

31/7 D Durack & M Weinberg
circumstances and C. Watersheet
barrister re documents to be
summarised. - see copy letter
of Masselos with D Durack annotations
- re further action on this letter
5/8 due to uncertainty of proceedings
D Durack re M. S. Masselos -
Masselos agreed that we not
proceed to obtain any of doc's
referred to & agreed on 31/7
until position became clearer
- he will confirm this in
writing.

11/8/86.



Parliamentary Commission of Inquiry

G.P.O. Box 5218
Sydney, N.S.W. 2001
Ph: (02) 232-4922

With the compliments of

STEVE MASSELOS & CO.

SOLICITORS

STEVE G. MASSELOS, LL.B.

FIRST FLOOR
44 MARTIN PLACE
SYDNEY, N.S.W. 2000

DX 305

TELEPHONE
232-7366

July 29, 1986.

SGM/vc

OUR REF

YOUR REF

BY HAND

RECEIVED 29 JUL 1986

Secretary,
Parliamentary Commission of Inquiry,
8th Floor,
ADC House,
99 Elizabeth Street,
SYDNEY.

Dear Sir,

RE: THE FIRST ALLEGATION:
(HEADED ALLEGATION NO. 1)

In order to enable Mr Justice Murphy to meet this allegation, we set out hereunder the first list of documentary material and persons required:

1. DOCUMENTS TENDERED DURING THE SOCIAL SECURITY CONSPIRACY COMMITTAL PROCEEDINGS

EXHIBIT

DESCRIPTION

1.1. Thomas 4

Confidential minute from Thomas to OIC NSW District COMPOL dated August 10 1977.

1.2. Thomas 5

Note for file dated September 15 1977 recording a meeting between Thomas and officers of the Department of Social Security, the Department of Health and COMPOL.

1.3. Thomas 6

Note for file of Thomas dated August 24 1977 re conference with officers of the Department of the Attorney General, Department of Social Security, Deputy Crown Solicitor's Office and COMPOL and note of Detective Chief Inspector Hull of August 30 1977 concerning same.

~~Revised~~
Raised at hearing 31/7/86

→ Mrs Ross
file

Page 2.

- 1.4. Thomas 7 Confidential minute from Thomas to OIC NSW District COMPOL dated November 3 1977.
- 1.5. Thomas 8 Letter from A.L. Wunderlich, Solicitor, dated October 27 1977.
- 1.6. Thomas 9 and 10 Informations of Thomas to obtain search warrants dated March 29 1978 or thereabouts.
- 1.7. Thomas 13 Letter from COMPOL Acting Commissioner Harper to Secretary, Department of Social Security (reference JDD) dated September 15 1977.
- 1.8. Thomas 14 Minute from COMPOL Commissioner Davis to OIC NSW District COMPOL dated November 15 1977.
- 1.9. Thomas 15 Note from D. Corrigan First Assistant or Deputy Director General, Department of Social Security, to the Director General of the Department dated October 31 1977.
- 1.10. Thomas 16 Notes of meeting with COMPOL signed by D. Corrigan, dated September 15 1977.
- 1.11. Thomas 17 Note from D. Corrigan to Director General, Department of Social Security dated November 16 1977.
- 1.12. Thomas 18 Note from P.J. Lanigan, Director General of Department of Social Security to FADG (First Assistant Director General) (Management) of the Department of Social Security (D. Corrigan) dated October 21 1977 in reply to the latter's note of October 20 1977.

Page 3.

- 1.13. Thomas/
Yianoulakis 25 Document from Commissioner Jack Davis COMPOL to Senator Withers, Acting Minister for Administrative Services and containing Senator Withers' signed or initialled approval of the proposals therein.
- 1.14. Nakis 1 49 page Statement dated February 26 1979.
- 1.15. Nakis 2 Record of Interview dated September 22 1978.
- 1.16. Nakis 3 Record of Interview dated September 20 1978.
- 1.17. Nakis 4 Record of Interview dated April 2 1978.

2. DOCUMENTS ARISING OUT OF OR IN CONNECTION WITH THE COMMITTAL PROCEEDINGS

2.1. Note of FADG (Management) Department of Social Security to Director General of the Department dated October 20 1977 (See Thomas 18 above).

2.2. All documents in the files of:

- (i) Department of Social Security
- (ii) Department of the Attorney General
- (iii) Department of Health
- (iv) COMPOL (AFP)
- (v) Deputy Crown Solicitor's Office

relating to the matters referred to in exhibits Thomas 4 -18 inclusive.

- 2.3. Documents evidencing requests from the Crown or Crown Lawyers to Thomas and Thomas' receipt of and responses to same to make a written statement in relation to the Social Security Conspiracy matter and his relationship and discussions with Chris Nakis.
- 2.4. Statement made by Thomas during conference with Messrs. Rofe Q.C., Arden, T. Griffin and G. Smith on or about May 31 1978 including transcripts and tape recordings of conference.
- 2.5. Notes of conversations between Thomas and Mr G.E. Smith of the Deputy Crown Solicitor's office on or about September 22 1978 including any file notes, memoranda, advices or records.
- 2.6. Joint Advices of Messrs. Rofe Q.C., and Arden dated or received as follows:-
- | | |
|----------|------------------|
| Part I | January 23 1979 |
| Part II | February 20 1979 |
| Part III | March 22 1979 |
| Part IV | March 23 1979 |
| Part V | April 4 1979 |
| Part VI | April 12 1979. |
- 2.7. Letter from Thomas to Commissioner of Commonwealth Police on or about March 1 1979.
- 2.8. Tape recordings, transcripts and notes of conference at Deputy Crown Solicitors Office attended by Thomas and Messrs McAuley, Smith, Davies, Rofe Q.C., and others on or about March 7 1979.
- 2.9. Notes of a telephone conversation between Thomas and Herman Woltring of the Deputy Crown Solicitor's office on November 2 1979.
- 2.10. Tape recordings, transcripts and notes of conference between Messrs. Rofe Q.C., Arden and Thomas on or about November 2 1979.

Page 5.

- 2.11. Tape recordings, transcripts and notes of conference in Rofe's Q.C. Chambers on or about November 6 1979.
- 2.12. Notes of telephone and other conversations between Mr Woltring and Mr Bellemore on or about November 9 1979.
- 2.13. Joint Advice of Marcus Einfeld Q.C. and Charles Waterstreet dated and/or received November 9 1979 plus Memorandum of Comment thereon by and Joint Advice of Messrs. Rofe Q.C. and Arden dated respectively November 12 and 16 1979.
- 2.14. Tape recordings, transcripts and notes of conference on November 16 1979 of Senator The Hon. Peter Durack, Attorney General of the Commonwealth, Mr Justice Neaves and officers of the Deputy Crown Solicitor's Office with the legal representatives and advisers of the Crown.
- 2.15. Notes of conversation between Messrs. Rofe Q.C., Arden, McAuley and Thomas on or about December 20 1979.
- 2.16. Letter from the Deputy Crown Solicitor, Sydney to the Crown Solicitor, dated January 11 1980.
- 2.17. Handwritten account supplied by Thomas at conference with Mr Rofe Q.C. and the Acting Deputy Crown Solicitor on or about January 20 1980 together with notes of that conference.
- 2.18. Notes of telephone conversations between Mr Wunderlich Solicitor and an officer of the Deputy Crown Solicitor's Office on or about January 22 1980 and thereafter.
- 2.19. Documents of negotiation between Chris Nakis or his representatives and the Crown Solicitor concerning the return of Nakis from Greece dated approximately January 23 1980 and thereafter.

Page 6.

- 2.20. All statements, records of interview, notes of conversations of and with Chris Nakis by Rofe Q.C., Mr Woltring and/or other Crown Lawyers after January 22 1980.
- 2.21. Tape recordings, transcripts and notes of conference between Nakis and Rofe Q.C., and others on or about February 22 1980.
- 2.22. Proof of evidence taken by Trevor Nyman, Solicitor from Nakis or or about March 11 1980.
- 2.23. Further proof of evidence taken by Mr Nyman from Nakis on or about March 17 1980.
- 2.24. Tape recordings, transcripts and notes of conference between Messrs. Rofe Q.C., Arden, Woltring and Nakis or or about April 11 1980.
- 2.25. Tape recordings, transcripts and notes of conference between Messrs. Rofe Q.C., Arden and Nakis on or about April 18 1980.
- 2.26. Application by Crown to the Supreme Court for a closed Petty Sesion Court to hear the evidence of Chris Nakis plus the affidavits, other documents file of the Deputy Crown Solicitor and Briefs to Senior and Junior counsel relating to the said application heard in the Supreme Court on or about May 1 1980.
- 2.27. Tape recordings, transcript and notes of conferences between Messrs. Rofe Q.C., Arden, Woltring and Nakis on or about May 30 1980.
- 2.28. Tape recordings, transcripts and notes of conference between Messrs. Rofe Q.C., Arden, Tabuteau, Woltring and Thomas on May 30 1980.
- 2.29. Letter from Deputy Crown Solicitor Sydney to Crown Solicitor concerning the said conference.

- 2.30. Joint Advice of Rofe Q.C. and Arden dated approximately June 17 1980.
- 2.31. Tape recordings, transcripts and notes of conferences on July 4 1980 involving all or at times some of the following persons:
- Sir Maurice Byers Q.C.
B.J. O'Donovan
A.C. Menzies
L.J. McAuley
H. Woltring
G.E. Smith
- of the Deputy Crown Solicitor's office and
- Messrs. Rofe Q.C. and
Arden.
- 2.32. Tape recordings, transcripts and notes of and documents available at conference on July 15 1980 between Senator The Hon. Peter Durack, Attorney General of the Commonwealth and Messrs. O'Donovan, McAuley, Rofe Q.C., Arden, Woltring and Smith.
- 2.33. The Crown Solicitor's file and brief to senior and junior counsel for the conference with Mr T.E.F. Hughes Q.C. on or about July 18 1980 and the notes of the conference at which was present in addition to Mr Hughes, Messrs. O'Donovan, Woltring and Smith.
- 2.34. The Crown Solicitor's file and briefs to senior and junior counsel for the conference with Mr Hughes Q.C. on or about August 20 1980 and the notes of that conference.
- 2.35. Mr Hughes' Advice dated or received August 25 1980.
- 2.36. Memorandum from Mr Rofe Q.C. and Arden dated August 27 1980.
- 2.37. Tape recordings, transcripts and notes of conferences on September 11 (2 conferences) and September 18 1980 involving all or some of Messrs. Rofe Q.C., Arden and Woltring.

Page 8.

- 2.38. Tape recordings, transcripts and notes of conference on October 8 1980 between Messrs. Rofe Q.C., Arden and Woltring.
- 2.39. Tape recordings, transcripts and notes of conference on October 15 1980 between Messrs. Rofe Q.C., Shephard and Woltring.
- 2.40. Tape recordings, transcripts and notes of conference held on October 23 1980 in the Attorney General's suite in Parliament House, Canberra at which were present:
- Senator The Hon. Peter Durack
- Attorney General of the Commonwealth.
- Mr Justice Neaves and
- Messrs. C. Morrison,
- A.R. Watson and Woltring.
- 2.41. First draft of announcement to be made in Court on October 30 1980 prepared by Mr Woltring and discussed with Mr Watson plus notes of the said discussion.
- 2.42. Tape recordings, transcripts and notes of conference held at the Wellington Hotel, Canberra on October 24 1980 between Mr Rofe Q.C. and Mr Woltring plus the terms of the settled announcement and notification of agreement by Mr Watson in respect of the announcement.
- 2.43. Tape recordings, transcripts and notes of conference between Messrs. Rofe Q.C., Arden, Woltring and Smith and Mr Justice Wood held on October 28 1980.
- 2.44. Notes of telephone or other conversations between Attorney General Durack and Mr Rofe Q.C. concerning decisions made in principle on October 23 1980 about the future of the conspiracy proceedings.

- 2.45. Tape recordings, transcripts and notes of conference on October 31 1980 between Acting First Assistant Crown Solicitor Watson and Messrs. Rofe Q.C., Arden, Woltring, Smith and Mr Justice Wood.
- 2.46. Notes of telephone conversations between Mr Brown S.M. and Mr Woltring on May 18 1982 and thereafter.
- 2.47. Tape recordings, transcripts and notes of conference between Messrs. Rofe Q.C., Inglis and Woltring with Mr Justice Wood and His Worship, Mr Williams, S.M.
- 2.48. Tape recordings, transcripts and notes of conference on May 23 1982 between Messrs. Rofe Q.C., Inglis and Woltring and Mr Justice Wood and His Worship, Mr Williams S.M.
- 2.49. Tape recording and transcript of a telephone conversation between Mr Rofe Q.C. and Thomas at about 5.15 p.m. on May 23 1982.
- 2.50. File notes and other documents evidencing the delivery by Mr Woltring on May 24 1982 of the transcript of the defence submissions in the Social Security Conspiracy Case to Thomas.
- 2.51. Documents evidencing decision and action to effect an urgent independent police enquiry into allegations against Thomas including the interviewing of police officers responsible for the security of or contact with Messrs. Nakis, Wunderlich, Thomas and Wunderlich's secretary.
- 2.52. Tape recordings, transcripts and notes of conference between Mr Woltring, Inspector Adams, Station Sergeant Kemp (AFP Brisbane) and Sergeants B.C. Lee and P. Baxter (AFP Sydney) and documents of appointment of the said officers by the Commissioner of the Australian Federal Police to conduct enquiries into Thomas.
- 2.53. All reports, statements, file notes, tape recordings, documents, films and other materials obtained and gleaned in the course of the said investigation.

2.54. Joint Advice of Messrs. Rofe Q.C., Inglis, Mr Justice Wood and His Worship, Mr Williams S.M. received at 8.30 p.m. on May 29 1982 and delivered to the Crown Solicitor on May 30 1982.

2.55. Notes of discussions on May 31 1982 on the substance and effect of the Joint Advice and the options arising therefrom involving all or some of the following persons:

Crown Solicitor O'Donovan
Messrs. Boucher and Woltring
Messrs. Rofe Q.C., and Inglis,
Mr Justice Wood
His Worship Mr Williams, S.M.

2.56. Tape recordings, transcripts and notes of conferences respectively held on June 2, 3 and 6 1982 involving all or some of the following:

Messrs. O'Donovan, Boucher and Woltring
Messrs. Rofe Q.C. and Inglis
Mr Justice Wood.

2.57. Joint Advice dated or received June 4 1982 from Messrs. Rofe Q.C. and Inglis, Mr Justice Wood and His Worship, Mr Williams S.M.

3. OTHER COMMITTAL PROCEEDING DOCUMENTS

3.1. Transcript of evidence and floppy disks thereof compatible with a WY50 computer.

3.2. Exhibits.

3.3. Documents marked for indentification.

- 3.4. Documents produced on subpoena by the Department of Social Security.
- 3.5. Australian Federal Police files containing statements made by Thomas for his superiors and/or the Crown's legal representatives prior to or during and referable to the subject matter of the committal proceedings and reports made by Thomas to his superiors and Crown Law officers relating thereto.
- 3.6. Informations or other documentation sworn, affirmed or prepared by or under the instructions or with the knowledge or approval of Thomas before and to achieve the arrest of the persons charged with conspiracy in the said proceedings.

4. THE STEWART ROYAL COMMISSION

- 4.1. Transcript of evidence of Thomas.
- 4.2. Statements made or provided by Thomas.
- 4.3. Statements made or provided by others concerning Thomas, and concerning his contacts and relationship with Mr Justice Murphy and Morgan Ryan.

5. THE THOMAS ALLEGATIONS TO THE COMMISSION

- 5.1. Statement of Thomas.
- 5.2. Tape recordings, transcripts and notes of conferences with Thomas.

- 5.3. Tape recordings, transcripts and statements made by any person about allegations of Thomas and notes of conferences with said persons.
- 5.4. All duty diaries, notebooks, reports, memoranda, notes, correspondence etc., of Thomas or any senior or other officer of AFP concerning or arising out of the alleged conversation between Thomas and Mr Justice Murphy.
- 5.5. Any applications by Thomas to use tape recordings or other devices in recording conversations with Mr Justice Murphy, Morgan Ryan or other persons in 1979-80 and the tapes and transcripts of any such conversations.
- 5.6. The Commonwealth Police and Australian Federal Police guidelines or rules concerning -
 - (i) use of listening devices,
 - (ii) reporting of crime,
 - (iii) recording of conversations relating to investigations and to crime.
- 5.7. The personnel and personal file of Thomas during his period as a Member of the Australian Federal Police.
- 5.8. The personnel and personal file of Thomas during his period as a member of the N.S.W. Police.
- 5.9. Any application by Thomas to be admitted to the N.S.W. Bar.
- 5.10. File of the Director of Public Prosecutions concerning this allegation including briefs of senior and junior counsel prosecuting Mr Justice Murphy, notes of conferences with Thomas and counsel's advice in relation to the allegation.

6. OTHER DOCUMENTS

6.1. All files, documents, statements, reports, notes, recordings, transcripts, letters of the following:

- (i) The National Times newspaper
- (ii) The Age newspaper
- (iii) The Director of Public Prosecutions.

concerning the involvement and contact of Mr Justice Murphy with Thomas and Thomas' assertions in relation thereto.

6.2. Cabinet, minutes, files and all documents, reports, minutes involved in consideration by the Australian Government of the Social Security Conspiracy case for 1978-82.

7. THE SHIRLEY BRIFMAN ALLEGATION

The following documents of the N.S.W. police are required:

7.1. Record of interview with Shirley Brifman concluded between July 28 1971 and August 17 1971.

7.2. Any reports, documents, records and advices concerning Thomas arising out of the allegations by Brifman.

7.3. Any statements made by Thomas about Brifman's allegations.

8. PERSONS REQUIRED TO ATTEND THE INQUIRY

- (a) Officers or former officers of the Australian Federal Police (COMPOL)

L.S.J. Harper

J.D. Davis

J.M. Davies

B.E. Hull

J. Adams

A. Kemp

P. Baxter

B.C. Lee

- (b) Officers or former officers of the Department of Social Security

P.J. Lanigan

D. Corrigan

Mr Prouse

- (c) Officers or former officers of the Department of Health.
TO BE ADVISED

- (d) Officers or former officers of the Deputy Crown Solicitor's office (Australian Government Solicitor/Director of Public Prosecutions).

B.J. O'Donovan

A.C. Menzies

T. Griffin

Mr Justice Neaves

G.E. Smith

D. Boucher

Ian Temby Q.C.

Herman Woltring.

- (e) Counsel for the Crown in the Social Security Conspiracy Case.

D. Rofe Q.C.

Mr Justice Wood

M.M. Shepherd

Timothy Murphy

M.J. Inglis

His Worship Mr Williams S.M.

Peter Arden

(f) Other persons involved

Sir Maurice Byers Q.C.

T.E.F. Hughes Q.C.

Chris Nakis

A.L. Wunderlich

Mr Wunderlich's secretary

Adrian Bellemore

(g) Unless Mr Thomas makes certain admissions we foreshadow that we may ask for summonses to be issued for the attendance of the following:

The Rt. Hon. Malcolm Fraser

Senators Durack, Withers,
Dame Margaret Guilfoyle and Grimes

The Hon. Lionel Bowen MP

Would you kindly arrange for the appropriate summonses to issue for the production of these documents and the availability of these persons in time for the hearing dates on which this allegation is to proceed.

We are attempting to arrange for statements to be taken from some of the people named. When these statements are available we will supply them to you if appropriate.

Yours faithfully,
STEVE MASSELOS & CO.,



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

Dear Sirs,

Mr Justice L K Murphy

I refer to my letter of 17 July 1986.

I attach hereto further allegations numbered 16 and 40.

Yours faithfully,

A solid black rectangular redaction box covering the signature of the sender.

D N Durack
Instructing Solicitor

30 July 1986

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

Dear Sirs

MR JUSTICE I. K MURPHY

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

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

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

Yours faithfully

A solid black rectangular box used to redact the signature of the instructing solicitor.

D N Durack
Instructing Solicitor

17 July 1986

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


Dear Sirs

MR JUSTICE L K MURPHY

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

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

Yours faithfully


D N Durack
Instructing Solicitor

15 July 1986

RECEIVED 14 JUL 1986

EVE MASSELOS & CO.

SOLICITORS

FIRST FLOOR
44 MARTIN PLACE
SYDNEY, N.S.W. 2000

STEVE G. MASSELOS. LL.B.

DX 305

July 14, 1986.

TELEPHONE
232 7366

SGM/vc

BY HAND

OUR REF

YOUR REF

URGENT

David Durack,
Instructing Solicitor,
Parliamentary Commission of Inquiry,
8th Floor,
ADC House,
99 Elizabeth Street,
SYDNEY. NSW. 2000.

Dear Sir,

RE: MR JUSTICE L.K. MURPHY

We refer to today's telephone conversation between Mr Gyles Q.C. and Counsel Assisting the Parliamentary Commission of Inquiry and wish to confirm the view expressed by Mr Gyles that there are, from our client's position, good and valid reasons why the allegations made against him should, if possible, be supplied today.

We would be grateful if you would supply us with the written allegations, even in draft form, by 4.00 p.m. today, should this be feasible.

Yours faithfully,
STEVE MASSELOS & CO.,



Messrs Steve Masselos & Co.
Solicitors
First Floor
44 Martin Place
SYDNEY NEW 2000

Dear Sir,

Mr Justice L.F. Murphy

I refer to your letter dated 4th July 1986. I am instructed to reply as follows:-

1. I note the contents of paragraph 1. The argument there set out does not appear accurately to record the views of the High Court, as expressed on Friday 27 June last. Nor does it record accurately the views expressed by the Commission. However, the matter can be raised on 17 July at the next hearing of the Commission. It was never contemplated that there would be further hearings of the Commission before you and your client had had a reasonable opportunity of preparing for such hearings.
2. As agreed on 24 June, a preliminary set of specific allegations in precise terms will be delivered to you and your Counsel on 15 July next. These allegations may not be, as you have already been notified, in any sense final. They are subject to amendment and elaboration. There may also be further specific allegations produced once investigations have clarified certain matters.
3. I note your concern in paragraph 3. As I understand the specific example mentioned, the allegation is that certain police officers had incorrectly stated that they were in some way associated with the Mackay Inquiry, in the course of questioning outside parties - when there was, in fact, no such association. If this Commission should appoint investigators to its staff, it would obviously be impossible for any comparable mischief to arise. If such investigators stated to potential witnesses that they were associated with the Commission, they would be stating nothing less than the whole truth.

As to the allegation of leaks to the press, I would very strongly resist any suggestion that those employed by this Commission have been responsible for any leak to the press. I know of absolutely no basis for any such suggestion. I would remind you that there are a number of parties outside the Commission who are privy to information concerning its inquiries and hearings. All personnel employed by the Commission are well aware of their obligations in this regard.

4. I note the contents of paragraph 4 and refer to paragraph 2 above.

Yours faithfully,

David Durack
Instructing Solicitor
10 July 1986

Steve Masselos & Co
Solicitors
First Floor
44 Martin Place
Sydney NSW 2000

Dear Sirs,

Re: Mr Justice L K Murphy

I write to acknowledge receipt of your letter of 4 July 1986 addressed to Mr D Durack, instructing solicitor, and to say that he will be responding shortly.

Yours faithfully,

J F Thomson
Secretary

7 July 1986

Steve Masselos & Co
Solicitors
First Floor
44 Martin Place
Sydney NSW 2000

Attn: Mr Masselos

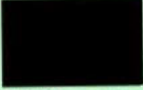
Dear Sirs,

I refer to your letter of 4 July 1986 concerning your request for access to facilities.

I regret that I have been provided with resources sufficient only for the purposes of the Commission itself and staff employed by the Commission. I am informed that this is generally the case with, eg Royal Commissions.

However, special arrangements have been made to furnish you with a screened office area in the hearing room and I am arranging for the installation of a telephone in that area. You will have access in private to that telephone during adjournments. I regret I am not in a position to provide the other facilities you request.

Yours faithfully,


J F Thomson
Secretary

8 July 1986

NOTE FOR FILE

Following discussions with Pat Brazil re the status of the Stewart Report - VOL. II. I prepared a letter to the Judge's solicitors in relation to the return of the copy(\$) provided to them and replacement with certain specific pages relating to the Judge. However, upon a final checking of the pages referred to me I noticed that pages relating to D Thomas had been left out (paragraphs 2.62 - 2.71 in Chapter 2).

I consulted F Thomson on this and he raised the matter with the Presiding Member. It was agreed that I would further check the pages referred and the whole of CH 2 on Morgan Ryan and discuss the results with the Presiding Member next week. Until then no letter will be sent to the Judge's solicitors.



D Durack

4 July 1986

RECEIVED - 4 JUL 1986

STEVE MASSELOS & CO.

SOLICITORS

STEVE G. MASSELOS, LL.B.

FIRST FLOOR
44 MARTIN PLACE
SYDNEY, N.S.W. 2000

DX 305

TELEPHONE
232 7366

July 4, 1986.

OUR REF SGM/vc
YOUR REF

BY HAND

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

Dear Sir,

RE: MR JUSTICE L.K. MURPHY

We refer to discussions concerning the availability of facilities for us during any necessary hearings of evidence. To assist you to make the necessary arrangements, we should appreciate the provision of the following.

- (a) secure conference facilities;
- (b) secure telephone access;
- (c) a secure area for storage of material;
- (d) word processing facilities.

We shall be pleased to discuss with you and view the options available under these headings at your convenience.

Yours faithfully,
STEVE MASSELOS & CO

Per: 

- Show how provided
 - no other area
 - no respons. to provide other facilities in home city of party + reps (alter, visitors)
 - See 22 from same

STEVE MASSELOS & CO.

SOLICITORS

STEVE G. MASSELOS, LL.B.

9
RECEIVED - 4 JUL 1986

FIRST FLOOR
44 MARTIN PLACE
SYDNEY, N.S.W. 2000

DX 305

TELEPHONE
232 7366

July 4, 1986.

BY HAND

OUR REF SGM/vc
YOUR REF

Mr D. Durack,
The Solicitor Instructing Counsel
Assisting the Commission,
Parliamentary Commission of Inquiry,
8th Floor,
ADC House,
99 Elizabeth Street,
SYDNEY. NSW. 2000.

Dear Sir,

RE: MR JUSTICE L.K. MURPHY

We refer to recent discussions between Counsel and confirm the following:-

1. In the absence of specific allegations in precise terms, we are unable of course to express a final view, but we give you notice that when those allegations and their particulars are received we may contend that there should be no hearings of evidence prior to the resolution of the matters for argument before High Court. This contention would embrace the argument that the possible invalidity of the whole inquiry makes it inappropriate that the Commission's coercive powers and its activities beyond mere inquiry and the formulation of specific allegations in precise terms be utilised. So much was envisaged by High Court when they declined interlocutory relief and by the Commission itself in its rulings on June 3 and 24.
2. It must be appreciated that at the present time the lack of any allegations or access to material already gathered hinders our preparation on the facts. Delay in providing specific allegations and particulars to mid July and the lack of progressive specific allegations have inevitably delayed any hearings.

1 cc Ross

1 cc Durack
Weinberg
Robertson

2 file

8

Page 2.

3. We remain most concerned about the potential for mischief in having outside investigators deal with the public in any way. We have voiced this concern both before the Commission and before the High Court. A graphic example of our concern is reported in the Sydney Morning Herald of July 1 page 3 under the heading 'Police Rebuked at Mackay Inquiry'. This potential is all the greater if police officers are involved. The mischief is not restricted to conduct of that type. Our client has had much recent experience of leaks to the press - particularly the National Times. Chances of leaks are increased with the number of people involved - particularly if they are not professional people. We seek your assurances in this regard and an indication of the security procedures being adopted.

4. In order to enable us to make maximum use of time and our available resources, and to minimise later delays, we would again request that we be given a progressive set of allegations (even in draft) and relevant documents rather than have to deal with a complete set of finally settled allegations and necessary documentation at one time.

Yours faithfully,
STEVE MASSELOS & CO.,

Per: 

PARLIAMENTARY COMMISSION OF INQUIRY

GPO Box 5218
SYDNEY NSW 2001

Ph : (02) 232 4922

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

Dear Sir,

Mr Justice L.E. Murphy

Your letter dated June 18th 1986 addressed to Mr Stephen Charles Q.C., Counsel Assisting The Parliamentary Commission of Inquiry, has been referred to me for reply.

I confirm that those assisting the Commission have been placed in possession of a very considerable body of material, which is being examined with all reasonable speed, and that it has not proved possible to provide specific allegations in precise terms before the next proposed sitting of the Commission on Monday 23rd June. There are two reasons for this: the quantity of documentary material which has been received is greater than anticipated at the time Mr Charles informed the Commission (on 3rd June 1986) that he hoped to be in a position to supply a preliminary set of specific allegations with particulars by 20th June; and secondly it would be impossible for Counsel assisting the Commission to draw and settle specific allegations with proper particulars before at least some investigations have been carried out and statements obtained from potential witnesses.

I note your contention that your client should be entitled to make submissions concerning the allegations which are to be considered before any step is taken by or on behalf of the Commission to investigate them; and your further contention that it would be inappropriate and unlawful for the Commission to obtain the services of any policeman or other person connected with law enforcement for this function. I do not accept that either of these contentions is correct. However, to enable these matters to be argued, no investigators will be appointed to the Commission's staff before Tuesday next (24th June) and no statements will be obtained from potential witnesses before that date. In order that these comments be not misunderstood, I should add that the Commission has

appointed to its staff a senior research officer and information has already been received, in oral form, by Counsel assisting the Commission. Those who have thus far supplied oral information are not, at present, expected to give evidence in any Commission hearings. In any event, subject to any arguments that may be raised on Monday next, you should assume that the Commission may appoint persons (including policemen) to assist it with its inquiries as from Tuesday 24th June and that the taking of statements may commence on that date.

In order that you and your client may be fully informed as to the approach which is being taken by Counsel assisting the Commission, I am instructed to add the following comments. The information now being considered by Counsel falls into two general categories -

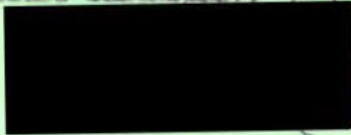
- (a) allegations relating to Mr Justice Murphy's conduct in judicial office;
- (b) allegations relating to Mr Justice Murphy's conduct, but not pertaining to judicial office.

None of the information supplied includes any allegation that the Judge has been convicted of any offence.

The information contained in category (b) relates both to allegations of breaches of the general law and other matters, not constituting breach of the general law which, if proved, would arguably constitute misbehaviour sufficient to justify removal from office. In each case the allegations cover periods of time occurring both before and after the 14th February 1975, being the date of the Judge's appointment to the High Court Bench.

As to the last paragraph in your letter, we do not propose to make available for inspection the material received "pursuant to advertisement or otherwise." However, as was stated at the last hearing (on 3rd June), you will be given access to all material which it is proposed to make available to the Commissioners, before this step occurs.

Yours faithfully,


D. Durack
Instructing Solicitor

20 June 1986

STEVE MASSELOS & CO.

SOLICITORS

STEVE G. MASSELOS, LL.B.

Ms Koss → Mr. L. ...
RECEIVED 18 JUN 1986

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44 MARTIN PLACE
SYDNEY, N.S.W. 2000

DX 305

TELEPHONE
232 7366

June 18, 1986.

BY HAND

SGM/vc

OUR REF

YOUR REF

Stephen Charles, Q.C.,
Counsel Assisting The Parliamentary
Commission of Inquiry,
8th Floor,
ADC House,
99 Elizabeth Street,
SYDNEY. NSW. 2000.

Dear Sir,

RE: MR JUSTICE L.K. MURPHY

We refer to Mr Charles' conversation with Mr Gyles yesterday in which he advised that he would not be able to provide allegations and particulars of allegations on Friday next as had been arranged at the previous sitting of the Commission by reason of the volume of information which has been received. He further referred to the possibility that investigators might be engaged to follow up information received. He suggested that it was therefore premature to have the argument as to the meaning of proved misbehaviour within s.72 of the Constitution next week as had been envisaged, and suggested an adjournment until July 14 next.

It seem to us that this procedure is at odds with the rulings of the Commission given on the last occasion, and with the true construction of the Statute.

Sir George Lush, in a ruling which was agreed with by the two other members of the Commission, said that the operation described by the word "inquire" may be divided into (a) the collection, and (b) the consideration, of allegations. We had understood that only the first stage would be dealt with prior to the next hearing of the Commission. We had understood from the ruling that after a list of allegations had been compiled, there would then be a process of eliminating those allegations which were not sufficiently particular to comply with s.5(2) of the Act, and also those allegations which could not (even if proved) amount to proved misbehaviour within s.72 of the Constitution. We did not understand that there would be any movement to the second or investigatory phase until the first phase was complete. Our contention is that our client should have the fullest opportunity of putting whatever submissions he wishes concerning the allegations which are to be considered before any step is taken by or on behalf of the Commission to actually investigate them.

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It will be recalled that the Commission ruled that Counsel assisting should give a progressing set of particulars to our Counsel on June 20. It will also be recalled that Counsel assisting the Commission said that on the material they had read to that stage, they could frame a number of allegations with specificity, although reserving the position in relation to other allegations in the light of other material received. We can see absolutely no reason why that ruling should not be complied with. Furthermore, we can see no reason why the sifting process on both bases - that is lack of particularity and lack of relevance - should not take place in relation to that progressing list of allegations at the first possible opportunity, namely next week.

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We are also very concerned at the suggestion that the services of investigators might be engaged. We see no role to be played under the Statute by anybody in this matter save for the Commission and Counsel assisting the Commission and those carrying out essential administrative functions. The Act lays down the method of bringing material forward with our client present. Indeed, our client wishes to protest as vigorously as he can as to the procedure which has been outlined. It is secret, it is open-ended, it amounts to a roving inquiry into the whole of his life by persons without any Statutory or Constitutional authority, and is quite foreign both to the Constitution and to our system of justice.

As Counsel made clear on the last occasion, our client does not authorise or consent to any invasion of his privacy at all and waives no right he has to proceed against any person who interferes with his privacy or his rights in excess of authority granted by the Statute or the Constitution. To send investigators out into the community is to seriously defame our client, and he certainly reserves all his rights in relation to anything done by them.

It goes without saying that it would be quite inappropriate and indeed unlawful for the Commission to obtain the services for example of any policeman or other person connected with law enforcement for this function.

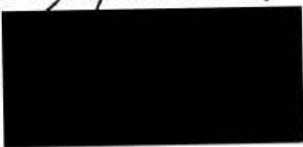
Lest there be any doubt about the position, our client does not regard it as appropriate that the Commission should seek to "verify" any allegation for the purpose of eliminating it on the basis that no admissible evidence can be obtained in relation to it. That puts the cart before the horse. This Statute does not authorise any investigation of anything other than a specific allegation of misbehaviour within the meaning of s.72. The task of ascertaining whether there is admissible evidence to support an allegation should follow not precede consideration of the relevance of that allegation and its particularity.

Page 3.

Under the circumstances we seek your assurance that there will be no external investigation of any allegation without a further hearing of the Commission, and that in accordance with the ruling of the Commission we will be provided, with the substance and content of each allegation concerning conduct of Mr Justice Murphy on or before Friday, June 20.

We also seek access to all material which you have received whether pursuant to advertisement or otherwise.

Yours faithfully
STEVE MASSELOS & CO.,

Per: 
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Mrs Ross → File

NOTE FOR FILE

I had a call from Mr Mike Bolton, Senior Private Secretary to the President of the Senate. He is with the President and the Speaker at a conference of Presiding Officers and Clerks at Parliament House in Melbourne.

Bolton informed me that Masselos and Co. had called him to advise that Counsel for the Judge had been informed by Counsel Assisting the Commission that the Commission was planning to engage persons or police for the interrogation of witnesses (sic). Masselos has asked:

- (a) had this proposal been approved by the Presiding Officers;
- (b) were they aware of it; and
- (c) were they aware that, if it happened, the Commission could not finish on time. Masselos also indicated to Bolton that if it did happen that the Judge would be seeking assistance of a similar nature.

Bolton told me that he informed Masselos that, as far as he knew, no approach had been made to the Presiding Officers but that, in his opinion, such an approach was not necessary anyway.

Masselos apparently indicated that they may be making an approach for this further assistance very soon, like tomorrow perhaps.

Bolton said that he did not respond to that particular suggestion.

Daryl P. Smeaton
Assistant Secretary

19 June 1986.

2672A

Presiding Member

Ref'd for your info.

Fergus Thomson
19/6

Len

S.R.C.

19.6.86

Fergus.
Returned from
Sir George

STEVE MASSELOS & CO.

SOLICITORS

STEVE G. MASSELOS, LL.B.

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Per: 