

16 November, 2006

8 Yulong Street  
Bateau Bay  
NSW 2261

Dr Brendon Nelson  
Minister for Defence  
Parliament House  
Canberra  
ACT 2600

Dear Dr. Nelson,

THIRD MINISTERIAL REPRESENTATION – EX-MAJOR A K WARREN

**“Preface**

*In August 19, 1899, THE GENERAL ADVERTISER of New South Wales, Australia, observed, “When the Dreyfus Case is ended, and nobody on this earth knows when that will be, there will be a relief to mankind all the world over.” Although the role of the principal victim – Dreyfus’ part – is over, the Dreyfus Affair is about old-fashioned fundamentals. Wherever and whenever dissension about social harmony, political expediency, and national defense obscures the rights of minorities, the corruption of institutions and the aberrations of patriotism, there is a Dreyfus Affair. In the plainest terms, where and when people consciously acquiesce in denial of justice of a single person, “relief to mankind all the world over” recedes”.*

David L Lewis “Prisoners of Honour  
The Dreyfus Affair” page v

1. On 16 November 2006, THE SYDNEY MORNING HERALD of New South Wales, Australia, observed, “When you are prime minister of this nation, you govern dispassionately for all the people. You have no friends to have favours done them. No friends. No friends in good odour or bad odour, none. You govern for the Australian people and no one else.” It was quoting the plain terms of Kim Beazley, Leader of the Opposition of how he would govern if and when he became prime minister”.

2. Kim Beazley has already rolled over to the bad odour in the ex-MAJ Warren case and will not allow his Labor Party to pursue the Government on it because it would personally embarrass him. There is only one thing worse than the insidious violence of political corruption and that is giving into it. And unlike your predecessors, Dr Nelson, it is hoped that you do not give into it.

3. The ex-MAJ Warren case has been described as “serious and scandalous” by Professor of Law, Martin Krygier, University of New south Wales. It has assumed the status of a ‘Dreyfus Affair’ in Australian’s political and military history because it provides a detailed insight and parallel blueprint into how:

- a. Defence’s generals continue to demonstrate and incite personal conduct within the officer corps that is in contempt of their statutory duty and the rule of law.
- b. The generals, by their personal conduct have perpetrated insidious violences against the individual that are manifestly unconscionable abuses of their power and authority and a betrayal of their subordinates.
- c. Ministers with portfolio responsibility have deliberately used time as a weapon of attrition with the determined purpose of burying both the case and the individual.
- d. The circumstances and issues could not have dragged on for so long but for the conga-line of wrongdoers involved in investigation of and decision-making in the case, causing internal denial and hostility within military leadership and systemic cover-ups by government ministers which are now too repugnant for them to explain.

4. Neither politicians from either side of politics nor the generals want the Warren case properly and independently scrutinised because they have allowed it to become a study of themselves. Twenty-five years of evidence in this case exposes a distinct and

concerted pattern in the generals' lack of propriety, moral courage and fidelity to duty demanded of their leadership rank and position. Their failings have been supported and replicated by senior Defence legal officers. Together they risk been exposed as persons responsible for the subversion of the rule of law. Past actions and inactions by the current Governor-General MAJGEN P M Jeffery, former Governor-General Bill Hayden, Prime Minister John Howard and Opposition Leader Kim Beazley also risk them been exposed as persons responsible and unable to exercise Executive and Commander in Chief control and authority over the military.

5. On 22nd January 1986, in his second Prime Ministerial representation to R. Hawke, ex-MAJ Warren wrote inter alia:

*“...I have suffered severely because officers subverted basic standards of official behaviour and because the democratic process of arresting this corruption has failed.....Your office and previous Ministers for Defence have accepted savage and unprincipled official behaviour as being acceptable and lawful administration....Your office...may accept this as being the status quo amongst public officials. However I regard it as treasonable corruption when it occurs in Defence administration. I also believe this type of bureaucratic corruption is a parallel to terrorism. Both are initiated by the unprincipled. Both subvert law and order. Both are violences against people.”*

6. The alarming signals in that representation are of more concern today than even then. They forewarned then of the rise of dutiless power in office by the increasing use of cover-ups of corrupted ministerial decision-making that have permeated the Warren case. The improprieties and failures of a succession of key official decision-makers in this affair cannot be excused by platitudes of “I wasn’t told”, “I didn’t know” etc. The detailed history of the Warren case clearly identifies and dates when and to whom ministerial representations have been made and the cover-ups, omissions and evasions of duty that followed. Responsible ministers have been given the facts and updated on evidence several times over the years. Thus the gravity of the 1986 representation to Prime Minister Hawke has been escalated by the subsequent behaviour of identifiable ministers and generals. In addition, joining this conga-line there must be generals who have known and know of the extensive network of maladministration involved in the Warren case but refuse to report it. The current Chief of Army, LTGEN P F Leahy

comes to mind. Then we have the conduct of LTGEN Cosgrove before the Senate Inquiry into the Effectiveness of the Australian Military Justice System (MJS) 2004 and Air Marshall Houston's refusal to investigate cases of former senior officers' abuse of power so as not to embarrass them. This negates any claims by the generals that such conduct could not happen on "their watch". These embarrassing cases have also disappeared from the Senate Review Committee's scrutiny of Houston's pledge to resolve all outstanding MJS cases. Thus Houston has been able to push Parliament aside to cover-up for mates.

7. In 1981 MAJ W Warren was forced to dishonourable resign from Army on the fabricated charges of unprofessionalism and gross incompetency. The 'Notice To Show Cause' (NTSC) charges were instigated by then Military Secretary, BRIG J A Hooper and framed by then Director of Army Legal Services, BRIG Ewing. In 1993 the Administrative Appeals Tribunal (AAT) described the case as "tragic" In 1994 Investigating Officer, LTCOL B J Salmon QC found there was no substance to the charges but avoided an investigation into legal procedural fairness and legal decision-making in bringing about MAJ Warren's termination. Instead he found there was "morally" unfair Defence administration in issuing the NTSC charges because they contained no substantive evidence and because Army failed to accept MAJ Warren's 1981 reply in defence to those charges that identified then that there was no such evidence. Salmon QC concluded that "no one was to blame" for the destruction of MAJ Warren's military career, livelihood and reputation. Yet, under BRIG J A Hooper's guidance MAJ Warren's immediate superior officers had set about to deliberately achieve that purpose by fabricating the necessary evidence to be used by BRIG Hooper. Successive ministers, by covering up for the generals, have condoned Army's insidious violences against the individual, natural justice and the rule of law.

8. The case remains unresolved because of the dominance of the abuse of power by key officials over the rule of law in public administration.

9. If Defence leadership had only been incompetent in 1980 then the numerous ministerial reviews would have rectified those mistakes and the integrity of leadership of the ADF and the Military Justice System may have stood. Those reviews gave opportunity to demonstrate integrity in personal decision-making by responsible ministers. And they would have confirmed MAJ Warren's 1981 representation to then Minister for Defence, Mr James Killen, that there was serious mismanagement of the case by senior army officers. Instead what has been institutionalised in the generals' and ministers' behaviour is continuing banal cover-ups and acquiescence in abuses of power and authority. The record of case evidence and the weight of that evidence exposes conduct that is a dangerous mix of incompetence and corruption at high levels of state and hence a threat to national security.

10. The bi-partisan condemnation of Defence in the Senate's 2005 Report into the Effectiveness of Australia's Military Justice System, acknowledging the collapse of the MJS, stands in agreement with long standing and serious offences of impropriety and abuses of statutory duties by senior military leadership. That Senate report's findings may well attempt to separate the responsible minister from the behaviour of individual generals within Defence but it does not excuse the history of their repetitive improper ministerial decision-making involved in the ex-MAJ Warren case. This includes LTGEN Grey's use of the LTCOL Salmon QC's "cover-up" findings as the general's definitive report to responsible ministers Gary Punch (Lab) and Bronwyn Bishop (Lib) to shut down the case and later, Minister De-Anne Kelly's (Nat) misappropriation of the Salmon QC report to again attempt to shut down the case in 2005. The current Minister Assisting the Minister for Defence, Mr Bruce Billson (Lib), has joined this conga-line. He has failed to get any answers from Defence, under Air Marshall Angus Houston, to questions that identify fundamental failings of LTCOL B J Salmon QC's finding on the Warren case that "no-one was to blame".

11. On 4 December 2005 Warren made representation to then Minister for Defence, Senator R Hill against Minister De-Anne Kelly's 4 October 2005 misappropriation of the Salmon QC report wherein she had falsely claimed that Salmon QC had addressed

Warren's complaints against "legal officers and legal decision-making". De-Anne Kelly knew that LTCOL B J Salmon QC had put a disclaimer on his report specifying that he DID NOT investigate Army's legal decision-making or its legal procedural fairness as he alleged his Terms of Reference did not require him to do so. Salmon QC's report was previously misappropriated by COL Harvey, then Director of Army Legal Services in his 1995 report to the then responsible minister Senator R Ray (Lab). The Liberal party, under Prime Minister John Howard, has failed to properly respond to Warren's December, 2005 ministerial representation to date. As at 12 October 2006 the minister with portfolio responsibility, Mr Bruce Billson (Lib) asserts that he cannot review the LTCOL B J Salmon QC report that was cited and misused by De-Anne Kelly in October 2005 because it can't now be found within Defence. These are similar to the tactics used by MAJGEN Jeffery in 1990 when he feigned both loss and destruction of documents during Defence's investigation of the case for then Governor-General B Hayden. Billson's current position merely adds to the list of alleging loss or accidental destruction of documents evidencing abuse of power on a case that is well known within Defence and in particular among its senior Defence legal officers.

12. The LTCOL B J Salmon QC's report was Army's definitive cover-up investigation of itself. It covered up the cowardly and corrupt conduct of those generals and colonels involved in the fabrication of evidence and their other thwarting of the rule of law. Subsequent misappropriation of its content by other generals and responsible ministers merely tracks their abuse and misuse of Military and Administrative Law. Furthermore, it is questionable if Salmon QC, as an Investigating Officer, ought to have inquired into a matter affecting military reputation. Only a Court of Inquiry can do that. At least half of the officers on such a Court must be from the same service and preferably be senior to the officer under inquiry. Australian Military Regulations are quite specific on this e.g. AMRs 386(2), 374(4) and 372(3). Given MAJGEN Jeffery's current position and his history in this case, Prime Minister John Howard has created a problem for himself by not having this case resolved years ago and by allowing subordinate ministers to be involved in a case in which they were and are completely out of their depth.

13. Notwithstanding the above, the 1994 Salmon QC report is in many respects irrelevant to the MAJ Warren case. It is merely Army's cover-up report of Army to and for the responsible minister. Since then Army, then Defence Legal, and then Minister De-Anne Kelly have subsequently further prostituted its content to give it greater credibility in their attempts to shut down the case. Their conduct is nothing more than idiocy but demonstrates Defence's hostility, fear and denial of the issues involved. In addition to its cover-ups the Salmon QC report demonstrates how documents relating to the case are mismanaged through misappropriation and then allegedly lost. By hiding behind the allegedly lost Salmon QC report the responsible minister has been able to maintain a Howard Government perpetration of a Dreyfus Affair. That Affair is defined by the grotesque way in which key politicians crawled up the anuses of corrupt military subordinates within Defence so as to cover-up for the latter's criminal stupidity thus perpetuating their own crimes and then compelled a growing conga line of generals to do the same.

14. Within context of the ex-MAJ Warren case, the purpose of this ministerial representation is to:

- a. Identify how the generals and ministers with portfolio responsibility have put themselves above the rule law.
- b. Deconstruct any use of popular notions of "cultural conduct" as excuses for the improprieties and abuses of power by the generals.
- c. Describe and explain how popularised notion of "group culture" are used to separate the individual from responsibility and accountability for his/her abuses and violations of duty to bring about a collapse in Defence leadership, the MJS and ministerial responsibility.  
AND
- d. Request the Minister for Defence, Dr Brendon Nelson, expedite a fair and proper resolution of this case.

15. The military, as a legal entity within its own right, is a distinctly formal organisation that allows it to function as a command down structure. Underpinning this is the Military Justice System with Military and Administrative Law encoding rights and responsibilities of rank and position irrespective of whether in operational or non-operational conditions. The internal checks and balances within the MJS are there to provide for and protect the integrity of that command structure over time. Individuals cannot act outside their rights and responsibilities without putting the formal and functional chain of command at risk. Consequently it is a demand on an individual's rank and position to act with proper adherence to formal administrative and lawful rules and procedures in leadership and to bring to it competency, professionalism and fidelity to duty. **But in the ex-MAJ Warren case the generals have shown an incomprehensible failure to achieve any of these leadership attributes hence their incessant need for cover-ups of cover-ups including their latest use, then disappearance of, the LTCOL B J Salmon QC report. Their habitual abuse of their judicial responsibilities has deepened their systemic failures in response to their obsession with self-protection.**

16. It is only when officers adhere to the formal culture of Defence is the military deserving of its place as the Profession of Arms. The chain of command functions to bring individual's behaviour in adherence to this culture. Such control and power over the individual in a military environment is justified when there is trust in its disciplinary laws and codes of behaviour. The generals demand that this control is essential to their command structure and purpose in defence of the political state – a purpose which makes Defence incomparable with any other organisation. This formal culture is lead by the generals whose promotion within the chain of command is designed to bring the “best of the best” to that rank and authority. That position carries with it serious leadership responsibility for adherence from the top down to the MJS.

17. Integral to Defence's “formal culture” and irrespective of rank and position held by individuals the military values a uniform code of conduct. Those codes are prescribed and standardised in Defence manuals and regulations so as to achieve consistency,



reliability and sanctions binding on individuals irrespective of personalities and abilities. Thus the military's hierarchical structure provides a means against which an individual's conduct and execution of his/her responsibilities from the top down, is able to be called to account. Consequently, service personnel's trust in their hierarchical command is dependent upon the checks and balances been administered judicially to expunge an individual whose conduct is not in adherence with this formal culture. It follows that military leadership must dominate the whole culture and bring to it standards of leadership that demonstrates propriety and fidelity to duty expected of those senior officers' positions of trust and rank.

18. What is paramount to the effective functioning of Defence's command structure is the rule of its Administrative and Military Law specifically designed to prevent or correct maladministration and abuse of power. It provides for regularity and continuity in the military. Its substantive and procedural operations are able to absorb changes in Defence leadership and serving personnel as well as changes in government and ministers holding portfolio responsibility. It has the simplicity of enabling responsibility to be identified to a specific individual at each stage of the administrative or disciplinary process. It functions to safeguard the rights of serving personnel against the use of discretionary power for unauthorised and/or unlawful purposes. It has been inherited from the past and it is the formal culture of Defence. Thus systemic failures, be it erring in duty, partial corruption or corruption in Defence can only occur when senior officers, in particular the generals, allow or provide for individuals or groups to act or continue to act in violation of the Military Justice System. Only then does Defence's organisation values and integrity decline because the legal framework and supervision that is meant to prevent the rise of any "anti-culture" has either collapsed or been put aside by the generals. Thus it is the checks and balances in Military and Administrative Law that is there to protect the military as a formal cultural group. But these checks and balances are themselves dependent upon the ethics and morality of the responsible minister and the generals. Senior officers can easily corrupt or acquiesce in corruption of them in pursuit of self-interest, careerism and avoidance of responsibility. As stated in 1992 by BRIG R W Fisher, AM, Director-General of Manning- Army, this brings chaos to the rule of law

within Defence. Thus the maxim “the fish rots from the top”. The MAJ Warren case is testimony to this derangement brought about by the generals.

19. The generals must be responsible for honest and forthright reporting on their command to the responsible minister. This nexus between military leadership and government is critical to national security and to the safety and lives of members of the ADF. Both are ultimately reliant on the integrity and competency of the military’s senior officers and in particular its generals. It is also basic to public trust in the military as an institution of state purposely charged to manage violence in defence of the state. The alternative is a military institution out of ministerial control and itself a threat to the state.

20. If the generals are unable to address failings in command or corruption of the rule of law, then it is incumbent upon the Minister with portfolio responsibility to do so. Ultimately, it is the Minister then the Prime Minister who is accountable for the use and abuse of power and authority by Defence. When and where the minister omits to act to expunge such failings in Defence’s leadership it has the effect of empowering the generals to act with immunity in their abuse and misuse of the chain of command. It provides the generals with arbitrary power and independence to act against the individual without consideration of the procedural fairness and laws of propriety in decision-making. This has the effect of undermining the legitimacy and credibility of the MJS and the formal culture of the military that is dependent upon it. This is repeatedly evidenced in the history of the ex-MAJ Warren case for which identifiable individual generals and senior legal officers are accountable.

21. Similarly, when a minister, in full knowledge of the failings in the generals’ leadership, continues to acquiesce with those failings, then it brings into existence a political group made up of the minister and the generals with power to act above the rule of law and independent of the Parliament. This political group then has the power to commit treasonable corruption against the state that is parallel to political terrorism. Such power is exemplified in the documented evidence of the ex-MAJ Warren including the misuse then “loss” of the LTCOL B J Salmon QC report. Again, there is long-

standing evidence of the existence of such a group in the ex-MAJ Warren case and continues to-date under Air Marshall Houston and Minister of Defence, Brendon Nelson. They follow MAJGEN then LTGEN P Cosgrove sitting on the case for years. His watch was a vacuum in leadership over the Military Justice system and a failure in his reporting to then responsible minister, Senator R Hill. Both are accountable for this putrified behaviour. Prior to that there is an endemic history of thwarting and delaying investigations and alleging disappearance of critical legal documents by the hand of MAJGEN P M Jeffery in 1990. The generals and the responsible minister have now taken the 'do-nothing' tactic with deliberate intent to maintain the long-standing cover-ups involved in the Warren case.

22. The formal culture of Defence has legitimacy. It is made up of laws, values, traditions and beliefs that enables the military to function as a discernible group. Its flexibility allows official sub-groups to function within the whole e.g. Medical, Transport, Infantry and Legal Corps. Thus the military is made up of a myriad of sub-group cultures. These official sub-groups can only function where there is a commonly held belief that the checks and balances within the chain of command will isolate and make individuals, either singly or in a group, ultimately accountable to the chain of command. Only where there is weak leadership from senior officers is conduct that is anti to Defence's formal culture encouraged. In order for it to persist this anti-cultural conduct must be supported by senior officers at the top with flow-on effect among subordinates. For this to happen it means that the formal checks and balances have themselves been violated or put aside, especially if legal officers have been involved in the process. It is when these processes fail this anti-cultural behaviour has the capacity to develop work practices that violate and replace the formal culture of Defence.

23. Anti-cultures do exist within Defence's senior leadership. They are driven by self-interest and careerism. They were responsible for the collapse of the Military Justice System to a manifestly dysfunctional state. This collapse did not happen overnight. As is evidenced in the ex-MAJ Warren case, it came about because it is corrupted from the top down over time. Yet the generals, including LTGEN P Cosgrove, in his appearance

before the 2004 Senate Inquiry, continued to demand that this MJS is imperative to the command down structure. If the MJS is an imperative to Defence than how did Cosgrove and his predecessors allow it to be subverted by these anti-cultures? This is made worse when, Cosgrove, by his stated position, felt that applying his intellect to the day to day command of the Australian Defence Force was more vital than applying it to policy formulation. Thus Cosgrove had no right nor excuse whatsoever, as part of his day-to-day command of the Military Justice System, to pass the baton of Army's corruption of the MAJ Warren case to his successor Air Marshall Houston and Chief of Army, LTGEN P H Leahy. It begs the question was LTGEN P Cosgrove commanding the anti-culture or the formal culture of Defence or was he playing the dirty politics of hypocrisy by aligning himself with both cultures? On 12 November 2006 it was reported in the media that Chief of Army, LTGEN P Leahy has learned to survive the hostile environment of Canberra whilst developing a public profile of "a soldier's soldier" concerned with the welfare of his troops. Air Marshall Houston now has the responsibility to put the ex-MAJ Warren case back on LTGEN P Leahy's desk for him to report up the chain of command to the responsible minister.

24. The ex-MAJ Warren case clearly evidences continuing and long-standing purification of the MJS. Under BRIG Ewing it existed in the 1980s with senior officers acting in violation of the law and defiling this duty of office. In 1994 Army's Investigating Officer, LTCOL B J Salmon QC's cover-up report did nothing to expunge this behaviour. In fact LTCOL Salmon acquiesced in it when he made his discretionary judgement that he did not have to examine procedural fairness and decision-making in the legal sense as his Terms of Reference did not oblige him to do so. He substituted unaccountable "moral unfairness" as causing MAJ Warren's loss of military career, livelihood and reputation and concluded that "no one was to blame". His report was done within the "anti-culture" of legal officers that both sides of politics now acknowledge as dysfunctional.

25. In 1997 Warren made representation to Prime Minister John Howard detailing the failings of the LTCOL Salmon QC report. His Government shut down any further

investigation of it until Minister De-Anne Kelly, in 2005, tried to misappropriate its content against Warren. In Warren's 2005 representation to then Minister for Defence, Senator R Hill against De-Anne Kelly's behaviour he also detailed her abuse of other legal reports in his case. On 12 October 2006 the current Minister, Assisting the Minister for Defence, Mr Bruce Billson (Lib) has written in reply that the LTCOL Salmon QC report cannot be found. Such delays and loss of documents themselves evidence gross maladministration. The misappropriation of these documents, before they allegedly went missing plus the pattern of corrupted personal decision-making by responsible ministers, demonstrates how far the anti-cultural virus has permeated our nation's leadership. And the current Governor-General MAJGEN P M Jeffery still remains unaccountable for his 1990 feigned loss or destruction of the entire history records of this case.

26. Thus the Warren case shows, from 1980 to date, this anti-culture, comprising of a conga-line of generals, responsible ministers and the Crown, has been able to continue with immunity, acting above the formal culture of Defence and its rule of law. This parallels the behaviour of key officials in the notorious Dreyfus Affair.

27. On 3rd October 2006 the Sydney Morning Herald reported on Defence's legal bill blow out. Supreme Court Justice Anthony Templeman accused Defence of been "profligate with public money". If one reads Warren's 2nd Ministerial Submission of 4th December 2005 which followed the Senate Inquiry into the Effectiveness of Australia's Military Justice System Report 2005, it is easy to track how Defence's legal officers have perpetrated and covered up systemic corruption of the MJS for years. In doing so they have entangled themselves in cover-ups of their own cover-ups in total contempt of Military and Administrative Law of which they are supposedly the guardians. It is fair to surmise that Defence's legal officers have misappropriated millions of public monies in covering up their own abuse of power. There is no evidence in the ex-MAJ Warren case that Defence's legal officers have changed or are willing to change their anti-cultural conduct. In this context they have adopted a "group-think" mentality at variance with the norms of the formal culture of Defence. But such "group-think" doesn't have a mind of its own. It is reliant on the individual attributed and talents of each officer to be effective.

It also relies on repetitive behaviour for it to thrive and dominate. Under evidence of bad or corrupt leadership, where self-interest and careerism rise to replace propriety and fidelity to duty, “group-think” behaviour nurtures virulent venality. Evidence of this vicious conduct by Defence’s legal officers permeates the entire history of the Warren case.

28. Similarly, Army generals and Chiefs of Defence in succession have ignored relevant evidence and applied arbitrary decisions in the ex-MAJ Warren case. The longitudinal pattern of their behaviour has exposed a history of their impropriety. In the military the number of Army generals is few and there is only one Chief of Defence. Consequently it is difficult to use the label “group-think” mentality, or “organisational culture” to identify the decision of an officer holding top rank and position over the whole. Yet a history of identifiable generals have perpetuated improper decision-making against the individual whilst hiding behind the “cult of the digger” and the foundation myths of the Anzac tradition. Their conduct in the Warren case, either separately or collectively has and continues to contradict Discipline and Administrative Law, including Commonwealth Laws of Propriety.

29. In 1993 Acting Chief of the General Staff, MAJGEN Carter, under oath at an AAT argued that there was no need to consider MAJ Warren’s 1981 reply in defence to the NTSC fabricated charges of unprofessionalism and incompetency because he had clearly refused to admit to them. MAJGEN Carter, at a quasi-judicial hearing was in contempt of all notions of the rule of law, be it military or otherwise. This was not “group-think” culture. It was MAJGEN Carter using his position and discretionary power to condone BRIGs Hooper and Ewing’s corrupt behaviour. MAJGEN Carter was clearly in violation of his duty of office. By their deliberate and conscious refusal to investigate MAJGEN Carter, the responsible minister and Defence leadership subsequently condoned his behaviour and evidence at the AAT hearing.

30. In 1990 MAJGEN P M Jeffery made decision that had the effect of thwarting Defence’s statutory obligations in the Warren case. He attempted to make disappear the

entire set of Defence records relating to Army's 1981 fabricated charges against MAJ Warren during an Army's investigation of the case for the then Governor-General B Hayden through then responsible minister Gordon Bilney. MAJGEN Jeffery's conduct in decision-making exemplifies everything that has become repugnant in the Army generals' handling of this case. His decision was blatant and in contempt of the office he held to feign destruction or loss of evidence in a case that had become a serious and scandalous indictment of Defence. MAJGEN Jeffery's decision against ex-MAJ Warren was conduct that attempted to protect BRIGs Hooper's and Ewing's corruption of due process used by them to bring about false charges against MAJ Warren. MAJGEN Jeffery's decision retrospectively acquiesced in that conduct. This was not "group-think" culture but personal decision-making and behaviour in Defence leadership for which MAJGEN Jeffery, like his predecessor, brings as his anti-cultural baggage to the Office of Governor-General. Thus, the only means by which notions of "group-think" can be applied to the rank and position of 'general' is that Defence's leadership is able and willing to inherit a history of impropriety into the present to be transmitted into the future. Just as viruses are transmitted, there is evidence of the transmission of this anti-cultural conduct in the paper trail of the Warren case. Individual generals have lied about the standards and extensiveness of their respective investigations into the case. Collectively they have lied for each other.

31. Prime Minister, John Howard would be reluctant to investigate the conduct of his appointed successor to Hollingsworth given the scandal that he brought to the position of Governor-General. Yet, MAJGEN Jeffery's acts or omissions are far worse than Hollingsworth's were because it involves the military and so impacts on national security. MAJGEN Jeffery's conduct occurred under Labor's Robert Ray as then Minister for Defence. Opposition Leader, Kim Beazley would be reluctant to pursue the case because of that and also because it would expose his egregious 1983 decision-making. Rather than resolve the ex-MAJ Warren case it would appear that both political parties want to continue to encourage improper and corrupt conduct as values within Defence rather than acknowledge that they have a statutory duty to arrest them. This means that these anti-cultures are been encouraged and incited at and by the most

powerful decision-making levels of state. The consequences of this is the continuance to nurture the root cause of bureaucratic violence, disguised as maladministration, that parallels the political terrorism Warren reported to Prime Minister Hawke in his 1986 representation.

32. What ought to be of concern is how key players in the Warren affair can take their anti-cultural conduct into other institutions of state. They carry the baggage of this military misconduct with them so as to spread their viral anti-culture. In BRIG Hooper's case he moved to a position in the Administrative Appeals Tribunal as perhaps did ex-Minister Gordon Bilney. Other players in the case are reported to have moved into the Australian Federal Police and indeed the Federal Court. It leaves those institutions exposed to the same purification given the acquiescence of responsible minister in the spread of these viral conducts.

33. The use of notions of "group-think", even "anti culture" or other derivatives to identify, label and explain failures in the formal culture of the military's command structure allows individual officers at the highest rank and position to avoid accountability and responsibility for their personal conduct and performance. Used frequently and without critical contextual examination, these word-items develop power to excuse continuing corruption as behaviour removed from and above the individual for which "no-one is to blame". Its effect is to substitute an unaccountable "culture" as a means of abuse of power and oppression. Within the military it removes protection of the individual from abuses and misuses of rank and position from the top down and is used as leverage to remove the chain of command from the consequences of its own improbity. But the use of these terms, particularly to the military, can only work on the belief that there are "fairies at the bottom of the garden" and that within Defence neither past, present nor future individual officers have identities nor rank nor hands to sign the papers. In the Warren case all have identities and signatures in the long-conga-line of impropriety or corrupt behaviour linking senior legal officers through to generals through to Liberal and Labor Ministers of Defence and Prime Minister to Governor-Generals B Hayden and MAJGEN Jeffery



34. Popularisation of, even propagandising the use of the word “group culture” is been used to protect perpetrators and give credibility to the existence of an abstraction as having more power than the conduct of the identifiable individuals involved in abuse of power. Ministers with portfolio responsibility have acquiesced or failed or are unable to expunge those who are ultimately responsible for the on-going violations of the MJS. Consequently, within its military context, such failings mean that this “anti-culture”, overtly operating from its command advantage, has been given “legitimacy” as the new “Defence Culture”

35. But the ex-MAJ Warren case is an expose of identifiable senior officers caught in a destructive mix of their gross incompetencies and abuses of power. It has been of their own making and is a serious threat to the overall performance of Defence and thus national security. And responsible minister have continued to refuse a forthright and rigorous examination of the circumstances surrounding Warren’s forced resignation from Army so as to bring about a fair resolution of this case.

36. Mr Gordon Bilney, then Minister for Defence Science and Personnel in 1990, has subsequently declared that he had trouble getting compliance from Defence. It would appear that your Assisting Minister, Mr Bruce Billson, can do no better in 2006. I therefore request that you, Dr Brendon Nelson, Minister for Defence, expedite fair and proper resolution of this case.

Yours sincerely,

A K Warren

See: Submission 5.2 ‘Inquiry into Military Justice Procedures in the Australian Defence Force’ Joint Standing Committee on Foreign Affairs Defence and Trade, Defence Sub-Committee, Vol 4 of submissions June 1998 page 752

Submissions 5A to 5E to Senate Inquiry into the Effectiveness of Australia’s Military Justice System 2004 available on the Senate’s website at [www.aph.gov.au/senate](http://www.aph.gov.au/senate)

google.com.au Case of ex-Major Allan Warren 2<sup>nd</sup> Ministerial Submission 4/12/05