

UNRAVELLING THE WAR ON WRAN
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[Check Against Delivery]

Frank Walker

If I spend most of this address tonight talking about Neville Wran, not Frank Walker, there is a reason. The persistent media campaign to defame Neville Wran not only disgraces the name of the most significant NSW Premier in my lifetime; it diminishes the achievements of all members of the Wran Administration, including Frank Walker whose many reforms this lecture commemorates.

We should not forget that Frank found himself the target of the police following one of his most significant reforms: the repeal of the *Summary Offences Act*. This was achieved despite a political campaign by the Police Association which claimed at the time the reforms would hinder police in dealing with street offences. The Association ignored the fact that the most serious street offences were incorporated in new legislation, such as the *Prostitution Act* and the *Offences in Public Places Act*. Subsequent research by the late Dr Sandra Eggar, then of the Bureau of Crime Statistics, and well known to many society members, compared court appearances in the last 18 months of the *Summary Offences Act*, and the first 18 months of the *Offences in Public Places Act*. She found, in most cases, little change or only a moderate decline in court appearances. At some courts, however, there had been “a very marked decline, almost to the point of inaction.”

One of the most dramatic falls occurred at Kogarah Court, where there were 127 appearances in the last 18 months of the *Summary Offences Act* but only nine in the first 18 months of the *Offences in Public Places Act*. It just so happened that Kogarah Court dealt with police matters affecting the suburbs which comprised the electorates of Frank Walker, the author of the reforms, and the then Police Minister, Bill Crabtree. Sandra Eggar concluded that such a pattern of enforcement suggested police “were using their discretionary powers for political and industrial reasons unconnected with the operation of the law”. That is a polite way of saying the police

had effectively gone on strike with the intention of embarrassing Walker and Crabtree with their voters. We have come a long way: it is difficult to imagine today's Police Force picking and choosing which laws are to be enforced.

This was not the only price Frank paid for being a reformist. Some tonight will recall the crude attempt to saddle him with a corruption allegation through the creation of a false Swiss bank account, a ploy which was quickly demolished by good staff work. Frank was also alleged to have been one of the many politicians, on both sides of politics, to be a passenger on the infamous "Love Boat". Looking back, it is astonishing how long it took for this absurd story to be totally discredited. I recall it was only laughed out of town once pictures emerged of the supposed floating sex palace. The boat would have sunk if only a few of the alleged participants had availed themselves of its supposed pleasures.

Malicious rumours and unsubstantiated gossip

We can laugh about the "Love Boat" now but it is emblematic of a peculiar Sydney characteristic. This is a city which floats on malicious rumours and unsubstantiated gossip. My first personal encounter with this phenomenon occurred when I was on Neville Wran's staff, in around 1981, and involved in getting off the ground what is now the InterContinental Hotel on Macquarie Street. Most of those who now visit the hotel and admire Clive Lucas' sensitive marriage of the Old Treasury Building and the hotel tower would be unaware of how controversial this project was at the time.

On this day I was walking through Martin Place and bumped into Richard Ackland, a journalist I had known for some years, and well-known to most lawyers in Sydney. At the time Richard was writing, in his trademark bitchy style, a well-read gossip column. Richard said he wanted to ask me about the InterContinental development. He said a solicitor - whom he named and whom I know - had been urging him to investigate talk that Wran had been bribed to permit the development. I told him he was speaking to the right person and explained in some detail how the project had come about. I finished by saying: "There is only one person who could have taken money for this project and that is me." Richard looked me up and down and tartly replied: "And you're still the same daggy dresser you have always been."

We both laughed and went our respective ways. Although Richard did not write about it, the rumour of corruption spread about the project, as these things do in Sydney. As Graham Freudenberg noted in his superb memoir: *“Had the project been called, accurately, the ‘Phillip Street car park redevelopment’ instead of the ‘Old Treasury Redevelopment’, it might not have aroused the antagonism that led its opponents to imply corruption in a deal that has produced one of Sydney’s most attractive assets.”*

I was not alone, among Wran staffers, in being implicated in a corruption rumour. Nigel Stokes, Wran’s most trusted adviser, was involved in most of the major government projects of the time, including the introduction of Lotto, the Sydney Harbour Tunnel and the aluminium smelter projects. Nigel has told me that in just about all the projects on which he worked there were allegations of someone “copping a quid”, usually emanating from unsuccessful bidders or opponents of the projects.

There is no doubt these allegations had a corrosive effect. As Wran said, after his exoneration by the Street Royal Commission (to which I will return): *“After the findings of the Street Royal Commission, we were all entitled to believe that the tactic of smear and innuendo, of guilt by association, of rumours without substance, would stop. But every time some fabrication is completely disposed of, another allegation is fabricated . . . The very frequency of allegations, their repetition and regurgitation, no matter how many times they are proved to be false, becomes proof that something is wrong. Innocence itself becomes a kind of presumption of guilt. Refutation after refutation of false claims becomes, itself, evidence of a ‘log of allegations of corruption’”.*

Perhaps this explains two comments I came across earlier this year and before the words “Clarrie Briese” and “Luna Park” were resurrected. The first was by a journalist Richard Cooke, who said in passing in an article: *“The NSW Premier Neville Wran, whose administration later became a by-word for graft.”* The second was by another journalist, Bernard Keane, who said of the then NSW Opposition Leader, Jodi McKay that *“despite being up against the most corrupt government since the Wran years has failed to land a punch on Gladys Pork Barreljiklian”* [the latter is an example of Crikey humour, apparently].

I do not know the exact age of either journalist but I suspect they were early teenagers, or younger, when the Wran Government was elected in May 1976. Neither seems to have done any original research and both seem to be relying on the “evidence of a log of allegations of corruption” of which Wran spoke.

The fabrication of allegations

Wran knew that the “fabrication of allegations” would not cease on his death. In what turned out to be his last interview, with Troy Bramston of *The Australian*, he predicted his name would be further blackened after his death. “*Our law is that you can defame the dead. I won’t read it or hear it but my family, my kids, my friends and my colleagues will.*”

His prediction has proved true. Consider just some of the allegations Wran’s family have had to put up with since his death in 2014.

First, Kate McClymont, in her book *Dead Man Walking*, claimed that the Medich brothers had purchased a parcel of rural land at Badgerys Creek and had then spent around \$2 million trying unsuccessfully to get it rezoned. Rezoning of the land would have delivered a healthy windfall gain for the Medichs but that did not occur, at least not under a Labor Government. According to McClymont, the Medichs had purchased the land in November 1996 from “*the CSIRO, under the chairmanship of the late Neville Wran, the former Labor premier of New South Wales*”. She claimed the price paid (\$3.5 million) was well below the market rate, the inference being that Wran’s position or influence had helped some Labor mates.

A simple Google search would have informed her that Wran’s chairmanship of the CSIRO, a federal government body, ended in 1991, five years before this sale. If there was something dodgy about the deal, McClymont should have been looking in the direction of Canberra since the sale occurred six months after the election of a Federal Coalition Government, a fact she neglects to mention. McClymont’s dragging of Wran’s name into this deal was disgraceful.

Second, a Melbourne journalist, Andrew Rule, has recently written in the *Herald Sun* in Melbourne (3/5/21):

“A now-retired Sydney businessman who knew Wran well socially and knew [Abe] Saffron by sight told me this week he clearly recalls a small incident at the

Bayswater Brasserie in Bayswater Rd, Kings Cross, shortly after Wran became premier.

The businessman noticed Saffron sitting alone at a table, as if waiting for someone. Then a large chauffeur-driven car pulled up outside and the familiar figure of Premier Wran stepped inside – but as soon as he glanced around, he spun on his heel and left.

What the businessman could not tell is if Wran saw Saffron and didn't want the gangster to speak to him – or whether he recognised the businessman and didn't want him to witness a meeting with Saffron. Either way, it was clear that the idea of being seen mixing publicly with Saffron spooked Premier Wran.”

Is Rule seriously expecting us to believe that Wran would have arranged a luncheon meeting with Saffron in a popular Sydney restaurant? And if Wran just happened to find himself in the same restaurant as the well-recognised Sydney crime boss, why would he not (like any sensible politician) turn on his heel and leave?

More likely, Rule's anonymous source just made this up. He says this incident occurred “shortly after Wran became premier” which would make it in late 1976 or, if we are generous, in 1977. If Rule had bothered to check he would have found the Bayswater Brasserie did not open until 1982, at least five years after Rule's anonymous source claimed seeing the two men there. There is a reason, Andrew, for the basic rule of journalism requiring at least two sources for an allegation, particularly if the source is anonymous. There is always a possibility, Andrew, that your single anonymous source is a bullshit artist.

Third, sometimes Andrew Rule does not even bother with a source. After Wran's death in 2014 he wrote (*Herald Sun* 27/4/14): “*The broadcaster and journalist Phillip (sic) Adams tells the story of being approached by their mutual ‘mate’ Kerry Packer to deliberately ‘defame’ Wran in Packer’s magazine The Bulletin. This was a nifty way for powerful interests to sling a politician a tax-free, confidential settlement without resorting to brown paper bags. Adams refused to play the game. But many a politician has paid for a beach house or a Benz that way.*”

Note Rule's deliberate use of the word “nifty” here. Rule wants us to believe that Phillip Adams might have refused to play the game but others did. I have had a bit to do with media proprietors, and their managers, over the years and I have never

struck one that was happy about paying out money in defamation settlements. Quite the reverse. So, I went looking for that Phillip Adams story. It turns out to be quite different to the way Rule tells it. Adams recounted the story eight years earlier and it came after a conversation between Packer and Adams in which Packer had said he felt sorry for Wran and his lack of money. Adams said he offered *“to write a column in next week’s Bulletin accusing him of a sexual deviation. He sues you and you settle out of court. ‘Great’, responded Packer, at which point Adams piped up: ‘Only kidding.’”* (Crikey 17/2/06). So, a joke told by Phillip Adams becomes, in Rule’s retelling, an imputation of corrupt payments from Packer to Wran.

This is not careless journalism; it is dishonest journalism. Rule likes to say, in his podcasts, “we have only one duty to the dead and that is to tell the truth”. Well, how about it?

Fourth, Andrew Rule has also reported a claim by David Waterhouse, a son of the bookmaker Bill Waterhouse, that Waterhouse senior would send *“corrupt police chief Bill Allen to his illegal casino in Rockwell Crescent, Potts Point, to pick up weekly cash bribes for the premier Neville Wran. Sometimes young David would be sent on the errand.”*

Rule, in his journalism, likes to paint David Waterhouse as a white knight in a family of rogues. A browse through the files reveals that David Waterhouse has had his share of legal troubles and controversies. Rule also neglects to point out that David’s claims only emerged after he fell out with his family over money, including a court case over a share of a family trust. Experienced journalists should know not to rely on the uncorroborated word of those involved in disagreements over money. Rule did not report this allegation while Wran was alive. He likes to argue the defamation laws prevented him doing so. My response is: if you could not establish the truth of this claim while Wran was alive, why does it suddenly become true upon Wran’s death?

Fifth, the veteran Sydney crime journalist Bob Bottom claimed in a recent interview that, when Wran was Premier, there was an all-night session of the NSW Parliament, which went to 4 o’clock on Saturday morning, to debate special legislation *“aimed at having me fined and jailed”* because of his possession of “the Age tapes”. He further claimed that on the following Monday the Police Commissioner had phoned his wife

to tell her he was coming out to arrest him. Bottom says he had just flown to Melbourne so “*he missed me*”.

I have checked with three MPs who were in the NSW Parliament when Wran was Premier and none can recall this highly unusual event. I have also checked the Hansards from February 1984, when “the Age tapes” were published, to June 1986 when Wran resigned from Parliament. There was only one session of Parliament on a Friday in this period, which was to finalise end-of-year business, and this adjourned at 4.38 pm on Friday afternoon. There were no sessions running until the early hours of Saturday morning.

No Australian Parliament has the power to pass bills to arrest people. This would be unprecedented in the Australian parliamentary system, a clear breach of the separation of powers, not to mention a fundamental breach of individual liberties. Bills of attainder, as they were called, were used by Henry VIII but eventually fell into disfavour in England centuries ago. I am sure that if they had been revived in NSW in the 1980s this would have been national news. Arrest warrants in NSW can be enforced in Victoria, incidentally. If the police did not bother to have him arrested in Melbourne why wasn't Bob arrested when he arrived back in NSW? And since when does the NSW Police Commissioner decide to personally arrest people? This is a fantasy.

Unfortunately, this fantasy is available on a website called *Democracy's Watchdogs* which pays tribute to “*the incalculable worth of original in-depth reporting and its value to a healthy democracy and informed public sphere*”. This seems to be a case of “physician, heal thyself”.

Eric Bedford and Paul Landa

Finally, the fabrication of allegations has not been confined to Neville Wran. Eric Bedford and Paul Landa, both prominent Wran Government ministers, have also been defamed in death. I do not have the time tonight to deal with these fabrications but I have demolished them in an article published in *Quadrant* last year. For those interested, if you Google the words, “The careless journalism of Kate McClymont”, you can read this online.

Every time one fabrication is disposed of another fabrication emerges, as Wran noted. Although demonstrably false, these “log of allegations of corruption” have led to sweeping assertions about a corrupt administration such as those made by Richard Cooke and Bernard Keane which I cited above.

This brings me to the two allegations about Wran which emerged in March this year. I will deal with them in the order in which they appeared.

The revenge of Clarrie Briese

On Saturday 6 March 2021, *The Sydney Morning Herald* and *The Australian*, carried articles based on a recent book by the former NSW Chief Magistrate, Clarrie Briese, called *Corruption in High Places*. The articles resuscitated a claim by an ABC *Four Corners*’ program, on 30 April 1983, that Wran, when NSW Premier, had telephoned Briese’s predecessor, Murray Farquhar, on the morning of 11 August 1977, when NSW Rugby League boss, Kevin Humphreys, was due to face a committal hearing on fraud charges. Magistrate Kevin Jones dismissed the charges. The program claimed Wran had requested Farquhar to ensure that the charges were dismissed. The allegation was later investigated by a Royal Commission undertaken by the Chief Justice of NSW, Sir Laurence Street. The Commission “*completely exonerated*” Wran.

The Australian article claimed that “*new evidence has emerged that could have fundamentally changed the royal commission findings into the personal involvement of the then premier Neville Wran*”. The *Herald* article claimed: “*Sensational evidence withheld from a royal commission throws light on the involvement of former NSW premier Neville Wran in a conspiracy to pervert the course of justice*”.

I have published elsewhere a long article demolishing in detail Briese’s claims and explaining the reasons for his hatred of Wran, a fact which neither journalist pointed out in their articles. Both journalists neglected to investigate Briese’s “new evidence” and simply reported them as if the allegations, having been made, established a new truth.

Tonight, I only have time to address the so-called “new evidence” that Briese claims “*would have had a significant or, let me say, should have had a significant effect*” on the findings about Wran of the Street Royal Commission.

1. Police prosecutor Sergeant Darcy Cluff

Briese produces only two pieces of evidence. The first is that of former police prosecutor, Darcy Cluff, who presented the case against Kevin Humphreys. Cluff recounts a conversation he had with Humphreys’ solicitor, John Aston, “at about 9.40 am on 11 August 1977”, the day the committal hearing began.

Cluff says: “*He told me that Humphreys’ legal representatives were considering calling the Premier as a character witness. I said nothing, it did not concern me who they called. There was a short pause and then he asked me what my attitude would be. I asked him what he meant. He then asked me if the Premier was called would I cross examine him. I told Aston that I would and that the Premier would be treated exactly the same as any other witness.*”

“*Given I knew the brief very thoroughly I thought it would be an imprudent action for the defence to take but it was not my position to offer advice. I asked Aston if the Premier was aware of the specific allegation against Humphreys. He didn’t answer me, just said he would see me in court.*”

Briese claims “*the fact that Humphreys’ legal team was considering [calling Wran] is indicative of a pre-existing relationship between Wran and Humphreys as well as a willingness on Wran’s part to help Humphreys*”.

Briese leaps to this conclusion unsupported by the evidence. Nothing in the reported conversation suggests Wran was willing to help Humphreys in this way. Briese or Cluff do not know if Wran had indicated he was willing to be called. There is nothing to suggest Wran was even aware that Humphreys’ legal team was around kicking this idea.

Briese knows, and deliberately ignores, the fact that the Street Royal Commission went to extraordinary lengths to establish whether there was a “pre-existing relationship” between Wran and Humphreys, even to the point of using professional investigators. In the words of Sir Laurence Street, these professional investigators sought to “*glean information tending to establish what was called in the*

[Commission's] office, a Wran-Humphreys-Farquhar triangle. Such investigations have not only failed to discover any useful leads, but I am convinced to the contrary, namely that there was no such triangle."

"In short, try as I have with the unlimited resources and wide ranging powers available to me in this Royal Commission, every avenue that has been followed in seeking to identify intervention by Mr Wran in the preparation or assistance of Mr Humphreys has ended, in so far as a path to Mr Wran is concerned, not merely inconclusively but specifically in his favour."

There is nothing in Cluff's statement to dispute this finding by Sir Laurence Street and his further finding that the relationship between Wran and Humphreys was not more than *"a superficial acquaintance deriving from their respective positions."* Nor is there anything in this "evidence" to dispute Street's finding that the alleged phone call between Wran and Farquhar did not take place.

Briese says Cluff's statement *"would have had a significant effect"* on the findings of the royal commission. Why? Street found that the event which initiated the royal commission – a phone call between Wran and Farquhar on the morning of the beginning of the committal hearing – never took place. Cluff's testimony has no bearing at all, one way or the other, on that finding. It is astonishing that a magistrate – whose job for many years was to evaluate the strength of police evidence, honestly and objectively – could draw such a conclusion.

2. Police Prosecutor Sergeant Wayne Evans

The second piece of "sensational evidence" relates to another police prosecutor, Wayne Evans, who was not involved in the Humphreys' hearing. Evans claims that at around 3pm on the day the committal hearing began, he saw Wran standing beside a Ford Falcon belonging to Farquhar in the courtyard used for car parking at the Central Courts. He further claims he then saw Wran enter the building by a back entrance that was usually locked.

Evans claims he made a statement at the time and handed it that afternoon to the senior prosecutor, although Evans is unsure of the prosecutor's name. He claims this person undertook to get it immediately to the officer in charge of the Police Prosecution Branch; again, he is uncertain of this person's name.

If Evans had been called before the Royal Commission Wran could equally have had the chance to test the claim and the opportunity to prove from staff evidence, his two drivers and his secretary's diary that he was nowhere near Central Courts at that time. Wran had similarly been able to prove, from the records of a senior Treasury officer, that he was in a budget meeting with Treasury staff and his economic advisers when he was alleged to have made the phone call to Farquhar.

Briese writes that if Evans had been called to give evidence to the Royal Commission *"it would have demonstrated a willingness on Wran's part to help Humphreys and therefore add credence to the allegation that Wran rang Farquhar asking for Kevin Humphreys not to be committed for trial"*.

Once again Briese jumps to a conclusion not supported by evidence. Why would Wran need to be at Central Courts that afternoon if he had already "fixed" the committal hearing with a phone call that morning, which was the Four Corners' allegation? This was the day of the committal and by 3pm the committal hearing was almost concluded. What purpose could Wran have achieved by being there on the afternoon when the case had already begun, particularly if, as Briese obviously believes, Wran did make the phone call to Farquhar that morning?

Does anyone (other than Briese) believe that Wran, universally acknowledged as politically astute, would have been so stupid and indiscreet as to come to Central Courts personally to, presumably, try to fix Humphrey's case?

There is no car entrance to the Central Courts off Liverpool Street. Wran's very recognisable LTD (with the distinctive number plates known to every copper in NSW) would have had to drive through the entrance off Central Street (in reality, a narrow laneway). This entrance was an archway that bordered the former Central Police Station, where hundreds of police and administrative staff worked.

Evans makes no mention of seeing Wran's official LTD in what was a small parking area, only Farquhar's Ford Falcon. How did Wran get there? Did he walk down the drive at Central Police Station, having been dropped off outside, thereby increasing the chance that he would be observed? Wran was a well-known person and could rarely go anywhere without being noticed.

In his book, Briese admits that "senior counsel and others with whom I have discussed this fresh evidence" have questioned the veracity of the claim because

Wran would have been accompanied by staff, including protection staff. Briese writes: *“It may be that Wran dispensed with a staff member that day for his own reasons or that the accompanying staff member was in the court building seeking access for Wran via the backdoor through which he entered, so as to avoid any unnecessary media scrutiny surrounding his presence in the court building that day.”*

Briese does not ask himself: why would Wran have risked “media scrutiny” by being present in the court building, with or without staff, or by walking or having been driven through the Central Police Station grounds. Nor, presumably because of his hatred of Wran, has Briese also asked himself: why would Wran need to be at Central Courts that afternoon if he had already fixed the case with a phone call that morning?

Briese pronounces Wran guilty

I do not have to remind the legal audience tonight that it is the job of a magistrate to objectively assess the strength of police evidence and to decide whether a later trial, properly instructed, could find a person guilty beyond all reasonable doubt. Now put yourself in the shoes of a magistrate presented with this new evidence.

The statement by Cluff has no bearing on the allegation that Wran had phoned Farquhar on the morning of the hearing. Nor does the statement by Evans. Wran was not given a chance to rebut it. How does either statement contradict the finding of the Royal Commission, after thoroughly examining all witnesses, that the phone call never happened? No sensible magistrate, after honestly and objectively assessing this “evidence”, would send it off to trial. Not so former magistrate Briese: no need even for a trial for him. Briese pronounces Wran guilty.

The conclusion must be drawn that Briese was so anxious to settle a score with Wran that, with the supposed “new evidence”, he has tried to turn unsubstantiated and insubstantial claims into firm proof of guilt. He has failed.

Briese could have written this book at any time after he retired as a magistrate in 1990. Of course, he waited until Wran was dead, and unable to respond, before doing so.

Remember the name “Wayne Evans”. We have not heard the last of him in “the war on Wran”.

Underexposed: The ABC's Ghost Train Fire

As if to underscore Wran's point that every time one fabrication is disposed of, another allegation is fabricated, along came the ABC-TV program, "Exposed: The Ghost Train Fire". This three-part program, broadcast in March 2021, resurrected the fire in the ghost train ride at Luna Park on Saturday evening, 9 June 1979.

The program drew a number of conclusions: that the fire had been deliberately lit by a group of bikies; that the bikies were acting on the instructions of Sydney crime boss, Abe Saffron; that Saffron ordered the fire because he wanted to gain control of the harbourside site for commercial development purposes; that the cause of the fire had been deliberately covered up by corrupt police; that Saffron eventually gained the lease for Luna Park through a Saffron-linked corporate vehicle; and that Neville Wran was instrumental in both delivering the lease to Saffron and in the cover up of the crime.

The ABC produced scant evidence for these conclusions. On the finding that Wran was involved in a cover up of mass murder the program produced no evidence at all – in none of the three episodes. On the finding that Wran delivered the lease to Saffron the ABC ignored compelling evidence that Wran had nothing to do with the selected lessee. If Wran was still alive the ABC would not have dared slander him as they did. On the finding that Abe Saffron was guilty of mass murder the evidence was flimsy at best. No competent magistrate required to examine the evidence presented by the ABC would have found it sufficient to commit Saffron for trial.

The tender and the lease

The ABC claimed that Wran, at the request of High Court judge Lionel Murphy and on behalf of Sydney solicitor, Morgan Ryan, had in the words of the presenter intervened to "*make sure that the lease swung over to Abe Saffron*".

I have examined this in much more detail in a separate article which I am happy to provide to those interested. Let me summarise tonight the evidence ignored, or glossed over, by the ABC.

First, all decisions concerning the tender process for a new lease for Luna Park after the fire were made by Cabinet or by a Cabinet committee, not by Wran.

Second, the recommendation to award the lease to Harbourside Amusement Park Pty Ltd, the company which Saffron allegedly controlled, was not made by Wran or by Cabinet. The decision was made by a special committee which comprised six senior public servants: the head of the Department of Services; the head of the Department of Lands; the deputy head of the Premier's Department; the Valuer-General; the principal architect of the Department of Public Works; and the regional manager of the Planning and Environment Commission.

Third, the only surviving member of that committee, the respected former NSW Government Architect, Andrew Andersons, made no claim on the program that the committee members had been pressured into making their recommendation. Andersons subsequently told *The Australian* (15 April 2021): "*The tender process was totally above board. Nobody influenced the panel process – certainly I was not told by anybody to do anything. The public servants on the panel were all very experienced and professional*". Andersons also complained about the professionalism of the program: "*They used tendentious editing to try to prove a predetermined view*".

Fourth, the ABC claimed Saffron wanted the site for commercial development purposes. But the 30-year lease was for the operation of an amusement park and commercial development of the site would have been a breach of the lease. Even if a government had been sufficiently brave to permit the site to be converted to commercial – and subsequent events have shown no government brave enough to do so – new tenders would have been called. This is because the value of the land would be assessed by the Valuer General to be higher with commercial land use.

Fifth, and most significantly, a very detailed inquiry found that the lease did not end up with Saffron. In 1986-87 an inquiry was conducted into Harbourside by the NSW Corporate Affairs Commission. The report was tabled in Parliament on 29 October 1987. The inquiry was an initiative of Neville Wran, following allegations in Parliament. The ABC did not tell viewers that Wran authorised an inquiry into the very same company which the ABC accused him of favouring.

On 19 November 1985 Wran wrote to his Attorney General, Terry Sheahan, requesting the Corporate Affairs Commission "*examine the affairs of Harbourside with a view to establishing one way or another whether Abraham Saffron has links to Luna Park and if so, the nature and extent of the links*". In a further letter to

Sheahan on 25 February 1986 Wran asked that consideration be given to a special investigation into whether Saffron *“has acquired ownership or significant interest in Harbourside or whether significant interest accrues to Saffron as a result of the present ownership, management and financial structure”*.

This is very strange behaviour by a premier who, according to the ABC, had a friendship with Saffron. Not surprisingly this fact did not fit the ABC’s narrative. The viewers were left unaware that it was Wran who had instigated this inquiry.

The Corporate Affairs Commission conducted a very thorough investigation over 17 months into Harbourside and several other companies involved in the ownership structure. Twenty-three witnesses, including Saffron, were examined on oath and another 11 witnesses were interviewed. A National Crime Authority official was included in the investigation team.

The Commission concluded, at the end of this lengthy inquiry: *“There is no evidence . . . that suggests that Abraham Gilbert Saffron has any actual or beneficial ownership in Harbourside”*. The inquiry did find that Saffron controlled a trading trust, Arcadia Machines, which had supplied amusement machines to the park. The Commission concluded: *“There is no evidence that Mr Saffron’s dealings with Harbourside, through Arcadia, were other than normal business dealings except that the appointment of Arcadia may have been influenced by the family relationship between Coleman Goldstein [then a director of Harbourside and described as a distant relation to Saffron] and Abraham Saffron”*.

The Corporate Affairs Commission was not alone in reaching this conclusion about the ownership of Harbourside. The National Crime Authority subsequently found no evidence of Saffron’s ownership. Despite these findings the ABC journalists, with no apparent qualifications in the intricacies of corporate law and regulation, still told viewers that *“the lease swung over to Abe Saffron”*.

Ironically, Saffron dodged a bullet in not acquiring Harbourside. The ABC did not mention this but the Corporate Affairs Commission found that the company did not trade at a profit in any year after Luna Park reopened in May 1982, notwithstanding a substantial investment in new and renovated facilities. By 1986 Harbourside owed Citicorp \$13.7 million (the equivalent today of \$39.7 million), a loan guaranteed by the directors. If the ABC had been correct, rather than wrong, in its claim that “the

lease swung over to Saffron”, it should have taken some satisfaction from the fact that Saffron would have dropped a heck of a lot of money on his investment.

In summary, the ABC’s claim that Wran had delivered the lease to Saffron for the purpose of commercial development has no foundation. Saffron did not tender for the lease after the fire. The lease was strictly for the operation of an amusement park and commercial development was not permitted. All relevant decisions on the tendering process were made by Cabinet or by a Cabinet committee. The recommendation to award the lease was made by a special interdepartmental committee comprising six very senior and independent public servants. The surviving member of this committee has said there was no pressure on committee members in making their decision. The corporate regulator in NSW found no evidence that Saffron had an actual or beneficial ownership of the company which was awarded the tender.

Why was Wran singled out?

The ABC relied solely on the report of the infamous “Allegation No. 27”, one of the allegations being examined by the Parliamentary Commission of Inquiry into High Court judge Lionel Murphy. This inquiry was established in May 1986 after other High Court judges had expressed concern about Murphy resuming duties on the court following his acquittal in April 1986 on charges that he had sought to pervert the course of justice. The inquiry was discontinued when Murphy announced in July 1986 that he was dying from cancer since its purpose was now irrelevant. He died three months later.

Various documents before the inquiry, including Allegation No. 27, were released in 2017, and widely reported at the time. Allegation No. 27 relies solely on the word of former Police Sergeant Paul Egge, one of the police involved in the illegal police wire taps on the phone of solicitor Morgan Ryan. According to the report of Allegation No. 27, Egge told the Stewart Royal Commission that *“Abe Saffron rang Morgan Ryan and told him that he was interested in gaining the lease for Luna Park. Morgan Ryan said to Saffron that it was going to be given to the Reg Grundy Organisation. Saffron said: ‘Well I want the lease’. As a result of the conversation Morgan Ryan got in contact with Mr Justice Murphy. Murphy said leave it with me. Shortly after*

Murphy rang Morgan Ryan back and said that he had spoken to Neville and that Neville was going to try and make some arrangements for Abe to get the lease. Then, the next day or shortly after Wran said the Government is going to review the lease to Luna Park and a decision on the lease would be made by the Government within 7 or 14 days.”

As noted earlier, the Reg Grundy organisation had not been awarded the lease and there is no evidence that a Saffron-related organisation acquired the lease. The allegation is therefore not off to a good start.

No other police officer involved in the wire taps substantiated Egge’s claims about Wran. None said they had heard Wran’s name mentioned in the conversations. The only witness to claim that Wran was involved was Sergeant Egge. The report on Allegation No. 27 states: *“It should be noted that although it may appear on a reading of Egge’s evidence that he actually heard some telephone conversations as they occurred, this was not the case.”* Nor are there any tapes, transcripts or summaries to back up Egge’s claim.

Despite this lack of corroboration, the ABC relied solely on the word of Egge for its claim that Wran was involved in a conspiracy with Ryan and Murphy to deliver the lease to Saffron. Asked by the interviewer whether Wran was involved, Egge replies: *“He was involved - big time”*. We are expected to accept Egge’s claims, despite him not hearing any telephone conversations and despite him not being able to produce tapes, transcripts or summaries to back up his claim. Uncorroborated evidence is consistently good enough for the ABC.

What was in it for Wran?

Despite providing no reliable evidence of Wran’s involvement, the program’s presenter posed the question: *“Why would Neville Wran get involved in this? Why would Neville Wran have taken that call from Murphy and make sure that the lease swung over to Abe Saffron?”*

These are good questions. At this point an experienced investigative journalist, or the person to whom they reported, would have asked: do we have any corroborating evidence that Wran did “get involved?” That person would also have pointed out that most of the evidence collected so far suggests that Wran was not involved. The

program makers should have been told go back and find evidence of Wran's involvement.

Instead, the program cuts to a former police prosecutor, Wayne Evans, who had not been involved in investigating the Luna Park fire; nor was he involved in the subsequent coronial inquiry. Remember Wayne Evans? He is the same person Clarrie Briese relies on for his "sensational evidence" which I have earlier discredited. Evans is filmed saying: *"There had to be something in it for Wran"*.

At this point in the program the viewer would have been waiting for the ABC to reveal, in the words of Evans, what was "in it for Wran". Will they produce evidence of money being paid? Or evidence of a blackmail obligation? What was in it for Wran that he would jeopardise his entire political career by ensuring that the lease for a major public asset was delivered to a person of whom Wran had said in Parliament in November 1978, seven months before the fire: *"It is a matter of notoriety in the community that Mr Saffron is not a person of good repute"*.

This is where the program descended into complete farce. The ABC produced as evidence a female "friend" of Saffron, Rosemary Opitz, who claims Wran "on occasions" attended Friday night drinks at Saffron's house and that the two were "pally, very pally". We are meant to draw a sinister conclusion, solely on the word of a Saffron intimate, that Wran was benefiting from a long-standing association, indeed friendship, between the state's most senior politician and the state's most prominent criminal.

Does anyone outside the ABC believe that Wran, universally acknowledged as intelligent and politically astute, would mix socially with the person widely known as "Mr Sin" in an environment where others would have observed him? Does not anyone inside the ABC wonder why these "Abe-Nifty Happy Hours" (as a friend has sarcastically called them) have remained secret for the last 40 years in a city which, as I said earlier, floats on malicious rumour and unsubstantiated gossip? Healthy scepticism seems to be in short supply in the ABC.

Gary Sturgess, a former senior adviser to Liberal Premier Nick Greiner, and a political opponent of Wran, has rubbished the allegation (*The Australian* 1-2 May 2021). *"I do not accept the claim that Wran attended social functions organised by Saffron. Based on everything I know about Wran, having studied him closely for*

many years and helped design the tactics which repeatedly exposed his refusal to take corruption seriously, I do not believe for a moment he would have attended a social gathering with a person of Saffron's reputation."

The cover up

Towards the end of the program the presenter told some of the families of the victims, in a segment that good taste should have excluded, their findings about the cause of death of their loved ones. The fire, according to the ABC, had been lit by three bikies; the bikies had been acting on the instructions of Abe Saffron; and the cover up of this crime "went right to the top".

The presenter's exact words were: *"Essentially the allegation is that the reason why it [the investigation] didn't go any further was because of corruption further up. There are a lot of powerful people in powerful places protecting Abe. So, it went right to the top we are told."* In the context of the program the use of the phrase - "went right to the top" - can only mean that the ABC is now accusing Neville Wran of also being involved in covering up a mass murder.

In three episodes the program produced no evidence at all that Wran was involved in a cover up. Not a single person interviewed on the program made such an accusation; nor was any other evidence, documentary or otherwise, produced to justify this claim. This statement was simply made up by the presenter and allowed to go to air by those supposedly supervising the program.

In the separate article I have drawn attention to how flimsy was the ABC's conclusion that the fire was organised by Abe Saffron and that there had been a cover up of his involvement. There is no time for me to cover this ground tonight but again, for those interested, I would be happy to send the article.

I concluded in that article that for the ABC to tell the victims' families there was a cover up, the program must first have established without doubt that there was a crime and therefore a criminal or criminals on whose behalf those involved in the conspiracy were protecting. The ABC did not establish that a crime of organised arson occurred that night at Luna Park. The uncorroborated evidence of arson it produced points in the direction of a senseless act by one person, of the sort we see every bushfire season. No convincing evidence was produced to undermine the

conclusion of the National Crime Authority that it could find no evidence of dishonesty or corruption in the police investigation. Without such a crime there can be no cover up.

The families of the victims have been cruelly misled by the ABC. They have been fed a story that has very little substantiation and lacks credibility. If an inquiry is held into the Luna Park fire, it will have been called not because the ABC has uncovered compelling new evidence but because it has falsely led the families to believe they now know the truth about the deaths of their loved ones.

A perfect administration?

I am not suggesting that the Wran Administration was perfect. Serious mistakes were made, particularly with the appointment of Mervyn Wood as Police Commissioner shortly after coming into government, and the later promotion of Bill Allen to Deputy Commissioner. There was also one celebrated example of corruption involving the Prisons Minister, Rex Jackson, whom Wran forced to resign. With the benefit of hindsight, Wran should also have taken the advice of Justice Minister, Ron Mulock, and forced Murray Farquhar off the magistrates' bench, given it had the power to do so after Farquhar had turned 60. There are valid explanations for these decisions but with hindsight, that most valuable commodity, the wrong decisions were made.

To return to Frank Walker, it has been reported several times that early in the Wran Government, Frank had suggested the need to "clean up the cops". The comment was widely seen as evidence of Frank's political immaturity. This was also my judgment at the time. In those days I had access to Rod Cameron's ANOP marginal seat polling and these consistently showed approval of the NSW Police by voters was above 80%, far above the approval rating even of a government which had twice polled a primary vote which exceeded 55% and a two-party preferred vote of 60%.

I wrote in Wran's obituary for *The Sydney Morning Herald* (22/4/14) that he had once told one of his ministers that timing was the key to political success. "Get the timing right and you can do anything." I also wrote that the one time when Wran's impeccable sense of political timing deserted him was in the area of the police. In my view he failed to detect when public opinion had moved decisively in favour of "cleaning up the cops", to use Frank's phrase.

When Wran did move, however, he moved with characteristic force. The great pity of the Bill Allen affair is that it has overshadowed in memories the substantial reforms to the Police Force which the Wran Government did implement, particularly after Peter Anderson became police minister. Although it took the Royal Commission in 1995 - for which Bob Carr should take considerable credit - to transform the NSW Police Force, it is still true that the Wran Government did more than any other NSW government, until the Royal Commission, to rid the force of endemic corruption.

If I can be so bold, I suggest the NSW Society of Labor Lawyers should consider a future Frank Walker address by Peter Anderson, perhaps using Frank's exhortation as the peg for the address. Peter's record as a reforming police minister deserves greater recognition than it has received. There is also an excellent story to be told in how Peter personally went after Abe Saffron, including through the National Crime Authority, with the full support of Neville Wran.

Defamation of the dead

In conclusion, must Neville Wran's family and friends simply put up with this continual "fabrication of allegations"? Do they have to spend the rest of their lives refuting false claim after false claim?

The defamation law in NSW has recently been amended and a new defence has been introduced to make life more difficult for plaintiffs. Juries in NSW can now decide that a defendant in a defamation action had "acted reasonably in the circumstances" or "reasonably believed" that publication was in the public interest.

I know this will not be popular with many tonight but I now believe there should be a *quid pro quo* for this concession to defendants. The existing law that you cannot defame the dead should be reviewed and, in my view, amended. And, yes, I do know the tawdry history of this in NSW.

The law that you cannot defame the dead is based on the common law fiction that the dead do not have a reputation to protect – that the dead can feel no shame or humiliation. But the dead usually have surviving spouses, children and grandchildren who must live with the shame and humiliation caused by the careless trashing of the reputation of their loved one. As Neville Wran said in the interview I quoted earlier: "*I won't read it or hear it but my family, my kids, my friends and my*

colleagues will.” I cannot imagine the distress the ABC has caused to Jill Wran and to hers and Neville’s children over the past few months.

I have been in constant dialogue with the ABC over the Luna Park documentary since it aired in March. My complaint under the ABC’s “independent” complaints-handling process was predictably dismissed. Two matters have emerged from this fruitless exercise. First, according to ABC management, the ABC’s editorial policies relating to accuracy – particularly the requirement for “multiple sources” - no longer applies if a program simply conveys an allegation about a person, without putting the allegation forward as fact.

Second, according to the ABC’s editorial director, the requirement for multiple sources does not apply if a person is simply collateral damage in a program. When asked at the Senate Estimates Committee hearing on 26 May why there was no corroboration for the absurd claim about the “Abe-Nifty Happy Hours”, he replied: *“The matter concerning Mr Wran was not the focus of the documentary. Normally, in these sorts of situations where they are going to explore a particular allegation or line of inquiry, that would certainly require them to speak to other sources.”*

Of course, what ABC management really meant is that the requirement for multiple sources does not apply if the person is dead. The ABC Legal Department – hopefully, for us taxpayers – would not permit such allegations about a living person without any corroboration or satisfactory confirmation. But for those who are no longer with us, the cry of “bring out your dead” now seems to have taken on a new meaning for ABC management.

My own conclusion is that a spouse or a child – I would limit it to those - should have the right to bring an action on behalf of a dead spouse or parent. I am not proposing that damages should attach to a successful action but there should be a requirement for the publication of a correction and an apology in some form and costs, of course, should follow the event. Why shouldn’t the *Herald Sun* be forced to correct Andrew Rule’s false imputation that Wran had received corrupt payments from Packer? Why shouldn’t Penguin Random House be forced to correct Kate McClymont’s false claims about Neville Wran, Eric Bedford and Paul Landa?

I do not believe this would be abused. The odds will still be stacked against a plaintiff who would still have to weigh up the costs of such an action against the deep pockets of the organisations most likely to be defendants.

The freedom not to have to worry about defaming the dead is a legal privilege for journalists. As I have shown tonight, it is a privilege that is now being routinely abused. Journalists no longer seem to accept that legal privileges come with moral responsibilities. Allegations about the dead should receive the same care, corroboration, editorial review and legal scrutiny, as allegations made about the living. I believe only a change in the law will bring that about.

Thank you.