

Evan Whitton

CAN OF WORMS II

More Facts About:

The Queensland Police Inquiry.
The Melbourne Dock Wars. The burning
of Bathurst Jail. The Voyager Cover-Up.
Death in Dangar Place. The organised
vice and drug trade. Eleven Police
Commissioners . . and other matters
relating to crime, corruption and the
administration of Australian justice.

***Completely revised and updated new
edition of the controversial best seller.***

Can of Worms II

Preface

It has been said, and not entirely in jest, that Sydney is the most corrupt city in the western world, except of course for Newark, New Jersey, and Brisbane, Queensland.

Confirmation of Sydney's standing, if such were needed, derives from the fact that the widow of a recent Premier, Sir Robert William Askin, a bank clerk before he went into politics, left an estate of a little under \$4 million, and the widow of his Police Commissioner, Frederick John Hanson, left a little under \$1.25 million.

It is perhaps less well understood that certain institutions of state in New South Wales have for more than fifteen years been subjected to a process of unprecedented reform. Thus:

The prison system is now seen as a sort of institutional blowfly, harbinger of a Spring of reform. From 1970, it was revealed that warders engaged, as a matter of official policy, in criminal assaults on persons in the care of the State. Disclosures were initially made in Parliament by a Labor MP, Wilfred George Petersen, and by James Frederick Staples (later Mr Justice Staples) and a group of Labor lawyers in *The Sunday Australian*, and later and persistently by the Labor lawyers and *The National Times*. After six years, the Willis (Liberal) Government instituted a Royal Commission (1976-78) under Justice John Nagle. He recommended reforms involving a quantum leap from the eighteenth century to the twentieth, and Anthony Vinson began their implementation from 1979 to 1981. The process thus took more than ten years, causing the present writer to surmise: There is a God, but it sometimes takes Him five to ten years to get out of the blocks.

Reform of the police force, after a delay of 187 years, was rather more rapid, if largely accidental. After a sustained parliamentary campaign, a Police Commissioner, facing an imminent disclosure in *The Bulletin*, abruptly resigned in June 1979. Justice Edwin Lusher conducted an inquiry into police administration from 1979 to April 1981. From late in 1983, Police Minister Peter Anderson began to implement Lusher's recommendations for an assault on endemic corruption in the force, and this began to raise a head of steam with the appointment of John Keith Avery as Police Commissioner in August 1984.

The process of reform of the legal system, beginning in 1983, was also relatively rapid. Disclosures on ABC television of criminal activity by magistrates, and in *The National Times* and *The Age* of alleged activities by judges, led to a slew of inquiries: Street on Farquhar in 1983, two Senate inquiries on the conduct of a judge in 1984, and Stewart on the Age Tapes in 1985 and 1986. Along with ventilation in *The Sydney Morning Herald* in 1986 of Anthony Vinson's research on sentencing practices in the New South Wales District Court, these inquiries were factors in the Unsworth (Labor) Government's introduction, despite resistance from some judges, of a package of reforms in October 1986.

On the political front, disclosures in 1983 in *The Sun-Herald*, *The Sunday Telegraph*, and *The National Times* led to a Special Commission of Inquiry, conducted by Justice John Slattery in 1983 and 1984, into alleged activities of a recent Cabinet Minister. While Parliament itself was still in need of reform, the mere fact of the inquiry may encourage the politicians to shun the corrupt approach enshrined by Liberal Premier Sir Robert Askin.

Disclosures in *The Bulletin* in 1980 led to the Costigan Royal Commission (1980-84) on painters and dockers, and thus to the establishment of its successor, The National Crime Authority. These matters were not directly connected with reform in New South Wales, but gave additional impetus to it.

The Wran Government also had a hand in initiating a number of inquiries touching on organised crime itself: Woodward on Drug Trafficking (1977-79), Stewart on Mr Asia (1981-83), and Stewart on the

Age Tapes. These however could have little effect until reform of the police force and other institutions (not to mention those still requiring reform, such as the Public Service) was well under way. When the process is complete, it may follow that Sydney's ultimate institution, organised crime, will in time be subject to similar reform.

These events may thus suggest a six-stage blueprint for the process of reform.

1. Dubious activity.
2. Acquisition of data on this activity.
3. Ventilation of the data in the Parliament or the media.
4. A Government initiative to inquire.
5. The inquiry itself, and its recommendations.
6. Implementation to reform.

It may be noted that Parliament, as directly representing the community and so having the privilege of protection from the defamation laws, is the proper forum for ventilation. In practice however it lacks a degree of utility: it is rarely in session; questions on the floor of the House are not answered; questions on notice may not be answered for months, if at all; and backbench members with an interest in reform, such as the Independent MP, John Hatton, are unable to table documents.

By default, ventilation was thus to an extent left to the media. But acquisition of data does not necessarily mean it will be disclosed. The defamation laws may often seem to exist for the protection of rogues in high places; they also offer an excuse for sloth in the media: the peace and safety of the too hard basket beckons; the search for the form of words is suspended. That said, it is clear that persistence by various elements of the media was often the critical factor in the eventual establishment of formal inquiries. In the way of these things, the inquiries tended to open a can of worms undreamed of by the makers of the original disclosures, and so compounded the pressure for reform.

This book grew out of analyses, published in *The Sydney Morning Herald* in October 1984 and April 1986, of the way institutions in New South Wales grappled over the last decade with these problems of organised crime, corruption and reform.

A major question concerns the role of the Wran Government and its chief executive in the process of reform. The chronology of events may suggest, possibly for reasons of statecraft, priorities, and judgment of the art of the possible, an enthusiasm rather less marked than some may have preferred. To the extent that it proceeded against the chosen priorities of the Government, this would in itself be rather encouraging: it would suggest that community pressure alone may be sufficient, even in a place like the Sydney of Askin and after, to achieve significant reform.

In any event, it is clear that, by contrast with institutions in, say, Queensland, those in New South Wales were still able to respond to problems of corruption, and that, at the end of the Wran decade, prospects for the future in that area were perhaps more hopeful than at any time since Captain Arthur Phillip sailed out of Sydney Heads in 1792, and left the colony to John McArthur and the gangsters of the New South Wales Corps.

Evan Whitton,

Sydney, 7 October 1986.

Revised Edition

For this edition, I have restructured the book and included additional material relating to Victoria, Queensland, New South Wales police, the milieu, and the bureaucracy.

E. W.

October 1987

1. THE POLICE: Eleven Commissioners

MACKAY: Inventor of the CIB

Bill Mackay, a Glaswegian, joined the New South Wales police force in 1910, aged 25. His rise was swift. By mid-1920s, he was o/c Darlinghurst, and there did some damage to razor gangs. Brothels, the illegal sale of liquor, and starting price bookmaking, continued to flourish. It is unclear whether politicians kept such victimless crimes on the statute books because of moral repugnance, or to supply a ready emolument to police and their political masters.

MacKay invented the squad system of detective work, and thus the modern Criminal Investigation Branch. A judge with much experience of police asserts that corruption was institutionalised in this way: the first task given a new recruit in the CIB was to go round and pick up a payoff. If he declined on the basis that he had not joined the force to engage in extortion, his papers were marked: 'Not suitable for plainclothes work.' The judge was no doubt exaggerating grossly, but in 1987, a later Commissioner, John Avery, began dismantling the CIB.

In 1932, MacKay personally threw to the ground a madman, or patriot, Captain de Groot, when he prematurely opened the Sydney Harbour Bridge. He became Commissioner in 1935, aged 49. In mid-1944, Sidney Kelly introduced baccarat, an illegal French card game, to Sydney. In August, MacKay advised the public he was determined this 'evil racket' would not get a grip in NSW. Kelly operated with impunity until his death in 1948. When his premises were raided for the first and only time in April 1947, Kelly told the raiders: 'You have made a fool of yourself; we are only playing rummy. I had a call from Darlinghurst about 11.30 to say you were out.'

MacKay died of a stroke, in office in January 1948. His legacies to New South Wales were the CIB and an arrangement by which it became virtually inevitable that Norman Allan and Fred Hanson would one day succeed to the baton, and Hanson arranged for Merv Wood to succeed him. These three were Commissioners from 1962 to 1979. Eventually, in 1983, the Government declared: Enough is enough.

BISCHOF: Driven to kleptomania

In Queensland, the Protestant Labor Party complained in 1938 that Catholics comprised 75 per cent of the police and Public Service. When the Country Party came to power in 1957, one of the first things they did was appoint as Commissioner a Protestant of German descent, Francis Erich Bischof (1905-1979; Commissioner 1958-69). He was corrupt and, later, clinically insane.

In Bischof's period, there was a nexus between corrupt police on both sides of the Tweed: criminals under the control of Sydney police would be flown to Brisbane to do a bust on behalf of Queensland police, and vice versa.

In October 1963, following allegations that Bischof and his colleagues were turning blind eyes to a call-girl service at the National Hotel, Premier George Francis Reuben (Honest Frank) Nicklin instituted a Royal Commission. Justice Harry Gibbs, later Chief Justice of the High Court, was Commissioner. Walter Benjamin Campbell QC appeared for Bischof. James Douglas QC appeared for eighty-nine other police officers, including a T.M. Lewis, of the Consorting and Licensing Squad.

Arnold Bennett QC, appearing for the Honest Frank Government, argued that 'nobody who has heard the evidence in this case would find anything to support the allegations that the Police Commissioner and his colleagues encouraged or condoned a call-girl service.'

Gibbs was also assisted in reaching his finding by the evidence of Shirley Brifman, a prostitute and police informer who had connections with a prominent Brisbane stockbroker who later committed suicide, and with Brisbane and, later, Sydney police, including corrupt detectives Ray (The Gunner) Kelly and Fred Ermine. Brifman denied she was then or ever had been a prostitute.

Gibbs reported in April 1964 that there was no acceptable evidence that any member of the force was guilty of misconduct, neglect, or violation of duty. He said serious allegations against Bischof had not been substantiated. In Parliament, E.J. Walsh said that public opinion was that the findings of the Commission were 'an extensive whitewash of certain people'.

Sir Thomas Hiley, Treasurer from 1957 to 1965, shortly had cause to regret the Government's instructions to Bennett that there was no evidence against Bischof. Hiley disclosed in 1982 that in later 1964 or 1965 bookmakers in western towns told him they paid to police annual bribes ranging from \$20,000 to \$80,000 depending on the size of the town. Half went to the local police, and half went to 'Brisbane, i.e., as they understood, to Bischof. His share was about \$400,000 a year, laundered through false bets on Brisbane tracks. The SP bookmakers were not complaining about this, but they did object to police extorting from them sums in addition to the agreed annual bribe.

The bookmakers were not prepared to give evidence, but the information indicated that corruption was endemic in the force. The proper response would have been a thorough going Royal Commission on police activities. Honest Frank did not take this course, and Bischof remained in office until 1969.

However, Hiley was able to oblige Bischof to raid SP bookmakers, and the Commissioner was then driven mad by complaints that they had paid for protection but weren't getting it. In retirement, he succumbed to kleptomania of grocery items.

ALLAN: 'This is like Kafka

Norman Thomas William Allan, born 3 June 1909, was dismissed from his job as a telephone technician in 1929. He then joined the New South Wales force. He did a little time on the beat at Redfern, and then went inside to help round the office. He later went into prosecution, whence MacKay plucked him in 1938 to help in his office. He became 'assistant' to MacKay in 1944, and to the next two Commissioners, J.F. Scott and Colin Delaney.

In this capacity, Allan had eighteen years as a gofer. To pass the time, he designed the Police Department crest. It had a wedge-tailed eagle holding in its talons a banner inscribed: NEMESIS. He also invented a motto for the force: CULPAM POENA PREMIT COMES - punishment closely follows crime.

Allan was appointed Commissioner in February 1962, aged 52. His years as a paper-shuffler appear to have got him out of the habit of wearing the non-skid boots obligatory for the ace thief-taker. Between 1962 and 1966, he: tripped on the footpath outside headquarters, damaging cartilaginous matter in his right knee; slipped on a ramp at Kempsey Hospital, doing more damage; and, at the Bar Mitzvah for Asher Joel's boy, slipped on a piece of asparagus, and lost the kneecap.

Three of the best-known policemen in Allan's administration were Ray (The Gunner) Kelly, so called because he was known to have killed two criminals and wounded two others, Donald Fergusson, much in demand at Masonic Lodges for his detailed knowledge of the liturgy, and who was later to die violently either by his own hand or, as was suspected, that of another, and Fred Krahe who treated Allan with barely disguised contempt.

Kelly, described as having flat, glossy hair parted in the middle, a slit mouth, and glittering eyes, once told a reporter: 'Top criminals are rarely hard to get on with: they are smart, cunning, egotistical, and suave.' He may have had himself in mind; it is understood that he and Fergusson were part of a police ring which, among other extortions, demanded 10 per cent of the price of every abortion performed in Sydney.

Frederick Claude Krahe born 6 November 1919 police cadet 1940, explained the *modus operandi* to prostitute Shirley Brifman when she went to Sydney in 1964 after the National Hotel fiasco. Krahe who got her number from a Queensland policeman, saw her at the Hyde Park Hotel. According to a statement Brifman made to Superintendent Norman Gulbransen, of the Queensland police, on 28 September 1971, this was the conversation:

Krahe 'Have you ever dealt in money before, Shirley?'

Brifman 'What do you mean?'

Krahe: 'You don't work in this town unless you pay. It's like this. You get mugs with the knockabouts. You get in with them. You find out about their robberies. When they sell their stuff we give them one night with their money. Next morning we move in as long as they had the money. This is where the money comes in.'

Brifman: 'I thought it was money for the prostitution angle?'

Krahe: 'First of all they deny it, that they have done anything wrong, so you put the pressure on them. They offer you, say, a third, and they say that is all we get. We are not happy with a third, then they offer you a half. We are not happy with a half. We gave them one night on the town, we want the lot. We end with the lot and you get a third way split.'

Brifman: 'You're worse than the thief. You are letting them rob, and you are getting the benefit of it, and you are supposed to be a policeman.'

Krahe: 'If you repeat one word of what we have said here today to the Queensland police I will shoot you stone dead, and anything you have to say to them, naturally they will repeat back to me.'

Robin Askin, former army bookmaker, became Premier in May 1965. From that year, corruption became institutionalized; organised crime began to secure a firm foothold; Americans with Mafia connections flew in and out of Sydney; and Allan became invaluable to Askin in personally investigating and disposing of matters with potential for scandal.

Kelly formally retired in 1966, but maintained his influence in the force. He said: 'I haven't got any large capital', but admitted that over the years he had speculatively sold shops and flats and made subdivisions. His retirement party was attended by 800 at \$5 a head. Pat Farrell reported in the *Mirror*: 'As well as the high and the mighty, there were kings of Sydney's baccarat dens, big wheels in the SP trade, and at least one man I know to have done time.' He noted that Percival Galea called Kelly 'sport', and that Kelly called Galea 'my old mate'. In his valedictory address, Kelly said: 'There is too much moral cowardice in the community.' He also claimed that criminals had no chance of 'taking over Sydney.'

Allan, or possibly Fergusson, in 1967 conceived the idea of solving major crimes, such as aircraft hijacks, by tapping telephones as an alternative to paying criminal informers. In the presence of Fergusson, Allan called in Sergeant D.R. Williams and asked him to explore the possibility of interceptions. Williams and Constable G.P. Smith constructed a device and demonstrated it to Allan and Fergusson. Williams pursued inquiries in the US in 1969, and a working group was formally established in 1970. The chickens came home to roost a decade and a half later.

By 1968, the old baccarat schools, which formerly had the decency to maintain a moderately furtive air, felt confident enough to switch to nicely furnished, walk-in-off-the-street casino operations.

There is a view that Allan, who eventually died of a brain tumour, was not mentally well in office. In 1968, he unwisely ventured into the operational field: he gave a loaded rifle to a man holding as hostage a young woman and her baby. Allan somehow survived this dangerous farce and, indeed, was given Her Majesty's Commendation for Brave Conduct for his role in it.

In July 1969, Fergusson, in the company of Sergeant Noel Morey and Constable Roger Rogerson, interviewed Melbourne's Dr Bertram Wainer in the 2GB board room. The subject, abortion in Sydney, was close to Fergusson's heart; he was, naturally enough, quite agitated. For his part, Dr Wainer judged it might be imprudent to be alone in a room with Sydney police, and insisted on the presence of witnesses, in this case, as it happened, Mr Bruce Hanford and this reporter, who was somewhat fatigued. The interview was thus not without its hilarious aspects, and one of the more memorable passages went like this:

Wainer: This is like Kafka

Fergusson: I don't know Kafka.

Wainer: No matter, you could have written it.

Fergusson, 58, faced a number of crises in early 1970. His memory was failing; he suspected he might be going mad. There was also the matter of what was termed, in the flexible morality of the force, the clean quid and the dirty quid. Extortion from aborters, prostitutes, SP bookmakers was judged to provide a clean quid. Extortion from drug suppliers, then just becoming popular, was thought by some, including Fergusson, to be a dirty quid. Others such as Krahe, were less delicate.

Fergusson, formerly head of the CIB, had sought and was about to be confirmed in the post of Metropolitan Superintendent. The post ranked fifth in the force hierarchy, but meant, in practice, some lessening of his influence over the CIB. This was taken badly by some of his old colleagues: he had participated in the fruits of employ there; to dig out was a dereliction of his duty to protect them. There are reports that he was subjected to physical violence by elements of the Kelly-Krahe faction.

On Sunday, 15 February 1970, Fergusson's body was found in the lavatory of his personal offices at the CIB, Campbell Street. There was a bullet wound in his right temple; his service revolver was nearby. A note was said to have indicated he thought he had a malignant tumour in his brain, but an autopsy found no trace. Opinions vary. If it was an assassination, the executioner/s would have been expert in making it look like a suicide. On the other hand, Fergusson was an odd man, morbid enough to assist at autopsies. Krahe, a prime suspect, offered a cryptic remark: 'The silly c- didn't have to do it.'

At the funeral service in St Andrew's Cathedral, Bishop F.O. Hulme-Moir described Fergusson as 'a man who never lost his high sense of duty.' A wreath had a card: 'With deepest sympathy from Lennie.' No surname was given.

In June 1971, Brifman publicly disclosed the state of the police art in Sydney and Brisbane. Gulbransen investigated in Brisbane; Brian Doyle investigated in Sydney. In a sixty-page record of interview by Doyle, she claimed that Krahe, then head of the Breaking Squad, was the leader of a group of thirty-four police involved in criminal activities, including: receive stolen goods, extort from aborters, extort from prostitutes, distribute counterfeit money, fix court cases, frame alleged offenders, procure clients, including casino owner, for prostitution.

Brifman did not live to testify. She fled to Brisbane and was found dead in her apartment in March 1972. David Hickie reported in 1985 that several police attached to the CIB at the time said there was much talk that Krahe had gone to Brisbane and forced drugs down Brifman's throat with a tube. However, by May 1972, Doyle had prepared departmental charges against Krahe, but it was declared that a thrombosis in the leg made him medically unfit, and he was allowed, presumably by Allan or his successor, Hanson, to retire that same month.

In retirement, Krahe was employed by the Sydney *Sun* in the mid-1970s and by Frank William Theeman to evict squatters at a Potts Point redevelopment site in 1974. In 1977, he spread false rumours that the murdered anti-drug campaigner, Donald Bruce MacKay, had run off with a woman. He died on 6 December 1981. *Daily Mirror* police roundsman Bill Jenkins reported: 'Krahe, a CIB legend, had his admirers and his critics. I was among the former. And there wasn't one in the latter group whose achievements came within a bull's roar of Krahe's.'

Meanwhile, Allan had not survived the Arantz scandal. A number of factors had caused an upswing in crime and a declension in its solution: some in the force took their cue from the Premier and Commissioner, and were busily engaged in crime themselves; relying on the verbal admission, they were not habituated to the actual work of investigation; organised crime, protected by police and politicians, operated with impunity.

Allan had thus been obliged to falsify the statistics on crime and cleanup rates. Sergeant Philip Arantz disclosed the fraud to The *Sydney Morning Herald* in November 1971. The initial response was more appropriate to Russia: Arantz was escorted to Prince Henry Hospital for psychiatric examination, but was discharged when psychiatrists declared him sane. Askin supported Allan, and Arantz was dismissed without a pension in January 1972. Two months later, it was announced that Allan would go on leave in May, and that he would formally retire in November. He was to get, along with his pension, a lump sum in lieu of a further eighteen months leave. He successfully recommended that Fred Hanson succeed him, and died in 1977.

MILLER or, How Dr. Wainer saved Victoria from organised crime.

Dr Bertram Wainer was born in Edinburgh, Scotland, in 1928. Later, he lived in the slums of Glasgow, and left school at 13. He migrated to Australia in 1949. In his spare time, he passed the necessary examinations, and became a doctor in 1958. In the army from 1960, he successfully held the rearguard at the Battle of Taurama Road during a mutiny by the Pacific Islands Regiment.

In 1965, Sir Robert Menzies took Australia into a war of neocolonialism in Vietnam. Colonel Wainer took what he saw as the honourable course: he resigned his commission. He went into private practice in St Kilda, and made a reputation as a diagnostician: in an often money-grabbing trade, he actually seemed to care about his Patients.

By comparison with the grinding poverty of his life in Glasgow, he was now in comfortable circumstances, and felt he owed the country a debt. The circumstances of his repayment often struck me as hilarious, but they were less amusing for Dr Wainer, and undoubtedly shortened his life. A terrified patient led him to take an interest in the question of abortion. He made the acquaintance of Mrs Peggy Berman, who paid the extortion money demanded by homicide police from Dr Jim Troup, who carried out abortions, then, wrongly, thought to be unlawful.

Dr Wainer began an anti-corruption campaign which, incidentally, cost him his medical practice and his health. Fortunately, he was a man of profound intellect, courage, and resource, and, as a former military gent, a superb tactician. In mid-1969, he offered the Deputy Premier, Sir Arthur Rylah, a lawyer, evidence derived from Dr Troup and Mrs Berman of criminal activity in the force. Rylah, risking a charge of perverting the course of justice by failure to properly investigate a crime, refused to accept the evidence. His excuse was that he owed the Homicide Squad a debt for the courtesy and consideration shown to him on the mysterious death - never yet adequately explained - of his wife.

In terms of the status quo, Dr Wainer was clearly a dangerous man. He was thus successfully ratbagged by politicians, the police, and the media in the manner in which those institutions can be so adept, but he eventually forced Sir Arthur Rylah, after a lot of ducking and weaving, to the mat: early in 1970 he appointed a Board of Inquiry. William Kaye QC was the Board. A junior barrister, John Winneke, assisted. Kaye found on the one hand that Inspector Jack Ford was guilty beyond a reasonable doubt of extortion, accepting bribes, and perversion of justice. He also found, to some amazement, that he preferred Ford's word to Dr Wainer's. Kaye also took the view that George Joseph was a witness of truth, and that Dr Wainer had been guilty of a flight of fancy in describing him as a member of the underworld. Joseph has since been convicted on charges of armed robbery and as broker for the murders of Donald Mackay and members of the Mr Asia heroin syndicate, Douglas and Isabel Wilson.

The last act of the inquiry was Winneke's summing-up on Dr Wainer. It came on Friday May 28, the day before the State elections, in which Dr Wainer was opposing Sir Arthur Rylah in the seat of Kew. The page one heading in the Melbourne *Herald* that afternoon was: IT'S OVER - WAINER'S EVIDENCE DISCREDITS HIM - WINNEKE. Next morning, the Melbourne *Sun* had the headline: WINNEKE: WAINER A GRANDSTANDER.

No doubt Winneke was submitting on what he saw as the evidence, but the citizens of Victoria were not deceived by this sort of nonsense. Dr Wainer got 14 per cent of the vote in Kew, and, as a result of his efforts, Superintendent Jack Matthews and Ford eventually got five years in Pentridge; another Homicide cop, Constable Marty Jacobson got three; and an English policeman, Sir Eric St Johnston

recommended that the Government spend \$150 million on smartening up the Victoria Police Force. Sir Henry Bolte's Government took no real action.

By now, Dr Wainer was virtually the sole repository of information that should go to the politicians, the police, or the media if the citizens had any faith in those institutions. In November 1974, he supplied the Government with a dossier alleging further corruption in the force. A Board of Inquiry, run by Barry Beach QC, assisted by Cairns Villeneuve-Smith, ran from March 1975 to June 1976. There were 119 complaints. Beach, having dealt with 21 for which there was corroborative evidence, found there was evidence beyond a reasonable doubt that charges could be laid against 55 policemen. The response of the Victorian Police was to provoke fears of social anarchy similar to that of 1923 when the citizens looted and pillaged during a police mutiny. They threatened a strike, and mounted a work-to-rule campaign. Somehow, none of the charged police got convicted.

The police victory was pyrrhic. Given the sort of grief and aggravation that Dr Wainer seemed likely to produce every few years, Premier Rupert Hamer, as it appears, judged a corrupt force was not worth the candle. In 1977, he appointed Imrie Sinclair Miller as Commissioner.

Since then, the force is thought to have become relatively clean. Dr Wainer's forcing of two major inquiries into corruption in the force was thus the most successful example of civic action achieved by a private individual in this country. He died in January 1987.

His legacy, and it is a great one, is to have provided the major impetus to cleaning up the Victorian force, and the consequent failure of organised crime to get more than a toehold in that State.

Footnote: A more detailed account of some of Dr. Wainer's adventures in Melbourne and Sydney is in the author's book *Amazing Scenes*.

WHITROD: The man who tried too hard

Johannes Bjelke-Petersen became Police Minister and Premier of Queensland in 1968. Petersen's Cabinet colleague, Max Hodges, said to be implacably honest, persuaded Petersen that, on form, some dreadful police scandal might erupt at any moment and engulf the Munster. Petersen gave Hodges the portfolio in May 1969. After the departure of Bischof, Norwin Bauer had a brief lap of honour as Commissioner pending a more long-term appointment.

Mervyn J. Callaghan, secretary of the Police Union since 1961, was available. According to a later statement by Bob Walker, who was in the force from 1950 to 1974, another fraction, called 'The Rat Pack,' were poised to take over the force. However, Hodges had the South Australian Commissioner. Brigadier John McKinna, study the force for six weeks, and he recommended Raymond Wells Whitrod, born 1915, co-founder of the Australian Security Intelligence Organisation, and Commissioner of the Commonwealth Police from 1960 to 1969.

Whitrod was a little over-educated for the Queensland force. He had a degree in economics from the Australian National University and a diploma in criminology from Cambridge, but Petersen's Cabinet accepted Hodges' recommendation in January 1970. He and Hodges sought to improve professionalism and cleanliness of the force. These attempts were strenuously opposed by the Police Union. In the following three years, criminal charges were laid against nineteen members of the force, but all the prosecutions failed. Walker later said the Rat Pack sought to get something on Whitrod by having his past investigated.

Brifman made her allegations in June 1971. On 6 September 1971, Hodges submitted to Cabinet a plan to set up an anti-corruption squad. A week later the executive of the Police Union carried a motion that Hodges was unsuitable to administer the portfolio. Two days later, Whitrod announced the formation of a Crime Intelligence Unit to investigate corruption inside and outside the force. He put Gulbransen in charge.

On 5 February 1972 a detective sergeant was charged with perjury at the National Hotel Royal Commission, in that he was alleged to have sworn falsely he was unable to obtain evidence that Brifman was a prostitute. Brifman died on 4 March. Magistrate E. Martin dismissed the case on 22 March.

The CIU charged a detective with having corruptly received \$60 in protection money from a prostitute. On 14 August 1972, Judge Edmund George Broad, a former Rugby international, ruled that taped telephone calls between the woman and the detective were inadmissible; detectives from the CIU had probably broken a Federal law. The Crown withdrew the charge.

Two policemen came to trial in August 1972 on charges of having, while in uniform, robbed a man with violence. During the trial, a juror admitted that he had spoken to a solicitor beforehand, and that he had made three bets, one with the solicitor's brothers, that he would be on the jury. He denied having said he would never find anyone guilty, or that he would not have to worry about being picked up for drunken driving. Allowing the trial to continue, Justice Walter Campbell said he accepted the juror's statement; that he was sure he would be impartial; that he was satisfied there was not the slightest stain on the character or impartiality of the juror, or the slightest stain or suspicion on anyone connected with the case. The police were found not guilty.

In 1973, Gulbransen took up a Churchill Fellowship to study organised crime and crime intelligence units overseas. He sent a report, via Whitrod, to the Minister for Police. His report said: 'I have no doubt whatever that the nucleus for (organised) crime exists in our major cities, and that unless effective... steps are taken now, we will repeat the experience of America, Canada and other countries.. In the United States of America, the large criminal organisations are 'confederated', with the leaders well insulated from the levels of overt criminal activity.' Such confederation, he noted, depended on primary corruption of police. 'I found that, despite the high incidence of serious crime in most countries, the area of concern most worrying to top police administrators is the amount of corruption occurring among police, generally as a result of organised crime activities in the larger centres.... Without exception, it is agreed in all advanced forces that the most effective means of preventing the incidence and growth of organised crime is the operation of Crime Intelligence Units composed of police of personal and professional integrity, as had been established in Queensland in September 1971. In 1987, Gulbransen said of his report: 'I wonder was it ever read?'

In June 1975, Hodges said he had been handed a document alleging that detectives had taken over marijuana farms, and that certain officers were involved in protection rackets. He announced on 4 August that two Scotland Yard detectives would come to Queensland to inquire into allegations of corruption, malpractice and misconduct in the force. A week later, Petersen spoke of 'one or two bad apples', and announced that, following the Scotland Yard investigation, a judicial inquiry would be made into specific allegations. He said Hodges had his full support and the backing of the Cabinet.

The Scotland Yard detectives arrived on 22 August 1975, interviewed some hundreds of people, and left in late October. They said they could go no further until a number of cases had been disposed of in the courts, but expected to return early in 1976. However, cases were still dragging on later in the year. They never came back and the judicial inquiry never happened.

Whitrod had statistics showing that in Queensland 5 per cent of police retired as constables. In Victoria the figure was 45 per cent; in England 60 per cent. The implication: many dunderheads progressed inexorably to the higher reaches of the Queensland force. From January 1975, promotion depended on success in a course involving law, management, public and police administration, psychology, and English expression. In January 1976, sixty police at headquarters reaffirmed their opposition to this method of promotion, and Hodges was defeated in Cabinet on the point. He said Police Union activities were aimed at getting rid of him and Whitrod.

In August 1976, an issue arose: the right of police to engage with impunity in what may amount to criminal assault. University students, protesting about their living allowances, marched without a permit. A girl was hit on the head with a baton. Whitrod ordered an inquiry. Petersen said there would be no inquiry. Hodges said there would. Cabinet supported Petersen, and Hodges was relieved of his portfolio on 10 August. One down and one to go.

Petersen said: 'I'm afraid Mr Hodges was ahead of his time; he tried to do too much too soon.' He seemed regretful. So was Hodges. Of his and Whitrod's efforts to give Queensland an honest and educated force, he said sadly: 'We were three parts there.'

Shortly after Hodges and Whitrod were separated, I spoke to Gulbransen and Callaghan, and reported thus in *The National Times*:

After a bit of tramping round Brisbane, the second last person I saw was Norman Gulbransen, then chief assistant commissioner, and on the point of retiring, age 60. I'd seen Gulbransen before, from a distance, a dozen or more years ago, when he was chief of detectives in Toowoomba. Mad for the cricket he was, medium to quick, who would wheel them down, tight and consistent, all afternoon. An honest toiler in the sun who was even then, it now occurs to me, in his late 40s

There was a problem: his successor was already moving into his office in Makerston Street, across the corridor from Whitrod's, and Gulbransen would only be able to clear the room for a few minutes. And a condition: that what he said didn't appear in print until he left the force.

I started to ask him what Hodges's departure portended, but it became clear that he'd thought about what he wanted to say, and didn't trust a reporter to ask the right questions, so I let him have his head.

It's a statement that was at times couched in guarded language, and needs to be looked at carefully, and this is how it went:

He was sorry, he said, to see Hodges go. He was proud to have been associated with the Hodges-Whitrod era, which produced more advancement in seven years than he saw in his 38 years, and he hadn't heard any remarks in the administration to the contrary.

In the last seven years, while reported crime went up to 60 per cent, the clear-up rate for general crime apart from street offences, went up from 39 per cent to 46 per cent - figures, he added drily, said by David Biles, assistant director of the Australian Institute of Criminology, to be reliable. The new minister, in his most sensitive portfolio, would have a difficult road to follow.

On corruption, he said: 'There is corruption in every police force in the world. The question is: how far does it have to go before someone does something about it?'

The present administration had taken a particularly firm stand against corruption. Prior to that, there were continual allegations of corruption, but in the past seven years, the only reports of corruption coming to the attention of the public had been brought by the administration.

'I suggest,' he said, 'a tremendous amount of the opposition to Whitrod and this administration stems from this. I feel very strongly on this.' Gulbransen paused and thought for a moment, and then slid carefully into a generalisation, not specifically directed to Queensland.

'My reading,' he said, 'indicates that in all society there is a certain amount of corruption. It also shows that in many areas of administrations and Governments an uncorrupt police force is not a decided advantage. The reason is, if you have top police administrators who are beyond corruption, there is no bargaining point for people who might want, for instance, to have traffic tickets waived, or to have investigations not carried out in certain matters.

'Likewise, there are some unions in the world who don't want an uncorrupt administration because they have no bargaining point. They can't say, for example: "If you don't do what we want, we will say this.

'We have one minute,' he said, and he said one more thing: 'I think it is recorded that Governments in some countries don't want a particularly proficient and thinking force, because it suits them to have their wishes carried out without question. .

And, finally, that same afternoon, the third man, Mervyn J. Callaghan.

Police Union headquarters is a bungalow in Main Street, Kangaroo Point, almost under the Story Bridge. In the centre of the house a wall has been knocked out to make one big room, with a long table, topped in green formica in the middle, and chairs in red vinyl on one side, but in green vinyl at top and bottom and on the other side.

Is the green symbolic? It's said, rightly or wrongly, that the nine-man union executive is now composed entirely of Catholics. The irreverent refer to them as the Irish Mafia. Callaghan has an office at the front of the building, on one side. He is a big man, with a square, solid face, a tight mouth slightly downturned at the corners, not much hair, and his eyes, magnified, stare out at you from behind thick lenses.

Callaghan positively relishes tough questions, knowing, as he says, that there is no better answer than the truth, with which he claims to be armoured. I'd told him on the phone we sought a chat about the departure of Hodges, and whatnot, and so I started off with: 'Well, you're a patient man, and -' He completed the sentence: '- and sometimes successful.'

He began with the expansive magnanimity that sits gracefully on the winner: Mr Hodges, he said, was genuinely interested in police affairs; he sought to uplift the image. Their only criticism: he did not maintain a close liaison with the union. He was sure they would see a different attitude: the new minister comes to them directed by the Premier. 'The Premier,' he said, 'maintains a close interest in the force, and we in government'. Hmmm.

What of Hodges and Whitrod's drive on corruption? Callaghan said he was not so naive as to say the force was free of it, but in the 36 years of his connection with the force, he had, personally, seen no evidence of it.

'You were successful in getting rid of Hodges', I said. 'Is Whitrod likely to go too?'

'That's a decision for the future, for the Government's assessment of Whitrod's performance, not for us.'

'There is a belief that your executive is now made up entirely of Catholics?'

'Neither a person's religion nor politics interests me. I have a fair suspicion of a number, but that doesn't interest me.'

'I hear the executive is referred to as the Irish Mafia?'

'I have heard that said. I don't hold confessions in the back room. I have been accepted and endorsed by Catholics, Masons, atheists, agnostics, and by those of no religion at all. You'll notice I haven't asked you your religion.' He peered at me through his thick lenses, as if half expecting a disclosure.

I said: 'You are a Catholic?'

'I've been a Catholic all my life,' he said: 'I'm proud of that, just as I would respect the pride of those of different religions.'

'I understand you have the sole right to say what goes into the Police journal? '

'I don't get many contributions, so it's mostly written by me. But I reserve the right to correct the English, or to strike out anything against union policy, or that would stir up trouble. No one will tell me what or what not to print - in the end I sue or get sued.'

'It's said you get a commission on the sale of the advertisements in the journal?'

By this time, he was getting a little testy, or at least gave such an appearance - it's hard to tell with an old pro like Callaghan.

'Your questions rank of sectional interests,' he said. 'I've had these low gutter things before. I know where you're getting them from.'

We did a bit of staring at each other, and then he said: 'They're wrong. It's part of my requirement as secretary to produce the journal. Any profits go to me; and any losses are suffered by me.'

'How does it work out?'

'A little in front. About \$700 last year. That's about \$15 a week. I'll show you the accounts.'

Callaghan dived out of his swivel chair and into a filing cabinet on his right and came back with a folio of loose-leaf statements. He leaned over the desk and stabbed a thick finger at a figure. 'You see, it's now overdrawn by \$2,417.55. See, Dr, that means debit, Sept 3, 76.' He ran his finger back up the page. The last credit was Dec 8, 75, for \$544.

'Does that show you? I've been reported to the tax people on three different occasions. They found nothing. There was nothing to find. Everything is in order.' He put the folio back in the filing cabinet, and sat down again. His attitude now seemed to be a mixture of truculence and triumph. 'I know where you've got this from,' he said, and laid a name on the table. 'It's usual,' I said, 'in this situation to say: "We have many sources

He nodded, wise in the ways of journalism. '- but I can say I've never spoken to the person you mention.'

He thought about that, and said: 'Well, it's coming from somewhere, and I've had it all before, and it doesn't worry me, because I tell the truth, and there's no better answer, is there?'

'Indeed, no.'

'I have all the answers; Hodges and Whitrod consistently refused to meet me in an eyeball to eyeball confrontation on television. I hope you'll note in whatever you write that I answered all your questions?'

'I certainly will,' I said, and asked him another: 'It's put to me that a lot of the defence work on behalf of policemen goes through the law firm of Gilshenan and Luton, and that a relative of yours works there?'

'Col Nolan? Col Nolan is my wife's sister's child. And he's the most brilliant solicitor in this field in Queensland. But the choice of solicitor and barrister is left to the member; we never give him a nudge. The last conference laid down 10 firms of solicitors. Gilshenan and Luton aren't even on the top of the list. So you see, Col Nolan's relationship to me has nothing to do with it. They're all equal. Tom Treston of Quinlan, Miller gets a lot of our work. '

I turned the notebook back to the page where Gulbransen had elaborated his beliefs about the reasons why governments and unions might not want an uncorrupt police administration - the lack of a negotiating position.

'I have to be careful here,' I said, 'a man whose name I can't tell you has given an opinion, and he didn't put it in terms referring specifically to Queensland; he put it in very general terms. You follow me?' He nodded, and I read him out Gulbransen's statement.

'That would be rubbish, Callaghan said. 'It's highly hypothetical. An unscrupulous type of secretary - which I'm not with a bent for blackmail - which I haven't - may find himself in the ascendancy. 'I couldn't subscribe to that, even in the broadest sense. As a professional secretary, I believe: "As ye sow, so shall ye reap," I believe in justice...'

Well, don't we all? It's a nice word, justice, and for some reason tends to put me in mind of the belief, frequently stated, of one 'Doughy' Baker, an inspector of Queensland primary schools in the days when the pay was abominably low (those old Labor pols, it seemed, liked their teachers to be down-market,

too). 'They cry for justice,' Doughy would shout in the bar, after a hard day's work whipping teachers; 'by Christ how they'd cry if they got it!'

I got up, 'Well, thanks,' I said, 'It's been a pleasure doing business with you.'

Callaghan, a man with all the best answers, winner and still champion, grinned, 'Just send me a copy of what you write, and I'll print it in the journal. With my comments.'

'Sure, and perhaps you'd be kind enough to send me a copy of the journal?'

'I'll do that.'

Sadly, he never did.

After Hodges went, Whitrod lasted another three months. On 14 November 1976, he learned that Cabinet had, against his wishes, appointed Inspector T.M. Lewis, then stationed at Charleville in western Queensland, to the post of Assistant Commissioner. Whitrod resigned forthwith, and Lewis was appointed Commissioner.

HANSON: Playboy Commissioner

Frederick John Hanson, born 26 May 1914, educated at Burwood Christian Brothers, was a railway porter from 1929 until he joined the New South Wales police in 1936. He was a bomber pilot in the RAAF, and joined the police aviation section after his return. In February 1946, he took delivery of the force's first aeroplane, an Avro Anson, and flew it to Sydney. Commissioner MacKay met him on the tarmac, and promoted him to Sergeant on the spot. Having thus hurdled 1150 members of the force, it was almost inevitable that Hanson would become Commissioner, but he did not make much attempt to fit himself for the job. He was described as a 'playboy,' who liked a drink and a good time.

He became officer-in-charge No. 3 police sub-district, Sydney, 1965; assistant to the Metropolitan Superintendent 1967; Assistant Commissioner 1968; and Deputy Commissioner to Allan in 1972. He stated on 1 March 1972 that Allan had groomed him for the succession, and took over as Acting Commissioner from May 1972.

Jack McNeill, born 1923, had formed the Armed Hold-Up Squad in 1966. In October 1967, he was described by the then head of the CIB, Superintendent Ray Blissett, as an outstanding detective. As Sergeant in charge of the Consorting Squad, McNeill began investigating alleged organised crime in clubs in January 1972. His assistants were Detective Sergeant Doug Knight and Constable Brian Ballard. On 1 July 1972, acting on data from the Commonwealth Police, McNeill reported: The Bally Manufacturing Corporation of America and its subsidiaries are clearly Mafia-controlled... it is through the Bally poker machines, produced in America and imported into this country, that the alleged Mafia takeover is being made. Askin, basing his remarks on McNeill's report, issued a press statement which resulted in the headline:

MAFIA IN CLUBS -ASKIN

Commonwealth Police running sheets relating to McNeill's investigation later stated: 'Information (supplied 17 August 1972) from Detective Sergeant Ballard, NSW Police Consorting Squad, indicates Abraham Gilbert Saffron, born 6th October 1919, NSW, has effected some type of affiliation with Jack Rooklyn. According to Ballard, Rooklyn has made an approach to Saffron to exert some pressure on an unidentified person in authority to take some of the 'Heat' out of the current investigations. Ballard intimated that his Commissioners office (i.e. Hanson's) appears to be cooling towards the inquiry. McNeill's and Askin's reports became less confident about Mafia penetration, as reflected in the diminishing headline:

MAFIA MEN ARE SMALL

Eventually the Mafia disappeared altogether:

MAFIA NOT IN CLUBS - ASKIN

On 7 November 1972, Rooklyn met McNeill and Knight at a solicitor's office where Rooklyn offered them 'some business partnership.' McNeill expressed no interest; Knight's solicitor, J.W. Sadler, registered a new company, Metropolitan Club Services, with himself and Rooklyn as proprietors. Justice Moffitt, whose Royal Commission in August 1973, derived from McNeill's, at best, gross incompetence, later concluded that Sadler was 'a dummy for Knight, and that McNeill and his two allies were involved in a 'deliberate or corrupt' attempt to cover up Bally's links to organised crime. He also disagreed with McNeill's assessment that all allegations against former policeman Murray Stewart Riley were unfounded. Moffitt concluded: If the police inquiry is a fair indication of the police capacity to meet the problems of organised crime, the intelligence and investigation processes of the police are not adequate to alert governments or initiate serious action against organised crime from abroad.'

Hanson formally became Commissioner on 15 November 1972. The *Sun's* police roundsman, Jim Madden, later (June 1976) reported: 'Police Commissioner Hanson insists on a high standard of integrity in the force. Shortly after taking over as Commissioner he personally ordered the sacking of twenty-eight police involved in accepting commissions. He also chopped off the old practice of allowing policemen who were considered marginal cases in law to resign for the good of the force'. He got a CBE in the 1974 New Year's honours list.

The ultimate utility of telephone tapping procedures was later called into question when retired Superintendent E.E. Cannacott revealed to the Stewart Royal Commission that, when he was head of CIB between 1974 and 1976, he gave a daily briefing on telephone taps to Assistant Commissioner (Crime) R.T. Stackpool, who then briefed Hanson. Daily, that is, when Hanson was there. It was discovered in September 1974 that in the first eight months of that year, he had turned up for work in the office only 44 per cent of the time.

Dr Geoffrey Lewis, an economics lecturer at Sydney University, made a mathematical study of roulette odds at Percival Galea's Double Bay Bridge Club throughout 1974, and went to the club three times a week for this purpose. He calculated the annual profit of the establishment, which employed some 20 people, at about \$2.3 million. Club employees told him the club paid bribes of \$5000 a week to 'senior police and politicians.' In 1981, a source in the Galea empire confirmed that Askin and Hanson got the bulk of the Double Bay Bridge Club bribes, which were from only one of Sydney's 13 major casinos. Dr Alfred McCoy later estimated that the annual turnover from organised crime in Sydney in 1975 was SP bookmaking \$1420 million; casinos \$650 million; the 'skim' from poker machines \$90 million; narcotics \$59 million. How much of that \$2219 million went to police and politicians is moot.

McNeill was promoted to Inspector in October 1973 in the course of the Moffitt Commission. In 1974, after McNeill was heavily criticised in Moffitt's report, Hanson arranged for him to be 'tendered suitable advice' by the Chief Metropolitan Superintendent, but the advice didn't take.

An illegal casino at West Gosford was raided by police on 4 July 1975. Freelance commentator Anthony Reeves implied on ABC radio station 2JJJ that Hanson had an interest in the casino. Briefing Clive Evatt Snr, Hanson sued the ABC for defamation. The ABC apologised and settled on undisclosed terms of 9 February 1976. Hanson said: 'I'm so bloody happy it doesn't matter.'

The name of Frederick Joseph (Joe) Parrington was to crop up in the periods of five commissioners, Hanson, Wood, Lees, Abbott, and Avery. He passed his Bar examinations near the top of his group in 1987, but at times seems to have found police work intellectually taxing. And, while he enjoyed a reputation as a workaholic, he seems also to have been subject to lapses into otiosity. As a homicide investigator, he was put in charge of inquiry into the baffling murder of drug courier Maria Hisshion at Christmas 1975.

Police involved in a January-March 1976 tap of George David Freeman's phone said that McNeill regularly spoke with Freeman, and that 'there was frequently mention of money changing hands to give

the impression that McNeill was accepting money from Freeman, and that police identified McNeill 'as a threat (because) he was overheard talking to... criminals, and tipping them off, and entering into deals with them'.

On 10 February 1976, Hanson was reported to have offered to retire earlier than the due date in mid-1979 so long as he approved of his successor. His most likely successors were reported to be either Deputy Commissioner Leonard Newman, 62, or Senior Assistant Commissioner Richard Lendrum, 60. Four assistant commissioners - E. D.J. Baldwin, 60, R.T. Stackpool, 59, M. Wood, 58, and B. Doyle, 58 - were also thought to be possibly in the running. On 16 February, it was reported that he would probably support M. Wood.

A week later, Hanson said that drugs were the greatest single crime worry in New South Wales. He said: 'It is a constant fight involving every man on the force (as well as) a special drug squad of about 40 men'.

In March 1976, according to evidence later given by Lendrum to Stewart, Superintendent Alexander Birnie, in charge of the CIB, played tapes of George David Freeman's intercepted telephone conversations to Lendrum and Newman, and that, after consultation with Hanson, Newman ordered the tapping, which began early in 1976, to be discontinued. It is not known whether these particular tapes contained the voices of Dr. Nicholas George Paltos and the head of the Consorting Squad, Sergeant Frank Charlton.

Madden reported in *The Sun* on 1 June: 'The hard line on corruption insisted on by Mr Hanson has meant that the Internal Affairs Section has become one of the most respected sections of the force. The present chief, Sergeant Lionel Kellock, says: "We are firm but fair with all our investigations" '.

It was reported on 5 June 1976 that the previous (Liberal) Government had set up a committee of Hanson, Lieutenant-General Sir Thomas Daly and chairman of NSW Public Service Board Sir Harold Dickinson to recommend a successor, and they had eventually recommended Wood.

Later in 1976, Hanson was said to have gone duck-shooting with Griffith identity Robert Trimbole and accepted an \$8000 Italian shotgun from him. The Woodward Royal Commission later found that three detectives had acted to protect marijuana growers at Griffith, and they were found guilty of conspiring to pervert the course of justice, but they were fortunate beneficiaries of a new and relatively short-lived prisoner early-release scheme: one served eleven months of a six-year sentence, another four months of a three-year, sentence, and the third five months of a four-year sentence.

In November 1976, still investigating the Hisshion case, Parrington received information from New Zealand that a Donna Shaw had information about people in Sydney later found to be members of Mr Asia ring. He asked for further information.

Bill Archibald reported in *The Sun* of 15 November 1976 that Hanson would retire on December 31, and had been offered a position as director of Sir Peter Abeles' Thomas Nationwide Transport Ltd. TNT chairman Frederick William Millar denied Hanson had been offered a job as director. In a statutory declaration, Archibald stood by his story, and swore that Hanson had mentioned the directorship with TNT in the presence of other senior police. He also swore that Hanson had later told him that TNT director Sir Robert Askin had told him to deny the story that he had been offered a directorship.

Former Assistant Commissioner Brian Kevin Doyle gave evidence to the Wran Royal Commission on 23 June 1983. According to Doyle, a conversation took place in his office in the last week in November or early December 1976. The participants, he said, were himself Fraud Squad Sergeant Clarence Robert Frodsham, and Constable Mick Newton, who were investigating a case of alleged fraudulent misappropriation of \$50,000 from the Balmain Leagues Club by Kevin Emery Humphreys, chairman of the Australian Rugby League.

Frodsham: 'We cannot go to Mr (Assistant Commissioner Reginald) Stackpool; we have come to see you.'

Doyle: Sit down, and settle down. What is it all about?'

Frodsham: 'This morning we were sent for to see Mr Hanson urgently. We walked in and there was Mr Humphreys sitting down with Mr Hanson, and Mr Hanson asked us would we tell him what we were doing in the case. I said I did not think we should tell the evidence in front of Mr Humphreys.' Hanson had insisted.

Doyle asked Frodsham what Humphreys said. Frodsham said: 'Not a word.' Frodsham had also said: 'Mr Hanson directed us to drop the inquiry and take no further action.

Doyle: 'Did he say that?'

Frodsham: 'Yes.'

Doyle: 'What do you want me to do?'

Frodsham:..We have to come to you for advice. We want to go on with it.'

Doyle: 'You do exactly what he says. He is the Commissioner of Police, and he has given you a direction.'

Frodsham: 'It is a wrong direction.'

Doyle: 'Of course it was, but it was a direction just the same and you are bound by it.'

Frodsham: 'Do you mean we drop it and forget it?'

Doyle: 'No, of course you don't. He retires in a matter of weeks... just play it cool, and when he retires you are no longer bound by his direction. That is when you go and get Humphreys and whack him in the dock.'

Frodsham: 'Is that right?'

Doyle: 'Yea, I am telling you.'

Asked if he put anything about this in his diary, Doyle said: 'No, my diaries were subject to inspection by Mr Hanson.'

Frodsham denied that Hanson told him to drop the case and denied that he had that conversation with Doyle. Investigating police later said Doyle was honestly mistaken. Hanson retired to his Terrigal house on 31 December 1976. Frodsham charged Humphreys on 18 January 1977.

Hanson, having said he would stand as an Independent for the marginal State seat of Gosford, announced on 4 May 1978 that he would not stand. A close friend of his, Sergeant Gordon Lambert, officer-in-charge at Terrigal, drank weed-killer and died in the surf in June 1979.

Rex Frederick Jackson, Minister for Youth and Community Services, described Hanson as a 'crook' on 22 August 1979. Independent MLA John Hatton said on September 17, 1980 that Hanson was a frequent user of a Bermagui boat used in connection with Murray Stewart Riley's \$46 million drug importation in 1978. Hanson's wife, Carole Louise, found him in his pyjamas slumped over the wheel of his car in their garage on Sunday morning, 26 October 1980. Carbon monoxide gas was reported to have been found in the body. His widow died on 25 March 1986. She left a gross estate of \$1,222,338.

LEWIS: the Sunshine System

Sir Terence Lewis' career has been a roller coaster of ups and downs and vile rumour. Born Terence Murray Lewis in Ipswich on 29 February 1928, he started work, aged twelve years and ten months, as a

shop assistant at Pikes' Menswear, Brisbane, in December 1940. At the Main Roads Department in 1948 two of his colleagues who had been in the force suggested he might find that sort of work more exciting. He later said he supposed it was every young officer's ambition to become Commissioner.

He married Hazel Gould in April 1952. They have five children, three sons and two daughters. Lewis records that he was mainly in the Criminal Investigation Branch from 1950 to 1963. In the latter year, Commissioner Frank Bischof created the Juvenile Aid Bureau, and put Lewis, then 35, in charge. As a coming man, he was awarded a Churchill Fellowship in 1968. He led the Queensland police contingent in the relief and rescue operations in Darwin after Cyclone Tracy, but 1970-76, when Hodges, Whitrod, and Gulbransen were running the force, was a down period.

Whitrod was not an admirer and, in traditional National Party terms, Lewis had two drawbacks: he was a Catholic and an educated man, with a degree in Arts and a diploma in Public Administration. He finally became an inspector in January 1976 and was transferred to Charleville, a bush town in Western Queensland. In late 1976 he said: 'I had given up hope (of becoming Commissioner) in the past few years.'

However, 1976 was a time of change in the force. After Hodges was relieved of his portfolio in August and Gulbransen retired soon after, the Bjelke-Petersen Cabinet apparently saw beyond Lewis' surface disadvantages: he was appointed Assistant Commissioner in November 1976. Whitrod resigned, and Lewis succeeded him on 22 November. The reasons for his spectacular rise were as obscure to him as others: he said he was 'shocked' by the appointment.

In Charleville, he was in charge of forty-seven men; now he had 3500, with, in theory, tenure until 1993. Then 48, he was described as a tall, friendly, smiling man. His hobby has been given as reading books, mainly about his job, and has said his wife's refusal to allow him to weed the garden, on the ground that he would not know a weed from a flower, suited him fine.

At a press conference soon after his appointment, he said he would oppose any attempt at political interference, and that there would be a complete clampdown on starting price bookmaking. As a prudent man, he declined to state where he would live in Brisbane: 'I've always had my telephone number in another name, and I've always kept my home address private... for many and varied reasons.'

In rumour-ridden Queensland, Lewis had to dispose of the usual crop. He said he had heard rumours he was supposed to have been a bag man, i.e. a collector of bribes or protection money, for a former Commissioner. He said he had never been involved in any corruption in the force, and that in any event it would have been a strange arrangement for a police constable to be a bag man for a Commissioner.

Another was the vexed matter of the so-called Rat Pack, a pejorative term purporting to cover a group of officers said to believe their talents would find them in positions of influence when Commissioner Norwin Bauer retired in 1970. At a press conference on 14 December 1976, Sir Terence disposed of rumours that he had been a member. He said: 'To the best of my knowledge I haven't been connected with it. I may have been connected with it by the insane rantings of some people in the past, notably one Commissioner.'

However, the rumour appears to persist. Then Assistant Commissioner Tony Murphy referred to it in a statement of claim in a defamation action in 1982: 'Among police officers in Queensland the words Rat Pack had since the 1960s been used to refer to and include the plaintiff (Murphy), Terence Lewis and Glen Patrick Hallahan.

The Licensing Branch has the carriage of enforcing the laws on brothels and illegal casinos. The branch has traditionally not been part of the Criminal Investigation Branch; it reports directly to an Assistant Commissioner. In 1977, justice George Lucas, barrister Des Sturgess, and retired Superintendent Don Becker made up a Committee of Inquiry on Enforcement of the Criminal Law. They reported that the Licensing Branch had been the target of allegations for many years, and recommended more regular transfer of officers in the squad. Eight years later, Sturgess noted that this advice had not been followed.

Des Sturgess had also drafted the Lucas committee's recommendation that police use Section 8 (2) of the Vagrants, Gaming and Other Offences Act to prosecute those knowingly allowing their premises to be used as brothels. Police won a test case on the section in 1979, but after that they rarely used this weapon against brothels.

In October 1977, police used sledgehammers to smash into a Fortitude Valley building, and Geraldo Bellino was charged with keeping a common gaming house. He was convicted and fined \$350. It was his only such conviction. Lewis said the day after the raid there would never be any tolerance of organised illegal gambling. He said: 'I want everyone considering setting up anything to know this. We will just keep up the raids.' However difficult it may be to believe that Sir Joh Bjelke-Petersen would give the nod to sins of the flesh, there were suggestions in 1987 that it may have been Government policy to tolerate casinos and brothels. In the nine-and-a-half years from October 1977, according to a *Courier-Mail* report on 23 May 1987, there were three raids in Brisbane.

In November 1979, Lewis said: 'It is not true that Mr Bjelke-Petersen runs the force', and that, 'God willing, he would like to remain Commissioner until he was 65. The *Courier-Mail* described him then as 'a man who is all policeman, who believes in his job, and will back the right of his men to do their job.' He got an OBE in 1979, was declared Father of the Year in 1980.

The Police portfolio was held by Russell Hinze from 1980 to 1982 and by William Glasson from 1982 to February 1986. For a period of some twelve months during Hinze's tenure, journalists used an illegal casino in Fortitude Valley as an after-work club: the drinks were free. When the *Courier-Mail* reported that an illegal casino was operating, Hinze referred to reporters as 'liars'. The *Courier-Mail*'s Matt Robbins made an offer to Hinze: if he would nominate a trusted staff member, Robbins would show him over the casino. He later made the same offer to Glasson. Robbins reported in *The Australian* on 16 May 1987: 'After consulting with police, both ministers declined the invitation to be given this proof on the basis that police had warned their staffers would be endangered if they were recognised by the casino operators.'

In March 1982, Labor spokesman on Police, Kevin Hooper, called for Lewis' resignation. Hooper claimed Sir Edward Lyons, then chairman of the TAB, had conspired with Lewis 'to worm his way out' of a drink-drive charge in December 1981. It was reported in December 1982 that Buckingham Palace had rejected his nomination for a knighthood on the ground that it was too soon after his OBE.

Some time in 1983, dubious sources were later alleged to have supplied \$50, 000 to Labor and National campaign funds in 1983. It was also alleged that a prostitute was asked to supply *ex gratia* sexual favours to a Cabinet minister.

In August 1983, Sir Terence told an induction of fifty-six police at the Police Academy that Premier Bjelke-Petersen had offered 'invaluable support' to the Police Department over many years. He said: The people of Queensland and the police force owe the Premier a very deep gratitude. The free enterprise policy of the Bjelke-Petersen Government has been responsible for Queensland's tremendous growth.'

Geraldo Bellino was the subject of a claim by Kevin Hooper in Parliament in November 1983 that a Consorting Squad Sergeant drank and gambled at his casinos, and took him meals in Wesley hospital. The officer later said that the claims had never been proved.

Following an article on male prostitution by Tony Koch in the *Courier Mail* in October 1984, Des Sturgess, now Director of Prosecutions, was asked to inquire into sexual offences against children. His report mentioned prostitution, which is illegal in Queensland, and illegal casinos. Sturgess' confidential report, said to have been in the hands of the police early in 1985, named a number of people involved in prostitution. He said a number of these were also involved in illegal casinos. A version of the report was published in November 1985 with the names replaced by numbers:

'Men said to be prominently involved in the organisation of prostitution in South East Queensland are 67, 68, 69, 70 and 53. They are regularly in breach of the criminal laws because of their activities, but it will be seen they have not suffered much prosecution in recent years ... 68 and 69 are the owners of a

building at 144 Wickham Street, Fortitude Valley. There is a brothel on the ground floor and unlawful gambling takes place on an upper floor. At 69 is the principal of the registered business name of a nightclub in Queen Street, Brisbane. It is a strip club and it sells liquor although it has no licence. Going to the male toilet is an experience as one must walk past the open door of a brothel...'

Her Majesty finally relented, and Lewis was knighted (Kt) in the 1986 New Year's honours list for distinguished service to the Queensland Police Force. He said as far as he knew he was the first Queensland Commissioner in the force's 121 years to get the accolade. He was reported to have preferred the appellation Sir Terence to that of Sir Terry. His personal assistant nominated him for the honour of Queenslander of the Year 1986. On the down side again, Sir Terence's son, Michael, 31, was incarcerated for seven days in March 1986 on a drink-drive-speed charge.

In August 1986, Deputy Premier Bin Gunn, who had become Police Minister on 6 February, ordered police to close illegal casinos. In December 1986, *Courier-Mail* reporter Philip Dickie began collating data on brothels. From property records and the public Sturgess report, he identified owners of the properties on which brothels were situated, and was thus able to decode the report. In an article in the *Courier* on 12 January 1987 headed: SEX FOR SALE UNCHALLENGED, Dickie named a number of operators identified by Sturgess.

Sir Terence's daughter, Constable Laureen Ireland, 25, was suffering 'anxiety depression of such chronicity and severity' that she had to retire from the force with superannuation of \$146,818, less \$4696 tax, in February 1987.

Dickie briefed ABC reporter Christopher Masters and a 'Four Corners' team when they arrived in Brisbane in early March 1987 for a two-month examination of links between police and organised crime, and on 13 April 1987, Dickie claimed in the *Courier-Mail* that there were now six illegal casinos operating in Brisbane, two more than before Gunn's order of the previous August. Dickie named those he said were operating them. Gunn ordered police to step up their campaign to close illegal casinos.

Masters' 'Four Corners' report, 'The Moonlight State,' was shown on television throughout Australia on 11 May. Assertions included that police were paid at least \$1.2 million a year from casino and prostitution operations. Next day Gunn said that a Special Commission of Inquiry would be held to investigate allegations of corruption in the force. Some initial responses: Sir Terence: 'Disgraceful,' Sir Joh: 'There may be one or two policemen who are not doing the right thing,' Justice Minister and Attorney-General Paul Clouston: 'Airy-fairy.' Mandy Campbell, president of the National Party's 20 000-member women's section said she was shocked: 'We don't want corruption in Queensland and the kinds of operations that have been described. Mike Needham, assistant secretary of the Police Union: 'If there are police on the take, we want them out'. Gunn: 'A series of Police Ministers have had these types of allegations hanging over their heads. They are not going to hang over mine.'

Gunn announced on 12 May that a Commission of Inquiry would investigate claims that police accepted bribes to protect gambling and prostitution. He was reported to have said: 'It wasn't a matter of coaxing Sir Joh to accept that the inquiry should be held. I just told him I was going to do it.' It was confirmed that Judge Eric Pratt, chairman of the Police Complaints Tribunal, a former policeman and friend of Sir Terence, was being considered for the post of Commissioner.

Courier-Mail reporter Ken Blanch reported: '... the inquiry is likely to become a contest between self-confessed tainted vice witnesses and *prima facie* squeaky-clean policemen. And over nearly four decades of reporting the Queensland scene, I have come to know that sort of contest usually gives the accusers about the same chance as the Christians had against the lions.'

Sir Terence said on 15 May: 'Neither I nor any of my senior officers believe the Queensland police force is corrupt... since the inception of the (Police Complaints) Tribunal in 1982, not one complaint of police corruption about an officer has been lodged.'

Some may have thought the 'Four Corners' people may have rather, as it were, over-iced the cake by showing recurring scenes of lubricity, but these appear to have touched sensitive nerves, and may have

helped to get the inquiry on the road: some National Party politicians may have perceived that a policy of masterly inactivity would risk losing part of their constituency in the Bible Belt. National Party backbencher Ian Henderson (Mt Gravatt), 'a committed member of the Garden City Christian Church' and of Gunn's ministerial police committee, said after a tour of brothels and casinos conducted by a Mike Willesee crew on 16-17 May: 'I had no idea what was going on. I was being honest when I told everyone I did not believe these things existed.' Henderson said he saw eighteen men from the country, in town for a convention, arrive by minibus at a massage parlour. 'I'm not convinced you can't get evidence,' he said; 'I mean, you could subpoena those fellows in the bus.'

Henderson posed a question: '... how come illegal activity of this nature can exist with the full and open knowledge of the police force which, it seems to me, has the duty to prevent this type of thing from happening?'

It appeared that the Queensland police investigators seconded to the inquiry might have to examine some modest fibro cottages. The *Sydney Morning Herald's* Greg Roberts reported on 21 May that, according to a senior policeman, a handful of police appeared to be living 'well beyond their means'. He said the home of one officer was 'a palatial wonderland; it'd be enough to make Prince Charles raise his eyebrows.'

Gunn said on 23 May the inquiry would be limited to events in the past five years, and would probably sit for four weeks. He said he would not widen the inquiry, as some people wanted, to go back to the days of Frank Bischof (Police Commissioner 1958-1969). Clauson and Gunn announced on Tuesday 26 May that Gerald Edward (Tony) Fitzgerald QC, 45, would head the Commission. Gary Crooke QC and Ralph Devlin were later appointed counsel assisting. Fitzgerald, widely believed to be incorruptible, was appointed a Justice of the Federal Court by the Fraser Government in 1981. Then 38, he was the youngest Federal Court judge to have been appointed. He resigned in 1984 and returned to the Bar. The son of a former deputy commissioner of taxation, a tennis player, and father of two teenage daughters and a son, 11, Fitzgerald said he may have been chosen for the inquiry because he was notorious for nothing; he had never been interested in politics. He said he had turned to law at Queensland University because he found engineering too hard. He had been a defamation specialist, had successfully defended an Electricity Board unionist in a High Court test of the Queensland Government's union-breaking legislation, and had given the Labor Party a 46-page advice that Federal legislation could be drawn up to break down the Queensland electoral gerrymander, and to survive a High Court challenge.

The terms of reference were largely restricted to allegations on the 'Four Corners' program. Gunn undertook, however, to consider the terms if Fitzgerald felt it would help his inquiry. In summary, the questions posed in the initial terms were:

During the period 17 June 1982 to 26 May 1987:

- Were any of Geraldo, Antonio and Vincenzo Bellino, Vittorio Conte, and Hector Brandon Hapeta involved in the use of premises for prostitution, unlawful gambling or unlawful drugs?
- Did the Bellinos, Conte or Hapeta give police financial or other favours in return for non-enforcement of laws in relation to the premises?
- Are existing legislation and procedures adequate to ensure that conduct of the above kind is detected and reported?
- Did the Bellinos, Conte or Hapeta make a payment of \$50,000 to any Queensland political party on or about 8 September 1983?

Referring to the time limit. Sir Joh said the Government was not interested in crimes which could have been committed more than five years ago. He said, obscurely: 'We don't believe in retrospective taxation and there has to be some limit.'

Thus far it appeared that the inquiry had largely been contained in terms of time and the sorts of things - sex and gambling - to be investigated. At most, a few relatively low echelon police might have felt themselves at risk of being thrown to the wolves. However, in the way of these things, the inquiry soon took on a life of its own. The first hint of a change in direction came on 19 June when Gunn's spokesman said a report had been given to the Commission. This concerned an allegation that a member of the Dr Nick Paltos / Ross Karp syndicate planning a \$40 million cannabis importation in 1984 refused to play his part until a friend on a charge was released. The report alleged that Queensland police had fixed his case.

Fears of a whitewash were further reduced on 25 June when, following an approach to Gunn by Fitzgerald, the terms were widened to allow him to investigate almost any allegation of corruption going back to 1 January 1977, and to investigate others than the Bellinos, Conte and Hapeta. The date of the alleged political donation was also widened to cover the period from 1 July to 31 December 1983. This was seen as a significant political victory for Gunn. He was reported to have met strong resistance from some Cabinet colleagues who had originally 'wanted the investigation carried out in secret by the Police Complaints Tribunal.

Sir Terence said on 27 June he was disturbed about another crop of rumours. He said: 'At 59, I've been Commissioner for ten-and-a-half years, and I have no intention of quitting.' Gunn said: 'Rumours have been emanating from political and Government sources that Sir Terence's health [he is said to be a diabetic] was bad and he would take early retirement. In the present atmosphere of an official inquiry into alleged corruption in the police force, I thought it was timely to give Sir Terence and his 6000 police and public servants a vote of confidence. Certainly, I will be guided by the findings of the Fitzgerald inquiry, but a job has to be done, and I told Terry to go out and walk tall.'

John Stubbs, author with banker Nick Whitlam of a famous book on the Petrov affair, reported in the *Sunday Sun* on 28 June that new evidence linking police with a drug matter in 1978 was one reason for the widening of the terms. Gunn had confirmed he had been told that drugs, rather than girls and casinos, had become the major focus of the inquiry, and that he had been officially told that Fitzgerald regarded it as essential that he examine an incident in the late 1970s involving Queensland police. Stubbs noted that it had been claimed that the Mr Asia heroin syndicate boss, Terry Clarke, had paid \$250,000 for tapes of a 1978 interview between Queensland police and drug couriers Douglas and Isabel Wilson. Clarke had arranged, through Robert Trimbole, the murder of the Wilsons in April 1979. He also noted that others with Queensland interests in the period now covered by Fitzgerald were drug-runners Barrie Richard Bull, Bruce (Snapper) Cornwell and Terry and Shirley Basham, who were murdered near Murwillumbah in August 1982.

On 5 June Ric Allen reported in *The Sunday Mail* that Gunn had given the inquiry an old National Crime Authority report identifying a branch of 'The Family' in Queensland. It outlined probable suspects in the Queensland drug trade and two related murders. Gunn said the report was 'dynamite' and that Crooke QC's 'eyes nearly jumped out of his head' when he saw it. Next day, Gunn disclosed that the report had remained in a justice Department safe for several months. He said it had been handed to former Justice Minister Neville Harper before the State elections on 1 November 1986, but no action had been taken because the Government did not believe the evidence in the report was strong enough to sustain convictions. Gunn said the report named local business identities as financiers of large drug transactions. It was believed that the report detailed links between the Trimbole mob and Queensland criminals involved in prostitution and drugs.

Desmond Sturgess QC, presumably a man in a position to judge, said on 7 July 1987: 'This inquiry will be far more important to the future of the Australian community than next Saturday's elections. It will decide whether organised crime has a future in Queensland...'

On 21 September 1987, Sir Terence was directed by Police Minister Gunn to stand down from the force and take special leave until allegations before the Fitzgerald Inquiry were resolved.

WOOD: A spectacular thirty months

The Wran Labor Government took office on 1 May 1976. Premier Neville Wran also took on the Police portfolio. He concurred with the advisory committee's recommendation of Mervyn Thomas Wood to succeed Hanson. However, a majority of the Labor Caucus preferred Doyle. Attorney-General Frank Walker is reported to have made two notable contributions to the Caucus debate, one seen by some as naive: 'Let's clean up on cops', and one as both kindly and decisive: 'It's too early to roll the Premier.' Wood was appointed, and formally took up the baton in December 1976. His term was theoretically to run until April 1982. Wran's handling of the Police portfolio from 1976 to 1980 has been the subject of some derision. His preference for Wood over Doyle in 1976, and his appointment of Bill Allen as Metropolitan Superintendent in 1979, can charitably be seen as just rotten luck, but his appointment of Billy Crabtree to succeed him as Police Minister begins to look like carelessness in that Crabtree was accident-prone: he was bitten on the leg by a wombat at Taronga Park Zoo in 1979 while he was Minister for Lands.

Wood, son of a Redfern police sergeant, was born in 1917. He joined the force in 1935, entered the fingerprint section in 1940, and became officer-in-charge of the section thirty years later, in 1971. He was superintendent at Chatswood in 1974, and assistant Commissioner in 1975.

A rower (one oar) from 1934, he became in 1940 a sculler (two oars), a type of propulsion over water at which, it has been argued, he was the greatest of all time. Despite the cancellation of two Olympic and Empire Games when he was in his twenties, Wood won one gold, two silver and one bronze medal at the Olympics, and four gold medals at the Empire (Commonwealth) Games. After he won the Olympic title at Henley in 1948, he was declared Australasia's Athlete of the Year. In a famous match race in 1950, he defeated the brother, John B. Kelly, of the late Monegasque princess to retain the Philadelphia Gold Challenge Cup. He said this was his greatest moment on the water.

Wood teamed with a policeman nine years his junior, Murray Stewart Riley, to win the double sculls at the Commonwealth Games at Auckland in 1950 and Vancouver in 1954, and place third in the Melbourne Olympics in 1956. Wood retired from sculling in 1959. Riley resigned from the force in 1962 and became a notable middle echelon member of organised crime.

Married in 1942, Wood referred to his wife as Mum, and agreed with those who said she was too good for him. At work, he smoked a pipe and kept a picture of the Queen on his desk. Otherwise, as a rather dashing former RAAF type, he was said to engage in that form of ballroom dancing known as 'The Jitterbug,' and to be inclined at parties to render the ballad, 'Some Enchanted Evening.'

Wood was also a noted fisherman. In 1950, he told a reporter he hopped rocks on the ocean beaches in search of blackfish. 'There's simply nothing in this world,' he said, 'like standing on a comfortable rock at a good spot I know, with the surf washing round your legs, a few niggers nibbling, and a nice little fire on the rocks with the billy boiling. That's just perfect.'

Otherwise, a major aspect of Wood's life was his spectacular two-year term, from 1976 to June 1979, as Police Commissioner. A number of elements, illegal casinos, a Crime Intelligence Unit report on George David Freeman, an anonymous dossier on Wood and the force, the Coman case, and the Cessna case, made it a period of extraordinary upheaval which ultimately, in 1983, led to the beginnings of reform in the force.

Sergeant A.R. (Tony) Lauer prepared a CIU report, dated 7 March 1977, on Freeman's SP activities and his connection with an American, Danny Stein. The report was forwarded to Wood, who sent it on to the 21 Division, responsible for gaming matters, but a raid on Freeman's Rockdale premises revealed no evidence of SP activities. Inspector J. D. Lewis, in charge of the Technical Support Unit (the telephone tappers) from 1974 to 1977, later told justice Stewart that in 1977 he was called to the office of Superintendent S.R. (Ray) Goldsworthy (head of the CIB from 1977 to 1980), and there found Wood and an Inspector P.J. (Pat) Watson. Lewis said Wood expressed concern about the security of tapes, particularly those relating to Freeman, and that the thrust of the conversation was a belief that a member or members of Parliament had a copy of a Freeman tape. Lewis said he assured Wood that the TSU had not distributed any copies. Goldsworthy denied that this 1977 meeting took place, and Wood denied any knowledge of phone-tapping activities. Stewart preferred Lewis's evidence.

In April 1977, Parrington received further information from New Zealand concerning Donna Shaw's allegations about people later found to be members of the Mr Asia heroin ring. He apparently decided that the information had 'no direct connection with the inquiry I was involved in', i.e. the Hisshion murder, and did not investigate the allegations. Justice Stewart's report on Mr Asia states: 'One of the more astonishing instances of no decision being made, or certainly no demonstrable activity resulting from information received, was in the case of Donna Shaw's statement... The Commission considers the approach taken by the New South Wales Police after receiving this information was casual... (the Mr Asia people) should have, in the Commission's view, been interviewed concerning these allegations.' The Mr Asia operation continued until well after 1979, when Clark handed it over to the Griffith identity, Robert Trimbole.

In July 1977, three months after he saw no reason to interview the Mr Asia people, Parrington began work on the Mackay murder. He was then, on his own admission, 'the most senior and most experienced operational homicide investigator' in New South Wales. The assassination of Mackay was, in terms of the democratic process, perhaps the most sinister homicide in Australia's history: Mackay was a politician who had campaigned against organised crime.

The case was politically sensitive in a sense other than the democratic process: it caused increased agitation for a Royal Commission on drugs. This was apparently unpalatable to some in high office: Bob Bottom refers in *Without Fear of Favour*, to a 'senior member of the Government' who tried to convince ALP colleagues and others that Mackay's disappearance had nothing to do with drugs, and that he had taken off with another woman. The same line was being pushed by a very senior, and corrupt, police officer... It is not known whether Parrington knew who these people were, whence they derived this erroneous belief, or whether that belief was made known to him, and if so, whether it affected, perhaps subconsciously, his investigation.

Later evidence suggested that a well-known Melbourne hitman, James Frederick Bazley, carried out the Mackay assassination at the instigation of Robert Trimbole. Jerilderie, where Bazley appears to have sought to ambush Mackay three days before the actual murder, was the key to the investigation. Harold Pursehouse, Mackay's employee, got a good view of Bazley, and advised police of this ten hours after the execution. Prompt action in transmitting the description may have enabled Melbourne police and Pursehouse to identify Bazley in short order. Parrington in fact did not go to Jerilderie until nine years later, nor did he interview Pursehouse's father-in-law, Patrick Gaynor, who had a better view of Bazley.

Nagle QC later seems to have ransacked a thesaurus to convey his view of the adequacy, or otherwise, of Parrington's investigation. Nagle's report is shot through with such terms as: 'judgment... hopelessly astray,' 'dilatory' 'extraordinary,' 'inexplicable' 'inconceivable,' 'ludicrous' 'particularly puzzling,' 'inexcusable,,' 'beyond belief.'

Also in July 1977, a race track detective, Frank Lynch, and Consorting Squad police sighted Freeman at the race track in the company of Paltos and Magistrate Murray Farquhar, but the matter does not appear to have been pursued at a higher level.

On 17 October 1977, Wood was about to sit down to lunch at 'La Causerie' restaurant with George Ziziros Walker, proprietor of an illegal casino, the Goulburn Club. Wood saw Leon Punch, leader of the Country Party, watching him. Wood left the restaurant.

Morgan Ryan and Brock, a firm of solicitors representing Abraham Gilbert Saffron, applied to Wood on 1 November 1977 to have police destroy Saffron's fingerprints, his photograph, and records of dismissed charges against him. Replying on February 8, 1978, Wood said: 'Careful consideration has been given to the matter and I am prepared to accede to the destruction of the fingerprints taken on 25 November 1956, 1 November 1956, and 4 July 1962.' He said that if Saffron went to the Criminal Records Office, arrangements would be made to destroy the fingerprints. He went on: 'At the same time arrangements will be made for the destruction of the photographic negative of your client at present in this department's possession. Your request for the destruction of Mr Saffron's criminal record is refused.' He added that a notation would be placed on Saffron's card that the information was not to be divulged to any person outside the department. He also noted that fingerprints taken in relation to charges against

Saffron on 31 January 1940, 15 December 1952, and 29 January 1947 had already been destroyed in accordance with the Archives Act.

The *menage a trois* murders took place in November 1977. Walter Coman, 34, night club bouncer, lived in a flat at beachside Bronte with his wife of two months, the former Joanna de Marco, 28, croupier, and his common law wife, Erica Scott, 25, model. The three engaged in group sex. Mrs Coman and Miss Scott were lovers. It was later alleged that in the early afternoon of Wednesday, 9 November 1977 the ladies taunted Coman with their lesbian relationship and that, when he produced a .45 pistol, said he would not have the guts to pull the trigger. If they said that, it was imprudent: he shot them both dead. Coman, in prison for life, later offered a different motive, and the matter was later referred to in the House in connection with the dossier on the force.

At the end of 1977, Wood and Wran had some difficulty in coming to an agreement about closing down casinos, and in March 1978, following reports that Freeman, Magistrate Murray Farquhar and Dr Nick Paltos had been seen together at the races in July 1977, Wran said that no one in Government had given any order to protect SP bookmakers, including Freeman.

Wood engaged solicitor Morgan John Ryan to handle a defamation action about April 1978. In that year, the Brifman records of interview were tabled in the South Australian Parliament by Attorney-General Peter Duncan, who was seeking to keep organised crime out of that State. When *The National Times* published some of the material, Wran asked Wood for a report. Wood said the allegations were 'fully investigated' at the time. It was not revealed what the results were, or whether charges had been laid.

It was in Wood's period that the phone tappers had their biggest success. A tap on the phone of a man named by Justice Stewart as Carl Bonnette, led them to tap the phone of Wood's old sculling colleague, Murray Stewart Riley, in January 1978. A combined State and Federal operation code-named 'Diner' then led to the seizure of the yacht *Anoa* in June, and the subsequent conviction of Riley and nine others on charges relating to the attempted importation of some tonnes of cannabis.

Despite his force's success in the *Anoa* case, Wood was inclined to take talk of organised crime with a grain of salt. In September 1978, when the name of Leonard Arthur McPherson came up again, Wood said he had been named on and off for twenty years as an organised crime figure, with rarely any evidence. 'They will be digging up Ned Kelly and naming him too,' he said. The tappers had a second success in October 1978. In operation 'Diner', a tap on the phone of Arthur Stanley (Neddy) Smith led to the arrests in Bangkok of Warren Fellows, Paul Hayward, and William Sinclair on heroin charges. Sinclair was eventually acquitted, and none of the prosecutions in Sydney was successful, but Fellows and Hayward were sentenced to long terms in Thailand.

From March 1979, a combination of events, involving the Freeman Report, the police dossier, and the Cessna case, led to Wood's resignation in June 1979. The Freeman Report had been mentioned in the House on 23 August 1978 and 6 September 1978 without apparently causing Wran to question Wood about it, or for Wood to offer the material to Wran.

A tap on Roy Bowers Cessna led to the arrest on drug charges of Cessna and Timothy Lycett Milner on 14 March 1979, and to the installation soon after of the 'Mad Dog' tap on Morgan Ryan's phone.

On 28 March Opposition leader Bruce McDonald asked Wran if Freeman had unusual and undue influence over the 21 Division. Wran said he did not intend to embark on 'all sorts of inquiries not supported by fact.' Next day, Freeman, with a television crew in tow, sought to confront McDonald at Parliament House.

Ryan and Farquhar met in Centennial Park on 1 April. On 3 April, Independent MP John Hatton, drawing on the CIU's Freeman Report, moved an urgency motion condemning Freeman for seeking to intimidate a member of Parliament. The motion was lost 60-34, Labor members voting as a bloc against it. Wran, however, said he had asked Wood to get a CIU assessment of Freeman's alleged links with organised crime.

On 17 April Liberal member John Dowd again asked Wran why the Freeman Report had not been acted on. Wran replied that he had a report, dated that day, from Wood. It said there had been no upsurge in SP bookmaking. Of the 1977 Freeman Report, Wran said: 'I take it that he [Dowd] has a copy of the report. As I have not seen any such report, I invite him to produce the report in question... I assure him that I shall release the report to the news media... I repeat: I know of no such report; I have not seen any such report; my instinct tells me that (Dowd) has not seen any such report either.' To Wran's intense embarrassment, Dowd then produced the report, but Wran only released part of it to the media. The report showed that in 1977 Freeman's SP activities were conducted by telephone through twenty named agencies. On 27 April, Wran ignored Wood's advice to appoint Goldsworthy to the crucial post of Metropolitan Superintendent, in charge of the CIB, CIU, 21 Division, and the Licensing Division. He also ignored fifteen other more senior men, and appointed Bill Allen to the post.

On 4 May an anonymous dossier on the alleged state of the force was distributed to Wran and others. It asserted that Wood had a corrupt connection with Freeman and associations with Abraham Gilbert Saffron and George Ziziros Walker. Assistant Commissioner Jim Black made an investigation and later cleared Wood of the allegations. The dossier asserted: 'The administration of the NSW Police Force is at its lowest ebb in years... CIB members are heavily involved in organised crime from armed holdups, robberies, gambling, drugs, dealing with criminals, prostitution and corrupt lawyers, substituting evidence in court briefs, and permitting active interstate criminals to operate...'

Other allegations in the dossier were that up to \$14 million a year was channelled to police and politicians to protect illegal gambling and other criminal activities, and the Coman case.

On 6 May, Wood said he had no intention of resigning from his job, then carrying an emolument of \$44 900. He also said he heard a lot about organised crime, but could not find hard evidence to prove it existed in New South Wales. 'Where is this organised crime?' he asked. On 10 May Wood dined with Ryan, Farquhar, High Court Justice Lionel Murphy and Magistrate Clarrie Briese at Ryan's house.

On 24 May the same day that Farquhar fined Cessna, opposition leader John Mason asked that an inquiry be made into aspects of the Coman case. On 1 June Dowd asked Wran to hold an inquiry into the Coman case and other aspects of the anonymous document. In the continuing uproar over the anonymous dossier, and further noise following Farquhar's fining of Cessna on 24 May, Wood resigned on 5 June.

Announcing the resignation, Wran said Wood's name had been mentioned in the document. Wood said: 'I have carefully considered these allegations and others made in recent months and I am most concerned with the effects that such allegations are having on the morale, reputation and standing of the NSW Police Force.' He described the document as 'scurrilous lies,' and said he had nothing to hide.

Wood attended the funeral of Sir Robert Askin in September 1981, and he was mentioned when the *Age* tapes surfaced in 1984. 'As far as the Police Force is concerned,' he said in October 1984, 'there are too many cooks (sic) spoiling the broth.' At the 1985-86 Stewart Royal Commission on the *Age* tapes, Wood 'denied emphatically that he had any knowledge of the interception of telephone conversations...' This seemed a pity, since it would tend to deprive him of part of the glory for the *Anoa* and Bangkok drug busts. However, Justice Stewart rejected 'his denials' and concluded that he did have 'knowledge of illegal interceptions of telephone conversations.'

In August 1987 Wood was charged with perverting the course of justice in the Cessna-Milner affair.

LEES: Unhappy stay

James Travers Lees, born 7 September 1919, was educated at Hurlstone Agricultural High School, and became a police cadet in 1936. He became a Sergeant (third class) in 1957. As officer-in-charge of the Disciplinary Office 1959-72, his investigations were reported to have resulted in 402 criminal charges against police and 412 dismissals. He became Sergeant (first class) in 1967; Inspector in 1972; Superintendent in 1975; Senior Assistant Commissioner in 1976; Deputy Commissioner 1977; and

acting Commissioner on Wood's resignation from 6 June 1979. He was confirmed in the post on 16 October 1979.

In the debate on the matters leading to Wood's resignation, Wran regained the initiative by announcing, on 8 June 1979, that Justice Ronald Cross would hold an inquiry. However, the inquiry was not into corruption in the force, but into its administration. On 17 June, the *Sun Herald* (Sydney) reported: '(Wran) is engaged in what is being told within the ranks of his Government as an exercise in cleaning up the police force. The Premier has decided that an open and full inquiry into the allegations of corruption would be counter-productive in that it would not only alienate the police force - a powerful interest group in its own right - but would also run the real risk of damaging the public standing of the police in such a way that the wider interests of the community would be hurt.'

Cross withdrew on 22 June, and Justice Edwin Lusher was appointed. This appointment eventually had far-reaching consequences. Wran was reported in October 1979 to have ruled out any recommendation Lusher might make for a Police Board or for a police commissioner from outside the New South Wales force. A month later, on 14 November, he announced the appointment of two new assistant Commissioners: Allen 57, and Abbott, 55, the latter of whom was moved ahead of twenty-three more senior police. On 28 February 1980, Wran relinquished the Police portfolio, but gave it to Bill Crabtree.

Jack McNeill was promoted to chief Superintendent on 30 December 1980, and was instrumental in forming the Tactical Response Group in 1981.

On 9 May 1981, Allen set off with his wife and daughter for a trip to Hong Kong and Macau that after got some adverse publicity. Three days later, Lusher's 846-page report on the administration of the force was tabled. He noted that his terms of reference did not require him to investigate or report on corruption, but gave the Government the benefit of twelve pages of general observations anyway. He said: '... the 'rotten apple' theory as a control measure should be firmly rejected by management... it should... regard corruption... in its institutional form.'

Ignoring Wran's earlier decision, Lusher also said a Police Board was central to his recommendations. It would consist of the Commissioner and two people from outside the force. Their task would include carrying out such of his recommendations as were accepted by the Government, and to select and recommend appointments of senior superintendents and above. He also recommended that nobody in the force be appointed Police Commissioner after he reached his fifty-seventh birthday. Allen was then fifty-nine.

However, it appears that at that time the Government had no intention of implementing Lusher's recommendation for a Police Board. As late as January 1983, Police Minister Peter Anderson denied he had ever been an advocate of a partly civilian Police Board, and said: 'I indicated I had not been an advocate of the Police Board proposal. I have made no such recommendation to the Government, nor do I intend doing so in the immediate future'. Several more major scandals involving the police, the administration of justice and the prisons erupted before the Government sought to regain the initiative in late 1983 by putting into place the mechanism for reform.

Meanwhile, in June 1981, a death occurred in Dangar Place, Chippendale, just off Broadway, Sydney.

Death In Dangar Place

The three major participants in the Dangar Place incident were the detective, the deceased, and a third man who arranged the fatal meeting.

The third man: This person was referred to as Mr BL at the Woodward Royal Commission on Drug Trafficking, and as witness G at the Lanfranchi inquest. His name was Arthur Stanley (Neddy) Smith. We refer to him here as Neddy to distinguish him from other Smiths.

Sometimes referred to as 'The Big Fellow,' Neddy was about 190 centimetres and 98 kilograms and, it was said, he could fight like a threshing machine. In 1981, Detective Roger Rogerson said he knew

Neddy had been a professional criminal, but not a notorious one. On the other hand, Sergeant Roger Darrell Barton, also of the Armed Holdup Squad, said he had never heard of Neddy until the day Warren Lanfranchi died. Justice Woodward described him in his October, 1979 report as a 'professional criminal with a long history of convictions for dishonesty and violence and a reputation as a gunman and assailant.'

Born in 1944, Neddy left school at the age of 14 and began his criminal career at 15. In two decades, he was arrested twenty-five times, and his sentences included one of six years for robbery, and one of twelve years for pack rape. He was released from prison on parole in March, 1975, and remained at large until October, 1978.

The detective: Sergeant Roger Caleb Rogerson, born in 1941, was in 1981 getting a little thick-set, about 180 centimetres and 82 kilograms. He was balding had a ruddy complexion and a longish nose, and walked with something of a rolling gait. He joined the force about 1957, and became a member of the Special Weapons and Operations Squad in 1967. In 1981, he was still a member of this squad, which is activated in high-risk emergencies, such as terrorism, and the arrest of dangerous and armed criminals. In 1973, Rogerson became a member of the Armed Holdup Squad. Members of this squad inevitably operate in situations of some danger either to themselves or to those they pursue.

In June, 1976, for instance, Rogerson was present at Avoca Beach, but did not fire the fatal shot, when police found themselves unable to arrest without bloodshed a bank robber and murderer named Philip Western.

In 1977, a man attempted to hold up a courier taking \$60 000 to a bank from the South Sydney junior Leagues Club. Police were called and Detective Rogerson found himself obliged to shoot the offender, who later died. In June, 1978, along with detectives John W. Burke and Denis Martin Gilligan, he was one of the arresting officers in the so-called Ananda Marga case. In this case, three members of a religious group were convicted after two trials of conspiring to murder, by bombing, the leader of a Right-wing organisation. The Attorney-General's Department in 1981 began an inquiry into the possibility of a miscarriage of justice in this case. The Margiis were pardoned and released in 1985.

In August, 1979, Rogerson was present, but did not fire the fatal shot, when police found themselves obliged to shoot bank robber and drug addict Gordon Thomas at Rose Bay.

And in November, 1980, he found Gary John Purdy, armed with a shotgun, in a darkened garage after the murder of a hotel employee at Greystanes. Detective Rogerson levelled his shotgun at Purdy, and said: 'Don't move, drop the gun.'

Purdy cried out: 'Don't shoot me, don't shoot me. The gun's jammed.' He dropped the gun and was arrested.

Even when not in action, policemen may be in danger: Rogerson was said to check his car each morning in case a gelignite charge had been attached.

The deceased: In 1976, aged 17, Warren Charles Lanfranchi received a prison sentence of five years on charges of stealing colour television sets.

A blue-eyed, fair-haired young man, Lanfranchi was about 175 centimetres and 80 kilograms. Like many in prison, he made a thing of keeping in shape, and he had a slim waist, a big chest, and a thick muscular neck. Also like many others, he found that a spell in prison provides a good education for a potential major criminal. He there no doubt learned of the profits to be made from heroin and the names of potential suppliers, against the day of his release. At some time during the latter part of his period in jail, Lanfranchi made the acquaintance of Neddy.

The detective and the informer: Neddy first met Rogerson in November, 1976, when the detective arrested him and he was charged with a number of alleged offences: shoot at with attempt to murder, assault with attempt to rob, attempt armed rob and possess unlicensed pistol.

Neddy however, enjoyed a remarkable run of success in courts up to and including the highest in the land. On the November, 1976 charges, it was found that he had no case to answer on all charges except that relating to the unlicensed pistol. On this, he initially was sentenced to six months' jail, but this conviction was eventually quashed on appeal.

At some unspecified time after this arrest, Neddy became an informer for Rogerson. The dynamics of such a detective-informer relationship are not clear. At Lanfranchi's inquest, Mr Ian Barker, QC said he assumed there was some *quid pro quo*, but what benefit, if any, Neddy derived from the relationship we cannot know. It appears, however, that his information was of good value to Rogerson, and that he was frequently used as an informer.

Neddy's electronic fortress : By early 1977, Neddy had made renovations, inside and out, to his house in Sydenham about six kilometres from the City. This house has since been described as an 'electronic fortress' in that it had security doors and windows, an intercom system, a spotlight to pick up nocturnal visitors, a closed-circuit television system for viewing visitors from inside the house. It was also surrounded by walls 2.5 metres high. Some police apparently suspected that Neddy may have had all this paraphernalia installed in order to guard against being 'ripped off' of some valuable material, heroin for instance.

Rogerson, who spent an hour in the fortress the night before Neddy was to give evidence at the Lanfranchi inquest, however offered that inquiry a more charitable explanation: it was, he thought, for the protection of Neddy's wife and children.

Neddy widens the circle of his acquaintances: During 1977 and 1978 Neddy was widening the circle of his social, business or political acquaintances. Among these were:

James Richard White, later a principal shareholder in the Harry S Baggs discount store operation, and his partner Mr Neville William Biber, from whose Terry's Imports, then in Surry Hills, Neddy is said to have once picked up a safe.

Roger Charles Degen, Labor MP for the State seat of Balmain. Degen has recalled visiting Neddy at his electronic fortress, and also with having been approached by Neddy at the Sackville Hotel in Rozelle, when Neddy sought his support for a 'no bill' application he had made in connection with criminal charges he was then facing.

Paul Cecil Hayward, a prominent Newtown footballer of the time, who may be termed Neddy's brother-in-law at common law: two sisters were, respectively, the wives, at common law, of Hayward and Neddy.

Warren Edward Fellows, a one-time barman, who is said to have claimed to be the biggest heroin courier in the world in that, while some couriers carried a kilogram or two, he brought in 15 kilograms at a time.

William Charles Garfield Sinclair, a businessman with important connections in politics and in the *milieu*, or underworld. In the 1950s, Sinclair had been a close associate of Labor Cabinet Minister C.A. (Gus) Kelly, and in the early 1970s had been associated with former Detective Sergeant Murray Stewart Riley in club rackets and in the formation of Wings Travel. This was a travel agency to which Riley introduced a lot of police business, and which also became the agency of choice for most drug couriers.

Sinclair also had a connection with ex-boxer and Labor party stalwart Daniel Patrick Casey, Deputy Mayor of Leichhardt, and in 1975/76 did a stint as public relations officer for the council. Through his work there, Sinclair became acquainted with Roger Degen, the local MP. Degen later recalled a social outing in the company of Sinclair and Neddy.

Edwin William Smith, later sentenced to 10 years' jail for possession of 1.6 kilograms of heroin, was Neddy's half brother. Neither should be confused with such other *milieu* personalities as Stanley John (Stan the Man) Smith, or Edward James (jockey) Smith. .

Two other acquaintances of Neddy in the *milieu* were David John Kelleher and Henry Charles Landini.

The Bangkok connection: Justice Woodward stated in his October, 1979 report that Sinclair, Hayward, Fellows, and Neddy appeared to be among the principals of what he called the Sinclair group of heroin traffickers.

His report in this area depended to some extent on the sworn evidence of Edwin William Smith, who was possibly the first criminal to turn Queen's evidence in the area of organised crime in Australia. Although there appeared to be some independent corroboration for at least the outline of Edwin William Smith's statements at the Royal Commission, some of them depend on hearsay, and he later backtracked sufficiently for a different judge to term him an unreliable witness, so his evidence should be treated with caution.

Justice Woodward reported: 'Sinclair and Fellows arranged purchases of the drug (heroin) in Bangkok and Fellows was responsible for smuggling it into Australia where (Neddy) handled distribution and sales once it arrived in Sydney. In this role (Neddy) was assisted by ... Edwin William Smith. ..'

Pictures of Neddy and Sinclair in company in Bangkok are known to have been taken covertly by surveillance officers. According to the report, the method of importation was virtually without risk. The group had found out the codes by which Customs officials marked airport entry cards to indicate either that the passenger's baggage was to be searched, or that the passenger was to go straight through without a search. The group had at least two couriers on each trip. Whoever was marked to go straight through simply picked up the suitcase and left. In the unlikely event that both, or all, were marked for search, they would simply abandon the suitcase on the carousel and walk out.

Justice Woodward estimated wholesale prices obtained by the group in Sydney at \$165,000 a month, or \$2 million a year. Edwin William Smith stated that Neddy had once told him that, while there were millionaires round the world who had it in assets, 'he would be one of the only ones to have it in cash.'

In the end, the Bangkok operation was cracked by police in the NSW Crime Intelligence Unit (CIU). According to the Woodward report, the CIU in September, 1978, received information about Neddy, Sinclair and some of the other group members.

The informant described a major heroin import / distribution organisation in broadly the same terms as were later outlined by Edwin William Smith. The CIU mounted a surveillance operation and Neddy was observed at meetings with a number of different known or suspected drug dealers, including Fellows and Hayward, who were in Neddy's company for some time.

James Richard White was believed by police to be one of the persons who attended a meeting at Neddy's house in September, 1978. Fellows and Hayward left for Bangkok on October 2; police information suggested they would bring back a consignment of heroin. However, there were problems in nailing Fellows and Hayward on their return to Australia, and it was decided to tip off the authorities in Bangkok.

Fellows and Hayward were arrested in a Bangkok hotel on Wednesday, October 11 in possession of 8.5 kilograms of heroin, worth about \$600,000 wholesale in Sydney, and about \$3 million retail. They implicated Sinclair as the financier, and he too was arrested. In the Thai court, Fellows ultimately got 33 years and eight months, Sinclair got 33 years but was later acquitted, and Hayward 20 years.

According to Edwin William Smith, on Thursday, October 12 1978, the day after the Bangkok raid, he was called urgently to Neddy's home early in the morning, between 5 am and 6 am, for discussions with Neddy and others. Later that morning, Neddy was apprehended and his house was searched. Police found a receipt for a locked tin box at a bank. In this they found \$90,100 in cash, \$10,000 worth of diamonds, and 'a short manual setting out how ... to get a container past Customs.' Police also found a passport, containing his photograph, in the name of Douglas Keith Richmond, and a separate sum of \$39,360.

Fellow's home was also searched and police found receipts for bank boxes which yielded \$185,900 in cash. Neddy was charged with having goods in custody (the \$39,360 found) allegedly the proceeds of heroin sales, and was also charged on November 3 with supplying heroin. The Parole Board also required that he serve out the remainder of his sentence on the rape charge.

Edward William Smith was apprehended in possession of 1.6 kilograms of heroin. If he understood that he would get favourable treatment by turning Queen's evidence, he appears to have been initially mistaken: when he pleaded guilty, he got 10 years' jail, and served part of it. Neddy appeared in court on January 25, 1979. The Prosecutor, Sergeant McCracken, told Mr Bruce Brown, SM, that the police were prepared to proceed with the \$39,360 goods in custody thought to have been unlawfully obtained charge, but were not that day prepared to proceed with the charge of selling heroin between August 22 and October 12.

Neddy's barrister, Kevin Murray, QC objected. He said that Neddy insisted that the selling heroin charge proceed immediately because it had been adjourned constantly since the middle of the previous year. Sergeant McCracken said he did not have the evidence and that the police could proceed as they wished. Mr Brown, SM said he did not accept that position. He dismissed the selling heroin charge.

Eventually, Neddy got six months' jail on the goods in custody charge, and in July, 1979, a new charge was preferred against him, that of conspiring with Sinclair, Fellows, Hayward and others to supply heroin.

That charge was still pending two years later when Neddy was handling the attempt by his old prison acquaintance Lanfranchi to negotiate with Rogerson.

The road to Dangar Place: Through some adroit manoeuvring in the High Court of Australia, Neddy was released from prison in October, 1980, instead of, as had been expected by the authorities, in September, 1982. Two months later, in December, 1980, Warren Lanfranchi was released, and became a dealer in heroin. The source of his supply is not on the public record, although a witness at the inquest, Mrs Sallie-Anne Huckstepp, said she had seen it handed over. Bruce Murphy, QC, counsel for Rogerson, objected that this was not relevant. Ian Barker, QC, for Huckstepp, said it was relevant because of the 'connection with another witness.' The Coroner, Norman Francis Walsh, ruled that it was not relevant.

At the inquest, Neddy denied that he had ever sold heroin - 'not to anyone or for anyone' - or that he had ever supplied Lanfranchi with heroin. He said he had been an SP bookmaker until a recent crackdown; his only income then was from gambling at the races.

Mrs Huckstepp had met Lanfranchi, as a client, in January, 1981. He sent her red roses, an approach she found unusual. They lived together, from February, for five months. She said he weaned her off heroin. Lanfranchi was making, she later said, \$10,000 a week, and was generous, always buying her flowers and little gifts, and taking her daughter, Sasha, out to buy her four pairs of shoes at a time. They moved around Sydney, living in motels and rented accommodation. Lanfranchi's plan, Huckstepp said, was to get them out of the country, but procuring false passports took time. Lanfranchi was implicated in a number of bank robberies during May, 1981, although why a man making that sort of money would bother with banks is not clear.

On Thursday, May 21, a Constable, Ray Walker, identified Lanfranchi from a photograph as the man who tried to murder him at Drummoyne a week before. Detective Sergeant Graham William Frazer, of the Armed Holdup Squad, asked the Observation Squad to trace Lanfranchi. The next day, members of the Observation Squad observed Lanfranchi engaged in certain practices with a woman in a motor vehicle. He was not arrested, although police later conceded that they were at the time convinced that he had tried to murder a policeman, that it would not have been difficult to arrest him while thus engaged, and that the failure to arrest constituted a risk to police and public. They stated that it was a risk they were prepared to take in the hope that Lanfranchi might lead them to his accomplices in the bank holdups. The Observation Squad terminated its surveillance of Lanfranchi the day after that. It was later explained that the squad was needed for other matters.

It was on either Friday, June 5, or Saturday, June 6, according to. Huckstepp, that Lanfranchi 'ripped off' (i.e. stole heroin from) another heroin dealer who, she has claimed, was operating on behalf of police. The heroin was said to be worth \$37,000. A further attempt to locate Lanfranchi was made, apparently beginning on June 6. This time the Armed Holdup Squad asked the Crime Intelligence Unit, through Detective Denis Martin Gilligan of that unit, to handle the operation. Sometime after the heroin ripoff, according to Huckstepp, Lanfranchi got a telephone call from a woman as a result of which he became seized of the idea that police were seeking him in relation to the ripoff. How this could be is unclear, since in most circumstances it would seem unlikely that a heroin dealer would take his complaint to the police. Lanfranchi went to live in a town house in Kurraba Road, Neutral Bay.

On Saturday, June 13, police arrested a man at the Carousel Club in Kings Cross. The man, later referred to as witness A, was said to have made a number of admissions, and implicated Lanfranchi in armed robberies of banks at Bexley, Camperdown and Ramsgate, but did not make a record of interview. Sergeant Roger Darrell Barton, of the Armed Holdup Squad, decided to seek to arrest Lanfranchi on June 14.

Negotiations for a meeting: On Tuesday, June 23, Lanfranchi approached Neddy at the Broadway Hotel at the corner of Broadway and Shepherd Street, Chippendale, across the road and a little towards the City from Grace Bros. What happened at a series of negotiations that took place there depends to some extent on a statement Neddy made more than two months later to Rogerson and Detective Senior Constable Rodney George Moore, of the Armed Holdup Squad. Neddy stated that Lanfranchi told him he had heard Rogerson was going to arrest him 'for ripping-off drug offenders', and that he was prepared to pay up to \$50,000 to have the investigation dropped. Neddy also later said that Lanfranchi had offered him \$5,000 if the negotiations reached a successful conclusion. He said he was prepared to accept the \$5,000.

Neddy finally reached Rogerson on Thursday, June 25, and invited him to step round to the Broadway Hotel. He there told Rogerson what Lanfranchi wanted. The detective, he stated, laughed at the suggestion that such a sum of money could be offered to avoid arrest. The detective, Neddy stated, said that Lanfranchi was not wanted for ripping off 'druggies;' rather, he was wanted for the attempted murder of a policeman, and for some bank robberies.

Neddy stated that he advised the detective that Lanfranchi had a Smith & Wesson automatic, and that Lanfranchi had told him that, if cornered, 'he would shoot it out with police'.

As negotiations proceeded in the next two days, what Neddy apparently did not advise Detective Rogerson of was that Lanfranchi visited him at the Broadway later that Thursday night and another three times on the Friday and the Saturday: no attempt was made to arrest Lanfranchi at any of these visits.

According to Huckstepp, Lanfranchi was driven to each of these trysts in a silver Celica by a man who went by the name of George who, she said, was an associate of Neddy. Neddy however stated that he did not know by what means Lanfranchi arrived at the hotel.

On Friday, June 26, Neddy invited Rogerson to step round to the District Court at Darlinghurst where, presumably Neddy had some business relating to his long-running conspiracy to supply heroin case.

In the vicinity of that court, according to a later statement by Rogerson, Neddy unburdened himself of a pressing moral concern. Neddy believed, Rogerson stated, that most people, including all police officers, had very little time for him. However, he wanted to prove, if possible, that he had some moral worth: he wanted to save the situation arising where a police officer could be shot in attempting to arrest Lanfranchi.

Rogerson got in touch with Senior Inspector Douglas Arthur Knight, attached to the Tactical Response Group, but at the time acting as head of the Armed Holdup Squad in lieu of Inspector Leach then on leave, and put the inspector in the picture. Knight asked Rogerson if he considered Neddy's information was reliable. 'Yes,' replied the detective. 'He is reliable and always spot on with his information.' Knight later told the inquest that he gained the impression that Neddy was a frequently-used informant.

The impending arrest of Lanfranchi was mentioned at a meeting of senior officers including Superintendent Palmer, in charge of the CIB, Superintendent Noel Morey, Senior Inspector Rofe, and the Special Weapons and Operations Squad was alerted.

Two shots in Dangar Place: In the City, Saturday, June 27, 1981, was a fine day with westerly winds. Maximum temperature, at 12.50 pm, was 18.9 Celsius, or 66 degrees Fahrenheit. At a meeting at the Broadway Hotel that morning, Lanfranchi according to Neddy, said he couldn't get the money before the proposed meeting with Detective Rogerson. He asked Neddy to arrange a preliminary meeting with the detective to discuss the terms of the agreement, and, having arranged to return to the Broadway at 2 pm, went back to Neutral Bay. Neddy saw detectives Rogerson and Moore near the Star Hotel, Redfern, and returned to the Broadway.

Lanfranchi had been instructed to come unarmed and not wearing a coat: Huckstepp ironed a warm shirt for him. They walked round the house 'trying to figure the angles;' although nervous, Lanfranchi decided that nothing would happen to him in broad daylight on a Saturday afternoon.

According to Huckstepp, Lanfranchi got some money and they counted it out in bundles of \$1,000 to make up \$10,000, and he put the bundles down the front of his snug-fitting trousers. At the inquest, Bruce Murphy, QC, for Detective Rogerson, dramatically threw on a table two bundles of \$10,000, one made up of \$50 bills and the other of \$20 bills. He told Huckstepp it was absurd to suggest that either bundle could be fitted down the front of tight-fitting trousers. Mrs Huckstepp said she thought Mr Murphy was being ludicrous; she had seen Lanfranchi do it. Huckstepp said Lanfranchi also had \$1,200 in a hip pocket as part payment for Neddy in the event that the negotiations were successful. He gave her two \$20 bills from this and said he would give her more that night. She also said Lanfranchi left his gun, the Smith & Wesson, at home, and that she later threw it in the Harbour, but police divers were unable to find it.

Lanfranchi arrived at the Broadway about 2 pm, and he and Neddy then drove round Chippendale to select a suitable site for the meeting with Detective Rogerson. At the time, Neddy was driving a green BMW. Asked at the inquest if this was his car, he said, no, it was a company car, but was disinclined to name the company until compelled to by the coroner. He then disclosed that the company was named Fanhaven. Fanhaven Pty Ltd conducted business under the name of Terry's Imports at the same address in Redfern as that of the Harry S Baggs warehouse.

Lanfranchi chose a narrow lane called Dangar Place near Cleveland Street, a children's playground, and a bricked walkway about which, it seems, children zip on skateboards. It would be easy to see if there were other police around, and there were plenty of ways out if anything went wrong. Neddy might therefore have also reasonably assumed that Lanfranchi would come to no harm, providing he kept to the agreement to go unarmed. They went back to the Broadway, and Neddy telephoned Lanfranchi's instructions to Rogerson: to be alone with his car parked in Dangar Place with the front showing in Beaumont Street. Rogerson told Neddy he would be driving an old green Falcon; he also said he couldn't organise his men for the area before 2.45 pm. He asked if Lanfranchi was armed. Neddy said he didn't think so, but couldn't guarantee it. Before departing, Neddy and Lanfranchi had three shots of bourbon at the bar. Neddy said he had to pay on the ground that Lanfranchi said he had no money on him at all.

Meanwhile, 18 detectives were being deployed about Chippendale. Those to be most immediately involved, apart from Rogerson, were Sergeants Graham William Frazer and Brian Robert Harding and Constable Moore. Their plan, although Neddy had advised that Lanfranchi would shoot it out if cornered, was to 'secure' him in Dangar Place. Frazer, armed with a shotgun, was hidden in the back of the green Falcon; Harding, also armed with a shotgun, was hidden in the back of Moore's old white Volvo near the Abercombe Street end of Dangar Place. The latter three wore bullet-proof vests, but Rogerson did not, nor was he wired for sound to record Lanfranchi's offer of a bribe of up to \$50,000, or anything else that he might choose to say. Rogerson had a Smith & Wesson .38 in the back of his trousers under his cardigan.

About 2.30 pm, Neddy and Lanfranchi got in the green BMW and began circling Chippendale to see if there were any police about. Neddy asked Lanfranchi if he was carrying his Smith & Wesson. According to Neddy, Lanfranchi said he had been chased by CIU police the previous night and had ditched the gun near the Camperdown Velodrome. (Neddy later transmitted this intelligence to Constable Moore, and a gun of that brand was later recovered by police in the area nominated by Neddy.)

About 2.50 pm, Neddy parked in Boundary Street near the Britannia Hotel, and they got out. Lanfranchi saw Rogerson at the entrance to Dangar Place, about 40 paces away and raised his arms, as though to suggest he was not carrying a gun. Although Neddy said he knew Lanfranchi habitually wore his gun down the front of his trousers, he patted him from behind round the upper part of his body. He said he felt that Lanfranchi moved away before he could search his preferred area. Lanfranchi crossed Cleveland Street and walked into the mouth of Beaumont Street. Rogerson walked along Beaumont Street to meet him. Frazer got out of the car and crouched with his shotgun at its rear.

The two men met about half way between Cleveland Street and Dangar Place. According to Rogerson, Lanfranchi said: 'What's the score? Are we going to be friends or not?' Rogerson turned, and the two men walked together, with Lanfranchi on the right. They turned right into Dangar Place and walked past the Falcon. Lanfranchi was nearer the car, but he did not notice the crouched figure of Frazer, clutching his shotgun, at the rear of the car. Nor, apparently, did he notice the white Volvo, with Moore at the wheel rolling slowly down Dangar Place from the other end. Lanfranchi was now secured, but the two men moved on before Frazer could, as per his instructions, arrest him 'immediately.'

Lanfranchi and Rogerson got to a point about 10 or 15 metres into Dangar Place, and had thus been walking together, apparently in silence, for some 30 paces, or for some 30 seconds. According to Rogerson, Lanfranchi then spoke. 'I can't do any more jail,' he said. 'Are we going to do business?'

'There is no business.' Rogerson replied. 'We are here to arrest you.'

Lanfranchi, possibly alerted by Rogerson's use of the plural, looked towards Frazer and then back up the lane where the Volvo, with Harding now sitting up in the back seat, was now crossing Wiley Street.

'You ... ing tricked me!' Lanfranchi said. 'This is a ... ing ambush!'

He backed away a little from Rogerson as Moore stopped the Volvo about 10 metres away and he and Harding got out. All police present agreed later that Lanfranchi reached down the front of his trousers and drew therefrom a silver-coloured gun. This turned out to be a gun manufactured by Messrs Harrington and Richardson soon after the turn of the century. It was defective in a way that made it difficult to get off more than one shot. Lanfranchi held the gun in his right hand pointed at Rogerson. As to what happened next, accounts differ to some extent.

Rogerson drew his gun and fired two shots, both from about four feet. There is no objective medical evidence to say which shot was fired first. The fatal shot went through the right ventricle of Lanfranchi's heart and came out his back. The other shot went into the muscle of his neck below his left ear and did not come out. This shot would not, according to medical evidence, have been either fatal or incapacitating. All the detectives present agreed that Rogerson's first shot was that to the chest. Lanfranchi did not fire any shots.

Some early accounts had Rogerson and Lanfranchi walking towards each other when the shots were fired. A uniformed sergeant from Regent Street later said he heard Rogerson tell an inspector this that afternoon; an ambulance officer said a policeman who claimed to have shot the deceased told him the same thing; and a newspaper report the next day quoted Rogerson to the same effect. Rogerson later said he didn't speak to the reporter, other than to say he had shot Lanfranchi.

Sergeant Barton, hurrying down Beaumont Street from his position in the Britannia Hotel, heard the two shots fired in 'quick succession;' a playground supervisor nearby initially thought the interval between the shots was between five and 30 seconds, but later decided the gap would have been 10 seconds or

even less; and two girls in a house on the northwest corner of Beaumont and Cleveland streets, tested by a policeman with a watch half an hour after the incident, agreed that the gap between the shots was 11 or 12 seconds.

The diary entries made that evening by the four policemen present said no more than that Rogerson fired two shots. An Occurrence Pad entry made at 5.30 pm that afternoon back at the Armed Holdup Squad offices in the Remington Building took it a little further. The entry was jointly compiled by Rogerson, Frazer, Moore, Harding and other officers, typed out by Harding, and signed by Rogerson. It stated: 'Rogerson then fired two shots in quick succession . . .'

Six days later Rogerson made a formal statement based, he said, on notes he made on the night of the shooting. In this, he stated that, after his first shot to Lanfranchi's chest, ' . . . I immediately thought that I had not incapacitated him. He still retained the gun in his hand and I then saw him turn to the right. I could see that Detective Sergeant Harding and Detective Moore were out of their car and heading towards us. Without hesitation, I fired a second shot which I aimed at his head ... and he stumbled and fell into the gutter, his revolver also landing on the roadway adjacent to the body. . . 'No fingerprints were found on the gun, a not unusual circumstance, according to expert police evidence.

Rogerson told the inquest that he fired the first shot in self defence, and the second shot partly in self defence, and partly to protect the other policemen. All police present in Dangar Place agreed with this sequence of events. The seeming difference between this and the earlier accounts was explained by noting that the Occurrence Pad entries were an abbreviated account or a summary, and that the more formal statements merely gave a fuller account of the same event.

The inquest: In the weeks and months after the incident, police collected statements from various people involved, but there was no formal police investigation of the killing. Meanwhile, in August, nearly three years after the Bangkok arrests, the case in which Neddy was charged with conspiring with Sinclair, Fellows and Hayward to supply heroin, finally reached a conclusion.

Edwin William Smith had remained in prison all these years, presumably to make sure that he was present to give evidence, despite representations by justice Woodward and others that he be released on licence. In his evidence before the Woodward Royal Commission, he had expressed some fears for his safety, and the way the prisons are it is hard to know whether he was safer inside or out. However, he was removed from the city prisons to an up-country prison farm, and he gave evidence, although not, apparently, what the police expected.

The case, as far as is known, was not reported in any Sydney newspaper, but it appears that Edwin William Smith resiled from his evidence given to the Woodward Commission. In the District Court, Judge Alastair Muir said of him: 'He admits before the court and before the jury that he has deliberately given false evidence.' Judge Muir directed the jury to acquit Neddy. Shortly thereafter, Edwin William Smith was released on licence. His non-parole period had been fixed to run from his arrest on October 27, 1978, to August 26, 1982.

The coronial inquiry was held in November. At the request of Lanfranchi's relatives, a jury was empanelled. It consisted of four women and two men.

Barker, QC, for Mrs Huckstepp, noted that a function of an inquest was to assure relatives of the deceased, and the public at large, that the matter had been thoroughly examined, but he pointed to what he saw as flaws in the system.

The coroner was assisted by a policeman who arranged for the calling of witnesses and the presentation of the facts generally. In a case involving police, Barker observed, this might at times put the assisting officer in an invidious position. The Coroner, Norman Francis Walsh, indicated that it was the practice in the Coroner's Court, for potential witnesses to make statements beforehand so that he could determine the relevance of their evidence. If they did not make a statement, they would not be heard.

Well, your worship,' Barker noted that would mean, with great respect, that any person could avoid giving evidence simply by declining to give a statement in advance.' Walsh declined to hear two potential witnesses, prisoners named Peter Donald Haggart and John Andrew Klimenty, who had made statements in advance. Walsh said they were deranged. Barker pointed out that Walsh had not seen the witnesses. Although Haggart and Klimenty had been heroin addicts, the phraseology of their statements seemed coherent enough, but their claims concerning the activities of certain police were certainly remarkable. Two other criminals in custody made statements and gave evidence which seemed equally remarkable in blackguarding the deceased. These witnesses said they had seen the silver gun in Lanfranchi's possession.

At the conclusion of the inquest, there were no addresses to the jury, but Walsh found, and counsel for Lanfranchi's relatives agreed with the finding, that the evidence disclosed that no indictable offence had been committed by any person. He then explained that it was the jury's function to find, on the balance of probabilities rather than beyond a reasonable doubt, on the cause and manner of Lanfranchi's death, and supplied them with a number of options on the manner. He also advised them that they could, if they chose, recommend commendations for bravery on the part of the police.

The jury returned after a time and the forewoman explained to Walsh that there was a problem as to the wording of their finding: '... in some cases parts are omitted, and in others a more explicit statement is written down.' Walsh wrote down for the jury a number of lines stating that the death had been caused by a shot to the heart inflicted on him then and there by Detective Sergeant Rogerson in self defence, while endeavouring to effect an arrest, in the execution of his duty. He advised the jury that they could agree or disagree on any particular line. 'If you disagree,' he said, 'leave it out.'

After a total of nearly four hours, the forewoman announced that the jury had agreed on a finding: they had struck out the lines 'in self defence' and 'in the execution of his duty', and retained 'while endeavouring to effect an arrest.'

In an analysis of the evidence, Barker and his junior, Anthony Young state: 'In view of the finding of the Coroner's jury ... it is open to conjecture what view they entertained about ... whether the deceased did in fact have a gun at the material time.'

Barker and Young recommended that a judicial inquiry be held into the matter. The Government did not agree.

Also in 1981, according to Bob Bottom, McNeill was putting himself forward for the position of Assistant Commissioner, and hence in line for Commissioner. Bottom reported that eight ministers of the Wran Government supported his ticket and were confident of swinging two more ministers to supply an absolute majority. Bottom denounced McNeill at a Parliamentary Inquiry on corruption in September 1981, thus ending his hopes of becoming Commissioner. He retired from the force 10 May 1982, and went to live on the Gold Coast where he died on 20 February 1983, and was described by *Mirror* police roundsman Bill Jenkins as 'a legend in the NSW Police Department', two days later.

In May 1981, detective James (The Gardener) Seedsman apparently gave Parrington, who was still in charge of the Mackay investigation, information about Trimbole just before Trimbole fled the country. However, Nagle later reported, Parrington 'treated the information... casually.' In late 1981, breaking off for the moment from the Mackay investigation, Parrington investigated allegations of corruption against Crabtree, the former Police Minister who, in almost his last decision in office, had recommended Bill Allen for the post of Deputy Commissioner. Crabtree denied he had taken bribes. Parrington interviewed some fifty police who were members of the 21 Division Gaming Squad and several people associated with casinos and other forms of illegal gambling. Parrington's investigation revealed that, 'there is no evidence whatsoever to substantiate a criminal conspiracy involving police, members of Parliament and / or the gambling fraternity.'

Lees' period in office does not appear to have been entirely happy and on 13 September 1981 he was reported to have issued a statement to senior officers that he had not been consulted about the

appointment of W.A.R. Allen as Deputy Commissioner, and that he would retire shortly. He retired on 29 December 1981, and was succeeded by Abbott.

ABBOTT: 'fearless investigator'

Cecil Roy Abbott was born on 7 August, 1924 and educated at Sydney Technical High School. He joined the force in 1941 and became a detective in 1950. He was officer-in-charge at the Drug Squad 1963-77, and aware of secret telephone tapping and taping procedures from their initiation 1967. He became an Inspector in 1974; Superintendent 1978; and Assistant Commissioner (Crime) 1979.

In 1979, Abbott investigated the roles of Magistrate Murray Farquhar, solicitor Morgan John Ryan, and Police Commissioner Mervyn Wood in the Cessna-Milner drug case, but apparently did not inquire whether any secret taped material on the case was available.

In August 1980, following a report from Parrington, Homicide chief Inspector Harry Tupman and CIB chief Superintendent Ray Goldsworthy recommended that police question Albert Jaime Grassby, Federal Commissioner for Community Relations, and State (Labor) MP Michael Maher about a 'scurrilous' document inferring that Mrs Barbara MacKay, her son Paul, and her solicitor Ian Salmon had conspired to kill Donald Bruce Mackay. Grassby had asked Maher to read the document out under privilege in Parliament, but Maher had not done so. Abbott advised that he saw no reason to pursue these recommendations. Deputy Police Commissioner Bill Allen having fallen by the wayside, Abbott succeeded Lees as Commissioner on 29 December 1981.

In late 1981 and early 1982, Parrington investigated allegations concerning Deputy Commissioner Bill Allen. Presumably on the basis of Parrington's investigation, the Solicitor-General advised on 20 May 1982 that there were insufficient grounds to begin criminal proceedings against anyone. Five years later, in March 1987, the National Crime Authority charged Allen and Abraham Gilbert Saffron. In June 1982, Abbott said no action would be taken on recommendation of Magistrate Bruce Brown that aspects of the Enmore conspiracy case be further investigated. In that month, he reduced the size of Internal Affairs Branch. In July, Colin Perrin, 55, was promoted above twelve more senior officers to become Deputy Commissioner. Later in 1982, Justice Stewart, who had been running a Royal Commission on the Mr Asia heroin ring, supplied the New South Wales Government with a secret report on corruption in the force. In January 1983, Abbott declared his complete opposition to Justice Lusher's recommendation for a partly civilian three-man Police Board to run the force.

In the second half of 1983, Parrington, again breaking off from the Mackay case, was junior to Abbott in an investigation of State Cabinet Minister Rex Jackson and allegations that prisoners were buying their way out of jail. Abbott recommended that no criminal action be taken, and that a Royal Commission or judicial inquiry was not warranted. Accepting these recommendations on 11 October 1983, Wran said no further action would be taken. Five days later, Wran described Abbott as a man with 'a reputation as a fearless investigator.' However, a judicial inquiry was eventually held, and Jackson and four others were charged.

In October, Police Minister Anderson had grasped the corruption nettle: he introduced a disciplinary package designed to attack corruption on an institutional basis. Abbott was tipped to take early retirement when Wran, in the wake of the prisoner early release scandal and Prisons Minister Rex Jackson's resignation on 26 October, announced in November that Lusher's recommendation on a Police Board would be implemented.

Abbott instructed Superintendent R.C. Shepherd to investigate allegations in *The National Times* of 25 November 1983 relating to unlawful interception of telephone conversations. Shepherd's report on 9 December 1983 that the only telephone intercepts in which NSW police were involved were those in which Federal Police had taken out a (legal) warrant were described by Justice Stewart in April 1986 as 'blatantly untrue, both to the knowledge of Shepherd and Abbott.'

In 1984, Abbott awarded Parrington a commendation for 'exceptionally high quality performance of duty' and dedication displayed during many years in crime investigation. In April of that year, Abbott

invoked his powers to suppress a report on the police investigation for the Ombudsman of complaints by Edgar John Azzopardi. Also in April, he announced that he would retire in August when he turned sixty. Publicly mentioned as being in the running to succeed him were Perrin, Assistant Commissioner Angus Graham, Executive Chief Superintendent John Avery, and Superintendent Brendan John (Jack) Whelan. By mid-July the field had narrowed to Perrin and Avery. Perrin, believed to have Cabinet support, was reported to be at odds-on for the job.

It was later reported that former Liberal MP Dr Derek Freeman, Independent MP John Hatton, and long-time seeker after justice Eddie Azzopardi had made representations to the new Police Board, Sir Maurice Byers QC, Sir Gordon Jackson and Abbott, concerning Perrin's candidature. In July, the Board recommended Avery and Anderson and Cabinet went along with the recommendation. However, it was later reported that Perrin believed he had the job right up until the announcement, and in fact heard that he had placed second only moments before he set off on what was to have been a celebratory harbour cruise. Abbott retired on 6 August 1984. As it happened, Avery, like Lusher, rejected the rotten apple theory, and the period since has been marked by a parade of police through the courts and the Police Tribunal.

EVERY: de-inventing the CIB

John Keith Avery was born at Hornsby on 7 August 1927. He joined NSW police force on 12 April 1948. Never a member of the Criminal Investigation Branch, he served at country police stations, Currabubula, Port Macquarie, Tenterfield 1949-1967. He was station sergeant at Chatswood 1967; officer in charge of Police Training, Development and Examination Branch, May 1978; and wrote a book *Police - Force or Service?* in 1981.

Following his appointment as Commissioner in August 1984, Avery was asked in December: 'Will you go after crooked police of the past, like Fred Krahe, who was alleged to have murdered Shirley Brifman?' He replied: 'If there is no legal statute of limitation, there'll be no police statute. We'll look into the past, but I don't want to make invidious comparisons with the commissioners of the past.'

From October 1984, suspicion began to arise within the Crown Law Department that Parrington had engaged in improper, and possibly criminal, conduct in the Mackay case. Barry Newport, a Crown Prosecutor, discovered on 11 October that Pursehouse had told the Bazley committal in Melbourne he had identified Bazley in March 1984. Newport knew that the Mackay inquest had not received this evidence. A fortnight later, Bill Job QC, then Chief Crown Prosecutor, Newport, and a Crown Solicitor, Graham Blewitt, learned from Pursehouse of a statement he had made in July 1977. They knew that Parrington had not put this evidence before the coroner.

Job, Newport and Blewitt sought to obtain this document, but had difficulty in getting it. Finally, Job requested that Avery attend in his chambers on 14 December 1984. Avery then instructed Parrington to produce the document, which he did later that day. Three days later, Job, Newport and Blewitt interrogated Parrington in Job's chambers. According to Newport's note of the conference, Parrington made admissions of improper police behaviour. Parrington said that Crown law officers were 'not told everything:' they 'would interfere;' and that if a witness, shown photographs of a suspect, did not make a positive identification, police would later go back and show the witness the photographs again. If he then made a positive identification, that was what the lawyers were told. It appears that an implication of the latter practice is that some police may continue to show photographs to a witness until he identifies the suspect, and don't disclose the witness's earlier doubts to Crown Law officers.

Newport received more information from Pursehouse in February 1985, and then brought these matters to the attention of Solicitor-General Mary Gaudron, now Justice Gaudron of the High Court, and the Attorney-General's Department admitted in February 1985 that evidence relating to the possible identity of Mackay's murderer had been omitted from the inquest. Newport told Nagle that a decision was made in March 1985 to hold an inquiry into Parrington's behaviour, but not before the conclusion of proceedings against Bazley. The Solicitor-General does not make decisions; that officer only tenders legal advice to Ministers. The reason for delaying the inquiry, possibly for several years, was that any

assessment of conflicting statements by Parrington and Pursehouse was properly, in the first instance, a matter for the Bazley jury.

Whichever Minister made the decision, it seems inconceivable that, in the way of proper administration, the pending inquiry into Parrington was not communicated in March 1985 at least to the Police Minister, Peter Anderson, to the Police Board, and to the Attorney-General, Terence Sheahan. In the circumstances, it is remarkable that Parrington continued in charge of the Mackay case, and was promoted to Executive Chief Superintendent (Crime) in December 1985, which made him effective manager of all criminal investigations. The procedure for promotion at this level is for the Police Board - Sir Maurice Byers, Sir Gordon Jackson, and Avery - to make the recommendation, and for the Cabinet or the Executive Council to endorse it.

In June 1985, Avery said he did not agree with an assessment by a senior Victorian policeman that 'it will take a generation to clean up the NSW police force. It will take a young Police Commissioner who will have, say, ten or fifteen years in the job, a man who will dedicate himself completely to that task as his major objective'. His salary was then reported to be \$82,410 plus expenses of \$2592. After reports in April 1986 that eighty-six police were under investigation, 80 per cent of them from the CIB, Police Minister George Paciullo said that a hard core of corrupt officers were making death threats to Avery.

On the matter of the proposed inquiry into Parrington's activities in the Mackay case, Police Minister George Paciullo, who had succeeded Anderson on 5 February 1986, and Sheahan said in April 1986: 'There was an inquiry made of the police by Crown Law Authorities about this matter. That was fully responded to, to their satisfaction.' These statements could not have been correct: the Bazley matter was not concluded; no inquiry could have been held; the Crown Law authorities could not have been satisfied. However, a report by Bob Bottom then precipitated the Nagle Special Commission of Inquiry into the Mackay investigation.

In his report, published on 1 December 1986, John Nagle QC said there was evidence that Parrington had attempted to pervert the course of justice at the Mackay inquest; there was evidence that he had attempted to pervert the course of justice in connection with the Victorian prosecution of Bazley in October 1984; and that he had given false evidence to Nagle on the matter in 1986.

Avery's response was judged to have put his and the force's credibility newly at risk. He said that, although he expected some departmental charges would eventually be laid against Parrington, he would meanwhile continue to occupy his current position in the force. He also said that he had known Parrington for years, and had worshipped with him as a Christian.

On 27 March 1987, Avery found Parrington guilty of two charges of neglect of duty in that he had not ensured that Gaynor was interviewed, and that he did not record in his diary details of an interview with Purse-house. Avery fined Parrington \$500 on each charge. He said: 'I am satisfied that any failings on the part of Mr Parrington were the result of subjective decisions... and not influenced by a desire to conceal or mislead.' It was reported that Avery had removed him for twelve months from his post as manager of criminal investigations, but the Police Department soon after admitted that Parrington was having a major voice in the disposition of detectives in Avery's new four-region system of administration.

One of the objects of dividing the State into regions was understood to be an attempt to at last break the power of that invention of Commissioner MacKay, the Criminal Investigation Branch.

Queensland Police Corruption: Two Inquiries

'Even the dogs are barking, and have been for a long time

- Edward Joseph Walsh, Labor MP, Bundaberg

Gibbs: The Gibbs matter began with a remark by Colin Bennett (Labor) in the House on 29 October 1963: '... I should say that the Commissioner [Frank Bischof] and his colleagues who frequent the National Hotel, encouraging and condoning the call-girl service that operates there, would be better occupied in preventing such activities rather than tolerating them.' Police Minister Alexander Tattenhall Dewar (Liberal) later said he had taken the matter up with Bischof and was satisfied that Bennett's statement was untrue.

Edward Joseph Walsh (Labor, Bundaberg) replied: 'Even the dogs are barking it, and have been for a long time.'

David Young, a waiter at the hotel from 5 February to 26 April 1959 and from 25 November 1961 to 14 April 1962, said on 4 November that in 1962 he: had served Bischof free food and liquor after trading hours, i.e. after 10 pm; regularly served free liquor to members of the Licensing Squad after 11 pm; got calls on Sundays from police headquarters warning of pending raids by the Licensing Branch; had no definite proof that a call girl system operated, but that the hotel rooms were mainly used by prostitutes and their clients; had heard that certain ladies [including Shirley Margaret Brifman] were told they could safely operate there because they were giving their favours to senior members of the force.

John Geza Komlosy, night porter at the hotel from 19 June to 11 December 1960, supported these allegations on 8 November, and on 12 November Premier G. F. R. (Honest Frank) Nicklin asked the Queen to give Gibbs, former student of Ipswich Grammar School and then a judge of the Queensland Supreme Court, a commission to inquire. Her Majesty spoke warmly of Gibbs' zeal, knowledge, learning, industry, discretion, and ability', and instructed him to make, 'in the public interest ... full and careful inquiry' into a number of matters.

It may be remarked, in passing, and notwithstanding Her Majesty's accolade, that lawyers chosen to head such inquiries often seem to have come out of the Equity Court. One would be inclined to think that lawyers from the criminal bar might have a better sense of the criminal mind and the police mind.

Gibbs was asked to find whether

- Any member of the Queensland Police Force had been guilty of misconduct, neglect, or violation of duty since 9 October, 1958 in relation to policing or enforcing the law at the hotel.

- There was a call girl service being operated in the hotel and, if so, 'has it been encouraged or condoned or sanctioned in any way by any member of the Police Force...'

Gibbs sat on 34 days between 2 December, 1963 and 24 February, 1964. Arnold Bennett QC appeared throughout for the Ministers. For the first 12 days, to 17 December, Wally Campbell QC represented Bischof, and Jim Douglas QC and John Murtagh Macrossan represented 88 members of the Licensing and Consorting Squads from 1959 to 1963. By chance, five of these, A. Murphy, I. M. Lewis, R. J. Redmond, G. R. J. Parker, and D. F. Lane, were also represented at the Fitzgerald inquiry 24 years later, the first four by Cedric Hampson QC for the Commissioner and Assistant-Commissioners going back to 1 January 1977, and Lane by Ian Callinan QC for the Ministers. Lewis, Redmond, Parker and Lane were not required to give evidence before Gibbs.

Gibbs noted that 'certain persons who might have been able to give evidence relevant to the inquiry were out of the State', but judged he had no power to subpoena such witnesses. He also noted that police could not find some witnesses.

Young claimed in evidence that Detective Sergeant Tony Murphy and other police officers, whom he believed to be members of the Licensing Squad, were given three or four free jugs of beer a couple of nights a week between 10 and 11, and that they must have been in a position to observe breaches of the liquor laws in the lounge. The allegations were denied by Murphy, the management, and other staff

Komlosy said in evidence he served Bischof food and drinks after midnight on three or four occasions; once, in the early hours of the morning, Bischof walked through the foyer and saw a number of people, including prostitutes, drinking illegally. He said police were at the hotel practically every night, none more so than Murphy who would arrive just after 10 pm, go away, and return about 3 am. He said that Murphy was frequently accompanied in unlawful drinking by a Detective Constable Glen Patrick Hallahan.

Komlosy said he had seen a number of people at the hotel after hours, including John Murtagh Macrossan, barrister-at-law (b. 12 March 1930, ed. St Columban's, Queensland University, Oxford University, Bar Association Committee 1963-78, Justice Macrossan, Queensland Supreme Court, since 1980). Macrossan said he had never been in the hotel after hours. Gibbs found that 'obviously Komlosy was completely mistaken in naming Mr Macrossan'.

Licensing Branch Constable Jack Reginald Herbert charged Komlosy with sly-grogging in 1960 soon after, according to Komlosy, police began 'gunning' for him because of two events: he had found himself short and refused to give police liquor, and had sent for Roma Street police to break up a brawl in which detectives were engaged.

On the prostitution side, Komlosy said some women had permanent rooms at the hotel, others booked in from the lounge, others rang in from the La Boheme and El Morocco night clubs to order rooms, food and liquor. He said he saw detectives Tony Murphy and Glen Hallahan drinking with the women and their customers, mostly between 1 am and 3 am. A number of men, Komlosy said, had resorted to prostitutes at the hotel. Of those he named, three denied it; police could not find three (or Max Bayliss, Komlosy's successor as night porter); two more evaded service of subpoenas; and another was outside the jurisdiction. Two prostitutes, referred to here as A and B, supported the evidence of Young and Komlosy in some respects.

Prostitute A said that in 1960 she had a set routine three or four nights a week: the Grand Central at 9 pm for one drink; then to the La Boheme until 3 am; and then to the National where she would book in and pay £3 for a room. She said she drank in the lounge and occasionally men came to her room, but only as company. She denied she was a prostitute. Gibbs reported that he was unable to find that A practised prostitution at the hotel.

B admitted she was a prostitute. She said her routine two or three times a week in 1960 and 1961 was to pick up a man at a hotel or night club, and go by cab with him to the National, where the man would pay £3 for a room. Gibbs reported that he was puzzled as to why B should say 'she had frequently used the hotel for purposes of prostitution if that was not true.'

Brifman denied she was a prostitute. She claimed in 1971 that police had coached her on her evidence. B. W. Ambrose, for Young, invited Gibbs to get information from the Director-General of Health as to the number of occasions, if any, on which the National Hotel was mentioned in any of the forms required to be lodged by medical officers under the Venereal Disease regulations. Gibbs noted that Bennett QC had submitted that a purpose of the legislation was to encourage 'the full and free and confidential disclosure' by poxed persons. He declined to order the disclosure of the data.

Joseph Keith McDonnell, who retired as Deputy Commissioner in 1987, told the Fitzgerald inquiry he understood from the time he joined the force in 1942 that brothels were tolerated, but neither the police nor the Government appears to have advised Gibbs of such a policy; as noted, Bennett QC told Gibbs: 'Nobody who has heard the evidence in this case would find anything to support the allegations that [Bischof] and his colleagues encouraged or condoned a call-girl service.'

Bischof, Murphy, Hallahan and the hotel licensee, Max Roberts, denied all allegations.

On 10 April 1964, the zealous, discreet, etc, Gibbs reported to Her Majesty and Honest Frank.. It is unclear what standard of proof Gibbs used. He stated: 'I need not decide whether, before making a finding of misconduct amounting to a criminal offence, I must be satisfied beyond all reasonable doubt that the conduct has occurred, or whether it is enough that I be so satisfied on the balance of probabilities. If the latter is the appropriate standard, it is necessary to exercise the caution demanded by the gravity of the allegations, and to require clear and satisfactory evidence before making a finding that such misconduct has occurred.'

Gibbs found that Young ('of unstable temperament'), and Komlosy ('perhaps even hallucination') were possibly mad, and that they and A and B were unreliable witnesses. The evidence of any one of them could thus not be used to corroborate that of any of the others.

Gibbs found that there were 'many offences against the Liquor Acts committed at the hotel', but rejected allegations that Bischof drank in the hotel after lawful trading hours, that Murphy and others were supplied with free liquor after lawful trading hours, and that warning telephone calls were received about forthcoming police raids. He found that no member of the force had been guilty of anything; that no call girl service operated at the hotel; and that no member of the force 'encouraged, condoned or sanctioned in any way the practice of prostitution at that hotel.'

As to that, we don't know what the practice was in the early 1960s, but former Licensing Branch sergeant Harry Burgess later gave evidence that in the 1980s brothel owners arranged parties at brothels for members of the Licensing Branch, and that some police engaged in carnal congress with prostitutes at those parties.

It may be that Gibbs took the view that all allegations against the police were concoctions. Otherwise, it might be thought, the formulation of his findings might have been more along the lines that he could find no admissible evidence of wrong-doing, but that a measure of suspicion possibly remained, and that, in case such suspicion was well-founded, the Executive should take immediate and rigorous action.

Some data on later events in the lives of some of those mentioned at the inquiry:

Bischof, as noted elsewhere, was discovered by Treasurer Hiley to have corruptly received money from SP bookmakers, and subsequently went mad.

Herbert, born 1925, formerly a member of the London Metropolitan Police, was a member of the Licensing Branch from 1959. He was moved out of the branch by Assistant Commissioner Norman Gulbransen in 1973, and resigned from the force in 1974. Arthur Pitts, head of the Licensing Branch from 1974, said he bugged his own house after getting a telephone call from Herbert. The resulting tapes recorded Herbert offering Pitts \$1500 a month for tips on when SP bookmakers were to be raided. Herbert, another detective and a civilian were arrested. Before Herbert's trial in 1976, Pitts, then police chief at Southport, arrested Stanley Derwent Saunders and charged him with SP offences. At the Magistrates Court hearing of the Saunders case, a Licensing Branch detective, Frank William Davey, produced a tape he claimed he made of Pitts and other police discussing framing Saunders, and that case was dismissed. In the Herbert matter, after a 126-day trial, Herbert and the other two were acquitted. These results were seen in some quarters as discrediting the regime of Police Commissioner Ray Whitrod. Ten days after Herbert's acquittal, Premier Bjelke-Petersen appointed Inspector Terry Lewis Assistant Commissioner, and Whitrod resigned. In 1981,

Herbert was referred to as The Man by whoremistress Anne-Marie Tilley, and described his work as The Business (perhaps by way of anglicising an American term, 'the bidness'), according to later evidence given by Harry Burgess, a Licensing Branch detective from 1979 to 1985. Burgess also claimed that Herbert bribed him with \$200 a month from 1981 and discussed brothel advertising at his house with Geraldo Bellino and Vittorio Conte in the period 1981 to 1985. Herbert fled the country on the announcement of the Fitzgerald inquiry in 1987.

Murphy was charged in 1971 with perjury at the Gibbs inquiry. The case was dismissed in 1972 by a magistrate. He was put in charge of investigating corruption in the force in 1977, and retired, as an

Assistant Commissioner in 1983. He was then reported to be considering seeking the post of secretary of the Police Union, but nothing came of this.

Hallahan was charged in connection with receiving protection money from a prostitute in 1971. The Crown withdrew from the case in 1972 after judge Eddie Broad declined to accept telephone taps possibly unlawfully obtained. He retired in 1972, ahead of departmental charges.

Brifman made allegations on the ABC about Sydney and Brisbane police in June 1971. She died in March 1972. David Hickie reported in *The Prince and The Premier* in 1985 that several police in the Sydney CIB in 1972 had said there was much talk at the time that detective Fred Krahe had gone to Brisbane, and with a Queensland policeman, had forced drugs down her throat with a tube.

Finally, it may be noted generally that some who came forward to give evidence against police were the subject of severe criticisms by Gibbs in 1964 and by Kaye QC in his inquiry on corrupt police in Melbourne in 1970. Whether the criticism was justified is a matter of opinion, and Gibbs and Kaye had the advantage of observing the witnesses. However, an unintended but unfortunate consequence of such criticism may be that it could have the effect of deterring others from coming forward at later similar inquiries.

Fitzgerald: (Cautionary note. By 18 September 1987, when this section was written, the Fitzgerald inquiry on police corruption and organised crime in Queensland had begun its seventh week, and had heard evidence on 22 days. The inquiry was thus unconcluded; some of the evidence to that point had not been tested by cross-examination; in some cases the other side had not been heard; there appeared to be great deal of evidence to come. Even so, some patterns of corruption and organised crime in Queensland appeared to be emerging.)

The inquiry, in part, may be seen to have its origins in a plan by Sir Johannes Bjelke-Petersen (b. 13, January 1911, ed. Taabinga Village school, MP from 1947, Premier from 1968, Knight Commander of the Order of Saint Michael and Saint George 1984) to become, as head of the non-Labor forces, Prime Minister of Australia. In the early months of 1987 he was busy seeking to organise a Federal National (Petersen) Party, and his mind was thus distracted to some extent from local events. In the end, his march on Canberra may have been of little utility to the National (Sinclair) Party or the Liberal Party at the July 11 elections, but by September it certainly appeared to be doing the cause of integrity in his home State a power of good.

On Tuesday 12 May, the day after the Four Corners programme on corruption in Queensland was shown, Bjelke-Petersen told the cherubic Ray Martin on the Channel 9 Midday programme there was no need for an inquiry. Almost within the hour however, Police Minister Bill Gunn, Bjelke-Petersen's deputy and at that stage probable successor, advised the *soi disant* Prime Minister (and hence lame duck Premier) that there WOULD be an inquiry. Bjelke-Petersen may have judged that if Gunn wanted to open that sort of can of worms, that would be his problem, not the future Prime Minister's. However, on 27 May the actual Prime Minister, Robert Hawke, announced an early election. Hawke had caught then Prime Minister Malcolm Fraser with his trousers down in 1983; Bjelke-Petersen thus completed the quinella; unable to get his show on the road in time, he retired from the Prime Ministerial race a week later, on 3 June, and resumed his stewardship of Queensland.

By then the horse unleashed by Gunn on 12 May was on the way to bolting. On 23 May, Gunn said he thought the inquiry would take about four weeks, thus indicating a commendable, in one sense, degree of innocence about the way his police force operated. A former Justice of the Federal Court, Gerald (Tony) Fitzgerald QC, 45, was appointed to inquire on 26 May. Although he and his counsel assisting, Gary Crooke QC were not from the criminal bar, they appeared to be quick learners. They began Gunn's belated education, and on 24 June the Governor, Sir Wally Campbell QC, was called back to the Executive Building to initial Fitzgerald's revised terms of reference.

These extended the period under investigation back to 1 January 1977, and to whether police were guilty of misconduct in connection with prostitution, unlawful gambling or drugs relating to premises run by ANY OTHER PERSONS additional to Geraldo, Antonio and Vincenzo Bellino, Vittorio Conte, and

Hector Brandon Hapeta. The time frame for whether the Bellinos, Conte, or Hapeta had paid \$50 000 to any Queensland political party was widened a little to the period between 1 July and 31 December, 1983. A fourth clause was added. It said that Fitzgerald should inquire into 'any other matter or thing appertaining to the aforesaid matters or any of them which to you shall seem meet and proper in the public interest.'

It was unclear, to me at any rate, whether Fitzgerald could inquire into drugs other than in connection with brothels and casinos, as for instance if he came across indications of police misconduct in connection with the Mr Asia or Dr Paltos drug syndicates. If he felt he could not, Gunn and the Attorney-General, Paul Clauson, had hitherto been properly accommodating to Fitzgerald's need for wider terms, and no doubt would again.

The Commission consisted mainly of Fitzgerald, Crooke, six other lawyers, Ralph Devlin, Brendan Butler, Peter Kelly, Andrew Philp, Paul Rutlege, and Bob Marxson, three accountants, and seven police. Fitzgerald delayed the start of the formal inquiry until 27 July, partly so that the inquiry would not appear to give advantage to any political party during the election campaign. Instead of rushing in and going off half-cocked, this gave the Commission a clear and apparently invaluable two months in which to round up the usual suspects, to begin putting their data into a computer, to craftily start chasing the money trail, and to do some heavy thinking about how they would structure the taking of evidence.

I must say that when I went to Brisbane to report the inquiry I was shocked at the degree of cynicism abroad in that city: although Fitzgerald was seen as absolutely the last hope for Queensland and the integrity of its police force, few seemed to think his inquiry would amount to a row of beans. On past history, it was assumed that, however bright and incorruptible he and Crooke were, they would find no chink in the armour of the police and elements of organised crime. Australia has seen a number of such Commissions, and one or two have succeeded more in causing disquiet than in allaying it. When this was written, however, Fitzgerald's was beginning to defy augury, and to take on the appearance of a model of what such a Commission should be, including making exhibits available to the press for inspection. It was thus to be hoped that when he and Crooke came to write their report they would fully disclose their methods and approach. And, as a further educational tool, that they would get their computer to supply a chronological narrative of the events they discovered and biographical notes on the people who cropped up in the inquiry, as Justice Stewart did to some extent in his Mr Asia inquiry.

As at the Gibbs inquiry, the focus was mostly on the Licensing Branch, which, for some reason, had exclusive rights to police brothels, casinos and liquor. The branch was quite small, no more than 24 policemen, but if Justice Lucas' 1977 recommendation that its personnel be turned over every three years had been vaguely adhered to, Fitzgerald would be looking at upwards of 100 police, some of whom had naturally gone on to higher things in the force.

The method Fitzgerald and Crooke adopted appeared to take the form of a series of Chinese boxes, or brackets of evidence as Crooke called them. In the first two, senior police and Geraldo and Antonio Bellino, Conte and Hapeta were more or less allowed to natter on about their approach to their business. Some were thus invited, if they chose, to insert a silken noose around their necks, and to gradually draw it tighter. The third box was to be evidence of some observers, such as *Courier-Mail* reporter Philip Dickie and former Licensing Branch officer, Nigel Powell, who had supplied data for the Four Corners programme. However, before Dickie could conclude his evidence, a fourth, or Pandora's box, was suddenly opened on 31 August.

Sir Terence Lewis was the first witness to give evidence. As we have seen, in a place as far-flung as Queensland, the police have traditionally enjoyed, and used, more political power than would be thought appropriate in what is supposed to be a parliamentary democracy; Lewis' ringing endorsement of the Bjelke-Petersen Government before the 1983 State elections was recalled with awe, or horror, depending on one's view of the proprieties. Such traditional power may have led Lewis into error, if such it was. He made it clear that his force was not prepared to accept all the blame for non-enforcement of the laws on prostitution; the Government would have to shoulder a portion. Lewis asserted that Bjelke-Petersen and five successive Police Ministers, Tom Newbery, Ronnie Camm, Russell Hinze, Bill

Glasson, and Gunn, had instructed that prostitution should be tolerated. However, he said, the policy of toleration was not disclosed to either the Lucas inquiry of 1977 or the Sturgess inquiry of 1985.

It will be recalled that the Government of Honest Frank Nicklin stood shoulder to shoulder with the Bischof force to form a hollow square that Gibbs was unable to penetrate. At one stroke, the effect of Lewis' evidence was to break the square. The Government, via its counsel, Ian Callinan QC, made it clear it had no intention of sharing the blame, and more, that it was prepared to let the force twist slowly in the wind.

Lewis said he had worked 70 hours a week for 10 years. Amazingly, he said he had not read the 1985 Sturgess report listing brothel owners, and he seemed to have a conceptual problem with organised crime. He made a distinction between what he called 'major crime', murder, rape, crimes against property, and 'criminal activity such as that policed by the Licensing Branch'. He thus appeared to be unaware that, in the US for example, organised crime traditionally used the cash flows from vice and gambling to finance drugs. Fitzgerald, politest of men, told Lewis he had 'some difficulty' with his differentiation, and invited him to think about it. Recalled a week later, Lewis told Callinan he didn't recall Bjelke-Petersen having ever instructed him to tolerate brothels.

Noel Dwyer, chief of the Licensing Branch between 1980 and 1982 said there were no 'hoodlums, gangsters or standover men' involved in running prostitution when he was in charge of the branch. Inspector Allen Bulger, chief of the Licensing Branch from 1985 to April 1987, said at no time had he suspected that Antonio Bellino was involved in matters before the Commission. He said he had investigated Hapeta, 'but there was nothing that came out to involve anyone in crime such as you have in the south.' Alec Jeppesen, a member of the Licensing Branch from 1974 to 1979 and in charge of it from 1977 to 1979, said he had reported information about illegal activity by police officers to Bjelke-Petersen.

Norman Sydney Gulbransen, Assistant Commissioner (Crime) from 1973 to 1976, said that when he became Assistant Commissioner he had moved eight or ten police out of the Licensing Branch, including a Detective Sergeant Herbert who had apparently been kept there for 16 years because of his expertise in the work. Now 70, but still running marathons, Gulbransen said he interviewed Brifman for a month in 1971. He had judged a lot of her assertions of police corruption were unfounded, but also that there was a lot of truth in them. As a result Police Commissioner Ray Whitrod had asked him to form the Criminal Intelligence Unit to weed out corruption. The unit had laid some charges, 'with about two per cent success', and he had become the most hated man in the force. He noted that one of the charges had been against Murphy, and that within a year after he left the force in 1976, he had been told that Murphy had been put in charge of the CIU.

On 10 August Fitzgerald resisted pressure from Crooke, Cedric Hampson QC, representing senior police officers past and present, Robert Needham, for the Government, and Paul Favell, for Geraldo Bellino and Conte, for restrictions on reporting the inquiry. Bob Mulholland QC, for the ABC, noted that the requests for restriction had followed the first references to police names.

The second box, involving Geraldo and Antonio Bellino, Conte, and Hapeta, was opened on 17 August. Hapeta aka Hector Hall, aka Harry Briggs, was born in New Zealand in 1942, and came to Sydney in 1964. In 1979, he went to Queensland and was alleged to have an interest in 15 brothels. He declined, on my count, to answer 164 questions on the ground that to answer might incriminate him, but said he had never had any discussions with police about massage parlour or escort agency operations. He said his partner Anne-Marie Tilley had gone to Sydney, and would not say where she was. It was later announced that, by contrast to events at the Gibbs inquiry, the Government would legislate to give the Commission the power of extradition. When Bob Mulholland QC, for the ABC, asked Hapeta if he had any business association with Abe Saffron., Hampson appeared to put himself at risk of apoplexy as he denounced the utterance of Saffron's name as an 'attempt to sensationalise' the inquiry. Mulholland said he had a good basis for asking questions about the association in relation to the supply of pornographic literature. Saffron independently advised the press that he had no association with Hapeta or knowledge of him whatsoever.

Geraldo Bellino (b. Sicily 8 April 1942, migrated to Australia 1951) freely admitted to having had an interest in four casinos, from which he said he made \$1 million a year, but denied any involvement in prostitution and denied paying police. He agreed with junior counsel assisting, Ralph Devlin, that he and his partner, Conte, had bought a house at Jordan Terrace, Bowen Hills, for \$100 000 on 11 February 1985 and sold it to 'a person by the name of Herbert' on 2 September 1985 for the same amount.

Conte (b. Sicily 1953, migrated to Canada 1955, to Perth 1971, to Brisbane 1974) worked as a waiter for Geraldo Bellino in 1976, and later became his partner in illegal casinos. He denied he had been involved in prostitution. He said Raymond Dibb, then Queensland general manager for British Airways, had incurred debts at the casinos and had been under investigation for misappropriating \$300 000 in company funds. Conte said he had received free airline tickets from Dibb, one which took him round the world. He had travelled first class to Manila with Dibb on 11 February 1985. It was reported that the body of Dibb, 50, had been found in the bush near Burpengary on 17 January 1986. Police said there were no suspicious circumstances. Conte said he sometimes visited the house he and Bellino sold to Jack Herbert, but only to collect mail. The last time he had been there was a couple of months previously.

Antonio Bellino, 47, brother of Geraldo, said he had never been involved in prostitution or illegal gaming.

The third box began with the evidence of *Courier-Mail* reporter Philip Dickie whose reports, based on examinations of the Sturgess Report, records at the Titles Office, the Valuer-General's Department, and City Hall, and personal observation, from January 1987 had named owners of brothels and casinos, and had provided the impetus for the Four Corners programme. In the long view, Dickie's reportage, while apparently wholly admirable and meticulous, could not be expected to carry Fitzgerald much further. In sum, it demonstrated that a reporter could, by diligence, discover what the police apparently could not. Where could Fitzgerald go from there? The Parrington Defence - bottomless stupidity - is no doubt as available to Queensland police as it appears to be south of the Tweed. Dickie was still giving evidence when Fitzgerald, pleading press of 'important business' adjourned for the week at lunch on Thursday 27 August.

On the corruption front, Friday 28 August 1987 was an historic day in New South Wales and Queensland. In Sydney, a jury found former Cabinet Minister Rex Jackson guilty of conspiring to take bribes in exchange for the early release of prisoners. Fayeze Hakim, his co-conspirator, was also found guilty. Jackson arrived from prison, in handcuffs, for sentence on the following Wednesday. Justice Adrian Roden sentenced him to seven and a half years and Hakim to six and a half years. The New South Wales Director of Public Prosecutions, Reginald Blanch QC, judged that Jackson had got off too lightly and said he would appeal against the leniency of the sentence. Even so, for a former Cabinet Minister to be put behind bars for any length of time should prove a wonderful encouragement to other politicians to keep their hands out of the till.

In Brisbane on that same day, Friday 28 August, a former Licensing Branch detective, rumoured before the inquiry started to be nervous that, for the good of the force, he might be required to carry the whole can, finally broke, or was broken by Fitzgerald's men. On Monday 31 August, amid scenes of heightened security - Hampson was driven to a fury at being searched by police - Crooke inserted Harry Burgess, a Detective Senior Sergeant until his resignation the previous Friday, into the box. Fitzgerald explained that the greatest risk to a witness was before he gave evidence. Burgess, 44, was an alumnus (25 June 1979 - 9 April 1985) of the Licensing Branch who had traded his resignation and information for indemnity for past crimes, but Fitzgerald and Crooke appeared to have held this card close to their chests: it was reported that the Police Department was not aware of his resignation until his appearance at the inquiry.

The Government and the force were already split; Fitzgerald and Crooke, by luck or, more probably, by silence, cunning and stealth, had now split the force. It was reported that, presumably on his information, some 20 other police had been summonsed to appear.

The burden of Burgess' allegations were that from June 1981 successive heads of the Licensing Branch, Inspectors Noel Dwyer and Graeme Parker [currently Assistant Commissioner (Crime)], had paid him \$500 a month to 'look after' brothels run by Hapeta. Dwyer and Parker denied the allegations. Burgess also said that Jack (The Man) Herbert had paid him \$200 every six weeks, that he had been present at Herbert's homes in the company of Geraldo Bellino and Conte, and that Herbert, apparently less cynical than many in Brisbane, had told him on the announcement of the inquiry that he was taking a holiday to 'mummy', assumed to be England. Crooke entered as exhibits a series of documents purporting to be the gist of things Herbert had told Burgess about the activities of third parties. These documents were embargoed until those parties have had a chance to respond, but it was said that Fitzgerald's eyebrows almost left his face when he perused one of them, Exhibit 126. Burgess seemed to get a little coy in his evidence the next day, and Crooke later said indemnity would partly depend on the completeness of evidence offered. Hampson said it would take him 'days' to get instructions from his clients on which to cross-examine.

Meanwhile, also on the ground of risk, Crooke put into the box a former prostitute who appeared under the pseudonym 'Mrs Katherine James'. She appeared to be well-placed to assist the Commission: she claimed to have worked in brothels run by Hapeta and what she called the Bellino group, in which were involved, she said, Geraldo Bellino, Conte, Geoffrey Luke Crocker, Alan Keith Holloway, and a male named Kim Ryrie. She claimed to have seen former Assistant Commissioners Tony Murphy and Syd Atkinson at an illegal casino run by Geraldo Bellino in the early 1970s. Murphy and Atkinson denied the allegations. Otherwise, much of Mrs James' evidence was inevitably of an entirely sordid nature. It did however appear to corroborate to some extent Burgess' assertion that he and other police had got free sex from working girls. This may be significant in view of Term 1 (d), which seeks a finding on whether any member of the force got 'any benefit or favour' on account of a failure to enforce the law. Mrs James to some extent negated the evidence of Burgess; she said that Hapeta was paying police \$100 000 a month, and that the conduit was Burgess himself. She said that a Drug Squad officer had attended one of the brothel parties, and that a detective from the Woolloongabba section of the Criminal Investigation Branch had offered her a job re-selling confiscated drugs. This might suggest that Fitzgerald's net will eventually be cast wider than the Licensing Branch.

Altogether, events appeared to be conspiring to substantiate, at least to some extent, the remark in the first sentence of the original preface to this book: ". . . Sydney is the most corrupt city in the western world, except of course for Newark, New jersey, and Brisbane, Queensland."

The view that is was unlikely that Queensland and its police force could ever be quite the same again was further confirmed on Wednesday 16 September when Assistant Commissioner (Crime) Graeme Parker, 53, admitted his corruption, named other corrupt police and resigned from the force in return for conditional indemnity.

On 21 September Bill Gunn, the Queensland Police Minister directed Sir Terence to take special leave from the force and stand down until allegations before the Fitzgerald Inquiry were resolved.

By 12 November, a third corrupt officer, former Licensing Branch Chief Inspector Noel Dwyer, had confessed; outlines of The System were beginning to emerge; and hearsay allegations had begun to embrace politics and the judiciary. Parker said he had believed The System made him invulnerable to the law.

Evidence indicated a key figure in The System was Jack (The Man) Herbert, born, England 1925; member of the Licensing Branch 1959-1973; resigned 1974; acquitted 1976 on a corruption charge; later had a Bally pinball machine business; and that Bally US paid for two trips he made to the US.

According to Parker, Dwyer and Burgess, Herbert's role in The System was to arrange, for a fee, police protection for organised crime, Parker and Dwyer said they took bribes from Herbert from 1980; Burgess from 1981.

Parker said that, when the inquiry was announced, Lewis told him: 'Big Don (Lane) suggests Herbert leave the country' (Herbert left Australia on 20 June); and: 'If we stick together, everything will be all right.'

Some other allegations were hearsay, i.e. what someone else, notably Herbert, told the witness. They were thus proof of nothing, and inadmissible in a criminal action. Among them:

Dwyer said Herbert told him: 'The Commissioner is like a shark. He takes the big bite.'

Parker, said Herbert told him that: he 'had to pay half of what got to the top and higher'; his partner in the Bally business was former policeman and, since 1980, Minister for Transport Donald Frederick Lane; he 'had to pay a portion of the proceedings to Don Lane for any massage parlour or escort agency that opened in his electorate'; Lane, facing a close election in 1986, had asked him to have his sons enrol in his electorate (it emerged that one of them did so); and that Bob Gibbs, Labor Party front-bencher, was a frequent visitor to Gold Coast casinos, and was 'looked after' by 'Bellino or Conte'.

Constable Jim Slede said Sergeant Alan Barnes told him that District Court Judge Eric Pratt, chairman of the Police Complaints Tribunal, attended meetings with Herbert to discuss police transfers, and that Lewis knew of the meetings; Pratt, Lewis and Gibbs denied any wrongdoing.

On Monday, 16 November, TAB general manager Arthur Harriott gave evidence that Lewis had been in the city business office of TAB chairman (1981-85) Sir Edward Lyons on most Fridays. Harriott said that in 1983 Lyons had obliged him to falsely state to the TAB board that he recommended that former Assistant Commissioner Tony Murphy be given a TAB agency at Dunwich on Stradbroke Island. Murphy was said to have been a member with Lewis and Glen Hallahan of the so-called police Rat Pack in the 1950s and 1960s.

Lyons had a late night meeting with Premier Bjelke-Petersen on Monday 23 November. Next morning, Petersen sought to dismiss five Ministers, including Health Minister Michael Ahern and Police Minister Bill Gunn. Ahern spoke of 'machinations' in connection with the inquiry and conferred with Fitzgerald. There was speculation later that Petersen may have intended to take over the Police portfolio and close down the inquiry.

Two days later, on Thursday 26 November, Petersen's parliamentary party dismissed him as leader by a vote of 38-9, and replaced him with Ahern, Gunn remained as deputy leader.

Petersen resigned as Premier on Tuesday, 1 December and was succeeded by Ahern.

2. THE MILIEU: The Dock Wars

'Down there, they run hot.'

- Lennie McPherson, 1972

In those dear dead days in 1972 when 'Mr Big' was just a name that cropped up from time to time in newspapers, Sydney police put out a yarn that he might be, alas, no more. The rumour that had come to the police was that the Mr Big had gone to Melbourne, found himself caught up in some internal squabble among the painters and dockers, and had been disposed of, possibly by means of an iron bar. A reporter did the obvious thing: he telephoned Lennie McPherson's house to check this rumour. McPherson came on the line. He said this report of his death was a wild exaggeration: He had been laid up, in Sydney, for a time; a touch of the flu, nothing more. As for Melbourne, he would not, he said, go within a million miles of the place. 'Down there,' McPherson said, referring, with what might have been a touch of awe, to the Melbourne painters and dockers, 'they ran hot.'

That man judged well. Waterfront people constitute a particular culture - hard, tough men, prepared to use their fists as required, and not always above a bit of thieving from the boats. In Melbourne, however, there was a distinction. The wharfies followed the general pattern, and did not go in for gunplay. The painters and dockers were something else

In 1972 Melbourne's 900 painters and dockers made up a closed, largely criminal, subculture. Reasons for their criminality were various. The dockers claimed they were in one of the few industries that gave a man with a record an even break. Cynical police claimed that a prison record was a condition of entry. Youths, as young as fifteen, relatives possibly of existing members, were known to get work on the docks. They soon found that, to survive, they must go the way of the others. The late Patrick Shannon, formerly secretary of the Victorian branch of the Painters and Dockers' Union, claimed that no more than a quarter of his members had prison records. Police estimates went much higher. Of the thirteen-man 1972 committee, ten or 77 per cent, had criminal records. The fact that the men had few recent counts against them may go some way towards substantiating claims that the union is a great force for rehabilitation.

Whatever the facts, the Melbourne docks offered a readily available pool of criminal talent with the time and the inclination to engage in major outside enterprises.

Police estimated that up to 40 per cent of major Melbourne robberies originated from the docks. Interstate jobs were also brokered there.

Melbourne dockers were alleged to have had some connection with these robberies: August, 1969: Chadstone, Melbourne; proceeds \$136 000. March, 1970: Mayne-Nickless, Guildford, Sydney; proceeds \$587 890. June, 1970: Metropolitan Security Services, Melbourne: proceeds \$289 680. In April, June and October, 1971, there were three payroll holdups on the docks themselves. In each case, the proceeds were under \$10000.

The Mayne-Nickless job, then the biggest hold up in Australian criminal history, was followed by a trial before a Sydney jury where allegations were made that: The hold up was masterminded by a man named Leslie Woon and carried out by Frank (Baldy) Blair, a rigger named Laurie Jones and Melbourne docker and prize fighter Steve Nittes. Woon received \$275 000 before leaving the country. Blair, Jones and Nittes shared \$270 000. The balance of nearly \$43 000 was available for ancillary services connected with the holdup. The Sydney gang known as the Toe Cutters then moved in. This was a group of three men who waited for criminals to pull off a job and then extorted part of the proceeds from them. They were more feared than popular. They persuaded Nittes to hand over \$20 000. Baldy Blair resisted. His toes were cut off with bolt cutters and he was later murdered and his body disposed of. Jones went to Melbourne for protection. Nittes and Jones were later sentenced to sixteen years after being convicted for their part in the holdup.

Over the years, the sub-culture developed rigid social norms that tended to make the men lions abroad but lambs at home. The code was that disputes were settled internally, and with guns; no information was given to the police; women and children were not to be touched. The element of gunplay on the docks seems to be a development of the mid-50s. In the immediate post-war years, executions were mainly connected with the baccarat schools. When these were finally closed, following a newspaper campaign, things cooled for a time.

Then, in 1958, a famous hit man of the earlier period, dapper, cold-eyed Freddy (The Frog) Harrison, found himself at a loose end for cash and thought to see if there was a quid on the docks. At 4.40 pm on Thursday, 6 February 1958, in the middle of a pay parade on 13 South Wharf, a man walked up behind Harrison and said: 'This is yours, Fred.' The legend is that Harrison is still waiting to hear the blast of the 12-gauge shotgun that blew off half his head.

If this public execution was a warning that activities on the dock were in good hands, it was effective. It was anticipated that Harrison's sidekick, Norman (The Chauffeur) Bradshaw, alleged executioner of Sydney hood Big Percy Neville, would take summary action to settle Harrison's account. But, after some calculation of the odds, Bradshaw did not pursue the matter, and later fell from a great height into Port Phillip Bay, inside a small aeroplane.

The action that Harrison was supposed to be seeking a slice of has been the subject of much speculation, but until the Costigan Royal Commission of 1980-84, the authorities never made any real effort to get the hard evidence. The assumption was that the ship owners could live with the situation as it stood and given the docker's talent for keeping their mouths shut, the only likely result of the Royal Commission the police sought in the early 70s would be a total tie-up of the Port of Melbourne.

The alleged rackets, steadily denied by union officials, related to the famous Phantom Dockers, levies on members, and the provision of alibis for workers engaged elsewhere. If they existed, the rackets would be lucrative, worth perhaps half a million a year. The theory of The Phantom Docker was this: a boat in dock required a gang of eight to clean out the holds, or maybe to scrape and paint the hulls. Eight men, including Mr A.N. Other, would be signed on, but only seven would work on the job. The pay packet for Mr Other would go into deserving hands. Union officials have claimed that the Phantoms no longer existed if they ever did, and on the face of it, such an operation would be difficult to pursue if the ship owners were careful in their counting of heads.

If, however, an imaginary docker got on to forty or fifty gangs in a week, the take would have been something like \$300 000 in a year. As for the levy, if some group within the union had enough muscle to levy each member \$5 a week, the return would have been some \$4500 a week, or \$230 000 a year. Union officials said that the hat was sometimes taken round on pay day, but only for the purpose of helping members, or their families, who had fallen on hard times. Police said that a foreman on the docks was once touched for some \$60 000 by the Taxation Department. He became a man of property, but retained his position on the docks until an advanced age.

A state of armed warfare on the Melbourne docks was in progress, with intermissions, from 1971. The secretary-treasurer of the Painters and Dockers' Union, Jim Donegan, into whose iron fists some small part of the Mayne-Nickless proceeds were alleged in court to have found their way, died early in 1971. A committee member of the union, Billy (The Texan) Longley was also found guilty of getting some of the proceeds. Patrick Shannon was twice asked to make himself available for the vacant position, and twice declined. Ultimately, a youngish man named George Carey left a docker's job worth \$120 a week to take on the position. He soon found the pressures of office, including a gun thrust into his stomach, too much, and one day he walked out of the union's offices at 16 Lorimer Street, South Melbourne, never to return. Some months later, Carey was seen in St Kilda, up on a garbage truck. The job probably paid less, but had the merit of being quieter. Shannon finally bowed to the will of the members and took on the position of secretary in mid-1971.

At one time an Adelaide publican, Shannon, then 43, had worked on the docks for twenty years. The present writer lunched with him amid the red leather and mahogany of the Club Grill at Melbourne's Southern Cross Hotel in May, 1972. Also present was Bob Dix, stated to be his driver, but assumed to

be his bodyguard. They wore identical topcoats of a light brown check, and declined a waiter's offer to take the garments to another part of the room.

An impressive-looking, square-jawed man whose grey business suit was of faultless cut, Shannon wore a large green opal on the third finger of his left hand, and rolled his own cigarettes from a tin of imported rumcured Capstan tobacco. He claimed to know a little about wine, and ordered Coonawarra of any vintage earlier than 67, but pronounced the resulting 66 a little thin. He said he got \$100 a week, and \$20 expenses. His previous job as foreman had paid \$135. His wife taught in a primary school.

A millionaire lunching nearby waved to Shannon and had a waiter bring us over a drink. Shannon was easy and charming in general conversation, but heavily deadpan and gave nothing away when the formal questions started. The image he projected was that of a man above the shot and shell of the dockers' war. Later, mildly rebuked for his caution, Shannon said seriously: 'Many lives are at stake.'

To regularise the position that obtained in 1971, it was decided that a union election be held on Friday, December 10, of that year. Billy (The Texan) Longley resigned his position on the committee in order to contest the presidency. Longley, also referred to as The Cowboy, was a shortish, plump, thin-lipped man of 45. He walked with a somewhat waddling gait, owned a champion bull terrier named Boof, and watched a lot of television. In 1961, Longley had appeared in a curious sequence of legal actions. Charged with the murder of his wife - the allegation was that the first Mrs Longley had been shot in the back - he was found not guilty of that charge, but found guilty of manslaughter. He was sentenced to nine years with a minimum of seven, but appealed and a retrial was ordered. Having already been found not guilty of murder, he could not be retried on that charge and so was tried for manslaughter. He was then found not guilty of that charge. The second Mrs Longley described him as a perfect family man - unassuming, a man who neither smoked nor drank.

Two tickets, one blue and one white, were distributed for the 1971 elections. The blue ticket, authorised by a saturnine vigilance officer named Doug Sproule, represented the status quo. It was, as it were, Shannon's team. The white team had Longley opposed to the incumbent president, and Jim Bazley opposed to Sproule for vigilance officer. Otherwise it was more or less the same as the blue team. A note on the white ticket, which carried no authorising name, said: 'Members - We have selected a change in the top leadership of our union. We propose to strengthen the secretary's position by recommending Billy Longley for president and Jim Bazley for vigilance officer. Our secretary, Pat Shannon, is returned unopposed. Therefore, we are sure that the combination of Longley, Shannon and Bazley will continue to struggle in our interest.' Bazley at one time had been nicknamed 'Machine Gun,' possibly because of the rapidity of his speech.

The action began on Tuesday, November 16, 1971. Guns were brandished in a South Melbourne hotel, but the incident appeared to have subsided when, outside the hotel, Bob Crotty, detergent maker of Richmond and friend of Longley, was felled by a half brick, his brains reduced to toothpaste. Crotty's assailant was said to have been a friend of Alfred (The Ferret) Nelson, social secretary of the union, and supporter of the blue, or Shannon, team. Nelson, 47, was a short and almost illiterate man, but he prided himself on being able to tell the time, and never willingly moved without his watch. He had been acquitted in 1965 of a charge of shooting with intent to cause grievous bodily harm. On the night of Tuesday, December 7, three days before the election, Nelson, it was believed, was bailed up in his Collingwood home while he was having a shower, and driven off in his white, two-door 1971 Charger. His watch remained in his house. The car was later found in 30 feet of water at 21 South Wharf, but Nelson was not.

Five men were said to have been involved in the Nelson abduction, including Desmond (3LO) Costello, who was a thief, shoplifter, standover man, beneficiary, as a contact man, in the Mayne-Nickless affair, and who had been unsuccessfully charged with the 1961 murder of an invalid named Ormond (Hoppy) Kelly. Costello is thought to have been the finger-man in the operation.

On election day, the southern parts of Melbourne were like something out of a western. At 8.05 am, gunfire broke out near the ballot box outside the Williamstown dockyard. A car belonging to a member of Shannon's team was hit fifty times. No one admitted seeing any gun play.

As the dockers placed their votes, Bazley stood, gun in hand, with his boot on the ballot box. At 10 am the door of the union office in South Melbourne was hit with seven bullets, supposedly fired by supporters of the Longley faction, but again police could gain no information. That night, Sproule's 1957 Holden was burned to a shell. He surmised spontaneous combustion.

The following night, Saturday, 11 December, Desmond (3LO) Costello was taken shoeless from his home in East Preston. The legend is that Costello asked could he have a cigarette, but was told there wasn't time. He put his hand up to protect his face, and the shotgun blasts cut through his wrist and destroyed his face. The forensic people were not certain whether he was cut down by two shotguns, or by a single 'over and under' shotgun with barrels of 12 gauge and 410 capacity. The body was dumped on an excavation for a freeway near Collingwood.

At 1.05 am on the last day of 1971, Laurence Richard Chamings, 25, was ambushed in Melbourne's most dangerous street, Gertrude Street, Fitzroy. A car drew alongside Chamings' car, and he was hit, not seriously, in the shoulder. He then had another fifteen months to live. Chamings was said to be a docker, but, in May 1972, union secretary Patrick Shannon said he'd never heard of him.

A week before the declaration of the union poll, set for Wednesday 26 January, 1972, shotgun blasts were fired at Longley's fortress-like home at 112 Derham Street, Port Melbourne. At 3 am on Monday, 24 January, a fire at the union offices destroyed files going back thirty years, but the ballot papers had been lodged in the vaults of the Commonwealth Bank in the city. At 10 30 on the Tuesday night, a gelignite and lead bomb was thrown on the veranda of the Derham Street fortress. Mrs Longley and seven-year-old daughter had left fifteen minutes previously.

The next morning, two hours before the poll was to be declared, Pat Cullen resigned from the position of returning officer. Three carloads of police attended the meeting. Absent were Longley and Bazley. They were found to have been swamped 174-53 and 178-47 respectively.

At the end of January, 1972, Homicide chief Kevin Carton sent a report on dockers' activities to acting Chief Secretary Smith. Smith sent it back, saying he was impressed with the report, but would not say whether the Government would initiate an inquiry. Police attempted to cool the situation by invoking the provisions of the Firearms Act and the Consorting Act, but sporadic gunfire continued. Several dockers had taken to the mattresses, and were living three in a house, for mutual protection.

In March, 1972, there was an echo of the Harrison execution. Shotgun bullets shattered the front window of a house in which resided Charles Wootton, 29. Back in 1958, as a lad of 15, Wootton had found a partly empty box of shotgun shells on 13 South Wharf, shortly after Harrison was killed. He didn't know who owned the bullets.

There was a further flurry of activity in May, 1972. On Tuesday, 2 May, at 6 pm Jim Bazley, now known as 'The Cool Man,' was fired on as he stepped out of his front gate in McPherson Street, North Carlton. A shotgun charge missed him completely, but .38 bullets lodged in his left shoulder and left thigh. Bazley took a car to the Royal Melbourne Hospital, plucking the bullet out of his shoulder on the way. At the hospital, he said he was too ill to be interviewed, and pulled the sheets up over his head when police persisted.

Three Melbourne dockers were believed to have gone to Sydney and disposed of two of the Toe Cutters.

On May 26, Longley was sentenced to three years' jail, with a minimum of eighteen months for receiving \$6000 from the Mayne-Nickless hold-up.

Another ambush was set up for Bazley on September 16, 1972. A blast from a shotgun entered his back as he sat in a car near his home. He said he had no idea how it happened.

The code of the dockers may inadvertently have been broken on Saturday, 21 April 1973. At 7.50 that night, a young man, said to be red-haired, entered the Moonee Valley Hotel in Fitzroy and started spraying bullets. Killed were Laurence Richard Chamings, 26, and Nicholas Kolovrat, 10. Hit, but not

killed, were the boy's father and a friend. This confirmed police fears that sooner or later, if the dockers were not disarmed, innocent people would be killed.

Apart from that, the docks, until last week, had been strangely quiet.

Billy Longley was released from Pentridge in August 1972. In October Shannon was drinking with a man and two women in the Druids Hotel, South Melbourne. Just on closing time a man aged about 50 came in through a side door and fired three .22 bullets into his chest, shoulder and right arm. Shannon died at the table. The murderer disappeared on foot down Moray Street.

In May 1972, Inspector Carton said: 'There doesn't seem to be much hope for peace on the docks. Some of these men will have revenge, if they have to wait two years.' Longley was later convicted of arranging Shannon's murder.

The Homicide chief also said: 'A harder line will have to be taken. If we can't stop the gunplay soon, in a few years this city will be like America.'

The Mackay case

'Mackay received a telephone call at his business from a man claiming to be "Mr. Adams".'

- John Nagle, QC

For a town with a population of only 3000, the town of Plati, in a province, Calabria, in the toe of the Italian boot, is quite famous. It is the headquarters of L'Onorata Societa (The Honoured Society), or, in the Calabrese dialect, N'Dranghita. This is not to be confused with other Italian organisations, the Mafia from Sicily, or the Camorra, from Naples.

Plati has also made a significant contribution to Australian culture: in the five years from 1974 to 1978, people born there were involved in at least twenty cannabis plantations, with a then wholesale value of some \$102 million, in all mainland States except Victoria.

Elements of N'Dranghita first arrived in Australia in 1928, in the first, or pre-war, wave of Italian migrants to Griffith, in the Riverina, some 600 kilometres south-west of Sydney. A second wave of Italian migrants came after the war. By 1979, Griffith's population was 13 000. Another 7000 were on 1750 irrigated farms in surrounding Wade Shire. A little more than half the 20 000 people in the area are estimated to be of Italian extraction. Of the post-war migrants, the largest group came from Calabria, and a substantial proportion of those came from Plati.

There is a view that a breakaway and independent element of N'Dranghita, known as The Family (La Famiglia), had cells at Griffith, Melbourne, and in the western suburbs of Sydney, some 25 kilometres from the GPO. Sydney members appeared to be concentrated in a 10-kilometre pocket on the Hume Highway from Fairfield through Cabramatta and Liverpool to Casula.

At a committal hearing in Melbourne in September 1984, Crown Prosecutor Robert Redlich, 38, said Gianfranco Tizzzone had known Robert Trimbole from the 1960s. Redlich said: 'Evidence will disclose that Robert Trimbole was related to a number of families who, it will be shown, participated in La Famiglia and were responsible for the cultivation and distribution of Indian hemp.' A distribution network had been set up whereby a truck loaded with marijuana would be brought by members of La Famiglia from NSW to Victoria, taken to a safe house, and unloaded, and the sale money sent to the organisation. He said that between 1971 and 1980 Tizzzone had remitted more than \$1.5 million to La Famiglia.

In those years, recently acquired wealth enabled a number of people with connections in Plati, Calabria, to erect 'grass' castles, described by Nagle as 'lavish in the extreme', in Griffith and elsewhere or to buy expensive farms in the area. Justice Woodward noted these during his 1977-79 Royal Commission, but

Crown Law authorities apparently judged that charges of 'goods in custody' (i.e. goods for which no satisfactory explanation could be given and thus deemed the product of unlawful activity) would not lie.

In October 1975, Donald Bruce Mackay, owner of a Griffith furniture business, got a letter detailing how to find a large crop of marijuana in the Coleambally Irrigation Area south of Griffith. He made contact with Sydney Drug Squad and some members met him secretly out of Griffith. On 31 October a recently married girl, Linda Humphries, of Griffith, drove her husband to work, and intended driving the 68 kilometres to Coleambally to apply for a job. She was never seen again.

On 10 November, two Sydney Drug Squad officers and an officer from a Country station came to Griffith. Mackay arranged for them to use a four-wheel drive vehicle to get through the rough track and ten or eleven gates to the Coleambally site. Nagle QC later reported: '... on 11 November, a police raid headed by Senior Constable Jenkins, and officer of (the Sydney Drug Squad), was carried out on a property known as "Stevenson's" Coleambally. The police apprehended two men, Guiseppe Agresta and Pasquale Agresta, but some six or seven others were seen to run away from a caravan on the property. A third man, Luigi Pochi, was subsequently apprehended when police searched the marijuana crop..'. Those ultimately arrested were G. Agresta, L. Gambacorta, P. Agresta, L. Pochi, F. Sergi. The immature crop was 12.76 hectares and worth up to \$80 million dollars. The crop was destroyed and the site sprayed to prevent re-growth. There was evidence of a previous crop or crops already harvested.

In July 1976, Vincenzo Ciccarello acquired and took possession of a property near Euston for \$92 000, on behalf of, according to justice Woodward's later finding, Robert Trimbole. According to Justice Woodward: 'On 1 March 1977, a harvest comprising almost two tons of marijuana was located at Domenico Velardi's home at Fairfield. This marijuana was later proved to have been part of the Euston crop.' Woodward described it as 'the largest single seizure of prepared leaf in the State at that time.' Judge John Murray Foord fined Domenico Velardi \$5000 and put him on a three-year good behaviour bond on 13 December 1978.

The Euston plantation was raided four days after the Velardi raid, on 5 March 1977. Four were eventually arrested, V. Ciccarello, V. Piscineri, V. and S. Barbaro, one a cousin of previously convicted Griffith grower. The plantation was of 5.86 hectares (14.5 acres), much of it already harvested.

The Coleambally trial proceeded on 6-7 March. Woodward reported: 'It is beyond dispute that during the Coleambally trial a police diary, containing Mr Mackay's name and the nature of the information which he supplied to Drug Squad officers, was made available to defence counsel by the presiding judge (Newton), in the face of a protest by the detective in charge that it did contain this sort of information; a protest that was again pressed when the officer observed some members of the defence reading pages of the diary at random. It is perfectly proper for the trial judge to direct that such a diary be made available to the defence but it was unfortunate that all but the pages relating to the discovery of the crop and the arrest of the accused were not sealed. This is practice which is frequently followed to prevent the very thing which, it is said, could have happened there. This is not to suggest either that some counsel or solicitor for an accused did see Mackay's name. Detective Jenkins, the author of the diary and a witness at the trial, concedes that he does not know this to be so and only infers that it was possible. Nor is it suggested that if this did happen, that the information was passed, accidentally or otherwise, to an accused or anyone else. After all, it is a fact that some of Mackay's confidants were aware of it.'

Nagle QC reported: 'The jury found four of the men guilty and they were sentenced to terms of imprisonment ranging from two to five years, but failed to agree as to Francesco Sergi, who was ordered by the judge to face a new trial.'

By March 1977 there had thus been problems with marijuana cultivation in the Riverina, district. Redlich said: 'Someone such as Donald Mackay, who you will hear, was campaigning strongly against the use of marijuana, posed an extremely significant threat to The Family. As a result of (Mackay's) activities there was a disruption in the supply of marijuana from NSW to Melbourne's outlets.'

Nagle QC reported: 'On 1 June 1983, Tizzzone made a seventeen-page statement to Victoria Police. In it, he said that he had been present at a meeting in 1977 at Griffith with Tony Sergi, Tony Barbaro and

Robert Trimbole, at which Mackay and the difficulties created by his anti-drug crusade were discussed. At this meeting, three possible alternatives were mentioned as a means of ending Mackay's harassment of their business: the first was to buy his silence, the second to compromise him with a woman, and the third, to murder him. Two days later, on 3 June 1983, Tizzzone retracted this part of his statement and confined his remarks to an agreement reached in Melbourne between himself and George Joseph, a Melbourne gun dealer and the "hit man," Bazley, to kill Mackay. The agreement to kill Mackay originated from an earlier request by Robert Trimbole to Tizzzone to procure a hired assassin. Tizzzone claimed that at a much later date arrangements were made for the same man, Bazley, to murder Douglas and Isabel Wilson.'

Joseph and a man later identified as James Frederick Bazley were surveilled by Federal Police at Box Hill, Victoria in June 1977. Bazley was then a fugitive from justice, having absconded from bail on a charge of armed robbery.

On Wednesday, 6 July or Thursday 7 July according to Nagle: 'Mackay received a telephone call at his business from a man claiming to be "Mr Adams." The caller alleged that he had recently won the lottery and wanted to purchase a house full of furniture for his son-in-law and daughter, or son and daughter-in-law. He asked Mackay to meet him outside the Flag Inn Motel at Jerilderie at 10.30 am on (Tuesday) 12 July 1977. Mackay agreed to attend the meeting and, in order to facilitate it, described the type and colour of the car he would be driving and its registration number. Mackay told one of his employees, Pursehouse, about this call.' However, on 11 July, Nagle reported: 'Mackay told Pursehouse that he had to attend a funeral the next day, and asked him to make the trip to Jerilderie in his stead and, because the telephone caller, 'Mr Adams', had been given a description of Mackay's vehicle, Pursehouse was told to take Mackay's car in order that "Adams" might identify him.'

Pursehouse took with him for the trip to Jerilderie his father-in-law, Patrick Gaynor, 83, of Temora, 159 kilometres east of Griffith, who was visiting the Pursehouses at the time. It is assumed that the presence of Gaynor may have saved Pursehouse's life. After arriving at Jerilderie (population 1000, 140 kilometres south of Griffith) at approximately 10.20 am, Pursehouse parked the vehicle, nose towards the kerb, outside the Flag Inn Motel.

Nagle reported: 'At 11.09 am, Pursehouse telephoned his employer and informed him that no contact had been made with 'Mr Adams' or anybody else on his behalf and asked Mackay what he should do. He was instructed to wait for another half an hour and if nobody had arrived by then to return to Griffith. Once again, he returned to his vehicle and shortly after he did so he noticed a white Ford Falcon sedan pull away from the kerb, some distance up the street. He said he had previously noticed this vehicle parked opposite some public toilets located within the nearby park. This car drove down past the motel and parked outside the Jerilderie Post Office adjacent to (and to the left of) their vehicle, across the other side of a driveway, estimated to be approximately the width of two cars. After a short time, a man who was alone in the car alighted from it and walked into the Post Office. After getting back into the car, the man waited for a short time and then drove from the town along the Griffith / Narrandera Road. During the time this vehicle was parked outside the Post Office, Pursehouse and Gaynor kept its driver under observation and discussed his appearance.' Nagle later found that police officers Frederick Joseph Parrington and Eric Harold Campbell 'failed to make, or cause to be made, due inquiry into the identity of a person said by Pursehouse to have been present in Jerilderie on 12 July 1977.'

On Friday 15 July, Nagle reported: 'Mackay left his furniture store at approximately 5.30-5.40 pm and drove a mini-van belonging to the store into the parking area of the Griffith Hotel. He parked this vehicle with its nose towards the fence furthest from the hotel buildings, and about two-thirds of the way along the parking area from the Yambil Street entrance.' There was no mistaking the mini-van. On it was painted:

'MACKAY'S OF GRIFFITH FLOORCOVERINGS BLINDS FURNITURE FREE MEASURE & QUOTE ! Mackay left the Griffith Hotel at about 6.30 pm, and was not seen again. About the same time, Roy Laurence Binks, an accountant in his premises which had a common wall with the Griffith Hotel car park, heard three noises similar to the cracking of a whip and, twice, two or three seconds apart, a noise like someone being 'sick or vomiting and similar to a groan.'

Police investigations eight hours later, and later ballistics and scientific tests, indicated that, as Mackay was about to unlock his van, he was shot three times in the head with a .22 calibre weapon and that he was then dragged to and placed in another vehicle. His car keys were under the car beneath the lock. There was blood on the door, the hubcap, the ground, and the nearby fence. Three spent .22 cartridge cases were found near the bloodstains on the ground, and there were scuff marks on the ground near the driver's door extending from the position of the keys and joining together near the bloodstains.

Following Parrington's interviews with Tizzone in Melbourne on 8 and 12 June 1983, Parrington caused Campbell and others to arrange a search of the Murray River near Tocumwal. From this it appears that Tizzone had suggested that Bazley returned to Melbourne by way of Coleambally and Jerilderie and crossed the border at Tocumwal on the Murray, and there dispose of the weapon or the body, or both. Tocumwal is 200 kilometres from Griffith. Bazley presumably got there in something over two hours, say about 8.45 pm to 9 pm. He then presumably went on to Melbourne via Cobram, Numurkah, Shepparton, and Seymour, a distance of 262 kilometres from Tocumwal. If he continued, he may thus have been in Melbourne about midnight, before Mackay's mini-van was discovered.

The Mackay family solicitor, Ian Salmon, notified police at 12.30 am that Mackay was missing, and at 1.30 am he discovered the mini-van in the car-park at the Griffith Hotel. He then went to the police station and told them. After inspecting the site, the Griffith chief of detectives, Sergeant James Bindon, advised his immediate superior, Detective Sergeant K. Home, at Wagga. Later that morning, Home rang the CIB in Sydney and requested assistance. Parrington was the senior man on duty. He drove to Griffith where, according to Nagle, as noted in the section on the Police Commissioners, he made an amazing botch of the case, and was in 1987 fined \$1000 for neglect.

Nagle reported on his Commission of Inquiry into the conduct of the Mackay investigation in December 1986. At page 244 of his report he referred to attempts in 1980 by Albert Jaime (Flash Al) Grassby to get into the public domain a document suggesting that those responsible for Mackay's assassination were not elements of the Calabrese, but Mackay's own family and their solicitor. Nagle said: 'The Commission makes only one comment - that no decent man could have regarded the general attacks on the Calabrians as justifying him in propagating the scurrilous lies contained in the anonymous document.'

New South Wales Premier Barry Unsworth spoke to Grassby on November 27, before the Nagle Report was released, and later said: ... I indicated to him (Grassby)... that he had been adversely commented on. Clearly on the basis of the report it was appropriate that Mr Grassby either resign... or his contract not be renewed.' Next day, Grassby resigned from the \$48 000-a-year post the former Premier, Neville Wran, had given him in February 1986.

On 21 September 1987 Grassby was visited by two officers of the National Crimes Authority who told him they had an NCA warrant for his arrest. He was later charged that at Griffith and elsewhere in New South Wales between 1 November 1979 and May 1981 he conspired with Robert Trimbole, Jennifer Anne Sergi, Guiseppe Sergi and others to pervert the course of justice. He was also charged with criminal defamation in that on 29 July 1980 at Sydney he published a four-page document which was defamatory of Mrs. Barbara Mackay, Paul Donald Mackay and Ian Salmon.

Some Faces in the Crowd

Criminal organisations in their characteristics match legitimate organisations: there are big ones: there are small ones: people float in and out of them. It is remarkable, absolutely remarkable, how often you come across the same people in very diverse activities, all of which are criminal.

- Douglas Meagher, QC, counsel assisting Costigan Royal Commission.

Many names recur in Royal Commissions and other inquiries. Some appear to have interlocking relationships that cover a variety of relationships. Among these *milieu* personalities are:

Frederick (Paddles) Anderson, 70, is described in TFR3 (Volume 3: The Associates of Murray Riley, report by the Commonwealth-NSW Joint Task Force on Drug Trafficking (October 1982)) as a 'well-known criminal'.

Until his death in January 1985, Anderson was thought to be first among equals in the Sydney *milieu*. In Melbourne in 1940, he got into an argument with a Melbourne personality, John C. Abrahams. In the following altercation, Abrahams was killed. Anderson was charged with his murder, found not guilty, and returned to Sydney. In the following months, Anderson made frequent appearances in Sydney magistrates' courts, where he described himself as a machinist living in Surry Hills. According to McCoy, in one three-day period, he was charged with being in a house 'frequented by thieves'; with 'having demanded money with menaces from a bookmaker' and with 'having assaulted the bagman'; and with consorting with known criminals at a house in William Street, East Sydney.

Commonwealth Police running sheets indicate that Anderson was among those present at the *milieu* summit of July 1972. This was a series of meetings held at the home of Karl Bonnette at William Street, Double Bay and 'alleged to be called to discuss the current activities of organised crime.' Others present were said to be Leonard Arthur McPherson, George David Freeman, Stanley John Smith, Milan (Iron Bar Miller) Petrececic, Arthur William (Duke) Delaney, and Leo (The Liar) Callaghan.

Also in attendance was said to be Albert Ross Sloss, 61, of Dowling Street, Potts Point, (Labor) MLA for King since 1956; deputy chairman of the parliamentary Labor Party, and vice-chairman of the Wentworth Park Trust, since 1968; director of the Sydney Hospital 1958-64; member of the Lord Howe Island Board. Sloss denied that he was at the meeting.

Bonnette denied that any of them had been at his home.

Karl Frederick Bonnette, 49, is described in TFR3 as a 'drug importer and trafficker', and was named by the Premier, Mr Wran, as a leading member of the Sydney underworld. Bonnette was considered to be most likely to succeed Anderson as the one the *milieu* ultimately defers to.

He was born in Melbourne, has described himself as self-employed, as dealing in cars, boats, diamonds and gold, and as unemployed. Among other names he has used are Karl Solomon, K. Rogers and Frederick Brock. He changed his name by deed poll in 1977 to Graham John Allemann in order to gain entry to the US.

Among his associates were Barry James Pyne, 41, described in TFR3 as 'drug-trafficker' and named as a suspect in the 1975 murder of drug courier Maria Hission. Bonnette also knew John Marcus Muller, alias Miller and Milner, a heavy at The Palace (otherwise the 22 Club), a Kings Cross casino, and named as one of the last three men seen with Juanita Nielsen before she disappeared in July 1975. Muller was killed in the driveway of his home in June 1979 in a shooting police believed could have been connected with an attempt on the life of George Freeman six weeks previously.

Bonnette has been to the US, England, Germany, the Philippines, Hong Kong, Israel, Argentina, Venezuela, Brazil, and Colombia. From 1976, he had business dealings with a number of people arrested in June 1978 in the seizure of \$70 million worth of buddha sticks. In a four-year period, Bonnette, using various names, put \$771 416 through a number of bank accounts, but was not too proud, in two months prior to June 1978, to collect \$1917 in sickness benefits from the Department of Social Security.

Abraham Gilbert Saffron, 65, in 1943, with Hilton Kincaid, opened the Roosevelt Club at 32 Orwell Street, Kings Cross, largely for the benefit of US soldiers, until Justice Maxwell, who later described it as 'the most notorious and disreputable nightclub in the city,' closed it late that year. After a period in Newcastle, Saffron reopened the club after the war.

In the following years, using his family and friends as dummies, Saffron acquired, in breach of Licensing Court regulations, an interest in the licences of a number of hotels. A Royal Commission concluded that Saffron used the licences to supply the Roosevelt Club and sly grog shops. The Commission also found that Saffron had 'engaged in systematic false swearing'. In October 1952 he was indicted for perjury but was acquitted when the court ruled that his testimony before the Royal Commission was not admissible as evidence about that same testimony. The Licensing Court barred Saffron, his relatives and any known associates, from holding liquor licences until 1966 when he successfully appealed against a judgment denying him a liquor licence at his Lodge 44 motel at Edgecliff.

In 1956, Saffron was also charged with having obscene photographs at his premises in Kings Cross. He was convicted and fined £10 but won a reversal on appeal.

Saffron was out of the newspapers until 1973 when he appeared before the Moffitt Royal Commission on Organised Crime in Clubs, where it emerged that Commonwealth Police, investigating Jack Rooklyn's activities in Jakarta, had reported that 'now Saffron is purchasing or leasing premises to be used as brothels in conjunction with Rooklyn's casinos.'

In March 1974, a customer at Saffron's Lodge 44 motel, Ramon Sala, an international smuggler with Sydney convictions on currency and drug charges, had had his passport impounded and faced further proceedings. Morgan Ryan, then a solicitor of the Sydney firm Morgan Ryan and Brock, made representations on Sala's behalf to Lionel Murphy, then Federal Attorney-General. Murphy directed that Sala's passport be returned. Sala left the country, and so avoided passport proceedings. Six days later, Interpol said his passport was false.

In 1975 Saffron's movements were monitored by the FBI, Scotland Yard, and crime intelligence agencies in the Philippines and Fiji; he was invariably searched when he left and re-entered Australia. It has been alleged Morgan Ryan made representations to Attorney-General Murphy and to Federal Police Commissioner Jack Davis about Saffron being subjected to airport searches. Authorities in Canberra ordered that Customs baggage searches of Saffron be abandoned.

This matter was investigated by a Public Services committee. Murphy, Justice Murphy of the High Court, said he had given no direction on the matter. The committee's report, tabled in September 1984, said the downgrading of surveillance on Saffron was 'reasonable and appropriate'; continual searching, it said, alerted a suspect and was likely to achieve nothing.

Early in 1978, the South Australian Attorney-General, Peter Duncan, named Saffron in State Parliament as 'a principal character in organised crime in Australia.' In July of that year, the NSW Transport Minister, Peter Cox, discovered from media reports that a building in Darlinghurst Road, Kings Cross, housed a gambling club, a brothel and a sex shop. The building was on a prime piece of real estate owned by the Public Transport Commission. Investigation showed that the site was initially leased to Constance Developments, a company owned by Sir Paul Strasser and Robert Ryko. Without the approval of the Public Transport Commission, the Strasser-Ryko company had sub-let the property to two Saffron companies. In 1977, the head lease, with the approval of the PTC, was transferred to Togima Leasing, of which the directors and nominal shareholders were all businessmen associated with Saffron companies.

To put an end to illegal activities on Government property, the Government bought Togima out of the lease for \$2.6 million. A spokesman said legal action had not been taken against Togima because this would only remedy matters in the short term and it was difficult to get evidence.

In the 1981 Police Tribunal inquiry into Deputy Commissioner Bill Allen, it emerged that Saffron, described by Justice Perrignon, as 'unsavoury and involved in illicit activities', had met Allen seven times at Police Headquarters. This was given as a reason to sustain the tribunal finding that Allen had brought discredit on the police force.

The report of the Commonwealth-NSW Joint Task Force on Drug-Trafficking says: 'There is little doubt that Saffron was involved in at least this one transaction with Nugan Hand. Though its precise nature cannot be defined, the transaction involved in some way Hong Kong and the sum of \$50 000... That at least Saffron chose to lie about his association with Hand... only adds to the suspicion that there was something either illegal or improper about it.'

When his name was brought up in 1982 at the Costigan Royal Commission in relation to a tax avoidance scheme, Saffron issued a statement through his lawyers saying he had never had anything to do with Nugan Hand.

George David Freeman, 49, is described in TFR3 as a 'well-known crime figure involved in illegal gambling activity.'

In a 1978 appearance before the Woodward Royal Commission, Stanley John Smith explained his income on the basis of winning on racehorses, cards and roulette. Smith's barrister, Mr Cochrane, said that Smith was 'putting himself up, not as a normal punter, but rather as someone who has taken notice of tips from a man who knows, Mr Freeman, and in a sense Mr Freeman is well regarded... he is well regarded in the racing community and he knows what horses are going to come home.'

Justice Woodward: 'That would be on the basis it is not a matter of luck; it is a matter of organisation?'

Cochrane: 'Perhaps, I would not put it that strongly, but perhaps...'

At the 1983 Street Royal Commission, evidence was given by a magistrates' court clerk, Cam Abood, that Freeman gave the then NSW Chief Stipendiary Magistrate Murray Farquhar race tips and that he (the clerk) placed the bets for Farquhar and collected his winnings. He noted that Freeman's tips won 98 per cent of the time.

One of the milieu's greatest mistakes occurred in July 1977. On 27 July, Freeman went into the members' enclosure at Randwick racecourse as the guest of Farquhar. The error has caused endless trouble.

Freeman made another mistake the following year. On 28 March 1979, Bruce McDonald, deputy leader of the NSW Opposition, asked a question which suggested that Freeman had 'unusual and undue influence' over the police squad that was supposed to control gambling, the 21 Division. That night, Freeman was given time on Channel 7's Michael Willesee Show to deny any involvement in organised crime. The next day, seeking to confront McDonald, he went with a Willesee film crew to Parliament House. That evening in the Upper House, Barrie Unsworth, who had been approached by the television team, said he believed that Freeman and the Willesee team had committed a 'gross breach of privilege.'

On 3 April, the Independent MLA, John Hatton, moved an urgency motion deploring the action of Freeman, 'a man designated within the administration of the Minister for Police as an organised crime figure, in bringing a television crew on to the steps of Parliament House...' Drawing on material in a confidential NSW Police Crime Intelligence Unit report of March 1977, Hatton summarised Freeman's career thus:

'It has been recorded that Freeman should be considered one of the leading criminal figures in this State, together with Stanley John Smith, with whom he has been closely associated, and who is said to have replaced the so-called Mr Big, Leonard Arthur McPherson. The links with international organised crime are well established... In April 1978, just a year ago, Freeman was deported from the United States of America after being arrested in Las Vegas in connection with a false passport offence.

'His last recorded conviction in Australia was for a similar offence, when he used a false passport to enter the United States of America with Stan Smith in 1968, when they were guests of one Joseph Dan Testa, nominated as a member of the Chicago organised crime family... It was largely the investigations prompted by the appearance of Testa in Sydney in subsequent years, and the associations he made here, that led to the Moffitt Royal Commission in 1973-74. As a result of the Moffitt Royal Commission, Mr

Freeman was made the number one target of the NSW Police Crime Intelligence Unit, which was established as a direct result of that inquiry.

'We are talking about a key criminal. Inquiries show that Freeman was also the Australian contact man for one Danny Stein, nominated as an associate of notorious American organised crime figures, including Meyer Lansky, and described by law enforcement authorities as representing hidden interests in Las Vegas casinos, and an illegal betting network raided by the Federal Bureau of Investigation, and shut down by the State of Nevada. No honourable member would need reminding that in July 1977, George Freeman was photographed in company with the Chief Stipendiary Magistrate, Murray Farquhar, at Randwick races, on which occasion Freeman was removed from the members' enclosure.

'Of even more relevance to the question of urgency, and to members of this House, particularly when it is remembered that Freeman was on the steps of Parliament House, is the fact that the NSW police have evidence that he was the principal figure in what might be called the Taiping conspiracy. After the Premier announced the Government's intention to legalise casinos, underworld leaders and illegal casino owners met at the Taiping restaurant in Elizabeth Street, Sydney. It is urgent that it be recognised that, on a tape recording made of that meeting, Stan Smith is heard referring to Freeman as being "with" the casino operators. Smith called upon the assembled gathering to put up hard cash to bribe members of this Parliament to try to secure the control of casino licences for criminal interests...'

The Labor Party voted against Mr Hatton's motion and it was defeated 60-34.

Three weeks later, at Freeman's Yowie Bay home, a gunman with a light calibre weapon shot Freeman in the left side of the neck. The bullet passed through his mouth and exited just below the right temple without doing serious harm. Police told *The Sun* that the weapon indicated an 'amateur' gunman, but there was speculation that some other organised crime leader might have taken the view that Freeman's approach to Parliament House had drawn too much attention to organised crime activities.

Leonard Arthur McPherson, 63. Giving evidence in 1983 at the Juanita Nielsen inquest, McPherson denied having told Federal police that a former NSW police officer, Fred Krahe, had killed Miss Nielsen. He claimed that Federal police had sent false information to Manila in 1977 warning that McPherson was entering the Philippines to assassinate President Marcos. Arrested at gunpoint, McPherson and two other Australians were held for three days in death row in the dreaded Fort Benefacio prison, facing the prospect of a firing squad, before being released.

McPherson's name has continued to be linked with Manila. In 1980, the Woodward Royal Commission reported that a wanted criminal, Martin Olson, was running a bar in Manila for McPherson, and that he was 'looking after McPherson's prostitution business in Manila.' Woodward also reported that during 1975 a person was 'alleged to have gone to Manila, at least once a month' to bring back 'white powder' for McPherson.

The Commission said there was reliable evidence that the courier was in the company of George David Freeman and Danny Stein. 'NSW police received information ... that the purpose of Stein's visit to Australia at that time was to organise importation of drugs from the "Golden Triangle for transshipment to the United States,' the Commission said. In 1973, during his Royal Commission, Justice Moffitt found it would be 'wrong to conclude that McPherson is not on the scene of organised crime or connected with persons seeking to make money illicitly from the registered clubs.'

In a front page article in *The Sunday Telegraph* in 1979, McPherson denied any involvement in organised crime, or that he was in fact Mr Big. His denial included references to newspaper stories suggesting he was responsible for twelve murders. 'If these accusations are meant to be against me they are false,' he said. 'I wouldn't even know of twelve people who have been murdered.'

Stanley John (The Man) Smith first came to police attention in 1954. In 1966, he and McPherson attracted overseas attention when they were barred from Hong Kong. A senior Hong Kong police officer advised the Sydney CIB that they had boasted of wanting to get in on 'big time' smuggling of gold and narcotics.

In 1968, Smith and Freeman used false passports to go to the US to spend six weeks as guests of Joe Testa. Both were convicted on passport charges on their return. In December that year, Smith was described by police in a consorting case as a 'standover criminal and international shop thief.' Smith was fined in 1970 in connection with the attempted sale of amphetamines following a robbery at May and Baker's warehouse at Waterloo, Sydney. He unwittingly frightened politicians out of legalising casinos in New South Wales when a tape recording of his 1976 Taiping speech, in which he recommended bribing politicians to secure legal casino licences, was made public.

He denied before the Woodward Commission that he had anything to do with drugs. He said: 'I am not involved in drug matters and these allegations are all the more hurtful to my family and myself when the fact is that my eldest son, who is twenty-one years of age, is currently serving a jail sentence for drug-related offences and has been a hopeless heroin addict for some years now. We have tried to face this problem and rehabilitate him, without success, and the allegations now being made are in the circumstances particularly hurtful.'

Justice Woodward found that Smith was involved in drug-trafficking. In 1979, he was convicted and jailed for fifteen months for possession of cannabis. The conviction, however, took place in Victoria, not New South Wales.

Note: Stanley John Smith should not be confused with any of the numerous other Smiths in the *milieu*: Arthur Stanley (Neddy) Smith, described in TFR3 as 'drug importer and trafficker', who was the informer for Sergeant Roger Caleb Rogerson, and the man who arranged the fatal meeting between Rogerson and Warren Lanfranchi in 1981; Neddy's half-brother Edwin William Smith, jailed for possession of 1.6 kilograms of heroin; Edward James (jockey) Smith; or Raymond Smith, an early acquaintance of Murray Stewart Riley.

Politics of the Milieu

... A comparatively small group of people in this community are waging war on it in an organised fashion across a wide spectrum of criminality... if nothing is done about the current problem, within five years this country will have become a jungle. The wild animals will not bite everybody, but their presence will be known and feared... I believe their activities cannot be checked by existing law-enforcement agencies with the powers that they are given.

- Francis Xavier Costigan, QC, head of the Royal Commission into Activities of the Federated Ship, Painters and Dockers' Union.

Organised crime, as defined by the Premier, Neville Wran, in February 1979, is 'any action undertaken by any group of individuals working outside the law for economic gain.' On this definition, organised crime consists of the criminal *milieu*, the men in the black hats, plus its support system in the white hats; politicians, bureaucrats, businessmen, accountants, journalists, lawyers, police and the judiciary.

The *milieu* consists of inter-related and overlapping criminal syndicates, led by Mr Big Enoughs. A distinction is made between what we may call the Euro *milieu*, i.e. those whose forebears derive from Europe, including the United Kingdom and Ireland, and the Sino *milieu*, i.e. those deriving from China. No studies of the Nippon *milieu* (i.e. those deriving from Japan), if such exists, are yet to hand.

The problem of organised crime was derided and swept under the carpet in the Askin years, and in the earlier Wran years. As late as 1979, Police Commissioner Merv (The Sculler) Wood publicly asserted that there was no proof of the existence of organised crime in New South Wales. In the 1980s tangible evidence has revealed at least the tip of the iceberg. Public awareness of the outlines of the problem has put pressure on the Government to take firmer action on organised crime and its covert outriders in politics, the police, the professions and business.

It may be too soon to see 1985 as a turning point in the hitherto uneven contest between crime and justice in New South Wales. Even so, advances were made; cautious optimism may not be entirely out of order. That somewhat devalued statesman, J. Malcolm Fraser, is entitled to a share of the credit: he improved the Federal Police, and initiated the Costigan Commission, the National Crime Authority and the system of Special Prosecutors that led, in the Hawke period, to the Office of Director of Public Prosecutions.

Federal authorities thus supplied much of the initial impact in New South Wales in 1985:

- Vast quantities of Federal phone taps, obtained in the pursuit of drug-traffickers and handed over to local police, precipitated the biggest clean-up of corrupt police in NSW history.
- The National Crime Authority (NCA), a joint Federal-State exercise, recorded a number of significant arrests, and made a continuing impression on organised crime in New South Wales in 1986.
- The establishment of the Directorate of Public Prosecutions (DPP) by the Hawke Government was seen as the greatest advance in administration of criminal justice since 1901: it removed from Federal politicians the power not to prosecute.
- The fact that the DPP was prepared to prosecute a judge, and the federal tap that resulted in the prosecution of a former NSW Cabinet Minister, should have salutary effects on the judiciary and politicians.
- Federal authorities recovered some hundreds of millions of dollars from bottom-of-the-harbour and other tax frauds.

There were also encouraging NSW local initiatives:

- The Police Department's Internal Security Unit (ISU) was targeting up to 100 corrupt police, according to one officer.
- The Police Board is reported to have plans to break the power of a traditionally corrupt enclave within the Criminal Investigation Branch.
- The Government has set up a Drug Law Enforcement Bureau, a Drug Crime Commission, and has brought down legislation to close supposed loopholes that allowed 187 illegal casinos to operate in Sydney.
- A former chief stipendiary magistrate was imprisoned after having been found guilty of attempting to pervert the course of justice.

But other matters continue to disturb: questions about the administration of justice are raised by a number of cases; drug-trafficking continues to turn over an estimated \$2000 million nationally, more than half in New South Wales; and illegal book-making has a turnover in New South Wales said to exceed \$1800 million a year.

In the period 1984-1986 a number of matters, notably the Duff tapes, afforded the citizen insights into how the Euro *milieu* thinks and acts. It may also be seen as the period when the Sino *milieu*, hitherto consigned for one reason or another to the 'too hard' basket, was subject for almost the first time to public scrutiny. And finally, interesting, if sometimes blameless, connections among people in the milieu, the police, and in public life also emerged.

The Euro Milieu

Some see 25 June 1969, as a turning point in the rise of organised crime. On that date, Leonard Arthur McPherson appeared before a magistrate, Murray Frederick Farquhar, on a consorting charge. Advised

by Detective Sergeant Frank Charlton that, so far as he knew, there was no evidence to link McPherson with organised crime, Farquhar fined him a nominal \$100.

Following this decision, less use was made of the consorting laws, which in the 1930s had wiped out razor gangs competing for control of the cocaine trade. The black hats could now mix more freely with the white hats, including such elements of organised crime as Sir Robert Askin, as Premier, and his Police Commissioners Norman Allan and Fred Hanson.

Another turning point was the Double Bay crime summit of July 1972, already mentioned.

The name of Paddles Anderson, first among equals in the Euro *milieu* who attended the summit, almost never appeared in the public prints. Aged 70, he went to his reward in January 1985, and was buried from the High Anglican church of St Mary the Virgin, Waverley. Among 250 mourning their lost leader were Freeman (who said Anderson was not a crook), McPherson and Petrecevic. The Rev Terence Dicks said Anderson was a family man above all else.

Justice Donald Stewart, chairman of the National Crime Authority and Royal Commissioner on the *Age* tapes, was reported in April 1985 to be looking at the activities of a number of the 1972 summiteers, including Anderson, Freeman, Bonnette, and Stanley John (The Man) Smith. Others said to be on Stewart's list included Arthur Stanley (Neddy) Smith, Robert Trimbole, Morgan Ryan, Murray Stewart Riley and Abraham Gilbert Saffron.

A Big Drink

The case of Detective Sergeant James William (Bill) Duff, of the Homicide Squad, may in part explain why the major *milieu* figures have been relatively untroubled by police or the courts. It certainly gives the citizens a rare insight into the nexus between police and the *milieu*. A close associate of Sergeant Roger Rogerson, Duff had been mentioned in the February 1983 report of the Stewart 'Mr Asia' Royal Commission as 'a close personal friend' of solicitor John Lawrence Aston, who 'had been associated with (Mr Asia) syndicate members'. In November 1985, a Police Tribunal heard allegations that Duff had an improper relationship with crime figures.

Judge James Staunton, sitting at the Tribunal, found on 5 December 1985 that people with criminal associations or reputations taped on Duff's telephone included: Leonard McPherson, who, Staunton said, had the reputation of being an organised crime leader in New South Wales; Christopher Dale Flannery, described as a most violent criminal and gunman; John Yuen, convicted of conspiracy charges relating to the illegal entry of aliens, and considered to be associated with illegal gambling in Chinatown; and Arthur Stanley (Neddy) Smith, described as an active criminal and gunman, and considered to, be a major distributor of heroin and an organised crime figure.

Other persons mentioned as being associates of Duff were: Murray Stewart Riley, reputed to be a leader of organised crime, involved in the importation and distribution of narcotics; Peter David Johnstone, a pilot, an associate of Riley and reputed to be involved in the importation of narcotics; former solicitor Aston, with whom Duff improperly continued his association after becoming aware from the Stewart Commission that Aston was suspected of arranging funds for the Mr Asia drug syndicate.

Judge Staunton said he accepted Detective Sergeant John McNamara's account of his conversations with Duff, which were not challenged at the tribunal. McNamara, a detective in the NSW Bureau of Criminal Intelligence, said that Duff, who said he was involved in a scheme to import heroin from New Guinea, had sought to obtain information from him on police investigations. In March, Duff said to McNamara: 'It is good for you to get to know some of the important people around town, like Murray Riley. By the way, is anyone doing anything on him at all?'

A week later, Duff said: '... Peter Johnstone ... (is) getting ready to fly some smack down from New Guinea shortly ... Roger and I have worked it all out. If we don't do it, some other c--- will...

'The first flight... he is only going to bring down one kilo... The next one after that will be eight, and the third will be 40. The only thing that we want to cover is whether the BC is doing anything on Johnstone. If you hear anything on your side, it would be worth five grand to let us know.'

Duff said Smith and Riley were the operation's front men. 'Neddy is going to get rid of all the gear (heroin),' he said. 'I've invested \$15,000 in this caper. If it comes off, we'll all be walking round with pocketfuls of money... I won't forget you (McNamara) There will be a big drink in it for you.'

Duff also said to McNamara: 'Look, there is no worries. Roger saw Murray yesterday and everything is going to plan. Anyway, Peter Johnstone is up there now; he is picking up the gear (heroin) today.'

In April, Duff told McNamara: '... poor old Neddy is as jittery as buggery. He thinks that everybody is out to kill him... Neddy thinks they [a police surveillance team] were Domican's mob. He was going to blow them away... Lenny McPherson has done the right thing: he has offered \$100,000 to anyone to kill that c--- Domican ... Wait till Neddy gets hold of that Barry McCann. He is going to kill him and steal his gear...'

A telephone conversation with John Yuen was one of several taped while Duff was under surveillance. In this, Duff was censorious of the NSW Government. He said: 'Oh mate, this Government, mate, they're bloody hopeless... they've got no guts to stick to people... you know when you see the way they got the judges and that at the moment...'

The taped conversation in early April 1985 recorded Yuen as saying he had met Justice Lionel Murphy, and that he was 'an excellent, excellent character.'

Milieu Wars

Justice Edwin Augustus Lusher was not invited to look at police corruption during his 1979-81 inquiry into police administration in New South Wales, and he made no inquiries in that direction. But, in his April 1981 report, Lusher did advert to the problem, and he made an historic advance: he advocated, for the first time, replacing the 'rotten apple' theory with a concept of organised and institutionalised corruption in the force. This was to have severe repercussions in the *milieu*. Prophetically, Lusher noted: '... the results of effective control of corruption (in the force) may well cause an increase in crime temporarily. This is because the illegal systems are controlled ... by enforcing the law against competitors so as to leave the field clear for the favoured operator... Once the immunity is lost... others... will seek to enter or even capture the field. This is likely to involve struggle...'

A crackdown on corruption in the force, feeble at first, but with increasing vigour, had the effect Lusher anticipated: the Sydney *milieu* was placed for a period on a war footing. Some of the events reported:

- Leslie John Cole was a Melbourne heavy thought to have been working for Paddles Anderson in 1982. In a move that suggests an assault on Anderson's power, Cole was executed at Kyle Bay on 10 November 1982.

- Francis Michael Salvietti was one of Sydney's bigger heroin suppliers, including prostitutes in Kings Cross, and an ally of a leading supplier who had a connection with a detective. Salvietti is believed to have instructed Emil Rusnak to carry out two executions: on Brett David Hanslow, drug-dealer, at Neutral Bay on 13 February 1983, and on Kevin Arthur Browne, middle-level drug-supplier, at Brighton-le-Sands on 28 March 1983. A year later, on 11 February 1984, police from the Special Weapons and Operations Squad, the Tactical Response Group, and Darlinghurst detectives were searching Rusnak's Homebush house on suspicion that he had sent a letter bomb to Kings Cross restaurateur Stephen Novak. Rusnak returned home at 10.30 pm and, according to the police, opened fire on them. He was killed by their return fire.

Salvietti himself was executed at Concord on 19 March 1985. A Melbourne man was extradited and charged with his murder.

- Daniel Michael Chubb, wheelman from Darwin to Sydney for the Paltos \$40 million cannabis importation in February 1984, and supplier of drugs on behalf of Michael John Sayers, was executed at Miller's Point, on 8 November 1984.

- Christopher Dale Flannery was a former Melbourne heavy twice acquitted on murder charges. According to Flannery's wife, Kathleen, he was employed by Freeman as an 'up front' man at a fee of several hundred dollars a week. 'If anyone was going to try to kill George Freeman,' she said, 'they would kill Chris first.' Thirty shots were fired at Flannery on the doorstep of his Arncliffe house on Sunday, 27 January, nicking him on the hand and ear. Barry McCann, 42, farmer, of Forest Lodge, was charged on 21 January 1986, with having harboured a felon, an unknown person wanted for the attempted murder of Flannery in January 1985. McCann was remanded on bail of \$20,000.

Flannery, 36, disappeared on Thursday, 9 May. His wife later said she last saw him when he left the Connaught for, as she believed, a meeting with Freeman at Yowie Bay. Freeman denied employing Flannery. Flannery also had connections with Duff and Rogerson.

- In the Legislative Assembly on 14 November 1985, Dr Terry Metherell asked whether police were investigating allegations that 'NSW detectives arranged with a Sydney doctor to provide false medical advice to assist a notorious Melbourne hit-man, Christopher Flannery, to avoid appearing before a particular judge'; whether the doctor was Geoffrey Edelsten, and whether Edelsten later also discussed with Flannery a \$10 000 contract to 'deal with a patient'. Police Minister Anderson said police were looking into the allegations. Through a spokesman, Edelsten said the imputations were ludicrous. On 9 March 1987, he was charged over the 'deal with a patient' discussions with Flannery, and conspiracy to pervert the course of justice.

- Michael John Sayers, ex-Melbourne, was a drug supplier in Kings Cross, an SP bookmaker said to be the instigator of the August 1984 Fine Cotton ring-in, possibly as a reprisal against other bookmakers, and had interests in several gambling clubs in Sydney's south-west. Sayers was executed at Bronte on 16 February 1985.

- Vic Camilleri, an associate of former Labor Party standover man Thomas Domican, was unsuccessfully shot at in Kingsgrove on 3 April 1985.

- Anthony Eustace Anderson, heroin supplier, was executed at Arncliffe on 23 April 1985. Detectives saw this as indicating that Sydney's top dealers were about to be taken over by a new syndicate. Homicide Sergeant Aarne Tees said: 'I think it's over heroin. There appear to be two factions involved, and some of the better-known elements of the underworld.'

Milieu warfare appears to have subsided somewhat following Flannery's disappearance in May and reports of accommodations negotiated between rival factions. However, an attempt at murder by motor vehicle was made on 'Neddy' Smith on the footpath outside the Iron Duke Hotel in Waterloo on 2 April 1986.

The Sino Milieu

The murder of a leading Chinese identity in January 1985 concentrated the minds of the media and the police on the Sino *milieu*. The *Sydney Morning Herald* recalled earlier, and largely unremarked, pointers:

- In 1976, former Narcotics Bureau operatives Ted Colmer and David Deane-Spread asserted in *The Bulletin* that the Chinese were 'the best-established heroin smugglers in Australia'.

- In the late 1970s, the historian Dr Alf McCoy and reporter Andrew Clark separately decided that Chinese had targeted Australia as a major heroin market from the mid- 1970s. (Chinese syndicates were believed to account for \$800 million of the estimated \$1100 million worth of heroin imported each year, Bob Bottom reported on 1 February 1986.)

- Paddles Anderson complained bitterly in a 1979 telephone call monitored by NSW police, that the Chinese were 'more protected than anyone.

- Former Gaming Squad head Merv Beck said, in July 1984, the disgraced former Deputy Commissioner, Bill Allen, had instructed him to keep away from Chinatown in 1981. Allen had said he 'was doing it on behalf of a senior political person'...

Stanley Wong, born 1912, became, in the past decade, a significant figure in Chinatown. In the late 1940s, Wong fled the communists and his Shanghai restaurant for Hong Kong, whence he sent his five children, Alice, Linda, Tina, Julia and Ronald, to be educated in Australia. Linda married Michael Luey, of the Taiping restaurant in Hay Street, in 1962. Luey at one time used Freeman as a driver and they remained close friends. Stanley Wong settled permanently in Sydney in 1972.

Tina Wong, 49, restaurant owner, of Castlecrag, was charged in May 1984 in connection with the 'biggest ever' heroin importation - 28 kilograms valued at \$70 million. Also charged were a restaurant owner, David Yung Te Chow, 42, of Adelaide, and a jeweller, Charoen Rirasatik, 42, of Bangkok. Tina was freed on bail of \$225 000 and paid in cash with \$50 bills. Chow later said Tina had bought an interest in a Chinese gambling club and from time to time asked him to bank amounts of up to \$50 000 in cash.

Police Minister Peter Anderson said an incident in the Empress Coffee Lounge in Kings Cross in the early hours of 17 August 1984 was part of a war between Australian and Chinese criminal organisations for control of Chinatown casinos. It was alleged that Freeman, Branco Balic and Tony Torok maliciously wounded Frank Hing. Anderson said that Hing was head of a Chinese gang, the 14K Triad. The BBC's Tom Mangold, who interviewed Freeman before the case came on, reported that he 'predicted accurately that police witnesses would not identify him'.

Freeman, Torok, and Balic appeared in court on 30 October 1984, but the case collapsed when two witnesses did not turn up, and Hing could not discern his assailants in court. Robert Evans, SM, who was critical of Hing's evidence, found no *prima facie* case against Freeman and his associates.

When Stanley Wong's throat was cut in his Maroubra house on 3 January 1985, a contract of \$100 000 was reported to be on offer for the killers. Sergeant Tees said Wong had been 'a respected businessman in this area (Chinatown) for a long, long time'. Next day, Customs Bureau sources said Wong was suspected of being a financier for an operation as big as the bottom-of-the-harbour industry; illegal importation of dutiable goods.

Wong's mourners at St Andrew's Cathedral on 8 January included Police Association President John Greaves and Cabinet Ministers Laurie Brereton and Peter Anderson. Brereton, reported to have been a close friend of the Wong family for more than fifteen years, read the eulogy.

Wee Lam Choo, illegal immigrant, 21, was charged on 10 January with Wong's murder. Choo said in a record of interview that Wong had asked him to sell 'white powder', or Wong would report him to immigration authorities. Asked what he meant by 'white powder', Choo said: 'Expensive ones, morphine.' Choo pleaded guilty to the murder of Wong. Justice Adrian Roden sentenced him to life on 28 February 1986. An accomplice, Kwang Lum Cheung, 18, was sentenced to fourteen years after being convicted of assaulting Wong and his wife with intent to rob, and eight years after being found guilty of manslaughter, the sentences to be served concurrently.

Ronald Wong said of Cheung: 'They should hang him immediately.' Linda Wong said: 'Two men murdered my father and they should be hanged.' Wran was reported to believe the eight-year sentence on Cheung was too light and should be reviewed. He asked Attorney-General Terence Sheahan to have Crown Law officers determine if an appeal should be lodged.

The Crown case at the Tina Wong committal hearing ended on Wednesday 20 March. Magistrate John Williams ruled that there was sufficient evidence for a jury to convict Wong, Chow and Rirasatik. Chow

and Rirasatik pleaded not guilty and reserved their defence; Wong elected to give evidence; next morning she collapsed and was taken to hospital in a coma from which she did not emerge.

On 21 March, Williams dismissed the charges against Wong. He later said the evidence against her was circumstantial; he could not say whether her evidence was truthful or untruthful, but he was not of the opinion that she was lying; he felt that had Wong gone to trial the jury was more likely to accept her evidence than reject it. Wong died on 23 March of a suspected cerebral haemorrhage.

At his trial in October, Chow said that when he went to the bedroom he shared with Wong on 26 April 1984, he saw a towel with white blocks on top. Wong had said: 'Don't worry about it... it's nothing to do with you... everything will be all right.' Chow and Rirasatik were found guilty and given twenty years.

The National Crime Authority, using a task force with Chinese-speaking officers seconded from Hong Kong, made the Chinese Triad syndicates a major target during 1985.

Connections

By the end of the period, events had made it possible to identify a number of connections encompassing elements of the *milieu*, business, the law, medicine, the magistracy, the judiciary, the police and the public service. The connections are interesting; it is not suggested that they were all improper, although one or two may have been.

The process is a little dizzying, but if we start with the solicitor Morgan Ryan, we find that at various periods he had connections with businessmen Abraham Saffron and John Yuen, magistrate Farquhar, former Police Commissioner Merv Wood, and Neville Wran. In 1980, the Country Party Leader, Leon Punch, described Ryan as 'the Premier's friend and associate'. Wran replied: 'To describe him as a friend and associate of mine is putting it on too high a level.' Prime Minister Hawke said of Wran on 9 June: 'He is clean. He is straight. He is incorruptible. He is tough. He is efficient.'

Farquhar had connections with George Freeman, Wood, and Dr Nick Paltos, who was Freeman's physician. Saffron had a connection with former Deputy Police Commissioner Allen, who knew bookmaker W. S. Waterhouse and former poker machine tycoon Jack Rooklyn, who in turn was reported at the Moffitt Commission to have had a connection with Saffron. Wood had a connection with casino operator George Ziziros Walker.

Yuen had a connection with Duff, and Duff had connections with McPherson, 'Neddy' Smith, Murray Riley, the solicitor John Lawrence Aston and Sergeant Rogerson. Rogerson had a connection with 'Neddy' Smith, McPherson and lawyer Ross Karp, who had a connection with Paltos in supplying \$40 million worth of cannabis.

Both Duff and Rogerson had a connection with Flannery, who is claimed to have had a connection with Freeman.

According to the *Age* tapes, Yuen was a business associate of Ryan in an illegal gambling venture, and in February 1980, told him of having paid 'J. D.' a bribe of \$50 000. A police summary of the conversation indicated a belief that the recipient was John Ducker, former NSW Labor Party strongman, apparently in consideration of a casino licence. Ducker had a major role in the manoeuvres that resulted in Wran becoming Premier.

Robert Carr, now Minister for the Environment, reported in 1979 that Ducker had 'set his sights on becoming Minister for Police in the Wran Government. Ducker has had a long-standing interest in police matters and enjoyed many contacts in the force.' He was appointed to the board of Kerry Packer's TCN Channel 9 in 1977, to the NSW Public Service Board in 1979, and became acting chairman in 1986. The Hawke Government appointed him to the Qantas board in August 1983.

Yuen declined in 1984 to be interviewed by police on the subject. In March 1984, after the Yuen allegation surfaced, Hawke said of Ducker: 'He is my friend. I trust him. He is a good man.' On 1 May

1984, the Attorney-General, Paul Landa, said the acting Police Commissioner, John Perrin, had reported that Ducker had given police a detailed interview and access to records, and had vigorously denied allegations against him. Perrin reported: 'In the absence of any further evidence, it is not possible for any further police action to be taken.'

On 23 May 1984, Landa said he was in a position to clear Ducker's name. He said the Solicitor-General, Mary Gaudron, and Crown Solicitor, Hugh Roberts, had both advised him there was no evidence from the police investigation of the tapes to support the allegations.

Tax: \$4 Billion Missing

In our opinion, the investigation reveals a link between white-collar taxation fraud and known criminals.

- Patrick McCabe and David Lafranchi, May 1981

Decisions of the Barwick High Court gave powerful encouragement to entrepreneurs of tax evasion. But it was not until January 1980, in *The Australian Financial Review*, that the term 'bottom of the harbour' appeared, apparently for the first time. A senior investigator at the Sydney Taxation Office was reported as saying that the office was frightened at the size of the problem and could only guess at its scope; the tax schemes, it was reported, were jokingly referred to as 'Bottom of the Harbour Pty Ltd' by members of the Sydney tax avoidance fraternity.

There were several tax avoidance schemes, but one of the most popular was to strip a company of assets before selling it to someone else - a role filled by the criminal subculture of the Melbourne docks - that 'someone else' gave a false name and address, took the company records, destroyed or hid them and disappeared into obscurity. It was judged, correctly in many cases, that the tax and corporate affairs offices would eventually become discouraged. The Nugan Hand Bank, which had connections with organised crime, saw opportunities in running such schemes. It was disclosed in evidence before the Costigan Royal Commission in Sydney that many of Nugan Hand's clients came from the medical profession.

In November 1978, McCabe and Lafranchi were appointed by the Victorian Attorney-General to investigate the affairs of three Queensland corporations and 923 Victorian companies from 1 January 1973 to the date of appointment. Their report, completed in November 1981, was published in May 1982. They found widespread abuse of the tax laws by dumping: 'All but two of the declared companies were purchased by a tax avoidance dealer from vendors desiring to minimise or avoid the amount of income tax payable.

'Each of the companies was later "sold-on" by the dealer to purchasers who were... in our opinion false, fictitious or misleading... 'The sale-on transactions were a 'sham'; the companies were dumped; and the tax liability thereby avoided or evaded.

McCabe and Lafranchi estimated that the loss of revenue to the Federal Government from the 923 Victorian companies was in excess of \$65 million, and for all 3000 companies in excess of \$200 million. They also criticised the Taxation Office for failure to prosecute known practitioners of the method and those solicitors and banks which took part in the process.

Meanwhile, in 1980, the Fraser Government, disturbed by reports by David Richards in *The Bulletin* of malpractice in the Victorian branch of the Federated Ship, Painters and Dockers' Union, had appointed Frank Costigan QC to head a Royal Commission. Mr Costigan, assisted by Douglas Meagher QC inevitably came across the path traced by McCabe and Lafranchi. He found that some painters and dockers were part of sophisticated tax-avoidance schemes. Operators of variations of the Sutzkin tax

avoidance schemes used them where it was necessary to disguise the identity of the new directors of a company, and to discourage pursuit of those directors.

Mr Costigan found that the painters and dockers' union provided false identities for men in difficulty with the law. He also found that the bureaucrats of the Tax Office and the Corporate Affairs Commission were 'less likely to pursue them with the vigour which non-violent members of the community might well expect to see.' Indeed, the Commissioner of Taxation told Mr Costigan that 'he would not be prepared to have his officers exposed to the possible physical danger which might flow from close contact with painters and dockers.'

Mr Costigan revealed that dishonesty, gross negligence and incompetence in the Federal Crown Solicitor's office had allowed 'a major fraud' on Federal revenue through tax evasion. He argued that the origins of the Government's failure to outlaw bottom-of-the-harbour tax schemes lay in legal error and the incompetence of its own advisers. The then Federal Attorney-General, Senator Peter Durack, said he felt no obligation to resign. Mr Costigan said the money likely to be lost in revenue could not be estimated but 'it is measured in hundreds if not thousands of millions.'

In 1985, the Treasury's estimate of tax evaded by the black economy was \$4 billion, according to a report in *The Sydney Morning Herald* on 3 June. Thus: \$1 billion - small business; \$1 billion - fringe benefits not declared; \$2 billion - the underground work force, estimated in 1981-2 to be some figure between 204 180 (three per cent of the work force) and 746 398 (11.6 per cent of the work force). Tax recouped under Treasurer Howard's 1982 retrospective TUCT Act (Taxation [Unpaid Companies Tax] Act) between December 1982 and 30 June 1985, was \$460 million, it was reported on 16 October.

A further \$130 million was expected in the year to 30 June 1985. These moneys were recovered from sellers of the companies 'drowned' by tax specialists. It appeared that tax specialists were charged; sellers were billed for the unpaid tax.

The Federal Directorate of Public Prosecutions had so far charged fifty-eight people with conspiring to defraud the Commonwealth through bottom-of-the-harbour schemes, it was reported on 21 October 1985. Of the fifty-eight charged, five had been tried and all five, including Brian Maher, had been convicted.

The report said that the DPP squad of 132 included twenty-seven lawyers, twenty Federal Police officers, twenty-four tax investigators and ten financial investigators, and that the DPP's staff were working on another ten major investigations.

Maher: Brian James Maher, 47, one of the nation's biggest tax avoidance promoters, on 14 October 1985, was found guilty of conspiracy to defraud, and sentenced by justice Billy Carter to five years in prison.

Maher was believed to have been involved in the stripping of 1400 companies in the course of the companies evading some \$150 million tax, but the stripping of only ninety was proved at his trial.

Wynyard: Sydney accountant John Walker Wynyard, 52, charged with conspiring to defraud the Commonwealth of \$126 million in tax, died in August 1985 before he could be brought to trial.

Askin: Former Premier Sir Robert Askin died on 9 September 1981. His widow, Molly, died in March 1984, leaving an estate of \$3 724 879, mostly derived from Askin's estate. In her will, Lady Askin directed that cash gifts, of \$1 255 000 be paid to relatives, friends and charities. Half the remainder was to establish a perpetual fund, to be called the Sir Robert and Lady Askin Trust, for the welfare of animals. The aims were to 'discourage cruelty, repress brutality, and thus elevate the human race'. However, a tax probe into the source of Askin's wealth had revealed that large sums Askin said he won at the races had come from other sources, and were therefore taxable, it was reported on 22 September 1985.

The report noted claims that Askin had sold knighthoods for up to \$60 000 'during a decade of corrupt rule', and had extorted hundreds of thousands of dollars from criminals running illegal casinos.

Drugs: \$2 Billion A Year

Clearly, organised crime presents a threat to our society. It is equally clear that it is the responsibility of the governments of this nation to devise means whereby they can counter and combat the threat that is posed.

- N. K. Wran, QC, Premier and Minister of Police, policy statement, 27 February 1979.

Note: Unless otherwise stated all dates in this section are 1985.

Australia had no heroin problem until the mid to late 1960s. For elements of the *milieu*, the progression, as predicted by Justice Moffitt in 1974, was from marijuana to harder drugs. Statistics are difficult to obtain, and probably unreliable, but figures tabled by the NSW Royal Commission into Drug-Trafficking in 1979, for example, showed a 24 per cent increase in heroin users in New South Wales between 1976 and 1978, with the number of heavy users in New South Wales rising from more than 7000 in 1976 to about 9250 in 1978. The number of hard-core heroin addicts in New South Wales is estimated by police and medical authorities to be in excess of 10 000.

The Williams Royal Commission estimated that the amount intercepted might be less than 10 per cent of the total. In 1973, Federal Police took possession of 97 kg of heroin, but took 70 kg in the first four months of 1984. Overall, according to Royal Commission calculations, the total turnover for all illicit drugs in Australia now totals around \$2 billion a year, including \$1.1 billion for heroin and \$375 million for marijuana.

The murder on 15 July 1977, of Donald Mackay, who had been campaigning against the 'kings in grass castles' of the Griffith marijuana trade, was probably the biggest mistake ever made by organised crime in Australia - it precipitated two Royal Commissions on drug-trafficking, the 1977-79 NSW Woodward Commission, and the 1977-79 Federal Williams Commission. In November 1979, Justice Woodward found that the marijuana industry in Eastern Australia between 1974 and 1977 was organised almost exclusively by a group of Calabrians based in Griffith. The group was well organised with markets in Sydney and Melbourne. It used legitimate businesses to 'launder' its earnings.

Justice Woodward named sixteen members of the group, known as the Honorable Society or *L'Onorata*. He said it was led by Robert Trimbole and Antonio Sergi and estimated that Sergi had net assets of \$2 million from marijuana trafficking. He found that it was highly probable the group was responsible for the murder of Mackay. The NSW Government announced increased maximum penalties for serious drug offences; increased the maximum period of imprisonment, and set up, in co-operation with the Federal and other State Governments, a central crime intelligence unit - the Australian Bureau of Criminal Intelligence.

The author of *Drug Traffic*, Dr Alfred McCoy, criticised the report for what he saw as its naive, narrow conception of the operation of drug-related crime; for its contention that there was no political and little police protection; for its assertion that there was no US crime syndicate involvement; for failing to make the connection between marijuana in Griffith and heroin trading, as later revealed in the Stewart inquiry, and for failing to note two Mr Asia heroin murders took place during the period of the Commission. The *National Times* argued that justice Woodward seemed conceptually blinkered by the notion that organised crime meant a rigidly hierarchical structure controlled by a Mr Big, and for the consequent deduction that heroin trafficking was therefore not in the hands of organised crime.

Following allegations in the NSW Parliament by the National Party leader, Leon Punch, the Woodward Commission was extended to investigate allegations against the Deputy Mayor of Leichhardt, Danny

Casey, and his associates. Justice Woodward found that the claims that Casey and the business conducted under the name of Balmain Welding Company had been involved in the distribution and supply of drugs were not substantiated. He found, however, that the Wings Travel company, had been involved in drug-trafficking. The facilities of the company were used by drug-traffickers but he could not make a positive finding that two principals, Rev Father Brian Edward O'Dwyer and Paul Dole, were involved in drug-trafficking.

The Williams Royal Commission, headed by Justice Edward Williams, of Queensland, was announced by Prime Minister Malcolm Fraser in October 1977 to investigate the extent and methods of illegal drug importation and trafficking and the connection between drugs and other organised crime. It found there had been increases in heroin trafficking, in the use of violence, and in the involvement of known criminals; that not more than 10 to 15 per cent and perhaps as little as one per cent of drugs imported were intercepted. It estimated the cost to addicts at \$59 million and identified Sydney as the centre of importation and distribution.

Justice Williams found that illegal gambling, betting, prostitution and pornography provided the cash flow for dealing in drugs and that drug-ring principals confined their activity to planning and financing and did not participate directly. While he found no evidence of a Godfather-type hierarchy, Justice Williams remarked that there were 'plenty of Mr Big Enoughs.'

Neither Commission, however, appears to have come to grips with the activities of the Mr Asia heroin syndicate, which operated in Australia from mid-1976 to mid-1979, although State and Federal authorities were given a full rundown of the syndicate's activities in June 1978.

Douglas and Isabel Wilson, Sydney operatives for the Mr Asia heroin syndicate from late 1977, were arrested in Brisbane in June 1978 and interrogated from 9-12 June by both Queensland police and Federal narcotics agents.

They described, on tape, the syndicate's operations, and alleged that Terrence John Clark had been responsible for a number of murders, and that the syndicate had hired an inside man at the Australian Bureau of Narcotics at \$25 000 a year, plus a charge of \$1000 for computer information, and \$4000 to remove a file. The Wilsons were released; nothing was done about their information. It was later alleged that Terrence John Clark, head of the Australian branch of the Mr Asia syndicate, was advised that the Wilsons had been talking to police and narcotics agents.

On 18 May 1979, the Wilsons' bodies were found at Rye, eighty kilometres south of Melbourne. The 1981-83 Commonwealth / State Stewart Royal Commission into the activities of the Mr Asia heroin syndicate followed. At the Wilsons' inquest in August 1980, Melbourne coroner Kevin Mason recommended an inquiry into the Mr Asia syndicate. Justice Donald Stewart, a former policeman and then of the NSW Supreme Court, was appointed to head a Royal Commission.

Justice Stewart found that Terrence John Clark, then in gaol in Britain after being found guilty of conspiring to murder the former head of the Mr Asia syndicate, Christopher Martin Johnstone, had ordered the murder of the Wilsons and four other members of the syndicate and had personally executed three of the six. He found that the syndicate had operated freely from 1976 to 1979 with little police interference and had imported about 85 kg of heroin. With distributors around Australia and suppliers in South-East Asia, the syndicate used young female couriers who carried the heroin through customs in false-bottomed suitcases. He found that a Narcotics Bureau officer, Richard Spencer, provided Clark with confidential information via Brian Alexander, a clerk in the firm of John Aston, a Sydney solicitor. Aston acted for Clark on a number of occasions and permitted the use of his trust account for the laundering of syndicate takings.

Justice Stewart recommended a co-ordinated criminal intelligence gathering operation; independent investigation of cases of police corruption; power to tap phones with judicial approval; frequent rotation of police in high risk areas.

Not all of Justice Stewart's recommendations have been adopted. The Government says some have been considered in terms of the National Crime Authority; others are being considered as part of a review of criminal investigation.

Drug trafficking in New South Wales in early 1984 was almost out of hand; house robbery had reached epidemic proportions; major crime associated with gambling went largely unchecked; training appropriate to dealing with organised crime was lacking, according to the first report of the NSW Police Board. Police Minister Anderson received the report, covering the period from January to June, in November 1984. He tabled it on 23 April 1985, the last parliamentary sitting day for six months.

Ninety per cent of heroin users committed property crime to support their habit, according to an 11 January report, derived from a survey of 225 property offenders in New South Wales prisons, by the NSW Bureau of Crime Statistics. A report of a joint Federal-New South Wales task force, tabled on 23 April, said a highly organised criminal conspiracy was behind shipments of illicit drugs coming into Australia through the ports of Sydney and Port Botany; Customs had seized drugs in a wide range of containerised cargo including car tyres, wooden statues, floor tiles, slabs of wax, and pineapple tins, most frequently from Hong Kong, India, Thailand and Lebanon.

The estimated number of heroin addicts in Australia was some 20 000 with more than half in New South Wales, Chief Superintendent Jim Willis, leader of the Joint Task Force on Drug Trafficking, told a drug seminar in June. He said the purity of heroin in Sydney, twenty to twenty-two per cent, as against four to five per cent in the US, was high by Western standards; it suggested an abundant availability which did (not reflect well on our enforcement efforts'.

A marijuana plant was worth \$492 and fifty grams of dried marijuana was worth \$145 (forty-two times the price of an equivalent packet of tobacco), according to figures given in a court action against Garry Benjamin Hildred, aka Digger Revell, 42, on 21 August. Former justice Athol Moffitt said in November that a by-product of marijuana marketing was that 'it provided a cash flow to finance importation of harder dope, such as heroin and cocaine'.

There was an echo of the old Mr Asia heroin syndicate when the Crown appealed on 19 November 1984 against a sentence imposed on Francesco Mittiga in March 1984. Mittiga, 23, a clerk in the Sydney Passport Office, had helped arrange five passports for members of the syndicate. He pleaded guilty on 5 March to conspiring with Robert Trimbole between May 1978 and September 1981 to procure Australian passports illegally. Judge John Murray Foord fined Mittiga \$2000 and put him on a \$1000 good behaviour bond for three years.

An appeal by the Crown was upheld in April. Chief Justice Street said the court had to intervene to counter sentencing errors by Foord. Mittiga was sentenced to twelve months, reduced to one month because of the time taken to finalise the matter.

Punters

'The backbone of any mob is gambling.'

- Vincent (Big Vinnie) Teresa, 1977

Note: Unless otherwise stated all dates in this chapter are 1985.

Justice F. X. Connor, chairman of a Victorian Board of Inquiry into casinos gave his view of our friendly SP bookie at the National Crimes Commission conference in July 1983: '...illegal bookmaking is a multimillion dollar industry run by people who can get up to forty or fifty telephones, and who, if their telephones are closed down, can get them in new premises a week later.

'The profits, it is a fair inference, are used to finance other organised crime or, even more insidious, to enable organised crime figures to go into legitimate business. Illegal bookmakers prosper, making millions of illegal dollars, simply because they do not pay income tax or betting tax.'

In his 1983 report, Justice Connor estimated that the annual turnover for SP bookmaking was \$1800 million in NSW and \$1000 million in Victoria. There are no estimates for the net profit to the SP operators. In 1981 the then head of the Federal Bureau of Criminal Intelligence, Fred (The Cat) Silvester, said he had once informed a former NSW Police Commissioner, Norman Allan, about extensive SP links between Sydney and Melbourne, and provided details. Nothing was done; Silvester got the impression that NSW police warned the SP operators.

The 1974 Moffitt report recommended that NSW police set up a Crime Intelligence Unit to target for surveillance selected *milieu* personalities. George David Freeman was one such targeted.

In March 1977, the CIU produced a report on Freeman's record and activities. These included connections with US organised crime figures and twenty illegal betting outlets. Acting on the report, Assistant Commissioner (Crime) Reg Stackpool, had arranged for the 21 Division to examine the illegal betting information. The squad claimed to have come to the conclusion that Freeman was a commission agent and nothing more, an assertion that Freeman has frequently made. In October 1981, the new-broom Police Minister, Peter Anderson, disbanded the 21 Division and appointed Superintendent Merv Beck head of a new Special Gaming Squad. Beck cut a swathe through the SP network and illegal casinos.

Beck retired in January 1982 but periodic blitzes have continued. In a weekend in January, 1983, Special Gaming Squad detectives arrested twenty-seven SP betting operators and charged another thirty people with gambling offences. The same month, police moved on Freeman. He denied he was involved in SP bookmaking in a big way, and claimed again that he was a legitimate commission agent. He said that, when he was arrested, he had only just started in SP to fill a localised need. He pleaded guilty and was fined \$500.

Casinos: In the eleven years, from 1965 to 1976, of the Liberal-Country Party Government, thirteen major illegal casinos operated openly in Sydney. By definition, all persons in an illegal casino were consorting with known criminals. Had the consorting laws not fallen into disuse, it is obvious that the politicians, public personalities, business and professional men, journalists, judges and criminals who frequented these places could have been booked for consorting, and this in itself would have caused the collapse of illegal casinos.

The Task Force report of October 1982 gives 1975 as the year the Double Bay Bridge Club casino started, but the author Dr Alfred McCoy quotes Dr Geoffrey Lewis, a lecturer in economics at Sydney University, as making a study of roulette odds there in 1974. He calculated the annual profit at the club at \$2.3 million, or \$383 333 a year for each of the six partners, assuming they had equal shares. The Forbes Club presumably produced a similar profit.

Employees to the Double Bay club told Lewis that the club paid bribes of \$5000 a week to 'senior police and politicians.' This was supported in September 1981, when *The National Times*' David Hickie quoted an 'impeccable' source from the Galea empire as saying that Commissioner of Police Fred Hanson and NSW Premier Askin each got \$100 000 a year from the club. Early in June 1976, Premier Wran said his Government intended to legalise casinos to end the long-standing scandal. Stanley John Smith, Balmain identity and associate of Freeman and Leonard McPherson, conceived a plan designed to ensure that current owners would continue to run casinos when they became legal.

Smith's suggestion was for casino operators to put up large sums of money to bribe politicians to appoint the 'sweet' people to any board that would grant licences and administer casinos. But, he reasoned, there would be a lot of 'wealth' seeking licences; there could be no penny-pinching on the part of mean casino owners. To outline his plan, Smith arranged a meeting at the Taiping Restaurant, Elizabeth Street, Sydney, on 22 June 1976. His speech, recorded on tape, gives the impression that he had dined well before rising: he seems a little fatigued and emotional. Some extracts:

'Well, there is the greatest lobby that you blokes should be working on now, because I think that f-ing Wran now, eventually, with the amount of money that's going, the amount of wealth that is interested in getting in this thing, will f-ing turn on you. Look, he's a politician; you know, as well as I do, they're the shiftiest bunch of f-ing people that ever, ever lived.

'The reason I say this because now, going from my own personal point of view, of just what type of people you are, Lee and Andrews and so on, and any, all of you who might be listening to this, I've never found you the most generous people I've ever f-ing heard of, you know, so perhaps you might be looking at long pennies...

'Look, we're dealing with politicians and that's hard cash... let's get down to it: to go under a board, well, you've gotta have some control of who the board is and put the men that are sweet, not might be sweet...

'Look, if you talk, listen to the little friend of mine as I'm saying, you'll know what we are talking about and what you are facing here now. Listen, man, we done the same six years ago, the exact same thing you are facing now. We run it because we put the right men, the right business administrators in to f-ing handle it, with our brainpower behind and so on, but collectively, not as individuals.

'Whether I'm smart, or the little bloke with you now is smarter than me, well, that's nothing to do with it...'

It is understood that Freeman is the person referred to as 'the little bloke', and a section of the CIU's March 1977 Freeman report mentions the so-called Taiping Conspiracy.

On 18 November 1977, some nineteen months after he came to power, Mr Wran directed Commissioner Wood to shut down the casinos 'within the next few weeks' and to ensure 'that they thereafter remain closed'. The closure was achieved, temporarily, but not before some 'comic cuts and a laugh', as Mr Wood called the Taiping tape.

Mr Wood said he had three discussions with Mr Wran. 'Last week we decided that 16 December would be the last time casinos would be allowed to operate,' he said. 'The casino proprietors were then told that 16 December was the time to shut down. Later I was told that more than 300 people were employed in casinos in Sydney and other parts of the State. I was rather shocked when it was pointed out to me that these people would be jobless a couple of weeks before Christmas. I had another conference with Mr Wran and he was also equally surprised that so many people were employed at casinos. The Premier agreed that at least these people should have a happy Christmas.'

Mr Wran said Mr Wood's remarks were 'laughable.' Mr Dick Healey, Liberal MLA, asked: 'If he (Wood) finds a marijuana crop on a farmer's property, he will allow him to harvest and sell it before 31 December so that he will have a happy Christmas?' Mr Healey claimed that the casino operators had 'been given notice to store the equipment safely until the Premier moves to license gambling casinos.'

The casinos continued operating until 31 December 1977. After that the major ones closed for a time. They were again closed in 1979 in a blitz by Superintendent Beck, but they remained shut for only about nine months. By September, 1981, there were some twenty-six illegal casinos operating in the metropolitan area.

As noted above, Beck was put in charge of the Special Gaming Squad in October 1981. In the previous month, the 21 Division had made a total of five arrests for illegal gambling. In November, Beck's Special Gaming Squad made 158 arrests; the number in December was 403. In the three months before Beck's retirement on 13 February 1982, his squad made 1026 arrests.

TFR3 listed casino owners, without specifying the particular periods at which they were owners, as follows:

Forbes Club, Forbes Street, Kings Cross: Percival Galea (deceased); Bruce Galea; Eric O'Farrell; Ronald Lee, Reginald Andrews (alias Reginald Norman Hall), Steven Reves.

Double Bay Bridge Club, New South Head Road (later the Telford Club, Spring Street, Bondi Junction): As per Forbes Club. In addition, George Pierce (Duke) Countis 'owned' one card table at the club.

Goulburn Club, Goulburn Street: George Ziziros Walker.

Rozelle, Victoria Road: George (Judda) Wise (owner in partnership with others).

Strathfield, Albert Street: Graham George (Billy Crocodile) Palmer.

The 33 Club, Oxford Street, Darlinghurst: Michael (Jnr) and Patricia Moylan.

88 Kembla Street, Wollongong: Daniel Dunn, Barry Raymond McCann.

The Palace, Orwell Street, Kings Cross (after Wollongong): Daniel Dunn and Barry McCann (managers).

The Task Force Report gives some history: 'The three casinos known as the Forbes Club, Double Bay Bridge Club, and Telford Club, which operated in Sydney from the 1960s were controlled by the same group of individuals, namely Eric O'Farrell, born 19 July 1910; Percival Galea, born 26 October 1910; Reginald Andrews, alias Reginald Norman Hall, born 1 November 1915; and Ronald Lee, born 13 March 1931. O'Farrell and Perc Galea commenced their joint gambling enterprises in the mid-1950s when they opened and operated the Victoria Club, in Victoria Street, Kings Cross, at which baccarat was played.

'Meantime, Lee and Andrews operated the Kellett Club in Kellett Street, Kings Cross, but following the fatal shooting in June 1967 of Richard Gabriel Reilly, one of the partners of the club, it closed. Lee and Andrews then joined O'Farrell and Galea and opened the Fountain Club in Kings Cross, together with George Walker (later of the Goulburn Club), and Eli Rose, born 13 August 1908 (deceased).

'Around the same time (1967), O'Farrell and Galea purchased a property at 155 Forbes Street, Kings Cross, and opened the Forbes Club. They were joined in this venture by Andrews and Lee. Much later another partner joined the group - Steven Reves, born 17 March 1919.

'The Double Bay Bridge Club, which operated on two floors at 255 New South Head Road, Double Bay, opened in 1975 with the same five holding a financial interest in its operation.

'About Christmas 1976 the same group opened yet another casino, the Telford Club, which operated from the first floor of Telford Towers, Spring Street, Bondi junction. Around that same time their operations at Double Bay stopped.

'Following the death of Perc Galea in 1978, his son Bruce, gained partnership status, though he had been involved in the operation of the casinos on behalf of his father for some years prior. The Forbes and Telford casinos operated until 1979 when they closed. Since that time they have operated sporadically.'

On 29 May 1987, the Police Minister named in Parliament what he called 'hard-core' illegal casinos in Sydney. He gave the following list of the illegal casino premises, their operators and owners:

77 Darlinghurst Road, Kings Cross. Operated by Bruce Galea, South Coogee, and Frank Amante, Condell Park. Premises owned by Eabona Pty Ltd, Gordon Grey, Watsons Bay; Kimesia Abberton, Tamarama; and Frederick Richards, Surry Hills.

17 Bayswater Road, Kings Cross. Operated by Albert Deen of the Barclay Hotel, Kings Cross. Premises owned by Lehebo Pty Ltd; directors: Warwick Rooklyn, Vaucluse; John Garde, Springhill; and Timothy Schofield, Terrey Hills.

26 Bayswater Road, Kings Cross. Police believed this was not then operating so the owner was not named.

92 John Street, Cabramatta. Apparently not then operating.

455 New South Head Road. Former operators Tony Torok and Michael Samir had been evicted by the owners.

28 Kellett Street, Kings Cross. Operated by John Cudek, Bondi. Premises owned by Bometo Pty Ltd c/- J. Salvetti, Edgecliff.

132B Oxford Street, Darlinghurst. Operated by Joseph Haddad, West Guildford. The owner of the premises appeared to police to be genuinely unaware premises were being used for illegal gaming and said he would take up matter with lessee.

70 Ramsay Road, Haberfield. Owned and operated by Thomas Magnifico, Abbotsford.

294 Marrickville Road, Marrickville. Operated by Hoai Niem Luu, Cabramatta. Premises owned by Deemgrove Pty Ltd - directors Peter Deligiannis, Campsie; and George Gotsis, Belmore.

55 Goulburn Street, Sydney. Operated by Frank Hing. Premises owned by Hynest Pty Ltd; directors: Frank and Shirley Hing, Arncliffe.

71 Dixon Street, Sydney. Operated by John Chi. Owned by A. W. Seeto, Castle Cove.

20 Bayswater Road, Kings Cross. Operated by Kim Ng, Drummoyne. Owned by Herselt Holdings; directors: Leslie and Gloria Jones, Kellyville.

680 Darling Street, Rozelle. Owned and operated by Bruce Hardin, Strathfield.

31 Norton Street, Leichhardt, operated by Mark Madigan, Castlecrag, premises owned by Madigan and Kenneth Carstens, Bellevue Hill.

217 Thomas Street, Haymarket. Operated by John Mang of Redfern. Premises owned by Yucare Pty Ltd. Police had been unable to establish the directors.

It was also reported that day that a complaint had been made to the Ombudsman by the Goulburn Club - named in Parliament as Sydney's biggest illegal casino - over damage caused during police raids. Paciullo said the complaints followed two police raids on the club, one in April and in the previous week. The raids resulted in more than 100 people being arrested and over \$100,000 in cash and gaming equipment being seized from the club, in Goulburn Street. He said: 'As a result of the raids by the police, the Goulburn Club made complaints about damages caused by the police and about an over-use of powers.'

Footnote: In 1974, the Moffitt Royal Commission found that there was a real and very material risk of organised crime infiltrating operations of licensed clubs in New South Wales through a poker machine company, Bally Australia Pty Ltd. The then head of Bally Australia, Mr Jack Rooklyn, said the report by Justice Moffitt was based on 'rumour and innuendo', and that 'any fair-minded Australian' would agree there were no grounds for the conclusion that Justice Moffitt had reached. In the event, no action was taken against Bally Australia as a result of the Moffitt report, and some years later Bally was advertising in the *NSW Police Journal*.

As a mark of his displeasure at the Commission's finding, Rooklyn, who later severed his connection with Bally, named his new yacht, Ballyhoo.

'As sure as night meets day, gambling in casinos will be legalised in New South Wales.' - Neville Wran, 2 September 1976.

Eight years after Wran's accurate prediction, there were more gambling clubs in Sydney than in Askin's heyday, according to a report in *The Sydney Morning Herald* on 8 January 1985. A spokesman for

Police Minister Anderson said a Cabinet committee was examining the operation of the clubs. About the same time, two *milieu* figures began manoeuvring to sew up casinos against the day they were legalised, according to a later report.

Both were said to have been involved in gambling and protection rackets for years, and at least one had been involved in the *milieu's* contingency planning in 1976. Their activities indicated that they believed the Government was likely to close a large number of clubs by tightening loopholes in the Act; to allow selected ethnic coffee bars to continue, and to allow selected upmarket casinos to continue operating.

The two began leaning on operating clubs. Most accepted their terms; others did not. A series of fire-bombings of clubs, shootings and assaults followed in the early part of 1985.

Anderson received a report in August from John Lloyd-Jones, QC, 58, chairman of the Government's special committee on gambling. The report recommended a legal system of both casino and ethnic card clubs. Remarkably, the Lloyd-Jones report stated: 'Gaming establishments require expertise to succeed; therefore a blanket ban on the licensing of any person now associated with illegal or "loophole" gaming would present problems in finding suitable personnel. Each individual case should be a matter for the licensing tribunal'. In short, criminals should be in the running to obtain a licence to run a legal casino. However, Wran later announced that the Government would legislate to allow only one legal casino, as part of his Darling Harbour re-development scheme.

In the week preceding the legislation, a Tweed Heads magistrate upheld a prosecution, based on existing legislation, against a casino operator. This decision raised questions about assertions that police had been unable to prosecute 'loophole' casinos.

Race-fixing: The race track is a great meeting point for criminals of all kinds, but the authorities seem to have great difficulty in coming to grips with race crime. In 1981, the Australian Bureau of Criminal Intelligence (ABCI) reported there was 'a massive conspiracy among the horse-racing fraternity, who are said to be involved in the fixing of horse races for huge financial gain'. Following this report, NSW BCI initiated in late 1981 a ten-month inquiry. They interviewed 100 people and reported in four volumes in 1982, but the Police Prosecuting Branch is understood to have concluded that there was insufficient evidence for charges to be laid.

In 1984, a Victorian BCI report identified jockeys, trainers, bookmakers, organised crime figures said to be involved in large-scale race-fixing in all States. It recommended that the NCA undertake a major inquiry. The NCA was considering this, it was reported on 2 February 1985.

Fine Cotton: Bold Personality was rung in for Fine Cotton at Eagle Farm, Brisbane, on 18 August 1984. In Sydney on 30 November 1984, the AJC committee 'warned off' all race tracks under the AJC's control eight persons in connection with the Fine Cotton ring-in. It was understood that the warning-off effectively banned them from attending any race meeting in the world.

Judge Alf Goran, sitting as the Racing Appeals Tribunal, on 12 December 1984 began hearing appeals by warned-off Sydney bookmakers Bill and Robbie Waterhouse, bookmaker's clerk Robert Hines, Canberra bookmaker Peter McCoy, professional punter Gary Clarke, and John Gough.

Goran said he had noted eleven things on a video of the race, including the fact that some other jockeys appeared to be 'standing in the stirrups'. He said: 'This is something more than a ring-in, as it deals with the issue of insurance of the success of Fine Cotton.' Except for Gough's appeal, which he upheld, Goran dismissed the appeals on 24 January 1985. On 1 February, he refused to alter the AJC's ruling that the Waterhouses and three others be warned off for an indefinite period.

Goran said the conduct of the appellants amounted to participation, in their own way, in a 'fraud of great magnitude. The actual links between what I might call the "Waterhouse organisation" and the ring-in itself have not been established. That there is some indirect link is beyond question'. He went on: 'While I have found that the present appellants were not the main perpetrators of the (Fine Cotton) substitution, nevertheless their participation in the fruits of the fraud, with the knowledge of the fraud... carries a deep

taint of fraudulent conduct with it. Each appellant remains marked as a cheat.' The NSW Harness Racing Authority later allowed Bill Waterhouse to enter trotting venues.

Queried on this in October, Sport Minister Michael Cleary said he had no power to overrule the Trotting Authority's decision. Opposition Leader Greiner, claiming the Government had ultimate control of racing in New South Wales, said this was 'one of the most lily-livered weak-kneed answers' he could recall.

Police charges of conspiracy to defraud were instituted in August against Robbie Waterhouse, McCoy, Clarke and his wife Glynis, merchant banker Ian Murray and the Rev Fr Edward Brian O'Dwyer. In Brisbane, five were charged with conspiring between 1 May 1984 and 19 August 1984 to defraud in connection with the ring-in: Gold Coast con man John Patrick Gillespie, 44; Hayden Haitana, horse trainer, of Elizabeth Fields, South Australia; Tomasso Di Luzio, 36, electronic technician, of Sunnybank, Brisbane; Robert Roy North, 33, company director, of Wellers Hill, Brisbane; and John David Fraser Dixon, 39, salesman, of Moorooka, Brisbane.

Detective Senior Sergeant Kenneth Scanlan, head of the Brisbane Consorting Squad, produced a tape and transcripts of an interview with Haitana, in which Haitana said Gillespie had approached him about the ring-in. Gillespie had told him that police and Queensland Turf Club stewards, specifically the then QTC chief steward, Andy Tindall, were 'on side'. Haitana said he estimated that Gillespie had \$30 000 to pay off police.

Gillespie disappeared on 31 May. At the trial in October, the court was told that the race was watched by Gillespie in the company of former Deputy Police Commissioner Les Duffy, Detective Sergeant Graham (Mick) McMullen and Detective Mike Sparkes. McMullen told the court that Gillespie and Sparkes had bets on Fine Cotton. Asked how they came to be watching the race together, McMullen said: 'Well, just one of those accidents of fate, I think.'

The Crown withdrew its charge against Dixon, and De Luzio was found not guilty. Haitana and North were found guilty. On 13 November, Judge Lowenthal sentenced them to twelve months. It was later reported that the Queensland Government would lodge an appeal over the sentences. Gillespie, the alleged mastermind, was arrested at Cobram, in Victoria, on 26 November. He pleaded guilty and appeared for sentence on 10 February 1986.

His counsel, Phil Hardcastle, said that SP bookmaker Michael Sayers, shot dead in February 1985, had instigated the ring-in because he had lost \$3 million by taking bets on races that were fixed. He said that Robbie Waterhouse was not aware of the ring-in. Judge Lowenthal, describing Gillespie as the main conspirator in the Fine Cotton ring-in from beginning to end, gave him four years.

SP: The Age reported on 19 August that in a twenty-two-month period from 21 January 1980 to 26 October 1981, Kerry Packer paid SP bookmaker John James Rogan \$4.04 million. In the slightly longer period to 13 November 1981, Rogan paid Packer \$1.19 million. This suggests that Rogan won \$2.85 million from Packer over the period. In one week of December 1980, Rogan received \$685 000 from Packer, and paid him nothing.

On 29 January 1986, Magistrate Kevin Maugham found George Freeman guilty of using his Yowie Bay house on 8 April for illegal SP betting, and fined him the maximum of \$5000. Freeman said he would appeal. Two nights later, Freeman stood in as guest horse-racing tipster on Kerry Packer's Channel 9.

Lotto: Total revenues from the Lotto franchise, awarded by the NSW Government to media magnates Kerry Packer and Rupert Murdoch and racehorse owner Robert Sangster in 1979, were just over \$1 billion: \$600.4 million to prize money, \$336.2 million to the Government, and \$64 million to the Packer-Murdoch-Sangster consortium, it was reported on 3 November 1984.

3. THE LAW: Attitudes to the Law

'...it is of the first importance that the people of this country should have confidence in basic institutions such as Parliament, the courts, Police forces, and prosecuting agencies.'

- Ian Temby QC, 14 October 1984.

In recent years, prosecutions have been initiated against such diverse types as Murray Stewart Riley, lawyer Morgan John Ryan, former magistrate Murray Farquhar, George David Freeman, justice Lionel Keith Murphy, Sergeant Roger Caleb Rogerson, judge John Murray Foord, Abraham Gilbert Saffron, the Hon. Rex Frederick Jackson, MP, Dr Nicholas Paltos, and the Hon. Neville Kenneth Wran, QC, MP.

Whatever the merit or outcome of these prosecutions, they indicate that no one is above the law. A measure of confidence in the administration of justice has thus been restored. The need for such restoration was compelling; there have been at times grave suspicions that powerful interests could manipulate the law.

Three groups in the community may be defined: the manipulators, the disillusioned, and those who believe that justice means what it says. The disillusioned may be seen as a growing or shrinking circle within the circle of believers. In the cases below, we are dealing with public perceptions. More subtle and private manipulations, such as getting the 'right' result by hiring the right barrister for the right case before the right judge are beyond the scope of this chapter, or at least beyond the skill of the writer.

The term 'cover-up' can be a euphemism for a perversion of the course of justice by way of preventing proper investigation. First, some brief notes on perceptions of federal administration of justice.

The Liberal leader in the Senate, Frederick Michael Chaney LLB, wrote in *The Sydney Morning Herald* on 23 December 1985: 'The rule of law is basic to the preservation of democracy. That requires the administration of justice without fear or favour, the equal application of the law to all, rich or poor, powerful or powerless, famous or infamous'. These are encouraging words, coming as they do from a politician whose father, Sir Frederick Chaney, was possibly in a position to observe manipulations of the law by Sir Robert Menzies, himself a lawyer, and Liberal Prime Minister from 1949 to 1966. If he were aware of them Sir Frederick no doubt viewed these manipulations with the same revulsion as his son.

Menzies' manipulation of the judges on the 1954 Petrov Royal Commission caused disillusion in the Labor Party. The cover-up of the 1964 *Voyager* disaster by Menzies and his successor Harold Holt caused disillusion in the armed forces. As Royal Commissioner into the *Voyager*, Menzies chose Sir John Spicer, whom he had appointed as his Attorney-General from 1949 to 1956, and then to the post of chief judge of the Industrial Court. Spicer, assisted by naval bureaucrats, pointed the guilt in the wrong direction. Holt's eventual failure to maintain the cover-up may have contributed to his probable suicide. Liberal MPs John Jess and Edward St John QC restored some confidence in the Liberal Party's attitude to the law by forcing a second *Voyager* Royal Commission in 1967. Despite further efforts by naval bureaucrats, this got closer to the truth. However, 'confidence in the Party's attitude was not enhanced when St John was driven out, and Jess's career was ruined.

Among Jess's crimes was to have said of Spicer: 'I do not agree with judges being appointed from this House'. This would not have endeared him to Menzies: in 1964 he appointed another political associate, Sir Garfield Barwick (Attorney-General 1958-1963; Minister for External Affairs 1961-64), as Chief justice of the High Court. Barwick's biographer, David Marr, said that the Barwick High Court's decision in the 1970 Casuarina Pty Ltd case 'became the cornerstone of the tax avoidance industry in Australia, and Barwick became the leading influence on the High Court's tax decisions, which in turn stripped section 260 (the catchall section of the Income Tax Assessment Act designed to prevent tax evasion) of almost all its remaining effect'.

Perceptions of the High Court were not enhanced by two events in 1975: Labor Prime Minister Gough Whitlam appointed his political associate, Murphy, to the court, and Barwick, asserting that a

constitutional matter of the kind could not come before his court, advised Her Majesty's representative that he could dismiss the elected Government. In 1980, Prime Minister Malcolm Fraser refused a Labor Party request for a parliamentary inquiry into Barwick's business affairs. In 1984, Fraser, speaking of Murphy, said: 'There's a very important principle in relation to the High Court... if anything has happened to any one of its members that might cast any shadow of doubt... over that member, then... that member... should forthwith resign'.

In New South Wales, John Maddison, Minister of Justice in the Askin (Liberal / Country Party) Government, engaged in two major cover-ups: of criminal assaults by prison officers at Bathurst prison in 1970 and 1974.

Long periods in office, such as those enjoyed by the Coalition parties, may thus result in what former Justice Athol Moffitt might call 'the Jacobean Effect'. He notes in *A Quarter to Midnight* that King James I (1603-1628), first of the Stuarts, had the idea that judges were the king's servants, and must obey the orders of the Crown. However, Sir Edward Coke said the law was supreme, and his view finally prevailed in the 1701 Act of Settlement. While this gave judges security of tenure, the king was still allowed to appoint judges 'whom he thought would favour himself, but he could not dismiss them if they did not'.

The Bounty Matter and the Evidence Act

In 1977, Alexander and Thomas Barton were charged with fraud and conspiracy in relation to Brins, Murumba Oil, (later struck out by a magistrate), Bounty Oil and Harbourside Oil. In 1978 their former counsel, Laurie Gruzman QC was also charged with conspiracy in the Bounty case. In 1978, during the 16-month hearing of the Harbourside case, Alexander Barton alleged that Sir Peter Abeles was acting in association with Bela Csidei in 1972 when Csidei bought Barton's companies. The Crown said it would call Abeles to answer Barton's allegations. On the day Abeles was to appear, the Attorney-General, Frank Walker, issued *ex officio* indictments in the Harbourside and Bounty cases. One effect was that Abeles did not appear.

Gruzman alleged that Sir Peter Abeles and his business partner, Sir Arthur George, had headed a syndicate which transferred large amounts of money into a Swiss bank. Through counsel, Abeles and George denied this.

In 1979, the NSW Government rushed through the Evidence Amendment Act. This switched from the courts to the Government the power to decide Government claims of executive privilege for the purpose of withholding documents in legal proceedings. Gruzman alleged that Wran and Walker had obstructed his efforts to probe the operations of the alleged Abeles-George syndicate.

The Harbourside case has not been placed before a judge and jury. In August 1982, the Government dropped the Bounty case against the Bartons. This left nobody for Gruzman to have allegedly conspired with, so the charges against him were dismissed. In October of that year, the Crown granted Gruzman costs of \$100 000 and he withdrew his allegations of obstruction against Wran and Walker. On the same day, the Government withdrew eight outstanding charges of false swearing against Gruzman.

Matters of Contempt

A Labor Senator, Gareth Evans, was Commonwealth Attorney-General from 5 March 1983 to 12 December 1984. He and his Party managed to make the most significant advance in the national administration of justice since 1901. They took decisions to prosecute, or not to prosecute, out of the hands of politicians: in November 1983, Evans instituted the office of Federal Director of Public Prosecutions. Announcing the appointment of Ian Temby QC as director in February 1984, Evans said he believed the office would 'restore public confidence in Commonwealth criminal law enforcement'. The immediate concern was the failure to prosecute tax frauds in the 1970s. It is now clear that tax promoters such as Brian Maher could have been charged (and enormous sums saved for the Treasury) at any time from 1973 to 1978: he was charged and convicted under the old Crimes Act, not by way of the new legislation brought down by Liberal Treasurer John Howard.

Evans was foundation president of the Australian Society of Labor Lawyers in 1980-81. Temby was a Labor lawyer. This may initially have unnerved the Liberals, but perhaps both sides would have been encouraged by Temby's October 1984 remark: '... let me plainly state that the DPP is not the servant of the Government'. His office would pursue 'with marked enthusiasm' any case of official corruption that came to its notice. When, on 31 October 1984, a majority of a Senate committee, including its Labor chairman, Senator Michael Tate, concluded on the balance of probabilities that justice Murphy, a Labor lawyer before the association was formed, had been guilty of behaviour serious enough to warrant his removal from the High Court, the next step would have been for both houses of Parliament to meet together and vote on Murphy's removal. This would have put Labor members in the position of having to vote on a matter concerning an old comrade. Temby took the decision out of their hands by bringing criminal charges against Murphy.

The effect of this, but presumably not the intention, was that if Murphy were found guilty, that would be the end of the matter; if, however, he was found not guilty, the procedure would presumably have postponed the vote for a couple of years.

The Murphy case stemmed from the judge's relationship with Morgan Ryan, who had given Wran so much trouble because of Ryan's relationship with Wood and Farquhar in the Cessna case. Ryan was thus the remote cause of another problem for Wran; his prosecution on a charge of contempt in relation to the Murphy case. (See Lionel Murphy: *Trials and Tribulations*.)

Other notable subjects of contempt charges in recent years were Brett Anthony Collins and Michael Robert Willesee. On 1 March 1982, Collins handed out leaflets outside, but within the precincts of, the Taylor Square courts. They were titled, 'If you serve on a jury, What is a verbal?' and, 'Other forms of fabricated evidence'. A cartoon from one of the pamphlets showed a police officer in the witness box stating: 'I then said to the accused: "You need not say anything unless you wish, as anything you say may be taken down and used in evidence against you.'

'He then said: "I done it"'.'

Collins may have believed he was assisting, not impeding, the course of justice. Others may believe he was engaged in an elaboration of the obvious: that police officers will sometimes lie under oath. Either way, an element in his assertions appeared to be that an accused person may be innocent, or at least not necessarily guilty.

He was charged with contempt in the face of the court. Contempt cases in New South Wales are heard by the Appeal Court, without a jury. In this case, held in April 1982, the court consisted of Chief justice Sir Laurence Street and Justices Athol Moffitt and Robert Hope. Chester Porter QC, prosecuting, said: 'Unless this kind of conduct is eliminated quickly, people will attempt to run propaganda wars outside courts, and the system of criminal justice will break down.' The court, unanimously, found Collins guilty of contempt of court in that he had made a deliberate attempt 'to poison and distort the time-honoured institution of fair trial by jury'. Street said: 'He attempted to influence jurors in the discharge of their solemn community duty. In so doing he struck at the heart of the integrity and impartiality of our system of justice.'

Collins was sentenced to two months in prison and ordered to pay the costs of the prosecution. Moffitt and Hope said the sentence was lenient because Collins and others had distributed pamphlets outside courts on many previous occasions without action being taken against them. Street said that, because of this, Collins should pay the costs of the prosecution, but should not be imprisoned. Street warned that 'those who interfere with jurors or potential jurors in the future in this way must expect to be dealt with in a manner commensurate to the grave threat presented by such conduct to the integrity and impartiality of trial by jury'.

Collins' appeal against his conviction and two-months prison sentence came before the High Court in 1983. In August, in a majority decision, the court refused Collins leave to appeal. Dissenting, Justice Lionel Murphy said the case presented issues of general public importance, and that the application should have been granted. Collins then spent five weeks in prison on this contempt charge.

It is unclear what happened to Collins following his action, in October 1982, of giving a leaflet to the associate of District Court Judge John Foord, who was hearing a case involving Darcy Dugan. The leaflet referred to a Crown witness, presumably a policeman, in the trial. Charging Collins with contempt, and remanding him in custody, Foord said: ' . . . I have to protect the integrity of this trial at all costs'.

However, in October 1984, Collins again handed out the 'What is a Verbal?' leaflet. He was charged with contempt by Justice Miles and remanded in custody. Next day, before Justice Hodgson, Ken Horler, representing Collins, said there was nothing in the document which referred to a particular trial, a particular accused person, or a particular judge. He said there was a general observation saying that on some occasions, some policemen fabricated their evidence. Hodgson granted Collins bail on condition that he did not distribute the pamphlet, or any similar document, within one kilometre of the court. A day later, Collins was again arrested, along with Peter Robert Willsmore, outside Darlinghurst Court. Justice Hodgson charged him with contempt.

This charge was heard in the Court of Appeal by Justices Michael Kirby, Michael McHugh, and Dennis Mahoney. On 4 April 1985, the court, with Kirby and McHugh supplying the majority, dismissed the charges. It was reported in May that a number of judges of the Supreme Court held a meeting and, by a substantial majority, called for an appeal to be lodged against the Court of Appeal decision. In September, the High Court refused to intervene in the Appeal Court decision. Chief Justice Harry Gibbs said the court was not persuaded of the correctness of the Appeal Court's decision, but the Prothonotary of the Supreme Court was seeking leave to appeal from an acquittal, and such leave was only granted in extraordinary circumstances. The High Court awarded costs to Collins and Willsmore.

Willesee and The Necklace Trial

Michael Willesee, his company Transmedia, and Channel 9 were charged with contempt over the aborting of a February 1984 trial in which James McCartney Anderson was accused of larceny of a necklace on 19 November 1979. Anderson was a business associate of Abraham Gilbert Saffron for a decade from the late 1960s. They appear to have fallen out in the late 1970s or early 1980s. In August 1983, Anderson detailed to Willesee allegations of bribery and corruption in the police force. Arrangements were made to produce a television documentary. Anderson told Willesee of the larceny charge against him. He claimed he had been 'set up' by police, and that it might never come to court.

In October, Anderson told the Juanita Nielsen inquest that in the mid-1970s he managed four establishments for Saffron, and had seen money handed over to Assistant Police Commissioner Jim Pyne; to Licensing Squad officers Sergeant Keith Dunlop, Sergeant Jim Moloney, and a Sergeant Cameron, and to a Consorting Squad detective, Sergeant Brian Ballard. Anderson said that on two occasions he had seen Saffron give parcels of \$5000 to Pyne. Anderson told the inquest: 'I have watched, for a long number of years, the course of justice in this State'.

He said he would welcome a Federal Royal Commission into his allegations about corruption in the force... 'I have no faith in any State-organised inquiry. I have said I will not be interviewed or give information to NSW police'. He said any inquiry into his allegations by NSW police would be biased because Wran had 'falsely accused me under parliamentary privilege of being a well-known criminal'. A police inquiry, conducted by Deputy Commissioner John Perrin and Executive Chief Superintendent Russ Sadler, into Anderson's allegations was set in train. Their attempts to interview Anderson proved futile. Saffron willingly submitted himself to an interview.

The Willesee documentary was in rough form by early November. On legal advice from B. P. Jones, of Allen Allen & Hemsley, certain changes were made. The film was completed and 'in the can' by early December, but Channel 9 decided, on the ground of possible defamation, that it would not use the documentary.

The necklace trial began on Monday, 13 February 1984. Reports of it appeared in *The Sydney Morning Herald* under the heading 'Anderson set up necklace theft, jury told' on 14 February and on 15 February.

The trial was still proceeding when Police Minister Peter Anderson released some details of the Perrin-Sadler report on Tuesday, 21 February. According to *The Sydney Morning Herald* next day, Anderson told the House that (James McCartney) Anderson's allegations 'had all proved to be "unsubstantiated and false".' The report said: 'The minister did not release the full report yesterday, saying that criminal proceedings against James Anderson made it "inappropriate" for him to comment in detail'. However, Anderson said, 'Natural justice and a sense of fairness to the officers concerned do... dictate that I must disclose more than simply the skeletal findings of this inquiry'. He said that Perrin had drawn a 'firm conclusion' on each of the police officers accused by Anderson, and that 'in the case of the most serious allegation, against Assistant Commissioner Pyne, Mr Perrin concludes that he believes that all the accusations made against this officer are completely false'. The Perrin report concluded: 'There is no evidence that any of the police (and former police) referred to... have in any way been guilty of improper conduct'. Anderson said: 'The Police Commissioner (Cecil Abbott) has recommended to me that the allegations made against all the police during the inquest be held not sustained'.

On the other hand, Justice Stewart's National Crime Authority and Temby's office, unlike Deputy Police Commissioner Perrin, former Police Commissioner Abbott, Police Minister Anderson, and Premier Wran, appear to be of the view that there may be something in Anderson's assertions about Saffron. On Thursday 14 November 1985, an NCA squad from Melbourne police under Chief Superintendent Carl Mengler and Detective Sergeant Bernard Hansell took Saffron into custody in Sydney on a tax matter. Reginald Marr QC, on behalf of Temby's office and the NCA, opposed bail for Saffron. Marr included among his reasons: 'The prosecution says it will disclose corruption of NSW police on a massive scale over twelve years... the National Crime Authority has a number of sources who state that the accused has the will and capacity to intimidate and influence witnesses'.

Anderson's trial was still in progress when Willesee's first programme of 1984 was due to go on air on the night of Monday 27 February. A strong impact was sought, and a programme on the Lindy Chamberlain trial was planned. This however collapsed on Sunday 26 February. On the Monday, Willesee and his staff reviewed the reports they had 'in the can' and that day's newspapers. No current story seemed satisfactory, so they fell back on the Anderson documentary. Before 10 am an interview was sought with Wran to include in the documentary; assent was received late in the morning, and the interview conducted about noon.

Judge Jane Mathews completed her summing up in the necklace case at a late hour that afternoon, and sent the jury home with a view to having them begin considering their verdict on the Tuesday morning.

The Willesee telecast on the Monday night showed Anderson walking round King's Cross with a gun. Willesee stated: 'Jim Anderson calls himself a minder, sorting out trouble, sometimes with his fists, sometimes with a gun. He shot one man dead but somehow, some way, the charges were dropped.' Willesee said the Police Minister had stated that Anderson's allegations all proved to be 'unsubstantiated and false'. James Anderson stated that he had paid possibly between \$5 and \$6 million over a fifteen-year period to Saffron to pay the police and politicians. Wran stated: 'I wouldn't hang a dog on what Anderson, that is Jim Anderson, said. He made the most reckless allegations against all sorts of people and then when put to the test would not answer any questions put to him at all to substantiate the matters that he put forward'.

Next day, after the jury had been considering its verdict for four hours, Judge Mathews reviewed the material on the Willesee programme. She said the highly prejudicial material in the programme included a scene showing the accused carrying a rifle and an interview with the Premier, Mr Wran, who seriously questioned the credibility of the accused. Judge Mathews said: 'I see it as a serious contempt of this court. It will be referred to the Court of Appeal... He was depicted as carrying a rifle. He was described as a minder who sorted out trouble, sometimes with his fists, and as a man who said he once shot a man dead but somehow was never charged. The Premier of this State was interviewed and described certain allegations by the accused as unsubstantiated and false. He used a colloquial phrase which indicated he attached no credibility whatever to the accused. In all these circumstances... I consider I have no alternative... but to discharge the jury'.

At a press conference, Wran rejected any suggestion that he was responsible for aborting the trial. He said: 'I give interviews and if the media chooses to publish what's said at a time that's embarrassing to court cases then that's the media's responsibility... I gave answers to questions which demanded answers and if Channel 9 choose to play it and if it's in some way breached something, then that is its worry'.

Wran's judgment proved correct on that occasion. The Registrar of the Court of Appeal charged Willesee, Transmedia and Channel 9 with contempt of court, but not Wran.

In June 1984, the necklace trial was re-heard. During the nine-day trial, the Crown alleged that Anderson had offered a \$10 000 bribe to detectives if they 'forgot' about the charge. Anderson, who was arrested on the night he was about to open a club he had just purchased, maintained that the charges had been 'fabricated' to 'keep him out of the way'. The jury took a little less than three hours to produce a verdict in favour of Anderson.

Before the Court of Appeal in July 1985, Willesee said he had forgotten about Anderson's trial. He apologised to the court, consisting of Justice Michael Kirby, Robert Hope, and John Priestley. Willesee, Transmedia and Channel 9 were found not guilty in a judgment handed down on 20 December.

Temby's office in May 1985 filed a complaint in the Federal Court alleging contempt of court against the ABC and two employees. The allegation was that Murphy's name was mentioned in a programme on 21 March, five days before the beginning of his committal hearing. Murphy was found guilty on 5 July. In the uproar that followed, Porter's 1982 prediction appeared to be instantly confirmed.

Wran: The Last of the Stuarts?

The years from 1983 had been difficult for Wran. By the end of November 1985, although his popularity appeared to be on the upswing, he seemed a little overwrought. On 27 November, Deputy Opposition leader Rosemary Foot asked him what steps he had taken to discover who had made the April 1978 call to Sydney Airport asking that Dr Nick Paltos be not inconvenienced. Foot said 'a woman claiming to be his secretary' had made the call. In his denial of this, Wran appeared to go a little over the top, even for the NSW House. The next day, 28 November, when the Court of Appeal ordered a re-trial of Murphy, Wran offered some remarks, presumably on the basis of his remarks to Willesee while the Anderson trial was in progress, i.e. if the media was sufficiently incautious as to publish them, that was their problem, not his, and that, as the Registrar of the Appeal Court appeared to have confirmed, if anyone was charged as a result of such publication it would be the media rather than him.

When Wran's remarks were reported in *The Daily Telegraph*, John Button, Government leader in the Senate, suggested it would be better if people remained silent. Lionel Bowen, Federal Attorney-General, said: 'It is unwise for anybody to be talking... when matters have to go to trial'. Roger Gyles QC, president of the NSW Bar Association, said on 1 December he agreed with Bowen. John Spender QC, Federal shadow Attorney-General, asked whether the Government would instruct Temby to advise whether Wran's comment constituted a criminal contempt warranting prosecution. Bowen ruled that out. On 2 December, Senator Evans said 'silence on these matters is the most appropriate course when such matters are still before the courts'.

At this stage, a statement by Wran to the effect that he had got a bit carried away in the heat of the moment may have ended the matter. On 29 November, a spokesman for him said he had no intention of apologising. On 2 December, Wran said: 'I treat the criticism with contempt, and generally speaking they are not only made by second-rate politicians, but second-rate lawyers as well.' It is unclear whether he was referring to Button, Bowen, Evans, Spender, or Gyles, or all of them. It was reported on 23 December that Wran had called Button and Evans to complain about their remarks on the ground that their comments would lead to conclusions that they believed he was in contempt of court.

In the middle of all this, Wran took time to spring to Temby's defence. In November, former Justice Athol Moffitt had criticised the Government for appointing a man with a Labor background as DPP. On 1 December, Wran criticised Moffitt for casting doubts on Temby's independence.

The whole future of what Senator Evans called 'public confidence in Commonwealth criminal law enforcement' appeared to hang in the balance for a few hours on Wednesday 11 December.

Bowen was first reported to have rejected advice from Temby that Wran be prosecuted for contempt of court. Later, Bowen was reported to be still considering the matter. Next day, Bowen conferred with Temby and later issued a statement saying that he had 'reaffirmed' his advice to Temby that he should take whatever action he considered appropriate on Wran. The statement said that Bowen had certainly not directed Temby to the contrary, 'and reports that he had were false'.

In his 12 December and later responses to Temby, Wran may have seemed, to those still romantically inclined to raise a glass to the king across the water, more like the last of the Stuarts than Premier of New South Wales. On 12 December, he said: 'I have been assaulted by the Director of Public Prosecutions and his disgraceful attempt to intimidate me by having his staff telephone my office to say they were sending the Federal Police around'. He said he had received legal advice that there was no known precedent for a contempt case based on someone saying the sort of things he had. Next day he said he had been singled out 'for some special and different treatment'. On 14 December he said: 'I think it was outrageous that Temby has the effrontery to send police to see me'. He warned Temby that he 'is playing a game of Russian roulette and he ought to be careful because everyone knows what can happen in Russian roulette'. On 15 December he said he would complain to the Federal Attorney-General about Temby. He said Temby was behaving like a politician, and that he had a list of journalists to whom Temby had spoken. The Australian journalists' Association warned that any journalist who disclosed the source of information would face the AJA's Judiciary Committee for breaching the association's code of ethics.

On 16 December Wran refused a request from the DPP to confirm the words he was reported to have used after the Court of Appeal judgment. He said: 'I do not propose to submit to an interview by the police or by anyone else in connection with this matter'. Later that day, the DPP filed a summons in the NSW Court of Appeal alleging contempt of court against Wran and *The Daily Telegraph*.

On 17 December, Deputy Premier Ronald Mulock said the Cabinet had resolved to express its total support of Wran. On 19 December, the governing body of the NSW Labor Party, its administrative committee, held a special meeting, and unanimously passed a resolution calling for Temby's resignation. The resolution said: 'An attack upon Neville Wran is an attack upon the Australian Labor Party and the ALP is utterly committed to the Premier'. It called on the ALP national executive to endorse the resolution. Ten unions also called for Temby's resignation. Wran told reporters the same day: 'Mr Temby should be above the political fray and Mr Temby by backgrounding journalists a couple of days before each step in relation to myself has come down in the political arena. And in the fullness of time [he] will appreciate the consequences of getting into the political arena as distinct from, remaining the prosecutor, neutral, objective and aloof. Temby can only be removed for 'misbehaviour or physical or mental incapacity'.

On 21 December, John MacBean, State president of the ALP and head of the Labor Council, told *The Sunday Telegraph* of a plan that in January 'about 500 of us will march down to Chifley Square and read Mr Wran's comments out loud.' MacBean said the protestors might include many members of the ALP National Executive which was scheduled to meet at that time. He also said advertisements were being planned to be published throughout Australia in defence of Wran. In its issue of 22 December, *The Sunday Telegraph* published a leading article saying: 'The danger in the present confrontation is that the law, and people's confidence in it, could be the major loser. As could the Premier and Mr Temby - and the high office each holds'. That day, Wran told MacBean to call off the march on the ground that conservative elements in society might construe it as an attack on the system and the courts. He said MacBean agreed to do so.

Opposition leader John Howard on 22 December invited Bowen to call 'the Labor Party dogs' off Temby. He said it was Bowen's job to defend our legal institutions against unfair attack and not by silence allow their erosion. Law Council of Australia President Michael Gill said the legal profession and 'all fair-minded Australians' would support Temby in his carrying out of the important tasks of his office.

Libel Laws: Protecting Rogues in High Places?

Intrusion by the courts has done 'great violence... to our system of representative parliamentary democracy.'

- The Hon. Rodney Mark Cavalier, NSW Minister for Education, April 1987.

The Hon. the Minister's remark was certainly true in 1763, when an intrusion by the courts did great violence to parliamentary democracy as then defined by politicians: government by a corrupt few in Parliament. However, and with due respect to the learned Minister and the judiciary, it may be argued that, on the matter of libel, the courts have since been insufficiently violent in maintaining parliamentary democracy.

Control of the English trade of authority passed from the Crown to a corrupt ruling class in 1689. In the 18th century, the politician routinely bought his seat, and was routinely bribed in the House for his vote; criminal arrangements were routinely made in the House. Parliament was thus a centre of organised crime, as defined by former New South Wales Premier Neville Wran: a group of people acting outside the law for commercial gain. Secrecy is an essential adjunct of corruption, but information, as Justice Lusher remarked in his famous aside on the New South Wales Police, is a great weapon against it. After Daniel Defoe invented modern journalism in 1704, the press sought to disclose to the people what was going on, and so invented parliamentary democracy as we now understand it.

Politicians resisted the new definition. They used a number of weapons to prevent scrutiny: bribery, taxation, privilege, the libel laws.

They bribed such proprietors as were amenable, and sought to intimidate and break those who were not. A Stamp Tax in 1712 put many newspapers out of business. Reporting Parliament was claimed to be a breach of privilege, punishable by prison. Publishers and printers went to Newgate. However, Charles Pratt, Chief Justice of the Court of Common Pleas, made a violent intrusion in 1763. He ruled that a general warrant, alleging infamous and seditious libel against forty-nine persons involved in a newspaper attack on the King's Speech, was against the law of the land. After a few more skirmishes, the politicians found that they could not enforce the weapon of privilege after 1771.

Other weapons were gradually withdrawn, but not for noble motives. In 1815, the Prime Minister, Lord Liverpool, sadly told his Cabinet colleagues that the only bribable newspapers were not worth bribing. The Stamp Tax was abolished in 1855, but only to dilute the power and independence of *The Times*. The weapon of the libel laws, as a protection for rogues in high places, has never been surrendered.

What of NSW? Corruption in the trade of authority here has had its moments, as will be shown in Gary Sturgess' forthcoming history of the topic. As a small example, the author advises that the book will disclose the identity of the bag man for the Rt. Hon. Sir W. McKell, Minister for justice / Assistant Treasurer 1925-27, for Local Government 1930-31, for justice 1931-32, Premier / Treasurer 1941-47, Governor-General 1947-53, etc, etc. (To avoid confusion, it should be noted that this Mr Sturgess is NOT the Garry Sturgess who was called as a witness for the plaintiff in a libel case unsuccessfully brought in 1986 by former Bangkok resident W. Sinclair.)

The libel laws may be a legitimate option of last resort for honest persons unfairly maligned. We are not talking about such people. In effect, the laws as they stand in New South Wales protect the corrupt / criminal in this way: they concern what is publicly known about their reputations, not what is privately known about their character and activities. The effect is circular. The reputations of such people are protected for years by media fear of heavy damages. If some organ gets a little out of line, the corrupt / criminal can sue, secure in the knowledge that the only evidence before the jury will concern their publicly unsullied reputations.

It is thus monstrous that Premier Sir R. Askin and his Police Commissioner, F. Hanson, who were at once corrupt members of the trade of authority and leading members of organised crime, were able to use the laws to seek to get money from honest men. Askin's action against an upholder of parliamentary democracy, J. Hatton, happily died with him, but Hanson achieved what can only be seen as a gross miscarriage: he added money mulcted from the taxpayers (via the Australian Broadcasting Commission) to his emolument from organised crime.

Yet, even in the face of such laws, the media, whatever its other failings, has doggedly, and at some cost, tried to carry out its ancient function at the heart of the democratic process. Since 1973, it has obliged politicians to hold more than a dozen major inquiries into corruption in the trade of authority and organised crime. Pratt CJ, the press's old ally in the unending struggle for parliamentary democracy, we trust peers down approvingly.

Where do Pratt's successors in the New South Wales judiciary stand on these matters? So far from finding a way of maintaining parliamentary democracy by injecting some justice into libel actions, some seem, unintentionally no doubt and perhaps feeling themselves prisoners of the law, to be turning back the clock to the eighteenth century. Newgate again beckons. In journalism, the source is sacred: disclosure may put at risk his job, his knees, his life. In libel cases, the media once had the option of keeping the reporter out of the box. The case may thus have been lost, and heavy damages awarded, but this at least preserved the source's anonymity, and saved the reporter from possible incarceration on contempt charges.

A recent decision removes that option. Justice David Hunt, of the NSW Supreme Court, ruled that a reporter must disclose his sources at the preliminary stage of discovery, i.e. before the libel case proper even gets into court. If he declines, he will be in contempt. The ruling was upheld in the New South Wales Appeal Court by Justices Michael Kirby, Harold Glass and Dennis Mahoney. The learned judges, we may hope, were not alive to the implications: the Askins and Hansons of this world, not to mention the heroin-runners and assassins of the criminal *milieu*, are now in a position to arrange the incarceration of honest men, and without having to proceed with the case.

Barwick and Mundroola

'The judgment of the Lionel Murphy Case is the worst miscarriage of justice since the great Danton was bodily placed under a guillotine by a conspiracy of his colleagues. It is impossible to have a fair trial after two years of strongly anti-Murphy stories by the Charlotte Cordays* of the Sydney press. This, to us men in the street, has been an obvious political setup from the start - with racist overtones in the sense of a pack of WASPS suddenly discovering an unashamed, unconquered Celt approaching a powerful social position - the Chief Justiceship of Australia.'

- Lawrence Beck, sculptor, of Leura.

[* There is a minor problem here. Mlle Corday stabbed M Jean-Paul Marat on the basis that he was too bloodthirsty: M Georges Danton went to the guillotine on the ground that he was not bloodthirsty enough. It is thus unclear whether Mr Beck wishes us to equate Murphy with Danton or Marat, or both. However, we catch his general drift.]

'...the media dropped the (Mundroola) matter the moment (Barwick) declared himself not guilty. Why? Because the Chief justice, like the Queen, can do no wrong, though a minor justice may? Or because Barwick and Murphy belonged, in their salad days, to different political parties?'

- Professor Russell Ward, Emeritus Professor of History, University of New England.

The proposition thus is: Chief Justice Sir Garfield Barwick, hero of the Right, was saved by the Right and the press; Justice Lionel Murphy, hero of the Left, was brought down by the same alliance. The Mundroola affair, and the role of the press in it, thus requires some examination.

Both Barwick and Murphy were failed politicians who found soft landings on the High Court; they owe their heroic status to their periods on the Bench. Malcolm Turnbull, in *The Bulletin* in June 1980, judged three of Barwick's actions to represent a 'misuse of power':

Sitting alone in 1974 on a constitutional case involving Senator James Webster, a member of his former coalition ('wrong in law... also wrong in principle;')

Giving advice to the Governor-General in 1975 ('unforgivable;')

Inviting, in 1976, when the membership of the court changed, the re-litigation of a matter (the constitutionality of Senators from the territories) on which he had been on the short end of a 4-3 decision the year before ('Gibbs and Stephen... included some dark words about the motives for the re-litigation.')

Elements of the Right may be assumed to have derived a deal of satisfaction from such misuse, as well as from the agility of Barwick's mind on the matter of 'tax avoidance.' In 1980 Senator John Button quoted him as saying to a barrister who had used the term: 'Look, you cannot call this 'tax avoidance'. If there is not tax to be paid, it has not been avoided, has it?'

Barwick has said he started Mundroola Pty Ltd in 1946 for the benefit of his two children. He stated that it was a 'family' company. The most substantial shareholder, with 4000 of the 4800 deferred shares, until 1974, was his close friend and business associate, Mr Leslie J. Thompson, a director of Ampol, Brambles, and CSR Chemicals. Barwick had no shares, but was managing and governing director. He said his wife had 'a small shareholding'. In fact, she held 850 of the 852 ordinary shares. From 1964 to 1974, Mundroola bought land for \$162 161, and sold land for \$595 740. At June 30, 1973 it held shares which cost \$167 548 and which had a market value of \$357 880. While Barwick was Chief Justice, cases involving Ampol, Brambles, and CSR, in which Mundroola held shares, came before him. He did not declare an interest in those cases.

A number of questions remain unanswered about the Mundroola affair. Among them, raised by Senator Gareth Evans in the Senate on 29 April, 1980, were:

1. Was Barwick one of the unnamed directors to whom Mundroola made loans at low, or possibly, non-existent, rates of interest?
2. Was Barwick one of the unnamed directors to whom directors' fees were regularly paid?
3. Did Barwick receive the use of his Careel Bay house, which was owned by Mundroola, rent-free, or at an abnormally low rent?

Section 34 (b) of the Crimes Act 1914 provides that 'any person who... being a judge or magistrate, wilfully and perversely exercises Federal jurisdiction in any matter in which he has a personal interest, shall be guilty of an offence.' The penalty for a breach is imprisonment for two years. If, therefore, the answers to any of the above questions is yes, Barwick might be judged to have a pecuniary interest in Mundroola, and might thus have been at risk of being charged under the Crimes Act.

The Barwick (or Mundroola) affair ran for barely more than three weeks in April and May 1980. The sequence of events is significant.

Late in 1979, the Labor Party got a tip about Mundroola, and began an inquiry. The Barwick connection, however, was first publicly revealed on 18 April, 1980. It was then reported by Paul Malone in *The Australian Financial Review*, that the NSW Corporate Affairs Commission had approved plans to strike Mundroola off the register for not lodging annual returns since 1973. Mundroola filed the missing

returns six days later. These stated that Barwick had resigned as a director on 31 December, 1974. On Saturday 26 April, *The Age* ran an article which stated that Barwick, without declaring an interest, had sat in judgment on cases involving corporations in which Mundroola had shares. Senator Gareth Evans gave notice in the Senate on Monday, 28 April that he would next day move that a joint parliamentary committee be appointed to inquire into the Mundroola matter.

The then Prime Minister, Malcolm Fraser, got in first. At 4.15 pm on the Tuesday, he produced a letter (dated the previous day) from Barwick absolving himself of all blame. Barwick's letter said he had no proprietary interest, which was not an issue, in Mundroola. Barwick did not address himself to the question of possible pecuniary interest. He said he could not believe that any fair-minded person would have entertained any doubts about his impartiality in appeal cases. Fraser said no inquiry was needed, or would be granted. He said: 'The decision as to whether a conflict of interest situation arises is one for the individual to make.' Bob Ellicott, Barwick's cousin, and then thought to be a front-runner to succeed him, produced a brief (294 words) opinion, by Solicitor-General Morrie (later Sir Maurice) Byers. Parts of this opinion supported Barwick's position, but the opinion appears to have some internal contradictions.

Evans began detailing his evidence, the product of some months of research, in the Senate at 5.11 pm, four minutes before the Barwick proceedings concluded in the House of Representatives. The Senate debate did not end until just before 10.30 pm.

Two things followed from this timetable:

The Barwick-Fraser-Byers assertions could not, and did not, respond to the questions, noted above, or other matters raised in Evans' speech.

Because of media deadlines, the Barwick-Fraser-Byers assertions would necessarily command the bulk of the media coverage that night and next morning.

Evans' speech was grave and restrained. At the end, he said: 'I make no suggestion that I have mounted other than a *prima facie* case ... only (a parliamentary) inquiry would give full opportunity to the Chief Justice to put on record ... all the matters about which this Parliament and the Australian community must be satisfied before this matter can ultimately be put to rest.'

Senator Don Chipp, who then commanded a party of two Australian Democrats in the Senate, said 'that the Chief Justice has been indiscreet, that he has been arrogant, that he has been foolish ... Surely in the Senate tonight an unanswerable case has been made that the Chief Justice should have disclosed at least his interest in Mundroola and its transactions . . .' Chipp said that, 'reluctantly,' the Australian Democrats would vote against Evans's motion, nor, to avoid impertinence to Evans, would they move an amendment. But, he said, if there had been a motion 'to censure the Chief justice or express concern about his lack of conduct, we would have voted for it.' However, Chipp concluded, 'to have a parliamentary committee investigate the conduct of the Chief Justice of the country does not make sense to me, and, therefore, we cannot support it.'

Did the press (and, come to that, the Labor Party) drop the Barwick / Mundroola matter 'the moment (Barwick) declared himself not guilty'?

In *The Australian Financial Review* the next day, 30 April, Mungo MacCallum wrote: 'As a number of people on both sides put it one way or another after the event, their moods varying through anger, frustration, uneasiness, and sheer puzzlement: What were they trying to hide?' In a leading article next day, the *Review* said the issues were unresolved.

The Australian on 1 May reported Mr Roderick Meagher, president of the NSW Bar Council, as saying that the facts disclosed in Barwick's letter completely answered 'the scurrilous and politically-motivated allegations ... made against him. It is regrettable that such allegations (of conflict of interest) should have been made at all.' *The Australian*, in a leading article on 2 May headed 'When the smearing has to stop,' said: 1... Sir Garfield's letter, tabled quite properly by the Prime Minister on Tuesday, gave a full,

reasonable and persuasive answer to the charges being bandied about in Parliament and in some sections of the press ... This is intended as our last word on the matter. Let us urge the same on everybody.'

On the same day, a long comment piece by Russell Barton in *The Sydney Morning Herald* traversed Evans's speech and the holes in the Barwick-Fraser-Byers assertions. The outstanding questions were again reviewed in *The National Times* on 4 May by Stuart Simson and Marian Wilkinson. They reported Evans as saying that several important questions still appeared unresolved. A week later Simson reported that on 2 May in the ACT Supreme Court Justice Francis Xavier Connor had, by implication, torpedoed Fraser's theory that it was up to the judge to decide whether or not he was in a position of conflict of interest.

This was virtually the last reference in the press to the matter. Nor was it revived when in May 1982 a Senate Estimates Committee discovered that a Cabinet meeting on 10 February, 1981, the day before Barwick retired, made a special 'arrangement' whereby he was given amenities worth about \$60 000 a year, including a full-time car and driver worth \$32 000.

The Mundroola affair touched the integrity of one of our most important institutions, the High Court, yet it now appears that many got it wrong. For Barwick, assuming he had nothing to hide, and in the interests of the institution, it may have seemed proper to have welcomed Evans's request for a parliamentary inquiry, and to have made a full disclosure on the outstanding questions. Fraser likewise. Sections of the press, notably in the Fairfax group, appear to have been inclined to pursue the matter. But, in the face of Barwick's silence, the Government's determination to stonewall the issue, and the absence of new material, they may have found it difficult to get a fresh foothold on the affair.

Nor did the Labor Party seek to clear up the outstanding questions when it got into office. A spokesman for Senator Evans told me, in June 1985: 'Senator Evans did not institute any inquiries when he became Attorney-General because the facts relating to impropriety and conflict of interest had been established clearly, as set out in Senator Evans' speech to Parliament. There had never been any suggestion of illegality or criminality.'

It may be that the main reason the Barwick matter was handled badly was that the time was out of joint. 1980 was not 1984. As exemplified by Senator Chipp's remark in the Senate, in 1980, few people, one suspects, were ready to face the possibility that a Chief Justice could be involved in dubious practice. The watershed came in 1983, when the ABC's Chris Masters found some Sydney magistrates prepared to state publicly that a magistrate had sought to fix a case. The Wran Royal Commission, and the imprisonment of a magistrate for four years, followed. Nothing, in terms of questions about the administration of justice, has been the same since.

One guesses that after that, if Barwick were still Chief Justice, if Fraser were still Prime Minister, and if Senator Chipp had the balance of power in the Senate, it would be unlikely that the matter could be disposed of peremptorily with a parliamentary manoeuvre.

As far as is known, Barwick's brother judges then on the court, Sir Ninian Stephen, Murphy, Sir Harry Gibbs, Sir Ronald Wilson, Sir Anthony Mason and Sir Keith Aickin, did not decline to sit with him, or invite him to demonstrate that he in fact had no pecuniary interest in Mundroola. Evans did not pursue inquiries into it when he became Attorney-General in 1983. The matter is thus still unresolved.

However, in a Senate debate on fringe benefit taxes on 4 June 1986, the Labor Finance Minister, Senator Peter Walsh, said he could remember a case concerning someone who had been a director of a company called Mundroola and had lived in a house, also called Mundroola, which was owned by the company. Walsh went on: 'He had been living in that house and had been a director, according to what the Corporate Affairs Commission records showed, from 1974 to 1981 (sic). Under those circumstances, either that director was obliged to include in his personal tax return - as imputed income for a company-occupied house - some notional rent, or, alternatively, the company was required to include in its company taxation return the rent received from the director-tenant of the company-owned house. The tenant concerned at the time was the Chief Justice of the High Court of Australia. Very conveniently in 1981 (sic), a letter of resignation became public which was dated 1974. The ink was still wet. In other

words, the Chief Justice of Australia at that time was in a situation, by any *prima facie* grounds of evidence, in which he was a tax evader. To get himself round this problem, he became a forger'. Opposition Finance spokesman, Senator Anthony Messner, said Walsh's remarks were irrelevant. Walsh replied: 'The case to which I referred is highly relevant because the *prima facie* evidence shows that the Chief Justice of Australia between 1974 and 1981 (sic) was a tax evader.'

Queensland: an independent judiciary!

Judicial appointments by Queensland Labor Governments may in some cases be seen either as the actions of vindictive men, or as warnings that promotion may be conditional on judgments favourable to the Government or its members, or both.

In 1938, for example, justice Ted Douglas dismissed Mr Ned Hanlon (Premier 1946-52) from Parliament on the grounds that Hanlon had employed dirty tricks against his opponent, Mr George Webb (Protestant Labor Party), at the elections of that year. Hanlon could not complain of religious bias: both he and Douglas were Catholics. Douglas' decision was overturned on appeal, but the effects of his 'error' were in evidence for more than three decades. Thus:

In the 1940s Douglas was expected on seniority, to get the largely honorary post of Senior Puisne Judge (i.e., second to the Chief justice). He was passed over. By 1956 he was first in line for the post of Chief Justice, but was again passed over, this time by the Gair Labor Government. Instead Justice Roslyn Philp, a stellar attraction at the 1954-55 Petrov Royal Commission was offered the post. Philp declined. It was then offered to Justice Alan Mansfield (1902-1980). Mansfield accepted. Philp is said never to have spoken to him again. Mansfield was Chief Justice from 1956 to 1966 and then rose again to be Governor from 1966 to 1972. He was also Chancellor of the University of Queensland from 1966 to 1976.

When, appropriately, vindictive elements in the Labor Party caused the party to implode in 1957, the administration of justice and whatever legal patronage went with it, traditionally became a Liberal fiefdom within the coalition Government. Liberal Attorneys-General were: Alan Munro, 1957-63; Dr Peter Delamothe, 1963-67; William Knox, 1971-76; William Lickiss, 1976-80; and Samuel Doumany, 1980-83.

Justice Dormer George (Bob) Andrews, now 64, was for several years the unwitting catalyst in a struggle for authority over the fiefdom between the Country / National Party Premier since 1968, Johannes Bjelke-Petersen, and the Liberal Party. The struggle turned partly on Petersen's personality and partly on the question of seniority. It appears that in Queensland there was something of a tradition that judicial promotions went to the senior man. As we have seen, Labor Governments did not always follow this tradition, and in any event there seems, to the layman at any rate, no reason why a great judge although lacking in seniority, should not be appointed to a senior post.

Andrews was educated at St Joseph's College, Nudgee; he lost an arm as an RAAF pilot during the war; and was called to the Bar in 1947. In 1959, without having taken silk, he was appointed a Judge of the District Court. In 1963, there was a proposal to promote him to the Supreme Court. This was the first of two moves that, if successful would by 1981 have had the effect, if not the intention, of positioning him on seniority as the logical next Chief justice. Exception to Andrews' 1963 elevation was taken on two grounds:

- a) That District Court judges were insufficiently experienced in the wider range of legislation that came before the Supreme Court; and
- b) That a lawyer appointed to the Bench should hope for no further promotion, lest such hope might influence his judgment in cases involving those in position to promote him.

The Queensland Bar Association thus opposed Andrews' promotion on principle. It sent a delegation to Delamothe, and the appointment was not made. In 1972, however, another move was made to promote Andrews to the Supreme Court, and was this time successful, but he had of course lost nine years' seniority.

In 1979, a new Senior Puisne judge had to be appointed to succeed Justice Norton Stable. First in line, on seniority, was Justice George Lucas, but Petersen was reported to be behind a move to promote Andrews rather than Lucas to the position. If successful, this would have taken Andrews from ninth in seniority to second, and thus first in line to succeed former politician Sir Charles Wanstall (MLA 1944-50 for the Queensland People's Party, the 1944-49 predecessor of Liberal Party; Supreme Court 1958-81; Chief Justice 1977-81), when he retired at the end of 1981. Lickiss, however, persuaded Cabinet to accept his nomination of Lucas, who would retire at the same time as Wanstall.

In mid-1981, the powerful figure of Sir Edward Lyons entered the lists on behalf of Andrews. They had gone to the same school, and one of Lyons' daughters acted as Andrews' associate for a time. While he was never elected to any political post, Lyons had a sure instinct for the corridors of power and, despite an occasional tendency to become immersed in hot water, for survival therein. He is said to have been close to Clem Jones, Labor Lord Mayor (1961-74), and Brisbane's famous town clerk, Jim Slaughter, in the great period when re-zonings began to transform Brisbane from a large bush town into a city that, were it not for Sydney's harbour, would be the most attractive city in Australia.

A National Party source understands that Lyons later began writing adulatory letters to Petersen; that Petersen eventually asked to meet his fan; and they then became fast friends. Among Petersen's many attractive qualities is the ferocity of his loyalty to his friends, and this trait has been of some benefit to Lyons. In 1977, Lyons was knighted for services to commerce and finance; in early 1981, he survived attempts to persuade him to retire as a trustee of the National Party; in April 1981, as Petersen's personal choice, and against the wishes of Liberal ministers, he was appointed chairman of the TAB; he survived allegations in the House that, in December 1981, he and the Police Commissioner had sought to pervert the course of justice in a drink-driving matter; he survived, while two Cabinet ministers lost their portfolios, the ill-fated cruise of the *Melbidir* in July 1982; he survived assertions of conflict of interest in March 1984 when it was revealed that the TAB had placed 6.5 million of its reserves with a merchant bank of which he was chairman; and in April 1985 he survived assertions that he was in breach of the Racing and Betting Act in connection with an unsuccessful move to persuade the TAB to buy for \$700 000 a building belonging to a company of which he had been chairman, and which had been passed in at auction in March 1984 at \$485 000.

Later in April 1985, however, Lyons' career in public life steadied a little when it was revealed that he had a tendency to bet on horses carrying the number 7 saddlecloth. He then resigned as chairman of the TAB, as a director of Mr Alan Bond's Channel 9, and on 13 June, as a trustee of the National Party. He continued as a trustee of the Queensland Rugby League Club, and as a trustee for the Lang Park Trust.

From mid-1981, Lyons began raising, in such important spheres of influence in Brisbane as the race tracks and Tattersall's Club, the question as to whether Andrews might be a good successor to Wanstall. A Liberal MP also began lobbying against Justice James Archibald Douglas, nephew of former Justice Ted Douglas. The argument was that an examination of Douglas' postal vote at an election had revealed it to have been cast in favour of the Labor Party. A little later, Petersen appears to have conceived the idea that elements of the judiciary were not favourably disposed towards him. This emerged after a Cabinet meeting on 21 December, 1981, when two Cabinet sources independently told the Brisbane *Telegraph's* Mr Quentin Dempster that Petersen had launched a 'tirade' against the judiciary in general. 'They won't tell me what to do,' he was reported to have said; 'I'll put the skids under them'.

This may partly have referred to the fact that the legal profession seemed to be generally united in the view that Douglas, who was first in seniority rather than Andrews, who was seventh, should be the next Chief Justice; and partly, as Dempster noted, to the fact that Petersen, possibly the greatest opener since Sir John Berry Hobbs, had not been invited to open the new Supreme Court building. Indeed, the judiciary in the person of Wanstall, had expressly barred him from attending the function.

The problem of the invitation stemmed from matters relating to 'development' going back more than a decade. Early in 1971, the Fraser Island Defence Organisation (FIDO) was formed to oppose sand-mining on the island. In December 1976, the Fraser Government accepted the report of an environmental inquiry, and refused export licences for minerals derived from sand-mining on the island. In January 1977, readers of *The Australian* voted FIDO president John Sinclair (a State Government employee at the Maryborough Adult Education Centre) to be Australian of the Year.

Asked to comment, Petersen was reported to have said that he 'was not satisfied that Sinclair was doing his job properly for the State Education Department', and that he 'found it impossible to believe that a man who spent so much time in recent years preoccupied with a conservation cause could be doing his job satisfactorily.'

Sinclair did nothing about this until June 1977. On 4 June, he told a pottery club in Petersen's home town, Kingaroy that he didn't visit the town more often because 'I don't get on too well with the local member.' On 8 June, Mrs (now Senator) Florence Bjelke-Petersen gave morning tea at her home in Kingaroy to Arthur MacKenzie, deputy director of technical education, and Graeme Bowness, principal of Maryborough Technical College. Soon after this, Sinclair told *The National Times*' Adrian McGregor, MacKenzie told him: '...we have to get the monkey off our back. We are being driven to distraction by political interference'. Something 'mutually acceptable' would have to be decided about Sinclair's career.

On 17 June, Sinclair's solicitor issued a writ against Petersen alleging that his January remarks had defamed Sinclair. Cabinet agreed in July 1977 that all Petersen's legal expenses would be a charge on the public purse, but this was not publicly disclosed for four years. Also in July 1977, the Education Department abolished Sinclair's position at Maryborough Adult Education Centre, and he was seconded - rather than transferred - to Brisbane. This involved Sinclair in commuting weekly between Maryborough and Brisbane, a round trip of 548 kilometres.

When Sinclair's legal action against Petersen was finally heard before Lucas, in July 1981, Petersen claimed that the words were not defamatory; that they were fair comment; said in good faith and for the public good. On 22 July, Lucas reserved his decision.

The decision was still reserved some six weeks later, in early September 1981, when the new Supreme Court was to be formally opened. Wanstall pointed out that Petersen was a litigant before the courts; it would thus not be 'proper' for him to be present at the opening. Lyons attended the function, described by the Queensland Bar News as having 'all the pomp of a lizard race,' as the guest of Andrews.

On 4 September, Lucas handed down his reserved decision. He found that Petersen's January 1977 words were defamatory; that they purported to be statements of fact; that the defence of fair comment therefore was not available; and that Sinclair had succeeded in establishing the absence of good faith on Petersen's part. He awarded Sinclair a nominal \$500 in damages, and costs, estimated at \$30,000. Petersen appealed.

In November, 1981 the Liberal Attorney-General, Mr Samuel Doumany, 44, was reported, unofficially, to favour the traditional choice of Douglas as Chief Justice. While Lyons had been lobbying for Andrews for some months this was publicly revealed for the first time on 22 November, when *The Sunday Mail*'s Mr Ric Allen reported that legal observers were saying that Petersen and Lyons, a National Party trustee, had been supporting a move to appoint Andrews Chief Justice. Following this disclosure, Stable, former Senior Puisne judge, asked, in a letter to the editor of *The Courier-Mail*: 'Who started (the lobbying), and who, or what, impels a trustee of a political party to support it?' He well knew, he wrote, all his judicial brothers, and went on: 'I would find it more than hard to believe that any of these my friends could be so dead to judicial propriety as to curry favour in any political quarter'. That, he wrote, 'would be an act so venal as to involve sacrifice of a principle for the sordid motive of personal advancement, and for the customary knighthood.'

At the Cabinet meeting, Doumany said he had consulted with a wide section of the legal community, and formally put forward Douglas' name for the post of Chief Justice. The only objection, according to

later reports, came from Petersen, and it was at this meeting that he launched the 'tirade', referred to above, against the judiciary. He sought, and obtained, a deferral to allow other names to be submitted.

Among names publicly mentioned in this connection was that of onetime radical Sir Walter Benjamin Campbell, then 60, and fifth in seniority. Campbell was educated at the Catholic Downlands College, where he hooked for the 1938 and 1939 XV's, generally thought to have been the best produced at that useful Rugby nursery. He served in the RAAF; was called to the Bar in 1948; took silk in 1960, and was appointed to the Supreme Court in 1967. He was chairman of the Commonwealth Remuneration Tribunal (parliamentarians' salaries) from 1974 to 1982, Chancellor of Queensland University from 1977, and was knighted in 1979.

Campbell was reported on 3 January, 1982, to have declined nomination for the post. However, Cabinet was still deadlocked, with the National Party refusing to accept Douglas, and the Liberals refusing to accept Andrews. The report suggested that Campbell might have to be re-approached. It is understood that he then consulted elements of the profession, and was advised to accept.

Doumany produced four names at the 10am Cabinet meeting of Tuesday, 12 January, 1982: Douglas, Campbell, Justice Peter Connolly, 11th in seniority, and Cedric Hampson QC. Doumany again recommended Douglas. When the smoke of battle cleared, after 'discussions' lasting 90 minutes, Campbell was Chief Justice.

Cabinet rested for two hours before again unlimbering the artillery, this time over who would be Senior Puisne judge. Doumany recommended Douglas. Petersen produced a minute stating that Cabinet recommended that the Executive Council appoint Andrews. Further 'discussion' ensued. 'You got your way with the Chief justice,' Petersen was reported to have told the Liberals; 'why don't you give me my way with the second position?'

Each of the seven Liberal ministers wrote on the minute: 'This appointment does not have my support.' The 10 National Party ministers signed, and the Governor, Commodore Sir James Ramsay, then 65, signed the appointments of Campbell as Chief Justice and of Andrews as Senior Puisne judge. Wanstall and Lucas attended the formal installation of Campbell, but not that of Andrews. The Bar Association did not send Andrews the usual telegram of congratulation, but at his installation, its president, Mr Bill Pincus QC, said that while it was true that the Bar Association had opposed his appointment, the past was the past, and he had the confidence of the Bar.

On 3 February, 1982, *The Sydney Morning Herald* reported: '... in Brisbane, the dogs are barking that when Governor Sir James Ramsay's term is up in April 1985, Sir Walter Campbell will ascend yet again, and that Justice Dormer Andrews will at last become Chief Justice...' In May 1982, the legal action which, by its timing, had later revealed the attitude of the head of the Executive towards the judiciary, was aired again. Hearing Petersen's appeal on 21 May, the Full Court, consisting of Campbell and, Justices Jack Lawrence Kelly and James David Dunn, overturned Lucas' decision and ordered Sinclair to pay Petersen's costs in both actions. Campbell appears to have been somewhat sensitive about the reporting of the appeal in Dr Ross Fitzgerald's 1984 volume, *A History of Queensland*, from 1915 to the early 1980s. In April 1984, the publishers, Queensland University Press, pulped the edition and sought to recall pre-launch copies sent to reviewers and booksellers. The book was reprinted and re-launched in late June. In July, *The Bulletin* reported that a clue to 'the flurry of legal threats and recall of copies... might be in the academic interest in the unexpurgated text taken by Sir Walter Campbell, Queensland's Chief Justice, next Governor and, coincidentally, Chancellor of Queensland University.'

If this were the case, it is difficult to see any cause for concern on Campbell's part. The decision of the Full Court was unanimous: Campbell said he considered there was no evidence on which it could be found that Sinclair had discharged the onus of proof to show that Petersen did not honestly hold the beliefs he expressed; Kelly said the evidence did not enable the inference to be properly drawn that Petersen did not honestly believe what he was asserting, and that, in his opinion, Sinclair had failed to establish the absence of good faith and the defence of qualified privilege should succeed; and Dunn said there was a deficiency of evidence which might tend to establish ill-will or other improper motive on Petersen's part. And, when Sinclair appealed against the Full Court's decision, the High Court,

consisting of Chief Justice Harry Gibbs, and Justices Lionel Murphy and Sir Ronald Wilson, on 24 June, 1982, refused Sinclair leave to appeal against the decision, and ordered him to pay Petersen's costs as well as his own. Sinclair was now thought to be up for some \$50 000.

Justice James Douglas died in February 1984, and so was probably spared the humiliation of being passed over again in 1985 when Campbell became Governor, Andrews became Chief Justice, and Kelly, who had been fifth in seniority in the Campbell court, became Senior Puisne judge. Kelly, 64, was private secretary to the Country Party Treasurer and Deputy Prime Minister, Arthur Fadden, from 1950 to 1952, and judge advocate, with the rank of Major-General, of the Australian Army from 1976 to 1982. He was appointed to the Supreme Court in 1973. Since 70 is the retiring age of Justices in Queensland, Andrews and Kelly may be at their posts until 1991.

Farquhar: Where the Government Went Wrong

'Once that evidence was given, I would have thought that any responsible Government would have wanted to investigate itself.'

- Justice Francis Hutley, July 1985

The crucial date in the continuing political problems that Chief Stipendiary Magistrate Murray Farquhar posed for the Wran Government may be discerned as 9 May 1977. On that date the Court of Appeal announced its finding in the Sankey case. Late in 1975, solicitor Danny Sankey alleged conspiracy against former Federal Cabinet Ministers Gough Whitlam, Justice Lionel Murphy, Dr Jim Cairns, and Rex Connor. Morgan Ryan was solicitor for Cairns.

In January 1977, Darcy Leo, SM, withdrew from hearing the case on the basis that he had initiated a defamation case against a newspaper. Farquhar was on hand in Queanbeyan Court to replace Leo. David Rofe, QC, for Sankey, took the matter to the Appeal Court. Leo did not specifically say who advised him to withdraw from the case. He said Farquhar and someone connected with the NSW Government had discussed the matter with him. On 9 May, the court removed Farquhar from the case.

A member of that court, former Justice Francis Hutley, said in July 1985 that the court had heard and accepted unchallenged evidence of Farquhar's interference in the Sankey case, and had referred to this in its judgment. 'Once that evidence was given,' Hutley said, 'I would have thought that any responsible Government would have wanted to investigate it itself.' The failure to investigate, he said, 'indicated an attitude by the Government of the day, that was the Wran Government.' If, as Hutley believed, there was an omission by whatever element in the administration of justice as might have investigated Farquhar's role, such omission shortly became critical for the Wran Government.

A case in which Kevin Emery Humphreys, a Rugby League identity, was accused of fraudulent misappropriation of \$50 000 from the Balmain Leagues Club, was set down for 11-12 August, 1977.

Mr Wran later complained that he was much damaged by inaccurate rumours. Yet, had Farquhar been suspended in May, pending an investigation of his role in the Sankey matter, Fraud Squad Detective Sergeant Clarence Frodsham could not have been writing in his official diary in June and August such inaccurate rumours as those noted by Chief Justice Street in a later report.

Thus, on 1 June, Frodsham wrote: 'Information received that Humphreys had arranged with Mr Wran that help would be given him and that Wran would appoint Mr Farquhar to hear the matter. Many requests being received requesting help for Humphreys.'

Again, had Farquhar been suspended back in May 1977, the events of Wednesday, 27 July 1977, could not have been a political problem. On that date, a fortnight before the Humphreys committal hearing, Farquhar was photographed in the members' enclosure at Randwick racecourse. He was in the company of a figure from the criminal *milieu*, George David Freeman, and Freeman's doctor, Dr Nick Paltos. On

11 December 1985, Paltos elected to plead guilty to involvement in the importation of cannabis worth \$40 million.

The Farquhar-Freeman-Paltos meeting at the race track became public on 6 March 1978. When Farquhar, claiming that his interest in a defamation action he had instituted might be prejudiced, refused to answer questions from the justice Department about the association, Mr Wran and his Minister of Justice, Ronald Mulock, were at variance on how to deal with the matter. Mr Mulock took the view, according to Chief justice Street, 'that it was of supreme importance to maintain public confidence in the magistracy by ensuring that the conduct of every individual magistrate, including the Chairman, was not such as to expose him to justifiable public criticisms of this nature.'

Mr Wran, however, gave greater weight to a view in which, as Mr Street noted: 'The need was recognised to defend the right of a person not to be condemned by mere innuendo, and to defend his entitlement, if an allegation of wrongdoing were made, to be dealt with in accordance with regular and established procedures.' Mr Wran's approach, admirable in its way, may explain his later dogged, and politically damaging, defence of Farquhar.

Farquhar's last case, before taking up a full-time position as chief adviser on drugs and alcohol to the Government, concerned an American, Roy Bowers Cessna, who was accused of being involved in an importation of marijuana originally valued by police at \$1.5 million. Morgan Ryan spoke to Farquhar and Police Commissioner Mervyn (The Sculler) Wood about the case. Farquhar's decision on 24 May 1979, to give Cessna a bond was the subject of discussion among police officers and in the public prints. Gregory Sullivan, QC, the Solicitor-General, carried out an inquiry and reported in 1980. He found that no tracks apparently led to Farquhar.

However, in terms of perceptions of the administration of justice in New South Wales, the implications of a remarkable sentence in Sullivan's report we can only be suspicious that the law was bent [by Wood] ... to oblige a friend [Ryan], a common but tolerated source of trouble in this community,' - have long been pondered. Sullivan's formulation, 'the law was bent', appears to fall within the classic definition of a perversion of the course of justice. The implications thus seemed to be that such perversions were frequent in New South Wales, but that little or nothing was done about them.

The Cessna case figures in conversations recorded on the *Age* tapes. It was revived in Parliament in March 1985 when Opposition Leader Mr Greiner produced a photograph of Farquhar and Ryan in Centennial Park. Mr Greiner claimed the photograph related to the case. Police have since given evidence as to the provenance of the picture to the Stewart Commission on the *Age* tapes. In December, Farquhar and Ryan were called before the Commission to give evidence on the Cessna case.

That Farquhar was eventually put behind bars restored a measure of confidence in the administration of justice in New South Wales, but this was achieved not so much by the institutions of the State as by a few journalists, notably the ABC's Chris Masters. A fuller restoration of confidence began in October 1986 when the Unsworth Government legislated to institute a State Director of Public Prosecutions.

The NSW Labor Party, until warned off the course proper on 23 December 1985 by the then acting Prime Minister, Lionel Bowen, mounted a sort of six-day war with the objective of forcing the resignation of the DPP, Ian Temby, QC. It seems clear, however, that had such an office been in place in May 1977, and had the director been as apparently honest and independent as Mr Temby, the Wran Government may have been saved a great deal of political grief and aggravation.

The Kevin Humphreys Affair

'I repeat, there will be a full, open inquiry before a Supreme Court judge and jury.'

- Neville Wran, QC, Premier of New South Wales, 1 May 1983

A Royal Commission into Certain Committal Proceedings Against K. E. Humphreys was held from May to July 1983. In newspaper reports, the Commission was variously referred to as the Street Royal Commission, from the name of the judge running it, or the Wran Royal Commission, from the name of the most newsworthy participant. It could as easily have been referred to as the Farquhar Commission or the Humphreys Commission or the Jones Commission.

It is clear that, whatever it was called, the Commission marked a watershed in the history of public corruption in New South Wales: it established both a climate in which automatic cover up of malpractice in public life would no longer suffice, and a momentum of disclosure which had far-reaching consequences.

Thus:

- Even while the Commission was running, investigations were proceeding into a prisoner early release scheme which eventually saw the then Minister for Corrective Services charged with corruption.
- To regain credibility after the political fallout from the Commission and the prisoner early release scheme, the Wran Government accepted, more than two-and-a-half years after Justice Lusher's recommendation, the necessity of a Police Board on which the majority were civilians. One of the Board's first major decisions had the effect of forestalling a proposed Cabinet appointment to the post of Police Commissioner. Instead, John Avery was installed, and there followed a major assault on institutionalised corruption in the force.
- And finally, the climate ensured that the *Age* tapes would eventually be subjected to proper examination, with all the consequences of that, including the charging of a Justice of the High Court and a judge of the NSW District Court.

The sequence of events leading to the Commission, as derived from its report and other extant materials, was as follows:

Kevin Emery Humphreys was appointed honorary secretary of the Balmain Rugby League Club in 1965 and full-time secretary in 1966. A club secretary could not be an official of the NSW or Australian Rugby League so, in May 1973, he relinquished that position and took Norman (Latchem) Robinson's job as Secretary-Manager of the Balmain Leagues Club Limited. Humphreys was then appointed President of the NSW Rugby League, and, in July 1973, chairman of the Australian Rugby League. He was only the third president of the NSWRL, since 1929, the others being Jersey Flegg (1929-1960) and Bill Buckley (1960-1973).

From 31 July 1974, Humphreys began, according to later charges, to 'fraudulently take and apply for his own use and benefit' moneys from a cash float held by the club. By 11 August 1975, he had left eight vouchers for sums totalling \$19 940. On 18 February 1976, a partner of the club's auditors conducted a cash count at the club in the presence of Humphreys. This disclosed a deficiency of \$30 579 not covered by vouchers. A week later, Humphreys told the auditor that 'he loaned this to a friend who was in financial trouble' some time in the previous month, and the loan would be repaid within a month. Humphreys later told the Royal Commission he lost the money in various forms of gambling.

Within the next ten days, Humphreys obtained loans totalling \$52 000, in the form of bank cheques, from four people: John Arthur Gibson, professional football coach, \$34 000; Ken Arthurson, secretary-manager of the Manly-Warringah Rugby League Football Club, \$5000; Norman (Latchem) Robinson, former secretary / manager of the Balmain Leagues Club, \$6000; Geoffrey William Gardiner, company director, a sum, presumably the balance of \$7000 to make up the \$52 000. Humphreys deposited the cheques in the club's bank account on 4 and 8 March 1976.

A week after the last deposit, the executive committee of the NSW Rugby League, of which Arthurson was a member, recommended that Humphreys be appointed to a ten-year contract as full-time executive director of the NSWRL. The general committee approved the recommendation. Humphreys negotiated a

loan of \$36 000 from the NSWRL. Seven years later, in May 1983, it was revealed that he had paid \$6000 off the loan, and still owed the NSWRL, \$29 000.

On 24 March 1976, *The Sun* reported that the Balmain Leagues Club's annual report contained details of an unauthorised loan of \$19 000 Humphreys had made from club funds. Next day, licensing police questioned Humphreys about the newspaper report. He told them the money he took from the club was used for Rugby League purposes, 'it was not paid to any particular individual'. He said the money had been repaid and the vouchers destroyed.

A dissatisfied member of the Balmain Leagues Club wrote to the Minister of Justice in the then Willis (Liberal) Government on 20 April 1976 to express concern that the chairman of the club had not provided an opportunity for club members to ask questions about the matter at the club's annual meeting. In May, the Government changed. The incoming Minister of Justice referred the file to Police Minister Neville Wran on 7 July; on the same date the matter was referred to Police Commissioner Frederick John (Slippery) Hanson for advice. Somehow, these activities came to the knowledge of Humphreys. 'In about mid-July', according to the Commission's report, he telephoned Hanson to express his concern and to arrange an appointment to see him. Hanson said he would ask Assistant Commissioner (Crime) Reg Stackpool to make inquiries.

Hanson had become Acting Commissioner in March 1972, while Commissioner Norman. Allan was on accumulated leave pending his retirement in disgrace, and was officially made Commissioner on 15 November 1972. A policeman with, apart from everything else, a serious drinking problem, Hanson spent ninety-seven days, or forty-four per cent, of his first eight months in office on recreation leave, sick leave and overseas duty. The shop, however, was no doubt well looked after by Assistant Commissioner (Crime) Reg Stackpool, who had investigated, without success, the Pyjama Girl case in the 1930s. He was appointed Assistant Superintendent at the CIB on 2 March 1972, and then, presumably having demonstrated his credentials there, was appointed, to the surprise of many more senior officers, Assistant Commissioner on 6 December 1972. Hanson and Stackpool had a hand in the McNeill cover-up of organised crime in clubs that led to the Moffitt Royal Commission in 1973.

Towards the end of July 1976, the investigation of Humphreys was placed in the hands of Detective Sergeant Clarence Robert Frodsham, of the Fraud Squad. On 27 July Frodsham got a report from the licensing police at Balmain Police Station and interviewed three directors of the club. He then interviewed the club's auditors. On 9 August he submitted an interim report to the Superintendent in charge at the CIB. In this, although the investigation was not then complete, Frodsham anticipated that Humphreys would be charged within the next fortnight.

Early in August, Humphreys instructed a solicitor, John Lawrence Aston, who had set up practice the previous month at 54 Park Street. Aston briefed Kevin Murray QC and conferred with him on Wednesday 11 August. It is not clear whether Humphreys was present at the conference. Next day, Humphreys rang Wran's office to seek an appointment.

Hanson's police diary for Monday 16 August 1976 showed that a telephone call was received from Frodsham at 12.25 pm. Another, from [Detective Constable] Mick Newton, Frodsham's partner in the Humphreys investigation, was received in Hanson's office at 12.38 pm. Superintendent R. W. Shankleton arranged for the investigation of these and other matters after the conclusion of the Royal Commission in 1983. His report, dated 21 July 1983, recorded that Detective Inspector G. Campbell had found that neither Frodsham nor Newton recalled making the calls. Campbell felt it was possible the entries indicated that Hanson or some member of his staff had telephoned the Fraud Squad 'to discuss certain inquiries that the Fraud Squad were investigating', and hence noted the names of Frodsham and Newton in the diary.

Next day, Tuesday 17 August, the first incoming telephone call recorded in Hanson's book was from Wran at 9 am. Wran later denied that the call had anything to do with Humphreys. Street later said he was satisfied that Wran's telephone call had nothing to do with Humphreys' visit to Hanson later the same morning. When Stackpool took Humphreys to Hanson's office, Hanson sent for Frodsham. According to Frodsham, Hanson, in the presence of Stackpool and Humphreys, said Humphreys was

making inquiries as to how serious the matter was. Frodsham replied that in his view it was serious and would probably result in Humphreys being prosecuted. After ten or fifteen minutes, Frodsham was dismissed; Hanson, Stackpool and Humphreys remained in the room. Resentful at having been placed in the embarrassing position of being called to account by Hanson and Stackpool in the presence of the man he was investigating, Frodsham reported the matter to his immediate superior at the Fraud Squad and to the chief of staff at the squad.

On 7 September, Wran's secretary, Denise Darlow (later Ng) advised Humphreys that Wran would see him at 4 pm on 23 September. Two days before this, on 21 September, Wran signed a letter advising Justice Minister Ron Mulock that police inquiries were proceeding on the Humphreys matter. The accounts of Humphreys and Wran generally agree as to what happened at the meeting. According to Humphreys, as soon as he raised the matter, Wran 'told me he could not discuss it with me at all, in any way, shape or form. He put his hands up - I remember it very distinctly - and said: "Mr Humphreys, I cannot discuss it with you. As well as being the Premier, I am Minister of Police and this is a police matter", and that was the end of it'. Street records that it 'had at one stage seemed to me a little surprising that Mr Wran was so quick to close off the topic. After all, it might have been some legitimate complaint, say, of police misconduct that Mr Humphreys wished to place before him. I put that direct question to Mr Wran and he replied: "You can sense the difference, and I didn't sense that there was any matter of complaint, but rather a matter of supplication"; he relied on the demeanour of Mr Humphreys in stopping it at the outset, without waiting to hear what the subject was'. Street accepted this.

On 3 November, Frodsham submitted his final ten-page report on the Humphreys investigation. He recommended nine charges of fraudulent misappropriation against Humphreys. Street later found that, at some point between then and 11 August 1977, someone with access to the police file made a copy of this report and leaked it to the Humphreys defence team, who were essentially Aston and Murray. For Street, Inspector K. McOrrie later made an unsuccessful investigation as to how the leak came about.

Frodsham sent the file to Superintendent Ray Goldsworthy, in charge of the CIB, with an accompanying minute suggesting the file be sent to Stackpool, 'and through him to be brought to the attention of the Commissioner of Police who has expressed interest in the matter'.

The file came to the attention of Detective Inspector Sadler, then Supervisory Inspector at the CIB. Sadler sent the file to Goldsworthy, with a recommendation that Frodsham's proposed actions be carried out, on Tuesday 9 November. Goldsworthy supported his juniors' recommendations in a minute sent with the file to Hanson on the same date. The file carries no date-received stamp from Hanson's office.

However, there is a record of an incoming call to Hanson from Humphreys on 9 November.

On Wednesday 17 November, Hanson's diary indicates that he received calls, possibly in response to outgoing calls Hanson made, as follows:

11.39 am: from Humphreys.

11.43 am: from Inspector Redhead, assistant to the Superintendent in Charge of the Prosecuting Branch.

11.50 am: from Humphreys.

Noon: from Redhead.

Humphreys told Street he had no knowledge of these calls. Street reported that he was satisfied that Humphreys had probably learned of the existence of Frodsham's full report, but said: 'I am unable to point to the source of this leakage of information'. Others might hazard a guess that the leak came from either Hanson or Stackpool.

Hanson sent the file, with his minute asking that the papers be perused for comment and recommendation in due course, to the Superintendent in Charge at the Police Prosecuting Branch, on 18 November. There is no date-received stamp to establish when the file arrived at the Prosecuting Branch.

Redhead told Street he was not aware of the date when the file was received, but said he was certain that no pressure was ever applied to him from any person to refrain from recommending the Humphreys prosecution.

Hanson had agreed to retire early, on 31 December 1976, on condition he could name his successor, Mervyn Wood. In late November or early December, according to former Assistant Commissioner Brian Doyle, Frodsham and Newton visited Doyle and told him they had been summoned to Hanson's office and that Humphreys was again present. Frodsham said Hanson made him outline the evidence against Humphreys, and then directed them to drop the inquiry and take no further action.

Doyle said he gave this advice to Frodsham: '(Hanson) is retiring in a matter of weeks... when he retires you will no longer be bound by his direction. That is when you go and get Humphreys and whack him in the dock'.

Frodsham and Newton denied that any of this happened. Frodsham said Doyle must have confused it with another matter. Doyle however said the other case occurred in 1978, thirteen months after Hanson retired, and that, Hanson then being history, he would not then have advised Frodsham that Hanson was retiring.

Inspector G. Campbell investigated this conflict of evidence for Street. Campbell took the view, and Shankleton agreed with him, 'that on all the evidence available Mr Doyle has erred and made an honest mistake', and that he had confused the events of 17 August 1976 with another matter that occurred in 1977. Others in the force took the view that it would be most uncharacteristic of Doyle, said to be a policeman with a very clear mind and '110 per cent integrity', to have made an error of this sort.

Street found it was not necessary for him to attempt to resolve this conflict of evidence. He said: 'It would be grossly unfair to make findings adverse to (Hanson and Stackpool) in this connection' when Frodsham and Humphreys denied any such statement was made.

Redhead said it was he who responded to Hanson's minute of 18 November. Redhead's response was made on 10 January 1977, seven weeks and four days after Hanson sent the file, and ten days after Hanson retired. This time there was no delay in the movement of the file: on the same day, the officer in charge, Prosecutions, presumably Redhead, recommended to the new Commissioner, Wood, that a prosecution be instituted. The minute was approved by Wood on the same day. On 17 January Frodsham laid nine informations against Humphreys and served summonses on him at 12.30 pm the following day, Tuesday 18 January, in Aston's office. At 4 pm that day, Humphreys and Sydney advertising executive John Singleton left for the US to examine American football promotions. The issuing of the summonses was heavily reported in that day's afternoon papers, *The Sun* and the *Mirror*, and in next morning's *Sydney Morning Herald*, *Australian* and *Daily Telegraph*. *The Australian* noted that each of the nine charges against Humphreys carried a maximum penalty of fifteen years in prison.

The case was set down for hearing on 26 May 1977. In the intervening period, Stackpool took a significant step in relation to Farquhar's friend, George Freeman. As noted elsewhere, a dossier on Freeman had been prepared by the Criminal Intelligence Unit in March. Stackpool arranged for the 21 Division to examine the SP material in the dossier. The Division reached the conclusion that Freeman was at that time no more than a commission agent.

Some days before 26 May, the Humphreys defence team sought and obtained from prosecution officers agreement for an adjournment to a later date. The practice in the Magistrates Courts was not to decide which magistrate would hear a particular case until the morning of the sitting. Street thus ruled out the possibility that the adjournment was sought to avoid any particular magistrate. The case was listed for hearing on 11 and 12 August 1977, and Wran's office was advised of this on 16 June.

As noted elsewhere, Frodsham put entries concerning the Humphreys case into his diary on 1 June and 5 August. These remarkable statements may be seen, not so much as elucidating the Humphreys matter, as indicative of perceptions in certain quarters of the administration of justice in Sydney in 1977.

Frodsham thus recorded, in this matter-of-fact way, allegations that the Premier of the State and its Chief Magistrate were conspiring to pervert the course of justice, and that Frodsham himself was subject to 'many requests' that he engage in a similar act of perversion. It is not clear what steps he took to investigate the allegations of conspiracy to pervert, or whether he felt in a position to charge those who had sought his complicity.

Street judged that 'the possible implications' of these notes were 'of the utmost significance'. He said that if the origin of the rumour 'could be tracked down and, more importantly, if the rumour could be authenticated, that would be of very great importance in the resolution of the matters presently under inquiry. As it turns out the origin of the rumour [concerning the alleged conspiracy] could not be tracked down'.

Frodsham in fact said he could not remember who it was among the police and media who supplied the allegations. He said the reference to information received in the first entry was 'just something that I had heard... rumours from other police, and also at that time I was receiving a lot of phone calls from the media and suggestions from them'. Of the second entry, he said: 'I think that was similarly motivated in the main from phone calls I received from members of the media. I remember one ringing up and saying: "There's a big tip you are going to have no chance of fitting Humphreys at all. They have fixed it up".'

Street accepted Frodsham's evidence as truthful. He said: 'There is not the slightest reason why he [Frodsham] would dissemble or attempt to conceal anything underlying these two diary notes'. Street took the view that the rumours probably emanated from cynics who saw Humphreys as a man of some prominence and hence would not be 'fitted', and then 'turned their minds to speculation as to what had taken place'. He noted that Humphreys had 'been to see Mr Wran, albeit unsuccessfully. Mr Humphreys might well have mentioned that himself. Street decided: 'I have reached the conclusion that the rumour can be safely and properly placed aside as having no foundation in fact'.

Major events of the two days of the Humphreys committal hearing were:

Thursday 11 August 1977: From 9 am to 10 am, Wran attended an important financial conference in his offices. Wran later denied he made a telephone call to Farquhar in that period. Evidence on this was given by four persons who attended the conference: Norman Oakes, Treasury Secretary; Ivan Hooper, Treasury Deputy Secretary; David Hill, head of the ministerial advisory unit at Wran's office; and Nigel Stokes, Wran's financial adviser. Street found: 'The prospect of his [Wran's] having left that conference in order to telephone Mr Farquhar at 9.30 was ruled out by the overall tenor of the evidence of those four witnesses'.

At about 9.30 am, Farquhar's deputy, Walter Lewer, was in the room of Farquhar's clerk, Camelle Abood, allocating the day's cases to the various available magistrates. Lewer allocated the Humphreys case to Keith Hammond.

At about the same time, 9.30 am, a group of magistrates, including Farquhar and Kevin Waller, were in the chambers of Magistrate Kevin Webb at the Central Court of Petty Session in Liverpool Street.

Farquhar's mistress and secretary, Mrs. Vincenza D'Agostino, came to the door and, according to Waller, said to Farquhar: 'The Premier is on the phone'. Farquhar left. Street, who said Waller 'was an entirely credit-worthy witness', found that his recollection of the words 'the Premier' being used was wrong.

Farquhar then went to Abood's room and spoke to Lewer. According to Lewer, the conversation went like this:

'Who have you got on the Humphreys case?' 'Hammond.'

'Get him off it. He's a policeman. Who else have you?' 'Waller.'

'He's just as bad.'

'Is that an instruction?' Yes'.

Lewer offered to do the case himself, but Farquhar said he couldn't spare him, and went on: 'We can't talk here; come to my room'. When they got there, according to Lewer, Farquhar said; 'Look, the Premier's just been on the phone. These matters aren't very important. They all do it'. (Or, 'They do it in all the clubs', or words very close to that.) 'He doesn't want Humphreys committed. Who else is there?'

I don't know; I'll have to look in the diary.'

Abood bought the diary round. Lewer said Jones was available. Farquhar said: 'He'll do.'

At about 9.55 am, the magistrates went to Farquhar's chambers to hear the allocations. As they were leaving, Farquhar asked Kevin Willson (so spelled) Jones to stay behind. According to Jones, Farquhar said, when they were alone: 'The Premier's contacted me. He wants Kevin Humphreys discharged'. Jones said nothing, and returned to the chambers he occupied with Waller. According to Waller, Jones said: 'You will never guess what's happened.'

'What?'

'The chairman's just told me that Wran's been on the phone and the Government has no interest in seeing Kevin Humphreys committed for trial in this case.'

'Stuff Wran', Waller said. 'Just do the case.' He added, in what appears to be a reference to the no-bill system: 'If they want to pull it out, let them do it up there.'

The case against Humphreys was presented by Police Prosecutor Sergeant Darcy Cluff. Street found that the case was strong, that Cluff presented it in a competent manner, and that Cluff's submissions to Jones were made thoroughly and soundly. Kevin Murray QC represented Humphreys. Cluff noticed that Murray had a copy of the Frodsham report. Cluff finished calling his evidence at 4 pm on Thursday 11 August. Murray did not call evidence for Humphreys, and Humphreys did not give evidence.

After Jones left the court that afternoon, Farquhar asked him to come round to his chambers and there offered some views designed, according to Street, to facilitate Jones's reaching a decision to discharge Humphreys. However, later in the afternoon, Jones told Lewer that the prosecution had a strong case.

Friday 12 August 1977 : At the morning tea break, Murray expressed confidence in the outcome to Hugh Mountjoy, a reporter. Mountjoy told Cluff he was wasting his time, as Humphreys could not be committed. Murray later denied any foreknowledge of the result. Street accepted this.

In the latter part of that morning, a magistrate, Kenneth Henderson, was alone in Abood's office when the telephone rang. Henderson answered it. The caller asked to speak to Jones or Farquhar, but was told they were unavailable. The caller then said he was a journalist, and gave a name that Henderson was later unable to recall. He said he had a statutory declaration stating that Jones had been instructed by Farquhar, on directions from Wran, to dismiss the charges against Humphreys.

Henderson told the caller to hold on and went to look for Lewer, the man he believed was the senior magistrate present. He found Lewer in the common room, called him out to the corridor and told him of the call. Jones chanced to be passing. Lewer told him a person saying he was a journalist was on the phone 'suggesting that there had been some influence on you in the matter'. Lewer suggested that Jones ask the caller to come and see him at the court. Jones went to the telephone but found the line was dead. It was later suggested that the *Glebe and Western Weekly* newspaper had foreknowledge of the result and that the mystery caller was a senior journalist on its staff, but the senior journalist denied both foreknowledge and making the call.

Early in 1984, Lewer recalled a conversation with Farquhar that he had forgotten at the time of the Street Royal Commission. He told Farquhar's committal hearing on 8 February 1984 that before 1 pm on 12 August 1977 he had seen Farquhar and had said: 'I said words to this effect: You (Farquhar) want to watch yourself. Somebody who said he was a journalist rang up wanting to speak to you or Jones saying that the Premier had said he didn't want Humphreys committed'. According to a 5 March 1984 report of Farquhar's trial in the District Court, Farquhar had replied to Lewer that it was all right: his secretary had taken the call, and hung up.

Submissions by Cluff and Murray ended at 12.30. Jones returned at 3 pm and delivered his verdict. Street found that 'Jones's belief of the wishes of the Premier and Mr Farquhar irresistibly pervaded his evaluation...' Jones dismissed the charges. Humphreys celebrated at the NSW Leagues Club in Phillip Street. He told *Telegraph* reporter Peter Muzkat: 'It's good to be able to say thank you to so many good friends who have stuck by me'.

Cluff was 'incensed' at the decision. He believed that justice had seriously miscarried. That afternoon, he said he would be recommending that a transcript be obtained with a view to having *ex officio* indictments brought against Humphreys, and was told to give this report to his senior officer, Inspector J. Nesbitt. Cluff did this on the following Monday, but made a copy of his report and kept it among his own private papers. He later asked Nesbitt what was happening about the matter, but Nesbitt gave him to understand that the matter 'was dead'. Police investigating for Street failed to discover any record of Cluff's report or any copy of it in any file. This suggests that either Nesbitt did not forward it to the Crown Law Office, or that it was suppressed by some other person at some time between 15 August 1977 and July 1983.

Frodsham also made a report. This enclosed a copy of Jones's judgment, and eventually reached Superintendent Roy Whitelaw. On 14 October 1977, Whitelaw recommended to Commissioner Wood that no further action be taken. In due course, Wran's office was advised of this.

In September 1978, a NSW Legislative Council committee investigating crime reported that a Constable William Williams, of Dee Why police, had told the committee that Humphreys and Ken Arthurson, secretary of the Manly-Warringah Leagues Club, had been running a two-up school at Brookvale the previous year. Reporting this on 7 September, *The Daily Mirror* carried an interview with Williams. He said he was continually blocked in repeated bids to have the gambling premises closed, and that he was warned he could be transferred from Dee Why if he kept up with the allegations. The *Mirror* also carried a report in which Humphreys and Arthurson denied any connection whatever with any illegal gambling. Humphreys said the allegation was 'a wicked lie'. He sued the *Mirror* for defamation.

Humphreys made two court appearances in April 1981. On 8 April, he was in Nowra Court of Petty Sessions as a character witness for Keith Francis (Shoulders) Nolan, 51. Nolan, secretary / manager of the Thirroul Leagues Club and president of the Illawarra Turf Club, had been charged with offering bribes amounting to \$1500 to an Australian Jockey Club steward, William David Cameron, who was inquiring into the performance of a horse called Sky Gift in the Improvers' Handicap at Nowra race track on 31 May 1980.

Evidence was given that Cameron began an inquiry after Sky Gift's price blew from 5-2 to 20-1 shortly before the start of the race. Cameron said that, after taking some evidence and adjourning the inquiry, he met Nolan outside the stewards' room. According to Cameron, Nolan said to him: 'They say they are in a lot of trouble, and there's \$500 in it for you not to go on with it', to which Cameron had replied: 'Tell them to go and get...' Next day, Cameron said, a person telephoned him, identified himself as Keith, and said: 'They doubled the offer'.

To his counsel, Tony Bellanto, QC, Nolan denied the conversations had taken place. In addition to Humphreys, former Wollongong Police Superintendent Robert Beath and Illawarra vice-president Dr Grayson McKay gave character evidence for Nolan. Magistrate Bruce Butler said the prosecution rested solely on Cameron's allegations, all of which had been completely denied by Nolan, and there had been much evidence by defence witnesses of Nolan's integrity and truthfulness. He said that in the circumstances he would dismiss the charges.

Humphreys' defamation case against the *Mirror* took two days, on 27 and 28 April 1981. For Humphreys, Frank McAlary QC told the court of Justice Begg and a jury of two men and two women that the article implied that Humphreys was running a two-up school, had police protection for it, and was involved in organised crime.

He asked the jury to bring a verdict for heavy damages. Character evidence for Humphreys was given by William Keith Barnes, secretary-manager of the Balmain Leagues Club, former Rugby League international Reginald William Gasnier, sporting commentator Rex Mossop, and former Olympic team manager Philip Coles.

Humphreys did not give evidence. For the *Mirror*, Michael McHugh QC said the action must be one of the most remarkable cases ever brought in the history of the Supreme Court. He said it must be a long time, if ever, since a person with the general reputation of Humphreys was not prepared to go into the witness box and give the lie to what had been published about him. Humphreys, McHugh said, could have been called to give evidence, but he had not given one single word. McHugh told the jury they might well come to the conclusion that the defamation action was a 'try on' to see if some money could be obtained from the newspaper. After retiring for twenty minutes, the jury found against Humphreys. Begg ordered that Humphreys pay the *Mirror's* costs.

In August 1981, Humphreys told a Channel 9 sports programme that the image of Rugby League may have suffered because he attended the wedding of George Freeman. He said he had considered the invitation 'very, very seriously', but believed that, as an individual, he had the right to 'attend a wedding of a friend of mine if I so desired'. He challenged any journalist who 'has information to put forward that any person from myself down in Rugby League is involved in any illegal situation, be it gambling or anything else... to come forward publicly and name the persons involved'.

In September 1981, John Dowd became leader of the Liberal Party and Opposition leader in the NSW Parliament. He mounted a strenuous campaign on the issue of public corruption in Sydney.

In mid-January, 1983, the Australian Broadcasting Commission's 'Four Corners' television programme began research on a programme about Australian sport in general. Producer Peter Manning, 38, was in charge of the project; Christopher Masters, 34, brother of St George Rugby League coach Roy Masters, was the reporter assigned to the project. Over time, the projected programme evolved into an examination of Rugby League in New South Wales in general, and the 1977 Humphreys case in particular. Manning and Masters conducted over 100 interviews on a confidential basis, and accumulated a file some 5 cm thick. The sources were then re-interviewed and asked if they would make a statement.

On 15 March 1983, Nicholas Greiner ousted Dowd as leader of the Liberal Party. Greiner announced that organised crime was clearly not the issue; he would campaign on bread and butter issues.

Six weeks later, on Friday 29 April 1983, Humphreys resigned as chairman of the Australian Rugby League at an ARL meeting in Brisbane. He told a press conference he was standing down because of his health. He said he would later consider his position as executive director and president of the NSW Rugby League. He denied that a 'Four Corners' programme about Rugby League, to be shown on ABC television the following night, had influenced his decision. Arthurson was later elected chairman of the ARL.

At the time Humphreys announced his resignation, it was still not certain the 'Four Corners' programme would be shown. It had been checked by lawyers and then progressively referred up the ABC's management chain: 'Four Corners' executive producer Jonathon Holmes, Public Affairs director Peter Reid, acting general manager (television) Jim Fitzmaurice, general manager Keith Jennings, chairman Leonie Kramer. Many ABC staffers stayed behind on the Friday night to wait for news of the final decision from top management on the fate of the programme. Kramer said later: 'This programme raises matters of considerable importance. I was aware of its contents before it went to air. It is the responsibility of the ABC as a national broadcaster to report events without fear or favour'.

The programme, called 'The Big League', went to air on Saturday night, 30 April 1983 and was repeated next day. Masters said an independent accountant had checked a year of the NSWRL's accounts and found \$444 000 sitting in a non-interest-bearing account, and \$237 000 listed under the heading, 'Sundry Loans'. The programme also showed several dramatised versions of conversations between named magistrates at the time of the Humphreys committal hearing. Questions were raised as to whether Wran, Farquhar or Jones had acted improperly in relation to the Humphreys case. There was also a reference to Farquhar's connection with George Freeman.

Later on the Saturday night, Greiner met former Liberal Senator Christopher Puplick at a function. Puplick asked Greiner: 'Is Murray Farquhar a bread and butter issue'? Greiner told the press that night: 'I think that clearly these are very serious allegations which strike at the heart of our system of government and justice. Nothing less than a Royal Commission will satisfy the grave public concern that will have been aroused by these allegations'. He said the judicial inquiry would need to be independent, by which 'I mean a judicial inquiry conducted by a judge from outside New South Wales'.

Next day, Sunday 1 May Wran told the press he had asked the Attorney-General, Paul Landa, to examine the transcript of the 'Four Corners' programme and, 'if there is any evidence of wrong-doing, then to deal with it in accordance with the law'. As for statements on the programme concerning himself, 'I have already instructed my legal advisers to take proceedings against the ABC'.

A reporter asked: 'What about a full, open inquiry into those allegations?'

'I repeat', Wran replied, 'there will be a full, open inquiry before a Supreme Court judge and jury. The comments concerning myself are totally false and I don't intend to let the ABC have trial by media, and to put itself in a position where it can make an allegation, unfounded and false, and then expect an inquiry to establish the facts'. Wran also announced that day a three-year \$1 billion plan to create more than 50 000 jobs.

Greiner said that, by Wran's taking an action for defamation, the cloud hanging over the NSW justice system would remain for months, perhaps years, while the defamation case was proceeding. Independent MP John Hatton said that by taking legal action against the ABC, Wran would effectively prevent discussion of the matter in Parliament, because Speakers of the House had ruled that matters before the courts were subjudice and could not be raised in Parliament. Hatton said that this raised the possibility that a matter of vital public importance could not be discussed for months or even years. Parliament in fact was not sitting when the 'Four Corners' programme was shown, and was not due to sit again until mid-August, three-and-a-half months later.

Humphreys resigned as president and executive director of the NSWRL, on Monday 2 May. He said continuing publicity over the 1977 committal hearing was not in the best interests of Rugby League.

The next day, Tuesday 3 May, Senator Donald Chipp, leader of the Australian Democrats, who held the balance of power in the Senate, suggested to Attorney-General Gareth Evans that the Humphreys matter be referred to the Costigan Royal Commission. He asked Evans: because two arms of the NSW Government, the judiciary and the executive, have been accused of being possible co-conspirators to pervert the course of justice, does the Attorney-General not agree it would be singularly inappropriate for these allegations to be tested or heard by any instrument of the government or judiciary of New South Wales'. He also asked Evans if he would consider referring allegations against former Premier Sir Robert Askin, notably allegations in *The National Times* in 1981 in which it was stated that Askin received money from Perce Galea, a close confederate of George Freeman. Evans said it was a matter for the administration of justice in New South Wales.

That day, Greiner asked NSW police to launch their own investigations. Acting Police Commissioner John Perrin replied: 'The "Four Corners" programme made no allegations to the effect that there was any deficiency in the original police investigation... the administration of justice rests with the Attorney-General'. Greiner obtained a legal opinion from a Queen's counsel that in saying this Perrin was 'categorically wrong... under the relevant Act the police have a clear obligation to investigate allegations of an attempt to interfere with the course of justice. Police have this duty to investigate without

reference to the Police Minister or the Attorney-General'. It was understood that magistrates and others who gave statements to 'Four Corners' had said they were prepared to give evidence only before an independent judicial inquiry. The ABC management was expected to withhold statutory declarations made by those people until an inquiry was set up. Wran again rejected calls for a Royal Commission or judicial inquiry. His spokesman said the proper forum for determining the allegations was the Supreme Court where he had instituted defamation proceedings. Farquhar announced he had instituted a defamation action over the programme.

On Thursday 5 May, Chipp threatened to move for a Senate inquiry into the allegations. He told the Senate that if the Government did not allow the Costigan Royal Commission to 'put its fingers into the smoky corridors of corruption that exist in Sydney and Brisbane', he would consider moving for a Senate select committee. He said that witnesses might be reluctant to give evidence in the defamation case 'two years from now in a city which is as notorious for hoodlums, gangsterism, violence as any in the world...'

Next day, Friday 6 May following reports that Magistrate Kevin Jones [whose condition was later revealed to be terminal] was to leave that night on a three-month overseas trip, it was reported that Landa had ordered him not to leave the country, and that Solicitor-General Mary Gaudron was expected to tell Jones to file a full report on the Humphreys case. It was stated that Gaudron would ask Chief Stipendiary Magistrate Clarence Briese to make a report on the 'Four Corners' programme. Police Minister Peter Anderson confirmed that Police Commissioner Cecil Abbott would be instructed, when he returned from a police commissioners' conference on 16 May, to investigate reports in *The National Times* that former Commissioner Fred Hanson had tried to interfere in the original police investigation of Humphreys. The NSWRL announced that its payout to Humphreys, whose basic annual salary had been \$35,000, would not be made public. Greiner was asked how his new-found interest in law and order squared with his promise to concentrate on bread and butter issues. 'This is the jam', he replied.

Hatton asked the Ombudsman, George Masterman QC, to investigate why police had not acted in the line of their legal duty to probe allegations made on the ABC programme, and to investigate aspects of a 1978 public service inquiry into Farquhar's association with Freeman.

Jones' report was received in the Attorney-General's Department at 10.25 am on Tuesday 10 May. Jones reported, *inter alia*, that, about 10 am on 11 August 1977, as he was leaving Farquhar's chambers to hear the Humphreys matter, Farquhar said to him: 'The Premier has contacted me and he wants Humphreys discharged'. It was reported that Crown Law Officers, after studying the statement, recommended a Royal Commission to Landa. He accepted the advice, and then talked to Wran, who also agreed. Landa called on Street later in the morning. The purpose of this visit was presumably to ask Street to supply a judge. Street decided to do it himself, and the Royal Commission was announced at lunchtime. At the same time, Wran announced he would stand down as Premier. Deputy Premier John Ferguson, who was then in Sofia, Bulgaria, was called back to become acting Premier.

The Sydney Morning Herald reported that, while Jones's statement was the catalyst for the Royal Commission, the Government was also concerned about the possible course of a Senate inquiry then being discussed by Chipp and the federal Opposition. The report said: 'One view put within the NSW Government... was that it was far better to have an... inquiry with terms of reference set by the Government than for politicians to conduct a wide-ranging investigation'. On 16 April 1986, Chief Stipendiary Magistrate Clarence Briese told the second trial of Justice Lionel Murphy he did not tell the Street Commission all he knew about Farquhar, notably in connection with the Cessna-Milner case, because: 'I knew that was going to be a very narrow inquiry. Haines [Trevor Haines, NSW Under Secretary of Justice] had told me it would be smaller than the eye of a needle, and that's pretty small. Had there been a wide-ranging inquiry there certainly would have been evidence I could have produced'.

The terms of reference for the Humphreys inquiry focussed on what Farquhar did on or about 11 August 1977. Street explained the process of settling the terms on 16 May 1983, the first day of the preliminary sitting of the Royal Commission: 'An Executive decision having been made to establish a judicial Royal Commission, the proposed terms of reference are prepared by the Executive. The responsible Minister

requests the Chief Justice to make available a judge. The proposed terms are placed before the Chief Justice for consideration and approval. They are considered by the Chief Justice for two purposes: first, to assess whether each matter covered by them is appropriate for judicial inquiry: secondly, to assess whether the drafting is of sufficient clarity. The Chief justice might request the deletion or limitation of terms involving matters inappropriate for judicial inquiry. He might request some drafting improvements. Once satisfied, he approves them in the sense of accepting them. The range of the terms, subject to what I have said, is the exclusive concern of the Executive, whose province and responsibility it is to determine whether to set up a Royal Commission and to determine its scope. Having been approved, the terms are translated by due constitutional process into a formal Commission under the Great Seal appointing the Chief Justice or the selected judge to be the Royal Commissioner'.

The full text of the Royal Commission, as signed on Wednesday 12 May was:

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and of Her other Realms and Territories, Head of the Commonwealth.

To our Trusty and Well-beloved SIR LAURENCE WHISTLER STREET, K. C. M. G., K. St. J., Chief Justice of New South Wales.

GREETINGS:

WHEREAS it is desirable that the matter hereinafter referred to should be investigated.

NOW KNOW YE, that We, reposing great trust and confidence in your integrity, learning and ability, Do, with the advice of the Executive Council of Our said State, hereby authorise SIR LAURENCE WHISTLER STREET, K. C. M. G., K. St. J., as Sole Commissioner to make inquiry as to

(1) whether on or about 11th August, 1977, Murray Frederick Farquhar influenced or attempted to influence the outcome of committal proceedings on nine charges laid under section 173 of the Crime Act, 1900, against Kevin Emery Humphreys, which charges were heard by Kevin William (sic) Jones, Stipendiary Magistrate, on the 11th and 12th August, 1977, and determined by him in favour of the defendant on 12th August, 1977.

(2) if so, whether the said Murray Frederick Farquhar was acting at the direction or request of the Honourable Neville Kenneth Wran.

SUBJECT AS IN HEREINAFTER PROVIDED WE DO by these presents give and grant to you full power and authority to call before you an such persons as you may judge necessary, by whom you may be better informed of the truth in the premises, and to require the production of all such books, papers, writings and other documents as you may deem expedient and to visit and inspect the same at the offices or places where the same or any of them may be deposited, and to inquire of the premises by all lawful ways and means:

AND OUR further will and pleasure is that you certify to Us, in the office of Our Premier, at Sydney in Our said State, what you shall find touching the premises: AND WE DO hereby command all Government Officers and other Officers and OTHER PERSONS WHOMSOEVER (emphasis added) within Our said State of New South Wales, that they be assistant to you in the execution of those presents.

AND IT IS HEREBY DECLARED - that the 'Royal Commissions Act, 1923', including Section Seventeen thereof, shall apply to and with respect to this inquiry.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent, and the Great Seal of Our State to be hereunto affixed.

WITNESS Our Trusty and Well-beloved SIR JAMES ANTHONY ROWLAND, Knight Commander of Our Most Excellent Order of the British Empire, upon whom have been conferred the Decorations of the

Distinguished Flying Cross and the Air Force Cross, Knight of Grace of the Most Venerable Order of St John of Jerusalem, Our Governor of Our State of New South Wales, in the Commonwealth of Australia at Sydney, in Our said State, this eleventh day of May in the year one thousand nine hundred and eighty-three and in the thirty-second year of Our Reign. (Signed) J. A. Rowland, Governor, By His Excellency's Command, (Signed) Paul Landa.

Street later explained that Section 17 of the Royal Commissions Act takes away from witnesses the ordinary rights they enjoy at common law, and that Humphreys thus found himself obliged in effect to admit facts 'which strongly point to his guilt of the charges brought against him - an admission which no ordinary criminal or civil investigation or court could have demanded from him'.

Street was later the subject of criticism on several grounds: the wisdom, in the first place, of the head of the judiciary accepting a commission to inquire into a matter which obviously had highly-charged political elements; that the order in which he called witnesses seemed illogical; that his treatment of George Freeman appeared naive; and for not requesting an extension to the terms of reference. Street defended his acceptance of the commission in his report, but the rest of the judiciary appeared to concede the point three years later, in April 1986, when Wran said that if a judge were available to inquire into the police investigation of the 1977 Mackay murder it would be a judicial inquiry.

Next day, Wran was reported to have said that no NSW judge was willing to undertake the task. He said: 'I am awaiting official communications from the Chief Justice, Sir Laurence Street, concerning the inquiry, but I don't think he would prefer that the inquiry be handled by a judge because the resources of the judiciary were strained'. Wran, then obliged to search for a Queen's Counsel to hold the inquiry, said: 'It would be understandable that no judge would want to undertake a public inquiry which would have political overtones because judges, who are traditionally - and may I add, uniquely - above the political fray in New South Wales, will be attacked on their integrity, their objectivity, and their independence by the Leader of the Opposition or some organ or representative of the Liberal Party'.

When the Commission started, the present writer was assigned by *Sydney Morning Herald* editor Chris Anderson to write a sketch or diary to give an added dimension to the straight shorthand reports of each day's proceedings. In Fleet Street, the sketch usually refers to the parliamentary sketch, which, depending on the writer, often gives a jocular view of the proceedings. The techniques involve description, dialogue, analysis, comment, and where possible, a joke or two. In writing the daily sketches which follow, I took the view that, as a loyal subject of the Crown, one could hardly do less than heed Her Majesty's command, as stated in her Royal Commission to her trusty and well-beloved Chief Justice, to assist wherever possible.

It might perhaps be noted in advance that, as it emerged, the Commission did not intend to call either former Assistant Commissioner Brian Doyle, or Sergeant Darcy Cluff, who had prosecuted at Humphreys' committal hearing. That they were eventually called was due to pressure from counsel representing the ABC, the late John Traill QC.

The Wran Royal Commission

- a diary of events [Dates are for day of publication in the *Sydney Morning Herald*]

Thursday: 12 May 1983

Murray Frederick Farquhar said he would adopt 'a low profile' on being appointed chairman of the NSW Drug and Alcohol Authority in September 1977.

'We are not going to beat heads,' he said, 'or powder bottoms.'

This low profile approach appears to be characteristic of Mr Farquhar. There is any amount of material on the public record about his more celebrated cases and appearances in the public eye, but there is very little on record about the man himself. He is a heavy-set man with swept-back hair. Jefferson Penberthy, having interviewed him on the Drug Authority in September 1977, formed the opinion that he was 'mild and avuncular'. It is known that he was born in Broken Hill on 7 July 1918, which makes him 64, going on 65. He went to the Broken Hill High School, enlisted in the Army in 1940 and rose to the rank of captain. His interest in military matters continued, and he was at one time a lieutenant of the Sydney University Regiment in the Citizens Military Forces.

Post-war, he became a clerk in the Broken Hill Court, studied law through the Solicitors' Admission Board and became a clerk of petty sessions in country and city courts. He became a magistrate in 1961, at age 42. His rise was rapid: he became Chief NSW Stipendiary Magistrate in 1970. In the 1960s he became an executive member of the Institute of Criminology at the Law School of Sydney. His interest in matters relating to drugs appears to have stemmed in part from his appointment as chairman of a medico-legal committee preparing for the 29th International Congress on Drug and Alcohol Dependence in Sydney in 1969. In the 1970s, he studied overseas drug problems in London, Paris and particularly in New York in 1974.

Penberthy noted a dichotomy in the penalties Mr Farquhar tended to apply in drug cases: hard-line for suppliers and soft-line for those dependent on drugs. Mr Farquhar told Penberthy: 'We would hope the community would always want us to wean them of the habit; to rehabilitate them rather than punish them.'

On 27 July 1977, Mr Farquhar was photographed in the members' enclosure at Randwick racecourse with an acquaintance, David George Freeman, an SP bookmaker, referred to in the House as an 'organised crime figure.' The photograph dogged him for some years and in September 1978, he was invited to appear before a select committee of the Upper House inquiring into crime. The Parliament was prorogued, and the select committee ceased to exist before he could give evidence, and the committee was thus not able to have the benefit of his advice.

Mr Farquhar was to reach 60 in 1978. According to the Public Service Act, he could retire at that age or indicate to the permanent head of his department his desire to continue in employment. He said he wanted to continue. Trevor William Haines, then 45, Under Secretary of Justice, consulted the Crown Solicitor and senior departmental officers and on 4 July 1978, approved Mr Farquhar's continuing for twelve months as from 7 July, his birthday. This would have taken Mr Farquhar up to July 1979, but he retired on 15 May 1979.

At a ceremony at Central Court of Petty Sessions to mark his retirement, Mr Farquhar said that at least half the present jail population should not have been imprisoned. He said the Central Court had been used as far as practicable as a 'judicial laboratory.' For some five years, 'no man has gone to jail or been fined for drunkenness in this court'. He said he had been criticised for being too soft, 'but I have used imprisonment as a last resort.'

His successor as Chief Stipendiary Magistrate, Clarence Briesse, said Mr Farquhar had been a great reformer and a strong leader. The then Attorney-General, Frank Walker, said that under Mr Farquhar's leadership, NSW magistrates had become the most respected in Australia

Saturday: 14 May 1983

Justice Laurence Lillingston Whistler Street, 56, must be one of the few Australians who can trace his ancestors back to the time of King Alfred the Great (849-899), saviour of England from the dreaded Danes. On Monday, Justice Street starts taking submissions from people wishing to appear at the Wran Royal Commission. His lineage goes back via his mother's father, Charles Lillingston, a cousin of Earl Grey, British Foreign Secretary at the time of World War I.

The name 'Whistler' has been in constant use in the family since 1863, and derives from an American branch which included the artist James McNeill Whistler (1834-1903), best if unfortunately known for

his 'Arrangement in Grey and Black, No. 1: The Artist's Mother', otherwise known as 'Whistler's Mother'. In a Royal Commission that, because of its nature, is bound to be intensely political, it is encouraging to note that in 1686 Sir Laurence's ancestor, Sir Thomas Street, was the only one among ten judges with sufficient steel in his backbone to rule against King James II in the matter of the monarch's claim to be able to dispense with an Act of Parliament.

In a characteristically elegant profile of Sir Laurence in *The Sydney Morning Herald* in 1974, Gavin Souter states that this incident caused people to remark of Sir Thomas that he was 'faithful found among the faithless,' and that the family apparently seized on this for their motto: "Fidelis inter perfidos". In Sydney, the Whistler Streets have been heavy on the Bench throughout this century: grandfather Sir Philip ascended in 1907 and was Chief justice from 1925 to 1933; father Sir Kenneth went aloft in 1931 and was CJ from 1950 to 1960.

Sir Kenneth's retirement, aged 70, came fortuitously for the Labor Party: it enabled the Party, having decided at last that Dr Bert Evatt was no drover's dog, to find a soft landing for him as Chief justice. Sir Laurence told Gavin Souter that his father and grandfather were 'traditionalists'. This could not be said of his mother, the celebrated Jessie, who was variously a saviour of prostitutes, a suffragette, prominent in the 'Sheepskins for Russia' movement, and recipient of the Order of Lenin.

In the naval reserve during and after the war, he decided in the end to follow the family legal tradition, on the basis that 'I'd always been interested in human beings and human affairs, and it was a field of wide contact with people'. He was admitted to the Bar in 1951 and married Susan Watt in 1952. They have two sons and two daughters.

He took silk, at a remarkably early age, in 1963. A notable case in his brief career as a QC was his appearance on behalf of Warner Brothers, who were suing the actress Miss Connie Stevens, star of such hits of yesterday as '77 Sunset Strip', for breach of contract. Warner Brothers were successful in their suit. In 1965, he was appointed to the Bench, aged 39, to help to relieve the strain on the Divorce Court.

Late in 1966, Miss Stevens disclosed her view of Mr Street to viewers of an American chat show compered by Johnny Carson. 'He was a dream', Miss Stevens was reported to have said. 'I had a mad crush on him. He was so handsome.' Queried on this by a *Daily Mirror* reporter, Mrs Susan Street said she quite agreed with Miss Stevens that her husband was a heart throb; women were constantly swooning over him.

When Sir Leslie Herron retired as Chief Justice in 1972, Justice Street was thought to figure prominently as a possible successor, but the Askin Government chose Sir John Kerr. In the ordinary course of events, Sir John's term as Chief justice would have run until 1984. Thus, but for Mr E. G. Whitlam's injudicious intervention in plucking him from the Bench in 1974, Sir John would presumably be the Wran Royal Commissioner. With the departure of Sir John Kerr to Yarralumla, the Askin Government appointed Sir Laurence Chief justice, thus giving his family a notable trifecta.

In March 1976, Messrs Clem Lloyd and Andrew Clark asserted in their book *Kerr's King Hit* that Sir John had consulted Sir Laurence prior to his dismissal of the Whitlam Government and that Sir Laurence had told the Governor-General that any proposal to use his reserve powers was just not on. With an advance copy of the book, *The National Times* asked Sir Laurence if he would either confirm or deny this report. Instead, he offered a No Comment, and the paper then published the Lloyd-Clark assertion.

Sir Laurence then sent Sir John Kerr a letter stating that he had followed the convention of refraining from commenting on matters of public controversy, but that Sir John could use in any way he saw fit Sir Laurence's denial that he had had any communication, direct or indirect, with Sir John on the matter. Sir John then published Sir Laurence's letter.

Sir Laurence's mother may not have been a traditionalist, but Sir Laurence appears to be more in tune with his father and grandfather. In April, 1977, the Premier's Department issued a circular relating to Sir

Laurence's position as Lieutenant-Governor. It advised that the Lieutenant-Governor 'wishes to have included in his full title the honour conferred upon him last year... Accordingly his full title will be:

His Excellency, the Honourable Sir Laurence Whistler Street, Knight Commander of the Most Distinguished Order of St Michael and St George, Knight of Grace of the Most Venerable Order of St John of Jerusalem, Chief Justice of New South Wales, Lieutenant-Governor of the State of New South Wales and its dependencies in the Commonwealth of Australia'.

Along with those of senior public servants, the post of Chief Justice has received attractive emoluments in recent years. By February 1979, it was up to \$61 330 including \$3100 expenses. In the following month, in what Messrs Raine and Horne called 'a vice-regal coup,' Sir Laurence put his home in Wallaroy Road, Woollahra, up for auction. The property was said to include a tennis court, five bedrooms, a billiard room and a butler's pantry.

Sir Laurence's total emolument advanced in succeeding years as follows: April 1980, \$69 029; September 1980, \$72 780; August 1981, \$74 779.

There was, however, a slight hiccup last year. In August, the tribunal fixing the salaries of 260 top persons recommended an increase of 14.3 per cent. In view of the trying times, the Premier, Mr Wran, asked the tribunal to try again, and suggested that an increase of seven per cent would be appropriate. In October, the tribunal decided on ten per cent and the Chief justice's emolument is now \$88 708.

Tuesday: 17 May 1983

Amphitheatrical is the word for Sydney's new Banco Court. On the thirteenth floor of the law courts' building in St James Square, it has tiers of seats, in a nice purple cloth, rising on three sides. The carpet is grey: the barristers' seats in the well are bright blue, and the judge's, on the bench above the well, black and high-backed. Behind the bench is a wall in rosewood or some such, relieved by the coat of arms in metal, inscribed with the words *Dieu et mon droit*.

At a pinch, the court could hold about 500, and about half that number turned up yesterday for the preliminary skirmishes in the so-called Wran Royal Commission: about 100 members of the public in the tiers to the right of the Chief justice; facing him eighty or so legal types, in for a peep at an historic occasion; and about forty members of the press in the tiers to his left. The team of working barristers were all in mufti. One can see why they cling to wigs and black robes; wigless, balding, and in business suits, they somehow seemed to lack that aura of arcane knowledge that terrifies the layman.

Murray Farquhar, 64, former Chief Stipendiary Magistrate, arrived early, and took up a position two tiers up and behind the instructing solicitors. His silver hair was thick and his jowled visage seemed gloomy, but perhaps that was just his normal demeanour.

The stepped-aside Premier, Neville Wran, sauntered in, right hand in trouser pocket, at 10.03, three minutes after the proceedings had got under way. He took a seat one tier up and to the right of Mr Farquhar, blinked a couple of times, put on his glasses, studied the assembled press, and took them off.

Mr Wran wore a blue suit, and a blue tie with red stripes. His face is getting a little worn now, and his eyebrows and mouth turn down a little. He was accompanied by a youngish solicitor, thus sparing the press the cliché of the devoted wife loyally standing at the side of the husband in a situation of some stress.

Black-haired and brown-suited, Edgar John (Eddie) Azzopardi, 50, sat alone, like a figure of fate, in the public tiers. Now there's a man, I reflected, with an interest in the administration of justice. Mr Azzopardi is Maltese, and any consideration of his stamina over the past thirteen years goes some way towards explaining why his late Majesty was pleased to confer on the island of Malta the George Cross for courage and perseverance during the war.

It may be that a traffic incident in which Mr Azzopardi was involved in Popondetta Road, Mt Druitt, on Tuesday, 21 October 1969 has had the most far-reaching and unforeseen consequences of any such incident in the history of motoring. His car collided with a police car and his relentless pursuit of what he sees as justice in that and other matters, is still reverberating around the police force, the courts, the Ombudsman's office, and politics.

The Royal Commissioner, Chief Justice of New South Wales, Sir Laurence Street, devilish handsome and impeccably clad in a gunmetal grey three-piecer, invited persons with material or information relevant to the terms of the Commission to get in touch. It emerged that Mr Azzopardi has already obliged.

Whether the Royal Commissioner is of a mind to oblige Mr Azzopardi, and others with similar interests in the administration of justice in a wider sense than the particulars before him, seems to me to be the crux of this Commission.

Sir Laurence has had a dream run in the law: a silk at 37, a justice of the Supreme Court at 39, and Chief Justice at 47. His term as Chief justice, in the ordinary way of things, will run until 1996, but it is difficult to imagine that he will ever handle a more important legal matter than the present one. He made it clear that the terms of the Commission were the Government's, and not his. But the Commission is now entirely in his hands.

Leaving entirely out of it the particular matters in the terms of reference, there would be many who believe that a thoroughgoing inquiry into the administration of justice in New South Wales would be a useful exercise. And, depending on what Sir Laurence judges to be within at least shouting distance of relevant, he may, having come to a decision as rapidly as may be on the immediate matter, be inclined to recommend that some further inquiry into the administration generally be undertaken.

However, on pragmatic grounds, no government would be likely to view with enthusiasm such a leap into the dark. As, literally, Chief Justice, Sir Laurence must be assumed to have a deep interest in its administration. He has also a once-in-a-lifetime chance to do something about it.

How he runs the Commission will be of absorbing interest.

Thursday: 2 June 1983

After the first day's hearing at the so-called Wran Royal Commission, it seems clear that, whatever the upshot, the Premier is going to have to suffer the tedium, if not the embarrassment, of sitting in the Banco Court for some considerable time. Mr Wran wore a blue suit and blue tie with red stripes. His black hair, as observed from the press gallery above and to his right, is as visibly thinning on top as that of the Royal Commissioner, Sir Laurence Street.

The Premier sat stoically throughout the day without taking a note, while the former Chief Stipendiary Magistrate, Murray Farquhar, in grey suit and grey tie, wrote constantly with a yellow ballpoint pen with a blue top. Throughout the day, some 300 people, apparently of all walks and conditions of life, came in to observe what must be as remarkable a drama as has been enacted in New South Wales.

That the Commission will be a long hard slog for all concerned seems inevitable in terms of the procedure being followed, and appears to have been exacerbated by a demarche by counsel for Mr Wran, Alec Shand, QC, late yesterday afternoon.

The procedure is that counsel assisting the Commission, Michael Grove, QC, 44, leads the basic evidence from a witness. That evidence may then be picked over in turn by as many as five more barristers: Barry O'Keefe, QC, for Kevin Jones, SM; Maurice Neil, 39, for Mr Farquhar; Alec Shand, for Mr Wran; Major-General Kevin Murray, QC, for Mr Humphreys; and John Traill, QC, for the Australian Broadcasting Commission. Thus the basic evidence of the first witness, Kevin Waller, SM, was in essence relatively brief.

It was that, about 9.30 am on Thursday 11 August 1977, he was talking to Mr Farquhar when Mr Farquhar's secretary, Mrs. Vincenza D'Agostino approached and said there was a phone call from the Premier for Mr Farquhar. About 9.55, Mr Farquhar asked Mr Jones to wait behind. Soon after, shaken and upset, Mr Jones told Mr Waller: 'Guess what's happened? Wran has been on the phone and the Government is not interested in having Kevin Humphreys committed.'

Mr Waller had said: 'Stuff Wran; just go on with the case.' Mr Waller has so far been cross-examined by Messrs O'Keefe, Neil and Shand, and has been in the box for four hours.

The terms of reference are: 1) Did Murray Farquhar influence or attempt to influence the outcome of proceedings against Kevin Humphreys in August 1977? and 2) If so, was he acting at the direction or request of Neville Wran? Despite manful attempts by Sir Laurence to contain the proceedings to those issues, Alec Shand, counsel for Mr Wran, perhaps surprisingly, forced a widening of the inquiry late yesterday afternoon. Mr Shand, who bears a passing resemblance to Rex Mossop, sought the production of a document made by ABC producer, Peter Manning, and reporter Chris Masters, and shown by them to Mr Waller.

Sir Laurence sought to head Mr Shand off this line. He said that if the document were produced, the authors would have to be called to prove it, and this could turn into a long forensic exercise. He said he was not going to have the Commission 'turned into an inquiry into the gathering together of material by the ABC investigative team.'

But Mr Shand finally persuaded Sir Laurence that his client, Mr Wran, would be disadvantaged if the document were not produced. One assumes that Mr Shand's object in getting this and other ABC documents produced was to enable him to chip away at the recollection of events by Mr Waller and other magistrates who will give evidence. At the same time, this inevitable widening and lengthening of the inquiry may not necessarily be to Mr Wran's advantage.

Counsel for Messrs Wran and Farquhar appeared to indicate at least one line of their approach to the allegations in their cross-examination of the brown-suited, not-unhandsome, and wryly humorous Mr Waller. Mr Shand, for Mr Wran, put it to Mr Waller that Mr Farquhar was a big-noter and name-dropper, with the implication that if he had used the Premier's name, it was not as a result of Mr Wran having spoken to Mr Farquhar.

Mr Neil, for Mr Farquhar, put it to him that Mrs. D'Agostino did not mention the word 'Premier'. This suggested that at any rate Mr Farquhar does not propose to use the Nuremburg defence of carrying out orders from above.

Friday: 3 June 1983

Court actions of any kind, including Royal Commissions, tend to operate at two levels of reality: what is known - or at any rate what is believed or rumoured - and what actually comes out in evidence. Indeed, counsel assisting the Wran Royal Commission, Michael Grove, QC, suggested as much in his opening address on Wednesday.

A tall heavy-set man with close-cropped and crinkly grey-brown hair, Mr Grove stated: 'It cannot reasonably be suggested that any participant, or indeed any observer, remains unaware of the general background giving rise to the questions posed in Your Honour's Commission'. Thus, for many in yesterday's standing-room-only crowd of some 500, persevering through some fairly arid stretches of interrogation must have been a bit like waiting for a boot, or boots, to drop.

One dropped on the stroke of 11 am. Mr Grove asked Kevin Waller, SM, if he understood that the former Chief Stipendiary Magistrate, Murray Farquhar, was a betting man. Mr Waller said he believed Mr Farquhar sometimes got tips and that Mr Farquhar's secretary, Mrs. Vincenza D'Agostino, sometimes rang and got tips for him. Mr Waller had no direct knowledge of this, and Mr Grove took the matter no further, but a name, not unknown to fame in Sydney seemed to hover in the air of the Banco Court for a moment.

At 12.03, the other boot dropped. Mr Waller, having retired after five hours in the box, Mr Grove was taking Walter Lewer, former Deputy Chief Stipendiary Magistrate, through his evidence in chief. Mr Grove asked Mr Lewer, a smallish man with receding silver hair brushed straight back, if he had ever been present when Mr Farquhar got telephoned tips on the races. Mr Lewer said he had been.

After a further series of questions, Mr Lewer disclosed the name of the person he said he knew was the tipster - David George Freeman. A couple of other boots cast, as it were, their shadows before them.

Thus, early in the afternoon, Barry O'Keefe, counsel for Kevin Jones, SM, asked Mr Lewer if some discussion he had had with people on the Public Service Board had concerned some material concerning Mr Farquhar published in *The National Times* in March 1978. Those in the court familiar with this material, or those with sufficient energy to afterwards walk across Macquarie Street to the Public Library, would be aware that Mr Freeman also figured in a particular episode related there.

Again, at 2.33 pm, Mr O'Keefe mentioned to Mr Lewer, without taking it any further, that Mr Farquhar's term as Chief Stipendiary Magistrate was extended for a year, but that he 'did not see the year out'. So, after only two days, it appears that this Royal Commission may, in the end, traverse quite a deal of territory.

This view would appear to be reinforced by the assertion of one observer at the Banco Court. The observer claims to have noted a copy of *Horse Talk* in Mr O'Keefe's briefing papers.

Tuesday: 7 June 1983

The Wran Royal Commission was yesterday notable for a brief appearance by George David Freeman, an occasionally waspish performance in the box by Walter Lewer, and the emergence of some of the response by the Premier, Neville Wran, to allegations made about him.

Mr Freeman, 49, gallantly risen from his hospital bed, arrived at the Supreme Court building at 9.50 am via King Street. This caused a headlong charge by the dozen or so paparazzi lying in wait for distinguished participants in the Commission further along Phillip Street. He proved to be a tanned, shortish man with the beginnings of a comfortable embonpoint and fluffy silver hair. I was not close enough to determine whether the bullet that entered the left side of his neck, passed through his mouth, and exited just below his right temple at 9.30 pm on 25 April 1979 had left any permanent scar.

Nor could I see whether the words TRUE LOVE once tattooed on the backs of his fingers remained there.

Accompanied by David Baker, a shortish, tubby man in a bone suit, of Baker and Heazlewood, solicitors, Mr Freeman passed impassively through the paparazzi. As it happened, Mr Freeman's arrival at the lifts coincided with that, from another direction, of Mr Wran and his counsel, Alec Shand, QC, and they entered the lift together. At the thirteenth floor, Mr Wran broke off to enter the lavatory and so did not make his appearance in the Banco Court in the same group as Mr Freeman.

Yesterday's proceedings, relating to Mr Freeman did not hold matters up for long. The Royal Commissioner, Sir Laurence Street, in gunmetal grey with white breast kerchief, asked him if he would swear to tell the truth, the whole truth and nothing but the truth, so help him God?

'So help me God,' echoed Mr Freeman.

Michael Grove, QC, counsel assisting the Commission, asked if his name was David George Freeman, or George David Freeman. He insisted that it was George David Freeman, asserted that he had no documents, and had never had any, germane to the matters before the Commission, and advised his honour that he was currently in Gloucester House, which is part of the Royal Prince Alfred Hospital in Camperdown. The Royal Commissioner advised Mr Freeman that he could leave, but to hold himself available to give evidence as required, and Mr Freeman and Mr Baker left the court.

Mr Lewer, former deputy Chief Stipendiary Magistrate, has been in the box for some nine hours, and his attitude to some questions from learned counsel, notably to Maurice Neil, for Murray Farquhar, was at times a little acerbic. Mr Lewer, a smallish man with brushed back grey hair and a tonsure, advised Mr Neil that he would accept questions but not take orders; asked if Mr Neil would listen to what he was saying; told him that 'I was about to tell you when you went round the world to get X; and asked, 'Is that facetious or is it a question?'

A prong of Mr Wran's response to the allegation against him emerged at 3.05 pm when Mr Shand elicited from Mr Lewer his view that the alleged telephone call to Mr Farquhar came not from Mr Wran, but from Mr Freeman. This was of course only a view, but the Farquhar-Freeman relationship will presumably be explored further, and it may be that Dr Nicholas George Paltos, the man in the middle between Mr Freeman and Mr Farquhar in the famous picture taken at Randwick racecourse on 27 July 1977, will be invited to throw what light, if any, he can on that relationship.

Dr Paltos was then a familiar figure with NSW parliamentarians. Sydney Hospital, of which he was director of emergency services, being next door to Parliament House in Macquarie Street. It is understood that Dr Paltos now has a practice at Woollloomooloo.

Wednesday: 8 June 1983

The other boot, it now appears, may not always drop at the Wran Royal Commission. It didn't drop yesterday.

On Monday afternoon, Alec Shand, QC, for the stepped-aside Premier, Neville Wran, QC, was cross-examining Walter Lewer, former Deputy Chief Stipendiary Magistrate. At 3.45 pm, half an hour before the end of the session, Mr Shand elicited from Mr Lewer a statement to the effect that the allegation of Mr Wran's involvement with Mr Farquhar in an attempt to influence the result of a case involving former Rugby League chief Kevin Humphreys was 'unique' in Mr Lewer's experience.

Mr Lewer said: 'The adjective "unique" was directed by me at the involvement of the Premier'.

Mr Shand: Otherwise, there has been a similar occasion not involving the Premier?

Mr Lewer: Some things that disquieted me did happen.

Mr Shand: In the course of which no reference was made to the Premier?

Mr Lewer: Absolutely not.

Mr Shand did not pursue the matter of other 'similar occasions', not involving the Premier, that Mr Lewer said caused him disquiet.

It has been noted that in his opening address on Wednesday 1 June, Michael Grove, QC, counsel assisting the Royal Commission, said: '. . . it will be required that material of a hearsay quality be tendered in order that behaviour, action or failure to act might be understood in proper context; it could also have a bearing in weighing probabilities or likelihood in relation to disputed matters...'

Some may have gone to the Banco Court yesterday in the expectation that Mr Lewer would be invited by someone, possibly Mr Grove or the Royal Commissioner, Sir Laurence Street, to expand on his somewhat pregnant statement of the previous afternoon to see what relevance, if any, it had to the Commission's proceedings. But in the two hours and twenty-two minutes Mr Lewer remained in the box yesterday, he was not questioned on the 'similar occasions' that had caused him disquiet.

In this connection, we may note that the Royal Commissioner has himself expressed some disquiet at the prospect of the Commission being drawn out interminably. Whatever the reason, the fact remains that on this occasion the other boot remains hanging in mid-air, perhaps for all eternity.

Otherwise, yesterday was notable for a moment of high drama when the ghostly finger of Dr Herbert Evatt, QC, seemed for a moment to touch the broad shoulder of Kevin Murray, QC, for Kevin Humphreys. This followed an answer by Mr Lewer to a question by Mr Murray. This momentarily, appeared to open the question of whether Mr Murray would have to appear as a witness, with the consequence that his permission to appear as a barrister would be withdrawn, thus replicating the unfortunate experience of Dr Evatt at the Petrov Royal Commission in 1954. Fortunately, Sir Laurence didn't see it in that light.

There was also a mildly interesting disclosure from Camelle Abood, former clerk to Murray Farquhar, the former Chief Stipendiary Magistrate. This was to the effect that following tips from George Freeman before the Wednesday horse races, Mr Farquhar had Mr Abood place sums of between \$400 and \$600 on the TAB. If this is correct, it would suggest that Mr Farquhar would be a bettor in the vicinity of up to \$30 000 a year on Wednesday races only.

While a Royal Commissioner can run his Commission any way he chooses, some aspects of the Wran Royal Commission are distinctly odd, or at least strike this reporter as so. To date, neither the Commissioner, Sir Laurence Street, nor the counsel assisting, Michael Grove, QC, has played a particularly major role.

Contrary to some Royal Commissions, in which the counsel assisting has the major carriage of the inquiry, the procedure adopted by Sir Laurence is this: When a new witness is called, Mr Grove takes him through his evidence. This may take about an hour. The witness is then questioned in turn by barristers representing the principal figures mentioned in the terms of reference: Barry O'Keefe, QC, for Kevin Jones, SM; Maurice Neil for Murray Farquhar, former Chief Stipendiary Magistrate: and Alec Shand, QC, for the stepped-aside Premier, Neville Wran, QC.

Barristers with limited rights of questioning then follow. These are: Kevin Murray, QC, for Kevin Humphreys, former executive director of the Balmain Leagues Club; John Traill, QC, for the Australian Broadcasting Commission; and Desmond Andersen, for George David Freeman, said to be a purveyor of horse-racing tips to Mr Farquhar.

This process takes a considerable time. Kevin Waller, SM, was in the box for a further four hours; Walter Lewer, former Deputy Chief Stipendiary Magistrate, for another eight hours; and Camelle Abood, former clerk to Mr Farquhar, for another six-and-a-half hours, unfinished. This has resulted in a good deal of circling round the same, or similar, points by different barristers.

One also gets the impression, rightly or wrongly, that at times the learned counsel at the Bar table are a little confused about precisely whom they are trying to persuade on behalf of their clients. At times, so frequently is the same question asked half a dozen marginally different ways, one could be forgiven for arriving at the belief that the barrister is momentarily of the view that the target is a particularly thick-headed jury. In fact, the only person they have to persuade is Sir Laurence.

And while the Royal Commissioner has indicated that he has followed a policy of allowing the Bar table a pretty free rein with the earlier witnesses, because of the importance of their testimony, he gave signs yesterday that he is wearying a little of the repetitious nature of some of the questions.

Thus, at 11.20 am, Sir Laurence finally, but gently, advised Mr Neil that they could all accept Mr Abood's repeated statement that he was not present at an alleged conversation between Mr Farquhar and Mr Lewer. It may be that, as the Commission goes on, Sir Laurence will adopt a more interventionist role.

One has to assume that eminent counsel know what they are doing, and that the occasional apparent refusal to follow up a particular line of questioning is all part of a grand design. But there are some questions that seem positively to cry out to be asked.

For instance, evidence was given that Mr Freeman regularly supplied Mr Farquhar with tips for Wednesday's Sydney and Melbourne races, and that Mr Farquhar then had his clerk put an average of

between \$400 and \$600 on the beasts, thus giving the impression that Mr Farquhar was a moderately high roller on the punting scene.

The questions, not asked but of interest surely to every mug punter, are: Was Mr Farquhar a winner? Or, how good was Mr Freeman's information?

Friday: 10 June 1983

The 500 or so who jammed the Wran Royal Commission yesterday morning witnessed what seemed to this observer the most fascinating session to date. The Royal Commissioner, Chief Justice Sir Laurence Street, opened proceedings by reading, however gently, what seemed to come within shouting distance of the Riot Act to the assembled barristers.

He reminded them that the transcript, while valuable as an historical document, would not be quoted to juries or to the appellate courts. I took this to be an instruction to them to stop endlessly gnawing away at the picked bones of evidence.

Desmond Andersen, accompanied by what seemed a sharp intake of collective breath, made an application that Sir Laurence recommend to the Government that the costs of George Freeman, said to be a purveyor of turf information to the magistracy, be made a charge on the public purse. He said Mr Freeman had been 'embroiled unwillingly' in the Commission. Sir Laurence rejected the application, at least for the moment.

An application by Maurice Neil, for Murray Farquhar, threatened for a moment to introduce into the Commission all manner of things that would no doubt be interesting, if not necessarily relevant: he asked that all notes made by the ABC's 'Four Corners' team be made available. Sir Laurence had previously refused similar applications. On this occasion, he made what sounded from the press gallery like a threat, or at least a warning, to the eminent counsel below him.

'It's my inquiry,' he said, 'counsel assisting me will elicit the facts... All at the Bar table are here by leave only. The inquiry can go forward adequately with Mr Grove only.' Sir Laurence also noted that the ABC notes contained many rumours and asked Mr Neil, perhaps a little drily, if he really wanted the notes opened up.

We have had long periods in which to admire the technique brought to bear on cross-examination by Alec Shand, QC, for Neville Wran, QC. I am not suggesting that Mr Shand is unfair, but so formidable is his technique, and so subtle in the examination of shades of meaning, that I have the uneasy feeling that if I were in the box I'd lose my head altogether and admit that the only logical consequence of my previous answers is that black is white, and swear to it.

Yesterday, however, Sir Laurence appeared to judge that in an inquiry of this sort some kind of reasonable limit might properly be placed on Mr Shand's virtuoso performance. At one stage, Sir Laurence observed, mildly enough: 'This lemon was squeezed dry yesterday wasn't it, Mr Shand?'

Shortly after, the witness, Camelle Abood, said plaintively: 'We're going round in circles'.

'Well, you may be,' Mr Shand said, but Sir Laurence interposed with: 'I'm inclined to agree with the witness... It remains for me to adjudicate.'

A reference by Michael Grove, QC, counsel assisting Sir Laurence, to your diarist as 'an expert on Royal Commissions,' I took to be a pleasantly amusing knife in the jocular vein, but the answer to his / our question that Mr George Freeman's tips to the magistracy on horse races were accurate to a degree of between 98 per cent and 99 per cent - was as astonishing in its way as any answer so far given to the commission.

As the morning wore on towards lunch, a line of questioning by both Mr Grove and Sir Laurence to the somewhat volatile Mrs. D'Agostino seemed to have ominous overtones. Mrs. D'Agostino resolutely

denied having been in the company of Mr Farquhar within the past three weeks or so, despite repeated questions by Mr Grove and Sir Laurence that suggested to this observer at any rate, that they were in possession of irrefutable evidence to the contrary.

The persistence of their questions suggested to me that they might take the view, if she persisted in her denials, a dire set of consequences might ensue. Fortunately, Mrs. D'Agostino refreshed her memory during the adjournment.

And finally, late in the afternoon, another stipendiary magistrate, Ken Henderson, made a remarkable assertion. He said that, on Friday 12 August 1977, before Kevin Jones SM gave his verdict in the Humphreys case, a person who gave his name, which he had forgotten, as that of a journalist of something like *The National Times* or *The Bulletin* reached him on the telephone.

The person said he had a statutory declaration in front of him to the effect that Mr Wran had directed Mr Farquhar to instruct Mr Jones to dismiss the charges against Kevin Humphreys.

Saturday: 11 June 1983

Having an interest in one of the customers, I turned up early at the Banco Court yesterday to observe the ceremony of admitting and swearing-in of new barristers and solicitors. It was a nice ceremony. Some thirty new solicitors sat in the press gallery facing about the same number of new barristers, with their sponsors from the trade facing them.

At 9 am, a man in a long black coat, carrying what looked like a long electric candle, led out the Chief justice, Sir Laurence Street, flanked by Justices T. O'L Reynolds and M. J. R. Clarke, both of the Common Law Division. The warmth of the air-conditioning did not seem to have been noticeably moderated for the occasion, and one could feel a pang for the three justices.

They were heavily rugged up in the full panoply of ceremonial rig: wigs down to their chests, scarlet robes fringed with winter-killed ermine, white gloves. The ceremony took a little time, each tyro being individually proposed by a chum already in practice.

The barristers were, in their wigs and gowns, undeniably prettier. As against that the solicitors seemed to get three for the price of one; they were admitted as attorneys and proctors as well as solicitors. They were then sworn (or affirmed) by Sir Laurence in batches. After the ceremony, the Chief Justice delivered the occasional homily.

It being a family affair, he was a little hard to hear over the caterwauling of numerous babies, but his drift was clear: the legal profession of a country is essential for freedom and truth to flourish; the aim is competence and integrity; but where the integrity is lacking it is a disaster for the country... This pleasant duty thus felicitously discharged, the Chief Justice retired, changing into a plain black suit, and returned to his melancholy task of adjudicating on a matter in which the issue is the integrity, or otherwise, of an eminent Queen's Counsel, a one-time Chief Stipendiary Magistrate, and a serving stipendiary magistrate.

In the course of yesterday's proceedings, Sir Laurence announced that, because of the wide publicity given to his Royal Commission, 'a flood of information' had come in, and that the processing of this, and the task of interviewing the flooders, would necessitate closing down the Commission until next Thursday. A number of magistrates, Messrs Ken Henderson, Kevin Webb, Keith Hammond, and a current deputy chief, Bruce Brown, were in the box yesterday.

Maurice Neil, for Murray Farquhar, noted that NSW magistrates have still to be re-appointed under new legislation. He asked Mr Brown for his view as to whether some hesitation on the part of magistrates as to their future might affect some in the way they gave evidence about the Humphreys case, and asked if, for instance, Mr Brown judged himself to be a robust witness. Mr Brown said he didn't know about being robust, but said he was truthful.

Meanwhile, although one wouldn't want to harp on the subject, many questions are asked that seem to have but a tenuous connection with the matters in hand. In the circumstances, and given that, according to one witness, access to the turf information supplied by George Freeman must have seemed like virtually a licence to print money, the various magistrates have not been invited to advise what, if any, advantage they took of this service.

Tuesday: 14 June 1983

Magistrates and barristers are separate subculture in the legal system. Often enough, magistrates will have started in slow motion law. That is, as humble depositions clerks taking down evidence straight on to the typewriter with inordinate pauses between question and answer. They may then have worked their way diligently up to the post of clerk of petty sessions, and then to stipendiary magistrate. Their work, which they do in plain clothes, obliges them to impose penalties.

They are thus condemned - out of sensitivity, Kevin Waller SM, put it, to the feelings of such of their clients as they might meet in hotels - to avoid the simple pleasures of social intercourse in such places. As a species, they are thus a small group of not perhaps overly popular people, and this may tend to encourage something of a ghetto mentality, and to bring to the surface those idiosyncracies that lie in us all.

At the same time, they are rightly proud of their expertise as dispensers of justice at the cliff face of the law, in the drunks' court for instance, as compared to a more genteel atmosphere elsewhere.

Barristers are by contrast university-trained, and also wear fancy dress. Some may thus be tempted to regard magistrates with a rather superior eye. At the Wran Royal Commission, it has thus been interesting to observe the two sub-cultures, both as species and in terms of the dynamics of their relationship.

While the magistrates have perforce had to engage in the role-reversal of receiving some sharp interrogation, one got the impression that some quite relished the opportunity to match wits with the people of an ostensibly higher status in the law.

While the Banco Court, with its tiered rows of seats quite close to the action, puts some in mind of an up-market Nimrod Theatre, the position of the press gallery puts reporters in, as it were, the Richie Benaud slot. That is, they could look down the pitch at the magistrates from behind and above the bowler's arm.

At times, some magistrates appeared to feel under no obligation to answer questions, and some wondered at a magistrate's reaction if an accused before him implied that his question was stupid. However, their stumps remained unspreadeagled, and indeed once or twice we had to duck hurriedly as the clumped six screamed back over the bowler's head into the press box. Two of the biggest were hit off the bowling of Kevin Murray QC, for Kevin Humphreys, a former official of the Balmain Leagues Club.

At a certain point of Mr Murray's interrogation of Mr Waller, the silk, as it seemed to me, began shooting for a powerful forensic effect. He stopped looking at Mr Waller and began to address, through his half glasses, first a point on the wall above the head of the Royal Commissioner, Chief Justice Sir Laurence Street - about mid-wicket, say - and then turned even further round to put the question while studying the end of the press box, perhaps long on.

I took this to be a signal to the customers that he was about to shatter Mr Waller's stumps, but it may be that his plan was to have him caught on the boundary. At any rate, the atmosphere built perceptibly.

'And would you be a magistrate of some experience?' Mr Murray asked, portentous.

'Yes,' replied Mr Waller swiftly, adjusting his grip to take the bat by the long handle, 'and I got a lot more when I went to Central. . .'

This rejoinder quite broke the audience up and destroyed whatever effect Mr Murray may have been aiming for in the response to, say, his next question but three.

In the case of Walter Lewer, former deputy chief stipendiary magistrate, one got the impression that he had saved one up for the unfortunate Mr Murray, in case the bowling got a little too torrid. Mr Lewer's assertion that he had discussed a particular matter in chambers with Mr Murray caused an instant sensation: if the Royal Commissioner chose, it could have meant that Mr Murray would have to be relieved of his brief to appear as a barrister, in order to go into the witness box.

The usually hyperbolic expression 'turned purple' could in this case be termed a passably accurate description of the effect on Mr Murray. Sir Laurence, perhaps divining that Mr Murray's response might be in the Larwood or Lillee mode, signalled the six by promptly advising him not to depart from the calm and dispassionate nature of his interrogation...

Meanwhile, counsel assisting Sir Laurence, Michael Grove QC, has referred to 'weighing probabilities or likelihood in relation to disputed matters.' In those terms, the layman might feel that an appropriate question, so far not asked of Murray Farquhar's six brother magistrates, would be whether or not he had sought to improperly influence them in relation to their cases.

Friday: 17 June 1983

Neville Wran, fresh from what observers describe as a relatively, for him, lukewarm reception at the Labor Party conference at the weekend, stood in the well of the Banco Court chatting cheerfully with a Westpac solicitor. A court official cried 'Silence! All stand.' Another official, followed by Chief Justice Sir Laurence Street, appeared by a door at the back of the court and took up a position behind the Royal Commissioner's high-backed black chair.

Sir Laurence bowed; the official pushed the chair into the backs of his knees; Sir Laurence sat; a portrait of another Chief Justice, Sir John Kerr, wig in hand revealing his nice mane of silver hair, stared balefully, as it seems, down at the backs of the press, and Day Eight of the Wran Royal Commission was under way. Being already standing, Mr Wran, neat and trim in a pinstriped blue suit, white shirt, cufflinks and red tie, did not have to obey the court official's admonition to stand. But, lest it be thought that Balmain boys, apart from not crying, prefer, when they become Premier, not to have to stand for the Chief Justice, I hasten to add that this is not Mr Wran's invariable procedure: at the beginning of the afternoon session he rose with the rest of us from a seated position.

The morning session got off to an intriguing start. First to rise - and putting me irresistibly in mind of an ibis coming out of a swamp - was the tall, bald and angular Desmond Anderson, for George David Freeman, horse race tipster for Murray Farquhar, former chief stipendiary magistrate. Mr Anderson begged leave to withdraw from the Commission until such time as Mr Freeman should actually have to give evidence, thought to be next week.

'There is a matter,' Mr Anderson said, 'of a stretched financial position affecting my client, impecuniosity...' Which suggested that, sadly, Mr Freeman's remarkable facility for foretelling the result of horse races stated in 1977 to have been within two percentage points of being totally accurate - has, only momentarily, we may hope, deserted him.

Equally remarkable was the episode that followed. This involved the Westpac Bank and, to some extent, *The Sydney Morning Herald*.

Sir Laurence, who is reputed to have a skill in cross-examination akin to that of the master surgeon's scalpel, has hitherto left the carriage of the bulk of the questioning to counsel assisting him, Michael Grove, QC, 44. On this occasion, however, Sir Laurence took over, after a time, the questioning of a Westpac official, Raymond Bowker, and with surprising results.

After Mr Bowker had produced one set of documents in the name of Farquhar, but obviously unconnected with Murray Farquhar, Mr Grove asked that Mr Bowker be released from the box. Sir

Laurence then questioned Mr Bowker and his counsel, the leader of the Sydney Bar, T. E. F. Hughes, QC, who is these days wearing his hair a little shorter than the last time I saw him.

Sir Laurence asked Mr Bowker if anything had been discovered that might relate to a matter that was the subject of current publicity, i.e., the possibility of \$400 000 having been transferred to Buenos Aires.

'Could you elaborate?' Mr Bowker said.

Mr Hughes then said that a statement had been taken from an employee in the overseas department. This document was then produced and stated that the employee had seen on 13 May a requisition from an overseas payment in Austrian schillings, the beneficiary being a Mrs Farquhar. No record had yet been found of this, and the possibility of interference with the bank's computer was not traversed. Sir Laurence instructed Mr Bowker to continue the bank's investigations.

We are able to record that Harold Berman, a former stipendiary magistrate, is the seventh magistrate to appear as a witness. He was asked if Mr Farquhar ever interfered in the way he ran a case. The question was asked by Maurice Neil, for Mr Farquhar. Mr Berman said Mr Farquhar had not interfered.

Sir Harold Herbert Dickinson, 66, chairman of the NSW Public Service Board from 1971 to 1979, entered the box at 12.40 pm. A tallish, thin, bald man, Sir Harold (Kt, created 1975) has a forbiddingly irascible cast to his countenance that no doubt belies the man within.

Ten minutes later, he disclosed that he got a phone call from a Gerry Gleeson early in September, 1978. Gerald Gleeson, 55, a shortish man with greying curly hair is a former school teacher and has been Secretary and Permanent Head of the Premier's Department since 1977. The conversation, Sir Harold said, was quite brief.

Mr Gleeson said: '... the Premier understands that you are seeing Mr Farquhar today. He would like you to know he would like to have him continue on the Bench.' Sir Harold's reply sounded a little pungent. 'We're not seeing him today,' he stated and said, 'in any event we're not interested in the Premier's wishes...'

In the afternoon, there were many fascinating disclosures concerning bureaucratic and political manoeuvres as to whether Mr Farquhar should be retired, stay on the Bench or what in the period from March to September, 1978, but these are so complex, I will leave them to the shorthand reporters.

Saturday: 18 June 1983

John Traill, QC, is a large, balding, softly-spoken man who sits quietly on a Pandora's box at the end of the Banco Court's bar table. He is there to watch the interests of the Australian Broadcasting Commission, whose research for a 'Four Corners' programme on Rugby League football constitutes the Pandora's box.

Mostly you don't notice Mr Traill; the Royal Commissioner, Sir Laurence Street, CJ, has decided that the ABC material would widen the Commission beyond its terms of reference. Mr Traill has thus had little to occupy his time other than an occasional objection in the Commission's early stages, mostly to lines of questioning employed by Alex Shand, QC, for Neville Wran.

So Sir Laurence seemed a little surprised when Mr Traill rose from his box at 11.20 am yesterday and intimated that he wouldn't mind asking Trevor Haines a few questions. Mr Haines, 50, is under-secretary of the Department of Justice, and the man who carried out an inquiry into the relationship between Murray Farquhar, then Chief Stipendiary Magistrate, and George Freeman, horse racing identity.

Mr Traill said he would put the questions on the basis of the relationship between Mr Farquhar and other participants. In the context of the Commission, there are three 'participants': Mr Farquhar, Mr Wran and Mr Kevin Jones, SM.

On Wednesday, 1 June, Michael Grove, QC, counsel assisting Sir Laurence, referred to 'relationship' thus: 'There will be evidence called to pose issues whether or not relevant persons directly or indirectly have had contact with each other.'

'This evidence will canvass whether such contact can be described as amounting to a "relationship" or an "association" and whether it is reasonable or unreasonable to conclude from any postulated association that any party would and did act improperly by reason of such association.'

Sir Laurence said he didn't see what that had to do with the ABC, but since Mr Traill had sat there silent for some days, no doubt bursting to ask a question, he would let him ask one or two. In that case, Mr Traill said, he would get his best shot in first, and at first blush, as they say in the courts, it seemed to be a zinger.

Was Mr Haines aware at any time, Mr Traill asked, of a proposal that Mr Farquhar be appointed a judge of the District Court?

'Yes,' replied Mr Haines.

Whoops! The mind went into instant overload of metaphor or, more precisely, cliché: things fluttering out of Pandora's box, cats out of bags, hares running, boots dropping. However, when you think about it, Mr Haines has been in the justice Department since 1957, and so the proposal may have been floated by a previous government or at any rate before the matter of Mr Farquhar's relationship with Mr Freeman became known.

Alas, it seems we will never know the answer to this intriguing question.

Sir Laurence said he was not prepared to open up a whole new avenue, and Mr Traill, rather testily, I thought, said he had no more questions.

Monday: 20 June 1983

The Wran Royal Commission, which resumes at 10 am today, is beginning to cause a deal of confusion, at least to this observer. In the *Sun-Herald* of 12 June, the heavily contacted Kevin Perkins reported in 'On the Inside' that the Government was worried. With at least another forty witnesses to be heard, he wrote, legal minds took the view that the Commission would run well past the 17 August resumption of Parliament and into October.

However, in yesterday's *Sun-Herald*, the likewise heavily-contacted David Halpin understood the Commission would close down about 8 July. This would leave only about a fortnight for further evidence, and another week for counsel's submissions. After that it would be at the discretion of the Commissioner, Sir Laurence Street, as to whether he delivered an instant adjudication, and a detailed report later.

Meanwhile, some of last week's events added to my confusion, if not, we may hope, to Sir Laurence's. Like a ticking bomb, the Farquhar-Freeman affair has been hanging round now for more than five years, and I had hoped that at last there would be the beginnings of some explication of what struck me as curious aspects of the matter.

The ticket affair took place at Randwick racecourse on Wednesday, 27 July 1977. (This was, incidentally, fifteen days before the Kevin Humphreys committal proceedings began.) Somehow, the ticket matter escaped public and, for all we know, private scrutiny for some six months.

Andrew Clark, now editor of *Australian Business*, was then engaged in some long-overdue inquiries into aspects of the justice Moffitt Royal Commission on crime in clubs which had hitherto escaped detailed scrutiny in the press, and stumbled over the ticket affair. Murray Farquhar, then Chief Stipendiary Magistrate, told Mr Clark he did not know that the ticket he had procured for the members'

enclosure was for George Freeman; he said he had been asked by a friend to get a ticket for some other people.

Mr Clark's report appeared in *The National Times* of 6 March 1978, and caused quite a buzz in the corridors of power and among magistrates at Mr Farquhar's Central Court. The then Minister of justice, Ronald Mulock, had his Under-Secretary, Trevor Haines, inquire into the matter.

Mr Haines went round to St Luke's, Darlinghurst, where Mr Farquhar was staying at the time, and asked him some questions. On 15 March 1978, Mr Haines reported to Mr Mulock that 'there is nothing, before me at this time to justify my taking action as permanent head'.

On 29 May, Mr Farquhar returned from sick leave, and wanted to go back on the Bench, but Mr Mulock insisted that he first answer some written questions about the incident. Mr Farquhar at first refused on, he said, legal advice, but finally did so.

The questions I was waiting - in vain, as it turned out - to hear last week went something like this:

What inquiries, other than to ask Mr Farquhar for his version of the ticket affair, did Mr Haines or Mr Mulock pursue? Did they seek particulars of the antecedents of the man, George Freeman, whom Mr Farquhar was sitting near at the race track? Did they seek a view of Mr Freeman from Justice Moffitt, who had found that he had been an associate in America of Mafia figures?

Did they seek information from the police as to Mr Freeman's current status in their eyes? And if so were they advised of a Crime Intelligence report of 7 March 1977, which asserted that on race days he had six employees engaged in an SP bookmaking business operating from Rockdale which dealt with twenty 'agencies' in other suburbs?

Did they inquire of other magistrates to learn the extent of Mr Farquhar's relationship with Mr Freeman? Did they question racecourse officials, including racecourse detective Frank Lynch, who had ejected Mr Freeman from the members' enclosure on Wednesday, 27 July 1977?

The ticket affair blew up in early September, 1978, when Mr Lynch gave evidence on the matter to a Legislative Council select committee of inquiry into organised crime.

Mr Haines found that his evidence did not take the matter any further, but a question I would have liked to hear was: Did he seek to get Mr Lynch to elaborate on an interesting passage of his evidence? Thus:

Select Committee member Edward Pickering told Mr Lynch that on a number of occasions, Mr Farquhar was reported to have said that he had been asked by a mutual friend at Randwick to supply a ticket for another friend.

'Does that line up with what you have told us?' Mr Lynch was asked.

'No,' he replied, 'it does not line up with the information I have got from the official who issued it to him.'

Mr Pickering: 'It was Mr Farquhar who asked one of your officials directly for a ticket and your official has confirmed that?'

Mr Lynch: 'That is right. The official (a Mr Swales) gave that information to me and that is the information I have presented today'.

Again, Mr Gerald Gleeson, permanent head of the Premier's Department, said in evidence to the Commission that Mr Wran made it known that his door was always open.

Mr Gleeson said there was no discussion in the Premier's Department concerning Mr Farquhar's reappointment to the Bench for twelve months from 7 July 1978. However, David Halpin had reported

on 2 July 1978, that the NSW Society of Labor Lawyers would ask Mr Wran to block Mr Farquhar's reappointment as Chief Stipendiary Magistrate.

One rather expected Mr Gleeson to be asked whether the Labor Lawyers in fact got inside the door, and if so whether their request caused any discussion in Mr Wran's department. Mr Gleeson said that Mr Wran took the view that there was no evidence against Mr Farquhar and that he should therefore be allowed to sit on the Bench pending his retirement at some appropriate time.

And finally, one rather expected Sir Harold Dickinson, who, as head of the Public Service Board, had, according to Mr Gleeson, the power to have Mr Farquhar retire, to be asked what steps he had taken to find out the ins and outs of the Farquhar-Freeman ticket affair.

In short, there seem to me to be a lot of loose ends at the Royal Commission, and we may hope these are tidied up before it finishes.

Tuesday: 21 June 1983

Kevin Humphreys, former chairman of the Australian Rugby Football League, entered the box at the Wran Royal Commission shortly before the luncheon adjournment. A tallish man with neatly parted dark hair, a rather prominent nose and some puffiness below the eyes, he wore a dark blue suit, a white shirt, and a tie striped in red, blue and yellow.

Mr Grove's questioning of Mr Humphreys seemed to contrast noticeably with his approach to earlier witnesses. This was to some extent a question of tone. He had handled previous witnesses in a largely deadpan sort of way; with Mr Humphreys he allowed himself a degree of irony.

Mr Humphreys had been apprised in June or July of 1976 that police were pursuing inquiries into the matter of funds withdrawn by Mr Humphreys from the Balmain Leagues Club during his period as secretary / manager, and arranged an appointment with the then Police Commissioner, Fred Hanson, for 17 August 1976. Mr Humphreys said he didn't remember whether this appointment was before or after he consulted a solicitor.

Mr Grove asked him if he had thought: 'I'll ring my friend the Commissioner to see what he can do'.

'No,' replied Mr Humphreys.

'And I suppose', Mr Grove went on, 'the entire population of New South Wales would have immediate access to the Commissioner?' Mr Humphreys did not agree with that, but said he had access in connection with his Rugby League duties.

At his 17 August meeting with Mr Hanson, Mr Humphreys found that Detective-Sergeant Bob Frodsham felt the Balmain Leagues Club affair was a matter for the courts. A month later, on 23 September 1976, Mr Humphreys had an appointment with Premier Neville Wran.

While Mr Humphreys said that Mr Wran cut him off 'in a split second' when he raised the matter of the Balmain Leagues Club investigations, the Royal Commissioner, Sir Laurence Street, CJ, appeared to be quite intrigued as to why Mr Humphreys would go to the Premier at all. As the last question of the day, Sir Laurence asked Mr Humphreys to take as long as he liked to tell him why he went to see the Premier.

Mr Humphreys said he just wanted to get someone to hear his case, that he was innocent, and that the publicity would be damaging to himself, his family and to Rugby League.

The mystery of a possible fifth option in dealing with the problem of what to do about Murray Farquhar in September 1978 was solved, or partly solved, yesterday. It will be recalled that, following the evidence of racecourse detective Frank Lynch to a Legislative Council select committee on organised

crime, there was general agreement in government and public service quarters that, while there was no evidence against Mr Farquhar, some solution to the problem was needed.

There was also general agreement that four options were canvassed in those circles: that he should retire, that he should not retire; that he should remain as Chief Stipendiary Magistrate, but restrict his work to administrative duties; and that he should retire somewhat later, at an appropriate time. However, John Traill, QC, for the Australian Broadcasting Commission, on Friday asked the justice Department Under Secretary, Trevor Haines, if he had heard at any time that Mr Farquhar be elevated to the District Court.

Mr Haines said he had. This seemed to raise at least the possibility, depending on who made the suggestion and when, of a fifth option as a solution to the September, 1978 problem. However, the Royal Commissioner cut off further questions, so that the matter remained a little mystery.

Over the weekend, however, Sir Laurence appears to have taken the view that the matter couldn't be left there, and the former Attorney-General, Frank Walker, was slipped into the box. He revealed that Mr Farquhar had been sounded on a proposal to make him a judge by a previous administration and again by him in October or November of 1977. Mr Farquhar had said there was a problem of the portability of his superannuation, so he wasn't interested and the matter wasn't reopened.

Sir Laurence appeared to be of a mind to administer a mild birching to the ABC for raising the matter in the first place, on the ground that it was not relevant to his inquiries. However, in the absence of Mr Traill, his junior, Terence Tobin, a youngish, bespectacled barrister, was having none of that.

'The informal offer,' he said, 'put on behalf of the Government seems to fall squarely within the relevance of your inquiries'.

Another minor mystery was how it came to be the role of Barry O'Keefe, QC, to subject Anthony Farquhar, solicitor, to quite trenchant questioning on the status of certain documents Anthony Farquhar had put into evidence. While Michael Grove, QC, is counsel assisting Sir Laurence, Mr O'Keefe is representing Kevin Jones, SM.

It may simply be that Mr O'Keefe had the advantage over Mr Grove of instructions from his client on the documents which in part affected Mr Jones. At any rate, Sir Laurence took a sharp interest in Mr O'Keefe's line of questioning and, as hitherto rarely in this Royal Commission, asked some questions himself. Anthony Farquhar was invited to return today with documentary evidence that might support his assertions about the documents.

Wednesday: 22 June 1983

What at times might reasonably be termed a torrid exchange between Sir Laurence Street and John Traill, QC, for the Australian Broadcasting Commission, sharply interrupted the late afternoon torpor at the Wran Royal Commission yesterday. In the middle of this exchange, the portly Mr Traill, who was seeking, against some resistance from Sir Laurence, permission to interrogate Detective-Sergeant Clarence Frodsham, mentioned a former Police Commissioner, the late Fred Hanson.

'Well, he's dead,' the Chief justice observed: 'He can't help us'.

'Your Honour', Mr Traill replied, 'everybody seems to be dead in this case'.

Sir Laurence usually accompanies his remarks to barristers and witnesses with what strikes me as a faintly vulpine smile. At the time, I had my head down, writing, but am advised that at Mr Traill's response the smile rather abruptly slid off the face of the Chief Justice.

I couldn't imagine why. I assumed that Mr Traill was referring not to an expression deriving from those sports - the turf and Rugby League football - which have figured prominently at the Royal Commission,

but to those who have been mentioned, including Messrs Hanson, Reg Stackpool, Norman Allan, Ray Stehr and Joseph Dan Testa, who have sadly joined the great majority.

However, Sir Laurence's usually sunny disposition was quickly restored, particularly when Mr Traill advised that, rather than a document, he had a note of a conversation in his head.

'Don't show me that, Mr Traill,' Sir Laurence said cheerily.

Mr Traill's exchange with Sir Laurence came under three heads: Sergeant Frodsham's diary, and whose custody it had been in and whether it had been tampered with; Mr Brian Doyle, former Senior Assistant Commissioner of Police; and the possibility that Murray Farquhar, former Chief Stipendiary Magistrate, had been offered a District Court in 1978.

Mr Doyle, said to have an amazing memory for detail, set up the Crime Intelligence Unit in 1974, and was twice passed over for the post of Police Commissioner - for Mervyn Wood when Mr Hanson retired suddenly at the end of 1976, and for Jim Lees when Mr Wood retired suddenly in June, 1979. He retired, more than a year ahead of time, in October, 1979.

At 12.20 pm, Sergeant Frodsham, a tall, thin, lantern-jawed man with heavy eyebrows over deep-set eyes, told counsel assisting the Royal Commission, Michael Grove, QC, he had never been instructed by Commissioner Hanson not to proceed in the Kevin Humphreys case, and that he recalled no conversation with Mr Doyle on the matter.

At 3.20 pm, Alec Shand QC, for Neville Wran, said to Sergeant Frodsham that if he was feeling disturbed about being called to Commissioner Hanson's office in the presence of the man he was investigating (Mr Humphreys), he might voice that concern to Mr Doyle. Detective Frodsham replied: 'No, at the time he was in charge of traffic'.

Sir Laurence advised Mr Traill that, in any event, there was a possibility that Mr Doyle would be called to give evidence. Later, Sir Laurence said to Mr Traill that there had been 'one wholly irrelevant and groundless' rumour introduced. This was assumed to be an earlier question of Trevor Haines, Under-Secretary of justice, which elicited the answer that Mr Haines was aware of a proposal to elevate Mr Farquhar to the District Court.

The former Attorney-General, Frank Walker, gave evidence on Monday that the proposal had been put to Mr Farquhar late in 1977, before public disclosure of the Farquhar-Freeman ticket affair. Mr Traill asked Sir Laurence, rather sharply, what groundless rumour that would be, but Sir Laurence passed on to other matters.

A little later, Mr Traill put it to Sir Laurence that he could not reasonably say that any proposal to elevate Mr Farquhar to the Bench in 1978 would be irrelevant. Sir Laurence said he had invited counsel for the ABC to produce any material on that. Mr Traill said he was absent at the time; he said he would call on His Honour later in the afternoon. The Royal Commissioner agreed to this.

This is an interesting move: hitherto, one understands, most of the material to be put in evidence has gone initially through Mr Grove and the Commission secretariat. However, it is known that Robert Bottom was seen waiting outside Sir Laurence's chambers last Friday morning. Mr Bottom was appointed by Mr Wran to the post of Investigation Liaison Officer into Crime attached to the Attorney-General's Department in April, 1978, and remained in that post until October that year.

As such, Mr Bottom may have some direct knowledge of the activities of various people in that period. Whether he will appear as a witness or, if so, when, with the Commission currently scheduled to close down next week, is not at this stage known.

Meanwhile, the proroguing of Parliament after a brief Budget session in August, and an election a year ahead of time shortly thereafter, is thought to be at least a possibility.

A faint whiff of the possibility of what would be a dreadful irony started to percolate through the Banco Court yesterday. This occurred during evidence given by Kevin Jones, SM, the magistrate who discharged Kevin Humphreys after a committal hearing on 11 and 12 August, 1977.

Mr Jones is a tallish, lean man with a long face, thin, downturned lips, and wispy greying hair parted low over his left ear. He has been ill with a kidney problem and he looks older than 52. His voice is rather gravelly, but no worse than that of Mr Wran with whom he has sat shoulder-to-shoulder throughout the Royal Commission without, so far as I know, exchanging a word with him.

At 11.20 am, Sir Laurence Street noted to Barry O'Keefe, QC, for Mr Jones, that it was not until Mr Humphreys, former secretary / manager of the Balmain Leagues Club, was in the witness box at the Commission that it was put to him that he took certain moneys from the club for his own purposes. Mr O'Keefe then asked Mr Jones if he was aware at Mr Humphreys' committal proceedings back in August, 1977, that the moneys Mr Humphreys got from the club were to satisfy gambling debts.

'No,' Mr Jones replied.

Mr O'Keefe then asked Mr Jones if such knowledge would have put a different complexion on the matter.

'Yes', replied Mr Jones.

Where do we go from there? Before we go anywhere, it should be emphasised that in what follows I do not seek to traverse what Sir Laurence might eventually find, and that I make no judgments as to the facts of anything anyone involved may or may not have done.

The frightful irony might thus lie in this: any attempt by Mr Wran or Mr Farquhar to improperly influence Mr Jones's finding (and we cannot say that they did) may have been quite unnecessary. In other words, the Fraud Squad detectives were unable to obtain any evidence as to Mr Humphrey's intent. As in any event, his discharge by Mr Jones, depending on what view Sir Laurence takes of the other evidence at the committal hearing, may have been next door to inevitable. [It appears that this analysis was quite incorrect - EW]

In other events yesterday, Leon Punch, leader of the NSW National Party, had earlier invited the Commission to consider what Sir Laurence called 'The Botany Affair'. In that matter, a 'participant' in the Royal Commission had presided over legal proceedings in which there had been assertions that another 'participant' was said to have given instructions to bribe aldermen to provide an advantage for a newspaper organisation.

It is assumed that Mr Punch took the view that evidence concerning those proceedings might assist the Commission in determining whether or not relevant persons directly or indirectly had a 'relationship' that might indicate whether it was 'reasonable or unreasonable' to conclude that 'any party would or did act improperly'.

Sir Laurence, however, gave it as his view that 'that matter does not touch in any way' on the Humphreys matter. He said that what happened 'in previous years in different conditions' was not relevant to the terms of the Commission.

The now almost customary birching of the Australian Broadcasting Commission's senior counsel, John Traill, QC, took place in two stages.

Mr Traill said he could assist the Commission by producing a witness who would give positive evidence in relation to a possible offer of a judgeship to Mr Farquhar in 1978.

'You needn't worry about the witness', Sir Laurence said, 'I want the information, and by the next adjournment or soon after.'

At 11.50 am, Sir Laurence said, perhaps a little cryptically, that nothing Mr Traill had outlined to him provided any basis for 'calling all the witnesses to whom Mr Farquhar may have made some reference'. And, perhaps to forestall yet another of Mr Traill's fast one-liners, Sir Laurence added: 'No further reference will be made to it'.

Otherwise, a large part of the day was given over to evidence from Mr Jones that, in a Commission buzzword favoured by counsel assisting, Michael Grove, QC, might or might not have 'negatived' some of the evidence provided by his fellow magistrates, Messrs Walter Lewer, Kevin Waller and Harold Berman.

And to strenuous, and apparently unsuccessful, attempts by Maurice Neil, for Mr Farquhar, to elicit from Mr Jones that when, as Mr Jones asserted, Mr Farquhar had said to him: 'The Premier contacted me; he wants Humphreys discharged,' Mr Jones was so stunned and confused he had no recollection of what Mr Farquhar actually said.

Friday: 24 June 1983

In an earlier diary on the Wran Royal Commission, I noted a remark made at its beginning by Michael Grove, QC, senior counsel assisting the Commission. Mr Grove then said: 'It cannot reasonably be suggested that any participant, or indeed any observer, remains unaware of the general background giving rise to the questions posed in Your Honour's Commission'.

Part of that background, as it now emerges, is that former Police Commissioner Fred Hanson interviewed a detective involved in the Humphreys case in the presence of the man the detective suspected. So what else is part of the late Mr Hanson's background?

Here are a couple of assertions that have been made:

- That, when the Griffith marijuana business was getting into stride, Mr Hanson was in the habit of going duck-shooting in the area with one of the principals.
- That he split with former Premier, Sir Robert Askin, a quarter of a million a year by way of proceeds of extortion from one casino alone, the Double Bay Bridge Club run by turf identity Perce Galea.

A former Fraud Squad detective, Sergeant Clarence Frodsham, now attached to Justice Stewart's Royal Commission, has given evidence before Wran Royal Commissioner, Sir Laurence Street, CJ. Sergeant Frodsham said that Mr Hanson had not tried to interfere with his investigation, and that he recalled no conversation with former Senior Assistant Police Commissioner Brian Doyle, on the subject.

Mr Doyle started giving evidence yesterday at 10.42 am. A thick-set man with a high-domed bald head and a somewhat rasping voice, one imagines that Mr Doyle was the terror of the crims in days gone by. His evidence flatly contradicted that of Sergeant Frodsham. That is, he said that Sergeant Frodsham and his partner, Constable Michael Newton, now a barrister, had complained to him that Mr Hanson had told them to drop the Humphreys inquiry and take no further action on it.

Sir Laurence asked Mr Doyle if he could see any lead as to whether anyone other than Mr Humphreys would have 'put the input' into Mr Hanson (to have the Humphreys inquiry stopped). That being the case, Sir Laurence said it would not assist his inquiry to attempt to adjudicate on the conflict between the evidence of Sergeant Frodsham and Mr Doyle.

Sir Laurence said he was open to persuasion from the Bar table that he should call Sergeant Frodsham's former partner, Mr Newton, but in the absence of that he would not call him. No one at the Bar table sought to so persuade him

Strictly speaking, within the narrow confines of his terms of reference, i.e. did Mr Wran or Murray Farquhar seek to improperly influence the result of the Humphreys case, Sir Laurence's decision not to seek to find the truth of the matter is no doubt fair enough. However, a couple of points arise:

First the absence of adjudication is necessarily unsatisfactory to either Sergeant Frodsham or Mr Doyle. And second, in the event - and we make no judgment on this - that if such adjudication were to go against Sergeant Frodsham's evidence on that point, some tiny seed of doubt may be raised in Sir Laurence's mind as to the quality of other assistance he may be getting from the police force in seeking to find the truth of the larger questions.

Mr Doyle was in and out of the box in thirty-three minutes. While it may have had little or nothing to do with Sir Laurence's inquiry, it seemed a pity that the opportunity was not taken to have Mr Doyle add to the sum of our background knowledge on Mr Hanson, and other luminaries of the force, and how it works. He might perhaps at least have been asked if he knew of any reason why Sergeant Frodsham gave that evidence.

Otherwise in yesterday's events, Maurice Neil, for Mr Farquhar, apart from eliciting from his client firm denials of all the allegations against him and Mr Wran, spent some little time taking Mr Farquhar, no doubt to the keen interest of that former naval person, the Chief Justice, through his distinguished career as a soldier. Meanwhile, as the Royal Commission surges to a conclusion, the Banco Court is taking on less the appearance of an up-market Nimrod Theatre and more that of the old Windmill Theatre, where prospective members of the audience could only get to see the naked ladies when somebody went out.

Saturday: 25 June 1983

Murray Farquhar, former CSM, disclosed in the Banco Court yesterday that he is fond of cricket and played it until he was thirty-three in about 1952. Mr Farquhar is a shortish, stooped, thick-set man, and my first reaction to this intelligence was that his bulk may have been most useful, as a wicket-keeper, in blocking those sprayed deliveries from the Broken Hill lads all those years ago.

However I once saw Wally Hammond negotiating, or trying to negotiate, a Brisbane 'sticky'. By that time, in his career, Mr Hammond was a little on the plump side, but still graceful, even in that awkward situation.

So, as yesterday wore on, and Mr Farquhar confronted, in Barry O'Keefe, QC, the legal equivalent of Ern Toshack, I figured that the Hammond image was more appropriate for Mr Farquhar. For, whatever finding His Honour may eventually make, there seems little doubt that Mr Farquhar had to negotiate some passages of cross-examination that had to be inherently a little tricky.

For example, there was the matter of Andrew Clark's *National Times* article of 6 March 1978. This article, which has received heavy mention almost every day at the Commission, noted that a man identified as an 'organised crime figure' in Parliament had been ordered from the members' enclosure at Randwick after he used a visitor's pass obtained through Mr Farquhar's AJC membership. The man concerned, George Freeman, was in court yesterday in a dark blue suit, a light blue shirt, a red tie, and a very dark tan, and sitting, by chance, next to the Premier's press secretary, David Hurley.

Mr Freeman seemed a little discomfited at some of the questions and tended to slide further down in his seat.

Mr Farquhar revealed that he had been getting horse-racing tips from Mr Freeman for some eighteen months before the article appeared and it was perhaps a year afterwards that he made some inquiries concerning some of the assertions about Mr Freeman in it. These included one that Freeman had admitted before the Moffitt Royal Commission into the infiltration of organised crime into registered clubs that he was an associate of Leonard McPherson.

A Commonwealth Police report read into the Moffitt Commission transcript described Mr McPherson as a 'vicious, powerful criminal who is so well entrenched in organised criminal activity in New South Wales that he is often referred to in the media and by his associates as 'Mr Big'.

Mr Freeman had also admitted he was an associate of Stanley Smith, identified in the Moffitt Commission as a drug pusher, and that he had travelled to America with Mr Smith on a false passport in 1968 and stayed with Joseph Dan Testa, identified in a Commonwealth Police report as a 'suspected member of Chicago Crime Syndicate'.

Mr Farquhar had told his counsel, Maurice Neil, that he had elicited from Mr Freeman the information that he hardly ever saw Mr McPherson. Mr Freeman had advised him that he saw Mr Smith a little more frequently, because they grew up in the same neighbourhood in Balmain. However, Mr Freeman had told him: 'I tried desperately to persuade him (Stanley Smith) to get out of crime'.

One wonders if the racecourse detective, Frank Lynch, who ejected Mr Freeman, will be invited to give evidence. The last time the matter of the ticket was canvassed, in September, 1978, evidence was given by Mr Lynch, and not by Mr Farquhar, Mr Freeman or Dr Nicholas Paltos, who was mentioned yesterday as having been arrested with Mr Freeman in the US on a passport matter.

If Mr Lynch is not invited, the evidence this time will be restricted to that of Mr Farquhar, Mr Freeman and Dr Paltos.

Monday: 27 June 1983

Murray Farquhar, former CSM, resumes his ordeal in the witness box at the Wran Royal Commission today. It should be understood that the matter of Mr Farquhar's relationship with George Freeman, described in Parliament as an organised crime figure, has not come as a bolt from the blue. Various aspects of that relationship have been traversed on a number of occasions over the past five years.

There was the initial *National Times* inquiry of March, 1978, which led to an internal Public Service inquiry; the select committee inquiry of September, 1978, which led to another internal inquiry; a legal action by Mr Farquhar against Mirror Newspapers of June, 1981, and a number of questions in Parliament.

The transcript of Mr Farquhar's legal action is extant and it is understood that John Hatton, the Independent member for South Coast, has drawn the attention of the Royal Commission to certain passages from that transcript. Barry O'Keefe, QC, for Kevin Jones, SM, also appears to be in possession of a transcript. At any rate, he has asked Mr Farquhar some questions relating to that legal action. In that matter, Mr Farquhar was represented by Thomas Hughes, QC, and Mirror Newspapers by Alec Shand, QC, who appears at the Commission for Neville Wran.

It may thus be that, one way or another, Mr Farquhar will be expecting some fairly close questioning by barristers familiar with the transcript. Mr Farquhar gave Mr Hughes the impression that, in the members' enclosure at Randwick on Wednesday, 27 July 1977, he was in Mr Freeman's company for what would have been only a few minutes, and that by chance. Racecourse detective Frank Lynch, giving evidence before the select committee, seemed to have the impression that they were in each other's company more or less continuously for two hours. It may be that the Commission will take the view that an appearance by Mr Lynch would assist it to sort out this aspect of the Farquhar-Freeman ticket affair.

In Mr Farquhar's June, 1981, legal action, there occurred this passage of cross-examination by Mr Shand:

Mr Shand: You were in the habit, in the period prior to July, 1978, of exchanging racing or betting opinions with Mr Freeman?

Mr Farquhar: I was not.

Mr Shand: You were not?

Mr Farquhar: No.

Mr Shand: Or of being supplied by him with racing or betting opinions?

Mr Farquhar: No.

Mr Shand: Quite false?

Mr Farquhar: I beg your pardon?

Mr Shand: Is that quite false?

Mr Farquhar: Yes, quite false.

Mr Farquhar withdrew his action for defamation against Mirror Newspapers before other witnesses were heard and, indeed, before Mr Shand had completed his cross-examination of Mr Farquhar. Mr Shand, if he chooses, will have the opportunity, as it were, of continuing it today.

From time to time during the Royal Commission, this writer has mentioned a few questions that, to the lay mind, it might have seemed appropriate to ask, and were not. It seems to me that there are a number of cogent points about allegations that Mr Farquhar had improperly tried to influence the outcome of the Humphreys case and / or the allegation that he was acting on the Premier's behalf. It should be understood that these allegations have also not come like a bolt from the blue, just the other day.

The former deputy CSM, Walter Lewer, made them to the then chairman of the Public Service Board, Sir Harold Dickinson, and another board member, Bill Gent, on at least three occasions in 1978. Mr Lewer made his allegations first in April, 1978, soon after *The National Times*' disclosures concerning Mr Farquhar and Mr Freeman: again in July, at the time of Mr Farquhar's reappointment as Chief Stipendiary Magistrate; and again in September, just before the State election.

Sir Harold gave this evidence: '(Mr Lewer) told me that Mr Wran had made a phone call to Mr Farquhar and that Mr Farquhar had changed the magistrates, appointing Kevin Jones, and that, in the event, proceedings for embezzlement of funds involving the Balmain Rugby Leagues Club had been dismissed.' Sir Harold was not asked whether he told anyone in the Government or the justice Department of Mr Lewer's allegations.

Nor were any appropriate witnesses asked whether they had been made aware of Mr Lewer's allegations when the matter of Mr Farquhar's reappointment came up in July, 1978, or when the question of his staying on the Bench arose in September of that year. Such witnesses included: Ministers Frank Walker and Ron Mulock; Under-Secretary of justice, Trevor Haines; and permanent head of the Premier's department, Gerald Gleeson. All took the position that there was no evidence against Mr Farquhar that would prevent his reappointment.

A puzzling aspect of conflicting evidence given by Detective-Sergeant Clarence Frodsham, who was in charge of investigating the Humphreys matter, and Brian Doyle, former senior assistant Police Commissioner, relates to a statement made earlier by the Royal Commissioner, Sir Laurence Street, CJ. On 7 June, the fourth day of the Commission hearings, Sir Laurence said:

'It will be relevant to attempt to ascertain in relation to the police investigation the nature of the attempt made to influence Detective-Sergeant Frodsham.

'If there were in fact two substantially similar attempts to influence, one directed at the police, the other directed at the committal proceeding, this could well be of importance in the present inquiry.'

As we now know, Detective Frodsham gave evidence that former Police Commissioner Fred Hanson had not sought to stop his investigation, and that he could not recall any conversation with Mr Doyle on that matter. On the other hand, Mr Doyle gave evidence that Detective Frodsham and his partner, Constable Michael Newton, had complained to him that Mr Hanson had instructed them to drop their inquiry and take no further action, and that he (Mr Doyle) had advised them to wait until Hanson retired and then proceed with the charges, and that this was, in fact, what happened.

Last week, however, and notwithstanding his earlier statement, Sir Laurence stated that it would not be relevant for him to try to find out whether any attempt had been made to influence Detective Frodsham.

Meanwhile, on the continuing Westpac mystery, Paul Sheehan, staff correspondent, writes: Dr Gerry FitzGerald, an American computer expert, was the project manager of the team which set up SWIFT's security control system. He expressed surprise that Westpac had not proved to the Commission that no transaction of the type in question ever went through.

He said it is a simple matter for Westpac to obtain a transcript from the SWIFT control centre in Belgium of every message sent by Westpac on the SWIFT system during the past four months (that is how long every message is stored in the master memory). SWIFT would be able to send a transcript of messages for any given period and they would be printed out in consecutive order. Each message is brief. It would be easy for Westpac, the Taxation Office, the Reserve Bank and, should it so desire, the Royal Commission, to peruse the transcript for any messages at all similar to the transaction alleged to have taken place.

There is no need for money to have been sent from Australia for a transaction to be recorded in the memory. Any message from Westpac, such as a direction to move money between two foreign countries (say, Switzerland and Argentina) would be on the transcript. There remains one other question: The record slip (0120525), which *The Sydney Morning Herald* was told some time ago contained crucial information, is the one piece of paper the bank has not been able to produce in its investigation.

Tuesday: 28 June 1983

Murray Farquhar's performance in the Banco Court yesterday has obliged me to upwardly revise last week's estimate of his prowess on a sticky wicket. Last week I equated him with Wally Hammond: today we must search the pantheon for an even more illustrious name: Jack Hobbs? Herbert Sutcliffe? Victor Trumper even?

On the face of it, the wicket was decidedly in favour of the bowlers, principally Alex Shand, QC, for Neville Wran and Michael Grove, QC, senior counsel assisting the Royal Commission. Both were armed with the transcript of Mr Shand's cross-examination of Mr Farquhar in his June 1981 defamation case against Mirror Newspapers.

In that matter, again on the face of it, some of Mr Farquhar's statements on oath concerning his receipt of betting tips from George Freeman may have seemed at variance with evidence, including his own, given to the senior counsel assisting the Royal Commission. Mr Shand and Mr Grove plugged away for some forty minutes each in what appeared to be the attempt to get Mr Farquhar to admit that some of his answers in the defamation case were not consistent with evidence here. Both failed to extract a concession from Mr Farquhar.

Even the Chief Justice, Sir Laurence Street, briefly brought on as a change bowler during Mr Grove's cross-examination, could not shake him. It was not until 4 pm, nearly at the end of Mr Farquhar's long stay at the crease, that I heard him say: 'If I said it in that context, I was wrong.'

This sounded like an admission of some sort but I must confess I had been so dazzled by Mr Farquhar's footwork, that I didn't hear the question and so am unable to say whether it was such, or merely Mr Farquhar feeling the dint of pity for Mr Grove on an unimportant point.

What construction the Royal Commissioner finally puts on Mr Farquhar's evidence is of course a matter for himself, but in the purely technical sense it must be said that in the match of the century the *Magistracy v The Bar*, the magistrates appear to have more than held their own.

A matter that has troubled some observers was to some extent traversed - rather late in the day one would have thought - in yesterday's evidence. This concerned the allegations made by Walter Lewer, then Deputy Chief Stipendiary Magistrate in 1978 to Sir Harold Dickinson, then chairman of the Public Service Board, to the effect Mr Farquhar, possibly acting on Mr Wran's behalf, had improperly tried to influence the outcome of the Humphreys case.

As previously noted, Sir Harold was not asked whether he passed these allegations on to relevant people when Mr Farquhar's future was being considered in 1978. And neither were other witnesses including Ministers Frank Walker and Ronald Mulock, Under-Secretary of Justice Trevor Haines, and Premier's Department permanent head Gerald Gleeson asked if they were apprised of the allegations at the time.

Sir Laurence yesterday asked Mr Farquhar if any of those discussing his future in 1978 had mentioned the rumours about the Humphreys case. 'Not at all', Mr Farquhar replied. It thus appears that the only evidence His Honour will receive on this point will come from Mr Farquhar and, if the question is put to him, Mr Wran.

Finally, it appears that the Royal Commission is something of a topic at Sydney dinner parties. At any rate, a person, purporting to represent twenty at a Saturday dinner party, has suggested that the Commission might care to allay their curiosity on a particular point while Mr Farquhar is still in the box.

The questions are: How and by whom were Mr Farquhar's TAB winnings, based on Mr Freeman's tips, picked up: in cash or by cheque?

Wednesday: 29 June 1983

The initial appearance of the man expected to be the stellar attraction in the box at the Banco Court, the stepped-aside Premier, N. K. Wran, QC, proved something of a disappointment to the house-full audience.

For an hour and a half, from 2.38 pm to 4.10 pm, his counsel, Alex Shand, QC, after eliciting Mr Wran's denial of all allegations, took him through a mass of material. The line of part of his questioning appeared to be designed to reveal and emphasise Mr Wran's deep and abiding interest in matters relating to drugs, including the Drug and Alcohol Authority. Concentration on such arcane matters had the effect of clearing a number from the building, and putting, literally, at least three of the remainder to sleep.

As frequently seems to happen at this Royal Commission, most of the fireworks therefore came in the morning session, and there was a division of opinion in the press box as Murray Farquhar's marathon innings drew to a close. Some inclined to the view that the pitch was at last taking a bit of spin: others saw the attack more in terms of fast leg theory, if not bodyline.

The matter that, as Cardus used to say, wrinkled the brow of the master batsman's innings, concerned a ticket for the members' enclosure at Randwick racecourse that came into the possession of George Freeman for a meeting on Wednesday, 27 July 1977. Mr Shand put it to the former chairman of the NSW Bench of Magistrates that he had not yet 'told the truth about the ticket' and that his account of Dr Nicholas Paltos having sought a ticket for an Adelaide person and passed it on to Mr Freeman was 'just a fabrication'. Mr Farquhar denied these charges.

The Commissioner, Sir Laurence Street, responding to an objection by Maurice Neil, for Mr Farquhar, against a line of questioning by Michael Grove, QC, counsel assisting, noted that 'the allegation is that there was a concoction between Dr Paltos and Mr Farquhar.' What Mr Grove was getting at was that Mr Farquhar had been asked about the famous ticket on about six previous occasions - twice by the bureaucracy in 1978, three times in his 1981 defamation action, against Mirror Newspapers, and finally by Mr Neil at the Commission.

And each time Mr Farquhar had never really qualified his account that he had got the ticket at the course on race day, Wednesday, 27 July 1977, when he had come upon Dr Paltos 'scurrying' towards him 'in a bit of a bind'. Mr Farquhar said he thought he had qualified his account 'to a degree.

His account has perhaps been more heavily qualified for the first time in the last couple of days when Mr Farquhar has stated that in turning his mind 'more deeply' to the matter, he has come to the conclusion that the ticket may have been obtained either on the Wednesday or on the day before. Mr Grove put it to Mr Farquhar that the ticket had in fact been obtained at the AJC's Alison Road office on the day before the meeting. Mr Farquhar said he couldn't say that.

Sir Laurence devoted twenty-six minutes - his longest sustained spell so far at the Commission - to questioning Mr Farquhar. Mr Farquhar, described by Mr Neil as a man who 'would use fifty words where five would do,' now appeared to come more to the fore. He did not agree, and at some length, with some of the propositions put by Sir Laurence, including that if the ticket had been bought the previous day 'the whole Dr Paltos story would fall to the ground,' and that such a situation would make it 'more difficult to exclude the Freeman connection.'

Mr Farquhar also didn't agree with Sir Laurence's proposition that in supplying him with tips, Mr Freeman may have been trying to put him under an obligation. Asked why he thought Mr Freeman gave him the tips, Mr Farquhar said that perhaps it was because he liked him, or, as his son had suggested, because Mr Freeman was seeking to use him to become a respectable member of the community.

Later, Ronald Swales, former AJC office manager, told Sir Laurence that he remembered Mr Farquhar getting the ticket from him on the Tuesday afternoon.

Some points arise out of all this:

- If Mr Swales' evidence has been available since 1978, it doesn't say a lot for the Government's investigation that year of the Farquhar-Freeman connection.

- It need not be thought that Mr Farquhar's current view that the ticket may possibly have been obtained on the Tuesday is anything other than the product of, as he states, his recent deep thought on the matter.

- If the thought were to cross Sir Laurence's mind that the material in

the possession of his Commission may not be as secure as he would insist,

he would no doubt reject the thought as unworthy: if any person had

gained improper access to that material and had sought to pass it on to Mr

Farquhar, the former magistrate would no doubt have declined to be a

party to such activity, and reported the matter to His Honour. If, as Anthony Farquhar believed, Mr Freeman was seeking to obtain respectability by his connection with Mr Farquhar Snr, he has not been the only person in Sydney with whom Mr Freeman has had a connection, and possibly for the same natural reason.

Mr Freeman's counsel, Desmond Anderson, continues to charm us all by his mastery of the language. He had earlier mentioned Mr Freeman's 'impecuniosity', and yesterday he claimed that Barry O'Keefe, QC, for Kevin Jones SM, had 'traduced and calumniated' Mr Freeman.

Sir Laurence again stood over Mr Anderson's application for the Government to pay Mr Freeman's costs. Sir Laurence said that, as he saw it, Mr Freeman was not at risk from these proceedings. If the public had to pay the costs, the payment had to be justified by the public interest.

John (Rumpole) Mortimer, the distinguished English barrister and author, said on 2GB yesterday that he couldn't understand why Australia has so many Royal Commissions. A Royal Commission, he asserted, was the perfect vehicle for concealing the truth.

One assumes that Mr Mortimer is referring to the English experience, and that the colonies have not learned these tricky ways, and would not be part of them if they had. Meanwhile, yesterday's events at the Banco Court were as interesting as any hitherto.

A couple of Treasury boffins and a financial adviser to the Premier, Neville Wran, were wheeled in at the request of his counsel, Alex Shand, QC. They gave evidence of a crucial Budget meeting - perhaps the most crucial in the history of the Wran Government - that, they all agreed, took place at precisely the time that certain events relating to the Kevin Humphreys case were alleged to be happening down at the Central Court.

The meeting, on the evidence, provided an arena for a no-holds-barred, knock-down-drag-out contest between the Treasury chaps and Mr Wran's advisers. The prize: \$230 million secreted in the hollow logs of statutory authorities.

The Treasury people represented the forces of caution, or super caution, as Mr Wran said a politician might put it: Mr Wran's people wanted to get their arms well up into the log, to relieve unemployment. The participants couldn't recollect for sure, but as far as they knew Mr Wran did not leave the meeting or make a phone call between 9 am and at least 10 am, and probably longer.

More intriguing perhaps, was the disclosure that the Treasurer, Jack Renshaw, was not present at this crucial meeting. Mr Wran said they couldn't think why he was not there.

Mr Wran, who has denied all allegations against him, disclosed that he had a meeting with Murray Farquhar, then Chief Stipendiary Magistrate, on 10 February 1978. He said he couldn't remember what the meeting was about, but assumed it was something to do with the famous Drug and Alcohol Authority of which Mr Farquhar had been part-time chairman since it got under way on 31 August 1977.

Mr Shand put it to Mr Wran that he had a meeting with the then Attorney-General, Frank Walker, on 4 April 1978, a month after *The National Times* article relating to the Farquhar-Freeman ticket matter. Mr Shand suggested that Mr Wran told Mr Walker it had come to his attention that Trevor Haines, acting Under-Secretary of Justice, was keeping an unofficial file on Mr Farquhar and George Freeman. Mr Shand said that Mr Wran had said this was an unfortunate practice as public servants could keep matters back from Ministers. Mr Haines, however, had told Mr Walker he was not keeping such a file: that he must have confused it with someone keeping a file for Mr Mulock. Asked if he remembered that, Mr Wran said: 'Vaguely'. No further reference was made to this mysterious file yesterday, and it is not known whether the Commission has sought to track it, and its author, down, or if so, with what result.

A fortnight later, Mr Wran had a meeting with Mr Farquhar, at Mr Farquhar's request, about *The National Times* article. Mr Wran said Mr Farquhar told him there was nothing improper in the ticket matter, that he 'was suing *The National Times*, and that he was proud of being a magistrate, and would do nothing to harm the magistracy. Mr Wran said he had indicated to Mr Farquhar that if he had any relationship with Mr Freeman, it was indiscreet.

Amazingly perhaps, Mr Wran disclosed some hint of what appeared to be a ruthless response to an affront to the ego of the Balmain boy become Premier. He said that, after he had tried to get the Premier's car into the Sydney Cricket Ground, and been barred, 'We patched up our differences - we reformed the Trust'.

I couldn't quite follow the logic of an answer Mr Wran gave to Maurice Neil for Mr Farquhar. Mr Wran had earlier indicated that he had told Mr Farquhar in October, 1978, that there had been three bursts of

unfavourable publicity about Mr Farquhar and his connection with Mr Freeman that year, in March, July and September, that this would obviously continue, and that he had sought to persuade Mr Farquhar to retire from the Bench. Eventually, Mr Farquhar did retire on 26 May 1979, a day after he had presided over a case, involving drugs, that has received a deal of publicity, but any examination of which the Royal Commissioner, Sir Laurence Street, CJ, apparently feels would not assist his Commission.

However, Mr Farquhar continued as part-time chairman of the Drug and Alcohol Authority for some time. Mr Neil put it to Mr Wran that Mr Farquhar was a fit and proper person to remain as chairman of that authority. Mr Wran replied that there was no reason why he shouldn't.

Mr Grove, a large man who habitually appears in a blue suit, appears to have a facility that must be the envy of his brothers at the Bar: while they scribble furiously during evidence in order to pick up some crumb on which they may cross-examine later, Mr Grove seems to be able to keep it all in his mind; he almost never takes a note. His cross-examination of the Premier lasted twenty-five minutes.

The Chief Justice asked the Premier a couple of questions about a visit Mr Humphreys had made to him, and Mr Wran left the box at 3.18 pm.

There was a minor flurry late in the afternoon when Barry O'Keefe, QC, for Kevin Jones, SM, asked Dr Nicholas Paltos, who revealed that he had as his patients Mr Farquhar and Mr Freeman, if he knew Mr Freeman to be an associate of another patient of his, a Mr Trimbole. Dr Paltos said: 'No'. Mr Neil immediately asked if Dr Paltos wanted an apology 'on the Trimbole smear'. Dr Paltos appeared untroubled by Mr O'Keefe's question. He said: 'He can say what he likes'.

Sir Laurence, however, pointed out that doctors, like lawyers, were obliged to take on all kinds of clients, and hoped that the press would not make too much of the passage. So I do no more than record it, although I must say it occurred to me that it might have crossed Sir Laurence's mind that he might do a favour for his brother, Justice Stewart, by inquiring if Dr Paltos happened to know the present whereabouts of his patient.

Friday: 1 July 1983

Justice, Lord Atkin remarked in *Ambard's* case nearly half a century ago, is not a cloistered virtue. That may be, but events in the Banco Court yesterday suggest that some in the trade may lead cloistered lives.

George Freeman's bravura performance in the box appeared to amuse and entertain many, including the Chief Justice, Sir Laurence Street. Indeed, Sir Laurence appeared to be so affected by Mr Freeman's protestations that he had been falsely maligned, including by a man he called 'that impostor,' Bob Bottom, that he allowed Mr Freeman to make an extempore speech on his own behalf at the end of his evidence.

Grasping this surprising offer, Mr Freeman passionately demanded of 'the Premier and Your Honour: Who am I to talk to? If I talk to the baddies, I'm in trouble; if I talk to the goodies, they're in trouble...' This was splendid comedy but, in the general appreciation of Mr Freeman's sallies, the Commission seemed to have lost track of why he was there.

Since the Premier, Neville Wran, had described the association of former Chief Stipendiary Magistrate Murray Farquhar with Mr Freeman as 'indiscreet', the main reason for Mr Freeman to be called was presumably to test the level of that indiscretion.

Barry O'Keefe, QC, for Kevin Jones, SM, had earlier elicited from Dr Nicholas Paltos that both Mr Freeman and Robert Trimbole, of the Mr Asia heroin ring, were his patients. Yesterday Mr O'Keefe asked Mr Freeman if on 4 May 1977, two-and-a-half months before his 'day at the races' with Mr Farquhar and Dr Paltos, if racecourse detective Frank Lynch had ejected him from the members' enclosure at Newcastle racecourse in company with Mr Trimbole.

'Certainly not,' Mr Freeman replied. 'I don't know Trimbole.' He said that it was from the public stand that he was removed.

It does not appear that this denial is going to be tested by reference to anyone else: nor have specialist Federal Police and officers of the Crime Intelligence Unit been put in the box to see if they can offer authoritative opinions on Mr Freeman as he touches on Mr Farquhar's indiscretion.

Mr Freeman told his counsel, Desmond Anderson, that after what he called 'the hard years... I changed my field in 1968, and made a bit of a go of it. This presumably was meant to refer to his work as what he calls a commission agent, but nobody apparently thought to ask him whether the fact that 1968 was also the year he was in the United States and staying with a reputed Mafia personage, Dan Testa, had anything to do with it as well.

Twelve words spoken by John Traill, QC, for the Australian Broadcasting Commission, at 2.45 pm on Wednesday appear to have brought home with a jolt to Sir Laurence the exposed nature of the Commission's position. Asked by Sir Laurence if he wanted to question Mr Wran, Mr Traill said: 'In the light of Your Honour's earlier ruling, I have no questions.'

Yesterday morning, Sir Laurence indicated that, although he didn't expect much to come of it, he would allow three witnesses nominated by the ABC's solicitors to be called. The Chief Justice said: 'I want there to be no prospect that it can be later said by the ABC, or anyone for that matter, that relevant leads were not followed up.'

Former Fraud Squad detective, Michael Newton, now a barrister, was called to give evidence on the conflict of evidence between Detective-Sergeant Clarence Frodsham and Brian Doyle, former chief assistant Police Commissioner. Mr Newton supported Sergeant Frodsham's evidence, i.e. he said that he and Sergeant Frodsham had never complained to Mr Doyle that former Police Commissioner Hanson had told them to drop their inquiry in the case of Kevin Humphreys and moneys taken from the Balmain Leagues Club. Mr Newton revealed that senior police had been unable to find his diaries of the period.

Asked by Mr Traill if Detective Frodsham had ever said anything to him after Mr Hanson had called him (Frodsham) up and asked him about the case in the presence of Mr Humphreys, the man he suspected, Mr Newton said: 'He told me about it on his return. He said there was nothing of consequence or significance'. Sir Laurence repeated that he would not adjudicate on the conflict between Mr Doyle and Sergeant Frodsham and now Mr Newton.

Sergeant Andro Tomich, then of the Consorting Squad, gave evidence that he had kept Messrs Farquhar and Freeman and Dr Paltos under surveillance from about 1.30 pm to about 3.20 pm at Randwick racecourse on Wednesday, 27 July, and that it was arranged that photographs be taken of them. He also revealed that he had made two reports on the matter, the next day and on 4 August. It thus appears that the Consorting Squad took a serious view of the Chief Stipendiary Magistrate knocking about a racecourse with Mr Freeman, but no evidence has been given on whether Sergeant Tomich's reports were sent to appropriate persons in the justice Department, the Public Service Board, or the Government.

In what perhaps might have been seen by some as an admission that the questioning of a number of previous witnesses had not been as thorough as it might have been, a number were recalled to the box yesterday, and more apparently are to be recalled. Yesterday's batch were Sir Harold Dickinson, former chairman of the Public Service Board; Trevor Haines, Under-Secretary of the Justice Department; and Frank Walker, former Attorney-General.

Their fresh evidence suffered from frailty of recollection at this distance, but I got the impression that it is possible that the dogs may have been barking about the Humphreys matter throughout that period in 1978 in which the focus has hitherto been the Farquhar-Freeman connection.

The problem, as it seems to me, with Sir Laurence Street's conception of his role in running this Royal Commission was thrown sharply into focus yesterday with the last-minute appearance of a literate cop, Sergeant Darcy Cluff. Sergeant Cluff was interviewed before public hearings began. It was decided that his evidence would not assist His Honour to decide whether or not Neville Wran had sought to influence Kevin Jones, SM, not to commit Kevin Humphreys for trial. Mr Wran was Premier and, then, Minister for Police: Mr Farquhar was then Chief Stipendiary Magistrate.

Sergeant Cluff, a solid, bespectacled, precisely-spoken man, was finally called at the invitation of solicitors for the Australian Broadcasting Corporation. They took the view that calling Sergeant Cluff might assist His Honour in terms of Sir Laurence's own words of Tuesday 7 June.

'If there were in fact substantially similar attempts to influence, one directed at the police and the other directed at the committal proceedings, this could well be of importance in the present inquiry.'

Sergeant Cluff, who had been the prosecutor in the Crown case at the committal hearings of Mr Humphreys, was not afflicted by those problems of recollection that have hampered several other witnesses in their attempts to assist His Honour. He left, I imagine, no one in doubt as to his belief that there were attempts in the police area to get the fix in, both before and after the committal hearings of 11 and 12 August 1977.

As far as the police were concerned, Sergeant Cluff based that belief on a number of unique features of the case:

- The fact that a copy of the police file in the case had come, presumably over the transom, into the hands of Mr Humphreys' counsel in the 1977 case, Kevin Murray, QC.
- The fact that Detective-Sergeant Frodsham, the investigating officer, had been called to headquarters to discuss the case with Commissioner Hanson and Assistant Commissioner Stackpool. (Sergeant Cluff said that Sergeant Frodsham had not told him until recently that he had not only been called to headquarters but that the defendant had been present at the interview.)
- The fact that a report he made recommending that further action be taken by way of an *ex officio* indictment or by an invitation to the magistrate to 'state a case' as to why he had discharged Mr Humphreys had been suppressed within the Police Department at the time, and could not now be found.

Thus, in terms of Sir Laurence's 'attempts to influence the police,' one would have thought that Sergeant Cluff would have been one of the first witnesses called. However, Sir Laurence said yesterday that 'it would take many weeks' to try to trace Sergeant Cluff's assertions to see if they led in any particular direction, and it wouldn't assist him anyway.

In terms of attempts to influence the committal proceedings, Sergeant Cluff revealed that on the second day of the 1977 hearings, a reporter, Hughie Mountjoy, had said to him: 'You were wasting your time: he isn't going to be committed.' Mr Mountjoy's remark may be read in different ways, but certainly one construction that can be put on it is that he had prior information that led him to believe that the fix may have been in the Humphreys case.

In which case, had Sergeant Cluff been called early, Mr Mountjoy, if he were still alive, may have come forward. Sergeant Cluff's evidence, and the fact that it was not intended to call him, seems to me to reinforce the idea that Sir Laurence Street's narrowly technical approach to his work may impose on him a degree of difficulty in seeking to find out what actually happened in the Humphreys case.

In coming to a decision about whether or not it would be wise for him to sit on the Wran Royal Commission, the Chief Justice, Sir Laurence Street, must have found himself confronted with a frightful

dilemma. It would be difficult to imagine a Commission touching so closely on politics: he was asked to sit in judgment on the Premier. Whichever way he found, persons on the other side of politics would be bound to find something amiss. In addition, the matter at issue concerned the administration of justice in New South Wales, of which he is literally the Chief. And finally the terms of reference were drawn so narrowly that the task may have seemed dauntingly akin to attempting to drive a camel through the eye of a needle.

Yet he would also have known that Royal Commissions can develop in directions unforeseen when they were established and that history can be a harsh judge. In the Rupert Max Stuart Commission, the three judges produced a finding that seemed patently absurd: that a jury who heard only half the evidence had properly convicted Stuart. At the Petrov Commission, as has recently emerged, three judges let in material damaging to the Labor Party but suppressed material damaging to the Liberal Party.

And at the first *Voyager* Commission, the judge, a former politician, so obviously got it wrong that another Commission had to be held.

In what was thus virtually a no-win situation, some may have judged it prudent for the Chief Justice to seek to have this poisoned chalice pass from his lips, and handed on to a barrister from another State. Sir Laurence Street accepted both the Commission and its terms of reference. Perhaps he thought it would be an act of poltroonery to do otherwise.

Having accepted, the Chief Justice must then have been confronted with another painful dilemma: what approach would he take? One option was to run a narrow, technical, highly legalistic operation based tightly on the terms of reference, and in fact this was the course the Chief justice chose. Perhaps, as a lawyer, he felt this was the only option open to him.

The risk here was that the lay public would not understand why such an approach should seem to close off so many lines of inquiry, and that the last case, so far as confidence in the administration of justice is concerned, would be worse than the first. In terms of the greater good, then, it might have been argued that a better option would have been to hold a wide-ranging and thorough-going inquiry in which, as it were, the hares were allowed to be chased where they ran.

The Chief justice may feel, again as a lawyer, that such an operation was no part of his brief. Yet he is the Chief justice with a compelling interest in how his courts are run, by the police no less than the magistrates, and in public perception of the administration of justice. It may be that letting the hares run would in the end produce a result no different from a narrow technical operation, and at a much greater charge on the public purse. The cost, however, would be inconsequential if a wide-ranging inquiry were to allay public disquiet.

There are more points relating to the logic of the presentation of the evidence and the lawyers' expertise. On the logic, 'the theory of the case' asserts that a case which gets off on the wrong foot, or on the wrong assumptions, cannot as a rule be patched up at the end.

There were no doubt a number of ways of going about this particular inquiry, but it could be argued that one logical progression would have been as follows:

1. The antecedents of the principals.
2. The Police Department's investigations of the Humphreys case.
3. The magistrates and the alleged events of the morning of Thursday 11 August 1977.
4. The prosecution and defence of the Humphreys case on 11 and 12 August 1977.
5. The aftermath of the case, i.e. the reaction of the politicians and the bureaucrats to allegations that (a) the case was fixed; and (b) that the Chief Stipendiary Magistrate had a connection with a person named as a leader of organised crime and who had had Mafia connections.

The Commission's initial assessment was that of those steps one, two and four were largely outside the terms of reference. One effect was that when counsel for the ABC suggested that step four be looked at, and the Commissioner finally agreed, the Commission was left in the embarrassing position of having to take evidence after final submissions by counsel had been concluded.

On the point of legal expertise, a Royal Commission is an inquiry into the truth, ie a fact-gathering exercise. In the British system of law, however, judges become experts in the law. A jury of lay persons are supposed to be experts on the facts. It would thus seem that an ideal Royal Commission would consist of either a barrister or a judge and a couple of intelligent lay people.

As the Commission went on it became increasingly clear that questions that seemed obvious to the lay mind simply did not seem to occur to the legal minds at the Commission. One small example concerned George Freeman and the tips on turf events he gave Murray Farquhar. Questions were asked to try to find out if Mr Freeman was seeking to put Mr Farquhar under an obligation or whether Mr Farquhar felt any obligation.

But a question that did not initially occur to the Commission concerned the quality of the tips. That is, there could hardly be an obligation if the tips were no good. And witnesses had to come tumbling back into the box to be re-examined on questions which had appeared elementary to the lay mind, but which were not asked the first time round.

In the end, the Chief justice may recommend to the Government that certain other inquiries, not open to him by virtue of the terms of reference, be followed up. In this respect, however, the experience of his brother judge, Justice Moffitt, may not altogether be encouraging. The then Government simply ignored most of his recommendations in the Royal Commission on Organised Crime in Clubs.

The current Commission has, if anything, enlarged the questions hanging over the administration of justice in New South Wales. Although titular head of that administration, the Chief Justice has, for technical reasons, not felt able to seize, in this hearing, what appeared to some to be the opportunity of a lifetime to have those questions exhaustively examined.

His thoughts on the bigger issue will be of compelling interest to the citizens of New South Wales.

Aftermath: A Low Rent Track in the Sticks

I want to make a symbolic gesture...

- Neville Wran, QC, Premier of New South Wales 28 July 1983.

After twenty-three sitting days, the Royal Commission finished taking evidence on 7 July. Interviewed by ABC television that day, the present writer ventured a prediction: the biggest loser would be the Chief Justice, Sir Laurence Street.

I then climbed on a plane to take six weeks' leave in Paris, prior to taking up a *Sydney Morning Herald* appointment in London. Since there was a later suggestion in *The Bulletin* that I was sent there by way of mollifying Wran for comments made at the Commission, it should perhaps be noted that the appointment was arranged several months before, prior to both the 'Four Corners' programme and the Royal Commission, and that my departure was twice delayed to enable me to attend the Commission throughout.

Street completed his report in late July, well before 16 August, when Parliament was due to resume. He stated at the outset that he was satisfied beyond reasonable doubt that the answers to the two questions posed by his terms of reference were:

1) Yes; Mr Farquhar did influence the outcome of the committal proceedings.

2) No; Mr Farquhar was not acting at the direction or request of Mr Wran.

He recommended:

a) that proceedings be instituted against Mr Farquhar for the common law misdemeanour of perverting the course of justice; and

b) the Attorney-General grant to Mr Jones a promise of immunity from prosecution so that he may be compellable to give evidence in proceedings against Mr Farquhar.

He also recommended that the Attorney-General file an *ex officio* indictment against Humphreys on the original charges of fraudulent misappropriation. His admissions at the Commission that he had taken the money for gambling could not be used against him.

At 8.20 am on the morning of Thursday 28 July, Wran was asked, in the rain, by a Channel 7 reporter if he had any thoughts of taking revenge on the people who brought the Royal Commission about. Wran replied: 'Bitterness is not in my nature, but I would not like anyone to think that I will forget or forgive'. At 1.28 pm, Street entered Government House to give the Governor, Sir James Rowland, a copy of his report. Gerald Gleeson, Permanent Head of the Premier's Department, was posted in a Government car 150 metres from the gate. Street left at 1.45pm, and Gleeson moved in. He came out at 1.56 pm and drove to the State Office Block. Ferguson got a copy of the report at 2 pm. At 3.10 pm Ferguson and Treasurer Ken Booth went out to Government House to act with Rowland as the Executive Council for the purpose of revoking Ferguson's commission as Acting Premier, a post he had held since 16 May, a period of ten weeks and three days. Wran then automatically resumed his post as Premier. At 3.40 pm, Ferguson issued a seven-paragraph statement saying that Street had found that Farquhar did influence the outcome of the Humphreys proceedings, and that he had completely exonerated Wran. The full report was not issued for another four days.

Wran held a press conference at 4 pm in the ninth floor conference room of his office in the State Office Block. The conference was described as 'serious, tense, and at times bitter'. Some of the questions and answers:

Wran: Same old faces. Evan Whitton not here?

Reporter: Gone to London.

Wran: Oh, what a shame.

Q. Well, Mr Wran, how do you feel at this very moment?

Wran: Well, naturally as far as I am concerned, I am satisfied at the Chief justice's finding because my view is that I shouldn't have been involved in the Royal Commission at the outset. And the Chief Justice's finding has fully justified my feeling at the beginning.

Q. Are you saying that the terms of reference shouldn't have included you?

Wran: I'm saying that the involvement of myself as the Premier of this State and the destabilisation of the Government of this State and the necessity for me to stand aside as Premier has been a blot upon the history of so-called investigative reporting in Australia. And I repeat I've got nothing to be pleased about. After all, I'm the first Premier in history who, by force of so-called investigative reporting, was forced to stand aside and involve himself voluntarily in a Royal Commission, which, although it no doubt provided a lot of pleasure in a number of quarters, I didn't find anything pleasant about it all ...

Q. Sir, earlier you said you wouldn't forgive and you wouldn't forget. Who won't you forgive?

Wran: If I've learned anything in the last three months, it's this: don't bare all your soul at once. And those who won't be forgiven and won't be forgotten will - they are within my head and I dare say that the story unfolds - that is, whole number of circumstances unfold yet. I've got actions against the ABC. They must be continued to finality and justice must be done. [In fact, Wran never did have his defamation action against the ABC tested by a jury. He later accepted settlement of the action on the basis that the ABC pay his costs.] ... I shouldn't have been involved in the first place.

Geoffrey Sims, ABC television reporter who covered the Royal Commission: Mr Wran, that same piece of investigative reporting you criticised -

Wran: Are you from the ABC?

Sims: I am.

Wran: Well, yes. I don't answer your questions at this conference.

Another ABC reporter: Mr Wran, are you going to be magnanimous in victory at all as far as the ABC is concerned?

Wran: I don't regard this as a victory...

Q. How bitter and angry are you?

Wran: Oh, no. I said to one of your colleagues this Morning bitterness is not in my nature, and I'm not bitter

Interjection: You're obviously angry.

Wran: I'm a little angry and certainly, I repeat, to the extent that I'm at all angry, it's because I should not have been involved in this thing in the first place.

Q. Mr Wran, the Inquiry did find that Mr Farquhar did influence the outcome of the case. Isn't that alone enough to justify the ABC's work? I'm not from the ABC.

Wran: Are you putting that on a media basis or on a legal basis? You can't ask me those sort of questions...

Sims: Mr Wran, you seem to have glossed over the first term of reference, and that is that Mr Farquhar was found to have influenced the proceedings.

Wran: I've said to you what I've come to say.

Q. You've said at the outset that it remains to be seen how much of the mud will stick. How much do you think will stick?

Wran: I think it's inevitable that one's reputation is hurt and that's why I treated the gentleman from the ABC today as I have. No doubt if he turns up here for the next three weeks or three months, I will be answering questions of him. But I want to make a symbolic gesture today so that the public will understand that these Royal Commissions involving politicians are not mere circuses for the ABC or any other section of the media because they do hurt at the time, and they do, in a permanent sense, have an effect upon a person's reputation.

Q. Mr Wran, how was the Royal Commission treated as a circus by the ABC?

Wran: Well, if you come along to the court where the defamation proceedings will be heard, I feel certain that... will be delineated in a very clear and articulate way.

Q. Don't you think it's wrong, Mr Wran, not to dissociate your legal relationship with the ABC and your relationships with the ABC as a media.

Wran: Not at all. Not at all. The ABC did a most disgraceful and wrong thing to me, and do you think that the ABC can be like Pontius Pilate now and wash its hands and walk away from what it sought to do to me? The ABC in a most malicious way set out to hurt me, and you, if I might say so, are more naive than I know you to be if you think that the ABC can somehow now correct itself as some pillar of virtue in relationship to me...

Paul Byrnes: Sydney Morning Herald: *Q.* Mr Wran, you said that the inquiry has hurt you personally. Do you think it has hurt the Government electorally?

Wran: That remains to be seen. You're from *The Sydney Morning Herald*, and Mr Evan Whitton, QC, in my opinion, did very little to uphold the high standard of objective reporting.

Q. Mr Wran, could you read to us what the Royal Commission actually said about you?

Wran: No. I repeat. I am not in a position to do that...

Q. Do you think this will live on in the minds of voters at the next election?

Wran: Ah yes, I think, if I know the average Australian... there'll be a backlash. Not against the Government in relation to this, but there'll be a swing to the Government in relation to it. The public understands unfairness when it sees it.

Byrnes: So see that the Royal Commission may have in fact benefited the Government?

Wran: No, I didn't say that. I said a backlash. And how could it benefit the Government? How could a Government that was destabilised by the 'Four Corners' programme be benefited?

Q. Do you think Mr Greiner's been having a free run while you've been absent?

Wran: Well, you know perfectly well he has, and that's one of the reasons why, when Paul Byrnes asked me questions about the Royal Commission being helpful to the Government - how is it ever helpful to a Government to have its leader on the sidelines and its opponents being given what I've called a free kick, especially when they're being supported by their flagship, *The Sydney Morning Herald*, in the way in which they have?

Q. Mr Wran, would you concede that the ABC has done a significant public service in uncovering Mr Farquhar's activities?

Wran: I make no concessions in relation to the ABC whatsoever in the light of the fact that there is litigation between myself and the ABC.

Q. Mr Wran, are you taking legal action against any other news organisations?

Wran: Well, no, you can't ask me that question and expect an answer. What actions I take or I do not take are matters between myself and my lawyer, and ultimately those who are the defendants.

Q. Has *The Sydney Morning Herald* done anything wrong in its reporting of the Royal Commission?

Wran: In the light of the first question you asked me, I won't answer that.

Wran did not take legal action against *The Sydney Morning Herald*. In an acceptance speech for an award made later in 1983 relating to the sketches of the Royal Commission, I said I was pathetically grateful to Mr Wran for having noticed my work, and for having appointed me to the Inner Bar. I also

thanked Street and Grove, whose inadequate, in my view, handling of the Commission helped give the material whatever cutting edge it may have had.

Otherwise, an analysis of Wran's press conference suggests it was a remarkable gloss on the history of the matter. He asserted that it was the ABC who forced him to stand aside and attend the Royal Commission. This assault on the humble messenger overlooks a number of facts: that it was Farquhar who originally used his name; that the Government resisted holding a Royal Commission for eleven days after the 'Four Corners' programme; and that it appeared to be a combination of the threat in the Senate to hold an inquiry and Jones's admission that Farquhar had used Wran's name to pervert the course of justice that eventually forced the setting up of the Commission.

And, as noted elsewhere in these pages, it should have been the work of a few minutes for Wran to obtain evidence to support the fact that it would have been physically impossible for him to have telephoned Farquhar on the morning of 11 August 1977. Having established this, he might then have proceeded with Government business, pausing only to make a cameo appearance at the Commission, as did Askin when Moffitt was inquiring into, among other things, whether Askin's Government had attempted to cover up organised crime in clubs. A clinician could thus be forgiven for coming to the conclusion that Wran's response to the whole thing suggested a subconscious itch for the nails.

ABC chairman, Dame Leonie Kramer, said the findings vindicated the decision to screen the 'Four Corners' programme. She said that if it were shown again it would be quite evident that Wran was not being attacked. 'The programme', she said, 'it has to be remembered, alleged nothing. The programme reported allegations, and that is a very important distinction'. Wran's response to that was: 'It will be interesting to see how many others will share Dame Leonie's view'.

Street gave an interview that day to Tony White, a wire service reporter. White reported Street as saying he was aware when deciding to take on the Commission that the fate of the Premier and the State Government could hinge on it. 'Naturally', he said, 'I was conscious of the political aspect, but I considered that I had a clear responsibility to deal with the matter and not hand it over to another judge. I am a pragmatic idealist. I knew the problems confronting me from the outset, but I did not want to squib the issue'.

Street also devoted three-and-a-half pages of his report to what appeared to be a defence of his accepting and handling the Royal Commission. He said: 'It is important to emphasise that the judiciary as such has no legitimate role to play either in calling originally for the setting up of a Royal Commission, or, when ensconced in a Royal Commissioner's chair, in calling for an extension of the terms of reference'.

The latter assertion was contradicted by Wran QC. He said: 'If there had been any justification for widening the terms of reference, I'm certain the Chief Justice of New South Wales... wouldn't have hesitated in recommending the terms of reference be widened. That is within his power'.

Street's report was criticised on a number of grounds. He had failed to find a motive for Farquhar's perversion. He had failed to address the crucial question relating to the administration of justice: why, given that by August 1977, seven magistrates were aware of the alleged perversion, an awareness that had spread by 1978 to the Public Service Board and to the justice Department, was nothing done?

Street also felt obliged to explain why he took the position that two cases he was invited to examine - the Botany case and the Bilbao case could throw no light on the matter he was investigating. Of the Botany case, he said:

'After a lapse of eight years, and in the total absence of any evidence of collusion between Mr Farquhar and Mr Wran, I saw no good purpose in further probing this case in the course of the present inquiry. Counsel assisting me had examined it, and the absence of relevance was clear. I accordingly declined to undertake an investigation of it'.

The Bilbao case arose from the death of a person of that name in the cells of Central Police Station in 1972. Two police officers were charged with murder. Farquhar discharged them at the committal

proceeding. After further proceedings, an inquest was held and Magistrate Kevin Waller committed the police for trial. They were finally acquitted by direction of Justice Carmichael. Street said: 'The case could cast no light on the determination of the answers to the questions I am asked in this Inquiry'.

Nor did Street examine Farquhar's role in the Cessna-Milner case for what light it might throw on any tendency by Farquhar to pervert the course of justice. He does not give his reasons for this, but presumably he took the view that the terms of reference obliged him to examine Farquhar's role in the Humphreys matter in isolation from other events.

However, one thing he did do was explode the basis on which Farquhar was kept on as a magistrate when it was revealed he had gone to the races with Freeman in 1977. Farquhar's assertion, that he had not procured a ticket for Freeman, was accepted at the time. Street demonstrated that this assertion was false. He also demonstrated that Farquhar's acceptance of largely winning racing tips from Freeman made Farquhar vulnerable to Freeman, a man stated in the House to be a significant figure in organised crime.

On 2 August, Farquhar was charged on summons with perverting the course of justice. He was found guilty on 8 March 1985.

Humphreys was charged by *ex officio* indictment on 15 August 1983. On 18 October 1983 a District Court jury of six men and six women, after a retirement of four hours and fifty minutes, found him guilty on eight counts of fraudulently appropriating \$19 940 from the Balmain Leagues Club between 31 July 1974 and 11 August 1975. The jury also found him guilty of stealing \$30 579, while a servant of the club between 2 September 1975 and 18 February 1976, and of receiving \$30 579 between the same dates with intent to defraud. He was found not guilty of fraudulently appropriating \$30 579 from the club, a charge laid as an alternative to that of stealing the amount. He had pleaded not guilty to all charges.

For Humphreys, Kevin Murray QC told the Chief Judge of the District Court, Judge James Staunton, that, in the fight of the 'glare of exposure', which had followed the events involving Humphreys, he was unemployed and unemployable. He said that, while Humphreys had an 'unblemished record', the option of starting again was not available to him.

Staunton said he agreed with the verdict. He said the offences were serious and, when committed by a person in a position of trust, usually required a jail sentence to warn others as well as to punish the accused. In Humphreys' case, Staunton said he had had regard to his previous good character, that he had made full restitution, and that he had had to 'live with this on his conscience for a number of years'. He said he believed the offences rested in part with the failure of the auditors to do their job properly. 'If you had been pulled up with a jerk in 1974 over the advances that stood to your name at that time I have no doubt that you would not be here today. And of course, if you had not been prosecuted, a number of other unfortunate events would not have happened either...'

Staunton fined Humphreys the maximum \$4000, which he considered 'still too low', ordered that it be paid within eighteen months (a rate of \$51.28 a week), and placed him on a two-year good behaviour bond.

Two days later, a lawyer, John D. Plowman, of Parramatta, wrote a letter to *The Sydney Morning Herald* on behalf of himself and his partner. It said: 'One can only wonder at the administration of justice in this State, when at present we are appealing for an unemployed client sentenced to two months' gaol for allegedly stealing a packet of cigarettes, without any prior record of stealing... We might mention that our client did make restitution of the alleged packet of cigarettes...'

Meanwhile, back on 7 April 1983, three weeks before the 'Four Corners' programme led to the ventilation of the 'unfortunate events' relating to the Humphreys committal hearing, Cabinet Minister Rex Jackson and Keith Harris held discussions concerning three prisoners at Broken Hill prison. These discussions, surveilled by Federal Police, supplied part of the fuse that, ten days after Humphreys'

conviction, detonated another bomb for the Wran Government: on 28 October, Jackson resigned as a minister on the ground of misleading Parliament about his discussions with Harris.

Less than a month after Murray's claim, and eighteen days after the Jackson-Harris allegations became public, Humphreys became employable and employed. On 15 November, Keith Nolan, president of the Illawarra Turf Club, which races on the Government-owned Kembla Grange track near Wollongong, announced that Humphreys would head J. K. Promotions, and that organisation would immediately take over part-time promotional work for the club.

The Illawarra Turf Club had come into being in mid-1976, when its predecessor, the Kembla Grange Race Club, was forced out of business. The KGRC owned the Kembla Grange track, but owed \$250 000. The Government, via the Lands Department, paid the debt, took over the track, and, to administer it, set up the Kembla Grange Recreation Trust. The Government-appointed chairman of the Trust was Keith Harris.

Those with an eye for fearful symmetry may judge it wholly appropriate that the whole dreadful Humphreys imbroglio, which had its origin in his passion for punting, should end at a low-rent race track in the sticks.

Lionel Murphy: Trials and Tribulations

... the standards we require of our judiciary are higher than might be reasonable to require of anyone else.

- Senator Gareth Evans, 29 April 1980.

Napoleon Bonaparte's Spanish Ulcer dragged on for five years. For the Labor Party, the Murphy Ulcer started when Justice Lionel Murphy declined to step down from the High Court after the Age tapes were published in February 1984.

Murphy had great achievements. In five years in Opposition in the Senate from 1967 to 1972, he rejuvenated the parliamentary committee system and transformed the Senate from a debating society to a proper House of Review. In office as Attorney-General for two years from 1973 to early 1975, his memorials are the administrative law regime, the Family Law Act, the operation of the Trade Practices Act, national legal aid, and the beginnings of a national compensation scheme. He also ensured more than a decade of Labor rule in New South Wales by appointing, in October 1973, a Liberal MLC, B. B. Riley, to a post on the Bankruptcy Court. This enabled Neville Wran to descend to the lower house without alteration to the balance of forces in the upper house.

On the other hand, Murphy eventually failed in politics: his March 1973 visit to ASIO headquarters was a media disaster; his failure to get Senator Vincent Gair's resignation in March 1974 enabled the Queensland Government to issue the writs for five Senate seats instead of six as he and Gough Whitlam had planned; and his acceptance of the High Court post prevented Labor from winning an extra Senate seat in New South Wales.

Whitlam's biographer, Graham Freudenberg, argued that 'the strongest ground on which the Labor Party and the (Whitlam) Labor Government stood was its claim to idealism... To take that away is to undermine it at its strongest point'. An Opposition strategy is thus to raise doubts about Labor's probity; Murphy may be seen to have afforded the Opposition much ammunition in this area. An example of this was the storm resulting from the surfacing on 4 December 1974 of his letter to ACT Minister Gordon Bryant seeking preferential housing treatment for Junie Morosi. This put Morosi into the spotlight and marked the beginning of what may be termed Labor's long Cairns-Morosi ulcer.

Two months later, after the Cairns-Morosi problem had subsided for the moment, Whitlam appointed Murphy to life tenure as a Justice of the High Court. In June 1986, the legal newsletter, *Justinian*, recalled a Whitlam quip said to have been made soon after the appointment. He chided Social Security Minister Bill Hayden for arriving almost an hour late for a Cabinet meeting. Hayden's excuse was that Garfield Barwick had bailed him up and 'bashed my ear about what a dreadful mess we've made of the High Court'. Whitlam replied: 'Yes, comrade, but did you tell him what an improvement we've made to the Cabinet?'

As a Justice of the High Court from February 1975, Murphy offered some useful balance on the Barwick court. It could be argued - and it may be Murphy's ultimate defence - that judges might profit from an acquaintance rather wider and deeper than that of their often conservative colleagues in the judiciary; that to enjoy occasionally the company of common men might be no bad thing.

Whether Morgan Ryan could be seen as an ordinary man is open to question. He was the lawyer described by NSW Opposition leader John Mason in Parliament on 27 February 1980 as being 'listed with both State and federal police as a go-between for major organised crime figures'.

As noted elsewhere, Ryan had a number of significant relationships, apart from Murphy. One was with Mervyn Wood, who was the NSW Police Commissioner, and the first to fall because of a connection with Ryan. Another was with the NSW Chief Stipendiary Magistrate, Murray Frederick Farquhar, whose perversion of the course of justice in the 1977 Humphreys case was well known in the magistracy, and possibly to Ryan. Mason described Farquhar in Parliament on 4 March 1980 as an associate of George Freeman, 'known as an organised crime figure to authorities in Australia and the USA, and a man closely associated with drug traffickers'. Farquhar's connection with Freeman had become publicly known in March 1978.

Mason also said on 4 March 1980: 'The Government even rejected a public plea by the Labor Lawyers' League to remove Mr Farquhar from the Bench "in the interests of the administration of justice", to quote that august body. The Government preferred to take notice of a curious petition and submission presented to the Premier by none other than Morgan Ryan. His petition prevailed, and Mr Farquhar was allowed to stay'.

Ryan was at times lawyer for, and business partner of, Abraham Gilbert Saffron. Saffron was described by South Australian Attorney-General Peter Duncan in Parliament in March 1978 as 'one of the principal characters in organised crime in Australia'. It was revealed in Federal Parliament on 2 June 1986 that on 15 November 1983, James McCartney Anderson, a former associate of Saffron, had given evidence to the NSW parliamentary committee on prostitution that he had seen Murphy speaking to Saffron in the Venus Room at King's Cross. Anderson said: 'He came down with some Asian ladies. That is Mr Murphy's weakness, incidentally'. Anderson apparently did not date the meeting between Murphy and Saffron, but it presumably was before 1979 or 1980, when Anderson is said to have broken with Saffron. Saffron next day denied he had ever met Murphy.

In May 1974, when Murphy was Attorney-General and Minister for Customs, Ryan made representations to him seeking the release of international money smuggler Ramon Sala, suspected by police of being a courier and trafficker in narcotics, and of having a connection with Saffron. As noted in *Some Faces in the Crowd*, Murphy ordered that Sala's passport, correctly suspected by police to be false, be returned to him, and he was able to leave the country. Early in 1975, not long before Murphy went to the High Court, Ryan made representations to him and other officials to have Customs surveillance of Saffron downgraded. The surveillance was downgraded, by whom is unclear.

The April 1986 Stewart report on the *Age* tapes indicates that more recent aspects of the Murphy Ulcer derived from a matter that has dogged New South Wales politics and perceptions of the administration of justice in New South Wales since 1979. This was the handling of a case involving the Cessna-Milner drug syndicate, and Ryan's connection with the case.

Early in 1979, New South Wales police tapped the telephone of a suspected drug dealer at Cronulla. This led them to Mosman, and then to Drummoyne, which led to a tap on the phone of Dr Theodore

Frederick Knauss, a chiropractor. Knauss had conversations with an American, Roy Bowers Cessna, but was cautious in his remarks, so a tap was placed on Cessna's phone. Soon after, on Wednesday, 14 March 1979, the tap enabled police to arrest Cessna and an Englishman, Timothy Lycett Milner, in possession of 110 000 buddha sticks weighing some 137 kilograms. This amount suggested an intention to supply the drug, so the offence would thus be indictable (i.e. to go before a judge and jury), and carried a maximum penalty of either ten or fifteen years in prison, depending on the strength of -Indian hemp in the material.

Soon after Cessna's arrest, the tappers heard conversations between him and Ryan, and the Bureau of Criminal Intelligence requested that a tap be placed on Ryan's phone. It was this tap that picked up the Ryan-Murphy conversations.

The Ryan tapping operation was code-named Mad Dog. Among the first of Ryan's calls intercepted was one to Cessna on 18 March 1979. Cessna was not at home, and his wife took the call.

'I want to see your other half', Ryan said; '. . . I've formulated a very, very... it's something very important that I've already done... and I think it will make a lot of people happier'.

Ryan appears also to have numbered among his connections corrupt police who were either in the group making the telephone interceptions, the Technical Survey Unit (TSU), or who had access to their information.

'I just can't be talking', he told Cessna on Saturday 31 March. 'I've just got the nod a bit about these phones at the moment'.

'Yeah', Cessna replied, 'well, you're probably right, you know'.

However, Ryan was busy, in a guarded fashion, on the phone that Saturday. Murphy called and asked: 'How is this bloke [Clarence Briesse] that is replacing Murray [Farquhar]? Is he the right fellow?'

'Yes;. you're gonna dine with him', Ryan replied.

'He's a good feller, is he?'

'You're gonna find for yourself', Ryan said, and then cautioned: 'We'd better not talk about it now, had we?'

'No; rightho'.

'It'll be well and truly satisfactory, I'd say', Ryan said.

Farquhar was out when Ryan first rang him, but returned the call. Ryan said: 'I would like to, um, I would like to go for a walk tomorrow afternoon for about five or ten minutes'.

'What time do you suggest?' Farquhar asked.

'Four o'clock would be a good time. Four o'clock there'. (It is understood that Ryan and Farquhar had a habit of meeting in Centennial Park.)

'OK', Farquhar said, 'I'll do that'.

Ryan then rang Cessna. 'I have got a very heavy conference tomorrow'.

'Aha', Cessna said.

Cessna told Ryan he was going up to Kurrajong with 'a whole mess of people' for lunch; he could see Ryan in the morning.

'Yeah, but', Ryan said, 'er, all right. I just wanted to put something to you, you understand?'

'Yeah', Cessna said.

'I mean', Ryan said, 'I'm not a person who tells people things; I just prove them ... The thing is this: that tomorrow if you go to lunch - there was something very important that was going to happen in the afternoon... and look, people go back and they say: "Well look, how do we know that what he is doing is right?" or, er, "What am I paying for these shirts for?" and that sort of thing. You understand?'

'Yeah, yeah.'

'But', Ryan said, 'I'm a great believer... in saying: "This is what is going to be done, and here it is. And you can go and see it with your own bloody eyes". . . I mean, when you see people, you remember their faces, don't you?'

'Yeah'.

' . . . I'm only going to give you the opportunity of either saying: "Well, what you say is right", or "Yes, I'll go along and have a look with my own two eyes". That's the choice you're going to get... I'm talking about the other party... I'm going to tell you what can be done, and what has been done, and what has got to be done, if he wants to do it'.

'Aha.'

'You understand?' Ryan asked.

'Yeah'.

Next morning, Sunday, Ryan rang Cessna and arranged to meet him at Lane Cove. He then rang Farquhar, and said: ' . . . I'll be there at 4pm, but I'm going to - but I have never spoken to anyone, you understand?'

'I'm with you', Farquhar said.

' . . . But, um, I've got to see my friend this morning, but I want to be able to say that, you know...'

That's right', Farquhar said, 'a combination of circumstances... will have to be brought together...'

On the Monday, 2 April 1979, Ryan rang Cessna and said: 'Well, what I rang to tell you was I'm very, very happy at the moment, very happy, and I think everyone will be happy, everyone will be happy... Now, I want to see you if I can today, and tell you. OK?... You'll find me painting a much better picture today. Not only a better picture: I've got it all now...'

The tap on Ryan's phone, which appeared as if it might produce a heavy yield, was left on for less than a month, and appears to have been taken off about 12 April.

In mid-April Ryan conferred with Wood about the Cessna-Milner case. Wood then sought details about the matter from CIB Superintendent Patrick Watson. On 4 May, an anonymous dossier on organised crime was sent to Premier Neville Wran and other members of Parliament. It appeared to have been written by a police officer. Part of the dossier, which was later read in the Supreme Court, said Wood had a corrupt connection with George Freeman and an association with Saffron and illegal casino operator George Ziziros Walker.

An internal investigation by Assistant Commissioner James Black found nothing untoward in connection with Wood and he told a later court action he had found no direct evidence that Wood had an association with Walker, Saffron or Freeman.

The dinner, apparently referred to by Ryan in the above conversation with Murphy, was held on Thursday 10 May 1979 at Ryan's house in Neutral Bay. Present were Murphy, Ryan, Farquhar, Wood, and Briese, by then NSW Chief Stipendiary Magistrate-elect, who was invited by Farquhar. According to Briese, a function of the dinner was to determine whether he would be a 'flexible' chief magistrate. What interest the various parties, including a justice of the High Court, would have in any such flexibility remains a matter for speculation.

On the Monday following the dinner, Ryan and a legal associate, Bruce Miles, conferred with a former Drug Squad officer to see if the Cessna-Milner case could be heard on a summary basis. Maximum penalty would then be two years. This was referred to the chief of the prosecuting branch, Superintendent G. Fryer. He directed that the case was to be dealt with by indictment only.

About 9.30 am the next morning, Tuesday 15 May, the day the case was to be heard, Wood rang Fryer. According to Fryer, Wood said: 'Mr Farquhar has indicated that he would be prepared to deal with the matter summarily if the prosecution consented. He is the chief magistrate and also the chairman of the drug authority and is an expert on these things, and if he is prepared to do that, then that's the way I want it handled'. Fryer said he accepted this direction. Wood claimed he gave no direction, but did confirm that he suggested to Fryer that Farquhar's guidance be sought.

Farquhar shifted the court to one in which there was no sound recording equipment, and gave Milner eighteen months, of which he served six. On 24 May, the day before Farquhar's retirement, he fined Cessna \$1000 and gave him an eighteen-month bond.

The handling of this case caused some talk in the Police Department and the magistracy. Wood abruptly resigned on 5 June, partly, it seems, to save the force embarrassment from false allegations in the anonymous dossier, and partly because of his involvement in the Cessna case. Briese questioned the handling of the case, but, at Farquhar's request, did not tell Under-Secretary for Justice Trevor Haines about the Farquhar-Murphy-Ryan-Wood dinner. Inspector Cecil Abbott conducted an investigation, and the results of his inquiries were given to the Solicitor-General, Gerry Sullivan QC, for an opinion.

Abbott was perhaps awkwardly placed. He had been, as he later informed Stewart, aware of the phone-tapping operation since it was instituted by Commissioner Norman Allan in 1967 or 1968. Stewart reported: 'Abbott stated that he was aware of the procedure for making a request for the use of that facility and of the fact that the facility was utilised by various units within the NSW Police'. Abbott had formerly been head of the Drug Squad for fifteen years. The Cessna case was a drug matter. Abbott might thus guess that the Cessna arrest and seizure were not merely fortuitous. However, he could not overtly use the transcripts, since that would disclose the illegal tapping, but the question remains: Did Abbott seek a steer from the intelligence people, so that he could in turn give Sullivan a steer, as he did with Ryan and Wood, that Farquhar's role was at least open to suspicion?

It appears Abbott felt obliged to avoid the intelligence material. Ryan and Farquhar declined to be interviewed by Abbott, but Farquhar did assert that no approach had been made to him on the Cessna case outside the courtroom.

Sullivan reported: 'I think the evidence is such that a trial would result in a directed acquittal without the parties being called upon to explain anything they have done... there is so much hearsay in the statements given, and lack of contemporary documentation by those concerned, that we can only be suspicious that the law was bent by the ex-Commissioner to oblige a friend, a common, but tolerated source of trouble in this community'.

Sullivan also said: 'I might add that no tracks lead to Mr Farquhar which would demonstrate complicity'. Even so, the Government felt obliged to change the Poisons Act to prevent a recurrence of Farquhar's behaviour in the Cessna case. Nonetheless Farquhar continued for nearly another year as principal adviser to the Government on drug matters.

Following their meeting at dinner on 10 May 1979, Murphy and Briese had conversations about proposals for the independence of magistrates from the public service, a cause in which Briese was

much interested. Murphy agreed to intervene in the matter with local politicians, Premier Neville Wran and Attorney-General Frank Walker.

In late 1979, Murphy invited a federal police officer, Inspector Don Thomas, whom he had never met, to lunch at Arrirang House, a Potts Point Korean restaurant, of which David Young Choi was a part owner. Murphy advised Thomas he had also invited 'an old friend', Morgan Ryan. Thomas was the prosecuting officer in a case alleging social security fraud against Greeks. Ryan was acting for one of the accused, Dr Demetrios (Demos) Hadjipanayiopsis. According to Thomas, Murphy made him an offer: '... we can arrange for you to be an Assistant Commissioner [of the Australian Federal Police force] when it is formed'. Murphy later described Thomas' allegation as 'nonsense'.

The tap on Ryan's home phone was resumed, with the code name Rabid, on 25 January 1980. Ryan and David Young Choi were surveilled by Federal police on 3 March 1980 near the Arrirang restaurant. They were placing files in the boot of Choi's car.

The Rabid tap on Ryan remained in place until 23 June 1980. It was then taken off, ostensibly because of a 'lack of worthwhile intelligence', but Stewart was told that members of the Bureau of Criminal Intelligence and the Technical Survey Unit were 'upset about it being terminated'. However, the TSU resumed tapping Ryan's phone early in 1981 at the request of, and on behalf of, the Australian Federal Police.

The Mad Dog, Rabid, and the 1981 taps on Ryan's phone played a role in investigations that led eventually to charges of alleged conspiracy between Ryan, Choi, and James Alan Francis Mason from 30 June 1976 to 30 June 1980. On 16 June 1981, Ryan appeared in court charged with conspiring to obtain permanent resident status for twenty-two Koreans through the use of forged documents. Ryan rang Murphy about the case in September 1981.

It was in this case that Murphy was alleged to have sought to pervert the course of justice on behalf of Ryan.

In November 1981, it appeared that Abbott would succeed Jim Lees as NSW Police Commissioner. Bill Jenkins, the Sydney *Daily Mirror's* chief crime reporter for thirty-five years, wrote on 26 November: 'The 1274 detectives in the New South Wales police force would welcome, probably to a man, the appointment of Senior Assistant Commissioner Cec Abbott as their new Commissioner. And if they still had to wear hats they'd throw them into the air and cheer, according to a survey this week... Mr Abbott admired and learned from those who have been hailed as the "greats" of the CIB - people like the legendary Detective-Inspector Ray Kelly...' It is assumed that Jenkins was referring to Kelly's investigating skills rather than to his connections with organised crime.

The Ryan case was before magistrate Kevin Jones on 22 December and 29 December 1981, and was completed by 6 January 1982. Jones, the magistrate whom Farquhar had caused to pervert the course of justice in the 1977 Humphreys case, was then considering whether the evidence amounted to a *prima facie* case against Ryan. For the convenience of the chronology, we insert here the allegations later made about Murphy's role in the case. The Crown alleged, in Murphy's first trial, that Murphy's friendship with Briese quickened when Ryan's committal hearing was going forward, and then died. It claimed that Murphy had the intention to subtly influence Briese to in turn influence Jones to act against his duty, and that Murphy's words and actions had a tendency to alter the ordinary course of justice.

In this, the Crown relied on five events, concerning which it asserted that:

(1) Murphy rang Briese between Christmas of 1981 and New Year 1982. Murphy said he wanted to talk to him about something, but not on the phone. Murphy denied that he had said that.

(2) As a result of that call, the Brieses held a dinner party at their home for the Murphys on 6 January 1982. Murphy said there were four other guests at this dinner. The Crown said these guests were phantoms. Murphy discussed conspiracy cases. He said: 'I will tell you of another wrong conspiracy case', and went on to deal with the Ryan case. Murphy said he was disturbed by the case. Briese said he

would make inquiries about it. Murphy denied that he used the words quoted or that he introduced or was disturbed by the Ryan case.

(3) On 27 January 1982, Murphy rang Briese and asked him if he had made inquiries about the Ryan case. Murphy denied this.

(4) That afternoon, Murphy and Briese met at a function at the State Office Block. Briese told him that it was his guess that Jones would commit Ryan for trial. Murphy said 'the little fellow' would be shattered. Murphy denied that he had used the phrase 'the little fellow'. Also in that conversation, according to the Crown, there was a discussion about the possibility of the magistrate's not committing Ryan, and the possibility of a no-bill application.

(5) Two days later, 29 January 1982, Murphy rang Briese and gave him the good news that the NSW Attorney-General, Frank Walker, would be going ahead with legislation to make magistrates independent of the public service. Murphy then said: 'And now, what about my little mate?' Murphy denied saying; 'And now, what about my little mate?'

The Crown also later alleged in another case that Judge John Murray Foord told Briese in March 1982: 'Neville wants something done for Morgan Ryan', but that Briese had replied that Jones had suffered a lot from the Farquhar-Humphreys matter. Jones committed Ryan for trial.

Again, the Crown later alleged that Foord told the trial judge, Paul Flannery: 'Murphy and I have read the evidence in the committal proceedings and we can't find any evidence of conspiracy'.

At his trial in the District Court in July 1983, Ryan declined to take the oath to be cross-examined, but made an unsworn statement to the jury. He was found guilty. On 5 August 1983, Flannery fined Ryan \$400 and placed him on a bond of \$1000 to be of good behaviour for five years. He appealed.

The sequence of events that led to the delivery of copies of crime journalist Bob Bottom's transcripts to Attorney-General Senator Gareth Evans and their publication in *The Age* on 2 February 1984 is detailed elsewhere. A number of points can be made immediately:

- At this stage, February 1984, Briese and Flannery had made no allegations of criminal conduct against Murphy; there was nothing against him other than what was in Bottom's still unauthenticated transcripts. Murphy could well have robustly stated that there was nothing in the transcripts; but that mud would be thrown by the press and the forces of reaction; some of it would inevitably stick to the High Court; and that he would therefore retire to protect the court's reputation. Had he taken this course, it seems likely that the Murphy affair would have lasted no longer than the Barwick affair, and the Government may have felt obliged to reward his noble gesture no less handsomely than the Liberal-Country Party Government had rewarded Barwick when he retired.

- It seems unlikely that Briese and later Flannery would have felt compelled to come forward, and no criminal charges would have been laid against Murphy.

- Section 72 (ii) of the Constitution states that a Justice of the High Court 'shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity'. There has been much argument about what 'proved misbehaviour' means in this context. Some lawyers argue that it means a conviction for a criminal offence. In terms of a justice of the High Court, ordinary people may be inclined to interpret 'misbehaviour' as meaning misbehaviour.

For the most part, members of Parliament are ordinary people. It seems probable that had Murphy not had a strong connection with a political party the material would have been rapidly authenticated and distributed among parliamentarians, and Murphy would have been removed from the court in short order. Indeed, when Murphy declined to resign, it has since been reported that it was Prime Minister Hawke's instinct to settle the matter immediately by way of judicial inquiry, but that Evans talked him out of it.

Evans, some may have recalled, had said in his grave and restrained speech in the Senate on 29 April 1980: 'These are the particular matters which I believe give genuine grounds for concern that the highest standards of judicial behaviour may not have been fully or thoroughly observed by the Chief Justice (Barwick) over a substantial period of his tenure on the High Court Bench.

'It might be thought that the standards I am suggesting are unreasonably high and not such that lesser mortals could reasonably be expected to attain. But the fact remains that the standards we require of our judiciary are higher than might be reasonable to expect of anyone else.

'In that respect I rely on no less a presence than Sir Winston Churchill who, according to Shetreet, said in the House of Commons in 1954: "A form of life and conduct far more severe and restricted than that of ordinary people is required from judges and, though unwritten, has been most strictly observed. They are at once privileged and restricted. They have to present a continuous aspect of dignity and conduct... The judges have to maintain... a far more rigorous standard than is required from any other class that I know of in this Realm".'

On 17 February, Evans, who had asked Ian Temby QC for an opinion on what the transcripts revealed about Murphy, announced that Temby had exonerated the judge of criminal misconduct and had also concluded that the transcripts did not reveal any misbehaviour which could lead to dismissal under the Constitution. Accordingly, the Government had decided that the judge was not to be investigated further. Evans thus accepted that there was nothing in the Bottom transcripts that came within his or Sir Winston Churchill's definition of 'misbehaviour'.

On 6 March in the Queensland Parliament, Murphy's name was first mentioned. The Liberal and Country parties sought an inquiry. This apparent concern for perceptions of the integrity of the High Court may have seemed more impressive had they adopted the same posture in regard to Barwick, but in any case their opinion would have counted for nothing had the Labor Party controlled the Senate. By 1984, however, the Democrats held the balance of power there, and events of the intervening years, notably perhaps the Royal Commission into Farquhar's activities in the Humphreys case, had made Chipp ready to face the prospect of investigating a High Court judge. On 28 March, a Senate Committee of Inquiry was formed to examine Murphy's conduct. Brieese, having studied the transcripts, came forward with his allegations concerning Murphy and the Ryan case. Brieese gave evidence in camera to the committee.

Ryan's appeal was meanwhile in part successful. On 26 July 1984, the NSW Court of Criminal Appeal, consisting of Chief justice Sir Laurence Street and Justices Henry Cantor and Adrian Roden, said that Flannery had erred in law in admitting evidence of telephone calls which was unsatisfactory in the alleged identification of Ryan as the caller. They ordered a re-trial. In January 1987 Temby QC announced the re-trial would not be proceeded with.

Director of Public Prosecutions Ian Temby QC decided on 17 August 1984 not to lay criminal charges against Murphy arising out of Brieese's allegations. On 24 August, the Senate committee reported. The three Labor members said the evidence against Murphy was not sufficient to warrant removing him from the High Court. Democrats leader Don Chipp was not satisfied and a new Senate inquiry was appointed on 6 September.

On 8 October, Flannery told the committee Murphy had probably tried to influence him on the Ryan case. Murphy declined to take the oath and submit himself for cross-examination before either Senate committee. On 31 October, a majority of this committee, including its chairman, Senator Michael Tate (Labor), concluded, on the balance of probabilities, that Murphy, by trying to influence the Ryan case, could have been guilty of behaviour serious enough to warrant his removal from the High Court. Murphy said he would take leave from the court, but continued to draw his emolument of approximately \$2500 a week.

On 13 December, Temby announced that Murphy would be charged under the Commonwealth Crimes Act, on two counts of having attempted to pervert the course of justice in the Ryan case, basically via Brieese when it was in the committal stage between 1 December 1981 and 29 January 1982, and, having

failed in that endeavour, via Flannery between 1 July and 9 July 1983 in connection with the District Court trial stage. Maximum penalty was two years in prison or a fine of \$5000. These charges had the effect of removing for more than a year the responsibility of the Parliament for making a decision about Murphy's fitness to remain on the High Court.

Temby said he had that day received advice that Murphy consented to the matter proceeding by way of *ex officio* indictment before the Supreme Court of the ACT. It was assumed that the case would be heard in April 1985 by ACT Chief Justice Sir Richard Blackburn, but Blackburn's health allowed this chalice to pass from his lips. He announced on 23 December that he would retire from the end of March.

This presented a problem. Any judge the Federal Labor Government might wish to succeed Blackburn might also have had some sort of relationship with Murphy. If his first task was to preside over Murphy's case, the new Chief justice would have to disqualify himself. It was announced on 30 January 1985 that the *ex officio* approach would be dropped, and the committal procedure would be undertaken by a Sydney magistrate.

Murphy's chief counsel, Ian Barker QC, was reported to be suffering from hepatitis on 26 February, and he engaged Alec Shand QC. Murphy was committed by Magistrate Arthur Reidel and his trial began in the Central Criminal Court, St James' Road, Sydney on Wednesday, 5 June. The trial judge was Justice Henry Cantor. Ian Callinan QC, of Brisbane, with Nick Cowdery, appeared for the Crown; Shand, with Linton Morris QC, appeared for Murphy.

At this trial, Murphy made an affirmation that he would tell the truth and allowed himself to be cross-examined. None of the material on the *Age* tapes was introduced in evidence; Justice Stewart was still investigating whether the material could be authenticated. Thus, Murphy's assertion on oath that his only recollection of conversations with Ryan in the 1979 and 1980 period concerned the Sankey matter could not be challenged. Justice Michael Kirby and Justice Elizabeth Evatt gave evidence that Murphy's character and integrity were impeccable.

The Crown's submission to the jury was that the conflict between Murphy and Briese was stark; someone was telling the truth and someone was not; they should consider the demeanour of Briese and Murphy; Briese was straightforward in his answers; Murphy was evasive; Briese had no reason to lie; if Murphy was not telling the truth, they would consider whether an innocent man would fabricate evidence.

After deliberating for twenty-one hours, at 9.29 pm on Friday 5 July, the jury found Justice Murphy guilty on the Briese charge and not guilty on the Flannery charge. Justice Cantor said it was implicit in the jury's verdict of guilty that fundamentally they accepted Briese's evidence and rejected Murphy's, and that they found that what Murphy said was intended to pervert the course of justice, and had a tendency to do so. I recorded the event in these words in *The Sydney Morning Herald*. The impact of the historic verdict in the Murphy case came twice: with the sharp inhalation that met the foreman's announcement of Justice Murphy's guilt at 9.29 pm, and again 11 minutes later when Justice Henry Cantor referred to him as 'the prisoner.'

Murphy himself revealed little of what he was feeling. He looked quite wretched, with baggy eyes, as he waited for the verdict, but when it came he blinked, looked down and then up, and briefly at the jury, but his expression did not change.

Nor did that of the heavy-lidded Crown Prosecutor, Mr Ian Callinan, QC, of Queensland, who has developed influenza.

Counsel for Murphy, Mr Alec Shand, QC, has not been in the court since Thursday.

Most of the overt emotion came from the jury, who had been deliberating for some 21 hours over a period of elapsed time of 34 hours. Two women appeared to be fighting back tears, and the foreman, a heavy-set man in early middle age with butter-coloured hair, seemed to have developed a habit of biting

his knuckles. He shook his head and permitted himself a small wry grin when the judge advised them they could sit on other juries if they were called.

The previous night, Thursday, there had been, in the way of these things, rumours that the jury had reached an early verdict on one charge, and that when the judge wanted to lock them up at 9 pm that night, they had felt a little more time would produce a verdict.

Certainly, a police officer and a prison officer appeared in the court that night, but, in the event, the jury was locked up at 9.30.

They proposed to resume their deliberations at 9 am yesterday, and Murphy arrived a minute ahead of time, only to find the doors of the old Banco Court still closed, and he was obliged to wait in St James Road, with television cameras so pressing in on him that one of his solicitors, Sir Clarence Harders, remonstrated sharply with the crews.

As was his wont throughout the trial, Murphy presented a cheery face when the court business was not proceeding, and after this ordeal by camera, he greeted his old friend, Mr Jack Dwyer, 73, formerly of the Miscellaneous Workers' Union, who has attended every day except one at some risk to a heart condition. Murphy said: 'I don't mind pictures, but not when they start hassling. They've got zoom lenses.'

With Mr Shand elsewhere, Murphy began to write furiously late in the morning when Justice Cantor was answering some questions the jury had put. After the jury left, Mr Linton Morris, QC, for Murphy, was making a submission to the judge and was holding the piece of paper from Murphy in his hand.

Mr Morris, however, appeared to have difficulty in deciphering the writing, and finally begged leave to have a five-minute adjournment, during which Murphy, referred to unkindly by some thereafter, as 'the learned accused', explained the point he wanted made.

The NSW Solicitor-General, Miss Mary Gaudron, was in court with the Murphy entourage for a short time in the evening, but left after what appeared to be a second false alarm. The barristers sat in the court from 8 pm to 8.30 pm and then walked out. Asked what was happening, Mr Callinan said: 'You tell me, and we'll both know.'

At 9.20 a court official kindly suggested to those who were outside having a smoke that it might be in their interest to move inside, among the 100 or so people, including some lawyers a little fatigued from the admission ceremonies for solicitors and barristers that had preceded earlier in the Banco Court.

At 9.26 Justice Cantor returned to the court with the fateful words: 'I've been informed there is a verdict,' and there then ensued an extraordinary period of some three minutes of absolute quiet in the court, while the jury were being fetched, until Justice Cantor's associate put it to the jury: 'How say ye ... ?', and the remarkable career of Justice Murphy was, it must be assumed, over.

It is a matter for speculation what effect, if any, the humiliation of this jury (detailed elsewhere) had on juries hearing the Foord case and the second Murphy trial.

Murphy's appeal on constitutional points was conducted by Sir Maurice Byers QC and Thomas Hughes QC. The High Court rejected the appeal. On 3 September, Cantor sentenced Murphy to eighteen months in prison, but allowed him bail while he appealed on Cantor's charge to the jury. This appeal was conducted by Hughes. On 28 November, the NSW Court of Criminal Appeal, consisting of Justices Street, Hope, Glass, Samuels, and Priestley, found that Murphy's appeal for an acquittal had failed. They said: 'There is... evidence available upon which a jury could convict if it regarded that evidence as proving beyond a reasonable doubt an attempt to pervert the course of justice'.

The court, however, quashed the conviction and ordered a re-trial on the basis that the trial had miscarried. They said there was 'a very real risk' that Cantor's summing-up had left the jury confused about how they were to arrive at their conclusions concerning motive and intention. Another principal

ground was that Cantor had wrongly advised the jury that the 'overwhelming' evidence of Murphy's good character could be used on the question of his guilt, but not in considering his credibility. Murphy's character was thus expected to be a significant ingredient at his next trial.

The second trial was set down for 14 April 1986, a fortnight before Stewart was due to make his report on the transcripts. However, the Crown's Callinan and Cowdery sought data from Stewart concerning Murphy. It has been reported that Stewart was initially reluctant to supply the material, and that Temby then suggested that he might have to postpone the trial until after Stewart had made his report. In that situation, the Commonwealth and NSW Governments would have the option of not tabling the material until after the trial. However, Stewart did supply the material, including evidence given by Thomas concerning his lunch with Murphy and Ryan at the Arrirang restaurant in late 1979.

Shortly before the trial started, Callinan wrote to Temby to say he saw no 'reasonable and proper alternative' to charging Murphy with conspiracy and attempted bribery in relation to Thomas and the Greek conspiracy case. With Murphy's second trial pending, Temby did not announce a decision.

Justice David Hunt presided at this trial; Murphy's advocate was Barker. It is not obligatory for an accused to go into the witness box, give sworn evidence, and submit himself to cross-examination. This allowance, however, was designed for the protection of the ignorant and unlettered. Such people, it is judged, may be at a disadvantage in getting their side of the story across when confronted by bamboozling lawyers. In a person of Murphy's education and legal stature, his refusal to go into the witness box and affirm that he would tell the truth thus may have taken on the appearance of a legal manoeuvre designed to circumvent examination of his character. Thus, the evidence relating to his character could not be introduced, and he could not be cross-examined on it. Instead, he made an unsworn statement, absolving himself of all blame, to the jury.

While some of his colleagues on the High Court are reported to have been unimpressed with this approach, we may recall that a similar unsworn statement by Barwick was judged sufficient by the Fraser Government, and, apparently, by Barwick's colleagues on the court. On the other hand, it may be noted that in three inquiries and two trials over two years, Murphy gave evidence on oath at only one, the first trial at which the jury had not believed him.

The jury found Murphy not guilty on Monday 28 April. That night, Wran, who described Murphy as 'one of our oldest friends', said: 'I know justice has been done so far as Lionel Murphy's innocence is concerned, but justice has not been done for those who are responsible for the ordeal he has had to endure. I cannot forgive those responsible for the great suffering which had been impacted upon him and his family. I don't intend to discuss Mr Briese's position tonight; suffice to say, the implications of this trial and, might I add the Foord trial, need to be closely examined, and Mr Briese would be one of those whose position would have to be examined. If unpalatable decisions have to be taken, then I won't shrink from taking them. Mr Briese hasn't enjoyed my full confidence for some time, but all the less because of this verdict'. Asked if he was trying to force Briese to resign, Wran said: 'Mr Briese can make up his own mind'.

Next day, NSW Opposition leader Nicholas Greiner said Wran's comments 'represent a clear and unwarranted interference in justice in New South Wales. Not only are they a disgrace, they... undermine the public confidence'. Greiner also said: 'The Premier's delight in seeing his mate cleared in court doesn't justify the grossly improper, spiteful, vindictive, and intimidating remarks about the chief magistrate'.

A spokesman for Wran described Greiner's remarks as 'absolute garbage... that is the sort of purely party political dishonesty which, in one sense, has led to Lionel Murphy being put through such a dreadful ordeal'.

Federal Opposition leader John Howard described Wran's remarks as 'vindictive and unjustified'. Howard asked Federal Attorney-General Lionel Bowen if he had confidence in Briese. Bowen replied: 'Yes'. The deputy chief magistrate, Kevin Anderson, said he 'had the utmost confidence' in Briese's integrity and competence. Anderson said: 'I believe the magistracy gives him unqualified support and

deplores recent political comments which can only have the effect of undermining public confidence in the magistracy and the administration of justice in New South Wales'.

Roger Gyles QC, president of the NSW Bar Association, said: 'Any wrong impression that [magistrates] are subject to control or dismissal by the Government is most unfortunate, as it undermines public confidence in a vital part of the system of justice in this State'. NSW Shadow Attorney-General John Dowd said that, under the Local Courts Act, for the Government to remove Briese it would have to claim he was guilty of misbehaviour or incompetence. Wran admitted he did not have the power to sack Briese. He accused him of a cover-up over the matter of the Farquhar-Ryan-Wood-Murphy dinner in 1979, and said Briese had told a Senate committee he had told Farquhar he was prepared to do favours for the Premier.

That same day, Tuesday 29 April, the judges who had sat on the various trials of Murphy and Foord and on Murphy's appeal, Street, Glass, Samuels, Priestley, Maxwell, Hope, Cantor, and Hunt, sent a letter to Wran, with a copy to Briese. The letter said: 'Dear Mr Premier... We wish to advise the Premier that it is our firm opinion that there is not the slightest justification for regarding the course or outcome of the proceedings mentioned above as warranting in any way the taking of any action against Mr Briese in his official capacity or otherwise'.

However, on Wednesday 30 April, the NSW Labor Caucus, consisting of the Labor members of the NSW Parliament, unanimously endorsed a special motion declaring 'its intense satisfaction at the verdict which has completely vindicated the courageous struggle waged by Justice Murphy against his detractors and politically-inspired opponents. We condemn in the strongest terms all those who played a part in this disgraceful campaign and note with approval the recent statements made by the Premier in this regard. If the Premier finds it necessary to take the required unpalatable actions to effect necessary changes as a result of his inquiries, he will do so with the full support of this Caucus'. Briese said: 'I have noted with regret the remarks that have been made about me by the Premier. I do not intend to respond to them. In relation to the matters which have been the subject of charges against Mr Justice Murphy, the judicial process has concluded, and my role in it has come to an end. As far as I am concerned, the matter must rest there'. It thus appeared that Briese did not intend to be pressured into resignation.

Meanwhile, Murphy proposed, like judge Foord, to re-establish his position on the Bench, which he had left nineteen months before, at the earliest possible moment. Unfortunately for Murphy, the court was not scheduled to sit for another eight days, until Tuesday 6 May. The intervening week proved to be one of the longer and more chaotic in Australian politics.

On Wednesday 30 April, *The National Times* reported that Callinan and the barristers for the Crown had recommended to Temby that Murphy be charged with attempted bribery in connection with the Thomas matter, but that since Murphy's acquittal, Temby had rejected the advice. Speculation at the time, that Ryan might be prosecuted for alleged attempted bribery of Thomas at a later meeting, at which Murphy was not present, proved inaccurate.

Volume I of the Stewart report on the transcripts was tabled on Thursday 1 May. Volume II was secret, but some of its major contents were reported within a fortnight by Andrew Keenan in *The Sydney Morning Herald*. It emerged that Stewart had examined allegations about Murphy, Ryan, Ronald Lopes Dias, George Freeman, Trimbole, Christopher Dale Flannery, and various police officers including Wood, the late Jack McNeill, Pat Watson, and Roger Rogerson.

Stewart had invited Murphy to comment on seven matters, but Murphy declined on the ground that he was facing a criminal charge in which his, alleged association with Ryan might be raised. For some reason, Stewart's report mentions only four of the seven matters to which he sought a response from Murphy.

Chief justice of the High Court, Sir Harry Gibbs, asked Bowen for a copy of Stewart's secret second volume on Friday 2 May. When Bowen took the document to Gibbs, he appears to have caught some whiff of concern at the court about the Murphy matter, and communicated this to Hawke. Questioned

about Murphy's return to the Bench on Friday 2 May, Hawke declined to take the opportunity to endorse his return.

Hawke and Bowen advised the Governor-General, Sir Ninian Stephen, a High Court judge from 1972 to 1982, to speak to Murphy. According to Murphy, all Stephen did at their private meeting at Government House on Saturday 3 May was to ask Murphy about his intentions. Murphy made it plain he would not budge from an attempt to return to the court.

On Monday 2 May, the Labor leader and deputy leader in the Senate, John Button and Donald Grimes, put an ultimatum to Murphy: the Government would appoint a commission to inquire into the Thomas matter and others arising from Stewart II unless Murphy refrained from sitting on the court until he had given the other judges a response to those matters.

Murphy agreed. That day he had a meeting with the other six judges, Gibbs, Sir Anthony Mason, Sir Ronald Wilson, Sir Gerard Brennan, Sir William Deane, and Sir Daryl Dawson. It was understood that at least four of these indicated that Murphy should resign, and that Wilson and perhaps one other felt he should not, or at least not immediately, but this was later disputed.

Murphy did not sit on the court on the Tuesday, and it was reported that he would give the other judges a response to the allegations. Concerned that this suggested that the High Court itself was undertaking some kind of investigation of Murphy, Gibbs issued a statement on Wednesday 7 May saying that the court had no such function. He said the meeting with Murphy on the Monday had been to consider what part, if any, it was appropriate for them to play. In fact, all the other judges could do was resign; a refusal to sit with Murphy would be nonattendance, which, it is thought, would amount to a type of 'misbehaviour' under which a judge can be removed.

Faced with Gibbs' statement, the Government had no option but to bring down legislation, largely, it appears, drafted by Evans, to set up a commission of inquiry to report by 30 September 1986. The Government appears to have been under some pressure from elements of both the Right and Left of the Labor Party to restrict the terms of reference; the ruling NSW Right might be concerned as to what a public and thoroughgoing inquiry into the Ryan-Murphy relationship might reveal, and the Left, as noted above, has tended to see the whole thing as a conspiracy against Murphy.

In the event, the main terms of reference were:

- Proceedings would be in secret, but the Commission could hold them in public if the judges wanted to.
- It would make no finding except on evidence admissible in a court.
- Murphy would not be required to give evidence, but the Commission could make him give evidence if there was a *prima facie* case of misbehaviour against him.
- It would not consider matters from Murphy's trials, but could if proper examination of other issues required it.

The terms were thus a great muddle, and satisfied few, but, the Government may have hoped, secret hearings would at least keep the Murphy problem out of the media for a time. Meanwhile, it left the onus on the Commissioners to thread their way through the terms as best they could. For example, assuming that perjury qualifies as misbehaviour, it might examine evidence given in the first trial by way of establishing whether or not Murphy had committed perjury there.

On Tuesday 13 May, it was announced that three retired judges would form the Commission: the chairman, Sir George Lush, 73, formerly of the Victorian Supreme Court; Andrew Wells, 67, formerly of the South Australian Supreme Court; and, his health apparently now restored, Sir Richard Blackburn, 68, former Chief Justice of the ACT Supreme Court.

Apparently adopting the motto once ascribed to the Church of England, and more latterly possibly that of some elements of the administration of justice in New South Wales, *pas trop de zele*, Murphy attacked what he called the 'excessive zeal' of some prosecutors at a seminar on the jury system on 20 May.

On the eve of the first day's hearing, Liberal Federal backbencher Ken Aldred read an extract from in-camera evidence given by James McCartney Anderson to a NSW parliamentary committee on prostitution. Asked by John Dowd whether he had ever been present when Abraham Gilbert Saffron was talking to Murphy, Anderson replied: 'Yes, in the Venus Room. He came down with some Asian ladies. That is Mr Murphy's weakness, incidentally'. Murphy said: 'What the member of Parliament (Aldred) did was disgraceful, and I don't propose to make any other comment'. Saffron denied ever meeting Murphy, and said he had not spoken to him either in person or on the phone.

The Commission met in public for seven minutes on 3 June. The same day, former Prime Minister Gough Whitlam said Murphy was the victim of a political and media campaign to remove him from the High Court. He said: 'I have seen no indication at all of anything that could be called misconduct... The way the media can just create or distort the issue, as on this justice Murphy thing, is a real menace... In my view, he's been the outstanding member of the High Court in my time. He has brought a relevant approach to the High Court's very important job'.

On 26 June, Murphy asked the High Court in Brisbane to ban the Special Commission of Inquiry, to disqualify Wells, to prevent the Inquiry from investigating any material not a specific allegation in precise terms, to prevent the Inquiry from examining allegations concerning his conduct before he became a judge, to prevent the Inquiry from investigating certain matters set out in a letter dated 20 June from the instructing solicitor to counsel assisting the Commission, and to prevent the Inquiry proceeding when Murphy was not present. The six members of the High Court unanimously rejected Murphy's application concerning Wells, and adjourned the other matters until its August sittings. *The National Times* reported that day that Whitlam had warned the Fabian Society earlier that month that the Labor Party would split if the Government did not support Murphy when it was time for Parliament to vote on the findings of the Inquiry.

NSW Minister for Education Rod Cavalier announced on 30 June that Murphy would head an advisory council formed to establish a proposed University of Western Sydney. Cavalier said it was his idea, that he had discussed it with Wran and no-one else, and that Wran had 'put it to Lionel'. Murphy said: 'The west is entitled to a first-rate university and I will do what I can to achieve that objective'.

Between 15 July and 30 July, Murphy received from the Inquiry a list of allegations made against him. It was due to begin examining the allegations on Tuesday, 5 August. While Murphy took the position there was nothing in them, a later letter he wrote to the Chief Justice made it clear that he knew it would take the Inquiry many months to examine them.

There is no point in being other than blunt about the following events, touching as they do on the integrity of one of our fundamental institutions, the High Court, an institution, in my view, already tarnished by the activities of a former member of another political party, Sir Garfield Barwick. The Attorney-General, Lionel Bowen, who had generally managed to keep a clear and cool head throughout the Murphy affair, was out of the country at the time, and not due back in Australia until the night of Friday 1 August. Gareth Evans, who might have saved Murphy and his party from ensuing horrors by advising him to resign - or be removed by Parliament - in February 1984, but who instead insisted there was nothing against Murphy in the *Age* tapes, was acting Attorney General. It was in this period that Murphy, who had played the legal system with virtuoso brilliance, now played his last political card.

It was a masterstroke, playing as it did on deep wells of hypocrisy and sentiment in the community. If the libel laws exist for the protection of rogues in high places, and the *de mortuis* principle exists to protect them after they've gone, Murphy now invented and called on a third principle: speak no ill of the dying. It is understood that back in May, Prime Minister Hawke, dismayed that his party had been bleeding from the Murphy Ulcer for more than two years, was prepared to leave Murphy to his fate at

the hands of the Commission. Now, he underwent an emotional flip-flop, or, as *TIME* correspondent Alan Ramsey put it, succumbed to Murphy's emotional blackmail.

On Sunday 27 July, nine days before the Commission was to investigate the allegations against Murphy, the Packer television network's programme, '*Sunday*', carried a report by Laurie Oakes saying that Murphy was seriously ill, and that his illness had prompted moves to have the Inquiry disbanded. Marcus Einfeld, QC, who was appearing for Murphy at the Inquiry, later said he had remarked to people how robust Murphy had been throughout the Inquiry. He said he had noticed no loss of weight. *The Daily Telegraph* reported next day that Murphy had arrived at the Woden Valley Hospital for tests on Wednesday 23 July and was discharged the next day.

Murphy withdrew his actions in the High Court on 28 July in order to remove what he later called 'a practical embarrassment' to his resuming his seat on the High Court. That day there were reports that anonymous sources said he had inoperable cancer of the bowel. Acting Attorney General Gareth Evans, a close friend of Murphy, was reported to have refused to comment on Murphy's health.

A statement made by Murphy on Friday 1 August said: 'On Tuesday 29 July, I resumed the full exercise of my constitutional and statutory functions as a Justice of the High Court of Australia. I so informed the Court at its statutory meeting on the Tuesday... My medical advice is that I have an advanced state of cancer - in its secondary stages - that there is no cure and no treatment. The advice is that, in the absence of a remission, I shall not live very long... I have chosen to spend what portion I can of the limited time available in doing as much judicial duty as I usefully can'.

That day, Tuesday 29 July, it was announced that the Federal Government had decided not to give the Inquiry the use of Federal Police to act as investigators, as had been requested, but would instead appoint two members of the Attorney-General's department to assist. No reason was given for this.

The Australian Democrats, who had forced the Senate inquiries into Murphy in 1984, were now prepared, in the light of reports on his illness, to support any legislation necessary to wind up the Inquiry when the Parliament resumed on 19 August, according to a statement by Deputy Leader Janine Haines on 31 July. However, sources said to be close to Murphy told *The Daily Telegraph* the same day that he was anxious to clear the last cloud hanging over his name, and did not want the Inquiry disbanded. Apparently, Chief Justice Sir Harry Gibbs wrote Murphy a letter on 31 July seeking to dissuade him from sitting. Sources said to be close to Murphy told *The Age's* Michelle Grattan that Murphy planned to make a symbolic appearance on the Bench on Friday 1 August and that Gibbs was not happy about that.

Gibbs had advised Murphy that if he sat on the court he (Gibbs) would feel obliged to issue a statement that this was undesirable. Murphy in turn advised Gibbs that if he did so, he (Murphy) would release a stinging letter to Gibbs.

As soon as Murphy took his place on the Bench that morning, Friday 1 August, Gibbs released the statement: 'It is essential the integrity and reputation of any justice of this court be seen to be beyond question. That being so, I regard it as most undesirable that Justice Murphy should sit while matters into which the Commission is inquiring remain unresolved, and before the Commission has made its report. Nevertheless, in the circumstances... I do not regard it as appropriate to do more than express that view'.

Murphy then released the statement referred to above concerning his health and his intention to remain sitting on the court. It also said that the allegations given him between 15 July and 30 July were: 'in my view... either untrue or do not constitute misbehaviour. I have already been cleared of many of them by the unanimous decision of the first Senate Committee. In all the circumstances, I do not propose to attend any further proceedings of the Commission'.

Later in the day, Murphy released the letter he had earlier that day sent to Gibbs. It said:

Dear Bill,

I find it extraordinary that you propose to make a news release, especially one in the terms set out in your letter. Although you described it as uncontroversial, it would inevitably provoke an intense public controversy involving you, me and the court. If you do so, this would be the second time within weeks that such a controversy has been provoked. In May, the Government, through two ministers, informed me that you had said that if I resumed sitting, the court would or might go on strike. I now know that most members of the court had not even contemplated such a course. However, I have not heard any public denial by you, although the matter has been widely reported. Your statement questions whether I have a constitutional right to sit on the court. The plain constitutional position is that the justices, when appointed to the court, have a right to sit until death, resignation or removal under s.72 (on the grounds only of proved misbehaviour or incapacity). It is not for the Chief Justice or any Justice to decide whether it is undesirable for any other Justice to sit on the court. It is improper for one judge to publicly express an opinion on the desirability of another to continue as a Justice or to exercise his functions as a Justice. This is at the foundation of the independence of the judiciary. It has been part of Australia's judicial history that a number of appointments to the High Court have been attacked and the integrity and reputation of the appointees have been questioned in and out of Parliament, and occasionally by resolutions of Bar councils. If your contention is correct, it would follow because the Justice's integrity and reputation has been questioned, he should not continue as a judge of the court. Nothing could be more calculated to undermine the independence of the judiciary. It would encourage the promotion of campaigns against judges, and not only those newly appointed. For a Chief Justice to state that, if there is a question about a Justice's reputation or integrity, or if there is an inquiry into a judge's conduct, he should not continue as a justice, undermines the independence of every federal judge. Significantly, you made no such suggestion when the two Senate inquiries were in progress, the second of which included parliamentary commissioners. During both of those inquiries I sat and decided cases. You refer to the undesirability of sitting before the Commission makes its report. As I informed all members of the court, my advice is that there is no reasonable prospect of the Commission reporting by the due date of 30 September. Even if an extension were granted, I am advised that the probability is that the Commission would not report before the end of this year. I wish to avoid any public controversy with you, as this will inevitably encourage others who will be only too anxious to feed on such a controversy. But if you issue the news release I will answer along the lines of this letter, or release the letter. As you suggested, my staff have informed yours of the cases in which I propose to sit. [It later emerged that he proposed to sit on a case involving the Packer organisation.]

Yours sincerely, Lionel

Legal views of this extraordinary turn of events included:

Dr George Winterton, Associate Professor of Law at the University of New South Wales, said both Murphy's move to resume hearing cases and Gibbs' statement were unwise. He said Gibbs had cast doubt on his own impartiality if the Murphy matter came before the High Court in the future.

Dr Mark Cooray, Associate Professor of Law at Macquarie University, said Murphy's decision to sit while the question of his possible misbehaviour was unresolved was 'extraordinary'. He said his sitting was 'not desirable', but there was no constitutional barrier to his sitting. He said the issue should have been resolved by parliamentary processes, and that 'the Government has absolved and avoided its responsibility'.

Professor Colin Howard, Professor of Constitutional Law at Melbourne University, and a former adviser on constitutional law to the Whitlam Government, said; 'I think it lies very ill in Justice Murphy's mouth to accuse the Chief Justice of dragging politics into the issue, because if any blame of that kind was to be attached to anyone, I would have said it was to be attached to Justice Murphy'. Howard rejected the assertion that Murphy had a constitutional right to resume his seat on the Bench. He said: 'That right is quite clearly qualified by those words in section 72 of the Constitution which contemplate the possibility of a judge being removed from the Bench under certain circumstances.'

Among political views were:

Prime Minister Hawke said: 'Of course he (Murphy) has the constitutional right to sit on the Bench'. Of the Chief Justice's statement, the Prime Minister said: 'He is entitled to his opinion. It is clear it is a different one from mine.'

John Spender QC, Federal Shadow Attorney-General: 'Remember, nothing has in fact changed save the grievous knowledge, and for Justice Murphy and his family, the grievous situation, of his health. The constitutional reasons which led to the establishment of the Commission are the same now as they were two months ago. The Commission has been set up, and it was common ground, I believe, between the Opposition and the Government that during the Commission Justice Murphy would not sit'.

Sir Johannes Bjelke-Petersen, Premier of Queensland: 'It (the Commission) should not be dropped unless it is proven conclusively that he hasn't got long to live. Some of these cases, as you know, can be operated on and they're okay. Now the point is, if he's not going to get off the High Court, pursue him to the end then. Pursue him to the end if he won't get off the High Court. He has no right or shouldn't be there today... If he's got cancer, he wouldn't be on the High Court. He can't have it too bad if he's going to sit on the High Court'.

Acting Attorney-General Evans got his last shot in before Bowen arrived back that night. Evans said: 'The Government fully accepts the right of Justice Murphy to sit on the High Court, notwithstanding that the Parliamentary Commission of Inquiry is still proceeding... The Government's view is that the most appropriate course in all the circumstances would be either for the Commission legislation to be repealed or, alternatively, for the Commission's proceedings to be suspended and then lapse after the presently fixed reporting date of 30 September... The Government has also decided in principle to make a substantial *ex-gratia* payment towards the costs incurred by Justice Murphy in defending himself in the committal, criminal trial, appeal, and retrial proceedings that have occurred since December 1984.

'While the Commonwealth has paid, or agreed to pay, Justice Murphy's costs before the Senate Committee hearings and the present Parliamentary Commission, no previous decision has been made in relation to the costs of the criminal proceedings... the decision of the Director of Public Prosecutions to initiate proceedings here was expressly made on the basis of special considerations said to be applicable to holders of public office. In essence, to the extent that Justice Murphy was only subjected to the ordeal of criminal prosecution because of the high office he held, it is appropriate that he and his dependants not be required to bear the very large burden of defending that prosecution'.

Murphy attended a reception at the home of the Irish Ambassador, Joseph Small, on Sunday 4 August. It was later reported that the NSW Solicitor-General, Mary Gaudron, re-wrote some of the words of the folksong 'Moreton Bay' for a performance of the protest ballad at the reception.

An opinion written by Temby on 21 November 1984 was leaked to the press and published on 4 August. According to the opinion, Temby found there was a *prima facie* case against Murphy of conspiring to attempt to pervert the course of justice. Temby was said to have believed that a conviction 'is not probable', but he argued that 'the air is very clouded and it should be cleared'. A report in *The Sydney Morning Herald* that day said that Temby was maintaining his silence, but 'sources insisted that Murphy's standing as a holder of high public office was not the sole or principal reason for launching proceedings against him'.

On Monday, 4 August, Murphy chose to sit on a case that involved a challenge by Kerry Packer's Channel 9 network to certain broadcasting laws. The matter touched on Section 92, which provides for freedom of interstate trade. It was thought to be his last case, if he could get his judgment written before he died.

By this time, reportage of these bizarre events hovered on the brink of the maudlin. On 5 August, *The Sydney Morning Herald's* legal correspondent, John Slee, sought to introduce some rigour into the debate. He wrote in a column:

'What is Lionel Murphy trying to prove? Certainly, it is not his innocence. For a while, at the beginning of last week, it seemed otherwise. Those close to him who leaked the first news of his illness stressed

that he wanted the Parliamentary Commission of Inquiry to continue. It was being said that the Inquiry had failed to come up with anything substantial. The implication was that if it completed its work it would put an end to a terrible ordeal for Justice Murphy, and that it would confirm his good name.

'Of course, that combination of determination to see the Inquiry through and relaxed confidence about its outcome did not fit with Justice Murphy's previous opposition to the very existence of the Inquiry, whose constitutional validity he had sought to challenge in the High Court. But, if indeed the Inquiry had, after turning every stone, satisfied itself of Justice Murphy's innocence, it was perfectly natural that he would be most anxious for it to complete its work. However, by the end of the week, it was plain that the true position was quite different from that being put about on Justice Murphy's behalf by his friends a few days earlier.

... 'we now know that he has added Parliament's Inquiry to the list of those with which he has refused to be perfectly frank. His acquittal at his second trial, for example, was so compromised by the unsatisfactory circumstance of his refusal to give evidence on oath and submit to cross examination that the Parliamentary Inquiry that followed was inevitable. And of course, the only time Justice Murphy has submitted to full questioning - at his first trial - he was convicted. His supporters talk of how unfairly he has been hounded. But among those who have admired him and care for the judicial spirit he came to epitomise, there are many who have been waiting for him to answer questions that needed to be answered.

'The Parliamentary Commission of Inquiry provided the last opportunity for that to happen. The sycophants and opportunists who see blind support for Justice Murphy as an imperative of Party solidarity and mateship mistake his refusal to take that opportunity for courage. Those who care for his judicial standing can only take it as a disappointment and a betrayal. Justice Murphy might choose to close the affair by putting a spurious kind of political triumph above real vindication of his own and the court's integrity. But the Federal Government should do better. It probably will not.

'By terminating the Parliamentary Commission, the Government will have managed nothing better than to follow behind him once again, this time piping some thin tune to accompany what looks like a sad and solitary danse macabre'.

Murphy resigned his post as chairman of the Western Sydney University Advisory Council on 5 August.

On 6 August, the Commission dashed hopes that the Commission would fold its tents and silently steal away. In a report sent to Parliament's presiding officers and the leaders of the major parties, the Commission said it was set up to perform a task of national importance, and this was still the case. It said it would need at least an extra six months to complete its work, but it would be a denial of justice to continue if Murphy was too ill to attend hearings. It said the Commission was due to examine a series of allegations against Murphy on Tuesday (5 August), but instead considered the future of the inquiry in the light of his health.

It was understood that Murphy would hear his last case on 7 August, but that he did not intend to resign. Spender said the Inquiry should continue if Murphy did not resign. He said the Commission's report referred to a medical certificate concerning Murphy, and added: 'Without in any way raising any question on the medical evidence before the Commission, I think it desirable to point out that I have not seen that certificate'.

Wran, who had resigned as Premier of New South Wales on 4 July, announced on 8 August that he would chair the Lionel Murphy Foundation. The Foundation would aim to raise \$100 000 to assist students to study the country's legal system. Wran said the Foundation would provide 'a permanent institution to mark the unique contributions to Australian public life of the Honourable Lionel Murphy in politics, law and social reform'.

Hawke confirmed on 12 August that his Government would revoke the Parliamentary Inquiry Commission after Parliament resumed, and would also then justify the making of an *ex gratia* payment, reported in some quarters to be \$750 000, to Murphy.

On Wednesday 21 August, it was reported in *The Bulletin* that 'Murphy has said he would like his replacement to be a woman'. If Murphy was saying this in official circles, it could be construed as an attempt to nominate his own successor, it being assumed the person he had in mind was Mary Genevieve Gaudron, 43, NSW Solicitor-General. The same day, after bringing down a severe Budget the previous day, the Government introduced legislation to terminate the Murphy inquiry 'forthwith'. The terms were breathtaking. The documents and allegations made against Murphy at the inquiry were to be suppressed forever. Any person disclosing the allegations could be imprisoned for six months or fined \$5000, or both. Corporations disclosing the material could be fined \$100 000. Evidence given by witnesses could not be used in any court proceedings, not just in proceedings against the witness. At this time, Murphy had taken sick leave from the High Court, but had not resigned from it.

The legislation could be seen as a brave, if equally futile, attempt to replicate the Menzies Government's determination to bury forever the documents held by the Petrov Royal Commission of 1954-55. The key Petrov material, the so-called Document J, which contained material damaging to members of the Liberal Party, was leaked to the present writer in 1981, and the documents were formally released by the Hawke Government in 1984. It could also be seen as a replication of the Fraser Government's attempts to excise the Mündroola allegations against Chief Justice Barwick.

Introducing the Bill, Attorney-General Bowen, who was understood to be going to retire at the next election, said it was necessary because the Commission 'has not made, and will not be able to make, any findings in relation to matters before it. In particular, it is necessary to protect from access and publication any allegations against Justice Murphy... documents which contain any material relating to the conduct of Justice Murphy, provision is made... to exclude access under any Federal, State or Territory law, including the Freedom of Information Act, 1982, the Archives Act, 1983, and any law which provides for the production of documents'.

Opposition leader Howard called on the Government to reveal what it was covering up. He said: 'The information which can never be disclosed relates not only to Murphy, but to other people who may have been mentioned'.

Liberal backbencher Ken Aldred, who had alleged that Murphy was an associate of Abraham Gilbert Saffron, asked what would happen to such unanswered claims. He said the bill would prevent a resolution of questions which implicated Murphy in crime and even espionage. He said he understood the Commission had reached the point where it was considering twelve counts on which a *prima facie* case could be made to indict Murphy for criminal offence.

Democrats leader Chipp had retired from Parliament the previous Monday. Janine Haines, the new leader of the party that had forced the investigation of Murphy, said: 'We opposed the Commission of Inquiry in the first place. Had there not been that Commission, those documents would not exist. As far as we are concerned the Government can shred them or bum them'. The Government however did not propose to go that far. Care of the material was entrusted to the Speaker of the House of Representatives and the President of the Senate, who were empowered to 'take such measures as they consider necessary' to prevent access to the documents.

National Party leader Ian Sinclair said: 'The Hawke Government has moved to guarantee that a cloud of doubt will forever hang over the reputation of Justice Murphy'. Calling for the material to be handed over to the National Crime authority for additional investigation, Sinclair said the provisions would probably force the next Coalition Government to repeal the law and 'reopen the matter'.

NSW shadow Attorney-General John Dowd said the bill would jeopardise a series of inquiries and State and Federal criminal investigations. He said the Government was 'either deliberately or incompetently' enacting a provision which made statements made or documents given to the Commission inadmissible for the purposes of all criminal and civil proceedings.

Federal Opposition shadow Attorney-General John Spender, whose late father, Sir Percy, was mentioned in the Petrov documents, said the bill 'has the effect of denying access to that material in

perpetuity even if it is directly relevant to the proof of a criminal offence against some third person'. He said: 'There cannot be one set of constitutional rules for a healthy judge and another set for a sick judge'.

In a leading article, *The Sydney Morning Herald* said the provisions of the Parliamentary Commission of Inquiry (Repeal) Bill were 'indefensible'. It said: 'The inquiry into Justice Murphy's fitness as a judge, it can be assumed, took the parliamentary commission into the jungle of allegations of corrupt power-broking in New South Wales. While the Commission was confined to considering Justice Murphy's fitness as a judge, its inquiry inevitably must have confronted broader issues. The Commissioners' request for more time cannot be regarded as idle. Nor should it be seen merely in terms of Justice Murphy's personal fate. That is why the Federal Government's action, in one swift stroke, of terminating the inquiry and burying its remains will not be seen by history as simply an act of compassion and propriety to one man. It will be recognised as yet another attempt to delay the full examination of questions concerning the health of basic institutions - the courts and Parliament - in New South Wales; questions which have demanded answers for almost three years since the NSW Police tapes first came to light...'

Professor Colin Howard, Hearn Professor of Law at Melbourne University, said he could think of no law which went so far, and warned that it could be seen as a precedent. He said: 'As with all concealment of information, it will be interpreted in the worst possible light'. George Winterton, senior lecturer in law at the University of New South Wales, said the secrecy provision was outrageous. John McMillan, lecturer in administrative law at Australian National University, said: 'It is more than extraordinary. It seems to violate the basic archival principles that when individual reputations are not likely to be affected then the public and historians have a right to survey the material'.

The next day, Thursday 21 August, the Government's plans began to unravel when a number of documents were tabled in Parliament, and the Democrats resisted the attempt to bury the affair in perpetuity.

National Party Leader Ian Sinclair said the aim of the legislation was to establish 'a conspiracy of silence' which would suppress investigation of those with whom the judge has been in communication'. He was later suspended from the House for twenty-four hours for interjecting. In an impassioned speech, Bowen rejected complaints of a cover-up. Overlooking the fact that Murphy had mostly been declining to answer allegations for nearly three years, he said: 'What it's all about (is) to prevent a dying man being maligned, unable to answer accusations'.

A fifty-nine-page report from the Commissioners was tabled at their request. It indicated there were fourteen specific allegations drafted on Murphy's behaviour. We know that Murphy received these allegations between 15 July and 30 July. It is unclear when, if at all, he received the Commissioners' definition of 'misbehaviour' as included in this report. However, it now appeared that, on their ruling of its meaning, and even on the material that was already in the public domain, the Commissioners would have had no option but to recommend to the House to remove Murphy from the Court, and that the Parliament would have had no option but to accept that recommendation.

The Commissioners unanimously rejected submissions by counsel for Murphy on the meaning of misbehaviour. They rejected submissions that Section 72 of the Constitution cannot be confined to misconduct in the office itself, and that it cannot be restricted to a serious offence against the law. Sir George Lush said: 'My opinion is that the word "misbehaviour" in Section 72 is used in its ordinary meaning, and not in the restricted sense of "misconduct in office". It is not confined, either, to conduct of a criminal nature'. He said judges cannot 'be protected from the public interest which their office tends to attract. If their conduct, even in matters remote from their work, is such that it would be judged by the standards of the time to throw doubt "on their own suitability to continue in office, or to undermine their authority as judges or the standing of their courts, it may be appropriate to remove them'.

Sir Richard Blackburn said: 'The material available for solving this problem of construction suggests that "Proved misbehaviour" means such misconduct, whether criminal or not, and whether or not

displayed in the actual exercise of judicial functions, as, being morally wrong, demonstrate the unfitness for office of the judge in question'.

Andrew Wells said: 'A man may possess profound learning, intellectual adroitness, and an accurate memory, and, by using them, adequately discharge the duties of many public offices; but, without law, he could not discharge the duties of judicial office. In short, a man's moral worth, in general, pervades his life both in and out of office... The word "misbehaviour" must be held to extend to conduct of the judge in or beyond the execution of his judicial office, that represents so serious a departure from standards of proper behaviour by such a judge that it must be found to have destroyed public confidence that he will continue to do his duty under and pursuant to the Constitution'. He said both Houses of Parliament have the power and responsibility of deciding whether judicial conduct amounts to misbehaviour, but this 'does not however make them masters of the law'. It meant rather that Parliament must 'conscientiously accept the legal test of what is misbehaviour. It is no part of this ruling that the Houses of Parliament may vary that test from case to case'.

The document relating to Murphy's health, tabled at his request, was dated 1 August. It said:

'Justice Murphy is a 63-year-old man whose symptoms, enlarged liver and chronic anaemia, suggested carcinoma of the colon. This was confirmed by X-ray examination of the bowel and by colonoscopy. The cancer had spread throughout the liver, as evidenced by clinical and ultrasound examination. Carcinoma of the colon with diffuse liver involvement is a terminal disease. While it is difficult to prognosticate in any individual, the life expectancy for a patient suffering from this stage of colon cancer, without further treatment, is in the order of three-to nine months. Should chemotherapy be used, there is a limited (about twenty per cent) prospect of prolonging his survival for a further period of months. Justice Murphy has been seen by the following specialists: Professor William Doe, specialist physician, Department of Medicine and Clinical Science, Woden Valley Hospital, Canberra, Ray Hollings, specialist rectal surgeon, Royal North Shore Hospital, Sydney. They concur with the above statement, Rob Griffiths, MBBS (Hons), MRCP (UK), Red Hill Canberra.'

In the Senate, the coalitions parties, with the help of the Democrats, amended the legislation to remove the fine of \$100 000 on corporations who published the allegations against Murphy, and to restrict penalties of \$5000 and / or six months in prison to members of the Commission, its staff, and legal counsel. It was announced on Friday 22 August that the Government would not accept this amendment, but it would allow the documents to be published after thirty years, i.e. in the year 2016. Bowen announced that the Government would accept the Senate amendment on 18 September.

Among the public, this last extraordinary episode in the can of worms opened by the NSW Police Tapes probably had the effect of removing any lingering doubt that Murphy was guilty at least of misbehaviour. It also demonstrated that the Hawke Government had failed to learn the great lesson of the Wran years: cover-ups eventually come unglued.

Murphy lapsed into a coma at the weekend of 18/19 October 1986. On Tuesday 21 October, Gibbs and Brennan held a special sitting of the High Court at 3.30 pm to read his last two judgments; in both of which he was in a minority (6-1 in the case of his judgment in favour of TCNG), and he died at 4.30 pm. The Commonwealth Government afforded him a state memorial service in the Sydney Town Hall on Monday 27 October.

Two Cases That Raised Queries

The Ananda Margiis and the Early Release Scheme

Solicitor-General Mary Gaudron and Malcolm MacGregor QC recommended to Landa on 1 June 1984 that, the legal process having failed in the 1978 Ananda Marga case, the defendants should be released immediately. Justice James Staples said on 15 June that the 'case has all the marks of a classical frame-up of unpopular, minority dissidents'. Calling for an inquiry under section 475 of the Crimes Act (a section relating to doubt about guilt), Staples said: '... the courts have an interest in the due administration of justice that goes beyond the interest of the Parliament and the Executive'. Three days later, Landa announced that an inquiry under section 475 would be held by Justice James Roland Tomson Wood, 43. Landa was said to have received new evidence from ASIO. The Margiis were not released.

The Margiis, Paul Alister, Timothy Anderson, and Ross Dunn, had largely been convicted and sentenced to sixteen years on charges of attempting to kill former National Alliance leader Robert Cameron on 15 June 1978 on the evidence of Special Branch agent, Richard John Seary, a schizoid and former heroin addict. Seary also gave evidence against them at an inquest on the February 1978 Hilton bombing. Coroner Norman Walsh SM found on 13 October 1982 there was a *prima facie* case of murder against Dunn and Alister. Following an announcement by Landa on 19 June 1984, these charges were dropped.

Deputy Police Commissioner John Perrin told the inquiry that in 1978, as head of the Special Branch, he had thought Seary was honest, and had given Special Branch detectives the go-ahead to use him as an agent. In May, Wood found that Seary had 'on many occasions coloured the truth and told lies', and that a doubt remained about the Margiis' guilt. Wood said he did not believe 'any significant criticism of Special Branch in its handling of Seary information is warranted'. He said he was satisfied there had not been a miscarriage of justice in their trial, but recommended their release.

The Margiis were pardoned and released, after nearly seven years in custody, on 15 May. Sheahan said the pardon 'did not eliminate or quash the convictions, and did not amount to the finding of innocence'. Marcus Einfeld QC applied for \$500 000 in compensation for each of the Margiis on 27 November 1985. Sheahan said the application would be properly considered. The Government gave each of them \$100,000 in March 1987.

The Early-Release Scheme

In April 1982, the NSW Minister for Corrective Services, Rex Jackson, initiated a prisoner early-release scheme. He said it was based on the most enlightened principles of penology. According to journalist Bob Bottom, prisoners had previously been released on licence at a rate of about one a month; now they began to average about fifty a month.

Federal police, using authorised phone tapping in an attempted probe of drug-trafficking, stumbled on to some conversations relating to the early-release scheme. It appears that these took place on 6 and 7 April 1983. On 11 May 1983, the Federal Police Commissioner, Major-General Grey advised his Minister, Mick Young, of the conversations. Mr Young advised Mr Hawke. Parliament was later told that Mr Hawke told Mr Young to contact the appropriate NSW Minister and 'ensure, so far as it was within the Commonwealth's capacity to do so, that all necessary steps were taken to fully investigate the matters in issue.'

On 16 May, Mr Young put the matter before the acting NSW Premier, Jack Ferguson, who had in attendance the head of Premier Wran's department, Gerald Gleeson. On the same day, Major-General Grey handed over documents of the tapped material to the NSW Police Commissioner, Cecil Abbott. Between 6 and 10 June, five NSW judges complained publicly about the early-release scheme. Mr Ferguson arranged for Mr Jackson and the Attorney-General, Paul Landa, to confer with senior members of the judiciary. At this meeting, Mr Jackson rejected the criticism and claimed that the scheme had a success rate of 95 per cent.

In June 1983, the NSW Opposition leader, Nick Greiner, criticised the release of three former Griffith police officers who had been convicted of conspiring to pervert the course of justice by using their position to protect marijuana growers in the Griffith area. On 12 June, Graham Gambie claimed in *The Sun-Herald* that prisoners were buying their way out of jail. The going rates, he claimed, were from \$2500, depending on the sentence. Up to this time, 640 prisoners had been released under the scheme. Asked for comment, Mr Jackson said: 'It wouldn't be possible. It's something you would guard against from the very start.' The next day, 13 June, Mr Ferguson announced that a police task force would make inquiries. Ferguson - had read part of the transcript of the tape recordings. Gleeson briefed Wran on the material on the tapes after 28 July 1983 when Wran resumed as Premier.

Late in August, Premier Wran announced the end of the early-release scheme. He said the scheme was undermining confidence in the administration of justice and that, regrettably, there had been instances in the past few months of released prisoners committing serious crimes. In the 10-week period between the setting up of the task force and the end of August, a further 557 prisoners had been released, including sixty serving life sentences, from April 1982 to the end of August 1983. Many of these, of course, were genuinely entitled to be released under the provisions of the scheme.

On 4 October, Mr Peacock asked in Parliament if the Australian Federal Police had detected, by use of telephone taps, the payment of money to people in authority, including a minister, to ensure the early release of prisoners. Five hours later, after discussions with the Prime Minister, Mr Hawke, the Special Minister of State, Kim Beazley, replied in a prepared statement that acknowledged the Federal Police telephone taps.

On Wednesday 26 October 1983, briefed by Bottom, Marian Wilkinson, of *The National Times*, put a number of questions in writing to Mr Jackson. These were based on transcripts of the Federal telephone taps, the same material that had been given to Ferguson, Gleeson and Abbott on 16 May. Mr Jackson declined to reply to the questions. According to Bottom, Premier Wran had a copy of the questions by 5.30 pm. Between 5.30 pm and 7.30 pm, Government officials asked *The National Times* if it was going ahead with a piece on Mr Jackson.

Mr Jackson said that, having examined a particular matter in more detail, 'I now have to advise you that my statement to the House was incorrect... I sincerely regret that I have therefore unwittingly misled the House. I accept that under the Westminster system I have no other course to follow but to submit my resignation...'

After a public inquiry by justice Slattery, five people, Jackson, 58, businessman Keith Godfrey Harris, 72, solicitor Howard Hilton, 43, businessman Morris George, 49 and businessman Fayed Hakim, were charged with conspiracy relating to release of prisoners from Broken Hill gaol between October 1982 and June 1983. In November 1984, Cabinet decided that the Government would pay Jackson's legal costs. The decision was kept secret, but it emerged in March 1985. Following a public outcry, the Government decided to pay the \$59 000 incurred to that date, but no more. The trial of the accused, except Hakim, who was ill and would be tried separately, began on 9 July 1986 and was uncompleted at the time of writing. Jackson resigned as a Member of Parliament on 13 August. He said he needed to put his \$300 000 superannuation towards his \$600 000 legal costs.

On 8 November Harris, Hilton and George were found guilty. Justice Carruthers said on 10 November that the community's 'grave and abiding' concern about corruption in New South Wales called for an appropriate response from sentencing judges. He sentenced Harris to nine years' jail with a non-parole period of four years six months, Hilton to nine years with a non-parole period of six years and George to five years with a non-parole period of three years six months.

Jackson faced a new trial after the jury failed to reach a verdict on his guilt or innocence.

On 2 September 1987, Jackson was sentenced in the NSW Supreme Court to seven-and-a-half years jail, with a non-parole period of 45 months, for accepting bribes to arrange the early release of prisoners. He appealed against the conviction.

Reform of the Legal System

'... the proposal has been viewed with as much suspicion as though it were a wooden horse offered up again to a once bitten Troy'

- NSW Attorney-General Terence Sheahan

Questions about the NSW magistracy were raised, to some extent publicly but largely in inner legal and police circles, from the early 1970s by a series of incidents relating to Chief Magistrate Murray Farquhar. Similar questions about the judiciary arose from the mid- 1970s and were at two levels, the High Court of Australia, where two judges from New South Wales, Barwick and Murphy, raised eyebrows, and the District Court of New South Wales following the publication in September 1986 of an academic study on sentencing practices.

The academic study resulted in unparalleled uproar, verging on hysteria, among elements of the NSW judiciary and legal profession, partly because of the way ensuing events were handled. The new Unsworth Government sought to portray itself, by rapid and decisive action, as sharply different from the previous (Wran) Government's more leisurely approach to the matter of reform. It immediately offered a package of genuine reform which Attorney-General Terence Sheahan had been considering for some months. The reforms included the institution of an independent Director of Public Prosecutions (promised by former Attorney-General Francis Walker on 14 August 1981, but not delivered) who would take over the Attorney-General's role in the no-bill process, independent registries for listing court cases, and closer monitoring of sentences. Premier Unsworth said the changes were designed to restore public confidence in New South Wales courts.

However, the Government sought to pass the opprobrium of removing judges from the Parliament, in the case of justices, and the Executive, in the case of District Court judges, to senior members of the judiciary by way of a Conduct Division of the proposed judicial Commission. It was proposed that the Chief justice, currently Sir Laurence Street, should head the Conduct Division. This caused a problem: some Justices of the Supreme Court may not have viewed the idea of the Chief justice having the power of life and death over their terms on the Bench with any great degree of equanimity. This seems to have been part of the hidden agenda in the ensuing political contest between the Executive and the judiciary, but it was not really spelled out until quite late in the day. On 14 October, Justice Keppel Earl Enderby, former first law officer of the Commonwealth, said the Conduct Division, as originally proposed, would have been a disaster. He said that the Bill, in its original form, concentrated power in the hands of the Chief Justice, and that, 'this power would have exposed him to criticism, attack and resentment. It was one of the features that caused me to speak out.'

The whole package of reform was thus in danger of foundering in a fracas between Bench and Parliament, or more precisely between Chief Justice and First Law Officer. This derived partly from the fact that, over the years, Street had become a more overt practitioner of politics. As noted, in 1976 he asserted that he followed the convention of refraining from commenting on matters of public controversy, but by 1983 he was giving an interview to the press to explain why he took on the Wran Commission, and by 1984 he was conducting a public and successful campaign to remove a judge from the Supreme Court. His campaign against Sheahan in 1986 was conducted with an even higher degree of political visibility.

The sequence of events was as follows. In late 1984, a study, Accountability of the Legal System, of District Court sentences of 276 defendants in cases of serious drug offences 1980-82, funded by Australian Criminology Research Council, was begun by Professor Anthony Vinson, Professor of Social Work, University of New South Wales; Morag Carroll and Natalie Bolzan, University of New South Wales; and Arthur King. It was completed in June 1986, and dedicated to the late *Sun-Herald* disclosure journalist, Graham Gambie.

Data from the study was published in *The Sydney Morning Herald*, Monday, 8 September 1986. The Government announced reform of the judicial system two days later. Sheahan met Street to discuss the proposal, which was initially supported by Street, but there was later some argument between Street and Sheahan as to the terms of the discussion, for a Judicial Commission, on 11 September. The next day, after an emergency Cabinet meeting, Sheahan announced a Judicial Commission would be set up to educate judges and magistrates in sentencing and with a Conduct Division to deal with complaints lodged by any person about any sitting judge or magistrate.

The Opposition opposed the judicial Commission, and said it would set up a wide-ranging Corruption Commission instead. Judge Michael Williams of the District Court, claiming that the Fairfax press had 'fooled the Government into a decision to enact the most ill-conceived piece of legislation imaginable', resigned from the Bench on Monday 15 September. Justice Keppel Earl Enderby criticised the Government and the Fairfax press on the Tuesday, and on the Wednesday thirty-one available Supreme Court justices conferred on the draft Bill. Street then issued a statement expressing his 'grave concern' with some aspects of the proposals, and Sheahan announced the ultimate power to remove a judge would be retained by Parliament.

On Thursday 18 September, the councils of the Bar Association and the Law Society called on the Government to defer the proposals, but Sheahan said Justice Jerrold Cripps, chief judge of the Land and Environment Court, Judge James Staunton, chief judge of the District Court, and Chief Magistrate Clarence Briese had written to him to express their full support for the Judicial Commission. Premier Unsworth appeared to end the five-day war between the elements of the judiciary and the legal profession v. the State's first law officer on Friday 19 September. He brought Street and Sheahan together to discuss the matter, after which it was announced that the draft Judicial Commission legislation would be introduced, but could be amended on points of significance to Street and other judges, and that (with or without Unsworth knocking their heads together) the Chief Justice and the Attorney had shaken hands and agreed 'not to canvass' suggestions of animosity.

However, on 30 September, Street said he had the unanimous support of all 32 available Supreme Court judges for delaying the legislation. Sheahan said next day that his information was that the judges were not united. Street said he found that 'grossly offensive,' and supplied Sheahan with a document signed by all 32 judges. Street complained that his personal credibility had been called into question, and demanded an unequivocal correction on 1 October. Four days later, Sheahan accepted that 'most of the 32' were opposed to the legislation, but declined to resile from his stated position that it was his information that 'peer pressure' had obliged the judges to sign, and on 7 October declined to affirm that he still had confidence in Street.

On 8 October, Unsworth said the Government intended to proceed with the judicial Commission. He noted that the judiciary was sworn to uphold the law when it was enacted. He also suggested it would be better if reporters kept away from Sheahan and Street. The judges' position was said to be that they accepted the principle of accountability, but did not like the way the Government was going about making them accountable.

However, by mid-October, after Sheahan had gone some distance towards accommodating the Supreme Court judges, they seemed to have settled down a bit. Judges of the District Court and magistrates were now to be removed by Parliament rather than the Executive; members of the Conduct Division were to be chosen by the Judicial Commission and the Chief Justice would not be an *ex-officio* member of the Conduct Division; the Conduct Division would lose the power to reprimand; and the Conduct Division would only report, rather than recommend action to remove, to Parliament.

In sum, the effect of these amendments was to make it more difficult to remove a judge than was originally envisaged, and by 14 October the Supreme Court judges were reported to find the legislation more or less acceptable. On that date, Sheahan complained that 'the Government has not been given credit for being as responsible, co-operative and reasonable as it has. Since my first discussions with all the heads of jurisdiction (at which time they all seemed supportive of the broad concept) the proposal has been viewed with as much suspicion as though it were a wooden horse offered up again to a once-bitten Troy.'

Following the enactment of the legislation, it remained (in the public sector) only for similar reforms to be applied to elements of the bureaucracy, notably in the great Bermuda Triangle of parts of the Attorney-General's department. Horse racing, however, was judged to be beyond reform.

4. THE BUREAUCRACY: The Voyager cover-up

'...the Navy and the Government have carried out Operation Cover-up in respect to the whole affair.'

- Harry Turner, MP

The *Voyager* affair was perhaps the most sustained, but finally the most closely-documented cover-up in Australian public life.

At 9.56 pm on 10 February 10, 1964, the destroyer *Voyager* crossed the bows of the *Melbourne* and was cut in half. Eighty-two men were killed. The immediate cause seems clear: during a manoeuvre, the *Voyager's* skipper, Captain Duncan Stevens, became confused, and turned the wrong way. No blame could be attached to anyone on the *Melbourne*. But Stevens, because of illness exacerbated by drink, should earlier have been relieved of his sea command, or perhaps never appointed to it. He had falsified documents to prevent his illness becoming officially known.

Ultimate responsibility for Stevens being on the *Voyager* on the night of Australia's greatest peace-time naval tragedy was widespread. It ran from Parliament, and particularly the Liberal Party, down through various echelons of the Navy. Thus a number of people appeared concerned to control the facts that emerged relating to Stevens. At an initial Royal Commission, the facts of Stevens' condition did not become subject to public scrutiny. The *Voyager*, but not Stevens specifically, was blamed for the actual collision. Three officers of the *Melbourne* were criticised.

John Jess, a Liberal MP, took the matter up in September, 1964. There took place between then and May, 1967 a series of events that terrified him, he told me in 1974. Harry Turner, another Liberal MP, said of these events: '... the Navy and the Government have carried out Operation Cover-up in respect to the whole affair.' Yet another Liberal MP, Edward St John, QC, wrote that he was 'satisfied that the Government (and I use this term in the broadest sense) had deliberately suppressed very relevant information...' And the then Leader of the Opposition, Gough Whitlam, spoke of '... the Government's attempt, and the Naval Board's determination to cover up the whole affair, and to refuse a further inquiry. . .'

The American people, a Louis Harris opinion poll found in 1974, have less confidence in the Government, the judiciary, the press and other institutions than they have in their local garbage collectors. Harris also found that people in the US believe profoundly that Government secrecy can no longer be excused, and that the key to any kind of successful future leadership must be iron-bound integrity. It is not known to what extent these sentiments are held in Australia. If they are, the *Voyager* Affair would have been a strong contributing factor. The events demonstrate how, in the 60s, the wheels went round in certain areas of politics, the Public Service, the Navy, the legal profession, and the establishment network generally. They took place during a Liberal-Country Party administration, but it is at least to the credit of the Liberal Party that the facts were finally forced into the open by its own members - members who chose truth and justice rather than political preferment.

On the other hand, a letter written by *The National Times* on 1 October 1973 to Labor Prime Minister Gough Whitlam, seeking release of a key *Voyager* document, did not attract a reply. It may be that the bureaucrats withheld the letter from Whitlam.

At the psychological centre of the *Melbourne-Voyager* tragedy, and its aftermath, is the figure of the late Major-General Sir Jack Stevens. Sir Jack, plugged in to the power centres of politics, business, the military and the Public Service, was in many ways the ultimate establishment figure. Originally in the Post Office, and a cook in World War I, he commanded the Sixth Division, Second AIF, from 1943 to 1945. After the war he was successively general manager of the Overseas Telecommunications Commission, Secretary of the Department of National Development, head of the Department of Supply, chairman of the Atomic Energy Commission, and special adviser to Prime Minister Menzies. He was knighted in 1955 and entered the world of business in 1956. He became a director of such companies as Mount Isa Mines, Vickers Australia Pty Ltd, Commonwealth Industrial Gases, the National Bank and Custom Credit.

Such a glittering career may well have presented special problems and pressures for Sir Jack's only son, Captain Duncan Herbert Stevens, who, after 28 years in the Navy, was skipper of the destroyer *Voyager* from 1963 until its collision with the *Melbourne*. The sad and simple fact is that Stevens was not fit to command his ship. He was a sick man, suffering from a duodenal ulcer. To relieve the pain he drank a lot of brandy, which made his illness worse, thus incapacitating him for lengthy periods.

His illness was known to at least two naval medical officers who were bound by regulations to report it, but did not, and Stevens himself falsified documents to prevent his illness becoming officially known. Had it been officially known he would have been relieved of his command. His drinking was a byword in the Navy, Stevens being known as 'Drunken Duncan.' The Victorian police surgeon, in fact, came to the conclusion that he was an alcoholic, but it was said in Stevens' favour that he did not drink at sea.

As a destroyer captain, Stevens rated high on dash; less highly on judgment. 1963, much of which the *Voyager* spent on a cruise to the Orient, was not a good year for Stevens. The pressures of command at sea and of making a success of his career - or even of keeping it afloat exacerbated his ulcer and his drinking habits. It began badly when, with Stevens in charge, the *Voyager* bumped the *Vampire* while berthing at Garden Island in Sydney.

The collision apparently affected Stevens' confidence in himself as a driver. Thereafter, he had his navigating officer, Lieutenant-Commander Scott Griffith, take the ship in and out of harbour. This was a most unusual procedure, and had further effects. One of the *Voyager's* ratings later said he was embarrassed for the captain for the way Griffith seemed to ignore him.

In the next six months, Stevens, on the findings of a later inquiry, was unfit for duty at least six times, sometimes for days at a stretch, and on each occasion wholly or partly as a result of alcohol. One such incident took place in Singapore on Saturday, 23 March 1963. To celebrate Stevens' 41st birthday, his officers bought him a Ronson lighter and stood him a dinner in the wardroom. When he arrived, Stevens appeared to be under the influence. He said to his executive officer, Lieutenant-Commander Peter Cabban: 'Come on, Number One. Let's get this thing started,' and dropped to his hands and crawled, or bounded, across the floor, a piece of horseplay that caused eyebrows to be raised.

At the table, Stevens sat with his head bent. After 10 minutes, the lighter was presented; Stevens replied briefly and incoherently; and Cabban took him to his cabin. The *Voyager's* doctor, Surgeon-Lieutenant Michael Tiller, examined Stevens in his cabin, and decided he was drunk.

A series of similar incidents followed, after one of which in Tokyo Stevens was ill for a number of days, and Tiller advised Stevens to 'swap alcohol for orange juice, or something similar.' Such incidents caused Cabban concern both for Stevens' health and for the safety of the men under him. Cabban later reproached himself for not having brought Stevens' condition to the notice of the naval authorities.

In January, 1964, back in Australia, Stevens was seen bending over the rail of the *Voyager*. Asked what was wrong, he said: 'Oh, I'm a bit crook in the guts.'

By this time, both Cabban and Griffith had left the *Voyager*. Rear-Admiral Alan McNicoll made his annual report on Stevens. The report was favourable, but, Captain John Robertson said in 1974 that it was couched in such terms as to suggest to him that McNicoll at least thought about relieving Stevens of his command. McNicoll's report said: 'A very keen officer of average intelligence who is devoted to the Service. He has a volatile nature, considerable dash, and much enthusiasm. He does not strike me as having great abilities and has probably reached his ceiling, though he will always give his best to the Service in any capacity.'

The Chief of the Naval Staff, Vice-Admiral Sir Hastings Harrington, wrote on McNicoll's report: 'Noted - I concur.'

On Thursday, 6 February 1974, the aircraft-carrier *Melbourne*, under Captain Robertson, and the *Voyager* put to sea to engage in coastal exercises. Captain Robertson, then 48, was expected by many to become in due course Chief of the Naval Board. At 7 am on Monday, February 10, the *Voyager* sailed

out of Jervis Bay (JB as it is known in the Navy) to continue its exercises with the *Melbourne*. A steward, Barry Hyland, later said Stevens asked him, at 7.20 or 7.25 that night, to get him a brandy. By this Hyland understood that Stevens wanted a triple - three liqueur glasses of brandy in a tumbler of water. As far as Hyland knew, this was the only alcohol Stevens took that day. It appears to be accepted that the brandy would have had no effect on his judgment in the events that took place 90 minutes later.

However, Admiral Harold Hickling, a retired Royal Navy man who wrote two books about the *Melbourne-Voyager* collision, argues that it was probably pain from the ulcer that made Stevens break his rule never to drink at sea. If this is so, his illness may have taken the edge off his alertness in the events that followed.

Shortly before 8.52 pm, the *Voyager* was ahead of, and to the left (port) of the *Melbourne*, and Stevens, by looking over his right shoulder from his position on the bridge, could have seen that the *Melbourne* was on his right (starboard). At that time, however, the *Melbourne* was in the middle of a turn to the left. This had two effects: it put the *Voyager* on the right of the *Melbourne's* path and it put the *Melbourne* into a 60-degree blind arc from the captain's seat on the *Voyager's* bridge. Soon after 8.52 pm, the *Melbourne* signalled the *Voyager* to take up a position behind and to the left of the *Melbourne*. Robertson, watching closely, saw the *Voyager* first turn right and then left.

In this situation, the two relevant international rules of the road at sea are that the smaller ship has the obligation of getting out of the way of the larger ship; and when two ships are on a potential collision course, the larger must maintain its speed and course until such time as a collision cannot be avoided by the efforts of the smaller ship alone. Robertson assumed that Stevens, instead of looping to the right, was fish-tailing zig-zagging - to lose distance.

However, what was really happening, according to Hickling's reconstruction, was that Stevens' No. 1, a Royal Navy officer on loan to the Australian Navy, first gave the correct order, and that Stevens, thinking he was still on the other side of the *Melbourne*, then countermanded it and that his junior assumed Stevens knew what he was doing.

When Robertson realised that the *Voyager* was not going to pull out of its collision course, he ordered: 'Full speed astern both engines. Stand by for collision forward. Close all red and blue openings.' With the bulk of the carrier, the order could have no effect for some minutes. The *Voyager* was cut in two. Stevens and the Royal Navy man were killed instantly, along with eighty others on the *Voyager*. The *Melbourne* picked up the 232 survivors.

Only three bodies were recovered from the *Voyager*. They were those of Stevens, the Navigating Officer and an able seaman. Each body was found to contain alcohol. Stevens' had .025 per cent, the Navigating Officer's had .015 per cent, and the able seaman's had .05 per cent. Because of post mortem body changes, the actual amount of alcohol in the bodies at the point of death would be less than those figures.

Captain Robertson has been told that Major-General Sir Jack Stevens rang Prime Minister Menzies at 5.30 am the next morning, but does not, of course, know if such a phone call was in fact made.

Menzies had two alternatives. He could allow the normal procedure - a naval inquiry - to take place, or he could order a Royal Commission. He chose the latter. Mr John Jess, the former Victorian Liberal MP, and a cousin of Robertson's wife, believes that the pending elections were a factor in his thinking. The Navy had been involved in a series of mishaps, embarrassing to the Government, in the years before 1964.

In July, 1958, the destroyer *Vendetta*, going backwards instead of forwards, ran into the Williamstown dock. Two years later, the *Anzac* put a hole in the *Tobruk* with a dummy shell. In October, 1960, the ammunition-carrier *Woomera* blew up and sank. Two sailors were killed, and another twenty-five, treading water for an hour while waiting to be rescued, were attacked by albatrosses. In May, 1963, the submarine *Tabard*, having two months earlier rammed the wharf at Brisbane, was run over by the

Frigate *Queensborough*. In October of the same year, four months before the *Melbourne- Voyager* collision, a whaler from the *Sydney* capsized off Hayman Island, killing five sailors.

The announcement of a Royal Commission would have the effect of slowing discussion on this latest naval mishap. On the other hand, Menzies may simply have felt that a civilian commission would be more likely to arrive at the facts than a naval inquiry.

Critical comment was later made of the appointment of Sir John Spicer, a former political colleague of Menzies, as sole Royal Commissioner. Sir John, chief judge of the Commonwealth Industrial Court, in his days as a Liberal politician had been Commonwealth Attorney-General from 1949 to 1956, for much of which period Sir Jack Stevens had been a senior public servant and special adviser to Menzies.

Sir Jack Stevens obtained the services of Mr Frederick Osborne a solicitor watching the interests of the late Captain Duncan Stevens. Osborne had been a member of the Federal Parliament from 1949 to 1961, and a Minister from 1956 to 1961. He later, from 1967 to 1970, became president of the NSW division of the Liberal Party. The Federal Government agreed to pay the legal expenses incurred in representing the interests of Captain Stevens.

On 25 February, 1964, in words highly reminiscent of those used to kick off the Petrov Royal Commission, Menzies said: 'It is essential that nothing that should be made known is hidden.'

Mr Jack Smyth QC, a relentless cross-examiner, was appointed counsel assisting the Commission. He was instructed by the Commonwealth Crown Solicitor. Before it started, Smyth interviewed Cabban, who had heard a rumour that Captain Stevens was drunk on the night of the collision. Cabban told Smyth something of Stevens' drinking habits, but insisted that Stevens never drank at sea. Smyth discussed this with Sir John Spicer, the Royal Commissioner. They decided that Stevens' drinking habits were not relevant to the collision, and Cabban was not asked to give evidence.

A later Royal Commission found that his evidence was not improperly withheld from the Spicer Commission.

Cabban also approached the Stevens' interests and offered to give evidence that Captain Stevens never drank at sea. This offer was declined. When Cabban heard of Hyland's evidence that Stevens had called for a triple brandy ninety minutes before the collision, he was stunned. He told Robertson of Stevens' behaviour during the northern cruise of the year before. Robertson said he was not prepared to use that sort of evidence.

The post mortem reports of the three bodies recovered were put in at the Commission, but were not read out.

Later, in April 1968, Jess said he found it astounding that certain matters were not brought out at this Commission. He said: 'Mr Smyth knew that there was evidence that a triple brandy had been served. He also knew that three bodies had been recovered from the water. He knew that there was an executive officer who told him certain things - whether they were true or not - about the drinking habits of the Captain. He also knew that on *Voyager* that night there had been an alcohol ration, even though such a ration was against the orders of the Naval Board at the time.'

In his final address, Smyth said: 'Robertson's failure to give a warning to *Voyager* - a negligent failure - and to act as a competent and prudent captain should have done, was a caused of this collision, and indeed one might say the final and contributory cause.'

The Commission sat for fifty-five days and heard evidence from 156 witnesses. It concluded on 25 June. Five days later, Jess heard of a possibility that Robertson would be appointed to *HMAS Watson*, a training establishment on shore, and a second-rate job suitable to a junior captain. Jess protested to Fred Chaney, Minister for the Navy.

Spicer's 51-page report was tabled on 26 August. He found the *Voyager* was responsible, but said it was not possible to identify the individual or individuals on that ship who were to blame. Despite the tepid - almost ominous - January 6, 1964 report of McNicoll and Harrington,

Spicer found that Stevens had given a long, satisfactory, 'and indeed distinguished' service in the Navy. Spicer said the collision was not the fault of any person on the *Melbourne*, but criticised Robertson for not making a signal to the *Voyager*. He also criticised two other officers on the *Melbourne* for not keeping a proper lookout. Of 3,500 pages of transcript, only 10 were devoted to the subject of alcohol. The Spicer Report carried no word of it, or Stevens' illness.

On 23 August, three days before the Spicer report was tabled, Vice-Admiral Sir Hastings Harrington, Chief of the Naval Staff, wrote to Robertson to say he was appointed to Watson. Robertson resigned on 10 September, after thirty-five years in the Navy. He thus forfeited his rights to a pension. His future salary and the pension, it was calculated, amounted to more than \$100 000.

The Naval Board at that time consisted of Chaney, Harrington, Sam Landau, Secretary for the Navy, and Rear-Admirals Smith, George and Peek. The board made a report on the Spicer Report to Menzies. Menzies spoke in the debate on the Spicer Report on 15 September but did not table the Naval Board's report because, he said, the board was an adviser to the Government, and to publish its report would set a harmful precedent.

(Hickling regarded this report as a crucial document. He felt its publication would make plain some matters that are still obscure. For one thing, it would indicate whether the Naval Board concurred with the Spicer Report. It was this document that *The National Times* sought without success from Whitlam.)

In the debate, Menzies repeated Spicer's criticism of the *Melbourne* officers and disclosed that the possibility of having them court-martialled had been canvassed at the highest legal level. The idea had been discarded, he said, because evidence obtained at the Royal Commission could not be used.

Jess told the House it was his opinion that the *Voyager* Commission was abused and not correctly conducted. 'I do not agree with judges being appointed from this House,' he said, 'and I do not agree that former Ministers of the Government should be appointed to take command of inquiries into matters in which the Commonwealth is vitally concerned.'

Following the debate, Jess mounted a treadmill, going up and down on the one spot for more than 2 1/2 years. In the process, he says, 'I became terrified that the truth could be covered up for so long.' He had heard of Cabban's allegations about Stevens' drinking in the Far East and approached Menzies in September, 1964, with the information that Cabban was prepared to be examined on the matter. Menzies said he could see no point in reopening the inquiry.

In October of that year, Admiral Hickling decided to write a book about the collision. After interviewing Robertson, he asked Cabban for information. In March 1965, Cabban, sitting on the end of his bed, and without notes or preparation, spoke for an hour into Robertson's tape recorder. He gave details of several incidents involving Stevens. Typed up, the transcript ran to 19 pages and became the critical document in having the *Voyager* affair reopened. On the other hand, one way of not having the affair reopened would be to discredit Cabban.

Jess persuaded Robertson and Cabban to allow him to give Menzies a copy of the document. If only half of it were true, Menzies asked, how could such a man be allowed to command one of Her Majesty's ships? Why, Menzies asked, 'should the living be victimised by the dead?' He said he would have Cabban's statement investigated.

Time passed. Cabban was not interrogated. Even a statement by Vice-Admiral Alan McNicoll, then Chief of the Naval Staff, did not persuade anyone it might be worthwhile to talk to Cabban. McNicoll said that sound judges had mentioned Cabban's professional qualities, his devotion to duty, and his high moral standards.

Hickling's book, *One Minute of Time*, came out in November 1965. It made plain Hickling's view that the responsibility for the collision lay with Stevens; that no criticism of Robertson was justified; and that Robertson had been scurvily treated. The book had no effect. Having stalled Jess for 16 months, or been advised that there was nothing in Cabban's statement, Menzies retired in January 1966, and was succeeded by Harold Holt. Jess tried again. He gave Holt the 19-page Cabban document. Holt asked who else knew of the charges? Only Menzies, Chaney, Donald Chipp, the new Minister for the Navy, and now Holt. Holt said he would have the matter looked into. Another year went by. Early in 1967, Jess told Holt that unless he saw some action soon, he would bring the matter up in the party room.

The naval authorities then began another investigation. Fresh statements were obtained from people who had been with Stevens in the Far East. They were shown Cabban's statement and asked for their comments. Dr Michael Tiller, the former Surgeon-Lieutenant on the *Voyager*, would clearly be a crucial witness on Stevens' health. As Tiller was then in London, Landau, on 21 April, 1967, got the Navy's representative there to obtain Tiller's comments. On Cabban's account of the birthday party at Singapore, he said: 'I agree with this, but disagree with the statement: ". . . got on his hands and knees and crawled across to the mess table"'. Another of Cabban's statements that Tiller was asked to comment on was: 'During the period in the Far East, the situation ... was quite desperate, and (Stevens) drank for very long periods in harbour until he became violently ill, and then would spend days in bed being treated by a doctor and his steward, until he was fit to start drinking again.'

Tiller's comment was: 'I agree with the first part of the statement, but disagree with the inference contained in the second part that he was continually drinking.' A later Liberal Prime Minister, John Gorton, said in April, 1968, that Tiller's statement 'tended to corroborate - as it did - some of the statements of Lieutenant-Commander Cabban...' On 1 May, 1967 however, Lieutenant-Commander Scott Griffith said he saw nothing unusual at the Singapore party, other than that Stevens had to be excused early.

The Liberal Party meeting was due on 3 May, 1967. The night before the meeting, Holt told Jess that he and the Cabinet, after the fullest investigation, had decided they would not re-open the case, nor would they make any compensation to Robertson for his lost pension. Jess replied that he had kept the matter confidential for three years. 'Now,' he said, 'you force me to bring it into the open'. Holt said that was Jess's right. The party meeting ran from 11 am to 1 pm. A number of matters were raised and it was getting on for lunchtime when Jess's item on Cabban's allegations came up. Two Ministers replied to Jess, saying the allegations were completely wrong. The party vote, on re-opening the affair, went heavily against Jess, by a margin, he estimates, of ten to one.

After the party meeting, Liberal back-benchers Dr Malcolm Mackay and Edward St John QC decided to look into the matter. They interviewed Cabban on Sunday, 7 May. St John subjected Cabban to a rigorous cross examination for seven hours. They came away convinced of the essential truth of his statements. Mackay and St John wrote to Holt the next day. They said: '. . . almost certainly officers senior to Stevens would have known of his alcoholism. If so, they could be blamed for not having taken steps to remove him from his command. It is clear enough that they might have an interest in concealing the truth of this matter.'

Meanwhile, after the party meeting on 3 May, the Canberra Press Gallery, fully informed via party leaks, was a-buzz with the Jess-Cabban allegations. However, no member of the gallery felt able to share his knowledge with the public. It was left to a blow-in from Melbourne *Truth*, Richard L'Estrange, who happened to be in Canberra on another matter, to make the disclosures. L'Estrange pieced the story together from two members of the Press Gallery, the secretary to a Senator, and a Liberal MP, who was neither Jess, Mackay, nor St John. It first appeared in *Truth*'s mid-week edition, as a down-page story on page 2 on Tuesday, 9 May, and again - following representations by L'Estrange that the story was a political sensation - as the page one splash on Thursday 11 May. The headlines read: *Voyager scandal - this is what it's all about DRUNKEN DUNCAN Captain with triple brandy*

On 9 May, Landau rang Tiller in London to tell him, that a debate was likely to occur, and asked him if he were prepared to permit his earlier written comments to be made public. In a later prepared statement, Tiller said of this 20-minute conversation: '(Landau) asked if I would like to withdraw my

comments. I agreed, and he asked further if I would mind if my comments were destroyed. I also agreed to this as I felt that I did not wish to be involved in this matter in any way. I got the feeling at the time that Mr Landau was keen for me to consent to destruction of my answers.'

Landau, however, later said his reason for ringing Tiller was that he found his comments incomprehensible, and that he got the distinct impression that Tiller wanted his statement to be destroyed. A Royal Commission later found that there was nothing sinister about Mr Landau's activities. Whatever the reason, Dr Tiller's statement giving qualified corroboration to Cabban's statement went into the Navy Department's shredder on 9 May. On 10 May, the Government announced that a debate on Jess's motion for a Select Committee to inquire into the allegations would be held on Tuesday, 16 May.

On 11 May, Landau wrote to the Navy's representative in London tipping him off that Jess was expected to visit London in June and 'it is probable that there may be approaches to Tiller...' (In London, Jess rang Tiller but was told Tiller did not wish to speak to him) Landau closed the letter with words that troubled Jess when they were later revealed: 'I should be glad if you would please destroy this letter, as well as the Cabban statement, as soon as you have finished with it.'

Holt did not reply to Mackay and St John's 8 May letter but showed it to Vice-Admiral McNicoll, Chief of the Naval Staff. On 15 May, McNicoll sent a memo to Cabinet entitled 'The Character of Cabban'. Its terms were rather different from his 1965 note on Cabban. It said: 'I knew him personally as a very young officer and I found him to be immature and foolish. It is baffling that Dr Mackay and his associates are prepared to accept the unsworn testimony of a man who failed to make the grade in the Navy against the word of serving officers, however senior.'

However, Lieutenant-Commander Scott Griffith's memory freshened between 1 May and 15 May. On 15 May, he said Stevens had the reputation of being a heavy rather than a moderate drinker... the general remark made after or at the dinner was that 'the Captain had drunk too much.' This provided some further corroboration for Cabban's statement. On 16 May, two Ministers got up in the House and said there was no corroboration for Cabban's statement. These were the Attorney-General, Nigel Bowen QC (later Mr Justice Bowen) and the Minister for the Navy, Donald Chipp. Both - Bowen on 30 August and Chipp on 19 September - later said they had been made aware of the substance of Griffith's second statement when they spoke in the House on 16 May.

Jess later said in the House: '... the establishment or the people in power (said): 'This man is too dangerous - let us roll him early.' To support the case that there was no corroboration for the Cabban statement a series of 14 statements from naval officers, including Griffith's 1 May statement, were tabled on 17 May and ordered to be printed on 18 May. All 14 statements refuted Cabban. Tiller's shredded statement did not get in; neither did Griffith's 15 May statement. The authorities did, however find room for an unsolicited letter received by Chipp on 16 May. This letter was from Captain (retired) J. Plunkett-Cole, of *Melbourne*. He said he was appalled by the headline in Melbourne *Truth*, and that 'Drunken Duncan' was just a facile phrase with no more significance than many other nicknames. Plunkett-Cole had last served with Stevens in 1958, more than five years before the collision.

Five statements from Captain Guido Willis, captain of the *Voyager's* sister destroyer *Vampire*, which contradicted Cabban's statement got in; two from Willis which tended to corroborate him were left out. Of these last two statements, Landau, later said he must have overlooked them.

('Landau has the Nelson touch; he turned a blind eye.' Whitlam said of this incident during the third *Voyager* debate in April, 1968. He also said: 'Honourable gentlemen will wonder how much confidence they can have in the administration of the Navy with a creature like this in charge.' In November, 1973, the Whitlam Government appointed Landau as Minister (Politico-Military Affairs) at the Australian Embassy in Washington.)

St John, unaware of the corroboration for Cabban's statement that had gone into the Navy Department's secret files, and into its shredder, nevertheless made a powerful speech, in prime radio time. It was his maiden speech, for which it is parliamentary etiquette that the speaker is not interrupted, but he had to

rebuke Holt for interjecting, causing the Prime Minister to blush. Chipp also interjected, and was pulled back into his seat by Snedden.

Jess's motion had no chance of getting through the House, where the Government had the numbers, but it was also introduced in the Senate, where the Government did not. The Press reacted strongly to St John's speech, calling for a Royal Commission, and on Friday, 19 May 1967, Holt threw in the sponge.

Royal Commissions are useful tools of Government in delicate situations. The announcement defuses the explosive situation; the Commission goes on at tedious length, confusing the issue, and ultimately boring the electorate out of its mind. When the results come in, whatever they might be, the voters are quite unresponsive.

The Government also has the advantage of drawing up the terms of reference, and appointing the Royal Commissioners. In this case, St John later wrote in his book, *A Time to Speak*, the terms displayed a fair deal of ingenuity, being 'arranged like so many Chinese boxes, in a form which we feared might stifle full inquiry.' The Commissioners had to decide whether any of Cabban's allegations regarding Stevens' drinking habits were true; and if they were true, whether they established that Stevens was unfit to retain command; and if unfit, did the Naval Board know, or ought they to have known, and were they at fault; and should the findings of the Spicer Commission be changed; and finally, whether evidence was improperly withheld from the Spicer Commission. Not included in the terms of reference was whether documents had been withheld by or from ministers or from or by their advisers.

The Commission opened formally on 13 June 1967 and evidence was taken from 18 July. The chairman was Sir Stanley Burbury, Chief Justice of Tasmania; the other two Commissioners were Justice Geoffrey Lucas, of Queensland and Justice Kenneth Asprey, of NSW. Counsel assisting the Commission was Frank Burt, QC, of Western Australia. The key figure was Burt. 'This is an inquiry and not a law suit,' he said at the outset. 'We appear to assist that inquiry. We do not appear in an adversary role.' His task was not easy. In view of all that had happened in the previous three years, sailors did not have to be particularly bright to see which way the higher echelons of the Navy were bent on the matter.

Further, on 26 June, senior counsel for the Navy drafted a letter that went out, over the name of the deputy Commonwealth Crown- Solicitor, to potential witnesses. The letter said: 'I might add that I have not been able to obtain corroboration of these allegations from other witnesses already in Australia...' Whitlam later said that this was not only improper, it was untrue. In the event a number of naval witnesses developed what appeared to be a species of amnesia.

The hearings continued over a period of eighty-five days, until 8 December 1967. It was like drawing teeth, but some of the facts of the cover-up emerged. St John and another Liberal MP put together a collection of documents on the earlier corroboration of Cabban's statement, and got them into Holt's hands on 27 September 1967. Holt said he would arrange an interview with St John, soonest. However, pressure of business, such as the VIP aircraft scandal and getting clobbered at the Senate elections, set in, and Holt did not find an opportunity to speak to St John before 19 December, when he was carried out to sea and drowned.

The findings of the two reporting Royal Commissioners (Mr Justice Lucas had become ill before the proceedings ended) need not exercise us unduly. Sir Stanley Burbury said that no judge may feel that his findings are immutable, and the judges in *Voyager II* certainly made mincemeat of several of Sir John Spicer's findings in *Voyager I*. Their findings, in fact, carry no more weight than the findings of any other two or three people who had a look at the evidence. Apart from this, there were curiosities both in the conclusions the Commissioners drew from their primary findings, and in the handling of the witnesses.

One oddity was the matter of two Victorian experts on alcoholism, and what happened to their evidence. This episode rang the Monticone bell in the heads of students of Royal Commissions whose memories extended to the Petrov Commission of 1954-55. Handwriting expert Dr Charles Monticone, it was recalled, took the view that some, at least, of the Petrov documents were faked, presumably for political

reasons. Labor Party leader Dr Bert Evatt sought to introduce Dr Monticone as a witness, but the Petrov Commissioners declined to hear him, preferring to go with the evidence of a policeman.

Likewise with the *Voyager* inquiry, the facts as already found by the Commissioners were put to Dr John Birrell, Police Surgeon for Victoria, and Dr James Rankin, an authority not only on alcoholism but also on ulcer conditions. Their definition of alcoholism was that it is 'an illness characterised by repeated drinking an amount sufficient to interfere with the drinker's health or his social or economic functioning.' The Victorian experts agreed that Stevens, on the facts agreed upon by the Royal Commissioners, was 'suffering from alcoholism, there being no reasonable alternative.' The Commissioners were informed of Birrell's opinion, but at first declined to hear his evidence, and only agreed to do so after a renewed application by counsel. They declined to hear Dr Rankin.

However, the Commissioners did not mention Dr Birrell's evidence in their report and thus, by implication rejected it. They preferred the evidence of Sir William Morrow, who has been chairman of the Drug Evaluation Committee since 1967. Morrow, a friend of Sir Jack Stevens, at first gave evidence that Duncan Stevens' ulcer was inactive on 23 September 1963. Recalled, Morrow said Stevens' ulcer was active on that date, but gave as his opinion that he was not an alcoholic.

Nor did they suggest that the authorities examine the evidence to see whether criminal charges of attempting to pervert the course of justice might be laid against Landau.

In their findings, the *Voyager II* Commissioners seemed to be 'unduly concerned to put the best possible complexion on everything,' according to an editorial in *The Sydney Morning Herald* of 26 February 1968. Nevertheless, they found that Stevens was not fit, in December 1963, because of his duodenal ulcer '(to which his drinking habits contributed)' to retain command of the *Voyager*. As for his fitness to command on the night of the disaster, they expressed no opinion. They found that the Naval Board did not know of Stevens' condition, because two medical officers failed to inform the authorities, and because Stevens himself concealed his illness in official records. They found that evidence was not improperly withheld from the Spicer Commission. 'Indeed,' they said 'as it was made known to Sir John Spicer, it is not true even to say it was withheld at all from the Royal Commission.' And they found that Sir John Spicer's criticisms of Robertson and the two other officers of the *Melbourne* were not justified.

The new Government, headed by Mr John Gorton, paid Robertson \$60 000, tax-free, in *lieu* of pension before the report was debated on 2 and 3 April 1968.

McNicol retired as Chief of the Naval Staff the day the debate was to begin. Two months later he was appointed to the position of Australia's first Ambassador to Turkey. He retired from that position early in 1973.

In that debate, Mr Whitlam, the then Leader of the Opposition, after excoriating various people involved in the affair, had this to say: 'In all this sorry story, out of all this terrible tragedy, only one thing emerged for which this nation can be proud. And it is a great thing ... there has never been any suggestion that on that night off Jervis Bay the men on the ships failed to do their duty. In countless cases they fulfilled it heroically and nobly. It is this, despite all the operations of the old-boy network, all the lies, all the vindictiveness, all the attempts to conceal and evade, which gives us a Navy of which we can still be proud...'

Evans: The politics of poltroonery

'I don't think Australia's Navy or its government can stand another collision at sea.'

- Captain. J. P. Stevenson, May 1969

In the 1960s, the United States Navy was the subject of a barrage of public and Congressional criticism for alleged 'inefficiency,' outmoded practices, and old-fashioned equipment. American naval vessels, it appeared, were constantly running aground, catching fire, or running into each other or the ships of other countries. A list of sixty such incidents appeared in the July 1969 issue of the American magazine *Esquire* under the heading: 'ESQUIRE'S OFFICIAL COURT OF INQUIRY INTO THE PRESENT STATE OF THE US NAVY.'

The list was subtitled: 'Oh, hear us as we cry to Thee for those in peril on the sea . . .' Among the incidents:

1965: *Shangri-La* and *Newman K. Perry* collide in mid-Mediterranean. *Sargo* and *Barb*, nuclear submarines, collide under water.

1966: Fire in carrier *Oriskany* - 44 dead. *Bennington* and *Nicholas* collide west of Hawaii. *Brinkley* and *Waddell* collide in South China Sea. *Nautilus* collides with *Essex*.

1967: Fire in *Forrestal* - 131 dead. *Norris* shells friendly Vietnamese hamlet, killing four. *La Salle* collides with Israeli freighter off *Virginia*. Minesweeper *MSB-43* collides with a dolphin off South Carolina - sinks.

1968: Submarine *Scorpion* lost in the Atlantic, crew of 99 presumed dead. *Rowan* collides with Russian merchant ship *Kapitan Vislobokov* in Sea of Japan. *Wrangel* collides with carrier *Independence* off South Carolina.

1969: The combination of a safe on the *Guadalcanal* is lost with a tin cup locked inside. Swaying of the ship causes the cup to clang against the metal wall every 7.5 seconds, driving crew mad...

The third parliamentary debate, in April 1968, on the *Voyager* affair was barely over when the Navy was in trouble again.

In the early hours of 17 June, 1968, the *Hobart*, an Australian destroyer skippered by Captain Ken Shands and attached to the US fleet, was steaming peacefully about nine miles off the coast of Vietnam. The *Hobart* did not appear to be greatly at risk - the largest ship in the North Vietnamese Navy was no bigger than a motor torpedo boat - and all was quiet. At 3.15am, the calm was shattered by a missile attack on the *Hobart*. Two Australian sailors were killed, seven were injured, and the *Hobart* was holed 200 times. The attack was launched by two US Phantom fighter-bombers from the American aircraft carrier *Enterprise*.

The American PR men immediately claimed that the *Hobart* was bombed during 'a fierce, confused battle' with communist forces. The melee, it was said, involved US aircraft, a US gunboat, and North Vietnamese helicopters, with firing going on all around. (It was also reported that, following the missile attack, the *Hobart* turned its 5-inch guns on the Phantoms, but this may have merely been an assumption on the part of some outside source with World War II experience of combined US-Australian operations, and is thought not to be the case.) In an editorial, *The Chicago Tribune* plaintively asked why the United States did not occasionally try to reserve its fire for the enemy.

Another set of facts emerged two days later when the *Hobart* trudged into Subic Bay, the US repair base in the Philippines. Questioned by the press, Lieutenant-Commander Rowland, Banks, RAN, said that everything was quiet before the *Hobart* was hit. The US Navy was allowed to take care of the formal investigation.

Two months later, Australian Navy Minister C. R. (Bert) Kelly announced: (1) The Americans accepted the blame for the attack; (2) Australia would pay the US for repairs made to the *Hobart*. Perhaps because of such things as the cost of F-111 planes, the bill has never been presented.

In view of the *Hobart* incident, and the accident-prone record of the US Navy the Australian Naval Board might have thought twice before allowing one of its ships within a thousand miles of any part of

the US fleet. However, the top brass of the US Navy had a high regard for the expertise of the men of the RAN, referring to them as 'the professionals,' and their own sailors as amateurs. For our part, in terms of the perennial

threat from the north, we may have felt it would be in our interests to do what we could to sharpen the performance of our protectors.

On 5 May, 1969, the *Melbourne*, having had a \$6 million middle-life refit, sailed for the waters of South-East Asia. It was to take part with other SEATO navies in Exercise Sea Spirit, a series of practice operations involving 40 ships from six nations. Rear-Admiral Gordon (Buster) Crabb, Flag Officer Commander the Australian Fleet (FOCAF), was in tactical command of all the task groups in the operation. Crabb, said to be a sailor's sailor, may personally, as officer-in-charge of the *Sydney's* forward gun turret, have blown the Italian cruiser *Bartolomeo Colleoni* out of the water in 1940.

Rear-Admiral Jerome King, junior to Crabb, was in charge of the American task group. King had a master's degree in nuclear physics and had at one time been an assistant to Vice-Admiral Thomas H. Moorer, then Chief of the US Naval Operations.

Captain John Philip Stevenson was skipper of the *Melbourne*. Under his command were four destroyers - three American, one British - and a New Zealand frigate. The Australians, haunted by the memory of the *Voyager*, insisted on the importance of destroyers turning AWAY from the *Melbourne* when moving from the screen ahead of the carrier to take up plane guard duty behind it. Crabb said he would sack on the spot any Australian destroyer captains who failed to turn away in this situation. Steven invited the American captains to dinner in the *Melbourne's* wardroom and told them the story of the *Melbourne* - *Voyager* collision five years before. 'I don't think,' he told them, 'Australia's Navy or its Government can stand another collision at sea.' But the warnings and the story lacked impact: possibly the Americans approached the subject of collisions with a contempt bred of familiarity.

Early on 1 June, during a clear, calm moonlit night, the US destroyer *Everett F. Larson*, with its captain asleep at the time, turned towards the *Melbourne*, and, warned by Captain Stevenson, missed it by a whisker. Furious, Crabb ordered the destroyers in the screen ahead in future to increase their distance from the *Melbourne* from 2,000 to 3,000 yards.

On the night of 2-3 June, the *Frank E. Evans* had the task of periodically leaving the destroyer screen and going behind the *Melbourne* during flying operations. The screen was in arrowhead formation in advance of the *Melbourne*, with one destroyer directly ahead of the carrier and two out on each bow. That, at least, was the situation when the task group was travelling straight ahead on a base course. However, there was an 'enemy' submarine, the *Spinex*, in the area that night, and the task group was following a zigzag course. On such a course, there will be periods, depending on the original alignment of the ships, when all five ships in the screen may be on the right of the carrier, and periods when all five may be on the left. This rather elementary fact of navigation is easily demonstrable with half a dozen matches.

The *Evans* was out on the right, or starboard, end of the screen. Several times that night, the destroyer successfully completed its plane guard task by peeling off the screen and looping to the right. At midnight, the officers of the deck were changed, and the captain, Commander Albert McLemore (pronounced Micklemore) went to bed. He did not inform the *Melbourne* that he had turned in and left instructions to his own men that there were to be 'no interruptions, no calls'. It was McLemore's responsibility to see that a qualified watch was posted. He left in charge of the ship Lieutenant (Junior Grade) Ronald Ramsey. With Ramsey was Lieutenant (JG) James Hopson. Neither had qualified to be Officer of the Deck.

The next flying operation was due at 3.30 am. At 3.10 am, with the carrier steady on a right-hand leg of the zigzag - and with the *Evans* thus on his left - Captain J. P. Stevenson ordered the destroyer to leave the screen and go behind the *Melbourne*. Had he known that McLemore was asleep, Stevenson would have halted the operation and ordered him up to the bridge.

The night was clear, with the moon almost full and the water like glass. The people on the *Evans* would have been able to see the *Melbourne*, two miles away, without binoculars. Nevertheless, Stevenson, as he believed, took no chances. He turned his navigation lights up to full brilliance, and relayed his course of 260 degrees, in code, to the *Evans*.

Ramsey was reading at the chart table. It was thus left to Hopson, a man treading the deck of his ship and also the junior of the two unqualified men on the bridge, to take the *Evans* round to the left. He turned right.

This move surprised the ship on the *Evans*' immediate left, the New Zealand frigate *Blackpool*, which, expecting the *Evans* to go left, made dispositions to give it plenty of room. It also surprised Captain Stevenson. At 3.13, with the *Evans* still more than a mile away, he sent it a message by voice radio: 'Watch it. You are on a collision course.' Hopson took a bearing and was astounded to see the *Melbourne* on his right. He ordered a slight turn to the left. 'I was very confused at the time,' he said later.

A collision was imminent. Up to this point, international law demanded that the carrier stay on its previous course and speed. To order the carrier's engines astern would have no effect for several minutes. With the *Evans* still turning slowly left, Stevenson put his wheel hard over, sounded two blasts of the siren to indicate he was going left, and told the *Evans* by voice radio: 'My rudder is hard left.'

Five years before, flight deck chief Stan Heares was at the *Melbourne*'s forward catapult, when the *Voyager* collided with the *Melbourne*. Now, he was in the same place, checking the chocks, when he looked up and saw the *Evans* approaching. By this time, the *Melbourne*'s rudder had started to grab, and Heares saw the *Evans* pass from left to right across the *Melbourne*'s bow. The danger was past. Heares went back to work.

On the *Evans*, however, Ramsey had inserted himself into the confusion on the bridge in the most decisive way possible. 'Right full rudder!' he shouted.

Commander A. I. Chapman, RAN (retired), who has written 200,000 words on the two *Melbourne* collisions, believes that, on the evidence, Ramsey's order came not long after Stevenson's order to go hard left. A destroyer can turn on a sixpence. Heares saw the *Evans* whip round and come back at the *Melbourne*. He ordered his men to fall in, and waited for the impact. Stevenson, aghast at the *Evans*' apparent act of suicide, ordered collision stations and full astern both engines.

As the *Evans* lunged at the *Melbourne*, people on the carrier could see the bridge of the destroyer. It appeared to be deserted. No order of collision stations was made on the *Evans*, so that many sailors were still asleep. At 3.15 am the *Evans* dived under the bow of the *Melbourne* and was cut in two. Seventy-four on the destroyer were killed, including three young brothers, Kelly, Greg and Gary Sage of Nebraska. McLemore, Ramsey and Hopson were among the 199 survivors picked up by the *Melbourne*.

Admiral Crabb signalled the Naval Board that, in his view, it had been quite impossible for the *Melbourne* to avoid the *Evans*. Captain Stevenson, Crabb said, had personally taken every action possible to avoid collision. Navy Minister Kelly was this time smartly into the field with a statement. He said publicly that, without pre-judging the evidence, from what he knew of the efficiency of the Australian Navy, the *Melbourne* would come out of any inquiry with a clean sheet. There was some suggestion that this confident posture did not entirely please the US Navy which had been under increasing fire for some years for alleged inefficiency.

A joint US-Australian Board of Investigation was set up at Subic Bay to inquire into the cause of the collision. Vice-Admiral Sir Victor Alfred Trumper Smith was then Chief of the Australian Naval Staff. His opposite number in Washington, as Chief of Naval Operations, was Vice-Admiral Thomas H. Moorer. The RAN was represented on the board by Rear-Admiral David Stevenson and Captain Ken Shands, who were both experienced sailors, and Captain John Davidson, who was a supply officer. Admiral Stevenson was no relation to Captain Stevenson.

The US Navy had three representatives on the Joint Board, but the scales were decisively tipped their way by the appointment of Rear-Admiral Jerome King as president and an American naval officer as senior counsel assisting the inquiry. It was appreciated that King would have a lively interest in the outcome, since McLemore, Ramsey and Hopson were part of this task group, and he was thus responsible for their performance.

Mrs Jo Stevenson, wife of Captain J. P. Stevenson, had spent some time in Washington when her husband was naval attaché there. Before the inquiry started, she received a message from a Washington source she regarded as reliable. It said: 'The United States cannot afford to be found completely to blame in this collision.' Mrs Jo Stevenson attended all the open sessions of the inquiry and took a shorthand note of the evidence. This was fortunate since King made an early ruling that no witness could attend the inquiry except when he was giving evidence, and the transcript was never published.

The night before the inquiry started, King conferred with the Australian No 1, Admiral David Stevenson, for some time over drinks. At 10.30pm, Admiral Stevenson arrived in the officers' club, where Crabb had been dining. Crabb sent his steward out for some sandwiches for Admiral Stevenson. 'You are not going to like what's going to happen, but that's the way it has to be,' Admiral Stevenson told Crabb, his senior officer. 'I can't say more,' he added cryptically.

As soon as the inquiry started, on Monday June 9, King made a ruling that caused Crabb to send a signal of protest to the Australian Naval Board in Canberra. The Naval Board, of which Vice-Admiral Sir Victor Alfred Trumper Smith was first naval member and Samuel Landau was secretary, had instructed Lieutenant Anthony Vincent, a lawyer on the RAN reserve, to attend all meetings of the Joint Board to watch the interests of the Australian witnesses. King ruled that Vincent not only could not adopt a legal role at the inquiry, he could not attend the inquiry at all, even as an observer. However, King later allowed some American witnesses to have legal representation.

Crabb received no reply to his signal of protest, but the Naval Board sent a signal to Admiral David Stevenson. Vincent remained barred.

King made a further ruling, the net effect of which was that neither Ramsey nor Hopson was obliged to give evidence. The argument was that, since King had declared them to be persons suspected of negligently hazarding a vessel, having to give evidence might infringe their constitutional rights. The credibility of this argument suffered somewhat from the fact that the function of the inquiry was to find out what caused the collision; it had no punitive powers, and evidence given at it could not be used against the witness in any future proceedings. In the event, Hopson gave evidence, but Ramsey declined. Late in the proceedings, King let in some unsworn and untested written statements by Ramsey, one of which said he had incorrectly decoded the message giving the Melbourne's course. How King, or any other member of the joint board, proposed to determine the cause of the collision without examining the principal witness was not disclosed.

The Australians on the joint board did not play any great role in the open sessions of the inquiry, but handling of some of the witnesses aroused some comment. Whenever the subject of the Larson's near miss came to the surface it seemed as if the witness was steered away. King's interrogation of Lieutenant Russell Lamb, who was on the Melbourne's bridge at the time of the collision, made Mrs Jo Stevenson feel sick. She thought about writing an open letter to that former naval person, President Nixon, but settled for a private letter to Admiral Thomas H. Moorer, chief of US Naval Operations, whom she had met in Washington. She wrote that King had made 'a savage, criminal lawyer type attack' on Lamb 'in such a way as to suggest that not only was (King) not impartial, but that he was blatantly biased in this matter.' She appealed to Moorer, 'in the interests of justice and fair play,' to read the testimony and judge for himself. She received no reply from Moorer, but two months later got an undated letter from a US Navy PR man saying she could 'rest assured that Lieutenant Lamb's testimony' will be heard by the proper authorities.

(Admiral Moorer, chairman of the US Joint Chiefs of Staff since 1970, in 1974 found himself in the somewhat embarrassing position of having to confess that, during a period in 1971 when Dr Henry Kissinger was engaged in secret negotiations with Moscow, Peking and Hanoi - negotiations that may

have run counter to the world view of the US military establishment - he (Moorer) had received documents stolen from Kissinger's office.)

Rear-Admiral David Stevenson and Captain Shands and Davidson came back to Australia with the report of the Joint Board on 19 July. On Friday, 15 August. it was announced that Captain J. P. Stevenson would be court-martialled and an agreed-upon summary of the findings of the Joint Board was released. The report of the Joint Board was never published in full, while the summary, at least in connection with the various errors on the American side, was vague. The principal errors made on the *Evans* appeared to be a mistake in decoding a message relating to the *Melbourne*'s course, and a failure to call the captain from his bed. 'The members of the board,' the summary said, 'were of the opinion that a share of responsibility rests with the *Melbourne*, relating to more positive actions which might have been taken in signals sent to Evans.'

There were two views on the decision to court-martial Captain Stevenson. On the one side, it was seen as part of the Australian naval authorities continuing desire to fall in with American wishes. On this view, the US Navy's PR machine again rose to the occasion. A friend in America later told Captain Stevenson: '(In American papers) for at least twelve hours no mention was made of *Evans*' prime guilt, but only that you were being court-martialled because you shared the responsibility.' Further, Mrs Stevenson says her husband was told: 'If we don't take action against you, the Americans may never give us command over their ships again.'

On the other side, the court-martial was seen as giving Captain Stevenson a chance to retrieve the reputation both of himself and the Australian Navy. The Navy saw the court-martial as a test of the findings of the Joint Board, and, since the findings were unanimous, of the performance of the Australian representatives on it. The extent to which it was a test of the Australian Naval Board would depend on the extent to which that body was involved in the various manoeuvres, and this was, at best, obscure. All things considered, prudent officers, with future promotion at stake, might judge the court-martial would be a splendid thing not to get involved in. And there did, indeed, appear to be some difficulty in getting a team together to form the tribunal. 'Sudden sickness,' The *Sydney Morning Herald* reported, deadpan, on 18 August 1969, 'has ruled out several likely officers, and (there is) the possibility of sickness among others.'

The charges, arising from the full report, against Captain Stevenson were two:

THAT he failed to put his engines astern when he determined that a collision could not be avoided by the *Evans* alone.

THAT he failed to give a positive direction to the *Evans* when he determined that it was on a collision course.

Captain Stevenson obtained at Government expense, the services of Gordon Samuels QC, who, with Frank Burt QC, had demolished many of the findings of the first *Voyager* Commission. Willing to give evidence on his behalf were two of the great drivers of the Australian Navy, Rear-Admirals (retired) Galfrey Gatacre and George Oldham. Samuels looked at the case against Captain Stevenson and decided there was nothing in it; he would not trouble to produce defence witnesses.

Captain Stevenson was opposed to this course. He was keen to be heard himself, and also to get Admiral David Stevenson and Captain Shands into the box to find the basis on which they put their names to the report of the Joint Board. Samuels was firm, and the court-martial was a relatively brief affair.

Crabb, called as a witness for the prosecution, said that Captain Stevenson was a first-class ship-handler, that it would take six minutes for the *Melbourne* to stop after its engines were put full astern, that Stevenson's warning was 'ample, sufficient and proper,' and that any more explicit instruction might have further confused the *Evans*. On that matter of giving a more positive instruction, the Judge Advocate, Commander P. L. Sharp, asked the prosecutor: 'What was he supposed to do - turn his guns on them? Sharp directed the court that Stevenson had no case to answer on either charge. The tribunal

returned verdicts of honourable acquittal - meaning that Captain Stevenson's professional conduct and personal honour were not impugned - on both charges on 26 August.

The three Americans, McLemore, Ramsey and Hopson, were not court-martialled. Early in September, all three were reprimanded, the lightest sentences available.

Captain Stevenson was given a shore posting which he judged to be a demotion, but which the naval authorities claimed was not. Stevenson was now in the same position as Captain John Robertson after the first *Voyager* Royal Commission: if he resigned, he would get no pension. In November 1969 he requested permission to retire. In December, the new Navy Minister, Jim Killen, asked for his reasons. On 11 December, Captain Stevenson, handed Killen a letter. According to Mrs Jo Stevenson's account in her book *No Case to Answer* the letter said 'he would, if he continued in the RAN, have to serve with men for whom he could now hold little respect - those who had put their signatures, for whatever reasons, to the Subic Bay Report, and others whose statements he found to be inconsistent with events.'

On Christmas Eve, Killen told Captain Stevenson his request to be allowed to retire would be refused. The refusal was made official in a letter from Samuel Landau, Secretary of the Navy Department.

John Jess, the Liberal MP, who after three years had forced the second *Voyager* Royal Commission on an unwilling Government and Naval Board, took the matter of Captain Stevenson's pension up with Killen. Receiving no satisfaction from that quarter, Jess approached the Prime Minister, Mr John Gorton, and spoke bluntly. Jess said it seemed to him that the way the Naval Board and the Treasury were handling the matter was 'just bloody stupid' - that the people of Australia would not take it for a second time. 'If you want another *Voyager*,' he said, 'you've got it'. Gorton intervened. Captain Stevenson received his pension and later got a job with a gas company.

On 1 January, 1970, Admiral David Stevenson was made a Commander of the British Empire. Rear-Admiral King was later promoted to Vice-Admiral, and as from January 1973, was appointed to Admiral Moorer's staff, as a director of the Joint Chiefs of Staff. On 27 June, 1973, it was announced that Admiral David Stevenson would become Chief of the Naval Staff on 22 November, 1973, in succession to Sir Richard Peek.

A month later, Crabb resigned from the Navy. He was reported as saying his resignation was for 'entirely private and personal reasons'.

The present writer penned for *The National Times* of 11 February 1974, an editorial on the *Evans* affair. It read:

The Evans affair, detailed on this and previous pages, contained a number of lessons both for America and Australia.

First, Captain J. P. Stevenson, returning from Subic Bay, where he had noted one of the American accused, Ramsey, celebrating his sentence, amid laughter and champagne, with the prosecutor and the military judge, said his faith in American justice was completely shattered. Stevenson's wife, an American, in 1971 reflected in her book on the affair: 'The bruise in the apple spreads quickly, and the whole becomes rotten unless a sharp knife in a firm hand is wielded soon enough.' Mrs Stevenson wrote truer than she knew. Her judgment is amply illustrated in the Watergate supplement in this issue. Sharp knives, in hands as firm as those of, Judge Sirica, are now being wielded in America, but remain sheathed in this country.

Second, the Voyager and Evans affairs, like the Petrov affair before them, reveal the ease with which public inquiries, Royal Commissions and the like can be manipulated.

Third, Australia's behaviour during the Evans affair is exemplary of an unfortunate attitude of mind displayed since 1901 by many who have aspired to be our leaders. This attitude, a craving to shelter behind the protection, real or imagined, of great and powerful friends, has sorted oddly with the actual performance in the field or on the water of the ordinary men who have found themselves obliged to

carry out the fruits of that attitude. The people, the soldiers, the sailors, rarely get the leaders they deserve. The leaders are rarely good enough for the led. The sacrifice of a competent sailor and the reputation and morale of the Australian Navy - against the possibility that the Americans would no longer play boats with us - may have seemed barely marginal. It is possible, indeed, that we were grateful that the Melbourne, if not Australia, was not clandestinely bombed.

The point that the Neville Chamberlains and the Dukes of Plaza-Toro of the Defence and Foreign Affairs Departments, and their political masters, seem to find difficult to grasp is that the great and powerful friend looks first to his own interests, whether he be His (or Her) Britannic Majesty, Mr L. B. Johnson, Mr R.M. Nixon, Lieutenant-General T. N.J. Soeharto, or Mr Chou En-lai.

The client mentality represents a failure of confidence, of nerve, of sophistication, and of maturity. Windy bravado and gratuitous insults are not appropriate substitutes. But, as we approach the 75th year of our independence, Australians may dare to hope that the attitudes revealed so acutely in the Evans affair may give way to a more intelligent and less craven approach - that we may live, in fact, to see an end to the politics of poltroonery.

Is Bathurst burning?

'Three of them knocked me to the ground with their batons. I tried to get up, but they kept on knocking me down.'

- Bathurst prison report, June 1974

For generations elements of the trade of authority in New South Wales engaged in a particular form of criminal activity, ie. regular and unlawful assaults on persons in the care of the State, notably at Grafton prison. The assaults were carried out as a matter of policy, and the perpetrators understood it was done with the knowledge and tacit acceptance of the Executive Government. The Executive, in the person of the Minister of Justice and for Prisons, John Clarkson Maddison, thus sought to conceal such activity that took place at Bathurst prison in February 1974. As events unfolded in the courts, interactions were revealed between the Executive and the bureaucracy, the investigating police, the prosecuting branch, and the magistracy. The policy was eventually exposed, and terminated

Early in the afternoon of Sunday, 3 February, 1974, there was a disturbance at Bathurst Jail. Part of the prison was burnt down. The prisoners surrendered, according to police, no later than 8 pm. In the following few weeks, a squad of more than 20 police headed by Detective-Inspector Alexander Birnie, of Sydney, interrogated prisoners. In late June, a police prosecutor put before the court a record of one of those interviews. In part, it went like this:

'After they fired about five or six (tear gas canisters), a prisoner said: "Open the gates and let us out because a couple of us are nearly choking." 'So they opened the gates, and we started to abandon the yard.

There was a gauntlet of officers with batons and shields and they made us run through them. The gauntlet went all the way up to the back of the vans, and they knocked this prisoner down in front of me, knocked him out ... They knocked me to the ground with their batons, and started kicking and punching me with a lot of other officers. One said: "Get up, you dog, I've been waiting for you for a long time..." and he started kicking and punching me again while about six or seven others hit me with their batons ... they flogged us again; made us get up against the fence, about 97 of us. They told us to take off our clothes. Then they told us to face them, and don't look at them ... Three of them then knocked me to the ground with their batons. I tried to get up, but they kept knocking me down.... They started up the escort vans then, plus a bus. When we got outside the gates of the Bathurst Jail, the reporters were there. The bus pulled up in front of us. The reporters then put their microphones up to the windows, and asked the prisoners if they were battered and they said: "Yes..."

These allegations of felonious assault were in the hands of police during February. But police may judge that a jury might not believe the uncorroborated evidence of a prisoner.

However, independent evidence tending to corroborate the allegations was also in the hands of a policeman two days after the events, and in the hands of the officer in charge of the investigations during March.

Early that same Sunday afternoon, the medical superintendent of Bathurst Hospital, Dr Kenneth Doust, was in West Bathurst. At 2.10 pm smoke drew his attention to the jail and he immediately went there. Dr Doust, 44, had been a doctor for 22 years. He had led an Australian medical team in South Vietnam, and was now visiting surgeon to the jail, as well as being Government Medical Officer in Bathurst. He was in and out of the prison several times until he finally left at 2.45 am the next morning.

The next night, Monday, 4 February, Dr Doust wrote a report of what he had done and seen at the jail on the Sunday afternoon and in the early hours of Monday morning. He has since said that he gave the substance of that report to a policeman who interviewed him within two days of the riot. The same policeman later had him sign a record of the interview, but did not give him a copy of his statement.

Part of this report of Monday, 4 February, said: '... Called to jail at 1 am, on 4.2.74. Advised that a number of GSWs (gun shot wounds) had been found on prisoners from earlier disturbance. Action: Arrived jail 1.10 am, left 2.45 am. Noted: 1.10 am on arrival, front yard packed with people most whom had light coloured wooden batons about 30 in. in length. Comment: Attached is actual list. Noted that the head injuries were recent - not more than 2.4 hours old and were consistent with heavy blow from a linear object - consistent with the light wooden baton - not consistent with heavy truncheon injury. One prisoner had three separate lacerations and contusions of scalp. He also had over 30 linear weals and recent bruises of back, sides of chest, and both arms consistent with heavy beating by linear objects. I note that the lines of the weals indicate that blows had been directed from both sides - the appearance was such that they all appeared to have been received about the same time... One other head injury had very severe contusions, as above, to right lower leg and also back of trunk with same bilateral nature. This prisoner was slightly confused and appeared quite shocked - I had him admitted to jail hospital. One prisoner with pellet wound behind left ear also had indications of linear contusions to his back - he did not complain of them. No prisoner stated manner in which injuries occurred apart from GSWs - it is noted that most injuries indicate that they (GSWs) were received from a posterior aspect.

On Monday, 4 February, John Maddison, Minister of Justice (and in charge of the police and the department of Corrective Services), said an open public inquiry would be held into the riot. He did not say when it would be held. The first reference in print to the alleged unlawful assaults on prisoners at Bathurst appears in Hansard for Thursday, 28 February. Speaking in the House of Assembly on the adjournment at 4 pm on that day, Mr George Petersen (Labor, Illawarra) disclosed that on Monday, 4 February, he had heard that prisoners had been assaulted, and had been in touch with Maddison on the matter. Petersen said: 'This is not the first time I have had to raise in this House the subject of assaults on prisoners. I raised the assaults on Long Bay prisoners in 1970. The Minister knows those bashings took place, although he continues to deny it, the last time being in his statement on Monday, 4 February, on radio station 2KY. It is extremely difficult to find out the truth in these matters because no confidential communication is allowed with prisoners until they are released from prison. When other communications occur, they are always supervised by prison officers.

'After the Bathurst riot I was told by some observers from the Penal Reform Council and by impartial journalists that prisoners being transported from Bathurst to Long Bay by bus had complained of bashings. I sought permission to visit those prisoners and was advised by the Minister of Justice on 4 February, 1974, that because of pending inquiries he could not agree to the interview as suggested.

Maddison replied: '... It is becoming quite obvious to me that the honourable member for Illawarra is quite paranoid about these matters. ...' He said that in the past two years the Government had set up an inquiry into alleged maltreatment of prisoners at Goulburn jail. The chief stipendiary magistrate, Murray Farquhar, who had conducted the inquiry, had found the allegations to be completely without foundation. 'If,' said Maddison, 'the honourable member for Illawarra likes to give me specific evidence

in greater substance than he has been able to present this afternoon, of any claim of maltreatment of any prisoner, that will certainly be investigated. . . '

Sir Robert Askin announced on Tuesday, 5 February, that a Royal Commission, presided over by a judge, would inquire into the destruction of Bathurst jail, the circumstances of the riot, and its underlying causes.

Two days later, Walter McGeechan, 50, Commissioner for Corrective Services, spoke to the *Sydney Sun*. He said he had instructed police 'to prosecute those prisoners (responsible for the destruction of the jail) with the utmost vigour of the law for a criminal act.'

At some time between Tuesday, 12 February and Tuesday, 19 February, it appears, there was a change in thinking on the Royal Commission. John O'Hara, *The Sydney Morning Herald* State political correspondent, reported that Cabinet would support Maddison's recommendation for a Royal Commission confined to the riot. He wrote: 'Cabinet yesterday gave Mr Maddison approval to prepare terms of reference for a Royal Commission on this basis. He is expected to present the terms of reference to Cabinet next Tuesday . . . Mr Maddison is expected to discuss with the Attorney-General, Mr McCaw, the question of obtaining a Supreme Court judge for the inquiry. The judge probably will be named after next week's Cabinet meeting.'

However, by 19 February, things had changed. On that day, Maddison told the House that charges 'against people associated with the destruction of Bathurst jail' were imminent. Outside the House the same day, Maddison gave the first intimation that the Royal Commission had suddenly and rapidly receded into the dim distance. He announced that the Commission, and its terms of reference, would be delayed until all criminal charges against prisoners had been heard. He said his department had advised that once charges were laid, 'doubts arose as to the validity of a Royal Commission inquiring into an incident containing evidence relevant to the hearing of the criminal charges.'

What he didn't disclose was that police had been orally instructed, no later than March 1974, to investigate the prisoners' crimes, but not the warders.' In September 1974, as the heat increased, the chief investigating officer, Inspector Alexander Birnie, and the Police Commissioner, Fred Hanson, compelled Maddison to put that instruction in writing. The instruction not to investigate these crimes did not emerge until Birnie gave evidence in August 1975; eighteen months after the event.

On Tuesday, 26 March, 23 convicts appeared in court, and on Wednesday a further 22 convicts appeared. Each was charged with having been one of a group which riotously and tumultuously assembled to the disturbance of public peace, and which unlawfully, and with force, damaged and destroyed jail buildings, at Bathurst on 3 February.

On Tuesday, 23 July, at one of the committal hearings, Maddison sent to the court a certificate concerning reports made by warders. The incident was not reported in the press at the time, nor was it reported when the matter was brought up in the House by Petersen on 20 August. Petersen said, after his usual preamble: '. . . A subpoena was issued on Mr McGeechan to produce all the reports, memoranda and statements by prison officers Milton, O'Donnell and Mason, touching prisoner William Joseph Kennedy. The magistrate ordered these documents to be produced just before the luncheon adjournment on Tuesday, 23 July. In the afternoon, a barrister, Mr Rex Smart, appearing for the Commissioner of Corrective Services, produced a certificate signed by the Hon J. C. Maddison, Minister of justice, stating, inter alia: "These reports were made by the respective officers at the express request of the commissioner and upon the commissioner's express undertaking to these officers that they would not be used against them in any way or disclosed in any criminal court proceedings."

'This is an incredible position. What the minister is doing is suppressing revelation of crime. President Nixon was sacked for doing just this. What is so special about the Minister of justice? I remind the House, and particularly the Minister of Justice, what the United States Supreme Court has said about just this kind of action: In the absence of a claim of need to protect military, diplomatic or sensitive national security secrets, to ensure that justice is done it is imperative to the function of courts that compulsory process be available for the production of evidence.'

The following speaker, Mr John Jackett (Liberal, Burwood), said: 'The whole thing stinks of being a communist plot...'

The Watergate analogy in the matter of Maddison's certificate did not occur to Petersen alone. Of that incident, a Sydney barrister James (later Justice) Staples on 30 September wrote in *The National Times*: 'By his cooperation in the unseemly offer of the Commissioner, the Minister of Justice belies the dignity and the import of his office. Why should he stay and President Nixon go? I fail to see any difference in principle between the two cases. Quite apart from this claim of executive privilege, there was a further curious aspect of this matter. Later, questioned in court, the prison officer who had made the statements which were the subject of the minister's certificate did not recall any undertakings or promises or assurances being given to them at all.'

The committal hearings of charges against 47 prisoners proceeded in batches of about a dozen from June through October 1974. Of those hearings, Staples later wrote, 'The tactics of the prosecution throughout the committal was to prevent any reference to the aftermath of the day.'

The issue came to a head on Thursday, 29 August, when Dr Doust was being cross-examined by Staples. Dr Doust had not been produced as a witness by the prosecution, but was called by one of the defendants, which gave counsel for other accused the right to cross-examine him. Staples had got to within two questions of bringing out Dr Doust's evidence on what he saw at the jail early on Monday, 4 February when the Prosecutor, Sergeant Jack Nesbitt, objected. (As noted in the material on the Humphreys case, it may have been Nesbitt who, three years later, suppressed the complaint of the prosecutor, Sergeant Darcy Cluff, about the way Magistrate Kevin Jones handled the case.)

The Magistrate, Harry Berman, asked Staples how the question ('Were those injuries you saw then gunshot wounds?') was relevant.

'Your Worship knows full well it is relevant,' Staples replied. 'Sergeant Nesbitt knows it is relevant. The police knew it was relevant: they took the statement, Your Worship. Perfectly relevant; let us not have any hypocrisy in this court.'

Berman said he had indicated time and time again he was not conducting an inquiry into the administration of the jail. He disallowed the question.

Staples said it was no longer possible for him 'to regard this court as a court interested in the law, interested in the truth, or interested in fairness to this boy,' and walked out.

(On 6 September, Berman, reported Staples to the NSW Bar Association, enclosing a version of the transcript relating to this passage. Maddison disclosed this action to the House on 10 October. On 4 December, the Bar Council, after hearing Staples, found unanimously (19-0) that there was no cause to discipline him.)

Within 30 minutes, the whole thing was out and on the record. Staples was followed by Greg James, a barrister. Through a volley of objections, James managed to ask Dr Doust: 'In fact, you did see blows, or the results of blows, just like that on the prisoner, did you not' 'I did,' Dr Doust replied.

James was followed by another barrister, who asked some questions about events during the riot, and then Ian Dodd, a solicitor, rose. In the light of earlier events, what followed was curious. It is not known whether the previous fusillade of objections had exhausted Nesbitt; or whether, after the heavies of the Bar had been on and off the stage, no fireworks were expected from a young solicitor; or whether Dodd's preliminary questions about such obscure matters as loud-hailers, smoke, and wind, had taken the edge off Nesbitt's alertness.

Whatever the reason, Dodd had, by comparison with Staples and James, an armchair ride, and in a passage of no more than two minutes, at page 2168, he was able to lock up without objection, all of Dr Doust's evidence, including the facts that: From 1.10 am on 4 February, Dr Doust saw prisoners with contusions and lacerations to the head, and in two cases with contusions to both sides of the body; it was

his opinion that the injuries were received no earlier than 9 pm the previous night; the injuries were consistent with having been sustained from the use of light wooden batons; he had seen a number of prison officers and also police with light wooden batons.

It will be recalled that six months earlier, on 28 February, Maddison told Petersen that specific and substantial evidence of maltreatment of prisoners would 'certainly be investigated.' On Thursday, 26 September, a question from Petersen to the Minister of Justice was put on the notice paper. The question was: 'Have recent magistrate's hearings in connection with charges arising out of the Bathurst prison riot disclosed evidence that a number of prisoners were beaten by prison officers after the riot had been subdued?' Maddison did not reply until Wednesday, 13 November. And when he did, the answer was one word: No.

The National Times of Monday, 30 September carried an article by Staples headed Justice in NSW Means We Are NOT All Equal under the Law. In the article, Staples commented on a num of recent cases including the Bathurst affair. Before publication, *The National Times*, advised by lawyer Frank Hoffee, who apparently anticipated Maddison's response, obtained the signatures of two independent lawyers for each of the cases dealt with. The lawyers indicated that the facts in each case were accurate.

In the article, Staples tied together the prisoners' allegations of unlawful assault, and Dr Doust's apparent corroboration of them. On the alleged assaults, Staples wrote that he was left in no doubt that the suspicion remained that there were a number of persons who could be fairly charged with the following crimes: Assault (and / or) assault occasioning actual bodily harm. Misprision (concealment) of felony. Conspiracy to obstruct the course of public justice.

In the House on Thursday, 10 October, Maddison said it was a shameful article and was based on completely false premises. He said: 'There are no facts on which the criticism could be validly based ... I believe this House should condemn the article and the writer.'

In a leading article in its 21 October issue, *The National Times* stated: 'No newspaper can claim legal expertise. But prior to this new publication we took advice, as we have done before, on Mr Staples's contribution, and we are assured that Mr Staples's law is good.'

Referring to Maddison's statement in the House on 10 October that Staples's original article 'was based on completely false premises,' *The National Times* said: 'Made under privilege, these statements carry the implication that this newspaper had recklessly printed a series of lies ... That statement of the Minister of Justice - and there is no point in being other than blunt about it - was false. . .'

In the same issue, of 21 October, an article in *The National Times*, headed 'Doctor's evidence on jail injuries ignored,' traversed the evidence given by Dr Doust when cross-examined by James and Dodd.

That article also contained the response of the Police Department to questions put, through the department's public relations office, to the Commissioner, Fred Hanson.

The questions were:

Have any charges been laid against warders at Bathurst jail following events at the jail on 3 and 4 February?

If no charges have been laid, and in view of a statement given to police by Dr Kenneth Doust in February this year, can the commissioner give the reasons why no charges have been laid against warders?

The department's press officer, Inspector K.M. Baret, told *The National Times* that the department would give no answers to the questions. He said the answers may refer to matters of policy, and suggested that Maddison would be the best person to direct the questions to. As we now know, Hanson had had Maddison's written instruction not to investigate in his pocket since September 24.

On Wednesday, 23 October, Maddison told *The National Times* the first he knew of evidence that prisoners may have been beaten was when he read of Dr Doust's evidence in the paper's edition of 21 October.

Maddison, now twisting slowly in the wind, said there was an obligation for the police to pursue an investigation if there was evidence of an apparent criminal assault. He said if there was evidence of criminal acts by prison officers the police must investigate it. Maddison agreed that at face value, the evidence suggested there was reasonable ground for a police investigation.

The National Times on Thursday, 24 October, submitted a number of questions to Police Commissioner Hanson.

They included:

Was there any investigation by police into allegations of unlawful assault on prisoners at Bathurst jail?

If so, what was the result?

Was a report made to the Minister?

Were prison officers interviewed in any police inquiries into allegations of unlawful assault on prisoners?

On Friday, 25 October, Inspector Baret replied: 'the Commissioner said no, he would not answer any of your questions because the matters are *sub-judice*.

'The hearing of charges against a number of prisoners are yet to be heard, and there has been talk of a Royal Commission so the Commissioner cannot comment.'

This reply of course was nonsense, as was pointed out by Paul Stein, a Sydney barrister, in a letter to *The National Times* the following week.

Stein wrote: 'The essence of the *sub-judice* rule is that statements shall not be made commenting on proceedings pending before the court in a manner which may tend to prejudice the fair trial of the person charged. I fail to see how the fair trial of the prisoners can be prejudiced by the Commissioner saying whether or not the allegations of unlawful assaults have been investigated by police.... It is reprehensible that allegations of criminal offences may not be investigated on this flimsy pretext or that, if they are being investigated, the public cannot have that reassurance.)

The National Times then submitted the same questions, and Hanson's response, to Maddison's press secretary, Peter Sinclair. On Friday, 25 October, Sinclair said Maddison would not be able to deal with the questions until the following week because of pressure of other work. He said that Maddison would make inquiries into the matter. A week later, Sinclair said Maddison had still not had time to get the answers. A week after that, 8 November, Sinclair issued a press statement to *The National Times* which had nothing to do with the questions asked.

On Wednesday, 13 November, Sir Robert Askin announced that an election would be held on 20 November to decide who would succeed him as Premier. Maddison announced he was available for selection as either Premier of NSW, or deputy-leader of the Liberal Party.

On 18 November, three weeks after Maddison had said he would make inquiries, *The National Times* asked Sinclair if Maddison would give a simple 'yes' or 'no' answer to the question: 'Did the police investigate the allegations against the warders?' Sinclair went away. When he came back to the telephone, he said: 'The Minister says he will not answer that question.'

On Wednesday, 20 November, Maddison replaced Eric Willis as Deputy Leader of the Liberal Party. Willis had been deputy leader for 15 years. John O'Hara, *The Sydney Morning Herald's* State political

correspondent, later estimated that the votes of Maddison and Peter Coleman, (Fuller), had put Tom Lewis over the top 18-15, in the second ballot for Premier.

In the vote for deputy leader, O'Hara understood, Maddison got the Lewis votes, giving Maddison a similar margin over Dick Healey. Asked if recent press reports on the Bathurst case and the administration of justice in NSW had affected his chances of becoming Premier, Maddison replied that, no, he didn't think so. He rather thought that 'a stomach wog' he'd had during the year had caused some members of the party to write him off as a healthy Premier.

On 22 November, 1974, the *Daily Mirror* reported Maddison, in connection with some criticism he made of Don Chipp who had advised parents of a raped girl not to report the crime, as saying: '. . . there is a necessity for satisfying the public that justice has been done. Full evidence from all parties is the only way this can be achieved . . .'

In the light of all these manoeuvrings within the trade of authority, it is pertinent to record an exchange between the late barrister (and former policeman) Mervyn Rutherford and Judge John Brennan while Rutherford was cross-examining Inspector Birnie on 12 August 1975. At the time, Rutherford's technique put me in mind of that of Tommy Burns in his famous contest with O'Neill Bell. In the early rounds, Burns seemed to be taking a lot of hard blows to the head, but he kept working away at Bell's soft underbelly, and in the end prevailed.

The passage raises the question of one of the great moral problems of our times: the duties and responsibilities of senior officials when confronted with instructions from superiors to carry out orders which may be immoral or illegal.

Instructions, for instance, such as those carried out by Adolph Eichmann in the last war; Lieutenant Calley and his soldiers at My Lai; CIA operatives in various parts of the world; and Richard Nixon's underlings before and after the Watergate affair.

RUTHERFORD: So far as you are concerned, the allegations of assaults by prisoners are concluded?

BIRNIE: As far as I am concerned, I have received a direction not to take any action in relation to these matters.

RUTHERFORD: To make it clear, that means you feel that your responsibility in that matter is now ended?

JUDGE BRENNAN: It has to, Mr Rutherford. He is a member of a disciplinary force. He has got no alternative.

RUTHERFORD: I don't know that that is so, Your Honour. I won't pursue it.

JUDGE BRENNAN: What is he going to do? Defy the Commissioner? Or what? He either abides or he resigns, I should think.

RUTHERFORD: Whom did the direction come from?

BIRNIE: It came from the minister, through the Commissioner of Police ...

RUTHERFORD: If you are directed by the minister through the Commissioner not to take any further action in respect of a complaint, you regard that as the end of the matter?

The Crown Prosecutor, Mr Joe Gibson, objected to the question, and Rutherford withdrew it.

Judge Brennan then said: 'Mr Rutherford, it simply is not right to put a question of that description in these circumstances.

"The witness is a member of the Police Force, a disciplinary force which operates under a Commissioner at the direction of the minister. He cannot defy that command, and it is not right to suggest to him that, like the hero in some television show, he should proceed regardless.

RUTHERFORD: With respect, that is not my understanding of the law.

JUDGE BRENNAN: Would you tell me what it is then?

RUTHERFORD: Yes, Your Honour. It is my understanding that police officers of seniority have a responsibility and a duty to continue the investigation, whether they are told to or not - that a political decision cannot be made to stop a criminal investigation.

JUDGE BRENNAN: Are you putting it that, in regard to a specific direction through the Commissioner that a man occupying the rank of Inspector has not only the right, but in some circumstances the duty to defy the Commissioner?

RUTHERFORD: Not to defy the Commissioner, Your Honour, but to obey the terms of his oath.

JUDGE BRENNAN: Let us not be mealy mouthed. To defy the Commissioner.

RUTHERFORD: If it involves defiance of the Commissioner, Your Honour, then that is just one of the exigencies of his oath. I can understand that a junior policeman cannot decide for himself (whether) he would prefer to investigate a murder rather than direct traffic at Bankstown, but where we have an officer with an area of responsibility, then his responsibility is governed by his oath, and not by what he is told to do. If that is not the situation, then it is a very serious state of affairs.

JUDGE BRENNAN: I have seen it happen on television but not elsewhere, and I reject the question, Mr Rutherford ...

5. MACHINE POLITICS: The Botany Affair

The Botany matter has raised continuing questions about the administration of justice in New South Wales since 1975. Keith Rupert Murdoch's newspaper publishing group, News Ltd, bought land for a printing works in the Botany area in the early 1970s. In 1972, according to later evidence by Murdoch, News Ltd paid about \$74 000 to help cover the Labor Party's advertising costs in the campaign that saw the election of Labor's Gough Whitlam as Prime Minister of Australia. In 1974, Botany Council was considering rezoning the News Ltd land from industrial to residential. Neville Kenneth Wran later gave evidence that Frank Shaw, a News Ltd executive, complained to him about the rezoning at a luncheon in the News Ltd board room on 18 March 1974. Wran and Shaw later denied that money was mentioned at the luncheon.

Wran, then leader of the Labor Opposition in New South Wales, said that on 19 March 1974 he asked the local Labor member of Parliament, Laurence John Brereton, then 27, to look into the matter. Brereton spoke to four Labor members of the Botany Council. The four aldermen later alleged that Brereton told them that the Labor Party owed News Ltd a favour for help during the 1972 Federal election. They alleged he said that if they voted at the Council to defer the zoning decision, News Ltd would give the party \$20,000, of which \$5000 would go towards the aldermen's election expenses. Brereton, they alleged, also said that if they did not vote to defer the zoning decision, they would lose their Labor Party pre-selections for future Council elections. The aldermen did not vote to defer, and soon after lost pre-selection.

In 1975, Brereton was charged with attempted bribery in relation to the Botany matter. In technical terms, the allegation was that he did unlawfully, wickedly, and corruptly devise and contrive to tempt, seduce and corrupt certain aldermen of the Botany Municipal Council. Also, charges of conspiracy to corrupt the aldermen were laid against Brereton and Geoffrey David Cahill, secretary of the New South Wales Labor Party.

The cases came before magistrate Murray Frederick Farquhar in August 1975. Neither Brereton nor Cahill gave evidence. Dealing first with the conspiracy charges, Farquhar found there was insufficient evidence to sustain the charge against Cahill. This left no one with whom Brereton could have conspired, and so that charge against him necessarily failed. A week later, Farquhar held that on factual grounds there was a *prima facie* case of attempted bribery against Brereton. However, he dismissed the charge on legal points, including that the common law charge of bribery had been displaced by the Local Government Act.

The Crown Solicitor later advised that Farquhar had erred in law and Solicitor-General Reginald Marr directed on 12 September 1975 that an *ex officio* indictment against Brereton be laid in the District Court. The Attorney-General in the Liberal-National Party coalition Government, John Clarkson Maddison, was out of the country at the time. Deputy Crown Prosecutor T. Davidson QC actually filed the indictment before judge Hicks on 27 October 1975, by which time Maddison was back in the country. There were later arguments for and against the proposition that the Solicitor-General's power to initiate an *ex officio* indictment became null when the Attorney stepped back on to the shores.

The charges against Brereton had not been heard when the Government changed hands on 1 May 1976. Wran became Premier and Francis John Walker became Attorney-General. About August 1976, Davidson QC advised Walker that the *ex officio* charge against Brereton was null and void in that it had not been properly filed. It did not emerge until 1987 that Senior Crown Prosecutor Vin Wallace QC disagreed with this interpretation of the law by his deputy. Wallace then said he had been asked to state whether he agreed with Davidson's opinion. 'I do not, and said so,' he said. It emerged that Wallace had given his opinion verbally to a senior justice Department official, Trevor William Haines.

However, Wallace's advice was not sought by Walker, nor was it received by him. Walker directed that 'no further action be taken' against Brereton.

The Labor caucus elected Brereton to the cabinet in 1981, and Wran gave him the Health portfolio. In 1983, deputy Opposition leader Leon Punch urged Chief Justice Sir Laurence Street to re-examine the Botany matter as part of his inquiry as to whether Wran had sought to get Farquhar to fix a court case concerning Rugby League chief Kevin Humphreys, but Street ruled it was outside his terms of reference. Wran gave Brereton the Public Works portfolio in 1984, and the signature, much enlarged, of L.J. Brereton was imprinted on hoardings at building sites around the State. He was also involved in major plans for the redevelopment of Sydney's Darling Harbour, including the building of a monorail by a company associated with Sir Peter Abeles, and with plans by a Japanese company to drive a tunnel under Sydney Harbour. In 1986, on Wran's announcement of his retirement, Brereton was briefly thought to have the numbers in the parliamentary caucus to succeed him, but the party machine, in the person of John MacBean, intervened, and Barrie Unsworth got the nod.

The Botany matter surfaced again in 1987 with the emergence of Wallace's view of Davidson's 1975 opinion on the *ex officio* matter. Opposition MP John Dowd argued that there were 'clear precedents ... of Crown Prosecutors initiating *ex officio* indictments in their own right, as they are entitled by law to do.' Walker said that if he had been aware of Wallace's comments he would have sought a second opinion. An article in the May 1987 issue of the legal journal *Justinian* said: 'A *prima facie* case of bribery still clings to [Brereton], and it is surprising that he has not been at the forefront of insisting that his name be cleared completely. As was claimed in the NSW Parliament last month, with this record Brereton could not obtain a casino licence in the State.'

The Enmore Matter

In many of the traditional working class areas of inner Sydney, the criminal milieu has continued to dominate a number of local Labor Party branches through to the present day, giving elements of the NSW Labor Party overtones of a corrupt and violent machine.'

- Dr Alfred McCoy, Drug Traffic: Narcotics and Organised Crime in Australia, 1980.

Since Dr McCoy wrote these words, the New South Wales Labor Party has, to a greater or lesser extent, cleaned up its approach to inner-Sydney branches, but the odour lingers. On 2 June 1985, the Steering Committee, governing body of the Party's Left, issued a document asserting: 'The issue of corruption threatens to bring down the Wran Government. [Right wing] party officers must bear the responsibility for the stench surrounding NSW Labor ... the problem at hand is the Enmore conspiracy case.'

The Enmore matter was part of an integral struggle for power in Sydney's inner-west branches of the Party. Historically, these parts of the city tended to be populated by a more or less homogeneous blue-collar class of Irish Catholics, right wing Labor by inclination. Control of Labor branches tended to equate with control of local municipal Councils, and this in turn equated with control, for those so inclined, of 'patronage' of one kind or another.

Unfortunately, by about 1970 the inner-west suburbs were being gentrified. The Vietnam war had helped to produce a type that was aware, caring, and supportive, notably of trees. Such modish types were pouring into workmen's cottages, taking an unwanted interest in local politics and the quality of life. This alien race, the old right may have felt, did not understand the realities of local politics: they lacked a sense of the pragmatic; it was unnatural to prefer a park to a sunny smile from a developer; power was wasted on such people. In attempting to deny the modish that power, some local politicians had, or claimed to have, the support of the NSW Party's traditionally right-wing machine at Sussex Street in the city.

Daniel Patrick Casey was a senior figure in Balmain old right politics. Born in 1923, he joined the Labor Party in 1943, and became an alderman of Leichhardt Council in 1971. He was also proprietor of Balmain Welding. He later said that organised crime figure Stan (The Man) Smith was on Balmain Welding's payroll, as a sort of non-playing member, because debts had to be repaid: Smith's uncle had

helped him start the business. On the other side was Peter Baldwin, who was born in England in 1952, migrated in 1958, joined the Party in the late 1960s, and took degrees in mechanical engineering and economics.

The contest between the old right and the new left at times took on the appearance of a civil war. Baldwin fired the opening shots in 1972, when he joined the Balmain branch and began a campaign to recruit new members. A recruiter later described the method to *The National Times*' Anne Summers: 'We knock on their doors and ask them what they're into. Trees? Uranium? Coal-loaders? Whales? Whatever it is, we sign them up on that basis.' Aghast the right matched Baldwin's campaign, and membership of the Balmain branch eventually blew out to an absurd figure, something like 500.

1976 was quite a big year for various people who played roles of one sort or another in the civil war. By then, Baldwin and the left had, in theory, the numbers to control the Balmain branch. He was also elected, at age 23, to the New South Wales upper House, the Legislative Council. Some members regarded the Council as a superior gentlemen's club, but Baldwin treated the post as a full time job, and lived on its fairly meagre emolument, which, even by 1981 was no more than \$16 300 a year.

Graham Frederick Richardson was by 1976 a major figure in the Sussex Street machine. The son of a union official, he was born in 1949, joined the Party at 15, tried his hand as a law student, became a State organiser for the Party in 1971, and married Cheryl Gardener, a trained stenographer, in April 1973. Richardson candidly described the rigours of his early married life and union work to *The National Times*' Alan Ramsey in October 1983: '-then we got married, lived in the unit [in Ramsgate] for a while, and had a baby. We moved to a new house a quarter of a mile away. It cost me heaps. I had a mortgage I couldn't possibly afford. I remember for over a year we had a gross income of \$9000 and I was paying \$4500 on the mortgage. That was hard, very hard. We were really struggling.'

Richardson later advised the Woodward Royal Commission on drug-trafficking that he met Casey in 1973, regarded him as a friend, drank with him at the Sackville Hotel in Rozelle, near Balmain, borrowed \$2000 from him, and paid it back by cheque in two instalments. By 1976, Richardson's struggles were over. Geoffrey Cahill, general secretary of the NSW Party, had survived the 1975 Botany matter, but he did not survive a failing out with the Party strong man, John Ducker, and Richardson was appointed general secretary on 10 September 1976. He told Ramsey: 'Then in '76 I had this huge salary movement which made all these things [the mortgages and such] just not a problem at all.' Even so, in May 1977 Richardson's wife, Cheryl, went on the payroll, at approximately \$130 a week, of Casey's Balmain Welding, but did not have to attend at the office. Her husband later told Woodward it was the policy of the company not to hire office staff, so they sent the typing out to Mrs Richardson. She kept the job until about May 1979, by which time she was getting about \$160 a week from Balmain Welding.

The civil war got more serious from 1977. One Monday night in October of that year, a Balmain branch meeting was held in the local Town Hall. The minutes of the previous meeting were about to be adopted when a large man stood up and shouted: 'Bullshit!' It sounded like a signal: a man near the official's table hurled a fire extinguisher through a closed window; it exploded like a bomb in the street outside. A second man took to the other window with a chair. At the sound of breaking glass, someone downstairs pulled the fuses. Latecomers to the meeting, now fitfully lit by matches, saw four men take off in a waiting car. When the lights came on, the attendance and membership books were found to be missing. Since prospective members had to prove they had attended three meetings in the previous twelve months, they might be ineligible to join without such proof. It was thus assumed that either the right had stolen the books to achieve this result, or that the left had stolen them to pre-empt theft by the right. The left had also thoughtfully kept a duplicate set of books.

On another front, Redfern East, home branch of rightist Bill Hartup, then Mayor of South Sydney, a 1978 investigation found that some purported members were either dead or at non-existent addresses. In June, a person seeking to join Redfern East was bashed, and a Catholic priest who went to his aid was also attacked.

Ladislav (Joe) Meissner, his girl friend, Virginia Carlina Perger, and Thomas Christopher Domican began to take an interest in the large Enmore branch in 1977. They all had interesting histories.

According to Meissner's own publicity, he was born in 1943 in vampire country, Transylvania, with two sharp teeth and fingernails that curled over the tips of his tiny fingers. He migrated to Australia at age seven; at age 19 he was billed as the World's Strongest Teenager. In 1968, he was Australian karate champion, and in December 1971 it was said he had become karate champion of the world at a contest in Osaka. Late in 1972 he challenged Muhammad Ali to a bout of fisticuffs, using bare knuckles. He and his karate men did some work evicting unwanted tenants in Victoria Street, Kings Cross, in the mid-1970s. Perger, a prostitute, was an aunt of heroin dealer and suspected murderer Francis Michael Salvietti.

Domican, born in Ireland in 1943, had been a night club bouncer in London before migrating to Australia in 1968. He made himself useful to the Sussex Street machine, and later produced what he said was a 1976 letter from Cabinet Minister Frank Walker, Attorney-General in the new Wran Government. It said: 'Without your support and loyalty and your will to work we would never have won this election [for the seat of Botany].' In a famous interview conducted in November 1984 by a British reporter, the BBC's Tom Mangold, Domican claimed his work at branch level consisted of 'bringing in the numbers ... it means putting the people into power that was acceptable to the right-wing head office of the Labor Party, and making sure that they stayed in power.' He claimed that methods used included impersonation and rigging pre-selection votes.

Meissner became secretary of the Enmore branch in February 1979. He and his colleagues lined up in support of the rightist Mayor of Marrickville, John Harrison. However, Baldwin, who had bought a house in Marrickville in that year, initiated inquiries into 'rorts' in the Enmore and other branches. On 14 February 1980, Meissner, a resident of Double Bay, nominated for another term as secretary. Next evening, Richardson said that the governing body of the NSW Party, the Administrative Committee, had decided to refer Meissner's membership of the branch to the credentials committee to see if he qualified as a resident of the area. Richardson also said that the Disputes Committee would undertake a more widespread inquiry into matters at Marrickville. In May, the Administrative Committee ruled that in Meissner's case technicalities of the rule book had not been observed, and that as a result he had never joined the Party.

The Woodward Royal Commission on drug trafficking, which ran from 1977 to 1979, had been reconvened in February 1980, partly because of an assertion by Leon Punch, leader of the Country Party, that Daniel Patrick Casey had funnelled \$20 000, alleged to be a product of gambling and drugs, into Labor Party funds. Richardson told the Commission on 28 March that Casey had not donated \$20 000 to the Party, and the Commission found no evidence against Casey. He announced on 4 April 1980 that he had nominated for Labor selection for his ward, Rozelle East, for another term on the Leichhardt Council.

The vexed problem of Meissner's boat, the Kanzen, later referred to as 'the love boat', appears to date from the early months of 1980. It was later alleged that in that period photographs were taken of certain members of the Labor Party and Perger on the boat.

Baldwin was bashed in the kitchen of his house early in the morning of Thursday 17 July 1980. He was taken to hospital with a fracture running down the middle of his face and gashes to his head that needed fifty stitches. Meissner and Domican were interviewed by police; both had alibis. The left embarked on another vigorous recruiting campaign. The right claimed the left were stacking branches; the left replied that at least they were providing five bodies, not forged signatures.

Casey's Rozelle East branch was among those that Baldwin had been investigating. Richardson was reported on 22 July to be expected to move at the Administrative Committee that Rozelle East be dissolved, and that a date be set for hearing a charge against Casey made by the left. On 25 July, Casey, who was holidaying in Europe, issued a statement through his solicitor, Jeremy Cullen. Casey said it was the height of hypocrisy for head office to abolish his branch after what he had done for them during his thirty-seven years in the Labor Party. 'The numbers game,' Casey said, 'has been played by us at the direction of head office. When they considered there was a left-wing move to take over a branch, there was a request from head office to us to match the left's numbers in the area.' Casey announced he was giving up his membership of the Labor Party.

Criminal charges relating to the affairs of the Enmore branch were laid from 13 August 1980. Five people, including Meissner, Perger,

Domican and Harrison were charged on various counts including conspire, forge, and make false statements. One was of conspire to forge between 1 February 1977 and 19 March 1980. They were given bail on condition that they did not conduct or approach prosecution witnesses. Domican however apparently remained in favour in Sussex Street for at least several months, during which time, it has been claimed, tapes of conversations were made as a precaution. In October 1986, Opposition leader Nicholas Greiner produced a tape he claimed was made in 1980 of a telephone call between Domican and Richardson relating to legal aid for Domican's case. As published in *The National Times* on 9 November 1986, among the claimed words on the tape were:

Domican: ... I'm bloody horse-trading at the moment.

Richardson: Are you? What's going on, mate?

Domican: ... Now I rang Keith [claimed to be Keith. Challenger, a union organiser] up and I said: What the f... ing hell's going on with this legal aid, mate? I said: One f...ing minute I'm promised it and the next we're around, f .. ing right. I'd f...ing like having, ah, something I can tell my solicitors. So Keith says: Well, he says, you hang on, he says, I'll get Graham, he says, to ring the solicitors ... So he rang me back about three hours later and he said: Oh, I've spoken to Graham and Graham says he can't ring the solicitors and tell them that you've got legal aid...

Richardson: That's just Keith having a bit of fun.

Domican: Well, mate, I told him, I said: Listen ... Keith ... you might f...ing laugh, but, I said, you might be f .. ing joining us...

Richardson: I said to, ah, Keith that as soon as they were all right I would go back and see Neville to give him, ah, to at least clear him on a couple of things ... I'm not f...ing kidding you here, mate...' cause I'm going to give you, ah, legal aid ... Well, I'm going to see Neville first thing in the morning and put the whole problem to him...

Domican: By the way, a photograph is held ... [it's] not for sale, not at this stage, but you don't sell people down the drain.

Richardson: I'm not selling you down the drain.

Domican: Well, mate, that's my go. I don't.

Richardson: Look, Domican...

Domican: Well, I'm telling you straight. If he's going to f ... ing sell us down the drain, he might f .. ing join us.

Richardson: Ah...

Domican: Don't f... around.

Richardson: No way, Tommy...

Domican and his colleagues did not get legal aid, but who paid their legal costs, said to be \$80 000, remains unclear.

John Faulkner, a left-winger, was appointed assistant general secretary of the NSW Labor Party in late 1980. He later spoke of Domican's 'intimidating behaviour' and 'blatant threats' in the Sussex Street lifts after his appointment. In June 1981, two right-wing Labor parliamentarians supplied references to

support Domican's successful application to be appointed a waterfront security officer by the Association of Employers of Waterfront Labour. Domican himself asserted in February 1984 that he worked as a numbers man for Richardson from 1980 to December 1982, and that for the final fifteen or eighteen months a developer, Warren Anderson, a friend of Paul Keating, who became Federal Treasurer in March 1983, paid him \$20 000 a year to work for Richardson. Richardson denied this. He said Domican had pursued a vendetta against him for helping to break Domican's intimidation of the Marrickville Council. Richardson said it was correct that Domican had worked for Anderson, but only for one year, and as a security guard for Anderson's property in Marrickville.

On 29 November 1981, in what the right said was a catastrophe, Baldwin defeated the sitting member, Les McMahon, a member of the old Catholic right, for pre-selection for the safe seat of Sydney in the Federal Parliament. The vote was 327-292.

Richardson and Domican appear to have been busy in the lead-up to the hearing of the Enmore case. Richardson later confirmed that he wrote to Attorney-General Frank Walker and all other Cabinet Ministers in the Wran Government to ask that the case be dropped on the grounds that it was a Party and not a police matter, and that even the magistrate, Bruce Brown, was approached: 'A legal representative sent a letter to Mr Brown which I hope allayed all his fears', Richardson said.

Domican told Mangold, that 'the witnesses had a lapse of memory' after, he claimed, copies of Crown witnesses' statements were passed to the defence. Mangold asked him how this could be done.

Domican replied: 'Well, it can only be done, really and truly, by the powers that be, and the powers that be was the Labor Party in this State ... We could not have got found guilty. Had we have got found guilty, very high up officials of the Labor Party would have fell, who were also involved in the rigging and that.'

'Did you let this be known,' Mangold asked.

'Oh yes, my word,' Domican reported.

Mangold reported in *The Listener* that two Sydney sources, Domican and James McCartney Anderson, had suggested that pictures of 'a lively encounter in a boat had been used to obtain statements by prosecutions witnesses, and Perger later gave a statutory declaration to *The Sunday Telegraph* saying that photographs had been taken through the bedroom windows of the Kanzen.

Magistrate Bruce Brown dismissed all the Enmore charges on 7 May 1982. He said the Labor Party furnished its members with no civil rights or proprietary interest; since members had no legal rights, 'there cannot be anything to be the subject of an intent to defraud...' The police were not happy with the result. Police Prosecutor Gary Wells asked his superiors that the case be reopened by way of *ex officio* indictments. Walker later said no police documents seeking a rehearing were passed on to him. Robert Redhead, Superintendent in charge of the Police Prosecuting Branch at the time, declined to state whether or not he had passed on the documents.

In dismissing the Enmore charges, Brown also said: 'It seems that some force or forces were working improperly to undermine the strength of the prosecution. I am firmly of the opinion that this matter calls for further investigation.' He later said: 'I wouldn't like to put a 1985 gloss on a 1982 judgment, but if the question is, did I think there appeared to be an attempt to pervert the course of justice, I think that is inherent in the judgment.' Police Commissioner Cecil Abbott, via a spokesman, said in June 1982 that no specific action would be taken on Brown's recommendations.

Margaret Newman, an alderman of Marrickville Council, objected to Domican's presence at a Council meeting on 7 December 1982. Next night a man in a balaclava said to her: 'This is a warning', and gave her two black eyes and bruises to her face. Newman said she was convinced that it was not Domican, but a 'smaller man, who had attacked her. Seven aldermen said they could not 'tolerate the intimidation and threats of violence any longer,' and resigned. Local Government Minister Lindsay Gordon sacked

the Council on 14 December and appointed an administrator. Gordon later said: 'I dismissed the council because I simply had to act. I had heard it was possible people might be killed.'

The Sussex Street machine had a major coup in March 1983 when it handed the position of Prime Minister of Australia to Robert Hawke. Prior to that election, Richardson retired as NSW general secretary and became a Senator in the Federal Parliament. After the July 1987 elections, Hawke appointed him Minister for the Environment.

In December 1984, after Domican's claims to Mangold were shown on the BBC programme 'Panorama', Police Commissioner John Avery instructed police to investigate the claims.

Senate Democrats leader Don Chipp hinted in May 1985 at the possibility of a Senate inquiry on the Enmore matter, and a motion seeking a full judicial inquiry was put to the NSW Labor Party's 1985 annual conference on 9 June. The motion was rejected by 520 votes to 257. Next day, Michael Sexton, described as a right-wing delegate, successfully moved that Federal MPs should not take part in parliamentary committees seen as usurping the role of the courts. He told the conference that MPs should not take part in committees which were 'simply engaged in a partisan political exercise to damage the Labor Party at the Federal or State level.' Senior left-wing figures said they believed the motion related to concern about a possible Senate inquiry.

In September, Perger was charged by Detective Chief Inspector Douglas Newell of the Major Crime Squad, with wilfully and corruptly making false statements respecting the conduct of a number of persons. In October, Perger's barrister, David Rofe, QC, told a local court that in so far as the matters stated in the statement were concerned, they were correct. He said the defence wished to hear 'a certain tape', and that the case would take some time 'because we will wish to cross-examine many of the witnesses.'

Late in February 1986, it became known that Meissner was offering for sale, at an asking price of \$550 000, a package of materials relating to the Enmore case, including five photographs, four microcassettes and twelve or more ordinary tape cassettes. On Thursday, 29 February, the *Herald* was informed that a person with connections in the Labor Party made Meissner a firm offer of \$400 000 in Canberra on Tuesday, 27 February.

The News Ltd group of newspapers had expressed an interest. The *Herald* conveyed to Meissner it was prepared, in the public interest, to take delivery of the package, on consideration of a sum sufficient to cover his out-of-pocket expenses, say \$300. When a report on the package appeared on 1 March, Sheahan requested police to investigate the matter. Superintendent, Crime, Frederick Joseph (Joe) Parrington required a report by 25 March. Newell began inquiries. The *Herald* supplied police with a statement of the assertions.

On Monday, 3 March, Perger was reported to be going to change her plea to guilty. Rofe retired from the case, as did Perger's solicitors, Lipton Norbert and Sankey, who were also handling the contractual arrangements for Meissner's package. Perger's new solicitor, Christopher Murphy, told a court on 7 March there was no truth in the Love Boat story, and that she wished to offer a total and unqualified apology to people she may have caused discomfort.

Perger pleaded guilty on 20 March. On 15 May, Judge Alastair Muir said he was satisfied she was repentant, and put her on a bond to behave in a good manner for two years.

A number of charges were preferred against Domican in October and December 1986, including attempt murder of Christopher Dale Flannery, his wife Kathleen, and their daughter, Christine Flannery, on 27 January 1985; conspire to murder Franciscus Vandenberg at Malabar Detention Centre, Long Bay, between 1 September and 1 December 1986; and conspire to murder Max Gudgeon at Long Bay between 27 November and 10 December 1986.

The Enmore matter remained open. On 30 October 1986, Opposition leader Greiner said he would give police copies of tape recordings and other documents relating to the case. In 1987, Sergeant Karl Arkins, who had investigated the 1975 murder of Juanita Nielsen, had the carriage of the matter.

Epilogue - End of the Wran Era

... this Government and its leadership have been assailed by those reactionary forces with unparalleled vindictive - malice and malevolence throughout its ten years. . .'

- Neville Wran. QC, Premier of New South Wales, 1 May 1986.

Neville Wran became Premier of New South Wales following elections held on 1 May 1976. After nearly a decade at the helm he was showing the strain of office. A small pointer to this emerged on 25 March 1986 during a defamation action Wran had initiated against 2GB radio talkback person, Mike Carlton, and his employers, Macquarie Broadcasting Holdings Ltd. The indication of strain, and some analysis of the case, is contained in a report by the present writer published on 27 March, after the jury of one man and ten women failed to agree on a verdict and were discharged.

Wran v Carlton - The Stresses Of A Litigation

Mr Wran, who failed to get a verdict in his favour, has said he will again bring his action for defamation against Macquarie Broadcasting Holdings Ltd, but his later thoughts on whether to continue or to ultimately abandon the litigation will turn on a number of considerations. These will include the cash cost to him, which to date must be something like \$60 000 or \$70 000. His advisers would have to try to guess whether a different jury might take a different view.

Since a 10-1 or 9-2 split on the jury would have produced a verdict, the split must have been anything from 6-5 to 8-3. If there were eight in favour of Mr Wran, one more vote would have given him the verdict, but we cannot know whether the majority favoured Mr Wran or Mr Carlton. There is also the question of the mental stress of bringing the litigation. Justice M. J. R. Clarke noted in his summing up on Tuesday that, if the jury found in Mr Wran's favour, one of the reasons for giving him substantial damages would be for 'consolation for hurt and anguish' including 'anxiety, concern, apprehension, uncertainty and... emotional stress of litigation'.

These are real considerations. This was brought home when Justice Clarke was approaching the end of his summing-up of Mr Tom Hughes's submissions for Mr Wran. At 11.27 am, something the judge said caused me to start turning back the pages of the notebook to check an earlier reference. At the time, I happened to be sitting behind Mr Wran. He swung round in his chair and urgently rasped: 'Could you make less noise?'

This momentary loss of poise was surprising. Positioned as I was, it seemed unlikely that turning the pages of a notebook would cause anyone on the jury to miss a pearl dropping from His Honour's lips. However, it was possible to feel the dint of pity at the revelation of emotional stress that appeared to have caused this outburst and I naturally ceased and desisted.

It turned out that the passage I was looking for was thirty-seven pages back (from 208 to 171) in my notes of the case. It concerned the questions the jury was asked. These were whether the plaintiff (Mr Wran) had established that Mr Carlton's broadcasts of 2 August 1984, conveyed any of the following imputations or meanings:

- a) That Mr Wran had exerted improper influence upon a judge [that is a magistrate] in an attempt to pervert the course of justice.
- b) That Mr Wran was prepared to arrange the payment of money to a judge in order to induce a perversion of the course of justice.

c) That Mr Wran had made a false denial of any involvement in an alleged attempt to pervert the course of justice.

(What sent me scurrying back in the notebook was Justice Clarke's statement to the jury: 'Mr Hughes said nothing about b, so I can't say anything about this. You may decide to answer imputation b with No, and concentrate on a and c. But it's a matter for you.') It should be understood that a yes answer to any of those questions would mean that Mr Wran had won the case. For Mr Carlton to win, the answers had to be no to all the questions. Even so, what seemed like a suggestion from the judge for a no answer to b struck me as significant, for several reasons.

It also should be understood that the offending broadcasts were essentially in two parts: some introductory remarks, followed by the Justice Grasstop skit. The b question referred to the skit, in which 'Grasstop's' associate had a caller, 'Marmaduke', on the line offering to pay the judge \$10 000 to fix a case. The judge said he was expecting a call from 'Neville', but would accept the money from 'Marmaduke'. Mr Hughes had earlier said that, while he was not taking question b out of the list, he was not going to make too much of it. This, coupled with Justice Clarke's remark about it, indicated an acceptance of Mr Carlton's right to engage in satire by way of skit. The implication was that it was clearly a joke and that no-one would take it literally.

So, whatever else happened in the case, radio and television satirists could breathe more easily.

But where, one wondered, did this leave Mr Wran's case? I had assumed, wrongly as it now turned out, that he felt the major sting of the broadcast was in the skit about 'Marmaduke' offering a judge money to fix a case. It was now becoming clear that the sting lay elsewhere, and this also at last explained what Mr Hughes was getting at in a major part of his robust cross-examination of Mr had to be no to all the questions. Even so, what seemed like a suggestion from the judge for a no answer to b struck me as significant, for several reasons.

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Again, we have to understand that at the time of the offending broadcast it was being bruited about that the Chief Stipendiary Magistrate, Clarrie Brieese, had alleged that a judge had told him: 'Neville wants something done for Morgan Ryan'. Both judge and Mr Wran denied any such thing. However, what Mr Carlton said in his introduction to the skit was that a judge and 'Neville' had tried to lean on Mr Brieese. A more precise rendering of the allegation, as Justice Clarke pointed out, would have been to the effect that a judge, at the behest of 'Neville', had tried to lean on the magistrate.

We may pray that all journalists would never be guilty of lack of precision, but this struck me as the sort of slip that might occur once in a while, particularly at 4.30 in the morning, when Mr Carlton arrives at 2GB to prepare his skits and his broadcasts. Mr Hughes, however, saw it as deliberate, and that the skit reinforced the idea that Mr Carlton was 'throwing cold water' on Mr Wran's denial. Hence questions a and c, on which the case now primarily turned.

We cannot say that Mr Wran was wrong to bring the action largely on this basis. He took a certain view of the implication, and after all, as Mr Hughes and Justice Clarke both noted, it is the right of everyone, from the lowest to the highest in the land to have his reputation restored in the defamation courts. Never having sat through a libel action before, I found other aspects interesting.

Being a civil matter, the jury is instructed to find on the balance of probabilities, rather than beyond a reasonable doubt as in a criminal matter. Justice Clarke said the usual way this was explained was to put the arguments for both sides on the scales and if one side weighed down, that was the winner.

It seemed to me that in the way these cases appear to be traditionally structured, the defendant is at something of a disadvantage. Thus, at the conclusion of this case, Mr Hughes, QC, got the last run at the jury. Neil McPhee, QC, counsel for the defendant, Mr Carlton's organisation, addressing the jury first, had to try to guess what Mr Hughes's arguments would be.

This arrangement was partially offset by Justice Clarke who, it appears to be accepted, summed up quite impartially. He traversed Mr McPhee's arguments after those of Mr Hughes. He also devoted more time to Mr McPhee's arguments. However, he concluded with a long dissertation on the question of damages the jury might award if they found for Mr Wran. So the matter of damages was the last thing in the jury's ears as they retired. It seemed that a better way would be to have the jury first decide the question of whether the meanings were defamatory, and only if or when they decided they were, for the judge to then go into the matter of what damages they might award.

Justice Clarke also said a reason for awarding damages was as a vindication in the eyes of the public. 'If the libel resurfaces later,' he said, 'he [the plaintiff] can say it has been proved false and the damages awarded makes this fact plain beyond reasonable doubt.' Mr Wran may thus continue to seek that vindication. On the other hand, if he were now inclined to come round to the view that Mr Carlton's was, after all, no more than an unfortunate slip brought on by the exigencies of rising at an unholy hour, he could no doubt retire from the fray without anyone thinking the worse of him. [In the event, the case was settled in September on the basis that each side pay its own costs.]

A month later, on the acquittal of Murphy on Monday 28 April, Wran offered (as noted in the chapter on the Murphy affair) some remarks about Chief Magistrate Briese that attracted a barrage of trenchant criticism from significant elements involved in the administration of justice - the deputy chief magistrate, the president of the NSW Bar Association, the Commonwealth Attorney-General, and the Chief Justice and a number of judges of the NSW Supreme Court.

On 1 May, the tenth anniversary of the 1976 elections, Wran told a press conference he regretted not going into federal politics: he would 'probably, probably' have been Prime Minister by then. Asked if he thought Sir Robert Askin had been a crook and if Askin's Government had been crooked, he replied 'Yes' to both questions. He said: 'If I walked out of Parliament today, I'd walk out with my superannuation and I might have about \$3800 in the bank. Jill [Wran's wife] has no chance of looking forward to getting \$4 million out of my estate. That's an objective test: how can someone who's been a bank clerk all their lives, couple with a politician, finish up with \$4 million'.

That night a 'surprise' dinner at The Wharf theatre restaurant, organised by his friend Paul Riomfalvy, chairman of the NSW Film Corporation, was extended to Wran to honour the tenth anniversary of the 1976 elections. He then took a month's holiday overseas.

On 7 June, Wran announced that he would resign from Parliament on 4 July. He thus served ten years, two months and four days as Premier, or, if the period of ten weeks and two days in 1983 during which he stood down as Premier is taken into account, he served for nine years, eleven months and sixteen days. On 4 July, he was three months short of his sixtieth birthday, due on 11 October. His superannuation entitled him to \$60 000 a year for life, or, if he converted it into a lump sum, he would be entitled to nearly \$360 000, plus a yearly payment of about \$24 000.

The Labor Party machine, in the person of John MacBean, imposed Barrie Unsworth, MLC, on the parliamentary party as leader and Premier. A 'safe' Labor seat, Rockdale, was found to enable Unsworth

to make the transition to the Lower House. In by-elections held on 2 August, there was a swing of eighteen per cent against the Government in Rockdale but Unsworth retained the seat by seventy-five votes. In Wran's old seat of Bass Hill, the swing against the Government was twenty-two per cent, and Labor lost the seat. 'It is now clear that Labor is in decline in New South Wales and that decline appears to be terminal', the *Telegraph's* State political reporter, Dennis Ringrose, asserted on 15 August.

In its issue for June 1986, the legal newsletter, *Justinian*, gave Wran the following sendoff: 'Neville Wran's departure from centre stage in New South Wales will fill the legal fraternity with considerable sadness. Reporters and publishers of important information sheets like *Justinian* also deeply regret Wran's going, largely because of his bizarre legal initiatives which helped fill our pages on slow news days. Above all, Wran created a climate which encouraged the flowering of an entrepreneurial spirit based firmly on the philosophy of going your hardest at what you can get away with. Our list of best remembered features of the Wran years include:

1. Promoting the shonky copper Bill Allen to the highest reaches of the NSW Police Force.
2. Pushing for an extension of the term of office for the crooked Chief Magistrate Murray Farquhar.
3. The 1979 amendments to the Evidence Act whereby deemed "government communications" can be denied to the courts.
4. Giving the Lotto concession to Packer, Murdoch and Sangster.
5. The failure to introduce and implement freedom of information legislation as promised.
6. The Premier's brilliant creation, the Commission for Public Complaints.
7. His attacks on and threats against the Chief Magistrate, Clarrie Briese.
8. The attempts to sweep aside the exposures of corruption, case rigging, and influence revealed in the NSW police tapes.
9. The establishment of whitewash Royal Commissions with hopeless terms of references.
10. The Premier's attacks on Costigan and Temby.
11. The Premier's unswerving commitment to "public relations" as the cornerstone of good government.
12. The Government's granting of legal aid to Rex Jackson, and now to the defence of defamation actions involving the Premier.
13. The stopping of State Government advertising in the Fairfax Press. (It has been management policy at *Justinian* to refuse all State Government advertising during the term of the Wran Government.)
14. The Premier's growing problems with his spleen.
15. The Government's edifice complex and the strange determination to allow Abeles to build his monstrosity of a monorail in Sydney.

'All in all', *Justinian* concluded, 'predictable as it is, the judges could not go past Neville Wran as the winner of this year's Morgan Award for the most outstanding display of concern for the administration of justice. This means that Neville has won The Golden Gareth (his dedication to the principles of free speech) and The Morgan in the same year. This is an unheard-of feat...'

On Monday 18 August, Richard Charles Mochalski, 38, Labor member for Bankstown in the NSW Parliament since 1980, appeared in the Supreme Court to be examined on his role as a director of Balanced Property Trust. The Trust collapsed in 1983 owing millions of dollars to investors, including many pensioners. For Mochalski, Laurence Gruzman QC said the examination was a calculated publicity stunt by the Government which, he said, was attempting to 'escape its reputation for corruption by sacrificing' Mochalski.

That night, the present writer's path crossed that of His Excellency the Ambassador to UNESCO, former Prime Minister Edward Gough Whitlam, 70. The great statesman boomed: 'Evan, what will you do? All your victims are leaving the stage ...?'

- *The Bulletin* reported in its issue dated 26 August (on sale 20 August) that 'diplomatic circles in Canberra claim that Prime Minister Bob Hawke has definitely offered the job of Australia's Ambassador in Washington, or Consul-General in New York, to Neville Wran. However, according to these same circles, Wran has declined the offers'. All things considered, it seems appropriate to give the last word in these pages to Wran. They are from an adjournment debate held on 1 May 1986, to allow the Parliament

to close down for nearly five months, until 23 September. They were his last words on the floor of the New South Wales Parliament:

Mr Wran (Bass Hill), Premier, Minister for the Arts and Minister for Ethnic Affairs [11. 351:
Honourable members may think it appropriate on the occasion of this special adjournment that I should make a few remarks to mark this particular day - a notable day in the history of New South Wales and, I venture to say, a day not without significance in the recent history of Australia.

[Interruption]

Mr Wran: Members of the Opposition must be going out to take the hat round to help pay Miss Perger's costs.

[Interruption]

Mr Speaker: Order! I call the honourable member for Oxley to order.

Mr Wran: It is, of course, the tenth anniversary of the election of this Government and, therefore, ten years of unexampled progress and achievement for New South Wales and its people. But there is no need for me on this occasion to go into any detail about these ten years of achievement. There would not be time to catalogue ten years of political, economic, social, electoral and cultural change and reform. Those years have seen the restoration of New South Wales to its historic place as the political, economic, social and cultural pacesetter of Australia and, let me say, its historic place as the distinctively Australian State within the Australian nation. The specifics of that achievement are listed in the document I now table, from which I shall merely select a few highlights.

I instance the great electoral reforms which gave the people of this State their first vote to elect members of the Legislative Council; saving the rainforests against the neanderthal Opposition; preservation of our heritage, again in spite of inspired attacks by the Opposition; a change in the lifestyle of people of this State so that they may have a drink and a meal and can even go shopping at the weekend; and the creation of Sydney as the financial centre of the southern hemisphere. However, as I have said, I do not intend to dwell on specifics. Instead, I wish only to point to a couple of matters that indicate the spirit and meaning of this occasion. The really significant thing about today is that this Government, in celebrating its past, as we are entitled to do, is still as forward-looking, still working, planning for the future, every bit as much as we were this day ten years ago. For that, I can give no better evidence than the opinion of the *Sydney Morning Herald*, which recently said:

After ten years in office a government can expect to be in its terminal phase. But the Wran Government generally seems to be defying this tendency remarkably well. I point out that the remarkable fact that though all of us in this Chamber are ten years older than we were in 1976, whether or not we were then members of the Parliament, the average age of the ministry is actually less than it was ten years ago. There is, in short, this remarkable paradox: for ten years New South Wales has had unprecedented stability and continuity of Government; yet at the same time it has had a process of steady change that has provided continuing reinvigoration and renewal of its personnel, with a ministry combining experience and fresh new vigour unmatched in Australia.

There is no need for me today to single out any individual member of my team. But I should not let this occasion pass, as we recall that great day ten years ago, without special mention of one who is no longer a member, but whose presence and substance is with us to this day, and will always have a special place in this Labor Government, however long it may endure. I refer, of course, to Jack Ferguson, the former Deputy Premier, who was the lynchpin of the Government for many years, and provided the solidarity and unity of purpose that the Government still enjoys. The second point I should mention is the significance of the event that took place years ago to Australia as a whole, and the continuing significance of the existence of this Labor Government of New South Wales to Australia itself, now and in the years to come.

Our victory ten years ago took place less than six months after the great catastrophe of 1975 - the procured destruction of one of the greatest Prime Ministers and Governments this nation has ever had. We can now see that what happened here in May 1976 in New South Wales was a great turning point in the history of Australia. It meant the revival of faith in parliamentary democracy in Australia. For years after, New South Wales stood almost alone as the bastion, not just of the Australian Labor Party, but the bastion and bulwark against the forces of reaction in Australia. Because we held out here, the tide was gradually turned, until total transformation was achieved by March 1983, with Labor ascendant throughout, Australia, and, above all, the supreme objective of an elected Labor Government in Canberra.

That is the reason - the whole simple reason - that this Government and its leadership have been assailed by those reactionary forces with unparalleled vindictiveness, malice and malevolence throughout its ten years, but never more violently than in the three years since March 1983. I for one have never believed that there has ever been anything coincidental about the events that have, taken place since another anniversary - the third anniversary of the notorious 'Four Corners' programme on 30 April 1983, less than two months after Labor's great national triumph, ushering in as it did an unending series of attacks upon individuals, reputations and institutions in an effort to destabilize, first, this Government and its leadership and, by association, ultimately the Hawke Labor Government of Australia. Those efforts have failed. Bit by bit they are rebounding on their authors. The people of New South Wales and the people of Australia are coming to realize the devious and dishonest strategy and stratagem of the Liberal Party - National Party coalition. Of course, in the process these so-called conservatives have inflicted not just untold pain and suffering on innocent persons, on great servants of the people and their families, but on the very institutions they claim in all their hypocrisy to uphold and protect.

In that context, and as a classic illustration of the reason that I hold these conservatives, these reactionaries and, in particular, the New South Wales Opposition in supreme contempt, let me remind the House that 1 May is not only the tenth anniversary of our Government's first election - the first of four and the first of many more - it is also an anniversary in the history, if it can be dignified by so noble a word, of the Liberal Party in New South Wales. Twenty-one years ago, on 1 May 1965, the Askin Government was elected, ending almost a quarter of a century of being in Opposition. Where is there any evidence on the part of members opposite of their pride in that event, which, for good or ill, is obviously an event of significance in their past? But they do not want to know about it, any more than they want to know anything about their own last Government which went down to ignominious defeat ten years ago today.

It is certainly not part of my role to defend the late Sir Robert Askin or his Government. On the contrary, we have had to try to clean up the mess he and his successors left, and we have done so. I have at least to say that he has been posthumously assailed and vilified in a quite cowardly way, not least from sources which, when he lived, were in his pocket. Yet, his heirs and successors, these posturing, phony pygmies opposite trying to fill his shoes, say not one word in defence, not one word of protest. They cannot run fast enough to distance themselves from their own people - their friends, their interests, their policies and their record. It has been left to his former car driver to say a single word in defence of the man whom the Liberal Party, the Fairfax organization and *The Sydney Morning Herald*, among others, presented to the people of New South Wales year in and year out, election after election as the hero and saviour of the conservative establishment for more than a decade. It is all contemptible, and these people opposite are worse than contemptible; they are beneath contempt. Truly, this Liberal Party of New South Wales in every sense is the mule of Australian politics, without pride of ancestry or hope of posterity.

J. A. Clough: On a point of order. My point of order is that as one of those who has been a member of this place since 1 May 1965, I object to the Premier's remarks.

Mr Speaker: Order! No point of order is involved.

Mr Wran: On this day let us proudly draw the contrast: on one side, an Opposition shamefully silent about its past, ashamed of its past not the long-distant past but a mere ten years ago - and silent about all the real issues of today as they affect the real future and the real welfare of the people of this State. On

the other side, on this side of the House, a Government and a party, proud of its past, proud of its record but, far more important, confident, strong and united as it looks forward to further years of service to the people of New South Wales and the people of Australia.

6. Biographies

ABBOTT, Cecil Roy , b. 7 August, 1924; ed. Sydney Technical High School; joined NSW police force 1941; detective 1950; officer-in-charge CIB Drug Squad 1963-77; aware of NSW police secret telephone tapping and taping procedures from their initiation 1967; Inspector 1974; Superintendent 1978; Assistant Commissioner (Crime) 1979; investigated roles of Magistrate Murray Frederick Farquhar, solicitor Morgan John Ryan, and Police Commissioner Mervyn Thomas Wood in Cessna-Milner drug case but apparently did not inquire whether any secret taped material on the case was available, 1979; in August 1980, following recommendations by Homicide chief Inspector Harry Tupman and CIB chief Superintendent Ray Goldsworthy that police question Albert Jaime Grassby, Federal Commissioner for Community Relations, and State (Labor) MP Michael Maher about a 'scurrilous' document (inferring that Mrs Barbara Mackay, her son Paul, and her solicitor Ian Salmon had conspired to kill Donald Bruce Mackay) that Grassby had asked Maher to read out under privilege in Parliament, advised that he saw no reason to pursue recommendations, according to evidence given (September 1986) at Special Commission of Inquiry into NSW police investigation of murder of Mackay; Deputy Police Commissioner William Allan Ruthven Allen having fallen by wayside, succeeded James Travers Lees as Police Commissioner 29 December 1981; said no action would be taken on recommendation of Magistrate Bruce Brown that aspects of Enmore conspiracy case be further investigated, June 1982; reduced size of Internal Affairs Branch June 1982; declared his complete opposition Justice Edwin Augustus Lusher's recommendation (April 1981) for a partly civilian three-man Police Board to run force, 24 January 1983; Premier Neville Kenneth Wran said no further action would be taken following Abbott's investigation of role of Cabinet Minister Rex Frederick Jackson in prisoner early release scheme and his recommendation that no criminal action be taken, and that Royal Commission or judicial inquiry was not warranted, 11 October 1983; described by Wran as a man with 'a reputation as a fearless investigator', 16 October 1983; tipped to take early retirement when Wran announced Lusher's recommendation on Police Board would be implemented, November 1983; instructed Superintendent R.C. Shepherd to investigate allegations in *National Times* of 25 November 1983 relating to unlawful interception of telephone conversations; Shepherd's report (9 December 1983) that only telephone intercepts, in which NSW police were involved were those in which Federal Police had taken out a warrant described (April 1986) as 'blatantly untrue, both to the knowledge of Shepherd and Abbott' by Justice Donald Gerard Stewart; invoked his powers to suppress report of police investigation for Ombudsman of complaints by Edgar John Azzopardi, April 1984; joined other Police Board members Sir Maurice Hearne Byers and Sir Ronald Gordon Jackson in recommending he be succeeded by Superintendent John Keith Avery, July 1984; retired 6 August 1984.

ABELES, Sir Emil Herbert Peter , b. 24 April, 1924; ed. Budapest; founded Alltrans Pty Ltd 1950; managing director Thomas Nationwide Transport Ltd since 1967; Knighted 1972; joint chief executive (with K.R. Murdoch) Ansett Transport Industries 1979-82; and joint chairman with Murdoch since 1982.

ABOOD, Camelle , clerk to Chief Stipendiary Magistrate Murray Frederick Farquhar at time of committal hearing of fraud charges against Kevin Emery Humphreys, August 11-12, 1977; handled Farquhar's betting transactions, and observed that horserace tips supplied to him by George David Freeman were for winners 98 to 99 per cent of the time.

ALEXANDER, Brian William , b. 5 April 1939; an only child, his parents separated when he was 10; he was then reared by his paternal aunt; ed. St Anne's Marist Brothers' School, Bondi, but did not matriculate; became a law clerk and protegee of Phil Roach, a solicitor with a large criminal, including prostitution, practice at magistrates courts level, mostly at the Central Court of Petty Sessions; worked for Roach for nearly 20 years, to 1975; February 1983 report of the Stewart Royal Commission on Drug Trafficking (Mr Asia heroin syndicate] states: 'Through (the Roach connection), Alexander became well known to and by a large number of Sydney criminals, both convicted and un-convicted, and consequently by a large number of New South Wales Police officers. As drug-related crimes began to increase he also became professionally associated with this class of criminal, and with police engaged in drug enforcement, including members of State police drug squads, members of the then Federal Narcotics Bureau, and Customs officers'; left Roach 1975 and went to work as a law clerk for another

solicitor, John Lawrence Aston, taking with him part of the 'good will' of the Roach practice, including a large number of clients who were petty criminals, along with matters relating to drug offences. Stewart reported: 'Any large organisation requires the assistance of lawyers in order to operate successfully. This assistance may be legitimate but it often involves unlawful or unethical practices. The Clark [Mr Asia heroin syndicate, operating in Australia 1976-1979] organisation was no different from other criminal syndicates in that part of its method of operation was the employment of experienced criminal lawyers ... The lawyers in Sydney generally used by the Clark organisation were Aston and his law clerk Brian Alexander ... There are three main areas in which lawyers assisted the organisation: representation, financial dealings, and (as) purveyors of information'; along with narcotics agents Richard John Spencer and Wayne John Brindle, Alexander appeared before C.A. Gilmore SM at the Phillip Street Court of Petty Sessions on 27 March 1980, charged with having conspired during 1978 and 1979 with each other and with Terrence John Clark and others to pervert the course of justice by unlawfully disclosing to Clark information received by Spencer and Brindle in connection with the importation of drugs; counsel for Alexander were Michael Grove QC and Ian Strathdee, instructed by Messrs Howard Hilton and Keddie; counsel for Spencer were Kevin Murray QC and M.A. Coleman, instructed by Aston; counsel for Brindle was Strathdee, instructed by Aston; David Bennett QC, with F.V. Fletcher, for the Crown, produced 81 witnesses; Gilmore SM said he had not come to the opinion that a *prima facie* case had been established against any of Alexander, Spencer or Brindle, and they were discharged, 7 May 1980; Stewart reported that the proceedings had 'severely discredited (Alexander's) integrity and, through him, that of the firm of Aston. It was one of the reasons Alexander subsequently left that employment and it presented an insurmountable barrier to his obtaining similar employment in Sydney. It also placed a great strain on his failing (second) marriage and his general health and did not assist an already well established drinking habit'; last job at a hotel; in period before December 1981, did not appear to have the use of large sums of money, and had recently received a demand from the Tax Office for a sum in excess of \$60,000; last seen 22 December 1981; anonymous telephone call to Vaucluse police said a car [Alexander's] had been 'dumped' at Military Road, Watsons Bay some 'two weeks previously', 14 January 1982; a cliff known as The Gap, scene of several suicides, in the area led to suggestions of suicide; Stewart considered four possibilities: Alexander had disappeared voluntarily; he had disappeared under duress and may be alive or dead; he had been murdered and his body secreted; he had suicided. He reported: '...opinion evidence supports the contention that Alexander has voluntarily disappeared. His close relatives and associates dismiss the suggestion of suicide as being completely out of character for him even taking into account his marital situation, his employment and social prospects, his drinking, his financial situation, and his knowledge of his probable appearance before this Commission. Certainly they are of the opinion that if he were to suicide it would not be by violent means but rather by way of something painless and comfortable like the ingestion of sleeping pills ... A person who sufficiently feared disclosures by Alexander to this Commission would have a motive to murder him. Those feared disclosures might of course not even relate to Clark or his associates ... On the other hand ... he could as -easily be paid to stay out of touch...'

ALISTER, Paul Shaun , b. 1956; member of Ananda Marga; sentenced by Justice Jack Austell Lee to 16 years for conspiring to murder National Front leader Robert Cameron in June 1978; pardoned May 1985.

ALLAN, Norman Thomas William , b. Lithgow, 3 June, 1909; educated Haberfield Public School; joined NSW Police 1929; Commissioner's office 1940; Deputy Commissioner 1960; Commissioner 1962-1972; died 28 January, 1977.

ALLEN, William Allan Ruthven , 14 May, 1922; joined NSW police force 1939; special criminal squad 1971; Metropolitan Superintendent April 27, 1979; Assistant Commissioner November 14, 1979; Deputy Commissioner August 27, 1981; investigated by Police Commissioner James Lees October-November 1981; suspended December 1, 1981; investigated by Justice Perrignon, sitting as NSW Police Tribunal, January-March 1982, his legal costs being paid by the Government; found to have paid Sergeant Warren Molloy \$2500 in attempt to compromise him and to render him susceptible to 'improper influence', and to have lied to the Tribunal, April 21, 1982; his offer to accept demotion to sergeant first class and retire accepted by Government, April 21, 1982; advice by Solicitor-General Mary Gaudron of insufficient grounds to begin criminal proceedings against anyone at the inquiry

announced May 20, 1982; on charge of malicious injury to a car on August 9, 1982, given bond of \$200, March 1, 1983.

ANDERSON, Anthony Eustace , heroin supplier, suspected of implication in the murders of Maria Hisshion, Christmas 1975, and Catherine Dale Payne, 15 May 1978; executed 23 April, 1985.

ANDERSON, Desmond , barrister, appeared for George David Freeman at Street Royal Commission 1983; junior counsel for Judge John Murray Foord, 1985; appeared for Dr Nicholas George Paltos, February 1986.

ANDERSON, Frederick Charles (Paddles), b. 7 February 1915; ed. Fort Street High School, Petersham, Sydney; first among equals Sydney's Anglo-Saxon organised crime syndicates; partner of organised crime figure Inspector Ray Kelly (b. 1906, d. 11 August 1977); Anderson heavily contacted in Labor circles, Kelly in Liberal; d. January 1985.

ANDERSON, James McCartney , b. Scotland 1930; managed nightclubs in Surfers' Paradise in 1960s; claimed Abraham Gilbert Saffron invited him to manage the Venus Room, Kings Cross, in late 1960s; shot standover man Don (The Glove) Smith in Venus Room 1970; charged with murder; committed for trial on charge of manslaughter, but the case never went to trial; claimed to have fallen out with Saffron in late 1970s; charged with stealing necklace November 1979; acquitted June 1984; gave evidence in 1984 to parliamentary committee inquiring into prostitution that he had seen Justice Lionel Murphy talking to Saffron in the Venus Room.

ANDERSON, Hon. Peter Thomas , b. November 23, 1947, son of Labor Party figure Kath Anderson; educated Woollahra Public School, Sydney Boys' High School; entered Public Service 1964; Police Force 1967; Police Prosecuting branch 1968-77; alderman Penrith Council 1977-83; personal staff of Hon. Ronald Mulock 1977-78; MLA Nepean 1978-81, Penrith from 1981; Minister Police and Emergency Services 30 September 1981; denying he had ever been an advocate of partly civilian Police Board, said, 'I indicated I had not been an advocate of the Police Board proposal. I have made no such recommendation to the Government, nor do I intend doing so in the immediate future', 24 January 1983; Minister Youth and Community Services and Aboriginal Affairs February 5, 1986; stood for post of Premier against Barrie Unsworth and Labor Party machine on announcement of retirement of N. Wran, June 1986; chain-smoker, appointed Minister for Health and the Drug Offensive by Premier-elect Unsworth, July 1, 1986; after hypnotherapy, gave up smoking, August 1986.

ANDERSON, Timothy Edward , b. 1953; member Ananda Marga; arrested by Sergeant Roger Caleb Rogerson June 1978 and charged with conspiring to murder National Front leader Robert Cameron, and sentenced to 16 years, 1979; pardoned May 1985; his *Free Alister, Dunn and Anderson: The Ananda Marga Conspiracy* case published September 1985; Administrative Appeals Tribunal largely refused him access, under Freedom of Information legislation, to ASIO documents, March 1986.

ANDERSON, Warren , b. 1942; WA shearer laborer and farmer until 1970; constructed his first shopping centre Kalgoorlie 1970; developed the first of more than 30 New World WA properties in which Coles was the major tenant 1971; came to Sydney 1978 to develop sites for Coles; reported as saying that Sydney was a 'wonderful town', that there was no problem in obtaining funding for projects, and that he found Government authorities 'reasonable on the whole. You can get things done here. It is easier than Perth', 2 April 1979; political contacts reported to have included former NSW ALP secretary Graham Richardson, former Minister for Planning and Environment Eric Bedford, president (1979-83) of NSW Labor Party Paul Keating, and former prisons minister Rex Jackson; employed Thomas Christopher Domican 1981-82; began a connection with Japanese construction group Kumagai Gumi 1985; largest single investor Sydney central business district 1986.

ARANTZ, Philip , b. 1929; Sergeant in police computer section; dismissed without pension from NSW police force 1972 for informing *The Sydney Morning Herald* that Commissioner Norman Allan falsified crime clear-up rates; Wran Government reported to be looking at his case November 1976; accepted compensation said to be \$250,000 on condition that he was not re-instated in the force, and that he promised not to engage in further public debate on the issue, January 1985; the Arantz affair described

as a 'prismatic case' by law lecturer Gill Boehringer, who was writing a book on it, 'When you look through a prism, you see a lot of things you don't always see', January 1985.

ASKIN, Hon. Sir Robert William, b. Robin William Askin, April 4, 1909 Glebe; son of tram driver, lived Lyndhurst Street, Glebe until 1931; bank clerk; married Mollie Underhill 5 February 1937; bookmaker 2nd 31st battalion World War II; MLA (Lib) Collaroy 1950-1975; deputy leader NSW Opposition. 1954-1959; leader 1959-1965; Premier and Treasurer 30 April 1965-3 January 1975; KCMO 1972, GCMG 1975; instructed Superintendent to 'drive over the bastards' when his car was halted by Vietnam war demonstrators during US President Lyndon Johnson's procession in Sydney, July 1966; veteran Labor politician Patrick Darcy Hills later (March 1986) told Parliament that in 1967 senior police were found being entertained in Chinese gambling club, also alleged to be drug distribution centre, in Dixon Street, said Askin promoted one of the policemen [identified by *Sun-Herald* reporter Graham Gambie as late George Barnes) from Chief Superintendent to Assistant Commissioner a few days before he retired so he could go out with much greater superannuation payment; Gambie identified the other policeman as Frederick John Hanson, Police Commissioner 1972-76; his private account in name Robin W. Askin at Rural Bank reported (by David Hickie, 1985) to have received cheque for \$20,000 signed by Elton Reginald Griffin, managing director Boral Ltd, at time Griffin knighted (Kt.), at recommendation of Askin Government, 'for services to commerce and industry' in Her Majesty's birthday honours list, June 1970; former newspaper publisher Maxwell Newton later (26 March 1984) stated that in 1970 he delivered \$15,000 in brown paper bag to Askin's office on behalf of Filipino businessman who hoped Askin would approve plan to build jai lai stadium; Newton said, 'I told him who it was from and I've never seen \$15,000 disappear so quickly in my life. He took the money and whipped it into the top drawer of his desk, and said, "That's very kind of him; I'm deeply grateful" (but, Newton said, 'I'm afraid Bob didn't deliver'); joined Sir Peter Abeles and Sir Arthur George on board of Thomas Nationwide Transport (TNT) 16 February 1976; Labor MLA Heathcoate Clifford Mallam, calling in Parliament on Wran Government to appoint select committee to investigate operations of a 'Mafia' comprised of crooked company directors, many of them close to Askin, which he said had been operating for many years, said: 'I refer to that organisation known as Askin's Knights or the Hungarian Mafia. Many of these crooked company directors use every loophole in the law to see that investigations into their affairs take as long as possible and hopefully are forgotten ... Many of them travelled overseas with him. He even took some of them behind the Iron Curtain', 24 March 1977; Attorney-General Francis Walker, asked whether 'Sir Paul Strasser's knighthood [Kt., 1973] by the Askin Government was for services to the building industry, and did those services include obtaining huge sums of money from the NSW State Superannuation Fund for investment in the Police headquarters and CAGA House?' replied that the citation was for services to building industry and in mineral and oil exploration field, 26 March 1977; otherwise reported that the fund had advanced \$6 million to Strasser's Parkes Developments as a first mortgage on building projects; Askin denied he had anything to do with Parkes; Independent MLA John Hatton said in Parliament, '...under the Askin Government in the 1960s and particularly the late 1960s the real penetration of organised crime by overseas gangsters, mobsters and Mafia took place. Shopfront gambling and rackets came of age. Large corporate frauds, consumer cheating, securities frauds and prostitution became rife, and in some ways have continued. I have no doubt that ex-Premier Askin and [former Police Commissioner Frederick John] Hanson knew and may have even encouraged these activities', 16 August 1979; Askin replied that he was free of any involvement in criminal activity, had been right throughout his political career, and said, 'When I first took office as Premier, Police Commissioner [Norman] Allan saw me and asked what my policy was about organised crime. I asked him what the policy had been under the previous [Labor] Government. He said: "We have no chance of eliminating these illegal activities and we do our best to keep them under control." So I said that seemed to be the best course to follow'; died 9 September 1981; cremated 14 September; under headline: ASKIN: FRIEND TO ORGANISED CRIME, David Hickie reported in *The National Times* 13 September 1981, 'According to a very reliable source in the old [Percival John] Galea empire, Askin and Hanson were paid approximately \$100,000 each in bribes a year from the end of the Sydney gang wars in 1967-68 until Askin's retirement. The source is impeccable'; reaction mixed: some said bad taste; others that truth often in bad taste; Premier Wran said report 'tasteless in the extreme', agreed that the allegations may have been well known to many Sydney people for many years, but the substance had not been, and he [Wran] himself had never been slow to investigate allegations of corruption, even if they were to detriment of his own party, but 'I am certainly not going to dig up corpses and engage in that sort of thing'; the Most Reverend Sir Marcus Lawrence Loane, Anglican Archbishop of Sydney, delivering occasional address at Askin's funeral service 14

September at St Andrew's cathedral, said Askin had a strict code of right and wrong, and integrity as a statesman; Opposition leader Bruce John McDonald said it was disgraceful and despicable; Police Minister William Frederick Farrar Crabtree said he thought it was out of taste of all Australians; after the cremation, former Liberal Premier Sir Eric Archibald Willis said it was disgusting to print such a thing about a man not even cold in his grave; Labor MHR Dr Richard Emanuel Klugman said, '-there ought to be laws to protect the dead, perhaps allowing the estate to sue'; Labor Senator Nick Bolkus asked, 'In the light of these allegations, will the Tax Commissioner be looking into the affairs of the late Sir Robert Askin's estate?' Lady (Mollie) Askin said *National Times* people were 'utter curs', and, 'it is a rehash of everything that has been said before, and all of it has been proved totally incorrect'; advertising person John Singleton said, 'I hope that some time I get a chance to have a little yarn with that man from *The National Times*, that little cowardly person who wrote that attack on Bob Askin yesterday, free of facts, just the smears and innuendoes of a petty mind, and to think the once great Fairfax empire could stoop to such gutter, gutless journalism is to me sickening, and I'm sure that's a sentiment that will be shared by every fair-thinking person'; Peter Gannon, of Goulburn, noted, 'none of the accusations has been denied'; *The Herald* [Melbourne] said, '...the bigger question remains: is the report accurate?... If the charges are true, the public has a right to know what has been done in their name'; Paul Lynch, editor of Uniting Church newspaper *Forward*, said the *de mortuis nil nisi bonum* [(say) nothing but good of the dead] argument 'would apply in such cases as the publication of name-blackening stories on matters of little substance. The grip that organised crime has gained on NSW over the past 15 years is no small matter'; revealed that Askin had left an estate of \$1,957,995, mostly to his widow, 24 February 1982; retired US Admiral Earl (Buddy) Yates, former president of Nugan Hand Bank, said he accepted the position on advice of Askin and senior Sydney bank officer, said he trusted Askin's opinion about bank's principals, Frank Nugan and Michael Hand, because Askin knew them well and shared an office with them in Macquarie Street, September 1982; Premier Wran supported claims that corrupt practices were allowed to flourish under Askin Government, said almost everything his Government had done - establishing a Police Board, cracking down on drugs, setting up internal security unit to deal with corrupt police should have been done years before, 25 March 1984; his widow died, leaving estate of \$3,724,879 (bequests including \$100,000 to an executor and trustee of the estate, John Ivan Charody), 26 March 1984; Askin home at 86 Dower Street, Manly, in which he and Lady Askin had lived for 11 years, sold at auction for \$465,000, 30 October 1984; Abraham Gilbert Saffron stood behind a pillar at the auction, but David Harris, of L.J. Hooker, Manly, said Saffron was not buyer; when Hickie's book on Askin, *The Prince and the Premier*, was published, Liberal Opposition leader Nicholas Greiner said coalition would support Royal Commission on Askin Government provided it achieved something substantial, and that he suspected at least some allegations of corruption during Askin era were true; Federal Director of Public Prosecutions Ian Douglas Temby QC confirmed that legal teams had been established in five States to co-ordinate seizure of millions of dollars of property from known or suspected criminals, including Askin, Robert Trimbole, Bruce Richard (Snapper) Cornwall, and Brian Maher, 19 February 1986; in Askin's case, TNT shares worth more than \$300,000 and his house at Manly were believed to have been sold to go towards outstanding tax bill of \$2 million; Brian Watt, of Permanent Trustee Co Ltd, co-executor of Lady Askin's will, denied reports that house was sold to meet tax debt, said it was owned by Lady Askin and was thus not subject to claims based on Askin's tax debts; Premier Wran, asked if he believed Askin was a crook, replied, 'Yes', 1 May, 1986.

ASTON, John Lawrence , b. 9 November 1933 as Lawrence J. Reid; adopted 1947; solicitor March 1957; partner in firm of solicitors Barkell & Peacock until July 1976 when he began a practice under his own name at 54 Park Street Sydney; solicitor for Kevin Emery Humphreys 1976-77; Stewart Royal Commission on Drug Trafficking [Mr Asia] reported, 'When [Mr Asia head Terrence John] Clark arrived in Australia early in 1976 ... there is evidence before the Commission that Clark and others of his group asked Australian criminals with whom they associated the name of the best lawyer for them to use in Sydney. Many of these criminals recommended John Lawrence Aston ... Clark became a client of Aston's firm ... Three allegations have been levelled at Aston. One, that he was involved with the Clark [Mr Asia] organisation; two, that he was involved with the Nugan Hand organisation which he used to transfer or 'launder' funds for the Clark organisation; and three, that he is or was closely and improperly associated with members of the New South Wales Police Force and the now disbanded Federal Narcotics Bureau. Research by the Commission has shown that in many instances Aston was implicated in the above matters through the activities of [Brian William] Alexander ... Aston appears to be well known to several narcotics agents and members of the New South Wales Police and he has acted as

solicitor for ex-narcotics officer Richard John Spencer, among others. Both Aston and Alexander were mentioned by Douglas and Isabel Wilson on the tape-recorded interviews taken in Brisbane in June 1978. James William Duff, a Detective Sergeant of police attached to the Sydney Homicide Squad, is a close personal friend of Aston and was also friendly with Alexander. From 24 April 1981 until 5 May 1981 Duff and his wife stayed at Aston's holiday home in Honolulu. He [Duff] also confirmed in evidence to the Commission that he had incorrectly referred to himself as a company director when leaving for New Guinea in October 1980, even though he was in fact a police officer. Victoria Police Assistant Commissioner Mr J.R. Hall and his investigators told the Commission they had been frustrated in their dealing in 1979 with matters concerning Aston and Alexander. They said the Commonwealth Attorney-General's Department in Canberra had refused to allow them to search Aston's office or to arrest Alexander and that Alexander and Aston appeared to receive favourable treatment from some members of the New South Wales Police.' Stewart recommended, 'the evidence concerning the use of fictitious names in (Aston's) trust account should be made available to the Law Society of New South Wales to allow it to take such action thereon as it may be advised...'; Aston not struck off the rolls of solicitors, but did not renew his practising certificate; in Port Moresby, at a Commission of Inquiry investigating multi-million aircraft deals involving the Australian aviation company, Peldale, and alleged political intervention in a search for drugs in one of its planes, the then Prime Minister of Papua and New Guinea, Michael Somare, examined on his association with two men connected with Peldale, Aston and John Johnson, said he had been introduced to Johnson in 1979, and had subsequently discussed proposal for joint international freight service and seafood export, but plans did not work out; that in 1984 he talked with Aston and Johnson in Sydney about the PNG Government's wish to sell a luxury jet aircraft bought by the previous government; Aston and Johnson had subsequently gone to PNG to introduce representatives of Israeli Aircraft Industries, manufacturers of an Arava aircraft that PNG bought in 1985 for \$A6.62 million; asked if he knew Aston had been adversely mentioned at the Stewart Commission, Somare said: 'If I had known that I would not have been talking to him'; said he had taken Aston and Johnson on good faith because they were associated with the reputable Australian company, TNT, and that his attitude to Peldale would have been different had he known that its predecessor, Wings Australia, had gone into liquidation in 1984 with reported debts of \$15 million, 9 October 1985.

AVERY, John Keith, b. Hornsby 7 August 1927; joined NSW police force 12 April 1948; never a member of the Criminal Investigation Branch; country police stations, Currabubula, Port Macquarie, Tenterfield 1949-1967; station sergeant Chatswood 1967; officer in charge of Police Training, Development and Examination Branch, May 1978; author of *Police - Force or Service?* 1981 ; gave evidence to Police Tribunal that in 1981 Sergeant Warren Molloy told him that Deputy Commissioner Bill Allen had tried to give him money, presumably to try to improperly influence his work as a licensing sergeant, 1982; appointed Police Commissioner on recommendation of Police Board, 6 August 1984; asked in December 1984: 'Will you go after crooked police of the past, like Fred Krahe, who was alleged to have murdered Shirley Brifman?' he replied: 'If there is no legal statute of limitation, there'll be no police statute. We'll look into the past, but I don't want to make invidious comparisons with the commissioners of the past'; did not agree with assessment by senior Victorian policeman that, 'it will take a generation to clean up the NSW police force. It will take a young Police Commissioner who will have, say, 10 or 15 years in the job, a man who will dedicate himself completely to that task as his major objective', June 1985; salary \$82,410 plus expenses of \$2592 June 1985; after reports in April 1986 that 86 police were under investigation, 80 per cent of them from the CIB, Police Minister George Paciullo confirmed that a hard core of corrupt officers were making death threats to Avery.

AZZOPARDI, Edgar John (Eddie), b. 7 July, 1932, near Valetta, Malta; of Russian-Maltese extraction; left school at age 10 to fight in war against Germany, but gave up a career in the Army to come to Australia with his parents 1949; worked on Snowy Mountains Scheme, as supermarket manager Whyalla, South Australia, fork-lift operator, Sydney; following collision with police officer in 1969, has continued to pursue perceived deficiencies in administration of justice in NSW.

BALDWIN, Peter, b. England 1952; migrated 1958; economics degree Macquarie University; worked in computer industry; elected (Labor) member of NSW Legislative Council 1976; began publishing *Challenge*, a Left monthly journal (circulation 6000), 1976, to publicise criminal infiltration of Labor Party branch politics, particularly in Balmain and Marrickville; criminally assaulted 'by two stocky men

with stockings on their faces' in the kitchen of his William Street, Marrickville, house Thursday, July 17, 1980, receiving broken nose and gashes to head requiring 50 stitches; after winning pre-selection (327 votes to 292) for safe Federal seat of Sydney over sitting member Les McMahon, 28 November 1981, his supporters blockaded Leichhardt Town Hall to prevent ballot boxes being removed; elected to Federal Parliament 1982; censured by Prime Minister Hawke for sponsoring notion of motion condemning US invasion of Grenada without clearing it with Foreign Minister Bill Hayden, November 2, 1983; entered hospital July 1984 for emergency operation to save sight in left eye, condition traceable to 1980 assault.

BARTON, Alexander , b. Sandor Buchalter, Zlaemorv, Hungary, 1916; fought in Hungarian section of German army in Russia; migrated Sydney 1950; by 1954 had plumbing and draining business employing some 12 men; changed name to Barton to honour first Australian Prime Minister, 1955; had businesses installing septic tanks with little success until he discovered lending company Australian Factors Ltd, early 60s; described his experience with AFL to Corporate Affairs Commission investigators on 25 May 1967 thus: 'I took the invoices with the receipts to [the managing director], and he looked at it and he said: "Wait a minute please", and went out. In three minutes he came back with a cheque, something close to £50,000. I was really astonished you know. I borrowed money many times before - I am in business for a long time - and I have never seen it - to get money so fast and so easily. I was very happy about it. I thought Father Christmas came, you know?'; floated a number of companies during the mining boom of 1969-70; in a complicated deal, Bela Csidei, introduced to Barton by Sir Peter Abeles, bought Brins General Insurance and its subsidiaries, including Redbank copper mine, for \$1.3 million without seeing the audited balance sheets, 2 June 1972; Csidei later (June 30, 1977) told a court that Alexander Barton told him in 1972 that Premier Askin and then Attorney-General Kenneth McCaw would have to help Barton in relation to business difficulties. Barton had said: 'It is their duty to help, otherwise I will take them all down with me', investigation ordered into Barton companies 4 April 1973; \$142,000 withdrawn from account of one company 16 April, 1973; left Australia with his wife Lily, his son Thomas and his wife Gail 17 April 1973. Later (April 19, 1977), Laurence Gruzman QC denied Thomas Barton's assertion that they left Australia on Gruzman's advice; Brazil rejected Australian application for his extradition, May 1974; Paraguay (ruled since 1954 by dictator Alfredo Stroessner) Supreme Court upheld Paraguay's Appeal Court's rejection of Australia's request for extradition, February 1976; Bartons returned to Australia voluntarily and surrendered to police at Sydney airport, 5 January 1977; after-three months in prison, father and son granted bail of \$30,000 each, April 1, 1977; all charges against them eventually either dismissed or not proceeded with; Alexander Barton committed for trial on two charges of dishonestly using some \$176,000 in funds from commodity dealer Wesson Walshe Pty Ltd, December 19, 1985.

BARTON, Thomas , b. 1947, son of Sandor Buchalter (later Alexander Barton); took Paraguayan citizenship August 1974; manager, commodity trading activities, of an English subsidiary of a Swiss corporation, 1984.

BARWICK, Rt. Hon. Sir Garfield Edward John, b. 22 June 1903; ed. Fort St High, Sydney University; admitted NSW Bar 1927; KC 1941; Kt 1953; MHR Parramatta, 1958-64; Attorney-General 1958-63; Minister for External Affairs 1961-64; Chief Justice High Court 1964-81; GCMG 1965.

BAZLEY, James Frederick (Machine Gun) , b. 1926; employed Melbourne wharves 1940s; bookmaker's clerk; bank robber in mid-60s; met Melbourne gun-dealer George Joseph 1969; stood as candidate for committee of Ships Painters and Dockers' Union 1971 on the Billy (The Texan) Longley ticket attempting overthrow of secretary Patrick Shannon (Longley later imprisoned for life for complicity in 1973 murder of Shannon), and said to have stood, gun in hand, with one foot on the ballot box; Joseph alleged to have suggested he engage in armed robbery, 1975; absconded on bail to Sydney: introduced by Joseph to Gianfranco Tizzzone who had been allegedly instructed by Robert Trimbole to find someone to kill Donald Bruce Mackay; alleged to have murdered Mackay at Griffith for \$10,000 (although *milieu* types in Melbourne are said to express disbelief at the idea that Jim Bazley would even break a leg for that sum), 15 July 1977; similar arrangements by Terrence John Clark, Trimbole, Tizzzone and Joseph alleged to have led to Bazley's killing of Douglas and Isabel Wilson in Victoria 13 April 1979; found guilty of the three murders on 16 April, 1986, and sentenced to life imprisonment.

BLACKBURN, Hon. Sir Richard Arthur , b. 26 July 1918; ed. St Peter's Adelaide, University of Adelaide, Magdalen College, Oxford (Rhodes Scholar 1940); AIF 1940-45; called to Bar (Inner Temple, London) 1949; Professor of Law Adelaide University 1950-57; Judge Northern Territory Supreme Court 1966-71; chairman Law Reform Commission ACT 1971-76; judge Federal Court 1977-85; Chief Justice ACT Supreme Court 1982-85; commissioner Murphy Special Commission of Inquiry 1986.

BONNETTE, Karl Frederick , aka Karl Solomon, K. Rogers, Frederick Brock; b. Melbourne 8 March 1935; noted in police records from 1954; alleged by police to have hosted organised crime summits in Double Bay July 1972; travelled extensively abroad to destinations including New York, Los Angeles, Las Vegas, England, Germany, the Philippines, Hong Kong, Israel, Argentine, Venezuela, Brazil, and Colombia; changed his name by deed poll to Graham John Allemann to gain entry to US 1977; tap on his phone led to a tap on the phone of Murray Stewart Riley and the apprehension and conviction of 10 persons, including Riley, for the Choyro Maru-Anoa cannabis importation, June 1978; named by NSW Premier Wran as leading member of Sydney underworld, 24 August 1978; reported to be on list of possible targets of National Crime Authority, April 1985.

BOTTOM, Robert Godier . b. Norwood, SA, 20 September 1943; ed. Marist Brothers' College, Broken Hill; reporter *Barrier Daily Truth*, Broken Hill, 1959-61, *Richmond River Express*, Casino, 1961, ABC Broken Hill, 1962, *Daily and Sunday Telegraph* 1967-74; his report CRIMS GRAB CLUBS *Sunday Telegraph* 25 July 1971 eventually led to Moffitt Royal Commission (1973-74) on organised crime in clubs; his report (with Anthony Reeves) THE NIGHT MAFIA CAME TO SYDNEY *Sunday Telegraph* 16 July 1972 led to organised crime summits July 1972; witness, Moffitt Commission 1973; proprietor *Regional Advertiser*, Broken Hill, 1974-75; press secretary, Country Party leader Leon Punch 1976-78; appointed Special Investigator into Crime, attached to Attorney-General's Department, by Premier Wran, April 1978; resigned September 1978; reporter *The Bulletin* 1978-79; his *The Godfather in Australia* published 1979; special adviser to Opposition leader John Mason November 1979-June 1980; proprietor *Aeroplane Press*, Burwood, and *Weekly News*, Bankstown, 1981-83; reporter *The Bulletin*, *Australian Business*, 1983; supplied data on NSW police tapes to *The National Times* November 1983, *The Age* January 1984; consultant to *The Age* from 1984; published *Without Fear of Favour*, in which he estimated organised crime in Australia turned over \$10-\$12 billion a year, 1984; published *Connections* 1985.

BOWEN, Hon. Lionel Frost , b. Ultimo 28 December 1922; ed. Marist Brothers, left school at 14; law degree Sydney University 1950; solicitor; alderman Randwick Council; MLA Randwick 1962-69; MHR Kingsford since 1969; Postmaster-General 1973-74; Special Minister of State 1974-75; Minister for Manufacturing Industry 1975; Deputy Leader Opposition 1977-83; Deputy Prime Minister from 1983; Minister for Trade 1983-84; Attorney-General from 12 December 1984.

BRERETON, Hon. Laurence John , b. 29 May 1946; ed. de la Salle College, Coogee; MLA (Labor) Randwick 1970-71; for Heffron from 1973; Minister for Health 1981-84, for Roads, Public Works and Ports from 1984.

BRIESE, Clarence Raymond , b. 27 November 1930; ed. Temora High School, Sydney University, Cambridge University; Stipendiary Magistrate 1966; Chief Stipendiary Magistrate 1979.

BRISTOW, Charles John (Tim) , b. 1931; ed. Sydney Church of England Grammar School (Shore); Gordon Rugby Football Union Club (first grade) until barred for life, by the club in 1963 for 'over vigorous play'; as coach Newport sub-district RU team was barred from 'the playing field or a reasonable vicinity' 1969; A. Wilde SM revoked his private inquiry agent's licence for two years following a raid on a Port Macquarie flat, February 1975; received 18-month prison term for a 1972 assault, 1975; claimed to represent developer Warren Anderson's New World Property group in Melbourne 1980; played for Gordon RU Golden Oldies 1983; charged, along with three detectives, with conspiring to supply Indian hemp, February 1985; pleaded guilty, sentenced to five years, 28 August, 1986.

BROWN, Hon. John Joseph , b. 19 December 1931; ed. Christian Brothers' Burwood, St Patrick's College Strathfield, Sydney University; pork butcher; director of Parramatta Police Boys' Club; MHR (Labor) for Parramatta from 1977; Minister for Sport, Recreation and Tourism from 1983.

BULL, Barry Richard , (aka P. Adams, P.G. Adams, Barry Richards, Brian Hickson, R.N. Petersen). b. Brisbane 25 July 1943; butcher; part-owner Hairloom hairdressing salon Noosa 1979; left Queensland in yacht *Skylab* February 1984; named by Costigan Royal Commission as one of the 'leading lights' in a Noosa drug distribution network, 1 November 1984; charged *in absentia* with conspiracy to import \$8 million worth of cannabis from Thailand, 10 January 1986; arrested on passport charges in Austria, 28 April 1986; escaped from custody when, handcuffed, he jumped from prison van to Kawasaki motorcycle driven by his eight-months pregnant girl friend, Sylvia Lux, 33, who ran a hair-dressing salon at Noosa in partnership with him, near Innsbruck June 18, 1986; recaptured in Graz, Austria, when he visited the baby boy, born with a heart defect and not expected to live, 30 July 1986; extradited to Sydney October 1986.

BYERS, Sir Maurice Hearne , b. 10 November 1917; ed St Aloysius' College; NSW Bar 1944; QC 1960; Commonwealth Solicitor-General 1973-83; Kt 1982; Chairman New South Wales Police Board from 1983.

CAHILL, Geoffrey David , b. 1936; ed. Waverley Christian Brothers' College; worked at Tooheys Brewery, 1952; joined Police Department's court staff at the Children's Court; assistant secretary Administrative Officers' Local Government Electricity Association of NSW 1961; assistant general secretary New South Wales Labor Party 1969; senior assistant general secretary 1971; succeeded Peter Westerway as general secretary 10 June 1973; charged on summons with conspiring to corrupt four Botany Council alderman in April 1974, 8 April 1975; discharged by Magistrate Murray Frederick Farquhar, 'the prosecution have not been able to put evidence before me sufficient to go to a jury', 8 August 1975; obliged to resign as general secretary (and was succeeded by Graham Richardson), because he was thought to have given less than full support to NSW party president John Ducker, who had recently been defeated for the post of national vice-president, 1 September 1976; reported to have been given option to resign then or be defeated at party conference June 1977, told if he chose latter the Party could not help him find another job; appointed counsellor, NSW Anti-Discrimination Board, 11 May 1977; appointed chairman of the Public Service Promotions Appeal Tribunal, 4 July 1979.

CALLINAN, Ian QC, b. 1942, President of Queensland and Australian Bar associations 1985; appointed chairman of the Queensland TAB following the resignation of former chairman Sir Edward (Top-level Ted) Lyons after allegations that Lyons credit bet \$317,968 over a 12 month period, 30 April 1985; prosecuted Justice Lionel Murphy at his two trials in 1985 and 1986; Federal Attorney-General Lionel Bowen advised Labor backbencher Dr Richard Klugman that, up to 6 May 1986, Callinan had been paid \$132,270 for work in Murphy's committal hearing, a Federal Court application for review of the committal order, his first trial, proceedings in the High Court, and a NSW Appeals Court hearing, and was additionally paid \$18,784.10 for travel and accommodation associated with those matters, but had still to submit his account for work during Murphy's retrial, June 1986.

CANTOR, Hon. Henry Laurence , b. 20 April, 1919; ed. Barker College, Sydney University; admitted to the Bar 1949; QC 1971; Justice Supreme Court of NSW 1975; appointed chairman of NSW Corrective Services Advisory Council for a three-year term February 1978; amid suggestions information being withheld from the council, resigned December 1978; presided at Justice Murphy's first trial; became ill following the trial; returned to the bench, 7 May 1986; d. September 1986.

CARR, Hon. Robert John , b. 28 September 1947; ed. Matraville High School, University of NSW; journalist ABC radio 1969-72; Education Office NSW Labor Council 1972-78; journalist *The Bulletin* 1978-83; MLA (Labor) for Maroubra since 1983; Minister for Planning and Environment since 1985.

CESSNA, Roy Bowers, American citizen; rug and carpet dealer; charged with having imported more than 100,000 buddha sticks, 14 March 1979; given 18-month good behaviour bond by retiring Chief Stipendiary Magistrate Murray Frederick Farquhar, 24 May 1979.

CHAD, Nelson Rowatt , b. 1938; joined NSW Police Force 1955; barrister; Inspector of Police; worked in Fraud and Armed Hold-Up squads and Special Weapons and Operations Squad; advised by then head of NSW CIB, Superintendent Noel Morey, he was likely to be charged with an offence, November 1983; charged on six grounds of alleged misconduct, including that he brought discredit on the force by associating with Dr Nick Paltos between January and July 1985, and that he did not give honest answers in records of interview with the Internal Affairs Branch on 19 August 1985 and 5 March 1986, April 1986; found guilty by Judge James Staunton, sitting as the Police Tribunal, on three charges: the Paltos charge, and of failing to exercise the strictest honesty and truthfulness on 19 August 1985 and 5 March 1986, 23 June 1986; his counsel, John Dailly, told the Tribunal Chad had suffered enough, that at most he should be either reprimanded or fined, that if he retired medically unfit he would be entitled to a minimum pension of 70.75 per cent of his salary, but if he were dismissed he would lose \$368,000, 2 July 1986; Staunton recommended that Chad be dismissed from the force, 9 July 1986; his appeal dismissed October 1986.

CHARLTON, Francis , NSW Police 1946; immediately assigned to Darlinghurst; according to *Daily Mirror* police roundsman Bill Jenkins (28 August 1979), Charlton 'showed such promise as a detective that Inspector Ray Kelly had him moved to the CIB', where 'he played a key role in the arrest and conviction of three men for the murder of vice king Joe Borg, and worked with such hoodlum-hunters as the late Inspector Ray Kelly and Les Gaskill and later with Inspector Noel Morey, now Chief of the Armed Hold-Up Squad and officer in charge of the Special Weapons and Operations Squad'; received Commonwealth Police information from Consorting Squad chief, Sergeant Jack McNeill (who was investigating organised crime at the time but who judged the information not germane to his inquiry) of three organised crime summit meetings in the previous two weeks at premises leased by Karl Frederick Bonnette at 44 William Street, Double Bay, 3 August 1972; instead of instituting surveillance, went to the address, arrested Bonnette, and charged him with receive television set, thus alerting those involved, including George David Freeman, 4 August 1972; Sergeant in charge of the Consorting Squad 1975; tape of Charlton talking to Freeman played by Superintendent A.M. Birnie to senior Assistant Commissioner Dick Lendrum in Centennial Park, 19 March 1976; transferred to Murwillumbah June 1978; retired with rank of Inspector August 1979; found by Justice Stewart to have been 'deliberately untruthful' in denying to the Royal Commission on Alleged Telephone Interceptions that his was voice on taped conversation with George David Freeman in 1976.

CHIPP, Hon Donald Leslie , b. 21 August 1925; ed. Northcote High School, University of Melbourne; management consultant; Liberal MHR for Higinbotham (Victoria) 1960-69, for Hotham 1969-1978 (Liberal to 24 March 1977, then Independent); Senator and leader Australian Democrats 1978-1986; Minister for Navy 1966, for Tourism 1966-68, for Customs & Excise 1969-72, for Social Security and Repatriation 1975-76; resigned from Senate 17 August 1986.

CLARK, Terrence John , aka, among more than 30 aliases, Phillip John Scott, Keith Norman Douglas Perkins, Peter Kriss, John Eli Newton, Terrence John Phillips, Terence Alexander Sinclair, Alexander James Sinclair; b. Gisborne, New Zealand, 12 November 1944; before the courts before age 18; first prison sentence, for burglary, 12 March 1971; released 8 July 1974 and turned to drug-trafficking, first distributing cannabis importations arranged by Christopher Martin Johnstone (Mr Asia); Clark's dealers at this period included Joseph Martin, Errol Hincksman, Peter Fulcher, Valerie Kairau, Gregory Ollard, James Shepherd; bought the boat *Catana* for importing drugs from South-east Asia to New Zealand 1975, but fell out with Shepherd, Martin and Stephen Bazley, and project came to nothing; arrested 3 October 1975 on heroin importing charge, but absconded on bail and came to Australia where he was a heroin importer 1976-1979; PASS alert issued for Phillip John Scott issued by Federal Narcotics Bureau 13 May 1977; believed to have executed Gregory Paul Ollard in the Ku-ring-gai National Park and Julie Diane Thielman between Blackheath and Mt Victoria in the Blue Mountains, mid-September 1977; file opened on Terrence John Clark in Sydney office of Narcotics Bureau May 1978; murdered Harry (Pommy) Lewis (aka Stanley John Weinert) at Port Macquarie on or about 23 May 1978; detained by Brisbane police 9 June 1978 along with Douglas and Isabel Wilson, James Shepherd, and others; between 9 June and 12 June 1978, Brisbane police covertly tape-recorded Wilsons' detailed descriptions of Clark syndicate operations; pleaded guilty to possess unregistered pistol, 14 June 1978; extradited NZ on the 1975 heroin charge, 25 June 1978; acquitted 31 October 1978; said to have obtained the Wilson tapes for \$250,000 through Brian Alexander; Wilsons executed in Victoria on or shortly after 13 April

1979; left Australia from Melbourne 26 April 1979; arranged the 9 October 1979 execution of Christopher Martin Johnstone by Johnstone's best friend, Andrew Maher; arrested London 31 October 1979; charged with the Johnstone murder and conspire import and supply illegal drugs into United Kingdom; convicted on all counts and sentenced to life, with a minimum of 20 years, 15 July 1981; denied all allegations put to him by Justice Donald Stewart at HM Prison Parkhurst, maximum security prison on Isle of Wight, 24 September 1982; died of heart attack (possibly as a result of a drug taken to induce mild heart attack to facilitate escape by shift to less secure prison) in Parkhurst, 12 August 1983.

CLUFF, Darcy William , b. 1940; ed. St Joseph's College, Hunters Hill; NSW Police 1959; Prosecuting Branch 1966; Sergeant 1975; prosecutor in Humphreys case, 11-12 August 1977; Inspector 1985; Chief Inspector 1986.

COLLINS, Brett Anthony , b. (as David Charles Hass) NZ 1946; studied medicine 1962, dentistry 1963-65; emigrated Australia 1968; studied mining engineering Sydney University 1969; charged with armed rob Stanmore bank, shoot to avoid arrest, attempt murder two policemen, April 1971; protesting innocence, said he had been 'verballed' by police; sentenced to 17 years; released 1980, and campaigned against police 'verbals'; resigned as director of Glebe House, half-way home for prisoners, March 1986.

CORNWALL, Bruce Richard (Snapper), b. central coast NSW. 29 January 1944; adversely mentioned in reports of Woodward Royal Commission on Drug Trafficking 1979, joint Federal-NSW police task force 1982, Costigan Royal Commission 1984; arrested on passport charges England November 1985; extradited to Sydney, 22 August 1986.

COSTIGAN, Francis Xavier , b. 14 January 1931; ed. St Patrick's College, Melbourne, Melbourne University; barrister and solicitor 1953; QC 1973; delegate Victorian Labor Party State Council 1970-74; commissioner, Royal Commission on Ships Painters and Dockers' Union, 1980-84.

COX, Hon. Peter Francis , b. 1925; clerk Motor Transport Department; executive Transport Officers' Association; NSW MLA (Labor) for Auburn from 1965; Minister for Transport 1976-84, Mineral Resources and Energy from 1984, Industry, Small Business, Energy and Technology from 5 February 1986.

CRABTREE, Hon. William Frederick Farrar , B. 1915; telegram boy at 15, later railway porter and ticket collector; private secretary to Minister for Transport Clive Evatt Snr early 1950s; MLA (Labor) for Kogarah 1953-July 1983; Minister for Lands and Environment 1976; granted Kerry Packer 40-year extension of his lease at Perisher Valley ski resort complex day before 1978 elections; Minister for Police February 1980-30 September 1981; cleared of corruption charges by Detective Inspector Frederick Joseph Parrington, June 1982; resigned from Parliament 25 July 1983.

CRIMINAL INVESTIGATION BRANCH, NSW : According to the Stewart Report on Alleged Telephone Interceptions (30 April 1986), some Superintendents in charge of the CIB were: R.C. (Dick) Lendrum, February 1970-February 1972; L.V. Moore, 1972-November 1973; F.A. Bradstreet, November 1973-January 1974; E.E. Canacott, January 1974-January 1976; W.G. Clyne, January 1976-March 1976; A.M. Birnie, March 1975-March 1976; S.R. Goldsworthy, 1977-1980; L.F. Palmer, 1979-1980; B. Blissett, 1980-1982; R.C. Shepherd, 1982-1984.

CRIPPS, Hon. Justice Jerrold Sydney , b. 22 April 1933; ed. The King's School, Sydney University; NSW Bar; QC 1974; judge District Court 1977-80; Land and Environment Court from 1980; chief judge from 1985.

CSIDEI, Bela, (pron. s'day) b. Budapest, Hungary, 10 August 1932; migrated to Australia 1950s; maritime engineer in merchant navy; underwater photographer; according to Sir Peter Abeles, basically a beachcomber until 1970; after telephone introduction to Alexander Barton by Abeles, control of 26 companies in the Barton group sold in a 'round robin' transaction to company controlled by Csidei at a meeting (at which Csidei not represented by a lawyer) on 2 June 1972 at which documents and cheques 'went round the table one after the other', according to a NSW Corporate Affairs Commission report presented to NSW Attorney-General Sir Kenneth McCaw 19 May 1975; Abeles denied to the

Commission that Csidei was acting as a 'front man' for him in the transaction; Csidei later (1978) said the Bartons had disposed of the \$1 million opal called the Desert Flame of Andamooka before he took over the company which owned the stone; associated with Murray Stewart Riley in visits to the US 1976 and 1977; photographed with Teamsters' Union official Rudy Tham and Neil Ohlsson (later a principal in the Essington group of building companies) in San Francisco 18 May 1976; photographed with Mafia executioner James (The Weasel) Fratianno and Mafia identity Mike Rizzitello in San Francisco 5 November 1976; bankrupted with debts of \$2,180,026 and assets of \$2,670 13 October 1977; following discovery of marijuana plantation on his Wollogorang Station in Northern Territory December 1977, charged with conspire, between 1 June 1977 and 9 December 1977, to possess cannabis; evidence given March 1978 that he had borrowed \$10,000 from Fratianno, and if he did not pay it, he would be 'history'; sentenced in the NT Supreme Court to 15 months in Fanny Bay prison, 27 September 1978.

D'AGOSTINA, Mrs Vincenza, secretary to, and intimate acquaintance of, Chief Stipendiary Magistrate Murray Frederick Farquhar, attended court in which a charge (subsequently dismissed) against George David Freeman was being heard, and was seen writing in a notebook, May 1977; later (1983 Royal Commission) claimed just 'doodling', and just happened to drop in because her girl friend was a friend of Freeman; her evidence on this matter described by Commissioner Street as 'charade'; denied statement by Kevin Waller SM that she had said about 9.30 am 11 August 1977: 'The Premier's on the phone'; Street said, 'Mrs D'Agostino's denial I discard, along with the entirety of her evidence, as worthless. She was a wholly unsatisfactory witness. She feigned an attitude of contrived candour in the witness box. She was deeply involved emotionally with Mr Farquhar but, even making every allowance for this, she was unusually reckless in her handling of the truth. Her evidence was plainly, both in its content and in her demeanour, consistent only with a determination on her part to say nothing at all that she believed might be harmful to Mr Farquhar and, on the other hand, to say what she thought would assist him. Her denial of the incident, along with the totality of her evidence, carries no weight with me whatever'; Street however believed it probable she told Farquhar 'that either some Minister of some senior departmental head (possibly even from the Premier's Department) was on the telephone'.

DAVIS, Jack Mervyn, b. Cessnock 22 July 1916; ed. Cessnock High School, Sydney University; joined NSW police 1937; LL.B 1947; NSW Bar 1951; Company Squad CIB 1952; assistant director Commonwealth Investigation Service 1954; Deputy Commissioner Commonwealth Police 1960; succeeded Ray Whitrod as Commonwealth Police Commissioner April 1969; began nine-month study of organised crime in the US and England September 1972; retired 1979; died September 1981.

DELANEY, Arthur William (The Duke), b. 11 September 1927 or 11 September 1929; attracted attention of Scotland Yard concerning organised shoplift campaign 1967; photographed by Commonwealth Police Chequers night club with Chicago Mafia person Joseph Daniel Testa, Leonard Arthur McPherson, George David Freeman, Milan (Iron Bar Miller) Petrececic, 1969; attended, with Testa, McPherson, Freeman, Reginald Andrews, Watson's Bay party hosted by casino proprietor Ronald Lee 1969; attended Double Bay crime summits July 1972; NSW Criminal Intelligence Unit's March 1977 dossier on George David Freeman noted that Delaney had convictions for break and enter, steal, assault, possess unlicensed pistol, consort, street bet, possess explosives, offer bribe; since 1977 appears to have mostly worked overseas; charged in Copenhagen with complicity in theft of a diamond 1981.

DIAS, Ronald Lopes (Ronnie), British citizen; associate in Poda Enterprises Pty Ltd with Frederick Charles (Paddles) Anderson; police informers said Dias involved in illegal gaming in NSW, responsible for co-ordination of SP bookmaking in Victoria, and using a retail sales business in Bayswater Road, Kings Cross, to distribute illicit drugs, 1979; became subject combined NSW-Victoria Police clandestine telephone surveillance code-named A Dazzler, 10 June 1979; Victorian Police told Stewart it was established that Dias had business associations with alleged criminals in Sydney and with alleged Mafia figures in the US, that Dias had corrupted a Telecom employee to enable him to conduct an SP bookmaking system at the expense of the Royal Australian Navy, the Telecom person diverting RAN telephone lines from Garden Island dockyard at weekends to the Dias operation and restoring them Sunday nights; Dias and Anderson became suspicious of surveillance, and by a device, Dias arranged for flat containing electronic surveillance equipment to be raided by Gaming Squad police, thus abruptly ending the surveillance, with no charges resulting, August 1979; Dias and his wife left for the US on 4

July 1984; Stewart noted that, as of 30 April 1986, Dias lived in New York, where he had permanent resident status.

DOMICAN, Thomas Christopher , b. Ireland 1943; night club bouncer in London; migrated Australia 1968; reported seeking Labor preselection for Marrickville Council, 24 July 1980; withdrew 2 August 1980; charged 14 August 1980 with conspire and forge concerning Enmore branch of Labor Party; hired by property developer Warren Anderson October 1981; paid by Anderson's private company, Owston Nominees, more than \$20,000 26 October 1981-30 November 1982; Enmore charges dismissed 7 May 1982.

DOWD, John Robert Arthur , b. 12 November 1940; ed. Fort Street Boys' High School, Sydney University; solicitor 1963; NSW Bar 1967; MLA (Liberal) Lane Cove, NSW, from 1975; Opposition leader 1981-83.

DOYLE, Brian Kevin , b. 9 October 1918. NSW police cadet 1936; detective 1942; after two-year hunt, organised capture of Kingsgrove Slasher, David Joseph Scanlon, 1959; first detective graduate of Sydney University Diploma of Criminology course 1969; set up Crime Intelligence Unit 1974; Superintendent June 1975; appointed Assistant Commissioner (Traffic) 1975; according to Steve Pivetta in *The Daily Mirror*, 1 December 1976: 'One of the arresting things about Brian Doyle, one of the State's most outstanding detectives, is his amazing memory for detail. He can instantly recall full names, dates, incidents, and even car registration numbers from his many murder cases as far back as 1941'; passed over for post of Commissioner, which went to Mervyn Wood, and Deputy Commissioner, which went to James Lees, December 1976; appointed Senior Assistant Commissioner 15 December 1976; passed over for post of Commissioner June 1979, when Lees was appointed acting Commissioner on resignation of Wood; due to retire in October 1980, he retired at two hours' notice 5 October 1979, and, as one of the few senior policemen on record to decline a public farewell, held a private party at his Kingsgrove home; appeared at Street Royal Commission 23 June 1983.

DUCKER, John Patrick , b. Hull, England 29 March 1932; steelworker, migrated to Australia 1950; organiser Ironworkers' Union 1953; industrial organiser for the Labour Council 1961; president NSW branch of Labor Party 6 November 1970-1979 ; NSW Legislative Council 1972-79; appointed director TCN Channel 9 1977; appointed member of NSW Public Service Board 1979, chairman 2 May 1986.

DUFF, James William (Bill), Joined NSW Police 1965; Homicide Squad 1977; charged with misconduct 1 August 1985; suspended 15 August 1985; his dismissal recommended by Police Tribunal 5 December 1985; dismissed 3 March 1986.

DUNCAN, Hon. Peter , b. 1946; expelled from a Sydney high school for running a book on the Melbourne Cup 1961; studied law Adelaide University 1964; MLA (Labor) Elizabeth, SA 1973-84; Attorney-General 1975-79; abolished capital punishment SA 1976; Minister for Health 1979; MHR for Makin, SA, since 1984.

EDELSTEN, Dr Geoffrey Walter , b. Melbourne 1943; ed. Mount Scopus College and Melbourne University; graduated 1966; as result of illness, lost sight in right eye while outback flying doctor; incorporated Mediservices International Pty Ltd to run group of medical practices Sydney's western suburbs 1970; founded centralised pathology service Preventicare Pty Ltd Sydney 1971; Preventicare later went into provisional liquidation with creditors' claims amounting to \$750,000; all Preventicare's creditors paid out by 1975; his proposed restaurant-discotheque, Centrefold, George Street Sydney, refused a liquor licence because of fire hazard 1976; spent 18 months on US west coast 1977-early 1979, and there, in 1977, began a business called Preventicare Inc; Superior Court of California awarded Res Nova Inc, which ran several pathology clinics in San Diego, \$US935,000 plus interest against Edelsten 15 August 1978, a judgment against which Edelsten appealed; presented with bankruptcy notice by QBE Insurance October 1982; made arrangements suitable to QBE, and the company withdrew the claim October 1982; met model Leanne Nesbitt, 19, formerly of Alice Springs, when hired to pose with his cars at his \$6 million house at Dural about June 1983; reported to own two Rolls Royces, two Lamborghinis, a Ferrari and a custom-made Ford LTD with number plates SPUNKY, SEXY, GROOVY, MACHO, 000, LOVED 1 in November 1983; married Nesbitt July 1984; offered to

buy Sydney Swans Australian Rules football team January 1985; asked by Commissioner of Taxation to supply details of his earnings and assets 1978-84 November 1985; called to give evidence before Stewart 25 November 1985; resigned as chairman of Sydney Swans 1 July 1986; offered to buy Cronulla Rugby League football team for his wife 29 July 1986; failed in the NSW Supreme Court to stop evidence deriving from intercepted telephone calls being presented to a medical investigating committee hearing complaints about him 19 August 1986; his Porsche 928 (number plate SWANS) hit a powerpole, Edelsten sustaining a broken ankle, at Baulkham Hills 5.40 am 27 August 1986; Cronulla football club rejected his offer to buy the club 27 August, 1986; served with summonses alleging he conspired with Christopher Dale Flannery and others to assault a man and to pervert the course of justice, 14 October 1986.

EGAN, John Wesley , b. 17 May 1937; ed. Sydney Boys' High School; NSW Police cadet 1953; Special Branch, Police Underwater Diving Squad; began taking leave to ferry heroin from Hong Kong to New York 1966; organised Corset Gang of police and others to do the work; resigned from Police Force as Constable First Class 27 September 1967; arrested by US police 1967; absconded on bail, re-arrested Paris August 1970 and convicted of passport and stolen property offences; received prison sentence of eight years in US 1971 ; released after serving three years and 10 months 1975; returned to Sydney 1975 where he stated: 'Organised crime and highly placed policemen are often the same people'; pleaded guilty in Southport, Queensland, court to SP bookmaking, and was fined, April 1978; convicted SP bookmaking 1980; convicted of passport-related offence 1981; convicted of SP betting 1982.

ENDERBY, Hon. Justice Keppel Earl , b. 25 June 1926; ed. Dubbo High School, Sydney University, London University; solicitor England 1951-55; NSW Bar 1955-62; senior lecturer Australian National University 1963-65; ACT and NSW Bar 1965-70; MHR (Labor) for ACT 1970-74, for Canberra 1974-75; Minister for Territories 1972-73, for Secondary Industry 1973-74, Manufacturing Industry 1974-75, Attorney-General, Customs and Excise, Police and Customs, 1975; NSW Bar 1976-82; judge NSW Supreme Court from 1982.

EVANS, Hon. Gareth John , b. 5 Sept 1944; son of tram driver; ed. Melbourne High School, Melbourne University, Magdalen College Oxford; law lecturer Melbourne University 1971-76; consultant to Attorney-General Lionel Murphy 1974; senator for Victoria since 1978; foundation president Australian Society of Labor Lawyers 1980; shadow Attorney-General 1980-83; sought to have business affairs of Chief Justice of High Court Sir Garfield Barwick investigated April 1980; Attorney-General 1983-84; QC Victoria 1983; arranged RAAF flights over Tasmania to gain evidence relating to the Franklin Dam 1983; Minister for Resources and Energy from 1984.

FARQUHAR, Murray Frederick , b. Broken Hill 7 July 1918; educated Broken Hill High School; joined Petty Sessions branch of NSW Justice Department 1936; rose from private to captain Middle East and Pacific campaigns World War II; returned to Petty Sessions branch; admitted solicitor and appointed Stipendiary Magistrate 1962; Chief Stipendiary Magistrate 1971; convicted and sentenced to four years on charge pervert course of justice, 16 March 1985; released 17 January 1986.

FLANNERY, Christopher Dale , b. Brunswick, Melbourne, February 1949; his mother divorced his father, on ground that he beat her, April 1950; left school 1963, aged 14; car-thief and house-breaker 1963; convicted of assault police, carry firearms, unlawful carnal knowledge, sentenced, along with Lawrence Joseph Prendergast, to seven years for rape, 1965 (Prendergast acquitted 1978 of murder of painter and docker Leslie Herbert Kane); charged with armed robbery at David Jones, Perth, May 1974; later alleged to have murdered massage parlour heavy Raymond Francis Locksley at Menai, Sydney, 11 May 1979; assaulted, occasioning actual bodily harm, Ian Grimmer at New Year's Eve party 31 December 1979-1 January 1980; alleged to have murdered, for \$25,000, barrister and businessman Roger Anthony Wilson at Melbourne on or about 1 February 1980; charged with Wilson murder 29 July 1980; charged with, being a felon, possess firearm, 2 March 1981 ; found not guilty of Wilson murder 21 October 1981, but immediately re-arrested and charged with Locksley murder; jury failed to agree, after three witnesses supplied alibis for Flannery, on Locksley charge October 1982; sentenced by magistrate to 12 months on Grimmer charge but appealed May 1983; Dr Dennis Maxwell Gomez, who changed his evidence on the time of Locksley's death between the committal hearing and the first trial, died 23 May 1984; Justice Jack Austell Lee directed jury to acquit Flannery at his second trial on the

Locksley charge on the ground that Gomez' death created a problem of conflicting evidence which could cause a serious injustice to Flannery, 20 June 1984; said to have shifted his operation to Sydney about July 1984; became, according to Sergeant Roger Caleb Rogerson, his informer no earlier than 2 November 1984; shot at 27 January 1985; his 12 months on the Grimmer charge reduced to fine of \$ 1500 by Judge Sudano 15 April 1985; disappeared 9 May 1985.

FOORD, Judge John Murray , b 9 February 1931; ed. Waverley College (where he was a classmate of Paul Flannery), Sydney University; admitted NSW Bar 1955, where he had longstanding professional relationship with solicitor Morgan John Ryan which would bar him from sitting on Ryan's case; met Lionel Murphy 1957; junior to Murphy in 18-month compensation case concerning liquor employee's injured kneecap, 1965; appointed Judge District Court 26 April 1978; on sentencing, said to be in District Court 'dove' group dubious of value of prison as method of rehabilitation; his sentences, according to research by David Marr and others, included: sentenced former ward of the State and prison reform activist Hugh Carsons, charged on three counts of break and enter and five charges of armed rob involving television sets and some \$3000 in cash, to 25 years with no non-parole period of nine years; sentenced Vernon Appo, 30, an Aboriginal charged, following drinking bout in which he made violent attacks on two derelicts in Kings Cross, with malicious wounding and armed assault with intent to rob, to 18 years with non-parole period of eight and a half years; Court of Criminal Appeal headed by Street reduced Appo's sentence to 11 years with five-and-a-half years non-parole period, 1982; alleged to have told chief magistrate Clarence Brieze: 'Neville wants something done for Morgan Ryan', at Tattersalls Club, early March 1982; sentenced George Adler, solicitor charged 1976 with fraudulently misappropriate more than \$200,000 in clients' trust moneys, to bond of \$100, when Adler, represented by Kevin Murray QC, appeared for sentence, 1982; NSW Law Society, appalled at Mr Adler receiving a bond for what was by any standards a most serious and calculated breach of his duties as a solicitor', unsuccessfully requested Attorney-General Frank Walker to lodge an appeal, mid-1982; sentenced Morgan Ryan's co-accused David Choi, who had pleaded guilty in the magistrates' court in October 1981 to charge of conspire to procure by unlawful means permanent resident status for 22 Koreans, to a bond, June 1982; upheld appeal by Prime Minister's elder daughter Sue Hawke, represented by Barry Larbalestier QC, against 17 February 1982 conviction and fine by Sydney magistrate R.B. Gentle of \$1000 on charge of use premises to cultivate Indian hemp and \$250 on charge of possess Indian hemp, 20 September 1982; sentenced Tony Yelavich, charged in 1981, after 45.4 grams of heroin were found in his Avalon flat, with supply heroin and obtain two forged passports, to be of good behaviour for five years, early 1983; court of appeal, headed by Street, sentenced Yelavich to an aggregate of five-and-a-half years; alleged to have told Judge Paul Flannery that he and Justice Lionel Murphy had read the transcripts of the Morgan Ryan case and could find no conspiracy, July 1983; throughout 1983, the Crown lodged 13 successful appeals against brevity of his sentences on offences relating to drugs, supply drugs, armed rob, possess firearms, kidnap, abduct, and Federal Air Navigation legislation; among those appeals: Stephano Casagrande, Robert Marie and Bruno Chitrezza, conspire to import 1.127 kg of pure heroin from Penang, Malaysia, Foord's sentence of six years with a minimum of two increased to 16 years with a minimum of five; Marino, supply drug of addiction, fine of \$2000 and good behaviour bond increased to 18 months in prison; Moran, armed rob and possess firearm, eight years increased to 14; Albert Baba, two charges of supply heroin, increased from four years to 10; Boon brothers, steal car, armed rob, increased from six years to 10; Michael O'Brien, kidnap and armed rob, 10 years with non-parole of 18 months increased to non-parole period of five years; David McLoughlin, abduct, attempt sexual intercourse, good behaviour bond increased to five years in prison; in 1984, sentenced Francesco Mittiga, Passport Office clerk charged with conspire with Robert Trimbole between May 1978 and September 1981 to procure passports illegally, to fine of \$2000 with good behaviour bond of three years, 5 March 1984; sentenced Christopher Anthony Lorenzo and Charles Patrick Royal, charged with armed rob, to seven years in prison with non-parole periods of two years for Royal and a little more than a year for Lorenzo; Court of Appeal, headed by Street, later increased these to 10 years with six-year non-parole period for Lorenzo and seven-year period for Royal; Brieze gave statement of his alleged March 1982 remark about 'Neville ' wanting something done for Ryan to NSW Under-Secretary of Justice Trevor Haines, July 1984; stood down from bench by chief District Court Judge James Staunton 1 August 1984; Solicitor-General Mary Gaudron found it 'more likely' that Brieze had misinterpreted whatever Foord may have said, recommended there was no basis for NSW public inquiry into Brieze's allegations, and that, since the Ryan case was a Federal matter, the material be given to Federal Director of Public Prosecutions Ian Temby for evaluation and appropriate further action, 2 August 1984; Temby, observing that his was not an investigatory role, and denied access to

Briese's evidence at a Senate hearing, concluded, along with Federal Police, there was insufficient basis in material given him to lay criminal charges against Foord; resumed his work on Bench August 21 1984; Judge Paul Flannery's allegation against Foord went from Staunton to NSW Attorney-General Paul Landa to Federal Attorney-General Gareth Evans and Temby 25 September 1984; stood down from the Bench 26 September 1984; Court of Appeal headed by Street increased Mittiga's sentence to 12 months, reduced to one month because of the delay, 19 November 1984; charged by Temby on two counts of attempting to pervert the course of justice in relation to Ryan case, 21 November 1984; trial began 16 September 1985, with Chester Porter QC and Desmond Anderson appearing for Foord and Andrew Kirkham QC, of Melbourne, appearing for the Crown; character evidence for Foord and unchallenged by Crown given by, among others, public defender Michael Green, Crown Prosecutor Hugh Johnston QC, Judge Michael Williams of the District Court, Philip Twigg QC, John Lloyd-Jones QC; Porter submitted to the jury that Foord had 'become a casualty in someone else's war', that there had been a political war between Briese and Premier Wran and High Court judge Murphy; Justice Victor Maxwell Jnr instructed the jury to disregard the Murphy aspect; found not guilty on both counts 1 October 1985; returned to work at the District Court 2 October 1985; hearing his first case, a civil matter, in 14 months, welcomed back to the Bench by Kevin Murray QC and Barry Larbalestier QC, 3 October 1985; stood down for third time, following academic analysis of cases in District Court 1980-82; Friday 12 September 1986: resigned from District Court on the medical grounds of 'permanent disability and infirmity'; 19 Nov 1986.

FRASER, Rt. Hon. John Malcolm , b. 21 May 1930; ed. Melbourne Church of England Grammar School and Magdalen College, Oxford; MHR ' (Lib) Wannon (Vic) 1955-83, Minister for Army 1966-68, Education 68-69, Defence 69-71, Education 71-72; leader of Liberal Party March 75-83; Prime Minister 75-83; Privy Councillor 1976; Companion of Honour 1977.

FREEMAN, George David , b. Annandale, Sydney, 23 January 1934 (according to Moffitt Royal Commission) and 22 January 1935 (according to Joint Task Force on Drug Trafficking); convicted Ashfield Children's Court on charges of steal sheath knives, fountain pens, money, and placed on four years' probation, 28 October 1947; convicted Metropolitan Children's Court on charges of goods in custody, steal shirt, steal tin biscuits; entered recognisance of £10 to be of good behaviour until 23 January 1953, 14 August 1951; convicted Coffs Harbor Petty Sessions on charge evade rail fare of 9/3 and fined £1 and ordered to pay the fare, 27 August 1951; convicted on charge of use insulting words Metropolitan Children's Court and fined £3, 9 September 1951; convicted on charges of break, enter and steal, illegally use motor vehicle, steal car radio and electric fan, and committed to Mount Penang boys' institution, north of Sydney, for two years, 28 December 1951; convicted on three charges of break, enter, steal, and sentenced to three years hard labour, 19 February 1954; claimed (1979) to have grown up with Stanley John Smith and that he had known Leonard Arthur McPherson for 25 years, i.e. since 1954; convicted on charge of possess house-breaking instrument 1955; convicted on charge steal stockings from store, 1962; series of shoplifting arrests in 1960s; convicted steal and receive, Perth 1968; introduced to Joseph Daniel Testa, suspected member of Chicago crime syndicate, by Ronald Lee after Testa first visited Sydney in 1965; travelled to US on false passport with Stanley John Smith and stayed six weeks with Testa in Chicago, three days at Testa's expense at Stardust Hotel Las Vegas, 1968; fined \$200 for uttering forged passport application by J. Letts SM, August 1968; given back tax bill for \$23 000 by Taxation Commissioner, his tax agent advised the tax office that, 'due to his background', his client was unable to borrow from regular borrowing authorities, and if obliged to mortgage his home would he forced into an association 'he is desperately trying to avoid', to no avail, early 1970; set up Grants Construction Pty Ltd with Testa in Sydney, early 1971; said to have been among a syndicate which broke Canberra TAB jackpot tote by winning more than \$500,000, 28 June 1971; claimed (1979) to have abandoned SP bookmaking in 1972 because he could not win at it; attended crime summits Double Bay July 1972; given power of attorney by Daniel Stein (aka Steinberg, b. 6 September 1916), said to be an associate of US Mafia types, in bank account Stein opened at ANZ Bank Pitt Street on one of five trips Stein made to Australia between 1972 and 1976; described by police at Moffitt Royal Commission as McPherson's second in command, 1973; Stein's bank account closed, and \$56,300 transferred to Stein in the US, September 1973; Stein complained in a letter to Freeman that came into possession of police in October 1974, 'I haven't gotten it [the money] for June yet'; telephones at his home and the Rockdale office whence he ran an SP operation tapped by Technical Survey Unit on behalf of the Crime Intelligence Unit early 1976; after Premier Wran announced early in

June 1976 his intention to legalise casinos, attended meeting addressed by Stanley John Smith on possible action of bribing politicians to get control of any casino board, Taiping Restaurant, Tuesday 22 June 1976; attended members' enclosure Randwick racecourse with Dr Nicholas George Paltos and magistrate Murray Frederick Farquhar, Wednesday 27 July 1977, ejected by racecourse detective Frank Lynch; known to be overseas when Sydney airport received, 31 March 1978, a message, purportedly (later denied by Wran) from Premier's secretary Denise Darlow (later Ng), requesting Paltos not be inconvenienced by current crackdown on Greek doctors; Federal Police thus requested FBI to surveille Paltos in the US, and he led them to Freeman; arrested by US immigration authorities on charges of violation of US immigration laws allegedly as an 'excludable' person; released on \$15,000 bond, he was due to face a deportation hearing 24 April 1978, but his passport returned, and he arrived Sydney 16 April 1978; purchased house at Yowie Bay from Bruce Galea for \$350,000, August 1978; shot outside Yowie Bay house Wednesday 25 April 1979; when John Marcus Muller was shot dead 7 June 1979, police said the execution could have been connected with the attempt on Freeman; racehorse Mr Digby ran ninth at 9/1 in weak field 3 August 1981; Mr Digby won by seven and a half lengths at Canterbury after being backed down to 11/8, 5 August 1981; his wedding reception at the Hilton attended by his best man, businessman and racehorse owner Graeme Pash, and Stanley John Smith, Leonard Murray (formerly Leonard Arthur McPherson), George Ziziros Walker, Frederick Charles (Paddles) Anderson, Sydney Turf Club director Don Storey, NSW Rugby League executive director Kevin Emery Humphreys, bookmaker Paul Beirne, jockey Peter Cook, horse trainers John Page and Harry Clark, trotting trainer-driver Kevin Newman, former bookmaker Terry Page, bookmaker Bruce Galea, and punter Dave (The Dasher) Segenfeld, Thursday 6 August 1981; his disclosure at the reception that he had a good win on Mr Digby on 5 August led, after questions in the House by Independent MLA John Hatton, including whether the owner of Mr Digby, Peter Ernest Black, was the same Peter Ernest Black assumed by police, according to a March 1977 CIU dossier on Freeman, to have then been an employee of Freeman in SP operations, led to an inquiry on the running of the horse; cleared by AJC 6 April 1982; charged with SP betting after police threw meat to distract his Rottweiler dogs so they could effect ingress to his Yowie Bay house, 15 January 1983; pleaded guilty to illegal betting in Sutherland Court and fined \$500, 24 January 1983; his connection with Farquhar examined by Street Royal Commission June 1983; charged August 31 1984 with August 17 1984 assault of Frank Hing; case dismissed 29 October 1984; his Yowie Bay house, Dallas, with a reserve of \$1,650,000 passed in at auction at \$950,000, November 1984; charged with SP telephone betting offences 8 April 1985; Christopher Dale Flannery, claimed by Flannery's wife to have been paid 'up front' man for Freeman, disappeared while, according to Mrs Flannery, on his way to keep an appointment with Freeman, 9 May 1985; refused entry and deported from England 27 July 1985; denied that he feared for his life or that he had gone into hiding from supposed Melbourne contract killers, 25 August 1985; fined maximum \$5000 on the 8 April 1985 betting charges by magistrate Kevin Maugham in Sutherland Local Court 29 January 1986; opposing in its entirety the Government's legislation to approve proposed legal casino at Darling Harbour, Sydney, Opposition leader Nicholas Greiner said: 'Today, even after the Government's much vaunted amendments [November 1985] to the Gaming and Betting Act, the long-established casino kings continue to operate. Bruce Galea's premises in Darlinghurst Road, the Double Bay casino formerly associated with George Freeman and at least one down in Dixon Street ... One has only to turn to the reports of the joint task force on drug trafficking to see the intimate relationship between the illegal casinos and the drug trade - between Murray Stewart Riley and the 33 Club, and between the Forbes Club, the Double Bay Bridge Club and the Telford Club and certain members of the Riley syndicate. I remind honourable members that those reports named Croc Palmer as the proprietor of an illegal casino at Strathfield - the same man who is now serving 14 years' gaol for the importation of \$40 million worth of cannabis. His co-conspirator in that case, Dr Paltos, was an intimate associate of Sydney's gambling king, Joe Taylor, and is recorded in the *Age* tapes involved in discussions with George Freeman about an illegal casino. A summary attached to those documents records that Paltos was a partner with Freeman and Stan (the Man) Smith in a casino in Sydney's outer suburbs... During the 1984-85 casino amnesty, ownership lists included George Freeman, who, despite his denials, is one of Sydney's leading criminals...', 29 April 1986; found by Justice Stewart to have been 'deliberately untruthful' in giving evidence to Royal Commission on Alleged Telephone Interceptions, 30 April 1986; Stewart reported that he heard evidence that Freeman was involved in SP bookmaking, illegal casinos, fixing horse races, and had improper relationships with various policeman, including Inspector Patrick Watson, Superintendent Jack McNeill and Inspector Frank Charlton; Stewart found there was strong inference from at least one of the conversations that Freeman intended to bribe Charlton; put Dallas on market again, this time for \$1.4 million, August 1986.

FRODSHAM, Clarence Robert , detective and barrister; attached to Fraud Squad; investigated Humphreys case 1976-77; later attached to Ombudsman's office where he investigated allegations by Edgar John Azzopardi.

GALEA, Bruce William , b. 24 March 1937; bookmaker, son of Percival John Galea; involved in his father's illegal casinos for some years before Percival Galea's death in 1977; gained partnership status in casinos 1978; sold his house to George David Freeman for \$350,000, August 1978; following a question on notice in April 1979 by NSW Opposition leader Bruce McDonald as to whether he had been present at a meeting of 'key underworld figures' at the Bald Rock Hotel, Balmain, in the company of George David Freeman, Stanley John Smith and Leonard Arthur McPherson 'about six weeks ago', Galea described himself as a reputable bookmaker licensed with the Australian Jockey Club and the Sydney Turf Club, said he had nothing to do with organised crime, political corruption, the 'so-called' underworld, or any 'underworld figures', said he had never visited the Bald Rock Hotel or attended a meeting there, that he did not know and had never met either Smith or McPherson, and that, apart from selling his house to Freeman, had no knowledge of, or dealings with, Freeman, 1 May 1979; lost \$4200 to assistant Police Commissioner William Allan Ruthven Allen in a 20-1 bet on How Apparent, Rosehill racecourse, February 1981; attended Freeman's wedding reception August 1981; arrested with 48 others after the anti-gambling squad, Beck's Raiders, smashed their way into an illegal casino at 69 Darlinghurst Road, Kings Cross, and charged with being found in a common gaming house without lawful excuse, 1 am Tuesday 7 December 1981; told Police Tribunal inquiry on W.A.R. Allen he was aware that money could be laundered through bookmakers, but said 'it was never done with Allen', 1982.

GALEA, Percival John , b. Broken Hill, 26 October 1910; moved to Woolloomooloo 1914; paperboy and gambler Central Station 1924; milkman Ultimo 1926; milkman Woollahra 1934; wharf labourer 1939; baccarat operator 1940s; co-proprietor of illegal casinos: Roslyn Social Club, Elizabeth Bay, early 1950, Victoria Club, Victoria Street, Kings Cross, mid-50s, Fountain Club, Kings Cross, and Forbes Club, Forbes Street, Kings Cross, from 1967, Double Bay Bridge Club 1974-1976; Telford Club, first floor, Telford Towers, Bondi Junction, 1976; racehorse owner 1961; claimed by Tax Office to have understated his income from 1955 to 1963 by \$99,928, 1970; claimed a representative of former (1940-1971) Catholic Archbishop of Sydney, Sir Norman, Cardinal Gilroy, sought references from him in relation to a Papal honour, 1976; claimed to have been made a knight of the Order of St John, highest honour for lay Catholic, by Supreme Pontiff Paul VI, April 1977; d. 14 August 1977.

GAUDRON, Mary Genevieve , b. 1943; Deputy President Australian Conciliation and Arbitration Commission 1974-79; Solicitor-General NSW, 1981; justice High Court of Australia, 1987.

GEORGE, Sir Arthur Thomas , b. 17 January 1915, son of Athanasios Theodore Tzortzatos who changed his name, 'as a defence against intolerance', to George before World War I; ed. Sydney Boys' High School; solicitor, established Arthur T. George legal firm 1938; became associated in business ventures with Emil Herbert Peter (later Sir Peter) Abeles, 1954; president of the Australian Soccer Federation from 1969; founded Arthur T George Foundation Ltd to supply cheap loans to needy students, March 1972; knighted at request of Askin administration June 1972; director Thomas Nationwide Transport since 1973; endowed the Arthur and Renee George Chair of Classical Archeology, Sydney University, April 1978; awarded, with four other directors of Australian Amusements Associates Ltd, Harold Goldstein, Colman Goldstein, Brian Sydney Treasure and Michael Edgley, lease of Luna Park by Cabinet September 1980; found guilty on a technical breach of misconduct and fined \$1000 by Solicitors' Statutory Committee, August 1982; later sold his legal practice to David Baffsky (of Simons and Baffsky), a lawyer publicly identified as acting in property deals, setting up companies and operating trust funds for Abraham Gilbert Saffron.

GEORGE, Morris , b. 1937; businessman at Granville, Sydney; tried with Rex Jackson, Keith Harris, and Howard Hilton on conspiracy charges relating to early release of prisoners, 1986; found guilty and sentenced to five years imprisonment with a non-parole period of three years six months, Monday 10 November 1986.

GLEESON, Gerald , b. 12 June 1928; ed. St Patrick's College, Strathfield, Sydney University, Melbourne University; Rugby fullback Sydney University and Drummoyne; schoolteacher 1948-63; inspector NSW Public Service Board 1961-69; permanent head NSW Premier's Department from 17 January 1977; stated: 'The community is far from impressed by the number of lawyers alleged to be engaging in dishonest practices', February 1984; denied claim by NSW Auditor-General Jack O'Donnell that he had attacked his independence, April 1985; appointed chairman NSW Bicentennial Council October 1985; offered to resign as permanent head Premier's Department after Premier Wran announced his resignation, 12 June 1986; reported to have been ill at ease when advised, with other public servants, by new Premier Barrie Unsworth, that in the past they served only Wran, now they must serve the people, Friday 11 July 1986.

GREINER, Nicholas Frank Hugo , b. 27 April 1947; ed. St Ignatius' College, Sydney University, Harvard University; chief executive White River Corporation 1971-1980; MLA (Liberal) Ku-ring-gai since 1980; NSW Opposition leader from 1983; claimed the task of a future NSW Liberal Government would be not so much to maintain the institutions of the State as to restore them, and would institute an independent anti-corruption commission, an independent Director of Public Prosecutions, freedom of information, reform of the defamation laws, and would give reasons for granting no-bills, allow Parliament to function properly by sitting longer, and by obliging Ministers to answer questions, August 1986.

GROVE, Hon. Mr Justice Michael Brian , b. 12 October 1938; educated Lewisham Christian Brothers, Sydney University; NSW Bar 1962; Wing Commander in legal service RAAF Reserve 1964; staff legal officer RAAF South-east Asia 1967-68; counsel assisting Wran Royal Commission 1983; counsel assisting Special Commission of Inquiry into prisoner early release scheme, 1983-84; appointed Justice of NSW Supreme Court, 7 February 1985.

GRUZMAN, Laurence Charles , b. 1923; educated Sydney University; called to NSW Bar 1949; QC 1966; appeared for Alexander Barton seeking an order restraining Alexander Ewan Armstrong, MLC (later expelled from the NSW Legislative Council for conduct unworthy) from executing an agreement between them in January 1967 relating to a development company, Landmark Pty Ltd, on the ground that the agreement was made under duress, February 1968; Court of Appeal (Chief Justice Sir Leslie Herron, president of the Court of Appeal, Justice Sir Gordon Wallace, and Justice Bernard Sugerman) dismissed an accusation of professional misconduct relating to charging brought by the Prothonotary following a report by Justice Hugh Maguire, 9 September 1968; after the finding, said the only allegation before the court was an unsworn statement by Maguire, who should have referred any complaint to the Bar Council; Herron said Gruzman's remarks were in bad taste, 10 September 1968; received police guard after murder threats in relation to the Armstrong case, October 1968; became permanent legal adviser to the 61 Barton companies on retainer of \$70,000 a year; arrested and detained in Cambodia for four days after landing a light aircraft at Phnom Penh airport without proper clearance, August 1969; after initial defeats in the NSW Supreme Court and the High Court, won the Armstrong-Barton case in the Privy Council, 1973; persuaded Brazilian authorities to release Alexander and Thomas Barton from prison in Brasilia, April 1974; predicted on television that Governor-General Sir John Kerr would dismiss the Whitlam Government 10 days ahead of the event, 1 November 1975; denied assertions that in April 1973 he advised Alexander and Thomas Barton to leave Australia, saying he did know they were 'desperately afraid' of Armstrong and that 'I believe that Mr Armstrong is perfectly capable of having Mr Barton killed', April 1977; charged with conspiring with the Bartons to cheat and defraud the Bounty Oil Company, 1978; sold family company Flight Facilities (servicing light aircraft at Sydney airport) to a consortium including East-West Airlines for \$2 million, 1981; Bounty charges withdrawn and Gruzman awarded \$100,000 costs, 1982; convicted and fined \$5,750 and ordered to pay \$29,153.83 in costs in Melbourne Magistrates' Court on charges of low fly, fail to comply with an instruction, negligent fly, and fly too close to another aircraft, 30 May 1986.

GUDGEON, Maxwell , b. Mascot, Sydney, 21 May 1939; butcher, truck driver; NSW Police October 1963; Vice Squad 1966; Detective Constable 1969; Armed Holdup Squad 1969; Pawnbroking Squad 1971; Motor Squad 1972; Criminal Investigation Branch duties 1977; interrogated suspect at Flemington Police Station, and suspect charged with supply Indian hemp at Double Bay, Sydney, a charge carrying maximum penalty of 15 years or fine of \$50,000 or both, 1 June 1979; Detective

Sergeant 12 January 1980; Double Bay suspect committed for trial 30 January 1980; Gudgeon alleged, with a businessman, to have purchased Knightvale property near Byrock, 60 kilometres south of Bourke, NSW, 1981; under care of psychiatrist for nervous disorder from about July-August 1981; alleged to have conspired with others to cultivate Indian hemp at Knightvale from October 1981; letters from his psychiatrist stating that he and the arresting officer in the Double Bay case were suffering from nervous disorders and neither was well enough to attend court sent to Crown Prosecutor's office 22 January 1982; crown prosecutor, instructed that psychiatrist was unable to say when key witnesses Gudgeon and the other officer might be well enough to give evidence, recommended to Attorney-General Francis Walker that no-bill be entered on the

Double Bay matter, 10 February 1982; resigned NSW Police August 1982; at some stage, approached a Detective Keenan to ask him to leave the police and become the manager of Knightvale, told him what the property was to be used for and said the product would have a 'quality better than that at Hay', a reference to an earlier police raid on a marijuana plantation at Hay; taken aback by the proposition, Keenan alerted other police; Criminal Records Office advised by Under Secretary of Justice Trevor Haines that Attorney-General had decided not proceed further with Double Bay case, 12 November 1982; in same month, November 1982, police raided Knightvale and arrested Senior Constable Claude Andrew Swan, 45, of Cabramatta, Laurence Frederick Mitchell, 54, businessman, of Fairfield, and Argimiro Bouzas, 40, labourer, of Queanbeyan; Gudgeon and another arrested a few days later; police found on the property two plantations of flourishing marijuana with as many as 6,000 plants to value of up to \$6 million, as well as 'thousands upon thousands' of marijuana seeds in jars for future planting, fertilisers, scales, shears, and evidence that at least one crop had been harvested and distributed; Gudgeon charged with conspire to cultivate Indian hemp Byrock between October 1981 and December 1982; convicted May 1986; sentenced 30 May 1986 in Penrith District Court to ten years' in prison, with no parole period; sentencing Gudgeon, Judge Anthony Collins said he was lynchpin, entrepreneur and central figure of the project; sentenced with Gudgeon were Swan, Bouzas, Mitchell, and another businessman; noting that the maximum penalty he could hand down for cultivating the drug was ten years and/or a fine of \$200,000, said the law made the gamble worth taking for many criminals; and 'Ten years is not ten years. Ten years for a first offender who behaves himself is a little over six years. Given a few Royal tours and a few warders' strikes ... five'; and called for 'urgent legislative action' to correct the situation which was resulting in some drug users suffering heavier penalties than the drug dealers; said the penalties were sometimes so light, and the profits from drugs so big, that for many criminals getting caught was 'a risk worth taking.'

GYLES, Roger Vincent , b. 22 August 1938; ed. Newington College, Sydney University; solicitor 1961; NSW Bar 1964; junior counsel to Gregory Needham QC assisting Moffitt Royal Commission 1973-74, in which Moffitt declined to accept recommendations of Needham and Gyles that there was no evidence to indicate that the Bally [poker machine] Corporation of America or its subsidiary Bally Australia Pty Ltd, by its continued or future operations in NSW, offered a risk of infiltration of organised crime into, or in relation to, clubs; QC 1975; senior counsel assisting Woodward Royal Commission on drug trafficking 1980; appointed Special Prosecutor of bottom-of-the-harbour tax evasion schemes, September 1982; president NSW Bar Association 1986.

HAINES, Trevor William , b. 19 February 1933; ed. Fort Street Boys' High School, Sydney, Sydney University; NSW Housing Commission 1953-57; NSW Department of Attorney-General and of Justice from 1957; research officer 1963; senior administrative assistant 1969; assistant Under Secretary 1976; deputy Under Secretary 1977; Under Secretary Justice 1978-84; Secretary, Attorney-General's Department from 1984.

HAKIM, Fayez (Frank) , b. 1930; businessman; a recommendation by Justice John Slattery, sitting as a Special Commission of Inquiry, that he, along with Rex Jackson, Howard Hilton, and Keith Harris be charged in relation to early release of prisoners adopted by Cabinet 30 September 1984; they were charged with conspiring together between 1 October 1982 and 1 August 1983 for money to be given to Jackson in his official capacity [as Minister for Corrective Services] to induce him to act corruptly, and committed for trial by magistrate Bruce Brown, 1 July 1985; found guilty and sentenced to 61/2 years in September 1987.

HANSON, Frederick John, b. Orange 26 May 1914; ed. Burwood Christian Brothers'; railway porter 1929-36; joined NSW Police 1936, and stationed Broken Hill; RAAF 1941-46; returned to police duty Broken Hill 1946; officer-in-charge No. 3 police sub-district Sydney 1965; assistant to Metropolitan Superintendent 1967; Assistant Commissioner 1968; Deputy Commissioner to N.T.W. Allan 1972; stated he had been groomed by Allan to succeed him, 1 March 1972; acting Commissioner from May 1972; Report (1974) of Moffitt Royal Commission records a note in Commonwealth Police running sheets relating to NSW police investigation of organised crime in licensed clubs: 'Information [supplied 17 August 1972] from Detective Sergeant Ballard, NSW Police Consorting Squad, indicates Abraham Gilbert Saffron, born 6th October 1919, NSW, has effected some type of affiliation with Jack Rooklyn. According to Ballard, Rooklyn has made an approach to Saffron to exert some pressure on an unidentified person in authority to take some of the 'heat' out of the current investigations. Ballard intimated that his Commissioner's office [i.e. Hanson's] appears to be cooling towards the inquiry'; Commissioner 15 November 1972; *The Sun* police roundsman Jim Madden later (1 June 1976) reported: 'Police Commissioner Hanson insists on a high standard of integrity in the force. Shortly after taking over as Commissioner he personally ordered the sacking of 28 police involved in accepting commissions. He also chopped off the old practice of allowing policemen who were considered marginal cases in law to resign for the good of the force'; CBE in New Year's honours list, January 1974; ultimate utility of NSW Police telephone tapping procedures called into question when retired Superintendent E.E. Cannacott revealed to Stewart Royal Commission on Age tapes (1985-86) that, when Cannacott was head of CIB between 1974 and 1976, he gave daily briefing on telephone taps to Assistant Commissioner (Crime) R.T. Stackpool, who then briefed Hanson; Hanson and Premier Sir Robert Askin later (1981) asserted by a source from the old Percival Galea casino empire to have received in 1974 bulk of \$5000 a week paid in bribes by one of Sydney's 13 major casinos, Double Bay Bridge Club; implied by casual freelance commentator Anthony Reeves on ABC radio station 2JJJ to have had financial interest in illegal casino at West Gosford raided by police on 4 July 1975, 28 July 1975; briefing Clive Evatt Snr QC, sued ABC for defamation, August 1975; said, 'I'm so bloody happy it doesn't matter' when ABC apologised and settled on undisclosed terms, 9 February 1976; reported to have offered to retire early so long as he approved of his successor, 10 February 1976; most likely successors reported to be either Deputy Commissioner Leonard Newman, 62, or Senior Assistant Commissioner Richard Lendrum, 60, with four assistant commissioners - E.D.J. Baldwin, 60, R.T. Stackpool, 59, M. Wood, 58, and B. Doyle, 58 - also possibly in the running; said he would not retire until the due date in mid-1979, 10 February 1976; reported he would probably support M. Wood as his successor, 16 February 1976; said greatest single crime worry in NSW was drugs: 'It is a constant fight involving every man on the force [as well as] a special drug squad of about 40 men', 23 February 1976; Lendrum later (1985) gave evidence to Stewart that A.M. Birnie, then Superintendent in charge of CIB, played to him and Newman tapes of intercepted telephone conversations of George David Freeman in March 1976, and that Newman, after consultation with Hanson, ordered telephone tapping to be discontinued; [Liberal] Government sources reported to have said he would retire on June 30 and would be succeeded by Wood, 30 March 1976; Madden reported in *The Sun*: 'The hard line on corruption insisted on by Mr Hanson has meant that the Internal Affairs Section has become one of the most respected sections of the force. The present chief, Sergeant Lionel Kellock, says: "We are firm but fair with all our investigations", 1 June 1976; reported that the previous [Liberal] Government had set up committee of Hanson, Lieutenant-General Sir Thomas Daly and chairman of NSW Public Service Board Sir Harold Dickinson to recommend a successor, and they had eventually recommended Wood, 5 June 1976; said on television he would retire before the end of the year, 10 September 1976; said to have gone duck-shooting with Robert Trimbole and accepted an \$8000 Italian shotgun from him, late 1976; according to a report by Bill Archibald in *The Sun* of 15 November 1976, had been offered a position as director of Thomas Nationwide Transport Ltd, and planned to take two-week holiday in Broken Hill before officially retiring 31 December; TNT chairman Frederick William Millar denied Hanson had been offered job as director, 15 November 1976; in statutory declaration, Archibald stood by his story, and swore that Hanson had mentioned directorship with TNT in presence of other senior police, and that Hanson had later told him that former Premier Sir Robert Askin had told him to deny the story that he had been offered a directorship, 17 November 1976; Hanson retired to his Terrigal house, 31 December 1976; announced he would stand as an Independent candidate for marginal State seat of Gosford at next elections. 23 February 1978; announced he would not stand, 4 May 1978; a close friend, Sergeant Gordon Lambert, officer-in-charge Terrigal, drank weed-killer and died in surf, June 1979; claimed by Independent MLA John Hatton to have known of criminal activities 'and may even have encouraged them', 17 August 1979; referred to as a 'crook' by Rex Jackson, Minister for Youth and Community

Services, 22 August 1979; said by Hatton to have been a frequent user of the Bermagui boat used in the Murray Stewart Riley Anoa \$46 million drug import, 17 September 1980; found dead in his pyjamas by his widow, Carole Louise, slumped over wheel of his car in garage at their Terrigal house, Sunday morning, 26 October 1980; carbon monoxide gas reported to have been found in his body. 23 November 1980; his widow died 25 March 1986; leaving gross estate of \$1,222,338.

HATTON, John Edward , b. 29 May 1933, educated Hammondville Public School, Hurlstone Agricultural High School, Armidale Teachers' College; teacher 1953-73; Independent MLA for South Coast from 1973.

HAWKE, Hon. Robert James Lee , b. 9 December 1929; educated Perth Modern, University of Western Australia, Oxford University; research officer and advocate Australian Council of Trade Unions 1958; president ACTU 1970-80; MHR (Labor) for Willis, Victoria, since 1980; Prime Minister 5 March 1983.

HILTON, Howard , b. 1942; solicitor; charged with conspire to pay money corruptly to Cabinet Minister Rex Frederick Jackson, August 1984; found guilty and sentenced to nine years imprisonment with a non-parole period of six years, Monday 10 November 1986.

HING, Frank, reported to have come to Australia 1973 and initially worked as bus conductor and in fast food shop; investor, reported to have bought for \$1 million premises at 51-57 Goulburn Street, formerly the premises of George Ziziros Walker's casino, the Goulburn Club, August 1982; the premises damaged by fire 1985, and reopened as Wong Shing Kee restaurant and Rose's night club, December 1985; alleged to have been attacked in Empress Coffee Lounge, Kings Cross, 17 August 1984; named in Parliament by Police Minister Peter Anderson as influential member of Chinese Triad involved in underworld feud to gain control of gaming houses in Sydney's Chinese community, 22 and 23 August 1984.

HOLT, Rt. Hon. Harold Edward , b. 5 August 1908; ed. Wesley College and Melbourne University; solicitor 1933; MHR Fawkner, Victoria, 1935-1949, Higgins 1949-67; Minister for Labour and National Service 1940-41 and 1949-58, Immigration 1949-56, Treasurer 1958-66; Prime Minister January 1966-December 1967; expected to be named as co-respondent in divorce action late 1967; died, possibly by his own hand, in surf off Portsea, Victoria, 17 December 1966.

HOWARD, Hon. John Winston b. 26 July 1939; ed. Canterbury Boys' High School, Sydney University; solicitor 1962; MHR (Liberal) for Bennelong NSW from 1974; Minister for Business and Consumer Affairs 1975-77, Special Trade Negotiations 1977, Treasurer 1977-83; deputy leader Opposition 1984-85, leader 1985.

HUCKSTEPP, Sallie-Anne , b. (Krivashow) 1953; left private school to work as waitress Kings Cross night clubs Whisky au Go Go, Chequers, 1969; married, worked as prostitute Kalgoorlie, 1970; heroin addict; returned to work as prostitute Sydney eastern suburbs; met heroin dealer Warren Lanfranchi January 1981; weaned off heroin by Lanfranchi and planned to go with him to Germany; after he mistakenly stole heroin from dealer said to be working for police, said she ironed warm shirt for him and counted out \$10,000 before his meeting with Sergeant Roger Caleb Rogerson, Saturday 27 June 1981; worked as journalist *Penthouse* magazine 1981-82; returned to heroin addiction 1982; New Zealander Naomi Sutherland found dead from heroin overdose in Huckstepp's flat Ocean Street Bondi, September 1982; alleged to have been found by police with \$4000 worth of heroin in Kings Cross house, March 1983; Federal and NSW Police informant, and secretly taped her conversations with them; affair with Federal police officer 1985-1986; predicted she would be murdered in letter to former husband Bryan Huckstepp, January 1986; after telephone call at her Woollahra unit from heroin dealer, told her female flatmate she would be back in a few minutes, 11 pm Thursday February 6; strangled and held under water in lake at Centennial Park that night.

HUGHES, Hon. Thomas Eyre Forrest , b. 26 November 1923; ed. St Ignatius', Riverview, Sydney University; RAAF 1942-46; NSW Bar 1949; QC 1962; MHR (Liberal) Parkes NSW 1963-69, Berowra

1969-72; Attorney-General 1969-71 ; returned to Bar 1973; reported to earn more than \$500,000 a year, 1984.

HUMPHREYS, Kevin Emery , b. 1931; ed. Lewisham Christian Brothers'; as Rugby League prop forward, played 60 first grade games for Balmain from 1950 to 1957; official of Balmain Club 1954, chairman of selectors 1958, management committee 1959, honorary secretary 1965, full time secretary and delegate to NSW RL 1966; president NSWRL, chairman Australian Rugby League, and secretary / manager Balmain licensed Leagues Club 1973; charged with fraud in having taken \$50,519 from the club between November 1974 and 18 February 1976 and used it for his own purposes, 18 January 1977; charges dismissed 12 August 1977; re-tried, found guilty and fined \$4000 18 October 1983; took a position promoting Illawarra Turf Club, 15 November 1983.

HUNTER, George , b. 1930; miner, truck-driver, policeman; Rugby League player (lock forward) at Yass, Kurri Kurri, Manly 1949, Wialda 1950, Manly 1950, Jindabyne 1952, Manly 1953, represented NSW 1954, captain Manly 1957 under coach Ken Arthurson; dismissed, on casting vote as coach Manly 1969 in favour of Kangaroo Ron Willey; as Detective-Sergeant, charged 1985 in relation to disappearance of 120 kg marijuana from Chatswood police station.

JACKSON, Sir Ronald Gordon , b. 5 May 1924; ed. Brisbane Grammar School, Queensland University; Colonial Sugar Refining Co 1941; general manager 1972-82; NSW Police Board from December 1983.

JACKSON, Hon. Rex Frederick , b. Wagga Wagga 1928, son of railway fettler; moved to Waterfall 1941; orphaned at 15; as professional boxer, had 17 preliminary contests for 16 wins and a draw under name of Tommy Jackson; clerk in printing industry; MLA (Labor) Bulli, NSW 1955-71, Heathcote 1971-86; after tying with George Paciullo for last place in caucus vote for ministry, his name drawn from a hat, and became Minister for Youth and Community Services 1976-81, Main Roads 1981-83, Corrective Services 1981-83; resigned on ground of having inadvertently misled the House, 26 October 1983; charged with conspire to corruptly receive money, August 1984.

JESS, John David , b. Melbourne 15 April 1922; ed. Hale School, Perth, Melbourne Church of England Grammar School; Australian Military Forces 1941-45; MHR (Liberal) La Trobe, Victoria, 1960-72; CBE 1971.

JONES, Kevin Willson , b. 1931; dismissed fraud charges against Kevin Emery Humphreys at the instigation of Murray Frederick Farquhar, 12 August 1977; suffered from chronic kidney condition; committed Morgan John Ryan for trial 22 March 1982; precipitated Wran Royal Commission by advising Attorney-General Paul Landa that Farquhar had sought [but, Jones insisted, had failed] to persuade him to pervert the course of justice in the Humphreys case, 11 May 1983; Chief Justice Street recommended he be given immunity to enable him to give evidence against Farquhar, July 1983; d. from heart attack 17 November 1984; his evidence read to jury at Farquhar trial, March 1985.

JOSEPH, George , b. 1931; Melbourne dog lover and gunsmith (his Melbourne Firearms Centre, Brunswick Street, Fitzroy, said to be a meeting place for police, criminals and dog lovers); patron of Victorian Police Gun Club, cultivated contacts in the force by attending club meetings and shooting events; met James Frederick Bazley 1969; stated to be reputable gun dealer at Board of Inquiry conducted by William Kaye QC [Hon. Justice W. Kaye of Victorian Supreme Court from 1972) on police extortion from abortionists, and accepted by Kaye as witness of truth, 1970; said to have sold Bazley a French .22 Unique pistol, with silencer attached, for \$400, 1971; said to have introduced Bazley to Gianfranco Tizzzone for purpose of Bazley's execution (allegedly, although there is no objective forensic evidence to this effect, by the Unique pistol) of Donald Bruce Mackay, July 1977; claimed to have been involved with Bazley and Tizzzone in armed robbery of security van Melbourne, 1978; and with them in execution, allegedly again by Bazley and with the same Unique pistol, of Douglas and Isabel Wilson, April 1979; Kaye's acceptance of him as witness of truth mentioned by Jeffrey Leslie Sher QC, counsel for Inspector Thomas Rippon, secretary of Victorian Police Association, in defamation action unsuccessfully brought by Dr Bertram Barney Wainer against Rippon, 1979; imprisoned for seven years for his role with, allegedly, Bazley and Tizzzone in the murders of

Mackay and the Wilsons and the security van matter, October 1984; released and, amid fears that Griffith Mafia would kill him for informing, reported to be under police protection with a new identity, 20 June 1986; Rippon said Joseph was still in 'serious danger. They (The Family) will seek vengeance', 20 June 1986.

KARP, Ross John , b. 1949; his antecedents, originally named Karpouzis (Gk. = watermelon), from Greek island Kastellorizon, birthplace of Nicholas George Paltoglou (later Dr N.G. Paltos, doctor with diverse list of patients - see Paltos below); son of wealthy Sydney butcher; ed. Sydney University; solicitor 1972; met Paltos during treatment of his father for stomach cancer 1979; grateful to Paltos 'for allowing my father to die in dignity' 1981; retired from practice to administer his late father's estate 1981; later said Paltos had 'Rasputin-like effect' on him; borrowed from family company to lend Paltos \$300,000 to rationalise his gambling debts in 1981 and, although previous debt unpaid, another \$40,000 in 1982; worked as industrial investigator 1982-84; nervous of Paltos debt, sold his house to repay family company 1983; advised by Paltos, 'Don't worry, Ross, I'm working on something next year which will solve all my problems', late 1983; went with Grahame George (Croc) Palmer to meet Paltos and Daniel Michael Chubb in Darwin, and there assisted in taking delivery of several tonnes of Lebanese cannabis, said to be worth \$40 million, in 240 hessian bags, February 1984; to Palmer's complaint that Karp was 'a little rich kid', not one of them, Paltos replied, 'No, that's wrong; you're out of order there, Croc ... He's bored with life; he's got no kids; he doesn't give a f... He was looking for a high; he's found his high with me. He's an intelligent bastard, wants to beat [the] system. He gets a high out of beating the system', 30 April 1985; introduced by Paltos to his old friend Sergeant Roger Caleb Rogerson at Bayswater Brasserie, where Rogerson explained he had a problem with some money held in joint account with another old friend of Paltos, Morrie Nowytarger, and put forward plan for Karp to prepare backdated contract as evidence of sale of Bentley motor vehicle, July 1985; Karp's conversation with Paltos and Palmer on this transaction in car bugged by Federal Police recorded as: Palmer: What did Roger want? You done something for him? Paltos: F.. ing oath. Big. The best f .. ing turn, I tell you. Karp: He got some cash, Croc, right? .. and he opened up a couple of bodgie bank accounts. Paltos: Morrie's shiftest bloke in the world, but he's a hundred per cent. Karp: Opened up two bodgie accounts and put a hundred thousand between the two accounts. I'm not sure of the exact split-up, right? Palmer: Yeah. Karp: What's happened is, ah, Roger's gone to one of the banks to withdraw the money, right? Palmer: Yeah. Karp. In the bodgie name. Palmer: Yeah. Karp: ... Yeah, but they didn't know that account belonged to Roger, Nick. Paltos: Yes they did ... He said, 'Look', he said, 'Mate, I don't know how to thank you; I just don't know', you know? I said, 'Yeah.' I said, 'How the f .. ?' He said, 'Take my badge,' didn't he? 19 July 1985; arrested, with Paltos, Palmer and others, on charges of conspiring to import and supply cannabis resin, 15 August 1985, at which time Karp had some \$500,000 deposited in Darlinghurst branch of Westpac bank; on the supply charge (1 September 1983-15 August 1985), pleaded guilty and sentenced by Justice John Patrick Slattery to 14 years, with non-parole period of nine years, 7 March 1986; on the import charge (between 4.8 and 7.2 tonnes of cannabis resin, 1 September 1983-23 May 1984), pleaded guilty and sentenced by Justice Thomas O'Loughlen Reynolds to 14 years, this sentence to be served concurrently with the supply sentence, 3 October 1986.

KNIGHT, Douglas , As Detective Sergeant (third class) with Detective Sergeant Jack McNeill investigated organised crime in clubs, and the US Bally poker machine company's alleged links with organised crime, and its Australian subsidiary headed by Jack Rooklyn, 1972; the 1974 report of Justice Athol Moffitt's Royal Commission states that during the course of the investigation: 'It was admitted by Rooklyn, McNeill and Knight that they met and had private talks or negotiations or dealings on the matter of these police officers being on some employment or business basis with Bally ... McNeill did not take it up... Knight showed interest and sought time to decide. On a later date, probably 7th November 1972, [J.W.] Sadler, who was Knight's solicitor, signed an application for registration of Metropolitan Club Services as a business name. The document had then been signed by Rooklyn ... the names of the persons shown as carrying on business were Rooklyn and Sadler. Sadler was a dummy for Knight, with Knight's full assent and at his request ... At a date after 7th November, a business did operate with Rooklyn's assent under the name of Metropolitan Club Services. Activities were conducted by Townsend and Morgan, who were either present or past employees of Rooklyn. On occasions Knight accompanied them and acted in a way consistent with being a member of the business group. Various claims were made seeking to put an exculpatory gloss upon events. As the testimony of each of Rooklyn, McNeill and Knight, to say the least, could not be relied upon, some of the claims are, I think,

untrue and others may or may not be true ... let me say that one instrument of organised crime is to corrupt officials, and that, in this inquiry of the police into organised crime, which had become a matter of such anxiety and concern at various levels from Parliament to the public, and called for the police conduct to be above suspicion, it is difficult to imagine conduct more calculated to undermine confidence in the police investigations than Knight's conduct ... Knight said he considered the offers for a few weeks and then rejected them, and that that explained his visits to clubs with various persons ... There is grave suspicion against Knight and, on any view, his involvement lays him open to criticism as a police officer'; transferred by Commissioner Hanson to uniformed duties North Sydney, August 1974; recalled to CIB as divisional Detective Sergeant, Redfern, 1975; promoted Detective Inspector, March 1977; investigated with other police after allegations that police were collecting protection money from massage parlours and a club on the north shore, and exonerated, 'a few years before' March 1983; involved, as acting head of the Armed Hold-up Squad, in preparations for arrest of Warren Charles Lanfranchi, June 1981; promoted Senior Inspector July 1981; promoted Superintendent, December 1982; defended by Commissioner Cecil Abbott as the target of unfounded allegations which attempted to link him to organised crime: 'In my own personal opinion (he) is a highly intellectual person and one who performs most efficiently...', 30 March 1983; appointed to conduct an investigation into Edgar John Azzopardi's allegations of cover-up in the force, June 1984.

LEE, Ronald Joseph , b. 13 February 1921; started Kellet (baccarat) Club July 1961; taxicab proprietor in early 1960s; registered bookmaker 1964; part owner with Percival John Galea and others of illegal casinos Forbes Club, Double Bay Bridge Club and Telford Club.

LEES, James Travers , b. 7 September 1919; ed. Hurlstone Agricultural High School; NSW police cadet 1936; Sergeant (third class) 1957; as officer-in-charge Disciplinary Office 1959-72, his investigations reported to have resulted 402 criminal charges against police and 412 dismissals; Sergeant (first class) 1967; Inspector 1972; Superintendent 1975; Senior Assistant Commissioner 1976; Deputy Commissioner 1977; acting Commissioner 6 June 1979; appointed Commissioner 16 October 1979; reported to have issued a statement to senior officers that he had not been consulted about appointment of W.A.R. Allen as Deputy Commissioner, and that he would retire shortly, 13 September 1981; retired 29 December 1981.

LEWER, Walter John , depositions clerk, NSW legal service; magistrate 1959; retired 31 December 1978; gave evidence Wran Royal Commission 1983.

LEWIS, Terence Murray , b. 29 February 1928; ed. Queensland University; Queensland police force 1949; CIB Brisbane 1950-1963; Juvenile Aid Bureau 1963-73; Inspector 1973-76; Inspector Charleville when Bjelke-Petersen Cabinet appointed him Assistant Commissioner against wishes of Commissioner (1970-76) Raymond Wells Whitrod, who immediately resigned, and Lewis was then appointed Commissioner, November 1976; OBE 1979; stated, shortly before 1983 elections, 'The people of Queensland and the Police Force owe the Premier a very deep gratitude. The free enterprise policy of the Bjelke-Petersen Government has been responsible for Queensland's tremendous growth', 26 August 1983; knighted, 1 January 1986.

LLOYD-JONES, John , b. 24 February 1927; ed. Wyong Public School, Sydney High School, Sydney University; public servant 1950-61; barrister 1961; QC 1976; Commissioner of public Complaints 1984; Judge NSW District Court December 1985.

LUSHER, Hon. Justice Edwin Augustus , b. 16 June 1916; ed. Kogarah High School, Sydney Grammar School, Sydney University; admitted NSW Bar 1942; reported to have been ejected from District Court by Judge Prior for 'dumb insolence', and his junior, N. Wran, had to continue, 1958; appeared for Police Association members, including Jack McNeill and Douglas Knight, at Moffitt Royal Commission on organised crime in clubs, and there submitted, according to Independent MLA John Hatton, there was no organised crime in NSW; appointed by Premier Wran to inquire into casinos 1976; his researches took him to Nevada, New Jersey, London, Europe, Macau, Manila; recommended that if casinos were to be introduced they be in private hands and modelled on British gaming houses; appointed to Supreme Court, September 1977; appointed to inquire into police administration when Justice Ronald Francis Cross became ill, 1979; his report of May 1981, recommending a Police Board

and that corruption in the force be attacked as endemic, had significant, if delayed, consequences; retired 16 June 1986.

LYNCH, Frank, b. 1902; fencer, ring-barker, horse-breaker, railwayman; represented Parkes against an Australian XI led by D. Bradman; NSW Police 1928; uniformed police 1928-1934, where he cultivated a memory for faces; CIB 1934; tours of duty included officer-in-charge Darlinghurst CIB, eight years officer-in-charge Consorting Squad; said to have discerned, from the window of a passing bus, a capable pickpocket posing as Santa Claus in Grace Brothers, the thief having momentarily removed his beard to mop sweat; retired as Inspector in charge Liverpool district, September 1960; on recommendation of Police Commissioner Colin Delaney, appointed AJC chief racecourse detective 1961; described as the Hercule Poirot of the track; observed George David Freeman in the company of Magistrate Murray Frederick Farquhar and Dr Nicholas George Paltos in members' enclosure, Randwick racecourse, Wednesday, 27 July 1977; according to the Street (1983) Report: '...Mr Freeman, who was *persona non grata* with the AJC, gained access to the Members' Enclosure ... by means of a ticket which Mr Farquhar had obtained. Mr Freeman was on that day booked by the Consorting Squad in the company of Mr Farquhar at the racecourse and he was asked to leave the Members' Enclosure by the racecourse detective ... The ticket that Mr Freeman had used was in due course identified as having been obtained by Mr Farquhar. Mr Farquhar subsequently claimed that he had obtained the ticket for Dr Paltos ... [and] Dr Paltos himself later signed a letter ... directly corroborative of Mr Farquhar's account...' Lynch gave evidence to Legislative Council Select Committee on Crime that 'the magistrate made the approach' to obtain a ticket for Freeman on the 'pretence' that it was for a 'friend of his and a lady friend of his wife, from Adelaide', September 1978; questions remaining from Lynch's successful investigation of July 1977, and unresolved by the 1983 Wran Royal Commission: Did the Consorting Squad make a similar investigation? If so, did they then make further inquiries into both Farquhar's and Paltos's relationship with Freeman? If so, to whom did their reports go? As noted in the text, any adequate investigation, properly followed through to ministerial level, should have had the result that Farquhar would not have been in a position to fix the Humphreys case a few weeks later, still less to have been on hand at the time of the Cessna case in June 1979. Lynch resigned from the AJC 28 May 1980; his reputation as an investigator confirmed by the Street Report: '-the accounts of both Mr Farquhar and Dr Paltos of the way in which the ticket was obtained were shown to be false. There is a strong basis for inferring that Mr Farquhar obtained the ticket for Mr Freeman', July 1983.

McCOY, Dr. Alfred William, b. 8 June 1945; ed. Kent School, Columbia University, University of California at Berkeley, Yale University; author *The Politics of Heroin in Southeast Asia* 1972; Lecturer in History Yale University 1976-77; Research Fellow Australian National University 1977-78; Lecturer in History University of NSW 1978-80; author *Drug Traffic: Narcotics and Organised Crime in Australia* 1980; secretary Philippine Studies Association of Australia from 1980; Senior Lecturer in History University of NSW 1981-84, Associate Professor from 1984.

McPHERSON, Leonard Arthur (later changed name to Leonard Murray), b. 19 May 1921; refused, along with Stanley John Smith, entry into Hong Kong 1965; attempt on his life by Raymond Patrick (Ducky) O'Connor, who said to him, 'Here's yours', before being shot himself, by an unknown hand, Latin Quarter night club, 3.20 am May 1967; denied any involvement in any form of organised crime, 6 October 1968; described by Detective Sergeant Les Chown as 'an organiser of crime and needs no introduction as an organiser of crime ... he has been arrested for murder on a number of occasions', December 1968; fined \$100 by Murray Frederick Farquhar SM for consorting with reputed criminals, June 1969; took Joseph Daniel Testa, of Chicago, kangaroo shooting at Bourke, 1969; went to Chicago to visit Testa, all expenses paid by Testa, 1970; extended hospitality to Testa in Sydney, 1971; according to Commonwealth Police running sheets dated 3 August 1972, attended three meetings in the two weeks prior to that date 'to discuss the current activities re organised crime' at premises rented by a Karl Solomon (born Karl Frederick Bonnette) at 44 William Street, Double Bay, in the company of Bonnette, Stanley John Smith, David George Freeman, Frederick Charles Anderson, alias Paddles, Milan Petricevic, Albert Ross Sloss '(believed to be Labor MLA for King, NSW)' [Sloss denied being at the meetings], Arthur William Delaney, and a person known only as The Fibber; at Moffitt Royal Commission, denied involvement in club rackets, denied being a person used for intimidation, and, when asked to explain his income, said, 'I do the best I can', January 1974; described by Police Commissioner Mervyn Wood as being named, with rarely any evidence, on and off for 20 years as an

organised crime figure, and that 'They will be digging up Ned Kelly and naming him too', September 1978.

MADDISON, Hon. John Clarkson , b. Chatswood, Sydney 4 September 1921; ed. Sydney Grammar School, Sydney University; solicitor 1948; MLA (Liberal) Hornsby 1962-73, Ku-ring-gai 1973-1980; Minister of Justice (with responsibility for prisons) 1965-76; Minister for Police 20 September 1973-4 January 1975; defeated for leadership of Liberal Party by Tom Lewis, January 1975; Attorney-General and Minister of Justice (without responsibility for prisons) in Lewis Cabinet 4 January 1975-76; defeated for leadership by Peter Coleman, December 1977; defeated for leadership by John Mason, 1980; retired from politics 4 July 1980; while on waiting list for coronary by-pass operation, died of heart attack 29 August 1982.

MAHER, Brian James , b. Babinda, Queensland 1938; ed. St Augustine's College, Cairns; cane-cutter; gaoled for false pretences, Brisbane 1961; used car salesman, Sydney, early 1960s, where he discovered tax shelters; returned to Brisbane late 60s with \$2 million, but lost \$700,000 in the mining crash; blamed Labor Government of 1972, which removed rural tax incentives and invented Medibank, for tax avoidance business; formed Commercial Securities Ltd, billed by the press as Australia's largest tax shelter organisation, with offices in Brisbane, Sydney, Perth and Melbourne, at Southport, 1972; CSL made profit of \$7 million between 1972 and 1978, and provided tax of \$52,000 for income tax from the profit; sold the tax business of CSL following the Howard crackdown on tax schemes, October 1978; described as 'a white collar crook' by Queensland Labor MP Ken Hooper, 30 November 1978; discharged on conspiracy charges by Brisbane magistrate R.W. Bougoure, 22 December 1978; mentioned in the McCabe-Lafranchi report, along with Victor Smorgon, George Herscu, Paul Fayman, Maurice Alter, Sir Leo Curtis and others, as among those profiting from tax avoidance schemes estimated to have cost the Treasury \$200 million, 27 May 1982; found guilty of conspiracy to defraud and sentenced to five years, 14 October 1985.

MANNIX, Norman John (Jack) , b. Armidale 16 August 1920, ed. de la Salle College, Armidale; junior clerk, Department of Works and Local Government, 1937; shorthand writer to James McGirr, Minister for Local Government and Housing, 1941; private secretary Premier J.J. McGirr 1942-1950, in which capacity, he later said, he first met Richard Gabriel Reilly; MLA (Labor) Liverpool 1952; admitted NSW Bar 1955; assistant minister in Heffron Ministry, 28 October 1959; Minister of Justice 3 May 1960 until party lost office April 1965; nominated as coming Labor leader in Sydney or Canberra by *Mirror* State Roundsman Helen O'Flynn, 4 January 1962; went into mining and clothing manufacture after Labor lost office; following murder of baccarat operator Richard Gabriel Reilly 25 June 1967, disclosed he was probably mentioned in Reilly's diaries, 12 July 1967; following retirement of J.B. Renshaw as Labor leader, announced he would oppose P.D. Hills for leadership of State Opposition, 30 July 1968; announced his retirement from politics 28 March 1970.

MASON, Hon. John Marsden , b. 1928; ed. Sydney Boys' High School, Sydney University; Methodist minister; MLA (Liberal) for Dubbo, NSW 1965; Minister for Lands June 1975; deputy leader Liberal Party, December 1977; leader 24 October 1978; following sustained debate in the House on organised crime from November 78, later (October 1982) claimed in a court action that Noel Douglas (Tim) Walker, former Liberal MLA for Miranda, has telephoned him to say that if he stopped pursuing his attack on illegal gambling, the sum of \$5000 a week would be made available to him, 2 May 1979; deposed as leader 27 May 1981; retired from politics September 1981.

MEAGHER, Douglas Raymond , b. 10 February 1941; ed. Mentone Church of England Grammar School, Melbourne University; Victorian Bar 1964; QC 1982; senior counsel Costigan Royal Commission on Ships Painters and Dockers' Union of Australia, 1980-84.

MEISSNER, Ladislav or Lazlo (Joe), b. Transylvania 1943, allegedly with two sharp teeth and fingernails that curled over the tips of his fingers; family migrated to Australia 1950; billed as World's Strongest Teenager 1963; alleged by police officer Nelson Rowatt Chad to have broken into Ingleburn army damp armoury and made off with 10 Owen guns on 21 February 1967; Australian karate champion 1968; convicted on charges of accessory before fact and conspire to sell machine guns, and sentenced to six-and-a-half years in prison, August 1968; said to have become karate champion of the

world at Osaka, December 1971; challenged Muhammad Ali to bare knuckle contest, late 1972; employed to evict squatters in Victoria Street, Potts Point, by property developer Frank William Theeman, who claimed delays caused by squatters to his high rise development project had cost his company \$3 million, 1973-74; reported to have used 80-100 people, including many karate experts, in early 1974 to assist in the evictions; following an altercation with Meissner, Paul Ward claimed he had to get face and dental surgery, March 1978; visible in Enmore branch of Labor Party from end of 1978; secretary Enmore branch February 1979; nominated for secretary of Enmore branch, 14 February 1980; fined \$1000 and ordered to pay Paul Ward \$3000, 15 February 1980; his membership of Enmore branch referred to credentials committee, 15 February 1980; ruled never to have joined the Labor Party, May 1980; charged, with Thomas Christopher Domican, Virginia Perger and others, on charges including conspire and forge in connection with Enmore branch, 14 August 1980; charges dismissed 7 May 1982; fined \$10,000 for failing to file income tax returns for 1980, 1981, 1982, 1983, 1984, 1 November 1985.

MENZIES, Rt. Hon. Sir Robert Gordon, b. Jeparit, Victoria, 20 December 1894; ed. Jeparit State School, Grenville College, Ballarat, Melbourne University; Victorian Bar 1918; KC 1929; MLC East Yarra, Victoria, 1928-28; MLA Nunawading 1929-34; Attorney-General, Minister for Railways, and deputy Premier of Victoria 1932-34; MHR Kooyong, Victoria, 1934-66; Attorney-General 1934-39, Privy Councillor 1937; Prime Minister 1939 until dismissed by his own parties 1941; Treasurer 1939-40; Minister for Defence Co-Ordination 1939-41; invented Liberal Party 1945; Prime Minister 1949-66; Companion of Honour 1951; entered Vietnam war covertly 1962; Knight of Thistle 1963; entered Vietnam war overtly 29 April 1965; Lord Warden of Cinque Ports 1965; retired January 1966; d. 15 May 1978.

MILNER, Timothy William Lycett, b. England 1937; Vietnam 1968-1975; Hong Kong 1975-1978; arrived Australia 27 January 1979; claimed to be dealer in rug trade; arrested with Roy Bowers Cessna in possession of more than 100,000 buddha sticks, weighing 137 kilograms, 14 March 1979; sentenced to 18 months by magistrate Murray Frederick Farquhar, 15 May 1979; released 1980; interrogated in Bangkok by Superintendent Ronald Stephenson and Detective Sergeant Frank Mellis as part of task force operation formed July 1986 to reinvestigate the Cessna-Milner case following a recommendation in April 1986 by Stewart Royal Commission on the Age tapes.

MOFFITT, Hon. Justice Athol Randolph, b. Lismore NSW 25 June 1914; ed. Sydney Boys' High School, Sydney University; NSW Bar 1937; QC 1956; Justice Supreme Court 1962; Court of Appeal 1970; Royal Commissioner Alleged Organised Crime in NSW 1973-74, in which he successfully asked the Askin Government to extend the terms; President Court of Appeal, 1974-84; author *A Quarter to Midnight*, 1985, in which he politely criticised the Government for setting too narrow terms for the Wran Royal Commission and Chief Justice Street for not getting them widened: 'The Humphreys-Farquhar inquiry is a good example of terms which were too narrow. An examination of a series of apparently similar or connected events very often gives a better view of each. There were three other events of some notoriety relating to Farquhar, some of which appeared to have some relationship with the Government but were not examined. The other events were Farquhar's handling of the Botany Council case just before the Askin Government lost power ... the second was the attempt of Farquhar ... to have magistrate Mr Darcy Leo retire from the Sankey-Whitlam committal proceedings, then long in progress, and for him (Farquhar) to take it over. The attempt to do so was frustrated by the intervention of the Court of Appeal. The third was the Milner-Cessna case.'

MUIR, Judge Alastair Gibson, b. 9 January 1918; ed. Lismore and Katoomba High Schools, Sydney University; judge of NSW District Court from 1968.

MULOCK, Hon. Ronald Joseph, b. 1930; ed. de la Salle College, Marrickville, Sydney University; solicitor 1957; MLA (Labor) Nepean, NSW, 1971-73, Penrith 1973-81, St. Mary's from 1981; Minister of Justice 1976-78, for Mineral Resources 1978-81, Education 1981-84; Deputy Premier from 8 February 1984 (primary count understood to have been, Francis Walker [Left] 32, Mulock [unaligned] 20, Terence Sheahan 17 [Right]; final count, Mulock 36, Walker 33); Minister for Health 1984-86, Transport 1986.

MURDOCH, Keith Rupert , b. 11 March 1931 ; ed. Geelong Church of England Grammar School and Worcester College, Oxford; chief executive The News Corporation Ltd, Joint chairman and managing executive director Ansett Transport Industries Ltd.

MURPHY, Hon. Justice Lionel Keith , b. 30 August 1922; ed. Sydney High School, Sydney University; NSW Bar 1947; QC 1960, Senator for NSW 1962-1975; Leader Opposition in Senate 1967-72; Leader Government in Senate, Attorney-General and Minister for Customs and Excise 1972-75; Justice of High Court 1975 ; died, 1986.

MURRAY, Major-General Kevin Ross , b. 17 June 1930; ed. Newcastle Boys' High School, Sydney University; NSW Bar 1957; QC 1973.

NAGLE, Hon John Flood (Jack), b. Albury 7 July 1913; ed. St Patrick's Christian Brothers' College, Albury, Sydney University; NSW Bar 1938; one of three-man English Jaguar team placed second Monte Carlo rally, 1951; QC 1959; Justice NSW Supreme Court 1960; sole commissioner Royal Commission on NSW Prisons 1976-78; Chief Judge at Common Law, January 1979; retired July 1983; farmer at Albury; commissioner Special Commission of Inquiry into NSW police handling of investigations in 1977 murder of Donald Bruce Mackay, April 1986.

NIELSEN, Juanita Joan , b. 1937; said to be heiress to Mark Foy department store wealth; lived with her husband, seaman Joergen Nielsen, Denmark until the marriage broke up and she returned to Australia, 1973; newspaper proprietor; her fortnightly Kings Cross journal *NOW* took a strong editorial line opposed to Frank William Theeman's redevelopment project at Victoria Street, Potts Point, 1975; last seen alive leaving Carousel Cabaret (aka Les Girls) run by partnership including Abraham Gilbert Saffron and James McCartney Anderson, 11.30 am Friday 4 July 1975; Edward Frederick Twigg, Shayne Martin-Simmons, Lloyd Charles Marshall charged with conspiring together and with others unknown to abduct Nielsen, 1977; Marshall acquitted at direction of trial judge, jury hung on Trigg and Martin-Simmons; Trigg absconded on bail, 1980; at re-trial, Martin-Simmons found guilty and sentenced to two years, 1981 ; Trigg arrested San Francisco, August 1982; Trigg pleaded guilty to conspiracy to abduct and sentenced to three years, February 1983; inquest on presumed death of Nielsen began August 1983; Nielsen's friend, John Glebe, told the inquest a telephone caller told him in 1976, 'Juanita has been killed. It was an accident, It happened shortly after we picked her up. Back off, or accidents can happen to other people'; at end of 13-week inquest, coroner B.J. Wilson SM said the evidence did not establish a *prima facie* case against any person; jury found that Nielsen was dead, but could not say how, when, or where; jury added, 'There is evidence to show that the police inquiries were inhibited by an atmosphere of corruption, real or imagined, that existed at the time.'

O'DWYER, Rev Fr Edward Brian , b. Toowoomba, Queensland, 1924, son of a stationmaster; trained at Banyo, Brisbane, seminary for Catholic priesthood; ordained and assigned to Toowoomba diocese, 1949; parish priest Toowoomba; transferred by Bishop Brennan to Wallangarra after initiating parish gambling nights; reported to have shot (not fatally) cow trespassing on presbytery grounds, and soon after went on leave from Toowoomba diocese to act as chaplain St John of God Hospital, Burwood, mid-60s; involved with bookmaker Bill Waterhouse in unsuccessful project to launch floating casino project, 1968; founding director of Wings Travel, described (1980) at Woodward Royal Commission as having a manifest that read 'like a who's who of drug traffickers', early 1976; wanted for questioning at the Australian Jockey Club's Fine Cotton (Bold Personality rung-in for Fine Cotton, Eagle Farm, Brisbane, 18 August 1984) inquiry, was tracked by Consorting Squad detectives to London, September 1984; walked out of inquiry, 15 November 1984; warned off all racetracks under the jurisdiction of the AJC, 30 November 1984; reported to make the trip from his business, Taxwise Taxation Services, Burwood, to celebrate Mass privately at St John of God Hospital, 1 December 1984; charged with conspiring with Robbie Waterhouse between 10 and 18 August 1984 to cheat and defraud bookmakers of large sums of money over the Bold Personality ring-in, and with false pretences on August 18 at Appin racecourse, June 1986.

O'KEEFE, Barry Stanley John , b. 20 May 1933 (brother of singer Johnny O'Keefe); ed. Waverley College, Sydney University; NSW Bar 1957; QC 1974; Mayor of Mosman 1977-83.

PACIULLO, Hon. George , b. 20 February 1934; ed. Homebush High School; MLA (Labor) Liverpool, NSW, from 1971; Minister for Consumer and Aboriginal Affairs 1984-85, Police 1985.

PACKER, Kerry Francis Bullmore , b. 17 December 1937; ed. Cranbrook School, Sydney, Geelong Church of England Grammar School; chairman Consolidated Press Holdings Ltd; had gall bladder and left kidney removed, London, May 1986; judged to be largest gambler / punter in Australian history; reported to have bet \$1 million at even money on last race at Brisbane during Randwick Autumn Carnival, 1985; reported to have lost about \$2 million in four-hour baccarat session in Bahamas casino, March 1986; reported to be worth \$275 million, September 1986.

PALMER, GRAHAME GEORGE (Billy Crocodile, or Croc for short), b. 14 September 1941; said to have received sobriquet when police officer investigating brawl said to man with severely bitten (by Palmer) ear, 'Well then, who's been in a fight with a crocodile?'; knew Murray Stewart Riley from Associated Motor Club and South Sydney Juniors Leagues Club early 1970s; with Walter Dean, president SW, bought imported Irish greyhound Super Approval, 1973; established VIP greyhound kennels, Leppington, 1974; owner of casino at Strathfield, Sydney, late 1970s; closed casino after police crackdown, late 1979; convicted and fined \$1000 on telephone betting from premises at Matraville, 1981; fined \$100 for conducting two-up game, 1982; police believed he had interest in card club 20 Bayswater Road, Kings Cross, 1983; and at 26 Bayswater Road, 1984; arrested in Paltos cannabis importation, 15 August 1985; pleaded guilty and sentenced to 14 years, with a minimum of eight-and-a-half, 7 March 1986; reported to have assaulted Paltos (but not stated whether with teeth or otherwise), April 1986.

PALTOS, Dr Nicholas George , b. Nicholas Paltoglou at Kastellorizon, an island off Greece, youngest of 10 children, 21 July 1940; migrated to Melbourne with parents and seven brothers and sisters, 1947; mother died 1949; educated at schools in Prahran and Toorak; labourer Richmond, Melbourne, chrome metal factory until 1955; arrived Sydney with his father, late 1955; apprentice in Sydenham metal factory; diploma electro-plating, 1958; befriended by proprietor of Thommo's Two-up School, Joseph Patrick Taylor, who encouraged him to study for Leaving Certificate; night student Sydney Technical College, 1959; matriculated 1961; Commonwealth Scholarship to University of New South Wales 1962; completed medicine degree 1968; intern Sydney Hospital 1969; director emergency and casualty departments, Sydney Hospital, 1970-1978; his voice heard on intercepts of George David Freeman's telephone, early 1976; consorted with Freeman, Murray Frederick Farquhar, Randwick races, 27 July 1977; surveilled by US police and hence led them to Freeman, April 1978; resigned from Sydney Hospital and established practice Woolloomooloo, 1978; successfully advised his patient, Robert Trimbole, to leave the country, May 1981; said to have borrowed \$300,000 from solicitor Ross John Karp to meet gambling debts, 1981; according to evidence given at 1983 Wran Royal Commission and 1986 Police Tribunal, his patients had included: Freeman, Farquhar, Mrs Vincenza D'Agostino, Chief Justice Sir Laurence Street, Kerry Packer, John Laws, Sir Harry Secombe, Inspector Nelson Chad; found by Street to have given false evidence at Royal Commission, July 1983; alleged to have begun conspiring to import cannabis resin, September 1983; said to have met Trimbole overseas to organise Lebanese drug deal, October 1983; gave letter to Special Commission of Inquiry on prisoner early releases to say that Fayeze (Frank) Hakim was too ill to attend, April 1984; alleged to have agreed on 19 July 1985 with solicitor Ross Karp and Sergeant Roger Caleb Rogerson to give a false account of the source of money held by Rogerson under false names; arrested and charged with conspiring between 1 September 1983 and 23 May 1984 to import cannabis resin (alleged by police to be 7.2 tonnes worth \$40 million), and with possessing cannabis resin on 7 May 1985 at Mascot, 15 August 1985; pleaded guilty and was sentenced by Justice John Slattery to 20 years, with a minimum of 13 (but experts on system of remissions estimated he would serve about seven years), 7 March 1986; reported to have been assaulted in Long Bay gaol by fellow conspirator Grahame George (Croc) Palmer, 6 April 1986.

PARRINGTON, Frederick Joseph (Joe) , investigated murder of Donald Bruce Mackay from day after his disappearance on 15 July 1977; appointed Chief Superintendent in charge of Anti-Theft Squad, July 1984; Special Commission of Inquiry under former Justice John Nagle QC appointed to inquire in the investigation of the Mackay murder, 22 April 1986.

PAYNE, Catherine Dale , b. 27 June 1948; began to use heroin 1972; arrested and charged with importing and selling heroin, 7 January 1974; informed police that Anthony Eustace Anderson was her supplier, gave considerable detail of his activities; pleaded guilty, and was given a five-year bond 15 November 1974; informed police that Anderson was a heroin dealer, January and December 1976; according to Greg Jones, hired by Anderson's employee Rodney Rowe as a bodyguard early in 1978, Rowe had told him late in 1977 Anderson had told Rowe, 'If you don't kill her [Payne] we'll kill the pair of you'; following events took place 21 February 1978: Rowe told Jones he would kill Payne with her own gun; Jones said he left a message with a detective to have Rowe picked up because he was going to kill Payne; Narcotics agents Peter Marzol and Richard Spencer arrested Payne at 5 pm at Glenview Motel, St Leonards, where she was staying with Rowe, in possession of \$30,000; Rowe arrived at the motel, gave a false name to remaining Narcotics agents, was interrogated at Customs House and, 'extraordinarily', allowed to leave; and Payne advised police Anderson was her supplier. Jones advised *Daily Mirror* columnist Brian White that Payne was 'hot' because she knew too much; Payne granted bail, 5 May 1978; advised Spencer in the presence of Sergeant Pamela Bowman that Anderson was trying to kill her, and, 'I know what'll happen: I'll be found one day dead of an overdose and no one will know the truth, but I'll know', 10 May 1978; last seen alive by hotel staff at Adlon Private Hotel, 354 Edgecliff Road, Edgecliff, 12.30 am, Sunday 14 May 1978; her body found in the apparently locked and barred room Nine at the hotel, 15 May 1978; White wrote of a 'killer' having entered Flat 9, May 22, 1978; White and radio 2SM reporter Steve Liebman, who declined to reveal their sources, told coroner Len Nash SM that Payne knew a great deal about the Sydney heroin organisation, and that they were suspicious of the manner of her death; Nash, who had no evidence before him that anyone had plans to kill Payne, said, 'I place no reliance on their evidence', and found that she had died accidentally of a self-injected overdose, 4 October 1978; Rowe not sighted (except, possibly, in Lismore in 1984) after 10 July 1980; Victoria Police Superintendent Carl Mengler, an investigator for Justice Donald Stewart's Mr Asia Royal Commission (June 1981-February 1983), investigated Payne's death in his spare time, and was able to demonstrate that a man weighing less than 70 kilograms (such as Rowe) could slip through the barred window; in a confidential section of his Mr Asia report, Stewart recommended that the NSW Government hold a Royal Commission into Payne's death, February 1983; Premier Wran said Crown Solicitor Hugh Roberts had recommended a new inquest, 23 December 1984; new coroner Kevin Anderson found, 'It is clear that [Spencer and Marzol] deliberately kept from the Coroner [Nash] knowledge they had which would have changed the course of the inquest and led to inquiry into Anderson and Rowe. I intend to forward the papers in this inquest to the Attorney-General for his consideration as to whether charges of perjury or conspiracy or attempting to perverting the course of justice should be brought against them ... 'The evidence in this inquest vindicates the journalists White and Leibman ... [Greg] Jones appears worthy of credence ... The evidence in this inquest excludes suicide. It leaves open, as the cause of death, accident, murder, or even manslaughter' 5 July 1985; chamber magistrate Nash signed summonses alleging Spencer and Marzol gave false evidence at the 1978 inquest, 21 February 1986.

PERGER, Virginia , b. 1948; prostitute and heroin addict, associate of Ladislav (Joe) Meissner; pleaded guilty to wilfully and corruptly making, on 4 May 1985, false statements about public figures, and committed for sentence, 20 March, 1986; Crown Prosecutor Philip Johnston told Judge Alastair Muir in District Court that Perger's plea of guilty and her contrition and remorse had 'cut the ground from under' the Crown case, and, 'I find it very hard to suggest a custodial sentence', 14 May 1986; Muir said he was satisfied Perger was repentant, and put her on a bond of \$2000 bond to behave in a good manner for two years, 15 May, 1986.

PERRIN, John Colin , b. 1928; NSW Police cadet, 1 May 1944; service in Vice Squad, office of Superintendent of Licences, H District Licensing office, public relations, two periods at Special Branch, first as a Constable and later as officer in charge, where in 1978 he engaged Richard John Seary as an undercover agent to penetrate the Ananda Marga, and Internal Affairs Branch, first as investigator and later as assistant to the Chief Superintendent; Deputy Commissioner 23 July 1982; involved in investigations of alleged traffic incident involving Assistant Commissioner Ernest Robert Day, 1983, of matters relating to Edgar John Azzopardi, 1983, and allegations by James McCartney Anderson concerning relations between Abraham Gilbert Saffron and members of the force, 1983; assigned Superintendent Douglas Knight to inquire into Azzopardi matters, 1984; reported to be certain to succeed Commissioner Cecil Abbott, 15 July 1984; following representations to newly instituted Police

Board by Azzopardi, Independent MLA John Hatton, and former Liberal MLC Dr Derek Freeman, the Board successfully recommended Superintendent John Avery to Cabinet, July 1984; reported to have gone on extended leave prior to retirement in September, 15 April 1986; denied he had prematurely left the force after row with Avery, 16 April 1986; retired 27 June 1986.

PETERSEN, Wilfred George , b. 1921; telephonist Postmaster-General's Department, Bundaberg, Queensland, 1936; clerk Social Service Department, 1939; 2nd Fifth Commando Squadron, 1943; joined Communist Party, 1944; Public Service, Brisbane, 1946; expelled from Returned Servicemen's League after opposing the RSL's ban on communists, 1948; left Communist Party following Russian invasion of Hungary, 1956; transferred to Wollongong and joined Labor Party, 1958; MLA (Labor) Kembla, NSW, from 1968; for Illawarra, from 1971; described in the House as 'traitorous and disloyal' by Health Minister Arnold Jago for wearing anti-Vietnam war badge, 2 September 1970; his allegations that prisoners had been criminally assaulted by warders at Bathurst Prison described as 'wicked and untrue' by Justice Minister John Maddison, 3 November 1970; slapped on face for wearing longish hair by Labor member for Cessnock George Neilly 29 February 1972; his allegations that warders criminally assaulted prisoners after burning of Bathurst gaol on 3 February 1974 again denied by Maddison, but both allegations vindicated by Nagle Royal Commission 1976-78.

PETRICEVIC, Milan (Iron Bar Miller) , b. Croatia 28 September 1938; said to use an iron bar to smash legs of slow SP debtors and furnishings of night clubs whose owners neglected to pay protection moneys; offer by patriotic criminal superior (possibly Frederick Charles [Paddles] Anderson) for him to be used to lead squads to perform similar service on Vietnam demonstrators declined by authorities, late 1960s; sentenced to three months for consorting with, among others, Leonard Arthur McPherson and Stanley John Smith, December 1968; attended organised crime summits, July 1972; after 20 years in the *milieu*, still a doorman outside illegal casino Bayswater Road, Kings Cross, 1985; suffering from cancer, sought to return to Croatia, but was operated on in Munich, and died there, 9 November 1985; his body taken to Croatia, 80 mourners attended Requiem Mass in Serbo-Croatian language, St Anthony's Croatian Catholic Church Summer Hill, Sydney, 18 November 1985.

PYNE, Keith Joseph (Jim), b. 7 October 1924; NSW Police Force 1945; Criminal Investigation Branch 27 March 1953, uniformed duties June 1970; Inspector March 1974; Senior Inspector November 1977; Superintendent October 1979; Senior Superintendent December 1981 ; Assistant Commissioner (General Services, including licensing) 12 February 1982; at time of latter appointment, police statement said, 'In recent times Mr Pyne has performed the duty of the Metropolitan Licensing Inspector and officer in charge of the Licensing Section'; Police Minister Peter Anderson later (11 October 1983) said it was not his policy to comment on Cabinet matters when asked by former Liberal leader John Dowd if a list of nominees for Assistant Commissioner had originally been submitted without Pyne's name, and that his name was later added to the list; reported to have said he told Commissioner Cecil Abbott he would pay his own way on 17-day tour in March 1983 to Las Vegas organised by club Secretaries and Managers Association and featuring an offer by poker machine company Bally Australia Pty Ltd to pay the cost of the trip for an official of any club which bought a specified number of Bally machines, 22 May 1983; claimed by James McCartney Anderson to have received two parcels of \$5000 from Abraham Gilbert Saffron during the 1970s, September 1983; said he was in Eromanga, Western Queensland, on date in 1982 when he was alleged by National Party leader Leon Punch to have had lunch with Assistant Commissioner Ernest Robert Day and poker machine figures then under investigation by police, 22 November 1983; cleared of allegation concerning Saffron by Deputy Commissioner John Perrin and Chief Superintendent Russell Sadler, 21 February 1984; retired 7 October 1984.

RALPH, Ronald Arthur (Click) aka Magic Eye, b. 1930; NSW Police 1949; Consorting Squad 1960; according to *Daily Mirror* Police Roundsman Bill Jenkins (4 October 1963) 'something goes click as Det. Ralph walks along the street and he knows the face he is looking at is a wanted person ... he discovered his amazing gift when being tried out on plain clothes duty with 21 Division'; 'owes more than 300 arrests to his photographic memory', *Mirror* 3 March 1964; his photographic memory has resulted in more than 300 arrests', *Mirror* 9 January 1970; 'has made more than 300 arrests in his 15 years in the Consorting Squad', *Daily Telegraph*, 25 August 1973; worked at senior levels in Organised

Crime Squad and Internal Affairs Branch; then Superintendent at Anti-Theft Squad, charged with conspiracy with Morris George to receive money as an inducement to act corruptly, 28 May 1985.

REEVES, Anthony , b. near London 1940, migrated 1954; ed. Liverpool Boys' High School, Tempe High School; copy boy *Daily Mirror* 1955; joined East Sydney branch Labor Party 1971 ; involved in resistance to redevelopment of Victoria Street, Potts Point, mid-1970s; alderman Sydney City Council 1977; co-editor monthly journal *The Metal Worker* (640,000 readers), 1981; editor, part-owner *The Guardian*, Newtown, 1983; criticised Labor Lord Mayor Douglas Sutherland, March 1984; said corruption in NSW so entrenched a change of Government 'would hardly cause it to miss a beat', 20 March 1984; expelled from Labor Party by party's Administrative Committee on charge of disloyalty after criticising ALP candidates in Marrickville Council election, July 1985; consultant on privatisation in housing to Housing Minister Francis Walker, 1986.

REILLY, Richard Gabriel , b. November 1909; dance hall bouncer; made acquaintance of future illegal casino operators George Ziziros Walker and Eric O'Farrell, 1930s; sly grog heavy, late 1930s-early 1940s; counterfeiter black market clothing ration coupons, World War II; 15 court appearances on charges including assault, rob, demand money with menaces, steal, carry unlicensed pistol, 1935-1952; doorman, Abraham Gilbert Saffron's Roosevelt Club, Orwell Street, Kings Cross, late 1940s; partner in abortion business with Dr Reginald Stuart-Jones and Detective-Sergeant Ray Kelly; following Stuart Jones' death 1961, became partner of abortionist and confidence trickster Ivan Markovics (born as Molnar, Hungary; later associate of Murray Stewart Riley, Bela Csidei, James Fratianno, and representative in US of Knights of Malta); baccarat operator 1960s; shot dead by John James Warren (who suicided January 1968), 7.30 pm, Sunday 25 June 1967; his habit of writing down the names of every person he ran into emerged when police found his diaries after his death; the only names surfacing at the time were those of NSW Labor politicians Norman (Jack) Mannix and Albert Ross Sloss; in *The Prince and the Premier* (1985), David Hickie reported that other names included: Federal Labor politicians E.J. (Eddie) Ward and James Francis Cope; detectives Ray Kelly and Don Fergusson; Dr George Frederick James Smart and Dr Henry Leonard Malinowski; Louis (Last Card Louis) Benedetto, who managed Pink Pussy Cat strip joint in Darlinghurst Road, Kings Cross, for an Abraham Gilbert Saffron interest; lawyer Charles Richard Hoytash; journalists Eric Baume and Frank Browne; and *milieu* types Leonard Arthur McPherson, Frederick Charles Anderson, Kevin Victor Gore, and John (Mad Dog) Regan.

RILEY, Murray Stewart , b. 1926; NSW Police December 1943; rose to Detective Sergeant (third class); with Mervyn Wood won double sculls, Commonwealth Games, Auckland, 1950, and Vancouver, 1954, and placed third Olympic Games, Melbourne 1956; resigned from force, February 1962; sales manager of poker machine distribution company run by Raymond Smith, 1962; sought to bribe New Zealand detective and sentenced to 12 months in NZ, 1966; deported to Australia, 1 March 1967; hired by Walter Dean as poker machine supervisor at South Sydney Junior Leagues Club (SSJ), 1967; partnership with Dean, 1969; receiving \$150 week from Aesthetic Arts Pty Ltd, a company established by Dean and William Charles Garfield Sinclair to supply props and sets to SW, 1970; social director Associated Motor Club, uses his influence to have Dean appointed secretary, October 1970; established Arcadia Top Artists booking agency, 1970; making \$50,000 a year out of Arcadia after it got virtual monopoly of SSJ work, August 1971; Aesthetic Arts did work for shows staged by Arcadia at SSJ; Commonwealth Police document on Bally poker machine company alleged Sydney *milieu* figures seeking monopoly of \$400 million a year poker machine business, and that when Bally got into a club Riley's Arcadia moved in soon after; May 72; Detective-Sergeant Richard John Lascelles, seconded for previous five years to NSW Crown Solicitor's office, gave statement to Moffitt Royal Commission of his unsuccessful attempts to find Riley from September 1973 to January 1974, 12 February 1974; police unable to find him during the period of the Commission, but he reappeared, driving Buick Sabre, at SSJ the day after the tabling of the report (completed 1 August 1974) on 4 March 1975; his club business however ruined by 19 months underground and the report; engaged by Michael Moylan Jnr drug syndicate as supervisor responsible for establishing importation from US, March 1975; forged passport in name of Marriott, April 1975; introduced in US to criminals for furtherance of drug activities by US citizen George Pierce (Duke) Countis (b. 28 August 1915 as Martimianakis, arrived Australia 1967), 1975; disintegration of Moylan syndicate, December 1975; associated in some way with W.C.G. Sinclair in founding of Wings Travel, early 1976; visited US with Bela Csidei 1976 and 1977; according

to Joint Task Force on Drug Trafficking (October 1982) Riley 'is known to have carried out five successful heroin importations' in 1976: April, June, August, September-October, November-December; seen in San Francisco with James Fratianno, Mafia killer, and Sal Amarena, member of Santos Trafficante's Florida branch of Mafia; November 76; Riley and Sinclair arrived Sydney from Hong Kong on different planes, 6 June 1977; Riley and Sinclair left Sydney on different planes, first stop Hong Kong, 19 June 77; Riley made first of several trips to Singapore and South-east Asia to arrange *Choyro Maru-Anoa* marijuana shipment, August 77; Woodward report (1980) concluded that Riley and Sinclair engaged in a heroin importation from Bangkok about September 1977, but that Riley 'ripped off' Sinclair for \$20,000; made his last flight on Wings Travel, October 77, Sinclair introduced to Arthur Stanley (Neddy) Smith and, Woodward believed, engaged him to collect the \$20,000 from Riley, December 1977; *Choyro Maru* left NZ, 16 February 1978, and, with 4.5 tonnes of cannabis, Bangkok for Australia, 2 April 1978; cannabis offloaded to wreck Pocklington Reef, 480 kilometres east of Papua-New Guinea, 22 April 1978; *Anoa* loaded with 2.7 tonnes cannabis from Pocklington Reef, May 1978; *Anoa* crew members arrested, Forster, NSW, 10 June 1978; Riley arrested Adelaide, 29 June 1978; pleaded guilty to being 'transportation agent' for 1.5 tonnes on the *Anoa*, and sentenced by Judge Kenneth Torrington to 10 years with a minimum of five, and fined \$4000, 9 October 1978; granted *Daily Mirror* reporter Michael Munro interview in office of Ed Bowden, Superintendent of Metropolitan Remand Centre, Long Bay, to deny allegations he had been regularly buying his way out of prison for days and nights at liberty, May 1980; pleaded guilty and sentenced by Judge David Hicks to an additional seven years on charges of possess unlicensed pistol, forge passport application, and conspire to cheat and defraud American Express of \$274,000, 19 September 1980; replying to question in the House by Joseph Schipp (Liberal, Wagga Wagga) as to whether the Government had been told that Federal Police telephone taps had uncovered evidence of widespread availability of drugs in NSW prisons, and whether prison officers had established that drug running in prisons was being organised by Riley, Prisons Minister Rex Jackson said he had no contact with Federal Police, 19 October 1983; made bankrupt, owing \$132,497 to Nugan Hand (Hong Kong) Bank (in liquidation), 7 May 1984; released 29 May 1984; according to a later (2 October 1986) report in *The Age*, was found by a special 'commission of inquiry headed by Justice Bredmyer, of the Papua New Guinea Supreme Court, to have been, with Arthur Stanley Smith and others, member of a ring planning a \$40 million heroin import ex Bangkok and Port Moresby in 1985; advised Federal Court he had good contacts in the wholesale gem industry and intended to buy in Hong Kong, but failed in application for discharge from bankruptcy, 17 March 1986.

ROBERTS, Hugh King , b. 25 May 1936; ed. Barker College, Sydney University; legal officer, Clerk of the Peace Office, Sydney, 1961-63; Crown Solicitor's office, 1963-74; assistant Crown Solicitor, 1974-76; Crown Solicitor from 1976.

RODEN, Hon. Justice Adrian , b. 29 January 1926; ed. Sydney High School, Sydney University; editor *Honi Soit* 1948; NSW Bar 1949; practised Tanganyika 1950-65; NSW Bar 1966; QC 1974; judge, NSW District Court, January 1977-78; judge Supreme Court from November 1978; presiding at bkie gangs murder trial, discounted rumours that he would resign from Court as protest against Judicial Commission, September 1986.

ROGAN, Patrick Allan , b. Paddington, Sydney, circa 1939; ed. Granville; left school 15 to become electrical apprentice; joined Labor Party 1963; MLA (Labor) for East Hills from 1973; chairman of Parliamentary Select Committee on Prostitution, 1983-86; conducted research, with pocket money of \$65 per day, in Hamburg, Amsterdam, Stockholm, Hong Kong, 1984; said in the House: 'The Leader of the Opposition also referred to illegal gambling, and crime and corruption. He did not refer to the Askin era in New South Wales, when all measures of organized crime was given the greatest impetus it ever had; it became entrenched in such a way that the Wran Government is still endeavouring to weed it out', 29 April 1986.

ROGERSON, Roger Caleb , b. 3 January 1941; son of British migrant who worked on waterfront; NSW police cadet 28 January 1958; Criminal Investigation Branch, 9 September 1962, and posted to No. 21 Division, responsible for policing gaming laws; Special Crime Squad, January 1967; said to have worked closely with mentor in force Noel Morey, 1967-74; became acquainted with Leonard Arthur McPherson, 1967 or 1968; observed by present writer in company with Sergeant Morey and nervous

Superintendent Donald Fergusson (the latter of whom extorted money from abortionists) interrogating Dr Bertram Wainer (who had alleged Melbourne police extorted money from abortionists), as to Wainer's knowledge of abortion practice in Sydney, 2GB boardroom, 1969; Armed Holdup Squad, 1 May 1974; present at Avoca Beach when bank robber and murderer Philip Western shot dead, June 1976; arrested Arthur Stanley (Neddy) Smith, who later became his informer, November 1976; fatally shot man attempting to hold up courier taking \$60,000 from South Sydney Junior Leagues Club to bank, 1977; an arresting officer in Ananda Marga case, June 1978; present at Rose Bay when police fatally shot bank robber and drug addict Gordon Thomas, August 1979; awarded Peter Mitchell Award for most outstanding performance in any phase of police duty, 1980; advised by Arthur Stanley Smith that drug-dealer Warren Charles Lanfranchi, expecting to be arrested by Rogerson for stealing heroin from a dealer acting on behalf of police, was prepared to pay up to \$50,000 to avoid arrest, Thursday, 25 June 1981; got in touch with acting head of Armed Holdup Squad, Superintendent Douglas Knight, to discuss arrangements for Lanfranchi's arrest; these discussions attended by Morey, Superintendent LF. Palmer, of the CIB; and Special Weapons and Operations Squad alerted, Friday, 26 June 1981; Lanfranchi, claimed by his common law wife, Sallie-Anne Huckstepp, to be unarmed and carrying \$10,000, having chosen a lane called Dangar Place, Chippendale, as a meeting place in which he expected to meet Rogerson alone, 18 police were deployed in the vicinity, with four, Rogerson, Detective Sergeant Brian Robert Harding, Detective Sergeant Graham William Frazer, and Constable Rodney George Moore, in the lane itself, 2.45 pm, Saturday, 27 June 1981; [later (1 April 1986) said he was offered \$80,000 in regard to the Lanfranchi case, 'but I certainly [sent] the message back that under no circumstances would I be prepared to accept anything', but did not explain why in that case Lanfranchi turned up for the meeting]; driven by Smith, Lanfranchi arrived at Britannia Hotel, Cleveland Street, 2.45 pm; police in lane later said Lanfranchi drew a defective Harrington and Richardson gun manufactured circa 1900, and aimed it at Rogerson; Rogerson fired twice at Lanfranchi, at an interval estimated by two girls, the only car witnesses to be timed, to be 10 or 11 seconds, or, according to police, in close succession; one bullet, not fatal, went into his neck muscle below his left ear and, Lanfranchi having developed powerful neck muscles by exercise in prison, followed the path of the muscle round the back of his neck, and did not exit; the other, fatal, went into his heart; police present said the first shot was the fatal one to the heart; there is no objective medical evidence to say which was first; police said Lanfranchi had no money on him; prepared, with Smith and Detective Moore, Smith's statement for the inquest, but made no copy of the statement, several weeks after the shooting; took Smith's statement to him at his fortress-like house at St Peters the night before Smith was to give evidence at inquest conducted by coroner Norman Francis Walsh SM; four-person jury found Rogerson had fatally shot Lanfranchi while endeavouring to effect an arrest, but specifically declined to find it was in self defence, November 1981; Ian Barker QC and Anthony Young, counsel for Huckstepp, later said, 'In view of the finding of the coroner's jury ... it is open to conjecture what view they entertained about... whether the deceased did in fact have a gun at the material time'; following the inquest, an Internal Affairs inquiry into the shooting conducted by Superintendent Ronald Arthur (Click) Ralph found no misconduct on the part of any police person; Rogerson moved from Armed Holdup Squad to third in charge Darlinghurst Detectives, 14 July 1982; Opposition leader John Dowd moved urgency motion for a judicial inquiry into Lanfranchi's death, refused by Premier Neville Wran, Friday, 26 November 1982; following a call by Rogerson to Dowd's home next day, and a later conversation between Dowd and Rogerson, Dowd gave notice of motion stating that Rogerson's actions were intimidatory, an attempt to deter a member of Parliament from discharging his duties, a breach of the privileges of the House, and that he deserved the censure of the House; Speaker Lawrence Borthwick Kelly ruled that Dowd had not made out *prima facie* breach of privilege, Tuesday, 30 November 1982; obtained Christopher Dale Flannery as informer, 2 November, 1984; transferred to uniform duties Bankstown, 18 November 1984; charged with attempting in September 1983 to bribe Drug Squad officer Detective Constable Michael Drury, told to hand in his revolver and warrant card, and suspended without pay, 28 November, 1984; according to Detective John McNamara, Detective Sergeant Bill Duff said in connection with 'smack' to be flown from New Guinea, 'Roger and I have worked it all out: if we don't do it, some other c--- will', March 1985; in May 1985, opened bank accounts under false names, with \$6000 in name of Roberts and \$8000 in name of Tracey; three days later put another \$30,000 in each account; five days after that put \$16,000 in Roberts account and \$20,000 in Tracey account; prosecuted in the District Court by Jack Hiatt QC and defended by Chester Porter QC, June 1985; while waiting for jury's verdict, lunched with his wife and advised her that, if worst came to worst, there were bank accounts in names of Roberts and Tracey; this conversation overheard, investigations put in train, and banks alerted; acquitted and returned to uniformed duties, 19 June 1985; surveilled by closed circuit television when he closed bank accounts,

receiving bank cheques for \$52,528.52 from the Roberts account and \$58,588.16 from the Tracey account, 1 July 1985; told Ray Martin on Channel 9's *Mike Willesee* programme that: in 27 years on the force had never known a corrupt police officer; it was false to suggest he had ever taken money from drug dealers; he had never accepted a bribe, or even, he thought, a free lunch, Police Commissioner Avery and other high ranking officers were determined to 'fit' him with something, 1 April 1986; formally charged with police misconduct in that, among other things, he had bank accounts in false names, and had an improper relationship with Arthur Smith, same day as an attempt was made on the life of Smith, 2 April 1986; charged on three counts of goods in custody relating to his bank accounts in false names, November 1985; seven of nine police misconduct charges found sustained by Police Tribunal in the person of Judge Barrie Thorley, who said Rogerson had betrayed the community and recommended he be dismissed from the force, 28 July 1986; his appeal dismissed by the Tribunal's review division chairman Justice Perrignon noting that Rogerson 'did not proffer a word of sworn evidence' - 10 October, 1986.

On 29 September 1987, Rogerson was arrested and charged with conspiracy to pervert the course of justice. The charges alleged that Rogerson conspired with Nicholas Paltos, Ross Karp and Maurie Nowytarger between 1985 and 1986. Both Paltos and Karp are serving prison sentences for their part in the importation of \$40 million of worth of cannabis resin.

ROOKLYN, Jack , b. London 11 March 1918, according to Rooklyn, and 11 March 1908, according to Joint Task Force on Drug Trafficking; his Russian-Jewish family migrated to Australia 1921; arranged entertainment, including illegal poker machines, for US servicemen in Australia World War 11; began Asian pinball empire (Singapore, Penang, Siam, Philippines, Saigon, Katmandu, Macau, Indonesia) 1952; distributor of Lion Manufacturing (precursor to Bally) pinball products, 1956 or 1957; Bally Manufacturing Corp of America formed (with Mafia figure Gerardo Catena [b. 1900], later head of the Genovese Family, as secret partner), 1963; Bally began to make poker machines 1964, and that year captured 90 per cent of new business in Nevada; Rooklyn, with half interest, formed Electronic Amusements to distribute Bally poker machines in Australia, 1968 or 1969; Catena's interest in Bally America emerged in English libel action, June-July 1971; information on this supplied to NSW police by Commonwealth Police and rival poker machine company, Nutt & Muddle, late 1971; Bally America acquired Electronic Amusements and Rooklyn's Asian empire in complicated cash and share deal (\$460,000 for his share of Electronic Amusements and \$3,810,000 in cash and shares in Bally America for his Asian interests), with Rooklyn remaining as managing director of the new company, Bally Australia Pty Ltd, 1972; after 1973-74 Royal Commission, Justice Moffitt found that continued or future operations of Bally America or its subsidiary Bally Australia offered a risk of infiltration of organised crime into or in relation to clubs, August 1974; Rooklyn claimed by an associate to be worth \$50 million, July 1977; reported to have bought Bally Australia back from Bally America, December 1977; said he had not been associated with Bally for three years, November 1981; Justice Edmund Perrignon, sitting as the Police Tribunal, found that the association of Deputy Police Commissioner William Allen with Rooklyn in Las Vegas in June 1981 was likely to bring discredit on the force, 21 April 1982.

RYAN, Morgan John , b. Gundagai 26 September 1920; ed. St Stanislaus' Gundagai, St Patrick's Goulburn; as aspiring jockey, rode trackwork as youth; solicitor 1948; established legal firm Morgan Ryan and Brock, early 1950s; met barrister Lionel Murphy 1952; his firm represented Abraham Gilbert Saffron at Moffitt Royal Commission, 1973-74, his telephone tapped by NSW police March-April 1979 (code name *Mad Dog*), January-June 1980 (*Rabid*) and, on behalf of Federal Police, January-March 1981; charged in relation to Korean immigrants, August 1981; convicted, fined \$400 and placed on bond by Judge Paul Flannery in the District Court, July 1983; Court of Appeal quashed the conviction and ordered re-trial, July 1984; Temby decided not to proceed January 1987.

SAFFRON, Abraham Gilbert , b. 6 October 1919; ed. Fort Street High School, Petersham, Sydney [other distinguished former students: Edmund Barton, first Australian Prime Minister; Dr. Herbert Vere Evatt, High Court Justice, leader Labor Party, Chief Justice NSW; Frederick Charles (Paddles) Anderson, organised crime Tsar; Sir John Robert Kerr, Chief Justice NSW, Australia's most famous Governor-General; Neville Kenneth (Nifty) Wran, NSW Premier]; draper Saffron & Son. George Street, Sydney 1935; publican and nightclub manager later 1940s; mentioned at various inquiries, Justice Victor Maxwell Snr Liquor Royal Commission 1951-54; Moffitt Royal Commission 1973-74; William

Allan Ruthven Allen inquiry 1982; had joint interests with solicitor Morgan John Ryan and frequently in telephone converse with him, 1979-80; said, 'I am not guilty of any of these charges', when committed for trial in District Court by magistrate Peter Norton on one charge of conspiring to defraud the Commonwealth between 1969 and 1981 and 11 charges of making false declarations under the Income Tax Assessment Act, 10 October 1986; found guilty 23 October 1987; sentenced 3 years, 5 November 1987; appealed against sentence.

SHEAHAN, Hon. Terence William , b. 18 August 1947; ed. St Thomas' Sisters of Charity Convent, Lewisham, Christian Brothers High School, Lewisham, Sydney University; articled clerk 1967-70; solicitor Sydney 1970-72, Yass 1973; NSW Bar 12 February 1982; MLA (Labor) for Burrinjuck, NSW, from 1973; Minister for Housing 1980-83, Energy and Finance 1983-84, Planning and Environment 1984-85, Attorney-General from 12 December 1984; initiated reform of judiciary and aspects of legal system, September 1986.

SLOSS, Albert Ross . b. Sydney 15 February 1911; ed. St Joseph's Sisters of Mercy, Sydney; alderman Sydney City Council 1939-40 and 1950-53; expelled Labor Party for opposing endorsed Labor candidates at both Federal and State elections, 1943; refused endorsement by Labor Party prior Sydney City Council elections, December 1953; charges against him of having conspired to breach Secret Commissions Act and Local Government Act dismissed in Central Summons Court, February 1954; MLA (Labor) for King, NSW, 1956-1973; his maiden speech described by deputy Opposition leader Robin Askin as a disgraceful exhibition after he trenchantly attacked Dr L.J. Parr (Liberal) for asserting that he had 'chopped up' profits from fruit barrows in the Mountbatten Hotel and had 'stood outside the Town Hall, or in the corridors, waiting for municipal employees to pay their donations for promotions, etc', May 1956; apologised to by Parr, June 1956; awarded £2000 by a jury against *The Sun* in relation to an article which, he said, suggested he had used his position as an MLA and ex-alderman to get cheap housing for himself, November 1961; said he had known Richard Gabriel Reilly for many years and that his relations with him 'were completely impersonal and routine in the life and duties of a parliamentarian', July 1967; vice-chairman Wentworth Park Trust 1968; deputy chairman parliamentary Labor Party 1968; denied he was present at July 1972 organised crime summit, 1973; his seat abolished 1973; received apology from *Daily Telegraph* following 17 September 1980 report that Independent MLA John Hatton had named him as corrupt, the apology acknowledging that at no stage did Hatton say he was corrupt, 24 March 1982.

SMITH, Arthur Stanley (Neddy), b. 27 November 1944; put in a home 1955; left school 1959; began criminal career 1960; convicted of a 14 June 1967 rape and sentenced to 12 years, June 1968; released on parole March 1975; arrested by Sergeant Roger Caleb Rogerson, of Armed Hold up Squad, and charged with shoot at with intent to murder, assault with attempt to rob, attempt armed rob, possess unlicensed pistol, November 1976; found to have no case to answer on all except possess unlicensed pistol, and his conviction on that charge was eventually quashed on appeal; later became informer for Rogerson; renovated his house at St Peters with walls 2.5 metres high, security doors and windows, intercom, spotlight, and closed circuit television to observe callers, early 1977; Nagle Royal Commission on Prisons found his connection with Paul Richard Genner, senior clerk in prisoner movement section. to be 'sinister'; widened his circle of acquaintances to include James Richard White (later a principal in Harry S. Baggs discount shop, since disappeared) and his partner, Neville William Biber, since deceased, Roger Charles Degen, then Labor MLA for Balmain, Paul Cecil Hayward, Rugby League footballer, Warren Edward Fellows, heroin courier, William Charles Garfield Sinclair, former associate of Murray Stewart Riley, David John Kelleher and Henry Charles Landini, 1977 and 1978; subject of telephone interception code-named *Diner*, 1978; Stewart Age Tapes Royal Commission reported (April 1986): 'By listening to Smith's conversations it was learned that Smith was organising and financing a heroin importation from Thailand. The names of Sinclair, Fellows and Hayward as well as others involved were mentioned and details of the importation were discussed. NSW Police passed on the information to Thai authorities and Sinclair, Fellows and Hayward were arrested in Bangkok and charged with possession of 8.4 kilograms of heroin for which all three were convicted. Sinclair appealed and was granted a new trial. On 24 January 1983 he was acquitted. On 12 October 1978 Smith and an associate were arrested in Sydney on charges of conspiracy to import heroin from Thailand, together with Deborah Bell and Gregory Sinclair. Smith and the associate were committed for trial and the charges against Bell and Gregory Sinclair were dismissed. Smith's step-brother, Edwin William (Teddy)

Smith, was arrested on 28 October 1978 and charged with possession of heroin, to which charge he pleaded guilty. He gave police details of the Thai conspiracy and was called as a Crown witness at the trial of 'Neddy' Smith and his associate. On the second day of the trial, his Honour Judge Muir directed that Smith and the associate be acquitted' [Edwin Smith having changed his evidence]; following his arrest in October 1978, was returned to prison to serve out his parole on the rape charge, and there met Warren Charles Lanfranchi; released October 1980; Lanfranchi released, became heroin dealer, and renewed his acquaintance with Smith, December 1980; as honest broker seeking to bring Rogerson and Lanfranchi together, suffered the mortification of losing one of his clients, Lanfranchi, Saturday, 27 June 1981; evidence accepted by Police Tribunal that in March 1985 Sergeant James William Duff told another officer that he (Duff) and Rogerson were planning to import heroin from Papua-New Guinea, and to distribute it through Smith, December 1985; as 'reputed owner' of Iron Duke Hotel, Waterloo, (managed by James William Duff), seen in his dressing gown at lunch time by Inspector Nelson Chad when Chad conferred with Rogerson on their predicaments in being charged with misconduct, early 1986; aided by Duff after he was run over by car, suffering broken ribs and leg, outside Iron Duke, 2 April 1986; asked by Ray Martin on Channel 9's *Michael Willesee* show if he thought NSW police were the most crooked in Australia, replied, 'And politicians', and said, 'What would I like to do? Well, lawyers and police make the most money, so I think I'd rather be a lawyer or a policeman', 3 April 1986; it was reported that a decision of six Mr Big Enoughs who control the Sydney *milieu* had agreed at a crime summit in April 1985 there would be a truce in the current gang war, and that no more shootings were to occur, hence, it was thought, alleged attempt to kill Smith by vehicle, 6 April 1986; Terrence Edwin Ball, 41, ex-boxer, charged with attempt to murder Smith, released on \$ 100,000 bail, 30 April 1986.

SMITH, Stanley John , b. 3 January 1937; member of Sydney *milieu* for more than 30 years; latterly thought to spend much time overseas.

SPENCER, Richard John , b. Sydney 25 August 1947; left school 1963; labourer, insurance officer; NSW Police, April 1967; married Patricia Anne Rose (b. 18 July 1944, at one time massage parlour manageress), 5 November 1971; Federal Narcotics Bureau, stationed at Customs House, Sydney, November 1973; with Peter Marzol, arrested Catherine Dale Payne 21 February 1978, advised by Payne that Anthony Eustace Anderson was trying to kill her, four days before her death on 14 May 1978; gave evidence at first Payne inquest, October 1978; his wife, who knew Brian William Alexander and John Lawrence Aston, invested more than \$23,000 with Aston under name of Susan Richards, later claimed the money obtained by gambling; Spencer suspended without pay and arrested on charge of conspire with Narcotics Bureau investigator Wayne John Brindle and solicitor Brian William Alexander, 29 November 1979; all three discharged by C.A. Gilmore SM, 7 May 1980; suspension lifted, 9 May 1980; paid \$6672.40 (before tax) for loss of earnings while under suspension, 29 May 1980; at direction of Commonwealth Police Commissioner Sir Colin Woods ceased duty with Narcotics Division of Federal Police, 13 June 1980; offered clerical position with Department of Administrative Services, but went on sick leave until retired from the public service on grounds of invalidity, 7 August 1981 ; had separated from Patricia Anne Spencer, October 1980; bought fruit farm with his parents near Ballina, December 1982; charged, with Marzol, with giving false evidence at first Payne inquest, 21 February 1986.

SPENDER, John Michael QC, b. 2 December 1935; ed. Cranbrook School, Sydney, St Albans School, Washington, Yale University; Gray's Inn, London; barrister 1960; MHR (Liberal) North Sydney from 1980; shadow Attorney-General from 1985.

STAUNTON, James Henry , b. 13 December 1922; ed. North Sydney Boys' High School, Sydney University; NSW Bar 1951; QC 1966; Judge NSW District Court 1971; Chief Judge from 1973.

STEWART, Hon. Justice Donald Gerard , b. 25 November 1928; ed. Sydney Boys' High School, Sydney University; NSW Police Force, 1949; Prosecuting Branch 1954-59; NSW Bar 1959, and resigned from the force; practised in criminal and licensing jurisdictions; judge NSW District Court 18 August 1977; issued with Letters Patent to act as Commissioner in Royal Commission on Drug-Trafficking (Mr Asia), 24 June 1981; appointed by Attorney-General Francis Walker Justice Supreme Court 25 June 1981; Chief Justice Sir Laurence Street reported not to be entirely happy in that, instead of a Justice being appointed to head a Royal Commission, a Royal Commissioner had been appointed a

Justice, i.e. that Stewart would have the Court's status without doing its work, but Premier Wran reported to have been impressed with Stewart's skills, and wanted him to head the Royal Commission; Royal Commission on Nugan Hand, March 1983; appointed to head National Crime Authority by Federal Attorney-General Senator Gareth Evans, 12 June 1984; asked by Street to resign as Justice of Supreme Court on the ground that his appointment as investigator 'negates the policy of the judiciary in keeping at arms length from the police forces of the country'; Street also complained to Governor-General Sir Ninian Stephen, but Stewart declined to step down, 12 July 1984; Justice Keppel Earl Enderby said, 'it is not for any judge, no matter how high or senior in status he may be, to tell another what he should or should not do'; said he would resign from NSW Supreme Court 31 December 1984, and Evans said legislation would be introduced to give him the designation, style and entitlement of a judge of the ACT Supreme Court, 23 July 1984; Sir Richard Blackburn, Chief Justice of ACT Supreme Court, said Stewart would not be a judge of the ACT Court, 'secondly, he will not be a judge of any court; in short, he will not be a judge', 26 July 1984; Federal National Crime Authority (Status and Rights of Chairman) Act, giving Stewart the status, rights and salary of a Justice of the ACT came into effect 1 January 1985; appointed by NSW Government, with powers of a Justice of the NSW Supreme Court, to investigate *Age* tapes, April 1985.

STRASSER, Sir Paul , b. 22 September 1911; ed. University of Budapest; lawyer Hungary; migrated Australia 1948; knighted (Kt) 1973.

STREET, Hon. Sir Laurence Whistler , b. 3 July 1926; ed. Cranbrook School, Sydney, Sydney University; NSW Bar 1951; QC 1963; Judge Supreme Court NSW 1965; Court of Appeal and Chief Judge in Equity 1972; Chief Justice from 1974; Lieutenant-Governor NSW from 1974; knighted (KCMG) 1976.

SULLIVAN, Gregory Thomas Aloysius , b. Glebe 17 December 1910; ed Christian Brothers' High School, Lewisham, Sydney University; NSW Bar 1937, junior to Dr Herbert Vere Evatt QC in Waterside Workers' action in High Court against legislation to ban Communist Party 1950-51, and at Petrov Royal Commission, 1954-55; QC 1960; inaugural president NSW section Society of Labor Lawyers, 1977; Solicitor-General NSW 1979 until reached compulsory retiring age 1980; NSW Bar from 1980.

TAYLOR, Joseph Patrick , b. 1913; night club owner, the Carlisle Club, the Celebrity Club; part owner of Thommo's, floating two-up game started 1910 by George Joseph Guest, aka Joe Thomas; committeeman City Tattersalls Club; d. 1976, his funeral attended by Police Commissioner Frederick Hanson, former Detective-Inspector Ray Kelly, among other *milieu* types.

TEMBY, Ian Douglas QC, b. 5 May 1942; ed. Perth Modern School, University of Western Australia; Federal Director of Public Prosecutions, from 1984.

TESTA, Joseph Daniel , b. 1928; Chicago builder and real estate investor, said to have had connection with Chicago Mafia head Anthony (Big Tuna) Accardo, visited Australia and entertained by local *milieu* four times between 1965 and 1973; gave evidence at Moffitt Royal Commission at which he said he had never been connected with Mafia or any criminal organisation, and had never been charged with any offence; unclear whether he was Mafia groupie, part of Mafia, or front in legitimate business who welshed on payment of Mafia share of profits; his Chicago house bombed, 1977; moved to Florida and built three caravan parks, 1979; died, having lost a leg in an explosion in his Lincoln Continental in car park of Oakland Park Country Club, Florida, 29 June 1981.

THOMAS, Donald , NSW Police 1957; Commonwealth Police 1972; NSW Bar 1981.

TIZZONE, Gianfranco , b. Italy 1935; businessman, Balwyn, Melbourne, and farmer, Koo-Wee-Rup, Victoria; told (8 June 1983) NSW Superintendent Frederick Joseph Parrington he worked with Robert Trimbole servicing and maintaining amusement machines in Victoria; asked if he could find marijuana outlet in Melbourne by Robert Trimbole who said there was an endless supply in Griffith, 1971; said he ran the Melbourne section from 1971, and received about 200 kilograms a week in Holden panel vans, at an annual gross for Melbourne section of \$1.5-\$2 million; organisation also had outlets Adelaide,

Canberra, Brisbane; claimed to have arranged, on behalf of Trimbole and others at Griffith, and through gunsmith George Joseph, for James Frederick Bazley to execute Donald Bruce Mackay, July 1977; Melbourne section also distributed heroin apparently got by Trimbole from Terrence Clark, from 1978; for Trimbole and Clark, and again via Joseph and Bazley, had part in executions of Douglas and Isabel Wilson, April 1979; arrested at Campbellfield, north of Melbourne, and charged with conspire, traffic, possess marijuana worth \$1 million, March 1982; became Victoria Police informer code-named *Songbird*; pleaded guilty to Mackay and Wilsons conspiracies, and sentenced to five years, October 1984; released on parole, February 1986; ordered not to leave the country and presented with tax bill of \$935,322.37 for the years from 1977 to 1982, April 1986.

TRAILL, John, QC, NSW Bar 1962; specialist defamation lawyer, but also retained by French champagne companies; retained on defamation by Australian Broadcasting Commission; advised on 'Four Corners' programme relating to former magistrate Murray Frederick Farquhar, April 1983; and on Premier Neville Wran's subsequent writ for defamation against ABC; died 30 December 1983.

TRIMBOLE, Robert, b. Australia 19 March 1931 ; ran garage, Griffith NSW, 1959; declared bankrupt on petition of Deputy Commissioner of Taxation, with a deficiency of \$10,986.63; 1 November 1968; according to Gianfranco Tizzzone, began marijuana business 1971 ; set up licensed restaurant Texan Tavern and expanded it to include Texan Butchery, 1972; sold these businesses to Giuseppi Sergi and purchased supermarket Casula Foodlands, Casula, Sydney, and Pant Ranch clothing store, Griffith, March 1973; large cash bettor, commonly in excess of \$20,000, from late 1974 or early 1975; obtained discharge from bankruptcy 4 July 1975; associated with Terrence John Clark and other members of his Mr Asia heroin syndicate and arranged false passports for at least three of them; alleged to have arranged executions of Donald Bruce Mackay, July 1977, and Douglas and Isabel Wilson, April 1979; in London with Clark for two days July 1979 before returning to Australia 10 July 1979; refused to give evidence at Wilsons inquest on ground it might incriminate him, April 1980; police intelligence alleged he had 13 jockeys on his payroll, left Australia 7 May 1981 ; arrested Dublin, 25 October 1984; at hearings at which it was alleged he had cancer, Dublin court refused to extradite him to Australia, February 1985; died Spain 13 May 1987.

UNSWORTH, Hon. Barrie, b. Dubbo, son of English migrant, 4 April 1934; educated Canterbury High School; left school to become apprentice electrical tradesman, 1948; organised first strike, Flinders naval base, 1952; shop steward, Electrical Trades Union, 1955; organiser ETU, 1961; organiser, NSW Labor Council, 1967, assistant secretary, 1977, succeeded John Patrick Ducker as secretary, September 1979; secretary-manager radio station 2KY, 1979; member Legislative Council 1978; spoke of ambition to become Premier, 1982; said he had given up ambition to become Premier, 1984; left Labor Council [succeeded by John MacBean] to become full time politician in Upper House, 1984; Government leader Legislative Council 1984; Minister for Transport 1984, for Health February 1986; stated by Robert Godier Bottom to have, apart from Independent John Hatton and Liberal John Dowd, best track record on corruption and organised crime in the Parliament, 11 June 1986; with support of MacBean, elected by Parliamentary Labor Party to succeed Neville Wran as Premier, 13 June 1986; Premier from 4 July 1986.

VINSON, Anthony, b. 11 November 1935; ed. Marist Brothers Mosman, Sydney University; parole officer 1957-62; lecturer University of NSW 1962-69, senior lecturer Sydney University 1969-71; director NSW Bureau of Crime Statistics and Research 1971-76; Professor of Behavioural Science, University of Newcastle 1976-79; chairman Corrective Services Commission 1979-81; Professor of Social Work, University of NSW from 1981; senior author Accountability and the Legal System, September 1986.

WALKER, Hon. Francis John QC, b. 1942; ed. Coffs Harbour High School, Sydney University; set up as solicitor, F. J. Walker & Co, 1967; MLA (Labor) Georges River, NSW, from 1970; NSW Bar 23 June 1976; Attorney-General June 1976-January 1983 (brought down Evidence (Amendment) Act to give the Executive power to prevent courts obtaining Government documents, May 1979), Minister for Aboriginal Affairs 1981-84, for Housing, Youth and Community Services, 1983-86, for Housing from July 1986.

WALLER, Kevin Maurice , b. 1932; assistant proof reader *Sydney Morning Herald* 1950; junior clerk, Public Service Board; solicitor 1965; stipendiary magistrate 1967; City Coroner, May 1970; author of book on Coroner's Courts, conducted second inquest on 1971 fire at Edgar John Azzopardi's garage, 1978; gave evidence against former chief magistrate Murray Frederick Farquhar, Wran Royal Commission, 1983.

WATSON, Patrick , former police officer, head of 21 Division (responsible for gambling matters), November 1974; Queen's Police Medal for distinguished service, December 1976; had senior position in the CIB in 1979, when he is mentioned on tape code-named *Mad Dog* in a conversation between Abraham Gilbert Saffron and Morgan John Ryan.

WHELAN, Brendan John (Jack) , b. 10 February 1932; cadet, NSW Police, 8 June 1949; Constable February 1952; Detective Constable (1st class) February 1958; Senior Constable, February 1963; Sergeant (3rd class) September 1967, 2nd class July 1974, 1st class February 1978; NSW Bar, September 1976; chief investigator Woodward Royal Commission 1977-80; investigated and cleared by Woodward, 1980; Superintendent, early 1984; reported to be going to take optional retirement at age 55 (i.e. in February 1987), and to have been charged on four counts of police misconduct relating to having allegedly engaged in a business venture with Inspector Nelson Chad while on duty and without informing his superiors, 9 August 1986; elected to have the charges heard in camera by Police Commissioner Keith Avery rather than by Police Tribunal; reported to have been found guilty by Avery on the four charges of misconduct, and fined \$2000, 30 September 1986.

WHITROD, Raymond Wells , b. 15 April 1915, ed. Adelaide High School, Adelaide University; SA Police 1934-39; RAF 1941-45; SA Police 1945-49; assistant director ASIO 1949-53; director Commonwealth Investigation Service. 1953-60; Commonwealth Police Commissioner 1960-69; Police Commissioner Papua-New Guinea 1969-70; Police Commissioner Queensland 1970-76; Visiting Fellow ANU 1977-81.

WILLIAMS, Hon Sir Edward Stratton (Ned) QC, b. 29 December 1921; ed. Mt Carmel College, Charters Towers, University of London; Queensland Bar 1946; Justice Queensland Supreme Court 1971-84; as Commissioner, Australian Royal Commission on Drug Trafficking 1977-80, when told by Federal Police they could find no Mr Big, made conceptual advance, that there were 'plenty of Mr Big Enoughs', that first defined structure of Australian *milieu*, August 1979.

WILSON, Douglas Robert , b. Auckland, 29 March 1953; ed. Auckland Grammar School, Auckland University; developed taste for drugs on holiday in US in last year of school; studied accountancy at Auckland University but dropped out; sold lysergic acid diethylamide tablets to undercover police officer, sentenced to two years, 1972; introduced to Terrence John Clark, and became a distributor for him, distributing 40,000 of 200,000 cannabis stick importation in 1975, and bulk of cannabis landed in New Zealand on yacht *Brigadoon* in March 1976; married Isabel Lawrence in Auckland 29 January 1977, came to Australia to work for Clark on \$400 a week retainer and heroin to support his and his wife's habits, March 1978; having sought with his wife to withdraw from heroin addiction at Hughlings private hospital, went to Brisbane on holiday, and were detained by Queensland police 9 June 1978; covertly taped for following three days by Queensland police as the Wilsons gave detailed description of workings of Clark syndicate; Detective Senior Sergeant Terence Ferguson, on instruction from Commissioner's office, released a report to *The Sunday Sun* (25 June 1978) to the effect that Brisbane detectives had smashed a \$160 million heroin gang, and, following discovery of the remains of Harry (Pommy) Lewis (murdered by Clark May 1978) in March 1979, Superintendent Anthony Murphy, in charge of the Brisbane CIB, released report to *The Sunday Sun* (25 March 1979) to the effect that the body was linked to an international drug ring concerning which Queensland police had secret tape recordings; *Sunday Sun* article reproduced in *Sydney Daily Telegraph*, 26 March 1979; evidence later given that Clark visited Wilsons in Sydney 29 March 1979; Douglas Wilson rang NSW Homicide Squad detective Constable Terry Dawson to say Clark had visited him at home and threatened him with death, 30 March 1979; Dawson reported to Sergeant John McGregor that NZ police had confirmed that Clark was in New Zealand under surveillance, 30 March 1979; Wilsons left for Melbourne by car, but turned back by truck blockade, 8 April 1979; NZ police advised NSW Homicide Squad by telex that Clark was in Australia, but, Justice Stewart reported, 'no effort was made by New South Wales police to

contact the Wilsons or put them in protective custody', 10 April 1979; 'left their Rose Bay house for Melbourne, Good Friday, 13 April 1979; murdered by James Frederick Bazley soon after arriving Melbourne; their bodies found 18 May 1979.

WILSON, Isabel Martha Joy , b. Isabel Lawrence, Kawa Kawa, NZ, 10 September 1954; left home 1970 and mixed with group using soft drugs and through them met Douglas Wilson; the Wilsons said to be always very close and were almost never seen apart'; heroin addict, later told police their combined habits cost them a total of \$3000 a week; according to evidence of Allison Raewyn Dine, former mistress of Terrence John Clark, Clark said he got Wilson tapes (see above, Wilson, Douglas) for \$250,000 through Brian William Alexander, but that Isabel Wilson had not talked to Queensland police, partly because of her physical condition; murdered with her husband by James Frederick Bazley, on or about 13 April 1979.

WOOD, Mervyn Thomas , b. 30 April 1917; ed. Sydney Boys' High School; NSW Police 1935; commissioned officer 1971; Superintendent 1974; Assistant Commissioner 1975; Commissioner December 1976-June 1979; retired Inspector J.D. Lewis, officer-in-charge Technical Survey Unit (telephone tappers) 1974-77, gave evidence to Stewart Royal Commission on Age tapes (1985-86) that he was summoned in 1977 to Superintendent S.R. Goldsworthy's office, where he found Wood and Inspector Patrick Watson, and that Wood expressed concern about security of tapes, particularly those of the Southern Comfort operation relating to George David Freeman, in that it was believed that member or members of NSW Parliament had obtained copy of Freeman tape; Goldsworthy denied the meeting took place; Wood denied any knowledge of telephone interceptions; Stewart 'found the evidence of Goldsworthy confused and vague and that of Wood less than credible', and on balance preferred the evidence of Lewis, concluded that Wood had knowledge of interceptions and 'rejects his denials in this regard'.

WOODWARD, Hon. Philip Morgan , b. 2 February 2,1912; ed. de la Salle College, Ashfield, Sydney, Sydney University; NSW Bar; QC 1956; Justice NSW Supreme Court 1971-82; commissioner, NSW Royal Commission on Drug Trafficking, 1977-80; said on 'Four Corners' he didn't think the Commission was intended to find out too much, and that the NSW Government had expected a whitewash, to which Premier Neville Wran replied that this was outrageous, 'he was charged with a solemn oath to carry out his duty, yet he is talking about whitewash ... I despair with people who are getting on in years who have found nothing to complain about for seven or eight years after ' an event, who then suddenly have some flash of inspiration, get on to an 'ABC Four Corners programme, which is notorious for its sensationalism, and then command the headlines', June 1986; would be called in to help Government to fight drug trafficking, according to

Premier-elect, Barrie Unsworth, 3 July 1986.

WRAN, Hon. Neville Kenneth , b. 11 October 1926; ed. Fort Street Boys' High School, Sydney University; solicitor; NSW Bar 1957; QC 1968; MLC NSW 1970-73; MLA Bass Hill 1973-86; leader Opposition 1973-76; Premier 1 May 1976-4 July 1986; Minister for Police 1976-1980, Mineral Resources 1981-83, the Arts 1984-86, Ethnic Affairs 1985-86; announced retirement Saturday 7 June 1986; resigned 4 July 1986; in contempt action arising out of words spoken on 28 November 1985, told the NSW Court of Appeal, 'I offer no apology because I see no wrong in what I did'; said his close friendship with Murphy, who had been best man at his wedding in 1976, had been well known throughout the community; disputed claim he had asserted the innocence of Murphy, 'I asserted my belief of his innocence of any wrongdoing'; said he believed his friendship with the judge, dating back 43 years [to 1942] entitled him then, as now, to make such an assertion; fined \$25 000 1986; Mike Carlton defamation case, *Wran v Macquarie Broadcasting Holdings Ltd*, settled on the basis, it was later reported in *The National Times*, that Wran and Macquarie each paid own costs, 11 September 1986.

ZIZIROS, George , b. 5 February 1910, later changed his name to George Ziziros Walker; his illegal casino, the Goulburn Club, raided and Walker charged with keep common gaming house, 1961; pleaded guilty to charge conduct unlawful game, given \$200 12-month good behaviour bond by magistrate Clarence Briese, October 1981; Goulburn Club declared common gaming House, 1982; stated by Taxation Commissioner to have understated his tax by \$210,818, October 1984.

Abbreviations, Foreign Usages

ABCI ... Australian Bureau of Crime Intelligence

AJC ... Australian jockey Club

AMA ... Australian Medical Association

BCI ... Bureau of Crime Intelligence

BOTH ... Bottom-of-the-harbour

CAC ... Corporate Affairs Commission

CIB... Criminal Investigation Branch

CIU ... Crime Intelligence Unit

DLEB... Drug Law Enforcement Bureau

IAB... Internal Affairs Bureau

ISU ... Internal Security Unit

NCA ... National Crime Authority

NSWRL ... New South Wales Rugby League

QTC ... Queensland Turf Club

SSJ ... South Sydney Junior Leagues Club

TFR3... Commonwealth-NSW Joint Task Force Report on Drug Trafficking (third)

TSU ... Technical Survey Unit

de mortuis nil nisi bonum ... of the dead, (say) only good things

ex gratia ... given as a favour, without legal compulsion

ex officio ... by virtue of one's office

in camera ... in a chamber, i.e. in a judge's chamber, not in open court

no bill... no bill of indictment, a decision by the Attorney-General not to proceed with a prosecution after a magistrate has found a *prima facie* case, see *nolle prosequi*

nolle prosequi ... to be unwilling to pursue, an entry on court records indicating the prosecutor has abandoned his case against a defendant

prima facie... at first sight, on the face of it

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