# Take Two by Tim Anderson

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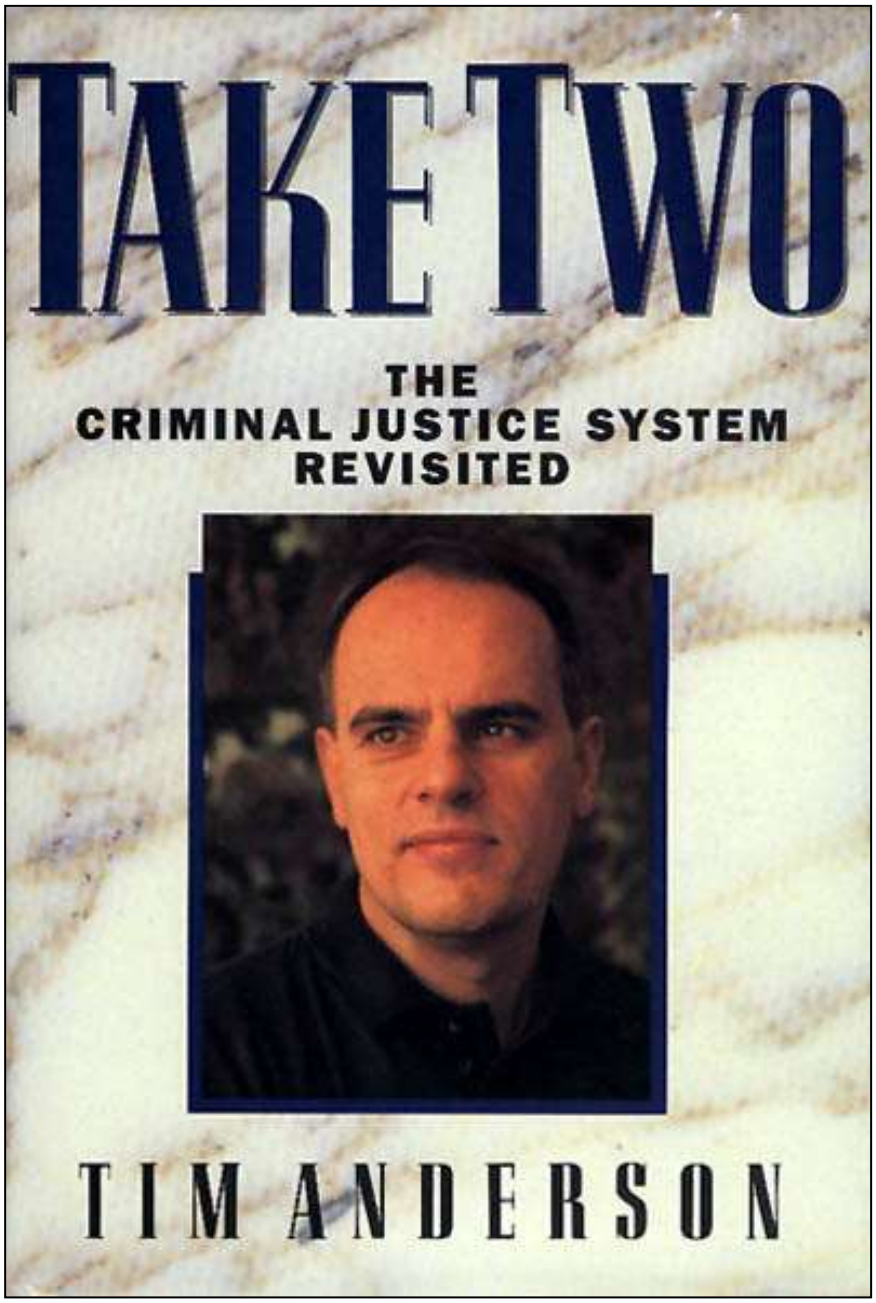

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***Note**: the 1992 print version had full footnotes, however these have been lost in the subsequent formatting of files. I may add scans of these later on.*

*The Telegraph-Mirror, 6 June 1991. The early edition headline (left) reflects the level of recognition the campaign had achieved. By the next edition (right) they had retreated from this over-familiarity.*

TIM GOES FREE

Hilton bomb verdict

ANDERSON GOES FREE

Hilton bomb appeal verdict

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## 1. AN EXPLANATION

This book is the chronicle of a police vendetta, and a portrait of the system that sanctions such abuses. It is both a personal history and an attempt to expose some of the more hidden features of the New South Wales criminal justice system.

To those who have had little contact with that system it may be disturbing; to those within the system I hope it may be an encouraging sign, that not everyone has been silenced. Overall I want to depict, with some sympathy, something of life for those within the system of courts, policing and prisons.

This is not a traditional victim's book, as some years ago I lost much of my awe of and intimidation by the courts and police, and refused to accept the defensive role expected of me. My concern in recent years was not so much to proclaim my innocence - I felt I had proved that years before - as to attack my accusers. This aggression was no doubt confusing to many people. I mention this here to emphasise that this is a political as well as a personal book.

Neither is this a book about the crime of which I was falsely accused: the 1978 Sydney Hilton hotel bombing. For me, the crimes committed in the name of the Hilton bomb prosecutions came much closer to home, and the nature of the system in which I became entangled is a more enduring problem, and one about which I have much more to say.

Over the period 1978 to 1991 I was framed twice and exonerated twice in two long court cases related to that 1978 bombing. In the process I spent seven and a half years in jail (June 1978 to May 1985, then October 1990 to June 1991) and, through that, gained something of an education in the workings of the New South Wales criminal system.

It is also the third book I've written on these matters. In 1985 I published the first book, Free Alister Dunn and Anderson: The Ananda Marga Conspiracy Case, intending that to be a detailed history of how I and two friends came to be falsely accused of the bombing. While publicly accused of the Hilton crime, Ross Dunn, Paul Alister and I were charged on the pretext of an allegedly separate "conspiracy" against a neo-nazi leader, and only eventually cleared in 1985, after almost seven years in jail. The book told how we became scapegoats for that the unsolved Hilton crime, and how the prosecution continued long after all sides knew the accusations of the main witness were totally false. Barrister Tom Molomby also published a book on this case, titled Spies Bombs and the Path of Bliss.

The writing of my book was a cathartic experience, and I imagined that after its publication and a long trip overseas in 1987 I would have seen the last of those accusations and the insides of Sydney's courts and prisons. Some people decided this was not to be.

In 1989 as I was about to publish my second book Inside Outlaws, on those initial seven years in prison, I was arrested and charged over the same bombing, but on an entirely different story to that run in the earlier period. It took another two years, and seven more months in jail, before that second fraud was also exposed.

The Australian system does not normally allow people to be prosecuted twice for the same crime. However the Hilton bombing case was able to be re-run because the previous accusations, though supported in the courts for many years by the state, had never become the subject of formal charges at trial. My earlier period of false imprisonment had been on supposedly separate "conspiracy" charges, related to the alleged plot against the neo-nazi leader, and the accusations raised at a 1982 inquest into the Hilton bombing were never followed through.

When I was arrested for the second time in 1989, reactions polarised. What was most heartening was the enormous response from many friends and colleagues who, from the very day of my re-arrest, began an extraordinary campaign to expose this second frame-up. At my flat that night, released on bail, the phone did not stop ringing, nor did people stop arriving at the door. In contrast to a 'normal' campaign, where people question evidence raised in court, or question the process of a trial, this campaign began before anyone knew what the evidence would be, or if it would even go to trial. The short reason for this was that these people knew something of the history of my previous prosecution: a history that the courts were to ignore and the mass media chose not to run.

The widespread belief, which I also hold, was that certain police pursued me because I had been a public embarrassment to them, and because they wanted to rehabilitate themselves following the collapse of the first case. Some of those police have since been promoted to senior positions and still hold "bravery" awards from their evidence in that first frame-up.

As the public speculation began following publicity of my re-arrest, the then Attorney General John Dowd threatened the media with contempt action. In those first few weeks, the Sydney Morning Herald, a somewhat pluralist if not liberal newspaper, refused to run at least four stories compiled by their reporters on the history of my experiences with the criminal system, and on the previous official Hilton bomb story. What followed, up to and during my trial, was a total mass media black-out of any critical, backgrounding or questioning coverage of the prosecution. No mention was made of the previous Hilton bomb story. By contrast, massive coverage was given to the new set of police accusations and prosecution evidence. My image was repeatedly run in newspapers and on television, not with my words, but only to accompany each new round of prosecution allegations. And they were sensational.

In the final version of the prosecution case, I was alleged to have directed another man to plant a bomb in the centre of Sydney, intending to kill not only the visiting Prime Minister of India but also possibly a hundred other people. This was no ordinary accusation of a criminal or even 'terrorist' intent: it was one of pure psychopathy.

Naturally, the accusations generated suspicion. Some people I'd known fairly well reserved their position; others I didn't know spread their own rumours. To some others, I became an object of curiosity: one lawyer's first comment to me was that, as a person pardoned after seven years in prison, "what an interesting sentencing dilemma" I would present for the judge, if I were to be convicted. On the other hand, a few people even said: "I don't care what you did, they can't do this to you again". And while some were angered that I had been picked out a second time, others more timid and more conservative said: "wait and see what the police have: they wouldn't do this to him again unless they had something really good."

In the most recent court case prejudice was my biggest problem, because of the nature of the accusations and the very unequal propaganda battle. My prior involvement with Ananda

Marga, an Indian based spiritual group, added just enough exotic flavour to the story to enable the prosecution to inject into it, like all good witch-hunts, a touch of the supernatural. For the first time in my life I heard myself described as "charismatic" and as having a "mesmeric hold" over one (and, at times, both) of the prosecution witnesses. In the case of one of these, Evan Pederick, this meant that I was to be held responsible for everything that he said he did. This was difficult stuff to battle.

My broad experience was of an almost totally polarised response: hardened police and fraudulent witnesses, opportunistic or conservative police reporters and oily prosecutors on the one hand; then the friends and supporters who offered their homes, energy and time to both defend the charge and expose the frame-up. It was a quite deliberate and very early decision of these people to not call themselves a "defence committee" but the "Campaign Exposing the Frame-up of Tim Anderson" (CEFTA). Their campaign of newsletters, public meetings, letter writing, posters and graffiti ran in parallel with the court cases.

At the same time, the campaign took the attack to the state's "law and order" agenda: the corrupt and unaccountable police, the use of prisoner informers, the repression of entire Aboriginal communities, the horrendous deterioration in the prison system, the harassment of other political activists, and the cowardly politicians and courts, prepared to bury an entire generation of dispossessed youth for an exercise in vote-catching or in a pretence at moral superiority.

The second case collapsed as dramatically and as suddenly as it had begun, and thankfully in much less time than the first. Three appeal judges rejected the evidence of the two main prosecution witnesses and severely criticised the conduct of the prosecution. I walked free from the dock of the Supreme Court, into a crowd of friends, relations and media. It is at that point that I begin this story.

Take Two addresses serious criminal justice issues, most often illustrated through my personal experiences. Although the book is divided into four parts, some themes run across these divisions. Part I deals with my personal history with police and the 14 year long prosecution bandwagon. Part II concerns my 1990 trial, including comments on the climate before and an account of my experiences immediately after. Part III relates to my second time in the NSW prison system, while Part IV looks at various issues in the aftermath of the failed prosecution and concerning the criminal system generally.

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## 2. FROM HIS HONOUR'S DINGEONS

Just before 6am on 6 June 1991 I was taken from my cell out to a bare yard at Long Bay's Assessment Prison. You are usually left to pace inside this dirty, concrete and iron cage, till the truck for the Supreme Court arrives, at about 8.15am.

At that time it's still dark, cold and despite the long wait there's no arrangement for a shower. Those going to court every day are sometimes given a shower the night before. A single hand-basin and toilet are exposed and often clogged with paper and plastic tobacco pouches, while the wooden bench along one side of the cage is often wet. Two-thirds of the ceiling is concrete, the remainder and one wall being iron bars. About two paces longer and twice as wide as a cell, these cages are used through the day for segregation prisoners, or those transiting from other jails. People slash their wrists in these places. They are bare and raw.

Over the two hours we pace and sit, pace and sit, talking of court cases few understand. They are all younger than me, fronting on assault and robbery charges. If they could they might read; but there's nowhere comfortable to sit for long, and we know any book or magazine will be taken from us at court, so we resuming pacing. I think of the big animals that used to inhabit concrete cages at Taronga Park zoo, and how these cages have now almost all been destroyed.

The day before I saw and spoke with my barrister, Tom Molomby, for some time. At the end we made an arrangement for him to pass on a message to me, when he heard that the appeal judgement was due.

Less than an hour after he left I got the message, and soon after lockup a woman prison officer came to my door to tell me that I was going to court. This was unexpected, as I'd asked my solicitor, Angela, to arrange for me not to go to court for the decision. A day in the cells at court is long and monotonous, the vans to court are painful and I didn't look forward to the drama of being there for the stress and tension of a decision, whichever way it went.

Although I'd been confident that the appeal was strong and had felt that the minimum result would be a retrial, when I heard the decision was due I lost all my confidence. My normal composure left me, and I struggled with that physical nervousness that ripples somewhere around your chest and stomach. I knew I had to be ready for anything, and I had no reason to trust the judges. My experience with the law led me to expect bastardry and betrayal. I wanted to keep a balanced mind, and be ready for whatever happened, as in any event it was now out of my control.

I hadn't expected a decision so soon: just over two weeks after the appeal hearing. I had been expecting a wait of about 2 months. Nor did I expect that Angela's arrangement for me not to attend court - she had confirmed this - would be reversed. These signs might have told me something, but they told me nothing, as I couldn't afford to be certain of anything. I wanted to hope, but not to expect; so I fought to suppress my hopes.

The rattle of handcuffs and keys is always the first sign of a new team of police or screws coming to the plate metal door of our cage. We can't see them. Different squads come with

vans going to one or more of the various courts: Waverley, Manly, Gosford, Wollongong, the Downing Centre, Darlinghurst, Queens Square. Queens Square last.

The door opens with the thud of the bolt sliding back, so the officer on duty can call out the names for each successive van. Then follows the ritual of the "search" by a usually impatient, often aggressive and handcuff-happy squad.

It's one of the wonders of prison bureaucracy that they see no contradiction in letting you vegetate for hours in a cage, then expect you to instantly snap to attention when the truck arrives: to remove your shoes and socks, hold up your arms to be patted down, then hold out your wrists to be handcuffed. And it's remarkable how every prisoner does it, almost instinctively.

The truck to the Supreme Court carries two sheet metal encased boxes into which up to 20 handcuffed people are placed on two parallel wooden benches, in the dark. There are no seat belts, forward facing seats or natural light. There's little air, smokers pull out cigarettes to smoke, and on hot days it's stifling. People vomit inside these trucks on longer trips. For many years prisoners have been asking how such vehicles can be legal: why is it that other vehicles must have seat-belts and proper seats, and why is it that no ordinary health and safety rules apply?

On this occasion there are just a few of us. Our wrists are chained together, we edge into the truck and two doors - one iron grill the other sheet metal - are slammed and padlocked behind. The grill is dirty and rusted, smelling of urine, as there's no toilet here. The trip to town is over in about 30 minutes. The truck drives underneath the Supreme Court building at Queens Square, then backs into a basement loading bay which is itself locked before we edge out and follow a screw into the basement cells.

Into one of four bathroom-sized tomb-like concrete boxes with seating for four, up to 14 people are herded to wait their day - more often 5 minutes - in court. No papers, books or magazines are allowed, and you pass the hours staring at graffitied and filth-smeared walls. Again, there is no natural air or light.

Books and papers are seized, it's said, with the agreement of the Chief Justice, because some months before someone lit a fire in the cells. The question arises: why not take away matches? Indignation arises: my legal papers are private! How can they interfere with my court papers. Nothing is private. Normal rights don't exist.

The squad taking you to court may get nervous, walking through lifts and crowds as they must. At the appeal hearing just two weeks before one red-haired screw twisted my handcuffs and dragged me, bruising my wrists, anxious to escape the crowd. I told him to take it easy and he snapped back, resentful at being challenged by a prisoner.

The courts above hum in their urbane, carpeted, polite and air-conditioned civility. In the filthy basement below, in his honour's dungeons, the tenants curse and abuse the law.

On 6 June I was handcuffed and taken from the basement cells by four prison officers, up to the Banco Court. The courtroom was packed, though I didn't have time to look around. Tense, I braced myself. Chief Justice Gleeson was mercifully quick:

"The appeal is allowed"

I shut my eyes, not quite relaxed enough to feel relief, while an excited shout went up from the courtroom, then quickly died down, with the realisation that more was to come.

"the convictions are quashed"

Another shout, again repressed; I looked at the three judges on the bench; the decision had actually not progressed further, but then came:

"and on each of the three counts an acquittal is entered"

At this I recognised, but could not yet feel, that it was all over. I breathed out deeply, but could not yet take it all in. The court erupted in cheering and shouting, which did not die down for what seemed like a long time, but was probably only 30 seconds.

In fact the decision had not quite been made, as the Chief Judge went on to announce that Justices Finlay and Slattery agreed with him, and that the decision was therefore unanimous. In a theatrically understated gesture he raised a finger in my direction and said quietly:

"release the prisoner"

I pushed open the half-height wooden door of the dock and stepped past the prison officers into the body of the court, and into another world.

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## PART ONE: A LONG POLICE RECORD

*Former Detective Roger Rogerson, who arrested and verballed me in 1978. In 1991 he admitted verbals (fabricated confessions) were common and 'part of police culture'. (p. 43)*

*Detective Aarne Tees outside ICAC, during the Informers Inquiry in 1991. A former colleague of Roger Rogerson, Tees arrested me in 1989.*

*Prosecutor Mark Tedeschi QC (right) with DPP solicitor Bruce Love. Chief Justice Gleeson found Tedeschi had behaved unfairly and misled the jury. (pp. 253–4)*

## 3. OUT OF THE BLUE

My rearrest came from out of the blue, almost apologetically. I couldn't comprehend how the frame-up could be resurrected and they appeared almost unwilling to go on with it.

It was early morning. Beverly told me police were at the door talking about a warrant. Parking fines, I thought. Then Detective Aarne Tees arrived with a warrant requiring a search for "documents" related to the Hilton bombing. I looked at the warrant. Nonplused, we stood back and watched the squad go quietly about their business. Still I didn't guess their intention.

There were six, or was it eight? I'd heard of Tees, but the only one I recognised from before was Robert George Godden: one of the team that swore Ross and Paul "confessed" to the phoney Cameron conspiracy. They looked through books and files, one took notes. One read the paper, one of the women joined Tees and "Wayne" in the bedroom, Godden wandered around, looking sheepish. They were all relatively polite. Beverly and I looked on, unsuspecting.

Godden asked if I had a car, and I gave him the keys. Beverly went with him, and saw him take several posters from the boot - posters satirising Police Minister Pickering's justification of the recent police killing of David Gundy. Aarne Tees collected some old magazines, part of a manuscript about jail, my passport and an address book, and they started to withdraw.

Would I "come to the station", Tees asked. I declined. Then I'll have to arrest you, he stated. "What for?" "The Hilton", he said matter of factly. I was stunned. "You're joking! We've been through that one, Aarne", I exclaimed. "That was over years ago". He shrugged. I looked at Beverly and she looked back at me, sharing my shock and distress.

I questioned Tees again and he claimed they would "play it down the middle", that there would be "no interviews unless you want it". I asked him why he was doing it and he said there was "new information". "What information?" I asked. An identification by a man called Von Gries. More disbelief. And something more, he said; I'd "find out later".

Still in a state of shock I collected some socks and shoes, then went to make a phone call. Uncharacteristically, they didn't object. I rang two lawyers I knew: solicitor Will Hutchins, then barrister Michael Adams. I told them I was being taken to the Sydney Police Centre. I left in a car with Tees; the didn't use handcuffs. Beverly came in her car with a policewoman.

In the car I was racking my brains to imagine how this could have restarted. My mind went back three months to the seminar in the Queen Victoria building, where I'd embarrassed Dennis Gilligan, Godden's partner from the first frame-up. I recalled that he was now a Superintendent, and apparently Tees was still only a Sergeant. I asked Tees why he hadn't been promoted and he expressed a lack of interest in promotions: he was just interested in the job, he said. I pointed out Gilligan's current rank and he responded, "Ah yes, Dennis". The others said nothing.

Mike Adams and Anna Katzman arrived at the Police Centre soon after. Aarne Tees then told them what he had told me: no statements, no interviews and, with his hands in the air, "no verbals". He stated openly that he didn't plan to fabricate a "confession" against me. They would formally oppose bail, but I had a "good case" for it. They processed the paper work, then drove me out of the Police Centre where a Channel Nine reporter unexpectedly jumped behind the police van as it slowed and called out "How do you plead, Mr Anderson?" I was taken by surprise, in no mood for an interview, but curious as to the reporter's apparent inside information. The van waited for a few moments, then drove off. This was my first experience of reporter Steve Barrett's special relationship with the NSW police.

Questions were running through my head: how can they do this all over again? Why now? Who's behind this?

By appearance, Tees showed little enthusiasm in the arrest. Yet he also claimed to have made the decision to arrest me, "on information received". That was clearly a lie. No Sergeant, however senior, would make a decision for an arrest over the Hilton bombing. It had to be made higher up.

There was one witness, they'd told me in the Police Centre, apart from Von Gries, who'd been an employee of the Sydney Hilton hotel in 1978, and had given some evidence at the 1982 inquest into the bombing. The other witness was said to be an "ex-associate" of mine in 1979 and 1984. This person had made a statement, in 1989, that I'd "made admissions". So, a new verbal. That, and an identification from Von Gries, who'd never mentioned me as late as the 1982 inquest? That couldn't be a serious prosecution. How could they dare run it? But they were. Why would they run it? To put me through the ropes, to re-run the propaganda, to salvage their reputations? But why me? And why now? Who had I put offside in recent months?

Back in central cells, where I'd been with Ross and Paul in 1978. The court had been renovated, I joked with the other prisoners there, but the cells hadn't changed. They're worse, someone pointed out. It was true.

I was led into court before Magistrate Arthur Riedel. Michael and Anna were at the bar table, the court full of journalists, cops and spectators. I sat in the dock next to a young man facing stick-up charges. "I'm already doing 15", he said. What a deja vu. I looked around the court at the sketchers, scribblers and perjurers. I recognised and nodded to a lawyer, a reporter. What's happening? Police opposed bail, not too hard. Mike Adams haggled over bail conditions: $50,000 from me, $10,000 from someone else. It might not be arranged today, I was told. I might have a night in the cells.

In the cells. There was the usual collection: poor people, black people, junkies, small-time smugglers and swindlers. People waiting on bail, people moaning their stupidity, friendly people. We paced up and down, talked, some chain-smoked. The cops shouted out names, demanded index-finger prints, brought sandwiches for lunch.

The cell police allowed me to take a phone call from Senator Irina Dunn, then lawyer Will Hutchins came in. I told him my belief that this must involve cops from the previous frame-up. It had to be something personal, not simply criticism of police in general.

My brother Nigel came with bail, after a solicitor gained access to the deed on my unit. As we processed the bail forms, a young cop started to snap orders at me, telling me how to answer him. Not this crap again, I thought. "Don't start", I snapped back. The cop didn't understand. "Take it easy", Nigel said.

I walked out on bail, into a gaggle of lights, cameras and reporters. I expressed my disbelief, my astonishment at what was going on. This was "Frame-up Mark II with Seary Mark II", I said; referring to the discredited informer from the first frame-up. But I didn't know who the new "Seary" was. I spoke for five minutes, then as the questions faded off I left, still chased by cameras. I met Beverly and Nigel and we holed up in a pub out of reach of the stampeding camera-people.

That night Channel 9's 'A Current Affair' program re-ran a 1985 interview with Richard Seary, the chief witness in Frame-Up Mark I, which was directed at me and two friends in 1978, when we were members of Ananda Marga.

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## 4. ANANDA MARGA

*Detective:Has any mention ever been made at any meeting attended by you of any endeavour by the Ananda Marga to overthrow the NSW state government?*

*Seary: At almost every single meeting..*

*Detective:During any meeting attended by you, or in any conversation with any member of Ananda Marga in an official capacity, can you name any person that has endeavoured to instruct other members that they should overthrow or endeavour to overthrow the state or commonwealth governments?*

*Seary: I have heard every single member, except the red-headed, red-bearded headmaster of the Sunrise School, in Sydney, advocate for the downfall of the state and federal governments.*

In reality, life was never quite this exciting in Ananda Marga in the 1970s, though some might have wished it were.

I joined Ananda Marga, became a "margii", in mid 1973 in Melbourne. At that time, a lot of young people I knew at university, or involved with "psychedelic" drugs, had gained an interest in eastern philosophies and religions. There were several groups in Melbourne teaching meditation and yoga, but I didn't at first involve myself, either because I felt put off by promotion of their "guru" or teacher, or in other cases because they charged money. Being idealistic and poor, I had problems with paying money to gain self-knowledge.

In 1972 I was interested in Buddhism, and at the end of that year travelled to India and other parts of Asia with a friend. On my return, I found that a group of friends had joined the margiis, had learned meditation from a margii "acharya" or yoga teacher, who was then based in Melbourne. It was free, and I was persuaded by friends that it made more sense to learn meditation from a qualified teacher, than from a book. I'd already lost interest in my university studies, and had begun part-time work in a factory.

Joining the margiis brought about some definite life-style changes. I stopped smoking, rejected any sort of drugs, became a strict vegetarian, and began regular meditation. I found meditation helped calm my mind and brought about a pleasant inner peacefulness. Meditation was also associated with the Indian philosophy, not unique to the margiis, of understanding or realising one's own true nature: said to be a common, pervasive consciousness that was, in essence, benevolent.

This type of philosophy appealed to me because of its acceptance that essential truths were something to be personally experienced, not the property of some external God or belief

system. The margii view of the world also appealed to me as very egalitarian, because while I'd not developed much political analysis at university, I had joined in several Vietnam war moratorium demonstrations and held a belief that it was healthy to challenge and question things.

The essential margii philosophy was two-fold: "self-realisation and service to humanity", through meditative practices and selfless work in society. These were, and are, very fine ideals. They are not in themselves unique as other philosophies and religions have similar formulations. What made the margii approach different was that there was also a political philosophy, combined with a critical view of virtually all existing political systems. The Buddhists' 'correct action' or the Christian 'charitable works' alone were not enough. Gandhian passivity was also criticised as being:

"the paragon in the paradise of the imagination, but in the world of reality it is but a bizarre self-righteousness."

The margii view was that exploitation and corruption were endemic in most societies, that these denied the possibility of spiritual development to many people, and that any efforts at self-improvement through meditation had to be joined with efforts to create a society based on the sort of high ideals to which Ananda Marga subscribed. This would be a battle, as the philosophy maintained:

"Freedom comes through struggle. Noone just dishes it out to someone on a platter."

There would never be a utopia or perfect society, but there could be a dynamic, enlightened society where there would be a "never ending effort" at change and development. This was a sort of eastern 'liberation theology'.

While there was much that was definite, many of the ideas were also open questions. Big social issues were often presented in this broad, discursive and moralistic sort of way:

"In the interests of living beings as a whole, capitalism must come to an end. But what ways and means should actually be adopted for it? It cannot be denied that violence begets violence, and it is not guaranteed that the application of force with no violence, but with an intention of amendments, will always bear a good fruit."

Ananda Marga presented itself, though, as a practical philosophy rather than a religion. It was in fact severely critical of religions and their dogmas, branding most religions as modes of exploitation:

"Religion wants to convert the human mind into a static state .. the founders of religions wanted people to shun their dynamic nature and, for fear or illusion, accept certain ideas as infallible truths without question."

Not that social theory had much practical effect on me in the early days. I'd attended a two month summer retreat in Sydney over 1973-74, where almost 30 of us practised intensive meditation and studied philosophy. 18 of us at this retreat had come from Melbourne and mostly knew each other. Some of us had gone to school together. Two other similar groups of friends came from Canberra and New Zealand. These sorts of retreats became important recruiting grounds for the margiis, and were held about every six months.

In early 1974 I went to Papua New Guinea with a young women also from Melbourne, and we taught yoga and meditation there for some months. I turned 21 in Port Moresby. Throughout that year I read and wrote poetry; it was a fairly romantic period for me, so far as I recall. Many of us explored the margii ideals, in search of local relevance, but politics were a long way away. One of my major preoccupations at that time was to justify to myself that there was nothing spiritually superior about the monk (or nun) lifestyle, which I studiously avoided. The few margii monks and nuns that there were, were encouraging others to become such "whole time workers", and several of my friends did go to India to study as monks and nuns. This usually involved cutting their family ties, which many of us found distressing. I avoided this path and its associated wearing of orange clothing, and in early 1975 married a friend who'd also attended the summer retreat with me. We had a son in 1976.

Two developments that began to politicise us in the mid-1970s were the growing realisation that several Ananda Marga members, including the leader, were wrongly imprisoned in India; and Indian Prime Minister Indira Gandhi's 1975 imposition of a "state of emergency", which led to the jailing of thousands of others. Ananda Marga was one of many organisations banned in India during this "emergency" period, which was brought following Mrs Gandhi's defeat in a by-election.

At first I had little idea that the margiis even had a guru or leader. Then we learned that Prabhat Sarkar, known as Baba or father, who'd founded the margiis in the mid-1950s, had been in jail since 1971, on conspiracy to murder charges. The case against Sarkar was politically motivated, and all charges were eventually rejected by the Indian courts, in mid-1978; but not before he'd been jailed for almost seven years and put through a 1976 show trial, which was condemned by the International Commission of Jurists.

At this time I was also influenced by some other Indian based groups, who'd advised their adherents to cut their associations with margiis, during the Indian "emergency". Some margiis involved in a land community in Victoria, for instance, were then told they were no longer welcome, despite their prior work on the project. Clearly the Indian leaders of some of these groups wanted to protect their own political patronage at home, and their Australian followers were prepared to dump relationships with those close to them, to follow this line. Neither position impressed me, and I developed an aversion for such 'fair weather friends'.

I and my wife returned to Sydney in early 1976 at a time when the campaign to "Free Baba", and several thousand others held in India without charges, was becoming an important focus for the several hundred margiis in Australia. We held demonstrations and put up posters and graffiti, in an attempt to draw attention to the political prisoner situation in India. We did this because of our sense of hurt over people associated with margii ideals being attacked and jailed. We also learned that several margiis in India had been killed by opposing groups. Nevertheless, it's an often unrewarding and difficult task, trying to interest people in human rights issues overseas. There are so often many similar cases at home, as we were to discover. In the course of some of the demonstrations, several of us were arrested, and in this way the political police began to take more of an interest in the Australian margiis.

Our experience of the political prisoner issue had some other effects. Firstly the margiis in India found some common cause with other groups, and so worked together against the "state of emergency". Working with other groups breaks down some of the sectarian tendencies that develop in ideologically-motivated groups. Then in Australia we also began to work with

other groups, finding some common ground with people concerned with alternative lifestyles, the environment, prisons, refugees and the women's movement. The view of Ananda Marga as an 'underdog' or oppressed group added to our sense of a need to redress injustices generally.

The margiis added to their involvement in schools, soup kitchens and cooperatives, by starting a socially oriented magazine called 'Dharma', which ran from 1975 to 1979. There was also a women's magazine called 'Sister'. These two were more outgoing than the internal or more spiritual magazine, 'Pranam', and covered such issues as: the environment, alternative lifestyles and medicine, education, diet, cooperatives, prisons, feminist thought and the arts, as well as margii issues and philosophy. Apart from our own projects, we joined in the organising of wider projects such as the first Down to Earth alternative lifestyle festival in 1976.

In line with traditional yoga philosophy, one could be a margii with one of three emphases: activity, intellect or devotion. There was a theoretical basis for each approach: pursuing yoga principles through work, study or pure spiritual and meditative practices. Obviously the first two were more likely to bring you into contact with other people and ideas. The third was more likely to keep you inward looking. Those with this emphasis practised more meditation, were more respectful of the organisation and more reverential of the guru. From my politicisation in the mid-1970s, I was becoming more of a 'social margii'.

On November 29 1976, at the end of Sarkar's show trial in India, about 25 of us took a demonstration to the Indian High Commission in Canberra. The trial had been held in "state of emergency" conditions where no defence witnesses could be called, and the margii leader was now convicted and facing a possible death sentence. The demo was emotionally highly pitched but went relatively peacefully, except for three arrests on minor charges. Mark was arrested for allegedly refusing to leave the Commission building, Daryl for allegedly assaulting police, whilst trying to retrieve his car keys. I was arrested for allegedly "obstructing" the High Commissioner, Dr Sinha, who came down to have a shouting match with us. All three of us were later acquitted.

The magistrate in dismissing the "refusing to leave" charge against Mark, found that he had a right to be there:

"I take the view that (Mark) went there lawfully in a peaceful way to present what he believed was a well-founded petition .. that at all times he was there lawfully with that intention, and that if a request was made of him to leave .. (by police) he was still entitled to be there to present the petition."

A video-tape showed the police story of "obstruction" against me to be a complete fabrication, and I describe this in more detail in the chapter 'My Police Record'.

Up until this time the Australian government appeared to have a fairly relaxed attitude to our demonstrations. We told the then Foreign Minister Andrew Peacock of the three arrests, but he appeared unconcerned. A Commonwealth Police report at another demonstration two weeks later had noted diplomatic spying on us, and urged some caution in assisting Indian intelligence against the margiis:

"During the course of this demonstration it was noted that members of the Indian High Commission were overtly recording vehicle registration numbers, taping the speeches made and photographing the demonstrators. It is suggested that no personal details of the demonstrators be given to members of the Indian High Commission."

However soon after the November 29 demonstration an Indian official, B.L. Gupta, wrote a letter to us on High Commission letter-head, including the following threat:

"Violence is a two-way business. Much as we deplore violence we do not concede to you or any other self-appointed people any God-given right to use violence and forcibly break into our mission as some of you did on 29 November .. You do not seem to realise that the same could happen to your missions in India and in other countries abroad. Where would that leave you?"

Some days after this High Commissioner Dr Sinha was reported as threatening to break diplomatic relations with Australia if the "harassment" by margii demonstrations was not suppressed by the Australian government.

The Australian government responded to this pressure. In a reversal of his earlier nonchalance, Foreign Minister Andrew Peacock wrote to us on 21 December:

"I note that (on 29 November) there were three arrests. These were not as you suggest on minor charges .. I can say that the government's future attitude to Ananda Marg in Australia will not be unaffected by the court's findings."

Although the "court's findings" were all our way, from this time on we noticed an marked increase in police surveillance and harassment. A catalogue of incidents of police harassment, which I sent to the Commonwealth Ombudsman on 3 February 1978, dates from this time.

At the same time as the 29 November charges were being thrown out of court, in March 1977, Indira Gandhi's government was swept from power. Mrs Gandhi had gambled on a snap election, but her Congress Party government was toppled by an unlikely collection of Congress dissidents, farmers, socialists and Hindu supremacists. The margiis in India had helped campaign for the Indian Socialist Party, led by Railways Union chief George Fernandes. Most of the leaders of the anti-Indira coalition, which became the Janata Party, had themselves been jailed during the "state of emergency", so we had high hopes that our campaigns were at an end.

In fact, all of the prisoners held without charges were released, and charges against prominent dissidents such as George Fernandes, were dropped. However the new Home Secretary, Charan Singh, told us that his officials had "advised against" the release of Mr Sarkar. His officials were the CBI (federal) police who had brought the charges in the first place.

In mid-1977 with several others from Australia I visited India, met Mr Sarkar in jail and, as a member of an international delegation, met several Janata government ministers. We met Charan Singh and Prime Minister Morarji Desai, who had both been in jail with margiis, and others. Several of the Janata ministers were sympathetic, but didn't have the numbers in Cabinet for a political solution to the issue. This was a great disappointment. In view of earlier promises we felt the attitude of Singh and Desai was hypocritical. We were told the

normal processes of the courts would have to resolve the matter, and that Mr Sarkar's appeal would be heard sometime in early 1978.

The margiis started an international campaign in August 1977, to draw attention to Mr Sarkar's case, as an unresolved legacy of Indira's regime. We recommenced demonstrations and letter writing in Australia, but were very soon embroiled in a bigger controversy than expected. A series of threatening letters were received by both Ananda Marga offices and the Indian diplomats. Publicity was given to threats announced by the diplomats, but not to those we received. Some of the letters were clearly aimed at discrediting the margiis. No-one claimed responsibility for any of them.

Then in September 1977 Indian intelligence official Colonel Iqbal Singh and his wife were assaulted by a margii in Canberra. There was massive publicity given to this. Although the man was eventually acquitted on all the serious charges, he was convicted on two counts of "depriving the liberty" of the couple and was jailed for three years on each count.

This incident, and the threatening letters, led to another increase in the police surveillance of margiis throughout Australia, and a re-assessment of the margiis by the political police. Police cooperation with Indian intelligence increased, and Australian police began to adopt what was fed to them by Indian officials. At a Commonwealth-State police conference in Canberra in late September, the ASIO chairperson proposed interviews with margiis to determine if Ananda Marga was "violence-oriented", while NSW Special Branch representative, Constable Colin Helson, said this was a "waste of time" and that stronger action was needed to find and "nullify" the authors of the threatening letters. In December 1977 ASIO applied for and got a warrant to tap the phone of the Ananda Marga headquarters in Newtown Sydney.

While the Colonel Singh incident was an isolated act in Australia, it seems there were some other attacks on diplomatic premises in other countries, though it is difficult to identify or quantify these, as the allegations and press reports invariably outnumbered or exaggerated the facts. On the other hand, positive proof also emerged that Ananda Marga was being wrongly accused of involvement in Indian robberies, threats and even the downing of an Air India plane.

The question remains, how could some members of a peaceful group step over the line of protest and dissent? It can only be understood in terms of the frustration and concern they felt for their jailed leader, who had at that time been wrongly imprisoned, poisoned in jail and denied justice in the Indian courts. Margiis were never violent people.

News of the Colonel Singh incident and accusations of violence or threats to secure his release reached Sarkar in his Indian jail cell, where he attempted to both clarify his organisation's policy and discourage any further such actions to secure his release, by issuing a press statement:

"I completely disown all acts of violence, and even if some misguided youths who have no faith in the Marga ideology are involved in such acts, I will not obtain my release in this way."

After this, one would think, any justification for misplaced zeal was gone. Margiis had enormous respect for statements from their guru.

Things were however not that simple in Australia. The political police had developed their own momentum, and they had as ammunition the margii social theory. Ananda Marga theory was assertively "revolutionary" and militant. The margiis published a far more strident line than other yoga and meditation groups:

"Ananda Marga is a revolution. It is not only a spiritual revolution, but also an economic, social and mental revolution."

and elsewhere:

"The absence of cosmic spirit is the root of all evils .. Powerful human groups are exploiting the weaker ones. Under such circumstances it is the duty of good people to declare war on the oppressors. It will not be of use to sit quiet for an indefinite period in the hope that only moral preachings will be fruitful."

Margii publications and meeting were full of revolutionary rhetoric, which was easily translated by the Searys of the world as imminent plans to take over the country. The same issue of Dharma magazine that reported on the CHOGRM conference and the Hilton bombing, published articles on Malcolm X and the Black Panthers. While it is true that we had certain delusions about our own self-importance, or the potential influence of margii ideals at this time, our heads were not totally in the clouds. But our comments were often seen as provocative. Explaining the margii line in early 1978, I wrote in Dharma magazine:

"Ananda Marga does not support revolutionary violence in this country, nor is it a vessel for revolutionary violence in any country. However in the historical analysis of both Ananda Marga and Prout, revolution (violent or otherwise) is recognised as being, at times, both necessary and beneficial to society."

In court in 1979 a prosecutor was to read out the second sentence of the above quote to a jury, while omitting the first.

Pressures from various quarters about the margiis got to the federal government. Contrary to advice from ASIO and another federal security body, the PSCC, the Fraser government decided not to hold talks with the margiis and instead imposed a blanket immigration ban on all margiis seeking to enter the country. There was some provocation from our side, in that the constant problems we'd had in obtaining visas for overseas meditation teachers had led us, foolishly, to withdraw from dialogue with the Immigration Minister. However this didn't justify the blanket ban, which was criticised by The Age in Melbourne and The Sydney Morning Herald. The Age called on the government to justify its actions. The SMH called the ban a "bad precedent" and said the government should not give the appearance of "swatting a fly with a sledge hammer". The federal Labor opposition also criticised the move.

A January 1978 national retreat at Galston, in northern Sydney, attracted a fair amount of media attention, after the immigration ban and the controversy of 1977, but most of the publicity on this occasion was favourable. The peaceful nature of the retreat and the normal meditative and social activities of the margiis were stressed. I acted as the margii spokesperson on many occasions, including speaking to a TV crew. At the same time I was preparing a catalogue of 20 incidents of police harassment of AM members, over the previous year.

In February there was a Commonwealth Heads of Government (Regional) Meeting in Sydney, and we'd planned a demonstration for the arrival of Indian PM Morarji Desai. However the tone of our actions had changed, partly due to the controversy of 1977, but more because Mr Sarkar's retrial was due to begin in March. We were concerned that the retrial should be conducted in a fair and non-prejudicial climate. Following a demonstration at the airport, I delivered a letter to Mr Desai at the Sydney Hilton Hotel, where several heads of state were staying for the first part of the conference. The letter read:

"At the conclusion of a meeting with yourself in New Delhi (June 1977) you informed the undersigned that you would "look into the matter" of the continuing imprisonment of Shrii Anandamurtji (Sarkar's spiritual name) We were then and are now extremely concerned to see a complete reappraisal of the false and politically motivated charges brought against him by Mrs Indira Gandhi's regime .. We would like to know what has been the result of your inquiries into the case since June 1977. Can you assure us that Anandamurtiji will not be denied the right to a fair and unbiased retrial at the High Court?"

In between these two events, though, an explosion occurred outside the hotel, killing two council workers and a policeman. This was to become known as the Hilton bombing. Desai was quick to blame Ananda Marga; he didn't respond to my letter.

There followed a period where, through a massive police investigation, those involved in each of the demonstrations focussed at the conference - margiis, feminists, Malaysian and New Zealand activists and anarchists - were targeted by Hilton investigation and special branch police. I say more about this in some of the following chapters. For the margiis it meant continued surveillance, police harassment and the introduction of spies and provocateurs.

The following month Sarkar's appeal did begin, and it appeared to be going well. Perhaps partly in anticipation that there would be something of a vacuum with the removal of the political prisoner issue, some of us became more active in other issues. Some of the women margiis had already become involved in the feminist movement. Others were becoming active in the wider environmental movement. Through involvement in immigration and refugee politics, some of us had also developed an interest in anti-racist issues. A minor campaign against racist and neo-nazi groups was the opportunity special branch spy and provocateur Richard Seary chose to lay the basis for what became known as the Yagoona case.

Looking back now it seems to me that the involvement of more politically conscious margiis in such wider issues, which were not the property of margii ideological campaigns, represented attempts to link Ananda Marga ideals to Australian conditions: to make Ananda Marga relevant. But when the zeal developed within Ananda Marga was directed to wider issues, the hierarchy of the organisation opposed it. This led many of us to question if the group was as progressive as we'd thought.

In the late 1970s there began a drawn-out battle between progressive margiis and what appeared to be an increasingly conservative hierarchy. The organisation was dominated by its monks and nuns and, while there were some liberals amongst them, many were disturbed by initiatives being taken, particularly by the feminist margiis. A number of contradictions were emerging.

Sarkar had written fairly progressively on the position of women, and Ananda Marga in India was probably relatively progressive in sexual politics terms. But in Australia it was still a male dominated hierarchy that blocked a series of women's initiatives. Sarkar had written nothing one way or the other about gays and lesbians, and this led to confusion and consuming debates, the end result of which was that gays and lesbians were tolerated but never achieved full acceptance within the organisation. And in the environmental area, margii philosophy seemed too vague and the organisation too slow or unresponsive to take clear decisions on some important issues, such as uranium mining.

In addition, the organisation in India, while broadly left aligned and anti-capitalist, had a long standing enmity with the pro-Soviet Communist Party of India (Marxist), which held power in the state where the margiis were the strongest: West Bengal. In one clash in 1982, seventeen margiis were killed by CPI(M) followers in Calcutta. It is, I suppose, the greatest measure of the basically non-violent nature of Ananda Marga that there was no retaliation in kind. These incidents created powerful tensions and a margii sloganeering from India that was "anti-communist"; to the embarrassment of many progressive margiis in Australia, who like me associated "anti-communist" slogans with the far right.

Equally disturbing, for me, was the growing realisation that, for all the egalitarian talk, there were also quite deep anti-democratic trends within both the margii organisation and the philosophy. I think that for many years I tried to ignore, or hide the fact that this was the case. This was possible because, in many respects, margii philosophy was quite subtle and flexible. It could be moulded to appear quite progressive.

Many parts of Ananda Marga philosophy spoke out against exploitive elites, declared human equality, suggested reasonable reforms to democratic systems and promoted cooperative economics. However at other parts there was an emphasis on 'spiritual leadership' and a hostility to democracy that went beyond mere criticism of existing democratic systems. The undemocratic side to this long-standing contradiction tended to be confirmed by the very rigid and hierarchical way in which the Ananda Marga organisation itself operated.

Ross, Paul and I followed these debates through the late 1970s and early 1980s from inside the jails, by communications with outside margiis. While we gained a new perspective on life from within the prison system, and through studies, the Ananda Marga organisation outside was also changing. Just a month after we'd been jailed, ironically, Baba had been acquitted and released. The political prisoner issue disappeared. More emphasis began to be placed on building projects of the organisation, and in particular building them in India. A great deal of time and resources began to be spent in servicing the needs of the organisation in India. Margiis were encouraged to visit India regularly, and this consumed a lot of time and money. I feel this also detracted from the more progressive developments, and led to a more sectarian approach.

For me also, the promotion of the 'devotional' approach had kept margiis too inward looking and religious in approach. It would be a denial of the things I found distinctive and attractive in Ananda Marga if it were to become - or if I were to realise that it was - simply another religion with its own dogma and deity.

On our being cleared of the Yagoona charges and released from jail in May 1985, we moved in different directions. Paul and Ross moved to Queensland, I stayed in Sydney. Paul retained

his close association with the margiis, while Ross and I moved away. I think the organisation had changed, and I'm sure also that I'd changed, in those seven years. The contradictions seemed greater, and I saw no real place for myself with the organisation, though I kept up a nominal connection and my practice of meditation, which I still valued. The organisation and many people in it had also supported us well during our time in jail.

In late 1986 I took off on a year-long overseas trip I'd planned for some time. At the beginning of this trip I visited India and saw the margiis in Calcutta. This finally convinced me that I was no longer a margii. I saw the organisation, where it was strongest, turning in on itself and apparently without substantial roots in the local community. There was a rigid hierarchy, an obsession with money and a type of fortress mentality that disturbed me. People wanting to see Baba had to present a list of schools and social welfare projects they'd supposedly started, even if this list was false, as this reinforced the notion that the organisation was vital and expanding.

This constant exaggeration and fictions about the organisation's supposed great developments was the type of self-deception often seen in small ideologically-motivated groups: a process that also prevents serious self-criticism and development. It appeared to me that it had become what it always said it was not: another religion, and I didn't want to be part of that.

It was to be a strange experience then, years later, to feel I had to defend the organisation of which I'd since become privately critical.

I left without bad feelings, cutting my ties with the group but holding onto my practice of meditation and those margii ideas I still felt were valuable. These include: the use of yoga and meditation for personal development and therapy; a rational and ethical basis to social analysis; and a progressive and collective approach to social change. As with any other philosophy or therapy, I feel free now to select what I think is good, and leave the rest. I believe that, as with many groups, Ananda Marga has something of value to offer; but that there is also value in retaining one's sense of discrimination. No-one has to accept 'the whole package'.

## 5. THE HILTON EXPLOSION

In the early hours of 13 February 1978, at about 12.40am, a bomb exploded as a garbage bin was being emptied into a council truck in George Street Sydney. Two council workers were killed instantly and one policeman died from severe head injuries several days later. Several others were injured.

The explosion was outside Sydney's Hilton Hotel, where a number of visiting heads of state were staying after the opening day's activities in a Commonwealth Heads of Government (Regional) Meeting. The explosion was widely reported as a terrorist attack directed at the conference, or at one of the heads of state attending the conference, though no-one claimed responsibility for it. There was massive publicity given to the blast, and Prime Minister Malcolm Fraser, the host of the conference, called out the army.

"Troops placed on anti-terror alert", The Australian declared, with a cartoon portraying an innocent Australian koala bear clutched by an evil and bloody hand from overseas. "PM calls in army: Like Belfast's streets of fear", announced the Daily Telegraph, with accounts of troops guarding railway lines to Bowral, the next venue for the conference. 'Terrorism has arrived in Australia' was the theme of many commentaries, suggesting the bomb signalled some sort of cultural turnaround, or confrontation with problems thought till now to be foreign. A squad of a hundred police under Inspector Norm Sheather was set up to search for the bomber.

The only definite pieces of evidence connecting someone with the bombing were warning phone calls, made just minutes before the blast to the offices of the Sydney Morning Herald and the police CIB. A male caller told Herald journalist Timothy Vaughan he "would be interested" in police operations at the Hilton soon. Vaughan described the voice as having an accent which was "probably of a European kind if at all". It seems likely that at around the same time the same man also rang the police switchboard, as at about 12.35am a "foreign, European" sounding man told receptionist Suzanne Jones he wanted to speak with the Special Branch. As there was apparently no-one at Special Branch at that time, she put him through to CIB duty officer Cecil Streatfield, who heard the warning call:

"Listen carefully, there is a bomb in the rubbish bin outside the Hilton Hotel in George Street"

Streatfield said he had the impression the man had a foreign accent which he felt was European, perhaps German. Suzanne Jones said she received a call from a similar sounding person at about 1.30am, who again wanted to speak with the Special Branch; the caller was put through to a Special Branch extension but soon hung up.

Ananda Marga was mentioned almost from the beginning. We had been one of the groups of demonstrators focussed on the arriving government leaders; further, the day after the blast Indian PM Morarji Desai told the press it was possible he had been the target of terrorists, as (he claimed) Ananda Marga had made threats against him; but he added philosophically,

"I do not think anybody can kill me if I am not to die." Journalists told me that an Indian official with Mr Desai had also accused the margiis.

The media continually phoned or visited the margii headquarters that day, and I acted as the spokesperson for the group. In denying any involvement, and eventually issuing a press release which attempted to counter-attack the Indian officials who accused us, I became caught up, as one journalist pointed out to me, in answering the proverbial "when did you stop beating your wife" question. To publicly say nothing was to attract suspicion to oneself; to answer the question was to attract further attention and so appear to give some credibility to the accusations.

Ananda Marga planned a demonstration to greet the Indian PM, and the choice of venues was either the hotel or the airport. As I wanted to present Mr Desai with the letter I described in the last chapter, I wanted an opportunity to be able to get close to him as he arrived, so I had been arguing for the demo to be at the hotel. My recollection is that I went to the hotel at about midday on the Sunday, to see if it was possible to hold a demonstration in the conditions of tight security that prevailed. Finding that it was possible, and that there were in fact other demonstrators outside the hotel, I returned to the margii headquarters in Newtown to argue this case. I found that other margiis at the airport had discovered Desai's arrival time, and that the consensus was to go to the airport. I then went out there to attend our demo, with everyone else.

In the confusion after the blast, I didn't get a chance to deliver my letter till the Tuesday, when I went back to the hotel, and could only hand it over to special branch police, hoping they'd pass it on.

Prior to the bombing the police special branches and ASIO had been under a great deal of pressure. In 1977 South Australian Police Commissioner Harold Salsbury had been sacked by Premier Don Dunstan, after it emerged that Salisbury had misled Dunstan over special branch operations against political activists and ALP members. ASIO had been criticised over its illegal and unaccountable activities in the Hope report of 1977. In NSW on 23 January the Privacy Committee began examining special branch files, while NSW Premier Neville Wran announced there would be an inquiry into the relationship between NSW special branch and ASIO, and into opposition leader Peter Coleman's access to ASIO files. Also on 23 January the ASIO Director General, Justice Woodward was called in to speak with the federal Attorney General about the mounting criticism of the secret organisations. Prime Minister Malcolm Fraser announced on 25 January there would be "strong laws" introduced to cover dealings between the police special branches and ASIO.

The Hilton bombing turned all this around. The Australian, which had on 23 January declared there was "no place in our society for dossiers filled with muck-raking and gossip" and called for regular reviews of all security services operations demanded "Stop knocking our security services" on 14 February. Premier Wran immediately called off his planned inquiry, and it was reported that Prime Minister Fraser had "impressed strongly on Mr Wran that the dispute over Mr Coleman and ASIO should be cleared up as quickly as possible in light of the bombing." A major review of federal policing was announced and a willingness to invest far greater resources in security forces became a matter of bipartisan politics.

As the police inquiry got underway, ALP members Joan Coxsedge and Bob Hogg posed the question whether any investigation was being made into:

"whether or not the bombing was a bungled attempt by any section of the security forces to justify their existence - that it was intended to scare, but backfired due to the unfortunate involvement of the garbage disposal unit?"

ASIO and the special branches certainly gained from the blast. Demands for scrutiny of secret agencies disappeared and the scene was set for a new act increasing the powers of ASIO, a restructured federal police and more power to specialist police and 'anti-terrorist' units.

In the meantime, having had little luck in their investigations, some elements in the police forces decided to make the margiis official scapegoats for the disaster. A Sun-Herald report of 11 June 1978 ran as follows:

"Security chiefs believe they know the identities of the terrorists responsible for the Sydney Hilton bomb outrage.

They believe the bombers are a young man and a girl, both members of the Ananda Marga religious sect.

According to senior security sources, the man is now overseas, but the girl is still in Australia.

They say the man made the bomb and his female accomplice placed it in a garbage bin outside the Hilton ..

Security experts say they have no doubt who the bombers are - but no real evidence against them."

This positive story was abandoned just days later, with the arrival on the scene of special branch spy, Richard Seary.

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## 6. THE YAGOONA CASE

Had we known on the morning of 15 June 1978 that we would be arrested that night and jailed for the next seven years, Ross Dunn, Paul Alister and I might have approached the day a little differently.

Though none of us had been to Yagoona before, nor met Robert Cameron, seven years of our lives ended up entangled in what became known as the Yagoona or Cameron Conspiracy case. In fact the case had nothing to do with either, but was a pretext chosen by NSW Police Special Branch and one of their spies, Richard Seary, to blame us for the 1978 Hilton hotel bombing.

Seary had met Paul Alister a couple of months before, and became involved in a group within the margiis called the Volunteer Social Service (VSS). This was a social service group, which was involved in a free soup kitchen at Kings Cross, but also acted as security guards at margii functions. The VSS also trained in orienteering and boy scout type operations and, at times, even wore a scout-type uniform. Contrary to secret police stories, they didn't train with arms, but did teach martial arts techniques for self-defence purposes. For some years the margii women's version of this taught self-defence and assertiveness training to women.

Seary clearly joined and latched himself onto Paul, who was a martial arts teacher, because special branch wanted to target their suspects for "paramilitary" activity within the margiis. As it happened, in his time with the VSS Seary was unable to establish that they were involved any illegal activities. However he did arrange for the arrest of one margii for spray-painting a wall, and told a remarkable story about a political stunt involving Ross Dunn, which I recount in the chapter 'Living with Spies'.

Neither Ross nor I had anything to do with the VSS, but we met Richard Seary through Paul Alister just some days before 15 June. At that time Seary worked part-time at the Wayside Chapel in Kings Cross, and offered to chase up the silent phone numbers and addresses of the leaders of two small racist groups in Sydney, the National Front and the National Alliance. Several of us planned to campaign against these groups, by postering over their posters, by graffiti and by writing an article in the margii magazine 'Dharma'.

### The Fifteenth of June

On 15 June I saw Seary at Ananda Marga headquarters in Queen Street Newtown and he gave me a slip of paper with only the address of Robert Cameron, the leader of the National Front, saying "This is the best I could do". A little later I was drawn into a conversation about racist groups with Ross, Paul and Richard Seary.

Paul and Ross were suggesting that anti-racist strip posters could be pasted across the National Alliance posters they'd seen around town. Ross was proposing a particular wording for these strip posters. Seary commented that the National Front was worse than the National Alliance, because of its Nazi connections. I joined in at this stage, saying I thought I'd seen

some Nazi members in Melbourne, accompanied by a distinctive looking person called "The Skull". Seary said he'd met The Skull at the Wayside Chapel, claiming he'd counselled him about a personal problem. Seary said he'd upset the man, who'd then hit him. I asked if he'd been hurt, and Seary replied "not badly", claiming that The Skull had psychiatric problems and had himself been beaten up several times by the Jewish Defence League. I expressed surprise that the JDL was operating in Australia, as I'd only heard of them in other countries such as the USA. Seary then asked if there were any Jewish members of Ananda Marga and I replied that there were quite a few, Paul adding that some of the acharyas (meditation teachers) were Jewish.

Later that afternoon Paul indicated to me that he was going out graffiti writing with Ross and Seary. Postering and graffiti writing were common in Ananda Marga at that time, and I didn't think twice about them. I considered graffiti a legitimate form of social and political expression, if done in good taste and for a worthwhile cause.

That evening I again met Paul and was discussing a night patrol he was organising to take hot soup to homeless people in the Kings Cross-Woolloomooloo area on winter nights; the next patrol was due tomorrow night. He said he was off to meet Dick Seary in a street down the road, so I walked with him down to Carillon Avenue. It was a cold night, with light rain falling; we walked up to a car that had flashed its headlights at us, and saw Seary in the driver's seat. He said he got the car "from a friend"; we got in. In fact, it was a stolen car.

Seary appeared agitated and nervous. I asked where they were going and he said "out around Cameron's place". Ross hadn't yet arrived, but soon appeared from the Sydney University side of the tree-lined street and got in the back next to me. I moved over and noticed a soft bag on the back seat. Seary started the engine and asked me "are you coming too?", but as I wanted to finish arrangements with Paul for the next evening, I asked him to let me out at the next corner. He drove off as Paul and I finalised our arrangements, dropped me off, and I walked back to Queen Street Newtown.

Sometime after midnight, just after I'd gone to sleep, police led by Detective Sergeant Roger Rogerson broke into the margii house, ran to the upstairs room I was in, produced two envelopes and arrested me. I was taken back to the armed hold up squad headquarters in Liverpool Street and held in a room for several hours. Ross, Paul and Dick Seary were also there. I constantly asked why I was being arrested, but was told nothing.

Ross and Paul told me later what had happened in the car. As they approached the address Seary had obtained for the neo-nazi leader, Seary told them that he hadn't brought spray-paint cans, as arranged, but had ten sticks of gelignite with which they could "give this Cameron guy a bit of a scare". Seary tried to assure them that the explosives were safe, but they were still arguing about Seary's not warning them of this plan, when an unmarked police car overtook them and pointed guns at Seary, who careered off the road into a suburban nature strip, coming to a halt against a rock wall. All three were arrested and Seary was to tell police that the explosives belonged to Ross and Paul, who intended to kill Cameron. Typed notes in the two envelopes produced at my arrest claimed responsibility for an attack on Cameron, and these were said to be found in my coat and prepared by me.

At the CIB Rogerson and another Detective named Howard eventually approached me and I said: "I'm not going to answer any questions, can you tell me what I'm being charged with?". Howard replied "Well slow down, you may not be charged with anything." I said "It's a

serious thing to arrest someone and not charge them with anything." "Well we'd better charge you with something then, hadn't we?" he responded. Rogerson then approached and told me: "You are being charged with conspiracy to murder Mr Robert Cameron." I said nothing, as I took this in, but Rogerson continued, "You've had a pretty good run, but I think we've got enough to convict you now .. I feel like giving you a good hiding; what do you say about that?" "There'd be consequences if you did that," I responded, indignantly. "What do you mean by that?" he asked angrily. "What would you do if I assaulted you?" I replied, rhetorically.

Rogerson jumped up and kicked over the chair I was on, saying, "You fucking cunt, are you threatening me?" I fell onto the floor, and he came alongside me, kicking me in the side. He repeated his question as he dropped his knee onto my diaphragm, stopping me breathing. I moved my hands onto his knee to remove the pressure and he drove his knee up into my chin. "Are you threatening me?" he demanded again, and I replied "I'm not threatening you". I noticed my lower lip was split.

Early that morning we were driven to Central Police Station and charged in a packed court. None of us made statements on arrest, or at the CIB, in line with legal advice we'd received in the past year or so of police harassment, but we were to discover that this meant nothing to the police who were to give evidence in court.

## The Police Story

Seary became the main witness in the police case that Ross, Paul and I had "conspired to murder" neo-nazi leader Robert Cameron. He claimed this "plot" had been revealed to him for the first time that afternoon, that he'd immediately gone to police and thus launched the operation that led to our arrests. The conspiracy was then based on Seary's account of alleged conversations where we were meant to have said that Cameron had to die because of his racist beliefs. It was a ridiculous story from the beginning, and tapes showed that even special branch chief, Inspector John Perrin, had trouble believing it.

However police claimed Seary's story was supported by the explosives found in the car, and the two notes which Seary's special branch handler, Detective John Krawczyk, claimed to have found in my coat the moment he arrived at Queen Street. Seary had trouble explaining why, when such a large police operation was planned around him, he had disappeared and stolen the car which was to be at the centre of the whole operation. He was rapidly charged with this offence and given a good behaviour bond. More evidence about the notes was to emerge much later.

In addition to the conspiracy charges against all three of us, Ross and Paul were charged with attempted murder of their arresting police. This arose out of a police story that Ross had tried to detonate the explosives to kill both himself and the police at the time of arrest; only swift police action, it was said, prevented tragedy. Paul was also implicated as it was part of Seary's story that Paul had said they should all self-destruct if arrested, as that way Ananda Marga would not be implicated. Presumably meaning that they would be blown into such small pieces that no-one would be able to identify any of them. In this way Seary corroborated the evidence of Detectives Dennis Gilligan, John Burke and Robert Godden,

who all went on the receive bravery awards for their story. This 'back-up' charge was to be very useful for its prejudicial effect.

Apart from the explosives and the notes, there were two important elements of manufactured police evidence: the verbals and evidence of the observation squad.

In an attempt to link Ross with the explosives, a small group of observation squad police who'd been stationed in Carillon Avenue that night falsely claimed they'd seen Ross come to Seary's car from the Queen Street side of Carillon Avenue, rather than the University side. They did this so they could say they saw him carrying the blue denim bag containing explosives that was later found in the car. However, their claims were soon shown to have little credibility, as they gave detailed descriptions of the bag, yet had been 100 to 200 metres away on a dark rainy night; and several had made a telling, identical mistake: they said Ross was wearing white sandshoes. Press photographs taken at his arrest showed he wore brown boots. The "white sandshoe" error may have been seen as just an error, if only one detective had made it. But as several did, it was proven that they'd constructed a substantial part of their "observations" together, after the event.

Four police, two from the armed hold up squad and two from special branch - Rogerson, Brian Howard, John Krawczyk and Colin Helson - fabricated confessions against me. Other detectives - Gilligan, Godden, Burke, Mick O'Brien and James Woodden - did the same to Ross and Paul. Rogerson and the others said that at Newtown and the CIB I'd confessed my part in the supposed conspiracy, using the following words:

"I don't intend to say a lot but I will say this. It will not stop here. What was going to happen tonight was the only justice Cameron and his kind deserve. You will suffer the consequences for this."

It was a sign of Rogerson's craft that he'd incorporated a part of what I had said - about "consequences" - into his verbal. The verbals against Ross and Paul were similar creations of the police imagination that night. Paul's verbal by O'Brien, Godden and Wooden included:

"Nazi racists do not belong here. You have prevented us from doing this but others will follow."

while Ross's verbal, by Gilligan, Burke and Godden, extended into missionary realms:

"He is a racist pig, he doesn't deserve to live in our world. We are humanitarians doing a service to humanity .. We will never be stopped. Ananda Marga will cleanse this earth."

Anyone who knew us knew this was nothing like the way we spoke. However a legion of prosecutors and judges were to rely on these "confessions".

Thirteen years later, and some years after he'd been sacked in disgrace from the police force and had survived several serious criminal charges, Roger Rogerson laughed as he recalled how he and his CIB mates manufactured confessions:

"Verbals are part of police culture .. police would think you're weak if you didn't do it. The hardest part for police was thinking up excuses to explain why people didn't sign up .. they're still doing it"

The excuse he thought up for me was rather exotic, probably in line with his idea of Ananda Marga at that time. After saying that he told me what I'd be charged with he claimed:

"He did not reply in English but shouted out something in a foreign dialect and that was the end of the conversation that I had with the accused."

Rogerson also admitted that the "heavy squads" at the CIB - the armed hold up squad, consorting squad and the breaking squad - would routinely load up "criminals" with evidence:

"the planting of a gun or explosives .. you know, a couple of sticks of geli, found in their car or in their possession .. it was all done in the interests of, ah, truth, justice and ah, and ah, keeping things on an even keel, and keeping the crims under control"

Seary's Hilton Bombing Story

Back in 1978, Seary's sensational allegations in the Yagoona case were joined by his Hilton bomb story. Investigating the Hilton bombing had been the rationale for Seary's joining the margiis, and it became clear to us very early on that we were arrested on the Yagoona charges so that we could be blamed for the Hilton bombing. But the story against us as at 16 June 1978 had to be advanced a bit for that to happen.

While Hilton bomb allegations did emerge at the first court hearings, they hadn't come out as smoothly as special branch might have hoped. Seary made a succession of four statements to police through June and July, in which he unfolded an extension to his account of the 15th of June. In these further statements he claimed Ross and Paul "confessed" to him that they had carried out the Hilton bombing, suggesting that I was also involved in some way. Seary gave an account of a conversation that had the bomb:

"wrapped up like fish and chips .. which Dunn carried. Dunn was near the chocolate shop in George Street, Alister had gone through the crowd seeing it was okay, somehow called him up and he had slid it in, pushed it in the side of the bin, and that was about all that was said about that. It was said reluctantly and under pressure."

The publicity given to Seary's accusations bore no relation to their value. The story had come out in bits and pieces, over a month. As Magistrate Kevin Waller commented at the end of committal proceedings:

"One of the best sticks which the defence can beat Mr Seary over the head with is that he did not, at his first opportunity, inform the police of the alleged conversations in the car to Yagoona in relation to the Hilton bombing."

More significantly, Paul Alister was not even in New South Wales at the time of the bombing; he was in Adelaide. We were not charged with the Hilton bombing.

Trials and appeals

Having been denied bail and committed for trial, we were to go through two Yagoona case trials marked by their prejudicial climate and overshadowed by Seary's Hilton bomb story. The first trial was held in February-March 1979, and resulted in the jury disagreeing: a "hung jury". Foreman of that jury, Ross Clark, later went public to criticise Seary's evidence. The second trial in July-August 1979 led to convictions. Though none of us had been jailed before, we were jailed for sixteen years, without prospect of parole.

Of the climate of the trials, a juror from the second trial, Eric Mountier, was to later write:

"I have thought a lot about the trial .. and have reached the conclusion that it was not a fair hearing .. although the judge told us to disregard the accusations about the Hilton bombing, there was always the thought at the back of my mind that the three Ananda Marga men were involved in some way. This was mainly because the prosecution cross-examination centred around the Hilton accusations. Some of the jurors said that they thought the three men were probably guilty of the Hilton bombing .. the paper also painted a picture of Ananda Marga as a dangerous terrorist group. Whether this is true or not I can't say, but certainly I feel that this image affected us in making a decision .. the police sharpshooters on top of the courthouse the first couple of days of the trial and the general security made me feel quite uneasy. The effect was intimidating and created a hostile atmosphere."

The police gunmen on the roof were present for just the first few days of each trial, and were then withdrawn. If there was any need for this sort of "security", presumably it would have been needed throughout the trials; but it was a publicity stunt, and it worked.

The whole process of a major criminal trial was an eye opener for me. I'd naively imagined that "hard" evidence - fingerprints, forensic identification evidence - was needed to convict people of serious crimes. I had no idea that the legal system considered it good enough for unsigned "confessions" to be used to convict someone of a serious crime: an unsigned cheque for even one dollar is worthless, but an unsigned "confession" could lead to a life sentence.

On the other side of things, both judges - Justice John Nagle in the first trial and Justice Jack Lee in the second - were openly pro-prosecution, effectively denying on behalf of the police that police fabrication of the "confessions" could have occurred.

Justice Nagle had trained with my father in an artillery officers' school during the second world war: "learning to bomb nazis", as my father later joked. In the mid-1970s Nagle had conducted the Royal Commission into Prisons, which revealed a great deal about the brutal and secretive prison system in NSW. His report was hailed as progressive, leading to reforms within the prison system and to Nagle being regarded as something of a liberal. His attitude to police, however, was entirely establishment. He suggested to our jury that, to accept the defence, they had to conclude that all the police had conspired together to perjure themselves. This was in fact what had happened, as Rogerson was to later confirm, but to put it this way suggested that we had to prove it. This was completely unfair.

When I gave evidence, Nagle intervened repeatedly in my cross-examination to attack me. For instance, by attempting to restrict my answers to questions:

"PROSECUTOR: The policy of Ananda Marga, so far as you are concerned, does involve the possibility of having to lose one's life for the cause? A: A possibility? Q: Yes? A: I think it is a tenet of every religion, really. HIS HONOUR: You were not asked that question. You were asked about Ananda Marga? A: The answer is yes, with the qualification that I gave. HIS HONOUR: You were not asked about a qualification."

and by mocking my account of Rogerson assaulting me:

"HIS HONOUR: When you say that (a cut lip) was the only visible sign of the assault, did not the kicks leave any bruises? A: I had a look; no, they didn't. HIS HONOUR: What about with this jumping on you with the knee, did not that leave any mark? A: No, it didn't. HIS HONOUR: Weren't they very severe? A: Moderately severe. I was not hurt badly. HIS HONOUR: With this very heavy policeman? A: He was dropping on my diaphragm, and at one stage I had to push his knee off me because it was stopping me from breathing. HIS HONOUR: What about the kicks? Where was he kicking? A: In the kidney section. HIS HONOUR: Were they fully fledged kicks? A: No, not really. HIS HONOUR: It was just a playful kick, was it? A: No. He was attacking me at the time, but there were no bruises after. HIS HONOUR: There were no bruises afterwards? A: No. I couldn't see any."

I'm sure this sort of degrading treatment by a trial judge left more scars on me than Rogerson's biff. Several times after this I imagined demonstrating to Nagle what had happened, without leaving too many marks on his body.

At the second trial Justice Jack Lee was more careful, but equally pro-prosecution; and the prosecutor on this occasion took a new approach. I asked my barrister at the time what Lee was like, and was told "tough but fair". At Parramatta jail I asked someone who'd appeared before him what this meant: "tough on you but fair to the coppers", he explained.

At this trial Bill Job replaced Sandy Gregory as crown prosecutor and the cross-examination became more savage. We were cross-examined about allegations of violence against other people in other states and other countries, margiis and others. I was questioned about the diplomat who was assaulted in Canberra, a young margii woman who had committed suicide in Switzerland, a man who had bombed a woodchip plant in Western Australia, and about articles on revolutionaries such as Malcolm X, in Dharma magazine:

"Q: And you agree with me that there seems to be quite a detail of publicity given in your (sic) magazine to worldwide revolutionaries? A: To worldwide revolutionaries? Q: Well, to world known? A: No."

There was no way we could speak for people and events of which we had no knowledge, and any denials only added to the suspicion the prosecutor was intent on creating; but our lawyers hesitated to object, in case it seemed they were being overly protective.

Apart from Seary's story, a direct attempt was also made to throw suspicion on us for the Hilton bombing, and when I tried to object to this, Lee snapped at me to answer:

"PROSECUTOR: Now in relation to the Hilton Hotel, in relation to the Hilton you issued a press release, did you not? A: Yes Q: And you got a press release out in the morning after the

bombing? A: No, what has this got to do with this case anyway? HIS HONOUR: Just answer the question please. A: The press release was released in the afternoon."

Bill Job went on the ask me about driving a taxi in the city the weekend before the Hilton bombing, and Lee's claim was that, as we'd cross-examined Seary about his ridiculous Hilton story, the issue of the Hilton bombing was therefore "opened up" and this sort of smear evidence could be thrown at us.

However to the jury Lee re-defined it:

"You should understand that that evidence (of the Hilton bombing) is only before you because the accused through their counsel wished it to be before you .. it is a matter going only to the credit of Seary as a witness. You must clearly understand that you are not concerned one whit in this case with the Hilton bombing, except in so far as it reflects upon the credit of the witness Seary."

He didn't explain how allowing cross-examination of me about the Hilton bombing could have affected the credit of Seary.

Lee told the jury that he would express some opinions about the case, amongst his directions on law, but they should ignore his opinions if they disagreed with them. The facts were "a matter for you". This is a neat device used by many judges to strongly influence juries, then disclaim responsibility for such influence. Juries are often in awe of trial judges, who appear to have all the power and confidence of their environment that jury members lack, being unfamiliar with the courtroom and looking for support from an authority figure. Lee told our jury:

"It is not part of my function to seek to influence you in your decision, and I shall use every endeavour not to do so. It will be necessary however at different points for me to make observations in regard to certain features both in the Crown's case and in the accused's case"

Lee went on to quote large sections of the evidence of Seary and the police, and to powerfully re-work prosecution arguments. He adopted prosecution accusations in the course of giving his directions on "law", trying to make Seary's bizarre claims acceptable:

"You see, members of the jury, much of the evidence of the witness Seary, when you hear it for the first time, can only properly be assessed and understood by an explanation as to the understanding by the accused of the aims and beliefs of the organisation to which they belong."

and using language which presented the police verbals as "fact":

"the Crown also relied on the admissions made by each accused to the police. It is claimed by the Crown that what each accused said in various respects amounts to an admission to a conspiracy to kill Cameron, or of his implication in that conspiracy. It is important for you, and I stress it again, to understand that those admissions are only evidence against the particular accused who made them."

Our point was that "those admissions" never occurred. It was a consistent theme of his address that there was rarely an "alleged" in front of accounts of prosecution evidence, yet defence evidence and argument was treated with derision.

In fact, his most powerful and emotional comments to the jury were saved for the very end, when he briefly discussed, then dismissed, the defence evidence:

"The accused's submission is that they (the police) have put their heads together to frame the accused. The Crown invites you to see those submissions and the evidence given by the accused as a brazen attempt to turn your attention away from what is overwhelming proof of their guilt .. they sought to erect an attack on virtually every Crown witness as the only means of diverting your attention from the hideous reality of the situation that night."

The day after our conviction at this second trial, police gave Seary $6000 and a one-way economy-class air ticket to London.

Our Supreme Court appeal failed in 1980 and in the early 1980s a group of friends and supporters began a campaign for an inquiry into our case. Prominent in the Campaign for the Acquittal of Alister Dunn and Anderson (CAADA) were journalist Irina Dunn and Labor MP George Petersen.

## The Hilton bombing inquest

In 1982 an inquest began into the three deaths caused by the Hilton bombing. There was no explanation of why it had taken four years to have an inquest, and on 14 May Sergeant Peter Mason, assisting Coroner Norman Walsh, opposed barrister John Basten, who was seeking to represent us at the inquest. Mason said:

"there is no evidence at all that leads to any matters relating to those persons for whom my friend appears (Alister, Dunn & Anderson) .. the persons my friend appears for are not mentioned in my brief of evidence .. there is no other material evidence that can be led from the result of independent police investigations to link any of these persons my friend has mentioned to this particular bombing. There is no allegation coming from me or police officers in relation to this matter to any person."

It seemed that Seary's absurd story had been abandoned by police, probably because they'd accepted that Paul Alister had been in Adelaide at the time. Statutory declarations to this effect had been sent to the Attorney General.

It appears that police had accepted this, as a senior officer in the Hilton inquiry, Detective Sergeant Bruce Jackson, who had attempted to interview me over the Hilton explosion in 1978, and to whom Krawczyk reported, told my 1990 trial that investigating police knew at the time Seary made his statements that Paul Alister had been in Adelaide, and that therefore Seary's story was false. What followed in the inquest then was little more than a cynical exercise of ulterior motives.

On 28 May, Sergeant Mason was replaced by Crown prosecutor Roger Court, who had appeared against us at the 1980 Yagoona appeal, and was also to appear against us in the High Court. He reversed Mason's position, telling Coroner Walsh:

"Anderson, Dunn and Alister certainly appear in my brief, and indeed there is a possibility that a prima facie case might be established against one or more of them."

Seary was to be recalled. No explanation was ever given for this remarkable turn-around, but it seems that there was concern amongst some police and prosecutors about the implications for the Yagoona convictions, of abandoning Seary. It was apparent though that other police had never accepted Seary's Hilton story. For instance Superintendent Reg Douglas, in charge of hotel security at the time of the bombing, said in February 1980:

"We're in the same position now as we were then. There just isn't any evidence to even question anybody"

For reasons best known to themselves, Roger Court and Coroner Walsh did not allow general access to police Hilton inquiry records to barristers appearing at the inquest, and this led to Barry Hall, counsel for the Police Association (members of which had been injured and killed in the explosion), warning that such a restrictive approach would lead to accusations of a cover-up:

"Those allegations (of ASIO and special branch involvement in the bombing) are not going to go away if one approaches the case in the way the Crown .. chooses to approach. What is to be sought is a wide open inquiry. There is nothing to be feared, then let the documents be brought out and shown .. if any attempt to close the inquiry off is made, far from ending the matter it will only fuel speculation .. you would do the court a disservice if we didn't face up to the problems which arise from those (allegations against the security forces) and ensure that this is not an inquiry which is to be regarded as a cover-up."

But the records were not opened up.

Before Seary appeared, two witnesses were called which might have appeared in some way to support Roger Court's line. Manfred Von Gries was an ex-hotel employee who had seen some suspicious figures in front of the hotel just before the explosion. Von Gries then accused a margii, who had not previously been mentioned, of later threatening his life if he "went to the police". It was not clear from any evidence at the inquest what Von Gries might have gone to the police about. Police Association barrister Barry Hall called the Von Gries episode "sleazy sort of evidence". Nonetheless, The Daily Mirror ran with the banner headline "Hilton Blast Sect Link", wrongly describing Von Gries as a "key witness". Police had referred him to a psychiatrist after he had complained of threats and alleged that his car had been tampered with; he had then become angry with police for not taking his claims seriously.

Patricia Hill had worked in a newsagency near Queen Street Newtown, and she was called on a day when I was not at the inquest; I was given no notice she was being called. She claimed I'd walked into her newsagency on the morning of 13 February 1978 to get a paper and had exclaimed to a friend, "We only got three". This received substantial publicity: The Daily Telegraph led its front page with "Sect member: we only got three - witnesses story of sequel to bombing". However it was known from the start that this evidence was worthless. Her

1978 statement had the phrase as "It only got three", a far more innocent comment. The media coverage of the inquest raised the question in my mind: are journalists capable of reporting cross-examination?

Hill and Von Gries were to have a further role to play, and I mention a little more about them in the chapter 'The Multiple Choice Bombing'.

Just before Seary appeared to repeat his Hilton story, bombing victim and former police officer Terry Griffiths was called to give evidence. Far from accepting the de facto prosecution that was occurring, Griffiths revealed evidence implicating special branch and ASIO in the bombing, and challenged Roger Court to pursue it. He outlined five matters: (1) that Sergeant John Hawtin had seen an occurrence pad entry indicating the warning phone call had been received at 12.30am: 10 minutes earlier than officially stated; (2) two ASIO officers were said to have told a Senator's secretary that an army bomb disposal vehicle was waiting in the city and that special branch were observing the hotel from George street as part of a prearranged plan; (3) an allegation that a senior ASIO officer was sacked after the blast, after a heated argument with Prime Minister Malcolm Fraser; (4) a man called William Reeves-Parker had told him an army warrant officer had admitted planting the bomb by switching rubbish bins 24 hours earlier; and (5) a special branch officer at Blacktown had told Terry Griffiths that the special branch officers in George Street had tried to warn them by making a phone call. Griffiths said he inferred that this latter act was "an attempt to save our lives", but that it also revealed security force involvement in the bombing.

The packed court listened in silence to this evidence, which had clearly not been part of the Court-Walsh plan and had only come out in cross-examination designed to discredit Griffiths. Much of it was hearsay, but this was simply because of the way it had been drawn out. Roger Court immediately began an attack on Griffiths and a de facto defence of special branch and ASIO. He said Reeves-Parker was "certainly not on my list" of witnesses to be called, despite Griffiths' assertion that he was in a position to identify the person who placed the bomb. On the following day Court and the Police Commissioner's barrister, Graham, presented a document said to discredit Reeves-Parker; the document was not made public. Court attacked Griffiths in cross-examination, suggesting he was mentally disturbed and that Sergeant Hawtin might deny seeing the "12.30" entry. In fact Hawtin was called and confirmed it, adding that he had been told something about a bomb when he began duty that night. Court then called a Detective-Sergeant Crothers, who claimed all special branch officers including himself had finished duty at 11 or 11.30pm that night, but that there were "no documents in existence" to show his hours of work. The following week, Court continued by calling a Sergeant John Radalj, formerly of special branch, who denied the conversation alleged by Griffiths at Blacktown; however Griffiths said Radalj was not the man he spoke to.

When the embarrassment of Griffiths' evidence had been disposed of, on 8 October 1982 Seary re-appeared. Some rumours in the press that he'd had plastic surgery to disguise himself were disproved, though he did appear with a moustache and under heavy police protection. Roger Court opened by supporting Seary's assertion, over our objections, that he'd been involved in a "military wing" of Ananda Marga. Court repeated the term "military wing" several times, after Coroner Walsh overruled our objections, as if to spite us.

Seary then repeated his verbal of Ross and Paul. There was little new, except for the bizarre revelation that he had made an earlier attempt to implicate the Hare Krishna group (with which he'd previously been involved) in the Hilton bombing, and that he now supported a

new police theory that the Dunn-Alister "confessions" might have been "bravado". This was clearly a means of attempting to get Seary out of the hole he had dug for himself. If Ross and Paul could for some reason be thought to be lying, rather than confessing, then Seary need not be lying.

However despite this suggested "out" for Seary, Roger Court carried on as if the evidence could still be accepted as true. A series of statutory declarations showing Paul's presence in Adelaide at the time of the bombing had been forwarded to the Attorney General, and it was plain that Court knew of them; but this evidence was ignored.

After Seary's cross-examination, Coroner Walsh decided overnight not allow any address by our barristers. Roger Court suggested the evidence disclosed a 'prima facie' case of murder against Ross and Paul, and added that "the evidence possibly discloses" (whatever that means) a conspiracy between them and me. Walsh said he agreed, terminated the inquest and referred the matter to the Attorney General for the question of charges. We were incensed at this denial of a chance to reply to Seary, and Ross called out that Court had suppressed the evidence of Paul's alibi, which disproved Seary's story.

"Coroner: I terminate the inquest.

Ross Dunn: Your Worship, no wait a minute, this man (indicating Roger Court) has in his possession evidence that can prove this Richard Seary is a liar ..

Coroner: Please sit down, please sit down, you're not doing yourself any good, please sit down.

Prisoner Dunn: We had to fight to get into this inquest .. I'm prepared to do a lie detector test on this thing - is Seary?"

Ross was dragged from the courtroom and the phony inquest was over. Ross later took a lie detector test on both the Yagoona and Hilton allegations; he passed both tests and the results were sent on to the Attorney General and Police Commissioner, who ignored them. Soon after, because of the increasing use of lie detector machines by employers, the state government banned the use of lie detectors.

The media generally does not cover cross-examination well. The result is that, while sensational allegations are given prominence, readers, viewers and listeners are rarely informed about how and when the witnesses who make these allegations are discredited. This was certainly the case with the Hilton inquest. Tom Molomby, then an ABC journalist who attended the whole inquest, concluded:

"There could be few better illustrations of the irresponsibility and ignorance of the Australian media than the coverage of the Hilton bombing inquest .. many people have been left with the impression that a case of some substance has been made out against members of Ananda Marga. Nothing could be further from the truth; in fact, the evidence purporting to implicate the Ananda Marga was thoroughly discredited."

This latter reference was to a new finding on Seary's evidence that had been discovered by Tom Molomby himself, and which was passed on to our barristers. It was proven in cross-examination that Seary had memorised word-for-word his Hilton bombing verbal, an entire

1600 word section from his private journal, and repeated it to police in his second statement. The journal statement was made on 17 June, and had not been taken to the 22 June interview. The implication of this was that Seary had carefully constructed and memorised his Hilton bomb verbal at home in the week between his first and second statements to police. Molomby graphically details the evidence of this process in his book Spies Bombs and the Path of Bliss.

We had looked on the inquest as a way of getting more ammunition to discredit Seary; those on the other side clearly enough wanted to bury us deeper in prejudice. Strangely enough, we both succeeded.

## High Court

Our appeal on the Yagoona convictions to the High Court was delayed due to conflicting legal advice on the merits of our "legal" grounds of appeal. There is no automatic right of appeal in a criminal case to the High Court of Australia, and the grounds must be significant matters of principle for the court to grant "leave" to appeal. Our appeal was eventually heard in early 1983, an interim decision was given in December, and a final decision in February 1984.

The court divided on almost all the grounds of appeal, finding by a majority that the trial judge should have scrutinised subpoenaed ASIO documents on Seary, but concluding that the withholding of these documents didn't cause a miscarriage of justice. The court also affirmed an existing principle, that cross-examination on actions by other persons should not have been allowed; but a majority decided that these inadmissible questions did not cause a miscarriage of justice. Chief Justice Harry Gibbs and Justice Murphy were in a minority of two, in finding that the "attempted murder" charge against Paul Alister was baseless.

Justice Lionel Murphy dissented in both the cross-examination and the ASIO decisions. He found that the improper cross-examination of us:

"caused a substantial miscarriage of justice. On this ground alone, all the convictions should be quashed."

Murphy was scathing in his criticism both of Seary and prosecutor Bill Job:

"The case degenerated into a political trial .. The record shows that Richard Seary, drug addict, informer and mentally disturbed fantasiser, must be one of the most unreliable persons ever presented as the principal prosecution witnesses on a charge of serious crime. The accused were entitled to refer to the fact that Seary had accused them of admitting the Hilton bombing. The accusation by Seary was made in circumstances which cast grave doubt upon his credibility .. (but questions of Alister and Anderson) suggested that the Crown considered that these accused were implicated in the Hilton bombing .. (there was also) a reference to much publicised bombings of a gantry in Bunbury as a result of which two men, who claimed that their actions were justified as a protest against the forestry policy of the Western Australian Government, were charged with causing damage. Apart from the prosecutor's innuendo there was no evidence that the Ananda Marga was in any way connected with the bombings. This catalogue of insinuation about matters not in evidence represented a grave

departure from the traditional duty of prosecuting counsel .. This was not a regular cross-examination. It was making suggestions of the most prejudicial kind in the guise of cross-examination. The trial judge should have stopped it without waiting for any objection .. Any answer disclaiming responsibility was confirmation of the prosecutor's suggestion .. In the eyes of the jury the prosecutor is the state and takes on much of its authority and prestige .. Therefore the prosecutor must refrain from doing anything which might improperly influence the jury and deny the defendant a fair trial .. I am satisfied that sufficient timely objection was taken to the prejudicial cross-examination, but even if it had not been taken, the unfairness was so gross that the trial judge should have disallowed the questions and cautioned the prosecutor."

Justice Murphy's comments, although those of a dissenting judgement, received wide publicity and undoubtedly made some people look closer at the Yagoona convictions. They were also to spring to my mind seven years later, during my 1990 Hilton bombing trial, when a similar "grave departure from the duty of prosecuting counsel" was to occur.

The other High Court judges used a variety of reasons for sidelining the prejudicial cross-examination. Chief Justice Gibbs concluded that a number of questions "should not have been put, they were no more than imputations of suspicion based on hearsay", the Hilton bombing questions to me were of dubious relevance, and that one matter Justice Lee said had been "opened up" was not opened up at all. However he criticised the limited objections taken by our barristers and said Lee had given "a proper direction as to the use to which the evidence might be out".

Justice Frank Brennan said: "Unfortunately the cross-examination was not carefully framed, and some parts of it ought not to have been allowed", adding that some questions "did not advance the proof of guilt of any of the accused, yet they tended improperly to create prejudice against them". He relied, though, on the absence of objection to many of these questions, claiming that this "may well have been a deliberate tactic by the defence".

After further hearings in early 1984 the judges disposed of the ASIO ground of appeal without allowing barristers for the crown or defence to see the ASIO documents on Seary. Solicitor General Mary Gaudron and Crown prosecutor Malcolm McGregor, who had replaced Roger Court in the hearings, had urged that counsel be given access, but only Justice Murphy agreed with this. The majority upheld a claim of "privilege .. on grounds of national security" for the ASIO documents, saying "we do not have any doubt, on inspection of the documents, that they would not have been relevant to the trial". In his dissenting judgement Justice Murphy said:

"it is an injustice to both the Crown and the accused (to disallow access to and argument on the documents) and casts a further shadow over this case .. I find it a strange and disturbing case."

The majority judgement on the ASIO ground of appeal, in particular the denial of the right of counsel to see the documents, was later criticised in the Australian Law Journal as "untenable in principle".

Advice to the State Government

With the failure of our High Court appeal and with the possibility of Hilton bomb charges still hanging over our heads, the situation in early 1984 did not look good. However during the High Court hearings on the ASIO documents the transcripts of several taped interviews between Seary and his special branch handlers had emerged. This was substantial new evidence, and we were aware that, even though the High Court did not consider it, it was now being shown to the Attorney General.

In October 1983 barrister David Hodgson had provided an advice on possible Hilton charges; this was apparently held over till the High Court matter was concluded. In early June 1984 this was forwarded to Attorney General Paul Landa, along with a longer advice from Solicitor General Mary Gaudron and Malcolm McGregor, which dealt with both the Hilton and the Yagoona matters. It appears that neither advice considered the statutory declarations placing Paul Alister in Adelaide, as none of these people had been called as witnesses at the inquest; but it also appears this evidence would have been superfluous.

The advice was that there should be no Hilton bomb charges, and that in relation to the Yagoona matter, we should be released from jail immediately, without any sort of inquiry. After viewing the special branch tapes the prosecution had 'thrown in the towel'.

David Hodgson, who soon after writing his advice was made a Supreme Court judge, criticised Coroner Walsh's decision not to take further evidence or hear submissions, after Seary's evidence; he felt this was a narrow interpretation of the Coroners Act. He said that the evidence of Patricia Hill against me was "not sufficient to support an inference that Anderson was involved in any way in the offence". As to Seary's Hilton story he concluded:

"(Seary's evidence) is not sufficiently credible .. It seems highly likely that (two of Seary's statements) were fabricated .. Further, the internal relationships between his successive records of interview and his journal strongly suggest fabrication."

He referred also to Seary's psychiatric history and added that the determinations on Seary's credibility in the Hilton matter "may give rise to questions as to those (Yagoona) convictions."

Gaudron and McGregor agreed. The main part of their advice referred to the suppressed special branch tapes and they argued that the Yagoona convictions were unsafe:

"We have come to the conclusion that although those convictions were upheld by the Court of Appeal and the High Court, there was in the conduct of the prosecution of the second trial basic irregularity resulting in such unfairness that these convictions should be regarded as unsafe and unsatisfactory .. the vigour of the prosecution exceeded the bounds of fairness. Because access to the [concealed] material was denied in circumstances which resulted in there being no opportunity to have the material ventilated on appeal, we considered that the failure to grant the defence access to this material must be viewed as a very serious failure of the legal processes .. the criminal record and diagnoses inspire neither confidence nor credence in Seary as a witness, or as a reliable informant .. From our analysis we are not satisfied that the additional material affirmatively establishes the defence case. However the material tends to both support that case and to weaken the prosecution case. Given that the prosecution case was in any event open to criticism in respect of the unreliability of the witness Seary, and the deficiencies in the police evidence which we have identified [of

Carillon Avenue, the absence of any forensic evidence, and the police verbals], we are satisfied that a factual analysis discloses a real doubt or question as to the guilt of Alister Dunn and Anderson. Moreover, we are satisfied that the legal processes failed to secure a fair and just determination of the issues in the second trial [because of the concealment of material and the prejudicial cross-examination] .. We would unhesitatingly recommend that an Inquiry be instituted in accordance with Section 475 of the Crimes Act, save for one matter. No such inquiry is likely to resolve the doubts and questions without a full consideration of the role of special branch in this matter, which examination necessarily requires consideration of the ASIO material. Moreover, the result of an inquiry is likely to lack persuasive force unless full access is provided to material which, as a result of the High Court proceedings, ASIO is known to have in its possession. There is no certainty that the production of even so much of the ASIO material as we have seen can be compelled in any inquiry .. [also] we know nothing of Mr Seary's present whereabouts, but we note in passing that if he is not in Australia, there may be no means of compelling his attendance at any such inquiry. Although for the above reasons we are minded not to recommend an inquiry under Section 475 of the Crimes Act, we are satisfied that the irregularities we have identified resulted in a fundamental failure of the legal processes, albeit in a manner which was not or could not be corrected through the appellate processes because of the manner in which the question of access to special branch material was resolved. We are therefore obliged to recommend that the three accused be released from prison immediately and that the balance of their sentences be remitted .. We are mindful of the possibility that a remission of the balance of sentences will not satisfy public demands in respect of the three accused, nor the demands of the accused themselves. We have stopped short of recommending a pardon because, as we have previously noted, the material we have considered does not positively establish the defence case. The reasons which have prompted us not to recommend an inquiry, combined with our firm view that the accused did not receive a proper trial may justify the grant of a complete pardon .. The issue is a matter on which we cannot advise, save to offer our opinion that in a properly conducted trial the likelihood of the acquittal of the accused would be greater than in the trials which we have analysed."

## Section 475 Inquiry

In mid-June 1984 Attorney-General Paul Landa announced that he and Premier Neville Wran had decided (despite the above advice) to hold a Section 475 Inquiry, to support an application that we be released on license pending the outcome of that inquiry, and to confirm that no charges would be laid over the Hilton bombing. Clearly they wanted the safety of a judge's opinion and a public inquiry which could not be criticised. However the Release on License Board said it was not within their jurisdiction to release us. We were to spend nearly another year in jail.

The inquiry was, on balance, a waste of time and money. On the one hand it served its political purpose, significant new information on Seary emerged, and we were eventually pardoned and paid compensation. On the other it cost us an extra year in jail, the stress of another long court case, about one million dollars in public money, and Wood's conclusions not only didn't advance the Gaudron-McGregor conclusions, in some respects they helped cover up facts and protect the police.

Justice James Wood was in 1984 a young, newly appointed judge with his career on the bench in front of him. He was clearly determined not to upset others in power within the legal system - senior police, fellow judges, senior barristers - and to give the appearance to those he considered his peers as being 'even-handed'. With these considerations in mind, he came up with a bizarre conclusion to the case that no-one had urged on him: we should be cleared because Seary may have constructed the entire frame-up himself, and fooled the police. The police were to be exonerated from any wrong doing in the frame-up.

This artificial conclusion was made somewhat easier because the issues at the inquiry were limited to fresh evidence, and most of that fresh evidence related to Seary. The police had lawyers at the inquiry in damage control mode, not to resist the process that led to our pardons, but to ensure that findings were not made against them.

The inquiry was ordered because of the revelation of the special branch tapes, which were mainly between Seary and his handler Krawczyk. Some ASIO material, such as phone taps, was also considered in private session, from which we were excluded. However it had little impact on the proceedings, which were dominated by the special branch tapes. These tapes undermined Seary on much of his trial evidence including, for instance, the following eight issues.

1. Seary had lied to the courts about his knowledge of and experience with explosives and detonators. In particular, he had denied in court using electric detonators (one of which was in the bag found in his car at Yagoona); on the tapes he admitted his experience with them.

2. He had also lied to the courts about his access to the Ananda Marga typewriter, which had been linked with the notes said to be found in my coat. The tapes revealed he had secretly typed material on it and had stolen carbon typing ribbons for Krawczyk, before the Yagoona arrests.

3. The tapes proved I had not had a conversation with Seary on the weekend before our arrests about the possible bombing of racist groups, as he alleged in court, as he didn't know me and couldn't identify me on the following Monday.

4. Seary made numerous outrageous allegations against the margiis, such as the claim they were preparing for "all out war" and claiming he had photos of them training with knives and handcuffs (he did not). The tapes also revealed he was prepared to lie, steal and deceive whilst acting as a spy, and that he had tried to get a handgun from the police. He admitted at the inquiry that he was prepared to kill a margii, if he thought it necessary.

5. He was in possession of breaking tools just before the occasion on which he claims I gave such tools to him; this further undermined a claim he made that I'd asked him to steal the car.

6. Krawczyk and Seary had lied in court, to cover up a meeting they had on the morning of the day of our arrests.

7. Five days before our arrests Seary predicted a bomb attack on a racist group, that he would be involved and that it would take a little preparation. He predicted almost precisely his own story of the 15th June:

"Krawczyk: In relation to the bombing at the Hilton, now do you feel that they would .. go to that extent with this National Alliance?

Seary: I think so ..

Krawczyk: Do you feel that .. someone will confide in you when something decent like was going to happen like that?

Seary: I think I'd be approached and asked if I would volunteer for a job .. in the case of a bomb, I can't see a bomb being made without at least 48 hours notice."

8. On the day of our arrests he discussed the possibility of his secretly planting a bomb, in the guise of discussing what 'other' people might do:

"Krawczyk: So if you had to put say for instance - a bomb - I wouldn't know that you were doing that?

Seary: That's right.

Krawczyk: That is your job and that's it

Seary: That's my job."

In the course of the inquiry, apart from the tapes, other significant evidence emerged.

9. Psychiatrist Emanuel Fisher had seen Seary in April 1978, and gave the following evidence:

"I am of the view that Seary's reliability as a witness is suspect to say the least. As a rule people with this type of personality are extremely manipulative and will invent things for their own purposes. Seary is schizoid and a psychopath."

He described a "psychopath" as a person with "no conscience", and he categorised Seary this way because of his lack of feelings towards other people and occasional irrational viciousness; Seary had once broken a child's arm because it destroyed a manuscript, and he said he felt no guilt afterwards. Fisher said Seary's recounting of facts could not be relied upon where there was any sort of self-interest involved. Psychologist Jack Lyle had also met Seary in 1978, and he told the inquiry:

"There is no evidence of pathology ... (but) He had a strong involvement in fantasy and a very rich fantasy life. He would not find it difficult to invent stories."

10. Evidence from several witnesses was led to show that Seary had previously falsely accused members of the Hare Krishna group of attempting to bomb an abattoir, when in fact Seary himself had urged this on them. This was in almost identical terms to those of his Yagoona story: urge a bombing on a group he was spying on, then tell police they planned it.

11. Written material by Seary showed he used the unusual markings found on the incriminating envelopes.

12. The special branch tapes themselves had been dubbed and edited: the crucial evidence had been tampered with.

13. Seary had written more than one manuscript about the case, but on each occasion had fictionalised the accounts, and had made himself a heroic, James Bond type figure.

14. Seary had lied repeatedly about his background, to his friends, to police, to the courts. He'd lied about: his drug use, his education, about injuries he'd supposedly received, about his writing and his income from writing, about his drug counselling qualifications, about a supposedly dead friend. He'd lied to Krawczyk about belonging to a pistol club, in an attempt to get a pistol, and claimed he could see ghosts when he walked down the street.

It wasn't going to be too difficult for Justice Wood to find material to discredit Richard Seary. However when we tried to call prosecutor Bill Job as a witness, as the propriety of his cross-examination had been raised in the High Court, Wood retreated very rapidly, saying he'd have to assume that Job's questions were asked properly. Very privileged treatment.

The pattern of Seary's involvement with explosives and lying about others for what he had done was taken up by our barrister Marcus Einfeld, who in handing up his written conclusions to Wood also made these three assertions against Seary:

"1. Seary as Homebush bomber .. there can be no doubt that Seary hoped, wanted and planned to destroy or maliciously damage the Homebush Abattoirs in 1972-73.

2. Seary as Hilton bomber .. Seary placed the explosives which killed three people and injured several others outside the Hilton hotel on 13 February 1978.

3. Seary as the Yagoona bomber .. Seary was the person responsible for the explosives and associated equipment found in (the stolen car) at Yagoona."

Seary's barrister Brian Donovan objected to the Hilton allegation, prompting Einfeld to list the circumstantial evidence against Seary: the Homebush plan; his lies about that plan and his attempts to blame it on others; his attempts to blame a nonexistent member of the Hare Krishnas with the Hilton bombing; his lies to the courts about his search for the nonexistent Hare Krishna member; his recounting to police the suspicion against this nonexistent person because of his interest in a diesoline-based explosive, when it was not known to the public that police had noticed a diesoline smell just prior to the bombing; his lies and verbals of Ananda Marga members for the Hilton bombing; his belief that he was a Hilton bombing suspect (who else in the community who is not and has never been a suspect believes that he/she is?); and his misleading of police and the inquiry as to his whereabouts at the time of the bombing - his alibi for the Hilton bombing has proved utterly false.

While the issues of the verbals had not been opened up at the inquiry, as there was little new evidence on this, our barristers made submissions on the role of special branch police. So did independent counsel assisting the inquiry, Malcolm McGregor and Wayne Haylen, who told Wood there was evidence that an officer or officers of special branch:

"1. Concealed from the Premier and the law officers the police's non-acceptance of Seary's assertions about the involvement of the petitioners in the Hilton bombing.

2. Edited the tapes of conversations with Richard Seary by overdubbing and gave false evidence about the tapes.

3. Gave Seary tuition in lock-picking and encouragement to join in planned criminal activity, and knowingly and improperly interfered in the exercise of a police officer's discretion as to the granting of bail (over a graffiti arrest) and gave false evidence to the inquiry about these matters.

4. Gave false evidence to the inquiry as to the circumstances in which the taped conversations with Seary were recorded.

5. Gave false evidence to the inquiry about the presence of special branch officers other than Inspector Perrin and Constable Krawczyk at the Perrin debrief of Seary.

6. Attempted to dissuade Richard Seary from giving evidence to the inquiry.

7. Knowing that Seary was both untruthful and unreliable as an agent, suggested to ASIO and to the Government of NSW, that Seary was both truthful and reliable.

8. Knowingly permitted or encouraged Richard Seary to steal a car on the evening of 15 June 1978, and

9. Participated in a claim of public interest immunity for documents and material which they knew to be supportive of the defence case, based upon a false assertion that Seary's information had been passed on to ASIO."

Wood ignored all of this, even though it came from a senior barrister who was ordinarily a crown prosecutor. He made no criticism of police, except that they should have taken more care in recruiting Seary because he may have become a "counter-agent" and so damaged police operations against the margiis.

This case, and the prosecution of six Croatian men in 1979 which has since been shown to have been another frame-up, are the only serious prosecutions the NSW special branch has ever run. The collapse of the Yagoona case was to be enormously embarrassing to special branch, to the CIB verballers with their 'bravery awards', and also to a man who was vying with John Avery to be the next NSW Police Commissioner: former special branch head John Perrin. In the event Avery got the job.

Wood ignored evidence that the tapes had been doctored and attempted to rescue special branch from the criticism that would follow the inevitable collapse of their case:

"Despite strong submissions to the contrary, I do not believe that any significant criticism of special branch in its handling of the Seary information is warranted."

Wood retreated from the Gaudron-McGregor report, by finding that there was no failure of the legal process at the second trial, for the technical reason that the tapes had not been subpoenaed. They had not been subpoenaed because the trial judge at the first trial, Justice

Nagle, had "assured" counsel that the tapes were irrelevant. Because of this, there had technically been no "miscarriage of justice". The police verbals were disposed of by Wood noting the existing general "doubt that attaches to oral admissions".

The critical part of his report however, was his conclusion regarding Seary and his overall conclusion. While he identified 50 occasions where Seary had not told the truth, his final summary was typically cautious and understated:

"(Seary is) a person of considerable intelligence and imagination, who craved recognition and status, and who was willing to exaggerate, bend the truth and lie in appropriate circumstances .. significant inconsistencies and anomalies were identified in the evidence, debriefings and writings of Seary, concerning the Yagoona affair. I am further satisfied that there is a real possibility of his evidence in relation to this matter being false .. I am satisfied that an inference exists that Seary manipulated the petitioners (and the police), and carefully caused the events to be so ordered as to present an apparently strong case against them. I form this conclusion having regard to my assessment of his general reliability and his evidence concerning the Yagoona affair, notwithstanding the strength of the independent evidence. While I am unable to say that this is the correct inference to be drawn, it is sufficient for my inquiry to state that it is a rational inference that cannot be excluded. I am also satisfied that because of the central role of Seary, the independent evidence cannot be considered in isolation from his evidence. In these circumstances I have no alternative other than to express the conclusion that, while strong suspicion attaches to the petitioners in relation to the counts on which they stood indicted and were convicted, a doubt remains as to their guilt."

## Pardon and compensation

The pardon followed immediately, although Wood's gratuitous comments about "suspicion" hurt us deeply and were seized on by the police to suggest that the pardons were something less than an acquittal. In reality, the factual basis of both an acquittal and a pardon - "reasonable doubt" - is exactly the same. "Suspicion" exists merely when police have made a charge. There seemed no reason for Wood to put this word into his conclusion except to give some comfort to the police. My trial judge in 1990 gave the common sense explanation of a "pardon":

"the granting of the pardon is the same as if he had stood his trial and been found not guilty by a jury."

On 15 May 1985 we walked out of Long Bay Gaol, with friends, into a crowd of journalists soon after the pardons had been announced. This was not our first taste of freedom; we had achieved minimum security classifications after completing most of our sentences and had begun day leave and study leave during the course of the long Section 475 inquiry. But seven years of court cases and jail were finally over. This was also the first successful 475 inquiry in the history of the section, which had been enacted at the end of the 19th century before there was a court of appeal.

Paul and Ross soon left both Sydney and New South Wales, to lead quieter lives in rural Queensland. I stayed in Sydney and became politically active, including in prison and criminal justice issues.

A first report in 1985 from the barrister representing the Crown at the 475 inquiry, Michael Finnane, recommended against compensation. A second report by barrister Chester Porter recommended compensation as "rehabilitation" money. This was to be a "no fault admitted" frame-up to the end. In March 1987 we were finally awarded $100,000 compensation each, and it seemed that that chapter of our lives was closed, and well and truly behind us.

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## 7. MY POLICE RECORD

Police often ask people "have you been in trouble with the police before?", which is a way of asking if they've got a police or criminal record. In my case there's no simple answer. I don't have any convictions. However, having been charged six times, jailed for seven and a half years but acquitted on all occasions, the implications are read in different ways. When I was travelling overseas in 1986-87 I felt the need to carry a copy of my pardon documents, in case there were any disputes at international borders.

Most police and a large number of magistrates and judges, and probably a fair number of ordinary people, see acquittals as the people involved being "lucky" or "getting off" the charges. Despite the legal presumption of innocence until guilt is proven, the police assumption is that people generally are guilty as charged.

In the case of someone who is repeatedly acquitted, or acquitted of serious charges, police often become frustrated and may become vindictive: determined to "make the charges stick" at the next opportunity.

What I want to illustrate here is that repeated charges can just as easily indicate a pattern of police behaviour, as police often refuse to accept court rulings, and that the courts generally refuse to discipline police or police witnesses in the way that they would defendants or their witnesses. Most of the police responsible for the false prosecutions against me went on to receive promotions.

My experience with police and courts began in 1971 when I was 18 and giving evidence for another student, arrested in a Vietnam war demonstration for allegedly poking a police horse with a flagpole. It was a case of mistaken identity. I also recall that a friend of my father's was at the court, and when he heard I was to give evidence suggested: "don't get involved, don't get involved". Another student and I gave evidence that he was not the person; the police constable on the horse, with his back to the incident, identified him. He was convicted. I forget the student's name now, but recall that the magistrate's name was Proposch.

That set the tone for almost all my later experiences with police.

### One: Canberra, 1976

My first arrest was in 1976 at a demonstration in Canberra, when I was charged with obstructing Indian High Commissioner Sinha. Commonwealth Police Sergeant John Friend and Senior Constable Alex Fyfe claimed I'd broken through a police cordon three times and stood in front of Mr Sinha to block his passage back to the High Commission. I gave evidence that I had never broken through the police cordon nor obstructed Mr Sinha.

Unknown to police, there was a video-tape of the demonstration and my arrest, and I produced that as evidence. Police jaws dropped as they watched their story destroyed by the video-tape. Magistrate Dainer summarised the case this way:

"the evidence of the police witnesses was that the defendant Mr Anderson, quite deliberately and on more than one occasion, attempted to obstruct the progress of the Indian High Commissioner from the point on the lawns at which he was addressing the throng back to the Indian High Commission building. The evidence is that he had stood between the High Commissioner and the building by holding his arms out, had stopped the High Commissioner from moving any further towards the building, and that he was restrained by police on more than one occasion, until finally their patience gave out and they arrested him. That was the police recollection of what occurred.

"The defence evidence was rather different to that. It was that far from Mr Anderson making any move towards the High Commissioner to stop him doing things, the High Commissioner was the one who was making the move towards the multitude assembled, and was haranguing them in some way and had to be restrained by someone from the High Commission and a policeman. That was the defence case, and that the High Commissioner returned to the house, or the premises, and then came back more than once, again, on their evidence, to harangue them. During the course of that attempt by the High Commissioner, Mr Anderson joined with him in some sort of slanging match, about the issue which was before them at the time.

"Mr Anderson's evidence was that that was all that occurred between the High Commissioner and himself, just the verbal confrontation and that before much else developed he was whisked away by a number of policemen ..

"the two versions are completely irreconcilable. In that situation one normally looks for independent evidence, if there is any available. There is in this particular case. That is the evidence of Mr Young, and the evidence of his camera, his TV camera. Mr Young's evidence was that the situation described by Mr Anderson was more accurate than the situation described by the police witnesses .. The TV film was quite clear, I saw it, and it reflects, in my view, the defence case rather than the prosecution case .. I dismiss that information."

The charge was dismissed but the magistrate failed to criticise the police perjury. In the course of the case Sergeant Friend was promoted to Inspector. The Commonwealth Ombudsman later claimed he could take it no further than the magistrate.

## Two: Yagoona, 1978

I've discussed the Yagoona case in the previous chapter. The evidence in this case was based largely on the word of Special Branch informer Richard Seary, and unsigned "confessions" attested to by Roger Rogerson, Dennis Gilligan, John Burke and six other NSW detectives.

The case was best known for its becoming a platform for Special Branch, through Seary, accusing Ross and Paul of "confessing" their alleged involvement in the 1978 Sydney Hilton hotel bombing.

After the credibility of Seary was finally destroyed in a special Inquiry, Ross Paul and I were pardoned, released after seven years in jail, and paid some compensation. Yet despite the submission of independent Counsel Assisting the Inquiry, that there was evidence that Special Branch detectives (particularly Senior-Constable John Krawczyk) had lied and engaged in criminal activity, the Inquiry judge, Justice Wood, failed to criticise police. Krawczyk later left special branch and was promoted to the rank of Sergeant.

In June 1981, following an article analysing the Yagoona case by Sydney Morning Herald journalist Evan Whitton, Rogerson, Gilligan and Burke wrote to the Herald, saying that they had led the Yagoona prosecution, complaining about the Herald's article and admonishing the paper not to "cast aspersions on the character and integrity of men who are serving this state and country".

Five years later Rogerson had been sacked from the NSW police for dishonesty and for criminal associations likely to "bring discredit" to the police force. He faced several serious criminal charges, including conspiracy to murder and attempted bribery, but was eventually acquitted on all counts. Ten years later he laughed as he told journalists how he and his colleagues had verballed and loaded up criminal suspects.

Burke was eventually promoted to Chief Inspector, and was in charge of the police paramilitary team which killed innocent Aboriginal man David Gundy in his Marrickville bedroom, in April 1989. Gilligan was promoted to Chief Superintendent and chaired the 1989 interdepartmental committee overseeing the video-taping of police interviews: the supposed controls over police verbals.

Detective Aarne Tees, who had worked in the armed hold-up squad with Rogerson, Burke and Gilligan, was also on this committee with Gilligan.

## Three & Four: Anti-Apartheid, 1985

In October 1985 I was arrested at an anti-apartheid demonstration at Sydney airport and charged with refusing to leave Commonwealth premises. The demonstration was against South African Airways holding landing rights in Australia, while the apartheid system continued in South Africa. It was common ground that I was doing nothing objectionable at the time. A Federal Police Sergeant claimed that he had arrested and led me to a police van after I'd refused his reasonable requests to leave the terminal building. I said I had been arrested, without comment, by two younger constables. The Sergeant had not spoken to me at all, but had directed the constables to take me away. I was given no explanation as to why I'd been singled out.

Photographs of the arrest, taken by other demonstrators, showed me being led away by the two younger constables, with the sergeant nowhere to be seen. The charge was dismissed, but Magistrate Webb made no criticism of police evidence.

In November 1985 I was again arrested at a second airport demonstration, charged with 'obstruction', then later also 'damaging Commonwealth property'. Two Federal Police sergeants gave evidence that I had blocked passengers from entering a reserved check-in area for South African Airways. I gave evidence that I had blocked no-one, but that a police

officer had asked me to move and I'd asserted that I had a right to be there. In this case, if the charge had been "refuse to leave", there would have been no dispute on facts but an argument over what right I'd had to be there; however the police story this time was that a 'line' of passengers had been banked up behind me.

On the basis of inconsistencies in police evidence, and the evidence of several other demonstrators that there was no such line of passengers behind me, the obstruction charge was dismissed.

The 'damage' charge arose out of damage to the inside panels of a police van, which occurred when four of us arrested inside kicked and banged following police refusals to loosen the handcuffs of a man whose wrists were lacerated. On a District Court appeal I was held partly responsible for this damage, but in the circumstances the judge did not proceed to record a conviction.

Five: Hilton, 1989

In May 1989 I was charged with involvement in the Hilton bombing by a group of police led by Detective Sergeant Aarne Tees and including Bob Godden from the Yagoona case, who had since been promoted to Sergeant. Godden was later to admit that he resented the 1985 Yagoona pardons and my attempts to have his 'bravery' award for the Yagoona frame-up withdrawn. Investigating police and police witnesses in this case included Detectives O'Brien, Krawczyk, Perrin (retired) and Helson, from the Yagoona case.

Police had run Richard Seary's story of Ross Dunn and Paul Alister having 'confessed' as a truthful account, for seven years. This was then abandoned for prisoner Ray Denning's account of my having 'confessed', a story which they claimed formed the basis for the 30 May charges. Arresting officer Aarne Tees later admitted the flimsiness of this evidence, claiming to be working on the dictum that: "when you haven't got much, pull them in; the brief will only get better".

This case soon switched to the Evan Pederick story, after my arrest was said to have triggered his own confession and accusation against me. During the committal, three other minor witnesses against me were discredited and abandoned by the prosecution. After the committal, police produced statements of a further five prisoner-witnesses who, like Denning, gave belated accounts of me having similarly 'confessed' ten years earlier. The prosecution declined to call any of these five at trial.

I describe the trial and subsequent appeal decision in other chapters of this book. In June 1991 the Court of Criminal Appeal dismissed the case against me, criticising Denning and Pederick as witnesses, as well as the police investigation and prosecutor Tedeschi.

In the course of this case, in 1990, Tees was awarded the Australian Police Medal and was promoted to Inspector; in 1991 Godden was also promoted to Inspector.

Six: Glebe, 1989

In July 1989, just after midnight one night, I was approached and arrested in Glebe by two Tactical Response Group (paramilitary police) officers. I'd been at a friend's house that night, at a party, and was walking home happily and peacefully when Constables Darren Spooner and Bonner pulled up in a four wheel drive vehicle and demanded that I take my hands out of my pockets. When I queried this Spooner approached me and pushed me against the roller-door of a closed shop. As the two attempted to forcibly search me I twisted around, asking them what they wanted. "Alright, that's resist arrest", Spooner said. They handcuffed me and dragged me to the back of their vehicle, then drove to a house in a nearby street where they asked a resident to identify me as a suspect for a break-in. The resident said "I can't tell".

It became clear that they were in the process of 'rounding up suspects' for a local break and enter, and that my arrest was a pretext to drag me down for their idea of an 'identification parade'. I don't believe they knew who I was, and that I was at that stage facing the Hilton charges, before they arrested me. However they found out soon after, and we had an argument about their tactics which lasted the trip to Glebe Police Station, and inside the station. Spooner released me without any charge, but with the knowledge that I was likely to protest his heavy handed treatment. I walked home and immediately wrote out details of what had happened.

Two weeks later I received a summons, charging me with "offensive language" and "resist arrest". The pathetic story they'd made up was that they'd approached me politely, saying they wished to ask some questions, and that I'd responded abusively, swearing and ranting at them for no apparent reason. To cover for their own cowboy behaviour that night, they were prepared to fabricate a story and attempt to have me convicted on false charges.

I represented myself and after inconsistencies emerged in their story, and police radio records and the evidence of a young woman police constable contradicted important parts of Spooner's account, the charge was dismissed by in Magistrate Cook March 1990. The first notes Spooner had made (some time after I'd made my statement at home) contained no reference to his suggested 'abusive language'; this was added later. Despite dismissing the charge, Magistrate Cook made no criticism of police conduct, and instead complained of my "emotional" final address, in which I'd attacked the police perjury.

In the course of the case Spooner was promoted to Sergeant and posted to The Rocks. I made a detailed complaint of his conduct to the Ombudsman's office, which declined to investigate as they said it appeared I had the basis for a civil complaint. I also referred the matter to an inquiry which was then ongoing into the operations of the TRG, conducted by the Police Tribunal. The Tribunal never responded to my letter.

## The Yagoona fallout

During our years in jail from 1978-85, Ross Paul and I became involved in a series of campaigns against police fabrication and abuses within the criminal and prison systems. This no doubt created antagonism to us amongst many police. Detective Tees was later to describe the Prisoners Action Group as a major target of his in the late 1980s, while a Queensland colleague of his also expressed a concern to "expose the wrong doings" of the PAG; the chief

"wrong doing" being identified as an "endeavour to discredit the police with the use of the criminal's catch cry of 'police verbal'".

Unfortunately for these police, the "criminal's catch cry" had by this time been taken up by the High Court, which made a series of rulings in the late 1980s, culminating in McKinney's case of 1991, which recognised the pattern of verballing suspects in police custody.

After our pardons in 1985, I chose to remain involved in some prisoners rights and criminal system campaigns, and maintained my efforts to have the Yagoona 'bravery awards' withdrawn. After 1986 I became less involved in these issues, having travelled overseas in 1987, begun teaching and having shifted my political activity to other areas.

However in February 1989 some of us, who'd been involved in the Prisoners Action Group in the mid-1980s, decided to again raise the issue of police verbal, as there were then moves to introduce video-taping of police interviews (largely due to the pressure created by anti-verbal campaigns in the past) and we wanted to look at the way this was being done. Introducing video-taped interviews without any sort of safeguards or controls would not prevent continued abuses.

The reformed PAG prepared several pamphlets, discussing the issues and raising Julie Wright's case: that of a young woman who'd recently been verballed. We first distributed these leaflets at a Criminal Investigation conference on 8 March at the state office block, then again at a seminar on video-taping interrogations, in the Queen Victoria Building on 21 March.

At this seminar, as papers were being given by the Northern Territory Police Commissioner and others in a session chaired by South Australian Chief Justice King, I noticed that Detective Gilligan was in the audience. Still angry from his verbal and bashing of Ross Dunn, which had gone unrecognised and unpunished, I decided to take the opportunity to draw attention to him. When it came time for questions at the end of the session, I said:

"I was verballed - had a "confession" fabricated against me - by a detective who has since been disgraced and sacked from the NSW police, but the man who bashed and verballed my co-accused, is still in the force and is sitting here in the audience today."

Although I hadn't identified him, Gilligan interrupted me, standing up in a surge of anger and identifying himself to the chairperson:

"Superintendent Gilligan, Your Honour, I expected this garbage from Ananda Marga."

As he sat down he said:

"Do we have to take this from Ananda Marga scum?"

Justice King then stopped me from going on. There were senior police, judges and barristers there, and it was clear that Gilligan was both angry and embarrassed. I felt at the time I was doing something dangerous, but also that I owed it to Ross to take that opportunity. At the end of the session Gilligan came over and spoke to Brett Collins, of the PAG, trying to assure him that video-tape machines were "on the boat" from England and would be in use soon; he wouldn't speak to me.

Through these comments we discovered that Gilligan himself was on the committee to implement recorded interviews in NSW. Attorney General John Dowd had previously refused to reveal who was on this committee. I was later to discover that Aarne Tees, another detective who had frequently been accused of verballing, was also on the committee with Gilligan.

Tees was an old-school detective who spoke out against the disbanding and regionalisation of the old CIB. The day he was admitted as a non-practising barrister, in February 1989, he told journalist Lindsay Simpson the disbanding of the CIB was "the biggest mistake" the Police Department had made. He had worked in the CIB's "heavy squads" with Rogerson, Gilligan, Burke, Godden, Brian Harding, Bill Duff, Nelson Chad and others. Rogerson, Duff and Chad were amongst those sacked from the force in the mid-1980s. Commissioner John Avery had called the CIB a "hot bed of corruption", and presided over the regionalisation in the hope that the centralised power of the CIB within the police force would be broken.

Tees was also a member of the executive of the Police Association, and stood against outside scrutiny of police operations. In the profile of Police Association executive members it states:

"His main concern is the intrusion of outside agencies into the traditional role of the NSW Police".

The Association, in November 1988, had been asked by former Senior Constable Terry Griffiths to support his calls for a public investigation into security force (including special branch police) involvement in the Hilton bombing. Apparently there was some dissent but, by a majority they supported Griffiths' call; and Commissioner Avery did in fact order such an investigation.

On 13 April 1989, Detective Sergeant Royce Gorman and Detective Arthur Kopsias visited Terry Griffiths, conducted a long interview and began to make further inquiries. With my arrest on 30 May, this investigation came to a halt.

At about this time I had just completed the final chapters of my book on prison, Inside Outlaws, which apart from describing prison conditions, raised issues of police perjury and case fixing. In May I gave some evidence to the Royal Commission into Aboriginal Deaths in Custody, over the 1980 death at Long Bay Gaol of Peter Campbell. I also wrote to and visited some politicians to express my alarm about the Greiner Government's Sentencing Bill, which was due to abolish all prison remissions and so massively increase the jail population. At the same time I was teaching legal studies at Tranby Aboriginal College and doing post-graduate studies in political economy at Macquarie University.

## The Killing of David Gundy

Although Sydney is a big city, sometimes events seem to conspire to maker it smaller. A student at Tranby, Dolly Eatts, came to me in mid-April to ask advice on a problem she and her husband David Gundy were having with a person at their house: Dolly had an injured wrist and was complaining of an assault. I eventually suggested that she go to local police, and ask for their help in securing a restraining order on the person involved.

A few days later I saw John Porter, a young Aboriginal man I'd known briefly in jail, walking down the main road in Glebe at night. We said hello as we passed, and I noticed he appeared tense. He'd visited Tranby earlier that week. Soon after this I heard the news that a young police officer, Alan McQueen, had been shot dead while trying to stop a man stealing a car, and that police were looking for John. Armed police raided many residences of Aboriginal people, including Tranby; some students were so frightened by the raid they felt unable return to the College.

In one of these raids, David Gundy was shot dead by the police Special Weapons and Operations Squad (SWOS). He was asleep in bed at home when they kicked in the door and blasted him to death. SWOS claimed they had information John Porter was at the house, but in fact he was not. SWOS officers were also to claim that David grabbed the shotgun carried by Constable Dawson as it was pointed at him, and it went off inadvertently. Few people believed this ridiculous story. Public anger grew with the realisation that David had been killed in his own bedroom at night, and that the police would not even apologise or admit they'd done anything wrong.

The killing of innocent David Gundy sparked a furore, especially as there was already an ongoing Royal Commission into more than a hundred Aboriginal deaths in custody, over the past decade. There were organised protests, before and after David Gundy's funeral. SWOS had been headed by Detective John Burke, now an Inspector, who had established his "anti-terrorist" credentials after the Yagoona case, which had led to his 'bravery' award and a Churchill Fellowship to study terrorism.

As Police Minister Ted Pickering had immediately sympathised with the police involved, saying they were understandably "uptight" and "edgy", he became the target of public criticism. Posters also emerged, with Pickering's face in rifle sights, and the caption "Uptight or edgy? Don't take valium. Kill someone, and upgrade Greiner's ministry with a bullet". I collected some copies of the poster, and showed them to Dolly and to some people at the Aboriginal Legal Service.

State Coroner Kevin Waller said he would hear an inquest into the death, and called for an end to comments over the shooting. However Royal Commissioner Hal Wootten said the case would also come within the terms of the deaths in Custody Royal Commission, and that he would look at it when Waller's inquest finished. Waller went on to conclude that no police officer had done anything wrong, and recommended that police in future be given more powers to forcibly enter private premises. Wootten's inquiry was critical of the police raid, but did not suggest any criminal charges.

Tees defended the police action in the Gundy affair. He wrote a column in the Police Association's magazine strongly criticising a Sydney Morning Herald article by Aboriginal activist and writer Roberta Sykes, who had written that she had been "struggling to come to terms" with the police actions in killing David Gundy. Tees suggested Ms Sykes should consider "that perhaps Mr Porter was morally responsible for the death of Mr Gundy?" He also welcomed Coroner Waller's call for an end to the criticism of police. Tees said:

"The strength of (Waller's) appeal is unprecedented in this state. His concern was shared by the Premier, Mr Greiner, who showed his anger about the lopsided nature of reporting by the media."

Tees had more than one reason to speak well of Coroner Waller. At the time of David Gundy's killing Kevin Waller, who had conducted the Yagoona committal proceedings, was advising Tees on whether he had sufficient evidence to arrest me for the Hilton bombing. The "new" evidence was a statement from former prison activist and a former friend of mine, Ray Denning.

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## 8. DENNING GOES ON THE DOG

About two months before my arrest in 1989 I received a phone call from Billy, an old friend from jail. He was trying to locate Ray Denning, a prisoner known to both of us and well-known publicly through his escapes and attacks on the prison system and the police during the late 1970s and early 1980s. Billy said he couldn't locate Ray in any prison on the east coast. Ray had been arrested with fellow escapee Russell Cox in Melbourne in July 1988, after escaping from Goulburn Gaol earlier that month; Russell had been at liberty for some ten years, and was listed as Australia's "most wanted" man. Ray had been at Pentridge Prison in Melbourne, and was thought to be attempting a transfer back to New South Wales. But Bill couldn't find him.

"He must be somewhere, you can't just disappear like that" he said, "I've heard a rumour he's on witness special protection; do you know anything?" "No, that's ridiculous" I replied, "how would he be a dog?"

I'd met Ray Denning at Long Bay's Remand Centre in 1979. A mutual friend had introduced us over "the phone" - a communication system between cells made by emptying water from the toilet and shouting down the sewer pipes; in this way, people locked in cells below, above and in some cases next to each other could communicate.

Denning was at that time on segregation, as he had been most of the time since his conviction for seriously bashing prison officer Willie Faber at Parramatta Gaol in 1974, during a failed escape attempt. He was classed as an "intractable", a disruptive troublemaker within the system, had given evidence at the Royal Commission into Prisons about brutal and degrading treatment within the system, and was associated with the Prisoners Action Group. The PAG, Ross, Paul and I, Ray Denning and many other prisoners were also complaining about the police fabrication of confessions - "police verbal".

Some weeks after our first meeting, Ross Dunn and I managed to get a cell directly above Ray Denning's cell in 13 wing at the remand Centre. In this way we could speak to him at night, when we were locked up; being on segregation he had little other contact with prisoners in the "main" jail. We developed a friendship with him and exchanged books and magazines, when we could get our hands on them. I taught him meditation over "the phone", and wrote an article about his case for Dharma magazine. He passed books to me, including one about Barlinnie, a progressive prison in Scotland. At one stage he also confronted the Superintendent of the jail, when Ross Paul and I had been bashed at the instigation of senior prison officers. Over those few months we became good friends; but in the second half of 1979 we moved to different jails, and never met again.

Following my 1989 re-arrest, police refused to reveal the identity of the witness they claimed had provided the "fresh, direct" evidence which led to my being charged. But after the early rumours of Denning's involvement began, I found it hard to believe that the "former associate" to whom I was meant to have "confessed", was Ray Denning. This was only partly because it was hard to believe he would become a "dog". Everyone can change, and I was aware that he'd taken to using heroin and had not been active for prisoners' rights over that same period. Because he had been a friend, I didn't want to believe it was Denning. But it was

doubly hard to imagine it was Denning because I'd been told that this "confession" was said to have occurred at Long Bay Jail in 1979 and Parklea Prison in 1984, and I couldn't recall ever being with Denning at Parklea or anytime in the 1980s.

I tried to remember who, of the crop of prisoner informers who'd been appearing in the courts, I'd been with in both those years and in both those jails. With the pressure placed on police verbals in the late 1970s and 1980s, including through campaigns in which both I and Ray Denning had been involved, police from the mid-1980s had begun to present prisoners, in serious criminal prosecutions, to verbal other prisoners. By 1989 there had been several notorious cases, including the various prosecutions of Tom Domican. The only person that seemed to me to fit the bill in my case had been one of the witnesses against Domican: convicted rapist and armed robber Fred Many. He had been with me at Long Bay in 1979 and Parklea in 1984; Denning had not.

Eventually I discovered that it was Denning. On 8 August 1989 my book on prison, Inside Outlaws, was launched by Labor MP Franca Arena at Glebe's Harold Park Hotel. After Franca spoke I told the audience that Denning was the witness police had used, and I explained why I had included him in the list of acknowledgments at the front of my book: his activities as a defender of prisoners' rights and the publication (by the Prisoners Action Group and Women Behind Bars) of his Prison Diary had been some of the things that encouraged me to publish this book. Whatever he had done or become now didn't change that.

It would have been an enormous step for Denning to take, to become an informer or, in prison language, to "go on the dog". There is nothing so despised in jail as a "dog": an informer working for the police or prison officers against his or her mates. Whether the dog is lying or telling the truth doesn't make much difference: you tell on your mates and you're "off": liable to be bashed or even killed, should the opportunity present itself. For this reason, most "dogs" are held in the special protection sections of the prison system, often known as the "bone yards".

By contrast, Denning had been a person who had enjoyed some respect amongst his peers, largely because he had, in the past, stuck his neck out and taken risks for others. He'd contributed to the campaigns against the very fabrication he now joined in himself. What an irony then, that Denning should himself become a verballer, and throw away all the peer respect he had gained. While he could gain some temporary support from the police and the courts for being an informer, experience would have told him that they would never respect him, and would help him only so long as he suited their purposes.

His motives, though, were transparent. He was a desperate man, who'd served many years in jail, had made his bad lot in life even worse for himself, and now faced massive additional sentences. He would soon turn forty, but still had little prospects of release. The only card he had left to play, the only way he could avoid spending much of the rest of his life in jail, was to go on the dog. He said as much to the Victorian Police in early 1989, as he was trying to convince them why they should accept his word as an informer:

"now I've jerried and, you know, I don't want to end up like Darcy Dugan, walking around a cripple or, you know, doing all me life in jail. I've done half me life in jail, I don't wanna do till I'm an old man in jail, you know."

Becoming a dog was his response to an institutionalised mid-life crisis.

In July 1988 Denning had escaped from the minimum security wing of Goulburn jail, following announcements by the new state Liberal Government and new Corrective Services Minister Michael Yabsley that all life sentence prisoners would now have to serve a minimum of twenty years, rather than the previous average of about twelve. Denning had already served the best part of sixteen years in jail, apart from a nineteen month period of freedom as an escapee in 1980-81.

On his recapture in Melbourne with Russell Cox he was facing firearms and conspiracy to rob charges in Victoria, an escape charge and the balance of his life sentence in New South Wales, and at least one armed robbery charge in Queensland. All that together meant at least fifteen more years in jail. It was his fourth escape or escape attempt in New South Wales, and having committed further crimes while at large he was looking at the maximum seven years cumulative to any other sentence he might receive. The charges in Melbourne were worth at least a few years. The armed robbery of the Commonwealth Bank at Zillmere, Brisbane, which he had carried out with his fellow escapee Ray Carrion in July 1988, was worth at least another seven years minimum, for a person with a record like Denning's. And the life sentence in New South Wales was another big uncertainty. Things had rarely looked worse for him.

Then there was the matter of the outstanding $327,000 Transurety armed robbery in Queensland, committed in September 1981 with another man while he was an escapee. Although he had been arrested in Sydney with a gun stolen during that robbery and had been a convicted armed robber at large in Queensland at that time, Denning had not been charged, nor even questioned about that robbery. He told many people in prison that there was a good reason for that: he said that his friend Doreen (Dot) Bach had paid Aarne Tees to fix up a plea bargain for him, a bargain that would involve disposing of his "interstate blues".

Denning had also been a suspect for armed robberies committed in South Australia in early 1981. After a robbery in Glebe in December 1980, he travelled to Adelaide, taking with him a number of weapons: a 357 magnum pistol, a 308 rifle (full length), a sawn down 30 calibre M1 rifle, a sawn off pump-action shotgun, and a 32 'Fabrique National' pistol. In one attempted robbery, along with other two men, he had tied up the owners of a delicatessen with chains and padlocks and then waited for a security van to arrive for their usual meal; when they didn't come, Denning and the others fled. One of these other men, David, has since been convicted of this robbery, but Denning has never been charged.

Denning wrote of the deal organised by Dot to his former close friend and Prisoners Action Group activist Brett Collins in 1982:

"I would like to fight all these things (the armed robbery charges) regardless of the odds, but I have made commitments to other people plus I have interstate blues that I have been promised will be droped and my Lady Dot has put a lot of work into a deal for me that is just too good to through (sic) out the window, then if all goes as planed I will be out in about 3 or 4 years at the most. otherwise if I do not go through with the deal the boots really go in and I am in big trouble mainly interstate, so see I am really over a barrel and they know it."

When this letter was sprung on him in court some years later, Denning tried to suggest that it was a lie designed to send a wider signal to the Prisoners Action Group and Women Behind Bars that he wanted to cut his ties with them. This rather ignored the last line of his letter,

which read: "Keep this to yourself and destroy this letter mate, OK?" Denning stayed in touch with Brett Collins for many years after this. His letter was quite consistent with what he had been telling many others in jail: that Dot had paid Tees some tens of thousands of dollars (the accounts varied from 10 to 50 thousand) to organise the plea bargain in Sydney and fix up the interstate charges.

What is certain is that Tees gave highly favourable evidence for Denning in court, as he pleaded guilty to two armed robberies, possession of two unlicensed pistols, misprision of a felony and escape from custody. Tees told Judge Goran in the District Court:

"The prisoner ... has had little time at liberty during the past decade. In this time it cannot be said he is an associate of the criminal element ... At the present moment he is not involved in any activities, any clear signs of activities out of the prison system and he is acting as a normal prisoner, not causing any problems whatsoever and Mr Penning (the Maitland Gaol Superintendent) is extremely pleased at the behaviour which has been displayed by the prisoner."

Questioned further by Crown Prosecutor Schulenberg, Tees agreed that Denning had "submitted quietly" to his arrest and that, although shots were fired in both armed robberies, "no-one was hurt". In answer to a question from Judge Goran, Tees added that:

"The girl who picked up the money from the nightsafe actually ran in between the (bullet proof) glass and they were really quite safe. I do not know whether they felt safe, but they were behind the glass."

Denning complained about the ten year sentence he received, but as his friend Jim Smith told him, it was not a bad result, in all the circumstances, and would run concurrent with his life sentence. Apart from escaping the interstate charges, Denning had avoided prosecution for his part in firing several shots at a tower at Parramatta jail in November 1980. He had dumped the car used in the shooting at a friend's flat in Carlingford; then a note in his handwriting claiming responsibility for the shooting was found. However he had only been charged with "misprision of a felony" - concealing knowledge of the crime - not with direct involvement in the shooting itself. Conviction on these more substantive charges would probably have meant an additional life sentence.

Aarne Tees then took the unusual step, after the court case, of allowing Dot Bach to retrieve a boat and trailer Denning had purchased with stolen money. This boat lay in Dot's backyard at Yass for some years. It's not hard to see why Denning turned to Tees when he finally decided to go on the dog.

Back in jail in the mid-1980s Denning became more involved with heroin and other drugs, and less of the rebel he had been. But he found it hard to handle his drugs. He'd begun to get a taste for heroin while on the run in 1980-81, and had once overdosed at that time with a friend called Paul. Years later at Bathurst a close friend provided him with drugs. On one occasion five "weights" (small packets) of heroin were sent in, in the cover of a book. At Bathurst he again overdosed and passed out while holding a lit cigarette, which burnt into his side. He used amphetamines, as well as heroin, and occasionally sold small amounts, to finance his habit.

Denning Calls for Help

Sitting in the high security section of Melbourne's Pentridge Prison in late 1988 Denning must have realised that, as he would eventually be extradited to Queensland for the Zillmere robbery, the chances of the 1981 Transurety robbery case being opened against him were high. Whatever deal he had done in 1982 was not cast in iron. On his arrest in Melbourne police had recovered the sawn off rifle used in the Zillmere robbery, while the matching sawn off barrel had been recovered in a garbage bin. Further, there was video film of the robbery. He was sunk on Zillmere and in big trouble over Transurety, too.

In late September he wrote to ex-prisoner Bernie Mathews, complaining that his young girl friend Anne Denton had been blamed for his recapture: he instead blamed his fellow escapee Ray Carrion for everything. Carrion had fled Doncaster shopping centre as he saw police arrive, caught a taxi to Melbourne airport and flew back to Sydney, where he was later recaptured.

"Russell and I are only here because some CUNT who we went and got something for let us walk back into a TRAP without even trying to warn us he seen the police ... if anyone is to be judged it is that weak CUNT to say the least, NOT ANNE, ok? See that Anne gets a fair go up there."

Denning was also to later blame Carrion (who was ten years younger) for organising the Goulburn escape, and would gain an indemnity for the Zillmere robbery in exchange for giving evidence against Carrion. In his letter to Bernie Mathews he spoke briefly of the conditions he and Russell Cox were living under in Jika Jika:

"We are together for 2 hours a day and this place is hell"

He had several visits, including two from his friend Dot Bach in September and November. But they were behind glass, and he appeared rather anxious to have contact visits. He wrote to the Victorian authorities in terms he would never have used ten years earlier.

"I am writing to you to respectivily (sic) request that I be granted contact visits ... I do not intend getting involved in any political or jail activities that would cause me being classed as a management problem or a stirrer, all I ask is for a fair go whilst in Victoria and I am willing to offer the same in return. Yours respectfully, R.J. Denning"

But his request was refused.

He finally made his decision, and conveyed it through Dot, whom Aarne Tees would later describe in court as a "registered informant". Tees was called to Melbourne to see Denning in December, and Denning's first offer was information against Russell Cox. He implicated Cox in three murders, and later claimed to have helped prevent another planned murder. He seems, though, to have had trouble convincing Victorian police of his genuineness, as they told him:

"We've had some dealings with you since ... four days ago now ... and still it's hard to understand, for a lot of people, including ourselves, as to why you want to say what you're saying ... You can understand how people are very wary of why you're doing it. I mean it's

almost as like Russell Cox came in to give you up. I mean you could never picture that, and in the second breath you're tipping the bucket right on him."

Despite all his allegations, Victorian Police never used Denning as a witness against Cox.

He apparently had less trouble with Aarne Tees. Although it seems that he had not yet provided any useful information on crimes in New South Wales, Tees arranged for Denning's transfer back to his home state in record time. Denning was sentenced on 10 February 1989 in the Victorian Supreme Court by Justice McDonald to one period of five years and one of two years jail; seven days later he had left the state.

Denning arrived in Sydney on 17 February and was taken to a small jail at the old bakery within the Long Bay complex, run by Ron Woodham's Internal Investigation Unit. Woodham began questioning him about who had helped him in his 1988 escape, and Denning began telling on his closest friends and people he had approached for even the smallest favours. On 2 March he was listed as a prisoner at Long Bay's Special Purposes Prison: a high security jail for those on witness special protection. And in those last few days of February there were some other developments.

A group of seven police, headed by Tees and called the "B & T Task Force" was formed on 27 February, two days before Denning's first Hilton bomb statement of 1 March. Detective Bob Godden, from the Yagoona case, was spoken to about joining the task force as early as 20 February. Tees was to later claim that this task force was set up to investigate all the information Denning might provide. However the Hilton bombing was the only serious crime the task force pursued.

So the group of police who were to pursue Denning's statement and my prosecution, were in place before Denning had made his first statement, and before (on their story) they had any inkling that they might be investigating the Hilton bombing. How could this be?

The Hilton bombing was, however, not the B & T's only interest. Documents would later show that Tees had a very political agenda:

"There are numerous inquiries still in train in this state, the main one will relate to the Prisoners Action Group"

Denning, as a former PAG member now ready to say anything against his former friends in exchange for his freedom, was to be the centrepiece of a campaign by police to hit back at their critics from the police verbal campaign. Tees was to later tell me, in Independent Commission Against Corruption hearings, that he regarded Denning's plea of guilty in 1983 as a valuable weapon in the battle for public perceptions of the police. He also revealed his view of me in this battle:

"Tees: It was a major (blow) to your people when he pleaded. TA: What do you mean by my people? Tees: Well the anti-verbal campaign, Prisoners Action Group; you were writing that literature in those days. TA: is that how you saw it, you saw it as a political statement, did you, his plea of guilty? Tees: In part it was, yes."

By 1 March Denning had met with Tees many times, both in Melbourne and in Sydney, since deciding to become an informer. However on none of those occasions did he mention

anything about what was possibly the most notorious unsolved crime in New South Wales. This would not have been because Tees wasn't interested, or because Denning didn't think there was anything in it for him. To me, the only rational conclusion is that the statement was made on inducement or on commission, once police had Denning as an "asset".

## A Magistrate's Advice

It was an extraordinary act, by any standard, to risk a humiliating failure by arresting me solely on the uncorroborated claim of a ten year old "confession" by a person with a long criminal record. The Chief Justice later generously described the case at this stage as "fragile". A prosecution based on this alone would have gone nowhere. It's clear that, if Evan Pederick had not become the main police witness, the case would not have gone to trial.

In fact, Tees took some advice before arresting me, but not through the normal channels. He didn't go to the state's prosecuting lawyers, but to Magistrate and State Coroner Kevin Waller, who'd heard the Yagoona committal. Tees said he trusted Waller more than the prosecution lawyers, and called Waller "technically head of homicide", a strange statement, given the moves in recent years to give magistrates a judicial type standing, with independence from police.

All this was done with full knowledge of Tees' police commander and the DPP. Tees wrote to his Regional Commander on 13 April 1989 that:

"The possibility of laying murder charges against Timothy ANDERSON has been discussed with the State Coroner Mr K. Waller."

and DPP solicitor Robert Hulme noted the Waller advice in a 23 June 1989 memo to a colleague:

"Kevin Waller gave advice to Tees re the sufficiency of evidence prior to Anderson being charged (on an informal basis presumably). Consequently it is inappropriate for Waller to have anything to do with the matter requiring a determination."

Tees was at first reluctant to admit his contact with Waller, and responded this way to questions at my committal hearings:

"Q: Were you directed by anybody to charge him?

A: No the decision was mine.

Q: Were you advised by anybody?

A: No."

Like Tees, Waller was a man with a history of antagonism to the Prisoners Action Group and was known as being pro-police. Apart from hearing the 1978 Yagoona case committal, in 1982 he had dismissed charges brought by Brett Collins on behalf of the PAG against several prison officers for their part in bashing prisoners: these bashings had been admitted at the

earlier Royal Commission into Prisons and Ray Denning was one of around a dozen prisoner witnesses whose credibility was savaged by Waller:

"I was astonished that the informant produced as witnesses people like .. Ray Denning .. they have been convicted of the most heinous crimes and yet they are produced as witnesses of truth upon which reliance can be placed ... Raymond Denning ... is softly spoken and his evidence in chief was given in a moderate fashion ... (but) in cross-examination he demonstrated a bizarre attitude to life, firstly, claiming that to point a loaded .38 pistol at bank tellers or a bank customer was not an act of violence .. He apparently has no conception of the law abiding citizen who does not and could not resort to violent crime .. At other times he refused to answer questions in cross-examination despite warnings that such refusals could reflect adversely on his credit. He was an unreliable witness ... Some witnesses have told deliberate lies to my mind, in evidence. They include ... Denning"

However it seems that Waller offered few similar objections to the use of Denning against me in 1989.

The Rewards Begin

Both Denning and Tees were later to claim in court that there was "no advantage" for Denning in giving evidence against me, but this was nonsense. Following his two statements dated 1 March and 22 May 1989 against me, and following my arrest on 30 May, police cited Denning's Hilton bomb story on a number of occasions, to Denning's advantage.

By the time my trial had begun Denning had received a lenient sentence for his 1988 escape, had been granted indemnity from prosecution for two armed robberies in Queensland, and was applying for release on license from his life sentence, for all the "assistance" he'd given police.

Despite this, neither Tees nor Denning would admit that Denning was benefiting at all from his work for police. Counsel Assisting ICAC was to later comment:

"Tees' persistent refusal to acknowledge that the (Queensland) indemnity could operate as an inducement or reward occurred because Tees believed that in some way such an acknowledgment would reflect adversely upon him and the information or evidence given by Denning, the purity of which he was anxious to preserve."

At sentencing for the 1988 escape, a junior officer working with Tees, Detective Anthony DiFrancesco, gave evidence for Denning before Judge Shillington in the Sydney District Court on 21 July 1989. DiFrancesco backed Denning's claim that the escape had been a "spur of the moment" thing, and made no mention of Denning's involvement in the Zillmere armed robbery. This was highly unusual, as police usually give an account of any crimes committed by an escapee, and this is taken into account at sentencing: someone who has committed further crimes as an escapee is likely to receive a longer sentence for the escape.

Tees and DiFrancesco later made the extraordinary claim that, as Denning had only confessed to the Zillmere robbery in a "privileged" statement, they therefore had "no evidence" and "no

proof" that Denning committed the robbery. When pressed Tees said this meant no "admissible" evidence. Denning's 13 March 1989 statement began with the words:

"I am making this statement on the understanding that I will be granted immunity from prosecution in respect to any matter or matters where I incriminate myself"

This statement was made more than a year before he was granted the indemnity; and it could not have been within the power of Tees to offer an indemnity in NSW, let alone Queensland. More importantly, Denning had already admitted his involvement in the Zillmere robbery in an earlier statement of 2 March 1989, and this was a formal statement which could have been used against him. Tees and DiFrancesco's story did not hold up. They were out to get as good a deal for Denning as they could, and if this meant withholding information from the court, they'd do that too.

Had Judge Shillington known of this robbery, Denning's sentence may have been more substantial. Denning was sentenced to five years jail for his 1980 escape; the 1988 one cost two and a half. Apart from concealing the Queensland robbery and supporting the "spur of the moment" story, Difrancesco praised Denning's "cooperation" with police. He told the court:

"much of the (Victorian) information from the man Denning has been corroborated by other independent evidence. Since his return to New South Wales, Denning has continued to cooperate with police both in this state and in Victoria. He has also cooperated with the prison authorities. As a direct result of information supplied by Denning we were able to make arrests in the Hilton bombing"

Denning was benefiting from his Hilton information before it was tested in court.

Corrective Services security chief Ron Woodham also gave evidence for Denning before Shillington. He answered Crown Prosecutor Lannen's questions this way:

A: "He is very cooperative and I would describe the transition as a very passive attitude towards prison officers in the system."

Q: "In your opinion has Mr Denning shown a complete reversal of his attitude to society?"

A: "Absolutely."

Q: In your opinion do you believe that this change of attitude by Mr Denning is a long lasting attitude?"

A: "Yes I do."

Securing the Queensland indemnity for Denning involved a similar coordinated effort, and an effort that was sensitive to the public attacks on the entire police case. After Denning had given evidence in my committal proceedings in September 1989, he was criticised publicly for refusing to answer questions. Denning had been presenting himself as someone who now supported "justice for all", and who would tell all. CEFTA's October 1989 newsletter reported:

"Denning refused, on 17 occasions, to answer questions on the grounds that his answers might incriminate him. This didn't tally well with his claim to have "turned over a new leaf" and to be fully cooperating with police. It seems he's only willing to "help" with the crimes of others. In particular, he didn't want to account for money in excess of that obtained in the robberies of which he was convicted, nor for when and where he had weapons."

In November Tees wrote this to his Queensland colleague, Inspector Ron Pickering (capitals by Tees):

"In reply to a large number of questions he refused to answer on the grounds that he would incriminate himself. IF HE IS GRANTED IMMUNITY CONCERNING THE RAILWAY ROBBERY (of 1981) HE WILL BE ABLE TO SAY THAT HE OBTAINED HIS FUNDS FROM THAT ROBBERY. The same situation applies to the Zillmere robbery .. It is of vital importance to us that Denning be granted an immunity in Queensland in respect to the offences he committed up there. His continued cooperation both in this state and in Victoria is essential if we are to succeed in convicting persons such as Anderson .. and others".

In February 1990 Pickering presented a long document to his Superintendent, arguing for the indemnity by detailing a catalogue of "assistance" Denning was able to provide Queensland Police. This was mainly evidence against Russell Cox, for a series of robberies, mostly in the early 1980s. Pickering described these robberies in great detail, pointing out that Denning's was virtually the only evidence against Cox for most of them, but claiming that Denning's information was accurate and reliable.

However Denning's information on many of these Queensland robberies was unusual. He claimed Cox had "admitted" the robberies and Pickering reported that Denning's ability to tell of such details as the description of cars, buildings and getaway routes from the robbery showed that Denning was reliable and corroborated. Yet it seems more likely that these details would be remembered by observation. Several of the robberies had been committed while Denning was an escapee, and the "railway robbery" of Transurety armed guards, in September 1981, by no means accounted for the money he had spent during his period as an escapee from April 1980 to November 1981. It seemed that Denning was trying to off-load onto Cox some of the robberies he himself committed in 1980-81.

There was also a political dimension to Pickering's report: Denning's usefulness to police against the Prisoners Action Group was once again raised:

"(Denning) was also being utilised as a martyr by groups called "Prisoners Action group" and "Women Behind Bars" in a campaign against Police and Authority in general. These two [2] groups endeavour to discredit the Police with use of the criminal's catch cry of "Police Verbal". Denning, at first, was a party to the groups' goals and objectives .. (but) has since decided to assist the police and expose the wrong doings of the two [2] groups."

In this application for an indemnity, Pickering was playing on Denning's value to old-school police in their attempts to deny the habitual (as opposed to occasional) verballing and fabrication, since admitted in Queensland by ex-cop Jack Herbert and in NSW by ex-cop Roger Rogerson. But the Hilton bombing was the big one Denning was said to be able to deliver, and even though this was a NSW matter, it apparently had force in Queensland as well. Pickering's 33 page report concluded:

"The value of Denning as a witness in the committal proceedings and the forthcoming trial of Timothy Edward ANDERSON in the case which has become known as the "HILTON BOMBING CASE" is, in my opinion, a primary consideration. The case has received considerable publicity both in the Australian and international media, and alone could be considered sufficient evidence to support an application for indemnity from prosecution."

Pickering's arguments, fed by information from Tees, were eventually successful. Director of Public Prosecutions officer Tom Wakefield supported the indemnity claim, and again use was made of Denning's allegedly valuable Hilton bomb information:

"Denning provided information which led to the arrest of one Timothy Edward Anderson on charges arising out of planting of a bomb outside the Hilton hotel at Sydney ... Denning will be an important witness against Anderson."

Apparently unaware, or misinformed about, the efforts to secure Denning's early release from jail, Wakefield also suggested that Denning still had many years to serve:

"In view of sentences already imposed on Denning, it would appear there is no good purpose to be served in prosecuting him further."

Queensland Attorney general Dean Wells apparently needed some convincing, as there was a one month delay between Wakefield's recommendation and the signing of the indemnity on 2 June 1990. In that period Tees provided a further report, at Pickering's request, which mainly dealt with Denning's anticipated release date. Tees reported:

"Presently I am unable to say when Raymond John Denning will be released from custody, however I cannot see this occurring in the near future."

The indemnity was eventually granted, two months before my trial began, on the condition that Denning:

"shall appear and give evidence in court wherever and whenever required by a prosecuting authority (of Queensland)"

There was an unusual oversight in this: a formal condition of an indemnity is usually that a witness gives "truthful" evidence for the prosecution. When the document became public and this anomaly was pointed out, the Queensland Attorney General said that the condition had been amended to include this.

This indemnity caused controversy within the Queensland police. There were those who believed that Denning was untrustworthy, and that they had enough to convict him and his co-accused (against whom he had agreed to give evidence) in any case. Why should they give Denning a "free kick" in Queensland?

As it turned out, Tees and Denning got what they wanted: Denning could go into my trial, admit his two best-known but unprosecuted robberies, and have no fear of further charges. And the greatest obstacles to Denning's release from jail - Queensland charges that could have cost him another ten years - were removed.

Denning then had to negotiate his way out of the life sentence imposed in NSW, for bashing prison officer Willy Faber. During the anti-verbal campaigns of the late 1970s and early 1980s, Denning claimed that he had also been convicted on fabricated evidence; and there was forensic evidence that the unsigned confession used against him was not what it appeared.

However this was an old sentence and he had already served many years of it. After he became an informer Denning maintained he'd been verballed on this charge, but would do nothing more to challenge the conviction. But although he had served many years since 1974, his escape and re-offending, and the indeterminate nature of "life" sentences" meant it was still a major problem. Since the imposition of new sentencing laws in 1989-90, all "lifers" had to apply to the Supreme Court to have their sentences redefined. Release on license was abolished; most lifers were being resentenced to long but finite terms. The average "life" term was a little under 12 years, but there was no guarantee that 20 years or even "natural life" would not be imposed.

At first unaware of the change in the law, Denning wrote two jail applications in late 1989 seeking release on license. These didn't exactly underplay the assistance he claimed to have given police, nor was he shy about the special treatment he believed he should be getting:

"I am involved in a total of eleven murders, 3 being police one being a security guard, pluss international drug importation and armed robbies (sic) these cases are in three different states plus I am and have helped with investigations involving the NSW Corrective Services Department. Yet I ask for a use of a video to keep up to date with investigations that are on going and am told no because the Governor Mr Farrell thinks that I might happen to get some benefit out of it for myself."

Denning was informed that he would have to apply for resentencing, and he got his solicitor, Denis Mockler, hired by Dot Bach, to work on this. he was to get his hearing before Justice Wood in April 1991, after my trial was over.

## The Verbal

Denning did very well from his little verbal, and it was a simple matter, once he'd set his mind to it. After all, he knew very well how police put a verbal together. "Anyone can say anything about anybody", he'd later acknowledge at ICAC. It was little more than him finding an opportunity, then claiming I'd said "I done it". The basics of the verbal were set down in his statement dated 1 March 1989, then revised and added to in the second statement of 22 May, the added to again at court.

The first part was set in 13 Wing at Long Bay's Remand Centre on 18 March 1979, through the unique medium of the "phone": communication through emptied toilet pipes. We had in fact communicated this way, because Denning had been in segregation and unable to have normal contact. The first verbal ran as follows:

"Tim said `We might go under on this charge because of the verbal but the main thing is that we won't go under on the Hilton.' I said `Are you talking about the Hilton bombing?' He said

`Yes, I and some others done it but one of them has got a good alibi so I won't go under on that.' He then said `I put the bomb there to free our leader Baba, to get him out of gaol"

Context, confession and motive, all neatly together. Curious though that I would have been so unconcerned about the "conspiracy" charges, which carried a life sentence. And in fact, I didn't at all expect to be convicted on these charges.

In his second statement of 22 May he added an earlier section to this first verbal, after discovering from the original manuscript of his diary (provided by Tees) that there had been an opportunity earlier that day to speak to 'normal discipline' prisoners at a wire grill separating the segregation section from the rest of 13 Wing. His diary does not, however, refer to any of this alleged "conversation". Before the toilet pipe conversation, then, he adds this "conversation" at the grill:

"He told me that he had been set up on the Cameron charge. He said other things about it as well. He also said, "The placard era finished during the Vietnam War, and it is time to get fair dinkum. Like we did at the Hilton. It did more for our cause than any placards."

The second part of his verbal was an attempt at self-corroboration, set at Long Bay's Central Industrial Prison (now called the Reception Prison) and went:

"Tim said `See what I told you years ago turned out to be right. We even look like beating this one and we've still got no problems with the Hilton'. He then said he was going to the MTC (Long Bay's minimum security prison)."

And in fact at that time the inquiry into the Yagoona case, which would lead to our pardons, was beginning. There was a major revision to this second part of his story in the statement of 22 May: a shifting of the verbal from the CIP to Parklea Prison.

On 28 March and 15 May one of Tees' team, Detective Barnett, had checked the jail movement records not only of myself and Denning, but also of Ross Dunn and Paul Alister. One of these checks was on the Superintendent's request book at the Remand Centre. Why were they also looking at Dunn and Alister's movements? Was there a plan to again implicate them, as Seary had done? Denning had not mentioned them in his 1 March statement. In any case, Tees informed Denning that the CIP conversation was not possible, as jail records showed we had not been in that prison together. He also helpfully suggested that Parklea might be a better bet. Police had prepared charts of my and Denning's movements, indicating that the only time Denning and I were in the same jail in 1984 (or anytime in the 1980s, for that matter) was at Parklea on 28 June. The charts showed Denning arriving at Parklea on 28 June, and me departing on 29 June.

In evidence, Denning and Tees gave quite different accounts of how the change of jails in Denning's statements was brought about. Tees denied that he had showed Denning the police-prepared charts of Denning and my jail movements; Denning denied that Tees had suggested Parklea to him. However Tees admitted suggesting Parklea and Denning admitted having seen the charts. Between the two, they made fairly clear what had happened.

When it came to court, the conversation at the grill had been dovetailed in and Parklea was the venue for the second part of the verbal. And Denning, with his apparent naivety and earthy charm, once again gave the lie to the legal adage that a witnesses honesty can be

determined by his or her demeanour. The image was shattered only briefly at my committal hearing when, as Denning had finished a session's evidence, another former friend of his plonked a large, meaty bone on the front railing of the court and called out "You forgot your lunch Denning!" The court had been under heavy security, including metal detectors, but when questioned about the bone in a bag, the man told police at the door "it's for me dog". This was the person who had first introduced me to Denning at the Remand Centre, over the "phone", in 1979.

A fatal flaw in Denning's verbal emerged later on; but just as my defence lawyers kept it secret till my trial, so I'll leave it till the chapter on my trial.

Even before my arrest on 30 May, Tees and his gang knew that Denning had a record of dishonesty and that his statement was old, uncorroborated and seriously inconsistent. They knew Denning was receiving considerable inducements for his helping police. They had nothing else of significance against me. It was plain, and Magistrate Derrick Hand said as much at the committal proceedings, that the case would not have gone to trial on Denning's evidence alone. How then could they possibly have launched such a major prosecution, and faced certain humiliation, if that is all they had? It will take a lot to convince me that the police didn't know that their main witness was just around the corner.

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## 9. THE PEDERICK STORY

Just hours after my arrest on May 30 1989, Evan Pederick, a Brisbane public servant who had been an Ananda Marga member in the late 1970s, sought out a Catholic priest and told him that he was the Hilton bomber. The priest, Father Jim Brown, passed Pederick on to two Brisbane cops, Bourke and Leahy. They taped his story, letting him give a detailed account over some three and a half hours; then they drove him home. Neither Brown nor Bourke and Leahy believed Pederick's story. Pederick would later complain to Tees: "they hardly believed my name".

Pederick had prepared a letter of resignation from his job at the Department of Social Security, and handed it to Jim Brown. But at the end of his interview, the man who had just confessed to a triple murder asked the Brisbane cops if he could go back to work:

"I don't want to give up my job, I've got a good job and I'm good at it. I don't have a death wish, you know, whatever, I'm not gunna do a runner on ya .. if you don't want to keep me in custody, I'll tell (Jim Brown) not to give that letter"

However the next morning they collected Pederick from his home and passed him over to the NSW team led by Aarne Tees and, despite Pederick telling them some things that didn't fit the official story, Tees claims to have been struck by his credibility. A number of major changes were made to his story, but Tees was later to say that Pederick got his story right "eventually".

Pederick told police that, at my instigation and after several conspiratorial meetings, he'd attempted to murder the Indian Prime Minister with a remote control bomb, as he arrived at the George Street entrance of the Hilton hotel, but that the bomb didn't work, so he fled back to Brisbane. He claimed to have said nothing about the matter for eleven years. At court in Brisbane, after he'd been charged by Tees' team, one of the Queensland detectives asked Pederick's former wife Carmel Cross, "Does he do this sort of thing often?"

"Intense, very private"

In fact, Evan Pederick rarely let others know what he was doing. I only met him a few times in 1977 and 1978. He was an intelligent and intense, yet very private and withdrawn person, much the same as he appeared more than a decade later. A fellow public servant who worked with him in early 1989 described him this way:

"He was very intelligent and very meticulous and thorough. He worked on his own .. very quiet and fairly intense, very private .. so conscientious and a 'mild mannered clerk' .. he wore a tie when he didn't have to .. There was a guy in the section who was a bit suspicious of Pederick because he was so straight .. He said that his mother was helping him bring up the children." (statement of Neil Burton)

His marriage had actually broken up three years earlier, he was divorced in June 1987 and his ex-wife had custody of their twin sons. He had access to the children, but his mother lived in Perth. Giving this false twist to his personal history might have been unremarkable, if it were the only one. Another story he repeatedly told Carmel was that, when he was younger, he'd missed out on the draft "by one day": but this was impossible, as he was too young, being only 17 when conscription ended in 1972.

Evan Pederick had grown up in Perth, and had dropped out of a university science degree in the middle of his final year, after achieving high grades in mathematics and physics. He gave the reason for this as "disillusionment", and later said the decision had been catalysed by a car accident in which he'd been hit by a car driven by a pregnant woman which went through a red light. His car had rolled over several times but he was unhurt. He said this incident shocked him and led him to question the value of his life. Attracted to eastern philosophy, he joined Ananda Marga in Hobart in 1976 and in 1977-78 became a full-time worker for the group in Brisbane.

While in Brisbane he worked with another young man "David" (not his real name), who later said of Pederick

"He was generally a serious and introverted person, but we nevertheless became good friends".

Others recalled him in 1977 and 1978 as "withdrawn" and "secretive", although Carmel believes that he became secretive later, in the mid 1980s, as their marriage broke up. Another margii friend, Simon, remembers him as a particularly zealous margii:

"He was filled with high ideals .. He would meditate regularly four times a day .. I respected him a lot. I found him sensitive and gentle .. He was really into the organisation. I think if he thought it was a good cause he would do it. I don't know if he would be prepared to be violent though .. he wasn't the type of guy I would ask people around to meet. He was a bit strange."

While doing the normal work of teaching meditation and yoga, and helping to set up Ananda Marga social service projects, Pederick got involved in the street march protests of late 1977. He was arrested at one march for taking part in an "unlawful procession", and was also charged with writing on the walls of the police cells. A police Inspector saw him write the words "How can we tell you except by ..", with a black felt pen. He was fined and ordered to pay $50 compensation.

He was also involved in the Ananda Marga efforts to secure the release of its leader from jail. In late 1977 he wrote letters to the Brisbane papers, to Amnesty International in London and to various Indian politicians, including the then Prime Minister, Morarji Desai.

He came down to Sydney with Carmel in January 1978 for the biannual margii conference. They'd planned to get married at the conference, but she decided to attend a margii training session in Melbourne, and so their wedding was postponed. He appears to have been upset by this, at one stage ringing his mother to get an air ticket to fly back to Perth; however he changed his mind and returned to the Queensland: first to the Ananda Marga country property near Stanthorpe, then back to Brisbane. Sometime in mid 1978 he decided he wanted to become a monk, and wrote to Carmel calling off their planned marriage. They got together again in late 1978 and were eventually married in mid-1979

In Brisbane in early 1978, with David, he indulged in some margii graffiti one night, and was sprung by local police. David recalled:

"We had parked our bicycles and were just spraying the same slogan - "fight for justice, meditate for peace" - when a police car appeared around the corner. I tried to appear nonchalant and put my spray can in a rubbish tin. Evan, who was across the road, was picked up by the police and they drove over to me and asked what I was doing .. one of the officers asked me how come I had orange paint on my hand, the same colour as the spray can .. He and his companion refused to tell me any charge and physically forced me to get into the back of the car. They then drove off and asked where we had done the wall writing as they knew we had done some somewhere. Evan totally ignored their questions throughout and I simply said I had nothing to say until I could speak to a lawyer .. they drove us back to their headquarters driving right past but not noticing the biggest slogan we'd painted which was on the newly constructed police headquarters wall .. they separated us for interrogation, for about two hours .. they said they'd release us both if I only told them which store I'd bought the paint at. I told them and they released us at about 6am. Evan told me that he'd maintained his stony silence throughout, despite repeated threats of violence to make him talk. We returned home without the police even finding out our names."

David and Evan Pederick continued to work closely together for some months, but despite this closeness two incidents showed David that his companion was a strange and secretive person. These incidents were especially curious in view of Pederick's later story about the Hilton bombing, which he said was an isolated incident, which came from out of the blue, and which he regretted ever since.

First, in April 1978, Evan showed David a newspaper clipping describing how a small parcel of explosives had been found on the doorstep of a young Indian man in Brisbane. This man was said to be related to an Indian Government official. Evan said he had "planted" the explosives to cast some sort of suspicion on the young Indian man. He said it was his own idea and he'd done it alone. David never saw any evidence to confirm this. Then about a month later, he told David he'd obtained a passport in a false name; he'd done this by searching a cemetery for the name of a young boy who'd died in childhood, then obtaining that dead boy's birth certificate. David never saw the passport, and he found both incidents highly unusual:

"In both the above instances he seemed to derive some considerable satisfaction and delight simply from deceiving the authorities .. I was his closest friend at the time and it struck me as odd that he never discussed his plans with me or sought my assistance, and only told me what he had done after the fact; as if only to boast in a mild fashion."

In 1989, Pederick told Queensland and NSW police that apart from the Hilton bombing he had been involved in only one other incident involving explosives. This involved the Iranian embassy. He didn't mention the Brisbane incident or the false passport, but spoke of a conversation he claims to have had with another young margii in Canberra, later in the year. It was at about the time of the Iranian revolution, in late 1978, and Pederick claims they discussed bombing the Iranian Embassy. There was never any support for this story and, in the event, nothing happened.

Nor did he tell police of an even more fantastic story he'd related to a different friend at that time in Canberra: a fantasy about flying a "kamikaze plane" into the Parliament House building in Canberra. This became the subject of a short story he wrote, but later burnt. Again, nothing of the sort ever happened. On the contrary, on 11 December 1978 he joined the public service, becoming a Clerk Class 1 in the Department of Foreign Affairs. This was unusual, as margiis at that time (some months after the Yagoona case arrests) were subject to heavy surveillance, and entry to Foreign Affairs required some level of security clearance.

Pederick's story in 1989-90 suggested that his remorse over the Hilton bombing led him to cut all ties with the margiis in late 1979 or early 1980. However Queensland Special Branch files painted a different picture: they had Pederick going to a Brisbane jeweller in 1982 to have two medallions made, for him and Carmel, bearing the margii logo. He still had this medallion in 1989. The meaning of this is unclear, as by this time he was certainly becoming hostile to Ananda Marga.

Police records at about this time also showed that his daydreams in Canberra had not completely disappeared: he'd applied to join the Royal Australian Air Force. He told Carmel he hoped to become a fighter pilot. However his application was refused, and he continued with his job in the Brisbane public service.

Were these various stories the indications of a secret 'Walter Mitty' like fantasy life? On the surface he was very close to the same serious, intelligent but very introverted character he appeared more than a decade later, as a middle-ranking public servant and conservative Christian.

In 1983 he and his wife moved into the top floor of the house that was serving as the Brisbane Ananda Marga centre. The bottom floor was paid for by Ananda Marga, the top by Pederick and his wife. At some stage a dispute arose over tenancy, and Pederick denied access to the local meditation teacher; he entered the house, Pederick called the police and had him arrested. Other margiis were horrified at the way this confrontation was handled. After this, at least, he had little contact with Ananda Marga.

"Seriously burdened with guilt"

From the moment Evan Pederick not only confessed, but also implicated me in his story, he became the main police witness against me, with Denning his "corroboration". From the beginning and right through my trial, the prosecution presented him as a witness who had nothing to gain or hope for, and that therefore his motivation was untarnished. "Why would he implicate himself, and face many years in jail, if the story weren't true?" was the prosecution's most effective argument. Much was also made of his re-conversion to Christianity, by contrast to his youthful involvement in the Indian-based Ananda Marga. Explaining how I could have been responsible for things he said he did, Pederick claimed I had some sort of charismatic or mesmeric hold over him.

The argument about his motivation was a powerful one. At first I suspected he may been involved in the bombing. Only as I obtained his statements and saw how his story developed did the doubts begin.

At about lunchtime on the day of my arrest, Evan Pederick unexpectedly phoned his ex-wife, Carmel Cross, to talk about a number of things including the My Lai massacre. The previous night there had been a Four Corners TV program on this 1969 US Army massacre of Vietnamese civilians, and the program was being re-run at that time. Later that night he came to her house, just as she was watching television news coverage of my arrest. "Isn't that terrible" she said to him, but he appeared unconcerned at this and didn't respond. On the other hand he appeared agitated, and said he was anxious to talk to a Catholic priest, although he had been brought up in a Methodist family and had more recently become a practising Anglican. He wouldn't tell Carmel the reason for this, but would later make the following portentous and rather pompous claim in the magistrate's court:

"No priest of the Anglican church had the spiritual fibre to deal with my confession"

Carmel tried to contact a priest she knew, but as he was not in, referred her ex-husband to father Jim Brown, of St Ida's in Gladstone Road. In an enigmatic gesture, he then gave her a torn up photo of the Ananda Marga leader, whom he had disowned many years ago, the keys to his house and (unusually) a hug. "I am really sorry about everything", he said, without explaining anything.

Father Jim Brown penned a letter soon after speaking with Pederick and handing him over to the Queensland Police. In it he summed up his feelings about the story Pederick had come forward to tell:

"My immediate reaction was not to believe he had been involved. It was my feeling that this person was seriously burdened with guilt. But it was also my conjecture that he had taken upon himself the guilt associated with the bombing, possibly because he had taken an interest in the case, and become so immersed in it as to somehow become part of the bombing. I ventured this opinion to the other priest resident in the presbytery, and later when contacting the police by phone; then face to face with the detectives ventured the same opinion. This was still very much my mind even after Evan had given me his full account of the story."

Jim Brown's assessment must have been reinforced by the actions of Brisbane cops Bourke and Leahy. At 1.09am after more than three hours of interviews they drove Pederick to his home in Markwell Street, Auchenflower. Disturbed people often confess to sensational crimes, when there is a lot of publicity; police instructions urge officers to be wary of such cases. But Brown's belief was shaken when, in the following days, Pederick was extradited to NSW and his story began to be processed through the courts.

Pederick was later to complain to NSW police that their Queensland counterparts "hardly believed my name" but, as with Denning and the doubts of Victorian Police, Tees had no such problems. Detective Bourke returned to Pederick's house to pick him up at about 6.30 that morning, at the request of NSW police. He can't have had much sleep that night, as he told Bourke "I've given it a lot of thought" and that "my parents can verify I was in Sydney at the time". Pederick then waited at the Brisbane CIB all morning, while Tees and Godden flew north; and while he waited, he constructed a time line and began to alter his story, particularly his story about me.

On arrival, Tees was briefed by Bourke, and then began a series of interviews: first a taped interview, then a long typewritten record of interview, which was later read back onto tape and signed. Later that evening Carmel managed to see Evan, who appeared "very upset" and

asked her to organise a name change, for the children. Just after 10pm that night Bourke finally arrested Pederick on a provisional warrant. Two days later, Tees allowed young Constable Shaunagh Cassidy to execute an original warrant for murder, and extradite Pederick from the Brisbane Magistrate's Court to NSW.

## The Pederick statements

In the days after Pederick's arrest I was anxious to discover what he was actually saying. My Legal Aid Commission solicitor, Angela Avouris, made some inquiries in Queensland and was informed that we could have a full copy of the Pederick interviews from a Queensland police officer for only $1000: a cheeky request in post-Fitzgerald Inquiry Queensland, where there was an anti-corruption drive. In any case, the statements were to be provided through the courts within a few weeks.

While many things changed in Pederick's story, a few basics remained the same: I was said to have recruited him to kill the Indian Prime Minister at a margii retreat in the northern suburbs of Sydney, in January 1978. I was then meant to have given him a suitcase full of explosives and told him to go away and find out how to use them to make a bomb. Finally, after another two or more meetings in which he says he constantly needed encouragement to go on with the business, I was said to have actually driven him in a taxi to the hotel, where he claims to have placed a bomb "wrapped up like fish and chips" in the garbage bin directly outside the George Street entrance.

It was the "fish and chips" that first rang warning bells. Seary's fabricated story of Ross Dunn "confessing" to having placed a bomb which was also "wrapped up like fish and chips" was just too much of a coincidence. And Seary's story had been widely reported in the newspapers. In his first interview Pederick told police he had been "naive and very disturbed" when he was in Ananda Marga, but now wanted to "work with you" to make the details of his story "better". He was later to tell a psychiatrist that Ananda Marga was "evil .. sick .. fascist" and that "meditation was dangerous". He also told Jim Brown that he "hated" me.

The next thing that struck me was Pederick's description of the bin. Central to his story was that he waited across the road for several hours, before seeing Indian Prime Minister Desai arrive and be greeted by Australian Prime Minister Fraser. Then, he said, he attempted to detonate the bomb by a remote control device. In these circumstances I imagined Pederick would have had a searing impression of the bin, and what it looked like; but he didn't have a clue.

Queensland Police asked him:

"Q: What sort of rubbish bin was it?"

A: I think it was one of those ones that had a flap at the bottom so they can empty it out from the bottom.

Q: What size are you talking about?

A: Ah possibly ah it was on a post off the ground .."

He went on to change this description, as he incorporated into his story the claim that he saw someone sitting on the bin. In fact several people had sat on the bin that exploded, and this had also been reported in the newspapers of that time. The bins then were placed in hexagonal concrete stands; but in 1988-89, when Pederick visited Sydney as part of his work in the public service, the bin outside the Hilton hotel had been replaced by a green metal bin-stand, on a post off the ground.

Not only that, there was no longer a bin at the site of the one that exploded; there was a memorial plaque, but even this was not quite in the same spot, being some four metres south of the old bin site. The bin on a post outside the Hilton hotel is now outside the Florsheim shop, on the north side of the George Street entrance to the hotel. The bin that exploded was several metres to the south side. Yet when Queensland police asked him where the bin was, Pederick replied:

The bin was almost exactly outside the Hilton hotel, very close to the Florsheim shop"

When Pederick came to Sydney, police took him to the hotel and showed him the site of the memorial plaque, to the south. The "Florsheim bin" error then disappeared from his story, but he wrongly took the site of the plaque as the site of the old bin.

As he waited for Tees to arrive in Brisbane, Pederick constructed a time line, and revised his story of meetings with me. He at first told Queensland police he'd been recruited by me at Ananda Marga's January 1978 retreat, had booked into an inner city boarding house, met me "once at I think it was a local university or teachers college" and had then gone to Narrabeen for a week and a half to wait before the bombing. After he'd drawn his time line he changed his time in Narrabeen to three days and added more meetings with me at Sydney University. In a September 1989 interview with prosecutor Mark Tedeschi, Pederick claimed there had been three meetings at Sydney University, and that I had "insisted" on the middle one. In evidence he omitted all reference to this middle meeting, and settled on two meetings at the university. Later still he would add conversations to these meetings, including a story about discussing his false passport with me.

He'd told Queensland police he'd made a remote control bomb using 50 sticks of gelignite and a toy car controller, had been driven by me in a "Yellow Cab" to the hotel and had planted the bomb an empty bin outside the Hilton hotel at about "six on that (Saturday) evening". He claimed he had a disguise of derelict clothing and a "false moustache", which however he soon threw away, and that he'd left the remaining 150 sticks of gelignite in a battered suitcase in a locker (to which I'd supposedly given him the key) at Macquarie University. He had then attempted to detonate this bomb as the Indian Prime Minister arrived at the George Street entrance to the Hilton in mid afternoon on the Sunday.

By the time his story got to trial, every one of these elements of his story had changed; and the major changes began when Aarne Tees arrived in Queensland.

## Getting the story right

From the second Yagoona trial and the 1982 Hilton bombing inquest, it was known that I'd driven a taxi on the Saturday prior to the bombing. Another taxi driver had told police he'd seen me soon after midnight in George Street with a passenger, who'd got out of the cab and looked down the street. Though it amounted to nothing in itself, police had twice publicly tried to use this evidence against me. Pederick now claimed he was that passenger, and that this was when he placed the bomb. This could have been important potential corroboration for his story that I'd helped him place a bomb.

However while I'd driven a taxi that day, I had never driven a "Yellow Cab". In fact they didn't exist in Sydney then, but did in Brisbane. Pederick made no mention of getting out of the taxi, and his time was seven hours earlier in the day. After discussions with Tees, which were recorded, Pederick dropped the "Yellow Cab" idea and helpfully changed his times:

Tees: When you say the 11th when you were driving around, was it before or after midnight on the 11th? Could have been after midnight which has buggered the 12th?

Pederick: Yeah look I told the guys last night that it was early evening, it was only sort of seven or eight but after thinking about that I'm not sure, it could have been later because in fact my recollection is that there were very few people on the streets.

Tees: Yeah but see Saturday's the 11th and it comes midnight and suddenly it's Sunday the 12th see? So you could have started before midnight and gone till after midnight?

Pederick: Yeah it could have been, yeah I'll think about that some more .. it might have been later in the evening."

In a later signed record of interview he accepted a suggestion from Tees that it could have been as late as 1am.

He was not so quick to take the hint about getting out of the car and looking down the street:

Tees: Did you stop anywhere and have a look at the thing when you were in the cab?

Pederick: At what thing?

Tees: You know the ..

Pederick: The hotel?

Tees: did you stop the taxi and actually ..

Pederick: No, no.

Tees: get out?

Pederick: But we drove past a couple, or once or twice.

But in the magistrate's court he reversed this. He said a police officer had later told him to rethink his story on the matter:

One of the police asked me the question again, did the taxi stop at any point and I believe (he) said "this is very important", and I thought about it some more.

It was after this that he "discovered a recollection" that he had got out of the cab and looked down the street. He went on to describe this alleged incident in more detail than anything else that day. This as much as anything else showed that Pederick was fabricating his story with police help.

However there was one feature of the taxi driver's statement which Pederick could never adapt to. The passenger had been described as having long unkempt hair: collar to shoulder length hair. Photographs of Pederick in January showed him with very short hair, and he confirmed this.

The size of the bomb also changed very rapidly, with more than a little prompting:

Pederick: .. and together with fifty sticks of gelignite I'd either be killed or I'd be severely injured and I thought ..

Tees: Fifty, wouldn't be fifty, would have been fifteen?

Pederick: It wasn't fifteen, fifty's in my head.

Tees: You couldn't fit fifty in the bin.

Pederick: There was more, more than fifteen, much more than fifteen. They're the size of candles, about that long, you know what they're like, about that wide.

Tees: Mmm.

Pederick: Would have been three lots about that wide taped up, so there'd probably be three times, probably only about twenty, don't know why I had fifty in me head.

In court, Pederick revised this back up to thirty sticks, comprising a package over two feet long: a very big package of "fish and chips".

Tees and Godden had to remind Pederick that the bomb had exploded in George Street, after he said it happened in Pitt Street. However they were apparently so impressed by him that they accepted his account of the Indian Prime Minister arriving in George Street, when police records said he arrived in Pitt Street. They also told Pederick there had been a demonstration against New Zealand Prime Minister Muldoon, and left him with the wrong impression that this had been in the morning; after this Pederick gave detailed but false evidence of a demonstration outside the hotel in the morning. When Queensland police had asked him to describe his detonators, he suggested they had black and red wires; after NSW police showed him some he was able to give correct evidence that electrical detonators had yellow wires.

Police had no support for Pederick's account of leaving a battered suitcase containing at least 150 sticks of explosives at Macquarie University (I had been a student at Macquarie University since 1984). However a black vinyl bag containing 50 sticks of gelignite had been found at the University of New South Wales in 1981. Importantly, this bag contained newspaper dated a few days before the Hilton bombing. The finding of this bag had been

mentioned at the Section 475 inquiry into the Yagoona case, and some documents about it released. There had been an unsuccessful attempt by special branch to link the bag to the margiis.

In his efforts to be believed, Pederick was to adopt this bag as his own. The first hours of taped police interviews reveal no mention of any newspaper in the suitcase. It first appears in the typed interview with Tees. The taped interview with Tees shows the change in universities occurring:

Pederick: Locker key, Macquarie University, not Sydney University, Macquarie University.

Tees: You sure it wasn't New South Wales?

Pederick: Ah Macquarie's in my head, I'm not gunna swear to it but I've just got it in my head that it was Macquarie University .. All I can be certain about it wasn't Sydney University ..

Tees: Well it could have been a university other than Macquarie, that's what we're getting at ..

Pederick was to later agree to New South Wales University, and when he was taken out there by police, made an unsuccessful attempt to identify the locker room. The change from suitcase to black bag was not smooth, either.

Tees: Just on the locker Evan, you swear it was a suitcase and wasn't a zipper type bag?

Pederick: I was carrying them around in a suitcase.

Tees: In a suitcase.

Pederick: I'm trying to recall whether I swapped the suitcase for some other container when I placed it in the locker, I'll take that one on board too please.

When showed a photograph of the black bag, in Sydney, he said:

Pederick: I don't recognise this bag ah, I did not place the gelignite in the locker in this bag.

But later that same day he told police:

Pederick: This morning when I looked at this photograph I said it wasn't familiar to me. I gave it some more thought when I returned to my cell afterwards and I do now recall having purchased the bag for the purpose of putting gelignite in the locker. The purpose, from my memory, being that the locker would not have been big enough for the suitcase, this was on Anderson's advice. My memory of buying the bag is that it was a, had the appearance of being a good quality black vinyl bag, fairly heavy duty black vinyl bag ah from memory it cost me twenty to thirty dollars, this was in 1978, so it's a reasonably good ah bag and ah the photograph here in front of me now, now does appear familiar.

Some of the things that Pederick at first denied any knowledge of were to become the most detailed parts of his story. This showed a special talent for invention. And at the root of these fabrications, often explaining the incongruities of his story, was a role for me.

Tees was busy feeding Pederick details both about the bombing and about me. Pederick said that after the bombing he'd next seen me in Sydney in July or August 1978, and that then I'd told him that I'd made the warning call to police. Tees reminded him that I was in jail then.

Pederick: I next saw him in Sydney, and it would have been either July or August 1978 .. and we had a brief conversation at the time.

Tees: July or August 1978?

Pederick: Yeah, July or August, I think.

Tees: Could it have been before?

Pederick: Could have, I wouldn't swear to it but that's my recollection, I tried to piece things together because it was after that that I went to Canberra, I can't really see it being any earlier than July or August.

Tees: When did you find out they were arrested for the Cameron thing?

Pederick: Ah that was during 1978 wasn't it? Well I found out obviously as soon as they were arrested.

Tees: Well in other words it had to be before.

Pederick: Yeah, yeah, when were they arrested?

Tees: In June.

Pederick: Yeah well it must have been, it must have been before that but it couldn't have been much before that .. so it would have been June that I saw him.

By the time he gave evidence to my jury the story had become: "As I recall (it was) around May of 1978".

There were many more similar interactions between Tees and Pederick. Linguist Andrew Lohrey analysed Pederick's interviews with both the Queensland and NSW police, and concluded:

Tees and Detective Sergeant Godden fed evidence to their star witness Pederick to shore up his story .. I found no less than 52 amendments (16 substantive) which Pederick had made to his story before giving evidence at Anderson's trial .. Sydney police blatantly provided information for 36% of the changes.

A Prominent Person intervenes

None of the above issues appeared to interest the Sydney media, which ran uncritically with the police story from the time of Pederick's sensational arrest and extradition to Sydney. It seems that not even the fact that I'd been falsely accused over the same crime before gave

them much cause for caution. Prejudice created the basis for a better story than did questioning.

Waiting at Sydney airport for the "exclusive" footage of Pederick's arrival was a police reporter with special access to police operations. Steve Barrett of Channel Nine had also been the lone reporter outside the Sydney Police Centre on the morning of my arrest, and the lone reporter outside the Hilton hotel on the morning of Sunday 4 June when police took Pederick for a "walkaround" there. Tees claimed Barrett was there coincidentally, to film the memorial plaque, and had not received a tip-off; he claimed he had even asked Barrett to go away.

The mass media ran prominent stories based on the account given by Tees in court on 6 June that, at my instigation, Pederick had attempted to blow up the Indian Prime Minister as he arrived at the Hilton and was greeted by the Australian Prime Minister. Possibly a hundred other people would have been killed, it was said. This story even received international coverage. The problem was, it was utterly false.

This first version of the Pederick story was dumped by the prosecution within a matter of days, after they were tipped off from an unexpected source that it couldn't be right. Former Prime Minister Malcolm Fraser had clearly read the stories with more than a casual interest, as his life was said to have been threatened; but the story didn't ring true to him. He rang the Prime Minister's department on 7 June, saying that he:

had a very clear recollection, contrary to the reported evidence of NSW police, that Mr Desai had been officially met at the Pitt Street entrance to the Hilton. He said that the reason for this was that there had been a pro abortion demonstration in George Street directed at Mr Muldoon, who had therefore been received at the Pitt Street entrance, and that Mr Desai had also been met there sometime later.

Departmental official Martin Bonsey checked Fraser's account against his department's records and found it to be true. It was also no great secret. The Pitt Street arrivals of Muldoon and Desai were reported in the Sydney Morning Herald of 13 February 1978. But if any journalist had checked on this, he or she didn't mention it. Bonsey then wrote a letter to Reg Blanch, the NSW Director of Public Prosecutions, drawing the information to his attention and commenting:

This matter is referred for your attention as it would appear to have a bearing on the conduct of this case, even if only as it relates to the credibility of prosecution evidence.

The DPP responded by joining with Tees to, yet again, change Pederick's story.

## Pederick's show trial

A trial was organised for Pederick in September 1989, before he gave evidence in my committal proceedings and just days before the proclamation of the NSW Sentencing Act. This act abolished all remissions from prison sentences, and it seemed likely that effective sentences imposed after the act would be around one-third greater than those imposed before.

This trial provided the forum, as much as anything else, for fixing in the public mind the prosecution's case against me. If Pederick was guilty, and he was admitting the crime, then I must also be guilty, went the logic of the argument. Pederick pleaded guilty to conspiring with me to murder the Indian Prime Minister. However he refused to plead guilty to the murder of the three people that died, offering instead to plead guilty to the lesser charge of manslaughter. The prosecution refused to accept this, and Pederick's jury trial was only held to determine the mental component of the crime: the issue of whether Pederick acted with "reckless disregard for life", or some lesser degree of negligence. His account of the "facts" was not in question.

Justice Peter "Tex" McInerney presided over the trial, with Mark Tedeschi appearing as crown prosecutor and Pederick represented by solicitor David Patch and barrister Michael Maurice. In the absence of any objection, all parties agreed to brand me the evil figure behind the crime. Maurice, a man I've never met, described me as a "charismatic person who had exercised extraordinary powers of persuasion" over the young Pederick. Father Jim Brown giving evidence, and having apparently changed his mind about Pederick's confession, described me as "the instrument by which Pederick had sold his soul". I'd never met Brown, either. These invocations of bizarre powers and a Mephistophelian evil figure were powerful witch-hunt images.

Tedeschi presented the new version of Pederick's story to the court: in the mid-afternoon of Sunday 12 February 1978, Pederick believed he had attempted to murder the Indian Prime Minister, but had actually mistaken the Sri Lankan President Mr Junius Jayewardene for Mr Desai. Mr Jayewardene was the only other head of state who, on arrival, wore all white clothing, and this was the explanation for the mistake being made. Pederick modified the description of his target to that of "a small brown man dressed in white".

Pederick for some reason was not charged with this alleged attempted murder yet I was, on the doctrine of common purpose: I was to be held responsible for what he said he'd done. Pederick was charged with conspiracy to murder and three counts of murder. I was charged with attempted murder (first of the Indian, the later the Sri Lankan head of state) and the three murder counts. Why there was this difference I don't know.

As I couldn't be represented at the trial, it would have been up to crown prosecutor Tedeschi to make an application to have my name suppressed, in the interests of my receiving a fair trial; but no such application was made. The media was then free to report anything said against me, and to show film and photographs of me associated with the accepted "facts". Pederick's trial generated enormous prejudice against me, and I had no right of reply.

Pederick's limited defence was based on yet another major change to his story: he now claimed that he had an arrangement with me that I would warn the police if the bomb hadn't exploded by 6pm of the Sunday. Thus by fleeing the city and leaving a bomb in the bin, he claimed, he had not been reckless. There had been a back up plan which failed, he said, and so the explosion was all my fault.

The problem was, he had never mentioned this in his many hours of police interviews. It was clearly a construction for the purpose of the defence at his trial. It seems that at first he hadn't even envisaged going to trial, as his solicitor David Patch had approached the prosecution in July, saying:

(Pederick) required a full indemnity before he would give evidence against Anderson.

While this demand was rejected, the making of it was not revealed until well after my trial was over. Pederick was at all times presented as a person who'd not asked for any deals, and who was prepared to "face the music" for what he'd done.

The "6pm plan" was the only issue on which he was seriously questioned at his trial; and not by Tedeschi, but by the trial judge:

McInerney: "Did you ask (Anderson in mid-1978) why he didn't ring them at 6 o'clock?

Pederick: "No I didn't ask him why he didn't ring them earlier"

McInerney: "That was an important matter wasn't it, you see three people had been killed?"

Pederick: "It is certainly important in hindsight Your Honour"

McInerney: "Wasn't it important at the time?"

Pederick: "Your Honour I wasn't expecting that the bomb would explode if left there another few hours, at the time"

McInerney: "In your record of interview I just want to ask you this, you did say in question 24, you said 'When the device failed to explode I was relieved but could only think of leaving the scene as quickly as possible'. Then you said this 'It did not occur to me at this stage to telephone the police?'

Pederick: "Yes Your Honour"

McInerney: "But you see Anderson was supposed to telephone the police?"

Pederick: "That's right"

His barrister told the jury they had to disbelieve Pederick to convict him of murder: they did and they did. Pederick was sentenced to a nominal term of 20 years jail, but with remissions this translated to just under eight and a half years, with a release date in November 1997: not bad for a triple murder, as police happily told Pederick's distressed parents. It was true: the old average of 12 years of a life sentence for murder was to be replaced with 15 and 18 year minimums, under the new sentencing regime.

But this was not at all what Evan Pederick had expected. Michael Maurice was to later say:

Pederick chose not to appeal; given the very lenient sentences which he received, it is not difficult to guess at his reasons.

However Maurice was not aware of the frustration his client felt at his treatment. Accepting his sentence was a brave facade. Firstly he had been refused an indemnity, then his plea of manslaughter had been rejected; what understanding did he have with police? He was later to pursue all his options of appealing and seeking release from jail, but first he had to give evidence against me.

The chief prosecution witness

One would have thought, with the Hilton bombing story that Pederick was telling against me, that he at least would have believed I was a person capable of anything. However he told the magistrate's court that he believed in 1978 I'd been framed for the Yagoona matter. Surprising that, on his story, my implication in the Hilton bombing didn't give him cause to suspect me of being guilty of another alleged bomb attempt just a few months later. He added that he was "less prepared to accept" this in 1989, as he felt he'd become "part of the conservative strand of society" and was less inclined to believe that police would do such things. No doubt this feeling was encouraged by his ongoing relationship with Tees, Godden and the others. It must have appeared to him that he had powerful friends.

His preferred image of himself, as a Christian coming to terms with God by making his confession, suffered somewhat when he came to tell his false passport story. Alerted to my barrister's knowledge of the passport by questions about his having shaved his beard and changed his appearance in early 1978, Pederick made yet another very late addition to his story at the magistrate's court on 30 January 1990. He admitted that he'd deliberately withheld information about the passport from the police and prosecution, and went on to add a further conversation with me about a "getaway plan" after the bombing. While not suggesting that I'd proposed he travel overseas, he claimed to have obtained his passport as a result of a conversation with me.

In Brisbane in late 1977 Pederick had obtained the birth certificate of a dead baby boy, and had brought this with him when he came to Sydney. In late 1977 he'd also shaved his beard, and in January had his hair cut short. While in Sydney he obtained a passport using the birth certificate. Clearly he didn't raise the matter with police because it was all well in train before the conference at which I was said to have "recruited" him: he'd done it independently of me. Two of his friends in Brisbane had told us about it.

A false passport may have been of some use to a member of Ananda Marga at that time because margiis had been black listed from entering India, and several people had changed their names by deed poll so as to be able to visit India unhindered.

To get around this problem of timing, he claimed that he'd obtained the birth certificate "just to see if it could be done"; he'd shaved his beard just as a joke between him and his then fiancee, Carmel; he couldn't explain why he brought the birth certificate to Sydney; and, he claimed, he had no intention of getting a false passport until he spoke with me. He never explained why he'd "deliberately withheld" the information until the end of my committal.

Despite the developing substantial problems with his story, the most powerful weapon the prosecution had was the fact that Pederick (as opposed to Denning) appeared to be acting against his own interests, and that therefore there was no apparent motive for him to lie. "Why would he lie and put himself in for many years in jail"? was always the prosecution's best argument. We couldn't answer it. I'd not seen Pederick for more than a decade and we didn't know what contact he'd had or what deals he'd tried to arrange with police. I believed he'd had prior contact with police, as their arresting me on Denning's word was just too

incredible, and the circumstances of Pederick's suddenly abandoning his quiet, conservative existence within hours of my arrest was also incredible.

The prosecution argument about Pederick's motivation was a bit simplistic. It was valid to ask why he'd confess his own involvement, if it weren't true; but as for implicating someone else, there could be a number of ordinary reasons for this. He had a history of antagonism to Ananda Marga; he wanted to blame others for what he said he'd done; police clearly wanted to get me, and he'd be better accepted if he implicated me; and he could shift or reduce the blame for a crime he said he'd committed. Nevertheless, all this was much easier to explain if we accepted that his own confession was valid; but this also was in doubt.

Research conducted secretly by my lawyers showed there was a fundamental flaw in the Pederick story that would overshadow all his lesser inconsistencies, fabrications with police and late additions. We kept this information secret, even from close friends, as there was a great danger the police might yet again change their story if they got wind of it. We'd save the king hit on Pederick till the trial.

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## 10. THE MULTIPLE CHOICE BOMBING

The Hilton bombing investigation attracted a range of persons attempting to help police and help themselves, disturbed persons and persons with all sorts of axes to grind. The police trail became a veritable caravan of bandwagoners, bounty hunters and basket cases.

Several months into the investigation the mainstream police thought seems to have settled on the Ananda Marga theory; though there has never been agreement on which particular theory. For the public, however, there has always been a firm and confident "we know who did it" line. That this police "knowledge" has chopped and changed with the years and the failure of successive theories has not dimmed the shamelessness of the approach. The stakes were probably "upped" somewhat by the competing ASIO-special branch theories, and the fact that the chosen targets chose to hit back. However to Hilton bomb police over the years, any theory would do, so long as it involved the margiis. This is what the public has been sold.

Up until the Pederick story, which I deal with in other chapters, there were no less than four Ananda Marga theories of the Hilton bombing, officially presented as positive fact. Seary's story, the second, was run through the courts for seven years. Pederick's story was the fifth. In this chapter I outline the earlier four, in order of appearance, then wrap up some less specific identification evidence and a well-publicised verbal that came and went, but at times also had official police support.

"A young man and a girl"

The first positive identification of "the bombers" came just days before the Yagoona arrests, in an 11 June 1978 Sun Herald article by Bill Mellor:

Security chiefs believe they know the identities of the terrorists responsible for the Sydney Hilton bomb outrage. They believe the bombers are a young man and a girl, both members of the Ananda Marga religious sect. According to senior security sources, the man is now overseas, but the girl is still in Australia. They say the man and his female accomplice placed it in a garbage bin outside the Hilton ... Officially, detectives investigating the crime have no new leads. But security experts say they have no doubts who the bombers are - but no real evidence against them.

The story was abandoned and never heard of again after the Yagoona arrests, but it was based on two separate special branch lines of investigation, which never amounted to anything more than ill-founded suspicion. The background to this theory shows how police are often too ready to convert suspicion to certainty.

From Special Branch records, it's clear that these two people were Paul, a former mining engineering student, and Joanne, a young woman from New Zealand.

Police investigated Paul's work with a mining company in Western Australia and found (surprise, surprise) that the company used explosives. The fact that he was a margii and that he'd worked in a business using explosives attracted heavy police scrutiny, but that's as far as it went. Despite several attempts to have him identified as near the scene, there was no evidence to implicate him in anything.

Joanne was provisionally identified by special branch officer Colin Helson in a photo of the abortion law demonstration outside the Hilton, aimed at New Zealand Prime Minister Muldoon. Being a margii and having been at a demonstration near the hotel was enough to have her targeted; but again, that would have been as far as it went, except for one thing. The photo from the demonstration had been sent to New Zealand police for identification, and they had replied in April, two months before the Sun Herald story, that she was not the person.

The anonymous "security experts" had planted their story, and as no-one had access to police or ASIO records at that time, who could contradict them?

Ross and Paul - the Richard Seary story

Until 1989, this was the best known Hilton bomb story. It was first led in Seary's evidence in chief at the 1978 Yagoona committal, emerged in cross-examination at both Yagoona trials, and was led again at the 1982 Hilton bombing inquest. It attracted substantial media coverage each time. The presentation of Seary's verbal as a credible story, by Counsel Assisting Roger Court, led to the termination of the inquest and the suggestion of murder charges against Ross Dunn and Paul Alister.

Seary's verbal, which he later disowned and blamed on his Special Branch handler John Krawczyk, was quite detailed and in its final version went like this:

I asked Dunn if he knew what that stuff could do and he said "I've seen what twelve sticks can do". I said "How do you mean?" He replied "Well the Hilton". I said "Did you blokes do that one?" Alister laughed and said "No, Ross, Tim and a friend did it." I said "How?" Alister answered "I went through the crowd first dressed similar to this to check out the place and then I signalled to Ross and he came up from the chocolate shop and then he put it into the rubbish bin." Alister said that last sentence criticisingly and Dunn answered "It was nearly full and I had to push it down the side".

Seary's story went on to say that Dunn had described the Hilton bomb as wrapped up in newspaper "like fish and chips", about a foot long, and that Alister said it was meant to have been put in the bin an hour before Desai's arrival, to "frighten" him.

Some police didn't want to run Seary as a witness at the 1982 Hilton bombing inquest, presumably because they knew his story could be proven false: Paul Alister having been in Adelaide at the time of the bombing. None of this stopped the officer in charge of the Hilton investigation, Inspector Norm Sheather, publicly endorsing the Seary story on the first anniversary of the Hilton bombing, just before the first Yagoona trial began:

Members of a religious sect set off the Hilton hotel bomb blast which killed three people, according to Sydney detectives. The officer-in-charge of the investigation, Det-Insp Norm Sheather said yesterday police knew who was responsible. He said he was confident those responsible would eventually be charged. 'We knew who did it from the first day after the bombing, but lack of evidence to stand up in court has prevented us from making arrests', Insp Sheather said. 'We know that three and possible four individual were involved'.

However at my 1990 trial, one of Sheather's senior colleagues, former Detective Sergeant Bruce Jackson admitted that police knew back in mid-1978 that Alister's alibi was genuine, and that Seary's story was therefore false. Jackson was asked about Seary's story and he replied:

My belief from memory of 12 years back was that .. Dunn or Alister or one of those persons was out of New South Wales at the time of the Hilton bombing, so it could not have been them.

Perhaps Jackson felt safe to admit this in 1990, when it was no longer the official story. But the admission indicates that, at the 1982 inquest, police were supporting a story they knew to be false. The only reason for this can have been to sustain Seary's story in the Yagoona case.

More than two years after the inquest, at the Section 475 inquiry into the Yagoona case, crown barrister Michael Finnane declared Ross, Paul and I "innocent" of the Hilton bombing, but maintained to the end that Seary was a credible witness. He admitted we were "innocent" so as to prevent Paul's Hilton bomb alibi evidence being called, to further discredit Seary. The excuse for Seary's story then became as follows: Seary had not lied, Ross and Paul had lied to him. Every scrap of fabricated "confessional" evidence is thus deniable, if exposed.

## The margiis that "flew in"

Unusually, the next police story was aired through a left-wing newspaper. Dennis Freney, in a 1985 issue of Tribune, presented the first post-Seary version. In a generally sympathetic review of my book on the Yagoona case, he added the following remarkable announcement:

The role of security and intelligence services must be fully exposed. But in my view it is impossible to exclude the Ananda Marga as suspects for the (Hilton) bombing, although Anderson, Alister and Dunn certainly had no responsibility. NSW Police now "believe" that Ananda Marga members flew in to Sydney, planted the bomb and then flew out.

Labor Member of Parliament George Petersen and I responded to this in a rival left-wing newspaper, Direct Action. I said the new allegations were "dangerous, and only give comfort to those responsible for our frame-up and for continuing attacks".

## The shoulder-bag theory and the appearance of Ray Denning

One of the earliest police theories lay dormant for more than a decade, then emerged in my 1989-90 prosecution. A photograph taken of me at the abortion law demonstration outside the

Hilton hotel showed me carrying a shoulder-bag. Detective Krawczyk of special branch had then observed the margii demonstration at Sydney airport, when the Indian Prime Minister arrived. Krawczyk was to prepare a report claiming that I had no shoulder-bag at the airport, implying that it may have been left behind at the hotel.

This had always been a matter of interest to police, and a detective had tried to question me about it after the Yagoona arrests; but it was never used against me until the Denning verbal came along, with the words: "I placed it there". Was this the story to be run if the case proceeded without Pederick? It's not clear. However even after the appearance of Pederick, Krawczyk was still called to give this evidence at my 1990 trial; a bold move one might think, after the criticism he'd been subjected to in the Yagoona inquiry. Perhaps he too wanted to rehabilitate himself.

Even this flimsy theory had big problems. I did have the shoulder-bag at the airport. In fact, as I was standing on an overpass, two uniformed police officers came up and squashed me from either side, so I wouldn't drop it on the official cars as they passed underneath. Further, special branch surveillance photos taken secretly outside Ananda Marga headquarters in Newtown showed me a few days after the Hilton bombing with the same shoulder-bag. This photo was taken at about the same time Krawczyk prepared his "shoulder-bag theory" report. It was made public in 1984 at the Yagoona inquiry.

The Pederick story then emerged and I detail this in other chapters.

## Identification Evidence

Several wrong identifications of myself and others outside the Hilton hotel were used, over the years, to strengthen existing police prejudices. Two police officers, John Lovern and Malcolm Prior attempted to identify me outside the hotel at times when I wasn't there. Lovern was to admit his identification was not positive, while Prior made his 'identification' four years after the event, and in circumstances that made it too suspect to be admitted as evidence. Lovern was not called at trial and Prior's evidence was rejected by my trial judge.

Earlier, at the 1982 Hilton inquest, a Constable Hopcroft claimed to have identified Paul Alister, not only outside the Hilton hotel, but sitting in a yoga position outside the hotel. The inconspicuous bomber, perhaps? Hopcroft was called at the inquest even though the crown by then was well on notice of the evidence placing Paul in Adelaide.

The common thread between the attempted identifications of Lovern, Prior and Hopcroft was that they were all made after my and Paul's arrest in the Yagoona case (this was four months after the Hilton bombing), and after all had been previously shown photographs of Ananda Marga members, including Paul and me, but had not identified us then. All these 'identifications' were thus afterthoughts.

Another even later attempt at an identification of me outside the hotel was by former hotel employee, Manfred Von Gries, who'd been badly shaken by the bombing. After the blast he'd begun to report receiving threats and harassment, such as people allegedly loosening the wheel nuts of his car. But police considered him to be disturbed, and directed him to a psychiatrist. In late April 1978 he saw psychiatrist Dr Sydney Smith, who said he was "tired

and physically exhausted, having had little sleep from the time of the bomb blast". He said he couldn't come to any view as to the veracity of the Von Gries claims to having received threats, and prescribed rest and sedation.

On the day of the bombing Von Gries told police had seen a man outside the hotel at around the time of the blast, acting suspiciously. He made a tentative identification of this person, from special branch photos, as an Ananda Marga member who was 5'6" tall and thin with shoulder length, blond curly hair and no beard. I am 5'11", of medium build and at the time I had collar length straight brown hair and a dark beard. Almost five years later, at the end of the 1982 inquest, Von Gries was to claim this man was me.

In 1989 Tees said he used the Von Gries 'identification', along with Denning's story, in deciding to arrest me, and he also told the magistrate's court that he felt Von Gries was "corroborated" by the fact that I hadn't attended the inquest on the day Von Gries gave evidence. In fact, I had no notice that he was to appear at the inquest, nor did he have anything to say about me at that stage.

At my committal Von Gries was shown the photo of me taken at the demonstration outside the hotel. He said the person in the photo wasn't the man he saw. That was the end of his evidence; he wasn't called to my trial.

## Almost Framed

One final example shows the danger both of identification evidence and of keeping police files secret. A sequence of statements about the following matter emerged at the 1984 Yagoona case inquiry. It concerned a man called Malcolm, presumably an independent, unbiased person, who reported to police his seeing a man in a cafe near the hotel, and overhearing him say that a person could "make a name for himself" at a conference like this.

The usual special branch photos were then shown to Malcolm, who at first identified a margii named Brent. However police soon discovered that Brent was in Melbourne at the time of the bombing. They called Malcolm back in and asked him to reconsider, and in a second statement, he picked another margii, named Andrew. This statement made no reference to the earlier 'identification', and at its face appears to be an original identification. It's only by comparing the dates that one knows the Brent identification occurred before the Andrew identification. However, yet again, police discovered that Andrew had also been in Melbourne at the time.

They called Malcolm in a third time, and this time he obligingly identified a third person, Carl, who was not a margii but was on special branch files for his arrest at an anti-apartheid demonstration. Again, Malcolm's third statement of identification made no reference to either of the earlier two. If there had been a prosecution against Carl, and if Malcolm had chosen to not mention those earlier statements, there would have been no hint of a discrepancy, and he would have appeared to have made a positive identification in unbiased circumstances. Carl's denials of being the man in the cafe could then be portrayed as lies indicating a consciousness of guilt.

This is not a fanciful scenario. Carl, an anarchist who'd also attended the demonstration outside the Hilton, became a strong police suspect for the bombing. He'd carried a rather original placard at the demonstration, which read "Politicians are the pus of a suppurating society". The placard was mounted on a seven foot long wooden stake and, when Carl became tired of carrying it, he drove it into the fateful garbage bin. Twelve years later there remained video film of Carl's sign in the bin, before it exploded, film which caused Chief Justice Gleeson to refer uncomfortably to "that offensive sign".

Police took a nine-page, signed record of interview from Carl, in which they obtained a denial of any knowledge of the bombing, but also an admission that he had some knowledge of electronics. The stage had been set for a powerful circumstantial case: an anarchist who despised politicians, apparently identified and overheard planning a provocative act, with all the skills to make a bomb and one of the few people who could be identified as actually planting an object in the bin. Add a verbal and he'd quite likely be convicted. But police decided to go for the margiis.

She only got six (months)

Another instance of a statement suppressed concerned a well-publicised verbal of me. This was by a former newsagency worker called Patricia Hill, also known as Patricia Buckman. She appeared at the 1982 inquest to say that I'd walked into her Newtown newsagency the morning of the bombing, to see the headlines of the people killed in the blast, exclaimed "We only got three", and then laughed.

This was widely and sensationally reported in the media in 1982 and again at my committal in 1989. On both occasions, journalists covering her story had the opportunity to include reference to her cross-examination; on both occasions most failed to do so.

What emerged in 1982 was that Hill had never made a statement in 1978 saying the words were "we only got three". Her 9 March 1978 statement presented to the inquest had the words "It only got three": quite different in meaning, and not an admission. Though I have no recollection of the incident it would be consistent with my feelings at the time that I'd have been surprised that a bomb blast in the middle of Sydney only killed three people, when more could have been killed. There was no record of the "we" being added to her statement till 1982.

What was not revealed at the inquest was yet another inconsistent statement, dated 8 March 1978, where police recorded Hill's account of the words as "It only killed two of them", no reference to laughing, and the comment "Hill is adamant that these were the words used". There were in fact two newspaper reports that morning, one suggesting two deaths, the other three. I only discovered this statement in 1984.

None of this stopped Tees placing her statement in the brief of evidence at my 1989 committal hearings, when she was again called as a witness and again the media uncritically ran her story. The inconsistent statements were enough to sink any credibility of this story. But certain facts emerged which may explain the origins of her dealings with police in March 1978.

In early 1978 Hill was charged with a very serious assault on her boyfriend. It was reported at her sentencing later that year that she'd stabbed him several times, then waited outside in a car to run him over when he came out of the house. Fortunately, he lived. Hill eventually pleaded guilty to a lesser charge and received a six month prison sentence. As with Von Gries, the prosecution didn't call her at my trial.

Apart from Denning and Hill, a number of other verballers emerged after my committal proceedings, to join the bandwagon. I mention them in the chapter on ICAC.

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## 11. CAPTAIN ENGUERRAND RIDES ON

In the last week of my committal hearings, in February 1990, the prosecution announced a mystery witness. Prosecutor Tedeschi billed him as:

"a director of a large public company here in Sydney. The Executive Director of a large private charitable foundation and he's also a prominent published writer of novels, poetry and also an artist." (2 Feb, 1)

When this man himself gave evidence he described himself in these terms:

"I'm a company director of several companies ... I'm an education adviser to one school, I've written books - yes I've written books to help educators, I'm a patron along with Sir Herman Black on the China Education Centre at Sydney University, I have lectured on the concept of mythology in education and voluntarily visit a school to help with education, yes." (7 Feb, 23)

After an application to have his name suppressed failed he was identified as David James Wansbrough. I can't recall ever having seen him before in my life.

No statement of his had been served until the day he appeared in court, nor did his name appear in any of the police records of the Hilton bomb or Ananda Marga investigation. However the prosecution claimed he had important new information in relation to the Hilton bombing. Tedeschi tried to introduce his evidence at my trial, at my sentencing and at my appeal; but all these attempts failed. The only time Wansbrough got a hearing was in the magistrate's court.

His basic evidence was as follows: in 1976, he was involved with Ananda Marga through an art magazine they were then publishing. As part of this connection he claims to have taken part in a conversation with me and another man called Kapil, in Artarmon, where Kapil is meant to have said:

"wouldn't it be a good thing to bomb the Indian Prime Minister and cabinet of India"

to which Wansbrough is said to have replied:

"you couldn't even organise toilet paper for visitors ... how could you construct a bomb"

and then I am then meant to have said

"I've done it before". (2 Feb, 21)

He went on to implicate me in a bizarre act of vandalism. Kapil was said to have spoken:

"about the destruction of an ancient Vedic manuscript, I think it was on loan from ... an Indian consulate or something to a tourist information service, and that they themselves had

burnt it (2 Feb, 22) ... I distinctly had the impression - it may have been erroneous - that (Anderson) had been involved in the burning of the Vedic document in Melbourne - I can't say that he actually said he was but I got that impression" (7 Feb, 22)

In this same 1976 conversation, Wansbrough claims Kapil described an Ananda Marga plot to use their involvement in the State Emergency Services to create an "alternate government" in Australia: (7 Feb, 21)

"They had voluntarily joined the state emergency services ... (and) they would be well placed if there was a state of emergency to - it seems ridiculous but - to create a new government." (2 Feb, 22)

There were six margiis in Sydney doing volunteer relief work with the state SES.

Wansbrough told the magistrate he had long believed that Ananda Marga was a dangerous, terrorist organisation and that he had in fact warned police of his fear of some sort of terrorist attack before the Hilton bombing. He said that in January 1978 he:

"made one phone call and explained to two members of the police force my concern ... (I) spoke to at least another six people, quite frankly the police didn't take it seriously." (2 Feb, 24)

One accusation that can't be made against the NSW police in 1978 is that they were slow to take down an allegation against Ananda Marga. On my Special Branch file there are numerous stories from various people, including one man who reported to police that he'd seen me wearing an coat on a warm day, and that this seemed strange. However in Wansbrough's case, there is no existing police record of him having spoken to any of the eight police officers he now mentions.

Some time shortly after the bombing he claims to have received an anonymous STD phone call. This voice said to him:

"Wansbrough, if you inform on Kapil, you're meat."

He claimed he identified this voice as mine, although it was an odd accusation to make against a vegetarian. He says a conversation continued as follows:

"I said 'Inform on Kapil about what?', he replied 'You know what we're capable of doing'. I said 'I don't understand what you mean', and I hung up." (2 Feb, 25)

Wansbrough didn't report this to police. Nor did he see publicity of my denials, on behalf of Ananda Marga, of any involvement in the bombing. (7 Feb, 27)Nor did he go to police in mid 1978, when I and my two friends were arrested and Hilton bomb accusations were made against us then. He says he jut didn't see any of the publicity:

"I did not have a television in 1978". (2 Feb, 6)

Nor did he go to police when the 1982 inquest inquired into the deaths at the Hilton. He said he was aware of this inquest, but:

"I made no attempt because they had my information, they had my phone number and (they) clearly told me what I was saying was not evidence ... because it was just my suspicion" (7 Feb, 39)

Nor did he go to police when publicity was given to my arrest, and the arrest of Evan Pederick in May-June 1989. He waited more than two months, till August. Once again, he explained this as the media passing him by, but this time for a different reason: he had become an important man.

"I'm pretty certain I didn't see (the publicity), my secretary cuts out what she thinks in local news I should look at ... I simply don't have time with my very busy life to sit down on trains or buses and read newspapers" (7 Feb, 4-5)

In August 1989, he claims, he:

"phoned the police and asked to speak to anyone involved in the Ananda Marga case ... I deliberately phoned the headquarters and asked to speak to whatever section was dealing with the Tim Anderson case". (7 Feb, 3)

He was put in touch with an Inspector Parsons, who put him in touch with Detective Aarne Tees, who got him to make a statement to Detective Bob Godden.

This was a tissue of lies. Inspector Kevin Parsons never had anything to do with the Hilton investigation, nor would Wansbrough have been put onto him if he'd asked to speak to "whatever section was dealing with the Tim Anderson case". As Parsons later recalled, Wansbrough at first referred to a quite different criminal investigation when he sought Parsons out and spoke to him in August 1989. Wansbrough had said:

"I'm involved with Richardson ... I might be some assistance in the Hilton" (Tom's interview)

Gary Richardson, a wealthy man from the fortunes of the Victa lawn-mower company, had for a long time had a special relationship with David Wansbrough. Some twenty years older, he was Wansbrough's benefactor; and there was some sort of spiritual relationship, including between Wansbrough's eldest son and Richardson. Both men believed in reincarnation, and that relationships between people are transported from one life to the next. Both men were influenced by the philosophies of the German mystic Rudolph Steiner.

Richardson had also for some time been involved in a protracted legal case most commonly known as Tectran vs Raybos, where his company and that of Dr Les Rajski were in dispute over a computer program Dr Rajski had provided back in 1980. In many of these court proceedings, Wansbrough had attended court acting as Richardson's agent.

Richardson had also appointed Wansbrough a Director of Scitec Communication Systems Limited, a data communications company with an annual turnover of about $50 million and of which, up until 1990, Richardson was the Chairman. Scitec had acquired the interests of Tectran, and consequently became caught up in the Rajski civil litigation. The company's Managing Director was a man called Moshe Yerushalmy.

Wansbrough had also been appointed by Richardson as a Director of the Arunta group of Investment and the Gavemer Foundation, a fund set up by Richardson to support certain

activities in sympathy with the philosophy of Rudolph Steiner. Gavemer had funded Wansbrough's one known art exhibition, in 1988, and also his one known published book, titled A Pillar of Salt. Gavemer also publishes a journal called Transforming Art, of which Wansbrough is a consulting editor and occasional contributor. Arunta and Gavemer Properties Limited had all been joined in the Rajski litigation.

In the course of this long commercial case, Dr Rajski had initiated a number of criminal charges against associates of Richardson's. A letter from Reg Blanch, the Director of Public prosecutions, to Independent MP John Hatton in October 1989 detailed the "present position" of investigations into no less than twenty charges of perjury, perverting the course of justice and suborning witnesses, including charges against Richardson and Moshe Yerushalmy. The police officer in charge of these investigations was Inspector Kevin Parsons.

Asked in the magistrate's court about his knowledge of any outstanding charges when he went to see Parsons, Wansbrough replied:

"(Mr Richardson) was not charged with anything"(7 Feb, 29)

In fact at this time Dr Rajski had instituted a Special Leave Application to the High Court against a court decision to drop perjury charges against Richardson.

The matter was put more directly to him, in court:

"Q: You see, you knew in 1989, In August of 1989, that Parsons, Detective Parsons was interested in perjury allegations against various people?

A: I beg your pardon, he'd ceased to be interested in them at that stage ... I don't think I recalled (Parson's involvement) while I was talking to him but when he asked me to come around, as soon as I got in I asked 'Is it proper for me to talk to you?'"

This account is completely different to that of Parsons, who says that Wansbrough had immediately raised his Richardson connection, in context of seeking to be helpful to police. Further, perjury proceedings were in the process of being instituted against two of Wansbrough's colleagues at the very time he went to see Parsons. Moshe Yerushalmy and David Cowper were charged with perjury arising out of the Richardson-Rajski cases, and in a January 1988 signed record of interview Yerushalmy had admitted the facts against him: that he had lied in court about his qualifications and expertise.

In addition, as at October 1989, two months after Wansbrough went to see Parsons, the DPP still had nine further matters under investigation, including charges against Richardson and Yerushalmy of conspiracy to defraud and to pervert the course of justice. A September 1989 letter to Dr Rajski's lawyers from Richardson's lawyers, Blake Dawson Waldron, sought an out of court settlement which included a clause that:

"all parties will if required by the other party join in representations to the Attorney General, the Director of Public Prosecutions and/or the Commissioner of Police to not pursue further any of the criminal charges currently pending against M. Yerushalmy and D.B. Cowper and not to bring further charges against any person in anyway arising out of or relating to the disputes the subject of the proceedings" (BDW letter 22 Sept 89)

The conspiracy charges against Richardson and Yerushalmy were not formally dropped till November, but the two perjury charges against Yerushalmy and Cowper remained. Wansbrough, being a Director of the companies involved, must have known about these matters. He lied to the magistrate's court, and tried to conceal the very real efforts that were ongoing to have these charges dropped.

I believe the main motive for his approach to Parsons was to ingratiate himself with police, and so assist in the disposal of criminal charges against his business colleagues.

How did Wansbrough come into contact with the margiis? I have no recollection of him, but was later told by Amalina Wallace that he first approached the Ananda Marga school at Belrose in the mid-1970s, having heard that the margiis, being somewhat eclectic, were mixing the educational philosophies of Rudolph Steiner and Maria Montessori with that of their own mentor, Prabhat Sarkar. Wansbrough being at that stage a Steiner purist, told those at the school that these philosophies could not be mixed, as they were "irreconcilable".

Yet he seems to have had his own reasons for maintaining some contact with the margiis. In court he was questioned over the apparent contradiction of his maintaining personal contact with Kapil, after he claims he believed that Kapil and others were evil and engaged in vandalistic and possibly terrorist activities:

"Q: So here was a man you regarded as a terrorist, who you regarded as a lunatic and who you regarded as being associated with criminal activities, some of which you felt you should have reported (but didn't), and you went to the naming ceremony of his baby, is that correct?

A: ... it obviously doesn't help my testimony at all by being so honest but the reality was that Kapil kept in touch. I had the feeling he was cultivating me, I had the feeling Kapil was himself not a terrorist but somebody who would be involved in the organisation of terrorism. I quite frankly did feel some concern that some of these very idealistic people were involved with ... (dangerous people, and) I made it clear to them that my wife and I were available for their friendship."

In the 1980s, when a former Ananda Marga member, Susan, went for a teaching job at a Steiner school near Sydney, she encountered Wansbrough on the selection panel and was surprised by his arrogance and hostility to her. He let it be known that her involvement with the margiis was, to him, a disqualification for the job. Perhaps the purist was still there, and there are glimpses of this in Wansbrough's 1988 book, A Pillar of Salt, published by the Gavemer Foundation.

This book reads like a series of romantic, fantasy stories about characters of past eras. But to Wansbrough these are apparently not mere fantasies, or inventions: they are his own experiences of past lives, which carry a sense of destiny into his present existence. In his epilogue he talks of himself in the third person, and explains:

"This book deals with an individual's search to find meaning by examining successive lifetimes for themes. These stories are honest and have been written without deliberate contrivance. If the central thesis of reincarnation is valid, then it would be foolish to deceive in this form when time will judge ... events are relived ... These stories have been with him for years ... When reviewing each day and thinking of his friends and adversaries, images arose which gave clarity to relationships."

One of the most striking stories, and which perhaps says something about Wansbrough's attitude to the margiis, as well as his view of himself, is the first, about a Templar Knight of the Middle Ages:

"Enguerrand rode at the head of his knights ... Enguerrand held them with his will. His will was more powerful than the natural curiosity of the troops. They dared not look around ... Enguerrand acknowledged the cheers of the crowd. He walked to a bald, elderly priest who smiled and knelt. For Enguerrand, who had once been his pupil, was now a Captain Abbot and so a bishop in his own right. Enguerrand proffered his black gauntlet with its precious stone stitched to hippopotamus hide for the old man to kiss ... (however) It was obvious that Captain Enguerrand was sympathetic to the heretics. And that he had been sympathetic even before he had taken his holy vows, and because of this, his vows were sacrilegious. As a heretic he was no longer a bishop or a priest ... there was a way, one way, to avoid the necessity for excommunication. But only if he could guarantee his zeal in the destruction of the heretical cult ... The heresy, as described by Anselm, was pernicious. It should be wiped out. Enguerrand asked permission to speak. He confessed his fault and was told he would be given absolution when a centre of the cult was wiped out."

Wansbrough clearly saw himself as a "man with a mission" in life, whatever that mission was. In court he was very forthcoming about his opinion on just about everything, including his suspicions about others and his beliefs about the beliefs of others. He was much more coy when it came to his own beliefs, and considered such questioning an outrageous invasion of his privacy. When asked if he believed in angels and etheric bodies, he was unusually reluctant to answer:

"Q: It is the fact that you do subscribe to beliefs in archangels, etheric bodies, isn't it?

A: Is it?

Magistrate: Answer the question please?

A: I periodically attend the orthodox church and archangels are ascribed to by every Christian.

Q: Is that a yes or a no?

A: I believe - I find it offensive actually to talk about my personal beliefs and religion, Christianity."

Magistrate Hand refused to allow questions on Wansbrough's beliefs about his past lives, but the recounting of an incident that echoed one of his "past lives" caused him some further indignation in court. This story had come from some schoolchildren, who had been fascinated by some of Wansbrough's story-telling, and amused by some of his exploits.

"Q: Is it the fact that you, in armour of a type similar to medieval knights, mounted on a donkey, fought a duel at Lake Wentworth up in the mountains against another person, and lost I might say?

A: I beg your pardon, this is playing to the gallery, this is just extraordinary, why would anyone ever come forth to help police again, the truth is ... Yes I'll answer the question, no I did not ride a donkey, I have not ridden a donkey, a friend with a hand-held camera made a film of myself and another person dressed in armour having a battle as such, in which I did not lose!"

This was just about the last that was heard in court of the philanthropist, company director, prominent writer and artist. Despite several efforts by prosecutor Tedeschi to resurrect him, he seems to have ridden off into the distance: but certainly not on a donkey!

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## 12. TO THE CORONER

*This is the text of my statement to Magistrate Derrick Hand, at the end of committal proceedings in February 1990.*

I appreciate this first opportunity before a court to say a few words myself, after eight months of others talking about me.

From the moment I first heard of the explosion at the Hilton hotel, at a quarter to six on Monday the 13th of February, 1978, I was shocked and saddened at the tragedy of that terrible event. Since that time I have never felt any differently about that tragedy; yet almost immediately I was faced with the additional shock of having either people around me, or myself, wrongly accused of some kind of involvement in the Hilton bombing.

I can't explain the deep and sickening feeling I have to be before a court, facing a possible life sentence in jail, on utterly baseless charges, for the third time in my life. I believe it is also utterly unprecedented for anyone to be framed twice, for the same thing.

The notorious Ananda Marga frame-up of 1978 was nothing more than an attempt to throw blame on myself and my two friends for the Hilton bombing. It had no other purpose. The fraud of the Hilton bombing inquest in 1982 was an extension of that frame-up. In 1984, the possibility of Hilton bomb charges was rightly rejected by the Attorney General as the evidence on THAT occasion was judged by Crown law officers to be either "unreliable" or "probably fabricated".

This case, as far as I'm concerned, is nothing more than an extension of that malicious - yet unpunished - frame-up of 1978. Indeed it's at least partly because the perpetrators of that frame-up went unpunished, and in fact retained the "bravery awards" given them, that this fraudulent case is possible today.

History

My arrest in May last year was my fifth arrest arising from political demonstrations. I would like to just briefly summarise this history.

In 1976 I was arrested on charges of obstruction at a demonstration in Canberra. The charges were dismissed when video-taped evidence proved two police officers to have committed perjury. Yet they were never charged.

In 1978 I was arrested - framed along with my two friends Ross Dunn and Paul Alister - by members of the NSW Special Branch and CIB. Only in 1985, after we had spent seven years

in jail were our convictions overturned by unconditional pardons. In 1987 we were paid some money in compensation for our wrongful imprisonment.

In 1985 I was arrested on two occasions at anti-apartheid demonstrations. Again these charges were dismissed when police evidence was contradicted by photographic evidence and that of independent witnesses. Again, there were no consequences for the lying police witnesses.

In March, 1989, I publicly attacked the now Supt Dennis Gilligan at an international legal conference, for his perjury and cowardly assault on Ross Dunn in 1978. In April of 1989 I took part in the public protests at the police killing of David Gundy. The operation that led to that killing was directed by Chief Inspector John Burke. Burke and Gilligan, along with ex-detective Roger Rogerson, were the main officers responsible for the 1978 frame-up.

In May of 1989 I was arrested by Detective Aarne Tees, a close associate of Gilligan, Burke and Rogerson.

## The Current Matter

In the matter before you, Mr Hand, some of the grubby debris of twelve years of the police targeting of my activities has been dragged into court. Perhaps some of it will be rejected by the DPP before trial. But I should begin by making it clear that I regard the evidence of Evan Pederick, Raymond Denning and Patricia Hill as of the same calibre as that of the previous major perjurers against me: Roger Rogerson and Richard Seary. All have put words in my mouth; all have lied without hesitation and without conscience, albeit for different reasons.

Detective Tees justified my arrest on the word of Ray Denning, and an identification of me outside the Hilton hotel by Manfred Von Gries.

Von Gries has since retracted his identification of me. But, I'm entitled to ask, how did Tees have the gall to ever present such evidence to a court? It should have been within the powers of even a junior police investigator to distinguish between myself in 1978, with a beard; and the person of Von Gries' original statements: with shoulder length blond, curly hair and no beard.

Ray Denning has told his little story - verballed me - undoubtedly for expected early release from prison. Denning has broadcast it far and wide, inside prison and out, that he paid Tees in the order of $20,000 for a plea bargain in 1982, so perhaps it's not surprising to see him now appearing as a witness for Tees, with nothing left to offer in his current desperate circumstances. It is clear, if only from Denning's refusal seventeen times to answer questions on the grounds of feared self-incrimination, that he is not an honest witness.

I believe no magistrate would have committed me for trial on the ludicrous "identification" of Von Gries and the equally ludicrous, uncorroborated verbal of Denning.

This would've left Tees in the Harry Blackburn situation: a major prosecution, complete with assistance from `NSW Police Public Relations and Marketing Branch' press releases, shot down before it got to first base.

In these circumstances, I ask, is it credible that Tees went to court before he had his main witness? Can this prosecution really have been launched without Pederick?

I don't know. It's extraordinary, either way.

Pederick's Story

In the event, the current police version of the Hilton bombing - their fourth publicly stated set of the "facts", by the way - now depends entirely on the story of Evan Pederick.

But let's be clear what this story is about: it is not about a claim that I am simply a violent or a criminal person; it is an argument that I am a dangerous and maniacal psychopath: prepared to murder hundreds of people, to laugh about indiscriminate murders, and to conclude some months after the event that the deaths at the Hilton were "not a bad result"; and that they somehow furthered my aims or the aims of Ananda Marga.

What's worse, this is the claim the DPP wants to press on to trial. I utterly reject it.

For whatever twisted reason Evan Pederick wants to be believed to be the Hilton bomber - and it is apparent that he is desperate to be believed - his performance in this court has already proven him, to me, to be a particularly cold and vicious liar. I can only guess as to what motivates his feelings of "hatred" and "revenge".

Evan Pederick's story is discredited, not least, by the fact that the person he claims to have attempted to kill - Indian Prime Minister Morarji Desai - was never there. Despite what he says to have been a burning image in his mind for the last 11 or 12 years, Pederick never saw him.

This matter also reflects on the malice of Detective Tees: in that he never bothered to investigate in which street the Indian Prime Minister arrived, jumping in to charge me with the attempted murder of Mr Desai - a charge which stands to this day. As we now know, it took the former Australian Prime Minister, Malcolm Fraser, to alert the prosecution to the fact that this part of Pederick's story was impossible.

Pederick's "bomb" goes from 50 to 20 to 30 sticks of gelignite, with some tutoring from Tees, and his garbage bin starts off as one on a pole with a flap at the bottom. This didn't fit the known facts, so he's changed his story, quite radically. Pederick wasn't believed by the priest he first saw, or by the Queensland Police, yet his story was taken on wholeheartedly by Tees and company. Why? Because he was saying what they wanted to hear. He was implicating me.

The claim is now made that I secretly organised and helped plant a bomb at the Hilton, at the very time I was involved in public demonstrations and talking publicly to the media, including television, on behalf of Ananda Marga.

I'll leave the fuller analysis and psychoanalysis of Pederick's claims to the professionals; but I'd like to add one further comment: Pederick gives the game away when he tells of his

beliefs about my arrest in June of 1978. He says that his "innermost belief" was that I had been "set up" because "the police were unable to get (me) for the Hilton".

This was certainly the common belief amongst Ananda Marga members and people who knew me in 1978. It's common knowledge now. But in admitting this, while at the same time presenting a story which paints me as a psychopathic killer, Pederick loses control of his story line.

If I'd been a person capable of mass murder and mayhem in February 1978, why on earth would Pederick assume that I was innocent of Seary's supposed "anti-fascist bombing" in June 1978? He might well question the police story, knowing what they're capable of, but with the unique knowledge of me he claims to have had, how could he possibly have come to the firm conclusion that I was being "set up"?

On Evan Pederick's story, he was a lunatic in 1978. I say he is a lunatic now.

The Lies Must End

Although it's clear to me that this political case is NOT simply about the evidence presented to this court, at the appropriate time I'll welcome the opportunity to refute the current set of false allegations.

It is important that the false Hilton bomb prosecution against me be laid to rest. The lies have to come to an end.

Despite my having been wrongly convicted by one jury in 1979 - in part because of a previous false set of Hilton bomb allegations - I have no fear at all of a jury trial. I believe that, when a jury sees the Pederick story FULLY exposed, and more importantly, sees the full answer I want to make to it, then I'm confident that they'll unhesitatingly acquit me. As a jury acquittal is final, perhaps this is the best way for me now.

But I want to make clear my protest, here today, against the gross injustice of my being repeatedly and maliciously dragged through the courts over a period of twelve years; and I want also to draw attention to the fact that this has been a politically motivated prosecution from beginning to end, and I repeat my original demand for a public inquiry into how this malicious prosecution was ever re-started.

I simply ask you, Mr Hand, and members of the media, in your comments, to respect my right to a fair trial.

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## 13. CONTEMPT IS A ONE WAY STREET

There are almost no examples of "contempt" law being used to sanction or restrict media reports suggesting that persons before the courts are guilty, yet the threat of "contempt" seems to act as an effective deterrent to reports of any person protesting innocence. Even former NSW Premier Neville Wran was convicted of contempt for declaring his belief in Lionel Murphy's innocence (a presumption to which Murphy was legally entitled), while newspapers published dozens of articles suggesting Murphy's guilt.

Naturally, each legal decision on "contempt" is justified in the traditional legal vacuum, lawyers being as accustomed to denying social context as police are to denying the fabrication of confessions. Yet the clear result is that contempt law operates selectively, to gag those chosen to be prosecuted by police and to allow media freedom to those same state accusers.

Of course, selectivity and the denial of life outside court is not restricted to the realm of contempt law. Magistrate Derrick Hand undoubtedly felt confident in his familiar assertion, at my committal proceedings, that the matter before him would be "determined by the evidence and not by any campaign", as he shook a metaphorical finger of caution at CEFTA members, while ignoring representatives of the mass media.

Back in July 1978, before our trial, Newsweek magazine ran a story describing myself, Ross and Paul as "terrorists" linked to the Hilton bombing, and certain to face a jail sentence for a "fanatical crime" against neo-fascist Cameron. This was before any court hearing, yet our application to the then Attorney General for contempt proceedings against Newsweek was rejected. Advice from the Crown Solicitor said the article was "possibly" contemptuous, but that the magistrate and any future jury were unlikely to be affected by the article. However our seven years wrongful imprisonment were later directly linked to the prejudice created by Hilton bomb allegations, including that marketed by the mass media.

Taking a more aggressive view of "contempt" in the early 1980s, several Supreme Court judges charged Prisoners Action Group members with "contempt of court" for handing out, in streets outside the courts, pamphlets describing the general practice of police fabrication of confessions: police verbal, the organised perjury those same judges were doing nothing to prevent. Arguing that each case must be decided on its merits, these same judges for many years concealed from juries what all criminal lawyers know: that verbals are a regular and widespread police practice.

Just a day after my arrest in 1989, Attorney General John Dowd warned journalists not to question police allegations against me, or they might face contempt charges. While privately advising interested people to wait and see what was in the police case, suggesting it was a strong one, Dowd also gave the following public warning:

"There has been a high level of discussion about the Hilton bombing case since the charging of Mr Timothy Anderson. Any discussion in Parliament or the media about the merits of the

prosecution case or Mr Anderson's defence may be a contempt of the court which has the responsibility to deal with it and may prejudice a fair trial."

What then followed in the media, in the 14 months leading up to my trial, was a sensational and largely uncontradicted recital of prosecution accusations, including detailed accounts of prosecution witnesses, which could hardly have done more to prejudice a fair trial.

In the magistrate's court, Detective Tees privately briefed journalists on details of the prosecution case, including what witnesses would say and why they were saying it. At the same time, in August 1989, prosecutor Tedeschi was suggesting to a Supreme Court Judge that CEFTA member Brett Collins should be charged with contempt, because a pamphlet criticising prosecution evidence had been taken from his business premises.

Contempt law, in theory, means that no public comment can be made on an issue which is likely to be the subject of a determination by a court. This appears to be an even-handed definition yet, as described above, it is applied in one direction. Further, the definition does not exclude comment on uncontested issues in the case, or background and peripheral issues; yet most media channels, for their own safety, interpret the 'subjudice' convention as also excluding these. They are then left with the phenomenon of the 'fair court report', which is 'privileged' so long as it remains fair and accurate. In practice, court reports are often judged by their accuracy, but not their fairness or balance.

In the middle of my committal proceedings, in December 1989, The Bulletin ran a review of policing for 1989 by criminologist Richard Harding. After commenting on such things as the Aboriginal Deaths in Custody Royal Commission and the police killing of David Gundy, Harding wrote:

"For all that, there was some good police work. The 1978 Hilton Hotel bombing case was at last cleared up .. (and Denning's evidence against me was) a touching if unexpected testament to the rehabilitative potential of long years in the slammer."

Harding went on to write of "other good police work", perhaps oblivious to the fact that Evan Pederick was still under cross-examination and I had not yet had the opportunity to say anything in court in my defence. This was an outrageous breach of contempt law, yet no action was taken against The Bulletin.

By contrast, the threat of contempt proceedings was kept hanging over CEFTA members. From at least November 1989 to March 1990 the Director of Public Prosecutions, with help from police such as Tees, was preparing advice on possible contempt proceedings against Brett Collins and CEFTA's newsletter 'Framed', which was reporting and commenting on the evidence at my committal proceedings. As it happened, there were no contempt proceedings.

My view and CEFTA's view was that because of the apparent open slather allowed to fabricated prosecution stories, there was no sensible reason why CEFTA should apply self-censorship in the name of contempt law. To follow a convention that police and prosecution lawyers clearly regarded a tool for their own purposes, would have made an unequal fight even more unequal.

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## 14. TALKING TOUGH

*"The more freedom is extended to business, the more prisons have to be built for those who suffer from that business."*
*Eduardo Galeano*

If "nationalism" is the last refuge of a scoundrel, "law and order" must be second last. In recent years Australian governments and oppositions have been attempting to outdo each other in adding to police powers and penalties, while business is deregulated and economic recession bites.

The total Australian police budget increased by 44%, in real terms, over the 1980s. This correlates very closely with economic crisis and the failure of governments to address real social and economic problems underlying "crime" and policing: such as inequality of education and work opportunities, youth unemployment and racism.

Furthermore, policing is not across the board: it is clearly targeted at working class and disadvantaged (notably Aboriginal) communities. The very same communities that cop economic recession the hardest are also the targets - the scapegoats - of the push for "law and order".

This is clearly illustrated by the composition of the growing Australian jail populations. On the NSW figures these are: mostly young men, about 90% poorly educated, 55% unemployed at arrest, around 40% from kids' institutions, 25% denied bail (due to lack of property and social ties) and at least 10 to 15% Aboriginal.

The NSW jail population has grown from under 4000 in early 1988 to over 6000 in 1992. This is a result of the Greiner government's push for "law and order". The NSW prisons budget is now around $300 million per year, including an annual capital works budget of almost $100 million, mostly for new jails.

Aboriginal people are now jailed at an even higher rate than the internationally scandalous figures of a decade ago. Australian Institute of Criminology figures in the late 1980s showed they were 20 times more likely to be jailed than non-Aboriginal people. The Aboriginal imprisonment rate in Australia has worsened since then, despite recommendations against imprisoning Aboriginal people, by the Royal Commission into Aboriginal Deaths in Custody. Aboriginal children are jailed even more often than adults, representing a majority in some institutions, despite their being only around 2% of the population.

### Opportunity Costs

Quite apart from the massive discrimination against those most vulnerable sections of society - scapegoated for problems not of their making - and apart from the massive political fraud

implicit in the suggestion that this "law and order" crackdown is "protecting" society, there are enormous economic costs, including opportunity costs.

With an annual police budget of over $2 billion, a criminal court budget (including magistrates, judges, prosecutors and legal aid) of similar proportions, and an adults' and kids' jail budget approaching $1 billion a year Australia-wide, the total "law and order" budget has to be of the order of $5 billion per year.

Where are the cost-effectiveness studies on this area of state spending, at a time when health, education, welfare and housing budgets are being slashed? How is it that a NSW Police Minister can boast about an extra 4,000 people being arrested and processed by the courts for the trivial offence of "offensive behaviour", while schools are being closed for lack of funds?

As criminologist Chris Cuneen says, social and economic problems are being recast as "criminal" problems.

Since the control and repression of Aboriginal people occupies at least 10% of all such "law and order" spending, no less than $500 million is being spent every year simply on policing, processing, jailing and at times murdering Aboriginal people. This is little short of a war on the whole Aboriginal population. Imagine what could be done with this half billion, every year, to build economic independence for Aboriginal communities, and so release them from the trap of poverty and over-policing.

Similarly, while the NSW Government withdraws funds from equal employment opportunity units, women's refuges and safety provisions in public transport, they feel free to spend more than $10 million in 1989-90 on the construction of new women's prisons. This must lead to an expanded women's prison population, an expensive, ignorant and counter-productive exercise.

## The Alternatives

If there were politicians capable of looking at rational alternatives to the current spate of draconian measures, the following alternative use of public money - already discussed to some extent by groups such as the NSW Campaign for Criminal Justice - could be included. These would address in a more real and lasting way the legitimate concerns of the general community for personal and property security.

1. Decriminalisation and a substituted medical control of the use of currently illegal drugs, with measures to destroy the artificially high black market prices, and therefore the rackets involved in their sale and the theft carried out to obtain them;

2. Community participation in local community security and policing, including such things as youth support schemes, affordable child care and women's refuges;

3. A diversion of the massive amounts of money used in the policing and jailing of Aboriginal people, into community-controlled projects to build community self reliance and economic independence;

4. Employment and industry policies, to provide work opportunities, particularly for youth in poor areas;

5. Urban planning which looks at the development of such things as public housing and the many safety aspects of public transport.

Such measures would represent an enormously better use of state funds than the criminal abuse by overpolicing of poor communities, and would get at the roots of legitimate community concern about "crime".

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## 15. TRIAL

Given the enormous publicity and long history to the case, it should have been clear to me that the currency of my trial would be feelings and prejudice, rather than facts and evidence. But it was not clear. The theatre of the courtroom demonstrated this, as the trial began, in August 1990.

The prosecution, though weak on forensic weapons, was strong on emotional argument; and while my legal team was strong on preparation and evidence, we were utterly conventional in persuasive strategies.

Prosecutor Mark Tedeschi, the young but high flying deputy senior crown prosecutor, was a zealot for his causes. He loved publicity, often ringing up journalists to advise them of his latest case. He generally fought for a win and was artful, persuasive to juries and highly deferential to judges. This had made him popular amongst many prosecution lawyers and judges. Judges Badgery-Parker, Kinchington and Conomos, who were later to act as some of his referees before the Ethics Committee of the Bar Association noted, in their praise, that he was a "tenacious and determined advocate", that he had "not lost sight of the fact that criminal trials in this state are conducted under an adversarial system", and that he was "always a formidable opponent". Tedeschi made great use of emotive argument, using cross-examination questions as platforms for mini-speeches, and working his voice up into cajoling pleas of high-pitched and righteous indignation.

My barrister Peter Hidden, the senior public defender, by contrast, was smooth, urbane and low-key. He was the perfect gentleman barrister: likeable, well-versed in law, relying on the evidence and hardly ever raising his voice. You sensed instinctively that he would never hit below the belt.

Much of the defence research for the trial, however, had been carried out by barrister Tom Molomby, who had become a friend of mine through his work as a journalist covering the Yagoona case. Tom had written several books on famous miscarriages of justice, and was a remarkably thorough researcher and incisive analyst. Together with myself, solicitor Angela Avouris and John Nicholson, my barrister from the committal proceedings, Tom organised a detailed research of the Denning and Pederick stories. Particular attention was paid to checking any parts of the Pederick story that could be tested against independent evidence, and as much as possible of these inquiries were conducted secretly, so that police would not discover what we knew and have yet another opportunity to reconstruct their stories. Witnesses were tracked down, at times overseas, subpoenas and freedom of information requests were made and independent experts were called on to analyse key parts of the prosecution case. This was the sort of exercise that generally only police have the resources to carry out. Fortunately for me, in this case, a substantial part of the research was backed up by the Legal Aid Commission.

It was after the committal proceedings that the most remarkable discoveries were made, findings we had not expected when we began. After several months of work then, and by the

time the trial began, the ammunition was readied for king hits on both the Denning and Pederick stories. We felt well prepared.

## The Object in the Courtroom

No trial, however, is designed to reassure an "accused" person. The first thing you lose is your name, the second your voice. Prosecutor Tedeschi constantly referred to me as "the accused", in a way that emphasised the object I became in the courtroom. I sat in silence for the first six weeks, as the prosecution case ran, while the jury similarly sat in silence on the other side of the room, casting suspicious sidelong glances at me as each new accusation unfolded. The theatre was the brotherly battle between the contrasting personalties and styles of Mark Tedeschi and Peter Hidden, refereed by trial judge Michael Grove. At times I felt the trial had nothing to do with me, even though it was about me.

As in much of the legal system, politeness and formality is all important. never mind that people are saying the most outrageous things about you, you're expected to shut up as, some time later, you'll be able to "have your say". At the same time, barristers with the freedom to constantly express themselves in court can say virtually anything, so long as they observe the niceties of procedure. The accused is expected to shut up and accept the formal procedure; the prosecution is proper so long as it's polite. I was reminded of a line in an Irish song, that British justice is "given by well mannered thugs".

The one consolation I had was that I was on bail, could mix freely with my friends and family in breaks, and go home at night. The added stigma of being drawn up through the dock under armed police guard, as had happened in the Yagoona trials, makes the theatre of prejudice complete. The prosecution had earlier attempted to have conditions placed on my bail, in frustration at campaigners on my behalf publishing a version of evidence that contradicted the official story; but this attempt had failed.

Evidence in the trial developed predictably, if slowly. Pederick was the first and most important witness, and he remained in the witness box over 13 days as he was painstakingly tied to his story in cross-examination. However the significance of much of the questioning would not be revealed till he'd left the court, and whether a jury can suspend belief for this length of time has to be open to question.

It's in the nature of courtroom theatre that little is revealed, except the prosecution story, which opens and becomes the institution of the trial. This either stands or falls at the end; though one never knows why it stands or falls, or how many holes have been made in it, as the jury process is traditionally inscrutable. The jury is perfectly unaccountable: they give no reasons for their decisions, nor do they even have to accept the directions in law the trial judge gives them. On the other hand, they are largely excluded from the procedure of the trial and are kept ignorant of the real extent of their power: being discouraged from asking questions of witnesses or taking any active role in the trial. At the end of a long trial, barristers can only guess at what issues are of most interest to them, and what has already been concluded.

In a different way, the prosecution view of things is often concealed. When my former wife, Gale, was being called to give evidence for the defence, Tedeschi saw her outside the court

and asked "Do you think he did it?". Does this indicate that after the close of the prosecution case, the man who was so assertive in his urgings to the jury was still searching for his own conclusion, or was he just curious about her opinion? Similarly, one of Tedeschi's speculations about Pederick's evidence was never revealed to the jury: when the Pederick story had begun to collapse and the prosecution wanted to change one of the charges, Tedeschi suggested to trial judge Grove that perhaps Pederick's evidence was all wrong because he "ran away" on the day. This of course would have involved massive perjury by Pederick, and Tedeschi never mentioned it to the jury.

Tedeschi continued his relationship with the media during the trial, making himself available to explain details of the evidence or give his view to journalists on request. He was also sensitive to any journalist who might not accept the official line. At one point early in the trial he claimed one person in the journalist's section was not a genuine journalist but a supporter of mine, and so should be excluded from the press gallery by the judge. He asked Peter Hidden to confirm this and Peter turned to asked me if it was true; I told Peter to mind his own business, and not ask me to do the prosecutor's dirty work. John Jiggens, a Queensland journalist whom I knew, stayed in the press gallery and went on to write a book about the trial called 'The Incredible Exploding Man: Evan Pederick and the trial of Tim Anderson'.

## The King Hit on Pederick

With some small exceptions, the stories of Pederick and Denning remained much as they'd given them at the committal hearings. The cross-examination of both was to lock them into their stories and set the stage for a contradiction by independent evidence. Though I would also give evidence, it wasn't to be simply a case of my word against theirs.

The prosecution had come to accept that Indian Prime Minister Desai had arrived at the Pitt Street entrance, and the Pederick story had turned into an attempt on the life of Sri Lankan President Junius Jayewardene: an alleged case of mistaken identity. Just before the trial began, the first charge against me, of attempted murder, had been switched from Desai to Jayewardene.

The most dramatic and compelling part of Pederick's story was his detailed account of how he attempted to murder a person he believed to be the Indian Prime Minister. He prefaced this account by saying the "only way I can live with myself" is to say exactly what happened. In view of what emerged, it's useful to quote this in full:

His skin colour was brown, he looked like an Indian man. As I say I thought I was looking at Morarji Desai, I recognised him as Morarji Desai. So the limousine pulled up and the location of the car when it pulled up was I think about four or five metres north of the bin. So you have the rubbish bin and then two or three metres, or two metres north-west of the escalator and about another two metres or so north of that where the car pulled up. The Australian officials went forward to the car and opened the door. I recognised Malcolm Fraser. I think his wife was there also but I was looking mainly at Mr Fraser at that point and of course with him other Australian officials that I did not recognise. The back door of the limousine was opened and this man stepped out. As he stepped out of the car he was initially faced away from me so that I saw not a back view but maybe a quarter of his face, because I was a little bit south of him. I should say before he turned away for a moment, as he alighted I saw I

suppose a side on view, then he turned away so that I could only see a quarter view of his face. he was then greeted by Malcolm Fraser with a handshake and walked in towards the hotel. Then almost immediately once he had alighted from the car, I recognised him or believed I recognised him and I reached into the airline bag and I moved the left hand toggle of my transmitting device. There was no explosion. There was no explosion and with a vague sort of feeling of maybe I had got the wrong toggle switch, I then moved the other toggle switch even though I knew full well that the left hand toggle switch connected. Nothing happened. Again I moved the right hand toggle switch and I moved the left hand toggle switch again. And again nothing happened.

He says there were between 100 and 200 people present at the time, and any number of them may have been killed. Having failed to detonate the bomb he fled the city, returned to Brisbane and said nothing about the matter for eleven years.

The problem for the prosecution was that none of this occurred. Independent evidence would show that nothing remotely like this was even possible.

The evidence for this would first emerge in the cross-examination of Federal Police Superintendent Roger McConville. After Pederick's trial, he had made a statement corroborating the story of Sri Lankan President Jayewardene arriving and being officially greeted by Malcolm Fraser at 2.30 to 3pm in George Street outside the Hilton. McConville had been Mr Jayewardene's bodyguard during the conference. Though Pederick had been confronted with video evidence showing he was not on the other side of the road when Jayewardene arrived, both he and the prosecution had clung to a series of photos which showed blurred figures further down the street which could have been him. One of these turned out to be a police officer, but the final attack on the Jayewardene theory didn't open until McConville appeared, three weeks into the trial.

Barristers Michael Adams and John Nicholson came to the court to sit in the front row for the expected McConville drama. The first salvo was to be confronting McConville with the Federal Police log, which had the Sri Lankan President preparing for breakfast in the Hilton hotel in the late morning. Jayewardene had clearly arrived in the morning. "Roll one up to him", Michael Adams muttered at Peter under his breath. This was a police officer who had presented a false statement to corroborate a false story by the main crown witness against me. But Peter Hidden was low key to the end. McConville was not hit over the head with his false statement, but allowed to escape the courtroom with a story about mistaken memory.

The news was, however, dramatic to other people in the court. One of the police officers buried his head in his hands. Prosecution solicitor Bruce Love's jaw dropped. Some journalists were onto the implications of this news. But Mark Tedeschi kept a poker face; did he know the Jayewardene theory was false?

If Jayewardene had not arrived and been officially greeted in the mid-afternoon, who could he have attempted to kill? The prosecution realised it had to do some damage control. Though there was substantial defence evidence on this issue still to come, fairly quickly the prosecution presented two pieces of evidence which confirmed that Jayewardene arrived in Sydney on the early morning of the Sunday: an airport log of his flight and a copy of a page from the man's diary. They'd contacted him in Sri Lanka, during the trial. We would go on to produce a surveying engineer who'd say, by the shadows on the ground in the video of his

arrival, that the Sri Lankan President walked into the Hilton Hotel with Malcolm Fraser at about 8.15am, not 2.30pm as Pederick suggested.

Soon after this, Tedeschi applied to the trial judge to amend the first charge from the attempted murder of Junius Jayewardene to that of "a person unknown". The application was refused. In further evidence, before his case closed, Tedeschi asked several witnesses if they'd seen people dressed in an Indian fashion, or wearing white clothes on the footpath outside the hotel in the mid-afternoon. But there were no candidates.

In defence evidence my first witnesss was former Prime Minister Malcolm Fraser, who confirmed that he personally greeted all the heads of state just once, and no-one else, and that he had not greeted any head of state in George Street after the Malaysian Prime Minister, whom our engineer established arrived at about 1.10pm. He was an hour and a half before Pederick's claimed act, and bore no resemblance to the claimed target. Further, Pederick says he was on a "lunch break" of about two and a half hours at this time.

Several demonstrators were called in the defence case to confirm that no head of state arrived, and there was no ceremonial welcome at all in George Street in the mid-afternoon. Other evidence we called, largely the fruits of Tom Molomby's research, established the identity and near exact time of arrival of every head of state that day: a remarkable feat, 12 years down the track. Fortunately a great deal of photographic and documentary evidence remained of that day, and some people's memories of events were quite good, and were confirmed by the film and documents.

The dilemma for the prosecution was more than the fact that both the Indian and Sri Lankan Prime Ministers had disappeared as potential targets: there was simply no other person, of any like description, who'd arrived that afternoon.

There was more. The same witnesses and the photographic and video evidence had contradicted virtually everything Pederick had said about the scene outside the hotel that Sunday. He'd said there was a demonstration in the morning; it was in the afternoon. Probably conditioned by this belief, he'd said the one or two other heads of state he claims to have seen arriving were held back by barricades and lines of police, and that there were big crowds. Video evidence showed there were no big crowds, barricades or lines of police as the four heads of state walked into the Hilton hotel from George Street that morning.

Pederick's story encountered other problems, all of a similar nature: they discredited what he was saying about himself, and thus cast doubt on his own confession. As what he said about me related only to conversations which couldn't be checked in any way, testing his own story against independent evidence was the only way we had of proving him unreliable.

Pederick claimed to have placed a 26" long package of explosives in a near empty bin on the Saturday night. The evidence of council workers however was that the bin was near full on the Saturday afternoon, and near full on the early Sunday morning. Pederick's bomb wouldn't have fitted in the bin. The bin outside the Hilton had not been emptied that weekend; according to police, this was due to a series of decisions not to allow the council truck to double park outside the hotel. Further, the remote control device he claims to have put in the bin on the Sunday morning wouldn't fit through the bin's lid, and he said he didn't lift any lid. Even more than this, the remote control device he claims to have rigged up, from a toy car,

was of a type that didn't exist in 1978. (His twin sons, however, had used remote control toy cars.)

Importantly but strangely, because it formed no really essential part of his story, we proved that the occasion on which Pederick first claims to have been struck by my "charismatic" powers, as I was said to have addressed a crowd of 200 people about my trip to India at the margii conference in May 1977, just didn't occur. I left for India in May and returned in July, and there was no large margii conference after July, until January 1978.

After the committal we'd discovered there were extra statements about the explosives found at the University of New South Wales, to which Pederick had laid claim. Pederick claims to have left the bag there (once Tees had helped him make the change from Macquarie University to New South Wales, and from a suitcase to a bag) in February 1978. However the evidence from police records was quite clear: that locker, taken out in the name of M.J. Melton, was a fresh hiring in July 1978. Pederick could not possibly have left the explosives in that locker prior to July, and any information he gained about the locker must have come to him after July 1978.

Back in 1981, police had looked for a person named M.J. Melton at the University, but could only find a J.J. Melton, who was a naval recruit enrolled at the University. However this person's father was called M.J. Melton. In a curious twist, J.J. Melton had committed suicide in Cairns just three months after my arrest in 1989. His business partner said, in a statement that was not admitted at trial, that before his suicide he'd been worried about two things: police questions about the Hilton bombing and the locker, and some purchases that had been made by forging his father's signature.

As Pederick had admitted extracting the method for a false passport from the Frederick Forsyth novel, The Day of the Jackal, we decided to pursue him along this line. The Jackal is approached to assassinate a political figure, but is only known to one conspirator; indulges in bag snatching to supplement his income; dresses up as a derelict to avoid detection; obtains a false passport; stays in dirty and squalid hotels; gets through police cordons because of his disguise; and tries to kill the head of state but fails. Each one of these depictions fitted both the Jackal and the Pederick story. However the Jackal was killed, in the end. Pederick would only admit getting the passport story from this book.

## The Psychiatric Sideshow

The collapse of the Pederick story and the suggestion by Peter Hidden that his story was a "fantasy" led Tedeschi to attempt calling evidence from two psychiatrists, Dr Bill Barclay and Dr Rod Milton, who'd examined Pederick and, in effect, said he was sane. The defence also had a psychiatric opinion from Dr John Strum, suggesting Pederick was suffering from a factitious disorder. The jury didn't see any of these, as the opinions of Drs Barclay and Milton were largely self-serving repetitions of what Pederick had told them, while Dr Strum, who had examined more independent evidence, had not spoken directly with Pederick. If it was suggested that Pederick was suffering a diagnosable psychiatric illness, the evidence may have become admissible; but this was not the case.

Dr Barclay had interviewed Pederick for his own solicitor David Patch, and concluded that there was "no basis in this matter for a defence of mental illness or for a defence of diminished responsibility", such as might reduce murder to manslaughter. Barclay largely accepted what Pederick told him, including the accusation against me: "It seems that he was quite cunningly manipulated by Anderson". He hadn't however, spoken with me about this, nor had he seen any independent evidence contradicting Pederick's story.

Just before my trial the DPP asked Dr Milton to interview Pederick, specifically to rebut any claim that Pederick might be crazy. Milton set out mainly to make a general psychiatric assessment and only discussed Pederick's evidence in general terms. However he also accepted Pederick at face value, having been given nothing to contradict his story, and went on to add his own opinions about stereotypical "cult" psychology, lumping together several small and eccentric religious groups. He concluded:

(Pederick) never contemplated violent acts against persons until approached by Timothy Anderson early in 1978 .. he accepted Mr Anderson's plan to set off an explosion which would kill many people .. he said he had never heard hallucinatory voices or seen visions .. his history is consistent with normality. He was normal though acting under the strong influence of others .. cults are very different from ordinary religious movements"

We had presented Dr Strum with a great deal more material, including a linguistic assessment of Pederick's interviews, a psychologist's report, statements of various other witnesses and a confidential advice on what we had discovered about the arrivals of heads of state. He concluded:

A plot between Anderson and Pederick is highly improbable and the only real possibilities are that Pederick acted alone or fabricated the whole story. The documents I have seen suggest it is unlikely that Pederick acted alone, indeed, it is unlikely that he acted at all in this matter .. My conclusion is, therefore, that Pederick is suffering from factitious disorder .. linked to his psychopathology rather than to on-going illness .. confronting him with his psychopathology alone would (not) be of much help. Pederick is too clever for that and would merely deny it. Evidence for his lies must come from external sources.

Strum picked up on Barclay's suggestion that Pederick was acting out an "avoidance-avoidance" situation, in his alleged conflicting feelings over carrying out a bombing, but suggested that the reasons Pederick gave may not be the real reasons for it. "The issues may not have been those involved with the taking of life". Strum speculated that unresolved guilt and desire for punishment may have sprung from other sources, such as the crisis in Pederick's sexual identity.

The final document Strum examined was the confidential information that no head of state had arrived at all as Pederick described. Strum commented:

This note to which no more detailed reference may be made, was informative and helped to put the whole matter into perspective. I would add that the contents of the note came as no surprise to me.

None of the psychiatrists were called because the issue was not whether Pederick was sane, or how to explain some accepted actions of his, but whether he was telling the truth: the matter the jury is called on to decide.

In the end it was a very subversive proposition that we had developed: in the course of proving Pederick to be an unreliable witness against me, we had proven by independent evidence that he didn't do what he said he did. This attacked the integrity of his own confession, which had been effectively rubber stamped by the courts, and again posed the question: why would he confess if he hadn't done it? The only rational answer now was that this apparently intelligent, articulate person was seriously disturbed. The unknown factor was his history with the police: did he had contact with them before my arrest?

## Denning Discredited

Denning's verbal at trial was attacked by pointing out some of the benefits he stood to gain from being an informer, and to his past record of dishonesty. He was forced to admit that, in the past, he'd say anything to get out of jail, and that his word "wasn't worth two bob". All that had changed now, he claimed. He was able to admit two Queensland robberies, in 1981 and 1988, since he'd received indemnities for them before my trial began. This meant he could answer questions he'd previously refused to answer, on grounds of self-incrimination.

However he was forced to admit he'd done nothing to help Anne Denton, the young woman who'd put herself out for him in his 1988 escape. She had been charged for the robbery he committed in Queensland, and for which he'd now been indemnified. He said she was innocent of the robbery, yet he'd not offered to give evidence for her, as her trial took place before his indemnity had been granted. He wouldn't help his girlfriend, if it put him at risk. This from a person who boasted that he now supported "justice for all". Anne Denton was convicted and sentenced to three years jail for the robbery Denning committed. It seemed to me that this seriously damaged his credibility to the jury.

With Denning's evidence, as with Pederick's, we'd made a surprising discovery, though one which confirmed my own suspicions. The police had bungled their checks on the jail records. Not only weren't Denning and I together at Long Bay in 1984, we weren't together at Parklea Prison, or any other prison. There was simply no possible meeting place for me at any time in 1984 to have confessed to him, as he claims, in the second part of his story. The prison records proved this conclusively.

The police had carelessly taken the date of the order that Denning be transferred from Goulburn to Parklea as the date on which he was actually transferred. Prison records from Goulburn and Parklea showed that I had left Parklea prison (never to return) on the early morning of 29 June 1984, while Denning had arrived in the mid-afternoon of the same day. Our paths hadn't crossed. Denning refused to believe the records, but in this case they were clear, and his story was finished.

## The Defence Case

Six weeks after the trial began we were able to open the defence case: to give a summary of our position and begin to call evidence. I find it hard to imagine though that a jury will suspend belief for so long. I know I'd have some pretty strong views on a case by then. I

believe that in a long trial the defence should be able to give an opening address at about the same time as the prosecution's opening.

Apart from the well-publicised evidence of the former Australian Prime Minister, and the evidence locking in the events of Sunday 12 February, my evidence was central to our case. I was in the witness box for the whole or some part of five days, during which time Tedeschi did his best to attack me and paint me as the devious and scheming mastermind of the bombing. Having not had the chance to say anything for so many weeks, I was wound up and angry. I kept control for the first day of cross-examination, then on the second day began to hit back at what seemed to me to be a catalogue of dishonest and nitpicking questions thrown at me. I think people expect their "innocent victims" to be helpless and obliging people; bimbos of the courtroom. I'm sure I came across as aggressive and disrespectful of both Tedeschi and trial judge Grove. Their actions during my cross-examination certainly helped firm up that view.

I told of my knowledge that prisoners would verbal other prisoners, at the time that Denning said I "confessed" to him. However Grove refused to accept in evidence a document I'd given my lawyers in October 1978, five months before I met Denning, saying I'd been told certain police were trying to recruit a prisoner to verbal myself and my two friends for the Hilton bombing. Grove appeared to be alarmed that this document made scandalous accusations against police officers. This was important evidence to my state of mind at that time, but the jury didn't see it.

Concerning Pederick's story, there were three important fragments of independent evidence which supported my evidence that I'd not been involved in any such plot. Tedeschi, though, had a tortuous explanation for all of these.

Firstly, an ASIO phone tap on the Ananda Marga premises at Newtown revealed a conversation I had at 12.32pm on the Sunday with a margii meditation teacher, Abhiik, at the airport, arguing where to have our demonstration. A series of these phone taps were admitted into evidence after ASIO employee "Harry Sands" produced them to the trial. The most important was this one:

(Abhiik) said "the man is arriving at 3.50 (Indian PM)". (Anderson) said he was just putting a letter together, adding "I want to present a letter to him .. Well anywhere where I can get him". Abhiik said that when (Mark) returns to get him to come out and pick "us" up and "we'll head back .. I want to come back and he can come back and pick us up and we can come out here again at 2.30 or 3.00 o'clock". Anderson said "What about following him back to the Hilton from the airport" but Abhiik said "we can't do that with two or three car loads of people - I think we can do our basic thing here, anyway we'll discuss it when we get there we'll have everything so that" Anderson said that "if I'm waiting at the Hilton I can give him this letter that's all" but Abhiik said "No - I can see a beautiful place for us to do the thing .. to do our demonstration - it's a nice area". Anderson said "can demonstrate, but I'm not going to be able to get a letter to him". Abhiik said "leave the letter - you can present it tomorrow. Anderson said "that is what was interesting the press in Canberra" but Abhiik said "you'll present the letter through other means - we'll worry about that later - you know - so when Mark gets there just tell him to come back with an empty car so we can go back .. there is no need for us to sit here for three hours".

This record supported my evidence that I was attempting to have the demonstration held at the Hilton (the very spot Pederick claims to have been waiting to blow everyone up), and that I'd later gone to the hotel to see if our demonstration could be held there. In the event, while I saw that the hotel was not completely cordoned off and there were other demonstrations there, the consensus later was to go with Abhiik's idea. We demonstrated at the airport.

Secondly, the police photograph of me at the demonstration outside the Hilton supported my evidence, and was timed as being taken at about 1.45pm, a time when Pederick claims to have been waiting across the road to detonate the bomb. Pederick, who claimed to have been given his "lunch break" by me just before 11am, said he didn't see me there after he returned at 1.30pm, but he certainly would have noticed if his alleged co-conspirator was about to go up with the bomb. He said his attempt at detonation was made sometime around 2.30pm.

Finally there was my letter to Indian Prime Minister Desai, written on 12 February but delivered on the 14th, after the bombing. This called for a "fair and unbiased retrial" in the margii leader's case, something a bombing would be unlikely to contribute to.

In his summing up to the jury Grove noted this point: the irrationality of anyone believing that a bombing in Australia would influence a court case in India. The prosecution's answer, he added helpfully, was that the people involved were not rational.

Tedeschi however suggested I was not only rational but deviously cunning. The phone conversation taped by ASIO was a blind meant to be subpoenaed in case of charges, he claimed. This would then be evidence of my innocence. On the other hand, my presence outside the hotel at the demonstration was a "deliberate attempt" to attract suspicion to myself, so as to get the message to Desai (presumably, if he were not dead) that Ananda Marga was involved. While the letter calling for a fair retrial was a "threat". Just like the logic of the alleged plot, this mixture of claimed attempts to threaten or influence Desai, yet at the same time to kill him, did not seem to me the suggestions of a rational person.

Q: I also suggest to you that you went to the Hilton hotel and remained there because you wanted to be photographed at the Hilton hotel?

A: It's the first time I've heard that one ..

Q: And I suggest to you that was why you went to the Hilton hotel and remained there so that you could be photographed by someone there?

A: To attract suspicion to myself, that's why I went there?

Q: To attract suspicion of Ananda Marga?

A: And myself?

Q: Without there being proof, just to attract suspicion?

A: To invite harassment and twelve years of court cases?

On several occasions Tedeschi chose to attack me by throwing up accusations, then not allowing me to respond. The first of these was an accusation that I was a person given to making false accusations of "fabrication" by the police:

Q: You have accused the Commonwealth Police of fabricating evidence against you?

A: The evidence is in my bag over there is you would like to show it to the jury. There is a video tape.

When I attempted in re-examination to show the jury the tape of my 1976 Canberra arrest, Tedeschi objected and Grove rejected the evidence.

On another occasion we had a heated exchange over earlier High Court criticism of improper cross-examination. This came in a nit-picking line of cross-examination, where he suggested that I'd misled the Yagoona case prosecutor, by saying I'd driven a taxi on the Saturday and not the Sunday. It also raised, of course, the Yagoona case itself, a matter of which I'd been cleared:

Q: Do you have any sensitivity about having been in that taxi early on the morning of 12 February?

A: No, never have.

Q: You were very sensitive about it when you were cross examined at the Yagoona trial, the second one?

A: No, I don't agree with that.

Q: Do you recall being asked these questions by the Crown prosecutor: "Q: You see the day before the Hilton was bombed you were driving a taxi? A: No. Q: You were driving a Sydney radio taxi? A: No, incorrect. Q: I put it to you you were driving a Sydney radio Taxi in the streets of Sydney on 11 February 1978? A: That is correct. Q: I put it to you you were driving a taxi on the 11th to 12th February 1978? A: On 11 February I was. Q: That is 11 February and you were driving a taxi then? A: Yes, I said that." .. Do you recall those questions?

A: Yes I do.

Q: Why didn't you say to the prosecutor that you were also driving a taxi going through into the early morning of the 12th?

A: Because when he said the day before the bombing I imagine he was talking about the Sunday.

Q: The 12th was the Sunday?

A: That is correct.

Q: And you were driving in a taxi on that day?

A: Well not during the day, and as I understand the shift, you know the term "day" to refer to the day. I knew I was doing a number of different things on the Sunday. It wasn't until my attention was specifically directed to going past midnight I thought of - I realised that he was referring to the 12th, could include that early hour of the Sunday ..

Q: I have read you the question. Why didn't you tell the prosecutor that you had been driving through into the morning of the 12th when he asked you if you were driving from the 11th to the 12th?

A: Why didn't I ask him? Because I believed that the cross-examination about the Hilton bombing was irrelevant to that matter, whereas it was obviously being used as a means of smearing me in front of the jury to raise the matter of the Hilton bombing. That was the reason for my sensitivity to that line of questioning.

Q: You felt that because he asked you about the Hilton bombing, not about the Yagoona matter, that you could mislead him by agreeing that you were driving on the 11th but not agreeing to driving on the 12th. Is that what you are trying to tell this court?

A: What I am saying is I do not accept the distortion you put up that I misled that trial. I am saying that I was sensitive to the smear job that was being done by the prosecutor in that trial, which was later criticised by the High Court for that line of cross examination.

Q: That is rubbish and you know it. There is no criticism in ..

A: It is true and you know it.

Q: In relation to that part of the cross-examination?

A: You ought to read Lionel Murphy's judgement on it.

It was all happening again. And when in cross-examination I attempted to explain what I meant about the High Court criticism of that earlier cross-examination, Tedeschi objected and Grove rejected. This was tactical opportunism of the worst kind.

Carmel Cross, who had been married to Evan Pederick, also came to give evidence for the defence. She explained, contrary to his story, that they'd separated after the January 1978 conference so that she could attend a margii training session. She'd decided to do this after it had been suggested by a margii nun. She told of Pederick's obtaining a passport application and passport photos before they came to Sydney, contrary to his story. He hadn't shaved his beard in Brisbane as a joke, as he claimed, but so he could change his appearance for the passport photos. Finally she said that, on the one occasion I'd contacted them after 1978 - when I visited Brisbane in late 1985 - I'd spoken only to her and not him. This was also my recollection. It was another strange part of Evan Pederick's story that he claimed he'd had Carmel's 1985 conversation with me, even though it was just a conversation to say "hello, how are you". It meant nothing in context of the court case, but it just didn't happen.

Tedeschi's Rescue Job

Mark Tedeschi had a difficult job at the end of the trial, if he wanted to continue to support Evan Pederick and Ray Denning as credible witnesses. He took on this task by lying about their evidence to the jury.

With the failure of his attempt to amend the "attempted murder" charge, that charge had to be abandoned. He would invite the jury to acquit me on it. However he tried to salvage the general attempted murder story, and thus also Pederick's credibility on the murder charges, by claiming he and the police had led Pederick into error. The explanation for Pederick's attempted murder story, he claimed for the first time, was that Pederick had actually seen the Indian Prime Minister leaving the hotel alone, without Malcolm Fraser, some two and a half to three hours after Pederick said he left the scene. There were photos of Mr Desai leaving the hotel, and they could be timed at about 5.20pm. Pederick however said he left central Sydney between 2.30 and 3pm. If Pederick got all his times wrong by two and a half hours, Tedeschi suggested, the problem was solved. He even produced photos of a shadowy figure across the street at the time of Mr Desai's departure, and suggested that that was Pederick.

There were major problems with this theory. Firstly, Pederick hadn't given evidence about any of it. He hadn't been asked if his times could have been up to three hours out, if he could have mistaken Desai leaving for Desai arriving, if Malcolm Fraser and the Australian officials may not have been there, if the limousine had not in fact pulled up from Market Street, if it were possible to have hitchhiked for three to four hours north of Hornsby before it got dark (according to his story), if he'd left central Sydney at 5.30pm. Nor had we been told that this story was about to be run.

Peter Hidden asked trial judge Grove not to allow this to be put to the jury, as it was not based on the evidence. Grove allowed it.

Tedeschi went on to claim that masses of evidence exactly fitted Pederick's story, when it clearly did not. For instance, Pederick's description of the heads of state arriving, and his description of detonators. His descriptions were all wrong, yet Tedeschi repeatedly asked the jury: "How did he get it so right?"

He addressed the "empty bin" problem by suggesting that some unknown person had emptied the bin before Pederick got to it. Improbable as this was, it didn't explain who filled the bin up again by 6am, when another council worker got to it. The problem with the second part of the Denning story, of our not being in the same jail, was explained as a possible conspiracy by prison officers to fabricate prison records to cover up a possible illegal transfer. There was no evidence for any of this. It was as if the onus of proof was reversed: we had proven a case against Tedeschi's witnesses, and he was attempting to throw some doubts on our evidence.

Justice Grove stood back and let it all go through to the jury.

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## 16. CONVICTION

It's sometimes impossible to share your tensions and fears with others. The evidence had developed well in the trial, my lawyers were confident we had destroyed the stories of both Pederick and Denning, most of my friends and most journalists expected an acquittal.

Yet I was always aware of the Damocles sword that hung over me. This was the prospect of humiliation and pain to me, my family and many others; and a massive jail term, in effect, my life destroyed.

Over the previous 18 months I'd tried to ignore this and had diverted myself, taken strength from the friends and supporters, studied and campaigned on prison and criminal issues. But as I'd learned before, nothing is a sure thing in the criminal system. As the trial moved into its final day the weight of that awful possibility burdened me and I became withdrawn: hoping for the best but being ready for the worst.

A large group of friends and supporters gathered as the jury went out and the waiting began. We waited in the corridors of the Darlinghurst court building. Some had brought champagne, expecting an immediate celebration. Many expected a quick decision.

In the back of my mind, though, I'd rehearsed some small details for the worst case scenario. For some reason I had this vision of being taken away, and saw myself using those few remaining seconds of freedom to pass my papers and possessions to my solicitor, Angela.

The jury went out at about lunchtime, but there was no word for some time. Then they returned with some strange questions, which didn't bode well. One was about the sand found in the bag of explosives at the University of NSW. The prosecution had attempted to support Pederick by seeking to link this sand with Narrabeen, where Pederick said he stayed before the Hilton bombing. Although the prosecution's own expert witness had finally admitted the sand could have come from anywhere by the sea, some member of the jury was still interested in the issue.

A second question was about Denning: did he specify the year of the second alleged 'confession'? In fact, Denning did not name the year but specified it by saying that I was going to the minimum security jail at Long Bay from Parklea; this occurred in June 1984. After my lawyers had proven Denning and I were never together at Parklea, some member of the jury, like Tedeschi, was apparently still looking for an explanation that might salvage Denning's story. These questions were depressing, and showed prejudice at work in the jury room.

After five hours we heard that the jury was taking a meal break, and that there wouldn't be any decision till after this. We had also heard there was strong argument in the jury room. Taking advantage of the break, about 20 friends and family went across to a restaurant in Oxford Street. Still on bail, I ate a meal but was absorbed in anticipation of the pending decision. I felt part of a group of people, but apart. After such a long jury deliberation I felt the likely result was a 'hung jury': a jury unable to decide.

Just before 8pm we were called back into a packed courtroom. It wasn't yet clear if the jury wanted to ask more questions, if they were 'hung', or if they had a verdict. "No, it's a decision", prosecution solicitor Bruce Love said.

There were four counts, but as both the prosecutor and judge had suggested they should acquit on the first count of "attempted murder", only the second, third and fourth had real meaning. The three counts of murder, for the three people who died, would all carry the same result.

The jury came in as they had for the past eleven weeks, but a couple took different seats and several looked tired and worn, perhaps upset. The forewoman announced "not guilty" on the first count, and all ears waited on the second.

I don't know if I half expected the result, but I went through motions that seemed familiar, perhaps because they had been subconsciously rehearsed, perhaps because it had all happened before. I handed my belongings to Angela and was led by uniformed cops to the dock and stairs that led down to the cells. I felt deadened, as at the time you're cut and feel no immediate pain. Afterwards I was to rage at the ignorance and prejudice of the jury, but as I walked away I just nodded acknowledgment at the crowd of friends and supporters who'd begun to shout and cry. Some yelled "shame, shame" at the departing jury. Many were visibly upset. I heard later that my father, who is hard of hearing, at first thought that he had heard "not guilty". Very quickly I lost sight of the people I had been with, just minutes before.

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## 17. FROM THE SYDNEY POLICE CENTRE

Friday, 26 October

I finally managed to get a biro and some paper - though I have to give the biro back at the end of the Sergeant's shift - things are pretty tight in here .. You say I seem strong but I realise now how helpless I've become in the past day. These cells are very bare and I feel very lonely - it's a real shock, the transition .. I know it's not going to improve for a while. It's been a dramatic change in the last 24 hours. At least I'm glad to see that you, Barbara and John appear well and strong - supported no doubt by all our friends and CEFTA. I also feel that support and appreciate it, but it can seem very far away when you're alone and isolated .. not many people are going from here to Long Bay, just the occasional sentenced person or some people going out to bail. People on remand like me are stuck here, and I'll probably be here for a week or more, possibly even up to sentencing on the 12th. I met one guy here in another cell - I'm on my own - who I used to know in 1984, and he's been here on remand for a week. He's not due for a bail hearing till 19 November, although his solicitor is trying to bring it forward ..

I do feel sorry for myself and sometimes wonder if this is going to take another seven months, or years, or what? I don't despair, and I don't feel self-destructive, but I know the nature of this atrocious system once it gets its claws into you - it doesn't like to give up a conviction. And I wonder where the politics will touch the legal process, and what will happen. I'm sure I'll have to work with the lawyers on the appeal, although really most of that work is behind us and probably it will mainly be a lot of waiting, for the appeal hearing. It seems so futile, such dead time. I hope you'll be able to cope and that it's not too hard on you. I can only imagine myself doing some reading and writing and exercise over the coming months - and perhaps it will be "better" when I get to Long Bay. But the jails are of course in a bad state. And getting used to the degradation - strip searches, orders - is already hard. It's such a "deja vu" and really does seem to be something of the past I thought was dealt with long ago. For that reason also, it's hard to deal with it emotionally now. I am unhappy .. I read some Marquez before, and it wasn't the best stuff to read, as it's all about crazy people, freaks and death! There's enough of that in here.

Actually the cops here haven't been too bad - mostly young and not aggressive. But the place is weird. There's about 20 or 30 cells, most fairly large and most empty at the moment. Except for one little section where I was just taken for a "walk" there's no window or skylight, and there's constant cold air-conditioning draughts blowing into the cell. When I've seen the others in here, in other cells, they're usually huddled in blankets or lying down trying to sleep. It's a dead place.

The food is crap, of course, and I could only eat 2 pieces of bread and some watery coffee from the lunch - oh, and an orange, so I've been hungry too. Being a vegetarian has once again become a problem, as no-one is going to do you anything different. So the only possibility is to throw away the meat part of any meal that comes and eat the rest, whatever is left. The cell I'm in is a large concrete tomb with a steel toilet and a water spout. There's two thin plastic covered mattresses and four grey blankets. At first I had nothing else, but now

I've got the books and papers you left .. So I've got a bit to read now, and then I scored this biro! This is the first thing I've written, but I suppose I'll start to write some other articles, some things for the lawyers and perhaps some experiences, over the next few days and weeks - months?! .. it's so strange! Writing is good for me, but reading is sometimes strange, because all these other thoughts are still going round my head, and they're too strong to ignore. I have to start to deal with them before I can enjoy other things again ..

It does seem to me that it's a very uncertain path ahead now, and I suppose the main thing is not to lose sight of hope and positive results. It's just that I spent seven years before with the carrot-on-a-stick process, the fear of that all over again is hard to ignore: and that was "successful"! I suppose I feel that the judges believe their process is so wonderful that when they invest a lot in a jury conviction - all the cost of a 12 week trial - they don't want to intervene ..

I've just made a list of appeal points, and will check them with Tom and Peter later, but there do seem to be a few substantial ones ..

Saturday afternoon

Hello! I got some more paper today, though it's police statement forms! I enjoy writing to you bit by bit, as I can think of you and imagine that I'm talking with you ..... I am a bit more internally calm today as I think I'm beginning to accept where I am, and the fact that a new phase of this struggle has begun .. I now view this next period as coinciding with the appeal, and so being about 6-7 months long .. It's hard to judge the time in here, but as it's not long after lunch it must be early to mid-afternoon. I suppose one element of this unreality I haven't written or spoke about yet is the sentence due for 12th November. Because of course I never expect to serve it, though I feel like I've already been sentenced to at least 6 months, with the length of the appeal list. I haven't thought too much about the sentence, but no doubt it will have some dramatic impact on the day. As you know, Peter now plans to call some character evidence and argue that the 6 years 11 months earlier served should be taken into account. In any event, I expect a "life" sentence: the issue is just the minimum term, which could be anything from 10 to 15 years, I suppose. It is unreal and bizarre, to be living your life normally and then to be suddenly plucked out and faced with this sort of atrocity. I expect "life" with a 15 from Grove as, whatever he thinks about the verdict, he is a creature of the system and will want to maintain it and be seen to maintain it. He will certainly make some sort of speech about "terrorism", but I don't know how much gratuitous rubbish he will go into. Not a lot, I expect; I think he'll keep it short.

Writing a bit each day is good for me, as much as anything. It also helps me clarify where I am and where I'm going; and that's important in this disorienting time. So this afternoon and tomorrow I plan to write an article on the case, so that hopefully I can send it out sometime on Monday. I may also, if I can get some more paper, start to write a bit about this place and some of the people in here. Reading Marquez makes me think a bit more creatively about writing.

Saturday night

The Sydney Morning Herald continues its campaigning against me. It's quite bizarre for them to have such a campaign against someone when they're down and can say nothing in reply. So much for journalistic ethics. They complained for over a year about sub-judice rules, then ran dead on the defence in court, then run nothing from the defence after. The only thing good that they were forced to run was the public gallery reaction to the conviction. I am really happy about that, mainly because of all that warmth and support personally, but also because it will telegraph to the casual reader that perhaps all is not well, perhaps there is another side ..

I'm feeling gradually better. At first, when I recalled that jury forewoman saying "guilty" I felt a heavy depression descend, and I despaired at the ignorance and prejudice. Now I occasionally recall it and the same feeling returns, only less strongly. I'm becoming more resilient, more accepting of the position I'm now in - but it's not easy! The deja vu feeling is really unshakeable, and I suppose I'll go through it all again at the Bay, when I get out there. It will be better there in many respects, I hope: light, air, visits, more space, facilities, other people; but then again I'm not looking forward to being in a cell with someone who smokes all night. It's crowded there. And I know what Garry means when he says he wants nothing more to do with jail culture and jail society. It's narrow, petty, young guys on the edge, looking for dope, talking tough and not really understanding much about themselves, or the world. And you can't always pick and choose to much about who you're thrown in with. Oh well - I'll deal with that later. And the screws too, and all the weird and jarring sounds of jails and cells: the bolts jarring concrete, squeaking locks, slamming doors, the echoes - it's not relaxing at all, even at night.

I keep looking back to your letter and it reminds me of a very different world that I seem to have left just a few days ago. In some ways it's strange to recall that we went running together on Thursday morning and were so happy and healthy! Well I'm sorry if I depress you with this, but I'm just unloading all this junk and perhaps it'll help me deal with it better and you can feel a bit of what it's like for me.

Tuesday

They took the biro from me yesterday and won't return one to me. The story now is that I have to write - after I managed to get the right to do that - in a room next to the cops room, and that's where I am now! The rationale is that a biro may be a weapon in the cells, against others or against oneself, although I suppose I could just as easily poke myself in the eye here as in the cells! Anyway it's a change of environment, with a background noise a bit like "Skirts": young constables' patter in the room next door ...

Friday

It's taken this long to get a biro again, and after all the talk about going out to a room to write, a sergeant ended up giving me a biro in my cell again. It's better this way because it's quieter here and I can choose to read or write, when I want. I thought I was finally out of here today, as they took me and about a dozen others to Parramatta gaol - had to leave some of your fruit behind, which made me sad! But when we got there the jail wouldn't accept four of us, and so we came all the way back, in one of those totally enclosed large vans - a black moria, except

it's white - an oven of a truck: you're totally encased in metal with hardly any ventilation. It was hot, humid and stifling. Two junkies were having withdrawal symptoms while an old man was on the point of a serious heart attack, and neither screws nor cops at Parramatta would do anything to help him until after about half a hour, when they'd figured out their paperwork. It seems the reason the jail gave for not accepting me was that Parramatta is now only a medium security jail. This didn't stop another fella going in, facing armed robbery and wounding charges ...

I told you yesterday I was fine, and I did feel OK. But I do go up and down, and it's not pleasant to be helpless like this, and isolated. With all the petty incidents: no attention to the old man, being in that unsafe sweatbox of the truck, being taken to Parramatta and then sent back, losing some of the fruit you gave me, not able to get a biro. You can either get angry and frustrated, and rage and protest - but that rarely gets far in this environment. The other way is to accept it all, but then this becomes fatalism and you lose your spirit, and that's depressing and soul destroying. I'm sure I've learned a lot of acceptance over my years in this sort of environment. It's a sort of cultivated calm, a suppression of feelings, because you have to cope with external reality - and often it's destructive to expose your feelings. But also because you have to condition your own expectations, not to expect much at all, so that you won't be disappointed with all the inevitable let-downs and betrayals..

Even a glimpse of Parramatta, with sun on the buildings and asphalt grounds, let me feel that a jail will be better than here; particularly when I'm settled in a bit and have some things to do .. I try to keep reminding myself of all the support .. otherwise I'd be miserable .. I hesitate to say things about the system that's put me here, it all seems too obvious and I feel like I've said it a hundred times before anyway .. I think it's just getting through to me now that this is 1990 and not 1978, and that things are different. I just hope that it takes months and not years to resolve this thing ..

After looking at the bits of legislation Angela left me yesterday it seems clear that Grove will sentence me to "life" on the 12th - or three times life, which is much the same thing - so prepare yourself for that. I just want to say a few words, about not accepting the verdict and the matter not being resolved yet, but we'll see if I get the opportunity ... don't despair, I take confidence from the basic facts being so strong and the support and pressure outside.

The Submarine

Forty cells, forty sterile tombs, concrete and steel wasteland buried in a clanking, echoing creature as if deep underwater

The constant forceful drone and rushing of ducted air mimics a muffled diesel engine, churning water, ceaselessly

A lifeless silence is stabbed, erratically, harshly, with unintelligible cries, screams for attention; the cries echo and fade

Clatters of footsteps announce violent metallic tearing at clasping bolts; then the deep blow of iron on iron shudders through concrete as shrill metal peals through labyrinthine corridors; silence again

Five paces, then the squeal of rubber turning on thick, enamelled concrete, dimly heard

A hydraulic roar, exaggerated flushing of waste

No life visits here, no moths, but the sickly hovering fruit fly, over a rotting food scrap

No light, no sun, no rain pass inside; the night is absence of fluorescence

At night the cries echo and fade

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## 18. A DAY OUT

They drove fourteen of us to Parramatta Gaol today, in the truck. When we got there, four of us were "unacceptable" and were driven all the way back to the Sydney Police Centre.

I took all my possessions - seven books, 2 magazines and my letters - as I thought this was to be my final exit from the Police Centre cells. With a little sadness I had to leave behind some fruit Bev had managed to send into the bunker that is the SPC. Going through the cells section to the front desk, we passed the formalities and were loaded like cattle onto each side of the truck, at least a little hopeful that any jail would bring some bit of life that didn't exist in the bunker: fresh air, sunlight, visits. But then we all had different expectations.

All handcuffed, seven of us were locked in each side. The truck has two cramped corridors with a hard bench against the outside wall, and a partition in the centre. There are no seat belts, no windows (except what you can see through the front cabin) and hardly any ventilation. If the truck jerks to a halt, a mass of handcuffed bodies slides sideways, into a crumpled mess. They wouldn't put horses in an outfit like this, we all agreed.

We were a sad group. Only Steve, someone I'd met that morning as we left, had much life in him. On my side of the van were a sick old man, two disoriented fellas pinched for the first time over a street robbery, Steve, me and two young lads who'd rather have needles in their arms.

The two lads are drying out, one badly. It was his third day of withdrawals. As he lay back and moaned, his friend asked him, unnecessarily, if he wanted some gear brought in. "Of course I do" he strained. "I don't want fucken nothin, I just want to hold me kid", said Steve, who's just signed up to a bank robbery, but has an 18 month old daughter.

The metal panelled truck warmed up almost as soon as we hit the street, being ingeniously designed to soak up as much heat as possible, and give no chance for air to circulate inside. Condensation soon fogged up the tiny glass panel facing the front cabin, through which I could at first catch glimpses of strangely remote city streets and shafts of sunlight.

The two would-be street robbers were a sorry case. In his first ever robbery (for drugs?) one had pulled a knife on a person in the street, the whole thing failed somehow and he had signed a confession to the police. He had no lawyer and no idea of what sentence he'd get, but understood that, even for a first offence, with armed robbery, you'd probably go to jail. His co-accused said he was an innocent bystander, and is on $1000 bail, but he knows no-one in Sydney, being himself from Queensland. They'd been in the cells a few days. Steve was remarkably happy for a man facing a lot of years. He'd also signed a confession to his robbery, but wanted to contest it. The detectives at first offered him some "white powder" to sign up, in the hope that he'd confess. When he told them he didn't touch the stuff, they said they'd charge his missus, as they "knew" that she drove the car; their daughter would be put into "care". He signed up. He said there wasn't much other evidence against him.

I suggested he'd have to call evidence to show the confession was made under duress, and that that would be difficult. He wasn't worried about jail, but was worried about losing contact with his daughter. He'd grown up with and knew a lot of crims.

As we reached Parramatta, one of the young cops mercifully opened the back door (still leaving us locked in by a grill door) and fresh air rushed in. I was mesmerised by open sunlight on concrete, having not seen it for a week. I started to imagine life at Parramatta, seven years after I'd left the place. But nothing was happening.

The cops and screws were wrangling over the paper work, and we were going nowhere. One of the junkies wanted to spew, and the old man's heart was so painful it was making him almost cry. He had a jacket that was suffocating him, but couldn't take it off because of the handcuffs. He needed medication.

We yelled for the grill door to be opened, and for a doctor. One cop ignored us, saying the prison officers had to let us out. I called to a passing prison officer, "officer, a man here's sick, he needs a doctor, it's his heart". "Not my job" he said, "I'm delivering stores". Another prison officer ignored us. We looked at the old man in agony, and I imagined myself in a coroner's court, giving evidence. Would the coroner give a stuff, either? Probably not.

Finally the grills were opened and we spilled out onto the tarmac, only to find that four of us weren't wanted. There were no proper warrants for two, and as for me and one Vietnamese man, well "this isn't a maximum security jail", they said. Whatever that means. Parramatta used to be maximum security, but I believe they dropped the night staff in the towers. It must be the Supreme Court matters that scare them off, as Steve went in and I'm sure I've seen the odd armed robbery suspect in maximum security.

Back in the hotbox we went, to Victoria Road, into the city and back to the SPC, sweating, airless, one 'cold turkey' on the deck, one loud lad arrested on dubious outstanding warrants (the non-presentation of which meant the jail wouldn't take him) complaining to us most of the way back.

To be strip searched again at the SPC, though we hadn't been out of their sight. Wiping the sweat from our faces we staggered against the wall. "Nice day out?" a cop asked.

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## *19. THE CONSTRUCTION OF EVIDENCE*

*This is the text of a letter I wrote from jail to trial judge, Justice Grove, in November, just after he'd sentenced me.*

Dear Mr Grove,

Now that you've effectively finished with my trial, I would like to clarify and explain a couple of things to you, personally.

Firstly, in regards to your comments at sentence, I did not seek a life sentence, or "martyrdom", as you suggested. My legal advice was that only one sentence was possible, and I resigned myself to that. Further, in view of my determination to overturn the jury's verdict, the issue of any long sentence (whether of 11 years or the 10 to 14 years average of a life sentence) did not appear relevant to me.

Regarding your remarkable finding that I was "brainwashed" in 1978, I can only assume that you were trying in some strange way to be helpful, or construct some sort of compromise in the midst of conflicting feelings or views you had about the case.

Unfortunately this continued the process established by the prosecution: that evidence was not really what the case was about, and that what really mattered was the satisfaction of one's own prejudices and theories. As you well know, there was no evidence whatever that I was "brainwashed" in 1978.

I say this pointedly, not because I am a believer in the doctrine that "courts determine matters on the evidence before them" (I pay more attention to history), but because the recent attack on me was founded on the narrower view. That is, the history could be ignored, just look at the current evidence. In the end, both history and evidence were ignored.

The implicit proposition was: we can ignore the fact that Richard Seary's Hilton bombing story was demonstrably false. We could forget Patricia Hill's story, discredited in 1982 and again in 1989, that I'd made an "admission". We could disregard the three false identifications of me outside the Hilton hotel, none of which went to the jury. You yourself would rule one of these inadmissible, as also the evidence of David Wansbrough, before my barrister could open up the issue of his horsetrading perjury charges in the Rajski case.

We could similarly not be too concerned about the entire alleged basis of my 1989 arrest - the uncorroborated verbal of a desperate long term prisoner - as his evidence became merely 'corroborative' of the newfound star witness. Ignoring the five additional prisoner-verballers, who also had crises of conscience eleven years down the track, was then also easy. In any event, the prosecution was apparently too embarrassed to call them at trial.

I suppose in this context no-one should have been surprised at being asked to ignore the fact that Pederick's first and last meetings with me were disproven by independent evidence, that his entire 'attempted murder' story was shown to be rubbish, that he grafted into his story his use of a false passport and the public fact of my having driven a taxi, that he adopted almost all the additional police information fed to him, that he added and changed his story as necessary, invariably making me responsible for not only his own claimed wrong-doing, but the errors in his story. I should not have been surprised that independent evidence supporting my account of my activities 12 years earlier was also ignored.

Nevertheless I was surprised, and shocked. And further surprised that statements continue to be served on me even after the trial is over.

It is clear to be now that 'evidence' in this case is little more than an endless process of production and reconstruction. We knock down one story and another arises. We discredit one story and it is reconstructed. Discredited stories could simply be redefined by theories that would strike fear into the hearts of defence lawyers for the scorn that would flow from the bench if advanced on behalf of an accused person.

There is just no end to this 'evidence', as there appears no way around the prejudice. Despite my being encouraged by the extraordinary public support, this is a dilemma for which I just do not have an answer.

Yours sincerely,

Tim Anderson

Long Bay Gaol

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## 20. CEFTA

From the day of my arrest on 30 May 1989 a large number of people became involved in a campaign to defend me against the false charges and, not being prepared to be just defensive, soon adopted the name of CEFTA: Campaign Exposing the Frame-Up of Tim Anderson. We held weekly meetings, forums and fund-raisers and, before my trial, put out nine issues of a newsletter called "Framed", which began to deal with broader criminal system issues, as well as my case.

The early start and wide scale of the campaign was very unusual. Generally such a campaign starts after a person has been wrongly convicted. In my case though, the campaign grew out of a strong reaction among many who knew I'd been wrongly jailed before, over the same matter. Though the charges were not the same as in 1978, the prosecution gave the appearance of the police having a second go; and that also happened to be the reality. Added to this reaction were the friends I had through my involvement in the student and activist communities, whose instincts were to fight back.

This support, of course, reinforced my commitment to fight back, and I was determined from the beginning to see the proceedings through to the end. This was depite my being horrified by the prosecution and its implication, that the police could continue to attack me for decades on old and worn out theories, and for reasons of revenge.

A friend working with refugees told me that, given my history with police, I'd have a good case to apply for political asylum in a third country: what was required was a "well founded fear of persecution". I asked if any outside body could test this out for me in principle, as the idea intrigued me; but I never seriously considered pursuing it.

If the campaign was unusually big and energetic before my trial, it became bigger and more serious after my conviction.

### CEFTA Pre-Trial

In the fifteen months prior to the trial, CEFTA's pamphlets and newsletters caused a reaction within the prosecution. Despite the media blackout on any story sympathetic to me and the free rein given to the police allegations, some in the prosecution felt threatened by CEFTA's publications.

Prior to my committal hearings, prosecutor Tedeschi suggested to the listings judge for Evan Pederick's trial, Justice James Wood, that contempt proceedings should be taken against Brett Collins, the proprietor of Breakout Printing. Tedeschi asserted that Breakout was responsible for CEFTA materials, and suggested that these materials (criticising Pederick's evidence in a way that no-one at his trial would) were in contempt of Pederick's trial. Nothing came of this.

Then during and just after my committal proceedings, issues of Framed which criticised the prosecution's committal evidence were scrutinised by DPP solicitors for possible contempt of court actions. Nothing came of this, probably through fear of reaction to what would be seen as repressive censorship, coupled with arguments about Framed's limited circulation and the distance in time from a trial. At the same time, angered by articles outlining the history of some of the police involved in the prosecution, those police sought legal opinions over possible criminal defamation actions against Framed. Once again, nothing came of this.

Tedeschi then made a late attempt, three months before my trial, in May 1990, to have my bail conditions changed. In the first proceedings before the trial judge, Justice Michael Grove, copies of Framed and other CEFTA materials were tendered. Tedeschi's application was to have a condition added to my existing bail conditions:

That the accused will not assist or deliberately encourage any other person to disseminate to the public any views or material concerning this case and will refrain himself from making comments about the case in the public arena.

This was an attempt to make the one sided propaganda effort complete. The prosecution case had by this stage received massive publicity and, while I'd been interviewed over the publication of my book on prisons, no mass media outlet in Sydney would report my comments on the evidence, for fear of contempt proceedings. "Comments about the case" by me were generally only in CEFTA publications and some sections of left publications and public radio.

While Justice Grove was sympathetic to Tedeschi's application, he also recognised the danger in it. He noted some of the activities of CEFTA, referring both to Framed and to a satirical poster:

portraying a female entertainer under the banner headline "Hilton bomber caught" followed by a caption reading: "A joke? Yes. Untrue? Yes. It's just as true as saying that Tim Anderson is the Hilton bomber. Corrupt NSW Police have framed Tim .. but for him the prospect of life imprisonment is no joke. if you believe Tim Anderson is the Hilton bomber, you'd probably believe that Kylie Minogue was his accomplice."

Grove summarised the contents of Framed this way:

It includes general assertions of police malpractice, assertions of malpractice in relation to the proposed case against Mr Anderson in particular, castigation of intended Crown witnesses, reports on the progress of the prosecution process .. invitations to attended scheduled meetings "in support" of the accused and more general articles concerning the purported processes of the criminal justice system with some emphasis on asserted requirement for reform.

Grove agreed with Tedeschi that portions of Framed were "contemptuous", but noted that this was not the issue. He disagreed with a defence submission that he didn't have power under the Bail Act to impose such a condition, but refused Tedeschi's application because he could not see a clear way do so:

It may be thought a somewhat strange concept that a person can be inhibited from proclaiming his innocence. I apprehend that there is no inhibition upon doing so simpliciter

but there may be inhibitions upon the content and context whereby that is done .. Regrettably neither the researches of counsel nor my own have provided a determinative guideline as to where permissible limits lie .. I consider that great care needs to be taken to avoid the use of power to condition bail simply to suppress activity which engenders disapproval but which is not unlawful .. If as the Crown fears, Mr Anderson commits some contempt prior to his trial then the Crown authorities will have to make a decision as to what they wish to do about it .. (and) The Crown if it contemplates proceeding against any other persons whom it alleges may be guilty of contempt must do so independently of this application.

Having been unable to find a basis for contempt proceedings against me or CEFTA, the prosecution passed the buck to the courts on the issue of bail; but the buck was passed straight back.

Despite the failure of these various prosecution options, CEFTA members lived with a real threat that action might be taken against them. Police and police spies visited CEFTA to collect ammunition for such actions. However they went on publicising and criticising the case, enlisting the support of activists, trade unionists and politicians, and holding public meetings, dinners, film screenings and even fund-raising harbour cruises. As my book Inside Outlaws had been published in the middle of all this, I also spoke on prison issues. Apart from commentaries on my case, the pre-trial issues of Framed ran articles on: the use of prisoner informers, the killing of David Gundy, police raids on the Aboriginal community in Redfern, other miscarriages of justice including that of Kerry Browning and Kelvin Condren, profiles of NSW police and the political "law and order" agenda.

A fair amount of my own time was also spent with my lawyers Angela Avouris and Tom Molomby, as between us, and with some help, we were engaged in investigations that would lead to our winning the battle of evidence at trial, if not the trial itself.

The prosecution's claim that a jury might be unduly influenced by CEFTA's publications or my comments was always ridiculous. The opposite was always the real threat: that the legal propaganda of the prosecution would prejudice a jury before my trial began. In my opinion, this happened.

The value of CEFTA activities to me, though, was that at least a substantial, informed minority would be both motivated and able to look more carefully at my case, especially after the trial, when the threat of contempt law was greatly lessened.

## CEFTA Post-Conviction

After my trial and conviction on three of the four charges, CEFTA members were shocked. Most of them were familiar with the evidence and had followed the developments of the trial. They were appalled by the verdict. The group's membership, energy and commitment all increased, as did the size and circulation of Framed. While I'd been involved in CEFTA and regularly attended meetings before the trial, afterwards I was in prison and cut off. I was aksed about some things they had planned, but in general and from my isolation I took a "hands off" approach to CEFTA's activities.

The unexpected verdict was a catalyst for many things happening rapidly. CEFTA organised a public meeting with several hundred people at Glebe Town Hall, ten days after the verdict. Hilton bombing victim and former policeman Terry Griffiths went public to say he believed I was innocent. Graffiti sprang up around Sydney.

In preparation for my application for bail pending appeal, several CEFTA members began collecting statements from prominent persons who were prepared to support my bail application. At first I didn't think a lot would come of this idea. However the tactic turned out to be an important means of beginning to counter the massive adverse publicity that had followed my conviction. Initially, there had been hardly a word of questioning from the mass media, despite the destruction of the Denning and Pederick stories in court. The jury verdict on three of the four counts was largely treated as a "winner takes all" award to the prosecution story. The December bail hearing began to change that.

At a pre-Christmas bail hearing before Justice Rex Smart, in addition to arguments that the case was weak and that there were special circumstances, a list was presented containing the names of thirty prominent people prepared to offer $1000 each as bail. These people included politicians, journalists, film-makers, artists, writers, activists and academics. There was a further list of others, including respected historian Manning Clark, who also supported my application. I only knew some of these people.

The apparent respectability of these people helped counter an attempt to portray CEFTA as disreputable and extreme. Journalist Janet Fyfe-Yeomans, who had run biased articles in the Sydney Morning Herald during the trial, complained on an ABC television program after the trial that she'd felt "threatened" by CEFTA members, and had been abused. On the same program Aarne Tees attempted to discredit CEFTA by pointing out that one person had worn a hat into court, and that this didn't show proper respect for the court. What an irony: the man who'd manipulated the evidence of his two main witnesses, complaining about courtroom decorum. Consistent, though, with the prosecution's victory of style over substance.

Justice Smart took notice of the prominent persons and delivered a quite sympathetic judgement. However he refused bail. Smart reviewed the evidence of the case, foreshadowing some of the issues the Court of Criminal Appeal would deal with, but said that he could not fully assess the strength of the appeal in a bail hearing.

An arguable case (for appeal) in conjunction with other factors may amount to special circumstances .. Mr Hidden contended that the appeal has considerable substance and substantial prospects of success. This may be correct but I am not able to go so far .. I can only say, based on my limited knowledge of the case and the arguments I have heard, that at first sight, the grounds appear to be arguable and to raise matters of substance for consideration .. The case itself is extraordinary .. the conviction has caused a deal of disquiet among informed and highly respected members of the public. Thirty prominent citizens including parliamentarians, academics, journalists, a retired Chief Judge and columnist, and a member of federal Cabinet are prepared to act as sureties .. (further) it is not possible to put aside the fact that someone unfairly spent nearly seven years in gaol during some of the best years of his life. It has already been demonstrated that the law has acted less than ideally in relation to Mr Anderson and a case with an Ananda Marga background. I welcome the interest and concern of the thirty citizens in the trial and its outcome. The administration of justice needs the analytical skills, the active interest and robust common sense of informed members of the community. They can also advocate reform. (But) I am bound to deal with

this matter in accordance with established legal principles, whatever my private views may be.

Justice Smart refused bail though, because of the seriousness of the charges, the fact that a jury verdict is "treated as final until it has been shown that it is infected by relevant error" and that it was not possible for him to fully assess the appeal grounds.

Over Christmas CEFTA held a party outside Long Bay Gaol, in 40 degree heat and blustery winds, while rock band Roaring Jack prepared a single and music video about the case, called "Framed". This became the third song recorded about the case.

At the same time a group of academics formed, calling themselves Academics For Justice, saying they were not satisfied with the outcome of the trial, and that it raised more questions than it answered. They called for a Royal Commission into the Hilton bombing. They collected signatures from almost 300 academics around Australia on a petition to this effect. At the same time, in early 1991 prior to the appeal hearings, the group published a series of articles on the case and issues arising from the case (such as that of prisoner informers), in a book called Travesty.

In prison I worked on analysis of the trial evidence and the prosecutor's address for the appeal hearing, and I also considered the possible outcomes to the appeal. I thought a retrial was most likely, and prepared for that as well. I believed that a change of tactics was essential if the same thing were not to happen again. The trial result, it seemed to me, was due to prejudice and Tedeschi's misrepresentation of the evidence. Even if I could deal with the latter, what could be done about the prejudice?

Influenced by weeks of sitting impassively in court, I decided that I'd represent myself in the expected retrial. Whatever disadvantage there might be in my lack of courtroom skills and the certainty of personal confrontations with witnesses, I felt the advantages of dealing directly with the witnesses and the jury outweighed them. Even if I expressed anger and frustration during the trial, this would be in the context of many days proceedings. Most importantly I felt representing myself would humanise me, where the main tactic of the prosecution was to demonise me. It's hard for me to overstate the powerlessness I felt in sitting silently in court for weeks, objectified as "the accused", talked about but not talked to. Representing myself I would at least be referred to by name, and probably as "Mister" at that. For all these reasons I'd decided to represent myself, and worked at preparing what I'd say and how I'd present the case.

One immediate problem with this plan was that I had been once again targeted as a "troublemaker" within the prison system, and began to be moved from jail to jail. Despite a written request from my solicitor that I remain in Sydney to prepare for my appeal, the Department of Corrective Services moved me out of Sydney to Lithgow Prison. There being no way they'd contemplate changing their minds, I put in another bail application, which forced them to return me to Sydney. I represented myself at this hearing, before Justice Jane Mathews, and asked for bail on the grounds that the "bus therapy" (being rapidly moved around to keep me disoriented) applied by the Department was preventing me preparing my appeal. Justice Mathews refused bail but made a strong recommendation that I stay in Sydney. I did.

CEFTA learned to be wary of journalists. After the appeal hearing, when it became fairly clear that a retrial or final acquittal was likely, Sydney Morning Herald journalist Janet Fyfe-yeomans rang CEFTA spokesperson Jane Mussett to very politely request an interview with the group after the appeal decision. However Janet Fyfe-Yeomans had earlier appeared on television, saying she felt "threatened" by CEFTA and that she'd been abused, allegedly by some CEFTA person. She became very angry when Jane told her the group didn't want to talk to her.

CEFTA received international support. I was amazed to hear that an affiliated group was set up in Finland; I don't know how or why, though naturally I was grateful for any such gesture. Then in conjunction with the Australian Irish Congress, a group which was just beginning, CEFTA rapidly organised a visit by Paul Hill, one of the Guildford Four: four young Irish people wrongly jailed in England for fourteen years for IRA bombings. Paul visited me in jail for about 20 minutes, then began to speak to the Australian media about his own experiences, and the parallels between our cases. He spoke on these issues on April 23 at Glebe Town Hall, with Shadow Attorney General Paul Whelan and prominent criminologist Paul Wilson. It was a powerful experience, and even a bit eerie, to hear of the meeting and see photos of hundreds of people in the Town Hall. For me?

Later in 1991, after I was acquitted, I helped with the Australian Irish Congress tour of Johnny Walker, one of the Birmingham Six: another group of Irish people wrongly jailed, this time for sixteen years, before being exonerated of an IRA bombing. As with Paul Hill, Johnny had a lot to say about British justice, and the lessons were not lost in Australia.

It's not possible for me in this chapter to recreate the atmosphere of CEFTA (much of the time I wasn't there myself) or to recount all that those within the group did. This might be better followed through the eighteen issues of Framed that have been produced to date. Nor can I thank all the people involved, or name them. I felt awed by the energy and support that was generated, on my behalf. While it encouraged me enormously, it was also difficult to understand, or respond to. Logically I can explain to myself that the support came from an activist community, and in the peculiar circumstances of a repeat prosecution; but I still find it difficult to deal with, emotionally.

I would, though, like to thank all of those who were involved in CEFTA, whether they knew me or not and for whatever reason they became involved, for their support and efforts during my ordeal. That support in the face of so much state hostility, I believe, was invaluable. It's certainly something I will never forget.

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## 21. IT SEEMED LIKE I NEVER LEFT

While I hadn't looked forward to returning to jail, imagining how much I'd changed and that the people in jail would all be new to me, I arrived at Long Bay after eleven days at the Sydney Police Centre to find a remarkably familiar scene. Within a few days of meeting people I knew and adjusting to the sub-culture, I was shocked at how quickly I adapted. It was all too easy. The experience of those previous seven years had been sitting at the back of mind and it seemed as if I'd never left.

I hadn't been at the Remand Centre since 1979, nor the Reception Prison (previously the CIP) since 1980, nor the Assessment Prison (previously the MRP) since 1982. Within a month I'd walked into all these prisons and found that, in many ways, little had changed. The buildings were the same, though the grassy patch had gone from the Reception Prison, and two of it's six wings were for "protection" prisoners. In each jail I entered I found people I knew and friends, from the previous seven years. Many were long termers: some had been there continuously, since I'd left, some had been out, and had come back in. Most of these had spent almost all their adult lives in jail. In one sense it was good to see familiar faces; in another, it was just a tragedy. They hadn't moved on, nothing had changed for them. For me it meant easy acceptance and quicker access to the trivial things that become so important in jail life.

While many things remained the same, some other important things had changed. The regimes had changed. All the jails were oppressively crowded. For six of my previous seven years I'd been alone in a cell, generally for sixteen or seventeen hours a day. Now it was near impossible to be "one out" in a cell. This makes a radical difference if you're used to privacy, or want to read or study.

### Property Restrictions

The draconian restrictions on prisoners' property introduced by Corrective Services Minister Michael Yabsley had increased tensions and made life near intolerable for many. The notion to drastically restrict prisoners' property was not an original idea, it had been around for many decades, occasionally rearing its head. Each person was now allowed two books, three magazines and six photos, while such things as guitars, thongs, wedding rings, wall posters and typewriters were banned. With special permission, extra books could be held for "approved" education courses, and in theory permission was also required to hold court papers and transcripts. Previously, postage was paid for by the department; now prisoners had to pay, but for some strange reason they could only buy a maximum of six stamped envelopes a week. These petty rules worsened the bureaucratic nightmare that already existed in the prison system.

In many respects the property policy was unenforceable, but it remained as a reserve power that could be used arbitrarily. Who was going to count your magazines every night? What did

it matter anyway? Most prison officers didn't care. Nevertheless, some would occasionally "advise" you to circulate "excess" books or papers "in case" there was a check.

There had been riots in several jails after the "property policy" had been introduced. The department deserved everything it got. Personal property that had been purchased with approval was now banned, often confiscated and destroyed. If the system showed no respect for prisoners' property, they could hardly expect it for theirs.

Sugar had also been banned, while the ability to buy fresh fruit had been stopped some years earlier. This was said to be to prevent fermented "brews". Preventive health had been made more difficult, as the banning of thongs (because syringes can be hidden in them) contributed to the spread of tinea. And while there were AIDS education programs (the most successful ones run by inmates), condoms and clean needles were not made available, as they are on the outside. The number of drug and alcohol counsellors had grown, as had the size of the methadone program. But prescription drugs were now as much in demand as illegal drugs. What else is there to do in such a place?

The overcrowding, lack of facilities and lack of anything to do at Long Bay created an explosive atmosphere. Overcrowding affects everything. When there are staff shortages, prisoners' services disappear. On any given day, sports may not happen, or the education section or library may not open. Regular monthly searches were being held at Long Bay for "excess" towels and bed linen, because of shortages of these items, and on these days all visits stopped and everyone was locked in cells.

## Overcrowding, violence and repression

Petty violence was common, much more common than before. As I sat on the asphalt outside four wing one day, writing a letter, one person started belting into another next to me. Blood spattered on the ground next to me. I ignored it and went on writing. The instigator came up to me later and apologised for disturbing me, "I'm sorry buddy, I was feeling a bit paranoid". I'd known his brother before. Fights in the yards were common, usually over petty things. Later, when I got some work in the Assessment Prison hospital, I often mopped up blood. And the "emergency squads" occasionally came in to drag someone out, usually with dogs and a fair amount of violence. It was a more violent climate than before.

The response to one violent incident says a lot about old style custodial "solutions". After an escape attempt at the Reception Prison in mid-1991, the entire jail was punished by being locked in tiny yards. One incident in these yards was described by a friend as follows:

The atmosphere in that yard was very tense, people arguing frequently over petty things which sometimes turned into fights .. Some people from the adjoining yard actually made a hole through the double brick wall using weights. Through that hole someone recognised an enemy, so they decided to make another bigger hole. It took a day and a half of constant banging with the weights to knock out a hole large enough for somebody to pass through .. Finally a guy came through and challenged another one to a fight. A circle formed around them and the fight started. It was very violent and the guy that had come through actually managed to bite the other one's ear lobe off. But that was apparently not enough because he wanted to get one of his eyes out. The fight soon stopped.

The Superintendent's response to this and other similar incidents was to ban boxing and other training equipment in the yards, on the grounds that it was this sporting equipment encouraged fighting, and not the frustration of the yards themselves.

Strangely enough, the prison officers were mostly better. The regimes had gotten worse, but the mostly young prison officers had not grown up with the old guard ideas. While there was still a clear division between blue and green, in many cases prison officers talked to prisoners, and even criticised other prison officers, or the department. Young prison officers seemed to feel more able to relate in a normal way, whereas the 'old school' attitude to 'crims' was: "don't call me mate, I'm not your mate". In particular there was a great deal of ordinary prison officer hostility to Ron Woodham's elite squads: the emergency squads (the thugs) and the Internal Investigation Unit. Virtually all organised violence in the system now comes from the emergency squads, when they are let off the leash.

In my 1989 book on prisons I had written of fears about a huge rise in the prison population, and said that the only restraint operating on prison numbers was the availability of space. Even that restraint was circumvented, as the state government began warehousing prisoners. While new jails were slowly opened, the population rocketed from below 4000 in early 1988 to over 6000 by mid-1991. In the same period the prisons budget rose from around $190 million to over $300 million, with a third of that figure the capital works budget, mostly to build new jails or create extra cells.

The changes were brought about by an increased arrest rate, especially for petty offences, and longer sentences. The new Summary Offences Act and the Sentencing Act, which abolished prison remissions, were largely responsible. Numbers arrested for "offensive behaviour" rose from 4000 to 10,000 a year, while effective sentences for serious crimes rose by over 20%.

## Protection regimes

"Protection" sections have become a huge industry, and a means of dividing and "managing" the prison population. In the past only informers, child molesters and some young people afraid of being raped were held segregated in protection sections. Those "on protection" comprised around 5% of the prison population. Now most jails have large protection sections. One third of the Reception Prison, when I was there, was "on protection". Almost the whole population of Goulburn Gaol is now "on protection". The rise in numbers in these sections can only be understood as the result of a deliberate management policy; while there has been a large rise in the number of prisoner informers, it only accounts for a fraction of those on protection. In practice, many young people have been encouraged, when they enter a jail, to go on protection. In the Reception Prison, over 1989-91, a prisoners group called the Inmates Support Group, with the support of staff, was helping many of these young people come off protection. After an escape in that jail in mid-1991 the senior staff of the jail were removed and the group closed down. The person who recommended the removal of those senior staff was Ron Woodham, the Corrective Services security boss and de facto head of the department.

In the ICAC informer hearings I had a chance to raise the protection issue with Ron Woodham. He agreed that there were management advantages in the segregated protection areas:

Q: You'd agree, wouldn't you, that there's been a phenomenal rise of the number of people in protection sections in the last few years? Woodham: That's correct. Q: And that's not mainly people who are informants, is it? Woodham: No, sir. .. Q: What reasons do you attribute the enormous growth of numbers in protection areas in the prison system in the last few years? Woodham: One of the reasons is the, er, drugs, um the younger peo - there is a - an increasing number requesting protection when they are received at prison. Q: Because they can't pay their debts? Woodham: Well that's one of the reasons. Others are they're fearful. Q: Fearful of being assaulted? Woodham: Yes, um, they're - they're the two main reasons .. Q: The whole management proposition of protection sections in prison is a very different kettle of fish to the mainstream jail, isn't it? Woodham: Yes. Q: The people in protection sections are, by virtue of their being in there in some respects, and they're also encouraged, they depend more on the staff, the prison officers, don't they? Woodham: Yes.

However, despite his strong influence in prison management, Woodham denied that he had personally encouraged the growth of these protection areas.

Surviving

One day a young Turkish man, Sedat, had protested not being allowed a shower before going to court. The squad was sent in for him two days later, and all Seven Wing heard him being choked as he was dragged out of the wing, a video camera trained on him from behind. He was dragged across the ashphalt and bashed in the segregation yards. Later at the hospital, I saw grazing and bruises the size of plates on his back and buttocks.

At about the same time a young Aboriginal man, John, had slashed his wrists, so they'd thrown him into these same yards, where he'd found broken glass and slashed his wrists again. I saw John in the hospital, on the way to a solitary "dry cell" at the jail hospital's psychiatric ward. He had a fear of being locked up, and I'm sure he needed someone to talk to.

My friend Ken sat in the bare, non-workers yards for the best part of a year, unable to get work. He had pleaded guilty to defrauding the Social Security office of about $7,500, after being told he would get a six month sentence. Instead, he received a four year sentence, with a minimum term of three years. His hair began falling out with the stress of this sentence; his appeal has not yet been heard. He has now been ordered to repay the amount, but is earning only $4 per week. One wonders why the state needed to jail him at all, at a cost of around $40,000 per year? If he'd been sentenced to community work for a year or two, he would have helped the community, helped himself, paid back the money he stole and saved the government $120,000. Instead, everyone loses.

A particular sense of humour helps people survive in jail. Arriving at my work at the prison hospital one day I bent down to do up my shoelace. "Don't bend over in front of a lifer, you degenerate", Kevin warned me, in a completely serious tone.

Jail is like a working-class boys' school, gone to seed. The kids that used to throw rubbers at the teachers now knock off cars, take drugs and rob houses. They're a bit older, but a lot of the games are the same, and a lot of the kids still haven't learnt to read or write.

## Education lost

I was enrolled in a university research program but found my study obstructed by being moved from jail to jail, being refused "student" status, not being allowed to receive books and papers from my university supervisor, and being banned from the few word processors at the Assessment Prison's education area. This latter problem was because senior prison officers believed that I'd helped type a complaint to the NSW Ombudsman about conditions in that jail.

The inability to be alone in a cell, due to the overcrowding, also makes study extremely difficult. Living 16 or 17 hours a day with another person in a room the size of and functioning as a bathroom-toilet, often with a TV or radio on and with no proper chair or table, doesn't form the ideal environment for any sort of learning.

With the above problems, with the overcrowding denying me access to a single cell, and with Michael Yabsley's property restrictions further denying me access to a typewriter, I was forced to conclude that I could not really carry on with my studies. Ten years ago I started, and completed, a university degree in jail. I couldn't do that in today's prison regime.

## Before the Board

In April 1991 I was called to appear before the Serious Offenders Review Board which makes decisions on the classification and placement of long term prisoners.

By this stage the Department had ignored my lawyers' request that I be held in Sydney to prepare my appeal, as I had been transferred to Lithgow; they had similarly ignored my "hold" in the Reception Prison, where I had been a member of the Inmates Support Group; and my studies had been blocked.

When I went in to speak with the Board, chaired by retired Judge Gee, the following exchange took place:

Judge: Is everything alright?

Me: No, conditions are atrocious in this jail.

Judge: Yes but apart from that, everything's OK?

Me: As a matter of fact, I've been stopped from doing my course.

Civilian member of Board: Perhaps they're just testing you?

Judge: Do you have any preference? What jail would you would like to be held in?

Me: If I told you, they'd just send me in the opposite direction.

Board: (polite laughter)

Judge: Well we think you might as well stay here, you seem to be doing alright here.

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## 22. THE NON-WORKERS YARD

At 8.30am at a cried "let em go!", a series of thick steel bolts begin slamming back into their iron-bracketed housings on the plate-iron doors in 10 wing. Having been unlatched minutes earlier, the bolts sit cocked upright, in a long row, like giant rifle bolts, indifferent to the phantom "let em go's" coming muffled at odd intervals from inside the cells; until the order sets bolts jarring into iron, the doors yawn open and the day's orphans stagger out into the morning air.

The path to the yard is short: through the old, heavy, chip-painted iron gate of the wing, turn left beside a row of young uniformed recruits in the central concrete circle, and left again through a newer, lighter iron-barred gate and under a roll of fresh, galvanised razor wire, into the yard.

The razor wire coils evilly over three sides of the yard, glinting in the harsh morning brightness. Its knives are longer and more wickedly pointed than the older, rusted razor wire that lies further out on the perimeter of the jail, near the eighteen-foot walls. The entire jail, even inside 10 wing, is partitioned with these coils of stamped and crimp-reinforced knives, designed only to slice flesh. Skin tenses and jaws sub-consciously tighten at each morning's reminder of these decorations.

In the yard the dirty, cracked concrete begins to heat up as 60 pairs of feet pad up and down, some peeling off to find a patch of shade. Two or three blankets are thrown onto the concrete, as chairs and a card table. Feet kick old styrofoam cups and cigarette butts; a radio is switched on to blare music; lips spit onto the concrete, at random. On two sides of the yard, some sit on the long steel bars designed as benches; others prefer concrete.

A young man lolls, shirtless, on the bare concrete. An old man stands alone, stamping his feet lightly, talking to himself in the deepest back corner of the yard, where the one piece of corrugated iron shelter supports its roll of razor wire.

Near this corner also, a group of koories gather, with cards and a guitar. A smaller group of Chinese boys play cards, farther up in shade on the concrete. Bare tattooed, muscled, thick and thin bodies pace and turn in the sun. Working class boys, twenties, not much school. Suspicious looks and tense brows pace and wait. The heat rises. Muffled talk of prescription and non-prescription drugs resumes.

The one gate to the yard is assailed, endlessly, by the yard's potential refugees. "Let us out boss, clinic" - the screw turns his back "Clinic's not open yet for you" - "Ah ya fucken thing". "Library boss" - "Are you blokes allowed in this morning?" - "Yeah I'm wanted over there to pick up some things" - one body slides out the narrowly opened gap before it's banged shut on the next person moving quickly up into the slip-stream.

Scammin, always scammin. The more rules, the more ways 'round them. If I go to the clinic, I can then get over to activities, unless that prick on the yard gate sees me. If I can make it to the library, I can get out to the field when the workers go through. If I get into the clinic yard

with the methodonians, maybe Fred'll whack up with his 'done, or I can stand over some cunt for his. Anyway, I can get some pills for me headache. I can get out to see the wing screw to get him to ring reception, so that I can get those track pants out of me property. And when I get out for that phone call, I'll see Bob in the workers' wing and maybe score some pot.

Voices in a dream - I'm still in the yard. Six hours in the yard, eighteen in the cell. Someone just got called for a visit; the gate runner's just called his name. Sometime now one of the wing sweeper's going to bring out a bucket of tea, and a handful of `equals'. Someone's hanging a t-shirt out to dry on the razor wire.

"Good jail", Tony says, sardonically. "Yeah".

The one strip of shade in the yard narrows as the sun rises in the sky. A few have escaped the yard, for a while. The workers come and go inside the central concrete circle, the tracs and dogs are in their separate cages, nine and ten wings are in the non-workers yards where the concrete stares back at them in the heat.

The worn plastic of a skinny White Ox packet with its black and silver streaks sets off the dirty white concrete patch I walk across. I'd kick it aside, but it might belong to someone. Nothing goes unnoticed. Ken said this yard was called Maddison Square Gardens, but there's no fight today.

You look over your shoulder, not afraid but wary. The hot grime makes a lump in your throat and, unconsciously, you spit. You stand to resume pacing. There's nothing to do, nothing's happening.

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## 23. TROUBLEMAKER

From the time I was convicted and realised that, in that the normal course of events, it would be six months before my appeal was heard, I had to accept that I was serving at least a six month sentence. Although I made two appeals-bail applications, I had little hope of bail. I decided from the beginning that I'd use this time as best I could: to read, study, write, learn about the current state of the jails and do something useful with that information.

At first I tried to study and offered to teach in the Reception Prison's education section. At the same time I'd been asked by other prisoners to join the Inmates Support Group (ISG), which was involved in AIDS education, organising sports, getting young people out of protection and helping resolve some conflicts in the jail. On the basis of my work, my involvement in the ISG and a request that I be kept in Sydney to prepare for my appeal, I could have expected to stay at the Reception Prison until the appeal. This was not to be.

In my previous seven years inside, I'd been moved four times, excluding a period in hospital and one short move to attend court. My time in each jail ranged from nine months to nearly three years. In this seven month period I was moved five times. The jails were more chaotic, but this was not normal. It became clear that, from an early stage I'd been targeted as either a "troublemaker" or an embarrassment to the prison system.

I had no real problems with the local prison officers, it was those at the top. Even before I reached Long Bay, Corrective Services Director-General Angus Graham and head of security Ron Woodham approved media interviews with the two Crown witnesses against me, then refused a request to interview me by ABC reporter Kerry Douglas. I complained about this discriminatory treatment to the Ombudsman. Angus Graham attempted to justify the Denning and Pederick interviews by saying:

I would assume that the television station and newspaper which published the interviews with Mr Denning and Mr Pederick had regard to their obligations not to prejudice appeal proceedings.

Yet he saw a "major drawback" in my being given a right of reply, as:

It is possible that Mr Denning and Mr Pederick would request a further right of reply, if an interview with Mr Anderson were published.

At first, the Director General told the Ombudsman:

ABC journalist Kerry Douglas was refused access to Mr Anderson in accordance with the revised (media) policy promulgated on 12 December 1990

Then when it was brought to his attention that Ms Douglas' request was made on 8 November 1990, the reason changed:

The decision to refuse Ms Douglas' request was made on 9 November 1990 after I discussed the matter with Mr Woodham.

Two weeks after I'd made this complaint, and after I'd sent out some details of conditions in the prison, I was suddenly transferred to the next door Assessment Prison. No explanation was given. Conditions there, at that time, were considerably worse, and I was placed in one of the "non-workers yards" over the new year period.

Soon after this move my solicitor wrote a letter asking that I be kept in Sydney, to be able to consult with my lawyers in the preparation of my appeal. After several weeks at the Assessment Prison I'd managed to resume some study, got a job at the hospital and helped prepare a group letter of complaint to the Ombudsman about that jail. As a result of this letter of 23 January, a major investigation into conditions at the Assessment Prison began. Two weeks later, without warning, I was transferred to Lithgow Prison, outside Sydney. My solicitor's letter was disregarded and I lost access to my legal papers for more than a week.

At Lithgow I was told I'd be held there until just before my appeal. I got work and joined the prisoners delegates committee, but the jail was was no use to me, as my lawyers couldn't travel out of Sydney to visit, and I was deeply involved in the appeal preparation. I prepared a bail application, which required me to be brought back to Sydney within two weeks. I argued for bail on the basis that Corrective Services were obstructing my appeal preparation by moving me around the system, denying me access to my legal papers in these moves and, in particular, moving me out of Sydney. Justice Jane Mathews refused bail but recommended I be kept in Sydney.

Back at the Reception Prison I rejoined the Inmates Support Group and, on that basis, secured a "hold" to stay in that jail. I was again working in the education section and once again found a cell to live in. Four weeks later I was again suddenly moved back to the Assessment Prison, being told that the decision was made at head office and that it was for "security" reasons. My understanding of the Corrective Services view of "security" is that it encompasses a rubbery notion they call "the good order and discipline" of a jail, which can include unfavourable publicity.

Back at the Assessment Prison I was able to resume my hospital job, but ran into an old acquaintance, Clarrie Dries, a prison officer at Parramatta and Parklea in the early 1980s, now the Assessment Prison's new Superintendent. He had sued a public radio station's prisoners' program over an account I'd sent them about his activities in a prison riot. The station had settled out of court, paying Clarrie some money without contesting the matter. Clarrie was now upwardly mobile in the department, being a protege of Ron Woodham's.

Without at first telling me directly, Clarrie directed the education officer that I was to be banned from using any word processor in the jail. This had the effect of stopping my university studies, which depended on files on computer disks. A series of lame excuses were made up for the ban, but another senior prison officer clarified privately that it was because they resented the January letter to the Ombudsman being typed on their facilities, and believed I was responsible. Thereafter Clarrie kept a close watch on me, and even became worried that other prisoners may be typing up letters for me.

I then hand-wrote a letter of complaint about Clarrie blocking my studies, and about the department constantly moving me around the prison system. An old typewriter provided the

basis for follow-up letters to the original jail conditions complaint, while I also wrote articles about Lithgow and the prison yards. Clarrie personally responded to complaints about the yards, suggesting that prisoners were "content to lie in the sun" in the yards. Several of us ridiculed this response, in further letters to the Ombudsman.

I sometimes laugh when I think that, if I'd been kept in the one jail and had been allowed to study and prepare my appeal, I'd have been much less of a "troublemaker".

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## 24. EVERY JAIL A FACTORY

"Position vacant: textile worker. Skills required: ability to work under direction and adjust to work discipline. Pay rate: beginning at 30 cents per hour, to a maximum of 57 cents per hour, with possible productivity bonuses."

Is this the shape of things to come in Australia's new internationally competitive TCF industries, after all the tariffs are cut? No, it's a real job offer at NSW's latest prison at Lithgow!

Admittedly it's not a "free labour" contract. There are some rather severe penalties for refusing this, or similar, work: for example, being locked in solitary confinement with loss of all amenities. And even though there have already been a couple of strikes, over lack of proper food, there's no trade unions allowed.

Forced prison labour in NSW's new style jails raises some serious new questions as to the purpose of imprisonment. These issues need to be looked at in conjunction with parallel trends in jail education, management practices and the new sentencing regimes.

### The Jail Factories

Lithgow's prison industries, set up as a semi-autonomous operation within the jail, carry on the modern NSW tradition, founded at Parklea, of building a jail around several modified factories. The jail regime is then set up to service these factories with cheap and compulsory labour.

Parklea has metal-work, printing, textile and carpentry shops, while Lithgow has textile and woodwork, with provision for a smaller metal-work shop.

The notion of "every jail a factory, every prisoner a worker" had its modern genesis in a combination of the NSW Royal Commission into Prisons' criticism of the notorious lack of anything worthwhile to do within the system (the armies of 'sweepers', sweeping phantom dirt were recognised), with the notion that perhaps providing work to prisoners could coincide with productive industries that might help pay for the increasingly steep costs of running a maximum security jail. As an afterthought, it was suggested that prisoners - being

mostly in jail for theft of some sort - might also learn the skills and work discipline to help them adjust to a normal, honest life upon their release.

The precedent for this jail factory notion could be found in UNICOR, the USA Federal Bureau of Prisons' industry corporation, most of whose multimillion dollar business lies in producing hardware components for the US Department of Defence. Here prisoners earn up to $1.30 an hour, along with some extra privileges, for their part in the manufacture of such things as cables for US tanks, planes and rockets.

The NSW product is a little more mundane, and in fact by a curious coincidence the Lithgow-based government small arms factory was closed down at about the same time as the town's new $56 million prison opened.

At Lithgow some of the fifty-odd sewing machines are presently producing prison clothes, while the carpentry shop is looking for contracts, possibly in modular furniture. Guidelines for prison industries now include that they must not compete with local businesses; this leaves competing with imported products and supplying government orders.

At Parklea, for instance, the print shop has long produced various basic government stationary, reports and books; shrouds for dead bodies are a regular favourite in the textile shop; while the lathing of pipes for pot smoking occasionally occupies bored wood-workers.

In all areas, outside private contracts have been very slow to come, probably because of the problems in dealing with prison bureaucracy, the unreliability of deliveries and the inability to readily check on the production process.

Whatever happened to education?

With the rise of the Parklea-Lithgow models, though, the notion of jail as an education or training ground suffered. This had been attempted in the reconstructed Bathurst Gaol, in the early 1980s. Bathurst had a special relationship with the local Mitchell College - now Charles Sturt University - and was known as an "education jail". No other jail, new or old, has this reputation.

Education in jail has always been a battle, with education sections marginalised and starved for funds, and prison officer jealousy both at prisoners being provided with opportunities they perhaps had not had, and at student-prisoners somehow moving a little out of the custodial sphere of control. I remember receiving my first package of university course materials in the mail, in early 1980, and the wing officer at Long Bay's 4 wing saying to me: "What do you want all this education shit for? It just makes a lot of individuals out of ya".

The current cut backs to education budgets and some of the property restrictions are combining with the new "industrial jail" idea to do further violence to the provision of opportunities, through education and training, to prisoners.

Bear in mind that the vast majority of prisoners are young, working class men with just a few years high school, at best. Having been branded as thieves or "crims", and growing up in an environment where thieving, scamming and robbing are the main topics of professional concern, it becomes increasingly difficult to make the break into an ordinary working existence. This is especially the case for the steady stream of those released after years in jail, with no money in their "kick" (pocket) and an overwhelming attraction to the easy escape of a needle in the arm.

It's almost impossible to conceive how these people could make the transition to sewing machine operators in an outside sweat shop, even if they've lasted the distance inside, with the carrot of 57 cents an hour in front of them. At best, they may develop some sympathy for

the hidden army of migrant women piece-workers, but it's more likely to make them swear never to do that sort of work again.

The one means of creating realistic opportunities for young, institutionalised people has always been meaningful education and training: gaining some desirable skills and a good basic education. Doing a course or learning a trade remains the single most valuable thing one can do, whilst in jail.

A young person emerging from jail may see some hope in work as a tradesperson, an office worker or even some sort of professional; and he or she is more likely to be able to take a new approach to life with improved levels of literacy, numeracy and other personal and social skills.

Unfortunately, these are all very hard to earn in the current climate. The policy of allowing 2 books in a cell, for instance, is clearly the work of someone fundamentally hostile to self-improvement. It is the masterpiece of a poorly educated yet highly placed prison bureaucrat, who either cannot imagine what it is to actually read a book, or who secretly hopes most prisoners will remain basically illiterate and inarticulate, and so unable to publicly or credibly criticise his regime.

The new industrial jails do not tolerate "full time" studies - at all. This is the case at Lithgow, just as it was at Parklea, when I was there in the mid-1980s. In 1984, as I was about to begin a full-time university honours course, I had to call the Deputy Superintendent's bluff of being locked in solitary if I didn't work full-time in a factory, so as to be able to continue my studies. In the end the compromise worked out was that I could take my books to the factories and do some study at the back, if there was no other work to be done. The principle of my working in a factory was more important to them than my pursuing an honours degree.

At Lithgow also - where 1991 industrial wages are about half the rate of the 1981 Parramatta Gaol industrial wages - there is no provision for any "full time" students. At Long Bay's Assessment Prison, with more than half the 300 prisoners locked in bare concrete "non-workers yards" all day every day, there is a ceiling of 11 "full time" students allowed in the jail. This is madness.

Even in terms of jail management, one would have thought that a mass of people doing something to help themselves, as well as occupy themselves, would make good sense. But there is something deeply irrational in this system, and it is clear that providing opportunities to prisoners is not high on its agenda. Instead, the prison system operates under several at times contradictory imperatives.

## What does the system want?

The NSW prison system is under the enormous pressure of gross over-crowding, with the population rising from 4000 to nearly 6000 in three years. This has demanded a capital works budget of $100 million a year, to build new jails, and there is still no hope of keeping up with the rate of population growth. In these circumstances, and given the traditions of the system, all available dollars are being prioritised to basic containment.

All services considered as subsidiary - and this includes half-way houses, family support services, psychology, welfare and drug and alcohol, as well as education - have been downgraded substantially. The relatively marginal costs of these programs have been slashed, at times by half. The extent to which this is a deliberate, macho "get tough on prisoners" policy, or whether that policy itself is a convenient guise for the economic imperatives, is an interesting question. In any event, prisoners' services have been screwed.

To this trend we must add the new management objectives of the "industrial prisons": get productive, sell products, claw back a little of the Department's $300 million a year drain on the state budget, and at the same time instil "work discipline" into the crims. Here we find a strange mixture of pragmatic financial anxiety with a laboratory for untested social and management theories.

The NSW prison system has reached the outer limits of its funding, even with a government addicted to 'law and order' rhetoric, because it is just not possible to raise the prisons budget by yet another $100 million, in a recession.

To complicate matters further, there are the broader prison management objectives: segregate the jail population (with artificially bloated "protection" sections and the new "unit management" as practised at Lithgow) and keep that population moving, at a moment's notice, for reasons of reclassification, court cases, crisis management and bureaucratic whims otherwise known as "good order and discipline".

Currently, one third of the prisoners at Lithgow have to be periodically returned to Sydney jails to attend ongoing court matters, while Long Bay's jails still receive 70-odd new fine defaulters a week and carry many who have no further court cases.

None of this helps the prison factories which, like jilted brides, seem destined to be set up (at quite a cost) with high promises and high hopes, only to be often left contractless, deprived of newly trained workers, periodically sabotaged and otherwise disillusioned with their place in the scheme of things.

One final factor, or imperative of the system, is the new phenomenon of massively increased sentences. Not too long ago, a life sentence meant an effective 10 to 14 years jail and, with the odd exception, that was as long as jail sentences grew. Nowadays, with "truth in sentencing", it is increasingly common to see run-of-the mill drug offenders or armed robbers with 18 year minimum sentences. Prior to the 1989 Sentencing Act, this was unheard of, indeed just about impossible. Within the space of two years, it is almost unremarkable.

The implications of double-decade sentences are as substantial for the work-education issue, as for their impact on the lives of prisoners and their families, and their contribution to the massive overcrowding. Such sentences mean that the entire question of education, training or work-conditioning, for outside honest employment, is practically irrelevant, because the person in many cases has no prospect of a working life. Any thought of 'rehabilitation' is finally abandoned, by court order. A prisoner jailed in his or her 30's for 20 years is unlikely to ever re-enter the workforce.

Perhaps the current regime does really want an army of slave labour; or perhaps there is no real purpose at all in the direction of the jails, and a series of ad hoc, reactionary policies have

combined to create the current massively overcrowded and massively expensive mess. In either case, the options for those locked into the system are shrinking.

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## 25. THE STORY OF DAVID WALKER

This is the story of a young Aboriginal man's entry into the NSW prison system, on a charge of "being armed with intent to commit a robbery". No actual robbery occurred; however he pleaded guilty as charged. There was no factual dispute: whilst drunk and with a rifle, he told another person that he was going to rob a store. The following accounts show how the NSW criminal system deals with a "guilty" person. Only his name and place of origin have been changed. All the quotes are from documents presented in court and to the Offenders Review Board (formerly the Parole Board). "David" was, for a short time, my cellmate.

The Pre-Sentence Report

"In view of the high risk of his re-offending and given his inability to benefit from the services offered by this Department, it is considered that Walker is unsuitable for further community supervision. Insofar as his latest attempted suicide is concerned it would seem this represents a part of a familiar pattern of attention seeking behaviour, however, the court may wish to seek a further professional opinion on this matter prior to passing sentence, should a custodial sentence be contemplated."

Community Corrections Officer, Qld, 28 March 1988

The Sentencing Judge

"As a juvenile he had an appalling record and a wide variety of offences are contained in his criminal history ... He is a part Aboriginal. He has had none of the advantages that most of us enjoy as children and in our early youth. This man has led a hopeless life having been mistreated as a child and further mistreated whilst in gaol. The community has rendered him little or no assistance and of course the community will not render him any assistance in the future. Gaol will certainly not assist him and there is no institution that I know to offer him any support in a meaningful sense upon his release from gaol. Nevertheless I must have regard to the extremely grave criminal conduct ... Prisoner is convicted and sentenced to imprisonment for six years three months with a non-parole period of four years." (dating from July 1988)

Sydney District Court, 16 August 1989

Parole Officer's first report to Offenders's Review Board

"Mr Walker is a sad and unfortunate case. He is disadvantaged in almost every area. He is socially inept and inadequate, is functionally illiterate and emotionally and intellectually disabled. He has difficulty distinguishing fact from fiction, and has no family or community support ... On any criteria he is doomed to fail, and at this stage his prospects of success on parole are negligible. Release to parole could not be seriously contemplated at this stage, and is not recommended."

23 November 1990

Psychologist's Report

"When he does exhibit aggression on a physical basis it is usually inner directed in that he does things like attempt suicide through electrocution, smashes glass into his chest or cutting out tattoos with a sharp instrument. When he is in a displacement phase he tends to smash property. His aggression towards others usually tends to be of a more verbal nature in the form of threats or other abusive language. Suicidal threats could be a means to an end rather than any basic desire to kill himself. He has stated that he has had several suicidal attempts ...

"Walker states that he was raped whilst at Parramatta Gaol. A statement was made to police but since he did not want to name the offender, no further action was taken. He still carries the emotional scars of this trauma and would like to take revenge but sees no practical way of doing so ...

"Post-release plans are vague, however given his circumstances this would not be unusual. He wishes to go back to Queensland to be near his family. He has not been too pleased with his stay in NSW ...

"There is a difference of 17 months between releasing him to the street without supervision versus releasing him under supervision and risking failure ... continued incarceration as well as segregation offers little hope of change in this person."

15 January 1991

Parole Officer's second report to Offender's Review Board

"Mr Walker's prospects of survival on parole still remain dim. However his chances would appear to be considerably enhanced were he to return to his native state where he has some family support albeit limited ... Release to parole is therefore recommended."

23 January 1991

Prison Officer's report to Offenders Review Board

"Walker never cleans his cell and his general appearance is always scruffy. Walker is a constant annoyance to officers, always whingeing and complaining and wanting his own way. Walker is easily led by other prisoners. This prisoner is incapable of looking after himself which would lead him back into a life of crime." (this report was endorsed by the jail Superintendent)

4 February 1991

The Secretary, Offender's Review Board

"Refused parole .. Unable to adapt to normal lawful community life; breach of prison regulations; poor prison performance; past failure on conditional liberty; risk of re-offending."

1 March 1991

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## 26. JUSTICE FOR THE GUILTY

No-one believes in "justice". Not the police, not the courts, not the people passing through the courts, not the media, not the lawyers; just the poor, unsuspecting, naive public. If anyone did believe in justice, in all of the forums open to them they would be shouting out "justice for the guilty!". The fact that they don't shows that it's not really justice that's on their minds, but something else.

The police don't believe in justice: they believe in goodies and baddies. The judges and lawyers don't believe in justice: they believe in the protection and adoration of the wonderful system they are so proud to be a part of. The people passing through the courts don't believe in justice: they usually just want to survive the experience. And the media? Well they generally just want a good story.

Let me explain a little.

Lord Denning of Long Bay once said: "I now believe in justice for all". What he really meant to say was: "Get me out of this place! and I don't care what I have to say or how many heads I have to tread on to do it!" The message here is: look for the hidden meaning.

Lord Alfred Denning of the Rolls, a scoundrel of a similar order, but who made the mistake of becoming a little too honest in his old age, demonstrated the classical judicial concern for the institutions, rather than the substance of justice, when in 1980 he dismissed a civil action brought by the Birmingham Six against the police that bashed false confessions out of them:

Just consider the course of events if this action is allowed to proceed to trial. If the six men fail, it will mean that much time and money will have been expended by many people for no good purpose. If the six men win, it will mean that the police were guilty of perjury, that they were guilty of violence and threats, that the confessions were involuntary and were improperly admitted in evidence and that the convictions were erroneous ... This is such an appalling vista that every sensible person in the land would say: It cannot be right that these actions should go any further ... This case shows what a civilised country we are ... the state has lavished large sums on their defence ... (but) It is high time it stopped ... It is a scandal that should not be allowed to continue.

This judgement was concurred in by Lord Justice Goff and Sir George Baker. In November 1981 the judgement was upheld by the House of Lords. In January 1988 the English Court of Appeal unanimously rejected an appeal against the men's convictions, despite overwhelming defence evidence. In 1991, when the "appalling vista" finally became reality and the Birmingham Six case collapsed, Denning Senior was quoted as having said that if the six men had been hanged, none of this fuss would have occurred.

But Denning Senior's "appalling vista" was not what you or I might think was appalling in this situation. It wasn't the appalling and atrocious injustice done to those six Irish men, their families and friends; it was the threat that the self-styled "Rolls Royce" of legal systems, the

British common law system, would be discredited and damaged. The "integrity of the system" is at the centre of judge's concerns, well above any particular case or other cause. Judges don't believe in justice, but in the "integrity of the system".

At the business end of the criminal system, the last thing on a police officer's mind is securing justice for a "crim", or a "villain". There is a terrible equation in police work between a suspect and a guilty person: a fine line where suspicion becomes accusation, where accusation manufactures fact, and so converts suspicion into certainty.

Police don't trust the public and they don't trust the courts. On the other hand, the courts have repeatedly given a wink and a nudge to police practices developed precisely to transform suspicion into certainty. Few people have described this better in recent years than ex-detective Roger Rogerson, once the darling of Sydney's good old CIB, who fell into disrepute in the mid-1980s through his use of the gun and his close association with the drug trade.

Rogerson broke the police code of silence to confirm that police loaded up suspects:

"someone would either tap you on the shoulder or come knocking on your door and you'd be given a present ... the planting of a gun, or explosives ... you know, a couple of sticks of geli, found in their car or in their possession ... it's so much easier to plant drugs because they're so small ... it was all done in the interests of, ah, truth, justice and, ah, and ah, keeping things on an even keel, and keeping the crims under control."

Rogerson confirmed that these load-ups were carried out by all the "heavy squads" of the CIB: the armed hold up, consorting and breaking squads, thus admitting the substance of most accusations made against him and his colleagues by groups such as the Prisoners Action Group, many years earlier. He also confirmed the habitual police use of fabricated "confessions":

"Verbals are part of police culture. Police would think you're weak if you didn't do it ... The hardest part for police was thinking up excuses to explain why people didn't sign up"

Rogerson said police would invent excuses for the suspects like:

"I'll have to speak to my mother first", "I'll won't sign it until I speak to a lawyer", or "the blokes out at Long Bay will see it in my property and think I'm weak for signing up"

When Rogerson verballed me in 1978, he was a little more creative. According to him the "confession" concluded this way:

"He did not reply in English but shouted out something in a foreign dialect and that was the end of the conversation that I had with the accused."

While the farce of the police verbal was being played out, and while people such as Rogerson were privately laughing at the ridiculous stories they were able to invent and get away with, NSW judges were signalling their implicit approval. In 1978 Chief Justice Lawrence Street attacked as "unpalatable and wholly unacceptable" an argument to the Court of Criminal Appeal that unsigned confessions to police were a dangerous basis for a conviction. He added that this argument was an unjustified attack on the integrity of the NSW police force.

Journalists have developed similar rationales. Gary Sturgess, who used to write for The Bulletin, but has since moved on to greater things, expressed his fears to a conference in 1980 that conviction rates might suffer if police interrogations were restricted, pointing out that "confessions are a necessary part of the system".

Journalists in general are not interested in the frame-up of people they consider to be guilty. If a person is a "crim" or a robber, most journalists will speak in the name of the public to tell you: "the public doesn't care about that". So for instance, there was hardly any media coverage of the poor and suspect evidence used to convict Jim "Jockey" Smith on several charges, because was considered a crim, who basically deserved whatever he got.

However, most frame-ups and police fabrications involve suspects with criminal records: car thieves are given a few extra cars, people with convictions for robberies are fitted with robberies, and drug dealers are commonly loaded up with drugs, as in the famous 1984 case of David Kelleher, where Kelleher actually taped the police carrying out the load-up. No action was taken against the police responsible for that operation, they are now Inspectors and Superintendents.

As Rogerson said, it's been a case of getting the crims off the streets, or "keeping things on an even keel".

Is it any wonder that police, having been told by the courts that their fabricated evidence is necessary, and that wide-scale attacks on police will not be countenanced; and having been told by the media that there is no public interest in the frame-up of "guilty" people, proceed along the lines described by Rogerson?

Rogerson did, however, add a qualification to his recent comments, and this brings me back to the point of my chapter. He claimed:

"I would not admit that I had ever loaded anyone up or charged anyone with a crime they hadn't committed."

This is of course the secret reassurance of the politicians, judges, prosecutors and journalists who privately accept the frame-up of "guilty people": they trust police to pick the right suspects for a crime, or at least those who have done something similar.

Never mind that the police might not deserve that trust. Never mind that they might have their own agendas. Never mind that police are allowed to play judge and jury. And never mind that the frame-ups of themselves involve the most serious criminal activity. Ignore also the probability that these "criminals" will be given a legitimate sense of grievance, when major crimes are committed against them, with state sanction.

All these things pass by unnoticed because we are dealing with "guilty people", and those people are not considered to have normal human feelings, and don't deserve justice.

These considerations by no means only apply to frame-ups. Vicious sanctions by the courts and police violence also show this partiality.

When Roger Rogerson killed Warren Lanfranchi in Dangar Place, Chippendale in June 1981, a deal of evidence was brought out at the Coroners Court to show that Lanfranchi was a

person of bad character, and had committed serious crimes. Presumably these matters were designed to justify and make the killing "understandable".

Similarly, when the SWOS squad killed David Gundy in his bedroom in Marrickville in April 1989, attempts were made to portray him as a "criminal". Some journalists participated in this by publishing leaked accounts of his alleged criminal record.

And when Darren Brennan was shot by the Police Tactical Response Group in his bedroom in Glebe, in June 1990, a fabricated case of armed robbery was constructed against the young man. Fortunately, it collapsed.

It's very clear why this pattern runs through these cases: police believe, with a great deal of justification, that there will be acceptance of even the most extreme and outrageous violence, if the victim can be portrayed as a "baddie", or a "crim". No-one will care.

But this is of course where the rot begins. If "guilty people" do not deserve justice, why should we expect an entire system that runs on this assumption, to deliver justice to anyone at all? If Jockey Smith can be framed with impunity, why should we be surprised that the same thing happens to the Croatian Six, or to Lindy Chamberlain?

"Justice for the innocent" is meaningless, because everyone believes in that. The point is that innocence must be defined by justice, not justice by perceived inocence. It is pointless to talk about justice at all unless we are prepared to demand justice for the guilty, whoever we imagine them to be, because this is where the notion really matters.

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## 27. JUDGEMENT

In the chapter "From His Honour's Dungeons" I told of my experiences on the morning of my acquittal, and here I'll recount the Court of Criminal Appeal's published reasons for their decision.

As the appeal hearings took place, over a full week in mid-May 1991, documents were leaked to my lawyers, indicating that prosecutor Tedeschi's conduct of the prosecution was even worse than we had described in the long, detailed written submissions we'd made to the court. An important earlier statement by Pederick, with several major inconsistencies, was withheld from my trial. One of these inconsistencies went directly to the "departure theory" that Tedeschi constructed in his attempt to save the Pederick story. A year before the trial Pederick had told Tedeschi that a vague figure in a photograph in George Street was "not one of (my) poses". Tedeschi subsequently showed this to my jury, suggesting it was Pederick. This statement made it clear why Tedeschi had not recalled Pederick to comment on this photograph.

The leaked documents also showed that Pederick's solicitor David Patch told DPP solicitor Craig Smith on 10 July 1989 that his client "required a full indemnity before he would give evidence against Anderson". This was not revealed at my trial. Another interview with Tedeschi showed Pederick was seeking further indemnities for passport offences. Pederick was recorded as being concerned that his "known record of hostility to Ananda Marga" would be used against him, spoke of an additional meeting with me which never appeared in his evidence, and of me he concluded, curiously, "Never knew him really well - was his father a clergyman too?" These documents should have been disclosed to me before the trial, but they were not.

Chief Justice Gleeson took several days off to write up his 74 page judgement, and delivered it in record time, just two weeks after the hearings. Justices Slattery and Finlay agreed with the judgement and added no further comment.

It was a rushed judgement, and shows some signs of this. I believe Gleeson wanted to dispense with the case as soon as possible, and am grateful for this. However two grounds we believed were the strongest were ignored. These were that Justice Grove, over objection, had allowed Pederick to give evidence of his own good character; and that Grove then refused to allow me, in re-examination, to explain issues raised by Tedeschi in cross-examination.

These issues were that I'd previously accused police of fabrication, and the High Court's criticism of the prosecutor in the second Yagoona trial. Having suggested that I'd wrongly accused police in the past, I was not allowed to give the jury any detail showing my acusations had been correct, suh as by showing a video tape that exposed police fabrication in a previous arrest. Having told the jury that my comments on the High Court's decision were "Rubbish and you know it", I was not allowed to explain in re-examination what I was referring to in the High Court judgement. Tedeschi was allowed to attack me on these issues, then object to my explanation. That's called having your cake and eating it, too.

The issue with Pederick was that prosecution witnesses are normally not allowed to build themselves up with untestable stories of their own good background. A police officer may be allowed to verbal you in court, but he can't also attempt to bolster his own credibility by saying he's a good family man who goes to church and prunes his neighbours roses. Grove allowed Tedeschi to do this by giving a long account of his middle-class religious upbringing, and his personal fortunes and misfortunes. My lawyers believed this was a strong retrial ground.

Gleeson not only ignored, he dismissed the above two grounds. Clearly he had decided the appeal on other grounds.

The decisive grounds of appeal were that Tedeschi was allowed to mislead the jury on the central part of Pederick's evidence and that the verdicts were generally unsafe or unsatisfactory. A third successful ground of appeal, that Grove may have confused the jury further by suggesting "the law presumed all witnesses to be sane", was added to these two. Following are excerpts from Gleeson's judgement.

The prosecution case as it began

During 1989 a notorious prisoner named Raymond Denning informed the New South Wales Police that he made the acquaintance of the appellant in prison, and that on certain occasions the appellant had made statements to him which amounted to, or were regarded as, admissions of complicity in the Hilton bombing. Denning is a person with an extremely bad criminal history. Furthermore, the statements he attributed to the appellant were far from specific, and were allegedly made in circumstances that might be thought to cast some doubt upon Denning's veracity .. Nevertheless so far as appears from the evidence, on the strength of what Denning told the police, coupled with the material previously available to them and referred to above, the authorities arrested the appellant and charged him with the murders. It seems fair to comment that a prosecution case based upon the material so far mentioned might be thought to have been fragile. However, following the publicity which resulted from the appellant's arrest, a remarkable event occurred..

Gleeson went on to describe the appearance of Pederick, and acknowledged that he had then become the main prosecution witness. He gave a detailed account of the Pederick story, making the following comments:

A great deal was made at the trial of significant differences between the account which Pederick initially gave the Queensland Police of the events of 12 and 13 February 1978, and his ultimate evidence. It is not necessary to go into the full detail of these discrepancies .. Nevertheless, there was one major difference between what Pederick told the police and the evidence as it emerged at his trial, and this constituted a difficulty for the crown case from beginning to end .. From an early stage it became apparent to the police that there was at least one major problem about Pederick's story. prime Minister Desai did not arrive at the George Street entrance of the Hilton hotel. A central feature of Pederick's account of the events of 12 February could not possibly have been true .. The truth of the matter, as the police knew, was that Mr Desai had arrived at the Hilton hotel on Sunday 12 February 1978, not at the George Street entrance but at the Pitt Street entrance .. There were a number of other respects in which some matters of important detail told to the police by Pederick were also difficult to

reconcile with objective facts. For example, he originally told the police that he put fifty sticks of gelignite in the garbage bin. The police pointed out to him that fifty sticks of gelignite would not fit into the garbage bin, and he seems to have been under some pressure to alter the number fifty to fifteen. He ultimately settled on an intermediate figure. Again, he originally said he put the gelignite in the bin at about 6pm on the Saturday, not 1am on the Sunday. This did not fit in with the information (taxi driver) Mr Trotter had given the police .. After speaking further to the police Pederick put the time forward to about 1am on the Sunday. The police looked for an alternative theory as a means of reconciling what Pederick believed he recollected with the objective facts as to Mr Desai's arrival. In the event, they came up with a theory which turned out itself also to be hopeless. That however did not become apparent until well into the trial. It seems to be a theory to which Pederick himself only gave somewhat guarded acceptance. It was as follows. Having considered the various possibilities, the police evidently persuaded themselves that Pederick had mistaken, for Prime Minister Desai, a man who was actually the President of Sri Lanka, President Jayewardene .. The truth, as it turned out, was that it was the police who had made a mistake, and one that was much less pardonable than that attributed to Pederick. They had not adequately checked the time at which President Jayewardene had arrived at the George Street entrance to the hotel .. It is the attempt made by the Crown, in the running, at the trial, to recover from this blow to its case that gives rise to one of the principal grounds of appeal ..

The Collapse of the Jayewardene Theory

The defence case, which turned out to be correct, was that President Jayewardene had in fact arrived at approximately 8am on that day, and he could not have been the person seen by Pederick at the time Pederick attempted to explode the bomb that was in the garbage bin at the George Street entrance to the hotel. Nevertheless, the Crown persisted with the theory although it became progressively less plausible. We were informed by the crown prosecutor, and this is consistent with the way in which the evidence unfolded, that by about the twentieth day of the trial it was evidence to him that the theory could not be sustained, and that for a number of days thereafter he explored, in evidence, possible alternative scenarios .. Towards the end of the prosecution case the crown prosecutor began, without objection, to ask witnesses questions about, an to tender photographic and other evidence concerning, an event which occurred at the George Street entrance to the Hilton hotel at about 5pm .. (actually 5.18pm, when) Mr Fraser left the Hilton hotel from the George Street entrance to attend that function (at Kirribilli House) and Mr Desai left from the same place shortly after Mr Fraser .. That was about where Pederick, on the Crown case, had been standing at the time he tried to explode the bomb .. The matter is complicated by the circumstance that another crown witness, Mr Mumme, had given evidence that at about 5pm .. he had seen a very strange looking man whom the Crown suggested was Pederick in disguise. There was, however, by reason of certain other evidence, a deal of confusion as to whether the crown was suggesting that Mr Mumme was there on the Sunday evening, or the Saturday evening when, on the crown case, Pederick had also been in the area and in disguise. The Crown closed its case, the appellant gave evidence and was cross-examined, and the defence called various other witnesses. By the end of the defence case it was obvious, if it had not previously been obvious, that the Jayewardene theory had been exploded ..

When the Crown Prosecutor commenced his final address to the jury he dealt at the outset with the difficulty to which reference has been made. He then acknowledged to the jury, for

the first time, that the Jayewardene theory was no longer viable and, referring to the evidence in chief of Pederick, said this ..

Now ladies and gentlemen, from that, in my submission, you can only conclude that the police and the prosecution, including myself, have led Evan Pederick to make this error.

It is to be noted that the jury were being told, with the authority of the crown prosecutor, that Pederick had made an error but that it was the crown authorities, including the prosecutor himself, that were responsible for the error. The significance of this in relation to the jury's ultimate evaluation of Pederick's credibility is manifest. Pederick was said to have made a mistake, but it was not his fault, it was the fault of the prosecuting authorities.

The Departure Theory

Then the crown prosecutor informed the jury of a new theory. That theory was that, on the occasion in question, Pederick had indeed seen Mr Desai, and had acted with the intent of blowing him up, but he had seen him, not in the act of arriving at the George Street entrance to the Hilton hotel at about 2.30 or 3.00pm on Sunday 12 February 1978 but in the act of leaving the hotel at about 5pm on the same day.

Before coming to the detail of what ensued at the trial, it is convenient to note three aspects of this new submission. First, as the photographic and other evidence showed, there was a very significant difference between the ceremony and formality attendant upon the arrival of dignitaries at the hotel, and the relative informality of the departures of various people for Kirribilli House .. Secondly, the submission did not agree with Pederick's evidence as to the times at which he did various things. he said that he made his assassination attempt at about 2.30 or 3.00pm and then left Sydney, hitchhiking up the Pacific Highway. he said he travelled for about four hours until nightfall and slept in a paddock, probably somewhere near Taree. If his timing were right, he must have been somewhere near Newcastle when Prime Minister Desai was leaving the Hilton hotel. Thirdly, if Pederick had actually seen, and tried to kill Mr Desai in the act of departing rather than arriving, it might be thought that he would have remembered this, bearing in mind that the plan was to kill him when he was arriving at the hotel. The crown prosecutor sought to anticipate this point by submitting that, as part of his error, Pederick thought the man in question was arriving, not leaving ..

The crown prosecutor went further. He showed the jury photographs that were taken at the time of the departure of Mr Desai, including photographs taken from the eastern side of George Street near the Hilton hotel entrance looking across to the western side of George Street, near where Pederick said he was standing at the critical time. Some of those photographs showed the figure of a man standing behind a car. The crown prosecutor invited the jury to draw the inference that the man in the photograph was Pederick. One of the difficulties with this submission was that the man in the photograph had long, almost shoulder length hair. Pederick's evidence, which was supported by other evidence in the case, was that at the relevant time he had short hair ..

Needless to say, all this provoked a response from senior counsel for the defence. He interrupted the crown prosecutor's address and made an application to the trial judge to direct the jury that the hypothesis that had just been put to them was inconsistent with the evidence

of Pederick and was not open to them as a matter for their consideration. The learned trial judge declined that application .. (and) asked senior counsel for the defence whether he wanted to apply for a discharge of the jury. That question was answered in the negative. In that regard it is to be remembered that the trial had been proceeding for many weeks, and the main crown witness appeared to have been discredited on a very important issue. It is understandable that a discharge of the jury and a new trial, even if that were available, had little attraction to the defence .. far from directing the jury that it was not open to them to consider the hypothesis lately raised by the crown, his Honour left the case to the jury on the basis that the hypothesis was open ..

It is necessary to note that, although there were three charges against the appellant in respect of which he was found guilty, there was one count in the indictment, the first count, in respect of which he was acquitted .. With the disappearance from the case of the jayewardene theory, a question arose as to what was to happen to the first count. The crown applied to amend it to allege the attempted murder, not of President Jayewardene, but of a person unknown. (It is of interest to note that the crown did not seek to allege the attempted murder of Prime Minister Desai.) Grove J refused the application .. but both the prosecution and the defence put it to the jury that they should acquit .. The jury were told that the reason why the first count was being left to them at all was that, technically, there was some evidence (that of McConville) which they would have little difficulty in rejecting, which might have sustained it. I would take leave to doubt whether that was correct ..

When it came to the second third and fourth counts, the crown prosecutor addressed the jury in a manner which endeavoured to minimise the importance for the crown case of the unreliability of Pederick's account of his attempt to murder somebody on 12 February 1978. It was submitted to the jury that it was understandable that, in the circumstances, Pederick might have been suffering from some kind of mental block about the events of the day, and it was pointed out that he said that, after he found that the gelignite did not explode, he was in a state of hysteria, and decamped. Little wonder, it was argued, that he found great difficulty in giving a coherent account ..

Firstly, it was submitted that, in the state of the evidence as it existed at the conclusion of the trial, it was not reasonably open to the jury to conclude that Pederick had seen Prime Minister Desai departing .. and had then attempted to detonate the bomb .. Secondly it was submitted that .. there was serious unfairness to the appellant in permitting the theory to go to the jury. I consider that there is force in the first submission, and that it is correct in relation to one important aspect of what was put to the jury. As a matter of logic, of course, once it is accepted that Pederick was mistaken in what he said was his recollection of the events of 12 February 1978, there are no limits to the nature of the mistake he might have made except such as are imposed by incontrovertible facts and circumstances ..

I am of the opinion that it was not reasonably open to the jury to conclude, as was suggested by the crown prosecutor, that they (the photographs) showed Pederick standing on the western side of George Street at the time of the departure of Mr Desai. In particular, the person referred to as possibly being Pederick had shoulder length hair. Pederick, however, said that at the time his hair was cut short and there was other evidence to the same effect. The suggestion that was being made to the jury, therefore, was not positively supported by any evidence and was contrary to the evidence ..

The photograph that was suggested to show Pederick provides a simple and clear example of the unfairness involved in the procedure that was adopted at the trial .. Pederick was never asked by the prosecutor, in evidence, whether he was or might have been, the man shown in the relevant photograph. He could have been asked, for example, whether the clothes the man was wearing were consistent with what he was wearing; whether he was standing at or near the place where the man was shown to be standing; whether he remembered seeing or being part of the scene depicted in the photographs and, of course, whether at the time he had hair that was approximately the same length as the hair of the man shown in the photograph. In the light of the evidence Pederick gave in chief, it is not surprising that the crown prosecutor might not have relished the prospect of recalling Pederick and asking him questions along those lines .. The crown prosecutor could and should have called Pederick, and could and should have asked him in chief questions such as those mentioned, relating to various aspects of the Desai departure theory.

It is impossible to imagine that when, towards the end of the trial, the Desai departure theory was fastened upon as a replacement for the discredited Jayewardene theory, the prosecution did not enquire as to what Pederick might have to say about it. Indeed it was formally conceded in the course of this appeal that at one stage during 1989 Pederick had been shown the critical photograph by the solicitor for the crown and his comment is recorded in a solicitor's diary note as being that the stance adopted by the man in question "was not his (Pederick's) pose". This was not known to the jury. On the contrary, as was noted above, the crown prosecutor specifically put to the jury that the man shown in the photograph had a "very distinctive sort of stance" and that it was like the stance of Pederick in another photograph which showed Pederick in "a very very similar position". Not only was that submission inherently unsound; it was contrary to the one small piece of information which this court has available to it as to Pederick's views on matters relevant to the Desai departure theory.

It was submitted that the crown prosecutor should not have been allowed to put this argument to the jury. I agree .. Furthermore, it was unfair to allow the crown to promote the theory without the crown being put in the position of recalling Pederick and re-opening his evidence in chief. The theory was in the teeth of much of his evidence, and it was not enough to say that the defence counsel could cross-examine him further if they wanted to.

The reliability of Pederick's evidence, and especially of that part of it that implicated the appellant, was of major importance in the case. The crown prosecutor was permitted to endeavour to repair the damage that had been inflicted in this regard by a combination of two methods. First he sought to explain away the acceptance by Pederick of the Jayewardene theory by saying that the crown authorities, and the prosecutor himself, had led Pederick into that error. That disingenuous argument, however, proceeds upon the assumption that Pederick's only "error" was that of mistaking the Sri Lankan President for the Indian Prime Minister. Then he promoted the Desai departure theory, unencumbered by anything Pederick might have had to say about it. The theory itself, however, by implication attributed to Pederick a whole new range of errors. In the result, as things turned out, the crown were permitted to put upon their case a far better complexion than it ever deserved .. the crown were given what I regard as an unfair opportunity to put to the jury that a major weakness in the crown case was much less serious than in truth it was and to some extent to divert attention from the issue of Pederick's reliability by attributing the blame to themselves. I consider that this ground of appeal has been made out.

Assessing Pederick

Plainly enough, the evidence upon which the crown placed principal reliance was that of Pederick itself .. The crown also relied on a number of matters said to have been established by the evidence which, although technically not corroboration of Pederick's evidence (because they did not of themselves implicate the appellant in the crime) were said to be confirmatory of important features of Pederick's evidence.

The Chief Justice went on to detail ten areas of evidence which the prosecution said supported Pederick's story. These were several matters of public knowledge about the circumstances of the bombing, some circumstances of his personal life at that time, Pederick's claim to own the explosives found at the University of New South Wales, the fact that he did have a false passport and that in 1978 I'd known of the false name he used, which also appeared in his passport. He summed up on these matters:

There were, accordingly a number of important respects in which the evidence of Pederick was consistent with other known, or undisputed facts .. On the other hand, as has already been noted, there was a major weakness in the evidence of Pederick. On any view of the matter, his account of the events of 12 February 1978, and in p[articular of the circumstances relating to his actual attempt at assassination, is clearly unreliable. He is incapable of giving a description of those events which does not involve serious error .. the error cannot thus be minimised. That then raises the question of its consequences.

Gleeson said he didn't accept the crown argument that Pederick's errors were "merely matters of incidental detail", nor the defence argument that because of the failure of his attempted murder story, the whole of Pederick's evidence must be treated as unreliable and rejected. He picked a middle line, which was to affect the way he finally phrased his conclusion on this ground:

I do not accept either of these submissions. Each overstates the case. The evidence of Pederick concerning his attempt to blow somebody up on Sunday 12 February 1978 relates to a matter that is of high, although not necessarily critical, importance to the acceptance of his evidence concerning his dealings with the appellant. It cannot be dismissed as a matter of mere incidental detail. On the other hand, the fact that his account of the events of the Sunday has been found to be seriously unreliable does not, as a matter of necessity, mean that his entire story must be disbelieved.

He went on to summarise three of the additional defence criticisms of the Pederick story: the claim that I'd checked the garbage collection times made no sense, as by any account there was to be a collection at 6am on the Sunday, which would have aborted the whole plot; his claim that the bin was empty when he placed a bomb in no way matched the council workers' evidence; and his "detonation package" was so big it wouldn't fit through the rim of the bin. The fact that there were "significant differences" between his original story to Queensland Police and his evidence at trial, was also mentioned.

Gleeson then added an observation of his own:

There is one final matter which, although not specifically raised in argument, strikes me as being of concern. It is clear that from a very early stage after he surrendered himself, the police investigators were well aware that there was a major difficulty about Pederick's assertion that he endeavoured to explode the bomb .. The police knew that Mr Desai did not arrive at the George Street entrance. That must have led them from the outset to wonder about what exactly it was that Pederick was watching when he tried to detonate the gelignite. We know that they ultimately hit upon the theory that he was in fact watching the arrival of President Jayewardene, although, surprisingly, they do not appear to have taken a great deal of trouble to check some essential aspects of that theory, including the actual time of the President's arrival in Sydney or at the hotel .. What is noteworthy, however, is that this theory was apparently taken up to the exclusion of all others. In particular, what has been called the Desai departure theory was never even raised before the jury as a possibility until towards the very end of the case. Could it be that the Desai departure theory had earlier been considered and rejected for some reason?

The Possible Corroboration of Pederick

It was obviously important to the Crown case to be able to point to evidence which corroborated Pederick. The importance of looking for such corroboration arose not only from the possibility of doubt and uncertainty which the defence argued followed from the considerations referred to above, but also from the fact that, as a matter of law, the learned trial judge was bound to direct the jury, and did direct the jury, that Pederick being an alleged accomplice of the appellant, it was dangerous to convict the appellant on the evidence of Pederick unless that evidence was corroborated..

The most significant potential corroboration of the evidence of Pederick came from Mr Trotter, the taxi driver .. Subject to one significant qualification, this (evidence of the appellant's having a passenger in George Street) fitted in well with the evidence Pederick gave at the trial .. The qualification is this. Mr Trotter said that the person he thought was the passenger had long shoulder length unkempt hair .. (Furthermore) The defence stressed that, to the extent to which Mr Trotter's evidence corresponded with that of Pederick, and leaving to one side the matter of the hair, this was only because Pederick had modified his own version of what happened over a period of police interviewing .. Pederick had originally told the police he planted the gelignite at about 6.00pm on the Saturday .. The appellant did not deny that Mr Trotter might well have seen him on the evening in question, as he was driving a taxi on that occasion. What was in dispute was that he was transporting Pederick .. Mr Trotter did not profess to know or recognise Pederick, and he did not claim to be able to identify him. Even if he had, identification in such circumstances is notoriously suspect. Moreover, the person he described did not match Pederick in one respect.

The Chief Justice then mentioned the evidence of former Detective Bruce Jackson, who'd given an account of yet another alleged "interview" where I was said to have denied driving the taxi. This acted as a subtle verbal, suggesting I'd lied. It had been constructed by Jackson at a time when police did not know which story they were running with. Gleeson spent little time with it, except to make a theoretical point about alleegd lies as corroboration:

Detective Jackson said that the appellant, when interviewed back in 1978, had denied driving a taxi on the occasion. The appellant in turn denied that he had been asked about that matter

by Detective Jackson, or that he said that he was not driving a taxi .. The Crown said that this was evidence of a lie, reflecting a consciousness of guilt .. reliance upon lies as corroboration is possible, but involves a process of reasoning that is often risky.

This left the evidence of Denning, as the final source of possible corroboration for Pederick. Gleeson treated Denning's evidence with contempt:

Finally, as corroboration of Pederick, the Crown relied upon the evidence of the prisoner Raymond Denning .. Denning said that, on certain occasions where both he and the appellant were in prison together, the appellant admitted to him being involved in the Hilton bombing. There were two major difficulties about that evidence. The first concerns the character and antecedents of Denning. They are such that the jury should properly have regarded his evidence with the most serious reservations. In addition, the objective facts cast substantial doubt upon the accuracy of Denning's evidence. On one of the occasions when the appellant was said to have made an admission to him, the prison records show that the appellant and Denning were not together, and could not possibly have communicated. The Crown prosecutor sought to meet this difficulty by suggesting that the prison records could have been erroneous. Once again, it was argued on behalf of the appellant, we seem to have embarked on some search for a hypothesis consistent with guilt .. I consider that a jury, acting reasonably, would give Denning's evidence little or no weight.

Unsafe and Unsatisfactory

Taking all the above considerations into account it is necessary to address the ultimate problem which arises in relation to this aspect of the case. The main crown witness was an accomplice of the appellant, and his evidence about certain aspects of the matter was demonstrated to be wrong in a number of respects. There were also important aspects of it that were at least shown to be questionable. On the other hand, some parts of what he said were confirmed by other information before the court and there was, although to a very limited extent, corroboration of his evidence.

Although the crown case against the appellant was one abounding with difficulties, some of them of the crown's own creation, but others more fundamental, and although it could not be d escribed as a strong case, I do not conclude that it was not reasonably open to the jury, on the evidence before them, to decide that the appellant was guilty. Although there were numerous matters which might properly have caused them to have a doubt about the appellant's guilt, it cannot be said that, acting reasonably, they were obliged to have such a doubt. In that respect, therefore, this ground of appeal is not made out.

However it is well established that a Court of Criminal Appeal may treat a jury's verdict as unsafe or unsatisfactory even if satisfied that it was, on the evidence, reasonably open to the jury to convict .. The inherent strength or weakness of the crown case may be a factor relevant to such a conclusion. In the present case, for reasons just given, I do not regard the crown case as presented at trial as a strong one, and for the reasons discussed in relation to the first ground of appeal, there was one important respect in which, in my view, the proceedings miscarried. The crown was permitted, in an unfair manner, to obscure a major difficulty concerning the reliability of the evidence of its principal witness .. by raising an hypothesis that was not reasonably open on the evidence.

There is a further matter to be considered .. It concerns a direction given by the learned trial judge to the jury relating to the "sanity" of Pederick .. If the matter stood alone I doubt that it would constitute an independent reason for quashing the convictions. However, in the context of the question whether the verdicts of the jury were unsafe or unsatisfactory it has a significance when considered in combination with other problems referred to above.

As has already been stressed, the reliability of Pederick was a central issue at the trial .. What was the jury to make of such a man was obviously a question of importance and difficulty. The learned trial judge .. went on to tell the jury that the law presumed Pederick to be sane .. There are two difficulties about that instruction. The first is that its meaning is unclear. The second is that the law makes no general presumption of the kind referred to .. What were the jury to make of the information that there was a presumption that Pederick was 'sane"? There was no charge against Pederick. He was simply a witness. As it happened, he was a witness who said that on a particular occasion he stood in George Street in Sydney and tried to blow up the Prime Minister of India, the Prime Minister of Australia, and a number of other people besides, and when his attempt was unsuccessful, attributed its failure to the supernatural intervention of his guru. He seems to have been a person whose reasoning processes were somewhat unorthodox. There was a significant danger of confusing the jurors by telling them that the law presumed him to be sane. This constitutes an additional reason for treating the verdicts as unsafe and the process at the trial as unsatisfactory. I consider that this ground of appeal has also been made out.

It follows from what appears above that I consider that the appeal should be allowed, and the convictions should be quashed. There then arises the question whether there should be an order for a new trial .. The principal considerations in favour of ordering a new trial on each of the three counts in question are the public interest in the due prosecution and conviction of offenders, the serious nature of the alleged crimes, and the desirability, if possible, of having the guilt or innocence of the appellant finally determined by a jury..

On the other hand there are considerations that militate against a new trial. The crown case is not strong, and depends in large part upon the evidence of an accomplice whose account of the relevant facts has been demonstrated to be unreliable in significant respects. The suggested corroboration is, on analysis, flimsy. It is now more than thirteen years since the relevant events took place, and this compounds the difficulty of establishing the truth. Moreover, it is far from clear exactly how the crown would run a fresh trial. What would the crown prosecutor open to the jury as to the significance they should attach to the evidence they were going to hear from Pederick as to the events of 12 February 1978? In fairness to the accused, the crown could hardly fail to elicit from Pederick his recollection of the Sunday, but that recollection is substantially erroneous.

Finally there is a consideration which, in the circumstances of this particular case, I regard as compelling. The trial of the appellant miscarried principally because of an error which resulted in large part from the failure of the prosecuting authorities adequately to check aspects of the Jayewardene theory. This was compounded by what I regard as an inappropriate and unfair attempt by the crown to persuade the jury to draw inferences of fact, and accept argumentative suggestions, that were not properly open on the evidence. I do not consider that in those circumstances the crown should be given a further opportunity to patch up its case against the appellant. It has already made one attempt too many to do that, and I

believe that, if that attempt had never been made, there is a strong likelihood that the appellant would have been acquitted.

I would order that the appeal be allowed and that the convictions be quashed. On each of the three charges in question the court should direct a judgement and verdict of acquittal to be entered.

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## 28. THE ROLE OF THE INFORMER

*Paper given at the Victorian Council for Civil Liberties Seminar on Police Powers and Citizens Rights, on 27 August 1991 at the University of Melbourne*

Prisoner Ernie Wade recently told the NSW Independent Commission Against Corruption he was influenced to not give evidence in one particular murder prosecution, because he had told so many different stories about that case he couldn't remember them all.

The evidence of this man had been used to convict and jail at least three previous police suspects in other serious criminal prosecutions. Those three have now been acquitted because of his admission, and the admission of another prisoner informer, that their evidence was entirely false.

Yet another prisoner informer, Daryl Cook, in mid-1989 made a half hour tape, confessing in detail how he had been "recruited" as a witness by senior NSW police and corrective services officials. He confessed that they had offered him early release from jail and special privileges whilst in jail. This tape was sent to me by a friend at Goulburn jail.

However just 9 months later Cook was used as a principal Crown witness in a murder trial, and to my astonishment also made a statement against me, falsely implicating me in a triple murder. Fortunately, in the first case, a jury rejected his evidence and, in my case, the prosecution finally decided against calling him.

Cook was one of six prisoners who claimed to have had a "crisis of conscience", and came forward to tell police that in prison ten years ago they had heard me "confess" to some sort of involvement in the 1978 Sydney Hilton bombing. Of these six, the prosecution picked just one to give evidence at trial: an exercise in great discrimination, you might think.

The one they picked, Ray Denning, gave evidence of two alleged "confessions": one in 1979, the other in 1984. Prison records proved conclusively we had not been in any jail together after 1979, and so the second conversation could never have occurred. Despite this, the Crown prosecutor at my trial in 1990 claimed that Denning could be believed because the prison records may have been deliberately falsified. This would have involved fabrication by no less than three different sets of prison officers, for no apparent reason.

What was actually said? Denning had simply told police that, ten years earlier, mention was made of the Hilton bombing and I had said to him: "Yes, I and some others did it ... I put the bomb there."

Those words were very easy for him to say and it was allegedly on the basis of those words, which police described as "fresh, direct evidence" that I was arrested in May 1989 and

charged with three counts of murder. It took two years and much heartache, before some of the truth was unravelled. ICAC plans to investigate this matter in November.

I give these examples to illustrate how deeply corrupt the prisoner informer industry is, how worthless the evidence of jailhouse "confessions" is and how the NSW legal system has not been able to properly deal with the problem.

There are two ways of looking at the prisoner informer system: from the social and from the forensic point of view.

The social picture

Judges have long opposed the maintenance of "honour amongst thieves", and have consistently approved the use of rewards for those who dob in their mates.

One judgement spells it out clearly:

"Courts are opposed to the precept that there should be honour amongst thieves and, all other considerations aside, sentences and published reasons for them should be adjusted to further that opposition ... Where a prisoner is shown to have been an informer ... the court, other considerations apart, will be disposed to show leniency to mark the good he has done and in furtherance of the policy ... above."

In some respects this is analogous to the old private school prefecture system, where the older boys enforced their power and privilege by having their paid "dobbers" amongst the younger boys.

For similar reasons, "dobbing" has always sounded better to those in positions of power than to ordinary working class people.

I draw a distinction here between "dobbing" and "whistle blowing": the distinction is that "dobbing" is the powerless telling on their friends or peer group, while "whistle blowing" is telling on those in positions of power, who are abusing that power.

With the prisoner informer system it is important to remember that we are talking about a wider social phenomenon. The doctrine of informing for reward is sanctioned by the judges: a privileged group of almost exclusively white males in their fifties and sixties. It is then enforced by police and corrective services officers - who see in the system both personal & managerial benefits - on a group of poorly educated, working class and mostly institutionalised young men in their late teens, twenties and thirties.

These young men, once they have been in the system a while, develop an ethos that is distinctive and quite powerful. They learn to identify as thieves (most people in jail are there for property crime) and become tolerant of personal violence. The law after all has rarely helped them, so it is reinforced on them they have to help themselves and stick up for themselves. And they have to sort out their own affairs amongst themselves.

A lot of ordinary or middle class taboos are broken, if not before reaching prison, then certainly after a year or two of it. Theft and manipulative dishonesty are encouraged by the pettiness of most prison systems and the threat of violence is something one is taught to respect.

Consequently, in prison culture, no-one is looked down on for being a thief, or for being an accomplished liar and manipulator. On the contrary: prison is a place to hone those skills. Nor is any person shunned because they have been convicted of murder, or other crimes of violence.

There are however a couple of very clearly defined bottom lines. Certain things are not tolerated at all: child-molesters and informers: or rock-spiders and dogs.

It is accepted in jail culture that anyone can administer almost any punishment at any time to people in these categories. As a result, most informers and those convicted of sexual offences against children are held in the "protection" areas of the prisons, either before they can be, or after they have been bashed in the main jail.

Some people criticise this ethos as simply the expression of a need to feel superior to others, a compensating assertion of false superiority which blocks the coming to terms with one's own failures. And while there is some truth in this psychological analysis, it ignores certain social realities.

Firstly, prison is a very bad place to teach anyone morality. For long term prisoners in particular, it's a place to think about survival and adjusting to the demands of that environment; then perhaps attempting to rescue some of one's own humanity in the process.

And hardly anyone within the prison system believes that the prison bureaucracy, the police, or the courts have very much to teach them in the way of honesty and principled behaviour. Prisoners may be uneducated, but they are too "street wise" for that.

Secondly, there is a positive value in solidarity amongst the people with whom you live, especially when you live with them 24 hours a day, for years on end. They are your community, like it or not, and the people you have to learn to adjust to and support.

Finally, there is also value in setting limits to one's own behaviour, once one has either stepped outside or been forced outside the ordinary societal taboos. To maintain some principles is, after all, better than having none at all.

What happens when those last principles are broken?

## The forensic value of prisoner informers' evidence

Judges, crown prosecutors and police in NSW over the last few years have asserted to juries and the public that the cultivation of prisoner informers from a community of long term prisoners is a victory for the system: a return by miscreants to the fold of conventional morality; of long-term prisoners such as Wade, Denning, Cook and others "seeing the light". This is, of course, also the way the informers themselves would have it portrayed.

The revelations in ICAC over the past two months give the lie to all that.

The most significant feature of the ICAC hearings to date has been the parading of a seemingly endless line of ridiculously unbelievable Crown witnesses. Yet these are not simply pathetic cases: they are people whose word has been used time and again to convict people of the most serious of charges and jail them for 10 or 20 years.

Quite apart from their previous crimes as stabbers, child molesters and drug abusers, witness after witness has been forced to admit lying, manipulative and induced behaviour. Inconsistent statements have been explained as lies forced out of them, or lies told for personal gain.

These Crown witnesses are not ordinary representatives of the prison population. They are people who, having been creatures of a bastardising system for years if not decades, have finally given up the last principles to which they held.

The prison system has helped them expunge the remanants of a conscience they might have had, in other circumstances.

They are people who have drawn comments such as this from magistrates:

"The only thing I was really sure about with Mr Cook was his name and not much else. He is a witness completely and totally lacking in credibility."

But even the magistrate's comments in this case did not prevent prosecutors in Sydney from using Cook yet again, in a murder trial. And of course the magistrate's comments could not be conveyed to the jury in that trial.

It is not really surprising to find that those who are finally prepared to inform on their mates are now also the most cunning and unscrupulous liars, ready to commit any sort of perjury for the promise of escape from the system, or of small bribes within the system.

Probably the most significant question arising from these revelations is that of the role of prosecutors in promoting these notorious liars, and that of judges in accepting it all so uncritically.

A very senior prosecuting figure in NSW was recently asked by a journalist what he thought of the informer Eric Houston, who was definitively discredited by the Beech inquiry in Melbourne in the mid 1970s, but who went on to be a Crown witness in NSW in the 1980s. This senior prosecutor responded: "Who is this Houston, anyway?"

They either don't know or they don't want to know. Judges have been similarly blind.

Recently, though, NSW Chief Justice Gleeson urged "special care" in the process of courts giving sentence reductions to informers, where both the prosecution and the informer had an interest in supporting the informer's story. He said courts:

"must be astute to ensure that (they are) being given accurate, reliable and complete information concerning the alleged assistance and the benefits said to flow from it."

But courts generally respond in a reactive way, after the scandal hits the public and pressure is placed on the judges to protect the reputation of their system.

Worthless, induced evidence is being sold as good coin in Australian courts, and in many cases the public has been buying it. The courts after all do little to tell juries about the history of the problem.

The use of prisoner informers, at least in NSW, rose as increased pressure was placed on the police verbal: the old tradition of police fabricating a suspect's "confession" in the police station. When police can get another prisoner to do the verballing, for a little heroin or the promise of bail or a reduced sentence, why should they muddy their hands?

Yet prisoners are not free agents and are more than willing to trade in evidence. In court proceedings against me Ray Denning was forced to admit that, at least in the past, he would lie for his own advantage, if he thought it would get him out of jail early. Somehow that all changed when he became an informer and, on association with the prosecution, he became a paragon of virtue.

No doubt some prisoners do tell others of their involvement in "unsolved" crimes, and quite possibly some prisoners do give truthful evidence of that. But it is impossible to say how often this occurs.

Having known many of the informers and many of their targets, my own guess is that at least three quarters of the alleged "confessions" are rubbish. And it is almost impossible to distinguish which is which. All of the evidence of prison-yard "confessions" is induced by rewards of various kinds, and therefore tainted.

## Problems for the law

The courts, in supporting the system of rewards for informers, have opened up some serious contradictions.

First of all, induced direct confessions have long been held as inadmissible. That is, where it has been established that police have made some sort of promise or have offered a reward to induce a suspect to sign a statement, the courts will invariably reject that statement as evidence.

However where a hearsay "confession", or verbal, has been established as being the result of an inducement or reward to the accuser, the evidence proceeds and a person may be convicted on that evidence, even if there is no corroboration.

Second, the High Court judgement in McKinney and Judge, in March this year, has now established a rule that juries be given a warning over police evidence of a "confession" that is not backed by independent corroboration. This "warning" is like the traditional accomplice warning: that it would be dangerous to convict without corroboration, and is based on the recognition that an accused person is vulnerable in a police station, and almost never has a witness to support his or her account of events there.

This is a welcome but long overdue preliminary safeguard against police verbal; but no such warning is required for a prisoner's verbal! So we have the bizarre situation that prisoners' verbal is, at least for the time being, regarded as more "safe" than police verbal.

David Brown and Beverly Duffy, in their detailed analysis of the prisoner informer industry , have suggested the need for the corroboration warning, when dealing with allegations of prison "confessions".

However this seems to me to solve little. Judges are often under the illusion that a "direction" from the bench will instantly remove all prejudice and confusion. But directing that it is "dangerous" to convict, and at the same time reassuring the jury that they "may" convict and it is "open" to them to convict is in itself, it seems to me, an exercise in confusion.

More importantly, it is not within the capacity of either judges or juries to extract what little truth may remain in the morass of induced fabrication that is jailhouse "confessions". This class of tainted evidence should be excluded entirely from the courtroom.

If ICAC Commissioner Temby does have the courage to look into the role of prosecutors in this business it seems likely he will be forced to a similar conclusion to that of the Los Angeles Grand Jury. After looking at 150 cases involving prisoner informers this Grand Jury found last year that:

"The Los Angeles District Attorney failed to fulfil the ethical responsibilities required of a public prosecutor by its deliberate and informed declination to take the action necessary to curtail the misuse of jail house informant testimony.

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## 29. CRIME AND THE MASS MEDIA

The mass media plays a powerful and important role in conditioning public views about crime and police. The media often portrays itself as a watchdog over public and private abuses and, in its best moments, it can be. However in conditions of concentrated ownership, conservative editors, few investigative journalists and dependent relationships with state sources of information, the mass media most often acts to reinforce the state view.

I'll outline here several problems of mass media bias in the coverage of crime, which can be illustrated from my own experience: normal bias, pre-planned stories, the media's view of victims, special bias, police source bias and special favours, inconvenient history, coverage and discoverage, and accountability.

### Normal bias

The greatest damage done to me by the mass media was through entirely legal and normal reporting. It required no special bias or malice, though that was also there, on occasions.

The damage was done by the institutional bias in the current system of reporting criminal arrests, committals and trials. In high profile cases, massive coverage is given to the laying of criminal charges, the reading of "the facts", and the one-sided airing of evidence in committal proceedings. In my case this process was compounded by reporting of the trial of the main prosecution witness, Pederick, where his allegations against me were uncontested and I had no standing to appear or question these claims. In these circumstances, prosecutor Tedeschi could have asked for a suppression order, to prevent prejudice before my trial, but he did not.

Journalistic ethics generally require some acknowledgment of "both sides", or more, of a story. In court reporting, though, this principle is abandoned under an often woolly fear of subjudice rules and contempt law, and is replaced by the notion of a "fair court report". This is generally explained as being a fair account of evidence that emerges under the privilege of court proceedings, but is more commonly a recital of the principal prosecution allegations and one or two of the more straightforward anecdotes of the day's evidence. Any further explanation or background is minimal or omitted. Cross-examination is often poorly reported, largely because it undermines the main police and news theme: person + crime = criminal brought to justice.

The "fair court report" then, never requires any "other side" of the story. In theory, the defendant has his or her say, generally at the end of a trial, and this can then also, in its turn, be reported. In practice, this amounts to a tiny fraction of the coverage of the entire case. It is also coverage well and truly "after the horse has bolted". Damage is done in the early stages.

Why don't the courts control this prejudicial pre-trial reporting? The short answer is that courts instinctively reinforce the role of the police, as do the conservative sections of the mass media. The logic of "due process", however, seems to go like this: magistrates have no

contempt power over the media or outside their own courts (unlike judges) and the official interpretation of wider contempt law (as might be enforced by the Attorney General) has generally excluded contempt action for any publication unless it is within a few weeks of a jury trial.

Further, contempt proceedings are initiated by those same Crown officers that direct prosecutions. The mass media's understanding of contempt law then, has come from the distorted model set up by prosecuting authorities: that virtually unlimited coverage of police accusations is legitimate, but it may be criminal contempt to interview a defendant or publish that person's out-of-court denial.

For instance, from August 1989 to March 1990, prosecution lawyers made three attempts to pursue contempt actions against CEFTA members and its newsletter Framed, by raising the matter before a judge and by seeking legal opinions on the newsletter. None of these attempts were successful. Whatever influence CEFTA may have had was limited, as its newsletter had a relatively small circulation. On the other hand, The Bulletin ran an article in January 1990, commenting on policing over the previous year. As my committal hearings were ongoing, and before I'd had a chance to say anything in court, professor of law Richard Harding commented that the Hilton bombing had at last been "cleared up" by "good police work" and that the evidence of Ray Denning against me was "a touching if unexpected testament to the rehabilitative potential of long years in the slammer". There could hardly have been a clearer contempt than this, prejudging the issues, yet there was no suggestion of any action against The Bulletin.

Also during my committal, CEFTA members complained to Attorney General John Dowd after having observed Detective Aarne Tees briefing journalists on details of the evidence in the court. One person had seen Tees telling journalists that Evan Pederick had been known to the NSW special branch for some time, and describing what Pederick was meant to have done and how and why he did it. After several months, and having not requested any further details, Dowd responded in a letter saying that "the available evidence does not disclose any contempt of court" by Tees. Dowd then went on, in the same letter, to make the following unprompted threat:

I would like to take the opportunity to warn your members that persons taking part in any rally outside the court during Mr Anderson's trial may be liable to prosecution for contempt of court if they distribute printed material or otherwise publicly express views on issues to be determined in the trial.

No rally or distribution of material outside the court had been planned, or occurred. What he meant by "expressing views" is unclear.

Trial judges can abort a trial due to unfair reporting, but most damaging publicity has happened well before the trial. As with the political process, the power of the media in criminal cases lies in the longer term, cumulative effect. Repeating an accusation often enough has an effect, particularly when that accusation is repeated without contradiction.

Apart from the repetition of accusations, the convention in Australian journalism is to drop the honorific title on any prisoner or person accused of a crime, prior to their being convicted. So for instance "Mr Fred Smith" becomes "Smith", once charged in court, but if he were a witness (except in the case of an accused or prisoner witness) he'd remain "Mr Smith" or, for

instance, "Detective Sergeant Smith". People charged in court are treated with less respect, and the power of language is also brought to bear against them. This convention appears to fly in the face of the legal presumption of "innocent until proven guilty". The only exceptions to this practice, of which I'm aware, are The Canberra Times and the Newcastle Herald, which retain "Mr" or "Ms" for people charged in court.

A similar, unwritten convention operates to attribute positive verbs to state arguments. So, for instance, prosecution witnesses generally "reveal", "name", and "tell"; while defendants "claim", "allege" and "deny". Such language subtly but powerfully reinforces the declamatory architecture of the courtroom, with "the accused" often in an imposing jail-like "dock", and the public recital of prosecution accusations.

In my case, television and print images of me were repeatedly run before the trial, and linked positively with prosecution claims and images of the bombing itself. In most cases, not a word from me. Of course, the camera crews tripping themselves up running backwards down the street to get their days "fresh" coverage, were "only doing their job". They were also doing me enormous damage. The law supports them, because this is normal, legitimate practice.

The 'English solution' to this dilemma seems to be censorial: to ban identification of defendants in committal proceedings; the 'US solution' seems to be open slather: to allow all parties to be interviewed. In Australia, despite media-distorted cases such as that of Lindy & Michael Chamberlain, we seem yet to recognise that there is a problem.

## Pre-Planned Stories

In addition to their own views of the world and what is "newsworthy", journalists and editors operate under the pressures of time, limited space and the structure of conventional news reporting. A news story is most often one-dimensional, based around the single idea of an introductory paragraph and headline, and this often conditions the story before it even begins. The "story" is often conceived before the journalist sets out to gather information.

Many journalists can allow reality to modify these pre-planned stories but often journalists and editors get trapped in their own cliches. A reporter may return with a reasonable story, but it may not be recognised as such by the editor, as it doesn't fit the preconception. At times the journalist has pretty clearly been instructed to return with a particular story.

In 1985, after my release from prison, I was asked by Daily Mirror journalist John Choueifate if I would describe my seven years inside as "hell". I responded in some other words, avoiding his term, but he returned undeterred to his original question: "Yes, but would you describe it as 'hell' in there?" I said to him, "You've got a particular headline in mind, haven't you?", to which he readily agreed. However I again avoided what I recognised to be a cliche, and tried to sum up my feelings again, in my own words. Undeterred, he returned for a third time to his line: "Yes, but would you say it was hell in there?" I laughed at his persistence and said something like "it was a hell of a frustrating experience trying to get out". That made him happy.

John's story reported, probably accurately enough, that I'd said "It was a hell of a lot of waiting and a lot of frustration", but the headline to the story was: "Marga men tell of seven years of hell". Totally preconceived.

In 1992 a reporter from The Australian, Warwick Brennan, approached me to see if I'd support the calls for a Royal Commission into the Hilton bombing. I explained to him that I felt there were good reasons to inquire into certain matters that had not been investigated, and that I supported an inquiry in the terms outlined by injured former police officer Terry Griffiths, but that there were also dangers in a Royal Commission. Not least of these were that police and past witnesses who had failed in their efforts against me, would see it as an opportunity to rehabilitate their stories and their own credibility. I also expressed my opinion that simply calling a Royal Commission did not solve anything: the terms of reference and the person to head it were important. Not satisfied with this answer, Warwick pressed me twice more to simplify my response. I refused, and repeated what I felt about the matter.

He went on to fairly accurately report what I'd said:

"There are a number of matters which have not been properly investigated. But there is a danger in an inquiry that people whose credibility has been taken down will see it as a chance to rehabilitate themselves."

However the headline over the story demonstrated that the editor (or sub-editor) could only deal with a yes or no response. The headline "Anderson says 'No' to a Royal Commission" neither summed up accurately what I said, nor what Warwick Brennan reported.

"Victims" and media prejudice

If the substance of news stories is often preconceived, the characterisation of people involved in dramatic situations cane be even more cliched. Popular magazines are notorious for their stereotypical portrayals of actors' lives: "Can Kylie live without Michael?", and so on. These cliches seem to be repeated so often that the people writing them actually believe they represent reality.

I came up against a peculiar variant of this, and from "serious" journalists. From my history and politicisation I was an assertive and outspoken police target. This didn't fit with some journalists' idea of the "victim" of a miscarriage of justice. A remarkable line that was thrown at me by two journalists, both before the trial and after my acquittal, was "You're not a Lindy Chamberlain". I had to think a bit the first time this was said: what did it mean? It was never elaborated on. The second time I used a response a close friend had made to me: "No, the hair's completely different."

The real implication of this curious question, I believe, is that I did not fit some stereotype held by those journalists of what a victim of injustice should be. By making the comparison with Lindy Chamberlain I think they meant to say that a "victim" was someone with no police history and no aggression or assertiveness as a result of the victimisation. They wanted their victim to be some sort of bimbo: a person with no personality other than that which the popular stereotype of their position demanded.

This is, of course, unfair to Lindy Chamberlain. She was no bimbo. In fact I'm sure she suffered greatly in the media through her own "failure" to fit their idea of a victim. Because she retained some pride through her ordeal and didn't display the emotion expected of her when it was required by the mass media, many journalists and ignorant members of the public portrayed her as "cold and "unfeeling". Because she didn't cry on cue for the cameras, she spoilt the expected drama of the occasion and didn't live up to her role as an innocent victim. Failing this role, she was relegated to the opposite stereotype: the evil woman. Unfortunately for her, Lindy Chamberlain also was not a Lindy Chamberlain.

There are many other examples of this sort of stereotyping of victims by the media. Jim "Jockey" Smith, who was almost killed by masked gunmen within two days of his being released from fifteen years in prison in February 1992, was characterised by The Sunday Telegraph not as a victim but as a villain who got his just deserts. Although he'd been shot in a cold blooded murder attempt, the Sunday Telegraph's headline was a callous "Gunman paid in his own coin: Criminal talked his way out of two life sentences". This treatment was clearly due to his having a criminal record for robbery, and apparently people with criminal records can't be victims. The reference to him being a "gunman" and having allegedly "talked his way out of two life sentences" was a reference to his acquittal on two shooting charges. The Court of Criminal Appeal ruled that the verdicts in these cases had been "unsafe and unsatisfactory".

In the same week as the attack on Jim Smith the Sunday Telegraph's sister publication, The Daily Telegraph-Mirror, editorialised about the "terrible wrong" done to two police officers, who were jailed but acquitted after the Court of Criminal Appeal found their verdicts were also "unsafe and unsatisfactory". The Telegraph-Mirror said that it was "astounding" that in the prosecution of these former police officers, "the principle of reasonable doubt was somehow cast aside". Not a touch of irony about the way those across the corridor had treated the similar acquittal of Jim Smith. Apparently he did not rate as a victim, in the way the two police officers did. They hadn't "talked their way out" of anything.

Aboriginal people are also subject to this stereotyping. Most sections of the mass media, in recognition of the atrocious history of brutality inflicted on them, are quite prepared to present sympathetic accounts of Aboriginal people as stereotypical victims: mistreated, suffering, alcoholic, hopeless. But let any Aboriginal person speak out in anger, as a result of the ongoing racism and abuse, and the traditions of non-Aboriginal Australia rapidly come to the surface. The stereotypes quickly change to: troublemaker, exaggerator, radical, ratbag, ungrateful, abusive, criminal, violent, extremist.

In Australia victims of the state who speak out publicly are expected, above all, to be polite.

There is a paradox in this, though. In the culture I grew up in I was taught not to show my feelings in public. I still remember walking out of prison in May 1985 and saying to the journalists at the gates of Long Bay, amongst other things, that because of the weakness of the Wood Report, the police had "got away with murder". As I said this I felt a surge of anger rise in my throat and I began to loose control of my voice. I stopped speaking, so as not to display my feelings. One journalist then reported my comment about police the next day, and added: "Anderson showed no emotion".

Special Bias: A Case Study

The editors of the Sydney Morning Herald may have had this sort of prejudice in mind when they decided the line they'd run on my Hilton bombing trial. They may also have been jealous of the campaign that sprang up to defend me: a campaigning paper sometimes likes to feel that it alone is the propounder of causes. They may have prejudged my case and then resented the fact that I'd been a spokesperson, dealing with the media in the past. And they most likely did remember that Ross and Paul and I had previously sued them (they settled out of court), for wrongly stating that we'd already been convicted over the Hilton bombing. This slur added considerably to the prejudice I had to face in 1989.

In any case, the Herald clearly decided, at an early stage, that they would run against me. After an early threat of contempt action against those questioning my arrest, by Attorney General John Dowd, the Herald ran no further coverage that could be remotely described as sympathetic to me. But it went further by refusing to run several stories by its own journalists, which attempted to give some account of my legal history, and the history of police Hilton bomb stories.

It wasn't that there was a shortage of Herald journalists ready to look at the background, skirting the edges of contempt law. It was an editorial line. Nothing that might appear questioning of the police, or sympathetic to me, would be run.

The Herald editors are capable of running very strong corporate "lines" on particular issues. I've known a number of Herald journalists, and have heard a lot about their stories being trashed and rejected. They either learn to live with this, or write the stories their bosses want, or get out. In one case a friend wrote a story for a supplement to the Herald about a gay man who had been bashed and had then gone to an inner city police station to complain, only to be bashed yet again by police. When this came out in a court case where police accused him of assaulting them (the man was acquitted), my reporter friend wrote it up for her section of the Herald. The story was approved by the section editor and the supplement was printed. When the Herald editors saw the article, however, the entire supplement was pulped. My journalist friend was shattered. The article was rewritten so that it didn't appear critical of police, and didn't mention the fact that the man was gay.

More recently, in March 1992, the Herald refused to print a group letter from Aboriginal community leader Mrs Shirley Smith (Mum Shirl) and over a hundred parishioners from St Vincents Catholic Church in Redfern. The letter was a powerful indictment of police culture, the history of genocide in Australia and the police who had video-taped themselves mocking the recent police killings of young Aboriginal men, Lloyd Boney and David Gundy. On the other hand, the Herald published the weak explanation of Police Association Secretary Tony Day, that the video-taped mockery was "only a joke".

The first Herald story about me that was cut was a June 1989 account of some of the history to the Hilton bombing case, by Herald journalist David McKnight. Then in early August Herald journalist Anne Arnold's profile of me, and her associated account of the growing campaign against the prosecution, were not run. Then again, later in August, Herald journalist Graham Williams attended the launch of my book on prisons, Inside Outlaws, and interviewed me. The Herald ran nothing about the book launch.

The journalists assigned to my case then began to fall into line with the editors. At my committal hearings a Herald journalist told a person sitting next to her that I was a "Charles Manson" like figure; a pleasant start to the proceedings. The Herald's opening story reported Aarne Tees' accounts of the "facts" (a police euphemism for pre-trial police allegations) as if they were the facts: "Bomb meant for Indian PM" was the headline, "It would have killed Malcolm and Tammy Fraser, police say" the sub-heading, around a picture of me and a friend at court. Anabel Dean's introductory paragraph had no attribution at all:

A remote controlled bomb meant for the Indian Prime Minister, Mr Morarji Desai, outside Sydney's Hilton Hotel in 1978 twice failed to explode.

This was the first Pederick story, which Malcolm Fraser exposed within days of the publicity. The prosecution dumped it before the end of that month.

Herald journalist Janet Fyfe-Yeomans was then assigned to cover my trial. She told a colleague near the beginning of the trial that she "knew" I was guilty, and her reporting showed it. It wasn't that she was incapable of critical reporting. Earlier that year she'd written a longer piece on prisoner informers, an article that was to win her an award. The article referred to Denning's evidence, and showed she was well aware the evidence of prisoner informers could be tainted by inducements. I spoke to her by phone shortly after this, as two of the people mentioned in her article subsequently made statements against me.

At trial, during the breaks, Fyfe-Yeomans would seek clarifications or explanations from prosecutor Mark Tedeschi. To other people she made it clear that she believed Evan Pederick, and nothing said in my defence made any difference. In the early stages, her summaries of prosecution evidence and Tedeschi's comments was dressed up by the editors. For instance, an accusation by Evan Pederick led to the headline "Leftover gelignite kept in locker", next to a photo of me with my eyes half open, and the caption "Anderson told Pederick "this is for the job". The visual effects and positive headings were powerful tools of persuasion.

The Herald's treatment of Denning's evidence was remarkable, given that Fyfe-Yeomans had reported critically on prisoner informers. Up until then her reports of the trial had been run almost every day. Then for the first two days of Denning's evidence there was nothing. In this period evidence emerged showing Denning had not been in the same jail as me on the occasion of one "confession", and despite his claim to now stand for "justice for all", he admitted doing nothing to help his close friend Anne Denton, whom he said had been wrongly charged with a robbery he committed. None of this, or any other part of Denning's cross-examination was run in the Herald. It seems that stories were filed but not run.

Instead, a sanitised "colour piece" appeared at the end of Denning's evidence which simply repeated his claims and portrayed it as curious and funny that I would confess through the toilet pipes at Long Bay:

Neddy Smith sleeping in the prison library, prisoners confessing their crimes to each other using the toilet system as a telephone and escapees blowing $110,000 in a day while on the run. One of Australia's most notorious prisoners, Raymond John Denning, has given a colourful insight into life behind bars to the jury in the Hilton bombing trial.

There was no critical analysis here at all, from a journalist who'd win an award for an earlier critical article on prisoner informers.

When Evan Pederick's evidence was reported, his claims were at the front of the stories. For most of my evidence, however, Tedeschi's suggestions to me, which were not evidence, grabbed the Herald's headlines. When Tedeschi attacked me for producing a fairly innocuous document which showed Pederick and I had been on an Ananda Marga committee together (contact between myself and Pederick was not an issue, only what I was meant to have said to him), the Herald's headline was "Anderson's claim on name 'desperate', says QC". In this report Fyfe-Yeomans misrepresented the evidence twice, based in part on distorted claims Tedeschi had made: she wrote:

Anderson had previously told the court that he could not recall having had much to do with Pederick at the (January) retreat

but this was still the case after the document was produced. She also said that Pederick:

gave Anderson the address in case Anderson needed to contact him after the bombing

whereas Pederick had said (falsely) it was a fictional address that he never used. As a barrister said to me, all these errors went the one way.

When dealing with the important evidence of the warning phone calls, not only was my evidence relegated to the third paragraph, Tedeschi's suggestions actually "became" the evidence:

Tim Anderson rang police in a fake foreign accent to warn them about a bomb outside Sydney's Hilton Hotel minutes before it exploded, it was suggested in the Supreme Court yesterday.

He used the same accent to call The Sydney Morning Herald, saying that something was going to happen at the hotel, the Crown prosecutor Mr Mark Tedeschi suggested.

Anderson denied he had made the calls. "I'm sure I was in bed asleep", he told the court.

The court has been told that a man, using what the police telephone operator described as a "fake foreign accent", rang Sydney police headquarters at 12.40am on February 13. The bomb exploded about 2 minutes later, claiming three lives.

This last paragraph appeared to support Tedeschi's claim, but the police telephone operator, Suzanne Jones, had said nothing like this. She had said "a gentleman with a foreign accent, which at the time I would have thought to be possibly European or ethnic" called police. Janet Fyfe-Yeomans was in court when she gave evidence. The Herald was forced to print a correction the next week, and the blunder had to be pointed out to the jury. But where did the phony quote about a "fake foreign accent" come from?

It's not clear, but there was one interesting piece of background which involved another Herald journalist. None of the three people who'd heard the warning caller's voice had suggested in their 1978 statements or their 1982 inquest evidence that the caller's accent was "fake". However after my 1989 arrest, when it became clear that I was alleged to be the caller, one of these three, a former Sydney Morning Herald journalist, had attempted to change his evidence. Timothy Vaughn, who had since moved to People magazine, said at my

1989 committal hearings that the accent could have been false. He'd said nothing like this before. This sort of suggestion was not allowed at trial.

Tedeschi: Any kind of accent? A: There was a suggestion.

Q: What kind? A: It was probably European if at all.

Q: So the hint of a European accent if at all? A: Yes.

Q: Did you form any impression as to whether it was a genuine accent or not? (Objection, rejected, question withdrawn)

If the Herald's bias was slipping out in one-sided coverage and errors, it came out in a flood after my conviction.

Despite Denning and Pederick having been discredited, and despite my acquittal on the important first count, the jury had convicted me, apparently on the general "feel" of the prosecution case. Much of the media, but particularly the print media, took this as a sign that the entire prosecution case could be accepted: winner takes all. Interestingly the electronic media were more balanced, with even Derryn Hinch's tabloid-style television program calling the conviction "controversial" and predicting that the case was not yet over.

Janet Fyfe-Yeomans presented as her post-conviction account of the case what CEFTA later accurately summarised as "a sanitised rehash" of prosecutor Tedeschi's summing up.

The mystery of who masterminded the Hilton bombing was finally solved

she began, asserting that I'd "confessed" to Denning and back in 1978 had "begun to weave a spell" that ensnared Pederick to do my evil bidding. There was no mention at all of what happened to the discredited and central Pederick story of attempting to kill a head of state in George Street.

Seven months later Herald was to editorialise:

What the trial of Mr Anderson demonstrates is that the legal system can be extremely unfair .. The lessons that emerged from the trial of Mrs Lindy Chamberlain have not been absorbed, it seems, by the legal system.

Nor by the Sydney Morning Herald. Janet Fyfe-Yeomans also later wrote in her article "Why the jury got it wrong":

So how did the jury get it so wrong? The blame was yesterday sheeted home to the police and the crown. They misled the jury, said the court.

So how was it that the Herald, at the time, conveyed none of this in its own pages?

In the climate of the conviction the Herald went beyond repeating the prosecution case as if it were all fact. A backgrounder on myself and Ananda Marga by Ben Hills presented a catalogue of lies, gossip and smear, in support of the prosecution case. Hills portrayed me as sinister, manipulative obsessive and violent.

Ben Hills had spoken to me, seeking an interview, in the final days of the trial. At that stage I expected to be acquitted, and was inclined to agree. I did agree to be photographed, but the Herald photographer didn't make the appointment. Hills explained to me that, while Fyfe-Yeomans thought I was guilty, he was concerned that up till now I'd been given a "one-dimensional" portrayal in the media, and that he wanted to do "the real story". I forgot, at that time, that a couple of months earlier I'd used in a college class, as an example of racist stereotyping by the media, an article on crime in Alice Springs; it was written by Ben Hills. In the event, my lawyers suggested I wait until after the verdict and, following that, "the real story" proceeded without me.

In his story Hills falsely claimed that, the day after the bombing, I'd blamed "ASIO, the Commonwealth Police, the KGB and the CBI (the Soviet and Indian security services)". I'd done nothing like this. He accused Ananda Marga of a series of crimes in India in the 1970s, acts with which they had no connection:

(they'd) bombed power stations, radio stations and heavy water plants, derailed trains and sabotaged aircraft

Not one of these acts had been committed by Ananda Marga, and the first three had been acts alleged against supporters of former Indian Prime Minister Indira Gandhi in the mid-1970s: Hills was the first person to ever accuse Ananda Marga of these things.

Hills reported an accusation that the margii leader was an "incorrigible homosexual", whatever this was supposed to suggest, and that the margii logo was a "sinister fusion of the Jewish Star of David, a rising sun and a Nazi-style swastika". Far from being sinister, or Jewish or Nazi, the star and swastika are ancient and respected spiritual symbols in India. Hills wrongly claimed that Ananda Marga had been banned in Britain and that, when Tees and company came to my flat it was "plastered with Free Mandela Posters .. (and) one poster inside the door depicted the head of the NSW Minister for Police, Mr Pickering, in a gunsight". In fact there was no Pickering poster, and just one Mandela poster, in my flat. The list of untruths went on. Those in CEFTA were portrayed as deluded, if impressively organised, people who'd made a fetish out of me and the case surrounding me:

Never has the campaign to prove one man's innocence consumed so much time and money and creative energy to so little eventual effect.

However, noting the problem of the Yagoona case, Hills appended this curious and unexplained remark:

at the end of the day, the only conclusion is that a guilty man may have been framed.

Following a complaint, the Australian Press Council decided that this article:

although imperfect .. does not offend the Council's principles.

A week later Herald letters editor Geraldine Walsh noted the reaction to the Hills and Fyfe-Yeomans stories:

The conviction of Tim Anderson has resulted in a steady flow of letters arriving on this desk. Only two supported the conviction. of the others, some were as intemperate in their language as they claimed the Herald had been in its reporting of the trial. To say that our correspondents felt strongly about the coverage is something of an understatement. It was described as "one of the grossest journalistic exercises", "inaccurate", "slanderous", "poisonous", "gutter journalism" and "just plain lies". Telepathy seems to have been in the air at the time. Many of the writers on the subject took exception to the (Ben Hills) portrayal of Anderson as "black of beard, dark of eye", believing that it reinforced prejudices. The majority of the writers on the subject drew comparisons with the Chamberlain and Blackburn cases.

The Herald printed two of these critical letters (though not the ones with "intemperate" language), but didn't investigate anything more about the case until seven months later, when the Court of Criminal Appeal attacked the evidence and conduct of the trial.

Two days after the conviction Fyfe-Yeomans published an "exclusive" interview with Pederick, titled "Pederick: why I brought down Tim Anderson", as if I'd been in some position of power. While her interview described Pederick as "polite and gentle .. the perfect gentleman", it allowed him to abuse me as "pitiful" and "vile", and to claim that it was a "proper" thing for him to have put me in jail. What was not asked of him, in this unique opportunity, was what he thought of the collapse of his "attempted murder" story.

Fyfe-Yeomans made up for this seven months later by writing yet another extraordinarily sympathetic article on Pederick. It was clear that, even after the appeal judgement, she was still impressed with Pederick. In an article headed "Pederick speaks out on Hilton bomb role" she presented the discredited prosecution witness in this way:

Evan Pederick has broken his silence to dismiss claims that his sanity was in doubt and to call for an inquiry into the affair. He has also revealed the answer to the controversial question that was never put to him during Mr Tim Anderson's trial - just who does he now think he tried to kill outside Sydney's Hilton Hotel?

It's highly unusual journalistic style, for a convicted prisoner to "speak out", "dismiss claims" and "reveal" facts. If any coverage is given to what a prisoner says, it's usually "alleges" and "claims". Nevertheless, what was the answer he "revealed" to the "controversial question"?

"I think I saw Morarji Desai leaving the hotel. To be honest, however, I must admit that the furore over what I may or may not have seen has done little to clarify matters for me."

The Sydney Morning Herald maintained its bias against me at least until after the Court of Criminal Appeal's judgement. In the months that I spent in jail, though, a couple of articles did slip past the editorial line. In the month after my trial Malcolm Brown reported on the formation of another group, Academics for Justice, which was calling for an inquiry into my conviction and the bombing. And just before my appeal hearings an article appeared on linguistic evidence that further discredited Denning's tattered verbal.

One strange sidelight to the Sydney Morning Herald's bias against me was that they ran no articles on the visits to Australia of two Irish victims of arguably the greatest miscarriages of justice in modern British history. Paul Hill, who served fourteen years in English jails as one of the Guildford Four, came to Australia in April 1991, to speak in support of me and on

behalf of the newly launched Australian-Irish Congress. Paul spoke to a packed meeting at Glebe Town Hall, sharing a platform with Aboriginal activist Gary Foley, criminologist Paul Wilson and shadow Attorney General Paul Whelan. The Herald didn't report on any aspect of Paul Hill's tour.

Then in October, after my acquittal, I helped in organising the tour of Johnny Walker, one of the Birmingham Six, who'd spent sixteen wrongful years in English jails, as a scapegoat for IRA pub bombings. For some reason the Herald, which prides itself as a paper of record, also ran no article on Johnny's tour.

The Sydney Morning Herald was not the only biased paper, some bizarre and sensational stories were run elsewhere. The Daily Telegraph-Mirror reported on the day of my sentencing "Hilton killer gets 11 years - Anderson supporters cheer sentence". In fact, no one had "cheered" the sentence, but some people had expressed their support for me when I entered the courtroom. The Telegraph-Mirror had also declared the Hilton bombing "solved" after the jury verdicts and headlined "The confession that caught a bomber", an apparent reference to Denning's story.

## Police Source Bias & Special Favours

Journalists reporting crime and police work often become dependent on police for their stories, and police use this dependence to ensure their information is given to those who best present the police point of view. Peter Grabosky and Paul Wilson have described well the various means police are able to use to control media coverage of crime. Most importantly is the playing to favourites and ostracism of those who criticise police, but there have also been persistent police attempts to gain direct control of press accreditation and occasional threats of direct police retaliation.

The practice of journalists presenting the official police view of "crime" is wonderful in a rosy world where police and media "cooperate" in the "solving of crime". When it involves the promotion of police theories, police malice, police fabrication and the denial of a fair climate for trial, the cosy police-media relationship represents something quite different. Those happy within such a relationship, of course, deny that such problems exist.

In recent years a number of police reporters have moved on to employment in the NSW police media unit, which aided in the parading of Harry Blackburn before his wrongful prosecution on rape charges. The same unit, more completely titled the "NSW Police Media and Marketing Services Branch", also issued a press release on the day of my arrest, saying that I'd been arrested "following new information ... (and) extensive inquiries". These extensive inquiries hadn't extended to police reading a copy of the book I'd published in 1985, with many references to the Hilton bombing. Police asked me where they could get a copy, when they came to arrest me. The media unit was of course just repeating what they'd been told: their statement was taken directly from a running sheet prepared by Detective Wayne Popplewell.

On the day of my arrest I discovered a reporter who enjoyed a very close relationship with police, and who was to benefit for his strongly pro-police stories. As I was being driven in a police van from the Sydney Police Centre to the Liverpool Street Central Court of Petty

Sessions, Channel Nine television reporter Steve Barrett, with his camera crew, jumped out behind the police van and called out "How do you plead, Mr Anderson?" The van paused for several seconds, for Barrett's benefit. I ignored him. He was the only reporter there.

Several days later on, as Tees and other police took their witness Evan Pederick for a walk in front of the Hilton hotel, Barrett was again the only reporter on the scene, able to secure footage of Pederick being "walked" in front of the scene of the crime. Asked about this in court Tees denied there had been any tip off, and claimed that Barrett was simply there to film the Hilton bomb victims memorial plaque; he even claimed he asked Barrett to go away. I later questioned Tees about this in ICAC, before Commissioner Ian Temby:

Q: Did you ask anyone else to tip him off? Tees: No I didn't .. Q: Did you tip him off to be there? Tees: No. Q: Was he the only journalist there? Tees: Yes. Q: And I think .. you actually had a conversation with him there? Tees: Yeah, I told him to leave. I asked him to leave .. leave us alone, go away. Q: Yeah. Of course that had no effect at all, did it? Tees: Yes it did he went away. Q: Did he? You have seen coverage that he has made of that walk around repeatedly, haven't you? Tees: No .. Q: (Temby): .. If you went with Pederick to walk around George Street and a particular journalist was there and able to obtain some footage, it would have to be looked upon as a remarkable coincidence, wouldn't it? Tees: I wouldn't say it's a remarkable coincidence, I know why they were there, they were there to film some particular shots. If I remember rightly I dropped an umbrella over the camera and asked him to leave. Q: (Temby): Well that may be right but it remains the case that they were just according to your testimony, dead lucky? Tees: I would say so, yes. That's what they told me anyway .. Q: (Anderson): And of course they could have filmed the plaque at any time that week, couldn't they? ..

As I attempted to pursue the matter, Ian Temby cut me off saying further questions were "unnecessary" and adding "I'm not a jury, Mr Anderson, I'm not slow".

Steve Barrett's style was well illustrated by his question outside the Glebe magistrate's court, on the first day I appeared there. Having answered some questions and told the reporters there I had nothing to do with the Hilton bombing, Barrett called out as I walked away, "What about the victims?"

Immediately after my trial Barrett secured unprecedented access to the high security Special Purposes Prison, to interview Ray Denning. He ran an utterly uncritical interview, one which indicated he either knew nothing of the holes that had been made in Denning's story, or didn't care. Barrett hadn't attended the trial, his main field of work being at the "breaking" of new police stories. It became clear that he'd gone to some lengths to cultivate his special relationship with police. Prisons security boss Ron Woodham later told ICAC that Barrett was effectively rewarded with the Denning interview because he had acted as an informant on an earlier occasion, suppressing a story involving a prison officer who wanted to "tip a bucket" on Denning and the Special Purposes Prison. Woodham was being questioned by Counsel Assisting ICAC, Steven Rushton:

Q: Did you ever approach Mr Barrett from Channel Nine for the purpose of letting him know that he could interview Mr Denning? Woodham: Yes sir .. in late 1989 there was a prison officer by the name of "Michael" who contacted Channel Nine and he wanted to talk to a reporter. I believe he told Channel Nine it was about Denning. Um, Steve Barrett was given the job to interview the prison officer. He contacted me. He interviewed the prison officer, I

believe, in a park at Parramatta and the officer wanted to sell a story .. he gave some information to Steve Barrett about the SPP and Denning. Barrett then cooperated with us and gave us the information. Um the officer was later interviewed and he resigned. Um Barrett um decided not to run the story because of its security implications to the program and to possibly Denning, but he asked at some stage could he interview Denning and he was told that it would be considered at the appropriate time if there was no further court cases.

Prison officer "Michael"s name was suppressed from publication and it never emerged what information he was providing on Denning or the Special Purposes Prison. But as a result of Barrett breaching the confidentiality normally implied in such a contact, "Michael" was forced to resign his job and his personal file was marked "Never to be re-employed". One lesson from this incident is that any prospective "whistle-blowers" should think twice before going to Steve Barrett for their publicity.

After this exercise in self-restraint, Barrett was said to have asked three times for an interview with Denning and, after my trial and conviction, Woodham and Corrective Services Director General Angus Graham (an ex-policeman) agreed. Woodham would later write in a letter to the Ombudsman:

As Mr Barrett had given favourable publicity to the department on previous occasions, it was decided that his request to interview Mr Denning be supported.

In the event the interview was tame, with Barrett asking Denning no difficult questions, rather questions such as "Why would Anderson confess to you?", and ignoring entirely the evidence of our not being in any jail together in the 1980s.

Woodham admitted he knew Corrective Services Minister Michael Yabsley was upset with the granting of the Denning interview.

The policy at the time was that the Minister had to grant permission for such an interview, but Woodham and Graham had breached this policy. An attempt by ABC reporter Kerry Douglas to do a similar interview with me was rejected by Angus Graham. The effect of this was that the "special favours" were having the effect, once again, of only allowing publicity to the prosecution side of the story.

While Woodham gave Steve Barrett a special favour with the Denning interview, it was Aarne Tees who helped Sydney Morning Herald journalist Janet Fyfe-Yeomans interview Evan Pederick. This interview also occurred immediately after my conviction, and also within the high security Special Purposes Prison. Interviewed himself on ABC television, Tees attempted to deny any involvement in arranging the Fyfe-Yeomans interview:

Q: What was your involvement though in the, in allowing Denning and Pederick to tell their story in the media? Tees: Well I had no involvement at all, the decision is theirs, you see.. Q: I've been told, Detective Inspector, that you in fact pulled strings so that these media interviews could occur? Tees: No I didn't pull any strings at all, all that, the only situation is that with us, so far as we're concerned, is, we have no objection to anybody trying to interview anybody out there because we don't want to seem to be biased.

Ron Woodham told a very different story in ICAC. Janet Fyfe-Yeomans had arrived unannounced at the jail, but accompanied by Aarne Tees. It was the fact that Tees had in effect vouched for Fyfe-Yeomans that she was given permission for the interview:

Woodham: We had no forewarning at all that Janet Fyfe-Yeomans would be arriving at the Special Purposes Prison and that Aarne Tees had taken her out there and the Special Purposes Prison had no knowledge of any approval being granted for an interview and I was contacted and I spoke to Aarne Tees and then I spoke to the reporter. Ah I then, um, talked to the Director General who agreed that the interview could take place .. I would've supported (the decision).

The special treatment given to Barrett and Fyfe-Yeomans was clearly something Tees tried to hide, because he feared the damaging effect of the appearance of bias and abuse of power. Such favoured treatment is often apparent, but rarely admitted.

## Inconvenient history

The day of my arrest Jana Wendt's Channel Nine program "A Current Affair" re-ran part of an interview Channel Nine's "Sixty Minutes" had conducted in 1985 with the discredited Yagoona case informer, Richard Seary. The original Sixty Minutes interview was lengthy and quite incisive; A Current Affair's 1989 excerpt, however, said little critical of Seary, but gave him a platform to repeat his accusations. The following night Jana Wendt interviewed me, but there was no reference to the Seary interview, which I hadn't seen.

Following my acquittal, in July 1991, Sixty Minutes presented an entirely new theory on the Hilton bombing, using a new interview with Seary, who had returned to Australia from England. Reporter Jeff McMullen supported yet another Hilton bomb claim by Seary: than an American member of Ananda Marga "John" was responsible for the Hilton bombing. There was no evidence at all to support this. Sixty Minutes also suggested that an ASIO agent "Ron", who had spoken to prosecutor Mark Tedeschi, had corroborated this theory. This was also false. Disregarding the credibility of "Ron", in the record of his interview with Tedeschi he had nothing to say about the Hilton bombing.

Sixty Minutes must have assumed that as "John" had not lived in Australia for over a decade, he wouldn't return to sue them. Nevertheless it was an extraordinary act of deceit: to present Seary as a credible informer, after he had been so completely discredited by both a High Court and a Supreme Court judge. Sixty Minutes did not inform their viewers of Lionel Murphy's 1983 judicial finding, Justice Wood's 1985 comments, nor of Seary's earlier two false Hilton bomb accusations. This history would have been inconvenient to their beat-up story.

Prior to the Sixty Minutes story, Associate Producer David Hardaker had written to me saying he was pursuing "the ASIO angle". He said

if we do broadcast anything on ASIO's involvement it will have to contain proof rather than uncorroborated claim. We do not want to add to the pile of nonsense which already surrounds the case.

He mentioned nothing to me about a new story by Seary, and as it happened, I didn't speak with him. Sixty Minutes then proceeded to do exactly what Hardaker said they would not, with the Seary Mark Three story. They later quoted from two letters critical of their story, but omitted all mention of the judges' comments discrediting Seary. Seary was a person with no history, if Sixty Minutes were to be believed.

The Sixty Minutes story was followed by a Canberra Times interview with an unnamed former "secret agent", who was said to be in fear of his life and asserting that the new Seary claim was "accurate". This was an echo of the 1979 support given to Seary's second Hilton story, by the officer in charge of the Hilton investigation. It's typical of such stories that spies are allowed to make claims that would not be reported from anyone else without proper attribution and substantiation. Irresponsible, too, that journalists should give a platform to anonymous people, allowing them to accuse others of the most serious crime and then deny any means of reply.

It was always clear that the new Seary accusation was going nowhere, but equally clear that opportunistic journalists saw in it a good story. The accusation could not be undermined by reminding readers or viewers that the source had a history of making false accusations, and had been caught out doing so before. So the inconvenient history was self-censored.

As for the anonymous spy's "corroboration", this was not only unattributed, no basis was suggested for it. It was reported solely as anonymous opinion. In his 1989 report on the Frank Hakim case, ICAC Commissioner Ian Temby referred to anonymous accusations in these terms:

"No anonymous complaint is ever likely to have any significant probative value. The reason is simple and obvious. Anybody of worth who wishes to perform a civic duty by bringing misconduct to attention will do so openly, and be prepared to have the allegations tested and be questioned about them."

But then he was talking about complaints against police.

## Coverage and Discoverage

Despite the dangerously concentrated ownership and control of the Australian media, and the state domination of many facets of the news through source bias, there are some very good Australian journalists, in the Sydney Morning Herald and in Channel Nine, as well as elsewhere.

One such is ABC investigative journalist Chris Masters, who suggests the Australian media should be as much tuned to "discoverage" as to coverage. In 1991 Masters and producer Shaun Hoyt exposed the false 1979 special branch case against six Croatian men. They tracked down the central police informer to Serbia and had him confess on film that the police told him what to say, and that the six men charged with a multiplicity of bombing conspiracies were probably innocent. These men have now all served their full sentences, between seven and ten years each. Yet hardly any other journalists in the past went near this case. One reason was that somewhere around thirty police had claimed to have taken

unsigned "confessions" from all of the men. Says Masters "Essentially all the Croatians got was coverage, not discoverage".

The Sydney Morning Herald bias against me was not Fairfax company bias. In any case, at this time, the Fairfax company was drifting into financial crisis and there was no strong publisher's hand at an editorial level. The Sun-Herald, for instance, ran some articles on the problems with the case against me. One interesting comparison was the Sun-Herald's prominent story, in November 1990, on bombing victim Terry Griffith's disavowal of the jury verdict. "Anderson innocent says Hilton police victim", the Sun-Herald proclaimed in a full page article. This wasn't exactly a scoop. Sydney Morning Herald journalist Ben Hills had been told essentially the same thing by Terry Griffiths, before he wrote his lurid backgrounder to the conviction. Hills ran a short section on Terry Griffiths that day, but as Griffith's disagreement with the verdict didn't sit well with the rest of the story, Hills didn't run it.

Public and ABC radio was the boldest sector of the mass media to critically discuss issues of my case, both before and after the trial. Public radio journalists Adrian Flood, John Tognolini and Fiona Sewell ran investigative features on the case as it unfolded. ABC radio journalist Sharon Davis presented Background Briefing reports on the Pederick story as well as Denning and prisoner informers, the latter program being an important influence over the eventual decision to hold an ICAC inquiry into the prisoner informer issue.

In the print media, several investigative stories critically analysing the prosecution case appeared in magazines in early 1991, between the trial and appeal. In the first of these, Wendy Bacon in The Eye presented what was probably the print media's first critical appraisal of the Pederick evidence, some four months after the trial. Two similar reviews then followed: "Beyond reasonable Doubt?" by David Leser and Fenella Souter in HQ magazine, and "Who's the Hilton Bomber?" by John Jiggens in Rolling Stone. John Jiggens went on to publish a book on Evan Pederick and the trial. After my acquittal, a number of other review articles were published.

The sorry history of Australian investigative journalism is reflected in the fate of some of the above publications. The Eye has now folded, and HQ magazine has moved from monthly to quarterly publication. The paper that ran several investigative articles on the Yagoona case and employed both Wendy Bacon and Brian Toohey, The National Times, went out of business several years ago.

Back on the "coverage" side of things, The Bulletin's Australian Almanac & Book of Facts for 1992 has me listed as the convicted "mastermind" of the Hilton bombing. Not a word about my acquittal, despite the almanac being published well after it, and including listed events up to October 1991.

## Accountability

Many of the matters I've raised in this chapter raise the question of media accountability. Does it exist? There is the Ethics Committee of the Australian Journalists Association, which can fine members for breaches of professional ethics, but this is largely ineffectual. Despite journalists' fervour to publish in every other area, the AJA doesn't publish the results of its

own disciplinary proceedings. Nor do the small fines imposed, when they are, seriously deter unethical conduct.

Few would know, for instance, that in the late 1970s a now prominent TV reporter "Michael" was once fined the maximum penalty for reneging on a deal with a prisoner. The prisoner had given "Michael" an exclusive interview about the crime for which he was convicted, on the condition that it wouldn't be published until he had his parole and was deported. The story was published and the prisoner's parole was deferred. The AJA fined "Michael" the maximum penalty for this breach: $200. I believe the maximum penalty is now $1000.

The complaints tribunal of the Australian Press Council is also largely ineffectual. Its findings are published, but it has no independent power to order apologies or corrections, or to impose penalties. Further, in an attempt to strengthen its weak position and be heard more seriously by the few newspapers that still exist in Australia, its findings are broadly forgiving of error, bias and imbalance. In its charter it is, after all, fundamentally a defender of the rights of the press.

Defamation law is generally for the rich, as only they can afford the lawyers required to take on the big media companies in contested cases, but it remains the only institutional means of redress against the mass media. Journalists complain bitterly about defamation law, but it's the only thing that holds them accountable. Their arguments for weakening it remain hollow when there's no credible alternative accountability procedures in place. On the few occasions when I've taken recourse to defamation law, I've obtained lawyers who have been prepared to forego their fees until the matter is settled; they're prepared to do this in cases where the publisher has little or no defence. The settlements involved in these cases ranged between $7,000 and $22,000 and an apology, the mass media themselves routinely insisting on non-disclosure of the terms of settlement.

There may be credible arguments for the reform of defamation law, for abolishing massive penalties and for instituting orders for corrections and rights of reply. But there are equal if not more powerful arguments for providing poor people, who are most easily done over in the mass media, with access to the redress of defamation law. The present state of defamation law reinforces the inclination of much of the mass media to live in fear of and deference to the reputations of the rich and powerful, while trampling on the reputations of those they consider powerless.

The power of the mass media is a formidable force: constructing our view of the world, shaping community attitudes, reflecting powerful private and state interests. It is easy to despise but difficult to ignore. To me it was chilling to sense the personal hostility of some sections of the mass media and to feel, for a time, their crusading zeal turned against me. A myth was created that I was some sort of powerful figure to be "brought down". In fact for a time I had become just another easy target.

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## 30. LIVING WITH SPIES

*"If present trends in Australian society continue, the most powerful public official in the year 2000 may not be the Prime Minister or any other Minister but the official in charge of police and security. Unless we take preventative measures we might have our own Edgar Hoover able to blackmail governments and legislators and to undermine civil liberties in the pretence of law and order."*
*Lionel Murphy, 1983*

In late 1991 I was speaking to a friend called Jane on the phone when a crossed line cut in and I found, to my surprise, that it was another friend, Arthur Murray. Arthur is an Aboriginal activist whose son was killed in police custody, and who was then facing a charge of injuring a police officer. The four way conversation then went something like this:

"TA: Arthur, were you trying to ring me? Arthur: No I'm speaking to a fella out at Long Bay. TA: Who's that? Arthur: Charlie. TA: Charlie, how are you going? Charlie: OK. Arthur: Must be bugged. TA: ASIO must have their wires crossed! (general laughter) TA: Jane have you ever had this happen before? Jane: I've had crossed lines before but never with someone that I knew! (laughter) TA: I don't know if it's Arthur's phone or mine that's bugged! (laughter) FIFTH VOICE: (angrily) What's the matter with you! (crossed line drops out; it's just me and Jane again)

All of which goes to show, I suppose, that whoever's bugging your phone probably isn't sharing your sense of humour! Spying is a grubby business though, and one that has serious implications, as the late Lionel Murphy noted.

The political power of secret information is not widely recognised in Australia. Armed with sufficient gossip, half-truth and 'expert' opinion, persons who are the subject of political surveillance can be effectively barred from employment and access to government, as well as being defamed and set up for criminal prosecution with the implicit assurance that the "right" persons are being done over. Information which, if open to public scrutiny and testing, would in many cases prove to be outrageously inaccurate and unreliable, is used within state bureaucracies for these sorts of assurances.

Importantly, also, this information is reserved for the exclusive use of state bureaucracies, almost never being put at the disposal of the public, even when such information as there is may be of most use to the people targeted. I say this from some experience.

Spies are the cheapest, most widely used and most unreliable source of surveillance information. They are used widely by ASIO and the state's police special branches against mostly community, trade union, left-wing and migrant groups.

The NSW special branch in the late 1970s was directed to monitor "subversive and extremist activities", but also "demonstrations and protests" and "factions within the ethnic

communities". They were also to provide security escorts and pass on information to ASIO. Consisting of 22 police officers as well as clerical and secretarial staff, the NSW branch was the biggest in the country, and divided its spying into three areas: communists and "revolutionary socialist" groups; the "radical left" including revolutionary and "terrorist" groups; and a strange third grouping of ethnic communities, extreme right-wing groups, university organisations and trade unions.

In practice this meant that, by 1978, the branch held over 20,000 "current" cards, which were mostly on individuals, and 3,500 dossiers - opened when a subject's card file became too extensive. In addition there were more than 50,000 "inactive" cards, which were said to be in the process of being culled. This meant that special branch in 1978 held some record of about one person in every hundred, in the state of NSW.

The information held was mostly useless and often inaccurate. Of all the notations in my fairly extensive dossier, from 1976 to 1984, nothing collected by the special branch was ever of any value to anyone. The bulk of the entries dealt with my attendance at demonstrations, Ananda Marga functions, travel overseas, writings and various jail movements and activities. One surprising feature was the absence of any reference to the special branch spy and agent provocateur Richard Seary, or his story against me and two others, in 1978; this was despite many references to circumstances surrounding the 1978-85 court case.

The errors were rather striking. My address was wrong. More than one false identification was included. And special branch repeated the 1977 Commonwealth Police claim that I had a "criminal record", after I'd been acquitted of a 1976 "obstruction" charge in Canberra.

In 1984 I received an edited version of my dossier, but I later also received the unedited version, and so was able to compare the two versions. The most remarkable thing was that there appeared to be no real difference: it was just gossip and useless trivia on both sides of the censor's lines. For example, on occasions, names of police informants and entries showing that documents had been stolen by special branch from private premises were left in, while entries edited out included such inoffensive things as my position in Ananda Marga, the fact that I had issued a press release, and the fact that I was mentioned in a margii magazine. In Paul Alister's dossier one entry that was specifically edited out referred to a newsclipping which mentioned his arrest in a demonstration.

Many entries after my June 1978 arrest concerned activities to expose the police habit of fabricating confessions: 'verbals'. These entries referred to "alleged police verbals" and even a "poem written by Tim ANDERSON entitled 'police verbal blues'", taken from a house in Bondi. Two of the three special branch officers making these entries were themselves responsible for the fabricated 'confessions' produced against me in 1978-79.

## Seary's tales of subversion

Richard Seary was a NSW special branch spy who infiltrated the Ananda Marga group in 1978 and set up myself, Ross Dunn and Paul Alister over a fictional conspiracy. At the 1984-85 inquiry into our wrongful convictions, barrister Michael Adams compared Seary to Titus

Oates, the famous English perjurer, quoting from the London Dictionary of National Biography:

so many people got out of his way as from a blast, and glad they could prove their last two years' conversation.

I mentioned in the chapter on Ananda Marga that Seary was given to making outrageous general claims about the margiis: for instance, that every single margii (but one) in Sydney had advocated the overthrow of the federal and state governments. This carried on into detailed allegations, the most well documented of which (other than his "Cameron conspiracy" story) was the Canberra flagpole story. This was a classic example of what barrister Bill Hosking was to colourfully term Seary's capacity to turn "an acorn of truth into an oak tree of falsehood". It reminded me of a game played in the boy scouts, where a phrase would be whispered in someone's ear, and passed through a ring of people: the aim being to see how distorted the message came out at the other end.

Seary reported to his special branch handler, Detective John Krawczyk, in taped interviews, usually conducted in a dark-curtained, special branch kombi-van; or at the back of an inner-city pub. He said that Ross Dunn wanted information on lock picking, as he wanted to pick a "large chrome lock" in Canberra. Ross wanted to pull down the Australian flag and put up a margii flag on capital hill, as a protest at the cost of the new parliament house (in 1978 reported as $150 million, it eventually cost more than $1 billion). This involved opening a small locked door to an electrical pulley system on the flagpole. It was a very large pole. However by the time Seary told the story to Krawczyk this relatively harmless publicity stunt had become the following paramilitary plot:

The lock they want picked is on a government building in Canberra .. the VSS (margii security) will cover us and they'll be with their weapons and all our job would be to do would be to open the door to let another team in .. they have to go to an electrical control box. That was one thing he did say, and mentioned ventilators .. there was a lot of avenues leading up to it (the building) and it was in plain view .. near the site of the new Government House .. the first thing they're doing is they're going to the electrical box to cut the lighting.

The flagpole was right in the middle of capital hill, the site of the new government house, with avenues leading up to it. However NSW special branch passed on Seary's story to the ACT special branch, which concluded that the "target" must be the Qantas building, as this was the only one with round chrome locks visible from capital hill; and it also housed the Deputy Crown Solicitor's offices, with exhibits in a court case involving an Ananda Marga member. Seary's plot seemed to be confirmed.

Three days later, on the day of the Yagoona arrests, Ross Dunn had another conversation with Seary and repeated the rather more mundane purpose of the exercise. Seary reported this to Krawczyk, but it was so at odds with what he had first reported that they refused to believe what they were being told. They fell into a confusion based on their mutual desire to find deep political conspiracies, the problem of Seary's original twisted story, and his desire to impress Krawczyk:

Seary: he said they were going to do a political act and it involved the flag pole on capital hill in Canberra .. he spoke about the type of lock. He said it was chromed, the door was made of steel ... Krawczyk: Now earlier you mentioned that they said they had to go to the power and

then to the ventilators .. they didn't elaborate on that at all? Seary: No, I mean you don't have ventilators in flag poles! .. Krawczyk: Right, now do you think they'll just go down there and raise a flag? Seary: That's possible. Krawczyk: Do you think they would do just that? Seary: But I mean, they pride themselves on intelligence and if they were going to simply raise a flag .. it would implicate them for a start and unless it's some very, very strange ideological thing - I, I really can't see the sense in making any attack or whatever on a flag pole .. now either they're giving me a bum steer .. Krawczyk: Now, earlier you mentioned that um, the VSS would look after it, they'll have weapons .. Seary: Oh yes, they'll be on guard duty .. (but) if you're just going to raise a flag, why would you want to keep it such a secret? Krawczyk: No point is there .. Alright then, so we don't know why they're going to Canberra really? Seary: Well it's .. it's a political act .. their idea is to challenge the government wholeheartedly. Krawczyk: Now? Seary: Oh yes

In the same tape Krawczyk suggested to Seary that he refine his lock picking tools a little:

Krawczyk: this bit of (lock picking) plastic is bloody thick and it mightn't have the flexibility, right .. Now if you get a thinner size it will get around the door jamb. Seary: Yes

And later, Seary told Krawczyk that I had arranged a code for phone communications with him, as he was getting some phone numbers and addresses for me. In fact it was Seary who made and wrote out this code and, while keeping up the pretence with Krawczyk, he lets this slip in the middle of their conversation:

(Anderson) also gave me a code .. (but later) the code was worked out by (Anderson) and myself, in fact .. (later still) I'll try to make up a more comprehensible code .. I'll be able to rig up something (better) like that, as far as coding's concerned

Krawczyk encouraged Seary to steal things from the margii premises, and to collect things thrown in the garbage, as the Seary tapes revealed:

Seary: I did steal from the files a confidential thing from Manila .. (and) I picked up some (typewriter carbon ribbon) tapes. Krawczyk: Oh lovely, lovely, yes. How many of them have you got? Seary: I've got three or four of them.

Photos stolen from margii premises also later turned up in the special branch collection at the 1984-85 inquiry.

Some people have asked whether Seary gave any indications of being a spy; the answer is, in retrospect, many. The problem is, if you're not looking for these indications, you don't see them. Seary often boasted of devious skills, such as lock-picking; which is why Ross Dunn approached him about the flag-pole lock. As a provocateur, the most dangerous type of spy, Seary clearly wanted to attract people to him who might become implicated in some sort of illegal activity. He went out postering one night with some margiis, during which one member of the group did some graffiti-ing. Seary had informed police about the expedition, and the graffiti artist was arrested; Seary then helped bail him out.

The day before the Yagoona arrests, and in the middle of the "flag-pole plot" planning, Ross Dunn rang up Seary at his home. His landlady answered and asked: "Is this the police?"; "No" Ross answered, "Why?"; "Oh they're always coming around looking for him", she responded.

Special branch and the margiis

Seary was not the only Special Branch spy in Ananda Marga in Sydney in the late 1970s. Two of his former friends, Doc Jerome and "Red", who later gave evidence against him at the 1984-85 inquiry, were briefly also paid informants. In 1978 they and Seary were paid around $30 a meeting to attend and report back to police officers who had no special training in political analysis, but who wanted to collect information about any members of their target group and to implicate them in possibly illegal activity. This included using their spies to set up provocative incidents.

For instance, in 1978 Doc Jerome was also sent to spy on a small Trotskyist group, the Socialist Labour League, in the hope that he would implicate the group in some violence against members who wished to leave. Fearing that he himself was being set up to be assaulted, so that special branch police could make an arrest, Doc Jerome lasted only one meeting. He said he didn't want to be used as a punching bag for the police. But after this refusal, he said, he received a "veiled threat" from Krawczyk, and police raided his house for drugs. This scared him and he left Sydney.

These three were not the only special branch informers in Ananda Marga.

Special Branch payments records for 1979 produced at the 1984 inquiry showed at least three more: a woman code-named "Elizabeth Walker" (or C.R. 45), who provided information on Ananda Marga and possibly other groups, receiving a number of payments of up to $50 in July through to September 1979. Her 'handler' was Constable Alan Henderson, with payments authorised by Special Branch head John Perrin. "Mr Paul" and "Bruiyan" were code-names for informers reporting, along with Seary, to Detective John Krawczyk, and receiving small payments in late 1979. "Bruiyan" attended a margii camp in the Combyne-Wingham area in this period.

In September 1979, Peter Tuor, a university graduate looking for work was introduced to John Krawczyk and Colin Helson, Richard Seary's handlers from Special Branch. They asked him to infiltrate the margiis, telling him that in he joined:

"you will not be out on a limb. You will not be there alone."

He said he'd prefer a desk job in intelligence, and refused the offer.

It seems that most of the informers were people who associated with the group for a few months, were slightly involved and were paid a fee for each meeting they attended.

In mid 1979, after the prosecution had failed to secure a conviction in the first Yagoona trial, NSW special branch made a concerted effort to have Ananda Marga declared an "illegal organisation" under the Commonwealth Crimes Act. This had not happened to Ananda Marga anywhere except in India during the 1976-77 "state of emergency", and no group in Australia had been banned since the Industrial Workers of the World (the "Wobblies") during the First World War. An attempt to ban the Communist Party of Australia had been defeated in the 1950s.

The rationale for this draconian attempt at suppression was largely a small, obscure 1977 booklet 'Recipe for Revolution'. This was said to be subversive and to encourage terrorist violence. The editing of the booklet, special branch announced triumphantly in April 1979, had been linked to a senior margii figure in Australia. In fact the booklet, for what it was worth, discussed a theory of revolution and revolutionary violence. In support of their argument for a ban, special branch officers Krawczyk, Helson, Henderson and Baxter also referred to questions I'd been asked in the first Yagoona trial:

"Evidence was given on oath by one of the accused, Timothy Edward ANDERSON, that the book .. was in fact printed in very restricted numbers in late 1977. He further stated that he had himself read this book, however, it was not available to the general margii."

In fact, I said I'd only read parts of it. It was a puerile but harmless booklet, put out by a few margiis, but not as an official publication. Nevertheless, if the booklet couldn't be banned, special branch suggested, perhaps the group could?

"Perhaps the Commonwealth authorities .. may even consider declaring the organisation Ananda Marga an unlawful organisation within the Commonwealth Crimes Act."

The special branch report was forwarded to ASIO and to the NSW Police Commissioner, who wrote to the Premier:

"More importantly (this evidence) may give the Commonwealth Government sufficient grounds to declare Ananda Marga an unlawful organisation within the terms of the Commonwealth Crimes Act"

No such move was taken, but it is perhaps significant that in 1992, when the state Drug Enforcement Agency raided the University of Technology Student Association's offices, following the publication of an orientation booklet which included a satirical review of illegal drugs, the officer in charge was Senior Sergeant John Krawczyk. The booklet was banned and criminal charges were mooted against the publishers of the booklet, for supposedly "aiding and abetting drug use".

ASIO and a "double agent"

With greater financial resources, ASIO was of course able to sustain an even greater network than this. "Ron" was a middle-aged businessman who attended some of the margiis' boy scout-cum-orienteering type camps in the late 1970s and boasted about his owning some rifles. In 1989 he came to see prosecutor Mark Tedeschi and claimed, amongst other things, that while he had no specific information about the Hilton bombing, he had undertaken "terrorist training" overseas and suggested that I'd told him something in 1978 concerning the Yagoona case. He was unable to answer Tedeschi's questions to why he hadn't come to the 1984-85 inquiry into the Yagoona matter.

Unfortunately for him, ASIO had already disowned both Seary's Hilton and Yagoona stories, adding in 1978 that they had "no information that would either support or refute" Seary's Hilton story and that "we have no previous information of any involvement in violence on

(Anderson's) part." "Ron" had apparently not told ASIO in 1978 what he told Tedeschi in 1989, and Tedeschi did not call him as a witness.

ASIO had released these documents in the early 1980s after Freedom of Information requests I'd made to various federal government departments. They could have claimed an exemption under the Act, but it seems they wanted to selectively release some documents to dissociate themselves from special branch's handling of Seary and the Yagoona case, and of their implication in the frame-up.

The spies didn't have things all their own way. With the proliferation of informers in the margiis in the late 1970s and early 1980s, it was inevitable that some person would make some more creative use of the spy-masters increasingly large bankroll. ASIO's budget had skyrocketed in this period, largely because of the political fallout from the Hilton bombing.

"Peter" was a young margii who had been approached by ASIO in the early 1980s to inform. He spoke to a margii monk about this and the monk told him to go ahead: take the money, report to them and then tell him (the monk) what ASIO wanted to know. David gave the money to Ananda Marga. This went on for a year or so.

While the ASIO "handlers" were fairly careful about not passing information back to Peter, they did let him know what they were interested in at different times. For instance, when a margii event of some sort was about to happen they'd ask many questions about certain people, travel plans and so on. In this way one or two of the senior margiis would be kept informed of ASIO's interests. The information Peter passed on to ASIO was common knowledge type stuff, and I believe he was sensitive enough not to exchange potentially embarrassing or intrusive gossip.

As innocent as it is in reality, this spectre of a double agent was the great fear of Justice Wood in the inquiry into the Yagoona case. His only real concern about special branch's handling of Seary was that he was so unreliable he may have turned on them. Never mind the damage he did to us.

## Spies in jail

Prisons security boss Ron Woodham was also busy spying in the early 1980s, not only for his own budding empire within Corrective Services, but for the NSW special branch. In mid-1980 a report of his turned up on Paul Alister's special branch file, to the effect that:

"subject is organising state wide agitation in the prison system against alleged police verbals and is also stressing that inmates should openly confront prison authorities to cause disruption within the prison system."

At about the same time Woodham and his Malabar Emergency Unit colleague Steve Tandy reported that Paul and I were on the Central Industrial Prison's prisoners Problems and Needs Committee (PNC), and handed over PNC documents to special branch.

The PNCs at this time were openly recognised and elected prisoners organisations, which negotiated jail conditions with the superintendents and the administration; however

Woodham and his security colleagues maintained the practice of "shanghaiing" committee spokespeople, when it was thought conditions were tense. In November 1980 Paul and I were shanghaied to Goulburn and Parramatta jails, along with others thought to be organisers of the PNC. All organisation or dissent was seen as subversive.

Another entry in Paul Alister's special branch file was revealing in that it records that a letter he wrote to a Canberra journalist in 1981 was intercepted; curiously the report goes on to say:

"Alister is under the impression that all his mail is being scrutinised, but this is not the case."

This seems to have been not much more than an exercise in self-delusion. Apart from Paul's intercepted letter, my special branch file shows that even educational material I had returned to Deakin University, the year before, as well as some pamphlets sent into the prison to me and Ross Dunn, were being intercepted and scrutinised. Who were they trying to impress, recording this sort of obviously false denial in a file they believed no-one (other than their colleagues) would read?

At the ICAC hearings into prisoner informers in November 1991 I asked Woodham about this type of spying, and he admitted that a lot of prison mail is intercepted:

ANDERSON: Not talking about criminal activity for the moment .. you've certainly intercepted a lot of prisoner's mail, haven't you? WOODHAM: Yes. Q: Intercepted my mail? A: I could have. Q: Intercepted mail from myself to university? A: I could have .. you were under suspicion of smuggling things out of prison. Q: What sort of things? A: Well letters on visits and documents .. Q: The situation with mail in the prisons then was that sealed mail could be sent out of the prisons. Is that the case? A: I can't recall. Q: You can't recall. You're well aware of those sorts of policies, aren't you? A: Sir, I can't recall. I can tell you that if there was any parcel, sealed or otherwise, that was thought that could be detrimental to the good order and discipline of the prison it could be opened and inspected. Q: Yeah, and the letters? A: Yes. Q: But the policy was at that time, wasn't it, as you well know, that sealed mail could be sent out of the prisons? A: You're probably correct, yes."

Woodham also claimed that I'd "smuggled" printing out of Parramatta Gaol, where I'd worked in the print shop for several years in the early 1980s.

"WOODHAM: I don't think you'll deny you smuggled some printing out of Parramatta Gaol in 1980 .. ANDERSON: No I never did that."

In fact, I'd never had anything printed there, but had done some typesetting for outside documents. In particular, I'd written and typeset the text for several pamphlets and one booklet on police verbal.

Woodham and others in the prisons bureaucracy were sensitive about my "smuggling" letters because some of those letters had caused them embarrassment. The department is acutely embarrassed by exposure, and goes to great lengths to censor prisoners comments about the prison system, and to restrict access to the jails to those they feel will present the best view.

In late 1983 I wrote an article about the first ten days at Parklea Prison (published in my book Inside Outlaws), which ended up one day on the front page of the Sydney Morning Herald. That same day I was called in before Superintendent Tony Cerenich, who said he agreed with

"95%" of the article, and only really objected to the introductory sentence saying that the letter had been "smuggled" out of Parklea. This was a brief introductory comment by the Sydney Morning Herald editors. Cerenich said there was "no need" for that sort of comment, as prisoners could freely send sealed mail out of the prison. Shortly after this I heard that the Deputy Superintendent was grilling some of the staff, accusing one or other of them of "smuggling" the letter out. For the record, I sent one copy of the article out by mail and one by "courier". But this represents pretty well the sort of facade of openness and covert repression still prevalent in the Corrective Services Department, and the sort of cat and mouse games prisoners end up playing, simply to communicate.

In early 1991 I was banned from the Assessment Prison education section's word processors, because it was believed that I'd typed up and helped organise a group letter of complaint to the Ombudsman about the conditions in that jail; this had led to an embarrassing inspection of conditions in the Assessment Prison. The real reason for banning me from the word processors was never openly given, but it could be justified privately by the expression used above by Woodham: "good order and discipline".

"Good order and discipline of the jail" is a rubbery paralegal concept which has provided cover for a great deal of arbitrary harassment and interference with prisoners' lives, over the years. Acting on information from the many prisoner informers in the "main" jail (as opposed to the known informers in the protection areas), prisoners are often acted against on "suspicion", and punished by indefinite segregation (including solitary confinement) or sudden "shanghais" (transfers) to other jails. This gives the spy in jail a greater direct power than would normally be the case outside, because of the lack of "due process" available to their prisoner targets. On the basis of a jail spy's allegation alone, without any charge or testing of the information, other prisoners often are locked in segregation for many months. The allegation may relate to a planned escape, a planned assault or some other "conspired" offence.

I was shanghaied from Long Bay's Reception Prison to Parramatta Gaol in late 1980, after a lengthy lock-up during a prison officers strike, along with several others who'd been on the jail's prisoners committee. However the document that justified these transfers, to which I later gained access, named several prisoner informers and claimed that the persons shanghaied had been part of a conspiracy to "start a major fire" at the Reception Prison. In fact the jail authorities were concerned to stop any organisation of a counter-strike at this time. This "fire" story carried some superficial credibility, as there had been several minor fires in the reception prison at that time during the lock up; but more importantly the story was a convenient excuse to disperse those associated with the prisoners committee. In this way prisoners' organisations have traditionally been smashed, with the help of spies.

Prison "intelligence" also functions as all covert information: to reinforce the beliefs and prejudices of those that have access to it. Paul Alister's file includes the following comments, from his time at Goulburn Gaol:

"Info that Alister is stirring behind the scenes trying to organise prisoners into a group, but prisoners won't wear him".

This was no doubt why Paul was an elected representative on two prisoners' committees.

The dangers of state secrecy

The intrusion and gossip of spies might be thought harmless voyeurism until you look at the cases where it has caused actual damage, and cost a great deal. The tradition of secrecy and unaccountability amongst spies and police has only grown through the support it's gained from politicians and judges who, while ultimately responsible for crimes of secrecy, are never held accountable.

I and my two friends Paul Alister and Ross Dunn spent seven years in jail until an inquiry led to our pardons and release. That inquiry was held because of suppressed special branch tapes which came to light some years down the track. The tapes had been produced on subpoena at our first trial (where the jury couldn't agree) in early 1979 but the trial judge, Justice John Nagle, upheld a claim by a crown solicitor (who hadn't heard the tapes) to have them suppressed. Nagle said:

I have formed a clear view myself that (transcripts of the tapes) would come within a proper claim of privilege ... I have read the documents in the lunch hour and I can assure counsel in the absence of the jury that I do not think they can gain any assistance from any of them (27 February 1979)

How could Nagle possibly have read and understood the 160 pages of transcripts in his lunch hour? In 1984 the Solicitor General, Mary Gaudron, and a senior crown prosecutor, Malcolm McGregor, said that the same material:

was of such cruciality as weakening the Crown case and tending to support, at least by strong implication, the defence case ... the failure to grant the defence access to this material must be viewed as a very serious failure of the legal processes.

A major reason the inquiry judge found for us, and the pardons were ordered, was the significance of material contained in these tapes. I've summarised this is the chapter on "the Yagoona case". The suppression of the tapes was a process involving: special branch police wanting the same secrecy privileges as ASIO, a legal bureaucrat mindlessly supporting the police claim and a judge mindlessly supporting the tradition of state secrecy. In the end, no one was really held responsible for this debacle, because following Nagle's assurance, our lawyers had not subpoenaed the tape at the second trial. Based on this technical distinction, Justice James Wood at the Yagoona case inquiry, while finding that the tapes were very important, also found that there had not been a miscarriage in the trial process. No-one was to blame.

Several other examples of the dangerous implications of state secrecy can be found in selective use of special branch files.

At the 1984 Inquiry into the Yagoona case, 28 proof sheets were produced of Special Branch covert photography of margiis in late 1977 and 1978. Federal Police covert photos were also produced. The Special Branch photos contained at least 394 photographs with 63 identifiable persons in them. While none of these photos were used in criminal proceedings, some of them would have helped discount two police Hilton bomb theories that otherwise kept their currency for many years. But the photos were not created for use in anyone's defence.

In February 1978, special branch officer Krawczyk developed a Hilton bomb theory in which some significance was placed on my apparently carrying a shoulder-bag at a demonstration outside the Hilton hotel, but allegedly not carrying the bag at a later demonstration at Sydney airport. Krawczyk's statement to this effect was even used my 1990 Hilton bomb trial. The implication was that the bag may have contained a bomb, which may have been left behind in the bin. However special branch photos also showed me in Newtown several days after the Hilton bombing, carrying the same shoulder-bag.

These series of photos also strongly suggested the absence of Paul Alister from Sydney in the February period: a fact which police were soon to privately accept, despite their public support for the Seary story, implicating Paul in the Hilton bombing.

At the Hilton bombing inquest in 1982, a decision was taken by Coroner Norman Walsh and counsel assisting Roger Court, then the Crown Advocate, to only reveal as many of the police Hilton bomb running sheets as they considered relevant. This decision to withhold the police records was criticised by the barrister for the Police Association, Barry Hall, who warned of the danger of the inquest being regarded as a "cover-up". In fact, at the 1984 Yagoona inquiry, a fuller disclosure of these records showed two prior inconsistent statements from two important witnesses at the inquest: Manfred Von Gries and Patricia Hill. I've described their stories in the chapter titled "The Multiple Choice Bombing". The evidence of these two was already substantially inconsistent and was discredited at the inquest; but the additional statements, suppressed at the inquest and only revealed two years later, ensured that they were never used as witnesses at my 1990 trial.

Finally on this point, an ASIO phone tap which disassociated me from Evan Pederick's Hilton bomb story was not disclosed to me, once I had been charged. I quote from this phone tap in my chapter on the trial. There followed a process of subpoenaing documents, where my lawyers guessed what might be of relevance in the ASIO files. Had it not been for the High Court judgement in the Yagoona case (we lost the appeal, but one precedent from it was that ASIO files were at least theoretically accessible in a serious criminal trial), this document would most probably never have been disclosed. After some general subpoenas, searching for any evidence of Pederick's location in Sydney, my lawyers were finally tipped off to its existence by prosecutor Mark Tedeschi. He saw that we would eventually find it, so tipped us off. He had apparently been shown the phone tap by ASIO some time before; indicating that ASIO has a relationship with lawyers representing the state which does not extend to lawyers representing the state's citizens.

## Living with spies

For people working in community-based organisations, trade unions or left-wing groups, spies really have to be accepted as an unpleasant fact of life. Unpleasant because of the betrayal of trust involved in a fellow worker taking money from hostile police or ASIO agents, for reporting conversations, prying and stealing documents. Unpleasant also because spies can sometimes contribute to fear and suspicion in the community groups.

The argument put by political police to the informers runs along these lines: if they've got nothing to hide, they've got nothing to fear. As a target of spies over many years, I can assure the reader that this is rubbish. Spies are often unpleasant and can sometimes be dangerous;

and as I attempted to describe above, the fruits of spies' labours are only made available to interests hostile to the spies' targets.

The best tactic, however, seems to be to leave the spies where they are: better the spies you know than the ones you don't. This of course supposes you know at least some of the spies, not always a sure thing, by any means. In some cases you may have only a suspicion, in other cases you may be only 70% sure. While it's not pleasant to be spied on, it's also unpleasant and unfair to wrongly accuse or disadvantage someone on the basis of suspicion. This is another reason to tolerate and leave spies to their grubby business.

But it is useful to know what to look for. Most informers are amateurs who spy for political police for a small fee, perhaps only $50 per meeting. They most often do not penetrate very "deeply" into a target organisation, for obvious reasons: lack of motivation, lack of deep affinity with the group. While some may spy on a group for several years, most associate with the group for just a few months. Some of the more dangerous ones, in my experience, talk up their "subversive" or fringe-criminal skills, in an effort to impress or attract and gain the confidence of adventurists within the target group. These can also be provocateurs: people who try to incite a criminal act, so as to then "solve" it. Some will also make blatantly intrusive moves in an attempt to gain peoples' confidence rapidly: they'll be unusually ingratiating and inexplicably familiar. And any worthwhile spy will be constantly seeking access to written records of the group. CEFTA had several of its files stolen, presumably by informers. These included a folder of bank statements and a file on a police officer.

Some spies are blatantly obnoxious interferers, while some others move from group to group, possibly in search of a living wage from their payment-per-meeting.

Sometimes police themselves do the spying. On one occasion two police called Rochester and Gibbs, later described as "undercover officers" in a DPP memo, came to the CEFTA office seeking CEFTA material. They claimed to be students from Wollongong University wanting to help the campaign, and took a quantity of publicly available newsletters, books and posters. Attempts were then made to (a) impose censorship of me as a condition of bail, (b) to lay some charge against the publishers of the newsletter, and (c) to lay a charge of criminal defamation against some person for what was revealed about police officers in the newsletters. These attempts made use of the material the two police had obtained; they all failed.

In the Sydney anti-apartheid movement in the mid-1980s, women members were repeatedly approached by one special branch officer, who apparently believed he was particularly charming. He hoped to make them informers, and who knows what else; but he became more notorious than successful.

Electronic spying, for instance through phone taps or bugs, is becoming cheaper and more common these days. Many lawyers use a rule of thumb that they don't reveal confidential information on the phone; this makes good sense, and is also a rule I follow. However I find it impossible to avoid using the phone for communications about a whole range of political and legal matters, as well as personal conversations. No doubt phone tapping will remain popular.

But when targeting community groups the old-fashioned spy or informer is still the simplest, easiest and cheapest form of "intelligence" gathering around. The body of gossip, slander and

half-truth obtained in this way, often laughingly termed "intelligence", is then used to confirm to the ranks of those with privileged access that which they always knew: that they alone have the full picture and they alone can be trusted to control the subversive elements that constantly threaten society as we know it.

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## 31. JOHNNY WALKER AND BRITISH JUSTICE

*This is the text of a talk given at a meeting held at Sydney's Glebe Town Hall on 22 October 1991 for Johnny Walker, one of the freed Birmingham Six, who spent sixteen years in British prisons before being cleared of involvement in IRA bombings.*

I'd like to use this opportunity to explain some reasons why I feel the situation in Ireland concerns us as Australians directly, and not just as well wishers.

John is not simply the victim of a terrible miscarriage: he was chosen because he was an Irish person living in a British community. As we know from our own experience in Australia, the British system is capable of wrongly imprisoning all sorts of people - generally poor and disadvantaged people. What is peculiar about the British system in Britain is that it has an enormous capacity to commit this sort of atrocity against Irish people. Why?

Let's first start by debunking one of the big lies of the more rabid sections of the British media: while the IRA committed the 1974 Birmingham pub bombings, they had nothing whatsoever to do with the sixteen year long Birmingham Six atrocity. Even if they have so far refused to claim responsibility, sooner or later the British legal system will have to accept full responsibility for that atrocity. Whatever the IRA may be responsible for, they are not responsible for acts of bastardry by the British legal system.

The "troubles" in Ireland impinge on John's case in a deeper way: through the deep prejudice to and racism against Irish people brought on by centuries-old attempts to legitimise the British occupation of Ireland. Irish people in Britain have for many centuries been portrayed as mad, anarchic (in the derogatory sense of the word), uncivilised, stupid, and as of an inferior racial "stock". All these constructions were developed precisely because of the need of the colonisers to legitimise the violence of their military occupation. They are notions that reach very deep into British culture and, through British culture, into some aspects of Australian culture. Only the broader multi-culturalism of recent years has, for instance, put the "Irish joke" into disrepute, in Australia.

Irish people in Britain have long been dehumanised - in a remarkably similar way to the degradation of Aboriginal people in this country. This is no coincidence. The very same constructions of racism, used to justify the Irish occupation, were used in the subsequent occupations in India, China, Africa and Australia. The anti-Aboriginal racism developed in Australia which, as we now know and recognise, was used to justify massacres on a horrendous scale, as recently as the 1930s, had many of its constructs firmly in place from Britain's experience in Ireland.

This of course helps explain why both Irish people in England, and Aboriginal people in Australia, suffer far greater than is normal at the hands of the criminal system. Many of you will be aware of the recent news that Aboriginal imprisonment rates in this state have actually

worsened since the Royal Commission into Aboriginal Deaths in Custody made some recommendations in the opposite direction.

It is not just that colonised peoples are economically disadvantaged, and so more exposed to policing by their class position, but also that a racist culture allows repeated and unconscionable acts to be inflicted on people it has defined as less than human.

The Birmingham Six are the most well known, but not the only Irish victims: remember the Guildford Four (Paul Hill's visit here earlier this year), the Maguire Seven, the Winchester Three and also the case of Judith Ward. What is remarkable is the speed of the recent collapse of these major cases: in less than two years all of these so-called major terrorist cases have collapsed. And this after the British system refused for in some cases more than sixteen years to acknowledge what was staring them in the face.

## The historical legacy and the roots of racism

This anti-Irish racism, that undoubtedly contributed greatly to John's marathon ordeal, is one of two important reasons why the broader Irish dilemma is relevant to us, as Australians. We share that legacy, and in fact we can see all the roots of Australia's anti-Aboriginal racism in the British anti-Irish racism, if we look carefully.

It may be hard for us to understand anti-Irish racism: there haven't been special laws against Irish people in this country since early last century, and in fact the Australian Federal Constitution at the turn of the century, whatever else may be said against it, has a specific provision designed to prevent discrimination against Irish catholics.

What it is important to recognise though is the long term effect of such institutions as the anti-Catholic laws, the "Irish jokes", the English portrayal of Irish people as uncultured and violent, and such things as the English Education Act of 1872, which banned the teaching of the Gaelic language in Ireland (and elsewhere).

What a great example that was for the missionaries of this country who, after the massacres, crushed Aboriginal languages in the mission stations. It was in the name of British "civilisation" that Aboriginal people were forcibly prevented from speaking the "gibberish" of their own rich languages. Some of those Aboriginal languages are currently being rescued by efforts of their own communities but, so far as I am aware, there is not one government program on the east coast of Australia designed to assist these rescues: to preserve the original languages of this country. The tradition of cultural dispossession continues.

This was a lesson learned from John's country, where various means were employed to suppress the Gaelic languages, including collars designed to choke young children who spoke Gaelic at school. Today, in the north of Ireland, the British government and loyalist dominated councils refuse to support the teaching of Gaelic to young children. So it's left to the communities themselves, just as it has been to the Aboriginal communities, to teach their own language and heritage to their children.

Civil rights in Australia

The second important reason why the Irish dilemma is important to us as Australians is that the political crisis in the north of Ireland, which successive British governments have sought to criminalise in the past two decades, has fostered a flood of "law and order" imports: policing precedents set in the English system which have flowed through to Australia, despite our having cut most formal legal ties.

The result is that draconian measures introduced by Britain to criminalise a political crisis in Ireland now either threaten to take form, or have actually taken form, in Australia's own legal systems: whether federal or state.

Four measures which have been imported include:

The use of paid "supergrasses": indemnified informers in multiple criminal cases. This practice was discredited in Ireland in the early 1980s, yet the current New South Wales ICAC inquiry is into precisely this industry

The abolition of prison sentence remissions. The British government established this special treatment for political or special category prisoners in Ireland's north in the 1970s, and it has now been introduced for all New South Wales prisoners under the 1989 Sentencing Act.

A harsh NSW Summary Offences Act 1988, has provisions for unauthorised public assemblies taken directly from Margaret Thatcher's British Public Order Act. In this case, Thatcher's Act was designed as a pre-emptive tool against unrest arising from youth and working class unemployment, following the Brixton riots and the miners' strike. In NSW the major pressure for harsher street offences has come from country towns out west, where the vast majority of those prosecuted are Aboriginal.

Specialist paramilitary Police Squads, such as (the recently disbanded) SWOS and the TRG, were also modelled on the British paramilitaries, in the tradition of Australian policing which grew - not from the English unarmed bobby tradition but - from the frontier mentality of the Royal Irish Constabulary: the Ireland-wide predecessors to the present-day sectarian RUC, in Ireland's north. I take no pleasure in recognising that one of the men responsible for my wrongful arrest in 1978 went on to receive a bravery award for his part in that frame-up. He also received a Churchill fellowship to study "terrorism", in Britain and Germany, and came back to head SWOS and preside over the killing of David Gundy in Sydney, two years ago.

Four threatened measures include:

Abolition of the right to silence: or more correctly, introduction of the right of a court to draw inferences of guilt from a person's refusing to be interrogated by police. This was enacted in Britain in 1988 under the "terrorist" justification, and has now been proposed here by various police, at least one academic lawyer and one journalist, either as a trade off for video-taped interviews, or as a reaction to the supposed "abuse" of unsworn statements and the right to silence in court.

Detention without charge, as under the British Prevention of Terrorism Act (1974) and the earlier Special Powers Act has also been recommended here by the 1989 Gibbs report, which asked the federal government to allow arrest without charge - for "questioning" - for 6 hours extendible up to 24 hours. I suppose Harry Gibbs didn't have the opportunity to talk to Johnny Walker about what he thinks of police powers to hold suspects and question them for long periods of time.

Abolition of trial by jury, as in the British Diplock courts for "special" offences, has now been proposed by the NSW Liberal government for reasons of "efficiency" and cost cutting. A pity they didn't think to cut some of these costs in their $100 million a year capital works budget for prison building.

Direct censorship of the media has also recently been introduced in Britain - and also exists in Ireland. But perhaps it's not necessary here due to the high concentration of media ownership and the high degree of self-censorship.

In conclusion I'd like to let you know that there is ongoing pressure for people that have been through the system and continue to speak out. Arthur Murray, in the audience here tonight, has been subject to harassment and surveillance. This morning police came to my solicitor's offices with a search warrant for files on statements of certain defence witnesses. And John may not like to speak of this but he has faced death threats back at home and has to be very careful of anything he says here on behalf of his own community.

In conclusion, I'd like to repeat my thanks to the Australian Irish Congress and say I'm very proud to be able to share this platform here tonight with Johnny Walker. Thank you.

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## 32. ICAC LOOKS AT INFORMERS

The home of the Independent Commission Against Corruption is a squarish, concrete and steel bunker in Redfern, bristling with video-cameras and dark tinted glass. ICAC is not, however, a mini FBI, nor is its Commissioner Ian Temby a mini J. Edgar Hoover. If anyone in New South Wales deserves that dubious title, it is Ron Woodham, the prisons boss Temby was assigned to investigate.

The informers inquiry brought one group of investigators up against another, and just how much was achieved had a lot to do with the perceived power relationship between the two. It was to be a real test of ICAC to see how it would deal with allegations of corruption against senior prison and law enforcement officers; but in the end ICAC took the easy way out. The hard issues were sidestepped: Ian Temby preferred bureaucratic reform to pursuit of corruption.

The question of an inquiry into prisoner informers was referred to ICAC in early 1991, after public scandal over the rewards given to prisoners for their evidence. In particular, an emotional debate was raised over the sentence discount given by the Court of Criminal Appeal to convicted rapist turned prosecution witness Fred Many. Some of Many's evidence had been discredited in a separate Court of Criminal Appeal judgement. Ray Denning and the rewards given to him, were also subject to much debate, particularly after my trial. A number of reports about informers appeared throughout 1989-90, culminating in Sharon Davis' ABC documentary on informers and the role of Ron Woodham's Internal Investigation Unit.

In April 1991 Ian Temby announced that ICAC would investigate:

the conduct of public officials, including prison officers and police officers, in relation to the use of informers, prisoners and indemnified witnesses .. (and) the operations of the Internal Investigation Unit and the Special Operations Division of the Department of Corrective Services.

The period looked at would cover January 1985 to April 1991, and Temby added that the inquiry:

will not examine or re-examine the merits or outcomes of any pending or concluded prosecution. The investigation will concentrate on the conduct of public officials

The Commission announced that it would deal with the inquiry in about ten "segments", representing prosecutions involving informers. My case involving Ray Denning and several other prisoner informers was to be one of those segments. However if my matter was to be heard publicly, the ICAC Act required that there be no outstanding criminal prosecutions. Earlier in the year I'd started a private prosecution against Denning, on a charge of attempting to pervert the course of justice; I withdrew this charge so that the ICAC inquiry into the use of informers in my case could proceed publicly.

The Commissioner

Ian Temby is a former federal Director of Public Prosecutions who came to the informer inquiry with full sympathy for the police and prosecution reliance on informers. He had himself organised indemnities for prosecution witnesses: withdrawing criminal charges in return for their agreeing to incriminate others in court. He is also a politically sensitive lawyer, who deftly deflected Liberal Party expectations that, on its creation and on his appointment in 1988, ICAC would use its new powers to pursue corruption allegations against the Liberals' Labor Party opponents. Temby was too astute to be crudely used in that way.

Nevertheless, he has always been conscious of the wider implications of his decisions. At the time of the controversial prosecution of the late Justice Lionel Murphy, and while many in the mass media and amongst conservative politicians were baying for Murphy's blood, Temby as Director of Public Prosecutions espoused a new prosecutorial theory:

It may be better to prosecute holders of high public office facing allegations of impropriety even if the evidence appears less than likely to lead to a conviction .. In such a case it may be a justified course to prosecute even if the evidence is not sufficiently strong to make a conviction more likely than not, and the case would not proceed against an ordinary citizen.

The case against Lionel Murphy was extremely weak, but the decision was made, under considerable political pressure, to prosecute him.

Some years later on, in different circumstances, Temby adopted what could be seen to be an opposite view about prosecuting public office-holders. A case was referred to ICAC involving accusations that several senior police had "loaded up" a suspect, Frank Hakim, with heroin. The evidence included circumstantial evidence and direct evidence of other police, but the distinct feature of this case was that the accused police were all identified with the so-called "White Knights" of the NSW police, those intent on prosecuting police corruption. I should add here that the police anti-corruption drive of the mid-1980s never seems to have included an attack on police who load-up and verbal suspects; that apparently was not considered "corruption". Those accused included several police who had prosecuted other police, including the current NSW Police Commissioner Tony Lauer.

In his 1989 report into the Hakim case Ian Temby devoted a section to the criteria used to assess the evidence against Lauer and the others. He concluded that he had to find facts proven on the "balance of probabilities", but that this phrase may have different meanings in different circumstances:

the degree of persuasion necessary to establish facts on the balance of probabilities may vary according to the seriousness of the issues involved

Quoting a High Court judgement he said the issues which may affect a decision as to whether a matter has been proven to the required standard may include:

The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding

No doubt it could be considered a grave circumstance that the reputations of a group of senior police might be affected by serious criminal charges. Temby went on to find that, despite the fact that the evidence of one of the witnesses, a former police Inspector, was "impressive", there was insufficient evidence to justify prosecution of any of the accused police.

Was this decision affected by Temby's concern for the standing of the so-called "White Knights"? An onlooker could be forgiven for thinking that he had lowered the prosecution's high jump bar for Lionel Murphy, but raised it for Tony Lauer.

At the hearings Ian Temby was urbane and accommodating, allowing me to question witnesses, in most cases, without hindrance. As it happened, this also gave him an opportunity to hear of a number of issues that were not raised by other parties.

Not that the other parties asked many questions. It was striking to me that there were six to eight barristers in the Commission, for the two weeks I was there, yet almost all questions asked were by Counsel Assisting the Commission and myself. No doubt the other barristers were well paid; but their work seemed to be mainly a "watching brief" for their clients: the police, the police attached to the Internal Investigation Unit, and the Department of Corrective Services. Few other parties seemed interested in or able to participate in the proceedings. If this was an adversarial encounter and Ian Temby was the umpire, then the questions to be resolved would be largely disputes between police and prison officers. At times that's exactly how it seemed. One of the major debates at the end revolved around the less than exciting idea of starting a central register of informants; would it be controlled by the Director of Public Prosecutions or the Department of Corrective Services?

However it was an inquiry, and Temby saw himself as an inquirer, not an umpire. On some occasions, though, he seemed almost embarrassed by the complacency of the regular lawyers, feeling obliged to himself offer an opposite view, perhaps as a reminder to himself of the virtual absence of defendants from the discussions.

## What were the Issues?

It became clear early on that Temby and the Commission's lawyers had decided to use the inquiry as a means of suggesting changes to procedures and perhaps laws, and not as an opportunity to "get scalps". The Commission was to look for "patterns" of conduct, and not to overly pursue particular corrupt acts. While there was some pressing of questions on Woodham and police such as Tees, the Commission's approach was explicitly non-threatening to those who had been publicly accused of corruption, as Temby reassuringly told Tees:

You will understand, it may be that we can make some modest contribution to improving that process (of police evidence to the courts) and if so that would be a good thing?

Although Denning was one of the main witnesses in my segment of the inquiry, the Commission chose to ignore the substance of what he was saying and look primarily at the evidence of inducements and rewards. By this approach they understandably hoped to avoid re-litigating the issues in each of the trials. However in my case I was concerned not only with the rewards that had been given to Denning, but the fact that police had conspired with

him to help construct his false evidence. This necessarily involved an assessment of the evidence of both Denning and Tees. This raised a conflict in the Commission:

Mr Anderson (to Denning): And the problem for you, Mr Denning, was that when you came to the second part of your verbal at the Central Industrial Prison, the police told you that we weren't there together?

Mr Oslington (Counsel Assisting): Commissioner this inquiry has to end at some stage. This is material which has been thoroughly gone over, both at the committal and the trial and I rise now to object to this line of questioning ..

Commissioner Temby: Thank you Mr Oslington. The submission, Mr Anderson, is that you should restrict yourself to anything that has not already been dealt with in hearings elsewhere because I can have access to the transcript. What do you say to that?

Mr Anderson: Well, Mr Commissioner, this is absolutely central. If you want to inquire into the use of prison informants in my arrest, the issue of this man's information, how it came to be found wrong by police, how police then fed him information which in itself was wrong and led him into further error, is absolutely crucial to the relationship between police ..

Commissioner Temby: The question you're asking is more narrow than that. The question you're asking is ..

Mr Anderson: It's what I'm getting to.

Commissioner Temby: .. has to do with whether the two of you were in prison together at some particular point.

Mr Anderson: No, that's, well that's what I'm leading - I'm leading into his statement and how it was changed.

Commissioner Temby: Yes, all right. Well, I won't interfere but you will move it along, please.

Later on, to Bob Greenhill, barrister for the Police Commissioner, Temby reaffirmed his attitude that issues of such substance, and therefore also of fabrication, would not be delved into:

I'm not going to make a judgement as to whether Denning is telling the truth or Anderson is telling the truth about the course of dealings between them. How could I do so? To do that would be to interfere in the criminal justice process. I can't do that. You wouldn't invite me to do that.

It would have been no interference to accept the Court of Criminal Appeal's judgement on Denning's story as a benchmark, then proceed to look at the substantial dealings between Tees and Denning. However Temby preferred to remain on safer ground. When looking at the miscalculation of Denning's sentence, which put his date of release three years early, the Commission preferred to view this as an unintentional blunder, and look for general and technical solutions. Temby said:

What's needed is a decent computer program which is kept up to date and to which the key players have access. It seems to me it's simple enough .. Well that's another thing we're working towards.

In the habit of most judges, Temby was deferential to senior police and accepted many police and Corrective Services objections to questions that could be said to go beyond the narrowest interpretation of the inquiry's terms of reference. An exchange about the Commission's aims followed objection to a question I asked of Tees, where NSW police records noted the fabrication of evidence by certain Commonwealth Police in the original Hilton bombing investigation:

Does it concern you that police were fabricating evidence in the Hilton investigation?

This was objected to and the following discussion ensued:

Mr Greenhill (for the Police Commissioner): Mr Chairman, I object on the basis of relevancy .. there must be more pertinent things that Mr Anderson could come to and deal with, rather than some rather - a matter that's rather tenuous.

Commissioner: Yes. Time is valuable, although I suppose it's fair to say that we haven't made bad progress at this hearing .. But now there's an objection raised I've got to deal with it. What do you say is the relevance of this, Mr Anderson? ..

Mr Anderson: The relevance, Mr Commissioner, is if the police had exposed evidence of fabrication in this investigation and there is connection to further fabrications and this officer was aware of it and didn't say anything about it or didn't bother to look into it or disregarded it, or if when the matter's raised it's objected to in this Commission. Those sorts of things become of direct relevance Mr Commissioner, because they go to the fact that a blind eye is being turned to this sort of evidence being manufactured within the police force.

Commissioner: Yes. Well that is interesting and potentially important, but the question remains how it helps this Commission in the present inquiry.

Mr Anderson: Well, it depends what this commission wants to write in its report, Mr Commissioner. If this Commission is not concerned with police fabrication, if this Commission wants to disregard that, if this Commission wants to look at procedural matters, ah, improving access to information, those sorts of things, if that is the main focus of the Commission it's of no relevance at all. If the Commission is concerned with particular instances of corruption and fabrication, then it is of relevance, I submit.

Commissioner: Well I can give you at least a general response to that. The Commission is not interested only in systemic failure or systemic improvement, although they are important matters and potentially the most important matters because if real systemic improvement can be achieved, then one has done some good of a lasting nature. However, the Commission's not simply interested in that because I'm required by statute, in the report, to deal with instances if revealed and proved, of corrupt practices by public officials and in any event anxious to do so and all we've done in the past indicates that the Commission does that when appropriate. But there are terms of reference which centre upon the use of informers, and in particular prison informers, and you've got to bring this within the terms of reference.

No problems for lawyers

One matter clearly within the terms of reference was the role of the prosecutor at my trial, Mark Tedeschi. However he was never called as a witness. Tedeschi was a public official who had made a number of decisions about the use of informers in my case, in particular the presentation of Denning's evidence to my jury and the choice as to which informers to call at my trial: because there were more candidates than Denning. At least five other prisoners had made statements, between my committal hearings and my trial, also claiming I'd "confessed" to them in prison about ten years earlier. These prisoners were Stephen Robinson, Darryl Cook, Peter Priest, David Stevens and Desmond Applebee. The first four had coordinated their verbal of me around an alleged conflict with Alex Burmistriw, the brother of the police constable killed in the Hilton explosion, and who in the early 1980s was himself serving a prison sentence.

The rash of witnesses with "crises of conscience" in this case was staggering. None would admit they were benefiting at all from their "information"; they were simply public spirited, reformed individuals. Tedeschi had earlier considered calling some of these other prisoner witnesses, in preference to Denning. In April 1990 he wrote:

The Crown has recently been supplied with copies of statements by a number of persons who were in prison at the same time as Anderson later in 1978 [in fact their statements put the year at anything from 1979 to 1981] when Anderson expressed fears about another prisoner who was the brother of one of the victims. Anderson offered money to the brother and said in effect that the bomb was not meant to explode the way it did .. I have not yet decided whether or not I will call Raymond Denning at the trial. If I did, his evidence, if believed, would be capable of amounting to corroboration.

What had happened between April and August, when my trial began, to determine that Denning would be called but the others would not? ICAC was very interested in this question, and Counsel Assisting the Commission asked the main police in the case, Tees and Godden, how this distinction was made. Tees was asked these questions:

Counsel Assisting (Mr Rushton): And was it you who formed the view that the evidence of those prisoners should not be relied on?

Tees: Yes.

Rushton: And upon what basis did you reach that decision?

Tees: Well two bases .. but as I say, their statements were taken and forwarded to the crown with the proviso that this is our view of them .. The crown served them on the defence and didn't make up it's mind - his mind - until after he interviewed them, those prisoners, himself .. I have no power about calling anybody.

Then Godden was pursued on the same matter:

Rushton: Can you now tell us why it was that Mr Priest was not called?

Godden: Well I can't tell you that, the Crown Prosecutor didn't call him. You would have to ask him sir.

Godden, who had collected the statements of four of these five prisoners, was trying to avoid his responsibility in the matter, but he was right. The matter having been opened up with the police by ICAC, they should have called Tedeschi. I wrote to the Commission asking that Tedeschi be called over this and several other matters, adding:

Given that critical decisions regarding the selection, interviewing and use of informers are also made by prosecutors, it seems appropriate to also examine their role. Not to do so will also leave the Commission open to a charge that the club of lawyers is protecting its own.

However ICAC responded a week later that Tedeschi would not be called, confirming my suspicions of their bias.

There was also the question of whether police or the prosecution knew of Denning's involvement in a major heroin importation conspiracy in 1986, which I detail below. Denning's role was described in both Federal Police and Federal DPP documents. Tees was questioned closely about this and denied having any knowledge of the incident. But despite no prosecuting lawyer having been called, Counsel Assisting in their final submission concluded that Tedeschi was misled on the issue:

It is submitted that the Commission would be satisfied to the required standard that .. the Crown Prosecutor was never informed of relevant information [regarding the heroin conspiracy] which had a bearing on the credibility of Denning.

Yet Tedeschi had not even been called to be asked if he'd heard of this information. Clearly there were to be no problems for lawyers in this inquiry.

It was an irony, then, that Temby could later rhetorically ask a seminar on 'truth in business and the professions', "why does the law do so little to punish liars?", noting in particular that standards of honesty were not enforced as severely on lawyers as on professional and business people.

## The Denning Issues that Emerged

Despite the limited approach of ICAC to its terms of reference, a great deal of information about police dealings with Denning and the other prisoner informers did emerge. This included information about applications for the Hilton bomb reward, which had been denied under an earlier Freedom of Information request I'd made, and some information about Denning's indemnities from prosecution, which had been suppressed when called for on subpoena, at my trial.

In the earlier chapter "Denning Goes on the Dog" I referred to some material that first emerged in the ICAC hearings: the role of Magistrate Kevin Waller in advising Tees, confirmation of the police view that Denning was of great use as a propaganda tool against the Prisoners Action Group, and details of how Denning's indemnities in Queensland were obtained. Other evidence about Denning that emerged at ICAC related to the way in which

two judges sentencing him in 1989 and 1991 were misled, his involvement in the 1986 Hong Kong heroin import conspiracy, his alleged rehabilitation, and his nearly-successful attempt to secure the quarter million dollar Hilton bomb reward.

Not that much of this was reported in the mass media, which preferred the personal clash between myself and Denning. Headlines such as "Denning challenges Anderson to a lie test" indicated stories which said little about the information that emerged in the hearings. And when Tees responded to one of my questions by accusing me of helping an escapee leave the country, the headline "Anderson helped escapee, ICAC told", once again said little about what emerged in the day's proceedings. Only when two issues came to a sensational head did the media coverage change. Within twenty-four hours Denning's planned release was put back three years and he and his closest friend Dot Bach, also a police informer, were exposed for their 1986 plan to import heroin from Hong Kong.

Throughout the ICAC hearings both Denning and Tees denied resolutely that Denning had received any benefits for his informing. Evidence emerged, however, to show that there were at least seven substantial benefits. First Denning was transferred rapidly to New South Wales from Victoria, and thus escaped the effect of his sentence there. Then he was given highly favourable treatment, based on misleading information, at his sentencing for a 1988 escape. Third and importantly, he secured indemnities from prosecution for two armed robberies in Queensland. He was then paid around $800 by police for his expenses whilst in prison, and also gained a unanimous recommendation from the police rewards committee that he be paid the full quarter of a million dollars Hilton bomb reward. Sixth he was given special access to the media to put his case (for the reward, amongst other things) after my trial. And finally, when he was re-sentenced over his 1976 "life" sentence in 1991, the judge there, Justice James Wood, was given highly misleading information about his existing sentences and his alleged rehabilitation.

## Denning's sentencing errors: blunders or rewards?

Two gross errors were made in the calculation of the effect of Denning's multiple sentences, and these errors appeared in information provided to two court hearings in July 1989 and April 1991 where Denning was sentenced and resentenced. Denning's illegal and premature release was averted at the last moment only by members of the public, the media and the parliament bringing the errors to the notice of the Department and the Minister.

Firstly Denning's sentence for his 1988 escape was made cumulative to a ten year sentence imposed in 1983, rather than to his total aggregate sentence of 21.5 years, which dated back to 1973. This led to an incorrect and ineffectual sentencing for his 1988 escape by Judge Shillington in July 1989. The error was corrected by the Judge after a November 1991 motion of notice by the Director of Public Prosecutions, based on an affidavit by Neil Guy of Corrective Service's Prisoner Index. This motion, however, was only made after strong public pressure in the week before Denning's planned release and as the ICAC hearings were proceeding.

Secondly, Denning was awarded a range of remissions up to July 1988 to which he was not entitled, as he had escaped and by Section 67 of the Prisons Act had lost all remissions up to the time of his escape. This erroneous information was passed on to Justice Wood in April

1991, leading him into error in resentencing Denning on the life term imposed in 1976. Wood set a parole date for Denning's life sentence which was well before the effective parole date for his fixed term sentences.

Were these errors mistakes or additional and illegal rewards? The Corrective Services explanation was that there had been a series of coincidental errors. The initial calculation had been done by Neil Guy in early 1989, and as Denning, although recaptured, had not yet been convicted of the 1988 escape, the inclusion of the 1983-88 remissions was at this stage "theoretically" correct. No proper explanation was given as to why the 20 July 1989 calculation of an aggregate sentence by a Mr Ellich of Prisoner Classification, noting Denning's disentitlement to remissions and giving a release date in 1994 prior to the 1988 escape sentence, was not on Denning's file and was ignored at the resentencing before Justice Wood.

The explanation for the second error was that Corrective Services clerk Karen Beresford had to prepare the advice at a few hours notice. The suggestion was that her hastily prepared document was all that Corrective Services, their boards and the Director of Public Prosecutions had available to check Denning's existing determinate sentences. No-one from the DPP was called on this matter, even though there was the separate July 1989 sentence advice, addressed to the Solicitor for Public Prosecutions.

The Commission appeared unwilling to investigate this matter, and appeared to accept the department's tortuous explanation. On the evidence, though, there were a number of reasons why this explanation can't be accepted.

Firstly, the evidence of Karen Beresford suggests that Neil Guy had taken a more recent look at Denning's calculations, as she found the paperwork on his desk in April 1991. Guy claims not to have touched the calculations since 1989. Secondly, Neil Guy was at that time working directly under Ron Woodham, and he knew that Woodham had been a character witness for Denning. Not only that, Denning had attracted a lot of publicity in the past, so there was every reason for special care in this case. Thirdly, and even more significantly, Neil Guy, while working under Ron Woodham, was asked on three occasions in 1991 to check Denning's sentence calculations. He was asked by the Serious Offenders Review Board secretary Graham Egan in mid-1991, he was again asked by the secretary of the Offenders Review Board (the new parole board, which has a role once "life" sentence prisoners are given a parole period) Janice Hutchinson, and also by Robert Brook of CEFTA in November. On each occasion he reported that the calculations were correct. Neil Guy replied to Robert Brook in a letter of 14 November 1991, just days before Denning was due to be released:

please be assured that the calculations have been thoroughly checked and there is no impediment to Mr Denning's release.

Only after the Minister for Corrective Services requested a review were the errors admitted.

Neil Guy presented a list of five other prisoners who had been wrongly released over the past ten years, to suggest that mistakes do occur, but despite looking he could find no cases of prisoners who had been released through extra remissions.

Ironically the only other similar error brought to the Commission's notice was one of the errors made in the sentencing of Denning himself, back in 1983. Judge Alf Goran apparently

made the same error as Judge Shillington, in not making his escape sentence cumulative to his existing sentences.

The consequence of Denning's plea bargains in 1983 and 1989, then, was astonishing. He did not have one day added to his sentence for any of his 1980-81 and 1988 robberies and attempted robberies, his misprision of a felony, his firearms offences and his two escapes. Only the last minute adjustment of his 1988 escape sentence, in November 1991, broke that remarkable record.

## The Hong Kong "Gold"

The issue that attracted most attention to and embarrassment for Denning's friends Dot and John Bach at the Commission was exposure of their statements to Joint Drug Task Force police in 1986, in which they admitted that they'd gone to Hong Kong at Denning's instigation to import a substantial quantity of heroin.

Dot, John and one of their sons, when arrested in Hong Kong in early July 1986, signed statements admitting their own involvement and implicating Denning and several others. It was a great irony that Denning, who lost all his friends as a result of informing on or verballing them, discovered that his one friend left in the world, Dot, had five years earlier informed on him. It seems that Denning didn't know this before the ICAC hearings.

It is clear from the statements and other police documents at ICAC that the Bachs were subsequently set up as witnesses against Denning over the heroin conspiracy. Although their statements concerned their own trip to Hong Kong, they also implicated several NSW prisoners and people in Hong Kong; but their evidence would have been most damaging to Denning. They said Denning had given them written instructions over the contacts they had to make and the heroin they had to bring back. They were in financial trouble at the time and, according to their son's statement, they planned to either get a large sum of money for the importation or some of the heroin to sell themselves.

At ICAC, Dot and John were forced to admit signing the statements, but claimed they were the result of threats and intimidation whilst they were in Hong Kong. This didn't explain why they both signed similar "induced" statements two months later, back in Sydney. Not only was Ms Bach not under pressure back in Sydney, she spoke highly of one of the Federal Police officers she dealt with, Lawrie Gray, saying he was "a very nice fellow".

Following a phone conversation with Denning, who was the first witness questioned about this business in ICAC, the Bachs supported his phony story which claimed the plot was to import "gold" and not heroin. Dot Bach admitted that Denning had told her over the phone to say the business was about "gold", although she claims this was the truth and that Denning added "tell the truth". She suggested that if the word "heroin" were replaced with "gold" in their statements, the statements could be close to the truth; but she also claimed she didn't read her statements before she signed them.

The "gold" story didn't fit the detail of their statements at all. The three Bachs spoke of codes to meet their secretive heroin suppliers, and John told of practising with "icing sugar" and a body stocking, for the importation. John told police:

I had never seen heroin before. I had practised with icing sugar at home to see how bulky it was.

John also said Denning had spoken to another prisoner and then told the Bachs: "if you bring back an additional pound he would take it off us for $100,000" - more than ten times the value of gold but close to the wholesale value of heroin. In her statement of 24 September 1986, back in Sydney, Dot said the following:

(a Chinese man) asked me if I had a 'crusher' ... he demonstrated to me what he meant. I asked him what for and he said 'it come in boxes', I said 'that's okay' he said 'no you don't understand it's very hard like stone, don't worry I will arrange this myself'.

Dot Bach then had the following exchange with Counsel for ICAC, Stephen Rushton:

A: I remember the 7th because it was the day they hung Barlow and Chambers which wasn't a good day to be arrested. Q: No, it would have been a shocking day to be arrested if you had been bringing in drugs, wouldn't it? A: It certainly would have been.

Rushton correctly assessed that Dot Bach's lies were designed to cover her acute embarrassment in exposure of the matter, and of her informing on Denning. She was in no danger of being charged, and she would have known this. A formal advice from a Federal DPP officer, from early 1988, discloses that serious consideration was given to using the Bachs as indemnified witnesses against Denning and another man in Hong Kong, but that this idea was rejected. It was considered that the Bachs would have been uncorroborated accomplices, that their credibility was suspect and that as their involvement was no less than Denning's, it was against policy to grant them indemnities.

What is not so clear is why the Bachs themselves were not prosecuted in 1986. The reason given in 1988 was basically that they had been strung along as if they would be witnesses against Denning and, as they had not been prosecuted earlier, they would have had a "reasonable expectation" this would not occur. There was thus a fair chance the prosecution might be "stayed" by the courts. None of this explains the decision not to prosecute back in 1986, and we can only assume that the Federal Police valued the Bachs more as informants than as defendants. This apparently saved them.

The same DPP advice that recommended against import charges also recommended John Bach be charged over 34 marijuana plants found at the Bachs property at Wilton, while they were in custody in Hong Kong. This would have been a NSW police matter. However, no charges were ever laid, no explanation was given for this, and we can only assume that, once again, the Bachs' status as informers saved them. It was certainly a leniency not displayed to other growers of marijuana. When John Bach came to give evidence at ICAC he was with the NSW Police as a civilian employee.

## Denning's "rehabilitation"

Denning's claims to have changed from being "100% against authority" to "100% for authority", as simplistic and improbable as they appear, seem to have been very effective

with those in a position to help. Dot Bach and her husband John, in a letter of May 1984 to the Release on License Board attributed their relationship to Denning as the:

governing reason for his dramatic change in behaviour and attitude to authority over the past couple of years.

And there may well have been some truth in this.

Retired Judge Torrington, of the Serious Offenders Review Board, in a report to Justice Wood also pointed to Denning's turning away from the campaign against "police verbals" and from his association with "persons antagonistic to law enforcement". Torrington wrote:

The committee advised him to stop acting like a rebel. There was a sign of a glimmer of insightful thinking beginning.

Repeating Denning's own self-serving claim, it was his disillusionment with the alleged attitudes of fellow escapee Russell Cox that "put Denning on his own road to Damascus", Torrington naively reported.

Justice Wood adopted the argument put forward by Tees, which was that Denning had been on the slow boat to rehabilitation since his guilty plea in 1983. Wood spoke of:

the real change which I am satisfied has developed from about 1983 ... (and) the strong prospects of rehabilitation which now exist.

and while he warned that any re-offending could lead Denning "to spend the remainder of his years in the prison system", as he set a "life" parole period, Wood gave great credence to the notion of rehabilitation through assistance to the authorities, and mentioned Denning's bizarre suggestion of making videos to be an example of 'reform' to young people:

In my view, it is exceedingly important that a man, once considered intractable and totally beyond redemption, is capable of undertaking education and mending his ways, and returning to live in the outside world. (Denning) is prepared to spread that message by means of the videos which are under consideration, and the example he is able to provide for others, particularly young offenders, has a potential for being exceedingly valuable.

In light of what has emerged since, these videos might have the capacity to be truly Shakespearian in proportions: an example of someone who betrays every friend he ever had, including by perjury against a former friend, leaving only one friend, whom he later discovers betrayed him several years earlier, just as his best-planned escape is collapsing.

What was the reality? Denning had become a drug taker in the 1980s, had grown a bit older and had lost his previous will to be a rebel. There was nothing inherently evil in being a rebel or prison activist, just as there was nothing inherently good in being a friend of Dot Bach and enormously pro-authority. A very respectable argument can be made to the opposite effect. But if "rehabilitation" was the question, it was his criminal and other selfish behaviour that should have been at issue, not his political view or allegiances. By this measure, a very different picture can be painted, from 1983 onwards.

That picture is this. He was involved in a 1986 conspiracy with the Bachs to import heroin from Hong Kong; Ron Woodham knew of this, but claims he said nothing to Aarne Tees, who pleaded ignorance. Then Denning breached the trust of minimum security in 1988, escaped, got hold of illegal weapons, committed a bank robbery and planned more. He escaped prosecution for his 1988 robbery and an earlier 1981 robbery in Queensland, and blamed his co-accused (a man ten years younger than him) for planning the escape, for taking most of the money and for having them recaptured in Melbourne. He then told on all the people who had even slightly helped him as an escapee and, with the help of Tees, beefed up his stories against some of them in successive interviews, to allow possible 'aiding escapee' charges. Although he says the young woman who helped him in his 1988 escape had nothing to do with the Queensland robbery, he refused to give evidence to help her and she was subsequently convicted and jailed for the armed robbery he committed. He then gave perjured evidence against me, a former friend, in the Hilton case, in an attempt to secure his own early release and gain a quarter million dollar reward. His credibility as a witness was judged by the Court of Criminal Appeal as worthless.

Was this the example of rehabilitation Justice Wood wanted for young people? Apparently all the robberies, escapes, drug importations and perjuries in the world count for nothing if one is "pro-authority" and so "on the road to Damascus".

Almost a quarter of a million dollars better off

Both Denning and Tees were defensive about the discussions they'd had regarding reward money. Denning said a $100,000 reward for the a Melbourne murder was discussed in Victoria "from the beginning"; but that while he was aware of the Hilton reward, he didn't discuss this one with Tees "from the beginning". However he said that Tees did tell him at an early stage:

You're entitled to any - anything you give us information on you're entitled to the reward.

This early signal from Tees may be significant as an inducement for him to fabricate evidence, especially as Denning didn't reveal his Hilton bomb story for another two months. Denning at first denied but later agreed that in giving information he was motivated by reward money.

Tees told the Commission he didn't speak to Denning or his solicitors before making what he agreed was a "very very strong recommendation" for Denning to receive the full $250,000 reward. He claims not to remember when he first discussed the Hilton reward with Denning, but believes it was first mentioned:

way, way down the track; probably after conviction [of Anderson] ... It wasn't mentioned before [Denning gave evidence in the Anderson committal] no ... it could have been mentioned [between committal and trial], I don't know ... the reward was a subject which was - well, I certainly stayed away from ... he ran his own race on that.

Somehow, though, Tees was apparently able to judge Denning's early motivation regarding the reward. He wrote in his seven page, 15 January 1991 report to Commander Brian Harding, which was endorsed and forwarded to the Reward Evaluation Committee:

Denning was motivated by the offer of reward money generally and as a result of this provided information to police. At the time he provided his original information concerning the Hilton hotel bombing he was aware a reward for that crime existed ... Denning is in need of the reward money in order to re-establish himself in society ... Denning should be granted the whole amount which was offered.

Tees also stressed the importance of Denning's information and evidence in this way:

If the information supplied by Raymond John Denning had not been forthcoming the Hilton bombing would have remained unsolved ... Anderson would not have been arrested and consequently Pederick would not have surrendered. Therefore the Hilton Hotel Bombing would have remained unsolved ... Denning's evidence was crucial and went a long way to assisting the jury in their decision to convict Anderson.

After my trial the chronology of reward events seems to have proceeded as follows. Denning saw a television crew in the Special Purposes Prison immediately after my conviction in late October 1990 and told them he intended to apply for the reward. His solicitors then lodged a 28 November 1990 application with the Reward Evaluation Committee and a strongly argued recommendation by Tees dated 15 January 1991 followed shortly after. Apparently a rival claim for the reward from Richard Seary, the Special Branch informer in the 1978 Yagoona case, was also considered and rejected, by both Tees and the Reward Committee.

A request by NSW Police Commissioner Tony Lauer on 6 May 1991 for further information on the benefits received by Denning, and on the quantum of the reward, was responded to by Tees in a further strongly argued 4 page report of 12 May. In this report Tees lashed out at an alleged "misinformation campaign" and "the propaganda of Anderson's supporters, many of whom are convicted criminals". Tees used this report to suggest that I was guilty of the Yagoona matter, for which I had been pardoned, that Denning had served longer than most other prisoners for his life sentence and that the $250,000 reward was entirely appropriate. He suggested that an apparently unhelpful attitude by the DPP at Denning's resentencing the previous month:

could have come about as a result of propaganda put out by Anderson's supporters which could have resulted in a possible political backlash close to election time.

He also claimed that Justice Wood:

specifically refused to reward Denning with a lesser sentence in return for his information and evidence.

This however was contrary to Justice Wood's judgement, which did indeed incorporate such a reward:

(Denning) has received considerable benefit in New South Wales and elsewhere for the information and assistance he has provided ... (but) there is no reason in law or logic to treat the assistance as exhausted ... (Given) the real change which I am satisfied has developed from about 1983, the point has been reached where the applicant should now be given a fixed and additional term ... I have given credit to the powerful subjective circumstances connected with the assistance provided and the strong prospects of rehabilitation which now exist. This

is not a case where it is practical or in my view appropriate to attempt to apportion any specific period to the matter of assistance ... (however) the matter of assistance merges into rehabilitation.

Commissioner Lauer refused an offer by Tees to consult with him and requested details of the witness protection to be provided to Denning. Lauer then wrote to Federal Police Commissioner Peter McAulay on 16 May, labelling as "inappropriate" the committee's recommendation - that the full $250,000 be awarded - and noting the committee's further recommendation that no payments should be made until Anderson had "exhausted all avenues of appeal".

From a final report by Lauer of 22 June it appears that McAulay agreed the committee's recommendation was inappropriate, but in any case, noting the Court of Criminal Appeal's 6 June judgement, Lauer concluded that "the question of payment of a reward does not now arise".

Denning did not want to reveal the fact at first, but eventually agreed that he'd planned to share the reward with Dot Bach; Dot Bach said she knew of this. In the end, though, the plan was no more successful than their Hong Kong "gold" venture. However had the Court of Criminal Appeal not overturned my conviction and written off Denning's evidence, it seems likely that with Tees' assistance he may well have earned a reduced reward payment, perhaps of $100,000.

## A queue of verballers

After Denning gave his evidence at my committal hearings, a number of others wanted to join in. In early 1990 I was served with the statements of five other prisoner verballers, and it seems there may have been one or two others ready to join in, too. On the other hand, a number of prisoners, some of them informers themselves, also approached me or my lawyers to offer information. I had no direct dealings with them, as a protection against setting myself up for further verbals. I referred any person who came to me to my solicitor.

When the ICAC hearings began, then, there were statements from several prisoners concerning the prisoners who'd made statements against me. Yet although the prisoners who'd made statements for the prosecution were called, ICAC didn't call any of those who'd made statements for me. The "reserve" prosecution witnesses were simply paraded before ICAC, asked if they'd received any rewards, and then sent back. Their stories were not properly investigated, but then, by this time even the police had disowned them. Two of them, Darryl Cook and Stepehen Robinson, had been giving evidence in murder cases for years, saying prisoners had "confessed" to them, even when they were known as informers. Darryl Cook had even sent out a tape from Goulburn Gaol in 1989 in which he confessed to being a "recruited" perjurer; he later disowned this and claimed he was "forced" to make it.

Four of the five told a story which had me, in effect, apologising to Alex Burmistriw, the jailed brother of one of the bombing victims. Peter Priest, Stephen Robinson, Darryl Cook and David Stevens made statements saying they were approached by me at Parramatta Gaol and that I said:

I would like you to front Alex for me and tell him that I am sorry for killing his brother and that it was an accident it was not meant for him.

There was then a ridiculous story that I'd tried to pay Alex some money to placate him, after he'd attacked me. Although the story was in some respects well organised, in that four informers were attempting to confirm each other's story, it had problems from the beginning. Priest, who made the first statement, said this occurred in July-August 1979; but I was never at Parramatta Gaol in 1979. I first arrived there in November 1980. Robinson, whose statement came two weeks later and was the first witnessed by Bob Godden (who knew of my gaol movements through the Denning investigation), made it sometime in 1980. The others then made the date 1980 or 1981.

The next problem was that their entire story depended on the involvement of another person who was not an informer, or even at that stage a prisoner: Alex Burmistriw. Not that police hadn't been to see him. At ICAC Godden suggested that Burmistriw had simply not cooperated with police, not that he'd had anything contrary to say. To my lawyer he was also not very cooperative, but managed to say this much:

He (Burmistriw) said he didn't know how he could help because he didn't associate with him (Anderson) at all (in gaol). I told him that we had material to suggest that his name was being used to verbal Tim ... He said that the police had gone to see him and they dared to say that he didn't care for his brother. In any event he doesn't want to be involved. He asked about whether he is supposed to have got in a fight with Tim - I said in fact yes, that was one of the allegations. He said something like, if he had, Tim would have known about it (ie. that he would have really hurt him) and that anyway we could get the Governor and warders to say it didn't happen. Unfortunately in the end I couldn't convince him to see me.

These informers were people who had been criticised for perjury in previous cases. Darryl Cook had admitted lying on oath in the prosecution of two prisoners over the murder of prisoner Noel Holden. In a prosecution on drug charges against prison officers at Cessnock, the magistrate had said of Cook:

The only thing I was really sure about with Mr Cook was his name and not much else. He is a witness completely and totally lacking in credibility.

In the middle of the Holden trial, Cook, Robinson and another informer named Walsh had escaped from the Sydney Police Centre, causing the trial to be aborted. In a later retrial where they again gave evidence, the two men charged were acquitted.

There has been then, a history of calling such witnesses even after they've been utterly discredited. But perhaps the fatal blow, so far as their use in my case was concerned, was a 12 May report from the Special Purposes Prison. This report revealed that Cook and Robinson had been sending coded messages between themselves and that this code had been discovered by prison officers. The messages were mainly about drugs, but one of them from Robinson to Cook read:

It's nice to know we can get someone convicted even when he is innocent like Anderson is. They're all gronks (dags). I've got some smoko (marijuana).

Tees told the Commission that, in any case, he didn't believe Cook and Robinson. Prosecutor Tedeschi was not called to explain why he changed his mind about these four.

The fifth prisoner-verballer was a man called Desmond Applebee, who had a separate story. He simply made a statement saying "he (Anderson) said he did not want to kill the people that were killed." Applebee had been an informer in other cases and was facing serious charges at the time he made his statement. He also got his dates wrong, placing his story in the Remand Centre in December 1978. At that time I was in the prison hospital, on a hunger strike. I can't recall ever having seen Applebee before in my life.

One final witness called was long time informer Ernie Wade. He'd made a statement to my solicitor, saying that Tees and Woodham had attempted to recruit him to verbal me, but he'd resisted the offer. My lawyers had him sign an affidavit which was filed in the Court of Criminal Appeal, but we didn't call him, because we didn't trust him. We knew he'd lied before, in other cases. By the time the ICAC hearings started Wade had changed his story, and was saying that there was a conspiracy of prisoners placing pressure on him to make such statements. These were prisoners, though thankfully not including me, who had no contact with him but who threatened his homosexual lover in another jail. As absurd as this sounds, a major police task force named "Dallas" was launched into Wade's accusations. Ron Woodham said he had helped initiate the task force, which was to investigate:

allegations that certain prisoners have conspired to pervert the course of justice and discredit police officers and personnel of the Department of Corrective Services.

This task force ran in parallel to the ICAC hearings. It attempted to get copies of statements Wade had given to my solicitor and, when we refused, served a search warrant on the Legal Aid Commission, which held the statements. It was the first time solicitors there could remember being served with a search warrant, as their dealings with clients and witnesses are usually protected by legal professional privilege. However in the case of evidence of a serious crime, there is an exception to that privilege, and this is what the police hoped to exploit. We challenged the search warrant in court and "Dallas" lost, the matter being decided mainly on Wade's credibility. Justice Allen's comments in this case, though, could apply to many other prisoner verballers, and had echoes of the earlier claims made about Denning:

The prisoner (Ernie Wade) is, as an informant, a chameleon. First he became what in popular parlance would be called a supergrass .. He did so having been approached, whilst a prisoner, by police to become an informant. Then like Saul on the road to Damascus he suffered transformation. He averred that all his incriminating statements as a supergrass were malicious inventions of the police - inventions with which he went along because it was to his advantage, as he then perceived it, to do so. But unlike Saul, he has been struck twice .. Will he be struck yet again, on the road to Damascus? Who knows? In my judgement the truth is .. that he was never on the road to Damascus at all. He was an is an unprincipled criminal, untroubled by honesty and concerned only with his personal advantage as it appears to him, from time to time, to be.

Prisoners' verbal a substitute for police verbal

All the above statements except the first, by Peter Priest, had been taken by Robert Godden, the detective from the Yagoona case. I pointed out to Godden that, after Priest had got his dates wrong, the other dates had all "improved". He said he'd not noticed this before, but admitted that he had access to details of my prison whereabouts, through his involvement in the investigation of Denning's story. Perhaps to avoid the worse inference that he'd fed his witnesses information, he admitted that he was negligent in not checking the dates of their accounts. However this claim to be careless does not sit easily with his highly motivated involvement in my prosecution. He was the one detective centrally involved in both the Yagoona and the Hilton cases. He admitted that he resented the 1985 pardons over the Yagoona case issued to Paul Alister, Ross Dunn and myself, and that he also resented the efforts made by me to have his "bravery award" for the Yagoona arrests withdrawn. I wonder if some of his witnesses might have been called, had a junior prison officer not caught them confessing their lies?

As it had become pretty clear that the use of prisoner informers had become a substitute for police verbal, I also asked Godden for his response to the admissions of his old armed hold-up squad partner, Roger Rogerson, that verbals were regular practice. Tees had tried to distance himself from Rogerson, but Godden had worked with him in many cases. Once again there was an objection to my line of questioning, this time from Commissioner Temby, who seemed to be uncomfortable with this line of inquiry:

Commissioner: I'm aware of what Mr Rogerson said and what he said is interesting and may even be important, but I'm not conscious of the importance it has here and now. Can you enlighten me?

Mr Anderson: Yes, certainly. What I'm about to put to this witness, Mr Commissioner, is that this is a person who has been involved in fabricating confessions against people over a long number of years, that his workmate has admitted to that practice. There are examples of where he and Mr Rogerson did that together, that the practice came under a lot of criticism and that partly as a result of that criticism and as a result of some imminent changes to police practice, the use of recruiting prison informers to do the job that police used to do has come about.

Commissioner: Yes. I don't mind if you pursue that with the witness, but that's really of a general nature. There's no - is there any reason to think that this witness recruited police informers in that way in the present case?

Mr Anderson: Yes.

Commissioner: You will be going on to put that as well?

Mr Anderson: Yes.

Commissioner: All right, very well.

Mr Anderson: Some version of that.

I read out to Godden Rogerson's comments, including the following:

Verbals are part of police culture. Police would think you're weak if you didn't do it .. The hardest part for police was thinking up excuses to explain why people didn't sign up .. (but one example Rogerson gave was) "the blokes out at Long Bay will see (the signed interview in) my property and think I'm weak for signing up"

I asked Godden what he thought of this and the following exchange occurred:

Godden: To my knowledge he's lying, yes.

Q: Can you think of any reason why he would lie?

Godden: Not really, no.

Q: You mentioned the case of Purdey. Do you recall there was a series of unsigned interviews with Purdey?

Godden: Yes.

Q: Or alleged interviews?

Godden: Yes.

Q: Do you recall that at the end of each one of those interviews there's an excuse as to why the interview has not been signed?

Godden: Well, I - I don't recall them specifically, sir, but it's that long ago.

Q: I just show you one of those interviews, detective, and direct your attention to question 54; question and answer 54?

Godden: Yes.

Q: Could you read out question and answer 54?

Godden: Question: "Are you prepared to sign this record of interview?" Answer: "I would like to. Everything there is right, but I couldn't face the shit from the blokes in gaol by signing it because everyone would know."

Q: Remarkably similar to what Mr Rogerson has told the Sun-Herald last month, isn't it?

Godden: In a way it is, yes.

Q: You verballed Garry Purdey, didn't you?

Godden: I did not.

To complete the matter I asked the following:

Q: You were aware that one of the reasons why videotaping interviews was introduced was to - as a response to the criticism that police verbal people?

Godden: Well, I suppose that would have been one of the reasons, yes.

Q: Yes. And another response to that criticism was to start using prisoners to verbal people, wasn't it?

Godden: No.

Q: You see, you were aware of the checks that were made back in 89 into my prison movements?

Godden: As part of our inquiry, yes ..

Q: You also had some knowledge of where I had been through those checks done by (Detective) Barnett, correct, in the prison system?

Godden: yes.

Q: So when you saw the statement by Priest you knew you would have some reference point where you could go and check up and see "Well, was Anderson in the same gaol as Priest", correct?

Godden: Yes.

Q: Did you make that check?

Godden: I don't recall doing it myself, no.

Q: Did you ever make that check?

Godden: I say, I don't recall it ..

Q: Well, did you make that check in relation to any of the other (four) witnesses if I can put them all together?

Godden: No, I don't think - no sir. I don't ..

Q: Why not?

Godden: I just don't recall doing it. It may have been done by someone else.

Godden was the senior officer who took these prisoners" statements, but he says he never noticed the discrepancy between the date of the first statement (the only one he didn't take) and the others, which fell into line, date-wise. It was after this that he admitted he may have been negligent.

ICAC's answers

I prepared a lengthy written submission for ICAC, but didn't attend the final hearings. The main proposals, in the final days, seemed to revolve around the establishing of a central register of informants which, it was supposed, would provide some efficiency for the prosecution and some disclosure for the defence. Something for everyone. A debate centred around whether this register would be controlled by the Police or by Corrective Services. There was also discussion of whether there should be recommendations about the admissibility of evidence by prisoner informers.

An anomaly had opened up in the law since McKinney's case in 1991, which established a rule of practice that a warning should be given to a jury in the cas of uncorroborated police evidence of "confessions". This was the strongest High Court recognition to date of the danger of police verbal. However there was no rule as to verbal by prisoner informers. No doubt the High Court will have to address this anomaly soon. In my opinion, though, it is meaningless to keep giving juries a series of "warnings" about categories of evidence. Categorically tainted evidence, such as that of prison "confessions" given by prisoners for the prosecution, should simply be inadmissible. All such stories are tainted by the inducements and hoped for rewards. Prisoners are not free agents in such matters.

In ICAC there was some discussion about what recommendations to make in this regard. In any event, while Commissioner Temby was writing his report some Labor Members of Parliament were, preparing a draft amendment to the Crimes Act, which would place controls over this category of evidence. Even some months prior to the ICAC hearings, Shadow Attorney General Paul Whelan had announced a policy of implementing controls. Whelan criticised the evidence for reward system and commented:

The community has a right to be concerned that the use of prisoner informants appears to have replaced police verbals as a means of securing convictions.

What did the ICAC inquiry achieve? A greater recognition of the problem, no doubt. Prior to the inquiry, Attorney General John Dowd had defended the reward system, saying that it was often the only way to get information and that "the crown can't be too fussy about who their witnesses are". It seems unlikely that this head-in-the-sand attitude will retain any credibility. However ICAC having avoided the hard issues and having opted for the path of bureaucratic reform, real controls over the use of prisoner informers will have to come through parliament.

In the middle of the ICAC hearings Ian Temby made the remarkable comment that New South Wales could now be said to be "the moral leader" in Australia, due to its Freedom of Information legislation, better parliamentary accountability procedures and of course the good work of his organisation, ICAC. He commented:

Certainly it can no longer be said that NSW in general, and Sydney in particular, are the places where misconduct is most likely to be found, where abuses of the public trust are most likely to be found, and that's not a bad transformation in a period of .. 10 years. It's truly interesting that all of the scandals that are going on in Australia at the moment seem to be happening in parts of the country other than New South Wales.

Apparently he didn't regard the inquiry he was sitting on as involving any substantial scandal. This was a pretty tactless and tasteless thing for him to say, at that time. It would be far more realistic to conclude, like Mark Twain, that reports of the death of corruption in New South Wales have been greatly exaggerated.

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## 33. JUDGES, LAWYERS & JURIES

At my last count there have been one hundred and nine lawyers involved in my two major court cases, the Yagoona and Hilton matters: twenty-eight for the defence, twenty-five on the bench and fifty-six for the prosecution and assorted other parties, such as the police. Someone made some money out of this business. I met many other lawyers during these and other cases and while some have become very good friends, the profession has been slowly driving me mad.

A number of young lawyers join the profession for idealistic reasons, but I wait in trepidation for their idealism to fade into flannelled paternalism, and their friends and partners to becomes clones of a culture that most often impresses by its sycophancy, conservatism and venality. The vicarious excitement of living life through other people's traumas and tragedies, then gossiping about it socially in mock mimicry of the artificial and urbane forums that come to dominate their safe and protected worlds, was not something that instantly appealed to me. Some people imagine that I studied or, worse still, wanted to study law; nothing could be further from the truth. The system repels me.

The language of barristers, in particular, is full of degrading metaphor: submissions to worshipful and learned colleagues are bundled into eloquent essays that demonstrate, if nothing else, the superior destiny of those "called to the bar". In fact, of course, lawyers are no more "called" to the bar than politicians are called to the service of their nation. They scrabble and grovel to secure a place in that secure and entrenched institution, a veritable ocean of complacent privilege and money.

It does take a certain type of mental predisposition, it seems to me, to make a good barrister. A certain pedantry, an obsession with manners and procedure, and a fascination for the abstract principle that allows people to blur into a hazy background. The first response of one lawyer, who I considered to be friendly, to my being re-arrested and charged was: "what an interesting sentencing dilemma for the trial judge!" This was before I'd had any hearing, let alone trial, and confirmed what I had long believed about the legal profession, and had discovered first while attempting to read law reports: there is little consciousness of a human dimension to their dealings; it is a matter of logic, order and, most importantly, the integrity of the system. Etiquette and politeness become the marks of substance and justice, as well as class and station. It had always puzzled me, on working my way through an appeal judgement, that the one burning question was left unanswered: "yes, but what happened to the person they were talking about?" Usually there was no mention of this, not even a footnote, as the point in principle is all that attracted the interest of the lawyer readers. Yet to me the writer always seemed to have lost the plot, somewhere.

I just want to say two more things about judges and lawyers. The first concerns the pursuit of money and second the insipid politics of the profession.

### Don't mention money

One evening an older woman, a widow who lived in my neighbourhood but whom I hadn't met, rang me up. Her son was in trouble, charged with a serious crime, and she thought I could offer some advice. Having little experience with the law, she was persuaded that her son needed the best lawyers and that she'd have to pay to get them. Accordingly, she'd spent $90,000 to hire a solicitor and barristers for investigations and a long committal proceedings, but was shattered at the end to hear them say that they expected the matter to go to trial. She thought she was paying to have them defeat the case in the magistrate's court, and didn't know if she could afford to pay for a trial. It would bankrupt her. I explained to her what they apparently did not, that hardly any cases are thrown out in the magistrate's court.

I asked her who the lawyers were, and it appeared that they were indeed a capable team. I then asked if her son had a job, and she said no. "Well then, he's entitled to legal aid", I said, surprised, "you needn't have paid anyone". It emerged that she was also under the false impression that people have no choice of lawyer, with legal aid. I explained to her that if she had a private lawyer who would accept legal aid rates, that was allowed. She had spent almost all the money her late husband had left her, yet the lawyers hadn't mentioned legal aid. But why would they? Legal aid rates, while considerably higher than the average wage, were certainly much less than they were charging her.

This woman, already traumatised by her son's ordeal, was having her life's savings destroyed in a few short months by greedy lawyers who didn't even bother to tell her some simple facts. And so far as I can see, they were acting ethically.

A friend of mine who went through a similar long ordeal in a criminal case, and was eventually acquitted on every serious charge laid against her, now faces a $30,000 debt burden for lawyers she hired to defend her. The lawyers were paid long ago: the debt is to friends and banks, and will take a long time to pay, eroding her quality of life and that of her children for many years to come. The relief of her acquittal must be deadened by this constant reminder that the courts didn't do her over but her own lawyers did.

In the anxiety that many people feel when facing a major crisis, involving a civil or criminal court case, they become highly vulnerable to the almost unlimited charges lawyers and in particular barristers make. They're prepared to agree to almost anything to resolve the crisis, and many lawyers prey on this, often in a way that avoids any direct mention of money at the time the initial agreement is made. This emotional blackmail is at the root of the scandalous and extortionate demands such lawyers make. Some barristers make more in a week than many poor people make in a year, and this always strikes me as obscene. I believe daily barristers fees that exceed the average monthly wage are criminal. Some barristers fees are twice this.

## The Courageous Bar

Recently a barrister was giving a talk at the Public Defender's Offices in Sydney about the High Court case of McKinney, which considered the issue of the police fabrication of confessional evidence. There were a large number of solicitors and barristers present. After some comments by the speaker about the regularity of such police verbals, a Supreme Court judge in the audience got up and said, incredulously, "Have I been a fool then for the past

twenty years?". No-one said a word, worried that they might have to appear before him the next day. The old judge went on to talk of the need "not to undermine the police", to a compliant audience. Many of them privately thought he was an old fool, living in an ivory tower; no-one had the courage to say it.

Judges develop bizarre and artificial attitudes to the legal system precisely because it works very well for them. Police are always respectful to them in court, calling them sir, and often guard them and make them feel safe. I was told that a judge hearing a case I was in was a member of the special branch jogging team. That's wonderful for him: security and exercise at the same time. Judges rely on police to provide basic daily information, not to mention clients; they see police regularly and depend on them. And as their own daily routines move along smoothly, it can easily appear that the legal system is humming along and functioning as it should. Add to this that the judges in most cases go home to suburbs quite foreign to the majority of people who appear before them as defendants in criminal cases, and it's not hard to see the origins of the regular gulfs of comprehension in the court room.

This establishes a regular bias in the criminal courts. Judges are habitually deferential to senior police, and often contemptuous of or patronising to those the police oppose. There is little questioning by magistrates of police reference to their list of accusations being termed "the facts". Judges often apologise for asking questions of police, or for taking up their time: an exaggerated sense of politeness that betrays their bias. One one occasion when I represented myself in a magistrate's court, Magistrate Cook commented that he would not have allowed a lawyer to make such an emotional address at the end of the case. What had I done? I'd called the police "perjurers" for their telling lies against me. No doubt he would have preferred me to suggest that they were "mistaken" or "in error" or some such thing. I have never seen such sensitivity to prosecutors, when defendants are similarly attacked.

Prosecutors themselves are rarely ever disciplined, protected as they are through their being both barristers and representatives of the state. My complaint to the Bar Association against prosecutor Mark Tedeschi for his misrepresentation of the evidence in my trial is highly unusual. In the two inquiries I've attended where the issue was raised of calling prosecutors to answer for their conduct at trial, the tribunal has avoided the issue. In the Section 475 inquiry in 1984 Justice Wood refused to call prosecutor Bill Job, and in the 1991 ICAC inquiry, Commissioner Temby wouldn't call prosecutor Mark Tedeschi.

Being a member of the legal profession, and particularly of the bar, confers a certain privilege and protection, for a price. The price is that they cannot speak publicly about the issues in which they're involved, or engage in a controversy which might be seen to affect their profession. This provides a powerful tool for the profession to control the general behaviour of its members, if they wish to retain the considerable privileges of the club. Not only is their behaviour controlled, though, their attitudes are also moulded.

A central problem is that the judges enforce their inbred attitudes on the lawyers appearing before them. Firstly, the only people able to speak for others in courts are those admitted as officers of the court (solicitors or barristers), who owe a primary allegiance to the court, before that to their clients. Judges can "not recognise" a lawyer if he or she is not dressed as they feel appropriate, and they can and do demand the sycophantic language said to engender respect and decorum, but which also powerfully suggests moral and ideological subjection.

Fundamental to the ruling legal ideology is that the existing order, both in terms of principles and institutions, is sacred. This is an ideology, therefore, hostile to change or challenge. "The law", which is to be respected and defended by all officers of the court, is based on a system of precedent which of necessity denies the argument that it may be flawed, biased, degenerate or an instrument of injustice. An argument, for instance, about the constitution will often involve a lawyer supporting an interpretation that the High Court has made to date, whereas an informed non-lawyer may be attempting to argue the position that he or she believes should be taken. For reasons of their training, lawyers often mix their normative with their "legal" attitudes. This doesn't just apply to conservative lawyers.

For instance, in the field of sentencing, lawyers most often judge the penalty given not by any independent sense of what is right, but by the precedent or "tariff" of the system. The two notions become confused. Speaking to a lawyer I consider to be progressive I once expressed my outrage at a friend receiving a seven year minimum sentence for his part in a cocaine transaction. His share of the business would have been two ounces of cocaine, and he was an addict. But "seven years sounds about right", the lawyer told me. "What!" I responded, "Let that judge do seven years - you've got no idea what that means", I replied. "Oh, I meant that's what the going rate is", he tried to explain. The "going rate" is often what lawyers consider to be "right".

To the extent that non-lawyers can gain access to the courts, the law will be opened up to more community participation and may enjoy greater community support. There is a great need, for instance, for non-lawyers or paralegals to be able to represent people in court. This is opposed by the profession because it would undercut legal fees and reduce the rigid ideological control over language and communications in court. For precisely these same reasons, it has to be a good thing. The precedent may well be set by the Aboriginal community, who are most abused by the legal system and have a greater need for affordable and trustworthy representatives, who can best communicate their position to an often hostile court.

The existence of paralegals will also encourage lawyers to deal more realistically with their clients, learning to treat them as people who must be listened to and considered as able to participate in the legal process, and not be utterly alienated by it.

Of course the most important existing involvement of non-lawyers in the legal system is the institution of the jury.

## The jury system

I was not surprised to find my trial judge, Michael Grove,

portraying protest and dismay by my friends and supporters at my jury decision's as an "attack on the jury system". Judges have an interest in portraying the system, within which they do very well, as flawless. If one is to really criticise the jury system though, probably one of its chief disadvantages is that the entire prosecution and judiciary tends to hide behind the skirts of a jury conviction, disclaiming all responsibility for the act.

However I am convinced that the jury system is preferable to trial by judge. Only a brief look at the Diplock courts in the north of Ireland, where single judges rubber stamp the most atrocious frame-ups of political dissidents, is convincing of the superior discrimination of juries, by and large.

None of this is to say that juries do not make mistakes, nor that they may not be misled, prejudiced, naive or overwhelmed by the institutions of the law. Nor that they are not often kept in the dark about police practices or about matters it would be important for them to know. Most of these shortcomings, however, can be construed as powerful arguments for strengthening and extending the jury system.

It is quite remarkable, for instance, that a jury in a long trial is generally given little opportunity to ask questions or interact with the trial process. They are most often passive players, being spoken at, their minds being second-guessed. They are rarely allowed to participate in cross-examination, or to indicate to the lawyers intent on convincing them of some point, just what it is that interests them. They often stare curiously at a similarly impassive accused person, across a gulf of suspicion and non-comprehension.

Juries are also notoriously subjected to the historical blindness of the law. History does not normally exist, in a criminal trial. This is the theory of the disembodied act and the ideal society. There is no history of police practices, no history to a prosecution. The British legal system appears to subscribe to the Henry Fordism: "history is bunk". This is most often done in the name of fairness to the defendant or accused, but it doesn't always work that way; and the failures are often to do with the atomised view of police practice, based in turn on the need to contain damage to the integrity of the system. Each individual police officer's actions must be viewed in isolation.

For instance lawyers know, but juries generally do not, that there is a long history to the police fabrication of records of interview or 'confessions'. Numerous Royal Commissions and High Court judgements have recognised the practice of 'verballing' - putting words in a suspect's mouth - yet not only have the suggested safeguards to verballing been blocked, juries are quite deliberately kept in the dark about the history of the practice. Judges have made themselves willing participants in the maintenance of this courtroom fraud. The practice has now extended to the police recruitment of verballers from the swelling ranks of prisoners desperate to regain their freedom, and willing to trample on the rights and freedom of others in the process.

In the common example, a person with a record for robberies may very easily become a suspect for a robbery, then be verballed for that robbery if he or she approximates the suspect's description. The jury will not see any apparent motive for the police to fabricate the "confession", as the accused person will generally not want to reveal prior convictions, and the judge will remain silent on the notoriety of unsigned "confessions". Acting in this sort of vacuum, juries are often misled.

An individual's history with police is also generally hidden from a jury, as in many cases it would disclose prior criminal convictions and so prejudice a fair trial for the accused person. Yet when there is a history of acquittals, or of police harassment, this is also withheld. This is especially the case when police involved in earlier charges do not give substantial evidence in the more recent charges.

For example, an accused person's prior conflict with one police officer (personal confrontation, prior acquittal) may well be a major factor in subsequent charges laid by another officer. This will never be properly explored if the first officer is not a witness to the subsequent charge, as the judge will inevitably refuse to look at 'corporate' police motivations. This is a matter of judicial ethos; but the jury is again left in the dark.

There is currently one thing to be said for trial by judge, as opposed to trial by jury: judges have to give reasons, and are therefore accountable for their decisions. However this can also be seen as a reason to reform jury procedures, asking that they give basic reasons for their decisions, in particular by indicating what evidence they relied on in convicting a person. The traditional inscrutability of a jury's verdict has been an obstacle to the rational review of convictions, and such additional accountability would make such reviews more rational and less a matter of guesswork. Jurors have enough protection through their anonymity; there is no special virtue in their decisions also being shrouded in total secrecy and unaccountability.

Trial by jury is a desirable institution, but one that needs to be extended to allow for reasonable jury participation in the proceedings, some basic accountability for jury decisions and a fair regard for recognised police abuses and, in some circumstances, wider case histories.

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## 34. THE FALL-OUT

The Court of Criminal Appeal's unanimous judgement of 6 June 1991 put a definite end to the police vendetta against me. There was nothing more for me to prove. However there was a fallout of other issues which carried on after the judgement.

Denning was called to the ICAC inquiry into prisoner informers, and new evidence emerged about his relationship with and favours given by police. I discussed these in the chapter on ICAC, above. None of this stopped Queensland Police using Denning again as a witness, in committal proceedings against Russell Cox. In February-March 1992 Cox was committed to trial in Brisbane for several armed robberies, almost entirely on the word of Denning. Some of these robberies were committed while Denning was an armed escapee in Queensland, in 1980-81, yet Denning denies any involvement. Queensland Police Inspector Ron Pickering has held out Denning's knowledge of the detail of the robberies as evidence of his reliability, supporting Denning's story that he learned of this detail through alleged admissions by Cox. It seems at least equally likely, though, that this knowledge was gained by his own involvement in the robberies. If any conviction is gained on Denning's evidence it will be a dangerous one. Presumably Queensland Police are anxious to convict Russell Cox, and justify the indemnities they'd already given Denning for two other robberies in Queensland.

### Evan Pederick Wants Out

Evan Pederick remains an enigma. One of the few things now certain about him is that he did not plant and attempt to detonate a bomb in the centre of Sydney, in 1978. The independent evidence made it clear that he was unable to properly describe any of the significant events of the 12 February 1978 around the Hilton hotel, nor could the dramatic murder attempt he described in great detail have possibly happened. His motives for making this bizarre confession are much less clear, although it seems plain he is a seriously disturbed person.

The picture of the man who willingly confessed and was ready to wear the consequences had also now been shattered. Evan Pederick is now desperately unhappy with his situation and has been making some unusual attempts to get out of jail. Unusual because, on the one hand he says he is basically sticking to his story, yet on the other he claims there is no justification for him being in jail. He seems to see no contradiction in this.

It's unclear what expectations he had from the beginning. Since a file of documents were leaked from the office of the DPP in mid-1991, it became public knowledge that Pederick had unsuccessfully attempted to gain an indemnity from prosecution, in return for testifying against me. This was not revealed at my trial, where Pederick was presented as a witness who expected no favours. Did he expect to escape a jail sentence entirely, at the beginning? His attempt to plead guilty to manslaughter at his own trial was then unsuccessful. Following this he took advice from a senior barrister over his appeal prospects, and it seems he was told they weren't very good.

In late 1991 and early 1992 he wrote to several prominent people, seeking to enlist their support and saying that he was hoping for an inquiry into the Hilton bombing. He apparently imagined this would be the vehicle for him to get out of jail. He ignored the demolition job done on his credibility by the Court of Criminal Appeal and expressed a sense of grievance that I was acquitted, while he was convicted. His pressing concern is now to be released from jail:

Although nobody is prepared to believe me, I am in prison just in case I am telling the truth .. If I am not to be believed then it must be supposed I am innocent. For the record I should say that my evidence was truthful and .. I have no intention of disavowing it .. On the other hand, there is probably little value in arguing my guilt .. I have been hoping for many months that some form of inquiry into the case would be held. I assume that such an inquiry, unless it decided that my self-incriminating evidence was truthful, would recommend my release .. I don't see why, if my evidence is unsafe and unsatisfactory when it comes to Tim Anderson, it should be good enough against me. I don't see that my continued incarceration serves any particular purpose .. It is hardly satisfactory for the government to hold me for a crime it does not believe I committed.

Pederick is nothing if not a person full of contradictions. A self-professed killer, he presents as polite and articulate, if somewhat pompous. He told the Sydney Morning Herald in October 1990:

You will never find me writing my story. The appropriate forum for telling about the Hilton bombing was during the trial, and I did that. The second reason is that I would like to forget about it .. The third is that it's too grave a matter to make a dollar out of.

By late 1991 he was writing to several commercial publishers, anxious to publish a story he is now said to be writing about the bombing, though exactly which story remains to be seen. At the same time as he writes he says the debate around his evidence has made him unclear about his own story.

Writer John Jiggens, in his book The Incredible Exploding Man, suggests Pederick is a paranoiac, appearing perfectly sane but suffering systematised delusions. The only psychiatrist to have assessed all Pederick's evidence suggests that he is suffering from "factitious disorder .. linked to his psychopathology rather than to ongoing (mental) illness".

His ability to be convincing, in face of the facts, depended on a talent he had to develop a dramatic event with himself at the centre. The compelling nature of his Hilton bomb story was the dramatic moment which he described in the greatest detail, when he said he attempted to kill two prime ministers and dozens of other people in George Street: an event that was positively disproven.

Another similar event was his account of his first meeting with me: he claimed to have sat in an audience of 200 people at an Ananda Marga retreat in May 1977 and to have heard me give a moving account of my visit to the margii leader in India. This event was said to have impressed him deeply. The problem was, I never gave such a speech. I visited India after the retreat in question, and there was no similar function after my return.

To the Sydney Morning Herald he outlined another dramatic event, where he claims to have finally dealt with a "hatred" he says he had for me. The occasion was the first time he saw me in court, which was December 1989:

I spent many years hating Tim Anderson quite passionately and quietly .. I had built him up in my imagination .. Then when I saw him in court for the first time I got a shock. He seemed so much smaller than I had made him, not physically, but smaller in my imagination. My hate vanished. He seemed a pitiful person.

What the reporter did not notice was that Pederick had already given an account placing this dramatic emotional release seven months earlier, in his meeting with Father Jim Brown in Brisbane in May that year. Jim Brown recalled:

At one point of the interview Evan stated that he "hated" Anderson. This is the only word that I can recall Evan actually using. I recall it particularly, as he told me in the Brisbane Watch-house later, with obvious release, that he had been freed of his hatred of Anderson.

Pederick played out the emotional drama of his story to great effect, in my prosecution.

## A Hilton bombing inquiry?

There are certainly a number of outstanding questions, not only about the Hilton bombing but also about the prosecutions which followed. These issues have been pressed by bombing victim Terry Griffiths, by Independent MPs John Hatton and Ted Mack, and by CEFTA. Issues such as the possible involvement of special branch and ASIO in the bombing, the reasons why the garbage bins weren't emptied and the reasons why the Seary story, which police knew to be false, was run in the 1982 Hilton bombing inquest, deserve to be investigated. The New South Wales parliament in December 1991 voted unanimously for such an inquiry, but made its vote conditional on Federal Government involvement. The Federal Government, protective of ASIO, refused.

The danger in an inquiry is that the losers from past frame-ups - Seary, Tees, Denning, Pederick - are already queuing up to seek a chance to rehabilitate their stories. These people having been discredited in long and costly court proceedings, it would be a farce if they were allowed to hijack a Hilton bomb inquiry. Seary and Denning will have to seek their reward money elsewhere and Pederick, if he decides he'd rather be out of jail than be believed, will have to admit his lies in some other forum.

Meanwhile Aarne Tees has also been preparing for a possible inquiry. He claimed to a Brisbane journalist that police have "found" the mystery people whom prosecutor Tedeschi alleged emptied the full garbage bin on the Saturday night, so that Evan Pederick could place his bomb in an "empty" bin. They're said to be members of special branch. He hasn't said if they've also found the other mystery people who filled the bin back up by 6am on the Sunday, when council worker Len Stevens checked it.

The entire story was originally nothing more than an invention by Tedeschi, to cover a major flaw in the Pederick story, but it now appears this ridiculous story has become the official police line. A letter from Police Minister Ted Pickering to Independent MP John Hatton

responds to several unanswered questions about the bombing, questions originally compiled by CEFTA and Terry Griffiths. The list of answers, prepared by Police Commissioner Tony Lauer, includes the following:

Q: Why was the garbage bin containing the bomb prevented from being emptied for three days, even though it was overflowing with rubbish?

A: This assertion is clearly incorrect. The bin was emptied by council workers during the night shift of 10 February 1978 and again between the afternoon of 11 February and about 1am on 12 February 1978.

The arrogant response that the "assertion is clearly incorrect" implies that what Lauer now suggests was common knowledge. In fact this is the first time in fourteen years that anyone has suggested there is evidence that the bin that exploded was emptied on the Saturday evening. However belated police suggestions that Special Branch secretly tampered with the bin are more likely to raise suspicion about what else they may have done with it, rather than add any support to the Pederick story.

This new story is apparently being readied as another smoke screen for any inquiry that may be called into the Hilton bombing. Police have already publicly run no less than five Hilton bomb stories: all have prove utterly false. Where will it all end? Such claims only reinforce the need for any Hilton bomb inquiry to have clearly defined terms of reference.

## Consequences for the Prosecution?

The police attitude makes it clear that they will attempt to defend their past frame-ups to the death, and will admit nothing. Police Commissioner Lauer's responses in Ted Pickering's letter to John Hatton did not even concede that police knew Seary's Hilton bomb story was false.

In a similar vein, Director of Public Prosecutions Reg Blanch has refused to charge Denning, Tees or Pederick over their evidence, despite strong criticism of the trial evidence by the Chief Justice. This is not surprising. It is extremely rare for the prosecution in New South Wales to charge its own witnesses, whatever lies they are caught in. To my knowledge, the prosecution has never charged a crown witness with a perjury related offence in recent times, unless that witness has turned against the crown case.

Reg Blanch has also advised Attorney General Peter Collins that no action should be taken under the Crown Prosecutors Act against prosecutor Mark Tedeschi, despite the strong criticism of his conduct by the Chief Justice, until the complaint I've lodged against Tedeschi with the Bar Association has been heard. In this matter, Blanch is also now a character witness for Tedeschi.

In October 1991 I lodged a complaint of professional misconduct against Mark Tedeschi, with the New South Wales Bar Association. The complaint alleges, amongst other things, that Tedeschi lied about the evidence at trial to my jury and to the Court of Criminal Appeal. The matter is likely to be heard by the Legal Profession Tribunal sometime in late 1992 and is also likely to be something of a test case. To my knowledge no serious charge of professional

misconduct has ever been established against a barrister for his or her role as a prosecutor. So far the protection of prosecutors from any sort of accountability for their actions has been, it seems, absolute. Perhaps that will change.

## CEFTAA and Compensation

Meanwhile CEFTA, the Campaign Exposing the Frame-Up of Tim Anderson added another "A" to its name in late 1991. It's now called CEFTAA, Campaign Exposing Frame-Ups and Targeting Abuses of Authority. It continues regular meetings which look at issues in the criminal system. CEFTAA's newsletter Framed continues as a quarterly, while one of the group's activities is compiling a database of other miscarriages of justice.

In 1991 I applied for compensation for my wrongful conviction and imprisonment, based on the findings of the Court of Criminal Appeal that the prosecution, and therefore the state, was responsible for these. The latest response to this from the Attorney General's Department is that no final decision should be made on this matter until the proceedings brought by Mr Anderson against Mr Tedeschi are resolved.

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## 35. AND IN CONCLUSION

I wasn't sure at first whether I wanted to write another book about my experiences in the criminal system. Two seemed quite enough, and it was difficult to explain the 1989-90 prosecution without going back again to explain the whole history from the 1970s. I was thoroughly sick of association with the case and the false accusations, many years ago. Further, it seemed to me that the prejudice generated over fourteen years was so ingrained that it will never go away. I regularly see instances of this.

However this doesn't mean there is no point in recounting the history. The fact that people constantly ask me about aspects of the whole saga tells me that there is a point to it. It was also the fact that my legal history was so long and complicated, and the prejudice so deep and uninformed, that I decided to go ahead with a third book. It serves a personal as well as, I hope, a wider purpose.

Firstly, as with my first book, I saw the writing of Take Two to be both a catharsis and an opportunity to set down a substantial personal history. To have written about this experience is, in some ways, to have personally dealt with it and to have cleared my life for other things. To set down the personal history is to do now what may otherwise be demanded of me for many years to come, and I've never cherished the idea of repeating jail or courtroom stories in my old age, like an old digger telling war stories.

Secondly, I do see some wider purpose in detailing such a personal history. Just as I don't believe that what happened to me in the New South Wales legal system can possibly be understood without such a history, so I also believe that social systems can often be best understood through the detailed anatomies of such individual histories. I have never looked at my time in the New South Wales prison and criminal system as a complete waste of time. It would have been thoroughly depressing to think that it was.

I decided a while back I could make some positive use of my experiences by attempting to describe and explain what I saw and understood of the system that took over so many years of my life. This book is a continuation of that process and I hope it contributes something to a wider understanding of the New South Wales criminal justice system.

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## 36. 2002 UPDATE

Take Two was published in 1992, and mostly covers events from 1978 to 1991. However the characters mentioned in Take Two went through many changes, later in the 1990s.

ICAC under Ian Temby held another inquiry into the relationship between NSW detectives and Neddy Smith. It was revealed that Smith had been given the 'green light' by NSW detectives to commit robberies, and even murders, after he helped Roger Rogerson avoid prosecution for the murder of Warren Lanfranchi. Many of these events are covered in the docudrama 'Blue Murder'.

From 1994-97 there was a Royal Commission into the NSW Police Force, presided over by Justice James Wood. Amongst other corruption, this Royal Commission exposed massive 'process corruption' - the fabrication of evidence before the courts. However the incoming Police Commissioner, Englishman Peter Ryan, did little to either admit or deal with this problem. In the wake of the Royal Commission, Assistant Commissioner Dennis Gilligan was 'not reappointed' to his position, and so resigned, while Aarne Tees and John Burke also resigned or retired.

The NSW Police Special Branch also got bad press during the Royal Commission. After revelations of incompetence and corruption, the Special Branch was disbanded in 1997, but it was immediately replaced by the 'Protective Security Group', with a similar number of staff and a similar budget. As Secretary of the NSW Council for Civil Liberties (1997-99), I was appointed to a Government committee set up to recommend what to do with the old Special Branch records.

Ray Denning secured his early release from jail, but despite police recommendations did not get the $250,000 reward, and died of a heroin overdose in Sydney's Moore Park in June 1993.

Evan Pederick was eventually allowed an out-of-time appeal in 1996-97. His barrister Michael Williams argued that Pederick's evidence had been demonstrated to be unreliable in fundamental respects. Confessions were sometimes made falsely and Pederick's should be carefully scrutinised (Anabel Dean, 'Bombing confession 'tainted with doubt', SMH, 18 December 1996, p.5). However no new evidence was led by Pederick's lawyers, in particular no evidence was led which might explain the reason for his false confession, and in May 1997 his appeal was dismissed. On 27 November 1997 Pederick was released from Berrima jail, having served eight and a half years.

I am now a lecturer in political economy at the University of Sydney

Tim Anderson
2002