



## PRIME MINISTER

E & O.E. - PROOF ONLY

TRANSCRIPT OF PRESS CONFERENCE, 26 SEPTEMBER 1985

PM: Ladies and Gentlemen, after lengthy discussions with Mr Reid tonight I came to the conclusion that I had not received a satisfactory response to my letter of the 17th September to Mr Reid in which I had said to him inter alia. "So that there can be no confusion let me state in the clearest possible terms that I seek from you an assurance that Dr Armstrong's settlement was not a device contrived to avoid or to minimise taxation." Not being able to be satisfied in that respect, I had no alternative but to ask Mr Reid for his resignation and he has given me that resignation in these terms.

"Dear Prime Minister, Following our discussion this evening and your clear wish that I should resign as Chairman of the Australian Bicentennial Authority, I hereby tender my resignation pursuant to Section 73 of the Australian Bicentennial Authority Act 1980. I further hereby shorten the notice under that section in order that my resignation shall take place forthwith. Yours sincerely, JB Reid"

I have contacted Mr John Utz, a member of the Board of the Authority and he has indicated to me that he will accept appointment as Chairman of the Authority. That will be on an interim basis.

I finally want to say that I thank Mr Reid for the work that he has done in his capacity as Chairman of the Australian Bicentennial Authority since its inception in 1980, the work that he has done in preparation for the bicentennial year celebrations in 1988.

JOURNALIST: Prime Minister, do you expect that all the money will now be paid to Mr Armstrong?

PM: My understanding is that the money has been paid.

JOURNALIST: It's not recoverable?

PM: Well, I will obviously have to have discussions now that this position has been reached as to what is involved. I am not therefore in a position until I have had such discussions to answer that question.

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JOURNALIST: Prime Minister, it's you who insisted that Dr David Armstrong should resign. And it's you who told Mr John Reid that he should err on the side of generosity. So why do we find a situation here where it's John Reid who has resigned?

PM: Well the answer to that is very simple. I was given clearly to understand in my discussions with Mr Reid that what would be involved was the buying out of a contract. It was six years of the contract was mentioned that there were entitlements under a contract in those terms. In those circumstances I indicated that Mr Reid should, if anything err on the side of generosity in respect of entitlements under a contract. It has become clear and indeed contained as an appendage to the letter from Mr Reid to me tonight, that if you go back to the letter of 12th October 1979, that indeed there was no contract which went to the question of having to go to the period of 1990 - five or six years out. There was the clear statement in it that you or the Authority may terminate your employment by four months notice in writing except in the case of your misconduct when the Authority will be entitled to terminate your employment forthwith. Now in fact, the termination arrangements that were concluded were therefore not in relation to the buying out of a contract which was the understanding which Mr Reid proceeded after his discussion with me on 19th. And indeed, the arrangement that was arrived at was one which after I spoke with him on 10th September, the question of tax advantage arose in that conversation. And I immediately then signalled my concern - is why I have in fact proceeded to the decision that I have taken.

JOURNALIST: When did you first become aware that there was a four month notice clause there?

PM: This is the first time that the letter from Mr Reid to Dr Armstrong has been in our possession. And I recapitulate for you the sequence of events. When I spoke to Mr Reid on the 15th August and said that I believed that Dr Armstrong's employment should be terminated and he went away to think about that - that is Mr Reid went away to think about that. On 19th in writing and in the conversation then that I had with him, he indicated to me that what would be involved would be a buying out of the remainder of the contract. He mentioned a period of six years then. And he went away to negotiate in those terms. Now, when I spoke to him 10th and raised the question with him then of my puzzlement about the change in the composition of the settlement and it was pointed out to me then that this involved advantages for Dr Armstrong my immediate response as Mr Reid has acknowledged was one of concern about whether in fact this involved some tax avoidance or tax minimisation. And I indicated then that I wanted a response as to whether that was in fact involved. And I followed that up with my letter of 17th September to him in those terms which I just read out to you. And it is tonight that I have received a reply to that request on 17th September. And I simply am not able to be satisfied that the arrangement then arrived at, contrary to the understanding given to me as to the buying out of the contract was six years. That arrangement I am not able to satisfy myself at all, is

not one that involves tax minimisation. And that is not acceptable to me or to the Government.

JOURNALIST: What tax act has it reached?

PM: It is a tax minimisation. It is at least a tax minimisation. It may be more than that.

JOURNALIST: Could you give us some details about that?

PM: Well the sum of 240,000 has been included in the agreement between Mr Reid and Dr Armstrong, an amount which doesn't go to the buying out of a contract, but which is in terms of undertaking not to do certain things which we are given to understand would not attract tax, but which of course, if it had been paid as a buying out of a contract, would have. And that is unacceptable. And I have made it clear to Mr Reid on the phone on 10th September and confirmed by writing on 17th that that was not acceptable.

JOURNALIST: Was the settlement overall too generous, do you think now?

PM: You see, you have got to go to the point of - if it was a buying out of a contract - if there was a contract that existed which if to be bought out meant a payment of x number of years of salary, then that would have been in that ballpark, because it would have involved the payment of x number of years of salary plus the associated long service leave entitlements and annual leave and that sort of thing. And that would have been of that order. What is totally unacceptable is that he has reached a position where the same sort of figure has been arrived at in a quite different way which involves tax minimisation. Now that is not acceptable.

JOURNALIST: Mr Hawke are you saying Mr Reid misled you about this?

PM: Well, I don't want to use the word mislead. I don't want in regard to Mr Reid, any more than for that matter in regard to Dr Armstrong, create by any statement of mine any unnecessary hurt for Mr Reid, particularly, as I say, that I freely acknowledge the contribution that he has made. What I say is that he has not been able to satisfy me that what is done has been in accordance with the proposal that he put to me on 19th August, nor in the consequence am I able to be satisfied that this does not constitute a contrived scheme of tax minimisation, at the least.

JOURNALIST: Mr Hawke, did you ask for Mr Reid's resignation tonight, or did he offer it?

PM: I have already said that I asked for it.

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JOURNALIST: Mr HAWKE, what is the figure of tax advantage gained under the way the deal was formulated?

PM: Well, we find in the letter, let me go back one step, in the earlier letter from Mr Reid, I think of the 28th of August, he indicates that he would forward to me a figure of the total tax involved. We still haven't received that but it appears that the amount of tax that would be involved would be something of the order of \$7,000 in this settlement. But we haven't got the figure yet.

JOURNALIST: Tax ...

PM: Yes, but I want to be completely clear to you about this. We still haven't got the figure from Mr Reid as to what the total tax figure may be. But it is clear that in regard to the figure of \$240,000 which has been put up there to make up the amount to the order of what was talked about to me on the 19th of August that that amount apparently attracts no tax. As distinct from what would have obviously been the case of attracting tax if that original statement to me as to what was going to happen if that arrangement had been adhered to.

JOURNALIST: So is it a moral or a legal question that we are looking at?

PM: Well, it is at least a moral question. Now, I would need now to take advice that the matter has been completely discussed with Mr Reid. One would need to take advice as to whether the arrangement of the \$240,000 was more than minimisation. I will need advice on that. I am not in a position to say whether it is more than minimisation.

JOURNALIST: Mr Hawke, if this scheme is unacceptable and it is within normal commercial practices, will you take steps to stop it happening elsewhere in the corporate world?

PM: But I am not accepting that it is within normal commercial practice.

JOURNALIST: What happens to the Authority now, Mr Hawke.

PM: I am glad you asked that, Barrie. I am indebted to Mr Utz in difficult circumstances for his immediate response to my request to accept the interim chairmanship. He understands that it is important to achieve a continuity of operation and I believe we all owe a debt of gratitude to him for accepting that. I trust that now under his chairmanship we will be able quickly to move to the appointment of an executive director, a chief executive, which position had been filled in an acting capacity by Mr Reid himself, that we can do that and that we can then find a chairman who will be not an interim chairman, a fulltime chairman. I want to make it clear, as I have attempted to before, that a great deal of work, good work, has been done, much remains to be done. I have been pleased as I go around Australia to see

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PM cont: the extensive interest there is in ensuring that we have an admirable year of celebrations in 1988. The good will of the community is there for that purpose and I believe that now we can proceed to do that and I trust that that will be the desire of everyone concerned in this matter.

JOURNALIST: Prime Minister, since the Board voted to say it approved of the way Mr Reid handled this matter, hadn't you better replace the Board?

PM: I don't believe that that follows. I think it, one relevant response to that Laurie is that a prominent member of the Board in Mr Utz has accepted what has occurred now tonight and following his acceptance of that has accepted the interim chairmanship of the Board. The belief I have is that the Board will accept now the further exposition of all that has been involved in this matter and will continue to operate under the interim chairmanship of Mr Utz. That is my hope and my belief.

JOURNALIST: Has Mr Utz told you why he thought Mr Reid did the right thing?

PM: No, he didn't.

JOURNALIST: Did you ask him?

PM: No I didn't.

JOURNALIST: Why did Dr Armstrong have to go?

PM: Well, from the beginning I repeat what I have said before. I have not wanted to engage in an exposition about the performance of Dr Armstrong which would unnecessarily create hurt or embarrassment for Dr Armstrong. I made it clear to Mr Reid in the discussions I had on the 15th of August that there were a number of considerations but, all of which centred on the fact that there was a range of dissatisfaction about certain aspects of the operation of the Authority. And that the advice I had including particularly from my own Department was the belief that these problems would not be overcome while Dr Armstrong remained there. And in those terms therefore I believe that I had the responsibility in the interests of the people of Australia, given that advice and that broad advice to initiate the removal of Dr Armstrong. I emphasise that it was not done with any sense of animus against Dr Armstrong, far from it. And now that he is no longer there and Mr Reid is no longer, the obligation upon the Government is to ensure that we put in place people in the two chief positions of authority who will conduct the affairs of the Australian Bicentennial Authority in a way best calculated to ensure an appropriate standard of celebrations in 1988. And I reaffirm my belief that that will be able to be achieved. And in the process of course of the discussions that I will have with Mr Utz and in the discussions which will then follow with the new Chief executive when appointed and then subsequently with the chairman that is appointed after the interim chairmanship of Mr UTz, we will look at the ways in which, in an administrative sense there can be if you like, a tightening up of procedures, an increase in the reportability of the Authority to the Government. So that by taking these collection of measures we will be able to achieve that objective of an outstanding year in 1988. I am totally confident that that can be done.

JOURNALIST: Mr Hawke, you have said that you now know that there was no contract between the Authority and Dr Armstrong. Surely it follows from that that there was therefore no legal obligation on the Commonwealth to pay the \$220,000 whether in the form of buying out the contract or in the form of this contrived tax avoidance scheme which you talked about?

PM: It is part of what I have been putting to you, that now that I have the letter from Mr Reid and with the attachment of the letter from him of the 12th of October '79 to Dr Armstrong, that it is clear that what was put to me on the 19th of August was not on the clear reading of that letter a contract which required the buying out of a contract going up until approximately 1990. Now, however, the negotiations conducted by Mr Reid, which he has again indicated he appropriately had to undertake. Those negotiations have proceeded on a basis which in terms of the contract that existed was not necessary. It is quite clear.

JOURNALIST: Do you believe there is now a case for revealing the full details of the removal of Dr Armstrong?

PM: Well, the details are clear. I have in response to a question earlier this evening indicated that in a sense I don't think it is fair to Dr Armstrong to go to every element of what was involved. But I emphasise to you again, as I did in an earlier question, that the advice to me, summarised in advice from my own head of department, was in terms that it could not be a legitimate expectation that the problems that had arisen could be overcome nor could we expect a totally satisfactory outcome in 1988 if Dr Armstrong remained in the position. Now, that was the compelling reason. And it is a sufficient reason. I repeat I have never in my public life sought, when you are dealing with a problem which involves hurt for a particular individual to try and compound that hurt. It is not in my nature and it certainly wasn't in this case. What I had to do was act in a way which I believe was necessary in the interests of this country. I have done that. And I believe that the interests of the country will be served by the action that has been taken.

JOURNALIST: But isn't the taxpayer footing the bill for it?

PM: The taxpayer is footing the bill for the arrangement that was negotiated for Mr Reid.

JOURNALIST: Among the documents you tabled last week there is a legal opinion to the Authority that the arrangement reached on the financial settlement was satisfactory. Do you have an opinion to the contrary?

PM: I certainly have a view myself which is shared by those advising me that the arrangement that has in fact been arrived at is not one which is in any way in accordance with the understanding of the basis upon which I understood the negotiations would be taking place. But most specifically there is a clear judgement that I make that the arrangement that has been entered into involves at the least tax minimisation. Perhaps more. But it involves at the least tax minimisation. And that is not acceptable.

JOURNALIST: Mr Hawke, why wasn't this picked up earlier. I mean aren't we only in this situation tonight because you didn't identify these defects when you first ...

PM: No let me make it clear that when I spoke to Mr Reid on the 15th and he then proceeded after the conversation on the 19th with me, I had absolutely no reason to believe that the Authority, the Australian Bicentennial Authority, would proceed to an arrangement that involved tax minimisation. It was the furthest thought from my mind that that would take place. Now, when I spoke with Mr Reid on the 10th of September and at that point expressed my puzzlement at the difference in the composition of the settlement from what I understood would have followed from my discussion with him on the 19th of August. Reference was then made to the advantages that would flow to Dr Armstrong from that arrangement. My immediate, and I emphasise immediate, my immediate response when that was put to me was to say is there a tax avoidance or minimisation involved in it. Because, I suggest it wouldn't occur to anyone else, it simply had not occurred to me that some arrangement would be made which could involve tax, could or would. And as soon as I raised that in response to the observation that this would be to the advantage of Dr Armstrong I immediately said, as I have indicated on a number of occasions, well I want you to tell me if there is any element of avoidance or minimisation in this arrangement. And followed that with the letter of the 17th of September indicating that I wanted that in writing. Now I just received that letter today. And I repeat that letter has not satisfied me in any way that that is not<sup>what</sup> has occurred.

JOURNALIST: But when you first got the details of the settlement, did you seek advice on that?

PM: Well, as I said in the Parliament, I got that and perhaps one could have raised the question of the composition of the settlement earlier. I have already said that. But even at that point when I saw the difference of the composition the thought of tax minimisation did not occur to me and then I talked with Mr Reid and I said to him then, it was the first case, and I said 'well, look, I am puzzled by the change in composition', and it was as soon as I had said that and it was put to me that 'well, this is to the advantage of Dr Armstrong'. As soon as that was put to me I said, 'does that mean there is some question of avoidance or minimisation', because I would have no bar of that and insisted that I be informed as to whether that was involved. Now, it was only tonight that I got the letter and I have had to come to the conclusion that that is not the case. There isn't at least tax minimisation involved. And it is in that context that I have found it necessary to ask for the resignation of Mr Reid.

JOURNALIST: Can you just indicate for us what the difference, the after tax difference between what Dr Armstrong will be getting after the current package and what he should have got under proper .....

PM: What I have said before is that we are still to receive from Mr Reid the indication that he said earlier that he would give of the total amount of tax involved in this arrangement. But what does seem to be quite clear is that in regard to the \$240,000 element which has been in under these other arrangements that no tax applies to that. Now quite clearly, if there had been an adherence to what I had understood was the arrangement of a buying out of a contract then tax would have applied to that.

JOURNALIST: The top marginal rate ...

PM: Well, it was over 6,000 and 7,000, yes. So that is right. Now, until we get that full statement from Mr Reid as to what is the total tax amount on the other element then I can't, as you will appreciate, give you that final answer. What I can say with assurance is that this amount of \$240,000 that has been put in unrelated to a buying out of a term of a contract, which the contract appears not to exist anyway in those terms, but in regard to that \$240,000 - no tax. Now that is not acceptable.

JOURNALIST: The \$7,000 tax which you mentioned before, what exactly does that refer to?

PM: Well, that relates to the taking out of those elements of the payments to Dr Armstrong that were in the nature of salary. See there are elements of it of long service leave entitlement. Part was also an element of future long service leave entitlement. But I can assure you that when I get the full statement from Mr Reid as to the tax elements of that non-\$240,000, I will make those available.

JOURNALIST: Prime Minister, does Mr Reid finish up immediately or is he serving out some ..... such as six months?

PM: No, I have read that out before and I said, 'I further hereby shorten the notice under that section in order that my resignation shall take place forthwith'.



JOURNALIST: Is there anything in the letter of October 12, 1979 which would indicate that Dr Armstrong would have had a belief that he would have had<sup>4</sup> job in the ABA until 1990?

PM: Yes, but that doesn't go to the question of the contract. Let me read the whole of that paragraph:

'You or the Authority may terminate your employment by four months notice in writing except in the case of your misconduct when the Authority will be entitled to terminate your employment forthwith. Should you not resign or be terminated forthwith the last date of your employment by the Authority will be the 30 June 1990 when the Authority will cease to exist. If the Parliament of the Commonwealth decides that the Authority shall cease exist on some other date then that would be the date applying in lieu of 30 June 1990.'

Now quite clearly, here we are having a situation where someone was being taken on as Chief Executive and Mr Reid was indicating the expectation of what the period of the employment would be in normal circumstances. But he is doing that in the context of saying in the first sentence as to what the contractual situation, 'you - Dr Armstrong, or the Authority may terminate your employment by four months notice in writing except in the case of misconduct'.

JOURNALIST: Did Mr Reid indicate whether or not Dr Armstrong would have been willing to resign now if he didn't get the package that was offered to him?

PM: No, all that has been conveyed to me is that following my discussion with him on the 15 August, then he went into that weekend, he had discussions with Dr Armstrong and indicated that the view was that the employment should be terminated. And when he came back to me on the 19th he indicated well, yes, Dr Armstrong would accept that. And they then went into the negotiation with their solicitors as to the terms of that. Negotiations which on the basis, as far as I was concerned, of what Mr Reid had said to me - 'well, there will be a fairly large amount of money which is represented by the buying out of a contract which has got about six years to go'.

JOURNALIST: Is Mr John Menadue being considered ..... offering a position at the Authority?

PM: Not by me, I have not addressed my mind to his name.

JOURNALIST: Dick Smith?

PM: No. Bill Jones?

JOURNALIST: Dick Smith from Dick Smith Electronics?

PM: No, his name had not occurred to me.

JOURNALIST: What sort of settlement package will Mr Reid receive?

PM: Well, can I say I have not addressed my mind to that and knowing John Reid as I do I would think he wouldn't be looking for one.

JOURNALIST: Mr Hawke, there have now been three resignations from the Authority. Who must bear the ministerial responsibility for the statements reached?

PM: There is no question of ministerial responsibility for the third one. Which is the third one you have got in mind?

JOURNALIST: Ranald MacDonald .....

PM: Well, certainly no question of ministerial responsibility for Mr MacDonald's .....

JOURNALIST: Who must accept the responsibility for the state of the Authority as perceived by the Australian public at the moment.

PM: How does the Australian public perceive it? Are you the spokesman for them.

JOURNALIST: I don't think they see it very well.

PM: Well, when I feel that you're the spokesman for the Australian public I will come and ask your opinion.

JOURNALIST: Mr Hawke, on the matters which you suggest might go beyond tax minimisation, have you got anyone in the tax office, are they looking into that or are you planning to refer that to them?

PM: How we will proceed with that matter I have got to address my mind to. That arises out of the discussion this evening. I have said on a number of occasions that I believe it's certainly minimisation. I don't think there is any argument about that. As to whether it is more than that I will have to take advice on that in the light of the discussion which has only taken place this evening.

JOURNALIST: Mr Hawke, will you make public Mr Reid's letter of resignation .....

PM: I don't know how much more public I can make the letter of resignation than reading it out twice. Would you like me to dance up on the rafter with it?

JOURNALIST: You also mentioned material that was appended to it. Will that be made public?

PM: I have not mentioned anything that was appended to it for the very simple reason that nothing was appended to it.

JOURNALIST: Prime Minister, how do you think you have come through it? Do you think you are vulnerable in any way in Parliament or outside?

PM; No, I believe not. In the one thing I indicated to the Parliament, perhaps I could have directed my mind to the change in the composition between the end of August and the 10th September. But I was engaged in a number of other matters but I believe that I have properly discharged the responsibility that when I raised the question with Mr Reid and he indicated to me an arrangement which involved an advantage for Dr Armstrong. Instantaneously I said I had a concern about this tax avoidance or minimisation. I could not have raised that more immediately when it was brought to my attention because I repeat the thought that the Authority would be involved in tax avoidance or minimisation simply had not occurred to me. Let me finish please.

As soon as that matter came to my attention in a conversation with Mr Reid, I immediately said I want you to give me assurance that that's not involved. I wrote on the 17th and I had no indication on the 10th or after the 17th that that was involved. And the letter that I have received tonight as I said at the outset of this conference, simply cannot satisfy me, or I would suggest anyone else, that that is not involved.

JOURNALIST: But doesn't that whole explanation really amount to an admission that you closed the stable door after the horse had bolted?

PM: No, I think that what it indicates<sup>/15</sup> that I accepted that following the 19th of August conversation that a certain course of action would be pursued. When it became clear to me in the conversation that hadn't been then I took the immediate action that I needed to take to satisfy myself that that hadn't happened. And I have come to the point tonight, having received the letter from Mr Reid and having had conversation with him that my concerns in the respect had not been satisfied, I have taken the action that has been necessary.

JOURNALIST: Mr Hawke, how do you react when you discover that someone of the calibre of Mr Reid has left you the Prime Minister of Australia at least under a misapprehension?

PM: Well, I am unhappy that we have a situation where for whatever reason on Mr Reid's part, there is a different course of events pursued from that which I understood would be pursued - which course of events has involved tax minimisation - I am both unhappy and sad about that.

JOURNALIST: Mr Hawke, will Mr Reid's and Dr Armstrong's replacement both be Australian?

PM: Well, John Utz is a vigorous Australian, so the answer to your question is already satisfied in that part and I would believe that the replacements would be Australians. But we are an open society. I don't put bars upon those who will be appointed.

JOURNALIST: Just to clear up on that point .... you are saying that the only specific provision for the termination of Dr Armstrong's employment was four months notice?

PM: That's now what is put to me in the letter - the attachment. I asked for Mr Reid tonight to come with all relevant information and that what is attached. Now that is all that I am aware of.

JOURNALIST: And all the rest is really cream on the top?

PM: Well, I must say, I mean I think it's been explicit and implicit in what I have said, is that in the terms of that contractual relationship, and that's all that has been put before me as to what the contractual relationship is then four months notice met the requirements of that relationship.