

**VAL CROZIER JOHNSTON, of [REDACTED], company director and councillor and deputy president of Kyogle Shire Council, sworn and examined:**

**CHAIRMAN:** May I take it that you have received a summons issued under my hand?— **A.** I acknowledge receiving it.

**Q.** You have prepared a submission to place before this Committee, which I understand is part of your evidence?— **A.** Yes.

(Submission follows, two pages)

Thursday, 1st October, 1992

Witness: V.C. Johnston

**Submission by Val C Johnston  
Deputy President Kyogle Shire Council  
To  
Parliamentary Joint Committee on I.C.A.C.**

Mr M J Kerr MP Chairman, Parliamentary Joint Committee on the Independent Commission Against Corruption and Committee members.

Thank you Mr Chairman and members for allowing me the opportunity to place before you some issues pertaining to the I.C.A.C. inquiry into procedures at the Bonalbo Depot of the Kyogle Shire Council and the sensitive human aftermath of the aforesaid inquiry.

I believe it is necessary to record a brief resume of my profile and standing within the community to give credence to my credibility to sit before you as a witness.

I am a second generation member of a family who pioneered the Mallanganee - Bonalbo District, settling in the area in May 1908 conducting extensive grazing pursuits and North Coast business enterprises. I have been deeply involved in Community organizations and have been honoured in the presentation of two Ministerial "Certificates of Service" for my involvement and contribution as a Hospital Board Director.

It is my belief that my contribution to this sitting is completely without bias, as my involvement with the Kyogle Shire Council as a elected member, took place on the 17th February 1990. The greater part of the I.C.A.C. inquiry into the Kyogle Shire Council was in the period, years before and up to that date.

The first issue that I wish to address is the insensitive manner in which the investigating officers attached to the I.C.A.C. conducted their interviews in the small village of Bonalbo.

Witnesses and residents were summoned to front the Bonalbo Police Station in full view of all and sundry. A community already being torn apart and polarized, witnessing the character assassination of friends and colleagues, who happened to be summoned for whatever reason.

Surely a better scenario could have been devised in order to protect a persons anonymity and stifle loose and sometimes perverted innuendoes. For example an office should have been located in a larger centre such as Lismore where confidentiality would be secure.

I wish to respectfully submit to the Joint Committee that serious consideration should be given to the establishment of a Counselling service in order that witnesses, and or their families, can be assisted to resume their everyday lives following such a traumatic experience. This aftermath I witnessed first hand at Kyogle and Bonalbo, when sobbing wives and friends of witnesses tried to console each other, following their terrifying stand in the witness box.

It is with some apprehension, following a paragraph in your letter of notification of my appearance, in which you state Mr Chairman, that this inquiry is in public. The word "public" I would perceive entitles the press to be present.

The "Sensationalism" style of media coverage that was allowed can only be described as being abhorrent. A large local newspaper in a weekend edition featured a segment on some of the supposedly "humorous" incidents emanating from the witness box and the bench. I include a copy for your perusal. Again if I may be so bold, Mr Chairman to submit that future I.C.A.C. inquiries should be styled more on what I shall loosely define as the "Hong Kong" I.C.A.C. model.

In conclusion, I wish to state that it will take perhaps years to heal the polarization of friends and workmates, attached to the Bonalbo Depot of the Kyogle Shire Council, in which the residents of the community saw life long friends and workmates, try to reconstruct events that may or may not have happened years before, friends becoming accuser and friends becoming the accused.

Val C Johnston  
Deputy President  
Kyogle Shire Council

**CHAIRMAN:** Is there anything you want to add to that submission?— **A.** I would like to notify the Committee that the Johnston who was reported by Mr Knight in his submission, and in the submissions of ex-councillor Lovell and also ex-councillor Lazaredes, was Sheryl Johnson. I am not that Johnson. The other point I would like to make, on which ex-councillor Lazaredes asked for a ruling and it was not given, is that I am not a witness in the usual meaning of the term. I have not contacted the Committee. I had been invited to give a submission.

We have cleared up the identity problem and how you came to give evidence. Is there anything else you wanted to advise the Committee on?— **A.** May I elaborate on one point in the submission. I refer to the situation that exists where an inquiry such as ICAC takes place and the effects it has on the people in small communities such as Bonalbo. I will give you a description of Bonalbo.

Bonalbo is a small village about one and a quarter hours from here. It has a population of something like 500 people who of course, with such small numbers, know one another intimately. The aftermath of the inquiry in the polarization of the community has been absolutely dramatic. Following that, which I witnessed at first hand because I sat through the inquiry here at Kyogle every day, was the effect it had on wives and friends of some of the witnesses from that small village, whom incidentally I have known all my life. I believe this Committee should look into the aspect and make some recommendation to Parliament that a counselling mechanism should be set in place should another inquiry such as this ever take place in such a small area. It is far different from what I would perceive as an inquiry into a local government happening in Strathfield, where you probably do not know the person four houses down the street. There should be some form of counselling to see what happens to relatives and friends sobbing outside the court house. For weeks and weeks and to this very day there still should be some form of counselling taking place. As one of the local representatives on council, I have an office in Bonalbo where to this day people come to me for some sort of support or advice or help. I believe you should look very seriously into that.

**Mr TURNER:** I come from a small country town myself originally. I grew up in it, so I understand that interlinkage between people, and also the spread of rumour and how quickly it spreads. Do you see a situation where the ICAC should explain clearly before such an inquiry what is the purpose of the inquiry and how it will be conducted, so that you do not have a situation where anyone who is called down to Bonalbo to give evidence would immediately have a taint put upon them?— **A.** Yes.

**Q.** Do you think it could be approached in that pro-active way?— **A.** Yes, I think that, and I believe also that the investigators should be more sensitive instead of summoning people to the Bonalbo police station in full view of everyone. Immediately you pull up outside the police station the innuendo is there 'I always knew he was corrupt'. They should have set up an office. I believe they had one in Kyogle. They should have divorced themselves further than that. They should have set up an office in Lismore where they could have

summonsed a person to go there where no-one knows what is happening. Immediately in the hotel or club, that is what is said that afternoon.

Q. Are you saying that, in the circumstances of this investigation, notwithstanding the report and perhaps the media reports afterwards, there is still that level of innuendo existing?— A. There is still that polarization of the community, which I think is pretty serious.

**The Hon. J. BURNSWOODS:** Do you think it is going to happen anyway, despite the precautions you are talking about? Given that people are talking and people are working together, do you think it is hard to prevent?— A. It would be hard, but I think this Committee should take greater steps to minimise what you are saying.

**CHAIRMAN:** You referred to polarization in the community. Is it your sense that the community is equally divided? Is half the community sympathetic to people who had some adverse findings made against them, and the other half anti-them? Is it the general view that the ICAC's operation was botched? Can you give us some indication of where the community stands on the issue of the ICAC?— A. There would be certain sections of the community who would agree with one half and another section would agree with the other half. I would perceive that if I took you to Bonalbo Bowling Club this afternoon at five o'clock, you would see a group sitting there having a drink and a group sitting over there having a drink, and if I walked in I would think that the best thing I can do is retreat and go somewhere else. If I went there, they would think I am in that camp; if I went to the other group, they would think I was in that camp. I am using myself hypothetically. That exists to this day.

**Mr ZAMMIT:** Was it your impression that the witnesses would have been better off if they had legal representation?— A. Yes, I believe that.

Q. So you think it is imperative that there be legal representation, and the mere fact that you have been called should be the first warning signal that you should get legal representation?— A. Yes.

Q. No matter what it costs?— A. I can only speak of how I think. If I were summonsed by an investigator from any form of life I would need to take my attorney with me, and I believe everyone should do that. You can be tricked into things, or you can be naive or uneducated. I believe you can be tricked. That is how I would operate anyway.

**The Hon. J. BURNSWOODS:** Mr Knight said at one stage that he thought he might have been better off without his lawyer?— A. I do not agree with that.

**Mr TURNER:** Mr Knight said that he received a formal resolution disciplining him, from the council at some stage afterwards. I appreciate that it was a closed council at that stage. Perhaps I can draw on you directly. Was it your view that it was incumbent on you to take that disciplinary action against him because of the report, or was it taken in any event? Did you feel an onus on you to take that? It was only a recommendation in the report?— A. The best way I can answer that is that I voted against that action being taken, and in that case had my name recorded against it. Does that answer the question?

Q. Yes, thank you.

(The witness retired)

**ROBIN LYLE RODGERS, [REDACTED], post office agent,  
sworn and examined:**

**CHAIRMAN:** I think you have received a summons under my hand?— **A.**  
Yes.

**Q.** Have you prepared a statement?— **A.** I have prepared a statement,  
which I would like to read, and to address myself to it with comments.

(Submission follows, three pages)

At page 2 before 'APPENDIX B PART 1 PARAGRAPH 1 the witness said:

\*In my letter to Mr Peacocke I suggested that there be an expert team. I noticed that a lot of the ICAC complaints are in regard to local government, and it would seem to me that there is a need for this team that could look into problems such as Kyogle council, and the matter would be dealt with more effectively and more quickly and probably at lesser cost.\*

At page 2 at end of APPENDIX B PART 1 PARAGRAPH 1 the witness said:

\*In other words, I feel that all witnesses should be treated equal. After all, it is purely an inquiry, not a court of law.\*

Thursday, 1st October, 1992

Witness: R.L. Rodgers

**Submission by Robin L Rodgers  
to the  
Parliamentary Joint Committee on the I.C.A.C.**

Mr Chairman Ladies and Gentlemen

Thank you for this opportunity to appear before this committee. You are aware of my interest in the operation of the I.C.A.C. and concerns that I had in relation to the inquiry into the Kyogle Shire Council. Because of these concerns I wrote to the Honorable Gerry Peacocke MP Minister for Local Government on 15th April last and he has advised me as has your David Blunt that this letter was passed on to this committee for consideration. I will be only to pleased to answer any questions that committee members may have in regard to that letter.

As I stated in that letter I did not want to get involved with the specifics of the Kyogle Shire Council findings nor the personalities involved, but rather to just look at principles.

I thank you for sending a copy of "REVIEW OF THE ICAC ACT DISCUSSION PAPER" which I have read. I feel that I am not qualified on key issues and the questions you raise for submission would be better coming from a person with better legal knowledge than I. However I wish to make some general comment re the second half of the discussion paper "APPENDICES PREVIOUS COMMITTEE REPORTS FINDINGS AND RECOMMENDATIONS".

**APPENDIX A PARAGRAPH 2**

*It must be recognised that reputations can be unfairly and unnecessarily damaged in public hearings. Specific steps need to be taken to guard against this occurring.*

It is very important that the I.C.A.C. not be impeded in its endeavors to reduce corruption and guilty persons should be identified. It is just as equally important that innocent people be protected. In my opinion most of the damage to innocent persons is being caused by selective publicity by the media and premature reporting of evidence. This situation must be corrected.

**APPENDIX A PARAGRAPH 10**

*The Committee notes the comments of Mr Costigan and others about the importance of careful preliminary sifting of evidence before a matter reaches the public hearing stage.*

I note that later in this paper there is a report on the Operation Review Committee (ORC) of I.C.A.C. Surely this committee has a very important function to determine the future course of an inquiry based on the preliminary evidence. It would need to apply the test as to whether the complaints are indeed corruption, under the act. In the case of the Kyogle Shire Council I believe that the preliminary evidence would have suggested careless work practices and the lack of supervision by senior staff. Surely in the true meaning of the word this is not corruption. I would regard corruption as a situation when a person received a personal financial gain, or a higher position than they were entitled to, which would also give financial gain. Therefore the ORC should make a decision to proceed if it is corruption, but if it is only careless practices then the matter should be handed over to the appropriate Government or Local Government body without a Public hearing. After all Government and semi Government bodies have regulations which have to be adhered to. If the matter is in breach of regulations then the O.R.C. should refer the matter to the appropriate body. I was a Commonwealth Public Servant for a number of years and any breach of regulation were

.../2



referred to the Public Service Board. The O.R.C. should monitor the progress of further inquiries by that body. The O.R.C. should also make sure that internal audit functions are effective within all Government and Local Government organisations. Corruption cannot develop and prosper if there is not the climate there for it to do so.

#### APPENDIX B PART 1 PARAGRAPH 1

*The I.C.A.C. must ensure that all evidence it receives is carefully tested and witnesses at hearings will therefore sometimes be subjected to rigorous cross examination.*

In the case of the Kyogle Shire Council hearing I believe evidence was not fully tested. A person can come forward and give evidence to capture the limelight, or have motives against the named person. In the matter of delivery of Metal Dust to Chris Wakley's property verbal evidence was received as to the quantity. It would have been more practical to have had a survey carried out by a qualified person. Commissioner Collins said of Mrs Wakley's evidence in this matter that it was not unsatisfactory in any respect. I prefer her evidence to that of Wayne Albert. A Commissioner should not make comments as to the quality of evidence of any particular witness as his assessment is purely subjective and may not be the situation at all. This assessment could prejudice a later hearing or give unfounded confidence to an informant.

#### APPENDIX B PART 2 PARAGRAPH 2

*Consideration should be given to putting allegations to affected persons before a matter proceeds to the public hearing stage.*

I believe that persons who have allegations made against them should be made aware as soon as possible, so as they can put their side of the story. There is an inherent danger that information given to the I.C.A.C. could be a vendetta against a particular person. Informants will also try to strengthen their complaint by encouraging other informants to come forward. Obviously there can be discussion between people in small communities and the I.C.A.C. could be used to get at an individual or a group of people.

I also feel that preliminary evidence should be gathered as quickly as possible without an opportunity for informants to build on the original information.

I am not happy about diaries that appear at most of these investigations as it may not be the work of the informant and there is no guarantee as to when and where it was written. In the case of the Kyogle Shire Council investigation a reconstructed diary was used and I find this very disconcerting to say the least, when it was found that dates were wrong and I question that also content may have been wrong.

#### **REPORT ON FIFTH INTERNATIONAL ANTI-CORRUPTION CONFERENCE. EDUCATION STRATEGIES.**

I would like to quote King Solomon when he said "*Train a child in the way he should go, and when he is old he will not depart from it.*" Of course today this would be regarded as a sexist statement however we can forgive King Solomon because after all he had 300 wives.

Maybe we could put it as "*Train up a child in the way they should go, and when they are old they will not depart from it.*"

The emphasis should be in educating children to have no part in corruption and not so much to become informants. Prevention is better than cure.

One final point is I feel that there is an anomaly in the findings a Commissioner makes about "affected persons". In the case of persons who it is thought are in breach of the Crimes Act consideration is given to their prosecution and the matter is handed over to the Director of Public Prosecutions.

If its not a breach of the Crimes Act then a disciplinary action may or may not be recommended. The I.C.A.C. should only be an investigating body and any question of further action should be referred to the appropriate body, for their consideration and if disciplinary action is required then they make that decision, as in the case of the D.P.P. where it would go to the courts.

The Kyogle Shire Council investigation found that there was collective culpability and it seems unfair to single out individuals in this case.

Mr Chairman please excuse me when I make one little criticism of your Committee. On the 9th September 1992 you wrote to me regarding the letter I sent to the Hon Gerry Peacocke MP. In the second paragraph you said and I quote "*Enclosed for your information is a copy of a response the committee received from the I.C.A.C. in relation to concerns about the inquiry which had been brought to the committees attention*"

This enclosure was a letter written by the I.C.A.C. solicitor Deborah Sweeney to your committee and it was an appraisal of a letter from Patrick Knight to the I.C.A.C.

Pardon my confusion but at first I thought it was the wrong enclosure. It did not mean much to me as I did not know the content of Mr Knights letter and nor should I. I would question the practice of sending out enclosures that I would regard as internal documents.

Mr Chairman in closing I congratulate this committee for work already completed as given in reports in the discussion paper. I thank you again for taking the time to speak to a lay person such as myself. I have every confidence that due to the responsible work of this committee the I.C.A.C. will become one of the strongest investigatory agencies in this state, which is as it should be.

Thank You.

R L Rodgers

**CHAIRMAN:** I would presume that in the matter of Mr Knight's letter to which you referred, we would have had permission to send it out. I shall refer that to the Secretariat?— A. I found it a little confusing and did not know what the letter was referring to. It was hard to get much from it.

**Mr GAUDRY:** Referring to the last point in your letter, the ICAC sees itself as an investigating, educative and preventive agency, and for that reason it has fairly strongly adhered to the matter of public hearings. The outcome of the public hearings at Kyogle and particularly Bonalbo perhaps was negative. Do you see that that approach to public hearings is possibly not the way for the ICAC to go?— A. I think it is the way to go in certain circumstances. I think it probably depends on the gravity of the matter. As I have already said, in this instance where it was only a breach of existing regulations and probably in the true sense not corruption, then it should not be a public hearing. Probably the perception has already been mentioned, that the community at large would not know the difference between a hearing and a court case. There needs to be a preliminary public education exercise so that the public at large are aware that printed information in the papers is not allegations but just evidence, and treat it as such.

Q. The ICAC would see that as part of their on-going education. Unfortunately for the people caught up in it, the education is a little late?— A. That is correct.

**Mr TURNER:** In your comment about the ICAC in your paper, you suggest they should determine the future course of an inquiry by taking preliminary evidence. Would it come as a surprise to you that the ICAC actually commences its investigations and then informs the ORC at a later date?— A. Yes, it would be a surprise.

Q. Do you believe that the ORC should be in there making fairly strong determinations whether to proceed on a matter?— A. That is for sure. It should come in fairly early. What puzzles me — as I say, I have been a Commonwealth public servant — although I am not up to date with the boards or tribunals we have in local government and semi-government organizations, is that I am sure they are there, and I do not think they are being used. It may be that it should be a function of ICAC to see that these boards or tribunals are doing their job and that a lot of these matters are handed over to them. They could be monitored by ICAC to see that the matter has been dealt with in a correct manner.

**CHAIRMAN:** Thank you very much for your thoughtful submission.

(The witness retired)

**ROBERT HENRY STANDFIELD, [REDACTED], service station operator, sworn and examined:**

**CHAIRMAN:** Did you received a summons issued under my name?— **A.** Yes.

**Q.** I think you have prepared some comments. Is that correct?— **A.** That is correct, yes.

**Q.** The Committee can read that.

(Submission follows, 7 pages)

BOB STANDFIELD.

COMMENTS FOR CONSIDERATION RE I.C.A.C.

1. NEED FOR AT LEAST A PANEL OF 3 TO MAKE JUDGEMENT - NOT ONE MAN.
2. NEED FOR AN IMPARTIAL COMMISSIONER. IT WAS EVIDENT FROM THE OUTSET OF THE INQUIRY THAT COMMISSIONER COLLINS WAS VERY BIASED AGAINST MESSERS THEW AND KNIGHT.. HE HAD CLEARLY PRE-JUDGED THEM AND TREATED THEM WITH CONTEMPT.
3. FROM THE OUTSET IT WAS MADE CLEAR TO ME THAT I HAD TO ATTEND EACH DAY OF THE INQUIRY. ON TWO OCCASIONS I APPROACHED AN OFFICIAL AND SOUGHT LEAVE TO ATTEND TO BUSINESS FOR A FEW HOURS. ON EACH OCCASION LEAVE WAS ALLOWED BUT THE OFFICIAL WAS VERY RELUCTANT TO GRANT THIS LEAVE. HOWEVER, WHEN I SUBMITTED MY COSTS FOR APPEARANCE ( I EVENTUALLY WAS CALLED TO GIVE EVIDENCE AT A FAIRLY LATE STAGE IN THE INQUIRY), I WAS ONLY ALLOWED TWO DAYS EXPENSES AND DESPITE CHALLENGING THIS AMOUNT MY EXPENSES HAVE BEEN DISALLOWED.
4. THE PRESS SHOULD BE COMPELLED TO REPORT FAIRLY AND HONESTLY AND GIVE A BALANCED VIEW. THE PROSECUTION'S SUMMING UP WAS PUBLISHED IN FULL AND IMPLIED THAT THIS WAS THE FINDING OF THE COMMISSION - THIS HAD INCREDIBLE REPERCUSSIONS IN THE ENSUING ELECTION CAMPAIGN.
5. THE CREDIBILITY OF ( WITNESSES - ACCUSERS ) SHOULD BE THOROUGHLY INVESTIGATED BEFORE AN INQUIRY IS WARRANTED.
6. THE COMMISSIONER HANDLED THE INQUIRY ON THE PREMISE THAT YOU WERE GUILTY UNTIL YOU PROVED YOUR INNOCENCE.

SUBMISSION BY R.H. STANDFIELD

Since the matter of my pecuniary interest in the awarding of tenders to my brother, E.J. Standfield, by the Kyogle Shire Council has been considered by the I.C.A.C. I have spent much time thinking about it.

I was brought up in a farming community where straight forward behaviour was, and is, regarded as a virtue. During my 13 years as a Councillor, I have tried and, I had hoped, succeeded to be honest and fair in all matters that have come before the Council.

I will try to make this submission as straight forward and uncomplicated by legal type of argument as I can. I have read the transcript of my evidence to the I.C.A.C. relating to the two occasions where I did not declare a pecuniary interest and summarise them as follows:

1. February 15, 1988.  
I did not declare a pecuniary interest.

My intention, prior to the meeting, was to take no part in discussion or to vote, not because I believed I had a pecuniary interest, but simply because it was possible that others might think so.

In the event, the controversy concerning Noel Piggott made me forget this intention and I took a minimal part in discussion and I did vote.

2. August 9, 1989.  
I did not declare a pecuniary interest.

I took no part in discussion.  
I did not vote.

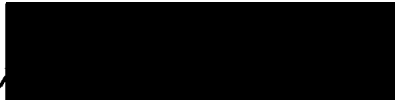
Following the conclusion of the I.C.A.C. Hearing in Kyogle, I have with some difficulty, read Section 46C, Section 46A(5) and the definition in Section 46A(1) of the Local Government Act. I now understand that if any matter comes before Council, in which a relative of mine has an interest, I have a legal responsibility:

1. To declare a pecuniary interest.
2. To take no part in discussion of the matter.
3. Not to vote on the matter.

- At the time, I attended the two meetings referred to, I believed that pecuniary interest meant that I stood to gain or lose some financial benefit from the Council decision. I had absolutely no knowledge that the Local Government Act, Section 46A(5) made my brother's interest, my interest.

I am aware that my ignorance does not avoid my responsibility, however, there are three matters I would ask the Commissioner to take into account, apart from those mentioned already.

1. Had any person, Councillor, Council Staff or even a member of the public in the Council Chambers at the meetings, suggested to me my proper course of conduct, I would have immediately complied.
2. If concealment of a relationship forms any part of the reasons for the enacting of the provisions of Section 45, it should be noted that at all times all Councillors, Staff and the general public in Kyogle knew that H.J. Standfield and I are brothers.
3. I enclose copies of Newspaper articles which deal with the matters discussed here. I have suffered, and will suffer for many years, the effects of this condemnation in both a personal and a business sense.



(R.H. STANDFIELD).



INDEPENDENT COMMISSION AGAINST CORRUPTION

29 August 1991

Mr Robert Standfield  
[REDACTED]  
[REDACTED]

Dear Sir

INVESTIGATION: KYOGLE SHIRE COUNCIL

I refer to your appearance to give evidence at the hearing in aid of this investigation.

During the course of your appearance you were asked questions concerning your participation in two Council meetings at which proposed contracts between Council and your brother H J Standfield were discussed.

Counsel assisting the Commission, Chris Maxwell QC, has submitted that the Commissioner should specifically express observations of an adverse nature regarding your conduct. I attach a copy of the relevant portions of the oral and written submissions.

The Commissioner wishes to give you an opportunity to make submissions in reply prior to his forming a concluded view on this matter. Accordingly, you are invited to make written submissions to the Commission. If you wish, you may have a legal adviser reply on your behalf.

Written submissions should be received by the Commission by 12 September 1991. If you require any further information, you may contact the undersigned by telephone on (02) 318 5999.

Yours faithfully

[REDACTED]  
Jan Daly  
Lawyer



# Statute of limitations saves councillor: ICAC

## Countrycarna draw out tomorrow

The draw for *The Northern Star*-NRDBA Countrycarna Bowls, starting on Saturday, will be published tomorrow.

The carnival will continue daily until September 5.



CR STANDFIELD

Kyogle Shire councillor Bob Standfield could have been prosecuted for failing to declare a pecuniary interest in 1988, but was saved because the limitation period on prosecutions had expired, the Independent Commission Against Corruption was told in Sydney.

Cr Standfield's conduct had been 'ill-befitting the proper role of a shire councillor', Mr Chris Maxwell, QC, said in his closing submission to the ICAC.

Mr Maxwell is counsel assisting the commission in its investigation into the Kyogle council's roadworks since 1987.

*The Northern Star* is publishing edited versions of transcripts as they become available from the ICAC hearing in Sydney.

Mr Maxwell referred to Cr Standfield's failure to declare a pecuniary interest at a 1988 meeting at which the council endorsed an earthworks contract with his brother, Mr IJ 'Murphy' Standfield.

Cr Standfield had also failed to declare a pecuniary interest at another meeting which awarded a gravel haulage contract to his brother.

Mr Maxwell: It's suggested that this is an extreme example of a breach of this section (of the Local Government Act) and had not the limitation period expired, you'd have no difficulty expressing the opinion that a prosecution be considered... it's suggested you would express an adverse view of his conduct ill-befitting the proper role of a shire councillor.

Other suggestions put by Mr Maxwell in the first part of his closing submission included:

- Investigations into the gravel haul-

age contract did not reveal evidence of corruption.

- Mr Murphy Standfield would 'obviously lie when it suits him'.

- A bank manager and an earthworks contractor had contradicted evidence given by Mr Murphy Standfield in relation to a bank loan application and an earthworks tender.

The ICAC investigation, has boiled down to three major areas:

- The awarding of an earthworks contract to Mr Murphy Standfield for the Wiangaree deviation roadworks in 1988 on the Summerland Way, north of Kyogle.

- A gravel haulage contract between Mr Murphy Standfield and the Kyogle council.

- Work practices at the Donalbo depot.

Dealing with the Wiangaree contract, Mr Maxwell summarised nearly a month of evidence given at Kyogle and in Sydney.

He said the main issues were:

- Why the council advertised for an open bowl scraper (the contract was awarded to Mr Murphy Standfield to use an elevating scraper).

- Why the council did not re-advertise when the shire engineer, Mr Patrick Knight, changed his mind about what machinery to use; (an action which 'could be viewed, as neglect of duty by Mr Knight').

- What caused this change in thinking.

- What part Mr Murphy Standfield played in the contract being awarded to him.

Mr Maxwell still has to deal with the Donalbo matters in his closing submission.

## Ballina men charged with serious assaults

An argument over a pizza ended with two Ballina men being charged with 'serious assaults' at the weekend.

Police alleged the men became involved in a dispute with a 19-year-old Ballina woman over a pizza at Raamon's Pizza Bar in River Street, Ballina, about 3.30 am Saturday.

One of the men allegedly spat in the woman's face and threw the pizza on the floor.

When the woman got up to leave, the man allegedly punched her in the face.

The man then allegedly punched a male bystander a number of times in the head and body when he tried to help the woman.

The second offender then allegedly became involved in the fight between the two men.

A 20-year-old Ballina man later was charged with one count of indictable assault and offensive language.

A 25-year-old Ballina man, was charged with two counts of indictable assault.

Each was bailed to appear in the Ballina Local Court on September 26.

# QUIZ LOOK

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## Weather

**NORTHERN RIVERS:** Cold night, early fog patches. Mild mainly sunny day. Light winds, tending north-east to north-west, coastal sea breezes.

**OUTLOOK:** Tomorrow to Friday mainly dry. South-west change tomorrow.

Yesterday's Lismore maximum, 20.8; minimum, 6; humidity 30 percent; no rainfall.

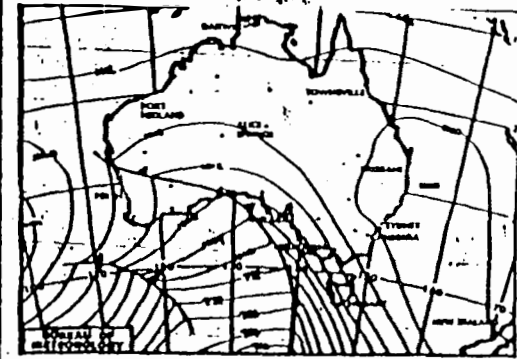
Today's forecast maximum, 24.

**COASTAL WATERS:** No wind warning. Winds variable, tending north-east to north-west, 5/10 knots. Sea 1 metre. Swell 2 metres. Fine.

**TIDES:** At Ballina Bar: High, 9.23 am, (1.4m); 9.30 pm, (1.6m).

Low, 3.20 am, (0.2m); 3.16 pm, (0.3m).

Sun rises 6.08, sets 5.30.



A high pressure system was located over New South Wales with a new centre forming off the coast near Sydney; the high would move into the Tasman Sea today. A large cloud mass has spread south-east through eastern Queensland ahead of an upper air trough. The cloud would be pushed east out of Queensland later today. A cold front was passing the coast today.

## Chaelundi bill

# reet section could be losed for playground

llon of Martin Street, Ballina,  
closed if the Department of  
Education has its way.

Member for Ballina, Mr Don  
n announcing that the play-  
at the Ballina Public School in-  
partment is to be extended, said  
was backing moves to close a  
of Martin Street so that the  
department could be joined to  
lina Public School.

street now divides the two

Page said negotiations were pro-  
g for the purchase of 786.2 sq  
of land adjoining the infants  
ound.

ere are 263 children in the in-

fants' department and enrolments are  
predicted to increase," he said.

"The existing site is too small to pro-  
vide enough playing space for the chil-  
dren but the extensions should improve  
this situation."

Mr Page said he was keen to see the  
infants and primary sites amalgamated.  
He said this would involve the closure of  
a short section of Martin Street.

"I know the Department of School  
Education is supporting me on the  
amalgamation issue and I have written  
to each Ballina Shire councillor asking  
for their support," he said.

"The council will have to consider the  
implications for traffic flow but I am  
hopeful it will approve the closure of  
that small section of the street."

# Contractor tells on 'false' offer

By RUSSELL ELDRIDGE

A Kyogle earthmoving  
contractor told the Inde-  
pendent Commission  
Against Corruption yester-  
day how he missed  
out on quoting for a  
Kyogle Shire Council  
contract because of  
'false advertising' by the  
council.

The contractor, Mr  
Noel Piggott, said that a  
newspaper advertisement  
in February 1988 called  
for an open bowl scraper.  
He did not apply because  
he owned an elevating  
scraper.

A few weeks later, the

council awarded the con-  
tract, without re-advertis-  
ing, to another contractor  
with an elevating scraper.

The successful contrac-  
tor was Mr H J 'Murphy'  
Standfield, brother of  
Kyogle shire councillor  
Bob Standfield.

The ICAC is investigat-  
ing council roadworks  
since 1987.

The earthmoving con-  
tract, for the \$1.4 million  
Wiangaree deviation on  
the Summerland Way,  
north of Kyogle, dominat-  
ed most of the hearing  
yesterday.

Mr Piggott gave evi-  
dence that after the  
advertisement was placed,  
he noticed a new elevating  
scraper on Mr Murphy  
Standfield's property.

"I thought something  
was going on, so I attend-  
ed the next council meet-  
ing," he said.

"Tenders had only just  
closed and I was suspi-  
cious."

At that meeting, the  
councillors endorsed the  
decision to award the con-  
tract to Mr Standfield.

During the meeting Mr  
Piggott accused the coun-  
cil of false advertising and  
demanded tenders be re-  
called.

He said the shire clerk,



CR STANDFIELD

Mr Phillip Thew, had  
then asked the shire engi-  
neer, Mr Patrick Knight,  
if there was time to re-call  
tenders. Mr Knight had  
said there was not.

Mr Piggott yesterday  
denied a suggestion by  
counsel for the shire coun-  
cil, Mr Stephen Norrish,  
QC, that his scraper was  
unsuitable because it was  
old and unreliable.

Mr Knight was back on  
the witness stand again  
yesterday, facing detailed  
questioning on his deci-

sion under delegated au-  
thority to award the con-  
tract to someone with  
non-conforming equip-  
ment.

He was questioned at  
length by Assistant Com-  
missioner Mr Bruce Col-  
lins, QC, about his prior  
knowledge of RTA fund-  
ing, soil types and equip-  
ment suitability.

Mr Knight also spent  
some time describing his  
responsibilities. He told  
Mr Norrish he had never  
made any decision with  
improper motives.

An engineer with the  
NSW Roads and Traffic  
Authority, Mr Doug Sal-  
keld, gave evidence that  
as area engineer at the  
time of the deviation pro-  
ject, he was satisfied with  
the council work.

He also described Mr  
Knight as a competent en-  
gineer.

Cr Bob Standfield also  
took the witness stand.

He said he regretted his  
decision to vote on the  
matter concerning his  
brother. But he also said  
he had never discussed the  
matter with his brother  
before the meeting and  
had only become aware  
his brother had quoted for  
the job when he saw the  
council papers.

# ducation a family affair

nellabah Primary School Year 2 student Adrie Harrington, 7, reads to his sister, Sasha, 4, and  
er Adrian during Education Week celebrations at the school yesterday. Under the Aboriginal Literacy  
and Numeracy program, children spend time reading to parents.

Picture: DARCY McFADDEN

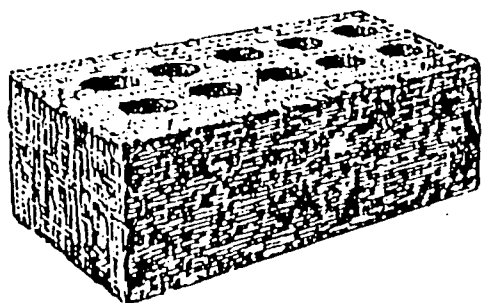


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**FABRIC CLEARANCE**  
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 See Page 79 of this paper

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Police Forensic Services were called to the Friedrich property late on Friday night to begin their investigations.

However, poor lighting and visibility meant detectives had to wait until first light yesterday to get inquiries under way.

Police said Friedrich's body was found by a relative or friend who lived on the property. It was not known where Mrs Friedrich was at the time.

In February 1990, while a liquidator's hearing into the NSC collapse was continuing, Friedrich was the apparent victim of a sniper attack. A bullet hit a fence less than a metre from where Friedrich was standing in the doorway of a farmhouse.

And, consequently, he said the NSO had international political and paramilitary connections.

Negus, who has spent the last six months interviewing Friedrich for a TV feature, says he is still baffled by the enigma.

"I don't know if he was John Friedrich or Johan Honenberg - I don't think he was really either of them," says Negus.

"He was a man with no past, no present and no future. As he said, he was a non-person.

"He was either a con-man, a pathological liar, a wild romantic or a spook - all are possibilities.

"This is not a simple story but he was not a simple man.



Max Elise: sad for family

"We still do not know who is dead or why he is dead."

Throughout the six months, when the pair spoke virtually every day, Friedrich refused to mention any aspect of his life prior to 1975.

As for the reasons behind Friedrich's motives, Negus said no theories should be dismissed.

"It could have been a conspiracy or a stuff-up, no one will ever really know," he said.

"Or it could all be a figment of his considerable imagination."

JOHN FRIEDRICH WAS found shot on a favorite hilltop near his Victorian home, just 24 hours after completing a book about his life, it was revealed yesterday.

His body was in a padlock, a gun beside him.

The former NSC chief had spent his final moments in solitude on his favorite hilltop near the family home, homicide squad chief Inspector John Morrish said.

No suicide note or indication of Friedrich's intentions was found.

Publishers William Heinemann said Friedrich completed the first draft of the as-yet untitled book on Thursday. It is to be published in October.

But the publishers'

spokeswoman, Hannah McFarlane, said the manuscript was unlikely to resolve the many issues surrounding Friedrich.

Mrs McFarlane said the book raised more questions than it answered.

Former NSC chairman Max Elise said yesterday he felt sad for Mrs Friedrich and her three children.

Mr Elise said he was associated with Friedrich for 12 years but they had never mixed socially.

On July 3 Mr Elise was ordered by the Supreme Court to pay \$96.7 million to the Commonwealth Bank.

Handing down the order Mr Justice Tadgell said Elise's situation was a matter for sympathy as he was a victim of Friedrich's extensive fraud.

# Brothers in on council 'rorts'

## ICAC inquiry told

By WARREN OWENS

A NSW council paid more than \$100,000 to the brother of a councillor without calling tenders for the work involved, an Independent Commission Against Corruption inquiry has been told.

Kyogle Shire Council, in northern NSW, also used State Government highway funding to carry out private roadworks for local farmers and on minor roads, contrary to funding agreements, the inquiry was told.

Up to 30 farmers had private roadworks carried out. Some paid the council, while others had the cost paid either by the council or booked to the Roads and Traffic Authority (RTA) - without its knowledge.

vate bridge with some of the wood. The council would keep the rest of the wood for its own bridges.

The ICAC hearing last week focused on Kyogle Council's controversial handling of a grader contract for construction of a new section of Summerland Way.

The contract was awarded to Mr H.J. (Murphy) Standfield, brother of a shire councillor, Bob Standfield.

Murphy Standfield paid \$50,000 for a grader to carry out \$16,000 worth of work on the road project, two days after a council staff letter advised him that he had the contract.

Three days later, the council was asked to approve the decision to award Mr Standfield the contract - and told that it should not undo the decision because he had already bought the grader after receiving a council officer's assurance that he had the contract.

The original five-week council project continued for 18 months, with the original \$14,000 payment stretching to more than \$105,000 - and possibly as much as \$140,000, according to some documents.

Tenders for this work were never called, despite legal and departmental requirements, according to Mr Maxwell.

Shire councillor Bob Standfield voted to approve his brother's contract.

**CHAIRMAN:** Is there anything you wish to add to those comments?— **A.** I would like to underline the second point. I felt that was one of the worst things I saw. They were professional men in high standing in this district. It could not be said that everyone is on their side, but I felt that these two men did not deserve the harshness that was brought to bear on them early in the hearing. I think it was a gross injustice — the biggest injustice I have ever seen done to anyone. It was not called for. Even if it had been totally criminal, I do not think that was called for under our Westminster system. I stand to be questioned on anything else in my comments.

**Mr GAUDRY:** You make the point that the prosecution's summing up obviously came out at the time of the local government elections. Is that the case?— **A.** That is very much the case. I think the copy was put here on the table, of the newspaper with the prosecution's summing up of the case at that stage, and that was read by a lot of people. The impact of that was quite hard to wear at that time, not only by me but also by a lot of others. It was taken categorically by a lot of people as being the finding. In spite of that, no consideration was ever given to the type of people in country areas that they were dealing with at the time. It could be said that it was irresponsible, and it has not been retracted by anything else.

**Q.** What was the time from that summing up to the actual report?— **A.** It was months, I am sure.

**The Hon. J. BURNSWOODS:** That was in January, and the report was in August 1991?— **A.** The hearing had just finished in Sydney when the *Express Examiner* came up with the article.

**Mr GAUDRY:** In Mr Lovell's evidence he said that it might have been you who said that you were not represented by a solicitor?— **A.** Yes.

**Q.** On the advice of ICAC?— **A.** I went to some trouble. I was very unsure of myself, because it is not one of my fields to be in, and I approached solicitors, three of them, locally, and they were of mixed feeling what I should do. To top it off then, and comments from people left you more in the woods than you were with your own thinking, I really honestly thought I had done little wrong. I should be somewhat clear, only my ability to handle myself in these situations is probably limited. So in the final summing up I phoned the Commission, Jan Daly, and she was somewhat vague. She went through it, and virtually from her and one other solicitor I took a gamble and went along. I have to be fair here. Commissioner Collins gave me a very good hearing. Jan said I should get a good hearing, but a legal bloke from the oppositin or something could probably take me to task if he cared to. But she felt I would be right, and she was right. I must admit that the way he treated me was more than humane.

**The Hon. J. BURNSWOODS:** Going to your second comment, where you talk about Commmissioner Collins being very biased, I was reading some of the quotations from your comments and the story you were giving before. Did you think that articles about him complained more about the legalistic nature of the hearing and the way they were treated from that point of view? Are you

suggesting that he was actually showing personal feeling against those two?—

A. If I was seeing feeling against a person that day, and I always try to be conscious of people's feelings, it certainly showed up very badly against him. It was a sort of semi-venedetta going on with him and Steve Norrish, in a hearing which I felt probably should not be aired, and I do not think I would be the only person who picked that up — who has the highest IQ or something was going on.

Q. You did not feel that Mr Collins was at all biased against you?— A. No, I am submitting that he was very fair. In fact he let me go out feeling reasonably good about myself.

Q. Did that difference flow through with others too?— A. I think he was conscious about people who it was said were somewhat illiterate and things like that, who I think he did get into hearings. He had, as was submitted here today, the ICAC witnesses did get a better run than the council or the people who were up against the prosecutor, and I think that was quite open. One thing that came out was that Doug Sherville, the RTA engineer, gave evidence for half an hour, good, precise evidence, on the operation of this side council on the Wiangaree deviation, which at all times with all the questions asked was highly professional. You would not be the regional engineer of this area otherwise. Everything was done. The job came out with no mistakes. You could not be critical of the way and they could not extract anything out of it. In all these reports there is not one word of that professional man's credibility, and he was credible. In his own field he would be equal to them in their field, but no-one has seen fit to comment on his evidence. He was there for quite a few days before he was called on to give it, but when he did give it it was so precise and it came down on the defending people's side, that no-one on their side had the capabilities to even make it look anything else but an extremely good job. It was an extremely good job. Any job of a million dollars today that comes in a couple of hundred thousand underneath estimates has to be considered well done.

**Mr ZAMMIT:** On a light note, on point number 4, regarding compelling the press to tell the truth, fairly and honestly and all that, I met some months ago with the High Commissioner from Kenya to Australia. They have just now gone to a multi-party system of democracy and all that and a free press. I said to him, 'What are some of the problems you experience in Kenya?' He said, 'The press. I cannot put up with the press. They tell lies and they twist the truth.' You see, Kenya has problems with the press, so how do you think we should compel the press to report fairly and honestly? What mechanism do you think we should have?— A. I think some of the findings and some of the facts of the hearing, just what I related, Doug Sherville, that sort of witness could have been reported. There is not a word of that, and the Commissioner does not even say he was a credible witness. He might as well not have been there.

Q. How can we compel the press to report as you say? What sort of mechanism should we have there?— A. If I heard right, the Commissioner said at the beginning of the hearing that there would be fair reporting on it, equally on both sides. It certainly was not. That is probably supporting your argument that you cannot do it, but I think it is something we should look at very carefully. I will go a bit further. My relationship with Patrick Knight was questioned fairly well. It even came out in the press. And every day, from here to Sydney, my relationship with my brother was never reported rightly. It was always the implication that these two blokes had a million-dollar industry going for themselves. It does sting a little.

Q. The fact that ICAC themselves said there will be fair and honest reporting and so on, makes it incumbent on them the following day or the next days after the hearings, if they feel that the reporting has been unjustly reported or unfairly reported, to take issue with the press?— A. I find it a difficult one. I am probably a supporter of the press. If it was me in charge I would like the press to be here listening to this. The only way the public will get to know and understand the hierarchy is probably through the press. It has to give both sides of it. That is what is so overbearing in an area like this. People have not even got to my height, and I find it very difficult. At Bonalbo you would probably only speak to ten or twenty people a week, and all of a sudden they find themselves split wide apart. It is a very cruel operation. If anyone thinks about these local areas, people are fiercely independent individually. Put them in a group and they find it very difficult to operate because they have not had that training or that social contact. I know that country people find it very difficult to bring them together.

Q. In regard to page 77 of the Report, in which at the top of the page Commissioner Collins is concerned that you were involved in the debate at the council where contracting work of a very considerable value to it 'was awarded to your brother, and you actually participated in the debate'. Is that right?— A. No, it is not really right. I have always been very conscious of favouritism in high positions. There had been a contract in days gone by, and I have seen things with mill managers and that which have not been fair. I have been caught up in a couple. I have been lucky enough to progress a bit, and I thought that was one thing that will not come in my make-up. I have always known that he was my brother. As brothers we would be as well known as any two brothers. We get along well, we do not work together, we do not give one another much favour. I had no intention of giving any favour. I made one mistake, it might have been on the scraper hire. I knew I was not to vote, but in the turmoil and a bit of tension that was generated, when it came to it, I put my hand up. It made no difference whatever. The thing was foregone; if I had not been there, the decision had been actually made and the report explains that. At Tabulam where it was, I certainly did not take any part in it. I did not have to. It was another foregone conclusion. The quote on the tender for sand and gravel was a foregone conclusion. As soon as you opened the agenda, Blind Freddie could see who had to get it.

Thursday, 1st October, 1992

Witness: R.H. Standfield

Q. How long would the debate have taken?— A. Which one?

Q. In both instances where you actually stated — ?— A. The Bonalbo one I would say ten or fifteen minutes, and the one in town might have taken fifteen or twenty minutes, because there was more to and fro-ing. If David Lovell would probably have been the president there would probably have been full time on it. I was very conscious of both of them, not to play a part in it. But I was wrong. I think Collins said the right thing there, I have corrected my ways on that one.

Q. I think you did prepare a submission for ICAC. It was your response to a letter you received?— A. Yes.

Q. I think that letter from ICAC was dated 29th August, signed by Jan Daly, and you prepared a statement. I think that is sufficient to identify it. That was tabled as part of your evidence?— A. Yes, I was not aware.

**CHAIRMAN:** Thank you for your evidence.

(The witness retired)

**ROBERT GEORGE BODEN, of [REDACTED], shopkeeper, sworn and examined:**

**CHAIRMAN:** I think you have received a summons under my hand?— **A.** Yes. I am not in any way involved in the ICAC hearings in any way except as a taxpayer and ratepayer.

**Q.** Would you like to make some observations in that capacity?— **A.** I have prepared a sheet.

**CHAIRMAN:** We can take that in as part of your evidence.

(Statement follows, one page)

Thursday, 1st October, 1992

Witness: R.G. Boden



Councilor Berwin Smith proudly claimed to be the instigator in getting the I.C.A.C. to come to Kyogle.

During this period Berwin was going through the last of a long line of traumatic events, he lost his home, his farm and everything he spent a lifetime working for through circumstances he was unable to control.

Anyone going through such an event or even circumstances remotely like it will know the feeling of having the fates conspire against them. I believe these events affected Berwin's judgement for he not only saw hidden conspiracies in the Council, but also in the "Fabian Society" working with the Labour Party on a hidden agenda and a "Big Brother" society run from a bomb proof building in Canberra housing a computer with personal files. He also spoke to me of a conspiracy to dispossess farmers of their land through the Total Catchment management Plan.

Notwithstanding this, his standing in the community as an honest hardworking person and a Shire Councilor he had the right to have his suspicions investigated by the I.C.A.C.

It was the manner in which the I.C.A.C. carried out this investigation that caused an incredible waste of public money.

After the I.C.A.C. decided that there was a need for an investigation it should have been carried out initially by people with the appropriate skills for the complaint appointed from outside the I.C.A.C. as any permanent investigators from the I.C.A.C. could not have all the expertise in such diverse areas, and they also have a pecuniary interest in having the investigation continued or expanded.

If the accusation is about engineering practices then it stands to reason that the person making the initial investigation should be a practising engineer.

Similarly, if the accusation is of corrupt accounting it should be an auditing accountant who does the initial investigation. If it is corrupt council practises then it must be someone who works in that area so he knows what is acceptable and what is not.

Apreliminary hearing should be held presided over by a member of the I.C.A.C. to hear the allegations from the people who made them, and from the competent investigators and the people concerned in the allegations to determine if further investigations by a full I.C.A.C. is warranted.

If this had been done I believe this is where the Kyogle Investigation would have ended saving the public vast amounts of money.

If it was decided to continue the independant investigators would be used to brief the assistant commissioner and his assistants in these special fields which would have saved a large amount of time of everybody concerned which equated with even larger amounts of money as these men of the judiciary struggled with such trivials as the difference between an open bowl scraper and an excavator and their appropriate use, the complexities of council accounting and of appropriate council management. They were completely unprepared for the task they undertook.

Many of the incidents investigated by the I.C.A.C. were not corrupt but petty crime and could have been better handled by the police.



**CHAIRMAN:** Thank you?— **A.** The only other thing I would like to say is that the damage to people's reputations here is bad enough by the ICAC but it was the press that did it. In a small country town it is the headlines that do it. You have written up the accusation of the topics in print, but 40 per cent of the people read what is written in big type. If you accuse them in that and at the bottom of the page you exonerate them, very few people will get that far to read it. It is the way in which the press does it. Even though reporting can be fair, it is not fair by the prominence given to the headlines. It would be an odd thing that if they reported all the ICAC activities without any headlines, just all in small type, people who read the top would read it right through but the people who would not bother to begin to read it in the first place would not read down. The number of people I have spoken to, who have read the accusations, have not followed it up. If the clearing statement is in another paper they do not read it. They only remember the headlines.

**Mr GAUDRY:** The same problem applies to the political sphere as well. The media and headlines sell the papers?— **A.** Is the ICAC something that should be used to sell newspapers? It is news, but is it also something more important than selling papers for a company?

**Q.** Absolutely: but they have resisted any quashing of press reason, for the very reason I guess that another mechanism for allowing corruption to continue. I think that is the reason they insist on openness to the press?— **A.** Yes.

**Mr TURNER:** I will make the observation that we have tackled Mr Temby on this from time to time. In the famous North Coast inquiry it was raised, and he actually asked the press to come in, and tone it down a bit. Following a question from me he did say that he did not bring the North Coast press in. Of course that is where most of the damage is done in the instances that you portrayed. The banner headline and the bold print, as you rightly say, tend to be read even by the people around this table?— **A.** It is a bit misleading when they do not state that it is an accusation but they just say 'criminal charges'. As you read down it is only an accusation.

**CHAIRMAN:** We have been told that it has caused a split in the town. Has it caused any economic turn-down in the town?— **A.** Not that I have been aware of.

(The witness retired)

**PETER NEIL McINTYRE, of [REDACTED], relieving teacher and grazier, made affirmation, examined:**

**CHAIRMAN:** Have you received a summons under my hand?— **A.** That is correct.

**Q.** I think you have prepared a submission for the Committee in relation to this matter?— **A.** Yes. I have a copy of two newspaper letters.

**Q.** Perhaps you might like to run the Committee through your submission, summarizing it if you wish?— **A.** It would be a bit difficult to summarize it, if you do not mind. It goes into quite a bit of depth.

(Submisison follows, 6 pages)

Thursday, 1st October, 1992

*Witness: P.N. McIntyre*

Peter McIntyre



February 3, 1992

Letters to the Editor  
Northern Star Newspaper

Dear Sir:

The current ICAC campaign to dob-in-a-mate will hardly be helped by the just released report into Kyogle Shire.

Whilst at face value the report appears to be a concise and accurate report of the recent inquiry, it is not. In many cases evidence tending to discredit ICAC findings simply fails to appear.

The explanation for this lies in ICAC procedures by which a single temporarily appointed commissioner presides over the initial investigation, the public hearing, and then writes the report.

Public figures on both sides of politics have warned of the potential for abuse that such a system poses.

Whether or not abuse has occurred in this case, time will undoubtedly reveal. In the meantime public confidence in ICAC, especially within Kyogle can only be restored by a full judicial review into both the enquiry and its report.

Sincerely,

Peter McIntyre

## SUBMISSION TO THE COMMITTEE ON THE ICAC

In July and August of 1991 I attended most days of the public hearings held by the ICAC in Kyogle.

During this period I managed to speak privately with many of the witnesses, some of the legal representatives, and several members of the ICAC staff.

As the hearings progressed I became increasingly concerned by the growing schism between what was being said to me in private and the public spectacle that was unfolding.

However at that time I still retained an abiding trust in the integrity of the ICAC process and in the wisdom and common sense of the presiding officer. Once the hearings finished there was to be a period of quiet reflection and mature consideration before the preparation of a report. I was prepared to wait.

The report when it finally came confirmed my worst fears. Not only was it shallow, failing to come to terms with many of the basic issues, but by a process of simply ignoring much of the evidence, and refusing to entertain any straight forward and innocent interpretation of events, it managed to cast a malevolent web of innuendo over many of the players.

My response was simple, to write a short letter to each of the two local papers in an attempt to open up public debate on the issues involved. A move which I hoped would eventually lead to a full judicial inquiry into all aspects of the inquiry.

However a public debate never eventuated. The *malevolent web of innuendo* cast by the report allowed the original complainants to claim success, whilst the lack of any real finding of corruption left the general public without an interest. Those who were aware of the true nature of what had occurred, were prepared to bide their time and wait for a more propitious opportunity to voice their concerns.

In June this year my interest in the whole business was revived by a visit to Kyogle of Mr Peter McCarthy a Senior Education Officer with the ICAC. I arranged a meeting and put my concerns. Surprisingly he agreed with a number of the adverse comments I made on the conduct of ICAC during the Kyogle investigation. He then went on to urge that I put my complaints in writing and forward them to the ICAC.

In listening to the witnesses called today, the committee must surely be impressed by the extent of the material brought before it. We have here not one or two complaints by one or two *affected persons* involving one or two isolated cases of unfair practice. Rather we have a whole series of well documented examples of extraordinary practices brought by a diverse range of individuals, that extends into every facet of the inquiry.

To use the information from the Kyogle experience in a constructive way is surely the real goal that confronts not just the committee, but the community at large. To aid this process I have drawn together evidence from a wide variety of sources to present a slightly different view of the unfolding of the Kyogle saga.

The scenario that follows will not I hope be labelled as another of the so called conspiracy theories that have plagued this affair from the start. Rather it is a version of events that is obtaining increasing acceptance even from within the ICAC itself. I hope it will provide some insight not just into what went wrong but into how we might get it right in the future.

The Kyogle affair had its genesis I believe in a decision made some fifteen years prior, to reduce then freeze council rates for several years. This led slowly and irrevocably to the deterioration of roads throughout the shire, resulting in a reservoir of ill will directed to the Council, especially to the Engineering Department and the Shire Engineer. This ill will in turn gave rise amongst many ratepayers to what might be loosely termed a *cargo cult* mentality. Money was seen to go into the shire coffers but somehow it never seemed to emerge as better roads. The only explanation could be waste, mismanagement or something far worse.

By the start of 1988 the consequences of that earlier decision to cut back rates had become painfully obvious. In the process of restructuring that followed, three councillors who continued to press the *cargo cult* view became increasingly left out of the decision making process.

Slowly a grand conspiracy began to form in the minds of Councillors Sandra Davies, Gladys Missingham and Berwan Smith. Like all grand conspiracies it had one flaw, any discussion of it outside of the inner circle would alert the guilty parties allowing them to cover their tracks and escape well deserved retribution.

By late 1989 the trio had uncovered some evidence to support their conspiracy and approached the ICAC. However it was deemed insufficient to warrant an investigation, the matter was recorded and then allowed to lapse.

It was around September 1990 that Berwin Smith was approached by Oral Gould. Gould was a quiet withdrawn person, a loaner, but he knew things that others didn't. His suspicions had started some seven years earlier, about the time that the new shire engineer Patrick Knight had engaged Harry Grayson as works engineer for the Bonalbo area.

Oral would carefully record these suspicions in a note book and on a regular basis present them to a Mr Secombe. Secombe would in turn record the suspicions, never failing to reassure Gould that the information was being passed on. These meetings were always a source of great release for Gould, and when Secombe died he burnt his notebooks in disgust.

Once Gould had convinced Smith of the truth of his information the ICAC was approached once more, and this time moved rapidly to set up an investigative team. Its leaders were solicitor Ms Jan Daley, analyst Mr Andrew O'Connor, and chief investigator Mr Alan Herman, with other investigators to make up the balance of the team.

Gould was supplied with a note book to record his suspicions, all were sworn to secrecy, and Herman was the go between, arranging a series of clandestine motel meetings to monitor progress.

It is essential to stop at this point and attempt to gauge exactly what the ICAC thought they were involved with. Smith's words nine months later provide the clue.

"Look this has been going on for years, since 1983, its involved hundreds of thousands of dollars."

"Senior staff were involved, councillors were in on it, it was a giant conspiracy to fund shire roads using RTA funds and they were using money collected from private works at Bonalbo to pay people off."

"I just can't say [who was involved], the Commission is going to have to find this out."

"I'm on the finance committee and I've suspected for some time that this was happening. I've been secretly checking the records each month as they passed through the committee. It looks like the Bonalbo depot was draining all the councils money. What was going on in Bonalbo has been directly responsible for why we've had no money for the roads."

The implication of this is of critical importance, as it helps provide the rational for otherwise inexplicable ICAC conduct that occurred later in the investigation.

On the 18th of January 1991 Commissioner Ian Temby gave his permission for a formal investigation to proceed. It is uncertain whether he was aware of Smith, Davies, Missingham, and Gould's conspiracy theory or just the evidence that they had provided to support it. But what is quite certain is that the ICAC team of Daley, O'Connor and Herman had not only accepted the conspiracy, but they became fellow conspirators.

The distinction is important. For if they had merely accepted the theory as a prima facie case to be investigated, there is no doubt that the investigation would have preceded in a totally different way. The initial investigation would have been thorough, problems with the evidence would have been identified at an early stage and in all probability the hearing if proceeded with at all, would have been severely curtailed. Certainly the report would have been very different.

By becoming fellow conspirators the ICAC team was bound to adopt the rules that attach to any mild paranoid conspiracy; intense secrecy, loyalty to the group, fear of exposure, suspicion of outsiders, justification in breaking normal codes of behaviour, denial of conflicting evidence, and in the final stages when the conspiracy finally breaks down, transference of guilt. It was these elements that were then to pervade every facet of the ensuing investigation.

These elements can also be seen as quite reasonable modes of behaviour, for example secrecy is an acceptable part of an undercover operation, scepticism is a reasonable approach to take to conflicting evidence and so on. What distinguishes the ICAC operation and for that matter any neurotic or paranoid activity is that the elements become the driving force rather than becoming appropriate tools to be used as necessary. Put another way, maintenance in the belief of the conspiracy became of greater concern than the integrity of the investigation.

An example of this already alluded to was the pre-hearing stage where intense secrecy, suspicion of outsiders, and fear of exposure resulted in the ICAC's failure to enlist council cooperation in obtaining a full explanation of relevant documents and circumstances. This single act more than any other set the scene for the ensuing debacle.

An example of transference of guilt is to be seen in the treatment of Knight and Murphy Standfield. These two remained defiant despite long cross examinations and refused to demonstrate contrition before Assistant Commissioner Collins. Bob Standfield treated well because he said sorry and admitted guilt. Not surprisingly they were singled out for special treatment, not only in the report, but later on in the hearing.



The pursuit of the allusive Mr Wolfe and the tracking down of distant bank manager Mr Rose were certainly bizarre and expensive attempts to discredit Murphy, and resulted in far more important witnesses being denied the opportunity to present evidence.

Time does not permit me to follow through the many other instances where maintenance of the conspiracy overcame any rational endeavour to pursue the legitimate investigation.

## CONCLUSIONS

What lessons can we learn from this scenario. Most important I think is the realisation that the lack of proscriptive guidelines was not the real cause of the problems that arose. In fact there is much evidence to suggest that both the investigative team and the assistant commissioner broke many of the guidelines already in existence. It is also my belief that attempts to provide additional proscriptive guidelines might well have the effect of limiting the flexibility of the ICAC in carrying out its investigations, and in effect remove what I see as its more useful, albeit controversial features.

If creating additional proscriptive guidelines is not the answer, what is? It is my belief that the collective paranoia exhibited by the investigative team is not their burden alone. Rather it reflects an existing culture within the ICAC organisation. It is my understanding that this problem has already been identified and is being addressed by certain officers within the ICAC. I would recommend that the committee do all in its power to encourage any such moves.

Ultimately the effectiveness and the survival of the ICAC can only be assured by its own actions. If it becomes open and responsive to public opinion it will survive. If it becomes inwards looking and attempts to manipulate public opinion it will certainly wither.

The real test of its future intentions will be its response to today's hearing. If it accepts that mistakes were made and actively engages in rectifying the situation, I am sure that it has a bright future. It is for this reason I am strongly of the belief that the righting of the Kyogle wrongs is not a matter for either the courts, this committee or the parliament. That is unless the ICAC shows by the paucity or inadequacy of its response that it is not worthy of public trust. Under those circumstances the removal of its director would be an important first step.

## ADDITIONS TO STATEMENT

At foot of page 1, the witness said:

\*I have talked to him again on the phone just recently, and he urged me even more strongly to put my concerns, which are contained in here, to the ICAC in the form of a letter.

**CHAIRMAN:** I take it you have not done that, until now anyway?— **A.** This is my first opportunity now. In fact by Bill Rixon calling me into this thing he has almost forced me to put it down in writing, what probably would never have happened.\*

At page 2, end of first paragraph, the witness said:

\*It is important to note that it goes right across the inquiry, this whole complaint. Every part of the whole thing seemed to be tainted in some strange way.\*

At page 2, end of second paragraph, the witness said:

\*I have looked at the whole thing a little bit differently from everybody else, and I think it will help to bring clarity into what actually went on.\*

At page 2, end of third paragraph, the witness said:

\*That comment about 'from within the ICAC itself refers to my conversations with Peter McCarthy.\*

At page 3, second paragraph, after 'passed on', the witness said:

\*In fact it did come out in the hearings that the information was never passed on. It was supposed to have been passed on to a Mr Causley, who was the local member in Grafton.\*

At page 4, end of second-last paragraph, the witness said:

\*This was mentioned by everyone, the complete failure of the ICAC at that early stage to get their act together. They could easily have done it. They could have contacted officers from the council to help them. They could have talked to the council about it. They could have approached witnesses

properly and put their concerns into proper statements but they did none of this. The whole thing was carried out with this incredible paranoid secrecy. Once you accept that, everything else follows. The whole range of complaints permeate every aspect of the whole of the proceedings. They permeate the report, an incredible report. You can pick it up and it has been mentioned by a few people here, and someone is cleared of wrongdoing, and yet when you finish reading the report they are guilty. It is unbelievable.\*

At page 4, instead of the two last lines, the witness said:

\*Bob Standfield was here, and he was treated well by Commissioner Collins. Why? Because he said 'I am sorry, sir, I am guilty'. Commissioner Collins straight away was nice to him. Because Knight and Murphy Standfield got up there and said 'I am not guilty, I do not know what you are on about' and they argued every point with the Commissioner, the Commissioner turned around and in the final report just slurred and slurred and slurred them. Even when he could not put in findings of guilt or findings of wrongdoing he slurred them. If you read that report it is incredible stuff. Someone who had no findings against them — you read it and go away — anyway, I am sure you all know what I am talking about. Not surprisingly, Knight and Murphy were singled out for special treatment not only in the report but later in the hearing. They got hell in the hearing.\*

At page 5, end of first paragraph, the witness said:

Nobody has talked much about Mr Wolfe and Mr Rose, but the court spent a lot of time racing these two guys around and they had absolutely no relevance to the inquiry. It was the only way that Collins could get at Murphy Standfield.\*

At page 5, end of second paragraph, the witness said:

\*If you look at any of the complaints being made today, they make much more sense in terms of this notion that the ICAC people had this paranoid delusion and were following it through.\*

At page 5, third paragraph, after 'in existence', the witness said:

\*I am talking here about guidelines that the Committee set up, and about guidelines for procedures. Mr. Norrish had a bit of a go at one stage about

Collins not sticking by some of the guidelines of the New South Wales Bar Association. He may already have spoken to you about this.\*

**CHAIRMAN:** Did you say that you attended the hearings of the ICAC?—

A. Yes.

Q. At the time you had complete faith in the ICAC?— A. Yes. I could extend that a bit further. I am a bit of a swinging voter. I voted for the Greiner government four or five years ago simply because I wanted to see the ICAC set up. I thought it was a very important step in restoring public confidence in politicians, public institutions, political institutions, and so on.

Q. You were not an affected person or even involved in this, were you?—

A. That is correct.

Q. Is that why you went to that hearing?— A. Yes. If you want to know the real reason, I had an infection in my ear, really painful, and I was just going to the doctor's and I walked past the hearing. For the next couple of days this ear was such that I could not do anything else. I could not even stay at home and read. I certainly could not work at the farm. So in a respect I was more or less tricked into it for the first three or four days. After that, I could not believe what was going on. On the second day Mr Commissioner Collins talked about 'We are going to look for the truth', and after the first three days I could not believe what was going on. It was like the ultimate Agatha Christie. How could this organization spend so much money on hitting at people like Patrick and Bob? [*Witness turned to Mr Standfield and Mr Knight, then pointed to Mr Knight*] He is just so straight. Patrick is the ultimate public servant. He completely divorces his private life from his public life. To accuse people like this is crazy. As I have said here, I have finally come to this conclusion — and mind you this has been coming together over a long period of time and I have only finished this morning putting it in writing like this.

Q. You mentioned your interest was revived by the visit to Kyogle of Mr Peter McCarthy?— A. Yes.

Q. Was that visit for a public hearing?— A. It is another complete coincidence. I do relief teaching, probably only 20 days a year, and I happened to be in the school the very day he was at Kyogle High School, and I just made an appointment. It was completely coincidental. If he had not been there and made the appointment none of this would have happened.

Q. He was there to address the juniors, was he not?— A. Yes. I did not hear his address. It would have been given to a year other than the year I was teaching.

**The Hon. S MUTCH:** I was wondering whether you had a chance to see a copy of this letter from Deborah Sweeney?— A. Which letter was that?

Q. It was distributed to witnesses?— A. I have seen a couple of letters from Deborah Sweeney.

Q. I was wondering if that had affected your view. You say you were speaking to Mr McCarthy. Have you any comments on that?— A. I have read a number of letters from her. Yes, I have read this letter before. The point was put to me by Peter McCarthy that within the ICAC this group of people — he is a senior education officer and his associate is the ex-cop from Queensland who blew the whistle.

Q. Nigel Powell?— A. Yes. He is the one of the people involved in getting the Fitzgerald inquiry going, and he more or less said 'I am going to put my neck on the line, and come what may this is what happened' and even though this fellow was sending him death threats he stuck to his guns. Anyway, Peter and Nigel Powell are in the education section of ICAC and they have a totally different view to this sort of thing, as to what the organization of the ICAC should be, or to the attitude expressed.

Q. Perhaps I had better go back.— A. What do you mean?— Q. I wondered whether you had actually read that letter?— A. I had read it before.

Q. Have you any comments to make about it?— A. I would have to sit down and read it again.

Q. In the attachment to your submission you had some doubts about whether the ICAC should continue to exist at all, but now you seem to be in favour of its existing but with some suggested amendments to its procedures?— A. No, no. I do not want to amend the procedures. The point I made here is buried away in the back page in the conclusion. There is this notion of a culture within the organization. That is really what this whole thing is directed to. What I am trying to say is that within the ICAC if you have this culture of cloak-and-dagger secrecy, where you want to hide yourself away from everyone, what that creates is this sort of atmosphere which leads to this sort of paranoia. That, I am suggesting, occurred within the investigative team. On the other hand if you have a culture within the ICAC organisation which allows a certain amount of openness, in which they are prepared to talk about what is happening inside their organisation, you move away from this sort of tight-knit organisation. To me the sort of attitudes shown by the ICAC towards individuals, an attitude that they had no interest in individuals, in people, is part of this closed society that exists within the ICAC. By opening themselves out ICAC can be more involved with everyday people and more involved with the community. They would not have this culture and they would not take this approach. You cannot legislate to make the ICAC be nice to witnesses, but what you can do is open up the organisation in such a way that they are used to being nice people, because they have to deal with them more and they have to talk to them. I guess that is the point I am trying to make. In a sense, what happened at the inquiry was a second-order issue. The first order issue is to change the ICAC. I do not think you can do it by legislation and rules. It is obvious what happened at Kyogle. They were breaking all the rules. It could be documented, but they did break a lot of rules, and the rules did not stop them. What was driving them was this cloak-and-dagger mentality that they must have picked up in their organisation. I feel that any move to open it up is the way to go.

Thursday, 1st October, 1992

*Witness: P.N. McIntyre*

**The Hon. J. BURNSWOODS:** How do you feel that Collins and Maxwell became infected by this attitude?— A. I do not think that Maxwell did. I think it passed over him. He was just the spokesperson. He would be up talking with his hand in his pocket, going through the motions, and Jan Daly would be scrubbing through her notes and she would nudge him and all of a sudden he would have to change tack completely. He would pick it up and say 'Oh, I am sorry, I have just received instructions', and he would change tack and he would go on. In other words, he seemed to be completely unaffected by it. I have not said anything about Collins, but to me a person of his stature, who has been paid the sort of money he has been paid, has a responsibility. There is a terrible abrogation of responsibility as far as Mr Collins is concerned. I find it totally inexcusable what he has done. I can understand the members of the ICAC investigative committee. They are caught up in this culture, but for Mr Collins to come from outside the organization and behave the way he did, is just totally inexcusable

Q. Do you have any theories about why that was?— A. He was caught in what I put forward as my theory. Do you want me to say more?

Q. That is probably sufficient?— A. I think he really enjoyed the job and he would have liked another one. He did very well in the Azzopardi case. He obviously got a lot of kudos from that. He came into the Kyogle case and he saw it as a repeat of the Azzopardi case. He thought he could just sit up there and knock them all off and they would all start singing and confess. When they did not start confessing he got a bit worried about his reputation, about his possible future employment with the ICAC organization. What was he doing? He was in a case. Was no-one guilty? The whole thing was a bit of a charade and they were all going through the motions. So he spent his time getting stuck into witnesses that made him look foolish. Patrick made him look a real fool, because he did not know anything about engineering and he tried to cross-examine Patrick about engineering. It was just a ridiculous exercise because every question he asked he became more foolish. He got red in the face and extended the sitting time. Mr Norrish objected and he shouted Mr Norrish down. I wish you could all have been there. It was high drama — better than the television.

**CHAIRMAN:** There are no further questions. Thank you very much indeed.

(The witness retired)