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LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

COMMITTEE OF PRIVILEGES

**REPORT ON AN ITEM
IN THE 6.30PM NEWS
ON CHANNEL 8, 1 MAY 1991,
RELATING TO THE
MULHOLLAND ADVICE**

OCTOBER 1991

Presented and Ordered
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1. MEMBERSHIP OF COMMITTEE

1.1 On 4 December 1990, the Committee of Privileges was appointed with the following membership:

Mr Bell
Mr McCarthy
Mr Manzie
Mr Smith
Mr Vale.

1.2 At its meeting on 14 February 1991, the Honourable D W Manzie, MLA was elected Chairman of your Committee.

2. BROADCAST OF 6.30PM NEWS ON CHANNEL 8, 1 MAY 1991—MULHOLLAND ADVICE

2.1 On 30 April 1991, pursuant to a Resolution of the Assembly dated 4 October 1990 and pursuant to a Resolution of the Assembly dated 30 April 1991, the Speaker, the Honourable N M Dondas, MLA, tabled an unexpurgated copy of an Advice prepared by Mr Robert Mulholland, QC, and Ms Roslyn Atkinson relating to certain Northern Territory police investigations. Prior to the tabling of the Advice, on a motion by the Chief Minister, Mr Perron, the Legislative Assembly resolved:

“That—

(1) notwithstanding the provisions of the Resolution of 4 October 1990 relating to the Advice of Mr Robert Mulholland, QC, the Speaker lay the copy of the Advice which he has received from the Secretary of the Department of Law on the Table forthwith;

- (2) this Assembly—
- (a) authorizes the publication of the Advice to all Members of the Assembly; and
 - (b) orders that, unless otherwise ordered, the Advice shall not be published to any other person: provided that the Secretary, Department of Law, in his role as solicitor in this matter may publish the Advice as necessary; and

(3) the Speaker, on receipt of advice from the Solicitor-General, shall, if possible, table a further copy of the Advice from which matter which may unduly affect privacy or which may impact on the fair trial of any person has been deleted.”.

2.2 A copy of the Advice, from which certain matter had been deleted, was tabled in the Assembly late on Wednesday 1 May 1991. This paper was ordered to be printed and was thus available to the Press and other interested parties.

2.3 On the morning of Thursday 2 May 1991, the Chief Minister, by leave, raised as a matter of Privilege the fact that on the Channel 8 6.30pm News of Wednesday 1 May 1991, Mr Andy Bruyn presented a news segment containing certain matter purportedly stemming from the Mulholland Advice.

2.4 This news broadcast occurred prior to the tabling of the sanitized copy of the Advice in the Assembly on that day.

2.5 Mr Perron was of the opinion that the broadcast of this segment on the Channel 8 6.30pm News was a contempt of the Assembly and a breach of section 14 of the *Legislative Assembly (Powers and Privileges) Act*. He therefore asked that Mr Speaker refer the matter to the Committee of Privileges. The Speaker stated that he had viewed the segment to which the Chief Minister had referred and, pursuant to Standing Order 94, referred the matter to the Committee of Privileges.

2.6 Your Committee first considered the matter at a meeting held on 2 May 1991. The Committee has held a further six meetings at which the matter was considered.

2.7 Your Committee received and viewed a video tape of the relevant excerpt of the Channel 8 6.30pm News broadcast of 1 May 1991, certified by Mr Dodds, the then General Manager of Territory Television Pty Ltd, Channel 8, together with a certified copy of the transcript of the news excerpt.

2.8 Being concerned to be certain that, as a matter of law, the broadcast was in breach of an Order of the Assembly, on 28 May 1991, your Committee wrote to the Solicitor-General, Mr Tom Pauling, QC, seeking his advice as to whether in his opinion, the broadcast by Channel 8 of the news item was, as a matter of law:

- (a) in contravention of the Resolution of the Legislative Assembly of 30 April 1991; and
- (b) a breach of section 14 of the *Legislative Assembly (Powers and Privileges) Act*.

The Solicitor-General responded by providing the Committee with an opinion, the ultimate conclusions of which were:

- “(a) the broadcast by Channel 8 of the News item was in contravention of the Resolution of the Legislative Assembly of 30 April 1991; and
- (b) the broadcast was in breach of section 14 of the *Legislative Assembly (Powers and Privileges) Act 1977*.

2.9 Your Committee also wrote to Mr Dodds, the then General Manager of Channel 8, and Mr Bruyn, Director of News, Channel 8, seeking advice on the following:

- (a) whether they were fully aware of the relevant Resolution of the Assembly of 30 April 1991 prohibiting publication of the Advice from Mr Mulholland;
- (b) if they were aware of the Resolution, what was their understanding of its meaning and intent;
- (c) the reasons for the publication of the news item, in their respective capacities as General Manager of Channel 8 and Director of News, Channel 8;
- (d) whether the information contained in the news item stemmed from a copy of the Mulholland Advice and, if so, from whom it was obtained;
- (e) if the information was gained from other sources, from whence was the information derived; and
- (f) any further explanation or apology they deemed fit.

2.10 Mr Dodds replied on his behalf and on behalf of Mr Bruyn on 11 July 1991. A copy of this correspondence is included in the Appendix.

2.11 Your Committee considered the written response received and determined that to clarify matters, it would ask Mr Dodds and Mr Bruyn to attend a public hearing to give evidence to the Committee.

2.12 Because of Parliamentary and Ministerial commitments, the Committee was unable to hold its public hearing before 25 September 1991 and unfortunately, prior to that date, Mr Dodds left Darwin to take up the position of General Manager, Sky Channel, in Sydney. Mr Bruyn then became Acting General Manager, Channel 8, and was thus not only able to speak to the Committee on his own behalf, but also on behalf of Channel 8.

2.13 Prior to Mr Bruyn giving public evidence to the Committee, he was supplied with a list of questions which the Committee intended to ask at the hearing and was advised that he may be accompanied by counsel.

2.14 Shortly before the hearing, the Committee received a written response to the questions from Mr Bruyn and these were used as a basis for further questioning at the hearing of 25 September 1991. At the meeting, Mr Bruyn did not avail himself of the offer to have counsel present and a copy of the transcript of that meeting is also included in the Appendix .

2.15 In answer to questions, Mr Bruyn admitted that whilst he had never seen a copy of the Resolution of the Assembly of 30 April 1991 prohibiting publication of the Mulholland Advice, he had been made aware of it and Mr Nason, Chief of Staff at Channel 8, had read the Resolution to him over the telephone.

2.16 Mr Bruyn had been sufficiently concerned at the contents of the Resolution to twice ring the Station's solicitor, Mr McGill of Allen, Allen and Hemsley in Sydney. He told the solicitor that there was an Order against the publication of the Resolution, but Mr McGill, on being informed that the unexpurgated version of the Advice had been tabled, advised that, regardless of any Order, it was open to the Station to publish matter contained in the Advice.

2.17 Mr Bruyn stated that he was not aware of section 14 of the *Legislative Assembly (Powers and Privileges) Act* and did not raise it with his solicitor during these discussions. He also advised the Committee that he did not give Mr McGill the wording of the Resolution of the Assembly or a transcript of the proposed news story.

2.18 Whilst he told the solicitor that "there are Orders on this and that we cannot broadcast the material", he did not advise Mr McGill that, pursuant to section 14 of the *Legislative Assembly (Powers and Privileges) Act*, a prohibition on publication had been ordered by the Legislative Assembly.

2.19 Later in his evidence, Mr Bruyn said that his interpretation of the advice received from his solicitor was that "he thought that the Resolution was beyond the powers of the Act, probably not knowing the Act as well as he would know the legislation in other places". Mr Bruyn later stated that his impression was that the solicitor thought "that the Order was flawed and that we could go ahead".

2.20 However, not only did Mr Bruyn discuss the potential problems associated with the broadcast and prohibition Order of the Assembly with his solicitor, he also discussed them with Mr Dodds and Mr Nason of Channel 8.

2.21 Your Committee understands that in 1989 at the time of its inquiry into the news item produced by Mr Nason on the Channel 8 6.30pm News on 22 February 1989, Mr Bruyn was not residing in the Northern Territory, but was working in Brisbane.

2.22 In its report on that matter, your Committee stated the following:

"2.11 Your Committee realises that certain members of the media are either unaware of the existence of the *Legislative Assembly (Powers and Privileges) Act* and subsequent Orders of the Assembly made pursuant to the Act or have not been apprised of the potential consequences of breaching that Act. Maximum penalties imposable for breaches of the Act are a fine of \$2000 or imprisonment for six months.

"2.12 Your Committee does not know if Mr Nason and other Channel 8 staff involved were either aware of the provisions of the legislation, or of the Order of the Assembly of 25 February 1985. Your Committee, however, is amazed that Mr Nason and Channel 8 staff would deliberately disregard and act directly contrary to the oral and written instructions of Mr Speaker.

"2.13 Breaches of the *Legislative Assembly (Powers and Privileges) Act* are, in the opinion of your Committee inexcusable, whilst flagrant disregard of the Speaker's legitimate and unambiguous directions is not merely discourteous, but in your Committee's view, is reprehensible. Penalties for such offences which could be imposed by Mr Speaker of his own volition without any reference to your Committee, range from suspending the press passes of individuals to excluding all employees of a media organisation from the precincts of the building.

2.14 This however, is the first such offence which has been raised as a matter of privilege in the Northern Territory Parliament. Your Committee is aware that many members of media organisations in Darwin are not conversant with Parliamentary Privilege or the terms and provisions of the relevant legislation and Orders of the Assembly.

2.15 Your Committee, under these circumstances, and on this occasion, is prepared to accept the explanation and apology offered by the General Manager of Channel 8, Mr Dodds on his behalf and on behalf of Mr Nason. However, your Committee is of the opinion that should any similarly flagrant breach of the legislation or of the Orders of the Assembly occur, such a breach should be treated most seriously.”.

2.23 In the light of this trenchant criticism of Channel 8 and its staff contained in that Report, your Committee can only express its exasperation and amazement at the fact that, despite discussions having been held with Mr Dodds and Mr Nason, both of whom were at the heart of the 1989 inquiry, permission was given for Mr Bruyn to proceed with the broadcast in the face of the specific Order of the Assembly made just one day previously.

2.24 In defence of the broadcast, Mr Bruyn had stated, in his written answer:

“I carefully edited the story to ensure that it did not refer to any matter which may have impacted upon the fair trial of any person or the privacy of any person and to ensure no sensitive police procedure was revealed.”.

2.25 Before the Committee, Mr Bruyn elaborated on that response by saying:

“I was acutely aware of certain matters before courts in the Northern Territory and matters within those court cases that had been prohibited from publication and also matters of civil litigation. In discussion with other people, I went to great lengths to ensure that we did not jeopardise any of those matters.”.

2.26 Mr Bruyn continued further:

“The thing that I was most concerned about was people’s reputations and ensuring that we did not injure unnecessarily the reputation of anyone and to be careful of the material that was likely to end up in court. It was not our job to make the job of the justice system more difficult. I was trying to be responsible in what was put to air in the story and to ensure that it would be fair in the first sense and accurate.”; and

"I did not use any of the material relating to any of the events in sections of Mr Mulholland's advice which had not been released at any time, in particular those concerning Fergusson River. I was aware of my own idea of what the resolution was—which I have already explained to the Committee—and was very careful not to impinge on those areas that I believed the resolution was designed to protect."

2.27 Mr Bruyn stated that neither did he nor, to his knowledge, did any member of his staff have a copy of the unexpurgated Mulholland Advice. Your Committee notes that both the television and print media in broadcasts and news articles speculated on the contents of the Advice on or about that time. Your Committee is not certain whether the news story carried by Channel 8 in the 6.30pm News of 1 May 1991 was the result of certain knowledge or the result of speculation or "scuttlebutt". Certainly, there were some blatant errors in the story, even though the story purported to be based on the Mulholland Advice. Mr Bruyn, on ethical grounds, refused to divulge his source, or sources, for the story.

2.28 In mitigation, Mr Bruyn made the following apology and explanation to the Committee:

"On behalf of Channel 8 and myself, I offer my apology to the Chief Minister and Legislative Assembly for the broadcasting of the Channel 8 story prior to the release of the Mulholland Advice as vetted by the Secretary of the Department of Law.

"Had I been more careful in my advice to the solicitors and therefore received a better response from them, and had I been more aware of section 14 myself or the Resolution in total, we would not have gone ahead with the story. However, after weighing what information I had then, we went ahead on the basis that we were balancing the right to information as against the concerns of the story which was otherwise being put out, as I have said, as a result of intense public speculation—not just some, but intense. I would also point out that we were not the only media in Darwin which put out information on that day. There was substantial media broadcast of parts of the Advice."

Your Committee also understands that the following memorandum had been forwarded by Mr Bruyn to the Channel 8 Newsroom Producer, reporters, the Chief of Staff and to the Channel 8 solicitors:

"Please note that in the wake of the recent Parliamentary privileges Committee hearings, there is a new policy in place when seeking legal advice from our solicitors on orders made by parliament or by a Court, prohibiting publication or broadcast of material.

"In every such case, where you are seeking an opinion on whether material in a story, or the entire item itself may contravene such an order, a copy of the Resolution of the Parliament (especially when made under section 14 of the Powers and Privileges Act of the Northern Territory) or the Order of the Supreme Court Justice or Stipendary Court Magistrate should be faxed to our solicitors—in its exact wording.

"It is also relevant to note that the Clerk of the Assembly has advised that his staff are available to offer advice on relevant Resolutions of Parliament."

3. REPORT OF THE COMMITTEE

3.1 The Assembly has the undoubted power to reprimand or admonish, and in addition, the Legislative Assembly has the power to exclude from the precincts of the Assembly one or all representatives of an offending media organisation.

3.2 The Committee of Privileges reports to the Legislative Assembly—

(1) that the publication, prior to the tabling of the expurgated copy of the Mulholland Advice in the Assembly, of the Channel 8 6.30pm news item of 1 May 1991, constitutes:

- (a) a contempt of the Legislative Assembly; and
- (b) a breach of section 14 of the *Legislative Assembly (Powers and Privileges) Act*; and

(2) that Territory Television Pty Ltd, Channel 8, the then General Manager, Mr Dodds, and the Acting General Manager, Mr Bruyn, are responsible and culpable for such a contempt of the Assembly and breach of section 14 of the *Legislative Assembly (Powers and Privileges) Act*.

3.3 Your Committee points out that penalties which can be imposed, for the contempt of Parliament, are severe and if the recommendations contained in its Report on the *Legislative Assembly (Powers and Privileges) Act* are agreed to by the Assembly, even more stringent fines will be imposable on individuals and organisations that are held to be in contempt of the Parliament.

3.4 Your Committee in this instance does not propose to recommend that action be taken under sections 27 and 28 of the *Legislative Assembly (Powers and Privileges) Act*. In your Committee's opinion, the cost of litigation is not warranted.

3.5 Your Committee notes the apology made by Mr Bruyn, together with the measures which he has taken as acting General Manager to ensure that such a contempt of the Parliament will not occur again.

3.6 However this is the second time in two years that Channel 8 has committed a contempt of the Assembly by disregarding and acting contrary to Orders of the Assembly. Your Committee believes that the continued flagrant disregard of Orders of the Assembly demonstrated by Channel 8 and its staff should not be allowed to pass without the Assembly taking some punitive action.

3.7 Your Committee therefore recommends—

That, having regard to the nature of the contempt of Parliament in this case and the fact that this is the second time in two years that Channel 8 and its staff have committed such an offence, Mr Bruyn, as Acting General Manager of Channel 8, be required to attend before the Assembly on behalf of Channel 8 to be reprimanded and warned by the Speaker.

APPENDIX

APPENDIX

COMMITTEE OF PRIVILEGES

Wednesday 25 September 1991

9.45 am

On the committee:

Hon D.W. Manzie (Chairman)
Mr N.R. Bell
Mr T.R. McCarthy
Mr T.E. Smith
Hon R.W.S. Vale

Also present:

Mr H.G. Smith (Clerk)
Mr G.P. Gadd, (Clerk Assistant)

Appearing before the committee—

Mr Andrew G. Bruyn
NTD Channel 8 News Director

**NOTE: Edited transcript.
Issued: 30 September 1991.**

Mr MANZIE: I declare open this public meeting of the Committee of Privileges. I welcome Mr Bruyn who is appearing to give evidence in relation to the news item on the 6.30 news of 1 May 1991 which purported to detail matters contained in the Mulholland advice concerning certain Northern Territory police investigations.

Mr Bruyn, you will recall that, in requesting the Speaker to refer this matter to the Committee of Privileges, the Chief Minister stated that the broadcast occurred prior to the tabling of the edited copy of the advice on 1 May 1991 and was in contravention of the resolution of the Assembly, dated 30 April 1991, which restricted publication of the unexpurgated copy of the advice to members of the Legislative Assembly.

Mr Bruyn it is customary for evidence before the Committee of Privileges to be sworn evidence, and the Clerk will now administer the oath.

Mr Bruyn took the oath.

Mr MANZIE: The committee prefers all evidence to be given in public, but should you wish, at any stage, to give your evidence or part of your evidence or answers to specific questions in private, you may apply to do so and the committee will give due consideration to that application. For the Hansard record, would you please state your full name, address and the capacity in which you appear today.

Mr BRUYN: My full name is Andrew George Bruyn. My address is 31 Bald Circuit, Alawa, Northern Territory. I am employed by Territory Television as News Director and as Acting General Manager.

Mr MANZIE: The committee has before it responses to letters that were forwarded to you and the answers to a series of specific questions which the committee addressed to you on 13 September 1991. Is it the wish of the committee that these documents, including the letters to Mr Bruyn, be included in the record of proceedings? There being no objection, it is so ordered.

Mr Bruyn, I intend to refer in turn to each of the questions and also to your responses. I will then ask you if you wish to make any alteration to any answer or add any additional information. I will then ask each member of the committee if they have any specific questions in relation to each one of those answers.

Mr BRUYN: Right.

Mr MANZIE: The first question: would you tell the committee when you first became aware of the Legislative Assembly resolution of 30 April 1991 relating to the prohibition on the publication of the advice from Mr Mulholland?

Mr BRUYN: I first became aware of the resolution on the day that it was handed in and tabled in the parliament on 30 April 1991.

Mr BELL: Presumably, that was between the time it was tabled and the time your broadcast went to air?

Mr BRUYN: It was on the day that the resolution was passed by the Assembly and that was a day or 2 before the item went to air—30 April as against 1 May.

Mr MANZIE: Are there any other questions?

Mr SMITH: No.

Mr McCARTHY: No.

Mr MANZIE: Would you tell the committee how this resolution came to your notice?

Mr BRUYN: I was told of the resolution by the reporter who was assigned to the Assembly on that day—the Chief of Staff at Channel 8, Dave Nason. I actually had him read it to me over the phone, but I did not—I am sorry; I will not pre-empt the next answer—but that is how I became aware of it.

Mr MANZIE: Any other questions?

Mr SMITH: What did you understand that the resolution meant?

Mr BRUYN: I think I have covered that fairly substantially in some of the other responses. Again, to my mind, the resolution prohibited broadcast of the unexpurgated copy or of the details of the Mulholland advice until such time as the officers of the Northern Territory government, specifically those who had received the advice from Mr Mulholland, had time to edit that advice—and I use the word 'edit' advisedly—to protect people who may appear before courts and to protect any sensitive operational arrangements that were considered privy by the police.

Mr MANZIE: Did you obtain a written copy of the resolution and, if so, would you inform the committee in your own words exactly what it meant to you?

Mr BRUYN: I did ask for a written copy but, in the end, I did not obtain one.

Mr MANZIE: In your written answers to questions on 11 July 1991, you stated, among other things, that you took into account, and I quote, the 'general position on which I took legal advice prior to broadcast that there

is no prohibition on the publication of material presented to the relevant House of Parliament, including the Legislative Assembly'.

Were either you or the person giving legal advice aware of section 14 of the *Legislative Assembly (Powers and Privileges) Act*? It states: 'Persons not to print matter contrary to order: Where the Assembly has ordered that any words or matter published in the Assembly shall not be printed or published, a person shall not print or publish outside the Assembly those words or that matter or any part or report thereof'.

Mr BRUYN: I was not directly aware of section 14.

Mr MANZIE: Are there any other questions regarding that particular answer?

Mr SMITH: The second part of that question was whether the person giving you legal advice was aware of section 14.

Mr BRUYN: The attention of the person giving me legal advice was not drawn directly to section 14, and that was my own oversight. Since then, we have instituted a change in policy. In future, any resolution will be faxed in total when seeking legal advice, with a direct copy, verified preferably by the Clerk of the Assembly or his delegate, and notice will be drawn directly to the Powers and Privileges Act of the Northern Territory parliament.

Mr MANZIE: Who in Channel 8 is responsible in the first instance for news programs which are to go to air and who bears the final responsibility?

Mr BRUYN: The Director of News is responsible immediately, and the General Manager is ultimately responsible for all material broadcast by the station.

Mr MANZIE: Who else in senior management was associated with the decision to put the story to air?

Mr BRUYN: The General Manager at that time, David Dodds, and the Chief of Staff in the newsroom, David Nason, who does much of the political work. I had substantial discussion with both people.

Mr MANZIE: Previously, you referred to the legal advice. Could you elaborate on the particular nature of the advice that was provided and at whose instigation the advice was sought?

Mr BRUYN: If I can answer the second part of your question first. the advice was sought at my own instigation because, obviously, I was concerned at that stage as to whether or not we should go ahead with the broadcast. The advice was sought of a partner of Allen, Allen and

Hemsley, a firm of solicitors that is based in Sydney. Mr McGill of that office provided advice to me twice by telephone that afternoon and evening in some detail and, at that stage, he did try to verify by phone the information that was being provided to him from here. Obviously, that is not an ideal situation and, as I say, a new policy has been put in place on those grounds.

Mr MANZIE: Who instigated the application?

Mr BRUYN: I sought the advice.

Mr McCARTHY: Why didn't you detail to Mr McGill the resolution of the Assembly and, in fact, that there was a prohibition on publication? I note there that you did not tell Mr McGill.

Mr BRUYN: I did tell Mr McGill that the matter had been tabled and, in doing so, I probably misled him by using the word 'tabled'. In fact, the matter was presented to the Assembly and it was not tabled as such. To my mind, it was a poor choice of words on my part that probably misled him in that sense. He was quite unconcerned by it. That rang alarm bells a little in my head and that is why I contacted him a second time and said this material is being carefully looked at by the Solicitor-General, as it must be, before it is made public. I have some trepidation in going ahead. He said that, provided the matter is tabled, as we have said in this response to you, he did not see that there was a problem. Obviously, we were working with 2 different words which caused some confusion between us. As I have said, in future, all resolutions will be sent to him on paper if we are seeking advice.

Mr McCARTHY: Given that you were aware that there had been a prohibition placed on it and, whilst you may not have been aware of whether your solicitor at the time knew of the ability of the Assembly to prohibit that material being published, it is rather an unusual oversight not to have informed him of the prohibition.

Mr BRUYN: As I said, it was an oversight on my part, and I have now moved to ensure that that cannot occur again. But, it was an oversight.

Mr BELL: I simply want to clarify this. You said to Mr McGill of Allen, Allen and Hemsley that the matter was 'tabled' in the Assembly. Did he take it from that, therefore, that all the material that you were broadcasting had been tabled?

Mr BRUYN: I cannot say what was in his mind at the time, but the interpretation that I have taken from all of these events, on speaking with him, was that he believed that, under the general rules of parliament, once material is tabled, regardless of orders—and as he has laid out in the response—it is open. To the best of my recollection, and we are talking about several months ago, I did say to him that 'there are orders on this

that we cannot broadcast the material'. I am not sure that he took enough strength in that at the time. As I say, to the best of my knowledge, the misunderstanding we have had has been because not enough material was sent to him on paper. Had he seen the specific order, he would have been referred to a specific section in the *Legislative Assembly (Powers and Privileges) Act* and would then have been better able to guide me.

Mr BELL: Has there been correspondence between Channel 8 and Allen, Allen and Hemsley in that regard?

Mr BRUYN: Only that I have already sent down a letter setting out the new procedure. It will be sent to them and issued to all news and on-air staff at Channel 8 so that both offices are aware of what must happen in terms of advice. The policy is still being worded to ensure that it is not ambiguous in any sense at all.

Mr BELL: What was Mr McGill's response on learning that your broadcast had been made the subject of a Committee of Privileges investigation?

Mr BRUYN: He was quite concerned in every way, both for ourselves and on behalf of the firm. He offered us any help that was possible. We were offered counsel for these hearings but, as was pointed out, we were not actually summonsed to appear before the committee. We decided that the best thing we could do was to cooperate as fully as possible and that is what we are endeavouring to do. To be complete about what he told us, he did advise the use of counsel. However, we felt that we could be as open as possible and go ahead with the hearing as is.

Mr BELL: In your answer to question 9, you said: 'Mr McGill advised me that, as the advice had been tabled in the Legislative Assembly, the general rule was that a story accurately referring to the advice would be broadcast'. Presumably, that should be 'could be' broadcast?

Mr BRUYN: I have 'could be' on my copy. It is probably a typing error.

Mr SMITH: In part of your answer to question 9, you said: 'I did not give Mr McGill the wording of the resolution or a transcript of the proposed story, nor did I instruct him that a prohibition on publication had been ordered by the Legislative Assembly'. I guess I have 2 questions arising from that. If you did not do any of those things, which were at the heart of the matter, what were you seeking advice on? That is the first question. Would you like to answer that?

Mr BRUYN: I was seeking advice—that may be slightly wrongly worded in that I did not instruct him that there was a prohibition on publication. I chose those words because they were the words used in the resolution. What I did tell him was that there was an order against

publication of the material and that is why I was seeking advice. If I had not told him that, I would not have needed to be bothering the man. When I contacted him, to the best of my recollection, it was because I was concerned about the order itself. With the time running fairly closely against me, I could have been fuller in my advice to him.

Mr SMITH: Yes. You could have provided him with the basis on which he might have given you an informed opinion.

Mr BRUYN: I am sorry, but I have not answered the other part. I did not give him a transcript of the story because I read to him over the phone what I intended to use. He listened fairly carefully to it and, to my mind, he did not recommend any changes to the story or raise any concerns. I had been very mindful of the material that I was putting together in terms of writing the story.

Mr SMITH: There seems to me to be 2 possibilities as to why this occurred. One is that you have been pretty slack and the second is that you knew you were on dicey ground and you thought that, by seeking a general advice from Mr McGill without going to the specifics, you would obtain the level of comfort that you needed to enable you to go ahead with the story.

Mr BRUYN: The second option does not come into my mind at all. As I have said before, the oversight was entirely on my part. The second suggestion is entirely dishonest to the way that I have always approached news in terms of my job. I would not be seeking any leeways, particularly in something as important as material like this, to be taking comfort by giving someone—how can I put it?—a soft enough impression of what was going on, not to seek the most strenuous advice possible. I am sure that each of you would be aware that the best legal advice you can get is the most conservative and then you would temper that against your own knowledge. Certainly, it was not my intention at all to allow myself any legal leeway with a story like this.

Mr SMITH: All right, I accept your assertion in relation to the second matter, but I find it pretty difficult to accept that it was simply an oversight. You said that you were so concerned that you rang Mr McGill twice. However, at neither time did you read out to him the wording of the resolution or instruct him that there had been a prohibition. It simply beggars belief that you did not pass on to him those 2 facts that are central to the issue.

Mr BRUYN: At that time, we were also working against a pretty solid deadline. While I was involved in this, I was also involved in other matters in the newsroom. These events, to the best of my recollection, were occurring fairly late in the day when the newsroom is an extraordinarily hectic place and, as I say, the oversight was entirely on my part. I should have been somewhere where I was not involved in those

other things happening in the newsroom, especially as I was preparing this fairly lengthy and detailed story.

Mr SMITH: I remind you of your last 2 sentences. 'I sought the advice of my own instigation because of the political sensitivity of the story'. That is obviously sensible, but it was not quite so sensible not to give the solicitor the relevant facts. 'I broadcast the story in good faith, relying on the legal advice provided to me'. I think that speaks for itself.

Mr MANZIE: What was your general understanding of the resolution that the parliament had passed regarding the Mulholland advice that was tabled? Was it along the lines that there was total prohibition, that there was some kind of selective prohibition or that there were any legal sanctions in respect of the prohibition that had been stated in the resolution? What was the general feeling that you had?

Mr BRUYN: It was more than a general feeling. To my mind, it was prohibited material. However, given the advice that I was given—and it comes back to Mr Smith's dilemma about how I handled the matter and the advice that was given to me—my interpretation of the solicitor's advice was that he thought that the resolution was beyond the powers of the act, probably not knowing the act as well as he would know the legislation in other places. That was my general impression after I had spoken with him.

Mr BELL: Beyond the powers of the act?

Mr BRUYN: My impression was that he believed that the order was flawed and that we could go ahead. I would not have gone ahead in any other circumstances.

The CLERK: He was not aware of the section at all.

Mr BRUYN: Yes. Again, it comes back to the answer that I gave before.

Mr MANZIE: Your general impression was that there was there had been a prohibition on specific publication. You had sought advice along the lines of whether that was within the powers of the Assembly and the advice that you received gave you the impression that it was beyond our power ...

Mr BRUYN: Exactly.

Mr MANZIE: ... to prohibit.

Mr BRUYN: As I answered earlier, I do not believe that he was aware of section 14.

Mr MANZIE: Was Allen Allen and Hemsley the only group from whom you sought advice or with whom you discussed the matter?

Mr BRUYN: Yes. They are our company solicitors. They have since been forwarded an entire copy of the act and that will go in with that policy material.

Mr McCARTHY: Because you only sought the view of your solicitors with regard to the legality of the order, are you telling us that that is why you did not seek to make your solicitors aware of these other matters?

Mr BRUYN: Once I had that impression from them, I did not feel I was in a position of not being able to go ahead. When I rang back, it was really a query on that point: 'Are you sure there is nothing else?' 'No'. By that stage, I was buried in work.

Mr McCARTHY: It would seem to me that Channel 8 solicitors would be very familiar with the Powers and Privileges Acts of various parliaments. I do not think that ours differs all that greatly from the acts in other jurisdictions. It surprises me that they would not have been aware of that section.

Mr BRUYN: I cannot answer in that sense.

Mr SMITH: Can I take you back to your answer to question 5? You said: 'I am informed by my legal advisers that they were aware of the general position that a parliament may, by order, abridge the general position that parliamentary reports can be the subject of publication once presented to the relevant House'.

Mr BRUYN: Yes, but that is the general position. It was my fault that I did not draw their attention to section 14. In the time frame we are talking about, I was pushing against a deadline for my own material and others. As I said, the oversight was entirely mine in not being more fulsome in what I provided to them. Again, I come back to the point that I have changed procedures so that, in future, the full material goes to them before anyone can go ahead with a story of that nature.

Mr SMITH: I thought you had told us earlier that you were advised by your solicitor in one of the conversations that he was not aware of any power that the parliament in the Northern Territory had to prohibit publication. However, your answer to question 5 quite clearly seems to indicate the opposite—that they did advise you at that stage that there was a general power that parliament had. If we accept your answer to question 5, you cannot rely on your statement where you previously said that you went ahead and published because your solicitor had said there was no general power to prohibit.

Mr BRUYN: In all of these discussions, the thing that was in my mind—and I will try to clarify how it was so answered. I realised the prohibition placed on it was there for the reasons that I have stated. The

Solicitor-General was editing material for the protection of anyone who may face a court and to protect police procedures or any other intelligence that may be included in the document. In terms of the prohibition of the material, I understood that the parliament had made an order. I sought advice on whether or not that order did completely restrain us legally from broadcasting the material because that of course was my interest in it. I wanted to see whether or not I could go ahead. It was not at any time in my mind that I was going to flout maliciously an order of the Northern Territory Legislative Assembly. On seeking advice from the solicitor twice, my own mind was set at rest to some degree by the fact that the solicitor believed that the general rule that he was quoting of parliaments was accepted everywhere—and that is the answer that I gave to you before—but he was not aware of section 14. I cannot go much further than that.

Mr MANZIE: In your answer to question 6, you say that you were not aware of section 14 of the Assembly (Powers and Privileges) Act. Did you have any discussion with the solicitor regarding whether there was a possibility that there would be some specific legislation and ask if he could obtain advice regarding that? Did you have any general discussions at all along those lines?

Mr BRUYN: Quite frankly, within the time frame that I spoke to him. I did not, to the best of my recollection, and I did not have time to do so. That was not in the sense that I was not bothered to but, once things started moving and given the phone calls, I did not draw that to my own mind and, again, that probably was an oversight on my part.

Mr BELL: I had the initial impression that the train of events had been that you had spoken to Mr McGill and, more or less, imperfectly communicated the terms of the resolution. Because of the slip between the cup and the lip, as it were, Mr McGill had not understood the specific terms of the resolution.

Mr BRUYN: That is correct.

Mr BELL: Subsequently, you have said that Mr McGill had expressed a view that the Assembly had no power to prohibit the publication of documents once they were tabled. That was my understanding of your subsequent comments.

Mr BRUYN: Because I did not advise him properly of the wording of the resolution, obviously the advice I received from him was flawed. You are correct in that my belief is that I misled Mr McGill in not telling him word by word what the resolution of the parliament was and he must have then—and I cannot read his thoughts—taken the general view of parliaments anywhere.

Mr BELL: You had told him that there had been a resolution?

Mr BRUYN: I told him that there was an order.

Mr BELL: That there was an order.

Mr BRUYN: That was the word I used.

Mr BELL: You just gave the general terms of that?

Mr BRUYN: There was an order prohibiting publication of material.

Mr BELL: And he subsequently expressed the view that the parliament had no power to prohibit publication of ...

Mr BRUYN: Once material was tabled.

Mr BELL: Once material was tabled.

Mr BRUYN: I used the word 'tabled'. It was my term and, in my view, that was what misled him.

Mr MANZIE: I have been advised that normally in parliaments there is a protocol whereby the press contacts the Clerk or Deputy Clerk to obtain some resolution on matters like this. Did you think of doing that or did Mr McGill advise you to take that course?

Mr BRUYN: Mr McGill did not advise me to that extent and I did not do it again. That probably was the result of pressure of time and the fact that I was relying on the advice that I had already been given. In future, I could make that part of the notice that the Clerk and his staff are available for that.

Mr MANZIE: The next question is number 10: 'By what means were you able to be scrupulously careful to edit the story to conform with your understanding of the meaning and intent of the resolution of the Assembly?'

Your answer to that question was advised in writing to the committee on 19 September: 'As discussed in answer to question (f) of the committee's letter, dated 21 June, I carefully edited the story to ensure that it did not refer to any matter which may have impacted upon the fair trial of any person or the privacy of any person and to ensure no sensitive police procedure was revealed'. Do you wish to add anything further to that particular answer?

Mr BRUYN: Only to say this. Given my previous answer concerning my understanding of the reason for the resolution and the reason for actually going ahead with the broadcast, with the material before me—and without going into sources of that material—I was acutely aware of certain matters before courts in the Northern Territory and matters within those

court cases that had been prohibited from publication and also matters of civil litigation. In discussion with other people, I went to great lengths to ensure that we did not jeopardise any of those matters. That is what I meant by my response there.

The story on 1 May—and this is only 1 example—referred to detective X frequently although I knew, as did many, detective X's identity. In my own opinion, and I did not seek other advice on that, to have used the man's name would have jeopardised litigation that I knew he had in place against other media at the time whereas, were his name released in a copy that the Legislative Assembly was to release the next day, it would not jeopardise that case. The reason I made that response is that we were very careful to ensure that names of people raised by Mr Mulholland, other than those central to his advice that was to be released, were not used.

Mr MANZIE: Would it be true to say that you structured your story around your professional understanding of normal obligations regarding prohibition of publication of matters before the courts instead of looking at restricting the story in relation to any resolution that the parliament made? Or did you combine both or ...

Mr BRUYN: We had to combine both. The thing that I was most concerned about was people's reputations and ensuring that we did not injure unnecessarily the reputation of anyone and to be careful of the material that was likely to end up in court. It was not our job to make the job of the justice system more difficult. I was trying to be responsible in what was put to air in the story and to ensure that it would be fair in the first sense and accurate.

Mr MANZIE: As well as that, what areas of your understanding of the resolution did you take into account in the story that you broadcast?

Mr BRUYN: I do not understand your question, Mr Chairman.

Mr MANZIE: You tempered or moulded the story in terms of the restrictions you imposed on yourself in respect of the legal processes which were in place. You took steps to ensure that the identities of people were not revealed and details of matters which were before courts were not revealed. That is the kind of normal process that you would apply. In addition to that, there was the resolution of the Assembly. Did you make any alterations to or constrict or mould the story as a result of your understanding of the resolution and, if so, what was your understanding?

Mr BRUYN: My understanding, as I have already described, was to allow the editing of the story. I did not use any of the material relating to any of the events in sections of Mr Mulholland's advice which had not been released at any time, in particular those concerning Fergusson River. I was aware of my own idea of what the resolution was—which I have

already explained to the committee—and was very careful not to impinge on those areas that I believed the resolution was designed to protect.

Mr SMITH: From that, can I assume that, at the time you were putting your report together, you had a copy of the Mulholland report?

Mr BRUYN: I cannot answer that on ethical grounds. To do so would put me in danger of revealing a source either as being someone who had a copy of that report or someone who did not.

Mr SMITH: Thus, we are left with the extra burden of making a judgment about whether you were just speculating, on second or third-hand evidence, about what was in the report or whether you had seen the report itself. That is a pretty important point in our deliberations and therefore I will ask you the question again. At the time you were putting your report together, did you have a copy of the Mulholland Report?

Mr BRUYN: All I can say in response is that I would leave you to compare the story with what was tabled in the Northern Territory Legislative Assembly. I cannot answer that question on ethical grounds.

Mr SMITH: What is the ethical ground on which you are relying?

Mr BRUYN: I will not reveal the source of the information which I used.

Mr SMITH: I am not asking you to reveal it.

Mr BRUYN: With respect, to say that I did have a copy of the advice would call into question whether or not that came from a person with access to a full copy of the advice.

Mr SMITH: Exactly.

Mr BRUYN: I am sorry, but I will not reveal the nature or the identity of the source of the material that I used. And I do not think there would be any working journalist in Australia who would.

Mr BELL: I would just like to reinforce that. I accept your concerns about not revealing sources and I am prepared to leave that one on ice. However, I must admit I am a little bemused by your steadfast refusal to say whether or not you had a particular document. I am entirely bemused by ...

Mr BRUYN: The reason I am wary of saying so is that it has been suggested to me by someone that there have been questions as to whether or not a member of the Legislative Assembly gave me access to his or her copy of the advice. If that kind of question is asked, it puts me in an invidious position.

Mr BELL: Nobody is asking you that particular question. If we do get around to asking that question, that is the time for you to say that you will not answer it. However, the simple question as to whether or not you had a copy of the unexpurgated report is a reasonable one. I think the committee can reasonably expect a yea or a nay.

Mr BRUYN: I did not have in my possession a copy of the report, and that is as far as I will go.

Mr SMITH: The follow up question is: had you seen a copy of the report or were you relying on somebody else who had seen a copy of the report and was giving you verbal information on what was in it?

Mr BRUYN: No, I can't answer that.

Mr SMITH: You can't or won't?

Mr BRUYN: I won't answer that on ethical grounds.

Mr BELL: There is an interesting question here. I think it is probably worth pursuing for a minute because there is a heck of a difference between the nature of your source and the source itself.

Mr MANZIE: Actually, it might be worth while before we go any further to have some discussion by the committee. We will adjourn. I ask everyone, including Mr Bruyn, to leave the room, and the committee will deliberate on this matter.

The hearing was adjourned.

Mr MANZIE: We will continue and I will ask some questions further to the matter that we were discussing. You answered the question about whether you had a copy of the Mulholland advice by saying that you did not have a copy. Can I ask whether you had seen a copy of the Mulholland advice?

Mr BRUYN: Mr Chairman, all that I can say is that the material that I was working from I believed to be accurate to the advice Mr Mulholland had given to the government. To go further, to my mind, places the source of the material at some risk and, in my professional life, I have never moved to place any source of information to myself at any risk. I cannot in all conscience consider that I can do so.

Mr MANZIE: Can you answer the question as to whether any of your staff had a copy of the advice?

Mr BRUYN: To my knowledge, certainly not.

Mr MANZIE: Can you answer the question as to whether anyone conveyed to you verbally the contents of the Mulholland advice?

Mr BRUYN: I cannot answer that question, I am sorry.

Mr MANZIE: Would you care to offer any further comment regarding your source of information?

Mr BRUYN: Only that I believed the information I used as the basis for the news story was accurate.

Mr MANZIE: Does anyone have any further questions?

Mr BELL: I have one further comment, Mr Chairman. I appreciate how deep the concern is among journalists about the protection of sources. I trust that you appreciate that the parliament sets up a committee like this in order to ensure that the processes of the parliament are carried out reasonably. We are bound in that regard as well. I am interested, and I will say no more about it, in the conflict between those 2 requirements. However, I think it is worth while pointing out that we are in the business of checks and balances in public life in the Northern Territory and there are 2 of them in conflict here.

Mr BRUYN: Can I offer something on that. I appreciate the serious nature of these proceedings and of this committee's role otherwise I would not be here in a cooperative sense.

Mr BELL: Sure.

Mr MANZIE: We will move on to question 11: 'Would you care to offer some reasons for the premature publication of the story before the tabling in the Assembly of the edited advice?'

Mr BRUYN: Naturally, there is all of the material that we have gone through already. However, I was aware of intense public speculation—damaging speculation that was enormously inaccurate at the time—and, being privy to what I believed to be accurate information, I felt that there was a definite public need to go ahead. That, of course, was in the light of the advice that I had sought and the information that was coming to, I believe, all arms of the media. There was enormous speculation both within and without the parliament at the time. It is fine to have 20 x 20 hindsight, but the amount of speculation that was being floated at the time was extraordinary. That was the paramount reason why I believed there was a need to do the story.

Mr MANZIE: Are there any questions on that matter?

Question 12 was: 'Would it be unfair speculation if the committee were to think that the real reasons for the premature publication of that

advice were that: (a) it was general knowledge that the expurgated copy of the advice would be tabled on the evening of 1 May 1991; or (b) as the advice would be probably tabled after the 6.30 pm news, the story would be thrashed to death by other media outlets before Channel 8 had the chance to put the story to air; or (c) that Channel 8 took a "hang the consequences" approach to the matter so the story could go to air at a more effective time?'

Mr BRUYN: In relation to the first part of that, I would say most of the media in Darwin were questioning intensively when the advice would be tabled. I did so of members whom I know personally, even staff members, none of whom could give a definite time for that. Obviously that is up to the Leader of Government Business and to the officers concerned. They were not prepared to give us a direct time as to when it would be tabled. We had no certain knowledge that it would be tabled that night at all. I think that relates to (a) and (b) of that question. In relation to question (c), we never say 'hang the consequences' in terms of a story, especially a story like this that concerned parliamentary and legal matters.

I come back to the moves we made to try to protect the standing of people within the advice. This is often not appreciated outside the media because the media is so far-reaching these days and so sweeping in its reach. As many media people know—and they work very hard to protect their own reputations because that is what they base their livelihood on—people's reputations are paramount. We never 'hang the consequences' in any story however it is put to air—whether it is a live reading or a 3-minute news package.

Mr MANZIE: Does anyone have any further questions?

Mr SMITH: In the second last paragraph of your letter, you talk about a balance between the public interest and reasons which would otherwise hinder publication of the story. Do you now accept ...

Mr BRUYN: Which letter are we referring to?

Mr SMITH: This is your letter of 19 September. Do you now accept that, in this particular matter, it is not a question of balancing those particular matters at all, but a question of accepting an order of the parliament under section 14 of the relevant act?

Mr BRUYN: I do. I would refer you to reply (f) in my response to the letter of 21 June. The first paragraph of that response is entirely sincere.

Mr SMITH: Can you read that for the record.

Mr BRUYN: It reads: 'On behalf of Channel 8 and myself, I offer my apology to the Chief Minister and Legislative Assembly for the broadcasting of the Channel 8 story prior to the release of the Mulholland advice as vetted by the Secretary of Department of Law'.

Had I been more careful in my advice to the solicitors and therefore received a better response from them, and had I been more aware of section 14 myself or the resolution in total, we would not have gone ahead with the story. However, after weighing what information I had then, we went ahead on the basis that we were balancing the right to information as against the concerns of the story which was otherwise being put out, as I have said, as a result of intense public speculation—not just some, but intense. I would also point out that we were not the only media in Darwin which put out information on that day. There was substantial media broadcast of parts of the advice.

Mr SMITH: So you are suggesting that ...

Mr BRUYN: No, I am not suggesting any degrees of culpability. I was just saying to you that, obviously, the intense speculation was affecting other places as well.

Mr SMITH: But you are not suggesting that you have been singled out?

Mr BRUYN: Oh, no. Not at all. I was merely putting to you that that was an example of the magnitude of the speculation that was occurring. It was extraordinary.

Mr MANZIE: Do you have any further comments before we conclude?

Mr BRUYN: I do not think so, Mr Chairman. I would just like to thank the members of the committee.

Mr MANZIE: I would like to thank you very much for your attendance, Mr Bruyn, and for the cooperation that you have given us today. I close this public hearing.

Witness withdrew.



Legislative Assembly of the Northern Territory

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COMMITTEE OF PRIVILEGES

GPO BOX 3751
DARWIN NT 0801

21 June 1991

Mr A Bruyn
Director of News
Channel 8
GPO Box 1764
DARWIN NT 0801

Dear Mr Bruyn,

The Committee of Privileges of the Northern Territory Legislative Assembly has received advice from the Solicitor-General in relation to the news item, headed "Mulholland Report Preview", broadcast on the Channel 8 6.30pm News on Wednesday 1 May 1991.

In that opinion, the Solicitor-General concludes that, as a matter of law:

- "(a) the broadcast by Channel 8 of the News item was in contravention of the Resolution of the Legislative Assembly of 30 April 1991; and
- (b) the broadcast was in breach of s.14 of the Legislative Assembly (Powers and Privileges) Act 1977."

In the broadcast it was stated that "the still secret Report has been tabled in Parliament, but is undergoing editing before tomorrow's public release, to protect the innocent".

In view of that statement and before proceeding further with its enquiry, the Committee would appreciate advice concerning the following:

- (a) whether you were fully aware of the relevant Resolution of the Assembly of 30 April 1991 prohibiting publication of the Advice from Mr Mulholland (a copy of the Resolution is attached); and

.../2

A SIMILAR COPY OF THIS LETTER WAS SENT TO MR DODDS.

- (b) if you were aware of the Resolution, what was your understanding of its meaning and intent;
- (c) the reasons for the publication of the news item, both in your capacity as a journalist and in your capacity as Director of News, Channel 8;
- (d) whether the information contained in the news item stemmed from a copy of the Mulholland Advice and, if so, from whom did you obtain the Advice;
- (e) if the information was gained from other sources, from whence was the information derived; and
- (f) any further explanation or apology you deem fit.

It would be greatly appreciated if you were to provide the Committee with the information requested by Wednesday, 10 July 1991.

Yours sincerely,



D W MANZIE
Chairman

Encl.



Channel Eight

Territory Television Pty Ltd
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DD:bmr
11th July, 1991

The Honourable D W Manzie
Chairman
Committee of Privileges
NT Legislative Assembly
Mitchell Street
DARWIN NT 0800

Dear Mr Manzie,

In Mr. Bruyn's absence on holiday, I attach his
response to your letter of 21st June, 1991.

Should you require additional information, do not
hesitate to contact me.

Yours faithfully,

David Dodds.
GENERAL MANAGER.

Att.



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- (a) Yes
- (b) My understanding of the resolution's meaning and intent was that it was designed to allow the Chief Minister, who received the advice, to table it immediately in compliance with his promise to the House to do, but to allow, as stated in the story, delay of the release of material until after its vetting, to protect the innocent - especially those named in relation to Operation Trojan and the pending Supreme Court trial - and to protect whatever sensitive police procedures which may have been broached openly by Mr Mulholland QC.
- (c) As a journalist, and as Director of News at Channel 8, I consider the public's right to information in respect of matters of public concern and, in my decision to broadcast the Channel 8 story, I took account of the following:-
- (i) The extent of the publicity surrounding the events leading to the commission of the Mulholland advice.
 - (ii) The existence of widespread public speculation as to the content of the Mulholland advice.
 - (iii) The importance of police corruption as a matter for public debate and an issue in which the public has a right to information.
 - (iv) The media coverage of the publication of the Mulholland advice to the Legislative Assembly which had already occurred prior to the Channel 8 story including stories published or broadcast on 1 May, 1991 by the Northern Territory News, ABC Television and Radio.
 - (v) The media coverage of the publication of the Mulholland advice to the Legislative Assembly which I was aware would occur after the



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- Cont'd ... (v) Channel 8 story but prior to release of the Mulholland advice as vetted by the Secretary, Department of Law, including ABC Television's "7.30 Report".
- (d) I am unable to answer that question for ethical reasons.
- (e) I am unable to answer that question for ethical reasons.
- (f) On behalf of Channel 8 and myself, I offer my apology to the Chief Minister and the Legislative Assembly for the broadcast of the Channel 8 story prior to the release of the Mulholland advice as vetted by the Secretary, Department of Law.

In considering this matter, I would ask you to take the following into account:-

- (i) I was scrupulously careful to edit the story to conform to my understanding of the meaning and intent of the Resolution of the Legislative Assembly of 30 April, 1991. That is, not to refer to any matter that may impact on the fair trial of any person or the privacy of any person.
- (ii) The general position on which I took legal advice prior to broadcast, that there is no prohibition on the publication of material presented to the relevant House of Parliament (including the Legislative Assembly).
- (iii) The broadcast went to air approximately two (2) hours ahead of the tabling in the Legislative Assembly, of the report vetted by the Secretary, Department of Law.



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

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G P O Box 3721
Darwin, N.T. 0801

13 September 1991

Mr A Bruyn
Director of News
Channel 8
GPO Box 1764
DARWIN NT 0801

Dear Mr Bruyn,

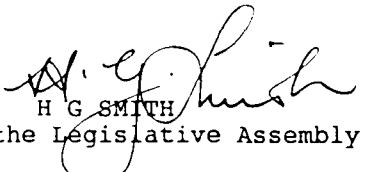
In previous correspondence, the Chairman of the Committee of Privileges, the Honourable Daryl Manzie, MLA, undertook that I would provide you and Mr Dodds with a paper setting out the questions that the Committee intends to ask you at the public meeting of the Committee to be held on 25 September 1991.

At that meeting, it would be normal for the Chairman, having made a preliminary statement and given you advice in relation to the proposed format of the meeting, will ask you if you have any further written submission or preliminary statement which you would like to make to the Committee. He will next ask if you wish to alter any of the written responses which have already been sent to the Committee, after which the Committee will proceed to examine you.

Attached for your information is a list of questions which the Committee may direct to you. Of course, this list is by no means all-embracing. Each Committee Member may ask any relevant question of his own volition, whilst answers you give to questions obviously may lead to supplementary questions.

For your information, I enclose a copy of a letter I have written to Mr Dodds.

Yours sincerely,


H G SMITH
Clerk of the Legislative Assembly

A SIMILAR COPY OF THIS LETTER WAS SENT TO MR DODDS.

PRIVILEGES COMMITTEE MEETING

POSSIBLE QUESTIONS FOR MEETING
TO BE HELD ON 25 SEPTEMBER 1991

1. Would you tell the Committee when you first became aware of the Legislative Assembly Resolution of 30 April 1991 relating to the prohibition on the publication of the Advice from Mr Mulholland.
2. Would you tell the Committee how this Resolution came to your notice.
3. Did you obtain a written copy of the Resolution? If so, would you inform the Committee in your own words what the Resolution meant to you.
4. What do you understand was the intent of the Legislative Assembly in passing this Resolution.
5. In your written answers to questions of 11 July 1991, you stated, amongst other things you took into account, that:

"the general position on which I took legal advice prior to broadcast, that there is no prohibition on the publication of material presented to the relevant House of Parliament (including the Legislative Assembly)."

Were either you or the person given legal advice aware of section 14 of the Legislative Assembly (Powers and Privileges) Act which states:

"PERSONS NOT TO PRINT MATTER CONTRARY TO ORDER

Where the Assembly has ordered that any words or matter published in the Assembly shall not be printed or published a person shall not print or publish outside the Assembly those words or that matter or any part of report thereof."

6. If you were aware of this section:
 - (a) what was your understanding of its meaning;
 - (b) did you consider that the Resolution of the Assembly of 30 April 1991 meant other than that the Assembly

had placed a total prohibition on the publication of the matter contained in the unexpurgated copy of the Advice of Mr Mulholland, except for certain provisos contained in that Resolution; and

- (c) if not, what was your understanding of the meaning of the Resolution.
7. Who in Channel 8 is responsible, in the first instance, for news programmes which are to go to air and who bears the final responsibility.
 8. Who else in senior management at Channel 8 was associated with the decision to put the story to air.
 9. I understand that you sought legal advice before the premature publication of the Mulholland Advice; if so, what was the particular nature of the advice provided and at whose instigation was the advice sought.
 10. By what means were you able to be "scrupulously careful" to edit the story to conform with your understanding of the meaning and intent of the Resolution of the Assembly of 30 April 1991.
 11. Would you care to offer some reasons for the premature publication of the story before the Tabling in the Assembly of the editing Advice.
 12. Would it be unfair speculation if the Committee were to think that the real reasons for the premature publication of the Advice were that:
 - (a) it was general knowledge that the expurgated copy of the Advice would be Tabled on the evening of 1 May 1991;
 - (b) as the Advice would probably be Tabled after the 6.30pm News, the story would be "thrashed to death" by other media outlets before Channel 8 had the chance to put the story to air; and
 - (c) Channel 8 took a "hang the consequences" approach to the matter so that the story could go to air at a more effective time.



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AB:bmr
19th September, 1991

The Honourable D W Manzie
Chairman
Committee of Privileges
Northern Territory
Legislative Assembly
Mitchell Street
DARWIN NT 0800

Dear Mr. Manzie,

Thank you for providing possible questions for the committee meeting to be held on 25th September, 1991.

My answers, on behalf of myself and Mr. David Dodds are as set out below:-

1. I first became aware of the Resolution on 30th April, 1991.
2. I was told of the Resolution by the news room's chief of staff, Mr. David Nason, who also covers the political rounds.
3. I did not obtain a written copy of the Resolution.
4. My understanding of the intent of the Legislative Assembly in passing the Resolution is set out in my answer to question (b) of the Committee's letter dated 21st June, 1991.
5. At the time of the broadcast, I was not aware of Section 14 of the Legislative Assembly (Powers and Privileges) Act. I am informed by my legal advisors that they were aware of the general position that a Parliament may by order abridge the general position that Parliamentary reports can be the subject of publication once presented to the relevant House.
6. I was not aware of Section 14 of the Legislative Assembly (Powers and Privileges) Act.

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7. As Director of News, I am responsible in the first instance for news programmes which are broadcast and the final responsibility is borne by the General Manager of the station.
8. The General Manager of Channel Eight, Mr. David Dodds and the news room's chief of staff, Mr. David Nason, were consulted prior to the broadcast.
9. I telephoned Mr. Ian G McGill, a partner of Allen, Allen & Hemsley, Channel Eight's solicitors, prior to the broadcast and instructed him that the Advice had been tabled in Parliament. I did not give Mr. McGill the wording of the Resolution or a transcript of the proposed story nor did I instruct him that a prohibition on publication had been ordered by the Legislative Assembly, Mr. McGill advised me that as the Advice had been tabled in the Legislative Assembly, the general rule was that a story accurately referring to the Advice would be broadcast. I sought the advice at my own instigation because of the political sensitivity of the story. I broadcast the story in good faith relying on the legal advice provided to me.
10. As discussed in my answer to question (f) of the Committee's letter dated 21st June, 1991, I carefully edited the story to ensure that it did not refer to any matter which may have impacted upon the fair trial of any person or the privacy of any person and to ensure no sensitive police procedure was revealed.
11. My reason for the premature publication of the story is set out in my answers to questions (c) and (f) of the Committee's letter dated 21st June, 1991.
12. I believe that the reasons specified for the televising of the story in question 12 are incorrect and unfair. All news stories, particularly where the story affects the reputation and integrity of people as widely as did the Advice, are treated seriously by Channel Eight and its journalists. I respond to the specific speculations of the Committee as follows:-
 - (a) Although there was widespread speculation within the media that the expurgated Advice would be tabled that night, this could not be confirmed. Even the members of the Legislative Assembly contacted by myself or other Channel Eight journalists could not confirm when the Advice would be published.
 - (b) I had no idea of the timing of the tabling of the expurgated Advice other than as discussed in (a).

The Honourable D W Manzie 19/09/91

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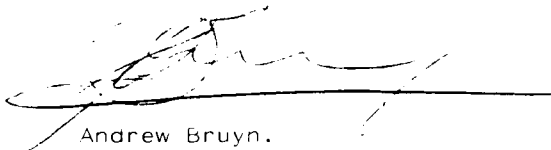
12. (c) Channel Eight and its news staff never adopt a "hang the consequences" approach to any news story.

The Channel Eight news room and its staff carefully weigh their responsibility, especially when dealing with legal, parliamentary and public interest questions, to balance the public's right to information in respect of matters of public concern against reasons which would otherwise hinder publication of the story.

Our reputation with the Northern Territory Parliament (aside from this instance), the Northern Territory Courts and Police, in my opinion, has been under my term as Director of News and previously as Senior Journalist, of the highest order, and I hope it continues so.

I trust this answers your queries.

Yours faithfully,



Andrew Bruyn.
DIRECTOR OF NEWS.
CHANNEL EIGHT.