



# PRIME MINISTER

FOR MEDIA

30 SEPTEMBER 1979

## ELECTORATE TALK

During last week what has now become known as the Finnane Report was tabled in the New South Wales Parliament.

This was a report compiled on the directions of the Attorney-General of N.S.W., Mr Walker, on behalf of the N.S.W. Labor government.

It is important that the nature of the Report be understood and it is also important that the role of the N.S.W. Government be understood. Mr Finnane was asked to enquire into the business affairs of a number of companies which Mr Sinclair, former Minister for Primary Industry was associated with.

The inquiry was conducted in private, witnesses gave their evidence to Mr Finnane in private, there was none of the normal cross-examination that would occur in a court of law, there was no testing of evidence by counsel as would occur in a court of law. There was no opportunity to examine the credibility of witnesses as in a court of law.

As a result of this process, Mr Finnane came to his personal conclusions and findings. We need to ask whether this is a reasonable way for the N.S.W. government to conduct its investigations.

We need to understand that the conclusions in the Finnane Report could not be presented in a court of law. Its findings are not facts, they are the opinions of Mr Finnane, after taking evidence in the way which I have described.

None of this represents a criticism of Mr Finnane, because as I am advised, it is not unusual for such inquiries to be conducted in this manner.

It is a criticism of the N.S.W. procedure. It is hard to believe that the N.S.W. government did not intend the tabling of the Report to be damaging to Mr Sinclair. As I am advised, and from the Financial Review editorial of last Friday, 28 September, there was a lock-up for journalists and officials were busy pointing out the particular pieces of greatest damage to Mr Sinclair.

That had nothing whatever to do with justice. It might have a great deal to do with politics, but it is surely plain that an inquiry of this kind, on the direction of the Attorney-General should not be exploited for political purposes, with political objectives. If that is to be the part of the N.S.W. Attorney-General

the normal protection of the law is absent and any person could be arbitrarily destroyed.

The N.S.W. government sought not only to introduce the matter into the public arena, through tabling in its own Parliament in a way damaging to Mr Sinclair. There was clearly a degree of co-operation with the Federal Opposition in Canberra which over much of the last two years has sought to introduce material under cover of Parliamentary privilege and create a poisonous atmosphere in relation to Ian Sinclair.

If there had been no inquiry, if there had been no examination, if there had been no possibility of a prosecution, one could have understood the Opposition's tactics in seeking to reveal and to probe. But that was not the case, there was an inquiry sponsored by the Labor government of N.S.W. Mr Sinclair himself had referred the matters to the Corporate Affairs Commission and to the Taxation Commissioner so inquiries were in train. There was no question of the matters not being properly examined. There was no need for Parliamentary debate to expose, because the matter was under a most vigorous examination under the direction of the N.S.W government.

Against that background, any introduction of the matter into the Federal Parliament is plainly designed to poison the atmosphere against Mr Sinclair, under cover of Parliamentary privilege.

It is important to note that while there were allegations against Ian Sinclair in the Finnane Report, no prosecution has yet been launched. No official charges have been made by the law authorities in N.S.W. but a most damaging report has been published, and widely publicised.

Is it reasonable for such a report to be published in these circumstances? Is it reasonable for a government to undertake actions of that kind - to publish such a report - when it has not yet made up its mind whether it intends to prosecute or not?

The allegations have been made against Ian Sinclair. How can his position be determined and finally resolved?

Unless the N.S.W. government takes some action the allegations will stay in the air. They have been made. The only thing Ian Sinclair would be able to do to answer those charges is to make his own statement of the position as he sees it.

That does not dismiss the charges. That does not end the speculation. They are still there in the public domain.

There is only one way these allegations can be finally determined. There is probably only one way Ian Sinclair's innocence, or otherwise, could be proved and that is through the normal court processes.

I know that is what Ian Sinclair wants. An opportunity to prove his innocence through the processes of law through a fair trial. Surely in all fairness Australia owes that much to any person, whether they are a public figure or somebody who shuns publicity and merely seeks to go about his own business.

But have not the circumstances been established in which Ian Sinclair is almost unable to attract a fair trial?

How many people would there be in our community uninfluenced by the publicity, uninfluenced one way or another by that Report tabled in the N.S.W. Parliament?

The way this matter has been handled by the N.S.W. government creates a very real doubt as to whether the due processes of the law are now adequate to enable Ian Sinclair fairly to have his opportunity to have his day in court.

And yet, despite that heavy qualification there are only three options open.

The Finnane Report and its findings can be left hanging in the air, with the N.S.W. government taking no action whatsoever. If that is the course they pursue a grave and serious injustice will have been done. An injustice that would condemn the N.S.W. government for every day that it exists.

The second course of action would be for the N.S.W. government to launch a prosecution. Mr Walker might continue to say that that is a matter for Mr Finnane to recommend - and I understand that he has been told to come back from his holiday to form his recommendations - but they will only be recommendations.

The N.S.W. Crown Solicitor would make his own recommendations. But it would be Mr Walker as Attorney-General who would finally be able to say whether or not that prosecution would proceed. There is no way the Attorney-General can avoid that decision. He cannot disassociate himself from it. If he acquiesces in what a Crown Solicitor might decide, he still gives that his support.

Such a prosecution, despite the qualifications that I have mentioned offers by far the best hope of justice being done and the truth finally revealed.

And finally if the N.S.W. government is not prepared to launch that prosecution, the only other option which would leave any dignity to the government of N.S.W. would be for the Finnane Report to be totally repudiated by Mr Wran and his government. If they do not prosecute, if they are advised that a prosecution could not be sustained, if there is any justice left in the State of N.S.W. so far as this case is concerned the Report must be repudiated.

The Sinclair case, the Finnane Report, is a very significant event. Not merely because it involves a senior Minister of my government - but because it throws bare to the light of day, a contemporary challenge to the rule of law, to the right to a fair trial, and to the role of the Parliament.

There are many quasi-judicial tribunals, there are many investigative bodies established by governments. A number of them conduct their inquiries in the same manner that Mr Finnane conducted his. Should there be some new rules for the conduct of such inquiries?

The reports, once made, are handled in different ways. Clearly there needs to be much greater care in the way the reports are handled, and the purpose for which they are used.

Because if Ian Sinclair can be denigrated and damaged in the public mind as a result of the Finnane Report, next week, next month, next year that same process could be used against you or any other member of the Australian community.

The last matter which needs seriously to be examined is the role of Parliament when such investigations are under way. Should the Parliament allow itself to debate these matters, to have evidence introduced, or what is alleged to be evidence, part heard, inadequately understood and out of its proper context? If such matters concerned a case in a court of law, Parliaments could not, and would not, behave in that way. But as we have seen these processes are capable of very severely damaging, and are capable of even destroying the reputation of people.

Going beyond the Sinclair affair and the Finnane Report, there are serious matter of principle involved. They affect all governments and your Commonwealth government is certainly not prepared to ignore these matters.

For the moment it is up to the N.S.W. government whether they prosecute, or will they themselves repudiate the Finnane Report? They have no other option that will leave them with any dignity or any honour.