

Chapter from “The Measure of the Years” by Sir Robert Menzies

The Petrov Spy Case

This chapter sets out the strange eventful history of what followed the defection in 1954 of a man named Petrov, and his wife, from the Soviet Embassy in Canberra, and their securing of political asylum in Australia. There has grown up a legend that the whole affair was a cleverly timed political scheme. This charge was made by Dr Evatt, the Leader of the Opposition, time after time, and was shown to be false time after time. But, as so frequently happens in life, the picturesque slander outlives the sober answer. In the interests of the people involved, and of accurate history, I have now decided that the full story shall be told.

The establishment of a royal commission of inquiry brought many dark and sinister matters to light. Its disclosures not only established that the Soviet Embassy had been used as an espionage base but also exposed its methods so successfully as to render future activity of this kind extremely difficult. It established the reputation and proved the efficiency of the Australian Security Intelligence Organization (ASIO).

Moreover, much of the information provided by the Petrovs to ASIO related to the activities of people outside Australia and was therefore not within the scope of the royal commission; but it proved of immense value to security intelligence services abroad.

In the course of the inquiry the names and shameful activities of many Australian Communists were exposed.

True, the final report of the royal commission disappointed those who were hoping for the levelling of charges against some leading political figure or figures; a dazzling climax of a sensational trial and juicy evidence. To some people, it was an anti-climax. Towards the end of this chapter, I shall devote some particular attention to the results, which were very great; in the meantime I shall narrate the events.

The story begins with the establishment, by Mr J. B. Chifley, Labour Prime Minister, and Dr Evatt, his Attorney-General,¹ of the Australian Security Intelligence Organization.

It will be remembered that in the late 1940s there was great international tension. The Soviet Union, which had, under German attack, become our wartime ally, became, after victory, our potential enemy, with a great ‘colonial’ domination over Eastern Europe, and a proselytizing spirit all around the world. The cold war began, promoted by Moscow. Its technique was to encourage subversive Communism in selected parts of the world. Australia, with its long tradition of free speech and tolerance, was one of the targets.

¹ As a great deal of this narrative will revolve around the personality and actions of Dr Herbert Vere Evatt, I should at once make some explanatory remarks about him. He had been a Justice of the High Court of Australia, a post from which he resigned in order to enter the Commonwealth Parliament as a Labour member. When his party went into office in 1941, he became Attorney-General and Minister of External Affairs in the Australian Commonwealth Government and President of the General Assembly of the United Nations; and, at the time of which I write, Leader of the Labour Opposition in the Commonwealth Parliament. He was a scholar of great attainments and a well-furnished lawyer, but, oddly enough, a poor advocate. He was a strange and controversial figure.

So the Labour Government decided, very properly, to set up an intelligence organization to counter espionage and subversive activities. The Government saw that this was not a matter of party politics; it concerned the security of the nation and its entire system of parliamentary self-government. The Prime Minister appears to have been particularly concerned about some mysterious leaks that had occurred in the Department of External Affairs. He laid down a rule, which I subsequently strictly observed, that ASIO must work in secret (since it was trying to counter an enemy who worked in secret), and that the details of its activities should not be exposed in Parliament or to the public at large.

The first head of the organization was Mr Justice Reed, of South Australia, who, some little time after I came back into office at the end of 1949, indicated his desire to return to his important judicial work. We then appointed, from the Intelligence side of the Army, Colonel (now Sir) Charles Spry, who has recently retired.

Spry was ideally qualified for the post. He was a distinguished professional soldier, a graduate of Duntroon and of the Middle East Staff College. He saw active service in India in 1935-6.

Later, he was with the 7th Australian Division in the Owen Stanleys and on the Kokoda trail. He was wounded there. He was decorated with the Distinguished Service Order. He was Director of Military Intelligence in Australia from 1946 to 1950, for most of which time he was a trusted Military Intelligence adviser to the Labour Government in which Dr Evatt was most prominent.

But later on, as we shall see, nothing could save him from a violent attack by Evatt himself.

Technically, ASIO was attached to the Attorney-General, but from time to time the Director-General would have an interview with me in order to report general progress and any important matters affecting the security of the Commonwealth. He did not, as a rule, go into detail. I had great faith in Spry's activity, organizing skill and judgment, and at no time had any reason to lose it.

On 10 February 1954, Spry consulted me, told me that a defection was possible, and that the possible defector was probably a member of the M.V.D. (the Soviet Ministry of State Security). It is his memory that he for the first time mentioned the name of Petrov to me. There was no particular reason for me to remember an individual name; and in fact I did not.

On 3 April 1954, Petrov left the Soviet service and voluntarily sought political asylum in Australia. Naturally, I was informed at this stage and, after consultation with the Law and External Affairs Department, approved of the granting of the application. But I said nothing publicly, since the formalities of diplomatic communication had to be attended to.

On 13 April, the Department of External Affairs, following diplomatic practice, by official Note informed the Soviet Embassy of these facts.

The Embassy's first suggestion was that Petrov had been kidnapped. Without seeing the documents handed over by Petrov, they found no difficulty in saying that they had been forged. Within eight days they felt able to assert that Petrov had stolen Soviet funds.

These allegations turned out to be stock-pattern in the Soviet technique. External Affairs requested detailed particulars of the alleged embezzlement, but obtained none. I say 'stock-

pattern' because in the famous Gouzenko case in Canada similar charges of embezzlement had been falsely made.

On 13 April, after the Soviet Embassy had been notified, I convened Cabinet, told ministers of these dramatic events, and secured their approval of a statement to be made promptly to the Parliament, and to the setting-up of a royal commission of inquiry.

That evening I spoke to the House, recited the above-mentioned facts and said (*inter alia*):

M. Petrov, who has been carrying out in Australia the functions of the Russian Ministry of State Security - the M.V.D. - has disclosed a complete willingness and capacity to convey to our own security people a great number of documents and what may turn out to be much oral information and explanation. In the examination of all this material, involving as it does a great deal of translation and comparative research to establish the meaning of particular expressions and code-names, much time will necessarily be spent. I am therefore not in a position to make a full statement. . . .

Enough material has been examined - though only a small fraction of the whole - to show that there are matters affecting Australia's security which call for judicial investigation. These matters concern not only the activities of M.V.D. agents in Australia, but also the position of some Australian citizens named in the documents, under 'cover' or 'code' names or otherwise, as contacts or co-operators.

As would be expected, I do not propose to mention names of people until the investigations have so far proceeded that a coherent case, of proper probative value, can be prepared. . . . The Government therefore proposes to set up a royal commission of investigation into what I may call espionage activities in Australia. This will be done as soon as possible. Naturally it may take some little time to secure the services of a suitable royal commissioner and prepare the precise terms of reference. Moreover, as I am informed, much detailed work will have to be done on the material provided to us before the commissioner could proceed with his investigation. But the Government thought that an announcement of the central fact and our intentions should be made at the earliest possible moment.

I then said:

While it would have been agreeable for all of us to defer an appointment of such importance until after the new Parliament has been established, there can, as I am sure all parties here will agree, be no avoidable delay of investigation into what are already beginning to emerge as the outlines of systematic espionage and at least attempted subversion.

When the House met on the following day, 14 April, Dr Evatt made a statement on behalf of the Australian Labour Party, in which he said that it would support the fullest inquiry into the matters to which I had referred, and all relevant matters. 'If any person in Australia has been guilty of espionage or seditious activities a Labour Government will see that he is prosecuted according to law.'

He then went on to say that there should be consultation with the Opposition about the royal commission and its terms of reference.

On the same day, which was the last sitting day of the Parliament before the General Election, I introduced a bill for an Act to set up the foreshadowed royal commission.

I said that the matter was certainly not a party one, and, as far as I knew, involved no party considerations.

I added that I would be happy to consult with the Leader of the Opposition about the terms of reference.

Dr Evatt thanked me for having shown the text of the bill to the Opposition. He said that they had studied it, and would give it their full support. The bill was carried without further debate.

The terms of reference of the royal commission, approved without division by Parliament, were that the commission should inquire into and report upon:

(a) the information given to the Commonwealth by Vladimir Mikhailovich Petrov as to the conduct of espionage and related activities in Australia and matters related to or arising from that information;

(b) whether espionage has been conducted or attempted in Australia by representatives or agents of the Union of Soviet Socialist Republics and, if so, by whom and by what methods;

(c) whether any persons or organizations in Australia have communicated information or documents to any such representative or agent unlawfully or to the prejudice or possible prejudice of the security or defence of Australia; and

(d) whether any persons or organizations in Australia have aided or abetted any such espionage or any such communication of information or documents, and, generally, the facts relating to and the circumstances attending any such espionage or any such communication of information or documents.

The choice of a commission presented difficulties. I agreed with Evatt that more than one judge should be appointed. It might be thought by some that the judges should be drawn from the highest court in Australia, the High Court. But the High Court is *the* court in Australia which decides cases under the Commonwealth Constitution. 'Is this law within the powers of the Commonwealth Parliament? Is this Act, passed by a State Parliament, invalid, having regard to the Constitution?' Now, such questions arising for decision, the High Court, though, I am proud to say, a great non-political body of fine lawyers, gives decisions which inevitably have a political effect. The court knows that this is inevitable, but so long as my memory runs has followed the practice of not making its judges available for royal commissions. For, in human experience, royal commissions arise from political issues.

The same tradition does not extend to the Supreme Courts of some of the States, who, on application to the State Premier and with his approval, will make a judge available. I am glad that this is so because I have always believed that, so great and proper is the respect of the Australian people for the judicial office and the integrity of its holders, a report of a royal commission constituted by a judge or judges carries more weight than one made by a lay tribunal.

So I turned to the State Premiers and secured the services of three Supreme Court judges of the greatest eminence. Their appointment was, without division, approved later by the Commonwealth Parliament; but since they were later on attacked in a strange way by Dr Evatt, I should, for the record, say something about them.

Mr Justice Owen, who was not the first judge of his family in New South Wales, had been at that time for seventeen years a Justice of the Supreme Court of that State, and is now, as Sir William Owen, a Justice of the High Court. He enjoyed an impeccable reputation among both lawyers and the general public. So highly were his ability and character regarded that Mr Curtin appointed him from the Bench during the war to be, in

succession to Sir Owen Dixon, chairman of the Central Wool Committee, a great national undertaking. Mr Justice Owen held that office from 1942 to 1945, when Mr Chifley, himself no mean judge of men, sent him abroad to lead the great wool-disposals mission. He served his country in two world wars. He served in the second in the way I have described, and in the first as a member of the Australian Imperial Force. He had and has a reputation as a judge which will survive.

The second member of the royal commission, *Mr Justice Philp*, had been for fifteen years a Justice of the Supreme Court of Queensland. He also was a soldier of the First World War. He stood very high in public and professional esteem in that State. He was a genial, shrewd judge of men. The third, *Mr Justice Ligertwood*, had been for nine years on the Supreme Court of South Australia. He also had served Australia in war. He was president of the Law Society of South Australia several times, and *on two occasions he was appointed a royal commissioner by a Commonwealth Labour Government* - no doubt upon the choice of the Attorney-General, Dr H. V. Evatt. I had never heard any suggestion whatever against him of political bias or judicial incompetence.

The facts leading up to and surrounding the defection first of Petrov and then of his wife were clearly established before the royal commission and set out by them in their unanimous reports. It appears that ASIO used the services of one Michael Bialoguski, a man born in Russia of Polish parents, who had emigrated to Australia and completed a medical training, and was willing to supplement his professional earnings by acting as a part-time secret agent, while professing extreme left-wing sympathies.

I cannot describe him, for I never saw him, and heard of him for the first time when the royal commission's sittings were on. The part he played in Petrov's defection was fully examined by the royal commission, and has been, described by him, within the sharp limitations of his knowledge, in a book entitled *The Petrov Story*.²

Bialoguski clearly achieved friendship with the Petrovs, and considerable influence over Petrov himself; and also appears to have maintained discreet contacts with officers of ASIO, particularly G. R. Richards, who was Spry's deputy. Richards is a man of responsibility and character, and was later to be honourably acquitted by the royal commission of wild charges made against him.

Petrov was Third Secretary and Consul in the Soviet Embassy at Canberra and thus had ready access to the diplomatic and social life of Canberra. Among other functions, he was a temporary M.V.D. Resident in the Embassy. He had many friends and enjoyed an extensive social life which took him from time to time to Sydney, and to the celebrated King's Cross. It is clear that he enjoyed the freedom of Australian habits and had developed a real attachment to the country. But, of course, his job was to undermine that country, and he appears to have done his best.

Bialoguski was, in due course, able to report that Petrov was seriously contemplating leaving the Soviet service. To this state of mind the Soviet Embassy made its own powerful and indeed conclusive contribution. Petrov had been accused by the Soviet Ambassador (Lifanov) of trying to form a pro-Beria group among the Embassy officials. This was a false accusation, but it left Petrov with an acute sense of danger. For all these matters were, as he knew, reported to Moscow.

² Heinemann, 1955.

Towards the end of 1953 a new Soviet Ambassador (Generalov) arrived in Canberra, and, no doubt, on the basis of what had been conveyed to him by Lifanov, continued to be critical of his Third Secretary.

An incident then occurred at the Soviet Embassy which brought the matter to a head. Petrov was under notice of recall to Moscow, and was due to leave, with his wife, in a couple of weeks' time. His M.V.D. successor was on the way to Australia (and was, in fact, met in Sydney by Petrov, on the very day on which Petrov finally decided to defect). On 1 April 1954, the Ambassador officially accused Petrov of dealing with a secret document 'in a manner contrary to the administrative regulations. The charge was technical, but nevertheless serious, and if established, could have resulted in a term of imprisonment.'³ The hitherto hesitant Petrov, dithering about between wind and water, was driven by these events to make his final decision. He communicated with Richards, Spry's chief lieutenant, showed him on 2 April some documents which he had abstracted from the Embassy, most of them being in Russian, and said that he would hand them over on 3 April. He thereupon signed his application asking for political asylum.

On 4 April, there was a conference at the Prime Minister's Lodge at Canberra, at which Spry, Richards, an interpreter, and I were present. No attempt was made to conduct an exhaustive examination of the documents. Such an exercise, with so many documents in Russian requiring interpretation, would have taken many hours and in any event was unnecessary at that stage. What I needed was a general understanding of the nature of the documents, and this I obtained.

This almost bald narrative of the events of early April, a narrative which is drawn principally from the unanimous judicial findings, contains the conclusive disproof of the political charges. The charge that Spry and I 'timed' the defection so that it would influence the approaching election obviously depends upon establishing that Spry and I were masters of the timetable, that we decided the date of the Petrov defection, and that Petrov complied with our directions and accommodated himself to our wicked plans.

That is why it has been, in my opinion, relevant and necessary to show that the date of defection was decided by the action of others. That is why the actual events of 1 and 4 April are so important and, indeed, conclusive, unless, of course, somebody is prepared to say that the Soviet Ambassador was my ally, or even my servant!

Should I, this defection having occurred, have concealed it until after polling day, when I would be properly accused of keeping from the public all knowledge of an unusual, and indeed startling, event of international significance? Should I, in breach of all diplomatic courtesy, have concealed it (I don't know how) from the Soviet Embassy? And later, when the Soviet Embassy had been formally notified, should I have concealed it from the Cabinet and Parliament?

Nobody in Parliament thought or said so at the time.

Now, at the time of the making of the application and the handing over of the documents Petrov knew, and ASIO knew, that from a Soviet angle his life was at risk. He would certainly lose his house and money in Russia. He was entitled to some assurance of protection and of having some means of living while he established himself in some place

³ Unless otherwise stated, quotations in this chapter are from the reports of the royal commission judges. The italics throughout are my own.

or other in what was to be his new country. Richards thereupon, very properly, as the royal commission was to find, paid him a sum of £5,000 towards his future maintenance.

Petrov's wife appears to have been unaware of these events until the Soviet Ambassador dismissed her from her positions of accountant and secretary to the Ambassador and ordered her to leave her home (they had not lived in the Embassy) and go to the Embassy where she was then 'placed under guard night and day subject to indignities and hardships'. She herself was no negligible person. She had become an active Communist in Russia. She was an accomplished linguist and, by the time she was twenty years old, had become a member of the Soviet military intelligence organization and worked for it as a cipher clerk. Having married Petrov in 1940, she went with him to Sweden where she worked for the M.V.D. Resident. 'Her work was mainly concerned with Soviet espionage activities in Sweden.' In 1951 she accompanied her husband to Australia, where certain espionage duties in Australia were allotted to her. She had a competent knowledge of English, Swedish and Japanese. She was deeply attached to her native country, where members of her family still lived, and was, no doubt, shocked at her husband's decision to seek political asylum. She appears to have believed that he must have been forcibly taken and put under very harsh duress.

On 16 April the Department of External Affairs sent a note to the Ambassador enclosing a letter written to Mrs Petrov by her husband in which he denied that he had been forcibly seized and said that he was alive and well and was being treated well. He further said that he had written to the Ambassador asking him to arrange a meeting with his wife as soon as possible. This desire was frustrated, the Ambassador compelling her to write to her husband a letter refusing to see him. It was, of course, clear to the Soviet Embassy that she must leave Australia. So, on 19 April she was driven to the airport at Sydney to catch a plane for Darwin en route for Moscow, under the guard of two armed couriers. The news of this got about and there was a demonstration by a crowd at the Sydney airport who called to her not to go back to Russia. But, closely attended by her custodians, she was virtually hustled up the gangway. She spent an unhappy and sleepless night on the plane, filled with fear and uncertainty.

ASIO, at this time, in consultation with me at my house at Canberra, got into touch with the captain of the aircraft and asked him to have her talked to in order to find out whether she was going to Moscow against her own will. She was in fact spoken to by a steward and an air-hostess. The captain formed the impression from their reports that she desired to stay in Australia, but was afraid. She told her questioners, with much anxiety, that her guards were armed. When the plane arrived at Darwin, Mr Leydin, the Acting Administrator, under instructions from Canberra, interviewed her. The guards were informed that it was unlawful to carry arms in an aircraft. Upon being asked if they were armed, they assaulted their questioners. They were then disarmed, a loaded pistol being taken from each of them.

In Leydin's conversation with Mrs Petrov, he found that she was distraught. She saw dangers in everything. She told him that she feared for her relatives in Russia if she remained in Australia against the will of the Embassy. She also said that she doubted whether her husband was alive and well and asked if she could see him or speak to him. Canberra being informed of these matters, a telephone call was arranged and, just before the plane was due to resume its flight, Petrov spoke to her from Sydney. He told her that he was well and free; that he had been forced to leave the Embassy on account of the lies told about him; and that when she arrived in Russia she would not be allowed across the threshold of her home and would never see her relatives. He urged her to remain.

After this conversation she said to Leydin, 'I will stay.' So the plane resumed its flight without her, and the guard went with it. Mrs Petrov then returned to Sydney where she joined her husband and made a formal written application for political asylum, which was granted.

Before the royal commission sat for the first time, I had a consultation with Mr Windeyer, Q.C. (now Sir Victor Windeyer, a Justice of the High Court of Australia), who had been briefed to assist the commission. We agreed that in opening the matter to the royal commission no individuals' names should be mentioned, and that no mention of any individual names other than the Petrovs' should be made until after the election.

I went further, to avoid any party political implications. Early in the election campaign it appeared that some political references had been made to the Petrov matter by one of my candidates on a public platform. I at once communicated with every Government candidate in Australia, and said that this was not a party political matter, and that as it was under judicial investigation I wanted it kept right out of the political campaign. This request of mine was scrupulously observed.

The royal commission secured the services of Mr A. H. Birse, C.B.E., whose proficiency and integrity were well vouched for. Birse was born in Russia of Scottish parents, and spent twenty-six years in Russia. During and after the war he acted as the official interpreter for Churchill in conferences with Soviet leaders, and was, in fact, the official British interpreter at Teheran, Yalta and Potsdam. The commission formed the highest possible opinion of his character and intelligence.

The royal commission opened the proceedings on 17 May, at Canberra. Mr Windeyer, conformably to our agreement, said:

The premature publication of *the documents* and of any names of persons mentioned in them might, I feel, seriously prejudice those investigations which are now proceeding. . . . Therefore, we suggest that there should be no immediate publication of those names, and that whether at any time publication be allowed should be a matter for Your Honours to consider later.

If the names which were disclosed and discussed in the royal commission's interim report months after the election had been disclosed before the election, their impact upon the voting would no doubt have been tremendous. But throughout the campaign they were known only to the royal commission and to counsel assisting them.

It thus appears that if, as was later to be claimed, I designed to use the Petrov case for electoral purposes, I went about it in a most remarkable fashion.

My announcement in Parliament was, of course, sensational news for the Press both in Australia and overseas.

There was nothing I could say publicly that I had not already said; but I finally agreed to have a Press conference and give them a chance to put questions. Seeing that I had announced that there would be a royal commission, they could not expect to get any information from me on matters which would fall for judicial investigation. Three times the usual number of journalists crowded into my office at Parliament House. I knew most of them fairly well, and they, particularly my 'regulars', knew me even better; so they had no great expectations, but were good triers.

Suddenly a little man burst into the room, elbowed and pushed his way into the very first row, announced himself as having flown from America as the representative of a

world-famous journal which enjoys, I am told, great authority, and promptly fired his first shot. Referring to the Petrovs, he barked out, 'Say, are those people married?' I said, 'Yes, they have been married and have lived and worked together for many years.' His face fell. He had been balked of a 'sex angle', as I believe it is called. So he promptly elbowed his way out, and was never seen by me again. His first shot had turned out to be his last.

I tell this short story because it was the only bit of fun we were to get out of this matter for a long time.

The Press, of course, and from their point of view quite naturally, wanted to interview the Petrovs at once. But we had a security duty to the Petrovs, who had become the mortal enemies not only of the Soviet and the Soviet Embassy but of all their myrmidons; so I refused.⁴

The papers handed to ASIO by Petrov not only provided the basic material for the initial inquiries of the royal commission, but opened up a wide field of subsequent investigation.

These papers were:

1. A document typewritten in English and marked by the royal commission *Exhibit H*. This document was clearly proved to have been composed and typed by one Fergan O'Sullivan in 1951, when he was a journalist employed in the Canberra Press gallery by the *Sydney Morning Herald*. He had been procured to write it by a Russian overtly representing the Tass news agency, but covertly a temporary M.V.D. Resident. The document was photographed, the negative being sent to the Moscow centre.

O'Sullivan became Dr Evatt's Press Secretary in April 1953. When after the 1954 Elections O'Sullivan admitted to Dr Evatt that he was the author of the document, Dr Evatt at once and properly dismissed him.

Exhibit H itself played a large, though perhaps not a very important, part in the inquiry; as will appear.

2. A document typed in English, marked by the Royal Commission *Exhibit J*, composed and typed by one Rupert Lockwood, a self-confessed Australian Communist, at the request of the Tass representative, who was also an M.V.D. worker. It also was sent to the Moscow centre. It was a long document of thirty-seven pages, closely typed. It covered a wide variety of matters deemed to be of interest to the Soviet Union. I will come back to it. All that needs to be said at present is that it was later described by Mr Windeyer, of all advocates the most restrained, as 'a farrago of fact, falsity, and filth'.

3. The next papers, written in Russian, were letters sent out from the M.V.D. Moscow centre to Petrov. These, of course, had to be translated. For this purpose, the royal commission secured the services of the highly qualified A. H. Birse.

4. A miscellaneous group of documents which were marked *G* by the royal commission and consisted chiefly of letters from Moscow to Canberra.

⁴ A few weeks later, we did develop the proposal for a limited Press interview so that the Petrovs could show that they had acted voluntarily and that they wished to become Australian citizens. This suggestion was discussed with the Chairman of the royal commission, who indicated his disapproval of the idea on the ground that the proposed interview might raise the question of contempt of the commission; which would be clearly undesirable. After some negotiations with the editors of the leading newspapers, I decided to abandon the proposal not only because of the question of contempt but also because an interview might raise political issues which in my opinion should not be raised, if at all, until after the election. In the result, the Petrovs gave all their evidence before the commission itself.

As the 'Petrov papers' attracted the early attention of the royal commission, which, after careful investigation, found them to be authentic, I should at once say something about their nature and contents.

Exhibit H was as I have said, the product of Fergan O'Sullivan. It contained short and sometimes pungent reports on no fewer than forty-five journalists. These were of value to the M.V.D., which well understood how a willing or unaware Canberra journalist might be used as a source of information. Canberra was, and still is essentially, a city in which Parliament and the administration provide the centre; while there is a substantial diplomatic colony. Press representatives move quite freely in this *milieu*. They claim access to ministers, and frequently achieve it. They have been known, I am sorry to say, to prise out Cabinet secrets. In the course of their news-gathering they are frequently to be found in the departments where information may be obtained; sometimes officially. At social receptions ('National Days') and the like, leading journalists are to be seen mingling with diplomatic and other guests. Many a secret has been spilt, or perhaps a slurred hint given, under the influence of a cocktail party.

For all these reasons, which are, I suppose, common to all official government cities, it was important for the Soviet Embassy, if its espionage were to be efficient, to know about the press-men: one might have a weakness which would make him susceptible to pressure; another might be a communist sympathizer; one might be warned against on the ground that he was a strict Roman Catholic who would be unlikely to have any communist leanings at all; several of those mentioned in Exhibit H were 'believed to be Security Agents'.

The reason for and the value of H were thus apparent. O'Sullivan must have known this, and of course knew that the value was one, not to Australia, but to Australia's potential enemy. Further, as the commission found, the fact that O'Sullivan gave the document made him susceptible to pressure to perform further tasks for the Soviet. The spies had a hold on him.

Exhibit J was a different kind of document. It was very long, running into thousands of words. It covered various topics. Some of its sub-headings were: *Japanese interest in Australia*; *American espionage in Australia* [sic]; *War contacts in Australia*; *Notes on the Australian Workers' Union*; and *Dr Evatt*.

'Amongst many other matters, the document contains personality reports on a great number of persons - politicians of every colour, newspaper proprietors and journalists, businessmen, etc. Many of the reports are scurrilous and grossly defamatory (some of the allegations are of a filthy nature), in some cases pointlessly so, since they refer to persons long dead.'

Before the commission, the authenticity of the document was fiercely contested. It was claimed that it had been fabricated 'as part of a conspiracy to injure Dr Evatt and the Labour Party'. The royal commission rejected this astonishing charge, and found that the document was authentic Lockwood.

But the commission's findings in its interim report will be given special attention later in this narrative.

The other documents making up the Petrov papers consisted of letters and memoranda containing instructions from Moscow, assigning and using code-names, including code-names for various Australians, many of whom were later called before the commission.

These documents, which it would be tedious to quote from (many of them were set out by the commission in its final report), had little to do with the ordinary processes of diplomacy, but were part of the fabric of a carefully organized espionage.

Proceedings Leading up to an Interim Report, and What the Report Said

After the General Election the royal commissioners sat in June, July, August, September and October in Sydney and Melbourne and heard a mass of evidence about the documents and the people named in them. About the authenticity and circumstances of birth of Exhibit H there was no doubt, since O'Sullivan admitted that he was the author. About the authenticity of Exhibit J there was a dispute. The Petrovs had stated that it was typed during three successive days in 1953, at a time when Petrov himself was in the Canberra Community Hospital; that it was typed in the Soviet Embassy at Canberra; and that it was typed by Rupert Lockwood.

The commissioners examined a mass of circumstantial evidence all of which indicated that Exhibit J had in fact been typed in the Soviet Embassy, that Lockwood was in Canberra at the times, which proved to be 23, 24 and 25 May 1953, and that Lockwood was the author. Lockwood had stayed at the Kingston Hotel opposite the Soviet Embassy during the days in question. When called as a witness during the Melbourne sittings, he refused to answer any questions concerning the authorship of Exhibit J.

It transpired in the course of evidence that one Grundeman, a member of Dr Evatt's staff, had been in Canberra at the relevant time, though Dr Evatt was absent abroad. Lockwood, O'Sullivan and Grundeman were proved to have been in company in Canberra for some hours on either 22 or 25 May. The records of the External Affairs Department showed that Grundeman had been in Canberra on these dates, and the commission found that the contents of these records were known to Dr Evatt before the next Sydney sittings (well after the General Election) began. It was at this stage that Dr Evatt apparently decided, though he had not been practising at the Bar, to seek leave to appear to represent two members of his Secretariat, Grundeman and one Dalziel. It is curious that he should have sought to represent Dalziel because his name had been mentioned only as appearing in Exhibit J as a source of some quite innocuous information. However, leave was granted and Dr Evatt appeared. As the commission pointed out in its interim report, there was nothing in Exhibit J which materially reflected on Grundeman and Dalziel. It is clear that the real element which drove Dr Evatt to take up the cudgels was the fact that three members of his then Secretariat had been named in Exhibit J, and that it had been shown that there was a meeting at Canberra between Lockwood, O'Sullivan and Grundeman at the very time when Lockwood was said to have been typing Exhibit J.

Dr Evatt thereupon cross-examined the witnesses for a long time and with some ferocity. We had observed in Parliament for some little time that he appeared to be very ready to believe that he was a victim of 'conspiracies'. But his conduct before the royal commission was concisely described by the commissioners.

Dr Evatt conceived the theory that he and the political party which he leads had been the victims of a political conspiracy and he proceeded to cross-examine the witnesses before us with that in mind. . . . Charge followed charge with bewildering variations. Suggestions were made of blackmail, forgery, uttering, fabrication, fraud and conspiracy and - upon the repeated assurances of Dr Evatt that his examination of witnesses was directed to these matters and would prove them - we felt constrained to permit him great latitude in his questioning. . . . As day followed day and all that we heard was constant reiteration of vague

charges of infamy, we demanded of counsel (he had two juniors appearing with him) on 1 September that they formulate with some exactitude their allegations. Dr Evatt then charged that Exhibit J had been fabricated by the Petrovs as part of a political conspiracy with the enforced aid of O'Sullivan who, he alleged, had been blackmailed into collaborating in the fabrication of the document and into inserting therein as sources the names of himself, Grundeman and Dalziel. The political conspiracy was alleged to be one to injure Dr Evatt and the Australian Labour Party by procuring the false insertion in Exhibit J of the names of three of his secretaries as sources with the intention that the Petrovs' should so nicely time their actions that Exhibit J could be produced and published on the eve of the Federal Elections in 1954. [*Remember that it was not!*] He further charged that at least one senior officer of the Australian Security Intelligence Organization, Richards, had been guilty of serious derelictions of duty in that, without proper care and inquiry, he had accepted from Petrov fabricated documents, had paid him large sums of public money for them, and had 'uttered' these documents, presumably to the Prime Minister of Australia.

Then came the culminating points in the Royal Commission's narrative.

Although, in the result, all the charges turned out to be fantastic and wholly unsupported by any credible evidence, they were grave and necessitated patient judicial inquiry by us.

It was apparent from the outset, and it was ultimately conceded by counsel for Grundeman and Dalziel and by counsel for Lockwood, that if Exhibit J had, in fact, been typewritten wholly by Lockwood, then and for that reason alone, all the charges of conspiracy and the like against the Petrovs and O'Sullivan, and those made against Richards and the Security Service, would fall to the ground.

Many witnesses, including the Petrovs, Lockwood, O'Sullivan, Dr Bialoguski and Richards were examined and cross-examined at great length but, except for one portion of the evidence of Lockwood, no evidence emerged to support these grave charges. Indeed, the whole of the evidence led the judges irresistibly to the conclusion that Lockwood did type Exhibit J. It is interesting to note that Lockwood, during the Melbourne sittings, had not denied the authorship; but, on the contrary, had refused to answer any questions concerning it. He was a little more communicative when recalled in Sydney. He then admitted that he had given to one Antonov, in the Soviet Embassy, some typed material; that part of this material was typed by him in the Embassy over a period of some fifteen to twenty hours on 23, 24 and 25 May, 1953; and that the subject-matter of the material so given was almost identical with the subject-matter of Exhibit J. But he would not admit that Exhibit J was the document which he had given to Antonov.

The story on which he ultimately settled after much prevarication was that he had left at the Embassy about a hundred and seventy pages of his typewritten material, and he suggested that Exhibit J, which comprised only thirty-seven pages, must have been recast from that material and typed by somebody else. But the royal commission, which had exhibited almost superhuman patience, and was made up of judges highly skilled in the evaluation of evidence, had no doubts. Their words deserve quoting.

We had ample opportunity of evaluating Lockwood's credibility. His repeated prevarications and evasions and his general demeanour were such that no reasonable man, who had seen and heard him for the fourteen hours during which he was in the witness-box, could accept him as a witness of truth where he was in conflict with the only inferences to be drawn from the circumstantial evidence.

The remarkable and ill-balanced activities pursued by him in court Evatt took with him into the public arena. He publicly attacked the members of the royal commission and some

of the witnesses appearing before it in such violent terms that the chairman felt it necessary to reprimand him; telling him that if any other counsel appearing in the inquiry had made such statements about the commission and witnesses giving evidence before it, the commission would have committed that counsel for contempt.

Evatt was quite unmoved by this. Most barristers would have understood the characteristic delicacy of the judge in thus obliquely reminding Evatt of the obligations which arose from his earlier judicial eminence. But Evatt was the kind of man who, if he thought about it at all, thought that the law of contempt which applied to other men could not and did not apply to him. His legal capacity and his political capacity had become muddled in his own mind. But the end had to come, if the royal commissioners were not to find their public investigations degenerating into a forum for unsupported charges, garnished with the kind of comment made by Evatt outside the court-room; comment which could give aid and comfort only to the Soviet Embassy, Australian Communists, and such people as would wish to cripple and destroy the vitally important Australian Security Service.

So the day came when the royal commission, who had earlier - weeks earlier - given him leave to appear, felt compelled to cancel that leave. The chairman, speaking for all three of the judges, said:

On more than one occasion during the past three weeks we have pointed out to you, Dr Evatt, that a position seemed to be developing in which you, as counsel for Mr Grundeman and Mr Dalziel, were really appearing for yourself, since you have claimed that a conspiracy has been entered into to injure you politically. We had hoped that you yourself might have come to realize the embarrassing position which was gradually becoming more manifest. A climax has been reached by the statements made by you.

This is a reference to an intemperate attack Evatt had made on the French Government and the French Ambassador in Australia with reference to one Madame Ollier, an employee of the French Embassy, who had been cultivated, under instructions from Moscow, with a view to obtaining cipher information and had some secret meetings with Soviet Embassy officials. Except that the whole matter was further proof of Soviet espionage methods, she was not of great importance. But of her I shall say more later in this chapter.

The chairman, after referring to the Ollier incident, said, 'It has become apparent that you cannot dissociate your function as an advocate from your personal and political interest.' His leave to appear was thereupon revoked. Such a humiliation was without precedent in Australian legal history. But all it did to Evatt was to persuade him to transfer his advocacy to the floor of Parliament where, as the debate which he demanded on the interim report will show, he heatedly reiterated all of the arguments which had been, after a complete examination, completely rejected by the judges.

In the course of an intensive legal and political experience, I can recall no similar instance.

The Debate upon the Interim Report

On 21 October 1954, the royal commission presented their interim report to the Governor-General, who, following the usual practice, forwarded it to me on 25 October. On 26 October, again following usual practice, I tabled the report in Parliament, so that it would become a matter of public knowledge.

In the interim report, having disposed of the charges which had been put forward, chiefly by Dr Evatt from the Bar table, and having affirmed the complete authenticity of the Petrov papers, the judges went on to explain why they found it necessary or desirable to take the unusual course of making an interim report.

These reasons were that grave charges had been made against the integrity of the Security Service and, as they were made in open sittings, had received very wide publicity. Such charges were calculated to cause grave disquiet in Australia, whose security was involved, 'but also to shake the confidence of other friendly Nations in the integrity of that Service', as the interim report pointed out. The judges thought that these charges clearly needed to be dealt with as a matter of urgency, and reported upon forthwith. I will quote the last three operative paragraphs of the report. They leave no room for doubt, and are, of course, by implication a dreadful condemnation of Dr Evatt's conduct before the commission.

We heard the evidence of all persons who, so far as we could see, would be able to throw any light on these allegations, and there were placed in our Custody and examined by us the contemporaneous Security reports and records, including wire recordings of certain significant conversations relating to Petrov's decision to leave the Soviet service and to the receipt of the documents handed by him to Richards. The evidence of these persons, supported as it is by the contemporaneous records, entirely disposes of all suggestions of improper or negligent conduct on the part of Richards or any other officer of the Security Service. *Indeed, we think that these officers acted with high intelligence and complete propriety in difficult and delicate circumstances.* Whether Exhibit J was an authentic document or a fabrication, the undisputed fact is that it was one of a number of documents brought by Petrov from the Soviet Embassy. Immediately those documents were handed by Petrov to Richards, the latter showed them to his superior officer, the Director-General of Security, who forthwith placed them before the Prime Minister, as was his plain and only duty.

Other assertions, which were constantly reiterated by counsel for Lockwood and by counsel for Grundeman and Dalziel, that Richards had improperly bargained with Petrov, and ultimately paid him £5,000, for fabricated documents designed for some ulterior political purpose, *are entirely disproved.*

In fact Petrov, when he was contemplating leaving the Soviet service and seeking asylum in Australia, necessarily required assurances as to his physical protection and the provision of the wherewithal to start a new life in Australia since otherwise he would be penniless. The Director-General of Security rightly instructed Richards to give assurances to Petrov on both these points. Richards did so and paid the £5,000 in pursuance of explicit instructions from his superior officer. Richards's evidence, confirmed as it is by contemporaneous reports and by wire records secretly taken of his conversations with Petrov during February, March and early April 1954, establishes beyond question that the '*bargaining for documents*', to which reference was made so often by counsel, existed only in imagination.

Before tabling the report, I told Evatt that I thought that a debate on an interim report could serve no good purpose. I suggested that he might prefer to await the final report and then have a full-dress debate on its contents. 'The interim report,' I said, 'contains trenchant criticisms of your own activities before the commission. You might prefer to discuss these as part of the total subject-matter rather than have a debate which would give sole prominence to criticism of yourself.' He at once said, 'I want a debate at the earliest possible moment, and I will insist upon it!'

'Very well,' I replied, 'but if you force me to it I want to make it plain that our past association will not inhibit me from dealing with you in the plainest possible terms. Your blood be on your own head!'

And so it came about that, on 28 October, he moved, pursuant to leave, 'that the paper be printed'; a motion which, under Australian parliamentary practice, permits of a general debate on the contents of the report.

But before this happened, the Speaker, Mr Archie Cameron, a somewhat testy but emphatic man, gave a ruling in these terms:

The interim report arose out of the findings of a royal commission appointed by this Parliament to inquire into certain things. I have previously stated from this chair that it is my considered opinion that a member of this House, having spoken and voted on a measure before this House, is thereby precluded from taking part in any court action arising out of that act of the House. In this case, the Leader of the Opposition appeared as a barrister for some time before the royal commission. I hold the view that a member of this House has no right to appear before that royal commission, except in the capacity of a witness, and it is my further view that, having so appeared, as the right honorable gentleman did appear, he should not discuss in this House any reports or matter that arose out of the proceedings of the royal commission at the time when he was there as a barrister. I leave the matter to the judgment of the House.

I said that as the Leader of the Opposition was eager and insistent, I would move the suspension of the Standing Orders, to enable him to proceed with his motion. My motion was carried, and at 8.5 p.m. Evatt began a highly emotional and attacking speech which lasted for two hours. The Press galleries were crowded; the House of Representatives chamber was full.

Though he was later on to speak contemptuously of what he called the 'trivial results' of the investigation, he took an early opportunity of saying, 'I desire the House to bear with me tonight, because this is one of the greatest cases in the history of Australia, as that which is involved in it is fundamental to our lives.'

He first, not unexpectedly, attacked me. He accused me of having announced the Petrov defection and the appointment of a royal commission in a dishonest and successful attempt to win the then approaching election. As I have, in other parts of this chapter, dealt with this latter-day and false allegation, I need say no more.

He attacked the royal commissioners, whose appointment he had originally approved. The commissioners had 'failed to hear the case'; they had failed to hear relevant evidence; they had rejected Evatt's application to call another expert on handwriting, because they called only those who were 'suitable', presumably those who would agree with the judges' own notions. They had not shown a proper competence or understanding of their judicial duties.

He attacked the security officers. They had acted 'with gross and culpable neglect'. What was worse was that they had 'dangled five thousand pounds in notes before Petrov' as an inducement to hand over the documents. 'I think that the heads of security acted negligently and did not act with justice and propriety, as they should have done.' To cap it all, 'the disclosures which took place on 13 April were not recent but old disclosures, and that the time of making the disclosures was fixed so that they would give electoral advantage. The security people must have known that it would assist the Government, as it

did, in the election.' In short, he was clearly charging the security service with party political bias amounting to corrupt practices.

Evatt had said nothing to the House that he had not said, with much reiteration, in his other capacity to the royal commission.

I was therefore already prepared to reply at once, and very willing to do so. I thought that Evatt's conduct before the judges had been grossly improper, that he was out to destroy the security service, that his antics were giving pleasure only to the Communists and the Communist Press. And these people, though the electors had denied us a constitutional amendment which would have enabled the Commonwealth Parliament to outlaw them, I regarded and still regard as the enemies of democratic self-government, the orderly processes of the law, and the freedom of the individual in a free country. Evatt lost the 1954 election because he had made in his policy speech extravagant promises. He had, as it turned out, made these wild promises without consulting several of his senior colleagues. I had found little difficulty in publicly exposing their unreality and irresponsibility, and the Australian people, whose judgment and common sense I had always respected, rejected them, and him. As earlier Gallup polls had prepared him for a victory, and had over-excited him, the blow of defeat was both heavy and bitter. He became obsessed by a sense of grievance; he began to exhibit delusions of persecution; the word 'conspiracy' was frequently on his lips. His party became divided, and a process was clearly developing which led to its political disintegration and has kept it out of office for many years.

So, and I do not seek to conceal the fact, I was not only prepared but eager for the debate.

The points I set out to make will appear most clearly if I do something which is normally repugnant, make a series of literal extracts from my own speech:

The House has had a very uncommon privilege tonight. It has heard counsel who has unsuccessfully advanced certain arguments before a tribunal have the opportunity to advance them for the second time before a tribunal which has not heard the witnesses and has not read the detailed evidence. That is something that I cannot remember in my fairly long experience of public affairs. I listened very carefully to the right honourable gentleman in his capacity as the Leader of the Opposition. I read very carefully, day by day, the transcript when he was acting in his other capacity as Dr Evatt, one of Her Majesty's counsel, and I am bound to say that he has tonight said nothing to this House that he did not say to the royal commission. . . .

He elected to make this a great case of conspiracy. Conspiracy against his clients? Oh dear, no! They were of no moment. Conspiracy against himself! And from that moment the royal commission found itself compelled, against every sensible instinct it had, quite obviously, to devote weeks and weeks to investigating this document and its authorship.

Now the right honourable gentleman has invited this House and the country to prefer his judgment on the facts - facts which, for the most part, have not been studied by one of his listeners - to the considered and impartial judgment of three of the most distinguished Supreme Court judges in Australia. I Because all this is, properly considered, an attack on the royal commission, and amounts to saying to us and to the people, 'Don't take the view of the royal commission. Take my view, the view of the defeated counsel,' I feel compelled to say something about the royal commission. I did not feel compelled to say it before.

I then proceeded to speak of the acknowledged eminence and integrity of the three judges (as I did earlier in this chapter) and continued:

Here we have three Supreme Court judges of great experience, of unquestioned ability and of untarnished character, who have heard every word of the evidence, seen every witness and every document, and listened to tape-recordings to which the right honourable gentleman has never listened. Having had all this material before them, they have made an interim report - a calm, cold, logical, judicial report, in which they find the facts without hesitation. In the result, they are treated with hysterical abuse and their findings are submitted to examination by an audience which, I very respectfully submit, has no material before it on which it could dare to disagree with those findings. . . .

I am old-fashioned enough to prefer the cold judgment of the judge to the heated allegations of the advocate. . . .

The fourth charge was that there was a political conspiracy against him and the political party of which he was the leader. . . . This conspiracy, for some weeks, remained quite unformulated. In the long run, having been formulated, it involved, as the royal commission records, *blackmail, forgery, uttering, fabrication and fraud*. . . .

The royal commission has found all those charges - and I again use the commission's words - to be fantastic and wholly unsupported by any credible evidence. . . .

The fifth charge made. . . was that, as a result of the conspiracy, the production of document J was to be so timed that it should be published on the eve of the 1954 general election. The royal commission did not need to find on that charge, because every honourable member knows that document J was never published before the general election and that no portion of it became known until it was revealed in the proceedings of the royal commission long after the election had been concluded. . . .

Charge No. 6 - and this, if I may say so, was a particularly wicked charge - was that Mr Richards, of the Australian security service, was guilty of a serious dereliction of duty in accepting from Petrov the 'fabricated' document. The royal commission has found that that charge was fantastic, because it was conceded by all counsel who appeared before the commission that *if document J was typed wholly by Lockwood, the charges of conspiracy and dereliction would fall to the ground*. The royal commission found, without doubt or hesitation, that document J clearly was prepared and typed by Lockwood. As I have just said, the only evidence to the contrary was given by Lockwood himself, and the royal commission found him to be a prevaricator, an evader and not a witness of truth. Yet, as it turns out, he was the entire sheet anchor of the case of the Leader of the Opposition. . . .

I feel bound to say that there can have been few instances in the whole history of judicial investigation in which charges so wildly made have been found to be so utterly without foundation. *Therefore, they were presumably made without real instructions, wantonly and recklessly*. . . .

In short, ever since his inglorious and discreditable performance before the royal commission, he has engaged, to use his own favourite words, in a smearing campaign, a campaign in which he has had the enthusiastic support of the Communist Press. Why has he attacked these judges? Because they disagree with him, because they do not share his own curious, excited, ill-balanced view on these matters. That is the only reason, unless, of course, he has come back to the good, simple, old-fashioned ground that you always should attack the judge when you have lost. Nothing could do more harm to the safety of the people of Australia than attacks on the security service. I would not have believed it possible, until the last few weeks, that *the leader of a political party in Australia should have worked so hard to destroy the confidence of our people in these men, who are our guardians and our friends*. That the Communists should engage in such attacks is, of course, elementary, as the security service is their enemy. But I cannot help wondering how many of the great army of Labour supporters in Australia, who fear and dislike Communism, and who are its pledged enemies, have enjoyed the spectacle of their leader, in his dual capacity, playing the

Communist game on a public platform, and therefore with public influence, to a degree that the Communists, by their unaided efforts, could not have reached in a hundred years.

The debate was then adjourned.

The Final Report

On 22 August 1955, after examining many witnesses and documents, the royal commissioners made their final report.

They found that for many years the Government of the Soviet Union had been *using its Embassy at Canberra as a cloak under which to control and operate espionage organizations in Australia.*

They described those organizations.

They named the five Russian M.V.D. Residents from 1943 to 1954, and also twelve of their principal Russian M.V.D. collaborators in Australia.

They described the methods and purposes of the M.V.D. activities, and their techniques of approaching and influencing Australian 'prospects'. They went on to make what amounted to a warning to the Australian people by saying:

The evidence clearly shows that it was only amongst Communists (in which term we include Communist sympathizers) that the M.V.D. could expect to find in Australia willing helpers. The only Australians who, so far as the evidence shows, knowingly assisted Soviet espionage, directly or indirectly, were Communists.

We believe that the Soviet deliberately refrained from using the Australian Communist Party, as a party, for espionage purposes lest exposure should lead to its serious political embarrassment and, possibly, to its outlawry.

Without Communism Soviet espionage could have no hope of success in this country, and the existence here of Communists who were and are willing to act to the prejudice of Australia was the fundamental cause of the formation of our Security Service and necessitates its retention in its present role as a 'Fourth Service', essential to the security and defence of Australia.

They reported that their inquiry disclosed no trace of any significant leakage of information from the Department of External Affairs since 1949 (when ASIO was established), though, as they reported, it was *evident from the Moscow letters that penetration of that department remained throughout a principal aim of the M.V.D.*

These were, of course, disclosures and findings of the highest value to those countering espionage, not only in Australia but elsewhere. They would have remained unknown to the Australian Parliament and people but for this defection of the Petrovs and the appointment and labour of the royal commission.

The whole process was therefore abundantly justified. But Dr Evatt had claimed in Parliament that the appointment of a royal commission was, in effect, a bogus stunt and a waste of public money, since no prosecutions were recommended!

The commissioners dealt with this matter quite clearly. In Chapter 20 of their report they examined the legal position, in clear terms which deserve special quotation. Having found that no Australian organization had been implicated, since the Australian Communist Party as an organization had taken care to keep clear, though leading

Australian Communists had been active, they proceeded to examine the legal positions of individual persons. They therefore considered 'whether any persons have communicated information or documents to any Soviet agent' either 'unlawfully' or 'to the prejudice or possible prejudice of the security or defence of Australia', and went on:

The pattern of secrecy followed by the M.V.D. is such that seldom is a communication made directly to a known Soviet agent. The communication is usually made to a person who appears not to be a Soviet agent but who in fact is a conduit of the information to the Soviet.

Whether or not an act is unlawful is a matter to be determined by reference to the substantive law. Whether an act alleged to be unlawful can be proved in a prosecution in a court of law is an entirely different question, the solution of which depends upon the law of evidence.

As we have pointed out earlier, *the technical rules of the law of evidence do not apply in an investigative inquiry such as ours*, with the result that all relevant material is admissible before us, and it is our duty to consider it, *although much of it would be inadmissible upon a prosecution*.

Particularly is this so because Section 14 (1) of the Royal Commission on Espionage Act 1954 requires a witness to answer questions even though the answers may incriminate him, but Section 14 (2) provides generally that *the answers cannot be used in any civil or criminal proceedings against him. Accordingly, even a clear confession by a person before us that he had done acts which amounted to a criminal offence would be inadmissible in a prosecution of him for that offence*.

It is thus apparent that we might conclude upon material before us that a particular person has, in fact, committed an offence, although it would be impossible to produce in a court of law admissible evidence to convict him.

They therefore, in their general conclusions, said:

In Chapter 20 we have dealt with the law in Australia relevant to the matters set out in the Letters Patent. The substantive law is such that, when considered in conjunction with the technical legal rules governing the admissibility of evidence in courts of law, it would appear that prosecution of none of the persons whose acts we have considered in our Report would be warranted.

The Debate on the Final Report

And so it might have ended; but the report had to be tabled in Parliament and, later on, debated. It was tabled on 14 September 1955, a year after the interim report. On 19 October Dr Evatt opened a debate upon it. He spoke for two hours. He repeated his political charges against me and others with considerable fire, though he could get no comfort from the report. He then decided to concentrate on the Moscow letters and other documents, the authenticity of which the judges had clearly and conclusively established.

All of a sudden, he produced the most sensational and fantastic statement most of us had ever heard.

I communicated with His Excellency the Foreign Minister of the Soviet Union. I pointed out that most of the Russian-language documents in the Petrov case were said to be communications from the M.V.D., Moscow, to Petrov, M.V.D. Resident in Australia. I pointed out that the Soviet Government or its officers were undoubtedly in a position to reveal the truth as to the genuineness of the Petrov documents.

I duly received a reply, sent on behalf of the Minister of Foreign Affairs of the Union of Soviet Socialist Republics, Mr Molotov.

[Honourable members interjecting.]

Dr Evatt - Honourable members may laugh, but they have to face some facts tonight. They will not put me off by their organized opposition. They have to listen to this because this is the truth of the affair. The letter to which I have referred informed me that the documents given to the Australian authorities by Petrov 'can only be, as it had been made clear at that time and as it was confirmed later, falsifications fabricated on the instructions of persons interested in the deterioration of the Soviet-Australian relations and in discrediting their political opponents'.

I attach grave importance to this letter which shows clearly that the Soviet Government denies the authenticity of the Petrov documents.

It was a dramatic occasion. Great gusts of laughter came from both sides of the House. What an absurdity this was; to ask Molotov, who had none of the exhibits before him, to pronounce on their authenticity was too ludicrous for words. One could almost hear members saying to themselves, 'What the devil did he expect Molotov to do? Why is Molotov's inevitable denial, couched in the usual Communist jargon, to be preferred to that of the judges, who had seen and read all the exhibits, had had them translated by one of the world's great interpreters, and had examined a mass of evidence about them? The whole thing is an insult to our common sense!'

So the derisive laughter rolled on. The obvious reactions of members of the Opposition themselves boded ill for Evatt's future as their leader.

(The absurdity of this appeal is increased when it is recalled that in 1947-8 the Soviet Union had tried the experiment of combining the major Soviet espionage agencies, those of the armed services and the Foreign administration, into a single body, *of which the first head was Molotov!*)

But, although flushed with anger, Evatt was not to be deterred; persistency had always been a notable characteristic of his advocacy, whether legal or political.

So he went on to propose solemnly that an 'International Commission should be established by agreement with the Union of Soviet Socialist Republics to settle the dispute once and for all'. The Soviet Union, he said, 'was not represented at the hearing'. This was a strange complaint, since they had never applied for leave to appear, but had, on the contrary, closed their Canberra Embassy, removed their Ambassador, driven our Australian diplomats out of Moscow, and washed their hands of the whole inquiry. Yet one had only to read what Dr Evatt himself had had to say both before the Judges and outside to realize that the Soviet's presumed views were not entirely neglected.

But Dr Evatt had his revenge, in a parliamentary sense, on his merry-making fellow members. For the better part of two hours he did two things. He repeated what he had said back in August of 1954 about the circumstances of the Petrov defection, about the activities of the security service, about the payment of £5,000, with great vehemence. He concluded that phase of his speech by repeating his belief that the Petrov case would outrank in history the famous Zinoviev letter in England thirty years earlier.

At great length, and with much citation of reported cases he asserted that the three judges neither understood nor applied the laws of evidence receivable by a royal commission.

Turning from me reluctantly, he dealt with a previous statement by the then Minister for External Affairs (Mr R. G. Casey, later to be Lord Casey and Governor-General of Australia) and convicted him of 'bluster' and 'evasion'. Leaving Mr Casey, he returned to the royal commission. Words and phrases like 'deliberate frame-up of the worst description', 'manufactured and fabricated', ornamented his speech. From the point of view of members present, his speech was not easy to follow. He appeared to speak from notes written on a vast quantity of scraps of paper. These he picked up and discarded at a great rate, so that his vehement words appeared to issue from a veritable snowstorm of papers.

He went to pains to clear the names of several individuals who had already been cleared, by the royal commission, and then turned to a long and detailed examination of the documents and their authorship. Why he did this I did not know, for the judges had spent weeks and weeks on this examination, assisted by sworn evidence, and with long judicial experience of assessing the credibility of the many witnesses. His end conclusion was that 'there is a grievous doubt about the documents. The Soviet Government says that they are not authentic.' He seemed to think, and in fact actually said, that the House should itself investigate the documents and try the issues which had been raised before the commission concerning handwriting. In short, there should be a rehearing of the case by Parliament itself. How many weeks or months of Parliament's time this task would occupy may be imagined. The proposal was so absurd as to defeat itself.

He then went on to endeavour to prove, *à propos* of the amount of the £5,000 payment which the judges had found was properly made to Petrov, that Petrov was a comparatively poorly paid officer. He had been so advised by an anonymous economist! He said nothing about Mrs Petrov, who drew her own salary, or about the house which had been provided for them and which they had inevitably lost. All of these things were properly in the mind of Petrov, and combined to make a single payment of £5,000 extremely modest.

Towards the end of what must have been an exhausting speech, his logical faculties broke down. One self-contradictory paragraph will demonstrate this:

This M.V.D. organization, or whatever it is called, is supposed to be ruthless, centralized and efficient. Over and over again it gave instructions to Petrov. *There is no dearth of instructions in these documents.* Let us assume for a moment that there is no doubt about their authenticity. It is very difficult to find any case where instructions given to Petrov were carried out. He is told to do something. He simply treats the instruction as though he had never received it, and I think that is the answer. He did not carry out any instructions *because there were no instructions to carry out.*

After two members had spoken, the debate was adjourned until 25 October. That evening, I rose to make my concluding speech. Normally, a fairly brief speech would have sufficed. But Evatt had, in spite of his experience before the judges, and in spite of their findings in both of their reports, decided to make his last desperate throw, and had sprinkled his charges with recklessness and violence, including charges against me which, if they were only partly justified, would have unfitted me for the high office of Prime Minister or, indeed, for public life.

So I decided that I must dispose of the charges once and for all without any mercy for the man who had made them. I began by reminding the House that it had, with approval from both sides of the house, referred the Petrov disclosures to a royal commission, which had reported on them; and that Dr Evatt had now indulged himself in the luxury of being

the advocate in Parliament of causes which he had unsuccessfully advocated before the judges.

I then referred in detail to the charges he had made in his long speech just concluded. For clarity, I will deal with them *seriatim*. I beg the reader not to be deterred by this apparent formality, which I design merely to reduce to order the most astonishing and irresponsible and confused outpouring of abuse which I ever heard. I quote from my speech:

Against the judges he makes the charge that they were incompetent, that they acted without proper evidence, that they culpably failed to discover a great conspiracy, and that they have, in the result, made a false report.

Against the Australian Security Intelligence Organization, which I shall refer to as the security service - the service set up by the late Mr Chifley in 1949 after there had been a serious leakage from the Department of External Affairs between 1945 and 1948 - the Leader of the Opposition unleashes a volume of hatred which I have never seen surpassed. He concentrates his venom upon Brigadier Spry, the head of that service, but, through him, he charges the service with being corrupt, oppressive, conspiratorial and actuated by party political motives. He even goes so far as to say, as I remind honourable members, that for people like Brigadier Spry, peace is a dangerous word - the very words used by the right honourable gentleman were 'peace is a dangerous word' - a strange allegation to be made against a man who has been decorated in the service of his country, and who was wounded on the Kokoda trail.

Against Mr Victor Windeyer, Queen's Counsel, who appeared to assist the royal commission, he makes the charge - which would be damaging if it came from any other quarter - that he lent himself to a conspiracy with me and with others, designed to inflict damage upon the Australian Labour Party when an election was pending, and that he did this by accepting instructions from me, and even phraseology which I am alleged to have submitted to him.

Against myself, as Prime Minister of the country, he makes a bewildering variety of charges. First, he says that I 'saved up' the Petrov matter for election purposes until April 1954, though, as he alleges, I knew all about it as far back as 1953. His witness on this matter is a book published in the name of one Bialoguski, Bialoguski being, on his own view, a man of no credit, except when he speaks against me. Second, he says that I suppressed public knowledge of the payment of five thousand pounds to Petrov until after polling-day. Third, he says that I encouraged or directed Mr Windeyer to exaggerate and deceive in his opening address and, if I understood his speech - I do not undertake to guarantee that I did - that I drafted some of Mr Windeyer's opening speech. Fourth, he says that I grossly betrayed my trust by giving wide publicity to allegations without first finding evidence in support of them. Fifth, he says, with a singular and imaginative effort, that I conspired against Madame Ollier, 'spirited her out of the country' - his very words - and had her held incommunicado - a beautiful phrase - so that the investigation of episodes concerning her could be unfairly conducted. There may be other charges against me, the chief of which is that I am Prime Minister, but I have not been able either to isolate or define them.

But he had not devoted the whole of his speech to attack. He also defended certain people, who had been referred to in the reports. He defended one Dr Burton, who had been head of the External Affairs department when Evatt was Minister, and against whom the judges had made no adverse finding at all!

He defended one Sharkey, a leading Australian Communist, against the well-proved charge that he received from Moscow \$25,000 as some recompense for the costs incurred in his campaign, conducted in the closest collaboration with the Leader of the Opposition, against the Communist Party Dissolution Act. As I do not think that a single member of the Opposition doubted that Sharkey had received this money, this item of defence did not advance Evatt's cause one jot.

He then proceeded to defend one Clayton, who was prominent under his code-name in the Moscow papers, and who had been found by the judges, on the clearest possible evidence, to be the chief member of the Communist spy ring in Australia!

And, most remarkably of all, he had prayed in aid, as his chief and indeed only witness, the remote but unheard and un-cross-examined M. Molotov.

At this stage of my speech I paused to say:

What I have already said will, without any verbal decorations, satisfy all sane and sensible people that *the right honourable gentleman, suffering from persecution delusions, is introducing us into a world of sheer fantasy.*

I then went on to speak of the character and attainments of the judges. I added a few words about the other accused, Mr Victor Windeyer, Q.C., who had been leading counsel assisting the royal commission:

. . . who was, quite properly, so convinced that he must be free of any influence that, from first to last, with the exceptions that I will refer to, he said he did not wish to be instructed - I use the word in its technical sense - by the Commonwealth Law Department as counsel are normally instructed by solicitors. Who is Mr Windeyer? He is a lawyer, a former distinguished lecturer in law, and a great soldier; a major-general, a military Commander of the British Empire, the holder of a Distinguished Service Order and bar, and three times mentioned in dispatches; a veteran of Tobruk, of Alamein, of the capture of Finschhafen; for some years from 1950 the citizen forces member of the Military Board. Any New South Wales lawyer must know that the name of Windeyer, like the name of Owen, represents all that is best in New South Wales legal tradition.

The head of ASIO, Brigadier Spry, I have already described, though I shall later on point out the vital fact, utterly discreditable to his attacker, that a blind, bigoted, extravagant, and unfounded attack upon the security service of the nation was probably the most effective way to give aid and comfort to our enemies, actual or potential.

As for myself, I concluded my description of the persons in the drama by saying a few words about myself as perhaps the principal accused.

I am not here to defend myself, but I must permit myself to say that I have, for over a quarter of a century, served the Australian people in the very heat of political controversy, that for almost fifteen years those who are closest to me have unanimously maintained me as their leader, and that I am, therefore, not entirely unknown, either in character or act, to the Australian people. Yet, according to the right honourable gentleman, I, last year or the year before, made myself a party to a swindle and was able to secure the collaboration of those distinguished men whom I have named in order to make that swindle effective.

I pointed out that the judges found favourably to the Petrovs as honest witnesses after Petrov had been in the witness-box on thirty-seven days for approximately seventy-four hours in all, and after Mrs Petrov had been in the witness-box for approximately thirty hours.

I now turn briefly to the case of Madame Ollier, about whom evidence had been given. The judges had disposed of this quite definitely. They found that the French Ambassador had sent the lady to Noumea, to get her away from access to secret communications and ciphers, and away from any dangerous associations she might have formed. She was interrogated in Noumea, arrested there and sent to France for further interrogation.

The evidence about Madame Ollier was, briefly, that one of the Moscow letters had given directions that she should be approached as a possible source of cipher and secret information, that one of the Soviet men had arranged meetings with her at Canberra and Cooma and that he had presented her with a watch costing thirty-five pounds. The judges found that the results of these manoeuvres were 'almost negligible'. In France, Madame Ollier admitted these contacts and the receipt of the watch, but as she had been imprisoned for two months, the matter was dropped. Her only significance in this story is that in her case the Soviet methods of espionage were clearly traced from Moscow to Canberra to Cooma.

I concluded my speech by making two statements, one about Evatt's outrageous attack upon the security service and the other about the international consequences of the Petrov defection, which I think I should set out in full.

The business of counter-espionage is a business which requires great character, great courage, great skill and considerable freedom of action. Honest Australians will be more easy in their minds to learn from this royal commission report that our security organization has been so effective that in the last six years practically no information has been secured by Communist agencies. All this is so elementary and so clear that one is at a loss to understand why the Leader of the Opposition, the alternative Prime Minister of this country, should be at such pains to destroy the reputation and the efficacy of the security service. On behalf of that service, I reject and condemn the allegations that have been made that it has acted in a political way. The men who constitute it are patriotic, skilful, and industrious men. *It will be a poor thing indeed if men in such a service are given to understand that if their investigations are not agreeable to the Leader of the Opposition, they may expect to encounter dismissal and infamy if a change of government occurs. . . .*

I do not hesitate to say that this is one of the right honourable gentleman's principal purposes in this matter, He has not concealed his violent hatred of that service or of the people that make it up. It will be, I hope and repeat, abundantly clear that, should he become the head of the Government of this country, the present senior personnel of that service will be dismissed, and the possibility of getting adequate recruits utterly and perhaps permanently destroyed. This is a dreadful manoeuvre.

My other passage provides a concise statement of the results which had followed the defection of the Petrovs.

The information provided by the Petrovs, only some of which came within the scope of the royal commission, has proved invaluable to other democratic countries. *Petrov himself, as we know from the United Kingdom authorities, is the most senior defector from any of the Soviet intelligence services since 1937. As such, he has been able to supply more information than any previous single defector regarding the espionage activities of the M.V.D. Both of the Petrovs have, in fact, since April 1954, been continuously supplying information, some affecting the security of Australia and, possibly more importantly, some providing general intelligence of assistance to the Western democracies, which intelligence has not been, and of course cannot be, published.*

I want to inform the House that communications with the United Kingdom security authorities show specifically that the information obtained from Petrov is in many cases confirmed by information held abroad, and, in other cases, has enabled a material addition to be made to their information. *In point of fact, scores and scores of Soviet intelligence operatives working in democratic countries have been identified as a result of the disclosures of the Petrovs.* In addition to all this, they have, of course, supplied invaluable information regarding Soviet intelligence methods and techniques of espionage.

My parting shot, before I sat down, was:

If there is a charge to be made, it is this. The Leader of the Opposition has, from first to last in this matter, for his own purposes, in his own interests and with the enthusiastic support of every Communist in Australia, sought to discredit the judiciary, to subvert the authority of the security organization, to cry down decent and patriotic Australians and to build up the Communist fifth column. I am, therefore, compelled to say that, in the name of all these good and honourable men, in the name of public decency, in the name of the safety of Australia, *the man on trial in this debate is the right honourable gentleman himself.*

Conclusion

The results of the Petrov defections and the royal commission's proceedings and findings may now be summed up.

Inside Australia, Communist methods of espionage had been probed and exposed, all persons with access to secret information had been put on warning of those methods, and the efficiency and integrity of ASIO had been established. These matters alone would have justified the appointment of the royal commission, since many of the facts concerning individuals would never have come to light, and Dr Evatt himself would have remained unaware of the associations or activities of some of his staff.

Further than this, from the point of view of Australia, it meant several things of great importance.

Public officials and Members of Parliament, particularly those handling or having access to confidential information, were alerted to Soviet methods; the cultivation of selected officials; the skilful use of the social meeting and particularly that modern menace to discreet diplomacy, the cocktail party; the spying-out of personal weaknesses; the shrewd use of parliamentary journalists enjoying frequent access to ministers and other politicians. Such methods were of course most important in relation to the Department of External Affairs, where the most valuable secrets might be sought for. After the disclosures before the royal commission, there could be no excuse for carelessness, and every reason for caution.

And above all, Australians, an increasing number of whom were beginning to discount political attacks on Communism and to treat them as theoretical or dogmatic, had presented to them by a non-political and authoritative tribunal the harsh realities of Soviet spying under diplomatic cover and of the activities of their Australian Communist collaborators.

The information produced for the security services of other countries, notably Great Britain, the U.S.A. and Canada, was of outstanding significance. Much of this information was, as I have shown, provided by the Petrovs after their defection, but, I repeat, did not come within the scope of the royal commission since it related to the activities of people outside Australia.

But this valuable information was the consequence of the defections, and cannot be divorced from the Petrov story.

The internal effects of all these disclosures on Australian politics could have been negligible - because both parties had said that they were opposed to Communism, and perhaps some of the strongest opponents were to be found on the Opposition benches - had it not been for the strange performance of the Leader of the Opposition both before the judges and in Parliament. He had, wittingly or unwittingly, cast himself for the role of Communist defender and apologist. This made a grave split in his party inevitable. The consequences of that split were to be a vital element in Australian politics for many years.

In 1953 the Opposition contained a group of members of strong character and deep convictions who rejected Communism on political and moral grounds, and were known as the Anti Communist Labour Party. They were to walk the political gangplank in due course, and they knew it. But they did not lose their courage nor conceal their beliefs. In 1957 they formed a separate party, the Democratic Labour Party, which, though it now has only two members, and those in the Senate, has had a profound effect on succeeding elections.

The effects of Evatt's strange advocacy were therefore most damaging to his own party. Be it noted that this damage was not the natural consequence of the Petrov defections or of anything that was known before the 1954 election, but of what happened subsequently.

Evatt had ruined himself as a real political force. His crowning calamity was his strange invocation of Molotov. The laughter in the House when he made his disclosure was sardonic and sustained, and really disposed of Evatt as a potential Prime Minister. For he had revealed, in a single passage, either that he was so hopelessly lacking in balance that any evidence would satisfy him, or that he was so simple that great affairs ought not to be entrusted to his judgment. True, he was still leader of his party at the general election of late 1955, for the Labour Party, radical though it believes itself to be, has a tradition of loyalty to its leaders. But he was no longer a political force. I have refreshed my memory by reading the full text of his policy speech of 9 November 1955, delivered only a few weeks after the debate on the final Petrov report. It reminds me that, in spite of his charges and heat in the debates, he was prudent enough to make no reference to the matter at all.

The public rejection of his charges against me, charges which, had they been believed by the electors, would have ensured my defeat, was eloquent enough. They gave me a larger majority, and thereafter continued to maintain me as their Prime Minister until my voluntary retirement over ten years later.