The Parliament of the Commonwealth of Australia

RELEASE OF TYRE SAFETY INQUIRY DOCUMENTS

Report from the House of Representatives
Standing Committeeon Transport, Communications
and Infrastructure

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[1] Replaced Hon N A Brown, QC, MP 1 December 1988
[2] Replaced Mr L B McLeay, MP 20 April 1988

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ATTACHMENTS

1: BACKGROUND

The Reference

1.1 The House of Representatives Standing Committee on Road Safety presented its report, Tyre Safety, to the House on 11 September 1980.[1] The functions of this committee were absorbed into the Standing Committee on Transport Safety, first appointed in February 1985. The Transport Safety Committee was not reappointed in the current Parliament. Instead, its functions were in turn absorbed into the House of Representatives Standing Committee on Transport, Communications and Infrastructure (the Committee).

1.2 Pursuant to the lodgement of a petition announced in the House of Representatives on 30 November 1988, the House referred the following matter to the Committee 'for consideration and advice' on the same day:

> Whether confidential exhibits as referred to in Appendix 9 of the report on tyre safety by the Standing Committee on Road Safety should be presented to the House by the Standing Committee on Transport, Communications and Infrastructure for the purpose of the House granting leave to a petitioner or his or her legal representatives to issue and serve a subpoena for the production of those exhibits to a court.[2]

1.3 The petition and resolution are at Attachment 1. The petition states, amongst other things, that Glen Fearnside is taking action for damages in the Supreme Court of New South Wales against The Goodyear Tyre and Rubber Co. (Aust) Limited for negligence arising out of a motor vehicle accident which it is alleged was caused by a blowout of one of the tyres.

Reasons for Report

1.4 On 15 and 16 December 1988 letters were written to the companies whose submissions were treated as confidential exhibits in the tyre safety report.[3] Each company was informed of the terms of reference of the Committee and asked to advise whether it had any objections to the Committee presenting to the House the submission(s) of that company treated as confidential by the Road Safety Committee. Each company was also asked to specify the nature of its objections (if any).

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[1] Australia, Parliament 1979, *Tyre Safety: Report from the House of Representatives Standing Committee on Road Safety*, Parl. Paper 161/1980, Canberra.

[2] Australia, House of Representatives 1988, *Votes and Proceedings*, p.966.

[3] Because of takeovers and mergers in the tyre industry since 1979 the letters were written to the companies which now control the relevant 1979 enterprises.

1.5 On 2 January 1989 Goodyear replied requesting that confidential exhibits 36 and 39 not be presented to the House as sought by the petitioner. The company said there was no longer a need for the release of the documents because the solicitors for the plaintiff and the solicitors for Goodyear had agreed to an out of court settlement.

1.6 Nevertheless, the Committee is required to report to the House. One option is to report the changed circumstances to the House and seek its guidance on the need for any further report. The Committee has chosen to report on the reference from the House in the following way because it is of the opinion that the reference raises several important matters of principle the House could consider in relation to the release of confidential evidence taken by parliamentary committees.

Reasons for the Reference

1.7 The tyre safety report says its inquiry grew out of concern at controversy regarding the safety of steel-belted tyres for passenger cars. The controversy developed in Australia in late 1978 following publication of a United States congressional sub-committee report on the safety of 'Firestone 500' steel-belted radial tyres..

1.8 The congressional sub-committee concluded that these tyres presented an unquestionable risk of continuing accidents, injuries and deaths to the motoring public and attributed 34 deaths directly to failure of this one brand and design of tyre. Between 1972 and 1978 Firestone replaced some 4.1m tyres, representing 17.5% of production in that period. Increasing public concern about failure of steel-belted tyres in Australia led the Road Safety Committee in May 1979 to conduct an inquiry to determine whether such tyres posed a threat to public safety in Australia.

1.9 Chapter 4, Tyre Failure, is relevant to the Committee consideration on the release of the confidential exhibits. After describing types of tyre failure and their effects the Road Safety Committee was extremely critical of one Australian tyre manufacturer in the section, 'design and manufacturing defects'. These criticisms are made in paragraphs 154 to 157 of the report and these paragraphs are reproduced at Attachment 2.

1.10 In paragraph 155 the committee states that statistical data on claim rates for tyre failures were submitted by the local tyre manufacturers - i.e. Dunlop Automotive and Industrial Group (Dunlop), Goodyear Tyre and Rubber Co Australia, (Goodyear), Olympic Tyre and Rubber Co Pty Ltd (Olympic) and Uniroyal Pty Ltd (Uniroyal). The statistics provided by one manufacturer showed a high claim rate in its initial period of steel-belted radial tyre production. The rate was so high (though still less than that of the 'Firestone 500' in the United States) that the Road Safety Committee believed the manufacturer should have taken some action to protect purchasers of the tyres

produced in that period. Given the high risk of failure, that committee considered that the manufacturer should have recalled the tyres as soon as the magnitude of the problem was evident so that its customers were no longer at risk.[4]

1.11 The conclusion drawn at paragraph 157 of the report is as follows:

> It is concluded that one Australian tyre manufacturer acted irresponsibly in not recalling tyres produced in the initial stages of its steel-belted radial production which, the manufacturer knew, were failing at an unacceptably high rate and were thus placing many people at risk.

1.12 The petition quotes paragraph 157 and says later that in order to conduct the hearing of the claim for damages properly and adequately 'it shall be necessary to adduce evidence tending to show matters such as the identity of the "one Australian tyre manufacturer" which acted irresponsibly in failing to recall tyres'.

1.13 It is clear that production of the confidential exhibits was expected to assist in proving the accuracy of paragraph 157 and in identifying Goodyear as the manufacturer the tyre safety report said acted irresponsibly.

1.14 Subsection 16(4) of the Parliamentary Privileges Act 1987 prevents the admission of the confidential exhibits in court proceedings unless the House gives its permission for this to happen. The subsection states that:

> (4) A court or tribunal shall not -
>
> (a) require to be produced, or admit into evidence, a document that has been prepared for the purpose of submission, and submitted, to a House or a committee and has been directed by a House or a committee to be treated as evidence taken in camera, or admit evidence relating to such a document; or
>
> (b) admit evidence concerning any oral evidence taken by a House or a committee in camera or require to be produced or admit into evidence a document recording or reporting any such oral evidence, unless a House or a committee has published, or authorised the publication of, that document or a report of that oral evidence.

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[4] Parl. Paper 161/1980, pp.xix, and pp.48-51 for paragraphs 1.7 to 1.10.

The Confidential Exhibits

1.15 Appendix 9 of the tyre safety report (the appendix is reproduced as Attachment 3) lists and describes 45 exhibits. Of these 13 are marked as confidential. To these should be added exhibit 26 which, although not identified as confidential in the report, is so identified in the minutes of proceedings of 5 December 1979 of the Road Safety Committee.

1.16 The key exhibits are 44 (Dunlop), 47 (Olympic), 48 (Uniroyal) and 49 (Goodyear) because these are the **only** exhibits which contain the statistics that could identify the irresponsible Australian manufacturer the tyre safety report refers to but does not name. These statistics were supplied in response to letters of 27 March 1980 from the chairman of the Road Safety Committee (Hon R C Katter, MP) to the 4 Australian tyre manufacturers. The letters said that the 'statistics supplied in your response will be treated as confidential'. A copy of the letter is at Attachment 4.

Structure of Report

1.17 On 13 December 1988 Snedden, Hall and Gallop, a Canberra firm of barristers and solicitors, wrote to the Committee Chairman (Mr J Saunderson, MP) saying that its principals wished to confine the request for release of confidential documents to those documents forming exhibits 36 and 49. These are the Goodyear exhibits. The Committee has received its reference from the House and unless the House changes the terms of that reference the Committee cannot restrict its advice to exhibits 36 and 39.

1.18 In this report the Committee will concentrate its attention on key exhibits 44,47,48 and 49. This is because they are the only exhibits relevant to the court case because they were the **only** exhibits that contain the statistical information on which paragraph 157 of the tyre safety report could be based. Further, they were the only exhibits for which the prior undertaking of confidentiality was given and were brought into existence solely for the purpose of the tyre safety inquiry but this could also apply to some of the other exhibits.

2: MATTERS FOR CONSIDERATION AND ADVICE

Identification of Issues: General Propositions

2.19 The question the Committee has been asked to consider and provide advice to the House about is whether the confidential exhibits so described in Appendix 9 of the tyre safety report should be presented to the House by the Committee for the purpose of the documents subsequently being produced in a court. This requires weighing up the disadvantages of releasing the documents with consequential adverse effects on parliamentary committees with the advantages as they affect the interests of justice.

2.20 The release to the courts for their use of documents submitted to a parliamentary committee on a confidential basis or evidence taken by a committee is tied closely to the protection of witnesses. Standing Order 362 of the House of Representatives states that:

> All witnesses examined before the House, or any committee thereof, are entitled to the protection of the House in respect of anything that may be said by them in their evidence.

2.21 **The basic reason why protection is afforded to witnesses is for greater effectiveness in the working of parliamentary committees.**[5] People with a full knowledge that whatever they say or present will not be used against them open their minds freely and could even disclose something prejudicial to their own interests.[6] This protection is given by taking evidence in camera and treating documents as confidential. *House of Representatives Practice* gives reasons for taking evidence in camera (it also says the reasons apply equally to requests for not publishing documents). Evidence which committees could take in camera and not publish because of adverse effects on the witness include evidence which might incriminate the witness, classified material and evidence which may bring advantage to a witnesses' prospective adversary in litigation.

2.22 With reference to the last example *House of Representatives Practice* states that witnesses could be disadvantaged by having details of their cases made known to adversaries or by informing adversaries of the existence of certain evidence beneficial to their cases.[7]

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[5] Australia, Senate 1988, *Debates*, p.4412.

[6] From a judgement in a Western Australian Full Supreme Court case relating to the admissability in court of evidence given before a parliamentary committee. Quoted in Odgers, *Australian Senate Practice* (5th edition) Canberra, p.566.

[7] Australia, Parliament 1981, *House of Representatives Practice (ed. J A Pettifer)*, Canberra, p.637.

2.23 The Committee advances the following propositions:

- **there is a strong presumption that evidence taken in camera or documents treated as confidential by parliamentary committees should not be released and**

- **this presumption is related to the effectiveness in the working of parliamentary committees.**

2.24 The presumption that documents treated as confidential by a committee should not be released is aimed at protecting witnesses. The presumption is weakened to a considerable extent if witnesses consent to the release of in camera evidence or confidential documents. This is a prerequisite for release for committees appointed under statute.[8] If witnesses themselves actively seek or consent to the release of these documents then, the question of protection of witnesses is of very much less importance. This was the view in the report from the House of Representatives Standing Committee on Aboriginal Affairs (the AAC).[9] The House sought the AAC's advice on whether documents tendered to it during the AAC inquiry into the effects of asbestos mining on the Baryulgil community, should be released so that they could be produced in a court.

2.25 The AAC reported on 25 November 1986. After receiving advice from the Attorney-General, the AAC recommended that the documents be released so that they could be produced in a court. Three reasons were given for the recommendation. First, because the witnesses who presented the documents have consented to their release, the report said the protection of the witnesses does not affect a decision to release the documents. Second, there was a significant public interest in the documents being available for use in the courts and third there were no other impediments to the release of the documents in the issues the committee considered.[10]

2.26 It follows then that in these circumstances the effective working of parliamentary committees is not impaired. It is nevertheless possible that there could be certain situations where release of in camera evidence or confidential documents should not be granted even if witnesses consent to their release. The Committee advances the following further propositions:

- **unless there are good reasons to the contrary**

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[8] See for example subsection 11(3) *Public Accounts Committee Act 1951* and subsection 23(4) *Public Works Committee Act 1969*.

[9] Australia, Parliament 1986, *Certain documents tendered to the Committee during the Baryulgil Community Inquiry: Report from the House of Representatives Standing Committee on Aboriginal Affairs*, Parl. Paper 355/1986, Canberra.

[10] Parl. Paper 355/1986, p.13.

- **the release of confidential documents when sought or consented to by witnesses does not prejudice the protection of witnesses and**

- **therefore does not affect adversely the effective working of parliamentary committees.**

Identification of Issues: The Tyre Safety Inquiry Documents

2.27 The first proposition advanced by the Committee, that there should be a strong presumption that confidentiality when given should not be taken away at a later date, holds for this inquiry. The second proposition does not, because the tyre manufacturers have objected to the release of their confidential exhibits.

2.28 Goodyear asked for the maintenance of confidentiality because the out of court settlement made it unnecessary for the documents to be produced in a court. Bridgestone Australia Ltd, which has taken over Uniroyal, objected to release because the exhibits contain claim records which it considered to be highly sensitive and which were presented as confidential submissions and on the basis that they would not be released to third parties. Pacific Dunlop Ltd (Pacific Dunlop), on behalf of Dunlop and Olympic advanced three reasons against the release of the confidential exhibits the two companies presented to the Road Safety Committee. First, it said that the exhibits could not be used in court proceedings because such uses would be contrary to paragraphs 16(3) (a) and (c) of the *Parliamentary Privileges Act 1987*. Second, Pacific Dunlop says the Dunlop and Olympic exhibits probably would not be admissible because they would not be material to the plaintiff's claim which is against Goodyear. Pacific Dunlop finally say the confidential material was submitted on the understanding that the material would be treated as evidence taken in camera and if this information is made available for subpoena, 'public confidence and trust in the standards of confidentiality kept by the House and its Committees would be seriously, if not irretrievably, eroded'. The letters from Goodyear, Bridgestone Australia Ltd and Pacific Dunlop are at Attachment 5.

2.29 There are two other disadvantages associated with the release of confidential exhibit numbers 44,47,48 and 49. The first is referred to by Pacific Dunlop, namely that the 27 March 1980 letter from the chairman of the Road Safety Committee promised confidentiality as a pre-condition for receiving the statistical information.

2.30 The second and related matter is that the documents were brought into existence solely for the purpose of the tyre safety inquiry. The information in the exhibits complies closely to the information sought in the March 1980 letter.

2.31 On the other side of the scale is the interests of justice, the view that the plaintiffs case would be assisted and expedited if the confidential exhibits were released.

2.32 The Committee believes that confidential exhibits numbers 44 and 47-49 may assist in identifying the one Australian tyre manufacturer the tyre safety report said acted irresponsibly. In other words, these exhibits could go to the heart of court proceedings for damages against Goodyear. This was the case too with Baryulgil[11] but unlike Baryulgil there could be other means of obtaining the relevant information.

2.33 Although the exhibits are confidential it is clear that the statistics in the exhibits were extracted from information already held by the manufacturers. The period covered by each manufacturer is not identical and ranges from 1974 or later through to 1979. The relevant statistics supplied by Goodyear could be obtained by the use of court procedures, for example, subpoena of documents or discovery of documents.[12] Discovery of relevant statistics held by Goodyear would assist the plaintiff to prove, if the statistics permitted such proof, that Goodyear had, and knew it had, a high claim rate in its initial period of steel-belted radial tyre production.

2.34 The Committee believes that in the matters before it the interests of justice may be served by normal court procedures. It would be unusual for the tyre manufacturers not to keep statistics on production, tyre claims and so forth, and it is only in such circumstances that the House should be approached for the release of confidential documents. Put in another way, one should ask what the position would have been had there been no parliamentary inquiry.

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[11] Parl. Paper 355/1986, p.57.

[12] This pre-trial procedure available to both parties in a civil proceedings case enables either of them to compel the other to furnish a list of documents in their possession.

3: ADVICE TO THE HOUSE

Conclusions

3.35 The Committee has to weigh the value of protecting the evidence of witnesses against the interests of justice. The arguments for each side of the scale has been put forward in preceding paragraphs.

3.36 The starting point in the weighing up process is the strong presumption that confidentiality of evidence, when once given, will be preserved. Unlike the Baryulgil case, this presumption has not been affected by witnesses consenting to the release of confidential documents. In fact, and once again unlike the Baryulgil case, this presumption has been strengthened, considerably by the prior undertaking of confidentiality given to the Australian tyre manufacturers in respect of key exhibit numbers 44,47,48 and 49; and the fact that these exhibits were brought into existence solely for the purpose of the tyre safety inquiry.

3.37 This set of circumstances constitute a very strong case for the preservation of the confidentiality of key exhibit numbers 44,47,48 and 49. When confidentiality is requested and then given, and even more so when it is promised in advance and thus becomes a pre-condition for receiving information, a 'contract' has been entered into between a committee and the provider of the information. Such a contract is not enforceable legally. The Committee holds firmly to the view that the House has a strong moral obligation to protect such a contract.

3.38 Not to do so, by authorising release of these documents for use in a court, could seriously impair the future effectiveness of the working of parliamentary committees because witnesses could refuse to be forthcoming in what they say or provide, knowing full well that they could be disadvantaged in court proceedings by release of evidence. What is more the word of the Parliament could amount to nought and the integrity of the institution could be called into question.

3.39 Against this the other side of the scale is the interests of justice. The argument is that the plaintiff's case would be assisted and expedited and the hearing of the claim would be properly and adequately conducted if the confidential exhibits, (and particularly key exhibit numbers 44,47,48 and 49), were released for use in a court.

3.40 Reference has already been made to the discovery of documents in court proceedings. In respect of exhibit numbers 44,47,48 and 49 the Committee concludes as follows:

- **the circumstances of the tyre safety inquiry case constitute a very strong presumption that the confidentiality of key exhibit numbers 44,47,48 and 49 should be preserved and this outweighs considerably the interests of justice**

  - **which are insubstantial if court procedures can discover the statistics on which exhibit 49 (Goodyear) were based and**

  - **notwithstanding the absence of discovery of statistics on which exhibit 49 (Goodyear) were based.**

3.41 So far the analysis has dealt only with the key (4) exhibits. The reference from the House asked for the advice of the committee on all confidential exhibits. Principles have been enunciated in respect of protecting confidentiality (see paragraph 2.8) but with the exception of exhibit 36 there is no interest of justice to weigh against because of a request from the solicitors for the plaintiff that the request for release of confidential exhibits be restricted to exhibits 36 and 49 (see paragraph 1.17). In respect of exhibit 36 the Committee finds that the benefits of preserving confidentiality outweigh any interests of justice.

Advice to the House

3.42 The Committee advises the House that:

(a) **the confidential exhibits as referred to in Appendix 9 of the report on tyre safety by the Standing Committee on Road Safety should not be presented to the House by the Committee for the purpose of the House granting leave to a petitioner or his or her legal representatives to issue and serve a subpoena for the production of those exhibits to a court and**

(b) **in similar references the House should ask the relevant committee when making its decisions to take into consideration the concepts and propositions enunciated by the Committee in this report.**

JOHN SAUNDERSON
Chairman
6 March 1989

[P R O O F]

COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES

HOUSE OF REPRESENTATIVES

Daily Hansard

WEDNESDAY, 30 NOVEMBER 1988

CORRECTIONS TO PROOF ISSUE

This is a Proof Issue. Corrections that honourable members suggest for the Weekly Issue and the Bound Volumes should be lodged with the office of the Principal Parliamentary Reporter as soon possible but not later than Wednesday, 14 December 1988.

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES
CANBERRA 1988

HR 35.1.97

is now one-quarter of average weekly earnings. This Government has achieved structural adjustment. It has repaired the balance of payments deficit from 6 per cent of gross domestic product to around 3 per cent in this forthcoming year. We have dramatically improved living standards for the Australian people. The Opposition has enunciated no policies. It has no prospect of election at the next general election.

Mr DEPUTY SPEAKER (Mr Leo McLeay)—Order! The debate is concluded.

PETITION

Records of the Parliament: Court Proceedings

Mr BEAZLEY (Swan—Leader of the House)—I ask for leave of the House to permit the Clerk to announce a petition lodged by the honourable member for Parkes (Mr Cobb) from Snedden, Hall and Gallop, barristers and solicitors.

Leave granted.

The Clerk—The following petition has been presented—To the Honourable The Speaker and Members of the House of Representatives of the Commonwealth of Australia in Parliament assembled.

The humble petition of the undersigned Snedden Hall and Gallop of 4th Floor Law Society Building 11 London Circuit Canberra City in the Australian Capital Territory Respectfully showeth:

1. Your petitioner is a firm of solicitors acting as agents for Messrs Burke and Burke solicitors of 21 Forbes Street Trundle in the State of New South Wales on behalf of Glenn Fearnside in an action for damages for negligence commenced in the Supreme Court of New South Wales against The Goodyear Tyre and Rubber Co. (Aust.) Limited as first defendant and N. W. Aghan as second defendant. The said action has been set down for hearing in the Supreme Court of New South Wales Central West Registry No. CW212 of 1985 commencing the fifteenth day of December 1988.
2. The said Glenn Fearnside is claiming damages for negligence arising out of a motor vehicle accident which it is alleged was caused by the blowout of one of the tyres upon the motor vehicle driven by Glenn Fearnside at the time of the accident.
3. The House of Representatives Standing Committee on road safety, hereinafter referred to as "the committee" enquired into tyre safety as a result of which the committee produced the report of June 1980.
4. The Chairman of the committee was The Honourable R. C. Katter MP.
5. The report of the committee was published by the Australian Government Publishing Service and made available in bound form. On page 51 of that report in paragraph numbered 157 the committee concluded as follows: "It is concluded that one Australian tyre manufacturer acted irresponsibly in not recalling tyres produced in the initial stages of its steel belted radial production which, the manufacturer knew, were failing at an unacceptably high rate and were thus placing many people at risk".
6. During the hearings the committee received certain evidence from numerous parties both individual and otherwise. Among the evidence received were various letters, statistics reports, transcripts and associated documents as well as "exhibits" specified in appendix 9 appearing on pages 100-106 inclusive of the report of the committee.
7. Certain of the said exhibits appearing in the appendix 9 of the report of the committee were marked with an asterisk as "confidential" and in particular certain documents prepared by or on behalf of, and submitted by Goodyear Tyr and Rubber Co. (Aust.) Limited.
8. In order to properly and adequately conduct the hearing of the claim by Glenn Fearnside it shall be necessary to adduce evidence tending to show matters such as the identity of the "one Australian tyre manufacturer" which acted irresponsibly in failing to recall tyres. Evidence relating to such matters is to be found in the transcript of proceedings of the committee, including oral evidence taken by the committee and all documents tendered as "exhibits" and

appearing in appendix 9 of the report of the committee.

9. The conduct of the said proceedings would be assisted and expedited if the plaintiff could call on the evidence which has been tendered to the committee.

10. Your petitioner therefore humbly prays that this Honourable House will publish or authorise the publication of the transcript of all proceedings of the committee inclusive of the transcript of all oral evidence taken by the committee and all documents tendered or presented by each and every party appearing and giving evidence before the committee or otherwise and in particular all "exhibits" as referred to in appendix 9 of the report of the committee.

11. Your petitioner further humbly prays that this Honourable House:

(a) Will grant leave to your Petitioner to take possession of all documents of any nature referred to in paragraph 10 aforesaid including all reports of oral evidence to the committee and to permit the production and admission into evidence of any or all of such documents referred to in paragraph 10 aforesaid as well as any and all oral evidence taken by the committee of and incidental to the enquiry of the committee.

and

(b) Will grant leave to an appropriate Officer or Officers of the House to attend in Court as and when necessary to produce the official report of the House of Representatives Standing Committee on road safety June 1980 titled "Tyre Safety" and the full transcript of the proceedings of the committee resulting in the preparation of the report of the committee inclusive of all "exhibits" referred to in appendix 9 of the report of the committee and to give evidence in relation to the conduct of the inquiry which led to that report, providing that such Officer or Officers should not be required to attend at any time which would prevent the performance of his, her or their duties in the Parliament.

Dated the 29th day of November 1988.

Snedden Hall & Gallop

Barristers & Solicitors

And your Petitioner, as in duty bound, will ever pray.

Mr **BEAZLEY** (Swan—Leader of the House) (3.50)—by leave—I move:

(1) that this House grants leave to Snedden, Hall and Gallop to issue a subpoena for the production in court of the published records of all proceedings and the report of the House of Representatives Standing Committee on Road Safety in its inquiry into tyre safety;

(2) that this House grants leave to an appropriate officer or officers of the House to attend in court and produce the said records and the official report of the committee, provided that such an officer or officers shall not be required to attend at any time which would prevent the performance of their duties in the Parliament; and

(3) that the following matter be referred to the Standing Committee on Transport, Communications and Infrastructure for consideration and advice to the House: Whether confidential exhibits as referred to in Appendix 9 of the report on tyre safety by the Standing Committee on Road Safety should be presented to the House by the Standing Committee on Transport, Communications and Infrastructure for the purpose of the House granting leave to a petitioner or his or her legal representatives to issue and serve a subpoena for the production of those exhibits to a court.

This motion seeks to give leave for the issue of a subpoena for the production in court of the published records of proceedings and the report of the House of Representatives Standing Committee on Road Safety in its inquiry into tyre safety and for the attendance of an appropriate officer or officers in court to produce the documents.

Whilst it is held in some quarters that leave of the House is not required for the production of certain parliamentary documents in court, the House has not made a decision to discontinue the practice. Honourable members may recall that a resolution on this matter was presented in draft form as part of the package of resolutions to complete the implementation of the recommendations of the Joint Select Committee on Parliamentary Privilege. I emphasise that the

use to which such parliamentary material may be put in any court or tribunal is strictly governed by section 16 of the Parliamentary Privileges Act 1987. The present motion does not affect the actual use which may be made of the documents but is limited merely to the question of permitting subpoenas to be served for their production in court.

The final part of the motion proposes that the question of the possible release of confidential exhibits, which has also been sought, should be referred to the Standing Committee on Transport, Communications and Infrastructure. The documents in question, I understand, have never been presented to the House and, there now being no Road Safety Committee or Transport Safety Committee, it is appropriate that the Transport, Communications and Infrastructure Committee, being the Committee which now encompasses the area covered by the Road Safety Committee, should consider this question.

I understand that the documents in question are desired for use in a case scheduled for mid-December. In these circumstances it was considered that as far as practicable this matter should not wait until the sittings resume on 28 February. I commend the motion to the House.

Mr FIFE (Hume) (3.53)—The Opposition supports the motion that has been moved by the Leader of the House (Mr Beazley). In so doing, and particularly in reference to the last comments made by the Leader of the House, could I perhaps, through you Mr Deputy Speaker, seek an indication from the Leader of the House whether it is intended that the Committee on Transport, Communications and Infrastructure might meet and report back to the House tomorrow? I think some attempt will be made for the Committee to meet, and I would like to commend the Leader of the House for moving the motion in the way he has. The House really needs to have advice from the Committee before it can consider the last part of the request that is contained in the petition.

Question resolved in the affirmative.

BROADCASTING (OWNERSHIP AND CONTROL) BILL (No. 2) 1988

Bill presented by Mr Willis, and read a first time.

Second Reading

Mr WILLIS (Gellibrand—Minister for Transport and Communications) (3.54)—I move:

That the Bill be now read a second time.

The purpose of this Bill is to clarify and refine the technical operation of 'grandfathering' and related provisions in the Broadcasting Act 1942. The relevant provisions were introduced by the Broadcasting (Ownership and Control) Act 1988. The Broadcasting (Ownership and Control) Act introduced new radio and cross-media ownership and control limits in the Broadcasting Act. Relevant prescribed interests or directorships held before 29 October 1987 were protected, or 'grandfathered', from the operation of the new media ownership limits. The then Minister for Transport and Communications, Senator Gareth Evans, had announced the Government's intention to introduce these new limits on 28 October 1987. In addition to these 'retrospective' grandfathering rules for interests held before the date of announcement, the Broadcasting (Ownership and Control) Act introduced 'prospective' grandfathering rules. These rules provide protection where relevant radio, television or cross-media limits are breached because of minor changes in the service areas of commercial radio or television stations or because of changes in census count population figures within relevant service areas.

This Bill improves the technical operation of the grandfathering and related provisions introduced by the Broadcasting (Ownership and Control) Act. A detailed outline of the amendments is provided in the explanatory memorandum to the Bill. The amendments are of a minor, technical nature and involve no change in the Government's policy toward the grandfathering of relevant interests. In essence, that policy is to protect legitimate interests acquired before the date of Government announcement or where they were acquired after that date but only breach relevant ownership and control limits because of minor changes in service area populations.

The Bill will also allow the Minister to delegate his or her powers to make determinations for the purposes of relevant *Commonwealth of Australia Gazette* notices that

PARAGRAPHS 154 - 157 OF THE TYRE SAFETY REPORT

154. The Committee notes claims by the Australian manufacturers, to some extent supported by independent evidence, that they have followed liberal adjustment policies. However, this may be changing. One manufacturer, for example, reduced adjustments by 35% in 1979 by subjecting claims to more thorough investigation. This figure is consistent with evidence provided by another manufacturer. It is doubtful whether manufacturers were motivated only by goodwill and by a sense of responsibility towards consumers. Liberal adjustment policies might well have been intended to minimise public controversy.

155. Statistical data on claim rates for tyre failures were submitted by the local tyre manufacturers. The statistics provided by one manufacturer showed a high claim rate in its initial period of steel-belted radial tyre production. The rate was so high (though still less than that of the 'Firestone 500' in the United States) that the Committee believes the manufacturer should have taken some action to protect purchasers of the tyres produced in that period. At the least those purchasers should have been warned of the high failure rate and advised of appropriate precautions, either by letter or, if that were not possible, by notices in the press. A more appropriate response would have been to recall the tyres concerned either totally or from areas where the failure rate was high (as one other local manufacturer did). No such action was taken. It was not sufficient for the manufacturer to pursue a liberal policy of replacing tyres after they had failed. Given the relatively high risk of failure of its tyres the manufacturer should have recalled the tyres as soon as the magnitude of the problem was evident so that its customers were no longer at risk.

156. The Committee is convinced that under any system of mandatory recall of unsafe products this manufacturer would have been required to recall the steel-belted radial tyres produced in this initial production stage. (The desirability of a mandatory recall system is discussed in Chapter 6.)

157. It is concluded that one Australian tyre manufacturer acted irresponsibly in not recalling tyres produced in the initial stages of its steel-belted radial production which, the manufacturer knew, were failing at an unacceptably high rate and were thus placing many people at risk.

APPENDIX 9 OF THE TYRE SAFETY REPORT

EXHIBITS

* Exhibit No.	Description
1	Mullers Tyre Distributors Pty Ltd. Document entitled: Uniroyal. Recommended Tyre Pressure for Radial Tyres.
2	Fletcher's Tyre Service. Attachments to submission: . Correspondence with Standards Association of Australia. . Tuckey, 'Wheels', June Volume 51, No. 1. . Delivery Advice by the Olympic Tyre & Rubber Co. Pty Ltd. . Newspaper clipping. . Pamphlets: The Truth about Tyre Truing, Repco; How Good Are Steels? Dunlop.
3	Mr B.L. Austin. Attachments to submission: . photographs of damaged tyres. . receipt from the Olympic Tyre and Rubber Co Pty Ltd. for "Ford Validated" tyres. . submission by Fletcher's Tyre Service.
4	Mr B.L. Austin. Correspondence tabled by Mr Austin.
5	Brisbane Tyre Service Pty Ltd. Clippings from Tyres & Accessories, June 1979: . 'City and Guilds Examination For Retreaders'. . 'Tyre Industry Under Fire in Australia'. . 'There's No Need For You To Be As Ignorant As These . . . . . '.

* Exhibits marked with an asterisk are confidential.

6 Department of Business and Consumer Affairs. Attachments to submission:

- New Pneumatic Passenger Car Tyres.
- New Pneumatic Highway Tyres (Other than Passenger Car Tyres).
- Retreaded Pneumatic Passenger Car Tyres.
- Queensland Traffic Regulations.
- Extract from Consumer Reports, April 1979.
- Federal Motor Vehicle Safety Standards under the National Traffic Motor Vehicle Safety Act 1966.
- Canadian Regulations.

7 Bob Jane Corporation Pty Ltd. Attachments to Corporation's submissions:

- Newspaper and magazine clippings, pamphlets and news release concerning tyre safety.
- Extracts from following publications:
  - The Physics of Tyre Traction - Theory and Experiment
  - The Performance and Failure of Car Tyres
- Choice report on tests completed in 1978.
- Transcript of radio interview.
- Extract from report received from Kleber, France.
- Letter from Kleber (Australia) Pty Ltd to Mr R. Jane.
- Graphs contained in document entitled: Summary of Kleber Check on Inflation.

8 Department of Business and Consumer Affairs. Documents entitled:

- Forewarnings of Fatal Flaws, Time, 25 June 1979.

- Firestone 500's Not The Only Problem Says Repair Shop Owner, Consumer Union News Digest, 1 March 1979.

9 R.V.B. Limited. Document entitled: Tyre Pressure Gauges.

10 Australian Automobile Chamber of Commerce. Paragraphs 2.2 and 2.6 and the Appendix to the Chamber's submission.

11 Australian Tyre Dealers Association. Document entitled VACC Training Within Industry: Tyre Serviceman Training Course.

12 General Motors - Holden's Limited. Photographs illustrating GM-H tyre testing activities.

13 Professore P.N. Joubert. The following reports:

- Tyre Safety Performance Characteristics: Review And Recommendations For Research, P.F. Sweatman and P.N. Joubert, Vehicle Research Group, University of Melbourne, May 1976 (Report VR 1).

- Collisions With Utility Poles, J.C. Fox, M.C. Good, P.N. Joubert, Department of Mechanical Engineering, University of Melbourne, (Report CR 1) February 1979.

- Collisions With Utility Poles Summary Report, J.C. Fox, M.C. Good, P.N. Joubert, Department of Mechanical Engineering, University of Melbourne (Report CR 2) February 1979.

14 Bridgestone Tire Co. Ltd. Submission, dated 20 July 1979.

15 Yokohama Rubber Co. Ltd. Japan. Document entitled: 1975 Safety Standards For Automobile Tires (Quality Standards Edition), Japan Automobile Tire Manufacturers' Association, Inc.

16 NSW Department of Public Works. Photographs of failed tyres.

17 Lismore Tyre Company. Photographs of failed tyres.

18 Police Association of New South Wales. Document entitled. Report on an investigation of the high speed hazards of steel belted radial tires on police patrol cars. Jared J. Collard. U.S. National Bureau of Standards. June 1977.

19 Mr J. Tingle. Attachment to submission and correspondence tabled by Mr Tingle.

20 Standards Association of Australia. Copies of Australian Standards 1973-1976, 2230-1979 and D31-1973 and the following documents:

- The Australian Standards Mark, what it is, what it means, the advantages it offers.
- Standards Assocation of Australia, What it is and What it does.
- Standards Association of Australia, its status and activities.

21 Commercial Vehicle Industry Association of Australia. Document entitled: Tire Stocks: Protecting a major investment.

22 Australian Tyre Manufacturers' Association. The following documents:

- Tyre Care and Safety - Australian Tyre Manufacturers Association Booklet 1975.
- Building a Tyre - Dunlop (UK) Education Section.
- Safety Rules In Tyre Care - Australian Tyre Manufacturers Assocation Wall Chart, 1979.
- An Invitation to Become a Member of the Tyre and Rim Association of Australia.

23 Dunlop Automotive and Industrial Group. Various documents for public education on tyres.

* 24 Dunlop Automotive and Industrial Group. Pages of submission containing confidential information.

* Exhibits marked with an asterisk are confidential.

25 Bureau of Consumer Affairs, Western Australia. Document entitled: The Big Firestone 500 Recall - What Was Wrong With The Firestone Radial Tire, And What You Can Do If You Were Among The Stung.

26 Uniroyal Pty Ltd. Submission dated 27 November 1979 and sections of the submission dated 17 September 1979, entitled 'Tyre Engineering and Design' and 'Tyre Safety'.

27 Uniroyal Pty Ltd. Various documents for public education on tyres.

28 Brisbane Tyre Service. Correspondence concerning tyre fitters' training.

29 Bandag Manufacturing Pty Ltd. Correspondence concerning common age code branding, USA tyre grade labelling, and US motor vehicle safety standard on retreading.

30 Australian Automobile Association. Correspondence containing results of tyre pressure surveys in various States.

31 Australian Automobile Chamber of Commerce. Correspondence concerning training on tyre fitment.

32 Australian Consumers' Association. Correspondence concerning the adequacy of Australian Design Rules 20 and 23, and complaints received on steel-belted radials.

33 A Brief Study of Steel-Belted Radial Passenger Car Tyre Failures for New South Wales Department of Motor Transport Traffic Accident Research Unit. Report prepared by Layton Tyre Management, dated November 1979.

34 National Roads and Motorists' Association (NRMA). Correspondence concerning a tyre inflation pressure survey.

*35 Dunlop Automotive and Industrial Group. Correspondence containing tyre claims statistics.

*36 Correspondence from Goodyear Tyre and Rubber Co. (Australia) Limited concerning:

- production statistics and claim rates;
- non-uniformity limits;
- improvements to Goodyear tyres;
- tests on non-uniformity, underinflation, and high speed, and their effect on tyre endurance.

*37 Olympic Tyre and Rubber Co. Pty Ltd. Correspondence concerning production levels, claim rates and limits on non-uniformity.

*38 Chrysler (Australia). Correspondence concerning specifications for radial force variations.

*39 Uniroyal Pty Ltd. Correspondence concerning:

- tests on non-uniformity and underinflation and their effects on tyre endurance;
- adjustment rates;
- improvements to Uniroyal tyres.

*40 Kleber, Branche Pneumatiques, France. Submission.

*41 Sumitomo Rubber Industries, Ltd. Claim rate statistics.

42 Steel-Belted Radial Ply Passenger Car Tyres: An Enquiry into Alleged Failures, Report by Traffic Accident Research Unit, dated November 1979.

43 Report on Enquiries Made Concerning the Safety of Steel-Belted Radial Tyres, Department of Transport, dated January 1980.

*44 Dunlop Automotive and Industrial Group. Correspondence concerning claim rate statistics.

45 National Roads and Motorists' Association (NRMA). Report on a survey of the accuracy of tyre pressure gauges at Sydney service stations.

46	Department of Transport. Correspondence concerning measures taken by tyre manufacturers to reduce the sensitivity of their products to underinflation.
*47	Olympic Tyre and Rubber Co. Pty Ltd. Claim rate statistics.
*48	Uniroyal Pty Ltd. Claim rate statistics.
*49	Goodyear Tyre and Rubber Co. (Australia) Limited. Claim rate statistics.

ATTACHMENT 4

27 March 1980

Dear

In the course of the Committee's inquiry into Tyre Safety you have provided statistical data on tyre claims and/or adjustments. It is now clear that more detailed data are needed to enable the Committee to reach firm conclusions on some matters.

... The additional data required are outlined in the attachment. The data are of a kind which the Committee would expect any tyre manufacturer to maintain as a basis for ensuring that any significant defect problems are quickly identified. Should you not maintain these statistics would you please indicate, in precise terms, what statistical data are used for this purpose, and why it is considered unnecessary to collect and maintain the data outlined in the attachment. In addition, would you please provide the data which are used, in the depth and breadth implicit in the data sought in the attachment.

The statistics supplied in your response will be treated as confidential.

It would assist the Committee if you could send your reply by 16 April 1980 to the Clerk to this Committee Mr W. Mutton, at Parliament House, Canberra.

Yours sincerely,

MR. R. C. KATTER M.P.

(R.C. KATTER)
Chairman

ATTACHMENT

DATA REQUIRED

For each half-yearly production period since production of steel radials began list:

(1) the total number of claims to date (regardless of when the claim was subsequently made)

(2) the projected total number of claims which will be achieved at the termination of the service life

(3) the total number of tyres produced

(4) the claim rate and projected claim rates* calculated from (1) and (3) and (2) and (3) above, i.e. claims expressed as a percentage of the number of tyres produced in each period.

The data should be particularised by geographical area. If no more precise data are available, the data could be provided in terms of States and Territories. The data should also be particularised for tyre size. It will be sufficient if the data are provided for two groups of sizes:

(1) tyres of size designation 185 R14/ER78/14 and greater; and

(2) other sizes.

The claim rates should be particularised by basis of claim. The following break-up should be provided if statistics are available: separations, carcass break-up, non-uniformity, and others. If these particular break-ups are not available the nearest available equivalent should be used.

*A detailed description of the method of estimating the projected claim rate should be provided.

RESPONSES FROM GOODYEAR, BRIDGESTONE AUSTRALIA AND PACIFIC DUNLOP ON THE RELEASE OF THEIR CONFIDENTIAL EXHIBITS

GOODYEAR

GOODYEAR AUSTRALIA LIMITED

11 Grand Avenue, Cornellia • Private Bag 10, PO Box Granville, NSW 2142
Phone 638 8200 — Telex 120292 • Fax 684 4907 • Cable 'Goodyr' Granville

2nd February, 1989.

Mr. M. E. Aldons,
Secretary,
House of Representatives Standing Committee on Transport,
Communications and Infrastructure,
Parliament House,
CANBERRA ACT 2600

Dear Sir,

Re: Your letter to Mr. J. O'Brien dated 15 December, 1988
E. J. Hardy letter to yourself dated 19 December, 1988.

Further to our correspondence regarding release of Goodyear confidential submissions to the House of Representatives Standing Committee on Road Safety in 1980.

We respectfully request that confidential exhibits 36 and 49 be not presented to the House as requested by Messrs Sneddon Hall and Gallop, Barristers and Solicitors.

The need for such documentation no longer exists as Solicitors for the Plaintiff (Messrs Burke and Burke) have agreed to an out of Court settlement with Messrs Dunhill Morgan, Solicitors for Goodyear. We therefore ask that confidentiality be maintained.

Yours faithfully,
GOODYEAR AUSTRALIA LIMITED,

E Hardy.

E. J. Hardy,
Finance Division.

079EJH/sgc.

Secretary: M Aldons
RECEIVED
- 6 FEB 1989
HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON
TRANSPORT, COMMUNICATIONS
AND INFRASTRUCTURE

MOLLISON LITCHFIELD

BARRISTERS AND SOLICITORS

DEANE GRAHAM JARVIS
DAVID JOHN BRIDGES
WILLIAM DAVID JENNINGS
ANDRE WILLIAM BLAISE NICOLAS
ALAN NICHOLAS YATES
DAVID GEORGE GASTNER
DAVID HUGO BACHE
WILLIAM LLOYD RUDD
JAMES BRAZEL JARVIS

SENIOR ASSOCIATES
CAREY HUGH GOODALL
SAM TARLTON MATTHEW SCAMMELL
DAVID JOHN BEER
ANDREW GIUSEPPE CORLETTO
JOHN RICHARD DANVERS
PENELOPE CHRISTINE EDWARDS
MARTIN KEITH

CONSULTANTS
ANGUS DANIEL MACKINTOSH
HOWARD JOHN FRANCIS TRELOAR
BRIAN LEIGH CARPENTER

OUR REFERENCE WDJ:LB:88 2322
2159D

YOUR REFERENCE

INDUSTRY HOUSE
12 PIRIE STREET
ADELAIDE
SOUTH AUSTRALIA 5000

G.P.O. BOX 2634
ADELAIDE S. A. 5001

TELEPHONE: (08) 233 2600
FACSIMILE: (08) 233 2666
INTERNATIONAL: +618 233 2600
A.D.E. DX 361 (ADELAIDE)
TELEX: AA 88241

26th January 1989

The House of Representatives
Standing Committee on Transport,
Communications and Infrastructure,
Parliament House,
CANBERRA A.C.T. 2600

Attention Mr. M. E. Aldons
Secretary

Dear Sir,

We act for Bridgestone Australia Ltd..

Our client has handed to us your letter to its Mr. D. Leech, dated 16th December 1988.

We are instructed to write to you to advise that our client is not agreeable to the release of the confidential exhibits 26, 39 and 48.

The reason for its objection is that the exhibits were presented to the Standing Committee on Road Safety as confidential submissions and on the basis that they would not be released to third parties.

Some of the information contained in the exhibits relate to our client's claims records which clearly are confidential and contain information which our client regards highly sensitive.

It is our client's opinion that the purpose for which the documents are now sought, i.e. to assist the party in civil litigation is not in any way related to the enquiry being undertaken by the Standing Committee on Road Safety and is a

further reason for the non-release of this sensitive and confidential information.

We would appreciate hearing from you with your confirmation that the documents will not be released.

Yours faithfully,

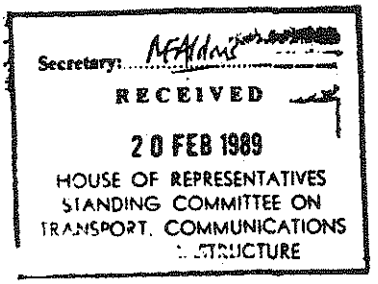
MOLLISON LITCHFIELD

per:

W. D. Jennings

GMD/rg:24

16th February, 1989.



Mr. M.E. Aldons,
Secretary,
Standing Committee on
Transport, Communications
Infrastructure,
House of Representatives,
Parliament House,
CANBERRA, A.C.T., 2600.

Dear Sir,

RE: FEARNSIDE -v- THE GOODYEAR TYRE AND RUBBER CO. (AUST.) LIMITED & ANOR.

I refer to your letter dated 15th December, 1988 and the Petition dated 29th November, 1988 attached.

Pacific Dunlop Ltd. on behalf of Dunlop Australia Ltd. ("Dunlop") and The Olympic Tyre and Rubber & Co. Pty. Ltd. ("Olympic") objects to the Standing Committee on Transport, Communications and Infrastructure ("the Committee") presenting confidential exhibits 24, 35, 44, 37 and 47 of Appendix 9 of the Report on Tyre Safety (11th September, 1980) to the House of Representatives.

The position appears to be that if the confidential exhibits are submitted to The House with a recommendation from the Committee that leave be given to the Plaintiff to issue a subpoena in respect of the confidential exhibits, it is likely that The House will give the Plaintiff leave.

1. Pacific Dunlop submits that it would be an abuse of the processes of the House for leave to be given for the issuing of a subpoena by the Plaintiff seeking production of the confidential exhibits because the Plaintiff would not be able to tender the reports at the Trial of the action in any event by reason of the prohibition set out in Section 16 (3) of the Parliamentary Privileges Act 1987 ("the Act").

Pacific Dunlop Limited. (Incorporated in Victoria)
500 Bourke Street, Melbourne, Victoria 3000. GPO Box 772H, Melbourne 3001.
Telephone 602 4244. Telex AA33914. FAX 602 5625.

Section 16 (3) of the Act states:

> "In proceedings in any Court or Tribunal it is not lawful for evidence to be tendered or received, questions asked or statements, submissions or comments made, concerning proceedings in Parliament by way of, or for the purpose of -
>
> (a) Questioning or relying on the truth, motive, intention of goodfaith of anything forming part of those proceedings in Parliament;
>
> (b) Otherwise questioning or establishing the credibility, motive, intention of goodfaith of any person; or
>
> (c) Drawing, or inviting the drawing of inferences or conclusions wholly or partly from anything forming part of those proceedings in Parliament."

Section 16 (2) defines "proceedings in Parliament" to mean all words spoken and acts done in the course of, or for the purposes of or incidental to the transacting of business of a House or of a Committee including the giving of evidence in the presentation or submission of a document to the House or a Committee.

Paragraph 5 of the Petition states that Section 51 of the Report concluded as follows:-

> "It is concluded that one Australian tyre manufacturer acted irresponsibly in not recalling tyres produced in the initial stages of its steel belted radial production which, the manufacturer knew, were failing at an unacceptably high rate and were thus placing many people at risk."

Paragraph 8 of the Petition states that in order to properly and adequately conduct the hearing of the claim by the Plaintiff it would be necessary to adduce evidence tending to show matters such as the identity of the "one Australian tyre manufacturer" which acted irresponsibly in failing to recall tyres.

Finally, paragraph 9 states that the conduct of the proceedings would be assisted and expedited if the Plaintiff could call upon the evidence which had been tended to the Committee.

In the respectful opinion of Pacific Dunlop, if the Plaintiff referred to the confidential exhibits as foreshadowed in the Petition - that is, to assit him to identify the "one Australian manufacturer" - he would be relying on the truth of matters contained in the Report and/or would be drawing or inviting the drawing of inferences from matters contained in the Report concerning the one Australian manufacturer's identity and thus would be acting contrary to Sections 16 (3) (a) and (c) of the Act.

2. The Plaintiff's claim is against The Goodyear Tyre and Rubber Co. (Aust) Ltd. In these circumstances, Pacific Dunlop submits that any information concerning Olympic or Dunlop Tyres submitted to the Committee for Road Safety would not be material to the Plaintiff's claim and would probably not be admissible as evidence in any event. Again, Pacific Dunlop submits that should the House give leave to the Plaintiff to issue a subpoena respecting the confidential reports in circumstances where they would not be admissible as evidence in any event it would be an abuse of the processes of The House.

3. Dunlop and Olympic provided confidential material to the Committee for Road Safety for the purposes of the Inquiry on the understanding that the material would be treated as evidence taken in camera in accordance with long standing Westminster tradition. Dunlop and Olympic are greatly concerned that their trust and understanding may have been misplaced. Had they been aware of the risk that the confidential documents could later be produced in Court at the time that the documents were prepared, Olympic and Dunlop could have taken additional steps to protect their position. It is respectfully submitted that should the confidential exhibits be made available for subpoena, public confidence and trust in the standards of confidentiality kept by The House and its Committees would be seriously, if not irretrievably, eroded. It is also respectfully submitted that this would be contrary to the public interest.

On behalf of Olympic and Dunlop, Pacific Dunlop submits that for these reasons the Committee should recommend to The House that the Plaintiff not be given leave to issue a subpoena with respect to the confidential exhibits.

Pacific Dunlop also requests that should the Committee incline to a decision to recommend to The House that leave be given to issue the subpoena that it be given a further opportunity to make submissions to the Committee and also reasonable forewarning of any recommendation to be made to the House.

Yours faithfully,

J.C. Rennie,
COMPANY SECRETARY