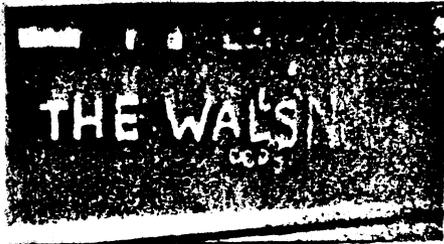




SEIZED



THE WALSH

their receiving the benefit of that doubt.

I can really do no more than repeat my plea of a year ago, for you to make a full review of the case with a view to a possible exercise of the Crown's prerogatives [sic] in the event you are left with a lingering concern that justice may not have been done.

In an earlier letter to Frank Walker, Evans expressed concern that "a serious miscarriage of justice may have occurred". Labor MLA George Petersen also wrote to the NSW Attorney-General, on 20 November 1980, and strongly supported a re-opening of the case with a full inquiry into the evidence. New South Wales Deputy Premier Jack Ferguson and Australian Democrats leader Don Chipp have also written to Walker in the same vein. Other persons to appeal for an inquiry include the parents of the convicted men, who firmly maintain their sons' innocence, and numerous lawyers and journalists familiar with the case. Three aspects of the case are particularly disturbing to those who have followed it closely — namely, the credibility of Richard Seary, the principal Crown witness, the strength of the police evidence, and the prejudicial atmosphere in which the trial was conducted.

Informer, provocateur or fantasy-weaver?

Who was Seary? Seary was a drifter and once a drug taker. This man was employed by the NSW Special Branch to infiltrate the Ananda Marga group, of which the three convicted men were members, specifically to collect evidence that might implicate the sect in the Hilton bombing. He was skilled in undercover work, having spied on the Hare Krishna group in remarkably similar circumstances. He also claimed to be a science fiction and horror story writer, who constructed imaginative worlds of horrible, distorted and fantastic dimensions. He had been in contact with explosives, having worked as an opal miner for a short time.

Unable to produce any evidence tying them to the Hilton bombing after several months with the group, he initiated a plan to produce evidence on a separate count. Nonetheless, the most sensational part of Seary's evidence in court was to relate not to the charges in question, but to conversations in which Paul Alister and Ross Dunn allegedly admitted to the Hilton Hotel bombing. Seary had not reported these conversations to the police until his second record of interview, made a week after the arrests of the men, and it was not until a month after this that he furnished police with precise details. Although Seary was allowed to make these allegations in court, the accused were not allowed to introduce evidence to prove conclusively that they were not responsible for the Hilton bombing. (In fact, no charges have ever been laid for the Hilton bombing, and senior police spokespersons have said that they have no idea who was responsible.)

Many aspects of Seary's evidence that related directly to the charges produced serious doubts which reflected not only on the strength of his own testimony, but also on the police evidence.

The prosecution's other evidence

The prosecution case rested heavily on unsigned records of interview which contained confessions of a conspiracy to murder Cameron. However, all three of the accused strongly and consistently denied in court ever having made an oral statement to this effect and contended, in fact, that they had adopted a policy of not speaking with police unless a legal representative was present.

CONSPIRACY

THE ANANDA MARGA TRIAL: CONSPIRACY OR MISCARRIAGE OF JUSTICE?

On 1 August 1979, Tim Anderson, Paul Alister and Ross Dunn were convicted of conspiracy to murder Robert John Cameron, leader of the extreme right wing organisation, the National Front. Paul Alister and Ross Dunn were also convicted of attempting to murder the four police officers who arrested them. All three were given the extraordinarily severe sentence of 16 years gaol: a non-parole period was not set. An appeal to the NSW Supreme Court was rejected on 23 October 1980.

Growing concern: a miscarriage of justice?

There is an increasing number of people in the community who feel sufficiently concerned about the conduct and outcome of the trial to press for a full review of the case. Amongst these is Federal shadow Attorney-General Gareth Evans, who wrote to NSW Attorney-General Frank Walker, on 22 December 1980, in the following terms:

You are no doubt aware that the New South Wales Supreme Court rejected the Appeal of Messrs. Anderson, Alister and Dunn on 23 October (1980). You are no doubt also aware, however, that the case continues to cause some lingering concern within the legal profession, on the basis that the totality of the hard evidence in issue certainly left some room for reasonable doubt, but that the atmosphere generated during the trial — with references to the possible complicity of the three in the Hilton Hotel bombing — militated against

Furthermore, typewritten notes that admitted Ananda Marga responsibility for the bombing of Robert Cameron were allegedly found in Tim Anderson's possession by the police who came to arrest him in the Ananda Marga household at Newtown on the night of 15 June 1978. Detective Senior Constable Krawczyk, who was Seary's contact in the Special Branch, had already recorded details of these notes four hours before they were found on Anderson. One presumes the constable had been tipped off by Seary, because he knew exactly where to find the notes in the raid. Several weeks before, Seary had got to the typewriter in the house and collected as evidence a ribbon and some typeface samples. It appeared at the trial that the notes had been trimmed down: consequently, no fingerprints were found on them (or, for that matter, on any of the other material evidence such as the gelignite sticks).

The police who made the arrests of Paul Alister and Ross Dunn at Yagoona alleged that Ross Dunn attempted to set off a bomb in the back seat of a car at the time he was arrested. How the bag containing the bomb got into the car in the first place was never conclusively determined by police evidence, since police officers presented conflicting recounts of the identity of the person carrying it. The charge, namely attempted murder of the arresting officers, has been characterized as 'an impossible charge', involving, as it must, a desperate suicide/murder decision to blow up the arresting officers as well as the occupants of the car, including Seary, who was unlikely to have stayed put if he really believed that his life was in danger.

As in Seary's evidence, there were numerous uncertainties and inconsistencies in the police evidence. In his letter, to Frank Walker on 7 December 1979, Senator Gareth Evans described the evidence overall, on which the convictions were obtained, as 'remarkably flimsy'.

The media's hysteria

Another aspect of the case, which may well have prejudiced the outcome, was the sensational and inaccurate media coverage of Seary's allegations, and of the dramatic security arrangements at the court which made the accused appear to be desperate criminals linked with a terrorist network. The media published allegations made by Seary and the police as if they were accepted findings. The national newspaper, *The Australian*, carried the front page headline 'Sect link with Hilton bombing' and the Crown Prosecutor himself gave a cue to the media by painting a grim backdrop of religious fanaticism and political terrorism. The trial is even now referred to as 'the Hilton Bomb Trial', although the men were in fact on trial for the legally subtle crime of conspiracy and not for the Hilton killing.

In his letter to Frank Walker on 7 December 1979 Gareth Evans wrote:

... the atmosphere in which the trial was conducted compounded as it was by reference to possible implicity of the three in the Hilton Hotel bombing - does lend force to the suggestion that the jury's decisions may not have been as reliable as one can normally assume.

Actions or beliefs on trial?

On many occasions, it seemed as if the alleged beliefs of Ananda Marga were on trial rather than the accused themselves. In the first trial, the presiding judge, Nagle J had been careful to avoid the sensationalizing of Ananda Marga, and kept material relating to the sect to a minimum

but in the second trial, the Crown Prosecutor cross-examined the accused at length about the beliefs and practices of Ananda Marga.

In addition, whilst an appeal was pending to the NSW Court of Criminal Appeal, the media carried stories of the Governor-General presenting bravery awards to the four arresting officers at Yagoona, an action which surely contradicts the spirit of a free go embodied in the principle of *sub judice*.

The political dimension of the trial was underlined by Lee J during sentencing:

But conspiracy to murder stemming from political or religious motivations assumes a significance in our community which puts it in a special category. We have in this country been singularly free from acts of terrorism directed at others by ways of protest at their political or religious views or actions, and every right thinking Australian would want it to remain that way. Men who resort to the bomb in an attempt to stifle the views of others who express political and religious viewpoints contrary to their own have no place whatsoever in our community, and little mercy can be shown to them. . . . In my view acts of terrorism of the kind intended by you, carried out by persons who were free from any duress or pressure, constitute an offence of a kind that admits of no mitigation of the penalty by the specification of a non-parole period.

The judge accused the three men of being motivated to commit the crime by their beliefs in Ananda Marga. This opinion was central to his directions but unproven and extraneous to the case. Nevertheless, his view was upheld by the Court of Criminal Appeal when it dismissed the appeal in October 1980.

A security conspiracy?

It is arguable that Ananda Marga has been used as a scapegoat by security forces in Australia and it is widely held that the case of Tim Anderson, Paul Alister and Ross Dunn has served as a means of attributing the Hilton bombing without having to press charges. The Hilton bombing was also the incident which laid the ground for the easy passage of legislation designed to give Australian security forces greatly increased powers of operation, to be exercised under an even greater cloak of secrecy than before. Indeed, even before the new legislation was passed, Seary's ASIO file, subpoenaed in court, was declared privileged governmental material, so that any evidence it may have contained to support that of the three was not considered.

The involvement of ASIO in both the Hilton bombing and the Cameron case has been questioned by concerned members of parliaments and by civil liberties and other groups. And yet it has not been satisfactorily explained to the public. Meanwhile, the three young men are in gaol indefinitely: in only their mid-twenties they will be over 40 years old if they remain in gaol for the full term.

Although an appeal to the High Court is permitted on a point of law, only a full review of the evidence can satisfy the growing concern in the community that a serious miscarriage of justice may have occurred. It is within the power of the NSW Minister for Justice to order such an inquiry.

IRINA DUNN & MARK DIMELow

For support or information, contact:

• Irisa Dunn,
Box 168 Holme Building,
University of Sydney NSW 2006.
(02) 660 1457

• Mark Dimelore,
122 Ridge Street,
Darlinghurst, NSW 2010.
(02) 30 8510

• Nigel Anderson,
(03) 481 2665
(03) 838 0944

