

INQUIRY INTO BRITISH NUCLEAR TESTS IN AUSTRALIA BETWEEN 1952-1963

Following consideration by the Government of a Report of an Expert Committee established to review data on atmospheric fallout arising from British nuclear tests in Australia the Government will be recommending to the Governor-General-in-Council the establishment of a Royal Commission to inquire into the British nuclear tests in Australia between 1952 and 1963, including those tests known as the minor trials. The Prime Minister has also written to relevant State Premiers concerning the establishment of the Inquiry preparatory to finalising the Government's recommendation to the Governor-General. Additionally, the Prime Minister has informed the Prime Minister of Great Britain of the Government's intentions and sought her co-operation with the proposed Inquiry.

The Government will be recommending that the Inquiry be headed by Mr Justice J.R. McClelland, Chief Judge of the Land and Environment Court of New South Wales and that there be two other Commissioners: Mrs J Fitch, Senior Health Physicist, South Australian Health Commission and Dr W.J.A. Jonas Ph.D; Lecturer in Geography at the University of Newcastle, NSW.

The Inquiry is being established in the interests of facilitating a full and open disclosure of all relevant facts surrounding these tests.

The attached document sets out the basis for the letters patent for the Royal Commission, currently in preparation and to be recommended to the Governor-General-in-Council. The focus of the Inquiry is to be on measures that were taken for protection of persons against the harmful effects of ionising radiation and the dispersal of radioactive substances and toxic materials as judged against standards applicable at the time and with reference to standards of today. Emphasis will be placed on

those groups or individuals who were closely involved, including Australian service personnel and civilians employed at the test sites and Aborigines and other civilians in the general region of the sites.

The Inquiry will also be asked to consider past and present management of the test and minor trial site areas and although it will be free to make whatever recommendations it chooses in its report, the Inquiry will be specifically requested to report on the future management and use of test site areas.

Five plaintiffs have made claims against the Commonwealth in the courts in relation to the alleged effects of the nuclear tests on their health and I indicated recently that this had caused concern as to whether any public judicial inquiry might give rise to contempt of court considerations. The Government sought an opinion from Sir Maurice Byers QC and in the light of his advice that an Inquiry could be validly established and is unlikely to give rise to contempt of court, the Government has decided that the public interest would be best served by proceeding with the Inquiry.

However, on Sir Maurice Byers' advice, as a matter of prudence the Inquiry will be asked to seek to avoid taking evidence in its public proceedings on matters that bear on particular matters at issue in the common law actions. This may mean that the Inquiry will judge it necessary on occasions to hold certain of its proceedings in private. The Government hopes that in the interests of full public disclosure of the facts, this will not be a frequent event.

The Committee on atmospheric fallout arising from British nuclear tests recommended that the Commonwealth subsume as a national venture a study currently underway by the SA Government, with the financial assistance of the Commonwealth, into the health of Aboriginal people who may have been in the general region of the nuclear weapons test site areas in South Australia. By agreement with the South Australian Government it is intended that the group carrying out that study will continue its work under a consultancy arrangement to the Commonwealth Inquiry.

The Government will be giving further consideration to the other recommendations in the Atmospheric Fallout Committee Report dealing with the establishment of a national repository of documents relating to British nuclear tests and a separate national repository of health data related to the tests.

ROYAL COMMISSION INTO BRITISH NUCLEAR TESTS IN AUSTRALIA BETWEEN 1952 AND 1963

1. The Royal Commission is to inquire into certain aspects of the British nuclear tests, including those tests known as minor trials, that were conducted in Australia between 1952 and 1963. It may be necessary for the Royal Commission to inquire into events that occurred before 1952 and after 1963.
2. The focus of the Royal Commission is to be on the measures that were taken for protection against the harmful effects of exposure to ionising radiation and the dispersal of radioactive substances and toxic materials arising from the tests and minor trials, as judged against standards applicable at the time and with reference to the standards of today.
3. The Inquiry is to look at the effects of exposure to ionising radiation and the dispersal of radioactive substances and toxic materials arising from the tests and minor trials on any persons but with particular reference to Australian service personnel and civilian employees at the test and minor trial sites, Royal Australian Navy personnel in the vicinity of the Monte Bello Island; tests and Royal Australian Air Force personnel, including decontamination teams, involved in atomic cloud sampling and tracking operations, Aborigines and other civilians in the general regions of the test and trial sites.
4. In examining protective measures the Commission is to have particular regard to:
 - (a) management and conduct of the tests and minor trials including the criteria for safe firing of the tests;
 - (b) arrangements to exclude unauthorised persons from prohibited areas; and
 - (c) radiological and other health physics standards and practices.
5. The Commission is also to consider:
 - (a) atmospheric atomic fallout monitoring arrangements;
 - (b) the disposal within Australia of buildings; equipment and materials that were at the test sites; and
 - (c) what steps were and are being taken to manage the test and minor trial sites.

6. To consider and report on any evidence of adverse health effects arising from the nuclear tests and minor trials in respect of any of the persons or groups specified above.
7. The Commission is to make such recommendations as it thinks appropriate including recommendations as to the future management and use of the test and minor trial sites.
8. The Commission should be required to have regard, inter alia, to the documents listed below:
 - (a) Australian Radiation Advisory Council Reports Nos.2 of 1975, 4 of 1979, 5 of 1979, 7 of 1980 and 9 of 1983;
 - (b) Health of Atomic Personnel, Commonwealth Department of Health, 1983;
 - (c) AWRE Report No.0-16/68/Final Report on Residual Radioactive Contamination of the Maralinga Range and Emu Site;
 - (d) Report of an Expert Committee on the Review of Data on Atmospheric Fallout Arising from British Nuclear Tests in Australia, May 1984; and
 - (e) British Atomic Tests in Australia : Chronology of Events: 1950-68, June 1984.
9. The Commission is to be requested to take evidence in private whenever it considers a public hearing may prejudice the rights and litigants or claimants in particular pending actions. The Commission is also to be requested to consider issuing a separate report, with appropriate recommendations whether the report of the

Commission should be published, in respect of particular recommendations or conclusions that may impinge directly on particular matters in issue between the parties in a pending case.

10. The Commission is also to be requested to ensure that any written or oral evidence tendered to it that is drawn from British classified documents not be taken in public or publicly released or referred to in public proceedings of the Commission, without the consent of the British Government, and that the Commission should also consider issuing a separate report, with appropriate recommendations whether the report of the Commission should be published, so as to refer to such material drawn from British classified documents.

11. The Inquiry is to conduct its inquiry as expeditiously and on as informal a basis as possible, and to present its report to the Government as soon as possible and no later than 30 June 1985 unless the Government in the interim chooses to extend the period of the Inquiry beyond that date.