

**ROMANCERS OF THE RULE OF LAW  
AND THEIR BLACK MARKET AUTHORITY**

Ex- Major Allan Warren

Observation

*At the basis of democracy is authoritarianism. You can't have democracy without it. The liberal democratic community exists only because institutions of state sanction violence and practise state crime.*

Question:

*How convincing is this observation and is it relevant to the insidious violence and crimes by the army generals and portfolio responsible ministers in the MAJ Warren case, and paralleled in the infamous French Government's CAPT Dreyfus Affair?*

Answer

1. Key officials discarded MAJ Warren as a nobody and therefore without rights to fairness under the rule of law. Their mentality must be that, except for themselves, their acolytes and mates, all other citizens have only phantasmal rights. Their unaccountable authoritarianism, as exemplified in his case, foremostly ruins the state and leaves the individual(s) as the direct target or collateral damage. This raises serious questions about the direction of governance and its practices in Australia.
  
2. Prime Minister Howard claims there is nothing the Australian Government can do about cases such as Warren's. By deliberate avoidance, the Federal Opposition Leader, K Rudd, agrees. Beneath such evasions and denials, key politicians are protecting abuses of power by public officials and raising them and themselves to a privileged class above the rule of law and unaccountable to the state. Consequently, responsible ministers have spent far, far more time and money covering up for their and their department's maladministration in this case than is needed for routine and honest procedural fairness to bring closure to it.

3. The state has laws and has the power and means to enforce them through designated authorities. “Black market” authority arises when officials abuse these powers of coercion or abuse ‘due process’ and use it as a substitute for legitimate authority. These abuses, particularly repetitive abuses, give officials, be it as a group or acting as individuals, power to enforce obedience to their illegitimate authority. In these circumstances they attempt to conceal their improper conduct but if exposed, they assert they were acting in the public interest, or claim they didn’t know they were doing something wrong. These excuses work most of the time and work most successfully from the top down. When a case involves the power of Ministers of the Crown, including their personal decision-making, scrutiny of its uses and abuses is vital. Hence axioms such as, “*constant vigilance is the price of liberty*”, “*power corrupts and absolute power corrupts absolutely*” and “*all that is necessary for evil to triumph is for good men to do nothing.*” The question then is why did the generals and portfolio responsible ministers continue to use black market power and/or authority in the MAJ Warren case to dispose of him as a nobody? They could not act alone; they had to co-opt other officials to facilitate their wrongdoing. In this case the collective ethics of Defence broke down because the case was being controlled from the top down. Hence, the Warren case is an ongoing strategic review of the failure of our system of ministerial control and administration of the rule of law within minister’s portfolio responsibilities. Through sophistry and stupidity key officials have caused the case to become a political debacle.

4. The prevalence of black market authority in the MAJ Warren case, and its permeation at all levels of governance scrutinizing this case, past and present, clearly identifies that key officials, including a former Governor-General, believe in, and ratify, the use of insidious violence and crime as being a privilege of officials for use against the individual. More importantly, their belief implies that most Australians condone this style of authoritarianism. Alternatively, key officials are either too ignorant or indifferent to the malversation of their decision-making. Worse, they were often too willing to trade-off the rule of law for their careerism and/or political ambitions and too cowardly to act properly against subordinates who continue to rely on its uses, particularly when subordinates feel that abuse of power is in accordance with a superior’s wishes, as in the

case of LTCOL P Emmet's actions against MAJ Warren in 1980. The case should have ended in 1982 by then Minister for Defence, Ian Sinclair, calling upon Defence to account for Emmet's actions and conduct.

5. Senior military officers in the Warren case did not necessarily have to be abusers of the rule of law – it was in their character to do so. Nor did they pursue disciplinary action against those who lied to and misled them. Weak portfolio responsible ministers adopted the same disposition as their subordinates. All relied on their abuse of power to maintain their own elite positions. Such a trade-off will always justify abuse of legitimate authority. These systemic abuses of power have been condoned by both Liberal and Labor Party Ministers who have refused to admit to the evidence of the hypocrisies and malversations of officials in this case.

6. Advocating and/or condoning unaccountable malfeasances and malversations of due process to dominate over the rule of law, as being in the best interest of democracy, is Machiavellian. This argument has historically served the vested interests of self-styled political elites so as unfairly exploit the larger community. It promotes abuses of power whereby the state becomes a tool to secure the desires of those who are in positions of power. Public indifference to the behaviour of this elitist culture is exacerbated by a generous welfare system and an ever rising level of market force prosperity. The formula of bread and circuses has not worked better for the elites than in Australia in the 21<sup>st</sup> Century, especially now they have blended it with the current formula of fear and terrorism.

7. The observation that authoritarianism holds democracy together can only be validated by testing what state power seeks to do rather than demonstrating what and how powers of coercion are actually used. It needs to be made explicit whose interests are being served by state sanctioned violence and the practise of state crime. It needs to be justified against the impact on the lives of individuals. The French philosopher, Rousseau, famously questioned, "Who is the state? Is it the elected members of parliament, the bureaucrats or is it the people?" He also warned that laws would always

be abused by those who control them so as to gain advantage and to harm those who do not.

8. The corruption of state power in the MAJ Warren case was easily perpetuated because the checks and balances on the mechanism of government were also corrupted by subservient scrutineers. This protected the improper decision-making by a Governor-General, Prime Minister and several Ministers for Defence. Did this insidious violence and state crime serve their own interests or was it in the interest of democracy and its rule of law? Chief of Defence Force and Prime Minister Howard, expediently think the latter, as did their counterparts in the CAPT Dreyfus Case over 100 years ago. Duped by acolytes they lacked the will and integrity to pursue the liars and cover-ups so as not to expose themselves and their positions to risk. Self interest, career ambition, “playing it safe” and avoiding difficult decisions has always been part of bureaucratic life. But in public office, duty and performance must prevail because the alternative is the erosion of the heart of public administration and civics. Political spin doctoring cannot claim that democracy works well in Australia while dismissing these issues and cases as “frustrations at the edge of democracy”, as did the Governor-General MAJGEN P M Jeffery, on SBS Television 7 October 2007.

9. The argument of the Australian generals is that the Military Justice System (MJS) is vital to their command ability to order soldiers to die in battle. If this is so, why did they habitually and so badly abuse this system in peacetime in a non-operational environment? In 2005 Senators found the MJS so broken as to be unworkable. Where were the generals’ interests in bringing about its collapse? The MAJ Warren case exposes how a concert of senior officers subverted and perverted this military’s rule of law, fabricated evidence, lied to portfolio responsible ministers, feigned loss and/or destruction of government records, investigated themselves, then claimed they had done nothing wrong. And Prime Minister Howard agrees with them. He currently claims there is nothing the Australian Government can do about it. Such posturing is either evil or cowardly or both and made repugnant when one knows that Liberal Party ministers have been major perpetrators of lies in this case since 1982.

10. If black market power remains unchecked it sets a precedent that the Australian Government is not responsible for maintaining the rule of law. It then functions as an open invitation to predatory conduct by key officials. In the Warren case, officials have repeatedly demonstrated both their confidence and self-interest in their abuse of 'due process'. His case evidence focuses on the reasons, methods and dangers of their predatory conduct. These systemic details demonstrate that if bureaucratic power is not properly directed it can be destructive of our institutions of state. This has been exemplified by the chaos the generals brought to the MJS, whilst alleging they did not understand they were doing anything wrong. Its deterioration would have escalated further if not for the intervention of the Australian Senate after the Executive Government failed to arrest MJS abuses by the generals. This was despite several previous parliamentary inquiries into it wherein the generals' failures were specifically identified to them. Ex-MAJ Warren's numerous submissions to portfolio responsible ministers identified and tracked their failures for years. In the wake of those parliamentary inquiry reports the generals were given millions of extra dollars to fix it. Instead, they used the money to shore up and continue their abuses, including failures to be brought to account for their cover-ups of improper ministerial decision-making in the ex-MAJ Warren case to-date. Air Chief Marshall Houston has refused to investigate the generals involved in the Warren case because he simply does not wish to embarrass them.

11. The Parliament has now entrusted this same military leadership culture with the implementation of the Senate's re-birthed model of the MJS. Defence is now claiming that all outstanding cases have been finalized, including the Warren case, which the generals have never had the integrity or competency to properly investigate.

12. The Warren case demonstrates the disassociation between the rule of law and black market authority. His case is defined by the illegitimate use of authoritarianism in the military and the gross dysfunctionality of portfolio responsible ministers' power. The evidence of differential treatment, hypocritical standards, ministerial lies and failures, the generals' deceit, arrogance and cowardice, scarcely concealing their

contempt of the laws of perjury, thwarting legal investigations and lying to portfolio responsible ministers, all point to a purpose of either allegedly protecting democracy or subverting it for self-interest and avoidance of public duty. Increasingly, Warren's submissions focused on the role of portfolio responsible ministers. This was because of the chronic cover-ups that were inextricably entwined with ministerial responsibility and decision-making. Hence, this case begs the questions:

- Is the continuing collapse in performance of the army generals in the MAJ Warren case a symptom of their gross improprieties and hypocritical betrayals of the military ethos and leadership responsibilities, or have they disregarded their legal, administrative and moral duties to protect the integrity of the MJS that is meant to serve the interests of the nation?
- Does the systemic lying and deceit in all several ministerial investigations and decision-making to date, expose a level of political malfeasance that is itself a cultural threat to the well being of our liberal democracy?
- Does the MAJ Warren case witness an era of authoritarian populism whereby the romancers of the rule of law exercise black market authority under the aegis of elected representatives to parliament?
- Have the Australian people been too complacent in allowing their elected representatives remove their basic rights and liberties whilst believing that they live under the rule of law?

13. The disengagement of truth and facts from ministerial decisions in the Warren case to-date is violent and lawless. It now defines the intransigence of their black market authority. Yet, all ex-MAJ Warren wants is an honest and proper investigation into his case and to be treated fairly. This cannot happen until the minister understands what occurred and is properly reported to by his department. Only then can a Redress of Wrongs occur involving:

- a. righting of the wrong
- b. proper compensation for damages done
- c. punitive action against wrongdoers
- d. appropriate action to ensure reoccurrence of similar maladministration does not occur.

None of the above four requirements have yet occurred in the case. Gross failures in decision-making by a Governor-General, Prime Minister and several ministers of Defence are indicative of the virulence of their black market authority. This is only inflamed when one appreciates that the Senators deliberately evaded reform of the Administrative Law component of the MJS - the law most corrupted by the generals.

14. Authoritarianism is used by the alleged elites against democracy so as to exploit the many. It has been used successfully by oppressive regimes for epochs and has resulted in the failure of many modern democracies. By escaping responsibility from duty, morality and the law, they simply expand their power, privileges and wealth. Then their leadership is domination by fear and abuse of power devoid of trust and respect. To ignore this nexus is to underestimate the Machiavellianism of political power. Improper ministerial decision-making – both commissions and omissions - under the pretext of ‘due process,’ defines the Warren case 1981 to date. His rights of duty and mutual obligation to the state, to procedural fairness and to participate in public service (the military) were systematically butchered by irresponsible and vicious conduct of Defence and its portfolio responsible ministers. This was in spite of these ministers being consistently updated by ex-MAJ Warren with imperative evidence of the impropriety of the material and process of the generals’ advice to them.

15. Specific questions that require explanation in this case include:

- What motivated LTCOL Peter Emmet, Warren’s Commanding Officer in 1980 to write two performance appraisal reports and two secret and illegal

report letters to condemn MAJ Warren as being grossly incompetent and unprofessional whilst being unable to produce one scintilla of evidence to justify his extraordinarily savage and cowardly attack?

- What information did portfolio responsible ministers use to justify their romancing of the rule of law to inflict their ‘black market’ justice against Warren, from Liberal Party Ministers for Defence, James Killen and Ian Sinclair, then Labor’s Kim Beazley and Prime Minister Hawke (via Senator G Evans) and then Governor-General B Hayden?
- Why haven’t either Prime Minister Howard or the Leader of the Opposition, K Rudd, wanted this case properly and fairly investigated so as to bring it to closure?
- If ex-BRIGADIER J A Hooper’s integrity and performance as a non-presidential member of the Administrative Appeals Tribunal (AAT) is consistent with his gross maladministration in the Warren case, what romancing of the rule of law has he perpetrated on the AAT and its clients?
- Why did LTCOL Benjamin Salmon QC, as Investigating Officer in 1994, deliberately avoid and then make known to Defence, that he did not investigate legal procedural fairness in decision-making in the Warren case? Why did he report that no-one, including BRIG J A Hooper and LTCOL P Emmet, was to blame for the “morally unfair administration” used to bring about the deliberate destruction of Warren’s career, reputation and livelihood?

16. Neither Ex-MAJ Warren, nor the people of Australia, are deserving of being treated as nobodies with phantasmal rights. Australians are entitled to the safeguards that public officials act above the minimum standards that the Governor-General, Prime Minister and several Ministers for Defence assert Warren, charged with fabricated accusations of unprofessionalism and incompetency, did not meet. Alternatively,

hypocrisy and dishonesty by key officials are an open invitation for corruption in public administration from the top down. This conduct is the romancing of the rule of law using the virulent venality of black market authority. Inevitably, this leads to the end of co-operation between the citizen and the state.

17. The role of independent scrutineers and bureaucratic accountability through the checks and balances of internal procedure and decision-making are paramount in separating us from the misuse of power and authority. A dangerous situation arises when the scrutineers become compromised or corrupted and when public officials dispense black market authority as legitimate authority. Under these conditions the whole state begins to decline and citizens lose trust in their governing institutions. In the MAJ Warren case several key scrutineers have acted improperly and have been badly compromised by 'old boy networks'. In similar behaviour, the generals' conduct subverted the formal culture of Defence and brought about the systemic breakdown of the Military Justice System (i.e. the rule of law within the military). Examples include:

- In 1990 then Acting Chief of the General Staff, MAJGEN P M Jeffery (now Governor-General) gave decision under Freedom of Information (FofI) Act that he was aware Warren's service history records, relating to his forced termination, had all been lost or destroyed. Hence he technically denied Warren access to them when in fact the documents were held and being used by Army to report to then Governor-General B Hayden culminating in his egregious decision-making.
- In 1993 then Acting Chief of the General Staff, MAJGEN Carter gave evidence under oath to the AAT in Sydney, on which BRIG Hooper was a member, that Hooper and others did not need to consider MAJ Warren's 1981 reply in defence against Hooper's 1981 charges because Warren had clearly refused to admit to them.

- In 1998 the Chief of Defence Force, Air Chief Admiral C Barrie dismissed critics of the military justice for their “fundamental misunderstanding of process” whilst in fact this system was collapsing all around him – hence there was a major parliamentary inquiry into it that year.
- In 2004 then Chief of Defence Force LTGEN P Cosgrove gave evidence to yet another inquiry (i.e. the Senate Inquiry into the Effectiveness of the Military Justice System) that “the military justice system is effective and serves the interests of the nation, the Defence Forces and its people,” whilst yet again it was destined, under his watch, to be a train wreck if it had not been for the intervention of the Senate.
- The ultimate romancer of the rule of law must be then Chief of Air Force, Air Marshall E McCormack, whose state of mind is, “Any suggestion that breaches in military justice have been condoned by senior officers is wrong.”
- Not least of all now is Chief of Defence, Air Chief Marshall A Houston, who has refused to investigate the failings of former generals as he does not wish to embarrass them, assumedly because he himself would not like to be examined if questions arose as to his integrity or competency in leadership over the MJS.

18. There can be no genuine reform of the MJS to rid it of abuses unless there is a genuine reform of its Administrative Law component and a significant reform of the culture of the generals. They are the direct cause of, and are directly responsible for, the total collapse of this system. The nexus between their leadership failings and the culture of fear in the officer corps which prevents the latter from fulfilling their duties cannot be ignored.

19. The politics of black market authority substitutes for the rule of law when in the hands of unethical or corrupt (or both) key officials. The 1990 decision-making by Governor-General B Hayden against Warren relied upon the several unconscionable and

evil lies manifested by then Minister for Defence, Science and Personnel, Mr Gordon Bilney. His personal conduct is indefensible and he is powerless to put the blame back onto Defence's advice to him, given the extraordinary lies he perpetrated against Warren. Since then the Labor Party will not touch this case because it would embarrass Hayden and Bilney. Since in office the Liberal Party, knowing the history of the Australian Government's fraudulent investigations of this case, has persistently refused to insist that Defence report properly to its portfolio responsible ministers.

20. Warren then changed avenue for Redress of Wrongs away from responsible ministers to the FofIAct and the AAT. MAJGEN P M Jeffery's 1990 attempts to feign loss and/or destruction of Defence's history records of Warren's termination so as to delay and deny justice stalled the case for 12 months. Then came the AAT's failure to declare that ex-BRIG J A Hooper was an AAT non-presidential member. This turned to impropriety when it decided partially in his favour against the weight of Warren's evidence against him during the 1993 AAT hearing. At that hearing, then Acting Chief of Army, MAJGEN Carter gave false and misleading evidence under oath so as to protect BRIG Hooper. The case had switched from obstruction and cover-ups by the Executive Government to similar black market abuses of authority by the scrutineers. It was a pattern of mates protecting mates. LTGEN P Cosgrove, as Chief of Defence refused to re-examine and justify the Warren case to the Senate Inquiry into the Effectiveness of the Military Justice System in 2004. His senior legal officers, knowingly and sarcastically, gave evidence to justify Cosgrove's stance by arguing that it would open up *rabbit holes* in the system. This was flippant and in clandestine rhetoric to say that a review would expose their corruption.

21. Under our Constitution the Australian Defence Force functions to act in the name of legal authority against other political societies. It conducts and manages violence when directed to do so by the Executive in defence of the state. Strict authoritarianism is essential for military leadership to fulfill its mission in the field. Hence, it is basic and essential that its leadership must act properly, competently, ethically and with moral courage. It is paramount the generals act in accordance with administrative and

disciplinary laws covering the ADF otherwise service personnel cannot trust or respect their leadership.

22. The power of the generals is immense and the lives of soldiers are entrusted to them. If senior military officers are found to use insidious violence, dishonesty or criminality as their personal leadership style, and are not made accountable, then the purpose and nature of the executive governance of Defence needs to be carefully examined. Furthermore, the issue of the separation of powers (the executive, the legislative and the judiciary) has to be questioned because if these institutions of state do ratify or cover-up state violence and state crime then it is no less than these 3 powers acquiescing in black market authority. Do liberal democratic communities exist because key officials escape responsibility from law, duty of office and morality? Not likely! But these are the practices by which alleged elites, using fraudulent leadership take unfair advantage over others. Such political leadership is not governance. It is unaccountable authoritarianism. Under these conditions is Australia's democracy going to suffer? Yes, because the civil order becomes fragmented, our liberal democracy becomes seriously eroded, public institutions and public infrastructure become dysfunctional and our legal system is subverted from within. These are the high stakes, as instanced by the generals' breakdown of the MJS, whilst being covered-up by the portfolio responsible ministers. These malversations of due process cannot be claimed, by key officials who engage in these abuses, to be mere "frustrations" at the edge of Australian's democracy.

23. In the MAJ Warren case the scrutineers lacked the will or ability or both to address major Defence maladministration despite the AAT identifying dysfunctional decision-making by responsible ministers. Worse, elected representatives, who collectively abuse due process, will have no hesitation in making these abuses into new legislation. To ignore this connection between abuse of power and lack of genuine scrutiny and new legislation is to underestimate the tightening of power 'elites' want to achieve for themselves. There can be no true reform to either the Military Justice System, through new legislation, or ministerial decision-making, unless these processes are expunged of improper influences.

24. In the Warren case Defence and the Liberal Party continue to use mendacity and deceit to disguise their malfeasances as being 'errors' in their decision-making. The Howard Government has shut down the case using a whitewash investigation. The 1994 LTCOL B Salmon QC report, wherein Army investigated itself, disclaimed any investigation into legal procedural fairness, and denied Warren compensation on the grounds that he was not forced to resign his officer career appointment. It provokingly stated Warren's loss of career and reputation was worth \$4,500. The Government's stance is that ethical men of high caliber, in high office, after their several thorough and exhaustive investigations of the case have not been able to find any evidence that anyone was to blame or that delays have been used to destroy equity.

25. Political governance in Australia is administered through bureaucracy. Like many other central administrative system it can be notoriously slow, inflexible and oppressive. The Liberal Party's first ministerial investigation of the Warren case in 1981/82 took 12 months, ostensibly because it was imperative that the minister get his decision right, given the gravity of the subject he was deciding upon. Instead, Defence used time to destroy equity and the minister used a corrupted process to produce a fraudulent finding using plagiarised material produced by the perpetrators under the auspices of a pretend ombudsman. Enforcing obedience to such abuse of power and corruption of ministerial decision-making goes beyond notions of either authoritarianism or indeed due process in a democracy. Instead, these behaviours are political acts to exploit or sabotage democracy. Since then several corrupted ministerially controlled investigations of the Warren case have locked both the Liberal and Labor parties into deliberately defending the incorrigible so as not to embarrass portfolio responsible ministers, past and present. This can only lead to the prevalence of insidious violence and state crime as central to a federal administration based on fear and dishonesty and a dangerous elitist attitude that ordinary citizens are nobodies with only phantasmal rights. Such Machiavellianism will prevail when the elected representatives of the people give their overt protection to such black market authority. This continues to happen in the ex-MAJ Warren case to date.

26. The Mafia came into existence in Sicily in response to the violence and crimes of officials against ordinary citizens. In defence against this black market authority, the Mafia saw it had a duty to its members and even to their fellow Sicilians. It can be readily argued that they saw this duty as the moral equivalent of their rights. Similarly, it can be argued that there are no real rights and freedoms under corrupt officials. A weak democracy, with an indifferent public, can do very little to stop political elites moving towards arbitrariness and state crime so as to exploit the many. "Mafia", is also defined as a group exerting a hidden sinister influence. Defence's legal officers' dominance in corrupting ministerial investigations into the Warren case would fall within such a definition. This is the black market authority that brought the Military Justice System to its knees as senior military leaders and their legal officers sucked the integrity out of it. Any attempt to justify the insidious violence and crimes of key officials, especially the generals, purportedly in the interest of the community, is mere self-serving evasion of duty and abuse of power. Opposing this is the conviction that as individual citizens we are responsible for the well being of the civil order to which we all wish to belong. Yet, the public understands little of black market authority and cares even less. And politicians understand this only too well and will act accordingly.

27. In 1980 LTCOL Peter Emmet butchered Warren's reputation and career without either justification or provocation simply because he was intimidated by his superiors. He fabricated evidence and raised secret and illegal appraisal report letters to damn Warren as unprofessional and grossly incompetent while, at the same time keeping him as his headquarter's operations officer. This was the key position and meant that if the operations collapsed then the regiment as a whole would fail. Emmet abused power to conciliate his superiors. He complied with his superior's wish to destroy Warren's career. Then Minister for Defence, Ian Sinclair ratified Emmet's malversations into the culture of the Liberal Party. He gave decision that Emmet's reports on Warren were written in "accordance with the law and the rules of natural justice and Army's administration was proper and there were no breaches of Army management practices." In reality the whole disgusting process of Sinclair's ministerial decision-making was a

blatant lie. This type of abuse of power easily subverted the Military Justice System to its unfixable state. It has remained so to-date in the Warren case because ministerial black market authority has been intransigent. Responsible ministers, both Liberal and Labor, have been too weak or cowardly to call Defence to account for allowing ministerial powers to be so corruptly used to destroy civics and the rule of law. It is the malfeasance of cowards that is the worst of all abuses of power and authority.

28. The Warren case, in part, parallels the notorious Dreyfus Case. In 1897 LTCOL Picquart, head of French military counter-intelligence, discovered that a MAJ Esterhazy was the real traitor and army headquarters in Paris was protecting him whilst continuing to fabricate evidence against the innocent CAPT Dreyfus. He reported this to the Chief of Army who replied, "If you say nothing, nobody will ever know." Picquart balked. Evidence was then fabricated against him. Picquart was subsequently accused of being a traitor and imprisoned. Hence the case remains an infamous insight into the culture of the French generals of the day. In the Australian Army a similar culture has re-emerged. This is exemplified in the obsessive cover-ups of what LTCOL P Emmet and BRIG JA Hooper did to MAJ Warren in 1980-81. Since then, Army has compromised a succession of portfolio responsible ministers by keeping the case closed and unredressed. This defiles service personnel's right to expect trust in both army's command and its ministerial control, especially given the authoritarian environment of the military.

29. On 29 September 2007, Chief of the Defence Force, Air Chief Marshall Angus Houston, claimed the improvements he has implemented to the MJS since 2005, have enhanced leadership supervision, delivered greater transparency and timeliness to it. This duplicity is easily undone because the generals' corruption of the Administrative Law component of the MJS has remained untouched by these alleged reforms and they continue to cover-up the Warren case with the acquiescence of Howard Government.

30. The 2005 Senate inquiry report on the 'Effectiveness of the Military Justice System', found it had collapsed to an unfixable state whilst under the leadership and command of the generals. Over the previous decade the generals were given several

warnings and millions of extra dollars to improve it. This system didn't require additional taxpayers' monies. It required a substantial lift in the integrity of the generals and their senior legal officers. But, despite the numerous resources given to them, they were too weak and dishonest to rectify their own failures. After the scathing Senate report was published the generals cried they must retain full control of the MJS otherwise they could not lead their subordinates. Their black market mentality and refusal to properly examine the Warren case has turned them into hypocrites who seek to avoid fidelity to duty so as to protect their careerist ambitions.

31. In 1990 Warren, armed with Fofl Act documents, made a second petition to then Governor-General B Hayden. It exposed the abhorrent impropriety of the Minister for Defence, Science and Personnel, Mr Gordon Bilney's investigation and advice for the Governor-General's previous decision making. Hayden simply went to ground and refused to become further involved in the case. He left stand Bilney's fabricated investigation and decisions and hence gave the appearance of a Labor Party crony protecting the malfeasance of a mate. Hence, Labor in Opposition has not had the courage of conviction to pursue a thoroughly detailed and chronic case of Defence's deceit, maladministration and dysfunctionality.

32. The position that we can't have democracy without authoritarianism based on state sanctioned violence and practices of state crime is an old argument that gives self-styled elites black power to exploit the many. This is the same argument used in the culture of the Mafia. The distinction being that the latter relies on illegal authority whilst the former relies on corruption of legal authority. Bilney's advice to Governor-General Hayden was a disgusting fabrication based on abuse of power, as were critical parts of MAJGEN Carter's evidence to the 1993 AAT hearing. The 1994/5 LTCOL B J Salmon QC reports were cover-ups. Aldo Borgu, a Member of Parliament Staff (MOPS), shut down the case for the Liberal Government in 1996. In 2007 Prime Minister Howard asserts there is nothing the Australian Government can do.

33. Key officials are meant to protect both the integrity of state authority and the public's trust and reliance in it. Instead, in both the Dreyfus Affair and the Warren case, key officials, in Machiavellian disposition, too willingly made themselves subservient to the corruption of their subordinates. When this culture dominates, mechanisms of government fall into chaos, as did the MJS. In both cases, ethics, honesty and competency were stripped from it by a conga line of generals who then hid behind weak politicians. This confirms the 1960s United Kingdom Lord Salmon Royal Commission findings that government (hence democracy) ultimately depends on the ethics of the minister. But the machinery of government is manipulated by the elites for the elites. Governor-General Hayden's decision against Warren is testimony to this as is the LTCOL B Salmon QC report used by Prime Minister Howard to shut down the case in an attempt to maintain an obstinate silence so as not to expose how Liberal Party ministers fail to perform.

34. Anybody can exercise authority at will if they have the means to do so and if they are willing to accept the consequences of their actions. The question of legal and illegal use of it arises juxtaposition with issues of motive, fairness and propriety. If one was to compare Mafia authoritarianism in response to corrupt officials against that of the French government in the Dreyfus case, then the Mafia's position had legitimacy and justification and the latter has neither.

35. The ex-MAJ Warren case is an ongoing 25 year detailed expose of ministerial impropriety in decision-making that describes and details their black market authoritarianism. The case was never a military discipline one and the charges of gross incompetence and unprofessionalism have been laid bare as the fabrications and machinations of LTCOL P Emmet and BRIG J A Hooper. The current generals and their senior legal officers continue to betray the military leadership ethos of trust and professionalism. Subservient and weak ministers, past and present, both Labor and Liberal have allowed the case to become a study of themselves. If they cannot stand up against dishonest and exploitative generals how can they represent democracy? Ministers have lied to keep this case closed. Now they have no option but to viciously continue

those lies. These lies festered because they lacked the will or duty and lacked courage to perform properly. The case is a study of the nothingness of their power over Defence. They are the ultimate romancers of the rule of law and as such are responsible for the plethora of misfeasances that defines this Australian Dreyfus case.

36. The army generals are at the centre of the corruption of the Military Justice System. This remains a serious core issue for Defence. As Commander in Chief of the Australian Defence Force, Governor-General, MAJGEN Jeffery cannot dismiss cases such as Warren's as being merely frustrations at the edge of the rule of law or to use his word "democracy." His public comment can only be interpreted as being part of the arrogance of an elite's intent on extending black market authority over the community. He has never been brought to account for his personal involvement in the Warren case.

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