

ROYAL COMMISSION ON THE ADMINISTRATION OF
THE STIRLING CITY COUNCIL
EFFLUENT DISPOSAL SERVICE

REPORT

TO:-

His Excellency Air Commodore Hughie Idwal Edwards, Victoria Cross, Companion of the Most Honourable Order of the Bath, Companion of the Distinguished Service Order, Distinguished Flying Cross, Governor in and over the State of Western Australia and its dependencies in the Commonwealth of Australia.

May it please Your Excellency:-

- I. By Commission dated the 27th day of February, 1974, Your Excellency appointed His Honour Judge Laurence Frederick John Johnston of Adelaide, a Royal Commission to inquire into and report upon the administration and operation by the Council of the City of Stirling of that section of its work force which carries out effluent disposal and other related services and without limiting the generality of that appointment:-
1. To inquire into and report upon that administration and operation so as to provide answers to the following questions:-
- a) Have any services been provided by the Council for which no proper payment has been sought from or made by the persons receiving those services. If so, who are those persons?
 - b) If the answer to question a) is in the affirmative,
 - i) who was responsible for providing those services for which no proper payment was made and in what way were they provided;
 - ii) what is the loss to the Council as the result of the provision of those services?



- c) Has any member or employee of the Council received any benefit in return for the provision of an effluent disposal service.

If so, who and in what way.

- d) Has any member or employee of the Council ever directed a request for effluent disposal services to any private effluent disposal service and if so, why.
- e) When did the Council become aware of allegations concerning the administration and operation of the effluent disposal service.
- f) Has the Council taken any steps to ascertain the substance of the allegations referred to in question e) and to investigate them.
- g) Has the effluent disposal service been conducted and supervised adequately, efficiently and in the best interests of the City of Stirling.

2. To make recommendations as to how the effluent disposal service might best be administered in the future so as to avoid malpractice therein or the suggestion of malpractice and as to any other course of action thought desirable by the Commission as the result of its findings in this matter.

I, the said Laurence Frederick John Johnston, now have the honour to report thereon.

II. After the appointment of the Royal Commission was made, advertisements were inserted in the newspapers giving notice of the Commission and inviting any citizen who desired to give evidence to communicate with the secretary of the Commission. No persons asked to give evidence following the advertisements but several people came forward as a result of their names being mentioned in the evidence. I will refer to these in the course of my report.

The first day of the hearing was on 19th March, 1974, and in all, it occupied seven sitting days, 27 witnesses were called; the transcript of the evidence covers 583 pages and 53 exhibits were tendered.

Mr. T. Walsh appeared as Counsel assisting the Commission, Mr. M. Bloch appeared for the City of Stirling and Mr. L. Musca appeared for Mr. and Mrs. Cheuk, who had been summoned

to attend as Witnesses. Towards the end of the hearing, Mr. L. Temby appeared for Mr. R. J. Birch, who was a witness.

III. At the commencement of the hearing, Mr. Walsh referred to the events which preceded the appointment of the Commission and produced the documents which dealt with various aspects. It may be appropriate to refer briefly to the matters which preceded the appointment of the Commission, as these enable a better appreciation of the evidence and the issues, to be obtained.

1. On 22nd August, 1973, the Hon. Arthur Tonkin MLA, the Member for Mirrabooka, wrote to the Hon. Minister for Local Government, setting out a number of questions about the effluent disposal service of the City of Stirling. On 23rd August, 1973, he wrote again, setting out a number of allegations about the operation and management of the effluent disposal service.
2. The questions set out in Mr. Tonkin's first letter were sent to the Council of the City of Stirling and on 3rd September, 1973, a meeting was held in the Minister's office. Those present were the Hon. Minister, the Secretary for Local Government (Mr. Paust), the Assistant Secretary, the Mayor of the City of Stirling and the Town Clerk and the Deputy Town Clerk. The Minister advised that he would arrange for Mr. Fellowes, the Senior Administration Officer of the Local Government Department, to investigate the allegations made by Mr. Tonkin. Mr. Fellowes commenced his investigation on 5th September, 1973, and on 10th September, 1973, he submitted two reports. One of these dealt with the questions raised in Mr. Tonkin's first letter and the other with the allegations contained in the second letter. The reports negatived most of the allegations which had been made.
3. On 14th September, a copy of Mr. Fellowes' report which dealt with the matters contained in the letter of 23rd August, was sent to the Town Clerk of the City of Stirling and this was acknowledged by a letter received

by the Secretary for Local Government on 17th September. On about 21st September, 1973, a letter was received at the Dept. of Local Government addressed to the Honourable the Minister, from the Honourable Mr. Tonkin, MLA in which he expressed dissatisfaction with Mr. Fellowes' report and setting out further specific allegations that free services had been provided by the Council's effluent disposal service. Four statutory declarations in support of the allegations, were enclosed in the letter.

4. On the 1st October, 1973, the Honourable Minister of Local Government asked that the Criminal Investigation Branch of the Police Department, make further enquiries assisted by Mr. Fellowes and on 2nd October, Det./Sgt. Crowe commenced the enquiry. On 28th September, the Town Clerk of the City of Stirling wrote to the Secretary for Local Government asking that copies of the Statutory declarations be made available as soon as possible.
5. Mr. Tonkin had received a letter from a firm of Solicitors who were acting for the City of Stirling, asking for an apology and on 4th October, he had replied.
6. On 5th December, the Secretary for Local Government wrote to the Town Clerk, City of Stirling, that the Honourable Minister had resolved that the request for copies of the Statutory declarations would not be acceded to until a final report on the matters under investigation had been received.
7. On 21st December, the Secretary for Local Government received a copy of Det./Sgt. Crowe's report from the Commissioner of Police. On 7th January, 1974, a minute was received from Mr. Fellowes, referring to the Det./Sgt.'s report and his agreement with it.
8. On 10th January, the Mayor and Town Clerk of the City of Stirling attended at the office of the Minister of Local Government and were handed a copy of Det./Sgt. Crowe's report and Mr. Fellowes' minute. A letter was forwarded to the Town Clerk on that day officially

forwarding a copy of the report and the minute and requesting that they be submitted to the Council and that the Council advise of any action it proposed to take as a result of the report.

9. On 11th January, the Council wrote to the Minister asking that additional information regarding Det./Sgt. Crowe's report be supplied. The information sought was extensive.

.. On 22nd January, the Town Clerk sent an urgent Telegram to the Minister repeating the request made in the letter of 11th January.

On 24th January, the Minister advised that the Criminal Investigation Branch of the Police Department was continuing enquiries into the matters contained in the report, and he felt that nothing should be done at that stage that might prejudice those investigations and the information was not to be made available.

The Acting Town Clerk wrote to the Minister on 8th February, again seeking the information.

On 13th February, the appointment of a Royal Commission was announced in the press.

There had been a number of articles in the newspapers from time to time. I have not referred to them in detail and they are important only on one aspect to which I will refer later.

- IV. 1. For a number of years, the Council of the City of Stirling had operated an effluent disposal service for which, of course, an appropriate charge was made. The service no longer exists in the form which had continued for a considerable period and I will refer to that again.

Several private firms have operated an effluent disposal service in the district, also.

In recent years, the service operated in respect of properties owned by the Council, for ratepayers' properties and for commercial properties where some service of a regular nature was required.

2. The system was that a person desiring to employ the Council's effluent disposal service would either call or telephone. An official form of "job ticket" would be made out in triplicate from a book of forms, each bearing a serial number. One copy remained in the book, the other two would be sent to the Health Department and one of these would be given to the tanker driver as his instructions to do the work. On his return to the Depot, he was required to complete the form by showing the time the job had taken and the nature of the task. The form would then be handed to the foreman for return to the office. It then became the basis for an account to be sent to the person for whom the service had been performed. A list was kept in the "treasury section" to ensure that each form was accounted for.

It is clear that whatever defects the system may have had, it had been introduced in an endeavour to exercise some control.

3. An obvious defect was that only one book of forms was provided. The office staff started work more than 2 hours after the tanker staff, so that telephone calls which came in during that period were answered by the Depot staff. During weekends, telephone calls for effluent disposal service were received by some of the Depot staff. In the early morning, the instructions were handed to the tanker drivers on small pieces of paper and this enabled the work to be commenced. It was intended that when the driver returned, he would hand the paper to the foreman who would send it to the office for the official work form to be made out and the account for the work sent. The pieces of paper I have mentioned were referred to during the hearing as "white paper tickets" and I will refer to them in that way in this report.
4. Where effluent disposal service was provided regularly, and there have been a number of such cases, it seems that for some, but not all, of these services, a white paper ticket was used. For some, no form at all was used.

5. The white paper tickets were used also on occasions when it was necessary to check a service which had been carried out previously and a complaint had been received.

In addition, one witness, Mrs. Rollson, says that if the name of the person requiring the service was difficult to understand on the telephone, a white paper ticket was used pending a check on the name.

6. a) So long, then, as the official work ticket was used, or provided, the white paper ticket was sent to the office for the official work ticket to be prepared, the appropriate debit was raised and the account for payment was sent.
- b) It is clear, however, that many white paper tickets did not reach the office; no official work ticket was made out and, of course, no debit was raised and no account was sent out.

There are examples of this to which I will refer.

7. Much of the evidence has centred around the Lingnan Chinese Restaurant which is conducted by Mr. and Mrs. Cheuk. I will refer to this in some detail later in this report and it will be sufficient at this stage to say that it is beyond doubt that a regular effluent disposal service was rendered to the Restaurant over a substantial period for which no payment had been sought.

- V. 1. In about June, 1973, an anonymous letter was received by the Council's Auditor. The letter has not been produced and I am, for that reason, not able to state its precise terms but, apparently, it was alleged that the Lingnan Restaurant had been receiving effluent disposal services for which no payment had been made. When the contents of the letter were made known, an account was sent to the proprietors of the restaurant for \$91.00, being 13 services at \$7.00 per service. This account was paid promptly. The circumstances under which the account was sent are of some importance, and I will refer to them later in this report.

2. The Council had been concerned about the effluent disposal service during 1973, and had decided that the service should be severely curtailed. In fact, that has been done.
3. In 1972, there were 4 tankers in operation, each manned by a driver and an assistant. Mr. William James Boxall was the foreman in charge and it was his duty to give the drivers the necessary instructions each morning for the day's work. He did this by handing to them a copy of the official work ticket or a "white paper ticket". He kept for his own information a "stub book" in which he recorded the addresses to which each tanker had been sent in order that, if necessary, he could make contact with the driver. He did not, however, enter the "white paper tickets" in this book.
4. It is known that some tanker drivers have, on occasions, undertaken an effluent disposal service themselves. They used the Council's equipment and carried out the service in the Council's time. The money received for this was divided between the driver and his assistant. This was, of course, a serious matter and when such an action was discovered the driver was dismissed. One of the witnesses, Mr. Mercer, had been dismissed because he had been detected carrying out a service in that manner.
5. It appears that the drivers regarded the white paper tickets as being generally ones for which no payment would be sought and they referred to them as "bodge jobs", "foreigners", "love jobs". I believe this was a somewhat exaggerated view in that by no means all the white paper ticket jobs were not charged for but it is clear that many were not.

The answer to the first portion of question 1. of the terms of reference, then, is clearly in the affirmative. That is, services have been provided for no payment has been sought. The second portion of the question is somewhat difficult.

1. Where the official work tickets were used or where the white paper tickets were returned to the office and an official work ticket was then prepared, the appropriate

account has been sent. Where arrangements had been made for regular services to be provided, payment has been made.

There are some number of instances, however, where no payment has been sought, and this is due to the use of the white paper tickets. I am sure that there are some such cases where the failure to send an account has been due to the laxity in operation of the system - that the failure to send an account has not arisen through any form of dishonesty. An example is the case of Mr. Rice. He had asked for work to be done; it was done but no account was sent. He was unaware of this until he read in the newspaper of the evidence given. He then asked to give evidence and having regard to what he has said, I am completely satisfied. I believe there are other cases of a similar nature and I believe, too, that it is virtually impossible for some of these to be traced.

Mr. Easton, the Town Clerk, in his evidence (at p. 538), said that he considered "there could be thirty people now on whom we could claim for services received and which are not paid for." At p. 539, he said, "I do not think the figure would exceed \$1000 overall, and on information given to the commission, it would be considerably less."

2. Earlier, I mentioned the Lingnan Restaurant. It is necessary to deal with that aspect of the evidence before me in some detail, and I commence by saying that the evidence in this regard is most unsatisfactory. Perhaps, the most effective way of dealing with the very lengthy evidence is to refer briefly to some of the witnesses.

a) Mr. Boxall was the tanker foreman. He knew of the constant use of white paper tickets and knew, too, of the service being given to the Lingnan Restaurant. He had kept a number of the tickets and these were produced in the hearing - the handwriting on many of them was identified.

In his final address, Mr. Bloch criticised Mr. Boxall and his part in the matter. He says (at p. 574)

"It is clear from the evidence that Mr. Boxall failed dismally in carrying out his duties. He did not send white papers to the office on his own admission; he rigged the hours of the tanker drivers; he was aware that Mr. Mercer was doing illegal work on his own account and he took no steps in that regard." At least he was very careless with the slips because Mr. Lewis says that he took white paper slips from Mr. Boxall's desk and that he did not hand in all his slips to Mr. Boxall. Boxall did not seem to be aware of this at the time.

There appears to have been no attempt to account for each of the slips or to reconcile them with the jobs done. The fact that both Boxall and Lewis kept the white papers and then produced them, has been the subject of comment. Amongst the comments is the suggestion that at least in the case of Lewis this was to create trouble for Mr. Newman, the Health Department foreman. I am, by no means, convinced that this was so, but I am concerned with the facts and the question that concerns me is what is the truth of the matter. There is no doubt that the white papers were used, that they referred to jobs for which no payment was sought, that Boxall and Lewis knew this and assisted the circumventing of the system to bring about the "free" jobs. Both gave evidence of the work being done regularly at the Lingnan Restaurant and I accept their evidence on that aspect.

- b) Mrs. Rollson worked for the Council from March, 1970, until January, 1974, firstly as leading hand in charge of females and later as assistant clerk.

She received the majority of the calls regarding the effluent disposal service having taken over from Mr. Lee in April, 1971.

It is clear she wrote out a number of white paper tickets. She thought Lingnan Restaurant had a contract - but she wrote some white tickets in respect of it, in all at least 15 (p. 416). She thought the expressions,

"foreigners", and "bodgie jobs" were those jobs "the men did for themselves."

She kept a list of the contract jobs - she had prepared this for her own use but regrettably it was not produced at the hearing.

At p. 417, she says that because the phone was busy, many jobs were not put on the official forms. She agrees that she could have reminded Boxall about the services to the Lingnan Restaurant but not as frequently as he has said.

She told Det./Sgt. Crowe that she knew nothing of a regular service for Lingnan prior to Christmas, 1972. She agrees that she told the Det./Sgt. that the Restaurant was to be billed six-monthly but this was a mistake. She did not know about the anonymous letter because she was on holidays. She identified her writing on 30 of the white paper tickets which were tendered. Det./Sgt. Crowe says that when she was asked about the white paper tickets she denied knowledge of them. She disputes this and some other parts of the Det./Sgt.'s evidence. Having seen and heard them both, I prefer to accept the evidence of the Det./Sgt. as being entirely more credible. Indeed, I was not favourably impressed by Mrs. Rollson's evidence or her demeanour. It follows, then, that in my view, she falsely denied knowledge of the tickets and this is a factor to which I must have regard.

As Mr. Walsh has pointed out, the evidence shows that she took an interest in the provision of service for the Lingnan Restaurant.

c) Mrs. Cheuk disclaims any knowledge of the effluent disposal service at all. She did not know the tanker men and she paid the accounts which came to her but she did not know what they were for.

Mr. Cheuk says he did not know the tankers went to his restaurant regularly and he does not believe that there were as many services as were described in the

evidence. He claims that an arrangement was made when he first "went into the City of Stirling", that he would pay \$7 per call. This agreement was made with Mr. Newman (p. 343).

At p. 342, he said that in October, 1971, he desired to have a regular service but "they could not do it, so every time we ring up." At p. 333, he says he told Mr. Newman in December, 1972, to come once a fortnight.

I am not disposed to place any reliance at all on the evidence of Mr. Cheuk. He was an evasive and wholly unsatisfactory witness and I could not have any confidence in his testimony.

Mr. Musca, his counsel, has submitted (at p. 560A) that it was a case of Mr. Cheuk not applying his mind to the matter of the disposal service. He agrees that there was no specific arrangement for the rendering of the service.

Mr. Walsh has pointed out that the Cheuks had come from the Eastern States and were not accustomed to a septic system which required attention constantly and regularly. I agree that this is so but as I pointed out during the hearing, the ordinary businessman would surely realise after a period, that he was not paying any accounts for the effluent disposal - a situation so different from that of the previous year.

I agree with Mr. Musca that there was no specific arrangement but I do not accept the contention that the Cheuks were unaware that the service was being carried out regularly and frequently.

Ronald Jack Birch has been employed by the Council since 1961 and has been the Chief Health Surveyor since 1968. It is apparent that the effluent disposal service was a small part of the Health Department which contained 180 employees of whom 10-12 were in the effluent disposal section.

Mr. Temby, who appeared as counsel for Mr. Birch, impressed me with his comments. Briefly, his submission is as follows:- assuming that some work was done by the effluent disposal service for which the municipality was not paid, and this happened because of inefficiency in the keeping of records, work being done by employees who kept the money they were paid and perhaps by arrangement with someone some work was not charged for - this amounts either to inefficiency or maladministration or dishonesty or malpractice. This is a very succinct summing up of the problem before me.

Mr. Temby went on to deal with the Council's policy of delegation of authority and he then contended that there was no reason for Birch to be in any way suspicious before the anonymous letter was received. When that occurred, he telephoned the restaurant and was told the service commenced in December, 1972. He obtained the same information from the Health foreman, Mr. Newman - and Newman agrees with that. So, having checked both with the person who received the service and the man in charge, he arranged for an account to be sent.

Birch says he did not appreciate the extent of the use of the white paper tickets and the way in which they were being used. Mr. Temby agrees that Birch ought to have checked the system for which he was ultimately responsible and I agree that he should at least have done that after the anonymous letter had been received.

Following the production of the white paper tickets at the hearing, Mr. Constantine, the Council Treasurer produced a number of accounts which had been rendered and paid. These were tendered as Exhibit 52 and included amongst these were the two accounts sent after the receipt of the anonymous letter and concerning which there was a considerable amount of cross examination - the first dated 25th June, 1973, for 13 visits at \$7 = \$91 and the other dated 26th June, 1973, for 5 calls in July, August and September, 1973, at \$7 = \$35 - this was not sent out until September.

However, there are other accounts included which have puzzled me. These were not referred to during the hearing and so I have not any explanation of them but I refer to them as being items who do not help me to accept Mr. Temby's contention. All are in respect of the Lingnan Restaurant and they are as follows:-

- (i) Account for \$18.- memo dated 21/9/71 from Mr. Birch that it should be reduced to \$7.
- (ii) 8/11/71 - \$3.50 (1/2 hour for 3 men)
22/11/71 - \$3.50 (1/2 hour for 3 men)
- (iii) 24/12/71 - \$12.50 - amended to \$3.50
- (iv) Account No. 11806 - 25/6/73)
- (v) " " 11808 - 26/6/73) these are referred to above.
- (vi) " " 12454 - Contract cleaning - 2 wells
1 grease 11/9/73 - \$24
paid 10/10/73
- (vii) " " 12473 17/9/73 grease trap & well
3 hours, 2 men - \$36 paid
14/11/73.
- (viii) " " 12499 Contract cleaning - 2 wells
1 grease 3½ hours, 2 men
\$42 paid 14/11/73.

Although the accounts after September, 1973, were stated to be for contract cleaning, the cost has increased substantially from the \$7 per visit which is said to be the agreed charge. The memo dated 21/9/71 purporting to be from Mr. Birch and produced from the report by the Treasurer is not entirely in accordance with the evidence which Mr. Birch has given - that he ascertained from the Restaurant and from Newman that the contract started in December, 1972. These are factors to be borne in mind when Mr. Birch's evidence is being considered. There is no doubt that if Mr. Birch was not aware of what was occurring, he was exceedingly remiss. He says (at p. 460) that prior to the enquiry

he made following the anonymous letter, "I was not aware of any services carried out..." at the Restaurant.

The fact that he did not need to make any check with the Treasury section regarding the account of 25th June, 1973, suggests that he knew more about the Restaurant than he has said.

- e) A number of witnesses state that Mr. Newman, the Health Department foreman knew what was going on and that in some cases he gave instructions for the "white paper jobs" to be carried out. Newman strongly denied that he was ever a party to "free jobs" and in support of that it is clear that men were dismissed by him for doing work privately.

It is difficult to say that he has been entirely frank; when the evidence of the various witnesses was put to him he simply denied what they had said.

He agrees (at p. 359) that "the system wants tightening" and that it was "unsatisfactory". He points out that he was responsible for many jobs in addition to the effluent disposal service.

Mr. Bloch's contention that some witnesses made "every effort to involve Newman" has some force, but I cannot accept the view that Newman was not aware of what was occurring.

Whether he was involved to the extent that some of the witnesses have alleged is open to doubt but I am satisfied that he knew much more than he has been prepared to admit.

3. The answer, then, to the second portion of Item 1 (a) of the terms of reference, is as follows:-

It is not possible on the evidence before me to give a list of the persons who received a service for which no payment has been sought. It is clear that a regular service was provided during the year 1972 for the Lingnan Restaurant. In addition, it appears that the persons

whose names are set out in Appendix A have not been sent an account. These have been extracted from Exhibit No. 47 which was prepared by the Council Treasurer following the production of the white paper tickets.

4. The answer to Item (b) is that the tanker drivers, having received instructions from the tanker foreman, carried out the service. As Mr. Walsh pointed out in his address, strict proof is necessary before a finding is made that the conduct was dishonest. The evidence before me does not reach the standard of proof which I regard as necessary. There is no doubt that a good deal of suspicion attaches to Mr. Boxall, Mr. Newman, Mr. Birch and Mrs. Rollson, all of whom contributed in some degree to the work being done in the way it was. There is no doubt that the Lingnan Restaurant received most favourable treatment. However, I am not able to say that it has been proved that this arose from dishonesty.

The loss to the Council cannot be estimated with any degree of accuracy and some of the moneys will, no doubt, be collected as a result of the hearing. Mr. Easton's estimate that the amount involved may be \$1000 could be reasonable but it cannot be said with any confidence that all the white paper tickets have been produced. Indeed, the evidence is that some were destroyed.

5. The answer to Item 1 (c) is that employees of the Council have received benefits by way of gifts of goods and moneys for the provision of an effluent disposal service.

This was done by a tanker crew carrying out the service and receiving money or goods which they divided between them and kept. The witness, Mercer, had done this and was ultimately dismissed because of it. It is clear he was not the only one but I am not able to name any others.

6. Item 1 (d) - The evidence shows that, on occasions when the Council employees arrived to carry out a service at a particular address, the tanker and men from a private effluent disposal service were already carrying out the task.

There is evidence that, at times, the Council effluent disposal service had more work than it could carry out at a particular time. The instructions given by Mr. Birch were that people seeking a service should be told when the work could be done and if they were unwilling to wait for the Council tanker, it could be suggested to them that they might seek assistance from a private contractor. Sometimes, the name of Al Sanitation was mentioned in this context; sometimes, the caller was advised to look at the Pink Pages of the telephone directory.

The answer to the question is that employees of the Council have suggested that a private effluent service might be employed but only when the Council service was too busy to undertake the task immediately.

- 7: Item 1 (e) - (i) The first reference by way of complaint about the operation of the effluent service was the receipt by the auditor of the anonymous letter in June, 1973. The fact that the letter had been received means that at least by that date, the nature of it was known to a number of the Council staff. The matter, so far as I can ascertain, was not placed before the Council.

(ii) The first letter from Mr. Arthur Tonkin, was sent to the Council for the questions to be answered. On 3rd September, 1973, the Mayor, Town Clerk, the Deputy Town Clerk, met the Honourable the Minister of Local Government. It is proper to assume that this official approach was conveyed to the Council. The evidence of the Town Clerk is not explicit on this point and he says (at p. 531) that it was brought to the Council's notice, "from memory", during September.

---"The matter was being dealt with by the senior executive staff and the Mayor and Councillors were kept informed personally throughout the various stages as to what was happening --- they were not kept continually informed by official reports." The reports seem to have been made to committee meetings and not to the full Council "but to the Committee meetings when the matters were discussed." (p. 532).

I referred earlier to the reports in the newspapers and I mention them at this point to indicate that the Council was aware of the matter. Obviously, the Council must have been informed during September because on 4th October, the Council's solicitors wrote to Mr. Tonkin requesting an apology. The answer, then to the question, is, at the latest, during September, 1973.

8. Item 1 (f) - The answer to this question is in 3 parts, having regard to the information which the Council had.

(i) The first period is that following the receipt of the anonymous letter. I can understand that information which comes in an anonymous letter to a Council office may not always be regarded in the same way as information which is conveyed in a formal complaint. In this instance, as Mr. Easton says (at p. 529), "--- we did take it seriously." He continues, "With the deputy town clerk, we commenced enquiries to find out what the situation was regarding these allegations."

However, no report was prepared for the Council and the results of the investigations were conveyed to the Town Clerk, verbally. The account I have referred to earlier in this report was sent to the Lingnan Restaurant and Mr. Easton says (at p. 530) "---we were working on the information provided by Mr. Birch as Chief Officer of that Department."

The reason that no report was made to the Council is given (at p. 531) as follows:-

"We regarded it as an administrative matter at that stage to be followed through at administrative level. The Council became aware of the whole situation during September."

(ii) The second period was the meeting with the Minister, the investigation by Mr. Fellowes and the receipt of Mr. Fellowes' report. The Council was informed of these matters. No specific action appears to have been taken at this time.

Then, of course, followed the investigation conducted by Det./Sgt. Crowe and Mr. Fellowes. The Council was aware of this but there is no reference in the minutes because it was considered undesirable that the matter should be made public. Mr. Easton says "---- the job was delegated to Mr. Birch to find out what he could through his department and Mr. Birch was reporting regularly to the Deputy Town Clerk and myself ... the upshot of the thing was that we were not finding anything, we were not getting anywhere. We were much in the same position as Mr. Fellowes was when he made his enquiries. We just didn't have the supporting detail. --- We were at a disadvantage. If we had had the dockets which were in Sgt. Crowe's possession, we could have got somewhere but we just didn't have those dockets. So far as we have been concerned, all the way through, they have been the starting point. Without those, we've been lost."

No action was taken whilst Sgt. Crowe was conducting his investigation - "We did not wish to hinder them." - (p. 535).

(iii) The third period is the period after the 10th January, 1974, when the copy of Sgt. Crowe's report was sent.

After that, the report was sent to Mr. Birch and he was asked to report upon it and the whole situation was reported "formally to Council."

The Council "was concerned at the wide implications of the report." I consider at that stage, if not before, the enquiry should have been made by an officer other than Mr. Birch and preferrably much senior to him.

Statements were made at the Council meeting which were reported in the press and these gave rise to the newspaper heading on 28th February, "City may sue Stubbs."

Mr. Easton says, "I consider we did everything possible that could be done under the circumstances under which we were placed."

I cannot agree with Mr. Easton in that regard. Whether it was felt that the allegations were untrue or whether, because of a strong loyalty to the members of the Council staff, I am not able to say. In my opinion, the allegations should have been fully and thoroughly investigated by the Council as a matter of urgency, at the latest when Det./Sgt. Crowe's report was received.

Indeed, I think the information before the Council required an examination of the operation of the effluent disposal service before that. I am aware of the danger of being wise after the information has been obtained and I hope I can avoid falling into that error. It seems to me that when allegations of a serious nature regarding the operation of a Council service are made, the Council should take active steps to ascertain the truth of the matter. In my opinion, the Council and its staff were remiss in not doing that before Sgt. Crowe was instructed and when it had Sgt. Crowe's report before it, immediate action was required.

9. Item 1 (g) - The answer to this question is clearly in the negative. I consider that there has been inadequate supervision in the conduct of the service which has allowed it to be operated inefficiently and this has resulted in monetary loss to the City of Stirling.

- VII. 1. The question in Part 2 of the Terms of Reference has become of less importance in view of the fact that the Council's effluent disposal service has been substantially reduced. This had been contemplated early in 1973 and has not arisen from the present enquiry. Instead of four tankers with two men employed on each, there is now only one tanker in use. Another vehicle is available for use in an emergency and it is intended that it will be used only in that way.

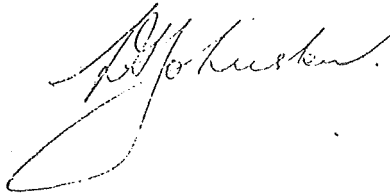
The service is now used only for Council properties and for few commercial premises that need constant and regular servicing.

2. My answer to the question, however, has regard to the management as it has been, for the service may at some time be re-introduced.
- a) It is clear that the service must be supervised with much more vigilance and interest than in the past.
 - b) It must be mandatory that except in a real emergency, no work is done without the issue of an official work ticket and this must be in the possession of the driver before he leaves the depot - indeed, it should be regarded as his authority to take the vehicle out of the yard.
 - c) The supervision should be such that this is constantly watched. The time spent on the tasks and the travelling associated with it, must also be constantly watched lest a driver be disposed to carry out a service for his own benefit.
 - d) Those in authority must take sufficient interest to know what is going on and to have the courage to take appropriate steps to prevent any suggestion of mal-practice being made.
 - e) The nature of the task precludes some steps but I see no reason why several books of the official work tickets should not be readily available in suitable, easily accessible places. The forms are accountable and there is no difficulty in checking several books.

What I have set out in this paragraph amounts to little more than saying that the operation of the service must be properly supervised. I am satisfied that the situation would not have arisen if there had been proper supervision in the past.

I attach a schedule setting out the names, addresses and occupations of the witnesses. In view of the bulky nature of the evidence and the exhibits, these are forwarded under separate cover.

I have the honour to be, Sir, Your Obedient Servant,

A handwritten signature in cursive script, appearing to read "R. P. Houston". The signature is fluid and somewhat stylized, with a large loop at the end.

COMMISSIONER

27/4/74.

List of effluent disposal services carried out in respect of which no account was sent as set out in Exhibit 47.

19/ 7/72	R. Porter	18 Blair St., KARRINYUP
24/ 7/72		30 Albemarle St., SCARBOROUGH
25/ 7/72		1 Villier St., YOKINE
25/ 7/72	K. Caporn	26 Brighton Rd., SCARBOROUGH
9/ 8/72	K.N. Creed	56 Finnerty St., KARRINYUP
15/ 8/72	Mrs. Elder	43 Delphine Ave., DIANELLA
29/ 8/72	J. Lukehurst	36 Wattle St., TUART HILL
14/ 9/72	J.M. Jack	15 York St., TUART HILL
3/10/72	T. Cross	236 Amelia St.,
21/12/72	W. Kingsbury	148 Deanmore Rd., SCARBOROUGH
4/ 5/73	Jim Daglish	Boyce St., NOLLAMARA
<u>Undated Tickets</u>		388 Lennard St., DIANELLA
	B. Steffanoni	5 Fairway West, YOKINE
	Healy	404 Main St., OSBORNE PARK
June, 1972	Berrigan	58 Jackson Ave., KARRINYUP
July, 1972	"	" " "
25/ 5/72	Baddeley	126 Weaponess Rd., SCARBOROUGH
5/8 /72		6 Weydale St., DOUBLEVILLE
15/ 8/72		40 Scarborough Beach Road
25/ 8/72	Baddeley	

26/10/72	Baddeley	
2/11/72	Botica	7 Gayton Place, NORTH BEACH
29/ 1/73		18 Jedda Rd., NOLLAMARA
14/ 4/73		30 Bridgewater Crescent, KARRINYUP
11/ 4/73	Gorton	196 St. Brigids Tce., DOUBLEVIEW
17/ 8/73	J. Williams	21 Arnott St., TRIGG
<u>Undated Tickets</u>		25 Peppering Way, BALGA
	M. J. Dawson	154 Burniston St., SCARBOROUGH
	Ray Pickles	27 Cornell St.

(The list does not include some 30 tickets for the Lingnan Restaurant)

APPENDIX B

Schedule of Witnesses Heard by The Commission

NAME	ADDRESS	OCCUPATION
Baskovich, Joseph	52 Wesley St. TUART HILL	Offsider to Tanker Driver
Birch, Ronald Jack	90 Hertha Rd. OSBORNE PARK	Chief Health Surveyor
Boxall, William James	25 Hardey Rd. MAYLANDS	Leading Hand
Chandler, Kevin William	36 Crocker Way INNALOO	Labourer
Cheuk, Hing Loi	9 Aldersen Rd. DIANELLA	Restaurant Proprietor
Cheuk, Judy (Mrs.)	9 Aldersen Rd. DIANELLA	Restaurant Proprietor
Constantine, Rodney Allen	49 Bondi St. MT. HAWTHORN	Treasurer - City of Stirling
Crowe, Robert Colin	66 Buxton Rd. WEMBLEY DOWNS	Det./Sgt. - C.I.B.
Duffy, Leslie Ernest	29 Burnham Way GIRRAWHEEN	Linesman's Assistant - S.E.C.
Easton, Leonard Arthur	14 Salisbury Ave. SOUTH PERTH	Town Clerk - City of Stirling
Fellowes, Paul	23 Pearson St. FLOREAT PARK	Administrative Officer - Local Government Dept.
Hissey, Alan Edward	20 Westbrook Way E. GIRRAWHEEN	Refuse Collector
Isard, Norman Leslie Graham	233 Wanneroo Rd. TUART HILL	Driver
Lee, Walter John	256 Fisher St. CLOVERDALE	Foreman
Leunig, Harry Bernard	60 Birdwood St. INNALOO	Stores Clerk
Lewis, Kenneth	Flat 1 243 West Coast Hwy. SCARBOROUGH	Truck Driver

<u>NAME</u>	<u>ADDRESS</u>	<u>OCCUPATION</u>
Meier, Hans	32 Hodgson St. JOONDANNA	Truck Driver
Mercer, Jeffrey	1 Boyce Rd. TUART HILL	Cleaner
Newman, Albert William	45 Jedda Road, NOLLAMARA	Snr. Foreman in Health Dept.
Paust, Reginald Clarence	2 Winmarley St. FLOREAT PARK	Secretary for Local Govt.
Pozzi, Raymond	23 Short St. JOONDANNA	Fisherman
Rice, Joseph Gerard	144 Ewen St. DOUBLEVIEW	Master Builder
Rollson, Marchien Elisabeth	45 Jedda Rd. NOLLAMARA	Unemployed
Shearwood, Gordon Russell	147 Wordsworth Ave. YOKINE	Superintendent of Parks & Recreation
Sims, Rodney John	Carnamah	Assistant Shire Clerk
Whitehouse, Archibald John	21 Hayes Ave. YOKINE	Accountant - City of Stirling
Williamson, Robert Bruce	141 Westview St. SCARBOROUGH	Rates Clerk - City of Stirling