HOW I GOT RAILROADED FROM THE UNIVERSITY OF NEWCASTLE FOR BLOWING THE WHISTLE ON THE FRAUDULENCE OF AL WILLIAMS

(Second Edition)

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1. This is a summary of key events leading up to a series of resolutions designed to secure my departure from the University of Newcastle in May, 1980. I place some emphasis on the numerous and varied illegalities that occurred in the process of my (alleged) dismissal, which form the main bases of my pending law suit against the University. Relevant extracts from the Act of the University and the By-laws are appended for ready reference.

2. I have been a tenured staff member in the Dept. of Commerce since 1973, doing research and teaching in organizational behavior, human resources management, and related topics. My three degrees, all from the University of California at Los Angeles, are in Psychology, and my special interest in recent years has been the scientific study of ethical systems. I have nearly finished the manuscript of a book entitled Ethicology, and am gathering information for another book to be entitled Corruption in Australian Universities. I have retained my American citizenship, but am a permanent resident of Australia.

3. Early in 1979, having been tipped off by two colleagues, I called to the attention of the Vice-Chancellor, Don George, some serious matters that brought into question the validity and integrity of the doctoral thesis of Allan J. Williams. In short, numerous theoretical and historical passages had been plagiarized and pieced together from various uncredited sources, the statistical analysis is spurious, some of the variables inappropriately scaled, the direction of alleged causality between the two key variables inverted, and there is even reason to question the authenticity of the raw data base (which he has declined to release, contrary to normal academic practice). I requested the Vice-Chancellor to investigate these allegations, which I could not prove at that time because Williams had confiscated my personal copy of his thesis in September, 1978, when I pointed out some of those difficulties and advised him that I could not in good conscience support his candidacy for the posts of Section Head and MBA Course Coordinator.

4. The fact that none of the plagiarized passages appears in a lengthy published summary of the thesis (see A. Bordow (Ed.), The Worker in Australia, Queensland U.P., 1977) seems to disprove Mick Carter's suggestion that Williams is only guilty of sloppy scholarship.

5. Williams completed his thesis without a supervisor (Prof. A.M. Brown having died during its preparation), and he admitted to me in 1978 that he had nominated his own examiners! (The Registrar of the Uni of W.A. confirmed that Williams knew their identity, which he has subsequently denied.)

6. George's reaction to my call for an investigation was to accuse me of trying to organize a "witch hunt", and to accuse me of disruption! He advised me that the proper way to challenge a thesis was to publish a rebuttal, and that it was inappropriate to question the judgment of those who awarded him the degree. (Not so incidentally, Williams' appointment to a Chair appears to have been justified by

little more than his superficially impressive thesis, as I am unaware of any other research works of publications other than two summaries of that thesis. Also, it should be noted that George was the Chairman of the selection committee that recommended Williams, and Prof. M.O. Jager, Head of the Dept. of Commerce at that time, was a committee member. Therefore it appears that they would have a vested interest in concealing a blunder, irrespective of the truth of my allegations about Williams' fraudulence, incompetence & misconduct.)

7. During the first and second terms of the 1979 academic year, I accumulated and sent to the V-C voluminous evidence to support my allegations (as I had purchased another copy of the thesis through the library system--Williams did not return my other copy for almost a year, after he could see that the jig was up and it was no longer to his advantage to risk being charged with petty larceny), repeating my requests for an investigation under the by-laws.

8. During that time I was unsuccessful in getting three rebuttals of the thesis purlished; one editor was afraid of the defamation laws, and another explained that the readers would not recall the article being rebutted. (Incidentally, those publications were Rydges and the Real Estate Journal; for some reason the research was not published in a reputable, scholarly journal; I suspect that's because Williams was afraid of being found out by the referees whose job it is to screen out rubbish.)

9. During that time, as I found out in March, 1980, Williams was writing a series of secret letters to George, attempting to ruin my reputation and credibility by means of numerous ridiculous false allegations and insinuations; these included bribing a student, burglary, vandalism, making threatening and obscene anonymous telephone calls to his home, refusing to accept his authority (in matters where he had none), interfering with his research, and violating examination regulations.

10. In short, Williams was trying to frame me, in much the same way that Orr* was. (I suspect that one or more of his public boot-lickers was pulling some of those stunts, and that Williams knew that it was not me but found it expedient to pin the rap on me. Secretly, most of our colleagues despised Williams even before the whistle was blown on him, and our MBA Program is a laughing stock because of the widespread knowledge of his pseudo-scientific thesis. Apparently he was first found out by Assoc. Prof. P. Yetton at the Australian Graduate School of Management, who informed Grahame Dowling, who passed on the word to Fred Guilhaus and John Smyrk and me. They, being junior staff members with ambitions to eventually receive doctoral degrees, could not bring themselves to take a public stand against Williams, so were confined to clandestine opposition concealed by vocal public support. Once things started to heat up, they bailed out and turned against me to protect themselves from retribution, and subsequently denied having brought me into the matter. Furthermore, Williams was Guilhaus' doctoral thesis supervisor, and had arranged a Fridays-only teaching schedule for Smyrk so that the latter could spend the rest of the week in Sydney & Melbourne selling his computer software packages--in violation of the regulations covering outside consulting. Therefore neither could afford to challenge Williams, at least openly. Both subsequently left under suspicious circumstances.)

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*Prof. S.S. Orr, whose main interest was apparently in ethics, was railroaded from Tasmania Uni about 25 years ago for discrediting the V-C's administration, on trumped-up charges. See various articles in Vestes, circa 1959-61 (378.9405/1), E.H.C. Eddy's Orr, 1961 (378.946/4), & a report by the Australasian Assoc. of Philosophy, 1964 (378.946/1). There are some amazing parallels between our two cases.

11. In May 1979, at the behest of George, Prof. M.P. Carter interviewed me and some of my colleagues about the so-called dispute. It was obvious that his mission was to shut me up by telling me that my communications were "counter-productive", that my conduct was "lemming-like", and that natural justice, to which I had been appealing, is nothing but a "cliché". He failed to stifle me, but succeeded in proving that he had joined the V-C's conspiracy to obstruct justice.

12. I informed Carter, Williams and others that I was conducting research for a book on corruption in Australian universities, and proceeded to do so.

13. Instead of calling for a proper investigation of my charges against Williams, and ignoring his earlier promise to act in accordance with Council Resolution 151/70 (which gave a detailed explication of the disciplinary by-laws as they were then, in 1970, understood by Council and the Staff Association, after much discussion), George persisted in his attempt to cover up the scandal. He reiterated his false accusations that I was being disruptive because of my refusal to acknowledge the validity of Williams' roles as Section Head and MBA Course Co-ordinator. Those posts had no statutory authority, he was not properly appointed or elected to them, and the delegations that he had supposedly received from Dean Lindgren and Jager in March, 1979 were in violation of Section 23 of the Act! Other staff members were afraid to protest.

14. Jager's prediction that the professors would "close ranks" to protect Williams (which he made in Sept., 1978) was apparently coming true. At that time, when he had first found out about the scandal, he advised that nothing would be done about it, and that it was none of my business! And that there is no justice in this Uni!

15. Therefore, I was led to the decision that my best alternative to capitulation in the face of the V-C's conspiracy (which by now included those mentioned above and others), was to launch a publicity campaign within the University community, to let my colleagues know what was happening. (By then I had learned that it would be futile to persist in my earlier attempts to publish rebuttals--which was just as well, because I preferred to contain the scandal so as not to tarnish the Uni's reputation in the outside community because of the corruption of a few bureaucrats and professors and their intimidated hangers-on.)

16. Perhaps naively, I had believed that my colleagues would be interested in examining the evidence that I had accumulated, and that at least some of them shared with me the traditional academic ideals (such as the search for truth, intellectual honesty, personal integrity, the pursuit of justice, defence of the freedom of expression, and combatting the few misfits amongst us who hold such ideals in contempt).

17. The strategy of my campaign for justice (which the conspirators insisted on calling my "campaign against Williams", with a clear implication that it was completely unwarranted and reprehensible) was to produce and disseminate a large number of informative memos. This was designed to combat the cynical and self-serving secretiveness upon which unprincipled bureaucrats thrive, and which enables (even encourages) them to engage in all sorts of machinations, legal or otherwise, secure in the knowledge that they are not likely to be found out and suffer the adverse consequences that they deserve. Just as knowledge is supposed to be power, so is the concealment of information an effective means of retaining and implementing power!

18. Unfortunately for me, it turned out that there are apparently few people in this Uni who hold the ideals mentioned in para. 16 above the ideal of job security. While several colleagues and students sided with me in private, only one or two have done so in public--and have lived to regret it (temporarily, I hope!).

19. His cover-up strategy now having been defeated, George tabled a report (doc. C.109:79) at the Council meeting on 19 Oct 79. It gave a rather selective and biased account of developments, omitting to mention several serious charges against Williams, and attempting to minimize the others. He did admit, to his credit, that "there may be room for debate" about the plagiarism charges--even though I had not finished sending the evidence to him. But he claimed not bo be properly informed to make a judgment about the charges of spuriousness and inverted causality--despite having had in his possession for several weeks the annotated copy of the thesis, which Williams had finally returned to me, and which I had lent to George for his information in support of those very charges. He had also received, months earlier, copies of three rebuttal articles that I had been unable to publish, demonstrating the fraudulent technical inadequacies of the thesis in such simple terms that almost any intelligent person, even if not technically inclined, could easily understand. (Later on, I found myself accused of not being sufficiently scholarly in those rebuttals, which were prepared for the same unscholarly magazines in which the summary articles had appeared; also, since Williams had refused to allow access to the raw data, it would have been impossible to go into the sort of in-depth analysis that would be satisfactory for publication in a technical journal, which in any case would have rejected it because the articles being rebutted had been published elsewhere.)

20. At that meeting Council accepted George's recommendation (which was inconsistent with his earlier written commitment to honor Resolution 151/70--see para. 13, above), to appoint a committee made up of Carter (as chairman), Dean K. Lindgren, and Assoc. Prof. G. Curthoys, to report on "the substance of the dispute in the Dept. of Commerce". In doing so, it appears that by-laws 1.2.3, 2.1.4, 2.1.5 & Resolution 151/70 were all violated, along with Section 22(1)(c) of the Act. (I think it could be reasonably argued that Resol. 151/70 had not only been designed to provide an interpretation of the disciplinary procedures embodied in the by-laws, but also to give some intelligible meaning to the phrase "objects and interests", which are supposed to serve as guides to Council's actions.)

21. During the ensuing investigation, it appears that by-laws 1.2.2(1), 1.2.2(2), & 1.2.3 were repeatedly violated, along with Sections 22(1)(c) & 23 of the Act (the latter because Council cannot delegate to a committee powers that it does not have itself, i.e., acting in violation of the by-laws and the Act). Furthermore, by the way he conducted what amounted to an inquisition, Carter proved his contempt for the principles of natural justice (see para. 11, above).

22. The resulting Carter report (doc. C.128:79), which was even more slanted than George's, was obviously calculated to subvert my campaign for justice by destroying my reputation in much the same manner as Orr had been ruined. Amongst other false & defamatory statements, Carter et al. alleged that I had colluded with a student to perpetrate an academic fraud. In reality, that student was being blackmailed by someone to help them frame me up on fabricated charges. That little plot backfired because of the integrity and loyalty of that student, who informed me in time to avoid being trapped. Prof. Jager also alerted me that something was brewing over one of my exams, which may have been leaked to get back at me for refusing to allow Williams

to have anything to do with my exams, as the Regulations specifically delegate the organizing of exams to the Head of Department, and Section 23 of the Act expressly forbids re-delegation. (For keeping me out of trouble over this possible breaching of exam security, which I do not believe was his fault, I owe Prof Jager a sincere "thank you"--even though when it came to the crunch a few months later he "closed ranks" along with the rest of the professoriate and Uni administration to protect Williams and to get rid of me.) Carter et al. wisely omitted this event from their report, but unwisely asserted that Williams "legitimately performs the function of Head of the Management Section on delegation from the Head of the Department of Commerce"...."but that his efforts have been severely jeopardised over the last year through the constant antagonism of Dr. Spautz" (p.5).

23. The Carter report did contain an admission that the statistical analysis of Williams' thesis data "remains problematic" (p.3), but they negated that telling admission by going on to assert, in obviously libelous terms, that my "possible intellectual contribution is clouded by emotional considerations" (p. 3). They also asserted that my conduct had been attributed (apparently by certain witnesses, who were not named, and whom I was not allowed to cross-examine, in violation of natural justice), to "a pathological condition of paranoia--and masochism has also been suggested." Also, that I was perhaps in need of "professional medical help" (apparently alluding to the false and defamatory rumor that had been circulated by one of Williams' boot-lickers, that I was also on drugs!) (p.8).

24. They concluded by making several recommendations, including what amounted to imposition of a communications blackout on me and eviction from my office in the Commerce building, with relocation elsewhere--all without due process! They also recommended that I be forbidden to enlist the support of any member of the Uni in my campaign. This measure was obviously designed to make sure that no one else would dare to challenge the chronic violation of Section 23 of the Act, which one of the committee members (Lindgren) was himself guilty of (for illegally re-delegating certain functions of the Dean to Williams, in his role as MBA Course Co-ordinator, over my outspoken objections which are recorded in minutes of meetings of the Faculty Board and Board of Studies); the other two members of the committee surely knew all this, but had been tolerating it for months, along with George, Alexander, Jager, and the few other members of staff and administration who bother themselves with such matters.

25. Someone had the security classification "STRICTLY CONFIDENTIAL" placed at the top of the Carter report, as a result of which I was not given or even shown a copy until the middle of March, 1980--in violation of natural justice. And also as a result of my not having a copy or being adequately informed, I was in no position to understand a subsequent notice that Council had decided not to communicate with me about the "matters referred to in the body of the Committee's report as falling within the ambit of the dispute ... ." (Not so incidentally, Carter et al. failed to report on the substance of the dispute, as they had been ordered to do; as a result, I have been advised that the report is not a "protected report" within the meaning of the Defamation Act of 1974.)

26. The Carter report was tabled at the Council meeting of 14 Dec 79. On the basis of its recommendations, Council passed resolution 299/79, which incorporated what amounted to a censure motion (without referring to it as such). In so doing, it appears that Section 22(1)(c) of the Act, and by-laws 1.2.3, 2.1.4, 2.1.5, & 3.6.1.6(4)

were again violated. (The last-mentioned because to be valid a censure motion must be passed by the votes of at least 16 Council members, just as dismissal motions.)

27. Despite its invalidity, which should have been obvious to everyone on Council and to Alexander and others in the administration, that censure motion was conveyed to me on 17 Dec 79, in a letter teeming with ambiguities and deceptively-worded statements apparently designed to obfuscate and confuse the issues and to intimidate me into capitulating. I was instructed to halt a campaign that was different in intent from the one that I had actually been waging, with the false charge that I myself had admitted that it was a campaign against Williams! In fact, my campaign was (& still is) for justice, in that it was devoted to an adamant refusal to acquiesce in the illegal re-delegation of duties etc. to Williams by Lindgren & Jager, along with a request to enquire into Williams' fitness to hold office because of the various forms of misconduct that I had been charging him with. Rather than accept such orders to participate in violation of the Act and Regulations (which included both Sections 23 & 22(1)(c), I decided to continue with my campaign. However, in so doing I did not violate any legitimate instructions, regulations, by-laws, provisions of the University Act or other Acts, common laws, ethical codes, etc., that I know of--unlike my adversaries and their boot-lickers!

28. At the Council meeting of 15 Feb 80, George tabled another report, doc. C.10:80, which seems to make him my accuser, hence ineligible to later sit in judgment of me. In it he recommended another enquiry, this time into my conduct, and again in cynical disregard of his earlier commitment to follow the procedures that had been outlined in Resolution 151/70. On the basis of those recommendations, Council passed resolution 26/80, which authorized the Deputy Chancellor, Mike Kirby, and three other Councillors to conduct the enquiry. Council approved in principle of eight terms of reference, the eighth being the most important because it established the nature of the enquiry as quasi-judicial and charged the committee with determining whether "good cause" under by-law 3.6.1.6 existed, and if so, what action Council should take. In so doing it appears that by-laws 1.2.3, 2.1.4, & 2.1.5, and Section 22(1)(c) of the Act were again violated. (Incidentally, that resolution also incorporated a phrase which authorized the Chancellor to determine the final expression of the eight terms of reference; it did not authorize him to delete any term or to in effect change the nature of the enquiry as it had been instituted by the Council as a whole, or to change the intended meaning of any term of reference, or to create new terms of reference. Kirby was given authority to do nothing but chair the committee, whose job it was to enquire as directed by the eight terms of reference and to report thereon.)

29. On 22 Feb 80, I was given notice of the first seven authorized terms of reference, but not of the eighth term or of other procedural matters that together defined the "nature of the enquiry" as it had been instituted and as one might expect from a reasonable interpretation of the Act, by-laws, Resol. 151/70, common law precedents in administrative law, and widely-accepted principles of natural justice. In particular, I was not informed of numerous procedural details (which only came out during the hearings) that were essential for the adducing of evidence. In brief, both natural justice and by-law 3.6.1.6(2) were violated, in that I was not given 28 days notice of the nature of the enquiry as it had been instituted by Council pursuant to by-law 3.6.1.5. Therefore, Section 22(1)(c) was also violated in the process.

30. Also on 22 Feb 80, George exceeded his authority by approving what amounted to my suspension--again in violation of by-law 3.6.1.6(4). As a result, numerous students who had already signed up for my subjects, (which were cancelled by Jager with a euphemistic announcement that they would not be offered), were disadvantaged; some seriously, as one of them was a required subject for first-year MBA students and a prerequisite to several other subjects.

31. The suspension was accomplished by what amounts to fraudulent means, apparently with the connivance of George, Jager, Williams, and those few Councillors who pay much attention to what goes on in administrative matters. In December 1979, Council had resolved that I not be required to teach (para. 6 of resol. 299/79). The minutes record that "in respect of the word 'required' in Recommendation (6), ... its use was related to Dr. Spautz's letter of appointment." (This seems to indicate that they knew that suspension would violate our contract.) Then, in the minutes of the 15 Feb 80 meeting, it is recorded that "the Vice-Chancellor now intended to suspend Dr. Spautz from teaching duties, as he was empowered under part 6 of resolution 299/79...." They then passed resolution 27/80: "That the V-C be authorized to approve that a subject or subjects in the Dept. of Commerce be not offered in 1980 should the suspension ... make this necessary." Subsequently George induced Jager to go along with the suspension, despite its obvious illegality and lack of proper authorization by Council; and Williams changed the schedule of MBA subjects accordingly, posted notices, and advised students accordingly--all in violation of the prohibition against re-delegating the Dept. Head's and Dean's functions embodied in Sec. 23 of the Act.

32. Also on 22 Feb 80, Secretary Alexander wrote to me, giving notice of the first seven authorized terms (see para. 29, above), and sent me several documents as authorized by Council. However, in so doing he violated Council's instructions by withholding the eighth term of reference, para. (d) of resol. 26/80 ("that all members of staff and of the student body requested to appear before the Committee should do so"), the 15 June 79 minutes (which prove that the Chancellor lied to me in a letter dated 22 June 79), and four paragraphs from the 15 Feb 80 minutes (including resol. 27/80). These infractions by Alexander are obviously inconsistent with Section 22(1)(c) of the Act, and can be characterized as fraudulence and malfeasance in office. (Knowing the typical way that bureaucrats behave, I rather doubt that Alexander resorted to these deceptions on his own initiative--which means that the blame is properly to be laid at the boot-tips of Don George.)

33. Only 14 of the 24 members of Council attended the 15 Feb 80 meeting, so it was impossible to pass a proper suspension motion, in view of the requirements of by-law 3.6.1.6(4). All five of the politicians were absent (one having recently resigned); Kirby came late and left early; and Belcher resigned at the end of the meeting.

34. On 12 Mar 80, I was served notice of two new terms of reference, at the direction of Kirby himself. (Their substance had been recommended for inclusion by the V-C in his doc. C.10:80, but for some reason--perhaps opposition by certain Councillors--not incorporated into resol. 27/80.) I suspect that Kirby decided to add them because the other seven terms of reference seemed inadequate for the purpose of securing my dismissal, which was his obvious mission. This ploy was clearly in violation of by-laws 3.6.1.5, 3.6.1.6(2), Resolution 151/70, natural justice, and plain fair play!

35. In four meetings starting 24 Mar 80, Kirby et al. conducted hearings, which they and I each tape recorded (mine being incomplete, due to technical difficulties and depletion of tapes on two occasions). Fourteen witnesses testified, two of them at my request; Kirby refused to call numerous other witness that I requested, and several who had been listed as "possible witnesses", and for whom I had spent a lot of time preparing to question, failed to appear, despite my protests. In particular, Kirby refused to call George, Carter, Lindgren & Curthoys, whom I wanted to cross-examine on their earlier reports, which had been submitted in evidence--in clear violation of natural justice. An old crony of Kirby's and George's, a retired professor W.M. O'Neil who had been a psychologist at one time and later a top administrator at Sydney Uni, had been invited to observe and testify against me--without Council's approval, over my vigorous protests, and in violation of my right to be heard without my privacy being invaded by people who had no business being there.

35a. Subsequently a poorly-prepared transcript was made from the Uni's tapes, a copy of which I was given (only after agreeing to sign a statement that was designed to keep me from publishing all or any of it--which fact I have been advised is open to challenge in Court because the agreement was obtained against my will and with what amounts to blackmail). Detailed analyses of the transcript have proven that many of the procedures adopted were unfair, in bad faith, and contrary to by-law 3.6.1.5 and natural justice. Kirby refused to allow the other witnesses to testify under oath, incorrectly asserting that it would be illegal to administer oaths; this refusal was contrary to the import of by-law 1.1.4, as the Interpretation Act authorizes the administration of oaths. My barrister said that he couldn't understand how Kirby could make such a mistake. Apparently it was to his advantage to allow witnesses to say whatever they wanted, and to give false testimony against me (which several of them did, including Williams, O'Neil, Dowling, Tippett, and Vanvalen), without running the risk of perjury charges. Without such misrepresentations and lies in the transcript, Kirby would have found it practically impossible to write the sort of report that he did, and which was no doubt pre-determined, the hearings merely being pro forma. However, his refusal did not prevent me from testifying under oath, which I did throughout the enquiry, as can be proven from my tapes and verified in the transcript.

36. Furthermore, throughout the hearings by-laws 1.2.2(1), 1.2.2(2), & 1.2.3 were repeatedly violated, along with Sections 22(1)(c) & 23 of the Act--just as with the Carter committee meetings in 1979, as was pointed out in para. 21, above. (By the start of the hearings, the entire committee, esp. Kirby, had become personally interested and involved, and had a vested interest in railroading me because I had pointed out their earlier-demonstrated prejudices and by-law infractions and had challenged their fitness to serve on a just, open-minded and disinterested committee whose job it was to find and report the facts accurately and dispassionately, free from bias, malice, and bad faith.)

37. At the Council meeting of 18 Apr 80, resol. 62/80 was passed, authorizing a special Council meeting on 20 May 80, for the (sole) purpose of considering the forthcoming Kirby report. Again, by-laws 1.2.3, 2.1.4, & 2.1.5 were apparently violated in the process. According to the minutes, it was "agreed" that I be informed that I could have legal representation--apparently on the good advice that natural justice requires that such a notice be given in order to properly inform the person involved, so that he can get adequately prepared and be less likely to find himself outmaneuvered

and faced with a fait accompli without even knowing what was happening to him, due to ignorance of the sorts of ploys to look for and a lack of appreciation of the extent of his rights in such circumstances.

38. On 30 Apr 80, the Kirby report, doc. C.55:80, was issued, with the words CONFIDENTIAL and COPYRIGHT prominently displayed at the top of each page, obviously for the purpose of discouraging me from giving it widespread publicity, which would surely be at least embarrassing to the author(s) and to Council, Williams, and others who had participated in the railroading, and exposing them to defamation charges for lack of privilege. Subsequently, I was given a copy--and so was Williams, the Executive of the Staff Association, and perhaps others. At least one student, an SRC executive who was not on Council, was allowed to read it--which was OK by me, because I wanted it to be generally published so that everyone could find out how unscrupulous the rascals are! (In view of the numerous illegalities involved in its preparation, and the questionable validity of the establishment of the Kirby committee in the first place, I have been advised that the report probably cannot claim the status of a "protected report", as was the case with the Carter report.)

39. Analysis thereof, both in its own right and in relation to the transcript, has proven it to be extremely biased, full of false, defamatory statements and innuendoes, accusations by the author(s), inaccuracies, misrepresentations, misstatements, quotations out of context, selectivity, and wrongful findings of fact based on false testimony having no probative value. It is concerned mainly with my alleged motives, and not with my conduct after being put on notice, as the terms of reference require. It is in excess of jurisdiction and obviously written with malice and in bad faith.

40. On 1 May 80, I was served notice of the special meeting, which as was pointed out in an earlier para. above, had been authorized by Council for the purpose of considering the Kirby report, and nothing else. The notice, in the form of a letter signed by Alexander, contained the unauthorized, hence null & void and even fraudulent or forged statement that "It (Council) may then proceed in accordance with By-law 3.6.1.6(1)." However, the notice said nothing about the possibility that "good cause" under by-law 3.6.1.6(3) was even to be considered at that meeting, or that there would be any motions put under by-law 3.6.1.6(4)--and neither did the agenda that was sent to the Councillors mention any such matters! The letter also failed to inform me that I could have legal representation, contrary to the Council agreement recorded in the minutes. For these reasons, in preparing for that meeting I saw no need to even seek legal advice, much less show up with a lawyer to represent me on 20 May. This was another set of unscrupulous ploys obviously designed to deceive both me and certain unalert Councillors (unless they knew and approved of such shenanigans, which I have since learned are not at all atypical of Council's standard way of conducting business!), and clearly at odds with a sense of fair play and principles of natural justice.

41. At the special Council meeting on 20 May 80, those completely unauthorized matters were in fact not only considered, but swiftly acted on, and took me (and perhaps some Councillors) completely unawares. In so doing, by-laws 1.2.3, 2.1.4, & 2.1.5, and Section 22(1)(c) of the Act were again violated, along with natural justice and elementary fairness. I for one was both amazed and curiously amused at the cynical and ruthless manner in which the railroading was accomplished, but at the time was not particularly worried because I thought that it could easily be overturned in the Courts because of the outrageous blatancy of it all! (How was I to know that the legal

profession in Australia is the way I've found it to be--which I better not put in writing!)

42. During the 20 May 80 Council hearing, which they and I both recorded on tape (mine again being incomplete and of low quality), I was forbidden to quote from the Kirby transcript, which I needed to do to effectively refute the Kirby report. I was not allowed to comment on the entire report, but was forced to cut short my presentation at about 3:40, when I was only about half through. Councillor Oliver had said that he needed to leave to catch his train or plane at about 4:30; and since I saw no need to insist on continuing, in the belief that I would have more chances to present my case, I cooperatively agreed to cut short the presentation. Besides, since the notice that I had been given said nothing about voting for "good cause", censures, dismissals, etc., the Chancellor's request seemed harmless enough. Then, as it turned out, Oliver didn't even leave as planned, obviously because his votes would be needed to pass the resolutions that were to be put while I was out of the room, at the Chancellor's direction, for most of the afternoon, while they debated my fate in camera. Ploys galore!

43. Furthermore, the following violations occurred, which certainly render my (alleged) dismissal null & void:

a. None of the resolutions passed at that meeting followed a proper enquiry, as required by by-law 3.6.1.6(1). (As we proved above, the Kirby committee's enquiry was improper for numerous reasons, including failure to give me 28 days notice, and the unauthorized deletion of the eighth term of reference and imposition of two new terms.)

b. Neither of the two dismissal resolutions (80/80 & 81/80) was passed by the two-thirds majority (16/24) required by by-law 3.6.1.6(4). Resol. 80/80 only received 15 votes, and the number voting for 81/80 was not recorded, apparently because even fewer voted for it. (Otherwise, why was the count not recorded in the minutes?)

c. The motion requesting my resignation (81/80) apparently did not receive the required 16 votes in favour. (That resolution incorporated both a request for resignation and a dismissal motion, and could therefore be construed as two motions rolled into one.)

d. That request for my resignation on less than three days notice was furthermore inconsistent with by-law 3.7.2.4, as it was not by mutual agreement that the notice was less than one term (approx 3 months), hence of questionable validity for a second reason. (A third reason, it could be argued, is that it was conditional on a natural desire to avoid being dismissed, which amounts to blackmail!)

e. Section 10 of the Act mandates that there be 24 members of Council, which means that the denominator in the the two-thirds ratio required by by-law 3.6.1.6(4) must be 24, and not 21, which apparently was used. Use of the number 21 is inappropriate, because that by-law clearly uses the term "members", not the expression "members for the time being", which the Act itself distinguishes from "members" (see para. (9) of Section 10).

f. Section 22(1)(b) of the Act empowers Council to dismiss, subject to the Act & by-laws, but not otherwise. I have been advised by my lawyers that alleged dismissals made in violation of just one by-law or section of the Act are invalid,

null & void, and ultra vires (meaning beyond Council's legal powers). Since it has been conclusively demonstrated that there were numerous such violations (which include at least five "unanswerable arguments", according to my lawyers), there is no doubt that I will easily win my suit and be reinstated as a result of the pending litigation. g. Section 30 of the Act in effect forbids the sort of discriminatory statements and questions made by various Councillors during that meeting, in re my religious and political beliefs. (The evidence has been captured on the tape recording that I made, and presumably also on the Uni's tapes. No doubt that information, along with my partial rebuttal of the Kirby report, is responsible for the Chancellor's failure to give me a copy of the transcript, which he promised to do near the end of the meeting; or indeed to have a transcript made at all!)

44. The ensuing minutes of that 20 May 80 minutes were falsified, in that alleged resol. 78/80 (that the Kirby report, doc. C.55:80, be received), was not put as a resolution at all! Apparently labeling it as such was intended to convey the impression that Council follows normal procedural rules. This falsification, which can be proven from my tapes, makes one wonder whether similar falsifications have occurred, especially in relation to my alleged dismissal and the various actions leading up to it, as recorded in the minutes, supposedly as a "true record", signed as such by the Chancellor. (Incidentally(?), I have seen no evidence in the minutes that the Kirby report was accepted, or that the Carter report was either officially received or accepted; the same may be said for various other reports in re this case tabled at Council.)

45. Those same minutes record that the Uni's solicitors (Minter & Simpson, represented by Mr. Ferguson) had given advice that "there was no necessity for Dr. Spautz to be asked formally to 'show cause' nor to specify precisely the 'good cause' that may be relied on." (Apparently a "show cause" provision, which would have been fair, would have required that I be presented with charges and given time, at least a day or so, to prepare my case; and they were obviously anxious to complete the railroading on that day, for fear that a boycott of the next meeting by several waverers would doom their plot to failure.) That advice was both unreasonable (esp. in a Uni environment!) and bad. Bad because it is contrary to natural justice, and inconsistent with recent precedents in administrative law (see pages 101 to 105 of Natural Justice, by Dr. G. Flick, one of Australia's foremost authorities). Moreover, it could be argued that those precedents show that by-law 3.6.1.6(3)(b), when correctly interpreted, has also been violated by failure to specify the supposedly reprehensible conduct that induced them to declare me unfit to hold my office as Senior Lecturer in Management Studies, conducting research on academic corruption, and passing on that evidence, in keeping with normal academic practice, to students in subjects where such information is obviously relevant and important for their true education (as opposed to indoctrination which is usually accompanied by censorship of controversial information in order to placate the powers that be).

46. On 11 June 80, the Chancellor wrote to members of staff of the Uni, assuring them (incorrectly, as he doubtless knew!) that "meticulous attention has been paid to the requirements of the Act and By-laws under which the University operates."

47. On 11 July 80, the Executive of the Staff Association (except vice-president Dutton, who participated in the railroading) issued a report that in effect contradicted Callaghan and supported my contention that the procedures followed were unfair. This view was also consistent with an earlier press report (Newcastle Herald, 24 May 80, p. 3), which stated that in the Executive's view dismissal without formal charges

was "not in line with natural justice". In short, my (alleged) dismissal is invalid, not only because of the numerous statutory violations and other illegalities pointed out above, but also because "justice has not been seen to be done" in the eyes of numerous responsible observers. This may well be the most important consideration of all in any law suit, and the most powerful argument! (See Prof. Paul Jackson's Natural Justice, 2nd ed., 1979, chapt.4, and almost any book on administrative law.)

48. Obviously because of Kirby's prominence in the legal profession, lawyers have been reluctant to help me get my "day in court"--so it looks as if I may have to represent myself! I have received a grant from the Legal Services Commission of NSW to defray the legal costs of preparing for an injunction/declaration hearing, having first depleted my own resources. As of early 1981, however, I have not been able to get the case listed in the Supreme Court (i.e., a firm hearing date scheduled) because my lawyers have decided to withdraw from the case. This is no doubt because helping me get justice, in the teeth of such opposition as I am facing, would appear not to be to the advantage of their own careers--win or lose!

49. For months, concurrent with making preparations for the litigation, I have been trying to arrange out-of-court settlement negotiations--so far to little avail. (It has been several months since Alexander first approached my solicitor, without my knowledge or consent, with the interesting and revealing question: "What does Dr. Spautz want?" The answer, of course, being "Justice!")

50. On several recent occasions I have written to the Ministers for Education and Justice, requesting their help in arranging an equitable out-of-court settlement--so far to no avail. (I predict that the Opposition leadership will be interested to learn that Labor leaders are so tolerant of the actions of their party cronies on Uni Councils that they are not prepared to uphold the laws that are under their jurisdictions!)

51. Last year I wrote to the V-C of the Uni of W.A., which awarded Williams a Ph.D. degree, pointing out several violations of their General Regulations and Statutes in preparing the pseudo-thesis that is the cause of this ruddy fiasco. As expected, I have not even received an acknowledgement of receipt of that letter! Obviously, not only do profesoors and lawyers close ranks to protect Sacred Cows, but so do V-C's. (I have recently reported this matter to the Minister for Education of W.A., but so far have received not so much as a receipt acknowledgement.)

52. On 2 Jan 81, realizing that this case could drag on for months at least, I applied for admission as a student in the Diploma in Business Studies at the Uni of Newcastle, with the intention of studying law and other subjects useful for my professional development. On 28 Jan, Alexander, apparently at the behest of George, Williams, Jager, Lindgren &/or others, notified me that my application "is not accepted". Again, this action is apparently in violation of Section 23 of the Act!

53. Unless the legal system of this country can be made to function properly to rectify this obvious injustice, it is predictable that a scandal of international proportions, at least as big as the Orr case, will result in the downfall of those who are responsible for it. They know who they are.

RIGHT MAKES MIGHT!

RELEVANT SECTIONS OF THE UNIVERSITY OF NEWCASTLE ACT AND BY-LAWS
(in some cases abridged or paraphrased to save space)

Sections:

10: (1) The Council as from the appointed day, shall be constituted in accordance with this section. (Note: As Section 10 covers a full page, suffice it to say here that succeeding parapraphs thereof specify the mandatory membership categories and numbers in each category. On 20 May 80, the day of the alleged dismissal, they totaled 24. On that day, because of resignations which occurred months earlier, there were apparently only 21 "members for the time being," an expression used in para. (9) of Section 10 to distinguish that expression from the term "members". This distinction occurs elsewhere, including in the by-laws, notably 3.6.1.6(4). It seems likely that the three persons who resigned were not replaced in the mistaken belief that the required two-thirds majority would mean less than 16 votes would be required to get rid of me.)

22: (1) Subject to this Act and the by-laws, the Council-- ... (b) may appoint and terminate the appointment of ... staff of the university; (c) ... and may act in all matters concerning the University in such manner as appears to it best calculated to promote its objects and interests. (Note: Since those objects and interests have apparently never been determined, it would be impossible to so calculate; therefore it appears that actions supposedly deriving their authority from this provision of the Act (e.g., censure motion 299/79 and the Dec 79 notice sent to me) must be ultra vires, hence null & void.)

23: (1) The Council may ... delegate all or any of its powers, authorities, duties and functions under this Act (except this power of delegation) to any member or to any committee of its members, or to any officer or officers of the University. (Note: this appears to preclude the re-delegation of the powers, etc., of the Head of Department and Dean, to anyone else. Incidentally, George illegally delegated the (failed) attempt to evict me from my office to Jager; and Kirby illegally delegated the determination of relevance of the many memos & documents to be included in the compilation sent to me on 12 Mar 80, which later became Exhibit A in the enquiry, to Farrell.)

30: No religious test shall be administered to any person in order to entitle him ... to hold office ... and no person shall ... be ineligible to hold office therein ... or to enjoy any benefit, advantage or privilege thereof by reason of his political views or beliefs. (See separate three-page memo dated 1 Dec 80(a) for summary of such violations.)

By-laws:

1.1.4: The Interpretation Act of 1897 shall apply mutatis mutandis to and in respect of these By-laws in the same manner as it applies to Acts of Parliament.

1.2.2(1): All proceedings at any meeting shall be minutes and permanently recorded.

1.2.2(2): (Paraphrased, to shorten) At the next meeting those minutes are to be circulated or read, amended, confirmed and signed by the Chairman.

1.2.3: (Paraphrased) At the start of any meeting, members must declare their personal interest or involvement before being allowed to participate.

2.1.4: (Paraphrased) Notice of motion initiating topics for discussion must be given to the Secretary at least ten days before the meeting.

2.1.5: (Paraphrased) Those notices, along with supporting statements, must be relayed to the Councillors at least four days before the meeting.

3.6.1.5: (Paraphrased) A person whose conduct is to be investigated must receive at least 28 days notice of the nature of the enquiry, and has full right to attend and to adduce relevant evidence on his own behalf.

3.6.1.6(1): The Council may after proper enquiry censure, suspend, ask for the resignation of or dismiss any Professor for good cause. (Note: this is extended to other staff members by means of other by-laws.)

3.6.1.6(2): "Proper enquiry" ... means a formal enquiry instituted by the Council, the (person) concerned being given twenty-eight days notice of the nature of the enquiry and the time and place appointed for it.

3.6.1.6(3): "Good cause" ... means ... (b) conduct which the Council shall consider to be such as to render the (person) unfit to continue to hold his office.

3.6.1.6(4): No motion of censure, suspension, request for resignation or dismissal shall be valid unless carried by the votes of two-thirds of the members of Council ... .

3.7.2.4: Resignation ... shall be subject to one term's notice except by mutual agreement.

(Note: Interested readers can find the complete Act, By-laws & Regulations in Vol. 1 of the Calendar of the University. A copy is available at the reference desk in the Uni library, and perhaps at public, school, and other libraries. However, it is apparently not for sale.)