



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



## **THE SENATE**

### **STATEMENTS BY SENATORS**

#### **Royal Commission into Institutional Responses to Child Sexual Abuse**

### **SPEECH**

**Wednesday, 24 February 2016**

BY AUTHORITY OF THE SENATE

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## SPEECH

<p><b>Date</b> Wednesday, 24 February 2016  <b>Page</b> 963  <b>Questioner</b>  <b>Speaker</b> Heffernan, Sen Bill</p>	<p><b>Source</b> Senate  <b>Proof</b> No  <b>Responder</b>  <b>Question No.</b></p>
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**Senator HEFFERNAN** (New South Wales) (12:45): I rise today for chapter 1 of what will take many hours. I recently have been given an order to produce documents to the McClellan Royal Commission into Institutional Responses to Child Sexual Abuse to justify my making a case to the royal commission, which is doing excellent work and is discovering things on the public record about the treatment of and behaviour towards children in our institutions—which a lot of us have known about for 50 years; most people have chosen to look the other way and ignore—that we have the same problem, I think, in the institution of the law as well as in the institutions of our churches et cetera.

I was given an order to produce, and I produced, documents to justify my case to the McClellan royal commission. I have some of those documents here. The notations from the royal commissioner are on the documents. This one I am holding up here, for instance, asks, about boys picked up by judge so-and-so, 'Were they Marcellin College students?' This is a police intelligence document that says, 'A certain judge used to pick up boys in the toilets opposite Marcellin College.' That particular judge, by the way, gave a sentence of 'found guilty till the rising of the court' to a person who was charged with serious sexual offences. He also allowed a father who was abusing his foster children and whom he found guilty in a closed court, with names suppressed, to go back to the family home. That is that particular judge.

I want to make the case that there is clearly a need—and I intend to get a senior legal opinion—for the inclusion in the terms of reference for the royal commission, under 'institution', the institution of the law. We also need a federal judicial commission. In estimates the other day, the Attorney-General said we do not need a federal judicial commission because there is no endemic corruption in the federal law system. I said to him, 'Well, does that mean there is in New South Wales,' because New South Wales does have the very, very successful Judicial Commission of New South Wales, which does everything from educating judges on sentencing to being a speed camera in the system for this behaviour. Of course, I did not get a sensible response to that: 'It's a different jurisdiction,' et cetera.

Within the federal jurisdiction, I have pointed out the behaviour of one Dr Rikard-Bell, who has given 2,000 opinions as an expert to the Family Court. The Family Court system in Australia is broken. There are a lot of things that go on in there, with partners dividing and accusations of sexual misbehaviour within the family, especially the fathers. This guy, who has given 2,000 opinions as an expert to the court, says in an interview with the ABC, which I would like to table, that he has no real expertise. In fact, he was instructed by a man, Dr Richard Gardner—who has since suicided, by the way—that Dr Rikard-Bell recommends as an opinion maker, and who said:

... the child has to be helped to appreciate that we have in our society an exaggeratedly punitive and moralistic attitude about adult-child sexual encounters ...

This is the guy giving advice to Dr Rikard-Bell. This Dr Rikard-Bell insists on interviewing children in front of the offending fathers. How is that for intimidation? And so it goes on.

So there is a serious problem in the Family Court. I now have on my desk in my office a pile which is nearly a foot thick of correspondence from parents, especially mothers, who have been mistreated, as they see it, in the Family Court. I just think the Family Court needs sorting out, but I do not have time to go through the particular detail.

I have here also police documents that every Attorney-General, from Philip Ruddock to now, has seen. The present Attorney-General has not been delivered these documents; he saw some of them in a Senate hearing in Melbourne, where I was not allowed to table them. This goes to why we need a federal judicial commission and why we should include the institution of the law in the terms of reference of the royal commission. This is a police document, from the Child Protection Enforcement Agency—I will not name anyone—to the Commissioner of Police New South Wales, with a date: 'The attached report relates to Justice'—the name is deleted—'who has emerged prominently during my investigations to date. Much of the information is hearsay and not capable of

being sustained, but collectively it paints a disturbing picture of a senior member of the legal profession who may or may not have committed criminal offences but who certainly, in my view, is open to compromise,' which is the serious issue. It goes on: 'In the circumstances, I feel no alternative but to seek your permission to carry out a sustained surveillance operation against this target. I do not take this decision lightly in view of Justice'—deleted name's—'high profile, but I feel that based on similar evidence I would have little hesitation in carrying out such an operation against any other member of the public. For such reasons, I do not think that this particular person should be treated any differently, though I recognise the matter must be handled with acute sensitivity. I am of the view that such an investigation would serve a dual purpose. Primarily, it may provide evidence of criminal offences committed against young boys aged under 18. There is certainly strong suspicion of such activity. Secondly, it may yield evidence of inappropriate behaviour which, whether or not it constitutes a criminal offence, would leave the judge open to compromise and ought to be reported to the appropriate legal body'—very important words. It continues: 'Such consideration was singularly absent from the suspicion surrounding Justice Yeldham,' and I will name him, 'which consequently did not show either the police or the legal profession in a good light. I believe this action is defensible on those grounds alone. Subject to your approval, I intend to take personal command of the operation under the auspices of Strike Force Cori.'

I also raised in estimates the other day another police document, with a list of people. I am not going to name anyone on this list. I note that royal commissioner Justice Wood said he does not recall this document at the time, even though it is his document, signed off by Gary Crooke QC. It is addressed to the New South Wales Police Service and it is a list of alleged paedophiles. A person known to the commission compiled the list involving paedophilia. The list details his knowledge of activities—these are only allegations—and at the back there are surveillance issues.

To give an idea of the intensity of this: the first person on the list is a former Prime Minister; the second person is a political party heavyweight; the next person is a very senior business person; the next person is a senior judge; the next person is a Supreme Court master; the next person is Justice Yeldham, who, sadly, has passed away. He should not have suicided. Everyone knew what he was up to. The next guy on the list is a local court magistrate; the next guy is a former president of the Law Society; the next one is John Marsden, who has passed away; the next one is a judge, the guy who used to go to Marcellin College; the next guy is a QC; the next guy is a barrister; the next guy is a QC; the next guy is a barrister; the next guy is a QC; the next guy is a senior partner of a law firm; the next guy is a senior solicitor of a law firm; the next guy is a barrister's clerk—and so it goes on.

These are police documents. The Wood royal commission, in volume 4, said they were disturbed at the way files were mismanaged and the contents were lost. Sadly, I have a lot of the contents from the lost files and I have had them for some time. They were delivered to me on a bench in the botanic gardens. I think it is absolutely essential that we, the Australian people, give serious consideration to why we should have a judicial commission and why we should get the royal commission, which is doing a fantastic job, to include this in its terms of reference.

I have talked about Costello's, the boy brothel, and Porky's. Some of the people who attended those are noted here. The police were on the payroll. They would ring up Costello's, the boy brothel, and say, 'We're coming to raid you.' They were being paid. I can name the coppers that were getting the money. The police are seriously compromised. For someone like me, who has all this knowledge, even though you could get smashed for talking about—it would be derogatory—I do not think it would be responsible to not try and do something about it.

I have a police letter here saying that there was a guy who represented Philip Bell, a notorious paedophile, under a false name in court. I wrote to the police and said, 'Why haven't you arrested him?' They said: 'It's only evidence from the royal commission. We would have to have another investigation. Evidence from the royal commission may not be admissible in a prosecution. We would have to have our own investigation.' I am advised the prosecution always retains a discretionary power not to proceed—in other words, a cover-up. This is a lawyer who represented—

The ACTING DEPUTY PRESIDENT ( Senator Sterle ): Senator Heffernan, your time has expired. You are seeking leave to table a document?

**Senator HEFFERNAN:** I seek leave to table a transcript of an ABC interview.

The ACTING DEPUTY PRESIDENT: Is leave granted?

**Senator McEwen:** I do not want to deny leave to Senator Heffernan but I have not seen the document. It has not been provided to the whips, which is the normal courtesy.