

THE UNIVERSITY OF NEWCASTLE

C. 55:80

COMMITTEE OF INQUIRY INTO THE CONDUCT OF

DR. M.E. SPAUTZ

SENIOR LECTURER, DEPARTMENT OF COMMERCE

REPORT OF THE COMMITTEE

30 April 1930

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THE UNIVERSITY OF NEWCASTLECOMMITTEE OF INQUIRY INTO THE CONDUCT OFDR. M.E. SPAUTZ,SENIOR LECTURER, DEPARTMENT OF COMMERCEConstitution and Terms of Reference

1. At its meeting on 15 February 1980 the Council of the University of Newcastle ('the Council') resolved to institute an inquiry into the conduct of Dr. M.E. Spautz, a Senior Lecturer in the Department of Commerce of the University. The committee was appointed by the Council from its own number and comprised the Hon. Mr. Justice Kirby (Deputy Chancellor) (Chairman), Professor K.R. Dutton, Mr. L. Gibbs B.E.M., F.A.I.M. and Mr. A. Oliver C.M.G., F.A.S.A. The committee as so constituted has, in accordance with its terms of reference, conducted its inquiry. The committee had the assistance of Mr. L. Farrell as its Secretary. It met on four occasions to receive evidence and to hear argument, each occasion being in the Council Chamber of the University. These sessions were held on 26 March 1980, 28 March 1980, 30 March 1980 and 18 April 1980. It also met in Sydney on 24 April 1980 when final documentary evidence was received. This is the report of the committee.

2. The resolution of the Council establishing the committee, as subsequently modified (with the authorisation of the Council) after consultation with the University solicitors, charged the committee to conduct the following inquiry :

To conduct a proper inquiry into the conduct of Dr. M.E. Spautz (Department of Commerce) and to report to the Council thereon and in particular to report:

1. Whether Dr. Spautz disobeyed instructions given to him by the Council of the University and refused to accept and obey decisions of the Council concerning him.
2. Whether contrary to decisions of the Council of the University communicated to him, Dr. Spautz continued to distribute and display letters and other material with respect to Professor A.J. Williams in intemperate language contrary to normal academic practice.
3. Whether Dr. Spautz continued to conduct a campaign otherwise than in accordance with normal academic practice against Professor Williams contrary to a decision of the Council of the University communicated to him directing that he should cease to do so.

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4. Whether Dr. Spautz continued to display on the door of his room in the Social Sciences building of the University, letters and other material relating to his dispute with Professor Williams, contrary to a decision of the Council of the University communicated to him.
 5. Whether Dr. Spautz continued contrary to a decision of the Council of the University communicated to him to use university photocopying machines and other office equipment for the duplication of such letters and material.
 6. Whether Dr. Spautz contrary to the direction of the Head of the Department of Commerce in consultation with the Vice-Chancellor refused to agree to the relocation of his office elsewhere than in the Social Sciences building as required by the Council.
 7. Whether Dr. Spautz acted in such a way as to interfere with the research, teaching in the Department of Commerce and the learning environment of the students of that Department in that he persisted with intemperate attacks on Professor Williams contrary to normal academic practice.
3. Dr. M.E. Spautz was present during the whole of the inquiry. Professor A.J. Williams (Professor of Commerce) was present for most of the hearing on 26 March, being admitted after certain preliminary matters raised by Dr. Spautz had been resolved. Professor Williams was present during the whole of the balance of the proceedings. As it will emerge, the dispute between Dr. Spautz and Professor Williams has given rise to the events that led to the Council's resolution and to this inquiry. Also from the outset, the committee gave permission to the Staff Association of the University of Newcastle to have representatives present. Dr. Spautz did not object to this course, although he expressed the preference for a particular representative (Mr. Mackie) who subsequently attended two of the sessions. On 18 April, Mr. D. Mitchell, for the Association made a statement on behalf of the Association indicating that it was satisfied that in view of the functions of the committee, the procedures had been fair. As will appear below, the committee has been at pains so to conduct its inquiry as to ensure that it reaches, fair procedures, a sufficient understanding of the issues raised by the conduct of Dr. Spautz, to enable it to report in adequate detail to the Council. The committee has no function to conclude or recommend what, if anything, follows from its findings. That will be a matter for the Council. The duty of the committee is simply to conduct a proper inquiry and to report. Although seven items of particularity are referred to in the terms of reference, the opening words of the committee's mandate have imposed upon it, in addition, the duty to examine generally the conduct of Dr. Spautz. This it has done.

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4. For the purpose of fairness to Dr. Spautz and to assist him to direct his attention to those aspects of his general conduct that might be especially relevant, certain additional particulars were given, in advance of the hearing, and relevant to the general inquiry. At the hearing, Dr. Spautz objected to these particulars, inter alia on the ground that he had not been given 28 days notice of them. The particulars were not pressed and as the inquiry progressed and was conducted, they did not become important. The committee has confined itself to the general and specific heads of inquiry authorised by the Council, as outlined above, and in respect of which Dr. Spautz did receive 28 days notice. The University's By-law 3.6.1.6(2) requires that 28 days notice should be given of the 'nature of the inquiry' as well as the time and place appointed for it. There would appear to be no dispute that this by-law was complied with.

Evidence and Witnesses

5. In advance of the hearing, and with a view to assisting the expeditious conduct of the inquiry, Mr. Farrell was asked to prepare a compilation of the correspondence in the possession of the University considered to be relevant to the inquiry. Dr. Spautz did not object to the tender of this compilation and on the contrary welcomed it. It subsequently became Exhibit 'A' and it was added to during the proceedings. It is not suggested that this collection of correspondence includes all of the correspondence between the University and Dr. Spautz or Dr. Spautz and other persons. Subsequently other correspondence was received in evidence, including some tendered by Dr. Spautz. Save for two documents, the tender of which was rejected for reasons given, all documentary material offered either by Mr. Farrell or by Dr. Spautz was received and considered by the committee. This report must be read with the very great bulk of correspondence that has been generated in this matter clearly in mind. Even as reduced to the exhibits in the inquiry, the correspondence is numerous, lengthy and often extremely detailed. It is the endeavour of the committee in this report to reduce the unhappy events in the Department of Commerce which have now stretched for some two years, to a few pages. In reaching this report, the committee has paid the closest attention to the correspondence and other documentary evidence as well as to the oral testimony and the submissions (written and oral) presented to the committee.

6. The specific heads of inquiry before the committee (items 1 to 6) refer to inquiries into whether certain conduct of Dr. Spautz was contrary to instructions given to him by the Council. The terms of these instructions will be noted below. For present purposes, it is sufficient to note that the seventh head of inquiry is not limited to instructions given to Dr. Spautz by the Council. It refers, at large, to Dr. Spautz' conduct and its effect on research, teaching and the learning environment in the department. Similarly, the general mandate included in the opening words of the terms of reference of the committee are not limited to instructions given by the Council to Dr. Spautz. They require simply an inquiry into his conduct. The evidence received by the committee, both oral and in writing, has been received or rejected as it appeared to the committee to be relevant to the heads of inquiry, so understood. About a large number of the factual issues (particularly those raised in the specific heads of inquiry 1 to 6) there was little dispute. In respect of these issues, the disputes were rather related to alleged ambiguities of the Council's instructions,

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the proper characterisation of Dr. Spautz' conduct as falling within or outside those instructions, and the interpretation of such evaluative expressions as 'in intemperate language' and 'contrary to normal academic practice'. Again, the evidence received by the committee was confined to matters truly in dispute. Where the facts were not seriously in dispute, the issues of interpretation, evaluation and construction would not, as it seemed to the committee, be significantly advanced by numerous witnesses on the facts.

7. All but one of the witnesses called by the committee were students or staff of the University of Newcastle. The exception was Emeritus Professor W.M. O'Neil A.O., until recently Deputy Vice Chancellor of the University of Sydney. Professor O'Neil had been McCaughey Professor of Psychology within that University from 1945 to 1965. Professor O'Neil sat in during the proceedings on 26 March 1980. At the close of other evidence on that day, he made a statement based both on his reading of the compilation of correspondence (Exhibit 'A') and on his observations of the proceedings of the committee to that stage. The purpose of calling Professor O'Neil was explained. It was to ensure that an outside perspective was secured by the committee, by which to test the conduct of Dr. Spautz and others involved in the matters in dispute. Dr. Spautz objected to Professor O'Neil's presence. He raised in turn a number of objections. These included his privacy, his fear that Professor O'Neil might give evidence of a psychological character and his belief that Professor O'Neil might have too long standing a connection with the Chairman of the committee. As to privacy, Professor O'Neil agreed to hold himself bound by obligations of confidentiality. The Chairman made it plain that Professor O'Neil's testimony would not extend to a psychological diagnosis of Dr. Spautz. The links between Professor O'Neil and the Chairman were, as explained, in the distant past. The committee has confined itself to the oral and written testimony of Professor O'Neil. At Dr. Spautz' request, Professor O'Neil considered certain items tendered by Dr. Spautz. His report and opinion on those items became Exhibit 'P1'. Dr. Spautz did not object to the tender of this document and on the contrary asserted that if the committee were to accept Professor O'Neil's statement 'I win my whole case' (Transcript 338). He later appeared to resile from this view (Tpt. 344). However, the committee believes that Professor O'Neil had relevant expertise, which he outlined to the committee. He had for many years dealt with administration matters within the University of Sydney, the oldest University in Australia. In that time he had had to consider disputes between academics of that University. He knew neither Professor Williams nor Dr. Spautz before he was requested to assist the committee. The committee was impressed by the calm and objective way in which Professor O'Neil gave his evidence, answered questions and subsequently presented his written report.

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8. The other witnesses, from the University of Newcastle, ranged from Professor M.O. Jager, Head of the Department of Commerce and Professor A.J. Williams through five members of the academic staff of the Department of Commerce (Mr. E.J. Burke, Mr. G.R. Dowling, Mr. G.E. Ferris, Dr. M.J. Tippet and Mr. G.P. Walker), two office staff of the Department of Commerce (Miss S. Darke and Mrs. S. McIlroy) to finally four students (Mr. T. Jones, Mr. C. Norris, Mr. P. Vanvalen and Mr. M. Vlaskamp). Professor Jager, Professor Williams, Mr. Burke and Mr. Ferris were witnesses whom either Dr. Spautz specifically asked to be called or who (as in the case of Professor Williams) he specifically asked to question. Messrs. Jones, Norris and Vlaskamp are described in an annotated submission (Exhibit 'BB') as 'decent students'. In the same document, most of the remaining witnesses are described either as 'hand-picked bootlickers' or 'doubly so'. The committee believes that for the purposes of its report, it received sufficient oral and written testimony and that it has a sufficient understanding of the issues to report to the Council. Dr. Spautz asked for a number of other witnesses to be called including the Chancellor, Vice Chancellor and members of the Council. These requests were not acceded to for the basis of the request did not appear relevant to the inquiry of the committee. Dr. Spautz asked for a number of staff members to be called, including Messrs. Smyrk, Dunlop and Dickinson. Some inquiries were made concerning the availability of these witnesses. In some cases they were not available. In any case, in Exhibit 'BB' Dr. Spautz has described them as 'more hungry bootlickers'. It did not appear to the committee that it was necessary to call their evidence. Likewise, the request to call three additional students (Mr. Pope, Mr. Rennie and Miss Joliffe) was either not pressed or not shown to the committee to be sufficiently relevant to the terms of reference and the matters seriously in dispute.

General Background

9. It is difficult for the committee to summarise in a few paragraphs the general background to the events that are now under inquiry. Dr. Spautz was appointed a Senior Lecturer in the Department of Commerce in August 1973. He is an American and his academic training and subsequent experience in industry were exclusively in the United States of America. Professor Williams was offered appointment to the Chair of Commerce in the University in mid 1976. He took up duty on 1 January 1977. The Chair to which Professor Williams was appointed was advertised thrice. Dr. Spautz was an applicant for the Chair on the first two occasions. He was not appointed. Indeed the Chair was not filled. Dr. Spautz suggested to the committee that during the initial phase of his relationship with Professor Williams, there was nothing amiss. However, Professor Williams told the committee that he did not accept this interpretation of events. He believed that from the very start there was reticence and reluctance on Dr. Spautz' part to accept him fully as a colleague (Tpt. 356). One of the witnesses whom Dr. Spautz asked to be called (Mr. Ferris) proffered an explanation of the events described below. He said that Dr. Spautz was disappointed when he saw his chances of being appointed Head of School recede with the appointment of Professor Williams (Tpt. 285). He also felt he had difficulty in adjusting to what he called the 'higher levels of incompetence' which exist in Australia, when compared to the United States (Tpt. 286).

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Whatever the explanation, the fact is that it was not very long before relations between Dr. Spautz and Professor Williams became strained. Professor Williams came to the University of Newcastle with a degree of Doctor of Philosophy awarded to him by the University of Western Australia. The doctoral thesis (a document of more than 750 pages) has not been seen by the Committee. It would appear that it is to do with Professor Williams' speciality relating to small businesses. In about September 1978, allegedly following promptings by his colleagues, Dr. Spautz asked for and was given a copy of Professor Williams' thesis (Tpt. 356). It seems that within one or two days Dr. Spautz brought the thesis back to Professor Williams, annotated with his written comments, and according to Professor Williams, made, in the course of discussions :

'Some very real, nevertheless veiled, threats of what he intended to do with the information he believed he then had. There was a clear implication of [the fact that] he had the means of destroying me, to bring about my dismissal, to disgrace me and things of this kind. And that was right at the very outset, the first discussion we actually had in this matter' [Tpt. 356].

At this stage, Dr. Spautz' objection to Professor Williams' thesis appeared to be related to an alleged defect in the model propounded by Professor Williams in the thesis. It is not necessary for present purposes to analyse the complaint, although it was explored before the committee. This was, of course, a thoroughly orthodox subject of academic difference of view. What was unusual was described by Professor Williams :

'I found the matter very curious myself, in fact it alarmed me considerably to see his state of agitation on the matter that I believed he had unwittingly or deliberately had grossly misunderstood' (Tpt. 356).

In November 1978 the Department of Commerce was re-arranged into two sections. Professor Jager and Professor Winsen were jointly to head the section on Accounting and Finance. Professor Williams was to head the Management section. The departmental statutes of the University make no explicit provision for 'sections'. Nevertheless, the Vice Chancellor of the University approved the division, which seemed a natural and logical one, given the areas of expertise of the department. Council of the University approved financial delegations to Professor Williams as Head of the Management section. This was done on 19 January 1979. Dr. Spautz, in the midst of his dispute with Professor Williams about the model in the Ph.D. thesis, declined to accept Professor Williams as Head of the Management section of the department. He voiced his objections to Professor Williams orally to his colleagues. They however, as early as 1 November 1978, attended a meeting to which Professor Williams made a statement and then left so that the meeting could proceed uninhibited by his presence. In the result, a resolution was passed by the staff of the Management section in the following terms :

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'This inaugural administrative meeting of the Management division (sic) of the Department of Commerce expresses its unreserved and enthusiastic support for its first Head, Professor A. Williams and wishes him [well] in his endeavours in his first term. We offer our full co-operation to assist him in this task. In dissent - Dr. M.E. Spautz.'

10. Dr. Spautz persisted with his criticism of Professor Williams. Now he took it to the Vice Chancellor. The record of the subsequent events is contained in the Vice Chancellor's report to the Council (Exhibit 'A1'). Dr. Spautz claimed that Professor Williams' Ph.D. thesis was 'pseudo scientific'. His criticism to this stage was that the empirical portion of the thesis was 'completely invalid being based on spurious statistics and an inverted cause-effect model'. By this time Dr. Spautz had declined to accord Professor Williams the title of 'Professor', a course with which he persisted throughout the committee's inquiry. The detailed course of events as outlined to the committee and as succinctly summarised in the Vice-Chancellor's document ('A1') is not repeated.

11. Events took a new turn in mid July 1979 when Dr. Spautz wrote to the Vice Chancellor describing what he called 'a serious new charge against A.J. Williams : plagiarism'. Dr. Spautz claimed that photocopied extracts from Professor Williams' Ph.D. thesis had not attributed to the original sources, material included in the thesis. Dr. Spautz complained that his copy of the thesis had been 'confiscated' by Professor Williams. Professor Williams told the committee that he had sent that copy, with Dr. Spautz' annotations, to overseas colleagues in North America and Europe for comment and reaction to the annotated criticisms. It does appear, however, that Professor Williams was not forthcoming in supplying a second copy of the thesis to Dr. Spautz, conduct which, in retrospect, seems unfortunate.

12. In mid August 1979, Dr. Spautz commenced sending to members of the Council a large number of copy letters concerning his dispute with Professor Williams. On 4 September 1979 he sent Professor Williams a memorandum criticising his thesis, alleging plagiarism, slander and libel and accusing Professor Williams of 'obtaining your present high office by fraudulent means'. (Exhibit 'A1', attachment B). On or about 25 September 1979 this memorandum was distributed widely around the campus. It concluded with the call which was to be repeated throughout the hearings by the committee :

'Now I say to you : "A1, why don't you simply resign from your obviously ill-gotten position, and prevent a public scandal?" '

13. There followed much correspondence and several efforts to explore the situation further. At its meeting on 19 October 1979, the Council established a committee comprising Professor M.P. Carter (Chairman), Associate Professor G. Curthoys and Professor K.E. Lindgren. That committee was instructed to report on the substance of the dispute in the Department of Commerce. In establishing the committee the Council's minutes record the following views, inter alia :

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'While supporting the active pursuance of differences of opinion on academic matters Council should not act in any way which condones the methods adopted by Dr. Spautz : it should give no recognition to an attempt by a member of staff to destroy a colleague.

Nothing has come before Council to warrant the questioning of the work of Professor Williams. He had been subjected to a considerable ordeal over past months : his apparent reluctance to act could be the result of his expectation of redress through Council. The Head of Department had supported him and has not made any suggestion that his work is not satisfactory and the staff of the Management section, other than Dr. Spautz, have expressed their confidence in him. In even discussing his doctoral thesis, Council could be doing him an injustice as he has not been informed that Council is inquiring into his academic record. In dealing with academic matters there is a lot of room for differences of opinion even on such questions as how a thesis should be presented. It was reiterated that the decision to award a doctorate could only be that of the University concerned.

An important feature of the underlying issue is the impact on students.

It is important, however, that Council should not make any pre-judgments nor should it make any statement which could hamper attempts to seek a satisfactory solution of the problem. Questions of disciplinary action should be left until after the committee, which it was suggested Council should appoint, had reported'.

14. The Carter Committee met on 12 occasions and its report (Exhibit 'A95') was before the committee. The report made certain recommendations which were before a meeting of the Council of the University on 14 December. The Minutes of that meeting were before the committee (Exhibit 'A96'). The Council proceeded to adopt a resolution which subsequently became the basis, in part, of the appointment of this committee. It is therefore appropriate to set out in full the resolution of the Council, No. 299 of 1979 :

Council's Instructions to Dr. Spautz

15. The resolution of the Council, adopted at the meeting on 14 December 1979, is as follows :

It was RESOLVED 299/79:

- (1) That Council, having considered the Report (C.128:79) of the Committee appointed at its meeting on 19 October, 1979
 - (a) expresses its confidence in the qualifications and ability of Professor Williams, confirms the appropriateness of his appointment to a chair within the Department of Commerce and declares that it recognises the value of his contribution to the work of the University; and

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- (b) that Dr. Spautz be informed accordingly.
- (2) (a) that no further correspondence be entered into with Dr. Spautz by the University relating directly or indirectly to any of the matters referred to in the body of this Report as falling within the ambit of the dispute, except on the initiative of the Council or the Vice-Chancellor; and
(b) that Dr. Spautz be informed accordingly.
- (3) That Council directs Dr. Spautz to stop forthwith conducting what he himself has called his campaign against Professor Williams and in particular and without prejudice to the generality of the foregoing
 - (a) not, except in accordance with normal academic practice, to involve or seek to involve students, staff or officers of the University directly or indirectly in challenges to I the legitimacy of the qualifications held by Professor Williams and of his appointment to a Chair within the Department of Commerce at this University and to II his holding the positions of Head of the Management Section within that Department and M.B.A. Course Co-ordinator within the Faculty of Economics and Commerce;
 - (b) not to display in any part of the University material relating directly or indirectly to this campaign and not to use any classroom, office or other part of the University or any University photocopying machine or other office equipment in connection therewith.
- (4) That Council inform Dr. Spautz that if he disobeys any direction contained in the foregoing resolutions, such disobedience may inter alia be regarded as "misconduct" within the meaning of the By-laws of the University and that the University will take such action in respect of such disobedience as it may be advised.
- (5) That Council advise the Vice-Chancellor in consultation with the Head of the Department of Commerce to relocate Dr. Spautz in an office elsewhere than in the Social Sciences Building pending a review of the situation in the light of Dr. Spautz's response to these resolutions of Council.
- (6) In view of the evidence that Dr. Spautz has carried the dispute to students, that Council advise the Vice-Chancellor and the Head of the Department of Commerce that Dr. Spautz should not for the time being be required to teach in his subject pending a review of the situation in the light of Dr. Spautz's response to these resolutions.

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16. In pursuance of the Council's resolution, the Secretary of the University sent a memorandum on 17 December 1979 to the Vice Chancellor with a copy to Professor Jager (Exhibit 'A163'). This attached a copy of the letter written to Dr. Spautz advising him of the decisions of the Council and advising Professor Jager as Head of the Department of Commerce that Dr. Spautz 'should not for the time being be required to teach in his subject pending a review of the situation'. On the same day the Secretary wrote to Dr. Spautz informing him of the Council's resolution. The course was not taken of enclosing the precise terms of the resolution of the Council. Because of its importance, the Secretary's letter to Dr. Spautz is set out.

Letter of Instruction to Dr. Spautz

17. The letter of 17 December 1979 addressed to Dr. Spautz is in the following terms :

Dear Dr. Spautz,

The Committee appointed by Council at its meeting held on 19 October, 1979, about which I wrote to you on 22 October, 1979, reported to Council at the meeting held last Friday, 14 December, 1979.

Council, having considered the report of that Committee, expressed its confidence in the qualifications and ability of Professor Williams, confirmed the appropriateness of his appointment to a Chair within the Department of Commerce and declared that it recognised the value of his contribution to the work of the University.

Council has also decided that no further correspondence shall be entered into with you by the University relating directly or indirectly to any of the matters referred to in the body of the Committee's report as falling within the ambit of the dispute, except on its own initiative or that of the Vice-Chancellor.

You are directed by Council to stop forthwith conducting what you yourself have called your campaign against Professor Williams and in particular and without prejudice to the generality of the foregoing

- (a) not, except in accordance with normal academic practice, to involve or seek to involve students, staff or officers of the University directly or indirectly in challenges to I the legitimacy of the qualifications held by Professor Williams and of his appointment to a Chair within the Department of Commerce at this University and to II his holding the positions of Head of the Management Section within that Department and M.B.A. Course Co-ordinator within the Faculty of Economics and Commerce.
- (b) not to display in any part of the University material relating directly or indirectly to this campaign and not to use any classroom, office or other part of the University or any University photocopying machine or other office equipment in connection therewith.

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If you disobey any direction contained in the foregoing decisions of Council, such disobedience may inter alia be regarded as "misconduct" within the meaning of the By-laws of the University and the University will take such action in respect of such disobedience as it may be advised.

Yours sincerely,

(Signed)

P.D. Alexander,
SECRETARY

c.c. Vice-Chancellor
Professor M.O. Jager

(Exhibit 'A165')

18. Following abundant further correspondence to members the Council and others, recorded in Exhibit A, refusal of Dr. Spautz to accept relocation of his office and reports of other conduct of Dr. Spautz, the meeting of the University Council on 15 February 1980, resolved to appoint a Committee of Inquiry pursuant to By-law 3.6.1.6. This committee was then formed and charged with the duty of reporting upon the seven items specified earlier as well as the general conduct of Dr. Spautz.

Procedural Matters

19. For the information of members of the Council, it may be useful to outline some of the procedures which were followed by the committee. The committee did not have any counsel or other persons specifically appointed to assist it. For this reason, members of the committee had to question witnesses. As has been said, members of the Staff Association were present throughout (Tpt. 3-4). Dr. Spautz was informed that he could use a sound recorder of his own and he proceeded to do so throughout the hearing. He was told he could have a neutral observer present (Tpt. 6). By virtue of the Council's decision, he was informed that he could have a lawyer or other representative, although he in fact presented the case himself. Dr. Spautz asked for evidence to be taken on oath (Tpt. 8) but this was not permitted as it would have been contrary to law. It was explained to Dr. Spautz that the business of the inquiry was to ensure a proper inquiry and a fair hearing (Tpt. 10). Dr. Spautz expressed no objection to the documents contained in Exhibit 'A' (Tpt. 9). On the contrary, he expressed appreciation for the help given by Mr. Farrell (Tpt. 21). He was permitted to ask questions and to cross-examine witnesses on matters relevant to the inquiry (Tpt. 24). He was not required to give in advance a list of the questions he intended to ask (Tpt. 24). It was explained to him that no-one was formally an accused before the hearing and that what was being conducted was an inquiry into his conduct (Tpt. 32). He asked if he could address questions to Professor Jager (Tpt. 33). This was subsequently permitted. Similarly he asked if he would be permitted to ask questions of Professor Williams (Tpt. 43). This was also subsequently permitted. He was invited, if he believed the documents before the committee were not representative of the full correspondence, to place other documents before it (Tpt. 45). He did this and further documents were, with two exceptions only, admitted by the committee. On a number of occasions witnesses agreed to come back if they were required by the committee and Mr. Vanvalen did in fact come back for further cross-examination. Dr. Spautz asked his

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questions with vigour. On occasions he had to be requested to moderate his language but the committee was not concerned about this. He was conscious of the fact that he was not in jeopardy of being charged with 'contempt of court' and asserted that he intended to 'use that to full advantage' to make his points (Tpt. 392-3).

20. Dr. Spautz made a large number of procedural points and these were ruled upon by the committee as they were made. As has been shown, a number were disposed of in his favour. Others were not agreed to. For example, he asked to examine every member of the Council concerning alleged prejudice with a view to disqualifying those (including members of the committee) who were biased (Tpt. 8). He objected to the Chairman on additional grounds, particularly the statement of particulars of the general charge which he alleged were additional heads of inquiry, not authorised by the Council. As has been stated, these particulars were not proceeded with. He complained about what he described as the 'communications blackout' allegedly imposed on him by resolution 299 of 1979. He claimed this had interfered in his ability to call evidence as permitted by By-law 3.6.1.5. In essence, Dr. Spautz' argument was that because his correspondence was not answered, he had been deprived of the opportunity of evidence that might otherwise have been generated by it. The committee did not believe there was merit in this point. Its concern was solely the factual material as it existed and as it was proved to the committee.

21. Dr. Spautz contended that the Vice Chancellor's action in relieving him from teaching duties was in violation of By-law 3.6.1. It did not appear that this was a matter for the committee. He contended that the composition of this committee was irregular because it was not consistent with resolution 151 of 1970 (Exhibit 'A101'). That resolution noted a submission of the then Vice Chancellor of the University concerning the handling of an allegation made against the professional competence of staff. The committee dismissed Dr. Spautz' objection. It felt itself obliged, as a subordinate committee of the Council, to accept the validity of its establishment. Furthermore, if resolution 299 of 1979 was inconsistent with the earlier resolution, it appeared to the committee that it pro tanto replaced the earlier resolution. The features of the present inquiry are sufficiently special, in any case, to warrant a particular procedure, so long as this is consistent with the Act and By-laws. It was the committee's belief that its Constitution and procedures were so consistent (Tpt.17).

22. Dr. Spautz objected to the presence of Mr. Farrell in the inquiry (Tpt. 20). However, this objection was overruled because of the fact that Mr. Farrell's presence was simply to comply with the instructions of the committee. Dr. Spautz admitted that this objection was based on 'technical grounds'. In fact, he conceded, he appreciated Mr. Farrell's help (Tpt.21). Dr. Spautz asked to call every member of the Council (Tpt.24) but this was not considered by the committee to be relevant to the limited nature of its inquiry. He complained that he had not been given a copy of the Carter Committee report (Tpt. 29). But this did not appear relevant to our inquiry and in any case was something which this committee could not cure. Dr. Spautz did have copy of the Carter Committee report in the compilation which became Exhibit 'A'. On a number of occasions Dr. Spautz objected to the constraints of time imposed by the committee. However, the committee believes that he had ample opportunity to question witnesses and to produce evidence of his own. It believes it has a good appreciation of his point.

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of view and the large bulk of the documentary material before the committee is in Dr. Spautz' own hands.

23. Dr. Spautz objected to the Chancellor's deletion of the eighth head of inquiry of this committee as irregular (Tpt. 83). However, this was done on the advice of the solicitors and was certainly warranted by the resolution of the Council. It was explained to Dr. Spautz that it would be for the Council not the committee to decide what followed, if anything, from the committee's report. Dr. Spautz asked for a transcript and even video-tape replay of the proceedings before the committee (Tpt. 119). However, the transcript of the proceedings of the first three days could not be made available until the morning of 18 April, for technical reasons. It is understood that it will be made available to Dr. Spautz, provided he is willing to accept the conditions of confidentiality and copyright recommended by the University's solicitors. In any case, the committee understands that Dr. Spautz will have access to the transcript of the proceedings. As has been said, he had tape recording facilities of his own during the whole of the proceedings from the very beginning and from time to time proceedings were suspended to permit him to change his tapes (e.g. Tpt. 14).

24. Dr. Spautz objected to the presence of Mr. Mitchell of the Staff Association. It seemed to the committee that it was for the Staff Association not Dr. Spautz to nominate its representative. In any case, the representative suggested by Dr. Spautz (Mr. Mackie) attended on two of the four hearing days. It was made plain to Dr. Spautz that the committee would disregard matters that were not said before the committee (or otherwise proved as written documents) (Tpt. 209). Dr. Spautz said on numerous occasions that he felt that he was being 'railroaded'. However, he was reassured. He indicated on a number of occasions his intention to sue the University (e.g. Tpt. 215) and to use the material procured for his book on corruption in Australian universities. The committee has not been influenced in any way by these statements. It has simply proceeded with an open mind to conduct its inquiry informally with as much efficiency and equanimity as the unhappy dispute permitted. Dr. Spautz conceded that the proceedings had been 'more fair than I anticipated' (Tpt. 315). But he frequently drew analogies between himself and Martin Luther or Professor Orr or other historical characters. There is no doubt that he is completely absorbed in his dispute. On page 426 of the transcript he expressed his view :

'This could well be the most important kind of research going on any place in the world. I mean ethical research is at least as important as let's say atomic energy' (Tpt. 427).

There is no doubt that Dr. Spautz is a man completely consumed by the subject matter of his dispute. The large numbers of letters, many of the same day, distributed to members of the Council and, as he threatened, blanketing the campus 'like snow', bear testimony to this preoccupation.

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Reconciliation

25. It ought to be mentioned that at one point, the committee decided to exceed its strict mandate from the Council and to explore the possibility of reconciliation between the parties to the dispute, Dr. Spautz and Professor Williams. This was done with some diffidence and because Dr. Spautz specifically raised it (Tpt. 353-4). He did so in language which invited the committee to 'shortcircuit this whole bloody thing' (Tpt. 353). The committee, mindful of the earlier endeavours of the Council and of the interests of the University, its staff and students, considered that the possibility of reconciliation should be explored. However, the exploration came to nothing. Dr. Spautz made it plain that he would be content with nothing less than Professor Williams' departure from the University. He did not insist upon Professor Williams' dismissal. He would be content with his departure by resignation. The flavour of his view can be discerned by the following extract from the transcript. It should be noted that in this report the transcript has been altered so that the Deputy Chancellor is referred to as 'Chairman' :

CHAIRMAN : Are you serious in saying that after you spread letters to all and sundry, to newspapers, to external universities, and so on, that there is a significant difference between a resignation under all of those letters and a dismissal?

SPAUTZ : Yes, the ...

CHAIRMAN : In the circumstances that you have endeavoured to let the world know of what you consider to be what you call fraudulence?

SPAUTZ : Yeh, it's like if you go way, way back at the very beginning of this thing: Remember I said - I have this ethical principal and I've used it for years. I mean I think I invented it, but, its really an engineering principle. I used to work in engineering too, you see, in fact I have my doctorate in -

CHAIRMAN : Yes, yes,

SPAUTZ : Anywáy, as an engineering principle.- don't use anymore force than you need. So in ethics that is translated into the Tsedek principle. Its a Jewish, er, I get that from my 1/16th heritage from Czeckoslovakia but there is a Jewish principle called the Tsedek a principle which is very much that don't use a hammer when a fly swatter will work. I started out doing that and er, you see resignation is a very mild ... (Tpt. 416)

26. Against the background of this approach to the resolution of the differences between himself and Professor Williams, it seems probable to the committee that reconciliation was impossible. Nevertheless, the committee felt that the issue deserved exploration. Dr. Spautz made a specific proposal concerning the use of study leave which is recorded in the transcript. The great bulk of the discussion on reconciliation was carried out, with the consent of the parties, without a transcript. It is the committee's view that this discussion should not be further referred to and that no inference adverse to any of the parties should be drawn from the fact that it took place. The committee

has entirely excluded from its own deliberations the discussions that occurred on this issue. It should be said that they were quite brief when it became plain that they were leading nowhere.

First Reference. Disobey and Refuse to Accept Council Instructions

27. We now turn to a consideration of the material relevant to the particular heads of inquiry upon which the committee has been asked to report. The first asks whether Dr. Spautz disobeyed instructions given to him by the Council of the University and refused to accept and obey decisions of the Council concerning him. Dr. Spautz' case is that the only instructions he ever received from the Council were contained in the letter to him of 17 December. That letter (Exhibit 'A165') has been cited in full above. It instructed him to :

- * stop conducting a campaign against Professor Williams;
- * not to involve or seek to involve students, staff or officers of the University directly or indirectly in challenges to the legitimacy of the qualifications of Professor Williams, his appointment to the Chair or his holding the position of Head of the Management section;
- * not to display material relating 'to this campaign';
- * not to use photocopying machines or other office equipment 'in connection therewith'.

28. Dr. Spautz says in answer to this charge that he has not been conducting a campaign against Professor Williams, nor displaying letters etc. in connection with such a campaign, nor using office equipment in respect of such a campaign. Rather, he says that all of this has been done in connection with his 'campaign for justice' (Exhibit 'Z'). He contends that it is impossible for him to stop a campaign that he has 'never waged'. He asserts that he has not involved or sought to involve students, staff or officers of the University but only to 'inform them as to what's going on!' (Exhibit 'Z'). He contends that he has used the equipment of the University for a 'different campaign' and adds :

'Who cares about scuttlebut to the contrary?'
(Exhibit 'Z')

He does admit that he has breached one decision of the Council which was to 'impose a communications blackout on me!' (Exhibit 'Z'). He contends that the instruction was 'ambiguously worded' but in his 'reply to the question' ('Did I refuse to accept Council's decisions?') he says :

'Yes, I vigorously refuse to accept such a 1984 style 'decision', which served to undermine my right to adduce evidence - as I proved at the hearing! (add nauseam?)'

It does not seem to this committee that the instruction of the Council conveyed in the letter of 17 December was in the slightest ambiguous. Although it might have been preferable to send an explicit extract of the Council's actual resolution, the letter of the Secretary faithfully reproduces the resolution. Although the letter refers to an external document (the Carter Committee report) and the 'matters referred to in the body of the committee's report as falling within the ambit of the dispute' and although that report had not

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(despite his request) been made available to Dr. Spautz, a realistic approach to the dispute which had existed for some two years, convinces the committee that Dr. Spautz had no real doubt for his part as to what was the 'ambit of the dispute'. In many ways, he had defined the ambit himself. In some respects, the ambit was spelt out in the letter of 17 December. In any case, Dr. Spautz, whilst noting the ambiguous wording, admits his vigorous refusal to accept the decision which he describes as '1984 style'.

29. It is relevant in considering this first head of reference to bear in mind Dr. Spautz' objection to the conduct of the Council voiced in the transcript (Tpt. 8, 19). He felt that he should only be held liable for matters of which he had notice (Tpt. 31). It does seem fair to him that account should be taken of the fact that he did not have copy of the Carter Committee report when he received the letter of 17 December 1979. It would probably not be fair to fix him with any precise definition of the 'ambit of the dispute' as defined in that report, of which he had no copy nor any notice. Accordingly, his conduct should be considered only when matched up against the resolution of the Council as this would be reasonably interpreted by a person in his position. This is not to say that the instruction is ambiguous. It is simply to say that its exact content is not to be defined by reference to the Carter Committee report.

30. Dr. Spautz does not deny either that he received the letter of instruction (Tpt. 73) or a later letter of the Vice Chancellor which sought to clarify the instruction (Exhibit 'A175'). In that letter, the Vice Chancellor provided further detail on the meaning of 'the ambit of the dispute' :

'This should have been clear to you from the second paragraph of his [the Secretary's] letter of 17 December 1979, but as you seek clarification, I can inform you that it covers the qualifications and ability of Professor Williams, the appropriateness of his appointment to a Chair within the Department of Commerce and his contribution to the work of the University' (Exhibit 'A175').

Dr. Spautz claimed that the Vice Chancellor in this letter mis-defined the 'ambit' (Tpt. 334) but it seems to the committee that the interpretation of the expression is to depend upon the reasonable construction of the phrase, given Dr. Spautz' intimate involvement in 'the dispute'. Although we are here dealing with what Dr. Spautz himself described as 'instructions from headquarters' (Tpt. 75) and although fairness requires that Dr. Spautz should have a fairly clear idea of what was forbidden, the gist of the Council's instruction as contained in the Secretary's letter and amplified in the Vice Chancellor's letter, is quite plain. It was to put a halt to the campaign, including the correspondence which had been released by Dr. Spautz. This he refused to do and on the contrary now 'vigorously' seeks to defend his refusal.

31. The committee rejects Dr. Spautz' naive contention that he did not breach the Council's instruction because he was not engaged in a 'campaign against Professor Williams'. It would be to stretch credulity to assert that the correspondence which is evidenced after 17 December is not part of a 'campaign against Professor Williams'. The committee will revert to this issue under the third reference below.

32. So far as the assertion that he did not seek to 'involve' staff and students but simply to 'inform' them (Tpt. 74) is concerned, the committee likewise rejects this assertion. The release of such a barrage of material was obviously designed to secure a result. Indeed, the result has been defined by Dr. Spautz himself. It is to secure the resignation of Professor Williams to avoid a scandal (Tpt. 415). The distribution of the material, after the Council's instruction, continued to members of the Council as well as others. The members of the Council have, under the University's statute, responsibility for the government of the University and for action. Dr. Spautz described his motives thus :

'Well you see my distributing letters isn't contrary to their decision, I'm not rescinding their decision, not even disputing it by displaying my letters. I am informing people as to my intentions, I am rooting out and trying to call to people's attention corruption in Australian Universities. Right'. (Tpt. 77).

It is difficult to read the mass of material which has been distributed since the Council's resolution conveyed to Dr. Spautz in the letter of 17 December 1979 without coming to the view that not only was he seeking to 'involve' others in ways forbidden by the resolution. He was also deliberately defying the Council's instruction.

Second Reference. Distribute and Display Letters and Material

33. The second specific head of inquiry requires the committee to report whether, contrary to decisions of the Council of the University communicated to him, Dr. Spautz continued to distribute and display letters and other material with respect to Professor A.J. Williams in intemperate language contrary to normal academic practice. Dr. Spautz admits that he did distribute and display letters 'in re Williams' but says that he 'wasn't forbidden to do so!'

34. It is true that there is nothing in the Council resolution nor in the letter of instruction to Dr. Spautz (Exhibit 'A165') which refers to 'intemperate language'. The committee takes the addition of these words to indicate that in conducting its inquiry it should disregard, for the purpose of this head of inquiry, any letters and material which is expressed in 'temperate' language and put forward as part of a normal academic debate over academic matters. The committee has always taken it to be the intention of the University to foster and not in any way to suppress such forms of debate and discussion. Limiting the inquiry to the matters contained in the second head of reference, there is no doubt that there is abundant material before the committee that Dr. Spautz continued to display letters and distribute material and letters with respect to Professor Williams which were not in temperate language or in accordance with normal academic practice. Examples abound but as soon after the instruction as 20 December 1979, Dr. Spautz was writing to the Vice Chancellor (Exhibit 'A176') referring to 'the fraudulence with which Williams first obtained a Ph.D. and then parlayed it into a professorship'. On 13 February 1980 Dr. Spautz wrote to members of the Council (Exhibit 'A232') including the following :

'Obviously this is nothing less than a cynical, unscrupulous, desperate, self-serving attempt by the V.C. to con you into rescuing him from the tight little corner into which he, Williams and their toadies have so foolishly painted themselves!' (emphasis added)

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Numerous letters refer to people as 'bootlickers'. These letters were widely distributed, contrary to the instruction of the Council. The instruction of the Council, it should be pointed out, was in general terms :

'You are directed by Council to stop forthwith conducting what you yourself have called your campaign against Professor Williams and in particular and without prejudice to the generality of the foregoing ...'

Although Dr. Spautz disputes that he did in fact call the campaign one 'against Professor Williams' (he claims it is a 'campaign for justice') there can have been little doubt in his mind that the instruction he was receiving was one to stop the 'campaign', however described in his terms. For example, in a letter to members of the Council dated 13 September 1979 (Exhibit 'A80') he said :

'I have just heard a rumor through the grapevine that the Vice Chancellor has been trying to plant in your minds the idea that my campaign of recent months to expose Williams' fraud and incompetence is attributable to some sort of insanity on my part! Hopefully, this rumor is false.'

35. Dr. Spautz contended that ethics do not mean entirely suppressing emotions. He suggested that in using the language he did he was harnessing emotions constructively (Tpt. 26). He contended that complaints about the language used were trivial (Tpt. 71); that it was all part of his direct style which contrasted with the 'British style' which he said was one of 'screwing' people behind their back and getting indignant about the use of 'intemperate language' (Tpt. 72). It must be pointed out, and it is acknowledged by Dr. Spautz (Exhibit 'Z'), that the second head of inquiry omits ('wisely' according to Dr. Spautz; Exhibit 'Z') any mention of the characterisation of the 'campaign'. It simply refers to 'material with respect to Professor A.J. Williams in intemperate language'. But it also refers to breach of the decisions of the Council communicated to Dr. Spautz. That in turn takes the committee back to the letter of instruction of 17 December 1979 (Exhibit 'A165'). Far from accepting the instruction of the Council, Dr. Spautz renewed the intensity of his campaign. At one point he described it as his 'famous confetti barrage' (Tpt. 91). Witness after witness before the committee acknowledged the receipt of large numbers of letters since the December instruction of the Council. Mr. Walker said he had received between 40 and 50 communications since December (Tpt. 57). Mr. Vanvalen said he had received many (Tpt. 99). Even the office staff, the typists in the department, were given copies (Tpt. 85). Students were seen looking at the 'Chinese wall' as Dr. Spautz described his door upon which he had pinned copies of his correspondence (Tpt. 87).

36. What is the importance of this? It is for the Council to draw inferences, not the committee. However, perhaps the committee should call attention to a few comments made to it. Professor Jager acknowledged that he had stated to Dr. Spautz that in his view the flow of correspondence was 'a deliberate campaign of personal harassment and vilification

against Professor Williams' (Tpt. 221). Professor O'Neil pointed out that people in Universities have their own concerns and do not necessarily want to be 'deluged by vexatious correspondence' (Tpt. 141). Dr. Spautz asserted that he had heard nobody claim to have been 'vexed'. But even in Professor O'Neil's hearing members of the non-academic staff had complained that they were upset by the flood of letters (Tpt. 142). Dr. Spautz asserts that the flood of correspondence is part of an important ethical campaign to inform even those who do not necessarily want to be informed. He criticises the use of 'intemperate language' against him such as the use of the word 'cancer', by which his actions were once described by Professor Williams (Tpt. 423-4). But Professor Williams told the committee that the material which has been disseminated or displayed to an ever-widening circle concerns him because of the fear that in such cases some of the criticisms 'will stick', whatever the truth of the matter (Tpt. 364-5). It is a matter for the Council but it is plain that both before and since the December Council meeting, Dr. Spautz has distributed widely both within the University and outside (and has displayed on his door) materials in respect of his dispute with Professor Williams which are in intemperate language. We deal below with the question of 'normal academic practice'. Dr. Spautz does not really dispute the use of intemperate language. He claims it is a strategy adopted by him (Tpt. 427) in order to 'get his message across' (Tpt. 422).

Third Reference. Campaign Against Professor Williams

37. The third specific head of reference requires the committee to report whether Dr. Spautz continued to conduct a campaign, otherwise than in accordance with normal academic practice, against Professor Williams, contrary to a decision of the Council of the University communicated to him directing that he should cease to do so. On this, Dr. Spautz contends, as has been stated above, that his campaign is not one against Professor Williams but one for justice. He admits that it is a campaign contrary to normal academic practice (Exhibit 'Z') but he contends that this is justified because :

- (1) campaigns for justice are rare;
- (2) I tried using normal academic practices but they didn't work because of a conspiracy to obstruct justice!;
- (3) most other academics would be incapable of waging a campaign in an innovative fashion (e.g. by applying their knowledge of psychological, sociological and ethical principles)!

(Exhibit 'Z')

To determine the proper characterisation of the conduct since 17 December when the instruction of the Council was conveyed to him, and which is conceded to be a 'campaign', it is necessary to look at the whole of the conduct and the correspondence. This the committee has done. Questions have also been addressed to the way in which the conduct of Dr. Spautz was perceived by those around him. Strictly speaking this may have been irrelevant, for the impression of these persons may have been misguided and in any case what is seen by one person as a 'campaign for justice' may be seen by others as a deliberate personalised campaign 'against Professor Williams'. What has to be considered here is the fact that Dr. Spautz was instructed by the Council, through the letter of the Secretary of 17 December, to 'stop forthwith conducting' what was described in the letter as :

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'what you yourself have called your campaign against Professor Williams'.

The issue is how Dr. Spautz would have interpreted that instruction, whether he agreed with it or not. Upon that issue, the members of the committee have no doubt. It is to play with words to seek to evade the Council's instruction by a different appellation of the 'campaign'.

38. Mr. Walker, a Senior Tutor in the department, had no doubt that Dr. Spautz was involved in a campaign against Professor Williams (Tpt. 48). He stated that in his view the contention that all that Dr. Spautz was doing was simply part of a scholarly, academic study of corruption in Australian Universities was a 'camouflage' which first arose after the Carter Committee report (Tpt. 52).

39. Mrs. McIlroy considered that Dr. Spautz was conducting a campaign against Professor Williams from the way he carried on (Tpt. 86). She thought this from the very first day. To Dr. Spautz' assertion that he was trying to do a research study into corruption in Australian Universities, Mrs. McIlroy answered :

'It had nothing to do with corruption in Australian Universities. It was an attack on Professor Williams' thesis that was what you were going on about' (Tpt. 93).

40. Mr. Vanvalen expressed his view that this was a campaign against Professor Williams (Tpt. 99). Professor Jager, with whom Dr. Spautz claimed a special understanding, had this to say :

CHAIRMAN : But the focus of the committee for example is Dr. Spautz' contention that he had distributed letters, used photocopying devices, put the material on the door, not in furtherance of a campaign against Professor Williams nor contrary to academic practice but as part of an endeavour to give information to people and to campaign for what he sees as justice in the matter. Now that is the sort of question that the Committee is focusing on. First of all can you say anything on that issue? Essentially its a question for the Committee to determine its interpretation of events but from within the department can you say anything in relation to the contention that this was a campaign against Professor Williams as distinct from a scholarly endeavour by Dr. Spautz to bring to the notice of people within the department and others if necessary what he considered to be fundamental and very important scholarly concerns.

JAGER : No sir I don't see it that way. I've publicly stated and to Dr. Spautz that in my view this is a deliberate campaign of personal harassment and vilification against Professor Williams.

(Tpt. 221)

To the contention that the very large number of distributed letters is not a campaign against Professor Williams but part of the raw data for an investigation into corruption in Australian Universities, Professor Jager said that this interpretation had only been advanced 'within the last six months'. When asked his opinion of it he expressed the view that it was 'a smokescreen' or 'an excuse' (Tpt. 223).

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When asked to elaborate this, he said :

JAGER : I didn't believe that a topic that, a research topic, that Dr. Spautz was engaged on were undertaking research into corruption in Australian Universities you would move outside the Department of Commerce at the University of Newcastle. You would maybe ask for research funds to travel to places, you would be maybe putting in for an A.R.G.C. Grant, you'd maybe have an outline of your research proposal, you know there are all sorts of signs in the early stages of a major research proposal or even a smallish research proposal where there are all sorts of signs that it is a serious endeavour and those signs ...

CHAIRMAN : You didn't see these signs?

JAGER : No sir. There was no evidence of it to me.

(Tpt. 223)

41. One witness, Dr. Tippet, suggested to the committee a means of testing Dr. Spautz' bona fides. He said that Dr. Spautz had failed to analyse in a properly scientific manner the data in Professor Williams' thesis. He said that the analysis presented by Dr. Spautz was in fact so sloppy that had it been presented by a University student he would have failed him (Tpt. 263). Although Dr. Spautz rejected this criticism as 'scientism', the committee received the evidence. It does not consider itself competent to make an assessment, one way or the other, as to whether Dr. Spautz should have conducted the tests proposed by Dr. Tippet. The fact remains that he did not. For his part, Dr. Tippet had no doubt of the characterisation of the dispute :

CHAIRMAN : Of course a dispute of this kind raises the academic temperature and so on. Probably it's rather unpleasant. I can understand that. But does it go beyond that and if so how?

TIPPETT : Well sir, I've seen disputes of this nature or not of this nature before, but disputes on bona fide academic grounds between academics before in [inaudible] Universities. But I have not seen one like this. This one in fact is character assassination.

CHAIRMAN : In what way?

TIPPETT : Well my own feeling is that quite early on Dr. Spautz' attack was based on statistical criteria and as those criteria have been gradually knocked away he seems to have found something else to rationalise his attack on Professor Williams. That's my own personal view.

(Tpt. 266)

42. A somewhat similar interpretation was offered by Mr. Ferris, a witness called at Dr. Spautz' request :

FERRIS : [Spautz] felt himself superseded. Any chance he might have had for promotion to Head of Section seemed to have receded. I must add my personal opinion here but I don't think that chance ever existed. But in his mind it existed and became less after the arrival of Professor Williams. He then I think found this possible deficiency in Professor Williams' thesis on to which he hitched his case. Now in all fairness one in Dr. Spautz position tends to lose his sense of proportion and I think this possibility of a deficiency in Professor Williams' thesis grew in his mind until he became convinced that this was so. I have read the criticised sections where plagiarism is alleged to have taken place. I think it's a borderline case. I rather think that a lot of Ph.D. thesis omit to give credit. I have not been as thorough as Dr. Tippett in examining the mathematical statistics ... but I have got complete confidence in Dr. Tippett's assessment as far as the objective evaluation of that is concerned and I agree with everything Dr. Tippett had to say.

(Tpt. 285)

Professor Williams was specifically critical of Dr. Spautz' description of his campaign as one 'for justice' :

WILLIAMS : On the ... campaign for justice, to use his words, I have already indicated is clearly justice on his conditions, and on his terms, and they are that I leave the University. It's already been mentioned I think by Mr. Oliver that it appears that I have been charged, tried, found guilty and also executed in this matter by Dr. Spautz.

CHAIRMAN : I think Mr. Oliver was asking a question.

WILLIAMS : Right?

CHAIRMAN : Of Dr. Spautz for his comment on this.

WILLIAMS : I feel precisely the same way, ...

(Tpt. 365-6)

Professor Williams contended that Dr. Spautz, far from seeking justice, was acting in a 'grossly unethical manner' (Tpt. 371) :

WILLIAMS : ... Now I believe, gentlemen, that in fact Dr. Spautz' activities over the last eighteen months, include in this, in my view harassment, charges, threat, use of classrooms for case study discussions of myself and others, a part of his research design, then he in fact has been manipulating the behaviour of people or subjects in an experimental research programme. ... They have been manipulated and they are being assessed without, and I stress, without their knowledge or permission. By his activities, by the

voluminous material he has issued, by the conduct in his discussions, his whole activity during the last eighteen months or so, if in fact he's been conducting research, then it's been using people without their knowledge or permission. I ask, is this ethical?

(Tpt. 371-2).

43. Dr. Spautz acknowledged :

SPAUTZ : Frankly, in view of my knowledge of his poor character, qualifications as documented and in previous correspondence, I would be satisfied with nothing less than his permanent departure from this University, whether voluntarily or under threat of public exposure. In other words, I am not threatening to create a scandal myself, what I am suggesting is that ... you have a choice (a) or choice (b) - leave without a scandal or leave with a scandal. I am not going to create a scandal, in fact I don't think I am creating it. He's creating it.

(Tpt. 419).

What is Professor Williams' reaction to this? Professor Williams claimed before the committee that he did not hold any animus against Dr. Spautz, notwithstanding all that had transpired :

WILLIAMS : That reconciliation at the expense of my position in this University, my career here, I do not find acceptable, nor do I want to see Dr. Spautz' career at this University brought to an end either. I would wish more than anything else, in fact I pray this way as a Christian, that something could happen to allow Dr. Spautz to, to allow him to realize that what he is doing is not only hurting me, and it is, it's destroying himself, I believe. ... You can be assured of my genuine endeavours to help in whatever way I can. ... I bear Dr. Spautz no malice. I would want to see him retained here as well as myself. I see the matter as entirely in his hands, not mine. I have not been a protagonist in this matter. He has. The solution to it, I say, is in his hands.

(Tpt. 375-6).

44. It is the view of this committee that Dr. Spautz has been engaged in a campaign against Professor Williams. He asserts that the campaign is one 'for justice'. But he has a very fixed and inflexible view, and an uncompromising view, of what is 'justice'. He does not approach the issues relating to Professor Williams in a scientific and open minded way. He is utterly committed and his commitment has been stated many times. Against the background of the oft stated commitment to have Professor Williams removed from the University of Newcastle by resignation or scandal, it is plain to the committee that Dr. Spautz has been conducting a campaign against Professor Williams. Since 17 December 1979 that campaign has been conducted contrary to an instruction of the Council conveyed to him. It is the view of the committee that Dr. Spautz does not escape the clear injunction of the Council by playing with words and superimposing on his admitted 'campaign' a self-serving description as one 'for justice' according to his lights. It would appear to the committee that the nature of the 'campaign' has altered over

time. Its exact starting point is not clear. But the common thread has been the attacks on Professor Williams. It started with criticism of a theoretical basis of his Ph.D. thesis. It extended into charges of alleged plagiarism. It was expanded into criticism of his competence as an administrator and his appointment as Head of Section. When all around him could not be persuaded to share these passionate feelings, Dr. Spautz escalated his endeavour into a description of a 'campaign for justice' and an 'uprooting' of 'corruption in Australian Universities'. The progression of the 'campaign' is charted in the evidence before the committee. Whatever the precise appellation, the committee shares Professor O'Neil's view that in a University context, a 'campaign' is rather out of place. It accepts Professor Jager's view that the campaign was throughout and remains a campaign of 'vilification and harassment' of Professor Williams. This is precisely what the Council resolution was designed to stop. It was precisely what the letter of 17 December instructed Dr. Spautz to stop. A fair reading of the letter could have left no temperate mind in doubt as to what the Council was saying. Dr. Spautz chose to ignore, indeed defy, the Council's instruction.

Fourth Reference. Display Material on Door

45. The fourth specific reference to this committee requires it to say whether Dr. Spautz continued to display on the door of his room in the Social Sciences building of the University letters and other material relating to his dispute with Professor Williams contrary to the decision of the Council of the University communicated to him. In his submission (Exhibit 'Z') Dr. Spautz reworded this question to read :

'Did I continue to display stuff on my Chinese wall in re my (so-called) dispute with Williams'

In answer to this question, Dr. Spautz responded 'Yes, obviously'. But he contended that in doing so he was not acting contrary to a decision of the Council communicated to him for the reason that 'I was only ordered not to display stuff in re a non-existent campaign!'

46. There is absolutely no doubt that Dr. Spautz did display material on his door. As has been said, the typing staff saw it and saw students reading it. Mr. Vanvalen gave evidence that he saw the letters on the door (Tpt. 99). Mr. Ferris explained to the committee the close approximation of Dr. Spautz' office and that of Professor Williams (Tpt. 285). It seems plain that the material on the door has included the material widely circulated throughout the University and contained in Exhibit 'A'. It included a notice which was produced to the committee containing in bold letters

DOWN WITH THE PLAGIARIST WILLIAMS (Tpt. 290).

47. There was some discussion before the committee of the use of voodoo. Dr. Tippet contended that Dr. Spautz had twice informed him that he was using voodoo against Professor Williams (Tpt. 310). The use of material on the door and the display of books concerning fraud and hoaxes was considered by Dr. Tippet to be part of the campaign. Dr. Spautz sought to dismiss the contention suggesting that he was merely joking (Tpt. 310). However, it is this committee's view that Dr. Spautz was engaged in a specific campaign of psychological denigration directed at Professor Williams. On this matter the instruction of 17 December and the resolution of the Council were quite specific. Dr. Spautz was told with clarity 'not to display in any part of the University, material relating

directly or indirectly to this campaign'. He contends that 'this campaign' refers back to the 'campaign against Professor Williams'. He denies that this is a proper description of his admitted 'campaign'. As has been said, the committee cannot accept this denial. In any case, even if Dr. Spautz considered that his campaign was one 'for justice' it was abundantly plain that the Council did not so consider it. Yet he refused to comply with the Council's direction, however he may personally have felt it mis-described and misunderstood his motivation.

Fifth Reference, Photocopying Machines

48. The fifth specific head of inquiry asks the committee to report whether Dr. Spautz continued contrary to the decision of the Council of the University communicated to him to use University photocopying machinery and other office equipment for the duplication of such letters and material. In his submission, Exhibit 'Z', Dr. Spautz admits that he did continue to use office equipment to produce letters etc. Material before the committee makes it plain that he did so in great abundance after 17 December. He also admits that 'obviously' the letters etc. 'have to do with the dispute' (Exhibit 'Z'). He denies that the Council ordered him not to produce 'such stuff' on the ground that the Council's only instruction was 'in re a non-existent campaign!'. To the committee, Dr. Spautz said he was only instructed not to use the photocopying equipment for his 'campaign against Professor Williams' :

'Now, I am not doing a campaign like that. I am doing a research into corruption in an Australian University. I am getting documentary evidence and I am informing people, you see. Are you going to accuse me of using photocopying machine for a campaign that other people are alleging I am running that you have never even heard of yourself? I think this is a very relevant point'

(Tpt. 51)

'Was I or was I not forbidden to conduct my research into corruption, yes or no? I mean this seems to be the issue. If in fact they were telling me, stop using the photocopy machine for that type of research, I'd say you have no jurisdiction. Now, are you telling me that in fact I was told to do that?'

CHAIRMAN : You say that the Council has no jurisdiction?

SPAUTZ : No jurisdiction to forbid me using copying machines in doing bona fide research. Because that's the purpose of the University. I was hired to do that. I've been maintaining this all along. I don't think Council is proper, ...'

(Tpt. 80)

49. It follows from the committee's earlier findings that this argument by Dr. Spautz is rejected. The instruction of the Council of the University was clear. Whatever appellation Dr. Spautz chose to give his 'campaign', it was plain from a fair reading of the instruction what the University Council was getting at. Furthermore, the committee accepts the view advanced by Professor Jager that the latter-day description of what Dr. Spautz was doing as 'research into corruption

in Australian Universities' was a 'smokescreen'. It is adequately dealt with, in the committee's view, by the evidence of Professor O'Neil.

Sixth Reference. Refusal of Relocation

50. The committee is asked to report whether Dr. Spautz, contrary to the direction of the Head of the Department of Commerce, in consultation with the Vice Chancellor, refused to agree to the relocation of his office elsewhere than in the Social Sciences building as directed by the Council. Dr. Spautz admits that he refused to move from his office (Exhibit 'Z'). However, he says that Professor Jager 'only told me that Council had ordered the V.C. to relocate me ... and the V.C. bungled the job!' (Exhibit 'Z'). There is certainly no doubt that Dr. Spautz refused to move. He contended that he was not directed but merely requested to move. He contended that the request was made by Professor Jager and not by the Vice Chancellor as authorised by the Council resolution (Tpt. 82). Professor Jager's version of events is somewhat different :

CHAIRMAN : Well anyway you had the you received the letter and had the conversation with the Vice Chancellor. You then wrote a letter to Dr. Spautz. Did you deliver it yourself or did you ...?

JAGER : Yes.

CHAIRMAN : Yes. And what did you remember did you give him any instruction when you delivered it or did you just say this is the letter I'd like you to read it?

JAGER : I would think that I just said "Here's ..." "I'd just like you to read this" or "This is a formal instruction" ... or something ...

CHAIRMAN : You said it was a formal instruction.

JAGER : Yes it was formal request. The letter is pretty well self-explanatory. I think it's got most of the information in it that's necessary.

(Tpt. 228-29)

51. The letter handed by Professor Jager to Dr. Spautz is Exhibit 'A172'. It is in the following terms :

'I am instructed that, at its meeting held on 14th December 1979 the University Council advised that, in consultation with me the Vice Chancellor is to relocate you in an office elsewhere than in the Social Science building pending a review of the situation in the light of your response to the decisions of the Council seeking normalisation of the academic work in the Management Section of the Department of Commerce.

Accordingly the Vice Chancellor has requested me to arrange with you your relocation in Room V.24 in the Mathematics building.

I would be pleased if you would let me know when you are ready to have your effects shifted so that I may arrange for removalists to undertake

the required tasks, and transfer of your telephone if that is necessary. If it is not possible for you to relocate before Christmas, you should do so early in the New Year, say prior to Thursday 10th January 1980.

Your co-operation in this matter would be appreciated.'

The committee cannot accept that this letter was a mere request or that Professor Jager's conversation with Dr. Spautz amounted to no more than a request. The tenor of the letter is one of instruction. It is in the first place by the undoubted Head of Dr. Spautz' department. It is made with reference to a decision of the University Council, of which Dr. Spautz was already on notice. It was made, in its terms, after consultation with the Vice Chancellor of the University. It requests co-operation. But it concludes with the clear command 'you should do so early in the New Year'. Dr. Spautz' response was prompt and negative (Exhibit 'A173'). It is not unusual for the Vice Chancellor to act through Departmental Heads. Dr. Spautz contends that the Vice Chancellor 'bungled' the job, presumably by not himself effecting the relocation but leaving it to Professor Jager. The Council's authority authorised the Vice Chancellor 'to relocate Dr. Spautz'. But it did so requiring him to consult with the Head of the Department of Commerce. The committee does not believe that the Council's resolution requires the Vice Chancellor himself physically to perform the relocation. On the contrary, the committee cannot accept that as a sensible construction of the Council's resolution. Doubtless out of observance of normal chains of communication, the Vice Chancellor acted through the appropriate University officer, Professor Jager, the Departmental Head. Dr. Spautz' two objections to this head of inquiry are entirely without merit. That he interpreted the letter from Professor Jager as an instruction seems plain from the letters he immediately wrote to Professor Jager and the Vice Chancellor. At the time he did not construe the letter as a friendly 'request'. On the contrary, he described it as an 'eviction' (Exhibit 'A174').

52. The position that then emerges is as follows. The University Council authorised the Vice Chancellor, in consultation with the Head of Department, to relocate Dr. Spautz. The consultation authorised took place and a new location was determined by the Vice Chancellor, namely in the Mathematics building. That decision was conveyed to Dr. Spautz in a letter which was explicit and in terms of command, as he well understood. He declined to comply with the letter and remained in occupation of his room. In such occupation, he continued his 'campaign' in the midst of the department in clear defiance of the Council's intention to provide a period of 'cooling off' by the cessation of correspondence, the termination of the involvement of others and the relocation of Dr. Spautz. The cooling off envisaged by the Council was not effective. It has been rejected by Dr. Spautz. The correspondence has continued unabated. The involvement of others has continued and been extended. The relocation was peremptorily refused.

Seventh Reference : Interfering in Teaching and Learning

53. The seventh specific reference to the committee asks whether Dr. Spautz acted in such a way as to interfere with the research, teaching in the Department of Commerce and the learning environment of the students of that department in that he had persisted with intemperate attacks on Professor Williams contrary to normal academic practice. In response to this question, Dr. Spautz says (Exhibit 'Z') that he did not interfere with anyone's research. He concedes that Professor Williams 'falsely said' that he did :

'in that he's been so obsessed with obstructing my campaign for justice that he had no time left over to do his research into the psychological attributes of entrepreneurs!'

Dr. Spautz also concedes that Professor Jager complained that his campaign for justice was increasing his administrative problems at the expense of his research time. He also contends that he was never instructed not to make 'intemperate attacks' on Professor Williams :

'Some say I did - Williams and several of his apple polishers. But so what? I wasn't forbidden to use intemperate verbal attacks! Nor did I send anyone any obscene caricatures of themselves, or make obscene phone calls to them at home, or threaten to pull down anyone's pants, or slam the door real hard in a juvenile tantrum, or write secret, false, defamatory messages to the V.C. - all of which Williams and/or his loyal disciples engaged in on numerous occasions in their intemperate attacks on me, the conscientious whistle blower! How vile! (Exhibit 'Z')

54. A number of the staff gave evidence to the committee of the way in which the 'campaign' had interfered with their research work. Dr. Tippet said the dispute had had a 'disruptive' effect on him (Tpt. 268). He had become so annoyed with it that he had applied for a position at the University of Sydney. He was 'sick to death' of what was going on. In his view, Professor Williams had been seriously affected by the attacks made on him (Tpt. 270). Mr. Dowling considered that the time taken up of staff and students had not been productive (Tpt. 273). Dr. Tippet said that the climate was an unhappy one for research (Tpt. 306). It is true that Professor Jager (Tpt. 254) and Professor Williams specified ways in which the 'campaign' had interfered with their research. In the case of Professor Williams, specific evidence was placed before the committee that Dr. Spautz had threatened to inform banks with whom Professor Williams was in correspondence in Newcastle concerning the plagiarism charge (Tpt. 359-60, Exhibit 'A70'). Although Dr. Spautz did not carry out this threat, the energy with which he corresponded could well have led Professor Williams to believe that he would do so. It seems that Dr. Spautz had some objection to one aspect of a survey which Professor Williams was conducting with banks for the purpose of testing some of the views put forward in his thesis. It was this objection which led him to threaten to write to the banks. In the course of the third day the following exchange took place :

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SPAUTZ : How can I be accused with interfering with your research. I mean. I don't know if that's fair to, you would have secret information that I don't have. I act from what information I do have and then you turn around and club me for not knowing what was in your mind.

WILLIAMS : Dr. Spautz. What was in my mind at the time and what I was doing was none of your business. It was my personal research and you interfered with it.

SPAUTZ : ... In fact I was doing it in response to the Vice Chancellor's request that I do it, that I challenge you, in a scholarly fashion up there. I went and did it.

WILLIAMS : Gentlemen. ... The article referred to is the question in the Rydges article does not give you any right to then threaten me with attempting to dissuade bank managers with whom I had research contracts as indicated in your last paragraph.

SPAUTZ : Well I didn't know you were doing research. Where does it say I knew you were doing research. ...

(Tpt. 390) (See also Tpt. 393).

Quite apart from the specific evidence, it is plain that the mass of correspondence generated by Dr. Spautz and the controversy which inevitably surrounded the deliberately provocative language in which it was couched, would have taken up time of members of the Department of Commerce, in discussing it and in discussing the consequences of it for the department and its collegiate good name.

55. So far as interference with teaching is concerned, some evidence was given by Mr. Walker, a Tutor, concerning Dr. Spautz' being in a classroom (Tpt. 46) However, it appears that this was before the class started and the committee does not have any evidence before it that Dr. Spautz interfered specifically in the teaching of others in the department. Mr. Burke did not feel that there had been interference with his teaching for he would never bring a collegiate matter into his classroom (Tpt. 281). There is evidence that Dr. Spautz permitted his dispute with Professor Williams to interfere in his own teaching. He concedes that on a number of occasions he made reference in the class to Professor Williams' alleged incompetence in administration of the section. He also admits using his dispute with Professor Williams as a 'case study' in the course of his lectures. He did this without rendering the persons involved anonymous and following the other precautions usually observed in the case study technique. In short, Dr. Spautz' dispute affected teaching in the Department of Commerce to the extent that it affected his own teaching. It does not appear to have affected the teaching of other members of the department in any specific proved way.

56. The committee is also asked whether the learning environment of students in the department was interfered with. It is the committee's view that it was. It is, to say the least, unusual that a Senior Lecturer should display on his door correspondence that would normally be private between himself and a professor and other members of the University. The use of deliberately strong language ('Down with Williams the Plagiarist') and the self-styled 'confetti barrage' of correspondence undoubtedly caught the eye of students. Secretarial staff saw students reading the material on the door.

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In a tightly-knit University community, controversies of this kind can become magnified and, as magnified, can be distracting and unsettling. In addition to the generalised effect of this kind of conduct on morale and student attention to their University courses, specific evidence was given by a number of students of the way in which the 'campaign' had affected them. One M.B.A. student, Mr. Vanvalen, had received complaints from other students that Dr. Spautz was using his lectures for attacks on Professor Williams (Tpt. 98). But specifically, Dr. Spautz sought to use Mr. Vanvalen as a means of securing from Professor Williams a copy of the latter's Ph.D. thesis. It will be recollected that the thesis, as annotated by Dr. Spautz, had been circulated by Professor Williams. Professor Williams, for reasons which in retrospect appear unfortunate, declined to supply a copy. Dr. Spautz was impatient. Mr. Vanvalen submitted written work which included reference to Professor Williams' thesis. It was at this point that Dr. Spautz told Mr. Vanvalen that he could not give him credit for his course work unless he produced Professor Williams' thesis.

VANVALEN : Dr. Spautz then turned and said that he would not give me credit unless I produced it. In other words he was trying to pressure me or blackmail me or bribe me or whatever you want to call it into obtaining a copy for him of something which he could not obtain himself.

(Tpt. 125)

This pressure on Mr. Vanvalen was even extended by Dr. Spautz to a suggestion that Vanvalen (a former Army officer) should use Australian Army resources to obtain a copy of the thesis from the University of Western Australia (Tpt. 180). Mr. Vanvalen refused to do this on the grounds that it would be an illegal use of Army resources. Dr. Spautz in effect told him that if he did not produce Professor Williams' thesis, referred to in his written work he, Dr. Spautz, would be forced to give Mr. Vanvalen an 'incomplete'. He repeated this in insistent telephone calls to Mr. Vanvalen's home (Tpt. 189). Mr. Vanvalen reported the matter to Professor Williams who in turn complained of it to the Vice Chancellor (Tpt. 199). A dispute arose as to whether Mr. Vanvalen actually used the word 'bribery' in describing Dr. Spautz' conduct. Professor Williams so described it in the letter to the Vice Chancellor. Mr. Vanvalen was uncertain but he did agree that he might have said that Dr. Spautz' conduct was 'blackmail' or 'undue pressure' (Tpt. 199). Subsequently Dr. Spautz withdrew the demand. The fact remains that it was made. It appears to the committee to have been an improper effort to use Mr. Vanvalen, a student, as a means of extracting from Professor Williams or otherwise, copy of Professor Williams' thesis. It may well be that Professor Williams should have provided a copy to Dr. Spautz. That is not the issue. It seems to the committee to be quite wrong for a University teacher to involve students in a faculty dispute in this way. It seems doubly wrong to suggest to him that he should misuse his connection with the Army to expedite the supply of the wanted thesis from the other side of the country. It would appear to show the length to which Dr. Spautz was willing to go and the extent to which he was in the grip of his "magnificent obsession" (Letter of 22 April 1980(b): Exhibit 'MM').

57. Quite apart from this event, several other students gave evidence of the general way in which the attacks on Professor Williams were disturbing the normal pattern of their work. Mr. Norris, for example, indicated that in 12 lectures each of two hours, in four of them half an hour of the lecture would be taken up by Dr. Spautz' criticisms of Professor Williams (Tpt. 107). These students were also recipients of

letters from Dr. Spautz. Mr. Norris described his collection as being in two volumes. Mr. Vlaskamp, whom Dr. Spautz described as a 'decent student', described his impressions :

VLASKAMP : I think I expressed the opinion that during the first half hour of a meeting Mike [Spautz] generally made a nuisance of himself by bringing up these administrative matters and that the students didn't want to be bothered about.

SPAUTZ : Did I persist after your objecting.

VLASKAMP : No.

SPAUTZ : Then I allowed you to object.

VLASKAMP : Inaudible.

CHAIRMAN : But should a class of students be put into a position where they have to object?

(Tpt. 121-2)

58. Professor Jager told the committee that incidents of this kind had a devastating effect on the work and morale of the department and especially on Professor Williams (Tpt. 233). We asked him whether he thought the criticism of the competence of Professor Williams as an administrator was justified. His answer :

JAGER : Alleged incompetence as an administrator? I think that's most fanciful, Sir.

(Tpt. 233)

59. In respect of the use of the dispute in the department as a case study for students, Professor Jager denounced this in a telling passage :

JAGER : You ask my opinion. My opinion remains unchanged.

SPAUTZ : In other words, it's a campaign of vilification. ...

JAGER : If you were engaged on anti-snake venom, you don't have the right to ask your students to drink it, just to see what the results are. If this is research you ...

SPAUTZ : I never ask students to help me out. I informed them. I used it as a case study. In fact I didn't start doing that until Summer School. No question about that. I never brought up anything except in a very passing way like gee, this is a corrupt place, you know. I never talked about Williams' thesis once until Summer School of 1980 and then I just like I told you I was going to use it as a case study.

(Tpt. 238-9)

The Summer School referred to is a series of classes conducted by Dr. Spautz after the instruction of the Council was communicated to him.

60. There is much other evidence of the general disruption which the 'campaign' has caused in the department. Some of this evidence the committee disregards either because it was not proved directly or by the best means or because it was raised by other witnesses and not subject to testing. But in respect of the direct evidence of non-academic staff, students and academic colleagues, there is no doubt that the learning environment of the Department of Commerce was significantly affected by the dispute as it developed and escalated. Far from abating after the Council's instructions, it has increased with the generation of further correspondence, its public display and in admitted conduct before students in his residual teaching.

Normal Academic Practice

61. A number of the heads of inquiry before this committee pick up specific language in the Council's resolution and the letter of instruction to Dr. Spautz of December 1979. We refer to the expression 'contrary to normal academic practice'. This phrase is used in our heads of inquiry Nos. 2, 3 and 7. They are used in the Council's equivalent resolutions. The reason is plain. No University should endeavour to discourage scholarly debate over academic issues. On the contrary, Universities, as we take it, should encourage such debate. The scholarly differences of view and powerfully expressed dissent have a great tradition in Universities. The inclusion of this phrase we take to be a signal of the fact that the University of Newcastle was exempting disputation consistent with normal standards of academic practice. Partly to assist the committee to gain a perspective on those standards as applied to Dr. Spautz' conduct, the evidence of Professor O'Neil was received. His qualifications to give such evidence have already been mentioned and are set out in the Transcript (Tpt. 132ff). Professor O'Neil told the committee that he could recall disputes in the University of Sydney where there had been a great deal of writing but never had he encountered a case where the writing had been distributed on so wide a scale (Tpt. 134). Secondly, the form of the material so widely broadcast was in language which in Professor O'Neil's words was self-evidently not scholarly language (Tpt. 135). Professor O'Neil could not accept Dr. Spautz' contention that the mass of correspondence contained in Exhibit 'A' was really working papers, part of the research project on corruption in Australian Universities. They might be 'aids to memory' but they fell a long way short of scholarly work. They related only to one case; to one University (Tpt. 140). They amounted to a 'vexatious activity' (Tpt. 141).

62. Professor O'Neil took away with him three articles which Dr. Spautz contended were proof positive of the scholarly nature of his dispute. In his report on the draft journal articles, which Dr. Spautz agreed to admit into evidence, Professor O'Neil reported to the committee :

'I have read the three additional papers by Dr. Spautz which I undertook to read and to comment on. Two are one-and-a-half page notes not unlike in extent and in content to the memoranda and the letters on which I had made unfavourable comments to the committee, in that they were not scholarly discussions of alleged deficiencies in Professor Williams' Ph.D. thesis. The third paper is longer, about four-and-a-half pages. Consequently it can set out the criticisms made in the shorter papers in great detail. It is still, however, a series of dogmatic assertions and not a

scholarly discussion such as would be accepted by the editor of a learned journal. Some of the dogmatic assertions are patently wrong. ... I still assert that it would have been more in accord with normal academic practice in disputes on intellectual matters had Dr. Spautz written serious scholarly discussions of Professor Williams' thesis than for him to have put out his numerous dogmatic, unjustified and sometimes intemperately expressed condemnations of various features of this thesis. I am still left with the impression that Dr. Spautz is obsessed with undermining the scholarly reputation of Professor Williams and has been using unscholarly means to do so'. (Exhibit 'P').

63. Professor Jager conceded to the committee that this was not the first time in his experience that a dispute had arisen between academics :

JAGER : I've been around Universities for a long time Sir and ...

CHAIRMAN : Well now, is there anything unique about this one?

JAGER : Yes, I think even with - in my experience in these things before when two scholars fall out, they fall out over their scholarship, but the normal courtesies within the department and within the day-to-day relationships prevail. This is not so in this case.

CHAIRMAN : In what way?

JAGER : Well, I think there is an evident antagonism portrayed by Dr. Spautz towards Professor Williams at all times. For example it has been reported to me secondhand that you [Spautz] walk into a room and say, 'Good morning gentlemen, good Morning Alan'. You know these little things. They are personal. But, maybe rather trivial. But you get a little sick of them all day and every day'

(Tpt. 224)

64. Professor Jager admitted that he had failed in his earlier attempts to reconcile Dr. Spautz to Professor Williams :

JAGER : Several times I said to you [Spautz], This is an academic institution. This is a University. You guys don't have to love one another. But you do have to work together. Now do something about it.

(Tpt. 253).

Unfortunately the instruction fell on deaf ears. There is no doubt that, at least so far as Dr. Spautz is concerned, the 'ordinary civilities' and 'normal courtesies' were not observed, certainly during the period since the Council's December resolution and the letter of instruction of 17 December, and indeed for long before then.

65. Other members of the academic staff gave relevant evidence about 'normal academic practice'. All of them had seen disputes, which are, in a sense, endemic in small communities of highly talented people. Dr. Tippet put it in language which has already been quoted :

TIPPETT : Well Sir, I've seen disputes of this nature or not of this nature before. But disputes on bona fide academic grounds between academics before in (inaudible) Universities. But I've not seen one like this. This one in fact is character assassination.

(Tpt. 266).

Mr. Burke said that he had never received an explanation as to why Dr. Spautz had not taken the orthodox way of pursuing his dispute about Professor Williams' thesis and his other complaints :

CHAIRMAN : Did he ever give you an explanation? Why didn't he take that thoroughly normal course?

BURKE : Not to satisfy me I don't think. You did answer, you have answered the matter Michael [Spautz] on a few occasions but I think sometimes brushed it aside because I have found you, and I have said this to you, difficult to advise. Not that I am saying that everything I would say or suggest ought to be taken up 100%. For heaven's sake. I say the same thing to students. So I mean because one has to differentiate very much between fact and value ... I have in my view not received a satisfactory answer from Michael in that respect. Because the reason that I wanted him to do that was that I thought that he and Alan Williams could engage in [academic debate] if they liked. Whatever they wished to do. Alan could have replied perhaps through the same media and so forth or even have a seminar on this that and the other. Not so much to prove right and wrong. ... I don't think I believe in him trying to do that. I don't think one should do that. But so that they have building blocks on each other's work, so to speak. Many famous academics have been shown at times to be wrong and have perhaps thanked the person who has shown the more righteous path.

(Tpt. 280)

Neither the idea of seminars, in-house publications, external scholarly publication, papers for conferences or other orthodox means were used by Dr. Spautz to further his challenge to Professor Williams' thesis. Dr. Spautz complains about publishers who will not accept his efforts. He complains about the Australian laws of defamation. But it is the committee's view that the material produced by Dr. Spautz is unacceptable for publication by reason not of the laws of defamation but precisely because Dr. Spautz has not presented it in a scholarly fashion. It must be conceded that the avenues for publication, of the rebuttal of an unpublished thesis, are relatively few. But if just a fraction of the enormous energy which Dr. Spautz has channelled into the preparation of so much correspondence and other material had been directed to a scientific, scholarly and temperate critique of Professor Williams' thesis, the committee believes that a publisher could have been found either within or outside the University.

66. Dr. Spautz seeks to escape from the phrase 'normal academic practice' by contending that this case is so unusual as to fall outside the normal rules. Professor O'Neil conceded that the case was 'quite unusual' (Tpt. 144). But we take this expression to refer to the features of it to which Professor O'Neil called specific attention : the wide distribution of material relating to the dispute, the use of language self-evidently non-scholarly and so on. Dr. Spautz says there can be no normal practice in such a unique case (Tpt. 336). He concedes that his conduct is not normal academic practice (Tpt. 337) but says that the case is not normal. Plagiarism, he declares, is a once-in-a-lifetime discovery (Tpt. 345). In these circumstances, Dr. Spautz apparently feels released from the normal academic standards, the usual civilities and the orthodox university procedures. This committee rejects that contention. In the first place, the lapse from ordinary standards occurred before the discovery of the alleged plagiarism in Professor Williams' thesis. In the second place, what has made the case 'unique' is Dr. Spautz' own conduct. He cannot rely on this to take himself out of the normal conventions of University life.

General Conduct

67. The committee now turns to the general inquiry into Dr. Spautz' conduct required of it by the opening words of its mandate. Enough has been said to indicate the general nature of the matters under inquiry and there is little point in the detailed exploration of the course of the events antecedent to the Council's resolution and the letter of 17 December 1979. A number of specifics may, however, be mentioned, as they were dealt with in evidence before the committee. In the first place, Dr. Spautz disputed the designation of Professor Williams as Head of the Management Section. Dr. Spautz contended that Professor Williams was neither validly elected nor unequivocally appointed (Tpt. 58). No endeavour by University authorities could overcome the defect in Professor Williams' appointment as Head of the Section, as perceived by Dr. Spautz. A meeting of staff on 1 November 1978 passed a resolution supporting Professor Williams as Head of the Section (Tpt. 358) but it left Dr. Spautz untouched. Meetings with the Vice Chancellor and other colleagues failed to convince him. The fact that everyone else in the department, and even in the University (and resolutions of the Council) were consistent only with Professor Williams being Head of the Section, left Dr. Spautz quite unconvinced. His adamant insistence upon an election or an appointment in terms acceptable to him is a further indication of his difficulty in accepting any authority so far as Professor Williams was concerned. To this committee it would appear that whatever doubts may have existed in Dr. Spautz' mind before the meeting of 1 November 1978 passed the resolution (Exhibit 'A13') cited above, to which he alone dissented after that date there ought to have been no doubt as to who was Head of the Management section. Yet to this day, Dr. Spautz persists with his dispute.

68. Unfortunately, the dispute may, if it is allowed to persist, have unacceptable consequences for the University. Already, mention was made of the potential breach of security which might arise because of Dr. Spautz' refusal to deal directly with Professor Williams as Head of his Section. We refer to the suggestion that an examination paper, subject to strict security, was not handed directly by Dr. Spautz to Professor Williams. This issue was not explored in detail by the committee (Tpt. 413-5). But whether there was any risk of a breach of examination security in events which have occurred (Tpt. 411) or not, the fact remains that a persistent refusal

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in the face of clear action by University authorities and a clear resolution of all of his colleagues, makes orderly life within a small department difficult and unacceptably chaotic. In a University, as in other bodies there must, on occasion, be an appropriate line of command. It was to this problem that the Council's resolution instructing Dr. Spautz to cease involving others in challenges to Professor Williams' holding the position of Head of the Management Section was directed. To the hearing by the committee, Dr. Spautz persisted in his refusal to acknowledge Professor Williams as Head of that Section.

SPAUTZ : ... Since he was neither appointed nor elected and I couldn't get anyone else to hold an election or announce an appointment, it looked to me as if for some reasons [Professor] Lindgren and by the way the same with Jager, with regards to Section Heads, both of these guys were somehow evading having to stick their neck out and in fact say, and put it in writing. Now, if that's the case I think that they're going to have to answer for that behaviour because in most cases I have seen, positions are filled by appointment or by an election, and especially when I call it to their attention, that these things haven't happened, it seemed to me that in order to just make it look as if justice is being done here and they say OK, if you need to have that sort of assurance, well, we'll make an announcement ...

(Tpt. 386).

It appears to the committee that Dr. Spautz' persistence with his objection to the validity of Professor Williams' appointment as Head of Section was unreasonable and in the face of plain written instructions, given by competent University authorities, the de facto situation and the endorsement of it by all of his teaching colleagues, his dissent alone being recorded.

69. Mr. Graham Dowling, Lecturer in the department, complained of Dr. Spautz' conduct in distributing to members of the Council, members of the Department of Commerce, Professor Yetton and 'selected others' a document (Exhibit 'A282') damaging to his reputation. One paragraph of this document complains of :

'Your chronic attempt to discourage me from my research study into corruption in Australian Universities by accusing me of creating paper, disparaging the importance of my research, taunting me because I haven't published the kind of Mickey Mouse magazine articles that you prefer to the real thing, telling me that I am on the verge of a nervous breakdown and strutting around like a peacock (whereas you're more like a turkey)!!'

Mr. Dowling's principal objection arose from the fact that Professor Yetton was a supervisor of his Ph.D. thesis :

DOWLING : It's basically that the implication there is that I publish Mickey Mouse articles, which is not real research and the problem with that is that document was circulated to members of Council, to my colleagues and selected others and that could prejudice my promotion

possibilities in any academic institution because the implication is and its an implication where Dr. Spautz has read nothing that - to my knowledge has read nothing that I've published, that my research is Mickey Mouse, and it's not real research, so it was on the basis of future employment prospects. ...

CHAIRMAN : Yes. Can you tell me who Professor Yetton is?

DOWLING : Professor Yetton is an Associate Professor at the Australian Graduate School of Management.

CHAIRMAN : And is that within your area of discipline and possible promotion?

DOWLING : Professor Yetton is on my doctoral committee at the Australian Graduate School of Management. ...

(Tpt. 272-3).

The price of Dr. Spautz' pressing his frequently unwanted correspondence on all and sundry, including some in and some outside the University, is that considerable damage may be done in the process to those who are referred to in the correspondence. The correspondence is in language which is unusual and provocative and deliberately and avowedly so. Dr. Spautz was asked about his conduct in the case of Mr. Dowling :

CHAIRMAN : You [sent it to] a scholar who's involved in his doctoral thesis, who is a potential future employer. And do you think that's the action of a colleague and a scholar at the University?

BURKE : Using those terms colleague and scholar, no.

SPAUTZ : I think I should come in here. I didn't know that Yetton was [on the doctoral committee]

CHAIRMAN : Well mightn't it have been wise for you to have checked before you sent things outside to other scholars who, at least potentially, might be employers or ...

SPAUTZ : I mean. I think I am on a good thing as any (inaudible). The reason for sending it to Yetton had nothing to do with his current relationship, it's only because I wanted Yetton to know what had happened as a result of a chain of events a year and a half later because Yetton to my knowledge was the original source of the whole dispute and he informed Dowling, Dowling informed me, I informed Williams, Williams informed everybody else, and there is a chain of events and I wanted Yetton to know what had happened and in fact I wanted him to come as a witness.

CHAIRMAN : Well why did you have to blacken the scholarship and work of Mr. Dowling?

SPAUTZ : I didn't blacken his scholarship.

CHAIRMAN : You did. You described his work as Mickey Mouse research.

SPAUTZ : No. ... I didn't call him, I didn't say anything about Mickey Mouse articles that he wrote. I've never read any of his stuff. But I have written some Mickey Mouse articles and I don't want to write that crap any more.

(Tpt. 292)

The committee believes that the indiscriminate circulation of material in the language deliberately chosen by Dr. Spautz may not always be intended to cause harm to the subject mentioned. But the net result of such widespread distribution is that harm may be done nonetheless because charges of 'boot licker', 'rascal', 'fraudulence' and so on are not usual in our culture and are likely for that reason to be remembered. Many recipients will doubtless ignore the correspondence. After the first few items, many will consign the correspondence to the waste paper bin. But the danger remains that damage may be done to reputations in the eyes of casual readers. Professor Williams expressed the fear that a concerted campaign over such a long time was liable to give rise to some of the criticism sticking on the reputations of its subjects. The committee accepts this fear as genuine and legitimate.

Conclusions : Specific Answers to Questions

70. In specific answer to the questions asked by the Council, the committee's report of the issues under reference is, for the reasons stated above (as elaborated in the relevant Exhibits and Transcript) :

- (1) Yes.
- (2) Yes.
- (3) Yes.
- (4) Yes.
- (5) Yes.
- (6) Yes.
- (7) As to interference in teaching in the Department of Commerce, there is no evidence that Dr. Spautz interfered in the teaching of persons other than himself. Otherwise yes.

Conclusions : Closing Comments

71. There is no doubt that this is a tragic case. It is tragic for the immediate participants. It is disruptive, inconvenient and distinctly unhappy for the University of Newcastle, its Council, committees, hard-pressed teaching staff, non-academic staff and students. It is tragic for Professor Williams because he came to the University with a specialty that is particularly relevant to the economy and commercial life of Australia. There is no doubt that his research work and his work as a University administrator have been severely affected by the course which the dispute has taken. Above all, this dispute has had a tragic effect on Dr. Spautz. He claims he has been 'radicalised' (Tpt. 321). The short passages cited in this report are not adequate to reproduce the passion with which he has absorbed himself in his dispute with Professor Williams. The cold print of transcript does not reproduce the animus which, it must be recorded, he most plainly displayed in the hearings of the committee. To the committee members, it appears that he is possessed by a 'mission'. The tragedy is that he has also demonstrated considerable intellectual gifts, great skills of oral communication, swiftness of mind and the same enormous energies as are amply illustrated in the flood of correspondence that has emanated from his pen over recent months.

72. The committee approached its task with a clear understanding of the need to promote, not suppress, healthy debate of issues within a University. The committee took this to be the Council's standard. The committee was not inclined to be unduly concerned by intemperate language as such, either in internal University correspondence or in proceedings before the committee itself. Nor was the committee inclined to be overly critical of the mere abundance of correspondence, annoying though it might be to some recipients. Within a University, there is room even for healthy eccentricity of correspondence. Bizarre and unconventional ways of doing things may not for that reason be unacceptable. Even when one has made every possible effort to understand Dr. Spautz' strongly held views and the legitimate ways in which he could express those views, the fact remains that he has gone about things in the wrong way. He has persisted in doing so since the Council resolutions of December 1979 were conveyed to him in substance on 17 December 1979. Indeed, he has stepped up his 'campaign'. The University is a community institution. People of high intellect and strong personality must live and work in close proximity. Strong differences will frequently arise, as they have here. But we take it that where they do arise, the ordinary civilities should continue to be observed, students should as far as possible not be involved in differences, intellectual issues should not descend into personal vituperation and legitimate avenues for scholarly disputation should be used, not widespread, indiscriminating correspondence to a large number of people, many of them with only the most tenuous concern with the subject matters in dispute. The point has been reached where Dr. Spautz has refused to comply with a clear indication from the Council of the University that it disapproves of the way in which he has conducted his 'campaign'. His colleagues came before the committee and including two (Mr. Burke and Mr. Ferris), nominated by him, they were critical of his conduct and questioning of his motives. The non-academic staff members called expressed their fear of the verbal abuse to which they claimed they had been subjected. Student members, including those whom he acknowledged to be 'honest', complained that they had to protest about his discussions of the alleged inadequacies of Professor Williams in the classroom. One student (Vanvalen) specifically complained about pressure which we have found was

wrongly applied to extract a copy of Professor Williams' thesis. Despite the authority of the Council, Dr. Spautz refused relocation during a 'cooling off' period. Far from cooling off, he stepped up his 'campaign'. It is a matter of sadness to the members of the committee to have to report in this way for there is no doubt that, properly channelled, the talents, energies and intellectual gifts of Dr. Spautz could be of great benefit to the University of Newcastle, its Department of Commerce, its students and indeed scholarship generally. The committee's effort at reconciliation was of no avail. The Council must now decide what follows from this report.

30 April 1980

M.D. KIRBY (Deputy Chancellor) (Chairman)

K.R. DUTTON

L. GIBBS

A. OLIVER