

Corruption in High Places

*To my wife Gloria
and
the late Paul Flannery*

Corruption in High Places

The key witness in the Justice Murphy
scandal gives his side of the story

Clarrie Briese

Contents

Foreword by Angela Karpin	xi
About the author	xiii
Acknowledgements	xv
Preface: Extracts of encouragement	xvii
Part 1: Introduction	
Could it really be?	1
NSW corruption — a bipartisan matter	2
Letter from Senate Select Committee	3
Bombshell phone taps	4
Why didn't Briese report this previously?	6
Another judge has the same experience	9
Disturbing phone calls from 'George'	9
Encouragement to press on regardless	12
The cost of coming forward	13
Part 2: <i>The Age</i> tapes	
Emergence of <i>The Age</i> tapes	15
Premier Wran's protection	17
Briese obtains transcripts of <i>The Age</i> tapes	19
Proposed meeting of Briese with Murphy and Ryan	21
Further references to Briese	26
Senate Committee inquiry impediment	28
<i>The Age</i> tapes are adjudged to be genuine	30
Visit to former Royal Commissioner Stewart	32
Part 3: Briese learns how court corruption works	
Farquhar's 'farewell' dinner party at Ryan's home	35
Walker's advice regarding Cessna/Milner cases	44
Prosecutor Evans — a delayed but key testimony	50
Role of Police Commissioner in Cessna/Milner cases	51
Farquhar: 'Don't tell anyone about the dinner'	52
Farquhar and the Cessna/Milner cases	53
Other controversial court cases involving Farquhar	55

Part 4: Judicial independence for magistrates

Struggle for judicial independence begins	61
Murphy engineers first meeting with Briese	63
Resistance from the Justice Department	67
Premier Wran — supportive, but ...	68
‘Coded’ messages from Premier Wran	69
The <i>Local Courts Act 1982</i>	71
Independence for magistrates delayed	73

Part 5: Lead up to Murphy & Foord trials

Ryan’s home searched by police	81
Murphy engineers second meeting with Briese	82
Briese visits Murphy in Canberra	83
Murphys dine at my home with ‘phantom couples’	85
One ‘casserole’ or more?	90
Phone call from Murphy after the dinner	94
‘The little fellow will be shattered’	97
‘And now, what about my little mate?’	98
Foord also approaches Briese about the Ryan case	102
Why not report the Foord matter earlier?	104
Developments regarding the Committee hearings	106
The Inquiry by Solicitor-General Gaudron	107
Attacks by Premier Wran	117
Report by first Senate Select Committee	122
Attacks by Murphy	127
Turnbull goes to town on my evidence	130
Second Senate Select Committee established	136
Approaches by McClelland and Murphy to Staunton	137
No-bill application by Morgan Ryan	143
Murphy and Foord approach Flannery as well	146
Murphy engineers meetings with Flannery	147
Flannery’s crucial decision to come forward	161
Staunton tells me of ‘help coming’	166
Further attacks by Premier Wran	166
Report by second Senate Select Committee	170
Why did Flannery not report earlier either?	175

Part 6: Neville Wran & the Street Royal Commission	
<i>Four Corners</i> TV repercussions	179
Shock statement by dismissing magistrate	181
Royal Commission looks into Farquhar and Wran	182
Role of Chief Justice Street	187
Fresh evidence in the Humphreys case	190
Part 7: Murphy & Foord trials	
Charges laid against Murphy and Foord	197
First Murphy jury trial	201
Verdict of guilty by the first jury	219
Strong, unlawful attacks on Murphy's guilty verdict	222
Turnbull's analysis of Murphy charges	225
Foord's jury trial	238
Murphy's defence team appeals	243
Wran's reaction to quashing of verdict	245
The Premier asks to meet me	249
Second Murphy jury trial	250
No criticism of second jury's not guilty verdict	254
Wran turns up the heat	255
Supreme Court Justices write in defence of Briese	266
Attacks cease, Wran resigns	267
Further allegations against Murphy emerge	269
The end result	275
Part 8: Biographies	
Clarence Raymond Briese	279
Lionel Keith Murphy	282
Paul Francis Flannery	285
John Murray Foord	287
Morgan John Ryan	289
Murray Frederick Farquhar	291
Concluding remarks	295
Timeline of significant events	297
Appendices	311

Foreword by Angela Karpin

This book deals with an historical incident bearing on social history and jurisprudence. It is a work of considerable importance, written by the Chief Magistrate at that time — a man well known for his learning and thoroughness.

This is a comprehensive account written with simplicity and clarity. It is a compelling account of a scandal in high places which shocked the legal and judicial systems. It is also a detailed record of how an honest judicial officer handled it.

Mr Briese provides a detailed and intimate record of his own part in the events at the core of the book, together with a well-researched account of other relevant evidence. It provides a unique insight into those events, of special significance to all those with an interest in the rule of law and social history.

This is an immensely valuable historical account which must serve as a reminder of the vigilance required to maintain the integrity of our legal system, a vital arm of our democracy.

Angela Karpin became a magistrate in 1985. She was appointed Deputy Chief Magistrate in 1988, and in 1991 she became the first magistrate in New South Wales to be appointed a District Court Judge.



Illustration by Bill Leak

About the author

Clarence (Clarrie) Briese (1930–), BA (USyd), Diploma of Criminology (Cantab.), AO, commenced work as a courthouse clerk and was admitted as a barrister¹ in 1961. In 1966 he was appointed a Stipendiary Magistrate. After attending night lectures at Sydney University, he graduated in 1972 with majors in Government and English Literature.

In 1976 he was awarded a Winston Churchill Fellowship for the dual purpose of studying for a Diploma in Criminology at Cambridge University (awarded in 1977) and researching alternatives to imprisonment in the UK, working from Birmingham University. Upon his return to Sydney he was appointed to chair a government committee which explored the feasibility of a Community Service Order (CSO) scheme such as he had examined in the UK. This led to the implementation of a CSO scheme in New South Wales (NSW).

Clarrie was appointed Chairman of the Bench of Stipendiary Magistrates of NSW in 1979, then with the commencement of the *Local Courts Act 1982* (NSW)² on 1 January 1985 became Chief Magistrate of NSW. Upon retiring from this position in 1990, he was appointed a Commissioner of the NSW Crime Commission, where he remained for six years.

1 The formal description of the admission was as a non-practising barrister; the admission examination requirements are the same as for a practising barrister.

2 Hereafter, abbreviated to the *Local Courts Act 1982*.

He served two terms as a Council member of the Australasian Institute of Judicial Administration, where he actively encouraged developing independence from government for all magistrates. Clarrie has been a member of the Advisory Council of the NSW Institute of Administration at the Sydney University Law School, and a founding member of the Judicial Commission from its inception in 1986. He played a leading part in establishing induction and educational programs for magistrates which became recognised as models for judges in common law jurisdictions.

Apart from his nationally prominent role in the 'Murphy affair', as it became known and chronicled in this book, Clarrie Briese is best known for his tireless work in seeking judicial independence for magistrates. This came to fruition on 1 January 1985 when the *Local Courts Act 1982* finally commenced. Some of that struggle, which was running in parallel with early key events in the Murphy drama, is touched upon here as well, including the delay in that Act coming into force.

In 2002, in recognition of his reforming work, in particular the matter of judicial independence, he was appointed an Officer of the Order of Australia. He lives in retirement with wife Gloria in St Ives, Sydney.



Clarrie with wife Gloria on the day of receiving the Medal of an Officer of the Order of Australia.

Acknowledgements

I extend my thanks to those who gave up their time to contribute to the publishing of this book.

I acknowledge the honourable late Judge Paul Flannery QC for his courageous support of me in exposing corruption in the judiciary and thank Rosemary and Christopher Flannery for spending time with me, lending me Paul Flannery's benchbook and providing me with written statements.

In gathering material for this book and writing it, I spent time with Wayne Evans, Darcy Cluff and Bob Bottom, and I thank them for their helpful contributions in that regard. I also thank Stephen Walmsley for the discussions we had together and his assistance.

I am grateful to Angela Karpin for her kind Foreword.

I thank Alan Moir for his generous permission to publish many of his cartoons that featured in the press throughout the Murphy affair.

Finally, I would like to thank my daughters, Jennifer, Suzanne and Vanessa, and friend Carl Wieland, for their encouragement and assistance in producing this book. In particular, I thank my wife Gloria for supporting me in my decision to give evidence against Murphy and Foord, her support over the course of the various trials and for nursing me back to good health over the last few years to enable me to complete the writing of this book.

Clarrie Briese

Preface:

Extracts of encouragement

This short preface involves brief extracts from a handful of the many letters I received. The ones here are from people occupying positions of importance in the community, and from different shades of politics. Most arrived in 2002 as part of a wave of correspondence triggered by the news of my Order of Australia award. Even though the Murphy affair was by then well in the past, many writers took the opportunity to comment positively on my role in it, as well as pass on congratulations.

Displaying these few up front like this might depart from normal literary practice. But the times covered by this book were not exactly normal times, especially for my family and me. Some readers will likely recall the media frenzy in those days. This included the not-so-occasional attacks on my character and motives. However, the encouragement I received from many letters helped me decide that I should write this record of events.

Yes, there was the occasional detractor. Those motivated to read this account might well include some similarly not disposed to see my role in the matter favourably. But I think they, too, will be interested to see who some of these ‘positive’ correspondents were, given the politically and ideologically charged circumstances that unfortunately

surrounded the whole sorry saga.³ Seeing what these others wrote might perhaps inspire many to read on with heightened interest. For some, it may make them more receptive than otherwise to the reality of what took place.

Perhaps, too, these excerpts, coupled with the rest of the book, will also encourage those who may be facing difficulties because they are standing for what they know to be right. At the end of a long hard road, even some of their detractors might come to realise they were on the wrong side of history.

3 I omitted any which could be construed as a political duty to constituents receiving such an award. Otherwise I would have liked to include the friendly congratulatory note from then NSW Labor Premier Bob Carr. It was a welcome change from the sort of thing directed at me by one of his predecessors, Neville Wran, as shown herein.

Dennis Mahoney AO, QC, former Justice of the NSW Supreme Court and former President of the NSW Court of Appeal.

[The Court] could have been destroyed by what had happened to your predecessor [Murray Farquhar, explained herein]: it was not. ... What you have done in relation to the Court is, amongst those who think about these things, greatly appreciated. ... looking back on the Murphy matter, you must feel satisfaction with the standards you maintained. I remember somebody saying to me at the time that you were the one person who came out of the matter at the highest level.

James Spigelman AC, QC, former Chief Justice of NSW, former Lieutenant-Governor of NSW, former one-time adviser and principal secretary to Labor Prime Minister Gough Whitlam and former Chairman of the Australian Broadcasting Corporation.

The transformation of the Magistracy, for which you are in such large measure responsible, is one of the most important developments in the legal system of this state for many decades. In my role as Chief Justice I see the benefit of it almost on a daily basis. Congratulations once again.

Fred Chaney AO, former barrister, former Liberal Senator, former government minister and indigenous policy activist.

I cannot remember whether I have had a previous opportunity to express my admiration for you and thought I should take this opportunity ... I was in the Senate at the time of the Murphy business. I was deeply impressed at the courage you showed in standing up for principle under extremely difficult circumstances. Very few of us could have behaved as you did. ... I witnessed ... part of your cross examination by Counsel for Murphy. I thought it was the most bullying and hectoring thing I have ever seen coming from a lawyer. Your calm and reasoned response to that

seemed to me in line with your stoicism over the whole period when this difficult issue was being addressed.

Richard McGarvie AC, QC, former Justice of the Supreme Court of Victoria, former Governor of Victoria and former ALP activist.

I am particularly pleased that the Order was awarded for your work in judicial administration, the area on which you and I worked together many years ago on the Council of the AIJA.⁴ ... [I remember when] I phoned Laurence Street, then Chief Justice of New South Wales who I knew well ... and asked his opinion of you as a [potential] member of the Council. He gave an excellent assessment of your character ... My years working with you on the AIJA led me to agree with Laurence Street's assessment. I greatly admired your strength and integrity in the part you played in relation to the charge against Lionel Murphy. You very properly placed yourself in a position of great difficulty and tremendous strain. When you gave evidence that the question '[And now,] what about my little mate?' had been asked, I had no doubt that it had. You served the Australian judiciary very well in the courageous course that you took. I have no doubt that your integrity cost you many friendships. It would have been very easy for you to have compromised your conscience by saying nothing about the question asked of you, on the basis that that would tend to make it easier to place magistrates in a proper position of statutory independence in your state. The fact that you did not compromise but took the excessively hard road is very much to your credit. I was and am proud of you.

4 The Australasian Institute of Judicial Administration; McGarvie was the president of its Council and I became a member at McGarvie's request.

Sir Guy Green AC, KBE, CVO, former Chief Justice of Tasmania and former Governor of Tasmania.

[W]armest congratulations ... a well-deserved recognition of the great contribution you have made in areas in which you might remember we both shared an interest.

Major-General William ‘Digger’ James, former prominent Australian Army surgeon.

We have not met, but I want to thank you for your outstanding service to Australia. ... Your courage in other, very difficult days was outstanding.

Michael Kirby AC, CMG, former Justice of the High Court and human rights activist. Murphy called him as a character witness at his trial.

Warm felicitations ... The growth in the quality and reputation of the magistracy in New South Wales has been a remarkable phenomenon — and you must take much credit.

1

Introduction

Could it really be?

It seems unthinkable that a Justice of the High Court of Australia, a judge sitting with six other judges at the pinnacle of the Australian legal system, would become involved with others in questionable and criminal conduct on an organised basis; and that this would include attempts by him to pervert the course of justice. Yet this did happen and in 1984 the Commonwealth Director of Public Prosecutions (DPP), Ian Temby QC, on the basis of evidence which came into his possession, laid charges against Justice Lionel Murphy of the High Court, alleging that in 1982 the judge attempted to pervert the course of justice in the hearing of a criminal court case. It was a case where a good friend of Murphy's, Sydney solicitor Morgan Ryan, was charged by Commonwealth police with offences against Australian immigration laws. Charges for attempting to pervert the course of justice were also laid against Judge John Foord of the NSW District Court regarding the same court case.

This book tells of what took place at that time from my experiences. I gradually discovered after I took office as Chairman of the Bench of

Stipendiary Magistrates of NSW on 28 May 1979 that Justice Murphy appeared to be part of a conspiratorial group of high-status people who were prepared to act illegally when that was required to serve their purposes. How this evidence and information came to light will feature in these pages. One other purpose of the book is the pleasing task of drawing attention to the important new processes and bodies which now exist in NSW for the detection of crime and wrongdoing and to assist the administration of justice. They were introduced as a result of what happened during the Murphy affair.

In September 2017, documents previously embargoed for 30 years by the government in relation to the Murphy affair were released to the public. Following the release of those documents, in November 2017 an episode of the ABC investigative TV program *Four Corners* looked at what Murphy did in the Morgan Ryan case. Reference was also made to other activities where the judge was alleged to be involved in questionable conduct. A number of people with knowledge of what happened were interviewed — I was one of them. Opposing views of what Murphy did or did not do were strongly expressed by those interviewed.

NSW corruption — a bipartisan matter

From time to time in its history, NSW has been plagued with corruption at a high level. There was deep corruption under the (centre-right) Askin Liberal Party government between 1965 and 1976, fully documented in Andrew Hickie's book, *The Prince and the Premier*. Following the defeat of the Askin government in the 1976 state election, serious corruption in the judiciary and magistracy emerged under the new (centre-left) Labor Party government and its Premier, Neville Wran. How did that happen? Is there reliable evidence which establishes that disappointing development? Yes, there is.

On 28 March 1984 the Federal Labor government, as the result of pressure from the Liberal Party Opposition and the Australian Democrats under Senator Don Chipp, established a Senate committee

called *Senate Select Committee on the Conduct of a Judge* (not named). The judge was Justice Murphy. At that time I was the Chairman of the Bench of Stipendiary Magistrates of NSW.⁵ This Committee and a second one set up in September 1984 helped bring to light and deal with corruption in the courts of NSW.

Letter from Senate Select Committee

I received a letter from Harry Evans, Secretary to the Senate Select Committee, dated 16 May 1984. He informed me that the Committee was set up to inquire into and report upon two matters:

- 1) Whether any or all of the tapes and transcripts delivered by *The Age* newspaper to the Attorney-General on 1 February 1984 and relating to the conduct of a Federal judge (Justice Lionel Murphy, though not named) were authentic and genuine. And if they were, then,
- 2) Whether they revealed misbehaviour by the judge sufficient to have him removed from office.

The letter invited me to appear before the Committee in Melbourne on Monday 28 May 1984 to assist it with its inquiry. The Committee was particularly interested in apparent references to me in transcripts of telephone conversations illegally intercepted by the NSW police. The three transcript extracts attached to the letter were from telephone conversations of Sydney solicitor Morgan Ryan in 1979 and 1980.

This letter precipitated a chain of events lasting for two and a half years, only ending when Lionel Murphy died in October 1986. Included in those events were jury trials in Sydney's Supreme Court against High Court Justice Lionel Murphy and NSW District Court Judge John Foord. During this time there was also the trial and subsequent

5 This title later became Chief Magistrate with the commencement of the *Local Courts Act 1982*; but the title of Chief Magistrate was commonly used even prior to that time to refer to the Chairman's position so I will often use it for convenience and brevity for both my title prior to 1985 as well as that of my predecessor, Murray Farquhar. Even the 'Bench of Stipendiary Magistrates', where it is not part of a quote, will often be shortened to omit 'Stipendiary', which simply refers to being salaried.

jailing of my predecessor as Chief Magistrate, Murray Farquhar, for attempting to pervert the course of justice.

What emerged over that period were very serious questions concerning the nature of the relationship Murphy had with the Premier of NSW, Neville Wran; with the previous Chief Magistrate of NSW, Murray Farquhar; with NSW District Court Judge John Foord; with solicitor Morgan Ryan; and to an extent with the NSW Commissioner of Police, Mervyn Wood. I set out in this book some of the things they did together to serve their purposes — which were at times questionable, illegal and/or corrupt.

Bombshell phone taps

Two months prior to Secretary Evans' letter, I was able to get a copy of the aforementioned transcripts of taped telephone conversations illegally intercepted by the NSW police, which became known as '*The Age tapes*'.⁶ At the time, a police investigation into organised crime was taking place. I had been alerted by newspaper articles that I was referred to in some of the taped telephone conversations and found that in two of them, possibly three, were discussions between Justice Lionel Murphy and solicitor Morgan Ryan talking about me. Others were of Ryan talking to or referring to people with known underworld connections, people such as Abe Saffron. The three extracts sent to me by Evans were from those transcripts.

During a telephone conversation with Secretary Evans following my receipt of his letter, he suggested I could make a written submission to the Committee before my appearance on 28 May 1984 if I wished. After discussing the matter with him, I decided there were good reasons to do that.

If the Committee was to conduct a thorough inquiry into the genuineness or otherwise of *The Age* tapes and into the conduct of the judge, Lionel Murphy, it needed to have knowledge of my past experiences

6 Named after Melbourne's *The Age* newspaper, which gave them to the authorities after giving them wide publicity.

with various people, in particular, Lionel Murphy, Murray Farquhar and Lionel Murphy's friend, Morgan Ryan. Furthermore, the Committee would also need my assistance to help it understand the telephone conversations illegally intercepted and transcribed by the police, where Morgan Ryan is talking to Lionel Murphy about me. All of this could be best achieved, I thought, by sending a submission to the Committee beforehand. That would allow informed questioning by members of the Committee when I appeared before them in Melbourne. However, it was not an easy decision. I knew both Farquhar and Murphy and enjoyed a good relationship with them. I was aware of the many good things they had done, including important reform initiatives.

I was pleased to see that the Senate Select Committee was set up by the Federal Labor Party government, and that Senator Tate, a Labor senator, was appointed to be its Chairman. I felt this would help my intended report to the Committee to be seen for what it was, that is having no political motive and submitted solely out of concern for the administration of justice in the courts of NSW. So I prepared a submission for the Committee which I sent to them beforehand. In that submission (Appendix 1) I made the allegation that *The Age* tapes have caused me concern because, amongst other things:

In the context of my personal knowledge and experience they are phone taps of private telephone conversations which appear to be authentic. They confirm in my mind the existence of an exceptionally serious criminal conspiracy operating in NSW over a considerable period of time.

This book now sets out the events which support that allegation, an allegation which triggered a far-reaching and protracted political and media scandal concerning the emergence of judicial corruption in the courts of NSW. Insight is given into how a court case can be 'fixed' if the judicial officer presiding over the hearing of the case is minded to do that. In particular the book provides the crucial background and context to the question asked of me by Justice Murphy on behalf of his friend Morgan Ryan, and which became central to the whole affair. It was a question which divided public opinion and resonated across

Australia. It was asked just four days before the magistrate — under my administrative control as Chief Magistrate — was to decide whether or not to commit Morgan Ryan for trial. After hinting at what he had allegedly done for me in my quest for judicial independence for magistrates, Murphy said to me with some emphasis, ‘And now, what about my little mate?’

Why didn't Briese report this previously?

Before and after succeeding Murray Farquhar as Chief Magistrate, the experiences and conversations I had with Murphy, Farquhar and Ryan gradually suggested to me the possibility of organised corruption in the magistracy and judiciary. However, up until the Senate Select Committee was established, details of the concerns I had about the administration of justice in NSW were not officially reported by me to anyone in authority.

At that time all magistrates, including the Chief Magistrate, were public servants attached to the Justice Department. The Permanent Head of that Department is the Under Secretary of Justice, who was at the time in question, Trevor Haines. Under that structural arrangement, any official report about wrongdoing or corruption in magistrates' courts had to be made to the Under Secretary of Justice. No judicial officer — as magistrates are — should be in a position where he or she has to report to the Permanent Head of a government department. That is contrary to well-established principle in Western democracies generally; all judicial officers should be completely independent of the executive government.

Given all the circumstances, I believed it inappropriate, indeed out of the question, to officially report the concerns I had about judicial corruption in NSW to the Under Secretary. The situation I found myself in was difficult and serious. The concerns I had about the administration of justice in the courts of NSW involved questionable/illegal activities by a High Court judge, by the previous Chief Magistrate, and by a Sydney solicitor, in connection with the hearing of court cases in NSW.

INTRODUCTION

My concerns also involved what appeared to be the close association of these people with the Premier of NSW, Neville Wran, and his support for them.

Officially setting out my concerns to Haines in writing would have been the same as reporting them to Premier Wran, one of those allegedly associated with the questionable/illegal activities, with all the consequences that would entail.

Nonetheless, after being appointed Chairman, I had a number of informal discussions with Under Secretary Haines on matters of that nature. They came up casually from time to time. I reminded him of such discussions in a letter to him dated 17 July 1984, not long after my evidence to the first Senate Committee. The letter was written to give him the information he asked for about an approach made to me by District Court Judge Foord also seeking to pervert the course of justice in the hearing of the Morgan Ryan case – details of which will be given later. I said (Appendix 6 includes the full letter):

Before setting out the information you ask for, I wish to remind you of certain matters which have concerned you and me in the past and which are relevant to the case concerning Morgan Ryan. You will recall that on various occasions you and I have had discussions concerning problems of the administration of justice in the Magistrates Courts under the former Chairman, Mr Murray Farquhar. Amongst other things we discussed:

1. Mr. Farquhar's handling of the Cessna Milner case.
2. Mr. Farquhar's relationship with the Premier, Mr Neville Wran, MP.
3. My selection as Chairman of the Bench of Magistrates.
4. My view that taking the Magistrates out of the Public Service and putting them in a position similar to that of judges, would assist in preventing what appeared to happen under the chairmanship of Mr Murray Farquhar from recurring.
5. The Royal Commission into the Humphreys case, the evidence which was presented to the Commission and the findings of the Commission.

Having regard to these discussions you will appreciate that it is not easy to report to any person or authority serving the Government, matters which make allegations affecting the Premier or persons close to, or friendly with, the Premier. The case of Morgan Ryan and the difficulties I had to overcome to ensure that there was no interference in the hearing of that case, fall, I believe, into this category.

At the time of my initial concerns about Murphy, Wran, Farquhar, Ryan *et al.*, there was no independent supervisory body, such as a Judicial Commission, to which I could go to report details of those concerns if minded to do that. However, because I took action which ensured there was no interference with the course of justice in the committal proceedings against Morgan Ryan, and it went to trial before a judge and jury, I felt that, on balance, the better option was not to make an official complaint in writing to any person or body. Hopefully, I thought, the misbehaviour in relation to Ryan's case was an isolated case and wouldn't happen again.

It was two years later, in early 1984, that I first saw transcripts of *The Age* tapes. Alarming, they showed the misbehaviour I was aware of wasn't an isolated case among that group of people. When coupled with my experiences, these tapes indicated the existence over a considerable period of time of an informal agreement (conspiracy) between them to act illegally when that was required to serve their purposes. This situation had to be dealt with by the authorities as soon as possible if the integrity of the NSW judicial system was to be protected. Included in this group were judicial officers, Murphy and Farquhar, solicitor Morgan Ryan, and several other people, some of whom were associated with organised crime, such as Abe Saffron.

When I used the legally appropriate word 'conspiracy' in my evidence to the Senate Committee, some people wanting to defend Murphy or attack the veracity of the serious allegation I was making, used the tactic of referring to it as a 'conspiracy theory' of mine. That description conjures up images of devious plotters meeting regularly together in smoke-filled rooms. That's not what I was suggesting, of course. A group of powerful people with corrupt, self-serving motives do not

need frequent get-togethers to keep in touch and make arrangements to serve their purposes. They use the telephone if required, and ‘code’ language, where necessary, to disguise the content of the conversations.

Prior to my examination of *The Age* tapes, what I did in lieu of an official complaint was to speak to several individuals, including two people I knew to be men of integrity who were associated with the government. They were named in my written statement to the first Senate Select Committee (Appendix 1). The most important of the two was Barrie Unsworth, formerly Secretary of the NSW Labor Council and later a member of the NSW Parliament. When Wran resigned in 1986, Unsworth became the NSW Premier.

The other person was Hans Heilpern, later to become the Head of the Department of Youth and Community services. I told both men of the approaches to me as Chief Magistrate in connection with the Morgan Ryan court case. Both were conscious of the difficulties these approaches created for me. However, I knew they were not in a position to help me handle them effectively given the people involved in, or connected with, the approaches.

Another judge has the same experience

In September/October 1984 I was given the news that shortly after the approaches to me by Justice Murphy and a similar one by Judge Foord, Judge Paul Flannery of the District Court was faced with the same problem. He, too, was approached — first by Judge Foord, followed by Justice Murphy, attempting to get him to pervert the course of justice in connection with the jury trial of Morgan Ryan over which Flannery presided. This will all be dealt with in more detail later.

Disturbing phone calls from ‘George’

My projected appearance before the Senate Committee in Melbourne on 28 May 1984 was to bring about worrying problems for my family and me. Shortly before that date, two telephone calls were made to

my home, which I believe were intended to dissuade me from any cooperation with the Committee.

On Friday 18 May 1984, I was in our home upstairs getting ready to drive to chambers at the Central Magistrates' Courts, 302 Castlereagh Street, Sydney. My wife, Gloria, and our three daughters, were also upstairs getting ready to leave for school at Ravenswood School for Girls, Gordon. Gloria regularly drove them to school.

The phone rang in the main bedroom where Gloria was ironing our nine-year-old Vanessa's school uniform. Vanessa answered the phone and spoke to a male person whose voice she later told us sounded 'strange'.

He said, 'It's George here. What is your name?'

Vanessa replied, 'I'm Vanessa. Who do you want to speak to?'

George ignored her question and asked, 'How old are you?'

Vanessa said, 'I'm nine.'

'Which school do you go to?' was the next question.

'Ravenswood,' Vanessa replied.

At this point Gloria became alarmed. She rushed over to the phone and took the receiver out of Vanessa's hands, at the same time saying to her, 'Who are you talking to?' Without waiting for an answer, Gloria said to 'George', 'Who is this?' The male voice said something which she can't recall. She made a decision to end the conversation by putting the receiver down.

Gloria told me immediately what had taken place. We discussed possible reasons for the phone call; this was our first experience of a call like that. What was George's reason for calling our number? Was it just a nuisance call, or was it something else more sinister? Were our daughters under threat?

A further thought occurred to me. Did the call have something to do with what was being investigated by the Senate Committee in Melbourne and that I had relevant information? Could it be a warning to be careful about what I might tell the Committee? If so, how did George know that I would be asked to give evidence to the Committee?

At the end of my questioning, I dismissed the idea as unlikely.

Nevertheless, Gloria and I thought two things needed to be done. The first was to report the incident to Ravenswood School. Gloria explained what happened to the school and the school instructed the teachers that Vanessa, 9, and Suzanne, 10, were not to be picked up from the school by anyone other than Gloria. The second thing we did that same day was to contact the phone provider and arrange for a silent (unlisted) number. They organised it immediately. We were confident these arrangements would be sufficient and George would not trouble us again.

The following Friday was 25 May 1984, three days before my appearance in Melbourne. At approximately the same time in the morning as the previous Friday, the upstairs phone rang. This time Gloria picked up the receiver. A male, speaking in a low, hesitant manner, said, 'Is there going to be a climax?' Gloria immediately recognised that it was the same person who had spoken to our daughter. It was a strange-sounding voice, as Vanessa had described it. Gloria was taken aback. What did he mean by 'climax'? Gloria replied, 'You sound sick. You need to get help.' Without waiting for him to reply, she put the receiver down.

Gloria and I were shocked and puzzled. This was the second call at the same time on successive Fridays from the man with the strange-sounding voice, who had identified himself as 'George'. What really alarmed us was that George had been able to obtain our new silent number. How could he do that? And so quickly? Other questions came to mind too. Was George speaking in his natural voice, or was he disguising his voice? We came to the conclusion the calls were not made as innocent crank calls. The probability was that George made these calls to threaten trouble for me and members of my family if the information I gave to the Committee on Monday was not to his liking. His use of the word 'climax' was a possible, perhaps likely, reference to what I would be telling the Committee on Monday.

As I thought about these calls, I reasoned that once I had given the information in my possession to the Committee on Monday, any repercussions from George, or people associated with George, resulting

in harm to me or members of my family, would be counterproductive for him or them. Having regard to the information I proposed to give to the Committee, some of it relating to people involved in, or associated with, organised crime as revealed in *The Age* tapes, any such harm would precipitate a national scandal. An inquiry, perhaps a Royal Commission, into the circumstances, including the contents of *The Age* tapes, would be likely. That was the last thing George and/or his friends would want to see happen. We did not hear from George again.

Encouragement to press on regardless

After sending my written submission (Appendix 1) to the Senate Committee, I felt I should see Dudley Foord,⁷ the highly regarded rector of the Anglican church I was attending, Christ Church, St. Ives. I thought I should let him know that I would be appearing before the Senate Select Committee at its invitation.

I arranged to see Dudley at his home. At that meeting I gave him a verbal summary of the information I would be giving to the Committee concerning corruption in the NSW judicial system. I told him I had already sent a written submission. We spent something like an hour talking about it.

Dudley clearly appreciated the seriousness of the allegations I said I would be making in relation to Lionel Murphy, Murray Farquhar and Morgan Ryan. At the end of our conversation, as I went to leave, he said to me, ‘Clarrie, just remember Esther and what faced her. Like Esther, you may have come to your position for a time like this.’ I wasn’t sure what Dudley meant by that; I needed to refresh my memory of what the (very brief) Old Testament book of Esther had to say about Esther! I did that as soon as I returned home, and it confirmed what I thought he meant. His parting remark gave me encouragement to press on with the allegations I made in Appendix 1 and seek to have them investigated.

I flew to Melbourne on 27 May 1984 and the following day I gave

7 No relation to the Judge John Foord who features in this book.

evidence to the Committee, which included reference to my prior written statement (Appendix 1). At some point, the reader may wish to read that statement so as to better appreciate what is revealed in this book and why.

The cost of coming forward

When deciding it was important to come forward to assist the Senate Select Committee I knew that the evidence I would give to the Committee would have serious consequences not only for Murphy, Farquhar and Morgan Ryan, it would also mean problems and difficulties for my family and me.

In the first place my position as Chief Magistrate was in jeopardy. The *Local Courts Act 1982* giving judicial independence to magistrates which I had worked hard to achieve, was not yet proclaimed and so not in force. If the government under Premier Wran saw fit, it could nominate someone other than me to be the Chief Magistrate when the Act was proclaimed to begin.

Furthermore, after the telephone calls from 'George' and after my Appendix 1 submission was leaked and became public, the Justice Department suggested the need for increased security. They paid for the installation and monitoring of a house alarm and arranged for two police officers to visit the home and provide security advice. Clearly the Department believed the threat to be real.

I was advised to check for possible explosives underneath the car each morning I left for work. My wife was given instructions on how to answer the door from a safe distance, and was provided with a security necklace to wear in the backyard. They instructed us to call a particular phone number if we had any problems as not all police were to be trusted.

Attempts to obtain damaging evidence against myself were also made. Unbeknown to me, and subsequently revealed on TV, at some time prior to giving evidence at the second Senate Select Committee, I was followed by a private investigator for a period of time. Unfortunately

for him, there was not much to report other than travel to and from work and church on Sundays!

The cost of coming forward was great but the moral obligation was greater.

First published in 2021

Copyright © Clarrie Briese 2021

This work is copyright. Apart from any use as permitted under the Copyright Act 1968 (Cth), no part of this publication may be used or reproduced by any process, electronic or otherwise, without the prior written permission of the copyright holder. Neither may information be stored electronically in any form whatsoever without such permission.

Corruption in High Places: The key witness in the Justice Murphy scandal gives his side of the story

ISBN: 9780645010404 paperback

ISBN: 9780645010411 ebook - epub

ISBN: 9780645010428 ebook - mobi



A catalogue record for this work is available from the National Library of Australia

Book production by Noble Books

Printed and bound in Australia by Ligare

Cover photo: The author outside the Sydney Supreme Court where he gave evidence against Justice Murphy (credit: Ray Strange / Newspix).