

**IN-CONFIDENCE**

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

**FILE No.**

CS7

ARCHIVAL ACTION

FORMER PAPERS

## LATER PAPERS

TITLE **ACCUSATIONS AGAINST AND  
LETTERS OF SUPPORT RE MURPHY. J.**

## Related Papers

[illegible]

FILE NO.

RECEIVED 28 AUG 1986

25.8.86

The Secretary  
Parliamentary Commissioner of Inquiry  
8th Floor ADC House  
99 Elizabeth St Sydney 2000

Dear Sir

Would you please advise receipt (or otherwise) of my  
Certified Mail H394132 forwarded to you from the Biddale P.O  
on 28.7.86.

If the letter was received could you please advise  
if the contents were (1) seen by the Special Judges  
(2) copies given to Mr. Justice Lionel Murphy and/or  
his legal representatives.

(3) if the legislation now before Parliament  
- publication of matters before the Commissioner - apply to these documents.

Thanking you

~~Mr. Ross~~

~~Prior papers to me please~~

~~25.  
28/8~~

~~Mr. Sweeney~~

Perhaps you would have  
a chance to deal with  
this? I think we have replied  
Thanks

25.8.86

NFA

~~Mr. Sheenan~~

~~25.  
31/8~~

Previous papers are turned  
up hereunder. Our ack, would  
have crossed this letter. I am  
inclined to not reply to this  
one. For decision

25.8.86



Mr S V Franks  


Dear Mr Franks,

This is to acknowledge receipt of your letter of August 1986.

Yours sincerely,

J F Thomson  
Secretary

21 August 1986



August 8, 1986

Sir George Lush,  
President,  
Commission Concerning Justice Lionel Murphy,  
Care Australian Attorney General,  
SYDNEY. N.S.W.

Dear Sir George Lush,

I enclose copies of material which, to an ordinary fair minded person which, at the risk of being proved otherwise, I claim to be, establish that, as Australian Attorney General, Lionel Murphy compromised the integrity of the office.

A copy of a press clipping, making public his stated intention arising from the Port Hedland Viscount crash, is enclosed. A Perth newspaper included this clipping with others in response to my request for whatever information it had published about the crash. I would not otherwise have known of his intrusion into the matter. At the time of receiving the clipping, I saw it only as a reason to admire his motivation.

On reading the clipping again a considerable time later, I realised that I had not read or heard of any action taken by him in pursuit of his stated intention. This led to my correspondence with the office of the Australian Attorney General.

The Attorney General's letter dated 9 March 1982 states that there was no reference to the Port Hedland crash in any of the letters from his office. But I had asked Lionel Murphy what he had done in pursuit of his stated intention and about nothing else.

Instead of answering my question he substituted another which I had not asked and gave an answer which was false when applied to the circumstances of the Port Hedland crash.

I am enclosing a considerable amount of material which records a long pursuit of matters which have involved, on at least two occasions, the destruction of the administration of justice. Much more material has arisen from the pursuit.

While the illness of Lionel Murphy seems likely to terminate the purpose of your Commission, you and your brother Commissioners will continue as citizens with the responsibility which citizenship imposes on all of us. You have public voices and I appeal to you to ensure that, in some way or other, the contents of these papers are made known to the conscience of the community. I have been left with no confidence that anything addressed elsewhere will meet with other than the wall of silence, evasion and downright lying which I have encountered to this point.

As it is possible that your Commission will have dispersed by the time you receive this material, copies have been addressed individually to Sir Richard Blackburn and Mr. Andrew Wells.



S.V. Franks. Enclosures.

*in search to see  
his Boss to file*



# Air Crash Insurance Attacked

CANBERRA, Sun: Dependants of air-crash victims, such as those of the recent Port Hedland disaster, received inadequate compensation, the opposition leader in the Senate, Senator Murphy, said yesterday.

He was referring to Federal and State laws which limit the amount of compensation paid by airline companies to the victims of air crashes and their families to \$15,000.

Though under laws passed by the Commonwealth and States in 1959, negligence did not have to be proved for victims to receive compensation, the law still applied when negligence had been shown.

"It was unfair that road accident victims could claim unlimited compensation that often reached \$100,000," he said.

"What redress is \$15,000 to a young widowed mother whose late husband had reasonable expectations of earning \$200,000 in his lifetime?"

Senator Murphy said he was not making any suggestion about negligence in the Port Hedland crash.

But the compensation was clearly insufficient.

Before the 1959 law there had been no limit on the liability of airline companies in such disasters.

The Labor Party would move in the first session of Federal parliament for the suspension of the 1959 Federal law where negligence could be proved.

[REDACTED]  
Telephone [REDACTED]

The Australian Attorney General,  
CANBERRA. A.C.T. 2600

18 DEC - 1981

Dear Sir,

The following correspondence was exchanged with the office of the Australian Attorney General when this office was held by Senator (now Justice) Murphy.

Letter to Senator Murphy - 6.3.74

"Early in 1969 you stated that you would introduce into the Senate legislation to bring damages arising from air accidents into line with damages arising from road accidents.

I would appreciate your advice regarding the outcome of any action taken by you in this regard. "

Letter from Senator Murphy - 29.6.74

"I refer to your letter dated 6 March 1974 in which you inquired what action is being taken by the Australian Government to bring damages arising from air accidents into line with damages arising from road accidents.

Limitation of liability of air carriers in respect of international flights is the subject of international agreements to which Australia is a party. The limits of liability applicable to international flights were substantially up-dated by the 1971 Guatemala Convention but this Convention is not yet in force.

The Australian Government has under active consideration the question of establishing more appropriate limits of liability both for domestic and international air carriage. "

Letter to Senator Murphy - 23.9.74

"Your letter dated 29.6.74 has been received. It does not answer the question asked in my letter dated 6.3.74.

When you made your statement early in 1969 that you would introduce legislation into the Senate regarding liability in air accidents, you stated that your intention arose from the Port Hedland crash.

At the same time, you stated that there was no reason to suspect negligence as the cause of the crash. You later knew, on the authority of your colleague Mr. Jones, (then Shadow Minister for Civil Aviation in your Party) that the crash had resulted from practice incapable of lawful explanation.



Nothing further was heard of your intention to introduce legislation regarding air accident liability into the Senate. My question was whether you took any action in pursuit of your stated intention.

Your further advice on the question asked would be appreciated."

Letter from Senator Murphy Office - A.C.C. Menzies - 21.10.74

"The Attorney-General has requested me to reply on his behalf to your letter dated 23.9.74 concerning liability for air accidents.

The question of the basis and the rules for determining liability for air carriers in respect of accidents is being kept under consideration by the Australian Government and you can be assured that your comments will be kept in mind in that connexion."

The statements regarding compensation payable to dependents of air crash victims were false as far as they concerned the Port Hedland crash.

Yours faithfully,

S.V. FRANKS

Copies to:     The Prime Minister, Parliament House, Canberra.  
                  The Minister for Veterans' Affairs, Parliament House, Canberra.  
                  The Minister for Communications, Parliament House, Canberra.  
                  Senator Peter Rae, Parliament House, Canberra.  
                  Senator Andrew Thomas, Parliament House, Canberra.  
                  The Premier of South Australia, Parliament House, Adelaide.  
                  Mr. R. Glazbrook, M.P., Parliament House, Adelaide.  
                  Chairman, Commonwealth Public Service Board, Canberra.



ATTORNEY GENERAL  
CANBERRA

23 JUN 1974

Dear Mr. Franks,

I refer to your letter dated 6 March 1974 in which you inquired what action is being taken by the Australian Government to bring damages arising from air accidents into line with damages arising from road accidents.

Limitation of liability of air carriers in respect of international flights is the subject of international agreements to which Australia is a party. The limits of liability applicable to international flights were substantially up-dated by the 1971 Guatemala Convention but this Convention is not yet in force.

The Australian Government has under active consideration the question of establishing more appropriate limits of liability both for domestic and international air carriage.

Yours sincerely,

A large black rectangular redaction box covering the signature area.

LIONEL MURPHY  
Attorney-General of Australia

Mr. S. V. Franks,

A large black rectangular redaction box covering the address area.





ATTORNEY-GENERAL'S DEPARTMENT

TELEPHONE 61 9111

TELEGRAPHIC ADDRESS:  
COMATTGEN, CANBERRA

CANBERRA, A.C.T. 2600

IN REPLY PLEASE QUOTE No. 74/3231

21 October 1974

Dear Mr. Franks,

The Attorney-General has requested me to reply on his behalf to your letter dated 23 September 1974 concerning liability for air accidents.

The question of the basis and the rules for determining liability for air carriers in respect of accidents is being kept under consideration by the Australian Government and you can be assured that your comments will be kept in mind in that connexion.

Yours sincerely,

[REDACTED]  
(A.C.C. MENZIES)  
for Secretary.

Mr. S.V. Franks  
[REDACTED]



## ATTORNEY-GENERAL'S DEPARTMENT

TEL: 619111

CANBERRA, A.C.T. 2600

PLEASE QUOTE CS/82/88

YOUR REF:

9<sup>th</sup> March 1982

Mr S.V. Franks,  
[REDACTED]

Dear Mr Franks,

I refer to your letter of 18 December 1981 to the Attorney-General, to which this Department has been asked to reply on the Attorney-General's behalf.

2. In your letter you quote passages from correspondence which in 1974 passed between yourself, on the one hand, and the then Attorney-General and this Department on the other. The subject of the correspondence, first raised by you on 6 March 1974, was the possible revision of the level of damages in relation to air accidents.

3. In your letter of 23 September 1974 you referred to an air accident at Port Hedland, and in your letter under reply you state 'the statements regarding compensation payable to dependents of air crash victims were false as far as they concerned the Port Hedland crash'.

4. I point out that there are no statements by the then Attorney-General or this Department concerning an accident at Port Hedland in the correspondence quoted in your letter, the sole question being liability limits of general application. The question of revision of liability limits in relation to air accidents (which is a matter in the first instance for the Minister for Transport and his Department) is one of general principle and does not, so far as this Department is concerned, arise out of any particular accident.

Yours sincerely,

[REDACTED]  
(G.P.M. DABB)  
for Secretary



  
12th August, 1983

The secretary,  
Royal Commission on Australian Intelligence Security Agencies,  
P.O. Box 349,  
CANBERRA ACT

Dear Sir,

It has been reported that the South Australian Government proposes to intervene in the hearing of the Commission now in progress, and if so, and in any case, I think it appropriate that the contents of the accompanying documents be brought to the attention of the Commission.

Mr. Salisbury was undoubtedly sacrificed because he adopted an attitude which he and most informed people regarded as proper in relation to the confidential activities of A.S.I.O..

On page 13 of the "Report on the Dismissal of Mr. H.H. Salisbury, Commissioner of Police" Mr. Griffin, the Attorney General at that time, states "the principal questions unresolved are in the nature of questions for a jury, that is, a matter of what conclusions a reasonable person would draw from the additional material presented in this report."

The additional material established perjury by Mr. Dunstan before the Salisbury Royal Commission. A copy of the Attorney General's letter to Mr. Salisbury inviting discussion is enclosed. A copy of observations sent to the Attorney General by Mr. Salisbury is enclosed. The Attorney General did not reply. The South Australian Government did nothing about the material not brought before the Salisbury Royal Commission.

The opening paragraph of the enclosed copy of a letter dated 25/6/1982, addressed to Mr. David Tonkin, then premier of South Australia, refers to a discussion with a member of his government. This was Mr. R. Glazbrook, to whom another letter (copy enclosed) had been written on 18/12/1981.

Mr. Glazbrook gave, as the reason for the Tonkin Government's failure to correct the injustice done to Mr. Salisbury, fear of loss of votes through a back-lash of sympathy for Mr. Dunstan, who was then publicly presenting himself as a sick man under doctors' instructions not to re-enter the pressure of public life.

Yours faithfully

S.V. FRANKS

Encl.

Mr. R. Glazbrook M.P.,  
Parliament House,  
ADELAIDE. S.A. 5000

18 DEC

Dear Mr. Glazbrook,

The following correspondence was addressed to the leaders of the Liberal, Labor and Democratic parties in South Australia and also to the Governor of South Australia.

"An open letter to -

Mr. D. Tonkin M.P. Premier of South Australia

Mr. J. Bannon M.P. Leader of the Opposition in South Australia - 25.8.80

Gentlemen,

RE: THE DISMISSAL OF MR. SALISBURY

The dismissal of Mr. Salisbury is reported to be still under consideration. Mr. Bannon accuses the government of prolonging the matter for political advantage.

I have previously posted individually to every member of the South Australian and Federal parliaments specific and detailed charges of major crime involving both parliaments. The crime of subversion of the administration of justice was initiated by a liberal administration in Canberra, executed by a liberal administration in South Australia and endorsed by the silence of the Labor party in both places.

Mr. Dunstan was foremost in both the concealment of crime and the dismissal of Mr. Salisbury. He took up the files of the liberal administration preceding his appointment as South Australian Attorney General and proclaimed his intention to do something about evidence of failure to prosecute when prosecution should have been pursued. At the same time he concealed by his silence the evidence of the crime of subversion of the administration of justice contained in the same files.

I wrote to Mr. Dunstan at that time by registered letter, stating that I thought that his behaviour was of considerable national consequence and that I would pursue an explanation of it.

The Dunstan administration appointed Royal Commission 1970 to inquire into the reason for public disorder, at the same time announcing the introduction of legislation to curtail the power of the South Australian Police Force. I wrote to the Commissioner of Police at that time suggesting that whatever had caused the Dunstan administration to abandon its obligations by concealing major crime could also influence its legislation to curtail police authority.

I asked for police force assistance in presenting to the Royal Commission that the Dunstan administration was criminally involved and that this

related to public disorder. The Commissioner did not think that the circumstances made it proper to give assistance, suggesting that I go direct to the Royal Commission.

On making application to the Royal Commission to give evidence, I was required to state the nature of the evidence. When this was stated, I was advised that it was irrelevant. There was refusal to state by whom this decision was made.

In my letter to the Commissioner of Police, I stated my experience of fear in the community that it was suicidal to become involved in confrontation with forces able to make use of political interference with the administration of justice. The reality of the state of affairs giving rise to this fear was demonstrated when Mr. Salisbury confronted the Dunstan administration.

Associated with the concealment of the crime of subversion of the administration of justice is a false report concealing responsibility for the killing of twenty six people in the crash of a mutilated aircraft. The labor party and the trade union movement both raised voices in demanding an inquiry when it was thought that responsibility rested with the manufacturers of the aircraft. Both joined the liberal administration in covering up the truth, by going into silence, when it was known that the mutilation had taken place during maintenance in Australia and involved Australian trade union members.

With the announcement of a Royal Commission to inquire into the dismissal of Mr. Salisbury, I wrote to the solicitors appointed to represent him advising that there was evidence of criminal involvement by the administration which dismissed him. I also questioned the worth of the report of Royal Commission 1970, which Mr. Dunstan stated would be made available to the Salisbury Royal Commission, when this had heard only pre-selected evidence with refusal to identify those making the pre-selection.

The solicitors rejected the evidence as irrelevant to Mr. Salisbury's situation. With these matters now known to you, I suggest that it will be your duty to ensure that another inquiry is held, with terms making these matters relevant.

This letter will be used in any quarter where there might be a responsible public voice prepared to make Australia aware of this state of affairs. "

An open letter to every member of the South Australian Parliament - 25.9.80

"RE: THE DISMISSAL OF MR. H.H. SALISBURY

Dear Sir/Madam,

A copy of a joint open letter to Messrs. Tonkin and Bannon is enclosed. Neither has replied.

Labor members now assert that evidence concerning Mr. Dunstan's credibility could have been given to the Royal Commission. If this is correct, why was documented evidence of his participation in the concealment of major crime rejected as irrelevant? Was Mr. Salisbury advised of this by the solicitors representing him?

I suggest that the fundamental matter of public concern is not the behaviour of Mr. Dunstan alone but is the crystalising of politics into a brotherhood

of common corruption, as evidenced by the silence of both Mr. Tonkin and Mr. Bannon, when some matter is equally embarrassing to all, giving rise to the question of whether the protection of society calls for something of the nature of a police special branch and to what extent Mr. Salisbury might have been guided by experience of such a need.

It is trusted that at least one member will table these papers."

Letter to Mr. R. Millhouse

"Dear Mr. Millhouse,

Before going to the considerable expense of posting all of this to every member, I will ask you individually to have a look at it."

Letter to the Governor of South Australia - 4.9.80

"Your Excellency,

RE: THE DISMISSAL OF MR. H.H. SALISBURY

Your interview with Australian Broadcasting Commission Television referred to your signature to the dismissal of former Police Commissioner Mr. H.H. Salisbury.

Enclosed is a copy of a joint open letter to the Premier of South Australia and the Leader of the Opposition in South Australia, regarding criminal involvement of the administration which submitted the dismissal for your signature. Neither has acknowledged the letter to this date.

I feel that I have an obligation to make you aware of this situation, to enable you to take whatever action your position might require. Copies of this letter will be sent to Mr. Tonkin and to Mr. Bannon by certified mail. It is an open letter and will be used in any quarter where a responsible public voice might be found. "

When in opposition at the time of Mr. Salisbury's dismissal, Mr. Tonkin made statements inferring that he would order an unrestricted investigation if he were in office. When voted into office at the following election he did nothing more than renew his membership of the political brotherhood of common corruption, or whatever it is that all parties enter into by tacit consent when something arises which all equally wish to avoid.

You shared common ground with Mr. Salisbury when you recently raised your voice in the South Australian Parliament in protest against the spread of pornography into schools' literature. As Commissioner of Police Mr. Salisbury raised his voice in protest when the self-proclaimed libertarian government of Mr. Dunstan opened South Australia to a flood of this material.



I have so far failed to make known to the community the state of affairs which permitted the development of the Viscount crashes and the preparation and acceptance of the reports associated with them. Mr. Dunstan thrust himself into these matters to make himself an essential part of them. In basic fact Mr. Salisbury encountered the personification of this state of affairs when he encountered Mr. Dunstan.

While no-one could nominate the extent to which the dismissal of Mr. Salisbury brought about the downfall of the Labor Government, it obviously made a substantial contribution. In betraying Mr. Salisbury by failing to institute an unrestricted investigation, Mr. Tonkin also betrayed those who voted for him in the belief, vigorously promoted by him, that he would do so if given the chance.

It is in your hands to have this situation made known. I suggest to you that an obligation rests on you and every member of your party to do so. I will not proceed with my stated intention of posting these papers to every member of the South Australian Parliament. Instead, I will look for aid overseas should silence continue in Australia.

Should you wish a personal discussion, I will call on you at a time and place of your choice. You would be at liberty to have whomever you wished with you to ask questions. With regard to time, however, I will be overseas for five weeks commencing 24.12.81.

Yours faithfully,

S.V. FRANKS

Copies to:     The Prime Minister, Parliament House, Canberra.  
                  The Attorney-General, Parliament House, Canberra.  
                  The Minister for Transport, Parliament House, Canberra.  
                  The Minister for Veterans' Affairs, Parliament House, Canberra.  
                  The Minister for Communications, Parliament House, Canberra.  
                  Senator Peter Rae, Parliament House, Canberra.  
                  Senator Andrew Thomas, Parliament House, Canberra.  
                  The Premier of South Australia, Parliament House, Adelaide.

25th June, 1982.

Senator Peter Rae,  
Parliament House,  
CANBERRA. A.C.T. 2600

Dear Senator,

I thank you for your reply (as follows ) to the material I sent you on 18th December, 1981.

"Mr. S.V. Franks

26th January 1982

Dear Mr. Franks,

Thank you for your letter of 18th December 1981, together with the attached papers.

Quite frankly, I am not sure where to start. I will think about it a bit more and write to you again.

Yours sincerely,

PETER RAE "

I was encouraged to approach you, because of your demonstration that you are not easily deceived or turned aside in carrying out your obligations. You have not written again to this date. I appreciate your difficulty in deciding what you should do, the state of affairs having clearly enough developed to the point described by Lord Denning, when he said that the Profumo affair grew until it exceeded the capacity of the machinery of government to cope with it.

I think one is entitled to accept that the machinery of government is not based on technological apparatus switched on by some warning device when the community requires protection, but is based on the limited capacity of the human mind, this limitation applying to every section of the structure of society, including the administration of justice. Mr. Justice Wells of the supreme court of South Australia recently made the observation that only in God Almighty will perfect judgement be found.

My involvement in these matters began with opposition to calculated false pretence based on the knowledge that the machinery of government can be defeated if abuse of trust is carried far enough. It began as a relatively minor situation which should have been resolved by local discussion. Instead, it grew into the present situation. It is a question of whether society can ignore such truth.

My opposition was silenced for a considerable period when the administration of justice in South Australia was subverted. It resumed when the background to the Port Hedland air crash came to my knowledge. Among the dead was Gordon Collins who left behind a widow with eight children.

The report on the crash stated that on losing a wing the aircraft would have plunged to the ground in violent gyrations. During the short duration of the plunge, Gordon Collins, together with the other twenty five persons on the aircraft, would have been spared the knowledge that they were about to die because of false pretence in the maintenance of the aircraft, and they would also have been spared the knowledge that those they were leaving behind would receive formal messages of sympathy, with those sending the messages then combining to obstruct the flow of justice to them, and with the administration of justice itself endorsing the obstruction.

I saw the preparation and acceptance of the report as symbolic of the condition of society. I was able to believe what I saw because of the earlier experiences which circumstances had brought to me. The false pretence in the maintenance of the aircraft could not survive the test of truth when turbulence called for reserve strength which had been destroyed.

My first attempt to have the known truth about the cause of the Port Hedland crash realised by the community, was made within the time when justice in the terms of money payment could have flowed to the dependents of Gordon Collins and of the others who died with him. But that time has long expired. It remains to decide whether they died without purpose, or whether in dying they left something for society to consider.

As with you, I don't know where I should go now. I can but put it before those who have accepted high responsibilities, trusting that a way will be found. It is clearly futile to continue pursuit through established authorities within the machinery of government. I look to you to do whatever might be possible in the Federal area. I will not criticise you if you decide that you should do nothing. But I will have to regard this as an open letter to establish that I could not do more in seeking Federal response.

My various letters dated 18/12/81 brought the following response from the Department of Transport -

"Dear Sir, 16.4.82

Reference is made to your letter dated 17 December, 1981 addressed to the Director General, Department of Transport. The delay in response is regretted.

Firstly you should be aware that the fundamental objective of the accident investigation activity of this Department is, and has always been, the prevention of accidents in the future. It is not the purpose of this activity to apportion blame or liability.

Our documents in respect of investigation of the accidents to which you refer have again been examined and reviewed in the light of the comments in your letter. We have found no reason to amend any of our public reports or any of the information which has been provided to you by the Department over the years in respect of these accidents.

Accordingly, we are unable to provide you with any further information or otherwise be of assistance to you in respect of these accidents.

Yours faithfully,

(A.R. WOODWARD)  
for Assistant Secretary  
(Air Safety Investigation)

When placed side by side with the report itself, this letter is seen to be glaringly at variance with the truth. Should you be interested in a meeting to show this to you, I will be glad to call at a place of your choice. You would be at liberty to have whomever you wished with you. However, I will be overseas until 8.8.82.

Yours faithfully,

S.V. FRANKS

Copies to:      Mr. Justice King  
                         Ligertwood  
                         Wells  
                         Jacobs  
                         Mohr  
                         Matheson  
                         Millhouse  
                         Mr. A.P. Moss, Chief Magistrate  
                         The Premier of South Australia  
                         The Leader of the Opposition in South Australia



  
August 8, 1986

Your ref: 9/66/106/02 dated September 23, 1985

Mr. P.M. Gray,  
Civil Aviation Authority,  
Brabazon House,  
Redhill,  
Surrey RH1 1SQ,  
ENGLAND.

Dear Mr. Gray,

The delay in replying to your letter dated September 23, 1985, has been due to time taken in following up your advice that Viscount G-AMOL had been involved in an accident in Denmark a few months after Viscount VH-TVA crashed in Australia. Copies of correspondence with the Danish Civil Aviation Authority are enclosed.

It is now time to make another attempt to bring to public knowledge the fact that a number of conspiracies, involving both British and Australian Authority, produced false reports concealing the truth that a number of aircraft crashes had been caused by known structural defect.

I think that the British Government, rather than your Authority, should decide whether Britain will face its responsibility. A copy of this letter will be posted to the British Prime Minister. A copy of a covering letter is enclosed.

You have advised that your files contain no detail about the G-AMOL accident in Denmark, recording only that the accident had occurred. But elsewhere in your records is the report on the later crash of G-AMOL, when the aircraft went out of control in mid-flight and crashed near Liverpool, England, with the Report, which stated that the cause of the crash was unknown, being embargoed for two years.

It was known in Australia that another Viscount accident, caused by structural defect similar to the defect which caused the crash of VH-TVA, had occurred within a few months of the crash of VH-TVA. It was believed that the accident had occurred in Britain but the information received from Denmark makes it clear that it was the accident to G-AMOL in Denmark.

The Danish information makes it clear that it was known in Denmark that suspicion of the Viscount wing structure, sufficient to give rise to serious consideration of the grounding of all Viscounts, was established in Britain. The Danish records relate this suspicion to the G-AMOL accident in Denmark.

None of these facts were revealed to you when you referred to your files in response to my request for information about a Viscount accident believed to have occurred in Britain at about the time of the crash of Viscount VH-TVA in Australia.

The situation established to this point is summarized as follows-

1. In producing the Viscount the manufacturers demonstrated that they were capable of producing an aircraft with world acceptance.
2. Dedication to the pursuit of excellence led the manufacturers to introduce an early modification which made the aircraft better still by increasing wing strength. Fuselage modification was involved.
3. By misadventure, an error resulted in as many as eleven of the modified aircraft reaching the wing attachment stage before it was realised that the fuselages were incompatible with the wing structure.
4. Instead of undertaking whatever rebuilding was required, or abandoning the defective fuselages altogether, the defect was concealed, defective aircraft being delivered to airline operators.
5. Three defective aircraft - VH-TVA, VH-AEV and VH-RMQ - were delivered to Australia. All three crashed.
6. A fourth defective aircraft - G-AMOL - was delivered to the British operator BEAC, this aircraft being involved in an early accident in Denmark and later crashing after going out of control in midflight in England.
7. The first of the defective aircraft to arrive in Australia was VH-TVA, which crashed a few weeks after arrival.
8. Investigators found that bolts were missing from the flap assembly, causing them to conclude that the crash had been caused by flap failure.
9. The Report on this crash stated that the cause had been pilot error and that no structural defect had been found. It was known to Australian Authority and to the manufacturers that the report was false.
10. When the maintenance schedule called for main spar replacement, it was found that bolt holes in parts used in the initial assembly of VH-AEV and VH-RMQ were incompatible with the bolt hole spacing in a standard spar.
11. Blank parts were supplied from Britain and drilled in the workshops of Trans Australia Airlines in Australia with spacing intended to provide passage for bolts through the <sup>blank</sup> parts and then through the holes in a standard spar.
12. In the case of VH-RMQ, the holes drilled in Australia were still incompatible with the holes in a standard spar, passage for bolts being provided by drilling metal from the interior of spar bushes.
13. Removal of metal from the bush interiors destroyed what is known as the interference fit which the manufacturers had sought and depended upon for the provision of greater wing strength.
14. By the time the maintenance schedule called for a second spar replacement, the aircraft had been sold to the Australian Ansett organisation, with the part supplied from Britain as a blank and mis-drilled by TAA being used again.
15. Not knowing that metal had been drilled from the interior of bushes in the retired spar to provide passage for the bolts, the Ansett fitters applied force in attempting to drive bolts through the holes in the new and standard spar.

16. The bush at what is known as Station 143 was mutilated to the extent that it had to be replaced.
17. The bush used as a replacement was shorter than the bush used by the manufacturers and greater in diameter.
18. The force needed to drive the replacement into the spar hole mutilated both the bush and the spar hole to the extent that the mutilation was visible to the naked eye after the aircraft had disintegrated in midflight and crashed.
19. The report on the crash of VH-RMQ is self-contradictory concerning the number of bolt holes found in the starboard main spar. It is self-contradictory concerning the number of defects found in the aircraft. It is self-contradictory in its statement that the investigation was unable to develop even a satisfactory hypothesis as to the reason for the mutilation. It establishes that part of the starboard flap assembly separated from the main spar in mid-flight but makes no reference to the reason.
20. When all 700 series Viscounts were grounded in Australia and later removed from the Australian register, following the crash of VH-RMQ, it was stated that there was no reason to ground the later and more technologically advanced 800 series.
21. In Britain, serious consideration was given to grounding all Viscounts, including the 800 series, because of suspicion regarding the wing structure.
22. The American owned Viscount N-7463 disintegrated in midflight in America, the American Civil Aeronautics Authority expressing the conviction that there had been no structural defect.
23. There is documentary evidence that it was known in Britain that a Viscount accident in America had been caused by structural defect.
24. If this was not the accident to N-7463, it follows that it was known that some other Viscount accident had been caused in America by structural defect.
25. Since no American report on a Viscount accident gives the cause as known structural defect, it follows that either the information was withheld from the American Authority or the American Authority was party to its concealment.

When in Washington D.C., I was able to discuss with officers of the National Transportation Safety Board the question of possible US obligation to initiate action based on US involvement through the crash of N-7463.

The US officials acknowledged the existence of the situation and frankly stated that the same thing had occurred in America when a defect had been built into the DC10's and then concealed, with the concealment proving fatal. But they would not initiate action regarding the Viscounts, saying that I should be talking to British Authority.

The fact that nothing had been heard publicly about a British challenge to the Australian revocation of acceptance of the British certification of airworthiness of the Viscount 700 series, following the midflight disintegration of VH-RMQ, had led me to conclude that British Authority must be party to the concealment of the truth and that any approach to it would have been as futile as my approaches to Australian Authority have been.

For this reason I avoided approach to your Authority. It did not occur to me that the truth would be, as you have revealed in your correspondence, that your Authority knew nothing about it.

Should your Authority accept its responsibility, it will be necessary to establish a tabulation of the history, from manufacture to end of life, of at least the first eleven Viscounts produced after the introduction of modification D562.

This tabulation would reveal whether the starboard main spar failed when a crash brought the end of life.

Where breaking up brought the end of life, the tabulation would reveal the reason for this.

The tabulation would reveal whether Viscount N-7463, which was sold to the US with the serial number 287, was in fact the 287th Viscount to be built, or whether it was one of the first eleven to be produced after the introduction of modification D562 and then held back, following the early accidents to VH-TVA and G-AMOL, until it was believed that re-working had overcome the defect introduced with modification D562.

The tabulation would reveal <sup>whether</sup> G-AMOL was produced with the same defect as N-7463 and then, after re-working following the early accident in Denmark, returned to service to later crash for the same reason that N-7463 crashed.

The crashes of VH-TVA and G-AMOL were identical in that both aircraft first made impact with the starboard wing. In both cases a section of the wing broke away at the point of initial impact, with the body of the aircraft continuing on to crash at another point.

It will be necessary to determine whether it was physically possible for this to have happened, or whether the aircraft would have cart-wheeled at the point of initial impact, unless the main spar had failed before the initial impact occurred.

Serious consideration in Britain to the grounding of all Viscounts arose from established suspicion when it was believed that G-40HP had experienced simultaneous flap and undercarriage failure in Denmark. If this suspicion was not established by the early crash of VH-TVA in Australia, with the almost simultaneous accident to G-AMOL in Denmark, something further than this was known to those who considered the grounding.

All of this will have to be pursued to the end should your Authority and the British Government accept that public interest in Britain, Australia and America, in particular, and world-wide generally, requires that the truth be revealed.

British Aerospace have been informed of the action I am taking.

Yours sincerely,

Copies to -

S.V. Franks

Mrs. M. Thatcher. British Prime Minister.  
Mr. Hawke. Australian Prime Minister.

Enclosures.



  
August 8, 1986

Mrs. M. Thatcher,  
Prime Minister of Great Britain,  
10 Downing Street,  
LONDON. U.K.

Dear Mrs. Thatcher,

I take the liberty of writing to you on the premise that Government morality in all countries is international public property. The Australian Prime Minister, Mr. Hawke, demonstrates his acceptance of this premise and of obligation which it thrusts upon him, by delivering public denunciations of the morality of your Government.

A copy of a letter to the British Civil Aviation Authority is enclosed. This letter enclosed copies of correspondence exchanged with the Danish Civil Aviation Authority, resulting from information given to me by the British Authority.

The Danish Authority has not replied again to me and since information which they hold, regarding consideration given in Britain to the grounding of all Viscounts, was not known to the British Civil Aviation Authority, it is possible that representation from your Government will be required before this information will be released.

British involvement in the matters I write about arises from a series of Viscount aircraft accidents. It was known at some level within the manufacturers' organisation that as many as eleven defective aircraft were produced but this was not known to the British Civil Aviation Authority.

It was, however, known to Australian Authority, Australian Airline Operation, Australian Government and widely in the Australian community generally, that the first of the accidents, which occurred in Australia, was caused by structural defect. This truth was concealed by a false report.

You might well ask what I have done to exhaust all possibility of response to the Australian involvement within Australia, before asking you to reveal the Australian involvement by responding to the British involvement. The enclosed copy of a letter to the Australian Prime Minister, together with copies of letters to other authorities, will establish what has been done.

The tragedy of it all, as far as the British Manufacturers of the aircraft are concerned, is that they demonstrated that they possessed all that was required to produce the world's best aircraft for its purpose at the time. Out of dedication to the pursuit of excellence, they then introduced a modification which made the aircraft even better. But a structural error crept in with the modification.

The tragedy of it all as far as Australian society is concerned is that the consequences grew to a magnitude which could not be faced, with a demonstration of political corruption involving the destruction of the administration of justice.

At the time when the development of these matters began, a British writer, Professor C. Northcote Parkinson, published his book "Parkinson's Law" which revealed a deep insight into the development of a similar state of affairs in British public administration.

I wrote to Professor Parkinson asking whether he could give me any advice about the way to approach the state of affairs which I had encountered as a public servant in Australia.

His reply reads, in part, "Like you, I have, in my time, battered on the gate of established corruption of which Britain has plenty and I have achieved nothing." He went on to say that the only weapon which he had found to be of any use was ridicule but, although this had attracted an audience, it had achieved nothing.

It now seems clear that if anything is to be achieved, head-on confrontation is necessary. I take the liberty to suggest to you that a clean breast of the matter in Britain will enhance the standing of British government and of British manufacture as well as going some way in bringing Australian society to a realisation of the condition of its public administration.

Since all democratic government includes the party in opposition as well as the party in office, a copy of this material will be posted to Mr. Neil Kinnock.

Yours sincerely,

S.V. Franks

Copy to - British Civil Aviation Authority.  
Mr. P. Hawke, Prime Minister of  
Australia.  
Mr. Neil Kinnock, Leader Of The  
British Opposition.

[REDACTED]  
August 2, 1986

Mr. R. Hawke,  
Prime Minister Of Australia,  
CANBERRA. A.C.T.

Dear Mr. Hawke,

The enclosed papers deal with crime involving government and public administration in Australia.

My contest with this began more than thirty years ago when, as a Commonwealth public servant, I opposed abuse of trust in claims on public money. It was to be revealed over the years that government which would cause the administration of justice to be subverted for the purpose of concealing the condition of public administration, would not have the resource of integrity required to protect the community when such a matter as the defective Viscount aircraft arises.

The participation of your Government in the production of the second report on the condition of the fuel nozzles fitted to the failed engine of the aircraft VH-AAV, reveals that this state of affairs still exists.

The former minister for aviation, Mr. Beazley, signed a letter stating that I had not responded to the invitation to produce evidence. He had signed a previous letter acknowledging one from me in which I had offered to call and show the evidence. He signed a letter stating that all of my letters over the years had been answered. He did not state that, in matters of vital importance, the answers had been refusals to provide information requested.

At the time of the Port Hedland crash your former colleague Mr. C.K. Jones, then shadow minister for civil aviation, stated in Federal Parliament that only a madman could have been responsible for the mutilation which caused the crash.

The subsequent departmental report on the crash was blatantly false to the degree that, to employ Mr. Jones' kind of language, only a mental defective could claim to both understand it and conscientiously believe it to be true, this applying to no-one more than to Mr. Jones himself.

It is many years since every chief justice in Australia put his signature to a document warning all Australians that we would lose our country if a rising tide of moral and intellectual apathy could not be controlled.

It is many years since a former chief justice of South Australia, the late Sir Mellis Napier, warned that from the experience of his lifetime he saw the growing evil of the pressure group as the greatest threat to our liberty and way of life.

It is many years since a South Australian judge, the late Justice McGuire, warned that the average Australian held a futile confidence that a benevolent providence would single his country out for special consideration.

We are now experiencing the realization of the condition foreseen by these men. There can be no confidence that your Government or any other will survive the measures required to now bring the condition under control, even given the will to make the attempt, unless the conscience of the community is ready to accept them.

A clean breast of the conspiracies concerning the Viscount crashes and the involvement of your Government in the production of the second report on the VH-AAV fuel nozzles, might be of sufficient consequence to make an impact on the conscience of the community.

However, I have no confidence that any evidence, regardless of how conclusive it might be, will make any difference to any Government in Canberra. I have therefore turned to the British Prime Minister and the British Civil Aviation Authority to accept the British responsibility regarding the Viscount conspiracies.

Copies of lettersto the British Prime Minister and to the British Civil Aviation Authority are enclosed.

Yours faithfully,

S.V. Franks

Enclosures

Copy to -

Mrs. M. Thatcher. British Prime Minister  
Mr. J. Howard. Leader Of Australian  
Opposition.



25th June, 1982.

Mr. Justice King  
Mr. Justice Ligertwood  
Mr. Justice Wells  
Mr. Justice Jacobs  
Mr. Justice Mohr  
Mr. Justice Matheson  
Mr. Justice Millhouse  
Mr. A.P. Moss, Chief Magistrate  
The Premier of South Australia  
The Leader of the South Australian Opposition (By Certified Mail)

Gentlemen,

The following letter was previously addressed to Judge Ligertwood and to Chief Magistrate Mr. A.P. Moss.

"Dear Sirs,

The enclosed papers arise largely from political interference with the administration of justice. As members of the judiciary you have both expressed your concern about this as a possible development. As an ordinary citizen, I encountered it as a reality. There was nothing I could do about it. I now put it in your hands.

When the structure of the Salisbury Royal Commission was first announced Judge Ligertwood went to the length of expressing, through a letter to the press, his fear for the safety of judicial independence. Mr. Dunstan, premier at that time, expressed surprise at this action. He did this knowing that he was himself a major accessory to the concealment of the ultimate realisation of Judge Ligertwood's fear - the destruction of judicial independence by political interference.

Mr. Moss is confronting the South Australian Government on the issue of judicial independence. His reasons have been dismissed as groundless by the attorney general. The attorney general has done this knowing that the ultimate realisation of Mr. Moss' fear that political interference will destroy judicial independence has already been reached in South Australia."

In the majority judgement arising from action taken against Mr. Moss by the Attorney General, all judges expressed concern about the way the ordinary person would see the situation of judicial independence. As an ordinary person, I am bringing to your notice my concern that events have put judicial credibility as well as judicial independence at risk.

Many years ago, I consulted a lawyer about the possibility of an ordinary person taking action at law to have the subversion of the administration of justice examined. My lawyer of that day saw the evidence as unanswerable but could find no process of law by which a writ could be issued. He saw that the only way to immediately get to the truth was to ask the judge who had participated in the subversion. But he counselled that this could not be done. He also counselled that the truth should be pursued by keeping eyes and ears open.

I disregarded this advice to the extent of writing direct to the judge involved and to the chief justice of the day asking whether they would be prepared to tell me what they would do if they were ordinary people and knew that the subversion had taken place. The Chief Justice replied that as a judge he had no more authority than any other citizen; that he had done everything he could do as a judge to assist me and advised that under the circumstances there was nothing I could do.

My lawyer of that day has long been a South Australian judge. His vision that the truth would eventually emerge in one way or another became a reality when the background to the Port Hedland air crash came to my knowledge. The subversion and this report had a common point of origin within public administration. There was a further common factor in that judicial independence failed in both matters, the Port Hedland magistrate, who was also the district coroner, failing to hold a coronial inquest, even though it had been established that death had been caused by mutilation of the aircraft.

But something more than this had to become tangible before the basic state of affairs could be made known to the community. Within the limitations of my own experience, I described this state of affairs as a brotherhood of common corruption. The Adelaide Advertiser possibly found a more apt description when it referred to the make-believe world from which the judicial appointment of Judge Millhouse emerged. Judge Millhouse's contribution to the make-believe is documented in correspondence exchanged with him when he was Leader of the Democratic Party in South Australia, this correspondence being included with the enclosed letter to the Leader of the South Australian Opposition.

This make-believe world was made more tangible with the dismissal of Mr. Salisbury. His dismissal and the concealment of the subversion of the administration of justice in South Australia bore the common hand of Mr. Dunstan. But still more had to become tangible and this has now reached the extent of the attorney general acknowledging that he is aware of evidence to support a charge of perjury against Mr. Dunstan.

To the mind of an ordinary person the credibility of the judiciary cannot be divorced from the credibility of the parliament. Judge Ligertwood found a way to make the community aware that he disassociated himself from judicial participation in the Salisbury royal commission. Mr. Moss was able to make the community aware of his concern about judicial independence. As an ordinary person, I see that your credibility requires that you should find a way to make the community aware of the contents of these papers.

Yours faithfully,

S.V. FRANKS

[REDACTED]

Telephone [REDACTED]

The Chairman,  
Commonwealth Public Service Board,  
CANBERRA. A.C.T. 2600

18 DEC -1981

Dear Sir,

The enclosed papers concern crime arising from Commonwealth Public Service administration. The Commonwealth Public Service Board was instrumental in the development of this state of affairs. It is my intention to have this state of affairs made known to the Australian people. I ask that you take action to have it made known, should others to whom these papers are addressed fail to do so.

Should you study the report on the Port Hedland air crash you will see a parallel to the blatant falsity which brought me into conflict with the administration of the Department of Civil Aviation thirty years ago. The difference is of purpose only. In one case the purpose was to take public money. In the other case it was to conceal responsibility for the felonious killing of people.

It has required the combined experiences of many Commonwealth Public Servants, including Inspectors of your Board, to reach the truth about the Viscount crashes. Of vital importance was the experience of one man who opposed the recording of vast sums of public money as being used for projects which had never been started. His opposition led to the destruction of his public service career. He then found himself in the employment of the Ansett organisation where he encountered malpractice in aircraft maintenance, including the Viscount which crashed at Port Hedland. Because of his public service experience he did not attempt to take protest further than severing his own association with the Ansett organisation. His experience came to my knowledge to eventually lead to the truth about the three Viscount crashes.

The situation which I encountered as a Commonwealth Public Servant in the Department of Civil Aviation began when political patronage took the administration of the Department out of the control of your Board. The demoralisation which followed led to profligate behaviour extending to actual crime. Your Board was party to the concealment of this crime. When this was followed by even greater crime, your Board was party to the concealment of the subversion of the administration of justice, organised at Federal Parliamentary level, to prevent evidence about the administration of the Department being given at a criminal trial.

These matters were all detailed in a report prepared for the Commonwealth Investigation Service (now the Commonwealth Police Force) at its own request. Ultimately every authority which might have raised a voice in protest, including your Board, became part of the covering silence.

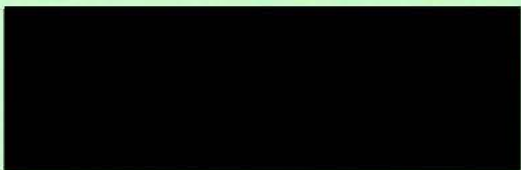
More frightening than the wholesale abuse of trust was the conviction, expressed by men of goodwill in a number of Commonwealth departments with whom my work brought me into contact, that it was suicidal to make a stand against it because ultimately the processes of government on which such a stand would be based - the institution of parliament and the administration of justice - were joined together in common corruption.

I set out to prove, by basing a stand on a specific matter, that this must be wrong. I have provied instead that it was right. This is the state of affairs I intend to make known to this country. An appeal to the Adelaide Advertiser for assistance brought the advice that there comes a time when we have to accept that we are not going to do what we set out to do. Any likelihood that I would accept this, before every possible avenue had been followed, was eliminated with the circumstances of the death of Sir Donald Anderson.

Yours faithfully,

S.V. FRANKS

Copies to:     The Prime Minister, Parliament House, Canberra.  
                  The Australian Attorney-General, Parliament House, Canberra.  
                  The Minister for Transport, Parliament House, Canberra.  
                  The Minister for Veterans' Affairs, Parliament House, Canberra.  
                  The Minister for Communications, Parliament House, Canberra.  
                  Senator Peter Rae, Parliament House, Canberra.  
                  Senator Andrew Thomas, Parliament House, Canberra.  
                  The Premier of South Australia, Parliament House, Adelaide.  
                  Mr. R. Glazbrook, M.P., Parliament House, Adelaide.



Dear Mr Hammett

This is to acknowledge receipt of your letter of July 1986.

Yours sincerely

J F Thomson  
Secretary

25 August 1986



RECEIVED 31 JUL 1986

28.7.86

The Secretary  
Parliamentary Commission of Inquiry  
8th Floor, A.D.C. House  
99 Elizabeth St Sydney

Mr Justice Murphy.  
Conduct Inquiry  
Section 72 of the Constitution

Dear Sir

Please be advised that if the Commission is to hear evidence concerning Mr Justice Murphy prior to his elevation to the Justiciary then I wish to place evidence before the Committee - either in person or by Statutory Declaration.

My evidence will be that Mr Murphy as Attorney-General was requested to take action to ensure that a certain person (myself) received the justice and compensation which were his due and Mr Murphy as Attorney General did nothing - conduct which amounted to misconduct and a total abrogation of his duty (In choosing to do nothing Mr Murphy gave protection to an element within the Commonwealth Public Service which had contravened the Commonwealth Public Service Act for many years including lies to the Parliament of the Commonwealth of Australia and which were the cause of serious ill health to myself and members of my family).

yours Faithfully



Mr Felix Goldsmith



Dear Mr Goldsmith,

Receipt is acknowledged of your letter received of 3 August 1986.

Yours faithfully,

J F Thomson  
Secretary

7 August 1986

RECEIVED 06 AUG 1986

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

Dear Sir

As the Commission will be aware, Mr Justice Murphy has sat on the High Court before the Commission has completed its report and before the Parliament has considered the Commission's report. I suggest that this action may constitute a contempt of the Parliament and I request the Commission to consider this matter in forming its recommendation on His Honour's suitability to hold the office of a justice of the High Court. May I add that this action of His Honour cannot be justified by any decision of the Executive, as it is the Parliament which is charged with the responsibility of deciding whether justices should be removed and which established the Commission. There is no need for me to add that, while His Honour's illness gives him the right to our sympathy and compassion, this does not override the necessity of safeguarding the seen integrity of the High Court.

Yours sincerely

Felix Goldsmith

*Sir George*

*for info.*

*F.T.  
6/8*

*Mr Charles*

*to see please*

*FT.  
6/8*

Mrs E J Crompton

Dear Mrs Crompton,

I acknowledge receipt of your letter received on 4 August 1986.

Yours faithfully,

J F Thomson  
Secretary

7 August 1986

① Mr Charles  
to see please

SPC

② Mr Ross  
to file please

F.T.

RECEIVED 15 JUL 1986



Forwarded for your information and  
action if appropriate.

**With the Compliments**

**of the**

**Office of the**

**Attorney-General**

By hand.

RECEIVED  
1900

The Hon. Sir George Lush

C/- Mr. Darryll Smeaton

8th Floor, 99 Elizabeth  
Street

Sydney, N.S.W. 2000.



RECEIVED 04 AUG 1986

20<sup>th</sup> August 1986.

The Hon. Sir George Lush  
G.P.O. Box 5218  
Sydney, 2001.

John?

Dear Sir George,

I was horrified to hear yesterday that Mr. Justice Murphy has contracted bowel cancer. As a nursing assistant some time ago, I have attended a patient with bowel cancer in a convalescent home, and it is a painful and unpleasant death that I wouldn't wish upon my worst enemy.

It is still more horrifying to me to read in today's paper that Justice Murphy is exercising his Constitutional rights by sitting on the bench of



the High Court, there is some doubt as to whether he should be allowed to do so.

It seems to me that Sir Lionel's wish to serve his profession and his country for the remaining time allowed to him is an act of great courage. He has said nothing about his name being cleared before he dies and if Sir Manning Clark is correctly reported as describing his bearing in court as "dignified" and "serene," then it would appear that no such panicky and selfish desires have entered his consciousness. Furthermore, evidence has been documented by such therapists of the dying as Elisabeth Kübler-Ross of the clarity and vision which comes to people who know they are to die. We are lucky indeed to have a member of the High Court with these exceptional

qualities.

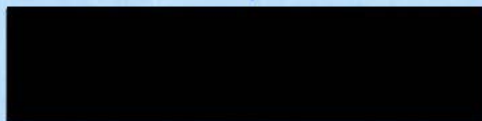
My reason for writing to you is to support the opinion of Senator Evans that your Commission of Inquiry should be abandoned (i.e. the legislation setting it in motion repealed) or else that proceedings be suspended and lapse on the appropriate date. I find it hard to understand why its findings should be of interest to anyone, in the circumstances.

Justice Murphy has been called by many names in the past, yet I think you will agree that anyone worthy of the title of 'human' has to put up with that. His Christian name, however, means 'young lion' (always kingly animals, despite their diet of Christians in Roman times) and his family name should not be held

against him: it only rhymes with  
Furphy. He will go down in  
Australian history as a colourful  
character to people of all political  
shades, and I am sure I do  
not need to make a list of his  
achievements to someone of the  
'learned profession'.

If it is within your power  
to persuade the Commission to enact  
Senator Evans' suggestion, I hope you  
will do so.

Yours sincerely,



(MRS. E. J. CROMPTON)



Ms Tasna Ockenden



Dear Ms Ockenden,

This is to acknowledge receipt of your letter of 3 July 1986.

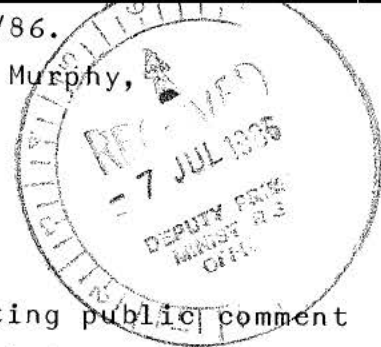
Yours sincerely,

J F Thomson  
Secretary

July 1986

3/7/86.

Judicial Enquiry into Chief Justice Lionel Murphy,  
Parliament House,  
Canberra, A.C.T., 2600.



Dear Judges,

I understand that you are soliciting public comment regarding the integrity of His Honour Lionel Murphy.

I would like you to understand:

(a). Lionel Murphy's reputation legally is extremely widespread; that is, he is highly respected not only in legal circles, but in common public wisdom. You may (or may not) understand that many lay-people actively follow the process of law. Through the course of this civil watch, His Honour Lionel Murphy's judgment happens to be valued highly and widely.

(b). The prolonged and politically-inspired harassment of His Honour Lionel Murphy is a farce which must be stopped now. I would humbly suggest that it is widely understood that your own enquiry has no tradition in common law, following as it does the ruling of an actual Court of Australian Law. There is no constitutional basis for His Honour Lionel Murphy's absence from the High Court, including your enquiry. Your own non-legal enquiry must be abbreviated, as decently as possible. You may (or may not) understand that most Australian citizens appreciate that it has been inspired, not within legal ranks, but through still persisting political interference. The public does understand that such an unusual situation is open to press report, and has been so, that is, the fact of a "political enquiry" following a legal ruling.

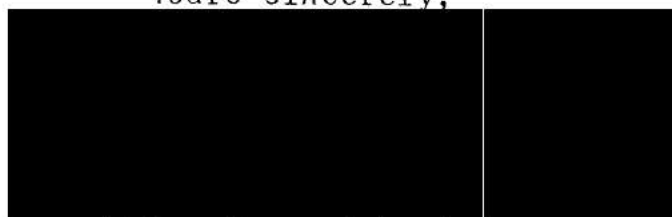
(c). Having been acquainted with the law and lawyers in many fields of legal practice, amongst thousands of other Australian citizens, I am well aware that comments passed between lawyers, is a daily, if not hourly, practice, in the attempt to find actual equity. The hour that it does not happen would undoubtedly mean the collapse of the actual practice of Law in this country. I am certain that you know this as well as I do. The attempt of the Court is surely to find correct judgment amongst people and crime, or the absence of crime. The hypocrisy as well as idiocy of the original accusation against His Honour Lionel Murphy has been duly exposed by the legal ruling

*my Durack*  
*ms Cox*  
*for acknowledgment*  
*please*  
*34*

proving His Honour's innocence, from any corrupt motive or effect.

Might I suggest that any gathering of lawyers and judges, does not a Court make. It is widely understood that Mr. Bob Hawke and Mr. Lionel Bowen are very sadly astray in instigating your very strange arrangement. I therefore ask, for an extremely quick and public statement from your, excuse me, "judicial" enquiry, ending the affair, once and for all.

Yours sincerely,

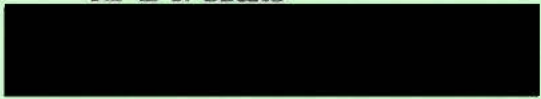


Ms. Tasma Ockenden.

Date:  
Ack/Rep by A.C.  
Ack/Rep by SPS  
Ack/Rep by Dept  
Information  
Approp. Action  
Advice  
Copy held for A.G. to see  
Final within two weeks  
S.P.S.



Mr L R Drake



Dear Mr Drake

This is to acknowledge receipt of your letter of May 1986.

Yours sincerely

J F Thomson  
Secretary

25 August 1986

RECEIVED 10 JUL 1986

8th May, 1986.

→ C7

The Judges,  
Justice Lionel Murphy Judicial Enquiry,  
CANBERRA.

Gentlemen,

Long before there were any accusations against Lionel Murphy, Mr. Russell Hinze, a member of the Queensland parliament, was widely quoted here as having said : "When we have finished with him, Murphy will be a furfy".

As a result, many of us believe that the anti-Murphy slanders have sprung from a political conspiracy against a man who had the courage of his convictions and acted on them.

We think that your enquiry should investigate this aspect of the case.

Yours sincerely,

(L. R. Drake)

*In Charles  
in Surack  
Mr. Ross  
File C7*

RECEIVED - 3 JUL 1986

Stephen Charles, QC  
Murphy Inquiry  
8th Floor  
99 Elizabeth Street  
SYDNEY 2000

Please find attached as promised extracts from book by Narcotics Bureau Officer making a number of strong allegations about interference by Murphy.

Secondly, a David Fletcher of [REDACTED]

Phone Number: [REDACTED]; knows a Aroha Bird who has written an account of her employment by Lionel Murphy. She was introduced by Morgan Ryan and knows of the Murphy relationship with Saffron and Biruta Hagenfelds.

Mr Durack QD 3/7  
Do see please  
71.

## "Operation Comet"

In December 1972 a Labor Government came to power. Those of us in federal law enforcement saw more than a little cause for apprehension.

What would happen to our powers of arrest under the Customs Act? How long would we be able to keep the search warrants on issue? What instructions would we be given about detaining and questioning suspects? Would marihuana be legalised?

I was suddenly taking a much keener interest in politics and politicians. When I was a policeman I couldn't have cared less about politics; the job went on regardless. In a job where matters follow a well-established pattern and there are thousands of officers, one is insulated from politics. Not so in the federal service. There were very few of us and we were affected every time a parliamentarian raised a question about drugs in the House. It would mean a mad rush for statistics or reports. A house search in an M.P.'s electorate often prompted questions. A visiting diplomat or foreign official inconvenienced by a Customs officer at an airport often led to questions being asked. On and on it went.

It was of little comfort to us to hear that Senator Lionel Murphy had been appointed as our Minister. Though he was also made Attorney-General, he was a Queen's Counsel and we associated him with "the defence", which implied opposition. His famous raid on A.S.I.O. made us even more uneasy.

The first thing to worry us was a call for a report from the Bureau detailing all heroin-related inquiries we were pursuing. All Regional Commanders had to send reports to Canberra at once. The Director was to estimate the amount of heroin entering Australia. By his decisive request, Murphy let us know where our priorities were to lie.

The Scuthern Region was able to enumerate a number of heroin investigations in train, but none of them was major. In the Northern Region things were different. Even in early 1973 the Sydney office was overwhelmingly committed to heroin inquiries. The list supplied by Ray Phillips, its head, was very long.

Murphy's next directive was to ask Regional Commanders to send all listening devices from their regions back to Canberra.

That wasn't difficult for me; I had only two which I had inherited from Jim Keating. Neither was sophisticated, and I wasn't even sure that they worked. But I returned them reluctantly and read the request as a bad sign. We had only a few old devices which the average private eye would be ashamed to call his own. Now we were barred from using them at all. The instructions were that if we needed to use a "bug" Alan Carmody had to approve its use. It would then be sent down from Canberra. Not much help when it was urgently needed. Instructions like that at a time when the drug traffickers were becoming well organised! Instead of upgrading our efficiency, and taking off the gloves, we were stepping backwards. We might soon become toothless tigers.

If Carmody had been reluctant to go to Chipp on some issues, he was even more reluctant to go to Murphy on them, though for different reasons. Murphy was able to sum up situations and to get directly to the point. He unnerved his senior staff by asking pointed and unexpected questions. They became nervous about approaching him. He didn't like being asked to approve the expenditure of money on an investigation whose results were so uncertain. As I have explained, a request to "show" or spend money had to go to the Minister when it involved over \$2000. Before Senator Murphy would pass such sums he wanted a guarantee of results and we couldn't always give guarantees. To us, money was an investigative tool.

To complicate matters further, we learnt that Murphy had a distaste for paying people for information. This fact became known as we were completing an exercise we had christened "Operation Comet".

Getting back to Senator Murphy, between February 1973 and April 1975 there were several occasions when he instructed us to desist from prosecutions. These instructions came down after he had been approached by defence lawyers he had known during his days at the Bar. There was nothing dishonest about this. As Attorney-General he was the top law officer in the country, and if a defence lawyer could convince him that a prosecution shouldn't proceed because it involved excessive hardship, or was too trivial, or the facts didn't support the prospect of a conviction, he could quite properly order a withdrawal.

Murphy issued these instructions without consulting the staff of the Commonwealth Crown Solicitor. In my opinion he was doing the very thing for which I had criticised the Deputy Crown Solicitor's staff in South Australia. He usurped the functions of the courts.

We had little respect for him. We didn't think he would stick with us in all circumstances, if things went wrong and criticism of the Bureau affected him politically, he might well turn his back on us. We couldn't forget his raid on A.S.I.O. As Minister for Customs and Excise he sometimes showed more interest in bird exporters than in drug importers.

# NARC!

Inside the Australian Bureau of Narcotics

Bernard Delaney  
the Bureau's former Southern Regional Commander

ANGUS & ROBERTSON PUBLISHERS

1979.

Mrs W R Powter



Dear Mrs Powter

This is to acknowledge receipt of your letter of June 1986.

Yours sincerely

J F Thomson  
Secretary

25 August 1986



RECEIVED 26 JUN 1986

25th June, 1986.

Hon. Sir George Lush,  
Presiding Member,  
Parliamentary Committee of Enquiry,  
Box 5218, G.P.O.

Dear Sir George,

Please find attached a copy of a letter  
which I have forwarded to Hon. Sir H. Gibbs  
today.

Yours sincerely,

[REDACTED]

(Mrs.) W.R. Powter,  
[REDACTED]

*it in Charles to see*  
*2 Feb*

COPY

25th June, 1986.

Right Hon. Sir. H. Gibbs, GCMB, KBC,  
Chief Justice of High Court of Australia,  
P.O. Box E435,  
CANBERRA. 2801.

Dear Sir Harry,

Some weeks ago an advertisement appeared in one of the Sydney newspapers, signed by a number of persons, in support of Justice Lionel Murphy. Today, the news media is broadcasting that an appeal against the Parliamentary Committee of Enquiry by Justice Murphy is imminent.

Whatever the outcome of the Committee's enquiry, or any appeal, I do believe that the publicity Justice Murphy's actions has engendered is not befitting for persons seeking to retain, or obtain, a position on our Courts.

Yours sincerely,

[REDACTED]

(Mrs.) W.R. Powter,  
[REDACTED]

File

PARLIAMENTARY COMMISSION OF INQUIRY

[REDACTED]  
Ph : [REDACTED]

24 June 1986

Mr Arthur Fletcher  
[REDACTED]

Dear Mr Fletcher

This is to acknowledge receipt of your letter of 18 June 1986.

Yours sincerely,

J F Thomson  
Secretary

# Clayton Christadelphian Ecclesia

RECEIVED 1 JUN 1986

Sunday School and Senior Bible Class, 9.30 am  
Memorial Service, 11.00 am  
Evening Service, 7 pm  
Bible Class, Wednesday, 8 pm

18th June 1986.

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

H. In Charles  
2. Mr Cox - for ack, please  
3 file

Dear Sir,

## The Conduct of the Honourable Lionel Keith Murphy.

In this submission it is not our intention to accuse or excuse Mr. Justice Lionel Keith Murphy, but rather to address ourselves to the problem of what is unbecoming conduct on the part of a Judge, or for that matter on the part of any eminent person. From our reading of the case this is aspect of the matter which is most vague in the minds of all concerned, especially those who have to decide the verdict. In such cases one must refer to that Higher Authority, the Supreme Court of the Heavens, which is really so readily available to all of us, through the Bible, the Word of God.

- (1) Judges (and others) take Office by swearing an Oath on the Bible, thus recognising its authority as supreme.
- (2) If, therefore, a person appears to have failed in his responsibility, he must be judged, in the ultimate, on the Bible.
- (3) We would therefore address the Commission with the following reminders from the Bible, which we would urge as mandatory. For convenience of reference we propose to divide these into two parts:
  - (a) Commands found in the Old Testament under the jurisdiction of the Law of God through Moses. This was God's law on earth for approximately 1500 years, a period equal to one quarter of recorded history. These commands are all found in the section of the Bible we call the 'Old Testament', and we should remember that this is the Bible which Jesus Christ used and which he quoted as his authority for his teachings.
  - (b) Commands found in the New Testament, which is a record of the teachings of Jesus Christ and the Apostles, based on the Old Testament in principle, with some additional and amending material. This material extends the Law of Moses, with needful amendments, to Jew and Gentile who should come into being after the Sacrifice of Jesus Christ.
- (4) As (a) above. Quotations as follows:

Leviticus 19 v 15 "You shall do no injustice in judgment, you shall not be partial to the poor, or defer to the great, but in righteousness shall you judge your neighbour".

Deuteronomy 1 v 17 "Ye shall not respect persons in judgment"

Deuteronomy 27 v 19 "Cursed be he that perverteth the judgment of the stranger, fatherless and widow"

Deuteronomy 16 v 19 "Thou shalt not wrest judgment; thou shalt not respect persons, neither take a gift; for a gift doth blind the eyes of the wise, and pervert the words of the righteous".
- (5) As (3b) above. Quotations as follows:

The New Testament has many observations on the matter of justice and judgment, but we think that the standards demanded for an Elder of the Church could be the best reference for your present purpose:

Titus 1 v 7 "For a Bishop must be blameless, as the steward of God, not self-willed, not soon angry, not given to wine, no striker, not given to filthy lucre, but a lover of hospitality, a lover of good men, sober, just, holy, temperate, holding fast the faithful word, as he hath been taught, that he may

# Clayton Christadelphian Ecclesia

Sunday School and Senior Bible Class, 9.30 am  
Memorial Service, 11.00 am  
Evening Service, 7 pm  
Bible Class, Wednesday, 8 pm

Parliamentary Commission of Enquiry - Honourable L.K. Murphy, (Continued)

be able by sound doctrine, both to exhort and to convince the gainsayers ".

We hope that the above Divine advice will guide the Commission in the right way and that the Commission "may be able by sound doctrine both to exhort and to convince the gainsayers".

Yours sincerely,

Arthur Fletcher.  
For the Christadelphians.



# Australian Capital Territory House of Assembly

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

Dear Sir

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

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

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

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

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

Yours sincerely

(Mrs) Bev Cains MHA  
Leader of the Family Team

19 June 1986

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



File

PARLIAMENTARY COMMISSION OF INQUIRY

GPO Box 5218  
SYDNEY NSW 2001

Ph : (02) 232 4922

Mr H G Collis  


Dear Mr Colliss

This is to acknowledge receipt of your letter of <sup>1</sup>29 June 1986.

Yours sincerely

J F Thomson  
Secretary

23 June 1986

RECEIVED 23 JUN 1986

19 June 1986

Secretary,  
Parliamentary Commission of Enquiry,  
G.P.O. Box 5218,  
SYDNEY,  
N.S.W. 2001

Dear Sir/Madam,

I write on a matter which I believe to be relevant, if peripheral, to the nature of your current enquiries, regarding my own experience of the approach adopted in relation to the administration of the High Court.

Some years ago, I had reason to talk to my neighbour about the way in which he kept a dog and what I felt to be the nuisance resulting from his ownership of the animal. I quickly discovered that talking to him was useless, and decided that it was necessary to invoke the legal protection that I expected would be offered under the Animal Nuisance Control Ordinance in force in the Australian Capital Territory. This legislation prevents a direct approach to the court by requiring an initial investigation by the Registrar of Dogs, and the availability of his/her report should proceedings be instituted in regard to an alleged nuisance.

The Registrar of Dogs has indicated several times that he is not persuaded of the merit of my contention that the dog is a nuisance. It is a conclusion that I cannot accept because of the manner in which the conclusion has been drawn, and it gives rise to a personal concern about the thwarting of the Australian political, administrative and judicial process by the use of tactics which, if subjected to a careful and painstaking scrutiny, should be seen and declared to be unacceptable.

I do not propose to go into considerable detail in this letter. Sufficient to say that the Registrar of Dogs, at one stage, was assisted to his point of view by five letters, written from homes said to be neighbouring or adjacent, and accepted at face value without enquiry, and without the identity or nature of the observations being revealed to me.

With the passing of the Freedom of Information Act, I gained access to the five letters, and was both astonished and dismayed to discover that one had been written on the letterhead of the High

1. Mr Chale  
2. Mrs Cox  
3. Arch File  
For letter  
of ack. pls.


Court of Australia and signed over the title of the Clerk of the High Court. My perception of such conduct as unacceptable lies in the belief that no court official may give the appearance of intervening in his official capacity in a complaint which holds out the prospect of court proceedings. If that perception is wrong, then my letter is irrelevant. However, I continue to believe that it is essential that a clear distinction is drawn between acts undertaken as a public official and as a private citizen.

I would make such an objection in the best of circumstances. Unfortunately, this description cannot be applied in this matter. It could be said, and it is in fact what I believe, that other comments from other persons were made less from an instinct for the truth than from an instinct for malice and injury attributable to revulsion at my association at the time with the administration of the Australian Federal Police. My comment lies in the understanding that close family members of some of the letter writers had a history of successful prosecution and conviction for criminal acts, and that there was a failure to apply the test for what I think is termed legally 'animus'. I cannot avoid the feeling that I have been dealt with unreasonably and in a manner contrary to public policy by a kangaroo court of the worst possible complexion.

My concern is not so much that the events that I have set out took place but that the proper authorities who should exercise a control and correction in such matters have deliberately chosen to ignore, conceal, distort or minimise the objections that I have made to the supposed administrative processes that I have experienced.

I do not regard the matter as trivial, and I believe the implications of my experience are sufficiently important and relevant to your enquiry to justify the matter being brought to your attention.

Yours sincerely,

  
( H.G.<sup>J</sup> Collis )

PARLIAMENTARY COMMISSION OF INQUIRY

GPO Box 5218  
SYDNEY NSW 2001

Ph : (02) 232 4922

20 June 1986

Mr B A Peachey  


Dear Mr Peachey,

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

Yours sincerely,

J F Thomson  
Secretary

RECEIVED 20 JUN 1986

18th June, 1986

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

Dear Sir,

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

All evidence was obtained through the Freedom of Information Act.

Yours faithfully,

B.A. Peachey.

✓ Mr Charles  
2 file

Encl:

STATUTORY DECLARATION

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

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

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

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

Before me

(Witness)

F. T. (Theo) HAYWOOD M.B.E.  
Justice of the Peace for Western Australia



189 81

(44)

ATTACHMENT "A"

MAHONY REPORT 1983

CUSTOMS (PROHIBITED IMPORTS) REGULATIONS: REGULATION 4A

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

90  
80  
"4A. (1) This regulation applies to goods that, whether of their own nature or having regard to any literary or other work or matter that is embodied, recorded or reproduced in, or can be reproduced from, the goods -

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

and to advertising matter related to such goods.

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

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

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

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

#### "LITERATURE CENSORSHIP -

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

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

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

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

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

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

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

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

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

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

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

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

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

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

192 78

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

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

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

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

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

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

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

5.64 In his response, the Collector stated:

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



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

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

5.66 In response, the Collector stated that:

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

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

5.68 The ACOA submitted:

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

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

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

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

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

3.72 Mr Watson of the Council for Civil Liberties submitted:

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



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

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

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

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

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

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

This is the paper marked "A" referred to  
in the affidavit/declaration of

*Brian Aider PEACHEY*

sworn made before me this 19th day of

June 1986

177  
175  
*file*  
Mr Evans

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

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

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

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

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

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

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

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

[REDACTED]  
(R.J. CARMODY)  
First Assistant Secretary  
Compliance

29 March 1984



DEPARTMENT OF CUSTOMS & EXCISE

175 174  
CANBERRA, A.C.T. 2600

TELEPHONE 73 0414

Reply to "The Comptroller-General"

Quo's CG. 73/648

15 June 1973

Collector of Customs,

NEW SOUTH WALES

VICTORIA

QUEENSLAND

SOUTH AUSTRALIA

WESTERN AUSTRALIA

TASMANIA

NORTHERN TERRITORY

LITERATURE CENSORSHIP -

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

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

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

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

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

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

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

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

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


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

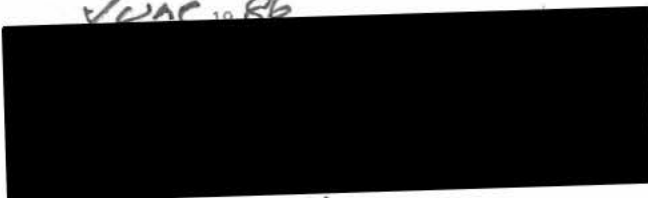
Please bring to the attention of this office any major difficulties experienced in implementing the arrangements embodied in this and previous memoranda.

This is the paper marked <sup>B</sup> referred to  
in the affidavit/declaration of *Brian Rider Peachey*

sworn/made before me this 19<sup>th</sup> day of

*JWAC 1986*

  
(G.E. Sheen)  
for Comptroller-General





# MINUTE PAPER

## CONFIDENTIAL

MINISTER

C.C. Minister Assisting

For Urgent Information

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

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

#### BACKGROUND ON ADMINISTRATION OF PORNOGRAPHY IMPORTS

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

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# CONFIDENTIAL

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

## SUGGESTIONS OF CORRUPTION

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

## COMPLAINTS ABOUT ADMINISTRATION OF IMPORTS OF PORNOGRAPHY

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

CONFIDENTIAL



56 229  
CONFIDENTIAL

3.

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

#### CONCLUSIONS

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

#### RECOMMENDATIONS

We recommend that:

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

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

[REDACTED]  
(M.D. Lightowler)  
Deputy Secretary

31 May 1983.

This is the paper marked E referred to  
in the affidavit/declaration of Brian Aiden PEACHEY.

sworn/made before me this 19th day of  
June 19 86

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

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CONFIDENTIAL

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My dear Attorney-General,

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

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

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

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

With kindest regards,

Yours sincerely,

(John M. Burton)

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

This is the paper marked "A" referred to  
in the affidavit/declaration of Brian Riden PEACHEY  
sworn/made before me this 12<sup>th</sup> day of June 1986



CONFIDENTIAL

AS(BP) for file

*From A.D. Lachka to J. F.A. [unclear] 180*  
*ref. to [unclear] 24.05.83 & 23.5.83*

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

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

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

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

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

Invoices are screened by Parcels Post Staff who have for reference an updated list of prohibitions furnished by A.G.'s. Doubtful material is referred to A.G.'s, for decision. The invoices are not referred to A.G.'s consistent with historical rejection of this arrangement by the latter Department.

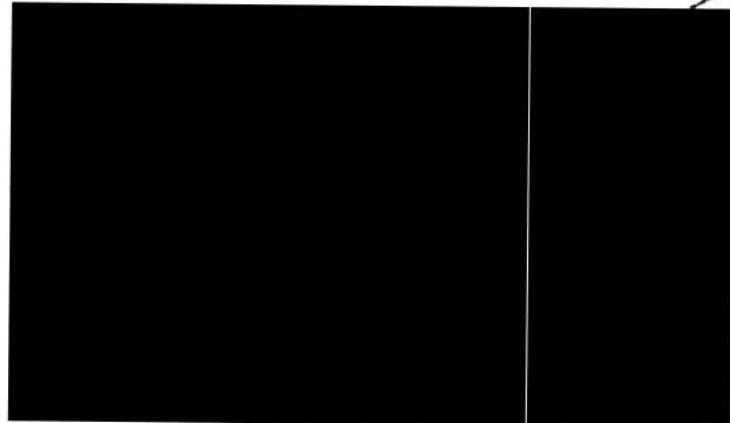
Contd..../2.

(b) Other commercial imports of publications:

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

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

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



This is the paper marked referred to  
in the affidavit/declaration of Brian Aiden PEACHEY.

made before me this 19<sup>th</sup> day of

JUNE 1986



# Customs Officers Association of Australia

(Fourth Division)  
FEDERAL COUNCIL

All correspondence should be addressed  
to General Secretary

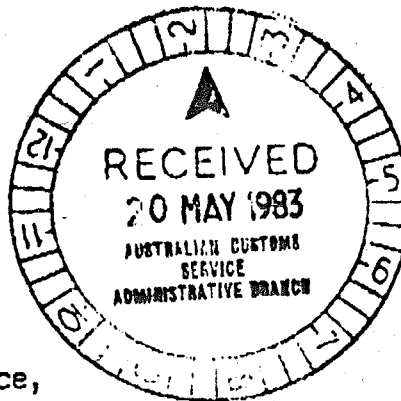
ROOBYNTEX

XXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

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

19.5.83.



**F**

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

Dear Sir,

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

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

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

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

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

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

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

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



- 2 -

16x

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

Yours faithfully,





## MINUTE PAPER

**CONFIDENTIAL**

MINISTER

C.C. Minister Assisting

For Urgent Information

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

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54 MR CARMICHAEL  
204  
DEP SEC. MR UCHTOMLE  
1357 ml

.../2

**CONFIDENTIAL**

## CONFIDENTIAL

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CONFIDENTIAL



# MINUTE PAPER

Deputy Secretary  
(Mr R. Carmody)

## DISCUSSION WITH R.G. SPANSWICK OF COA

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

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

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

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

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

(G.W. Mann)  
Assistant Director

20 January 1984

Checked with N.S. W  
The knowledge of any recent impositions of  
censorship. (The Sullivan SAC (barricade))

What is the position re  
implementation date 1/2

J. 201

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1/2

In Lee  
from night  
please take  
up with N.S. W

Has Compliance

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(PD) 58

1576  
A.G. Barker Policy 133  
copy for info  
[REDACTED]  
[REDACTED] 4/12/84

MR SPANSWICK: TALK BACK

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

Yes

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

Well does your organisation - association intend to do anything about it?



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

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

Well - (Spanswick)

If anything (interviewer)

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

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

(interviewer)

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

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

It still isn't

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

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

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

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

Yes I think we talked about that

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

What exactly does the legislation say

Well the legislation

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

In layman's terms it might be better.

Yes.

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

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

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

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

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

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

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

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

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

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

That's right.

Have you seen those in Australia.

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

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

40  
Tanner | Well my information is that only 1 or 2 days ago two containers were cleared in Sydney and they were 10 tonne containers and I understood they were full.

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

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

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

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

Well

It's a shock to me I tell you Bob

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

Bob what would you like people to do.

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

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




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

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

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

This is the paper marked E referred to  
in the affidavit/declaration of Brian Arden PERCHAY  
sworn/made before me this 19th day of  
June 1986



PARLIAMENTARY COMMISSION OF INQUIRY

GPO Box 5218  
SYDNEY NSW 2001

Ph : (02) 232 4922

20 June 1986

Mr J R Kennedy  


Dear Mr Kennedy

I acknowledge receipt of your letter of 17 June and its enclosure.

Yours sincerely,

J F Thomson  
Secretary

RECEIVED 20 JUN 1986

R. KENNEDY  
M.A. (OXON)  
SOLICITOR  
TELEPHONE: 739 1593

17th June 1986

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

Dear Sir,

Re: Mr Justice Lionel Keith Murphy

I refer to your advertisement in "The Age" newspaper of the 7th June 1986, and enclose a photocopy of a cutting from "The Australian" newspaper of the 7th-8th June 1986.

My view is that in a civilised country a high standard of behaviour is expected of judges, and it is not enough that a judge does nothing positively illegal.

Sometime within the last year or two there was a widely reported case of a Family Court Judge in Brisbane who was charged and acquitted of a criminal offence. I cannot remember the date and details of the matter but I am sure the members of the Inquiry will remember it. I do however remember that it was reported that in the course of his trial, the accused judge said that it was an accepted convention that judges did not go into bars. I thought this to be a rather strict view.

I do not consider that attendance at a Film Festival of the type described in the enclosed newspaper report is proper behaviour for a judge of a superior court, let alone for one of the High Court of Australia.

In conclusion I would add that I am not a Roman Catholic or even a frequent church goer. I merely believe in certain minimum standards of decent conduct.

Yours faithfully

J.R. Kennedy

✓ In Charles

2 Bill

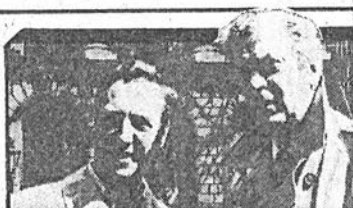
# WEEKEND AUSTRALIA

JUNE 7-8 1986

50 CENTS\*

**Greed: heading the list of new deadly sins**

FOCUS 3



**Forsyth & Caine at \$17 million gamb**

MAGA



First-nighters at the film festival opening, from left, Mrs Murphy, Mr Justice Murphy, Mr Whitlam and Mrs Whitlam — Picture: NEIL DUNCAN

## Film protesters don't spoil fun for old Cabinet friends

By JAMES MORRISON

THE former prime minister, Mr Gough Whitlam, and his former attorney-general and High Court judge, Mr Justice Lionel Murphy, were cheered, jeered and hissed when they arrived at the opening of the Sydney Film Festival last night.

Nearly 1500 Christians had assembled outside the majestic State Theatre to protest against French director Jean-Luc Godard's controversial film *Je Vous Salue, Marie*, or *Hail Mary*.

Mr Whitlam and his wife, Margaret, were met by cries of "shame" as they walked into the theatre. Mr Whitlam was hit on the shoulder by one of a number of candlesticks thrown by protesters.

Five minutes later jeers greeted Mr Justice Murphy and his wife, Ingrid, when they arrived by car, though the judge also was applauded by a group of film buffs who had gathered outside the theatre.

The protesters — including

Catholics, Lebanese Maronites, Protestants and Evangelists — sang hymns and recited the rosary as they picketed the opening of the Sydney Film Festival in the majestic old State Theatre in Market Street.

A number of protesters had to be restrained by friends as they lunged at members of the gay group the Sisters of Perpetual Indulgence, who were satirising the demonstration, chanting: "The Queen of Heaven don't pump gas."

The film portrays the Virgin Mary as a petrol pump attendant, and according to the director of the Festival of Light, the Reverend Fred Nile, there "are full frontals, she swears, there is sex and Jesus as a baby puts his hand up her dress".

He claimed the film was blasphemous and should be banned.

About 25 police officers and a handful of demonstrators with megaphones kept most

of the protesters on the footpath opposite the theatre. No one was stopped from entering the theatre.

The protest organisers said that though the festival opened with Australian director Bruce Beresford's film *Fringe Dwellers*, the vigil had been held because until yesterday afternoon festival officials had refused to say when *Hail Mary* would be shown.

A police spokesman said the demonstration had been peaceful, despite a "few isolated incidents".

The screening of the film has created a storm of opposition in Europe and now Australia, mainly from religious groups.

The Film Censorship Board, which cleared the film for screening during the film festival with a commercial classification, has received 27,000 letters of protest.

The federal Attorney-General, Mr Bowen, on Thursday said he had no power to restrict the screening.

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Television  
Sport



PARLIAMENTARY COMMISSION OF INQUIRY

GPO Box 5218  
SYDNEY NSW 2001

Ph : (02) 232 4922

Dean R Dowling  
Physics Department  
Ballarat C.A.E.  
Mt Helen,  
BALLARAT 3350

Dear Mr Dowling

I acknowledge receipt of your communication dated  
9 June 1986.

Yours sincerely

J F Thomson  
Secretary

17 June 1986

RECEIVED 13 JUN 1986

DEAN R. DOWLING  
PHYSICS DEPT.,  
BALLARAT C.A.E.  
MT. HELEN, BALLARAT-3350

Atat. Decl.

9/6/86

Justice Lionel Murphy is the most intelligent and humane judge ever to sit on the High Court. He is one of the few judges concerned with justice.

The conservative brother judges are out to get him.

(Conservative  $\equiv$  one who agrees with the injustices in society)

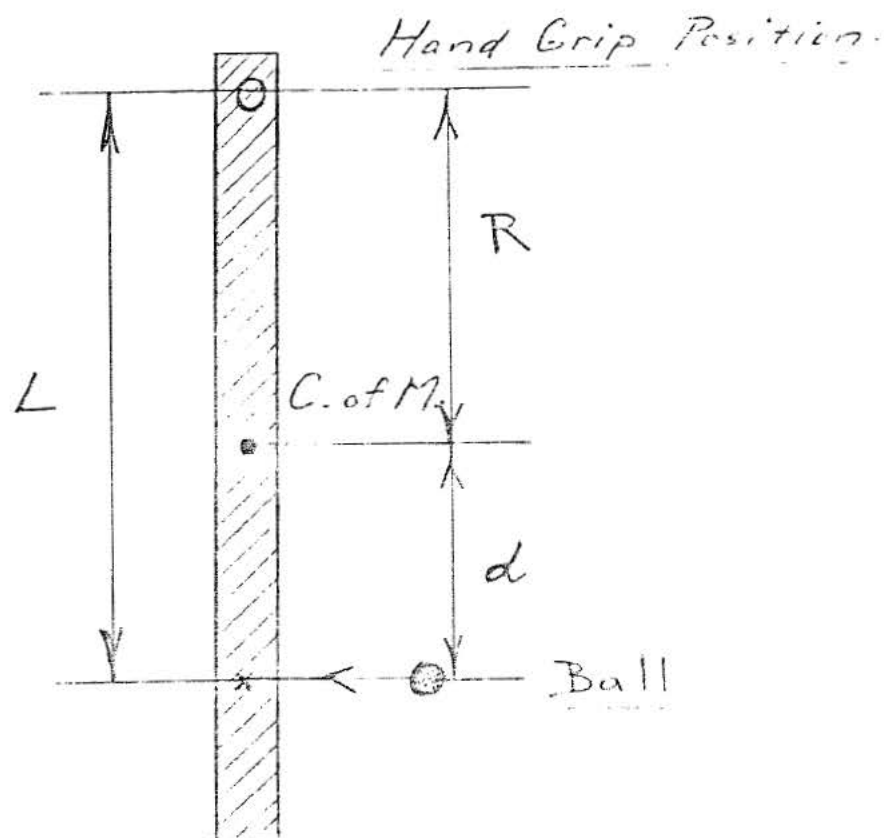
Jim Charles  
to see please - a return  
75  
13/6





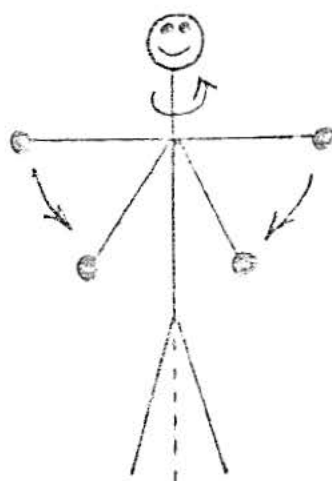
2. a) Calculate the Centre of Percussion for the following to be

$$d = \frac{I_{C.of M.}}{MR} \quad \text{where}$$



Hence show that if we approximate a cricket bat or tennis racket as a uniform rod, the best place to hit the ball is  $L = \frac{4}{3} R$  from where the hands grip the bat. (11 marks)

- b) In the figure shown the moment of inertia of the man about the vertical axis of rotation is  $4 \text{ kgm}^2$ . When holding a  $3 \text{ kg}$  mass in each hand at a distance of  $80 \text{ cm}$  from the centre he is rotating at  $1/3 \text{ rev./sec.}$  If he drops his hands to  $20 \text{ cm}$  from the centre, what is his new revs./sec.?



(7 marks)

contd. 3..

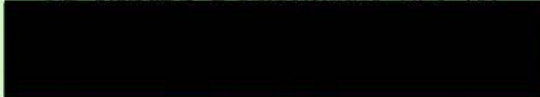
5

PARLIAMENTARY COMMISSION OF INQUIRY

GPO Box 5218  
SYDNEY NSW 2001

Ph : (02) 232 4922

Mr Robert C Rollason, MB, BS



Dear Mr Rollason

Thank you for your letter of the 7th June 1986 for which I  
hereby acknowledge receipt.

Yours sincerely

J F Thomson  
Secretary

13 June 1986

4  
RECEIVED 12 JUN 1986

ROBERT C. ROLLASON, M.B., B.S.

[REDACTED]  
7/June/'86

The Secretary,  
Parliamentary Commission of Inquiry,  
8th. Floor,  
ADC House,  
99 Elizabeth Street,  
Sydney,  
New South Wales,  
AUSTRALIA 2000

Dear Sir,

re:- conduct of the Honourable Lionel Keith Murphy....

There is Occam's (Ockham's) Razor - one version of which states:- "Entities must not be multiplied beyond necessity". There is another version:- "If the facts in your data are in error or incomplete; and, if you reason from them, then your conclusion is bound to be false".

I think that the track record of the Honourable Lionel Keith Murphy is like that of a psychiatrist - bad, to say the least.

Yours sincerely, [REDACTED]

PARLIAMENTARY COMMISSION OF INQUIRY

GPO Box 5218  
SYDNEY NSW 2001

Ph : (02) 232 4922


Miss B Cameron



Dear Miss Cameron

I am instructed to acknowledge receipt of your letter of 4 June 1986 which had enclosed with it a copy letter dated 4 June 1986 addressed to the Chief Justice of the High Court of Australia.

Yours sincerely



J F Thomson  
Secretary

11 June 1986

4th June 1986

The Hon. Sir George Lush,  
The Presiding Member,  
Parliamentary Commission of Inquiry,  
Box 5218 G.P.O.,  
Sydney 2001.


Dear Sir George,

I enclose a copy of a letter which I wrote to  
the Rt. Hon. Sir Harry Gibbs GCMG, KBE.

Your Commission's task is onerous, requiring your  
great skills and understanding of our law. I have  
no such understanding. I have only a fierce  
pride in the maintenance of the integrity and  
honour that the highest Court of Law in Australia  
must demand.

I trust that your Commission's report will give  
the solution that will ensure the maintenance  
of integrity and honour of the High Court of Australia  
and be the best for all concerned.

I would appreciate your acknowledgement  
of my letter and enclosure.

Yours faithfully,  


Encl.

File.



Copy

4th June 1986

The Rt. Hon. Sir Harry Gibbs, GC MG. KBC,  
Chief Justice of the High Court of Australia,  
P.O. Box E 435,  
Canberra ACT 2601

Dear Sir Harry,

It is with great sadness I write. Maybe also, I am  
but a small voice crying in the wilderness.

The High Court of Australia represents to me the pinnacle  
of our legal system and the heart of our nation. Therefore,  
those who sit upon this exalted Bench, must be seen to  
be beyond reproach — without blemish publicly and  
privately. There is no room for their standard of  
behaviour to be anything but impeccable, else how  
can any citizen brought before them for judgment have  
faith and confidence in the judicial system?

I am in no position to make judgment upon the  
Hon. Justice Lionel Murphy. However, it is my opinion that  
should he be re-instated to a position of trust and  
honour in the High Court then the seeds of doubt which  
have been sown will ultimately grow into a cynicism,  
which will ever after shadow and destroy the highest  
court in our land.

I would appreciate your acknowledgement of my  
letter, a copy of which I have sent to The Hon.

Sir George Lush.

A copy of my letter to him  
is attached

Yours faithfully

PARLIAMENTARY COMMISSION OF INQUIRY

GPO Box 5218  
SYDNEY NSW 2001


Ph : (02) 232 4922

Mr James A Thomson  


Dear Mr Thomson

I write to let you know that your letter of 9 June 1986 and attachments have been received. I am bringing these papers to the attention of appropriate persons in the Commission.

Yours sincerely

  
J F Thomson  
Secretary

11 June 1986