

# DREYFUS CASE - AUSTRALIA

## SUPPLEMENT TO THIRD MINISTERIAL REPRESENTATION

### EX-MAJOR A K WARREN CASE

1. The governance of the Australian Defence force (ADF) and its Military Justice System (MJS) is exercised by the Minister for Defence or, if he fails, by the Prime Minister. MAJGEN J Morlan states that Australians who enlist in the ADF agree to a contract to die for vital national interests as determined by John Howard or whoever else is the incumbent Prime Minister of the day. The generals also argue that as the need arises the MJS is there to enforce that contract. Yet the Prime Minister and his portfolio responsible ministers remain unconditionally subservient to the generals' ongoing corruption of the Administrative Law component of the MJS as a substitute for genuine leadership over the service men and women of the ADF.

2. The Major Warren case is a history of responsible ministers' abuses of their governance of the MJS for the past 26 years. The case is a pantomime of a "Yes, Prime Minister" farce turned evil by the Liberal Party politicians who seek to disown responsibility for their administration, control and decision-making in it. In complicity with the generals they have perpetrated decades of maladministration and impropriety against the individual and violated all notions of duty of care so as to maintain their own self-interests and cover-ups.

3. The Chief of Defence Force (CofDF), Air Chief Marshall Angus Houston has been forced to now set up an independent agency to investigate misconduct and unfairness in the ADF because the Service Chiefs lack the integrity and courage needed for leadership propriety over the MJA. But their mendacity will go unchecked despite this new agency. Previously, in 2005 Houston initiated an independent 3-member inquiry which found no evidence of a culture within Defence that supports bullying and harassment. That inquiry report, written by MAJGEN (Ret'd) Roger Powell for one, praised the serving generals for their top down driven process of changing an unacceptable culture in the ADF. Both that report and the current

generals blame subordinates for the failures in military justice. Prime Minister Howard also falsely asserts that there is no problem with Defence Force culture. Houston's new agency, like the alleged reforms of his predecessor, LTGEN P Cosgrove, is deliberately designed not to remedy but to protect and continue the generals' dependency on their abuses of Administrative Law and procedures. These abuses of state power are dependent upon a continuing political protection of the Howard Government.

4. In 1981 MAJGEN Grey publicly attacked middle and junior officers and NCOs for lacking moral courage in leadership. He blamed them for failures in Army morale and discipline. Houston, with Howard's protection, is replicating Grey's attitude to produce, albeit through an alleged independent inquiry, similar findings that "the generals are not to blame". The reality is that the generals, and the Liberal Party when in office, from 1980 to 2007, have been responsible for the corruption of and abuse of power within the MJS and in particular its Administrative Law component. The hypocrisy is that neither the generals nor the responsible ministers nor their MJS can be trusted by middle and junior officers and NCOs.

5. In December 2000 the then CofDF, Admiral C A Barrie, also had set up an independent inquiry into MJS cases. It was headed by former Federal Court Justice J C Burchett. Admiral Barrie wrote to ex-MAJ Warren and invited him to make his case submission to Burchett. Warren did so but Burchett refused to examine it. The Burchett "audit" of outstanding MJS cases failed to touch the systemic corruption or abuses of the administrative component of the MJS by the generals and their senior legal officers. Consequently the MJS continued its downward spiral to its manifestly "unfixable" breakdown as reported by the Senate in June 2005. This destruction continued to occur as a result of Chief of Army, then CofDF, LTGEN P Cosgrove's alleged reforms to it.

6. Such are the outcomes of alleged "independent inquiries" set up by the generals to avoid proper examination of their own and colleagues' improprieties, abuses of administrative process and failures in genuine senior leadership over the ADF. Defence legal officers have misappropriated millions of dollars to perpetuate and conceal these stupendous failures. Key politicians have shielded these abuses of

state process. The following identifies and tracks the corruption of both the generals' and responsible ministers' alleged proper investigations and reviews of the ex-MAJ Warren case. Regardless of what aspect or period of this case is studied, all the blunders and improprieties in decision-making always come from higher-up the governance ladder. Hence the incessant need for cover-ups of cover-ups.

7. In 1993 the Administrative Appeals Tribunal (AAT) rejected decisions by responsible ministers that the case of ex-MAJ A K Warren had been thoroughly and comprehensively reviewed several times from 1981 to 1984. But Defence's position in 2006 under Prime Minister Howard remains unaltered from its 1995 one that the case was thoroughly and comprehensively reviewed by the portfolio responsible minister at least **once** prior to 1984.

8. On 14 July 1995 LTCOL (Ret'd) Salmon QC wrote to COL J A Harvey, then Director of Army Legal Services (DALs), to follow up on his December 1994 Report into the circumstances of MAJ Warren's forced termination from Army in 1981. He positioned that in 1993 the AAT merely:

*“..found some of the reviews (up to 1984) had not been exhaustive not that there had been no exhaustive review at all.”*

Salmon QC's position protected the 1982 ministerial cover-up investigation set up by then Minister for Defence, James Killen (Liberal).

9. In March 1981 then DALs, BRIG M J Ewing and then Military Secretary, BRIG J A Hooper (i.e. officer in charge of officer career management and promotion), used fabricated charges to dishonourably terminate MAJ Warren from Army. Warren was given 14 days to defend himself against Hooper's charges. Hooper (i.e. using subordinate officer MAJ I B Flawith) and Ewing then allegedly “investigated” Warren's reply against their charges. By this process they were able to “investigate” their own abuse of power and to outrightly dismiss Warren's sound evidence that there was no substance to the charges. At the 1993 AAT Hearing MAJGEN Carter, under oath during cross-examination, argued there had been no need for Hooper and Ewing to examine Warren's reply to the charges because he clearly had refused to admit to them, hence Warren could not be rehabilitated.

10. Previously, in early 1982 then Minister for Defence, James Killen, set up the pretence of having the case investigated by what he alleged was the independent Office of the Defence Force Ombudsman (DFO). That office was not a statutory authority nor was it independent. ***In fact it was an office that Killen created within his own department.*** Thus the ensuing investigation was done by a senior Defence public servant, Mr B C Campbell. He simply plagiarised Ewing and Hooper's improper documents and Killen presented this as the alleged independent DFO investigation. The 1993 AAT hearing described Campbell's efforts as "a cut and paste job" from the Hooper/Ewing documents. But since 1982 this Campbell "investigation" thereafter became successive responsible ministers' thorough, proper and comprehensive review of Warren's case. In late 1982 then Minister for Defence, Ian Sinclair used Killen's fraudulent investigation to uphold Hooper's fabricated charges against Warren. He decided that Army had no case to answer and that Army's administration had been strictly in accordance with the letter of the law and natural justice had prevailed. In 1983 then Minister for Defence, Kim Beazley, decided similarly (see attached letter).

11. Under the Foff Act, Defence eventually and allegedly made full disclosure of all documents relevant to its reviews of and ministerial decisions on Warren's case. The corrupt 1982 pseudo DFO investigation done by Campbell for Killen, and used by successive ministers for decision-making against Warren, is the only document that in 1995 B J Salmon QC can claim and stand by as the responsible ministers' "exhaustive review" of the case. In so doing he continued Defence's lie that Warren's case was comprehensively investigated for decision-making by Ministers for Defence, Prime Minister Hawke and Governor-General Hayden.

12. These corrupted reports by BRIG Hooper, (i.e. the MAJ Flawith Minute) and BRIG Ewing (i.e. his Minute L207/81) and the cover-up "cut and paste" full investigation by Mr B C Campbell were the basis of the portfolio responsible ministers, Viner, Sinclair, Beazley, Evans/Hawke, Bilney and Governor-General B Hayden decisions against ex-MAJ Warren. Warren's repeated petitions in 1990 to Governor-General Hayden identified how the responsible minister, Gordon Bilney, had lied and corrupted advice to him. The critical BRIG Ewing 1981 "investigation"

(i.e. DALS Minute L207/81 of 6 March 1981) was the report that MAJGEN P M Jeffery and his subordinates went to extraordinary lengths, under FofI Act, in 1990 to feign loss or destruction of all copies held in several separate files during Defence's investigation of the case for and to Governor-General Hayden. He upheld the charges against Warren. Ewing's reputation for being incompetent or maleficent or both was well known within Defence in 1990 when Jeffrey attempted to feign loss or destruction of Ewing's Minute L207/81. On 9 June 1990 the Melbourne's Age and the Sydney Morning Herald's 'Good Weekend' published an earlier Army case that seriously questioned Ewing's legal professionalism and competency.

13. Ministerial cover-ups in the Warren case continued to be both the Liberal and Labor Party positions until the 1993 AAT hearing found anomalies in Army's treatment of him and that his case had not been exhaustively reviewed by responsible ministers. The AAT also found and that the 1981 BRIG Ewing's (i.e. Minute L207/81) investigation was "superficial" (i.e. legally improper). In 1994 Minister for Defence, R Ray, had Army re-investigate the case. The subsequent LTCOL B J Salmon QC report was a more sophisticated cover-up of the abuse of power by BRIGs Hooper and Ewing.

14. Both before and after the Salmon QC 1994 report, Warren's years of representations to the responsible ministers detailed how the generals and their legal officers were lying to them. In 1997 Warren made Prime Ministerial representation to Howard detailing the failings of the Salmon QC report. His government shut down the case. Yet as Leader of the Opposition, John Howard, on 4 May 1995 wrote to Warren, in part:

*"As I understand this matter your case was most recently reviewed in late 1994 by Army Reserve Legal Officer, Lieutenant Colonel Salmon QC .....I would be happy to look into making representation on your behalf."*

15. The LTCOL Salmon QC 1994 report did criticise BRIGs Ewing and Hooper. He opined that their actions were "morally unfair" administration but no one was to blame. And Salmon QC left the corrupted 1982 Killen investigation report done by his pseudo Office of the Defence Force Ombudsman (i.e. Mr B C Campbell) as being the thorough and comprehensive ministerial review of the case. Killen's review rivals

the 1990 investigation done by Minister Gordon Bilney at the behest of and for Governor-General B. Hayden as being the most disgusting and corrupted investigation of the case since the Ewing and Hooper “investigations” of themselves in 1981. **As at 2006 Prime Minister Howard has left the LTCOL Salmon QC Report as the replacement cover-up report for that done by Killen in 1982, which Salmon QC has sought to leave in place as being an “exhaustive review” done by the responsible minister.** Thus Salmon QC protects the corrupted 1982 investigation/review and the Howard Government protects the cover-up 1994 Salmon QC investigation culminating in the disappearance of that report within Defence after it was misappropriated by Howard's subordinate minister, De-Anne Kelly in 2005.

16. Previously, on 18 May 1998, a Howard minister lied and misled the Senate in respect to the Salmon QC 1994 Report and other Defence reports. In response to Senate 'Questions on Notice', Bronwyn Bishop provided answers that:

*"There has been no investigation into ex Brigadier Hooper's role in the termination of ex Major Warren's career."*

She further answered that in 1981 BRIG Hooper was not the delegate authority to charge MAJ Warren with unprofessionalism and gross incompetence. That was done by a general further up the chain of command. She politicked to put the blame for years of ministerial ineptness and improper decision-making in this case at the feet of Senator Gareth Evans, Minister Assisting the Prime Minister, Bob Hawke. Her answer didn't go back to earlier Liberal Party decision-makers, Killen, Viner and Sinclair, who were responsible for the real abuse of process and decision-making at ministerial level. So far as the Howard Government is concerned neither then Military Secretary, BRIG Hooper, nor the Liberal Party were involved in the case and LTCOL Salmon QC had not investigated Hooper's role in it. In fact, in 1994 the then Minister for Defence, R Ray, had directed LTGEN Grey, then Chief of Army to investigate ex –MAJ Warren's ministerial representation of 11 March 1994 against BRIG J A Hooper. LTCOL Salmon QC was issued with Terms of Reference by LTGEN Grey which included an examination of Warren's report against Hooper. **Salmon QC did investigate Hooper's central role in the Warren case. Bishop's answer to the Senate was a raw lie.** Thus a conga-line of responsible ministers and

generals has formed an anal circle around Hooper's abuse of power as then Military Secretary. This has protected his post-Army position and decision making as a Non-Presidential Member of the Administrative Appeals Tribunal, Sydney.

17. The MAJ Warren case is another Howard Government lie. It was planted by Killen in 1982 and nurtured by the Liberal Party to date. It stands in contrast to the Australian Wheat Board (AWB) scandal in so far as Howard's ministers cannot claim that the Liberal Party did not know about the corruption of "process" nor can they claim that they were not decision-makers in it as they have done with the AWB case.

18. The hypocrisy of the Howard Government position in the ex-MAJ Warren case is to be found in the Sydney Morning Herald article of 24 November 2006 by Peter Hartcher. He quoted John Howard inter alia:

*"I believe that in public life you are accountable for the decisions that you take. I mean, I didn't hold any position of authority then (i.e. during the Vietnam War) but I supported the reasons for Australia's involvement and nothing has altered my view that, at the time, on the assessments that were made then, I took that view and I took that view properly. And I don't intend to indulge this pre-occupation that many have in recanting everything that they supported when they were in positions of authority. I think in public life you take a position and I think particularly of the positions I have taken in the time I've been Prime Minister. I have to live with the consequences of those both now and in the future. And if I ever develop reservations, well, I hope that I would have the grace to keep them to myself because I think you take a position and you're got to live by that and be judged by it, and that's my position."*

19. Since ex-MAJ Warren's Prime Ministerial representations to Howard in 1997 his Government has done its all to keep the case closed so as to cover up the corruption within Defence and what his Government ministers have acquiesced in. Covering up such severe crimes while still holding public office is not the same as having the grace to keep silent. Under such morally depleted governance MAGGEN Morlan really ought to reassess his perspective on mandatory 'death contracts' for recruits.

20. The intrinsic BRIGs Hooper and Ewing documents, examined by LTCOL Salmon QC for his investigation belie his 1994 report findings that these officers were

blameless in setting up Warren on vicious and fatal charges. Air Chief Marshall Houston cannot ignore or excuse the failures and corruption of the generals by hiding behind a history of alleged independent agencies or inquiries to investigate such cases.

21. The Howard Government's new independent agency, with jurisdiction over Military Discipline Law matters only, deliberately and legally avoids addressing endemic and unaccountable abuses of Administrative Law by the generals and their legal officers. Administrative matters will still remain under the control of the chain of command. Yet, abuses of this command structure were the substance of a majority of submissions to the Senate Inquiry into the MJS. Those submissions gave explicit direction for an urgent need to address the anti-cultural conduct of the generals and their senior legal officers.

22. Also, what ought to be of concern is the notion of "independence" of the new Director of Military Prosecutions. This is an appointment to the promotional rank of Brigadier and the appointee has been drawn from within the group-think culture of defence legal officers. Furthermore, the incoming Director, BRIG Lyn McDade has cited this "sacred" independence from the chain of command as been supported by the 'calibre of the current CofDF and Service Chiefs. Yet it was these very generals who share responsibility for the collapse of the MJS to its 'unfixable state.' Furthermore, such structural change does not appear to either diminish, change or challenge the status quo. The general's selected Director of Military Prosecutions has already focussed her criticisms on defence discipline cases involving more junior ranks. This merely repeats Air Chief Marshall Houston's 2005 and MAJGEN Grey's 1981 position that the generals are not to blame. This leaves the generals and their senior legal officers unscathed and untouchable for their continuing corruption of the MJS as exemplified by their continuing cover-ups in the ex-MAJ Warren case.

Allan Warren

13 January 2007

Go to: [google.com.au](http://google.com.au)  
Search: case of ex-Major Allan Warren  
Scroll to: Third Ministerial Representation November 16, 2006



## RELEVANT QUOTES FROM KEY DOCUMENTS INCLUDE

ADMINISTRATIVE APPEALS TRIBUNAL

Ref: N92/621

24 March 1994, Item 12 para.169 Page 53

*The Administrative Appeals Tribunal in re Warren and Department of Defence (Decision No 9168) pointed out that the reference to the Defence Force Ombudsman in this minute is incorrect and reference should be made to the Office of the Defence Force Ombudsman within the Department of Defence. Also the Tribunal was not prepared to find that the case of ex Major Warren had been exhaustively reviewed several times.*

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Gareth Evans

Minister Assisting the Prime Minister, R Hawke

30 December 1985

To Mr A K Warren

*I appreciate you feelings of having been unjustly treated. I am satisfied, however, that your grievances have been investigated thoroughly and objectively and that the setting aside of the conclusions of these investigations is not warranted.*

---

Kim Beazley

Minister for Defence

26 July 1983

*Dear Mr Warren,*

*I refer to your letter of 9 June 1983 regarding your resignation from the Army.*

*The circumstances surrounding your resignation were reviewed by the office of the Defence Force Ombudsman in July 1982 and he was satisfied that the army acted properly in seeking to terminate your services.*

*As a result of your previous representations, your claims were fully investigated last year. It was concluded that there were no grounds for your complains and that action taken by the Army was thorough and proper at all times.*

*Your latest letter does not raise any matters which require investigation and therefore no further action is proposed.....*

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