

**Government Response to the Report
of the Parliamentary Joint Committee
on the National Crime Authority, Operation Ark.**

The Report was tabled in the House on 18 October 1990, by the Committee Chairman, the Honourable Member for Herbert, and in the Senate on 17 October 1990 by the Deputy Chairman of the Committee, Senator Vanstone. As the Committee puts it, the tabling of this Report is pursuant to the Committee's obligation to maintain a system of accountability under Section 55(1)(b) of the National Crime Authority Act 1984. The report was accompanied by a Qualifying Statement by the Members for Gippsland and Moore, and Senators Crichton-Browne and Vanstone.

The Report deals with an investigation in South Australia by the National Crime Authority (NCA). The Report makes no findings and no recommendations. While the Qualifying Statement also does not advance recommendations, it suggests that aspects of Operation Ark are relevant to the Committee's current Evaluation Inquiry and should be discussed further in that context. I also note that, in a tabling statement agreed by the Committee and tabled in both Houses on 21 February 1991, the Committee indicated that "it would neither be constructive for it to reconsider the Operation Ark case, nor to attempt further adjudication on the conflicting claims about the status of the NCA Operation Ark report at 30 June 1989". The Committee went on to indicate that it would address issues arising from changes in membership of the NCA in the context of its Evaluation Inquiry. These are matters for the Committee to decide, and do not call for a response from the Government.

The Government accepts the Joint Parliamentary Committee's Majority Report. There is concern, however, about aspects of the Qualifying Statement signed by four members of the Committee, Senator N Crichtone-Browne, Mr P Filing MP, Mr P McGauran MP and Senator A Vanstone.

The Government wishes to make clear that it supports the right of members of committees to add protesting or dissenting views to committee reports. Indeed, standing order 343 of the House permits this. The Government cannot, however, approve of a procedure under which a dissenting report, without the authority of the Committee, discloses in camera evidence - as occurred in the present case.

I understand that the House of Representatives Standing Committee on Procedure has expressed the view that procedures should be put in place to avoid the disclosure of in camera evidence in dissenting reports unless authorised by the relevant committee. This view is supported by the Government.

In its report of 2 May 1989, the Senate Standing Committee on Procedure suggested certain guidelines be followed by Senators who wished to refer in a dissenting report to evidence taken in camera. It recommended inter alia:

- the Senator should advise the Committee of the evidence concerned and all reasonable efforts should be made by the Committee to reach agreement on the disclosure of the evidence for this purpose;
- witnesses involved should, if practicable, be informed of the proposed disclosure and given reasonable opportunity to object; and
- consideration should be given to disclosing the evidence in such a way as to conceal the identity of persons who gave or are referred to in evidence.

The Government observes that these recommendations were not followed in the present case.

Moreover, the debate on 13 February 1991 concerning the report by the Senate Standing Committee on Procedure also emphasised the need to limit disclosure of purely operational material to the wider public - particularly with the aim of protecting witnesses.

The Government believes it is important to maintain the confidentiality of persons who assist the Authority by way of information. The Authority's position is based on a long-standing practice it has adopted with my approval out of concern for the safety of witnesses and informants. This principle must necessarily extend to those who appear and give evidence before the Committee. If the confidentiality of those co-operating with the Committee is not upheld and respected, then there is a danger that the willingness of those who might otherwise provide information would be diminished. The Government is concerned to ensure that the reputation and the standing of committees is not diminished by unauthorised minority disclosure of information received on a confidential basis.