewington
 - . Cesna/Milner

Re Thomas lunch

. barrister not convinced that there enough to charge Murphy over Thomas affair (but did agree there was a prima facie case)

NOTE: concerned re charge being brought on eve of second trial

- . also D Thomas had come to prosecution after the first trial and told story then.
- . Attorney-General's Dept file re Thomas - not charged over the Greek Conspiracy case - G Evans recommendation.
- . Don Davies agrees lunch occurred but not substance of conversation etc.

Groux/Lewington

- . prosecution would have cross-examined re Groux if opportunity had arisen
- . Groux's story - walking in Woden Shopping Plaza saw Murphy J who recognised him and indicated that he was the man who criticized Lewington in the Meat Inquiry - Murphy indicated that Groux may be able to help him - according to Groux he got clearance from J Brown to assist Murphy and obtain C Briese's diaries and investigate them - instructed to get dirt on Briese and Callinan QC and report back to Murphy J.
- . Groux then approached the prosecution counsel prior to second trial and told his story.

NOTE: Groux obtained a copy of Briese's diaries - not sure how

- . diaries were in Murphy J's possession for one week.
- . in Meat Inquiry Woodward J found Groux to be a reliable witness.
- . A Wells investigated Groux's story

Cessna/Milner

. discussion re dinner attended by Briese, Murphy, Woods and Farquhar.

D Durack

June 1986

MEMORANDUM

TO: Mr Charles
Mr Robertson
Mr Durack
Ms Sharp

SUMMARY OF AGE TAPES - VOLUME T1

Prepared by M Weinberg

Volume T1A

18.3.79 - Murphy rings Morgan Ryan's home. Asks Ryan
Page 14 to phone him when he returns.

Murphy indicates he will be at Darling Point the next day.

20.3.79 - A call is made to [REDACTED] (presumably Murphy's
Page 22 number). Morgan Ryan urges Murphy to get on with an approach to Wran on behalf of Jegarow. Murphy says he will see to it. Murphy draws Ryan's attention to something in the newspaper about the Paris theatre. Murphy tells Ryan that he should know what's bloody well on. Murphy refers to a company called Ken Darley Holdings Pty Ltd. The newspaper is the Herald and the reference is to Page 2 of that date

31.3.79 - Murphy rings Morgan Ryan. Ryan has just got off
Pages 47-49 the plane. Murphy talks about having spoken to a solicitor named Bilinsky. Murphy refers to

the old La Bodega. That has been closed for a while but it has now turned into a new restaurant called Pegroms. Murphy describes it as a gay restaurant. Murphy says that Rofe visits there regularly. Murphy asks: "Does he drive himself". Ryan replies: "I don't know but look we can do something now because I am back here now and I'm going to have that...I'm going to have that dinner one night O.K.". Murphy then tells Ryan that Jegarow is to get the appointment. Murphy then raises the question of the "bloke that is replacing Murray". Murphy asks: "Is he the right fellow?" Ryan replies that Murphy is going to dine with him. Murphy asks: "He's a good fellow, is he?" Ryan replies: "You're going to find out yourself, we'd better not talk about it now had we?"

31.3.79 - Morgan Ryan rings Jegarow and says: "The trump
Page 49 rang me"

9.4.79 - Ryan rings Abe Saffron. Ryan tells Saffron that
Pages 91-93 he had received a telephone call at half past seven that morning. The reference is to "Phil Kaye" This is obviously a reference to Murphy. Morgan Ryan recounts a conversation which he had with Murphy regarding a Dixon Street illegal casino. It is suggested that Murphy had asked questions about a man named Watson who was apparently a head of the gaming squad. There is a long discussion between Ryan and Saffron regarding the consequences of this call. The implication is that Murphy is making efforts on behalf of one Robert Yuen who is a neighbour of his at Darling Point. It should be noted that

there is no record of any such prior call between Murphy and Ryan at 7.30 on that morning.

10.4.79 - Ryan receives a telephone call from Garry Boyd.
Pages 100-101 Ryan indicates to Boyd that Murphy wishes to see him in connection with Robert Yuen and his involvement in an illegal casino. Ryan indicates that they have got to be careful of the judge taking any action against Watson. It is put that if Watson rolls "they will all probably roll down the hill together".

11.4.79 - Ryan telephones Saffron. He refers to his
Pages 101-102 previous conversation with Saffron about "L. K". Ryan then says: "You know we ought to put in a good bit of work on him in the next 12 months if somebody else has got to come up there". There follows a criptic concersation about somebody who is "very strong".

T1B

7.2.80 - This is apparently a call from Ryan to Murphy.
Pages 107-108 There is a discussion about "every little breeze". Ryan also asks Murphy not to forget "those pinball machines".

Page 108 A second call is made that day between Ryan and Murphy. Ryan says: "Did you see this filthy Rofe is now on the Woollahra Council". Murphy says: "He's been on there for some time, you've done nothing about him". Ryan replies: "Oh, we'll go for that we will certainly go to that luncheon, we're going to do something now, this will be a beauty coming home from the functions there".

Page 128-129 There is a reference to Murphy at Page 128 in a conversation between Ryan and some officer of the Australian Federal Police. At Page 129 Ryan says: "Good news first.... Lionel and I had lunch with Murray and he had lunch with Brieze. I only spoke to them and left. And Lionel said: "Tell that mate of yours that Don introduced us to, that he's got friends in the right places if necessary".

Volume T1C - Summaries Prepared by McVicar

See Page 156 for McVicar's summary of the relations between Ryan and Lionel Murphy.

- 7.2.80 - The McVicar summaries corroborate in part the
Page 159 actual transcripts of the conversations between Morgan Ryan and Murphy on the 7.2.80.
- 22.2.80 - The summary records a call from Murphy to Ryan.
Page 165 They discuss Ellicot and some malicious prosecution. (This seems to be the summary of the one tape recording of Murphy's voice which actually exists).
- 10.3.80 - Ryan rings Murphy but there is no answer.
Page 168
- 11.3.80 - Ryan rings Murphy. Talk about an article in a
Page 170 newspaper. Murphy praises it. Ryan raises the Milton Morris matter and suggests that Morris can be compelled to pull Mason into line. Murphy warns Morgan about what he says over the telephone.

- 12.3.80 - Incoming call from Murphy to Ryan.
Page 171
- 13.3.80 - Incoming call to Ryan from Murphy.
Page 172
- 14.3.80 - Two incoming calls from Murphy for Ryan.
Page 172
- 15.3.80 - Incoming call from Murphy to Ryan who is not at
Page 173 home.
- 24.3.80 - Murphy rings Ryan.
Page 176
- 2.4.80 - Murphy rings Ryan. Speaks to Ryan's wife. The
Page 181 "smelling like a rose" conversation takes place.
- 2.4.80 - Ryan rings Murphy and discusses having a
Page 182 meeting. Ryan says he has something important to
tell Murphy. Further talk about a Government
inquiry.
- 3.4.80 - Murphy rings Ryan. Discussion re new Central
Page 182 railway complex. Murphy is guarded with his
talk. During that talk Commuter Terminals Pty
Ltd is mentioned together with the word
"champagne".
- 5.4.80 - Eric Jory rings Ryan. Discussion re new Central
Page 183 railway complex. Discussion about a girl being
arranged for Lionel Murphy.
- 12.4.80 - Murphy rings Ryan.
Page 187

- 13.4.80 - Page 187
Murphy rings Ryan. Ryan mentions that he has spoken to N. Murphy that he has spoken to J then mentions M. Murphy also mentions that he has spoken to McHugh. Murphy agrees to speak to Ryan the next day as he does not want to speak on the phone.
- 21.4.80 - Page 191
Murphy rings and asks Ryan to contact him.
- 24.4.80 - Page 191
Ryan speaks to Murphy about starting the malicious prosecution case. Talk about what fund is going to guarantee costs etc.
- 30.4.80 - Page 193
Ryan talks to Murphy more about malicious prosecution matter. Murphy refuses to discuss on phone.
- 5.5.80 -
Murphy rings Ryan.
- 6.5.80 - Page 196
Call to Ryan from male who could be Murphy. There is conversation re Judge Staples and another judge Mary Gaudron.
- 6.5.80 - Page 198
Ryan rings Murphy and mentions Billy Lee case. Murphy gets cranky about Ryan mentioning that to him.
- 10.5.80 - Page 199
Morgan complains to someone at Terry Christie's office regarding "the Sankey reprisal" and wants male to talk to Murphy.

Volume T1D AFP Transcripts of Conversations

In a conversation between Ryan and Farquhar Murphy's name is mentioned at Page 205.

Pages 299-304 set out the transcript of the one tape recording that we have of Murphy's voice in conversation with Morgan Ryan.

June 1986

Doc 2642A

MEMORANDUM

To: Mr S Charles
Mr A Robertson
Mr D Durack
Mrs P Sharp

SUMMARY OF ALLEGATIONS AND AREAS FOR INVESTIGATION

1 It is likely to be useful if an attempt is made at this time to record in summary form a number of the allegations and potential areas of investigation which have emerged during the first few days of the Inquiry. It is possible to identify several matters which, even at this stage, may be stated as allegations with some degree of precision. There are other matters which have been put to us in a form which makes it very difficult to enable them to be stated as allegations at this stage. Finally, there are a number of matters which may give rise to allegations at some future stage, though at this time they can only be described as raising questions for consideration.

2 It should be stressed that no attempt whatever has been made to filter out any of the matters that are to be discussed in this memorandum. Rather, I have sought to set out every conceivable allegation or matter of complaint which has emerged over the past week with a view to enabling us to commence our consideration by having something in writing.

Precise Allegations Which May Be Made At This Stage

1. The Don Thomas Luncheon

Donald William Thomas has provided a statement in which he alleges that in about December 1979 he was invited to have lunch with the Judge (whom he had not previously met). On the

morning of the luncheon, John Donnelly Davies, the Assistant Commissioner Crime of the Commonwealth Police in Canberra arrived in Sydney. He told Thomas that he proposed to attend the lunch that Thomas was having with the Judge. Thomas had not previously told Davies that he had made the luncheon arrangement. At lunchtime on the day in question Thomas attended a Korean restaurant in Kings Cross with Davies. When they arrived at the restaurant, the Judge was already there seated at a table with another man whom Thomas recognised as Morgan Ryan. Thomas knew Ryan by sight. The Judge told Thomas that Ryan was an old friend of his, and that the Judge had lunch with him whenever he came to Sydney. Thomas was immediately suspicious since he knew Ryan to have been involved in criminal activities in the past, and he had previously investigated Ryan in relation to a Korean immigration racket. The Judge spoke to Thomas regarding a social security conspiracy case in which Thomas had been involved. In particular, the Judge mentioned the fact that there was a large Greek contingent in the labour electorates in Victoria and that the prosecution was embarrassing the Labor Party in Victoria. The Judge offered to introduce Thomas to Senator Grimes who had been supporting the Greek cause. Thomas declined the offer. The Judge then spoke of the formation of the new AFP. He said: "We need somebody inside to tell us what is going on". Thomas gained the impression that the Judge was referring to the Australian Labor Party. The Judge went on to indicate that in return for fulfilling the role which had been suggested to Thomas, he would arrange for Thomas to be promoted to the rank of Assistant Commissioner. He also told Thomas that he had proposed to make Thomas an Assistant Commissioner during his term of office as Attorney-General when he had proposed to establish the Australia Police. That proposal had lapsed in 1975 when the Whitlam Government ceased to hold office. Thomas indicated to the Judge that he would not be happy forming an affiliation with any political party. The Judge asked him to think about the matter.

Nothing more happened in relation to this until Thomas was contacted in early February 1980 by Morgan Ryan. Ryan telephoned him at the Redfern offices of the AFP and requested a meeting. Thomas agreed to the meeting, but before attending it, he arranged with Peter Lamb to equip him with a bugging device which would broadcast the conversation which he had with Ryan to a nearby surveillance team. This meeting occurred at the same Korean restaurant as had been used for the previous luncheon. The conversation was recorded.

It may be said that some parts of this recorded conversation tend to corroborate Thomas's story that there had been an approach made to him in the terms described by him. There is no doubt, however, that whether this allegation against the Judge has any force at all will depend in toto upon whether Thomas is a credible witness. If he is believed, it would seem that the Judge may have committed any one of a number of criminal offences. These would include an attempt to pervert the course of justice, an attempted bribe and a conspiracy to pervert the course of justice.

2. The Lewington Allegation

Detective Station Sergeant David James Lewington has alleged that early in 1981 he made contact with Detective Inspective Lamb of the then B Division in Sydney. Lewington made contact with Lamb because of inquiries he was conducting with Detective Senior Constable Jones into alleged illegal activities of Koreans who were obtaining permanent residence in Australia. It appears that Lewington was with Jones when the two of them were taken to a room where a taperecorder was set up and a portion of a tape was played to them. The tape contained conversations between Morgan Ryan and other persons. This happened on more than one occasion. Lewington estimates that it occurred approximately three times. He describes three separate conversations. The first was between Morgan Ryan and a James Mason. Mason was eventually charged as a co-conspirator with Ryan. Secondly, there was a conversation

between Morgan Ryan and a person known as Bell. Thirdly, and for our purposes most significantly, there was one other conversation which Lewington recalls between Ryan and an unknown person making enquiries about Jones and himself. The import of that conversation was whether Lewington and Jones could be bought off or got at. If one turns to question and answer 28 of the Record of Interview prepared by Lewington on the 22nd February 1984, one notes that Lewington says that in the case of this third conversation no names were used as best as he can recollect. Lewington goes on to say: "However, without being absolutely certain, the voice of the person that Ryan was speaking to sounded similar in most respects to the voice of Mr Justice Murphy whom I have heard speak both on television and radio on previous occasions". Lewington goes on to say that he cannot positively identify that voice as being the voice of Mr Justice Murphy. His belief was, however, that that was who the person was. Lewington is also unable to recollect the specific conversation. He can only recall the general tenor of it.

Lewington summarises the conversation in these terms: "The question was raised by Morgan Ryan along the line of 'have you been able to find out about those two fellows who have been doing the investigation; are they approachable'. The other party indicated that he had made some inquiries and that the answer was definitely no, "they were both very straight."

Lewington asserts that the impression that he received, (and in his discussions with Jones about the matter, he (Jones) was of the same impression) was that Ryan was considering an approach to offer a bribe to buy Lewington and Jones off.

Lewington goes on to say that his impression was confirmed by the fact that in August 1981, two members of the New South Wales Police Force made an offer to Lewington in terms that it would be worth his while to drop the charges or make the charges less severe against Morgan Ryan. That approach was

immediately reported by Lewington to his then supervising Sergeant, his Inspector and the Deputy Commissioner. It resulted in an investigation by the Internal Affairs Bureau of the New South Wales Police. The complaint was sustained. Incredibly, one member of the New South Wales Police Force was fined \$100, and sentence was deferred on the other member for a period of 12 months. Lewington goes on to say that it was with "hindsight" that his initial impressions of the conversation he had heard were reinforced to a point of almost certainty.

In answer to question 29, Lewington asserts that Lamb had said to him that the other person on the tape was Mr Justice Murphy. Lewington says that Lamb had told him that after he had already formed his own impression. It will be crucial to investigate this matter carefully. A great deal will depend upon what Inspector Lamb will be able to say in corroboration of Lewington's account. It will also be essential to know precisely what Jones is prepared to say at this stage. There may be other police officers who were involved in recording this conversation who will be able to confirm the substance of what Lewington has to say.

One should also note question 51 and the answer given to question 51 in the Record of Interview. (This involves a suggestion that Inspector Lamb had told Lewington that Justice Murphy had been implicated with young girls in Fiji).

One should also note that Lewington participated in a Record of Interview on Thursday, 23rd February 1984. In question 21 of that second Record of Interview, Lewington is asked to elaborate on the answer he had given to question 51 of the interview conducted on the 22nd February 1984. Lewington recalled that there were four diaries in all belonging to Morgan Ryan which were produced as an exhibit in the committal proceedings against Ryan. At the end of those proceedings, the diaries were returned to the defence. At the trial of Ryan they were called for on subpoena from the defence. However,

they did not produce them and claimed they could not be found. Lewington had, however, taken the precaution of photocopying each diary. The photocopies are still available. These photocopies should be obtained and examined.

If what Lewington says is believed, and in particular, if it is corroborated by Lamb, it would seem that the Judge has participated in a conversation which can be described at the very least as being injudicious. It is obviously unseemly for a High Court Judge to be involved in discussions with a solicitor relating to the possibility of bribing or corrupting police officers investigating the affairs of that solicitor. Whether this conversation would amount to evidence of a criminal offence is, however, more doubtful. It is likely that it would not go far enough to amount to a conspiracy of any sort. It certainly does not amount to an attempt to bribe or corrupt any person. On a broad view of the words "proved misbehaviour" in section 72 of the Constitution, such conduct could fit this description.

Potential Allegations

3. Association with Abe Saffron

We have been told that there is evidence available that the Judge has had a long association with Abe Saffron. It is clear that Saffron has been a person of dubious repute for many years. Saffron himself has denied any association with the Judge. We do not know whether the Judge has issued any similar denial. We are told that there are a number of persons who may give evidence of such long standing association. These include -

- (i) James Anderson
- (ii) James Alexander West
- (iii) Berita Hagensfeld
- (iv) Rosemary Opitz
- (v) Anna Paul.

Each of these persons should be interviewed. They should be asked for the names of any other persons who might have evidence of an association between the Judge and Saffron.

It is clear that Saffron is not merely a client of Morgan Ryan's, but also a business partner with him. Ryan and Saffron are plainly involved in a number of illegal joint ventures. We have been told that there is evidence available that Murphy is a partner in a brothel with Saffron. It is suggested that he has an interest in the Venus Room. It is said that there is a long history of the Judge receiving sexual favours from women supplied by Saffron, or an associate of Saffron's, one Eric Jory.

If it can be shown that the Judge has had a long standing association with Saffron, both of a personal and business nature, this may be relevant to our inquiry (though not by way of a charge based upon "guilt by association"). It is unclear to me precisely what is the status of the offence of consorting in New South Wales today, or what it has been over the years. Would a part interest in a brothel render the Judge guilty of "proved misbehaviour"? It would seem that managing a brothel, or living off the earnings of prostitution, would amount to a criminal offence in New South Wales. It still does amount to an offence in Victoria unless the brothel has a permit to operate as such. If one goes to a document supplied to us by the Age, which purports to record a statement

made by James West, the Judge is described as "Abe's man". West says that he used to meet the Judge at Lodge 44, a well-known Saffron establishment. West says that Saffron often talked of his association with Murphy. West says that he did not know Murphy "that well". He says that he met Murphy at Lodge 44 with Abe a few times. He thought that Abe paid Murphy. He said that "he" (not clear whether this is Saffron or Murphy) is involved in all this gambling around Kings Cross.

We also know that James Anderson has made similar allegations to the New South Wales Committee investigating the legalisation of prostitution, and, we believe, has repeated those allegations during the course of certain bankruptcy proceedings. Anderson is presently thought to be out of Australia. The National Crime Authority is likely to be aware of his whereabouts. He must be spoken to.

4. The Sala Affair

The history of this matter is well known. What has not hitherto been considered, however, is whether the whole affair takes on a completely different perspective if it can be shown that there is a long standing association between the Judge and Abe Saffron. It is clear that Sala was staying at Lodge 44 when he came to Australia. The likelihood is that he was closely involved with Saffron in some criminal venture. We need to speak to former Inspector Dixon, a man who was very upset about the manner in which the Judge acted at the relevant time. We should also speak to a Mr A Watson (a former First Assistant Secretary who gave certain advice to the Attorney regarding this matter). Other persons to speak to are a R J Harkins (formerly Deputy Crown Solicitor in N.S.W.) and the journalist Ann Summers. She is presently in New York City. She is known to have told other people at around that time that she had knowledge that \$30,000 had been paid to Morgan Ryan for his role in getting Sala out of the country before he could be broken down by the police. We must analyse the Menzies Report

Carefully. We should compare the views of a Mr Mahoney (Deputy Secretary of the Department) who disagreed with Inspector Dixon in relation to what should be done with Sala. It is also worth investigating the Judge's conduct in relation to a matter involving a gentleman called Lasic. Apparently Morgan Ryan acted in that matter as well and the Attorney personally intervened to accommodate Ryan's wishes.

5. Saffron off Customs Alert

Once again a great deal will depend on whether it can be shown that Murphy was a long-standing associate of Saffrons. If he was, then the decision to accommodate Morgan Ryan's request that Saffron no longer be subjected to strict 100% customs searches takes on a completely different appearance. It must be recalled that Saffron had been named adversely in the Moffitt Royal Commission, the year prior to his being taken off the 100% search list. There is a file note in our possession recording that the police had been told by Customs that the Attorney-General had directed an immediate downgrading of surveillance upon Saffron. We have been told that there was an investigation into this matter and that the investigation cleared the Attorney-General. It appears that the reference to the Attorney-General in the document that we have is a mistaken one and what was really meant was the Comptroller of Customs. We should speak to two persons - a Mr Delaney who has apparently written a book entitled "Narcs", and a Mr Phillips who is said to be a lawyer in Victoria.

If the Judge ordered a downgrading of surveillance upon Saffron in circumstances where he was a close friend and/or business associate of Saffrons, there would appear to be evidence of seriously improper conduct on his part. This might amount to some form of conspiracy. If the Judge received any remuneration, either directly, or indirectly (as for example by sexual favours), or even if the Judge was aware by assisting Saffron in this manner he would be helping his close friend

Morgan Ryan, it might be said that there is "proved misbehaviour". We should also determine whether the Judge whilst Attorney intervened in favour of Lennie McPherson in a similar manner.

6. Safe Deposit Boxes and Shares

We have been handed certain documents which, if genuine, suggest that a safety deposit box and numbered Swiss bank account was opened in the name of the Judge on the 11th March 1975. On the 11th March 1975, an East German national named Zunderman paid 50 Swiss francs at the Zurich branch of the Union Bank of Switzerland to open safety deposit box number 8343 in the names of Lionel Keith Murphy and Edward Gough Whitlam. Another document indicates that the Union Bank of Switzerland in its vault facilities holds the safe deposit box number 8597 on behalf of Mr Lionel Keith Murphy and Miss Junie Morosi for twelve months from the 11th March 1975. This second document was executed in duplicate on the 4th April 1975. The next document shows a receipt numbered 816 for 70 Swiss francs which bears the date 4th April 1975. This document relates to safety deposit box 8343 and purports to show that Junie Morosi was assigned the keys to the box designated for Murphy and Whitlam.

A fourth document shown to us appears to disclose that Mr Lionel Keith Murphy had been allotted 400 shares in the Union Bank of Switzerland, shown to have been worth 500 Swiss francs each at the time. The document in question appears to be a notice of a forthcoming general meeting of the shareholders of the said company. This document bears a particular security account number 3842. It refers to the following deposit as of the 27.2.1975. A very similar document is in existence (dated March 5th 1973) which suggests that Dr. James Ford Cairns has also been allotted 250 of the same shares.

The status of these documents at the present stage is very uncertain. On the morning of Monday, 16th June, we shall be attending at certain premises with a view to seeing what other information we can obtain regarding the Swiss documentation. It may be that someone will have to make further enquiries in Switzerland. We understand that the Swiss Bank is unwilling to be cooperative in this regard unless it is approached on a government to government basis. Some such approach may have to be made. If the Judge did receive an allocation of 400 shares at 500 francs each, this would amount to approximately \$80,000 Australian dollars worth of shares in 1975 terms. That would be the equivalent of approximately quarter of a million dollars in today's terms. One would have to look upon any such acquisition by the Attorney-General with extreme suspicion. This would be compounded by any similar acquisition being made by the former Deputy Prime Minister and Treasurer, Dr. Cairns. Any involvement by Miss Junie Morosi in these matters can only heighten suspicion further. She is now known to have been involved in corrupt immigration activities.

It would be extremely unlikely that anyone seeking to bring about embarrassment to the Whitlam Government would have been prepared to make a gift or gifts of these amounts of money in order to do so for domestic political purposes. The same cannot be said of the opening of safe deposit boxes in the names of the Judge and the former Prime Minister. It may be that the Swiss Bank will have documents or records which will enable us to determine the validity and genuineness of these documents. It ought certainly to be possible to determine what has happened to the shares mentioned in the notice of general meeting if that document genuinely reflects a shareholding on the part of the then Attorney-General.

It is worth examining an article written by Brian Toohey on 20th September 1985 in the "National Times". The article is headed "Murphy the Property Millionaire", and purports to set out accurately some of the Judge's holdings. It must be remembered that during the early part of 1975, we were at the

height of attempts to borrow large sums of money from overseas for "temporary purposes". The suggestion can readily be made that the safety deposit boxes were obtained in anticipation of receiving some secret commission from some person seeking to arrange the loan of vast sums of money to the Australian Government.

7. The Free or Discounted Air Travel

It is suggested that the Judge behaved improperly in receiving free or discounted flights overseas care of Ethiopian Airlines. It appears that both he and his wife travelled overseas in December 1973 and January 1974 on air tickets issued by Pan American at the request of Ethiopian Airlines for one of their employees, Mrs Ingrid Murphy. It must be remembered that the local manager of Ethiopian Airlines was David Ditchburn (husband of Juni Morosi). It appears there was a lengthy Hansard debate on this matter. It is clear that the Judge sued Mirror Newspapers in 1976 for defamation. In that action he told the New South Wales Supreme Court that his wife had received a nominal fee as a Public Relations Consultant for Ethiopian Airlines, and that she was therefore entitled to discount travel. He told the court that he took one discounted trip and one free trip pursuant to this arrangement. The question will be whether the Attorney-General conducted himself in a dishonest manner in accepting this travel. Did he receive a secret commission?

8. The Diamond Purchases

Questions have been raised in Parliament regarding certain diamond purchases worth A\$7,800 allegedly made on Ingrid Murphy's behalf by a company associated with Perth tax fugitive Christo Moll. In 1984 the "Age" reported that notes on a cheque butt drawn on a company owned by Christo Moll indicated that money had been used for diamond purchases worth \$7,800 for Ingrid Murphy. A statement was read in the Senate on behalf of the Judge denying this.

9. Soviet Espionage

It has been suggested to us that there is evidence that the Judge was in fact born in Russia and that he has been engaged in espionage on behalf of the Soviet government for many years.

10. The Steven Bazley Approach

It has been suggested to us that a gentleman named Steven Bazley will say that he was approached by Mr Justice Murphy in June 1983 with a view to determining whether he would be prepared to do a "hit" for him. It is said that Steven Bazley was mistaken by the Judge for James Frederick Bazley who has been convicted of conspiracy to murder Donald McKay in Griffith. The details of this episode are obscure. Steven Bazley should be approached and spoken to. It is said that Bazley attended upon the Judge at his flat in Darling Point when the offer was made.

11. The Sankey Prosecution

It has been suggested that the Judge approached Abe Saffron (either directly or indirectly) to "lean" on Sankey to drop the private prosecution which he had brought against the Judge and others. James Anderson should be spoken to regarding this matter. He will say that he was asked by Saffron to approach Sankey to see if a settlement was possible. Sankey will say that he was approached by Anderson in 1976, and later spoke with Saffron who suggested a meeting. It should be noted that some very strange events occurred in relation to this private prosecution before it was eventually dismissed by Mr Leo S.M. in February 1979. It will be recalled that Mr Leo tried to take himself off the case at Murray Farquhar's suggestion. Murray Farquhar sought to take over the case himself. However, the New South Wales Court of Appeal forced Leo to continue hearing it. Mr Leo may be able to assist in determining what

pressure was placed upon him to withdraw from the hearing by Farquhar. Rofe Q.C. should also be spoken to. It may also be necessary to speak to Mr Justice McHugh.

12. Illegal Immigration Rackets

It has been said that the Judge was involved in an illegal immigration racket re Phillipino girls. It is said that whilst he was Attorney he interceded with the Ministry of Immigration in two cases. It appears that the Judge engaged a Phillipino nanny: this led to questions being asked in Parliament as to whether he had used his influence to allow her immigration to occur. Was the nanny recruited by Morosi? A person who seems to know a good deal about this is a journalist named Ben Hills. It appears that he once appeared before the Joint Committee on Pecuniary Interests of M.P.'s to discuss the matter. One should read the issue of the "National Times" dated July 12 to 18th, 1985. The connection with Ysmael is significant in relation to this matter as well. It is thought that Garry Boyd may have been involved.

13. The Morosi Break-in

We should speak to [REDACTED] regarding this matter. It is suggested that the Judge had advance knowledge that a break-in would occur at the Sydney home of Juni Morosi. The Judge arranged for Commonwealth Police to be present when the break-in occurred. One of the burglars named Wrigglesworth (represented by Morgan Ryan) was apprehended but never formally charged. No publicity was given to the matter despite the fact that this would have severely embarrassed the Liberal Party through the involvement of Ivor Greenwood in organising the break-in. [REDACTED] will have a good deal of information regarding the knowledge that the Attorney had of this matter, including a conversation which ostensibly occurred between Bill Waterhouse (the bookmaker) and the Attorney. It is also interesting to note that Foord Q.C. prosecuted Felton before

Murray Farquhar. Felton received a bond in relation to this matter. We are told that Don Marshall at ASIO knows a good deal about the case. We must also scrutinise the role of Don Davies in this affair. If Murphy's involvement can be proved, it would appear that he was a party to a conspiracy to pervert the course of justice.

14. The Unsworn Statement

It has been suggested by some that the Judge's conduct in making an unsworn statement at his second trial was so "unseemly" as to be capable of amounting to proved misbehaviour. This seems highly improbable. Nonetheless, it is a matter which should be drawn to the attention of the Commissioners as being one of the allegations which have been made against the Judge.

15. The Diary Incident

It has been suggested that there has been misconduct by the Judge regarding the use which was made of a diary which was given to the defence for limited purposes during the course of the Judge's first trial. There is also a suggestion of misconduct through the assistance which was supplied to the Murphy defence team of an employee of the Commonwealth Public Service.

16. Perjury

It is suggested that the Judge has either committed perjury, or has told untruths during the course of the accounts that he has given of his involvement with Mr Briese S.M. (which gave rise to the charges brought against him). It must be remembered that the Judge has made a statement to the first Senate hearing. He gave sworn testimony at his first trial. He then made an unsworn statement at his second trial. It is suggested that the Judge committed perjury by understating the number of

contacts he had had with Morgan Ryan during the relevant period. It is further suggested that he had lied by indicating that the only contacts he had had with Ryan during the relevant period were connected with the Sankey case. It is plain that if the Age Tapes are genuine, the Judge has spoken to Ryan during this period about a great many matters other than the Sankey prosecution. It will be necessary to examine with care whether the Judge has been definite about his recollection, or whether it can simply be said that he was mistaken about these matters. It will also be necessary to determine whether the Judge has ever denied associating with Saffron. If an association with Saffron could be proved contrary to any such denial, the Judge would be in difficulty. It has also been suggested that at his first trial the Judge had said that another guest or guests had attended the dinner at Briese's home. His wife Ingrid supported this account. It is thought that the Judge originally said this in his statement of the first senate inquiry. Briese denies that any other guests were present on the night in question. His wife and daughter support such denial. See the National Times dated the 6 December 1985.

It is said that Murphy's testimony at his first trial conflicted with the statement he made to the first senate inquiry - see the National Times dated the 12th July 1985 article per Wendy Bacon.

17. Association with Farquhar

It is said that the Judge associated with Mr Farquhar SM after it emerged that Farquhar was in all likelihood a crook. It is claimed that the Judge acted improperly in not coming forward to tell the authorities about the dinner he had attended at Morgan Ryan's house at which Farquhar had been present together with Commissioner Wood. It is said that the Judge's continuing association with Farquhar in 1980 amounted to improper conduct for a High Court Judge.

It seems very doubtful that these matters could amount to proved misbehaviour within the meaning of section 72 of the Constitution.

18. The Jegorow Approach

It is asserted that the Judge improperly approached Neville Wran on behalf of Mr Bill Jegorow who sought appointment as a Deputy Chairman of the Ethnic Affairs Commission of New South Wales. It is plain from the Age Tapes that the Judge did this at the behest of Morgan Ryan. It will be necessary to learn more of Mr Jegorow's background, and to ascertain whether the duties of that position would provide some advantage to someone such as Morgan Ryan involved in immigration rackets. It may be regarded as unseemly for a Judge to intercede with a Premier on behalf of a person who is seeking a Public Service appointment. It is doubtful, however, that any such intercession would of itself amount to proved misbehaviour.

19. The Paris Theatre

It is said that the Judge exhibited a surprising degree of interest in an application by the Paris Theatre to the Sydney City Council. This matter is discussed by Brian Toohey in the National Times issue 20th September 1985. As matters stand, even if this conversation occurred, it is difficult to see how it could amount to proved misbehaviour. We need to know more about any Saffron connection here.

20. The Rofe Matter

The Age Tape transcripts purport to record a conversation or conversations between the Judge and Morgan Ryan in the course of which the Judge indicates extreme hostility to Rofe QC. The conversations are vague. It may be that they can be construed as an attempt by the Judge to instigate Ryan to bring about some misadventure to Rofe QC. The conversations can certainly

be seen as "unseemly". As they stand, however, it does not seem that they are capable of amounting to misbehaviour in and of themselves.

21. The Lusher-Briese Conversation

There is a passage in the tapes where the Judge is recorded as having had a conversation with Ryan which can be described as very cryptic. It may pertain to the legalisation of casinos. While one might be curious as to why the Judge was speaking in these terms (if the conversation occurred) it seems impossible to spell any allegation out of this conversation.

22. Pinball Machines

There is a conversation where the Judge speaks to Ryan about pinball machines. Once again, it seems very difficult to formulate from this conversation (if it occurred) any allegation which can be made against the Judge. Again the Saffron connection may be critical here.

23. The Milton Morris Blackmail

There is a conversation between the Judge and Morgan Ryan during which Ryan tells the Judge that he proposes to engage in a form of blackmail of Milton Morris. The Judge does not counsel against this course, and continues to associate with Ryan thereafter. It is said that this could amount to proved Misbehaviour. Once again, taken in isolation, it may be regarded as unseemly behaviour on the part of the Judge but it probably is not capable of amounting to proved misbehaviour.

24. "Smelling Like a Rose"

There is a summary of a conversation between the Judge and Morgan Ryan's wife in which he advises her to assist her husband by getting a parliamentarian to say that enquiries have

been made into Morgan Ryan's affairs and that he has come up "smelling like a rose". This conversation, if it occurred, would demonstrate that the Judge was prepared to allow untruths to be put forward in the Parliament in order to support his friend Morgan Ryan. It would constitute extremely injudicious behaviour. It would only amount to proved misbehaviour if a broad view of that concept were taken.

25. Central Railway Complex

There is a discussion between the Judge and Morgan Ryan regarding the new Central Railway Complex. The Judge chastises Morgan Ryan for not being sufficiently alert to what is going on. It seems that a company with Saffron links was involved in seeking this development. It is said that it is surprising that the Judge would take such an interest in this particular complex. It is said that the whole of the matter is worthy of investigation. Did the Judge attempt to assist Saffron in relation to this matter? One should turn to the notes of the conversation with Wendy Bacon which occurred on the morning of Friday the 13th June for further elaboration of this matter.

It would seem that taken in isolation the statements attributed to the Judge could not amount to proved misbehaviour. The matter does merit further investigation, however.

26. The Illegal Casinos in Dixon Street

In the course of the Age Tapes there are transcripts of conversations between Morgan Ryan and Abe Saffron. These conversations suggest that the Judge has involved himself on behalf of one Robert Yuen in relation to certain illegal casinos operating in Dixon Street. One should examine carefully the passages in the transcript pertaining to these matters.

It will be extremely difficult to prove any such involvement on the part of the Judge. People who would know, Morgan Ryan and Abe Saffron, are most unlikely to be helpful as witnesses. Robert Yuen, one would think, would be as unhelpful. If the Judge was interceding on the part of Yuen, there is no doubt he would be guilty of a criminal offence of one sort or another. This would clearly amount to proved misbehaviour.

27. Luna Park - Lease for Saffron

This matter appears in the letter written by Mr. Justice Stewart to the Judge as Item 2. I have seen no reference to the matter in any of the Age Tapes that I have thus far perused. Mr. Justice Stewart should be spoken to regarding the matter.

28. The Murphy Allegations Re Political Nature of His Trial

It has been suggested that the outburst of the Judge after he had been acquitted at his second trial that the proceedings against him were politically motivated could amount to proved misbehaviour. See Hansard, House of Representatives, per Mr Spender at Page 3447 8th May 1986. Whilst the outburst might be regarded as unseemly conduct, it is difficult to see how it could amount to proved misbehaviour.

29. Failure to respond to Mr Justice Stewart's Letter

It has been suggested that the Judge's failure to respond to Mr Justice Stewart's inquiries during Stewart's investigations could amount to proved misbehaviour. See Hansard page 3448 dated 8 May 1986. It is difficult to see how this could be sustained bearing in mind the Judge's legal rights arising out of Hammond's case.

30. The Wilson-Tuckey allegations

It was alleged in Parliament and reported on 12 October 1985 in the Sydney Morning Herald that the Judge was involved in a tax scandal, see also The Age, 24 September 1985. Wilson Tuckey alleged that a Dr Tiller (surgeon) and a Murray Quartermaine had sought support from the Judge to avoid a public scandal. The allegation apparently emanated from a letter which was said to be written by Tiller and appears to have come into the Age's possession via Christo Moll. Tiller has denounced the letter as a forgery. This allegation may be worth following up. At present its status seems very doubtful.

31. The Judge's conduct in relation to Juni Morosi.

It is asserted that the Judge wrote to Gordon Bryant, then A.C.T. Minister, on December 4, 1974, asking him to "provide shelter for a most engaging employee of the Commonwealth". The Judge meant Morosi. She was then a friend of Ingrid's. He arranged housing priority for her. At the same time he appointed her husband, David Ditchburn, to the Film Board of Review, and appointed Morosi to be an authorised Marriage Celebrant.

It does not appear that any of these matters, taken in isolation, is capable of amounting to proved misbehaviour.

32. The Connor view of Murphy's conduct

It will be recalled that Mr Connor, in his report for the Second Senate Inquiry indicated that he took the view that an inquiry by the Judge as to what was likely to happen to Morgan Ryan was itself possibly misbehaviour (in the Pincus sense) even if it amounted to no more than "a significant impropriety". Thus, Connor was saying, it was wrong of the Judge to engage Mr Brieze in any conversation regarding the

Morgan Ryan matter with a view to finding out what the state of play was even if the Judge did not intend to pervert the course of justice by doing so.

This seems pretty farfetched. It is most unlikely that it could amount to proved misbehaviour.

33. The approach to Judge Staunton

It appears that the Judge approached Judge Staunton of the New South Wales District Court in an attempt to get an early trial for Morgan Ryan. This does not appear to be in dispute. It would be regarded by many as a most injudicious piece of conduct on the part of the Judge. A very broad view of misbehaviour might encompass this action. It is unlikely, however, that the Commissioners would accept this as a form of proved misbehaviour.

34. The Wood shares

It has been suggested to us that the Judge received a large parcel of shares from former Senator Wood in the late 1960s, and that there was something improper about that receipt. It is said that this is worthy of investigation. It may be, however, that without further particulars this matter cannot be investigated at this stage.

35. The Williams' bribery allegations

We have been told that a gentleman by the name of Trevor Williams might be prepared to come forward and say that whilst the Judge was the Minister of Customs, he asked for a bribe of \$1,000 from him in relation to some difficulties that Williams was having with customs matters. When Williams indicated that he did not propose to give any such sum to the Minister, the Judge just backed off. It is said that Williams is a reputable person and might be prepared to substantiate this allegation.

36. The Dams Case Allegations

It is suggested that during the course of the Dams case the Judge intervened by communicating to the Premier of New South Wales his disquiet at the manner in which the case was being argued by the Solicitor-General for N.S.W. This apparently led to a change of tack.

M Weinberg

15 June 1986

2660A

MEMORANDUM

TO: Mr Charles
Mr Robertson
Mr Weinberg
Mr Durack

FROM: Mrs Sharp

SUMMARY OF DISCUSSIONS HELD ON 13 JUNE 1986

The Central Railway Project - 1980

It was suggested that a company having distant Saffron connections was involved in the proposed development at Central Railway. The connection appears to be Warwick Colbrin, a solicitor and former clerk of Morgan Ryan who knew and had done work for Saffron through his association with Morgan Ryan. Colbrin formed a company known as Commuter Terminals with an architect and property developer John Andrews. The company planned a high rise development at Central Railway and was apparently chosen in such a way that tenders were avoided. It was suggested that Fred Clutton, the former property manager in the Railways Department, now dead, was involved with Colbrin and that David Hill the present manager of the SRA was aware of this and resisted the development. John Johnston, a State MLA also lobbied for the construction. When David Hill moved to the SRA he sacked Clutton. It was alleged that that Clutton and Colbrin were also involved in some dealings with land owned by the SRA at Luna Park and that Colbrin had fronted for the alleged Saffron Company which tendered for the license to run Luna Park. It was suggested that Murphy made representations on behalf of that company. It was stated that the files relating to both the Central Railway's development and Luna Park were given to the Stewart Inquiry.

Allegations Concerning Trevor Williams

There was an allegation made that whilst Murphy was Minister for Customs, a customs consultant called Trevor Williams approached Murphy over a problem he had with Customs. It was

alleged that Murphy had asked him how much cash he had on him and upon being told by Williams that he had \$200 which he was not prepared to give him, it was alleged that Murphy had asked Williams what he was doing speaking to him and had left the room.

Shares given by Senator Ian Wood

It was alleged that Murphy was given a parcel of shares by a Liberal Senator, Ian Wood, in a company that Wood had floated. Shares were also given to members of Murphy's staff by Senator Wood. It was suggested that Murphy had somehow prevented Senator Wood being asked embarrassing questions in the Senate although this allegation was not further expanded. It was also alleged that during the mining boom Murphy got into some financial difficulties.

Appointment of Bill Jegerow

The telephone conversation in 1979 between Morgan Ryan in which Murphy agreed to approach Neville Wran to appoint Bill Jegerow to the Ethnic Affairs Commission, was discussed. It was suggested that Neville Wran was pleased to move Jegerow, who was a difficult person to get on with, from the Premier's Department. It was implied that the appointment would in some way be of advantage to Ryan in his dealings with the Immigration authorities because he had someone of importance who owed him a favour. The connection between the Ethnic Affairs Commission and the Immigration Department is unclear although it seems probable that there is some interaction between the two bodies and with Jegerow it would be at a fairly high level. In the context of the suggestion that Murphy stood to gain some financial or other advantage in his dealings with Ryan the matter acquires some significance.

Paris Theatre Redevelopment

During the same telephone conversation it was alleged that Murphy had reprimanded Ryan for not keeping an eye on the application for redevelopment of the Paris Theatre site.

Murphy is said to have mentioned a company called Gandali Holdings, a company which owned Studio 44, the Barrel Theatre and various sex shops, run by David Gandali. Murphy's concern was said to be that Jim Cairns and Juni Morosi also wished to acquire the site for their company, Research for Survival, and turn it into some sort of community awareness centre. It is unclear whether there is any relationship between Gandali and Saffron although given the nature of their interests it seems likely. The article on Gandali in the "National Times" June 6 - 12 1986 by Christine Rau is informative.

The Lewington Allegations - 1981

The alleged discussion involving the proposed bribing of Lewington and Jones was raised. Lewington had been spoken to by one of the persons present at the meeting who was not prepared to reveal the content of those discussions. It was said that Lewington had complained to Sir Colin Woods and that an internal affairs investigation had resulted in the officers concerned having been found guilty and fined a small amount. It will be necessary to obtain a copy of the internal affairs report.

Illegal Casinos - April 1979

There was some discussion about a casino which it was said was run in a block of flats in Thornton Street, Darling Point by a person named Robert Yuen. It was suggested that the casino was located in the block of flats in which Murphy lived. (At page 98 of the 2nd volume of the Stewart Commission mention is made of a gaming house at [REDACTED] Darling Point, run by Ronald Lopes Diaz during the period of interception of that person - 21.6.79).

It was alleged that Murphy in a discussion with Ryan had said that Watson, the Police Commissioner at the time, should be stopped from hindering the Yuens, that is Robert and John Yuen. It was suggested that Watson was on the take from other

illegal casino operators and that Murphy was outraged not by the fact that Watson was said to be taking money from others but that he was raiding the Yuen's casinos. Ryan it was said claimed that Murphy would knife Morgan to stop him from hindering the Yuens.

It was stated that there was an article in the "National Times" of about August 1985 which may be of some background use regarding illegal casinos in New South Wales. It was also suggested that the Committee speak to a person named Garry Boyd.

In addition, the following matters were touched upon:-

It was suggested that the commission speak to Jim Anderson's wife Nethea who is still in Australia, or his son, regarding the alleged relationship between Saffron and Murphy.

The fact that Saffron, [REDACTED] and Morgan Ryan all share the same doctor, Dr. Danny Hamari was mentioned.

The present whereabouts of the tapes - if they were not all destroyed. It was suggested that the Commission speak to Andrew Keenan, a journalist with the "Sydney Morning Herald" who may have some idea what happened to them.

It was suggested that in addition to his known assets, Murphy also bought land on Frazer Island, at about the same time as a visiting English actress. It was not suggested that there was any connection between the two other than the setting of an approximate date for the acquisition. It was suggested that Richard Ackland might have some further information.

It was suggested that Neill Mercer, a journalist with

"60 Minutes" may be in possession of some taped interviews with Jim Anderson which could be informative.

The Sankey matter was again mentioned and the fact that there was a complaint made by the late John Traill Q.C. about an attempt to remove Leo S.M. and replace him with Farquhar, other than this matter the discussion went no further than that of the morning of 11 June 1986.

The conversation involving "every little breeze" and "the Lush and the Board of three" was discussed but no further light was thrown on the possible meaning of the discussion, as was the case with the discussion involving pinball machines.

There was a suggestion that there was some relationship between Murphy and Farquhar which should be more closely examined and it was suggested that Wally Lewer S.M. may know something of it as also might Clarrie Briese.

There was a discussion about the Thomas lunch and the fact that it was held in a restaurant which was also a casino owned by a person named Choy and run by Waterhouse. The restaurant was also used by Ryan as a meeting place to discuss the Korean immigration racket.

MEMORANDUM

TO: Mr Charles
Mr Robertson
Mr Durack
Ms Sharp

FROM: Mr Weinberg

SUMMARY OF DISCUSSIONS HELD ON 11 JUNE 1986

The morning discussions

Abe Saffron

1. The first matter raised for consideration was whether material would be available to support a finding that the Judge had a long standing association with Saffron. It was noted that Saffron had recently denied ever having met Murphy. The Judge is not known to have made any similar denial.

2. If an association of this nature can be established, it would be of considerable significance to the course of our inquiry. Certain actions taken by the Judge while Attorney-General would take on a new, and potentially sinister connotation. Two examples spring prominently to mind. The SALA affair would be seen in a different light given that it may be possible to establish a link between SALA and Saffron via SALA's residence at Lodge 44. Furthermore the instruction apparently given by Murphy that Saffron no longer be subjected to 100% Customs searches upon departing from and re-entering Australia would have to be re-assessed. At present, Murphy's actions as Attorney-General can be regarded as little more than "favours" done for a solicitor who happened to be a friend of the Attorney's, and who sought assistance on behalf of clients whose civil liberties could be said to have been infringed. If it could be shown that the Judge had an association not just with the solicitor, but with the client as well (using client in a very broad sense in the case of SALA) Murphy's actions take on a completely different aspect.

3. So far as the SALA matter is concerned, it was noted that Inspector Dixon should be interviewed, and any documents prepared by him closely perused. It was suggested that rumours had abounded at or about the time of the SALA case that Morgan Ryan received a payment of approximately \$30,000 in order to arrange for SALA's departure from Australia. It was suggested that it was imperative that SALA be removed from this country as quickly as possible because there was concern that he would be broken down by police interrogation if a sufficient period of time elapsed. It was noted that the decision to order SALA's release had been made under a misconception of the relevant principles of the Migration Act. It was noted that any person who entered Australia with a false passport could be lawfully detained, and the mere fact that there had been a deportation order issued would not prevent a charge under the Migration Act from being laid. It was further noted that the passport which SALA had was very obviously forged.

4. It was pointed out that Inspector Dixon had wanted to interview Murphy right up to the day when Murphy was appointed to the High Court. Apparently, a Mr Hedland had stopped any such interview from being carried out. There was said to be something odd about the speed with which the matter reached the District Court. Our attention was directed to the Menzies' Report, and to two persons who might have information about this matter. The first was R J Harkins (apparently a person responsible for the prosecution proceedings) and the second was the journalist Ann Summers. It was noted that Mr Grassby had been the Immigration Minister at the time, and it was said that he was a very pliant tool of the Attorney-General's. It was noted that there was an Immigration file pertaining to the SALA matter found before the recent second trial of Murphy in a safe in the Attorney-General's Department. That file should be examined. Another matter that may be worth investigating is the role of the Sydney Branch of the Immigration Department which was responsible for handling this matter. It should be remembered that two employees of that Department, a

Mr Garry Boyd and a Mr Bob England were later shown to have had criminal connections with Morgan Ryan. Finally, it was noted that it is common to hold persons who are suspected of being illegal immigrants under section 38 of the Migration Act - indeed it was said that this happens "all the time" - why then were extraordinary steps taken in the case of SALA?

5. If one examines the decision that was taken to lift the 100% body search requirement pertaining to Saffron, it was said that useful information would come from a gentleman named Delaney (head of the southern division of the Narcotics Bureau at the relevant time) and also from a lawyer named Phillips. There was some speculation as to who Phillips might be. It was suggested that the 100% search requirement had also been lifted in relation to a Lennie McPherson and that the Attorney-General might have intervened in relation to this matter as well.

6. In order to substantiate the allegations that there had been a long-standing association between Murphy and Saffron, our attention was directed to the evidence that had been given by Mr James McCartney Anderson before the New South Wales Parliamentary Committee into Prostitution. That evidence had been given on November 15, 1983. The transcript of that evidence should be obtained. This matter was raised by Mr Ken Aldred in Parliament, and is the subject of a formal letter written to Sir George Lush by Mr Aldred. It appears that the NCA wish to protect Anderson who is regarded as a main witness in proceedings which are contemplated against Saffron. It is noted that Anderson also gave evidence at a recent coronial inquest into a series of fires which Saffron is suspected of having been responsible for. Anderson is said to be no longer in Australia. It was rumoured that he had been paid a sum of \$300,000 (by Saffron) to make himself scarce. It was also noted that Anderson had made similar allegations about an association between Murphy and Saffron during the course of certain bankruptcy proceedings. The transcript of those proceedings should be obtained.

7. It was suggested that the relationship between Murphy and Saffron went back to the 1950s. It was said that Murphy was part of a social set together with Morgan Ryan which frequented nightclubs such as Chequers. It was suggested that confirmation of the association could be obtained from one Rosemary Opitz (telephone no. [REDACTED]). Ms Opitz had been a stripper at Kings Cross and is currently aged about 49. She is said to be a friend of Berita Hagenfelds who was Saffron's mistress for 25 years. Ms Hagenfelds lived in a house at Centennial Park, and entertained business associates and clients of Saffron. It was said that Murphy had attended dinner parties at that house in the company of Saffron. This was said to have occurred during the early 1960s. At the time, Murphy was going out with a lady by the name of Anna Paul (Anna McMahon). It was suggested that this lady had written a strange autobiography. She had been introduced to Lionel Murphy by Morgan Ryan who had put her on his staff. There was some embarrassment associated with this appointment as she was not capable of typing or carrying out secretarial functions. We were told that Berita Hagenfelds has an alcohol problem, and suffers severe memory loss. She is currently suing Saffron. It was suggested that some confirmation of the material in Anna Paul's autobiography could be obtained from Les Johnson currently High Commissioner to New Zealand. It was suggested that Murphy constantly sought and received sexual favours, presumably from the set surrounding Saffron.

The Ysmael Connection

8. It was noted that Morgan Ryan had been involved in a major immigration racket involving Korean immigrants. It was pointed out that there were suggestions that Murphy had himself been involved in assisting Phillipino immigrants to acquire residency status in Australia. It was noted that he had engaged two housemaids, both of whom were Phillipino. It was suggested that the association between Murphy and Felipe Ysmael

should be investigated. Ysmael was said to be a crony of Marcos at the relevant time. There was later a falling out between the two men. Ysmael was known as a heavy gambler and he was forced to leave Australia in the late 1960s. He was a man who had amassed huge wealth. It was said that he had connections with the same Lennie McPherson discussed earlier in this memorandum. It is thought that the Immigration Department will have files relating to Ysmael. On any view this man was described as not being a savoury character. We were told that Ysmael had in 1971 entertained Murphy in the Phillipines. The occasion was Murphy's honeymoon. There was publicity given to a statement that Murphy had made when he arrived in Manilla together with his new wife. He was said to have had indicated that he would "go with the Babe" when offered alternative red carpet treatment.

9. The connection with Ysmael may lead into a range of matters involving firstly Phillipino servants - here the role of Grassby and Morosi would be significant. It then leads naturally into the activities with Morgan Ryan who was involved in a Korean immigration racket from 1973 onwards. We were told that Ben Hills, a journalist, would supply useful information regarding these matters. It was said the Morosi and Jim Cairns, in 1974, were heavily involved in the Phillipino immigration racket. The question is how much did Murphy know about what was going on. It appears that the relevant Minister at the time, Mr McClelland, took steps to stop Morosi and Cairns from carrying out their plans. We were told that it would be worth speaking to one [REDACTED] a "private inquiry agent" who is said to be a "heavy", and who has worked for a number of criminals in Sydney, and who would be able to supply information relating to Phillipino prostitutes. [REDACTED] know Ysmael and also knows Murphy (to some extent). It appears that Andrew Wells of the AFP has questioned [REDACTED] regarding these matters in preparation for the second Murphy trial.

The Morosi Break-in

10. [REDACTED] would be of great assistance regarding this matter as well. It appears that on January 17, 1975, a break-in occurred at the Sydney house of Morosi in Gladesville. This was said to be about a month prior to Murphy's appointment to the High Court. [REDACTED] had been hired by a Committee to carry out the break-in. Alan Felton was a member of that Committee, as was the late Ivor Greenwood. It was said Mr Wentworth had also been involved. We were told that we should speak to Kate Wentworth regarding this matter. One of the purposes of the break-in was to discredit Andrew Peacock. It was thought that Peacock had a relationship with Juni Morosi.

11. [REDACTED] hired a gentleman named Wrigglesworth, who was a locksmith. The first attempt at a break-in failed. It was decided to go back. [REDACTED] informed Bill Waterhouse (the bookmaker) of the plan to attempt a second break-in. He also told Waterhouse that Greenwood had hired him to carry out this task. Waterhouse was a close associate of both Murphy and Neville Wran. It seems likely that Waterhouse betrayed [REDACTED] and that there was a tip-off to the Commonwealth Police who were present at the Morosi house when the second break-in attempt occurred. [REDACTED] can give evidence of a telephone conversation which he was present at. It was said that Lionel Murphy was the other person on the line. There is said to be a confidential report prepared by a Commonwealth Police Officer, one Don Davies, who reported directly to the Attorney-General regarding the Morosi break-in. The AFP should have a copy of this report.

12. It subsequently emerged that Wrigglesworth, who had been apprehended by the Commonwealth Police, was released. He was never charged with any offence relating to the break-in. It appears that Davies had suggested in his report to the Attorney

that it was a matter for the Attorney personally to determine. This report by Davies must be obtained. The matter assumes great significance when one remembers that Davies is thought to have been a corrupt police officer, whom the new Commissioner of the Australian Federal Police in 1980 declined to have as an Assistant Commissioner. Davies of course was also present at the Thomas lunch.

13. The issue is whether it can be established that Waterhouse rang Murphy regarding this matter. The matter still becomes still more sinister when one appreciates that the prosecution of Felton was conducted by Foord QC before, of all people, Murray Farquhar. Foord took a very strong line about the seriousness of the matter on the first day of the hearing but apparently adopted a totally different tone several days later. Felton was given a bond.

14. We need to establish why Commonwealth Police were assigned the task of protecting Morosi's house. We need to know who made the decision that Foord QC would be briefed to prosecute Felton. We need to examine the relationship between Murphy and Farquhar at this time. We need to know why Wrigglesworth was released. We need to know why the Attorney-General took a personal role in this case, and most of all we need to know why it was decided not to use our Australian equivalent to the Watergate scandal for political purposes. Why did not the involvement of Greenwood and Wentworth become a national issue? It was suggested to us that the motive of the Attorney in containing the whole matter was a fear that there might be a counter attack launched and that the whole relationship between Murphy and Morosi would come under public scrutiny.

The Sankey Prosecution

15. James McCartney Anderson will say that he overheard Saffron talking to Murphy. It is not clear whether this conversation occurred in person or over the telephone. Murphy wished to see whether the prosecution launched against both himself and others by Sankey could be settled. Anderson was directed to meet Sankey at a cafe in Double Bay. Sankey subsequently spoke to Saffron. Sankey then spoke to Rofe. The prosecution was eventually dropped, but it appears that Rofe was not initially receptive to the suggestion that it be withdrawn. This may explain a good deal of the bitterness exhibited by Murphy towards to Rofe.

16. The proposition that Murphy used Saffron to "lean on" Sankey (who was an acquaintance of Saffron's) must be investigated. It will be necessary to speak to Rofe regarding this matter. The conversations between Murphy and Morgan Ryan regarding the institution of proceedings against Sankey, Ellicott, and Rofe for malicious prosecution are odd because of the fact that Morgan Ryan was acting for Jim Cairns, and not for Murphy. Why was Murphy discussing the Sankey case with Morgan Ryan? Did Cairns authorise this? It was said that there was a curious absence of any reference to Cairns on the tape.

The afternoon discussions

17. It was suggested to us that a number of allegations against Murphy had been made by one Christo Moll who is a criminal who has fled the country and is wanted for questioning regarding matters of tax evasion, currency smuggling and diamond smuggling. It appears that the AFP have a substantial file on this man. Among the material produced by Moll is a series of photocopies of certain documents which appear on their face to emanate from a Swiss Bank. These documents suggest that an East German gentleman has opened certain accounts with this Swiss Bank (which may involve the use of safe deposit boxes). One of the accounts is in the name of Lionel Keith Murphy. The accounts were opened in March 1975. There was also said to be an issue of shares in the names of Juni Morosi, Jim Cairns, and Gough Whitlam, as well as Lionel Keith Murphy. The value of the shares allotted to Murphy would seem to be something in of the order of \$80,000. The photocopy documents have not been authenticated save to the extent that it is known that the Bank Officers whose signatures apparently appear on those documents were actually working for the Bank at the relevant time.

18. It was noted that the documents are not necessarily incriminating since it was perfectly possible that someone else would have opened an account in the name of Lionel Keith Murphy without his knowledge. This could have been done by some person anticipating that it would expedite the payment of commissions or fees to the person named in the event that any monies were loaned to the Australian Government for "temporary purposes". Alternatively, it could have been part of some plot by political opponents of the gentlemen named to discredit them by opening an account in their names.

19. We do not know whether these documents are forgeries, or whether they are genuine. Was there an allocation of shares actually made? Is there any money on deposit in these

accounts? What precisely is known of Murphy's financial position? It was said that he has assets of the order of \$2,000,000. Presumably these are known assets within Australia. It appears that it will be impossible to get any information regarding the alleged Swiss Bank deposits except on a Government to Government basis. It would be necessary to determine whether any documents bearing the genuine signature of Lionel Murphy exist in Switzerland relating to these accounts. While there is nothing illegal or improper per se about having a Swiss Bank account, the question would arise (if the documents are genuine) and if Murphy was a party to the establishment of any such accounts, as to what monies he intended secretly to place in those accounts. These matters assume a sinister connotation if one bears in mind the names of the other persons said to have deposits in the Swiss Bank arranged at the same time.

20. There was some discussion about the possibility of some impropriety associated with the Judge's wife Ingrid and Ethiopian Airlines. It was said that the Judge had taken a number of flights for which he had paid only most nominal fee (\$1 it was suggested). There are also a number of original cheque butts apparently pertaining to the financial affairs of Ingrid Murphy which have been handed over to the Federal Police. These should be investigated.

21. We were also told of an allegation that had been made by two former employees of a particular newspaper which was thought to be totally devoid of any credibility. These reporters had suggested that they had material to support a conclusion that Murphy's birth certificate was a forgery, that he was in fact a Russian and that he had been engaged in certain espionage activities on behalf of the Soviet Government. It was said that this information came from a Senior KGB officer. It was said that ASIO was aware of these allegations. A problem arises as to whether bizarre and inherently unbelievable allegations of this type should be

investigated in the absence of some specific complaint supported by statutory declaration made by the reporters in question.

22. There was discussion in the afternoon also about the role of James McCartney Anderson, and what he had to say about the relationship between Murphy and Saffron. We were told that Anderson had made his allegations both before the New South Wales Parliamentary Inquiry into Prostitution and in the course of certain bankruptcy hearings. We were told also that there was a tape recording held by the National Crime Authority of an interview conducted with one James Alexander West. West had been Saffron's partner and business associate for many years. He would have far more valuable information to give about any relationship between Murphy and Saffron than Anderson. It appears that West had sold out his business interest to Saffron for the sum of \$1.9 million. West had been interviewed regarding certain companies which had gone through a dumping process in Western Australia. It was thought that he could give important evidence regarding bottom of the harbour tax evasion activities of a promoter by the name of Peter Briggs. It appears that on 15 November 1984 West made two tapes which have the effect of corroborating the allegations made by Anderson. West asserts that he had met Murphy at Lodge 44. He further asserts that Murphy was there in the company of Saffron. And that there were a number of top mafia men present. It appears that Lodge 44 was in reality a kind of brothel, as well as being Saffron's headquarters. It was suggested that West had raised the allegation that Murphy was himself a partner in a brothel (the Venus room).

23. We were also told during the afternoon that useful information regarding the relationship between Murphy and Saffron could be obtained from a woman named Rosemary Opitz, and also a woman by the name of Anna Paul. It was suggested in the afternoon that Ms Opitz was the author of the autobiography (which had been alluded to earlier during the day but had been

ascribed to Ms Paul in the morning). The book apparently asserts that Murphy had dined in the company of Saffron.

24. There was an allegation made that a person by the name of Stephen Bazely could give useful information. It appears that Bazely has provided a number of tapes which have been handed to the New South Wales Police Commissioner in which he alleges that in June 1983 he visited Murphy's house in Darling Point, and was told that Murphy wanted him to do a "hit job" on someone. It was suggested that Stephen Bazely was confused with James Frederick Bazely (recently convicted of conspiracy to murder Donald Mackay). We were told that there had been investigative work done by a journalist Graham Gambine regarding this matter.

25. We were also told that we should speak to John Avery the new Commissioner for the New South Wales Police and seek the files relating to Saffron which are currently held by three police officers who are conducting separate investigations into Saffron's affairs. The three officers named are Warren Molloy, Bob Clark and Rod Lynch.

26. We were told that the person who would have most useful information to give us was Andy Wells of the AFP. Wells would be in a position to explain the Central Railway allusion in the Age tapes.

27. We were also told that the Age is holding a transcript of a tape made by Anderson in which he suggests that Murphy is a silent party in the Venus room.

28. It was suggested to us that the circumstances under which Murphy took up his appointment to the High Court bench would repay careful consideration. We were told to look at the events of the Terrigal conference, and particularly the role of Mr Ditchburn and the Ethiopian Airlines connection.

29. We were told that the starting point for our inquiries should be Peter Lamb. We were also told that the Stewart inquiry had a defective copy of the tape recording made of the conversation between Don Thomas and Morgan Ryan in February 1980. It appears that the Federal Police have a reel to reel copy of that conversation which brings it up more clearly than the cassette that was used for the purposes of the Stewart inquiry.

Mark Weinberg

13 June 1986

2635A

MR JUSTICE MURPHY: QUESTIONS RAISED IN ARTICLE IN "NATIONAL TIMES", MAY 9 TO 15, 1986

In all, some 20 questions are raised in the article (copy attached). It is stated that they have been submitted to the Judge and that he has not responded.

2. The questions are itemised below in 2 categories - the first category being questions that imply a more or less specific allegation, and the second being questions that refer to an alleged relationship that is implied to be improper. The categories tend to blur in relation to particular items and should not be taken as being completely mutually exclusive.

Questions Implying Specific Allegations

3. The items placed in this category are:

- (i) The Thomas lunch attended by the Judge (in late 1979): some details were given in the "National Times" of last week; the DPP has details of the evidence that is available and has decided not to prosecute; the specific allegation made by Thomas was one of the 7 matters put to the Judge by Judge Stewart during the tapes inquiry;
- (ii) The Sala affair (when the Judge was Attorney-General): the Judge's action to deport Sala and the indications of Sala's connection with Saffron are referred to; this matter was the subject of an investigation and report by Mr Andrew Menzies;
- (iii) The dinner at Morgan Ryan's for Farquhar, attended by Wood: the implied allegation is that the Judge should have informed NSW authorities of the dinner in view of public allegations a few days later that Morgan Ryan, Farquhar and Wood had conspired to pervert the course of justice in the Cessna-Milner case, and in view of denials subsequently made of contacts between the three;
- (iv) The Morosi Break-in (when the Judge was Attorney-General): the implied allegations relate to, inter alia the use of the Commonwealth police to protect property occupied by Junie Morosi in NSW, to the Judge being involved in a conversation with Morgan Ryan who represented one of the persons alerted, and to possible political use of information obtained by the Judge as Attorney-General in request of the involvement of leading Liberal politicians; the DPP has a report and a signed statement on the incident;

IN CONFIDENCE

- (v) Giving inaccurate evidence at first trial re Conversations with Morgan Ryan: the DPP has considered this matter and is not disposed to bring criminal proceedings (perjury);
- (vi) Paris Theatre application to Sydney City Council: referred to in alleged conversation with Morgan Ryan;
- (vii) The allegation by Detective Lewington that the Judge discussed with Morgan Ryan whether Lewington and Jones could be bribed: included in the 7 matters put to the Judge by Judge Stewart; Stewart concluded that the conversation in itself did not constitute an offence by either party (Vol. 2).
- (viii) Arranging for "something" to happen to David Rofe, QC: referred to in 2 alleged conversations with Morgan Ryan; dismissed by the DPP and Judge Stewart as not being of any significance;
- (ix) Legalisation of casinos, and pinball machines: two alleged conversations with Morgan Ryan referred to, one possibly relating to the Lusher inquiry into legalisation of casinos and the other into who was bringing in pinball machines;
- (x) "Blackmail" of Morris MLA: the allegations appear to be that the Judge should not have continued to associate with Ryan after learning of this, and that something sinister was hinted at by the Judge's warning to Ryan about using the phone; Judge Stewart found (Vol. 2) that most of what Ryan relied upon to blackmail Morris was fantasy;
- (xi) Offering Morgan Ryan (in alleged conversation with his wife) public relations advice ("smelling like a rose"): alleged to be made after Ryan was in trouble on these counts immigration rackets, Cessna-Milner case, and named as "go-between" of organised crime figures;
- (xii) Development over Central Station Railway Complex: alleged that the Judge mentioned a company proven to have "distant Saffron connections";
- (xiii) Discussions with Ryan or any of his associates about a casino?: possibly a reference to the Yuan matter referred to in Judge Stewart's report, Volume 2;
- (xiv) Representations to Immigration authorities on behalf of Morgan Ryan, Filipino clients of Ryan or Filipino associates of Morosi: the nature of the allegations and the business of the clients or associates are not detailed.

Questions Referring to Implied Improper Relationships

4. The items placed in this category are:

- (xv) Relationship with Saffron: reference is made to discussions about the Sankey prosecution;
 - (xvi) Relationship with Berita Hegenfelds: described as Saffron's de facto wife for many years;
 - (xvii) Relationship with Filipe Ysmael: reference is made to staying with Ysmael and making representations to Immigration for him;
 - (xviii) Relationship with Saffron and Morgan Ryan: refers to an alleged 1979 discussion between Morgan Ryan and Saffron that in the next 12 months they should put work in on "L K";
 - (xix) Relationship with Wran and Farquhar, April 1980: question is based on a cryptic conversation which referred to Wran as N, and Farquhar as M and another person as S;
 - (xx) Relationship with Farquhar in 1980: reference is made to the question of conversations about the Sankey case.
-

Questions Lionel Murphy should answer

Mr Justice Lionel Murphy will now have an opportunity to testify before a judicial inquiry into his fitness to serve as a High Court judge. BRIAN TOOHEY and WENDY BACON have looked at some of the issues that Murphy faces, and prepared the following questions, which have been submitted to Murphy. He has not responded to them.

THE ISSUE of Lionel Murphy's behaviour as a High Court judge goes well beyond the points raised in the confidential volume of the Stewart report on the NSW police tapes.

Some key questions relate to King Cross identity, Abe Saffron, who has been a business partner of Murphy's friend, Sydney solicitor, Morgan Ryan.

It is understood that much of this information was given to the Director of Public Prosecutions, but it was unable to be raised with Murphy in his recent trial because of his decision not to go into the witness box and be cross-examined.

The National Times put the following questions to Murphy on these and other matters that remain unresolved:

ABE SAFFRON

Have you met Abe Saffron, and, if so, in what circumstances?

Have you had any discussions with Saffron about the case brought by Danny Sankay against you and other Labor ministers involved in the Loans Affair? Did these include any conversations with Saffron about how the case might be settled? If so, why would Saffron be regarded as a suitable go-between?

Do you know Berita Hagenfelds, and, if so, in what circumstances? (In a recent court action in Sydney, Hagenfeld described herself as Saffron's de facto wife for many years, acting as "host-

ess, escort, and partner for the purpose of entertaining business associates and participating in entertainment.")

THE THOMAS LUNCH

Why did you ask to go to lunch with Federal policeman Don Thomas at a time when he was under heavy criticism from Labor members about the conduct of the Greek conspiracy case?

Why did Morgan Ryan attend the lunch?

THE SALA AFFAIR

Why did you, as Attorney-General, order the release of Ramon Sala, following representations from Morgan Ryan, when the Migration Act makes clear provision to detain persons such as Sala who are suspected of having a false passport?

Why were the normal provisions for detention not followed for someone suspected of being a drug dealer?

Why did you disregard police advice that the passport was obviously false?

Why did your secretary, Patricia Mullins, ring immigration authorities to check that Sala had left the country? Were you aware of police surveillance that indicated Sala was connected with Saffron?

MURRAY FARQUHAR

Why did you attend a dinner at Morgan Ryan's for the then NSW Chief Magistrate, Murray Farquhar, when the Association of Labor Lawyers had been calling for a judicial inquiry into Farquhar, who, of course, was subsequently found guilty by a jury of perverting the course of justice?

When it was publicly alleged a few days later that Farquhar, Ryan, and another dinner guest, former NSW Police Commissioner Merv Wood, had conspired to pervert the course of justice in the Cessna Milner case, did you inform NSW authorities about the dinner? Did you see the significance of doing this, given the denials subsequently made of contacts between the three?

THE MOROSI BREAK-IN

While you were Attorney-General, a break-in occurred at the Sydney home of Junie Morosi. Before the break-in, did you receive information that it was to be organised by Ivor Greenwood, shadow Attorney-General, and by another member of the Liberal Party? Did you pass on to your ministerial colleagues the information about the role played by Ivor Greenwood in the break-in?

What was your understanding of the information that Greenwood was seeking to obtain by breaking into Morosi's house? Were you the

informant who alerted Commonwealth Police to be present at the Morosi house?

Why were Commonwealth Police used to protect Morosi's Sydney property?

One person, Alan Felton, was charged after the break-in. But were you aware that two others were directly involved; that one of these was apprehended but never charged and another was not arrested?

Were you aware that the man apprehended, but not charged, was represented by the firm of Morgan Ryan and Brock? Did you on the day of the break-in have a conversation with Morgan Ryan?

THE YSMAEL CONNECTION

Did you stay with Filipe Ysmael during a visit to the Philippines?

Did you make representations to Australian authorities on immigration matters on behalf of Ysmael, on behalf of Filipino clients of Morgan Ryan, or on behalf of Filipino associates of Junie Morosi?

THE NSW POLICE TAPES

Justice Stewart has found that transcripts of conversations between you and Ryan were probably a "fair record". He has further found that summaries of other conversations may not be wholly accurate.

At your first trial, you said the only conversations you had with Ryan during this period were about the Sankey case. Do you still say this?

If you now accept that these conversations did take place, could you answer the following questions?

In 1979 during a conversation in which you agreed at

— in 1980, Ryan reminded you, "Don't forget those pin-ball machines. And tell him I can name all those fellows who are bringing them in . . ."
You said, "Yes, OK, terrific."
Who were you going to pass this information on to?

In March 1980, Ryan told you he was planning to blackmail a Liberal MLA if he did not pull the NSW Opposition Leader John Mason into line — Mason had been criticising Ryan's role in the Cesana case.

According to the summary, you warned Ryan about using the phone. Why didn't you want him to talk on the phone? Why did you continue to associate with Ryan after it became clear he would indulge in such tactics?

Morgan Ryan's request to approach NSW Premier Neville Wran about the appointment of Bill Jegerow as Deputy Chairman of the Ethnic Affairs Commission, you raised the subject of an application by the Paris Theatre to the Sydney City Council and asked Ryan, "Do you know anything about it?"

You further suggested "it is important" and that Ryan "should know what's bloody well on." What did you mean by these comments? (At the time there were proposals to develop the site which required council approval.)

Do you know why Morgan Ryan would refer to you as a trump? What do you understand by that term?

Detective Lewington has given evidence that he heard a tape in which you and Ryan discussed whether Lewington and Jones, the two detectives who were conducting an investigation into Ryan's alleged involvement in an immigration racket, could be bribed. Did this conversation, or something similar, take place?

On two occasions during 1979, conversations between you and Ryan were recorded in which you suggested that Ryan should arrange for something to happen to David Rofe, QC, on his way home one night? What were you planning?

In 1979, Ryan suggested to Saffron that over the next 12 months they should put work in on "L.K.", who from the context of the conversation appeared to be a High Court judge. What do you think Ryan meant?

In 1980, you had a cryptic conversation with Ryan about "Every Little Breeze" and The Lush and the Board of Three. Is this a reference to the Lusher inquiry into the legalisation of casinos? Why were you discussing this matter with Ryan?

In 1980, you gave Ryan's wife some advice about how Ryan could settle his State and Federal problems by getting a State MLA to say he had made inquiries and he had come up "smelling like a rose". At this time Ryan was under investigation by Federal police for his alleged involvement in an immigration racket; had been publicly alleged to be involved in fixing the Cesna Milner drug case; and had been named in Parliament as a person who police believed was a "go-between" of organised crime figures.

Why did you not only continue to associate with him but to offer him public relations advice about how to solve his problems?

In 1980, you discussed a proposed development over the Central Railway complex with Ryan. You mentioned a company known by the police to have distant Saffron connections. The summary reads, "Worth reading in full."

Could you supply details of this conversation and your interest in this development?

In April 1980, you had a further cryptic conversation in which Ryan referred to NSW Premier Neville Wran as N and you referred to Murray Farquhar as M and another person as J. Why did you refer to these people in this fashion? What was this conversation about?

In 1980, you continued to associate with the ex-Chief Magistrate Murray Farquhar. What was the nature of your relationship with him during this period? Did you ever have any conversations about the Sankey case with Farquhar?

Have you ever discussed a casino with Ryan or any of his associates?

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Royal Commission of Inquiry into Alleged Telephone Interceptions

FINAL REPORT

Volume 2

Commissioner: The Hon. Mr Justice D. G. Stewart

Photocopy prepared in the
Department of the Prime Minister
and Cabinet on 27 May 1986.

April 1986

CONFIDENTIAL

The Government of the Commonwealth of Australia
and
The Government of the State of New South Wales

ROYAL COMMISSION OF INQUIRY INTO
ALLEGED TELEPHONE INTERCEPTIONS

Commissioner: The Hon. Mr Justice D.G. Stewart

REPORT - VOLUME TWO
30 April 1986

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CHAPTER 1

POSSIBLE CRIMINAL OFFENCES

CHAPTER 1 POSSIBLE CRIMINAL OFFENCES

Introduction

1.1 The terms of reference from the governments of the Commonwealth and New South Wales require an inquiry to be conducted by the Commission into the existence of information or material arising out of or relating to the unlawful interception of telephone conversations in New South Wales, being information or material that discloses the commission of criminal offences or the possible commission of criminal offences which warrant further investigation. The Victorian terms of reference require a similar inquiry into unlawful interceptions conducted in Victoria or New South Wales by members of the Victoria Police acting in collaboration with the NSW Police or the AFP.

1.2 Substantially all of the material discussed in Volume One of this report purports to disclose criminal activities. Apart from the recordings of conversations conducted on car telephones [see Volume One paragraphs 10.83-10.92], the material was compiled by police who were investigating crime. Although ultimately, for the reasons to be given, some of the conduct disclosed by the material may not actually amount to a criminal offence, in the main the material disclosed activities which were potentially associated with criminal offences. Even the tapes and notebooks produced by Rex John Beaver,¹ a private inquiry agent, relating to his recordings of conversations on car telephones were said by him to have been maintained because of the references to criminal activities² [see Volume One paragraphs 10.88-10.90]. The Commission was also required by the terms of reference to inquire into the nature of the offences or possible offences disclosed by the extant information or material arising from telephone interceptions.

1.3 In this Volume the Commission will report upon the outcome of its inquiry into the nature of the criminal offences or possible criminal offences disclosed in the material. For the reasons stated in Volume One

[paragraph 3.3-3.5], the Commission did not consider that it was appropriate to make specific findings as to actual criminal offences disclosed by the material. Furthermore, the terms of reference did not require nor did time permit a full investigation into the commission of offences or the possible commission of offences. Accordingly, the Commission has not proceeded in its inquiry beyond preliminary investigations for the purpose of acquiring additional information to enable the better identification of the matters to which reference is made in the material. The Commission will therefore only express findings as to the nature of possible criminal offences disclosed by the material. The circumstances of the Commission's inquiry have not permitted it to give every person who may be affected by the findings of the Commission in this area the opportunity of being heard. Fairness dictates that where this is the case the Commission's conclusions should be expressed in tentative and confidential terms and this the Commission has attempted to do.

1.4 In addition, the Commission has observed in Volume One that the summary and transcript material in the possession of the Commission must be treated with reservation as accurately recording the terms of actual telephone conversations [see paragraphs 14.69-14.72]. The Commission has decided, however, that the material should be referred to, where appropriate, in discussing the possible commission of criminal offences. This course was taken because the matters dealt with are essentially put forward as intelligence material for transmission to appropriate law enforcement agencies for further investigation. To exclude such material would unnecessarily hamper further investigations.

1.5 The Commission sees this as another reason for presenting on a confidential basis its analysis of the material to discover whether offences may have been committed.

1.6 Where the Commission has already exercised its powers under section 6P of the Royal Commissions Act 1902 and section 7BA(4) of the Telecommunications (Interception) Act 1979 to refer matters to other agencies, that fact has been mentioned.

1.7 The Commission has recommended in Chapter 16 of Volume One that all the material held by it be given to Mr Justice D G Stewart in his capacity as Chairman of the National Crime Authority. This will allow the National Crime Authority to be put in possession of material which on further analysis may merit investigation. That investigation may be undertaken by the Authority or by another agency to which the Authority refers the matter pursuant to the provisions of the National Crime Authority Act 1984.

Possible Criminal Offences

1.8 As mentioned in Volume One, almost all of the written material was originally recorded because of police suspicions that conversations related to criminal activity [see paragraphs 8.2-8.8]. As the material in the possession of the Commission consists of approximately 685 pages, it is apparent that the possibilities for criminal offences to be disclosed are many. Much of the material is now somewhat old.

1.9 In addition, some of the material appears to disclose minor offences in relation to which the time for the institution of proceedings expired long ago. As might be expected with telephone transcripts of conversations, some references are cryptic and require inferences to be drawn in order to identify the situation to which the conversation relates. Many of the transcripts of conversations are long and confused and the Commission has not endeavoured to set them out in full in the text of the report, but where appropriate has provided extracts or summaries of the relevant parts. With some of the entries in the material the obscurity of the subject matter is such that the Commission was not prepared to engage in extravagant conjecture in order to attempt to identify the activity which may have been under discussion. For those

reasons the Commission has not been exhaustive in its description of the possible criminal offences disclosed, and for the most part will report upon those matters which are properly identifiable and the significance of which has not been extinguished by the passage of time.

Endnotes

- 1 TI280, TI281, TI282
- 2 E2704-06, Beaver

CHAPTER 2

MORGAN JOHN RYAN

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2.1 The circumstances in which the telephone conversations of Morgan John Ryan were intercepted during three separate periods are described in Volume One paragraphs 8.46-8.56. Clearly the police regarded the interception of Ryan's telephone conversations as a valuable means of collecting information on suspected criminal activity and from what appears below, it will be apparent that Ryan's participation in matters which involve possible criminal offences was quite extensive.

Starting Price Betting

2.2 There is a number of conversations set out in the Morgan Ryan material which indicate participation by Ryan and others in possible offences relating to illegal Starting Price (SP) betting. The most explicit indication of such involvement is in the conversation as transcribed on pages 37-39 of Volume T1A which commences with, 'OUT [REDACTED]... [REDACTED] Morgan to Jim ... (could be mason or Jason)'.¹

2.3 The heading on this page states that the conversation was recorded on a tape cleared at 2.00 p.m. on 31 March 1979. Telecom records show that the subscriber of telephone service [REDACTED] at the relevant time was C B Mason of St Ives. James Allan Francis Mason of the same address was named as a co-conspirator in a conspiracy charge brought against Ryan.²

2.4 Further confirmation of the identity of Mason as the person to whom Ryan spoke is found in a reference on page 39 of the transcript. The person alleged to be Mason told Ryan that he could be contacted on telephone number [REDACTED] 1979.³ Ryan's diary records this number as a contact for 'Jim Mason'.⁴

2.5 The conversation would seem to have taken place on the morning of Ryan's return from overseas and statements attributed to Mason make it

quite clear that he and Ryan were concerned with an SP operation being conducted in a hotel at Wentworthville and in another hotel which is later revealed to be at Regents Park. Reference is made in the statements made by Mason that difficulty had been encountered at the Wentworthville hotel because an SP operator who had previously operated at the hotel continued to operate from a motor vehicle parked in front of it, thereby affecting the business of the SP operation in the hotel.

2.6 Two earlier conversations recorded as being between Ryan and Mason⁵ and which appear to have occurred on 19 March 1979 also contain references to the Wentworthville and Regents Park operations.

2.7 The transcript for 19 March 1979 records a further conversation apparently in relation to the same subject under the heading [REDACTED] [REDACTED].⁶ The telephone number [REDACTED] at that time was connected to the Vacluse premises of Abraham Gilbert Saffron.⁷

2.8 The material contained in an entry under a heading 'OUT TO [REDACTED] [REDACTED] MORGAN TO PASSPORT MAN' was transcribed from a tape said on the face of the transcript to have been cleared at 6.15 a.m. on 20 March 1979, thereby indicating that the conversation probably took place during the evening of 19 March 1979, the same day as the previous three conversations.⁸ The telephone number [REDACTED] was that of G J Boyd of [REDACTED].⁹ The BCI dossier on Ryan contains photographs and Information/Surveillance Reports recording meetings between Ryan and Gary Boyd, who was then an officer of the Department of Immigration and Ethnic Affairs.¹⁰ The conversation related to a number of matters and included references to the Wentworthville operation.¹¹

2.9 The entries noted on the transcript as being for 31 March 1979 show that Ryan had a conversation with a person who is not identified, but appears from the text of the conversation to have been Gary Boyd. References are made in the conversation to the Regents Park and Wentworthville businesses.¹²

2.10 In an entry for 9 April 1979 'OUT to [REDACTED] MORGAN TO DORINE',¹³ the SP businesses are discussed again. Inquiries have

established that the first name of Saffron's wife is Doreen.¹⁴ The entry sets out a conversation between Ryan and a male. Bearing in mind the previous and subsequent use of the same telephone number by Ryan to contact Saffron, it is not improbable that the conversation is between Ryan and Saffron [see paragraph 2.7]. The entry indicates that during the conversation with Ryan, Saffron interposed a conversation with another person who was either then in his presence or with whom he was speaking by telephone. The passages are as follows:

MALE. Just a minute and I will go and get a pencil. I got a bit worried on Saturday. You know the two new ones wentworthville and the other one. The hotels. There were hassels there.

I wish you had rung me then I could have contacted them the other is at Regents Park. They are the two new ones we added on (apparently the male person is talking to another person either on another phone or in his room). Male says he would like the person to have one of his boys look in on Saturday to make sure things are alright not to do anything just to look and report back to him. He then asks when the other persons leaving answer is the 21st. Male says he will have the other matter fixed.

Male now talks to Morgan.

MALE He said that Alf Smith from the head of the Tab, He got a ring from Neville too, so ah, where they get a complaint they jet have to answer the complaint and it was a high complaint. Would you make the operation a bit calmer, I don't know waht he meant

MORGAN I do

MALE you know what he means

MORGAN yeah

MALE Ive asked him to have a look at it without doing anything if that is ok alright if not to tell me. well you heard me tell him taht

MORGAN yes I heard that

MALE He wont go against that. Regents Ok no complaint and that is the story ...¹⁵

2.11 Subsequently in an entry noted on the transcript as being for 10 April 1979 under the heading 'OUT TO [REDACTED] MORGAN TO MALE (BRIAN BOYD)', Ryan discussed the matter again.¹⁶ The telephone number [REDACTED] was connected to the Regents Park Hotel, 2 Amy Street, Regents Park, of which Brian Michael Boyd was the licensee from 12 February 1979 to 26 May 1980.¹⁷ Brian Boyd is the brother of Gary Boyd. The BCI dossier contains photographs and Information/Surveillance Reports recording meetings between Ryan and Brian Boyd.¹⁸ The conversation included discussion of problems being encountered with the operation of the Wentworthville business.¹⁹

2.12 In the transcript for the same day, 10 April 1979, Ryan had further conversations with persons thought by the compilers of the transcript to be Saffron and Gary Boyd wherein the Wentworthville and Regents Park businesses were discussed.²⁰

2.13 In an entry from a tape said on the transcript to have been cleared on 11 April 1979 reference is made to a further conversation between Ryan and a male thought by the compilers of the transcript to have been Saffron, relating to the SP businesses.²¹ This entry is towards the end of the material available as a result of the interception of the telephone conversations of Ryan during operation 'Mad Dog' in 1979 [see Volume One paragraphs 6.3, 8.46-8.56]. The material obtained during operation 'Rabid' [see Volume One paragraphs 6.3, 8.46-8.56]²², the next phase of the surveillance upon Ryan involving a telephone interception, does not appear to contain telephone conversations relating to SP betting activity.

2.14 In the view of the Commission, the material sets out conversations between Ryan and other persons which are clearly consistent with their participation in the conduct of SP betting activities at the Regents Park Hotel and a hotel at Wentworthville. Unlike some other material available to the Commission, most of the above references appear to have been transcribed and recorded by police fairly accurately and the Commission considers that the material provides a reasonably reliable basis for conclusions as to the activities of those persons involved in the conversations. Those involved appear to have been Ryan, Saffron,

Mason, Gary Boyd and Brian Boyd. In addition there is a number of unidentified persons who were obviously concerned in the operation. Reference is made from time to time to 'Frank', but it is not possible to do other than speculate as to the identity of that person.²³

2.15 It is also clear from a number of conversations²⁴ that the conduct of the SP businesses involved the concurrence of police officers. However, the references are not sufficiently precise to enable inferences to be drawn as to the identity of any particular police officers who may have been involved in providing the 'cover' referred to in relation to that activity. It would seem from the conversations as recorded that Ryan was the conduit to a person who appeared to have the ability to grant permission for the operation of the SP businesses, but no indication is given as to the identity of that person.²⁵

2.16 The Commission is satisfied that possible criminal offences being breaches of the Gaming and Betting Act, 1912 (NSW), are disclosed by the material obtained by the Commission, and would, but for the fact that prosecutions for such offences are now statute barred, warrant further investigation.

Illegal Casinos

2.17 In the material in Volume T1A there are clear indications that Ryan was actively involved in activities connected with illegal casinos. Although the conversations recorded do not provide precise information on the location of the premises used for such purposes, the inferences are that Ryan was concerned with premises used for illegal gambling in Albury and in Dixon Street, Sydney. Abraham Gilbert Saffron, Gary Boyd, Brian Boyd, John Yuen and other unidentified persons would seem to have been involved with Ryan in these activities.

2.18 The first conversation which relates to the Albury activity is recorded as having taken place on 31 March 1979.²⁶ Ryan telephoned [REDACTED], the telephone service of Brian Boyd's hotel at Regents Park, and spoke to 'Brian' [see paragraph 2.11]. Ryan is recorded as being told by Boyd that a 'licensing fellow by the name of Goodwin' telephoned

the Albury premises and said 'your've got a game around if you dont close it we'll have to raid it and charge you'.²⁷ According to Boyd, Goodwin had been 'instructed by McKinnon to raid the club'. An inference available from the remainder of the conversation is that 'McKinnon' was acting on behalf of the proprietor of another illegal gambling club in Albury, the Silver Cue.²⁸ It seems from the conversation that both Goodwin and McKinnon were, at the time, police officers.

2.19 The Albury premises seem to be the subject of a further reference in a conversation indicated by the transcript as having been taken from a tape of 1 April 1979 where Ryan is recorded as telephoning the number [REDACTED] (which is probably a mistaken reference to [REDACTED] the telephone service of Saffron) and speaking to 'Doreen' and then to a 'male'.²⁹ As Saffron's wife is named Doreen, the Commission is satisfied that the male person was Saffron.³⁰

2.20 Ryan is recorded as discussing with Saffron the difficulties being experienced at the Albury premises with the police officers Goodwin and McKinnon. Ryan repeats to Saffron the allegation that McKinnon is taking action against the premises on behalf of another illegal gambling establishment.³¹

2.21 In the remaining material noted on the transcript as being for 31 March 1979 and for 1 April 1979, Ryan is recorded as speaking again to Saffron and to John Yuen concerning the opening of a casino operated by Yuen in Sydney [see paragraph 2.31]. It is recorded that Saffron was apparently to attend a meeting with an unspecified but influential person to negotiate conditions upon which Yuen would be permitted to operate. It was also apparent that Saffron was to raise the question of the Albury business at the same meeting. At the conclusion of a conversation said on the transcript to have been between Ryan and Saffron and taken from a tape of 1 April 1979, Ryan is recorded as having said to Saffron 'don't forget you won't forget Albury will you'.³²

2.22 There appears to be a further reference to the same matter in the record of a conversation, as transcribed, between Ryan and Brian Boyd on or about 10 April 1979.³³ The conversation primarily concerned the

Sydney activities of John Yuen, but in the course of the conversation Boyd is recorded as informing Ryan that he was not enthusiastic about continuing his involvement in the Albury premises, but that his brother, Gary Boyd, was.³⁴

2.23 The next reference to the Albury business appears in a record of a conversation, noted on the transcript to have occurred between Ryan and Saffron on 11 April 1979.³⁵ During the conversation a reference is made to 'The Q' in the context of a proposal by Ryan that the Albury business be amalgamated apparently with the Silver Cue operated by a person identified in the conversation as 'Costa'.³⁶

2.24 The matter seems to receive a further mention in a record of a conversation of 12 April 1979 when Ryan is recorded as dialling [REDACTED] the telephone service of Gary Boyd, and speaking to 'Gary' [see paragraph 2.8]. Boyd is recorded as informing Ryan that they should withdraw from the operation of the gambling activity on the premises after obtaining the previous month's takings.³⁷

2.25 The material resulting from operation 'Mad Dog' concludes at that point and there is no further reference to the Albury business in any of the other material resulting from the interception of Ryan's telephone conversations.

2.26 The Commission made some preliminary inquiries in order to understand better the matters referred to in the various conversations in the material. The material contains references to persons named Goodwin and McKinnon who, it would appear from the context in which the names are mentioned, were police officers with some authority over the operations of gambling businesses in Albury in 1979.

2.27 In 1979 Ross Stafford Goodwin was a sergeant of police at Albury where he is still stationed, and it would appear that the references in the material may relate to him. The Commission was not able to identify any officer named McKinnon who may have been the person referred to in the conversation of 31 March 1979.³⁸

2.28 At the relevant time a gambling establishment operating under the name 'Silver Cue' at [REDACTED] [REDACTED], Albury, was well known to the NSW Police. Police Information Reports of September 1981 record that Iskander Costa Mansour had a casino in Albury in 1980. It is likely that he is the person referred to as 'Costa' in the conversations contained in the relevant material. The records also indicate that in May 1980 Mansour was operating the 'Silver Cue' at premises at 479B Dean Street, Albury, where he was giving his name as Costa Mansour.³⁹

2.29 Assisted by this information, it is not difficult to draw the conclusion that the matters referred to in the conversations recorded in the transcript, between Ryan, Saffron and the Boyd brothers related to the conduct of an illegal casino in Albury. That casino was being conducted in opposition to the 'Silver Cue' and was the subject of pressure from police who were alleged to be acting on behalf of the interests behind the 'Silver Cue'.

2.30 The Commission finds that the material discloses possible criminal offences, being breaches of the provisions of the Gaming and Betting Act, 1912 (NSW). The time for the institution of proceedings has expired. Although there are inferences of police involvement and corruption, the matters referred to took place some seven years ago and it is unlikely that further investigation would produce evidence capable of sustaining a prosecution.

2.31 As mentioned earlier [paragraph 2.21], Ryan also appears to have had an interest in illegal gambling premises operated by John Yuen in Sydney. In a telephone conversation said in the transcript to have been between Ryan and Gary Boyd on 31 March 1979, Boyd is recorded as having informed Ryan that a man named Edwards had told Yuen that he would not be permitted to open his premises on the following night, but that Yuen intended to open nevertheless. Ryan indicated that he had already received a telephone call from Yuen but had intended ringing him on the following morning. Ryan is recorded as saying 'But naturally I'm gunna have to check it out'.⁴⁰

2.32 In the material that follows, Ryan is recorded as actively pursuing the resolution of the problems Yuen was encountering in opening his premises. Ryan's activity in this area took place at the same time as his efforts to resolve difficulties which had occurred with regard to the Albury gambling premises and the SP betting operations at the hotels at Wentworthville and Regents Park, and involved the same parties.

2.33 As mentioned above [paragraphs 2.19-2.20], on 1 April 1979 Ryan spoke to Saffron concerning the problems in Albury. He then went on to remind Saffron that Yuen had been told by Edwards that he would not be permitted to open his business that evening. It is recorded that Saffron said he would endeavour to obtain instructions from an unidentified person with whom he was to speak by telephone later in the morning.⁴¹ On its face the material shows that later that morning Ryan dialled Saffron's number and spoke to a male person who was probably Saffron.⁴² The male thought to be Saffron is recorded as informing Ryan that Yuen's premises had been raided by police and would not be permitted to open.⁴³

2.34 It is clear from this conversation that Ryan had been led to expect that the business would be permitted to operate as from that evening, 1 April 1979. The conversation concludes with a suggestion by the male thought to be Saffron that he would see a man named 'Pat' with Ryan in order to resolve the matter, but there is no precise indication of the identity of that person in the record of the conversation. The man 'Pat' is mentioned in several other conversations as recorded in the transcript.⁴⁴

2.35 It is possible that the person referred to is Superintendent Patrick Watson, who had previously been Officer in Charge of 21 Special Squad of the NSW Police which at the time had responsibility for the enforcement of the provisions of the Gaming and Betting Act in the metropolitan area of Sydney. Watson was also referred to in a conversation between Ryan and Brian Boyd on 10 April 1979 as having the capacity to approve or disapprove the conduct of illegal gambling.⁴⁵

2.36 In that conversation, as transcribed, Boyd proceeded to inform Ryan of the previous experience of himself and his brother Gary with

police, who ultimately adopted an unfavourable attitude towards them. The relevant passage is as follows:

B They brought up to lunch (Morey) and Watson, the 2 of us were there and I had the liquor shop at the time, units, and all the rest of it Rolls out the front, nice suits and we knew Dimitris as well as he did that knocked him a bit. And we went back and they had to go elsewhere and we went back with Noel and had a few beers and everything was sweet, Pat gave Gary a golf buggy and I dropped a load down a day later, everying was going to be right, that was just a starter, they were only getting two or three hunder a week out of the club and Gary said Your stupid there thousands here down there. Pat used to ring Gary at the twice a week because he wants him on side and then he knocks it off and expects Gary to walk away and forget it. Is this how they do it.

M It is all a bit foreign to me

B It was all arranged Noel said it would be right. I dont know with these bloke, we were giving them one a week with something on top of that, 2 up front to start off with and another two to come and suddenly they just went the other way. They went the othef was for 300 a week or something. Everyone was shaking their heads it not only went the other way it really gave it a caning and bad mouth Gary all around the place. My attitude to Gary is drop out you will never win with them.⁴⁶

2.37 The conversation also referred to a person named 'Morey'. In the context it is likely that this is a reference to Inspector Noel Morey, who was attached to 21 Special Squad in 1979.⁴⁷

2.38 Many conversations are recorded in the transcript for the period 1 to 9 April 1979 in which Ryan discussed the difficulties being experienced by Yuen in opening the gambling premises.⁴⁸

2.39 By 9 April 1979, according to the transcripts, Ryan and Saffron had achieved some finality concerning Yuen's ability to continue the casino operation in Dixon Street. Ryan spoke to Saffron and after some discussion concerning the SP operation in the hotel at Regents Park, to which reference was made in the previous section [paragraphs 2.10-2.11], Ryan said 'well Ive got something to tell you which will make your hair stand on end'. He then went on to say:

... Phil Kaye on the phone wants to see me urgently I said Jesus what's it about. Tell me something and he said No this is important. you wouldn't credit it's all about that Dixon St. again. But in a totally different way. Anybody would think I had spoken to him.⁴⁹

2.40 From the entries which follow it is clear that the reference to 'Phil Kaye' is an erroneous translation of the initials 'LK' by which Ryan sometimes referred to Mr Justice Lionel Keith Murphy. There is a subsequent reference to the caller on the relevant occasion living at premises in Darling Point and to Robert Yuen (John Yuen's brother) living in the same building.⁵⁰ Robert Yuen and Mr Justice Murphy at the time both resided at apartments situated at [REDACTED]

2.41 In the conversation recorded in the transcript Ryan went on to say that it was ironic that after all the work that he had put into the organisation of the Dixon Street venture for John Yuen, Robert Yuen, from whom they were taking over, had complained to Mr Justice Murphy that he was 'having this bit of a game', was paying money 'to some other fellow down there that's trying to destroy him' and that a man named Watson was involved. Watson was described as 'head of this squad and now he's moved a bit higher'.⁵² This again seems to be a reference to Superintendent P J Watson, who was then Chief of Staff of the CIB, but previously had been Officer in Charge of No 21 Special Squad [see paragraph 2.35].

2.42 Ryan said that Mr Justice Murphy had inquired about Watson and had spoken disapprovingly of him. Ryan also referred to the possibility of Mr Justice Murphy putting 'his knife in to this fellow' (Watson) in which case Ryan said that there would be a power struggle. Saffron replied 'Oh well the sculler will stick up for him solidly' and Ryan responded that he would not succeed because Mr Justice Murphy 'is absolutely strength'. Ryan repeated his surprise at the turn of events and said 'all this has erupted in the last two or three days, now isn't that unbelievable'.⁵³

2.43 This matter was one of seven matters arising out of material before the Commission which was raised with Mr Justice Murphy in a letter

sent to him by the Commission on 25 March 1986. In the ordinary course of events the Commission would have sought to hear evidence from Mr Justice Murphy regarding such matters. Mr Justice Murphy was, throughout the life of the Commission, the subject of prosecution proceedings which may have involved questions of his association with Ryan. The Commission decided, having regard to section 6A(3) of the Royal Commissions Act 1902 and the decision of the High Court in Hammond v Commonwealth of Australia and Ors (1982) 42 ALR 327, to invite Mr Justice Murphy to make such response as he saw fit in relation to the matters raised in the Commission's letter.

2.44 On 4 April 1986 the Commission received a letter from the solicitors acting for Mr Justice Murphy which stated that, as the then imminent trial of their client may raise questions of his association with Ryan, they had advised Mr Justice Murphy that it was inappropriate to respond to the matters referred to. The letter added that 'no inference should be drawn that our client accepts the accuracy of the material or concedes that the alleged statements were made by him or to him. We should also tell you that our client completely denies any illegality or impropriety on his part'.⁵⁴

2.45 Officers of the BCI and TSU gave evidence that Watson was associated with the conduct of illegal gaming and betting and that he was, in their view, corrupted by his association with George David Freeman [see Volume Two paragraphs 8.16-8.25]. An inference that can be drawn from the telephone conversations reproduced above is that Watson was receiving bribes to allow unlawful gaming to operate. 'Sculler' was a name by which the then Police Commissioner, Mr M T Wood, was known to Ryan⁵⁵ [see Volume Two paragraph 2.211].

2.46 In the conversation of 10 April 1979 set out above [paragraphs 2.35-2.36] Boyd suggested to Ryan that Watson was behind the uncertainty concerning Yuen's ability to open the premises in Dixon Street but Ryan replied that the information seemed to come from Edwards whose complaint was that Gary Boyd was involved.⁵⁶

2.47 The name Edwards was mentioned in the conversation between Ryan and Gary Boyd on 31 March 1979 [see paragraph 2.31] as the person who had told Yuen that he would not be permitted to open the premises on 1 April. At the time, Inspector R C Edwards was stationed at No 21 Special Squad.⁵⁷ The Commission is satisfied that the references in the conversations to the person Edwards refer to Inspector Edwards.

2.48 Later that day Ryan is recorded as speaking to Gary Boyd⁵⁸ and informing Boyd of the inquiry by Mr Justice Murphy concerning Watson.

2.49 Ryan said that he had told 'the judge' not to take any action until they had a lengthy discussion about the matter. He also told Boyd that if anything did happen Watson would not survive because 'the trump' (another apparent reference to the Commissioner of Police, Mr M T Wood) would receive orders to deal with Watson. Ryan also said that he was puzzled that Robert Yuen had taken this action because he had 'always found him so close mouthed at the races'.⁵⁹

2.50 The entry concludes with the following summary:

Morgan says that they've got to be careful of the judge taking any action because although Watson will roll they'll probably all roll down the hill together ...⁶⁰

2.51 While the material indicates that Ryan, Saffron, John Yuen, Robert Yuen, Gary Boyd and Brian Boyd were involved in the conduct of premises in Dixon Street used for illegal gambling, the time for institution of proceedings for possible breaches of the Gaming and Betting Act has long since expired. Although there are inferences of police involvement and corruption it is unlikely that further investigation would produce evidence capable of sustaining a prosecution.

Payment of \$50,000 for Casino Licence

2.52 On 9 February 1980 the New South Wales Government announced that Cabinet had decided on 5 February 1980 not to legalise casinos. Newspaper reports record that until then all indications had been that

the Government would legalise casinos^{60a} The Premier was reported as having given such indications and in late 1979 the State Conference of the Australian Labor Party had reportedly passed a resolution in favour of privately run casinos supervised by an independent board.^{60b}

2.53 Volume TLC, which comprises summaries of transcripts of intercepted telephone conversations prepared by Sergeant B R McVicar⁶¹ [see Volume One paragraph 14.41], contains the following entry for Thursday 7 February 1980:

Morgan contacts John YUEN at his Church Point home. Yuen tells Morgan that he has paid \$50,000 to John DUCKER for consideration over licensing of gambling casino. Morgan tells him he paid it too early and he should have waited until he was told by Morgan to pay the money. Morgan said they would have to have a meeting with the boys to discuss the matter. Morgan tells Yuen that the legalisation is not this stage. Makes arrangements to see Yuen at his home later that night. Morgan very concerned about telling Yuen who is involved in organising the legalisation because he is afraid Yuen may tell his fellow Directors. Morgan contacts Brian Boyd at his Stathfield home and tells him that the \$50,000 has been paid and that he has done it cold. Boyd says that Yuen wanted to pay it anyway. Morgan said that what happened was that the seven fellows met very secretly in a Cabinet Room and there was a division amongst them over the legalisation issue. Ducker was never in a position to guarantee anything and so the \$50,000 is now really there on account.⁶²

2.54 Entries for 15 and 21 February 1980, as recorded in the summary material, also refer to 'John Ducker' and 'the \$50,000'.⁶³

2.55 The allegation that John Yuen paid \$50,000 to a member of the Public Service Board, said to be John Ducker, with a view to gaining support for the issue of a casino licence was specifically investigated by the NSW Police Special Task Force at the suggestion of the NSW Under-Secretary of Justice [see Volume One paragraph 13.6]. Members of the Task Force attempted to interview Yuen but were unsuccessful. They did, however, interview Mr Ducker on 30 April 1984. The Task Force then submitted an interim report to the effect that no further police action was necessary. Subsequently, an unsuccessful attempt was made to interview Ryan over the matter.

2.56 When Ducker was interviewed on 30 April 1984, he stated that he had been a member of the Public Service Board of New South Wales since 28 September 1979 and that he had known John Yuen for approximately fifteen or sixteen years. He said that, in his former occupation as the Secretary of the Labor Council of New South Wales, his office had been located in Sussex Street and he had parked his motor vehicle at the same garage as Yuen where they frequently had exchanged greetings. Ducker angrily denied the imputation that Yuen had paid him the sum of \$50,000 for consideration for assistance in obtaining a casino licence.⁶⁴

2.57 The entry in McVicar's summary in Volume T1C for 7 February referred to above [paragraph 2.53] describes the activities of Ryan and Yuen in quite specific terms, but the basis for such precision is unclear. The transcript material in Volume T1B appears to set out a transcript of the conversation during which Ryan and Yuen talk about payment of \$50,000. The material appears between pages 114 and 117. The date of the conversation does not appear on the relevant pages but judging from the dates and other material on the preceding pages it would seem that it took place on 7 February 1980. This is the date, according to McVicar, that a conversation summarised by him in the terms set out above in paragraph 2.53 took place. However in the actual transcript of the conversation no reference is made to John Ducker, the Public Service Board or casino licences. The basis for the content of McVicar's summary is therefore not clear.

2.58 The following telephone conversation in the transcript in Volume T1B purports to be between Ryan and Gary Boyd on or about 7 February 1980 and records further discussion concerning the unnecessary payment of \$50,000. In the course of the conversation the following appears:

R Because the 7 fellows that know are the 7 fellows that met very secretly in the CABINET ROOM, and that only happened a matter of only a few days ...

M Did he know that J.D. was flaunting it or not?

R Oh Christ I never mentioned that. Oh heavens no. If I mentioned that I immediately raise the eyebrow. What do

you know would be the next question. God, if he wants to take that course, I can have J.D. run back with it next Friday. I can tell you that now ...⁶⁵

2.59 Adjacent to the initials 'J.D.' in the above passage the words 'John Ducker' appear in handwriting. The author of that handwriting has not been identified and the basis for the entry is unknown.

2.60 The Commission has previously drawn attention to the caution that must be adopted when perusing the summary material prepared by McVicar [see Volume One paragraphs 14.72]. If the transcript material in Volume T1B is viewed in isolation, the various telephone conversations are insufficiently precise to enable clear inferences to be drawn concerning the matters then under discussion. While there are indications that the sum of \$50,000 was paid by Yuen in circumstances of suspicion, the transcript material provides no indication, with the exception of the handwritten entry 'John Ducker' on page 121, of the recipient of the payment or the purpose. The author of that entry has not been identified and the basis for its insertion has not been established. It may well be that from that entry alone, McVicar made precise references to Ducker in the summaries prepared by him.

2.61 The Commission is not satisfied that the material provides a proper basis for any inference that the payment, if indeed there was a payment, as discussed by Ryan and others, was made to Ducker and was connected with obtaining an advantage for the issue of a casino licence. There is no other evidence of any such involvement by Mr Ducker. Accordingly, the Commission does not make any finding that the entries referred to disclose possible criminal offences. It is unlikely that any further inquiry will shed any more light on this matter.

Attempt to Bribe a Commonwealth Officer

2.62 A number of telephone conversations are contained in transcript Volume T1B from which an inference can be drawn that Morgan John Ryan attempted to bribe a Commonwealth officer and that other persons, including a senior Federal police officer, conspired with him in that attempt. The strongest evidence against Ryan comes from material which

is not part of the transcripts and summaries of telephone conversations. The telephone conversations serve to confirm Ryan's part in the activity and to identify the other parties to the possible conspiracy. The only evidence of activities by other possible co-conspirators is found in the transcripts and summaries.

2.63 Daniel Hameiri who was a medical practitioner with a general practice at 75 Fitzroy Street, Surry Hills, had by late 1979 been under investigation by the Department of Health in relation to alleged breaches of the Health Insurance Act 1973. On 19 December 1979 a search warrant was executed at Hameiri's surgery by members of the AFP. Hameiri was arrested and subsequently released on bail. On the following day he appeared before a magistrate at St James Court of Petty Sessions and was charged with thirteen offences under section 129(1) of the Health Insurance Act. On 11 February 1980 he was charged with another thirteen offences. The hearing of the twenty six charges commenced on 11 August 1980 and after some days of hearing on 18 August 1980 Hameiri entered a plea of guilty to some of the charges. No evidence was offered on ten of the charges. On 22 August 1980 he was convicted of sixteen charges and fined.⁶⁶

2.64 On 7 February 1980 Ryan met with Chief Inspector D W Thomas of the AFP at the Arirang House Restaurant at 22 Rockwall Crescent, Potts Point. From the conversation which occurred at the restaurant it can be inferred that Ryan offered Thomas a sum of money in exchange for some unspecified acts on the part of Thomas in relation to the prosecution of Hameiri. The conversation was recorded by other AFP officers using a listening device concealed in Thomas's clothing.⁶⁷

2.65 On the same day the transcript of telephone conversations records a conversation noted as being between Ryan and Abraham Gilbert Saffron, wherein Ryan is recorded as informing the person thought to be Saffron that he, Ryan, was to attend certain meetings relating to the Hameiri matter.⁶⁸

2.66 In the transcript of the telephone conversations noted as being for 8 February 1980, a conversation is recorded as being between Ryan and

a male, identified in the transcript as being 'probably associated with Australian Federal Police'.⁶⁹ During the course of this conversation there was interference on the line which caused Ryan to redial the telephone number several times. The numbers are recorded in the transcript as [REDACTED].⁷⁰ It is noted in Volume One [paragraph 11.5] that there were occasionally errors made in the process of recording telephone numbers dialled. On 8 February 1980 Deputy Commissioner J D Davies was on sick leave from the Australian Federal Police. His home telephone number was [REDACTED].⁷¹

2.67 In the course of that conversation, the transcript records that Ryan and the male, probably Davies, discussed Ryan's approach to Thomas. An inference that can be drawn from that conversation is that Davies would assist Ryan in his attempts to obtain assistance from various police officers, including Thomas, relating to the Hameiri matter.⁷² The transcript from the following days records telephone conversations noted as being between Ryan and Hameiri and Ryan and Saffron wherein the charges against Hameiri are discussed.⁷³

2.68 It appears from these and other conversations as recorded in the transcript that Ryan was involved in the matter on behalf of Hameiri at the request of the person thought to be Saffron.⁷⁴ Hameiri said in evidence to the Commission that he had been introduced to Ryan by Saffron who had said that Ryan was a solicitor who could provide Hameiri with 'a second opinion'.⁷⁵ Hameiri, however, said he could not recall telephone conversations with Ryan where they discussed the charges against Hameiri.⁷⁶ In evidence to the Commission Saffron denied that he had telephoned Ryan regarding Hameiri.⁷⁷

2.69 The Commission finds that Saffron sought the assistance of Ryan in relation to a prosecution which had commenced against Hameiri. It also finds that Ryan attempted to bribe Thomas so that Thomas would interfere in the investigations of the matter. That Saffron, Hameiri and Davies knew that Ryan's actions were to include illegal acts is not clear. There is however an inference that can be drawn from the intercepted telephone conversations that Saffron, Hameiri and Davies were parties to the attempted bribe.⁷⁸

2.70 Ryan in his evidence to the Commission said he could not recall the telephone conversations relating to this matter nor could he recall the meeting with Thomas.⁷⁹ The Commission did not hear evidence from Davies.

2.71 The material concerning Thomas's conversation with Ryan has been in the possession of the AFP since it occurred on 7 February 1980 and was inspected by AFP investigators making inquiries on behalf of the Special Prosecutor in 1984.⁸⁰ It would seem that no prosecution was embarked on in relation to the matter. The Commission has brought the matter to the attention of the Commonwealth Director of Public Prosecutions pursuant to section 6P of the Royal Commissions Act 1902.

Appointment of W Jegerow

2.72 Mr Wadim (Bill) Jegerow commenced duty as full time Deputy Chairman of the Ethnic Affairs Commission on 27 October 1980. Entries in Volume T1A, the transcript material resulting from the interception of Ryan's telephone conversations [see Volume One paragraph 6.3], indicate that in 1979 Ryan had involved himself in efforts to secure Jegerow's appointment.

2.73 An entry for 20 March 1979 records an outgoing call by Ryan to telephone number [REDACTED] the number Ryan used to telephone a person said in the transcript to be Mr Justice Lionel Keith Murphy. The entry commences with a statement from Ryan 'Morning, did you ring Nift?'.⁸¹ When called to give evidence before the Commission Ryan said that 'a long time ago' he had referred to the Hon. Mr N K Wran, QC, MP, the Premier of New South Wales, as 'Nifty'.⁸² The entry then indicates that Ryan requested the person said to be Mr Justice Murphy to communicate with the Premier for the purpose of securing Jegerow's appointment. The person is recorded as having agreed to Ryan's request.⁸³ According to the entry Ryan was about to go to the airport prior to his departure from Australia.

2.74 On 31 March 1979, the day of Ryan's return from overseas, according to the entries for that day a person said to be Mr Jegerow telephoned Ryan twice but he was unavailable.⁸⁴ Later that day Ryan

received a call from a person described in the transcript as 'Lional Murphy (His Honour)'.⁸⁵ The entry records the person thought to be Mr Justice Murphy as saying 'I talked to him and he is appointing that fellow to be the Deputy Chairman ... Neville is ... appointing Jaggereau'.⁸⁶

2.75 When Ryan appeared before the Commission on 19 December 1985 he said that he knew a Bill Jegerow who held a position such as Deputy Chairman of the Ethnic Affairs Commission of New South Wales. He said he had been introduced to him by his partner, Bruce Miles, who had asked Ryan to 'put in a word' for Jegerow to assist him in securing this position.⁸⁷ Ryan said he had some recollection that he may have mentioned it to Mr Justice Murphy and that he may have asked Mr Justice Murphy to do something for Jegerow. He had no further recollection of the matter and could not recall whether he had asked Mr Justice Murphy to speak to the Premier of New South Wales. He said he had no recollection of the abovementioned telephone conversations and had no recollection of Mr Justice Murphy advising him that the Premier was appointing Jegerow to the position.⁸⁸

2.76 For the reasons set out in paragraph 2.43 above Mr Justice Murphy was not called to give evidence to the Commission. This was one of the matters raised with Mr Justice Murphy in the Commission's letter of 25 March 1986, upon which Mr Justice Murphy declined to comment. It was not considered necessary to call Mr Wran.

2.77 While the Commission does not accept that Ryan was a witness of truth and finds his lack of precise recollection of his involvement in Jegerow's appointment unacceptable, it is of the view that there is no evidence of any criminal offence having been committed with respect to Jegerow's appointment as Deputy Chairman of the Ethnic Affairs Commission and no further action is recommended.

Possible Blackmail of Mr Milton Morris

2.78 In February and March 1980 there was a number of questions asked by Opposition members in the New South Wales Parliament relating to the

prosecution proceedings against Cessna and Milner [see Volume Two paragraphs 2.213-2.251]. In particular, the then Leader of the Opposition, Mr John Mason, MP, attempted to have the New South Wales Government institute an inquiry into the matter and also called upon the Premier to terminate Mr Murray Farquhar's appointment as Chairman of the Drug and Alcohol Authority.⁸⁹

2.79 Newspaper publicity concerning Mr Mason's attack was intense. Articles in the Australian and the Sydney Morning Herald on 5 March 1980 referred to Mr Mason's comments about Ryan's participation in the matter. In addition, the Sydney Morning Herald contained an article titled 'Koreans Allege \$3.5M Racket' which referred to allegations that prominent members of Sydney's Korean community had complained of an immigration racket involving a Sydney solicitor.

2.80 On 9 March 1980 the Daily Telegraph contained an article by Mr Kevin Perkins which quoted vehement denials by Ryan of the allegations relating to Cessna/Milner and the immigration matters. The article quoted Ryan as inviting Mr Mason to repeat his statements outside Parliament so that they could be put to the test.⁹⁰

2.81 In the Ryan summaries prepared by Sergeant B R McVicar several entries appear dated 9, 11, 12 and 19 March 1980 which refer to conversations recording Ryan discussing the newspaper article and a certain 'Milton Morris'.⁹¹ Mr Milton Morris at that time was a senior member of the Opposition in the New South Wales Parliament and had been a Minister for a number of years when the Opposition was in government.⁹²

2.82 According to the summaries, Ryan stated that Morris had borrowed money from him to set up a dairy.⁹³ He further said that because of the way Morris was repaying the loan, Morris was defrauding the Taxation Office.⁹⁴ According to the summary of a conversation on 11 March 1980 Ryan told a person identified in the summary material as Mr Justice Murphy that he was 'going to ring Morris and pull him into gear and tell him that he will reveal all if Morris does not pull Mason into gear'.⁹⁵ Two entries later a summary records a conversation said to be between

Ryan and Morris in which Ryan arranged to meet Morris on the steps of Parliament House on 19 March 1980.⁹⁶

2.83 In addition to the entries contained in the summary material, the Commission heard evidence from Sergeant P L Egge, who had been attached to the BCI between 14 September 1980 and 31 January 1982, of similar telephone conversations involving Ryan. The Commission found the evidence of Egge confused and vague. He said that the source of his information was transcripts of telephone conversations involving Ryan⁹⁷ but he could not recall the background to the conversations nor the sequence of events. The Commission does not propose to detail the evidence of Egge as the Commission finds it unreliable.

2.84 The Commission has already stressed the caution needed when referring to the summary material prepared by McVicar. There is no doubt that when compiling the summary material, McVicar was at pains to extract all possible references to illegal activities, particularly involving prominent or notorious personalities. He was inclined to draw adverse inferences where perhaps other inferences were available. As stated elsewhere, the Commission does not accept this material as accurate [see Volume One paragraphs 14.72].

2.85 The Commission obtained a statement and heard evidence from Mr Milton Arthur Morris. Morris said in his statement that prior to his retirement on 31 August 1980 he had been the Member for Maitland in the New South Wales Legislative Assembly for over twenty four years and had served in the Liberal/Country Party Government as a Minister from 1965 until 1976.⁹⁸

2.86 Morris said that he had retained Ryan as a solicitor in or about 1955 in connection with an application by himself and eleven other Newcastle dairymen for a licence from the Milk Board. The application was successful. He said that this was the only matter about which he ever consulted Ryan or his firm of solicitors. He said he had never borrowed money from Ryan, his firm, or from any persons who were, to his knowledge, clients of Ryan or the firm.⁹⁹

2.87 Morris said that his family company, which is the owner of his principal dairy interest in the Maitland area, was involved in a joint venture to subdivide and develop some of its land for which funds were being borrowed. Records of the Land Titles Office were examined by the Commission with respect to the titles of the various properties apparently utilised by Mr Morris in his dairy businesses. No indication was found of any funds borrowed from Ryan, or of any loans apparently handled by Ryan or his firm, and no evidence could be found of arrangements for the acquisition of property or the conduct of businesses which lent themselves to the evasion of tax. Morris denied that he had participated in any taxation schemes designed to defraud the Australian Taxation Office and in fact disapproved of such schemes.¹⁰⁰

2.88 Morris said that in all the twenty eight years since Ryan had first acted for him, he probably only saw him on an average of once a year. He said approximately five years prior to his giving evidence to the Commission he met Ryan's partner, Mr Bruce Miles, who had asked him to give a character reference for Ryan in relation to Ryan's prosecution in connection with immigration offences. He said he had told Miles that he doubted that his evidence would be of any assistance because of his limited contacts with Ryan, but he would give a reference if required, although ultimately he had been unavailable at the time when the case was heard.¹⁰¹

2.89 Morris said that after the conversation with Miles, Ryan telephoned more frequently in connection with the provision of a reference. In the course of one such conversation Ryan made mention of the fact that Mason had been raising Ryan's name in Parliament and had asked if Morris would speak to Mason about it. Morris said he did not think that he spoke to Mason as he did not have much influence upon him. He said that on one occasion Ryan had telephoned him at Parliament House to suggest a meeting for coffee. They met at the Wentworth Hotel where Ryan spoke about the character reference, the allegations being raised by Mason in Parliament and other matters.¹⁰²

2.90 In his statement Morris said that prior to March 1984 he had been informed that a publication named 'The Sydney Squealer', a copy of

which had been retained by him,¹⁰³ had referred to the subject matter of the entries from the summary material outlined above [paragraphs 2.81-2.82] and to Ryan's possible blackmail of Morris. Morris stated that on 2 March 1984 he received a telephone call from Ryan, the details of which he recorded shortly thereafter in a note.¹⁰⁴ During that conversation Ryan referred to the publication of the matters in 'The Sydney Squealer' and said:

I appeal to your Christian charity to forgive me for the great wrong I have done you. I do not know what possessed me. I was a broken man when I spoke to His Honour and said that you had been in a tax avoidance swindle and unless you helped me I would tell all. Will you give me your forgiveness? You have never done me harm.¹⁰⁵

2.91 The note made by Morris, a copy of which he produced to the Commission, recorded that they had then discussed Ryan's having acted for Morris in relation to the licence application and that he had told Ryan that he bore him no grudge, for which Ryan apparently thanked him 'from the bottom of (his) heart'.¹⁰⁶

2.92 Ryan was questioned about the entries in the McVicar summary relating to Morris when called before the Commission. Ryan confirmed that he had acted for Morris in relation to the dairy business, but he said he had no recollection of any conversations of the type referred to in the entries of the summary material which have been set out earlier. Ryan said he had no recollection of ever having met Morris at the Wentworth Hotel although he had gone to Parliament House on one occasion to see him.¹⁰⁷ He said he had no recollection of the conversation of 2 March 1984 of which Morris had given evidence.¹⁰⁸

2.93 The Commission found Morris to be a truthful witness and accepts his evidence. There was no evidence before the Commission that Morris had in fact defrauded the Commissioner of Taxation. The Commission finds that, even if Ryan did propose to blackmail Morris over alleged taxation malpractices, no such threat was ever made.

2.94 For the reasons set out in paragraph 2.43 above Mr Justice Murphy was not called to give evidence to the Commission. This was one

of the matters raised with Mr Justice Murphy in the Commission's letter of 25 March 1986, upon which Mr Justice Murphy declined to comment.

Anglers Club Fire

2.95 As outlined previously in Volume One of this report [paragraph 13.6], one of the areas nominated by the Under Secretary of Justice in April 1984 for investigation by the Special Task Force headed by Chief Superintendent J M Pry was the fire at the Anglers Club, 43 Falcon Street, Crows Nest, on 2 August 1979, the subsequent conduct of Morgan John Ryan, Abraham Gilbert Saffron, Eric Jury and others in relation to that fire, and the conduct of the Coronial Inquiry concerning that fire. Certain areas were suggested for investigation by the Special Task Force. These inquiries were made by Sergeant A G Ward who prepared a report which was adopted by Pry and became Annexure 45 to his report of 28 June 1984.¹⁰⁹

2.96 The investigation into the fire at the Anglers Club was originally conducted by Sergeant H J Lowe who prepared a report dated 22 October 1979.¹¹⁰ In his report, Lowe concluded that the fire had been deliberately lit and recorded that the Club had recently renewed and increased its insurance. Although Lowe did not nominate a definite suspect for the arson, it appeared to him that the only persons who stood to gain from the fire were 'persons connected with the Club', who included three directors, Steven Romano, Terence John Williams and Peter Dunkerley. Lowe interviewed the Club's eight directors and recorded various links between five of them and Jury.¹¹¹ Williams told Lowe that he believed that Jury was a member of the Club while Romano stated that he did not know Jury. Dunkerley was apparently not questioned by Lowe as to his knowledge of Jury.¹¹² However, Lowe did not record any connection between the directors and Ryan.

2.97 On 6 March 1981, Mr Walsh SM, who had conducted the Coronial Inquiry into the fire, found that the premises were destroyed by the deliberate act of some person or persons unknown.¹¹³

2.98 Ward, who prepared the report for the Special Task Force, interviewed three directors of the Club, Romano, Williams and Dunkerley, who had each failed to give evidence at the Coronial Inquiry. Inquiries by Ward indicated that at least two of the men, Romano and Williams, had strong links with Ryan. All three men had failed to appear before the Coronial Inquiry and Romano and Dunkerley had told Ward that they had been told by an unidentified person that they need not attend.¹¹⁴ When interviewed by Ward, Dunkerley said that he was a brother-in-law of Morgan Ryan.

2.99 Inquiries by Ward established that the Club was behind in its payments for liquor licence fees and for poker machine tax. The inquiries also revealed that the Club was insured by Australian Eagle Insurance Company Limited and that from 4 July 1979 the Club had substantially increased the amount of insurance for loss of profits and contents. The insurers had initially denied liability with respect to the losses suffered in the fire, but on 10 March 1980 paid the Club approximately \$38,000, which was substantially less than the full amount of insurance.¹¹⁵

2.100 Jury declined to be interviewed by Ward. The Under Secretary had noted that several people previously associated with the Club were, after the fire, employed in business premises in which Jury had an interest. Ward concluded that the allegation of Jury's involvement with the Club remained unsubstantiated.¹¹⁶

2.101 In the summary material prepared by Sergeant B R McVicar (Volume TLC) several conversations allegedly conducted between Ryan and other persons including Jury and Saffron are recorded wherein the Coronial Inquiry into the fire at the Anglers Club is discussed. These conversations are recorded as having taken place during the periods 4 February to 24 February 1980 and 11 March to 22 March 1980.¹¹⁷ One of the entries which summarises a conversation said to be between Ryan and Saffron records 'Abe lost all the money ... Abe is the only one who lost anything'.¹¹⁸

2.102 On 25 February 1980 Ryan was the subject of physical surveillance by the BCI. During that evening he was observed with Lyn Cessna, the wife of Roy Bowers Cessna [see section on Cessna/Milner paragraphs 2.113-2.251] and Jury at Arthur's Court Restaurant at North Sydney. Constable J F Francisco recorded in an Information/Surveillance Report of that day that he overheard Ryan discussing the forthcoming Coronial Inquiry with Jury.¹¹⁹ Francisco gave evidence before the Commission of this event.¹²⁰

2.103 Ryan was questioned about these matters when he appeared before the Commission on 19 December 1985. He said that for a short time he was the solicitor for the Anglers Club and admitted that he knew Romano, Dunkerley, Williams and Jury.¹²¹ He denied that he had taken any action to ensure that witnesses would not attend the Coronial Inquiry and he said that he had no recollection of any conversations with Saffron of the nature described in the summary material.¹²²

2.104 Saffron was also questioned about his involvement with the Anglers Club when he gave evidence.¹²³ He said that he had 'heard of it' but was unable to recall in what circumstances. He said that he had no knowledge of Ryan's having an interest in the Club and had a vague recollection of the Coronial Inquiry. He denied that he had anything at all to do with the Club and that he lost any money in the Club. He had no recollection of any conversations with Ryan in connection with it but admitted that he knew Jury.¹²⁴

2.105 The material prepared by McVicar indicates that several offences may have been committed. Insofar as there is an inference available that Ryan in consultation with Saffron and Jury caused witnesses to be absent from the Coronial Inquiry, these persons may have conspired to pervert the course of justice. The McVicar material cannot be treated as accurately recording conversations which may have taken place and therefore the Commission makes no finding concerning this matter.

2.106 There are some aspects of this matter, including the identity of the persons involved, which are common to the matter of the discotheque fires dealt with below [paragraphs 2.107-2.112]. The Commission is aware

that both these matters are under investigation by the National Crime Authority. The Commission recommends that any material held by the Commission in respect of these matters should be made available to the National Crime Authority.

Discotheque Fires

2.107 Sergeant P L Egge in his supplementary statement¹²⁵ alleged that he had read transcript of telephone conversations between Ryan and Saffron concerning fires which had occurred in 1980 in discotheques in which Saffron had an interest and which were the subject of a Coronial Inquiry. Egge said that 'the fires were investigated' by Sergeant H J 'Garry' Lowe and that, although he could not remember the details, it appeared from the transcript which he had read that the investigation was not conducted in a satisfactory manner.

2.108 The matter was amplified by Egge in evidence¹²⁶ and he said that he had seen Lowe's name specifically mentioned in a record of a conversation between Ryan and Saffron. Egge was not able to be precise as to the terms of the conversation and said:

... specifically all I know is that Garry Lowe received a payment of money to investigate the fires so that nobody could be found guilty of the committing of arson.¹²⁷

2.109 The matter was raised with Inspector R P Morrison in evidence.¹²⁸ Morrison said that he was a friend of Lowe and had endeavoured to have him transferred to the BCI when there was an increase in staff in 1980. He said that he had seen transcript of conversations involving Ryan or Saffron which indicated that Lowe was acting improperly in relation to the investigation into the fires in bars in which Saffron had an interest. As soon as the matter was drawn to the attention of Superintendent B Blissett and himself, Blissett said that, whether the allegations were right or wrong, Lowe would not be permitted to join the BCI and the question of his transfer proceeded no further.¹²⁹

2.110 Blissett gave similar evidence¹³⁰ and confirmed that Morrison had suggested that Lowe would be a suitable person to join the BCI. He

said that he had told Morrison that he would make inquiries into Lowe's suitability and was later informed that Lowe's name had appeared in the Ryan transcript as a contact with Ryan. He said that on that basis he told Morrison that Lowe was not acceptable.¹³¹

2.111 The material available to the Commission as a result of the interception of Ryan's telephone conversations contains no reference to any conversation between Ryan and Saffron relating to any such fires, or to Lowe. The Commission therefore makes no finding in relation to this matter.

2.112 As previously mentioned [see paragraph 2.106], the allegations surrounding the Discotheque Fires have certain matters in common with the allegations concerning the Anglers Club fire. As stated earlier, the Commission is aware that both these matters are under investigation by the National Crime Authority. The Commission recommends that any material before the Commission relating to these matters be forwarded to the National Crime Authority.

Cessna/Milner Matter

2.113 Considerable public comment and controversy has surrounded the court proceedings presided over by the former New South Wales Chief Stipendiary Magistrate, Mr Murray Frederick Farquhar, involving Timothy Lycett Milner and Roy Bowers Cessna.

History

2.114 On 14 March 1979 Cessna and Milner were arrested by NSW Drug Squad and BCI officers in connection with their alleged possession of approximately 137.5 kilograms of Indian hemp in the form of Buddha sticks. Both were subsequently taken to Central Police Station where they were charged with several offences including a charge under the provisions of sections 21(1)(a) and 45A(4) of the Poisons Act, 1966 (NSW). The charge preferred pursuant to those sections was couched in the following terms:

That (both Cessna and Milner) on the 14th day of March in the year, 1979, at Lane Cove in the State of New South Wales, did supply a drug of addiction, to wit, indian hemp in that he did have in his possession a quantity of such drug of addiction in excess of the quantity prescribed in respect of that drug.¹³²

2.115 This was an indictable charge which in the normal course of events after preliminary proceedings before a magistrate would have been dealt with by a judge and jury. The maximum penalty which could be imposed by a judge at the relevant time was a fine not exceeding \$25,000 or imprisonment for a term not exceeding ten years, or both such fine and imprisonment.

2.116 Under the provisions of the Poisons Act, if a person has in his or her possession a quantity of Indian hemp (which is defined under the Act as a drug of addiction) in excess of a certain amount, that person is deemed to have the drug for the purpose of supplying it, and accordingly may be charged with supplying the drug.

2.117 On 15 March 1979 both men appeared before Farquhar, who was still at that time Chief Stipendiary Magistrate, at the Central Court of Petty Sessions and were charged with the above mentioned charge and other less serious charges which for present purposes are not relevant. Counsel instructed by Messrs Morgan Ryan and Brock, solicitors, appeared for both defendants who were remanded to appear at Central Court on 26 March 1979, Cessna being allowed bail and Milner being remanded in custody.¹³³ The police prosecutor, Sergeant Brady, informed Farquhar that the street value of the drug seized was in the vicinity of \$2.5 million and the total weight of the drugs was 137.5 kilograms.¹³⁴

2.118 Cessna and Milner again appeared before Farquhar at Central Court on 26 March. Milner was granted bail and both men were further remanded to appear at that Court on 23 April 1979. They again appeared on 23 April 1979 before Farquhar at the Central Court. On 26 March and 23 April they were represented by Mr Bruce Miles, a solicitor from the firm of Messrs Morgan Ryan and Brock.¹³⁵

2.119 The defendants appeared again before Farquhar at Central Court

on 15 May 1979 and were again represented by Mr Miles. On that occasion each defendant was recharged under section 21(1)(a) of the Poisons Act with no reference to section 45A(4). The circumstances giving rise to this event will be discussed in more detail later in this section. The practical result was that the magistrate dealt with the matter himself summarily. Both Cessna and Milner pleaded guilty to this new charge.

2.120 After pleading guilty Milner was convicted that day and sentenced to 18 months imprisonment with hard labour. Farquhar directed that in relation to that sentence there be a non-parole period of eight months. He further remanded Cessna to appear at the Central Court on 24 May 1979 for sentence and indicated that he required a pre-sentence report. Bail was continued.¹³⁶

2.121 Cessna duly appeared before Farquhar at the Central Court on 24 May 1979 and in relation to the charge to which he had pleaded guilty on the previous occasion was convicted and fined \$1000 in default forty days imprisonment with hard labour. In addition he was required to enter into a recognisance under section 558 of the Crimes Act, 1900 (NSW) which meant in effect that Farquhar deferred passing sentence upon Cessna's entering into a bond to be of good behaviour for a period of eighteen months, and to come up for sentence if called upon during that period.¹³⁷

2.122 It is not considered necessary to enter into a detailed discussion of the law involved in this matter. For present purposes it is sufficient to say that serious charges carrying heavy maximum penalties and which would normally have been dealt with by a judge and jury were dealt with summarily by Farquhar, as a magistrate sitting alone. Accordingly, the penalties were much less severe than would otherwise have been the case. Serious charges had been changed into much less serious charges.

2.123 The circumstances giving rise to and surrounding this course followed by Farquhar and the repercussions which followed are set out hereunder [see paragraphs 2.126-2.162].

2.124 Farquhar retired as Chief Stipendiary Magistrate the day after he had dealt with Cessna on the lesser charge. There ensued considerable public comment about the fact that the hitherto indictable charges which had originally been preferred against both men were dealt with summarily by Farquhar.

2.125 An investigation into the matter by Assistant Commissioner C R Abbott was commenced at the direction of the then Commissioner, Mr J T Lees on 11 June 1979.¹³⁸ According to a report dated 25 March 1980 made by Lees to the Under Secretary of the Department of Services, Lees ordered this investigation after receiving information on the matter, the nature of which he did not specify in his report. He also noted in his report that in the course of Abbott's inquiries, a request directed to himself as Commissioner was received from the Under Secretary of Justice on 21 June 1979 for an inquiry to be conducted in relation to the proceedings instituted against Milner and Cessna and that the request was accordingly referred to Abbott for necessary attention. Lees further indicated that he had received a report dated 10 August 1979 from Abbott, together with other papers, setting out the result of his investigations.¹³⁹

The Abbott Report

2.126 Abbott, assisted by Sergeant V F Shaw, interviewed eighteen NSW Police officers who had had some involvement in the surveillance, arrest and prosecution of Cessna and Milner. Abbott and Shaw also interviewed Ms D Delliou, the government analyst who analysed the Buddha sticks, a depositions clerk attached to the court who had typed certain depositions and submissions, and Miles. Each of the police officers made written reports as to their knowledge of the incidents under consideration and in addition, were questioned by Abbott and Shaw. The reports and records of interview were incorporated in Abbott's report.¹⁴⁰

2.127 Two such reports were made by Superintendent P J Watson and Inspector P A G Lawrence dated 15 June 1979 and 13 June 1979 respectively.¹⁴¹ Watson mentioned in his report that while attending the synopsis meeting at the CIB about two months earlier he had received

a telephone call from Mr M T Wood, the then Commissioner of the NSW Police. He said Wood had asked him whether he had any knowledge of two men named Milner and Cessna having been charged with possession of drugs. Watson replied that he had no such knowledge but would make inquiries of Lawrence, who was at that time Officer in Charge of the Drug Squad. He saw Lawrence and informed him of the conversation and requested him to provide information for the Commissioner. Watson said that Lawrence later came to his office in the company of Sergeant J Willis, who was then attached to the Drug Squad, and both Lawrence and Willis informed Watson that the material seized, which consisted of Buddha sticks, was of very poor quality and low drug content. He said further that it was discussed at that meeting 'that even though the quality of the drugs was of such a low value it would still amount to quite a sizeable sum of money notwithstanding'. Watson went on to say that after the meeting Lawrence provided him with a written report. He said that he had relayed the information briefly over the telephone to Wood. According to Watson, Wood stated during this telephone conversation that he did not want the written information supplied by Lawrence as 'all he was concerned about was the quality and value of the property seized'.¹⁴²

2.128 Lawrence in his report confirmed that he had been spoken to by Watson at the synopsis meeting mentioned above. Lawrence said that Watson had asked him about the arrest of Cessna and Milner. According to Lawrence, Watson had said, 'representations have been made to the Commissioner something about an independent analysis of the drugs. Give me some particulars about it'.¹⁴³

2.129 Lawrence further reported that he had instructed Sergeant K E McDonald and Senior Constable R B Marr, Drug Squad officers who had taken part in the arrest of Cessna and Milner, that Watson wanted information about the arrests and the drug which was seized. According to Lawrence, McDonald had then prepared a short report on the facts and Marr had contacted Ms Delliou, the government analyst, to obtain information on the content, quality and quantity of the seized drugs. This information and report were given to Lawrence,¹⁴⁴ who then,

accompanied by Willis provided Watson with particulars of the drugs and a written report.

2.130 McDonald's report to Abbott dated 12 June 1979¹⁴⁵ and a record of an interview conducted with Miles on 3 July 1979¹⁴⁶ indicate that on 14 May 1979 Miles and Ryan attended the Waverley Police Station by appointment and saw McDonald. In his report McDonald noted the following:

Mr. Miles stated that he was going to vigorously apply to the magistrate to have the matter dealt with summarily at Court the next morning, that his instructions were that the drugs I had seized were worthless and had hardly any drug content at all, in fact it may well be that the Police may not have a case. He asked me if I knew what the drug content was and I informed him that I was not aware of the actual drug content but I did know that it was low, however notwithstanding this I could not see how he could have it dealt with summarily because of the weight of about 137 Kilos and from my recollection his client indicated that he would be lucky to get \$1 per stick for the drug and that this alone would amount to about \$100,000.

Mr. Miles stated that his clients were prepared to plead guilty to summary charges of possession and get it over with the next day and if not they would plead "not guilty" and this would cost the State a lot of money. He asked me if I would be able to alter the indictable charge to a summary one. I asked him if he had made a written application to the Police Department to this effect and he replied that he had not done so as there was now insufficient time. I informed him that I would not agree to that as I was unable to do so and such a decision would rest possibly with the Commissioner of Police and usually the Officer in Charge of the Police Prosecuting Section had the say in these matters. Mr. Miles asked me if I could find out the views of the Prosecuting Section and let him know the result. I informed him that as he had approached me for the alteration of a charge I was bound to inform the Inspector of the Drug Squad and see what decision would be reached adding that I still could not see how it would be dealt with summarily. Mr. Miles replied that he would still be making that application to the Court.¹⁴⁷

2.131 McDonald further noted in his report: 'the only thing I can remember Mr Ryan saying is that he could not see it either', that is, a summary disposal of the indictable charges.¹⁴⁸

2.132 McDonald was interviewed by Abbott on 29 June 1979 and is recorded as having said that Miles had also said when he and Ryan saw McDonald at the Waverley Police Station:

If the prosecution agrees, my clients will plead guilty and would make the application for it to be dealt with summarily before Mr Farquhar.¹⁴⁹

2.133 Miles stated during the course of his interview with Abbott that he could not recollect 'the details' of the conversation with McDonald. Miles denied that he had any conversation with either Wood or Farquhar.¹⁵⁰

2.134 The police statements disclose that after this meeting with Ryan and Miles, McDonald contacted the Drug Squad on the same day and advised both Lawrence and Marr of the details of the meeting and that a request had been made to have the Cessna/Milner matters dealt with summarily.¹⁵¹

2.135 Marr then contacted Sergeant J S Smith of the Police Prosecuting Branch and advised him of Miles's proposal to have the principal indictable charge against each defendant dealt with summarily. He then informed McDonald of the action he had taken.¹⁵²

2.136 Later that day Marr, at the direction of Lawrence, saw Senior Superintendent G Fryer, the Officer in Charge of the Police Prosecuting Branch, and informed him of the proposed application and provided him with particulars of the case.¹⁵³ Fryer in his report to Abbott dated 6 August 1979 said that he had told Marr:

I cannot agree. The quantity of the drug is well over the limit and the charges will have to be dealt with by way of indictment.¹⁵⁴

2.137 Marr said he conveyed this view to McDonald who subsequently telephoned Miles and told him of the decision of the Police Prosecuting Branch that the matters could not be dealt with summarily. McDonald said in answer to a question posed by Abbott during his interview that Miles had said '... Well I will still be making that application'.¹⁵⁵

2.138 On 15 May 1979 Sergeant W H Evans of the Police Prosecuting Branch was allocated the task of prosecuting the charge cases listed for hearing that day in No. 1 Court at the Central Court of Petty Sessions. The list of cases included all the charges preferred against Cessna and

Milner. The notation 'to be dealt with as an indictable matter direction Supt Fryer' in Smith's handwriting appeared on the list alongside the charges of supplying Indian hemp.¹⁵⁶ According to Smith in his report of 14 June 1979 the notation had been placed there by him on the previous day, after he had been so advised by Fryer.¹⁵⁷ The No. 1 Court list for that day was dealt with in Court No. 2 because No. 1 Court was being used for another case.

2.139 In his report to Abbott, Fryer stated that about 9.30 a.m. on that day Wood had telephoned him and among other things said:

Mr Farquhar has indicated that he would be prepared to deal with the matter summarily if the prosecution consented. He's the Chief Magistrate and also the Chairman of the Drug Authority and is an expert on these things and if he is prepared to do that then that's the way I want it handled.¹⁵⁸

2.140 Fryer reported that he had then telephoned Smith at Central Court and advised him that he had been spoken to by Wood. Fryer said he had told Smith that Wood had directed that the cases against Cessna and Milner 'were to be dealt with summarily'.¹⁵⁹ Smith noted in his report to Abbott dated 14 June 1979 that Fryer had told him 'Wood had directed' that the Cessna/Milner matters 'were to be dealt with in a summary manner but only at the suggestion of the presiding Magistrate'. Smith said that he had passed on this direction to Evans.¹⁶⁰

2.141 Marr, who was assisting Evans in court on the Cessna/Milner matters on that day, noted in his report to Abbott that the matters had been mentioned before Farquhar in No. 2 Court and had been adjourned for further hearing the same day at 11.30 a.m.¹⁶¹ Evans noted in his report that he had difficulty interpreting the THC content in the analyst's certificate and had contacted an officer of the Drug Squad who provided him with information obtained from Ms Delliou, the government analyst.¹⁶²

2.142 Evans then telephoned Fryer and informed him that he was 'not happy' to have the matters dealt with summarily. Evans inquired whether

Wood's direction could be put in writing. Fryer assured Evans that it was a direction from Wood.¹⁶³

2.143 Evans attended No. 2 court and attended to the other matters on the No. 1 list. By 12.30 p.m. the only matters that remained to be dealt with in the list were the Cessna/Milner matters and one defended stealing matter. Farquhar indicated that he would leave the court and exchange court rooms with Mr K Jones, Stipendiary Magistrate, who was presiding in the in No. 5 Court.¹⁶⁴

2.144 About midday Evans attended No. 5 court and informed the prosecutor in that court of Farquhar's invitation to exchange courts with Jones. Evans said in his report that the prosecutor told him that Jones had almost finalised the matter he was dealing with and it should remain in No. 5 Court. The depositions in No. 5 Court were being recorded on a typewriter.¹⁶⁵

2.145 Evans then returned to No. 2 Court and found Mr McCarthy SM hearing the defended stealing charge [see paragraph 2.143]. Evans ascertained that the Cessna/Milner matters were to be heard by Farquhar in No. 5 Court. Evans and Marr proceeded to that court.¹⁶⁶

2.146 Mr P J Scanlon, a depositions clerk was interviewed by Abbott on 27 June 1979 and that interview was recorded. He said that he had been the depositions clerk in the 'Summons Court' at the time Farquhar heard the Cessna/Milner cases and had recorded the proceedings on a typewriter. He said that at the commencement of the proceedings Evans had said to him 'make sure you get everything I say down'.¹⁶⁷

2.147 Evans said in his report:

In the Summons Court I attempted to draw Mr Farquhar's attention to Section 45A of the Poisons Act and in particular to his interpretation of the word "may" where it appears in that Section. I directed Detective Marr to go the the Office of the Chamber Magistrate and obtain a copy of the Poisons Act.

Mr Miles, representing both the defendants, indicated to the Court that he wished to have the matters dealt with summarily and that he would plead guilty, on their behalf. I then indicated to Mr Farquhar that I wished him to proceed with the matters involving Section 45 and I addressed him. I continued to speak with him and he asked me to elect as to whether they should be dealt with summarily.

Mr Farquhar commenced to deal with the matters on an assumption that they were under Section 21(1)(a).¹⁶⁸

2.148 The depositions record states:

PROSECUTOR. Seeking to proceed with the Possess 45A marking.

MR. MILES; I appear for both defts. I make an application Y.W. deal with this matter summarily. I might tell the Court first and my friend the basis I ask this. I have spoken to the prosecutor. These defts. I might say, providing a certain course is taken, wish to plead guilty. They appear to be the victims of their own addiction. They bought material which turned out to be very under the amount suggested. The goods they bought from the instructions I have drug wise are just about totally valueless, the supply them would be minimal...the drug content in the material is just about minimal. I submit this is a reasonable application to have the matters dealt the summarily and are aware of the provisions and penalties in that case. The practical amount is a relatively very small amount. Both are first offenders.

BENCH: No suggestion for any dispersion into the community, is that right.

A. Yes.

PROSECUTOR CONTINUES:
Involving Section 45.

I am directed in relation to this matter by my officer in charge that Y.W. may feel to dispose and deal with the matter here and that after hearing the facts and seeing the analyst's certificate here, the content is very minimal.

BENCH: I feel it is a matter for you Mr. Prosecutor.

PROSECUTOR: Then I ask Y.W. to take that course.

BENCH: On the assumption it's 21(1)(a), then I will.

PROSECUTOR: That will be seen from the facts. The drug content to this charge is that the suggestion of supply would be useless in any event.

BENCH: -
RE-CHARGES DEFENDANT.....POSSESSION IN EXCESS. 21(1)(a).

MR. MILES: The defendants both plead guilty.

PROSECUTOR:

In support of that I have fact sheets in relation to each which I tender and also a certificate for identification purposes register number D4270. The defendants I understand are not previously known.

ALL DOCUMENTS PRODUCED, TENDERED, and PERUSED BY BENCH.

BENCH: A street value was given then in the facts, to the officers now in light of the analyst's certificates, the officers say now that that value does not exist.

PROSECUTOR: That is so. In its state it had little or no value as it was... but I cannot speak for the mind of any person so buying it.

BENCH AMENDS VALUE TO READ ... "SOME VALUE"¹⁶⁹

2.149 In his report to Abbott, Evans stated that fresh charge sheets had not been made out and that Farquhar had erased from the bench sheet the reference to Section 45A(4).¹⁷⁰ In his report Evans said:

I did not indicate that it would be useless to charge with "supply" as I understand that 21(1)(a) is the offence creating Section and Section 45A is the machinery section whereby matters can be dealt with on an indictable basis.

I tendered fact sheets in relation to each of the matters for which pleas had been entered, an analyst's certificate and a copy of a record of interview, which Mr Farquhar received and appeared to read.

Mr Farquhar addressed me as to the value on the street of the substance, the subject of the charges, and I see from the photostat of the proceedings that it is suggested that I said "It had little or no value as it was". I can remember saying low value but this was in consideration of the analyst's certificate. I did point out that I could not speak for what was in the mind of any person to whom it may have been offered for sale.

Mr Farquhar then indicated that he would put "some value" on the sheets.

Mr Miles then addressed the Court and Mr Farquhar asked me to differentiate as to the involvement and suggested by pointing to Cessna in Court that he was involved in a technical nature. I indicated to him from what I had seen of the fact sheets that Milner was more to blame but we alleged that both had loaded the substance into the car.

Mr Miles addressed the Court after I handed to the Court fingerprint records indicating that neither were previously known and Mr Farquhar addressed the defendant Milner and finalised the matter by convicting him and sentencing him to a term of imprisonment.¹⁷¹

2.150 After the matter had been dealt with summarily, Evans saw Fryer in his office and told him what had occurred in court. Evans then made a record of the events of that day in his official note book.¹⁷²

2.151 In his report to Abbott Evans said that on 14 June 1979 Miles had telephoned Central court and made arrangements to have the remaining Milner matters dealt with on that day. Evans noted that shortly after 1.00 p.m. on that day he had a conversation with Miles in the presence of Ryan:

Miles said 'This is Morgan Ryan a good friend of mine. He's actually a solicitor for the big Chief'. I said 'Which one?'. He replied 'Merv. In fact we are going out there now to see him. He's his solicitor' (indicating Morgan Ryan), 'He's got a libel action but he's going to have to wear this. He's got to wear that he directed you to do it'. I said 'Well someone better because I acted on a direction. You know I told you earlier I didn't want to do the matter and that I'd do it only on direction and then I wasn't keen'. He replied 'I know you only did what you were told but he's got no other problem. It was only rubbish. Its got no value if you get no sting out of it when you smoke it'. I said 'But the difficulty appears to be more to the quantity and street value'. Miles said 'Thats rubbish, if its got no sting its not the stuff but he's just got to wear that direction'. I said 'I'm not saying that I ever actually spoke to the Commissioner'. Miles replied 'No, your direction was from Fryer, its got nothing to do with you, you'll be alright'. I said 'I wish I was as fucking calm about it as you'. He said 'Well, we're seeing him now, You're in the clear'. I said 'Well I'm going upstairs, bye'.¹⁷³

2.152 After this conversation, Evans spoke to two sergeants from the Prosecuting Branch and immediately wrote the details of the conversation with Miles and Ryan on a piece of paper.¹⁷⁴

2.153 Sometime after 3.45 p.m. on that day (14 June 1979), Evans noted in his report that he had another conversation with Miles in the car park adjacent to the court:

(Miles) said 'Where can we talk?'. I said 'Just here'. Miles said 'This matter. You know that I was wanting to get the matters dealt with downstairs'. I said 'That was obvious'. He said 'Your problem is agreeing to it being dealt with under the summary Section. I know Farquhar bullied you into it' ... Miles then said 'It was obvious I was trying to get it dealt with summarily and I wanted to convince Murray to deal with it'. ... (Miles) said 'Well anyway I'm prepared to give evidence to back you up later. Its just a storm in a teacup'.¹⁷⁵

2.154 After this second conversation with Miles, Evans saw Inspector R S Redhead of the Police Prosecuting Branch and read out to him the earlier note he had made [see paragraph 2.152] and provided him with details of both conversations. At the direction of Redhead Evans then wrote the details of both conversations in his official notebook.¹⁷⁶

2.155 Wood, Ryan, Cessna and Farquhar declined to be interviewed by Abbott.¹⁷⁷ Abbott and Shaw completed their report on 10 August 1979 and it was submitted to Commissioner J T Lees. Wood had retired without notice shortly after the case was heard.¹⁷⁸

2.156 On 16 August 1979 Mr J E Hatton, MP, mentioned the case in the New South Wales Parliament and on 22 August 1979 Lees forwarded the report of Abbott together with relevant documentation to the Under Secretary, Department of the Attorney-General and of Justice. According to a report by Lees addressed to the Under Secretary, Department of Services, Lees also advised the Premier, the Hon. Mr N K Wran, QC, MP, of the result of the investigations made by Abbott. On both occasions he said that he added the comment that he had 'reservations' and was 'at a loss to understand the reasons for the actions' of both Wood and Farquhar.¹⁷⁹

2.157 During 1979 the then Solicitor-General, Mr G T A Sullivan, QC, prepared three reports relating to the Cessna/Milner proceedings. Although Mr Sullivan was critical of the behaviour of both Wood and Ryan, he was of the view that there was insufficient admissible evidence to sustain a prosecution against them for conspiracy to pervert the course of justice.¹⁸⁰

2.158 During February and March 1980 several questions were asked by members of the New South Wales Parliament seeking either the tabling of the Abbott report or that the matter be referred to the New South Wales Royal Commission into Drug Trafficking for further inquiry (the Woodward Commission). In particular, the Leader of the Opposition, Mr J Mason, MP, sought that an inquiry be held into the matter and also called on the Premier to terminate Farquhar's appointment as Chairman of the Drug and Alcohol Authority. Continued requests were made in Parliament for the tabling of the reports of Abbott and the Solicitor-General.¹⁸¹ These reports were not tabled and on 17 March 1980 Mason met Lees and gave him a compilation of material he had gathered from various sources in relation to Cessna and Milner. This material, which consisted of sixty four pages, was then handed to Abbott who was directed by Lees to carry out further inquiries in the event that the material disclosed a criminal conspiracy.¹⁸²

2.159 Both Abbott and Shaw examined the material provided by Mason and submitted a further report to Lees dated 24 March 1980 which recommended that no further action be taken in the matter, since they were satisfied that the previous police inquiry covered all the salient facts raised.¹⁸³

2.160 On 26 March 1985 the Leader of the Opposition, Mr N F Greiner, MP, produced in Parliament a photograph depicting Farquhar and Ryan alongside a 1974 Ford Falcon Sedan registered number HAH 957. Mr L A Punch, MP, who was then the Leader of the National Party, in a question directed to the Minister for Police and Emergency Services, the Hon. Mr P Anderson, MP, asked whether the photograph had been taken 'at about 4.00 pm on 1st April, 1979, near Centennial Park'. Punch further questioned whether 'this meeting (was) referred to in the so-called Age tape(s)', whether the Cessna/Milner inquiry would be reopened and the photograph referred to 'the Stewart Royal commission'.¹⁸⁴

2.161 That photograph was subsequently provided by Anderson to the Commissioner of Police, Mr J K Avery, who arranged for an investigation to be made into the origin of the photograph.¹⁸⁵ In a memorandum to

the Police Minister dated 21 May 1985, Mr Avery recommended the cessation of the inquiry, as in his view it was possible that 'the Stewart Commission' could 'reach the source of this photograph'.¹⁸⁶ This Commission subsequently received a copy of the photograph from Mr Avery together with a submission and details of police inquiries which had been made to date.¹⁸⁷

2.162 Further reference to this photograph is made later in this account, under the heading 'The Photograph' [paragraphs 2.188-2.201].

Intercepted Telephone Conversations

2.163 Cessna's telephone conversations were the subject of illegal interception during February and March 1979. Sergeant G R Owens gave evidence that the interception device remained in place an extra day or two after Cessna's arrest on 14 March 1979.¹⁸⁸

2.164 Ryan was identified by the NSW Police during the interception of Cessna's telephone conversations and became the target in subsequent operations.¹⁸⁹ These operations were conducted during the periods 18 March to April 1979 and mid January to mid June 1980. There was another operation in 1981 carried out at the request of the AFP [see Volume One paragraphs 8.46-8.56, 10.4-10.20 for details].

2.165 The typed transcript material which has survived from the 1979 and 1980 operations includes transcripts of intercepted telephone conversations which suggest that Ryan had formulated a plan to assist Cessna and Milner in obtaining summary disposal of the prosecution case.

2.166 It is recorded in the 'Mad Dog' transcript, Volume T1A that on 18 March 1979, three days after the arrest of Cessna and Milner, Ryan telephoned the number [REDACTED] and spoke to 'Lynne'. Commission inquiries indicate that this number related to the telephone service of Cessna at [REDACTED], Lane Cove. The inquiries confirm that Cessna and his wife Marylyn Mearon Cessna, were residing at these premises during 1979 and 1980.¹⁹⁰

2.167 In the course of the conversation Ryan said:

I've got to go away tomorrow, I'll be in town on Monday, then I'm going on Tuesday, ... for about, twelve or fourteen days, now that's the 26th, I want to talk to ah, I want to see you other half, before I go whatever happens, ...¹⁹¹

2.168 The transcript records that tentative arrangements were made for a meeting between Ryan and Cessna on the Monday. Ryan is then recorded as having said:

Cause I've formulated a very very, there's something that's very important, that I've already done, ... Yes well I want to because it's something very important and I think that it will make a lot of people happier, ...¹⁹²

2.169 The following day, 19 March 1979, the transcript records that Ryan telephoned the number [REDACTED] and spoke to 'Ceto'. The conversation is not recorded in full and a summary of it in the transcript records that 'Morgan has to see a dentist at Lane Cove. The dentist's name is A Ronfelt next door to the Baby health centre in the Lane Cove shopping centre and wants to meet Ceto outside at 9.30 as it's very important'.¹⁹³

2.170 Ryan stated in evidence to the Commission that he knew both Cessna and his wife, Lyn Cessna. He further stated that Cessna 'always refers to himself as Seto Cessna' although 'his correct name is Ray Cessna'.¹⁹⁴ Ryan confirmed in evidence that he had acted on behalf of Cessna and Milner when they were charged with a drug offence.¹⁹⁵

2.171 The transcript records that later on 19 March 1979 Ryan telephoned the number [REDACTED] and spoke to 'Kevin'.¹⁹⁶ Commission inquiries indicate that this number was the telephone service of Mr K M Rodgers, solicitor, of 34 King Street, Sydney. This was the address at which the firm of Morgan Ryan and Brock, solicitors, practised until 30 September 1984.¹⁹⁷

2.172 The transcript records the following conversation:

M ... but there are two things that are important unless you say otherwise, the first is I want Cessnas case to go over on the 26th right ... I'm seeing Sessna, I don't know how I can get this message, I've got no time to go out there but I do not want that man to apply for bail until I come back ...

K well he won't get bail but it doesn't give him much faith, has Cessna been out to see him ...

M I don't want this matter I don't want this man to apply for bail until I return otherwise he'll never fucken get bail, I might put myself out here okay ...¹⁹⁸

2.173 There is a clear inference that the reference to 'that man' is a reference to Milner. It is further recorded that Ryan was leaving 'tomorrow' and was 'due back 2nd April'.¹⁹⁹

Ryan Meets the Magistrate and the Police Commissioner

2.174 The transcript of the intercepted conversations of 19 March 1979 further records 'IN FROM MURRAY FOR MORGAN. Not there will be back at 10. tells him to ring at 10.15'.²⁰⁰ Later in a conversation headed 'OUT TO [REDACTED] (MAGISTRATES CHAMBERS) MORGAN TO MALE', the following conversation is recorded:

MALE when you said there was something important I take it nothing unexpected though.

MOR no no no only good news

MALE just that you're going off tomorrow and we might just have a matter ...²⁰¹

2.175 It is further recorded that Ryan and the male arranged to meet at 3.45 p.m. that day.²⁰²

2.176 The transcript includes an 'index' page which lists telephone numbers and subscribers. The description 'MAGISTRATES CHAMBERS' appears beside the number 235 8262.²⁰³

2.177 The records of the NSW Department of Public Works and of the Attorney-General's Department Properties Division show that during the

period October 1978 to June 1979 telephone services 235 8262 and 235 8182 were allocated to the Chairman of the Bench of Stipendiary Magistrates, who was then Farquhar, and to a receptionist, although it is not certain which number was allocated to whom. During this period stipendiary magistrates were temporarily accommodated at 'Malta House', 630 George Street, Sydney.²⁰⁴

2.178 On 20 March 1979 the transcript records 'OUT TO [REDACTED] Ceto to Lyn. Ceto says that he's with Morgan and will be home soon'.²⁰⁵ There is a clear inference that this telephone call was made by Cessna from Ryan's home during a meeting between Cessna and Ryan.

2.179 On 31 March 1979 the transcript records that Ryan telephoned the number 427 5309 and spoke to Cessna and said:

... now as soon as I got back of course I had to make a phone call ... because you are on who's confidence and trust I would like to keep, I and not interested in any one else, because your my milestone, I have got to have a heavy conference tomorrow ...²⁰⁶

2.180 The transcript records that Cessna had a luncheon engagement on the following day. It further records that Ryan said the following:

... But the thing is this that tomorrow if you go to lunch, there was something very important that was going to happen in the afternoon ... when you say "go to lunch" that doesn't happen all day does it ... But I'm a great believer in before the ball and in saying this is what is going to be done, and here it is, and you can go and see it with your own two bloody eyes ... Now that's the choice I'm gonna give you, only to you though ... I mean when you see people you remember their faces. Don't you? ... I'm only going to give you the opportunity of either saying well what you say right or yes I'll go along and have a look with my own two eyes that's the choice you're gonna get ...²⁰⁷

2.181 Later in the same conversation Ryan is recorded as saying:

But I'm not going to show my hand to somebody else at all because I just couldn't do that ... I'm talking about the other party ... I'm gonna tell what can be done, and what has been done and

what has gotta be done, if he wants to do it ... But this is just the brief discussion that I want to have with you but I've just got to talk to somebody in the morning and - nth n I've got to talk to somebody tomorrow, but the important thing is, tomorrow afternoon. 208

2.182 On that day 31 March 1979, the transcript further records 'In Murray to Morgan' and the following conversation:

F Oh hello Morgan ... Welcome back ... Ah, all that business is fixed up.

MR Yes, that's what I was er ... you know I ... Still I can gather up the ... but I just didn't think I would have to say the opportunity presented itself.

F Well couldn't do ... tell you why later, but it's all O.K. ... 209

2.183 Later in the conversation it is further recorded:

M I would like to um, I would like to go for a walk tomorrow afternoon for about five to ten minutes ... Four o'clock'd be a good time. four o'clock there.

F OK I'll do that ...

M I'm sorry to hear about Mrs Farquhar ... No I won't bother today, but I just want to be prepared for the ...

F Yup I know ... 210

2.184 Farquhar gave evidence before the Commission on 4 December 1985 and was asked whether he telephoned Ryan on 31 March 1979 and said to him 'all that business is fixed up'. Farquhar stated that he had 'no recollection of any conversation of that nature' and later stated 'it is not impossible that I said to him, "that business has been fixed" but referring to his business, nothing to do between him and I. I have never had any business undertakings with him'. 211

2.185 On 1 April 1979 the transcript of intercepted telephone conversations records that Ryan telephoned the number [REDACTED] and arranged to meet Cessna at 9.45 a.m. on that day. 212

2.186 Later that day the transcript records 'Out [REDACTED] Morgan to Murray'.²¹³ Commission inquiries indicate that this number was the telephone service connected at [REDACTED] [REDACTED] the residence of Murray Frederick Farquhar.²¹⁴

2.187 The following conversation is recorded:

MU whats happening?

MO nothing, nothing, I'll be there at 4pm but I'm going to but I ha have never spoken to anyone, you understand

MU I'm with you

MO you know particularly the Barristers or any of those

MU yep yep

MO but um I've got to see my friend this morning but I want to be able to say that you know, only from me acting (reference to Cessna obtaining bail etc)

MU thats right a combination of circumstances

MO mmmmm

MU will have to be bought together

• MO yes yes you know i was just trying to say that because eh

MU I dont mind

MO it wasn't just done in the ordinary course

MU No not at all

MO mm

MU a remarkable break

MO yeah

MU mmm

MO ok then I'll be there at 4pm

MU ok mate

MO good²¹⁵

The Photograph

2.188 Sergeants R C Anderson and A L Rudd of the NSW Police told the Commission that on Sunday 1 April 1979 they commenced visual surveillance of Farquhar at his Pagewood home.²¹⁶ Farquhar travelled by motor vehicle to Centennial Park where he was observed to park his vehicle and then meet with Ryan. Rudd and Anderson were uncertain about whether Ryan also drove to the park. Each of them thought that Ryan was already in attendance when Farquhar arrived.²¹⁷

2.189 Anderson and Rudd told the Commission that they observed Ryan and Farquhar walking along the 'walkway' at the Park. Rudd stated that they walked 'near the railing of the Park in ... a bicycle walkway or roadway'.²¹⁸ Anderson stated they they 'probably (walked) a distance of 100 yards or so' in one direction along the pathway and a similar distance in the opposite direction.²¹⁹

2.190 Rudd stated that the meeting lasted 'about twenty minutes to half an hour', although the officers engaged in surveillance left the park some time prior to Ryan and Farquhar's departure.²²⁰

2.191 Anderson stated that he 'took a number of photographs' of the meeting with the use of 'a Nikon camera equipped with an autodrive'. He further stated that he could not 'be sure at this stage' whether he used a full roll of film. He said he processed the film, developed the negatives and 'made the actual prints from that negative'.²²¹

2.192 Rudd recollected that one of the photographs produced by Anderson may have depicted Farquhar's vehicle. He stated that he filmed the meeting with the use of a colour video camera and confirmed that the film 'was a good reproduction of the events that had occurred'.²²²

2.193 Both officers stated that other BCI officers were shown the photographs and the video film. They further stated that some days after the filming, the negatives, photographs and the video film were requested by Inspector R H Stevenson (now deceased), the Officer in Charge of the BCI, and handed to him.²²³ There is no evidence as to what happened to

these films after that date.²²⁴ The photograph was not made available to Abbott and Shaw during the course of their inquiry.²²⁵

2.194 As previously mentioned, a photograph of Farquhar and Ryan together was produced in the New South Wales Legislative Assembly by the Leader of the Opposition, Mr N F Greiner, MP, and a copy of this photograph was forwarded to the Commission by the New South Wales Commissioner of Police, Mr J K Avery [see paragraphs 2.160-2.161].

2.195 Before forwarding the copy of the photograph to the Commission the Police Commissioner had caused certain inquiries and examinations to be made concerning the matter. These included an examination of the actual photograph produced in the Parliament by Greiner by a photographic expert attached to the NSW Police Scientific Section. After what this officer described as a 'brief examination' he said in a report dated 27 March 1985, 'I feel that it is a photograph taken under surveillance conditions using a 35mm camera fitted with a telephoto lens of approximately 500 - 1000mm ... The even grain structure throughout the entire photograph probably indicates that this is a true record of what the photograph depicts.' He also gave other reasons for his opinion which it is not proposed to reiterate here.²²⁶

2.196 Police also checked on the details of the motor vehicle depicted in the photograph with the Department of Motor Transport and ascertained that it was originally registered in 1974 to 'Mr Murray Farquhar' and was still registered to him at the time of the check.²²⁷

2.197 Greiner was interviewed about the matter by police on 19 April 1985, at Parliament House, Sydney and the interview was recorded. He declined to reveal the source of the photograph, claiming that this information and the circumstances surrounding the matter were covered by Parliamentary Privilege.²²⁸ Because of this claim, Greiner was not called to give evidence before the Commission.

2.198 Ryan agreed in evidence to the Commission that he had a meeting with Farquhar in Centennial Park 'about the time that the case against Cessna and Milner was pending'. He stated that he had met Farquhar at

the park on several occasions for some three to four years prior to the meeting in question. He stated that he met Farquhar for constitutional walks as Farquhar had a bad heart and a weight problem.²²⁹

2.199 Farquhar agreed in evidence that he took walks with Ryan in Centennial Park. He said that his medical specialist suggested that he 'walk about three quarters of a mile'. He stated that they would 'generally walk up and down, perhaps 250, 300 yards, half a dozen times' and on some occasions there would be more than one walk during a week.²³⁰

2.200 Farquhar also said that there were occasions during the week when Ryan would ring him and say 'I am going to meet you this afternoon', or 'I want to see you this afternoon'. Farquhar would meet Ryan on these occasions as he found it easier to undertake his required walks with company. He said he did not walk fast. The walk would last about ten minutes.²³¹

2.201 The intercepted telephone conversation of 1 April 1979 [see paragraphs 2.186-2.187] was recited to Farquhar in full when he gave evidence to the Commission and it was suggested to him that the walk on the occasion in question was for a 'chat' rather than for his physical well-being. He said that this was not the case and that the walks with Ryan were 'certainly of great benefit and did assist in reducing (Farquhar's) weight by two stone'. He further stated that he did not know Ryan very well until he (Farquhar) had suffered a 'coronary'. Farquhar stated that he had no recollection of his calling Ryan 'mate' or Ryan calling him 'mate'.²³²

Further Conversations

2.202 The transcript of the intercepted telephone conversations records that on 2 April 1979, the day after the meeting in Centennial Park, Ryan telephoned the number 427 5309 and said to Cessna:

Well what I rang to to tell you was i'm very very happy at the moment, very happy and I think everyone will be happy, everyone

will be happy, I thin you can ring that fellow and tell him he can sleep a bit easier, now ...²³³

2.203 It is further recorded that Ryan and Cessna arranged a meeting and the transcript records Ryan as saying later in the same conversation:

You'll find me painting a much better picture, ... I've got it all now but I was half stunned there yesterday okay, ... you know i've got to think ahead all time, that fellow is quite confused I thought that I might have made one error there to, yesterday you know, he used that expression I was doing it for you, you know, I was doing it for "C" is the expression right, and I was just wondering, you know what that actually meant or was it just a slip of the tongue or something, what's involved I'd like to see; ... you've still got his trust and confidence, haven't you jesus you'd have to after what I was told yesterday,²³⁴

2.204 On 5 April 1979 the transcript records that Ryan telephoned the Cessna premises twice and on each occasion spoke to Cessna's wife. The first conversation is recorded as follows:

M I'm not travelling as easy as I thought you know because all those newspapers and things, now the full name, what was the first date, you woulnt credit this but i'm just at another place and got no particulars with me, now what was the first date before the court, I tell you i want i'll ring you back in five minutes and give you time to think.

L Can you ring me back in about ten minitues, and CETO will be here,

M I'll ring you back in ten minutes, I want CETOS full name TIMS full name, the two dates on which they've been before the court and what they've been charged with, you know he remembers approximately, possession of a toy gun or something,

L Posses and supply,

M Was it, and how many against the other fellow, I want to know what those three chaggges, are against him and the five against CETO. I'll ring you back in ten.²³⁵

2.205 Ryan duly rang back. The transcript relates that Cessna was still not at home and that Cessna's wife gave Ryan the details he was seeking.²³⁶

2.206 Later that day the transcript records 'Out to ██████████ MORGY TO GARY BOYDD'.²³⁷ Commission inquiries indicate that this number was connected on 14 June 1984 to the Department of Administrative Services, Level 11, Commonwealth Centre, but Telecom advised that there was no history available in relation to this number prior to that date.²³⁸ Ryan is recorded as saying 'I'm just going into town, in college st'.²³⁹ Later the transcript records 'IN FROM JOHN YEUN TO MORGY'. Ryan is recorded as saying '... time is the essence, I'm just going to a top level conference right now'.²⁴⁰

2.207 The NSW Police Visitors' Book maintained at Police Headquarters, College Street, Sydney contains an entry indicating that at 10.00 a.m. on 5 April 1979 Ryan attended there for an appointment with Commissioner M T Wood.²⁴¹

2.208 Ryan gave evidence to the Commission on 19 December 1985 that he visited Wood at Police Headquarters during the time the Cessna/Milner proceedings were pending. He said that he recollected that on one occasion, after attending a conference with Miles, he 'went to Wood with a series of notes of an argument to put to him' in order to demonstrate that the THC content of the drugs was low and that the drugs were 'worthless' and 'unsaleable'.²⁴²

2.209 Wood gave evidence before the Commission on 15 October 1985. He agreed that he had a meeting with Ryan about the prosecution of Cessna. He stated that Ryan came to see him at Headquarters.²⁴³ Wood said that Ryan told him on this occasion that:

... he had a drug case involving Buddha sticks where the quality of the exhibit was very poor. He made the suggestion that the subject matter was unsaleable, had no value at all, and he said that the newspapers and others were writing it up as worth a million dollars. He said the point of the fact is that it is virtually valueless. He then requested an independent evaluation of the exhibit, which I refused. I told him it would be looked at through normal channels by the Government analyst. That was it. He also told me he is quite happy for the instructions from his clients were that they would plead guilty at the magistrate's court to possession of the Buddha sticks if a realistic evaluation was given on them.²⁴⁴

2.210 On 7 April 1979 the transcript records 'In from STD' and notes that Ryan said to the male caller:

... No everything is 100% tell you what I wanted to ask you we are having definitely, I saw the trump, I had a .. the Sculler. I had a good talk with him the other morning and we are definitely have dinner straight after Easter.²⁴⁵

2.211 Ryan stated in evidence in relation to Wood: 'after the war we used to call him - they used to refer to him in sporting circles as The Sculler because he was a champion sculler'. He further stated that he may have occasionally referred to Wood as 'The Sculler'.²⁴⁶ The word 'Sculler' together with the number [REDACTED] appear as written entries in Ryan's 1980 diary.²⁴⁷ Commission inquiries indicate that the number is the telephone service connected to [REDACTED] [REDACTED] the residence of Mervyn Thomas Wood.²⁴⁸

2.212 On 10 April 1979 the transcript records:

OUT TO MR BEECH ... Then speaks to Bruce MILES ... Then discuss CITO, and make mention of it being the case of the 'Farewell to Arms'.²⁴⁹

2.213 Later that day the transcript records, 'IN TO MORGY FROM MURRAY, THEY MAKE ARRANGEMENTS TO MEET AT 3.30 pm AT THE SAME PLACE'.²⁵⁰ Farquhar gave evidence that it was not unlikely that such a conversation occurred because he 'frequently did meet Ryan'.²⁵¹

2.214 On 11 April 1979 the transcript records 'IN TO MORGY FROM MURRAY', and the following conversation:

MO ... ABOUT THAT FELLOW, I am going to ring the skulls tomorrow.

MU Yeah alright well i'll get him either this afternoon or the morning.²⁵²

2.215 Farquhar told the Commission that he did not 'at any time' have any conversation with the Commissioner of Police.²⁵³ He stated that he did not know any person called 'the skull or the skuller' except for 'a chap ... with ... the National Front'. He stated that this term was

meaningless to him and that he had only heard of Wood 'referred to as Merv'.²⁵⁴ In his statement to Abbott, Fryer said that in directing him how to deal with the Cessna/Milner charges Wood had said that 'Farquhar (had) indicated that he would be prepared to deal with the matter summarily'.²⁵⁵ Wood denied to the Commission that he had said these words.²⁵⁶

2.216 As explained earlier [see paragraphs 2.127-2.128] reports were made by Superintendent Watson and others to Abbott that during the first or second week in April 1979, Wood contacted Watson in respect of the Cessna/Milner proceedings. Wood gave evidence that he had telephoned the Chief of the CIB, Superintendent S R Goldsworthy to give him instructions about the matter. Watson had answered the telephone and Wood had asked him 'to ensure that the analysis was duly carried out'. Wood said he had done this because he thought Ryan 'had a point'.²⁵⁷

2.217 Wood agreed that he received details of the analysis and stated that these details were discussed with Fryer and not Ryan [see paragraphs 2.127-2.129]. Wood further agreed that he was informed by Watson that the quality of the material was quite poor in that it 'gave the suggestion of decay, and the THC or drug content was abnormally low'.²⁵⁸

2.218 The last entry recorded in this transcript of the intercept of Ryan's telephone conversations is dated 12 April 1979.²⁵⁹ In evidence before the Commission Sergeants G E Schuberg, M K Ogg and [REDACTED] and Constable R A Johnson stated that a short time prior to the cessation of this operation, Ryan telephoned Wood at Police Headquarters and that Wood immediately 'hung up' on being told by Ryan that he was telephoning from his home.²⁶⁰ [REDACTED] evidence under questioning by Counsel Assisting the Commission concerning this matter is as follows:

You say the first interception in 1979 on Ryan's phone came to a halt when Ryan was intercepted speaking to Merv Wood, the commissioner, and you say - I believe Ryan had telephoned Wood to check on a favour - whereupon certain events followed. Does the use of the word, believe, indicate you did not actually hear that yourself?—I heard the conversation.

What do you remember about that?—I remember Ryan ringing the number. I recall it was Mr Wood's private number.

Private at home, or direct to this office?—His office.

Yes?—And Ryan started off talking about - have you done - I think he said my favour for me - have you done something for me? Mr Wood said, "Where are you calling from?" He said, "I am ringing from home" and that was the end. He just hung straight up.

THE COMMISSIONER: Who hung up?—Mr Wood. Ryan said to some-body in the background, "He has hung up on me", then he hung up himself.

MR HASTINGS: What happened after that with regard to Ryan's phone tap?—Next day we were given instructions to discontinue.

Do you remember who gave you the instruction?—Whoever was in charge of the CIB at the time.²⁶¹

2.219 Johnson said in his evidence to the Commission:

I recall the conversation between Ryan and Wood. Ryan contacted Wood at police headquarters. I am not certain whether he went through the 20966 exchange or whether he went through another exchange. However, Mervyn Wood answered the phone in the form of "Wood". Morgan Ryan said, "Hello mate, I want to talk to you about" and Wood cut him off at that stage and said, "Where are you ringing from?" Ryan continued and I cannot recall what exactly was said after, "Where are you ringing from". Wood again said to him, "Where are you ringing from?" Ryan said, "Home" and continued on with the conversation. Wood then hung up the phone.²⁶²

2.220 Wood stated in evidence that he had no knowledge that Ryan's telephone conversations were being intercepted by NSW Police and said in respect of 'this hanging up, I have never heard of that before, that is new to me ... I cannot recall that'.²⁶³

2.221 The NSW Police Visitors' Book maintained at Police Headquarters contains an entry that on 18 April 1979, several days after Wood's request for information and several days prior to the court appearances on 23 April, Ryan visited the NSW Police Headquarters to see Wood.²⁶⁴

2.222 On 10 May 1979 Ryan again visited the NSW Police Headquarters for an appointment with Wood.²⁶⁵ Later that day a dinner was held at

Ryan's home and Farquhar, Mr C R Briese, SM, Mr Justice L K Murphy and Wood were present. Wood stated that the dinner held at Ryan's home was after the representations Ryan made to him about the Cessna/Milner case and before the actual hearing of the case. Wood further stated that there was no discussion at the dinner about the Cessna/Milner proceedings.²⁶⁶ Briese stated in evidence at the trial of Judge J M Foord in September 1985 that Farquhar had telephoned him sometime after the dinner and said 'About that dinner the other night, I think you had better not mention that to anybody because people might draw the wrong inference'.²⁶⁷

2.223 Fryer stated in his report to Abbott that on 15 May 1979 at approximately 9.30 a.m. Wood telephoned Fryer and said:

Mr Farquhar has indicated that he would be prepared to deal with the matter summarily if the prosecution consented. He's the Chief Magistrate and also the Chairman of the Drug Authority and is an expert on these things and if he is prepared to do that then that's the way I want it handled.²⁶⁸

2.224 Wood denied this in evidence before the Commission:

That is not what I said. I said not that Mr Farquhar had - what was the expression there? (indicated) That is not true. I said confer with and find out his view. He is the chairman of the Drug and Alcohol Authority and if anyone should know, he would, and at the time I did not even know Farquhar was on the case. I did not say that.²⁶⁹

2.225 Later on in his evidence, Wood was asked why he would have suggested to Fryer that he consult Farquhar. Wood said:

As I mentioned, he is the Chairman, he is the man who should know in Sydney, the facts on the relative values of marihuana, ... but I repeat that statement there from Fryer is not - he has jumbled that up ... To do what I asked him to do would not have been proper when he found out, realised Farquhar was on the bench. He never rang me back.²⁷⁰

2.226 Relevant parts of Wood's evidence were read to Fryer and the following passage from his own report to Abbott was read out to him:

Mr Farquhar has indicated that he would be prepared to deal with the matter summarily if the prosecution consented.²⁷¹

2.227 Fryer explained in evidence that although he could not state that Wood and Farquhar had communicated with each other:

Mr Wood knew about Farquhar's intimation that he would handle (the matter) it summarily if it was consented to ... I do not know, but somebody I would say had told him of Farquhar's intention ... But there was no doubt, and I feel that that is the instructions I gave to Smith, not in the terms that Mr Wood used there, that he was to be interviewed, but I feel I told Smith that Farquhar had to be seen and his version obtained ...²⁷²

2.228 Fryer's official diary contains an entry for 15 May 1979 which appears below:

Tuesday 15.5.79 On duty at P.P. Branch at 7.30 am. Correspondence and staff matters. Phone call from C.O.P. re two defts Milner & Cessna charged re drugs. He indicated that Mr Farquhar CSM & Chairman of Drug Authority and was the expert re drugs should decide whether matters be dealt with summarily or on indictment. This was conveyed to Prosecutor ... Sgt Evans.²⁷³

2.229 Fryer made the following comments to the Commission on that diary entry:

I think that was through Sergeant Smith. (The message conveyed to Evans.) So that it is there, it is over to Mr Farquhar to make the decision and, if Farquhar was in agreement with it to be dealt with summarily, well then Wood's direction of how it should be handled was to be followed. That was my memory. I think perhaps my wording is not as it should have been, more clearly, but it was my recollection that that is what happened. This note was made, well would have been, not too long after the — would have been on the same day and, you know, within an hour or two of Mr Wood speaking to me. I would think that was made contemporaneously, if I can use the word, and still fresh in my memory; so it sort of supports what I say.²⁷⁴

2.230 Further relevant parts of Wood's evidence were then read out to Fryer and he was asked whether he disagreed with Wood's version of the conversation. Fryer said:

I certainly disagree with the "confer" part. I do not recall him using those words, but he did, he did want Farquhar seen and his views obtained. Now he did say that he was the chief magistrate and the chairman of the drug authority, which was there ... No, I am not entirely disagreeing with it because there are some parts of it that are true. I mean, he did say that about Mr Farquhar.²⁷⁵

2.231 Fryer was asked whether it was the usual practice for the Commissioner of Police to telephone on the morning that a case was being heard and discuss with him the manner in which the prosecution was to be conducted. In reply, Fryer said:

It is not unusual for either the Commissioner or senior members of the force to ring at any time of the day or night to discuss matters that were to be heard at the court, and for multiple reasons.²⁷⁶

2.232 Fryer said that he recalled that during that conversation Wood had further said 'I have had legal discussion about this matter'. Fryer then said 'I took it from that he (Wood) had a legal discussion as to whether it could in fact be dealt with summarily or not. That was the way that I interpreted his comment'.²⁷⁷

The Hearing

2.233 In answer to questions regarding the change of court room prior to the sentencing of Milner, Farquhar stated in evidence that 'Mr Berman (a magistrate) ... asked me only a matter of a minute or two before, would I take the No. 1 list'.²⁷⁸ It will be recalled that McDonald in his report to Abbott said that on 14 May 1979, one day prior to the hearing, Miles had said to him [see paragraph 2.132]:

If the prosecution agrees, my clients will plead guilty and would make the application for it to be dealt with summarily before Mr Farquhar.²⁷⁹

2.234 Farquhar gave evidence that administrative duties were part of his role as Chief Magistrate and one of these duties was to make certain that all cases were properly heard. He recollected that on 15 May 1979 there was one defended case left in the list apart from the Cessna/Milner

matters. He further recollected that at one stage during the proceedings he went to his chambers and saw another magistrate, a Mr McCarthy who had become unexpectedly available. Farquhar asked McCarthy if he would take a defended matter in No. 1 Court and accordingly McCarthy went to No. 1 Court and used the sound equipment there. As far as Farquhar could recollect he thought that he then proceeded to the summons court.²⁸⁰ It will be further recalled that on 15 May 1979 the No. 1 Court list of charge cases was in fact heard in the No. 2 Court before Farquhar [see paragraph 2.138].²⁸¹

2.235 Mr H Berman provided a signed statement to the Commission wherein he stated that during the period 31 March 1969 to July 1979 he performed the duties of a Stipendiary Magistrate at Central Court. During the latter part of that time Farquhar was the Chairman of the Bench of Stipendiary Magistrates and Mr W Lewer was the Deputy Chairman. Berman noted that one of the Chairman's duties was the allocation of magistrates to specific courts and the allocation of matters for hearing before the several magistrates at Central Court. Sometime in late 1977 Farquhar advised Berman that he would delegate these duties to Berman.²⁸²

2.236 Berman further noted that on 12 December 1977 he formally undertook these rostering duties and the day to day running of administration at the Central Court complex. He continued to exercise those functions until 12 July 1979. Some months after Berman commenced these administrative duties, he was advised by Lewer that, subject to Farquhar's availability, he was to ensure that Farquhar presided on the matters listed for hearing in No. 1 Court at Central. Lewer further advised that he was to be allocated and would preside on the matters listed for hearing in the No. 2 Court at Central. Berman noted that during the period he performed duties at Central all indictable matters were listed for hearing in the No. 1 Court and other matters were listed for hearing in the No. 2 Court.²⁸³

2.237 Berman noted that although he could not recollect whether Lewer had advised him of the reason for the division of these two courts

between himself and Farquhar, he was not surprised by the direction as the more 'important' cases were listed in the No. 1 Court.²⁸⁴

2.238 Berman further stated that although the practice which he adopted was subject to Farquhar's availability, he would always roster Farquhar in the No. 1 Court. Berman was unable to recollect allocating the court lists on 15 May 1979. He recalled, however, that at that time the so-called 'Greek Conspiracy' case was being heard at Central Court and the case had been specifically allocated for hearing in the No. 1 Court. Accordingly, the No. 1 Court list of indictable matters, which was in the normal course listed for hearing in that court, was listed for hearing in the No. 2 Court, for the duration of the 'Greek Conspiracy' case. Mr Berman further noted that he would have allocated the No. 1 Court list to Farquhar on that day in accordance with the practice described above.²⁸⁵

Farquhar speaks to the Journalist

2.239 Ms Anne Burns provided a statement to the Commission wherein she stated that at the time of the court proceedings she was a court reporter with the Sun newspaper in Sydney and was working at Central Court. On the day that the cases were heard, she was informed by Evans 'to take a look at the Cessna and Milner case because the indictable charges had been downgraded to summary offences and were going to be dealt with that day'.²⁸⁶ She said that she went to the summons court and sat in the public gallery where she observed the proceedings. To the best of her recollection, Farquhar opened the proceedings and said words to the effect 'I understand the charges are to be amended because a chemical analysis has shown the material to have a very low concentration'.²⁸⁷ Evans said words to the effect 'the charges have been amended and can be dealt with summarily'.²⁸⁸ Burns remained in the court until Milner was sentenced. She then went to the depositions clerks' office where she obtained the court papers relating to Cessna and Milner and took notes for a story she intended to write.²⁸⁹ While taking notes, Farquhar entered the office, greeted her and to the best of her recollection the following conversation ensued:

- (Farquhar) What are you looking at?
- (Burns) The Indian hemp case.
- (Farquhar) Oh that's not very interesting. There was only a very small quantity of drug in it.
- (Burns) But the police valued it at half a million dollars.
- (Farquhar) Yes, but the analysis showed that it was practically worthless.²⁹⁰

2.240 Burns stated that she formed the opinion that 'Farquhar ... was trying to influence me not to write the story'. She further stated that she 'found it astounding that he should discuss with me a part heard case'.²⁹¹

2.241 When asked whether he opened the proceedings in court in the manner stated by Burns, Farquhar said in evidence 'never ... no, it would be in the record if I did'.²⁹² Farquhar further stated that Burns 'approached me after the first hearing and asked me for advice on some matters ... it was to do with THC content in various items; something to do with drug issues ...'.²⁹³ Later in evidence Farquhar said 'I remember that I had to go to the main office to do something or other and she walked up to me ... and said "Do you mind if I ask you a couple of questions, Mr Farquhar?".²⁹⁴ He said that he did not try to discourage Burns from writing a story.²⁹⁵

2.242 The Milner case was disposed of in Court No. 5, the Summons Court.²⁹⁶ As there was no sound recording equipment in that court, Mr P J Scanlon recorded the proceedings on a typewriter.²⁹⁷ Scanlon provided a statement to the Commission wherein he confirmed that the depositions of that day were a true and correct record. He confirmed that the answers made by him during a record of interview conducted by Abbott on 27 June 1979 were true and correct.²⁹⁸

2.243 Scanlon further confirmed that he had a conversation with Evans shortly prior to the taking of evidence wherein Evans said words to the effect of 'make sure you get everything I say down' [see paragraph 2.146].²⁹⁹

2.244 When giving evidence before the Commission Farquhar was questioned in detail as to why he dealt with charges which were indictable charges, summarily. He gave evidence that the prosecution had provided information which indicated that the drugs were 'basically worthless'.³⁰⁰ He recollected that the THC content, which he thought in that class of material was normally seven or eight per cent, was abnormally low and between one and two per cent.³⁰¹

2.245 Farquhar stated that the handling of a prosecution of that nature was in the hands of the prosecutor. He said that the remarks of Miles would have carried no weight whatsoever and that it was a matter for the prosecution to make an election as to the jurisdiction.³⁰²

2.246 Farquhar was asked whether he had 'a discretion to determine whether to deal with the matters summarily or not'. In reply Farquhar stated:

In most cases, no. I believe the prosecution bring charges. I have never been one to believe the bench has a duty to act inquisitorially and search out what they should do. I think my reputation on the bench was one that I dealt with the matter as it stood. I did turn my mind to what it might have been and if the prosecution presented an indictable offence I dealt with it in that fashion. If they handed me something and asked me to deal with it summarily, I did precisely that. I believe that is what occurred here. I had to satisfy myself that it did come within that category and I came to the view on what they told me it was one I should deal with, at their request, summarily.³⁰³

2.247 Farquhar further stated that he did not think that he had a discretion to deal with the matter in any other way in view of the way the facts were presented to him.³⁰⁴

2.248 In a letter dated 12 June 1979 from Mr C R Briese, Chairman of the Bench of Stipendiary Magistrates to the Under Secretary of Justice, Mr T W Haines, Briese wrote:

I cannot say what was in the mind of Mr. Farquhar when he agreed to deal with the charges summarily. As the law now stands it was legally permissible for him to deal with the charges summarily. However after consultation with my colleagues at Central Court I have to report that in our experience it is not

the practice, and never has been the practice, by any of the magistrates at Central Court to deal summarily with matters of this kind. There can be no doubt that matters of this kind should never be dealt with summarily for, even supposing the drug to have had little or no value - and that is not clear from the analyst's certificate in this case - as the prosecutor put it, one "cannot speak for the mind of any person so buying it".³⁰⁵

2.249 It should be noted that Briese omitted from this letter, any mention of the dinner held at Ryan's home or Farquhar's subsequent telephone call regarding it [see paragraph 2.222].

Conclusions

2.250 The Commission is disturbed by some facets of the Cessna/Milner case as listed below, which the Commission finds to be factual according to the civil standard of proof:

- 1(a) Ryan acted for Cessna although he did not appear in Court and his relationship with Cessna was not a proper relationship as between solicitor and client.
- (b) For some reason not disclosed by the evidence he was prepared to go to inordinate lengths to ensure his client was dealt with on a less serious charge than that which was originally preferred, including approaching the Police Commissioner (Wood) and the presiding magistrate (Farquhar), each of whom he knew, to achieve his aim.
- (c) He met the magistrate alone in Centennial Park at a time when the magistrate was dealing with criminal charges against his client Cessna and also Milner, knowing that the magistrate was to be the one who would sentence them, and gave a specious explanation for the meeting.
- (d) He invited his client Cessna to witness this meeting. There is a clear inference available (which is drawn) that Ryan did this in order to prove to Cessna that he indeed

knew the magistrate and was able to speak with him by arrangement.

- (e) Five days before the magistrate was due to deal finally with Cessna and Milner he had dinner with the magistrate, the Police Commissioner and others.
 - (f) He telephoned the magistrate on the occasions as described in this report and had conversations similar to those set out in this report. He telephoned the Police Commissioner on at least one occasion and saw the Commissioner at NSW Police Headquarters on the occasions described in this report.
 - (g) He telephoned his client Cessna and the other persons mentioned in this report on the occasions mentioned in this report and had conversations as set out.
 - (h) He approached Sergeant K E McDonald at the Waverley Police Station with Miles and endeavoured to have the charges of supplying Indian hemp against Cessna and Milner reduced from an indictable charge to a charge which could be dealt with summarily by a magistrate.
- 2(a) Wood intervened at the behest of Ryan and directed the Senior Police Prosecutor to ensure that the indictable charges against Cessna and Milner were dealt with summarily.
- (b) He knew that Farquhar intended to deal with the charges.
 - (c) He saw Ryan at Police Headquarters and spoke to him about the charges.
 - (d) He spoke to Ryan on the telephone on the occasion described in this report and had a conversation in similar terms to that set out in this report. On that occasion after asking where Ryan was telephoning from and being told by Ryan

that he was telephoning from his home telephone he hung up quickly, knowing that Ryan's telephone was the subject of an illegal interception and not wanting the conversation to be overheard.

(e) He had dinner with Ryan, Farquhar and others five days before Farquhar was due to deal finally with Cessna and Milner.

3(a) Farquhar met Ryan in Centennial Park knowing that Ryan was acting for Cessna in relation to criminal charges then being heard by himself and also gave a specious explanation of the meetings.

(b) He spoke with Ryan on the telephone at the times and in the circumstances described in this report and had conversations in similar terms to those set out.

(c) He had dinner with Ryan, Wood, Briese and others five days before he finally dealt with Cessna and Milner. He later telephoned Briese and asked him not to disclose the fact that the dinner had taken place.

(d) He asserted that he did not know on 15 May 1979, until a few minutes before he dealt with the charges that they were to be allocated to him for hearing. It is clear however that his intention to deal with the charges to finality himself dates at least from the time of the meeting in the park with Ryan.

(e) On any reasonable assessment, a magistrate acting bona fide would not have dealt with the charges summarily in view of the amount of the drug involved, whether or not there was actual evidence of distribution into the community.

2.251 The facts and circumstances surrounding this series of incidents discloses a possible criminal offence against a law of the State of New

South Wales. The possible criminal offence which in the opinion of the Commission is disclosed is one of conspiracy on the part of Ryan, Wood, Farquhar and possibly Miles, to pervert the course of justice. The Commission recommends that this report and all relevant documents including the photograph produced by Mr Greiner in the New South Wales Parliament (which the Commission finds is genuine) be forwarded to the New South Wales Solicitor-General and the New South Wales Commissioner of Police with a view to having them confer and consider whether such a charge (or any other criminal charge) should be preferred against any person.

Prosecution Proceedings Against Francis John Nugan.

2.252 Francis John Nugan achieved notoriety as a result of his activities in relation to the Nugan Hand group of companies [see report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group]. He was found dead in his motor vehicle near Lithgow on 28 January 1980 having taken his own life. Prior to his death, Nugan, with his brother Kenneth Lesley Nugan (now deceased) and other persons, had been the subject of prosecution proceedings brought by the Corporate Affairs Commission for offences of conspiracy to cheat and defraud in connection with the affairs of the Nugan Group Limited.

2.253 The transcript material in the possession of the Commission records a telephone conversation between Ryan and another person taken from a tape said to be for 19 March 1979 during which references are made to 'FRANK NUGAN' and court proceedings which were to conclude that day.³⁰⁶

2.254 The depositions for the abovementioned proceedings against Nugan and others in the Central Court of Petty Sessions show that the evidence in the matter was expected to conclude on 19 March 1979 but that it would be necessary to adjourn to take further evidence on 23 March 1979 before adjourning to 16 July 1979 for addresses of counsel on the question of whether there was a prima facie case.

2.255 A further reference to Nugan is made in the transcript of a conversation between Ryan and another person, described in the transcript as being taken from a tape cleared at 8.00 p.m. on 1 April 1979. Ryan is recorded as saying 'well I've just spent an interesting talk and I ah I've got a lot of news for that fellow NUGENT'.³⁰⁷ There are no other references directly or indirectly to the proceedings against Nugan at about that time.

2.256 In Volume TLB [see Volume One paragraph 6.3] the transcript material arising out of the subsequent period of the interception of Ryan's telephone conversations, reference is made in a conversation between Ryan and another person, said to be taken from a tape cleared on 7 February 1980, to 'that fellow shooting himself'³⁰⁸. The word '(NUGENT??)' has been typed next to this entry. As mentioned earlier, Nugan's body had been found on 27 January 1980 and the reference appears to be to him. Ryan is recorded as saying:

Is'nt it a funny thing. I said to him, you know put 8 up front and I said there'll be no way you'll get committed. And he said, you know the lawyers tell me there's no way I'll be committed anyway. He just did'nt believe .. And I said, the old story, ... the 8 does'nt go anywhere untill your not (committed), but he thought I was playing the con trick that he was'nt going to be because the barrister told him.³⁰⁹

2.257 An inference which may be drawn from the above entry and other entries not recorded in full here is that Ryan in 1979 had endeavoured to arrange the discharge of Nugan from the charges against him for the payment of money, but that eventually Nugan did not agree. The Commission does not recommend any further investigation because even if a criminal offence was committed, which is not at all certain, there would be little chance of assembling any evidence which would be admissible in a prosecution.

Bruce Emile Aitken

2.258 As described in Volume One, a matter designated for investigation by the Special Task Force of the NSW Police headed by Superintendent J M Pry as part of the Special Prosecutor's inquiry was the prosecution of a 'money courier'. This was a reference to

proceedings against Bruce Emile Aitken who had been arrested on 1 May 1980 and charged over the possession of \$60,000 and a quantity of Indian hemp. [For details of Pry's investigation see Volume One paragraphs 13.4-13.29.]

2.259 According to the BCI dossier on Aitken, in 1979 discreet inquiries had been made in Hong Kong, Aitken's place of residence, after his name came to the notice of the BCI during the investigation into Roy Bowers Cessna and Timothy Lycett Milner.³¹⁰ Aitken was alleged by police to be an associate of Cessna and another person, Dr Ted Krauss [see Volume One paragraph 8.48].

2.260 The BCI dossier contains an Information/Surveillance Report for 30 April 1980 prepared by Sergeant G R Owens which stated that observations of Aitken commenced at 7.00 a.m. on 30 April 1980. BCI surveillance officers later observed Aitken approach the front door of Ryan's premises and a few minutes later walk back to the letter box, before returning to the front door. He was then observed to drive away from the premises.

2.261 Throughout the evening of 30 April surveillance was maintained on Aitken and about 1.00 a.m. on 1 May 1980 he was arrested after his motor vehicle was stopped and searched. A bag containing \$60,000 was located in the boot. Subsequently a search of his premises revealed a small quantity of Indian hemp. He was later charged with 'goods in custody' in relation to the \$60,000 and with possession of Indian hemp.

2.262 Police gave evidence at the hearing of the 'goods in custody' charge that they typed a record of interview with Aitken after his arrest during which Aitken said that he had brought the sum of \$60,000 from Hong Kong into Australia to settle an account regarding an investment seminar conducted in Hong Kong. He said that the firm for which he worked, Compass Travel, obtained the funds from a foreign exchange company named Deak and Co in Hong Kong and that the money was to be paid to an Australian company named Econotec in Blich Street Sydney as part of their profit on the seminar. He nominated a Mr McGregor at Econotec as the person to whom the money was to be paid.

2.263 A statement was obtained by police from Mr McGregor who said he was the Managing Director of Econotec Australia Pty Ltd, a commodities broker and advisor. He said he had addressed two investment seminars in Hong Kong earlier in the year for which Aitken was to arrange some unspecified commission and that the money found in Aitken's possession could well have been payable to him.

2.264 At the hearing, two statements obtained by the Royal Hong Kong Police from Eugene R Hardman and Pong Shing-Chu were tendered by consent. The statement of Mr Hardman indicated that he was the Managing Director of Deak and Co, of which Compass Travel Ltd was a subsidiary. He said that Aitken had on occasions served as a general agent for both Deak and Co and Compass but he was not carrying out any business in Australia on behalf of Deak and Co or any of its subsidiaries. He said that he knew Mr McGregor of Econotec but that there was no debt owed to him or Econotec by Deak and Co in Hong Kong. Mr Pong said in his statement that he was employed by Deak and Co in Hong Kong and that on 14 or 15 April Aitken had taken delivery of \$60,000 at the offices of Deak and Co in Hong Kong, drawn apparently from an agency account in Macau.³¹¹

2.265 The hearing of the charge of 'goods in custody' relating to the money took place on 4 June 1980 at the Court of Petty Sessions, Sydney, before Mr Power SM who dismissed the charge. In his judgment the magistrate did say that Aitken was obviously in Australia to buy drugs but that the police had moved in too quickly before any offence was committed. The magistrate did not accept the allegations of the prosecution that the money had been in Aitken's possession as a result of drug transactions, in the light of the documentary evidence from Hong Kong as to the origin of the cash.

2.266 The charge of possession of Indian hemp was heard on the following day, 5 June 1980, at Central Court of Petty Sessions before Mr Waller SM who fined Aitken \$800. An appeal to the District Court was lodged against the severity of the sentence and on 10 October Judge Smith dismissed the appeal but without proceeding to a conviction released

Aitken pursuant to the provisions of section 556A of the Crimes Act. Aitken's explanation was that the drug belonged to a female he had met in a hotel at Neutral Bay who had left it in his premises.

2.267 There are several references to Aitken and his arrest in entries in the summary material prepared by Sergeant B R McVicar.³¹² Due to the unreliable nature of this material, the Commission does not propose to set out the relevant entries here [see Volume One paragraph 14.72].

2.268 The Commission has in its possession three cassette tapes being copies made by the AFP from the tapes supplied to the Special Prosecutor by the editor of the Age newspaper [see Volume One paragraph 1.28]. The Commission also has in its possession Volume T1D which is a transcript of the conversations contained on these tapes as prepared by the AFP and amended by the Commission [see Volume One paragraph 6.3]. The second of these tapes, and the resulting transcript, contains a conversation between Ryan and a person who is probably Christopher Murphy, a Sydney solicitor, relating to the Aitken matter.³¹³

2.269 Ryan is recorded in the transcript of the conversation as telling the person thought to be Murphy that he would give him 'a thousand on account'. Murphy said 'has he got his passport back 'cause I heaved the young bloke who had him' and told Ryan that he had learnt from a contact that 'they've been following him for three weeks'.³¹⁴ During the conversation Ryan made reference to the fact that Mr McGregor could not be called before the hearing and they proceeded to discuss the lack of merit in the prosecution case. Ryan also referred to Aitken's difficulties with his employers and said 'but of course he has got a good answer to them well we deal in currency we buy up currency and we off load it and do all that sort of thing - it raises eyebrows'.³¹⁵ There is no specific reference to the origin of the money found in Aitken's possession.

2.270 The tape also records a conversation between Ryan and a person with an American accent. From the text of the conversation and a subsequent conversation between Ryan and the same person, it is clear

that the person with whom Ryan is recorded as speaking to on the tape is Aitken. During the conversation Aitken asked Ryan to ring Mr Hardman in Hong Kong. Ryan and Aitken discussed the case against Aitken, and Ryan appeared to suggest that Aitken should state that the Indian hemp was left at his premises by somebody who had been there the night before. Ryan also referred to the fact that Mr McGregor could not be called to give evidence at the trial. Ryan then advised Aitken at some length that on the next occasion he should use a bank vault in which to secure the money 'for the reason that you'll wake up in the morning with it gone and find great difficulty in lodging the right complaint'.³¹⁶

2.271 The next conversation on the same tape is a conversation between Ryan and probably the solicitor Murphy during which reference is again made to the proceedings against Aitken. Ryan asked the person thought to be Murphy whether any indication had been given that a plea of guilty would be entered to the charge relating to the Indian hemp and then said, 'I can indicate that we don't know how it got there and that we're exploring the avenue that it may have been a plant'.³¹⁷ Ryan also referred to the fact that he had spoken to the solicitor who acted for Mr McGregor of Econotec 'who will agree' that the money came 'not just from the seminar but from work arising out of the seminar'.³¹⁸

2.272 The next conversation recorded on the tape also appears to be between Morgan Ryan and Aitken. Aitken indicated that he intended telling his employers that the Indian hemp had been left at his premises because he refused to cooperate with persons concerning shares, a proposal with which Ryan agreed.³¹⁹ The precise details of the proposal are unclear from the recorded conversation.

2.273 Ryan was questioned about his involvement with Aitken when he appeared before the Commission on 2 December 1985. He indicated that the name of Aitken was vaguely familiar to him as a person for whom he had acted professionally although his recollection was that he had referred Aitken on to another firm, for a reason that he could not recall.³²⁰ He said that he had no recollection of any of the telephone conversations which are referred to in the entries mentioned above.³²¹

2.274 The conversations recorded on the tape and transcribed in Volume T1D indicate the possibility of criminal offences. Whether the magistrate was correct in his observation that Aitken was obviously in Australia to buy drugs is not further resolved by any information contained in the material. It is probable, however, judging from the advice Ryan gave Aitken about using a bank vault in the future because it would be impossible to make a legitimate complaint in the event of theft [see paragraph 2.270], that the money in Aitken's possession was of unlawful origin or for an unlawful purpose.

2.275 The conversations indicate that Ryan had influenced Mr McGregor, through his solicitor, to make a false statement [see paragraphs 2.263-2.264, 2.269-2.271]. The statement provided by McGregor for the prosecution of Aitken is certainly implausible and would seem to have been drafted with the intention of assisting Aitken in deceiving the court as to the purpose of Aitken's possession of the money. Ryan also appears to have encouraged Aitken to give a false explanation for his possession of the Indian hemp, and accordingly it is possible that the material discloses criminal offences by Ryan and others of conspiring to pervert the course of justice. It must be acknowledged, however, that there is little likelihood of advancing the matter further due to the absence of Aitken from Australia and the reluctance of Ryan to cooperate with authorities. The Commission therefore recommends that further investigation is not warranted.

Breaches of Migration Act 1958

2.276 The material available to the Commission resulting from the interception of Ryan's telephone conversations discloses a considerable number of communications between Ryan and others relating to applications by persons of Asian nationalities for residence in Australia.

2.277 Section 6 of the Migration Act 1958 provides for the issue of entry permits either before or after an immigrant enters Australia. Officers of the Department of Immigration and Ethnic Affairs under that section are able to grant to immigrants permanent resident status by issuing indefinite entry permits.

2.278 According to the material, Ryan was in regular contact by telephone with John Yuen in relation to immigration applications.³²² Reference to Yuen has been made earlier in relation to possible gambling offences [see paragraphs 2.17, 2.31-2.42]. On 10 July 1981 Yuen appeared before his Honour Judge J M Foord in the District Court of New South Wales and was fined \$400 on each of eight counts of conspiring to effect a lawful purpose by means that were unlawful under a law of the Commonwealth contrary to the provisions of section 86(1)(d) of the Crimes Act 1914.

2.279 The facts given to the court alleged that Chinese immigrants employed in a Parramatta restaurant were assisted by Yuen in applications for permanent resident status by means of supplying false employment histories and bogus employment references to the Department. It was alleged that Yuen was paid \$5000 for his services in each instance, \$2000 being payable upon the application being lodged, \$2000 being payable upon a medical examination and the remaining \$1000 being payable upon the successful completion of the application.³²³

2.280 The entries in the material also reveal that in relation to immigration matters Ryan regularly spoke by telephone with Mr William Jansing Lee, a Sydney barrister.³²⁴ Lee was arrested on 5 May 1980 and charged with a similar offence of conspiracy under section 86(1)(d) of the Crimes Act. He was discharged by Mr Flynn, SM, on 30 November 1980 on the basis that the evidence did not warrant Lee and his co-defendant, Theo Chew, being committed for trial. The allegations against Lee were similar to those against Yuen and related to applications lodged with the Department of Immigration and Ethnic Affairs on behalf of Chinese immigrants, employed in the same Parramatta restaurant, for whom false employment documents were produced to the Department. The charge against Lee alleged that he had conspired with Robert Charles England, who at the relevant time was an officer of the Department of Immigration and Ethnic Affairs. England's name appears from time to time in the entries in the material.³²⁵

2.281 Ryan himself was arrested in 1981 and charged with an offence of conspiring to effect a lawful purpose by means that were unlawful under a

law of the Commonwealth, contrary to the provisions of section 86(1)(d) of the Crimes Act 1914. He was eventually convicted in the District Court of New South Wales on 2 August 1983 and was subsequently fined \$400 and released upon a recognisance to be of good behaviour for a period of five years. An appeal against this conviction was upheld in the Court of Criminal Appeal in 1984 and a new trial ordered. A date is yet to be fixed for the retrial. The Crown case against Ryan was that he conspired with James Alan Francis Mason (referred to previously in relation to gambling offences [see paragraphs 2.2-2.6]) and David Young Choi to achieve permanent resident status for Korean immigrants by producing bogus letters of employment to the Department of Immigration and Ethnic Affairs.³²⁶

2.282 In the prosecution of Ryan evidence was adduced which was obtained as a result of information passed to the AFP by the TSU. The relationship between Sergeant [REDACTED] of the TSU and Inspector P J Lamb of B Division of the AFP is referred to in Volume One [see paragraphs 10.4-10.20].

2.283 On 5 March 1980 [REDACTED] urgently requested a meeting with Lamb. The meeting was held at the Commodore Hotel in Blues Point Road, McMahons Point and was attended by Lamb and Sergeant B J Carter of B Division and [REDACTED] Sergeants R Kilburn and G P Smith of the TSU.³²⁷ At that meeting it would appear that [REDACTED] gave Lamb a one page document headed 'From a reliable source'.³²⁸

2.284 The document stated that Ryan was concerned about documents relating to immigration matters and referred to a proposed meeting at 5.30 p.m. that day between Ryan and Choi to go over 'working references'.³²⁹ Lamb then made arrangements for physical surveillance of Ryan to commence at 5.00 p.m. that evening. The surveillance team observed Ryan and Choi examining documents in a penthouse of a building at [REDACTED]. The documents were later recovered by police from a garbage bin at the premises and were found to include material relating to immigration matters. Evidence of the meeting and the documents recovered was adduced in the prosecution proceedings against Ryan.

2.285 AFP records of information obtained by Lamb from [REDACTED] include references to conversations not referred to in the tapes and transcripts held by the Commission. Most of these conversations relate to Ryan's activities in relation to immigration matters.

2.286 The material provided to the Commission records a number of telephone conversations between Ryan and Choi and Ryan and Mason relating to immigration matters.³³⁰ The material also reveals a number of communications between immigration officers, notably Gary Boyd and Robert England.³³¹ In a number of ways the entries in the material recording Ryan's communications with these and other persons indicate participation by Ryan in offences relating to applications by immigrants to the Department of Immigration and Ethnic Affairs.

2.287 According to the entries in the material Ryan spoke by telephone with Gary Boyd with regard to many of the immigration matters in which Ryan was apparently concerned. As mentioned earlier [paragraphs 2.8-2.9, 2.12, 2.24], many of the telephone communications between Ryan and Boyd appeared to relate to gambling activities. The entries also show that on many occasions Ryan and Boyd telephoned each other at home and spoke in circumstances of informality which were inconsistent with Ryan acting professionally as a solicitor, or Boyd acting in his official capacity as an officer of the Department. An indication of impropriety is that the entries show that when Ryan telephoned Boyd in his office in the Department and had cause to identify himself or to leave a message he called himself 'Jim Brown'.³³² The material also contains a reference to Boyd receiving money from Ryan with respect to the approval of applications for permanent resident status.³³³

2.288 The lack of bona fides in Ryan's involvement in immigration matters is also illustrated by entries which attribute to Ryan statements which suggest that if an immigrant had a genuine basis for an application to the Department, Ryan felt that his ability to demand excessive payment for his services would be curtailed.³³⁴

2.289 There are also indications of an improper relationship between Ryan and Robert England who was an immigration officer at the time.³³⁵

2.290 The period covered by the entries in the summary material in Volume TLC includes 5 May 1980, the date of the arrest of William Lee. According to the entries Lee's arrest was of great concern to Ryan.³³⁶

2.291 The specific cases of applications by immigrants with which Ryan and the others were concerned, as revealed by the material, are too numerous to refer to in detail. While the transcript material gives grounds for serious concern about all applications being processed by Ryan and his associates, it is by no means clear that all of the cases referred to in the material involved criminal offences. Clearly an investigation needs to be carried out in order to ascertain whether offences were involved.

2.292 The material also contains a number of entries which refer to activities of Ryan which may be connected with the allegations in the Crown case in the proceedings against him. It is not appropriate to canvass these matters in detail when the proceedings have yet to be determined, but reference is made to the following entries in the transcript material, without comment:

- a) the various entries relating to communications with James Alan Francis Mason [see paragraph 2.286];
- b) the various entries relating to communications with David Young Choi [see paragraph 2.286];
- c) communications with Victor Bogan;³³⁷
- d) communications with Martin Hobbs³³⁸;
- e) communications with Chicka Pearson³³⁹; and
- f) a conversation with John Yuen referring to references being typed on a disused typewriter.³⁴⁰

2.293 Other references to telephone conversations involving Ryan's activities in relation to immigration matters are to be found in the notes and information reports contained within the operation 'Trident' file held by the AFP.³⁴¹

2.294 The Commission is of the view that there is a basis for finding that Ryan, William Lee, John Yuen, Brian Boyd, Gary Boyd and Robert England may have been involved in possible offences against the Migration Act 1958 by misleading officers of the Department of Immigration and Ethnic Affairs, and against the Crimes Act 1914 of forging and uttering documents and of conspiring contrary to section 86 of the Crimes Act to effect a lawful purpose by means that are unlawful under laws of the Commonwealth.

2.295 The Commission recommends that it would be appropriate if all the material relating to Ryan were to be examined for entries relating to other conversations which may be relevant to the Crown case against Ryan.

Attempt to Interfere in an AFP Investigation

2.296 Volume One of this report deals with the involvement of the AFP in the illegal interception of telephone conversations carried out by members of the TSU [see paragraphs 10.4-10.20]. Those paragraphs describe meetings between Inspector P J Lamb of B Division of the AFP and Sergeants D L Lewington and R A Jones of the AFP which occurred early in 1981.

2.297 Lewington stated in a recorded interview with Superintendent A Brown of the AFP conducted on 22 February 1984 that during one of his attendances at B Division he was played a tape of what he believed to be a telephone conversation between Ryan and Mr Justice L K Murphy although he could not positively identify the latter. During that conversation, according to Lewington, Ryan inquired whether Murphy had been able to find out whether Lewington and Jones were approachable. Lewington and Jones were then conducting an inquiry into an alleged immigration conspiracy involving Ryan. According to Lewington, Murphy replied that they were not approachable as 'they were both very straight'.³⁴²

2.298 According to Lewington, in July 1981 he was approached by two members of the NSW Police and 'an offer was made to (him) in the terms of it would be worth (his) while to drop the charges or make the charges less severe against Morgan Ryan'.³⁴³ The matter was reported by Lewington and after an investigation by the NSW Police Internal Affairs Branch, the two police officers involved were the subject of disciplinary action which the Commission considers to have been surprisingly lenient under the circumstances.³⁴⁴

2.299 Lewington's recollection of the conversation he said he had heard between Ryan and the person he believed to be Murphy, was not corroborated in any material particular by other persons or by material held by the Commission.

2.300 Put at its highest it could be that Ryan sought from Murphy information as to whether police officers who were investigating his part in an alleged conspiracy could be corrupted to act otherwise than in accordance with their duties and that Murphy advised Ryan that they could not. Such a conversation does not of itself constitute an offence by either party. It may well be that an offence was committed by the NSW Police officers but there is nothing to connect that with the conversations recorded in the material before the Commission except the suspicions of Lewington.

2.301 This matter was put to Mr Justice Murphy in the Commission's letter to him of 25 March 1986.³⁴⁵ For the reasons set out previously Mr Justice Murphy was not called to give evidence to the Commission and declined to respond to the matters raised in the Commission's letter [see paragraph 2.43].

2.302 The material held by the Commission relating to this matter has been brought to the attention of the Director of Public Prosecutions.

2.303 The Commission recommends that the New South Wales Commissioner of Police examine the question of whether any criminal charge can be preferred against the two NSW Police officers who approached Lewington with a view to having him drop or lessen the charges against Ryan. This

Commission is aware of material, which was earlier passed to the National Crime Authority by the Police Commissioner which indicates that there were good grounds for investigation of these police officers' actions.

Endnotes

- 1 T1A/37
- 2 TI363 folio 61
- 3 T1A/39
- 4 TI296 Part 1 folio 18
- 5 T1A/11, 15
- 6 T1A/15
- 7 TI363 folio 61
- 8 T1A/19
- 9 TI363 folio 61
- 10 TI296 Part 2 folios 200, 203, 211, 215
- 11 T1A/19
- 12 T1A/45
- 13 T1A/91
- 14 TI363 folio 60
- 15 T1A/91
- 16 T1A/96
- 17 TI363 folio 61
- 18 TI296 Part 2 folios 153, 200, 202, 215
- 19 T1A/96-99
- 20 T1A/100-01
- 21 T1A/102
- 22 T1B/106-155
- 23 T1A/11, T1A/15
- 24 T1A/12, 39, 96, 97, 98
- 25 T1A/99
- 26 T1A/36
- 27 ibid
- 28 ibid
- 29 T1A/53
- 30 TI363 folio 60
- 31 T1A/53
- 32 T1A/61
- 33 T1A/96
- 34 T1A/98
- 35 T1A/102
- 36 ibid
- 37 T1A/104
- 38 TI363 folio 61
- 39 TI363 folios 75, 84
- 40 T1A/40
- 41 T1A/53
- 42 T1A/54
- 43 T1A/54-55

44 TLA/80, TLA/82
45 TLA/97
46 TLA/98
47 TI363 folio 61
48 TLA/55, 58, 62, 72, 79-81, 84
49 TLA/91
50 ibid
51 TI363 folio 56
52 TLA/92
53 TLA/92
54 TI399 folio 14
55 E3970, Ryan
56 TLA/99
57 TI363 folio 61
58 TLA/100
59 TLA/100-01
60 TLA/101
60a Australian, 11 February 1980; Sydney Morning Herald, 11 February
1980; Sun-Herald, 10 February 1980; National Times, 17-23
February 1984
60b National Times 17-23 February 1984
61 TIC/156-99
62 TIC/159
63 TIC/162, TIC/164
64 TI290 Part 2 folios 24-26
65 T1B/121
66 TI294 Part 1 folios 186-88, 199
67 TI270
68 T1B/124
69 T1B/126
70 T1B/130
71 TI363 folio 114
72 T1B/126-32
73 T1B/139-40, 147
74 T1B/139
75 E3332, Hameiri
76 ibid
77 E3307, Saffron
78 T1B/126
79 E3258-64, Ryan
80 TI69 Part 1 Attachments 19 and 26
81 TLA/22
82 E3944a, Ryan
83 TLA/22
84 TLA/40
85 TLA/47
86 TLA/48
87 E3943, Ryan
88 E3944a, Ryan
89 TI296 Part 2 folio 166
90 TI296 Part 2 folio 154
91 TIC/167, 169, 170, 174
92 S851-53, Morris
93 TIC/168, 170
94 TIC/170

95 ibid
96 ibid
97 E852, Egge
98 S851, Morris
99 S852-53, Morris
100 S855, Morris
101 S856, Morris
102 S856-57, Morris
103 S864, Morris
104 S861, S863, Morris
105 ibid
106 S863, Morris
107 E3954-55, Ryan
108 E3956, Ryan
109 TI290
110 TI288
111 TI288 folios 30, 31
112 ibid
113 TI288 folio 21
114 TI290
115 ibid
116 ibid
117 TLC/161-64, 166, 169, 176
118 TLC/162
119 TI296 Part 2 folio 182
120 E2283, Francisco
121 E3690, E3961, Ryan
122 E3962, Ryan
123 E3313, Saffron
124 E3314, Saffron
125 Ss342, Egge
126 E843-848, Egge
127 E845, Egge
128 E1709-10, Morrison
129 E1710, Morrison
130 E2627-30, Blissett
131 E2628, Blissett
132 TI7 folios 244 and 260
133 TI7 folios 207-17
134 TI7 folio 210
135 TI7 folios 220-32
136 TI7 folios 244-46, 260-62
137 TI7 folios 235-38
138 TI7 folios 1-2
139 ibid
140 TI7 folios 88-182, 185-97
141 TI7 folios 168-69, 157-66
142 TI7 folio 168
143 TI7 folio 158
144 TI7 folio 159
145 TI7 folios 99-104
146 TI7 folios 191-97
147 TI7 folio 103
148 ibid
149 TI7 folio 105

150 TI7 folio 192
151 TI7 folios 103, 118, 161
152 TI7 folios 103, 118-19
153 TI7 folios 119, 162, 177
154 TI7 folio 177
155 TI7 folio 106
156 TI7 folios 306, 308
157 TI7 folio 152
158 TI7 folio 178
159 ibid
160 TI7 folios 152, 136-37, 284-85
161 TI7 folio 117
162 TI7 folio 137
163 TI7 folios 137, 179, 285, 302
164 TI7 folios 119, 137, 285
165 TI7 folios 138, 285-86
166 TI7 folios 119, 138, 285-86
167 TI7 folio 185-86
168 TI7 folio 138
169 TI7 folios 260-61
170 TI7 folio 143
171 TI7 folio 138
172 TI7 folios 139, 284-7
173 TI7 folio 140
174 TI7 folio 140, 291-92
175 TI7 folios 140-1, 294-95
176 TI7 folios 141, 175
177 TI7 folios 75-7
178 TI7 folio 1
179 TI7 folio 2
180 TI396
181 TI374 Parts 1 and 2
182 TI7 folios 2-7
183 TI7 folios 3-5
184 TI242
185 TI155 Part 3
186 TI155 folio 40
187 ibid folio 31
188 E1240, Owens
189 E1198-9, Ogg; E1240, Owens
190 TI363 folio 99
191 T1A/8
192 T1A/8
193 T1A/16
194 E3241a, Ryan
195 E3242, Ryan
196 T1A/16
197 TI363 folio 99
198 T1A/16
199 ibid
200 ibid
201 T1A/18
202 ibid
203 T1A/1
204 TI391

205 T1A/19
206 T1A/42
207 T1A/43
208 T1A/44
209 T1A/51-2
210 T1A/52
211 E3392-3, Farquhar
212 T1A/54
213 ibid
214 TI363 folio 99
215 T1A/54
216 E769, Ss198, Anderson; E791, Rudd
217 E791-92, Rudd; E769-71, Anderson
218 E792, Rudd
219 E770-1, Anderson
220 E792, Rudd; E770-1, Anderson
221 E772, Anderson
222 E792-3, Rudd
223 E772, Anderson; E793, Rudd
224 E772-3, Anderson; E793, Rudd; E1857, Palmer; E1946-7, Jones;
TI155 Part 3
225 E1778, Shaw; E2376, Abbott
226 TI155 Part 3 folio 30
227 TI155 Part 3 folio 29
228 TI155 Part 3 folios 10-11
229 E3973-4, Ryan
230 E3393, Farquhar
231 E3393, Farquhar
232 E3394-94a, Farquhar
233 T1A/63
234 T1A/64
235 T1A/85
236 ibid
237 ibid
238 TI363 folio 99
239 T1A/85
240 ibid
241 TI324; TI336 folio 1
242 E3970-2, Ryan
243 E2412, Wood
244 E2413, Wood
245 T1A/89
246 E3970, Ryan
247 TI296 Part 1 folio 97
248 TI363 folio 136
249 T1A/95
250 T1A/99
251 E3395, Farquhar
252 T1A/103
253 E3391, Farquhar
254 E3395-6, Farquhar
255 TI7 folio 178
256 E2415, Wood
257 E2413-4, Wood
258 E2414, Wood

259 T1A/105
260 E579-80, Johnson; E1117, Schuberg; E1205, Ogg; E2605, [REDACTED]
261 E2605, [REDACTED]
262 E579-80, Johnson
263 E2407-8, Wood
264 TI324; TI336 folio 2
265 TI324; TI336 folio 4
266 E2430, Wood
267 TI383 folio 66
268 TI7 folio 178
269 E2415, Wood
270 E2416, Wood
271 TI7 folio 178
272 E3349-50, Fryer
273 TI7 folio 302
274 E3350, Fryer
275 E3351, Fryer
276 E3351-2, Fryer
277 E3351a, Fryer
278 E3366, Farquhar
279 TI7 folio 105
280 E3400-1, Farquhar
281 TI7 folios 50, 137, 153, 284, 306, 308
282 S1108-09, Berman
283 ibid
284 S1109, Berman
285 ibid
286 TI364 folio 1
287 TI364 folio 2
288 ibid
289 TI364 folios 2-3
290 TI364 folio 3
291 TI364 folio 4
292 E3406, Farquhar
293 E3402, Farquhar
294 E3406, Farquhar
295 E3405, Farquhar
296 TI7 folios 119, 138, 185
297 TI7 folios 185, 186-90; TI330
298 TI330 folios 1-2
299 TI330 folio 2; TI7 folio 186
300 E3365a, E3374, Farquhar
301 E3365a, E3371, Farquhar
302 E3376, Farquhar
303 E3378, Farquhar
304 ibid
305 TI404 folio 2
306 T1A/23
307 T1A/61
308 T1B/124
309 T1B/124-25
310 TI316
311 ibid
312 T1C/192, 194, 195, 196
313 T1D/264-73

314 T1D/264
315 T1D/268
316 T1D/274-78, 286, 287
317 T1D/292
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321 E3246-3251, 3254-3256, Ryan
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323 T1351
324 T1A/57-58, 64
325 T1A/20, T1C/167, 171, 182
326 T169 Part 1 folio 165
327 T1205
328 T1212
329 ibid
330 T1C/169, 171, 177, 185, 186, 192
331 T1C/177, 181, 183; T1A/13, 19, 74
332 T1A/78, T1C/163, 171, 172, 175, 182, 194, 197
333 T1A/19
334 T1A/19, 59
335 T1C/167, 168, 169, 170, 177
336 T1C/196, 197, 198, 199
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338 T1C/192
339 T1B/106, T1C/192
340 T1C/194
341 T1212
342 T1226, T169 Part 1 folio 159
343 T1226
344 T1148
345 T1399 folio 1



ROYAL COMMISSION OF INQUIRY INTO ALLEGED TELEPHONE INTERCEPTIONS

Commissioner: THE HON. MR JUSTICE D. G. STEWART
Acting Secretary: K. E. RANDBY

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25 March 1986

PRIVATE AND CONFIDENTIAL

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

Dear Judge,

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

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

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

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

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

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

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

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

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

Yours sincerely,



Mr Justice Stewart

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

SCHEDULE

Item 1:

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

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

Item 2:

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

Item 3:

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

Item 4:

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

Item 5:

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

Item 6:

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

Item 7:

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

That's fine