

**Senate Foreign Affairs, Defence and Trade  
References Committee**

**SUBMISSION COVER SHEET**

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**Inquiry Title:** Effectiveness of Australia's Military Justice System

**Submission No:** **P5D**

**Date Received:** 20.01.04; updated 18.02.04

**Submitter:** Mr Warren

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**Date Authorised:**

Allan Warren

20 January 2004

Mr B Holmes  
Secretary,  
Foreign Affairs, Defence and Trade  
References Committee  
Department of the Senate  
Parliament House  
Canberra  
ACT 2600



Dear Secretary,

Re: Senate References Committee Inquiry into Military Justice System

The purpose of this submission is to address the Inquiry's Terms of Reference (1)(a) and (1)(b)(ii). It details how the most senior of military officers abused the review and appeal process in the military justice system. The purpose of that action was to deny FOI Act access to documented evidence used in the process to bring about the improper termination of Major Warren's officer career.

This submission shows how the following offices of:

- a. the Chief of Army,
- b. Military Secretary,
- c. Directorate of Army Legal Services,
- d. Army Personnel Branch that deals with ministerial representation files, and
- e. Defence Central Registry

were involved in either the unlawful destruction or feigned destruction of the government history records of legal and other crucial documents of termination and of a subsequent Prime Ministerial review of Warren's case.

Defence made concerted efforts to unlawfully deny Warren access to the personal history records of his termination. These spanned several branches of Defence and went on for at least 12 months. During this time there were repeated obstructions and avoidances. But what ex-Major Warren was able to expose was a corruption of process to conceal and cover-up for a decade of previous corruption of due process at the highest levels in Army.

The diagrammatic representations herein would be well understood by the Chief of the Army, Defence Legal Branch, FOI Branch and the Office of Officer Career Management. However, for Senate Members of this Inquiry, the diagrams give insight into how extensive were Defence's action to improperly destroy or feign destruction of the government history records of the improper termination of

Warren's career and of subsequent ministerial review process. It would have taken deliberate and concerted action by the various branches within Army and Defence for the history records, specifically relating to Warren's forced termination, to have allegedly been destroyed or gone missing from files.

In Defence Sub-Committee Inquiry into Military Justice Procedures in the Australian Defence Force, Submissions Vol 4 page 714 ex-Major Warren wrote inter alia:

*"..on 20 July 1990 then Acting Chief of the General Staff, MAJGEN P M Jeffery certified that he was aware Warren's personal history records were destroyed. Mr Warren challenged MAJGEN Jeffery's decision only to be obstructed by a similar certification one month later by his superior officer the Chief of the General Staff, LTGEN J Coates that he too was aware these records were destroyed and hence technically denied to Warren under FOI Law. Both generals [REDACTED] These records were subsequently exposed to exist and were used by Army against Mr Warren in the 1990 erroneous decision by then Governor-General, Mr B Hayden."*

What is particularly odious about this behaviour from the highest level of office within Army is that the Acting Chief of the General Staff and the Chief of the General Staff, if only because of the position they commanded, would know that personal history records of an officer's career are long living under Australian Archives Act rules. At the very least, in order to protect legal procedures and Defence integrity, they ought to have demanded an investigation into what had happened to these numerous documents. Instead they made formal decision under FOI law that they were aware that Warren's documents had been destroyed when in fact they had not been destroyed. Eventually, Defence decided to release the alleged destroyed documents to Warren rather than face a public Administrative Appeals Tribunal hearing to adjudicate on their alleged destruction.

It defies belief that such obvious and violent abuses of the rule of law could have escaped any review process let alone the awareness and understanding of it at the 'expert' and most senior of levels of military command.

Yours sincerely,



Allan Warren

- Attachments
1. Diagrams 1,2 and 3 of Major Warren's Personal History Records
  2. Letter from Acting Chief of General Staff to ex-Major Warren denying his access to his personal history records 20 July 1990
  3. Letter from Chief of General Staff to ex-Major Warren denying his access to his personal history records 15 August 1990

DIAGRAM 1

PERSONAL HISTORY RECORDS OF EX-MAJOR A WARREN THAT DEPARTMENT OF DEFENCE ALLEGED WERE EITHER DESTROYED OR LOST

RE:FOI ACT APPLICATION OF 23 MAY 1990 – ACCESS TO PERSONAL HISTORY RECORDS.

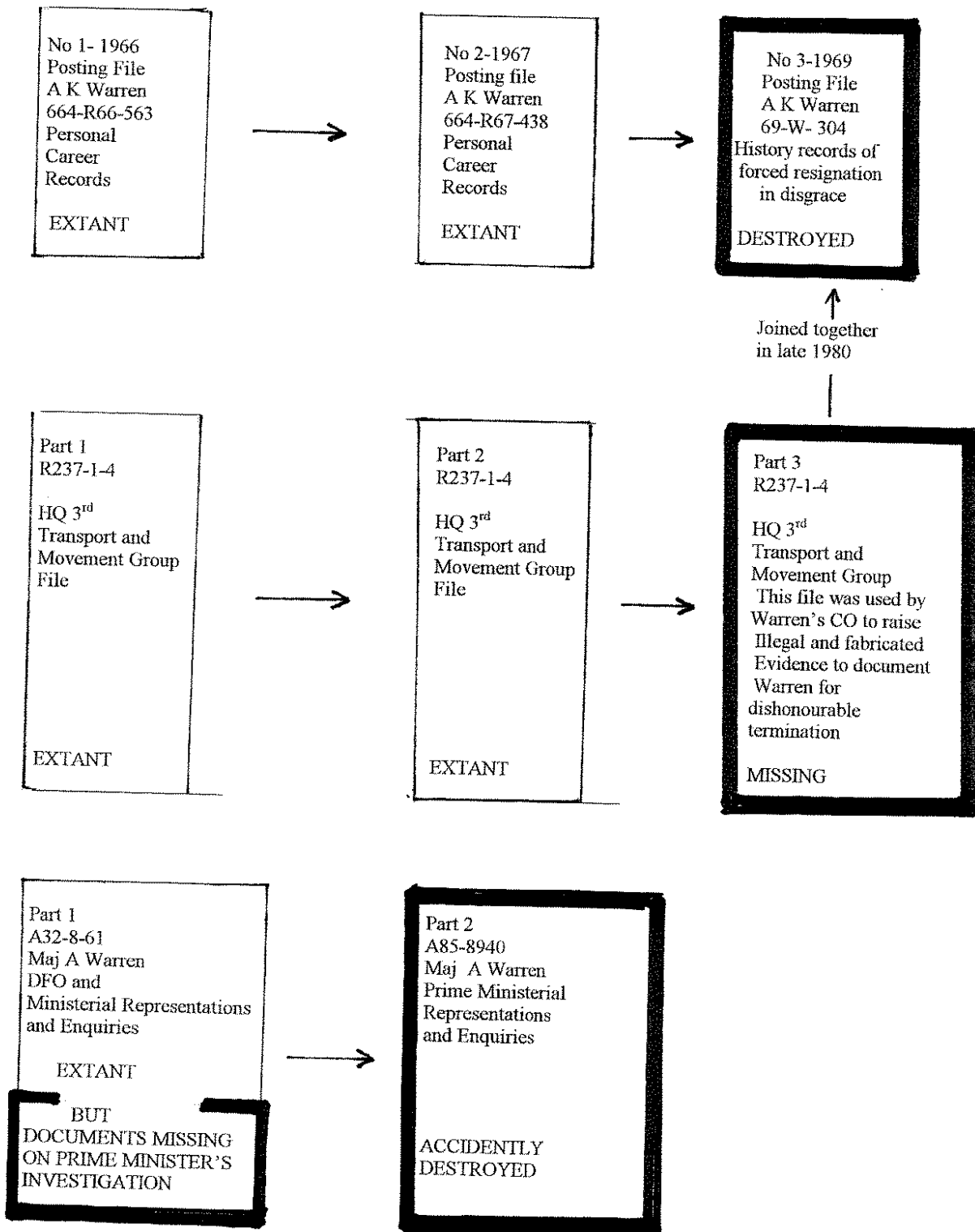
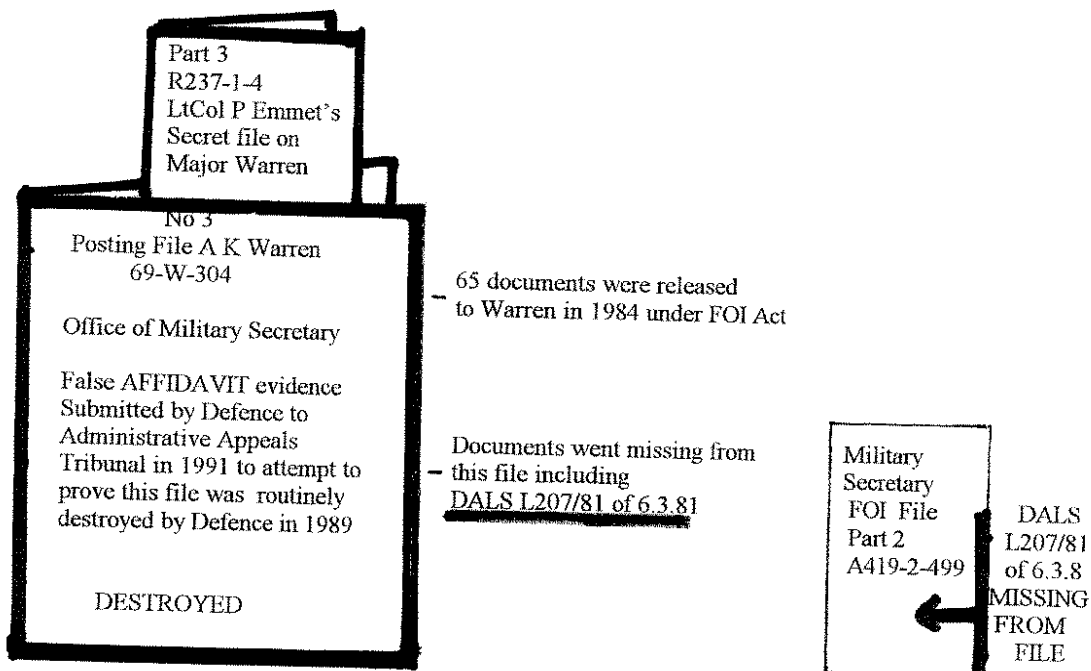
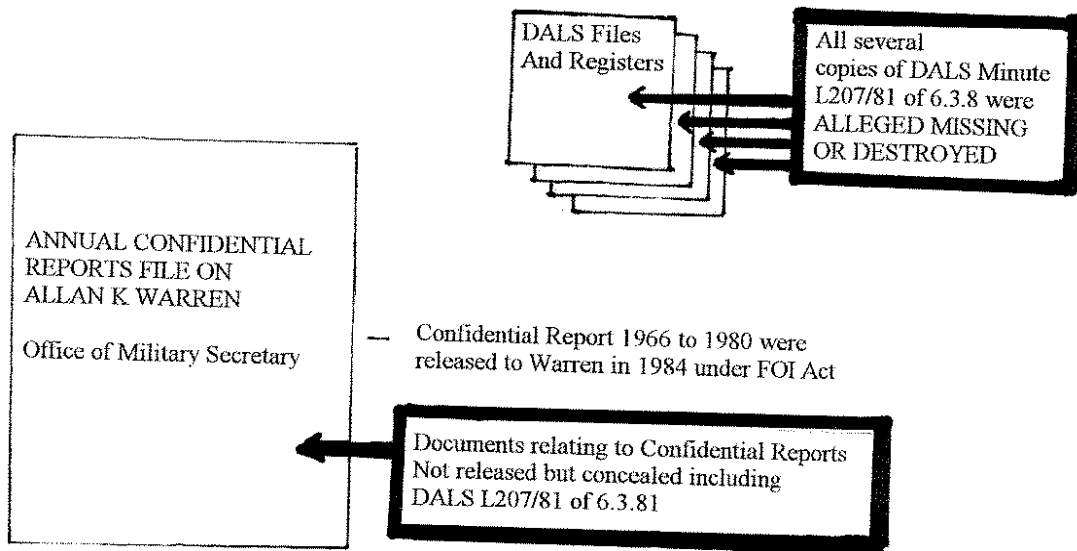


DIAGRAM 2

OFFICE OF THE MILITARY SECRETARY  
FILES ON THE PERSONAL HISOTRY CAREER RECORDS OF MAJOR A WARREN



DIRECTOR OF ARMY LEGAL SERVICES  
(DALS) FILES ON WARREN



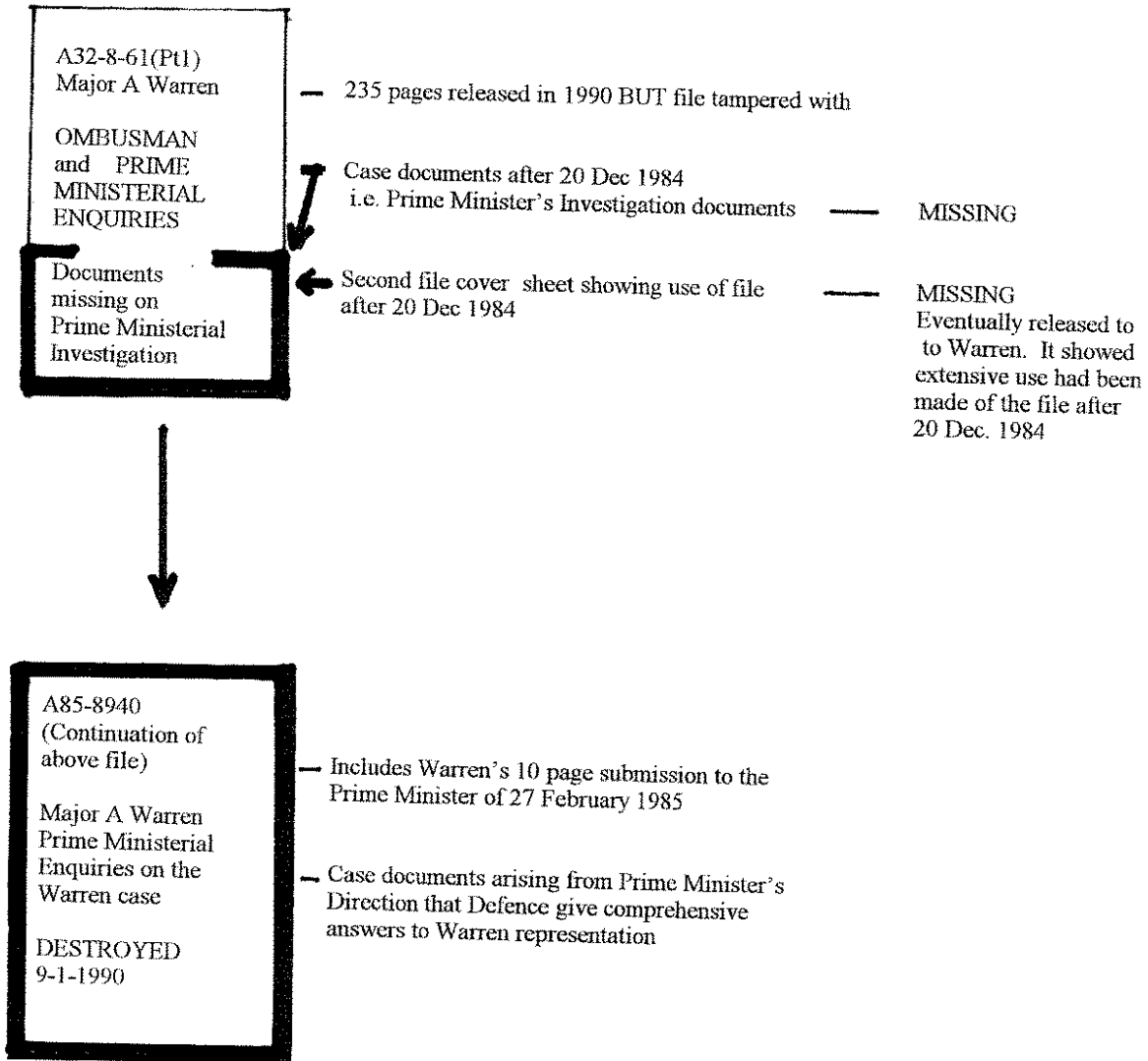
**NOTE:** Director of Army Legal Services (DALS) Brigadier-General M J Ewing gave the legal opinion that Major Warren was grossly incompetent and unprofessional and that he had failed in his defence reply to the 'Notice to Show Cause' charges against him. Brig. Ewing's legal opinion is recorded on DALS Minute L207/81 of 6 March 1981

Department of Defence attempted to feign destruction of ALL history records of this Minute in 1990.

DIAGRAM 3

ARMY OFFICE PERSONAL HISTORY RECORDS OF MAJOR A WARREN

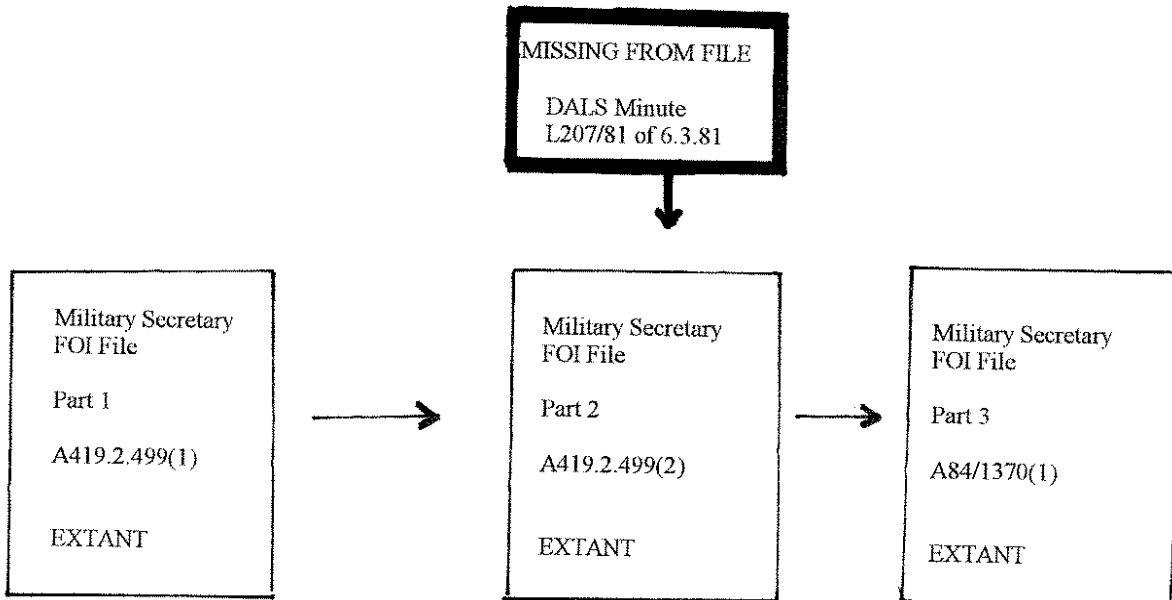
PRIME MINISTERIAL AND MINISTERIAL REPRESENTATION FILES ON EX-MAJOR WARREN



Note: File A85-8940 accessed by Major W Horton, Office of the Military Secretary for his July 1990 report on the ex-major Warren case to the Governor-General  
But File A85-8940 contents were denied to Mr Warren under FOI Law as the file had been accidentally destroyed by Defence Central Registry in January 1990.

DIAGRAM 4

DEPARTMENT OF DEFENCE FREEDOM OF INFORMATION FILES INVOLVED IN  
MAJOR A WARREN'S CASE - RELATE TO FOI APPLICATION FOR 23 MAY 1990





DEPARTMENT OF DEFENCE  
(ARMY OFFICE)  
CANBERRA, A.C.T. 2600

CGS 888/90

20 July 1990

Mr A.K. Warren

FREEDOM OF INFORMATION

I refer to your letter dated 5 July 1990 in which you seek an investigation into why Army has refused or delayed your Freedom of Information (FOI) request.

I have had your complaint investigated and advise that the delay experienced in processing your request has not been deliberate. As you can appreciate a great deal of time is spent in retrieving files which have been archived, vetting the files and then processing the documents sought to the respective agency for onforwarding to you. I am advised that you have already received some documents with further documents being forwarded to you through the Freedom of Information Section. A search of your files is continuing.

I am aware that the following have been destroyed and, as a consequence, have been technically denied to you: \*

- a. contents of file A85-8940(Pt 1) - Ombudsman Enquiry on Mr A.K. Warren re Redress of Wrong Living Out Allowance - ASSP-A Aspects;
- b. contents of file 69-W-304 - personal posting file 216743 MAJ .K. Warren; and
- c. Director of Army Legal Services minute L207/81 dated 6 March 1981 which cannot be located.



I regret the delay experienced but am satisfied my staff have handled this matter as expeditiously as possible.

*P.M. Jeffery*

P.M. JEFFERY  
Major General  
Acting Chief of the General Staff

~~8/1/1919~~



DEPARTMENT OF DEFENCE  
(ARMY OFFICE)  
CANBERRA, A.C.T., 2600

CGS 978/90

15 August 1990

Mr A.K. Warren

Dear Sir,

1. I refer to your letter dated 27 July 1990 in which you seek advice concerning Army's investigation into your letter to the Governor General dated 10 April 1990 and missing documentation concerning your resignation from the Army.
2. I have had your letter investigated and advise that:
  - a. On 16 July 1990 Army finalised its response to the Minister for Defence Science and Personnel concerning your letter to the Governor General dated 10 April 1990. Any delay incurred in finalising this matter was due in part to the requirement to action your FOI request.
  - b. All correspondence pertaining to your letter to the Governor General dated 10 April 1990 has been forwarded to the FOI Section for onforwarding to you. This information includes all correspondence concerning your enquiry to the Minister submitted after 10 April 1990.
  - c. In addition, you have again been sent all documents pertaining to your correspondence to various Ministers, the Defence Force Ombudsman and the Governor General.
  - d. In respect of the Director of Army Legal Services (DALs) minute DALs L207/81 dated 6 March 1981 which was previously denied to you, regrettably it cannot be located by either DALs or the Military Secretary - Army (MS-A). Both organisations have completed a further search of their records to no avail. Accordingly, it has been technically denied to you. I am satisfied that a reasonable search has been conducted for this document and do not intend directing my staff to complete another search. \*

e. Acting Assistant Secretary Service Personnel - Army (A/ASSP-A) minute 2237/84 dated 20 December 1984 requested MS-A to respond to your submission to the Prime Minister. MS-A did not formally respond to that request but discussed the matter by telephone and made comments on the actual document at the side of each paragraph. The telephone conversation and the notes are endorsed on that document and are legible.

f. As stated in sub-paragraph b above, all documents relating to your letter to the Governor General dated 10 Apr 90 have been forwarded to you.

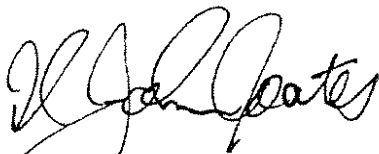
3. I am also aware that the following have been destroyed and as a consequence, have been technically denied to you:

a. contents of file A85-8940 (Pt1) - Ombudsman Enquiry on Mr A.K. Warren re Redress of Wrong Living Out Allowance - ASSP-A Aspects; and *allegedly accidentally destroyed 9 JAN 1990* \*

b. contents of file 69-W-304 - personal posting file 216743 MAJ A.K. Warren. *allegedly destroyed in late 1989. cdw*

4 I consider my staff have conducted an exhaustive search of available files to locate the documents you seek under your FOI request. I do not intend directing any further action in this regard.

Yours faithfully,



H. J. COATES  
Lieutenant General  
Chief of the General Staff