

# **SPEECH TO TI AUSTRALIA**

**20 NOVEMBER 2003**

## **BACKGROUND**

I was telephoned by Grahame Leonard a few weeks ago. He told me someone had told him that the Royal Commission which I did in the early 80s was about to have its 20<sup>th</sup> anniversary. He thought it would therefore be appropriate for me to speak at this general meeting. I asked him what I was to talk about? He said, in general terms: 'corruption', and he would think of a title. When I received the newsletter I found that the title he had chosen was 'Corruption in Australia: the Future Looking Back'. I have just finished reading Don Watson's marvellous book entitled '*Death Sentence*'. In those circumstances the title given to me was looked at by me with bleak eyes. I suspect if I took a poll in this room to ascertain its meaning, I would not have one simple answer.

Accordingly, I have interpreted the request as an opportunity to speak briefly about my Commission, to have a look at what has happened in Australia since that time, but not necessarily because of it, and to indulge in some thoughts about present-day corruption and Australia.

To describe this year as the 20<sup>th</sup> anniversary is not quite accurate. In fact my Commission commenced on the 1<sup>st</sup> of October, 1980, and my final report was tendered on the 26<sup>th</sup> of October, 1984. Accordingly, it is either 19 years since I finished that job, or 23 years since I started it.

Anyway, it is long enough ago for me to pretend that 20 is an approximate figure.

Having regard to that significant gap I thought it necessary for me to refresh my memory. For this purpose I browsed through Volume 1 of my final report. That report consisted of 11 volumes and covered more than 2,000 pages. Of those 11 volumes, five were made public and the other six were confidential. Over the previous 4 years I had delivered five interim reports: in total they comprised nine volumes, of which six were confidential. In the end, of the 20 volumes which I delivered over the period of four years, 12 were regarded as confidential.

The reasons for their confidentiality were varied. There were two substantial ones. The first was that the current investigations were still continuing in relation to some of the matters dealt with in those confidential volumes, and it would have been inappropriate to release details of matters until the investigation was completed. The second reason was that, in respect of some of the matters, charges had been laid and trials were to be conducted, and it was, therefore, felt inappropriate that there should be publication of those matters until the trials were completed. The status of confidentiality was, on my recommendation, and therefore I can't really complain about it. It is somewhat surprising, however, that 19 years after the final report was delivered these volumes still remain confidential. It beggars belief that the investigations have not completed, or that the trials are not over.

In Royal Commissions prior to mine computers had been used basically for word processing and to produce a transcript with an index. You must remember that the first IBM PC had not been produced in

1980. We were provided by the Department of Administrative Services with the use of an ancient IBM 360 computer based in the Health Department and discarded by that department. I cannot remember the name of its operating system but, when we finished in 1984, we were the only organisation in Australia using that operating system. Nowadays one can go to a computer store and buy quite powerful software off the rack which would have been very useful for our investigations. However, in 1980, that was not the case. We started off with the proposition that it was unlikely we would get much help from the members of the Painters & Dockers Union in oral testimony from the witness box and, therefore, we would need to be able to analyse documents held by the Union. Accordingly, we spent the first week of the Commission visiting every capital city in Australia and seizing all their documents. They were to prove a fund of fascinating information. We were provided by the Government with five programmers whose job it was to write specific programmes which would enable us to analyse the data which had been collected.

It became obvious very early in the Commission that a significant service provided by the Union was the ability to provide false identities. This had considerable financial benefit to those who sought multiple pay packets as well as to those offenders who sought protection from the attention of the constabulary. Members were collecting pay packets under two or three or more different names. They were changing their names frequently, and were often using the names of dead members of the Union, of whom, unfortunately, there were a large number. For example, at one branch meeting in Sydney over 20 members were recorded in the minutes as changing their names, sometimes by way of exchange with other members. Accordingly, under the guidance of

Douglas Meagher QC, programmes were written which enabled the identification of aliases.

It was a remarkably successful programme. It enabled the computer to generate, on request, a list of the 15 most likely aliases being used by any member of the Union. The existence of this programme was obviously kept from the Union. It proved remarkably accurate. There were a number of occasions on which members of the Union were called to the witness box and asked about their false names, which the computer had generated. The Union was by now certain there had to be an informer. It was of course wrong in that belief. I remember that on one occasion we called a member of the Union and did the same exercise with him. The Union was certain of the existence of an informer and, what's more, they thought they knew who it was. That unlucky man went for a walk along Beaconsfield Parade that evening and a car drew up beside him and six bullets were put in him. The car sped off. He managed, believe it or not, to stagger round to the Alfred Hospital. The bullets were removed. He told the police he had no idea why he was shot and did not recognise any of the shooters. He refused to say anything further and discharged himself from hospital and went home. One should never doubt the toughness of these people. The following day another member of the Union was shot at the Docks. I would not presume to suggest there was any connection.

When, to the Commission's surprise, the inquiry turned from an examination of multi murders to white collar crime and tax evasion, further programmes were written, specifically directed towards company relationships and interlocking directorships. They were helped by the fact that some evil genius in the tax evasion industry thought it would

inhibit active investigation by the Tax Department of the 'bottom of the harbour' companies if a Tax investigator discovered that a Painter & Docker was one of the directors. It did have that effect so far as the Tax Department was concerned. But it was a goldmine for the Commission with its vast database of Painters & Dockers.

It was an immensely exciting time, but I have never worked harder. Most weeks were six days and, often towards the end, seven. In one year I spent 165 days in hotel rooms. In one week I flew to Perth for a few days hearing, then to Singapore for two days, then back to Perth. I woke up the next morning in a hotel room and didn't know what city I was in. So I decided it was time for a short break.

The movement in the investigation from murder and classic racketeering to white collar crime was an interesting one.

The early part of the Commission was concerned with classic criminal activity: murder, armed robbery, fraud, etc. Those involved were tough men, prone to violence, known to police, but difficult to convict, particularly of murder, because of lack of witnesses. A classic example was the notorious murder of Freddie Harrison in 1958. He was gunned down at South Wharf in front of dozens of painters and dockers. None of them admitted to seeing the murder. Most claimed to the police that they were in the toilet, which was only a two man toilet, or they were in the nearby telephone kiosk making a phone call. They were hard men, but they never pretended that they were innocent. They merely made it difficult for the police to prove they were guilty.

The white collar villains were quite different. They were arrogant and patronising. They never accepted any blame for what they had done. With rare exceptions they were shocked at the suggestion they had done anything wrong. They were immensely cross at the Commission suggesting otherwise. Their anger was at their private activities being made public.

Nothing much has changed. Alan Bond stole over a billion dollars. He pleaded guilty and was sentenced to gaol. Now he says he did nothing wrong, it was always the fault of somebody else. He expressed some regret for the losses he cause to his shareholders, of whom he was one, but none for the creditors whom he left lamenting. He is not unique in this position. The directors of OneTel and HIH seem puzzled at any suggestion they were behaving badly or negligently.

I would now like to jump forward and look briefly at corruption in Australia.

One of the great contributions to the understanding of corruption is the Global Corruption Report produced by Transparency International. The Report includes the Corruption Perception Index. With a score of 8.8 out of 10, Australia rates highly in the world and it is in good company: it shares that position with Norway and Switzerland. You might think that to consider the question of corruption in Australia should be way down on the agenda of important matters. However, it is my opinion that the very fact that Australia can legitimately regard itself as not corrupt which makes a look at the worrying signs in this country all the more interesting. And there are worrying signs, and there have been for quite a long time.

The 'snake oil' salesmen of the 70's and 80's have replaced their white shoes with Armani suits and high volume mobile phones. They have not put away their lack of any ethical values nor have they ceased to lie and cheat.

For a country that is perceived not to be corrupt, a lot has happened here in the last 20 years. There is far too much to detail in such a short talk. Let me recall a few highlights, in no particular order.

- the scandals of WA Inc.;
- the institutional corruption in Queensland under the Bjelke-Petersen government as shown by the Fitzgerald Inquiry;
- the institutional corruption in the New South Wales Police Force as shown by the Wood Royal Commission;
- allegations of institutional corruption in the Western Australian Police Force resulting in the Kennedy Inquiry;
- serious problems in the drug squad in Victoria (and that police force is widely regarded as the cleanest in the country with high standards and leadership of integrity);
- massive corporate scandals of which HIH and One-Tel are current and striking examples; and
- The misuse of Swiss banking facilities seems likely to provide further evidence.

All these incidents reveal a common thread of greed, whether for power or money or both, and lies and secrecy. All these elements are important. Perhaps even more important is the fact that corruption in

public office is essentially a breach of the trust which is imposed by the public on the holder of a public office. That trust is to act in the best interests of the public. It can arise in many forms and under many guises. The holder is dealing with public property and making decisions about that property. The trust is breached when the holder of the office (whether an elected holder or a member of the Public Service):

- prefers his own interest to that of the public;
- misuses his offices for his own private gain or that of his associates;
- accepts bribes in return for action on his part;
- abuses the power he holds, perhaps not for money, but for political advantage or status;
- chooses to use his power to promote friends or relatives in return for past support or in the hope of future support; or
- abuses his power to advance his own career after he leaves office.

It is necessary always to be alert to the presence or possibility of corruption. There is no perfect combination of constitutional structures and institutions which will ensure that corruption will not arise. There is no one country which has produced an absolute answer to corruption which can be applied without modification to other countries. Since corruption inevitably involves the acquiring, disposal and hiding of money, one is faced with money laundering, which in turn demands international involvement, and organised crime. The role of organised crime in corruption is a study in itself. One feature which bears repeating is that the amount of money available from the drug industry provides a capacity to corrupt which is almost without limit. Accordingly it is impossible to look at corruption simply on a national basis in



isolation from other countries. Not only does an individual country have to consider the international mechanisms used to support the corruption; it also has to consider the impact on its relations with other countries of the presence of corruption in its own borders. If corruption involves the diversion of funds from important national expenditure into the hands of the corrupt the national interest is damaged. There are many recent examples. Moreover the concentration by the corrupt on their own personal wealth creation reduces the amount of time and energy available to perform their public duties. In this regard I should pay tribute to the work of Transparency International in its campaign to attack the place of bribery in international business dealings.

Experience has shown that corruption in its full manifestation does not normally appear overnight. An exception can of course occur when a corrupt person takes over control of Government; things can then happen very quickly. However it normally takes time for corruption to spread through the body politic. Warning signs of the spread can be identified. There are many such warning signs which should alert the citizenry to potential problems

There are two features in particular which are a cause of concern in Australia. They both relate to the integrity of our Governments, both State and Federal.

The first feature relates to the growing thrust for secrecy. There is nothing strange or unusual about this. Parties in Opposition make full use of Freedom of Information legislation and Question Time to probe for more information which they hope to use for political advantage. When they get into Government they convince themselves, without of

course any admission that they were wrong, that there are in fact a lot of things which the public does not need to know, or indeed should not know. When I had access during the Commission to numerous Government files I was constantly amazed at the number which bore the stamp "SECRET". It was very rare indeed that I could discover in those documents any information which could not safely have appeared on the front page of the Herald Sun. The careless and indiscriminate application of the stamp had no other purpose than to eliminate the possibility of outside scrutiny of this valuable material, and thus do away with any need for the author to be held accountable. A Government or institution which gives the impression that it is determined to keep its activities as private as possible and removed from outside scrutiny is creating an atmosphere where corruption can more easily flourish. It is not easy to be corrupt if all your activities are open to public scrutiny.

The danger in secrecy is that it becomes an ingrained pattern of behaviour; material is kept secret which ought to see the light of public scrutiny. It is not good enough for Governments and their servants to be the sole arbiters of what should be made public. To place on a document the stamp "Cabinet-in-Confidence" is an easy method of avoiding public accountability.

The second feature, which is of course intimately associated with the first, is the misleading of the public, either by distortion of information or outright lying. A subset of this is a new development whereby Ministers and Prime Ministers protect themselves from access to information the possession of which might be thought to be damaging politically.

All these features are to found in the Children Overboard affair. It is now quite clear that children were not thrown overboard as falsely alleged during the election campaign. It is also clear that this was known to a large number of people including the late but not lamented Minister Reith. It is not clear why the senior public servants failed to advise the Prime Minister of this fact. The public through the Senate Inquiry was prevented from asking them these questions.

This conduct is very damaging to the structure of public accountability. It is also seriously damaging to the essential trust which the public should have in the honourable conduct of their leaders. Once you start to doubt that you are being told the truth about important questions, and once you believe that information which you are entitled to have is being kept secret from you, then you are attacking the heart of the democratic process. You have by those steps provided fertile ground for those who would wish to corrupt. Bear in mind that corruption is not just about money. It is also about the abandonment of ethical standards and in particular the acceptance of the proposition that the end justifies the means. In the end the most important single imperative for avoiding the possibility of corruption is that people should tell the truth.

Let me stress that these features are not in themselves evidence of corruption: they are just an alert that flows from experience; the presence of one or two of these signs in isolation may not be seriously significant. Remember also not to confuse corruption with autocracy or strong leadership or one party government. However it would be seriously negligent not to be concerned at the appearance of any of

these warning signs. Corruption can creep up on a society. It is of its essence that it is kept secret and hidden from scrutiny.

We do not live in a seriously corrupt society. However, there are aspects of our current society which would indicate that some of the preconditions for corruption are already present. If allowed to continue, it should surprise no-one if our place on the Corruption Perception Index slides significantly.