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The Parliament of the Commonwealth of Australia

**Report concerning an  
application from  
Mr IDS Collie for the  
publication of a response to  
a reference made in the  
House of Representatives**

House of Representatives  
Committee of Privileges

November 2003  
Canberra

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## **Membership of the Committee**

Chair            Hon Alex Somlyay MP

Deputy Chair   Hon Leo McLeay MP

Members        Hon Bruce Baird MP

Mr Phil Barresi MP (Representative of Leader of the House)

Mr Bruce Billson MP

Hon Bronwyn Bishop MP

Hon Laurie Brereton MP

Mr Martin Ferguson MP

Ms Tanya Plibersek MP (Representative of Deputy Leader of the Opposition)

Mr Rod Sawford MP

Hon Bruce Scott MP

## **Committee Secretariat**

Secretary            Mr David Elder

Research Officer    Ms Claressa Surtees

Administrative Officer   Ms Laura Gillies

- 1.1 Mr IDS Collie of Brisbane has made an application, under the procedure adopted by the House on 27 August 1997, for the publication of a response to references made about him in the House by Mr R Sercombe MP on 18 August 2003.
- 1.2 The Committee recently changed its guidelines for consideration of Rights of Reply. However, this application was made under the previous guidelines and they have been used in the Committee's consideration of the application.
- 1.3 The Committee considers Mr Collie should be given a response and the terms of the response have been agreed by him and the Committee. A copy of the response is at Appendix 1.
- 1.4 In agreeing to the response, the Committee notes, as required by the resolution of the House for Rights of Reply, that it has not considered or judged the truth of any statements made by Members in the House or by the person seeking a response.
- 1.5 The Committee recommends that a response by Mr IDS Collie (at Appendix 1) to references made about him in the House on 18 August 2003 be incorporated in Hansard.

HON ALEX SOMLYAY MP  
Chair  
November 2003

## Appendix 1

1. I believe it grossly unfair to both my family and me to allow Mr Sercombe's statement to stay as is when it comprises both serious errors and omissions.
2. I cannot deny the fact of the conviction. All I can say is what I have been saying for more than 20 years - that at all times I relied on the opinions of Neil Forsyth QC and that I had no knowledge of the supplementary opinion given by him to his instructing solicitor (Robert Kenneth O'Connor of the then Perth firm Stone James & Co) who was advising the scheme's developer. That opinion, dated the same day as Forsyth's favourable opinion, revealed that he was not nearly as confident as O'Connor that the scheme would work. Not only was I not informed of its existence, Forsyth and O'Connor continued to advise favourably on the scheme for more than two years.
3. Following my unsuccessful civil action against Forsyth in 1990, documents introduced into evidence by him led me back to the Australian Federal Police who provided me with yet further documents not previously made available by the prosecution.
4. On the basis of the additional material, I succeeded in having a petition for mercy granted by the Commonwealth Attorney General which resulted in a fresh appeal being heard in the Supreme Court of Victoria in 1992. Unfortunately, my legal costs by that time were such a burden that I was unable to afford representation and my level of experience was insufficient to achieve a successful result. In 1993, I appealed again to the High Court but to no avail.

5. In 1994, my name was restored to the roll of Barristers and Solicitors of the Supreme Court of Victoria in an application supported by, inter alia, two Queen's Counsel well experienced in tax matters and whom I had previously briefed. They provided affidavits to the effect that my reliance on Forsyth's advice was reasonable (and did not involve any dishonesty on my part) as was my belief that he would not have given contradictory opinions in respect of the same matter.
6. In 1995, I was admitted as a Solicitor of the Supreme Court of Queensland.
7. In 1996, my name was entered in the Register of Practitioners kept at the Registry of the High Court of Australia entitling me to practise as a solicitor in any federal court.
8. At no point have I ever denied being involved in tax avoidance which is no more than a nastier sounding name for tax minimisation or tax planning. Tax avoidance is perfectly legal as evidenced by reliance by many taxpayers on superannuation arrangements, negative gearing, pre-payments, etc.
9. When Mr Sercombe refers to defrauding the Commonwealth of some \$16 million, he is demonstrably wrong on three counts:
  - 9.1 Tax avoidance is not fraud - it means steps being taken to avoid the liability arising. Tax evasion is fraud - it means evading payment after the liability has arisen.
  - 9.2 The \$16 million referred to was no more than an ambit income tax claim by the ATO made against me in respect of the years 1978 to 1982. It had nothing to do with any sales tax liability. Indeed, at no point in my life has it ever been suggested that I had any liability whatsoever for sales tax in any transaction in which I was involved.
  - 9.3 I categorically deny any suggestion that the \$16 million referred to was in any way related to a fraud on the Commonwealth. In fact, whilst it took me a long time to establish the true position, in 1997 the ATO finally conceded that no moneys were due under the assessments for the years in question and I was given a full and unequivocal release from all liability together with a letter confirming that my companies and I had complied in every respect with their tax obligations in those years.