



*Dianne
Livingstone*

PRIME MINISTER

FOR MEDIA

18 July 1983

I have today received the attached letter from the
Attorney-General.



SENATOR THE HON. GARETH EVANS

ATTORNEY-GENERAL

PARLIAMENT HOUSE

CANBERRA A.C.T. 2600

18 July 1983

GE:BP

The Hon R.J. Hawke, AC, MP,
Prime Minister,
Parliament House,
Canberra ACT 2600

Dear Prime Minister,

I refer to your request to me last Thursday, 14 July 1983, for my opinion as to whether the conversation on the evening of 21 April 1983 of the then Special Minister of State with Mr E.J. Walsh may have involved an offence under the Crimes Act 1914, that question having been raised with you last Thursday morning by counsel appearing for the Commonwealth before the Hope Royal Commission.

On the evidence available to me at this stage, the possibility cannot be excluded that Mr Young contravened sub-section 79(3) of the Crimes Act (attached). I do not believe that, as the expression "Commonwealth officer" now appears in the Act, sub-section 70(1) has any application to the situation, and no other provision in the Crimes Act appears relevant.

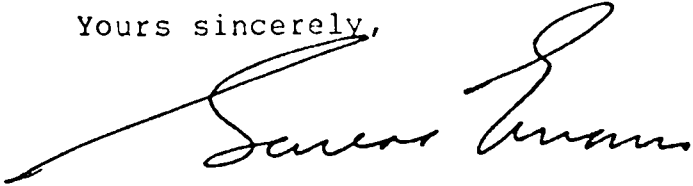
However, the evidence available to me at this stage consists only of Mr Young's statement to you on 14 July and the statement attributed to Mr Walsh in the weekend media (both referred to in Mr McHugh QC's statement to the Hope Royal Commission today), together with my own direct knowledge of the circumstances of the ministerial meetings on 20-21 April. It is impossible for me to give any concluded opinion as to whether criminal proceedings could lie in this matter until more information as to the detailed content of Mr Young's conversation with Mr Walsh has come to light. For all practical purposes, that will not occur until the relevant witnesses have given their testimony before the Royal Commission.

If, after further evidence is to hand, I should conclude that criminal proceedings could lie, a further question will arise, as it always does in criminal proceedings, as to whether, in the light of provable facts and the whole of the surrounding circumstances, the public interest requires that the prosecution should be instituted. I shall have regard in this respect to the guidelines tabled in the Parliament in December 1982, Prosecution Policy of the Commonwealth, by the Hon. Neil Brown QC on behalf of the then Attorney-General, Senator Peter Durack QC.

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I add that the Second Law Officer, the Solicitor-General Sir Maurice Byers QC, has at my request joined me in the examination of this matter, and he concurs in the views expressed above.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Gareth Evans". The signature is written in dark ink and is positioned below the typed name.

GARETH EVANS

CRIMES ACT 1914, SUB-SECTION 79(3)

79.(3) If a person communicates...prescribed information, to a person, other than-

- (a) a person to whom he is authorized to communicate it; or
- (b) a person to whom it is, in the interest of the Commonwealth or a part of the Queen's dominions, his duty to communicate it,

or permits a person, other than a person referred to in paragraph (a) or (b), to have access to it, he shall be guilty of an offence.

Penalty: Imprisonment for two years.

"Prescribed information" is defined in sub-section 79(1), which reads, in relevant part, as follows:

79.(1) For the purposes of this section...information is prescribed information in relation to a person, if the person has it in his possession or control and -

- (b) ...he has made or obtained it owing to his position as a person -

- (ii) who holds...office under the Queen;

- and by reason of its nature or the circumstances under which it...was made or obtained by him or for any other reason, it is his duty to treat it as secret...