

22.4/83

SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

TANKEY v SMITH

Blackburn CJ

2 June 1981 — (1981) 36 ACTR 19

OBSTRUCTION OF POLICE IN EXECUTION OF DUTY – PERSON DELIBERATELY TELLING A LIE IN ANSWER TO A POLICE OFFICER'S QUESTION – PERSON GUILTY OF OBSTRUCTION.

BLACKBURN CJ: T. was being questioned by police after a motor car driven by T.'s brother was involved in an accident. Knowing in fact who the driver was, T. falsely asserted that he had been asleep and did not know who had been driving the car. The telling of this deliberate lie by T. was an obstruction of the police officer in the execution of his duty, and accordingly, T. was rightly convicted. Had T. refused, or otherwise failed, to give any answer to the question, he would not be guilty of the offence: "There is no legal duty (apart from special offences and misprision of felony) to answer a question put by a police officer in the execution of his duty". His Honour further said (at p21): "To tell a lie in answer to a question designed to elicit information which the questioner has a duty to elicit must, in the ordinary case, be to obstruct the questioner in the execution of his duty. Two cases come to mind which, possibly, are exceptions: where the questioner knows that the answer is false, and where the falsity is in an immaterial respect. Of these possible exceptions I say no more; but otherwise it is not easy to imagine a case in which a deliberate lie in such circumstances would not be an offence against the section."
