



Parliament of New South Wales

1994

REPORT
OF THE
**COMMITTEE ON THE INDEPENDENT
COMMISSION AGAINST CORRUPTION
COLLATION OF MATERIAL RELATING TO
THE COMMITTEE'S VISIT TO
KYOGLA ON 1 OCTOBER 1992**

DATED

APRIL 1994

Ordered to be printed 12 April 1994

COMMITTEE ON THE ICAC

**COLLATION OF MATERIAL
RELATING TO THE
COMMITTEE'S VISIT TO KYOGLE**

1 October 1992

APRIL 1994

Correspondence Resulting in Committee's Visit to Kyogle to hold public hearings

- (1) 17 February 1992 Copy of letters from Mr Turner to Mr Rixon (dated 20 November 1991 and 14 February 1992) forwarded to the Committee.
 - (2) 21 April 1992 Letter forwarded by Mr Kerr from Mr Bill Rixon MP, dated 10 April 1992 (enclosing letter from Patrick Knight) regarding Kyogle report
 - (3) 06 May 1992 Letter to Ms Sweeney forwarding Rixon letter to the ICAC for comment and response.
 - (4) 06 May 1992 Committee reply to Mr Rixon, forwarding copies of the Committee's Report on the Rights of Witnesses
 - (5) 24 June 1992 Letter forwarded by Mr Gaudry from Mr Patrick Knight, dated 1 May 1992 regarding ICAC Kyogle inquiry.
 - (6) 01 July 1992 Letter to Mr Knight from Mr Kerr regarding Committee's intention to visit Kyogle.
 - (7) 07 July 1992 Letter to Mr Blunt from Ms Sweeney in response to correspondence from Messrs Rixon and Knight.
 - (8) 05 August 1992 Copy of ICAC response forwarded to Mr Rixon.
 - (9) 05 August 1992 Copy of ICAC response forwarded to Mr Knight
 - (10) 24 August 1992 Letter to Mr Blunt from Mr Rixon expressing dissatisfaction with the ICAC's response, urging the Committee to visit Kyogle.
 - (11) 8 September 1992 Letter to Mr Rixon from Mr Blunt setting Thursday 1 October 1992 as date Committee will visit Kyogle
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- (12) 9 September 1992 Letter to Mr Robin Rodgers from Mr Kerr concerning letter Mr Rodgers sent to Mr Peacocke MP and advising Mr Rodgers of the visit set for 1 October.
 - (13) 25 September 1992 Letter to Mr Patrick Knight from Mr Blunt outlining procedures to be followed on the hearing day.
 - (14) 30 September 1992 Article in the Northern Star regarding Committee's planned visit to Kyogle.
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David Blunt,

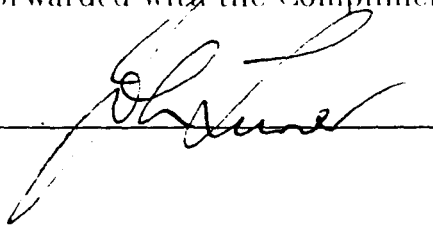


Parliament House
Sydney

17.2.92

For Your Information.

Forwarded with the Compliments of

 M.P.

John Turner, M.P.
Member for Myall Lakes

14 February, 1992

Mr Bill Rixon MP
Member for Lismore
P.O. Box 52
LISMORE NSW 2480

Dear Bill,

I refer to a telephone conversation concerning Mr Stanfield.

Mr Stanfield is anxious for me to attend to your area to discuss the matter of the Kyogle Inquiry with him.

I have had some difficulty in advising Mr Stanfield that I am unable as a Member of the ICAC Committee to investigate the operational procedures of ICAC.

It is my suggestion that Mr Stanfield should put to me in writing matters of concern that arise out of the report. I would then be able to discern which matters go to the operational activities of I.C.A.C. and those matters within the jurisdiction of the Parliamentary Committee of the Independent Commission Against Corruption.

In that regard it might be wise for Mr Stanfield to contact Mr David Blunt Project Officer of the ICAC Committee on 02:2876780 who would be able to give invaluable assistance and discuss the matter generally with him.

In addition I note that both Mr Stanfield and yourself suggested it might be prudent for ICAC to go into the field after investigations had taken place to assess first hand the impact of the ICAC Inquiry within the community or area that the Inquiry had taken place.

I put that suggestion to the Parliamentary Committee at the last Meeting and it was agreed that this would be a procedure that we would look to on finishing the current inquiry that we are undertaking.

I believe it is a most worthwhile suggestion and one that I think could give a valuable insight to the Committee of the working of ICAC within the community. It also gives us a chance to assess whether some of the matters that we have suggested to ICAC are being implemented particularly those in relation to rights of witnesses.

Perhaps you could contact Mr Stanfield in the terms of this letter.

Yours faithfully,

John Turner, M.P.,
National Party Member for Myall Lakes

20 November, 1991

Mr Bill Rixon, M.P.
Member for Lismore
P.O. Box 52
LISMORE NSW 2480

Dear Bill,

I have spoken to Mr Murphy Stanfield recently concerning the Kyogle Case with I.C.A.C.

As you would know this matter is still proceeding and I cannot comment on any of the operational procedures that have occurred in relation to the allegations, however I must say that I was greatly disturbed by the fact that Mr Stanfield has informed me that the case apparently commenced following certain letters being circulated in the Kyogle district and ultimately to I.C.A.C.

As you may recall, we had an I.C.A.C. Parliamentary Committee Hearing into the rights of witnesses. One of the matters we raised is that where sensational or unsubstantiated allegations are made then the person against who these are made should have the opportunity initially to respond to those allegations in private. It would appear on the face of it (and I do not know this case at all well) that this may not have occurred in the Kyogle Case.

Naturally Mr Stanfield feels greatly aggrieved by this action and the fact that he was condemned out of hand by unsubstantiated allegations.

As the matter appears to have arisen since the Committees Rights for Witnesses Hearing, where certain parameters and guidelines were agreed to by the Commissioner. I would be pleased if you could obtain from Mr Stanfield and from your local knowledge, any specific details of these sensational allegations and whether Mr Stanfield had an opportunity to dispute them in private.

Also in relation to the media, I understand that there has been quite a deal of press coverage in relation to the matter following the allegations being made. Mr Temby has said on numerous occasions that he has attempted to play down their role to the press so that the sensationalism and the obvious damage to reputations prior to any determination is limited.

Of course in a small country town this would be almost impossible. If you can give me any examples of newspaper reports flowing from this Case I would be greatly appreciative.

I do remind you and I would be pleased if you could inform Mr Stanfield that the Parliamentary Committee to the I.C.A.C. cannot go to the operational procedures of I.C.A.C., that is the actual matters that may be under consideration, but we certainly can look at all the procedural matters.

I look forward to your advice and perhaps we can discuss in broader terms in Parliament.

Yours faithfully,

John Turner, M.P.
National Party Member for Myall Lakes

JD-A

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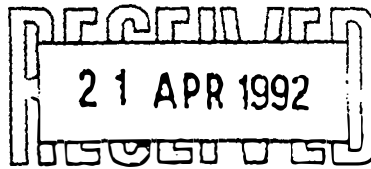
OF



With Compliments

Malcolm Kerr M.P.

Member for Cronulla



P.O. Box 535
Cronulla 2230

Telephone 523 0989
Facsimile 527 4077





PARLIAMENT OF NEW SOUTH WALES
LEGISLATIVE ASSEMBLY

MEMBER FOR LISMORE

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Lismore, N.S.W. 2480

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LISMORE, N.S.W. 2480

10th April, 1992.

Mr. Malcolm Kerr, M.P.,
Member for Cronulla,
P.O. Box 535,
CRONULLA. 2230

Dear Mr. Kerr,

A number of Kyogle people have expressed to me their concerns regarding various aspects of the recent inquiry by the ICAC, into matters relating to the Kyogle Shire Council.

These people would like the ICAC Joint Parliamentary Committee to go to Kyogle to hear their concerns.

I have enclosed a copy of a letter which explains some of their concerns.

Your positive consideration of this request would be appreciated.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Bill Rixon".

BILL RIXON, M.P.,
Member for Lismore.

BR:BA

Encl.

Mr Bill Rixon, MP.,
Member for Lismore
PO Box 52,
LISMORE. 2480

[REDACTED]
[REDACTED] [REDACTED]
10 March 1992

Dear Sir,

Re: The Independent Commission Against Corruption

During 1991 I was involved as an "affected person" in the ICAC investigation and hearing into roadworks in Kyogle Shire. The Commission released its report earlier this year.

I am very concerned with the manner in which the ICAC conducted itself in this investigation, particularly the following matters.

(a) There is an absence of the principals of natural justice.

"Affected persons" are not told what they are accused of, they cannot therefore properly present their side of the case in their defence and further the commission does not operate as an unbiased tribunal.

When the commission finally makes its report, adverse findings can be made against a person that can destroy their reputation, employment and standing in the community. This is totally unfair to a person who has been denied the means of properly defending themselves and unlike a criminal conviction, there is no means of appealing against a finding of the ICAC.

(b) As the hearings are held in public, the press has a field day in sensationally reporting any wild accusations that are made.

This reporting alone can irreparably damage an innocent persons reputation.

(c) The Commission appears to me to be biased.

At the Kyogle hearing there seemed to be a presumption of guilt by the Assistant Commissioner conducting the hearing, and the whole thrust of the hearing seemed to be aimed at justifying his preconceived notion of what happened.

This action persisted throughout the hearing and the final report, notwithstanding that the evidence did not support many of the Commissioner's findings.

I consider that as a citizen I am entitled to expect that the ICAC act in a bona fide manner to find the truth, even when this may lead to a conclusion that an ICAC investigation has been misdirected and a waste of public money.

Instead I am left with the very strong impression that they are desperately trying to justify their own existence and notches on their gun are more important than truth and justice.

(d) Assistant Commissioner Collins conferred on himself the status of "expert witness" and made findings based on his own knowledge of professions in which he had no qualifications or experience.

Assistant Commissioner Collins made many remarks that were critical of the professional conduct of myself as a professional engineer. In this regard he did not hear any "expert witnesses" that were critical of my professional conduct, decision making or management procedures. He therefore relied entirely on his own knowledge of the engineering profession.

I believe his conduct in this regard to be improper. I mistakenly believed that the findings of ICAC hearings were to be based on evidence presented to such hearings, which could be tested by cross examination. Instead in the Kyogle report we have an Assistant Commissioner relying on his own, supposed expert knowledge of the engineering profession (in which he is unqualified), to reach conclusions that were damaging to my reputation.

It is my belief that if Collins had wished to make any findings or conclusions on my professional conduct then he should have called expert witness from my profession for their opinions and these opinions could have been tested by cross examination by my counsel.

(d) In the Kyogle hearing a number of the witnesses could not read or write. I felt that they were not treated sensitively by the Assistant Commissioner and I believe they were publically humiliated by public reference to their illiteracy.

(e) Ms Daley the ICAC solicitor organised witnesses to attend the hearing at Kyogle and later at Sydney.

For reasons best known to herself, Ms Daley refused to cooperate with Council's solicitor and supply a timetable of when council employees would be needed to give evidence. As a result many council employees spent needless days (weeks) hanging around the court at great expense and waste to ratepayers.

Ms Daley may have considered some higher public interest was served by wasting the time of so many persons, however as well as the direct wages cost, the compulsory absence of council's executive staff meant that the organisation's normal management and decision making was paralyzed.

(f) In the Kyogle investigation, the matters that were dealt with were not matters of significant corruption by public officials. In fact not one council employee was recommended for prosecution.

It is my belief that the matters raised could have been efficiently and speedily dealt with by the council itself if the commission had only drawn the problems to council's notice and required council to deal with them.

Instead however the problems at the Bonalbo depot appear to have been deliberately kept from council's notice by the ICAC and their informers within council.

The result is that the ICAC have spent a rumored \$1,000,000 of taxpayers funds on an arguably unnessessary hearing.

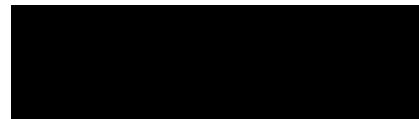
I see many aspects of the ICAC performance at Kyogle as being contrary to the public interest, the principals of natural justice and the rights of individuals and therefore request that the ICAC Joint Parliamentary Committee be requested to come to Kyogle and

- Fully investigate the conduct of the ICAC in relation to the Kyogle investigation and hearing.

- Identify the methods and procedures of the ICAC that are contrary to natural justice, the public interest and civil rights of individuals.

- Recommend necessary changes to the ICAC methods, procedures, personnel and legislation to overcome the above problems.

Yours faithfully

A solid black rectangular box redacting the signature of Patrick Knight.

Patrick Knight



Secretariat
121 Macquarie Street
Sydney NSW 2000
Tel (02) 287 6780
or (02) 287 6624
Fax 287 6625

COMMITTEE ON THE ICAC

06 May 1992

Ms Deborah Sweeney
Solicitor to the Commission
Independent Commission
Against Corruption
GPO Box 500
SYDNEY NSW 2001

Dear Ms Sweeney

At its meeting last night the Committee considered correspondence from Mr Peter Hamilton of Hamilton and Quinlan, dated 31 March 1992; Mr Bill Rixon, dated 10 April 1992; and Mr Keith Johnson, dated 30 April 1992.

The Committee resolved that these letters be referred to the Commission for comment and response.

I therefore enclose copies for your attention.

Yours sincerely

A black rectangular redaction box covering the signature area, with a handwritten flourish extending from the right side.

David Blunt
Project Officer

sweeney.019



COMMITTEE ON THE ICAC

06 May 1992

Mr Bill Rixon
Member for Lismore
PO Box 52
LISMORE NSW 2480

Bill
Dear Mr ~~Rixon~~

I refer to your letter of 10 April 1992, concerning the ICAC's recent inquiry into Kyogle Shire Council, which forwarded a letter from Mr Patrick Knight, dated 10 March 1992.

These letters were considered by the Committee at its meeting last night. The Committee saw value in a visit to Kyogle to hear from those people who have concerns about the ICAC inquiry.

Unfortunately, it will not be possible for this visit to take place before July due to the commitments of Committee members and the inquiries which the Committee has underway at present.

In the meantime I enclose for your information copies of the reports of the former Committee on its "Inquiry into Commission Procedures and the Rights of Witnesses" which address some of the issues raised by Mr Knight. I am sending copies of these reports and this letter directly to Mr Knight. Please do not hesitate to contact the Committee secretariat if you require further copies of these reports for other constituents.

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Mr Rixon
06 May 1992

The Committee's Project Officer, David Blunt, will be in contact with you in due course to make arrangements for the Committee's visit to Kyogle.

I trust this information is of assistance to you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M J Kerr', written in a cursive style.

M J Kerr MP
Chairman

Rixon.001