

GOVERNOR-GENERAL, PRIME MINISTER AND SENATORS' COVER UP
OF THE GENERAL'S SYSTEMIC ABUSE OF POWER IN
THE MILITARY JUSTICE SYSTEM.

Case of ex-Major A K Warren.

On 14 May 2008 Prime Minister K Rudd gave decision that he would not review the ex-Major Warren case because Warren failed to offer compelling reasons for a new investigation. Rudd's decision is to reject any information, new or otherwise, as warranting investigation because it would expose how our key officials acquiesce in the abuse of power by their subordinates. This tactic has also been used by past decision makers as the way to cover up their own improprieties, omissions and misuse of power. Furthermore, in subservience to Defence's deceitful advice, Rudd cited and used previous Department of Defence investigations of itself, including the 1994 LTCOL B Salmon QC report, to justify his decision to deny Warren an honest ministerial investigation of his case and hence a proper Redress of Wrongs.

The Department of Defence has always argued that it was the Prime Minister (PM) and the Governor-General (G-G) plus a succession of Ministers for Defence who made the decisions to uphold the fabricated charges against Major Warren used to terminate him from Army.

But the 1981 to 1994 ministerial decisions to maintain Army's misuse and abuse of power and cover ups started to come unstuck in 1994 following three Administrative Appeals Tribunal hearings instigated by Warren under the Freedom of Information (FOI) Act. Hence Army, in the wake of FOI Act exposures of Defence maladministration and improper ministerial decision making, produced the LTCOL B Salmon QC investigative report to carry out damage control and to maintain the cover-up.

The 1994 LTCOL Salmon QC report for then Minister for Defence, Robert Ray, is poor and improper. Its political agenda is blatant. Its watered-down findings are obviously

intended to protect Warren's then superior officers and cover up their misuses and abuses of power. Yet in his report Salmon annihilates the evidence raised by Warren's superior officers, COL J Christopherson, LTCOL P Emmet and by then Military Secretary (Mil Sec) BRIG J A Hooper. That evidence was collated and analysed by BRIG J A Hooper to bring his fabricated charges against Warren. Hooper's intent was to get the G-G to dishonourably terminate MAJ Warren from Army on the grounds of unprofessionalism and gross incompetence. Yet Salmon found that there was no evidence in the many documents used by BRIG J A Hooper to explain his charges against Warren.

Two Brigadier-Generals were at the centre of:

- a. the fabrication, collation and analysis of the now disreputable evidence;
- b. the improper legal and administrative processes to bring charges against Warren, and
- c. the improper legal and administrative process used to put aside Warren's successful reply in defence wherein Warren was able to expose that there was no substance to Hooper's improper charges.

These were BRIG J A Hooper and the then Director of Army Legal Services (DALs) BRIG M J Ewing.

LTCOL Salmon investigated these two officers' actions in using the false charges against MAJ Warren. He covered for them and their positions of power and senior rank by claiming their actions were only 'technical errors' in military justice procedures, and hence they had done nothing wrong. He then put a disclaimer on his investigation report that he had not examined Hooper's and Ewing's use of Defence administration in the formal sense because he falsely claimed that his Terms of Reference did not require him to do so. Salmon claimed that he only examined 'moral' aspects of Defence administration. The then Minister for Defence, Senator Robert Ray (Labor) needed Salmon's findings to vindicate decisions made by former Prime Minister R Hawke and then G-G Hayden that no officers had acted against MAJ Warren.

Using false allegations as evidence, BRIG Hooper was at the centre of the senior officer scheming to destroy MAJ Warren's career and reputation. DALs, BRIG Ewing, aided and advised BRIG Hooper in this process. Hooper has been at the centre of Warren's numerous ministerial representations 1981 to date. Defence's cover up to date, and adopted by PM Rudd, is that Hooper wasn't involved in the dismissal process of Warren from Army. Instead Defence argues that it was Hooper's subordinate officers within his office and Hooper's immediate superior officer who acted against Warren. This is in spite of the fact that Hooper's own writings and recorded actions permeate the case. These were the documents that in 1990 Generals Jeffrey and Coates attempted to destroy or feign destruction.

Senator Jocelyn Newman (Liberal) in answers to Questions on Notice in the Senate, 13 May 1998, falsely claimed that:

“There has been no investigation into Brigadier Hooper's role in the termination of Major Warren's army career”.

Senator Newman's answer was prepared by then Minister for Defence, Industry, Science and Personnel, Bronwyn Bishop. Assumedly she was guided in this answer to the Senate by the Military Secretary (or the then equivalent office). It was an extraordinary lie to cover up for Hooper's misuse and abuse of power given PM Rudd's decision that ex-MAJ Warren's representations - wherein BRIG Hooper's role was clearly identified - had been thoroughly investigated a number of times by the Department of Defence

In 1990 the Mil Sec was responsible for and did the investigation for then Minister for Defence, Science and Personnel, Mr G Bilney's advice for decision making by then G-G Hayden on the case. The extremes taken then by the Mil Sec to cover up for BRIG J A Hooper are incredible.

Needless to say there is also absolutely no evidence of any attempt by government to investigate the former G-G, MAJGEN Jeffery when, as Deputy Chief of the General Staff in 1990, he was involved in attempts to destroy or feign destruction of Army's history records of Warren's constructive dismissal from Army. This occurred during the Mil Sec's investigation of the case for then G-G Hayden. That investigation was meant to focus on the officer performance reports and letters raised by COL J Christopherson, LTCOL P Emmet and BRIG Hooper then used as Hooper's evidence to accuse Warren of unprofessionalism and gross incompetency warranting dishonourable dismissal from Army by the Governor-General.

On 10 April 1990 ex-MAJ Warren petitioned then G-G Hayden because his case had not been fairly handled by the portfolio responsible ministers and the Prime Minister who had either acquiesced in or were indifference to Defence's cover ups of this matter.

On 19 April 1990 G-G Hayden directed then Minister for Defence Science and Personnel Mr Gordon Bilney (Labor) to examine Warren's case as a matter of urgency. Warren had provided the details of the obstruction and indifference being perpetrated by Defence and its portfolio responsible ministers. Bilney gave Defence - Army a deadline of 22 May 1990 to complete its investigation for the G-G. In turn Army passed the responsibility to investigate to the Mil Sec. Hence the Military Secretary yet again got to investigate the misuse and abuse of power by the Military Secretary.

Meanwhile, in succession, MAJGEN P M Jeffery then LTGEN J Coates, the then Chief of the General Staff, were involved in Army's destruction or feigned destruction of all the relevant Mil Sec and other documents relating to the termination of MAJ Warren from Army and BRIGs Hooper's and Ewing's involvement in it. Jeffery and Coates certified that they knew these documents and files had been destroyed either in the previous year or in January 1990.

With the relevant records of BRIG Hooper's involvement in setting Warren up on fabricated charges out of the way, the Mil Sec defiantly did nothing to comply with the

G-G's directive to investigate the case. He simply waited out the five week deadline given by the Minister.

On 6 June 1990 Warren rang the Governor-General's Office to enquire on the progress of the investigation. This prompted Ms L Lawless, Deputy Official Secretary to the Governor-General, to write to the Minister for Defence, Science and Personnel to expedite the matter.

On 14 June 1990 Mr Bilney wrote to Army directing the Mil Sec that unless a response was provided immediately an interim reply was required without delay for the Governor-General. From 19 April to 16 June 1990 the Mil Sec had done absolutely nothing to investigate Warren's case, including examination of Warren's new evidence.

On 15 June 1990 the Mil Sec responded to Mr Bilney's second directive. He refused to investigate the case for the Governor General. Up to this time the Mil Sec, Defence legal officers and the generals had freely lied to the portfolio responsible ministers, including to the Prime Minister, knowing that they would not be brought to account. Nor have they.

What happened next ought to be of concern because the offices of the Governor General and the Prime Minister are at the core of our democracy. It is the quality of the decision-making from these offices that determine their integrity and worth to our system of government.

In the 15 June 1990 response, in obviously bazaar contempt of the G-G, the Mil Sec informed the Minister that it refused to investigate ex-MAJ Warren's case for him arguing that the case was currently being investigated by the Defence Force Ombudsman. The DFO was not involved in any investigation of the case. But the lie created the deception that the case was being independently reviewed.

On 19 June 1990 Mr R Horton, Ministerial Officer within the Department of Defence intervened to address the chaos being generated by the Mil Sec. He wrote an abrupt Minute (DPFA-A582/90) to the Mil Sec. In it he dismissed the Mil Sec's claim that the DFO was investigating Warren's case. He directed Mil Sec to commence an immediate review of the case. Also, on the 19 June Mr Horton went into damage control. He deceitfully wrote to Mr G Bilney that Warren's case was *still* being reviewed by the Mil Sec.

On 3 July 1990 the Mil Sec submitted to Bilney its completed investigation for the G-G. It wasn't worth the paper it was written on. In four short paragraphs the Mil Sec fraudulently claimed that eight previous ministerial investigations into MAJ Warren's termination had been comprehensively answered. These investigations were allegedly carried out by then Chief of Personnel-Army, by the Defence Force Ombudsman (in 1981 when the DFO didn't exist), twice by the Minister for Defence (once by I Sinclair in 1982 and next by K Beazley in 1983) and by the Prime Minister (R Hawke in 1985). All of these investigations upheld the charges of unprofessionalism and gross incompetency against MAJ Warren. Mil Sec alleged all these investigations were carried out objectively, thoroughly and comprehensively by competent authority.

On 30 July 1990 Bilney used this 4 short paragraphed Mil Sec investigative report to give his ministerial decision and advice to then G-G Hayden. Bilney reported:

he had the circumstances leading up to MAJ Warren's resignation re-examined. *This was despite the facts that the Mil Sec had refused to investigate the case and the relevant files had allegedly been destroyed or lost well before Bilney's investigation commenced. During Bilney's investigation documents covering PM Hawke's 1985-86 investigations of the case were removed, then lost, from MAJ Warren's related personal file.*

Warren's case had been examined by the Acting Chief of the General Staff-Personnel (BRIG Hooper's immediate superior officer) and by the Defence Force Ombudsman. The Defence Force Ombudsman didn't exist in 1981 nor did it investigate the case in 1990 as claimed by the Mil Sec.

Army considers that Warren has provided no new evidence to alter Army's previous decision. In fact Warren had provided new evidence to the Governor-General and powerful existing evidence was pushed aside. It has been the ministerial decision maker's tactic to deny any relevant evidence as warranting investigation if it was unfavourable to their or Defence's cover up agenda.

Warren's case has been carefully and thoroughly examined on a number of occasions. In 1993 the Administrative Appeals Tribunal ruled that Warren's case had not been comprehensively and objectively reviewed several times as claimed by previous ministers. This included assertions and decisions by Mr G Bilney and G-G Hayden. In 1994 Salmon QC found there was no evidence to support Hooper's charges in any of his many documents that he claimed proved Warren guilty. Yet Hayden had sanctioned BRIG Hooper's charges.

Warren's claims of victimization, obstruction and indifference are unsubstantiated. G-G Hayden's decision, on Mr G Bilney's advise, exemplifies the hypocrisy and deceit that continues to permeate ministerial and G-G decision-making in this case to date. The relevant information given above exposes the intensity of this impropriety and deceit.

Army's delay in this reply has been necessary in order to re-examine all aspects of the case. It took the Mil Sec 10 weeks to produce 4 paragraphs of 3 lines each that did nothing other than to claim that the case had been previously investigated. This was in complete defiance of the G-G's directive that Army investigate Warren's detailed petition to him. But it was in accord with Mil Sec's stated intent to defy the G-G directive and not examine the case.

On 15 August 1990 G-G Hayden gave his decision on Warren's petition of 10 April. His decision upheld Bilney's false findings and improper advice. Warren again petitioned the G-G for him to oblige then Minister for Defence, Robert Ray, to have his case fairly handled.

On 4 September 1990 G-G Hayden replied to Warren. He stated that he had examined Warren's previous submissions and the response by the Minister for Defence, Science and Personnel, Mr G Bilney. He gave decision that he was satisfied that Warren's claims had been thoroughly investigated within the Department of Defence. He refused to have the case reviewed again.

On 24 June 1991 Ms L. Lawless, Deputy Official Secretary to the G-G wrote to Warren that the Hayden would not revise his earlier decisions.

On 3 February 1992 G-G Hayden again wrote to Warren stating that he stood by Bilney's advice to him and that his decision against Warren stood. i.e. that the charges of unprofessionalism and gross incompetency were sound.

In furtherance to his damage control to cover for Hayden, on 3 March 1992 the Minister for Defence, R Ray, wrote to Warren that the G-G required the minister's advise before he could make a decision on his case and that the minister was not prepared to provide any further advice to the G-G.

On 7 April 1992 the G-G wrote to Warren that the Minister for Defence, Science and Personnel, Mr G Bilney, is satisfied that Warren's claims of victimization, obstruction and indifference are unsubstantiated and that no further action was warranted.

Warren had been forced into three years of Administrative Appeals Tribunal hearings – three hearings related to his personal history records that MAJGEN Jeffery and LTCOL Coates had certified they knew had been destroyed in 1989 or in January 1990. Defence

eventually released these documents to Warren, except for the records of PM Hawke's investigation and decision making on the case (i.e. the Senator G Evans documents).

The surfacing of Warren's termination records through the AAT/FOI process forced Senator R Ray into damage control. Warren had given Hayden the evidence of the Mil Sec's maladministration. Hence Hayden's decision to uphold the charges can only be seen as one disgusting lie originating from the Mil Sec, continuing through the minister to be embraced by the G-G. Defence then produced for the minister the LTCOL Salmon report to cover up for the Defence victimization, obstruction and indifference that Hayden in his decision continued against Warren. In that report Salmon withdrew the fabricated evidence and false charges from the case. He diminished Hooper's central role and responsibility in it. He pushed aside the evidence of malicious and improper report writing by COL Christopherson, LTCOL Emmet and BRIG Hooper and pretended that the destruction of Warren's career and reputation was just an innocent mistake that he labeled as 'unfair administration'. To achieve this agenda, Salmon had to ignore relevant evidence and cover up for BRIGs Hooper's and Ewing's wrongdoing. By so doing Salmon's report had the effect of attempting to extract G-G Hayden from his improper decision making. Hayden had accepted the Mil Sec's corruption of due process within the Military Justice System. Despite the evidence and the weight of that evidence against Hooper, Hayden had, on repeated occasions, upheld Hooper's maladministration against Warren.

On 21 August 1995 Warren petitioned G-G Hayden. It exposed the fraudulent Commonwealth Government ministerial investigations of his case 1981 to then. On 26 September 1995 Warren again petitioned the G-G. In it he detailed the step by step process by which the Mil Sec and Bilney had jointly arrived at the advice upon which G-G Hayden made his 1990 decision to uphold the Defence Act 1903 Section 16 charges against Warren.

On 6 February 1996 Warren wrote to Senator R Ray, then Minister for Defence. He requested he be told the reasons why the Department of Defence had decided that he was

unprofessional and grossly incompetent given that the original charges upheld by G-G Hayden were found to be groundless by the LTCOL Salmon QC. Ray refused to answer and went silent.

Politicians appear to have an alarming tendency to lose control of reality and indulge in delusional cover ups without any concern for the damage they do to individuals and to the integrity of the office they hold. It is obvious that even middle ranking officers within Defence were confident to feed their corrupted information and advice up to G-G Hayden, PM Rudd and Senator Ray knowing that these politicians would either wittingly or unwittingly go along with it out of indifference, fear, incompetence or cunning.

PM Rudd's decision of 14 May 2008 was predictable given the long history of improper decision making by Labor Party icons in this case. Defence has always argued that it was the portfolio responsible ministers and Prime Minister who sit at the head of responsibility and power over the Military Justice System. And the G-G, as Commander in Chief of the Australian Defence Forces, sits above them all. The generals have persistently argued that these are the key officials that made the decisions to uphold BRIG Hooper's charges against Warren

In Senator Newman's answers to the Senate she falsely claimed that BRIG Hooper's involvement in MAJ Warren's case was only to provide his superior officer with MAJ Warren's "reported performance" records because, as the officer responsible for the career management of Regular Army Officers, he was the custodian of these records. In truth Hooper's participation in the machinations to generate damning evidence to dismiss Warren from Army was pivotal. Furthermore, the dismissal of an officer in Warren's circumstances is rare and thus BRIG Hooper, acting at the highest point of power in the officer career management system, was totally involved. Senator Newman, herself married to a relatively senior officer, in all probability would have known this.

Real damage is done to our democracy when key officials participate or acquiesce in abuses of power – or by their omissions or cover ups - allow these abuses to be

institutionalized. PM Rudd's current denial of any Defence wrongdoing by BRIG J A Hooper and others can only be seen as a continuation of those cover ups. Clearly there are now two levels of concern arising from cases like this one. Firstly, one needs to ask how on earth has the Secretary for the Department of Defence allowed such systemic deceit and lying embroil ministers and expose them to improper decision making? Secondly, why have key officials from the G-G down, who knew or ought to have known the extent of that improbity, continued to encourage this debasing of our institutions of state including Parliament and Defence?

In 26 May 2009 in the Sydney Morning Herald, Gerard Henderson wrote that: "*the offices of the governor general and the prime minister are at the core of Australian democracy and deserve respect.*" Australians would agree with this. That respect must foremostly come from those key officials who hold these offices and is best demonstrated by their decision making. Henderson argues that the G-G is above party politics. This is why he/she is paid a generous salary and an enormous pension rights plus entitlements. If these key officials are too weak or lack the integrity to perform their duties and confront abuses of power by their subordinates, then our democracy is rotting from the core.

Under PM John Howard the then local member for Dobell, Mr Ken Ticehurst, refused to make any representation on Warren's behalf whatsoever. He asserted that he did not represent individual constituents but only represented the community.

Warren's current member for Dobell, Mr Craig Thomson, described the case as horrifying; the likes of which he had not seen before even in his years as a senior official in the trade union movement. His position was that it is fundamental to law that any charges should have substance to them and the individual should know what they are. In an initial interview on 29 January 2008 Thomson clearly demonstrated to Warren that he had briefed himself well on the issues of the case. However he told Warren that he had been warned by Labor Party insiders **not** to touch the case. He also told Warren that he didn't believe Mr Warren Snowdon was up to the job as Minister for Defence, Science

and Personnel and that Parliamentary Secretary, Mike Kelly, would give better service to the community in that position than Snowden ever could. Events proved Thomson right about Snowden. His improper handling of Warren's case in 2008 is the subject of Warren's representation to PM Rudd 26 March 2009 (google: case of ex-Major Allan Warren then scroll to that representation)

Mr Thomson told Warren that he would make representation on his behalf and would arrange a meeting with the Minister for Defence with himself and Warren in attendance. He also offered to organise an advocate to give support to Warren's case. It was agreed that he would ask Parliamentary Secretary Mike Kelly. Kelly's previous career as a senior Army legal officer would make him an appropriate person because it would be more difficult for Defence to deceive him in matters of investigation, process, evidence consideration and truthful compliance and reporting to the Minister. According to Mr Thomson, both the Minister for Defence and Mike Kelly refused.

Ultimately, Mr Thomson's undertakings to make representation to support Warren came too little. Warren received the same Prime Ministerial response had he made the representation directly. PM Rudd, using Defence advice, assumedly from the Mil Sec (or the current office equivalent), in response to Warren's representation through Thomson 11 February 2008, continued to deny any evidence of Defence wrongdoing.

In October 2008 in interview with Mr Thomson Warren requested that the next appropriate step was for Mr Thomson to seek an interview with NSW Senator John Faulkner, Special Minister for State. As the NSW Senator, Faulkner represents all NSW constituents and this is especially so on matters of Australian government administration. Warren wanted to put his case against the failed standards of ministerial decision making, including the process of improper advice to ministers that defines his case 1981 to date.

Since October 2008 Thomson has failed to keep his appointed interviews made with Warren in his electoral office at Tuggerah. Four times he cancelled and rescheduled these interviews and on 7 April 2009 he refused to meet with him. Warren has been told

that Thomson will not see him again. It would appear that the message from the Labor Party insiders warning him not to touch the case has impacted on him.

On 24 May 2009 Snowden wrote to Warren again asserting that the government had given a “fulsome” response to the case and he considered the case closed unless there is ‘new information’. This is the same tactic used by G-G Hayden and others in this case that is ultimately intended to cover up for ex-BRIG Hooper, ex-COL Christopherson and ex-LTCOL Emmet.

On 4 June 2009, in the wake of the resignation of Minister for Defence, Mr J Fitzgibbon, for being in breach of ministerial codes of conduct, PM Rudd has emphasized to the nation that his government stands by the highest of ministerial standards. Rudd’s decision of the 14 May 2008 shows that this is clearly not the case. As demonstrated by the ministerial standards set in the ex-Major Warren case, Labor Party ethics and propriety, from the top down, have been seriously depleted for some years

Mr Allan Warren

4 June 2009