SIR GARFIELD BARWICK: A 20TH CENTURY SAGA OF LAW AND POLITICS

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Sir Garfield Barwick, born in 1903 and dying in 1997, spanned the 20th century as a period of modern Australian history and was a significant contributor to that history as the acknowledged leader of the Australian Bar in the 1940s and 1950s, as a federal minister in the early 1960s and then as Chief Justice of Australia for nearly two decades. I am going to speak tonight on some aspects of Sir Garfield's remarkable career and I suppose I should note at the outset that he was at times a controversial character in both the worlds of law and politics and not everyone will no doubt agree with some of my assessments. But there is plenty of room for debate on these subjects and I expect to have that debate when we come to question time. I have generally referred to my subject as Sir Garfield, although he was not knighted until February 1954.

I am not, however, going to dwell on Sir Garfield's early life except to say that he attended Sydney University Law School and until relatively recently it combined the study of law with articles in a law firm[1]. This meant that Sir Garfield practiced essentially as a solicitor in the early 1920s but in 1927, still aged only 24, he started at the Bar.

Challenges to airline and bank nationalisation in the late 1940s

I won't dwell either on his busy practice in the 1930s but I will move to the great contests in the High Court in the second half of the 1940s over the federal Labor government's attempts to regulate some sectors of the economy. The first of these involved government legislation

that effectively prohibited private airline services from operating across State borders. Sir Garfield led for the airlines in the High Court and the court unanimously ruled that the legislation contravened s 92 of the Constitution in its restriction on trade and commerce between the States.[2]

Next came the Melbourne Corporation case where the legislation in question prohibited the private banks from conducting any banking business for a State or local government body.[3] Again Sir Garfield led for the plaintiffs in the challenge to the legislation in the High Court and the court struck down the statutory provision in question on the basis that it interfered with the exercise of the States' governmental functions – a doctrine that has been raised on many occasions since in the High Court but very seldom successfully.

The Chifley government's response was to nationalise the private banks and this legislation was the subject of challenge in the High Court in early 1948. Sir Garfield was briefed by the Bank of New South Wales but he was the effective lead Counsel for the banks. This was a legal epic. The banks had 16 Counsel, including four future members of the High Court, and the Commonwealth had 10 Counsel, led by the Commonwealth Attorney General, H. V. Evatt KC, who at one stage of the proceedings spoke for 18 continuous days. A majority of the court invalidated the legislation on the basis of s 92, although it was also held that the acquisition of the private banks did not provide the just compensation required by the Constitution.[4]

The Commonwealth appealed to the Privy Council which heard the case in early 1949. Sir Garfield made the bulk of the argument for the banks, although technically led by two English Silks, Sir Walter Monckton KC and Sir Cyril Radcliffe KC. Radcliffe was later appointed to the House of Lords and the Privy Council but was best known for drawing the border line between

India and Pakistan on the partition of India in 1947. Evatt addressed the law lords, two of whom died during the course of the hearing, for 21 days in two stages but to no effect. As it happened, the Privy Council considered that it did not even have jurisdiction to hear the proceedings because it involved a determination as to the distribution of the powers of the Commonwealth and the States and so required the leave of the High Court.[5] It did, however, go on to express the view that the legislation contravened s 92 but somewhat less expansively than the decision of the High Court.

Over the next two decades these decisions seemed to reinforce Labor's view that its economic agenda required constitutional amendment to be implemented. This was reflected in a lecture given at Melbourne University in July 1957 by Gough Whitlam, then an Opposition backbencher in the House of Representatives, under the title "the Constitution versus Labor". But over time it became clear that it was not necessary to nationalise private corporations to control the sector of the economy in which they operated, particularly after the corporations power in the Constitution was given an expansive construction by the Barwick-led High Court in 1971.[6] And by the time of Hawke – Keating government in the 1980s Labor was actually privatising government bodies like Qantas in a complete reversal of the Chifley period.

Leader of the Australian Bar in the 1950s

Sir Garfield was on the losing side in 1951 when the High Court ruled against the Communist Party Dissolution Act 1950 (Cth).[7] In defending the legislation he led a team of 10 Counsel, including two future members of the High Court and three future members of the Victorian Supreme Court. The lead Counsel on the other side was Evatt, now deputy leader of the Opposition after the defeat of the Chifley government in the general election of 1949. Evatt, by now leader of the Opposition, confronted Sir Garfield yet again at the royal commission established in 1954 into the defection of the Soviet diplomat, Vladimir Petrov. Evatt was appearing for some members of his staff who had been named in the proceedings and Sir

Garfield for those officers of ASIO – as opposed to the organisation itself - who were called to give evidence in the inquiry. Evatt did not see the end of proceedings, having had his right to appear withdrawn by the commission because of public statements that he had made about its conduct.

Sir Garfield spent quite a bit of time in the 1950s in London at the Privy Council. Perhaps his most significant victory in those years was to persuade the law lords to invalidate NSW legislation that provided for the licencing of road transport operators on the basis that it contravened s 92 insofar as it applied to persons operating vehicles in the course of and for the purposes of interstate trade.[8] The real point of the licencing scheme was that an application for a licence could be refused if, for example, the relevant authority considered that freight rail services were already adequate for the area in question. The judgment reversed the decision below of the High Court and overruled five earlier decisions of the High Court.[9] When I used to drive on interstate highways and was continually passed by huge transports travelling at excessive speed, I was inclined to blame the law lords for this and to think that they had not really appreciated the social and economic consequences of their decision.

Attorney General in the Menzies government in the early 1960s

In 1958, however, all this stopped with the move into the political world. Nowadays it is unusual for those seeking election at the State or federal level to have had a career other than as a ministerial staffer, party officer or trade union official. Moreover, those that enter parliament often do so in their twenties and leave in their forties. It was a rather different regime in the 1950s but, even by the standards of that time, Sir Garfield was making, at the age of 54 a late start in political life. Menzies and Harold Holt, for example, had gone into parliament at a relatively young age – Menzies at 34 to the Victorian parliament and Holt at 27 to the federal parliament. Nevertheless, when the then safe Liberal seat of Parramatta in

the House of Representatives became available in early 1958, Sir Garfield joined the Liberal Party and stood successfully for the preselection and in March he was duly elected to the House of Representatives. There was a general election in November of that year and, following the election, he became federal Attorney General.

One of his first tasks in early 1959 was to introduce into the parliament Commonwealth legislation that would overtake the jumble of inconsistent divorce laws in the various States and territories. The Bill contained the traditional grounds for a divorce decree, including adultery and desertion, but added a ground of five years separation, although a court would still have a discretion to refuse the decree if the petitioner had been guilty of adultery.

It is difficult now for those who were not there at the time to imagine the stigma of divorce in the 1950s and the powerful role of the churches in Australian society. All the major churches condemned the separation ground and I can recall an address by Bishop Arthur Fox, of the Melbourne Catholic Archdiocese, at my school speech night where he made a ferocious attack on the proposed legislation. Sitting on the stage with various dignitaries was Liberal member, Percy Joske, the member for Balaclava in the House of Representatives, who had been a long-time advocate for divorce law reform and was representing the prime minister in whose electorate the school was located but this didn't worry Bishop Fox. In any event, the legislation, including the separation ground, survived parliamentary debate and became law. Despite its limitations, it was a considerable improvement on the existing regime and represented a real achievement for Sir Garfield. It was not until the passage of the Family Law Act (Cth) in 1975 that the grounds for divorce were finally rationalised, although even that legislation has not been able to prevent fierce litigation in the case of some marriage dissolutions.

Minister for External Affairs

Following the government's narrow victory in the general election of December 1961, Sir Garfield became Minister for External Affairs in addition to being Attorney General. Australian foreign policy at this time was dominated by fear of a conflict with Indonesia and a desperate desire to ensure that, in the event of such a conflict, the US would come to our assistance. This was the basis for Australia's involvement in Vietnam which started in May of 1962 with a contribution of 30 so-called military instructors. At about the same time Sir Garfield visited Saigon and had discussions with President Diem. I suppose we can't be sure what Sir Garfield's attitude would have been in late 1964 and early 1965 when the decision was made in Canberra to commit ground troops to the war in Vietnam and to encourage escalation of the conflict on the part of the US but he seems to have had no scepticism about the Diem regime in 1962. There were no reservations expressed in Canberra about the Diem regime but, when Washington supported a coup in Saigon that resulted in Diem being killed, the new regime was simply accepted without question.

As some people will be aware, I published a book in 1981 about Australia's involvement in Vietnam and I was very critical of those decisions. I could of course point to the fact that the war was ultimately lost but some of the Australian decision-makers took the rather cynical view that that didn't matter because Australia's only interest was in securing an insurance policy with the US. Nor did it matter to them that the US lost 50,000 dead and that American society was convulsed by division and disruption. In contrast to his lack of scepticism – whether real or contrived – on Vietnam, Sir Garfield took a more realistic approach to Indonesia's policy of confrontation with the newly-formed Malaysia, although this proved difficult in the light of Menzies' desire to strongly support the British position.

In the midst of all this the government went to an election in December 1963 and was comfortably returned. Following the election Sir Garfield remained Minister for External Affairs, although reluctantly relinquishing the role of Attorney General. In April 1964, however, Chief Justice Dixon stepped down from the High Court and Sir Garfield made the difficult decision to leave political life and take Dixon's place.

First decade as Chief Justice

I can make some personal observations of the Barwick Court from my time as Associate to Sir Edward McTiernarn in 1971 and early 1972. The court was based in Taylor Square but spent up to a third of the year on circuit to the other State capitals. Only in Melbourne did the court have its own quarters so that the other visits required sharing chambers with the judges of the local Supreme Court. This made for very inefficient working arrangements and fuelled Sir Garfield's view that the court should have a permanent home in Canberra. Sir Garfield would have liked, as he told me one night walking down Little Collins Street in Melbourne, to have instituted a conference system somewhat akin to the US Supreme Court in an effort to reduce the number of individual judgments, often each covering very much the same ground. But this was largely resisted by his judicial colleagues who, as Sir Garfield remarked to me, retired like monks to their cells to work on their individual judgments. There was not a great deal of camaraderie amongst the judges but none of the enmities that has infected the US Supreme Court at various times. Sir Edward liked Sir Garfield, although they had almost nothing in common, although Sir Garfield's only real friend on the court was Sir Douglas Menzies, with whom he had done a great deal of work at the Bar and whose urbane charm endeared him to most people. I can recall one night when the court was sitting in Brisbane and almost all the judges had dinner at Lennons Hotel, which was then, the grand old hotel in that city. I was in the dining room sitting with Sir Edward and Lady McTiernan but, as I looked around, I could not help noticing that the other judges and their spouses were all sitting at separate tables.

There were relatively few important constitutional cases in Sir Garfield's first decade on the court and much of the court's time was consumed by cases concerning income tax, estate duties, construction of wills, real property, local government, negligence actions, workers compensation, industrial law, criminal appeals, matrimonial causes, patent and trade mark issues and contract disputes. There were a number of cases involving s 92 and in some of these Sir Garfield dissented, maintaining his wide view of the operation of the section.[10] The court's decisions on s 90 of the Constitution have long produced divisions between the various members of the court and this was true in two challenges to Western Australian legislation that imposed a stamp duty on the receipts of payments on sales of goods. In the first challenge the court divided equally and Sir Garfield's view that the tax was an excise and so denied to the States prevailed.[11] In the second challenge four judges, including Sir Garfield, maintained the view that the tax was one on goods and so an excise.[12]

Section 90 has long been a problem for the court and some coherence in its view was really only arrived at in 2023 in Vanderstock v Victoria and even then by a 4:3 vote.[13]

In late 1970 the court heard a challenge, brought by the State of Victoria, to the imposition by the Commonwealth of payroll tax on wages paid to its employees, essentially on the basis of the Melbourne Corporation doctrine on the basis that the tax interfered with the exercise of the State's governmental functions. The challenge was, however, unanimously dismissed by the court.[14]

The most important constitutional case over this period was the Concrete Pipes case where all members of the court effectively held that s 51(xx) of the Constitution – the corporations power – authorised a law that regulates or controls the trading activities of foreign

corporations and trading and financial corporations formed within the limits of the Commonwealth, despite a majority invalidating on technical grounds the legislative provisions before the court in that case.[15] This decision opened the door for a vast array of federal legislation regulating economic activities in Australia.

The court heard many income case taxes over this period but one aspect of that jurisdiction that has attracted some criticism in retrospect was the court's treatment of the then s 260 of the Income Tax Assessment Act 1936 (Cth) that deemed void contracts, agreements or arrangements that had or purported to have the purpose of effect of defeating, evading or avoiding liability imposed by the tax legislation. The decision that essentially emasculated this provision was Federal Commissioner of Taxation v Casuarina Pty Ltd[16] where it was held that s 260 did not apply to a highly artificial series of share transactions that were designed to avoid or minimise tax on undistributed company profits. Justice McTiernarn dissented and critics of the tax avoidance industry operating at that time would say that he had the better of the argument, although there is here a philosophical difference of opinion as to how tax legislation should be construed and Sir Garfield, of course, had a strong view on this subject.

In 1972 the court began to change in complexion after a relatively long period of stability when Justice Windeyer retired and Justice Owen died. They were replaced by Justice Stephen and Justice Mason. Justice Gibbs had already replaced Justice Kitto in 1970.

Constitutional litigation during the Whitlam period

Justice Walsh died in November 1973 and was replaced by Jacobs J of the NSW Court of Appeal. Justice Menzies died in November 1974 and was replaced by Murphy J who had been the Commonwealth Attorney General.

Following the election of May 1974, in which the Whitlam government was narrowly returned to office, a joint sitting of the Houses of Parliament was convened by the Governor General under s 57 of the Constitution to consider six proposed laws that the government claimed the Senate had rejected or failed to pass in the sittings of the previous parliament. The validity of the Governor General's proclamation was challenged and it was also argued that any joint sitting could only deliberate on one proposed law. The challenge was rejected by the court, although Sir Garfield considered that the Governor General had exceeded his function in specifying the business of the joint sitting and in directing that there should be voting on each of the specified bills.[17]

One of the six laws enacted following the joint sitting – the Petroleum and Minerals Authority Bill 1973 – was then challenged in the court in early 1975 on the basis that the Senate had not rejected or failed to pass it as required by s 57. A majority of the court, including Sir Garfield upheld that challenge to the legislation.[18]

Another of the six laws resulting from the joint sitting provided for the election of two senators from each of the Australian Capital Territory and the Northern Territory. This was challenged and the court delivered judgment in October in 1975. By a majority of 4:3, with Sir Garfield dissenting, the court held the legislation to be valid under s 122 of the Constitution which allows the Commonwealth parliament to provide for the representation of the Territories in either House of Parliament to the extent and on the terms that it thinks fit.[19] It might be noted that this case was essentially reargued in May 1977 with the same result.[20] Sir Garfield maintained his dissent but the other two members of the minority in the earlier decision – Gibbs and Stephen JJ – considered that the earlier decision was binding on them.

Yet another challenge to an exercise by the federal government took place in May 1975 when a number of the States challenged the allocation by the Commonwealth of just under $6 million by way of grants to regional councils in Victoria established under the Australian Assistance Plan for the provision of social welfare services within the community. None of these arrangements were the subject of legislation except for the allocation of funds under an Appropriation Act. By a rather extraordinary combination of judicial opinions, the challenge was rejected, albeit again by the narrowest margin of 4 votes to 3, with Sir Garfield dissenting on the basis that the appropriation was not for the purposes of the Commonwealth as required by s 81 of the Constitution.[21]

There was a novel piece of constitutional litigation in early November 1975 when the government effectively challenged Commonwealth legislation. The federal Attorney General granted fiat to a Victorian elector so that he could challenge the relevant federal electoral legislation on the basis that it did not require there to be as near as practicable equality of people or electors in each electorate of House of Representatives. The challenge was rejected by all members of the court except for Murphy J.[22]

Unlike much of the government's legislative program, the Seas and Submerged Lands Act 1973 passed through the Senate but in April 1975 it was challenged by all of the States. Legislation provided, relying on two international conventions, that sovereignty and respect of the territorial sea and the airspace over it and its bed and subsoil was vested in the Commonwealth as were the sovereign rights of Australia in respect of its continental shelf. All members of the court considered that the declaration of sovereignty in relation to the continental shelf was authorised by the external affairs power.[23] In relation to the territorial sea, a majority of the court, including Sir Garfield, came to the same conclusion, adding that the boundaries of the former Australian colonies ended at the low-water mark so that the States have no sovereign or proprietary rights in the territorial sea or the sub-adjacent soil or supra-adjacent airspace. This second finding, however, was effectively nullified by means of

a settlement between the Commonwealth and the States during the Fraser government's term of office.

Last years as Chief Justice: 1976 – 1980

Justice McTiernarn retired from the court in September 1976 and was replaced by Aickin J from the Melbourne Bar. Justice Jacobs retired from the court in April 1979 and was replaced by Wilson J who had been the Western Australian Solicitor General.

After the seemingly constant series of constitutional cases arising out of the Whitlam period, the second half of the 1970s did not produce many significant constitutional questions, although there was still quite a number of s 92 cases and in some of these Sir Garfield was in the minority because of his views on the provision. One novel constitutional challenge was made to Commonwealth financial assistance to church schools in early 1980 on the basis that this assistance contravened s 116 of the Constitution which prohibits, inter alia, the making of any law of the Commonwealth for the establishment of any religion. All members of the court, except for Murphy J, rejected the argument of the challengers.[24] The Commonwealth's powers of economic regulation were bolstered by a decision of the court in 1979 that gave a broad meaning to the notion of trading corporations under s 51(xx) of the Constitution.[25]

On 26 May 1980 the court's permanent home in Canberra was formally opened by Queen. Sir Garfield had planned that all hearings would be held in Canberra and that the members of the court would reside there but his colleagues resisted this plan and, with one or two exceptions, all the judges have continued to be based in their home jurisdictions and travel to Canberra for the court sittings. Sir Garfield himself retired in February 1981, although he had obviously stopped sitting for some months before that time.

November 1975

I have left to almost last the events of November 1975 and Sir Garfield's role in them on the basis that it came towards the end of his public career and remains the conduct for which he is best known outside the legal world in the wider community.

There were, in my view, no heroes in the drama that played out in November 1975. Mr Whitlam, as prime minister, displayed his customary insensitivity to many of the surrounding events and treated Governor General Sir John Kerr with what turned out to be a dangerous disdain. Notwithstanding this assault on his ego, Kerr's failure at this time was that he did not confront Whitlam earlier and tell him that an election might be necessary. It is highly unlikely that Whitlam would have been able to remove Kerr immediately, even if he had wanted to and, if this had later occurred, it would have been enormously damaging to Whitlam and would have made Kerr the victim in these events rather than Whitlam himself. From Kerr's point of view, such a confrontation would have been far from pleasant but it was his responsibility to give Whitlam some warning of what might have to happen.

As for Sir Garfield's role, the legal opinion that he gave the Governor General on 10 November was not in one sense controversial, given that it took the relatively orthodox position that, in the case of a genuine deadlock over the budget between the House of Representatives and the Senate, the Governor General was entitled to remove the government and bring about a general election. What was, however, controversial was the fact that Sir Garfield provided the Governor General with that opinion at that time. The Governor General did not need legal advice from the Chief Justice because he already held the same opinion. But what he did need was an effective assurance that the High Court would not involve itself in the removal of the government if there was a legal challenge to that exercise. Sir Garfield wrote later that he did not consider that the Governor General's decision was one that could come before the High Court[26] Even if that were right, I would say that any involvement by the

judiciary in the political process is misguided. In the aftermath of November 1975 this view seems to have gained considerable currency and a number of Sir Garfield's successors as Chief Justice have made it clear that they would not be available to provide advice to a Governor General seemingly in any circumstances.

One intriguing question that arises from these events is to what extent Sir Garfield was aware of the constant advice being provided by one of his brother judges, Sir Anthony Mason, to the Governor General in the weeks leading up to the removal of the government. Sir Anthony even drafted a letter on 9 November – which the Governor General ultimately did not use - terminating the prime minister's commission and on the afternoon of 11 November he was still advising the Governor General as to how he should respond to the former government's motions in the House of Representatives. This was an extraordinary abuse by Sir Anthony of his judicial office and amounted to a direct intrusion into the political arena.

Having received Sir Garfield's opinion on 10 November, the Governor General requested Sir Garfield ask Sir Anthony Mason whether he agreed with Sir Garfield's view. Not surprisingly Sir Anthony said that he did, although this discussion has all the elements of a charade, given the lengthy consultations up to that point between the Governor General and Sir Anthony about which Sir Garfield was unaware.[27]

Summing up

Sir Garfield achieved many of Lord Birkenhead's "glittering prizes" in his careers at the Bar, on the bench and in politics but, if one were to make a comparison, however invidious, between these three roles, my own feeling would be that his most striking success was as the dominant leader of the Australian Bar in the 1940s and 1950s. This was in the tradition of some of the great English advocates of the first half of the twentieth century, such as Patrick

Hastings, Norman Birkett and Stafford Cripps, and, although the leaders of the Bar are no longer household names in modern society, Sir Garfield remains, in addition to his other achievements, above all one of the great figures of the Australian Bar.

[1] For Barwick's early life – and his life generally – the most comprehensive account is to be found in David Marr, Barwick George Allen & Unwin, 1980 (Reissued by Allen & Unwin 1992)
[2] Australian National Airways Pty Ltd v Commonwealth (1945) 71 CLR 29

[3] Melbourne Corporation v Commonwealth (1947) 74 CLR 31

[4] Bank of NSW v Commonwealth (1948) 76 CLR 1

[5] Commonwealth v Bank of NSW (1949) 79 CLR 497

[6] Strickland v Rocla Concrete Pipes Ltd (1971) 124 CLR 468

[7] (1951) 83 CLR 1

[8] Hughes and Vale Pty Ltd v State of New South Wales (1954) 93 CLR 1

[9] Hughes and Vale Pty Ltd v State of New South Wales (1953) 87 CLR 49. See also R v Vizzard; Ex parte Hill (1933) 50 CLR 30; O. Gilpin Ltd v Commissioner for Road Transport and Tramways (NSW) (1935) 52 CLR 189; Bessell v Dayman (1935) 52 CLR 215; Duncan & Green Star Trading Co. v Vizzard (1935) 53 CLR 493; Riverina Transport Pty Ltd v State of Victoria (1937) 57 CLR 327 and McCarter v Brodie (1950) 80 CLR 432

[10] See eg Deacon v Mitchell (1965) 112 CLR 353; Rogers v Jordan (1965) 112 CLR 581; Harper v State of Victoria (1966) 114 CLR 361; Tamar Timber Trading Co Pty Ltd v Polkington (1968) 117 CLR 353; Samuels v Reader's Digest Association Pty Ltd (1969) 120 CLR 1; Associated Steam Ships Pty Ltd v State of Western Australia (1969) 120 CLR 92; S.O.S. (Mowbray) Pty Ltd v Mead (1972) 124 CLR 529; Buck v Bavone (1976) 135 CLR 110; Clark King & Co Pty Ltd v Australian Wheat Board (1978) 140 CLR 120; Permewan Wright Consolidated Pty Ltd v Trewhitt (1979) 145 CLR 1

[11] State of Western Australia v Hamersley Iron Pty Ltd (No. 1) (1969) 120 CLR 42

[12] State of Western Australia v Chamberlain Industries Pty Ltd (1970) 121 CLR 1. See also Dickenson's Arcade Pty Ltd v State of Tasmania (1974) 130 CLR 177; M G Kailis (1962) Pty Ltd v State of Western Australia (1974) 130 CLR 245

[13] Vanderstock v Victoria (2023) 98 ALJR 208

[14] State of Victoria v Commonwealth (1971) 122 CLR 353

[15] Strickland v Rocla Concrete Pipes Limited (1971) 124 CLR 468

[16] (1971) 127 CLR 62. See also Mullens v Federal Commissioner of Taxation (1976) 135 CLR 290; Slutzkin v Federal Commissioner of Taxation (1977) 140 CLR 314

[17] Cormack v Cope (1974) 131 CLR 432 at 458

[18] State of Victoria v Commonwealth (1975) 134 CLR 81

[19] State of Western Australia v Commonwealth (1975) 134 CLR 201

[20] State of Queensland v Commonwealth (1977) 139 CLR 585

[21] State of Victoria v Commonwealth (1975) 134 CLR 338

[22] Attorney General of Commonwealth (Ex rel. McKinlay) v Commonwealth (1975) 135 CLR 1

[23] State of NSW v Commonwealth (1975) 135 CLR 337

[24] Attorney General (Vict) (Ex rel. Black) v Commonwealth (1981) 146 CLR 559

[25] The Queen v Federal Court of Australia; Ex parte W.A. National Football League (1979) 143 CLR 190

[26] Sir Garfield Barwick, Sir John did his duty (Serendip Publications, 1983) at 79

[27] See Kelly and Bramston, The Dismissal: In the Queen's Name (Viking, 2015) at Chap 13