

THE ROYAL COMMISSION ON ESPIONAGE, 1954-1955

by

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TABLE OF CONTENTS

	<u>Page</u>
ACKNOWLEDGEMENTS	<i>ii</i>
INTRODUCTION	<i>iii</i>
CHAPTER 1	1
The Defections	
CHAPTER 2	9
A Turning Point	
CHAPTER 3	37
Anti-Communism in Australia, 1945-1954	
CHAPTER 4	72
The Commission Assembles	
CHAPTER 5	103
First Appearances	
CHAPTER 6	116
What Is In Document J?	
CHAPTER 7	146
Where the Cross Turns Over	
CHAPTER 8	163
The Interim Report	
CHAPTER 9	171
A Guide to Documents A-G	
CHAPTER 10	179
A Man of Mystery	
CHAPTER 11	206
Immigrants in the Net	
CHAPTER 12	222
Espionage by Association	
CHAPTER 13	240
Witnesses of Truth?	
CHAPTER 14	264
ASIO and the Absent Witnesses	
CHAPTER 15	285
The Commission's Opponents	
CHAPTER 16	302
The Final Report	
CONCLUSION	316
AFTERWORD	319
APPENDIX 1	321
Analysis of Witnesses at the Royal Commission on Espionage, 1954-1955, excluding those called either solely in an official capacity, or ASIO informants and officers.	
APPENDIX II	327
Analysis of Instructions in The Moscow Letters about witnesses called at the Royal Commission.	
BIBLIOGRAPHY	330

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INTRODUCTION

This is a study of the Royal Commission on Espionage. The Royal Commissioners heard evidence between May 1954 and March 1955 concerning documents and disclosures made by former Soviet diplomats, Mr. V.M. Petrov and Mrs. E.A. Petrov. My purpose is to analyse the Royal Commission in detail to understand its context, its purposes and its findings.

This analysis cannot be done easily. Though the Transcript of the proceedings is readily available, a mere summary would achieve nothing. The Transcript comprises many fragmentary episodes. The Commissioners did not pursue their inquiry in a thoroughly systematic manner; topics were partly investigated, then dropped, perhaps to be picked up again months later. The Commission wandered from one matter to another, and so a bald summary would lead the reader on an exhausting path up numerous blind alleys and countless by-ways. Even at the end, it would be hard to make sense of where one had been and why. It has therefore been necessary, even in sections of apparently straightforward narrative, to re-order the Transcript and to discard much that turned out later to be irrelevant. At the same time, care has been taken to represent the stages of the inquiry fairly to include the arguments on both sides.

A brief sketch of the argument may be helpful, although it is not to be taken as a substitute for the detailed argument itself. By chapters, the study proceeds as follows:

The Defections: Mr. Petrov defected on 3 April, 1954. Ten days later, the Prime Minister announced it to the nation and to the Soviet Embassy. Mrs. Petrov was put aboard a flight to Moscow by the Embassy, but she defected at Darwin.

A Turning Point: When the Petrovs defected, the Cold War was waning. European economic recovery, the rise of the non-aligned movement in Asia

and Africa, and changes in Soviet policy altered fundamental bases of international relations. Australians were not certain what to do about this, and it was hoped the Petrovs could throw light on the problem.

Anti-Communism in Australia: 1945-1954: Anti-Communism in Australia arose after 1945 in response to a number of problems, particularly the militancy of Australian workers and the difficulties of restructuring the Australian economy after the war. By 1954, the traditional anti-Communist tactics and organisation were being re-thought. Opinion was divided. Again, some people thought that what the Petrovs had to say at the Royal Commission would resolve many questions.

The Commission Assembles: The Royal Commission was set up just before the 1954 elections. Its opening session aroused expectations of startling disclosures to follow. Some attempt was made to use the Commission in the elections against the Labor Party, but it is doubtful that this had much influence.

First Appearances: After the elections, the Petrovs made their first public appearances as witnesses at the Commission. They evoked an enthusiastic response.

What Is In Document J?: Document J was brought out of the Embassy by Mr. Petrov. It named three members of Dr. Evatt's staff as sources of information. The Document, and a related one, Document H, were not obviously espionage documents. Allegations were made that J was a forgery designed as part of a "Petrov conspiracy". Important problems were raised, but not satisfactorily resolved.

Where The Cross Turns Over: The evidence of ASIO undercover agent, Dr. Michael Bialoguski, revealed that Mr. Petrov and, to a lesser degree, Mrs. Petrov had compromised themselves with the Australian security service some time before their defections. Their credibility was more in question.

The Interim Report: The Commissioners sought to rebut the allegations that had been made so far by issuing an Interim Report. It was not thoroughly

discussed by the Parliament; and it was not entirely convincing.

A Guide to Documents A to G: A basic explanation is given of the documents to which the Commissioners next turned their attention.

A Man of Mystery: This is the central theme of the Commission. Walter Clayton, a Communist Party functionary, was charged with being a spy-master and talent scout for the Russians. Many witnesses were called as the Commissioners sought to establish the connection between Communism and Soviet espionage. Despite their efforts to make a water-tight case, they failed.

Immigrants in the Net: One recent immigrant, the Petrovs said, was intended to set up an underground espionage fifth column in Australia. The man concerned, Mr. V. Divisek, did not seem suited to this task. Another man, Andrew Fridenbergs, was accused of passing information to Petrov. His case was handled one-sidedly by the Commissioners.

Espionage by Association: The treatment of four non-Communist witnesses mentioned in Soviet documents is detailed. The Commissioners believed that people who associated voluntarily with Communists were likely suspects, whilst people who seemed respectable were not, even if the evidence suggested different conclusions.

Witnesses of Truth?: The evidence of the Petrovs and the authenticity of their documents are examined. The Commissioners did not thoroughly test either. There were reasons for believing that, *prima facie*, the Petrov's account of the documents should have been rejected.

ASIO and the Absent Witnesses: The Australian Security Intelligence Organisation, which held strongly anti-Communist views, prepared a great deal of the evidence heard at the Commission. It also seemed to have pre-conceived ideas about the connection between overt Communist activity and secret espionage for the USSR. ASIO's briefings and views provided the framework through which the Commissioners interpreted evidence.

The Commission's Opponents: The Commissioners saw their opponents as Communists and other like-minded persons. This was inaccurate. Quite a successful campaign was conducted against the Commission, with the result that the Commission's judgements and worth was questioned. The Commissioners' own behaviour provided ammunition for their critics.

The Final Report: The *Report* of the Commission was scarred by prejudice and misreporting. It received a mixed reaction. Attention was drawn away from its weaknesses by Dr. Evatt's letter to Soviet Foreign Minister Molotov. The letter was falsely represented as Evatt's acceptance of Molotov's word above that of the Commissioners.

Conclusion: The argument is drawn together.

Afterword: A few details are given about the later lives of some Commission participants.

CHAPTER 1
THE DEFECTIONS

On Friday 2 April, 1954, Mr. V.M. Petrov boarded the aeroplane at Canberra Airport to fly to Sydney. A few rows further back in the aircraft sat G.R. Richards, Deputy-Director of the Australian Security Intelligence Organisation (ASIO). For a long time now, Richards had believed that Petrov, who was Third Secretary and Consul at the Embassy of the USSR, was unlike other Soviet diplomats. Petrov travelled more freely. He maintained social contacts with people who could be described only as diverse and unusual. In Canberra, Petrov was often to be seen drinking in public bars. He was most enthusiastic in demonstrating to his Australian friends how vodka should be drunk in the proper Russian style.¹

Richards also believed that the Soviet Embassy in Australia would conceal within its diplomatic ranks someone responsible for directing the Australian end of the vast and sprawling network of Soviet espionage operations.² Early post-war scandals unmasked Soviet espionage agents and their contacts with Embassies in a number of countries. The revelations of Gouzenko, Fuchs, and others had rocked the public service and scientific establishments of Canada, the United Kingdom and America. Faith had been undermined in the

¹ "Mr. Petrov likes his glass of beer", *Argus*, 15 April, 1954; also *Age*, 15 April, and *Sydney Morning Herald (SMH)*, same date.

² G.R. Richards, *Transcript of the Royal Commission on Espionage*, p.734, paras. 195-203. (Henceforth all references to the transcript will be abbreviated thus, in this example, *Tr.*, 734 (195-203)).

policies of the New Deal and friendship with Russia. The vigilance of Western security agencies had been heightened and their responsibilities enlarged. The 'Free World' might have succumbed to the guile of Soviet diplomacy and propaganda had it not been for the determination, so Richards believed, of the United States' Bureau of Investigation and other like-minded Western organisations of which ASIO was one. Petrov's frequent trips interstate and the wider ambit of his social life while carrying out consular and other duties made Richards think he was a very likely person to be carrying on the affairs of the Soviet espionage agency, the MVD, in Australia.³ On this day, the intensity of Richards' observation of Petrov had another edge. Petrov was about to defect from the Soviet diplomatic service and seek asylum in Australia.

That afternoon, Mr. Petrov sat with Richards in an ASIO-controlled flat in Darlinghurst, Sydney. Petrov brought from his briefcase a large number of documents and showed them to Richards. Richards examined them, then returned them to Petrov. The two men agreed to meet again in the evening, at eight o'clock, with the Director-General of Security, Brigadier Spry. That night Spry and Richards looked at the documents together. Petrov had signed his formal application for asylum, and was now irrevocably committed to Australia. The final arrangements for the defection to take place the next day were worked out, and then Petrov was driven back to a friend's flat in Point Piper where he stayed the night. On Saturday, Petrov made his way to the international terminal at Sydney Airport. There he met a party of Soviet diplomats just arrived from Moscow. He spoke to a Mr. Kovalenok who was to take up the position Petrov occupied when Petrov's tour of duty was officially completed in a few weeks' time. After he saw the diplomats aboard their flight to Canberra, Petrov left the Airport

³ *Ibid.*, 735 (223-4), 2547 (669-73). The affinity between ASIO and the FBI will be covered in a later chapter.

buildings, and upon a sign from Richards scrambled into one of ASIO's unmarked cars. Together they were driven to the Kirketon Hotel in the centre of Sydney, where Petrov went in to inform another party of Soviet diplomats bound for New Zealand of their plans and flight bookings for April 5. Then, as Petrov came out of the hotel, he was suddenly lost from view. For ten minutes Richards and his driver hunted through King's Cross for him. At last they spotted him. Petrov returned to their car; he had not changed his mind; he would still defect. He had just dropped into a nearby hotel for a drink. The car drove off to an undisclosed destination. On his arrival, Petrov was offered something to eat and then he sat down with Richards and another ASIO officer. He began to talk and to answer little by little the many questions to which Richards so urgently wanted answers.⁴ Some time later that day Petrov wrote a note to the wife of the First Secretary at the Embassy. Bitterly he recalled the criticisms which the Soviet Ambassador had made of him and his wife; he recalled how unjustified those criticisms had been; and asked word to be passed on to the Ambassador that he had decided to take his own life. The note was photocopied and the original posted off to Canberra.⁵ That evening Petrov went to bed, guarded by ASIO, from whose care and supervision he would never again be separated.

Though it is uncertain if the Soviet Embassy ever received Petrov's suicide note, officials were greatly perturbed at the news from New Zealand that Mr. Petrov had failed to turn up at the Airport in Sydney to see off the diplomatic party on 5 April. The Ambassador, Mr. N.I. Generalov, had taken up his post in 1953. He was somewhat more retiring than his predecessor, Lifanov, perhaps because he had never known the warmer and

⁴ *Ibid.*, 32-33, 35, 755-57, give a basic account of the day's events.

⁵ *Ibid.*, 146-7 (253-5) (274) (280).

more open climate of opinion in Australia that had attended Lifanov in the days when the Cold War had not reached its height.⁶ The strain of an Ambassadorship in a country far from his homeland and which was led by a Government hostile to the Soviet Union undoubtedly contributed all the more to Generalov's anxiety when he heard of Petrov's disappearance. By the following day he had resolved to tell Mrs. Petrov of his concern for her husband. He directed her to pack some things, to leave her home a few streets away from the main Embassy building, and to come and live in the Embassy where she would be safer from possible molestation. Mrs. Petrov was shocked, as she had every reason to believe her husband would return, but she had little choice except to do as she was asked.⁷ On April 7, the First Secretary of the Embassy contacted the Protocol Section of the Australian Department of External Affairs and sought official assistance in the search for the missing diplomat. Help was promised, but by April 10 there was still no news. The First Secretary rang again, extremely worried, but still the Department had nothing to say. Tensions increased within the Embassy for the Ambassador had no idea of what had occurred, although by this time he was convinced that Petrov would never return. It was only on the afternoon of April 13 that an official Note was handed to the Embassy informing it that Petrov had sought asylum in Australia of his own free will. The Embassy refused to believe the Note and indicated that it would demand to see Petrov himself.⁸ At the Embassy premises, Mrs. Petrov was immediately questioned. She denied all knowledge of her husband's activities or intentions, although secretly she guessed at the truth from certain things her husband had told her in the past.⁹

⁶ *SMH*, 14 April, 1954 provides a quick sketch of the two personalities. Another recollection was provided by C.J. Meeking in a letter to the author 24 December, 1978. Meeking was prepared a profile on the Embassy as a freelance journalist in 1954.

⁷ Mrs. E.A. Petrov, *Tr.*, 166-7 (261-270).

⁸ F.H. Stuart, External Affairs Protocol Officer, *Tr.*, (51) 113-118.

⁹ E.A. Petrov, *Tr.*, 167 (270).

Events gathered pace. A few miles away from the Embassy at Parliament House word reached the Press Gallery at the dinner adjournment that the Prime Minister, Mr. Menzies, was going to make an important announcement to the nation at eight o'clock that night.¹⁰ The knowledge that Parliament was to be dissolved the very next day for the Federal elections on May 29 added significance to the rumours. The Leader of the Opposition, Dr. Evatt, was absent from Canberra, having been told that nothing important was coming up, and it was left to his Deputy, Mr. Calwell, to receive the news.¹¹ At 8.00 p.m. the Prime Minister rose in the House. He declared that, from information received by him a few days ago and laid before Cabinet only that very day, he had the unpleasant duty to inform Parliament of the defection of the chief of Soviet espionage operations in Australia, V.M. Petrov. Petrov had brought with him a great quantity of documents which clearly established that Soviet espionage operations had been conducted within Australia. Petrov had the names of Soviet agents, and those names corresponded with the names of persons already under suspicion by ASIO. The Prime Minister went on to announce that a Royal Commission would be formed to examine the Petrov documents and to determine all the relevant facts.¹² At first the House was stunned by the news; then there were cheers and an uncontrollable hubub of conversation.¹³ When Calwell finally got news through to Dr. Evatt, Evatt announced that the Labor Party would fully support the proposed Royal Commission, and that, if elected to Government, Labor would see to it that no guilty person would go unpunished.¹⁴ The next day, the last on which the House sat before the elections, a Bill was

¹⁰ The Melbourne *Herald*, 14 April, 1954.

¹¹ A.A. Calwell, *Be Just and Fear Not*, Lloyd O'Neill, Melbourne, 1972, pp.177-8; and A. Reid, *Bulletin*, 7 December, 1974, p.43.

¹² Menzies' speech is in *Commonwealth Parliamentary Debates (CPD)*, House of Representatives (H of R), 13 April, 1954, pp.325-6.

¹³ Cheering came from the Government benches, and the Speaker made fruitless calls for order, *SMH*, *Age*, both 14 April, 1954.

¹⁴ Evatt's position was reported in the Press and re-iterated in *CPD*, H of R, 14 April, 1954, p.372.

hurriedly brought before it authorising the Royal Commission. It was passed through all stages and through both Chambers unanimously and without delay.

The news immediately focussed public attention on the Soviet Embassy. As the days went by, the Canberra tourist-buses drove past the Embassy grounds slowly to give everyone a proper view, and small groups of people clustered around the gates and peered through the hedge, perhaps in the hope of catching a glimpse of spies at work.¹⁵ The day following the announcement in Parliament Mrs. Petrov gave a Press conference with Ambassador Generalov. She declared that her husband had been kidnapped and that she could not believe he would have gone like this.¹⁶ From then on, the Press never let the Embassy out of their sights. Officials were constantly being telephoned for their comments. Journalists made detailed inquiries into Mrs. Petrov's impending travel plans back to Moscow. Fuel was added to the mounting speculation by the transmission to the Soviet Embassy of a letter from Mr. Petrov asking to see his wife alone, at a time and in a place and manner to be determined by the Australian authorities. On 19 April, Mrs. Petrov's reply was sent. She declined to meet him, fearing that she might fall into a trap. In the meantime, the Press had discovered that her departure from Australia was to be much more rapid than expected. Originally it had been thought she would leave by ship, but it was revealed that aeroplane bookings had been made for her and three other Soviet officials for 19 April, from Sydney via Darwin and Singapore. As preparations for her departure were made, the Embassy became more withdrawn. Press interviews and answers to questions ceased. The Ambassador was "unable to speak to anyone".¹⁷ There was little doubt that, faced with mounting Press

¹⁵ Concerning sightseers and tourists see *Age*, 20 April, 1954. Newsreel cameras were also poked over the hedge *SMH*, 15 April, 1954.

¹⁶ *SMH*, 15 April, 1954.

¹⁷ *Ibid.*, 16 April, 1954.

attention and the constant 'leaking' of information about what Mr. Petrov might reveal, the main pre-occupation of the Soviet Embassy was to have Mrs. Petrov out of the country and back to Russia as soon as possible.

On the afternoon of 19 April, the Embassy gates swung open and a car sped off. Shortly afterwards another car emerged. None of the spectators had any doubt that it was this second car which was carrying Mrs. Petrov to Sydney. By the time the Soviet party arrived at the Airport in the evening, a large crowd of anti-Communist White Russian and Eastern European demonstrators had assembled. They were angry and determined not to let Mrs. Petrov go, for the Press and public figures had insisted that Mrs. Petrov was being taken against her will. In their haste and confusion, the Embassy group took the wrong turning and had to walk across the tarmac from the domestic to the international terminal. The diplomatic couriers had to escort Mrs. Petrov to the 'plane through the throng of people, whilst Australian police and security authorities looked on. In the melee, Mrs. Petrov lost her shoe. Though there was scarcely a chance to recover it since she was nearly dragged off the gangway to the aircraft, this incident added poignancy to the spectacle of a helpless woman being hauled out of the country to her death or imprisonment in the wastes of Siberia.¹⁸

The wild events at the airport had also frustrated ASIO. Having realized that their initial plan to place an agent aboard the ship to Russia was pointless, they had hoped to confront Mrs. Petrov with her husband as she walked through the international terminal. To this end, Mr. Petrov had been brought to the Airport, concealed in the back of a utility van. But the confusion of the Russians and the presence of the crowd had prevented the meeting.¹⁹ Amid the disorder it seemed to the people of Australia that

¹⁸ This account follows essentially the evidence given by Mrs. Petrov, *Tr.*, 186 (341-47); *SMH*, 19 April, 1954 speculated on her being punished in the USSR.

¹⁹ G.R. Richards, *Tr.*, 774 (117), 775 (145-6).

nothing had been done to save an innocent woman. Seeking to exploit this, Mr. Calwell issued a Press statement condemning the Menzies Government for failing to intervene.²⁰ Aboard the aircraft, Mrs. Petrov was approached and asked if she wished to stay in Australia. She refused.

On the flight to Darwin she was greatly distressed. While the Soviet couriers slept, she was restless.²¹ She got up and made her way to the women's toilet. There, when she was comforted by an air hostess, she said she wished to speak to her husband. She added that the Soviet couriers were armed. This message was relayed by the captain to Darwin and thence to Canberra. When the plane landed early in the morning at Darwin, all the passengers except Mrs. Petrov left the 'plane. When she finally emerged, the couriers had been forcibly disarmed by Northern Territory Police. Mr. Leydin, the Acting Administrator of the Territory, greeted her, and after some delay arranged for her to speak to her husband by telephone. Still fearful, she hesitated. She spoke to her husband. Then, just as the aircraft was about to depart, she made her decision to stay. She was immediately hustled away to Government House. From Sydney, Richards flew up to her in Darwin. Together they returned to Sydney, where after speaking with Mr. Petrov she signed her own application for asylum on 22 April.²² It was thereupon declared that Mrs. Petrov too had been an employee of the MVD espionage team. The Press congratulated the Government for its bold rescue. The Soviet Union moved towards the termination of diplomatic relations. And ASIO now had in its possession the two key witnesses for the Royal Commission on Espionage, now being assembled for its work.

²⁰ Calwell denounced ASIO officers for "abetting Russian officials help drag Mrs. Petrov screaming on to the plane", *Age*, 21 April, 1954.

²¹ Mrs. Petrov was observed both in the plane and earlier at the Airport by Mr. J. Ramsden, a Press reporter. He confirms the generally confused situation and the broad outline of later events, although he differed from the Royal Commission evidence on some details. Letter to author, 8 March, 1979.

²² Richards, *Tr.*, 36.

CHAPTER 2

A TURNING POINT

In 1953 the Korean War reached an inconclusive truce. In 1954, decisive battles were being fought in Indo-China. Considerable uncertainty existed about American leadership of the Western powers. Established American policies seemed unable to reconcile Asia and the West. In 1953 Stalin died, and Soviet policy departed from traditional patterns. This change also awoke doubts. Some observers believed that a change of course was essential for the West in these new circumstances. Others believed that only redoubled efforts in old directions would guarantee security and that change was tantamount to treason. Within the Western intelligence community questions were being asked.

"I was right in the midst of my intelligence activities when Mr. G.R. Richards, the Deputy-Director-General of the Australian Security Intelligence Organisation called at my flat. Such a visit was rather unusual, and it soon became apparent that Richards did not come to pay a social call.

'You know, Doctor', Richards spoke seriously, 'there is one aspect of this Petrov case that might become a turning point in history. That is, of course, if he decides to defect'.

'As you know, since Malenkov came to power there has been a marked change in Soviet foreign policy. The Governments of the Western democracies are most anxious to learn whether this change represents the true sentiments of the Soviet Government, or whether it is merely a ruse designed to lull the West into a false sense of security'.

'Up to date', continued Richards, 'there has not been much reliable evidence to point one way or the other.

'If Petrov defects, and, if he is in fact what we expect, i.e. a high official of the M.V.D., he may give the answer to the riddle''¹.

¹ M. Bialoguski, *The Petrov Story*, Heinemann, Melbourne, 1955, pp.X111-IV. 9.

Without examining central features of the Cold War, it is not possible to understand why this riddle existed at all, let alone why it could seem that the Petrovs might provide the answer. The development of the Cold War in Europe from 1945, the problems of applying Cold War policies in Asia, and the new shifts in Soviet policy after 1953 all helped to determine the impact and the response to the Petrovs in Australia.

I

From 1941 to 1945, while the greater danger from the German-Japanese Axis remained, the Soviet Union, the United States and the United Kingdom were allies. The overriding need for victory and the necessity for co-operation restrained the profound suspicion and conflicting aims. In 1945, the defeat of German forces in Europe and Japanese forces in Asia dissolved this restraint. Conflicts were free to flourish as the different social systems - capitalism and socialism - competed for the allegiances of Europe. At the front, the armies of the former allies stood face to face. Behind the lines, devastation and disorder made the Potsdam and Yalta proposals for the settlement of European affairs even more difficult to implement. Negotiation and accommodation, always complicated, seemed pointless and a dangerous waste of time. As early as October 1945, the American General Patton called upon the world to prepare for World War III, and a few days later publicly asked if there were any chance of marching on to Moscow. The US Army was embarrassed and immediately placed Patton on the retired list. But sections of the American Press reported Patton's remarks and amplified them considerably.²

The end of the European war had totally upset the political balance and had thrown social institutions into disarray. East and West each had

² A. Fontaine, *History of the Cold War*, 2 vols, Secker and Warburg, London, 1968, 1970, Vol. i, p.299.

utterly different conceptions and plans for Europe. Behind the Soviet lines lay the Eastern half of Germany, the Eastern provinces of the Reich, and Hitler's former willing allies in the war against the Soviet Union. The bitterness and the brutality of the war on the Eastern Front made the Soviet authorities dread that Germany should ever rise again. They sought a harsh peace. They wished to divest Germany of its industrial and military capacity; they wanted a secure and friendly Eastern Europe; and they demanded war reparations. The Soviet objectives required recognition of a new political situation, not only within countries that had sided with Germany during the war but also within those that had been conquered by Germany. For example, the Polish Government-in-exile in London had been very hostile to the USSR before the war even though it had resisted Hitler, and thus the Soviet Union felt unable to agree to a simple restoration of its pre-war status. It sponsored a new Provisional Government in Lublin. The United States and the United Kingdom did not share the Soviet objectives. Though they were reluctantly reconciled to a change of regime in Germany's former allies, they took a completely different view of the situation in Poland and Czechoslovakia. Western interests in both these countries had been substantial before the war, and the prospect of socialist or socialist-inclined Governments hostile to foreign interests was most unwelcome. The Western powers did not share the Soviet view that German Nazism was the product of the capitalist social system. Therefore their overall vision for Europe was based upon quite different assumptions. American investments in wartime Germany were compensated for Allied bombing by the American Government. Western forces controlled the German industrial and mineral complexes in the Saar, Rhine, and Ruhr. The pledge to divest Germany of its plant and equipment now seemed pointless. These productive forces could be restored and integrated into a European economy in which the United States would play a pre-eminent role. Into this new capitalist Europe, the Western

powers also wished to draw the East European countries.³

The conflict of post-war aims between East and West made the peace negotiations slow and complex. In the West, some politicians expressed the view that Soviet co-operation was neither possible nor desirable. On 5 March, 1946, in the small town of Fulton, Missouri, Winston Churchill made a highly significant address. After having consulted with US President Truman on its contents, Churchill proclaimed in his presence:

A shadow has fallen upon the scenes so lately lighted by the Allied victory. Nobody knows what Soviet Russia and its Communist international organisation intends to do in the immediate future or what the limits are, if any, to their expansive and proselytising tendencies...

...
I do not believe Russia wants war. What they desire is the fruits of war and the indefinite expansion of their power and doctrines...Our difficulties and dangers will not be removed by closing our eyes to them, nor by mere waiting to see what happens, nor by a policy of appeasement.⁴

In Moscow this speech was seen as an implicit endorsement by Truman of a British-American alliance directed against the USSR.⁵ Thus all the more stress was placed upon Soviet security. The Fulton Speech was seen as an exposition of the policy of "Cold War".

Churchill had observed that "the United States stands at this time at the pinnacle of world power".⁶ United States supremacy was the keystone of the Cold War. It was evident from the pattern of international organisations

³ Such differences are set out in the chronology of the Cold War in E. Luard, *The Cold War: A Reappraisal*, Thames and Hudson, London, 1964, pp.19-20.

⁴ W.S. Churchill, cited in *Keesing's Contemporary Archives*, London, 1946, p.7771.

⁵ US Ambassador Walter Bedell Smith's opinion cited in *Foreign Relations of the United States (USFR)*, Govt. Pr., Washington, 1946, VI, pp.734-5, also see report of *Pravda's* reaction in *Communist Review*, May 1946, p.145.

⁶ Churchill, *Keesings*, p.7770.

and of international affairs to which the United States had lent its patronage that it perceived the world as its New Frontier. The United States dollar was established as the international reserve currency, as good as gold. The new forum for the expression of international opinion was the United Nations, dominated until 1955 by a very solid pro-American majority comprising the United States and its Central and South American neighbours.⁷ This reflected economic realities amongst the capitalist powers. For America, the war had first stopped a slide into renewed depression and then re-invigorated its economy. Vast orders for Allied war supplies were placed with American firms through direct purchases and Lend-Lease. The USA had acquired immense holdings of gold, foreign exchange, overseas property and investments which the British had been forced to sell to purchase supplies in the earlier stages of hostilities. By 1947, American firms owned 57 per cent of the world's oil resources; their automobile production was eight times that of England, France, and Germany combined; they were the largest producers of coal and steel; and, by 1950, they owned one third of the world's merchant shipping. America produced 41 per cent of the world's goods and services and almost 50 per cent of the total world industrial output.⁸ American industry and finance had tasted the first fruits of access to markets during the war from which they had previously been excluded. Henceforth all the efforts of American Government agencies were bent on ensuring that access would continue and be expanded.⁹ To support those efforts, the United States commanded armed

⁷ D. Fleming, *The Cold War and Its Origins, 1917-1970*, 2 vols., George Allen and Urwin, London, 1961, pp.767-9.

⁸ T.G. Paterson, *Soviet-American Confrontation: Post-War Reconstruction and the Origins of the Cold War*, John Hopkins, Baltimore, 1975, p.11.

⁹ See for example official publications explaining to Americans the virtue of new post-war currency arrangements, thus US Treasury Department, *Questions on the Fund and the Bank, The Bretton Woods Proposals*, Govt., Pr., Washington, 1945.

forces equipped with the most modern technology; and it enjoyed exclusive possession of the atomic bomb, whose power had been demonstrated against Japan.

American policy-makers reflected these facts in their pronouncements. Despite their public statements about the expansionist nature and hostile intentions of Soviet foreign policy, they were well aware that the enormous losses in manpower and machinery in the Soviet Union made it impossible for the USSR to launch a war of aggression. Such limitations did not apply to the USA.¹⁰ From George Kennan, Head of the State Department Policy Planning Staff, came the highly influential article "The Sources of Soviet Conduct". It advocated "the adroit and vigilant application of counter-force at a series of constantly shifting geographical and political points" by the United States for the purpose of increasing "enormously the strain under which Soviet policy must operate".¹¹ To make such a policy effective, the Americans required other nations to open their doors and allow themselves to be used as places from which pressure could be brought to bear against the Soviet Union. To foster this opening up of other nations a whole scheme of activities was developed in foreign trade unions, political parties, and information dissemination. The publicly-stated objective was to counteract Communism and the Soviet Union, but this also required the deliberate orientation of overseas opinion and action towards support for United States policy and leadership.¹²

Central to United States Cold War foreign policy was anti-Communism. To understand why this was so, some appreciation of the impact of the war is necessary. German occupation of Europe had forced the people of the

¹⁰ Paterson, *op.cit.*, cites Navy Secretary Forrestal, George Kennan, and the influential C. Subzberger, foreign service chief of the *New York Times*, as having this view, p.9.

¹¹ G.F. Kennan, "The Sources of Soviet Conduct", *Foreign Affairs*, Vol.25, No.4, July, 1947, pp.576, 582.

¹² For example see the background paper to the Marshall Plan in *USFR*, 1947, III, p.206.

European countries to organise their own political and military resistance. In the process, this had enhanced the standing and organisational strength of the radical political parties, especially the Communists. (This was also true of Asia under Japanese occupation). This general shift towards the Left was accompanied by enthusiasm for a new economic order that would prevent a recurrence of the Great Depression, and for an extension of political freedoms that would prevent the restoration of the extremely authoritarian regimes that had dominated pre-war Europe. At the close of the war, the political situation was extremely complicated. Established political parties, traditional symbols of authority, great institutions, and public figures were either widely discredited for their collaboration with the Nazis or were still integrated into the resistance movements. The Communist Parties and their partisan armies had extensive political support, and they had arms. This greatly alarmed the American Government, and it supported every effort to persuade or to force people to hand in their guns to the central authorities. It was an immense tribute to the hold of Western parliamentary institutions over Communist Party leaders that most of them supported disarming their own Parties. But things did not always proceed smoothly. The Greek Communist Party turned in much of their arms and lost precious time seeking a negotiated share in power with British forces re-entering the country, but the proposal to restore the Greek monarchy sparked off fighting. Greece exploded into civil war. By 1947, the American Government knew that the British could no longer hold out in Greece without immediate aid. President Truman sensed the crisis and, amid agitated but quite unjustified allegations of "Soviet interference", revealed his plans to rescue British forces in Greece.¹³

¹³ For two accounts of events in Greece see D. Horowitz, *From Yalta to Vietnam*, Penguin, Harmondsworth, 1971, pp.63-6, and K. Mavrikis, *On Trotskyism*, Routledge and Kegan Paul, London, 1976, pp.157-177, concerning the Soviet role.

He also offered American intervention to all Governments determined to oppose Communism and maintain order.

The United States now realised that it had underestimated the depth of the crisis in post-war Europe. In 1947 a massive deficit of \$9,000 millions in the European balance of trade was recorded, attributable to the great loss of export earnings. There were dire shortages of food and clothing. Compared with the year 1938, itself one of semi-depressed conditions, the value of production had fallen by \$13,000 millions and private consumption per head had dropped by twelve per cent.¹⁴ The United States had made the position worse by its abrupt termination of Lend-Lease in 1945 and by imposing unrealistic conditions on reconstruction loans. For instance, the Americans had demanded that the pound sterling be made freely convertible in 1947 so that Empire markets would be forced open and dollar assets held in London would be unfrozen. The value of the pound collapsed. Convertibility was hastily abandoned. Even the American correspondents of the conservative *Round Table* magazine conceded that American calculations

must have been based on a much more hopeful view of the immediate prospects for reconstruction than has in fact been realised.¹⁵

Where the people of Europe went starving - many even ate the bark off the trees - the appeal of the socialist economics was great. The powerful Communist Parties filled the American Government with dread.¹⁶ To arrest the movement towards the Left in Europe, and to assert the primacy of its own economic system, the United States had to make anti-Communism a key element of its foreign policy.

The Marshall Plan crystallised the division of Europe. Announced by

¹⁴ R. Triffin, *Europe and the Money Muddle: From Bilateralism to Near Convertibility 1947-1956*, Yale, New Haven, 1957, p.43.

¹⁵ "Mr. Marshall's Advice", *Round Table*, Sep. 1947, p.321.

¹⁶ "Hungry people are not reasonable people...They are easy victims of mass hysteria", US Department of State, *Bulletin*, XIV, May 19, 1946, p.831.

Secretary of State, George Marshall, in 1947, the Plan asked European countries to submit lists of their essential requirements to the United States. The Economic Co-operation Administration was to administer Marshall aid, to supervise the implementation of aid projects, and to advise European Governments about their overall economic policy. Though Soviet and Eastern European participation was formally invited, the close involvement of the E.C.A. in economic advice and supervision was not readily reconcilable with the central, independent planning of the Eastern economies. The Soviet Union and Eastern Europe denounced the Plan. The Soviet Union expressed the opinion that the purpose of Marshall aid was to pull European countries into the American orbit. The American view of their objectives was spelled out in some detail by the State-War-Navy Co-ordinating Committee:

...to extend in terms of the U.S. national interest the objective recently enunciated by the President for Greece and Turkey, and by supporting economic stability and orderly political processes, opposing the spread of chaos and extremism, preventing the advancement of Communist influence and use of armed minorities, and orientating other foreign nations to the U.S. and the U.N. In addition the U.S. will probably continue to alleviate starvation and suffering where this action is consistent with U.S. interests.¹⁷

It is clear that Soviet and American views did not greatly diverge.

The reason why the USA sought to prevent European bankruptcy was to avoid adversely affecting American prosperity. The high level of production within the USA could not continue if its sole outlet was American domestic demand. The world had to have the dollars with which to buy American goods if the high levels of commodity exports from the USA were to be maintained.¹⁸ Moreover, the disruption of European trade with the Third World, caused

¹⁷ USFR, 1947, III, p.217.

¹⁸ See for example O.H. Korican, "Aims of Our Foreign Investment Policy", *Harvard Business Review*, Vol. XXIV, No.4, Summer, 1946.

either by war or post-war ruin, would also disrupt American markets there too. Considerable amounts of Marshall aid were spent in bolstering the position of European powers in their colonial and semi-colonial dependencies. The E.C.A. also used Marshall aid as a lever to extract treaty concessions from aid recipients. These guaranteed US access to raw materials, providing the reasonable requirements of the recipient had been met, and they permitted American direct investment in Third World raw materials production. The concessions were to satisfy American demands for continuing supplies of bauxite, cobalt, tin, and manganese.¹⁹ The Marshall Plan also provided military aid. Arms were offered for the purpose of resisting Soviet aggression, but the State Department calculated that they would also produce "a powerful influence in orienting the recipient nations towards the U.S.", because American maintenance and re-supply would be required.²⁰ The Plan was also complemented by trade embargoes against the Eastern European countries. East-West trade after the war declined.²¹ The Marshall Plan boosted American economic supremacy in Europe. In the name of opposing Communism and providing humanitarian aid, the Plan afforded American industry very great advantages, even where this conflicted with the interests of Aid recipients.²²

American Cold War strategy was moulded mainly by European experiences. The "roll-back" of the Iron Curtain was not the first and main priority. The Americans had rejected Churchill's 1948 suggestion to atom-bomb the

¹⁹ Paterson, *op.cit.*, pp.232, 234.

²⁰ State-War-Navy Co-ordinating Committee, 21 April 1947, *USFR*, 1947, III, p.217.

²¹ I. Svennilson, *Growth and Stagnation in Europe*, UN Economic Commission for Europe, Geneva, 1954, p.197.

²² For example "counterpart provisions" required European purchases of US commodities and services in return for aid in local currency even where these were not desirable, see J. & G. Kolko, *The Limits of Power*, 2 vols., Harper and Row, New York, 1972, p.449.

Soviet Union while they still had the power.²³ Despite provocative remarks against Eastern European Governments made in public and subversive activities launched against them in secret, American officials were still too fearful of the crisis in the West to carry through an offensive against the East. Western European economies were ravaged, their political institutions in disorder, and their peoples seething with rebellion. In this intermediate zone between the USA and the USSR nothing seemed secure. Without security, the "roll-back" was a perilous undertaking. From the American standpoint, the slide towards economic chaos and political extremism could only be reversed when the countries of this zone were fully opened up to US trade, investment, and military aid. Nationalistic sentiments were to be countered and Communism discredited. Anti-Soviet activity and propaganda largely assumed their place within this plan. Containment rather than roll-back became the watchword of American Cold War diplomacy.

II

The problems of applying Cold War strategies in Asia deeply affected Australia. Asia, like Europe, was perceived as another intermediate zone of the world into which American pre-eminence ought to be projected. Yet the war had awoken a conviction amongst Asian peoples that their countries should no longer be an arena for the contests of European powers. Sharp political re-alignments had taken place. Japanese occupation and Asian nationalism had toppled the old colonial Empires. Although European powers sought the restoration of their colonial dependencies after the war, their grip was weak and their position unstable. Dutch possession of the Netherlands East Indies (Indonesia) became untenable; the French were little

²³ Disclosed in UK Cabinet papers, 1948, *Guardian*, (UK), 2/1/1979.

stronger in Indo-China; and the British faced rebellion, varying in its intensity, in Burma, Malaya, India and Ceylon. The Kuomintang Government, which had maintained the interests of competing European powers in China, was breaking apart from its own incompetence and from civil war. The People's Republic of China was proclaimed in 1949.

From about 1941 onwards, the United States had assumed strategic direction on behalf of the Western powers in Asia, even earlier than it had in Europe. Although there was some re-assertion of European influence after the war, the US State Department concluded that:

Our own primary strategic position in the area is accepted by the UK as the foundation of its own position in the Pacific. And, despite some misgivings arising from the American eclipse of British prestige and commercial interests, UK military and economic weakness dictates the present reliance on American initiative in the area.²⁴

This new initiative brought new problems. Throughout the war and immediately afterwards, the United States had pursued a 'Europe-first' policy. Asian affairs took second place to the realisation of American interests in Europe. Ultimately, the American policy in Asia envisaged the creation of self-governing nations patterned on the Western system which would be friendly to the United States. Therefore the USA was unwilling to be directly involved in the suppression of the independence movements, and so earn the hatred of Asia, simply to restore the old colonial powers. At the same time, for the sake of stability and continued European goodwill, the Americans felt unable to oppose the restoration of the colonies. They were well aware that US aid given to Europe was being used to 'restore order' in Dutch, French, and British possessions.²⁵

At first, the USA was able to sidestep awkward colonial problems because

²⁴ USFR, 1948, III, p.1100.

²⁵ H.M. Vinacke, "United States Far Eastern Policy", *Pacific Affairs*, Vol. XIX, No.4, December, 1946, p.352.

the situation in the early post-war period was very fluid. It responded very coolly to Dr. Evatt's 1946 proposal that the USA should enter into a regional pact for the defence of a whole chain of British, Australian, and American possessions in the South Pacific in return for a military base on Manus Island.²⁶ The problem surfaced again in the Netherlands East Indies. The Dutch wanted to restore the *status quo* before the war; and the Indonesians wanted independence. The Americans hoped the Dutch would make some concessions but not concede the maximum nationalist programme. Caught between the two sides, the US State Department leaned at first towards the Dutch, but their ineptitude and brutality aroused such indignation that the State Department eventually put its weight behind the Indonesians. It was comforted in this instance by the knowledge that Dr. Hatta's nationalists were resolutely anti-Communist and the hope that this would be enough to make his Government pro-Western.²⁷ But the United States policy-makers remained profoundly suspicious of nationalism in the colonial countries. The Indo-China crisis finally forced the State Department to admit, to itself at least, that America could offer no solution to the colonial problem there. The nationalist movement was led by the Communists under Ho Chi Minh. American policy was opposed to the complete suppression of the movement and total French supremacy because that might hinder American objectives, but it was also opposed to French withdrawal.²⁸ The State Department recorded that the United States had not been particularly successful in

...orienting the Vietnamese towards the Western democracies and the U.S. The program for achieving this has been hampered by the failure of the French to understand that such informational activities as we conduct in Indo-China are not inimical to their own long-term interests.²⁹

²⁶ For an account of the Manus Island episode in this context see M. Dunn, "Curtin Calls to America", *Melbourne Journal of Politics*, 1977, No. 9, pp. 13-15.

²⁷ *USFR*, 1948, VI, pp. 614-5.

²⁸ Department of State Policy Statement on Indo-China, *USFR*, 1948, VI, pp. 48-9.

²⁹ *Ibid.*, p. 49.

The United States wanted the best of both worlds. It needed the friendship of the European colonial powers; but it wished to bring the whole of Asia, not merely Europe's colonial remnants, towards the USA. The crisis in Indo-China eventually forced the United States to make its choice: first, to underwrite the security of colonialism in Asia, and then to assume responsibility for full-scale intervention.

The revolution in China also revealed difficulties of the Cold War in Asia. The lure of commerce and the spectre of Communism caused the United States to become the principal power intervening in China. It rapidly became evident that US aid was quite unable to preserve the Kuomintang Government. Sino-American friendship was replaced by suspicion and hostility which hastened the alliance between the Chinese and the Soviet Communists. When Chiang Kai-shek's forces collapsed in 1949, alarm spread across the United States. The search began for those Americans who were responsible for "losing China". And public policy towards Japan had to be changed quickly. From the outset of the American occupation of Japan under General Macarthur, the programme of Japanese economic and military disarmament had been steadily modified until it was effectively abandoned. Amongst others, Australian occupation authorities were increasingly concerned at Macarthur's failure to dissolve the *Zaibatsu*, who had formed the economic backbone of Japanese militarism.³⁰ General Macarthur was preparing the way for the re-emergence of an economically powerful Japan that would play a key part in the life of the Asian region. Asian-Pacific nations would have to be reconciled to this, the Americans believed, even though memories of Japanese invasion were sharp and bitter. To cope with the problem of a Communist China, the thrust of US policy was to develop Japan as a strong base. By 1949 the US sought to bring Japan, together with the staunchly anti-Communist

³⁰ M. Booker, *The Last Domino: Aspects of Australia's Foreign Relations*, Collins, Sydney, 1976, pp.72-76.

Governments in South Korea and the Philippines, into a new association of Asian-Pacific states. With Australian and British Commonwealth assistance, this association could be used to "increase the present Western orientation of the area".³¹ Chinese Communism, despite its obvious burdens of crippling inflation and enormous losses of life from the war against Japan and the Civil War, was conjured up as the new aggressor in Asia. The wave of hostility towards the People's Republic of China that emanated from the United States sought, among other things, to foster a more ready acceptance of a strong Japan and the association of Asian and Pacific nations.³² The United States hoped this would provide it with a way out of the impasse of colonial problems. Under the auspices of the association, the transition could safely be made to self-government in the European colonies without having to surrender the influence and interests that the formal trappings of the colonial system implied. At the same time, it was appreciated that such an association could not be formed exclusively on the basis of anti-Communism. If this occurred, then the association would not appeal to the neutralist leanings already evident in Burma, India and Indonesia. For that reason the United States was also most reluctant to enter into security arrangements with the Philippines, South Korea, or Australia on their own. It was hoped that a broader association could be formed which would much more successfully contain neutralism and nationalism, if the United States did not make any hasty or exclusive commitments.

The outbreak of war in Korea in June 1950 forced the United States to make the commitments it had previously sought to avoid. At first, the involvement of Chinese troops in October that year and the branding of China as an aggressor by the United Nations seemed to augur well. A

³¹ Memo, Asst. Secretary of State, Far East - Secretary of State, 18/11/1949, and National Security Council 48/2 "US Position with Respect to Asia", *USFR*, 1949, VII, pp.901-2, 1220, and Policy Planning Staff Paper, p.1129.

³² Booker, *op.cit.*, notes how this effect occurred in Australia, pp.74-76.

'police reserve' of 75,000 military personnel was established in Japan, and the Japanese Peace Treaty was signed in September 1951, even though China was excluded. Then, North Korean and Chinese resistance in the war stiffened, and the prospects of carrying the fighting into China were abandoned. To overcome reservations about the war, efforts were made to stress the educative value of the Korean conflict. The *Round Table* commented in December 1950 that "we had a chance of restoring Korea as a model" for Asiatic areas, whilst the Australian Minister for External Affairs declared:

If Korea were allowed to go under with our consent, leaders in some countries in South and South-East Asia and Europe might be tempted themselves to come to terms with the Communists.³³

As the war raged, the UK became less enthusiastic about Korea, whilst certain Asian states remained neutral. Despite the identification of China as a threat by Australian politicians, there was unease in Australia about the "soft peace" accorded Japan. To placate Australian misgivings, the US and Australian Governments signed the ANZUS Pact.³⁴ Security treaties were also signed with the Philippines and Japan itself. Australian commentators were still not greatly reassured by ANZUS, since official statements placed it in an anti-Communist rather than an anti-Japanese context.³⁵ The UK took offence at being left out of the Pact, contrary to Menzies' denials in public.³⁶ Asian states elsewhere did not participate in this new definition of Asian security. The failure to win the war

³³ "Mr. Truman's Mid-Term Prize", *Round Table*, 161, December 1950, pp.55-6, and Spender, *CPD*, H.of R., March 14, 1951, p.482.

³⁴ "The Japanese Peace Treaty, once finalised, was an event which pleased few Australians", H. Albinski, *Australia's Search for Regional Security in Southeast Asia*, Xerox, Michigan, 1959, p.270.

³⁵ For example, D.C.S. Sissons, "The Pacific Pact", *Australian Outlook*, Vol. 6, No.1, March, 1952, pp.22-6.

³⁶ R.G. Casey, *Australian Foreign Minister: The Diaries of R.G. Casey, 1951-1960*, (ed.) T.B. Millar, Collins, London, 1972, pp.90-1, 95.

quickly meant that the new arrangements made by the United States in Asia did not produce the wider association of states which it sought. Some hope seems to have been held out in the 1952 ANZUS Communique that other nations might be included in the Treaty arrangements, but the 1953 Communique officially recognised that other nations did not in fact wish to participate.³⁷ While Australian Government policy had committed the country to wholehearted support for the American position on China, Korea, and Japan, the overtures of its Ministers were no more successful than those of the USA in drawing Asia closer.

Events in Asia showed that, even if very slowly, the tide of Cold War opinion was running out. The indecisive end to the Korean War in 1953 was a defeat for the United States, inasmuch as two undeveloped Asian nations (North Korea and China) had fought the pre-eminent military power and its allies to a standstill. The Australian diplomat, Frederic Eggleston wrote:

It would be idle, however, to say that great problems have not disclosed themselves. If every U.N. intervention is to be followed by a war as long and costly as the Korean war, and as devastating to the country to be saved, the United Nations will break down.

...

In the circumstances, a situation has been created, which has many unsatisfactory elements in it. It can be represented as an imperialist attack on an Asian nation, and it fits in with the idea which Asian people have been taught to regard as characteristic of Western policy.³⁸

His concern was well-founded. The neutralist stand of some Asian nations towards the war was hastening the development of the Afro-Asian bloc at the United Nations. Although divided on Cold War issues the bloc achieved

³⁷ See *Current Notes on International Affairs*, Australian Department of External Affairs, Govt. Pr., Canberra; 1952, Vol.23, pp.440, 442; 1953, Vol.24, p.525.

³⁸ F. Eggleston, "The North West Pacific and the Korean War", *Australian Outlook*, Vol.7, No.2, p.111.

considerable agreement on colonial questions. Even in 1951, Australia's External Affairs Minister, Casey, noted in his diary that Asian Governments suspected the motives behind American aid and resented "strings" being attached.³⁹ In February 1952 the acceptance of Mutual Security Aid by Indonesia's Foreign Minister provoked a crisis in the Government. The Indonesian Cabinet resigned. Friendlier relations developed between China and Burma, India, and Ceylon. In March 1953 Burma announced its desire to terminate US aid under the Technical Co-operation Administration. That November, China and Indonesia signed a trade agreement; and Ambassadors were exchanged with the Soviet Union the next month.⁴⁰ One authoritative American writer on foreign affairs wrote in 1953:

But how changed the situation is now!...partly as a result of the rise of an intensely nationalistic spirit in the more backward countries, neither consideration of good business or good morals have anything like the weight they had in an earlier period - as illustrated by the growing disposition to assert the sovereign right of nationalization, with the question of compensation left completely in the air.⁴¹

On the proposal of the Ceylonese Prime Minister, Burma, India, Pakistan, and Ceylon agreed to meet and consult on matters of common interest. At the first meeting, at Bogor in 1954, it was decided to call a Conference of Afro-Asian leaders at Bandung, Indonesia, in 1955. Significantly, representatives of the People's Republic of China and the Democratic Republic of Vietnam were invited. The more pro-Western Asian Governments were not keen to attend. For example, Cambodia revealed that strong US pressure was the reason for its cool attitude. But in the event, the Conference was well attended. The Chinese representative, Chou-en lai,

³⁹ Casey, *op.cit.*, pp.29-30.

⁴⁰ *Current Notes*, "Diary of Events", 1952, 1953.

⁴¹ F. Altschul, "America's New Economic Role", *Foreign Affairs*, Vol.31, No.3, January 1953, p.399.

made a significant impact, and this helped China move closer to the rest of Asia. The overall result of Bandung was to assert the will of Asia "to be heard more attentively in the halls of world diplomacy".⁴² Of course, the Asian Governments were far from pro-Communist, but they had emphasised closer intra-Asian relations. They were unwilling to have European Cold War formulations thrust upon them. When the Brookings Institution published its assessment of US foreign policy in 1956, it concluded:

The present substantive problem arises from the fact that many states have stayed beyond the reach of an American principle of organisation while coming in various ways within the scope of American programmes of assistance. In addition, these states have increasingly shown not only the intention to act but also considerable ability in acting on a concept of sovereign independence...⁴³

The greater assertion of independence by the developing nations and the ebbing of the Cold War was increasingly calling into question US policy in Asia.

Australia also had to face up to these problems. Continued dependence on American capital investment and technology brought increasing American influence over the economy. The Government identified Australia strongly with the West, especially America. At the same time, Australia's geographical position and its wartime experiences had demonstrated that the region had a life of its own that did not always reflect Western strategic priorities. The growing desire of Asian Governments and people to eschew military alliances which diminished their independence contradicted official Australian policy. Australia risked diplomatic isolation. Pressure

⁴² G. Kahin, *The Asian-African Conference: Bandung, Indonesia, April, 1955*, Cornell, Ithaca, N.Y., 1954, pp.37-38. Other accounts of events leading to Bandung on which this section is based are G. Jansen, *Afro-Asia and Non-Alignment*, Faber, London, 1966 and R. Wright, *The Colour Curtain: A Report on the Bandung Conference*, Dobson, London, 1956.

⁴³ W. Reitzel et al., *United States Foreign Policy: 1945-1955*, Brookings Institution, Washington, 1956, p.453.

might develop to modify certain objectionable policies: White Australia, for example.

The failure of American initiatives in Indo-China did not improve the position. On 29 March, 1954, Secretary of State Dulles attempted to rouse the West by his call for "united action" to stave off the imminent French military collapse in Indo-China. Uncertain of the electoral consequences of making a sequel to Korea in Indo-China, the Australian External Affairs Minister felt unable to make any positive commitment to the United States. Britain and France declined the American offer. With obvious reluctance and resentment, the United States was forced to the negotiating table at Geneva. Its leadership had failed it.⁴⁴ Later, the USA sponsored yet another security Pact: the South-East Asia Treaty Organisation. The only full participants were the United States, Britain, France, Australia, Pakistan, Thailand, and the Philippines. To critical observers it seemed very much like a military bloc between colonial powers to shore up their possessions in Asia. Madame Pandit, the Indian President of the United Nations General Assembly, described SEATO as a "South-East Asian alliance minus South-East Asia".⁴⁵ Conscious of these criticisms, External Affairs Minister Casey and other Western diplomats highlighted the economic aid provisions in an attempt to present SEATO as something akin to the Colombo Plan.⁴⁶ These efforts were spoiled by the United States. As far as America was concerned, the Treaty was aimed at Communist aggression and nothing else, and the US Government released an official statement declaring this as its interpretation of the Treaty. This pronouncement by the principal military power participating in SEATO prompted considerable criticism of

⁴⁴ Not only did Britain and France disagree with a major extension of US involvement in Indo-China, see C.M. Woodhouse, *British Foreign Policy since the Second World War*, Hutchinson, London, 1961, p.129, but the new French Government decided to evacuate Vietnam.

⁴⁵ Madame Pandit quoted in the *Adelaide Advertiser*, 21 September, 1954, p.17.

⁴⁶ L. Webb cites Casey in his "Australia and SEATO", in *SEATO: Six Studies*, (ed.) G. Modelski, Cheshire, Melbourne, 1962, p.73.

the whole arrangement within Australia, precisely because critics feared SEATO would only further estrange Australia from its Asian neighbours.⁴⁷

Some people made more general criticisms of Cold War policies. An American visitor to Australia wrote:

It is felt by many of the most thoughtful men in Australia, although not usually publicly expressed... that Australia is forfeiting some of its independence, that while it declares itself publicly in the counsels of the British Commonwealth it is both complaisant and discreet in dealing with the US.⁴⁸

In 1954, Dr. J.W. Burton published his book *The Alternative* which was highly critical of America's Asian policies, and which proposed that Australia should take a far more neutralist stance in the region. Burton complained that:

Australia has left itself no more freedom of action than if it were a state of the American Union.⁴⁹

Burton himself had been the former Permanent Head of the Australian External Affairs Department, and his ideas were to be most influential at the 1955 Hobart Conference of the ALP. Criticism was mounting in Australia of rigid Cold War policies being applied to Asia. It was only after the defection of the Petrovs and the 1954 elections that the Government announced, in September 1954, its policy for defending Australia "in depth".⁵⁰ Defence in depth came to mean sending Australian troops to fight in Malaya, and ultimately in Indo-China.

⁴⁷ Even Casey felt the US position would be off-putting to Asian Commonwealth nations see Casey, *op.cit.*, p.182. Webb saw the Treaty being received in Australia "with no great enthusiasm", *op.cit.*, p.69 and C.P. Fitzgerald also pointed out criticism of SEATO's limitations in "Australia and Asia", *Australia in World Affairs, 1950-1955*, (eds.) G.Greenwood and N. Harper, Cheshire, Melbourne, 1957, p.227.

⁴⁸ N. Peffer, "Australia: America's Uneasy Ally", *Yale Review*, Vol.XIIV, No.3, March, 1955, p.413.

⁴⁹ J.W. Burton, *The Alternative*, Morgans, Sydney, 1954, p.75.

⁵⁰ The Defence Minister spoke before the elections only of a "long haul" for defence preparedness, April 11, 1954, but "defence in depth" in South-East Asia was only raised by him in his 28 September, 1954 statement, *Current Notes*, pp.288, 280 and 661.

III

From 1949 onwards US policy in Europe also faced increasing difficulties. In 1949 Marshall Plan aid was terminated. It was replaced by the distribution of large sums of money to be spent on a massive re-armament programme, administered under the Mutual Security Agency. The re-armament programme began when the European nations were recovering some of their economic strength. The US Congress had responded to this by imposing a more restrictive import policy and raising protective tariffs. European countries in turn looked for greater trade within their own community and discriminated against American goods. The new phase of arms production meant that a proportion of revived European industrial capacity would now have to be diverted away from goods that tended to compete with US products. In addition, Marshall aid had allowed some degree of latitude to the Europeans to determine some of their own reconstruction projects and priorities, but the Mutual Security Agency and the newly-formed NATO Pact restricted this freedom of manoeuvre.⁵¹ The continued injection of American funds into Europe for military aid was also expected to benefit the USA by helping to finance return purchases from the American market. Otherwise, the enormous dollar indebtedness, estimated at \$3,000 millions per annum, would have made European purchases from America much more unlikely. These were important economic considerations in favour of the American insistence on re-armament.

The United States had received a setback to its prestige and political influence when the Soviet Union succeeded in constructing and exploding its first atomic bomb. There was also disquiet in Europe at political trends within the United States, where the McCarran Internal Security legislation

⁵¹ R.M. Freeland, *The Truman Doctrine and the Origins of McCarthyism*, Knopf, New York, 1972, pp.325, 327, 331, 333, and also Kolko, *op.cit.*, p.453-5, and Altschul, *op.cit.*, p.396.

and the McCarthy proceedings increasingly restricted the liberties enjoyed by citizens in the heartland of the "Free World".⁵² The United States grew increasingly concerned about its position in the world. The aims of its re-armament strategy were expressed very clearly in a document presented to the National Security Council, known as NSC-68. This document, described as "one of the greatest...of our time" by the Secretary of State, stated:

...the rest of the free world lacks a sense of unity, confidence and common purpose...As we ourselves demonstrate power, confidence and a sense of moral and political direction, so the same qualities will be evoked in Western Europe. In such a situation, we may also anticipate a general improvement in the political tone in Latin America, Asia and Africa...⁵³

NSC-68 was a sign that the United States' role in the world would have to be far deeper, since American supremacy was now more actively challenged. With the adoption of NSC-68 in April 1950, the US formally acknowledged that the scope of American intervention was world wide, and that a setback to the West anywhere was a setback to the United States.⁵⁴

As US policy became more rigid and uncompromising, increasing reservations about the Cold War were expressed by leading public figures in Europe.

"Brinkmanship" described what people saw as the dangerous element in American strategy. In 1953, Churchill called for a Summit of the Big Four powers to settle outstanding questions, despite US opposition. Both Britain and France had misgivings about the extent of American involvement in the war in Indo-China. They rejected the call for "united action". Britain and America were also at odds over developments in the Middle East, a fact which was to be very publicly demonstrated during the Suez crisis of 1956.

⁵² *Round Table*, 161, December, 1950, pp.55-6.

⁵³ C. Phillips, *The Truman Presidency: The History of a Triumphant Succession*, Macmillan, New York, 1966, p.305, cites Secretary of State; NSC-68 is in *USFR*, 1950, I, p.255.

⁵⁴ *Ibid.*, p.290.

The Editor of the journal *Foreign Affairs*, published by the US Council on Foreign Relations, wrote:

It is not the average Frenchman, of course, who chalks up "Le Yankee au poteau" or the average German who scrawls "Amis go home!". Yet any recent visitor to Europe will have to testify that Americans are loved... "less than somewhat", and that great segments of the European population have taken over the role they formerly stigmatised as that of the ostrich... How often do European statesmen remind their people that without the Marshall Plan and NATO they very probably would be living today under the rule of Moscow?⁵⁵

After Indo-China, American threats to the People's Republic of China over the offshore islands and Formosa once again brought the world to the brink. Far from being enthused by this, world leaders drew back. The United States was again forced to another Summit Conference at Geneva in July 1955.⁵⁶

European Governments also resisted American requests more strongly. They were unwilling to have the United States requisition farm land from airbases; Italy, France and Spain were opposed to absorbing dependents of US Navy personnel; France rejected the American request for airbases in North Africa; and West European pressure forced a relaxation of trade embargoes with Eastern Europe.⁵⁷ In Egypt, where the Mutual Security Agency had placed restraints on the use to be made of arms it supplied, the USA was shocked by the announcement that the Soviet Union was supplying arms in return for a mortgage on the Egyptian cotton crop. As tensions grew in the Middle East, further rifts developed in the Western camp.⁵⁸ In Europe the fever-pitch of the Cold War was subsiding, and so too was the willingness of Europe to follow the guidelines of American policy.

⁵⁵ H.F. Armstrong, "The World is Round", *Foreign Affairs*, Vol. 31, No. 2, January, 1953, p. 184.

⁵⁶ Fleming, *op. cit.*, pp. 737-9, argues that the 1955 Summit came about not merely to avoid war over Formosa, but as a US concession to European dissatisfaction with the Cold War.

⁵⁷ *Ibid.*, p. 759 and G. Adler-Karlsson, *Western Economic Warfare 1947-1967*, Amqvist and Wiksell, Stockholm, 1968, p. 7.

⁵⁸ R. Engler, *The Politics of Oil*, University of Chicago Press, 1967, pp. 261-2, notes that "in many quarters charges were made that American companies (were being strengthened) in their rivalry with British oil interests".

In this situation, the development of Soviet foreign policy after the death of Stalin injected another complicating factor. Malenkov and Khrushchev became the new leaders in the USSR. They hinted that the Soviet Union might be willing to seek some sort of accommodation with the West. Malenkov's first major speech in 1953 asserted that "there are no controversial questions that could not be solved by agreement". Though it was still too early to detect major shifts in Soviet policy, David Dallin wrote that:

In one important area, however, the transition... brought real progress. The small wars and local skirmishes - Korea, Greece, Indo-china - sponsored or at least supported by Stalin were now found to be fraught with too great danger.⁵⁹

Churchill's call in 1953 for a summit with Soviet leaders was a result of his sensing changes in the direction of Soviet policy. Stalin's foreign policy lieutenant, V. Molotov was under mounting criticism. By July 1955 Western observers had detected some sign that his influence was in decline.⁶⁰ On the other hand, the power of Khrushchev as First Secretary of the CPSU was increasing. In 1955, several high-level meetings with Western leaders were arranged, and the anti-Western line of the Soviet Press was toned down markedly. Soviet troops were withdrawn from Austria, and the Austrian State Treaty was signed which established that country as a neutral power. The West German Chancellor, Adenauer, was received in Moscow amid extraordinary effusions of friendship. In the United Nations, the Soviet representative brought forward quite new disarmament proposals. The old Soviet position that all nuclear weapons should be destroyed and the conventional armaments should be reduced by one third was abandoned in favour merely of mutual inspection by the USSR and the USA of each other's nuclear weapons facilities.⁶¹

⁵⁹ D. Dallin, *Soviet Foreign Policy After Stalin*, Methuen, London, 1962, p.137.

⁶⁰ *Ibid.*, p.233.

⁶¹ M. Mackintosh, "Three Detentes: 1955-1964:", in E. Dulles and R. Crane, *Detente: Cold War Strategies in Transition*, Praeger, New York, 1965, pp.103,106.

These shifts in Soviet policy had two aspects. The first was that the Soviet Union was adopting policies which Western politicians could understand as "reasonable" and more moderate. Outright support for armed struggles in the colonial countries was abandoned, and "extreme" proposals on disarmament scuttled in favour of membership of the prestigious and elite nuclear club. The warmth expressed by Soviet leaders towards resolute anti-Communists like Adenauer cast light on the Soviet conception that "no controversial questions could not be solved by agreement". Was it possible that the Soviet leadership now believed that no differences of principle separated them from the West, but only differences for reasons of State? The famous 1956 secret speech by Khrushchev to the XXth CPSU Congress was a milestone. The proposition that war was inevitable under imperialism (the monopoly stage of capitalism) was scuttled and the concept of the peaceful, parliamentary road to socialism explicitly endorsed. Lenin's repudiation of Social-Democracy and the Second International in 1914 was overturned by Khrushchev's exhortation to Communist and Social Democratic Parties to "heal the breach in the working class". Such changes suggested that the Soviet Union might move more into line with Western capitalist norms and practices of diplomacy, and thus seek a more moderate and accommodating path. But hand in hand with this new, more moderate, aspect went a different attitude towards the neutralist and non-aligned sections of the world. In 1955 and 1956 Khrushchev warned the French and the British that the Soviet Union would use force in the Middle East to defend the Egyptian Government.⁶² Such a commitment went far beyond mere diplomatic and trade relations with Middle East nations. It was a declaration by the Soviet Union that it intended to expand its definition of areas of the world considered vital to Soviet security. Vital Soviet interests were now being

⁶² Dallin, *op.cit.*, pp.236-7.

extended beyond its own borders and those of its Eastern European allies. In particular, the development of the Soviet Navy from a coastal defence force into an ocean-going task force gave material expression to the Soviet leadership's desire that the USSR should be like other World Powers.⁶³

The new elements in Soviet foreign policy were thus both an accommodation with the West but also a real competition with it for spheres of influence. The question that thus beset Western strategists was whether to use the Soviet influence to moderate revolutionary pressures in return for some slight concessions to its influence in new regions of the world, such as the Middle East, or whether to persist with traditional methods of waging Cold War.

IV

Complex cross-currents operated in the international situation at the time of the Petrov's defection. Throughout the Cold War, the United States had striven to assert its pre-eminence in world affairs, a task made far easier by the economic weakness of post-war Europe. Because of the great development of radical nationalist and Communist ideas during the war, anti-Communism became a key tool in this assertion of American influence. In Asia, the United States faced the double difficulty of helping its European allies while providing its own solution to the anti-colonial movement. This conflict was handled ever less satisfactorily. The rise of Asian nationalism and neutralism provoked greater rigidity in the stance of the United States and its Australian allies. This naturally only increased Asian anxieties about the dangers that American Cold War policies

⁶³ The appointment of Gorshkov as Naval Commander under Khrushchev brought a new lease of life for the Soviet Navy and laid the basis for its present-day activities, see N. Polmar, *Soviet Naval Power*, Crane Russack, New York, 1974, pp.29-30, 33-4, 41.

posed for them. Especially after the Korean War, the signs increased both in Asia and in Europe that the Cold War was lessening. As the European economies revived, more independent trends asserted themselves. The shift in Soviet policies contributed to this process, as Western leaders contemplated making use of the Soviet Union for their own interests. The price for this accommodation with the USSR seemed modest. One had only to concede the Soviet Union some greater international respectability and influence.

The problem for Australia was to find an adequate response to this shifting and uncertain international position. On Asian affairs, the Government was to seek refuge in adopting a still more rigidly pro-Western outlook that was to alienate Asian opinion further. Concerning the Soviet Union, the defection of the Petrovs terminated diplomatic relations. The immediate result was described by the Melbourne *Argus*:

The diplomatic break with Soviet Russia over the Petrovs is having an astonishingly happy effect upon American-Australian relations.

...
And gone are the fears that Australia might be persuaded to follow Britain in diplomatic recognition of Communist China.⁶⁴

The Petrovs were to play an important part in helping Australia find answers to difficult international questions.

⁶⁴ *Argus*, 26 April, 1954.

CHAPTER 3

ANTI-COMMUNISM IN AUSTRALIA, 1945-1954

In his memoirs, Sir Robert Menzies recalled that in 1954

...an increasing number of Australians...
were beginning to discount political attacks
on Communism and to treat them as theoretical
or dogmatic...¹

Opinion was divided over what attitude ought to be taken towards Communists in public life. Within the trade unions and the Australian Labor Party there were bitter disputes about the proper role and tactics for anti-Communist groups. The experiences from 1945 to 1954 determined these problems. At the end of the Second World War, Australians had high expectations of the peace and were prepared to take direct action to realise them. Increasingly, Governments and employers responded harshly to this. They blamed the Communists for the disruption and turmoil and claimed that the Australian Communist Party was merely the local end of an international conspiracy designed to establish Soviet domination of the world. The actual role and behaviour of the Communist Party therefore needs to be established. So too does the role of the United States in Australia, because it was accorded a leading role in defending the Australian social order. American action against Communism went hand in hand with its growing economic interests. The main thrust against Communism was directed against its influence in the trade unions and the working class, although this was

¹ R.G. Menzies, *The Measure of the Years*, Cassell, London, 1970, p.196.

supplemented by a campaign to isolate and render ineffective Communists in public life. Because of the special role played within the trade unions by the ALP Industrial Groups, which bore the brunt of the fight against the Communist Party, their influence and the forces within them will be described. By 1954, problems in Australia's international position were a backdrop to emerging conflicts over internal policy.

I

For the civilian population at home and the soldiers returning in 1945, there was an anxious determination that the world should neither go to war again nor that it should plunge into another slump like that which beset the Australian economy after the Great War. Most people had suffered through the indifferent economic climate of the 'twenties and the protracted depression of the 'thirties. Unemployment had been a constant feature or threat to everyday life; wages had been cut in the depression by at least ten per cent. Wartime sacrifices had been made tolerable only by the prospect of a new economic order in the peace which would provide jobs and prosperity.² Sensing this mood, perhaps also sensing the popular appeal of socialism which the victories the Red Army had done so much to enhance, the Australian Government established the Department of Post-War Reconstruction and put forward the thesis of 'full employment' within the capitalist economy. This vision inspired the 1944 referendum for a wide range of greater Commonwealth powers. Many new public works were undertaken and new social service payments introduced. This was one response to the desire to build an Australia worth fighting for. The vast Snowy-Mountains hydro-electricity and irrigation project, for example, was envisaged as a basis for a new wave of industrialisation in whose benefits, it was said, all would share. The immigration programme was launched to provide a ready

² J. Hagan, *Printers and Politics: A History of the Australian Printing Unions 1850-1950*, ANU Press, Canberra, 1966, pp.273-4. See also *Round Table*, "Fissures Among the Trade Unions", No.142, March 1946.

labour-force. But at the same time, it was by no means certain that these reforms would achieve what was claimed for them. The 1944 'Powers Referendum' had failed. There was considerable anxiety that the booming war economy would inevitably swing downwards into a slump. This fear was sufficiently widespread to provide a reason why workers were determined to take what advantage they could of temporary post-war labour shortages to force employers to restore lost wages and conditions, and, if possible, to grant further concessions as a store against an uncertain future.³

For all its promises of a better life after the war, the Federal Chifley Labor Government rigidly opposed wage increases. It sought to maintain for as long as possible wartime wage-pegging regulations. These made it illegal for workers to seek and employers to grant wage rises. At the end of 1945 major strikes took place in the steel, coal, and shipping industries, particularly in New South Wales. In private conference with union leaders, Chifley reflected the harsh mood of the Government when he threatened to call out the armed forces to maintain production and resist wage demands.⁴ But the pressure continued, and the Government conceded amendments to the regulations, but still refused to abolish wage controls altogether "until economic circumstances return to normal". In May 1946, the Arbitration Court began hearing the first of a two-part case into the forty-hour week and the revision of basic wage rates. So protracted did the hearings become that it was obvious by that October that no result could be expected until 1947. Strikes broke out in the transport industry, with a ten-day strike in Victoria leading the way. In early December, gas-workers went on strike throughout most States of Australia, whilst the ironworkers and engineering unions succeeded in resisting a lockout in the Victorian

³ One reflection of this view was E.P. Dark, *Who Are the Reds?*, Sydney, private, 1946, p.112.

⁴ L.F. Crisp, *Ben Chifley: A Biography*, Longmans, Melbourne, 1961, pp.355-6.

foundries begun by the employers in November. Only after this was the Government finally forced to abandon wage-pegging. The Arbitration Court granted an immediate 7/- per week rise in the basic wage and declared its approval in principle of the forty-hour week, although it suspended further hearings on the matter. It was obvious to observers that the Prime Minister and his Cabinet were dragging their heels in bringing about improved wages and conditions but that this reluctance could be overcome.⁵ The determination and capacity of the workers to back up their demands forced through the recognition of the forty-hour week, increased shift rates, increased annual leave, and, for the first time, penalty rates for weekend work.⁶ Although it was the traditionally militant unions that carried the weight of these campaigns and which had the tactical experience to help bring them to a successful conclusion, the upsurge of militancy extended beyond them into many other unions and workplaces. Quite independently of the wishes of trade union leaders or Communist Party officials, the pressure of stored-up grievances and dissatisfaction, stretching back well before the war, was being released. The labour market afforded favourable conditions for such economic struggles.⁷

From about late 1947 and early 1948, a new stage began. Employers and both Labor and non-Labor Governments began to adopt a much more intransigent and uncompromising attitude to workers' demands that they had before. Though there were still successful industrial struggles, the price of success was greater. At the same time, the argument was put forward that the workers'

⁵ *Round Table*, "Australia: After the Elections", No.146, March 1947, pp.190-3.

⁶ J. McPhillips, *Act Now to Defend Living Conditions*, Current Books, Sydney, p.4, summarises a former Communist trade union official's view of the period.

⁷ *Manufacturing and Management*, 15 January 1947, p.286 pointed out many of the causes of employee discontent, as seen by employers. Its issue of 15 November, 1947 pointed out the favourable conditions for workers, p.137.

militancy was the result of Communist manipulation of the trade unions, and that the Communist Party was deliberately creating industrial chaos as a prelude to a seizure of power.⁸ Later writers have reflected something of this argument by charging the Communist Party with "adventurism" and therefore with bringing the Cold War down upon its own head.⁹

The very bitter Queensland railway strike has been cited as an example of this "adventurism", where the Communist Party allegedly provoked a strike against the State Labor Government to deliberately discredit it.¹⁰ The facts of the strike do not accord with such arguments, but demonstrate that it was the Queensland Government of Premier Hanlon which set events in motion. The State Government refused its railwaymen the increase in margins that had been awarded by the Federal Court. A final offer was made to them which, in the case of fitters, turned out to be 5/6 less per week than was offered for comparable work by private firms in Queensland. In compliance with Queensland industrial law, the Engineering Union - itself not Communist-led - ordered a secret ballot of members. It obtained a 10:1 majority in favour of strike action. The Government then escalated the conflict by obtaining a Court order to stand down 14,000 of its transport and railway workers. It was this action which then involved the Communist-led unions and Trades and Labour Council. Premier Hanlon introduced the Industrial Law Amendment Act which gave the police powers to break up pickets and protect non-union labour. A State of Emergency was declared, and the police were permitted to set upon a large procession of workers on St. Patrick's Day, who were protesting against the Government. Many were assaulted, and

⁸ J. Williams, "State of the Nation: The Communist March to Power, *Twentieth Century*, Vol.1, No.4, June 1947, presents one picture; profound anxiety was expressed by C.D. Kemp and Sir Walter Massey-Greene in their correspondence 1-7/9/47, Director Correspondence 1944-47 - W.M. Greene, Institute of Public Affairs, Melbourne.

⁹ For example J.D. Playford, "Strategic and Doctrinal Problems of the Communist Party of Australia", unpub. Ph.D., ANU, 1962, pp.95-105.

¹⁰ *Ibid.*, p.95, also *News-Weekly*, 24 March 1948, p.1.

the Communist MLA, Fred Paterson, was admitted to hospital with head injuries. In Canberra, Chifley made sure workers stood down could not receive unemployment benefits. Ultimately, it was the blockade on Queensland ports by waterside workers and seamen, together with the good organisation of the Railways Union and the TLC, which brought the Government to surrender. After the strike settlement had been negotiated and agreed upon, the Queensland Railways Commissioner injected some adventurism of his own by announcing that he would refuse to accept the agreement. Prompt threats of continued stoppages forced him to comply. It is extraordinary that such events could lead to the conclusion that here was an example of Communist "adventurism" or preparation for a coup. Indeed, it was the Commonwealth Council of the Engineering Union, on which Communists were represented, which called upon the ALP-inclined Ipswich branch to be less militant and more conciliatory.¹¹ If anything, the Queensland strike shows that it was the Government which provoked the strike and escalated it to create an atmosphere of crisis as a justification for extreme measures. Nonetheless, there was now considerable bitterness between the ALP and Communist Party, and the extent to which a Labor Government was prepared to go to resist wage increases was clearly demonstrated.

There were definite reasons for the shift in employer and Government attitudes that were quite distinct from the issue of Communist Party tactics. The change was not capricious but based on a reasoned estimation that the promises made in the heady days of post-war reconstruction could not be fulfilled. The long depression years and then the cracking pace of wartime industry had meant a great run-down and wearing-out of capital stock and equipment in factories and public utilities. At the same time, the

¹¹ The principal source used here is T. Sheridan, *Mindful Militants: The Amalgamated Engineering Union in Australia 1920-1972*, Cambridge University Press, 1975, pp.179-181; also M. Cribb, "State in Emergency" in J. Iremonger et al., *Strikes*, Angus and Robertson, Melbourne, 1973; and E.A. Bacon, "Hanlon Can't Cow Queensland Workers", *Communist Review*, 80, April, 1948.

dislocation and disruption of production in post-war Europe and the UK meant that replacement stocks were in short supply or simply unobtainable. American sources of supply were very much restricted by import regulations imposed to maintain the solvency of the Sterling Area, of which Australia was a member. Only the most essential dollar imports were permitted. The restructuring of the Australian economy begun during the war added another dimension. Basic industries such as steel manufacture and fabrication, chemical industries, and rubber industries had developed whilst lighter, non-essential production had been scaled down. Shortages in the erstwhile non-essential sector compounded the backlog of public works and housing projects.¹² Increasingly, employers believed that short of forgoing their own profits to finance the improvements in post-war living standards, the only alternative for them was to impose greater demands and discipline within the factories. The introduction of more machinery per worker employed was foreshadowed, along with more modern assembly-line labour management techniques: bonus systems, incentive schemes, and productivity deals with the unions. The purpose of these measures was to extract greater productivity from workers. The employers' requirements were not compatible with the mood of industrial militancy in the working class and its determination to achieve long-delayed concessions and reforms. Nor was it compatible with the reluctance of trade union officials to dilute traditional, pre-war demarcation lines.¹³ Of all the manufacturing establishments, it was particularly the American-owned ones that led the introduction of greater machinery per head into factories than Australia had previously known. For them, a harsher, more uncompromising attitude in industrial relations was

¹² See N. Butlin, "Perspectives of Economic Development, 1890-1965" in C. Forster (ed.), *Australian Economic Development in the Twentieth Century*, Australasian Pub. Co., Sydney, 1970; also *Manufacturing and Management*, 15 November 1948, p.137.

¹³ C.H. Grattan, "Australia's Menzies - Friend in Need", *The Reporter* (USA), Vol.3, No.6, 12 September 1950, p.25, spoke to Australian officials about these matters, see also Australian Institute of Management, Bound volumes of Lectures, AIM Library, Melbourne, 1943-1949.

all the more necessary.¹⁴ Yet in a period of labour shortages it was not an easy matter for employers to maintain uncompromising attitudes. If militant workers could not be excluded from the workforce through unemployment, they had to be politically isolated from their workmates. The Cold War provided a vehicle to equate industrial struggles by workers with Communist conspiracy and treason. It offered a means of containing the radicals.¹⁵ These material reasons for the swift-growing embrace of the Cold War amongst employers were essentially separate from the role of the Communist Party.

Analysis of the Communist Party's development and attitudes suggests that it had been rather moderate. During the war it had become an extremely active and sizeable party of about 20,000 members. It had vigorously supported the war after July 1941, and had attempted to develop a consciously Australian image. The Party considerably relaxed the ideological demands it made upon recruits, with the result that many saw joining the Party as an almost respectable means of helping the war effort but had little conception of the effort and self-sacrifice that was to be required of them in the years to come. The Communist Party was not very clear about the strategy or the tactics of bringing socialism to Australia. During the war and immediately afterwards, an attitude prevailed of unity with the

¹⁴ A. Waterman, *Economic Fluctuations in Australia, 1948-1964*, ANU Press, Canberra, 1972, pp.68, 76, 107-8; the Institute of Management was greatly influenced by American techniques - General Motors played a leading role in setting it up and American lecturers and experts conducted seminars see note (13).

¹⁵ The Melbourne Chamber of Commerce journal, *Record*, June, 1950, ran an article on Communists "They Sap Nation's Strength"; leading Collins House figure W.S. Robinson wrote to Brendan Bracken, 17 March 1948, Robinson MS, Melbourne Uni. Archives, voicing his concern about Communist activity in Australia; and the Chief Inspector of the National Bank favoured Mr. Eric Butler of the League of Rights speaking at factory meetings and added that "highly reputable business organisations" were assisting the league to combat socialism, Ray-C.D. Kemp, 25/8/1948, Directors Correspondence, J-Z, 1944-49, IPA.

Government and the ALP, almost to the complete exclusion of an independent role. In fact, the Party very nearly adopted the ideas of the American, Browder, who argued that peaceful compromise and harmonious conciliation would be possible between Communists and the owners of American monopoly capital.¹⁶ Part and parcel of this trend was the idea that some kind of organisational, and possibly ideological, amalgamation could be achieved between the ALP and the Communists. When the Communist Party became involved in the big strikes of the post-war years, after having acted to oppose strikes during the war, the change may have appeared to some people as the herald of a deep-laid scheme. Nevertheless, working days lost in the post-war strikes were less than, for example, in the USA where trade unions were led by non-Communists.¹⁷

Communist Party pronouncements displayed alternating fluctuations between the temperate and the ultra-left. The expectation that the economy was headed for another slump similar to 1921 was quite common. Some leading Communists, who faced the mounting anti-Communism of the ALP and its affiliated trade unions, hoped that a test of strength on the industrial front would finally consolidate the Communist Party as the dominant political force among the workers. Economic struggles should be used to expose the anti-working class political character of the ALP, it was argued. After the experience and the success of the Queensland rail strike, such ideas gained strength.¹⁸ But for all that, the Communist Party was not essentially a Party of the ultra-left. Many of its leading office-bearers were also

¹⁶ L.Churchward, "The American Influence on the Australian Labor Movement", *Historical Studies*, Vol. 5, No.19, November 1952, p.277 and F. Nolan, *You Pass This Way Only Once*, Colonial Press, Brisbane, 1974, p.113.

¹⁷ J. Kuhn, "A Note on Communists and Strikes in Australia", *Political Science Quarterly*, Vol. LXX, No. 1, March 1955, pp.103-4; cf H. Weiner, "The Reduction of Communist Power in the Australian Trade Unions : A Case Study", *Political Science Quarterly*, Vol. LXIX, No. 3, September 1954.

¹⁸ See J.D.Blake, *Communist Review*, 81, May 1948, p.137; and R. Dixon, "Building the People's Mass Movement", *Communist Review*, 82, June 1948, and also No. 92, April 1949.

prominent trade union officials, and the Party experienced divisions between the 'political' and 'industrial' wings, where the possible defection of a disgruntled union leader from the Party exercised an important restraint.¹⁹ The Communist trade union leaders cultivated an image of themselves as efficient, honest trade union officials, an image that may have been true to life but which was also projected on to the Party. The Party was seen as an 'efficient trade union Party', rather than a vanguard dedicated to the overthrow of the whole wages system and consequently to a break with orthodox trade union politics. Communists involved in the trade unions were often exhorted to "be good advocates" before the Courts. Even when one of them, McPhillips, was gaoled by the Arbitration Court for contempt under legislation brought in by the Labor Government, The Communist trade union leadership took little effective action.²⁰ In the 1949 coal strike, one observer noted that the Communist officials were prepared to call off the strike but the ALP officials were not.²¹ When put to the test, the Communist Party was unready and unprepared to carry through the challenge to the ALP about which it had spoken.

The Communist Party's weaknesses were seized upon by its opponents in the Cold War. The most important of these concerned its relationship with the Soviet Union and the Soviet Communist Party. The Soviet Union asserted the right to lead the international communist movement, and handed out advice very freely to fraternal parties. According to former members, the Australian Communist Party did not prize independent thinking by the rank and file, and as one former official put it:

¹⁹ E.F. Hill, *Looking Backward : Looking Forward*, Melbourne, 1968, pp.110-1, 116.

²⁰ Interview with C. McCaffrey, former NSW and SA Federated Ironworkers' Association official.

²¹ K. Tennant, *Evatt : Politics and Justice*, Angus and Robertson, Sydney, 1972, pp.251-2, on the recollection of J. Ormonde, officer with the Joint Coal Board.

We ... tended to think somehow that the success of socialism in Russia had solved our problems. Communists tended slavishly to copy all the moves by the Soviet Union. ... Inevitably we were caught in situations quite unreal for Australians. We appeared to be a Russian²² party and an instrument of Soviet foreign policy.

Cold War attacks on the Communist Party constantly hammered out the message that not only did the Party appear to be an instrument of Soviet foreign policy but that it was. It was then a short step away to claim that Communism in Australia *per se* was alien and Communists disloyal.

The reliance placed by the Communist Party on its trade union officials was another weakness. An enormous importance was attached to the election of publicly-proclaimed Communists to positions in the trade union hierarchy. The difference between the efficient administration of union affairs and the development of socialist consciousness amongst workers was blurred over. The emphasis on official positions meant insufficient account was taken of rank-and-file workers. Boasting that nothing went on in trade unions led by the Communist Party without the knowledge and approval of its Central Committee provided ready ammunition for critics to claim that union affairs were being controlled by people who knew little of the conditions of their members.²³

All these distinct forces locked together in the 1949 Coal Strike. On June 27, twenty-three thousand miners stopped work. There is no doubt that miners in the key areas of New South Wales fully backed the strike. Their demands were for long service leave, a 35-hour week, a 30/- weekly wage increase, and proper amenities in the pits and in the towns; and they were determined to achieve them now before the expected depression made it too late. The Communist Party believed that workers were growing disillusioned with Labor's

²²E.F. Hill, *Class Struggle Within the Communist Parties*, Melbourne, 1977, p.38.

²³The remark was made by Thornton of the Ironworkers, see *Bulletin*, 5 December 1978, p.52.

failure to implement its programme of reforms. It hoped that by breaking decisively with the ALP on an industrial issue the workers would be won over politically. Party members had been braced for a confrontation. The ALP was under attack for being too close to the Communists, and prominent members were eager for an opportunity to demonstrate their strident anti-Communism in practice. Within two days of the strike, Dr. Evatt brought in the National Emergency (Coal Strike) Bill to prevent strike relief being paid to miners by any organisation, including the Miners' Federation. Eight officials were sent to prison for failing to hand over union money to the court. A great propaganda campaign began. Full-page advertisements appeared in the Press, in which Chiefley denounced the strike as disloyal. Labor Party officials and Parliamentarians went to the coalfields to persuade the men to return to work, claiming that the strike was entirely a product of Communist manipulation. The Communist leadership of the Miners' Federation was cited in support of this claim. The politicians' pleas fell on deaf ears; even staunch Labor supporters criticised the Government. At the end of a fortnight, industry was closing down and a million people were unemployed. The New South Wales Railways Union, supported by the ACTU and the NSW Trades and Labour Council, decided to pick up coal that the Miners' Federation had declared "black". Still, miners voted to continue the strike by overwhelming majorities in most centres. On 27 July, Chifley announced that the armed forces would mine the coal, which they began to do on August 1st. Only under this extreme pressure, did the miners' resolve splinter. Unprepared for such drastic measures, the miners voted to return to work.²⁴

²⁴ P. Deery, *Labor in Conflict : The 1949 Coal Strike*, Hale and Iremonger Sydney, 1978; also R. Gollan, *The Coalminers of New South Wales : A History of the Union 1860-1960*, Melbourne University Press, 1963, pp.231-5. The anti-Communist advertisements authorised by Chifley were cited by the Menzies Government in 1950 in support of banning the Communist Party, *CPD*, H. of R., Vol. 207, 1950, p.2002.

There was great bitterness in the defeat of the Coal Strike. Miners had seen the ALP and trade union officials act against them in a way they had previously thought only conservative Governments and employers would do. The Miners' Federation was weakened, and its power further declined with the introduction of open-cut mining and mechanisation in the coal fields. The Communist Party at first sought to expose the role of the ALP, but shortly afterwards this line was denounced as "left sectarian".²⁵ It reverted to its earlier stance of seeking unity with the ALP, almost at any price. The Labor Government was defeated at the December 1949 elections, for which many blamed the coal strike and the Communists. Out of all this, it is important to stress several things. There would have been no coal strike without the clear support of rank-and-file miners. Whatever charges may be laid against the Communist Party, they must take account of the central fact that miners supported the strike and continued to do so despite a barrage of propaganda. To see them as mere pawns of the Communist leadership of the Miners' Federation is to disregard their own reasons and understanding for the dispute. Also, the coalfields were changing along with rest of industry in Australia. To implement these changes, the coal companies had to face up to the militancy of the miners and the union, and so a confrontation at some stage was extremely likely irrespective of the role of political parties. Finally, there was a mood of confrontation in the Communist Party towards the ALP, but against this must be set the hostility of the ALP towards the Communists, as evidenced in the Queensland rail strike. To see this flashpoint of the Cold War in Australia solely as the product of Communist adventurism is to ignore the meshing together of important and distinct factors.

II

Anti-Communism derived its strength from the confident assertion of American supremacy throughout the world. Increasing American economic involvement

²⁵Hill, *op. cit.*, 1968, p.59.

in Australia brought increasing political involvement. This also shaped the Cold War in Australia.

American business and diplomatic interests had contemplated vigorous expansion in Australia for a long time. The war in the Pacific and the collapse of British power in the region provided the opportunity. American troops came to Australia, an American Supreme Commander controlled the South-West Pacific Area, and Australia became a military supply base for American forces. During the war American businessmen came out to Australia, in the guise of military officers, to assess and to regulate Australia's industrial potential and natural resources for future investment.²⁶ But when the American armies went northwards into Asia and across the English Channel into Europe, American initiatives were concentrated elsewhere. The Australian Government was relieved of the direct American pressure flowing from occupation of the country, and it took a more assertive, independent role. Peace-time renewed relationships with the UK that competed with American influence. Trade with the United States fell, whilst that with the UK rose strongly again. The revival of the British market for Australian exports also re-asserted the British connection in international currency and exchange policy. To avoid placing an excessive strain on the Sterling Area dollar pool, Australia was obliged to restrict imports from the USA and dollar area countries, and to adopt a more cautious attitude to American investments which might drain away too many dollars in profits from Australia back to the USA.²⁷ Because of these restrictions, American manufacturers feared losing markets in Australia once British industry revived. They sought to establish themselves behind the tariff wall and so avoid import

²⁶ Dunn, *loc.cit.*, pp.8-9, 17-18.

²⁷ UK-Aust. trade see J. Vernon et al, *Report of the Committee of Economic Inquiry*, Commonwealth of Australia, Melbourne, 1965, Vol. 2, pp.1001, 1017; and Sterling problems, B. Thomas, "The Evolution of the Sterling Area and Its Prospects", in N. Mansergh (ed.) *Commonwealth Perspectives*, Durham, NC, 1958, pp.193-5.

restrictions through direct local investment. An important American foothold was provided by their supply of technology and replacement parts for basic industries that had developed in the war. As part of the American determination not to be excluded from a new market, established firms -- Ford, Chrysler, International Harvester and General Motors -- increased their capital invested here.²⁸ General Motors was able to do this at very little cost to itself, because the Chifley Government, eager to establish a stronger manufacturing base for its 'full employment' scheme, intervened on General Motor's behalf. The Government not only promised to abstain from producing automobiles itself, but also arranged investment capital from local Australian-based institutions to finance the company's operations. General Motors was assured profits without investment risks.²⁹

The proportion of American capital inflow increased. By 1953, out of the £230 millions that had entered the country, the majority was estimated by Professor Gates to be from companies with "North American ties".³⁰ Both Labor and Liberal Parties repeatedly expressed their desire for American investment. But for the Labor Government the problems of the international monetary crisis loomed large. It was wary of imposing additional debt burdens on the country in the unpredictable post-war situation, and Chifley went so far as to redeem and convert all of Australia's outstanding London loans. He was also extremely reluctant to raise new Government loans in

²⁸ D.T. Brash, *American Investment in Australian Industry*, ANU Press, Canberra, 1966, pp.21-23, 26, 36-40; see also M. Wilkins and F. Hill, *American Business Abroad : Ford on Six Continents*, Wayne University, Detroit, 1964, pp.357, 401.

²⁹ L. Hartnett, *Big Wheels and Little Wheels*, Lansdowne, Melbourne, 1964, pp.177-81, 183-7; A. Sloan, *My Years with General Motors*, Doubleday, New York, 1964, pp.338-9.

³⁰ R. Gates, "Australian Taxation and US Investment", *Australian Outlook*, Vol. 7, No. 4, December 1953, p.237.

the American money market.³¹ A double tax agreement with the United States, whereby nationals of each country would be exempt from taxation twice over on their property and profits, was held up by the Australian Government. It was apparent that the American side would be the chief beneficiary because Australians had little stake in property or investments in the United States. While certain nationalistic sentiments may have reinforced Chifley's reluctance to raise American finance and Evatt's stalling of the tax agreement, it should be remembered that the effect of either of these measures would have created a further drain on the Sterling Area dollar pool.³² This consideration was only able to assume less importance for the Menzies Government, because the oil companies made special arrangements with Sterling Area countries in 1950 that reduced the drain on dollar resources caused by oil imports. This meant Menzies was able to implement his 1949 election promise to end petrol rationing.³³

The divergences with America in international affairs, the difficulty in reaching agreement on double taxation, and the failure to sign a Treaty of Friendship, Commerce and Immigration between Australia and America, prompted American anxieties that the Labor Government was not entirely trustworthy. This sentiment had been given further impetus by the divisions in the ALP over whether Australia should join in the Bretton Woods international monetary agreements. Chifley had considerable difficulties in procuring his party's acquiescence. Divisions in the Labor Party and reservations in the trade unions about United States foreign policy and

³¹ T.R. Reese, *Australia, New Zealand and the United States : A Survey of International Relations 1941-1968*, Oxford University Press, London, 1969, p.77.

³² Compare answers given in Parliament by Chifley and Evatt, *CPD*, H. of R., 22-23 September, 26 Oct., 1949, pp.514, 548-9, 2014 with US Government views, *USFR*, 1949, I, p.790; 1950, I, p.685; 1948, I part II, pp.951-2.

³³ Crisp, *op.cit.*, pp.312-4.

economic ambitions were sometimes misconstrued by American business figures as "socialism". They were also systematically represented as "Communist-influenced" to visiting Australians like Arthur Fadden and Lloyd Dumas.³⁴ American observers largely did not or chose not to understand that the electoral links between the ALP, the trade unions, and the working class in Australia obliged the party to preserve its 'labor' and 'socialist' rhetoric, even though it administered a capitalist social system. The US State Department disliked Dr. Evatt for his attempt to play the part of leader of a 'third force' in international affairs.³⁵ Rumours were circulated in Washington about the officers of the Department of External Affairs under Evatt and the Permanent Head, Dr. Burton. Allegations of communist or socialist leanings were made against certain individuals; inspired 'leaks' appeared in the Australian Press about a security problem within the Public Service. Under considerable American pressure, a British MI5 team was sent out to Australia to investigate the possibility that people employed in Evatt's Department were supplying information to the Soviet Union. These inquiries did not lead to any prosecutions, but they stimulated the formation of ASIO.³⁶ The Department of External Affairs itself was not communistically inclined. It had expressed a limited desire to see Australia adopt a more independent foreign policy in the region, and it had disagreed with some American policies, most notably in its support for Indonesian independence. This of course was hardly Communism. It is worth recalling that Dr. Burton himself sought the founding of the *Northern Territory News*, so that overseas visitors arriving in Darwin as their first

³⁴ Alfred Sloan of GM on "socialism", Hartnett, *op.cit.*, p.177, *Business Week* 1060, 24 December 1949, p.53; A. Fadden, *They Called Me Artie*, Jacaranda, Brisbane, 1969, p.97; L. Dumas, *The Story of a Full Life*, Sun Books, Melbourne, 1969, p.147.

³⁵ *USFR*, 1950, VI, pp.189-90.

³⁶ N. Whitlam and J. Stubbs, *Nest of Traitors : The Petrov Affair*, Jacaranda, Brisbane, 1974, pp.20-21, 27.

landfall in Australia would not feel obliged to buy the radical newspaper published by the Communist-led Northern Australian Workers' Union.³⁷

The hesitations of the Government about commercial and financial dealings with the United States and its more assertive foreign policy were represented as affronts to a friendly power, and thus, by association, as signs of the influence of Soviet Communism on the ALP. The United States was pleased with the replacement of the Chifley Government by that of Mr. Menzies.³⁸

Apart from official dealings with the Australian Government, the main thrust of American political activities was directed at the working class, from which the most substantial opposition to American policies could be expected. Wherever the United States sought to develop a more friendly climate and wherever its influence was increasing, US Government and semi-Government agencies concentrated a great deal of attention on labour relations. The State Department appointed Labor Attaches to gather information on the trade unions and to undermine or circumvent trade union industrial or political struggles. Tactics to this end were devised in concert with the CIA, the Mutual Security Agency, or Economic Co-operation Administration.³⁹

One former Labor Attache wrote:

Labor, in short, has become of major concern to foreign policy and thus to the Foreign Service, particularly since its recognition as the central non-military area of conflict in the current efforts to counter and thwart the aggressive machinations of communism.⁴⁰

³⁷ D. Whittington, *Strive to be fair : an unfinished biography*, ANU Press, Canberra, 1977, p.108.

³⁸ *USFR*, 1950, IV, pp.189-90; re affronts to US see *CPD*, H. of R., 22 September, 1949, p.514.

³⁹ *Business Week*, "Labor Salesmen for U.S.", 26 January, 1952, on Labor Attaches.

⁴⁰ J.C. Fuess, "My Two Years in Labor", *Foreign Service Journal (US)*, Vol. 30. No. 6, June 1953, p.22.

Concerning Australia, the United States Department of Labor was upset at the role played by Communist-led unions in obstructing the introduction of incentive pay schemes and in closing union membership books to maintain a demand for labour.⁴¹ The first Labor Attache appointed to Australia was Herbert Weiner, also an agent of the CIA.⁴² The American objective was to use the trade unions as instruments in countering nationalistic or communist sentiments amongst workers. One aspect of this were the steps taken to see that the ACTU and its affiliated unions formed links with the American-sponsored International Confederation of Free Trade Unions (ICFTU). The ICFTU was created after the Western trade unions withdrew from the World Federation of Trade Unions (WFTU), because the WFTU had opposed the Marshall Plan. The ICFTU was seen in the United States as a major weapon in promoting the international struggle against Communist influence. American corporations were asked to assist the task of promoting this 'free labor movement'. The Far Eastern representative of the American Federation of Labor, whose international activities were highly valued by the American Government, wrote to AFL President George Meany that ICFTU unions were used:

...to choke off rebellious Communist and/or national unions...and to divert nationalist aspirations into activities which were non-political.⁴³

The ACTU imposed sanctions against trade unions which maintained WFTU links.⁴⁴ In Australia where the trade union structure was already a well-established part of the industrial relations process, the sympathy of particular trade

⁴¹ A.S. Fitter and M. Smith, "Australia's Labor Problems and Policies", *Monthly Labor Review*, US Dept. of Labor, Vol.73, No.1, July 1951, p.29.

⁴² J. Mader, *Who's Who in the C.I.A.*, Berlin, 1968.

⁴³ J.C. Goulden, Meany, Atheneum, New York, 1972, p.134; re ICFTU see D. Dubinsky, "Rift and Realignment in the World Labor", *Foreign Affairs*, Vol.27, No.2, January 1949, and his article "World Labor's New Weapon", in Vol.28, No.3, April 1950.

⁴⁴ For example against the Seamen's Union, *Age*, 3 July, 1954.

unions in key sections of industry was of special value to employers.

The catholic-based "Movement" received direct US Government assistance for its propaganda work in Australia,⁴⁵ most of which was aimed at workers.

It was clearly much more effective to have trade union officials, who could represent themselves as being of the workers, carry on the fight against Communism than to conduct company-sponsored lectures in workers' lunch hours by officials from the League of Rights.⁴⁶ Trade union officials could also help remove radical shop-floor workers from the job through their greater knowledge of and closer proximity to the workforce.

The broader area of intellectual and public opinion was not neglected. Just as in the industrial sphere, here too American policy sought native voices to promote sympathy for the USA and to advance anti-Communism. Although the official United States Information Service (USIS) had a place in developing an appropriate climate of opinion, the work of voluntary and local agencies had a better chance of overcoming national resistance to official US Government material. Therefore great value was placed by the United States on the indirect dissemination of American-inspired material through local people and organisations. As the State Department put it:

Even the friendliest government will not welcome or long support a heavy influx of information materials and personnel bearing the label of the US Government...This means the maximum utilisation of local personnel, the provision of equipment and materials to indigenous organisations, including governments...⁴⁷

The Australian-American Association worked assiduously at this task through conducting shop-window displays, sporting fixtures, children's rallies,

⁴⁵ J. Warhurst, "US Government Assistance to the Catholic Social Studies Movement, 1953-1954", *Labour History*, No.30, May 1976.

⁴⁶ See note (15).

⁴⁷ *USFR*, I, 1950, "The Foreign Information Programmes", p.459.

and so forth. The Association was originally set up by the leading newspaper proprietor Sir Keith Murdoch and other prominent industrialists who had developed links with American business interests. It placed special emphasis on the American role in 'saving Australia' from the Japanese. Memorials were erected to commemorate the Battle of the Coral Sea, and in front of the Defence Department in Canberra a huge monument surmounted with the American eagle was opened in 1954.⁴⁸

The Congress of Cultural Freedom established an Australian branch in 1954. Founded in Berlin to publish magazines and organise international speaking tours by prominent intellectual anti-Communist figures, the Congress and its Australian affiliate received continual injections of CIA funds. The Congress worked at organising Right-wing opinion and disrupting the Left.⁴⁹

III

The Cold War in Australia unfolded in the context of American expansion into Australia and with covert assistance from the United States Government. This did not mean that historical actors were mere puppets or that the sources of intensifying anti-Communism were the sole preserve of the US Government. The Cold War was chiefly promoted in Australia by the Catholic Church, the Labor Party, and Government.

Within the trade unions and amongst workers, the anti-Communist shock troops were the Industrial Groups. The Groups were given ALP recognition and sponsorship in New South Wales in 1945, Victoria in 1946, and Queensland in 1947. Their official purpose was to propagate ALP policy within the trade

⁴⁸ N. Harper (ed.), *Pacific Orbit: Australian American Relations Since 1942*, Cheshire, Melbourne, 1968, Appendix, pp.244-50.

⁴⁹ H. Trevor-Roper, "Congress for Cultural Freedom", *Meanjin*, Vol.XIII, No.4, Summer 1954; H.McQueen "The CIA's Operation Culture", *Nation Review*, 5-11 May, 1977, The National Library CCF files were also consulted, but are now, unfortunately, closed to public access.

unions and to wrest control away from the Communist Party. The Industrial Group in each union preselected candidates for elections and organised its followers against the Communists. The Groups had their origins in a small organisational core established in 1942. Their growth was nurtured by high-ranking ALP union officials. Arthur Calwell assisted as Federal Minister for Information by seeing that the mouthpiece of the Groups, *Freedom* (later *News-Weekly*), obtained wartime rations of newsprint.⁵⁰ As the Groups developed, alliances were formed with more traditional ALP power blocs - the staunchly anti-Communist Australian Workers' Union, and other trade union officials who feared the Communist Party might capture more leading positions in peak trade union bodies like the ACTU and metropolitan Trade Hall Councils. The activities of the Groups complemented the harder line taken by the Labor Government against agitation for improved wages and conditions.

Yet although the Groups bore the style and title of the Labor Party, their ideological and organisational powerhouse was the Catholic Social Studies Movement under the direction of B.A. Santamaria. The Roman Catholic hierarchy established and assisted the Movement. These facts were well-known only in the higher councils of the ALP and trade unions. Extremely few workers realised the full extent to which the Movement lay behind the Groups, although suspicions certainly existed.⁵¹ A number of important intellectual strands were interwoven with the Movement. The first was its staunch pro-American stance and its support for American foreign policy. Movement leaders were very quick to perceive and denounce the slightest

⁵⁰ B. Santamaria, *The Price of Freedom: The Movement After Ten Years*, Hawthorn Press, Melbourne, 1966, p.59; also D. Rawson, "The ALP Industrial Groups: An Assessment", *Australian Quarterly*, XXVI, No.4, December 1954, pp.32-8.

⁵¹ In 1945 the Communist pamphlet *Catholic Action At Work*, Sydney, made quite an accurate assessment. J.D. Pringle, *Have Pen: Will Travel*, Chatto and Windus, London, 1973, pp.116-8, records how well-kept a secret the Movement was.

trends towards neutralism. Santamaria wanted the Movement to highlight the part played by Prime Minister Curtin in turning to the United States as a counterweight to propaganda stressing Chifley's "internationalism".⁵²

The other strands were part of its Catholic inspiration. The Movement drew its more theoretical foundations from the doctrines of Catholic Action, whose aims were described by the Catholic hierarchy in Australia as:

...the sanctification of the masses, using as its means the Christianising of the institutions of the modern world and the whole modern way of life.⁵³

The Movement's task was not merely to erect a defensive bulwark against the inroads of secular society, but to carry a Christian offensive into the trade unions, the ALP, and other institutions. By permeating these bodies, they would become weapons themselves in sanctifying the whole of Australian society. Catholic Action was described as the Lay Apostolate. Therefore to those engaged upon its work, their involvement in trade unions or politics was infused with the conviction and determination that this was an essential part of God's work. The fervour, the inflexibility, even the intolerance, that observers of the Movement have commented upon cannot be understood without realising the depth of religious feeling which Movement supporters invested in "mere politics".⁵⁴

This intellectual conception of the need to sanctify secular society fitted in with the ascendancy of millenarian Catholicism at the time. Catholic enthusiasts sensed impending catastrophe, as they witnessed the rising power of Communism. To them, Communist doctrine was a brand of Godless

⁵² R. Murray, *The Split: Australian Labor in the Fifties*, Cheshire, Melbourne, 1970, p.177.

⁵³ T. Truman, *Catholic Action and Politics*, Georgian House, Melbourne, 1959, p.55.

⁵⁴ *Ibid.*, pp.55-64.

atheism, with which God had sent them to do final battle. Vast crowds turned out to see the pilgrimage of the statue of Our Lady of Fatima through Australia in 1951. Her apparition in the Spanish town of Fatima to peasant people in 1917 had foretold the end of the Great War and then the triumph of the Bolshevik revolution; but she had also promised that through the power of devotion and prayer Russia would be restored to Christ. Pontifical declarations, encyclicals, and indulgences re-inforced the importance of Mary and of her coming Crusade against Communism. As the statue made its progress, enthusiasm mounted. Miracles of healing were reported from Wagga. Twenty thousand Catholics had seen the Fatima statue arrive at Melbourne's Essendon airport; thirty thousand attended St Mary's Church in Sydney at her departure. Father Peyton's Family Rosary Crusade arrived from the United States in November 1951 after an invitation was issued by Archbishop Mannix. Eighty thousand heard Peyton preach at the Melbourne Cricket Ground. In December 1953, when he made a return visit, crowds were estimated at 115,000 in Sydney, 85,000 in Brisbane, 60,000 in Adelaide and 25,000 in Perth. At the end of most of Peyton's meetings, motions would be passed calling on the Prime Minister to condemn the latest Soviet persecutions of the Catholic Church in the USSR and Eastern Europe.⁵⁵ Movement enthusiasts looked askance at those in the Groups or who supported them but who did not share such devout convictions.⁵⁶ Through the Movement, the authority of the Catholic Church was lent to the drive against Communism.

In the closing years of the Labor Government, the ALP and its trade union leaders became vehemently anti-Communist. The importance of industrial issues receded, and the task of purging key unions of their Communist

⁵⁵ T. Morris, "Into the Valley of Megiddon", unpub. B.A. Hons. Thesis, ANU, 1973, passim.

⁵⁶ T.R. Luscombe, *Builders and Crusaders*, Lansdowne, Melbourne, 1967, pp.186-188.

leadership became more significant. The Government imprisoned the Communist McPhillips of the Federated Ironworkers' Association for contempt of the Arbitration Court; and excluded Communist union officials from representation on the Stevedoring Industry Authority when they criticised its decisions. The toleration extended to the waterside workers' ban on Dutch shipping to Indonesia was replaced by anti-Communist zeal and unprecedented penal provisions in the Defence (Special Undertakings) Act of 1947, drafted by Dr. Evatt to prevent a proposed union black ban on the construction of the Woomera Rocket Range. By 1949, the ALP boasted of its successful prosecution of the Communist Party General Secretary, L.L. Sharkey, and others on charges of sedition. Sharkey was sentenced to eighteen months in gaol. The coal strike of 1949 made the ALP's public commitment to anti-Communism abundantly clear. The Government also established ASIO with a specific charter from Chifley to combat 'subversion', which in essence meant Communism. In the final session of the 1949 Parliament, the Labor Government introduced for the first time legislation that provided for the Electoral Office to conduct union elections. Any union or branch of a union could request a ballot to be held in this way; and the Government also agreed to pay the legal costs of any person who wished to dispute the conduct of a union-run ballot in Court. The target of this legislation was the Communists. The Industrial Groups had lobbied extensively for this law, claiming that Communists rigged trade union elections. While it is impossible to go into the truth of such allegations here, the essential point was that the legislation was seen as a specifically anti-Communist measure rather than one aimed simply at union corruption in general. It considerably enhanced the scope of Government regulation over trade unions' internal affairs. At the 1949 elections, the Government could indeed claim that it had fought the Communists hard.

The Menzies-Fadden coalition which won the elections believed that the ALP's measures were still inadequate. 1950 was a peak year for strikes.⁵⁷ In late 1949, the Communist Party still held its positions in key unions, for the ALP Industrial Groups had not yet won any really significant victories. Menzies promised to outlaw the Communist Party, ban its members from trade union offices and the Federal Public Service, deal similarly with Communist "fronts", and impose the onus on a person declared a Communist to prove that he or she was not. In Government, the ALP opposed such a ban, reasoning that Communists would only gain public sympathy and that, driven underground, they would only continue their agitation more effectively. In Opposition, it only sought amendments to the Bill, instead of opposing it in the Senate where it had the numbers to defeat the Government. After the outbreak of the Korean War, even this stance was abandoned on the direction of the ALP Federal Executive, and the Bill was passed unopposed and unamended.⁵⁸ The High Court ruled the Act *ultra vires* the Constitution. Although the Court's ruling still left open the possibility to repair the legislation, the Government decided to hold a referendum on the original Bill. Only at this stage did the ALP take an official position of opposition, though certain sections contributed little to the campaign. It was a tribute to the Communist Party, certain individuals in the ALP like Evatt, supporters of civil liberties, and even strong opponents of Communism who opposed the Bill on wider philosophical grounds, that the 1951 Referendum failed to secure either a majority of voters or a majority of States.⁵⁹ External Affairs Minister Casey reflected sadly in his diaries that after this setback

⁵⁷ Labour Report, No.39, Commonwealth Bureau Census and Statistics, 1950, pp.130-1.

⁵⁸ Tennant, *op.cit.*, p.260, and Murray, *op.cit.*, pp.81-3.

⁵⁹ Tennant, *op.cit.*, p.283, cites L. Haylen that the referendum "was strictly a one-man job"; also L. Webb, *Communism and Democracy in Australia: A Survey of the 1951 Referendum*, Cheshire, Melbourne, 1954, pp.30-1, 60-1, 75-78.

all the Government had left in its armoury against the Communists was the "clean ballots" legislation.⁶⁰

The Ballots legislation worked in tandem with the ALP Industrial Groups to weaken greatly the influence of the Communist Party in trade unions. Through Group successes in union elections, the power of the Movement inside the ALP was also greatly extended. The Menzies Government extended the scope of the legislation to enable rank-and-file members of trade unions to secure Electoral Office elections by means of a petition signed by a requisite number of financial members.⁶¹ The Groups provided the organisation to secure the petitions. Arbitration Commissioner Dunphy was appointed for the specific task of investigating charges against union-conducted elections. Both steps lent weight to the charges of ballot-rigging and heightened suspicion of all Communist officials. In the period 1950-54 the Industrial Groups were increasingly successful in stripping the Communist Party of a number of important union leaderships. Dunphy declared Grouper L. Short elected as Federal Secretary of the Ironworkers in late 1950, after stating that he found evidence of rigged elections.⁶² Over the next two years, in a series of battles, Short consolidated his grip over the rest of the union. In the Clerk's Union, the Groups won control at the federal level in 1950 and later took over the former Communist stronghold in the New South Wales branch. In other unions the struggle was more evenly contested. It was not until 1953 that the Groups succeeded in defeating Communist J.J. Brown as Secretary of the Victorian branch of the Railways Union. The Communist Party defeated challenges in the Waterside Workers'

⁶⁰ Casey, *op.cit.*, p.40.

⁶¹ J.H. Portus, *The Development of Australian Trade Union Law*, Melbourne University Press, 1954, pp.195-6.

⁶² Justice Dunphy, Report to Chief Judge, *Industrial Information Bulletin*, Vol.7, 1952, pp.856-7.

Federation and the Building Unions, but the Groups nevertheless had made substantial headway. Politically, they had a decisive influence over the Victorian and New South Wales branches of the ALP, and, in alliance with the AWU, over Queensland as well.⁶³ It appeared that the defeat of the anti-Communist referendum had been offset by co-operation between Government, the Industrial Groups and the ALP.

Cold War struggles inside the trade unions and the characterisation of industrial action as part of the international machinations of Communism were complemented by the re-inforcement of rigid political attitudes in the intellectual sphere. This included writers, University circles, employees in scientific instrumentalities, and Government Departments. International events were held up as evidence of impending war between the Soviet Union and the United States, for which Australia had to be prepared. Thus the security and loyalty of the Public Service was elevated to a prominent place. When Sir David Rivett, head of the Council of Scientific and Industrial Research proclaimed himself a supporter of international exchange of scientific information in 1947, he was attacked for pandering to the Russians and encouraging disloyalty to Australia and its allies. The Labor Government restructured the CSIR into a new CSIRO, to which they appointed neither Sir David nor his Deputy but Sir Ian Clunies-Ross. In the lower CSIRO echelons, the scientist T.R. Kaiser was forced to resign from his job because he participated in a demonstration outside Australia House in London.⁶⁴ In other Government Departments, public servants who espoused left-wing views, and sometimes even those who had "suspect" relatives, were transferred into positions without real responsibilities as an inducement to resign.⁶⁵ In the wake of post-war spy

⁶³ Murray, *op.cit.*, pp.19-22.

⁶⁴ B. Fitzpatrick, *The Australian Commonwealth: A Picture of a Community 1901-1955*, Cheshire, Melbourne, 1956, pp.120-1; Playford, *op.cit.*, pp.146-7.

⁶⁵ See Chapter 10 re F. Rose, G.W. Legge, J.F. Hill.

scandals in Canada, the UK, and the USA, security procedures were greatly extended and the dragnet definition of "subversion" much widened. In 1952, Casey launched his attack on a "nest of traitors" in the Public Service who were supposedly feeding information to the Communists and the Russians. In Parliament charges were also hurled at the Commonwealth Literary Fund because it provided some grants to Communist writers, and others who were wrongly accused of Communism. The Australian National University was criticised because it employed some liberal academics who criticised Cold War policies.⁶⁶ In public opinion three themes emerged: the identification of domestic Communism as a type of Soviet fifth column; the development of a crisis atmosphere concerning the loyalty of the Public Service; and the representation of criticism of the Cold War as evidence of Communism or Communist sympathy. Harassment of organisations and individuals, even if it stopped short of outright proscription, was a feature of the Cold War. In 1949, Cecil Sharpley deserted the Communist Party and published sensational charges against the Communist Party in the Melbourne *Herald*. They mainly concerned ballot-rigging and Communist manipulation of "fronts" to further its own ends. Justice Lowe was appointed as Royal Commissioner in Victoria to investigate the Communist Party. Though he upheld judicial principles, Counsel Assisting the Commission encouraged the practice of having witnesses produce the names of Communists in public. The Commissioner himself probed the affairs of Australia-Soviet House because it was alleged to be a Communist "front". As An Appendix to his Report a lengthy list of names of Communists was published.⁶⁷ Brian Fitzpatrick recalled that

⁶⁶ Nest of Traitors, *CPD*, H.of R., 27 May, 1952, pp.870-2; Literary Fund, *CPD*, H. of R., 4 Sept., 1952, pp.1034, 1036-7; ANU, *CPD*, H. of R., 28 August 1952, pp.710, 719, 725.

⁶⁷ V. Rastrick, *The Victorian Royal Commission on Communism 1949-1950*, Unpub. M.A. Thesis, ANU, 1973.

this Commission:

...did imprint upon public consciousness the realisation that the old easy-going days were gone, and that now...the prudent citizen would do well to keep himself, and his views on public affairs, to himself.⁶⁸

Sellers of Communist newspapers and distributors of leaflets faced petty prosecutions for breaching local by-laws, or had their names and photographs taken and recorded by police Special Branches. Meeting halls were often very difficult for Communists to obtain. Wider activities such as the Peace forums and meetings were vilified as "Moscow-inspired", and Government Ministers sought to obstruct them. On numerous occasions passports were refused for travel to countries in the Eastern bloc.⁶⁹ Within Australia, authors faced the imposition of a far more rigid application of the libel and obscenity laws. Robert Close, who had been associated with left-wing and rationalist circles, was prosecuted in Victoria for his book *Love Me Sailor*. He was convicted of publishing an obscene libel and given a three month gaol sentence and fined £100. The Court of Criminal Appeal later upheld the conviction, and although it reduced the sentence to the ten days' imprisonment Close had already served, the fine was increased to £150.⁷⁰ Censorship of books that were offensive to the Customs Department was stepped up; and a wide range of titles including literary works such as Caldwell's *God's Little Acre* and Orwell's *Down and Out in Paris and London* were banned from entering the country. The establishment of State Government Literature Boards foreshadowed a more stringent testing of literary works produced within Australia or which succeeded in getting past Customs.⁷¹

⁶⁸ Fitzpatrick, *op.cit.*, p.131.

⁶⁹ *Meanjin*, "Subversive Views on the Wide Screen", Vol.XIV, No.1, Autumn, 1955, pp.4, 154-158.

⁷⁰ *SMH*, 19 November, 1977.

⁷¹ P. Coleman, *Obscenity, Blasphemy, Seditious: Censorship in Australia*, Jacaranda, Brisbane, 1962, pp.30-1.

The imposition of a tighter moral code took a decidedly political turn when the Victoria State Government brought a prosecution against Frank Hardy for his *Power Without Glory* under the archaic law of criminal libel. A public campaign to defend Hardy was launched in which numerous literary figures participated, including C.B. Christesen, editor of *Meanjin*. The book itself actually gained very wide publicity in the process. Meetings were organised through the trade unions and in the suburbs, and Hardy saw the tide of opinion turn slowly in his favour. By the time the case came to trial, the book had gained such widespread notoriety, if not popularity, that the jury refused to convict.⁷² Peter Coleman wrote about the case:

By 1950 the Communist Party of Australia was almost completely discredited and much of its power in the trade unions broken. It seized the opportunity offered by the *Power Without Glory* prosecution to present itself as a defender of literary freedom in an increasingly Fascist state and as a courageous exposé of political corruption.⁷³

The Victorian Government appeared to have grasped the significance of this case and declined to make a sequel when the Military Police arrested Eric Lambert, then also a member of the Communist Party like Hardy, for his book *The Twenty Thousand Thieves*. Lambert was held for twenty-four hours in the Melbourne City Watchhouse, but when the case came before the magistrate it was quickly dismissed.⁷⁴ After this, no further attempts were made to prevent the publication of books in this manner. Instead, attacks were made in Parliament on the reputation of Australian writers. After the criticism of the Commonwealth Literary Fund, Menzies defended it in public, but his own anti-Communist convictions ensured that a number of writers were denied grants for which they had been recommended.⁷⁵

⁷² *Ibid.*, p.57, F. Hardy, *The Hard Way*, Rigby, Adelaide, 1976, pp.139-41,152.

⁷³ Coleman, *op.cit.*, p.57.

⁷⁴ *Australian News Review*, Vol.1, No.8, October, 1951, p.6.

⁷⁵ M. Dunn, "At the Commonwealth Literary Fund: 1955", *Bowyang*, Vol.1, No.2, 1979, pp.138-141.

Nonetheless, the outcome of the Hardy case and the anti-Communist referendum illustrated a widespread view that such measures were either undemocratic or unwise. The failure to ban the Communist Party and defeat of overt political censorship were early and significant steps against the Cold War in Australia.

IV

By 1953 and 1954, there were more definite signs that the pressure in public life and the trade unions was beginning to ease. The re-armament programme, the defeat of Western objectives in Korea, and the explosion of the hydrogen bomb were the subjects of foreboding. Doubts grew in the West about the course being followed in international affairs. By 1953 the peace movement in Australia was attracting wider sponsorship. Prime Minister Menzies warned moderate clergymen that their participation in a proposed Conference in War and Peace would be used by Communists for sinister ends. The clergymen were not deterred. They were more concerned about the issues at hand than fearful about association with Communists, and they told Menzies they felt their presence would moderate the Communist influence more than their absence.⁷⁶ The stage was reached where the New South Wales branch of the Labor Party established a Labor peace movement to recapture the initiative which it felt had been seized by the Communists and other groups.⁷⁷ In December 1951, the magazine *Voice* was first published. It acted as a forum for the expression of more neutralist views on local and foreign affairs, especially for sections of the Labor Party.⁷⁸ The literary magazine *Meanjin* also continued to provide an outlet for criticism

⁷⁶ J.E. Owen, *The Road to Peace*, Hawthorn Press, Melbourne, 1954, passim.

⁷⁷ A. Dalziel, *Evatt the Enigma*, Lansdowne Press, Melbourne, 1967, p.74; Playford, *op.cit.*, also notes wider support, p.200.

⁷⁸ *Voice: The Australian Independent Monthly* was edited by H. Levien and ran from December 1951 to 1956.

of McCarthyism and the repression of civil liberties. It was criticised strongly for doing so, but its circulation was not greatly affected.⁷⁹ Amongst students, it was significant that at the University of Sydney, where the Movement had taken over the Students' Representative Council, student support for the Movement had declined in 1952, and in 1953 the Movement's grip was broken.⁸⁰

Disputes developed in the trade unions. Just as the Groups reached the zenith of their influence in the official trade union structure, the policies to which they were committed were declining in popularity. The anti-Communist action of the late 'forties and the rise of the Groups in the early 'fifties had succeeded in lessening the number of strikes and the workers involved in them. By January 1952, Arbitration Commissioner Galvin felt sufficiently confident of industrial peace to announce a freeze on margins for skilled workers. Some trade unions conducted protest stoppages, and a motion condemning the freeze was passed by the ACTU, but it did little else.⁸¹ The following year, in September, the Full Bench of the Arbitration Court followed up Galvin's decision by announcing the suspension of the quarterly wage adjustments that had previously been made in accordance with movements in the Consumer Price Index. Again, only sections of the trade union movement took action.⁸² Real wages had been reduced, yet companies had managed to raise the rate of productivity in the manufacturing sector from a growth rate of 2.6 per cent in the post-war years to 5 per per annum.⁸³

Having painted the big strikes as communistic and treacherous, the Groups

⁷⁹ C.B. Christesen - author, 24/3/1979.

⁸⁰ P. Ormonde, *The Movement*, Nelson, Melbourne, 1972, pp.47,49.

⁸¹ *The Australian Labor and Union Digest*, henceforth *Digest* Melbourne, Vol.5, No.3, March 1952, pp.2-3.

⁸² *Ibid.*, Vol.5, No.11, p.2.

⁸³ Waterman, *op.cit.*, p.107.

were little inclined to arouse mass protest action against the Court's decisions. Instead, some of them wanted to press ahead with 'ideological' rather than industrial issues like the non-recognition of the People's Republic of China. Yet, as some of the more perceptive Industrial Group leaders realised, there was an insuperable contradiction in this position. Having ridden to power as part of the Cold War offensive in the labour movement, an essential part of which was the reduction in the number of strikes and the imposition of tighter factory discipline and wage regulation, the Groups were nevertheless supposed to represent workers' interests. To do this, or even to appear to do it, they had to criticise the decisions of the Arbitration Court. As the unpopularity of the Court increased, voices even began to be raised in favour of withdrawing from the Arbitration system altogether. The Groups had been dependent upon the Arbitration machinery to back up their claims for officially-controlled ballots, yet now the Court itself was making it harder for the Groups to justify Arbitration to the workers.⁸⁴ They could either support the decisions of the Court to the full and lose support amongst union members, or criticise the Court and do precisely what they had attacked the Communists for doing. Sensing this contradiction, some of the more traditional trade union officials began to feel increasingly uneasy about the role and strategy of the Groups. The disputes that developed in the trade unions reflected a division between those who felt that at least some action had to be taken against the Court if they were not to lose ground to the Communists again and those who were determined to support the forces of law and order whatever the cost. Changing attitudes towards industrial action in the face of Court decisions meant a changing attitude in the tactics that were to be

⁸⁴ Lloyd Ross, "The Trade Unionist and the Court", *Voice*, March, 1954, p.6.

adopted in relation to the Communist Party.⁸⁵ The conflict between the more clear-sighted trade union officials and the more doctrinaire Groupers was gathering intensity in 1954.

The significance of recent developments was not lost upon American observers. In 1954 they were concerned about Australia. The new movements in Asia, especially Indo-China, highlighted Australia's position as a link in the chain of Western influence in the region. Comments were made about Australian "apathy" to Cold War issues. The *US News and World Report* wrote:

But there are other things - such as Australia's mixed attitude towards its Communists - that are not being overlooked by outsiders.⁸⁶

There was hope that the defection of the Petrovs would do something to re-invigorate Australian anti-Communism. In this way the divisions in the ALP and trade unions and the reservations about the Cold War could be suppressed.

⁸⁵ *Digest*, Vol.5, No.9, September 1952, reported the emergence of a "Centre" which no longer mechanically responded to calls for "a united front against the Communists", p.3.

⁸⁶ *US News and World Report*, quoted in *Advertiser*, 12 May, 1954.

CHAPTER IV

THE COMMISSION ASSEMBLES

The Act of Parliament establishing the Royal Commission appeared to authorise the appointment of only one Commissioner, but the Government resolved to appoint three. The Press and Dr. Evatt urged that the Commission be a strong one.¹ Judges were to fill the offices in order to lend the Commission an air of authority. The Justices of the High Court were approached, but they declined. Fearing that they might have to adjudicate some Constitutional dispute about the Commission, they thought it inappropriate to participate directly in it. The Government decided to appoint Justice W.F.L. Owen of the New South Wales Supreme Court as Chairman. Menzies approached the NSW Premier with the nomination, and the Premier agreed to make Owen available. From Victoria, the Government wanted Justice O'Bryan.² But on 28 April, it was revealed that the Victorian Supreme Court Justices had refused to supply any of their number, because they believed that the inquiry would inevitably become political and they did not want the Bench to be tainted by any accusations of partiality.³ This was a blow to the Commission, since Menzies had been striving to present it in a "non-party, non-political" light. The Government had to approach Premier Playford of South Australia to supply Justice G.C. Ligertwood, which Playford agreed

¹ For example the Editorial of the *SMH* 20 April, 1954. Dr. Evatt's views are in *CPD*, H. or R., 14 April, 1954, p.381.

² R.G. Menzies, *The Measure of the Years*, Cassell, London, 1970, pp.159-161 and *CPD*, H. of R., 12 August, 1954, pp.247-9.

³ *SMH*, 29 April, 1954.

to do. At the same time, unknown to the public, difficulties had also arisen in Queensland. The Prime Minister wanted Justice R.F.B. Philp as the third Commissioner. He asked the Queensland Premier, Gair, if he would make one of the Queensland Justices available. Gair said he would consider the matter. A few days later, Gair told Menzies that he had agreed to the idea and had asked the Queensland Chief Justice to nominate a Judge. The Chief Justice had approached Mr. Justice Townley. Townley had said he was willing to serve on the Commission. Mr. Menzies was dissatisfied, and he explained to Gair that:

...the judge we had in mind, because we are collecting a balanced Royal Commission, was Mr. Justice Philp.

Since no public announcement of Justice Townley's nomination had been made, Menzies asked Townley to withdraw. He did, and so Philp was appointed in his place.⁴ Thus the Commonwealth Government had its own way in the selection of all the Commissioners, with the exception of its first choice from Victoria. To assist the Commission, the Commonwealth Crown Solicitor's office briefed Mr. W.J.V. Windeyer, Q.C., and Mr. G.A. Pape as his junior. On 14 May, a third Counsel, Mr. B.B. Riley, was appointed to assist as well.

The Terms of Reference for the Commission were announced by the Government

⁴ CPD, H. of R., 12 August, 1954, pp.247-9.

on 3 May. They were for the Commissioners to inquire into and report on:

- (a) the information given to the Commonwealth by Vladimir Mikhailovich Petrov as to the conduct of espionage and related activities in Australia and matters related to or arising from that information;
- (b) whether espionage has been conducted or attempted in Australia by representatives or agents of the Union of Soviet Socialist Republics and, if so, by whom and by what methods;
- (c) whether any persons or organisations in Australia have communicated information or documents to any such representative or agent unlawfully or to the prejudice or possible prejudice of the security or defence of Australia; and
- (d) whether any persons or organisations in Australia have aided or abetted any such espionage or any such communication of information or documents,

and, generally, the facts relating to and the circumstances attending any such espionage or any such communication of information or documents:

And we do declare that, for the purpose of these Our Letters Patent, the expression "representatives or agents of the Union of Soviet Socialist Republics" includes other persons or organisations acting, directly or indirectly, for or in the interests of the Union of Soviet Socialist Republics...⁵

The Press greeted the Terms of Reference with approval. The Editorial in the *Adelaide Advertiser* noted that should they prove too narrow, there was little doubt that the Government would agree to widen them.⁶ Certain ALP officials, perhaps eager to demonstrate their anti-Communist enthusiasm before the elections, claimed the Terms were too narrow. The NSW State Secretary of the ALP felt they should be widened to include inquiry into Communist industrial sabotage, and he was supported by the ALP Industrial Group Secretary in the NSW Branch of the Clerk's Union, Riordan. L. Short

⁵ The Terms of Reference are set out at *Tr.*; p.3.

⁶ *Advertiser*, 4 May, 1954.

of the Federated Ironworkers added that he had information about how the Communists had used his union for espionage purposes and that he wished to present this to the Commission.⁷ The Communist Party had already declared the whole affair to be an election "stunt", although there was concern that the Party would be singled out for victimisation as an organisation accused of helping Soviet spies under the Terms of Reference.⁸ These criticisms probably carried little weight at this time since the public was waiting to hear what would be disclosed. So that this expectation might not be disappointed, it was also announced that the first sitting of the Commission would be held in the Albert Hall in Canberra later in May but before the elections.

The establishment of Royal Commissions has been a persistent feature of Australian politics, yet their procedures and powers have not been much discussed. Essentially, a Royal Commission is a remnant of the Royal prerogative - the Commissioners are appointed by and report to the Crown. Both British and Australian constitutional developments have imposed certain limitations on this prerogative. After the English Revolution of 1642 prerogative Courts were abolished, which meant that Royal Commissions could no longer determine issues in a full judicial and legal sense. The findings of a Commission do not have the force of a judgement. Though a Royal Commission may make findings that bear upon questions of improper or illegal conduct, there can be no parties: no plaintiff or defendant, no prosecutor or accused; because these findings are not in any way a legal determination.⁹ In Australia, this is reinforced by the provision that

⁷ NSW ALP Secretary Anderson's and Riordan's remarks are reported in the *Melbourne Herald* 3 May, 1954, and L. Short's views in the *Herald*, 27 May, 1954.

⁸ *Guardian*, Victoria, 14 April, 1954.

⁹ On the legal basis and general procedures of Royal Commissions, see R.M. Jackson, "Royal Commissions and Committees of Enquiry", *Listener*, 12 April, 1956, Vol. LV, No.1411, and also C.J. Hanser, *Guide to Decision: The Royal Commission*, Bedminster, N.J., 1965.

evidence taken before a Royal Commission may not be admitted as evidence in a court of law. Also, because Australia is not a unitary state, there are restrictions imposed upon the legislative and executive powers of the Commonwealth and the States. Therefore, since a Royal Commission is a creation of the Executive, it is subject to the limitations imposed by the Australian Constitution. In the past, the High Court has intervened in Royal Commissions and declared that they may compel the production or giving of evidence only upon matters that are within the legislative and executive competence of the initiating authority.¹⁰ Some witnesses in the Royal Commission on Espionage considered seeking High Court intervention to halt certain lines of questioning, but decided that either the defence power sufficiently comprehended espionage or that the High Court would judicially extend that power so that it did, and so action was never taken.¹¹ Yet the fact that the Commission is not a Court also gives it a great deal of flexibility. It may determine its own procedures and methods of investigation. The Commissioners, like the Crown, may inform themselves concerning the questions before them in any manner they see fit. Whatever evidence they deem proper may be admitted, including hearsay, ordinarily not admitted by Courts. In the task of informing themselves, the Commissioners are "assisted" by Counsel appointed by the Crown, who prepare evidence and elicit it through questions before the Commission. It is entirely at the Commissioners' discretion whether the relationship between them and Assisting Counsel shall be one of strict separation or close collaboration. Witnesses before a Commission, whether they attend voluntarily or are compelled to do so, are treated alike as the Commission's own witnesses.

¹⁰ Both the High Court and the British Privy Council intervened in the 1912 Royal Commission on the Sugar Industry and so limited the Commonwealth's powers that, ever since, Commonwealth Royal Commissions enjoyed very restricted powers.

¹¹ E.F. Hill, leading Communist Counsel at the Royal Commission on Espionage, in interview, 9 November, 1978.

Questions may be asked of them in the manner the Commission sees fit. They may only be called by the Commission. They have no right to appear even if they have material evidence to offer. If their behaviour is the subject of criticism they are nevertheless only entitled to legal representation if the Commission allows it. All legal representatives require the Commission's leave to appear, and this may be withdrawn at any time.

Although a Royal Commission bears the features of the prerogative, it has been invested with certain powers by the Legislature. These powers thus bring it closer to a Court, whilst not actually making it one. Royal Commissions in Australia are thus more powerful than the Royal prerogative alone could make them. Therefore they may compel the attendance of witnesses and the production of documents; and they can compel the giving of evidence under oath. While such evidence is not admissible later in a Court, witnesses are nevertheless exposed to distinct dangers. They do not have the right of an accused to remain silent or to give an unsworn statement from the dock, except if their evidence would be self-incriminating. They may therefore be punished for giving false evidence or failing to answer questions. Even if the evidence they give is not admissible, the authorities may find it very useful in gathering other information upon which a successful prosecution could be based at a later stage. Witnesses whose behaviour is the subject of criticism may be denied the right of Counsel to safeguard their interests and may be denied the right to call other witnesses in their defence. All Royal Commissions are protected by law from any criticism or public comment that might excite hatred of them or bring them into disrepute. Contempts of Commissions are punishable by law. Because they are not Courts, Commissions cannot deal with contempt themselves. The Attorney-General initiates prosecutions on behalf of Commissions before the appropriate

Courts.¹² These provisions therefore make it possible for criticism of Commissions to be suppressed, even though there is no legal means of appeal whatever against findings that Commissions may make. The Australian Royal Commission is very much like the British Tribunal described in 1967 by Lord Salmon, a Lord Justice of Appeal:

The Tribunal's Inquiry is inescapably inquisitorial. There is no *lis*,...there are no pleadings defining the issues to be decided, no charges, no indictments or depositions. It is therefore difficult for persons to know in advance of the hearings what allegations may be made against them...The inquisitorial powers necessarily conferred upon Tribunals expose the ordinary citizen to the risk of having his private life uncovered which would otherwise remain private and to the risk of having baseless accusations made against him in public - thereby causing him much distress and pain.¹³

Thus empowered, the Royal Commission on Espionage was a formidable body that could easily arouse grave disquiet unless people believed that the Commissioners would be careful of their liberties. No doubt the appointment of Justices was intended to set unquiet minds at rest in the belief that the jealously guarded accoutrements of judicial impartiality and fairness would be lent to the proceedings.¹⁴ It was to be a source of disappointment that the Commissioners declared later in the proceedings that their judicial offices and oaths imposed upon them no particular obligations.¹⁵

The most influential precedent in the minds of the Commissioners as they set about their task was the Canadian Royal Commission of 1946 which investigated the evidence of Igor Gouzenko. Gouzenko had defected from the Soviet

¹² See the Royal Commissions Act 1902-3, in Commonwealth of Australia, *The Acts of the Parliament of the Commonwealth*, Cumulative Vol., Gov. Pr., Canberra, 1950.

¹³ C. Salmon, *Tribunals of Inquiry*, Lionel Cohen Lecture, Oxford University Press, London, 1967, p.21.

¹⁴ J.D. Holmes, "Royal Commissions", *Australian Law Journal*, Vol.29, No.4, August, 1955, p.258.

¹⁵ *Tr.*, pp.379-381.

Embassy in Ottawa, bringing with him a selection of papers and notes taken from the files of Soviet Military Intelligence for whom he had worked as a cipher clerk.¹⁶ The Gouzenko Commissioners held all their sessions in secret and only limited selections of the evidence were published in their Report. Under special Canadian legal provisions, witnesses upon whom suspicion fell were secretly arrested and held *incommunicado*. In some cases they were denied the benefit of legal representation and given little idea of what was alleged against them. They were obliged to answer questions "in the dark", and from their answers the Commission drew up what was, in effect, a brief for prosecuting Counsel at their trials. Witnesses were not warned that evidence that they gave could be used against them.¹⁷

In fundamental respects, not to mention a host of minor ones, the Gouzenko case was widely expected to be repeated in the Petrov affair. Gouzenko's allegations had dealt with the existence of Soviet spies in positions of public trust: military officers, Embassy officials, and public servants. Also, the Gouzenko Commission had sought to establish, by recommending the prosecution of two Communist Party officials, that the Communist Parties and Communist ideology were a natural basis and pre-disposition for people to become Soviet spies. Central to the Canadian Report was the insistence that Canadian Communists and persons sympathetic to the ideals of Communism were the best and natural recruits for spying, and that participation in the Canadian Communist Party was a kind of espionage training. The Gouzenko Commission sought to obliterate the distinction between foreign espionage operations conducted by the USSR, and overt Communist political sympathy and activity.¹⁸ The successful prosecution of two leading Canadian Labour

¹⁶ A short account of this is presented in the *Final Report*, Royal Commission to investigate the facts relating to and the circumstances surrounding the communication by public officials and other persons in positions of trust of secret and confidential information to agents of a foreign power, Govt.Pr., Ottawa, 1946, pp.641-49. Henceforth *Gouzenko Report* .

¹⁷ M.H. Fyfe, "Some Legal Aspects of the Report of the Royal Commission on Espionage" [i.e. the Gouzenko Commission] , *Canadian Bar Review*, Vol.24, No.9, November, 1946, pp.778-9, 781, 784.

¹⁸ *Gouzenko Report*, pp.44-5, 69-83.

Progressive Party [Communist Party] officials seemed to vindicate their conclusion. Yet in one case a Communist Member of Parliament was said to have given the Russians details of a technical project, although the Russians were also given the same information by the Canadian Government. In the other case, the actual offence of which the official was found guilty was that he had conspired to obtain a false passport for a man who had fought for the Loyalists in the Spanish Civil War.¹⁹ After the public announcement of Mr. Petrov's defection, the newspapers promptly serialised an account of the Gouzenko affair. They published a statement from Gouzenko himself expressing his pleasure at Petrov's defection and re-affirming his conviction that the USSR and local Communist Parties were still working together on espionage.²⁰ The Canadian Government passed the full and still secret Transcript of the Gouzenko Royal Commission on to the Australian Commissioners. In both the opening address of Counsel Assisting the Commission and in repeated remarks addressed to Counsel from the Commissioners themselves, the Australian Royal Commission stressed the similarities between the two cases.²¹ Even the Terms of Reference, particularly that which referred to other organisations abetting Soviet espionage in Australia, seemed to anticipate the conclusion reached by the Commissioners in their Final Report that Australian Communism and prominent Communists were a link between local agents and their Russian masters. The expectation that the Petrov Commission would unearth a Communist spy-ring similar to the 1946 Gouzenko Commission was perfectly reasonable.

By contrast, the inquiry into the Communist Party carried out by the Victorian Royal Commission on Communism, under Mr. Justice Lowe in 1949,

¹⁹ W.A. Reuben, *The Atom Spy Hoax*, Action Books, New York, 1955, pp.61-2, 65-6.

²⁰ For example *SMH* serial beginning 14 April, 1954. Gouzenko's comment is reported in *SMH* and *Age* 17 May, 1954.

²¹ See *Tr.*, pp.8, 11, 1111 (297), 116 (444), 1120-2.

seemed to exercise practically no weight in the considerations of the Espionage Commission. Cecil Sharpley defected from the Communist cause, and with the help of a journalist from the Melbourne *Herald* published a sensationalised account of his experiences in the Communist Party. The State Government set up a Royal Commission to investigate Sharpley's charges and to inquire into the origins, aims, objects, and funds of the Communist Party.²² Amongst allegations of conspiracy to disrupt essential services and industry and to fraudulently obtain office in and manipulate the trade unions, Sharpley had also charged that W.S. Clayton of the Communist Party Control Commission co-ordinated espionage in Australia.²³ One might therefore have expected that the Petrov Commissioners, in examining the issue of espionage and possible Communist Party involvement with it, would have paid very close attention to the only semi-judicial investigation of the Party conducted in Australia. Although the Victorian Commissioner was a very conservative Supreme Court Judge, with a distaste for Communism, he was possessed of considerable independence of mind and was not swayed by calls for sensational exposures. Lowe set great store on the reputation of the judiciary for independent inquiry free from party strife. He permitted the Communist Party to enjoy separate legal representation in its own right and to present a "case" at the conclusion of that presented by Assisting Counsel. The Party was free to call its own witnesses who could best express its viewpoint, and it had a clear idea of the accusations it had to meet. Lowe was sufficiently impressed with the Party's rebuttal of many of Sharpley's claims that he did not place weight upon Sharpley's testimony unless otherwise corroborated. Lowe attached significance to the fact that Sharpley was an informer who had received monetary benefit for his disclosures to the *Herald*, and thus that Sharpley had an ever-present incentive

²² Royal Commission (Communist Party) Act (1949), Acts of the Victorian Parliament, No.5366.

²³ C. Sharpley, *I Was a Communist Leader*, Herald and Weekly Times, Melbourne, 1949, p.20. The accusation is not repeated in Sharpley's, *The Great Delusion*, Heinemann, London, 1952.

to exaggerate, perhaps to lie, in order to build up his own importance and enhance the value of what he had to say. Lowe's findings were generally unsensational. Nowhere in his Report did Lowe suggest or even hint that the Party was involved in espionage. The main area where his findings did reflect badly on the Party were in relation to ballot-rigging in union elections.²⁴ The Espionage Commissioners were made aware of Lowe's Report as well as that of the Gouzenko Commission. There were strong reasons for them to pay attention to it. Lowe had investigated quite deeply the ideas and aims of the Communist Party; he gave an Australian rather than a Canadian outline; and his procedures reflected the normal peacetime judicial standards of inquiry. Nevertheless, the Lowe Commission received extremely scant recognition by the Royal Commission on Espionage, and, if it exerted any unseen or unspoken influence, it was by negative, not positive, example.

As the opening of the Commission drew near, the tension was maintained. There was certainly some distraction afforded by the initial sparring in the Federal election campaign, but the articles about Gouzenko in the Press and then the startling reports about the defection of the MVD assassination agent, Khokhlov, in Europe sustained public interest in espionage. Mr. K.H. Herde, an official seconded from the Prime Minister's Department, was Secretary to the Commission. He announced that the first sittings of the Commission in Canberra's Albert Hall would begin on Monday 17 May.²⁵ The Albert Hall was an unlikely venue. It then served the Canberra community of 28,000 people as an entertainment centre for dances and concerts, being the only large auditorium in the capital. Originally it had been adorned with a most unjudicial nude statue of Bellona, Goddess of War, but this had been removed for the Queen's visit earlier in the year. It was essential

²⁴ This account is based on V. Rastrick, "The Victorian Royal Commission on Communism, 1949-50", unpub. M.A. Thesis, ANU, Canberra.

²⁵ *SMH*, 4 May, 1954.

that all the fittings for the Royal Commission should be temporary, since on the Tuesday evening a celebrity concert was to be held there, and a ball was scheduled for the night after that. Despite this difficulty, carpenters and labourers managed to work a transformation upon the hall. A prefabricated Bench was set up, joined on to the edge of the hall stage. To one side a temporary panelled timber witness box was installed. To the front a few paces away from the Bench, was the Bar Table, upon a raised platform, for Assisting Counsel. Special seating was brought in to accommodate a large public gallery as well as the expected sixty representatives of the world's Press. Plush velvet curtains were hung to enhance the decor, and an area was reserved for the Heads of Mission of most of Canberra's Diplomatic Corps.²⁶

On the appointed day the Commission duly opened. Press photographers took shots of the arriving diplomats. In the papers the Swedish delegation was featured prominently, since it was now looking after Russian interests in Australia following the termination of Australian-Soviet diplomatic relations on 23 April. Communist barristers Max Julius and Fred Paterson were caught unsmiling, which made their presence seem somewhat sinister. The Commissioners and Assisting Counsel obligingly posed for photographs outside their Hotel, but made it clear that none could be taken of the Commission in session because that would detract from the solemnity and judicial air of the proceedings.²⁷ Inside the Albert Hall, before a large public gallery, the Commissioners took their places at the Bench. The Secretary was called upon to read the Letters Patent from the Governor-General

²⁶ Concerning Bellona, see *Women's Weekly* 27 August, 1975, p.85 for a photograph, on arrangements for the Albert Hall, see *Canberra Times*, 15 May, 1954 and *SMH* 17 May, 1954.

²⁷ See all major dailies 18 May, 1954, and *Tr.*, p.28 where W.F. Paterson refers to false Press reporting on his presence.

Sir William Slim, appointing the Commission.²⁸

The Chairman, Justice Owen, had been on the NSW Supreme Court since 1937. In addition to his judicial duties, he had served under the Federal Labor Government as Chairman of the Central Wool Committee from 1942-47, and had been appointed delegate to the Imperial Wool Conference in 1945. The South Australian Commissioner, Justice Ligertwood was sixty-five years old, ten years older than Owen, although he had reached the Supreme Court Bench only in 1945. He was a member of the Adelaide University Council and was on the Council of Governors of Scotch College. Justice Philp from Queensland was aged fifty-eight and had been appointed to the Supreme Court in 1939. During the war Philp had served on the Queensland Aliens Advisory Committee, recommending on appeals against internment of enemy aliens. He was also a Trustee of Brisbane Grammar School. All three men were typical representatives of their calling, and were not only associated with highly respectable public institutions but also enjoyed membership of select private clubs in their respective capital cities. Owen was in the Royal Sydney Golf Club, the Union Club, and the Melbourne Club; Ligertwood in the Adelaide Club; and Philp in the Queensland Club.²⁹ During later controversies that were to erupt, the Prime Minister was to make much of the wartime appointments of Owen and Philp by Labor Governments, and Ligertwood's service as Royal Commissioner into the flight of Major-General Gordon Bennett from Singapore and into the New Guinea timber scandal surrounding Labor Minister E.J. Ward and his Private Secretary.³⁰ However, this in no sense contradicted the conservative legal backgrounds of the Commissioners nor their established positions in

²⁸ *Tr.*, p.3.

²⁹ Details on the Commissioners are in the appropriate entries in *Who's Who* (ed.) J. Alexander, Herald, Melbourne, 1955.

³⁰ Menzies, *CPD*, H. of R., 25 October 1955, p.1861.

the social life of their communities. No less distinguished in this regard was Senior Assisting Counsel, Mr. Windeyer. A prominent Sydney Queen's Counsel, Windeyer was a director of several companies, including the Colonial Sugar Refining Company; he served on the Councils of Sydney University and the Australian National University; and during his military career attained the rank of Major-General and had been a member of the Military Board.³¹

After the reading of the Letters Patent, the Chairman of the Commission bade Mr. Windeyer begin his opening address. Windeyer spoke clearly although his delivery was rather slow.³² His address was the product of careful thought and based upon an intriguing familiarity with the evidence that was later to emerge before the public at the Commission. Windeyer spoke at length. He began first with procedural aspects of the Commission. He advanced three reasons why the Commissioners should hear evidence in public session. First, it was accordance with British tradition that justice should be done in open Court, and although the Commissioners were not exercising a judicial power, they were "conducting an inquiry in a judicial manner". Secondly, the expectation of the Parliament when it established the Commission was that its hearings would be open. Thirdly, it was, averred Windeyer, "more than ordinarily desirable that members of the public should be able to hear for themselves what the evidence shall disclose".³³ Indeed, on this last ground Commissioners and Counsel were more than once to agree on the educative value to the public concerning the nature of Communism and the Soviet Union that the Commission afforded.³⁴

³¹ *Who's Who*, 1959.

³² N. Whitlam and J. Stubbs, *Nest of Traitors: The Petrov Affair*, Jacaranda Press, Brisbane, 1974, p.107.

³³ W.J.V. Windeyer, *Tr.*, pp.3-4.

³⁴ *Tr.*, 2425-6 (175-181), 1881-2 (451,455).

The Commission did reserve to itself the right to hold secret sessions. Turning to the documents which Petrov had brought over, Mr. Windeyer requested that these be kept secret, lest their premature disclosure prejudice people before they had a chance to put their own side of the story. To this the Commissioners assented. It was then explained that all the Petrov documents would be given to them for their determination of their relevance.³⁵ To assist in translating both documents and the Petrov's testimony, Mr. Windeyer proposed that the services of Major A.H. Birse be retained. Birse had served as interpreter for Churchill at the wartime conferences with Stalin, and was therefore judged not only to be competent but also impartial.³⁶ But beyond the task of mere translation of the documents was the job of extracting from them their true meaning since the documents were partly encoded and they were also disguised in seemingly innocent language. Fortunately for the Commission - and this represented an improvement on the Gouzenko Commission - the sense of the documents did not require the exclusive interpretation of the Petrovs but could also be worked out from the context by the Commissioners and Counsel themselves. According to Windeyer, the beginning that had already been made in this process indicated that the documents did indeed verify what the Petrovs had already stated, and thus afforded support for the Petrov's veracity.³⁷ Amongst his last procedural remarks, Mr. Windeyer turned to the matter of evidence. He promised that witnesses would not be smeared but that only the facts would be dealt with. This assurance was somewhat diminished by Windeyer's declaration that since hearsay evidence could be admitted before a Royal Commission, there would be justification for hearing it if other material facts corroborated the surrounding circumstances. If any person

³⁵ *Tr.*, pp.4-5.

³⁶ *Ibid.*, p.5.

³⁷ *Ibid.*, pp.5-6.

had information they wished to convey to the Commission, they were asked to contact either the Secretary or a Mr. Mahony in the office of the Commonwealth Crown Solicitor in Sydney.³⁸

For the remainder of the first day of the Commission, Mr. Windeyer's address was focussed on the main topic: Soviet espionage in Australia. He gave the names of people whom Petrov had stated were working for the MVD, which included numerous Embassy officials and the TASS correspondent resident in Sydney. A brief outline of the history of the MVD was given, including the complex shifting of functions and changes of name that the Soviet espionage network had undergone. It was stated that there were certain distinct similarities in the way the system worked as revealed by Gouzenko and as it worked in Australia.³⁹ But the heart of the address dealt with the connection between Communism in Australia and Soviet espionage. Whilst he did not directly accuse the Communist Party as such of being a section of the MVD organisation, Windeyer declared that it was amongst the public adherents and sympathisers with Communism that the MVD looked for its agents. This, he said, was a confirmation of the suspicions already held by the Australian security service. The process of betrayal was outlined thus:

The point is that many people, especially among those who have no firmly anchored religious faith, or firm traditions and inherited loyalties...accept and do not question the doctrine of Communism.

...for some persons who accept it, it can be in an insidious way made the justification of almost anything, from faking ballots at union elections, for example, to aiding Russians in activities aimed at the security of the nation.⁴⁰

There was little wonder, Mr. Windeyer believed, that the MVD man in search of recruits would look among persons with some sort of sympathy with Communist teaching. Thus, in the very first day of the Commission, the

³⁸ *Ibid.*, p.6.

³⁹ *Ibid.*, pp.9-11.

⁴⁰ *Ibid.*, p.14.

finger of accusation was pointed directly at Communists and their sympathisers. Since the Gouzenko affair, the MVD had made an improvement in their system of recruiting agents. The process was not a formal one, so it was harder to detect. A person would be asked to get information, even of an innocent kind. If he or she agreed, then he or she was "in some sense or another, wittingly or unwittingly, a helper, and in some cases would be called a recruit".⁴¹ Mr. Windeyer's definition of recruits and helpers was very vague and depended entirely upon what the Russians called a person and not upon that person's willingness to be recruited. What person who had had normal conversation with a Soviet diplomat might not have answered a question so as to provide information "even of an innocent kind"? And who, amongst the many people at that time who favoured closer relations with the Soviet Union, could not be called a "helper"? Despite the assurances that the Commission was not on a heresy hunt, any person who might be brought before the Commission and accused of such vague charges would find it very hard to escape stigmatisation. In concluding the day's proceedings, Mr. Windeyer immediately proceeded from this theme to the plans Moscow had made to set up a fifth column of undercover MVD agents in Australia in preparation for war.⁴² After that, he handed up to the Bench the Letters from Moscow to the MVD Chief Resident in Australia, and made some brief explanatory remarks. The Commission was then adjourned till the next day.⁴³

More documents were produced on the second day, including two written by Australians. The first was dubbed Exhibit H. It set out for the information of the MVD brief characterisations of the journalists in the Canberra Press Gallery of 1951, mentioning their drinking habits, religion, personal details, and whether they were suspected of being secretly employed by ASIO. The

⁴¹ *Ibid.*, p.13.

⁴² *Ibid.*, pp.14-15.

⁴³ *Ibid.*, pp.19-21.

second Australian document was called J. According to Mr. Windeyer, it set out scurrilous details on the personal lives of people who had collaborated with the Japanese in gathering information or furthering their commercial interests in Australia before the Pacific War, and of those who were presently helping post-war American penetration of the country.

Mr. Windeyer said J showed "the depths to which one person descended to act in a way it was thought would be of help to a foreign power".⁴⁴ The last set of documents, the G series, were notes compiled partly by Mr. Petrov from the Moscow Letters and MVD files and partly by a former MVD Chief, Sadovnikov. The Sadovnikov notes could "only provide useful evidence...when they are linked with other evidence to be given", Mr. Windeyer explained, but they comprised lists of names or brief descriptions of individuals.⁴⁵ From all of this, and from the Petrovs, it would emerge that there was a clear distinction between ordinary Soviet diplomatic activity and Soviet espionage in Australia. The essence of the espionage was that the MVD had sought to suborn members of the Public Service and other people with confidential information. Most notably, Mr. Windeyer revealed what could be called a spy-ring that had been operating some years ago in the Department of External Affairs.⁴⁶ Using witting and unwitting agents, it had passed out secret information to the Russians, calculated to undermine Australia's security and Australia's standing with other nations. After covering these points, Mr. Windeyer called Richards to the witness-box to present an account of the Petrovs' defections. This was substantially the same as that presented already in Chapter 1. After Richards stood down, the Commission adjourned for the day. The third sitting was very brief. It dealt mainly with the correspondence that passed between the Australian Department of External Affairs and the Soviet Embassy concerning the Petrovs. This done, the

⁴⁴ *Ibid.*, pp.25-26.

⁴⁵ *Ibid.*, p.26.

⁴⁶ *Ibid.*, p.30.

Commission then adjourned until after the elections.

While a careful reading of Windeyer's address conveys a less sensational picture than the drastic one conveyed through the Press to the Australian public, most people feared the worst. The Transcript was very widely distributed, and its publication was carried out with very great speed to ensure that the remarks addressed to the Commission could be reported in the morning edition of the following day's newspapers. The Press usually published the full text of the address, but naturally they chose the most striking sections for their headlines and bold-type introductory comments. The overall impression that the Press created was that Windeyer had revealed a Soviet espionage operation in Australia in which Communists were involved. The connection was drawn between Communism and treason.⁴⁷ Communists made preparations in case raids were made upon their homes or offices. Next, Windeyer had made it clear that public servants were to be the prime subjects for the Commission's investigations, for it was against them that the Soviet operations had been directed. Finally, he had begun the essential task on which the foundations of the Commission rested -- the assertion of the credibility of the Petrovs. They were represented as innocent people who had fled the persecution of Soviet Communism. From what had been said at the Commission to date, few people could have doubted that Petrov and his documents would lead to the tracking down of a spy-ring in Australia. Only the closest reading of the address, with the benefit of hindsight, would disclose certain nuances which qualified Windeyer's remarks, and which placed the emphasis on Soviet attempts at espionage rather than their actual success. Again, these nuances tended to play down the significance of the Petrov papers as actual espionage documents. The address had been carefully drafted. It was cast in such a way as to make the most of what was to be placed before the Commission.

⁴⁷ For example the Melbourne *Herald*, "Russians Planned Fifth Column" 17 May, 1954; *Sun*, "Big Spy Ring Here", 18 May, 1954.

The opening of the Royal Commission so close to the Federal elections and the defection of the Petrovs in the last days of the Parliamentary session has long prompted allegations that the whole affair was manipulated to damage the election prospects of the Australian Labor Party. This is developed most strongly, for instance, in the book *Nest of Traitors : the Petrov Affair* by N . Whitlam and J. Stubbs. It is essential to clarify the matters at issue in the 'election stunt' argument. Since the Petrovs had given no evidence before the elections, all debate concerning their credibility is largely irrelevant. Similarly, because the documents handed up to the Commission had not yet been publicly disclosed, their authenticity was not a major issue. Though Assisting Counsel had represented the Petrovs to be defectors in good faith from the Soviet espionage service and their documents as espionage materials, these matters were still open to inquiry. No-one had been named before the elctions, and Windeyer had been scrupulous in pointing out that Members of Parliament mentioned in the Petrov papers came from both sides of the House. The issues at stake so far as the ALP's election prospects were concerned are these: the timing of the defections, the timing of the public announcement, the use made of the Petrovs and the first sittings of the Royal Commission, and the probable impact of the whole affair on the electors in comparison with other issues.

To make sense of these matters, it is very important to understand something of developments inside the ALP at the time. The emphasis given to the 'election stunt' rests on the view that the ALP and its Liberal-Country Party opponents were offering radically different policies. Certainly Whitlam and Stubbs state that:

The Labor Government that was expected to come to power in the election of 1954 would have been a very radical one...It advocated, for instance, recognition of the new Communist Government in China..Further, it was sympathetic to the small and newly developing nations of the Third World, and was critical of the unquestioning dependence⁴⁸ on 'great and powerful allies', Britain and America....

⁴⁸ N. Whitlam and J. Stubbs, *op.cit.*, pp.2-3.

The facts do not support this at all. The ALP, especially its Leader, Dr. Evatt, was most ambitious to win office. Failure might well have led to Dr. Evatt's being deposed. Ambition and anxiety therefore led Dr. Evatt towards an alliance with the Catholic right-wing in Australia and to close consultation with B.A. Santamaria, the leader of the Catholic Social Studies Movement. Though Santamaria suspected Evatt, the influence of the Catholic Archbishop of Melbourne, Dr. Mannix, persuaded him to discuss with Evatt the ALP's policy for the 1954 elections. According to Santamaria, Evatt promised to fulfil several key demands of the Movement.⁴⁹ Within the ALP machine, tensions were mounting between the Movement and Industrial Group leaders on the one hand and the traditionalists like Kenelly and the AWU on the other, but these had not yet come to their full development. Thus, the ALP was still marked by the dominance of the Industrial Group supporters in Victoria and New South Wales, by the coalition of the Movement and AWU in Queensland, and by considerable Grouper influence at the Federal level. Not once did Dr. Evatt promise the recognition of the People's Republic of China before the election, nor had he offered any tangible evidence of solidarity with the colonial world and opposition to Britain and America, except on Dulles' proposal for "united action" in Indo-China. Even the Menzies Government dithered on this matter until British and French opposition killed the plan and paved the way for the Geneva Conference.⁵⁰

The main difference between the two parties emerged over public spending. Dr. Evatt attempted to buy votes with a promise to abolish the means test on pensions, a proposal not generally perceived as radical. Menzies sought to paint Evatt as financially irresponsible. Otherwise, much of Evatt's campaign was taken up with proving his anti-Communist credentials. He pointed out that the ALP, through the Industrial Groups, had done far more

⁴⁹ Murray, *op.cit.*, pp.147-8.

⁵⁰ *Ibid.*, p.151.

to oppose Communism than the Liberals, in which statement there was a considerable amount of truth.⁵¹ Those ALP members who were critical of unquestioning dependence on America found their most articulate spokesman in Dr. Burton. So estranged had Burton and Evatt become that they were not on speaking terms.⁵² Though the American Government disliked Dr. Evatt, Dr. Evatt at no stage evidenced a dislike of America to the electorate. There is little doubt that the zeal of Labor MHRs Keon, Mullens and others within a potential ALP Government would have acted as an extremely potent restraint on radicalism. In the May 1954 elections, the ALP was described by one journalist as standing on "the most right-wing policy for decades".⁵³ Perhaps Whitlam and Stubbs confused the ALP position of 1955 with that of 1954.

The timing of the defections is a matter on which Australians are unlikely ever to possess the full facts. There was one figure involved who claimed that the Government did have the means to hold up the defection of Mr. Petrov until near the elections. This matter will be examined later.⁵⁴ But it is undeniable that neither Menzies nor ASIO controlled the posting and recall of Soviet diplomats. None could know that Petrov would be sent to Australia; none could control the time when Moscow would order Petrov and his wife back to the USSR. Whatever elements of conspiracy there may have been in the whole affair, it seemed it was the knowledge in the Petrovs' minds that they were about to return, and thus lose the chance to defect at all which forced them to make up their minds. By mid-1953 Mr. Petrov's tour of duty was complete, and only an eye-complaint had postponed his recall. His health was restored within a few weeks, and at any time after that he could have been

⁵¹ For example the *Melbourne Age* reported Evatt as saying the main bulwark of the fight against Communism was the ALP and criticising Menzies for not tightening sedition laws or travel to China or North Korea, 17 April, 1954.

⁵² Professor R.A. Gollan, Interview, January, 1979.

⁵³ E.H. Cox, quoted in Murray, *op.cit.*, p.154.

⁵⁴ This was George Marue, see Chapter 7.

ordered home. There may have been a little room for manoeuvre, but the arrival of 'the moment of truth' for the Petrovs depended largely on a decision of the Soviet Foreign Ministry.

The public announcement of Mr. Petrov's defection, and the chain of events it unleashed, did offer the Government some flexibility which it exploited. When Menzies made his announcement on 13 May, he informed the House that he had only laid the matter before Cabinet that very morning.⁵⁵ Such a statement did not convey the fact that Mr. Petrov had been in Australian hands for the last ten days. It was not until 12 August 1954, well after the elections, that Menzies told Parliament:

I say to the House and the country that the name of Petrov became known to me for the first time on Sunday night 11th April, I think, or the preceding Saturday night. It was one of those nights; when the head of the Australian Security Service came to see me at the Lodge in Canberra with the first two or three literally translated documents that Petrov had handed over.⁵⁶

This statement was contradicted by Brigadier Spry and Richards at the Royal Commission. They both insisted they had flown to Canberra on 4 April, with documents, and had a forty-five minute discussion with Menzies during which a rough outline of the contents of *all* the documents was presented.⁵⁷ Later, Spry stated that he had told Menzies of a possible defection as early as 10 February. In response, Menzies said on 25 October, 1955:

Early in February 1954, I now learn that the Solicitor-General and the Secretary of the Department of External Affairs, as individuals, were warned of the possibility of a defection. This warning was given orally by the Director-General; and was given to no other people except the Attorney-General and the Minister for External Affairs. I was myself told that there was the possibility of a defection, but the identity of the subject was not disclosed, nor did I ask for it... I repeat I had not heard of Petrov before his actual defection in 1954.⁵⁸

⁵⁵ CPD, H. of R., 13 May, 1954, p.326.

⁵⁶ *Ibid.*, 12 August, 1954, p.284.

⁵⁷ *Tr.*, Spry, 1104 (45-68) and Richards 760 (485-90) 1031 (1061).

⁵⁸ Menzies, CPD, H. of R., 25 October, 1955, pp.1870-1.

Spry, however, firmly maintained (and still does today) that he told Menzies the name of Petrov on February 10.⁵⁹ Menzies' last account in his book

The Measure of the Years is this:

On 10 February 1954 Spry consulted me, told me a defection was possible, and that the possible defector was probably a member of the M.V.D..... It is his memory that he for the first mentioned the name Petrov to me. There was no particular reason for me to remember the name; and in fact I did not.⁶⁰

Whether one accepts Menzies' statement that he forgot the name or not, the fact remains that he deliberately misled Parliament on at least one occasion. Moreover, he specifically instructed Brigadier Spry not to brief Dr. Evatt on security matters some time before the defection, and there is some evidence he also misled Evatt into believing that on the day of the announcement nothing important was due to come up in Parliament.⁶¹ Evatt went that night to his school old boys' reunion, a function he would certainly have missed if he had known what was to occur in Parliament the same evening.

Thus, for ten days the Prime Minister had full knowledge of the defection but said nothing. He was to argue that the reason he made any statement at all was to inform the Soviet Embassy of what had occurred and to provide the information to Parliament before the elections.⁶² No doubt, diplomatic courtesy required informing the Embassy, but since it had been kept in the dark for so long one wonders if this was really a genuine consideration. In the Gouzenko case, for example, the Embassy and the public were told nothing until months afterwards, although that case was hardly less important.

⁵⁹ C.C.F. Spry - *National Times*, 20/8/73, published 3-8 September, 1973, p.34.

⁶⁰ Menzies, *op.cit.*, p.156.

⁶¹ Concerning Menzies instruction to Spry see *National Times*, note (59) above; on Evatt, Alan Reid, *Bulletin*, 7 December, 1974, p.43., maintains he saw Evatt on the day of the announcement and that Evatt said Menzies told him nothing was coming up.

⁶² Menzies, *op.cit.*, p.163.

Therefore, from what is known, it seems fair to conclude that the timing of the announcement of Mr. Petrov's defection was delayed for a period closer to the elections quite deliberately. Naturally this would provoke some sort of crisis in relation to Mrs. Petrov. She would come under suspicion, and if she were an MVD employee she could hardly escape responsibility for allowing her husband to take important documents out of her custody. It was not hard to foresee dramatic consequences of some kind, but which themselves were delayed by the ten day silence concerning Mr. Petrov.

From the announcement of the defection, there was good reason to believe that the Government was using the Petrovs to bolster its position. The *Sydney Morning Herald* thought that Mr. Menzies would have "to produce a rabbit out of hat" to win the elections, and a number of papers believed Mr. Petrov was the rabbit.⁶³ Contrived 'leaks' of certain information that was expected to come out later at the Royal Commission emanated from the office of the Deputy Prime Minister, Fadden.⁶⁴ In the first instance, the information must have been provided by ASIO. The essentials of the Petrov affair were also conveyed to the United States authorities. 'Leaks' from the USA to the effect that the Petrov papers named Labor politicians were republished in Australia.⁶⁵ Probably this is the reason Windeyer found it necessary to explain that Parliamentarians from both sides were named. The holding of the first session of the Royal Commission in the full glare of international press coverage in such an extraordinary venue strengthened the view that the Petrovs were being used for electoral purposes.

⁶³ *SMH*, 6 April, 1954, after the defection the *Herald* wrote "Government election hopes brighten" 14 April, 1954, and Frank Chamberlain in the *Sun* 14 April, 1954, wrote "...Government members are delighted with the timing of this revelation of Communist activities..."

⁶⁴ Whitlam and Stubbs, *op.cit.* p.82.

⁶⁵ Menzies informed the British PM and the President of the USA, Justice Owen, *Tr.*, 1097 (897); both the *Sun* 23 April and *Herald* 22 April, 1954, quoted the North American Newspaper Alliance's view from "highly reliable sources in Washington" that Labor MPs may appear in Petrovs' documents.

It was striking that the Commission heard very little evidence but mostly the promise of great things to come, yet the reason advanced for the sittings was to end speculation.⁶⁶ During the election campaign itself, Fadden and some other Government members used the affair so blatantly that Menzies wrote to all Government candidates asking that they refrain from mentioning Petrov at all at the hustings.⁶⁷ This did seem to reduce the attention given to the affair. It has been argued that Menzies' letter was a mere ploy, and that the Petrovs still remained rooted in the public mind. But it is worth considering that if the Petrovs had been used to the full as an immediate political tool, then the credibility and wider purposes of the Royal Commission would have been greatly undermined even before it had begun to examine the evidence. The use made of the affair had always to be tempered with the realisation that if the Royal Commission was to carry any authority with the public, it must be seen to rise above the competition for Parliamentary office. As the elections drew nearer, the issue of Petrov gave way more and more to the contention surrounding Evatt's spending programme.

Deciding how much influence the Petrov affair was to have upon the voting at the elections is fraught with uncertainty. One can hardly survey all the electors of 1954 and ask them if Petrov changed their votes. The daily Press emphasised economic questions and was generally critical of attempts either by Evatt or Fadden to bring the Royal Commission into the election. Public spending was developing as the central issue.⁶⁸ It may be worth paying special attention to the Catholic Press. The Roman Catholic Church usually sought to influence its members' votes and political behaviour much

⁶⁶ For example the *Age* 19 April, 1954 called for a preliminary hearing to remove the "doubts and misgivings..in the public mind".

⁶⁷ *Age*, 6 May, 1954, concerning Fadden; Menzies, *op.cit.*, p.166, re his letter.

⁶⁸ This becomes quite obvious, particularly in the final week of the campaign. See *Age* and *SMH*, 24-29 May, 1954.

more than other large religious bodies. The Church was also one of the main community organisations most likely to respond to the issue of Communism. Therefore, if the Petrov affair struck a responsive note in relation to the elections, it is likely to be reflected in Church papers. The sustained anti-Communist crusade still exercised a very great influence over a large number of Catholics, even though it had lost some credence. The most strongly anti-Communist dioceses were those of Melbourne under Mannix and Brisbane under Duhig. In Melbourne, the *Catholic Advocate* did give the Petrov affair some mention, but only to call for a non-party approach, and singled out, not Evatt, but Fadden for some mild criticism. In discussing the elections and the policies of the two parties, the *Advocate* said nothing about Petrov, but took both parties to task over their attitude on State aid to Church schools.⁶⁹ Perhaps the failure of the Church to endorse the ALP positively in the election might be construed as a reflection of a veiled but deep concern over the implications of the Petrov affair for the ALP, but no evidence has emerged to support this and so it remains merely a speculation. In its *post-mortem* on the elections, the *Advocate* actually expressed the view that, despite some forecasts, the Petrovs did not make Communism the major issue.⁷⁰ The Brisbane Church paper, the *Catholic Leader*, paid no attention at all to the Petrov affair before the election. The voice of the Movement, and consequently a voice of influence with Industrial Group supporters, *News-Weekly*, naturally hailed the Petrov defection and the subsequent disclosures as proof of what it had been saying about Communism for years. It went on to criticise the Menzies Government in the light of the Petrov affair for its complacency towards Communism, and it praised the work of ALP Industrial Groups.⁷¹ Within the ALP, the chief object of *News-Weekly's*

⁶⁹ *Advocate*, 13 May, 1954, Editorial criticises Fadden; 27 May criticises silence on State aid.

⁷⁰ *Ibid.*, 3 June, 1954.

⁷¹ Re Menzies, see *News-Weekly*, 28 April, 1954, Editorial; and praise for Groups, 5 May, 1954.

spleen was not some pro-China, Third World lobby that Whitlam and Stubbs claim was dominant but Senator Kennelly and Arthur Calwell. Whitlam and Stubbs' chief radical, Dr. Evatt, was praised for his energetic campaign. He was called upon to intervene and take action against Calwell for the latter's anti-Japanese statements.⁷² *News-Weekly* did not endorse either Party, although it leaned slightly towards Menzies' economic policies.⁷³ Thus, from this survey of the most sensitive and influential anti-Communist Press, no substantial evidence emerges to suggest that the Petrov affair played a decisive role in determining the outcome of the elections.

The result of the poll was that Menzies was returned with a reduced majority. In fact a majority of voters, 50.3 per cent of the electorate, had supported Labor candidates, but the arrangement of electoral boundaries gave the Government extremely narrow victories in the marginal seats. Opinion polls conducted beforehand suggested that Labor had a good chance of victory, but they also showed that the ALP's margin over the Government had diminished over the period 1953-1954. That this period also coincided with some recovery from an economic downturn supports the view expressed in leading newspapers that economic issues were decisive. The constant Press criticism of Dr. Evatt's economic programme was compounded by public criticism of it within his own party by W.M. Bourke, Labor MHR for Fawkner.⁷⁴ It is of course impossible to say definitively that the Petrov affair did not affect some crucial votes, but this is a very long way from attributing to the Petrovs the central role in explaining the ALP's defeat. It is also far indeed from seeing the main purpose of the Royal Commission itself as a device for the

⁷² *Ibid.*, and also 14 April, 1954: "Calwell stands by friends of Indo-China Reds : Evatt Move Needed to Save Electoral Prospects".

⁷³ *Ibid.*, 19 May, 1954.

⁷⁴ Murray, *op.cit.*, p.152 re Bourke: Press verdicts *Age* and *SMH*, 30 May, 1954.

extraction of advantage in the Parliamentary sphere. Although Dr. Evatt had never sealed himself off completely from the ALP's "left-wing", and although his statements were more qualified than those of the anti-Communist zealots in the Party, there was no real reason to see the ALP of May 1954 as so dangerously radical or 'soft on Communism' that its election had to be prevented by all possible means.

The Petrov affair did have a role in the pre-election atmosphere. It was used, deliberately, to enhance the standing of the Government and to catch the Opposition off balance. It appears to have had such a slight influence on the electorate as to make it impossible to offer really tangible evidence of its importance in changing votes. For those most closely wedded to the 'election stunt' argument, it would seem that they have substituted a fantasy of a much more radical Labor Party for the reality that existed in order to justify Labor's loss. In so doing, the main emphasis of the Royal Commission and the Petrovs is misplaced, both in its timing and in its purposes.

On June 11, after the elections, the Commission re-convened in Sydney. The first task of the day was the official appointment of the Interpreter. The purpose of retaining Major Birse from England had been to ensure that the job would be filled by someone not caught up in Australian politics. Birse was 'tipped off' about his appointment by a friend, whose identity he did not disclose. A few days later, on the recommendation of ASIO, Birse was officially approached. Once in Australia, Mr. Menzies presented him with a case of Australian wines and helped arrange sight-seeing trips around the country.⁷⁵ Though Major Birse had, strictly speaking, only a mechanical but very exacting role to play, he became, in effect, the first character witness for the Petrovs. Birse had spoken with them already, and was especially

⁷⁵ A.H. Birse, *Memoirs of an Interpreter*, Michael Joseph, London, 1967, pp.231-2 concerning his appointment; pp.235, 241, re Menzies.

charmed by Mrs. Petrov. He thought that they were "not unpatriotic by any means", but they had defected simply because

...they are tired of politics and of this everlasting one-way political propaganda. They want to lead perfectly normal, peaceful lives.⁷⁶

Major Birse presented an account of his own experiences with the Soviet Union, not merely to illustrate his familiarity with the Russian language but to show the development of "strict censorship of mails" and the fear of his friends there with whom he no longer dared communicate. During his stay in Australia, Major Birse went further in dispelling any illusion that he was simply an apolitical functionary of the Royal Commission. In December 1954 he addressed the Royal Empire Society on the threat to capitalism posed by the Soviet Union despite its talk of peaceful co-existence.⁷⁷ The Commissioners formed a favourable view of Birse, and formally appointed him.

Mr. Windeyer then turned to other procedural matters. The Royal Commission was experiencing some difficulties with Court accommodation in Sydney, and so the High Court had offered to make one of its Court-rooms available in Melbourne. Another consideration for shifting to Melbourne was the availability of certain files which Mr. Windeyer could more readily consult there.⁷⁸ These files were not those handed over by Mr. Petrov, but belonged to ASIO. For the first time it became clear that ASIO would not only provide the very large number of plain-clothes security people which gathered around the Commission but also material upon which Assisting Counsel could base questions. This afforded yet another contrast with the Sharpley Commission. Then, the Victorian Special Branch, which liaised with ASIO, had

⁷⁶ Birse, *Tr.*, 49 (70-71); re Mrs. Petrov, *op.cit.*, pp.236, 243.

⁷⁷ Birse's talk is reported in the *Melbourne Sun*, 7 December 1954; and his views on the USSR's internal situation in *Tr.*, 49-50 (74-5, 78).

⁷⁸ Windeyer, *Tr.*, 53 (153).

provided some similar material, but Sharpley was not a person whose defection had been accomplished by the police, whereas Petrov was. The Victorian Police did not play a very great role in the preparation of materials or witnesses. ASIO, on the other hand, had both the Petrovs in its custody from the moment of their defection, and assisted in preparing their statements. ASIO also had conducted the surveillance of the USSR Embassy and its officials, which, it was said, had restricted the scope of MVD operations. It was therefore difficult to see how ASIO could remain a source, untainted by partisan convictions, for the gathering of evidence to *test* the Petrovs rather than support them. In practice, Assisting Counsel were briefed by ASIO itself, which clearly had an interest in establishing that it had behaved correctly. Only as a formality was it correct to say that Assisting Counsel were briefed by the Crown Solicitor's office. When, at the outset, Mr. Windeyer had said that the Petrovs had helped "draw some threads together", little significance was attached to the remark. Now it seemed that the Royal Commission would be investigating not only what the Petrovs had disclosed but also a composite of what both the Petrovs and ASIO knew. The close relationship between the Petrovs, ASIO, and Assisting Counsel had obvious risks. Apparently unaware or unconcerned with this, the Commissioners adjourned their hearings to a date to be fixed in Melbourne.

CHAPTER 5

FIRST APPEARANCES

The Melbourne sittings of the Royal Commission were opened on Wednesday 30 June in the High Court building. Vladimir Petrov made his first public appearance since his defection as the key witness. By seven-thirty that morning people were queueing up for admission to the public gallery, even though the session did not start until ten. At nine-thirty there were hundreds of people outside the Court. Some brought cut lunches so they would not lose their place in the line for the afternoon session as well. Police officers and ASIO men bustled about the red-brick building, and in the narrow lanes on either side, ready to pounce on any Soviet or Communist agent who might try to prevent Petrov from giving his evidence. Shortly before ten, a car drew up outside the judges' entrance with Mr. Petrov and another security man inside it. As the crowd realised who it was, they rushed to catch a glimpse of the man who had worked for three years as the head of the Soviet secret service in Australia. Thirty or forty Press photographers struggled to take pictures, but were unable to do so because a second car moved up in front of Mr. Petrov's. A cordon of uniformed and plainclothes police held the crowd back as Petrov leapt out of the car and darted inside.¹

In Court, every available seat was taken. Seventy-two seats were set aside for holders of special tickets, which included ASIO's Brigadier Spry and

¹ The description of the scene outside the Commission and of Mr. Petrov's arrival is taken from reports in the *Age*, 1/7/54 and *SMH* 1/7/54.

his Deputy Richards as well as other prominent political figures. Seventy-four seats were taken by Press correspondents. This left room for only twenty-three members of the public.² The Commissioners took their places at the Bench: "craggy Mr. Justice Philp, shrewdly intellectual Mr. Justice Owen, and grey Mr. Justice Ligertwood, looking wiser than any man could possibly be".³ Mr. Windeyer rose: "Call Mr. Petrov". Petrov left his seat next to Richards and Spry and went to the witness-box. He was a short, tubby man, with black liquid eyes and smooth heavy jowls. He wore a blue, loose-fitting, double-breasted suit of pin-striped flannel, a maroon tie, and tortoise-shell spectacles.⁴ He was sworn in. "Will you tell the witness also", said the Chairman to Mr. Birse, "that we wish him to give his evidence in English...".⁵ The Commissioners understood that Petrov's command of the language was quite good. Mr. Petrov, listening to Windeyer's questions, screwed up his eyes with concentration as he appeared to translate the English mentally into his native Russian. He went blank. A look of frightened incomprehension came over his face. Mr. Windeyer patiently re-phrased his question. Quite often, even trivial questions were asked two or three times, with the Commissioners intervening from the Bench, before there was a clear enough answer for the record.⁶ Petrov had such frequent recourses to the Interpreter that the Commissioners very soon abandoned any serious attempt to maintain the flow of the proceedings in English.

Mr. Windeyer spoke very loudly and slowly, at less than dictation speed. Mr. Birse translated quickly and deftly. Petrov replied. He looked at the

² *Age*, 1/7/54.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Tr.*, 63 (63).

⁶ *Age*, 1/7/54.

Chairman and took every gesture as a cue for his own behaviour, even to the point of copying the Chairman's smile.⁷ Petrov was keen to please the Commissioners, and they returned his consideration. Not only were questions simply phrased but, as often as possible, complex questions were broken down into several parts. Advantage was also taken of the flexible procedures allowed at Royal Commissions to put leading questions. Because Petrov's answers were often supplied within the framework of these questions, the vast majority of them required little more than his assent.

401. THE CHAIRMAN (Interpreted)...The material which you have been talking about, which you were told had been obtained by the MGB or MVD section at Canberra, was material and information relating to matters which would come within the province of the Department of External Affairs? -- (Interpreted) That is right.

402. I suppose the MVD were anxious to discover what Australian policy might be in various international matters? -- That's right.

403. (Interpreted) And, I suppose, what the policy of Australia's friends might be in various international matters? -- (Interpreted) That is right.

405. (Interpreted) They were interested also in any differences of policy between, for example, the English-speaking countries? -- (Interpreted) That is right.

406. (Interpreted) Is it information of that nature you were referring to a little while ago when you said you had been informed that certain information had been obtained before you came here? -- (Interpreted) Yes, Sir.

407. (Interpreted) I gather from my reading of the documents that in the last two or three years the MVD at Canberra found it very difficult, if not impossible, to get information? -- That's right.

408. (Interpreted) Was that because the Australian Security Service had become very efficient? -- That is so.

409. (Interpreted) And I suppose former informants had perhaps become frightened? -- (Interpreted) That is so.

410. (Interpreted) Or perhaps had been moved to positions in which they could do no harm? -- (Interpreted) That is possible.

411. (Interpreted) You received a severe reproof from Moscow, did you not, for your inability to get information? -- That's right.

⁷ *Herald*, 30/6/54.

⁸ *Tr.*, 114 (401-411)

Petrov's mechanical "That's right" prompted the sympathetic journalist from *News-Weekly* to describe him as "stolid and unemotional".⁹ The *Age* observed that "After the hundredth repetition this response had a hypnotic effect. If it had not been for the sharp interventions of Mr. Justice Owen, the whole court could well have fallen asleep".¹⁰

At lunch, Mr. Petrov came out of Court by the front door for a few moments to fetch something from his car. The Press was able to photograph him. He was overheard to say "I'm terribly tired". An ASIO officer told him he could rest for lunch, but would have to go back in the witness-box that afternoon. When the Commission resumed, many of the reserved seats were empty. The special guests had found the pace too slow. When Petrov finally stood down that day after four and a half hours giving evidence he looked physically exhausted.¹¹

From the evidence, Mr. Petrov's account of his career can be pieced together. He was born into a peasant family under the name of Vladimir Shorokov in Russia in 1907. In the 'twenties, he joined the Communist movement through the Komsomol and then the Communist Party itself. He adopted the name Proletarsky as a demonstration of his enthusiasm for socialism. As a young man, he was obliged to do military service, and so he joined the Navy and worked as a cipher clerk. His period of compulsory service over, he was asked to stay on as a Political Commissar aboard ship, but instead he left the Navy and joined the Soviet security organisation, the OGPU. There he continued to work in ciphers, and was sent to Sinkiang with a cipher unit as part of a Soviet force to put down a rebellion against the provincial Chinese government. He returned to Russia, where he remained until 1942. His first overseas posting was to Sweden. He said the Foreign Office found his name

⁹ *News-Weekly*, 21/7/54.

¹⁰ *Age*, 1/7/54.

¹¹ *Ibid.*

too outlandish for service abroad, so they changed it to Petrov. He was appointed Referent, a position that did not have diplomatic status or immunity and ranked below that of Attache. Petrov claimed that whilst in Sweden he was secretly employed by the Soviet security service as a cipher clerk to the Chief Resident. In this clandestine position he had therefore enjoyed access not only to information on the behaviour of Soviet nationals resident in Sweden but also on the operation of agents supplying information to the Russians. With his wife he served in Sweden until 1947, when they returned to Moscow. There, each was appointed to work in a restructured security and intelligence network called the Committee of Information -- the K.I. -- which dealt with military intelligence, internal and external matters. To demonstrate that he had worked there, Mr. Petrov gave evidence at some length on the various departments and sub-divisions within the K.I.¹² However, he made no revelations to the Commission of anything that was not already known to Western intelligence agencies.¹³ In the K.I., Petrov's task was to handle security reports on the political reliability of Soviet citizens working as sailors on the lower Danube waterways. Later, in 1948, structural changes in the K.I. led to his being transferred to a new organisation, the MGB, where he did similar work dealing with Soviet sailors visiting Anglo-American countries. Petrov gave an account of handling an adverse report from Australia on a Soviet merchant captain who had conversed with the Australian Press and had paid an unsolicited call on the Soviet Embassy in Canberra. Such a story could only confirm the

¹² All of the foregoing can be found in *Tr.*, pp.65-75.

¹³ The Commissioners had in front of them a chart prepared by ASIO outlining the structure and departments of Soviet intelligence. The chart was drawn up not by Petrov but by an ASIO officer, *Tr.*, 83(8) Exhibit 55. Windeyer described Petrov's contribution as "perhaps the first, direct" evidence, and doubted if the full details of the K.I. were known "to anybody" 83(9). These qualifications do not suggest Mr. Petrov's contribution was original, new information. See also J. Barron, *The KGB : The Secret Work of Soviet Secret Agents*, Hodder and Stoughton, London, 1964, pp.340-342.

opinion than even innocent acts of friendship by Soviet citizens abroad were the subject of stringent surveillance and adverse comment by the Soviet authorities. The overall pattern of Petrov's career that had emerged so far was that of a clerk. He had never been required to do work of an operational character and had never made contact with Soviet espionage agents in the field. Nor had he ever received training in operational work or in the delicate task of recruiting and liaising with undercover workers. He had dealt only with ciphers and reports.¹⁴

In 1951, Petrov was again posted overseas with his wife, this time to Australia. As before, he was appointed to the minor post of Referent, although shortly after his arrival he assumed the positions of Third Secretary and Consul and representative of VOKS, the Soviet cultural body. Petrov was also given his first operational work as the sole undercover member of the MGB. He had two responsibilities. First, he had to check up on the loyalty of Soviet Embassy personnel, which was called *Soviet Kolony* (SK) work. Second, he had to make contacts amongst the Soviet emigre community in Australia and find people who would work secretly to promote pro-Soviet feeling. This was called *Emigre* (EM) work. Because these two areas were the responsibility of the MGB alone, Petrov was not answerable to anyone else in Australia for the way in which he conducted these affairs, but only to Moscow.¹⁵ In December 1951 this changed when the K.I. was abolished and the MGB took control over all overseas intelligence operations. Strangely, though the K.I. personnel thereupon became MGB personnel, communications between Moscow and Australia were conducted through the old K.I. codes and the MGB codes were sent back home.¹⁶ In

¹⁴ *Tr.*, pp.78-88.

¹⁵ *Ibid.*, pp.88-91.

¹⁶ *Ibid.*, 97 (656-660), 98 (690-699).

February, 1952, Petrov was appointed Temporary Chief Resident of the MGB. He took over this position from the Sydney TASS correspondent, Mr. Pakhomov, who had been the former head of the K.I. in Australia.¹⁷ Pakhomov remained in Australia under Petrov until he was recalled in June 1952. Mr. Antonov was the new TASS man who came out to replace him, and he also took up MGB work under Petrov's direction. In March 1953, the MGB was disgraced because of its leading role in supporting the allegations of a "Doctors' Plot" to poison Stalin, and it was merged into the MVD (Ministry of Internal Affairs) under the control of L.P. Beria. Thus, only from that time onwards did Petrov, strictly speaking, become associated with the MVD.¹⁸

At first the Commissioners and Assisting Counsel endeavoured to distinguish between the various Soviet agencies and their changing responsibilities. However, even on the same day that all the complex differentiations had been introduced into the proceedings, the terms were being used so interchangeably that it became most unclear as to who was working where and with what responsibilities. "MVD" was used as a blanket term to describe all operations except military intelligence, although "MGB" would definitely have been more exact up till March 1953. At times, this inexact use of terms introduced confusion and contradictory evidence.¹⁹ It was noticeable, too, that Petrov's evidence concerning Australian operations was rather more wooden than that dealing with his period in Russia. Not only did Assisting Counsel put more leading questions, but even bluntly corrected Petrov on his memory of the code-word he used for Melbourne.²⁰ The contrast that emerges from

¹⁷ *Ibid.*, 98 (713-717).

¹⁸ *Ibid.*, 97 (664-669).

¹⁹ For example Sadovnikov and Pakhomov are given muddled "K.I." and "M.G.B." designations. *Tr.*, pp.89-90; Mr. Gubanov is called an "NKVD" man but does "MGB" work. *Tr.*, 89 (271) cf.89 (288); the "MVD" and "MGB" are confused *Tr.*, 97 (680-683) cf. (664-666).

²⁰ *Ibid.*, p.111 contains a very good example of wooden testimony where Petrov gives evidence on the information sought about people to determine if they would be suitable MVD recruits. Concerning the code-word see 111 (304-5).

Petrov's account of his Australian responsibilities with what he had done in the USSR is complete. He had to recruit agents within the Australian community, to perform work in the field himself, and to direct the field work of others.

Assisting Counsel then turned to examine the circumstances leading to Mr. Petrov's defection. It was explained that for some time Petrov had been under increasing criticism within the Embassy. Mr. Windeyer presented this as politically motivated and drew a picture of Petrov as a political refugee. The downfall and execution of Beria in Moscow had prompted the Soviet Ambassador in Australia at the time to accuse Petrov of being a member of a pro-Beria faction. This accusation was transmitted to the Council of Ministers of the USSR. Unfavourable reports about Petrov were also transmitted to the Central Committee of the Communist Party of the Soviet Union by its representative, the Commercial Attache, Mr. Kovaliev, even though Petrov was Kovaliev's superior officer in the Australian MVD network.²¹ Whilst the accusations may have helped Petrov decide upon defection, it was not generally appreciated at the Commission that his own evidence contradicted the theory that his ideological affiliations and loyalty to Beria were the basis of his decision. In passing, Petrov revealed to the Commission that he had first considered defection as early as 1952, well before the whole issue of Beria ever existed in Soviet politics.²² While Mr. Petrov admitted that he felt a loyalty to Mr. Beria, he said that this was not known to other members of the Embassy, that there was no foundation to the charges that he was pro-Beria, and that he was not organising a pro-Beria faction.²³ When he was asked the names of those

²¹ Concerning Beria *Ibid.*, 134 (528-9, 536-7); 133 (502, 520).

²² *Ibid.*, 136 (605).

²³ *Ibid.*, 133 (524-5).

executed with Beria, he was unable to name them. It was only the next day that he decided he did know and provided names to the Commission.²⁴ Both the Petrovs had hoped that the appointment of the new Ambassador, Generalov, would ease the situation in the Embassy. In fact criticism continued, less along the lines of ideology and more directed at unsatisfactory aspects of Mr. Petrov's behaviour, including his drinking.²⁵

In February 1954 Petrov contacted Mr. Richards of ASIO. Between 27 February and 3 April, Petrov met Richards twelve times in Sydney and Canberra. At the meeting of 19 March, Petrov informed Richards that he could supply information if his future in Australia was looked after. Windeyer asked if this guarantee of future security had prompted the payment of £5,000 to Petrov on his defection. Petrov agreed.²⁶ At once the political refugee was transformed into a man who could be accused of selling his loyalties. For nearly two months nothing had been said to the public of the money. Perhaps conscious of the possible effect this sudden transformation of Mr. Petrov's status might have upon people's respect for their key witness, the Commissioners and Counsel at once sought to highlight what they argued was the high salary which Moscow paid the Petrovs. From his calculations Mr. Justice Owen found Petrov's annual salary much more attractive than the salary of a Supreme Court Judge.²⁷ Compared with that, ASIO's gift of £5,000 was slight recompense. The truth might have been better served if the Commissioners had estimated Petrov's former salary according to the real purchasing power of the rouble instead of the artificially inflated official rate of exchange. By that more objective standard, the salary more closely

²⁴ *Ibid.*, 134 (534-5) given on 5/7/54, cf. 145 (225-229) given on 6/7/54.

²⁵ *Ibid.*, 134 (547), 135 (569) (578), 261 (385).

²⁶ The first account at *Tr.*, pp.141-144 is less specific than that presented here which also draws on Richards' account at p.748.

²⁷ Owen, J., 145 (202); pp. 144-45 contain the calculations of the Petrovs' wealth.

approximated that paid to a comparable officer in the Australian External Affairs Department and not to a Justice of the Supreme Court.²⁸

Nothing could have seemed a more appealing contrast than Mrs. Evdokia Petrov. Not long after Mr. Windeyer had revealed the £5,000 payment, her husband was stood down. It was nearly time for lunch, and the public gallery was restless. Mr. Windeyer asked Mrs. Petrov to be called. Nothing happened. Everyone in the gallery craned their necks to see if Mrs. Petrov was in Court. Justice Owen drummed his fingers on the table. Two minutes later, a door directly behind the witness-box opened. As Mrs. Petrov appeared, there was an audible intake of breath. She walked into the Court looking drawn and pale, but within a few minutes she had regained her poise. She was trim and beautifully groomed. Her face was wide but quite attractive, her eyes were grey and intelligent. Her mouth drooped a little, suggesting bitterness and frustration. She wore a junior navy suit, a lace blouse buttoned at the throat, and a little white cap pressed down on the golden curls of her hair.²⁹ Glamorous pictures of her were featured on the front pages of the daily Press for the several days during which she gave her first evidence. Columns were set aside for comment on her smart collection of hats and outfits. Unlike her husband, Mrs. Petrov was a lively character. If she did not understand something, she shrugged her shoulders and smiled, sometimes even breaking into full-throated laughter.³⁰ In the witness-box her emotions ranged from the bright and vivacious to the sullen and distressed. Her answers to questions were never stodgy like her husband's, although they were led to her in the same manner. She seemed more intelligent than he,³¹ and she demonstrated an ability to grasp not merely the

²⁸ Submission of Dr. J.W. Burton in Whitlam and Stubbs, *op.cit.*, p.174.

²⁹ *Age*, 7/7/54.

³⁰ *Ibid.*, and *News-Weekly*, 21/7/54.

³¹ This observation was widely shared. Major Birse, the Interpreter, suggested this in Birse, *op.cit.*, p.236.

surface meaning of a question but also its deeper intention and consequences. On the second day of her appearance, she was encouraged by a small group of anti-Soviet Russians who called out their congratulations and held up placards saying "Russian Friendly Greetings to Petrovs" and "We Russians Know Communism and Hate It". She waved cheerily to them.³²

Mrs. Petrov was born in 1914.³³ Counsel declared that he would not question her about her maiden name or her relatives as they were still living in the Soviet Union.³⁴ Presumably this was to avoid their victimisation on account of evidence she might give, but the gesture was probably futile save for creating an air of sympathy. It is inconceivable that the Soviet Government would not have possessed such information about its own officials. From the evidence she did give, it emerged that her father had worked for the NKVD (a Soviet security body), and that she had a previous *de-facto* marriage with an NKVD man in 1936. She had joined the Komsomol in 1929, but had not been admitted to the Communist Party until 1950. Her intelligence career began in 1930, when she worked briefly in ciphering for military intelligence. No details were given of her career from 1934 until 1942 when she was posted abroad with Mr. Petrov to Sweden. There she soon became more than just the wife of the Referent. About 1942-3 she kept books, typed, and photographed documents for the Soviet intelligence service. Unlike her husband, she carried out operational duties by making contact with Soviet espionage agents. On her return from Sweden, she handled *Soviet Kolony* work dealing with Russians working in coal concessions in Spitzbergen. Later she was transferred to the cipher cracking department of the K.I., with particular responsibility in handling foreign political intelligence material emanating from Scandinavian countries. Mrs. Petrov only left this work when she was sent with her husband to Australia in February 1951.³⁵

³² *Age*, 8/7/54.

³³ *Tr.*, 150 (408).

³⁴ *Ibid.*, Windeyer, 150 (413).

³⁵ *Ibid.*, pp.151-154.

Here, Mrs. Petrov acted as Embassy Secretary, handling accounts and financial matters. She was brought into the work of the Australian K.I. with the departure of the Chief Resident, Sadovnikov, in March 1951. Pakhomov, who took over, found that it was not possible to handle the paper-work from Sydney. According to Mrs. Petrov, she had effectively done the work of Chief Resident until her husband took over, but she consulted from time to time with her nominal superior whenever he came down from Sydney. Her work was confined to handling reports. She rarely left the Embassy, and her sole operational duties were to look out for possible agents in the course of her normal diplomatic rounds in the Canberra community. Throughout her period in the Soviet Embassy in Australia, from March 1951, she was book-keeper and cipher clerk for the whole Soviet intelligence network, except the military. From her own experience, she felt she was in a position to explain the general nature of the K.I., MGB, and MVD. She gave accounts of what she saw in other people's reports, what they told her, and what she read in cables to and from Moscow, but she herself did not have first-hand experience of any of the espionage assignments about which she was called to give evidence.³⁶

Mrs. Petrov seemed an innocent and blameless woman. Both at the Commission and in her part of the book *Empire of Fear*, she gave a lengthy account of the events leading up to her defection. She described the Soviet Embassy in Australia as "Moscow by the Molonglo", after the river that flows through Canberra. She believed that the campaign of criticism against Mr. Petrov and herself was motivated by envy of their good jobs and salaries. Other Embassy women were jealous of her nice clothes. The wife of the first Ambassador, Mrs. Lifanov, turned against her. The second Ambassador's wife,

³⁶ *Ibid.*, pp.154-166.

Mrs. Generalov, invented a story that Mrs. Petrov had thrown a meat pie in Mrs. Generalov's face.³⁷ Once Mr. Petrov had defected, Mrs. Petrov said she had been subjected to inhumane treatment and indignities even though she had not yet decided to defect herself. Throughout her confinement within the Embassy she had fully intended to go back to Russia, and she had handed over the MVD documents and certificates to her successor. At this stage nothing was said against her and no documents were noticed to be missing, although she was unsettled by repeated assurances without any written guarantees that she would not be prosecuted for her husband's defection. It was the treatment she received in her last days with the Russians that convinced her she would be punished if she went home. She had been hustled on to the plane and no-one had said good-bye to her. Only aboard the 'plane did she decide to see her husband, or at least to speak with him. She had confided in the kind air-hostess who had comforted her. Only in Darwin after hearing him on the telephone did she resolve to stay in Australia. Mr. Leydin, the acting-Administrator of the Northern Territory had assured her she would be safe, and he arranged for her to be taken out of the airport through another door so she would not have to face the Russian couriers again.³⁸ When she stood down from the witness-box, before her cross-examination, few people were not moved by the story she had hold.

³⁷ V.M. and E.A. Petrov, *Empire of Fear*, Andre Deutsch, London, 1956, pp. 248, 252, and *Tr.*, 659 (1097), 135 (578).

³⁸ *Ibid.*, pp.167, 185-187.

CHAPTER 6

WHAT IS IN DOCUMENT J?

Between the adjournment of the Royal Commission and its resumption after the elections, thousands of copies of a roneoed pamphlet *What Is In Document J?* had been distributed. This flimsy publication soon became so widely sought that copies were exceedingly hard to obtain.¹

Document J itself had been handed up to the Commission, and identified as part of the material that Mr. Petrov brought out of the Soviet Embassy. Mr. Windeyer had described J as being in English, written by an Australian, and an example of how low an Australian would sink to assist a foreign power. In a rare moment of alliteration he dubbed it "a farrago of facts, falsities, and filth".² The Commissioners deemed Document J too scandalous to publish.

Before the Commissioners could make their own full assessment of the Document, *What Is In Document J?* stole a march on them. The pamphlet was the only detailed account of any of Petrov's documents that Australians had yet seen. Whilst the Commission laboured to understand the importance of Document J in the scheme of Soviet espionage, the pamphlet explained that

¹ A copy is held by the National Library. Later, more professionally printed copies were produced under the imprint "Freedom Press" which gave as its address the home of the Chairman of the Commission.

² *Tr.*, Windeyer, p.37.

J contained exposures of secret Japanese and American interests at work in Australia. The activities of political figures and leading businessmen were not spared. *What Is In Document J?* delved into their financial and ideological affiliations; it discussed their overlapping and interlocking interests; it reprinted their pro-Japanese and pro-American activities and statements; and it reviewed their personal histories. It argued that here were the spies and here was the nest of traitors to Australia's independence. For reasons of prudence and for the protection of his informants, the author of the pamphlet warned his readers that he could not publish here all the material that J itself contained. Such discretion no doubt whetted the appetite. What more was there to know about the pro-Nazi activities of Sir Percy Spender's brother-in-law, and of Sir Percy himself? Was there even more to be revealed about the American interest in North-West Cape or the political machinations of Lloyd Ring Coleman, the chief executive of the advertising firm of J. Walter Thomson?³ If the pamphlet were a true guide to the Document, then J must have been a rich harvest of scandal against the wealthy and the powerful. The challenge was thrown down: the Commission could publish J itself for the world to see, or keep it secret and be accused of protecting the reputation of vested interests.

The author of the pamphlet admitted he had written some material in the Soviet Embassy on the topics mentioned by Windeyer in his opening address. He could not say if Document J were definitely his own until he had seen it himself, for he could not discount the possibility of a mix-up of documents.⁴ The author was Rupert Lockwood. He was a member of the Communist Party and had worked for its paper *Tribune*. At this time he was Editor of the *Maritime Worker*, the newspaper of the Waterside Workers'

³ R. Lockwood, *What Is In Document J?*, mimeo, Sydney, 1954.

⁴ *Ibid.*

Federation. He was also very well-known as a speaker in the Sydney Domain and the author of numerous articles and pamphlets, dealing with themes very similar to those covered by Document J. When the Commission re-convened, Windeyer announced that he was tendering the pamphlet as Exhibit 46. This would be an important item of evidence that Lockwood was the author of Document J itself.⁵

Counsel for Lockwood was Mr. E.F. Hill, a Melbourne barrister and Victorian State Secretary of the Communist Party. On 1 July, Hill and his instructing solicitor Cedric Ralph went up to the Commission. They had to force their way through a tight cordon of police and ASIO officers even to enter the building and they did not know if they would be permitted to appear.⁶ After lunch Assisting Counsel drew the Commissioners' attention to Hill. Given leave to appear, he asked the Commissioners to rule that Document J was irrelevant to their Terms of Reference. The Chairman interrupted Mr. Hill to declare that J was relevant, and ordered him to sit down. Throughout the afternoon, Hill was ordered to sit down seventeen times as he strove to make submissions on behalf of his client.⁷

The reasons why the Commissioners did not want to hear Mr. Hill's arguments were made clear. They had ordered Document J not to be made public and they believed they were within their powers in so doing. They had seen the Document and Mr. Hill had not, and so they alone could tell if it were relevant. They were certainly not going to explain to Mr. Hill why they thought it was relevant because this would entail making public certain

⁵ Tr., 61 (7-20).

⁶ Interview with E.F. Hill, 9/11/78.

⁷ Tr., 93-96 (485-623). Note also that the printed Transcript from which all references are drawn is not actually complete. Significant, although not major, deletions have been made from the daily roneoed Transcript.

parts of the Document of which they were determined nothing should be public. Thus any argument on Mr. Hill's part was pointless.⁸

Six days later, Lockwood had two writs taken out in the High Court. The first was a writ for libel against Assisting Counsel. It was complained that Counsel in his opening address to the Commission had defamed the reputation of Lockwood as a journalist and citizen, and damages were sought. The second writ sought an injunction from the High Court to halt all proceedings in relation to Lockwood or any other matter that might bear on him, and asked the High Court to declare that the Commission was not properly constituted and therefore had no legal powers. The Act establishing the Royal Commission specifically contemplated the appointment of only one Royal Commissioner. It was argued that the appointment of the present three was thus invalid. As for Assisting Counsel, the Act had not made any of his statements privileged in law and therefore action for libel and defamation was possible. On the resumption of the afternoon session on July 7, Windeyer told the Commissioners of the writs. He declared that they were merely a contrivance to impede the Commission, "because Mr. Lockwood desires to avoid exposure to being subject to cross-examination".⁹ Only Mr. Hill's objection prompted the Commissioners to suggest that reflections on the motives for bringing an action were not appropriate. But they rejected Hill's argument that they themselves were in contempt of Court by proceeding further, and they continued with the evidence against Lockwood.¹⁰

Mrs. Petrov was the main witness concerning Document J. One day, she said, the Sydney TASS correspondent, Antonov, reported to Mr. Petrov that Lockwood had offered to give the Soviet Union some information. Lockwood was willing

⁸ *Ibid.*, 95-6 (565-602).

⁹ *Ibid.*, 168 (297) and Commonwealth Law Reports, [henceforth CLR], Vol.90, pp.178-9.

¹⁰ *Tr.*, Mr. Hill's objection to reflection on Lockwood's motives, 168 (298-299); discussion re contempt of Court, 175-84.

to prepare a document but wished to do so in the safety of the Soviet Embassy. Mr. Petrov reported the proposal to the Moscow Centre of the MVD. The MVD replied with its approval of the scheme, but asked that Lockwood should not confine himself to general information but provide precise details concerning the sources of the information he gave. Accordingly, Antonov arranged for Lockwood to come to the Embassy. Mrs. Petrov let Lockwood into the building herself, and she had seen Lockwood typing over a period of three days. She said she had even brought him lunch and typing paper. Two copies of the document were made, an original which had been sent to Moscow and a carbon copy - Document J - which Mr. Petrov had brought out of the Soviet Embassy and which was now before the Commission. At the end of each day, Mrs. Petrov said she had collated the document. She had also prepared the original for despatch to Moscow.¹¹ Under cross-examination, Mrs. Petrov admitted that she had not read the document right through but had only glanced over it. To her evidence the Interpreter added the words "the basic contents I read", but did not dispute Mr. Hill's challenge that Mrs. Petrov had not actually said this.¹² She was asked by the Commissioners if she could identify Lockwood. It was suggested she might step down from the witness-box to see better. She did. Then, looking at the man on the bench facing Mr. Hill, she pointed out Rupert Lockwood.¹³ She swore that his reward for the work had been £30 and several bottles of brandy.¹⁴ Mrs. Petrov's evidence that Document J was the true and exact carbon copy of the original sent to Moscow depended primarily upon what she said Antonov had told her, and only secondarily upon her own recollection of quickly

¹¹ *Ibid.*, E.A. Petrov, 188-190, 193-8.

¹² *Ibid.*, 223 (512-530).

¹³ *Ibid.*, 189 (437-448).

¹⁴ *Ibid.*, 190 (472-475).

journalists might supply to an American correspondent.¹⁷ Assisting Counsel and the Commissioners were not moved. They had already gone through Document H with Mr. Petrov, step by step, asking if each type of information was of interest to the MVD. And to each, Mr. Petrov had replied: "That's right".¹⁸ The Commissioners underscored the fact that after the composition of the Document, O'Sullivan had been appointed Press Secretary to Dr. Evatt, the Leader of the Opposition and potentially the next Prime Minister of Australia. Evatt had demanded O'Sullivan's resignation as soon as O'Sullivan had confessed privately to him the day after the Federal elections.¹⁹ The public had to draw its own conclusions when the disclosures at the Commission filled the front pages of the daily Press on 16 July, 1954.

Documents H and J may have been interesting but their precise significance and relevance to an espionage inquiry was not immediately clear. The Commissioners shifted their emphasis several times concerning J. On one occasion special emphasis was placed on the disclosure of the location of a military airfield at Exmouth (W.A.), but when Lockwood showed that this had been published in the *Sydney Morning Herald* the Commissioners singled out the naming of ASIO agents as the key point.²⁰ The Commissioners did focus consistently on one aspect. O'Sullivan himself provided the link between H and J. He had written H for Pakhomov, and he was cited in the "Sources" section of J as providing certain information. Document J was divided into sections: Japanese, American, a loose page J 35, and "Sources". In the margin of the main text of J were written letters in block capitals which referred the reader to the appropriate references in the "Sources" section. The Commissioners summoned Inspector James Rogers of the NSW

¹⁷ *Tr.*, 284-94 and J. Meagher in Tennant, *op.cit.*

¹⁸ *Tr.*, 111 (272-293).

¹⁹ *Ibid.*, 292-3 (734-761).

²⁰ *Ibid.*, Owen, J., 233 (15-17); cf. 476 (753-756).

Police as their handwriting and document expert, who argued that the lettering on J was identical with Rupert Lockwood's lettering on his passport application, which the Commission had obtained for the purposes of the comparison.²¹ Assisting Counsel argued that this was further proof of Lockwood's authorship of J. He also produced other records to show that some of the information in the "Sources" could only have derived from Lockwood's own experiences and informants, and thus that it was inconceivable that any other person could have compiled the Document. O'Sullivan was cited as the "Source" for information on J 35, the loose sheet, which was entitled "Dr. Evatt". Part of this section gave an account of Dr. Evatt's alleged difficulties in obtaining a visa to enter the United States because of his opposition to the Communist Party Dissolution Referendum. The clear implication was that O'Sullivan had not only supplied information to the Russians before he entered Dr. Evatt's service, by producing Document H, but he had leaked information to the Russians' informant, Lockwood, afterwards as well. Further persual of the the "Sources" brought to light still more important evidence. Two men still employed in Dr. Evatt's Secretariat, Albert Grundeman and Allan Dalziel, were cited as informants on other matters.²² The apparent co-operation between members of the Labor Leader's staff and the Communist Lockwood in providing information for the Soviet espionage organisation was a serious matter. It now seemed that the most extreme statements about Soviet-Communist-Labor collusion were to be vindicated at the highest levels. In releasing this information towards the end of the day's session on July 15, the following comments were made:

²¹ *Ibid.*, Evidence of R.W. Edwards, Passport Officer, 234-5; and Inspector J.H. Rogers, 239-247.

²² *Ibid.*, 296-297 (964-1018).

1052. THE CHAIRMAN - We think it is right that we should say that we do not find anything in this document [i.e. J] which reflects on the Leader of the Opposition. What disturbs us is that the document quotes as sources on various matters, some of which are of a confidential nature, three members of the secretariat of the Leader of the Opposition, including in that three, O'Sullivan. I think I should make that clear.

1053. LIGERTWOOD, J. - And O'Sullivan denies that he gave the information.

1054. MR. WINDEYER - And, as your Honours appreciate, it becomes relevant to explore it to its source.²³

In a situation where the precise nature of the key Documents was unknown, the question could only arise as to whether an exploration of the matter to its source might not lead to Dr. Evatt himself. Whether the contents of Document J reflected on the Leader of the Opposition or not was beside the point. Australians were left wondering what kind of man would employ on his staff, at some time or other, three informants of the Soviet Union. The importance of Petrov's documents to the Commission were emerging.

Dr. Evatt was shocked when he heard the news. Evatt questioned his staff, but they protested their innocence. With that, Evatt immediately sent a telegram to the Commission requesting that his protest be read into the Transcript. He expressed his anger that the names of members of his Secretariat had been introduced into the inquiry without warning. He complained that the Commission had assumed that the identification of individuals as "Sources" of information for J was accurate.²⁴ The Commissioners were unimpressed. A few days later, they announced that the evidence of Grundeman and Dalziel would be heard when they reconvened in Sydney.

²³ *Ibid.*, 298 (1052-4).

²⁴ Dr. Evatt's telegram to the Commission is at *Tr.*, 309 (396). The Chairman remarked 309 (398) "...this Inquiry could be effectively conducted without mention from time to time of the names of persons who will have had no warning".

Interlude: The Second Royal Commission Act

The legal proceedings instituted by Lockwood were to interrupt the Commission's work. Appearing for Lockwood in the High Court on 8 July, 1954, Mr. E.A. Laurie began his application for an injunction to halt the Royal Commission and for a declaration that the Act authorising it was invalid. The application was heard by Mr. Justice Fullagar in the very same building where the Commission sat in Melbourne. Judgement was delivered on July 12. Fullagar refused to look into the relevance or otherwise of Document J or Exhibit 46 [*What Is In Document J?*] to the Terms of Reference of the Commission; he refused to halt the proceedings of the Commission whilst Lockwood's defamation action was pending; and he dismissed the application for declaration that the Act was invalid. Nevertheless, he declared that the Royal Commission Act did have legal inadequacies which were only overcome by a convoluted interpretation of the Acts Interpretation Act (1902-3).²⁵ Prime Minister Menzies considered that this ruling was "fatal to the Royal Commission Act of 1954".²⁶ Yet it seemed that Fullagar had given a sudden and rather unexpected extension to Commonwealth powers concerning Royal Commissions. The Royal Commissions Act of 1903-3, under which the Act of 1954 was made, had received a mauling from the Privy Council in 1912, as a result of an appeal by the Colonial Sugar Refining Company against the actions of the Royal Commission on the Sugar Industry. From that time onwards it had been widely thought that the Commonwealth could only authorise such Royal Commissions as fell within its own competence under the Federal Constitution. Now, commenting on the Fullagar Judgement in the 1955 *Australian Law Journal*, J.D. Holmes wrote:

...the result seems to be that there are no limitations to the purposes for which a Royal Commission may be appointed to make inquiry.²⁷

²⁵ *CLR*, Vol.90, pp.182-6.

²⁶ Menzies, *CPD*, H. of R., 11 August, 1954, p.160.

²⁷ J.D. Holmes, "Royal Commissions", *Australian Law Journal*, Vol.29, No.4, August, 1955, p.256.

This new extension to the powers of Commonwealth Royal Commissions was no doubt a welcome development for the Government as well as the Commissioners. The dismissal of Lockwoods' applications did not dispose of the writs themselves, but merely permitted the Commission to continue whilst they were dealt with. Grave doubts still remained concerning the legal status of the Commission, and Assisting Counsel was still the subject of defamation proceedings.

To resolve the legal problems still surrounding the Commission, Menzies announced that the newly-elected Parliament would be asked to pass another Act to authorise the inquiry. In the meantime, the Commission did not sit. On August 11 Menzies gave the new Act its Second Reading, declaring that the Government was determined that the Commission "should not be thwarted by legal technicalities".²⁸ This suggests the Government was concerned about the Commission's fate when the old Act was considered by the High Court itself.

The new Act resembled a fusion of the first 1954 Act and the powers conferred on Royal Commissions by the 1902-3 Act. It also invested the Commission with the status of a judicial proceeding under Section III of the Crimes Act (1914-1950), and incorporated the Letters Patent setting out the Terms of Reference and the names of the Commissioners as a Schedule. The new Act and the incorporation of the Letters Patent removed the problem caused by the reference to only a single Commissioner instead of the three actually appointed under the old Act. Provisions were inserted which made all statements before the Commission privileged in law, retrospectively from the Commission's beginning, and so the basis for Lockwood's defamation action was destroyed. This was an unprecedented development for Royal Commissions

²⁸ CPD, H. of R., 11/8/1954, p.157.

at the time. The reference to Section III of the Crimes Act added emphasis to the sections dealing with false testimony. Under the old legislation it was still an offence to give false testimony to the Commission, but Section III made this an offence whether or not the tribunal was properly held, whether or not the testimony was admissible or inadmissible, sworn or unsworn, and whether or not the witness was competent to answer. Section III also added sting for the offence of obstructing an officer of the Commission in executing an order or warrant.²⁹ Some quite new sections, apart from these flowing from the Crimes Act, were also brought in which went a good deal further than clearing up legal technicalities. A new procedure was introduced for dealing with contempts of the Commission. Direct resort could be had to the High Court for judgement and punishment to by-pass the much longer proceedings before a police magistrate with the possibility of lengthy appeals to higher Courts. A section was also borrowed from Dr. Evatt's 1947 Conciliation and Arbitration Act which made it an offence either by speech or by writing to bring the Royal Commission into contempt or disrepute. The Attorney-General, Senator Spicer, suggested that although this section might not be entirely necessary, it would serve as a warning to those people publishing "certain pamphlets" about the Commission.³⁰ By this time, the extensive pamphlet and public-speaking campaign against the Commission had now been extended well beyond the ranks of the Communist Party. The final significant addition to the Commission's powers was the requirement that a witness could be compelled to make self-incriminating statements and statements that would incriminate his/her

²⁹ The foregoing is based upon comparisons of the Royal Commissions Act (1902-3), the Crimes Act, and the two Royal Commission on Espionage Acts of 1954, for which see *The Acts of the Parliament of the Commonwealth*, Vols. XI (1912), XXXI (1933), (1954), and cumulative vol. to 1950, Govt., Pr., Melbourne and Canberra.

³⁰ See Second Reading Speech of Senator Spicer, *CPD*, (Senate), 12/8/54, pp.207-8.

spouse. This worried even the Editors of the Melbourne *Herald* and *Sun*. The *Herald* pointed out that, though this evidence would not be admissible in a Court of law once given before the Commission, it would nevertheless prejudice the standing of the defendant.³¹ Nonetheless, the new Act was passed unamended through both Houses in time for the Commission's sittings in Sydney.

The circumstances surrounding the Parliamentary debate on the new Act illustrated that the Petrov affair only inflamed divisions that already existed in the Labor Party. Many members of the Labor Caucus had misgivings about Evatt. He had lost the election that Labor had expected to win. In a poorly-organised challenge to Evatt's leadership on 3 August 1954, T.P. Burke polled surprisingly well. Although Evatt won, the strength of opinion against him made his future uncertain. Burke was seen as a right-winger. From the left, candidates backed by E.J. Ward for other ALP Parliamentary posts also did well, reflecting another strand of dissatisfaction with Evatt. Further trouble broke out over the new Act itself. Evatt's Caucus Executive had decided to oppose the section which forbade bringing the Commission into contempt or disrepute. J.M. Mullens, a supporter of the Movement in Caucus, discovered that the section was copied from Evatt's own 1947 legislation. A bitter debate ensued; the Executive's decision was overturned; and blows were exchanged in the Party room.³²

Evatt responded to criticism by explaining his defeat at the elections as the product of the "Petrov conspiracy". He became more involved in the controversy surrounding the Petrovs. Inside the House, he accused Menzies of being afraid to bring prosecutions against witnesses who refused to answer questions because a Court would declare the documents irrelevant to espionage. Outside, Evatt issued a Press statement accusing Menzies of doing a "deal" with Petrov

³¹ *Herald*, 12/8/1954; and *Sun*, 13/8/1954.

³² R. Murray, *op.cit.*, pp.159-60, 163; other accounts of anti-Evatt feeling and tensions in Caucus at the time are A. Calwell, *op.cit.*, pp.182-3 who was angered at Evatt's association with Santamaria; and F. Daly, *From Curtin to Kerr*, Sun Books, Melbourne, 1977, pp.125-6.

for £5,000. The payment had been concealed from the people until after the elections to give a misleading impression, Evatt charged. Evatt spoke of the "Menzies-Petrov letters" as comparable with the Zinoviev letter of 1924 or Hitler's burning of the Reichstag in 1933. Menzies replied that if he had told all he knew about Evatt's staff, Evatt himself would no longer be in Parliament.³³ Evatt's public statements now struck not only at Menzies' credit but at the good faith of the Commissioners and ASIO.

At the time, Evatt's concern about a conspiracy was not widely shared. Evatt's Deputy, Arthur Calwell, believed that whatever the outcome for Evatt's staff, less harm would come to the ALP if it and Evatt steered clear of the Commission. But if Evatt were drawn too far in, Calwell might be chosen as Evatt's successor.³⁴ *News-Weekly* remained silent about Evatt's connection with Documents H and J throughout July 1954. On August 11, it denied there was any plan to depose Evatt and said that anti-Communists voted for him against Burke. Perhaps it was more worried about its main opponents, Calwell and Kennelly, than Evatt. Only on 16 August did it refer to Evatt's failure "to involve Labor in opposition to the Petrov Commission", but later articles on 25 August and 1 September avoided denouncing him by name or else were not wholly unsympathetic.³⁵ On the ALP left, rumours suggested that Ward would stand against Evatt soon.³⁶ In August and early September 1954, it seemed that major factions in the ALP were more pre-occupied with the shifting balance of power inside the Party than with combating the "Petrov conspiracy".³⁷

³³ Evatt, *CPD*, H. of R., 12/8/1954, p.225; Evatt and Menzies, *Advertiser*, 13/8/1954.

³⁴ Calwell, *op.cit.*, pp.179, 184, in the event, Calwell opposed Evatt openly and tried for the leadership in October, 1954.

³⁵ *News-Weekly*, 11,16,25 August, 1 September, 1954. July issues were devoted to denying that a split was developing.

³⁶ R. Murray, *op.cit.*, p.160.

³⁷ Evatt's attack on the Movement on October 5 consolidated his position, because he seized the leadership of the campaign against the Groups, with the result that the "left" supported him.

The Commission Resumes

At the Darlinghurst Court in Sydney, the Commission re-convened on August 16. Calwell's worst fears were realised. Dr. Evatt sought and obtained leave to appear on behalf of his staff as the case of Document J was resumed in earnest. Evatt at once dominated the proceedings. Henceforth the phase of the Commission dealing with Document J was to develop a life of its own that lasted from 16 August until 8 October. The evidence heard ranged not only over the whole circumstances in which J was said to have been produced but also over Dr. Evatt's elaboration of the "Petrov conspiracy". Much was to emerge about the character of the Petrovs, the nature of their documents, and the arrangement of their defection. Most of this will be left for later examination and assessment. For the rest of this chapter attention will be directed to the issues surrounding Document J itself. Although the J phase of the Commission was not the main one, its complete dissimilarity from what followed and the memorable events which arose during its course make it necessary to explain clearly what occurred and what was at stake.

Assisting Counsel's Case

For Assisting Counsel, the Document J phase posed the most complex problems in keeping control over the proceedings and in distinguishing what were the main issues. Mr. Windeyer and his juniors had to contend with three other Counsel at the Commission, each nominally appearing to "assist the Commission" but in reality pursuing distinct interests. Mr. J. Meagher represented Fergan O'Sullivan, the author of Document H. O'Sullivan denied that he had ever supplied information to anyone that could have become part of Document J. Mr. Hill's client, Rupert Lockwood, had not yet either affirmed or denied his authorship of J, nor made clear what his relationship with O'Sullivan, Grundeman and Dalziel had been. Dr. Evatt's staff, Grundeman and Dalziel, had not yet been called, but it seemed that they would deny supplying information for Document J and would allege some conspiracy in the

production of the Document.

The first step in Windeyer's argument was to amass circumstantial evidence to link O'Sullivan and Grundeman with Lockwood at the time Document J was being produced. He had already shown that Lockwood stayed directly opposite the Soviet Embassy in the Hotel Kingston for three days in May 1953. This overlapped with the period Mr. Petrov spent in hospital during which, he asserted, J was composed. The period also fitted Mrs. Petrov's recollection of the time when Lockwood had come to the Embassy.³⁸ When O'Sullivan first gave evidence before the Commission, he thought he had been in Canberra during 1953 only at a time that did not tally with the period during which J could have been prepared. New evidence and re-examination established that he was mistaken. It was also brought out that O'Sullivan had suggested to Grundeman that they go for a drink at the Hotel Kingston one afternoon and that when they arrived they met Rupert Lockwood. O'Sullivan said the meeting was co-incident. O'Sullivan could not remember much else about the occasion, but he thought he might have gone on later to a film evening at the Soviet Embassy. The Commissioners suspected O'Sullivan was trying to conceal the truth.³⁹ Grundeman was called to give evidence. He admitted that he had accompanied O'Sullivan to the Kingston where he had met Lockwood. He left earlier than the other two men, but they all met again later at the house of some friends and had dinner.⁴⁰ The friends were summoned. They were a Mr. and Mrs. McDonnell. Mr. McDonnell worked as a driver in the Commonwealth car pool, and he and his wife confirmed the evidence already given about the evening, although they were uncertain whether it was a Friday or Saturday. To return their hospitality at dinner, Lockwood had invited

³⁸ Statutory declarations were obtained from the Hotel Kingston's Manager concerning Lockwood's stay, *Tr.*, Exhibit 65, dated 7/7/54, 226(637), and from the Secretary of Canberra Community Hospital about Petrov's period there, Exhibit 66, dated 7/7/54, 226(646).

³⁹ First evidence about being in Canberra, *Ibid.*, 295 (857-8), 297 (985); later evidence, 390-2, and concerning rest of evening 402 (892-5).

⁴⁰ *Ibid.*, 433-4 (229-298).

everyone back to the Hotel for drinks. All except O'Sullivan accepted, and, from Mrs. McDonnell's account, she was not entirely sober and was not prepared to vouch for the sobriety of the rest of the group either.⁴¹

Assisting Counsel and the Commissioners took up this matter and suggested that during either the afternoon or the evening drinking session both O'Sullivan and Grundeman had become loose-lipped and had gossiped about affairs in Dr. Evatt's office in front of Lockwood. It had thus been a simple matter for Lockwood to remember this information and to put it into Document J which he was then composing.⁴² Dalziel, who had been much more closely associated with Evatt than either Grundeman or O'Sullivan, had not been in Canberra at the time nor was he in any way a confidant of Lockwood's. He was also a teetotler. He was cited in J as the "source" of some remarks attributed to a visiting American, Professor Kluckhohn, but since Dalziel had never met Kluckhohn and swore he had never discussed the man, Assisting Counsel never developed a clear explanation of how he came to be cited as a "source". The presumption was that Lockwood just invented the matter.⁴³ Windeyer had built up circumstantial evidence to explain some "sources" and to support his argument that Lockwood wrote J at the time stated by the Petrovs. If conclusive evidence could be gained, the credibility of the Petrovs would be on much safer ground.

Lockwood was recalled and asked to read J carefully. Windeyer asked him to mark any portions of which he claimed he was not the author. Lockwood read it and made some markings, but said it was difficult for him to be certain and that the markings were not really adequate. He denied that he had *typed* J and said he was, in particular, not the *author* of the section J35, "Dr.

⁴¹ *Ibid.*, evidence of R.A. McDonnell, 463-471, and Ruth F. McDonnell, 471-5, and concerning sobriety of group 473 (642-44).

⁴² *Ibid.*, for example questions to Mrs. McDonnell 473 (645-57), and later examination of Grundeman 824-5 (437-521).

⁴³ *Ibid.*, 819 (221-226), 821 (310-316), re Kluckhohn; 820 (259-60), re Lockwood; 836 (1004-1010) re false statements in J.

Evatt", and its source note J37. Only after he and his Counsel had seen the Document together, did he make a definite declaration that he was not the author of J as a whole. Lockwood's story was that he had been to the Soviet Embassy over a period of three days in May 1953 and that he had left there 150 pages of material for Antonov, the TASS man. This material covered many of the topics that were in J. He had done some typing at the Embassy, and he had indicated sources of information in the 150 pages to Antonov. Document J was certainly based on the material that he had supplied, but it was a summary and adaptation of that material and certain completely new sections were added of which he had no knowledge.⁴⁴ Thus Lockwood and Windeyer were agreed concerning the circumstances of the case, and the real point of difference was whether Document J as presented to the Commission was the same typing and composition as Lockwood had done in the Embassy. To prove his case, Windeyer relied upon the evidence of Inspector Rogers that the handwritten lettering in the margin of J which referred the reader to the "Sources" was Lockwood's, that the typing styles of J and other work known to be Lockwood's were identical, and that the typewriter used for J was the same as that used for official letters from the Soviet Embassy. Rogers' evidence was the only testimony independent of largely hearsay evidence that Document J was identical with what Lockwood had typed and with what was sent to Moscow.

Dr. Evatt's case

Evatt was faced with two possible courses of argument before the Commission. The easiest would have been to argue that whoever wrote Document J was lying in attributing the sources of his information to Grundeman and Dalziel; that, in any event, the material contained in J was largely false where it concerned his clients; and that Document J itself had no special espionage

⁴⁴ *Ibid.*, 477 (823-28); typing, 501 (833-5); circumstances of his visit to Embassy, 495-500; 536 (1065-1070) J35.

significance even if his clients had provided false information to its author. This course did not commend itself to Dr. Evatt. He was bitterly disappointed at the loss of the 1954 election, and there is no reason to doubt that he sincerely believed that the Petrov affair had been instrumental in his defeat. Though he was often very demanding upon his staff, he was also loyal to them. He identified himself closely with them, and thus any attack upon them he also perceived as attack upon himself. Out of the very many names which were contained in Document J, the Commission had highlighted only those names which were connected with him. Since he was already under fire within the Caucus, there was little doubt that the association of his name, even indirectly, with the Soviet espionage network would damage his standing still further. Therefore if he wished to remain as Labor leader and to preserve his good name, Evatt was forced to adopt the harder course. This was to challenge the authenticity of Document J, to argue that it was brought into existence, not for the purpose of espionage, but to harm himself and the ALP through his staff. Of necessity, this meant that he had to challenge the credibility of the Petrovs.

Because Evatt's case rested upon the contention that J was not produced in the manner described by the Petrovs and was probably a forgery, he naturally needed to examine the document. This was no simple matter, since for days the Commissioners had refused the right of even Lockwood's Counsel to see it. At the beginning Dr. Evatt was supplied only with typed extracts relevant to his clients, and he fought a long and tenacious battle with the Commissioners to see the whole Document that was before the Commission. At last he was able to examine it.⁴⁵ By comparing photographs of J made upon the night of Petrov's defection with the J itself, Dr. Evatt noticed that J35, "Dr. Evatt", did not have the same tiny pinholes as the rest of the other pages. It was

⁴⁵ Mr. Hill did not see J until 20 August, *Ibid.*, 505 (992) when it was also made available to Dr. Evatt. Evatt argued to see J from the beginning of his appearance at the Commission, 381 (63 et seq.).

therefore clear that the rest of J had been grouped together at some stage, whilst J 35 had been physically isolated. Richards of ASIO later agreed that when he had received Document J it had been in four separate sections, not attached to each other, and that J 35 was a loose page. Dr. Evatt's case was thus strengthened insofar as J was now shown not necessarily to have been a whole Document at all, but perhaps separate Documents. It was part of Evatt's argument that J 35 had been "rung in" at some other stage from the composition of the rest of J.⁴⁶ The other aspect of his examination of J concerned the evidence of Inspector Rogers that Lockwood was the typist and had written the lettering in the margin. Even if J 35 had been "rung in", Grundeman was still cited as a source of information on other pages of J, and thus Evatt had to show that Lockwood had not composed the Document. Rogers had already given evidence that Lockwood was the typist and author, and did not offer a different opinion to suit Dr. Evatt.

Evatt requested the Commissioners to call Dr. Charles Monticone, another expert with over twenty years' Courtroom experience in testing disputed documents, to give evidence. At first, the Commissioners seemed to agree, but the next day they refused. They explained that Dr. Monticone might disagree with Rogers. It was possible that still other experts could be called who would offer conflicting opinions. If this occurred, the Commissioners argued, they would have to decide which of these views to accept, and since that decision was theirs alone anyway, it was sufficient for them to have heard the expert evidence of Inspector Rogers. In any event, the Commissioners said, they now believed the issue of the lettering on the Document was only of minor significance.⁴⁷ Evatt was not reconciled to the Commissioners' arguments. If the lettering were not Lockwood's, then who

⁴⁶ *Ibid.*, 461 (107-9), 573 (263-7), 590 (481).

⁴⁷ *Ibid.*, 717-8 (1018-38), 721-4.

had linked the main text of the Document with the "Sources" and with the names of his clients? If the Commissioners refused to hear evidence simply because it might disagree with that already presented, was that not tantamount to saying that one should hear only one side of a case simply because one knew in advance that the other side was going to disagree? Only later, did Evatt's junior Counsel manage to read into the Transcript Monticone's opinion on the documents. Monticone regarded Roger's examination as totally inadequate and said that Rogers had completely failed to take into account marked dissimilarities between Lockwood's lettering and that on Document J. His view was that they were not written by the same person.⁴⁸ Speaking for the Commissioners, Justice Owen declared, after a short perusal of Monticone's opinion, that it was "not a document that carried any weight to my mind".⁴⁹ With the refusal to hear Monticone, Evatt was beginning to realise that the Commissioners took a very different attitude to evidence, witnesses, and arguments from the one to which his own experience and training in British justice had accustomed him.

According to the Commissioners, the chief problems with Evatt's case was that he did not possess the necessary information to develop and to prove it. Evatt showed that it was possible that one page of J could have been rung in; that Lockwood might not have done the lettering on J; and that the worn and tattered condition of J itself might point to the fact that it had been through many different hands rather than resting securely in the MVD safe. He argued that there was a case to suggest that the Petrovs had bargained with ASIO for £5,000 in return for these documents, and that together with persons unknown they could have fabricated them. Evatt named O'Sullivan as a co-conspirator with the Petrovs. O'Sullivan did admit that

⁴⁸ *Ibid.*, 1060 (746-8).

⁴⁹ *Ibid.*, 1033 (1140).

his composition of Document H placed a potential tool for blackmail in the Petrovs' hands.⁵⁰ Under their pressure, Evatt argued, O'Sullivan had been procured to write Document J. If Document J was forged, Evatt had to show where ASIO fitted into the conspiracy. It was his private conviction that O'Sullivan had been planted on his staff by ASIO, and that ASIO and the Petrovs were linked together from the very inception of the conspiracy to harm him and the ALP.⁵¹ Before the Commission, Evatt charged that ASIO had been negligent only in not checking the authenticity of the documents and the credibility of the Petrovs before going to the Prime Minister with their revelations.⁵² Perhaps Evatt hoped that further evidence would emerge as the Commission proceeded to enable him to make more serious charges later. Even so, his allegations were still very grave. Evatt marred his case by often repetitious cross-examination that lacked clear direction. At times he was not able to marshal the evidence that he did extract to present his arguments as strongly as he might have done. These flaws were also symptoms of a deeper problem. As the Commissioners explained repeatedly, they had information which convinced them that the particulars of certain arguments which Evatt advanced were not accurate or correct. They had access to a vast background of documentary material and reports supplied to them by ASIO. They had heard tape recordings of Mr. Petrov's conversations with ASIO agents. Certainly these recordings were not complete; sometimes the tape ran out in the middle of a conversation, but the Commissioners had heard them and Dr. Evatt had not. The Commissioners explained this to Dr. Evatt. Naturally they were not going to make this material available to Counsel and their clients for security reasons. Since Dr. Evatt lacked this information, he could not prove his case; and if he could not prove his allegations, what

⁵⁰ *Ibid.*, 398 (705-709).

⁵¹ Evatt informed E.F. Hill of this, interview with author 9/11/1978.

⁵² *Tr.*, Evatt, 683 (725).

was the point of making them? The Commissioners were rapidly coming to the view that Dr. Evatt was wasting a great deal of their time.⁵³

Interlude: Madame Ollier and Dr. Evatt's Exclusion

As the Commission progressed, Dr. Evatt did not confine his remarks about its witnesses and evidence to the Courtroom. Severe legal limitations apply to what may be said about a case whilst it is proceeding, and Dr. Evatt's strict legalistic temper would probably have inhibited him from breaching them. Since this was a Royal Commission and not a court case, and since there was a general relaxation of Courtroom standards, Dr. Evatt believed that such limitations concerning public comment would not apply.⁵⁴ His prominent role at the Commission, where side by side with Communists, he attacked the Petrovs and argued with the Commissioners, led to increasing criticism and forced him to explain himself as best he could in the Press. His own activities at the Commission and his arguments were never reported as prominently or at such length as those of the Commissioners and Assisting Counsel, and so he considered that these public statements were doubly necessary. This development distressed the Commissioners. They were fearful that the public standing of the Commission would be impaired if it became the subject of public controversy. They were extremely annoyed by the Communist Party for its stream of leaflets attacking them. Politics should not be permitted to intrude into the Commission; the pamphlets should stop; and Dr. Evatt should desist from suggesting that there was some conspiracy to injure him. The Commissioners stressed that Dr. Evatt was there to assist the Commission and to represent his clients. The Commissioners accused Evatt of appearing for himself, in that he alleged that there was a conspiracy to harm him through his staff.⁵⁵ Dr. Evatt was nonplussed by these accusations. He felt the Commissioners were unable to grasp his arguments or appreciate his case.

⁵³ For example, *ibid.*, 672 (250-253), 671 (265), 681-84, 661 (1158-67).

⁵⁴ *Ibid.*, 730-731 (95-96) (106).

⁵⁵ *Ibid.*, Ligertwood, J., 730 (86), 731 (97-99); Chairman, 732 (122-4), 591 (507-10).

This problem came to a head when the Commission released evidence on September 4, which had been heard in secret session on July 20. The Press revealed that the French woman diplomat Madame Ollier, had been named by the Petrovs as a Soviet secret agent. Code-named Olga, Madame Ollier had been the source of important and secret information. In January 1954, she had supplied Petrov with news that the French ship, *Radnor*, was about to depart from Australia with a shipment of arms for Indo-China to fight the Viet Minh. It was further revealed that Mr. Petrov had met at certain pre-arranged times with Madame Ollier for discussions, and that in return for her services Moscow had supplied £75 with which the MVD in Australia was to buy her a watch.⁵⁶ It was disclosed that the French Ambassador had placed Madame Ollier under arrest and sent her to the French possession of Noumea. There she was held *incommunicado* until she was put aboard ship for France where she would stand trial. Since Madame Ollier could not speak for herself, her Australian friends sought to organise some defence of her reputation. Senator Dorothy Tangney (ALP), who had attended Church with her, collected evidence in Australia.⁵⁷ Dr. Evatt issued a Press statement condemning the treatment of Madame Ollier by the French Ambassador and denouncing her arrest as being instigated merely "on the say-so of two paid informers who, on their own admission, have been treacherous to both Russia and Australia".⁵⁸ The fact that it was public knowledge that the *Radnor* was carrying arms to Indo-China at the time that Madame Ollier was allegedly divulging this news to Petrov⁵⁹ increased Evatt's anger.

The next day the Commission sat was September 7. The Commissioners announced to Dr. Evatt that they were withdrawing his leave to appear before them,

⁵⁶ The Press carried the story on 4 September. The Petrovs' evidence against Madame Ollier is on pp. A-N of the Transcript.

⁵⁷ Tennant, *op.cit.*, pp.370-6, gives Mme. Ollier's own account as Append.C.

⁵⁸ Evatt's press release quoted in *Tr.*, 728 (51).

⁵⁹ Waterside workers had imposed a ban on the ship before it sailed and so the affair had been reported in the Press at the time.

although his case was still incomplete. They declared that they could no longer tolerate his acting in two roles: as advocate before them, and as a public figure before the Australian people. His clients would still be required to attend the Commission and give evidence under oath. In protest, Mr. Hill and his solicitor, Dr. Evatt's junior Counsel and his solicitor walked out of the Commission. They only returned a week later, when Dr. Evatt applied for leave to appear again. This application was rejected.⁶⁰ Henceforth Evatt's role could only be that of adviser to his junior, Mr. Phillip Evatt, who struggled to carry on the case where Dr. Evatt had been forced to leave off. Phillip Evatt was a young man with little experience as a barrister. The Commissioners were to regard him with no greater consideration than they had his leader and uncle.

Mr. Hill's Case

Mr. Hill, Counsel for Lockwood, laboured for some time under the very considerable disadvantage of not being permitted to see the document that his client was accused of writing.⁶¹ During the Melbourne sittings, Hill mainly confined his arguments to challenging the relevance of J to the Terms of Reference of the espionage inquiry. Some emphasis was placed on the fact that if J were written by his client, then it was done in good faith and for the purpose of bettering Australian - Soviet relations. In his cross-examination of Mrs. Petrov, upon whose word so much depended, Hill immediately set about the task of demonstrating that her word could not be accepted by the Commission or the public. A woman who had changed from devout Communist and Russian patriot into an informer for the Western intelligence services within the space of a few weeks could not be relied upon, said

⁶⁰ *Tr.*, 732, 915-20 (16 September).

⁶¹ See note (45) above.

Mr. Hill. He managed to show that Mrs. Petrov was not unaware of the financial potential of her defection, since she had already been approached by a publishing firm with an offer for "her story".⁶² At this stage, Lockwood had declined to answer questions about J.

By the time that Lockwood re-entered the witness-box in Sydney, the whole situation had changed. When the Commission was first established, the Communist Party was on the defensive. It claimed that the Petrov affair was "staged"; that there were no spies or else they would already have been arrested; and that Mr. Petrov's documents did not originate from the MVD and had nothing to do with Soviet espionage. The Party was fairly much alone in these allegations. But the involvement of Evatt's staff and Dr. Evatt himself as their Counsel and champion broadened the base of the movement to oppose the Commission. Dr. Evatt had already advanced his view that J was a forgery and that Lockwood had not composed it even before Lockwood had given any evidence on the matter.⁶³

These circumstances prompt important questions: why did Lockwood not speak out in Melbourne? Why did he not denounce J as a forgery at the first opportunity? Why did he wait until after Evatt had committed himself before he gave his evidence? One answer to these questions is that Lockwood had written Document J, but seized the opportunity to deny it in order to shelter behind Dr. Evatt and to avoid contradicting him. It is certainly true that the political implications of Lockwood's answers would not have been overlooked by the Communist Party and Mr. Hill. If Lockwood had written Document J or even some of the material about Dr. Evatt or his staff, and if Lockwood affirmed this, then Evatt would be discredited. This would have been

⁶² Tr., Hill's early cross-examination of E.A. Petrov 198-203, 213-225; book 203 (468-477).

⁶³ Evatt suggested Lockwood was not the sole author of J on 17 August, 412 (40), and Lockwood did not return to the witness-box until 19 August.

considered most undesirable, since the Communist Party at this time was laying particular stress on uniting with progressive sections of the ALP against the Industrial Groups.⁶⁴ The consequences of contradicting Dr. Evatt could have proven disastrous for this strategy: Evatt might turn against the Communist Party; or he might be deposed by the ALP and replaced with an outright supporter of the Groups. In support of this view, it can be pointed out that Lockwood's evidence was riddled with prevarications that did not suggest honesty and candour.

Another answer can also be supported by the facts. When the Commission opened, the Communist Party was very concerned that an attempt would be made to implicate members in espionage. There was no way of knowing in Melbourne, when Lockwood was called, what purpose the Commission had in mind in dealing with Document J. The natural line of defence for Mr. Hill to take was to do what he did, and to assert that J had no relevance to the inquiry. The production of *What Is In Document J?* was to illustrate this point to the public. If the Commission rejected this argument, the wisest course might be for Lockwood to say nothing. In this way, if he had to face trial, no evidence would have been given away that might prejudice his defence.⁶⁵ This consideration was particularly important since he had written some material in the Embassy and had also left notes there. Until both he and his Counsel had seen J, it was very difficult for him to know what was safe for him to admit before the Commission. Though evidence at the Commission was not admissible in a Court of law, it could still be used to assemble and prepare other evidence which might be very damaging. By the time he was recalled, the purpose of the Commission had become clearer.

⁶⁴ The strategy was elaborated in R. Dixon, "Labor Fights the Industrial Groups", *Communist Review*, 155, November 1954, but the policy existed well before this. See Playford, *op.cit.*

⁶⁵ Viz. Hill's reference to possible proceedings *Tr.*, 214 (61-65).

The Commission was hunting for the MVD informants in Evatt's office. The truth of the matter depends upon what we do not know: who wrote Document J? Nevertheless, in defence of his client, Mr. Hill was able to underscore the weaknesses in Windeyer's case. The Petrovs' evidence was based upon hearsay, whilst the circumstantial evidence did not really answer the central question concerning J's authorship. Hill also highlighted the fact that the foundation of Windeyer's case was the credibility of the Petrovs.

In supporting Dr. Evatt's main argument that Lockwood did not compose J, Mr. Hill departed from Evatt on minor matters. Hill was not inclined to press for scientific tests of the Documents by experts because he doubted that such tests were conclusive.⁶⁶ Striking proof of this view occurred with Inspector Rogers. In the course of his expert evidence, Rogers claimed that not only had Lockwood typed Document J and that J was typed on a Soviet Embassy typewriter, but he had also *typed* the pamphlet *What Is In Document J?* (Exhibit 46). Rogers pointed to the method of making a dash by means of two strokes - - as highly distinctive and significant in identifying Lockwood as the typist.⁶⁷ Afterwards, Windeyer was approached privately by Communist Counsel to call a Miss Carol Rook to give evidence that might help the Commission. In the witness-box, Miss Rook gave evidence that she, not Lockwood, was the typist of *What Is In Document J?*, and that the two-stroke dash was taught in business colleges and approved by Pitman's. She produced a typing manual to prove her point. This cast grave doubt upon Rogers' expertise and upon his ability to determine so unerringly that J was typed by Lockwood. The Commissioners, on hearing this evidence, had to interrupt Miss Rook's Counsel to explain that they could not all see how this helped them. Surely Counsel was not suggesting that Miss Rook typed Document J?

⁶⁶ Interview, 9/11/78.

⁶⁷ *Tr.*, 629-30 (939-954).

Counsel assured them that this was not the case. The Commissioners replied that if this was so, then Miss Rook's evidence seemed to be wasting the Commission's time and they wished to hear no more from her.⁶⁸

Hill also departed from Dr. Evatt on the role of O'Sullivan. Hill did not support Dr. Evatt's claim that O'Sullivan had written any part of J or that he was involved in the conspiracy. While he also argued that J was forged for local political purposes, he did not specify any other conspirators than the Petrovs and a friend of theirs, Dr. Bialoguski. Concerning ASIO, there was no doubt that Hill believed that it was deeply involved, but, like Evatt, he limited his charges to those of negligence in not checking the authenticity of the documents.⁶⁹ Hill's case was more succinctly argued than Evatt's; he sought to overcome the problem of inadequate information by arguing that the publicly known facts supported a number of possible conclusions which included his own, and that the Commission should investigate them and make more information available.

Counsel for ASIO

As the J phase of the Commission proceeded, charges against the behaviour of ASIO and its officers became more frequent, and so the Commissioners decided that ASIO and its officers should enjoy separate representation by Counsel. Sir Garfield Barwick, Q.C., was briefed to defend ASIO.⁷⁰ Sir Garfield's case did not differ in any respect from that of Assisting Counsel, but because he appeared as an advocate he was freer than Mr. Windeyer to adopt a more aggressive line of questioning with Lockwood, Grundeman and Dalziel. Certainly, Sir Garfield seemed far more able to assist the Commissioners to speed up proceedings than Mr. Windeyer and his juniors. Before his exclusion, Dr. Eyatt had demonstrated the ability to

⁶⁸ *Ibid.*, evid. of C.I. Rook, 1000-1003.

⁶⁹ *Ibid.*, 686-7, 882; and see Lockwood, 892.

⁷⁰ *Ibid.*, 688 (886-8).

repeat endlessly his requests to the Commission and to re-argue interminably submissions that he felt the Commissioners had not grasped. Evatt was not in the least perturbed by the blank wall of judicial incomprehension that daunted other Counsel. For his part, Mr. Hill was relentless in his determination to ask his questions and to develop his case, even if he too was threatened with exclusion. Windeyer's grip on Assisting Counsel was loosening. He was less able to assert his control over the proceedings, and was also increasingly unable to define the direction of his own case. Counsel for Lockwood, Gundeman and Dalziel pushed ahead with their charges of forgery; Assisting Counsel had already established his circumstantial evidence, which was all he had, and so had very little more to add. Sir Garfield was not content to play such a passive role. His cross-examination was more pointed than Windeyer's; he seemed better able to marshal the salient facts; and his arguments were made clearly.⁷¹ Whilst he did nothing more to protect ASIO than Windeyer had done before, Barwick helped speed the J phase towards its conclusion.

Only in one respect did Sir Garfield introduce new material into the case. The name of a certain Dr. Bialoguski had been mentioned before the Commission several times as a friend of the Petrovs. Sir Garfield led the examination of this new witness. Bialoguski was an undercover ASIO agent who posed as a friend of the Soviet Union and supporter of the peace movement. He had come to know the Petrovs, especially Mr. Petrov, and was able to cast a new light on their characters.

⁷¹ Sir Garfield's examination of Gundeman, Dalziel, and Lockwood 815-845, 851-66, 868-78, 883-95, and his final address bear witness to this.

CHAPTER 7

WHERE THE CROSS TURNS OVER

On Saturday 7 July, 1951, the Russian Social Club held its regular cabaret night, and the hall was packed and the seating scarce. A young woman beckoned Dr. Michael Bialoguski from across the room to her table. After he came over, she got up to dance with a short, stocky man with grey hair and a round face. After the dance, she introduced this man to Bialoguski as Vladimir Petrov. For Dr. Bialoguski this was an important moment. He had been informed by his regular ASIO contact that Petrov was considered to be of great interest to the Organisation and was believed to wield considerable influence inside the Soviet Embassy. Therefore from the outset of this new relationship, Bialoguski was determined to do all he could to cultivate Petrov's friendship and develop it to maximum advantage.¹ He noticed Petrov obviously enjoyed drink and company,² and, by providing Petrov with plenty of opportunities to enjoy himself in Sydney, Bialoguski and he became firm friends.³ Tentatively, Bialoguski raised the idea with his ASIO contact of some day bringing Petrov over from his service to the USSR. By October 1951, ASIO responded positively to this idea by switching Bialoguski from the section dealing with subversive activities to the one handling counter-intelligence. Bialoguski also received a rise in pay.⁴

¹ M. Bialoguski, *op.cit.*, pp.64-5..

² *Ibid.*, p.65.

³ *Ibid.*, p.70.

⁴ *Ibid.*, p.71.

Petrov was anxious to enjoy the company of his new friend. Bialoguski recalled:

Whenever he came to Sydney - and his visits were frequent - he would phone me immediately and arrange that we should visit restaurants, night clubs and other places of entertainment.⁵

Petrov was anxious to keep this new side to his life in Australia secret from other Soviet officials, and he warned Bialoguski not to speak freely of their association to Mr. Pakhomov, the TASS man in Sydney. Petrov himself made sure that his wife did not become aware of all that he did during his visits to Sydney. To other members of the Soviet Embassy in Canberra, Mr. Petrov introduced Bialoguski as a man with a reputation of sympathy for the Soviet Union. When Bialoguski and Mrs. Petrov finally met at an Embassy reception in November 1951, they made friends. Bialoguski was charmed by her flair for smart dressing and social small talk.⁶

Throughout 1952 and 1953 Bialoguski and Petrov saw a great deal of each other. One evening, Bialoguski sought to take advantage of his friend. Petrov had dozed off in Bialoguski's flat that night after drinking two bottles of whisky. Bialoguski crept out of the room and went to where Petrov's coat was hanging, intending to make a thorough search of the Soviet diplomat's pockets. Suddenly he heard a sound. He looked towards the door, and there was Petrov crawling on his hands and knees, too drunk to stand up but still alert enough to be suspicious. After this experience, Bialoguski concluded that Petrov could not be knocked out with drink.⁷ On a later occasion, only when he was sure that Petrov was unconscious, did Bialoguski manage to make his search and copy out the contents of Petrov's diary.⁸

⁵*Ibid.*, p.76.

⁶*Ibid.*, pp. 73-5, 76-77.

⁷Patricia Bialoguski, "I Married a Secret Agent", part 5, *Sunday Telegraph*, 5/6/55.

⁸*Tr.*, 805 (482-491), and M. Bialoguski, *op.cit.*, pp.105-6.

The two men did more than just drink together. They enjoyed the life of King's Cross. Petrov liked women's company as much as he liked expensive whisky. Some friends arranged a 'harem night', and Bialoguski and he arrived dressed up as two wealthy Egyptian potentates. Petrov invented stories of life in Arabia which delighted the women present and he "bestowed boisterous favours in all directions".⁹ Such love of drink and taste for women were not qualities which could be commended to a discreet Soviet diplomat, and some news of his behaviour seems to have come to the Ambassador. Criticism of Mr. Petrov developed within the Embassy during 1953. So worried was Ambassador Lifanov, that when he completed his tour of duty in Australia later that year, it was reported that he went round Moscow trying to convince the Foreign Ministry that Petrov should be recalled at once.¹⁰ Petrov complained bitterly to Bialoguski about Lifanov and other Embassy people, saying that the criticisms were unjust. Bialoguski's opinion was that:

Under the influence of his new life Petrov's personality, although he did not know it, was changing; he was looking at his colleagues through Western eyes.¹¹

Indeed, it was the role of the Western businessman that most seemed to please Petrov. Whenever he went with Bialoguski to his favourite restaurant, the Adria in Sydney, he posed as a wealthy Melbourne frock retailer. So happy was he in this role that his references to commercial opportunities grew increasingly frequent. Bialoguski saw this. A chance to lure Petrov away from his post at the Embassy came when the proprietor of the Adria told Bialoguski that he needed a partner with extra capital to finance the business. Bialoguski suggested to Petrov that he should put some money in. Petrov responded most favourably, but avoided any firm commitment on the pretext

⁹ *Ibid.*, pp.99-101, and P. Bialoguski, *loc. cit.*, part 6, *Daily Telegraph*, 6/6/55.

¹⁰ Soviet officials in discussion with Rupert Lockwood, ABC Transcript of Interview "Petrov Twenty Years On", Radio Drama and Features Dept., 1974, part II, p.11.

¹¹ M. Bialoguski, *op.cit.*, p.114.

that the proprietor's background would have to be checked. Mrs. Petrov remembered that her husband did ask Moscow for the money and approval.¹²

These delicate manoeuvres were thrown into disarray when Mr. Petrov received notice of his recall to Moscow in May 1953. Only the sudden onset of a severe eye-complaint prevented Mr. Petrov from leaving, since he had to be admitted to Canberra Hospital. ASIO was worried, and ordered Bialoguski to make a special trip down to see Petrov. He was told to ask Petrov a series of indiscreet questions about how he enjoyed Australian life and whether he found Australian hospitals better than Soviet ones as a test of Petrov's willingness to stay here permanently. In Canberra Bialoguski also tried to finalise Petrov's interest in the restaurant. Petrov did not accept the bait of the restaurant nor did he commit himself to Australia, but Bialoguski perceived from a look that came across Petrov's eyes that he had little faith in the Soviet Union and that the thought of defection had certainly crossed his mind.¹³ Petrov hoped that the new Ambassador, Generalov, would be an improvement for him on the last, thus making it possible for him to remain comfortably within the Embassy but still enjoying his trips to Sydney. Petrov's recall was postponed.¹⁴ The cat and mouse game continued.

About the same time, Bialoguski's relationship with his ASIO superiors was becoming strained. Arguments had broken out over money. Entertaining Petrov was a costly business and Bialoguski had moved into an expensive new apartment in Point Piper and wanted ASIO to increase its contributions to his expense account. ASIO was not happy with Bialoguski's handling of the operation and sought to interfere. In May 1953, Bialoguski submitted his resignation. On 16 May, he sought out the American Vice-Consul in Sydney,

¹² *Tr.*, 782 (421-3), 786 (541-6), 787 (577-586), and M. Bialoguski, *op.cit.*, pp.116-7.

¹³ *Ibid.*, pp.127-130.

¹⁴ *Ibid.*, pp.147-8.

Harry Mullin, and told him of his dealings with Petrov and offered his services to the CIA. Mullin made no commitment. Next day, Bialoguski contacted a friend in ASIO's rival security organisation, the Commonwealth Investigation Service (CIS). CIS was not allowed to take on the case, but the news reached ASIO and it seemed to relent, promising Bialoguski an improvement in the conditions of his service.¹⁵ But on 23 July another incident occurred that demonstrated clearly ASIO's impatience. ASIO asked Dr. Charles Beckett, the Sydney specialist who was treating Mr. Petrov's eyes, to make a direct approach to Petrov about staying permanently in Australia. Beckett obliged, telling Petrov that he could stay in Australia if he wished and that Beckett had contacts with Security authorities who could look after everything if he decided to stay.¹⁶ Petrov turned down Beckett's offer and informed Bialoguski. Bialoguski was shocked. He considered the approach blundering and ill-advised and a sign that ASIO distrusted him. He obtained leave without pay from ASIO and went to Canberra to seek an interview with the Prime Minister. There, he spoke with Mr. Yeend, Private Secretary to Menzies, and left a letter addressed to Menzies explaining his activities and problems. Bialoguski was told to come back later. When he did, Yeend said that the Prime Minister had delegated Yeend to deal with the matter, proof of which was that the letter to Menzies now lay open on Yeend's desk. Yeend assured Bialoguski that he would receive favourable consideration.¹⁷ (In 1955, when Bialoguski made this news public, Yeend claimed that he never showed the letter to Menzies because he did not think the matter sufficiently important to warrant the Prime Minister's attention). ASIO heard of Bialoguski's mission to Canberra, and within a few days sacked him. Bialoguski claimed that he was left to continue the operation with Petrov on his own.¹⁸

¹⁵ *Ibid.*, pp.119-124.

¹⁶ *Tr.*, evidence of H.C. Beckett, 763-4 (618-658).

¹⁷ M. Bialoguski, *op.cit.*, pp.131-9.

¹⁸ *Ibid.*, pp. 140-1.

The security authorities were suspicious of Bialoguski. In March 1952, Mr. George Marue was approached by a security officer named Fred "Jenkins". Playing upon Marue's deep anti-Communist convictions, "Jenkins" asked him to discover whatever he could about a certain "active Communist", by the name of Dr. Bialoguski. Security wanted to know about his activity as a Communist, the names and addresses of people and places he visited, any associations he might have with Soviet or other diplomats, how much money he spent each week, details of any business dealings he had, and about his private life. Marue was thought ideal for this assignment because, like Bialoguski, he was a Pole and he could use this as a basis for making contact. This Marue did, and over the next few months found out a great deal.¹⁹ Like Bialoguski's ex-wife, Marue's personal opinion was

...if the Doctor was a Communist, or if he worked for the Russians as Fred suggested, then he could work and be a "Communist" for one reason only: - for the money he loved so much and needed for the expensive way of life....²⁰

Marue satisfied his superior officer that Bialoguski's espousal of Communist views was not based on genuine conviction. Nevertheless, taking advantage of Bialoguski's public involvement in the left-wing campaign to save the Rosenbergs, Marue published in an article in his Polish-language newspaper, declaring that Bialoguski was a Communist. From this he found "that every Pole I met had something to say about Bialoguski".²¹ He learned of the Doctor's visits to the Russian Social Club, about his contact with Petrov, and about the large amount of money spent with Petrov "in night clubs, at races and drinking parties". By November 1953 Marue was in a position to submit his final report to security on Bialoguski. It read, in part:

¹⁹ G. Marue, "Petrov Case Echo: Keep Your Mouth Shut - Or Else!!", unpublished memoir, 1956, in H.V. Evatt Collection, Petrov Series, File: Evidence - Miscellaneous, including newspaper clippings, Flinders University Library.

²⁰ *Ibid.*, p.11, and see P. Bialoguski, *loc.cit.*, Part 6.

²¹ Marue, *op.cit.*, p.11.

I have good reason to believe that Dr. Bialoguski is working for the Soviet Embassy and is paid for his services by a large quantity of imported liquor, which he obtained at bond prices from²² the Spirit Merchants -- Crawford & Co (A'sia)...

Having completed his official assignment, Marue withdrew from his involvement with security, believing that their procedures were lax and unsafe and that he had been ill-used.²³ He maintained a watch on Bialoguski out of his own interest, but did not discover Bialoguski was working for ASIO until later.

Meanwhile, Embassy life had not improved. Petrov sought Bialoguski's company more than ever. Bialoguski was having trouble finding the money to entertain Petrov in the manner to which he had become accustomed now that Bialoguski was off the ASIO payroll. Confident that Petrov would defect, Bialoguski approached the *Sydney Morning Herald* with his story, hoping that through the paper he could obtain some reward for his work and the means to carry out the last stages of the defection.²⁴ However, Bialoguski needed ASIO's co-operation to ensure Petrov's reception by the Australian authorities; and, as ASIO had found out, they needed Bialoguski's co-operation to make any successful approach to Petrov. On 22 November, 1953, the two parties composed their differences. Bialoguski was reinstated with ASIO and received extra money for expenses.²⁵

Now both Mr. and Mrs. Petrov were at odds with Ambassador Generalov. Mrs. Petrov had been sacked from her job as Embassy Secretary and Accountant, so she no longer had the extra spending money that had enabled her to live a life a cut above that of the other Embassy wives. She was nagging her husband

²² *Ibid.*, p.12.

²³ *Ibid.*, p.13.

²⁴ Bialoguski denies that he made the approach in his book, but says he only contemplated it, M. Bialoguski, *op.cit.*, p.154, but on oath at the Royal Commission he said he went to the *SMH* offices and mentioned the name of Petrov there, 998 (1138-47). Questions were cut short 998-9 (1154-59) but Patricia Bialoguski confirms that her ex-husband told her what he told the Commission. She added that he threatened to write an article unless taken back by ASIO, *loc.cit.*, part 6.

²⁵ M. Bialoguski, *op.cit.*, pp.154-6.

for a £200 fur coat, and had even asked Bialoguski about possible openings for business in Sydney.²⁶ Petrov complained of the unfair treatment he was receiving, and repeatedly said to Bialoguski:

How I would like to live as you do. You come,²⁷ and go as you please and you are your own master.

Petrov also spoke of the seemingly wonderful opportunities that Australia provided for immigrants and new settlers to make money. Sensing his chance, Bialoguski offered Petrov another bait: -- his ex-wife's sister had a chicken farm for sale. Petrov agreed that he should go and inspect the property in the guise of a Polish immigrant, Mr. Peter Karpich. Bialoguski recalled that Petrov liked the place very much and looked the whole farm over very carefully.²⁸ Mrs. Bialoguski's sister rather had the impression that "Mr. Karpich" was lazy and indifferent to the idea of hard work on the farm, and that he did not bother to look beyond the farmhouse.²⁹ After the visit to the farm in December 1953, Bialoguski noticed that Petrov began persistent efforts to detach Bialoguski from his radical "friends" and from contact with Soviet officials. He also spoke of taking up the farm on his own, admitting that he had not spoken to Mrs. Petrov about it at all. He mentioned this again in January 1954, which reminded Bialoguski of the tensions that he had observed between the two Petrovs.³⁰ They went out to the farm again. Mr. Petrov maintained his guise as Mr. Karpich, but this time was prepared to pay a deposit. He was drinking more heavily than ever. Indeed, ever since he had left Canberra Hospital, a former friend recalled that he seemed a shadow of his former self, a hunted, haunted man.^{30a} The owners of the farm were shocked at what they saw. Petrov arrived extremely drunk, and Bialoguski

²⁶ *Ibid.*, pp.148-9.

²⁷ *Ibid.*, p.152.

²⁸ *Ibid.*, p.156-61.

²⁹ P. Bialoguski, *loc.cit.*, Part 8, 8/6/54.

³⁰ M. Bialoguski, *op.cit.*, pp.163, 165, 170-71.

^{30a} Mme. Ollier, Tennant, *op.cit.*, pp.370-6.

supplied more liquor from the car. Mrs. Bialoguski wrote:

Mr. Karpich drank whisky, then tea, and continually dropped savouries and spoons on the floor around his chair.

Jean - - -, a relative who was present, found herself kept busy picking up Mr. Karpich's lost property.

Petrov handed over the £50 deposit, and a receipt to Mr. Karpich was written out. Unknown to Petrov, Bialoguski had been making tape recordings of crucial aspects of the conversation to give to ASIO. And the £50 which Petrov had just handed over had been courteously provided to him through Bialoguski from the Commonwealth of Australia.³¹ Petrov was totally compromised, although ASIO had still to secure his signature to the papers requesting asylum.

ASIO decided that when Bialoguski was again in Canberra on 30 January, 1954, he should bring matters to a head. Petrov was still stalling, and Mrs. Petrov was also reluctant to defect with her husband because, Petrov claimed, she feared for her relatives back in the USSR. That day, in the Petrovs' home, Bialoguski spoke to Mrs. Petrov. At first, Mrs. Petrov seemed to take offence at the suggestion that she should desert her country, as one would have expected of a loyal citizen, but as the evening wore on her indignation mellowed. Mr. Petrov raised the question again and, although she still opposed the idea, her questions betrayed the fact that she had already toyed with the possibility of staying here. The next day Bialoguski reflected that it seemed as though Mrs. Petrov was probing him in some way, but was certainly not as opposed to the idea as she had made out. In fact, she had agreed to fly up to Sydney for a "lengthy" holiday and have Bialoguski, the man who had just tried to suborn her from her duty, show her around the city. Though she did not make the trip as planned, she left open the possibility that she would come up on some later occasion. Both Bialoguski and his

³¹ P. Bialoguski, *loc.cit.*,; also *Tr.*, 792 (68, 75), 793 (76), 795 (138-81), 984-5 (375-435), 968 (1014); and M. Bialoguski, *op.cit.*, pp.172-4.

superior ASIO officer agreed that the situation was promising.³²

Mr. Petrov was more definite about the idea of staying in Australia. Bialoguski had noticed that he still had not told his wife about the chicken farm and wondered if there were not some hidden reason for his keeping his wife in ignorance. On 19 February 1954, Bialoguski persuaded Petrov to meet with Deputy Director Richards. An appointment was made for the following day, but Petrov failed to keep it. Another anxious week passed for ASIO before Petrov and Richards finally met on February 27. Richards thought that Mr. Petrov might need "tangible assurances" that he would be looked after in Australia; Petrov let it be known discreetly through Bialoguski that he might require a sum of money. In reporting back to ASIO, Bialoguski suggested that £5,000 would be a suitable offer. Richards, so he claimed, arrived independently at exactly the same figure. On March 19, Petrov was shown £5,000 in cash by Richards, and Petrov replied that he would reveal all the activities of the Soviet Embassy in Australia and that he would try to bring over some documents to back up his claims. The two met again on March 20, when Petrov added that he would also give the names of those Australians who were giving information to the USSR. In this context, Petrov mentioned the Department of External Affairs. Numerous meetings followed. There were sixteen in all before the defection. On the night of March 31, Mr. Petrov said that he had managed to obtain some "stuff" to support his allegations. As yet, Petrov had not signed any undertakings, although he had made compromising statements and hinted strongly that he had things to reveal about the Soviet intelligence service. Richards admitted to the Commission that he was now very concerned that, with Bialoguski out of the way, he should make the final step, a step which had long seemed so natural yet through all these months he had refrained from taking. Richards wondered

³² *Ibid.*, pp.181-6, and *Tr.*, 796-7 (197-214).

"what use this man was to us (ASIO)". He hoped very much that nothing would go wrong.³³ Such doubts were about to be resolved. The date set for Petrov's recall to Moscow was fast approaching. On April 2, Mr. Petrov set out from his residence in Canberra in a cheerful mood, dressed in one of his smarter suits. Mrs. Petrov was not sure why he was so elated, and this troubled her.³⁴ Within a few days, she was taken into the custody of the Embassy. From then, until her flight to Darwin, everyone had time for reflection.

Mr. Petrov had sealed his bargain with ASIO, apparently with few regrets. He had deserted his country and his wife, but he now had £5,000 all for himself. During the period from April 3 to April 13 he made repeated requests to ASIO not to reveal that he had defected until his wife was safely out of the country. The suicide note he had written to the Embassy was perhaps intended to convey sufficient doubt as to what had actually befallen him that Mrs. Petrov would not risk defection on her own.³⁵ Isolated from her husband and his contacts through Bialoguski, it was reasonable to expect that she would return to the USSR, not knowing that she could share in his reward. Though Mr. Petrov was deeply upset at losing his pet Alsation,³⁶ the evidence suggests that he was already steeling himself to the prospect of never seeing his wife again.

ASIO had wider considerations to put before the Government. Its Director-General, Brigadier Spry, had concluded from what he had seen of Petrov's statements and documents that a Royal Commission would be the best method of procedure. In this way, otherwise reluctant witnesses could be compelled to give the evidence that ASIO or police officers could not extract if they were

³³ *Ibid.*, evidence of G.R. Richards, 739 (359-62), 741 (391, 399), 745 (22-4) (42-52), 747-8 (96-109), 749 (127-144), 753 (229).

³⁴ V.M. and E.A. Petrov, *op.cit.*, p.300.

³⁵ *Tr.*, Ligertwood, J., 1150 (462), 1152 (532, 534).

³⁶ M. Bialoguski, *op.cit.*, saw Petrov after his own defection and before Mrs. Petrov's. It seemed the dog pre-occupied Petrov, pp.211-12, 201.

preparing a case to be taken through the Courts in the normal fashion.³⁷ Serious doubts must have existed about the chances of successful prosecutions on the basis of Petrov's evidence alone. It was natural that the Government would wish to announce such an important matter before the elections, so that the public could reflect upon the efficiency with which ASIO and Menzies' Government had frustrated Russia's plans for espionage against Australia. Mrs. Petrov's fate was not viewed with the same detachment by ASIO and the Government as it was by Mr. Petrov. ASIO had no reason to believe that Mrs. Petrov would have any less useful information to supply than her husband.³⁸ The Government could hardly afford to appear indifferent to her fate, since the whole affair could easily become an electoral liability if the Soviet Government was able to take her out of the country without anything being done. If there was to be any hope of securing her, then a public announcement of the defection of her husband had to be made. It was thought best not to mention the payment of £5,000, lest the public misunderstand it.³⁹ Therefore a private meeting was needed between Mr. and Mrs. Petrov so that she could be re-assured that she could be looked after. Such a meeting was sought, but on instructions from the Soviet Ambassador, Mrs. Petrov rejected it.

For ten days Mrs. Petrov was cut off from all knowledge of her husband. She was distressed and miserable. Then, with the announcement of his defection, she was clearly in an impossible position. She would be immediately suspected of having known something of his state of mind which she should have reported to the Embassy. If the truth ever came out about Bialoguski's visit

³⁷ C.C.F. Spry - *National Times*, 20/8/73 published 3-8 September, 1973.

³⁸ M. Bialoguski, *op.cit.*, p.219-21, outlines some of ASIO's plans for reaching Mrs. Petrov; compare this with Petrov's passive pessimism, p.218. The *Melbourne Sun*, 21/4/54: "Security officers have one big question - will Mrs. Petrov co-operate as eagerly as her husband ... She could fill in many of the blanks...".

³⁹ Menzies instructed that £5,000 should not be brought out for this reason, *CPD*, H. of R., 25/10/1955, p.1866.

in January and his direct appeal to her, she would have no defence. If, as she claimed at the Commission, her husband had tricked her into signing a false certificate attesting to the destruction of MVD documents, then when these were produced at the inquiry it would be even more difficult to persuade the Soviet Government of her innocence. But until she spoke to her husband, she could not be sure that the Australian Government was telling the truth in saying he had defected of his own free will. It was possible that his prevarications, his tantalising hints to ASIO, his dealings with Bialoguski, his general instability, had caused them to lose patience and seize him. In the absence of information to the contrary, her prospects in Australia seemed equally bleak. Only after she had spoken on the telephone to her husband at Darwin did she refuse to continue her journey to Russia, and only after she had seen and talked with him face to face in Sydney did she sign her own formal application for asylum.

After the announcement of Mr. Petrov's defection, George Marue claimed to have had several heated encounters with Dr. Bialoguski at King's Cross. Bialoguski, he alleged, was furious because ASIO had informed him that Marue had reported on him. Bialoguski threatened to "fix" Marue and Marue's security officer, if Marue reported anything more. Marue was so angry with Security for betraying him to Bialoguski that he felt like going to Fred "Jenkins" and spitting in his eye. Bialoguski informed all his and Marue's friends that Marue was working for the Police Department and had told the police that Bialoguski was selling liquor for Petrov. Bialoguski denied absolutely that he sold liquor.⁴⁰ In 1955, Marue told Labor MHR, E.J. Ward, and Dr. Evatt about the whole story in the hope that by exposing Bialoguski the Australian security service would be forced to improve its procedures. In Parliament, on 8 June, 1955, Ward asked Menzies if it were true that

⁴⁰ Marue, *op.cit.*, pp.15-16, Bialoguski still denies it, but does believe that Marue was working with Security, Whitlam and Stubbs, *op.cit.*, p.58.

information from the Department of Trade and Customs showed that Petrov had been abusing his diplomatic privileges to purchase liquor duty-free and then re-sell it through Bialoguski. In reply, Menzies stated:

In the course of the investigations which were made ... every possible lead was followed up, and the facts that were available were assembled. When those facts were assembled, they were laid before the Crown Law authorities... The reports were put before the Crown Law authorities with a request that they advise whether they disclosed any evidence that would support the institution of proceedings against Petrov, or Bialoguski, or any other person for an offence against the Customs Act, or any other Commonwealth law, in relation to these alleged sales of liquor.

Mr. WARD. -- It is admitted that there is no offence against the law.

Mr. MENZIES. -- These muttered admissions do not matter. The Crown Law authorities advised -- and apparently the muttered interjection of the honorable member of East Sydney is an admission that they were right -- that the reports disclosed no offence whatever.

Mr. WARD. -- What about the abuse of diplomatic privilege?

Mr. MENZIES. -- What does this allegation amount to? It is alleged, is it that Petrov, being a diplomatic officer without violating the law took advantage of his diplomatic position? I shall not debate that matter⁴¹

Menzies never denied Marue's allegations, and the Royal Commissioners refused to investigate them.⁴²

According to Marue, the last time he and Bialoguski met, their conversation was a little less hostile. Marue claimed that Bialoguski said to him:

⁴¹ CPD, H. of R., 8/6/1955, pp.1519-20.

⁴² See note (49) below.

You have to understand George, that in the Petrov affair and the job I was doing knew only the top men in the H.Q. of Security and they also had to do what I wanted, because it was in my hands to make Petrov stay here and only I could do it. Apart from this I had to make him stay here before the Federal Elections and I am today the man who helped Menzies win the Elections so easily. When Security sacked me because of your report I went to see Menzies and he ordered to take me back, because Menzies knew I was doing a good job for him. Therefore you must understand that you did not have any chance to do anything against me.. they trusted me and disregarded your reports. Might not be the boys you⁴³ have been co-operating with, but the H.Q. (sic)

This reported statement was not incompatible with Bialoguski's own views. He definitely believed that Menzies was aware of his role since his visit to Menzies' office in May 1953. Bialoguski was overseas in 1955 and his book about the Petrov affair was not published until later that year. Only after Bialoguski recounted his story of the visit to Canberra did Yeend tell his own about not passing on Bialoguski's letter to Menzies. Menzies confirmed Yeend's account.⁴⁴ But at the time that Bialoguski spoke to Marue, he could have honestly made the statements attributed to him. Bialoguski believed his own role in the defection was enormously important, but the Petrovs suggested he overrated himself.⁴⁵ Bialoguski placed temptations in Petrov's path, but it was Petrov's choice to accept them. ASIO's failure to establish any other link to Petrov except Bialoguski did give Bialoguski some control over the pace of events. The evidence suggests there was a period of time between when Petrov was first willing to defect and when he was forced to do so by his recall to Moscow. How long this period was and whether Bialoguski influenced it for money or for the elections is not known. Bialoguski's character is not such as would automatically rule out these

⁴³ Marue, *op.cit.*, p.17.

⁴⁴ CPD, H. of R., 25/10/1955, pp.1869-70.

⁴⁵ On Bialoguski's self-importance see P. Bialoguski, *loc.cit.*, part 10, 10/6/55; Petrovs, *op.cit.*, pp.343-4.

possibilities. George Marue believed that Bialoguski had not told everything about his relationship with Petrov. His concern was "to induce him to tell us the truth, which we are entitled to know".⁴⁶

Some of the details about the relationship between the Petrovs, Bialoguski, and ASIO were revealed at the Royal Commission by Sir Garfield Barwick. Sir Garfield's revelations made a virtue of necessity, since both Dr. Evatt and Communist Counsel knew of the friendship between Bialoguski and Petrov and were pressing to have Bialoguski called.⁴⁷ Other details only appeared after the Commission ceased hearing evidence. This does not mean that the Commissioners could plead ignorance of these matters, because they had, they said, complete access to all the reports of Bialoguski's two hundred meetings with Petrov and tape recordings of numerous conversations. They declined to reveal this material on the grounds that it would be prejudicial to national security.⁴⁸ One Counsel sought to call witnesses concerning the allegations of liquor trafficking, but was prevented from doing so by a ruling from the Commissioners.⁴⁹ More importantly, the Commissioners failed to approach their investigation from the standpoint that even the public evidence should have forced upon them. Up to this point the impression conveyed to the public was that ASIO had acted merely as the passive reception agency for two Soviet defectors. This impression could no longer be sustained. ASIO did not simply receive the Petrovs, but had initiated several chains of events from 1951. Any criticisms of the circumstances surrounding the defections of the Petrovs, any criticisms of their evidence and character, now became potential criticisms of ASIO itself. ASIO was thus an intensely interested party in whatever findings the Commissioners would make. It was

⁴⁶ Marue, *op.cit.*, p.19.

⁴⁷ *Tr.*, 806 (550), 2347 (336), 2349 (449), 2350 (459-60).

⁴⁸ *Ibid.*, 687 (849), 688 (852).

⁴⁹ *Ibid.*, 1814 (218-234). Counsel was B.R. Miles.

difficult for the Commission to present ASIO officers as neutral assistants to the Commission's search for truth.

Bialoguski's evidence shed new light on the Petrovs. Mr. Petrov had hopelessly compromised himself before his defection, and financial security was constantly in his mind. Mrs. Petrov was no longer the innocent woman plucked out of the hands of her Soviet gaolers, but was herself compromised by her failure to report Bialoguski's overtures to her and by her indiscreet inquiries about the 'practicalities' of life in Australia. Bialoguski's evidence also showed that she had lied to the Commission when she earlier denied any knowledge that he was going to defect, and claimed she never knew that Mr. Petrov's "Sydney friends" were discussing with him the idea of remaining in Australia. She added that she had never met any Australian security agents, even though, according to Mr. Petrov, she had guessed who Bialoguski really was after their meeting of January 1954.⁵⁰ Critics of the Commission had unearthed its first clear case of espionage and its first spy. The espionage was the suborning of an official of a foreign Embassy accredited to Australia. The spy was Dr. Michael Bialoguski.⁵¹

⁵⁰ *Ibid.*, evidence of E.A. Petrov, 2/9/54, 715 (892-906); and concerning security agents 661 (1185), 201 (381), of V.M. Petrov 1027 (881). She also conceals the 30 January meeting in her part of *Empire of Fear*, p.309. Bialoguski's evidence re the meeting is at *Tr.*, 796-7 (194-214).

⁵¹ For example, B. Fitzpatrick, *The Royal Commission on Espionage*, pamphlet published by C.B. Christesen, Melbourne, 1955.

CHAPTER 8

THE INTERIM REPORT

The exclusion of Dr. Evatt and the entry of Sir Garfield Barwick brought a much more determined atmosphere into the Commission. After Bialoguski had given his evidence, Sir Garfield called Dr. Beckett and Richards to confirm what Bialoguski had said. This did not add much to the issue of Document J, but both witnesses' evidence sought to dispel some of the charges of conspiracy. ASIO supplied for the Commissioners alone to read, two volumes of "Agents Reports" from Bialoguski and another nine volumes of material on the whole operation concerning Petrov.¹ New sub-poenas were issued for Dalziel, Grundeman and Lockwood to face further questioning. Their Counsel were forced to re-appear to protect their clients, after having withdrawn from the proceedings in protest at Dr. Evatt's exclusion. Counsel at first adopted the attitude of merely guarding their clients' interests and refusing to cross-examine Richards, Bialoguski and Beckett as part of their protest. When Dr. Evatt's re-application for leave to appear was refused, Counsel were forced to abandon this course and to carry on cross-examination regardless.² By Tuesday 21 September, the evidence was complete. The Commissioners called upon all Counsel to prepare their addresses on all matters dealing with Document J and with the allegations of conspiracy. The Commissioners added that they were considering making an Interim Report to the Governor-

¹ *Tr.*, for 7-10 September, 733-811; re Security reports 810-11 (694-730) and 823 (402-422)

² *Ibid.*, 815 (1-18), 866-8, 881-3, 901-2, 915-20.

General on the matters that had been raised.³ Addresses themselves began on Monday 27 September, the order of presentation being Mr. Phillip Evatt, Mr. Hill, Mr. Meagher for O'Sullivan, Sir Garfield Barwick, and finally Mr. Windeyer. Mr. Evatt's relative inexperience told against him. His case was the most difficult to argue, and the Commissioners did not spare him. On the first day the Commissioners interrupted him 418 times, and on the second day up till the conclusion of his address at lunch time there were another 254 interruptions. Spectators in the gallery kept their own "score", as the flow of Mr. Evatt's remarks was completely destroyed.⁴ Mr. Hill's address, which took two and a half days, received a much better hearing, whilst Mr. Meagher, Sir Garfield Barwick, and Mr. Windeyer were heard with courtesy. On October 8, the J phase ended when the Commissioners announced the conclusions they had reached. The proceedings were then adjourned until 18 October so that the Commissioners could write their Interim Report.⁵

The Commissioners and the Press were concerned that the time taken up with Document J had not been well spent. Not only had the word of the Petrovs been disputed, but the standing of ASIO had been questioned, Assisting Counsel's stature diminished, and the Commissioners vilified. The Commissioners had hoped that their positions as members of the judiciary would preserve them from the accusation of political bias and would lend authority to their pronouncements. It was hard to imagine anyone but the Communists would wish to hinder the Commission or bring it into disrepute. Therefore it was disturbing that some members of the public were urging

³ *Ibid.*, 1034 (1164-67), 1035 (1211).

⁴ *Ibid.*, Address of P.G. Evatt, 27-8 September, 1039-66, 1071-89. Calculations of interruptions differ. The author's is from the printed Transcript, which is edited. The Communist *Guardian* put the "score" at 790, 7/10/54.

⁵ *Ibid.*, 1246-7 (492-508).

that the Commission be disbanded.⁶ It was alarming that the Leader of the Opposition should have entered the Commission and offered not merely a limited defence of his staff but joined with Communist Counsel in challenging the whole basis of the Commission itself.⁷ For those in the community who believed that the ALP was just a milder variant of Communism, such a development was not surprising; but for those who did not, the effect was to deprive the Commission of its non-partisan authority. If the Commission was to carry any weight with the Australian public, it was extremely important that the Commissioners decisively rebut Dr. Evatt's and Mr. Hill's allegations. A thorough examination of the charges and the calling of all the evidence that could safely be made public was the natural course for the Commission to take. But the natural course turned out not to be the best, for each new piece of evidence only stimulated "opposing" Counsel to formulate modified or new accusations against the Petrovs.⁸ The Commissioners did not want the proceedings to degenerate into a forum where Dr. Evatt, his juniors, and Mr. Hill could attack the purpose of the Inquiry. In the circumstances, the Commissioners became convinced that the best course was to wind up the J affair as speedily as possible and put an end to further discussion of the matter by issuing their Interim Report. The Commission would then be able to turn to more profitable areas of investigation. One of the less happy episodes would be ended, and public interest would be revived.⁹ At the same time, the Interim Report would provide the definitive statement against Evatt and Communist Counsel. Allegations of a "Petrov conspiracy" would be stopped.

⁶ *Ibid.*, re Commissioners' attitudes to its critics 57 (225-8), 411 (1-7), 415 (142), 1039 (1-3); calls for disbanding of the Commission see Chapter 15.

⁷ "Interim Report" in *Report*, Appendix 2, pp.424-5.

⁸ *Ibid.*, pp.425-6 reflect this concern.

⁹ The Melbourne *Herald*, 24 September 1954, voiced such sentiments. It was noticeable that after the J phase concluded the Commissioners never again allowed Counsel to probe conspiracy or forgery allegations to the extent it had before.

The Interim Report was tabled in Parliament on 26 October. Its main conclusions were those announced earlier by the Commissioners on 8 October. Concerning Document H, the Commissioners found that it was an authentic document, and that the Petrovs' statements in relation to it were proven true.¹⁰ Yet although the Petrovs' statements that O'Sullivan wrote it were correct, the Commissioners accepted no better proof than the word of the Petrovs' alone that Document H had been used for espionage purposes. Document J was the main focus of the Interim Report. The Commissioners said that:

... quite apart from the evidence of the Petrovs, the matter there placed before us established: --

- (1) that Exhibit J had been typewritten in the Soviet Embassy;
- (2) that Exhibit J had been typewritten on or about 25th May 1953;
- (3) that Lockwood had stayed at the Kingston Hotel, opposite the Soviet Embassy, from the 22nd to 25th May 1953;
- (4) that much matter contained in Exhibit J itself pointed to Lockwood, and to Lockwood alone, as the author;
- (5) that the handwritten capital letters on Exhibit J appeared to have been made by Lockwood.¹¹

All of this "convincingly indicated" to the Commissioners, even while they were still sitting in Melbourne, that Lockwood was the author. Yet the first and fifth conclusions depended on the disputed expertise of Inspector Rogers. Miss Rook had proven that his expertise in discerning typewriting was fallible; and Dr. Monticone claimed that Rogers' testing of handwriting was done in "a most improper and irresponsible manner".¹² Lockwood's stay at the Kingston Hotel was not disputed. The other conclusions were dependent on evidence internal to J itself, and did not resolve the crux of the matter:

¹⁰ "Interim Report", *Report*, p.420.

¹¹ *Ibid.*, p.423.

¹² *Tr.*, evidence C.I. Rook, 1000-1003; opinion of C. Monticone 1060 (746-8).

whether Lockwood wrote and typed all of J or whether some other person did so, using the notes Lockwood said he gave to Antonov as a basis. Should Lockwood's evidence or the Petrovs' be relied upon and to what extent? The Commissioners preferred that of the Petrovs and they relied upon it completely.¹³ For the rest of their Report, they made no attempt to explain the significance of J to espionage. Instead, they concentrated on the role of Dr. Evatt and Mr. Hill before the Commission. They spoke of the "bewildering variations" of charges made by Evatt and his juniors. "All we heard", they said, "was constant re-iteration of vague charges of infamy".¹⁴ Lockwood was "very willing to follow and exploit the line taken on behalf of Grundeman and Dalziel". The Commissioners argued that Lockwood's failure to denounce J as a forgery from the outset was further proof that his allegations were "concocted after the Melbourne sittings".¹⁵ Charges against ASIO, according to the Report, were "entirely disproved" and were "calculated not only to arouse disquiet in Australia but also to shake the confidence of other friendly nations in the integrity of that Service".¹⁶ The Interim Report sought to leave no room at all for doubt that the most patient judicial examination of all the issues established the authenticity of Documents H and J and the complete probity of the Security Service. In its Editorial, the *Adelaide Advertiser* said:

To the extent that these findings support the testimony of the Petrovs, and lend weight to the evidence of the latter on other documents and relevant matters, they are clearly of prime importance.¹⁷

It was hoped the Interim Report would place the Commission on a sounder footing in its future proceedings.

¹³ "Interim Report", *Report*, p.420, 427.

¹⁴ *Ibid.*, p.425

¹⁵ *Ibid.*, p.425, 427.

¹⁶ *Ibid.*, pp.428-9.

¹⁷ *Advertiser*, 27 October, 1954.

The Parliamentary debate upon the Report was disappointing. Dr. Evatt was barred by the Speaker from addressing himself to the Report because he had appeared at the Commission as Counsel. Only after Standing Orders had been suspended was Evatt allowed to speak to the House. It was hardly surprising that Evatt attempted to lay before the House the reasons why he believed in the innocence of his staff and the guilt of the Petrovs, ASIO, and Menzies in a political conspiracy. His outspoken criticism of the Commissioners was also not surprising, considering that the Commissioners were no less critical of him. The Interim Report was very much an attack on Evatt as an advocate, and to have said nothing in self-defence would have been too easily construed as an admission that he was wrong. When Evatt had finished, Menzies rose in reply at once. He declared that he would not allow the debate to become a forum for an attack on the Commissioners. He recited at length the record of distinguished public service which Justices Owen, Philp and Ligertwood, and Assisting Counsel Windeyer had rendered. Since such respected and respectable men had already adjudicated on Evatt's claims, Menzies was not going to allow them all to be ventilated again. Under the Standing Orders, the reply of the Prime Minister closed the debate on the Interim Report for the present time.¹⁸

Other events quite beyond the control of Menzies or the Commissioners were to revive the debate and yet also to overshadow it. On 5 October, 1954, Evatt had launched his public attack on the Industrial Groups and the influence of the organisation which lay behind them, the Movement. The protracted battle for control of the ALP began. Evatt offered a central rallying point for all the diverse forces in the trade unions and party organisation which were opposed to the Groups, and, as a result, his leadership of the Labor Party was confirmed. At the same time, Evatt became the

¹⁸ See *CPD*, H. of R., 28 October, 1954, pp.2467-81.

chief public target for the Groupers. Evatt was at once, to the Groups, the symbol of Labor's toleration of and sympathy with Communism which they had sought to destroy, and to his supporters, the symbol of the ALP's integrity and opposition to outside interference by secret Church-dominated organisations.¹⁹ The Petrov affair and the Royal Commission now became embedded in the history of the ALP, far more than it had with the disappointment at the loss of the 1954 elections. Viewed retrospectively, in the light of the great rift in the Party, the involvement of Evatt and his staff seemed part of the wider conspiracy to destroy the Labor leadership and, through that, to assert even more strongly the Movement's influence. The other view, that of Group-supporters, was that Evatt's intervention in the Royal Commission was part of a process whereby he sought to destroy all the bastions against Communism in the community and to forge an alliance with the Communist Party.²⁰ The ALP Federal Conference met in Hobart in February 1955. The Groups were disbanded. Seven Members of the House of Representatives formed the ALP (Anti-Communist) in the Federal Parliament. When the Parliament reconvened, the ALP (Anti-Communist) sat on the cross-benches. Throughout the remainder of the life of the Parliament, it sought every opportunity to demonstrate the Communist-Evatt alliance. The Menzies Government was delighted with this chance to embarrass the Opposition, and Government members regularly supported motions to discuss matters of public importance that the ALP (Anti-Communist) proposed. It is hard to believe this was not the reason why the debate on the Interim Report was suddenly revived in 1955. But now, far from leading to a detailed analytical discussion, the Royal Commission was overshadowed by the exchange of abuse and bringing forth of old stories of ALP-Communist collaboration. In this dis-

¹⁹ Murray, *op.cit.*, pp.179-193.

²⁰ Mr. Bourke (MHR) expressed the ALP (Anti-Communist) view that Evatt's intervention at the Commission, the split, and the move to the left by the ALP were all of a piece, *CPD*, H. of R., 20 April, 1955, p.17.

cussion, the appearance of Dr. Evatt and his charges at the Royal Commission were simply other incidents. The significance and authorship of Document J was of minor consequence as the two groups struggled for the allegiance of the ALP rank and file.²¹

²¹ See resumed debate *CPD*, H. of R., 19 May, 1955, pp.895-903.

CHAPTER 9

A GUIDE TO EXHIBITS A - G

Re-invigorated by their Interim Report, the Commissioners began the new phase of their hearings on October 18. They set out with a new determination that nothing would divert them from their task of tracking down those who had committed espionage against Australia, thus authenticating the MVD documents and establishing the credibility of the Petrovs. The clues for this were not Documents H and J, upon which so much time had been spent, but Exhibits A - F, and G.

Exhibits A - F were grouped together as the Moscow Letters, covering the period from January to December 1952. All of them were addressed to Mr. Petrov in his capacity as Chief Resident of the MVD in Australia, and they came from the MVD "Centre" in Moscow. In all, the Exhibits comprised 101 pages of typing on unmarked pages in the Russian language, making up six letters from Moscow, each letter being designated by the Commission with a letter of the alphabet and each page of a letter by a number. Thus the letter from Moscow dated 6 June 1952 was Document D, and the eleventh page of D was designated as D 11.¹ According to the Petrovs, the Moscow Letters arrived in Australia on a roll of undeveloped negatives so that if the couriers were attacked on their way to Australia the exposure of the film to the light would result in the destruction of the letters. In the

¹ Most sections of the Moscow Letters have been published in the Commission's Report, Appendix No.1.

Embassy, Petrov would develop the film himself and have it printed on to photographic paper which he purchased locally. It was the prints made by Mr. Petrov that were produced to the Commission, since the films themselves had been destroyed.² Each printed letter was in code, thus:

We request to you to report to us by the next *luggage* all the information known to you concerning No.42, who figures in the *departmental* files in connection with her No.43, and about her No.44 in *Sparta*.³

The numbers in the text referred to a list of insertions, which was also sent in a separate packet of film. The cipher clerk deciphered the words on the list and passed the list on to the MVD Resident, who inserted the deciphered words at the appropriate numbered spaces in the text. In the example above, the process upon completion would yield the following:

We request you to report to us by the next *luggage* all the information known to you concerning Kazanova, who figures in the *departmental* files in connection with her last will and testament, and about her relatives in *Sparta*.

Fortunately for the Commission, Mr. Petrov had brought with him the separate sheets of paper on to which he had copied the numbers and insertions for each of the Moscow Letters. He stated that the lists were made by him at the time of receipt of the letters, and that each list was attached by him to the particular letter and placed in the safe.⁴ The last stage in decoding the Letters required the use of the MVD codebook to assign the true meanings to the words underlined in the above message. After their defection both the Petrovs provided ASIO with lists of code-words and their meanings from their own memory, although the context of the code-words often enabled the Commissioners or Assisting Counsel to guess at the meaning, and even correct the memory of the Petrovs themselves.⁵ The final result

² V.M. Petrov, *Tr.*, pp.121-2.

³ This example and its method of deciphering are set out in the *Report*, pp.41-55.

⁴ *Ibid.*, p.42 and *Tr.*, pp.126-29.

⁵ *Report*, p.43.

in the example was:

We request you to report to us by the next mail all the information known to you concerning Kazanova, who figures in the consular files in connection with her last will and testament, and about her relatives in Russia.

These deciphering and decoding processes finally disclosed the plain text of the Letters, much of which was published by the Commission as an Appendix to their Final Report. Rather than forming a continuous text, they usually consisted of separate paragraphs on different topics or aspects of the MVD work. Thus B 17 went:

Paragraph No.9 of Letter No.1 of 2 January 1952 to
Canberra

CONCERNING SLAVIANIN

It is clear from material received that Slavianin is attempting too obtrusively to establish close relations with Pakhomov.

Taking heed of this, warn Pakhomov that he must be cautious in conversations with him, as it is not to be excluded that he might be an agent of the counter-intelligence.

Paragraph 10 dealt with another person, and Paragraph 11 dealt with the question of how long Pakhomov should seek to stay in Australia.⁶

The evidence of the Petrovs was no less essential to this phase of the Commission, which dealt with the Moscow Letters, than it was to any other.

Upon their word alone depended the following:

- (1) that the photographic prints at the Commission were of Letters from the MVD Centre;
- (2) that the prints were true and correct copies;
- (3) that the lists of numbered insertions were true and correct;
- (4) that the code-words had been properly remembered and correctly interpreted; and
- (5) that persons mentioned in the separate paragraphs fitted into a pattern and context of MVD operations.

⁶ *Ibid.*, Appendix No.1, pp.319-20.

This was a very heavy burden for the Petrovs to shoulder alone, so the Commissioners cross-examined witnesses on the basis of information supplied independently of the Petrovs to see if they could establish for themselves the context and the reason why those witnesses were mentioned in MVD despatches. Nevertheless, the mention of a person's name in the Letters was usually *prima facie* evidence for the Commissioners that the person had some relationship with the MVD.

Exhibits G were of quite a different character, and the G class needs to be broken down in order to describe it accurately. All of them were notes said to be made by MVD personnel in Australia. Pages G 1-3 and G 5-11 were notes allegedly made by a former MVD Chief Resident in Australia, named Sadovnikov. Sadovnikov had served in Australia from 4 April, 1949 until 15 April, 1951. He had left behind him in the MVD safe various sheets of paper with names, perhaps a few code-names, and brief descriptions of individuals. A few pages were copies made by Sadovnikov of enclosures in letters received from the Moscow Centre during his period of office. On G 7, for example, the following appears:

Enc. to Letter No.2 of 10/11/49.

X (1) Joe - born 1921, works in the archives of the Department of External Affairs. Lives in Canberra.

K (2) Taylor - judge and representative of the Arbitration Commission, labour supporter, up to 1943 was at the head of the security service in Sydney; at that time handed to the Communist Party a document which made possible the exposure of an agent provocateur in one of the regions of the Communist Party. President of the Industrial Commission of N.S.W. "K" describes him favourably...⁷

The Petrovs did not claim to know about many of the individuals listed by Sadovnikov, because these people had been associated with Soviet intelligence operations in Australia before the Petrovs' arrival, but it was strongly suggested that some of them were important sources of information.

⁷ *Ibid.*, p.407.

It was not clear if these people were still working for or sympathetic to the Soviet Union, but in any event they were just as significant subjects of questioning and investigation by the Commission as those mentioned in the Moscow Letters.

Page G 4 was written by Mr. Petrov. He stated that it was a copy of two separate pieces of paper. The first piece was a small scrap written by one of his predecessors, possibly Sadovnikov, with a name and address on it. It was associated with other papers in the MVD safe dealing with a person designated as "K", who was, the Petrovs had heard, a very important Soviet agent in Australia that was not known to them.⁸ The second piece of paper was quite different and listed seven names with their code-names beside them. This list was not associated with "K".⁹ Pages G 11 and 12 were also copied out by Petrov before his defection from a file in the MVD safe, which he thought might be of use to Mr. Richards. It contained biographical information about a migrant and his family who had come to Australia in 1949. Pages G 13 - 18 were other notes made by Petrov. They were taken from various sources, including the Moscow Letters which he had brought over, but also from some Letters he received in 1953 which he had left behind in the Embassy to cover his tracks.¹⁰ These notes were intended to remind Petrov of names and addresses, and certain incidents, and so they do not contain any particularly useful or informative details on their own.

Although many of the people in the G Exhibits were not known to the Petrovs either directly or by hearsay, the Petrovs' evidence was still vital. The identification of the handwriting on G 1-3, and 5-10, as Sadovnikov's was made by both the Petrovs, although the basis for this was not entirely clear. Mr. Petrov had never worked with Sadovnikov on espionage duties

⁸ Tr., 2800-1 (84-96).

⁹ Tr., 2801 (98-110).

¹⁰ Re G 11-12 see note in Report, p.411; re G 13-18 see Tr., 2801 (119-125).

and was still only a minor official during Sadovnikov's term of office.¹¹ Therefore his knowledge of Sadovnikov's handwriting would have been slight. Mr. Petrov said that his wife was the cipher clerk to Sadovnikov, and so she presumably would be able to identify the handwriting from her own experience. Mrs. Petrov denied that she had worked as Sadovnikov's cipher clerk, saying that she had only performed this duty after Sadovnikov left Australia.¹² Nonetheless, the Commissioners did not believe that this contradiction should impede their acceptance of the Petrovs' identification. For the rest of the G Exhibits, particularly G 4 which referred to "K", the Commission had to rely solely upon the Petrovs for the assurance that the pieces of paper had been correctly copied.

In all these Exhibits the Commission was able to identify about eighty individuals, of whom 61 were called as witnesses. Some of the people were mentioned in a quite innocuous way in the Moscow Letters as those who might merely be used as sources of information "in the dark". They need never know or intend that they should provide information for Moscow. Others were mentioned in a far less innocent way. They were to be approached knowing full well that they were to help Mr. Petrov and his assistants obtain secret information. Many Communists were included in this latter category, thus lending support to the view that Australian Communists were merely instruments of the Soviet Government. Then there were people who, from the context, could either be innocent or guilty parties. Their names, and perhaps some biographical information, were all that appeared about them. The Commissioners were determined to find out the truth about these people also, although their only guide was that the names appeared in an MVD document. The testimony of the Petrovs aside, the sole evidence that could throw light upon any of the people mentioned in the documents was

¹¹ Sadovnikov was in the KĬ, whilst Petrov was in the MGB and operated independently, See Chapter 5.

¹² V.M. Petrov, *Tr.*, 90 (310); E.A. Petrov, *Tr.*, 156 (658).

what they admitted about themselves and others they knew under examination from Assisting Counsel and the Commissioners.

To help arrive at the truth and to help in the process of framing questions, the Commission authorised private pre-examinations of named persons. An officer was sent by the Attorney-General's Department, often an employee of ASIO under Attorney-General's Department "cover", to interview the prospective witness. The officer usually showed an extract or extracts from the Letters or Notes that dealt with the person. The officer stated that the person's assistance was being sought by the Commission to determine the authenticity of the documents. If the person was willing to be interviewed, questions would then be asked that ranged over the matter mentioned in the extract and over other fields as well. Amongst the information which was elicited in the statements was the person's political views about Communism and the Soviet Union, the political activities in which they had been engaged, whether these activities were associated with the Communist Party, and any associations they might have had with the members of the Soviet Embassy. The opportunity was also taken by the interviewing officer to ask the person about any information that had come into ASIO's hands other than through the Petrovs.¹³ A few people made statements which satisfied the Commissioners, and so they were not required to attend as witnesses. Quite a number were still called, taken through their statements in public and asked supplementary questions. Those who refused to take a pre-examination were called as a matter of course. People who objected to this procedure were looked upon with some disfavour as people with something to hide or people with suspicious motives in not wanting to assist the Commission. Some were found to be, in the Commissioners' words, "unsatisfactory witnesses".

¹³ Mr. and Mrs. C.B. Christesen's experience is set out in Chapter 12; the witness N. Isaksen's experience - similar to this - was discussed at the Commission, see *Tr.*, pp.1801-4.

In this new phase of the Commission's proceedings, many witnesses were called, first those whose names appeared in the Moscow Letters then those in the G Exhibits. The fragmentary nature of the documents and the multitude of incidents to which they referred make a reconstruction of the entire proceedings impossibly long and of doubtful informative value. Such a process would be all the more complicated, because the succession of witnesses was interrupted from time to time with evidence relating to previous matters, or interspersed with evidence of the Petrovs based, not upon documents, but upon their recollections of cables and what other MVD personnel said. It is therefore possible only to make a selection of some of the more important episodes and themes in order to extract a systematic understanding of the Commission and its work. This, of course, immediately results in a distortion of what happened, because it makes the Commission itself seem systematic. In fact, the Commission would drift from one theme to another, before suddenly reverting back. This wandering should always be remembered. The other distortion, that of omitting many episodes, can only be overcome by the presentation of a variety of cases to illustrate different aspects, as will be attempted in the ensuing chapters.

CHAPTER 10

A MAN OF MYSTERY

I

The name of Walter Clayton was first mentioned at the Commission on 21 July, 1954. A summons for him to attend and give evidence had been issued, but he could not be found. Mr. Windeyer therefore appealed to the public to tell the Commission if they knew where Clayton was. Clayton was a prominent Communist; he had been a full-time Party organiser in Sydney since early 1939 and a member of the Central Committee's Control Commission from 1946 to 1949. Windeyer said Clayton had important information which could assist the Commission. A photograph of Clayton published in a 1939 edition of the Communist Party newspaper, *Tribune*, was released to the Press. Windeyer emphasised that he would not reveal why Clayton was wanted, because Clayton had not yet appeared at the Commission to hear what might be said.¹

On the same day another witness was asked questions that bore very directly on Clayton. Mr. F. (Fred) G.G. Rose was a farmer living on King Island, who had recently resigned from the Commonwealth Public Service in Canberra. He took an affirmation as a witness, and then asked the Commission to allow him to read out a statement he had prepared. The Commissioners forbade this, saying he must first answer some questions put to him by Assisting Counsel. Rose answered a few questions, then repeated his request to make a statement. This was again refused. In turn, Rose refused to answer any further questions.² By doing so, Rose breached the Royal Commission Act, which made

¹ *Tr.*, Windeyer, 321 (1-7).

² *Ibid.*, 321-2 (23-44).

it a separate offence for each refusal to answer a question put by the Commission. His only hope of escaping severe penalties was that this Act had not yet been amended. If a case for contempt of the Commission was brought against him, the High Court might still invalidate the Act, although Lockwood had already failed in his attempt to obtain an injunction from Mr. Justice Fullagar. The Commissioners faced their third recalcitrant witness, and so they made sure that they obtained the clearest possible case of contempt. The Chairman instructed Junior Assisting Counsel, Mr. Pape, to proceed with his questions in spite of Rose's refusal to answer them. At each question, Rose remained silent. The Chairman then repeated the question, so that there could be no possible doubt under the law that the question was asked by the Commission. Rose maintained his silence. The Chairman asked Rose if, by his silence, he admitted he was refusing to answer the question. Rose agreed. So the examination proceeded through twenty-nine questions. Rose committed twenty-nine separate offences under the Act.³ Nevertheless, simply by asking his questions, Mr. Pape introduced a number of serious allegations. The most significant questions, in the order they were asked, were:

Do you know a girl called June Barnett?

Did you meet her in Canberra in 1948?

Was she a cadet in the Department of External Affairs, pursuing her studies at the Canberra University College?

Did you know that towards the end of 1949 Miss Barnett completed her course of studies and was posted to the United Nations section of the Department of External Affairs?

Did you know that Miss Barnett had joined the Communist Party in Western Australia in 1944, and that in 1945 she became a member of the Camberwell branch of the Communist Party in Victoria?

Did you know that she resigned from the Party in 1948?

In 1950, were you approached in Canberra by an official of the Communist Party from Sydney, or

³ *Ibid.*, 322-4 (50-145).

any other person, and asked to arrange a meeting between that person and Miss Barnett?

Did you in fact arrange any meeting between such a person and Miss Barnett?

While they Miss Barnett and her sister were at your home, did any person, whether an official of the Communist Party or not, come to your home, and did you introduce him to Miss Barnett?

Did Miss Barnett leave your home for a period of about half an hour in the company of this person?

Did Miss Barnett on her return to your home tell you she had been asked by this person to supply to the Communist Party information relating to the Department of External Affairs?

Do you know the identity of the man to whom you introduced Miss Barnett in 1950?

Was that man Walter Seddon Clayton?

Have you had any discussion, or did you have any discussion in 1950, with officers or officials of the Communist Party in Sydney with regard to the obtaining of information from the Department of External Affairs?

Are you yourself a member of the Communist Party?

Are you what might be called an under-cover member of the Communist Party?⁴

When the questions stopped, nothing further was heard at the Commission of Walter Clayton or anyone else connected with him for the next three months. The Australian public could speculate on the import of these unanswered questions, while ASIO's search for Clayton continued.

Secret information obtained by the Commission suggested that the Clayton case was of great significance. On the day of his defection, April 3, Mr. Petrov had made a lengthy statement to Richards of ASIO. The whole statement has never been published, but the Commissioners eventually released parts of it. Some of them were relevant to Clayton. Petrov claimed, from what other MVD people had told him, that "a very serious situation" had existed in the Department of External Affairs during the

⁴ *Ibid.*, 322-3 (70-116).

period 1945-1948. A group of External Affairs officers was giving official information to the Communist Party. The Party member who was the contact for these officers would then pass the information to Mr. Makarov, who was the then Soviet intelligence chief in Australia. Information and documents handed over dealt not only with Australian, but also British and American foreign policy matters. Mr. Petrov did not know the Party member involved, not even from hearsay, although he had learned of the overall situation even before he arrived in Australia. The code-name of the man was "Klod" (also "Clode", "Klode", and "K"). Petrov did not know any of the officers of the Department who were Klod's informants either, except one who was mentioned in a cable from Moscow in 1953 which he could still remember.⁵ The Commissioners believed that Petrov's story bore striking parallels with that told by Gouzenko in Canada in 1946, where local Communist Party members were also linked with Soviet espionage. These parallels helped convince them that the story was genuine. In addition, it was supported by other information obtained in private session. Various security authorities had entertained suspicions of certain External Affairs officers in 1948.⁶ Since Mr. Petrov's story confirmed such suspicions, the Commissioners were convinced that the matter should be pursued with vigour and determination. Out of a total of eighty-four witnesses who were called in some connection with the MVD documents or MVD activities in Australia, as many as twenty-five were called in connection with "Klod" or Walter Clayton. For it was Walter Clayton, one-time member of the Communist Party Central Committee and Secretary of its Control Commission, whom the Commissioners suspected of being "Klod" - the spy-master and talent scout.

⁵ Report, Statement of V.M. Petrov dated 3/4/54, pp.119-20.

⁶ *Ibid.*, pp.116-7, further comments on the significance of the Gouzenko case are at pp.1120-2.

II

In the MVD documents, references to "K" (the abbreviation of "Klod") were made in the G Exhibits, the notes made by Sadovnikov. Document G 2 was entitled "Contacts K", and it gave a list of eleven individuals, by code-name, by brief description, or by real name. The real names and brief descriptions enabled some individuals to be tracked down fairly swiftly. Fortunately for the Commission, where just a code-name was present, it was usually possible to determine the identity of the individual through cross-references to other Sadovnikov notes.⁷ G 2 did not specify any espionage in which the individuals named were said to be engaged, and because the Petrovs claimed no knowledge of the individuals, they could make no specific allegations either. The Commissioners decided to call the individuals they could identify as "Contacts K" as their first step in the central espionage case before them.

On 22 October, 1954, after they had finished their protracted hearings on Documents H and J, the public evidence about Walter Clayton and "K" was resumed. G 2 contained the entry: "(3) "Sestra" - Franciska Bernie", and Exhibit G 8 elaborated thus:

X (6) *Bernie Franciska* - born 1923, Australian, worked as secretary-typist in the Secretariat of the Department of External Affairs in Sydney. Under-cover member of the Communist Party since 1943. "K" was in contact with her personally and received interesting information from her.⁸

The woman, Frances Bernie, was called as a witness. She said that she had been employed in Dr. Evatt's Sydney office while he was Minister for External Affairs in the Labor Government. Although she was formally an employee of the Department, her work in fact had been largely dealing with

⁷ G 2 is at p.402 of the *Report*, other important G documents in the Clayton case are G 3, the top four lines of G 4, G 7, G 8 and G 1, pp.401, 403-4, 407-8.

⁸ *Ibid.*, p.408.

minor electoral and Parliamentary matters. She had been a typist, telephonist, and clerk for Dr. Evatt. At the same time, she had been a member of the Communist Party, although there were aspects of Communist doctrine which troubled her and she had discussed these with Allan Dalziel. Before coming to the job, she had worked with the Eureka Youth League.⁹ It was not until she was interviewed for the job, which had been advertised in the newspapers simply as a clerical position, that she had learned that Dr. Evatt was to be her new employer. The Communist Party had not directed her to the job.¹⁰ Once employed in the office, Miss Bernie said that she had felt it was part of her duty as a Communist to look out for any information that passed her way that could be useful to the Party. She had, entirely on her own initiative,¹¹ copied letters and made summaries of documents occasionally, which she had taken over to the Party's headquarters. There she spoke with Walter Clayton, and gave him whatever she had. During the eighteen months that she had the job, she had seen him at most six times. She could not remember with any precision the kind of documents which she had taken him. She recalled one occasion when she had taken over a copy of some by-laws, and another when she had provided a copy of the car travel and meal arrangements for delegates to the United Nations Relief and Rehabilitation Association (UNRRA) Conference held at Lapstone, N.S.W.¹² After Miss Bernie left Dr. Evatt's office, she soon dropped out of the Communist Party.

As the first of "Contacts K", Miss Bernie did not seem to fit the usual picture of an espionage agent. At the Commission, she seemed frightened and out of her depth. Her "spying" was haphazard and her recruitment entirely fortuitous. It was not made clear why Soviet intelligence found by-laws or

⁹ Tr., evidence of F. Bernie 1329 (123-4), 1333 (285), 1336 (437-46), 1341 (716-726), and of A. Dalziel 1345 (867-68) (885-6).

¹⁰ *Ibid.*, concerning the advertisement 1344 (852-4); and F. Bernie 1331 (204-213).

¹¹ *Ibid.*, 1334 (337-8), 1335 (433-6), 1337-8 (532-4, 543).

¹² *Ibid.*, 1334 (380-1), 1335 (407-410) (424-8), 1337 (544-7), 1341 (736-7).

UNRRA delegates' travel and eating arrangements "interesting information". Miss Bernie did not see herself as a spy, and had thought little of the matter. She had first mentioned it to the authorities when ASIO's Richards had come to interview her in 1953, a year before Mr. Petrov's defection. It was only Richard's questioning that elicited the story from her. She was interviewed twice about the matter, and had made a statement with her solicitor in August or September 1953.¹³ Nothing more was said or done about it until she was called to repeat her story to the Commission.

The following day, Mr. Windeyer called June Barnett, the woman whose name had already been mentioned in the questions put to Rose. Miss Barnett had flown back from her job as Third Secretary in the Australian High Commission to New Zealand and granted special leave to appear.¹⁴ The only reference to her was on G 2, which said:

(7) -- Member of the Communist Party, girl, having finished the school of the Department of External Affairs, and will go over to work in the Department of External Affairs.¹⁵

This was lean evidence upon which to fix the "girl" as Miss Barnett. She agreed that the description, such as it was, did fit her as of 1947-8. She had left the Communist Party in 1948 when she took up her position in the Department. She met the Rose family in Canberra, had become friends with them, and from time to time they used to invite her to meals at their home.¹⁶ On one occasion, when she and her sister went there for dinner, there was a knock at the door. Rose answered it, and had then called her out of the room to the door where she saw a strange man. Without being introduced, except perhaps by Christian name, she had gone with this man around the block for a walk, during which the man suggested to her that she "might be in a position from time to time to have interesting information for the Party".¹⁷

¹³ *Ibid.*, 1328 (47-63).

¹⁴ *Ibid.*, 1352 (38-43).

¹⁵ *Report*, p.402.

¹⁶ *Tr.*, 1353-1355 evidence of June Barnett.

¹⁷ *Ibid.*, 1356-7 (253-280).

Mr. Pape asked her, "From the Department of External Affairs, did he say? Was that the suggestion?" To which she replied:

(281) I do not know whether he actually said that, but that was where I was working, so it could have been the place.¹⁸

She had declined to provide any information. The Commissioners asked if she could identify or describe the man who had spoken to her. Miss Barnett's description was, as she herself said, very uncertain, and even the general characteristics of the man were very hard for her to remember. Mr. Windeyer showed her a photograph of Walter Clayton, but all she could say was that she did not know if he were the man -- possibly, but possibly not.¹⁹

Miss Barnett told the Commissioners she had the same problem trying to describe the man when ASIO had asked her about him in March or April 1953. ASIO officers had come to see her. She did not volunteer a statement to them, but they "knew everything" and she "confirmed what they knew".²⁰

A second interview followed, almost the whole of which was spent trying to identify the man, with little success.²¹ When Miss Barnett stood down, the Commissioners had come no further than ASIO had done eighteen months before. A possible "Contact K", mentioned in a document prepared in 1947, met a shadowy figure in 1950 who asked her for information which she refused to provide. When Rose was recalled after Miss Barnett's evidence, he did answer questions, but denied that he had introduced her to any person in the manner she had described.²²

To solve the many riddles that had emerged in the case, the Commissioners redoubled their efforts to find Walter Clayton. Seven witnesses were called

¹⁸ *Ibid.*, 1357 (281).

¹⁹ *Ibid.*, 1357 (287-291), 1357-8 (299-316).

²⁰ *Ibid.*, 1363 (550), also (545-7),

²¹ *Ibid.*, 1366 (704-707)

²² *Ibid.*, evidence of F.G.G. Rose, pp.1367-81, 1385-92, 1403-4.

to give evidence concerning their knowledge of Clayton's whereabouts. Two Communist Party officers, the President, Mr. Richard Nixon, and the General Secretary, Lance Sharkey, were brought before the Commission. Each of these witnesses said they had seen Clayton "socially" since 1951, but that after 1953 they had not seen him at all. They explained that Clayton had not been re-elected to the Central Committee of the Party at its 1951 Congress, and that a few months later he had withdrawn from the activities of its central office. There had been no cause for them to have seen him regularly. The Commissioners demanded to see Communist Party membership records and wages books in order to track Clayton down, but Dixon and Sharkey both replied that no records of that sort were kept.²³ They also declined to name other Central Committee members who might assist in finding Clayton, although Mr. Dixon did say he thought it would be best if Clayton came forward to answer the charges made at the Commission.²⁴ This did not placate the Commissioners who believed that the Party officers were simply being evasive and unhelpful, and that records did exist but the officers were simply refusing to produce them.²⁵ Nevertheless, they came no closer to locating Clayton. Five other witnesses were called who were connected with Clayton's personal or financial affairs. A man had once shared a house with Clayton. A woman had let Clayton use her address for his correspondence, although he had never lived there. Another woman was Clayton's sub-tenant in a house where he had been living. She had been asked to leave the house in August 1954 by the landlord, and she had put Clayton's possessions into storage for him. While she had been using Clayton's house in town, he had been camping at Baulkham Hills. He had purchased land there and was building his own house. A land agent from Paramatta who had power of

²³ *Ibid.*, R. Dixon, pp.1439-42, 1445-59; L. Sharkey, 2191-4.

²⁴ *Ibid.*, 1455 (423-6).

²⁵ *Report*, p.100.

attorney over the property was called to the Commission and examined at considerable length about his relationship with Clayton and his handling of the property. The last witness was a wealthy Melbourne businessman who was guarantor of a bank loan advanced to Clayton for the purchase of the Baulkham Hills site. The business man said he had taken no special interest in the loan but knew it was being paid off satisfactorily. None of these five witnesses knew where Clayton was either, although the Commissioners were not inclined to believe them. Four of the witnesses admitted to being Communists. The fifth, the businessman, was suspected because he was not sufficiently curious about what was done with the loan he had guaranteed. The Commissioners feared that the evidence of Communists could not be trusted.²⁶ And they felt that association with a building project for the elusive Mr. Clayton ought to be viewed as conspiracy rather than as commerce.

After its unfruitful search, the Commission resumed its inquiry into "Contacts K". The next two contacts were related: "B -- Dep. Director of the Department of External Affairs" and "Sister of the wife of B." "B" was identified as Dr. John Burton, former Permanent Head of the External Affairs Department, who called to give all his evidence in secret session on 2 November 1954. Though none of the evidence was ever made public by the Commission, Mr. Windeyer said there was no suggestion that Dr. Burton had ever passed out any information, and that Dr. Burton had given evidence that he had never met Clayton.²⁷

Dr. Burton himself later revealed certain matters concerning his evidence. He was surprised when a number of names mentioned in or associated with the G Exhibits as possible security risks and MVD informants were put to him. These people had been investigated in 1948-49 by British security officials, and nothing had been discovered against them. Strangely, the Commissioners

²⁶ *Tr.*, evidence of H.W. Tattersell, pp.1479-81, 1483, 1485; and *Report*, pp.146-7.

²⁷ Dr. Burton's evidence was referred to a few days later *Tr.*, 1551 (1-3A).

seemed quite unaware of this fact, since he felt sure that they would have been briefed about this earlier episode as a background for their present inquiries. Burton would have brought the whole matter up in his evidence, but he felt that Assisting Counsel was "doing its best to prevent the evidence being given". What was even more striking was that the Commonwealth Solicitor-General, Professor Bailey, who was present at the session, afterwards expressed his gratitude to Dr. Burton for not mentioning it. Burton wrote a lengthy submission outlining the facts, and suggesting that Petrovs' documents disclosed nothing new. Though he addressed it to the Commission, no acknowledgement of the submission was ever made. Dr. Burton never knew if it had even reached the Commissioners, or whether they had thought it better not to mention it.²⁸

The evidence of Mrs. Burton's sister, Mrs. Beasely, was heard in public on 5 November. Her only connection with the Department of External Affairs, was through her sister's marriage to Dr. Burton. Mrs. Beasely had met Clayton. He had been to her home, but not often, and never at the same time as Dr. Burton.²⁹ The Commissioners asked her many other questions: whether she was a Communist -- she was; whether during her University anthropology course she had attempted to indoctrinate Aboriginal people with Communism -- she had not; whether her husband was a Communist and whether he occupied any position in the Party -- he was on the Sydney Metropolitan Committee at one stage.³⁰ But none of these questions could alter the fact that as student and housewife Mrs. Beasely never had any information which she could have given to Clayton, and that since Dr. Burton had never met Clayton through her she had no value, even in an indirect sense, for espionage purposes.

²⁸ Most of the material in this paragraph is taken from two sources: (1) Dr. Burton's submission to the Commission, published as Appendix I in Whitlam and Stubbs, *op.cit.*; and (2) in correspondence with the author dated 5/12/78.

²⁹ *Tr.*, 1544-5 (85-94), 1547 (214).

³⁰ *Ibid.*, 1546-7 (173-203), 1545 (104-112).

Two entries on G 2 - "Contacts K" - were "Master" and "Tourist" without any other elaboration, but the Commissioners identified two individuals on the basis of another entry on G 3. This read "Wilbur Christiansen -- "Master". (husband of the sister of Tourist)". "Master" was thus identified as Wilbur Christiansen, a scientist employed in the CSIRO's radio astronomy section. Christiansen pointed out to the Commission that his research at the CSIRO had no bearing on any defence secrets, since his work was in theoretical rather than applied science. He had no connection with External Affairs either. He had never been approached by anyone to give away information, and he had none to give away. Clayton was unknown to him.³¹ The Commissioners felt, despite this unpromising material, that because he had left-wing views and had been active in the Association of Scientific Workers, in which Communists were also active, this was sufficient reason to attract the attention of the MVD.³² Then there was the question of Tourist. Christiansen was married to the "sister of Tourist"; that is, "Tourist" could have been any one of Mr. E.F. Hill (the main Communist Counsel at the Commission), Mr. J.F. Hill, or their sister whose maiden name was A.S. Hill.³³ The documents gave no clue which was "Tourist". But since J.F. Hill had worked in the Department of External Affairs, the Commissioners arbitrarily decided that Documents G 2 and G 3 must have meant him. To support their view, they brought to light the fact that J.F. Hill had been questioned concerning a "security problem" in the Department in 1948, although nothing was revealed that warranted further action at that time. Hill was considered a trustworthy officer by Dr. Burton.³⁴ It can only have been to dispel this trust that J.F. Hill was confronted with a

³¹ *Ibid.*, 1972 (134-142), 1970 (55-6), 1972 (129-130).

³² *Report*, p.219.

³³ (W.J. Brown *et al.*), *The Petrov Conspiracy Unmasked*, Melbourne, 1974, p.145.

³⁴ J.F. Hill was interviewed in London in 1950, 2057-8 (205-8) and *Report* p.131 Dr. Burton re-iterated his view concerning the officers in the Department to the author, see note (28) part 2).

suggestion by Assisting Counsel that he had had attended a Communist Party meeting after the date on which Hill claimed to have left the Party. Hill denied this strongly.³⁵ He also said that he had never given away any official information; he had never been approached by anyone asking him to give any away; and that he had never met or known Clayton.³⁶

The last person to be identified on the list of "Contacts K" was D.S.F. Woodward. Mr. Woodward was also employed at the CSIRO as Technical Secretary, administering various non-secret affairs within his section. His immediate superior was a Dr. Briggs who had been an adviser to Dr. Evatt on atomic energy at an international conference after the war. Briggs was called to give evidence, and he said that Woodward had done nothing that would attract suspicion and had been most careful to see that there should not be the slightest chance that he should even inadvertently see any of Brigg's confidential papers, including those on atomic energy matters.³⁷ Woodward was examined about his work, and nothing was found that discredited him in that respect. But the Commissioners were most concerned that Woodward had once been a Communist, a fact which threw a completely different light on him. Assisting Counsel found it necessary to inquire at length into the reasons why Woodward had changed his name from "Adams"; what was the joke at school about "Adams" that had embarrassed him? Attention was also drawn to the fact that Woodward had failed his Honours degree at University. But above all, Woodward was asked about his period in the Communist Party, in close detail, in case he might have met Clayton.³⁸ After a close examination of the witness about all of this, the Commissioners could only suggest that Woodward had known a Mr. Greenfields in the Communist Party,

³⁵ The source of Counsel's information was Cecil Sharpley, *Tr.*, 2059-60 (168-219).

³⁶ *Ibid.*, re Clayton 2058 (122-125); re information 2057-8 (103-111).

³⁷ *Ibid.*, G. Briggs 2829 (28), 2830 (39-46), 2832 (124).

³⁸ *Ibid.*, Woodward re Communist Party and people he knew 2814-21; his name 2823-24 (449-500); his University course 2822 (384-88).

and Mr. Greenfields *might* have known Mr. Clayton and *might* have told Clayton about Woodward.³⁹

Thus, by the time the Commission had concluded its dealings with "Contacts K", it seemed that the whole concept of "contact" needed radical redefinition. Eleven persons had been listed, of whom four could not be identified at all. Of the remaining seven, three had never worked in External Affairs. They had no access to confidential information, and only one of them knew Clayton. Of the four who worked in External Affairs, only one, Miss Bernie, claimed to have met him and given him information, namely, the by-laws and UNRRA meal and travel arrangements. Of all of the witnesses identified from "Contacts K", only Miss Barnett had ever been approached for information (Miss Bernie had acted on her own initiative) but she was unable to identify Clayton as the man who approached her. If the Commissioners were correct in their suspicion that Clayton was "K", then his contacts were largely people whom he had never met, never asked for information, and, in a number of cases, who never had any information to give.

III

The Commissioners' views about the identity of "K" can be traced back to evidence they heard in another secret session, the Transcript of which they released in August 1955, only after they had finished hearing all the evidence and had completed their Final Report. Assisting Counsel, on 20 July 1954, drew the Commissioners' attention to Document G 4. This was in Petrov's handwriting. The last seven lines were copied by him from one document, the remainder from another. Both of the originals he had left behind him in the Embassy. The top part concerned "K". It read:

"Mr. C.R. Tennant "K",⁵⁰ Bundarra Road, Bellview Hill,
Sydney. Tel. FW.1267"⁴⁰

³⁹ Report, p.139.

⁴⁰ Ibid., p.404.

Mr. Petrov was examined about this:

(91) You wrote that out shortly before you were leaving the Embassy? -- Yes.

(92) Why did you come to the conclusion that that man was "K"? Did you see some other document in the Embassy? -- A bit of paper which had his name on it lay with the rest of these papers in the safe and I concluded that that, therefore, must be "K". They were "K's" papers.

Thus far, the impression given by Petrov's evidence was that he *thought* the man was "K", but the piece of paper in itself carried nothing to suggest this. The Transcript continued:

(93) Why did you bring some of what you call "K's" papers and leave the other things behind? -- I thought that if I just copied that name and address that would be sufficient for Mr. Richards' purposes, and I thought that it would probably be better to leave that paper and a few other papers that I left there which were of very little importance.

(94) THE CHAIRMAN. -- So your belief that the first name is "K" is really a conclusion based on the fact that you found that first name with certain other documents?

In the midst of this crucial question, entered Assisting Counsel:

(95) MR. WINDEYER. -- No, Your Honour; that is not as I understand it. As I understand it, he says that he found a piece of paper with that first name on it and the letter K.

(96) THE WITNESS. -- Yes, the letter K was on it as well. On that paper which I left behind there was this man's name and address and the letter K. That was lying with all these other papers, and therefore I concluded that that all belonged to "K".⁴¹

It can never be known what Mr. Petrov might have said had Assisting Counsel not supplied an answer for him. This evidence was the basis for the presumption that Petrov had correctly and completely copied out the document in the safe. As a result, ASIO visited Mr. Tennant on the Commission's behalf. He denied anything to do with espionage. His wife, Lula Tennant, had been a member of the Communist Party during the war and she had agreed to let Walter Clayton use her address for mail sent to him under the name of "Mr. Sutherland". She could not remember exactly how long this arrangement continued, but Clayton used to call every now and then and pick up letters. She had,

⁴¹ Tr., 2800-1.

until ASIO came, kept this secret from her husband. She repeated this in evidence at the Commission.⁴²

Mrs. Petrov also gave evidence about G 4, in a secret session confirming that her husband had copied the document exactly. She insisted that Tennant himself must be "K". People with whom "K" was in contact were marked thus "(K) Legge, Jack", with the initial before the name; but Tennant was marked "Mr. C.R. Tennant 'K'", with the initial after the name. It was not correct, she said, to interpret this entry as merely being a person through whom the MVD could contact "K". Where the initial came after the name, it meant that that was "K" himself. However, the evidence of Mrs. Tennant seemed good enough grounds to the Commissioners to reject what Mrs. Petrov had said.⁴³ The Commissioners regarded Exhibit G 4 and Mrs. Tennant's evidence as proof that "K" was Clayton. Yet, because they had rejected Mrs. Petrov's evidence about the placement of the initial K and what it meant, it was logically possible that anyone with the letter K beside their name could have been "K". Quite a number of people fitted this category. Moreover, it was possible that none of the people, including Clayton (via Tennant), was "K". Clayton himself might have been only a contact of some undiscovered person.

A clue to K's identity was found in another Exhibit, also said to be in Sadovnikov's handwriting:

(K) *Legge, Jack* -- Chemistry scientist. Member of the Communist Party since 1936 ... When the Communist Party was in an illegal situation, "K" used the house of Legge, J. for the publication of the newspaper "Tribune" ... K considers that N5 (L) inspires confidence. A relative of L works in the political intelligence department of the Ministry of Foreign Affairs.⁴⁴

When Jack Legge, Senior Lecturer in Biochemistry at Melbourne University entered the witness-box on October 29, the Commissioners were struck by his

⁴² *Ibid.*, evidence C. and L. Tennant, 1531-33; 1525-31.

⁴³ *Ibid.*, E.A. Petrov, evidence of 21/7/54, 2809 (105-110) (131-138).

⁴⁴ *Report*, p.407.

impressive bearing. Because they were convinced that "K" was Clayton, the Commissioners asked Legge all about his relationship with Clayton to see if Clayton fitted the clues given in the Exhibit. Legge had known Clayton since the 1930s and they were good friends. The Commissioners therefore concluded that "K"/Clayton would think Legge inspired confidence. Legge admitted that he had let his house be used for the distribution of *Tribune* after it was banned in 1940. Since Clayton was sales director for *Tribune*, the Commissioners were convinced that he was "K".⁴⁵ Yet the connection between Clayton and Legge was more distant than that described between "K" and Legge. By the time *Tribune* was banned, Clayton had moved to Sydney. *Tribune* was written and mimeographed in Sydney, not in Legge's house in Melbourne; and though "publication" includes distribution, there was no evidence that Clayton himself ever "used" or even designated Legge's house for this purpose.⁴⁶

Legge's relative referred to in the Exhibit was also called. George Legge, a cousin, had worked in the political intelligence section of External Affairs. In 1952, he had met Mr. Petrov on a fishing trip, which had aroused ASIO's suspicion of him. The next year, George Legge was interviewed about the trip by an ASIO officer whom Legge considered rather poorly briefed about the affair.⁴⁷ Officially nothing came of the interview, although George was transferred to a minor post against his wishes and so he resigned.⁴⁸ The Commissioners focused most of their interest on Clayton. Quite unexpectedly, George Legge said he had met Clayton in Canberra with his cousin in 1950.

⁴⁵ *Ibid.*, p.126.

⁴⁶ Though Windeyer himself pointed out that Clayton was in Sydney by 1939, 321 (1-7), the Commissioners omitted this consideration from their *Report*, p.126. The National Library holds copies of *Tribune* produced illegally which reveal that they were published in Sydney, though the precise location was, of course, not disclosed.

⁴⁷ George Legge - Dr. H.V. Evatt, in Evatt Collection, Petrov Affair, "Evidence - Miscellaneous". Legge was interviewed by a Mr. Blackett.

⁴⁸ *Tr.*, 1393 (332-4).

Clayton was introduced as a man in the Communist Party concerned with foreign policy. The three of them had a conversation during which George, who was not a Communist, was asked would he mind giving the Communist Party advice on foreign affairs to help keep its policy "on the rails". George Legge felt that to do this task properly he would have to draw upon information obtained in the course of his official duties and that this would be improper. Therefore he refused to act as "adviser".⁴⁹ Jack Legge denied the whole story.⁵⁰ But if George Legge were correct, the incident was still not espionage; and George never claimed that Clayton had himself sought confidential or official information. Nevertheless, the incident could only throw further suspicion on Clayton. Indeed from the Commissioners' treatment of the evidence, it seems they concluded that George Legge's account offered further proof that Clayton was "K".⁵¹ In fact, the incident took place in 1950, but the entry on the Exhibit which mentions Jack Legge's cousin is dated November 1949. George Legge was not linked with "K", and his unexpected revelation about Clayton could only furnish circumstantial grounds for the Commissioners' view that Clayton was a "man of mystery".⁵² The picture was certainly confusing, and with Clayton absent it was hard to keep all the evidence in perspective.

After painstaking investigation into all the ramifications of "K" and Clayton and into the background and political views of associated witnesses, the Commission had not advanced very far. The promise of "Contacts K" was empty. Like a mirage, the spy-ring could be seen in the distance, but as the Commissioners drew closer it vanished, only to re-appear a little further on. It was also hard to be sure if all the evidence about "K" would actually fit Clayton, if he were ever found.

⁴⁹ *Ibid.*, 1395-6 (430-448).

⁵⁰ *Ibid.*, J. Legge 1492 (624).

⁵¹ *Report*, p.128, is part of a section pp.121-28 entitled "The Identity of "Klod""", also p.150 § 541.

⁵² *Ibid.*, p.147 § 531.

On 2 February 1955, the Commission returned to Mr. Petrov's April 3 statement of the previous year. It offered another sighting, another glimpse, of "K":

One of Clode's (Klod or "K") group was Ric Throssell, an officer of the Department of External Affairs.

Throssell had a code-name "Ferro".

He is not active now -- he is very still -- I think he is afraid.

...

Moscow sent me a cable during 1953 -- it was in June -- instructing me that he was a very important man, and that I had to arrange personal contact with him for Mr. Kislytsin.

...

I do not know how many reports he made but Moscow regarded him as very important to them -- I know his information was regarded as important.⁵³

This explained the strange entry on Document G 14, written in Petrov's hand:

(14) Charli -- REX Claude, Ferro -- transmitted valuable information to the Communists, and then they to us.⁵⁴

Ric Prichard Throssell was thus faced with a very serious allegation. But there were no particulars of the information that he was said to have passed over, or of the time and place of his doing so. As a complication, Mr. Petrov's statement said that Throssell's party contact was Rex Chiplin, a journalist with *Tribune*, although Throssell was supposed to be a member of "K's" group, that is, Clayton's. Throssell was still working in the Department of External Affairs, with a promising career in front of him. In the witness-box, Throssell said he had never met or known Clayton; and he had met Chiplin only once before he began work in the Department. He maintained that there were no circumstances he could remember where he might have given

⁵³ *Ibid.*, p.120.

⁵⁴ *Ibid.*, p.414.

information, wittingly or unwittingly, to any Communist.⁵⁵ The Commissioners conceded that the evidence would make it "wrong to hold...that he had wittingly given any information".⁵⁶ It emerged that Throssell's mother was the Communist writer, Katherine Susannah Prichard and that Throssell associated with her and met her friends. The Commissioners were not reconciled to Throssell's view that it was not his concern whether the people he associated with or met were Communists. Their understandings of the evidence was different. They stated, even though the only evidence was Petrov's statement above, that "it is quite possible" that Throssell "may have" let drop information which he may not even have been conscious of giving. This information, which they said he might have let drop, might have reached a "Communist group which included 'Klod'", and then passed on to Moscow.⁵⁷ In this way the Commissioners explained Petrov's statement, without having to believe what it said about Throssell and Kislytsin that Petrov was supposed to have arranged, Throssell had nothing to explain. Petrov had never managed to arrange it. Mr. Petrov explained that he did not know what Throssell looked like, so he was unable to introduce Throssell to Kislytsin when they were both at an Embassy function in November 1953.⁵⁸ Mrs. Petrov also explained that, although all guests were identified at the Embassy door that night, the introduction failed to occur because Kislytsin did not speak good English.⁵⁹ These two explanations did not sit together entirely happily. Yet it was safer to have too many explanations than too few.

As if to make Throssell seem a more suspicious character, Assisting Counsel introduced another witness to make allegations against Throssell's wife.

⁵⁵ *Tr.*, 2015 (616-624), 2016 (636-8), 2017 (715-748).

⁵⁶ *Report*, pp.141-2.

⁵⁷ *Ibid.*, pp.142-3.

⁵⁸ *Tr.*, V.M. Petrov, 1984 (294-298), 1994 (748-751).

⁵⁹ *Ibid.*, E.D. Petrov, 1996-7 (843), 2009 (343-347), 2008 (312).

Eileen Throssell, nee Jordan, had been a Communist at Melbourne University, but at the end of her studies had let her membership lapse. She came to Canberra to work in the Department of External Affairs, where she had met Ric Throssell.⁶⁰ At the hostel where she lived, she also met another man called Charles Dakin. Dakin had rather an unstable character. They were on friendly terms, but Dakin saw less of her as time went on because of the growing attachment between Miss Jordan and Throssell. Dakin had been interested in Communism himself, but was never admitted to the Party because he was thought unsuitable. He had met a few Communists in Canberra, and in conversation with Miss Jordan he realised that she too knew and was friendly with a woman Communist, Doris Beeby. Throssell and Jordan were married in 1947. The same year Dakin spoke to a superior officer in the Department of the Interior. He claimed that, unknown to External Affairs, Mrs. Throssell was visiting Doris Beeby, that she was anxiously concealing her Communist affiliations, and that possibly Mrs. Throssell was taking out official information.⁶¹

Perhaps Dakin's story was dismissed as that told by a jilted suitor, for nothing came of it until 1953. Then Dakin had six interviews with ASIO officers during which he pieced his story together.⁶² Presumably, Dakin did not know that Mr. Throssell was being interviewed by ASIO at the same time because of suspicions held against him.⁶³ Certainly, Throssell and his wife did not know that Mr. Dakin was telling stories about them to ASIO. Nearly two years later, both Throssell's and Dakin's encounters with ASIO were brought out at the Royal Commission on Espionage.

⁶⁰ *Ibid.*, E.D. Throssell 2072-4.

⁶¹ *Ibid.*, evid. of C.W. Dakin: character 2069-2071 and his rather shiftless employment history, the "interference" of Ric Throssell in his acquaintance with Miss Jordan 2049 (933-940); suspicions of Miss Jordan, pp.2042-46.

⁶² *Ibid.*, 2049 (961-965), 2069 (419-485).

⁶³ *Ibid.*, 2015 (602-11).

Mrs. Throssell denied the allegations in the witness-box. Dakin, under cross-examination, faltered, and his story fell apart. The accusations which he so definitely formulated in statements made to ASIO were built upon supposition. There were only "his impressions" that Miss Jordan might have been anxious about her past, "his impressions from certain things Miss Jordan said" that she was in regular contact with Miss Beeby, and "his opinion" that she might have been taking documents out of the Department.⁶⁴ Given that the Commissioners were always reluctant to let go any chance to probe a rumour and investigate impressions, it is a comment on the completely baseless nature of Dakin's allegations that his name or testimony, unlike that of any other witness, is entirely omitted from the Commissioner's Final Report. It is worth asking what quality of mind was required to produce Dakin as a means of casting suspicion on Mrs. Throssell and her husband.

IV

When the Throssells stood down, all the evidence that there was to bring against Clayton or "K" had been given. The Commissioners believed that he had been a source of information to Moscow, a talent spotter of informants and recruits of the MVD, and probably the key figure in some sort of spying.⁶⁵ Yet there were many unanswered questions as the Commission entered its closing stages in early March 1955.

On Friday 4 March, Mr. Cedric Ralph, who had been instructing solicitor for many of the Communist witnesses, made an announcement. Mr. W.S. Clayton, he said, was now in Melbourne and would be ready to give evidence the

⁶⁴ *Ibid.*, 2045 (768-778), 2050-1 (1017-19), 2059 (552-564); and Counsel's summing-up 2104 (672-679).

⁶⁵ *Ibid.*, Ligertwood, J., 2207 (1066); and Chairman, 2207 (1072).

following Monday.⁶⁶ The Commission was not quite prepared. On Tuesday 7 March, Mr. Windeyer said Clayton had been served with a sub-poena to attend on 14 March, but the Commissioners' decision not to sit on that day meant that Clayton's first appearance was delayed until Tuesday 15 March. Then, Mr. E.F. Hill sought and obtained leave to appear for his latest client. Clayton, a man of average height and wearing glasses, entered the witness-box and was affirmed. He declared that he wished to give evidence at the inquiry because things had been said about him which he regarded as a "shocking slander".⁶⁷ The Commissioners were not pleased by the timing of Mr. Clayton's appearance and wanted to know where he had been while the Commission was sitting. Calmly, but firmly, Clayton refused to tell them. He had just been "moving about". Only when Mr. Windeyer insisted in asking questions which Clayton had already refused to answer, did Clayton bang his fist angrily on the witness-stand. On matters dealing with the Communist Party itself - its organisation and members, and the friends who had looked after him while moving about, Clayton gave no information. Nor would Clayton divulge the names of any individuals except those who had already been mentioned at the Commission.⁶⁸

Clayton's argument was straightforward, and his answers were well-prepared. No evidence had been given during the whole of the Commission that proved that he had engaged in espionage for the Soviet Union. The only two incidents that clearly involved him were those with Miss Bernie and George Legge. He denied that Miss Bernie had ever given him information, no matter how mundane,⁶⁹ and he supported Jack Legge's evidence, saying that he had not sought George's advice on foreign policy. He declared that the Communist

⁶⁶ SMH, 5/3/1955.

⁶⁷ Tr., W.S. Clayton, 2441 (27).

⁶⁸ SMH, 16/3/1955; Tr., 2473 (1545-1563), 2466 (1277-82) are some examples.

⁶⁹ Ibid., 2461 (1024-9), 2466 (1283-6); 2474 (1593-95).

Party was not interested in secret information:

...We do not need [secret documents] in our life and in our work. Mr. Menzies is in America today planning the betrayal of Australia - at this very moment. How will secret documents help us? We know what he is doing.

76. [MR. WINDEYER] Wouldn't you like, for example...

77. THE CHAIRMAN - Wouldn't you like to know the details, Mr. Clayton? - Not at all, What does it mean. He is selling Australia.⁷⁰

Where Clayton had known people, he denied he had ever passed their names on to the Russians. He added that, in fact, he had never met any Russian officials, a claim which Assisting Counsel never brought any evidence to refute. Clayton said he was not "K" and that there was nothing to prove he was. The Commissioners raised the question of the Tennants' address on G 4, and asked how it was possible that this had come to be in the MVD safe. Clayton agreed that he had used the Tennants' as a "cover" address, but refused to name the people who had written to "Mr. Sutherland" there, except that they were people in factories and so forth. Their letters, he said, were concerned with the work of the Communist Party and not with espionage. He limited the period during which he used the address to that when the Party was outlawed under the National Security Act, from 1940-42. Clayton had no idea how the address reached the MVD safe, but he disputed that Petrov was an MVD man and argued that his documents were not authentic.⁷¹

Assisting Counsel faced difficulties in dealing with Clayton. The fact that there was no-one who would swear that they had spied for the Russians on Clayton's instructions emphasised the fundamental shortage of conclusive evidence. The leader of a spy-ring without any spies was not an easy target for questioning. Things were not as clear-cut as Assisting Counsel had

⁷⁰ *Ibid.*, 2479 (75-77).

⁷¹ *Ibid.*, re Soviet officials 2503 (1137-1143); Mrs. Tennant, 2499-50 (958-1007).

first presented them. Mr. Clayton was not an easy witness to handle. It seemed that none of Assisting Counsel's questions were unexpected. Even where "surprise" questions were asked, Clayton's answers did him no damage. Windeyer asked about Clayton's war-time travels to restricted military areas in North Queensland where Jack Legge was working on chemical warfare research. Clayton replied that he had proper authority to go there but he had not seen Legge.⁷² Windeyer tried to break down Clayton's resolve not to bring new names before the Commission. It was suggested to Clayton that he did not name the people in Canberra whom he had visited in 1950 when he was there with Jack Legge because there were no such people. Was not the sole purpose of the trip to obtain confidential information from George Legge? Clayton denied the charge, but still refused to give the names to the Commission, claiming that they might be victimised.⁷³ Assisting Counsel turned to Clayton's house-building at Baulkham Hills. Documents seized by ASIO in a raid on Communist Party Headquarters and other premises in 1953 were produced to show that Communists were involved in the building operations. This was not merely a house for Mr. Clayton, Windeyer contended, but a Communist Party "safe house" for conspiratorial purposes. Clayton denied the authenticity of the documents. Windeyer called the ASIO officers who were in the raid to swear that the documents were genuine.⁷⁴ But in any case, the involvement of Communists in house-building was not going to prove what Windeyer needed to prove. Mr. Windeyer sought to consolidate an image of Clayton as devious, secretive and evasive. Though this might suggest that Clayton was capable of doing what was alleged against him, it did not prove that he did it. In the witness-box, Clayton remained calm but

⁷² *Ibid.*, 2483 (212-3) (231-2) and 2451 (517-36).

⁷³ *Ibid.*, 2473 (1545-63).

⁷⁴ *Ibid.*, evid. of J.M. Gilmour 2512-20.

indignant at the charges thrown at him. Clayton said he had withdrawn from life in the Communist Party after 1951 for the sake of his health; Justice Philp intervened to suggest he was rejected by the Party for bungling operations at Baulkham Hills. Clayton denied he was rejected and refused to discuss his property - "It is a personal matter".⁷⁵ After three days giving evidence, Clayton was stood down.

The Commissioners recalled June Barnett. With Clayton before her, without even the usual precautions of a police identification parade, she was asked if this was the man who had taken her for a walk around the block in 1950 and asked her for information. Unshaken, Miss Barnett said:

504. ...-- I think I would be committing perjury if I expressed an opinion one way or the other.

505. LIGERTWOOD, J.-- Oh, you would not be committing perjury.

506. THE WITNESS.-- I can only say it could be and it could not be.

The Commissioners were disappointed. They pressed her further:

507. LIGERTWOOD, J.-- Can't you answer that it was Mr. Clayton or that it was not Mr. Clayton?-- No I cannot.

508. PHILP, J.-- I understand from what you have said that you cannot say whether it was or was not Mr. Clayton?-- That is right.

509. Having seen the man?-- Yes.

510. LIGERTWOOD, J.-- And having heard him, do you recognise his voice?-- No.

511. Anything about his height?-- No; just that it was all fairly inconspicuous.

...

515. Was the man about the same height?-- Roughly, although I cannot remember anything particularly about it.

516. Well it might have been Clayton?-- It might have been.

517. And it might not have been?-- That is so.

⁷⁵ *Ibid.*, 2542 (420).

518. It might have been someone different altogether?-- Yes.

519. PHILP, J.-- Clayton is not so dissimilar to the man that you are prepared to say it could not be Clayton?-- No.

(The witness withdrew)⁷⁶

Assisting Counsel's case came to an end.

It was now Mr. Hill's turn to cross-examine Richards of ASIO. Hill had Richards concede that ASIO had long-standing suspicions of Walter Clayton. ASIO was concerned with the loyalty of the Public Service, and it concluded that the Communist Party Control Commission was the type of organisation that would lend itself to the kind of secret and illegal work necessary for espionage. Because Clayton was the Control Commission Secretary from 1946-49, he was therefore under suspicion.⁷⁷ In 1949 and 1950, Richards had put this theory to the Communist Party defector, Cecil Sharpley, who had written in his articles for the *Melbourne Herald* that Clayton was responsible for Communist espionage work. The Victorian Royal Commission that had probed Sharpley's allegations had not examined this area since it refused to accept Sharpley's testimony unless it was corroborated by other witnesses. Nevertheless, by questioning Sharpley, Richards did obtain some support for his views about Clayton.⁷⁸ Richards also threw light on ASIO's inquiries into a number of witnesses that took place long before the Espionage Commission. Whenever the opportunity offered, Richards said, he had spoken with former Communists to find out what he could from them. He agreed that he "may have put Clayton's name" to Miss Bernie and Miss Barnett in 1953.⁷⁹ Well before Petrov's defection, ASIO had interrogated J.F. Hill,

⁷⁶ *Ibid.*, 2544 (504-519).

⁷⁷ *Ibid.*, G.R. Richards, 2546 (595).

⁷⁸ *Ibid.*, 2545-6 (574-598).

⁷⁹ *Ibid.*, 2547 (639).

Ric Throssell, and George Legge; and it had Fred Rose⁸⁰ under surveillance during the whole of 1953. Dakin had also been interviewed about Mrs. Throssell. By the end of 1953, the case against Walter Clayton had reached a high state of preparedness, and it was as though Mr. Petrov's documents mainly offered a peg on which to hang the material already gathered. Richards' evidence under cross-examination was a forcible reminder of Windeyer's comment in his opening address to the Commission that:

...some of the persons had attracted the interest of officers of our Security Service quite a long time ago. ...The disclosures by Mr. Petrov seem now...to draw some threads together.⁸¹

Mr. Hill suggested that these people and others had been introduced into Petrov's documents with ASIO's knowledge and connivance, and then the documents fraudulently presented as MVD material. Such allegations received short shrift from the Commissioners. But when Mr. Hill concluded his submissions, Clayton had little reason for fear. While the Commissioners had the central figure of "K's" case standing before them, their hope of conclusive proof vanished before their eyes. Though they sought to reconstruct their vision in their Final Report, explaining in detail why Clayton had to be the spy-leader "K", their evidence was suspicion and circumstance. They did not recommend Clayton's prosecution.⁸²

⁸⁰ Interview with Prof. R.A. Gollan, January, 1979, who knew Rose; and see F. Rose, *Australia Revisited*, Seven Seas, Berlin, 1968, p.73.

⁸¹ Address by W.J.V. Windeyer, *Tr.*, p.4.

⁸² *Report*, pp.146-153.

CHAPTER 11

IMMIGRANTS IN THE NET

Amongst the most alarming evidence given by the Petrovs concerned the plans and activities of the MVD amongst Australia's immigrant communities. Apparently, the MVD had sought to make use of members of the ethnic groups for two distinct tasks. The first was the creation of an "Illegal Apparatus", a fifth column, of the MVD in Australia under the direction of a recent immigrant. The second was in compiling reports on the loyalty or otherwise of Russian nationals and emigres living in Australia. In this second task, one man in particular had been useful. In the tense atmosphere that existed in the ethnic communities, especially those originating from the Soviet Union and Eastern Europe, such evidence could only serve to inflame anti-Communist sentiments. Nevertheless, if the evidence showed that the Kremlin was set upon these two tasks, it was vital that Australians be warned.

The Illegal Apparatus

Moscow Letter No.3 of June 6, 1952, to Canberra (Exhibit D) set out the

plan of work for establishing the Illegal Apparatus in Australia:

Intelligence work in Australia in 1951-52 was actually at a standstill and has not produced any discernible results. This is explained by the fact that the Australian section of the MVD was not fully staffed, and you and Pakhomov were not working to a definite aim...

The aggravation of the international situation and the pressing necessity for the timely exposure and prevention of the cunning designs of the enemy, call imperatively for a radical re-organisation of all our intelligence work and the urgent creation of an illegal apparatus in Australia, which could function uninterruptedly and effectively under any conditions.

...

The putting into effect of measures relating to illegal work is at the present moment one of the top-priority tasks...

...

The Australian MVD section must here and now take practical measures for the training of agents for work in extraordinary circumstances.

In the event of extraordinary circumstances each agent should have concrete tasks allotted in advance and firm conditions should be worked out for contact with our illegal or group leader...

...

...In the first place it is essential to avoid the recruitment of persons whose progressive activity is known to the counter-intelligence, and to concentrate attention on the study and recruitment of persons engaged on secret work of the government and occupying leading posts in political parties and organizations, capable of supplying us with valuable information...¹

Mr. Petrov explained that an "Illegal Apparatus" was a section of the MVD that operated quite independently of the MVD section within Soviet diplomatic missions. It enjoyed its own independent lines of communication to Moscow, and its cadres and agents were kept separate from those within the Embassy. The Apparatus, and its leader, the Illegal Resident, were entirely "under-cover". Thus its personnel would not, as a matter of course, attract the

¹ Report, Appendix No.1, pp.331-4.

attention of the local security authorities, and their operations would not be automatically disrupted by the outbreak of war or the termination of diplomatic relations. At the same time, the Illegal Apparatus could not enjoy the immunity conferred by diplomatic status nor the official contact with other Embassies and members of the Government. Mr. Petrov added that a Letter along similar lines had been sent to the MVD Residents in all the Western countries.² This seemed amongst the most dangerous moves against the security of the West. Though the Soviet Union was undertaking what it described as a "peace offensive" in 1954, the contents of the Letter showed the Soviet Union preparing world-wide espionage and sabotage units that could be swung into operation during "extraordinary circumstances", that is, war. Those Australians who were members of the Communist Party or who had become active in the peace movement of the time could only be greatly embarrassed by this disclosure. If they continued with their involvement, it could only be concluded that they did not have Australia's best interests at heart but were seeking to lessen Western vigilance against a nation that viewed Australia and its friends as the enemy.³

Mr. Petrov had also brought with him from the Embassy a note made by him from a file in the MVD safe. Exhibits G 11 and G 12 comprised this note, which provided a short biographical sketch of a man on one side and his real name and an address in Australia on the other.⁴ Mrs. Petrov said that the Moscow Headquarters had great hopes that this man would be made leader of the Illegal Apparatus in Australia. After Mr. Petrov's defection, while she was still in the Embassy, she had handed over the file which Petrov had

² *Tr.*, 1723-4 (728-59), 2899 (196), 2900 (232-6).

³ The Commissioners pointed this out in the *Report*, p.98.

⁴ See *ibid.*, Appendix No.1, pp.411-12.

copied to his successor, Kovalenok. When Kovalenok saw the file, he told her that he had been given all the details concerning the man in Moscow, and that he was to take definite steps to integrate him into the MVD's work.⁵ The importance to the Commission of this man was obvious. If he were to be made the Illegal Resident, he would not be a mere collaborator or cadre-worker, but the leader of a very delicate operation that would directly imperil the nation's defences. He would have been one of the "principal operational resources of the Soviet services abroad", as one retired senior CIA officer described the "illegals" which the USSR despatched to the West.⁶ The Americans too were to have their own experience of the "illegal worker" with Colonel Rudolf Abel, a ruthless, highly efficient, and thoroughly trained espionage agent who passed himself off as an ordinary American. The proposed Illegal Resident in Australia had entered the country in 1949, and his name was Vincenc Divisek.

ASIO, acting for the Commission, tracked down Mr. Divisek, and brought him before the Commission. In introducing him, Mr. Windeyer explained to the Commissioners that Divisek was presently working as a waiter in a restaurant. Though some people may have thought that Divisek was perfecting his "cover" as an inconspicuous member of society, Mr. Windeyer felt compelled to remark that:

19. However interesting it may be to writers of novels and short stories to find spies in time of war among waiters in restaurants, that is not the place where one would most usefully⁷ put an espionage agent in times such as these.

There were many twists and complications to Mr. Divisek's life, and therefore Mr. Windeyer found it necessary to present some account of the evidence that Divisek would give before he was called to the witness-box.⁸ Divisek

⁵ E.A. Petrov, *Tr.*, pp.1286-8.

⁶ H. Rositzke, "America's Secret Operations: A Perspective", *Foreign Affairs*, Vol.53, No.2, January 1975.

⁷ Windeyer, *ibid.*, 1251 (19).

⁸ See *ibid.*, 1251-2 (20-37).

was born in Czechoslovakia, and after completing his middle school education had worked as a salesman. Later, he went abroad for five years. He worked mainly as a waiter and barman in the Canary Islands, Casablanca, Tangier, Las Palmas, Teneriffe, Santa Cruz, and Madeira. Then the outbreak of the Spanish Civil War had forced him to leave Spain and return to Czechoslovakia. He was compelled to enlist with the German forces when the Nazis took over the country, and in 1941 he was called up to serve as a medical orderly in Prussia.⁹ Though this was a safe job, Mr. Divisek's patriotism led him to volunteer at the first opportunity to go to the Eastern Front so that when the chance presented itself he could slip across the lines and give himself up to the Russians. He managed this at last, but for all his trouble he was placed in a Russian prisoner of war camp. Having given himself up voluntarily, he was given somewhat better food and was asked to spy on other prisoners in order to detect the Fascist sympathisers. His special privileges were still continued although he did not report anyone.¹⁰ So great was the confidence he inspired in the Russians that he was given a secret mission. While he was being transferred from one POW camp to another, he was sent back over the German lines for two weeks to liaise with the Partisan Army. He returned, having completed the task, and was sent on to the other POW camp.¹¹ But his service was not forgotten. He was removed from the camp after some time and taken to a training school for secret agents where he learned radio operations, cipherring, and other useful techniques, so that he could be sent back into Czechoslovakia as the leader of a secret intelligence organisation working for the Russians.¹² He made such a good impression that after six months

⁹ Divisek, *ibid.*, 1254 (28-114).

¹⁰ *Ibid.*, 1254-5 (126-168).

¹¹ *Ibid.*, 1279 (782-788).

¹² *Ibid.*, 1256 (187, 202-3, 214-5).

training he was parachuted into Czechoslovakia by night with his other comrades, even though he had never used a parachute before.¹³ In the witness-box, Mr. Divisek was not able to remember the code-names of his superior officers to whom he reported nor the code signals used to convey his information to the Soviet forces, but he was able to produce the very same leather suitcase which he had possessed since before the war and in which he had carried his radio set in Czechoslovakia. It had remained with him throughout his daring and important secret operations for the Resistance.¹⁴

In post-war Czechoslovakia, Mr. Divisek was restored to his full rights as a Czech national and was decorated for his war service by the Benes Government. He became the proprietor of a hotel in the mountains of the Sudetenland, but with the advent of the Communist Government the hotel was nationalised. He was offered the job of hotel manager, but instead he planned to do better for himself by emigrating to Australia where he already had relatives by marriage. He faced difficulties in obtaining the necessary documents to leave the country, until, by chance, he met up with his old superior in the Russian intelligence, Captain Medvedyev. Medvedyev asked Divisek to join the Communist Party, but even though Divisek declined the offer and persisted in his desire to emigrate from socialism, Medvedyev asked Divisek to do work for the MVD when he arrived in Australia. Divisek agreed. Medvedyev then gave him a password and fixed a schedule of meeting times in Australia when Divisek was to appear and make contact with the MVD man who would explain his duties. In choosing a rendezvous, Captain Medvedyev was lucky that Divisek happened to have with him a tourist brochure of Sydney, because it was possible to pick out the statue of Governor Phillip in the Botanic Gardens as the place where contact should be made.

¹³ *Ibid.*, 1257 (276-78).

¹⁴ The evidence concerning the suitcase is confusing but this seems the most likely explanation. See *Tr.*, 1257-8 (261-293).

Divisek was then free to leave Czechoslovakia. Though he had been a full citizen and decorated by the Government, he obtained a "Stateless" passport. Divisek explained that this was his own idea to avoid attracting attention.¹⁵

Two weeks after his arrival in Australia in 1949, Divisek reported to the Commonwealth Investigation Service (CIS) all that had occurred, and told them of his planned meeting. Because CIS was carrying out some counter-espionage functions at that time, CIS officers were sent with Divisek to the rendezvous at the times Divisek specified. Though the officers hid in the bushes, no-one appeared.¹⁶ Soon CIS tired of the procedure and decided to drop the case. Divisek's story was, in Mr. Windeyer's words,

...perhaps thought to be either somewhat imagined and possibly exaggerated, perhaps it was thought that if it were true for some reason the Soviet had lost all interest in him.¹⁷

ASIO, when it took over CIS's role, however did not lose all interest in Mr. Divisek.¹⁸ Their good judgement was to be confirmed by the Petrovs who revealed that they remembered a cable had been sent from Moscow requiring Petrov himself to go to the Botanic Gardens in Sydney and meet Divisek there as arranged. For some reason, when Petrov went there, he found no-one. Moscow had said that it had sent a message to Divisek, but it seemed that he had not received it. Pakhomov, the TASS man and Petrov's predecessor in the MVD, had also been asked to look for Divisek in 1951. He was given the address of a Sydney restaurant, but had no luck.¹⁹

¹⁵ *Ibid.*, 1258-60, re his war decoration 1280 (820-24).

¹⁶ *Ibid.*, 1274 (548-564) (577-78).

¹⁷ Windeyer, *ibid.*, 1252 (36).

¹⁸ Windeyer: ASIO "remained inquisitive about this matter almost up to the time this Commission began", 1263 (2).

¹⁹ Statements of V.M. and E.A. Petrov, Exhibits 192 and 193, 1288 (1167, 1168).

It was as well that Mr. Windeyer had given some introduction to Divisek's evidence, because in the witness-box Mr. Divisek was rather confused. It turned out that he had been uncertain exactly when his meetings in Sydney were supposed to be, and as a result he and the CIS officers had gone to the Gardens on one occasion when no meeting had actually been scheduled.²⁰ Another time, Mr. Divisek and the CIS officers turned up as arranged at six o'clock in the evening. As Assisting Counsel pointed out, at this time the gates of the Gardens would be locked and it would not have been possible for Divisek to attend the meeting. Mr. Justice Owen, whose experience on the Supreme Court of NSW attuned his mind to the resources of the criminal classes, interrupted Assisting Counsel to point out that Mr. Divisek could certainly have attended his meeting by jumping over the fence.²¹ Later, when ASIO spoke with Mr. Divisek in 1951, he had provided a completely different schedule of meeting times from that he had given to CIS. Divisek explained to the Commission that this occurred because he had only just found the diary in which he had noted down all the meetings while he was still in Prague. There was a little more confusion when Mr. Divisek announced that he had the diary with him when he first reported to CIS, then lost it, and found it again later. In fact, as a result of the losses and rediscovery of his diary, Mr. Divisek could not remember at all when his first scheduled meeting in the Gardens was, except with the aid of the diary.²² To resolve the problem the Commissioners asked to see the diary. The Transcript, indicates that this was not very helpful:

²⁰ *Tr.*, 1276 (660-65).

²¹ *Ibid.*, 1273 (507-8).

²² Evidence re his diary and his meeting schedule 1271-2 (431-3), 1273 (538-9), 1276 (649-50, 677), 1277 (706), 1279 (795).

306. MR. WINDEYER. -- In the back cover it reads "Gov. Phillip's, Botanic Park"? -- Yes.
309. THE CHAIRMAN.-- On the opposite side, I notice, is written "raw eggs". What is the significance of that?
310. LIGERTWOOD, J. -- It must have cost £3 or £3 10s.
311. THE CHAIRMAN.-- On that same page you have some figuring in relation to "raw eggs"; Mr. Divisek? -- Could I have a look at it?
312. MR. WINDEYER. -- There are lots of notes in English about all sorts of things, Your Honours. I want to ask him in detail about this book.
313. (To the witness) This is a 1949 diary, Mr. Divisek? -- Yes.
314. When was this meeting with Medvedyev? -- I do not know if it was 1949. We left ---
315. You left in January 1949, did you not? -- Well, it could have been at that meeting in January, early, because ---
316. Well, now, you told us it was in October or November, 1948? -- Well, I only know that much, that the meeting was shortly before we left Prague.²³

It was the Commissioners who suggested that Mr. Divisek must have bought his 1949 diary in Prague in 1948, and that 1949 diaries must have been available early enough for Divisek to note down the times.²⁴ Though Mr. Divisek's recollection of the matter was confused, everybody could agree upon one thing: Mr. Divisek had not met any Russians in the Botanical Gardens.

Whatever problems the evidence of Illegal Resident-designate Divisek presented to the Commission, their Honours had established several things. The MVD Exhibit G 11 and 12 had mentioned the name Divisek, and a person had been found to match the description it gave. The Moscow Letter and the Petrovs had spoken of setting up an Illegal Apparatus with Divisek at its head. The experiences of Divisek, which had been rejected as imagined or

²³ *Ibid.*, 1269.

²⁴ *Ibid.*, 1269 (326-331).

discounted as of no value by CIS, assumed meaning in ASIO's discovery of Soviet espionage designs upon Australia. Despite these deductions, there were some outstanding problems. Though the Illegal Apparatus was considered such a high priority in 1952, nothing had been done by 1954 to establish it. Though Mr. Divisek had been working at the same restaurant for almost the whole period of his residence in Australia, the MVD had never located him. Nor had they found anyone else to replace this willing informant of the Australian security authorities in the complicated and delicate work which their aggression envisaged.

"EM" Work

The MVD's "EM" work was defined by the Commissioners as the investigation of the activities of Russian emigres and emigre associations, the tracing of emigres who were regarded by the Soviet as traitors, the penetration of emigre associations by Soviet agents, and the use of emigres as Soviet agents.²⁵ This was the original line of work which Mr. Petrov had been sent out to Australia to perform for the MGB besides his other duty of keeping a watchful eye over the loyalty of Soviet Embassy personnel. In January 1953, another Soviet official named Platkais was sent out from Moscow, according to the Petrovs, with instructions to carry on the "EM" work under Mr. Petrov's supervision. Quite early in the Commission, evidence was heard concerning a man named Andrew (Andreis) Fridenbergs. The Commissioners thought the case illustrated well the nature of the "EM" work in which Mr. Petrov had been engaged.

Mr. Petrov said that before he left for Australia in 1951 he had been shown a dossier in Moscow about Fridenbergs. He remembered that Fridenbergs was described as a Latvian who had given information to the Soviet authorities

²⁵ Report, p.2411.

after the incorporation of that country into the USSR in 1940. The dossier went on to record that when Germany invaded the region, Fridenbergs had also given information to the Nazis, and had left the country with them when they were forced to withdraw. Until 1949 he had spent time with other Latvians in camps in Germany and Denmark, then he had emigrated to Australia. Petrov also recalled that the dossier recorded the MVD's first knowledge that Fridenbergs was in Australia. Soviet censorship authorities had intercepted a letter Fridenbergs had written to his sister in the Soviet Union which bore the address of a girls' school in South Yarra, Melbourne. The MVD had allotted the code-name "Sigma" to Fridenbergs, and had instructed Petrov to make contact with him for the purpose of obtaining information on the Latvian community in Australia. Petrov said he went to the school, where he found out that Fridenbergs had been employed there as a cleaner, but had since left. The school provided him with Fridenbergs' home address. Mr. Petrov said that he had gone to this address, in Collingwood, and met Fridenbergs who agreed to obtain the information that the MVD wanted. Fridenbergs and Petrov had met on a number of occasions, and Fridenbergs provided Petrov with addresses of two Latvians in Australia whom Moscow regarded as traitors. In return for this information, Petrov paid Fridenbergs £30. In June 1953, Petrov had taken Platkaïs with him to see Fridenbergs. Petrov placed Fridenbergs under Platkaïs' direction and Platkaïs later told Petrov that he and Fridenbergs had had numerous meetings together.²⁶

On 21 July, 1954, the Commissioners called Fridenbergs before them to answer questions. Fridenbergs was an educated man, who had graduated as a lawyer in his home country and had worked there before the war with a newspaper of liberal-democratic sympathies. Because his qualifications were not recognised in Australia, he had been forced to work here as a labourer and process-worker. After he had left the job at the South Yarra

²⁶ *Ibid.*, pp.241-2.

school, he had moved around Victoria fruit-picking in the Riverland and labouring on the construction site of the Eildon Weir. At the time of his appearance at the Commission he was working on night shift at General Motors-Holden.²⁷ He confirmed some of the details that Petrov had mentioned of his life while he was still in Europe, but he denied vehemently that he had in any way assisted the Soviet authorities. He produced copies of pro-Soviet newspapers published whilst he was still in Denmark that singled him out for abuse on account of his anti-Soviet views and activities. Fridenbergs went on to say that in Australia he had never given any information to any Soviet official; that he had never met Petrov or Platkaïs; and that neither of them had ever been to his home.²⁸

Thus, as was to happen a number of times before the Commission, it was a matter of the word of the Petrovs against that of another witness. But in this case there were a number of matters that could be checked to determine who was telling the truth. The first was Mr. Fridenbergs' physical appearance. Mr. Petrov was asked whether Friedenbergs was clean-shaven or bearded when they had last met in July 1953, but Mr. Petrov was unable to say. Fridenbergs pointed out that he used to wear a beard, but at the time of the alleged last meeting he had shaved it off.²⁹ Mrs. Petrov was brought into the case to support her husband. On 22 July, the following evidence was given:

²⁷ *Ibid.*, 330 (428, 433), 1320 (1147-9), 1321 (1192), 333 (552).

²⁸ *Ibid.*, 333 (544-552), 373-4 (1027-34), 331 (454-5).

²⁹ *Ibid.*, V.M. Petrov, 327 (286), 330 (398-403) cf. A. Fridenbergs 331 (470-3), 332 (520), 1316 (990-1).

241. MR. PAPE. -- Have you yourself ever seen any documents prepared by Fridenbergs? -- By Sigma?

242. Yes.

243. THE WITNESS. -- Yes.

...

250. PHILP, J. -- Were these documents in Fridenbergs' handwriting? -- Yes.

Such evidence appeared very damaging to Mr. Fridenbergs, but his own cross-examination of Mrs. Petrov continued:

258. MR. FRIDENBERGS. -- You say they were in my handwriting. Do you know my handwriting? -- I do not know your handwriting but I saw this. It was written in the Russian language...It was signed by Sigma.

...

262. MR. FRIDENBERGS. -- Where did you know from or why do you say that Sigma and Fridenbergs are the same person? -- I do not know whether it is the same or not. I know only Sigma.³⁰

All of a sudden Mrs. Petrov's definite assertion that she saw documents in Fridenbergs' handwriting completely changed. Without the help of her evidence, the only remaining test of the truth concerned the alleged meeting between Fridenbergs, Petrov and Platkais in June 1953. Mr. Petrov's first evidence in July was that he and Platkais arrived in Melbourne on a Thursday, and that he had immediately sent a postcard to Mr. Fridenbergs' Collingwood address telling him, in a pre-arranged code, that they should all meet the next day - Friday. As before, the rendezvous was to be the Collingwood railway station, conveniently situated just across the road from the Police Station. On the Friday, Petrov said, Fridenbergs did not turn up, so after waiting a little while, Platkais and he went to Fridenbergs' home and saw him there.³¹ Mr. Fridenbergs had an excellent alibi. He proved to the Commissioners that he had been working at Eildon Weir on the same day as the alleged meeting, and that he had not been discharged

³⁰ *Ibid.*, p.342.

³¹ *Ibid.*, V.M. Petrov, 329 (351), 330 (396-7), 372 (975-7).

from his employment there until midday on the Saturday. The Commissioners sub-poenaed the official records which confirmed that Fridenbergs was telling the truth. No meeting could possibly have occurred.³² The accuracy and credibility of Mr. Petrov had been dealt a sharp blow quite early in the Commission's proceedings. The Fridenbergs incident was brought to a close.

In October 1954, Mr. Fridenbergs' respite came to an end. Mr. Petrov had made a statement to ASIO *after* Fridenbergs had produced his alibi, stating that "some confusion" had arisen. Now he placed the day of the meeting in question as Saturday. This statement was read to the Commission.³³ Although the shift in evidence was initiated by Petrov, it was Mr. Fridenbergs who was recalled and re-examined as though he had produced a false alibi. Statements and evidence from construction authorities at Eildon were presented which showed that at midday on Saturday Fridenbergs had ceased work, and that he was paid off the following Tuesday.³⁴ Fridenbergs said he remained at the construction camp from Saturday until Tuesday to receive his pay and to discuss a dispute between him and his foreman with a superior. However, because Fridenbergs had not eaten his meals at the camp over the weekend, the records no longer proved that he could not have been in Melbourne on the Saturday evening.³⁵ Justice Philp and Mr. Pape nevertheless agreed with Fridenbergs' argument that since the only means by which Fridenbergs would have known that he was to meet Petrov was the postcard sent on the Thursday, it was highly improbable that the news would have reached him at Eildon in time for him to return to Melbourne that Saturday.³⁵

³² *Ibid.*, A. Fridenbergs 372 (987-9), and Exhibit 213, 1303 (453).

³³ *Ibid.*, Exhibit 212 - Statement of V.M. Petrov dated 13/9/54, 1302 (423-427).

³⁴ *Ibid.*, 1303 (453), and Exhibit 214, 1303 (467).

³⁵ *Ibid.*, see evid. of A.W.G. Hayes, 1305-07; and Exhibit 220, 1307 (617) and Mr. Pape's accompanying remarks.

Mr. Fridenbergs might still have found a way out of Mr. Petrov's allegations, had the Commission not also heard that he had come under notice from ASIO. It was revealed that one evening, in September 1953, Platkais was in Melbourne. He was followed by an ASIO officer. Platkais was tracked through Melbourne's streets at night to a lane, where suddenly the ASIO man lost sight of him. Shortly afterwards, a light was switched on in one of the houses which backed on to the lane. The ASIO man kept watch for several hours, but since Platkais did not appear he eventually gave up. It was all recorded on file. Mr. Platkais of the Soviet Embassy was suspected of having disappeared into a house which was occupied by Andrew Fridenbergs. Later, two police officers visited Mr. Fridenbergs at home and asked if he knew anything about Russian officials seeking contact with the Latvian community in Australia.³⁷ Added suspicion was cast upon Fridenbergs with the appearance of a new witness, Anton Stradzins. Mr. Stradzins had not come forward until the second round of Fridenbergs' examination, but he volunteered the information that he and Fridenbergs had both been on the committee of a Latvian club together. Stradzins said that Fridenbergs had sought the addresses of two people, whose names Petrov had mentioned in open session of the Commission a few months before as those whose addresses Fridenbergs had give him.³⁸ In his defence, Fridenbergs claimed that he had sought the addresses solely for legitimate club business. There would have been little point in Petrov's seeking at least one of the addresses from Fridenbergs since the person concerned was President of the Federation of Latvian Associations and his address would have been well known in Australia.³⁹ The Commissioners were not impressed. Now that they knew that Fridenbergs had fallen under suspicion, even before

³⁶ *Ibid.*, Philp, J., 1316 (976), Pape 1316 (977) and for context 1315-6 (971-77).

³⁷ Evidence of unnamed ASIO officer 342-344 (268-347); 331 (452-7), *ibid.*

³⁸ *Ibid.*, Evid. A. Stradzins, pp.1311-1314.

³⁹ *Ibid.*, A. Fridenbergs 1317-8 (1034-45).

ASIO had the benefit of Mr. Petrov's information, they decided not to believe his story.

The Commissioners branded Fridenbergs a Soviet agent and declared that he had tried to hide the fact by providing the Commission with a false alibi.⁴⁰ Fridenbergs was ostracised from his community, attacked in the local Latvian newspapers, and isolated from friends and acquaintances who dared not speak out in his defence. Though native-born Australians were prepared to be fair to him, Mr. Fridenbergs said, his fellow Latvians were very harsh. They would not speak to him.⁴¹ From the Commissioners' point of view, the Fridenbergs case was an early opportunity to test Petrov's credibility. Their doubts had been dispelled. They were not disturbed that Mr. Petrov had changed his evidence only after Fridenbergs had presented his alibi for the crucial date of their meeting in July 1953, since this fact did not even attract passing mention in the Commissioners' Report. This concluded the only case where Petrov's "EM" work involved actual contact with an immigrant alleged to be an MVD informant.

⁴⁰ *Report*, pp.243-5.

⁴¹ *Tr.*, Fridenbergs, 1322-3 (1223-6), 1321 (1193).

CHAPTER 12

ESPIONAGE BY ASSOCIATION

Although Communists were the largest single group of witnesses to be called before the Commission, a considerable number of non-Communists were also called. Unlike the Sharpley Commission, such people were not brought forward as "expert witnesses" to prove the perfidy of Communist doctrines or as "experienced ex-Communists" to denounce former comrades and expose sinister plans. The non-Communists were people who had been mentioned in the MVD documents and therefore had to explain their own position. The naming of names and exposure of plans was the role reserved for Assisting Counsel. The witnesses thus fell into two main categories: those whose political sympathies or activities had brought them into contact with Communists or the Soviet officials, and those whose official or professional duties required such contact. The Commissioners sought to illustrate how risky this could become.

I

When Mr. Solomon Kosky received his summons to attend the Royal Commission and give evidence, he was surprised and alarmed. He had no real idea of the evidence that he would be required to give, and he was fearful that his very appearance at the Commission would damage his standing in the community. Excluding the participants in the Document H and J phase, he was one of the first witnesses to be called before the Commission. He was well aware that considerable public suspicion still prevailed of any person connected with

Petrov, and that he might be seen as a possible Soviet agent. He sought the best legal advice; but when he tried to find solicitors who would be instructed on his behalf, he found that one well-known firm was most reluctant to handle his case because they feared their other clients would desert them if they defended a "Soviet agent".¹ Finally, Mr. Kosky did manage to secure the services of prominent Counsel, led by Mr. Eugene Gorman, Q.C., and assisted by J.M. Cullity and E.D. Lloyd. On 21 July, 1954, Mr. Lloyd entered an appearance on behalf of his client, whose name was suppressed at this stage, asking that his client not be summoned in person before the Commissioners but that they content themselves with an examination of his client by Security officers and the provision of a sworn statement. Mr. Lloyd argued:

(178) ...he feels it would do him grave harm if he were sub-poenaed before this Commission and there appeared in the newspapers a statement that he had been sub-poenaed. Even if the Commission does not in fact find anything against him, the mere newspaper headlines would damage him.² 325

The Commissioners denied Mr. Kosky's request, and he was brought before them on 23 July, 1954.

Mr. Kosky's name appeared in a number of the Petrov papers. On Exhibit G 4 the words "Kosky -- Priyatel" appeared.³ Mr. Petrov said he had copied this down from a scrap of paper left in the MVD safe by Chief Resident Sadovnikov. Thus, even before April 1951, it seemed Kosky was sufficiently important to have been assigned a code-name. But far more serious for him were references in the 1952 Moscow Letters. In Letter No.1, dated January 1952, there were some instructions to Petrov about tasks he was to assign to his co-worker, Kovaliev, the Commercial Attache, on behalf of the MVD. The Letter read in part:

¹ *Tr.*, 325 (178), 369-70 (889).

² *Ibid.*, E.D. Lloyd, 325 (178).

³ *Report*, Appendix No. 1, p.404.

After you have established contact with Kovaliev, direct him to arrange official contact with Kosky with the object of studying the latter. For the time being Kovaliev should not be informed that Kosky is our agent. We warn you that you may establish an agent connection with Kosky only with the permission of the MVD Headquarters, Moscow.⁴

The Moscow Letter No. 3 of June 6, 1952, further instructed Petrov about Kosky, telling him to press Kovaliev to establish official contact with Kosky, and informing him that after several meetings the Moscow MVD would consider establishing an agent relationship with Kosky.⁵ Letter No. 5, 27 September, 1952, requested a report about measures that had been taken to establish the official contact between the two men.⁶ Thus, despite some ambiguity, the documents suggested that Kosky was an MVD agent, because the code-name "Priyatel" had been assigned to him and because Letter No.1 had specifically stated that Kosky was an agent even though Kovaliev was not to be so informed. Mr. Petrov provided more information when he was called to the witness-box. He swore that the former TASS man and MVD Resident, Pakhomov, had told him that Kosky "is our agent", although Pakhomov himself had never met Kosky nor received any information from him.⁷ On the other hand, in a written statement to the Commission, Mr. Petrov said that Kovaliev had made no headway with Kosky at all, because Kosky only discussed official business. Kovaliev had not liked Kosky, and had received no information from him. There was no suggestion that any other members of the Embassy had received anything from Kosky either.⁸ In her evidence, Mrs. Petrov said she had seen cables from Canberra to Moscow indicating that Kovaliev was studying Kosky with the possibility in mind of recruiting him.⁹

⁴ *Ibid.*, p.307.

⁵ *Ibid.*, p.336.

⁶ *Ibid.*, p.365.

⁷ *Tr.*, V.M. Petrov, 352 (38-40) (62-3).

⁸ *Ibid.*, Exhibit 101, Statement of V.M. Petrov dated 25/5/54, 355 (196).

⁹ *Ibid.*, 358 (318-321).

When Mr. Kosky was called to the witness-stand, his confusion must have been even greater, having heard the evidence against him. He was supposed to have been an MVD agent, and yet he was being studied to see if he would become one. He had been given a code-name and was considered part of the network, but no-one knew of any information he had given or of any unofficial contacts. As Mr. Windeyer rightly informed the Commissioners, he had three brothers, one of whom had only recently died, all named Kosky and all in the same business. The only evidence that it was Solomon who was concerned was that Mr. Petrov had said so, but Mr. Petrov had also said that Solomon had never given any information or displayed any interest in so doing. Mr. Windeyer had surmised that since Solomon was the senior partner in the business, it was he who was of interest; and Solomon decided that out of consideration for his dead brother's memory he should accept the presumption that this was so.¹⁰ He instructed his Counsel to be as co-operative with the Commission as possible. The Commissioners in return decided that Kosky's Counsel should be permitted to open the examination.¹¹

Solomon Kosky and his brothers had established a profitable Melbourne business. They imported furs, largely from the Soviet Union, and made them up into fur coats and other apparel in Australia. Though they were born in Russia, they had left in 1907 for London. In 1912, they had settled in Australia, and by about 1921 or 1922 the whole family had become naturalised Australian citizens. Though their trade dealings with the USSR had been substantial, the first visit that any of them had made there was that of Solomon Kosky in 1950. He had attended the Leningrad fur auctions, and had stayed only in that city and only long enough to transact his business. While he had been in Leningrad, he had remained in his hotel with the other fur buyers from overseas and they had only gone out to attend the auctions.

¹⁰ *Ibid.*, Windeyer, 351 (19-20); Kosky, 369 (872).

¹¹ *Ibid.*, 359 (370-71).

In 1951, his now deceased brother had attended the sales; in 1952 his other brother had gone; and in 1953 Solomon had gone again. He said that in all that time no approach was ever made to him, nor even anything that could have been construed as an invitation to involve himself in espionage. He added that he was unable to speak Russian. To anticipate the questions of Assisting Counsel, Mr. Gorman asked his client about his political views. Kosky said that politics did not interest him. Mr. Gorman then went over some of Kosky's public activities. Kosky admitted that he had helped organise the Sheepskins for Russia Appeal in 1941-42, which sought to provide Red Army soldiers with sheepskin coats; that on two occasions he had donated £5 to a clergyman collecting for the peace movement; and that he had also advanced a loan of £500 for the construction of Australia-Soviet House. These were his only political activities, and Mr. Gorman tried to offset any unfavourable impression they may have made on the Commissioners by pointing out that Mr. Kosky was also a very substantial donor to numerous respectable charities and was a Life Governor of the Royal Melbourne Hospital.¹² The Chairman sought to cut this testimony short.¹³

It was clear from Mr. Windeyer's cross-examination that the Commission was not content to have matters rest where Mr. Gorman had left them. Contact with the MVD could not be redeemed by good works. Windeyer went over Kosky's account of his official dealings with Russian Embassy officials in Australia. Kosky had stated that he never saw these officials alone and that he hardly knew them. Their main business with him, other than arranging the details of some export and import business between the Soviet Union and Australia, was purchasing furs for their wives to take back with them to Russia.¹⁴ Mr. Windeyer, it emerged, had been well briefed on the movements

¹² *Ibid.*, evidence S. Kosky, pp.359-62.

¹³ *Ibid.*, p.362 (490-6).

¹⁴ *Ibid.*, pp.362-4.

of Soviet Embassy officials, for in his cross-examination he referred Mr. Kosky to a number of dates on which a Soviet official had been seen going to Kosky's factory and home alone or else in the company of an Australian rather than another Russian. Kosky was forced to admit that while the Russians usually went around in pairs, there had been a few exceptions. Mr. Windeyer had also been briefed on the friendship between Kosky and Mr. John Rodgers. John Rodgers, who had not been before the Commission or warned that his name would be introduced, was the former Director of Australia-Soviet House and the present Secretary of the Australia-Soviet Friendship Society. Windeyer had Kosky admit that he and Rodgers were personal friends and that they saw each other quite often. Moreover, Mr. Windeyer revealed that they had seen each other quite recently and that Kosky had held a "welcome home" party for Rodgers at his house when Rodgers returned from a trip to the Soviet Union. This was inconsistent with Kosky's statement that he had not seen Rodgers for some time. Mr. Windeyer also suggested that it was inconsistent for a man not interested in politics, as Mr. Kosky had claimed, to be friends with someone so obviously pro-Soviet as Mr. Rodgers.¹⁵ Mr. Windeyer did not explicitly state why this friendship was relevant to the evidence that had been given, and neither did the Commissioners in their Final Report. The impression conveyed was that Kosky was in sympathy with Soviet objectives and that it was this that had drawn Moscow's attention to him. Finally, Mr. Windeyer took up the question of Kosky's commercial relationship with the Soviet Union. Considerable time was spent in showing how this was quite extensive. Then Windeyer asked a crucial question:

794Have you ever had anything to do with the movement of Russian money, either on behalf of the Soviet authorities or of the Communist Party here?¹⁶

¹⁵ *Ibid.*, pp.364-68.

¹⁶ *Ibid.*, 367 (794).

Kosky denied it, but how could he undo the suspicion thrown upon him by such a question? No evidence was adduced in support of the implied allegation, but some people might still believe that "where there's smoke, there's fire". By the end of Mr. Windeyer's cross-examination, Kosky's dealings with the Russians and his friendship with John Rodgers had been made grounds for suspicion.

Conscious of this, Mr. Gorman rose after the evidence had been presented and asked that the Commissioners might take the same attitude that they would in a Court of law -- that his client had no case to answer. There were arguments in favour of Mr. Gorman's submission. The MVD documents themselves were strange and inconclusive. Mr. Windeyer had said of Mr. Petrov's evidence that it "carried] the matter very little further than the documents themselves".¹⁷ Mr. Gorman conceded that the Commission still had a long way to go in its investigations. Other evidence might arise. But he argued that his client would suffer if he were not cleared of the suggestion that he was an MVD agent. That suggestion had been rebutted by Kosky, and nothing had been brought forward that affirmed anything to the contrary.¹⁸ Even so, and despite his co-operative attitude, Kosky's desires were to remain unfulfilled. The Chairman refused to make any statement on the matter except to say that "the fact that a person is called here as a witness in itself reflects no discredit on him at all."¹⁹ Later, in their Final Report, the Commissioners declared Mr. Kosky "was not a satisfactory witness" and described him as the MVD's "new apprentice".²⁰ Mr. Kosky's charitable acts did not excuse his personal friendships.

¹⁷ *Ibid.*, 351 (20).

¹⁸ *Ibid.*, Submission to Commission by Mr. Gorman 369-70 (889-906).

¹⁹ *Ibid.*, 370 (898).

²⁰ *Report*, pp.211-2.

II

On 8 November, 1954, Mr. A.H. Body was called to the witness-box to assist the Commission by explaining three references to himself and to his wife in the Moscow Letters. The Letters had suggested that he might be made use of as an unwitting informant, or "in the dark" as they expressed it, because he was an officer in the Department of External Affairs. The Moscow Centre had spelled out the plan the Petrovs should adopt for this purpose. Mrs. Petrov was to go ahead with arrangements for an exchange of language lessons with Mrs. Body, and Mr. Petrov was to invite Mr. Body to go fishing when the season opened. Through the Bodys the MVD hoped to obtain information about conditions inside the External Affairs Department and personality reports about Australian delegates to international conferences and organisations. Later correspondence from Moscow showed that Mrs. Petrov was ordered not to press Mrs. Body too hard for the exchange of lessons, because new conditions had arisen at the Department of External Affairs that made people wary of contact with Soviet Embassy people.²¹

Mr. Body was a career officer in the Department who had occupied a variety of posts, including a term of duty overseas, but who at the time he had met the Petrovs was the First Secretary of the Consular and Protocol Division of the Department. His contacts with members of the Diplomatic Corps was very extensive, and the Secretary of his Department described part of his duties as being:

... to maintain an official and personal contact with every member of the diplomatic and consular corps and at all times to treat them with courtesy, and to assist them in their²² contacts with Australian Government officers...

²¹ *Ibid.*, pp.335, 356, 372.

²² *Tr.*, Exhibit 263, Statement by the Secretary of the Department of External Affairs, dated 5/11/54, 1551 (13); concerning Body's career, 1552 (24-35).

The Petrovs said they had invited the Bodys to dinner one evening late in 1951 as part of their MVD work in the hope of developing their contact with them.²³ Mr. Body felt obliged to return the invitation, but he first consulted the Secretary of the Department. The Secretary shared Body's opinion, and so the Petrovs were invited to dinner at the Bodys'. Mrs. Petrov made her proposal about exchanging language lessons, but Mrs. Body managed to put her off.²⁴ Although Moscow had instructed Petrov to invite Mr. Body to go fishing, Petrov did not carry out this instruction. Perhaps this was just as well as Mr. Body revealed that he was not a fisherman and had never been fishing with anyone.²⁵ The Commissioners were favourably impressed with Mr. Body, and described him as "a man of character and integrity".²⁶ Though Mrs. Body had carefully refused to exchange language lessons, Mr. Windeyer remarked:

I hasten to say that so far as I am concerned there would be nothing wrong if such an arrangement was made ...²⁷

This broadminded attitude existed because the Commissioners saw danger to Australia's security in language lessons only when the tutor was "mixed up in these peace movements and so on".²⁸ Miss Kent-Hughes gave language lessons to the TASS man Antonov, through which the MVD hoped to induce her, like Mrs. Body, to become an informant "in the dark". Miss Kent-Hughes was repeatedly asked if she wished to express her shock and indignation at such a scheme to take advantage of her kindness. She declined to do so.²⁹

Justice Ligertwood said:

²³ *Ibid.*, Statements of V.M. and E.A. Petrov, Exhibit 264, dated 20/5/54, 1553 (61-63).

²⁴ *Ibid.*, 1554 (84-89).

²⁵ *Ibid.*, evidence A.H. Body, 1553 (64-69).

²⁶ *Report*, p.161.

²⁷ *Tr.*, Windeyer, 1556 (92).

²⁸ *Ibid.*, 2425 (197).

²⁹ *Ibid.*, 2424-5 (144-150).

179. ... I should think indignation is the proper reaction to it. What the Chairman is doing is to awaken people to the way in which this Russian Intelligence worked, the way in which they brought all sorts of people into their prospective net, if you like to put it that way.

...

181. ... I wonder that she is not indignant.³⁰

Mr. Body was not required to express his indignation, but then he was not a person who "had been interested in left-wing activities".³¹ After a brief examination, during which he was treated with consideration, Mr. Body was able to step down from the box with his reputation untarnished.

III

In the same month, November, as Mr. Body was giving evidence, a Mr. Blackett from the Security section of the Attorney-General's Department telephoned Mr. C.B. Christesen and asked to interview him and his wife concerning the Petrov Commission. Mr. Christesen was the Editor of the Australian literary magazine *Meanjin* which was produced with assistance of the University of Melbourne, and his wife, Nina, was the founding head of the Russian Language and Literature Department within the University. Her Department was the only one in Australia and at that time the third largest in the British Commonwealth. After they had consulted the Vice-Chancellor, Professor Paton, the Christesens went the next day to the interview at an office in Collins Street, Melbourne. There Blackett explained to them that among the documents Petrov had taken from the MVD safe was a slip of paper with their names on it. Alongside their names were code-names for each of them. He explained that Petrov had said that code-names were given only to people who held important positions in the community, or who were agents or contacts. The difficulty in all this, explained Blackett, was that Petrov

³⁰ *Ibid.*, Ligertwood, J., 2425-6, (179-181).

³¹ *Report*, p.274.

could not think of any reason why the Christesens had been allocated code-names since, to his knowledge, neither of them was in any way connected with espionage. Blackett was therefore concerned to know how the Christesens' names came to be on the slip of paper. Mrs. Christesen said that she had once met Sadovnikov when she went to apply for a visa to enter the Soviet Union in 1950. This had been done at the suggestion of the Secretary of the Australian Department of External Affairs and with the express authorisation of the Vice-Chancellor of the University. She did not receive her visa and so did not visit the Soviet Union. The only other time she had been to the Embassy was with Professor A.D. Hope to ask for some Russian language textbooks. Unlike other language departments which had had many years to build up a large stock of books, and which had frequent contacts with their appropriate Embassies, the Russian Department was short of funds and contact with the Soviet Embassy was considered unwise. On that occasion, in 1953, Mrs. Christesen had met Vladimir Petrov.³² At the time he had asked her to translate captions of children's paintings from Russian into English. Curiously, he had tried to have her type these on an Embassy typewriter and had attempted to press on her a large roll of banknotes in return for the service. She had refused both the money and the request to type at the Embassy.³³ These occasions apart, the Christesens had no other personal contact with any Soviet officials or representatives, except for a dinner with TASS man, Fedor Nosov, and his wife, in 1946. Mr. Christesen recalled, however, that he had corresponded once or twice with the Embassy on behalf of *Meanjin* seeking a scholarly article on Gogol, but he had not received anything he judged suitable for publication.³⁴

³² C.B. Christesen - J. Meagher, 23/11/1954, "Petrov", *Meanjin* Archive, Baillieu Library, University of Melbourne.

³³ C.B. Christesen - J. Meagher, 13/1/55, *Meanjin* Archive; and C.B. Christesen - author, 24/3/79.

³⁴ as for note (32).

All of this was explained to Mr. Blackett. Some discussion ensued concerning the Christesens' political views and activities. Mrs. Christesen pointed out that her father was still active in a Russian monarchist group and wrote to remnants of the Romanov family abroad, and that she avoided political involvements herself. Mr. Christesen said that his own views were public knowledge. He had been outspoken on matters affecting civil liberties, the need for peace and reconciliation among nations, and had striven to preserve *Meanjin* as an "open forum" for differing views. Blackett replied that he was aware of this, and added something to the effect that Mr. Christesen was mixed up in "front" organisations. Presumably, these "fronts" referred to Mr. Christesen's Vice-Presidency of the Council for Civil Liberties and Chairmanship of the Frank Hardy Defence Committee. Blackett went on to say that he could not tell if the Christesens would be required at the Sydney sessions of the Commission. The Christesens both expressed their wish not to attend: Mrs. Christesen because of the damaging effect it might have on the morale of the Russian Department, and Mr. Christesen because it might lower the reputation of *Meanjin*. There were also other family considerations that could prove distressing. Blackett agreed that "a certain amount of odium" was attached to people called before the Commission, but the decision did not rest with him. On this note, the interview was concluded. Deeply worried that the Espionage Commission was now being used to intimidate liberal thought and to attack those who expressed other than "official views", the Christesens left the office. The following week Mr. Christesen cancelled an engagement in the city to speak about the implication of German re-armament.³⁵

It was eight o'clock in the evening of 12 January 1955, when a black Holden car drew up at the Christesens' Eltham home. Two agents, one from

35 *Ibid.*

ASIO and one from CIS, got out. After being admitted to the house by Mrs. Christesen, they served her with sub-poenas for both her and her husband to attend the Commission.³⁶ On 17 January, they appeared in the witness-box in Sydney. Only then did it emerge that the slip of paper with their names was G 4, a document in Petrov's handwriting which he said he had copied from a slip of paper left by Sadovnikov. The Commissioners were, however, not greatly interested in this area of inquiry. Instead, they took the Christesens over the same ground as had been covered in the interview with Blackett months earlier. The Commissioners displayed some interest in *Meanjin*, of which they had not heard before,³⁷ and devoted considerable time inquiring about a contribution from a former officer of the Department of External Affairs now resident in Prague. The evidence did not disclose anything sinister between *Meanjin* and this man, who was now alleged to have had some role in K's group.³⁸ Mr. Christesen was asked if he were a member of the Communist Party. Christesen took strong objection to this question, but stated that he was not a member of any political party. The Commissioners did not understand at all why Mr. Christesen should have taken offence.³⁹ Mrs. Christesen's examination followed, and she was asked if she had taken part in "movements of a semi-political character" -- "in a broad sense" -- "which are in any way connected with the Communist Party?" This she denied.⁴⁰ Again, the Commissioners seemed not to grasp the reason why such a question would have proven distressing. Apart from this inquiry into their political views, the Christesens were not as severely questioned as some other witnesses had been. But they were not permitted to answer questions as freely as they

³⁶ C.B.Christesen - J. Meagher, 13/1/55, *Meanjin* Archive.

³⁷ See questions in *Tr.*, 1761 (479-482), 1765 (624-626), (658).

³⁸ *Ibid.*, 1764 (598-614), 1765 (632-62), about Milner and "K" see *Report*, pp.130-1, 143-6.

³⁹ *Tr.*, 1764 (581-590).

⁴⁰ *Ibid.*, 1767 (741-3).

had wished, nor even in the detail and with the explanations they had provided to Blackett. From the Transcript alone, people unacquainted with the difficult circumstances of the Russian Department might have wondered if there were not something sinister in Mrs. Christesen's resort to the Soviet Embassy instead of bookstores for Russian books. And from the time spent on the matter, those who had not read *Meanjin* might have presumed that there was something strange, perhaps improper, in the publication of an article from a suspected Russian spy living in Prague.⁴¹ Who was to know if the Christesens' political views might not blind them to the risks of association with the Soviet Embassy or Communist "fronts" in Australia?

The limitations imposed on the Christesens in their answers to the Commission were magnified in their effects by the reporting of their testimony in the daily Press. As with all witnesses who were the subject of critical scrutiny by the Commission, the emphasis in Press reporting was on what the Commissioners asked and said rather than on what the Christesens said or would have liked to have said.⁴² Though the major dailies did not invent answers that the Christesens were supposed to have given, at least some of the ethnic newspapers were not so restrained. The Christesens were libelled in several papers; and one even claimed that Mr. Christesen was the Secretary of the Communist Party in Victoria. Some New York and Parisian emigre newspapers reprinted this material. Little could be done about this, since the costs of litigation were prohibitive. In other ways too, their appearance at the Commission affected the Christesens. According to Mr. Christesen, his being a mere witness was sufficient to convince some people that he was a Communist, and they believed, as a consequence, that the University of Melbourne ought to sever its connections with him. Mrs.

⁴¹ These problems concerned Mrs. Christesen's mother, N.M. Christesen - her mother, 8/2/55, *Meanjin* Archive.

⁴² See newspaper clippings and Transcripts of ABC News Broadcasts in *Meanjin* Archive.

Christesen was attacked in the Victorian Parliament. Certain writers refused to contribute further articles for *Meanjin* and some readers cancelled their subscriptions, although the effects of this were not very severe. Within their family, the Christesens suffered strains and rifts.⁴³ The Commissioners had made no favourable comments on their forthrightness or integrity with which they could placate their critics or comfort their relatives.

IV

Mr. S.R. Phippard, a solicitor who had been practising in Canberra since 1935, was another non-Communist witness. He was called before the Commission about the same time as the Christesens, in January 1955, to answer questions about a description of him left behind in the MVD safe by Sadovnikov. Exhibit G 9 said:

(T) (14) *Finnard* -- lawyer, graduate of Sydney University, interested in questions of Marxist philosophy. Makes very harsh remarks about the labour people. Offered to give "A" interesting information. Was friendly with Withall,⁴⁴ director of the federal chamber of industry.

Finnard was understood by the Commissioners to be Mr. Phippard, and, on the face of it, the extract from G 9 certainly cast grave suspicion upon him. Indeed, it was one of the very few extracts that explicitly stated that a person had offered to give or had given information.

In his evidence, Phippard said that he had come to know many of the early members of the Soviet Embassy when it was being established in Canberra during the war. In his professional capacity, he had acted for the vendor in the sale of the building that was to become the Soviet Embassy premises, and subsequently he had advised the Russians on other legal matters. He

⁴³ C.B. Christesen - author, 24/3/79.

⁴⁴ Report, Appendix No. 1, p.409.

and other people had socialised with Embassy staff, but he had only once met Sadovnikov in 1950. Then, he had provided Sadovnikov with a copy of the contract note for the sale of the Embassy building. It was in the 1940s that he had become quite friendly with a couple of the Embassy people. He had invited some to his home; he had played chess with one; and he had shown his library of Australian books to another who was a graduate in history. Phippard confirmed the biographical details in G 9, and agreed that since he was a member of the Liberal Party he would certainly have made harsh remarks about the labour people. He also agreed that he was interested in Marxist philosophy.⁴⁵ The statement in G 9 that he had offered to give "A" interesting information would normally have attracted the Commissioners' most rigorous examination. But hardly had Mr. Phippard said that, to begin with, he had never been approached for any information, than the Chairman interposed:

80. I do not myself read this as saying that you offered to give them confidential information. But we are anxious to find out who this mysterious "A" is. It has been suggested it might mean Ambassador.⁴⁶

Mr. Phippard was doubtless relieved at the Chairman's reinterpretation of G 9, but was unable to offer anything that might suggest "A"'s identity. He explained that one of the officials was quite interested in Australian history, and that Phippard had suggested various books that the official might read. The Chairman seized upon this:

102 A. This offer to give information could mean, of course, that in the course of social converse Mr. Phippard may have said to whoever "A" may be that he would be glad to tell him the history of, ⁴⁷ say, the Australian whaling industry or something.

After a few more questions, Mr. Phippard was allowed to step down from the witness-box. It was unusual indeed for the Commissioners to adopt such an

⁴⁵ *Tr.*, evidence S.R. Phippard, pp.1749-51.

⁴⁶ *Ibid.*, Chairman, 1751 (80).

⁴⁷ *Ibid.*, Phippard, 1751 (86), The Chairman 1752 (102A).

innocent reading of an apparently highly damaging extract. It was more unusual still for the Chairman to suggest such an innocent reading even before the witness himself had done so. Far less incriminating passages in the MVD material had been invested with the worst possible interpretations. In Mr. Phippard's case, the Commissioners concluded that the MVD had shown an interest in him for no other reason than that he had shown Soviet officials ordinary courtesies.⁴⁸

V

The Commissioners treated Kosky and the Christesens differently from Phippard and Body. Where the Exhibits and the Petrovs' evidence failed to make a sufficient case for Kosky and the Christesens to answer, the Commissioners did not find them innocent. Yet where the Exhibits did suggest impropriety, as in Phippard's case, the Commissioners not only failed to find him guilty but cleared his name completely. In examining witnesses and forming conclusions about them, the Commissioners were not guided solely by what was in the Exhibits or by the Petrovs' evidence. They based their views upon certain assumptions that were not strictly examined as evidence. In a Court, this shortcoming might have been the basis for appeal, but there are no appeals from Royal Commissions.

The assumptions which the Commissioners made were applied throughout the Commission. The potential to commit espionage was a pre-requisite of any overt act. Such a potential depended, for the Commissioners, upon a certain state of mind which had been described by Assisting Counsel in his opening address as without "firmly anchored religious faith, or firm traditions and inherited loyalties". This outlook could be made to justify anything including "aiding Russians in activities aimed at the security of

⁴⁸ Phippard only volunteered an explanation at 1752 (103) cf Chairman at 1752 (102A). The Commissioner's conclusions are in *Report*, p.185.

the nation".⁴⁹ This proclivity was the product of Communism. Non-Communists were a more difficult question. If Communism imbued people with the potential to commit espionage, then a willingness to associate oneself voluntarily with Communists and Communist-inspired activities necessarily exposed one to grave risks. Mr. Body had taken the sensible precaution of inquiring of his Departmental Head whether he ought even to return the Petrovs' dinner invitation. Mr. Phippard avoided excessive danger by being a member of the Liberal Party. But what of the Christesens and Kosky? Mr. Christesen maintained a journal as an 'open forum' where faith, traditions, and loyalties could be questioned and perhaps undermined, and he participated with Communists in criticising policies adopted by Australia and its friends. Mrs. Christesen was associated with her husband. Kosky enjoyed the company of John Rodgers, a notorious supporter of the Soviet Union. The logical conclusion of this reasoning was for the Commissioners to determine how far Communist ideas had penetrated these people's minds in order to determine their relative potential for prejudicing Australia's security. Once it had been accepted that loyalty to Communism necessarily implied disloyalty to Australia, it was natural that whole range of views and activities which shared even the slightest common ground with Communism should be closely scrutinised and treated with suspicion. In this respect, non-Communist witnesses and Communists alike received equal treatment.

⁴⁹ See Chapter 4.

CHAPTER 13

WITNESSES OF TRUTH?

The Petrovs gave their last major testimony on 8 February, 1955, the ninety-seventh day of the Royal Commission. Vladimir Petrov re-entered the witness-box tired and worn despite a long absence from the public hearings. He was followed by his wife. She lacked her earlier liveliness and seemed very weary of the proceedings.¹ Though the strain of the Commission, with its constant examination and cross-examination, was telling on both of them, the Commission's work never seemed to be over. The tension of great things about to be revealed had been dissipated by the frequent disappointment of public expectations. Even at this stage, no Australians working as spies for the Soviet Union had been tracked down. Public criticism of the proceedings was increasing, and the value of the Commission was questioned.²

The Petrovs were asked to tell a story which once again staked their credibility against that of Australian Communists, this time not merely individual Party members but the Party itself. On 10 June 1954, about two months after her defection, Mrs. Petrov mentioned to ASIO that she and her husband had overseen the transfer of \$US 25,000 from MVD funds to the Communist Party of Australia in 1953. A few weeks later, ASIO took sworn statements from each of them about the operation.³ The Petrovs

¹ *Argus*, 1/9/54.

² For example *Herald*, 19/1/1955.

³ *Tr.*, G.R. Richards, 2298-9 (165-183) and *Report*, p.103.

both asserted that the money had been sent over, in cash, in the diplomatic bags from Moscow. The Moscow Centre had enclosed directions that the money was to be taken up to Sydney. There, Mr. Petrov was to give the money to Antonov, the TASS man, Antonov was ordered to arrange a meeting with the Communist Party General Secretary, L.L. Sharkey, in a conspiratorial flat in Manly and give him the money. Antonov was also instructed to obtain a signed receipt from Sharkey which was to be forwarded to Moscow. The operation was carried out according to these instructions, the Petrovs said. The Petrovs had difficulty in remembering when the money was handed over, but the security officers attending them had produced ASIO's schedule of Sharkey's movements in 1953 from which each of the Petrovs reconstructed their recollection of the date. Mr. Petrov settled upon August for the handing over. Mrs. Petrov decided it was at the end of the month, but she could not recall which month. ASIO was not entirely satisfied with this, so it supplied the Petrovs with the arrival and departure dates of the Soviet diplomatic couriers as well as a schedule of Mr. Petrov's own movements in 1953. As a result, Mr. Petrov amended his statement in December 1954, and fixed the date upon which Antonov gave Sharkey the money as the evening of 16 October 1953, at eight o'clock. Mrs. Petrov made no new statement.⁴ In evidence, the Petrovs suggested that the money had been sent because the Communist Party was desperately short of funds after its intensive campaign against the Communist Party Dissolution Bill.⁵

When Communist Party General Secretary Lance Sharkey gave his evidence, he strenuously denied that any such events had taken place or that the Communist Party had ever received such a sum from the Soviet Union.⁶ It seemed

⁴ Statements re \$25,000 of V.M. and E.A. Petrov, *Ibid.*, 2166-8, re help given with dates 2146-7 (585-622).

⁵ *Ibid.*, 2116 (277-9), 2148 (678-680).

⁶ *Ibid.*, L.L. Sharkey, 2171 (546-554).

like stalemate again: the Petrovs swore to one thing, Communist Party officials swore to another. In this case, forceful points were made against what the Petrovs said. Appearing for Sharkey, Mr. Hill pointed out that the evidence of the transaction was hearsay. Since Antonov himself was not present at the Commission, everything rested on whether Petrov truthfully recalled what Antonov had told him and on whether Antonov had told the truth to Petrov about handing over the money.⁷ In the courts, hearsay "is inadmissible as evidence of the truth of that which was asserted".⁸ The assistance the Petrovs had required from ASIO demonstrated that their recollection of the event was remarkably poor, considering the enormous sum of money that they handled. Mr. Petrov stressed how secret the operation was. He had taken the special precaution of going to Sydney by train so that his name would not appear on official records. The train arrived early, and, rather than wake up Mr. Antonov, Mr. Petrov sat on a bench in Darlinghurst with a suitcase full of \$25,000 until a more sociable hour. But on that occasion the money could not be delivered to Sharkey, so Petrov had to make another trip. On this second visit, discretion was abandoned, and Mr. Petrov bought an aeroplane ticket in his own name.⁹ It was also hard to reconcile secrecy with the necessity for the Communist Party to convert American dollars into Australian pounds. Moscow's thoughtlessness in this matter must have created enormous difficulties in avoiding the attention of the Australian exchange control authorities. Mr. Petrov's eagerness for accuracy had led him to state in his August 1954 declaration that the denominations of the American notes were five and twenty-five dollars, yet in the whole history of American note issue a twenty-five dollar denomination had never been

⁷ *Ibid.*, 2309 (551).

⁸ *Cross on Evidence*, Australian edition, Butterworths, Sydney, 1970, p.481.

⁹ *Tr.*, 2120-2 (475-477) (539-543).

created. Only in his December statement had Mr. Petrov remembered that the denominations were five and ten dollars.¹⁰ It was suspicious, Mr. Hill argued, that Petrov did not mention the transaction when he was first closely questioned about his activities by ASIO on 3 April 1954. By providing Petrov with information, ASIO had helped him establish certain essential consistencies to make up his story.¹¹ The most telling blow of all came from the most unexpected source -- ASIO itself. After all the trouble that had been taken to fix a precise time for the handing over of the money, ASIO confirmed Sharkey's evidence that at exactly the same time Sharkey was attending a meeting of the Central Committee of the Party in the centre of Sydney, miles across the harbour from Manly.¹²

Quite apart from the other strange aspects of the story, quite apart from the fact that the evidence against Sharkey was hearsay, Mr. Petrov's statement was proved incorrect. Sharkey had no case to answer, and the dangers of hearsay as evidence were clearly illustrated. The Commissioners gave the following instructions to Assisting Counsel about the presentation of his final address to them on the \$25,000 story:

713. PHILP, J. -- Mr. Windeyer, I would like to say that as Petrov is not represented here it is your duty to put it [his case] from his point of view as highly as possible. That is how I feel. It is a very awkward situation, because Petrov's personal future in Australia may depend a great deal upon this matter.

...

716. MR. WINDEYER. -- And if there be any matter which tells particularly in favour of the credibility of Petrov or Mrs. Petrov I shall put it, because the opposite point of view has been put, and put forcibly, by my learned friend [Mr. Hill].¹³ 2315

¹⁰ Cf. two statements, *Ibid.*, 2166-7.

¹¹ *Ibid.*, E.F. Hill, 2294-5.

¹² *Ibid.*, 2321 (3-38).

¹³ *Ibid.*, 2315 (713-716).

The role of Assisting Counsel to present the facts without fear or favour, without regard to the personal consequences of the evidence to any party, was cast aside. Mr. Windeyer mounted a case for the defence of the Petrovs. He argued that there was direct evidence by the Petrovs that the money was received by the MVD in Canberra with directions that it was to be paid to Sharkey, and that there was direct evidence by Mr. Petrov that he gave the money to Antonov. What was hearsay, he said, concerned the particular arrangement between Sharkey and Antonov for handling the money over. Of course Petrov could not say when the money was handed over; he could only say when Antonov told him it was handed over. To suggest that the truth or falsity of what the Petrovs said be measured by "one sentence in Petrov's statement ... relating to what Antonov told him" was "quite fallacious".¹⁴

In their Final Report, the Commissioners considered the Petrovs' testimony. They had no doubt that the MVD sent \$25,000 in American currency to Canberra. At the Commission, the Chairman had argued that the money could have been re-exported to the Far East by Communist agents and converted to Australian pounds. Persons unknown could then have brought it back into the country under the guise of a commercial transaction with the People's Republic of China. It could then be given to the Communist Party.¹⁵ That there was no evidence before the Commission to support this view was not considered a problem. Mrs. Petrov's failure to remember the date of Antonov's transaction with Sharkey in her statement was advanced as a point in her favour, since it showed she had not colluded with her husband.¹⁶ The Commissioners wrote of Mr. Sharkey's evidence that he was at the Central Committee when he was supposed to be receiving the money as

¹⁴ *Ibid.*, Address by W.J.V. Windeyer, 2315-7, 2321-32; esp. 2317 (733-37).

¹⁵ *Ibid.*, 2283 (566-579).

¹⁶ *Report*, p.103.

... an attempt to make it appear as if the real issue were one between Petrov and Sharkey as to whether Antonov had paid \$25,000 to Sharkey at 8 p.m. on 16th October 1953.¹⁷

Following Mr. Windeyer's lead, the Commissioners reformulated the real issue into an allegation that "the Soviet, through MVD channels, subsidised the Australian Communist Party to the extent of \$25,000." They accepted the Petrovs' evidence that the money arrived in Australia with an instruction that it was to be paid to the Communist Party, pointing out that there was no evidence to contradict the Petrovs on these points. No-one else at the Commission was in a position to know what went on inside the Soviet Embassy. Assuming that the money and the instruction arrived, the Commissioners believed it highly probable that Antonov would carry the operation out. The fact that the Party was short of money strengthened the Commissioners' opinion that the Soviet Union had come to its aid.¹⁸ Their Report said:

In these circumstances, our decision on the question is to be made without reference to any requirement of a specially high degree of proof. In other words, we must find the facts merely according to the balance of probabilities.¹⁹

The Commissioners considered that the payment had been so proven, and that the Petrovs' credibility had remained unshaken. Yet without time, date, and place, the charge made against the Communist Party was incapable of disproof. While that fact impressed the Commissioners with the probability of the story, the \$25,000 incident became a major weapon in the arsenal of criticism which opponents of the Commission used.

The Petrovs' credibility in the \$25,000 case raised the general issue of their credibility as a whole. In their Final Report, the Commissioners

¹⁷ *Ibid.*, p.102.

¹⁸ *Ibid.*, p.110.

¹⁹ *Ibid.*, p.103.

plainly expressed their point of view:

193. We feel that in the final result we should find, and we do find, that the Petrovs are witnesses of truth.²⁰

Without full access to documents, tape recordings, and witnesses on an even wider scale than those brought before the Commission, the final determination of the credibility of the Petrovs must remain an open question. Yet the whole of the Royal Commission on Espionage depended on the credibility of these two witnesses. To be sure, the Commission had a wider and greater role than merely finding out if two Soviet defectors were telling the truth, but the findings of the Commissioners and the role of Assisting Counsel rest upon the extent to which they could establish the credibility of the Petrovs before the public. It has been argued in defence of the Petrovs that the information which they disclosed in secret to security authorities proved invaluable in unmasking hundreds of Soviet espionage agents around the world.²¹ For most people, this must remain unverified. At the same time, this defence is quite irrelevant to the establishment of their credibility before the Commission. The Commission was essentially a public inquiry into Soviet espionage inside Australia. In examining credibility and authenticity, there are two distinct matters for consideration. The first is the tests applied by the Commissioners to arrive at their conclusions: were the tests appropriate and did they establish the facts? The second is the testimony of the Petrovs and the contents of their documents: were they *prima facie* credible and authentic? In dealing with these questions, the emphasis is placed upon the principal areas. Minor inconsistencies have been overlooked for the sake of brevity, although they certainly exist.

²⁰ *Ibid.*, p.65.

²¹ For example, Menzies *CPD*, H. of R., 8 October, 1957, p.1161, declared that the Petrovs identified 522 Soviet espionage cadre workers throughout the world.

In the proper conduct of any inquiry, it is necessary to determine where the burden of proof lies in establishing claims and counter-claims. Ordinarily, before the Courts, a person faced with an accusation could argue that a case be dismissed without even giving evidence if it could be shown that the prosecution or plaintiff had failed to make out a *prima facie* case. That is, there must be a case to answer. An investigative body with the wide powers and discretions of a Royal Commission does not require any "case" to be made out in order to compel the attendance and the giving of evidence by witnesses. The Espionage Commissioners and Assisting Counsel used these powers to the full, and clearly believed that there was no obligation upon them to present any indictment before questioning a witness whose behaviour might lead to adverse criticism and possible prosecution at a later stage.²² This legal freedom allowed the Petrovs the tremendous power of making all kinds of charges without having to prove them, whilst placing the burden upon the witness so charged to disprove them. The treatment of the £25,000 case is a prime example. Not only did the Commissioners require Sharkey to disprove that he received the money on the date and time specified in Petrov's statement, but they also required him to disprove that he could have received it on any other occasion in October 1953.²³ In so doing, the Commissioners applied the dictum "Guilty until proven innocent" in such a way that it is doubtful if anyone could have conclusively established their innocence. Few people possess a cast-iron alibi for a single day, let alone for a month or more. Yet, where charges were made against the Petrovs, the burden was reversed. The person making them had to prove them.²⁴ This was plainly impossible without the full co-operation and powers of the Commission. While

²² This proposal was explicitly rejected at *Tr.*, 380-382 (44-75).

²³ *Report*, p.110 speaks of the money being paid at "some date in or about October 1953.

²⁴ This aspect has been examined in the Chapter on Document J.

the Commissioners did not hesitate to deploy the full resources of the state in unearthing material against witnesses who were charged by the Petrovs, these facilities were not offered to those making counter-allegations. National security and Crown privilege were invoked to shelter the Petrovs and Bialoguski, but were relaxed to permit Lockwood's confidential passport application to be produced for handwriting analysis.²⁵

The standard of proof required to establish a conclusion before the Commission also caused controversy. In criminal cases the proof must be sufficient to convince a jury or magistrate beyond reasonable doubt; in other cases it is sometimes sufficient to prove a matter on the balance of probabilities. Even though the charges made against witnesses called before the Commission were serious and attracted strong public disapproval, the Commissioners freely admitted hearsay as evidence and based their findings upon what they considered the balance of probabilities. This standard of proof allowed greater scope for subjective views than "beyond reasonable doubt". The Commissioners tended to find dishonest motives and suspicious behaviour probable in the case of Communists and people who voluntarily associated with Communists, but not with others. Some Counsel who invoked the technical rules of evidence were accused of doing so "for the benefit of the Soviet".²⁶ The assumptions on which these judgements were based were never adequately examined. The failure of witnesses charged with various improprieties to disprove them, could not logically lead to the conclusion that the improprieties were thereby proven positively. Where a witness had lied or concealed some evidence, it did not mean that the charges against them were true. To have tested the credibility of the Petrovs thoroughly required a more exacting and consistent standard of proof.

²⁵ Re Security reports, *Tr.*, 741 (416); re passport application, 234-5.

²⁶ *Report*, p.66.

The authenticity of the Petrovs' documents was also disputed. The Commissioners proposed that statements made in the documents should be examined for their accuracy as a test of authenticity. Many witnesses, against whom nothing was alleged, were called before the Commission on the basis that their help was required to see if the documents were authentic. A great deal of the biographical material about witnesses was shown to be correctly stated. The procedure showed that the Petrovs could never have compiled such material unaided. This fact did not prove that all the documents were MVD espionage documents, and it did not disprove the charge that the Petrovs compiled the material with the assistance of individuals in Australia who had nothing to do with the MVD. During the course of the Commission, one Counsel endeavoured to explain the point:

26. MR. CLIVE EVATT. -- I do not know what was in Your Honour's mind, but Your Honour said here yesterday several times that the purpose of the introduction of Mr. Isaksen into this Commission was to test the authenticity of a certain document.

27. THE CHAIRMAN.-- By inquiring from him whether the facts stated in the document were correct. He said it was correct. Why on earth are we wasting a lot of time on it?

28. MR. EVATT. -- Whether the statement in the document is correct or incorrect is not a question of authenticity. The document could have accurate statements in it, but it could be a forgery and have truth in it.

29. THE CHAIRMAN. -- Ask any question you want to ask.

30. MR. EVATT. -- I will be making the submission---

31. THE CHAIRMAN. -- If you do not do what we are instructing you to do we will withdraw your permission to appear. If you want to ask this witness any questions, ask him. We are not going to waste hours of time on this particular matter.²⁷

The development of Counsel's quite logical argument that factual accuracy in a document was not conclusive evidence of authenticity made no impression upon the Commissioners, except to anger them. They believed

²⁷ Tr., 1809 (26-31).

that if the details concerning a person were accurately stated, or approximately so, and if there was contact with Russians or Communists, then this was both an explanation and a proof of the MVD's interest in a person. The assumption that the Communist Party was a conduit for the passage of information about people to the MVD was adopted as an act of faith in the authenticity of the documents, not as a result of evidence and logical deduction.²⁸

The foundation of the Commissioners' belief in the documents was the credibility of the Petrovs themselves. Another Counsel put this to the Commission, and drew the following response:

703. PHILP, J. -- Put it this way. Suppose Mr. Petrov got up in the court room now and told us, "These documents were fabricated by me": I for one would not believe him as the evidence now stands, because of the cross-checking we have been able to do [concerning the accuracy of material in the documents].

704. MR. MILES. -- And if he got up and said, "I make no remark at all except that I can tell the Commission that these documents did not come from the MVD as stated" -- he does not say that he did it himself -- I then respectfully suggest, as Counsel have previously suggested ---

705. THE CHAIRMAN. -- If they did not come from the MVD, that is the end of it.

706. MR. MILES. -- That is it. So what I originally said is correct -- that Petrov is the real bulwark of the present situation, is he not?

707. LIGERTWOOD, J. -- For the life of me I cannot understand what all this is about or why it should be that you are addressing at length, because in regard to Mr. Russell there is not a line in the document which reflects on him in any way, and here you are making an address which has now lasted for an hour, I think.²⁹

²⁸ No evidence, as distinct from speculation, was offered to show information about people who had no contact with Russians reached the MVD through the Communist Party. Examples of this are found in the Clayton case.

²⁹ *Ibid.*, 1825 (703-707).

Whether the Commissioners could understand the point or not, the truthfulness of the Petrovs was all important because the "accuracy test" for authenticity was inconclusive. The relationship between the Petrovs and the documents was central. Counsel opposed to the Petrovs probed carefully, looking for any crucial defects in the Petrovs' evidence or in the documents themselves. They did manage to discover contradictions in the Petrovs' story and to show certain difficulties about the documents. For their part, the Commissioners maintained that such matters were trivial and time-wasting. The testimony of the Petrovs displayed consistency and accuracy of a high order, they said.³⁰ To grasp the basic issues and to see where the balance of the evidence lies, it is important to make some independent examination of the Transcript.

The first issue was the relationship between the Moscow Letters and Mr. Petrov. During the earliest evidence Mr. Petrov had given in July 1954, when his memory should have been fresh from his experiences in the Embassy, the following emerged:

713. PHILP, J. -- When Sadovnikov left, Pakhomov took over his work. When did Mr. Petrov become the M.G.B. man?

714. MR. WINDEYER. -- At the stage I am just coming to.

715. (To the witness) In February 1952 you got a further instruction from Moscow, this time through the Chief Resident channel of communication, that is, the old K.I. code? -- Yes.

716. And the instruction was that you were to take over from Pakhomov the function of temporary M.G.B. Chief Resident for Australia? -- That's right.

...

725. And so you in 1952 took over the office and the equipment of the M.G.B. residency in Canberra? -- Yes.

...

731. You were always temporary Chief Resident? -- Yes.³¹

³⁰ Report, pp.63-5.

³¹ Tr., 98, (713-716), (725), (731).

There matters seemed to rest until 14 December, 1954. Then the Chairman of the Commission noticed that date of the first Moscow Letter addressed to Petrov as Chief Resident was January 2, 1952. Petrov had said that he had first been appointed as Resident by cable in February 1952, so either Moscow or Mr. Petrov had made a strange mistake. The Chairman pointed this out to Mr. Petrov. Petrov was mistaken: it was in December 1951, he said, that he had received the cable appointing him temporary Chief Resident.³² This contented the Commissioners until January 1955. Then it appeared that they had still not quite grasped the situation, and Mr. Petrov was asked to explain it to them again. Referring to the Moscow Letter No.1 of January 2, 1952, Mr. Windeyer asked:

630. MR. WINDEYER. -- So that, at the time you got the letter, Pakhomov was still in Australia, of course; but he was not carrying out the duties of MVD Resident? -- Well, he was never actually the Resident, neither was I; he was just an executive, and he was an executive of the MVD and was carrying out the work of the MVD.

631. He was not acting as the Resident at the time this letter came? -- And when I say "appointed", I was appointed the temporary acting Resident just as he was at that time.

632. PHILP, J. -- Might I ask there what you mean by "temporary acting Resident"? -- Because another man might have been on the way.

633. Well, did any letter come from Moscow in 1951 which specifically said that you were to be the temporary Resident? -- There was a telegram indicating that, after the Committee of Information had merged with the MVD.³³

Far from consistency, the evidence of Mr. Petrov presents a most confusing picture concerning the appointments he was given and when he was given them. The Commissioners and the public were cast adrift to select whichever version of the story they wished.

³² See *Report*, Appendix 1, pp.305-322 for Letter No.1, 2/1/52; and *Tr.*, 1719 (546-554).

³³ *Ibid.*, 1936 (630-633).

The Moscow Letters themselves also presented difficulties. The general accuracy of the Letters discounted the notion that Mr. Petrov could have made them up himself, and any minor inaccuracies could be explained as genuine mistakes made by the MVD in Moscow. But the Letters did make other errors that could not be so easily passed over. Mr. and Mrs. Petrov insisted that the Letters came from Moscow on film, and that Mr. Petrov made photographic prints from the film. These were the prints in the Commission's possession. As each letter was being prepared in Moscow, the date was marked on it. Therefore the date of the letter was as much a part of it as the information which the letter contained.³⁴ The problem was that some letters contained information about events which had not yet occurred. The date of the letter and the events described in the letter did not correspond.

There are four examples of dates not matching events. Concerning Norman Herbert Russell, the Moscow Letter dated 2 January, 1952 said:

Whilst refraining from taking any active part in the fight for peace he does not, it is true, decline to carry out individual assignments to that end.³⁶

In mid-1951, Mr. Russell had gone abroad as a delegate of the Clerks' Union to attend a peace Conference in Berlin. He had then visited the Soviet Union. He stayed overseas till 21 January, 1952. It was not until after his return to Australia, indeed not until March 1952, that the question of his doing any assignments in the peace movement arose at all. The comment in the Letter might be applicable after March, but certainly not at the time stated on the Letter.³⁶ Since Mr. Petrov had, unfortunately, not met Mr. Russell, he was not able to cast any light on the matter. Another witness, Charles Bresland, was mentioned in the

³⁴ *Report*, p.41 and see the Letters themselves, from which the foregoing becomes quite obvious.

³⁵ *Ibid.*, p.317.

³⁶ *Tr.*, 1783-6, 1812 (121-136).

same Letter in the following terms:

At the present time Bresland is...secretary of the executive committee of the Eureka Youth League.³⁷

As Bresland explained, while he was certainly on the executive of the League in January 1952, he did not become Secretary until April 1952.³⁸

There was also the case of Mr. G.R. Anderson mentioned in the Letter of 6 June 1952. Writing to Petrov, Moscow said on that date:

We cannot agree with your opinion that the study and cultivation of Anderson should be terminated merely because he was not elected in the trade union and was left without work...³⁹

Mr. Anderson was State Deputy President of the Clerks' Union in 1952 and he told the Commission that he had only lost this office in the union in July 1952. So Moscow had anticipated events. Leaving aside the question whether the MVD might be clairvoyant, there was a possible explanation. Mr. Anderson said that he had stood for election to another union post in March-April 1952. Perhaps his election defeat at this time might have led to the erroneous conclusion that he had no office and no work.⁴⁰ The last example concerned an enclosure of a Moscow Letter dated November 10, 1949 that was amongst the Sadovnikov notes. One month before the 1949 elections, Moscow had written the following:

Falstein -- aged about 40, Jew, former member of Parliament...

Mr. Falstein did not lose his seat till December at the age of thirty-five or thirty-six, although his official ALP endorsement for the seat

³⁷ Report, p.316.

³⁸ Tr., 2429 (305-334).

³⁹ Report, p.341.

⁴⁰ Tr., 1955 (186), 1945 (193-8).

had been withdrawn.⁴¹

There may have been some other explanation of Moscow's uncanny ability to predict events, but it was not presented to the Commission. The failure of dates to match with events in some of the Moscow Letters constituted a *prima facie* case that those letters could not have existed on the dates stated in the Letters themselves. This cannot be reconciled with the way in which the Petrovs said the letters were prepared and sent from Moscow. As a result, there was a *prima facie* case for rejecting the Petrovs' account of how they received and what they did with the documents.

The Petrovs' evidence concerning Exhibits G 1-10 was also unsatisfactory. These Exhibits comprised the Sadovnikov notes and Exhibit G 4, which contained the Tennants' address and the initial "K" on the top and seven names, including the Christesens', on the bottom. The full importance of the contradictions in the Petrovs' testimony has not really been demonstrated by other writers, although they have been noticed.⁴² There are five different versions given by the Petrovs concerning the way in which the notes were kept in the safe and what was done with them before Mr. Petrov's defection. These five versions may be reduced to two basically distinct themes. The most convenient form in the evidence can be presented in the Table on the following page.

It will be observed that the chief differences between Themes 1 and 2 is that in the first both the Petrovs knew the contents of the notes, and in the second Mr. Petrov found out only in March (either a few days or a few weeks before his defection) 1954, and that Mrs. Petrov never really knew at all.

⁴¹ Report, p.409, Tr., 2607, and C. Hughes and B. Graham, *Voting for the Australian House of Representatives, 1901-1964*, ANU Press, Canberra, 1974, p.257 (1946 elections) and p.274 (1949). Mr. Falstein stood as an Independent ALP candidate in 1949.

⁴² {Brown}, *op.cit.*, pp.168-9.

TABLE
DIFFERENT ACCOUNTS BY THE PETROVS CONCERNING THE SADOVNIKOV NOTES

Theme	Version	Dates Given in Evidence	Description	References
1	(i)	July 1, 1954 July 20, 1954 July 21, 1954	That both Mr. and Mrs. Petrov had seen the Sadovnikov notes in detail at least as early as February, 1952; and that the notes appeared to be kept as loose papers together in the MVD safe.	<i>VMP</i> 99 (755-7) 2799 (11-14) <i>EAP</i> 2809 (106-116)
	(ii)	October 20, 1954	That the notes were enclosed in a packet marked "N", but not so as to impair the detailed knowledge of Mrs. Petrov of their contents.	<i>EAP</i> 1298-9 (246-252) (267-269)
2	(iii)	January 17, 1955	That the notes were enclosed in the packet, which was sealed when Pakhomov handed it over to Mr. Petrov. Mr. Petrov did not see the contents till the end of March, 1954, and that Mrs. Petrov would not have seen the contents until after his defection.	<i>VMP</i> 1753 (144) (147-150) 1758-9 (380-391)
	(iv)	February 2, 1955	Mrs. Petrov did not see the contents of "N" until the Royal Commission. She had only been given a quick glance at the contents when Sadovnikov was sealing up the packet before passing it on to Pakhomov through her.	<i>EAP</i> 2004-5 (173-5)
	(v)	Statement dated August 14, 1954 - read March 30, 1955	Mr. Petrov did not see the contents of the packet "N" until some weeks before his defection.	<i>VMP</i> 2631-2 (13).

Note: *VMP* stands for Mr. V.M. Petrov, *EAP* for Mrs. E.A. Petrov.

The co-existence of the two conflicting stories in the several versions is not a trivial matter. Theme 1 was required for several purposes in the early stages of the Commission. The most important was so that Mrs. Petrov could confirm that Exhibit G 4, which linked "K" with the Tennants in the Clayton case, was accurately copied out by Mr. Petrov from the notes on to the top of the paper and that the names of seven other people, including the Christesens, were correctly copied on to the bottom.⁴³ Without her testimony, Mr. Petrov's accuracy and honesty depended solely upon his own word, and since it had been disclosed that he had received £5,000 after his defection his testimony could not be represented as so disinterested as Mrs. Petrov's. Mrs. Petrov's knowledge of the notes also enabled her to identify them as being in the handwriting of Sadovnikov.⁴⁴ Mr. Petrov had also said this, but because he and Sadovnikov worked for separate intelligence organisations the opportunities for him to see Sadovnikov's writing would have been far more limited than for Mrs. Petrov. Finally, for Mrs. Petrov to have seen the notes in detail would enable her to confirm that they were handed on by Sadovnikov in the course of MVD duties and for MVD purposes and were not simply jottings about people he had met in the normal course of his diplomatic duties.⁴⁵ It was important for Mr. Petrov to have seen the notes as soon as he began his duties with the MVD in February 1952 so that he could state that the notes were clearly MVD property, that they had not been tampered with, and that he was sufficiently familiar with them to copy them accurately.⁴⁶ As the Commission progressed and began its investigations of witnesses in the notes, the necessity for Theme 2 emerged. Mr. Petrov's ignorance of the contents of the notes until the eve of his defection served as an explanation for

⁴³ *Tr.*, 2809 (106-111).

⁴⁴ *Ibid.*, 2802, 2807-8.

⁴⁵ *Ibid.*, 2801 (129-133), 2802 (145).

⁴⁶ See same references as in Table for VMP, Theme 1.

his failure to make contact with people who were represented as important MVD agents or contacts.⁴⁷ The sealed packet "N" which could not be opened without Moscow's express permission enabled him to remain innocent of the contents, and yet sure, because Pakhomov had told him, that inside were the names of people associated with the MVD's work. For her part, Mrs. Petrov also needed to be ignorant of the names. In this way she was able to explain to Ric Throssell's Counsel why she had not checked his name off against the list of "Contacts K" when Moscow had sent her a cable informing Canberra that Throssell was in "K's" group.⁴⁸ A final twist to her story was added by her claim that although she did not know the contents of the packet "N", she realised that documents were missing from it when, during her last days alone at the Embassy, Petrov's successor, Kovalenok, had gone through the documents with her to see that they were in order.⁴⁹ Thus each of the two Themes served a necessary function at different stages of the Commission to support the Petrovs' story, yet each excluded the other. The implications of the contradictory evidence are important. As it is impossible to accept the Petrovs' evidence as a whole, there is no reliable means of judging which evidence, if any, can be accepted. The notes may not have been written by Sadovnikov, or at least the Petrovs may have had no means of saying they were. The notes may have had nothing to do with the MVD; they may or may not have been forged. The fact that the evidence of the Petrovs could not be wholly relied upon raised even greater doubts about the authenticity of the Sadovnikov notes, which already attracted some suspicion because of their reference to the "former" Member of Parliament, Mr. Falstein, before that event occurred. The

⁴⁷ *Tr.*, 1759 (406-413).

⁴⁸ *Ibid.*, 2004 (161-173).

⁴⁹ *Ibid.*, 2005 (177-184).

problems raised about the Moscow Letters and the Sadovnikov notes were never satisfactorily answered.

The manner in which Assisting Counsel and the Commissioners examined the Petrovs effectively shielded them from close scrutiny. Throughout the Commission, Assisting Counsel first took the Petrovs through their previously written statements step by step. The Commissioners said that the procedure would enable them to compare the Petrovs' verbal with their written evidence and thus test their truthfulness.⁵⁰ Actually, this had two important shortcomings. First, it was obviously easier for the Petrovs to remember what they had previously said, because the order of evidence given in the witness-box was the same as the order of material in the written statements. Mr. Windeyer did not switch from one part of the story to another. Other Counsel did not have Mr. Windeyer's opportunities for testing the truth because many of the Petrovs' statements were considered confidential and withheld from them and the public. The second defect was undoubtedly the most serious. During examination, the evidence of the Petrovs was "led", despite objections from other Counsel.⁵¹ The answer to a question was often supplied within the question itself, so all the Petrovs had to do was say "yes" or "that's right". The procedure was quite permissible, but it favoured the Petrovs.

Cross-examination and the presentation of evidence by other Counsel, it was argued, offset these advantages. Yet it should be remembered that, in every case, Counsel who appeared for other witnesses began with the disadvantage of not having access to full information or of being unfamiliar with relevant evidence that might have been given before their client had been called. The Commissioners did not always welcome what

⁵⁰ Report, pp.61-2.

⁵¹ The Petrovs' evidence at any point of the Commission can be examined; for Counsel's objections and Windeyer's response *Tr.*, 2110-1 (19-67).

Counsel placed before them:

181. LIGERTWOOD, J. -- Mr. Miles, don't you think you might let these things stand? You are in danger of spoiling the impression which your client made on me yesterday, when I thought he was perfectly frank in his description of everything that happened in Russia. I think you ought to leave it at that. I cannot see what you are trying to do. He was frank; he gave his evidence splendidly yesterday, I thought. Here you are spoiling the whole effect.

182. MR. MILES. -- I do not think that there is anything suggesting that the evidence he is giving now - - -

183. LIGERTWOOD, J. -- It is you, not he, who is spoiling the effect.

184. MR. MILES. -- In what way am I spoiling it?

185. LIGERTWOOD, J. -- You are making unjustified suggestions, that is why.

186. MR. MILES. -- I am not giving the evidence, Your Honour.

187. LIGERTWOOD, J. -- I know, but it is your questions that are spoiling the effect.

188. THE CHAIRMAN. -- As I said before, the whole of these questions would have taken half an hour if the matter had been conducted in a sensible fashion, as other people have conducted their cases.

189. LIGERTWOOD, J. -- We got through with this witness's evidence yesterday in a very short space of time, and I think you might very well, in his own interest as well as yours, have left it as it stood.

190. MR. MILES. -- Your Honours apparently do not see that there is any significance in the fact that the Australian Security know that something happened to him in Prague.

...

200. THE CHAIRMAN. -- I think you are doing your client a lot of harm.

201. LIGERTWOOD, J. -- You are doing both him and the other one a lot of harm.

202. MR. MILES --- On behalf of my client I submit that he does not do anybody any harm but is telling you something that is important.

203. LIGERTWOOD, J. -- But you are doing him harm.

204. MR. MILES. -- Your Honours think so, but on his behalf all I am doing is getting him to give the Commission⁵² the evidence which is considered to be important.

The suggestion that a client's interests would be harmed if his Counsel did not conduct his case along the lines the Commissioners saw as "sensible" was not likely to promote a spirit of free inquiry. On one occasion, during cross-examination of Mrs. Petrov by Mr. Hill, the following exchange occurred:

625. [MR.HILL] What I want to suggest to you Mrs. Petrov is that merely because Petrov had done something wrong there was no reason, was there, why you should think that you would be punished [on her arrival back in the USSR] ? -- They spoilt everything for me. (The witness shows distress).

626. THE CHAIRMAN. -- We have had five and a half hours' cross-examination from you, Mr. Hill. We made it clear in Melbourne that it seemed to us as though you were putting this woman on the rack, and you are not going to put her on the rack while we are sitting here.

627. MR. HILL -- Your Honour, I have no such intention. I am seeking - - -

...

630. THE CHAIRMAN. -- I just tell you, Mr. Hill, that we are not going to allow you to put this woman on the rack here.

631. MR. HILL -- Your Honour, I do not propose to do that.

632. THE CHAIRMAN. -- Mrs. Petrov would like us to adjourn until after lunch? You can be quite sure that we will see to it that Mr. Hill does not pursue the course he took in Melbourne.

633. THE WITNESS. -- Yes.

634. THE CHAIRMAN. -- You would like to adjourn, would you ? -- Yes.

635. We will adjourn until half past two.⁵³

Mrs. Petrov regained her composure, and Mr. Hill was instructed to limit

⁵² *Ibid.*, 1813 (182-204).

⁵³ *Ibid.*, 707-8 (625-635).

his cross-examination. The very active role of the Commissioners in both examination-in-chief and cross-examination meant that the flow of questions was often interrupted, and before the crucial question of a series was reached, it could put prematurely from the Bench or disallowed altogether.⁵⁴

The Commissioners were most happy with Counsel who did no more than defend their clients' interests. Those who sought to probe the Petrovs or their documents actively were discouraged, as the above examples show. It was the Commissioners' responsibility to investigate and find the facts, but they were unwilling to take account of evidence that contradicted the Petrovs' story. The \$25,000 case was re-modelled to preserve the Petrovs' credibility at the expense of depriving it of hard, specific detail. The extraordinary tale of Mr. Divisek was calmly accepted, and the Petrovs' uncorroborated evidence about it adopted. Contradictory evidence of the Petrovs was overlooked, and important questions about their documents unanswered. Even outright lies did not attract the Commissioners' attention, as, for example, in Mrs. Petrov's statements that she never knew Dr. Bialoguski and her husband were discussing the idea of his staying in Australia.⁵⁵ The issues of the burden of proof, the standard of evidence required, and tests for credibility and authenticity were not satisfactorily dealt with. When Mr. K.H. Herde, the Secretary of the Commission, organised a Christmas party for the Petrovs, Assisting Counsel, the Commissioners, ASIO officers, and staff of the Commission, public confidence in the independence of the Commissioners was not restored.⁵⁶

⁵⁴ *Ibid.*, Mr. Clive Evatt's cross-examination, 1819-21, is one example.

⁵⁵ See Chapter 7.

⁵⁶ *Herald* 17-18/12/1954. The *Herald* remarked that the incident "would not help to silence the few but vocal critics who would like to discredit the Commission's work".

CHAPTER 14

ASIO AND THE ABSENT WITNESSES

The Australian Security Intelligence Organisation was closely involved with the Royal Commission, far more than was generally realised at the time. Therefore it is essential to understand the nature of the Organisation, the areas of its involvement with the Commission, and the effects which this involvement had upon the Commission's proceedings and upon the reliability of its findings.

I

ASIO was established by the Chifley Cabinet in 1949, as the Cold War was growing more intense. It operated under a Charter issued by the Prime Minister and, until 1956, had no legislative basis whatever.¹ Although both the United Kingdom and the United States had urged Australia to have its own security service, it was American pressure which played the key role. The United States made it clear that unless Australia had a security service which the USA deemed suitable, there would be no exchange of intelligence information between the two countries and the exchange between the USA and the UK would be strictly limited. American officials believed that the Australian attitude to security and to Communism was too relaxed and easy-going. Australians whom the US authorities would have

¹ The Charter of 1949, a revised Charter of 1950 and the differences between each are reproduced in Appendices 4 A-C, Hope, J., Royal Commission on Intelligence and Security, *Fourth Report*, Canberra, 1977.

classified as "security risks" had access to secret information.² Under secret treaties signed during the 1939-1945 war, to which the USA, the UK, Canada, and Australia were parties, certain conditions regulated the interchange of intelligence information between the parties. Joint international definitions of the kind of people who were considered "security risks" were arrived at. Justice Hope, in his recent Report as Royal Commissioner on Intelligence and Security, revealed that Australia must adhere to these definitions if it wishes to have access to overseas sources of intelligence, regardless of Australia's own views about what constitutes a "security risk".³ In the late 'forties, Americans were very concerned about local Communist activity in Australia; and to gain American acceptance, the new security organisation would have to share this concern. ASIO was given wide powers to determine what people should come under its notice, and amongst them were those described as "subversive". ASIO defined "subversion" in various ways, but in each case the definition borrowed its vital concepts from the Commonwealth Crimes Act, particularly from the sections dealing with "unlawful associations" and "sedition".⁴ These sections were drafted during the anti-Communist scare of the 1920s, and were quite explicitly directed against the newly-formed Communist Party of Australia. ASIO could certainly expect to satisfy American requirements for a "tough line" on Communism.

In Australia, as in other countries during the Cold War, the scrutiny of "subversive" individuals was greatly extended. At first, the Government required ASIO to carry out security checks only on members of the Public Service who were to have access to Top Secret and Secret information. As

² *National Times*, 16 May, 1977; and R. Hall, *The Secret State : Australia's Spy Industry*, Cassell, Sydney, 1978, p.41.

³ Hope, J., *Second Report*, p.42.

⁴ *Ibid.*, *Fourth Report*, Appendix H, vol. 2, pp.75-6.

a matter of course, Communists were considered unsuitable. By the end of 1950, the security checking procedures had been extended, although the strict anti-Communist criteria in no way modified, to applicants for all positions in the Third Division of the Public Service irrespective of whether the Third Division officers actually had access to Secret or Top Secret material. In 1953, the same checking and criteria were further extended to cover access to Confidential and Restricted material and, at the same time, to all applicants for all positions in the Public Service.⁵ If a Department received an adverse security report on an applicant, it interpreted the report almost always as an automatic veto on the proposed appointment.⁶ What was envisaged as a security measure for secret information, in fact became a loyalty test imposed on all Commonwealth Government employees. There was no appeal against an adverse assessment, and so the applicant for any position would not know upon what basis an adverse report might be given. The information might be incorrect or misinterpreted. ASIO liaised regularly with State Police Special Branches. In the South Australian case at least, Acting Justice White's inquiry revealed that the ASIO-Special Branch liaison was on an intimate daily basis. Through the Special Branches, information was collected on still more people and from still greater numbers of informants.⁷ The influence of security checking was therefore spread even wider than Commonwealth authorities.

"Subversive" was a term which was very loosely and freely applied. ASIO had under notice a whole range and variety of people who had manifested no greater subversive intent than to participate in some activity or organisation in which Communists were also active. Justice Hope observed:

⁵ *Ibid.*, *Second Report*, pp.17-23.

⁶ *Ibid.*, pp.35-38.

⁷ *Ibid.*, *Fourth Report*, Vol. 2, pp.212-3; and Acting Justice White, *Special Branch Security Records, Report* (henceforth White Report), South Australia, 1977, p.3.

...in the past, ASIO officers have shown a tendency to think of anyone they choose to call "left-wing" as subversive.

Acting Justice White wrote about the South Australian Special Branch:

I have no doubt that the arbitrary centre point (left of which one became "radical") was established by Special Branch with the assistance of ASIO, either by means of information fed into Special Branch by ASIO as being relevant to security, or by ASIO's periodical training sessions of State Special Branch officers at seminars.

ASIO led the way, and the State Police Special Branches appeared to have followed, in acting as an instrument of the Cold War, dependent on or greatly influenced by overseas sources for its definitions of security.¹⁰ It was far from certain at the time whether Australia's own conditions required the stance that was urged upon the Government.

ASIO presented itself to the Espionage Royal Commission and to the public as the fourth arm of Australia's defence forces, entrusted with the nation's vital interests and above politics.¹¹ Yet the breadth of its anti-Communism which was the essence of its foundation, and the rapid extension of its activities demonstrate that ASIO was itself political. It should not have commended itself automatically to the Commissioners as a source of impartial information. Moreover, ASIO played an active political role; it took the initiative and did not merely wait to carry out duties assigned to it by the Government. Justice Hope discovered that ASIO had a Special Projects Section which prepared material for use in a number of ways outside its official responsibilities. These included "covert spoiling activities": secret action which would render ineffective or counter-productive political activities organised by other groups, "counter-propaganda activities":

⁸ Hope, *Fourth Report*, Vol. 2, p.131.

⁹ *White Report*, p.4.

¹⁰ *Ibid.*, p.25.

¹¹ *Report (RCE)*, p.298.

the publication of material to weaken or undermine political publications of other people, and the compilation of papers and studies from ASIO records for the use of individuals and groups outside ASIO and outside the Government. ASIO also directly released some of its information to the media.¹² In this way, ASIO had organised its own secret but direct involvement in political affairs.

The defection of the Petrovs illustrated ASIO's political independence and the lack of Government supervision. Mr. Menzies' official statement as leader of the Government was that he had not known of Mr. Petrov's defection until a few days before it was officially announced. Later, Menzies retracted this statement, saying that Brigadier Spry had briefed him on the possibility of a defection on 14 February, 1954.¹³ ASIO was given a remarkable degree of latitude. It had initiated an operation as early as 1951 to procure the defection of Vladimir Petrov, an official with whose Government Australia had established diplomatic relations. ASIO was not required to consult officially with the Minister responsible for directing foreign policy, even though the defections were to lead to the termination of diplomatic relations. The political consequences of the defections were also far-reaching. No discredit need be attached to a Government authorising a counter-espionage operation where evidence of espionage was placed before it, but for the Government to have pleaded total ignorance of the Petrov operation almost until its completion demonstrates its lack of supervision. ASIO had, in effect, a greater capacity to control Australia's foreign relations with another country than the Government. This fact confounds the notion that ASIO was above politics or merely the servant of Government, and demonstrated that ASIO had a very

¹² Hope, *Fourth Report*, Vol.2, pp.130, 159.

¹³ See Chapter 4.

great capacity for independent political intervention.

At the Royal Commission, ASIO was identified with the two chief witnesses. On ASIO's behalf, Dr. Bialoguski had spent three years enticing Mr. Petrov from his post at the Embassy. Afterwards, Mr. Petrov and his wife were held in ASIO's safekeeping. ASIO paid the £5,000 that had been promised and saw that the Petrovs were housed, fed and clothed. It escorted them wherever they went: to the Commission hearings, to the cinema, to Assisting Counsel's home. In return, the Petrovs had defected; they had provided ASIO and other overseas intelligence officers with secret information; and they discovered that they had to go through hours and hours of examination in what seemed an interminable Royal Commission. During the Commission proceedings, ASIO was constantly with them. At first, some excitement was created by Brigadier Spry's Press statements that the Petrovs were in fear of their lives.¹⁴ But as time wore on, it must have been a very wearying process for the Petrovs to produce a stream of written statements concerning a great many people and events. ASIO was always involved in obtaining these statements from the Petrovs. Sometimes the Petrovs would volunteer information which ASIO took down, on other occasions ASIO sought elaboration or explanation of particular matters. To help the Petrovs remember all that was required of them, ASIO placed its resources at the Petrovs' disposal. For example, if Mr. Petrov was uncertain when he had met a certain person, ASIO provided a schedule of Petrov's and perhaps the other person's movements from its own records so Mr. Petrov could fix the time and place of meeting more exactly. Or, as in the \$25,000 case, ASIO gave the details concerning the entry and departure of Soviet diplomatic couriers for 1953. The evidence the Petrovs gave to the Commission was not their own unaided recollection, because it benefited from ASIO's assistance. Justice Philp

¹⁴ *Tr.*, evidence of C.C.F. Spry, 779-80 (291-310).

likened ASIO's position to that of solicitors.¹⁵ An observer of four American defectors from Communism gives a different description of the type of situation the Petrovs were in:

All those witnesses have admittedly profited financially from their role as denouncers of the hated Communist conspiracy. While they cannot be blamed for wanting to salvage what they could from the wreckage of their lives, their interest in being "useful" is obvious. And "useful" has meant, all too often, useful to the immediate political purposes of their interrogators.¹⁶

Like those other defectors, the Petrovs knew that their whole future in Australia depended upon ASIO's goodwill. Even the most scrupulous witness would have felt enormous pressure to give "useful" as well as truthful evidence. ASIO was not a firm of solicitors, and the Petrovs could not be sure that their new protectors might not become their gaolers. If the Petrovs felt apprehensive, the Commissioners did nothing for their ease of mind by allowing ASIO to supervise them so closely.

II

If the Commissioners had separated ASIO from the Petrovs, they would have found the Petrovs' evidence meagre. The Petrovs did not know a very large number of the witnesses who allegedly had contact with the MVD. Thirty-four people were called as witnesses because their names appeared in the Sadovnikov notes. Because the Petrovs had never made any use of the notes, twenty-eight witnesses were entirely unknown to them. Even though the people mentioned in the notes might have been useful and important MVD agents, Mr. Petrov explained that he refrained from any dealings with them, because Moscow had not given him any instructions that he should contact them.¹⁷

¹⁵ Philp, J., *Ibid.*, 2297 (141).

¹⁶ H.C. Packer, *Ex-Communist Witness : Four Studies in Fact-Finding*, Stanford, California, 1962, pp.225-6.

¹⁷ For the various statements re the Sadovnikov notes, in packet "N" or otherwise, see Chapter 13. Appendix I provides an analysis of witnesses and what the Petrovs knew of them.

The 1952 Moscow Letters and the notes taken from the 1953 correspondence contained the names of twenty-nine witnesses. The Petrovs should have been able to expose a great deal more about these people, since they were individuals with whom the MVD had been dealing while the Petrovs were in Australia. The Moscow Letters had issued quite definite instructions concerning twenty-one of the twenty-nine witnesses.¹⁸ "Instructions", the Commissioners noted, "were to be carried out to the letter in the manner directed and no deviation from the directions was permitted". Control by Moscow over its MVD workers in Australia was described as "intensely strict".¹⁹ Mr. Petrov was most fastidious in observing Moscow's instructions when he was ordered to refrain from activity. He was scrupulous in doing nothing unless he received the most explicit directive, but his attitude to positive instructions was quite different. Moscow issued thirty-seven instructions about twenty-one witnesses. Mr. Petrov failed to carry out or disobeyed twenty-one of these instructions; five were carried out inadequately; and there was no evidence given concerning the response to two others.²⁰ Only on nine occasions out of the thirty-seven did Mr. Petrov do as he was ordered. It was therefore not surprising that, even where the Petrovs did make contact with witnesses named in the Moscow Letters, their contact was usually entirely innocent.

Analysis of the Petrovs' evidence shows that from their own experiences they made charges against only eight witnesses. Three, O'Sullivan, Throssell, and the Communist journalist Rex Chiplin, appeared in the Moscow Letters; whilst four, comprising Sharkey, Fridenbergs, Lockwood, and a Communist official called Hughes, were not referred to in any documents at all. The last witness against whom the Petrovs said anything, was

¹⁸ Appendix II provides a detailed analysis of the Moscow Letters and instructions therein.

¹⁹ *Report*, p.73.

²⁰ See Appendix II.

Mr. Divisek, whose name was copied from an MVD file.²¹ The most sensational allegations that the Petrovs made were against a person named in the Moscow Letters, but who could not appear as a witness because she had been arrested. Madame Ollier was put on trial in France. After a considerable delay which, she alleged, was caused by pressure from the Australian authorities, she was charged before a military tribunal, not with espionage, but with a failure to reveal an attempted breach of the security of the State. She was acquitted and later re-instated in the French foreign service.²² The number of witnesses against whom the Petrovs made charges at the Commission was not substantial. If the Commissioners had only added to that number by hearing and investigating those witnesses about whom the Sadovnikov notes suggested improper behaviour, then there would have been a grand total of eleven witnesses called to account for themselves.²³ The Commission would have been much shorter.

III

The Commissioners were confronted with a string of names on various documents about whom the Petrovs could say nothing at all or nothing that was concerned with espionage. One witness, in the course of his examination, expressed surprise at Junior Assisting Counsel's knowledge of his Army career. A particular detail had been mentioned which was not in the MVD documents. The following explanation was offered:

162. MR. WINDEYER. -- Mr. Riley [Junior Assisting Counsel] knew that he was a sergeant. I take it my friend does not think that no inquiries are made at all about people mentioned in the documents

163. THE CHAIRMAN. -- Of course inquiries are made about persons mentioned in the documents.²⁴

²¹ Appendix I.

²² See Madame Ollier's account in Tennant, *op.cit.*, pp.370-6.

²³ Appendix I.

²⁴ *Tr.*, 1812-3 (162-3).

From this and other incidents at the Commission, it became quite clear that ASIO supplemented very extensively the information about people that the Petrovs or the documents themselves gave. The bulk of this information about witnesses came from ASIO's own files, although other material was provided by overseas intelligence organisations through their ASIO contacts.²⁵ Official records from Government Departments and private companies and associations were obtained under sub-poena by the Commission itself.

ASIO's information-gathering resources in Australia were far greater than those possessed by the Petrovs or the MVD. It had considered itself entitled to open letters, to instal listening devices, and to intercept telephone calls, long before any of these practices were given legal sanction by Parliament.²⁶ The taking of car number-plates outside political meetings, the surveillance of individuals, and the penetration of organisations under ASIO's notice were commonplace. Dr. Bialoguski himself had personal experience within the peace movement and the Russian Social Club that enabled him to obtain information about a number of people called before the Commission. Assisting Counsel sifted through this material and questioned witnesses about items that seemed significant. This was so much a standard practice at the Commission that it was remarkable only if ASIO had not provided Assisting Counsel with additional information about a witness.²⁷ With seven important witnesses, including Clayton, their relationship to the documents was entirely incidental to the main body of questions, which dealt with information that ASIO had provided. ASIO found

²⁵ *Report*, p.60; one example of overseas information is the Fridenbergs case, *Tr.*, 1320-1.

²⁶ Hope, J., *Fourth Report*, Vol.2, pp.84, 86, 149, 151, 158, 161.

²⁷ Using the *Transcript* alone many examples of ASIO's activity can be found, viz: surveillance 343 (286-96), car number plates 1945 (1016-47), opening mail in war time 2624 (326); see also Bialoguski, *op.cit.*, pp.27-61.

the whole idea of the Royal Commission quite amenable, as Brigadier Spry explained:

I was consulted as to my views on the merits, from the Australian Security Intelligence Organisation's point of view, of holding a Royal Commission. I supported it... I considered that it would have been impossible for its officers to have interviewed all the witnesses who were subsequently called before the Royal Commission with any degree of co-operation and effectiveness.²⁸

The Commissioners found ASIO very useful in supporting the Petrovs' evidence and filling out details about various people. So useful did they find what ASIO provided, that two significant cases, concerning H.B. Chandler and G.R. Oke, were heard before them although they were not connected in any way with the MVD or the Russians. In Mr. Chandler's case, ASIO had seized documents in a raid on his home, amongst which they found a list of cars used by ASIO. Evidence on this matter was based entirely on material collected by ASIO.²⁹ Mr. Oke was called to answer questions concerning a woman intelligence agent who had sought admission to the Communist Party through him. This operation was conducted, not by the MVD, but by Inspector R. Whitrod of the Australian security service, and bore no connection with MVD plans whatsoever.³⁰ Without ASIO's assistance, the Commission could never have taken the course it did.

ASIO's information depended on its sources for its reliability. The American experience in this regard may be comparable, since ASIO shared similar preconceptions and pre-occupations to the American security and intelligence organisations. H. Rositzke, drawing upon twenty-seven years' experience with the O.S.S. and the CIA, in an article that was by no means hostile to the American agencies, wrote that

²⁸ C.C.F. Spry - *National Times*, 3-8 September, 1973, p.34.

²⁹ *Tr.*, 2860-2886, 2835-60; evidence of ASIO officers, and Chandler in secret session.

³⁰ See, *Tr.*, evidence of Mrs. "A", ASIO agent, re G.R. Oke, 2687-90, 2704 (79), 2718-9; and G.R. Oke, 2722-7.

The counter-espionage files were rapidly filled ... with the names of tens of thousands of Soviet "agents" that poured in from emigres, intelligence mills, friendly security services and AIS [American Intelligence Service] contacts. Anyone a friendly "source" did not like became a Soviet agent....³¹

The Cold War saw manifold opportunities for furthering private hatreds and jealousies through secret denunciations of fellow citizens as Soviet agents. It would be wrong to deny that Soviet agents did exist, but the identification of espionage with political dissent and non-conformity in behaviour was an improbable means of discovering them. The Soviet agents like Philby and Blunt presented themselves in images acceptable to prevailing opinion and did not engage in overt political activities. The symptom of the period which Rositzke noticed in America was also evident in Australia. Acting Justice White found that the S.A. Special Branch files contained "scandalously inaccurate" material, whilst Justice Hope felt that an appeals procedure ought to be instituted as a safeguard against unreliable adverse security assessments.³²

At the Royal Commission on Espionage the problem of the reliability of ASIO informants emerged in a number of cases, although it was not resolved. The witness Charles Dakin, who made confident allegations against Mrs. Throssell to ASIO in secret but was forced to withdraw them under public cross-examination, is one example. In the Clayton case, Mr. Richards of ASIO admitted that he had used the Communist defector Sharpley to confirm some of his views about Clayton, even though Justice Lowe believed that Sharpley's word ought not to be relied upon unless corroborated. ASIO supplied statements to the Commissioners from unidentified East European immigrants about Mr. Platkais of the Soviet Embassy, which were accepted as

³¹ H. Rositzke, "America's Secret Operations : A Perspective", *Foreign Affairs*, Vol. 53, No. 2, January 1975, p.339.

³² *White Report*, p.7., Hope, J., *Second Report*, p.64.

evidence even though they were never tested by the Commissioners.³³ The sources of information for the great majority of ASIO's records were never revealed, let alone summoned for examination by the Commission. By their very nature, security files tended to interpret the information in the worst light: suspicious evidence was collected, innocent material was not. Thus, in most cases where ASIO files were used by Assisting Counsel, the witness was being faced with charges in the absence of his or her accuser. Counsel appearing for some witnesses argued that unless material was related strictly to charges of espionage, it ought to be ruled irrelevant to the Commission's Terms of Reference. Matter concerning their client's political views and activities was, they argued, outside the scope of the inquiry. The Commissioners strenuously resisted these arguments on the grounds that a witness's political views might be the very thing which attracted the MVD's attention in the first place.³⁴ Therefore until all the material had come out, it was not possible to say if it were relevant or not. As the Commission progressed, the great overlap of people mentioned in the MVD documents and who were also under ASIO's notice only served to convince the Commissioners even more strongly that they were correct in their ruling. On the face of it, there seemed to be no reason at all why some witnesses should have come to the MVD's attention, but the common factor turned out to be some association, however short-lived, with Communism or activities in which Communists were involved.³⁵ Not only did the Commissioners feel that this factor confirmed the authenticity of the documents, but also that it demonstrated the efficiency of ASIO. When he first announced Mr. Petrov's defection, the Prime Minister had pointed out that many of the people named in the documents had already

³³ Tr., Exhibits 484, 495, 496; 2627.

³⁴ Tr., Rose 1373 (969, 984); Dixon 1450 (215-6); Chandler 2385-6 (28-57).

³⁵ Ch. 9 of their *Final Report* takes up these themes.

been under ASIO's scrutiny. Assisting Counsel, in opening the Commission, alluded to the same thing.³⁶ ASIO's prior knowledge of so many people mentioned in the MVD's secret despatches seemed to vindicate the Organisation's procedures.

When the pressure of the Cold War seemed to be easing and more people were questioning the need for surveillance of and counter-propaganda against Communist activity, the Commission provided a public forum where ASIO could show how vital its work had been and still was. The benefit to Australia of ASIO's constant Cold War vigilance was evident from the MVD documents themselves. They complained of the ineffectiveness of MVD work, and in their evidence the Petrovs described the fear MVD workers had of ASIO's powers of detection. One explanation for Mr. Petrov's failure to carry out instructions sent by Moscow was his consciousness of ASIO.³⁷ To the Commissioners, everything seemed to point towards a continuation by Moscow of designs against Australia rather than any genuine search for peaceful accommodation with the West. The Commissioners obliterated any distinction between subversion of the country motivated by a foreign power seeking domination over Australia and domestic political activity motivated by a desire to reform or change completely Australia's economic and political system.³⁸ This confusion of two distinct phenomena was later enshrined in the ASIO Act of 1956, which placed the role and functions of the Organisation on the statute books.³⁹ The Royal Commission on Espionage played its part in seeking to uphold the view of national security that had been first established

³⁶ Menzies, *CPD*, H. of R., 13 April, 1954, p.326, Windeyer, *Tr.*, 4.

³⁷ *Report*, pp.232-4, 118.

³⁸ *Ibid.*, pp.99-101.

³⁹ Hope, J., *Fourth Report*, Vol.2, pp.38-9.

in the early Cold War years.

The production of ASIO's compendious files about witnesses had unintended consequences. Precisely because ASIO seemed well-informed about so many witnesses, some people suspected that ASIO had helped to forge Mr. Petrov's documents.⁴⁰ Mr. Petrov himself seemed so ignorant of people who were meant to be key agents, so inept at carrying out duties secretly that his closest confidant was an ASIO agent, and so disobedient of Moscow's orders, that he seemed an unlikely chief for the Soviet espionage service in Australia. The problems already discussed concerning the authenticity of the documents and the credibility of his and his wife's testimony added to people's suspicions.

Strange features in the evidence concerning some witnesses do raise difficult questions. Two witnesses visited the Soviet Union as part of a delegation, and were subsequently brought before the Commission because their names appeared in the Moscow Letters in connection with the trip. Letter No.1 of 2 January, 1952 said:

While he was in Moscow, Russell, together with N. Isaksen, another member of the delegation, secretly and without telling anyone visited the British Embassy, where he spent several hours. The following day they explained their absence by saying that, having gone out for a walk they allegedly met a young Russian who spoke English, who invited them to a restaurant where they sat for several hours.⁴¹

Both men had visited the Embassy, but they denied that they were ever asked about their absence or that they had offered the excuse stated in the letter. They believed that their visit to the Embassy had remained a secret to the Soviet authorities, but that it had been made known to

⁴⁰ Brown, *op.cit.*, and Whitlam and Stubbs, *op.cit.*, both reflect this.

⁴¹ *Report*, p.317.

ASIO in 1952. On their return to Australia that year, Isaksen's diary, in which he had recorded the incident, was seized by Customs officials and passed on to ASIO.⁴² There were a number of other cases where information would have been well known to or easily discovered by ASIO but difficult for Moscow to know. Dr. K.K. Barris, who had emigrated from Greece, worked for the Australian war-time security service. He was not involved in any way with the Communists, except that he had come under notice from the Australian authorities for sponsoring an old school friend as a suitable immigrant to Australia. This friend was a member of the Greek Communist Party. The Commissioners were unable to determine who provided Moscow with the information that Barris was "regarded as a leftist" by "members of the security service".⁴³ Mr. Divisek, who had made his activities known to security authorities within two weeks of his arrival in Australia, had been sought by Moscow. Mr. Petrov said Pakhomov was told to inquire at a restaurant to see if Divisek was working there. Since all communication between Divisek and the MVD had stopped when Divisek arrived in Australia, Moscow had no way of knowing that he had in fact worked in that restaurant.⁴⁴ The Moscow Letters also mentioned the addresses of a couple of people who denied any affiliation with the Communist Party or correspondence or contact with the Soviet Union. While Australian officials would have had the addresses, because the people were recent immigrants, the Commissioners had no explanation of how the MVD had obtained them.⁴⁵ Such incidents certainly did not prove that ASIO had supplied Petrov with information rather than the MVD, but they remained problematic.

⁴² *Tr.*, 1800-1, 1810 (42-55) re diary.

⁴³ *Report*, p.240, *Tr.*, 1648 (398), 1650 (467-473).

⁴⁴ *Report*, pp.260-1.

⁴⁵ Re Grey and Popova *ibid.*, p.234, and Shaker, p.280.

IV

ASIO seemed extraordinarily well prepared for the Royal Commission, as examples from the Clayton case showed. By 1953, ASIO already had in its possession sworn statements from Miss Bernie, the woman who had worked in Evatt's office, and Miss Barnett, the External Affairs official who had walked around the block with a strange man. It had interviewed Mr. J.F. Hill who was allegedly mentioned on "Contacts K". All the information about Throssells had been obtained from the investigation of Mr. Throssell in 1953 and the discussions with Charles Dakin in 1953 and 1954. George Legge had also been questioned in 1953, and Fred Rose was under surveillance. Dr. Burton, it will be recalled, was startled at how little new material the Petrovs had provided. In the Clayton case, their only contribution was the strange list of "Contacts K" and the Tennant's address.⁴⁶

There is now evidence to suggest that the picture of Soviet espionage which ASIO presented at the Royal Commission had been conceived much earlier. The immediate stimulus for the creation of ASIO was the visit to Australia of British MI 5 officers carrying information about some officers in the Department of External Affairs. The only person briefed on the material who has been prepared to comment on it is Dr. Burton, who maintains that there was no evidence in the legal or popular sense against the officers concerned except that they had "suspect relatives".⁴⁷ Certainly, after they had been investigated, it was not considered necessary to take action against them. Brigadier Spry, then head of Military Intelligence, believed that Dr. Burton was too trusting; and this disagreement was reflected in tensions between the Department of Defence and the Department of External Affairs concerning security policy. Burton and

⁴⁶ See Chapter 10.

⁴⁷ Letter to author 5/12/78.

Spry also differed over the question of passing security intelligence information on to the appropriate Ministers, with Burton believing that Spry wished to set up a secret clique of officials over and above the elected Government. Spry has denied this, but he did insist on greater secrecy than Burton.⁴⁸

At first, ASIO was led by Mr. Justice Reed and by other senior officers who have been since pictured as more "moderate" than Spry. Nevertheless, such was the impression made by the Gouzenko revelations in Canada, that from the very outset ASIO believed that a similar Russian espionage network must exist in Australia.⁴⁹ When ASIO was first set up, it had little hard information, but overseas agencies encouraged ASIO to pursue the course of inquiry and action that had yielded such striking results in other countries. The model presented to Prime Minister Chifley in August 1949 by a senior ASIO officer was this:

When asked my view as to what we were chasing I stated that on the information available at the present time there would probably be two organisations operating for the collection of information, via: (a) a Russian military intelligence "net" similar to the ones revealed by GOUZENK (sic) and operating in USA and Canada as revealed by the SPRINGHALL-COLEMAN combination in U.K.; and (b) a local political-cum-departmental gossip organisation which might also deal with commercial and industrial matters. Group referred to in (a) above would be top-level personnel and hard to crack and unless additional data came through overseas and it was probable that it would, we might not crack this for about two years or until we were fully functioning. Group (b) I thought to be low level material for the new organisation to sharpen its teeth on. ...I said these were largely superficial observations influenced by Courtenay Young and his overseas colleague.⁵⁰

⁴⁸ Whitlam and Stubbs, *op.cit.*, pp.25-26.

⁴⁹ Hall, *op.cit.*, pp.42-3, Rastrick, *op.cit.*, notes that Reed was calling for action against Communists and "fellow-travellers" in the Public Service, p.31.

⁵⁰ Copy of memorandum of discussion between the Prime Minister and a senior ASIO officer, August 1949, File: Security, Evatt Collection.

Deputy Director Richards' evidence at the Commission confirms that ASIO accepted this model early in its history, and that it did not alter it when Brigadier Spry took over as Director-General of ASIO in 1950.⁵¹ The witness called before the Royal Commission were not top-level espionage personnel and they were not accused of any association with the Russian military intelligence network. They were cast into the role assigned to ASIO's Group (b), people who communicated "local-cum-departmental gossip". High level security matters would not have been brought out at a public inquiry.

There was another overlap at the Commission with the pattern of Soviet espionage that had been presented to Chifley. In the 1949 briefing, Chifley had been told:

...in my opinion the man we identified from the MI 5 data was not actually a spy as such but could be classified according to MI 5 standards as either a "talent scout", or a liaison officer between the Communist Party and some Russian official.⁵²

Walter Clayton, the Commissioners were informed, had been suspected by ASIO of filling this part; and the Commissioners themselves used the term "talent spotter" when describing him.⁵³ There is some evidence to suggest that ASIO deduced Clayton's role from pre-conceived ideas more than from observation. ASIO decided that Clayton was the prime suspect because his position on the Communist Party Control Commission would give him, ASIO thought, the information which he would require to carry out his espionage work.⁵⁴ ASIO did not suggest that Clayton had drawn attention to himself as a spy for any other reason than by virtue of his office and his ideology. Other observers had seen nothing concrete in Communist Party officials' behaviour to support ASIO's suspicions. The US Embassy

⁵¹ Richards' thesis re Clayton was developed in 1949, *Tr.*, 2545-6(578-584).

⁵² Memorandum see note (50).

⁵³ *Report*, p.153.

⁵⁴ Richards, *Tr.*, 2546 (594).

took an active interest in what Australian Communists were doing, and received confidential material about them from Australian security officials. In 1950, after Clayton had allegedly been directing Klod's group, the Embassy reported to the State Department that "evidence of any connection of the Communist Party with the Soviet Embassy is lacking".⁵⁵ Cecil Sharpley, who published his book *I Was A Communist Leader* in late 1949, wrote:

Soviet Russians in Australia, who are almost entirely confined to the staff of the Soviet Legation, have to my knowledge nothing to do with Australian Communists.⁵⁶

These clues suggest that Clayton and the External Affairs officers, whom MI 5 had brought under suspicion in 1948, were summoned before the Commission on the basis of scant information.

V

Though the Commissioners welcomed ASIO's extensive contribution in collecting information, they did not highlight its true significance. The limited experience of the Petrovs would have established little. Much of what they said was inconclusive and sometimes contradictory. ASIO not only supplemented their evidence with a great amount of information, but they also helped the Commission make a pattern and an order into which the Petrovs' evidence and the MVD documents could be cast. The Clayton case, which involved more witnesses than any other, was about MVD schemes of the late 'forties in Australia. The Petrovs were ignorant of these matters, but ASIO had given them a lot of thought. It believed that the Australian Communist Party had provided a liaison between the MVD and its agents in positions of public trust. Once this coherent pattern had been presented,

⁵⁵ *USFR*, 1950, Vol. VI, p.195; CIS compiled reports on Communist activities for the US Embassy see Attorney General: Commonwealth Investigation Service CRS A467, SF No. 42, Bundle 89 [36], Australian Archives.

⁵⁶ Sharpley, *op.cit.*, p.21.

the Commissioners, Assisting Counsel, the Petrovs, and ASIO all became identified with each other not simply because they had a common interest in rebutting the claims of their detractors, but also because they each supplemented the information placed before the Commission with their own interpretations and recollections. This situation, where the chief witnesses, Assisting Counsel, respected Justices, and the nation's security service all stood together, was perilous for each and for all. Apart from the merits of their arguments, they were protected only by the secrecy of ASIO's records and the non-appearance of most of ASIO's officers and informants.

CHAPTER 15

THE COMMISSION'S OPPONENTS

Opposition to the Royal Commission and denunciations of the Petrovs began almost from the moment that the Government announced Mr. Petrov's defection and the establishment of an inquiry. At first, this criticism was confined to the Communist Party, but it grew to a wide cross-section of the community representing a substantial body of opinion. The Commissioners suggested that the campaign waged against it was essentially "Communist-inspired".¹ Investigation shows that while the Communist Party played an important role, the various opponents had their own reasons for being against the Commission and they preserved their independence.

From the outset, the Communist Party was worried that the Petrovs would be used to make dragnet accusations of a Soviet-Communist espionage conspiracy. The creation of a Royal Commission prompted the Victorian *Guardian* to argue that a *bona fide* case did not exist. If it had, the most likely procedure would have been to arrest people and have them committed for trial.² A Royal Commission might extract information which could be used against people at a later date. The Communist Party was not only concerned with the potential dangers of the Commission, but also the immediate wave of hostility towards Communism that had been aroused by the circumstances of Mrs. Petrov's defection. Few people were convinced that the wild confusion at Sydney Airport and Mrs. Petrov's distress were planned by Mr. Menzies.

¹ Report, pp.100-1.

² *Guardian*, 14 April, 1954.

Prominent ALP figures sought to reflect the public mood by endorsing the Commission and promising to bring offenders to justice.³ The use of the Petrovs for electioneering by some prominent Government members offered the Communist Party a means of breaking down its isolation. Communist propaganda sought to win over the ALP rank-and-file by arguing that the whole affair was not merely devised to hurt the Communist Party but also to ruin the chances of the Labor Party at the elections.⁴ Nonetheless, few prominent figures suggested publicly that the defections or the Commission were suspicious, although Dr. Evatt did make some cautious but critical remarks about the role that the Petrovs were assuming.

The Labor Party's loss at the elections did not immediately serve the Communist campaign, since major factions in the Party were preparing to contest the leadership and the Royal Commission seemed irrelevant to this struggle. The early sittings of the Commission, with the first public appearances of the Petrovs, attracted favourable publicity and provoked continued hostility to Australian Communists. When Mr. Hill went up to the High Court building in Melbourne to enter his appearance on behalf of Rupert Lockwood, he and his instructing solicitor, Mr. Ralph, were jeered by angry spectators. As they left the Court, one man threw a bottle of brandy at them, a reference to Mrs. Petrov's evidence that Lockwood wrote Document J for £30 and three bottles of brandy.⁵ People still queued up outside the Commission for admission to the public gallery; the seats inside were usually all taken; and the feelings of spectators were largely very hostile to the Communist Party.

The aim of the Communist campaign was to bridge the division between itself and the public. During the elections, 850,000 Communist leaflets

³ See Chapter 4, *Tribune*, 21 April, 1954, criticised the ALP for supporting the Commission.

⁴ Re 'election stunt' see *Guardian*, 22 April, 1954.

⁵ Interview with E.F. Hill, 9 November, 1978.

were issued which took up the theme of the Petrovs as an "election stunt".⁶ Even before the Commission held its first sittings in Melbourne, the first of a stream of little pamphlets appeared about it. The production of Rupert Lockwood's *What is In Document J?* was the outstanding success. It seized upon the great public curiosity about the secret documents in the Commission's possession and turned it to account by developing the other key theme that Communists used against the Commission: the increasing American penetration and political influence in Australia. Lockwood's pamphlet was only part of a Communist argument that Australian workers and small business proprietors had more to fear from the pro-American sympathies of the Menzies Government and from the power of American corporations, than from the Communist Party.⁷

The Council for Civil Liberties and, in particular, its General Secretary Brian Fitzpatrick, became one of the staunchest opponents and sharpest critics of the Commission. From the beginning, Fitzpatrick engrossed himself in the Commission's proceedings, and read the Transcript minutely. In July 1954, he published his first views on the Commission in an issue of the Council's journal *Civil Liberty*. He singled out the Commissioners' excessive involvement in the examination of witnesses and the inconsistent treatment that witnesses were given. Fitzpatrick saw this inconsistency as political discrimination and as a departure, by the Commissioners, from the appropriate standards of judicial behaviour. The fact that no spies had been unearthed further aroused Fitzpatrick's suspicions that the Commission was far more a political than a judicial exercise.⁸ It is a sign of the intense public interest that surrounded the Commission in these early days that five thousand copies of *Civil Liberty* were sold within the

⁶ *Guardian*, 3 June, 1954.

⁷ *Ibid.*, 20 May, 1954, *Tribune*, 22 September 1954 announced the release of Lockwood's new book *America Invades Australia*.

⁸ *Civil Liberty*, Vol.11, No.1.

first five days of publication and that a second edition had to be printed to meet public demand.⁹ This thirst for information may be partly attributable to the secrecy with which the Commission guarded the documents it was investigating. Many people were eager to read whatever they could to find out what was really going on. Still, it is significant that such a critical review of the Commission found such a ready audience.

This distrust deeply concerned the Commissioners, since the Council for Civil Liberties had the patronage of numerous respectable public figures. Assisting Counsel took the unprecedented step of producing the July issue of *Civil Liberty* before the Commission in an attempt to rebut the claims the author had made. Mr. Windeyer suggested that Fitzpatrick was using the respectable patronage of the Council as a vehicle for his own erroneous private views, and Windeyer cast the Council itself in a vaguely sinister light by reminding the Commissioners that the body had been investigated by Justice Lowe's Royal Commission on Communism in Victoria in 1950.¹⁰ There could be little doubt in people's minds that Mr. Windeyer was implying that Fitzpatrick manipulated the Council to make it serve as a "Communist front". Leaving little to the imagination, Windeyer said:

I suppose one does not expect complete candour in any polemical literature, and evidence has already been put before Your Honours of dishonesty in Communist-inspired documents. But this document is in a different and, it seems to us, rather special position. To anyone reared, as many people have been, in a liberal tradition, and nourished on common law, the cause of civil liberty must have some special appeal; and, if I may say so, it must give some concern if one finds that cause used as a stalking horse by people who would stifle inquiry or subvert liberty.¹¹

Assisting Counsel's suggestions were themselves less than completely candid. It was true that Justice Lowe had made some investigation of the Council for Civil Liberties, because Fitzpatrick was charged by Cecil Sharpley of being imbued with a deep personal sympathy for Communism. Fitzpatrick had

⁹ B. Fitzpatrick, *On Royal Commissions*, Melbourne, August, 1954.

¹⁰ *Tr.*, 383 (109), 385 (141).

¹¹ *Ibid.*, 383 (111).

appeared before Lowe to explain what his position was. If the Communist Party approached him concerning a possible violation of civil liberties, he was willing to be open-minded. Politically, he was sympathetic to the Communist Party, as he was to the ALP, but only to the extent that both advocated socialism. He was not a Communist nor was he a member of the Communist Party. Justice Lowe, far from being convinced that the Council was a "Communist front", made no finding for or against it, and he seemed impressed with Fitzpatrick's evidence and integrity.¹²

Fitzpatrick was not given the opportunity by the Royal Commission on Espionage to come before it and answer Assisting Counsel's allegations, and so he did it through more pamphlets.¹³ He also attended the Commission's hearings, and offered what help he could to Counsel such as Dr. Evatt and Mr. Hill in an effort to assist people whom he believed were wrongly brought before the Commission.¹⁴ Because Fitzpatrick's role could not be easily portrayed as that of the "Communist dupe", his opposition to the Commission, and that of the Council for Civil Liberties, commanded respect from circles well beyond the Communist Party.

The inclusion of sections of the Labor Party in the widening opposition to the Commission was sought by the Communists but only made possible by the Commission itself. Evatt, as Leader of the ALP, was forced into opposing the Commission through the involvement of his own staff in the Document J episode. If it were true that Dr. Evatt employed staff who would help Communists supply information to the Soviet intelligence service, then Evatt himself would naturally forfeit public trust. The Clayton case also concerned him, though to a far lesser degree than the Communist Party, because Miss Bernie had been employed in his Sydney office from which she took information to Clayton. The fact that charges were made against Exter-

¹² Rastrick, *op.cit.*, pp.162-3.

¹³ B. Fitzpatrick, *On Royal Commissions; The Royal Commission on Espionage*, C.B. Christesen, Melbourne, 1955; *Civil Liberty*, No. 3.

¹⁴ Interview with E.F.Hill, 9/11/78.

nal Affairs officers and that the former Permanent Head of the Department, Dr. Burton, was featured on "Contacts K" also reflected on Evatt. During the period in which the Petrovs alleged that this "serious situation existed in the Department", Dr. Evatt had been the responsible Minister. Evatt fervently believed that the Commission had been conceived and established for the express purpose of injuring him. Evatt saw this as the central and most significant aspect of the Commission and therefore pictured his own opposition to the Commission as the most important factor.¹⁵ His presence at the Commission and his public criticisms of it in the Press and Parliament were important factors in broadening the campaign against the Commission.

Evatt saw an attack on himself as an attack on his Party, and his supporters in the ALP also expressed their opposition to the Commission on a similar basis. Yet, however one examines the Commission, the principal target was the Communist Party, not Dr. Evatt and not the ALP. The political views and affiliations of witnesses subject to criticism varied, but the largest single group were Communists. Out of the eighty-four witnesses whose behaviour was the subject of inquiry, twenty-seven said they were Communist Party members and another ten had been members at the time most important to the Commission. Communists were also central figures in the major cases: Clayton, Lockwood, Sharkey, Chiplin. Above all, the Commissioners believed that Communism and the Communist Party served as the lynchpin between the Soviet espionage service and their agents in Australia. The ALP and its members and supporters were suspected only to the degree that the Commissioners believed individuals were associated with Communism.¹⁶ Evatt's own opinion about the Commission cannot be accepted, although his assessment and opposition made him an important target for the Commission.

¹⁵ For example, Evatt's speech on the *Final Report, CPD, H. of R.*, 19 October, 1955, pp.1694-1718.

¹⁶ See Chapter 12 re non-communist witnesses.

Evatt's part in the campaign was energetic and significant, but it can be overrated. Because he believed so intensely that the Commission was brought into existence to harm him and other innocent people, Evatt spared no effort to accumulate whatever information he could to expose it. His position as Leader of the Opposition gave him numerous contacts that were denied to the Communist Party. Through friends, Evatt tried to uncover material against Dr. Bialoguski. Bialoguski's ex-wife was secretly interviewed and a lengthy record supplied to Evatt. Inquiries made amongst the medical profession prompted serious allegations about Dr. Bialoguski's practice. Witnesses and their Counsel at the Commission helped Evatt assemble material for his speech on the Final Report in Parliament, although not all the information was used to the full.¹⁷ Yet within the ALP there were those who believed that Evatt was going too far in his allegations, who opposed his appearances at the Commission, and did not believe that the Commission should be opposed at all. Official ALP journals said very little about the Petrovs until after the 1955 split in the Party.¹⁸

The conflict in the Labor Party, unleashed by Evatt's 5 October statement against the role of the Industrial Groups and its sequel at the decisive ALP Federal Conference at Hobart in February 1955, brought the Royal Commission to the fore as one of a number of public issues around which divisions were crystallised. For those ALP members who accepted the necessity for all-out struggle against Communism, the Commission re-inforced their views and earned their praise as a timely reminder to Australians on

¹⁷ The Evatt Collection contains numerous files of correspondence about the Petrov Affair which include the material referred to in the text.

¹⁸ Re opinions in ALP, Murray, *op.cit.*, 169-70, 172-4. Labor Party official journals in NSW and Victoria, of course, were under the control of pro-Group Executives, *The Victorian Labor*, even under "new management" wrote nothing on Petrov till October, 1955.

the menace of Communism. For the majority of the ALP, the struggle against Communism in the trade unions required different, more flexible tactics. There were new problems which the Industrial Groups seemed unable to resolve. In the Federal Parliament of 1955, the Petrovs featured in the battles between the rival Labor parties.¹⁹ It would be wrong to attribute the ALP split to the Petrovs or the Commission, even though Evatt's handling of the Commission precipitated the crisis over his own leadership. The ALP's internal struggle was not over attitudes to the Petrovs but over assumptions on which the Cold War had been based. Dr. Evatt's activities, even at the height of the split, were not sufficient to make him, or the ALP, the leading force against the Commission.

The campaign against the Commission soon had an effect. In his autobiography, the witness Fred Rose recalled that the difference that most struck him between his first appearance in July and his second in October 1954 was the manner in which the Commission was regarded by the public: it seemed to have lost much of its impact.²⁰ During the lengthy proceedings about Document J, the Communist Party lost very little time in seeking support amongst its base in the working class. In the early stages of its campaign, the Communist Party concentrated its efforts amongst waterside workers, seamen, building and construction workers, and on certain factories.²¹ When Rupert Lockwood was temporarily discharged from attending the Commission, he went on a two thousand mile speaking tour of Australia, addressing factory meetings, union meetings, and traditional public venues like the Domain in Sydney and Melbourne's Yarra Bank. Money was raised for the legal costs incurred by witnesses and Counsel and for the publication of the great volume of pamphlets which the Communist Party put out during

¹⁹ See Chapter 7.

²⁰ F. Rose, *Australia Revisited*, Seven Seas, Berlin, 1968, p.87.

²¹ *Guardian*, 22 April, 1954.

the Commission.²² As early as April 1954, building workers at Altona (Victoria) discussed the question of the "spy scare" being used as a potential threat against the trade unions.²³ Elsewhere, ships' crews pledged their opposition to the Commission. Branches of the Waterside Workers' Federation which were led by the Communist Party passed motions calling for the disbanding of the Commission. By July 1954, large meetings were being held to condemn the Commission's proceedings. Four thousand people at the Sydney Domain demanded an end to the Commission, and three thousand made a similar demand at the Yarra Bank.²⁴ From these points, opposition spread. The Combined Union Shop Committee at Newport in Melbourne passed a resolution against the Commission. In August, the Queensland Trades and Labour Council called upon the Queensland State Labor Government to withdraw Justice Philp from his service on the Commission. The quarterly meeting of the Painters' Union and the Management Committee of the Victorian Liquor Trades Employees Federation both called for the Commission to be stopped.²⁵ The exclusion of Dr. Evatt on 7 September 1954, was an important factor in strengthening the campaign, especially in workplaces and unions that were not sympathetic to the Communist Party. A number of individual unions joined the call against the Commission, so did the Newcastle T.L.C. and the Bendigo T.L.C. The Queensland T.L.C. renewed its stance against the Commission. On a number of jobsites work stopped on the day Evatt was excluded. At its stopwork meeting, the Brisbane branch of the Waterside Workers called upon the A.C.T.U. to conduct a twenty-four hour stoppage.²⁶ And by this time, even some local branches of the ALP had begun to demand publicly the termination

²² [Brown], *op.cit.*, pp.281-2.

²³ See note (21).

²⁴ *Guardian*, 22 July 1954.

²⁵ *Ibid.*, 19 and 22 August, 1954.

²⁶ *Ibid.*, 9 and 16 September, 1954.

of the Commission.²⁷ This record suggests that the campaign had spread very considerably since the beginning of the Commission, and that the Commission's prestige had fallen to a point where numerous organisations were prepared to challenge its standing and authority.

In August 1954, the Federal Parliament had passed the second Act to authorise the Royal Commission which, amongst other things, brought in stricter provisions against those who brought the Commission into public hatred or contempt. Though this was clearly aimed at stemming the very energetic pamphleteering campaign, it did little to relieve the pressure against the Commission. The Commissioners were not given the power to punish contempts themselves, and the Government failed to initiate a single contempt proceeding on the Commission's behalf. From the remarks of the Commissioners and Assisting Counsel, it was evident that the campaign undermined some of their own self-confidence:

47. THE CHAIRMAN. -- But we are the subject of great attack from all quarters. It is suggested we are trying to shield someone.

...

142. MR. WINDEYER. -- What concerns us, and I say this deliberately, is that our motives have been attacked. It has been suggested, and it is suggested, that I have sought to suppress, and asked Your Honours to suppress, parts of the document for some political purpose...

...

144. Our motives have been impugned and we feel strongly on this...Apparently these documents have become important in the political arena and all sorts of suggestions have been made. We know, because we read Communist literature, that there is a movement to stop or belittle the Commission.²⁸

²⁷ *Ibid.*, 26 August, 1954.

²⁸ *Tr.*, 415 (65, 142, 144).

Assisting Counsel and the Commissioners were unable to allay public criticism. A few weeks later the Commissioners were compelled to speak about the problem again:

301. PHILP, J. -- We have received dozens of telegrams, letters, and pamphlets, full of vilification.

302. THE CHAIRMAN. -- None of which we have opened. Those who send them are only wasting their money; we do not read them. The Secretary intercepts them. They all have a₂₉ common source and frequently use a common language.

It did not seem that those who sent messages to the Commission were deterred, possibly because they did not understand the process by which the Commissioners determined the language and the source of their letters without reading them. Even in their Final Report the Commissioners complained about the hostile correspondence they received.

The Commission was also faced with angry demonstrations. In December 1954, the Victorian Secretary of the Seamen's Union, Mr. W.H. (Bill) Bird, was called to give evidence because it was rumoured that he had helped spirit Walter Clayton out of Australia, possibly to New Zealand. Bird was accompanied by a large group of seamen who packed out the public gallery.

The Commissioners found him an awkward witness:

5. [MR. PAPE, Junior Assisting Counsel] I want to ask you some questions with a view to ascertaining the whereabouts of Walter Seddon Clayton. Do you know Walter Seddon Clayton? -- I would not know him if I fell over him.

6. THE CHAIRMAN. -- Mr. Bird, would you mind conducting yourself properly? -- That's alright. That's the ordinary manner of speech. "I would not know him if I fell over him", I said.

...

8. Have a look at that photograph (passed to witness).

9. THE WITNESS. -- It does not mean a thing to me.

...

19. PHILP, J. -- Had you heard his name at all? -- No I can honestly say I have never heard at all of him until this outfit started to bandy his name about.

20. LIGERTWOOD, J. -- Are you a member of the Communist Party? -- I am, and I am proud of it.

(Applause from the public gallery).

21. How long have you been a member of it? -- I have been a member since I came ashore in this job this time since 1941. I came out of the "Zealandia" on the 13th March 1941. Prior to that I joined it in 1926.

22. MR. PAPE. -- And - - -

23. THE WITNESS. -- Just a minute; I have not finished.

24. MR. PAPE. -- Don't you be impertinent.

25. THE WITNESS. -- I am answering the question and I have not finished answering the first question.

26. THE CHAIRMAN. -- Do you mind controlling yourself?

27. THE WITNESS. -- Look: I have come here to talk and I will talk the way I think I should not the way that guy (indicating Mr. Pape) thinks I should talk.

28. THE CHAIRMAN. -- I trust the Crown law authorities are taking note of this.

29. THE WITNESS. -- It doesn't worry me. I am telling you about my life I will tell you without you telling me what to do.

(Applause and calling out from the public gallery).

30. MR. PAPE. -- Well, you tell me

31. THE WITNESS. -- All right: well dry up and - - -

(More applause and calling out from the public gallery).

32. THE CHAIRMAN. -- Clear the court-room. We will retire while the court-room is cleared.

30
...

Even after the Court was cleared of what the Chairman described as "an unseemly crowd",³¹ Mr. Bird proceeded, undeterred, in the same fashion. Despite obvious hints to the Crown law authorities and directions to the shorthand writers to "get this all down",³² the Government did not prosecute either the witness or the demonstrators in the gallery. When another worker from the waterfront was summoned, the most serious confrontation with the Commission broke out. Mr. N. Isaksen, who had been on a delegation of workers to visit the Soviet Union, was made to appear because his name was mentioned in one of the Moscow Letters. A meeting of four thousand watersiders was called, and it passed a resolution condemning the summons. About one thousand five hundred of them marched on the Courtroom. Though Isaksen answered the Commissioners frankly and respectfully he was supported by another angry public gallery. This time, when the Chairman ordered it to be cleared, there was uproar. When the Commission resumed, the noise from outside where the workers were assembled almost drowned out the entire proceedings. The assembly remained outside for the rest of the day, and when the Commission adjourned, the wharfies marched through the centre of Sydney in protest against the Commission. Traffic in Pitt Street was stopped for half an hour while over two thousand people looked on.³³

The Press, which had supported and hailed the Commission in its early days, became increasingly critical. The conservative *Herald*, Melbourne's sole evening paper, wrote about the demonstration in support of Isaksen:

³¹ *Ibid.*, (33)

³² *Ibid.*, (28), (45).

³³ *Argus*, 19 January, 1955; *Tribune* 19 January, 1955; and Birse, *op.cit.*, p.243.

While refusing to join the minority chorus in its abuse of the Petrov inquiry, many people are critical of the long-drawn, over-elaborate investigation that has been dragging on for months. The Commission has called some witnesses who have nothing of substance to contribute to its work....The inquiry had wandered into dead-ends and trivialities on a cumbrous progress from one adjournment to another.³⁴

The somewhat more liberal *Melbourne Age* followed up the next day with its Editorial:

Of course, it is possible that the big disclosure lies just ahead. It would have to be very big to justify the preliminaries, which are³⁵ painfully reminiscent of a mountain in labour.

Though other papers remained loyal to the Commission in their Editorials, it was clear that the Press was concerned about the state of public opinion towards the Commission. As a young journalist at the time, Robert Murray was working with the *Sydney Morning Herald* helping cover the proceedings. He recalled that by 1955 the newspapers showed ever decreasing interest in the Commission and that in the public gallery the number of officials was now greater than the number of interested spectators. Seats were easily obtained -- a great contrast with the opening stages.³⁶

The campaign against the Commission gradually spread from workers on the job to intellectual circles. The Fellowship of Australian Writers, with the support of the widely-known and respected Vance Palmer, sent a protest to the Commission against the summoning of Australian writers as witnesses when there was nothing substantial alleged against them.³⁷

Communist Party doctors and their supporters sponsored a pamphlet from "A Panel of Doctors". This attacked the credibility and behaviour of Dr. Bialoguski and Dr. Beckett, who had used their professional calling

³⁴ *Herald*, 19 January, 1955.

³⁵ *Age*, 20 January, 1955.

³⁶ R. Murray in interview with author, 9/11/1978.

³⁷ *Meanjin* Archive, "Petrov" file.

as a cover to help ASIO.³⁸ The work of the Council for Civil Liberties continued throughout the Commission and afterwards. Concern over the proceedings of the Commission was expressed amongst members of the legal profession. The Victorian Supreme Court Judge, Justice Barry, confided to the Christesens that it was his view that the Commission was "entirely discredited", whilst another High Court Judge privately expressed the opinion that "the Petrov enquiry has done more to discredit the judiciary than anything else in our history".³⁹ A Royal Commissioner appointed by the South Australian Government around the same time as the Espionage Commission, Mr. Alderman, made pointed remarks about the undesirability of excessive collaboration between Assisting Counsel and Commissioners. He believed that nothing undermined public confidence in the impartiality of a Royal Commissioner more than seeing him and Counsel emerging from conferences held behind closed doors.⁴⁰ At the 1955 Australian Legal Convention, the procedures of the Commission were brought up for debate. A number of speakers believed that the participation of judges in Royal Commissions ought to be totally stopped. After the experience of the Commission, they believed this was a necessary measure to maintain public faith in judicial impartiality. An article in the *Australian Law Journal* criticised the Commission's procedures.⁴¹ Amongst wider circles, even the respectable *Australian Quarterly* carried a review of the Commission's Final Report in which the reviewer spoke of the Commission having "dragged on" and of producing only "a few dry squibs".⁴² And, despite the ill-effects of having been associated with the Commission, C.B. Christesen found that *Meanjin* was able to attract new subscribers to replace those

38 *Tr.*, 1605.

39 N.M. Christesen - mother, 8/2/1955, *Meanjin* Archive, "Petrov".

40 [Brown], *op.cit.*, pp.123-4.

41 Holmes, *loc.cit.*, for discussions at Legal Convention see pp.266-7, 271, and p.259.

42 R.S. Reichenbach, "Review of Report of the Royal Commission on Espionage", *Australian Quarterly*, Vol. 27, No. 4, December 1955, p.109.

who withdrew their support. Though the magazine was attacked publicly for "carrying Communist propaganda", it survived and developed. Even amongst those intellectuals who may have supported the Commission, few were prepared to go into print to defend it. Those who did, concentrated on attacking Dr. Evatt rather than praising the Commissioners' procedural innovations and legal judgements.⁴³ By the time that the Commission concluded, it commanded little respect as a judicial or expeditious tribunal.

The Royal Commission on Espionage adjourned *sine die* on 31 March, 1955, to compose its Final Report to the Governor-General. The correspondent of the *London Times*, whose remarks were reprinted in the *Melbourne Herald*, wrote that the last stages were reached with "ill-disguised relief".⁴⁴ Thus had the Commission fallen in esteem since its momentous beginnings. Some may consider that clever manipulation of individuals and "fronts" by the Communist Party had undone the valuable work of the Commission. An examination of the Press, of the role of the ALP, non-party intellectuals, the Council for Civil Liberties and of the Communist Party itself can only show that each of these groups pursued quite distinct interests. The role of the Communist Party in opposing the Commission was crucial, both through its Counsel at the Commission and its agitation outside it. Through its procedures and the quality of evidence that it was prepared to hear and accept, the Commission itself provided the ammunition that its critics used. The success of the campaign against the Commission lay not in some devious manipulation but in the fact that the Commissioners failed to convince a growing number of people that they were unmasking spies.

⁴³ For example E.D. Lloyd, "The Petrov Report - A Comment", *Free Spirit*, Vol.2, No. 2, October, 1955.

⁴⁴ *Herald*, 1 April, 1955.

The conduct and evidence of the Commission came to be associated with the declining American phenomenon of McCarthyism, that is, of wild accusations and political smearing. The Press, which at first had given the Commission great support, sensed the public disillusionment and hostility, and reproduced something of it. The controversy and criticism that the Commission aroused was partly of its own making and partly a product of dissatisfaction with the prevailing pattern of the Cold War.

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CHAPTER 16

THE FINAL REPORT

Nearly five months elapsed between the final adjournment of the Commission and the printing of its *Final Report* on 22 August 1955. It was released to the public on 14 September. In 483 pages the Commissioners surveyed the vast mass of evidence that had accumulated in their ten months of sittings. The printed Transcript alone amounted to about three and a half million words. In addition to that, there was the unpublished Transcript of secret sessions, the official and semi-official ASIO records to which the Commissioners had access, tape recordings of conversations, and some material from overseas intelligence sources. Nearly one third of the Report comprised an Appendix which reproduced a final, expurgated version of the Sadovnikov notes and the Moscow Letters. The total cost of the Commission to the Commonwealth of Australia was officially estimated at £135,544.¹

Expectations of the Report were high, because it dealt with the security of the nation and matters of great public interest. Although a study of the proceedings suggested that these high expectations could not be fulfilled, the Commissioners themselves disappointed what reserves of public enthusiasm for a spy-hunt remained. In Chapter 21, "General Conclusions", they wrote:

¹ CPD, H. of R., 19 September, 1956, p.690.

The substantive law is such that, when considered in conjunction with the technical legal rules governing the admissibility of evidence in courts of law, it would appear that prosecution of none of the persons whose acts we have considered in our Report would be warranted.²

This section is most commonly cited to support the conclusion that the Commission was more a political romp than a serious investigation into matters of substance and urgency. The Commissioners argued that their failure to recommend any prosecutions was caused by the "dearth of admissible evidence", suggesting that if technical rules were swept aside a thoroughly convincing case against certain individuals could be made.³

Other sections of their *Report* brought out a different problem:

So far as we can learn, after 1949 the MVD had no success in gaining any information directly involving the security or defence of Australia, but... it had some success in matters indirectly affecting the security of Australia, particularly in building up its network. Examples are the procuring of Exhibit H in 1951 and Exhibit J in 1953 from O'Sullivan and Lockwood respectively. ...⁴

In short, the Commissioners believed that no Australian had communicated official secrets to the MVD after 1949. This fact made the argument about the admissibility of evidence irrelevant. O'Sullivan and Lockwood did not communicate official information, and the Commissioners admitted that a jury would have to consider whether the information they did provide would be useful for the purposes of hostilities against Australia. The Commissioners thought the information was indirectly useful for this purpose,⁵ but by not recommending any prosecutions they showed themselves unwilling to have a jury decide on the validity of their conclusion. This matter was also quite distinct from the admissibility of evidence. Between 1945 and 1948, the *Report* declared, information had been leaked from the Department

² *Report*, p.301.

³ *Ibid.*, pp.287, 292.

⁴ *Ibid.*, p.300.

⁵ *Ibid.*, pp.290-1.

of External Affairs, and Commonwealth officers had breached sections 70 and 79 of the Crimes Act by unlawfully communicating information which it was their duty to keep secret.⁶ The sting of this accusation was partly drawn, because the Commissioners were unable to say if the officers had known that it was to a Soviet agent that they were giving the information. The Commissioners also complained of a lack of admissible evidence.⁷ Examination of the relevant cases in Chapter 10 suggests that the inadmissible evidence would not have made a very convincing case either. The only Commonwealth officer definitely accused of giving information was Miss Bernie. The technical rules of evidence did not seem the only reason why the Commissioners could not recommend prosecutions.

Press reaction to the Report was mixed, and showed signs of disappointment. The first edition of the *Sydney Sunday Telegraph* entitled its summary "Spy Report Damp Squib" in the first edition, but this was later changed to "Petrov Report Blasts Evatt".⁸ The *Adelaide Advertiser*, which had refrained from criticising the Commission while it was sitting, conceded that the Report produced "no startling charges" and "no prosecutions" and "to that extent it was an anti-climax". The paper assured its readers that the Report showed what a vital role ASIO had played in checking MVD espionage and securing the defection of the Petrovs.⁹ The *Sydney Morning Herald* described the Report as "temperate", but added:

The lesson to be learned from this painstaking investigation in the labyrinths of treason, or near treason, is clear. No Communist should be entrusted with any position even remotely touching the vital interests of the nation. This rule must not be affected by an improved international climate.¹⁰

⁶ *Ibid.*, pp.289, 299.

⁷ *Ibid.*, p.292.

⁸ *Guardian*, 15 September 1955, provided photographs of the editions.

⁹ *Advertiser*, 15 September, 1955.

¹⁰ *SMH*, 15/9/1955.

About a month later, the *Advertiser* voiced a similar sentiment. Before the Royal Commission, it believed, there had been a tendency to regard Australia as safeguarded by its isolated geographical position, but the *Report* had exploded "every illusion of that kind" and had led to "salutary results" in the English speaking world.¹¹ Overall, the Press made the best of the *Report* by avoiding detailed analysis.

The *Report* itself was divided into twenty-one chapters. After a few introductory sections, Chapters 2 and 3 deal with the circumstances of the defection of the Petrovs and their association with the Soviet espionage services. Chapter 4, which contains thirty-four pages, deals with evidentiary material placed before the Commission and the evaluation made of it by the Commissioners. Twenty-six pages of this chapter cover the Petrov papers, Documents H and J, the Moscow Letters and the Sadovnikov notes. Some other pages cover the use made by the Commission of official records, ASIO files, and material provided from overseas sources. The crucial issues of the admissibility of hearsay at the Commission, the authenticity of the papers, and the credibility of the Petrovs are dealt with in this chapter. Chapters 5 to 8 briefly cover other matters. These concern the limited evidence presented about the Soviet military intelligence (GRU) operations in Australia, the administrative control of the MVD in Australia, the work done for it, and its personnel and structure within Australia. Chapters 9 to 19 which total 186 pages are the major part of the *Report*. Chapter 9 is a general introduction to the rest, because it describes how the MVD sought means to obtain information and its exploitation of Communism for this purpose. The other chapters in this part deal with MVD operations in relation to the various groups of people, such as emigres, scientists, External Affairs officers. Here the Commissioners make their assessments of MVD intentions, actual operations, and the

¹¹ *Advertiser*, "What the Petrovs Tell", 14 October, 1955.

responses to these by persons named in the Sadovnikov notes and Moscow Letters. The closing chapters of the Report dealt with other outstanding aspects of the Commission: its decision not to recommend any prosecutions, its view on the security implications of the actions of certain witnesses, and a summary of conclusions.¹² Attention can be given to some of the Report's more significant features, now that its basic scheme has been outlined.

The credibility of the Petrovs and the authenticity of the Petrov Papers were the foundation of the whole Commission. The Commissioners had so often expressed their unshakeable conviction that the documents were genuine and the Petrovs truthful, that it is no surprise that these views were re-iterated in the Report. The Commissioners declared that they found "not one grain of evidence which weighs against the authenticity of the documents", and they castigated "the vicious attacks" on the truthfulness of the Petrovs "by some Communists and like-minded persons in the court-room and in a section of the press".¹³ The means by which the Commissioners claimed to have tested the documents and the Petrovs have already been examined. It is worth noting that in their Report the Commissioners took pains to present their own views whilst dismissing or omitting entirely the critical views and arguments presented by other Counsel and witnesses. Throughout the Royal Commission, the strict legal view that there were no issues or parties had been upheld. All Counsel appeared in order "to assist the Commission" and not, it was repeatedly stressed, to present a case for their clients. By adhering to this strict position, an onus was upon the Commission to conduct investigations into all aspects of the situation. It was correct for the Commissioners to state that Counsel

¹² *Report*, passim.

¹³ *Ibid.*, pp.59-60, 63.

had not produced *conclusive* evidence against either the Petrovs or the documents, but these Counsel had raised serious issues that merited investigation. They had also argued strongly that the tests of credibility and authenticity adopted by the Commission were not conclusive either. To argue that these Counsel should have produced evidence and made a case in support of their objections was inconsistent with the role the Commissioners had prescribed for them. If the Commissioners were to be strict with other Counsel, they ought to have had a strict regard for their own responsibilities. The Commissioners themselves refused Counsel the right to call evidence to prove their point. The refusal to allow Dr. Evatt to call the handwriting expert Dr. Monticone is the most notorious example. Even in the Document J episode, which came closest to the presentation of rival "cases", the Commissioners denied other Counsel . . . the means to present let alone prove a case. The chapter in the *Report* dealing with authenticity and credibility is not an answer to critics of the Commission. The *Report* appeals to material and tape recordings, which were not produced in open session, to support the Commissioners' point of view,¹⁴ but this could hardly be expected to convince any but the already-converted. For others, the failure to produce conclusive evidence was the failure of nobody but the Commissioners themselves.

The ninth chapter, dealing with the MVD's alleged exploitation of Communism, deserves some treatment in itself. In this section, the basic assumptions on which the rest of the Report was based, and indeed of the whole Commission, are expounded. The Report declared:

¹⁴ *Ibid.*, p.60.

308. Above all, the Soviet had in Australia as in other Western countries, an auxiliary force composed of Communists and other like-minded persons, some of whom are ready and willing to further the Soviet cause, some even to the point of the destruction of Australian sovereignty. The Communist Party supplies the fundamental organisation for this force.

...

315.... All the persons whose acts were directly or indirectly connected with espionage were either members of the Communist Party or ex-members or pretending to be ex-members thereof or sympathisers with Communism and some of them were high-ranking functionaries of the Party.

...

377. Of course the most likely prospects were persons with Communist sympathies; and these were to be found not only amongst Party¹⁵ members but also in various Communist Party "Fronts."

Such declarations, as though statements of fact arrived at after examining the evidence, could only suggest that loyal Australians would be venturing into extreme danger if they even associated with, let alone joined, Communist organisations. The point was re-inforced by the knowledge that "talent spotters"¹⁶ within the Communist Party were constantly looking out for potential MVD recruits in all sorts of groups where Communists worked. The mystery surrounding the means by which the MVD had come to know details about particular people emphasised the obscure omni-presence of the MVD's Communist agents in the community.

In reality, the *Report's* declarations had not been proven before the Commission. Indeed, they had not even been investigated, because the Commission's Terms of Reference did not include an inquiry into the Communist Party or "Communist Fronts". Although the Commissioners asked many questions which delved into the Party, the evidence did not support what they claimed in their *Report*. From the examination of ASIO's role and

¹⁵ *Ibid.*, pp.99-100, 113.

¹⁶ *Ibid.*, pp.113-4.

attitudes, it is probable that the source of this Chapter of the *Report* were statements made to the Commissioners by ASIO and "security" witnesses in secret session.¹⁷ The Commissioners greatly modified their stance in the concluding chapter of the *Report*, where they said:

We believe that the Soviet deliberately refrained from using the Australian Communist Party, as a Party, for espionage purposes lest exposure should lead to its serious¹⁸ political embarrassment and, possibly, outlawry.

This statement did not sit comfortably alongside others where the Commissioners asserted that the Party received \$ 25,000 through MVD channels and that leading Party functionaries were active MVD agents.¹⁹ That none of the many opponents and defectors from Communism in Australia could offer the Commission anything more conclusive than the Clayton case is the strongest evidence in the Communist Party's favour. Whatever speculations one makes, the key statements in Chapter 9 had been neither tested nor proved at the Commission.

Chapters 10 to 19 were intended to vindicate the propositions advanced in Chapter 9. These chapters covered 164 pages and dealt with topics under the heading "MVD Operations in Relation to ... Journalists, the Department of External Affairs, Emigres", and so forth. The impression conveyed was that operations unearthed by the Commission were extensive and reached into all corners of political life. The Commissioners compiled these chapters by combining all the people mentioned in the Petrov papers and then dividing them in their occupational categories. This suggested systematic division and planning of work by the MVD is not evident in available documents. The description of the Letters and notes as "operations" was also misleading. The MVD documents are full of hopes, instructions, and

¹⁷ *Ibid.*, p.101 cites Mr. F.O. Chilton, Deputy Secretary of Defence as giving relevant evidence.

¹⁸ *Ibid.*, p.298.

¹⁹ *Ibid.*, pp.110-111.

plans for their Australian staff. It has been demonstrated already that very few of the instructions were ever carried out, and most of those which were carried out were innocuous. To call an instruction that was never implemented an "operation" was extravagant. The Commissioners seemed to be making more of their material than it really warranted.

The other striking feature of these chapters is the speculation, by the Commissioners, about the reasons why the MVD was allegedly interested in particular individuals. Having laid out in Chapter 9 a set of presumptions that had not been proven, they then forced the material in the Petrov papers to back up these ideas. For example, Wilbur Christiansen, the CSIRO radio astronomer listed in "Contacts K", attracted the MVD's attention, the Commissioners said, for three reasons. He favoured the materialist conception of history, his wife was the sister of J.F. and E.F. Hill, and he had been a member of the Association of Scientific Workers in which Communists were active.²⁰ Yet Christiansen had no access to useful or secret information and no-one had demonstrated that he had any desire to communicate information improperly. Circumstances which threw grave doubt upon the hypothesis that "Contacts K" was a list of agents were arbitrarily disregarded in favour of the untested proposition that Communists and like-minded persons were probable recruits for espionage. On the other hand, Mr. Phippard, the lawyer who "had given 'A' interesting information", was exonerated because he did not fit into the preconceived category of a security risk.²¹ Amongst the strangest cases was the treatment of Ric Throssell. The Commissioners declared that there was no substantial evidence upon which to base allegations that he had divulged confidential information. Yet they reported that because he saw his mother, a Communist, and met her friends "it is quite possible he may have let drop information...

²⁰ *Ibid.*, pp.218-19.

²¹ *Ibid.*, pp.184-5.

which was regarded as important by a Communist group which included 'Klod'".²² No evidence that anything of the kind had occurred was presented, but his association with his Communist mother was deemed a sufficient basis for such a speculation. The Commissioners used their Report to reproduce facts about witnesses' political views, activities, and associations that would support ASIO's assumptions and overlook those which would not do so.

Chapters 10 to 19 also exhibited the political prejudices of the Commissioners, sometimes to the extent that they distorted the sworn testimony of witnesses. The Commissioners resented the campaign that had been waged against them, and they saw Communists as primarily responsible for it.²³ The Commissioners made a special point of questioning the motives of Communist Counsel. Speaking of Messrs. E.F. Hill and M. Julius, the Commissioners stated:

...because they themselves are adherents to Communism, they cross-examined not only with a keen desire to test the Petrovs' evidence in the interest of the clients but with an added incentive to discredit them in the interests of Communism.²⁴

The motives of other Counsel were not the subject of such speculation.

Similarly, about Communist witnesses, the Commissioners remarked that some

...presented an extraordinary exhibition of wariness, truculence, evasion, and sometimes of deliberate lying which followed a uniform pattern.²⁵

Throughout the later Chapters, the term most often applied to witnesses to whom the Commissioners had taken exception was "unsatisfactory". A witness may have attracted the suspicion of the Commissioners although no evidence of wrongdoing had been presented. On the basis of some inconsistency or lapse of memory concerning events of years past such a witness would be

²² *Ibid.*, p.143.

²³ *Ibid.*, pp.12, 63, 100-1.

²⁴ *Ibid.*, p.62.

²⁵ *Ibid.*, pp.65-6.

dubbed "unsatisfactory".²⁶ Similar lapses by witnesses who supported the Commission attracted no comment. The evidence of Divisek, the MVD's alleged choice for Illegal Resident, or of Dakin, the informer with so little information against Mrs. Throssell, contained many strange and unsatisfactory features.²⁷ In some cases, the Commissioners distorted testimony. The short paragraphs concerning the Christesens are inaccurate and misrepresent what they said. The Commissioners assert that Mr. Christesen was interested in the work of VOKS (the Soviet overseas cultural department), which was not correct. Mrs. Christesen was alleged to have had "social contacts" with members of the Soviet Embassy because of her position as a teacher of Russian. This was quite contrary to the evidence she gave which was not disputed. Mr. Christesen was stated to have had an "interest in good Australia-Soviet relations in respect of cultural matters generally", when in fact he made no such suggestion.²⁸ The only "source" for such "facts" were ASIO's briefings. The witness Fridenbergs produced an alibi for a certain date. Petrov later changed his story to fix another date. The Commissioners described Fridenbergs alibi as "false", and failed to mention that Petrov changed his story only after the alibi was produced.²⁹ Fridenbergs' alibi was not false; it simply ceased to apply. A combination of innuendo, prejudiced reporting, distortion and misrepresentation of witnesses' testimony scarred the *Report*. Confidence in the Commissioners' conclusions and trust in their ability to deduce the truth from information which was not disclosed to the public must remain frail.

Because the Press failed to analyse the Report, considerable importance attached to the debate in Federal Parliament. The Report could be scrutinised there, because the Royal Commission was officially established

²⁶ See, for example, the case of Kosky, Chapter 12.

²⁷ re Divisek, *Report*, p.257-261; re Dakin, see Chapter 10.

²⁸ *Report*, pp.196-7, cf *Tr.*, 1761-66, 1766-8.

²⁹ *Report*, p.244 re "false" alibi; whole episode, pp.241-245.

by the Parliament. Dr. Evatt, as Leader of the Opposition and a major critic of the Commission, would therefore have an excellent chance to express his views. The lines were very sharply drawn over the Commission. Prime Minister Menzies naturally supported the Commission and hailed its Report. In the Parliament sat the seven Members who had been expelled from the ALP and who proclaimed themselves to be the ALP (Anti-Communist). Throughout 1955, debates were dominated by the vilification of each faction by the other. The Anti-Communist Members branded Evatt the tool of the Communist Party, and brought to light all the possible scandals they could find of ALP-Communist collaboration. The Petrov affair was one of them. The pro-Evatt forces saw Evatt as defending, not the Communist Party, but Australian fair play and civil rights. The evidently destructive role that the Petrov affair had played in the ALP was seen as proof by some pro-Evatt forces that the whole affair was essentially directed at the Labor Party.³⁰ Though these perceptions of the Petrov affair distorted the true picture, they sharpened the attitudes taken towards the Commission and its *Report*.

At eight o'clock in the evening of October 19, Dr. Evatt was called upon to deliver his speech on the *Report*. Evatt spoke for two hours. In the time he had available to survey the *Report* and the Commission itself, he attempted to give a resume of the central weaknesses and inconsistencies in the whole Petrov story. He tackled a number of the most difficult and complex cases in an effort to show that he was not simply picking on minor matters. Because these cases involved the major Communist witnesses, it was possible for his opponents to claim that he was once again defending the Communist Party even though that was not his motive. Evatt revealed new information about the authenticity of the Sadovnikov notes. He had

³⁰ See *Labor*, Victorian ALP journal, October, 1955.

taken a photostat of one of the notes and copies of other official documents written by Sadovnikov to Dr. Monticone. Monticone's opinion was that the two sets of documents were written by entirely different people. On this basis, Evatt demanded the release of the original Petrov papers for full examination. Evatt also surveyed events leading up to the defection, and once again put forward his view that it was timed to damage him at the 1954 elections. Evatt also covered many others matters which he felt the Commission had failed to answer.³¹

What overshadowed the whole of his speech and the subsequent reaction to it was a step he had taken in relation to the Soviet Union. Because the Soviet Union had not been legally represented at the Commission, Evatt believed that its case could not be tested and the matter finally settled. He wrote to V. Molotov, the Soviet Minister of Foreign Affairs, asking the official Soviet view concerning the alleged correspondence between the MVD in Moscow and its Australian branch. Molotov replied, maintaining that the documents were fabricated on the instructions of persons interested in the deterioration of Australian-Soviet relations. Evatt then said:

I attach grave importance to this letter which shows clearly that the Soviet Government denies the authenticity of the Petrov documents. It seems to me that in these circumstances the matter cannot be left where it is, and that, if possible, some form of international commission should be established with the U.S.S.R. to settle the dispute once and for all.³²

This makes abundantly clear that Evatt did not produce the letter from Molotov as proof that the documents were fabricated but as proof of a dispute between Australia and the USSR which should be settled in a forum where each would be represented. So often has the incident of the Molotov letter been seized upon by Evatt's opponents to suggest that Evatt blindly

³¹ Evatt, *CPD*, H. of R., pp.1694-1718; re Monticone, pp.1695-6. The letter from Monticone to Evatt is in "Evidence - Handwriting", Petrov Affair, Evatt Collection.

³² *Ibid.*, p.1695.

believed the Soviet Foreign Minister, that the lie has almost become accepted fact. Grave reservations may be held about the wisdom of the course Evatt took. It is highly unlikely that any international commission could have been set up. Such points are quite different from the ones that are most commonly mentioned in relation to the Molotov Letter. The distortion of Evatt's real intentions, naively legalistic as they were, was the main thrust of Menzies' speech in reply which has been hailed as "brilliant". If there was brilliance, it consisted in the perpetration of the lie that Evatt placed more reliance on Molotov's word than the Commissioners' inquiry.³³ The deceit was repeated in the Press, and on the strength of that, and of the divisions in the ALP, Menzies called a snap election. He won it handsomely. The letter from Molotov obscured the important weaknesses in the Report that Evatt pinpointed. Parliament failed as an effective forum for analysis of the Commission's Report. Outside the Parliament, the Report was seen in much the same light as the Commission itself. For those who accepted the Commission and its proceedings, the Report is a testament to which those who worry about the Petrov affair are referred.³⁴ For those who do so worry, the Report offers only more causes for concern.

³³ *Ibid.*, 25/10/1955, p.1860. Menzies repeats this position in *Measure of the Years*, pp.186-187, and omits the crucial sentences of Evatt's speech.

³⁴ *National Times*, 3-8 September 1973, p.33, where ASIO referred the paper to the Report.

CONCLUSION

For ten months, the Royal Commission on Espionage had heard evidence from Mr. and Mrs. Petrov and from ASIO about the activities of the MVD in Australia.

When the inquiry was first established, it coincided with uncertainty in international and local affairs. Europe had recovered from wartime devastation and was re-asserting its independence. The non-aligned movement was attracting growing support from Asia and Africa. Since the death of Stalin, the Soviet Union had been pursuing a different course. By contrast, American policies seemed rigid. Within Australia, the intense struggles against Communism had been declining, because other issues seemed more pressing in public life and in the trade unions. Opinion was divided on the merits of established anti-Communist tactics and organisations. By 1954, Australia was confronted with a very different situation from 1945. There was a choice between continuing traditional Cold War policies or discovering a new, more flexible course. The Royal Commission seemed significant because it might help cast light on the aims of Soviet and Australian Communism.

The Commission had promising beginnings. It was appointed and held its opening session in Canberra with support from all parties in the Parliament and approval by the Press. The prominence of other issues in the Federal elections meant that it did not greatly influence the result, and so the

standing of the Commission remained high. The Commissioners looked first at Document J, in which the Communist journalist Lockwood and members of Dr. Evatt's staff became involved. Though this episode was presented as an example of Communist assistance to the MVD, Communist Counsel and Dr. Evatt were able to throw considerable doubt on the truthfulness of the Petrovs and the authenticity of the Petrovs. The basis of these doubts was the payment of £5,000 to the Petrovs and the degree to which they had compromised themselves with ASIO before their defections.

In the Clayton case, the Commission sought to uncover an alleged Communist spy-ring that had operated in the Department of External Affairs around 1945 to 1948. Much of the case rested on ASIO's previous investigations, although the Petrovs' documents did add some new material. The Commissioners failed to make a watertight case, and rather than admit this failure they stretched the evidence. Similarly with non-Communist witnesses and alleged MVD activities amongst migrants, the Commissioners tended to believe witnesses who supported their views and distrust those who did not, even where the evidence suggested other conclusions. People who were openly sympathetic to Communism, the Commissioners believed, were likely recruits for the Soviet spy network.

A great deal of the evidence depended on the credibility of the Petrovs and upon the authenticity of documents which they said had been brought out of the Soviet Embassy in Australia. The Commissioners claimed to have tested these matters thoroughly. Using the evidence given by the Petrovs at the Commission, reasons have been found for believing that the investigations of the Commissioners were inadequate. *Prima facie*, the Petrovs' account of the documents should have been rejected. An unusual but highly significant feature of the Commission was the role played by ASIO in supplementing the Petrovs' evidence. ASIO held strongly anti-Communist views, it was actively involved in political affairs, and its influence on

the Commissioners was strong. By preparing much of the evidence and by briefing Assisting Counsel and the Commissioners, ASIO provided a framework for interpreting the evidence. This framework was not tested by the Commission, and there are grounds for believing that was based on ASIO's anti-Communist pre-conceptions.

The Commission became extremely controversial, and attracted criticism from a cross-section of the community. The various forces opposed to the Commission were independent of each other, but they had a considerable impact. The Commission's failure to unearth a clear case of spying undoubtedly contributed to its loss of prestige as the inquiry went on. The Commissioners' *Final Report* sought to bring all the diverse cases together in a coherent pattern. Prejudice and misreporting scarred the *Report*, and the failure to recommend a single prosecution diminished its authority. The hope that the Royal Commission on Espionage would demonstrate a solution to Cold War problems was disappointed.

AFTERWORD

The Petrovs remained in Australia after the Royal Commission. They published their memoirs, *Empire of Fear*, which was written with the help of an ASIO officer.¹ In 1956, Mr. Petrov was arrested by the local police as he roamed the streets of Surfers' Paradise drunk and without his trousers. He gave the name "Olsen" to police, and forfeited his bail by not appearing in Court when the charge was due to be heard.² Since then, they have kept from the public view. Once they agreed to be interviewed. They were not pleased with their new life in Australia. Mr. Petrov said: "I am very unhappy. We have nothing. No friends, no future". Mrs. Petrov added: "I wish I was dead. Nobody could dream of our misery".³

Other figures at the Commission faced brighter prospects. Justice Ligertwood was created Sir George Ligertwood in 1956. Many people wrote to congratulate him and Lady Ligertwood, and numerous well-wishers referred to his work on the Royal Commission. Justice Fullagar, who had dismissed the injunction sought by Rupert Lockwood, spoke of Ligertwood's labours at the Commission. Professor Bailey, the Commonwealth Solicitor-General, thought "naturally of the three different Royal Commissions", including the Espionage Commission, as part of Sir George's achievements. Justice

¹ Menzies, *CPD*, H. of R., 20 September 1945, p.781.

² *Ibid.*, 9 April 1957, p.676; the police report is in "Correspondence-Misc.", Petrov Affair, Evatt Collection.

³ *Australian*, 27 August 1979. (The interview was conducted much earlier).

Jackson of Western Australia wrote:

I suppose it almost feels like semi-retirement to have finished the Petrov Commission. You had all our sympathy in that job. Friends of mine who have seen Ross Philp recently have brought back various pungent comments from him - but I cannot think there was very much pleasure in it.⁴

The removal of the State Labor Government in Queensland brought Justice Philp a knighthood in 1958. Justice Owen received his in 1957. Assisting Counsel became eminent figures in the legal profession. Sir Victor Windeyer is on the High Court of Australia, Sir George Pape on the Victorian Supreme Court, and, until his death recently, Mr. Justice Riley sat on the Bench of the Federal Court of Australia. Brigadier Spry of ASIO also received a knighthood, and his Deputy, Mr. G.R. Richards was made Commander of the British Empire.⁵

⁴ Justice Jackson - Sir George Ligertwood. These and other letters referred to are in Sir George's papers, Public Library of South Australia.

⁵ *Who's Who In Australia*, passim.

APPENDX 1

ANALYSIS OF WITNESSES CALLED AT THE ROYAL COMMISSION ON ESPIONAGE, 1954-1955
(EXCLUDING THOSE CALLED EITHER SOLELY IN AN OFFICIAL CAPACITY OR AS ASIO INFORMANTS)

Name of Witness	Dates of Examination	<u>Mention in MVD Documents</u>		Mention by Petrovs	<u>Allegations of Impropriety</u>	
		Moscow Letters	Sadovnikov Notes		Brief Description	Made By
Anderson, G.R.	25-26 Jan. 1955	B10 D16 A16	Nil	Met innocently	None	NA
Barnett, J.H.	25 Oct, 1954 18 Mar, 1955	Nil	G 2	Not known	None	NA
Barris, K.K.	2 Dec, 1954	Nil	G 8	Not known	None	NA
Beaseley, P.H.	5 Nov, 1954	Nil	G 2	Not known	None	NA
Bernie, F.	22 Oct, 1954	Nil	G 1,2,8	Not known	Took material to Clayton	Self in 1953, Sadovnikov Note
Bird, W.H.	6 Dec, 1954	Nil	Nil	Not known	None (to help find Clayton)	NA
Birtles, H.V.	8 Dec, 1954	Nil	G 8	Not known	None	NA
Bocquet, H.	22 Jul, 1954	Nil	Nil	Never met, but gave money for trip to USSR	None	NA
Body, A.H.	22 Jul, 1954	D 10, E7, A 17	Nil	Met innocently	None	NA
Bresland, C.	8 Mar, 1955	B 13,14	Nil	Not known	None	NA
Briggs, G.H.	1 Dec, 1954	Nil	G 6	Not known	None	NA
Burton, J.W.	1 Nov, 1954	Nil	G 2	Not known	None	NA
Chandler, H.B.	3 Dec, 1954	Nil	Nil	Not known	Possession of ASIO motor car numbers and names of a few ASIO agents.	ASIO

Names of Witness	Dates of Examination	Mention in MVD Documents		Mention by Petrovs	Allegations of Impropriety	
		Moscow Letters	Sadovnikov Notes		Brief Description	Made By
Chiplin, R.	23-24 Feb, 3,8 Mar, 1955	E 7,8 F 7,8	Nil	Met, Mr. Petrov requests information	i) Obtained particulars re officer of External Affairs ii) Obtained draft treaty betw. USA and Aust. from official	Petrovs self, ASIO
Christesen, C.B.	17 Jan, 1955	Nil	G 4	Not known	None	NA
Christesen, N.	17 Jan, 1955	Nil	G 4	Met innocently	None	NA
Christiansen, W.	27 Jan, 1955	Nil	G 2,3	Not known	None	NA
Clayton, W.S.	15-18 Mar, 1955	Nil	(cover address)	Not known	"Klod", MVD talent scout, See Ch.10	ASIO, other witnesses
Daghian, N.	14-15 Dec, 1954	B 15 D 16	Nil	Met innocently	None	NA
Dalziel, A.J.	13 Sep, 22 Oct, 1954 30-31 Mar 1955	Nil	G 1	Not met, but reported on by Antonov	None	NA
Divisek, V.	Oct. 18-20, 1954	Nil	Nil	Not met, but file G 11,12 re Divisek copied out	Designated Illegal Resident	Self, 1949, ASIO, Petrovs
Dixon, R.	27-28 Oct, 1954	Nil	Nil	No evidence	None (to locate Clayton)	NA
Edwards, C.E.	28 Oct, 1954	Nil	Nil	No evidence	None (to locate Clayton)	NA
Ferguson, J.	15 Feb, 1955	A 20	G 1,4	Met innocently	None	NA

Name of Witness	Dates of Examination	Mention in MVD Documents		Mention by Petrovs	Allegations of Impropriety	
		Moscow Letters	Sadovnikov Notes		Brief Description	Made By
Fitzhardinge, L.	15 Dec, 1954	Nil	G 10	Not known	None	NA
Flood, D.C.	21 Jan, 1955	Nil	Nil	Not known	None	NA
Fridenbergs, A.	21, 23 July, 20 Oct, 1954	Nil	Nil	Met re MVD's "EM" work	Supplied information about emigres	Petrovs
Graham, J.	21 Mar, 1955	G 18	Nil	Not known	None	NA
Grundeman, A.	18 Aug, 13 Sep, 1954	Nil	Nil	Not known	Let information slip for "J"	"J" Commissioners
Hibbard, L.U.	4 Nov, 1954	Nil	G 10	Not known	None	NA
Hill, E.F.	22-24 Mar, 1955	Nil	Nil	No evidence	None	NA
Hill, J.F.	4 Feb, 1955	Nil	G 2	Not known	None (suspected)	NA (ASIO)
Hogue, O.	30 Mar, 1955	A 31	Nil	Met innocently	None	NA
Hughes, M.J.R.	11, 14 Feb, 1955	Nil	Nil	Met on MVD duties	Got information from Communist sources inside PMG and ASIO	Petrovs
Isaksen, N.	18-19 Jan, 1955	B 15	Nil	Not known	None	NA
Keesing, A.	20 Jan, 1955	A 9	Nil	Met innocently	None	NA
Kent Hughes, M.	8 Mar, 1955	A 8	Nil	No evidence	None	NA
Kirk, W.T.	21 Jan, 1955	A 9	Nil	No evidence	None	NA
Kosky, S.	23 Jul, 1954	D11 A10	G 4	Never met, saw reports	None	NA
Legge, G.W.	26 Oct, 1954	Nil	(G 7)	Met on fishing trip innocently	None	NA

Name of Witness	Dates of Examination	Mention in MVD Documents		Mention by Petrovs	Allegations of Impropriety	
		Moscow Letters	Sadovnikov Notes		Brief Description	Made By
Legge, J.W.	29 Oct, 1954	Nil	G 7	Not known	Accomplice with Clayton in sounding out George Legge	Commissioners
Lewis, M.E.C.	21 Jan, 1955	E 1 0	Nil	Not known	None	NA
Lockwood, R.E.	9, 12 July, 19, 20, 24, 25, Aug. 13-15 Sep, 1954	Nil	Nil	Mrs Petrov met on MVD duties	Wrote "J" for MVD	Petrovs
McDonnell, R.A.	19 Aug, 1954	Nil	Nil	No evidence	None	NA
McDonnell, R.F.	19 Aug, 1954	Nil	Nil	No evidence	None	NA
MacInnes, I.	8 Dec, 1954	Nil	G 8	Not known	None	NA
Miller, F.K.	2 Dec, 1954	Nil	G 8	Not known	None	NA
Milliss, B.	1 Dec, 1954	Nil	G 5	Not known	None	NA
Morcom (Newbigin), E.M.	4, 7, Feb, 1955	Nil	Nil	Not known	None	NA
Morris, D.	10 Nov, 1954 30 Mar, 1955	Nil	G 5	Not known	None	NA
Morrow, W.R.	25 Mar, 1955	B 16	Nil	Not met, but heard reports	None	NA
North, H.S.	8 Nov, 1954	D 16, 17, 18	Nil	Not known	None	NA
Novikoff, N.K.	13-14 Dec, 1954	C 5, F 6, 7	Nil	Met innocently	None	NA
Novikoff, N.N.	14 Dec, 1954	C 5, F 6, 7	Nil	Met innocently	None	NA
Oke, G.R.	2 Mar, 1955	Nil	Nil	Not known	Recruited ASIO agent as undercover Communist	ASIO

Name of Witness	Dates of Examination	Mention in MVD Documents		Mention by Petrovs	Allegations of Impropriety	
		Moscow Letters	Sadovnikov Notes		Brief Description	Made By
O'Sullivan, F.	13-16 July, 16-20 Aug, 24 Aug, 1954	E 7,8,9 A8	Nil	Met innocently	Compiled "H" for MVD	Petrovs
Phippard, S.R.	17 Jan, 1955	Nil	G 9	Not known	Gave "A" information	Sadovnikov Note
Powell, G.	1 Dec, 1954	Nil	G 5	Not known	None	NA
Roberts, J.	28 Oct, 1954	Nil	Nil	Not known	None (to find Clayton)	NA
Rodgers, J.	21 Feb, 1955	Nil	G 4	Met innocently	None	NA
Rook, C.I.	20 Sep, 1954	Nil	Nil	No evidence	None (re typing Exhibit 46)	NA
Rose, F.G.G.	21 July, 25-26 Oct, 1954	Nil	Nil	No evidence	Arranged approach to Barnett	Barnett, ASIO, Commissioners.
Russell, N.H.	18-19 Jan, 1955	B 15	Nil	Not known	None	NA
Sandy, C.E.	22 Mar, 1955	G 17	Nil	Not known	None	NA
Shaker, H.	24-25 Jan, 1955	A 20	Nil	Not known	(Incorrect allegation of false passport)	(Moscow Letter)
Sharkey, L.L.	10-14 Feb, 1955	Nil	Nil	Met socially, but dealt with indirectly	Received \$25,000 from MVD	Petrovs
Skolnik, J.	1 Nov, 1955	Nil	Nil	No evidence	None (to find Clayton)	NA
Smirnoff, I.A.	14 Dec, 1954	F 6	Nil	Not known	None	NA
Stanley, M.	9 Nov, 1954	A 7,8	G 1	Not known but read reports	None	NA

Name of Witness	Dates of Examination	Mention in MVD Documents		Mention by Petrovs	Allegations of Impropriety	
		Moscow Letters	Sadovnikov Notes		Brief Description	Made By
Stephens, M.	24 Jan, 1954	A 18, 31	Nil	Never met, but heard reports	None	NA
Tattersell, H.W.	29 Oct, 1954	Nil	G 3	Not known	None	NA
Taylor, S.C.	28 Jan, 1955	Nil	G 7	Not known	Gave document to Communist Party	Sadovnikov Note
Tennant, C.R.	4 Nov, 1954	Nil	G 4	Not known	None	NA
Tennant, L.	4 Nov, 1954	Nil	(G 4)	Not known	None	NA
Tenukest, C.	9 Nov, 1954	Nil	G 1	Not known	None	NA
Throssell, E.D.	4 Feb, 1955	Nil	Nil	Not known	Gave information to Communists	Dakin, 1947 ASIO
Throssell, R.P.	2-3 Feb, 1955	(G 14)	Nil	Not known, but heard reports	Gave information to Communists	Petrovs
Turnbull, S.C.P.	18 Jan, 1955	Nil	G 4	Not known	None	NA
Wassilieff, A.	21, 24, Jan, 1955	F 9	Nil	Met, but transacted innocent business	None	NA
Westcott, G.	8 Nov, 1954	Nil	G 10	Not known	None	NA
White, A.	20 Jan, 1955	A 9	Nil	No evidence	None	NA
Williams, D.C.	20 Jan, 1955	E 10	Nil	Not known	None	NA
Williams, R.J.	27 Oct, 1954 17 Mar, 1955	Nil	Nil	No evidence	None (re Clayton's house)	NA
Woodward, D.S.F.	11 Nov, 1954	Nil	G 2, 6	Not known	None	NA

APPENDIX II

ANALYSIS OF INSTRUCTIONS IN THE MOSCOW LETTERS ABOUT WITNESSES CALLED AT
THE ROYAL COMMISSION ON ESPIONAGE, 1954-1955

Name of Witness	Reference in Moscow Letters	Instruction Issued	Response to Instruction
Anderson, G.R.	B 10	Petrov: Take the control of Anderson under personal control and assist Pakhomov	Not carried out
	D 16	Petrov: Collect information about changes in trade union leadership in which Anderson worked.	Not carried out
	A 16	Petrov: Acquaint Antonov with Anderson	Not carried out, and Antonov and Anderson never meet.
Body, A.H.	D 10	Mrs. Petrov: Do NOT insist on exchanging language lessons with Mrs. Body	Implemented
	E 7	Petrov: Attempt exploitation of Body "in the dark" to find out certain information	Not carried out
	A 17	Petrov: Try to invite Body on fishing trip and then seek information	Not carried out
Bresland, C.	E 13,14	Petrov: Have Pakhomov establish official contact	Pakhomov met, but no evidence that this was response to instruction
Chiplin, R.	E 7	Petrov: Seek information from him re United Nations	Not carried out
	E 8	Petrov: Verify data supplied by O'Sullivan through him	Not carried out
	F 7	All MVD workers, except Antonov to refrain from meeting him	Not obeyed
	F 8	Nil	NA
Daghian, N.	B 16	Pakhomov: Continue meetings	Implemented
	D 15	Petrov: Assign Daghan to Antonov and give Daghan definite tasks	Implemented, but Antonov fails to meet Daghan
Ferguson, J.	A 20	Petrov: Ask her to locate Shaker	Not carried out

Name of Witness	Reference in Moscow Letters	Instruction Issued	Response to Instruction
Graham, J.	G 18	Nil	NA
Hogue, O.	A 31	Nil	NA
Isaksen, N.	B 15	Nil	NA
Keesing, A.	A 9	Nil	NA
Kent Hughes, M.	A 8	Nil	NA
Kirk, W. T.	A 9	Petrov: Help Kovaliev study his potentialities	No evidence
Kosky, S.	D 11	Petrov: Press for official contact between him and Kovaliev	Implemented
	A 10	Petrov: Inform Moscow about official contact between Kosky and Kovaliev	Implemented
Lewis, M. E. C.	E 10	Petrov: Instruct Antonov to make her acquaintance and inform Moscow of results	Implemented, but Antonov fails to contact.
Morrow, W. R.	B 16	Pakhomov: To maintain official contact and to obtain information "in the dark"	Not carried out
North, H. S.	D 16,17,18	Petrov: Find out and communicate information about him	Implemented
		Petrov: Work out plan to approach him	Not carried out
Novikoff, N. K.	C 5	Pakhomov: Locate him, collect information about him and forward it to Moscow	Implemented but not thoroughly
	F 7	Petrov: Collect full and proper report	Not carried out
Novikoff, N. N.	C 5	Petrov: Communicate proposals for study	Implemented
	F 7	Petrov: Collect full and proper report	Not carried out
O'Sullivan, F.	E 7	Petrov: Use to find out about United Nations	Not carried out
	E 8	Petrov: Verify data about O'Sullivan and his father	Not carried out
	E 9	Not to be invited any more to Embassy	Disobeyed
	E 9	Petrov: Have O'Sullivan compile survey of US penetration of Australia	Not carried out
	A 8	Petrov: Advise Antonov to contact O'Sullivan	Implemented, but Antonov fails to make contact

Name of Witness	Reference in Moscow Letters	Instruction Issued	Response to Instruction
Russell, N.H.	B 15	Nil	NA
Sandy, C.E.	G 17	To be studied	Not carried out
Shaker, H.	A 20	Locate Shaker through Jean Ferguson	Not carried out
Smirnoff, I.A.	F 6	Nil	NA
Stanley, M.	A 7,8	Antonov: To be cautious of Stanley but not to avoid official contact	Implemented
Stephens, M.	A 18,31	Petrov: To become acquainted with Stephens and to study him	Not carried out
Throssell, R.P.	(G 14)	Cable requires Kislytsin to contact	Not carried out
Wassilieff, A.	F 9	Petrov: Obtain certain aviation bearings from him which he offered to the Soviet Union	Implemented
		Petrov: Find out facts about his past	Implemented
White, A.	A 9	Nil	NA
Williams, D.C.	E 10	Petrov: Instruct Antonov to make her acquaintance and inform Moscow of the results	Implemented, but Antonov fails to contact

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STATEMENT

This thesis contains no material which has been accepted for the award of any other degree or diploma and, to the best of my knowledge, it contains no material previously published or written by anyone else, except where due reference is made in the text.

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