

1 COMSR STEVENS

2

3

4 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

5

6

7 TUESDAY, 5 SEPTEMBER 1995

8

9

10 RESUMING 10.10 A.M.

11 MR SMITH: The programme for today is three  
12 witnesses.

13 Malcolm Robert Bates, the hotelier from Middleton.

14 Kyla Jade Mulhern, the receptionist from the Appollon

15 Motor In and Sue Lawrie.

16 MR SMITH CALLS

17 MALCOLM ROBERT BATES SWORN

18 EXAMINATION BY MR SMITH

19 Q. I think, as at June of this year, you were the  
20 proprietor and publican of the Middleton Tavern at  
21 Middleton, is that correct.

22 A. That's right.

23 Q. I think you have provided a statement to this Commission  
24 in connection with observations you made at your tavern  
25 on Monday, 5 June 1995, is that correct.

26 A. That's right.

27 Q. Looking at this statement produced to you, do you  
28 recognise it as a statement you have provided to this  
29 Inquiry and your signature thereon.

30 A. Yes, that's right.

31 EXHIBIT 69 Statement of Malcolm Robert Bates, dated  
32 Monday, 5 June 1995, tendered by Mr  
33 Smith. Admitted.

34 Q. You tell us in your statement that, on Monday, 5 June, a  
35 person you knew to be Douglas Milera came to your  
36 tavern, is that right.

37 A. That's right, yes.

38 Q. Your statement asserts that this was on Monday, 5 June.

## M.R. BATES XN (MR SMITH)

1 Do you remember that by reason of what events that  
2 followed.

3 A. The following day there was - Mr Milera was on  
4 television and had a news release. That is when I  
5 actually worked out who the man was. I didn't really  
6 know him on the day, on the Monday that he was at the  
7 tavern and then the following day, in The Advertiser, I  
8 think it was the front page, there was the big thing  
9 about the lie of Hindmarsh Island or something to that  
10 effect the headlines were. So, they were the events  
11 that followed from the tavern interview.

12 Q. I show you now an exhibit, which is The Advertiser of 7  
13 June, Exhibit 24. Looking at that exhibit now before  
14 you, the front page of The Advertiser of 7 June, you  
15 recognise that -

16 A. Yes.

17 Q. As the article you spoke of.

18 A. Yes.

19 Q. On that Monday, 5 June 1995, I take it that that is a  
20 quiet day for a publican at Middleton, is it.

21 A. Yes, Mondays.

22 Q. Milera came to your tavern, by himself or in company  
23 with anybody.

24 A. No, he was in company with another man, a younger man  
25 and I have since learnt his name, of course.

26 Q. And that is someone you now know as Mr Denver, Kym  
27 Denver.

28 A. Yes, Mr Denver.

29 Q. You have said in your statement that they arrived at  
30 about 1.30, 2 p.m.

31 A. Yes, probably closer to the 2 o'clock mark.

32 Q. Again, that is something that you recollect.

33 A. Yes.

34 Q. Rather than having any positive way of fixing that.

35 A. It was at the tail end of our lunch period, because,  
36 when they walked in, I had thoughts in my mind as to  
37 whether these two people would be ordering counter  
38 meals. The other counter meals for the day, those

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- 1 people had already left. That was my concern, whether  
2 they would be ordering before the 2 o'clock cut off for  
3 counter meals. They were there before then.
- 4 Q. Mr Denver suggests that it was 2.30 or just beyond 2.30.  
5 Would you seriously disagree with that.
- 6 A. I would say it was closer to 2 o'clock, yes.
- 7 Q. Where did they go in the tavern premises.
- 8 A. There is an area known as Surfers' Bar, that was the  
9 area, they went and sat at a table in that area.
- 10 Q. There was just the two of them initially, that's the  
11 case.
- 12 A. Yes.
- 13 Q. When they first arrived, did they order drinks.
- 14 A. Not immediately, but not long afterwards they ordered a  
15 drink.
- 16 Q. Do you know who had what.
- 17 A. Mr Denver had a squash and he bought a stubbie of  
18 Southwark beer for Mr Milera.
- 19 Q. Could you tell us whether or not Mr Milera, for  
20 instance, when he first arrived, appeared sober,  
21 affected by liquor, or anything like that.
- 22 A. No, definitely sober, he was, yes.
- 23 Q. They were in the Surfers' Bar and you had served them  
24 the drinks, or one of your staff had.
- 25 A. No, I had, personally.
- 26 Q. You had.
- 27 A. Yes.
- 28 Q. What did they do.
- 29 A. They went and sat at the table and talked for a while  
30 and then Mr Denver just walked around the bar and I  
31 guess, in hindsight, they appeared to be waiting for  
32 somebody. They didn't seem to be sitting and talking.  
33 They just seemed to be doing their own thing a lot of  
34 the time.
- 35 Q. I think they were eventually joined by other people,  
36 were they not.
- 37 A. Yes, Mr Chapman arrived probably an hour or so later.
- 38 Q. Again, did you know Chapman, at that stage.

- 1 A. Yes, I recognised him, yes.
- 2 Q. How did you recognise him.
- 3 A. Just from the media reports, photos in the paper and
- 4 things like that, yes. And I had had Mr Chapman pointed
- 5 out to me at the Hindmarsh Island Tavern.
- 6 Q. During the time of this bridge dispute, or rather I
- 7 should say about in the middle of 1994, were you at the
- 8 Middleton Tavern in those days.
- 9 A. No, was I was the publican at Hawker in the Flinders
- 10 Ranges.
- 11 Q. When did you move to Middleton.
- 12 A. Late November 1994.
- 13 Q. When Mr Chapman arrived, you would fix that time at
- 14 about, what.
- 15 A. Probably 3 o'clock, between 3 and 3.30, somewhere in
- 16 that area.
- 17 Q. There was a trio of people there then.
- 18 A. Yes.
- 19 Q. What did they do that you observed.
- 20 A. They certainly sat down and had a conversation between
- 21 them and then there seemed to be a series of phone
- 22 calls being made and then - with mobile phones, of
- 23 course.
- 24 Q. Did that require people to go outside, or did they do
- 25 it from within the hotel.
- 26 A. Quite a few of the calls were made from within the
- 27 hotel, but I did notice Mr Milera leaving the premises
- 28 on occasions to talk. He started talking inside the
- 29 tavern, then he would move outside and talk on the phone
- 30 outside.
- 31 Q. They stayed virtually all the afternoon, didn't they,
- 32 this group.
- 33 A. Yes.
- 34 Q. I think they were joined later, as you say in your
- 35 statement, by Mrs Chapman.
- 36 A. That's right, yes.
- 37 Q. Again, did you recognise her.
- 38 A. Yes.

- 1 Q. From -  
2 A. Similar reasons and from having her pointed out to me on  
3 Hindmarsh Island.  
4 Q. About what time was it that Mrs Chapman arrived.  
5 A. It was just on darkness, so probably 5.30, 6 p.m. in the  
6 evening.  
7 Q. Did the same scenario prevail, namely, that they were  
8 seated around a table discussing things.  
9 A. Yes, all together, yes.  
10 Q. And, what, phone calls persisted, did they.  
11 A. Yes, they did, but not quite as often as earlier in the  
12 afternoon.  
13 Q. Do you serve meals at the hotel in the evenings.  
14 A. Yes.  
15 Q. I take it that 6 o'clock onward was a time when you were  
16 serving meals to people.  
17 A. Yes, 6 on.  
18 Q. Did this group have any food.  
19 A. I think Mr Denver had a meal before he left, but I don't  
20 recall anybody else having meals.  
21 Q. You mention in your statement that you thought Mr Milera  
22 had a toasted sandwich.  
23 A. Yes, that's correct, during the afternoon he did.  
24 Q. That wasn't necessarily at dinner time.  
25 A. I don't recall the exact time he had that, but they are  
26 available at any time during the day as a bar snack.  
27 Q. In the course of that period then that you fix around  
28 about 2 - perhaps I had better ask you first. So, the  
29 group was a foursome then, Mr and Mrs Chapman, Milera  
30 and Denver.  
31 A. And another lady.  
32 Q. And another lady.  
33 A. Arrived with Mrs Chapman and I just assumed that that  
34 was Mr Denver's wife, because he greeted her with a kiss  
35 when she arrived and there was a small child, I think it  
36 was a small girl with them, at the time.  
37 Q. Did that group all stay together until they left your  
38 premises, or did they -

## M.R. BATES XN (MR SMITH)

- 1 A. Pretty well stayed together. I think maybe Mrs Denver  
2 may have left a bit earlier than the others, but I just  
3 don't recall that exactly.
- 4 Q. What about the Chapmans and Milera and Denver, did they  
5 leave all together, or -
- 6 A. Yes.
- 7 Q. At about what time was that.
- 8 A. Probably about 7 or somewhere in that area.
- 9 Q. You told us that you served the first round of drinks to  
10 Denver and Milera, did that group have other drinks  
11 throughout the afternoon.
- 12 A. Yes, they did, but they were only drinking soft drinks  
13 with the exception of buying a few stubbies for Mr  
14 Milera, but Mr Chapman certainly didn't drink any  
15 alcohol. I don't recall Mrs Chapman drinking any  
16 either.
- 17 Q. In your estimate, or if you know precisely tell us, how  
18 many stubbies would Milera have had, during the course  
19 of the afternoon.
- 20 A. Between three and four. I would tend to go to the four,  
21 but I would say it was either the three or four. He  
22 certainly wasn't drinking much alcohol over that period  
23 of time.
- 24 Q. Then, when Milera left, I take it you were still at the  
25 hotel yourself.
- 26 A. Yes.
- 27 Q. What was his condition, in terms of his demeanour, his  
28 balance, his sobriety.
- 29 A. Fine, he was okay. He left the premises just probably  
30 as if he hadn't even had a drink as far as I was  
31 concerned. He walked straight out the door briskly and  
32 wasn't a problem at all.
- 33 COMSR
- 34 Q. How long have you been associated with the hotel  
35 business, working in hotels.
- 36 A. Probably eighteen years in total. I have owned my own  
37 hotels for eight years and I was a bar manager for ten  
38 years prior to that.

M.R. BATES XN (MR SMITH)  
XXN (MR MEYER)

1 XN

2 Q. Who paid for the drinks, do you know.

3 A. Mr Denver and Mr Chapman between them.

4 Q. In the course of the afternoon, did you have occasion to  
5 not only observe Mr Milera but to speak to him, from  
6 time to time.

7 A. No, I didn't speak to him at all and I only spoke to Mr  
8 Denver and that was on arrival actually or shortly  
9 thereafter.

10 COMSR

11 Q. I take it, in those eighteen years, you have seen a few  
12 people who have been affected by alcohol, from time to  
13 time.

14 A. Quite a few, as a matter of fact, yes.

15 XN

16 Q. I think, unless you don't want to talk about this, you  
17 are no longer the proprietor of the Middleton Tavern.

18 A. No, we sold the tavern and the take over was last week,  
19 last Monday.

20 Q. Mr Denver - just one last matter - was he wearing a  
21 jacket with some sort of emblem on it.

22 A. I think he was, just from memory, yes, the emblem just  
23 reminded me of somebody that would be from the National  
24 Parks, but I don't think it was a National Parks emblem,  
25 but it just seemed like that.

26 MR SMITH: I have no further questions of Mr Bates.

27 COMSR: Does anyone wish to cross-examine Mr  
28 Bates?

29 MR MEYER: If nobody else wishes to ask some  
30 questions, I have got a couple of questions.

31 CROSS-EXAMINATION BY MR MEYER

32 Q. You make a reference I think about Mr Milera making some  
33 telephone calls.

34 A. That's right.

35 Q. And I understand that he went outside whilst he was  
36 actually making telephone calls.

37 A. I think the telephone call was probably underway while  
38 he was inside, but then moved outside during the process

## M.R. BATES XXN (MR MEYER)

- 1 of the call and finished off his conversation outside.
- 2 Q. My instructions are that Mr Milera had one telephone  
3 call for a period of approximately an hour during which  
4 he was outside all of that time, does that sound  
5 correct.
- 6 A. That sounds about right. He may have made two calls,  
7 but he certainly made one call when he was on the phone  
8 for quite some time.
- 9 Q. He may have made another call while he was outside, but  
10 you wouldn't know that.
- 11 A. That's right.
- 12 Q. Did they have mobile telephones - did Denver and Milera  
13 have mobile telephones with them when they arrived, or  
14 did the mobile phone arrive when Tom Chapman arrived.
- 15 A. That is something I can't answer. I didn't take any  
16 notice of them arriving with telephones.
- 17 Q. Did you notice whether the phone calls started after Tom  
18 Chapman arrived.
- 19 A. I am not too sure. I think Mr Denver may have made a  
20 call. I think he may have made a call before Mr Chapman  
21 arrived, actually. But they certainly had two phones  
22 operating at one time during the afternoon or the  
23 evening.
- 24 Q. I understand that a private investigator came and asked  
25 you questions about Mr Milera's attendance at the  
26 tavern.
- 27 A. That's right.
- 28 Q. Were you told on whose behalf that private investigator  
29 came to ask you questions to find out what you said  
30 occurred at the tavern.
- 31 A. I think he did, but I just don't recall who he mentioned  
32 that he was working for.
- 33 Q. Looking at the document that I now produce to you, have  
34 you seen that document before.
- 35 A. Yes, that's a copy of or this is the document that that  
36 man, Seskis, faxed to me.
- 37 Q. I think it is your signature that appears on the bottom  
38 of each page of that statement.



1 A. That's right.

2 Q. Your signature is dated 24 July 1995.

3 A. Yes.

4 Q. Looking at the opening part of the statement there is a  
5 date of 28 June 1995.

6 A. That's right.

7 Q. Did Mr Seskis come and see you and take the statement  
8 from you and then subsequently send you the copy and ask  
9 you to sign it.

10 A. They actually faxed it to us.

11 Q. You signed it and sent it back again.

12 A. Yes, after sometime. I held on to it for a while and  
13 then they rang again and asked why I hadn't signed it  
14 and sent it back.

15 Q. The opening lines of the statement refer to Mr Seskis  
16 introducing himself and telling you that he had been  
17 requested by solicitors acting on behalf of a Mr Douglas  
18 Milera to speak to you in relation to his attendance at  
19 the hotel.

20 A. Yes.

21 Q. Is that an accurate record of the way that Mr Seskis  
22 introduced himself, generally speaking.

23 A. Generally speaking I would say, yes.

24 MR MEYER: I tender the statement.

25 COMSR: I take it there is nothing in the  
26 statement other than what refers to the incident at the  
27 hotel?

28 MR MEYER: No, at the hotel. It is a verbatim  
29 statement which follows pretty closely the evidence that  
30 Mr Bates has given.

31 COMSR: Just so long as it doesn't touch other  
32 topics.

33 MR MEYER: No, we could check for that. I didn't  
34 see anything and I don't think Mr Smith saw anything.

35 MR SMITH: No.

36 CONTINUED

M.R. BATES XXN (MR MEYER)  
(MR ABBOTT)

1 EXHIBIT 70 Statement of witness dated 28 June 1995  
2 tendered by Mr Meyer. Admitted.

3 Q. Do you have a copy of the statement in front of you.

4 A. Yes, I do.

5 Q. Can you just look at the bottom of p.2. You were asked  
6 what type of beer Mr Milera was drinking, and you said  
7 that you thought it was a Southwark stubbie. Is that  
8 right.

9 A. Well, it wasn't 'I thought'. It was a definite  
10 actually. A Southwark stubbie, yes.

11 Q. If you turn to p.5, were you asked by the investigator,  
12 and I am looking about a third of the way down on p.5  
13 'How did he appear when he left' referring to Mr Milera  
14 'Did he appear inebriated or?' You replied 'No, no,  
15 fine'. That's how you thought that Mr Milera looked  
16 when he left.

17 A. That's right.

18 Q. You didn't have any concern about serving alcohol to Mr  
19 Milera.

20 A. No, no.

21 Q. Was this interview done on a tape.

22 A. Yes. Yes, he had a small tape.

23 Q. It is just, looking at the question I have just read to  
24 you, you appear to have cut off the question. There is  
25 the word 'or' after the word 'inebriated', and it  
26 appears that you have cut in quickly with your answer,  
27 saying 'No, no, fine.' Was that a firm view that you  
28 held.

29 A. Yes, it was a firm view, yes.

30 CROSS-EXAMINATION BY MR ABBOTT

31 Q. Mr Bates, I take it this wasn't all the conversation you  
32 had with Edie Seskis.

33 A. This interview?

34 Q. Yes.

35 A. Yes, he came and he had a tape with him and he sat down,  
36 and introduced himself first, and told us what he was  
37 going to do, and then we just sat at the table, he

- 1 turned on the tape, and then he started with this  
2 interview.
- 3 Q. He told you that he was from a firm of private inquiry  
4 agents called Warners and Associates.
- 5 A. That's right.
- 6 Q. And, in essence, they had been retained by lawyers  
7 acting on behalf of Douglas Milera.
- 8 A. That's right. That's what he said.
- 9 Q. Did you ever ask him how Mr Milera was able to afford  
10 private inquiry agents to come down and take interviews  
11 from you.
- 12 A. No. It didn't concern me. It was none of my business.
- 13 Q. Did he volunteer it. Did he say how it had come about.
- 14 A. No, no. He just said it was to do with the Royal  
15 Commission. Something like that.
- 16 Q. Did he represent himself as being associated with the  
17 Royal Commission.
- 18 A. No, no, no. He just said that he was making an  
19 interview - in the first statement there.
- 20 Q. What solicitors was he talking about.
- 21 A. He just said he was from Warner and Associates. That's  
22 all.
- 23 Q. He mentions on the tape he has been asked by solicitors  
24 acting on behalf of Mr Milera. Did he tell you the name  
25 of those solicitors.
- 26 A. No.
- 27 Q. And you didn't ask.
- 28 A. No.
- 29 Q. Had he arrived pursuant to making an appointment with  
30 you.
- 31 A. No, he didn't make an appointment. He -
- 32 Q. He just arrived out of the blue on 28 June.
- 33 A. Yes.
- 34 Q. And asked you about the events of the previous two weeks  
35 - just over two weeks previously.
- 36 A. That's right.
- 37 Q. You were able to give this information more or less  
38 straight away.

RF 24B

M.R. BATES XXN (MR ABBOTT)  
(MR KENNY)

1 A. Yes. Well, the Monday that we refer to was a quiet day,  
2 so I remember the events quite plainly that day.

3 Q. I was coming to that. These events stuck in your memory  
4 because it was on a Monday and because of what it  
5 involved.

6 A. That's right, and then of course the following media  
7 reports -

8 Q. Reinforced -

9 A. Well, that's right. I didn't know what they were there  
10 for on that day, but the next day I did.

11 Q. You soon found out.

12 A. Yes.

13 CROSS-EXAMINATION BY MR KENNY

14 Q. Just to clarify a point. You spoke earlier of people  
15 drinking and observations of people who have been  
16 drinking. Is it fair to say that people who are fairly  
17 consistent heavy drinkers will be less affected by the  
18 same amount of alcohol than a person who is not a very  
19 heavy drinker.

20 A. I suppose you could say that. I couldn't really answer  
21 that, but some people can handle alcohol, I would say,  
22 and some can't. But I don't know that I'm particularly  
23 qualified.

24 Q. Your experience, for example, would be that a person  
25 whom you know to be a heavy drinker, and a regular  
26 drinker, can perhaps drink six stubbies of beer and not  
27 appear affected.

28 A. I would say so, yes.

29 Q. But a person who is not a heavy drinker and perhaps  
30 doesn't drink very often, if they had six stubbies, they  
31 may be showing the affects a bit more.

32 OBJECTION Mr Lovell objects.

33 MR LOVELL: The first question I would ask is:  
34 What status does Mr Kenny have to ask questions in that  
35 manner? And, in any event, it is a matter of expert  
36 evidence.

37 COMSR: I do not think he is being asked to give  
38 an expert opinion. He is being asked his observation.

## M.R. BATES XXN (MR KENNY) REXN

- 1 MR LOVELL: He is asking about numbers of drinks  
2 now. It is getting into specifics. In any event, what  
3 has it got to do with Mr Kenny?
- 4 COMSR: How do you say it affects your clients'  
5 interests? This witness is giving evidence in relation  
6 to his observation of a person who, later on in the day,  
7 makes various allegations concerning my client.
- 8 COMSR: I think that is fair.
- 9 MR LOVELL: I can't take it any further.
- 10 MR KENNY: It is a general number. I picked six as  
11 a general number.
- 12 COMSR: I do not know that I can place much  
13 weight on the witness's view as to a specific number.
- 14 MR KENNY: No. He has given evidence in response  
15 to your question.
- 16 COMSR
- 17 Q. I take it, as a general observation, that the same  
18 amount of alcohol consumed by a person who is not used  
19 to handling alcohol, as far as you can observe, can have  
20 a greater affect than a seasoned drinker.
- 21 A. That would be right.
- 22 RE-EXAMINATION BY MR SMITH
- 23 Q. Looking at p.1 of Exhibit 70, you will notice there that  
24 the interviewer proceeds on the basis that Milera and  
25 Denver and the others were in your hotel on 6 June 1995.
- 26 A. That's right.
- 27 Q. Although you acceded to that at the time, are you  
28 content now that that is a day out, that it was indeed  
29 the 5th.
- 30 A. Yes, that's right.
- 31 NO FURTHER QUESTIONS
- 32 WITNESS RELEASED

## K.J. MULHERN XN (MR SMITH)

1 MR SMITH CALLS

2 KYLA JADE MULHERN SWORN

3 EXAMINATION BY MR SMITH

4 Q. Miss Mulhern, I think you are a receptionist employed by  
5 the Appollon Motor Inn at Victor Harbor.

6 A. Yes, that's correct.

7 Q. You've held that job for how long now.

8 A. Nearly two years now.

9 Q. In June 1995 you were working at the motel, were you.

10 A. That's correct.

11 Q. I think you were on duty on the evening of 5 June 1995  
12 when the journalist, Chris Kenny, conducted an interview  
13 in your premises with certain other people present. Is  
14 that right.

15 A. Yes, that's correct.

16 Q. I think you've been spoken to by a number of people  
17 about that. Is that right.

18 A. By just general people, as in local people or the people  
19 that attended the meeting?

20 Q. I will be a bit more specific. I think you were spoken  
21 to by an inquiry agent from Warners and Associates about  
22 the events of the -

23 A. I can't recall if he was from there, but, yes, I was  
24 spoken to by someone.

25 Q. Then I think you were spoken to by myself from the Royal  
26 Commission.

27 A. That's correct.

28 Q. I think you, in connection with this matter, provided a  
29 statement to the inquiry agent.

30 A. That's correct.

31 Q. And also a statement to this commission.

32 A. Yes.

33 Q. First of all, looking at this statement produced to you  
34 and dated today, do you recognise that as the statement  
35 you provided to the commission, and is that your  
36 signature on the second page.

37 A. Yes, it is.

## K.J. MULHERN XN (MR SMITH)

- 1 EXHIBIT 71 Statement of Kyla Mulhern tendered by  
2 Mr Smith. Admitted.
- 3 Q. Looking at this statement produced to you, consisting of  
4 11 pages and being a copy, do you recognise that as the  
5 statement which you provided to the inquiry agent, Mr  
6 Seskis.
- 7 A. Yes.
- 8 EXHIBIT 72 Statement of Kyla Mulhern to inquiry  
9 agent tendered by Mr Smith. Admitted.
- 10 Q. Have you a copy of that with you.
- 11 A. Yes, I have.
- 12 COMSR: I take it there is nothing in that  
13 statement?
- 14 MR SMITH: No.
- 15 XN
- 16 Q. Looking at your copy of that statement, Exhibit 72, the  
17 phone numbers at the top of the statement are not in  
18 your hand, are they.
- 19 A. No, they are not.
- 20 Q. Coming down to the first paragraph, there is an  
21 alteration from `the 6th June' to `the 5th June', is  
22 that right.
- 23 A. That's correct, yes. It was done on Sunday night.
- 24 Q. Initialled by you.
- 25 A. That's correct, yes.
- 26 Q. You have said Sunday night. Are you sure that's not  
27 Monday night.
- 28 A. No, Sunday night.
- 29 Q. Sunday night.
- 30 A. Yes.
- 31 Q. If you go to p.2, again `the 6th June' is altered, is  
32 that correct.
- 33 A. That's correct.
- 34 Q. You have made another alteration on p.3, about two  
35 thirds of the way down.
- 36 A. Yes.
- 37 Q. Just looking through the balance of the statement, on the  
38 next page, p.4, you have made another slight alteration.

- 1 A. That's correct, yes.  
2 Q. At about point 3.  
3 A. Yes.  
4 Q. And p.7.  
5 A. Yes.  
6 Q. Can you translate that for us, 'Reckoned it was going to  
7 come -' what's the alteration you have made there.  
8 A. To a head. Like -  
9 Q. Come to a head.  
10 A. Like the truth is going to come out.  
11 Q. So you have changed 'fuss' to 'head', and initialled it.  
12 A. That's correct.  
13 Q. If we go to p.10, again is that addition there in your  
14 handwriting.  
15 A. Yes, it is.  
16 Q. Can you read it to us so we know what it says.  
17 A. When I type a letter at night I usually place the next  
18 day's date on it - the next day's date on the letter.  
19 That's why it was on 6th June. The letter was actually  
20 - had the date of 6th June on top when I actually typed  
21 it on the 5th, which is on the Sunday night.  
22 Q. 'When I type a letter at night I usually place the next  
23 day's date on the letter'.  
24 A. Yes.  
25 Q. 'That's why it had the 6th June.'  
26 A. That's correct.  
27 Q. And that's your initials.  
28 A. Yes, that's correct.  
29 Q. I show you a diary for 1995. You will see Monday is the  
30 5th.  
31 A. Right.  
32 Q. Okay.  
33 A. Yes.  
34 Q. Are you still -  
35 A. I'm pretty sure it was the Sunday night. I was working  
36 a night shift. My bosses had actually gone to Adelaide  
37 for the night, so I actually stayed over. I know it is  
38 the 5th because I actually checked back on the day they



## K.J. MULHERN XN (MR SMITH)

1 stayed. That is why I made the alteration from the 5th  
2 to the 6th.

3 Q. It is not crucially important.

4 A. That's fine.

5 Q. Was it the next night that you saw Mr Milera appear on  
6 the Channel 10 News.

7 A. No, I never actually saw it.

8 Q. You didn't see it.

9 A. I never actually saw it.

10 Q. Looking at Exhibit 71, where you have said in you  
11 statement 'I was working at the hotel on the evening of  
12 Monday, 5th June', you are a little bit unsure about  
13 that, are you.

14 A. On the Monday?

15 Q. Yes.

16 A. I know it was the 5th, so if it is -

17 Q. So you accept it is Monday.

18 A. I accept it is Monday, yes.

19 Q. So your first involvement in this matter, according to  
20 your statement, was when you had a phone call from a  
21 person you now know as Chris Kenny.

22 A. That's correct, yes.

23 Q. That was at about 7 o'clock.

24 A. That's correct, yes. He rang on his mobile telephone.

25 Q. You have got in your statement that he booked a room for  
26 a meeting.

27 A. That's correct, yes.

28 Q. Was that a motel room in the usual sense, or was it -

29 A. Yes, it was. He actually booked a motel room  
30 specifically, but when he did arrive I asked him if  
31 anyone was staying, and he asked Doug Milera whether he  
32 was staying the night, and he said no. So that's why I  
33 reconvened them to the conference room. It was set up  
34 for them.

35 Q. So when the initial booking was made, it was for a room  
36 for the night.

37 A. A motel room, yes.

38 Q. That's as you understood it.

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- 1 A. That's correct, yes.
- 2 Q. When he rang you and made that booking, did he tell you  
3 for what purpose that room was wanted.
- 4 A. No, only for a meeting. He was going to hold a meeting  
5 there.
- 6 Q. Your statement then records that about five minutes  
7 before Kenny arrived, Mr Milera and a man, you called  
8 the National Parks and Wildlife man, arrived.
- 9 A. That's correct.
- 10 Q. Is that at about 8 o'clock, as you have said there.
- 11 A. Yes. They arrived just before 8. Mr Milera and the  
12 National Parks and Wildlife guy arrived, and Chris Kenny  
13 and the caravan arrived after.
- 14 Q. You have recorded in your statement that you knew it was  
15 Douglas Milera because he was introduced to you as  
16 Douglas Milera.
- 17 A. That's correct, yes.
- 18 Q. By the National Parks and Wildlife man.
- 19 A. That's correct, yes.
- 20 Q. They waited in the reception area, did they.
- 21 A. Yes, they did.
- 22 Q. For Kenny.
- 23 A. In the foyer.
- 24 Q. You have recorded that you served them some drinks while  
25 they were waiting.
- 26 A. Yes, that's correct.
- 27 Q. Is that right.
- 28 A. Yes. I served Doug Milera one stubbie, which was a  
29 Victorian Bitter, and the National Parks and Wildlife  
30 guy didn't have any.
- 31 Q. Who paid for that.
- 32 A. No-one paid for the initial drink. It was actually onto  
33 an account, which I discussed with Chris Kenny, which is  
34 the Channel 10 news reader.
- 35 Q. Did you discuss that later on with Chris Kenny.
- 36 A. Yes, later on.
- 37 Q. So when they actually purchased the drinks off you, what

- 1 arrangement was struck there and then about the cost of
- 2 them.
- 3 A. I assumed that it was going to go onto an account
- 4 because during a meeting you usually have an account at
- 5 the end. No-one actually pays for anything beforehand.
- 6 Q. So until Kenny arrived, you just had the room organised
- 7 rather than the conference room, did you.
- 8 A. Yes, that's correct.
- 9 CONTINUED
- 10

- 1 Q. When the National Parks and Wildlife man and Milera were  
2 there waiting and having a drink, that was in your  
3 statement, was it.  
4 A. Yes, it was.  
5 Q. What was the condition of Douglas Milera.  
6 A. He seemed fine.  
7 Q. I take it that is in the Appollon Motel there at Victor  
8 Harbor, and you have a dining room.  
9 A. Yes, that's correct.  
10 Q. A restaurant which is reasonably busy, is it.  
11 A. Yes, it is, yes. During winter, it's fairly quiet and  
12 we don't get that many people there during the week  
13 days, but it can be quite busy.  
14 Q. If you don't mind me asking: what is your age.  
15 A. 19, yes.  
16 Q. I suppose that, despite your youth, you have seen people  
17 drunk from time to time.  
18 A. Yes.  
19 Q. In the motel.  
20 A. No, not in the motel, no. I'm only on the receptionist  
21 desk, so I don't see what is going on in the restaurant  
22 side of things.  
23 Q. Within five minutes or so, Mr Kenny and his cameraman  
24 arrived.  
25 A. That's correct.  
26 Q. I take it that there were four people then, were there:  
27 The cameraman and Kenny and the National Parks and  
28 Wildlife man and Milera.  
29 A. Yes, that's correct.  
30 Q. You then showed them into the conference.  
31 A. I showed Chris Kenny to the conference room and said  
32 'That might be more appropriate'.  
33 Q. You were on duty that night until when.  
34 A. I actually locked up around about 10.30. They were  
35 still in the conference room at that time. I actually  
36 went to my room after then. I actually locked up the  
37 motel itself.  
38 Q. When you are on night duty, as it were, or on afternoon

- 1 duty, you actually stay on at the motel, do you.
- 2 A. No, I don't usually, but the bosses were temporarily in  
3 Adelaide and so I stayed over on their behalf.
- 4 Q. Did you leave it so that they could let themselves out,  
5 as it were.
- 6 A. Yes, that's correct. I told Chris Kenny that.
- 7 Q. You went off duty, as it were - and did you say 10.30.
- 8 A. Around about 10.30, yes.
- 9 Q. Was it the case that they were then in the conference  
10 room, the four of them, from about 8 o'clock in the  
11 evening at least until you left at 10.30.
- 12 A. That's correct. I stayed in the room next door to the  
13 conference room and I heard when they left and saw them  
14 leaving and packing their gear into the car. And they  
15 left around about 11 o'clock, as I stated in the  
16 statement.
- 17 Q. Was the motel busy that night.
- 18 A. No, it wasn't.
- 19 Q. Pretty quiet.
- 20 A. Yes.
- 21 Q. So you took care of this group, did you.
- 22 A. I didn't actually take care of them. I took them drinks  
23 into the conference room when they were in the  
24 conference room and they had their 10 minute break and  
25 when Doug Milera came out and when I typed the letter  
26 for them, and that is about it. I didn't have much  
27 involvement in the meeting itself.
- 28 Q. Did they have food and drink in the time that they were  
29 there.
- 30 A. Yes, they did, yes. I served around about two to three  
31 servings of drinks which were Victorian Bitter stubbies  
32 and they did dial a pizza which is a Dial-a-Pizza.
- 33 Q. Did they dial the pizza, or did you do it.
- 34 A. No, the cameraman dialled the pizza actually.
- 35 Q. That came into you.
- 36 A. Yes, that's correct.
- 37 Q. And you took it into them.
- 38 A. Yes.

- 1 Q. The drinks went on the Channel 10 account.  
2 A. Yes, that's correct, yes.  
3 Q. Did you speak to Kenny about that when he arrived, did  
4 you.  
5 A. Not when he arrived, but when they had the 10 minute  
6 break, that's when when I actually spoke to him just  
7 before the break and just before I closed up, that's  
8 when I asked him.  
9 Q. Did you tell me two to three rounds.  
10 A. Two to three rounds of beers with three beers in each  
11 round of Victorian Bitter.  
12 Q. Was Milera the only one drinking beer.  
13 A. All I did was took them into the conference room, place  
14 the beers on the table. I didn't see who was drinking  
15 them. I did actually see Doug Milera when I walked in  
16 there a couple of times, he did actually have a stubbie  
17 of beer in his hand. Whether they were all for him or  
18 not, I've got no idea.  
19 Q. You served them into the conference room.  
20 A. Yes.  
21 Q. Three beers.  
22 A. Three beers times by three.  
23 Q. Assuming Milera was drinking the beer, what sort of  
24 other drinks did you serve.  
25 A. I served the soft drink to the cameraman.  
26 Q. What about the National Parks and Wildlife man and Mr  
27 Kenny.  
28 A. I saw him have a Victorian Bitter too, and I'm not quite  
29 sure about drinks for Kenny, but there were drinks on  
30 the table and they were all surrounding them. So  
31 whether he was drinking that or not, I can't actually  
32 say.  
33 Q. Can we be clear then: At the beginning of the evening,  
34 you wouldn't have bought in all the drinks for the  
35 entire evening, would you.  
36 A. No.  
37 Q. So, there were two to three occasions where you served  
38 drinks for the foursome.

- 1 A. That's correct, yes.  
2 Q. In separate steps if you like.  
3 A. Yes, that's correct.  
4 Q. Two to three times.  
5 A. Yes.  
6 Q. On each occasion that you took a round of drinks into  
7 the conference room, what did you take in.  
8 A. I took in Victorian Bitter stubbies.  
9 Q. There were four people in there. How many drinks.  
10 A. Only three. Three Victorian stubbies of bitter and  
11 that's all.  
12 Q. And a soft drink.  
13 A. The cameraman came out and got the soft drink from me  
14 from the reception desk. I didn't take that in.  
15 Q. There were three separate occasions where you took three  
16 stubbies of Victorian Bitter into the room.  
17 A. Yes, that's correct.  
18 Q. Your observations of the drinkers in the room were that  
19 Milera was, at some time you saw, drinking stubbies of  
20 Victorian Bitter.  
21 A. Yes, that's correct, yes.  
22 Q. The National Parks and Wildlife man.  
23 A. I saw him drink one, but whether he drank another two, I  
24 don't know.  
25 Q. What about Chris Kenny.  
26 A. I never actually saw Chris Kenny drink a beer, so.  
27 Q. What was the state of play, can you tell us; did you  
28 tidy up in the morning, for instance.  
29 A. Yes, I did actually, yes. I was working the next  
30 morning.  
31 Q. Can you tell us what was left then.  
32 A. Just empty stubbies of beer and the Dial-a-Pizza box  
33 which was half eaten, the pizza was half eaten.  
34 COMSR  
35 Q. Were the drinks itemised on an account.  
36 A. It wasn't that, actually it was a total amount that I  
37 sent to Chris Kenny, but we do have an itemized account  
38 at the motel for our own records.

1 XN

2 Q. If you look - do you have your statement in front of  
3 you, not the one that you gave to the inquiry agent, but  
4 the Exhibit 71. Have you got that.

5 A. Yes.

6 Q. You have said there: 'Mr Milera had two to three  
7 stubbies of Victorian Bitter'.

8 A. Yes, that's correct.

9 Q. And is that correct, or is that, to some degree, an  
10 assumption.

11 A. I assumed when I was taking three in, they were for all  
12 the three - which is Doug Milera, Chris Kenny and the  
13 National Parks and Wildlife guy. I did actually see  
14 Doug Milera actually drink the Victorian Bitter  
15 stubbies.

16 Q. When these people first arrived, that is Milera and the  
17 National Parks and Wildlife man, they were in the  
18 reception area in your company, weren't they.

19 A. Yes.

20 Q. For at least five minutes, or thereabouts.

21 A. Yes, that's correct, yes.

22 Q. Did they speak to you during that time.

23 A. No, they didn't, no.

24 Q. You did, at some stage, have a conversation with Doug  
25 Milera.

26 A. Yes, I did. When they actually - they broke for about  
27 ten minutes and Doug Milera came out and asked whether  
28 he could buy a flagon, and I said no. I actually  
29 referred him down to one of the bottle shops down the  
30 main street, or the Crown or the Hotel Victor who would  
31 have been able to help him. And that's when he said to  
32 me 'The truth is going to come out', and I said 'As long  
33 as you tell the truth, you know'; that's basically it,  
34 yes.

35 Q. This was during the ten minute break they had.

36 A. That's correct, yes.

37 Q. You have set that out in p.2 of your statement.

38 A. Yes.



1 Q. He said `I'm going to get myself into trouble here with  
2 what I'm saying'.

3 A. That's correct, yes.

4 Q. That is your memory of it.

5 A. Yes.

6 Q. Your response to that, you have said is: `Fair enough,  
7 all you have to do is tell the truth'.

8 A. Yes.

9 Q. Did you have an inkling of what was going on.

10 A. I had an inkling of what was going on. I didn't  
11 actually get myself involved. It's really none of my  
12 business. I was there to work and that is all.

13 Q. What was the inkling you had of.

14 A. It was something to do with the Hindmarsh Bridge. I  
15 was speaking to Doug Milera and he said something of the  
16 Hindmarsh Bridge and I didn't actually ask, didn't ask  
17 any questions or anything like that. I left it as it  
18 was.

19 Q. When did he mention the Hindmarsh Island Bridge.

20 A. As I was speaking to him, he said `I'm going to get  
21 myself into trouble here'. He mentioned something about  
22 the Hindmarsh Bridge.

23 Q. Is there anything more you can remember about that  
24 conversation.

25 A. No. It was a very short and sweet conversation, except  
26 for that he wanted to buy a flagon and that is when I  
27 referred him down to the main street. That was all.

28 Q. He didn't leave to go down the main street.

29 A. No, he didn't, no.

30 Q. During the break when they all left the conference room,  
31 did they leave and go to the toilet.

32 A. They all didn't leave the conference room. It was  
33 mainly Doug Milera that came out and Chris Kenny and the  
34 cameraman was still in there. The cameraman came and  
35 went when they were not filming, otherwise the three of  
36 them were in there and the cameraman was the 4th one.

37 Q. You see there at the bottom of p.16 of your statement,  
38 you say `During the break, the National Parks guy talked

1 to me and said that the meeting was about the Hindmarsh  
2 Island Bridge and that the truth was going to come out'.

3 A. Yes, that's correct too.

4 Q. When did that conversation take place.

5 A. The conversation took place - I can't actually remember  
6 exactly. It was either just before the break or after  
7 the break. It was inbetween there, but I knew that Doug  
8 Milera had actually said something about the Hindmarsh  
9 Bridge and so did the National Parks and Wildlife guy  
10 too.

11 Q. Was there a conversation between you and Kenny for  
12 instance, or anyone in the group about the question of  
13 whether someone was going to stay the night. You  
14 changed from the booked room into the conference room,  
15 didn't you.

16 A. Yes, that's correct. It was the beginning of the night  
17 when I said to Chris Kenny 'Is anyone staying?', and  
18 that's when he asked Doug Milera whether he will stay or  
19 not and he said 'No', and that's when I referred them to  
20 the conference room. That is all that was discussed  
21 about the motel room.

22 Q. There is a fee, I take it, for using the conference  
23 room.

24 A. Yes, there is.

25 Q. The fee for the conference room and the drinks, for  
26 instance, was charged to Channel 10.

27 A. That's correct, yes.

28 Q. Was that billed out on an invoice, or was that paid for  
29 by Chris Kenny before he left.

30 A. No, it was billed out.

31 Q. Is it \$50 for the conference room.

32 A. Yes, that's correct.

33 Q. In the course of the evening, you became involved in the  
34 typing up of a letter.

35 A. Yes, I was, yes.

36 Q. To the Federal Minister, Mr Tickner.

37 A. That's correct, yes.

38 Q. Can you tell us how that came about, what happened.

- 1 A. During the meeting, the National Parks and Wildlife guy  
2 came out and asked whether I had a typewriter and I said  
3 `Yes, I did'. And he was going to type it up and I  
4 offered on his behalf I could type it for him. That is  
5 when he gave me a piece of paper that had the letter  
6 written on there and I typed it on his behalf.
- 7 Q. At what stage of the evening was that.
- 8 A. That was towards the end of the night in between 10 and  
9 10.30.
- 10 Q. Did you, from time to time, go into the room whilst -
- 11 A. I only went into the room when it was with the pizza,  
12 but other times when they broke that's when I actually  
13 took the beer in and entered into the room when the  
14 meeting, where the meeting was there.
- 15 Q. Looking at the two letters produced, which are Exhibit  
16 61. First of all, you're looking at the top letter. Is  
17 that a handwritten letter.
- 18 A. That's correct, yes.
- 19 Q. Had you made any contributions to that letter at all or  
20 alterations.
- 21 A. I hadn't made any alterations, but the spelling of one  
22 word I wasn't quite sure on, so I actually asked the  
23 National Parks and Wildlife guy how to spell it and  
24 that's in my handwriting underneath the word.
- 25 Q. What is the word.
- 26 A. Binalong. B-I-N-A-L-O-N-G.
- 27 Q. You have printed that out under the word, have you.
- 28 A. Yes, that's correct.
- 29 Q. Apart from that, you have made no changes to that  
30 handwritten letter yourself.
- 31 A. No, I haven't actually made any changes. What is down  
32 below in my handwriting, it has `Doug Milera' because  
33 the National Parks and Wildlife guy said so, and also  
34 the Minister of Aboriginal affairs is like abbreviated  
35 and I wrote it in full. That was for my benefit really.
- 36 Q. You see up the top there, there is `Kumarangk'.
- 37 A. Yes.
- 38 Q. Printed out.

- 1 A. Yes.
- 2 Q. That is your handwriting.
- 3 A. No, it's not.
- 4 Q. Down the bottom, we have a couple of attempts at the  
5 spelling of 'Armitage'.
- 6 A. Yes. No, that's not in my hand.
- 7 Q. Apart from the alteration to Binalong, was that letter  
8 presented to you as it is there.
- 9 A. As it was, that's correct, yes.
- 10 Q. That was your draft from which you typed the letter,  
11 which is the second letter in that exhibit.
- 12 A. Yes, that's correct.
- 13 Q. Looking at the second letter, is a copy of the typed  
14 letter; is that the letter you completed.
- 15 A. It's the way that I set it out. I can't actually  
16 remember exactly what I actually typed. It does  
17 actually look like the letter I typed, yes.
- 18 Q. You will see that the typed-up letter or the copy of it  
19 which you have there in that exhibit is dated 6 June,  
20 1995; that is right.
- 21 A. Yes, that's correct.
- 22 Q. We have agreed that it was Monday the 5th.
- 23 A. Yes.
- 24 Q. What's the explanation for that date, if there is one.
- 25 A. On the Monday night on the 5th, when I type a letter for  
26 my bosses, I always put the next day's date on it as  
27 though it's going out in the mail on that date, and  
28 that's why it was typed '6 June' because I'm into the  
29 habit of typing the next day's date on it. That is the  
30 reason.
- 31 Q. I take it that some conversation passed between you and  
32 the National Parks and Wildlife man concerning the  
33 letter.
- 34 A. Yes.
- 35 Q. Beyond, you know, 'Would you type it for us'.
- 36 A. Yes.
- 37 Q. Can you remember what was said between you.
- 38 A. There wasn't a huge conversation. I mean, what he did

## K.J. MULHERN XN (MR SMITH)

1 say, you know, 'You can't go beyond this basically', you  
2 know, 'Don't have to kill yourself' - like that was a  
3 joke on that behalf. But it wasn't like a huge  
4 conversation.

5 Q. If you go to p.7 of the statement taken by the inquiry  
6 agent from you, you mention, don't you, in the middle of  
7 the page about that things were going to come to a head  
8 - that the wildlife man said to you that things were  
9 going to come to a head, the truth was going to come  
10 out. Was that the extent of the conversation between  
11 you on that.

12 A. Basically, yes.

13 Q. When you took the pizza in, is that what provoked the  
14 ten minute break.

15 A. No.

16 Q. When you went in there, you said a moment ago that you  
17 went in during some filming.

18 A. Yes.

19 Q. Can you remember what was happening and what was being  
20 said when you went in while they were filming.

21 A. I can't remember what was said because I didn't take  
22 notice. I took the pizza in and that is when they  
23 stopped filming - obviously I interrupted them. I  
24 placed the pizza down and walked back out again. I  
25 didn't hear a conversation going on between them.

26 Q. When Mr Milera came out during the break and asked you  
27 if you could - you said he asked you if he could buy a  
28 flagon.

29 A. Yes.

30 Q. What was his condition.

31 A. Slightly inebriated. It's hard to tell. I mean, I  
32 don't even know the gentleman. I don't know whether he  
33 is under the weather or not. I'm not completely sure.  
34 He seemed as if he was a bit tipsy, but nothing to the  
35 effect of drunk.

36 Q. When he spoke to you, he spoke clearly.

37 A. Yes.

38 Q. And he stood up.

K.J. MULHERN XN (MR SMITH  
XXN (MR KENNY)

- 1 A. Yes.
- 2 Q. Erect.
- 3 A. Yes.
- 4 CROSS-EXAMINATION BY MR KENNY
- 5 Q. You mentioned that there has been an itemized account
- 6 done in this matter.
- 7 A. Yes, that's correct.
- 8 Q. It's held at the motel.
- 9 A. Yes, that's correct.
- 10 Q. You didn't think to bring it with you.
- 11 A. No, I didn't.
- 12 Q. Did anyone ask you for it.
- 13 A. As in the people that have actually asked me to come
- 14 here today, no. Only sent off the account to Chris
- 15 Kenny at Channel 10, that is all.
- 16 Q. Sorry, what was that.
- 17 A. I only sent off the account to Chris Kenny at Channel
- 18 10.
- 19 Q. You kept a record of a detailed account.
- 20 A. Yes, that's correct.
- 21 Q. Have you inspected that lately.
- 22 A. No, I haven't, no.
- 23 Q. You haven't seen it since the day after the 5th.
- 24 A. Yes, that's correct, yes.
- 25 CONTINUED

K.J. MULHERN XXN (MR ABBOTT)  
(MR MEYER)

## 1 CROSS-EXAMINATION BY MR ABBOTT

2 Q. We have a record of a statement that was taken from you  
3 by someone called Eddie Seskis.

4 A. Yes, that's correct.

5 Q. Do you remember him.

6 A. I do remember him on the day that he came, yes.

7 Q. Did he arrive unannounced, or did he ring up and ask to  
8 see you first of all.

9 A. No, he arrived unannounced.

10 Q. Did you ask where he was from or what he was doing.

11 A. No, he actually introduced himself as a private  
12 investigator 'And also I am down here on behalf of Doug  
13 Milera's solicitor', and that is as far as it went.

14 Q. Were you surprised that Mr Milera was able to have  
15 private investigators coming down to see you.

16 A. Didn't even think of it.

17 Q. Did he mention anything about the solicitors that he was  
18 representing or acting on behalf of.

19 A. No, only that he was acting on behalf of Doug Milera's  
20 solicitor, that's all.

21 Q. He took all this on tape.

22 A. Yes, he did, yes.

23 Q. When he left did he say anything about what he would be  
24 doing.

25 A. He said that he would actually fax through the statement  
26 for me so I could actually read through and sign it.

27 Q. And he did.

28 A. Yes, he did.

## 29 CROSS-EXAMINATION BY MR MEYER

30 Q. You talked about typing the letter.

31 A. Yes.

32 Q. And the Parks and Wildlife bloke I think you say brought  
33 out the letter.

34 A. Yes, he did, yes.

35 Q. Did he bring the letter out of the room already written.

36 A. Yes, he did, yes.

37 Q. Did you keep a copy of the letter.

38 A. No, I didn't, no.

K.J. MULHERN XXN (MR MEYER)  
(MR LOVELL)

- 1 Q. Or did you just give the typed letter to him.  
2 A. I just typed the letter and gave him both of the copies,  
3 which was the handwritten one and the typed one.  
4 Q. Did you ever see Doug Milera with the letter.  
5 A. No, I didn't, no.  
6 CROSS-EXAMINATION BY MR LOVELL  
7 Q. Just so I am clear, you were at the reception desk most  
8 of the evening apart from the time you served the  
9 drinks.  
10 A. Yes, that's correct.  
11 Q. The conference room is where in relation to your  
12 reception desk.  
13 A. It is actually towards the back of the motel near the  
14 restaurant on the side of the motel. So you walk  
15 through the reception area, you walk through the  
16 restaurant. There is two sides of it. On one side is  
17 the restaurant towards that side (INDICATES), the  
18 conference room is off on the other.  
19 Q. You couldn't see into the conference room from your  
20 reception room.  
21 A. No, I couldn't, no.  
22 Q. In this ten minute break that we have talked about, how  
23 was it that Mr Milera came to be by the reception desk.  
24 Did he just wander up.  
25 A. He didn't actually come to the reception desk. I was in  
26 the restaurant cleaning up after the evening meals and  
27 that is when he actually came to me and asked me if he  
28 could buy a flagon off of me.  
29 Q. He also mention something to you about the bridge  
30 problem.  
31 A. Yes, he did, yes.  
32 Q. Was that something that he volunteered to you.  
33 A. Yes, he did.  
34 Q. I think, at that stage, you didn't even know what it was  
35 all about, did you.  
36 A. I had a clue, but I didn't take it any further than  
37 that. I didn't ask any questions. Yes, Doug Milera did  
38 actually say it on his own behalf.



- 1 Q. Was he quite friendly, chatting away to you.  
2 A. He was just chatting, yes.  
3 Q. Just generally.  
4 A. Yes.  
5 Q. He didn't appear to be particularly upset about  
6 anything.  
7 A. No, not upset. He knew what he was going to say was  
8 going to get him into trouble. That was basically all  
9 he said to me.  
10 Q. You have mentioned a couple of things that were said  
11 about the flagon. Was there something else that you  
12 chatted about or was it just general chit chat.  
13 A. Basically he said he was going to get into trouble and I  
14 just said as long as you tell the truth and about the  
15 flagon and that was all.  
16 Q. When you said you have got to tell the truth, what did  
17 he say to that.  
18 A. I mean, he didn't say anything really. He was just  
19 quiet. He didn't seem happy and he didn't seem sad, so  
20 I suppose you could say it was in between.  
21 Q. Right at the start of the evening when they all came you  
22 had initially booked a room and it got changed in the  
23 conference room.  
24 A. Yes, that's correct.  
25 Q. At that time I think you were the one who asked Mr Kenny  
26 whether anyone was actually going to be staying the  
27 night.  
28 A. Yes, that's correct.  
29 Q. It was at that time that Mr Kenny turned to Mr Milera  
30 and asked him if he was going to be staying there.  
31 A. Yes, that's correct.  
32 Q. And Mr Milera said 'No.'  
33 A. Yes, that's correct.  
34 Q. No-one gave any reason for that.  
35 A. No.  
36 Q. No-one said anything else, at that time.  
37 A. No.  
38 Q. And it was then that you suggested that they could use

1730  
KC 24D

K.J. MULHERN XXN (MR LOVELL)

- 1 the conference room.
- 2 A. That's correct, yes.
- 3 NO FURTHER QUESTIONS
- 4 WITNESS RELEASED
- 5 ADJOURNED 11.15 A.M.

1 RESUMING 11.30 A.M.

2 MR SMITH CALLS

3 SUE LOUISE LAWRIE SWORN

4 EXAMINATION BY MR SMITH

5 Q. Looking at this statement produced to you, of 16 pages  
6 in length, and in particular p.16, do you recognise that  
7 as a statement which you provided to the Commission in  
8 connection with this Inquiry.

9 A. Yes.

10 EXHIBIT 73 Statement of S.L. Lawrie tendered by Mr  
11 Smith. Admitted.

12 Q. I think you have made a couple of small alterations to  
13 that document, haven't you.

14 A. Yes.

15 Q. Have you got a copy of your own statement.

16 A. I do.

17 Q. Which is a copy of the exhibit, is it not.

18 A. Yes.

19 Q. I take you to p.4. I think you have made a slight  
20 alteration on p.4, have you not.

21 A. Yes, just a minor alteration, where we refer to proper  
22 nouns, it is `kairlie' for dog not `kaitlie'.

23 Q. Going to p.14, there is a second alteration, is there  
24 not.

25 A. Yes, the spelling of the name of the mother of the woman  
26 whose house we were at is H-A-E-S-E.

27 Q. I think your grandfather was W.T. Lawrie, who, in 1913,  
28 was the school master at the Point McLeay school.

29 A. Yes, that's correct.

30 Q. In a sense, he is a highly respected if not famous  
31 person.

32 A. Absolutely, yes, almost legendary.

33 Q. He was appointed, was he not, as your statement makes  
34 clear, by the Government Education Department.

35 A. Yes, that's correct. And, despite numerous attempts to  
36 promote him and send him back to the city, he always  
37 refused to accept because of his dedication to the  
38 people at Point McLeay and the Ngarrindjeri people.

- 1 Q. And really since his day, since the 1930s, the Lawries  
2 have kept up a close association with Point McLeay, have  
3 they.
- 4 A. Absolutely, yes.
- 5 Q. And the Ngarrindjeri people.
- 6 A. Yes.
- 7 Q. W.T. Lawrie married your grandmother in about 1926,  
8 that's right, isn't it.
- 9 A. No, they actually married in the late or prior to 1920,  
10 but they didn't have children until about 1926.
- 11 Q. It was in 1926 that your Aunt Enid was born.
- 12 A. Yes, that's correct.
- 13 Q. In 1928 your father was born on the mission, wasn't he.
- 14 A. Yes, that's correct.
- 15 Q. I think your father was named Maclay.
- 16 A. Yes, named Maclay. A minor difference in spelling is  
17 M-A-C-L-A-Y, not McL and Mac for short, but he was  
18 always known as Raukkan Boy, because he was named after  
19 the mission.
- 20 Q. Accordingly then your father grew up on the mission, is  
21 that correct.
- 22 A. Yes, he did.
- 23 Q. I think he attended school at Narrung Primary.
- 24 A. Yes, in that era the schools were segregated and he and  
25 his sister had to go to Narrung, which was only about a  
26 kilometre away.
- 27 Q. He became known, apart from Raukkan Boy, as Mac, is that  
28 right.
- 29 A. That's correct, yes.
- 30 Q. Mac Lawrie.
- 31 A. Yes.
- 32 Q. He attended primary school at Narrung and high school at  
33 Victor Harbor.
- 34 A. Yes.
- 35 Q. Would that mean that he would stay away from home during  
36 the week.
- 37 A. When he went to high school, yes, but by that time the  
38 barrages had been built and he used to ride his bike

- 1 across the barrages from Victor Harbor back to Point  
2 McLeay for weekends. He must have been very fit.
- 3 Q. He would ride all the way from Victor Harbor to Goolwa.  
4 A. Yes.
- 5 Q. Across the barrages.  
6 A. Yes, and the islands and back to Point McLeay.
- 7 Q. On completing his schooling, your father I think as you  
8 have said in your statement moved to Melbourne.  
9 A. Just briefly, yes.
- 10 Q. For what purpose.  
11 A. To do an apprenticeship in the radiography trade, but it  
12 didn't suit him. He liked the life on the lakes with  
13 the boats and soon came back to Adelaide and set up his  
14 own business in a slipway with the boats.
- 15 Q. He has been in business at Port Adelaide or he had been  
16 in business at Port Adelaide since about, when.  
17 A. Yes, since the very early 1950s, about 1952 until 1958,  
18 when he retired, but he still maintained an interest  
19 and, of course, was still diving up until about 12  
20 months ago.
- 21 Q. So, the business consisted of what exactly.  
22 A. He was a diver, marine contractor, boat repairer. A bit  
23 of a dare-devil pilot. Anything unusual that needed  
24 doing in the 50s and 60s, before we had a Police Rescue  
25 Squad, they would call Mac Lawrie and he was for ever  
26 doing weird and wonderful things, whether it was in the  
27 air or in the mud or wherever. It was a very, very  
28 interesting business.
- 29 Q. Moving back to your grandfather, for a moment, I think  
30 he retired in 1951.  
31 A. Yes, he did.
- 32 Q. And he was still at Point McLeay Mission when he  
33 retired.  
34 A. Yes, he was.
- 35 Q. And the day he left, what happened.  
36 A. People were amazed that he was actually leaving. He did  
37 not want to leave. As I said earlier, every time he was  
38 offered a promotion, he refused to go. In fact, at the

- 1 time he left, the Point McLeay school had been upgraded  
2 so that its classification was as good as the best high  
3 school in the city, because it was the Education  
4 Department's only means of keeping him there, because he  
5 didn't want to leave. He put his heart and soul into  
6 the education of the Ngarrindjeri people. He believed  
7 very strongly that equality only came through education  
8 and, the day he left and crossed the lake, taking some  
9 Aboriginal children with him, he arrived at the Captain  
10 Sturt paddle steamer where he was to spend the night at  
11 Goolwa and that night he died. The day he left he died.
- 12 Q. It has been said in this Commission that, at some stage,  
13 Point McLeay was one of the most literate communities in  
14 South Australia.
- 15 A. Absolutely. He prided himself on it.
- 16 Q. When was that.
- 17 A. Through that era, through - as I say in my statement, he  
18 was there from about 1913 and he really put everything  
19 into making the community literate. He was strict. He  
20 was an authoritarian, but highly respected and the  
21 standard of education, I am told, not just by my own  
22 family, but by people who were taught by him, was very,  
23 very high.
- 24 Q. He was respected and loved by the Ngarrindjeri people.
- 25 A. Absolutely.
- 26 Q. Your grandmother, she lived in the community with your  
27 grandfather.
- 28 A. Yes, she did.
- 29 Q. For all that time.
- 30 A. Yes.
- 31 Q. You describe her as a softly-spoken and motherly woman.
- 32 A. Yes.
- 33 Q. Was she involved in teaching in anyway.
- 34 A. Not in teaching as such. However, she was very heavily  
35 involved in cooking classes, sewing, hygiene and she was  
36 very welcoming and always in the homes of the women,  
37 particularly when they had young children and babies,  
38 explaining on the care and health issues to do with

## S.L. LAWRIE XN (MR SMITH)

1 young children and she was again very highly respected.  
2 She was very, very loved. And, in fact, the home that  
3 my father was born in on the mission is still standing  
4 and, when it was in disrepair, about five or six years  
5 ago, I had discussions with some of the women about  
6 perhaps having it renovated and using it as a centre for  
7 women. That has, in fact, happened and it is used as a  
8 skills type area for the women at Point McLeay, or  
9 Raukkan, as it is now known, and they have requested a  
10 picture of my grandmother in her memory to hang  
11 alongside Aboriginal women who are held in similar  
12 esteem.

13 Q. You grew up, however, whilst living at Alberton.

14 A. Yes, I am a Port Adelaide girl.

15 Q. However, even growing up as a young girl, did you spend  
16 much time back at Point McLeay.

17 A. We would return regularly whenever there was  
18 unfortunately funerals and I, in particular, would  
19 accompany my father to those events. Don Dunstan  
20 unveiled a foundation stone in the 60s and that was just  
21 one of several occasions when we returned. Through the  
22 70s possibly not as much, but from the mid 80s onward I  
23 have made a particular point of returning as often as I  
24 can with my father. Sometimes for planned events,  
25 sometimes just to go and talk to people and reminisce,  
26 if you like. In the past five years, I would have been  
27 there approximately six or seven times for things like  
28 NAIDOC week, events associated with the school, the  
29 opening of the community centre. And sometimes just to  
30 plain visit. And I have had a very enjoyable time and  
31 been welcomed with open arms always.

32 Q. And going back to your childhood days at Alberton.

33 A. Yes.

34 Q. How often would you or your family go back to Point  
35 McLeay to visit your grandparents.

36 A. My grandfather had passed on and my grandmother was no  
37 longer there. After he died, she suffered a fairly  
38 serious accident and was bedridden back in the city.

1 But we would visit when there were events happening at  
2 Point McLeay or for funerals, weddings, those sorts of  
3 things.

4 Q. Would that be, I think you have said in your statement -

5 A. Once a year.

6 Q. Once a year.

7 A. Yes.

8 Q. Has the welcome that the Lawrie family have had at Point  
9 McLeay lessened over these years.

10 A. If anything, it has increased in recent years.

11 Q. During the time that you have known the Point McLeay  
12 Mission, some senior Aboriginal ladies have had an  
13 effect on you, I think, have they.

14 A. Yes.

15 Q. Three in particular.

16 A. Yes, the three that really stand out in my mind, one of  
17 them I hadn't met, and that is Dulcie Wilson, but people  
18 talked of her frequently. They held her in very high  
19 regard. They always talked about the fact that she  
20 represented all women from South Australia at  
21 Westminster back in the 50s and they saw that as a major  
22 boost to their community that one of them had been  
23 selected. She was held in extremely high regard and I  
24 would have called her matriarch. An older woman,  
25 Rebecca Wilson, although at that time lived in the city,  
26 was a close friend of the family and would often visit  
27 in our own home and I once visited in her home at Athol  
28 Park.

29 CONTINUED



## S.L. LAWRIE XN (MR SMITH)

1 She very clearly, to me, was the matriarch of the  
2 community. She was held in very high regard. She was a  
3 strong, forceful woman, who knew what she believed in  
4 and stood by her beliefs very staunchly. A very  
5 upright, strong citizen, not just in her own community.  
6 I think that she would have been well known, the sort of  
7 person she was. In more recent times, a person who  
8 stands out in my mind - and she is not in the same age  
9 bracket - is Jean Rankine. She is a woman with a quiet  
10 dignity, who seems to get things done, and is very  
11 highly regarded at Point McLeay. Whenever there have  
12 been things happening, she has been very quick to  
13 contact our family and include them in any invitations.  
14 And if we have turned up unexpectedly, just to go and  
15 have a visit at the old home, she has always welcomed us  
16 and taken us in and shown us around. She has a certain  
17 aura of authority and respect.

18 Q. Had you ever met Nanna Laura, the daughter of Pinkie  
19 Mack.

20 A. No. I had heard of her frequently but at that point I  
21 hadn't met her.

22 Q. We have been referring to her as the daughter of Pinkie  
23 Mack in this inquiry.

24 A. Yes.

25 Q. You did meet her, however, didn't you.

26 A. I did. I did.

27 Q. When you were at kindergarten, I take it that was in the  
28 city, in the Alberton area.

29 A. Port Adelaide.

30 Q. I think you had an Aboriginal teacher.

31 A. Yes, I did. Dora Hunter. She was a very strong  
32 influence on my life. I was very shy as a child - as a  
33 young child, and I sometimes blamed Dora Hunter for not  
34 being so shy and perhaps being a bit more out spoken now  
35 in later life, because she has spent a lot of time  
36 drawing me out and paid a lot of attention to me, and  
37 was one of the strongest early influences on my life.  
38 She was also an extremely good friend of Rebecca Wilson,

- 1 and visited in my home with Rebecca Wilson when I was a  
2 young child.
- 3 Q. They were active women, weren't they.
- 4 A. Very, very.
- 5 Q. In the sense of -
- 6 A. They were strong, they were vocal, they were active and  
7 highly respected in their communities.
- 8 Q. By 'active', I mean activist. In the sense of taking up  
9 local issues, for instance.
- 10 A. Absolutely, yes.
- 11 Q. So that is both Miss Hunter, your teacher; and Rebecca  
12 Wilson.
- 13 A. Yes. Miss Hunter is still alive, and I bumped into her  
14 a few years ago. She is relatively young compared to  
15 say Rebecca Wilson, and she was working for the  
16 Department of Community Welfare at Port Adelaide, and I  
17 believe, the last I heard, was at Woodville. But she is  
18 still working in that community welfare field amongst  
19 her people.
- 20 Q. Rebecca Wilson, who is now deceased, isn't she.
- 21 A. Yes, yes.
- 22 Q. She was very much a person who spoke about issues,  
23 wasn't she.
- 24 A. Yes.
- 25 Q. Was she a person who was looked up to in the community  
26 for advice.
- 27 A. Absolutely.
- 28 Q. Was she a Christian.
- 29 A. Staunchly so. She made a point of making sure people  
30 realised what her value system was.
- 31 Q. Have you met the older daughter of Rebecca Wilson,  
32 Leila.
- 33 A. I recall meeting Leila at Point McLeay on a couple of  
34 occasions over the years, but I don't recall meeting her  
35 other daughter.
- 36 Q. Her other daughter being Veronica.
- 37 A. Yes.
- 38 Q. Veronica Brodie.

## S.L. LAWRIE XN (MR SMITH)

- 1 A. I may have met her, but I don't recall meeting her.  
2 Q. And Leila is dead, is she not - deceased.  
3 A. Yes.  
4 Q. Did you have occasion to go to Rebecca Wilson's house.  
5 A. Just once as a child. We visited her at her invitation.  
6 She was in an attached - those double unit Housing Trust  
7 places you see a lot of in the western and northern  
8 suburbs. It was at Athol Park, quite close to Torrens  
9 Road. I could take you there, but I can't tell you the  
10 exact address.  
11 Q. You are now living, I think, and working in Darwin. Is  
12 that right.  
13 A. Yes, that's correct. I work in Darwin.  
14 Q. You have maintained an interest in the Aboriginal  
15 community at Point McLeay.  
16 A. Yes.  
17 Q. I take it you have been following the tortured events of  
18 this inquiry, have you.  
19 A. To some extent. I mean, obviously earlier on there was  
20 a huge interest, but being in Darwin, the news isn't as  
21 frequent, and I rely on what family members remember to  
22 tell me, which is sometimes a bit sketchy.  
23 Q. Do you know about, and did you hear at the time it was  
24 unfolding in this inquiry, of the evidence of Betty  
25 Fisher.  
26 A. Yes. My family were quite incensed at the time, so I  
27 received a phone call about it.  
28 Q. The thrust of the evidence of Betty Fisher, as you  
29 understood it, was that Rebecca Wilson had confided in  
30 Betty Fisher. Is that as you understood it.  
31 A. That's as I understand what I'm told was said in the  
32 inquiry.  
33 Q. What is your view about that.  
34 A. I just laughed -  
35 OBJECTION: Mr Kenny objects.  
36 MR KENNY: If I may just interrupt here?  
37 MR ABBOTT: On what basis does he interrupt?

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- 1 MR KENNY: I interrupt on the basis that I think  
2 this witness's opinion is irrelevant. As best as I can  
3 tell at this stage, she is now talking about her  
4 kindergarten teacher's friend.
- 5 WITNESS: No, no, that is not correct.
- 6 MR ABBOTT: I ask on what basis does Mr Kenny make  
7 any objection? It is counsel assisting's responsibility  
8 to lead whatever evidence he feels is relevant.
- 9 COMSR: It is for me what weight I give to the  
10 evidence. The more speculative it becomes, the less  
11 weight attaches to it. But I gather that, in any event,  
12 the witness feels that you have misapprehended the basis  
13 on which she has given the evidence.
- 14 WITNESS: Absolutely.
- 15 COMSR: Perhaps if we can elicit from the  
16 witness.
- 17 MR KENNY: Perhaps a little more information about  
18 when she actually knew Rebecca Wilson, how old she was  
19 and the time.
- 20 COMSR: I am sure Mr Smith will -
- 21 MR KENNY: Also, Mr Wardle, I presume hasn't -  
22 perhaps he has been advised of this piece of evidence,  
23 but he is certainly not here to ask any questions in  
24 relation to it. I think he at least should be given the  
25 opportunity to discuss this point. I think it is  
26 appropriate that, if he wishes to take some objection on  
27 this point, that he be given the opportunity to do so.
- 28 COMSR: Perhaps if we get the evidence,.
- 29 MR KENNY: What I am saying is perhaps this witness  
30 can be -
- 31 COMSR: If Mr Wardle wishes the opportunity to  
32 come and cross-examine the witness, I understand she is  
33 likely to be available -
- 34 MR SMITH: She will be in the witness box for  
35 virtually the rest of the day. I undertake to notify Mr  
36 Wardle.
- 37 MR KENNY: Perhaps this evidence can be left until  
38 Mr Wardle -

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- 1 MR SMITH: No, it is not going to be left.
- 2 MR KENNY: I would ask that counsel assisting at  
3 least establish on what basis this opinion is based.
- 4 XN
- 5 Q. You have spoken about Rebecca Wilson.
- 6 A. Yes.
- 7 Q. And the degree to which you knew her.
- 8 A. Yes.
- 9 Q. Could you elaborate on her a bit.
- 10 A. I thought it was reasonably clear that I separately knew  
11 Dora Hunter, and I knew Rebecca Wilson under completely  
12 different circumstances. And Dora I knew from a very  
13 young age, from about two and a half to three. Rebecca  
14 I knew from a similar age, but separately. From the  
15 time I was about 7 or 8, I realised that they were close  
16 friends, and there were occasions from about that age  
17 when I saw the two of them together on a number of  
18 occasions. They visited in my home together, and  
19 separately. Rebecca Wilson was as strong, if not a  
20 stronger friend and acquaintance as Dora Hunter, but  
21 they both were friends and acquaintances, both  
22 separately and together visiting my family and vice  
23 versa.
- 24 Q. Going back in time, Rebecca Wilson was a long time  
25 resident at Point McLeay.
- 26 A. Absolutely. She had known my father from the time he  
27 was born. She had known my aunt from the time she was  
28 born, and had been very close - very very close to my  
29 grandmother and, of course, had known my grandfather  
30 extremely well. So, if you like, they had known the  
31 family through three generations, and I would have  
32 considered them close.
- 33 Q. You have had reports of the evidence of Betty Fisher.
- 34 A. Yes.
- 35 Q. What was your understanding of the thrust of Betty  
36 Fisher's evidence.
- 37 COMSR: I hope we are not going into any detail  
38 as to it?

## S.L. LAWRIE XN (MR SMITH)

1 MR SMITH: No.

2 XN

3 A. It was my understanding that the thrust of the evidence  
4 was that Rebecca Wilson had told someone she had only  
5 known for a very short period of time, details that I  
6 would not have considered the sort of subject matter  
7 that Rebecca Wilson would talk about to anybody.

8 MR KENNY: Just in relation to my earlier  
9 objections. It appears from that information that the  
10 witness's dealings with Rebecca Wilson was when she was  
11 7 or 8, and now she is giving an opinion -

12 WITNESS: And upwards. And upwards.

13 MR SMITH: I object to Mr Kenny interrupting this  
14 examination. He has no interest in this topic. Your  
15 leave to Mr Kenny is subject to that.

16 COMSR: Yes, Mr Kenny. The witness has  
17 established the basis on which she is giving her  
18 opinion. As I say, it is a question of what weight one  
19 attaches to it in the final analysis, but I think really  
20 we should proceed without interruption, because I cannot  
21 see that you have a relevant interest in this particular  
22 passage of evidence.

23 MR ABBOTT: I join in that. He can have no possible  
24 interest in it. This evidence -

25 COMSR: In any event, I think I have made it  
26 clear to Mr Kenny.

27 MR KENNY: I accept your ruling. I understand your  
28 direction that I not ask any further questions.

29 COMSR: It is not that you are not to ask any  
30 further questions, but your questions must have a more  
31 direct connection with the party you are representing.

32 XN

33 Q. Your understanding then was that Mrs Fisher had conveyed  
34 to the inquiry that Rebecca Wilson had confided special  
35 sacred information to her.

36 A. Yes.

37 Q. What is your reaction to that.

- 1 A. My reaction was that does not sound like the Rebecca  
2 Wilson I knew when I was growing up. She had very  
3 strong principles, and she would not divulge things to  
4 strangers. She was not that sort of person. She would  
5 think - she was very measured in her approach, and would  
6 have thought very carefully before discussing anything  
7 of a private nature with people she knew, let alone  
8 strangers.
- 9 Q. Is that your personal reaction, or was that the reaction  
10 also of other members of your -
- 11 A. That was also the reaction of my parents, both my  
12 parents, and, I might add, my sister, whom I am staying  
13 with at the moment.
- 14 Q. Can I take you to 27 November 1994.
- 15 A. Yes.
- 16 Q. I think that was a day of special significance, was it  
17 not.
- 18 A. Yes. Yes, it certainly was.
- 19 Q. What was the significance.
- 20 A. My father, mother and I returned to Point McLeay, or  
21 Raukkan, for a special back-to-Point-McLeay celebration  
22 weekend. It was a Sunday. The celebrations had been  
23 going on on both days. We arrived shortly after lunch  
24 and spent the entire afternoon there. I particularly  
25 spoke to a woman that I hadn't met previously, but I  
26 came to know as Maggie Jacobs. I spent a great deal of  
27 time reminiscing with her, and talking about my plans at  
28 some point in the future to write a book on my father's  
29 life. I took a number of photographs that day of her,  
30 and other people at Point McLeay, and of the old family  
31 home, and we generally had a wonderful time. She  
32 encouraged me to come back and speak to her at greater  
33 length. She actually lives in the city but spends quite  
34 a deal of time out there, and suggested we get together  
35 at some point earlier in the year so that she could tell  
36 me her anecdotes and reminiscences of early life at  
37 Point McLeay. She herself had left as a teenager, but  
38 had very clear memories as a child.

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1 Q. Did you have in mind taking your father along, too.

2 A. Absolutely. My father, since his retirement, finds it  
3 very difficult - having had such an interesting life,  
4 finds it very difficult filling his days of retirement  
5 with things of enthusiasm, of interest, and I thought it  
6 was a really good way to give him something to look  
7 forward to, and for him to get his memories on tape as  
8 well.

9 Q. Around about this time, I think there was an Adelaide  
10 journalist who -

11 A. Yes.

12 Q. Had plans to write such a book.

13 A. For many years I had had discussions with Jim Robbins,  
14 who was a well known local journalist.

15 Q. Is that R-O-B-B-I-N-S.

16 A. Yes. Jim had, many years ago, in his day-by-day column,  
17 and other columns, covered the exploits that my father  
18 was involved in, and really had a huge interest in him,  
19 and saw him as one of South Australia's true characters,  
20 if you like, and kept telling me that the book must be  
21 written, and that he had extensive files of his own, and  
22 had always said that we should sit down together and do  
23 the book. He was well aware of my interest, but  
24 unfortunately his health deteriorated very rapidly and  
25 he passed away. I had a very strong sense of having  
26 missed the boat, and that unless I acted quickly to  
27 start getting things on tape and photos and memorabilia,  
28 that it might be completely lost.

29 Q. While you were at Raukkan or Point McLeay on that day,  
30 27 November, this publication was available, was it not.

31 A. Yes. I have my own copy here.

32 Q. A publication entitled 'Troddin -'

33 A. 'Trodden Thru Raukkan'. That's so typical, that  
34 expression. That is one of the things that got us  
35 talking. I purchased my own copy that day, which I'm  
36 very proud of.

37 Q. I think you can purchase this publication for \$8 or so  
38 from the South Australian museum.



- 1 A. If it hasn't sold out. I think it has probably had two  
2 or three runs by now.
- 3 Q. Can I quickly just have you refer to a couple of things  
4 in the book. Turning to p.6 of that publication, I  
5 think there is a photograph on top of p.6 which includes  
6 a group of people, including Maggie Jacobs. Is that  
7 right.
- 8 A. Yes, that's correct.
- 9 Q. I think that photograph is taken at Dulcie and Lindsay  
10 Wilsons' house, is that right.
- 11 A. Yes.
- 12 Q. I think at p.7 there is a photograph of the daughter of  
13 Pinkie Mack.
- 14 A. Yes.
- 15 CONTINUED
- 16

1 Q. Going to the back of p.51 of the publication, I think we  
2 see an old photograph of Rebecca Wilson when she was 42  
3 years of age.

4 A. Yes, that's correct.

5 EXHIBIT 74 Publication 'Troddin Thru Raukkan'  
6 tendered by Mr Smith. Admitted.

7 Q. Your admiration for your father, was that shared by the  
8 community at Raukkan.

9 A. Absolutely. Some of the occasions in the past five  
10 years when I've returned, it has been without him and  
11 they always speak of him with a very great affection,  
12 'Their Raukkan boy Mackie', and they are always telling  
13 me about wonderful things to do with his childhood and  
14 things since when he had contact with the community as  
15 well as WT. They speak very, very highly of him.

16 Q. Later on that day - and we are still on 27 November  
17 1994.

18 A. Yes.

19 Q. Back to Point McLeay celebrations, I think you spent  
20 some time at the house of Jean and Henry Rankine.

21 A. That's correct, yes.

22 Q. Did you have discussions about your proposed book.

23 A. Yes.

24 Q. Anecdotes and things like that.

25 A. Yes. Particularly with Jean, although Henry was  
26 involved in the discussions as well.

27 Q. I think Jean Rankine told you about the photograph that  
28 had been taken at recent times at Point McLeay.

29 A. Yes, she - she was joking about it, but every time I've  
30 been back there, people say that the spirit of WT is  
31 still there and the people have seen him. I joked a bit  
32 about this particular occasion and she said that the  
33 photograph had been taken in recent times and people  
34 claimed WT is in the photo. He smoked a pipe and wore  
35 a hat and was very tall and the children would know he  
36 was coming because they would see the smoke rising in  
37 the pipe. This is one of the anecdotes that I often  
38 hear. In this particular photo, it's said people claim

1 they could see the smoke from the pipe and the hat in  
2 the background. Just like students had always said many  
3 years ago they could tell WT when there was a pipe and  
4 smoke and the hat and claimed it was in the photo. I  
5 didn't actually see the photograph.

6 Q. I think there is a belief, isn't there, in the community  
7 about the juxtaposition of his death and departure.

8 A. Absolutely. People always comment to me on the fact  
9 that he didn't want to go and that is why he died the  
10 day he left; that he was broken hearted and didn't want  
11 to leave the community. I might add that Jean Rankine  
12 also told me a few years ago when I visited with her  
13 family who had lived in that same area, the Green  
14 family, we visited about four years ago now and they  
15 were just opening up the old home as a Women's Centre,  
16 and she and Henry took us all through the house. I had  
17 the strangest experience. I could smell mutton cooking,  
18 and I haven't smelt mutton cooking since for a long  
19 time, and I pulled my son aside and said `Can you smell  
20 that roast, there's no stove going', and I could smell  
21 mutton cooking. At that moment, Jean said, she was with  
22 the rest of the group and said `People say they can  
23 still smell mutton cooking in the oven here and her  
24 presence is still here'. My son and I looked absolutely  
25 shocked. We had been talking about smelling roast  
26 mutton and couldn't understand that we could smell that.

27 Q. Is there talk about the spirit of your grandfather.

28 A. People do talk about it and the presence still being  
29 there in the house and the community.

30 Q. I take it you were somewhat, as you have said in your  
31 statement, full of excitement about the prospects of  
32 this book.

33 A. Absolutely, yes.

34 Q. In November 1994 when these celebrations were on, I  
35 think you were still at the university.

36 A. Yes, I was.

37 Q. Studying for what degree.

38 A. Politics and history, Australian history.

- 1 Q. You graduated.  
2 A. I haven't as yet.  
3 Q. I think you were offered a position in Melbourne, as you  
4 have said.  
5 A. Yes, a temporary position.  
6 Q. Did you take that position.  
7 A. Yes, I did. It commenced in January this year.  
8 Q. In November of 1994 when you were at Raukkan, the  
9 Hindmarsh Island Bridge and the controversy surrounding  
10 it was still very much in the media and in people's  
11 minds, was it not.  
12 A. Yes.  
13 Q. Did you enter into discussions with people about this,  
14 or did you steer away from it.  
15 A. No, I didn't. I didn't feel it was appropriate at the  
16 time. I didn't, of my own accord, instigate any  
17 discussions on the subject and I had not followed -  
18 although I was aware of it and clearly had opinions at  
19 different times, I really did not pursue that at all.  
20 Q. You knew that the controversy centred about the question  
21 of the existence or not of women's business.  
22 A. Yes.  
23 Q. Do you have your own views about that.  
24 A. Yes, I do.  
25 Q. I think as your statement says you were dubious about it  
26 for a number of reasons, weren't you.  
27 A. Yes.  
28 Q. Had you ever heard anything of men's or women's  
29 business.  
30 A. Never. I had heard of male-only corrobories. I hadn't  
31 heard of men's business as such or anything special to  
32 do with women.  
33 Q. We are talking here about secret women's business.  
34 A. Yes. There was nothing ever suggested in my childhood  
35 to me.  
36 Q. Were you very close to your Aunt Enid.  
37 A. Extremely close.  
38 Q. She had grown up, I think, in Point McLeay.

1 A. Yes, she had - and like me she made a point of keeping  
2 those ties strong.

3 Q. She's since passed away.

4 A. Yes, she has.

5 Q. When was that.

6 A. 1982.

7 Q. Had Aunt Enid conveyed to her children aspects of  
8 Aboriginal culture and Aboriginal language.

9 A. Yes, she had. Her youngest daughter, Bronwyn, in  
10 particular because she remained at home. She could tell  
11 you more nouns than I can. I know things like Kairlie,  
12 K-A-I-R-L-I-E, and Moolyeri, M-O-O-L-Y-E-R-I, for the  
13 magpie.

14 Q. Kairlie being the word for 'dog'.

15 A. And Moolyeri the magpie. I can't roll my r's the way  
16 that they do. They are much more musical. But my aunt  
17 would often talk to myself and to Bronwyn about her  
18 memories and the culture. And when she passed away, it  
19 was with cancer, and when she knew how ill she was, she  
20 spent a lot of time talking to my niece about customs  
21 and her childhood and her memories of Point McLeay, and  
22 was really particular to pass on any information that  
23 she had. And speaking to my cousin in recent times  
24 about all of this, she's relieved about what is  
25 happening now as she believes the truth will come out.

26 Q. I'm going to ask you this: None of this is secret or  
27 sacred.

28 A. Absolutely not.

29 Q. So there were stories of spirits that you heard.

30 A. Yes. Mulgewonk was a big part of my childhood. My  
31 father told us lots of stories about tradition.

32 Q. That is M-U-L-G-E-W-O-N-K-E.

33 A. Yes. Mulgewonke was a spirit who apparently lived in  
34 Lake Alexandrina and would come and take the spirits of  
35 the dead under the lake after they have died. It was -  
36 you were meant to be able to tell that he was around by  
37 a loud rumbling noise, almost like an earthquake or a  
38 loud rumbling coming from the lake. They would also

1 tell the children not to go out into the deep waters  
2 because the mulgewonke would get them. I am told - I  
3 have asked lots of people have they ever heard of the  
4 mulgewonke, and asked Maggie Jacobs and a number of  
5 other people and asked and they say no. My father's  
6 family maintain they can hear the rumblings outside to  
7 show a death and the people tell me someone has died by  
8 the rumbling.

9 Q. I think it's the case, isn't it, that parents of  
10 children used to use these sorts of things as a means of  
11 control.

12 A. A bit like the boogiemans will get you if you go out in  
13 the dark.

14 Q. They were disciplinary measures.

15 A. Don't go out into the deep water, or the mulgewonke will  
16 get you.

17 Q. When your grandparents were residents at Point McLeay  
18 and when you and your father, your family, visited, were  
19 you enquiring about the culture.

20 A. All the time. As a young child, you embarrass your  
21 parents continually by asking of stories about the  
22 pioneer days, and always think they're really ancient.  
23 And my father would tell us stories about Point McLeay.  
24 He was a great story-teller and every night there would  
25 be more stories about his childhood and the things that  
26 happened at Point McLeay - and the boy who kept his feet  
27 warm in the milk when he was milking the milk. There  
28 are lots of interesting stories and anecdotes that have  
29 come out of this.

30 Q. When you were a young child but of reading age, did you  
31 read.

32 A. I was an avid reader. I blame Dora Hunter. She got me  
33 started reading at a very young age. I read the works  
34 the Taplin - and I was nine or ten years of age, which  
35 is around my parents. But I was just so fascinated by  
36 the history of this group of people, and different  
37 aspects really stand out in my mind about the culture.

38 Q. As you have said in your statement, your father had an

- 1 original copy.
- 2 A. Yes, he had an original copy and he's recently had it  
3 rebound.
- 4 Q. Of Taplin's works.
- 5 A. Yes, I might add that people like Tindale actually  
6 stayed in my father's home and grandparents' home.  
7 People who have been associated with the anthropological  
8 works of the Ngarrindjeri were closely associated with  
9 my grandfather and father, and he has clear memories of  
10 these people from childhood and the discussions that  
11 took place in the family home.
- 12 Q. Is my date correct that your grandfather was at Point  
13 McLeay in the days of the Berndts.
- 14 A. Yes.
- 15 Q. Their fieldwork.
- 16 A. Yes.
- 17 Q. Did he have any contact with the Berndts.
- 18 A. Yes, he did. That was towards the latter end, from  
19 memory.
- 20 Q. Did you take the view of yourself that you were quite  
21 well informed about Ngarrindjeri culture.
- 22 A. I believe as far as the non-indigenous community goes, I  
23 was quite well informed.
- 24 Q. As you point out in your statement, it was from about  
25 the 1850s that all Ngarrindjeri people were made to live  
26 at Point McLeay.
- 27 A. Yes.
- 28 Q. And that became, if you like, the headquarters.
- 29 A. Yes, of those people.
- 30 A. Yes, that centred that settlement.
- 31 Q. I think there are references taken from the census which  
32 is included in the publication 'Troddin Thru Raukkan',  
33 Exhibit 74.
- 34 A. That's correct. I often refer to it.
- 35 Q. The census there is set out on pp.26 and 27.
- 36 A. And elsewhere, yes.
- 37 Q. And elsewhere.
- 38 A. Yes. It continues.

1 Q. Is that a good guide as to where people are from and  
2 which families are from the area and which families are  
3 not.

4 A. In my opinion it is, because Taplin was absolutely  
5 meticulous in his record-keeping and he's quite thorough  
6 about where people were from - and even those he was  
7 only required by law to detail those people on Point  
8 McLeay, he went to great pains to make sure that  
9 everybody from all outlying tribes, no matter where the  
10 wurley was located, he sent details to everybody in the  
11 census.

12 Q. For the census, Taplin took responsibility recording  
13 these people.

14 A. Yes.

15 Q. And that is set out in 'Troddin Thru Raukkan'.

16 A. Yes.

17 Q. That is a key, is it, to assessing which families are  
18 genuinely from the area and which ones are not.

19 A. To a certain extent. Because people were brought in -  
20 some of the people brought in were not necessarily from  
21 there originally; for instance, the Rigney family. The  
22 first Rigney was actually from Albany in Western  
23 Australia, and because he was orphaned and a teenager,  
24 the South Australian Government demanded that Taplin  
25 take him in because he had nowhere else to go. Although  
26 he was from a completely different tribe, he was also  
27 sent there. That was the way that - quite often, if  
28 there was single mothers of children by white men, then  
29 they would often be sent there because that was  
30 considered to be a nurturing environment, to be taken  
31 care of. So although it was mainly Ngarrindjeri people,  
32 not necessarily all of them are Ngarrindjeri people.

33 Q. I think Doreen Kartinyeri was a Rigney, was she not.

34 A. Yes, on her mother's side of the family.

35 Q. The other side of the family.

36 A. Kartinyeri. The 'Kartinyeri' name is by adoption.

37 Q. So, she is a Kartinyeri by adoption.

38 A. Two or three generations.



1 Q. And a Rigney by adoption as well.

2 A. Yes.

3 Q. Is this the case from what you know of the genealogies,  
4 that Doreen Kartinyeri has Ngarrindjeri names on both  
5 sides, but they're by adoption rather than birth.

6 A. Yes.

7 COMSR

8 Q. What do you know of genealogy.

9 A. Well, I know the local names. I mean, these things have  
10 been discussed frequently through the family. I have  
11 always known about the Rigneys and the background of how  
12 the Rigneys came to be at Point McLeay. When I read of  
13 her background that she was a Rigney, I instantly wanted  
14 to have a look and check, because I know that Rigneys  
15 are not from Point McLeay originally. They may have  
16 been for the past three generations, or four  
17 generations, but they certainly haven't been there since  
18 time immemorial, but they have been a recent import  
19 since the 1850s. My son went into the Library and got  
20 the genealogies and I went through them. As I  
21 suspected, she is directly descended from the Rigneys,  
22 and the Kartinyeri is a Kartinyeri by adoption not by  
23 birth. In both cases, the father, the men have been the  
24 sons of white men who have later been adopted by members  
25 of the tribe.

26 Q. You say, in effect, that you had inquired into the  
27 available records.

28 A. I have inquired. I don't pretend to be a genealogy  
29 expert. Because of my knowledge, I have inquired into  
30 it and have the relevant lineages in my possession.

31 XN

32 Q. Sally Kartinyeri.

33 A. Yes, that is her married name.

34 Q. Again, where does she come from.

35 A. From Poonindie, which is from Port Lincoln, the other  
36 side of Port Lincoln.

37 Q. That is Doreen Kartinyeri, the Auntie Sally we are  
38 talking about.

- 1 A. Yes - grandmother, sorry.
- 2 Q. Nanna Sally Kartinyeri.
- 3 A. Yes.
- 4 Q. She comes from Poonindie.
- 5 A. Yes.
- 6 Q. That is the other side of Port Lincoln.
- 7 A. Yes.
- 8 Q. Again, is she a Ngarrindjeri person.
- 9 A. No. People from Poonindie are in no way related to the
- 10 Ngarrindjeri.
- 11 Q. She married someone whose name was Kartinyeri.
- 12 A. Yes, by adoption.
- 13 Q. You offer this to us on the basis that if there was
- 14 secret sacred knowledge to be passed down amongst the
- 15 Ngarrindjeri people, you would expect it to be to people
- 16 who have true ties and lineage.
- 17 A. Yes.
- 18 CONTINUED

- 1 Q. I take you to the topic of the centenary celebrations in  
2 the 1930s of Sturt's voyage down the Murray.
- 3 A. Yes.
- 4 Q. In 1930 it was approximately 100 years since they had  
5 mapped out the Murray and travelled down it, isn't that  
6 the case.
- 7 A. I am not too sure of the dates.
- 8 Q. But that was the centenary celebration, anyway.
- 9 A. Yes, in the 1930s.
- 10 Q. I think there was a major re-enactment of Sturt's voyage  
11 down the Murray in the 1930s.
- 12 A. Yes.
- 13 Q. And your family had something to do with that.
- 14 A. My grandfather took my father and Tom Rowlands, who was  
15 the son of the nurse on Point McLeay, across to the  
16 celebrations. They had done a complete re-enactment  
17 along the river system to the lakes. They had stopped  
18 off at Point McLeay briefly, but it culminated on  
19 Hindmarsh Island with a male-only corroboree.
- 20 Q. I think, in January 1995, you began working for Ken  
21 Aldred, a member of Parliament in Victoria.
- 22 A. Yes, I did.
- 23 Q. It was in about March of 1995 that you had some contact  
24 with the politician, Ian McLachlan.
- 25 A. Yes, that's correct.
- 26 Q. He had resigned from the front bench.
- 27 A. Yes.
- 28 Q. What was the nature of his contact with you.
- 29 A. A friend of mine, who has known of my association for  
30 many years, rang me one night after a few drinks with  
31 friends in Canberra and said 'Why aren't you doing  
32 anything about all this?' And I said 'Well, I don't  
33 really consider it appropriate.' And they suggested I  
34 should talk to all sorts of people, which I refused to  
35 do. But, after the conversation, my conscience pricked  
36 me a bit and I decided to ring Ian and just say how  
37 sorry I was to hear what had happened and - which is  
38 basically what I did. He wasn't there, at the time. I

1 spoke very briefly to Peter Miller, one of his staff,  
2 who did not know me or my background and I basically  
3 sent my commiserations and mentioned that I had a  
4 background relating to Point McLeay. Approximately a  
5 week later Ian McLachlan rang - he recognised who it  
6 was - rang and thanked me and said he was very surprised  
7 to hear that I had a connection. I mentioned that I was  
8 planning to come over at two or three different points,  
9 in the coming months, but, you know, said that I may or  
10 may not contact him if there was anything I thought was  
11 relevant, but I certainly would not question people  
12 specifically on the subject. I would not be trying to  
13 elicit information on the subject from people. But it  
14 was just a brief conversation.

15 Q. Ian McLachlan was, as you say in your statement, an  
16 acquaintance of yours, but you wouldn't put him in the  
17 category of a friend.

18 A. I have been a member of the Liberal Party for some years  
19 now, fifteen years. And of course I have seen him. I  
20 was present the night of his preselection, as I have  
21 attended many, many preselections in the Liberal Party.  
22 I have seen him at a number of functions. He will often  
23 stop and say 'Hello.' You know, he knows that I am Sue.  
24 I know that he is Ian McLachlan, but I would hardly call  
25 him a close friend. I know a lot of politicians on both  
26 sides.

27 Q. I think, when you spoke to Peter Miller, you mentioned  
28 to him that you were going to Adelaide on the weekend  
29 and to a birthday party for Maggie Jacobs.

30 A. Yes, I did.

31 Q. But, as you have just said, you certainly weren't going  
32 to be making investigations, or anything like that.

33 A. If anything, it made me more careful. I was determined  
34 that, at no stage, would the subject come up. I decided  
35 to formalise the questions that I was going to ask to do  
36 with anecdotes in the past and totally avoided the  
37 subject.

38 Q. It wasn't a case of you reporting back, for instance.

- 1 A. Absolutely not. And, even if I had, it wouldn't have  
2 been of much interest, the sorts of things we discussed.
- 3 Q. That was in March, then, that contact with Ian  
4 McLachlan.
- 5 A. Yes.
- 6 Q. Through Peter Miller.
- 7 A. Yes.
- 8 Q. March 1995.
- 9 A. Yes.
- 10 Q. I take you to 1 April 1995, that was a Saturday, and I  
11 think you went to Point McLeay with your father.
- 12 A. Yes, and my son.
- 13 Q. And your son, Rob.
- 14 A. Yes.
- 15 Q. The purpose of the visit was.
- 16 A. To discuss with Maggie Jacobs, and anyone else, the  
17 stories of years gone by, their memories of life on  
18 Point McLeay, with my father and W.T.
- 19 Q. It was Maggie Jacobs's birthday, wasn't it.
- 20 A. Yes, it was, it was her 75th birthday.
- 21 Q. I think you spent several hours with Maggie Jacobs,  
22 Daisy Rankine and Patrick Byrt.
- 23 A. Yes.
- 24 Q. A white lawyer.
- 25 A. Yes, and various other people.
- 26 Q. Daisy Rankine, is she one of the Aboriginal women at  
27 Point McLeay.
- 28 A. Yes, she is.
- 29 Q. You now understand, I think, that she is a niece of the  
30 daughter of Pinkie Mack.
- 31 A. Yes.
- 32 Q. She has some association with the solicitor, Patrick  
33 Byrt, does she.
- 34 A. Yes.
- 35 Q. What, can you explain that.
- 36 A. Only from what I observed and was told on that day. She  
37 had written - she told me that she had written a letter  
38 to the Queen and that she was concerned about an address

- 1 that had been made by Taplin when Prince Albert visited  
2 and that she wanted this address returned. And I found  
3 it very confusing and had to question her two or three  
4 times, to make sure that I had heard correctly, that  
5 that is exactly what she was saying. And that she was  
6 doing this at the suggestion of Patrick Byrt and that  
7 they had worked in together to write this letter to the  
8 Queen. And, when I said 'Well, what is the concern?',  
9 she said that - or they both said, Patrick in  
10 particular, that 'Nobody knew what was in that address  
11 and we don't know what has been given to the prince by  
12 Taplin. I mean, has he given away our right to land?'  
13 And, with my historical studies, I was aware that we  
14 were set up differently here in South Australia, where  
15 you couldn't just give away land like that. And I was  
16 amazed, but decided to keep my own counsel on it,  
17 because the whole thing seemed very strange to me. But,  
18 nonetheless, they had worked in closely on this project.
- 19 Q. Can you just explain that. An address be given -  
20 A. Yes.
- 21 Q. Was given and ought to be given back.  
22 A. Yes, a speech was given on the foreshore, when Prince  
23 Albert had visited Point McLeay, during the - his royal  
24 visit.
- 25 Q. And that was how long ago.  
26 A. Probably the 1850s, it could have been early 1860.
- 27 Q. What is Albert, the, what, the husband of Queen  
28 Victoria.  
29 A. Yes, I assume so.
- 30 Q. Or one of the princes.  
31 A. Just one of the princes, when he was here. But I was -  
32 it didn't make a lot of sense to me, but I did question  
33 her two or three times, to make sure that I had my facts  
34 straight.
- 35 Q. And that the letter to the Queen was a current letter.  
36 A. Yes.
- 37 Q. That he had encouraged Daisy Rankine to write.  
38 A. Yes, it was written this year.

- 1 Q. Going back over 100 years almost.  
2 A. Yes.  
3 Q. I think there were other discussions that you became  
4 involved in -  
5 A. Yes.  
6 Q. Concerning Patrick Byrt, about Aboriginal culture and  
7 comparing it with Russian culture and that sort of  
8 thing, wasn't there.  
9 A. Yes.  
10 Q. Did you ask any questions about Hindmarsh Island.  
11 A. No.  
12 Q. What about your father in your presence.  
13 A. When we were discussing things like mulgewonke and there  
14 was another thing that came up about Willy Wagtails  
15 being messenger birds and bringing messages of death,  
16 when these discussions were taking place, my father said  
17 'How were secrets passed on?'  
18 Q. Who is he talking to, at this stage.  
19 A. He was talking to Maggie, but there was a group of women  
20 there. He said 'How are secrets passed on now?'  
21 Q. A group of women, including Maggie Jacobs.  
22 A. Yes, and she initially said 'There are no secrets.' And  
23 then having said 'There are no secrets', she stopped and  
24 said 'Except, of course, the one, at the moment.' And  
25 then elaborated and said 'Women's business.'  
26 Q. So, Maggie Jacobs said initially 'There are no secrets.'  
27 A. Yes.  
28 Q. And then what happened.  
29 A. Then she stopped and corrected herself and said 'Oh, of  
30 course, this one, at the moment.' And then paused again  
31 and said 'The women's business.'  
32 Q. The birthday celebrations, as you say in your statement,  
33 took place in the hall.  
34 A. Yes.  
35 Q. I think it was at the celebrations at that place or  
36 Shortly afterwards that Maggie Jacobs invited you to a  
37 reconciliation meeting at Graham's Castle at Goolwa.  
38 A. Yes.

1 Q. That was to be on the Anzac weekend.

2 A. Yes.

3 Q. Were you keen to go along.

4 A. Initially I felt like I would probably be an outsider  
5 and perhaps it wasn't appropriate. I was keen from the  
6 point of view of I wanted to get more information and do  
7 more research, but I said to her 'Look, I don't know  
8 that it would be appropriate.' And she said 'Don't be  
9 silly, you are one of us, you should really be there.'  
10 And she was quite insistent and, after two or three goes  
11 at me, I said 'Well, I will make enquiries as to whether  
12 I can get back and, if I can, I would be delighted to  
13 attend.' And then I was quite excited at the thought of  
14 going.

15 Q. And 'get back' meant coming back from Melbourne.

16 A. Yes.

17 Q. Where you were working.

18 A. Yes.

19 Q. For Ken Aldred.

20 A. Yes.

21 Q. She impressed upon you its significance to the extent  
22 that you were prepared to come back from Melbourne.

23 A. I said if I could get a cheap airfare, I would be happy  
24 to come back.

25 Q. I suppose at the back of your mind in all this was the  
26 book that you were hoping to write about your father.

27 A. Yes, absolutely. I might add, while all this is going  
28 on, I - the book was the prime motivation and I was  
29 planning a major party for 9 July where I was pulling  
30 together all sorts of people from my father's background  
31 for a big party here in Adelaide with a view to videoing  
32 the whole thing and getting all the anecdotes on tape,  
33 which has since happened and was a tremendous success.

34 Q. In the context of the invitation to the reconciliation  
35 meeting, I think Maggie Jacobs, as you have made clear  
36 in your statement, recommended that, if you wanted to  
37 speak to any older women, that the daughter of Pinkie  
38 Mack was the person you should speak to.



- 1 A. Yes, she explained that she was the eldest, but that she  
2 was in hospital at Murray Bridge. She didn't know what  
3 her health was like, but she did say that she would be  
4 the oldest one and perhaps have memories going back a  
5 bit further than some of the others.
- 6 Q. I will come to that, in a moment, but did you take up -  
7 you eventually took up that suggestion, didn't you.
- 8 A. Yes, I did.
- 9 Q. And sought out the daughter of Pinkie Mack.
- 10 A. Yes.
- 11 Q. On the following day, 2 April 1995, you went to Mundoo  
12 Island, I think, didn't you.
- 13 A. Yes.
- 14 Q. You interviewed there Peter and Jean Grundy.
- 15 A. Yes.
- 16 Q. Who live on the island.
- 17 A. Yes, that's correct.
- 18 Q. I think Peter is a pilot, is he not.
- 19 A. Yes, he is.
- 20 Q. And he took you on a flight in his aircraft over the  
21 Hindmarsh Island area.
- 22 A. That's correct.
- 23 Q. You noticed something that you had noticed for the first  
24 time, I think.
- 25 A. Yes, I was quite surprised. There were the remains of a  
26 bridge connecting Hindmarsh Island and Mundoo Island and  
27 I questioned Peter on it and he said it had been built  
28 about 1930, 1931 to service the island and had been  
29 owned by the Government, but it had fallen into  
30 disrepair in more recent times because of the dispute  
31 about who was responsible for maintenance of the bridge.  
32 And very few people would know about it, because it  
33 actually connects between I believe the Denver property  
34 and Mundoo Island. And the Denver family through the  
35 70s and 80s weren't terribly keen to let people on to  
36 their property and so, unless you were closely  
37 associated with one or other of the families, you would  
38 probably not know of its existence, because access was

- 1 only through private property or if you were flying low  
2 enough to see it.
- 3 Q. I think you took a number of photographs from the  
4 aircraft -
- 5 A. Yes, I did.
- 6 Q. For research purposes, but I think you took two, in  
7 particular, of that area, did you not.
- 8 A. Yes, those two.
- 9 Q. Those two photographs, which you produce, show -
- 10 A. That is the barrage in that one (INDICATES) and that is  
11 the bridge (INDICATES).
- 12 Q. The curving line across the water there is the bridge  
13 connecting Mundoo Island and Hindmarsh Island.
- 14 A. Yes.
- 15 Q. And the straight line in the foreground at the top  
16 photograph is the barrage.
- 17 A. Yes.
- 18 Q. So, photograph no.1 is actually looking - that is  
19 looking in what direction.
- 20 A. This is Hindmarsh Island (INDICATES) on this side  
21 looking through to Mundoo Island.
- 22 COMSR
- 23 Q. That is to the left of the photograph.
- 24 A. Yes, to the left.
- 25 XN
- 26 Q. And Mundoo Island is to the right.
- 27 A. Yes.
- 28 Q. Are we looking towards the sea, south, the photographer.
- 29 A. You are looking away from the sea. The lakes are in the  
30 background and the sea is in the foreground.
- 31 Q. Photograph no.2 is, again - and that is obviously a shot  
32 of the bridge.
- 33 A. Yes.
- 34 Q. Connecting Mundoo Island and Hindmarsh Island, the sea  
35 on the horizon.
- 36 A. Yes.
- 37 Q. And the barrage in between.
- 38 A. Yes.

## S.L. LAWRIE XN (MR SMITH)

- 1 EXHIBIT 75(1) Photograph marked 1 tendered by Mr  
2 Smith. Admitted.
- 3 EXHIBIT 75(2) Photograph marked 2 tendered by Mr  
4 Smith. Admitted.
- 5 Q. I think you then followed up, on 9 April, with the visit  
6 to the daughter of Pinkie Mack.
- 7 A. Yes, I did.
- 8 Q. You rang the hospital, as your statement points out, on  
9 9 April 1995 and asked for permission to visit.
- 10 A. Yes.
- 11 Q. You were greeted with a warm response by the daughter of  
12 Pinkie Mack.
- 13 A. An extremely warm response.
- 14 Q. When you arrived in her room, I think she was asleep.
- 15 A. Yes, that's correct.
- 16 Q. Who is 'we', you and your father.
- 17 A. My father and I, yes.
- 18 Q. How long were you there.
- 19 A. A little over an hour.
- 20 Q. Was it a room that she had by herself, or -
- 21 A. No.
- 22 Q. You make it clear, don't you.
- 23 A. Yes, it was a share room. There was another woman in  
24 the next bed and she joined in the conversation at  
25 various points.
- 26 Q. She was, at this juncture, quite elderly, wasn't she.
- 27 A. Yes, extremely elderly and frail.
- 28 Q. Did you have a view that perhaps because of that she  
29 couldn't help you much.
- 30 A. Yes, I took one look when I saw her sleeping and felt  
31 'Oh, look, perhaps this isn't a good idea', and  
32 suggested to my father that perhaps we should go. And -  
33 but she woke at that point and beckoned to us to stay.  
34 And we did.
- 35 COMSR
- 36 Q. What did you think was not a good idea.
- 37 A. She looked so frail and she was sound asleep and I just  
38 felt like maybe we shouldn't stay and interview her,

1 because she did look so elderly and frail that I was  
2 very concerned about her.

3 Q. You had gone to speak to her about the book that you  
4 intended to write.

5 A. Yes, I wanted to - in fact, I had taken this album of  
6 photos thinking that perhaps we could go through them  
7 and get a few names and get some more stories.

8 CONTINUED

1 XN

2 Q. So you were about to leave, were you.

3 A. Yes.

4 Q. What happened.

5 A. She woke and she saw us there and beckoned us to come  
6 back.

7 Q. Did she remember who you were.

8 A. Yes. I said `Do you know who this man is?' And she  
9 said `Yes, that's Mackie.'

10 Q. Did she start conversing with you.

11 A. Yes, she did.

12 Q. About what.

13 A. First of all, just talking to my father, and she was  
14 very softly spoken and I had to listen very carefully.  
15 But then I said that we had some photos, would she like  
16 to look at the photos, which she said she'd like to do,  
17 and again, because she was so frail, I was concerned  
18 maybe she'd have difficulty looking at some of the  
19 photos, but she certainly didn't.

20 Q. Did she identify the people in the photographs.

21 A. Yes. I have marked a few here. Some of them are  
22 enlarged photos. We've got some photos that have been  
23 enlarged quite dramatically and, of course, she had no  
24 difficulty in naming people, and coming up with  
25 anecdotes about people in the enlarged photos. But what  
26 really amazed me was when we got past some of the large  
27 ones to group shots, which were quite small, she  
28 actually identified herself in one of the photos. I  
29 would never have been able to have picked her in it.  
30 And my father was actually getting a bit embarrassed  
31 because, at 67, he feels his memory is fading, and she  
32 was so meticulous in being able to pick out people and  
33 remember things from the photos.

34 Q. You have the album in front of you there now.

35 A. Yes, I do.

36 Q. Would you indicate to us the photograph where she was  
37 able to -

## S.L. LAWRIE XN (MR SMITH)

1 A. She was in that photograph here, and she identified  
2 people in these photographs.

3 Q. In the album you have marked one, two -

4 A. Yes, in the larger photos she told me that this was  
5 Henry Rankine - as in Henry Rankine senior, not today's  
6 Henry Rankine. Henry Long she identified.

7 Q. Was she correct there.

8 A. Yes, absolutely correct.

9 Q. Here, this woman I have known as Elva, as a friend of my  
10 Aunt Enid, and she identified her as being the mother of  
11 Doug Milera.

12 Q. You are now indicating a photograph of two women.

13 A. Yes.

14 Q. Your Auntie Enid.

15 A. Yes.

16 Q. Standing next to a lady marked as Elva Rigney.

17 A. Yes.

18 Q. So those series of five photographs from your album, you  
19 took particular note of her reaction to that.

20 A. Yes.

21 Q. She reacted to all sorts of photos, but they were the  
22 ones that in particular stand out.

23 Q. If this album were to be tendered, would that cause you  
24 any distress.

25 A. Provided I get it back in tact.

26 Q. Would it be easier if we just took those photographs  
27 out.

28 COMSR: If the witness is concerned whether or  
29 not and when she is likely to get it back, perhaps it  
30 would be better to take copies.

31 WITNESS: It depends on the length of time  
32 involved here. I suppose that is not known at this  
33 stage.

34 MR SMITH: I suggest that we will copy those five  
35 photographs and return the album.

36 COMSR: I think that would be the preferable  
37 course if you were concerned about the photographs.

38 WITNESS: Thank you, yes. They're very precious.

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- 1 MR SMITH: I will tender those five photographs on  
2 the basis that the original album and the balance will  
3 be returned when we photocopy them.
- 4 MR MEYER: Perhaps counsel could be granted  
5 permission to view those five photographs and then we  
6 can work from the copies.
- 7 XN
- 8 Q. To be clear before we leave this and I show counsel, the  
9 first photograph you have specifically referred to is a  
10 group shot, and we will mark the yellow sticker number  
11 1.
- 12 A. Yes.
- 13 Q. She identified a number of people in that group  
14 photograph.
- 15 A. Yes.
- 16 Q. There is at least 30 people there, isn't there.
- 17 A. Yes.
- 18 Q. The second photograph which we will mark number 2 on the  
19 yellow sticker -
- 20 A. This one here, I didn't realise until she told me, it is  
21 of a specific birthday party and she remembers the party  
22 quite vividly.
- 23 Q. So the sticker there is meaning to indicate the middle  
24 large photograph.
- 25 A. Yes.
- 26 Q. That is a photograph of a birthday party. Again, did  
27 she identify a number of the children there.
- 28 A. Yes.
- 29 Q. And there is a person seated in the middle, isn't there.
- 30 A. Yes, that's my grandmother.
- 31 Q. That's your grandmother.
- 32 A. Yes, and she picked her, too.
- 33 Q. And it looks like 20 children there, or more.
- 34 A. Yes.
- 35 Q. The third photograph, which we will mark 3 on the yellow  
36 sticker, is -
- 37 A. Henry Rankine.

- 1 Q. She nominated the man on the horse and cart there as  
2 Henry Rankine.
- 3 A. Yes.
- 4 Q. Is that correct.
- 5 A. I believe so. We didn't know who it was, and she said  
6 it was Henry Rankine.
- 7 Q. You haven't been able to verify that one way or the  
8 other.
- 9 A. No.
- 10 Q. The photograph, which we will mark number 4, is Henry  
11 Long.
- 12 A. Yes, and that is correct. We were aware of who it was,  
13 but she was quite excited at seeing Henry Long.
- 14 Q. Does Henry Long have a nickname.
- 15 A. I'm not certain. Most of them do have nicknames, but I  
16 just don't know what his is.
- 17 Q. Not Milerum.
- 18 A. I don't know.
- 19 Q. The photograph, which we will mark number 5 on the  
20 yellow sticker, is of your Auntie Enid.
- 21 A. Yes.
- 22 Q. And Elva Rigney.
- 23 A. Yes, whom she identified as Doug Milera's mother.
- 24 Q. And that's correct.
- 25 A. Yes.
- 26 Q. What about her memories.
- 27 A. Her memories were clear and vivid. As I say, she was  
28 slow and quietly spoken. However, she told me stories  
29 about - she told me that she was the daughter of Pinkie  
30 Mack. That she was born in a wurlie near Wellington.  
31 She told me about making feather flowers which was a  
32 traditional flower. The Ngarrindjeri made feather  
33 flowers particularly for the tourists. A number of  
34 people had mentioned feather flowers to me, but none of  
35 them actually said that they had made feather flowers.  
36 But the daughter of Pinkie Mack told me that she made  
37 feather flowers, and explained it had to be feathers  
38 from pelicans and gathered in a special way, and she



1 discussed all of that. She also talked about her love  
2 of thukeri. It is a type of fish similar to carp. It  
3 is fairly bony, but the Aboriginal people particularly  
4 like thukeri. She used to fish for it and loved  
5 fishing, and she wanted to go fishing as soon as she  
6 could and have another feed of thukeri.

7 Q. Did she tell you about her past, that is, her place of  
8 birth and her mother.

9 A. Yes, yes. She told me, as I said, about being born in  
10 the wurlie on the shores of the Murray near Wellington.  
11 That Pinkie Mack was her mother. She told me that she  
12 was a midwife in her later years. That originally she  
13 assisted Mrs Rowlands, the nurse, in delivering babies,  
14 and later on, after Mrs Rowland's retirement, that she  
15 was the midwife there on Point McLeay herself and  
16 assisted in delivering many many babies on Point McLeay.

17 Q. She had clear memories of events.

18 A. Yes, very clear. Her long term recall was excellent.

19 Q. As you went through the album, she pointed out people,  
20 as you have indicated to us.

21 A. Yes.

22 Q. Did you take the view that there was a limit to the  
23 amount of questions you could ask this woman.

24 A. Yes. Because of her age and her frailty, I felt like -  
25 after an hour, I really felt it was time to go. The  
26 woman in the next bed was speaking on and so I was  
27 waiting for an opportunity to cut things off. I said to  
28 her that I'd love to come back and talk to her again if  
29 she wouldn't mind, and she said she'd like that. But  
30 she said 'I won't be in hospital then, dear. I'll be  
31 out by then' forever hopeful. So I asked her her  
32 address and she pointed to a card behind her head,  
33 behind her bed with her address on it. I was writing  
34 her details down, Mrs Kartinyeri and the address, and  
35 just jokingly said, thinking of Doreen, that it is a  
36 rather contentious name to have at the moment, and her  
37 reaction was quite astounding. She said 'Yes, yes,  
38 that's me', and she got quite animated. She hadn't been

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1 animated until this point, but her eyes really widened  
2 and she said that it was her that had been in the press.  
3 She said 'And I'm going to go to gaol', and got very  
4 upset. I said 'Why would you go to gaol?' She said 'The  
5 women came to speak to me and said if I talk about  
6 Hindmarsh Island any more they will take me to court'.  
7 She started to cry and said 'I'm an old lady, I don't  
8 want to. I've never been in trouble with the police. I  
9 don't want to go to court, I don't want to go to gaol.'  
10 Clearly thinking that going to court meant gaol and  
11 police. I tried to calm her down and to say 'Look, it's  
12 okay, no-one's going to hurt you'. I asked her who was  
13 threatening her and she kept saying 'The women'. I only  
14 got one name from her as being associated with this  
15 group, and that was her niece. When I said 'Do you need  
16 help? If you need any help you can contact me.' She  
17 said that her - I think she referred to her as a niece,  
18 but I don't think she is a niece - she referred to  
19 Dorothy as helping her and that it was okay, that  
20 Dorothy would help her.

21 Q. That's Dorothy who.

22 A. Dorothy Wilson.

23 Q. Did your father say anything during this.

24 A. Yes. Yes, he said -

25 MR ABBOTT: I wonder if that could go down as  
26 Dorothy Wilson, the lady whom I have the honour to  
27 represent.

28 COMSR: I think we have only got one Dorothy  
29 Wilson that has been mentioned.

30 MR ABBOTT: There may be others. I want to make it  
31 clear on the transcript.

32 COMSR: That is Dorothy Wilson, who is the niece  
33 of the daughter of the Pinkie Mack. So I do not think  
34 there will be a likelihood of there being a confusion.

35 XN

36 Q. Can I make a couple of things clear before we leave this  
37 topic. You said she spoke to you about 'the women' who

1 had come to her and said if she speaks any more about  
2 Hindmarsh Island they would take her to court.

3 A. Yes.

4 Q. You then mentioned you asked her who they were.

5 A. Yes. There was only one name that she actually  
6 mentioned and that was Daisy.

7 Q. Daisy, who is that.

8 A. She said her niece, Daisy, who I understand to be Daisy  
9 Rankine.

10 Q. Dorothy Wilson, whom Mr Abbott represents -

11 A. Yes, she was the one whom she claimed was helping her,  
12 and would stand up for her.

13 Q. We have got to the stage of you telling us what your  
14 father has said.

15 A. Yes.

16 Q. What did he say.

17 A. He questioned her on what the problem was with Hindmarsh  
18 Island. She said that she had signed a letter, but now  
19 the women tell her that people want to make big changes  
20 to Hindmarsh Island, and that they want to take wild  
21 animals over there. And she kept continually referring  
22 to wild animals. He tried to question her 'What do you  
23 mean by wild animals? Do you mean kangaroos, emus?' And  
24 she kept saying 'No, wild animals. They musn't take the  
25 wild animals over to Hindmarsh Island', and was clearly  
26 very confused about what the whole issue was, just that  
27 she had been threatened and that this group had told her  
28 about wild animals being taken to Hindmarsh Island. She  
29 was very very upset and in tears.

30 Q. You then asked her if anyone was helping her.

31 A. Yes.

32 Q. And she mentioned Dorothy Wilson, Mr Abbott's client.

33 A. Yes.

34 Q. Did you ask her if she needed any more help.

35 A. Yes. I wrote down my name and address and phone number  
36 and said if she did require any help that she could  
37 contact me any time and I would gladly help. It was

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1 very very disturbing. It had a profound effect on this  
2 whole issue, as far as I'm concerned.

3 Q. Up until this time, you were steering well away from  
4 this issue -

5 A. Absolutely.

6 Q. Of women's business on Hindmarsh Island.

7 A. Yes.

8 Q. Did this incident affect your resolution in that  
9 respect.

10 A. Yes, it did. Quite dramatically. Driving along the  
11 freeway on the way back, my father and I discussed it  
12 virtually all the time. I was incensed that a woman of  
13 her age and her state of health should be treated in  
14 such a manner. I was just furious. I wasn't sure what  
15 I was going to do about it at that point. It made me  
16 very very angry, and I was determined that I would do  
17 something.

18 ADJOURNED 1.01 P.M.

- 1 RESUMING 2.25 P.M.  
2 XN  
3 Q. Can I take you to 23 April 1995, which is the Graham's  
4 Castle meeting.  
5 A. Yes.  
6 Q. Isn't it.  
7 A. Yes.  
8 Q. That was the reconciliation meeting.  
9 A. Yes.  
10 Q. To which you were invited by Maggie Jacobs.  
11 A. Yes, that's correct.  
12 Q. You were obviously able to get over from Melbourne for  
13 that.  
14 A. Yes.  
15 Q. What did you understand to be meant by the purpose of  
16 the meeting.  
17 A. At the time, Maggie explained that it was a chance to  
18 get everybody together and to be a time of healing  
19 amongst Aboriginal women in the Aboriginal community,  
20 and she said it was to discuss tactics as well - and  
21 didn't explain what she meant by that. So, as far as I  
22 was concerned, it was just a coming together. She did  
23 say to some extent it was a reunion of people who met at  
24 Graham's Castle 12 months beforehand. I took that to  
25 mean when Cheryl Saunders was over.  
26 Q. I was interested to know whether you gleaned from the  
27 invitation whether that was to reconcile the problems  
28 that had been caused to the Ngarrindjeri women by the  
29 bridge dispute.  
30 A. No, I didn't take it to mean that. Although when she  
31 talked about tactics, I thought that perhaps it was the  
32 fact that the appeal, I think it was, in the Supreme  
33 Court was coming up in the week following and that it  
34 could relate to that.  
35 Q. Or the Federal Court.  
36 A. Sorry, the Federal Court, yes.  
37 Q. You got yourself to Graham's Castle then on 23 April  
38 1995.

1 A. Yes, I did.

2 Q. Which was Anzac Day.

3 A. No, it was the Anzac weekend. It was the actual Sunday  
4 of the Anzac weekend. Anzac Day was on the Tuesday.

5 Q. You went down there by yourself, did you.

6 A. Yes, I did.

7 Q. What time did you arrive.

8 A. Shortly before 10 a.m.

9 Q. Could you tell us what then unfolded.

10 A. Well, I asked where the meeting was taking place and I  
11 entered a large meeting room and Maggie was pointed out  
12 to me across the room. I went over and spoke to her  
13 briefly. People were milling around at that stage of it  
14 and there was a table of literature, handouts, that  
15 people were picking up bits and pieces from. Anyway, I  
16 then went and sat next to Maggie Jacobs, having picked  
17 up some of the literature that was on the table. The  
18 meeting commenced. There was a woman who was a guest  
19 speaker from the Council of Reconciliation.

20 Q. Interrupting you there. The women there, were they  
21 predominantly from the Aboriginal community.

22 A. Yes. Actually, that is quite an important point. They  
23 were predominantly Aboriginal. There were some  
24 non-indigenous people like myself, probably about ten  
25 all up. But while they were predominantly Aboriginal, a  
26 large proportion of them weren't Ngarrindjeri, they were  
27 actually from Point Pearce and other areas. Although a  
28 number of them were Ngarrindjeri, but there were a  
29 number who weren't.

30 Q. You sat next to Maggie Jacobs.

31 A. Yes.

32 Q. Were there some elderly matriarchal women there.

33 A. 'Elderly' might not be quite the right term, but older  
34 women, middle aged and, you know, some perhaps in their  
35 60s. They were seated to my left. I'm not sure whether  
36 you would call it that, but they were at the front of  
37 the room and I'd tend to call it the back. There were  
38 people sitting right around the perimeter of the room

- 1 behind me, to my left. There was several rows of people  
2 sitting on the floor as well.
- 3 Q. To your right in the room, there was a group of younger  
4 women, as you have said.
- 5 A. Yes, against the wall at the front, if you like, there  
6 was a number of younger women who appeared to be in  
7 their late teens, perhaps even early 20s.
- 8 Q. With them was a woman that you later came to identify as  
9 Doreen Kartinyeri.
- 10 A. Yes, that's correct.
- 11 Q. At that stage, did you know Doreen Kartinyeri.
- 12 A. No. I knew her by reputation, but I couldn't say I  
13 really knew her.
- 14 Q. At that stage, was it the case that you didn't even know  
15 her by sight.
- 16 A. That's correct.
- 17 Q. At the front of the room, I think your statement points  
18 out there were several people sitting on the floor.
- 19 A. That's what I'm referring to as the back where they were  
20 sitting on the floor.
- 21 Q. There were - and you have spoken about a table with  
22 literature on it.
- 23 A. Yes.
- 24 Q. There were petitions on the table.
- 25 A. Yes, there were petitions.
- 26 Q. What were the petitions addressed to.
- 27 A. One calling for the dismissal of Chris Gallus MP, who is  
28 the shadow Minister for Aboriginal Affairs. There was  
29 another one calling on the sacking of Ian McLachlan MP.  
30 There was literature there from one of the, I think it's  
31 the Southern Women's Shelter which is located in the  
32 vicinity of Christies Beach. There was all sorts of  
33 feminist literature there as well associated with those  
34 groups.
- 35 Q. Was there any representation there of Labor members of  
36 Parliament.
- 37 A. Later on in the day, when non-indigenous people were  
38 later asked to leave the room, I was speaking with a

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- 1 group of women, white women, and the guest speaker and I  
2 very quickly realised that most of the women who were  
3 there were closely associated with the Labor Party in  
4 some form or other. They had either worked for or they  
5 had either previously worked for or were currently  
6 working for various Labor MPs or former Ministers.  
7 Names that spring to mind were Susan Lenahan, Kym Mayes,  
8 Gordon Bilney, people who predominantly were from the  
9 southern areas, but, none the less, Labour MPs.
- 10 Q. The proceedings started with a guest speaker.  
11 A. That's correct.  
12 Q. Do you know who that was.  
13 A. I don't know her name. She was from the Council of  
14 Reconciliation.  
15 Q. Was she an Aboriginal lady.  
16 A. No, she wasn't, she was white and had formally been  
17 married to an Asian. I don't recall her name.  
18 Q. And that you listened to her for a while, I think.  
19 A. Yes, I did.  
20 Q. What was the topic of her address.  
21 A. Her address was clearly about reconciliation and the  
22 role of the counsel for reconciliation and how they  
23 could assist on funding and how to go about applying for  
24 funding for specific projects; for example, for projects  
25 like the meeting they are having and anything of a  
26 similar nature they might wish to do.  
27 Q. Within a few minutes of this guest speaker commencing  
28 her speech, I think certain events occurred.  
29 A. Yes.  
30 Q. Would you tell us what they were.  
31 A. A woman stood up of the front of the room and was  
32 extremely agitated and yelled across the room: `What are  
33 you doing here? Get out'.  
34 Q. You later came to know who this woman was.  
35 A. Yes.  
36 Q. Who was it.  
37 A. Doreen Kartinyeri.  
38 Q. I think you didn't know her at the time.



- 1 A. No, I didn't know. It completely took me and everybody  
2 else by surprise.
- 3 Q. Would you tell us that again, so I won't interrupt you  
4 again.
- 5 A. She stood up and she shouted across the room to somebody  
6 that I didn't know her name: 'What are you doing here?  
7 Get out'.
- 8 Q. Did she do anything in addition to saying that.
- 9 A. She paced up and down continually and gestured towards  
10 this woman. She was clearly very agitated. The guest  
11 speaker seemed in a state of shock. She didn't know  
12 whether she was being referred to or whether it was her  
13 or someone else, and she paused for a moment. And then  
14 the guest speaker continued and then, again, her speech  
15 was interrupted by this woman shouting at someone at the  
16 back of the room.
- 17 Q. She was gesturing towards the speaker, was she.
- 18 A. In the general direction of the speaker.
- 19 Q. You couldn't tell to whom her comments were directed.
- 20 A. No, I couldn't tell.
- 21 Q. When she did that, was she standing up.
- 22 A. Yes, she was.
- 23 Q. The guest speaker resumed the speech.
- 24 A. Yes.
- 25 Q. Did Doreen Kartinyeri sit down.
- 26 A. Temporarily, but then she got up and started again.
- 27 Q. After how long a time.
- 28 A. Just a matter of moments.
- 29 Q. Again, what did she say.
- 30 A. Well, she continued in the same vein initially and when  
31 whoever it was that she was shouting across the room at  
32 didn't move, she got up and 'whitt' and gave a bit of a  
33 whistle and with a thumb motioned like this for 'All  
34 out'. And this group of young woman at the front of the  
35 room got up as if in some sort of protest, and they all  
36 left the room - when I say 'they all', that group at the  
37 front of the room left the room - leaving the rest of us  
38 sitting there with our mouths open, wondering 'What has

1 just happened?'

2 Q. Doreen and about how many women are we talking about  
3 left.

4 A. 8 to 10 people got up and went when Doreen went.

5 Q. They were the group of younger women.

6 A. Yes.

7 Q. Can you describe the manner in these two stints, the  
8 behaviour by Doreen.

9 A. Well, in my opinion, it was quite bazaar. I've been on  
10 hundreds of meetings and never seen someone act in this  
11 way when someone is speaking. I was in a state of  
12 shock. I didn't know what was going on. I found it  
13 quite threatening, her behaviour. I had no idea what  
14 was happening at that stage. I then turned to Maggie  
15 Jacobs and said 'What's going on?', and she whispered  
16 behind her hand at me that there was a woman present who  
17 was faxing stuff to men and the Chapmans. And I said  
18 'What do you mean?', and she said 'There's a traitor  
19 amongst us' and 'I'll tell you all about it later'.

20 Q. Did the speaker resume after these people had left the  
21 room.

22 A. Yes. The speaker resumed and actually managed to keep  
23 talking for several minutes. Then, Doreen Kartinyeri  
24 appeared at the door and again, pointed to a woman -  
25 this time I could see who she was pointing at and it was  
26 a woman sitting on the floor to my left and slightly  
27 behind me. It's the first time I had noticed the woman.  
28 She had been sitting there the whole time. She hadn't  
29 come in part way through or anything. She seemed  
30 incredibly calm under the circumstances. And Doreen  
31 motioned to her 'I want you out of here now' and was  
32 most insistent and motioned with her hand. Two women  
33 grabbed hold of this woman and held her down. They  
34 wouldn't let her get up. They said 'No, this is a  
35 meeting about reconciliation. You have as much right to  
36 be here as anybody. You have a right to be heard', and  
37 they tried to hold her down. And with an incredible  
38 calmness, you know, she didn't react, you know, in a

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1 manner I would have expected someone to react who was  
2 being treated like this. She said very calmly `No, it's  
3 okay, I don't want to cause any problems here, I'll go.  
4 I'll go and talk to Doreen'. That is the first time I  
5 heard the name `Doreen' in reference to this other  
6 woman. She did, she got up and quietly left the room.

7 Q. You came to know who that woman was.

8 A. Yes.

9 Q. Who was it.

10 A. When I asked around outside, I discovered that it was  
11 Dorothy Wilson.

12 Q. Did you understand that to be the same Dorothy Wilson  
13 who had been mentioned by the daughter of Pinkie Mack.

14 A. Yes.

15 MR ABBOTT: May I add that since an allegation has  
16 been made that something was said by Maggie Jacobs to  
17 this witness, may I observe for the benefit of the press  
18 that the allegation that my client had faxed material to  
19 the Chapmans was directly put to my client on her oath  
20 and denied on her oath.

21 XN

22 Q. Did you come to know if not both then at least one of  
23 the women who held Dorothy Wilson down.

24 A. Because of discussions that took place later - and, you  
25 know, I couldn't swear to it, but I believe one of them  
26 was Veronica Brodie and I think possibly Connie Roberts  
27 might have been the other one. I'm not 100% sure of  
28 that. Again, they were older women who were sitting  
29 just quite close by to me.

30 Q. In any event, Dorothy Wilson left the meeting room.

31 A. Yes, she did.

32 Q. What of the speaker.

33 A. The speaker then, yet again, continued. I really  
34 admired her the way she was able to pick up where she  
35 left off in very difficult circumstances. But then  
36 again, within a few moments, Doreen again appeared at  
37 the door and held up her hand to halt proceedings and  
38 said `Excuse me, would you mind if all non-indigenous

1 people leave the room. We have some business to sort  
2 out here. We have got some things we must sort out  
3 amongst our own people, our own business. If you  
4 wouldn't mind leaving us to us'. And asked us all to  
5 clear the room, which we did. Again, you know, people  
6 were still a bit stunned by it all because it had been a  
7 rather amazing turn of events. No-one, none of the  
8 non-indigenous, had any idea of what was going on still  
9 and stood around outside chatting. And the guest  
10 speaker was saying how shocked she was, particularly in  
11 the early stages, because to all intents and purposes  
12 Doreen had been shouting at her and she had wondered  
13 what she had done wrong. And nobody gave any form of  
14 explanation of what was going on and everybody felt very  
15 uncomfortable about the whole set of circumstances.

16 COMSR

17 Q. What had the speaker been talking about.

18 A. Reconciliation and funding for reconciliation-type  
19 meetings.

20 Q. What, reconciliation of the Aboriginal community among  
21 itself.

22 A. Yes. Not just among itself, she was explaining the  
23 various forms of reconciliation between indigenous and  
24 non-indigenous people of different races, not  
25 necessarily - she also mentioned - that is why I  
26 mentioned her previous marriage. She used that as an  
27 example of reconciliation and Asian cultures.

28 Q. All types of reconciliation.

29 A. All types of reconciliation. And also the types of  
30 funding that are available through the council, the  
31 sorts of meetings and events that they are prepared to  
32 fund and how to go about putting the funding proposal to  
33 them. And so it was reconciliation in general.

34 XN

35 Q. You waited outside for this other business to be  
36 resolved.

37 A. Yes.

38 Q. You and a number of other women.

1 A. That's correct.

2 Q. For how long.

3 A. Well, it would have been half to three-quarters of an  
4 hour initially, perhaps even longer, because they were  
5 meant to break for morning tea about 15 minutes after we  
6 all left the room, but morning tea ended up being almost  
7 an hour late when the Aboriginal women finally came out  
8 of the room.

9 Q. Was this lady Dorothy Wilson, was she in this group  
10 inside, as it were, who were sorting out the business.

11 A. Yes, she was.

12 Q. She went out initially.

13 A. Yes, but she came back in to work out these differences.

14 CONTINUED

- 1 Q. At the morning tea break I think as you make clear in  
2 your statement you all joined forces again, as it were.
- 3 A. Yes, that's correct.
- 4 Q. Was it obvious that there were two separate elements in  
5 this group of women.
- 6 A. Yes, the younger women that had left the room earlier  
7 with Doreen, they were standing around on the steps as  
8 the woman I have come to know as Dorothy Wilson left the  
9 room and they - or left the house and they were clearly,  
10 you know, sneering and making it quite clear that they  
11 weren't supportive of this person who was now leaving  
12 the room. Whereas two or three other women did walk up  
13 and slap her on the back and say things, you know, speak  
14 in a supportive manner to her. And it was later on I  
15 approached one of those women, I said - asked them who  
16 it was and that's when I was told that it was Dorothy  
17 Wilson and I got a phone number for her.
- 18 Q. In the morning tea break when everybody was joined, as  
19 it were, again where did you have morning tea.
- 20 A. Out the front of the Graham's Castle complex. It was  
21 just on the lawns.
- 22 Q. In the open, as it were.
- 23 A. Yes, in the open.
- 24 Q. Was Dorothy the subject of any unpleasant attention in  
25 the morning tea break.
- 26 A. In the morning tea break just the younger women, their  
27 attitude, the sneers and generally that group ostracised  
28 her, although there were other people as I said. Not  
29 many, but there was a small group of people who seemed  
30 quite supportive of her.
- 31 Q. In your statement and you could have a look at it, at  
32 p.12 there you said in about the second last paragraph  
33 'The young group who appeared to be supporting Doreen  
34 kept very much to one side.'
- 35 A. Yes, they did.
- 36 Q. 'They were gesturing wildly at Dorothy as she came out.'
- 37 A. Yes, they were, on the steps and they were sort of  
38 waving their hands and pulling faces.

1 COMSR

2 Q. There was a fair bit of hostility between the two groups  
3 of them.

4 A. Yes.

5 XN

6 Q. How did Dorothy handle that.

7 A. With quiet dignity. She walked straight through calmly  
8 and quietly. That is what impressed me on the day, how  
9 anyone could remain calm with the level of attention and  
10 unpleasant attention, that I was quite impressed with  
11 the demeanour of the way she handled herself.

12 Q. You remember you had left the hospital visit with the  
13 daughter of Pinkie Mack -

14 A. Yes.

15 Q. Determined to involve yourself in some way.

16 A. Yes.

17 Q. That was 9 April or thereabouts, wasn't it.

18 A. Yes.

19 Q. Had you done anything between 9 April and this meeting.

20 A. No, apart from read information. I went back and  
21 borrowed three of the parliamentary library - re-borrowed  
22 works of Taplin and located everything I could read  
23 about the culture and got hold of things like the  
24 Saunders report and anything else to acquaint myself  
25 with what was going on. But I hadn't been involved with  
26 any of the people in between times.

27 Q. Did this enliven your interest in this problem.

28 A. Yes, it did.

29 Q. At that morning tea break when you noted Dorothy getting  
30 unpleasant attention.

31 A. Yes.

32 Q. Did you hear her say anything about whether she was  
33 going to stay on or not at the meeting.

34 A. I heard her say to the small group of women, the few who  
35 had been reasonably supportive of her when she came out,  
36 she said 'No, I think I'll go. I don't want to cause  
37 trouble.' And then she quietly left and two women  
38 walked to the car with her and she left.

- 1 Q. You, as your statement makes plain at the bottom of  
2 p.12, decided that you would follow Dorothy Wilson up.
- 3 A. Yes, I did.
- 4 Q. And you got details of her address and phone number.
- 5 A. Yes.
- 6 Q. What motivated you to decide that.
- 7 A. I just thought the way she was treated was appalling. I  
8 would be furious if someone did that to me.
- 9 Q. You decided you would follow her up in some way.
- 10 A. Yes.
- 11 Q. After Dorothy had left, what happened then.
- 12 A. Proceedings continued - well, immediately after she  
13 left, Doreen Kartinyeri again sort of called everybody  
14 to attention and motioned with her thumb for all  
15 indigenous people to re-enter the room and they went in  
16 and the nonindigenous people again had to remain  
17 outside. I don't know what went on in that meeting, but  
18 they met for at least another half to three-quarters of  
19 an hour to discuss the outcome of what had taken place  
20 previously now that Dorothy had left.
- 21 Q. Were you nonindigenous people given any explanation for  
22 that.
- 23 A. No, none whatsoever. Maggie kept saying 'Look, I'll  
24 talk to you about it later', but said 'There is  
25 distressing things happening', and didn't like to talk  
26 about it with other people around.
- 27 Q. When Doreen motioned everyone back inside, you have here  
28 'After Dorothy Wilson left, Doreen whistled ...' -
- 29 A. Yes.
- 30 Q. '... and motioned everyone back in.'
- 31 A. She gave a whistle and with her thumb back in  
32 (INDICATES).
- 33 Q. Did you participate in any further proceedings on this  
34 reconciliation day before lunch.
- 35 A. We just hung around. At about that point, Christobel  
36 and David Mattingley arrived. Christobel is the author  
37 of a book on Aboriginal people in South Australia, not  
38 just the Ngarrindjeri, and I have known her through her



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1 daughter since my teenage years. And we stood around  
2 speaking for a while and then the meeting adjourned.  
3 Then the luncheon was provided by The Friends of  
4 Kumarangk and just joined in with various people,  
5 particularly Maggie Jacobs. And then Maggie took me  
6 over and introduced me to Doreen Kartinyeri and also to  
7 Steve Hemming from the museum and various other people.  
8 Doreen and I spoke at length about the pictures which  
9 are in that album that I showed earlier. She said my  
10 father had previously shown them to her at the museum a  
11 couple of years ago and she was very keen to obtain  
12 copies of them for her own works at the museum. And we  
13 discussed the possibility of getting copies made of  
14 those photos. We talked about W.T. and various things  
15 to do with Point McLeay. And, at about that point, the  
16 film crew from SBS - I don't know that they were  
17 actually from SBS, but a film crew filming a documentary  
18 on reconciliation with a view to showing it sometime on  
19 SBS came around and filmed Doreen and various people in  
20 a group talking. And they filmed a great deal of the  
21 proceedings outside over lunch that day. And fairly  
22 soon after lunch, people started to move on and adjourn.

23 Q. Who provided the lunch for this gathering.  
24 A. The Friends of Kumarangk.  
25 Q. Did you know who they were.  
26 A. I had various people pointed out to me. I don't  
27 specifically know their names. There were two or three  
28 that I had - that I recognised, that I would recognise  
29 again if I saw, them but I don't know their specific  
30 names. There was one woman in particular who had a  
31 bobbed blonde white hair that I recall and I  
32 particularly recall her, because, at the time, she was -  
33 she went over to Daisy Rankine who I was talking to and  
34 said how sorry she was things had gone the way they had  
35 gone that day. And Daisy was very abrupt to the point  
36 of being abrasive with this woman and I was very  
37 surprised and I asked her what the problem was  
38 afterwards and she said `I think that is Chris Gallus,

- 1 you know, that Member of Parliament.' And I knew it  
2 wasn't and that she clearly thought this woman was and  
3 the woman looked a bit hurt that Daisy had treated her  
4 abruptly when she was part of this group.
- 5 Q. Did you understand that The Friends of Kumarangk were -  
6 perhaps it is unfair to term them this way, but a group  
7 that were interested in the bridge not being  
8 constructed.
- 9 A. Yes, I realised what they were and, I mean, during the  
10 day they were thanked on two or three occasions for  
11 their support and their help, particularly with the  
12 luncheon. So, there was no secret about who was putting  
13 on the lunch and paying for the lunch.
- 14 Q. Having, as it were, bumped into Daisy Rankine.  
15 A. Yes.
- 16 Q. Is that the same Daisy who was named by the daughter of  
17 Pinkie Mack as having visited her.  
18 A. Yes.
- 19 Q. Did you, for instance, speak to Daisy at this  
20 reconciliation meeting about what you had learnt had  
21 happened to the daughter of Pinkie Mack.
- 22 A. No, I didn't, because, when I was speaking to Daisy  
23 Rankine, she was clearly shaken by this other woman that  
24 she thought was Chris Gallus MP and she said - I said I  
25 would like to talk to her later, but that opportunity  
26 didn't arise.
- 27 Q. That afternoon concluded for you at least at about what  
28 time.  
29 A. Probably about 3 o'clock in the afternoon.
- 30 Q. From what you have recounted to us, it was a fairly  
31 unpleasant affair.  
32 A. There were many very, very pleasant aspects. In fact, I  
33 for the most part enjoyed myself, but the morning was  
34 very confusing and very intimidating.
- 35 Q. You were staying with your parents at Alberton, were  
36 you.  
37 A. Yes, that's correct.
- 38 Q. So, you drove back to Adelaide.

1 A. Yes, that's correct.

2 Q. Did you ring Dorothy Wilson.

3 A. That evening over dinner I was discussing with my  
4 parents what had happened and my father suggested that  
5 perhaps I might like to call Dorothy and so while my  
6 parents were sitting there at the end of the meal I rang  
7 her and, when I rang her, I said that 'I am Sue Lawrie,  
8 I am the daughter of Mac Lawrie', and she immediately  
9 knew who I was from that and I said I had been at the  
10 meeting and was rather disturbed at what I had seen and  
11 she said that she hadn't specifically seen me, but she  
12 wouldn't have recognised me anyway. And we chatted for  
13 a few minutes about it all and she explained that she  
14 had differences of opinion with the women there about  
15 some of the issues associated with the secret women's  
16 business that prevented the bridge from being built.  
17 She explained to me quite emphatically that she was not  
18 a supporter of the bridge. That her differences were to  
19 do with the secret women's business and with the persons  
20 involved and what was being said, not with the bridge  
21 and that she in no way supported the bridge and she was  
22 tired of being accused of things which had nothing to do  
23 with the issue in her opinion. Anyway I suggested that  
24 perhaps she would like to sit down and talk about it and  
25 that we should get together for a coffee and agreed to  
26 meet her in Murray Bridge the next day. I am not overly  
27 familiar with Murray Bridge except from passing through  
28 on various occasions, so I suggested we meet outside the  
29 office of Peter Lewis MP. I know the location of the  
30 office. As it transpired the next day, she had had a  
31 phone call in the meantime from Ian McLachlan and he was  
32 passing through as well, so she suggested that we both  
33 meet with her at the same time. And, in any event, Mr  
34 Lewis was away, but his secretary had agreed to allow us  
35 to use the office for the meeting.

36 Q. You had taken the decision at this juncture to become  
37 really involved in this matter.

38 A. Yes.

- 1 Q. That was the next day, 24 April.  
2 A. Yes.  
3 Q. There was a meeting between yourself.  
4 A. Yes.  
5 Q. Dorothy Wilson and Ian McLachlan.  
6 A. Yes.  
7 Q. That meeting lasted for how long.  
8 A. At least an hour and a half to about two hours.  
9 Q. I think you tape recorded that conversation, didn't you.  
10 A. Yes.  
11 Q. Do you still have that tape.  
12 A. Yes, I do.  
13 Q. During the course of that conversation, Dorothy  
14 discussed with you her concerns about women's business.  
15 A. Yes.  
16 Q. And made it clear, I think, as you have already said,  
17 that it had nothing to do with the question of  
18 constructing the bridge or not.  
19 A. Yes, absolutely.  
20 Q. It had to do with her culture.  
21 A. Yes.  
22 Q. You have possession of that tape.  
23 A. Yes.  
24 Q. I take it in the course of the meeting there was some  
25 detailed discussion about women's business.  
26 A. Yes, there was. And I did question her, at the time,  
27 did she mind discussing this and Mr McLachlan asked her  
28 not to proceed unless she felt comfortable and not to  
29 say anything in his presence that she felt uncomfortable  
30 saying and she continued her discussion and said that  
31 she was happy to talk about it in his presence, because  
32 she didn't believe to be true the things that she later  
33 divulged to us. I did ask at the beginning if she would  
34 mind if I taped it for the sake of accuracy.  
35 Q. You have that tape in your possession.  
36 A. Yes.  
37 Q. Will you keep it in your possession.  
38 A. I certainly will, but, at this point, given what has

- 1 happened with the Inquiry, I don't think it is  
2 appropriate to be released.
- 3 Q. In the course of that conversation, as you make clear at  
4 the bottom of p.13 of your statement, Dorothy conveyed  
5 to you that she felt strongly that she didn't have a  
6 strong voice on this question at all.
- 7 A. That's correct.
- 8 Q. You make the point there that she complained that it did  
9 not seem as if anyone wanted to listen to her.
- 10 A. That's right.
- 11 Q. Did you ascertain from Dorothy Wilson whether there were  
12 other women who felt as she did.
- 13 A. Yes, I did. She knew of some and she knew of others  
14 by hearsay and she was concerned on two or three fronts  
15 that she thought that there was a growing number of  
16 women who like her disputed the validity. She also  
17 felt uncomfortable about going public, if you like,  
18 because of her culture. She felt that she should speak  
19 to her Elders or women who were older than her first  
20 and get their approval and do things in the correct  
21 manner. But A. She wasn't sure how to go about getting  
22 together with some of these other women. And B. The  
23 media side of it, who to talk to, who she could trust.  
24 She was afraid of being carved up, if you like, and she  
25 wanted it to be handled sensitively. She didn't want to  
26 bring disrepute to her own people and she was very  
27 concerned that whatever happened be done in a sensitive  
28 manner.
- 29 Q. Of the women who felt like her, did she name some to  
30 you.
- 31 A. Yes, she named Dulcie Wilson, in particular. There were  
32 several other names that came up, as well, but Dulcie  
33 was the main one that she mentioned.
- 34 Q. Were you aware of the fact that, at that time, Dulcie  
35 had spoken out at the public meeting.
- 36 A. At that point, I wasn't aware of that.
- 37 Q. Who told you.
- 38 A. She did.

1 COMSR

2 Q. Who is `she', Dulcie Wilson.

3 A. Dorothy told me.

4 XN

5 Q. Dorothy told you that Dulcie had spoken at a meet where  
6 she was a guest speaker.

7 A. Yes, I think it was a Rotary meeting, but I'm not sure.

8 Q. Dorothy had made it clear to you that she wanted to  
9 speak and get permission from her Elders to speak out.

10 A. Yes.

11 Q. Did you facilitate this in anyway.

12 A. Yes, I did. Because of the position I was in, being  
13 W.T.'s granddaughter, just like with Dorothy, if I ring  
14 up and say `I'm Sue Lawrie, daughter of Mac Lawrie  
15 granddaughter of W.T. Lawrie', it does open doors in  
16 that community. So I said `Look, I would be prepared to  
17 speak to Dorothy and see if she is prepared to listen to  
18 what you have to say and we will take it from there.' I  
19 have also had a background with handling the media in  
20 various circumstances, so I said that I would be happy  
21 to have a look at it and perhaps put something together,  
22 which I subsequently did.

23 Q. You took steps then. Was that on 27/28 April.

24 A. Yes.

25 Q. What did you do.

26 A. First off, already Chris Kenny from Channel 10 seemed to  
27 be aware, he was doing his homework very thoroughly, and  
28 seemed to be aware that I was on the fringes and that  
29 something was going on and he made contact with me.

30 CONTINUED

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- 1 I made it quite clear that whatever I did, I wanted to  
2 make sure that the women's story was put sensitively and  
3 I didn't want him just racing off and doing a story  
4 without knowing the full facts. But I said to please  
5 wait until I had more information, which he agreed to  
6 do. I also spoke to journalist Geoff Easdown in  
7 Melbourne. Obviously I was living in Melbourne at the  
8 time.
- 9 Q. You were looking what.
- 10 A. I was living in Melbourne at the time. He was the  
11 Aboriginal writer at that time for the 'Herald Sun'. I  
12 was tossing around and hadn't at that point come up with  
13 a third name, but eventually decided on John Kerrin from  
14 the 'Australian' as well. I've had a number of dealings  
15 with John Kerrin as well over the years.
- 16 Q. You had the meeting on 24 April with Dorothy Wilson, Ian  
17 McLachlan.
- 18 A. Yes.
- 19 Q. How soon after that were you -
- 20 A. Quite soon.
- 21 Q. Contacted by Chris Kenny, for instance.
- 22 A. It was in that week, in between time initially, but I  
23 didn't say much at all at that point.
- 24 Q. Apart from the journalists you contacted, did you  
25 contact any of the senior ladies with whom Dorothy  
26 wanted to confer.
- 27 A. Yes. I rang Dorothy Wilson on about the Thursday or the  
28 Friday. The Thursday -
- 29 Q. So we are around about the -
- 30 A. So that's about the 26th, 27th. Somewhere around that  
31 point. Again, I explained who I was, and she was just  
32 wonderful on the phone, and again immediately knew who I  
33 was. I told her that I had been speaking to Dorothy and  
34 that she was keen to speak to her elders, that she had  
35 grave concerns and would like to get together with other  
36 women who had concerns and her elders, in particular, to  
37 discuss the situation, and was she interested. She was  
38 very very keen. She said that her sister-in-law,

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1 Bertha, was in the same position. That Bertha Gollan  
2 was aged 74, and that she would contact her and one or  
3 two other women that she knew of. We ascertained that  
4 the only date that we could possibly all get together at  
5 that point was May 1, so we organised a meeting in  
6 Adelaide on May 1. But Dulcie is the one who contacted  
7 the other women.

8 Q. In the meantime, you contacted the journalists, Easdown -

9 A. Yes.

10 Q. John Kerrin.

11 A. No, I didn't speak to John Kerrin at that stage. It was  
12 after the meeting that I spoke to him.

13 Q. So the next event then was the meeting of 1 May, was it.

14 A. Yes.

15 Q. By 1 May, had you made contact then with the  
16 journalists.

17 A. Only very very briefly with Kenny, and Geoff Easdown, in  
18 Melbourne, I spoke to at some length about it. He,  
19 being a journalist - an investigative journalist,  
20 expressed some concerns about the manner in which the  
21 meeting was held, and, of course, at this stage I never  
22 expected all of this to come out of it. But he was  
23 saying how we needed to protect ourselves with some sort  
24 of signed statement, and he even talked about having  
25 lawyers present and all sorts of things, which I thought  
26 was gross overkill. I really didn't expect all of this  
27 to happen. So, in the end, I invited the mother of the  
28 person whose house it was to be there. She basically  
29 assisted with food preparation, making cups of tea and  
30 coffee, just to be an impartial observer, if you like;  
31 to have a third party to sign that, yes, she was present  
32 and that the meeting took place. The handwritten  
33 statement, the copy of which has been tabled here  
34 previously, came out of that meeting, with later more  
35 detailed statements. But that's how that statement came  
36 about.

37 Q. That is Mrs.

38 A. Mrs Haese.



1 Q. H-A-E-S-E.

2 A. Yes.

3 Q. Where was this meeting. I don't ask for the address.

4 A. At the daughter of Mrs Haese's house.

5 Q. Here.

6 A. Here in Adelaide. The women had expressed concern. For  
7 instance, Dorothy had had a call from Doreen in the  
8 interim.

9 COMSR

10 Q. You have been told this, have you.

11 A. Dulcie explained that to me on the phone, sorry. Dulcie  
12 explained on the phone that she had had a call from  
13 Doreen. That Doreen was clearly concerned that the  
14 women may be about to speak out. Rumours were clearly  
15 going around that the women were thinking about speaking  
16 out, and Doreen had rung Dulcie in concern. And so,  
17 because of this concern, they wanted a neutral place.

18 You know, not my parents' house or anywhere, Dorothy's  
19 house or Dulcie's house. We wanted it to be somewhere  
20 neutral, and this friend kindly gave me the key to her  
21 house.

22 Q. It was Mrs Haese who, in effect, catered for the  
23 gathering.

24 A. Yes, yes.

25 Q. I think your mother also was involved, wasn't she.

26 A. My mother collected Dorothy from the bus station and had  
27 not been intending to stay, but Dorothy had said 'Come  
28 on in', and when she came in, all the women were so  
29 pleased to see her, they were quite adamant that she  
30 should remain with us and said 'Look, there is nothing  
31 we can say that you shouldn't hear'. And I was glad to  
32 have my mother there for some moral support - not that I  
33 really needed her with this group of women.

34 Q. This gathering lasted for how long, approximately.

35 A. Approximately 3 hours.

36 Q. You obviously came up with some plan of action as a  
37 result of this gathering.

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- 1 A. Yes. All manner of things to do with culture were  
2 discussed, so I don't feel it is appropriate to go into  
3 all the detail. Dulcie also mentioned that Doreen had  
4 rung her on that occasion, and that Doreen agreed to  
5 tell her what was in the envelopes, which I shan't go  
6 into. But Dulcie did relate that to this meeting, which  
7 was taped, and I have since had a transcript done of  
8 those tapes. But all manner of things were discussed.  
9 Dulcie, in particular, was very keen to actually come up  
10 with a plan of action out of the meeting and kept  
11 bringing it back to that. That's when she handed me a  
12 typed statement that she had done as a personal  
13 statement and signed, which I have a copy of here.
- 14 Q. During the afternoon I think Mrs Haese's other daughter  
15 and her husband dropped around, didn't they.
- 16 A. That's correct. Yes, they did. They were aware that  
17 their mother was there. Because we'd kept it very  
18 quiet, they weren't aware there was a meeting going on.  
19 So her elder daughter dropped in to see her mother with  
20 her husband, and they went off and sat in the lounge  
21 room and spoke to each other for maybe half an hour or  
22 so, but didn't participate in any way.
- 23 Q. I think you wrote down the main points that had come out  
24 of the discussions.
- 25 A. Yes, I did.
- 26 Q. In the form of a letter.
- 27 A. Or just a statement really.
- 28 Q. We don't need to refer to that.
- 29 A. What you have is a copy. That's the actual original of  
30 that document (INDICATES).
- 31 COMSR: This isn't anything that traverses any  
32 confidential information?
- 33 MR ABBOTT: Are we talking about the letter signed  
34 by Mrs Wilson?
- 35 WITNESS: No, we are talking about the handwritten  
36 statement.
- 37 MR ABBOTT: Neither do.  
38 XN

- 1 Q. Looking at Exhibit 26, is that a copy of the letter of  
2 which you have the original.
- 3 A. Yes, that's a copy -a blown up copy of my original.
- 4 Q. That's your handwriting.
- 5 A. Yes, that is my handwriting.
- 6 Q. The signatures on that copy letter, can I just get you  
7 to identify them.
- 8 A. Yes. My signature appears first; followed by D. Wilson,  
9 which I think is Dorothy Wilson; followed by A.M. Dix,  
10 which is Audrey Dix; my mother, Jean Lawrie; Bertha  
11 Gollan; D.C. Wilson, which I think is Dulcie Wilson's  
12 signature; and Y. Haese, which is the mother of the  
13 owner of the property.
- 14 Q. Like the tape, will you just retain the original letter  
15 for the time being.
- 16 A. Yes, I will.
- 17 Q. I think you took other steps that we are coming to,  
18 didn't you.
- 19 A. Yes, I did.
- 20 Q. So you wrote up, did you not, documents which you had  
21 signed, setting out the individual backgrounds of these  
22 women.
- 23 A. Yes. We talked about doing a prepared statement, but  
24 with each of them being individualised for the women.  
25 It was a combination of what appeared on the handwritten  
26 statement, on the background information provided by  
27 Dulcie Wilson in her signed statement, and then each  
28 individual statement had a paragraph on that particular  
29 person. So Dorothy's had her background, her lineage,  
30 who her forebearers were, and why she felt she had a  
31 right to comment. Likewise, Bertha, Audrey and Dulcie  
32 all gave a bit of background information for their  
33 individual statement.
- 34 Q. I think you have retained a copy for your own records of  
35 Dulcie Wilson's statement.
- 36 A. Yes, I have.
- 37 Q. On which you based the others.
- 38 A. Yes.

1 Q. You produce that.

2 A. Yes.

3 MR SMITH: There is no matter that gives you  
4 concern in this document, commissioner.

5 XN

6 Q. Is that the original actually.

7 A. Yes. Yes, that's the original. She had done that  
8 previously, but that is not the signed statement that  
9 she produced in the next 48 hours. I typed up the  
10 statements that they signed, but it was based on that  
11 and the handwritten document. I didn't put to -

12 COMSR: I am not sure I follow that. Dulcie  
13 Wilson hasn't given evidence.

14 XN

15 Q. This was a document typed up as a joint effort of this  
16 meeting, if you like.

17 A. Yes, that's correct.

18 Q. Supervised by you.

19 A. Yes.

20 Q. And signed by Dulcie Wilson.

21 A. Yes, and in that first handwritten statement it says  
22 that I am to prepare the personalised statement.

23 COMSR

24 Q. You saw her sign this statement.

25 A. Yes. I didn't see Dulcie sign it, sorry. I saw them  
26 sign this one which said that I would prepare it, and  
27 then my mother took copies around to Bertha Gollan and  
28 Audrey Dix and they signed it, but I had typed it up  
29 based on what they told me to say.

30 Q. I understand how the content got there.

31 A. But that statement was actually produced by Dulcie. The  
32 original one was produced by her before the meeting, and  
33 that's the wording we all used.

34 XN

35 Q. This statement here which you produce from your records,  
36 which is original -

37 A. Yes.

38 Q. And purports to be signed by Dulcie Wilson -

- 1 A. Yes.
- 2 Q. That document was prepared where.
- 3 A. It was prepared by Dulcie prior to the meeting.
- 4 Q. Did she bring it to the meeting.
- 5 A. She brought it to the meeting with her.
- 6 Q. Was it signed when she brought it to the meeting.
- 7 A. Yes, already signed when she brought it to the meeting.
- 8 Q. And she gave it to you.
- 9 A. Yes.
- 10 Q. That was a model on which you based a series of
- 11 statements prepared for all the women.
- 12 A. Yes.
- 13 Q. And issued them.
- 14 A. Yes.
- 15 EXHIBIT 76 Statement of Dulcie Wilson tendered by
- 16 Mr Smith. Admitted.
- 17 Q. If you know, can you tell us what happened to those
- 18 statements of which that last exhibit is an example.
- 19 A. I have the originals. However, I am in the process of
- 20 moving between Melbourne and Darwin, and they are
- 21 somewhere in between in an Allied Pickford's van at the
- 22 moment.
- 23 Q. So nothing was done beyond having those statements
- 24 prepared.
- 25 A. No, when I did contact the media, I put together a
- 26 package with copies of the signed statements and a
- 27 transcript of what had happened at the meeting. There
- 28 were several bits and pieces that I put together as a
- 29 package for the three journalists involved.
- 30 Q. So it included those statements from all of these women,
- 31 including Dulcie.
- 32 A. Yes, that's correct.
- 33 Q. All the women agreed, according to your statement, that
- 34 they wanted to speak publicly.
- 35 A. Yes.
- 36 Q. And authorised you to make arrangements for.
- 37 A. Yes.
- 38 Q. You tape recorded this meeting.

1 A. Yes, I did.

2 Q. For the sake of Mr Tilmouth, did you have the consent of  
3 all the people.

4 A. Absolutely. In fact, it was Dulcie's tapes that were  
5 used.

6 Q. You intended, as your statement shows, to involve the  
7 print media.

8 A. Yes.

9 Q. And Geoff Easdown and John Kerrin were two people from  
10 the print media, weren't they.

11 A. Yes, that's correct. I was concerned if it were just  
12 Chris Kenny and television that it may end up a ten  
13 second grab on a Friday night that would be completely  
14 forgotten. I wanted thorough investigation by the  
15 journalists that were involved. I wanted it to be in  
16 print so that it could be read and hashed over and  
17 thorough. I didn't want it to be lost amongst  
18 everything else.

19 Q. You involved an interstate journalist.

20 A. Yes. Given the controversy surrounding the whole issue,  
21 I felt it important that coverage come not just from  
22 South Australia, but the national press be aware of some  
23 of the issues involved here and that there were people  
24 who dissented, and that unless the push came from  
25 everywhere that perhaps nothing would come of it and it  
26 might get buried. By this time, I was hopeful that  
27 there may be, at that point, some senate inquiry or some  
28 sort of inquiry into the issue.

29 Q. Had you come to a view about the group that you were  
30 dealing with here, apart from the women that you just  
31 met with.

32 A. You mean -

33 Q. The opposing group, if you like.

34 A. Right.

35 COMSR

36 Q. Did it in some way dictate your course of action.

37 A. To some extent, because I felt that they were organised;  
38 that they had resources; that they had access to fax

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1 machines, to money, to funding. That perhaps this  
2 dissenting group did not have the power and the access.  
3 I coined a phrase through this period - not a phrase, it  
4 is more an analogy, that if Aboriginal women are the  
5 least empowered group in Australian society, how less  
6 empowered are the women who disagree with the power  
7 group within that group? And that's how I viewed people  
8 like Dorothy and Dulcie. That they had a voice, they  
9 wanted to be heard, they had valid concerns, but nobody  
10 seemed keen to listen to them, and they certainly didn't  
11 have the facilities or access that perhaps these other  
12 people had. And I thought it was vital to give them  
13 that opportunity.

14 XN

15 Q. What organisations did you believe were aligned against  
16 these women.

17 A. Very definitely the ALRM, probably more so than anybody.  
18 But I certainly feel that right from the top, from  
19 Minister Tickner, his staff and the resources of the  
20 Federal Government. I felt it was all stacked against  
21 these women.

22 CONTINUED

23

1 COMSR

2 Q. That is just a personal view.

3 A. Well, I saw lots of this first hand and I know the  
4 treatment, and I was in Canberra the week after this  
5 broke and was subjected to some of it myself.

6 COMSR: I suppose I have to be careful here in  
7 the Terms of Reference not to prejudice anything in the  
8 Federal Court proceedings.

9 MR SMITH: There's nothing more on this topic. But  
10 I think I can assure you that none of that addresses the  
11 Federal Court action.

12 MR ABBOTT: True.

13 COMSR: This is just the witness's point of  
14 view. In any case, it explains her actions.

15 XN

16 Q. Can I take you to 22 May 1995. I think on Monday, 22  
17 May 1995, you met with Tom and Wendy Chapman and their  
18 lawyer Mr Palyga.

19 A. Yes.

20 Q. Can you tell us what passed between you at that meeting.

21 A. Well, firstly, a lot had happened in between the time  
22 since it had broken in the media the previous Friday and  
23 Saturday night, and I had been involved in interviews  
24 that had taken place. I had been present when Chris  
25 Kenny did his interviews. I was present with the women  
26 when Jeff Easdown did his interviews. And as a result  
27 on the Monday, following the story breaking, I had a  
28 call to say that a message was left with my parents, I  
29 believed, by Jeff Easdown - I can't be sure of that -  
30 that he had an appointment at Steve Palyga's office with  
31 Tom and Wendy Chapman and that I was invited to attend  
32 as well. I did go along and they opened up various  
33 documents to us. It was amazing the range of documents  
34 that were there. I was given access to all sorts of  
35 documents. But Mr Easdown was very particular, before  
36 accepting any documents, to check that they were  
37 available in the public domain, that they were available  
38 to the public through the Federal Court, or that they



- 1 were publicly available before accepting any documents.  
2 The document that I particularly obtained that day is a  
3 copy of a letter that had been part of Federal Court  
4 evidence, a letter to Mr Tickner signed by Aboriginal  
5 women the previous year at the Mouth House with various  
6 signatures on it, where they asked the Minister to stop  
7 the bridge project based on information in the letter;  
8 and Dorothy Wilson's signature appears on that letter.
- 9 Q. Can I perhaps take you back in time to fill out the  
10 chronology of events, because I went straight to 22 May  
11 there. The meeting at the Haese's premises was on 1  
12 May.
- 13 A. Yes.
- 14 Q. You told us all about that.
- 15 A. Yes.
- 16 Q. I think the steps that were taken implementing the  
17 resolution, if you like, of that meeting were that on 15  
18 May, you met with Chris Kenny and separately with John  
19 Kerrin.
- 20 A. Yes, that's correct.
- 21 Q. After having sent them documents.
- 22 A. Yes.
- 23 Q. Gave them a further briefing.
- 24 A. Yes.
- 25 Q. You gave them contact details for these women.
- 26 A. Yes.
- 27 Q. You had previously done the same in respect of the  
28 journalist Jeff Easdown.
- 29 A. Yes, that's correct.
- 30 Q. On Tuesday, 16 May, you, I think, collected Dorothy  
31 Wilson; did you not.
- 32 A. Yes, that's correct.
- 33 Q. And drove with your mother to Millicent for the women to  
34 be interviewed by Chris Kenny.
- 35 A. That's correct.
- 36 Q. Then, on Thursday and Friday, 18 and 19 May, you flew to  
37 Adelaide and organised interviews with Dorothy and  
38 Dulcie for Jeff Easdown.

1 A. Yes, that's correct.

2 Q. It was on Friday, 19 May that Channel 10 ran the stories  
3 and the interviews.

4 A. Yes.

5 Q. Then, that brings us to 22 May.

6 A. Right.

7 Q. Monday, when you met with Steve Palyga, Tom and Wendy  
8 Chapman at the offices of Michell, Sillar, Lynch &  
9 Meyer.

10 A. Yes, that's correct.

11 Q. I think you remained in Adelaide until Saturday, 27 May.

12 A. Yes.

13 Q. Lunched with Dorothy at Murray Bridge on the Friday; is  
14 that right.

15 A. Yes, that's correct.

16 Q. I think you, yourself, were involved in an interview  
17 with John Kerrin, the journalist.

18 A. Yes, I was.

19 Q. And that was featured in the Australian on Wednesday, 24  
20 May 1995.

21 A. That's correct.

22 Q. As I understand it, you reluctantly did that.

23 A. Very reluctantly.

24 Q. And haven't done anything more.

25 A. No. After that article appeared, one of the  
26 journalists contacted me. I made it quite clear that  
27 was my one and only statement to the media. As far as  
28 I'm concerned, it's the women's story not mine. While I  
29 may have facilitated the media as to their story, and  
30 the article was accurate as far as anyone is happy about  
31 reading about themselves in print and that they should  
32 refer to that article as it was accurate, I wasn't happy  
33 about that happening. I was forced into that situation,  
34 I might add.

35 Q. Why was that.

36 A. I had been undermined for some information sent to the  
37 Australian and I was fortunately warned by John Kerrin,  
38 who said `Well, how about I do the story? I might be

1 able to hold this off a bit.' I would prefer not to go  
2 into the details how it was undermined.

3 Q. On the Queen's Birthday Monday, this was 12 June 1995,  
4 you had some further involvement with this matter.

5 A. Yes.

6 Q. What was it.

7 A. I was obviously back in Melbourne and had had little  
8 more to do with it. I mean, I was keeping my ear to the  
9 ground, and that was about it. But, on that day, I  
10 decided to get together with journalist Jeff Easdown for  
11 a wrap-up of where things were, if you like. It was  
12 just after Doug Milera has been interviewed by Channel  
13 10 and Mr Easdown said that he would like to interview  
14 Doug Milera if he could. And I made two or three phone  
15 calls on my mobile phone, seeing if I could locate a  
16 phone number for Doug Milera. Subsequently, I had a  
17 call back from one of the many people I called to say  
18 'Try this number'. I scribbled it down on a piece of  
19 paper. I still have it here. I then dialled the  
20 number on the mobile phone and handed it to Mr Easdown,  
21 and the phone was answered by Sarah. I could hear  
22 obviously all of his side of the conversation and he  
23 said 'Is that you Sarah?', and she was speaking very  
24 loudly and I could hear her voice quite clearly, and he  
25 asked to speak to Doug. Doug came to the phone. The  
26 conversation lasted approximately six minutes. It was  
27 about 7 o'clock in the evening on the Queen's Birthday  
28 and it became apparent that Doug was very concerned  
29 about pressure being put on him to change his statement  
30 again. He said things. It was relayed to me that he  
31 said that he would have to disappear, that enormous  
32 pressures were being put on him and he didn't know how  
33 he was going to handle it all. I was so concerned that  
34 when the conversation ended, I then rang the South  
35 Australian Premier's Department and I spoke to a Jim  
36 Bonner and expressed concern that there should be some  
37 sort of witness protection programme for people like  
38 Doug and those who are prepared to speak out, because of

1 the enormous pressures being put on these people.

2 Q. Did that apply - did you make enquiries on behalf of not  
3 only Doug but others.

4 A. I said everybody, whether that is Dorothy, Doug or  
5 whoever. I just felt that the pressure that was now  
6 being applied was enormous and there should be some sort  
7 of protection provided to these people.

8 Q. I think you returned to Adelaide from Melbourne on  
9 Thursday, 6 July.

10 A. Yes, that's correct.

11 Q. To arrange the party that you spoke of earlier.

12 A. Yes.

13 Q. For your father.

14 A. Yes, it was the occasion of my parents' 40th wedding  
15 anniversary. It was a tremendous success and I was  
16 trying to get various anecdotes from friends of my  
17 parents and people that my parents knew over the time  
18 and to get them put onto video - and I got some  
19 wonderful anecdotes put onto the video. And this was  
20 the whole purpose of this year, bringing the people  
21 together and talking about the various anecdotes. And  
22 it was a huge success.

23 Q. You returned to Melbourne on 10 July.

24 A. Yes. And until this weekend I hadn't been back.

25 Q. Your next contact in connection with this matter was our  
26 contact with you.

27 A. Yes. And in the meantime I had moved to Darwin. No  
28 longer employed by Ken Aldred MP.

29 COMSR: I want to give some consideration to  
30 some of the evidence given by the witness; that is, her  
31 opinion as to who was involved. I can't help but think  
32 that that might possibly touch on the area of the  
33 Federal Court proceedings. I haven't quite worked it  
34 out in my mind yet.

35 MR SMITH: Do you want me to articulate what your  
36 concerns might be?

37 COMSR: Yes.

38 MR SMITH: You're concerned about the witness's

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- 1 assertion that the forces rained against these women  
2 were amongst other forces, the Federal Government?
- 3 COMSR: Yes, because I'm concerned that - see,  
4 one of the Terms of Reference is that this Commission do  
5 nothing to prejudice the Federal inquiry.
- 6 MR SMITH: Well, Mam -
- 7 COMSR: That goes to the manner in which the  
8 Minister went about handling the application.
- 9 MR SMITH: That's about a year after the relevant  
10 events that the Minister's relevant declaration is that  
11 this evidence pertains to. But if you think it has the  
12 potential of -
- 13 COMSR: I'm not quite clear in my own mind, to  
14 be quite honest, until I have had a look at it. It's  
15 the witness's personal opinion as to the forces rained.  
16 I certainly don't want to tread into any more dangerous  
17 waters than we have to in respect of the Terms of  
18 Reference.
- 19 MR MEYER: I don't see how I could, being the  
20 counsel for the Chapmans in those proceedings, I don't  
21 see how I could usefully use it in relation to the  
22 Federal Court proceedings.
- 23 COMSR: I appreciate that.
- 24 MR MEYER: If you are minded to suppress it, I  
25 don't have any objection from my part.
- 26 COMSR: I propose that at least while I consider  
27 it and see the transcript of it to do that. Consistent  
28 with what I've done previously, I might say in respect  
29 of persons who are named and -
- 30 MR ABBOTT: You have several times referred to just  
31 this witness's opinion. However, Miss Lawrie does say  
32 she would be happy to give chapter and verse on the  
33 pressures exerted, and I think it would perhaps be worth  
34 while taking more evidence.
- 35 COMSR: I don't know about that.
- 36 MR ABBOTT: I don't think it should be passed off as  
37 only her opinion and that when, in fact, she's in  
38 Canberra and the recipient of some of the pressure.

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- 1 COMSR: No, I'm only concerned for the time  
2 being while I have a look at the transcript.
- 3 WITNESS: Perhaps we should look at Hansard.
- 4 COMSR: Of the effect of it, which probably will  
5 be overnight before I get the transcript. Are we likely  
6 to conclude with the witness today?
- 7 MR SMITH: Yes. I've nearly finished.
- 8 COMSR: Pending my at least having a look at the  
9 transcript, I propose to suppress any mention of the  
10 evidence as to the witness's opinion that the pressures  
11 rained, that were rained against you went up to  
12 ministerial level.
- 13 WITNESS: Fine.
- 14 MR ABBOTT: Rained against my clients, not against  
15 this witness.
- 16 COMSR: Yes, I'm sorry, rained against your  
17 clients.
- 18 XN
- 19 Q. These are pages taken out of your photograph album.
- 20 A. Yes.
- 21 Q. I think you indicated, just to make sure that the copies  
22 we have got reflect what you indicated. Photograph no.1  
23 was indicated to you the daughter of Pinkie Mack looked  
24 at photograph no.1 marked in the copy.
- 25 A. Yes.
- 26 Q. And identified a number of the children and people  
27 there.
- 28 A. Yes.
- 29 Q. Also the photograph marked 2.
- 30 A. Yes.
- 31 Q. On the copy.
- 32 A. Yes, the birthday party.
- 33 Q. Then go to photograph no.3 which is, I think, Henry  
34 Rankine on the horse-drawn cart.
- 35 A. Yes, that's correct.
- 36 Q. She identified him.
- 37 A. Yes.
- 38 Q. Photograph no.4 was I think -

1 A. Henry Long.

2 Q. Identified as Henry Long.

3 A. Yes.

4 Q. And photograph no.5, which is your Auntie Enid together  
5 with Doug Milera's mother, Elva Rigney.

6 A. Yes.

7 Q. They were the five photographs that you particularly  
8 indicated to us.

9 A. Yes.

10 EXHIBIT 77 Five copy photographs tendered by Mr  
11 Smith. Admitted

12 MR SMITH: I have no further questions for the time  
13 being. There are a number of other topics that Miss  
14 Lawrie's evidence needs to cover that we can't cover in  
15 the light of the absence of an authority.

16 MR ABBOTT: Well, I think my learned friend  
17 overstates the position. As I understand the position,  
18 not that we can't cover in the absence of an authority,  
19 it would be preferable to wait and see whether we do get  
20 an authority. That will mean we don't have to then  
21 decide, you don't have to then decide whether or not a  
22 discussion would or would not fall within s.35. As I  
23 understand the authority, it's - as it were, if it's  
24 granted, it would be a cover-all situation. Hopefully,  
25 that would cover the other topics that this witness  
26 would be giving evidence about. And whether or not it's  
27 needed or not needed, it would not be necessary to be  
28 debated because it would be there, assuming that it is  
29 granted. So, I understand that the matters, the rest of  
30 this witness's evidence, particularly in so far as it  
31 concerns my clients, will not be given today. We are  
32 awaiting whether or not an authority is issued, and then  
33 and only then may it be necessary to debate in the  
34 absence of authority whether the evidence could then be  
35 given.

36 MR SMITH: Yes. I put that rather baldly, yes.

37 COMSR: In any event, you can't complete your  
38 examination of this witness?

- 1 MR SMITH: Well, the truth of the situation is that
- 2 I'm unwilling to complete the evidence.
- 3 COMSR: You are probably unwilling to lead it
- 4 and I may be unwilling to receive it.
- 5 MR SMITH: You may well have to come to grips with
- 6 that later.
- 7 CONTINUED



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1 So that is the extent then of Ms Lawrie's evidence, at  
2 this stage, but I trust that that won't stop Ms Lawrie  
3 being cross-examined as much as can be, at this stage.

4 COMSR: It depends who has an interest, as it  
5 were, in the extent to which counsel present their  
6 clients are implicated in anything that the witness may  
7 have given by way of evidence.

8 MR KENNY: If no-one else is going to say anything,  
9 I think everyone said I have the least interest. I  
10 would prefer to leave it until this witness has finished  
11 her evidence. She will have to come back, in any event.  
12 So, rather than to split it up into two sections, I  
13 would prefer to leave it until we have heard all her  
14 evidence as to what we do or don't do, at this stage.

15 MR ABBOTT: Can I ask if there is anything on which  
16 Mr Kenny may want to cross-examine on, at this stage?

17 COMSR: Not want to, but might. I don't know  
18 that Mr Kenny need be put to making any statements as to  
19 that, at this stage, because he has indicated that he  
20 would prefer to defer any cross-examination.

21 MR ABBOTT: All that I have to say touches upon this  
22 witness's contact with my clients and it would seem to  
23 me to be appropriate that I ask all of my questions in  
24 the one go, because I would like to ask her about before  
25 the meeting, what occurred during the meeting and what  
26 occurred after the meeting on the basis that my learned  
27 friend, counsel assisting, left any of these matters not  
28 as fully explored as I want them.

29 COMSR: Yes, I know, I can appreciate that.

30 MR ABBOTT: It would be useless to embark upon a few  
31 questions now and ask nothing about what was in the  
32 course of the meeting and ask a few questions at the end  
33 of the meeting.

34 COMSR: Yes, I understand that. Of course, one  
35 of the undesirable features in this Inquiry has been the  
36 number of witnesses that have given evidence-in-chief  
37 and the cross-examination has been deferred. That  
38 arises from the nature of the Inquiry and not any wish

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- 1 on my part to proceed in that way.  
2 MR ABBOTT: No, so I will wait until we have heard  
3 as to the s.35 issue -  
4 WITNESS: I might add that anything that has come  
5 up -  
6 COMSR: I might ask that you don't make any  
7 unsolicited statements, at this time.  
8 MR MEYER: I am willing to ask questions, if  
9 everybody else is reticence, at the present. But I ask  
10 them on the basis I have no idea whether they are all I  
11 will ever want to ask. If something comes up in the  
12 meantime, so be it.  
13 CROSS-EXAMINATION BY MR MEYER  
14 Q. Do you know or would you recognise a lady called Betty  
15 Fisher.  
16 A. No.  
17 Q. Have you seen Betty Fisher on any TV reports, or  
18 anything of that nature.  
19 A. No, I haven't.  
20 MR MEYER: Is it possible for us to show the  
21 exhibit of Mrs Fisher on the 7.30 Report?  
22 COMSR: To set it up?  
23 MR MEYER: The TV is here. I don't know how long  
24 it would take to put the video on it. It would only  
25 need to go for a minute.  
26 COMSR: I think we will have to refer that to  
27 the technical staff.  
28 Simply for the purposes of seeing if this witness  
29 can identify -  
30 MR MEYER: Betty Fisher.  
31 COMSR: Betty Fisher as someone she has seen?  
32 MR MEYER: Yes, my question is was Betty Fisher  
33 at the reconciliation meeting which occurred at  
34 Graham's Castle and, if Ms Lawrie needs to see a tape  
35 of the lady first before she can answer the question,  
36 then I would ask to show her the 7.30 Reprot. If that  
37 doesn't help, so be it, there is no answer to my  
38 question.

1 XXN

2 Q. While they are setting that up, we will go on to  
3 something different. You gave evidence in relation to  
4 having a conversation with Maggie Jacobs. And I refer  
5 to your evidence occurring at p.7 of your statement, 1  
6 April 1995. On that occasion, did you tape your  
7 conversations with Maggie Jacobs.

8 A. Yes, I did, but it was never intended for the purpose of  
9 this particular issue and so unless absolutely required  
10 by the Commissioner I would prefer not to submit those  
11 tapes.

12 VIDEO PLAYED

13 COMSR: We might be able to freeze a frame of  
14 Mrs Fisher so that you could get a good look at it, Ms  
15 Lawrie.

16 MR MEYER: There she is.

17 COMSR: There we are.

18 VIDEO PLAYED

19 COMSR: There is a better picture.

20 XXN

21 Q. Does that enable you to -

22 A. She looks familiar, but I can't tell you why.

23 Q. If I ask the question did you see that lady at Graham's  
24 Castle, that doesn't assist you to answer the question.

25 A. No.

26 Q. You say at the reconciliation meeting that occurred at  
27 Graham's Castle - and that is the meeting of 23 April  
28 1995 - a large proportion of the Aboriginal people there  
29 weren't Ngarrindjeri.

30 A. Yes.

31 Q. Can you give us some sort of percentage estimate.

32 A. I would have thought about a third of them appeared to  
33 be - and you have got to bear in mind that there are  
34 differences in the tribes. Skin colouring, features,  
35 etc. Quite apart from Doreen talking about people being  
36 her friends from Point Pearce. I would have estimated  
37 close to a third of the women there, Aboriginal women  
38 there, weren't Ngarrindjeri women.

- 1 Q. When we read 'large proportion', that would mean  
2 approximately a third.
- 3 A. Yes.
- 4 Q. In the photographs in Exhibit 74 there is a group of  
5 photographs, at p.21. There are two sets of photographs  
6 of rows of houses at Raukkan.
- 7 A. Yes.
- 8 Q. And, on the next page, they are numbered, on p.24, do  
9 you have that.
- 10 A. Yes.
- 11 Q. We have heard a number of witnesses refer to 'the top  
12 row'. Is that an expression that you are familiar with.
- 13 A. I have heard that expression, yes.
- 14 Q. Do you know, of your knowledge, looking at the lower  
15 photograph on p.21, which row of houses may have been  
16 defined as being 'the top row', since I observe there  
17 appear to be three rows.
- 18 A. The difficulty is Point McLeay looks very, very  
19 different today and what I would refer to as 'the top  
20 row' today bears no resemblance to anything in this  
21 photo.
- 22 Q. Perhaps that is something we should tidy up with Mrs  
23 Dulcie Wilson, when she gives her evidence.
- 24 A. Yes.
- 25 Q. You made a reference in your evidence to after the  
26 Graham's Castle meeting your interest being increased in  
27 the matters relating to women's business, etc.
- 28 A. Yes.
- 29 Q. And you you said that you obtained a copy of the  
30 Saunders report.
- 31 A. Yes.
- 32 Q. How did you get that.
- 33 A. I have got a whole package of things that I have  
34 obtained through the Parliamentary Research Service,  
35 which was one of the benefits of working for a Federal  
36 Member of Parliament.
- 37 Q. That is like a library facility.
- 38 A. Yes, a research facility.

1 Q. You refer to having a meeting with Dorrie Wilson on 24  
2 April 1995.

3 A. Yes.

4 Q. Did you have lunch with her that day.

5 A. No, I had lunch with her on Friday, 26 May, just prior  
6 to leaving Adelaide to go back to Melbourne, which was  
7 well after everything broke.

8 Q. Was that at Murray Bridge.

9 A. Yes, that was.

10 Q. Did you form any view as to whether you were being  
11 observed on the occasion.

12 A. Absolutely. This is back to where the Commissioner  
13 questioned some of the tactics. There was someone that  
14 Dorothy pointed out observing us. This gentleman had  
15 walked to a position where he could view us several  
16 times and I had been able to observe this person, but  
17 didn't realise who he was, but formed an opinion he was  
18 observing us and Dorothy happened to turn around, at  
19 this particular point, and see this man and said 'Oh,  
20 that is', and she named him, but I can't recall the  
21 name, 'the Murray Bridge representative of ALRM.' I  
22 commented to my father. We remained there for a few  
23 more minutes and, when we did leave, he had someone else  
24 that he had since called and there were the two of them  
25 watching us and one of them had a camera.

26 Q. Did you only observe this person whilst you were having  
27 lunch.

28 A. We then saw them again later on. I went around and  
29 there was a poster in the office of Peter Lewis that had  
30 pictures of Aboriginal people of importance to Murray  
31 Bridge on it including a very good shot of Nanna Laura  
32 and I had requested a copy of the poster. It also had  
33 Dorothy Wilson on it. And, when I went around to  
34 collect that, again we saw these people observing us.

35 MR MEYER: For the benefit of the press,  
36 Commissioner, and the reporters, we are referring to  
37 that lady as 'the daughter of Pinkie Mack'.

38 WITNESS: Yes.

S.L. LAWRIE XXN (MR MEYER)  
(MR ABBOTT)

- 1 COMSR: The press have probably woken up to that  
2 now, given the number of times it has been repeated, Mr  
3 Meyer.  
4 XXN  
5 Q. That was on the same day.  
6 A. Yes.  
7 Q. Are you able to describe the person who you say is the  
8 Murray Bridge representative of the ALRM.  
9 A. Just generally.  
10 A. I would have difficulty now. I remember the event  
11 taking place and I treated it as a bit of a joke, at the  
12 time.  
13 Q. But that person was identified for you -  
14 A. Yes.  
15 Q. By Dorrie.  
16 A. Yes, and we were introduced as we left. I mean, you  
17 know, they didn't try and hide, hide the fact that they  
18 were observing us.  
19 MR MEYER: I have no other questions.  
20 MR ABBOTT: I do have a couple of questions that I  
21 could ask that relate to my clients that arise out of  
22 what my friend my learned friend has just asked.  
23 CROSS-EXAMINATION BY MR ABBOTT  
24 Q. On the topic of lawyers, you mentioned on 1 April you  
25 went to Maggie Jacobs's birthday.  
26 A. Yes.  
27 Q. And you met someone called Patrick Byrt.  
28 A. Yes.  
29 Q. He was introduced to you as a lawyer.  
30 A. Yes.  
31 Q. By whom.  
32 A. He introduced himself.  
33 Q. You say in your statement that Daisy Rankine seemed to  
34 be influenced by Patrick Byrt.  
35 A. Yes.  
36 Q. What gave you that view.  
37 A. A. They stuck together pretty much throughout the day.  
38 B. She mentioned different things that he had helped

1 her draft, including this letter to the Queen. And he,  
2 Patrick himself, mentioned various things that he had  
3 discussed with Daisy and that they clearly had developed  
4 a working relationship on these sorts of things, but  
5 some of the things he brought up were rather difficult  
6 to understand.

7 Q. Did he appear to you to be out of touch with reality.

8 A. I know, if you have read my statement, I think you will  
9 gather that I am trying to be very polite where this  
10 person is concerned.

11 Q. Did this lawyer suggest to you that the Aboriginal  
12 people were actually descended from the same stock as  
13 the Irish.

14 A. Yes.

15 Q. Did that seem to you to be quite odd.

16 A. Yes, and shared a common language with the Russians.

17 COMSR: I take it Mr Byrt hasn't been contacted,  
18 at this stage?

19 MR SMITH: No, he hasn't.

20 COMSR: I think Mr Byrt should have -

21 WITNESS: I'm not sure whether or not this relates  
22 to the particular case, but, yes -

23 XXN

24 Q. Was there talk of rebellions and fights and class  
25 struggle.

26 A. Yes.

27 Q. And the Irish joining in with the Aborigines for an  
28 uprising in Australia.

29 A. Yes.

30 COMSR: I think Mr Byrt should be apprised of  
31 what -

32 MR ABBOTT: See if he wishes to respond.

33 COMSR: Accusations and statements have been  
34 made, in case he wishes to make any representations, Mr  
35 Abbott, consistent with the practice I have adopted  
36 throughout this hearing.

37 MR ABBOTT: Yes, it is just in this witness's  
38 statement it appears that Mr Byrt said the Aboriginal

1 communities and the Irish communities are going to join  
2 together in an uprising.

3 XXN

4 Q. Did he say how this was going to happen.

5 A. He went into all sorts of detail, but, again, I am not  
6 sure that it is necessarily relevant to this case.

7 Q. Did you see Mr Byrt at the Graham's Castle meeting.

8 A. Yes, late in the afternoon. I didn't notice him earlier  
9 on.

10 Q. What was he doing there, or did you see what he was  
11 doing there.

12 A. No, given the earlier experience, I thought it best not  
13 to get into conversation.

14 Q. With him.

15 A. Yes.

16 Q. You didn't get into contact with him.

17 A. No, I thought I might end up there for a long time if I  
18 did.

19 COMSR: Mr Abbott, with other persons who have  
20 been mentioned in what might be termed a derogatory  
21 manner, I have suppressed mention of their names and the  
22 material until they have been advised to see if they  
23 wish to make any representations and I understand Mr  
24 Byrt has not been advised on this occasion.

25 MR SMITH: No, he hasn't, but I will notify him.

26 MR ABBOTT: It is entirely appropriate that you  
27 suppress it until then.

28 COMSR: I certainly propose to suppress the  
29 evidence relating to Mr Byrt.

30 MR ABBOTT: It is just that Mr Byrt's name will  
31 re-appear at another stage in this matter.

32 COMSR: I think it is appropriate then Mr Byrt  
33 should be apprised of the nature of the material that  
34 has been led.

35 The fact that a lawyer has been accused of acts of  
36 not being in touch with reality might not be considered  
37 entirely unusual, Mr Abbott.

38 MR ABBOTT: No, it is hardly worth responding to,



- 1 but there will be some or there may be some evidence as  
2 to his involvement in the meeting, the minutes of which  
3 have yet to be finally dealt with by you.
- 4 XXN
- 5 Q. Could I ask you about other lawyers, Mr Tim Wooley.  
6 A. I would not recognise Mr Wooley, whether or not he had  
7 been there.  
8 Q. Chris Charles.  
9 A. I don't know the person involved.  
10 Q. Did you see either Mr Wooley or Mr Charles at the  
11 Graham's Castle meeting.  
12 A. Not to my knowledge. They may have been there, but I  
13 wouldn't have recognised them. There were a number of  
14 men there, but I didn't recognise them.  
15 Q. Do you know Mr Hemming.  
16 A. Yes, I was introduced to him that day.  
17 Q. Was he there at the Graham's Castle meeting.  
18 A. Yes, he was there. I was introduced to him, by Doreen  
19 Kartinyeri.
- 20 MR ABBOTT: That is all I wish to ask, at this  
21 stage.
- 22 COMSR: I take it you would ask that the witness  
23 be released subject to being recalled at a later stage,  
24 Mr Smith?
- 25 MR SMITH: Yes.
- 26 COMSR: You understand that, that you are being  
27 released for the time being, but you may be required to  
28 return to give evidence at a later stage? I appreciate  
29 there are certain difficulties in your case being in  
30 Darwin and it is not something that will necessarily be  
31 arranged overnight.
- 32 WITNESS: Yes, okay.
- 33 WITNESS RELEASED

- 1 MR SMITH: I had anticipated that Miss Lawrie would  
2 take longer than she has. That is probably because of  
3 the topics we have steered away from, and the inability  
4 of counsel to really fully cross-examine. So that  
5 leaves us with potentially two very short witnesses  
6 tomorrow.
- 7 I have taken the decision, subject to your view  
8 about this, rather than have counsel and all the  
9 resources of the hearing room brought to bear on two  
10 witnesses, that might only take half an hour each, that  
11 we adjourn until Thursday morning, and I will notify  
12 counsel of the witness program for Thursday morning. So  
13 that at least they can get on with other work rather  
14 than come in for two witnesses, whom we can arrange for  
15 Thursday or Friday in any event.
- 16 COMSR: Will we be arranging them for Thursday  
17 or arranging them for Friday?
- 18 MR SMITH: It will be subject now to their  
19 convenience. Some of the witnesses, we don't know  
20 whether it is convenient for them to come up -
- 21 COMSR: I appreciate you have had to re-arrange  
22 witnesses at short notice and that has, of course,  
23 involved certain difficulties with witnesses.
- 24 COMSR: I just want to know to which day to  
25 adjourn the hearing.
- 26 MR SMITH: Can we adjourn to Thursday morning at 10  
27 a.m.. We have got enough evidence to fill Thursday and  
28 Friday.
- 29 COMSR: We will adjourn to Thursday.
- 30 ADJOURNED 4.05 P.M. TO THURSDAY, 7 SEPTEMBER 1995 AT 10 A.M.

1 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

2

3 COMSR STEVENS

4

5 THURSDAY, 7 SEPTEMBER 1995

6

7 RESUMING 10.10 A.M.

8

9 MR SMITH: The program for today is Peter George  
10 Cooper, General manager, Head Works and Country, S.A.  
11 Water Corporation will give evidence this morning. His  
12 evidence will deal with the barrages and the Murray  
13 Mouth. He will be the only witness for this morning.  
14 This afternoon there will be one witness, Geoff Easdown,  
15 a journalist from Melbourne.

16 For the sake of the record, I indicate that, as I  
17 understand it, Matheson J in the Supreme Court this  
18 morning refused the application for the injunction.

19 COMSR: Then we can proceed.

1 MR SMITH CALLS

2 PETER GEORGE COOPER SWORN

3 EXAMINATION BY MR SMITH

4 Q. Mr Cooper, you are the General Manager, Head Works and  
5 Country, S.A. Water Corporation. Is that right.

6 A. That's correct.

7 Q. What is your role then, and we are talking about the  
8 E&WS, as we used to know it.

9 A. Yes. I am one of the general managers in the corporate  
10 structure. My role is to look after and manage,  
11 overall, the five country regions of South Australia run  
12 by S.A. Water, and all the head works, which is the dams  
13 and major treatment works, water and sewage treatment  
14 works in metropolitan Adelaide. As part of that role,  
15 of course, two of those country regions, the Riverland  
16 region and the Murray Mallee region, have the river  
17 Murray flowing through them, so all of the activities of  
18 the S.A. Water personnel on the locks and weirs and the  
19 barrages come under my control.

20 Q. Can I move to your qualifications for a moment. You  
21 hold a Bachelor of Technology in Civil Engineering  
22 Degree, do you not.

23 A. Correct.

24 Q. You obtained that from what institution, and in what  
25 year.

26 A. That was the University of Adelaide in 1961.

27 Q. I think you have a postgraduate qualification also, do  
28 you not.

29 A. That's correct.

30 Q. What is that and when did you obtain it.

31 A. It is a Master of Engineering Science in Public Health  
32 Engineering from the University of New South Wales, and  
33 that was obtained in - I attended the study in 1970 and  
34 was awarded in 1971.

35 Q. I think you are a member of the Institution of Engineers  
36 of Australia.

37 A. That's correct.

## P.G. COOPER XN (MR SMITH)

1 Q. Could you give us a brief picture of your experience in  
2 the engineering field, if it has been in the engineering  
3 field, since graduation.

4 A. Certainly. All of my experience has been in S.A. Water  
5 since graduation, initially, as a design engineer, with  
6 experience in hydraulic analysis of pipe systems and  
7 open channels and river flow. Then onto construction,  
8 supervising construction of major treatment works. Then  
9 back to hydraulic design again, including undertaking  
10 the development of the hydraulic models of the Chowilla  
11 Dam, which was abandoned in favour of the Dartmouth Dam  
12 further up the River Murray. Then back for a number of  
13 years as a manager, at various levels, supervising the  
14 operation and construction and maintenance of water and  
15 sewage treatment works throughout the State. Then in  
16 1980 I became manager, country operations. That was the  
17 first time that I was in control of country regions  
18 through which the River Murray flowed. And from 1980 to  
19 now, I have been a manager, at various levels, to my  
20 present level of director, looking after, in part, the  
21 whole of the State as far as water and sewage management  
22 of the River Murray is concerned. In 1991, because of  
23 my involvement with the Murray, I was appointed a deputy  
24 commissioner of the Murray Darling Basin Commission, a  
25 position which I currently still hold.

26 Q. Can you tell us, what is the Murray Darling Basin  
27 Commission.

28 A. In 1915, after I might say many years of wrangling  
29 between the three States, New South Wales, South  
30 Australia and Victoria, an agreement was reached and  
31 ratified in 1915 to form a River Murray Commission  
32 between those three States and the Commonwealth, and  
33 that was a pioneering piece of legislation and  
34 agreement. The three States and the Commonwealth have  
35 agreed to have, from then on, certain shared financial  
36 inputs and shared water gains from the River Murray  
37 system, which is covered from - they have control of the  
38 waters that flow in the River Murray above the Hume Dam,

## P.G. COOPER XN (MR SMITH)

1 just above Albury, and some surplus water that flows out  
2 of the River Darling. So that commission has a major  
3 influence in control of the allocation, movement of  
4 water, and usage of water between the three States: New  
5 South Wales, South Australia and Victoria. In recent  
6 years, the name of that commission was changed to the  
7 Murray Darling Basin Commission, and that is as it is  
8 today. It has control of the navigation and the  
9 operations and construction of all the structures that  
10 it's built on the River Murray system.

11 Q. As a deputy commissioner, you meet regularly with your  
12 fellow deputies, and make decisions about the management  
13 of the waters of that river system.

14 A. That's correct.

15 Q. And make recommendations to governments, do you.

16 A. Yes.

17 Q. In connection with this inquiry, you provided a  
18 statement to this Royal Commission concerning, in  
19 particular, the waters and the barrages in and about  
20 Hindmarsh Island. That's correct, isn't it.

21 A. That's correct.

22 Q. Looking at this statement produced to you, I think  
23 that's the statement provided by you and signed by you.

24 A. Yes, that's the statement.

25 Q. It has, on p.2, a number of small corrections.

26 A. That's correct.

27 EXHIBIT 78 Statement of Witness Cooper tendered by  
28 Mr Smith. Admitted.

29 Q. Just so that everybody's copy of your statement reads  
30 the same as the exhibit - do you have a copy before you.

31 A. I haven't got the correct copy. I have an uncorrected  
32 one.

33 Q. I produce to you a copy that you can have in front of  
34 you. If we look on p.1, just above the heading  
35 'Background', it is correct, isn't it, to 'I have been a  
36 Deputy Commissioner of the Murray Darling Basin.'

37 A. That's correct.

38 Q. You make that correction.

1 A. Yes.

2 Q. I think you have made, on the next page, several  
3 corrections in the second last paragraph 'Lower River  
4 Murray was called for by the Commissioner for Public  
5 Works'. Is that right.

6 A. Yes, correct.

7 Q. Then 'Following in the event' is crossed out and you  
8 have inserted 'Following this, the River Murray  
9 Commission undertook an investigation.'

10 A. That's right.

11 Q. Then you inserted after 'and the matter was then  
12 referred to a Parliamentary Standing Committee on Public  
13 Works S.A.'

14 A. Yes, that's correct.

15 Q. Apart from your wider responsibilities, as your  
16 statement sets out, your responsibilities as general  
17 manager, as you have said, include the operation and  
18 maintenance of the Murray Darling Basin structures which  
19 are assigned to the control of South Australia. Is that  
20 right.

21 A. That's correct.

22 Q. They stretch from where to where.

23 A. They stretch from Lake Victoria, which actually  
24 physically lies in New South Wales, just across the  
25 border, and starts with Lake Victoria and lock 9, right  
26 down to lock 1 at Blanchetown, or the intermediate locks  
27 there, plus the five barrages that range across the  
28 river from Goolwa across to Pelican Point, and also  
29 there is some salinity interception schemes to intercept  
30 salt water on the banks of the river at Woolpunda and  
31 Waikerie.

32 Q. I will come back to that in detail in a moment. Can I  
33 take you back to some background material which you have  
34 put in your statement. The first significant date I  
35 think is 1915 in terms of background. Can you tell us  
36 what happened in 1915.

37 A. Yes. That's when the River Murray Commission was formed  
38 - ratified, and that led to an agreement between the

1 three States and the Commonwealth to fund the  
2 construction of a series of locks and weirs and dams on  
3 the river system.

4 Q. What led to that. Why did that happen.

5 A. I think it principally occurred because South Australia  
6 initially was denied water from the River Murray by the  
7 other two States. In other words, new South Wales and  
8 Victoria claimed they owned 50 per cent each of the  
9 River Murray. South Australia, in those days, didn't  
10 look on that too kindly, as the River Murray was a vital  
11 link to South Australia, particularly in the irrigation  
12 area, and the South Australian Government lobbied the  
13 Prime Ministers in the other States very hard to get  
14 some sort of an agreement between the States,  
15 particularly for what they considered an equitable share  
16 of the waters of the River Murray. I think that was -  
17 another key reason was South Australia was extremely  
18 keen to try and have locks constructed on the River  
19 Murray system for navigation purposes, because it was  
20 seen as a big boost to the economy of South Australia if  
21 all the shipping on the river in those days - and this  
22 goes back almost to the turn of the century - all those  
23 paddle steamers, it would have been delightful if they  
24 could have had free navigation throughout the year, and  
25 perhaps turned Goolwa into the large port that would  
26 transship away, overseas, all the product from the  
27 Murray Darling Basin. Unfortunately, that dream  
28 evaporated because of the time it took to get that  
29 ratification. Finally, in 1915, the railways had  
30 started to creep out from New South Wales, Victoria and  
31 South Australia to the river, and the paddle steamer  
32 trade died away. So locks and weirs were built that  
33 were not largely needed for that trade.

34 Q. So there was then that agreement in 1950 between the  
35 three States, New South Wales, Victoria, South  
36 Australia, and the Commonwealth.

37 A. That's correct.



1 Q. I think, in part, as you indicate in your statement,  
2 that agreement enabled certain works to be carried out.

3 A. That's correct.

4 Q. And enabled the river to become navigable in the sense  
5 of locks and things like that.

6 A. That's correct.

7 Q. Under that agreement - what was that called  
8 incidentally.

9 A. I think it was the River Murray Agreement, or it might  
10 have been the Murray River Agreement. I'm not sure. It  
11 is referred to in the -

12 Q. I think it is called the Murray River Agreement, isn't  
13 it.

14 A. Yes.

15 Q. Under that Murray River Agreement, the commission was  
16 established, wasn't it.

17 A. That's correct.

18 Q. The predecessor of -

19 COMSR: If you are referring to the statement,  
20 it is the River Murray Agreement.

21 MR SMITH: But it is the Murray River Agreement.  
22 XN

23 Q. I think you are referring there to the report of the  
24 Parliamentary Standing Committee on Public Works.

25 A. That's correct.

26 Q. Which referred to the Murray River Agreement, didn't it.

27 A. That's correct.

28 Q. I will come to that in a moment. The commission was  
29 established under that agreement, that is, the  
30 predecessor of the Murray Darling Basin Commission.

31 A. That's correct.

32 Q. The members of the commission were the three State  
33 governments and the Commonwealth.

34 A. That's correct.

35 Q. The commission's responsibilities as set out in the  
36 agreement was what.

37 A. Just broadly, it was to have an agreement on the  
38 allocation and use of water, and there would have been

## P.G. COOPER XN (MR SMITH)

1 figures agreed on between the States, particularly what  
2 share South Australia received. It would also have set  
3 out the conditions of how the commission operated and  
4 maintained all of the structures it was going to build,  
5 how they were to be financed, who was going to do the  
6 operations and maintenance, and how that would be  
7 managed. All of those sorts of things about the  
8 day-to-day operations and maintenance, and the legal  
9 side of managing the River Murray.

10 Q. After 1915, after that agreement, I think various locks  
11 and weirs were constructed and commissioned.

12 A. That's correct.

13 Q. Along the length of the River Murray.

14 A. That's correct.

15 Q. The major construction being.

16 A. The major construction being, first, the Hume Dam, which  
17 lies above - just upstream of the township of Albury.  
18 That was a key part of the whole system because it has  
19 allowed water to be stored in - to be used particularly  
20 in New South Wales and Victoria during dry seasons for  
21 irrigation. There was 9 locks and weirs constructed  
22 from Blanchetown in South Australia, up to - adjacent to  
23 Lake Victoria. Also, Lake Victoria was constructed, and  
24 the prime purpose of that was to ensure South Australia  
25 could draw significant water in times of need out of  
26 Lake Victoria - stored water there. There was also  
27 further locks 10, 11 and 15, in the New South  
28 Wales/Victoria area. I think that is basically the  
29 broad structure of the - there were no barrages built,  
30 of course, and they were not agreed to be built at that  
31 stage.

32 CONTINUED

33

1 Q. When the original agreement was entered into in 1915, is  
2 it the case that it was believed that enough water would  
3 be able to be managed down the Murray, even in low flow  
4 periods, to enable water to remain usable at the lower  
5 end of the River Murray.

6 A. That is correct.

7 Q. Even from a salinity point of view.

8 A. That is correct. With the mouth not having the barrage,  
9 there were periods when the sea waters entered those  
10 lakes, particularly Lake Alexandrina, and even at times  
11 that brackish water could almost enter the formal river  
12 down at Wellington. It was thought that there would be  
13 enough water available, especially with the storages  
14 holding water in drought periods, that they would have  
15 enough water flowing down that bottom section of the  
16 river to keep it at usable salinity levels and at a  
17 reasonable level for irrigation.

18 Q. Was that optimism, if I could call it that,  
19 vindicated.

20 A. Well, unfortunately, it wasn't because the three States,  
21 particularly New South Wales and Victoria, had  
22 increasing amounts of irrigation use from 1915 on to  
23 through the mid-1920s, and it became clear that  
24 certainly at times of low flow, there wasn't enough  
25 water available in those structures to flush down the  
26 river and the sea water. And the brackish water in Lake  
27 Alexandrina did enter the lower river and cause them  
28 significant problems in all of those reclaimed swamp  
29 irrigation areas that existed from Mannum down to  
30 Wellington. And, as well as that, the level could not  
31 be maintained high enough and couldn't gravitate the  
32 waters on to the reclaimed swamps at times.

33 Q. So, those reclaimed swamplands were gravity-fed by  
34 water, were they.

35 A. That's correct.

36 Q. There were periods then when flow was poor when those  
37 lands were simply not irrigated.

38 A. Yes.

1 Q. And there was salinity problems as well.

2 A. That's correct.

3 Q. What happened then.

4 A. Well, there were petitions brought by irrigators in  
5 those areas to the Government of South Australia and  
6 also farmers that drew water from the lakes, Lake Albert  
7 and Lake Alexandrina, because the Commission had  
8 virtually written out the lakes as being a water supply  
9 that would be maintained as irrigable all the time.

10 They were only concentrating on that lower section of  
11 the river, the formal river. Those lake residents and  
12 farmers also petitioned the Government. There were a  
13 number of petitions and the Government decided to hold  
14 an investigation by the Engineering and Water Supply  
15 Department. That investigation was then taken up by the  
16 River Murray Commission who undertook a detailed report.  
17 Physically, the proposal started as looking at another  
18 lock and weir to be placed right at the mouth of the  
19 river at Wellington just before it discharged into Lake  
20 Alexandrina. The River Murray Commission, I believe,  
21 would have probably been upper State and certainly happy  
22 with that. That would have given the lower river  
23 adequate water of a right salinity and left the lakes to  
24 stay brackish. However, they couldn't find a suitable  
25 site on the very poor soils and it would have been an  
26 extremely expensive exercise. So, they went back to the  
27 drawing boards, as it were, and the Commission, when  
28 they investigated - the River Murray Commission  
29 investigated and came back and said 'Let's move down to  
30 the correct place, to move down across the lakes to the  
31 little islands that are located there and put a series  
32 of five barrages in, which would maintain the level in  
33 the lakes, keep the lake water sweet and maintain the  
34 appropriate level in the lower stem of the river and  
35 appropriate salinity.' That was what was recommended  
36 back to the South Australian Government.

37 COMSR

38 Q. What is the source of your information concerning these

1 matters.

2 A. Well, a large amount of that information is contained in  
3 the Parliamentary Standing Committee on Public Works  
4 Report, which is an excellent summary of all of that.  
5 We have other historical documents in those sorts of  
6 things. That would be the principal paper which I'm  
7 quoting on.

8 XN

9 Q. I'm coming to that. So, the sequence of events then  
10 was, as you have pointed out in your statement: in 1927,  
11 a report into the question of a barrage at a suitable  
12 place in the Lower River Murray was called for by the  
13 Commissioner of Public Works.

14 A. Yes.

15 Q. Following this, the River Murray Commission undertook an  
16 investigation of the matter.

17 A. Yes.

18 Q. The matter was then referred to the Parliamentary  
19 Standing Committee on Public Works in South Australia;  
20 is that right.

21 A. That's correct.

22 Q. And the Standing Committee published a comprehensive  
23 report on 21 November 1933.

24 A. Yes, that's correct.

25 Q. Looking at a copy of this report produced to you, do you  
26 recognise that as that document, the report of the  
27 Parliamentary Standing Committee.

28 A. Yes, that's certainly the document.

29 Q. That is an important part of your records, I think,  
30 isn't it.

31 A. Yes.

32 EXHIBIT 79 Report of Parliamentary Standing  
33 Committee on Public Works tendered by Mr  
34 Smith. Admitted.

35 Q. I think the report speaks for itself.

36 A. Yes.

37 Q. You have a copy of it with you, haven't you.

38 A. Yes.

1 Q. Would you just summarize for us quickly - well, would  
2 you summarize for us the steps taken by the committee  
3 and what their final recommendations were.

4 A. Well, the committee reviewed all the previous evidence  
5 and procedure and then reviewed the River Murray  
6 Commission's report, then called evidence from both  
7 employees of the Engineering and Water Supply Department  
8 and heard evidence from irrigator groups, both along the  
9 River Murray, formal River Murray, and the lakes. Then,  
10 basically agreed that and recommended to the Government  
11 the construction of the five barrages across the various  
12 openings leading to the Murray mouth for a total sum of  
13 - I forget what it was, five -

14 Q. Is that on p.16.

15 A. Yes. It's not summarized there, but I think it was  
16 something in the order of 520,000 pounds. That figure  
17 is in there somewhere.

18 COMSR

19 Q. That is the figure for the barrages.

20 A. That is the estimated cost of constructing the five  
21 barrages.

22 XN

23 Q. Could you step out of the witness box for a moment and  
24 going to the map on the wall here, would you indicate  
25 the five barrages for us.

26 A. Certainly. That's the barrage at Goolwa which connects  
27 the Sir Richard Peninsula at Hindmarsh Island.  
28 (INDICATES). That is the first of the five barrages.  
29 The second one connects Hindmarsh Island across to  
30 Mundoo Island, and that is located there (INDICATES), so  
31 that's -

32 COMSR

33 Q. Can you indicate where that is for the purpose of the  
34 transcript, as it is a bit difficult to follow  
35 otherwise.

36 A. The Mundoo barrage is located in the Mundoo channel and  
37 connects Hindmarsh Island to Mundoo Island.

38 Q. At which point are you able to describe it.

1 MR SMITH: The witness could mark the map.

2 A. If I put 1.

3 Q. Put 1, 2, 3, 4, 5.

4 A. That is at location 2. The third barrage is located  
5 across Boundary Creek which connects Mundoo Island to  
6 Ewe Island, and I'll place no.3 at that location.

7 Q. The 4th barrage connects Ewe Island with Tauwitchere  
8 Island.

9 A. Yes. Tauwitchere Island, T-A-U-W-I-T-C-H-E-R-E, and  
10 I'll place no.4 at Ewe Island barrage. And the final  
11 barrage, the largest of the five, is on Tauwitchere  
12 barrage which connects Tauwitchere Island across to the  
13 mainland at a point called Pelican Point, and I'll place  
14 a figure 5 at that location.

15 EXHIBIT 80 Map of Goolwa, Hindmarsh Island and  
16 their surrounds marked by witness  
17 tendered by Mr Smith. Admitted.

18 Q. So, at the completion all of those works which we will  
19 go into in a moment, Hindmarsh Island was connected to  
20 the mainland in two places.

21 A. Yes, that's correct.

22 Q. The main Goolwa barrage marked no.1 and the Tauwitchere  
23 barrage marked no.5.

24 A. Well, Hindmarsh Island was only connected, would be  
25 connected at location no.1 and location no.2 to the next  
26 island.

27 Q. True. Via the other - I suppose the correct way of  
28 putting that was via the other barrages connected to the  
29 mainland at Pelican Point.

30 A. That's correct.

31 Q. So, that was recommended by the Parliamentary Standing  
32 Committee and those works were carried out there,  
33 weren't they.

34 A. Yes. I might add that the River Murray Commission  
35 required other works to be constructed. At the same  
36 time, additional works on the river upstream and the  
37 three States and the Commonwealth agreed to undertake  
38 the five barrage construction and as well undertake some

- 1 additional works in the other States, New South Wales  
2 and Victoria, and that those works were grouped together  
3 and approved by the Commission and by the South  
4 Australian Government; and those works are also  
5 mentioned in the public works Standing Committee report.  
6 Q. I think they are mentioned, aren't they, at p.16 - am I  
7 right. That's the two weirs at the Murrumbidgee River:  
8 The Yarrowonga Weir and the roadway over the Hume Dam.  
9 A. That's correct.  
10 Q. Construction commenced when.  
11 A. Construction would have commenced probably late 1934,  
12 early 1935.  
13 Q. The project, at least this part of the project involving  
14 the five barrages at Goolwa, extended to approximately  
15 when.  
16 A. 1940.  
17 Q. That work involved the employment of many people.  
18 A. Yes, that's correct.  
19 Q. I think the Engineering and Water Supply Department, as  
20 I think it's been known for some time and was then  
21 known, produced a booklet on the barrages; is that  
22 right.  
23 A. That's correct.  
24 Q. Looking at this copy produced to you, do you recognise  
25 that as a copy of the booklet which really sets out some  
26 details about the barrages near the mouth of the River  
27 Murray.  
28 A. Yes, that's correct.  
29 Q. Historical details, the purpose of the works, some  
30 particulars of the works and how the structures are  
31 operated.  
32 A. Yes.  
33 Q. And some detail of the construction and what went into  
34 the construction.  
35 A. Yes.  
36 Q. Is that right.  
37 A. Yes.  
38



- 1 EXHIBIT 81 Booklet of Engineering and Water  
2 Supply Department tendered by Mr Smith.  
3 Admitted.
- 4 Q. I think also your department kept a photograph album of  
5 such works, did it not.  
6 A. That's correct.
- 7 Q. As part of its historical data.  
8 A. Yes, that's correct.
- 9 Q. You have brought that album with you, have you not.  
10 A. Yes, I have.
- 11 Q. It's actually for, it's for archival purposes and  
12 regarded as 'SA Water Photograph Album No.7'.  
13 A. That is correct.
- 14 Q. You have kindly recovered that from your records for us.  
15 A. Yes.
- 16 Q. Does that set out a pictorial record of the various  
17 phases of construction of the Goolwa barrage.  
18 A. Yes, it does. It's rather a comprehensive sets of  
19 photographs of the various stages from the start to the  
20 completion of the Goolwa barrage.
- 21 Q. Could you, by reference to the album, could you perhaps  
22 indicate to us in summary the various stages of  
23 construction and what went into the works.  
24 A. I suppose the first stage would be the construction of a  
25 cofferdam to surround the works area in the water.  
26 These cofferdams consist of sheet steel piles that are  
27 driven into the bed of the river and form a continuous,  
28 if you like, container. And inside that container, the  
29 water is pumped out once the sheet piling is completed  
30 and made water-tight, the pumps pump the water out and  
31 then there is a dry area maintained by pumping of the  
32 river bed where you want to construct the structures,  
33 the actual structures, to become the barrage. The first  
34 exercise would have been to construct a sheet piling  
35 enclosure, a very large enclosure. That is done in two  
36 stages either side of the river, if you like, and then  
37 that would be pumped out and construction could have  
38 started in earnest once that was completed.

1 Q. Could you locate in the album where that is shown.

2 A. I have located that.

3 Q. If we can go to it in the album, what page is that.

4 A. There is pp.1 and 2 and 3, and that will be enough to  
5 give you an idea of the cofferdam.

6 Q. Perhaps if I could borrow that from you for a moment and  
7 I will show the Commissioner.

8 PHOTOGRAPHS SHOWN TO COMMISSIONER AND COUNSEL

9 Q. The cofferdam, in fact, clears out the area for the work  
10 to be done, or at least hold the waters back as it were.

11 A. That's correct.

12 Q. Then, work proceeded then on the dry bed of the river  
13 itself.

14 A. That's correct.

15 Q. In broad terms, what was the method of construction.

16 A. Well, the method of construction, the bed of the river  
17 in that particular channel had alluvial material laid  
18 down by the river flows in the past, and that was not  
19 considered a very sound base to put a concrete structure  
20 on to hold back the river or to hold back the sea. In  
21 the design, they felt that the correct design would be  
22 to drive a series of piles, timber piles, long pieces of  
23 timber 40 foot long in the old style, 13 metres I  
24 suppose in today's measurements, into the bed of the  
25 river to distribute the load down into the, through the  
26 clay, so it would support the weight without settling.  
27 That is a standard procedure of design in situations  
28 like that. So, the construction, the first thing to be  
29 done after the material inside the cofferdam was  
30 excavated at the appropriate level was to drive this, I  
31 suppose you could describe it as a massive nest of  
32 timber piles right across the river on the line of the  
33 concrete structure to support that structure.

34 Q. Was there any floor constructed, or were those piers, as  
35 it were, timber piers, driven straight into the bed of  
36 the river.

37 A. They were driven straight into the bed of the river on  
38 an angle. They were angled because - in both

1 directions, driven down like that (DEMONSTRATES) and set  
2 like that the other way (DEMONSTRATES), so that the  
3 structure could withstand loadings of water from each  
4 direction. Because it should be borne in mind that that  
5 structure, all of those barrages, have to be designed to  
6 withstand not only the river water being above the sea  
7 water, but at times when the sea water can rise above  
8 and over river waters in big storms and that tries to  
9 tilt the structure the other way.

10 Q. You will come to diagrams in a moment, I think.

11 A. Yes.

12 Q. So, the piers were sort of angled to meet that force, as  
13 it were.

14 A. That's correct.

15 Q. Then, a concrete floor was constructed, was it not.

16 A. A concrete base before that. There is another vital  
17 stage in the middle of that row of piles right in the  
18 middle of the structure, going right across the river, a  
19 steel sheet pile cut-off wall was driven. It's a series  
20 of large sheets of steel also about 40 feet long and  
21 they were driven down by a pile driver to form an  
22 impenetrable barrier against water leakage under the  
23 structures. So, it was like a big waterproof steel  
24 sheet which was driven down into the middle of the  
25 piles. That is a very integral part of a structure like  
26 that one. The concrete floor's based on top of this so  
27 there's no quick leakage of water straight underneath  
28 the structures and you will have surging of any collapse  
29 of structures into a hole. That big cut-off wall, that  
30 membrane of steel, if you like, going right across the  
31 river, forces in like an angle and goes right down low  
32 in a long flow path and prevents scouring underneath the  
33 structure. There was this steel sheet piling, the  
34 single 4,700 plus timber piles driven and once they were  
35 all completed, the concrete floor was then constructed  
36 on top of the piles.

37

38 COMSR

1 Q. What was the distance between those timber piles. Were  
2 they side by side or what.

3 A. Very close. I'd say here about - probably looking them,  
4 about five feet on the old scale. There is a photo that  
5 illustrates them very well. You can see them, they are  
6 very close together, a whole nest, lines of them.

7 Q. I gather from that that there wasn't just a single line  
8 of piles.

9 A. No, there was something like six rows in that  
10 photograph.

11 XN

12 Q. Looking at that bundle of documents produced to you  
13 there, first of all, I think that features the Ewe  
14 Island barrage, but then the second sheet is the section  
15 through the sluices of the Goolwa barrage.

16 A. That's correct.

17 Q. I think then you recognise, just to complete the bundle,  
18 they are construction diagrams for the Mundoo barrage,  
19 the Tauwitchere barrage and the Boundary Creek barrage.

20 A. That's correct.

21 CONTINUED

1 Q. And Ewe Island. I think Ewe Island is together with the  
2 Tauwitchere Island, isn't it.

3 A. That's correct.

4 COMSR

5 Q. Just so that I get a bit of a picture of this, you say  
6 that there were five rows, as I understand you.

7 A. There is probably more. I am just taking it off the  
8 drawing, but on the diagram there is ten piles in that  
9 cross section. Ten rows of piles in that particular  
10 cross section. And they varied with - across the -  
11 there was a different number, slightly different number  
12 at one section in the middle where we have the navigable  
13 pass and the lock.

14 EXHIBIT 82 Construction documents tendered by Mr  
15 Smith. Admitted.

16 XN

17 Q. You were explaining and I didn't allow you the benefit  
18 of a diagram to help you with that. You were explaining  
19 the construction of the Goolwa barrage. I think the  
20 second sheet exemplifies what you were explaining, does  
21 it not.

22 A. That's correct.

23 Q. Hold it up for the Commissioner and, first of all, that  
24 is a section, isn't it, through what has been - through  
25 the sluices.

26 A. That's correct.

27 Q. Does that indicate then the method of the piling of the  
28 river anyway.

29 A. That does. That section illustrates right in the centre  
30 the vertical sheet piling that has to be driven down 40  
31 feet, which is the diaphragm to cut the water off  
32 between the two sides. And the timber piles are shown  
33 there driven on an incline to form the foundation to  
34 support the floor and the piers of the actual structure.

35 Q. You see there, looking at the cross section, we have got  
36 four piles inclined on the same angle on each side.

37 A. Yes.

38 Q. And then we have got, on each side of the steel sheet

1 piling, a pile shown going in the other direction.

2 A. That's correct.

3 Q. Was it the case they were done alternately, or do you  
4 know.

5 A. I couldn't explain exactly the pile driving procedure.

6 I don't think we have records going back now, but, that  
7 wouldn't have any great significance. It would only be  
8 a matter of ease of construction of how you drove those  
9 piles.

10 COMSR

11 Q. I didn't understand that to be the drift of the  
12 question. You are explaining that you don't know in  
13 what sequence they were actually constructed, as I  
14 understand it.

15 A. That's correct.

16 Q. I think, and I may be wrong, Mr Smith's question was  
17 whether, having been constructed, they inclined in a  
18 certain angle.

19 MR SMITH: My question was, whether, as we went  
20 across -

21 XN

22 Q. Because this is a section, isn't it.

23 A. Yes.

24 Q. As we go across the barrage, as it were, would we have a  
25 situation where the first pile on, say, the left-hand  
26 side of the steel sheet piling was inclined, as it were,  
27 angled against - angled in one way and then the next  
28 pile angled the other.

29 A. No, it would have been just line after line, section  
30 after section, inclined just as this section shows.

31 COMSR

32 Q. Let's see if I follow this, if I can, there was, first  
33 of all, a line of piles driven in, which angled away on  
34 each side from that centre membrane.

35 A. That's correct.

36 Q. Then there was another row of piles which angle in  
37 towards it.

38 A. No.

1 Q. That is not the case.

2 A. No, just those two.

3 Q. Just two of them.

4 A. Those two would complete that one section of piles and  
5 that would be repeated section upon section upon

6 section.

7 Q. So, that shows the total number of piles which were  
8 driven in around each membrane.

9 A. The membrane just is continuous. It is difficult. The  
10 membrane is going like this (INDICATES) away from the  
11 paper as we are looking at it, right across. We just  
12 have a series of piles driven four that way (INDICATES)  
13 on a line and four that way (INDICATES) and two coming  
14 the other way (INDICATES) and then that would be  
15 repeated on another section on another section on  
16 another section, right across.

17 XN

18 Q. That section there shows us the first row, as it were.

19 A. That's right.

20 Q. Is that correct.

21 A. Yes.

22 Q. What you have called the concrete floor, looking at that  
23 section, where is that.

24 A. The concrete floor is the rectangular section that is -  
25 has been poured on the top of those piles and the sort  
26 of reduced heads on the top of the piles, you can see in  
27 the diagram, are imbedded in that big concrete slab, as  
28 is the steel diaphragm cut-off wall down the centre.

29 They all are an integral part of that floor. One, the  
30 pile, so that they can transmit the load in the ground -

31 Q. Just pausing there, would you indicate that to us, by  
32 holding up your plan.

33 A. So, that is, the heads of the piles (INDICATES) are all  
34 reduced in the top (INDICATES) and then they are - form  
35 part of that concrete slab (INDICATES). So that the  
36 load and the - the loads coming down through that  
37 concrete (INDICATES) are then transmitted down through  
38 those timber piles, finally distributed in the soil

1 (INDICATES).

2 Q. So, that almost rectangular box depicted there on the  
3 section, which envelopes the heads of the piles.

4 A. That's correct.

5 Q. Is the concrete floor.

6 A. Is the concrete floor. And it contains a mass of  
7 reinforcing steel bar and then it is surrounded, of  
8 course, by concrete.

9 Q. Then, on top of that, you have said, in your statement,  
10 were sited a series of concrete piers.

11 A. That's correct.

12 Q. Can you indicate those to us.

13 A. Those concrete piers - that is an illustration of one of  
14 the concrete piers (INDICATES) standing up on the top of  
15 the floor (INDICATES) and there is a series of those,  
16 something like probably 130 concrete piers or more going  
17 across.

18 COMSR

19 Q. It is just difficult, when you read the transcript, to  
20 understand when you say `And that's the concrete or the  
21 concrete pier'.

22 COMSR: I am just wondering if perhaps it  
23 mightn't be of some assistance if Mr Cooper could write  
24 beside each of those on that particular Goolwa barrage  
25 section? I think we are referring to what is the  
26 concrete floor, what are the piers, so that I will be  
27 able to identify, at a later stage, what the witness is  
28 referring to?

29 MR SMITH: All right.

30 XN

31 Q. Perhaps you could start by putting an arrow through the  
32 concrete floor and writing that there with a red pen.

33 A. Would you like me to put a number and refer to what that  
34 number is?

35 COMSR: It might be easier for me just to read  
36 it beside you.

37 XN

38 Q. Put an arrow.



- 1 A. First, I will direct an arrow to the piles and write the  
2 words `timber piles'. I will put an arrow to the steel  
3 piling cut-off diaphragm and write `steel piling cut-off  
4 diaphragm'. I could place an arrow across to the  
5 concrete floor.
- 6 COMSR
- 7 Q. Yes.
- 8 A. And write the words `concrete floor'. And I will place  
9 an arrow across to the pier and write the words  
10 `concrete pier' (INDICATES).
- 11 XN
- 12 Q. You then make mention, in your statement, of the stop  
13 log grooves into which the stop logs were placed.
- 14 A. That's correct.
- 15 Q. Would you indicate that. That is indicating for us,  
16 isn't it, on the plan.
- 17 A. That's indicated on the plan, but I will place an arrow  
18 across to the stop log grooves in the pier.
- 19 Q. Can we assume, then, that the concrete piers, of course,  
20 are not a continuous structure right across the barrage,  
21 are they.
- 22 A. No, there is a series of piers, as I said, previously,  
23 about 130 piers, placed at equal intervals with stop log  
24 grooves in them, so that a series of stop logs can be  
25 placed down to hold the fresh water back separated from  
26 the sea water.
- 27 Q. And released, if necessary.
- 28 A. Those stop logs can be released and are released  
29 regularly when there is surplus flows to be released  
30 from the lake out into the Coorong to the Murray Mouth.
- 31 Q. I think your Department actually has some video footage  
32 of the construction of this barrage.
- 33 A. That's correct.
- 34 Q. Tell me, before we show that, was this a major  
35 engineering work, as far as your Department was  
36 concerned.
- 37 A. I would say it would be a significant engineering work.  
38 It would have been, in those days, a major engineering

1 work. When you are working in water like this, it is  
2 always more challenging, because you have to construct  
3 cut-offs. The pile driving would have been a challenge,  
4 because, as we have seen, there is a lot of piles. They  
5 are driven in on an angle. That would have been  
6 challenging. So, the construction would have been  
7 termed, yes, a major project.

8 Q. The construction video actually is preoccupied with the  
9 construction of the Goolwa barrage, but it does also  
10 show some footage of the construction of the other  
11 barrages, does it not.

12 A. That's correct.

13 Q. Perhaps I will just have you complete an explanation of  
14 that diagram, before we go to the video. The stop logs  
15 are shown in section there, are they not, on the plan  
16 that you have been referring to, headed 'Goolwa barrage  
17 section through sluices'. Just the one we have been  
18 referring to.

19 A. Yes.

20 Q. Stop logs are shown in section there in the centre.

21 A. That's correct.

22 Q. Just to complete it, the circles that are in line with  
23 the concrete floor and presumably at the level of the  
24 river bed, is that right.

25 A. That's correct.

26 Q. What is that indicating.

27 A. That is large stones and medium sized stone that has  
28 been placed upstream of the concrete floor and also  
29 downstream of the concrete floor to prevent erosion of  
30 the bed of the Goolwa channel when the water is flowing  
31 through the barrages. It is - the engineering term to  
32 describe that rock, that protecting rock, is rip rap.

33 COMSR

34 Q. Is the concrete floor a continuous structure.

35 A. Yes, it is.

36 Q. That is across -

37 A. Right, yes, it is. It is right across the river bed.

38 Q. Just for the sake of completeness, how thick was the

- 1 concrete floor, are you able to say from this.
- 2 A. I don't know if that drawing gives the thickness, but I
- 3 could find that information for you on our engineering
- 4 drawings, but -
- 5 Q. There is a scale there in any case.
- 6 A. Yes, there is a -
- 7 Q. I can see it is not of uniform thickness, but there is a
- 8 scale there anyway.
- 9 A. I will have to get that information for you.
- 10 XN
- 11 Q. The lock: apart from the barrage, which is, as it
- 12 indicates, just a barrier, there is a lock chamber
- 13 constructed in the barrage isn't there.
- 14 A. That's correct.
- 15 Q. And I presume this is midway across the channel.
- 16 A. It is approximately in the middle.
- 17 Q. That allows for the passage of boats upstream and
- 18 downstream.
- 19 A. It does.
- 20 Q. Is that a busy lock.
- 21 A. It is, it is our busiest lock of our nine locks and
- 22 weirs that we looking after in the Murray Darling Basin
- 23 Commission.
- 24 Q. Adjacent to the lock channel, there is an area of
- 25 collapsible weir.
- 26 A. That's correct.
- 27 Q. Called a navigable path.
- 28 A. Yes.
- 29 Q. Can you explain that.
- 30 A. It is a navigable pass. In the design - and, I guess,
- 31 hoping that large ships might still come up through the
- 32 Murray Mouth to the Goolwa port, from time to time, a
- 33 navigable pass was constructed alongside the lock. This
- 34 navigable pass consists of a series of major steel
- 35 beams, which can be dismantled to allow a boat to
- 36 traverse either upstream or downstream, if you like,
- 37 through a large weir section. It has to be done at the
- 38 right time, because, obviously, if you have a large

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1 level difference between upstream and downstream, there  
2 is a tremendous flow through the navigable pass and it  
3 would be very difficult and rather risky for boats to  
4 travel, under those conditions. So, we have to wait  
5 until the two levels are almost identical and then we  
6 dismantle all these beams and a large ship can get  
7 through. Something like the Murray Explorer. There is  
8 a paddle steamer on the River Murray.

9 Q. Is that, in a sense, a lock, or do you dismantle the  
10 barrier, as it were, from the water.

11 A. We - it is not a lock. It is just a part of the weir  
12 structure that is - can be lowered lower enough to give  
13 the boat enough freeboard to just go through the - just  
14 float down through or drive themselves up through the  
15 opening.

16 Q. In that sense, is the concrete floor that we have spoken  
17 about, that doesn't continue across the top of this  
18 path, does it.

19 A. No, it is underneath. That concrete floor is on the  
20 bottom of the river. So, the steel beams for the  
21 navigable pass are constructed on top of that section.  
22 It is probably a slightly different design of the floor  
23 just across that section.

24 Q. The forces that are brought to bear on this structure on  
25 the river side are just the flow of the river, as it  
26 were, is that right.

27 A. The forces on the structure are basically the difference  
28 in level between the water on one side and the water on  
29 the other side. It has an overturning and sliding  
30 effect on the structure, which has to be designed for.

31 CONTINUED

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1 Q. Those forces are exacerbated, I take it, by the pressure  
2 of the seas, such as, aggravated by storms and that sort  
3 of thing.

4 A. That's correct.

5 Q. So the structure had to be prepared to resist that.

6 A. That's correct.

7 COMSR

8 Q. Is this the case, that that cement floor is 51 feet  
9 wide.

10 A. Beg your pardon?

11 Q. I am looking at the Goolwa barrage section, the  
12 navigable pass. Is that cement floor 51 feet wide.

13 A. That is correct, yes.

14 Q. It looks approximately about 10 feet thick, just having  
15 a rough guess, on the basis of the scale.

16 A. Yes, it would be of that order. That's a thickened  
17 section there.

18 Q. On each side and in the centre there it looks like 5 or  
19 6 feet, at a rough guess.

20 A. That would be probably about the rough order.

21 XN

22 Q. Can I take you to the next plan, so after Goolwa plan  
23 sections through sluices, if we turn to Goolwa barrage  
24 section through navigable pass, dealing with the topic  
25 that you have just been speaking about. It is much the  
26 same section, save that we have a diagram on top of the  
27 concrete floor showing some sort of device. Can you  
28 explain that to us.

29 A. That is the collapsible beams that I mentioned  
30 previously, that have to be dismantled so that the ship  
31 can pass through that area. In other words, rather than  
32 having concrete piers and stop logs between concrete  
33 piers, we have that collapsible structure that you can  
34 see on that diagram, a series of big steel beams. They  
35 are pinned together, and they can be dismantled by a  
36 crane and laid down - part of it can be laid down on the  
37 floor there, and gives you enough clearance for a boat

1 to sail through. The stop logs, of course, have been  
2 removed first.

3 Q. Can I get you, briefly, to talk about, before we go to  
4 the film, the other four barrages. The other four  
5 barrages actually can be contrasted with the Goolwa  
6 barrage, can't they.

7 A. That's correct.

8 Q. In terms of construction, would you explain that.

9 A. The flood openings, or the flow openings across which  
10 the other four barrages are placed, are much shallower.  
11 Goolwa Reach is, by far, the deepest and widest section  
12 in a water flow sense. In fact, I think they estimate  
13 something like 75 per cent of the flow down the River  
14 Murray passes along the Goolwa Reach. The others are  
15 much shallower and are generally based on a calcareous  
16 limestone reef, or a travertine limestone, quite  
17 shallow. So they did not require big timber piles to  
18 support them. There was, if you like, a rocky base to  
19 cut into and they - all they required was a small  
20 trench, which we call a key, to cast cement into just  
21 below the concrete floor. So they were a much simpler  
22 construction, a much shallower construction.

23 Q. The two larger of the other four barrages, namely the  
24 Ewe Island barrage and the Tauwitchere barrage, have  
25 gates in them, do they not.

26 A. That is correct.

27 Q. They operate in what way.

28 A. They have what are known as taintor gates, and these  
29 gates are like a part of a cylinder, a big drum, curved  
30 surface with arms coming back to a bearing, and the  
31 gates can be raised to let the water through, or lowered  
32 to hold the water back.

33 Q. Can you go to the Ewe Island/Tauwitchere barrage section  
34 through sluice plan. You have got that.

35 A. Yes.

36 Q. Does that shown the taintor gates.

37 A. That does.

38 Q. In section, at least.

1 A. That's correct.

2 Q. So the arrow saying 'Gate in raised position' is  
3 indicating this taintor gate.

4 A. That's correct.

5 Q. There were some banks constructed also, weren't there,  
6 apart from construction purely and simple.

7 A. That's correct. The openings at Tauwitchere and Ewe  
8 Island were very shallow but very wide, and the  
9 hydraulic calculations indicated that they didn't need  
10 gates to stretch across the very long distances between  
11 those islands, and, hence, part of the barrier was an  
12 earthen bank, constructed and faced with stone to  
13 protect it from the wave action of the river or the sea.

14 Q. Could you go to the plan and, in broad terms, tell us  
15 the method of construction of the barrages which you  
16 have marked 2, 3, 4 and 5.

17 A. The Mundoo barrage is at location 2, and that stretches  
18 - there is a bank there running out from the Hindmarsh  
19 Island side for three quarters of the distance across  
20 the water, and then there's the 26 bays of the Mundoo  
21 barrage, and then you reach the other side on Mundoo  
22 Island.

23 Q. So it is part embankment and part -

24 A. Concrete structure with piers and stop logs. Moving to  
25 Boundary Creek -

26 Q. Which is number 3.

27 A. Which is at location number 3 on the plan, the majority  
28 of the opening across Boundary Creek is a structure  
29 identical to the one built on Mundoo. It has 6 openings  
30 for stop logs to be placed between concrete piers.  
31 There is very little embankment there at all.

32 Q. Is there a method of passing through on a boat on  
33 those -

34 A. There is no boating access at Mundoo or Boundary Creek.  
35 The next barrage is a rather long one, named Ewe Island,  
36 and designated at point 4 on the map. That consists of  
37 two long sections of bank, as described previously, and  
38 in the middle of that is a long section of concrete

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1 barrage equipped with taintor gates, and I think, from  
2 memory, there is about 111 openings along that section,  
3 where gates can be lifted and fresh water passed  
4 through. We have replaced some of those gates with stop  
5 logs since its original construction.

6 Q. Is there any lock for the passage of vessels through  
7 that barrage.

8 A. There is no lock for passage of vessels through the Ewe  
9 Island complex. Finally, we come to the longest lock -  
10 longest barrage at point number 5 on the plan, known as  
11 the Tauwitchere barrage. Once again, there are  
12 considerable lengths of earth banks, faced with stone,  
13 coming across from both Tauwitchere Island and Pelican  
14 Point, and in the middle is the longest section of  
15 barrage, again an identical construction to the barrage  
16 area at Ewe Island, with taintor gates again that can be  
17 raised and lowered. Some of these have been replaced by  
18 stop logs since the original construction, and this  
19 section does contain a hand-operated lock for the  
20 passage of small boats through. That lock is located at  
21 a point I will mark 6 on the plan, just adjacent to the  
22 western bank, and the concrete structure. (WITNESS  
23 MARKS PLAN)

24 COMSR

25 Q. What is a stop log. How would you describe it.

26 A. A stop log is - when these were constructed they were  
27 timber, and it is just an accurately constructed piece  
28 of timber that you can lower down between two grooves in  
29 the concrete between piers, and that is a barrier to  
30 stop the water. You generally have a number of them  
31 stacked on top of each other that forms the total  
32 barrier between the two piers to hold the water back.

33 Q. It is possible to hold the whole of the water back at  
34 the bank at Tauwitchere.

35 A. That's correct.

36 XN

37 Q. The function of the barrages broadly.



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1 A. The broad function, as I think I've mentioned earlier,  
2 is to maintain the water level in the two lakes, Lake  
3 Alexandrina and Lake Albert, at a target level which  
4 will allow appropriate irrigation in the lower reaches  
5 of the River Murray, as I've mentioned earlier, the  
6 reclaimed swamps from Mannum down to Wellington. It  
7 also has benefits to the irrigators in the two lakes, in  
8 that it does give them a reasonably constant level to  
9 irrigate from, and also, of course, it prevents the  
10 ingress of the sea into those two lakes and the Lower  
11 Murray, which is an absolute fundamental reason for its  
12 existence. The level does vary a little bit in the  
13 lake, because there is extremely high evaporation from  
14 those two water bodies. When the river flow is low into  
15 South Australia, sometimes the level of that lake in  
16 summer will go down due to evaporation and we haven't  
17 got enough make-up water to keep the level constant.

18 COMSR

19 Q. How does this compare with the situation before there  
20 was a barrage.

21 A. It was quite different. Previously, the lake was a very  
22 - the level movement in the lake was quite a dynamic  
23 situation. In the very lower areas it would be affected  
24 by the tidal movement of the water in and out of the  
25 river mouth, and also the flows coming down the river.  
26 So the lakes and the lower river could be full of fresh  
27 water with a high flow coming down the river, and the  
28 lake would be at a certain level. If the flow dropped  
29 away, the sea would come in and tend to dominate the  
30 lower lakes, and you would have a mixture of fresh  
31 water. Sometimes, in very bad drought periods of the  
32 river - I mean, there has been periods where the River  
33 Murray has virtually stopped flowing, not very often,  
34 but this was before the lockage system - in those  
35 situations the lake would have become quite saline,  
36 almost sea water down in the lower end. So it was a  
37 dynamic situation in the past for level going up and  
38 down and whether it was saline or fresh. Now the sea

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1 water just can't get back. Occasionally it does. In a  
2 very violent storm it might slop some water over into  
3 Goolwa. And occasionally it has been so violent that we  
4 haven't been able to get out there. It's been too  
5 dangerous to put some stop logs and some sea water would  
6 get back, but we would quickly drain that out. It has  
7 turned it into a much more constant level body of water,  
8 and certainly what we would term a fresh body of water.

9 XN

10 Q. In a brutal sense, the four barrages here across to  
11 Mundoo Island and down to Pelican Point keep the sea  
12 water out of the lake area.

13 A. That's correct.

14 Q. That route, and at the barrage here at number 1, keeps  
15 the sea water out of that part of the lower reaches of  
16 the River Murray.

17 A. That's correct.

18 Q. The Goolwa barrage, I think, was not designed to enable  
19 traffic to move across it, was it.

20 A. That's correct.

21 Q. It was mooted to be part of the construction of a bridge  
22 at one stage, was it not.

23 A. I don't know about being mooted, but the South  
24 Australian Government did examine the possibility of the  
25 construction of a road access on the barrage.

26 Q. As constructed, does that create engineering problems.

27 A. I didn't see the calculations or was involved in that  
28 exercise, but you would have to look and see whether -  
29 the structure was not designed originally to take road  
30 traffic. However, it is constructed to take fairly  
31 heavy loads of the four legged crane that has to move  
32 along the whole distance to withdraw or place stop logs  
33 as appropriate. It would require significant upgrading  
34 and add-ons to be able to become a workable road bridge,  
35 in my opinion.

36 Q. What about the other barrages, do they provide any  
37 traffic access at all.

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1 A. Yes, they do. They were designed for traffic access,  
2 purely for the Murray Darling Basin Commission employees  
3 or the S.A. Water employees, on behalf of the  
4 commission, to actually access those four structures to  
5 maintain them, to operate them, et cetera. In fact, it  
6 is not accessible to the public. It is totally on  
7 private property enclosed. So it is not a through road  
8 in any sense of the word.

9 Q. Maintenance traffic only.

10 A. That's correct.

11 Q. Just before we leave the construction then, you are  
12 familiar with the video, of course. It is part of your  
13 archive material, isn't it.

14 A. Yes.

15 Q. When we show it, I will ask you questions as we go  
16 through it, and I would like you to explain various  
17 stages of construction that are represented on the  
18 video.

19 A. I must say this is fairly tedious in that there is no  
20 sound. So there is long periods of viewing things with  
21 a few headlines.

22 MR ABBOTT: Can we ask questions if there is  
23 anything that occurs, rather than have to play it again  
24 later on? There wouldn't be many questions. I have  
25 seen this tape before so I am familiar with it and I  
26 have a couple of questions which, if my learned friend  
27 doesn't ask, I would like to ask.

28 MR SMITH: I encourage, if you are agreeable to  
29 this, anyone interrupting.

30 VIDEO PLAYED

31 CONTINUED

1 COMSR

2 Q. Is this the Goolwa barrage.

3 A. That's a general shot of some of the barrages. The  
4 Goolwa one would be in the background. It's a very poor  
5 quality. It's an off-shot of the 1930s and so they put  
6 it on to video, but so it's not easily identifiable in  
7 parts. That would be a shot of the construction of the  
8 Goolwa barrage. Would you like me to call that out if  
9 people can't read those words?

10 XN

11 Q. Could we go back to the start.

12 A. That's just a general shot of a model of the works.

13 Q. The opening shot of the model is there, is it.

14 A. That would be correct.

15 Q. Showing, first of all, the Goolwa barrage.

16 A. That's right, and a general shot in the Pelican Point  
17 direction and with Tauwitchere Island and the other  
18 islands in the distance. That would be probably an  
19 aerial photograph. That is a general panoramic scene of  
20 the Goolwa barrage area. It is very difficult to find  
21 out what that is, to discern that. That is a view of  
22 the works area from the - the first thing is  
23 'Preliminary work excavating the foundation and building  
24 the cofferdam with the derrick boat and an orange peel  
25 bucket', which is a type of excavation device. You can  
26 see some of the timber piles here in the foreground.  
27 They would have been used to drive in the foundation.  
28 That would be excavating the material inside the  
29 cofferdam to construct the dam and to get things  
30 rolling. You can see that they would have a lot of  
31 float barges and things like that for the excavation and  
32 for the pile driving. 'Preparing the cofferdam.  
33 Temporary sheet piling'. Again, there is that  
34 temporary sheet piling I was telling you about that  
35 would keep the water out and allow you to dewater and  
36 excavate in a hole. There, again the sheet piling is  
37 put down for the temporary cofferdam. There, you can  
38 see what they have been able to achieve. That is the

1 bed of the river having been contained by - you can see  
2 there, that would be the cofferdam they have built.

3 MR ABBOTT: Could we go back and show that by slow  
4 frame. That shows the bit of the river I would like to  
5 ask a question on.

6 XN

7 Q. That's the picture of the cofferdam with the barge going  
8 up against the sheet piling.

9 A. That's correct. That would be the sheet piling there  
10 and that would be the bed of the river and that would  
11 have to be excavated to a certain level to start the  
12 construction, so it would be nice and flat. And  
13 probably you'd have to take a bit of the river bed down  
14 because you were going to build up a concrete structure  
15 on top of that. That is excavated out and there were  
16 drains running out to keep it dry, and that is where  
17 they were driving the piles and the sheet diaphragm.

18 MR ABBOTT

19 Q. We can see some of the piles on the logs on the left,  
20 can we not.

21 A. Yes.

22 Q. That is of the 40 foot long piles that are driven into  
23 the base of the river bed.

24 A. That's correct.

25 Q. There is some machinery in the form of pile drivers  
26 there.

27 A. Yes.

28 Q. At least two or three.

29 A. That might be - that might be a little crane. Some of  
30 these would be cranes to lift these things around. I  
31 think later on there would be a shot of the - something  
32 like that might be pile driving. They had to hold the  
33 piles at an certain angle and drive them down.

34 Q. Eventually, we can see there is a railway on the bottom.

35 A. I don't know if it was on the bottom or it's up on the  
36 bank. They had a railway system to transport metal and  
37 the other things because of the large distances to  
38 travel.

1 TAPE PAUSED

2 MR KENNY

3 Q. Perhaps while pausing there, it looks like they have  
4 built three-quarters of the way across the channel; is  
5 that correct.

6 A. That would be correct. I don't know what that exact  
7 distance is. They would have to do it in parts. If you  
8 have obviously a flood flow coming down the river, you  
9 don't want to have the whole thing stopped off. They  
10 would have done it in a couple of stages at least and  
11 having the cofferdam and having it excavated and  
12 constructed on the one side and the cofferdam the other.

13 Q. So, during the period when this work was going on, there  
14 were still parts of the channel open and water was still  
15 running through that.

16 A. Yes. I haven't checked back in the detail of the  
17 design. I could do that. That would be the obvious way  
18 you would have to do it.

19 Q. That appears to be supported by the film there.

20 A. That's correct. There's mention in the photographs of  
21 cofferdam - I think (a) and (b) or one and two - so they  
22 obviously had a number of cofferdams.

23 MR ABBOTT

24 Q. On the assumption we are looking from the mainland  
25 towards Hindmarsh Island, then we are seeing the  
26 cofferdam which is nearest to the Murray Mouth, having  
27 moved from the cofferdam nearest to Goolwa. We have  
28 gone across the exposed bed of the river and now got to  
29 the section of the river bed and the cofferdam nearest  
30 the Murray Mouth.

31 A. I'm not sure if you could discern that from that film.  
32 That is very difficult. I'd have to -

33 Q. You are not sure whether that is taken from Hindmarsh  
34 Island or the mainland.

35 A. I'm not sure of that. You'd think it might be. It's  
36 very difficult to work out what that might be in the  
37 background, if it's Hindmarsh Island, or is it not the  
38 sandhills of Sir Richard Peninsula. That is very

1 difficult to -

2 Q. In any event, this shows a track laid to the riverbed  
3 for the pile drivers to work on.

4 A. Looks like that would be a structure for the pile  
5 drivers.

6 Q. That fencing we can see on the the top of the cofferdam,  
7 that is the temporary sheet piling.

8 A. That would be the temporary sheet piling there. Here,  
9 it looks like - that is very difficult to find. I would  
10 suggest this is a sheet piling. The entire photograph  
11 is going down the centre of the structure.

12 Q. Looks like to put it in.

13 A. It's not easy.

14 Q. That is the 40 foot length.

15 A. Yes.

16 COMSR

17 Q. Is there a reference number on the screen there.

18 A. No.

19 MR ABBOTT

20 Q. We could give it a minute reference. That is 25.24, is  
21 it, or thereabouts.

22 A. Yes. What that focuses on, if you hold it there, that  
23 would give you an idea of that side of the river.

24 Q. We stopped it there.

25 A. You focused it right there. That should tell you. It  
26 doesn't matter anyway.

27 Q. It's coming back.

28 A. I wouldn't worry, there will be other shots you might be  
29 able to pick it up.

30 Q. Tell me when to press `stop'.

31 A. It comes into focus for a moment. Right there. I think  
32 that is looking there to see - I think that looks like  
33 the Sir Richard Peninsula with the sea there. I would  
34 suggest that that would be on the side that you alluded  
35 to earlier which you can clearly see how the cofferdam  
36 is off and working on that area.

37 TAPE PLAYED FULL SPEED

38 A. That is the general picture of their office and

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1 workshops and bending steel reinforcements. This is the  
2 reinforcement I mentioned to you. That is placed in the  
3 floor. And the piers, you will see a photograph of that  
4 in a moment.

5 COMSR

6 Q. What are we looking at now.

7 A. That is cutting steel reinforcement. That is used in  
8 the floors and the piers. This is not very exciting for  
9 you. I must admit, it is a pure engineering filming.  
10 This is driving the steel sheet piles, 40 feet long  
11 along the centre line of the structure to provide that  
12 cut off diaphragm that I mentioned in my evidence.

13 MR ABBOTT

14 Q. That is the base of the riverbed.

15 A. That's the base of the riverbed. These would be -  
16 that's the sheet piling there. They have got a sort of  
17 a castellated shape to them. They interlock one  
18 another. You drive a sheet and the next one goes down  
19 and interlocks with it and has a series of sheet piles  
20 driving - 'Wooden tongue and groove sheeting by means of  
21 a sledge hammer and water jet'. And this sheet is at  
22 the up sheet and down sheet of the concrete slabs.  
23 There were extra little pieces of timber cut off at each  
24 end of the floor structure and are very small and are  
25 only very tiny. That is a person driving one down with  
26 a sledge hammer and driving round wooden piles into the  
27 foundation support. These are on a three to one sheet  
28 and the number of piles driven was 4,768, if I was quick  
29 enough to read that.

30 Q. That, again, is the riverbed.

31 A. That is the riverbed. That would be a pile driving  
32 structure there.

33 Q. You can see the roads.

34 A. That would be a steam-driven pile driving hammer to  
35 drive 4,700 plus piles.

36 Q. And what are those cross-members.

37 A. These would be derricks and cranes to move the things  
38 around.



- 1 Q. We can see the road from the right-hand side, the road  
2 of - I thought it was the background.
- 3 A. There.
- 4 Q. There.
- 5 A. I'm not too sure. It's not very clear. I will - I  
6 think you will see some shots further on the heads of  
7 the piles. That is just a shot of the pile driving  
8 complex. There, they are the - there's the, you can see  
9 the driving and the hammer driving on to one of those  
10 and see the tops there of all the piles, timber piles.
- 11 Q. On the left is the pile driver.
- 12 A. That would be the pile driving rig there, yes.
- 13 Q. We can see the one section of the cofferdam.
- 14 A. That's right. That would be correct, out there. Says  
15 `General view of cofferdam'.
- 16 Q. That looks as though it's towards Hindmarsh Island.
- 17 A. You would think it would be. It's difficult to pick up  
18 in these pictures.
- 19 Q. Again, in the foreground is the riverbed.
- 20 A. That's correct, and that would be the line of piles they  
21 have driven across the cofferdam. There's some of the  
22 piles just lying down.
- 23 COMSR
- 24 Q. Are they the 40 foot piles.
- 25 A. I don't think so. Looking at it, they might be some of  
26 the - that's a hose, I think. It's very difficult to  
27 pick up in that picture.
- 28 MR ABBOTT
- 29 Q. Could be dewatering.
- 30 A. Yes. They're certainly not the 40 foot piles. Again,  
31 you can see the heads of those piles there. `Driving  
32 piles for the down phase of the abutment on the 3 to 1  
33 slope. Swinging leads were used in the space,  
34 preventing use of a pile frame'. `Swinging leads' would  
35 be derricks. Because of the tightness of the space,  
36 they couldn't fit all this formal frame in, so they  
37 probably had to hold it on a derrick, which would be  
38 very difficult to do. You can see a person climbing up

- 1 here, no harness - and, unbelievable, like a monkey.  
2 Q. That shows, again, the bed.  
3 A. That's correct.  
4 Q. Driving the piles in on an angle.  
5 A. That's correct.  
6 Q. By use of the swinging derrick.  
7 A. Yes.  
8 COMSR  
9 Q. Do you know what particular section of barrage this is  
10 showing, barrages this is showing.  
11 A. No, I don't know specifically. It's very messy on the  
12 construction to locate exactly where it was as to the  
13 thing. We would have to study and look at the reference  
14 point.  
15 Q. Is it Goolwa.  
16 A. That is Goolwa.  
17 MR ABBOTT  
18 Q. I think we saw one of the 40 foot piles being lifted up  
19 to where that man is; did you see that.  
20 A. No.  
21 Q. I will press rewind.  
22 A. Yes, there it is there.  
23 Q. There's the man.  
24 A. That's right, the pile.  
25 Q. They are lifting up one of the 40 foot lengths.  
26 A. Yes, that is that there.  
27 Q. If we look at that.  
28 A. There's the man sitting like an ant on top of the crane  
29 structure.  
30 Q. I am playing this in slow frame.  
31 A. They would be preparing the pile for driving into -  
32 positioning it. Actually driving piles on an angle like  
33 that is a lot more challenging, of course, than driving  
34 them vertically and positioning them. And keeping them  
35 on that line is quite a challenge. I just take my hat  
36 off to them, the techniques that they had available to  
37 them to achieve that. There it goes. There, you can  
38 see the steam coming up and out and the hammer starting

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1 to drive itself down in that angle. A general view of  
2 the foundation piles' position. Also, the method of  
3 driving the head of the piles. If you remember, I said  
4 they cut the heads of the piles back. You can see -  
5 there they go there. There is an axe or - an axe. That  
6 is a general view of that whole run of piles that runs  
7 right across, ultimately across the whole of the Goolwa  
8 channel.  
9 Q. That is, as it were, the plan view. We have the cross-  
10 section view of the diagram.  
11 CONTINUED

1 A. That's right. That is the plan view of the completed  
2 cross sections, one after another after another, that we  
3 showed on the drawing.

4 Q. The distance between the piles is about five feet.

5 A. I am just guessing from the film there. I could find  
6 it, if I went to the detailed engineering drawings. You  
7 can see they are fairly close.

8 COMSR

9 Q. What is that showing.

10 A. That is again just the - that nest of piles just poking  
11 up out of the ground.

12 MR ABBOTT

13 Q. Would you be able to show the Commissioner, and answer  
14 with reference to this diagram, how that relates to this  
15 diagram (INDICATES).

16 A. Basically that is showing - most of these shots are  
17 showing - the ground level is there (INDICATES). And it  
18 is showing all of those tops of those piles (INDICATES).  
19 They are just in one great big band, coming back like  
20 that for that whole distance (INDICATES). So, you have  
21 got something like ten pile heads across one line and  
22 then you have got lines of those ten. So, it is just  
23 almost solid wood there, by the look, you know, the way  
24 you see that in that picture. You can see the trimmed  
25 heads. Look, there is, you know, just going right back  
26 across (INDICATES).

27 MR SMITH: The witness was there referring to  
28 Exhibit 82.

29 COMSR: Yes, Exhibit 82, Goolwa barrage sections  
30 through sluices.

31 MR ABBOTT

32 Q. There we see the whole lot or at least the whole run  
33 anyway.

34 A. There is again a whole run of them, yes. There they are  
35 again poking out. Here is the network of reinforcing  
36 steel, that I mentioned earlier, that is being  
37 constructed to enmesh the heads of those piles.

38 Q. There is the ten foot thick -

- 1 A. Well, it wouldn't be ten. I think that is only in one  
2 section it was about nine, ten feet, yes. The other, I  
3 would say, is probably - I will check it on the diagram  
4 for you. There were some marks that - I will calculate  
5 it later for you, but that is the actual - basically the  
6 set up for the construction of the floor of the whole  
7 barrage. And those (INDICATES) individual tops of the  
8 piles protrude into that floor and are surrounded by a  
9 mesh of concrete. You can see them there (INDICATES)  
10 and that is all going to be covered with concrete.  
11 `Loading and conveying the aggregates to the mixing  
12 plant.' That is just the various stone and sand that  
13 they used to mix the concrete on-site. There is nothing  
14 very spectacular about that.
- 15 Q. There is the train that they built on the track to take  
16 the aggregate down to be delivered to the site.
- 17 A. That's correct.
- 18 Q. Here we are on the barrage.
- 19 A. Yes, that is the start of the - they would have  
20 constructed some of the barrage there already  
21 (INDICATES). That is the - just mixing the material for  
22 the concrete, mixing and placing the concrete. `An  
23 internal type vibrator is used for compacting the  
24 concrete.' That is the wet concrete coming out of the  
25 mixer (INDICATES), it is taken into big skips  
26 (INDICATES), like that. Metal boxes, if you like, or  
27 skips. It is transported on that train (INDICATES), you  
28 can see there (INDICATES), out to where the - where they  
29 are placing the concrete. That is some of the finished  
30 structure there (INDICATES), and they are going over to  
31 the unfinished area to place that cement. That is a  
32 crane just carrying that big bucket of concrete, the  
33 skip of concrete (INDICATES).
- 34 Q. I think that shows, on the right-hand side, part of the  
35 actual barrage itself.
- 36 A. That's right. That would be one of the weirs - one of  
37 the piers, I am sorry.
- 38 Q. This area I think is between the cofferdam and the

1 barrage itself.

2 A. That's right. That would be - these are the various  
3 piers that have been built on that finished concrete  
4 floor there. And that is some of the stone to be - the  
5 rip rap, that I have mentioned, is to be placed there,  
6 when you are finally out of that and ready to complete  
7 the job.

8 Q. On the right is the cofferdam wall.

9 A. That's right. The cofferdam wall would be there  
10 (INDICATES).

11 Q. Between the cofferdam wall and the barrage itself, the  
12 concrete barrage itself, they have constructed a  
13 railway.

14 A. That's correct. That is the railway running here  
15 (INDICATES).

16 Q. And that is on the river bed.

17 A. That is on the river bed.

18 Q. That is another view of the railway on the river bed.

19 A. Yes, and that is some of the rip rap stone that they  
20 have placed (INDICATES).

21 Q. You can see the wall of the cofferdam there.

22 A. Yes.

23 Q. And the river behind it.

24 A. That's correct. That is the concrete about to be placed  
25 in one of these piers being constructed. You can see  
26 the timber formwork standing up (INDICATES).

27 Q. Just pausing there, we can see the concrete slab.

28 A. Yes, that's the slab there (INDICATES).

29 Q. And, underneath that, are the wooden piles.

30 A. That's correct. And they are imbedded into that slab  
31 (INDICATES). Absolutely in. It is absolutely essential  
32 that they are.

33 Q. Over the other side, of course, there is another wall of  
34 the cofferdam.

35 A. That's correct.

36 Q. Shovelling the concrete into the pier.

37 A. That's right.

38 INTERJECTOR: This, of course, was taken before

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1 Aboriginal people had rights in this country. Just to  
2 let people know. It is what you are looking at.

3 COMSR: Yes, I would ask you ladies not to  
4 interrupt, while this is going on.

5 MR ABBOTT: Could it be noted that the person  
6 interrupting is the Director of the Aboriginal Legal  
7 Rights Movement?

8 INTERJECTOR: That's right. I will stand up, so you  
9 can see me.

10 COMSR: Certainly, if I could just ask you not  
11 to interrupt while the film is proceeding?

12 INTERJECTOR: I just wanted people to know that.

13 COMSR: I think the people got the message.

14 INTERJECTOR: Before the Aboriginal Heritage Act was  
15 in place, in fact.

16 COMSR: Yes.

17 A. And that is a view of placing the concrete with these  
18 vibrators there. Pieces of metal tube with air is  
19 driven down them and they vibrate and they cause the  
20 concrete to move down and surround the reinforcement  
21 properly. So, it is a method of making sure that you  
22 get the concrete into the different places by virtually  
23 vibrating it with a tube.

24 MR ABBOTT

25 Q. Are they the tops of the forty foot long piles being  
26 surrounded by concrete.

27 A. The top, yes, that's correct (INDICATES), they are the  
28 tops of the forty foot timber piles. And there they are  
29 trying to place the cement in and shovel it around that  
30 massive network of piles and reinforcement.

31 Q. Just pausing there, that shows the rip rap on one side,  
32 does it.

33 A. That would be - I don't think that is rip rap. That  
34 would be cement, I would suggest, there. They are  
35 placing a floor pour there, I would suggest.

36 Q. So, that is pouring the concrete slab.

37 A. Yes, pouring the concrete slab. There, again, you can  
38 see them trying to shovel it and work it between the

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1 massive reinforcing rods. That is the vibrating arm  
2 that - the vibrating rods that they used to vibrate the  
3 concrete (INDICATES). Same thing again. There is  
4 another view. If you look back there, of all those  
5 piles are completed and they are ready to - they are  
6 obviously building the slab out this way in sections  
7 (INDICATES). 'Placing large stone to protect the  
8 downstream side of sluices against erosion.' And,  
9 again, the little train (INDICATES). There is a pile of  
10 rock here (INDICATES), stock piled.

11 COMSR

12 Q. Then what did you say those tracks are laid over. They  
13 are laid on the bed, are they, of the river on concrete  
14 foundations, piers, are they.

15 A. Which tracks?

16 Q. That little train track.

17 A. That little train, it had a - at one stage, there were  
18 tracks down on the bed inside the causeway, but they  
19 have also - they lift it up and run on tracks on the  
20 top, as well. So, they would have laid tracks in a  
21 number of spots as construction progressed and obviously  
22 they used the little trolley rails on the top of the  
23 finished structure to take it out at that juncture, but,  
24 at other times, it was down on the bed of the river.  
25 So, it would have moved around. They would have laid  
26 rails all over that place.

27 MR SMITH

28 Q. That shot we just saw was really the train moving over a  
29 section of almost completed barrage.

30 A. That's correct.

31 Q. To a section that was under construction.

32 A. That's correct.

33 MR ABBOTT

34 Q. There is the rip rap.

35 A. That is the big stone that they placed to destroy the  
36 energy of the water as it comes through the structure  
37 and try to minimise the erosion downstream, so you don't  
38 get a hole forming and then the possibility of the



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- 1 structure collapsing into that hole. I must comment  
2 that the photographers certainly weren't going to miss  
3 any detail out when they took this. I apologise for the  
4 length of it, but they were determined to have all  
5 details recorded faithfully by the looks. This is  
6 another shot of the rip rap after placement. A large  
7 stone there (INDICATES), being lifted into position.  
8 Q. We can see something on a track there, as well.  
9 A. Yes, that would be - that might be a track there  
10 (INDICATES), for that crane structure.  
11 Q. The travelling crane.  
12 A. Yes.  
13 Q. And that is the area between the actual barrage itself  
14 and the cofferdam.  
15 A. That's correct. Very intensive labour type of work,  
16 this, where they have to try to place the stones in,  
17 jack them around and chip them around, so that they bed  
18 into an integral rip rap downstream. And there is - it  
19 looks a little bit like - it is hard to see whether it  
20 is complete or not, but you can see the idea of the end  
21 of the floor that we talked about. And they are the big  
22 piers (INDICATES), sitTING on the probably about 130  
23 piers, of that order, right across the river.  
24 Q. And, on the left, of course, is the cofferdam wall.  
25 A. That, again, would be the cofferdam wall.  
26 Q. We have seen the shots before of the train running down  
27 where that rip rap was.  
28 A. That's correct.  
29 Q. And other trains and derricks, as well.  
30 A. That's correct.  
31 MR SMITH  
32 Q. Does that indicate that it is nearly finished there,  
33 does it. Is that water that has got in there against  
34 the rip rap.  
35 A. That would be just normal drainage water. It is  
36 impossible to have it completely watertight. There  
37 would be a pump down there somewhere that would be  
38 constantly work to keep that construction dry. This is

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1 a shot of pumping water from the cofferdam. In other  
2 words, that answers my question there, that there was  
3 leakage water coming down here (INDICATES), and they  
4 have obviously pooled it there (INDICATES), and pumped  
5 it away back in the river or down into the sea.

6 MR ABBOTT

7 Q. There we see, not just the barrage itself on the left,  
8 but the rip rap and tracks laid on the top of the rip  
9 rap for the travelling crane, etc.

10 A. That's correct. That is just the water being pumped out  
11 (INDICATES), to keep the area dry. 'The finished work  
12 before flooding the cofferdam.' Now they are at that  
13 stage and they are ready to - getting ready to go out  
14 completely and then flood it back with water and then  
15 you equalise the water level on both sides of the  
16 temporary cofferdam and then you can pull that cofferdam  
17 out. That would be the finished rip rap and the whole  
18 thing (INDICATES).

19 Q. There is something travelling on the top of the barrage.

20 A. There would be something there (INDICATES).

21 Q. Yes.

22 A. Yes, that is that - again, that little train, I think.

23 MR SMITH

24 Q. That gives a shot of the complete piers, doesn't it.

25 A. That's correct.

26 Q. With the stop logs, did you call them.

27 A. Yes, the stop log grooves. It would be difficult to  
28 see, but there is a groove, a vertical, rectangular  
29 groove going up, right down the length of which the stop  
30 logs fit in either side (INDICATES). The stop logs  
31 would have a piece of rubber right around them to try to  
32 - when the water forces them against the stop log  
33 grooves, it tends to seal it and stop some of the  
34 leakage.

35 COMSR

36 Q. Does that show the width of the barrage.

37 A. There is not a shot there so far that has shown the  
38 total width.

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1 Q. I don't mean from bank to bank, as it were, but looking  
2 across the barrage.

3 A. Yes, it is not easy to pick up when you have got - you  
4 mean, just the length of those piers, do you?

5 Q. If you were standing on one side of the barrage and  
6 looking across at it at one point, I wondered if that  
7 was what that was showing.

8 A. Yes, it is not - it doesn't really indicate that to you.  
9 I think that might be what we call the navigable pass  
10 section (INDICATES). No, it is very difficult to pick.  
11 That just - that is a typical weir there. You can see  
12 where it is flooded. That is the width between the  
13 weirs and that is the length of the weir, if you are  
14 looking upstream. So, each of those sections has stop  
15 logs lowered down in them. 128 I think it is of them.  
16 And 'The removing the filling from the cofferdam.' You  
17 can see there the cofferdam had actually two lines of  
18 sheet piles and they had material in between to give it  
19 a bit of mass, if you like, and they are digging that  
20 material out and they would have to dig the material out  
21 either side that they had sloped and they had to vary  
22 the two runs of sheet piling. 'Withdrawing the  
23 temporary sheet piling in the cofferdam.' They do that  
24 with a steam pulling device. You can see that witch,  
25 which should be hooked on to the sheet piles and go up  
26 over a sheave and exert a vertical lifting force to  
27 actually pull each of the piles. You can see one of  
28 them being pulled there now. There it comes out of the  
29 ground and you have just got to repeat that to all of  
30 those interlocking sheet piles.

31 CONTINUED

1 MR ABBOTT

2 Q. That shows the cofferdam being removed - or the sheet  
3 piles of the cofferdam being removed and the floating  
4 barge, the barge behind it.

5 A. Yes, that's correct. That is just another shot of it.

6 The grab hooks on and pulls it straight out. General  
7 view of the navigable pass and the sluices.

8 MR HUTTON

9 Q. Mr Cooper, the structure which runs across the screen is  
10 actually running over the top of some water, isn't it.

11 A. Yes.

12 Q. It is spanning the water.

13 A. Yes.

14 Q. So if you were above that structure looking down, that  
15 would have the effect of obscuring the water underneath,  
16 wouldn't it.

17 A. That's correct. That is the navigable pass that I  
18 mentioned in my evidence earlier. This section can be  
19 removed, the beams up here, and those sections of steel  
20 can be dismantled. They are pinned and laid down on the  
21 bed of the river. That allows a rather large boat to go  
22 either upstream or downstream.

23 Q. Underneath the structure.

24 A. Yes. This is removed. It has got to be removed because  
25 it has got to float down through there.

26 MR ABBOTT

27 Q. That is the paddle steamer.

28 A. That's correct. There is the train once again, running  
29 along the top. It is running out as far as the - that  
30 is the lock structure, navigable pass structure. Again,  
31 the standard piers going right across. That is the  
32 navigable pass area again, showing these sections that  
33 are able to be dismantled. There is a shot of the stop  
34 logs, timber stop logs, down in the navigable pass area.

35 MR HUTTON

36 Q. The navigable pass areas that you talk about, how wide  
37 are they approximately.

38 A. I couldn't tell you. I could get that information for

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1 you. But it allows a boat much wider than the boats  
2 that can fit in the lock to pass through. I can provide  
3 that information for you.

4 Q. How many navigable passes are there.

5 A. Just one. You collapse all of these. It gives you a  
6 significant width, and then a boat can traverse up or  
7 down.

8 XN

9 Q. Enough for a large paddle steamer.

10 A. The Murray - I think it was renamed the Brisbane  
11 Explorer - went down through that opening and went up to  
12 Brisbane. I wouldn't have liked to have sailed on it.  
13 It then operated in the Brisbane River area, or  
14 somewhere in Queensland, and then came back again and  
15 sailed through the Murray Mouth and ran aground. It was  
16 refloated, and came up and went past. At the  
17 appropriate time we dismantled that section and it  
18 sailed up into the lakes again. So it is a significant  
19 size vessel in that sense, those paddle steamers.

20 MR SMITH: Can I interrupt for a moment. We  
21 undertook to allow Mr Cooper to return for an important  
22 meeting at 12.30. Could we release Mr Cooper and have  
23 an early lunch and resume at 2.15? I have got a way to  
24 go, so perhaps we ought to release Mr Cooper until 3  
25 o'clock.

26 COMSR: We will adjourn until 3 then.

27 ADJOURNED 12.20 P.M.

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1 RESUMING 3.10 P.M.

2 COMSR: I before we start, I would like to make  
3 it clear this is a public inquiry and all members of the  
4 public are permitted to come in. However, there are  
5 some rules in an inquiry, and that is that there be no  
6 disruption, otherwise we cannot proceed with the  
7 evidence in an orderly manner. As long as the inquiry  
8 can go ahead without disruption, we can continue to hold  
9 it in public.

10 WITNESS P.G. COOPER CONTINUING

11 VIDEO RESUMES

12 COMSR

13 Q. Mr Cooper, perhaps you can explain what we are looking  
14 at here.

15 A. If I remember, this was a picture of the Goolwa barrage.  
16 This section had been completed in construction, and  
17 they were filling the cofferdam with water and then  
18 removing the cofferdam sheet piling. This is preparing  
19 the Jarrah stop logs that are placed down between each  
20 set of piers to hold the water back between the sea and  
21 the fresh water. That's long pieces of Jarrah,  
22 approximately 12 feet long. They are put together from  
23 a number of pieces, mortared, and then cramped together  
24 to then form one stop log. A series of stop logs are  
25 put down between the two slots to form the full height  
26 barrier to hold the water back. That's a stop log in  
27 its finished form. It is being stored there on the  
28 side.

29 XN

30 Q. Is there any particular reason why they are timber as  
31 opposed to the balance of the construction of the  
32 barrage.

33 A. Well, it would principally be weight. The timber would  
34 be much easier to handle, lifting and installing. But  
35 we have replaced the timber with prestressed concrete  
36 now, because that can be made quite a bit thinner than  
37 normally reinforced concrete of that era, and it has a  
38 longer life against the ravages of the salt and the

## P.G. COOPER XN (MR SMITH)

1 fresh water on the Jarrah. This is an opening swing  
2 bridge. That's the lock at Goolwa - in the Goolwa  
3 barrage. You can see a boat entering the lock. There  
4 is a bridge that runs across for the crane travel, and  
5 that has to be wound around on a turntable. The  
6 gentleman - or boy it is, is turning the turntable,  
7 swinging the bridge away so that the boat can traverse  
8 through that lock from - there's the boat coming in now  
9 from downstream from the sea side, the Coorong, up into  
10 the lock, ready to have the gates closed and the water  
11 to rise and exit the lock - the gate at the other end.

12 MR PALYGA

13 Q. Is that bridge still there.

14 A. Yes. It is generally kept in the open position because  
15 it is only needed when you are running the big four  
16 legged crane across the lock. So we generally have the  
17 turntable in the open position, because we have a  
18 tremendous amount of traffic in and out of the lock with  
19 boat holders on their trips down the Coorong.

20 XN

21 Q. That shot there just shows the stop logs in position,  
22 does it not.

23 A. That's correct. These are just general shots of the  
24 finished part of the structure.

25 COMSR

26 Q. Is that showing it from one bank, as it were, to the  
27 other.

28 A. Yes, that is from the down side, showing the sea. There  
29 is a shot from both sides showing the finished  
30 structure. That was the first half that was  
31 constructed, and then they moved and constructed the  
32 second half with another cofferdam.

33 XN

34 Q. That's the conclusion of the video footage concerning  
35 the Goolwa barrage, is it not.

36 A. Correct.

37 Q. I think there is some further footage showing some shots  
38 of the other four barrages.

1 A. That's an aerial shot of a little model showing - it is  
2 very difficult for the court to pick that up, but it is  
3 just trying to outline the position of the various  
4 barrages which have been pointed out on the map and  
5 numbered this morning. It is showing Ewe Island and  
6 Tauwitchere. This is constructing cofferdam. Suitable  
7 material is loaded into half cubic yard side-tipping  
8 trucks and conveyed by horses or locomotives. This is  
9 just excavating soil. I am not too sure what - it is  
10 very difficult to pick up in the photo, but there is the  
11 horse power taking material in the half cubic yard  
12 skips. Building the cofferdam using sand bags. Again,  
13 they had to employ cofferdams, although they were much  
14 much shallower, because the four openings across Mundoo  
15 and the other islands are much shallower. You can see  
16 them standing there. It is nothing like the very deep  
17 Goolwa channel.

18 Q. What do we see there.

19 A. There is a little truck to ferry sand bags and material  
20 across. That would be just pushing cofferdam material  
21 out. A later method of building the cofferdam using a  
22 barge. That is again that little railway that we saw,  
23 the little train we saw in the previous photographs.  
24 Either they had another one or that one was transported  
25 across to these locations.

26 COMSR

27 Q. What are we looking at there.

28 A. That's just dumping soil from the truck. They are  
29 pushing the core of their cut-off wall out, and then  
30 they are putting soil on each side to give it some extra  
31 support so that it will be strong enough to stand up  
32 when they pump the water out from inside the cofferdam  
33 to start construction. There they say the cofferdam is  
34 pumped out ready for excavation. They have made those  
35 walls. That dirt was that dirt there being tipped out  
36 when the water was on either side. Now they have pumped  
37 that side out and that wall there is holding the  
38 sea/fresh water back and they are excavating to build



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1 the - I am not too sure what this one is, it might be  
2 Mundoo, I'm not sure. They will tell us soon. That's  
3 just excavating in the trenches in the bottom. There is  
4 a - I mentioned earlier this morning that there is a  
5 little trench dug underneath the foundation as a key, as  
6 it were. Concrete is poured in that trench and is  
7 bonded to the concrete of the foundation, so there is a  
8 little key holding it against sliding. Once again,  
9 people just operating in that environment. This  
10 material here is what we call the calcareous limestone  
11 reef that these four - the four barrages of Mundoo,  
12 Boundary Creek, Ewe Island and Tauwitchere were  
13 constructed on a much shallower hard reef. That is just  
14 a picture of crabs running around on the bottom of the  
15 excavation. Generally forming up the foundation. There  
16 is reinforcing material there. Just a general panoramic  
17 shot of the construction site and the constant de-water  
18 pumps that are required to keep the area dry enough to  
19 pour concrete and work in. Preparing foundations using  
20 picks operated by compressed air.

21 XN

22 Q. Was the method of construction of the four remaining  
23 barrages much the same.

24 A. It would have been very similar for these four  
25 structures - for the concrete work of these four  
26 structures, yes. Then there was associated bank work  
27 which would have been fairly much similar for the four  
28 structures as well.

29 Q. What is happening there.

30 A. They are just trimming out the foundation. That says  
31 `Aggregates for concrete are delivered by barge and  
32 unloaded by grab from the Derrick boat'.

33 Q. There.

34 A. That is just towing materials to the construction site  
35 using the water method. It is very difficult to get  
36 access to some of these places along the islands, so  
37 obviously they use the water method there. They are  
38 just stockpiling material I would say for the concrete

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1 production at that site. In those days you had to mix  
2 your concrete on the site of your construction. They  
3 didn't have the niceties of being able to transport and  
4 keep concrete alive and fresh, as it were, over long  
5 distances. So you would have had to take all your  
6 materials to produce that concrete right out across the  
7 water and place it close to the site. So that's what  
8 this is depicting, the bringing of all those materials  
9 adjacent to the concrete construction site. This is  
10 just screening some of the material. Concreting  
11 operations, materials are batched in a half cubic yard  
12 side-tipping trucks and dumped directly into the hopper  
13 of the concrete mixer. You see all the little side  
14 dumping trucks on the railway line. That is a shot of  
15 the reinforcing rods that will be put in the material.  
16 That's the material being dumped into the intake, into  
17 the concrete mixer, which is this big drum rotating on  
18 the left-hand side of the screen. That's the cement  
19 being loaded in, mixed.  
20 CONTINUED  
21

1 Concrete mixed finally and wheeled in carts to the job.  
2 Placing that, that would be down in that cut-off trench  
3 that I mentioned to the Commissioner. As you can see,  
4 it's very slow, laborious and a very long process to  
5 pour concrete in those days with that sort of equipment.

6 COMSR

7 Q. What year are we talking about.

8 A. That would be in the period from 1935 to 1940. They  
9 were built over that period.

10 Q. It took five years.

11 A. Yes. That's just a shot of, showing the sort of  
12 formwork being prepared to pour a concrete slab as part  
13 of the one of those concrete barrage structures. You  
14 can see laying concrete there and the reinforcing rods  
15 protruding up in the air, which will be the foundation  
16 of rods for the piers, those structures, and forming a  
17 floor slab there. That's just screeding the concrete  
18 level. There's a picture of the finished product and  
19 they've got the slab ready. Gives a view of the base of  
20 the slab having been, or floor having been poured and  
21 they're starting to work on the vertical piers. `Steel  
22 forms are used and an internal type vibrator for  
23 compacting the concrete'.

24 XN

25 Q. All this construction we see now would be common to the  
26 four remaining barrages.

27 A. Yes. You know, you need to show that film, it keeps  
28 going. Just shows the steel formwork placed in position  
29 ready for pouring. That shows a vehicle travelling over  
30 the top part of the columns, and obviously that's  
31 starting to get near completion as far as a structure is  
32 concerned. Again, the little train working on the  
33 banks. That's a concrete vibrator. This is like a  
34 lesson in civil engineering one. I'm not sure if the  
35 court's interested in all of this intricate detail?

36 Placing decking on the structure and using pneumatic  
37 auger. Placing the deck pieces on to enable traffic to  
38 pass over the top. That is drilling holes in the timber

1 on the decking pieces. There we are, the barrage  
2 starting to come to fruition. `Lock chamber under  
3 construction'. That's the Goolwa lock chamber. They  
4 would be screwing there probably the bearings for the  
5 lock gates, or something like that, into the floor of  
6 the chamber. Some of the mechanism of the gate for the  
7 lock chamber you can see the wheel there that bears  
8 against the concrete. The gate slides across. This  
9 gate was slid across laterally and had big roller wheels  
10 to support it as it moved across. There's a picture of  
11 the finished lock with the gates moving across. That is  
12 in a closed position.

13 Q. Are we now back at the lock at the Goolwa barrage here.

14 A. I'm not sure. I think that is too small for the Goolwa  
15 barrage. Very difficult to pick out on these  
16 photographs which of the two locks it is. That is a  
17 shot of the camp sites. Once again, the little train  
18 taking materials over to the construction site. That's  
19 showing the causeway. These are the embankment sections  
20 that reach out to the concrete barrage parts of the  
21 whole complex. A tremendous amount of stone pitching,  
22 `rip rap' as we call it, was placed on both sides of the  
23 banks to protect it from the wave action. A lot of  
24 these stones were fitted laboriously by hand. The  
25 finished article, I must say, is very pleaseing to the  
26 eye. The way they fitted those stones together, an  
27 incredible labour of love. `Constructing roadway across  
28 the island.' On the plan which has been alluded to  
29 earlier, there are sections of roadway between the  
30 various barrages. A lot of that roadway is on private  
31 property and the South Australian Government has the  
32 right of access with those landowners, and they  
33 constructed a reasonable foundation-based road to allow  
34 them to transport heavy equipment, materials right  
35 across the barrage. This is a shot of the tainter gates  
36 which I mentioned this morning in my evidence. These  
37 are the big rotating gates with the curved front.  
38 That's in the lowered position, holds the water back.

1 They are the stub axles that the gates rotate in in the  
2 up position. They allow the water to run through.  
3 There was something like 322 of these gates on the  
4 Tauwitchere Island barrage and about 111, from memory,  
5 on the Ewe Island barrage.

6 Q. Does that mean that we had stop logs operating on the  
7 Goolwa barrage.

8 A. Yes.

9 Q. Is this an alternative to the stop logs.

10 A. Yes. Stop logs - and there's still stop logs at Goolwa,  
11 Mundoo and Boundary Creek and Ewe Island and  
12 Tauwitchere. Basically they were all tainter gates.  
13 However, we have taken some of the tainter gates and  
14 replaced them with stop log for efficiency purposes  
15 since that time.

16 Q. Why the difference then.

17 A. Well, tainter gates are much easier to operate. When  
18 you have - they are more expensive than stop logs to  
19 construct, but when you have 322 of them which you have  
20 to raise and sometimes lower fairly quickly if storms  
21 brew up and the sea water is threatening to enter the  
22 lakes, so the tainter gates are easier and are lifted  
23 with the crane and lowered with the crane very quickly.  
24 With stop logs, especially at Goolwa, they are slower  
25 but there's a much limited number of openings. And the  
26 tainter gate would have had to have been massively big  
27 down at Goolwa because of the deep openings. It was  
28 deemed we would go for stop logs there as against the  
29 quicker operating tainter gates. That is a picture of a  
30 car driving across and that's the - it is necessary to  
31 have that pneumatic tyred access across those four  
32 barrages, so that we can or could have access to them  
33 and undertake the basic operations and maintenance  
34 functions. You can see it's quite a considerable  
35 distance across each of those sections. Each of those  
36 gates is approximately a little bit more than 12 feet  
37 long, and, as I said, there are 322 of them in that  
38 section at Tauwitchere. There is a picture of them

1 raising the gate, I think, at the moment.

2 Q. Is that a picture of the bosses inspecting their work.

3 A. That's correct. You see them lower it and shut the  
4 water flow off. Again, similar to the jarrah stop logs,  
5 these gates were with rubber seals to try and minimise  
6 leakage past the gates. Again, that is a little swing  
7 bridge on the smaller lock there, a little small lock on  
8 one end of the Tauwitchere structure. And that lock has  
9 to, again, have a turntable to swing the bridge open so  
10 a boat can pass through. This lock is operated by hand  
11 and only takes small boats. You see the lock gate  
12 moving back which allows passage from the lake to the  
13 sea, or vice versa. That is how you have to operate it,  
14 and that is how it's done even today.

15 Q. That's the end of it, is it not.

16 A. Well, I suppose they were the masters of the E & WS and  
17 River Murray Commission of the day. 'Completed  
18 structure Ewe Island Channel'. That's 'Completed  
19 Structure Mundoo Channel.'

20 MR PALYGA

21 Q. All of these structures are bridges as well as barrages.

22 A. That's right, the four structures on the island. The  
23 Goolwa barrage is not a bridge and you virtually - it's  
24 very risky to drive a pneumatic tyred vehicle across it.  
25 It is not designed to do so. It is only designed to  
26 allow a four-legged crane to move right across it to  
27 replace and lower the stop logs.

28 XN

29 Q. That is the end of the video, you will be pleased to  
30 know.

31 A. Yes.

32 WITNESS RETURNS TO WITNESS BOX

33 EXHIBIT 83 Video tendered by Mr Smith. Admitted.

34 XN

35 Q. To complete the picture, I think you have kindly  
36 provided the Commission with a plan showing the  
37 landholding of the E & WS, as it was then known, and  
38 it's not only landholding, but right of way for the

1 purposes of servicing the barrages.

2 A. That's correct.

3 Q. Looking at these two plans produced to you, I don't have  
4 copies for counsel, but I show counsel first. Looking  
5 at the two plans produced to you, I don't take you to  
6 each coloured section individually, but this - in broad  
7 terms, do both plans show the large tracks of land as  
8 land vested in the E & WS.

9 A. That's correct.

10 Q. And in fact is almost the entirety of Sir Richard  
11 Peninsula and Tauwitchere Island.

12 A. Yes. They are vested in the Minister on behalf of the  
13 Murray Darling Basin - or the River Murray as it was -  
14 Commission.

15 Q. There are roadways connecting roadways also indicated in  
16 yellow and almost invariably they are rights of way  
17 acquired by the Minister for the purposes of allowing  
18 the E & WS or the Murray Darling Basin access.

19 A. That's correct.

20 EXHIBIT 84 Plans showing departmental property  
21 relating to the barrages tendered as a  
22 bundle by Mr Smith. Admitted.

23 Q. You have kindly provided the Commission from the  
24 archives of the E & WS and the now Water Board, the  
25 photograph album relating to the construction of the  
26 Goolwa barrage.

27 A. Yes.

28 Q. Two further photograph albums relating to the  
29 Tauwitchere barrage, the Mundoo and Boundary Creek and  
30 Ewe Island barrages.

31 A. That's correct.

32 Q. It's the case, is it not, that you would produce these  
33 to the Commission for return to you after whatever  
34 photographs the Commission wants to reproduce.

35 A. That's correct.

36 Q. Is that the basis upon which you offer them.

37 A. Yes.

38 Q. Since they are valuable property.

1 A. Yes.

2 MR SMITH: Perhaps at this stage, the three albums  
3 be marked only for identification and I'll extract from  
4 the albums and tender in due course any photographs that  
5 may be of use to the Commission rather than appropriate  
6 the entire album.

7 COMSR: I think Mr Cooper might be a bit  
8 reluctant to part company with those albums.

9 MFI 84 Large photograph album of Goolwa barrage  
10 marked 84 for identification.

11 MFI 86 Photograph album of Tauwitchere barrage  
12 marked 86 for identification.

13 MFI 87 Photograph album of Mundoo barrage  
14 marked 87 for identification.

15 CONTINUED



1 XN

2 Q. I think, over lunch, you have reflected on some of your  
3 evidence and you want to make some small additions to  
4 the evidence that you gave this morning.

5 A. It was not changing the evidence, but filling in the  
6 gaps. Commissioner, you did ask me the thickness of  
7 some slabs.

8 COMSR

9 Q. Yes, that's right.

10 A. And I have looked at the plans and just ascertained that  
11 - if you could turn to your paper that has the Goolwa -  
12 the section of -

13 Q. That is Exhibit 82, are we talking about.

14 A. I am not too sure.

15 MR SMITH: Yes, Exhibit 82.

16 A. Yes, no.82. And there is a section called 'The Goolwa  
17 barrage section through the navigable pass.' And the  
18 two thicknesses of the slab there in that section or  
19 that floor, in the thinner section, it is six foot and,  
20 in the thicker section, it is nine feet. And, on the  
21 other section titled 'Goolwa barrage section through the  
22 sluices', which is a similar section showing the piles,  
23 section through the sluices, that floor slab is three  
24 foot thick. I was also asked by a counsel what was the  
25 width of the navigable pass and that figure is  
26 sixty-eight feet. That was the width for the big boats  
27 to pass through the navigable pass. And the sluiceways  
28 are approximately twelve feet. So, they are, I think, I  
29 hope, correcting the figures that I was asked,  
30 information that I couldn't recall.

31 XN

32 Q. Before leaving the barrage, for the moment, looking at  
33 these two copies of I think perhaps even the video, do  
34 you recognise those as a construction stage of the  
35 Goolwa barrage.

36 A. Yes, they certainly are.

37 Q. And the completed stage of the Goolwa barrage, but  
38 perhaps before water was pumped out of the cofferdam.

1 A. Yes.

2 EXHIBIT 88 Photographs of barrages tendered by Mr  
3 Smith. Admitted.

4 XN

5 Q. And they are the Goolwa barrages, aren't they, those two  
6 photographs.

7 A. Yes.

8 Q. I want to take you to another topic altogether, the  
9 question of river flow. Under the terms of the current  
10 Murray Darling Basin Agreement, South Australia has a  
11 minimum flow entitlement, is that correct.

12 A. That's correct.

13 Q. That New South Wales and Victoria, who control their  
14 dams, etc., have to honour. Is there an exception to  
15 that, however.

16 A. Yes, the way the agreement is written, South Australia  
17 is entitled to a minimum flow of 1,850 million litres  
18 per year and - sorry, correction, 1,850 gigalitres per  
19 year. That is a thousand megalitres. And -

20 Q. One gigalitre is a thousand megalitres.

21 A. That's correct, a thousand megalitres. This water is  
22 provided from the Murray Darling Basin storages at  
23 Dartmouth, Hume, Lake Victoria and, on some occasions,  
24 from water held in the Menindee Lakes. The two States  
25 of New South Wales and Victoria share the remaining  
26 waters outside of our entitlement, 50/50, on a 50/50  
27 basis, and they must first provide us with our  
28 entitlement. And this would occur - at least that  
29 minimum entitlement would occur on probably almost all  
30 years, except extreme drought periods, where all of the  
31 water that is held in storage is divided by a third to  
32 each State. So, the only time we don't get our  
33 entitlement is under a condition of extreme drought.  
34 Then we drop back to just a third of what is available.

35 Q. Is it the case, as you have said in your statement, that  
36 normal average flow of the river through South Australia  
37 is average, though, that is, is significantly above that  
38 minimum entitlement.

1 A. It is.

2 Q. However, has average flow been declining over the recent  
3 years.

4 A. The average flow that enters the sea from the Mouth has  
5 been declining over the years, as the water is utilised  
6 more and more for irrigation and other uses, major uses  
7 by large cities, like Adelaide, etc.

8 Q. I think, in June of 1995, there was an audit conducted  
9 of water use in the Murray Darling Basin, was there not.

10 A. That's correct.

11 Q. And figures were published in relation to it.

12 A. That's correct.

13 Q. You have a copy of that document, do you.

14 A. Yes.

15 Q. Looking at this document produced to you, which is a  
16 copy of that publication, is it not.

17 A. That's correct.

18 Q. And p.18 is the page which relevantly concerns us, is  
19 that right.

20 A. That's correct.

21 Q. What does that indicate.

22 A. The diagram, on p.18, displays the reducing flow  
23 available at the River Murray Mouth from - compared with  
24 natural conditions before water was dammed and diverted  
25 for various uses up until the 1994 demands. And what  
26 that indicates is that, I suppose, a key highlight which  
27 has been quoted in the press by the Ministerial Council  
28 and the Commission is that, if we take the natural flow  
29 conditions, 150 plus years ago, there is approximately  
30 5,000 gicalitres, that is, accurately, 4,600 gicalitres  
31 a year would run out to the sea in a drought year, or  
32 what they call the 5%. Five years in a hundred, I think  
33 is the earliest way to explain it. Five years in a  
34 hundred, there would be that amount of water running out  
35 to sea, or less. So, that is under natural conditions.  
36 Now, the amount of water drawn out of the river upstream  
37 has meant that that same flow, 4,600 gicalitres, or  
38 less, flows out of the Mouth, something like 60% of the

1 time. So, there has been a significant reduction in the  
2 amount of water available to flow out to the sea over  
3 that period.

4 Q. Because of the massive drawing on water, as it comes  
5 down, from other sources.

6 A. That's correct.

7 Q. That is illustrated on p.18 of that publication.

8 A. Yes.

9 COMSR

10 Q. What is that publication.

11 A. It is an audit of the water use in the Murray Darling  
12 Basin. June 1995. Published by the Murray Darling  
13 Basin Ministerial Council.

14 EXHIBIT 89 Extract of 'An audit of water use in the  
15 Murray Darling Basin June 1995' tendered  
16 by Mr Smith. Admitted.

17 XN

18 Q. I suppose one of the consequences of that statistic of  
19 interference with the natural behaviour of the river is  
20 making much more important the use of barrages and dams  
21 and that sort of thing, is that right.

22 A. That's correct. I mean, it would have been - certainly  
23 it was the driving factor in causing the barrages to be  
24 constructed, because the increasing use of water  
25 upstream and in South Australia and the higher parts of  
26 South Australia was causing the sea to encroach further  
27 and the river to drop lower and making it untenable for  
28 irrigation in that lower area of the river between  
29 Mannum and Wellington, as I mentioned this morning.

30 Q. Going to one last topic, which is the heading in your  
31 statement on p.7, 'The Murray Mouth': do you have a copy  
32 of that.

33 A. Yes.

34 Q. I think the observations of the Murray Mouth and the  
35 documentation of it show that, as you have said in your  
36 statement, it is almost a living thing, isn't it, the  
37 Murray Mouth, and alters position, according to a number  
38 of conditions, doesn't it.

1 A. That's correct.

2 Q. Can you tell us broadly what they are.

3 A. The Murray Mouth, of course, is cut through the frontal  
4 sand dune and discharges into the southern ocean. And  
5 that is an extremely high energy coastline. Big waves  
6 and swirls. And, of course, that coastline has an  
7 effect on the Mouth. Especially when the flow or  
8 discharge from the Mouth reduces, there is an effect of  
9 wind and current. And those sorts of conditions down on  
10 that coastline can push the Murray Mouth backwards and  
11 forwards. It can drive sand into the Murray Mouth and  
12 it can result in a net movement of sand either south or  
13 north or southeast or northwest, if you like, along the  
14 coast. So, the energy and power of the coastline has a  
15 big effect on the Murray Mouth. Further to that, the  
16 amount of water that comes down and the power of the  
17 water coming through the Mouth obviously has an effect  
18 on the coastline. And, of course, tides can come into  
19 the Coorong area. And, before the barrages were  
20 constructed, they actually - the tides would have  
21 entered the lower part of those lakes and moved in and  
22 out. And the tides can bring sand in and dump sand and  
23 then go out, as well. So, there is - the sea can have  
24 quite a blocking-off mechanism, as it were, to the  
25 Murray Mouth, even though it is moving water apparently  
26 quickly. Large bodies of water in and out looks very  
27 impressive. There are times when it can leave sand  
28 behind and gradually close the opening.

29 COMSR

30 Q. Are you saying the Murray Mouth moves up and down the -

31 A. The coast.

32 Q. The coast.

33 A. Yes.

34 Q. Is that something that happens, over a period of  
35 decades, or can it happen -

36 A. Yes, well, it - I have some figures here that indicate -  
37 I mean, it does move slowly. It doesn't sort of move  
38 suddenly. But, yes, it does move, but it can accelerate

1 because of a large flood. A large flood can cut one  
2 side of the Mouth and move the Mouth, as it were, one  
3 way or another, over a relatively shortly period of  
4 time. Say, the months of a large flow. But, yes, it  
5 is, it is something that doesn't happen overnight, but  
6 it does move. And we have evidence of this and I can  
7 tender evidence of photographs of the movement of the  
8 Murray. In fact, I could quote from a report here, if I  
9 may? And these were from observations taken. And,  
10 could I quote from this report?

11 Q. Yes, which report is it.

12 A. It is a report by the Engineering and Water Supply  
13 Department on Coorong salinity, 'Processes and options  
14 to reduce Coorong salinity.' One of the things they  
15 were looking at was how the Murray Mouth was effecting  
16 that. From 1839 to 1876, there was an easterly movement  
17 of 900 metres. From 1876 to 1938, that is a fairly long  
18 period, there was a westerly movement, 1,340 metres.  
19 From 1938 to 1941, there was 430 metres, again,  
20 easterly. From 1941 to 1967, 370 metres, westerly.  
21 1967 to 1972, 360 metres, easterly. 1972 to 1981, 360  
22 metres, westerly. And from 1981 to 1989, 610 metres,  
23 westerly. That gives you an indication of the movement.  
24 It has been an oscillating movement. However, since  
25 1941 - sorry, since 1972, it has been basically  
26 westerly.

27 Q. Who was that report prepared by.

28 A. It was prepared by the Engineering and Water Supply  
29 Department. It was to examine the Coorong salinity  
30 process as to options to reduce the Coorong salinity.  
31 In other words, we had the role then of trying to see  
32 where - whether our barrages and the Mouth and those  
33 sorts of things could be in anyway used to improve or  
34 modify the salinity and what effects they had with the  
35 salinity of that whole body of water in the Coorong.

36 XN

37 Q. That report, I take it, drew on records that were held  
38 in your Department.

1 A. That's correct, yes.

2 Q. Of observations and measurements of the movement of the  
3 Murray Mouth.

4 A. That's correct.

5 Q. I think that was the case, wasn't it. Early records  
6 were kept of the variations of the positions of the  
7 river mouth, together with diagrams demonstrating  
8 lateral movement. Those records were kept, as you say  
9 in your statement, from 1956 to 1990.

10 A. That's correct.

11 Q. That behaviour of the Mouth is caused by, what, if there  
12 is anything.

13 A. It is caused by a combination of things. Of energy from  
14 the sea breaking on the shore. From the direction of  
15 the prevailing winds over that period. The net movement  
16 of sand. How the Murray Mouth was - how the flood flows  
17 were moving out of the Murray Mouth. There is a whole  
18 series of effects that can make it move.

19 Q. What is the primary effect.

20 A. I wouldn't be an expert to be able to say that. You  
21 would have to ask probably an oceanographer or someone  
22 like that. But, obviously the sea was a big effect and  
23 the amount and frequency of river flow has a big effect.

24 Q. If the barrages are not opened, from time to time, and,  
25 therefore, there is no river flow, that has an effect,  
26 doesn't it.

27 A. That has an effect on whether the Mouth blocks up or not  
28 and it certainly has a big effect, in that area.

29 CONTINUED

1 Q. In your time, has there been a recorded closure of the  
2 Murray Mouth.

3 A. Yes. The Murray Mouth was closed - in our  
4 interpretation of the word `closed' - in 1981, following  
5 a prolonged period of low flows of the river and no  
6 water available to be admitted through the barrage  
7 system. The mouth actually fully closed with sand  
8 brought in by tidal action and then by storms and dumped  
9 in there. There was just no passage of tidal water at  
10 any time for quite a few weeks.

11 Q. Such that you could walk across the Murray Mouth.

12 A. Freely. It was just like a normal beach.

13 Q. Did your department do anything about that.

14 A. Yes.

15 Q. What was it.

16 A. We observed it closely to ensure that - just to keep a  
17 watching brief, because we hoped that that would free  
18 itself naturally when rains came down and the River  
19 Murray system and increased flows came to South  
20 Australia. We didn't try to do anything to open it at  
21 that stage until natural rains came and gave us the  
22 water to cut through the mouth and re-establish it.  
23 When that occurred the sand had built up naturally to  
24 such a level that the water - we opened all the  
25 barrages, all the gates and stop logs, and the water  
26 filled the Coorong, but it was not high enough to flow  
27 out over the sand that had filled the mouth. So we  
28 observed it and the level rose, and virtually was  
29 analogous to a flood level in the lakes and the Coorong  
30 with no flow. The level started to rise and shacks were  
31 being endangered having their floors wet, and there was  
32 a possibility that Goolwa would have some minor wetting,  
33 flooding, wet feet. So we made the decision to actually  
34 open the mouth with mechanical diggers, and there was  
35 plenty of water coming down. The level was rising  
36 because there was plenty of water in the river pouring  
37 down into the lakes.

38 Q. But not able to get out to the sea.



1 A. No.

2 Q. Looking at this photocopy of a photograph produced to  
3 you, do you recognise that.

4 A. Yes. That's the construction activity that we undertook  
5 to dig a connecting channel between the Coorong, the  
6 lakes and the sea.

7 Q. Looking at that photograph, in the foreground is the  
8 sea. Is that correct.

9 A. That's correct.

10 Q. And in the background is the Coorong.

11 A. Yes, Coorong.

12 Q. And the Murray River, if you like.

13 A. That's correct.

14 Q. Again, to do that work, did you have to have cofferdams  
15 or anything like that.

16 A. No. We pushed sand away, but basically we dug a very  
17 deep hole from the Coorong, out across through the old  
18 mouth area, and eventually we put a small bank around to  
19 prevent the sea coming in, because the sea has a habit  
20 of slumping sand into excavations, all your work is in  
21 vain, and you've got to start again. We tried to keep  
22 the sea out with a little bank of sand long enough so  
23 that we could get a deep enough channel, and then we  
24 broke through that channel at low tide, and the pressure  
25 or the head of water in the Coorong drove that channel  
26 through and the mouth started to flow. I might add,  
27 once it flowed, with that level of water behind it, it  
28 just raced through and gouged - its usual very very deep  
29 flood mouth was re-established.

30 EXHIBIT 90 Copy photograph tendered by Mr Smith.  
31 Admitted.

32 Q. I think your department has illustrated the movement of  
33 the Murray and the closure of the mouth in 1981 by three  
34 displays, haven't they, over the years.

35 A. That's correct, and associated conditions in other times  
36 where the Murray almost closed.

37 Q. Can I ask you quickly to come out of the witness box.  
38 Looking at this display, shall we call that display

1 number 1. We can identify that because it is the only  
2 one with the graph illustrated on it.

3 A. Right. That's an aerial picture showing the five  
4 barrages and the Murray Mouth.

5 Q. You are now indicating -

6 A. It is taking in 1972, just as a diagram, but what this  
7 shows is here in 1945 there is an aerial picture,  
8 showing the mouth with no flow, maximum flow, and the  
9 previous six months nil. It is the first aerial  
10 photograph we had of that area. So that is just a  
11 reference point for starting. The gates had been closed  
12 for 250 days, and you can see even then, in 1945, that  
13 the mouth had started to contract, but it was still  
14 reasonably well open.

15 Q. Just so the record shows what photograph you are  
16 indicating there, you are now indicating the left-hand  
17 top black and white photograph on the display.

18 A. That was the left-hand photograph.

19 Q. With the date.

20 A. With the date of 24.4.45. We move to the bottom  
21 left-hand photograph with a date of 30.4.81. It shows  
22 the Murray Mouth which has had no openings, no flow  
23 through it for 196 days, and the mouth is completely  
24 closed. You can see by the yellow sand area, it  
25 indicates how much sand is being brought in by the  
26 action of the tide coming into the Coorong, that sand  
27 being dumped, and the return water going out, and then  
28 later storms dumping sand and wind blown sand so it is  
29 absolutely closed off.

30 MR KENNY: Can I please interrupt here? I have had  
31 a request from one of the women in relation to this  
32 matter.

33 INTERJECTOR: Would you please turn those around.  
34 They are sacred to Aboriginal women. Please turn them  
35 around. Don't snigger. Please turn them around.

36 MR KENNY: I have been asked, on behalf of the  
37 woman who spoke to you, whose name I don't know, she is  
38 not a client of mine -

## P.G. COOPER XN (MR SMITH)

- 1 INTERJECTOR: It is Val Power, woman's adviser, and I  
2 am very angry that those photographs are on blatant  
3 display for all of you to see. Don't you have no  
4 respect?
- 5 MR KENNY: On her behalf, if I could ask if she  
6 could perhaps come forward and speak to you? She has  
7 some concerns about this matter.
- 8 COMSR: I think Ms Simpson might speak to her  
9 outside and see what the concerns are.
- 10 MS POWER: Yes, please.
- 11 COMSR: If you would mind going outside, because  
12 we cannot conduct a hearing while there is a lot of  
13 noise going on?
- 14 MS POWER: There is no noise going on.
- 15 COMSR
- 16 Q. First of all, can you tell me who took these  
17 photographs.
- 18 A. They would be aerial photographs taken by the Department  
19 of Lands. I am not sure about that first one, but I  
20 would guess it would be Department Lands, but all of  
21 these would be aerial photographs. I am not sure, but I  
22 would be fairly confident that the majority of them, if  
23 not all of them, were taken by the Department of Lands'  
24 Aerial Photographic Unit.
- 25 Q. They are photographs that are available for public  
26 purchase.
- 27 A. I am not sure if they are available for public purchase,  
28 but I guess they would be. I would have to have that  
29 verified.
- 30 MR ABBOTT: They are available from Mapland at  
31 Netley.
- 32 COMSR
- 33 Q. I take it if you flew over that section that's what you  
34 would see from a plane.
- 35 A. That's correct.
- 36 XN
- 37 Q. You were addressing then the photograph of 30 April  
38 1981.

1 A. That's right.

2 MR ABBOTT: We made inquiries as to what was  
3 available and you can buy, at Mapland, every series of  
4 aerial photographs since 1945. They have done series  
5 not annually, but in recent years annually, and in  
6 fly-overs in the early days about three years apart.  
7 All of those can be purchased. In fact, I provided Mr  
8 Smith with a list of ones that I suggested, some  
9 selected purchases that should be made.

10 MR KENNY: While we are speaking on this, I might  
11 have something to say as well. I am not familiar with  
12 Aboriginal tradition in relation to these photos or  
13 disclosure. They have obviously caused concern.

14 MR ABBOTT: Alleged concern.

15 INTERJECTOR: Alleged concern, excuse me.

16 MR KENNY: My instructions are to pay due regard to  
17 Aboriginal tradition. They haven't specifically  
18 instructed me, my clients, in relation to the  
19 photographs that are here.

20 COMSR: I appreciate the ladies that are  
21 concerned are not your clients.

22 MR KENNY: If they raise a matter of concern, it  
23 comes within the instructions of my clients to support  
24 those concerns. I would ask that perhaps rather than  
25 cause offence, if they believe it is offensive to them,  
26 it would be considered by my clients to be offensive to  
27 them as well, and consequently I would ask that we leave  
28 this part of the evidence until a later time.

29 MR ABBOTT: I object. If any Aboriginal lady here  
30 has some concerns about any of these photographs and  
31 wishes to make a submission, let her come forward, give  
32 some evidence, be cross-examined on it, and then you can  
33 determine it. But I object to the campaign that has  
34 been waged by these women at the back of the court and  
35 by some who have left, whereby they will give the media  
36 what they choose and they will give us none. If they  
37 have objection then they should put it before you, and

## P.G. COOPER XN (MR SMITH)

1 by all means listen to it, but let us hear it from the  
2 witness box like everyone else in this commission.

3 MR KENNY: We have all heard submissions on  
4 Aboriginal tradition previously.

5 COMSR: I am not too sure that I have actually  
6 ever heard too much in the way of submissions. I have  
7 heard assertions, but -

8 MR KENNY: At this stage I submit that we are not  
9 really in a position to make any representations before  
10 you, considering the lack of authorities to do so.  
11 Consequently, we simply cannot, as Mr Abbott suggests,  
12 put somebody in the witness box to give evidence  
13 concerning Aboriginal tradition. That is not something  
14 that -

15 COMSR: What concerns me is that anyone who goes  
16 down to that area - any man, woman or child who goes  
17 down to that area presumably can see what is there.  
18 This is a photographic representation of what is there.  
19 I am a little at a loss to understand the basis of the  
20 objection.

21 MR KENNY: I am not in a position to go into it.  
22 Nor is this commission, with respect, entitled to  
23 receive evidence concerning it.

24 MR ABBOTT: Then let's forget about it.

25 MR KENNY: It is not simply a question of forgetting  
26 about it. I suggest it should be of concern to the  
27 commission if there is some apparent concern by  
28 Aboriginal people about the display of these  
29 photographs. It is quite clear that these people are  
30 concerned about it. Their agitation clearly shows that.

31 MR ABBOTT: Let them speak to counsel assisting and  
32 we will get on with it.

33 COMSR: I think Ms Simpson is out addressing -

34 MR KENNY: I would ask that perhaps until Ms  
35 Simpson returns and until we have some clarification of  
36 this issue, that no further discussion take place  
37 concerning those photographs.

## P.G. COOPER XN (MR SMITH)

1 COMSR: I am not discussing the content of them.  
2 I am discussing the availability of the information. As  
3 I understand it, if any person were to go down to that  
4 area they could observe the coastline with their own  
5 eyes. If they were to fly over it, they could see this.  
6 If they were to take photographs, this is what would be  
7 shown on the photographs. What I am trying to  
8 understand is why, because it is produced in this  
9 commission, it is considered to be offensive. I do not  
10 know that you have any instructions on that. I  
11 appreciate your dilemma.  
12 CONTINUED

- 1 MR KENNY: I'm not in a position to provide you  
2 with any, and nor, as I said before, is this Commission  
3 in a position to take any evidence in relation to  
4 Aboriginal tradition and why these photographs may be  
5 offensive to people. Now, I quite readily agree with  
6 what you say in relation to observing the landscape.  
7 Perhaps there is some difference in their tradition -  
8 and I remind you that it's not just - we are not talking  
9 about ancient Aboriginal tradition when we speak about  
10 'Aboriginal tradition' in the definition of the  
11 Aboriginal Heritage Act, we are also talking about  
12 tradition that has arisen since.
- 13 COMSR: Since when?
- 14 MR KENNY: Since the settlement of Australia by  
15 Europeans.
- 16 MR ABBOTT: Based on the old tradition.
- 17 COMSR: Perhaps - look, Miss Simpson is out  
18 there. I don't want to unduly delay the witness. I  
19 take it that there is not much more evidence that the  
20 witness is to give?
- 21 MR SMITH: The witness is quickly explaining the  
22 displays and that is the end of his evidence.
- 23 MR KENNY: We are ten minutes from the end of the  
24 day and the witness will have to come back tomorrow in  
25 any event. I would ask ten minutes' indulgence be given  
26 and instructions may be taken by Miss Simpson from these  
27 women so that the matter may be properly put before you.
- 28 COMSR: I will admit that this is my problem  
29 with this. I suppose a lot of people have gone down in  
30 that area and taken photographs. They may even have  
31 taken photographs from helicopters and aeroplanes. Is  
32 it only these photographs in this Commission that are  
33 objectionable?
- 34 MR ABBOTT: No. I'm not in a position to address  
35 you on it.
- 36 MR PALYGA: Can I point out that when we were down  
37 at the Sir Samuel Way Building, all of these photographs  
38 were shown to the Commission and they are actually in

## P.G. COOPER XN (MR SMITH)

1 evidence already, and I don't recall any objection from  
2 any Aboriginal person at that particular time.  
3 INTERJECTOR: We're not allowed in.  
4 MR PALYGA: I'm concerned that these objections are  
5 now made -  
6 INTERJECTOR: We're not allowed in.  
7 MR KENNY: My understanding is that they were  
8 tendered in the restricted area.  
9 COMSR: When only the press were there?  
10 INTERJECTOR: That's right.  
11 MR KENNY: I don't know if these women know that.  
12 MR SMITH: They were tendered through the witness  
13 of -  
14 INTERJECTOR: Rubbish.  
15 MR SMITH: Through Francis Anderson, who gave  
16 evidence in open hearing and identified a series of  
17 aerial photographs reproduced by her from the Mouth  
18 House.  
19 MR ABBOTT: I apologise. I wasn't present for her  
20 evidence and wasn't aware when I came in.  
21 MR SMITH: Not the press, in open hearing.  
22 COMSR: It is 25 minutes past. Miss Simpson has  
23 no doubt been speaking to one of the ladies outside. I  
24 think it won't hurt if we take a five minute early  
25 adjournment today because the witness, unfortunately,  
26 will have to come back tomorrow, whatever you might have  
27 thought to the contrary. That's the situation now. Are  
28 you in a position to do that?  
29 INTERJECTOR: You can go and look in the dictionary  
30 and see what `respect' means.  
31 COMSR: Then, we perhaps might be able to find  
32 out what is the basis of the objection to these  
33 particular photographs. That's what I'm concerned  
34 about: what is it that attaches to these photographs  
35 that makes it objectionable. We will adjourn then.  
36 ADJOURNED 4.24 P.M. TO FRIDAY, 8 SEPTEMBER 1995 AT 10 A.M.



1 COMSR STEVENS

2

3 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

4

5 FRIDAY, 8 SEPTEMBER 1995

6

7 RESUMING 10.15 A.M.

8

9 MR SMITH: The program for today is my learned  
10 friend, Ms Simpson, will tell you the outcome of her  
11 discussions with the Aboriginal ladies in connection  
12 with these pictures. Peter Cooper will finish his  
13 evidence. There will be evidence from John McHughes and  
14 the journalist, Geoff Easdown. That will be all the  
15 evidence today.

16 MS SIMPSON: I spoke to Val Power outside the hearing  
17 room yesterday and she requested that the photographs of  
18 the Murray Mouth, and in particular also the diagram in  
19 the centre of the first display board, not be displayed  
20 so that it is clearly visible from the body of the  
21 hearing room. She requested that it be turned around  
22 while being discussed, and, in particular, the other two  
23 not be visible during the hearing, as it was offensive  
24 to Aboriginal women.

25 MR ABBOTT: Can I ask whether she can provide any  
26 basis for her claim that it is offensive to Aboriginal  
27 women other than the fact that she asserted it? Again,  
28 we have this problem where the 7.30 Report show an  
29 aerial shot of Hindmarsh Island every time they have a  
30 report on the Hindmarsh Island Bridge Royal Commission.  
31 I think invariably they lead up to that sort of aerial  
32 shot? Can I inquire whether they have been contacted  
33 and told to desist from aerial views of Hindmarsh Island  
34 that show the same thing that we are seeing in coloured  
35 print?

36 COMSR: I don't suppose anyone is in a position  
37 to answer your query. I understand these photographs  
38 are available for purchase by the public.

1 MR SMITH: Indeed, you can buy as many and varied  
2 aerial photographs of this area as you can imagine. I  
3 would suggest that almost every holiday home in the  
4 Goolwa Hindmarsh Island area has one of these on the  
5 wall.

6 COMSR: I suppose that is an assertion on the  
7 same basis as Val Power's assertion.

8 MR ABBOTT: I am just wondering whether the  
9 complaint was directed towards these coloured photos or  
10 that map over there. Is that map to go as well? Are we  
11 not to have a map of the area on the wall?

12 MR KENNY: Perhaps I can speak on that. As I  
13 understand, there has been no complaint about the map.  
14 I also spoke to probably a dozen of the women who were  
15 outside yesterday afternoon. They have asked that we do  
16 show a little respect towards their beliefs. They will  
17 accept that there are people amongst us who do not  
18 accept their beliefs, and they have no difficulty with  
19 that, but they say that their beliefs should be  
20 respected.

21 It wasn't Val Power alone asserting that these  
22 photos were offensive. It was a large group of  
23 Aboriginal women who were saying it was offensive. I  
24 think it is simply a matter of showing some courtesy to  
25 to an Aboriginal request that we do not display these  
26 openly. They are not objecting to them as being -

27 COMSR: As exhibits. They are just asking that  
28 they not be faced out into the public hearing room.

29 MR KENNY: Yes. They weren't in a position to tell  
30 me why. I did inquire what the problem was, but they  
31 made it very clear that they could not and would not  
32 tell me, or anyone else, for that matter, who was  
33 present here, what the difficulty was that they had with  
34 the display. But it was very clear, I think, given the  
35 display we saw yesterday, that they are offended by it.  
36 I think it is only really a minor inconvenience to the  
37 commission. I would ask that the commission perhaps  
38 simply, as it will cause us no inconvenience -

1 COMSR: I do not know that it will cause any  
2 inconvenience.

3 MR ABBOTT: No, it won't. But yet again I regard  
4 yesterday's effort as nothing more than a media stunt by  
5 those ladies, and it is demonstrated by the fact that  
6 they will not even tell Mr Kenny why, or give him any  
7 hint of why, but they assert this is somehow part of  
8 their religious belief.

9 COMSR: There is no evidence before me.

10 MR ABBOTT: They refuse to give any basis.

11 MR KENNY: Perhaps if Mr Abbott is asserting this,  
12 I inquire whether he has instructions from his clients  
13 about these photographs and whether his clients say they  
14 are or are not offensive? Certainly I have instructions  
15 from my clients. I might say they are very clear.

16 COMSR: That is not the basis on which I am  
17 approaching this: to determine whether or not they're  
18 offensive or otherwise. I am simply observing that  
19 these are photographs readily available to the public,  
20 similar to photographs already before me in evidence.

21 MR KENNY: Certainly. The Nazi swastika is readily  
22 available, but that is seen as offensive by Jewish  
23 people. That is the equivalent. It is seen as being  
24 offensive to a group of people, and it is simply a  
25 matter of showing that this commission does have an  
26 interest in the beliefs of Aboriginal people.

27 I do not ask that the commission rules on whether  
28 this request is reasonable or unreasonable, or whether  
29 it is accepted as being the truth of the matter, but  
30 simply out of a matter of caution and respect, I ask  
31 that we turn them around so that they are not visible.

32 COMSR: In the interest of expediting this  
33 particular part of the hearing so that we do not devote  
34 any more time to it, I propose that the board be shown  
35 in that position, which I take it is a position which  
36 does not face into the hearing room, but faces across to  
37 the witness so that the witness is able to give evidence  
38 concerning the matter. That is what is being sought.

1 MR KENNY: Thank you.

2 COMSR: I appreciate, your concerns here Mr  
3 Abbott. Perhaps I should explain I have adopted a  
4 course throughout this inquiry of allowing a latitude to  
5 the expression of opinion and the making of statements  
6 and submissions on arguments by persons who clearly have  
7 got no intention of becoming parties to the inquiry.

8 MR ABBOTT: Nor of assisting this inquiry.

9 COMSR: Which many, including yourself, would  
10 regard as quite permissive in the circumstances. I have  
11 probably done so at the risk of making the inquiry  
12 itself seem compliant.

13 MR ABBOTT: No, you are not seen as being compliant.

14 COMSR: I have been aware of your impatience and  
15 the impatience of other counsel, that I appear to be  
16 showing more regard for the concerns of persons and  
17 groups who are not parties to the commission that  
18 perhaps you consider inappropriate, but notwithstanding,  
19 at the risk of criticism about the course that I have  
20 adopted, I have done so with the objective of trying to  
21 achieve some input from this group.

22 MR ABBOTT: I accept all that. I haven't made the  
23 criticism that you have voiced.

24 COMSR: No, I hadn't said that it has been  
25 overt, but I felt that it might logically be a  
26 criticism.

27 MR ABBOTT: I know my clients feel they have come  
28 along and given their evidence and they are hoping for  
29 an expeditious end to that matter. The activities taken  
30 by Mr Kenny's clients and the Aboriginal ladies for whom  
31 he speaks for but doesn't represent, seem to be totally  
32 directed at the opposite result of this commission never  
33 finishing or not coming to an expeditious hearing.

34 MR KENNY: I object to that.

35 COMSR: Perhaps I should explain. An example of  
36 the attitude I have adopted was permitting the counsel  
37 for the proponent women to make a statement in which she  
38 outlined their objections to participating in the

1 commission. I followed that course so that at least I  
2 have got something before me, so that I can consider the  
3 strength of their objections.

4 But this inquiry actively seeks and would encourage  
5 participation of all relevant persons here. As I say, I  
6 have adopted an attitude of permitting persons who  
7 clearly don't intend to become involved in the inquiry  
8 and don't intend in any way to co-operate, at least to  
9 express an opinion, so that I am able to have some basis  
10 on which to judge the evidence.

## P.G. COOPER XN (MR SMITH)

1 WITNESS P.G. COOPER EXAMINATION BY MR SMITH CONTINUING

2 Q. Before you go back to the first display, the three  
3 displays that we have from your department that you are  
4 going to talk about, they were compiled for what  
5 purpose, broadly.

6 A. There was a number of reasons. One is to give a  
7 presentation to our engineering fraternity and people in  
8 our organisation to have a pictorial representation of a  
9 series of situations at the mouth which led to closure  
10 or near closure, so that we can perhaps understand  
11 better the mechanisms that were done back in the early  
12 days. There was also a senate inquiry into the low flow  
13 in the River Murray, and at least one of these would  
14 have been prepared for that demonstration when we were  
15 visited by the Senate Select Committee on the Murray  
16 Mouth. It had been used in other purposes. People have  
17 asked - some researchers have been interested in the  
18 behaviour of the Murray Mouth lining up with the general  
19 health of the Coorong. So there is multiple reasons and  
20 purposes why we had these displays made. They have been  
21 used, I would say, in certain presentations and lectures  
22 to people mainly from an engineering and scientific  
23 interest, to understand the behaviour of the Murray  
24 Mouth, which is of considerable interest to us.

25 Q. It flows from that then, that these were certainly not  
26 compiled for the purposes of this inquiry, were they.

27 A. No, these are all old. They would be quite a few years  
28 old now, these displays.

29 Q. You started yesterday dealing with the first display  
30 which is the first in time chronologically, isn't it.  
31 It starts with the photograph of 24 April 1945.

32 A. Yes.

33 Q. I am not sure how far we got before the interruption.  
34 Could you take us back to it perhaps and explain that  
35 first display to us.

36 A. I will try to be relatively quick because they are  
37 repeat photographs of the Murray Mouth at different  
38 times for different flow conditions basically. On the

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P.G. COOPER XN (MR SMITH)

1 top left-hand corner of the first display titled 'Murray  
2 Mouth', which includes the red patterned diagram, is an  
3 aerial photograph dated 24 April 1945. It is the first  
4 aerial photograph, I believe, that we could obtain of  
5 the Murray Mouth. After a period of 250 days with no  
6 flow from the barrages, it indicated how the mouth had  
7 narrowed down. So that was our first indication of the  
8 condition of the mouth from an aerial point of view  
9 after a long period of no flow. That is just really a  
10 reference overhead for us, an aerial photograph. The  
11 second photograph in the bottom left-hand corner has a  
12 date of 30 April 1981, and again it is of the Murray  
13 Mouth and it indicates how a massive amount of sand has  
14 been deposited in the mouth of the river and the mouth  
15 is basically blocked. That was the first time in all of  
16 our records that the mouth was completely blocked. In  
17 other words, it didn't get any tidal flow creeping over  
18 it at any time through the day or night. That was after  
19 a period of 196 days of no flow from the lakes into the  
20 Coorong and through the mouth. There is a picture  
21 alongside it on the bottom left-hand corner dated 27  
22 July 1981, and that shows the mouth 10 days after it was  
23 re-opened, as I described yesterday, by mechanical  
24 diggers. It shows it was taken for us to observe the  
25 effectiveness of the flow going out, scouring the sand  
26 in the mouth area and right at the opening. In the  
27 bottom centre are two aerial photographs. The first  
28 one, the left-hand one, is dated 29 October 1981, and  
29 that shows the peak of the 1981 flood passing through  
30 the mouth after it was well opened. It was down in  
31 October and the peak flood flow had passed for that year  
32 down the river. It showed the maximum extent of the  
33 opening. Then again on the right-hand side at the  
34 bottom centre, the photograph of 22 December 1981  
35 indicates, three weeks after the barrages closed, the  
36 condition of the mouth, and, once again, it is only  
37 three weeks but you can see a slight closing, as you  
38 would expect, of the sand gap known as the mouth.

## P.G. COOPER XN (MR SMITH)

1 Adjacent to that photograph to the right of that  
2 photograph at the bottom, is a photograph dated 25  
3 February 1982. That was three months after the barrages  
4 closed. The mouth had relocated 200 metres towards  
5 Goolwa, and again the photo indicates how the mouth had  
6 started to narrow down again because it is in a period  
7 of no flow. On the top right-hand corner is an aerial  
8 picture of 13.5.66, a period again of quite drought  
9 conditions in the Murray Darling catchment. There was  
10 no flow for 181 days. Again, it shows the classical  
11 build up of sand in the Murray Mouth area, of the  
12 Coorong, and the mouth throttle, down to a very small  
13 width. Finally, there is a large aerial photograph on  
14 the bottom right-hand corner which indicates - it is  
15 dated 25 June 1982, and that indicates the condition of  
16 the mouth 207 days after the barrages closed and the  
17 sand continuing to build up inside the mouth which is  
18 narrowing. I think the prime things we can draw from an  
19 illustration like this is, number one, clearly the  
20 Murray Mouth is very very significantly affected by the  
21 river flow, and the mouth definitely will close if the  
22 river was, for argument sake, shut off forever. The  
23 other thing it does indicate is it is a very complex  
24 phenomenon. The length of time that there has been no  
25 flow is not the only indicator of the rate of closure.  
26 It depends on the sea and the storms and all sorts of  
27 other factors, because sometimes it is wider after a  
28 longer period of no flow than others. So that just  
29 indicates how complex the factors are operating on that  
30 mouth.

31 Q. The graphic illustration in the centre of that first  
32 display is what exactly.

33 A. It is titled 'The History of Flow to South Australia,  
34 Barrage Closure and Estimated Spill to the Sea'. It  
35 just complements this to indicate the flow - I will look  
36 at that in detail. I will read that out. The  
37 entitlement flow to South Australia is shown as that  
38 squiggly line running down the middle. That's the



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P.G. COOPER XN (MR SMITH)

1 entitlement that we should have got. The red is the  
2 estimated spill that we should have got out through the  
3 barrage in those times. So it indicates obviously when  
4 there is no spill that's the periods of no flow.

5 Q. We will now go to the second display. What should we  
6 call that.

7 A. This is the second display. It contains totally aerial  
8 photographs of the Murray Mouth. That would be the way  
9 to identify it of the three. That, again, is a series  
10 of conditions of the Murray Mouth under flow and no  
11 flow. Starting on the top left-hand corner, the  
12 photograph of 15 September 1982 showed the Murray Mouth  
13 still open after 288 days of closure of the barrages and  
14 no flow.

15 CONTINUED

16

## P.G. COOPER XN (MR SMITH)

1 The next photograph is taken adjacent to it. In the top  
2 left-hand corner, 16 December 1982, it indicates that  
3 380 days after the barrage was closed, it's over a year,  
4 there was still - in that period, there was still an  
5 open mouth. Just reflects what I said previously: The  
6 length of time is not the only indicator, because it has  
7 got much more throttle down than in under a less period  
8 of no flow at other times. Following on across on the  
9 top centre, the photograph 21 February 1983, 447 days  
10 after the barrage is closed, there was still an opening,  
11 albeit fairly small, and a lot of sand probably blocking  
12 the Coorong, but the mouth was still allowing some tidal  
13 movement in and out. On 2 June 1983, the adjacent  
14 photograph to the right, 548 days after the barrage  
15 closed, there was still an area open to allow tidal  
16 movement. Following on to the top right-hand side, the  
17 next photo. 18 July 1983, the river flow had started.  
18 The barrages had be opened and that is a picture showing  
19 the condition of the mouth 17 days after they were open.  
20 That photo illustrates how the mouth is widened and a  
21 lot of sand has been accreted in the mouth and the  
22 Coorong area had be washed away. Then, finally on the  
23 far right-hand side on the top, 4 August 1983, and  
24 indicates 35 days after the barrage is opened and it's  
25 obvious that the mouth is opening and more sand is being  
26 washed away. Dealing with the run of photographs on the  
27 bottom of the display, on the bottom left-hand corner  
28 dated 17 October 1983, the mouth where the barrages are  
29 being opened for 108 days, it indicates a very healthy  
30 free-flowing mouth with a lot of the sand removed  
31 inside. 15 March 1984 is the next photograph to the  
32 right. That indicates the condition where the lock had  
33 been, lot one flow is 13,000 megalitres. Barrages had  
34 been opened for 258 days and would be termed a very  
35 healthy Murray Mouth, and that shows the extent of the  
36 River Murray water pluming out into the ocean. Again,  
37 the next photograph on the right situated at the centre  
38 bottom of the display, 17 May 1984, the barrages had

1     been opened then for 321 days. Moving on to the right,  
2     the next photograph dated 11 October 1984, and the  
3     barrages had be opened then for 64 days. Again, showing  
4     a healthy Murray Mouth, again, after a brief closure of  
5     the locks and the barrages in that intervening period.  
6     Finally, another condition of the mouth on the bottom  
7     right-hand corner of the display, 6 May 1986, showed the  
8     mouth 185 days after the barrage had closed and, again,  
9     the build-up of sand inside the mouth of the River  
10    Murray is indicated. That completes that.

11   Q. Looking at the last display.

12   A. This is the third display titled 'The Murray Mouth' and  
13   this can be differentiated because it contains three  
14   diagrams that explain the dynamics of the action of the  
15   sea at the Murray Mouth. Starting at the top left-hand  
16   corner is a black and white aerial photograph of the  
17   Murray Mouth taken on 14 September 1956, which was when  
18   the great River Murray flood, largest ever recorded by  
19   man, occurred down the River Murray. All of the  
20   barrages were open at that date. The flow was 326,000  
21   megalitres, which is by far the largest flow in that  
22   order that we have ever recorded. It just indicates the  
23   condition of the mouth and the Coorong at the peak of  
24   the largest recorded flow. Moving across the diagram,  
25   there's a large aerial photograph taken on 26 February  
26   1988 and that indicates the mouth 144 days after the  
27   barrages had closed, and again the classical build-up of  
28   sand starting to occur inside the mouth. Moving to the  
29   top right-hand side, an adjacent large aerial photograph  
30   dated 12 May 1988, indicates the mouth in that same year  
31   220 days after the barrages closed, and again that  
32   almost classical build-up of sand inside the mouth and  
33   the protrusion of spits, sand spits, running back from  
34   the mouth into the Coorong. On the far right-hand side  
35   is a black and white aerial photograph of 2 December  
36   1978, and that indicates the date last closed was  
37   5.7.78. That would have been a flood flow coming  
38   through then, not of large proportions, and again it

P.G. COOPER XN (MR SMITH)  
XXN (MR MEYER)

1 indicates the shape and opening in the freedom of the  
2 mouth. On the bottom line, starting at the bottom  
3 left-hand corner, there is a photograph of a mechanical  
4 digger opening the Murray Mouth with mechanical  
5 machinery in July 1981, as I described to the court  
6 yesterday, and that was to rid the mouth of enough sand  
7 so that we could get a sustained flow of the fresh water  
8 from the Coorong and the lakes to run through the mouth  
9 and cut its own path to the sea. If we didn't do that,  
10 we would have had major flooding of properties, homes,  
11 people, et cetera. The bottom three diagrams in this  
12 display with figures 1, 2 and 3, depict some of the  
13 mechanisms by which sand is picked up by the sea and by  
14 wave action and either taken into the mouth or taken  
15 back out to sea. I don't think I need to describe them  
16 in any more detail than that. That is just to indicate  
17 how a beach can lose sand under certain sea conditions  
18 and gain sand from offshore under other conditions, and  
19 also how that sand can be taken in and dumped into the  
20 inside of the mouth. And this is classical for any sort  
21 of estuarine opening anywhere around a coastline around  
22 the world. The far right hand bottom side of the third  
23 display indicates, again, a picture of opening the  
24 Murray Mouth with a machine trying to scour a channel to  
25 the sea.

26 EXHIBIT 91 Copies of displays marked one, two and  
27 three tendered by Mr Smith. Admitted.

28 CROSS-EXAMINATION BY MR MEYER

29 Q. I'm referring to Exhibit no.82. Do you have a copy of  
30 that exhibit; that is the one that looks like that.

31 A. Yes, I have.

32 Q. I understand that for the purposes of constructing the  
33 Mundoo barrage a cofferdam was constructed.

34 A. That's correct.

35 Q. Was it necessary for wooden pilings to be driven into  
36 the river for the purposes of constructing that  
37 cofferdam.

38 A. I wouldn't be exactly sure what they did drive in. We

1 have pictures in the tendered evidence on the albums  
2 that indicate that in detail. I'm not sure whether they  
3 are timber piles or steel sheet piles.

4 Q. One or the other, some sort of piles.

5 A. There would be something as a cofferdam, yes.

6 Q. For the purpose of a cofferdam.

7 A. Yes.

8 Q. With timber or with sheet piles, is it necessary that  
9 they are continuous.

10 A. If you are using it to hold water out, yes. Let me go  
11 back and correct my statement. Before, I said that I'd  
12 confirmed there were timber or steel sheet piles put in.  
13 I would like to study those albums. It may have been a  
14 plain bank on that cofferdam, and I would like to study  
15 those before I gave that answer. It's clearly sheet  
16 piles at Goolwa because they had to be driven into the  
17 alluvial material and they had to hold up a large  
18 pressure of water. On the Mundoo channel, that was much  
19 shallower and it was sited on the calcareous limestone  
20 reef. They may not have driven material in, they may  
21 have built a bank on top of the calcareous reef. I'd  
22 like to check that. That is not indicated on the design  
23 drawings, that's part of their constructions technique.

24 Q. We will come back to that in a minute. If you look at  
25 the page of the exhibit which is the Mundoo barrage  
26 section through sluices, see the words '(218-3)'. Have  
27 you that page.

28 A. Yes.

29 Q. There's shown as being beneath the barrage, a pier 6  
30 feet deep and 2 foot 6 wide.

31 A. That's correct.

32 Q. Can you say what that material, that pier, is  
33 constructed of.

34 A. That would be constructed of reinforced concrete.

35 Q. Would there be a continuous trench and then, in fact, a  
36 beam poured rather than a pier as such.

37 A. That is correct.

38 Q. Continuously across.

1 A. That is correct.

2 Q. The albums have been brought in. Do you know what page  
3 or section of the album you need to look at to answer my  
4 question about the cofferdams.

5 A. I would have to look through it.

6 Q. We will come back to that in the end. Does the E & WS  
7 have any records which would indicate any Aboriginal  
8 employment in relation to the construction of the  
9 barrages.

10 A. I couldn't answer that. I know of no records, but  
11 that's not to say there wouldn't be records. That is a  
12 long period of time ago, so I would be very doubtful  
13 whether we would have retained employment records of  
14 that period.

15 Q. I understand that there has been some work to upgrade  
16 the barrages in the last year or two; is that right.

17 A. Not in a major way. We are not changing the intent of  
18 the barrages, or anything like that. We are constantly  
19 replacing materials that might be failing due to the sea  
20 or due to age and replacing with a similar structure or  
21 device. For argument sake, the bridge sections, if you  
22 like, that run over the top of Mundoo, Boundary Creek,  
23 Ewe Island and Tauwitchere, we've been progressively  
24 replacing the original timber with now prestressed  
25 concrete and now replacing some of those. Similarly,  
26 the stop logs were all timber and now have all been  
27 replaced over time with prestressed concrete.

28 Q. They are the ones that go down the slots in the barrage.

29 A. That's correct. We are always undertaking an on-going  
30 replacement. However, we haven't made major structural  
31 alterations to those, any of those structures.

32 Q. In the maintenance work that you do, is there any need  
33 to do any form of piling work on the barrages.

34 A. Not to my knowledge that we have had to drive piles in  
35 recent years.

36 Q. Apart from the barrage at Goolwa, are the other barrages  
37 constructed on what I understand to be called calcite  
38 reefs.

- 1 A. Yes, the 46 of them, yes.
- 2 Q. That is calcite, C-A-L-C-I-T-E.
- 3 A. Calcareous or calcite. Limestone reef.
- 4 Q. We can use the words `limestone', it means all the same.
- 5 A. Yes.
- 6 Q. Do they form almost a natural barrage there themselves.
- 7 A. They would have been natural in those areas, yes, when
- 8 the barrages weren't build. There would have been tide
- 9 movement going back over those openings and river flows
- 10 when the river was flowing running through those areas.
- 11 Q. When the river is low, would they have the effect of
- 12 blocking off the flow of the river.
- 13 A. Well, the sea would come back over them at all times, so
- 14 there was an interconnection between the lake and the
- 15 Coorong via those calcareous areas and the normal tidal
- 16 water would run back over those. So, they would never
- 17 be dry unless there was a freak situation of wind.
- 18 Q. If the river flow was very low, the tidal flow would
- 19 just make up for the levels.
- 20 A. Yes, go back over, that's correct.
- 21 Q. In all times, in essence, there would be one or the
- 22 other in and around those areas.
- 23 A. That's correct.
- 24 Q. Is the barrage at Goolwa opened and closed, at times
- 25 when it is not closed permanently, on a regular or daily
- 26 basis.
- 27 A. It depends on the flow condition. If there's an
- 28 increasing flow coming, you might make adjustments to
- 29 your stop logs on a reasonable basis, but it's not the
- 30 sort of thing you need to be replacing.
- 31 Q. Or adjusting regularly. Are you adjusting logs daily or
- 32 taking logs out daily.
- 33 A. You might do it at certain times for certain particular
- 34 conditions that you want to do downstream for testing,
- 35 or whatever, but the flow doesn't change rapidly with
- 36 the big lake behind it so that you have got to be
- 37 pulling stop logs rapidly. When we do have to pull stop
- 38 logs rapidly is when we have the barrages open to some

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P.G. COOPER XXN (MR MEYER)

1 degree letting water out and there is a major storm is  
2 anticipated or arrives and drives sea water, can drive  
3 sea water under and up and through the barrages and then  
4 starts mixing with the fresh water area, which is  
5 undesirable, obviously. There are times when we have to  
6 hastily get stop locks back.

7 Q. That is to block it from the other direction.

8 A. That's correct.

9 CONTINUED



- 1 Q. There is a lock in the Goolwa barrage.  
2 A. That's correct.  
3 Q. That opens and closes, whenever boats are going through.  
4 A. That's correct.  
5 Q. But it has, as I understand it, hours of operation. It  
6 doesn't operate 24 hours a day.  
7 A. That's correct, yes.  
8 Q. At the times when it is not operating, is it in a closed  
9 condition.  
10 A. It is always in a closed condition in the sense that  
11 there is two gates, one at each end. And obviously, if  
12 they were both open, you would just lose the lake  
13 through them, so there is always one gate shut and one  
14 open. Sometimes you can have both shut, if you like,  
15 but generally it has one open and one shut, depending on  
16 whether the traffic is approaching from upstream or  
17 downstream.  
18 Q. And, generally speaking, the higher level would be on  
19 the river side.  
20 A. Yes.  
21 Q. So, when boats are let through, there would be a flow  
22 from the river side to the sea side.  
23 A. That's correct.  
24 Q. But, at other times, there would be no flow at all.  
25 A. There would be - there is a few times when the tide  
26 would equal the level in the river and there would be no  
27 flow.  
28 Q. What do you do, if the sea water is higher than the  
29 river water. Do you just not let the boats through.  
30 A. No, you can do it the same. But, I mean, generally when  
31 the sea is higher than the river, no-one would want to  
32 be going down there in a boat, because you have got a  
33 king storm and violent winds.  
34 Q. Common sense keeps you out, then.  
35 A. Well, it is not a very nice place to be trying to  
36 navigate.  
37 Q. I assume that the limestone reefs, etc., that the  
38 barrages are built on, are pretty solid.

1 A. Yes, they are relatively firm.

2 Q. If you were going to dig into them, for the purposes of  
3 the beams beneath the barrage, you would need mechanical  
4 means to do that.

5 A. You would have some sort of digging device, yes.

6 Q. In the exhibits that you have tendered, have we got any  
7 information about how deep the river was, at the point  
8 of the Goolwa barrage, before the barrage was built and,  
9 if we haven't got any information in what is already  
10 tendered, are you able to tell us.

11 A. I can't tell you, but, I mean, we would have to search  
12 our records, to see if we could locate plans of the  
13 sections of the Goolwa channel before construction. The  
14 diagrams we have tendered are only a brief diagrammatic  
15 illustration. They are not the construction working  
16 drawings and I am not even sure if we would still have  
17 in our possession all of those detailed construction  
18 working drawings, but we would have to search for those,  
19 to see if they also contain the natural bed survey that  
20 would obviously have been done, at the time, bearing in  
21 mind that we are talking about 1934.

22 Q. But that sort of information would have been available  
23 prior to them starting to build the barrage, wouldn't it.

24 A. That's correct.

25 MR MEYER: It may be convenient if I find the  
26 relevant pictures in the albums and then ask the  
27 questions in relation to the cofferdams.

28 COMSR: Has counsel determined the order?

29 MR ABBOTT: In my submission, Mr Kenny should go  
30 next. The rule is that those who have the greater  
31 interest in opposing the evidence of the witness go  
32 first. I wish to support the evidence of this witness  
33 and I submit I should follow Mr Kenny.

34 COMSR: Mr Kenny, does that cause you any  
35 problem?

36 MR KENNY: No, it doesn't. I am happy to have Mr  
37 Abbott concede that I have a greater interest in this  
38 than he does.

1 CROSS-EXAMINATION BY MR KENNY

2 Q. How long have you been employed by the South Australian  
3 Water Corporation and its predecessor.

4 A. Since January 1954.

5 Q. The building of the barrages was quite clearly a major  
6 public work, wasn't it.

7 A. Yes.

8 Q. Assuming that it hadn't been done previously and the  
9 South Australian Water Corporation decided they wanted  
10 to do it now, would you consult Aboriginal people, at  
11 all, in your preliminary investigations.

12 A. That is not in my expertise. I am not in the planning,  
13 investigating area. However, we would have to comply  
14 with all of the conditions of an EIS, which includes the  
15 examination of any sites for archaeological purposes,  
16 etc., which is the appropriate methods that we use now.  
17 So, I guess, in that sense, there may be discussions  
18 with any interested party on the land that we were  
19 proposing to build new structures on. We are currently  
20 doing that, taking archaeological investigations into the  
21 proposed sites for a number of water filtration plants  
22 that we are proposing to build around - in and around  
23 the River Murray.

24 Q. At this stage, is it fair to say that you are aware that  
25 the South Australian Water Corporation is now consulting  
26 Aboriginal people in relation to its planned  
27 developments, is that correct.

28 A. All I am aware of is that we have to undertake  
29 Environmental Impact Studies and the other appropriate  
30 planning and investigation studies, which includes  
31 archaeological investigations. I can't say any more than  
32 that, because it is not in an area that comes under my  
33 control. So, I am not exactly - I couldn't say yes or  
34 no, who is specifically spoken to and who isn't.

35 Q. Do you know if any Aboriginal people are being spoken to  
36 in relation to those proposed developments along the  
37 Murray.

38 A. I can't answer that question.

## P.G. COOPER XXN (MR KENNY)

- 1 Q. Are you aware of the Aboriginal Heritage Act.  
2 A. I am aware of the Act, but I am not aware of the details  
3 of that Act.  
4 Q. But is it fair to say that you now are generally aware  
5 that, if there is a planned development by the  
6 Corporation, that they would consult Aboriginal people.  
7 A. I am certainly aware that we would undertake all the  
8 necessary investigations and consultation that we need  
9 to take, according to all of the Acts that refer to us,  
10 to build or create any structures on land.  
11 COMSR  
12 Q. Is your area of control the engineering side of things.  
13 A. I am the General Manager of Head Works and Country,  
14 which entails the management of all the existing  
15 operations over a wide area. I am not in charge of the  
16 investigation, design and planning of new works.  
17 XXN  
18 Q. Have you ever heard of the South Australian Water  
19 Corporation consulting with Aboriginal groups, or any  
20 Aboriginal party, at all, in relation to any  
21 development.  
22 A. Yes, I have.  
23 Q. It is something that is done.  
24 A. Yes, we are currently doing it at Lake Victoria and in  
25 New South Wales, which comes under the control - is  
26 dedicated to us by the Murray Darling Basin Commission  
27 to operate, maintain and construct and we are part of  
28 significant discussions with the Aboriginal community in  
29 New South Wales regarding the Aboriginal burial sites  
30 that have been discovered in Lake Victoria. That is an  
31 example.  
32 Q. You have been with the Water Corporation and its  
33 predecessor for many years, can you tell us when was the  
34 first occasion you ever heard of the South Australian  
35 Water Corporation consulting with Aboriginal people.  
36 A. I find it difficult to answer, because those  
37 consultations would have occurred, without my knowledge,  
38 so -

- 1 Q. Within the last five years. You have certainly been  
2 quite a senior member of that organisation, for many  
3 years.
- 4 A. That's correct.
- 5 Q. When was the first time you ever heard any suggestions  
6 that the Corporation should consult with Aboriginal  
7 people.
- 8 A. We have been -
- 9 Q. I am not asking for a specific date. I am saying five  
10 years ago, ten, twenty.
- 11 A. That is a difficult question to answer of my knowledge  
12 of it, but I would say I have been aware that we have  
13 been undertaking archaeological investigations and other  
14 such investigations over the last five years now, but  
15 I'm not sure whether that included specifically talking  
16 to Aboriginal people, or how that investigation was  
17 undertaken. So, specifically speaking to Aboriginal  
18 people, my knowledge would be principally the Lake  
19 Victoria exercise.
- 20 Q. So, really, it has only been, as far as you are aware,  
21 or as far as you can say, a development in the last five  
22 or so years.
- 23 A. That would be correct.
- 24 Q. Certainly in, say, 1960, for example, you wouldn't have  
25 thought, or no-one -
- 26 QUESTION WITHDRAWN
- 27 COMSR: You have asked this witnesses when he  
28 heard about it. He has already explained that it is not  
29 really something under his control.
- 30 MR KENNY: No, I appreciate it, then. But I now  
31 wish to ask a slightly different question.
- 32 COMSR: As long as the witness appreciates that.  
33 XXN
- 34 Q. In 1960, can you remember what your position was, then.
- 35 A. In 1960 I was in my last year of study for my Bachelor  
36 in Technology and Civil Engineering.
- 37 Q. Certainly in those areas there would have been no  
38 suggestion, at university or within the organisation

1 that you worked for, that in planning developments you  
2 should consult with Aboriginal people.

3 A. I can't remember any instructions to that effect, in  
4 1960.

5 Q. There was simply no consideration given to that point,  
6 would that be a fair thing to say.

7 A. That would be a fair thing to say.

8 Q. I take it the situation is that the South Australian  
9 Water Corporation would comply with any legislative  
10 requirement in planning new developments, is that  
11 correct.

12 A. That's correct.

13 Q. You have provided us with a copy of the report of the  
14 Parliamentary Standing Committee on Public Works. It  
15 has been tendered as Exhibit 79. And this is the report  
16 that, as it were, carried out an inquiry and I presume  
17 it was the only major inquiry carried out before the  
18 decision to build the barrages was made.

19 A. No, it wasn't the only inquiry. If you read in the  
20 report, it indicates that the River Murray Commission  
21 undertook an inquiry. In fact, this Public Works  
22 Standing Committee was meeting to consider the problem  
23 of salinity and other problems in the Lower Murray and  
24 it went into recession, whilst the River Murray  
25 Commission and initially the South Australian Government  
26 undertook an investigation of its own. And then the  
27 River Murray Commission carried out an investigation and  
28 then this Parliamentary Standing Committee reconvened  
29 and heard that, took evidence on the River Murray  
30 Commission's findings and evidence from further people  
31 and then finally made their recommendations.

32 Q. This is very clearly the major report of all of those  
33 reports.

34 A. Yes, that's correct.

35 Q. And it is the one that has considered all the previous  
36 reports.

37 A. That's correct.

38 Q. You have read that report, I presume.

1 A. Yes, I have.

2 Q. It would appear, from my reading of it, that, although  
3 it is perhaps impossible to say, with initials and  
4 things being given in relation to some of the names of  
5 the witnesses, but I presume, in those days, the  
6 engineer for irrigation and the clerk of the District  
7 Council of Meningie were more likely to be men. It  
8 appears, from this report, that no women were consulted.

9 A. I can't comment on that, that is supposition.

10 COMSR: You mean, consulted - this refers to  
11 witnesses. Are you putting to Mr Cooper -

12 MR KENNY: I have asked the witness if he has read  
13 the report and I am simply asking him on his reading did  
14 there appear to be any evidence or any mention of any  
15 woman giving any evidence to this committee.

16 A. I didn't pick that up, from reading it.

17 XXN

18 Q. I certainly didn't, either, and I suggest we can assume  
19 that, given the year, it would probably be unlikely that  
20 any women were consulted, given nature of the works and  
21 the social order, in those days. Would that be a  
22 reasonable assumption, in your opinion.

23 A. That would be a reasonable assumption.

24 Q. Certainly, within that report, there is no suggestion  
25 that there was any consideration of any Aboriginal  
26 interest concerning the building of the barrages.

27 A. I agree, I didn't pick up any mention in here about  
28 consultation with Aboriginal people.

29 Q. From the evidence you have presented to us and the  
30 efforts that you have gone to to observe the Murray  
31 Mouth opening, it is obvious it is very important to  
32 you, from perhaps your professional responsibilities,  
33 that the Mouth of the Murray be kept open.

34 A. That's correct.

35 Q. I take it the reason for that is, essentially, so that  
36 there is a continual flow of water out of the Mouth in  
37 periods of perhaps storms or - no, sorry, heavy flows  
38 coming down the Murray.

1 A. That's correct. I mean -

2 Q. To avoid flooding.

3 A. That's correct.

4 Q. Prior to European settlement, is there any suggestion or  
5 any evidence that suggests that the Mouth of the Murray  
6 might have actually been closed, at any time.

7 A. We know of no evidence that the Mouth may have been  
8 closed, but that is a very difficult question to answer.

9 I mean, there has been comments that the Mouth was  
10 nearly closed or closed way, way back in the past, but  
11 we have no firm evidence that the Mouth was closed. I  
12 would add here that our interpretation of `closed' means  
13 that the sea has total lack of access to the Coorong.

14 That is different. A lot of people have said `I went  
15 down to the Mouth and it was closed', and they walked  
16 across it and it might have been ankle-deep water, or it  
17 might have been dry. Just when the tide was at full,  
18 there was still enough water moving across at high tide.

19 That is not a closed Mouth. The only clear evidence we  
20 can find is the 1981 situation.

21 Q. But over, say, the last thousand years, given that it is  
22 sand along there, the Mouth could have been closed on a  
23 number of occasions. Would that be - that wouldn't be -

24 CONTINUED



## P.G. COOPER XXN (MR KENNY)

- 1 COMSR: Is this within this witness's area of  
2 expertise? The historical -
- 3 MR KENNY: I don't know. He is the one giving  
4 evidence on the opening and closing of the mouth.
- 5 WITNESS: I am not a geologist, and I can't answer  
6 that question.
- 7 COMSR: He has given evidence as to what has  
8 occurred within the period of recorded time, but I think  
9 you are asking him now pre-records.
- 10 MR KENNY: Certainly. I will get onto the point I  
11 really want to make.
- 12 XXN
- 13 Q. You would concede that it is possible in the last  
14 thousand years it may have been closed, and I mean prior  
15 to the building of the barrages.
- 16 A. It may have.
- 17 Q. And the most likely time that that would occur, I would  
18 suggest, would be in severe drought conditions, for  
19 example, with very poor river flows.
- 20 A. It would be - that would be the set of conditions that  
21 would make it most likely to close.
- 22 Q. But it would need to be fairly severe and prolonged  
23 drought, for example, to do that.
- 24 A. That's correct.
- 25 Q. If that actually occurred, it no doubt would have quite  
26 detrimental effects to the food chain, food supply  
27 within the area and within the lakes itself. Would that  
28 be a reasonable thing to say.
- 29 A. That's a difficult question to answer. You would need  
30 an expert to comment on that, but I would proffer the  
31 opinion that, as long as the closure was not of a long  
32 period, there wouldn't be long term detrimental effects  
33 on the food chain.
- 34 Q. But there could be short term. We are talking six  
35 months to a year. That wouldn't be unreasonable, would  
36 it.
- 37 A. No.

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P.G. COOPER XXN (MR KENNY)  
(MR ABBOTT)

1 Q. Probably, if that occurred, there may have been a  
2 considerable build-up of salt water within the lake  
3 system prior to the closure if there was minimal flow  
4 coming down the river.

5 A. That would be correct.

6 Q. That would certainly be sufficient to make the water in  
7 the lakes undrinkable.

8 A. Could be brackish or undrinkable certainly.

9 CROSS-EXAMINATION BY MR ABBOTT

10 Q. Just on that point, the great drought of 1901 to 1902,  
11 what happened to the mouth, if you are aware of it, at  
12 that time.

13 A. I'm not aware specifically as to what happened at that  
14 time. We have records of the movement of the mouth, but  
15 whether we had a specific details of what happened in  
16 1901, 1902 - as far as we are concerned our records  
17 indicated - our knowledge indicated that it didn't close  
18 at that time.

19 Q. On the point of what does close the mouth and the mouth  
20 itself, I think a study has been done at the behest of  
21 your department by Consulting Engineers, John Botting  
22 and Associates.

23 A. That's correct.

24 Q. That was done in December 1990.

25 A. That's correct.

26 Q. They produced a paper called 'The Effect of River Flows  
27 on Migration of the Murray Mouth'.

28 A. That's correct.

29 Q. Do you have a copy of that report.

30 A. I do.

31 MR ABBOTT: I am going to apply to tender this  
32 report. I just want to pick out some salient points in  
33 it, so we can easily refer to it.

34 XXN

35 Q. This was a report designed to ascertain what were the  
36 factors that were primarily responsible for the movement  
37 in the Murray Mouth that we can see.

## P.G. COOPER XXN (MR ABBOTT)

1 MR KENNY: Perhaps Mr Abbott could establish this  
2 witness's knowledge and position on this report. It may  
3 be he was involved in setting it up, but at this stage  
4 it appears to be a third party's report that he is  
5 attempting to tender through this witness. It may be  
6 that this witness was instrumental in setting up the  
7 requirements and requesting the people to report to him.  
8 He may have some expertise in that area, but I would ask  
9 that Mr Abbott clarify the witness's knowledge in this  
10 matter.

11 MR ABBOTT: I am happy to ask more questions.  
12 XXN

13 Q. This is a genuine report commissioned by your  
14 department.

15 A. It was commissioned by our department. We had a  
16 committee that was established to investigate the  
17 Coorong and the Murray Mouth. It was called the Coorong  
18 and the Murray Mouth Working Group. I was not a member  
19 of that. I was, in the earlier days, when it was called  
20 the Murray Mouth Working Party. The committee engaged  
21 this particular consulting firm to create or present  
22 three reports on various aspects of the behaviour of the  
23 Coorong, as it is our responsibility to try and get a  
24 better understanding of the mechanics and performance of  
25 the mouth and the behaviour of the Coorong from a  
26 salinity and ecological point of view.

27 Q. In particular, the interaction of the barrages and the  
28 effect they may or may not have on the movement of the  
29 Murray Mouth.

30 A. That is correct.

31 Q. You have the report in your hands.

32 A. I do.

33 Q. That's an official record of your department.

34 A. It is an official report of the E&WS, yes.

35 MR ABBOTT: On that basis I apply to tender it.

36 COMSR: I suppose I can receive it in evidence,  
37 but it is not this witness's document, so it may have  
38 limited -

## P.G. COOPER XXN (MR ABBOTT)

- 1 MR ABBOTT: No, it is not this witness's document.  
2 I ask that it be given an exhibit number and I will ask  
3 some questions about it.  
4 EXHIBIT 92 Coorong and Murray Mouth Working Group  
5 report dated December 1990 tendered by?  
6 Mr Abbott. Admitted.  
7 XXN  
8 Q. Part of the work done was to take all of the aerial  
9 photographs that the department had, reduce them all to  
10 a similar scale, and then to plot the position of the  
11 Murray Mouth and compare it over the years, and that is  
12 set out in this report, is it not.  
13 A. That's correct.  
14 Q. Pp.17 and 18.  
15 A. That's correct.  
16 Q. Could you hand over a copy of the report to her Honour  
17 so she can see it and I will approach you with my copy.  
18 At pp.17 and 18 we see a diagrammatic representation of  
19 the movement of the Murray Mouth.  
20 A. That's correct.  
21 Q. That runs from 1945 through to 1990.  
22 A. That's correct.  
23 Q. I think the authors conclude on p.45 'The position of  
24 the Murray Mouth has varied over some 1,200 metres in  
25 the last 50 years. During the last 18 years there has  
26 been a considerable net north-westerly movement of  
27 approximately 1,100 metres'. Do you see that.  
28 A. I do.  
29 Q. That accords with your observations of the photographs  
30 as well.  
31 A. That's correct.  
32 Q. In that section, which is the summary and conclusion  
33 section, the authors identify what they have described  
34 as littoral drift as the most common explanation.  
35 A. That's correct.  
36 Q. That's a conclusion you agree with, is it.  
37 A. That's a recommendation that the E&WS has accepted.

## P.G. COOPER XXN (MR ABBOTT)

1 Q. So it appears from the work undertaken so far, the  
2 reason why the Murray Mouth moves is that the waves  
3 approach the coast at an angle and they deposit  
4 sediment, as it were, on one side of the mouth and take  
5 it away from the other side of the mouth, thereby  
6 causing a movement of the mouth in any particular area.  
7 If there is a prevailing angle, that is, an angle at  
8 which the waves approach more often than not, that  
9 results in a progression to that area.

10 A. That's correct.

11 Q. There is also an article, that I don't know whether you  
12 are aware of, by an employee of Botting and Associates,  
13 who prepared this report in the South Australian  
14 Geographical Journal of 1990. Have you seen that  
15 article.

16 A. Yes, I have.

17 Q. That is by David Walker entitled 'The Role of River  
18 Flows and the Behaviour of the Murray Mouth'. Do you  
19 know Mr Walker.

20 A. No, I don't know him personally.

21 Q. One of the works referred to by Mr Walker in his paper  
22 is a report in 1917 by Mr Johnson, entitled 'Report on  
23 the Harbour for the River Murray Valley and  
24 Parliamentary Papers'. Are you aware of that report.

25 A. No, I'm not.

26 Q. The drift of the Murray Mouth has, from time to time,  
27 been accompanied by silting up of the Murray Mouth,  
28 whether you call it closure or not, but a degree of  
29 silting up, so that, as you have said, from time to time  
30 you can walk over the Murray Mouth.

31 A. That's correct.

32 Q. That obviously has occurred, in essence from time  
33 immemorial, has it not. You would expect that to be a  
34 natural pattern based on this research.

35 A. It may have occurred, as I have mentioned to previous  
36 counsel, but we believe that the amount of water being  
37 used out of the River Murray has made that condition  
38 much more frequent than it would have been in the past

## P.G. COOPER XXN (MR ABBOTT)

1 when it was a natural river with no massive utilisation  
2 of water for irrigation and other purposes the length of  
3 the river. But certainly if there was a long period of  
4 drought flow, as you would assume there would be back in  
5 the past, there would be periods when that would get  
6 close to closing.

7 Q. That would have the effect of what we see on one of  
8 these charts, Exhibit 91, in particularly chart number  
9 1. Looking at Exhibit 91, this photograph here on chart  
10 number 1, dated 30 April 1981, appears to show a silting  
11 up of the Murray Mouth and what's referred to in that  
12 report as Bird Island.

13 A. That's correct.

14 Q. So that the whole lot becomes one mass.

15 A. That's correct.

16 Q. At that stage, is Hindmarsh Island effectively joined to  
17 Bird Island.

18 A. It's difficult to say from that photograph, because  
19 there is - there did remain little very shallow pieces  
20 of water across there. You couldn't tell from that  
21 aerial photograph whether that was connected or not.  
22 Certainly the mouth has closed over in that photo right  
23 down at the actual sand hills.

24 Q. But it looks as though you can walk across from the  
25 mouth over to Hindmarsh Island.

26 A. Yes.

27 Q. Can I ask you a couple of questions about the building  
28 of the barrages. The barrages are in fact bridges in  
29 the sense that you can go across them, aren't they.

30 A. They are, except the Goolwa barrage is not - it is just  
31 not designed for pneumatic tyre access. It would be  
32 rare if ever we tried to take a vehicle other than a  
33 crane across that barrage.

34 Q. The other barrages were constructed in a way that  
35 enabled them to be utilised as bridges, that is, for  
36 cars and other forms of transport to move across the top  
37 of them.

38 A. That's correct.

## P.G. COOPER XXN (MR ABBOTT)

1 Q. As an engineer, do you accept that the construction of  
2 the barrages caused far more disruption to the bed of  
3 the River Murray than building a bridge would, that is,  
4 a bridge on pylons or whatever.

5 A. That is difficult to answer. It depends on the sort of  
6 bridge.

7 Q. Let us take the Goolwa barrage, for example.

8 A. Certainly the Goolwa barrage -

9 COMSR: Perhaps before that question is  
10 answered. I am not really concerned in this inquiry  
11 with the question of whether or not bridges should be  
12 built.

13 MR ABBOTT: No, nor am I concerned with whether a  
14 bridge should be built. I am just asking so we get some  
15 idea of the degree of disruption in a context, if the  
16 witness can help us. That's all.

17 XXN

18 A. Certainly the Goolwa barrage, requiring 4,700 plus piles  
19 to be driven in the bed and a floor to be constructed  
20 right across the total bed of the river, requiring  
21 cofferdams to be driven to work in the dry, all that  
22 sort of exercise, would be a greater effect on the bed  
23 of the river than a bridge that consisted of a series of  
24 piles and a small number of piles supporting an overhead  
25 structure.

26 Q. Looking at Exhibit 82, which is the sectional views of  
27 the barrages. The second one in my bundle is entitled  
28 'Goolwa Barrage Section Through Sluices'.

29 A. That's correct.

30 Q. The third one is 'Goolwa Barrage Section Through  
31 Navigable Pass'. There doesn't appear to be much  
32 difference in relation to the section through navigable  
33 pass, except the concrete slab is much thicker because  
34 there's not a large concrete edifice on top of it, and  
35 there is two extra piles, one on each side of the Larsen  
36 steel sheet piling, that have been driven in to create  
37 greater stability.

38 A. Yes.

## P.G. COOPER XXN (MR ABBOTT)

- 1 Q. Can I take it from that, that the navigable pass was  
2 potentially more unstable, in engineering terms, than  
3 the section through the sluices, and, for that reason,  
4 required additional reinforcing into the river bed by  
5 means of those two extra piles and additional  
6 reinforcing by means of a much thicker concrete slab.
- 7 A. Yes. That largely would be the correct statement. The  
8 navigable pass has to be collapsible, so that they  
9 haven't got the 12 foot gaps between the piers. It is  
10 replaced by a steel structure that has to hold up the  
11 river in its own right. So there would be just a  
12 greater pressure in that area. So the designer would  
13 have thickened the slab up. It is just purely an  
14 engineering design and low distribution problem, and  
15 probably put a couple of extra piles in to take that  
16 extra load at that spot.
- 17 Q. Just going back to the section through the sluices, the  
18 effect of the Larsen steel sheet piling, combined with  
19 the 35 to 40 foot long wooden piles, the concrete slab,  
20 and the structure of the barrage, the concrete piers on  
21 top, is designed so that the whole lot acts as one  
22 whole, isn't it.
- 23 A. That's correct.
- 24 Q. So what you have got there is, in effect, like an  
25 inverted funnel, as it were. So that the whole area  
26 surrounded by the piles and the structure of the barrage  
27 itself, if it moves at all, moves as one.
- 28 A. That's correct.
- 29 Q. The sort of engineering effect is as per my dotted line  
30 on my drawing I show you, is it not.
- 31 A. That would be correct. The piles are absolutely an  
32 integral part of the structure because they transmit the  
33 load from the hydraulic loads on the structure down into  
34 the soil. So they are a totally contiguous structure,  
35 and they also are there to stop the barrage from just  
36 being pushed, sliding straight downstream.
- 37 CONTINUED



## P.G. COOPER XXN (MR ABBOTT)

1 Q. I wonder if you could put a dotted line around the  
2 exhibit as to what represents, as it were, the total  
3 mass of the edifice that we see.

4 COMSR: The witness doesn't have the exhibit, I  
5 have it here.

6 MR ABBOTT: He is working from a copy. I would like  
7 him to mark it on the original for you also.

8 WITNESS MARKS EXHIBIT AND COPY

9 Q. As to the effect of the barrage, are you aware that the  
10 effect of the barrage, so far as the area around  
11 Hindmarsh Island is concerned, that is upstream of the  
12 barrages, was to immediately increase the water height.

13 A. Yes.

14 Q. It resulted in large areas of land which were formally  
15 dry or, at worse, marshy, becoming permanently  
16 waterlogged and covered with water.

17 A. That's correct.

18 Q. And the effect of that can be seen even today, I think,  
19 because there are large areas of buried and dead tea  
20 tree that are the sequelae of the construction of the  
21 barrages in 1940.

22 A. I will say that the level that we control the lake level  
23 at is well below high flood levels, and there would have  
24 been times that that land would have been inundated  
25 during the flood period. By constructing the barrages,  
26 we have taken the level variation out of the water in  
27 the lakes in the lower river and replaced it with  
28 something of a fixed level rather than a fluctuating  
29 level that would have occurred under the more natural  
30 conditions.

31 Q. I accept that, but the effect of the fixed level is, by  
32 and large - and we are talking about a variation that  
33 now exists of about a foot or so - the effect of the  
34 fixed level is to have been to change the shape of the  
35 island considerably from what was formerly the land that  
36 you had worked on.

37 A. There would have been times, certainly under the lower  
38 flow and since, to say that that land had been

1 innundated permanently, yes.

2 Q. This area - I will show you on this map. This area  
3 here, (INDICATES), that is Hindmarsh Island and to the  
4 west of Hindmarsh Island, Mundoo, Mundoo to Ewe and  
5 Tauwitchere Island. In pre-barrage days, it was much  
6 larger - to a much larger extent able to be walked on as  
7 distinct from what you have to do now and use a boat to  
8 get through.

9 A. That would be correct.

10 Q. Whilst, of course, there were occasions when there were  
11 severe flooding and high tides, the area, generally  
12 speaking, would be described, if you were doing a map of  
13 it in those days, as much different in terms to the map  
14 you see now in terms of what you would normally call dry  
15 or swampy land.

16 A. Yes, there would be a change.

17 Q. With the building of the barrages, you were asked about  
18 the references to Aboriginal contact or involvement. I  
19 don't know whether you are aware of the work called  
20 'More Tales of the Coorong' compiled by E. LeTap Adman  
21 which has a chapter called 'Working on the barrages'.  
22 Are you aware of that work.

23 A. I'm not aware of that.

24 Q. I want to read out a passage to you. The author says  
25 'Mr Meadows was the contractor' - this is for the  
26 barrages - 'Who quarried the specially chosen stone from  
27 Yalkurii'. Pausing there. Would the E & WS have  
28 records and be able to confirm that Mr Meadows was such  
29 a contractor.

30 A. They may, but I would be very surprised. Unless we can  
31 discover from the photograph or a name in a report that  
32 - as I say, that's a long time ago and we would not have  
33 detailed records of this sort of things kept.

34 COMSR

35 Q. What did you do with your old records.

36 A. Well, a record of a contract that would include the  
37 names of our contractors and subcontractors, that would  
38 be kept - I don't know what the period would be, but

1 certainly it wouldn't be kept for this length of time,  
2 those detailed records. There is no reason or need to  
3 do that.

4 Q. They are not sent off to the archives.

5 A. No. There would be some - I mean, there has been  
6 engineering papers written about the barrages and the  
7 reports that we are quoting from, but the detailed  
8 records are mainly, would lie in these lovely old  
9 photographs we have preserved and in the minds, I might  
10 add, of some people that worked on the barrages that are  
11 still alive today, engineers that would be able to give  
12 a better answer in the Commission to the happenings on  
13 site at the time.

14 MR ABBOTT: You will be hearing from some of them.

15 Q. The author goes on to say, apart from saying that: 'Mr  
16 Meadows was a contractor who quarried specially chosen  
17 stone from Yalkurii. He employed many men from Point  
18 McLeay, or Raukkan, the Aboriginal settlement.  
19 Thousands of tons had to be faced on one side to be set  
20 as pavers on the approaches to the dam.' I take it you  
21 would agree with the latter, perhaps, suggestion that  
22 thousands of tons had to be faced.

23 A. That's correct.

24 Q. That is the riprap.

25 A. That's the riprap, and also the material that was placed  
26 on the banks as well as the approaches to the structures  
27 themselves.

28 Q. One other matter I would like to ask you a question  
29 about. These are books on to Tauwitchere barrage and  
30 the Mundoo barrage. If I could approach you. This is  
31 the MFI 86. At p.10 is probably the best page. There  
32 may be other photos that you say are better. Perhaps  
33 p.11. It appears they built a series of cofferdams as  
34 they went out across the lake on these long barrages.

35 A. That's correct.

36 Q. And so they had a cofferdam like we saw with the Goolwa  
37 barrage, one wall keeping the sea out and one wall  
38 keeping the lake water out, and then they laid a railway

## P.G. COOPER XXN (MR ABBOTT)

1 track on this, what was then the exposed bed of the  
2 river, and then constructed the embankment on the bed of  
3 the river using the cofferdam principle.

4 A. That's correct.

5 Q. And have a look at the photos on pp.10 and 11, they best  
6 show that.

7 A. Yes, they do.

8 MR ABBOTT: I apply to tender those photos on pp.10  
9 and 11 of the showing the method of construction of the  
10 Tauwitchere channel barrage.

11 EXHIBIT 86 Pages 10 and 11 of MFI 86 showing method  
12 of construction of Tauwitchere channel  
13 barrage tendered by Mr Abbott.  
14 Admitted.

15 MR SMITH: Could I suggest that I be given an  
16 opportunity to reproduce those rather than to take the  
17 pages out of the album?

18 COMSR: Yes. I will nominate them as Exhibit 86  
19 so that we have some continuity on the understanding  
20 that there will be other photographs that form part of  
21 that exhibit.

22 XXN

23 Q. The Mundoo barrage was done the same way with the  
24 cofferdam, the bed of the river then exposed. We see  
25 that in sheet no.12 and some of the photos in sheets 13  
26 and 14.

27 A. That's correct.

28 Q. The same principle: cofferdam, exposed the bed and then  
29 used the exposed bed as the basis on which to build the  
30 embankment and thereafter the sluices, et cetera.

31 A. That's correct.

32 EXHIBIT 87 Copies of pp.12, 13 and 14 of MFI 87  
33 relating to the construction of the  
34 Mundoo Channel tendered by Mr Abbott.  
35 Admitted.

36 MR ABBOTT: Looking at Exhibit 66, that is a  
37 coloured print. This is Exhibit 66 and is a recent  
38 aerial photograph of the Mundoo barrage connecting

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1 Hindmarsh Island and Mundoo Island. It shows what we  
2 were referred to as the old Mundoo barrage or bridge.

3 Can you tell us anything about that structure.

4 A. I don't know a lot of detail, but there were two  
5 attempts to put structures across the Mundoo channel and  
6 they are described, better than I can describe them, in  
7 the Public Works Standing Committee Report.

8 Q. Which is already before us as Exhibit 79.

9 A. That's correct.

10 Q. Could you just show us looking, at Exhibit 79, what you  
11 are intending to refer to in Exhibit 79.

12 A. It might take a bit of time to find it. I will have to  
13 read through it to find it. It is in there.

14 Q. Don't worry. In any event, you are aware that there was  
15 an old barrage there which did connect Mundoo to  
16 Hindmarsh Island.

17 A. Yes. I've found the place.

18 Q. The reference is on what page.

19 A. Seven.

20 Q. Could you read out the reference.

21 A. 'In 1914, action was taken to build a barrage across the  
22 Mundoo channel. The statement had been made, and it was  
23 given a certain degree of credence, that if the Mundoo  
24 channel alone were blocked, it would prolong the period  
25 of freshness in the lakes. Accordingly, a solid  
26 structure with a small sluice in it was built, but,  
27 ultimately, pressure from the settlers on the river  
28 between Wellington and Murray Bridge led to its removal.  
29 That barrage was afterwards replaced by a timber  
30 structure without gates. The second barrage, however,  
31 was undermined during a big storm and, since then,  
32 nothing has been done in the way of constructing  
33 barrages.'

34 Q. Is the remains of that timber barrage what we see in  
35 this photograph.

36 A. I wouldn't be sure of that. That is a very poor  
37 photograph. There are remains down there. I have seen  
38 them.

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(MR MEYER)

1 Q. We can see the old barrage there in one of the  
2 photographs in this book on p.11 of MFI 87, can we not.

3 A. That's correct.

4 MR ABBOTT: I tender the photograph on p.11, or a  
5 copy of it, entitled 'The forming bank old barrage to  
6 right'.

7 COMSR: The photograph on p.11 will be admitted  
8 will form part of Exhibit 87.

9 CROSS-EXAMINATION BY MR MEYER

10 Q. I only ask a question on this matter to tidy up the  
11 issue of the cofferdam and I have found the relevant  
12 photograph. Looking at MFI 87, p.14, which has been  
13 tendered, would you look at p.14. Remember I asked you  
14 some questions about the construction of the cofferdam  
15 for the Mundoo barrage.

16 A. Yes.

17 Q. Looking at p.14, that indicates that there's timber  
18 piles, does it not.

19 A. That's correct.

20 Q. Each one of those would be driven individually.

21 A. It would have been driven, hand-driven, yes.

22 Q. Without bothering to go into numbers, there would be  
23 hundreds, if not thousands, of individual piles.

24 A. That's correct.

25 NO FURTHER QUESTIONS

26 MR MEYER: I compliment the E & WS on a magnificent  
27 archival record.

28 WITNESS: I did mark up on my plans here and  
29 recalled in evidence yesterday that I ought to leave  
30 this with you, the better identification of some of  
31 those points that I made on the section of the Goolwa  
32 barrage.

33 COMSR: Perhaps that copy can be included as  
34 part of Exhibit 82 then. The document just handed to me  
35 by the witness can form part of Exhibit 82.

36 WITNESS RELEASED

- 1 MR SMITH CALLS  
2 JOHN ELLIOTT McHUGHES SWORN  
3 EXAMINATION BY MR SMITH  
4 Q. I think you live in Goolwa; is that correct.  
5 A. That's correct.  
6 Q. For how long have you lived in Goolwa.  
7 A. We came to Goolwa between 1946 and '47 and have lived  
8 there ever since.  
9 Q. Lived there ever since.  
10 A. Yes.  
11 Q. For a long time, you were the only Aboriginal person  
12 resident in Goolwa; is that correct.  
13 A. Yes. The only permanent person living there since then,  
14 since the early '60s.  
15 Q. I think, however, since you have been there, there have  
16 been some recent Aboriginal arrivals to Goolwa; is that  
17 right.  
18 A. That's correct. Since, well, the last 12 months there's  
19 been two families, Aboriginal families, come back to  
20 live in Goolwa.  
21 Q. I think you have provided a statement to this Commission  
22 in connection with its inquiry, have you not.  
23 A. That's correct.  
24 Q. Looking at the statement produced to you and signed and  
25 dated by you, do you recognise that as the statement  
26 which you provided.  
27 A. That's the statement I provided, yes.  
28 CONTINUED

## J.E. McHUGHES XN (MR SMITH)

1 EXHIBIT 93 Statement of witness J.E. McHughes  
2 tendered by Mr Smith. Admitted.

3 Q. I think you were born in the Murray Bridge Hospital, in  
4 1932, is that correct.

5 A. Yes.

6 Q. Your family were then living in Wellington and you  
7 stayed in Wellington until you were about seven years of  
8 age.

9 A. That's correct.

10 Q. When you were living in Wellington, were you living in  
11 an Aboriginal community there.

12 A. Yes, I was living right alongside the river and there  
13 was quite a number of Aboriginal people living around  
14 the area, at the time.

15 Q. Your life, when you were living at Wellington, could you  
16 describe it a bit for us, in terms of how you mixed and  
17 other members of the Aboriginal community and whether  
18 there was an extended family in operation, as it were.

19 A. Yes, Aboriginal people are normally very, very close.  
20 And, as I said, we lived right along the Alexander Lake  
21 and different Aborigines would always come over and stay  
22 and, you know, and play with us kids. As I said, I was  
23 only very small then and I used to have to walk to  
24 school, five miles and go across the ferry of a morning  
25 and back. In those days, we had no shoes to wear to  
26 school and, as I said, the - all the Aboriginal people,  
27 they were very, very close and they used to mix, you  
28 know, very well together.

29 Q. I think your mother was white, wasn't she, and your  
30 father Aboriginal.

31 A. That's correct, yes.

32 Q. Can you tell us whether that meant that you were, in  
33 fact, more - felt more part of the Aboriginal community  
34 than the white community, or wasn't it like that.

35 A. Sorry, can you repeat that?

36 Q. Yes, your father was Aboriginal and did you consider  
37 yourself, as a result of that, Aboriginal and,  
38 therefore, part of the Aboriginal community.



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- 1 A. Very, very much so. I think, because the Aboriginal  
2 people were, sort of, the underdogs and things like  
3 that, referred to them as that, I did. Even every  
4 document that I have signed or asked my background I  
5 have stated I was part Aboriginal, always.
- 6 Q. I think it was when you were seven years of age you and  
7 your family moved to Langhorne Creek.
- 8 A. That's correct, yes.
- 9 Q. And then to Morphett Vale.
- 10 A. Yes.
- 11 Q. Your father was originally from Point McLeay, I think,  
12 is that right.
- 13 A. That's correct, yes. My grandfather, he was the local  
14 preacher at Point McLeay and he was the - also the local  
15 - he was a freemason - sorry, stonemason, and he built  
16 the church at Point McLeay and also at Wellington.
- 17 Q. I think your grandfather, who was William McHughes,  
18 wasn't he.
- 19 A. That's correct, yes, he was William McHughes.
- 20 Q. He was your -
- 21 A. Grandfather.
- 22 Q. And he was, to some extent, a famous person, was he.
- 23 A. Very much so. Mr Taplin wrote - in Taplin's book, he  
24 gave him quite a good write up, when he lived at Point  
25 McLeay.
- 26 Q. I think there has been a biography of your grandfather,  
27 William McHughes, prepared by a lady by the name of  
28 Louise Jaensch.
- 29 A. That's correct, yes.
- 30 Q. Looking at this document produced to you, do you  
31 recognise that as that biography, in respect of your  
32 grandfather.
- 33 A. Yes, most definitely.
- 34 Q. That is something you are proud of.
- 35 A. I am very proud of it, yes.
- 36 EXHIBIT 94 Biography, by Louise Jaensch, tendered  
37 by Mr Smith. Admitted.
- 38 Q. You have got a copy of that with you, have you, a copy

1 of the biography.

2 A. Yes.

3 Q. On the last page, there is a McHughes family tree set  
4 out, is there not.

5 A. That's correct, yes.

6 Q. Are you the 'John' mentioned there, as against .7.

7 A. That is correct.

8 Q. You were living in Morphett Vale and at school at  
9 Morphett Vale, were you not.

10 A. That's correct, yes.

11 Q. You left school at the age of 14 and commenced working  
12 in a flaxmill.

13 A. That is correct, yes.

14 Q. Then, in 1947, you moved to Goolwa, that is the  
15 position, is it.

16 A. That's correct, yes. Yes, we came to Goolwa from  
17 Morphett Vale in 1946/1947 and a chappie by the name of  
18 Hector Sumner, he was an Aboriginal chappie that lived  
19 in Goolwa, and, when we moved to Goolwa, we had nowhere  
20 to live and Mr Sumner moved out of his house and went  
21 somewhere else and gave us his house to live in, until  
22 we found a house of our own, which was on Hindmarsh  
23 Island.

24 Q. And, on Hindmarsh Island, where did you work, when you  
25 were there.

26 A. I worked for some dairy, the dairy farmer over there on  
27 Hindmarsh Island. My father, he worked for the  
28 neighbour, grubbing out noxious weeds for a chappie by  
29 the name of Mr Cecil Macbeth and I worked for Bristowe  
30 Smith on the dairy farm, for nearly five years.

31 Q. At the time you moved to Goolwa, in 1947, were there  
32 other Aboriginal families living at Goolwa.

33 A. Yes, there were quite a few. I would say quite a few.  
34 I would say about half a dozen different families that  
35 lived there permanently then. And, then, by 1961, or  
36 the early 1960s, they all ventured off and moved  
37 elsewhere.

38 Q. Hindmarsh Island, itself, when you went to live there,

- 1     having moved to the Goolwa area, were there any  
2     Aboriginal families living on the island, itself.
- 3     A. Not that I recall. There was never any Aboriginal  
4     family living on the island, apart from ourselves. At  
5     different stages in the shearing time and things like  
6     that, different Aboriginal men would come down and do  
7     the shearing for the Grundys and the Rankines and people  
8     like that, but, other than that, there was no-one living  
9     there permanently, other than ourselves.
- 10    Q. In the early 1950s, I think you started work with a  
11    professional fisherman, Charlie Godfrey, is that right.
- 12    A. That's correct, yes. He was also part Aboriginal and I  
13    worked for him for three or four years.
- 14    Q. The fishing that you did was in the Goolwa area, was it.
- 15    A. In the Coorong, all through the Coorong, in the Goolwa  
16    area, yes.
- 17    Q. How long did you work for Godfrey.
- 18    A. About three or four years.
- 19    Q. Were you involved in work on the barrages.
- 20    A. No, I wasn't involved in the work on the barrages, no.
- 21    Q. By that you mean you weren't involved in the  
22    construction work of the barrages.
- 23    A. Yes, sorry, yes, I wasn't involved in it, but I did work  
24    for - on the Tauwitchere barrage, for about 12 or 18  
25    months.
- 26    Q. And that was about, when. About what year are we  
27    talking about.
- 28    A. Early 1950s.
- 29    Q. You have given us a picture of about in the 1950s,  
30    working as a professional fisherman with Charlie  
31    Godfrey, in the mid 1950s, working on the barrage at  
32    Tauwitchere.
- 33    A. That's correct.
- 34    Q. Then your next job, did you have a job with the Highways  
35    Department.
- 36    A. Yes, when I left the barrages, I got a job on the  
37    highways. We were building bridges, double bridges on  
38    the road to Strathalbyn and I worked on that. And then

1940

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J.E. McHUGHES XN (MR SMITH)

- 1 there was a bridge on the Victor Harbor/Mount Compass  
2 road. I helped build that. Then, when the Highways  
3 Camp was about to close at Goolwa there, the foreman  
4 said to me `John', he said, `if you want a job, you have  
5 got to go with the Highways, but you have got to go  
6 where they transfer you to.' And he said `You will have  
7 to go to Willunga, but', he said, `if you like, I can  
8 get you a job on the Goolwa ferry approach. They are  
9 putting in a new ferry there.' And he said `If you  
10 like, there is about 18 months work there.' And he said  
11 `I can get you a job there', which he did and I worked  
12 on the Goolwa ferry approaches for 18 months and I drove  
13 every pylon in that river, every pylon personally  
14 myself.
- 15 Q. In 1951, I think, there was an article published in the  
16 Advertiser about a native burial ground located near  
17 Goolwa, is that right.
- 18 A. That's correct, yes.
- 19 Q. You received a copy of that article from a friend of  
20 yours.
- 21 A. That's right, yes, from Mr Jeff Berndt.
- 22 Q. And your friend worked, where.
- 23 A. No, my friend, no, he didn't work for me. He worked for  
24 himself.
- 25 Q. He provided you with a copy of this article.
- 26 A. Yes, are you referring to the article about Aggie's  
27 Knob?
- 28 Q. Yes.
- 29 A. Yes, there was -
- 30 Q. Looking at this document produced to you, do you  
31 recognise that as the article.
- 32 A. Yes.
- 33 Q. That appeared in The Advertiser.
- 34 A. That is correct, yes.
- 35 Q. As given to you by your friend.
- 36 A. As given to me by my friend, that's right.
- 37 Q. So, you came to know about that matter -
- 38 A. Yes.

1 Q. Of Aggie's Knob.

2 A. That's right.

3 COMSR: This is a matter in the public arena, is  
4 it?

5 MR SMITH: Yes, it is in The Advertiser, of course,  
6 and that has been the test we have been using.

7 MR KENNY: I know you have made a ruling saying  
8 that, if it is in the public arena, but I have some  
9 difficulty. I haven't had a chance to read all of this  
10 article.

11 COMSR: Yes, you have got some difficulty with  
12 the article, because it talks about an Aboriginakl site?

13 MR KENNY: Certainly.

14 COMSR: Perhaps you can ask the witness if there  
15 is anything secret or confidential about the site,  
16 because this is an article in which edition of The  
17 Advertiser?

18 MR SMITH: In 1951 it was.

19 XN

20 Q. Can you tell us what happened to Aggie's Knob and what  
21 was - you know, what was related in the article.

22 A. Yes -

23 COMSR: I don't want to know what was related in  
24 the article, but what has happened to Aggie's Knob.

25 A. I just can't remember when, but quite a few years ago,  
26 when South Lakes was developed, the local contractor or  
27 the council bulldozed Aggie's Knob. There was quite a  
28 knoll there and they pulled those down for filling for  
29 the material they used to develop South Lakes and also  
30 the local bowling green.

31 XN

32 Q. That was in the late 1950s that was done for the South  
33 Lakes development.

34 A. Yes.

35 COMSR: Is it necessary for me to have this  
36 article?

37 MR SMITH: Yes, it is relevant.

38 Perhaps I will just ask another question about it.

- 1 COMSR: All right.  
2 XN  
3 Q. To your knowledge, was there any outcry in respect of.  
4 That.  
5 A. Sorry?  
6 Q. Was there any protest about that occurrence, by  
7 Aboriginal people.  
8 A. No, there was no protest whatsoever. And there was  
9 still Aboriginal people living there. And, when they  
10 built the bowling green with the filling they carted in,  
11 there was Aboriginal bones and the skeletons and things  
12 like that found in there.  
13 MR KENNY: That supports what I say. I say we are  
14 now taking evidence that contravenes s.35 and I object.  
15 MR SMITH: The matter is debated in detail in the  
16 article in the Advertiser in 1951, therefore, it is in  
17 the public arena.  
18 Why are we going over this again? There has been a  
19 divulgence. I wouldn't be approaching this topic, if it  
20 was not in the public arena, via The Advertiser article.  
21 It fits squarely within your ruling.  
22 COMSR: Yes, excepting that, of course, at that  
23 time, there was - that was prior to the passing of the  
24 Aboriginal Heritage Act.  
25 I would just like to consider that.  
26 At this stage, is there any reason why it just can't  
27 be marked for identification?  
28 MR SMITH: No, that is fine.  
29 XN  
30 Q. In 1956, you married, is that right.  
31 A. That's correct.  
32 MFI 95 Advertiser article marked 95 for  
33 identification.  
34 Q. I think it was about that time that your Highways job -  
35 the Highways Department camp closed down, is that right.  
36 A. That is correct, yes.  
37 Q. You have already mentioned this, but I will take you  
38 back to it: I think that is when you took work on the

1 new ferry construction work, is that right.

2 A. That is correct, yes.

3 Q. We are talking about the present location of the ferry,  
4 is that right.

5 A. That is correct, yes, the present location of it.

6 Q. What work was required, can you tell us that.

7 A. It mainly consisted of driving pylons down at the river  
8 bed, particularly on the Hindmarsh Island side, there  
9 was no bottom there and we drove two pylons, two 30 foot  
10 pylons on top of one another, drove them down to get a  
11 substantial footing for the ferry approaches. And the  
12 old - the existing pylons, the breakwaters and things  
13 like that, we never cut them off with a saw. We had to  
14 remove them all. We never cut them off with a saw or  
15 anything, they were all blasted from the river bed with  
16 cords of dynamite or gelignite, whichever. Cords of  
17 explosives were used, to remove all the old existing  
18 pylons.

19 Q. The pylons were put in where exactly in relation to the  
20 line of the ferry.

21 A. The pylons, you have got your breakwater, which is out  
22 from the ferry approach. They still exist there, to  
23 this very day. And there is also pylons underneath the  
24 ferry approach, itself. The concrete, itself. They had  
25 to drive the pylons down to support the ferry approach.

26 Q. There is a ferry approach on the Hindmarsh Island side,  
27 of course, and there is one on the mainland side.

28 A. That's correct, yes.

29 Q. Did you work in both areas.

30 A. I worked from start to finish, which is 18 months, on  
31 both sides.

32 Q. The extent of the pylons on both sides, that is, if you  
33 like, the area over which they were put down into the  
34 river bed, was about what.

35 A. Can you repeat that?

36 Q. Yes, what sort of area did the pylons occupy, that is,  
37 out from the shoreline.

38 A. I would say approximately 30 to 40 metres out from - on

1944

KC 26F

J.E. McHUGHES XN (MR SMITH)

1 both sides of the island - of the mainland and the  
2 island.

3 Q. And then on top of the pylons there was a construction  
4 of some sort, wasn't there.

5 A. Yes, there was concrete poured. There was steel  
6 fabrication put underneath and the concrete poured over  
7 the top of them.

8 Q. You were involved in that work for how long.

9 A. That took about 18 months, approximately.

10 Q. At that stage, were you actually employed by the  
11 Highways Department.

12 A. No, I worked for the contractor, a chap by the name of  
13 Jack Kernot. It was let out to a contractor.

14 CONTINUED



1945

RF 26G

J.E. McHUGHES XN (MR SMITH)

1 Q. Were there any other Aboriginal people employed with you  
2 in that job.

3 A. No, I was the only one.

4 Q. I think in 1963 you commenced working for the local  
5 council, is that right.

6 A. That's correct, yes.

7 Q. You consider yourself a Ngarrindjeri person.

8 A. Most definitely.

9 Q. Have you played any part in the social activities of the  
10 Ngarrindjeri people at Point McLeay from time to time.

11 A. Only on weekends, I went across to visit at different  
12 times. Things like that. But socially I never mixed  
13 over there. But with the Aboriginal people in Goolwa  
14 there, I played football with them and tennis, and all  
15 that sort of sporting activities.

16 Q. So that you kept in touch in terms of staying tuned in  
17 to the culture of the people as it is discussed -

18 A. Yes.

19 Q. By your fellow Ngarrindjeri people.

20 A. Most definitely, yes.

21 Q. Were you aware in 1993, 1994, of archaeologist,  
22 anthropologist, Dr Neale Draper, working in the area.

23 A. Yes. I was informed by Michael Jolly. He is born and  
24 bred on Hindmarsh Island. I was working at the caravan  
25 park at North Goolwa there one day, and Michael came  
26 along and stopped and talked to me for a while, and  
27 naturally the bridge business came up. He said `John,  
28 has a Mr Neale Draper come and seen you?' I said `No.  
29 Who is he?' He said `He is an anthropologist who is  
30 doing this research on Hindmarsh Island, sacred sites  
31 and things like that'. I said `No, I never heard of  
32 him, I never seen him'. He said `He asked me the other  
33 day if there were any Aboriginal people still living in  
34 Goolwa' and he said `I told him, yes, there were.  
35 There's one family still living here' and he gave him my  
36 name and address. Mr Draper said he was going to come  
37 and see me, but I never - I wouldn't even know Mr Draper  
38 if I saw him now. I never laid eyes on him.

- 1 Q. I suppose if the question of Aboriginal culture, et  
2 cetera, in and about Hindmarsh Island and Goolwa was  
3 being researched by Mr Draper, you would have liked him  
4 to have spoken to you.
- 5 A. Yes. I would have very much liked him to have come and  
6 spoken to me about it, and I would have helped him as  
7 much as my knowledge, you know, would allow.
- 8 Q. The Hindmarsh Island Bridge dispute erupted around you,.  
9 Didn't it.
- 10 A. Yes. I was the first Aboriginal person - male person,  
11 that is - to come forward and dispute this women's  
12 business, because when it started getting around I  
13 thought 'It is a funny thing I've never heard a thing  
14 about this'. I'm sure my dad would have mentioned  
15 something to me if he had have known or heard something  
16 about it. Even if he hadn't known the full extent of  
17 it, if there was such a thing as women's business, I am  
18 sure he would have mentioned it to me.
- 19 Q. Did you become aware that a Professor Saunders was  
20 conducting investigations into this matter, or at least  
21 brief to report on it.
- 22 A. Yes. I was informed that this Cheryl Saunders was doing  
23 a report for Mr Tickner, and I even wrote a letter to Mr  
24 Tickner and also Cheryl Saunders, stating what I know  
25 all about this sacred sites and bridges and things like  
26 that.
- 27 Q. Looking at this handwritten letter produced to you, do  
28 you recognise that.
- 29 A. Yes. Yes, I do.
- 30 Q. That's a letter signed by you and addressed to Professor  
31 Saunders.
- 32 A. That's correct, yes.
- 33 Q. I think it is dated 9 June 1994.
- 34 A. That is correct, yes.
- 35 MR SMITH: I wish to tender that letter, and I  
36 emphasize the purpose of that tender is to in no way  
37 touch upon the Federal Court proceedings.

1947

RF 26G

J.E. McHUGHES XN (MR SMITH)

1 COMSR: Are you saying that that letter in no  
2 way touches upon it?

3 MR SMITH: It does in the sense it is a letter from  
4 an Aboriginal person, Mr McHughes in Goolwa, to  
5 Professor Saunders in connection with her report. But I  
6 emphasize the purpose of its tender is not to, if you  
7 like, question the report of Professor Saunders.

8 COMSR: It is simply to demonstrate the fact  
9 that the witness sent a letter?

10 MR SMITH: Yes.

11 COMSR: Is there anything in this letter that  
12 touches upon traditions and sites?

13 MR SMITH: No, there isn't anything which need  
14 concern you. The only mention there is the mention of  
15 Aggie's Knob, which is the subject of the earlier  
16 'Advertiser' article.

17 COMSR: That is a matter on which I want to  
18 reserve -

19 MR KENNY: It does refer to it as an Aboriginal  
20 burial site.

21 MR SMITH: It is described as Aggie's Knob however,  
22 that we have dealt with.

23 COMSR: Pending my decision on your application  
24 to tender the -

25 MR SMITH: Could that be marked for identification  
26 at least then. I take it you are reluctant.

27 COMSR: I haven't had an opportunity to consider  
28 the circumstance of a publication back in 1994. For the  
29 time being, until I have had an opportunity to do that,  
30 I would think it would be appropriate to suppress from  
31 publication any mention of Aggie's Knob and its  
32 significance. I know I am going to get some  
33 representations from Mr Kenny or some argument  
34 concerning the matter, but until I have had an  
35 opportunity to consider the article, I think it will be  
36 appropriate to do so.

37 Just so I haven't left the members of the press in  
38 any confusion. The order is that I am suppressing from

1948

RF 26G

J.E. McHUGHES XN (MR SMITH)

1 publication any mention of Aggie's Knob and its  
2 significance, or possible significance as far as sites  
3 is concerned, while I determine whether or not to  
4 receive the articles or documents into evidence.

5 XN

6 Q. In that letter to Professor Saunders, you enclosed your  
7 grandfather's biography, which we have tendered here.

8 A. That's correct, yes.

9 Q. We also enclosed a newspaper article concerning the  
10 works at Signal Point at Goolwa, is that right.

11 A. Yes, that's correct.

12 Q. Looking at this article produced to you, do you  
13 recognise that as the article that you sent on to

14 Professor Saunders.

15 A. That is the article, yes.

16 MFI 96 Letter to Professor Saunders from  
17 witness with copy of 'Advertiser'  
18 article marked 96 for identification.

19 Q. The article concerns some construction work at Signal  
20 Point. Can you tell us where Signal Point is.

21 A. Yes. Signal Point is situated in front - from the  
22 river, in front of the old police station. When Signal  
23 Point was built in 1987, I think it was, I made the  
24 remark about there was no Aboriginal protests or  
25 anything that went on while Signal Point was being  
26 built. It amazes me to think now the Hindmarsh Island  
27 Bridge is in such a controversy about it, that these  
28 Aboriginal people come forward - women came forward  
29 claiming the sacred sites and things like that. In the  
30 article it shows you the bulldozers are in there and  
31 front-end loaders levelling the ground off. And even  
32 when the bridge got the go-ahead to be constructed, just  
33 prior to that, the contractors brought some material  
34 down and put material on this Signal Point, where the  
35 bridge is supposed to be built. And the protestors -  
36 the Aboriginal protestors came down and they cordoned  
37 off the whole area with iron droppers and things like  
38 that. They drove them into the ground. Yet the

## J.E. McHUGHES XN (MR SMITH)

- 1 contractors weren't allowed to even remove the material  
2 with front-end loaders or bulldozers. They had to load  
3 - the material I am talking about is screenings, gravel,  
4 and they weren't allowed to pick the gravel up with the  
5 front-end loaders. They had to level the site off so  
6 they wouldn't disturb the land. And yet the Aboriginal  
7 protestors came down and put tent pegs in and they  
8 cordoned off the whole area, which is contrary to what  
9 they are saying.
- 10 Q. I think, apart from writing to Professor Saunders, you  
11 have written to several senators about this matter, have  
12 you.
- 13 A. That's correct, yes, yes.
- 14 Q. About the matter of women's business.
- 15 A. That is correct.
- 16 Q. The thrust of what you have said to them is what, in  
17 connection with women's business.
- 18 A. Sorry, could you just repeat that?
- 19 Q. You wrote to the senators. The purpose of you writing  
20 to the senators was what.
- 21 A. Yes, saying about this women's business. I also wrote  
22 to Mr Tickner.
- 23 Q. So the letter to the senators was in the same vein as  
24 the letter to Mr Tickner.
- 25 A. Same, yes. Yes, exactly the same.
- 26 Q. Looking at this letter produced to you and dated 22 July  
27 1994, do you recognise that as the letter that you have  
28 written to Mr Tickner.
- 29 A. Most definitely, yes.
- 30 Q. Was that acknowledged.
- 31 A. Yes. Mr Tickner wrote back and the senators wrote back  
32 and acknowledged - some of them did - to my reply.
- 33 COMSR: Is there any material in there?
- 34 MR SMITH: No, there is nothing that this witness  
35 hasn't already spoken about. There is nothing in there  
36 that isn't in the public arena.

1 XN

2 Q. A topic that you have raised in that letter to Mr  
3 Tickner was your meeting with Douglas Milera in the  
4 Corio Hotel.

5 A. Yes, that's correct.

6 COMSR: When you say it is in the public arena,  
7 more recently in the public arena?

8 MR SMITH: I will draw your attention to the  
9 matters. There is a mention of the work done by this  
10 man on the ferry approaches. That will not cause you  
11 any concern. There is mention of work done by this man  
12 in using explosives to blast out the pylons. There is  
13 nothing in that that need concern you. There is mention  
14 by this man in this letter of Signal Point being built  
15 on an area which was later claimed to be sacred. That  
16 matter is squarely in the public arena, it is on TV, et  
17 cetera.

18 EXHIBIT 97 Letter to Mr Tickner from witness  
19 dated 22 July 1994 tendered by  
20 Mr Smith. Admitted.

21 XN

22 Q. Could I take you then to the evening when you met  
23 Douglas Milera in the Corio Hotel.

24 A. Yes. I was in the Corio Hotel Saturday night -

25 Q. Before you start on that. Can you give us an idea about  
26 when this was.

27 A. Yes. It was around about the time this women's business  
28 arrived. As I said, on the Saturday I was in the hotel  
29 and Mr -

30 Q. Was that before the minister's ban on the bridge.

31 A. Yes, yes.

32 Q. Which was in July of 1994. So are we some time before  
33 July 1994.

34 A. Yes.

35 Q. Tell us what happened.

36 A. I was in the hotel this night, and this chappy came in  
37 the door with fists raised - he opened the door and,  
38 with fists raised (DEMONSTRATES) he said `I've got the

## J.E. McHUGHES XN (MR SMITH)

- 1 power to build or stop the bridge'. Everyone looked  
2 around and thought 'Gosh, who's he?' I was sitting  
3 around the corner of the bar, and this chappy walked up  
4 the other side of the bar, and he did say his name was  
5 Doug so and so. I couldn't hear what he said, but I  
6 know he said Doug. He apparently ordered 6 stubbies of  
7 beer. As the barman walked past me to get the beer, I  
8 said to the barman 'What did that chap say his name  
9 was?' The barman said 'He said his name was Doug  
10 Miller.' I said 'No, I think it's Doug Milera'. So the  
11 barman said 'Oh, it could be'. With that, I got up and  
12 walked around alongside this Doug Milera, and I said  
13 'Are we going to get the bridge or not?' He said  
14 'What's it to you?' I said 'I'm very very interested in  
15 this bridge business.' He said 'I can't tell you  
16 anything'. I said 'Why not? You came in here with your  
17 fists raised and you said you had the power to stop or  
18 build the bridge. I want to know if we are going to get  
19 the bridge or not.' He said 'I can't tell you'. He  
20 said 'You wouldn't understand anything about that  
21 because we have left it up to the women to decide'.  
22 Q. Was there some more talk between you about pylons, you  
23 and this man Doug.  
24 A. No, no - sorry, yes, Doug Milera did say to me - he said  
25 'You wouldn't know anything about this women's business  
26 because every pylon they drive through that river bed  
27 goes through my - a pain goes through my stomach, so you  
28 wouldn't understand that'. So I took it then that he  
29 didn't know that I was part-Aboriginal also.  
30 Q. You just left it at that, did you.  
31 A. I just left it at that then.  
32 Q. Did this man then leave.  
33 A. No. Just before he left, the barman said to Doug 'Have  
34 a beer'. He said 'No, I'm sorry I can't. I'm in a  
35 hurry. I've got women out in the car and they're  
36 waiting for me, but' he said 'here have a beer on me',  
37 and he broke the 6 pack up and handed the barman a  
38 stubbie of beer and then he left.

- 1 Q. When this man, who identified himself as Doug Milera,  
2 came into the bar, was he affected by liquor in your  
3 opinion.
- 4 A. No, not in my opinion, because, as I said, I went around  
5 and spoke to him, and in my honest opinion he wasn't  
6 affected with alcohol at all.
- 7 Q. I take it then that you followed the television items  
8 concerning the bridge and the protest and all that, did  
9 you.
- 10 A. Yes. Yes, I followed it.
- 11 Q. Have you ever met, for instance, Sarah Milera.
- 12 A. I've never met Sarah Milera in my life, no.
- 13 Q. Have you seen her on television.
- 14 A. That's the only time I have seen her, is on television.
- 15 Q. People such as George Trevorrow, Tom Trevorrow, have you  
16 met them.
- 17 A. No, I've never ever met them, no.
- 18 Q. Victor Wilson.
- 19 A. No, never.
- 20 Q. Doreen Kartinyeri.
- 21 A. No.
- 22 Q. So you have never laid eyes on them except on the  
23 television.
- 24 A. That is correct.
- 25 Q. And never met them in the Goolwa area.
- 26 A. Never met them in the Goolwa area, no, never.
- 27 Q. Have you had any contact with, for instance, Henry  
28 Rankine.
- 29 A. Yes. I rang Henry up on a couple of occasions.  
30 Actually I rang him up to congratulate him because he  
31 was involved with the Granite Island development over  
32 there. There was an article in the local paper with  
33 Henry Rankine and the Victor Harbor Council. There was  
34 a photograph in the local paper of them all signing  
35 agreements for the development of Granite Island.
- 36 CONTINUED



- 1 So, just after that, I rang Henry up and I said  
2 `Congratulations on the successful negotiations with the  
3 council of this development on Granite Island'. He  
4 said `Thanks John'. And I said `I couldn't help but  
5 notice there wasn't any women involved over there,  
6 Henry'. And he said `There wouldn't have been any  
7 women involved over there', and I said `Why?', and he  
8 said `There's no women involved there because when they  
9 done the bridge work for Granite Island', he said `With  
10 all the blasting', he said `So the breakwater at Granite  
11 Island was built, that would have killed the women's  
12 business'.  
13 Q. That sort of concept was new to you.  
14 A. Yes.  
15 Q. Is that why you have told us about the blasting, is it.  
16 A. That is correct.  
17 Q. To the riverbed.  
18 A. That's exactly right. `When we done the blasting', I  
19 talked to Henry Ranking about the blasting of Hindmarsh  
20 Island as the ferry approaches there, and he said `We  
21 blasted all the old existing pylons on the riverbed  
22 there. In my opinion, if it killed the women's business  
23 in Granite Island, it would have definitely killed the  
24 women's business on Hindmarsh Island'.  
25 Q. There were meetings taking place at Goolwa, weren't  
26 there, in the period leading up to July 1994.  
27 A. Yes. Quite a lot of meetings, yes.  
28 Q. Did you go to any of the meetings.  
29 A. I attended most of them, yes.  
30 Q. Are you in support of a bridge. I am very much in  
31 support of a bridge, because of employment. I have two  
32 sons and they are - one is employed now, but it's only  
33 casual work, and that's the reason why I'm in favour of  
34 the bridge. It will create employment and it will  
35 snowball from there and put Goolwa on the map. Not only  
36 that, there's access to - the island's most important  
37 for people that are sick and things like that, and  
38 fires.

- 1 Q. I take it from your evidence that no-one has ever  
2 approached you about the topic of the bridge because of  
3 your Aboriginality.
- 4 A. That's correct.
- 5 Q. It was your own decision.
- 6 A. It was definitely my decision to come forward. I wasn't  
7 asked to attend these meetings. There were, I think, to  
8 my knowledge, a couple of meetings prior to that which I  
9 didn't attend. I didn't know they existed and I heard  
10 there was meetings over there and I decided to attend.
- 11 Q. Have you been criticised in your position, the position  
12 taken by you in this matter.
- 13 A. Yes. I haven't been threatened or got any abuse over  
14 the phone, or things like that, but there was a couple  
15 of referrals to me were I was getting paid by the  
16 Chapmans for coming forward like this.
- 17 Q. What was your response; what is your response to that  
18 suggestion.
- 19 A. Definitely not. No, I never knew the Chapmans and I  
20 knew they had the marina on Hindmarsh Island, but I've  
21 never ever met or spoken to the Chapmans up until the  
22 last six months or so.
- 23 Q. In relation to the article on Aggie's Knob that we have  
24 spoken about earlier, you said a friend of yours  
25 provided you with a copy of the article.
- 26 A. That's right, yes, Mr Geoffrey Byrnes.
- 27 Q. I think he runs -
- 28 A. He is the local concrete contractor.
- 29 Q. You mentioned Mike Jolly. Who was Mike Jolly and what  
30 did he do.
- 31 A. Mike Jolly was born and bred on Hindmarsh Island and his  
32 father I knew quite well. Had a dairy farm on the  
33 island and Mike still owns property on Hindmarsh Island.
- 34 Q. He is not an Aboriginal person.
- 35 A. No, he is not, no.
- 36 Q. In November 1989, the island bridge plan was unveiled in  
37 an article in the Advertiser, wasn't it.
- 38 A. That's correct, yes.

1955

CJ 26H

J.E. McHUGHES XN (MR SMITH)

- 1 Q. Looking at the copy article produced to you, dated -  
2 indicating the Advertiser of Wednesday, 8 November 1989,  
3 we see there a picture of the proposed bridge  
4 superimposed on the river.  
5 A. Yes, that's correct.  
6 Q. And a picture of, amongst other people, Tom Chapman.  
7 A. Yes.  
8 Q. And that's the Mayor.  
9 A. That's the Mayor, that's right, Joe Barton. That's from  
10 the Council of Port Elliot.  
11 Q. It's not the Advertiser at all, it's the local Victor  
12 Harbor paper.  
13 A. Yes.  
14 MR ABBOTT: It's only got 15,000 readers if it's the  
15 Advertiser.  
16 EXHIBIT 98 Article from the local Victor Harbor  
17 paper tendered by Mr Smith. Admitted.  
18 Q. Was there any reaction amongst Aboriginal people, that  
19 you know of, to that article and the plan unveiled in  
20 there.  
21 A. No, there was nothing whatsoever at all. There was no  
22 Aboriginals came forward with sacred sites and things  
23 like that here. And I was very disturbed myself at the  
24 time that there was, no-one came forward and spoke of  
25 it. Surely, you know, if this women's business was  
26 existing, then surely someone would've come forward and  
27 spoke about it?  
28 Q. What do you mean by that: that you weren't disturbed at  
29 the time but you are now disturbed that nothing happened  
30 then.  
31 A. Yes, nothing happened then, yes.  
32 Q. In your statement on p.3 there - you have a copy of it  
33 in front of you.  
34 A. Yes.  
35 Q. You have mentioned there a lady by the name of Mrs Lush.  
36 She was an Aboriginal lady.  
37 A. Yes.  
38 Q. Lived in Goolwa, is that right - isn't it down near one

J.E. McHUGHES XN (MR SMITH)  
XXN (MR KENNY)

- 1 of the bends in the river.
- 2 A. Yes, that's correct.
- 3 Q. You have set that out in your statement because what
- 4 happened to her caused you some concern.
- 5 A. Yes. The local council, they - when the old lady died,
- 6 she'd lived many, many years right on the river bank.
- 7 When she died, the local council bulldozed the land and
- 8 brought in some filling and levelled it off, and
- 9 stipulated in the paper they were going to call it 'Roy
- 10 Galpin Reserve'. And this friend of mine Geoff Byrnes
- 11 and myself put in a protest to the council about it and
- 12 said it should be named after the old lady that lived
- 13 there, Mrs Lush, the sole Aboriginal lady. And the
- 14 council wrote back and said 'No, Mr Roy Galpin was the
- 15 chairman of the council, had been there for years and
- 16 years and its appropriate to name it after Roy Galpin'.
- 17 Q. You, I think, and a friend of yours, Geoff Byrnes,
- 18 protested at that.
- 19 A. Yes. We protested, and it finished up the local council
- 20 said, well, that if we liked to put instead a monument
- 21 there in respect of Mrs Lush, which we did, and we got
- 22 there a big stone and put a plaque on it in memory of
- 23 Mrs Lush.
- 24 Q. Did you try and get some support in the Aboriginal
- 25 community for your protest in that respect.
- 26 A. Yes. It was in the News and the Advertiser about we're
- 27 protesting it was called after Mr Roy Galpin, and it was
- 28 all in the local papers about it, and not one Aboriginal
- 29 person came forward to support it to say it should be
- 30 called after an Aboriginal woman.
- 31 CROSS-EXAMINATION BY MR KENNY
- 32 Q. Had you met Dorothy Wilson before this bridge issue
- 33 became known.
- 34 A. Yes, I have met Dorothy Wilson, yes.
- 35 Q. When did you meet her.
- 36 A. She's a relation of mine.
- 37 Q. What about Jennifer Grace.
- 38 A. Jennifer, she just moved to Goolwa, been there probably

1957

CJ 26H

J.E. McHUGHES XXN (MR KENNY)

- 1 about, around about roughly 12 months.
- 2 Q. You had never met her before that 12 month period.
- 3 A. I never met her before, no.
- 4 Q. Beryl Kropinyeri.
- 5 A. No.
- 6 Q. Margaurite Effie Wilson.
- 7 A. No.
- 8 Q. Rocky Koolmatrie.
- 9 A. No.
- 10 Q. Val Power.
- 11 A. No.
- 12 Q. Audrey Dix.
- 13 A. No.
- 14 Q. Betty Tatt.
- 15 A. No.
- 16 Q. Bertha Gollan.
- 17 A. Only on TV. No, I've never met the woman.
- 18 Q. Maggie Jacobs.
- 19 A. No.
- 20 Q. Phillis Byrnes.
- 21 A. No.
- 22 Q. Do you know who we are referring to if I refer to a
- 23 person as the daughter of Pinkie Mack.
- 24 A. Only as Annie, Nanna Laura.
- 25 Q. Have you ever met her.
- 26 A. I have seen her. Yes, I have met her.
- 27 Q. You have seen her.
- 28 A. Yes, at a funeral.
- 29 Q. Veena Gollan.
- 30 A. No.
- 31 COMSR
- 32 Q. As far as you know, do any of those ladies live locally.
- 33 A. No, they don't, no.
- 34 XXN
- 35 Q. Do you know of or have you met these people: Edith
- 36 Rigney.
- 37 A. No.
- 38 Q. Eileen McHughes.

1958

CJ 26H

J.E. McHUGHES XXN (MR KENNY)

- 1 A. Yes, I have seen Eileen McHughes.
- 2 Q. Have you ever spoken to her.
- 3 A. I have spoken to her. She's married to my nephew.
- 4 Q. But, I take it you don't have a close relationship with
- 5 her.
- 6 A. No.
- 7 Q. Isabel Norvill.
- 8 A. No.
- 9 Q. Cathy McHughes.
- 10 A. No. It doesn't ring a bell.
- 11 Q. She's Eileen McHugh's daughter.
- 12 A. I gather as much. I've never met her.
- 13 Q. Patty Kropinyeri.
- 14 A. No.
- 15 Q. Iris Sparks.
- 16 A. No.
- 17 Q. Leah Rankine.
- 18 A. No.
- 19 Q. Shirley Trevorrow.
- 20 A. No.
- 21 Q. Rayleen Rigney.
- 22 A. No.
- 23 Q. Do you know a person by the name of Bruce Carter.
- 24 A. Yes. I played football with Bruce.
- 25 Q. You played football.
- 26 A. Football against Bruce, yes.
- 27 Q. Do you know where Bruce Carter lives these days.
- 28 A. Well, I haven't seen him for many, many years. I
- 29 presume he lives at Murray Bridge. That was the last I
- 30 saw of him.
- 31 Q. He is an Aboriginal person.
- 32 A. Yes.
- 33 Q. Robert Day.
- 34 A. No.
- 35 Q. Henry Rankine, have you met him.
- 36 A. Not personally, no. Only spoke to him over the phone.
- 37 Q. I take it then from that list of names I've read out,
- 38 that really you haven't had a lot to do with too many of

1959

CJ 26H

J.E. McHUGHES XXN (MR KENNY)

- 1 the Ngarrindjeri people for a long time.
- 2 A. Yes. Only the people that lived in Goolwa.
- 3 Q. How many lived in Goolwa.
- 4 A. There was the Carters - Geoffrey Carter and all of his
- 5 family, Hector Sumner and all of his family, Herbie
- 6 Rigney and all of his family, the Walkers, and the
- 7 Tripps, Ephram Tripp -
- 8 Q. Do they still -
- 9 COMSR: I don't know if the witness had finished
- 10 answering the question.
- 11 Q. Had you finished answering.
- 12 A. Yes. I said that's about the only families that lived
- 13 there permanently when we came to Goolwa.
- 14 XXN
- 15 Q. Do those families still live down at Goolwa.
- 16 A. No. Most of those families moved out in about the early
- 17 '60s, 1960.
- 18 Q. Since the early 1960s, have you had much contact with
- 19 any of the Ngarrindjeri people.
- 20 A. Not a lot, no.
- 21 Q. If we can go back, I think you said until around about
- 22 the age of seven you lived at Wellington. Was that
- 23 correct.
- 24 A. That's correct.
- 25 Q. Whereabouts exactly did you live when you lived at
- 26 Wellington, in the town, or -
- 27 A. No. We lived about two miles on Lake Alexandrina on the
- 28 edge of the lake.
- 29 Q. Your family had a house there.
- 30 A. We had a house there, yes.
- 31 Q. Were there any other families living on that same
- 32 property as you.
- 33 A. No. But around the vicinity of Wellington itself, there
- 34 was quite a number of families living there.
- 35 Q. When you say there were a number of families, they were
- 36 mostly European families.
- 37 A. Yes.
- 38 Q. But, I think you said occasionally a couple of

1960

CJ 26H

J.E. McHUGHES XXN (MR KENNY)

- 1 Aboriginal boys would come over and play with you.  
2 A. Yes. Quite often they would come over and we'd go  
3 swimming, and things like that, in the lake and, you  
4 know, general play around. And elderly people used to  
5 come over and visit dad and talk for hours and sometimes  
6 stay overnight.  
7 Q. That was up until you were about seven years of age.  
8 A. That's right.  
9 Q. When you say these people came over, where did they come  
10 over from.  
11 A. From the other side of the river. Sometimes they  
12 probably come from Point McLeay, but mainly the general  
13 people who lived around Wellington and Tailem Bend and  
14 things like that.  
15 Q. Do you know who they were.  
16 A. I remember the Gollans, they'd often come there.  
17 Carters, just to mention -  
18 Q. Do you remember who the boys were whom you played with.  
19 A. Would have been the young Carters and things like that.  
20 Q. You don't remember which ones though.  
21 A. There was Harry Carter and Wynsell Carter and I think -  
22 there's about nine boys in the Carter family.  
23 Q. They would -  
24 A. They were the youngest ones, Harry and Wynsell, they're  
25 the younger. That's how I remember them.  
26 Q. Would they come over every week, or once every six  
27 months or so, or what.  
28 A. No, just once in a while. Whenever they had to go to  
29 Tailem Bend or something like that as passing through  
30 and something, they would call in and stay for a while -  
31 not stay with us, stay with different relations around  
32 Wellington.  
33 Q. Once every week, a month, six months.  
34 A. It would be a bit hard to say now. Probably three or  
35 four months, something like that. Might be more  
36 frequent.  
37 COMSR  
38 Q. Were there other Aboriginal families living in the



1961

CJ 26H

J.E. McHUGHES XXN (MR KENNY)

1 vicinity of where you were living at that time.

2 A. Beg your pardon?

3 Q. Were there other Aboriginal families living in the  
4 vicinity of where you were living at that time.

5 A. There would have been quite a number of Aboriginal  
6 people living around Wellington, yes, but what their  
7 names were I sort of can't recall now.

8 XXN

9 Q. So, you really didn't have very much contact with those  
10 Aboriginal people that lived around Wellington.

11 A. Not a lot, no.

12 Q. After you were seven, you moved over to Langhorne Creek.

13 A. That's correct.

14 Q. And then to Morphett Vale. I take it that you were not  
15 living there with any other Aboriginal people when  
16 living over there.

17 A. Only the people who came through and done the grape  
18 picking, and things like that; or the Carters there were  
19 grape picking for a while.

20 Q. Occasionally, someone would come and stay during the  
21 grape-picking season.

22 A. Yes.

23 CONTINUED

1 Q. I think you told us you said you were working on the  
2 barrages for about 12 to 18 months, in the early 1950s.

3 A. Yes, I worked on the Tauwitchere barrage for about  
4 between 12 months and 18 months, yes.

5 Q. What were you doing there.

6 A. Just maintenance work, painting, the gates and  
7 maintaining the locks and things like that.

8 Q. Say, in the last - or take, say, the year before the  
9 bridge dispute arose. So, before, say, April 1994, that  
10 is about a year ago. In the year or so before that, did  
11 you attend any Aboriginal functions, such as NAIDOC  
12 celebrations, or anything like that.

13 A. No.

14 Q. So, really, during the time leading up to the bridge,  
15 you really didn't have much contact with any other  
16 Aboriginal people.

17 A. No, no-one came and approached me, or anything like  
18 that, no.

19 Q. You essentially had been living at, I take it, Goolwa,  
20 since about the 1960s, as the only Aboriginal person  
21 there.

22 A. The only Aboriginal person living there permanently,  
23 yes.

24 COMSR

25 Q. Were there others who lived there, from time to time, or  
26 called to visit, or what was the situation.

27 A. Before 1960, there were Aboriginals. I mentioned  
28 before, there was the Sumners, the Walkers, the Tripps  
29 and all, they lived there permanently. But, after that,  
30 they just moved off. And, occasionally, some Aboriginal  
31 people would come down and things like that, but they  
32 were just more or less passing through.

33 MR KENNY: There are a lot of other questions I  
34 would like to ask this witness concerning his knowledge  
35 of Aboriginal traditions, but I don't think this is an  
36 appropriate time to be asking about them and,  
37 consequently, I would ask that this witness perhaps be  
38 released for now and recalled if a s.35 authority is

1 issued.

2 The other thing is, he has given evidence of  
3 speaking to one of my clients, Henry Rankine.

4 I will need to take some instruction from Mr  
5 Rankine, but I don't ask is that this witness be held  
6 over and come back for that and then brought back again.  
7 I can suggest it is perhaps better if we simply put it  
8 off until we know whether a s.35 authority is going to  
9 be issued.

10 COMSR: There is nothing in what the witness  
11 claims to have said to your client which would require a  
12 s.35 authority, is there?

13 MR KENNY: Yes, there is.

14 COMSR: Is there?

15 MR KENNY: He is alleging that my client is saying,  
16 and I ask that this be suppressed -

17 COMSR: All right, I will take your word for it,  
18 that you can suppress it.

19 MR KENNY: You can read p.4, in the second  
20 paragraph.

21 COMSR: Let me have a look.

22 MR KENNY: I am aware that there are - I have had  
23 some discussions with my clients concerning Granite  
24 Island and they are certainly matters that, whilst I  
25 don't have detail, I could say that at least with me  
26 raised concerns about s.35.

27 COMSR: Yes, there is certainly a very general  
28 statement there, but, if you are going to ask more  
29 detailed questions than that, yes. What you are  
30 suggesting, at the present stage, is that you don't  
31 propose to cross-examine the witness any further. That,  
32 as far as you are concerned, he could be released,  
33 subject to this, he may be required to be recalled, at a  
34 later stage?

35 MR KENNY: Yes, and I can indicate there are some  
36 other documents I would like to have access to before I  
37 finish cross-examining this witness that are currently  
38 not released due to the s.35 ban. And one is Dr

1964

KC 26J

J.E. McHUGHES XXN (MR KENNY)  
(MR ABBOTT)

1 Clarke's thesis, for example. And the Berndt and Berndt  
2 book, as well. But I can't take it any further, at this  
3 stage.

4 COMSR: We won't go into it, at this stage.

5 Does anyone else wish to ask questions?

6 MR ABBOTT: Yes, I have got some questions.

7 EXAMINATION BY MR ABBOTT

8 Q. How old are you now.

9 A. Sixty-three.

10 Q. I am the lawyer representing Dorrie Wilson and I  
11 understand that you and my client have common ancestry.

12 A. That's right, that's correct, yes.

13 ADJOURNED 1 P.M.

1965  
KC 26JJ

J.E. McHUGHES XXN (MR ABBOTT)

- 1 RESUMING 2.25 P.M.  
2 WITNESS J.E. McHUGHES, CROSS-EXAMINATION BY MR ABBOTT  
3 CONTINUING  
4 Q. I was asking some questions about your genealogy. I am  
5 just trying to think of the best way of putting it.  
6 Could I put it in this way: your grandfather was the  
7 famous William McHughes.  
8 A. That's correct.  
9 Q. That William McHughes was a brother and had, as his  
10 sister, Queen Louisa.  
11 A. That's correct.  
12 Q. So, your grandfather and your grandfather's sister were  
13 both descended from an Aboriginal woman, whose name I  
14 think was Muntinda.  
15 A. I believe so, yes.  
16 Q. Do you know why she was called Queen Louisa. All the  
17 books refer to her as Queen Louisa.  
18 A. Yes, honestly, no, I don't know.  
19 Q. Exhibit 94 refers to William McHughes as the brother of  
20 Queen Louisa.  
21 A. That's right.  
22 Q. Your father was Walter McHughes.  
23 A. That's correct.  
24 Q. One of his brothers was Hughie McHughes.  
25 A. That's correct.  
26 Q. It is through Hughie McHughes that Dorothy Wilson, one  
27 of the previous witnesses, is descended.  
28 A. That is correct.  
29 Q. Hughie McHughes, your uncle, I think married Lena  
30 Gollan.  
31 A. That is right.  
32 Q. And one of their children was Dorrie Wilson's mother,  
33 Hetty McHughes.  
34 A. That's correct.  
35 Q. Effectively, Hetty McHughes and you are second cousins.  
36 A. Hetty and -  
37 Q. Hetty McHughes and you are first cousins.  
38 A. No, Hughie McHughes is her father.

- 1 Q. Hughie McHughes is Hetty's father and Walter McHughes is  
2 your father.
- 3 A. That's correct.
- 4 Q. So, you are cousins.
- 5 A. That's correct, yes.
- 6 Q. And Dorrie Wilson always calls you Uncle John, doesn't  
7 she.
- 8 A. That's correct.
- 9 Q. And, whether it be strictly uncle, you regard yourself  
10 as her uncle.
- 11 A. Yes.
- 12 Q. You were asked a question about whether you knew a Beryl  
13 Kropinyeri. Do you know a Beryl Wilson, Dorrie's  
14 sister.
- 15 A. Yes, Beryl, yes, Wilson, yes.
- 16 Q. If I tell you that Kropinyeri is her married name - you  
17 do know Beryl, don't you.
- 18 A. Yes, I certainly know Beryl, yes.
- 19 Q. You have a number of sisters and nieces.
- 20 A. That's correct, yes.
- 21 Q. The Casey family.
- 22 A. That's right. That's - my sister married a Casey.
- 23 Q. The Wade family.
- 24 A. That's correct. My sister's daughters.
- 25 Q. You know all members of your family, as well as members  
26 of the Wilson family.
- 27 A. Yes, that's correct.
- 28 Q. I think that we can read about your father, Walter  
29 McHughes, on p.102, the page numbered 102 of this  
30 Exhibit 94. Turning to Exhibit 94, which is the  
31 biography and family history of William McHughes, your  
32 grandfather, do you have a copy of that document.
- 33 A. Yes, I have a document here.
- 34 Q. If you turn to the page which has the number no.102 up  
35 the top, do you have that page in front of you.
- 36 A. Yes.
- 37 Q. The sixth child Hughie McHughes: we read about Hughie  
38 there. I won't read it out.

1967

KC 26JJ

J.E. McHUGHES XXN (MR ABBOTT)

1 A. Yes.

2 Q. You will see, at the end of that passage the four  
3 children, Beryl, Dorothy, Mervyn, and Laura. The  
4 `Dorothy' referred to is Dorothy Wilson.

5 A. That's correct.

6 Q. And the seventh child, Walter McHughes, is your father.

7 A. That is correct.

8 Q. We read about Walter: he served in the Army for four  
9 years.

10 A. Yes, that's correct.

11 Q. One further aspect of the genealogy: although you are  
12 descended by your grandfather being William McHughes and  
13 he being the brother of Queen Louisa, the genealogy  
14 works this way, as I have said, William McHughes and  
15 Queen Louisa are brother and sister, that is so.

16 A. That is so, yes.

17 Q. Your father, Walter McHughes, and Pinkie Mack were  
18 cousins.

19 A. Yes.

20 Q. The daughter of Pinkie Mack - whose name you have  
21 mentioned and you - that is the name of the person Nanna  
22 Laura we mentioned, but we are referring to her as the  
23 daughter of Pinkie Mack - and you are second cousins.

24 A. That is correct.

25 Q. I suppose that is how you have really come to know her.

26 A. Yes.

27 Q. Through being related.

28 A. That is exactly right.

29 Q. Could I just ask you about this matter: I understand  
30 that, at the request of Jenny Grace, you were asked to  
31 speak to the female members of your family, to see  
32 whether or not they had heard of any women's business  
33 connected to Hindmarsh Island, or been told anything by  
34 their female relatives.

35 A. That's correct.

36 Q. Did you go and see certain female members of your  
37 family.

38 A. I certainly did.

1968

KC 26JJ

J.E. McHUGHES XXN (MR ABBOTT)

- 1 Q. Did you get them to, or ask whether they would sign to  
2 that effect.
- 3 A. Yes, I did.
- 4 Q. Looking at the document, now before you, what is this  
5 document.
- 6 A. `We, the undersigned a group of -
- 7 Q. Yes, I know. Did you obtain these signatures.
- 8 A. Yes.
- 9 Q. Did you go and see the people.
- 10 A. I saw every one of them personally.
- 11 Q. Could you just tell us who these ladies are.
- 12 A. Yes, Margaret Casey. She is my sister.
- 13 Q. And she, like you, has lived for many years down at  
14 Goolwa.
- 15 A. Yes, we all came to Goolwa in 1946/1947. Rhonda Casey.  
16 She is my daughter's - my sister's daughter.
- 17 Q. So, she is your niece.
- 18 A. That is my niece. She's lived in Goolwa ever since we  
19 moved down there, all her life. Tania. That is  
20 Rhonda's daughter. It would be my -
- 21 Q. Great niece, or -
- 22 A. That's correct. And Jodie. That is Tania's sister.
- 23 Q. Another great niece, who lives at Goolwa.
- 24 A. Another niece, or whatever. And Gloria. That is my  
25 sister's, Dorothy, that is her daughter, Gloria Wade.  
26 Dianne Lesley. That is my own daughter. Barbara  
27 Bricknell. That is my sister. Betty Lockett. That is  
28 my sister. Kathy Squires. That is my - Betty Lockett's  
29 daughter. She is my niece. And Jenny Grace. She is  
30 the one that came round for this.
- 31 Q. You have told us the relationship between those ladies,  
32 but, of course, some of them are younger than you, being  
33 - some of them are young people, but most of them are of  
34 some reasonable age, the people on this list.
- 35 A. Yes.
- 36 Q. And are these the ladies whom, to your knowledge, have  
37 lived in the Goolwa area and who are of Ngarrindjeri  
38 extraction and whose views are, in your view, relevant



1 to this matter.

2 A. That is exactly right.

3 EXHIBIT 99 List tendered by Mr Abbott. Admitted.

4 Q. I have one question in relation to it: the document  
5 says, at the top, 'We, the undersigned group of  
6 Ngarrindjeri women, would like to make it clear that we  
7 have not heard of any of the specific women's business  
8 connected to Hindmarsh Island and have never been told  
9 by our great grandmothers, grandmothers, mothers or  
10 aunts.' Did you ascertain from each of the persons who  
11 signed this exhibit that that was, in fact, their views.

12 A. That is exactly what their views were.

13 Q. I have one aspect, one further matter to put to you:  
14 Dorrie Wilson has given evidence and, in her witness  
15 statement, she spoke of an occasion in late - and I am  
16 referring to p.47 of her witness statement, an occasion  
17 'In late August or early September 1994', she said  
18 'Uncle John McHughes', that is you, 'who must have been  
19 speaking to Chirpy', that is, Chirpy Campbell.

20 A. That's right.

21 Q. 'Called me up and said that he wanted to talk to me  
22 about the bridge. He came over to my house in Murray  
23 Bridge with his sister, Auntie Betty.'

24 A. That's right.

25 Q. 'And her daughter and my two sisters, as well. We were  
26 talking about our relations and the family tree, because  
27 Auntie Betty's daughter was working on our family  
28 tree.'

29 A. That's right.

30 Q. 'We talked about the women's business and the fact that  
31 I thought it was rubbish.'

32 A. That is exactly right.

33 Q. 'Uncle John said that he didn't believe the waters were  
34 spiritual. He said that they had put many, many pylons  
35 in the channel and had had to blast the water to do  
36 that.' Do you remember telling her about that.

37 A. That is exactly right.

38 Q. And she goes on to say that you told them 'They had put

1 new pylons in in 1978.' You told her that.

2 A. Yes.

3 Q. And you said that 'If there had been any fertility  
4 attached to the water, it would have been blasted away  
5 when they put in the pylons.'

6 OBJECTION Mr Kenny objects.

7 MR KENNY: Obviously Mr Abbott is reading from an  
8 unsensored copy of that witness statement. 1. I would  
9 like to ask what he is doing with it. And 2. I will  
10 ask him to return it.

11 MR ABBOTT: I will tell you what I am doing with it:  
12 it is my witness's statement. That is what I am doing  
13 with it.

14 MR KENNY: Well, it is suppressed, at this stage,  
15 and my understanding was that it was to be excluded from  
16 men having it. Perhaps Mr Abbott's witness doesn't, or  
17 client, doesn't have the same regard for Aboriginal  
18 tradition as some of the other people, but -

19 MR ABBOTT: I have every regard for Aboriginal  
20 tradition. I have no regard for fabricated material.

21 COMSR: I think the situation is that, of  
22 course, you may well have got a copy of that, through  
23 taking the witness statements, Mr Abbott, but, as far as  
24 the release of the statement is concerned, the parts  
25 that were blacked out are suppressed.

26 MR ABBOTT: If I had realised that, I wouldn't have  
27 read it. But I have read it out and you can see how  
28 innocuous the two lines are and I accept what you have  
29 said and I withdraw my question.

30 XXN

31 Q. I will merely ask you this: did Dorrie Wilson tell you  
32 that none of what had happened about what you had told  
33 her had effected anyone's fertility and say 'We are  
34 having a baby boom in Murray Bridge.'

35 A. Yes.

36 Q. Did you know - did she mention anything about a baby  
37 boom in Murray Bridge now.

38 A. Sorry?

1971

KC 26JJ

J.E. McHUGHES XXN (MR ABBOTT)

1 Q. When you spoke to Dorrie Wilson, on that occasion, did  
2 she say to you that, as far as she was concerned, there  
3 had been no effect on anyone's fertility.

4 A. No, that's right. There wouldn't be any effect on  
5 anyone whatsoever.

6 Q. Your sister, whom Dorrie refers to as Auntie Betty, what  
7 is your sister's name.

8 A. Betty Lockett. Mrs Lockett.

9 Q. Her daughter, who was with her when you came to visit  
10 Dorrie.

11 A. Yes, that was Patricia.

12 CONTINUED

1972

RF 26K

J.E. McHUGHES XXN (MR ABBOTT)  
(MR MEYER)

1 Q. Which daughter is the one that's working on the family  
2 tree.

3 A. That's Patricia.

4 CROSS-EXAMINATION BY MR MEYER

5 Q. When you speak about there being piling work being done  
6 for the ferry, was a cofferdam built.

7 A. There was a cofferdam built, yes. We had to pump all  
8 the water out. So a cofferdam was built right around  
9 the ferry approaches, and the water was pumped out and  
10 the pylons driven down through the river bed.

11 Q. What sort of cofferdam was -

12 A. Steel cofferdams. They interlock and they slide down  
13 inside one another to prevent the water from coming in.  
14 Then we installed big pumps to pump it out, and then the  
15 pylon was driven in underneath.

16 Q. That is like metal sheet piles.

17 A. Metal sheet piles, yes.

18 Q. Were they put in with a metal pile driver.

19 A. They were put in with a metal pile driver, yes.

20 MR MEYER: The next question I wish to ask is about  
21 Aggie's Knob, but, as far as I am aware, it cannot  
22 create any sort of problem in relation to Section 35.

23 XXN

24 Q. Does Aggie's Knob now exist.

25 A. Not the actual knob itself. The knob was bulldozed  
26 down. I -

27 Q. That's all you need to answer. A geographical question.  
28 There has been evidence about the Three Mile as being a  
29 spot outside of Tailem Bend.

30 A. Not to my knowledge. I haven't heard of it.

31 Q. You haven't heard of that.

32 A. No.

33 Q. You cannot tell me where it is then. The question I was  
34 going to ask is, where is it.

35 MR KENNY: I have some further questions arising  
36 out of Mr Abbott's cross-examination.

37 COMSR: Yes.

1973

RF 26K

J.E. McHUGHES XXN (MR KENNY)

1 FURTHER CROSS-EXAMINATION BY MR KENNY

2 Q. Jennifer Grace, did she ask you to seek these signatures  
3 that are on Exhibit 99.

4 A. Yes. She - when I was speaking to her one day, she said  
5 'We're getting up a petition, John. Would you be  
6 prepared to get some signatures?' I said 'Yes, more  
7 than welcome to'.

8 Q. So she brought this down to you in the prepared form.

9 A. She brought the form to me, yes.

10 Q. Did she say who was preparing that petition and what it  
11 was for.

12 A. No, it says on the thing. I read the petition what it  
13 was all about.

14 Q. But did she say 'We want it for -' something.

15 A. No. She just brought that document to me and I read it.  
16 I said 'Yes, I'll do what I can to get some signatures  
17 on that.'

18 Q. Did she ever tell you what she intended to do with it.

19 A. No, I didn't ask her.

20 Q. The age of some of these people - Tania Casey, how old  
21 is she.

22 A. Would be probably early 30s.

23 Q. Gloria Wade.

24 A. She'd be in her 40s.

25 Q. Betty Lockett.

26 A. Betty is my younger sister.

27 Q. I won't ask you how old she is. Mr Abbott referred you  
28 to Dorothy Wilson's statement and the fact that you  
29 telephoned her in August or early September 1994.

30 A. That's correct.

31 Q. Was that after talking to Chirpy.

32 A. No, probably before I spoke to Chirpy.

33 Q. But you spoke to Chirpy after -

34 OBJECTION Mr Abbott objects.

35 MR ABBOTT: Mr Kenny had the same opportunity of  
36 cross-examining this witness on a statement that is  
37 already in. The fact that I have chosen to ask some  
38 questions about it, doesn't entitle Mr Kenny to suddenly

1974

RF 26K

J.E. McHUGHES XXN (MR KENNY)

1 decide it would be a good thing if he asks a few things  
2 about it. He went first. He had his turn. I didn't  
3 rise to object to the petition material because that is  
4 new. This is not new.

5 COMSR: How does that arise?

6 MR KENNY: I accept what he says, but I seek to ask  
7 further questions in relation to this matter. It was a  
8 point that I had overlooked. I might point out that I  
9 didn't have all the background on this witness, and I  
10 didn't know he was going to be called before he was  
11 called today. I didn't have the opportunity to see his  
12 statement or to speak to him before he came here. It is  
13 not surprising, therefore, a number of issues may come  
14 up that I haven't had the opportunity to consider. I  
15 suggest that it is not unreasonable, given the shortness  
16 of notice of this witness, that I be allowed to ask  
17 further questions.

18 COMSR: I think that is so.

19 MR ABBOTT: On the basis that it is a genuine  
20 oversight on his part, I will not continue to object.

21 OBJECTION WITHDRAWN

22 XXN

23 Q. You spoke to Chirpy.

24 A. Yes, I have spoken to Chirpy, yes.

25 Q. That's Chirpy Campbell.

26 A. That's right.

27 Q. Do you know him very well.

28 A. Yes, I know him well. He's my relation.

29 Q. Before about September 1994, had you previously spoken  
30 to him.

31 A. No, because he lives in Sydney.

32 Q. So before September 1994, when was the last time you  
33 spoke to him.

34 A. He did ring me a couple of times from Sydney, saying  
35 that he was in the - looking into the deaths in custody,  
36 so I would have spoken to him prior to that two or three  
37 times over the phone.

38 Q. Had you met him before then.

1975

RF 26K

J.E. McHUGHES XXN (MR KENNY)

- 1 A. I hadn't met him before then, no.
- 2 Q. Did you call Chirpy or did he call you in about  
3 September 1994.
- 4 A. No. There were several - I know I did ring him a couple  
5 of times and he did ring me a couple of times. Which  
6 was first, I just can't recall.
- 7 Q. This is in relation to the bridge, you are talking about  
8 you had several discussions with him.
- 9 A. That's right, yes.
- 10 Q. Can you tell us what those discussions were about.
- 11 A. It is mainly about the women's business.
- 12 Q. Did he tell you what his interest was.
- 13 A. He said he has never heard of the women's business  
14 before, never ever.
- 15 Q. Did he talk to you about negotiating with the  
16 contractors.
- 17 A. Sorry, can you repeat that?
- 18 Q. Did he talk to you about negotiating with the  
19 contractors in relation to the bridge.
- 20 A. Which contractors?
- 21 Q. The Chapmans and developers, perhaps I should say.
- 22 A. No, no.
- 23 Q. Did he talk to you about building an Aboriginal  
24 centre/museum and an Aboriginal education camp on the  
25 island for the kids in the future.
- 26 A. That was brought up at the meetings we had several times  
27 before this bridge business - or during this bridge  
28 business came up.
- 29 Q. But that's - that was Chirpy's suggestion, was it.
- 30 A. Yes.
- 31 Q. Did he say to you that he may become involved in that  
32 Aboriginal centre or museum.
- 33 A. He said he would like to see it developed and built,  
34 because he said, if the bridge was built, he would like  
35 to see this centre go up and get underway.
- 36 Q. Did he see that he, himself, had a role in working at  
37 that centre.
- 38 A. No, he didn't say so.

1976

RF 26K

J.E. McHUGHES XXN (MR KENNY)

- 1 Q. I take it that Chirpy was saying that this centre should  
2 be built by the developers, is that correct.  
3 A. I can't recall that.  
4 Q. Did he say anything to you about the developers having  
5 to pay a price for wanting to build the bridge.  
6 A. No, he didn't say that to me.  
7 Q. Were you ever aware of him saying anything like that.  
8 A. No, not to my knowledge.  
9 Q. You get the Victor Harbor Times, do you.  
10 A. Yes.  
11 Q. Have you had your photo in there.  
12 A. That's correct, yes.  
13 Q. With Allan Campbell.  
14 A. That's correct.  
15 Q. That's Chirpy that we're talking about.  
16 A. That's Chirpy that we're talking about.  
17 Q. Do you remember that article on 28 February 1995.  
18 Perhaps the witness can be shown this document.  
19 MR ABBOTT: This could surely have been put  
20 beforehand. This is a document he has always had. It  
21 can hardly have gone undetected, or is this another  
22 mistake?  
23 MR KENNY: Yes, I have made plenty of mistakes in  
24 not having all the evidence or the information about  
25 this witness, but, as I said, I spent most of this  
26 morning trying to read his statement and listen to his  
27 evidence.  
28 COMSR: I appreciate we rearranged the witness  
29 order at very short notice and that there was not too  
30 much prior notice. I propose to allow Mr Kenny to ask  
31 these questions.  
32 Q. Have you seen that article before.  
33 A. Yes.  
34 XXN  
35 Q. That is indeed the article that appeared in the Victor  
36 Harbor Times on 28 February 1995.  
37 A. That's correct.



1977

RF 26K

J.E. McHUGHES XXN (MR KENNY) REXN

1 Q. Do you support what Mr Campbell was saying in that  
2 article.

3 A. Would you like to read -

4 Q. In particular where he says 'We also want an Aboriginal  
5 centre/museum and an Aboriginal education camp built on  
6 the island for the future of the kids. If the developer  
7 and the white island people want this bridge, that is  
8 the price they have to pay.'

9 A. I think something like that should be built on the  
10 island if the bridge is built.

11 Q. So you believe that the developers should pay a price  
12 for that development.

13 A. No, I didn't say that. I said I think something like  
14 that, that centre, should be built on Hindmarsh Island.

15 Q. Why do you say that.

16 A. Because of the Aboriginals that used to live in the area  
17 many many years ago and things like that. I would be in  
18 support of something going on like that for that reason.

19 Q. Do you believe that there was any restriction on the use  
20 of the waterway between Goolwa and the island where they  
21 propose to build the bridge.

22 COMSR: I don't follow the question.

23 MR KENNY: In terms of an Aboriginal belief or  
24 tradition.

25 COMSR: Isn't that going to get you into the  
26 same problem that you have?

27 MR KENNY: Yes, this is the difficulty we have.

28 COMSR: The only difficulty is that it has to be  
29 deferred.

30 MR KENNY: Perhaps I will defer the rest of it as  
31 well. There are some questions that Mr Campbell goes on  
32 to ask. I will simply tender this report at this stage.

33 EXHIBIT 100 Article from Victor Harbor Times dated  
34 28 February 1995 tendered by Mr Kenny.  
35 Admitted.

36 RE-EXAMINATION BY MR SMITH

37 Q. If I understand the dates correctly, you were about 15  
38 when you moved to Goolwa.

1978

RF 26K

J.E. McHUGHES REXN

1 A. That's correct, yes.

2 Q. Were you a keen footballer.

3 A. Yes, very keen.

4 Q. Who did you play for.

5 A. I played for Goolwa.

6 Q. You played for a long time for Goolwa, didn't you.

7 A. I played until I was about 34 years of age.

8 Q. I think you are a life member of the Goolwa Football  
9 Club.

10 A. Yes, that's correct.

11 Q. Is the badge you've got on at the moment -

12 A. Yes, that's a life membership badge.

13 Q. What position did you play.

14 A. Actually all over the field. Mainly in the centre.

15 COMSR: I am taking it that the relevance of it  
16 will soon become obvious.

17 REXN

18 Q. In your early days, living and, amongst other things,  
19 working and playing football in Goolwa, were you known  
20 as a Ngarrindjeri Aboriginal man.

21 A. Yes. Yes, definitely.

22 Q. Is it the case that the other Ngarrindjeri peoples, many  
23 of whom were concentrated in Point McLeay, knew you.

24 A. Yes.

25 Q. Some of the questions that my learned friend, Mr Kenny,  
26 has asked you about who you know and who you don't know,  
27 suggest that you don't know many Ngarrindjeri people.  
28 Could you clear that up for us.

29 A. Yes. As I said, I went to Point McLeay on different  
30 occasions. It wasn't very often. Mainly the Aboriginal  
31 people that I knew and mixed with was the people that  
32 lived in Goolwa and that I played sport with. A few of  
33 them used to drift through, you know, in and out of  
34 Goolwa, and I knew them also, but there would be a lot  
35 of Aboriginal people that I don't know and who claim  
36 that they lived in Goolwa. If they lived in Goolwa I  
37 would have definitely known them.

1979

RF 26K

J.E. McHUGHES REXN

- 1 Q. Were you ever approached by the members of the Lower  
2 Murray Aboriginal Heritage Committee -  
3 A. Never.  
4 Q. During the days of the bridge dispute.  
5 A. Never ever, no.  
6 Q. Would they have known you were about in Goolwa to  
7 approach you.  
8 A. I would think so, yes. Most definitely.  
9 Q. Could you tell us how that could be.  
10 A. I don't know why they haven't approached me. The Local  
11 Council now has put me on the council to represent the  
12 Ngarrindjeri people in Goolwa if anything ever arises  
13 from the heritage business, and I've only just been  
14 appointed on the council in the last few months to  
15 liaise with the Aboriginal people, if anything -  
16 development or anything like that - arises in Goolwa  
17 again.  
18 COMSR: The witness may be released at this time  
19 subject to the fact that he may be required to be  
20 recalled at a later stage.  
21 MR SMITH: Yes, subject to the wishes of counsel at  
22 the bar table about matters that may be sensitive.  
23 NO FURTHER QUESTIONS  
24 WITNESS RELEASED

1980

CJ 26L

G.M. EASDOWN XN (MR SMITH)

1 MR SMITH CALLS

2 GEOFFREY MAXWELL EASDOWN SWORN

3 EXAMINATION BY MR SMITH

4 Q. I think you're a journalist currently working in  
5 Melbourne; is that correct.

6 A. That's correct.

7 Q. Currently in the employ of what organisation.

8 A. Of the Herald Sun newspaper in Melbourne and News  
9 Corporation.

10 Q. I think you have been a journalist for some 31 years  
11 now.

12 A. That is correct.

13 Q. I think in connection with your work as a journalist,  
14 you have had occasion from time to time to speak to  
15 people who have been actors, if you like, in the drama  
16 of the Hindmarsh Island Bridge.

17 A. Yes, I have.

18 Q. You have written articles.

19 A. Yes, I have written several articles; in fact, many  
20 articles on the Hindmarsh Island Bridge.

21 Q. Looking at this statement produced to you, do you  
22 recognise this as a statement which you kindly provided  
23 to the Commission in connection with this inquiry.

24 A. Yes, it is, and my signature appears on the bottom of  
25 p.4 with the date, and on p.1 there is an alteration  
26 with my initials on it.

27 EXHIBIT 101 Statement of Geoffrey Maxwell Easdown  
28 tendered by Mr Smith. Admitted.

29 Q. I think you have also provided to the Commission under  
30 an index a bundle of Herald Sun newspaper clippings  
31 dated and indexed.

32 A. Yes. I have my copy here, but that doesn't have an  
33 index with them.

34 Q. Looking at this bundle produced to you, I think that's  
35 the bundle which you have provided.

36 A. Yes, it is.

37 EXHIBIT 102 Bundle of news clippings of Herald Sun  
38 tendered by Mr Smith.

- 1 Q. Those clippings are articles written by yourself  
2 concerning the Hindmarsh Island Bridge dispute.
- 3 A. Yes, they are.
- 4 Q. Have you a copy of your statement. I can provide you  
5 with one if you haven't got one.
- 6 A. I may have one here. No, I don't have the latest one.
- 7 Q. Looking at your statement produced, as you have said,  
8 you have been a journalist now for some 31 years. I  
9 want to ask you some questions about your career. I  
10 think you joined the Melbourne Herald Newspaper in 1972.
- 11 A. Yes, that's correct, after something like eight years or  
12 seven or eight years with country and regional daily  
13 newspapers.
- 14 Q. You remained with that publication until the end of  
15 1980.
- 16 A. Yes, I did. At that stage I was in the Canberra bureau  
17 of the Melbourne Herald.
- 18 Q. I think you then transferred, as your statement sets  
19 out, to the Geelong Advertiser; is that right.
- 20 A. Yes, that's correct.
- 21 Q. You were there Chief of Staff and News Editor.
- 22 A. Yes, I was.
- 23 Q. You stayed there for some two years; is that correct.
- 24 A. It was just under two years.
- 25 Q. Then, you returned to the Herald in April 1982.
- 26 A. Yes, that's correct.
- 27 Q. You have been there ever since.
- 28 A. Yes, I have; and I was there at the time when the Herald  
29 was merged with the Sun News Pictorial to form the  
30 Herald Sun.
- 31 Q. I think, going back a little bit, before that, I think  
32 you were Deputy Bureau Chief for the Herald for a  
33 numbers of years.
- 34 A. That was during my time in Canberra.
- 35 Q. For the last 10 to 15 years, you have been a journalist,  
36 but concentrating in the investigative area; is that  
37 right.
- 38 A. That's correct.

1 Q. Any particular emphasis.

2 A. It's largely - in many cases, it's been financial and  
3 legal matters. I've - as well as that, I've covered:  
4 The Fitzgerald Royal Commission in Brisbane, I was there  
5 for 16 months; the WA Inc. Inquiry and there for several  
6 months; I attended at the State Bank Inquiry here in  
7 Adelaide for some weeks at one stage; I was in Kuala  
8 Lumpur for the execution of Barlow and Chambers and -

9 Q. I think you were in Vanuatu during the troubles over  
10 there.

11 A. Yes, I was.

12 Q. Reporting on that.

13 A. Yes, I was.

14 Q. I think also you have been the author of a number of  
15 books, have you not.

16 A. Yes, I have.

17 Q. Would you just briefly summarize those for us.

18 A. Yes. I wrote the 'History of the Ford Motor Company'.  
19 I wrote a book on the Leonski murders in Melbourne in  
20 1942.

21 Q. The Leonski murders, what was that about.

22 A. That was an American soldier who came to Melbourne with  
23 the first troops that arrived from the United States.  
24 He murdered three Australian civilians and he was tried  
25 by their own military for crimes against the Australian  
26 civilians.

27 Q. What was the name of that book.

28 A. The book was finished but it was never published, but  
29 the research that I did on it was used as to make a film  
30 which was called 'Death of a Soldier'.

31 Q. I think you also produced a book on the Kiewa  
32 Hydroelectric Scheme for the State of Victoria.

33 A. Yes.

34 Q. The history of the Falcon motorcar.

35 A. Yes, I did.

36 Q. You did the biography of Bob Jane.

37 A. Yes, I have. All of that work was supplementary to my  
38 work with the Herald; it was quite separate.

1983

CJ 26L

G.M. EASDOWN XN (MR SMITH)

1 Q. The Herald, of course, has merged with its sister  
2 morning publication The Sun.

3 A. Yes, it has, The Sun News Pictorial.

4 Q. Is one of your responsibilities for the Herald Sun  
5 Aboriginal affairs.

6 A. Yes, it was.

7 Q. How long have you been reporting in that area.

8 A. I have been writing articles about Aboriginal affairs  
9 now off and on for probably as long as I have been an  
10 investigative reporter. I have people that I regard as  
11 very close friends who are Kooris, which is a Victorian  
12 term for 'Aboriginal'.

13 Q. Can you spell that.

14 A. K-O-O-R-I.

15 Q. That has an equivalent here in South Australia with what  
16 word.

17 A. Nunga.

18 Q. I think you came into this matter, that is the Hindmarsh  
19 Island Bridge dispute, through a connection with Sue  
20 Lawrie.

21 A. Yes, I did.

22 Q. I would like to explore that a little bit. When did you  
23 first meet Sue Lawrie.

24 A. I met her during the last State election campaign in  
25 South Australia when she was running a campaign for a  
26 Chinese gentleman who was standing for a Liberal seat, a  
27 candidate in a Labor, strong Labor seat.

28 Q. So, was the attraction, if you like, because of that  
29 unusual configuration.

30 A. Yes. What I thought was interesting was that because of  
31 the, I suppose, the increasing Asianisation of this  
32 country and the links to Asia and the - I thought this  
33 was an interesting aspect to a campaign. We haven't  
34 seen it before and it was well worth focusing on.

35 Q. So, what interest it had to you was that there was a  
36 Liberal candidate who was a Chinese man vying for  
37 election in a strong Labor seat.

38 A. Yes.

1984

CJ 26L

G.M. EASDOWN XN (MR SMITH)

- 1 Q. I think you actually did a story which compared his  
2 efforts, if you like.
- 3 A. Yes, I did that.
- 4 Q. With another seat.
- 5 A. With the seat which Joan Steele-Hall, I think, was  
6 standing for.
- 7 Q. Which was a safe Liberal seat.
- 8 A. Yes, it was.
- 9 Q. So, it was in that way that you, as it were, bumped into  
10 Lawrie.
- 11 A. Yes. Myself and a chap from the Sydney Morning Herald  
12 here for the campaign were invited to an electorate  
13 dinner for Larry Leu Ong. I'm not sure how you spell  
14 the name now.
- 15 Q. So, it was a professional contact in that sense.
- 16 A. Yes, it was a professional contact.
- 17 Q. Your next contact with Sue Lawrie was when.
- 18 A. It was during the Bonython campaign and she was, I  
19 believe, managing the campaign for Andy Chapman, and it  
20 was at a time when the support for John Hewson in  
21 Canberra was falling, and I was interested in what was  
22 going to be the outcome of the bi-election.
- 23 Q. So, Sue Lawrie thereby became one of a number of  
24 political contacts you have from the Liberal side.
- 25 A. Yes, it was. I spoke to people on both sides, all sides  
26 of politics.
- 27 Q. Sue Lawrie contacted you about this matter, I think, as  
28 your statement says, in late April, early May of this  
29 year.
- 30 A. Yes, in late April, early May. At this stage, Sue's  
31 working in Melbourne and contacted me and told me that  
32 she was looking into the Hindmarsh Island Bridge matter  
33 and she said that she believed the matter was a hoax and  
34 was I interested in having a look at the issue. At that  
35 stage, she was trying to interview a number of the  
36 principal witnesses in the case and I said `Well, look,  
37 when you're finished talking to them, I'm happy to have  
38 a look at the transcript and see what I can do from



1985

CJ 26L

G.M. EASDOWN XN (MR SMITH)

1 there'. I said I really wanted to do my own research  
2 and check the matter out independently, bearing in mind  
3 her connections with the Liberal Party.

4 Q. So, you were concerned then to do just that I suppose:  
5 Ensure what you had decided was independent.

6 A. Yes, I wanted it to be independent and wanted to come to  
7 South Australia to talk to the people separately.

8 Q. That is independent from her view.

9 A. Yes.

10 Q. In any event, what she said to you interested you enough  
11 to follow up.

12 A. Yes, it did.

13 Q. Did you offer her any advice at that stage.

14 A. Yes. She was telling me she was going to do this and I  
15 said `You should get an independent witness if you are  
16 talking to any of these people'. I said `It's only for  
17 your own benefit'.

18 Q. I take it then that you had to convince your bosses, as  
19 it were, that you could embark on this investigation, if  
20 you like.

21 A. Yes, I did. It was no different to any other major  
22 inquiry that requires budget. We have to support - we  
23 have to present an idea of where we are going to get the  
24 money to travel, to stay in hotels and whatever.

25 Q. I think, as your statement makes clear, it wasn't until  
26 18 May 1995 that you had approval to, as it were, make a  
27 move on the story.

28 A. That's correct. It was about 4 p.m. on the 18th and it  
29 was brought to my attention that Channel 10 were well  
30 into the story, and I was told that the Australian were  
31 also working on it; and I was able to convince my news  
32 editor that we should be here.

33 Q. You had a budget approved.

34 A. Yes.

35 Q. And you flew to Adelaide, as you have said there, on the  
36 evening of 18 May.

37 A. Yes, I did. I think I left Melbourne - I was booked on  
38 the 6 o'clock flight and I couldn't make that and I got

- 1 the last flight into Adelaide from Melbourne that  
2 evening.
- 3 Q. Upon arriving in Adelaide, where did you meet with Sue  
4 Lawrie.
- 5 A. Yes. I met her at the airport and it was arranged that  
6 she would come with me to Murray Bridge and provide an  
7 introduction to Dorothy Wilson.
- 8 Q. You drove to Murray Bridge then.
- 9 A. Yes, we drove to Murray Bridge. But we got there and  
10 couldn't find Dorothy Wilson, and someone at her home  
11 said that she was out for the evening. And we visited  
12 various hotels and coffee shops and finally found - Sue  
13 finally found her at home about 11 that evening.
- 14 Q. I think, having found her, you went to some place, as it  
15 were, remote from the house.
- 16 A. Yes. We went to - Dorothy suggested that we not talk in  
17 the house in front of the rest of the family and should  
18 go to somewhere else. And we agreed to go to a coffee  
19 roadhouse coffee shop on the highway.
- 20 Q. Outside Murray Bridge.
- 21 A. It was on the highway which approaches to Murray Bridge.
- 22 Q. I think there you had coffee and something to eat.
- 23 A. We had coffee and raisin bread, it may have been toasted  
24 sandwiches. We were there until about 1 a.m., I think,  
25 talking. I might add that while I talked to Dorothy  
26 Wilson, Miss Lawrie left the room and allowed me to talk  
27 to her independently on my own. She came back towards  
28 the end of the interview.
- 29 Q. Did you make notes of that conversation, or otherwise.
- 30 A. I made some notes, very scribbled notes, but I tape  
31 recorded the conversation and I've still - I still  
32 possess the tape.
- 33 Q. You still have your rough notes.
- 34 A. I have some rough notes, yes.
- 35 Q. I think that interview and a later interview that you  
36 had was the topic, became the topic of your first  
37 article.
- 38 A. Yes.

1987

CJ 26L

G.M. EASDOWN XN (MR SMITH)

1 Q. On this matter.

2 A. Yes, it did.

3 Q. Which was in the Herald Sun on Saturday, 20 May.

4 A. Yes. It was in the Herald Sun on Saturday, 20 May, it  
5 was in the Sydney Telegraph Mirror on the same day, and  
6 the Adelaide Advertiser and the Queensland Courier Mail.

7 Q. You have the tape, don't you.

8 A. Yes, I do.

9 Q. And you will preserve that.

10 A. Yes, I will.

11 Q. For some later time.

12 A. Yes, I'm happy to do that.

13 Q. The tape involves a conversation with Dorothy Wilson  
14 which extended for what period of time.

15 A. The tape itself is - I think it runs for about probably  
16 an hour.

17 Q. It canvasses, amongst other things, secret women's  
18 business.

19 A. Yes, it does, in quite some detail.

20 Q. That are contended for as far as she was aware and her  
21 reaction to it.

22 A. Her reaction to it, her rows with Doreen Kartinyeri.

23 Q. In conjunction with the tape, you had some rough notes  
24 too.

25 A. Yes, I did.

26 Q. I don't wish to inquire about what passed between you on  
27 the topic of the contended for women's business, but I  
28 do want to raise with you a couple of topics. Could you  
29 - have you got your rough notes.

30 A. I have some of them here, yes.

31 Q. It would be - you would like to look at those to answer  
32 the questions.

33 A. I'm sorry.

34 Q. You don't have to worry about the formality of that.

35 You would like to refresh your memory from your notes in  
36 response to some of these questions, I take it.

37 A. Yes, I would.

38 PERMISSION TO REFER TO NOTES, MR MEYER NOT OBJECTING

- 1 Q. One of the topics of conversation between you and  
2 Dorothy, that was a meeting at a place called the Mouth  
3 House on 9 May.
- 4 A. Yes, it was.
- 5 Q. That's right, isn't it.
- 6 A. Yes, it was. I was under the impression it was earlier  
7 than that, but subsequent documents have shown it to  
8 prove to me that it was about that date, yes.
- 9 Q. I want to ask you questions about that and if you can  
10 locate it in your notes to answer it, please do. The  
11 mention of 'Victor Wilson', the finance for the trip and  
12 the use of a vehicle for the trip.
- 13 A. Yes, certainly.
- 14 Q. Was that topic noted by you.
- 15 A. Yes, it is. The mention of - she told me that he took a  
16 bus from the Kalparran centre at, I believe, Murray  
17 Bridge and Victor Wilson arranged that and asked us to  
18 go down there to, I believe it was to Goolwa.
- 19 Q. Was there any talk - did Dorothy tell you anything  
20 about, you know, the expenses for the trip and how they  
21 were covered.
- 22 A. Yes, she did. I have a very rough transcript of my  
23 conversation, but I distinctly remember her saying that  
24 Victor financed the weekend's holiday for the group that  
25 went down there, apart from herself, by using grant  
26 money that was provided for a microwave for Kalparran.
- 27 OBJECTION Mr Kenny objects.
- 28 COMSR: That is one of your clients?
- 29 MR KENNY: Yes. I must say that that is purely  
30 hearsay evidence, the suggestion that - he is suggesting  
31 he committed some offence in relation to it. I don't  
32 know how this witness is able to prove that or even the  
33 person that he heard it from. It's a completely new  
34 suggestion.
- 35 CONTINUED

1989

KC 26M

G.M. EASDOWN XN (MR SMITH)

1 COMSR: That you haven't got instructions on.

2 MR KENNY: I must say, it is the first time I have  
3 heard it. Dorothy Wilson certainly didn't mention it.

4 COMSR: Consistently with what I have done in  
5 the past, where persons have been accused of some  
6 conduct -

7 MR KENNY: It is not even a direct accusation. It  
8 is hearsay.

9 COMSR: I know you are present, but you haven't  
10 as yet had an opportunity to take any instructions on  
11 it.

12 I propose to suppress any mention of that  
13 accusation, at this time. I have a lot of these  
14 suppression orders to reconsider.

15 XN

16 Q. Another topic: Doug Milera and Sarah Milera were  
17 mentioned, of course, in this tape recorded  
18 conversation, weren't they.

19 A. Yes, they were.

20 Q. Can I take you to the topic of whether or not Dorothy  
21 mentioned to you anything about Doug and Sarah staying  
22 on the island and how -

23 COMSR: Perhaps I should make myself clear as to  
24 suppression order.

25 What I am suppressing is the suggestion that monies  
26 that were intended for one purpose, that is, for the  
27 purchase of a microwave, were appropriated to another  
28 purpose. That is, the travel expenses of the persons.

29 XN

30 Q. Did Dorothy say anything to you, that you have recorded,  
31 either in your notes, or that you can remember on the  
32 tape.

33 A. Yes.

34 Q. Concerning Doug Milera and Sarah Milera staying on the  
35 island.

36 A. She said that `Sarah and Doug' and I have written in  
37 brackets `(Milera) were staying at a shack. They had  
38 been staying at white people's shack on the island,

G.M. EASDOWN XN (MR SMITH)

- 1 because they were in with the white group who were down  
2 there who did not want the bridge to be built.' And  
3 then she - 'They had joined forces with the Lower Murray  
4 Heritage Committee. Sarah and Doug would stay in the  
5 shack down there.' And she went on to talk about an  
6 incident that took place in the shack.
- 7 Q. Was there anything said about who had given them the  
8 shack and for what period of time.
- 9 A. She said that - she said to me that 'Sarah and Doug had  
10 been given', as I said there, that 'it was a white  
11 person's shack and that they had been there for some six  
12 weeks.'
- 13 Q. Did Dorothy say anything to you about the white person's  
14 shack, whether that white person was from a group or  
15 not, or was it just - any mention of that.
- 16 A. I believe she said that it was a group that were opposed  
17 to the bridge being built.
- 18 Q. In broad terms, and I don't want to take you to it, in  
19 detail, but Dorothy recounted to you what took place on  
20 the island, on that 9 May.
- 21 A. Yes, she first of all told me of a conversation that she  
22 and a group of women had with Doreen Kartinyeri and what  
23 took place in those discussions and it was a cultural  
24 matter, which I won't go into. And then she talked of  
25 an incident that took place. They went across to the  
26 island to the shack later. And what took place in the  
27 shack.
- 28 Q. Can I take you to one other topic, then, relating to  
29 that visit to the shack: was there talk - did Dorothy  
30 tell you about the input of an anthropologist, on that  
31 occasion.
- 32 A. Yes, she did.
- 33 Q. That is an anthropologist, not Dr Fergie.
- 34 A. No.
- 35 Q. Did she name the anthropologist to you.
- 36 A. I don't think she did, but I can't be sure, unless I  
37 spent sometime going through these notes.
- 38 Q. But can you perhaps at least locate what was said about

1 the input of this anthropologist, at this meeting.  
2 A. Yes, I can.  
3 MR KENNY: I just rise here, at this stage. I  
4 presume the anthropologist is going to be one that has  
5 been represented here by Mr Steele, if I remember  
6 correctly? And I just enquire whether Mr Steele is  
7 aware that this evidence may be given and whether he  
8 has any interest in it? I mean, it seems to me there is  
9 a suggestion of some - it appears to be, at any rate,  
10 that there is going to be an allegation about this  
11 anthropologist being involved in some fabrication. That  
12 is the direction it appears to be heading in.  
13 COMSR: Yes, I don't know which direction it is  
14 heading in, Mr Kenny, but -  
15 A. Can I read from my notes?  
16 XN  
17 Q. Yes.  
18 COMSR: What is the situation?  
19 MR SMITH: Yes, that is quite the situation. And  
20 Mr Kenny need not keep reminding me of my duties. My  
21 plain duty is to contact people who are named by this.  
22 I have done it by and large. I will continue to do it.  
23 Mr Kenny should look after his own clients and not me.  
24 A. She told me that `When we, the group of women, got down  
25 there, Doreen came down from up there.' She said `from  
26 Port Germein. She told us there was - she was asked to  
27 come down by Victor. She also told us that Victor had  
28 told her that the men had been trying to stop the  
29 bridge. They had an archaeologist', she said, then she  
30 corrects the term to `anthropologist' for about six weeks  
31 before we got there. They had him go all over the  
32 island - going all over the island for bones and sacred  
33 sites. They', and I have written `the men' in brackets,  
34 `had been down there for six weeks staying - ' it looks  
35 like `staying to find those sacred sites to stop the  
36 bridge. They could never find anything. I think they  
37 got really upset with him' brackets `the anthropologist  
38 towards the end. They were going to sack him, because

1992

KC 26M

G.M. EASDOWN XN (MR SMITH)

1 he wasn't doing his job properly.'

2 XN

3 Q. Is there any other reference to the anthropologist  
4 advising the men of something. And I don't want you to  
5 go into the detail of it, in connection -

6 COMSR: You just want to know, at present,  
7 whether there was any reference to an anthropologist?

8 MR SMITH: Yes.

9 A. She went on to say 'Because they could not stop the  
10 bridge, they called the women and said "We can't stop  
11 it. It is up to you women to stop the bridge being  
12 built."

13 XN

14 Q. And she is now recounting someone speaking, is she,  
15 Dorothy.

16 A. Yes, she is recounting Victor Wilson. She said 'That's  
17 when they brought Doreen into it, because Doreen has  
18 been working in town in the museum there. So he,  
19 Victor, asked her to come down.' And she went on to say  
20 'She said "Come on girls, sit down", referring to  
21 Dorothy - referring to Kartinyeri, 'she;, Kartinyeri  
22 'said "Come on girls, sit down and I'll tell you why the  
23 island is sacred to us." I think, at some stage, but I  
24 can't find it, I asked her whether that anthropologist  
25 was Deane Fergie and she said 'No.' But - and unless I  
26 can study these notes for sometime, I'm not sure.

27 Q. In any event, that is spelled out clearly on your tape,  
28 isn't it.

29 A. Yes, it is.

30 Q. Therefore, having spoken with Dorothy for that period of  
31 time, what did you do then.

32 A. We took Dorothy home afterwards and I went on towards  
33 Millicent and stayed at a motel in a town away on the -  
34 it was on the river part of the way down. I'm not sure  
35 of the name of the place now.

36 Q. One of the reasons that you came over to Adelaide was to  
37 really check the story out yourself, wasn't it.

38 A. Yes, it was.



1993

KC 26M

G.M. EASDOWN XN (MR SMITH)

1 Q. To at least get your own impression of the people who  
2 were conveying this information.

3 A. Yes.

4 Q. Did you come away from that interview with Dorothy  
5 Wilson with a conviction, one Australian way or the  
6 other, as to the reliability of what you had been told.

7 A. Yes.

8 COMSR: I think that might be the very issue  
9 that I have to decide, Mr Smith, is it? It must be  
10 getting very close to it.

11 MR SMITH: I am asking the witness of his own  
12 impression. You are not necessarily bound by that. You  
13 will have your own impression.

14 COMSR: I appreciate that.

15 COMSR

16 Q. But you decided to go ahead and publish the story, did  
17 you.

18 A. Yes, I went from there to Millicent and spoke to Mrs  
19 Dulcie Wilson and later the following day then spoke to  
20 Bertha Gollan on the telephone and I wouldn't have  
21 written the story or had the story published if I wasn't  
22 satisfied with the credibility of all three people.

23 XN

24 Q. Just pick it up again: you say you stayed overnight at a  
25 motel and then, on that following day, which was 19 May,  
26 you interviewed Dulcie Wilson at her home.

27 A. Yes, I did at Millicent.

28 Q. In Millicent.

29 A. Yes.

30 Q. And the interview look, how long.

31 A. It wasn't very long, because she - her - she virtually  
32 corroborated what Dorothy had said. And the fact that  
33 she wasn't at the original meeting where the group of  
34 women were there, I think the one we discussed earlier,  
35 she was only going into other matters and - which she  
36 talked about the fact that the representative group of  
37 women - supposed representative group of women that met  
38 Professor Saunders she wasn't invited to be part of that

1994  
KC 26M

G.M. EASDOWN XN (MR SMITH)

- 1 group and she was very concerned and upset that a  
2 one-sided view had been put to the professor.  
3 Q. You didn't have a cameraman with you, did you.  
4 A. No, I took some photographs.  
5 Q. I think, actually, one of your photographs of Dorothy  
6 Wilson at the roadhouse appears in one of your articles  
7 which have been tendered.  
8 A. Yes, it does.  
9 Q. Is that towards the back of the bundle, for Friday, 9  
10 June, under the heading the `Spirit of Truth'.  
11 A. Yes, that's it. It is on page - it was published on  
12 p.25 of the Herald Sun.  
13 Q. That was a photograph of Dorothy taken by you at the  
14 roadhouse outside Murray Bridge.  
15 A. Yes, it was.  
16 Q. You returned to Melbourne I think then on the afternoon  
17 of Saturday, the 20th.  
18 A. Yes, I did.  
19 Q. Your story had already reached the paper, hadn't it.  
20 A. Yes, it had been published that morning.  
21 Q. It had been published and that is the first of the  
22 stories in the bundle of press clippings.  
23 A. Yes, it is.  
24 MR SMITH: Exhibit 102.  
25 XN  
26 Q. I think you did some follow-up stories, based on other  
27 information you started to glean.  
28 A. Yes, I did.  
29 Q. And they are included in the clippings, too.  
30 A. Yes, they are.  
31 Q. Including, I think, a story on 22 May 1995, based on an  
32 ATSIIC briefing paper.  
33 A. Yes.  
34 Q. Is that right.  
35 A. Yes, it is.  
36 Q. Can I take you now to 22 May.  
37 A. Yes.  
38 Q. You came to Adelaide again, didn't you, on 22 May.

- 1 A. Yes, I did.
- 2 Q. I think you had, as your statement sets out, a meeting  
3 with the Chapmans and the Chapmans's solicitor, Mr  
4 Palyga, at his office.
- 5 A. Yes, I did.
- 6 Q. I think Sue Lawrie was at that meeting, also, wasn't  
7 she.
- 8 A. Yes, I arrived at Mr Palyga's office, to find Mrs Lawrie  
9 waiting to see them, as well.
- 10 Q. But that wasn't by arrangement, I think.
- 11 A. No, it wasn't. I was quite surprised she was there.
- 12 Q. That evening, you wrote the story.
- 13 A. Yes, I did.
- 14 Q. Which is - can you just identify that. Is that the  
15 story for Tuesday, 23 May, the press clipping there.
- 16 A. Yes, it would be.
- 17 Q. Which features, amongst other things, 'Bridge couple to  
18 push \$47 million claim.'
- 19 A. Yes, it was.
- 20 Q. Can I take you to 23 May: you were in Adelaide, at this  
21 time, were you not.
- 22 A. Yes, I was.
- 23 Q. I think you contacted Sandra Saunders of the ALRM.
- 24 A. Yes, I did. I rang her that morning.
- 25 Q. Forgive this lay question, but were you - you were, in  
26 effect, putting some -
- 27 A. What I wanted to do is that, up until that stage, we  
28 hadn't been able to talk to Doreen Kartinyeri. We -  
29 both myself and other representatives of our staff - had  
30 been trying, since the previous Friday, to reach her.  
31 One way or another, we hadn't been able to reach her and  
32 I asked Sandra Saunders if she could act as an  
33 intermediary and set some sort of meeting up.
- 34 Q. Did you know Sandra Saunders.
- 35 A. No, I didn't. I just rang the ALRM office and asked - I  
36 had seen her - I had seen, I think, a report in one of  
37 the Adelaide newspapers that morning referring to Sandra  
38 Saunders and Doreen and I thought, well, this was -

- 1 might be the way to do it.
- 2 Q. And you wanted some balance material for what other  
3 material you had.
- 4 A. Yes, I did. I had been asked to write a substantial  
5 background piece spelling out the story from beginning  
6 to end and where it was going and I just didn't want it  
7 to be one-sided.
- 8 Q. I think you successfully arranged a meeting, did you  
9 not, at the premises of ALRM.
- 10 A. Yes, that afternoon. And that afternoon - that I met  
11 Mrs Kartinyeri, Sandra Saunders - a younger Aboriginal  
12 woman who appeared to be the public relations officer  
13 for the ALRM and Maggie Jacobs - Margaret Jacobs.
- 14 Q. You met at the premises of ALRM.
- 15 A. I did. Sandra Saunders ushered me into a room at the  
16 back, which appeared like a conference room or  
17 boardroom, and we went out to a tea room to the side and  
18 made a cup of coffee together and walked back into the  
19 room, talking.
- 20 Q. This meeting lasted for, what period of time.
- 21 A. Possibly an hour, maybe a little longer.
- 22 Q. The people you have mentioned, Doreen Kartinyeri, Sandra  
23 Saunders, Maggie Jacobs and the public relations lady  
24 were present with you.
- 25 A. Yes, they were.
- 26 Q. You had a conversation with them.
- 27 A. I did. And I think I have drawn a plan for you, to show  
28 you what took place in the room. How we were seated.
- 29 Q. Can you tell us about the conversation. What, in broad  
30 terms, what passed.
- 31 A. Yes, I discussed with Doreen Kartinyeri some allegations  
32 that Ian McLachlan had raised in the Federal Parliament  
33 about her and her links with the Point McLeay area. The  
34 fact that she was from another region and whether she  
35 would, in fact, have knowledge of - sacred knowledge of  
36 that area, of the Point McLeay area.
- 37 CONTINUED

1997

RF 26N

G.M. EASDOWN XN (MR SMITH)

- 1 Q. I will turn to your article that concerns this  
2 interview. I think it is p.23 of the `Herald Sun' of  
3 Wednesday, 24 May.  
4 A. Yes, it is. It was run over two pages.  
5 Q. `Bridge Rift Takes a Bitter Turn', is that it.  
6 A. That's correct, yes.  
7 Q. On the second page is a picture of Doreen Kartinyeri.  
8 A. Yes.  
9 Q. The article under the picture in the first column  
10 indicates that you asked Doreen Kartinyeri about her  
11 genealogy written for the Adelaide Museum in the 70s.  
12 A. Yes, I did.  
13 Q. Is that so, you did.  
14 A. Yes, I did.  
15 Q. It appears from the article that you put to her that in  
16 that article she claimed to have no knowledge of  
17 Ngarrindjeri customs.  
18 OBJECTION Mr Kenny objects.  
19 MR KENNY: If I am reading the right paragraph, it  
20 does not say `no knowledge', but that she did not know  
21 much then about Ngarrindjeri customs. I am referring to  
22 the last paragraph on the second page of that article in  
23 the left-hand column.  
24 COMSR: I understand Mr Smith is referring to  
25 the first column under the picture.  
26 OBJECTION WITHDRAWN  
27 XN  
28 Q. Perhaps, by reference to the article, you can tell us  
29 what you put to her.  
30 A. I asked her about her genealogy written for the Adelaide  
31 Museum. It is written here in the paragraph `In the  
32 70s, in which she is said to have claimed no knowledge  
33 of Ngarrindjeri customs, Ms Kartinyeri said this was  
34 because it was in answers to questions from a man.'  
35 Q. `And she went on', you quoted "I didn't want to give him  
36 too much from my mind".  
37 A. Yes. I think she went on to say `I had been told by my

1998

RF 26N

G.M. EASDOWN XN (MR SMITH)

1 elders when I was very young, don't let anyone pick your  
2 mind'.

3 Q. Was there another topic of conversation that was raised  
4 in this meeting relating to the geography of Hindmarsh  
5 Island and its environs.

6 A. Yes, there was.

7 Q. Tell us what happened and what was said.

8 A. That was with Margaret Jacobs, or Auntie Maggie, as I  
9 was also introduced to her as. We were discussing the  
10 outline of the island and certain things that have been  
11 said about what it represents, and she pointed to a  
12 coloured map on the wall and said 'What do you think it  
13 represents?' or words to that effect, and smiled at me.  
14 I looked at the map, and looked back at her and smiled,  
15 and I think I said 'I see some resemblance' but it was a  
16 good humoured exchange.

17 Q. You have done a sketch map of the room, have you not.

18 A. Yes.

19 Q. And the sketch map shows the positions of people seated  
20 around the table, Maggie Jacobs, Doreen Kartinyeri.

21 A. Yes.

22 Q. Sitting sort of opposite you.

23 A. They were opposite me.

24 Q. The PR officer down the end of the table on the same  
25 side as you.

26 A. Yes.

27 Q. And Sandra Saunders next to you.

28 A. Yes.

29 Q. You have indicated in the rectangular room sort of  
30 behind you and to your right, is that an indication of a  
31 photograph.

32 A. That's where the photograph was, yes.

33 Q. Could the witness be shown Exhibit 29.

34 A. Yes, that's what I saw on the wall.

35 Q. Was it of that size.

36 A. I think it was slightly smaller.

37 Q. Slightly smaller.

38 A. Yes.

1999

RF 26N

G.M. EASDOWN XN (MR SMITH)

1 COMSR

2 Q. Where was that, on the wall of the meeting room.

3 A. Yes, it was.

4 XN

5 Q. You have indicated that on your plan there, behind you  
6 and to the right.

7 A. Behind me and to the right.

8 Q. So you had to turn to look.

9 A. I had to turn like that (DEMONSTRATES LOOKING OVER HIS  
10 RIGHT SHOULDER) to look at it, and then turn back to  
11 Maggie. It was quite - there was some good humour in  
12 the exchange about it, just as Doreen and I had a joke.  
13 She said something about Ian McLachlan having the money,  
14 and I suggested to her that she might have had the good  
15 looks. And we had good humoured banter through the  
16 conversation.

17 Q. You then, as we see from your bundle of press clippings,  
18 filed a number of stories in the days following that  
19 contact on 23 May, into June.

20 A. Yes, I did.

21 EXHIBIT 103 Plan of ALRM meeting room tendered by Mr  
22 Smith. Admitted.

23 Q. Later that day you travelled to Goolwa.

24 A. Yes.

25 Q. Did you not.

26 A. Yes, I did.

27 Q. And did some more -

28 A. Yes, I spoke to the previous witness, Mr McHughes.

29 Q. Spoke to Mr McHughes.

30 A. Yes. I asked him about a letter that he had sent to  
31 Robert Tickner, of which I had been given a copy. I  
32 wanted to show it to him personally and ask him was it  
33 in fact written by himself.

34 Q. What did he say.

35 A. Yes, he identified that he had written the letter, and  
36 he discussed with me the incident - an incident that  
37 took place at the Corio Hotel in Goolwa, and he told me  
38 about the fact that he had worked on building things. I

## G.M. EASDOWN XN (MR SMITH)

- 1 think he said driving piles in the area in the river at  
2 some stage for the waterfront, and said he didn't feel  
3 any pains in his stomach, or something.
- 4 Q. The incident he told you about in the Corio Hotel  
5 involved Douglas Milera.
- 6 A. Yes.
- 7 Q. I think you returned then to Melbourne, didn't you.
- 8 A. I went back to - I returned to Adelaide that night. I  
9 returned to Melbourne the following day.
- 10 Q. And having filed a story about the Chapmans winning a  
11 reprieve on the property.
- 12 A. Yes, I did. Before going further, might I add that I  
13 thought Mr McHughes' comments were supportive - just  
14 followed a supportive line of what Dorothy Wilson had  
15 told me on the Friday previous.
- 16 Q. Supportive in what sense.
- 17 A. In that they were supportive of the claims that Dorothy  
18 was making, and, to me, it identified certain people,  
19 that I should be inquiring about their activities.
- 20 Q. So you went back to Melbourne. I think you filed  
21 another story, as your clippings show.
- 22 A. Yes.
- 23 Q. Then on 6 June you were told, as your statement sets  
24 out, of a Channel 10 interview with Doug Milera and the  
25 later 'Advertiser' interview with his wife Sarah.
- 26 A. Yes, I was. I knew - I had been alerted earlier in the  
27 day that Channel 10 were going to run something. I  
28 spoke to one or two people in Adelaide, who verified  
29 that Milera had spoken to Channel 10 at some length in a  
30 lengthy interview, it wasn't at Goolwa but at some other  
31 location. And I was able to establish something of what  
32 was said. We took a few paragraphs off the Channel 10  
33 News that night, acknowledging that it came from  
34 television.
- 35 Q. That, again, supported your interview with Dorothy and  
36 Dulcie and people like that.
- 37 A. Yes, it did.



## G.M. EASDOWN XN (MR SMITH)

1 Q. Can I take you to 8 June. Having heard that Mr Milera  
2 had said what you had related to you about what he had  
3 said on Channel 10, I take it that you wanted to speak  
4 to him personally.

5 A. Yes. I wanted to speak to him personally to establish  
6 just what he had said and see if the matter could be  
7 taken any further, if there was any follow-up lines that  
8 I might be able to use.

9 Q. On 8 June I think you spoke to him, according to your  
10 statement.

11 A. Yes, I did. I spoke to him at John Campbell's home and  
12 I rang an 085 number. May I refer to my notes?

13 Q. Yes. You took notes of that conversation.

14 A. I took rough notes of the conversation, because the  
15 matters that we were discussing had been pretty well  
16 canvassed the previous day, and it didn't take the  
17 matter much further.

18 Q. By reference to your rough notes, will you tell us what  
19 he said to you. What conversation took place between  
20 you.

21 A. Yes. He said - Doug Milera said 'I'm putting my life on  
22 the line. The whole debacle was a whole lot of crap  
23 from the start.' He said words to the effect that 'I  
24 have deserted my marriage' and something about links, I  
25 think with the Ngarrindjeri. I asked him why he had  
26 said what he had said on television. He said 'It was my  
27 conscience'. He then said 'Christianity rules. You're  
28 in Australia and I was brought up a Christian. The  
29 beliefs of these people are largely Christian. They are  
30 trying to bring back' - 'they are bringing back the  
31 past'. And then he said 'They are hanging onto beliefs  
32 to try and get something'. There is some other - he  
33 said 'My wife has been put under so much pressure'. I  
34 asked him what she thought of what he had done by  
35 speaking out. He said 'I did the right thing. I  
36 instigated it from the beginning.' Then I have got  
37 something about 'Something in the water is a lot of  
38 shit'. They aren't my remarks.

1 COMSR

2 Q. I take it you are just relaying what was said to you.

3 A. Yes.

4 XN

5 Q. That is the gist of what was said, or at least that is  
6 the extent of your notes.

7 A. Yes, that's the extent of my notes. He seemed - I  
8 believe that he came to my - came to the telephone,  
9 having been woken from a deep sleep. He sounded like a  
10 man under a great deal of pressure. The voice wasn't -  
11 the voice was not strong at all.

12 Q. Was he intoxicated perhaps.

13 A. I don't think at the time of day. It was 11 o'clock in  
14 the morning.

15 Q. Did he not sound intoxicated.

16 A. He didn't sound intoxicated. He sounded very sleepy.

17 Q. By this time I think the Royal Commission was announced,  
18 and Mr Tickner had also announced his own inquiry.

19 A. Yes, he did. That happened I think the same day as I  
20 spoke to Milera.

21 Q. Can I take you to the clipping for Friday, 9 June, which  
22 is -

23 A. There are several for 9 June.

24 Q. It is the one 'Elder Calls on the Spirit of Truth'.

25 A. Yes.

26 Q. The first page of that it has got a picture of the  
27 Chapmans, has it not.

28 A. Yes, it has.

29 Q. In the second column under your name there, 'Geoff  
30 Easdown peers into the muddy waters of the Hindmarsh  
31 Island Bridge affair', you relate, in the second  
32 paragraph, that Dorothy had told you that Milera had  
33 pointed to a map on the wall -

34 A. Yes. That's incorrect.

35 Q. And described how it resembled a female -

36 A. That is incorrect. It is my mistake. It should have  
37 been Wilson.

38 Q. In your original interview with Dorothy -

## G.M. EASDOWN XN (MR SMITH)

1 A. Yes, she said it was Victor Wilson and pointed to a map  
2 on the wall.

3 Q. I think the clippings show further articles submitted by  
4 you and published.

5 A. Yes.

6 Q. Can I take you to 12th June, that is the Monday holiday  
7 for the Queen's Birthday.

8 A. Yes.

9 Q. I think it was on that occasion that you rang Milera for  
10 another - on another occasion.

11 A. Yes, I did. I had spoken to John Campbell. I had  
12 written a story that day, on the 12th, and talked to  
13 John Campbell about a meeting that had taken place at  
14 Murray Bridge at the Nunga's Club on the previous  
15 Friday.

16 Q. You had received some information about that meeting,  
17 had you.

18 A. Yes, and that Milera in fact had gone along and put his  
19 case to them and his views to the meeting, and had been  
20 the only person - the only one of, what I would term,  
21 the dissident group admitted or invited to attend.

22 Q. Your information came from whom.

23 A. I spoke to Dorothy Wilson on that Monday, and I asked  
24 her had she got an invitation to the meeting. She said  
25 no, and I believe she said to me it was only Doug Milera  
26 that went along to it.

27 Q. You got some information to the effect that Doug Milera  
28 stood up at the meeting and -

29 A. Yes, I had heard reports of that, and I wanted to know  
30 more about it.

31 Q. What did you hear that he had done at the meeting.

32 A. I had heard that he had stood up at the meeting and told  
33 them that - and verified what he had said on television  
34 and what he had said to me.

35 Q. That was a meeting at the Nunga's Club on the Friday  
36 prior to that holiday Monday, 12 June.

37 A. Yes.

38 CONTINUED

## G.M. EASDOWN XN (MR SMITH)

1 Q. You then contacted and spoke with him on the phone,  
2 didn't you.

3 A. I spoke to John Campbell that day and wrote a piece  
4 about that. And afterwards, after I left the office, I  
5 - that evening I went to a hotel in Fitzroy where I met  
6 Sue Lawrie for a drink to discuss what was happening and  
7 where things had come. While we were there, her mobile  
8 phone rang and I think it was Wendy Chapman calling her  
9 and advising that there had been a strange car seen at  
10 the Milera home on the previous Saturday and I believe  
11 it was alleged that it was a member of the Aboriginal  
12 Legal Rights Movement had been there. My concerns were  
13 that perhaps it was pressure being put on Doug. I  
14 couldn't verify that - they were the thoughts that went  
15 through my mind at the time - and I wished to talk to  
16 Doug even more imperatively.

17 Q. You made an effort to call him.

18 A. I attempted to call him and rang Campbell back. He  
19 wasn't there.

20 Q. Campbell being in South Australia.

21 A. John Campbell. He wasn't at home. They gave me a  
22 number where he was and I rang him and he gave me a  
23 number to ring Doug Milera on. I spoke to Sarah, she  
24 answered the phone, and was reluctant to get Doug to  
25 come to the phone.

26 Q. Did you make any notes of this.

27 A. No, I didn't, because it was on a mobile phone; and by  
28 that stage when I was making the call, I was in my car.

29 Q. You had a conversation initially then with Sarah.

30 A. Sarah.

31 Q. The gist of it was what.

32 A. I said that I would like to - I told her who I was, that  
33 I would like to speak to Doug. And she said 'He's not  
34 available'. I said 'I think it's in his interests to  
35 talk to me and I would like to talk to him very, very  
36 much'. She said - after some time, she said 'Well, hang  
37 on a moment', and I heard her go away and a voice say  
38 'You have got to stand up and be counted for what you've

1 said. You have got to face up to it'. And he then  
2 came to the phone.

3 Q. Tell us what was said.

4 A. Doug, without - I think I've said something in my  
5 statement. He did say that -

6 Q. You can have a look at your statement there. It's on  
7 p.4. I take it there's no notes of this.

8 A. No, there's no notes. That's right. Doug came to the  
9 phone. His voice in this instance was very much  
10 wavering. He seemed very upset and, to me, there  
11 was sort of a feeling of fear in his voice that came  
12 through. He said he didn't want to say anything again,  
13 but within days a real account of his story would come  
14 out. I said 'You're not recounting Doug? Are you  
15 recounting, are you?', and he said 'No, but my story  
16 will come out'. I said 'How is it going to come out?'.  
17 He said 'I'm going to make it come out'. Then he said  
18 'I'm going to disappear and no-one will find me'. The  
19 conversation, from my understanding, lasted about six  
20 minutes and then it was over. But it didn't - and that  
21 is where it was. It was - it took place on Miss  
22 Lawrie's mobile phone and I believe she may well be able  
23 to obtain a record of that, of the timing and that, of  
24 the call.

25 Q. I think your clipping file then shows the further  
26 articles that you published following 12 June.

27 A. Yes, they do.

28 Q. When you spoke with Dorothy Wilson, as you have said,  
29 you taped and noted that.

30 A. Yes, I did, and I have a tape recorded conversation of  
31 Dulcie Wilson's conversation as well.

32 Q. You will preserve that tape, as you will the one of the  
33 conversation with Dorothy Wilson.

34 A. Yes, I will.

35 Q. When called upon to return to this inquiry and verify  
36 that, you will do so.

37 A. Yes, I will.

38 MR SMITH: I have no further questions at this

## G.M. EASDOWN XXN (MR KENNY)

- 1 stage. I realise that Mr Easdown is incomplete and I  
2 wouldn't be urging on the Commission that counsel be  
3 forced to conclude their cross-examination of him.
- 4 COMSR: Mr Smith is not suggesting that you  
5 would have to complete your cross-examination at this  
6 stage, because his evidence is incomplete.
- 7 MR KENNY: I will ask the general questions at this  
8 stage, but it is clear that a lot of the information  
9 will relate to those tapes.
- 10 COMSR: It is your intention to ask the general  
11 questions in any case. This will be the more convenient  
12 time to do that. There may be a lots of pressure of  
13 time later.
- 14 CROSS-EXAMINATION BY MR KENNY
- 15 Q. If we can start at the end and your last conversation  
16 with Doug Milera. You were talking about his voice  
17 wavering and that apparently he was frightened.
- 18 A. Yes.
- 19 Q. Had you ever met him face to face.
- 20 A. No, I hadn't.
- 21 Q. You had only ever spoken to him in the phone  
22 conversations recorded in your statement; is that  
23 correct.
- 24 A. In the phone conversation and I also heard him on  
25 Channel 10 in those interviews that Channel 10 made.
- 26 Q. You really weren't in a position to make any more than  
27 very general observations of what your impressions were  
28 at that time.
- 29 A. No, only that in my experience of talking to people, you  
30 can tell whether people are nervous and upset.
- 31 Q. It's quite apparent to you that from that last  
32 conversation, that Doug was going to change his story.
- 33 A. It appeared to me that he was going to change his story,  
34 but he kept saying 'No, nothing has changed'. But, to  
35 me, there seemed to be something major has changed.
- 36 Q. It seemed to you like he was lying to you.
- 37 A. Yes, I think so, on that last occasion; but, at the same  
38 time, he was very fearful -

- 1 Q. You are now aware that he has -  
2 MRS SHAW: If the witness is allowed to answer the  
3 question. Mr Kenny keeps interrupting his answer.  
4 COMSR  
5 Q. Do you have anything more that you wished to say.  
6 A. All I was going to say is that I felt something had  
7 caused him to change his, may have caused him to change  
8 his story. And the matters that had be brought to my  
9 attention about a strange car being seen in his driveway  
10 on the Saturday and the suggestion that it was a lawyer  
11 from the Aboriginal Legal Rights Movement, it came up to  
12 me that maybe there has been pressure brought to bear on  
13 Doug.  
14 XXN  
15 Q. Doug never told you that yourself, as I understand it.  
16 A. No.  
17 Q. You really got that from a third party.  
18 A. Yes, I did.  
19 Q. And you never raised that with Doug.  
20 A. I never got the opportunity to.  
21 Q. You say in relation to his voice was waivering and it's  
22 perhaps, I suggest to you, not inconsistent with a  
23 person who, at some stage, has lied and is now going to  
24 tell a different story. That, in your experience, would  
25 make most people nervous, would it not.  
26 A. I don't agree with you. I've talked to some good liars  
27 in my time.  
28 Q. At some stage, it's clear that Mr Milera has been lying.  
29 A. Well, I don't know whether he is lying. I think he may  
30 have been lying in the beginning. He could have been  
31 lying at some stage, but he didn't appear to be lying to  
32 me the morning I rang him at 11 o'clock and when he said  
33 he was the person that fabricated the story.  
34 Q. I suggest to you that it's most likely that he was  
35 because it would appear - I will withdraw that. I don't  
36 think we are going anywhere there. Sue Lawrie has had a  
37 fairly close following of this story.  
38 A. Yes.

- 1 Q. You have given evidence that she was the first one who  
2 contacted you in relation to the story.
- 3 A. Yes, she was.
- 4 Q. I think your first meeting with her was in late April,  
5 early May of this year.
- 6 A. No, it wasn't the first meeting with her.
- 7 Q. With her relation to this Hindmarsh Island Bridge  
8 matter.
- 9 A. Yes, it was.
- 10 Q. At that meeting, did she tell you that she was coming to  
11 Adelaide.
- 12 A. Well, I knew that she was regularly travelling back and  
13 forth to Adelaide to see her parents.
- 14 Q. Did she say that she was coming over to Adelaide at all  
15 when you spoke to her in that meeting in late April.
- 16 A. No. She said - she told me on one occasion that she was  
17 going to some sort of meeting down at, I think it was,  
18 Goolwa or down that area with a number of these women.
- 19 Q. Does Graham's Castle ring a bell.
- 20 A. Yes, it does. I'm not sure if that was the meeting. I  
21 think it was a meeting at Graham's Castle.
- 22 Q. Did she tell you what the meeting was about that she was  
23 going to.
- 24 A. No.
- 25 Q. I understand she discussed with you the fact that she  
26 was going to have some meetings with the dissident  
27 women.
- 28 A. She discussed it with me - and I didn't take much on  
29 board what she discussed with me. There was some idea  
30 of a family history for her father who had grown up in  
31 the area and talking to these, to a number of women from  
32 that era who were of the same age as her father and that  
33 she was trying to put together social events of his time  
34 and whatever. Nostalgia.
- 35 Q. There was a reference about having an independent  
36 person.
- 37 A. That was later. And then she said that - she said that  
38 she was - she told me she was going to have a meeting



1 with a group of women on, I think it was, 1 April. I'm  
2 not sure.

3 Q. It might have been 1 May.

4 A. I thought it was earlier. I thought it was April. And  
5 she said she was going to them, and I said `Sue, you're  
6 a political person and you're linked to a political  
7 party. If you want a story to stand up and you're going  
8 to talk to these people, you should take someone who is  
9 independent along with you'.

10 Q. Did you talk to her about that in Melbourne or in  
11 Adelaide - or perhaps I should say: did you talk to her  
12 in Melbourne face-to-face or was that discussion over  
13 the phone.

14 A. No, it was in Melbourne I believe.

15 Q. Did she tell you who these people were that she was  
16 meeting with.

17 A. No. Only that one of the people had links with the  
18 Salvation Army.

19 Q. Did you ask her how she knew those people.

20 A. No. Quite frankly, at that stage, I wasn't much  
21 interested in the matter. I thought the whole Hindmarsh  
22 Island Bridge saga had been well and truly told.

23 Q. Sue Lawrie went with you to Murray Bridge.

24 A. Yes, she did.

25 Q. Was she present at the meeting at the roadhouse as well.

26 A. For parts of it, but she left and I told her beforehand  
27 that I wanted to talk to Dorothy on her own.

28 Q. Did she go down to Millicent with you.

29 A. Yes, she did.

30 Q. Did she come with you to meet Dulcie Wilson.

31 A. Yes, she did, and she provided the introductions.

32 Q. She had met Dulcie Wilson beforehand.

33 A. There were, appeared to be very strong family links  
34 between Dulcie and her father and there was a lot of  
35 family conversation when we first arrived at Dulcie's  
36 house about her father and her grandfather and some  
37 meeting that had taken place with the father some weeks  
38 before.

1 Q. She then subsequently came back to Adelaide with you, I  
2 presume.

3 A. Yes. She came back to Adelaide with me on that Friday  
4 night. I went to the Advertiser to get the film  
5 developed and to have it transmitted.

6 Q. At that stage, did you know that she knew the Chapmans.

7 A. Not very well. She may have mentioned to me - I think  
8 she mentioned to me that she knew Tom and Wendy Chapman.  
9 I didn't know how well she knew them though.

10 Q. I take it she didn't organise the meetings with the  
11 Chapmans at Mr Palyga's office.

12 A. No. I organised that on the morning, on the Monday  
13 morning when I was coming - when it was agreed in the  
14 office that I should return to Adelaide and I think I  
15 rang Mr and Mrs Chapman at the island and they agreed to  
16 meet me with Mr Palyga in his chambers that afternoon.

17 CONTINUED

1 Q. You had no idea that Sue Lawrie was going to be there.

2 A. No, I didn't. I was quite surprised when - and, in any  
3 event, I was somewhat annoyed that she was there.

4 Q. Why was that.

5 A. Because I pride myself on my independence and I wanted  
6 to - I wanted this - I felt that this was such a  
7 sensitive issue that I didn't want any links with any  
8 political party tied to it.

9 Q. But it appeared to you that Sue Lawrie had a link with  
10 this story and organising this story.

11 A. Beg your pardon?

12 Q. It appeared to you that she was linked with organising  
13 this story to come out.

14 A. I am sure - we certainly - she had spoken to me about it  
15 and I knew she had spoken to a journalist in Channel 10  
16 and to John Kerrin from the Australian.

17 Q. And, shortly after 1 May 1995, did she provide you with  
18 statements from some of the women.

19 A. Yes, she did. But, I will be quite frank with you, I  
20 hadn't read them until I was on the plane coming to  
21 Adelaide.

22 Q. Did she provide you with a tape recording of a  
23 conversation she had had with the women or a  
24 transcript.

25 A. They were transcripts.

26 Q. So, she provided you with a transcript of a tape  
27 recorded conversation with the women.

28 A. Yes.

29 Q. Do you know if that was the meeting of 1 May 1995.

30 A. I couldn't - without referring to my notes, I couldn't  
31 help you, but I may be able to assist you, if you bear  
32 with me. I have a bag of documents outside this room.

33 Q. What do you have, in terms of notes.

34 A. What I am saying is, they are transcripts that Sue  
35 Lawrie gave to me.

36 MR KENNY: I think we have already discussed the  
37 question of those transcripts previously and they  
38 involve s.35 matters.

- 1 COMSR: Yes.
- 2 MR KENNY: I simply note that, but I won't take it  
3 any further.
- 4 A. But, look, I can't tell you the date that they were  
5 recorded on, but I know that I have got a statement  
6 signed by I think four of the five women and Sue  
7 Lawrie's signature and one other signature on it. Plus  
8 a broad statement that is written in support of that  
9 original document.
- 10 XXN
- 11 Q. You didn't really use any of that material in your  
12 stories.
- 13 A. I think I used one quoted extract out of - off the  
14 signed statement.
- 15 Q. But the other quotes you have in your articles are  
16 quotes that -
- 17 A. They were obtained by myself.
- 18 Q. They were obtained by yourself.
- 19 A. Yes, they were.
- 20 Q. The meeting with Mr Palyga and the Chapmans and Ms  
21 Lawrie, you didn't happen to tape record that one, as  
22 well, did you.
- 23 OBJECTION Mr Meyer objects.
- 24 MR MEYER: Not to the question about the tape  
25 recording. I haven't heard Mr Easdown say he met with  
26 Ms Lawrie and Mr Palyga. I don't actually know what  
27 happened, but I haven't heard him say that they were all  
28 together, at once.
- 29 MR KENNY: That is an assumption I made from his  
30 statement, but perhaps I can clarify that with the  
31 witness?
- 32 XXN
- 33 Q. The meeting with the Chapmans, on 22 May 1995, who was  
34 there.
- 35 A. Mr Palyga was there. And Mr - Sue Lawrie and I were  
36 there. And Mr and Mrs Chapman arrived late. And I  
37 think I was talking to Mr Palyga for sometime before the  
38 Chapmans arrived.

G.M. EASDOWN XXN (MR KENNY)

- 1 MR MEYER: That doesn't clarify it, in my mind. I  
2 now understand Mr Easdown to have said, for example, Sue  
3 Lawrie was in the waiting room and he was in the waiting  
4 room.  
5 A. That's correct.  
6 MR MEYER: And I don't recall that it was a  
7 meeting. They happened to be in the waiting room, at  
8 the same time. I don't know whether Mr Easdown is going  
9 to say 'I meet with Palyga and, when I met with Palyga,  
10 Sue Lawrie was sitting in the room, as well.'  
11 MR KENNY: I think the witness might be able to  
12 tell us.  
13 COMSR  
14 Q. What is the situation.  
15 A. Certainly, look, Mr Palyga ushered myself into a, I  
16 think it was a conference room. Ms Lawrie came in and  
17 she had a mobile phone that kept - no, she kept making  
18 phone calls and I said 'Look, I want to talk. I need  
19 the opportunity to talk.' And she went out to make  
20 phone calls from outside the room. And then Mr and Mrs  
21 Chapman arrived.  
22 XXN  
23 Q. Did Ms Lawrie come back in on that discussion.  
24 A. At a later stage, but she was an observer to the  
25 conversation.  
26 Q. Did she say anything about how she knew the Chapmans.  
27 A. No.  
28 Q. You didn't enquire.  
29 A. No, look, she said - she told me that Mrs Chapman had  
30 been I think Lord Mayor of Adelaide, at one stage, or  
31 something to that effect, but that is all I can remember  
32 her saying. I had a lot going around in my mind, at  
33 that stage, with what everyone was saying and it was  
34 something I didn't take in or compute.  
35 Q. Just if we can move to the ALRM meeting.  
36 A. Certainly.  
37 Q. The room you describe is, I take it, the one at the  
38 back of the ground floor -

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G.M. EASDOWN XXN (MR KENNY)  
(MR MEYER)

1 A. Yes, it is.

2 Q. Of the ALRM building.

3 A. Yes, it is.

4 Q. It is not a -

5 A. You walk down a fairly long passageway, I believe,  
6 from the front of the building and you walk down a  
7 long passageway. It is at the back, on the ground  
8 floor. And I think it occupies almost the full width  
9 of the building. There is a coffee - there seemed to  
10 be a little anteroom with a sink and coffee-making  
11 facilities at one side, on the right-hand side, as  
12 you go in.

13 Q. The photograph that you are referring to, that is not a  
14 public display, as it were. It is not open to the  
15 public, when they walk into that building.

16 A. No, but I - I believed I was a member of the public, or  
17 a visitor to the building and it was there for me to  
18 see.

19 Q. But you had been invited in there.

20 A. Yes, I had.

21 MR KENNY: I don't think I have any further  
22 questions, at this stage.

23 CROSS-EXAMINATION BY MR MEYER

24 Q. Referring to the conversation that you had with Mr  
25 Milera on the telephone on the final occasion of p.4 of  
26 your statement.

27 A. Yes.

28 Q. As I understand it, what you are saying is that Mr  
29 Milera wasn't, in fact, wavering or recanting at all in  
30 what he was telling you in that conversation.

31 A. No, he didn't seem to be at all.

32 Q. You had a concern -

33 A. I had a concern that he was going to back off, but he  
34 wasn't. He didn't, he wasn't recanting.

35 Q. You had a concern that he was under pressure of some  
36 kind.

37 A. Yes, I believed he was under pressure.

38 Q. As a journalist, having written some of these articles

- 1 that you had written, I take it it is appropriate for  
2 you to have some concern, in a reporting sense, if, in  
3 fact, he is now going to say something different.
- 4 A. Yes, I was concerned, because I could see that, if he  
5 went the other - did something else, to some degree, my  
6 credibility is at risk.
- 7 Q. Or, alternatively, if he now says 'I have changed my  
8 mind', that is something that, as a proper reporter, you  
9 should then report.
- 10 A. Correct, yes.
- 11 Q. Because I take it that, as a journalist, what you do  
12 before you publish a story, according to your own tests,  
13 is you try and satisfy yourself as to the veracity of  
14 what you are going to publish.
- 15 A. Yes, I do.
- 16 Q. You would need to satisfy yourself, if Mr Milera was,  
17 in fact, saying something different, again you would  
18 need to actually satisfy yourself about that.
- 19 A. Yes, and I would have liked to have had a second  
20 witness to it.
- 21 Q. You spent a couple of hours with Dorothy Wilson.
- 22 A. Yes, I would say it was at least a couple of hours.  
23 It may have been longer. It might have been two and  
24 a half to three hours.
- 25 Q. Is that the only time that you have spoken with her.
- 26 A. No, I have spoken with her on two other occasions on  
27 the telephone. I haven't diarised the dates of those  
28 phone calls, but I know I have spoken to her.
- 29 Q. The questions I want to put to you are of a general  
30 nature.
- 31 A. Yes.
- 32 Q. Not dates and times or anything of that nature, because  
33 Mrs Wilson has given evidence. She is a very articulate  
34 woman.
- 35 A. Yes, I believe so. And, to me, she came over as a woman  
36 with a great depth of character.
- 37 Q. Calm.
- 38 A. Calm, very calm. And, in fact, I said that to her. And

- 1 I said that I was amazed at her strength of character,  
2 at the end of the interview. It is on the tape. And I  
3 said to her that 'You are very brave to speak out.' And  
4 she said to me that something happened to her five years  
5 ago, four to five years ago, that made her be at peace  
6 with herself. She said that 'Before that time, I would  
7 - ', and she gave me the impression that she would have  
8 physically attacked Doreen for the remarks that she made  
9 about her.
- 10 Q. Whatever that was, it obviously had a material effect on  
11 her. Could I put to you an impression and ask you  
12 whether you would agree with it.
- 13 A. Certainly.
- 14 Q. That she is articulate, calm and cultured.
- 15 A. Yes, I might add that I discussed that with John Kerrin.  
16 On the Friday night after I had finished my work, we  
17 were having a drink at the hotel up from The Advertiser.  
18 I'm not sure of the name of it, because I am not a  
19 native of Adelaide, but it is the one near The  
20 Advertiser there.
- 21 Q. That is the Ambassador's, isn't it.
- 22 A. I don't frequent that area either. And he - and Kerrin  
23 remarked to me, he said 'If you were looking for five  
24 more credible witnesses, as a journalist, you couldn't  
25 get five better witnesses.'
- 26 Q. Because they all came over to you as an articulate and  
27 well-spoken group of ladies.
- 28 A. The three that I spoke to did, yes.
- 29 COMSR: It is not proposed to bring Mr Easdown  
30 back on Monday?
- 31 MR SMITH: No, it wouldn't be worth it, bearing in  
32 mind the fact that he would have to come back on yet  
33 another occasion if and when the -
- 34 COMSR: What is proposed, Mr Smith?
- 35 MR SMITH: We resume on Monday, with evidence from  
36 Colin James, another journalist.
- 37 COMSR: I can release you for the present, Mr  
38 Easdown, but it sounds as though you are going to be



2017  
KC 26P

G.M. EASDOWN XXN (MR MEYER)

- 1 required later, but you will be advised when.
- 2 WITNESS STOOD DOWN
- 3 ADJOURNED 4.30 P.M. TO MONDAY, 11 SEPTEMBER 1995 AT 10 A.M.

1 COMSR STEVENS

2

3 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

4

5 MONDAY, 11 SEPTEMBER 1995

6

7 RESUMING 10.08 A.M.

8 MR SMITH: The programme for the next two days is  
9 the evidence from the journalist Colin James from the  
10 Advertiser. We envisage that will take the two days.  
11 Subject to how that goes, I have in mind really at the  
12 end of Colin James's evidence-in-chief that there be a  
13 day when, for instance, you could take some evidence in  
14 the Riverland and then Colin James's cross-examination  
15 be on the Thursday when counsel have had time to absorb  
16 his statement and the numerous exhibits that will be  
17 tendered through him. So, we can completely dispose of  
18 Mr James this week.

19 COMSR: Finish his evidence you mean.

20 MR SMITH: Finish his evidence, so that he can get  
21 about his business. I can give you a further programme  
22 perhaps tomorrow as to the balance of the week. There  
23 is at least one witness in the Riverland that I have in  
24 mind that you can simply speak to this witness and,  
25 subject to further discussions with counsel about the  
26 mechanics of that, no other involvement. Perhaps we  
27 will raise that and discuss that tomorrow when more  
28 arrangements are made - and I know the reaction of  
29 counsel to that.

30 MR SHORT: I seek leave to appear for Mr James.

31 COMSR: Yes.

32 MR SMITH: I call Colin James.

33 MR ABBOTT: Before the witness is sworn in, there is  
34 a sitting in the Supreme Court tomorrow for the  
35 appointment of Williams J.

36 COMSR: You would be seeking a later start?

37 MR ABBOTT: I wonder would it inconvenience you if  
38 we could start at 10.30? I was going to suggest that

1 you might consider while at this stage and before the  
2 authority, if we have the time, that we don't start  
3 until 10.30. It's just that, speaking for my own  
4 convenience, it would be enable me to get more work done  
5 on preparation.

6 COMSR: You are finding that the pressure of  
7 getting -

8 MR ABBOTT: Effectively, the phone starts ringing at  
9 9 o'clock and I have to be down here at quarter to ten -  
10 and it's a matter I can take up with counsel assisting.

11 COMSR: I suppose I suggested ten because of the  
12 limited time constraints.

13 MR ABBOTT: I will ask counsel assisting to discuss  
14 it with me, and depending - if you don't have the time  
15 available, depending on the witness, maybe to have a  
16 10.30 start for a while.

17 MR SMITH: We can make a decision about that  
18 tomorrow. It certainly wouldn't disrupt my programme at  
19 this stage. So, that would not be an inconvenience.

20 CONTINUED

- 1 MR SMITH CALLS  
2 COLIN ANTHONY JAMES SWORN  
3 EXAMINATION BY MR SMITH  
4 Q. You are a journalist by occupation and have been so for  
5 some 14 years; is that correct.  
6 A. That's correct.  
7 Q. You're employed with the Advertiser Newspapers Ltd; is  
8 that correct.  
9 A. That's correct.  
10 Q. You have been working in the city here in Adelaide for  
11 Advertiser Newspapers since December 1988.  
12 A. That's correct.  
13 Q. I think it's the case, is it not, that since March 1994,  
14 you have been regularly reporting on the developments on  
15 Hindmarsh Island and in particular the bridge dispute  
16 which has occurred there.  
17 A. That's correct.  
18 Q. In connection with that, you have established and  
19 maintained, in some part at least, numerous connections  
20 with the actors involved in the dramas of Hindmarsh  
21 Island.  
22 A. That's correct.  
23 Q. I think you have provided to the Commission, and I think  
24 you attend today, do you not, in answer to a subpoena to  
25 do so.  
26 A. Yes, that's correct.  
27 Q. And the subpoena requires you not only to attend to give  
28 evidence, but to produce all relevant documents.  
29 A. That's correct.  
30 Q. If need be, you have the subpoena to produce.  
31 A. Yes.  
32 Q. In connection with this inquiry, you have provided a  
33 statement and some documents in answer to the subpoena.  
34 A. Yes.  
35 Q. Looking at the statement produced to you, do you  
36 recognise that as your statement to this inquiry.  
37 A. Yes, that's a statement I've signed.  
38 Q. You have signed on each page, haven't you.

1 A. Yes.

2 EXHIBIT 104 Statement of Colin Anthony James  
3 tendered by Mr Smith. Admitted.

4 Q. That statement refers to a number of attachments being  
5 newspaper articles, predominantly Advertiser newspaper  
6 articles, does it not.

7 A. That's correct.

8 Q. Looking at this bundle of newspaper articles indexed at  
9 the front, would you flick through that and acknowledge  
10 that they are articles almost exclusive of your own,  
11 with one or two exceptions.

12 A. Yes.

13 Q. In fact, I think they are all Advertiser articles,  
14 aren't they.

15 A. They look like all Advertiser articles written by me,  
16 yes.

17 EXHIBIT 105 Bundle of Advertiser newspaper articles  
18 spanning the period between March 1994  
19 and July 1995 tendered by Mr Smith.  
20 Admitted.

21 Q. I think you have an original scrap book which contains  
22 all these articles in Exhibit 105.

23 A. Yes. I have two scrap books here with me, beside me  
24 here.

25 Q. Before I ask you some questions about your background, I  
26 think you were born in England, is that right.

27 A. That's correct.

28 Q. Your age now.

29 A. 31.

30 Q. I think you grew up in New Zealand.

31 A. Yes, in Hawkes Bay.

32 Q. Could you give us a picture of your working life, what  
33 you did and where you did it.

34 A. In 1982, I graduated from the Auckland Technical  
35 Institute with a Diploma in Journalism. I commenced  
36 employment with the Napier Daily Telegraph in Hawkes  
37 Bay, New Zealand. I stayed there and completed my  
38 cadetship. I then joined the Sunday News, which is New

1 Zealand's biggest tabloid, for six months. I then moved  
2 to the Auckland Star. I worked in Auckland on the  
3 Auckland Star as the local Government reporter before  
4 taking over the national publication. I was transferred  
5 to Wellington where I was attached to the National Press  
6 Gallery with a brief to concentrate on investigative  
7 reports for the newspaper the Sunday Star. I then  
8 returned to Auckland where I was made deputy chief of  
9 staff for the Auckland Star and chief of staff for the  
10 Sunday Star. I left the Auckland Star and Sunday Star  
11 and went to England. In England, I was the editor of  
12 three suburban newspapers based in Bournemouth on the  
13 south coast. I came to Adelaide in December 1988 to  
14 join the Advertiser as a general reporter. I was a  
15 general reporter for some 18 months before I was  
16 appointed deputy chief of staff of the Advertiser. I  
17 held that position for some 18 months before I was  
18 appointed features editor. I was features editor of the  
19 Advertiser for two years, and then in March last year I  
20 was made chief reporter of the Advertiser with a brief  
21 to start a new section on Saturday called 'Insight',  
22 which I still edit. And I also compiled reports of that  
23 section of the newspaper as well as other parts of the  
24 newspaper.

25 Q. I think in November 1994, you received the Walkley Award  
26 for the coverage for your news coverage of the Hindmarsh  
27 Island Bridge affair in July of 1994; is that correct.

28 A. That's correct.

29 Q. Could you tell the Commissioner what the Walkley Award  
30 is exactly.

31 A. The Walkley Award has been running since 1954. It is a  
32 national award recognised in journalism in Australia.  
33 That is recorded as the top award for journalism in  
34 Australia. It is awarded on the basis of objectivity,  
35 accuracy, impartiality and basically good journalism;  
36 and I am the third person in the list of the Walkley  
37 Awards to win it from the Advertiser.

38 Q. I think further than that, you are a candidate or a

1 finalist for the South Australian Justice Administration  
2 Foundation Awards which are to be decided, I think,  
3 later this month; is that right.

4 A. That's correct; and that is also for the Hindmarsh  
5 Island Bridge coverage.

6 Q. Is that for a particular period.

7 A. That's from the period from July 1994 to July 1995.

8 Q. I think that award relates to the best sustained  
9 coverage of a single topic by a journalist.

10 A. That's correct.

11 Q. The South Australian Justice Administration Foundation  
12 is an organisation associated with the law, if you like;  
13 is that right.

14 A. Yes. From what I understand, it's under the auspices of  
15 the Supreme Court, chaired by Samuel Jacobs QC.

16 Q. Could you will tell the Commissioner when it was you  
17 first began work on the Hindmarsh Island Bridge issue.

18 A. March 1994.

19 Q. Can you tell us how you began; in other words, reporting  
20 on the bridge.

21 A. During my time as features editor of the newspaper, I  
22 had obviously monitored with close interest the  
23 controversy surrounding the bridge development, the  
24 community protests against that development, the inquiry  
25 by Samuel Jacobs QC in that involvement and also the  
26 inquiry by Parliamentary committee into that  
27 development. And when I became, returned to reporting,  
28 the issue was not being covered by any single reporter  
29 on the newspaper and I had never seen, in all of my time  
30 as features editor, a good quality artist's impression  
31 of the bridge itself, and I decided to endeavour to try  
32 and locate such an impression for publication of the  
33 newspaper.

34 Q. I think you spoke, as your statement Exhibit 104 shows,  
35 to a Mr Benny from Connell Wagner and he provided you  
36 with an artist's impression of the bridge.

37 A. That's correct.

38 Q. That led, I think, to your first article on the bridge,

1 did it not, which featured a photograph showing the  
2 impression of the bridge.

3 A. Yes, it did. The article was prepared in conjunction  
4 with a journalist to the Advertiser, Leanne Weir, and  
5 the part of that article which I contributed dealt with  
6 the construction of the bridge, the engineering  
7 specifications, the height and span of the bridge, the  
8 method of construction, because that had not been  
9 covered by the newspaper. The debate had actually,  
10 instead, revolved around the other issues and nobody  
11 looked at what the bridge was going to look like and how  
12 it was going to be built.

13 Q. Attachment one, which is the first article in the bundle  
14 Exhibit 105, features the picture of the bridge and is  
15 really an artist's impression on a photograph, is it.

16 A. Yes. It looked to me like it was perhaps on an Apple  
17 MacIntosh.

18 Q. Then, that was the beginning of your involvement, wasn't  
19 it.

20 A. Yes.

21 Q. Then, were you contacted by a number of people as a  
22 result of that article.

23 A. I was.

24 Q. That began, I think, a network of contacts that you  
25 built up over the ensuing 18 months or so.

26 A. That's correct.

27 Q. I think the next article, being attachment two, was an  
28 article written by you or at least published on 26 March  
29 1994 headed 'Laidlaw set to meet bank over bridge deal'.

30 A. Can I refer to my scrap book?

31 Q. Yes.

32 A. But, yes, that's correct.

33 Q. That, as your statement makes clear, was in part as a  
34 result of, for instance, contacting the Corporate  
35 Affairs Manager of Westpac in Sydney telephoning Miss  
36 Laidlaw's office, et cetera.

37 A. Yes.

38 Q. Then, on Monday, 28 March 1994 and Tuesday, 29 March



## C.A. JAMES XN (MR SMITH)

1 1994, your statement makes clear that you were contacted  
2 by Professor David Shearman and Ms Margaret Bolster from  
3 the Conservation Council of South Australia; is that  
4 right.

5 A. Yes.

6 Q. What was the nature of that contact.

7 A. Telephone contact. Both Professor Shearman and Mrs  
8 Bolster wished to approach me about communication they  
9 were having at the time with Westpac, which was the  
10 financier for the company proposing to develop the  
11 marina on Hindmarsh Island, Binalong Pty Ltd.

12 Q. I think you were also contacted by a union  
13 representative; is that right.

14 A. I was advised to contact a union representative and I  
15 contacted him.

16 Q. I think that was Mr John Dunnery of the Australian  
17 Workers Union.

18 A. That's correct.

19 Q. As your statement indicates, he informed you of a  
20 dispute between the Australian Workers Union and the  
21 CFMEU.

22 A. Yes. That stands for the Construction Forestry Energy  
23 and Mining Union. It was a national dispute over which  
24 union had coverage to construct bridges in Australia.

25 Q. I think you learned that there was a dispute between the  
26 AWU, the Australian Workers Union, and the union, the  
27 Construction Forestry Mining and Energy Union  
28 represented by David Thomason.

29 A. That's correct.

30 Q. I think all of these contacts then led to the article  
31 which features, the third article attachment 3: 'Union  
32 vows bridge will be built'. Is that right.

33 A. That's correct.

34 Q. I think it's the case, isn't it, as the article  
35 indicates, that Professor Shearman and Margaret Bolster  
36 conveyed to you that Westpac took the view that there  
37 were contractual obligations concerning the building of  
38 the bridge.

1 A. Yes, they did.

2 Q. On 1 April, the story appeared, which is attachment 4 in  
3 your bundle of publications Exhibit 105, headed `Bridge  
4 protest groups face gaol'. I think you wrote that  
5 story from material relating to Federal Court  
6 proceedings; is that right.

7 A. Yes, I did. I received copies of an interim Federal  
8 Court injunction and supporting affidavits relating to  
9 Binalong Pty Ltd, seeking s.45(d) notices against the  
10 Construction Forestry Energy Mining Union and the  
11 Conservation Council of South Australia and a protest  
12 group known as the Friends of Goolwa and Kumarangk.  
13 CONTINUED

- 1 Q. Following the publication of that story, you became  
2 aware, I think, that there were Aboriginal groups  
3 opposing the construction of a bridge.
- 4 A. Not specifically Aboriginal groups. I became aware that  
5 ATSIC in Adelaide wished to comment about its  
6 involvement in the protest.
- 7 Q. Did you do anything about that.
- 8 A. Yes, I contacted a Mr Matt Rigney, who is the Regional  
9 Council chairman of ATSIC based in North Adelaide.
- 10 Q. About when did you do that.
- 11 A. Early April 1994.
- 12 Q. Can you tell us what was discussed between you and Mr  
13 Rigney.
- 14 A. Mr Rigney outlined to me the Aboriginal concerns that  
15 they hadn't been adequately consulted by either the  
16 developers or the Government in relation to the  
17 construction of the bridge and that he was proposing to  
18 call for a national boycott of the Westpac banking  
19 group, which was the official banker for ATSIC funds  
20 nationally and that these funds totalled something like  
21 close to \$1 billion and that he had circulated a  
22 facsimile to all ATSIC bodies in Australia and all  
23 Aboriginal councils calling them to support his boycott.
- 24 Q. Did Mr Rigney send you some material in relation to  
25 that.
- 26 A. Yes, he did, he sent me a facsimile.
- 27 Q. Looking at this bundle of documents produced to you, it  
28 is a facsimile, a header sheet and then what would you  
29 describe that next document as, some sort of -
- 30 A. The following document is the actual letter that was  
31 sent by Matt Rigney to all ATSIC commissioners and  
32 regional council chairpeople around Australia regarding  
33 the Hindmarsh Island/Goolwa bridge development.
- 34 Q. That letter is dated 31 March 1994.
- 35 A. That's correct.
- 36 Q. Attached to that letter is a letter from Westpac to  
37 Douglas Milera, dated 30 March 1994.
- 38 A. Yes, it is. It is from a Mr Ashley Ayre from Westpac

## C.A. JAMES XN (MR SMITH)

1 who was the officer internally appointed by Westpac to  
2 oversee the negotiations of partnership of Pacific  
3 Limited and Binalong.

4 Q. And that letter speaks for itself, but it is the case  
5 that that is in response to some pressure that was put  
6 on Westpac, a letter of response to Mr Milera.

7 A. Mr Milera had written to Westpac outlining Aboriginal  
8 concerns about the project, yes.

9 Q. Then Mr Rigney also sent you a copy of a letter, dated 6  
10 November 1993, from the Minister, Dr Michael Armitage,  
11 to the secretary of the Lower Murray Aboriginal Heritage  
12 Committee.

13 A. He wasn't actually the Minister, at the time. That  
14 letter was sent to Mr Milera several weeks before the  
15 State election in December 1993 and it indicated an  
16 intention of Michael Armitage to help the Lower Murray  
17 Aboriginal Heritage Committee, of which Mr Milera was  
18 secretary, to stop the Hindmarsh Island bridge, once the  
19 Liberal Government came into power.

20 EXHIBIT 106 Bundle of documents, forwarded to Mr  
21 James by Mr Matt Rigney, tendered by Mr  
22 Smith. Admitted.

23 Q. I think, the conversation you had with Mr Rigney, you  
24 kept notes of that, did you not.

25 A. Yes, I did.

26 Q. I want to ask you some questions about the content of  
27 that entire conversation.

28 A. Can I refer to my notes?

29 Q. Yes.

30 MR SMITH: Would it be in order for the witness to  
31 refer to his notes?

32 COMSR

33 Q. I take it you made the notes, at the time you were  
34 having the conversation.

35 A. Yes, I did.

36 XN

37 Q. First of all, the date of that conversation.

38 A. It was the day preceding the publication of the article,

1 5 April.

2 Q. It was the day you received the fax, which we have just  
3 tendered, the fax and the attached documents, Exhibit  
4 106.

5 A. Yes, Mr Rigney sent me the fax at my request after I  
6 conducted this interview.

7 Q. Tell us what was said by reference to your notes.

8 A. My shorthand notes summarise the conversation that I had  
9 with Mr Rigney. He told me that he had sent a fax,  
10 which we have referred to. That he hadn't had a chance  
11 to talk to the Lower Murray Aboriginal Heritage  
12 Committee, but that delegation had met with an  
13 archaeologist who had told that delegation that he had  
14 identified 24 sites on Hindmarsh Island, but that that  
15 was not a full study. And that he says here `Because we  
16 are led to believe that Westpac are the financiers for  
17 the construction group, I have issued a letter to the  
18 ATSIC commissioners and regional chairpeople expressing  
19 my real concern of the threat to Aboriginal sites on  
20 Hindmarsh Island. And that, if Westpac is involved,  
21 that the Board of ATSIC should take out its money from  
22 Westpac.' And that he said to me that this was close to  
23 \$1 billion. He said that `That letter has been faxed to  
24 the people of the Lower Murray Aboriginal Heritage  
25 Committee and to all national Aboriginal land councils.'  
26 And that he was asking for them to forward the letter to  
27 relevant State and Federal Minister and for the ATSIC  
28 Board to consider very, very strongly Westpac's  
29 involvement in the project. And that letter had been  
30 faxed last week and that he had met with the Lower  
31 Murray Aboriginal Heritage Committee and archaeologists  
32 on Friday, 25 March. `And, once we talked, they asked  
33 for ATSIC's support and the ATSIC Regional Council does  
34 not support any further construction until proper  
35 consultation takes place.' And that he felt very  
36 strongly that `Westpac's involvement is not in the  
37 Aboriginals' best interest or ATSIC's best interests as  
38 its major banker.' He repeated that the national

## C.A. JAMES XN (MR SMITH)

- 1 account totalled close to \$1 billion and repeated that  
2 the letter had been faxed to land councils and ATSIC  
3 regional councils. He then provided me with the a name  
4 of a Mr Victor Wilson of the Lower Murray Aboroginal  
5 Heritage Committee. He gave me his telephone number and  
6 also said that they would be writing a letter to Westpac  
7 outlining their protest about its involvement in  
8 financing the developer. And then went on to say that  
9 the Department of State Aboriginal Affairs and the  
10 Minister was withholding a \$35,000 sum required to  
11 complete the Aboriginal survey on the island.
- 12 Q. I think you asked Mr Rigney to fax you some material  
13 about that.
- 14 A. Yes, I did. He faxed me this material here (INDICATES).
- 15 Q. That we have just referred to.
- 16 A. It is the original copy.
- 17 Q. That led to your article entitled '\$1 billion threat in  
18 bridge row'.
- 19 A. That's correct.
- 20 Q. On 6 April 1994, which is attachment 7.
- 21 A. Yes.
- 22 Q. In that article, '\$1 billion threat to bridge row', you  
23 included, I think, a reference to a report of a Dr Neale  
24 Draper.
- 25 A. Yes, I did.
- 26 Q. You had been provided with a copy of that report, had  
27 you.
- 28 A. Yes, I was.
- 29 Q. That was from a source you would prefer to keep  
30 confidential, is that correct.
- 31 A. That's correct.
- 32 Q. On 6 April, following on that article, I think you had a  
33 conversation, as you indicate in your statement, with  
34 Tim Wooley, a solicitor from Aboriginal Legal Rights  
35 Movement, is that right.
- 36 A. That's correct.
- 37 Q. I think you refer to him in a subsequent article as Mr  
38 Willie, don't you.

## C.A. JAMES XN (MR SMITH)

1 A. That's correct.

2 Q. And that is a mistake.

3 A. He was very shy when I spoke to him and he wasn't  
4 terribly co-operative.

5 COMSR: Has Mr Stratford been notified? He is  
6 acting for Mr Wooley, isn't he?

7 MR SMITH: Yes, he has been notified and I had a  
8 conversation with him on Friday night.

9 XN

10 Q. I think you also spoke, on 6 April, with Victor Wilson.

11 A. Yes, I did.

12 Q. I think he indicated to you that he wanted to talk to Dr  
13 Armitage before making any public statements.

14 A. From memory, he said that 'Things are pretty much up in  
15 the air', and he thought it was better to deal with the  
16 Minister rather than the media.

17 Q. I think you have acutally got notes of the conversation  
18 in particular with Victor Wilson, do you not.

19 A. Yes, I have.

20 Q. Can you tell us what was said between you and Mr Wilson.

21 A. I think I contacted Mr Wilson in relation to the ATSIIC  
22 threat to take the \$1 billion out of Westpac and asked  
23 him what was the situation regarding the sites on  
24 Hindmarsh Island and their protection and he told me  
25 'Everything is sort of up in the air. We are having  
26 meetings, at the moment. There is nothing, as far as  
27 I'm concerned, to say publicly. We have had a meeting  
28 with the Minister and we have had discussions about it  
29 and those discussions are continuing.'

30 Q. You spoke with him I take it in part at least or perhaps  
31 wholly as a result of being encouraged to do so by Matt  
32 Rigney.

33 A. I was notified of - I asked who was the relevant person  
34 to speak to on the committee and I was told Mr Wilson  
35 was the chairperson of that committee.

36 Q. Your article 'Sacred site threat to bridge', of 7 April,  
37 details conversations, however, with the lawyer, Mr Tim  
38 Wooley, doesn't it.

1 A. Yes, it does.

2 Q. It is correct, is it, that Mr Wooley indicated to you  
3 that claims in respect of sites would be filed, if  
4 negotiations with the State Government failed to resolve  
5 the bridge impasse.

6 A. Yes.

7 Q. You have also indicated in the article that Mr Wooley  
8 said that he had been liaising with the Lower Murray  
9 Aboriginal Heritage Committee.

10 A. Yes, he was - explained to me that he was actually the  
11 lawyer acting for that committee.

12 Q. The topic of his concern was conveyed to you and is set  
13 out in the article 'Sacred sites on the island', is that  
14 right.

15 A. 'Sacred sites on the island' and the lack of  
16 consultation by the company proposing to develop the  
17 marina.

18 Q. Your article also mentions some contact with a Mr David  
19 O'Sullivan of Built Environs Pty Ltd.

20 A. Yes, Built Environs was the company contracted by the  
21 State Government to construct the bridge and David  
22 O'Sullivan was the principal contact of mine there.

23 Q. I think, on Friday, 8 April, you attended at the Supreme  
24 Court, that's right, isn't it.

25 A. Yes, I did.

26 Q. How did that come about.

27 A. I received a tip-off that Westpac was to move to try to  
28 put the Chapmans' company, Binalong Pty Ltd, into  
29 receivership and that the Chapmans were seeking a  
30 Supreme Court injunction to prevent this from happening.

31 Q. Your attendance at the Supreme Court, that was proved to  
32 be fruitless, was it. Was there anything happening at  
33 the Supreme Court.

34 A. I wouldn't say it was fruitless. I was the only  
35 journalist who attended that night. It was late in the  
36 afternoon and there was quite a lively debate between  
37 the lawyers representing Binalong and the lawyers  
38 representing Westpac, which provided a front page lead



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1 for The Advertiser the following morning after two  
2 attempts made to suppress the hearings were overruled by  
3 the judge hearing the matter.

4 Q. So, that led to the article 'Bridge to island in  
5 jeopardy'.

6 A. That's correct.

7 Q. Of 9 April 1994.

8 A. That's correct.

9 Q. Is it the case then that, although it is a matter of  
10 deduction from the facts, it is no coincidence that  
11 Westpac commenced moving following upon your article  
12 about sacred sites.

13 A. Yes, this was an allegation made by the lawyers  
14 representing Binalong Pty Ltd, that Westpac's actions,  
15 in trying to place Binalong into receivership, was as a  
16 direct result of the front page publicity given to the  
17 ATSIC threat to take the \$1 billion out of the bank.

18 Q. You told us about your - you had a conversation with Mr  
19 Wooley, on 6 April. I think you also had a conversation  
20 with him on 8 April, is that right.

21 A. That's correct. I was telephoning Mr Wooley on a  
22 regular basis, by that point.

23 Q. Did you make notes of your conversation with Mr Wooley  
24 on 8 April.

25 A. I did.

26 Q. Again, can you tell us what was said between the two of  
27 you by reference to your notes.

28 A. Mr Wooley - the notes are entitled 'Sacred site claim',  
29 and the notes refer to a discussion I had with Mr Wooley  
30 by telephone and he explained that the Aboriginal Legal  
31 Rights Movement, on behalf of the Lower Murray  
32 Aboriginal Heritage Committee, was seeking to prohibit  
33 further construction of the bridge until proper  
34 consultation had taken place and that he had written a  
35 letter or another letter on Wednesday asking for what he  
36 told me was a s.23. He said that he was now awaiting an  
37 urgent response from the Minister. 'My instructions are  
38 that, if we don't get a response from Armitage, we will

1 have to get Tickner involved.' Mr Tickner being the  
2 Federal Aboriginal Affairs Minister. He said that he  
3 was - 'We are hoping the South Australian legislation  
4 will be put into effect.' And that was a reference to  
5 the State Aboriginal Heritage Act Act (1989). He said  
6 it was good legislation, but, however, he wouldn't be  
7 probed too much on exactly what was going on between  
8 Legal Rights and Armitage, saying that 'That is between  
9 my office and the Lower Murray Aboriginal Heritage  
10 Committee. We have to try and maintain some sort of  
11 relationship with Armitage. I have requested an urgent  
12 response. We have also requested appropriate  
13 consultation with relevant Aboriginal people to take  
14 place, as required under the Aboriginal Heritage Act.  
15 S.23 enables the Minister to authorise protection of  
16 sacred sites. He can only do so, after taking  
17 reasonable steps to consult all relevant Aboriginal  
18 people. This is at the heart of the whole development  
19 debate over the bridge as to the consultation.'

20 COMSR

21 Q. Is this what Mr Wooley said to you.

22 A. Yes, that there had been insufficient consultation with  
23 Aboriginal people. That the situation has changed as a  
24 result of his survey, which was a reference to a survey  
25 conducted by a State Government archaeologist, Dr Neale  
26 Draper, and that significant sites have now been  
27 identified. 'And we were not aware of this prior to  
28 November/December of the previous year.'

29 XN

30 Q. Can I interrupt you there: what sort of sites was he  
31 talking about, did he say.

32 A. He didn't actually spell out the sites, but in all my  
33 discussions up to this point we had always only talked  
34 about archaeological sites.

35 Q. Go on.

36 A. He said that last year the sites up until  
37 November/December last year, and it was quite clearly  
38 known when planning - it was not known when the planning

2035

KC 27B

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- 1 permission was given in reference to the plan consent
- 2 given to the bridge in I think 1989 or 1990.
- 3 CONTINUED

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1 He also said that they found sites just under the  
2 surface. When they did a more extensive field survey  
3 and used historical photographs, that they were able to  
4 identify these sites. I asked him about the involvement  
5 of Legal Rights at this point. He said that his  
6 involvement has not been terribly great. All he had  
7 been doing was writing letters last year which started  
8 the ball rolling. He told me that he did, on 13  
9 December 1993, write to the Minister of State Aboriginal  
10 Affairs, Dr Armitage, requesting that he intervene on  
11 behalf of my clients, and that a similar letter had been  
12 sent to Mr Tickner. He said that he had yet to get a  
13 response from Michael Armitage, and that was a period of  
14 some four to five months. He said it was important to  
15 point out that Aboriginal people have not been involved  
16 for some time, letters were sent also to the Minister of  
17 Transport, Di Laidlaw, outlining our concern with the  
18 Aboriginal heritage issues, and that an inquiry that was  
19 being undertaken by Samuel Jacobs QC should be widened  
20 to include heritage issues. He then provided me with a  
21 name of Douglas Milera as a possible contact, to talk to  
22 him about Aboriginal heritage issues. He told me that  
23 he thought Michael Armitage had been caught between a  
24 rock and a hard place, and that was the conclusion of  
25 the notes that I have.

26 Q. That was on 8 April, wasn't it.

27 A. Yes.

28 Q. Then your story appeared on 9 April 'Bridge to Island in  
29 Jeopardy'.

30 A. That's correct.

31 Q. Your next article was 12 April 1994, attachment 12,  
32 which was 'Bridge to go ahead despite receivers'. Then,  
33 on the same day, there was a second article 'Bridge  
34 trump card' which is attachment 13.

35 A. Yes, that's correct.

36 Q. 'Bridge trump card' was a large feature article, a quite  
37 extensive article, wasn't it.

38 A. Yes, it was.

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- 1 Q. The article speaks for itself, but it is compiled  
2 obviously from information contained in a report of Dr  
3 Neale Draper. Is that correct.
- 4 A. Yes, that's correct. I received the first of three  
5 reports eventually prepared by Dr Neale Draper.
- 6 Q. There is also, I think, reference to a briefing paper  
7 for the Lower Murray Aboriginal Heritage Committee that  
8 you had access to.
- 9 A. That is actually one and the same. The briefing paper  
10 is actually now known as the Draper Report, number 1.
- 11 Q. I don't propose at this stage to show you those  
12 documents but, in any event, at this stage you were  
13 having discussions with a wide range of people involved  
14 in the Hindmarsh Island Bridge dispute, were you not.
- 15 A. Yes, I was. I have to say that most of them were from  
16 the anti-bridge side of things.
- 17 Q. Were you talking at this time with Professor David  
18 Shearman.
- 19 A. I was.
- 20 Q. What organisation did he -
- 21 A. He was President of the Conservation Council of South  
22 Australia.
- 23 Q. Were you talking also with a Margaret Bolster.
- 24 A. Yes, very regularly.
- 25 Q. Who was she.
- 26 A. Vice President of the Conservation Council of South  
27 Australia.
- 28 Q. You were talking with Tim Wooley, we know, the solicitor  
29 from the ALRM.
- 30 A. Yes, I was. He was my only contact inside the Legal  
31 Rights Movement.
- 32 Q. You were talking also at this time with a Richard Owen,  
33 were you not.
- 34 A. Yes, I was. He was President of the Friends of Goolwa  
35 and Kumarangk.
- 36 Q. Were you also talking at this stage with David Thomason.
- 37 A. Infrequently, but, yes.
- 38 Q. Remind us, who is he.

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1 A. He is a union organiser with the CFMEU.

2 Q. Did you also have some informal contact with Dr Neale  
3 Draper at this time.

4 A. I did. Neale Draper was not authorised to speak to me  
5 publicly, because all comment had to go through the  
6 Minister's office but, yes, I was talking to him by  
7 mobile telephone.

8 Q. Your story of 12 April, so far as you know from your  
9 work on this topic, was that, as you indicated in your  
10 statement, the first time in which the extent of  
11 Aboriginal claims relating to sacred sites had been  
12 published in the mainstream media.

13 A. Yes, most definitely.

14 Q. On 14 April there was a further story published in the  
15 'Advertiser' written by yourself headed 'New bid to  
16 force bridge go-ahead'. Is that right.

17 A. That's correct.

18 Q. That is attachment 15. I think that followed an  
19 interview which you carried out on 13 April with Russell  
20 Heywood-Smith and John Morgan, the joint receiver  
21 managers of Binalong Pty Ltd.

22 A. That's correct.

23 Q. On 15 April, your statement asserts that you had a  
24 discussion with Mr Reg Dodd, who was then currently the  
25 Chairman of the Aboriginal Heritage Committee.

26 A. I did.

27 Q. Did you note that conversation.

28 A. Yes, I did.

29 Q. Can you tell us who rang who. Do you know.

30 A. I telephoned Mr Dodd at Marree at the Arrabunna  
31 community facility there.

32 Q. Can you tell us what was said between the two of you in  
33 that conversation.

34 A. Yes. Mr Dodd was quite - not angry but he was disturbed  
35 that he had not been contacted by the Minister relating  
36 to the section 23 request submitted by the Aboriginal  
37 Legal Rights Movement. He conveyed to me that this was  
38 actually in breach of the legislation because, as the

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1 Chairman of the State Aboriginal Heritage Committee,  
2 under that legislation the Heritage Committee is meant  
3 to have all requests for section 23s referred to it for  
4 formal recommendation. When I asked him about the  
5 sacred site claim on Hindmarsh Island, he told me that  
6 was the first time he had heard of it, and that under  
7 the process he should have been notified by the  
8 Minister. He also told me that he couldn't understand  
9 why he hadn't been notified because the minister's  
10 office had his address and that of all members of the  
11 committee, and that they should have forwarded all such  
12 matters relating to Aboriginal heritage issues to the  
13 committee, and, under normal circumstances, they would  
14 also forward supporting documentation. But neither of  
15 this had occurred.

16 Q. Did that conversation lead to the article on 16 April  
17 1994, attachment 17, under the heading 'Suspicious  
18 sounds of silence'.

19 A. It was one of many conversations which I had. There  
20 were numerous events which led to that particular  
21 article.

22 Q. On 19 April you published an article dealing with the  
23 injunction proceedings in the Federal Court concerning  
24 the protesters.

25 A. Concerning the protesters, the union and the  
26 Conservation Council, yes.

27 Q. I think you were still in contact with people such as  
28 Shearman, Bolster and Owen, in particular in connection  
29 with those injunction proceedings in the Federal Court.

30 A. Increasingly so, because they were becoming more and  
31 more concerned about the impact the injunctions would  
32 have on their right to be able to protest and freedom of  
33 speech issues.

34 Q. On 20 April you published an article headed 'Bridge  
35 protestors to be sued'. That is the article attachment  
36 19.

37 A. That's correct.

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1 Q. Had you had some contact with the union man, David  
2 Thomason, before that article.

3 A. Yes, I had.

4 Q. What was the nature of that contact.

5 A. Only brief contact, trying to find out what the union  
6 was planning to do in light of its threat to ban the  
7 work on the development, the injunctions which were  
8 pending, and what likely action would result.

9 Q. The photograph in that article is a photograph of the  
10 Chapmans in a motor car, is that right.

11 A. Yes, it is a photograph of Mr and Mrs Chapman. Mrs  
12 Chapman is disguising her face behind what appears to be  
13 a manilla folder or magazine, while Mr Chapman is  
14 holding a camera.

15 Q. Who provided you with that photograph.

16 A. Mr Thomason. He had actually walked up to the front of  
17 the vehicle and taken the photograph.

18 Q. On 21 April you published an article headed 'Call to put  
19 bridge at Berri' which is attachment 20. I think that  
20 article touches upon, amongst other things, a plea by  
21 the Democrats, amongst other people, to have a bridge at  
22 Berri rather than at Hindmarsh Island.

23 A. It actually went a bit further than that. Mike Elliott  
24 actually proposed to put a private members bill through  
25 the Legislative Council, which would have enabled the  
26 government to have a legislative loophole to free itself  
27 from the contractual obligations to construct the bridge  
28 at Hindmarsh Island.

29 Q. On 27 April, there was an article headlined 'Warning of  
30 \$47m bridge law suit', which is attachment 21. A  
31 prelude to that article was the provision to you of some  
32 documents, was it not.

33 A. Yes, it was. Looking at this copy letter produced to  
34 you, do you recognise that.

35 A. Yes, I do. This is a letter provided to me by Richard  
36 Owen. It carries the letterhead of an Adelaide law  
37 firm, Michell Sillar Lynch & Meyer, and it is written by  
38 a solicitor at that law firm, Steve Palyga. It was hand



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- 1 delivered to a number of people in the Goolwa area some  
2 time around 22 April, and it contained a threat that  
3 they would be sued for \$47.5 million if they continued  
4 to do anything to obstruct the construction of the  
5 bridge, including picketing the bridge site.
- 6 Q. That letter was forwarded to you by whom.
- 7 A. Mr Richard Owen, and I also received other copies from  
8 other people who received it.
- 9 Q. It is a proforma letter, isn't it.
- 10 A. All copies that I received were exactly the same. They  
11 were just given to different people.
- 12 Q. There is some handwriting on the letter apart from the  
13 typewritten script.
- 14 A. That's Mr Richard Owen's handwriting.
- 15 EXHIBIT 107 Proforma letter dated 22 April 1994  
16 tendered by Mr Smith. Admitted.
- 17 Q. I now hand you a fax header sheet and a copy of the  
18 minutes of meeting of the UTLC held on 12 April 1994.  
19 Do you recognise those three documents.
- 20 A. Yes, I do. This is a facsimile sent to me by David  
21 Thomason of the CMEFU.
- 22 Q. And you received that at about the same time as you  
23 received the letter from Michell Sillar Lynch & Meyer,  
24 did you.
- 25 A. Yes. A lot of people were very upset when they received  
26 the letter from Michell Sillar Lynch & Meyer. It  
27 frightened many people, particularly elderly people, who  
28 feared they were going to be sued for an extraordinary  
29 amount of money, and it created a climate of quite great  
30 anxiety and trauma. As a result of that, Mr Thomason  
31 contacted me to inform me that the UTLC was revising its  
32 previous decision on its stance in relation to the  
33 construction of the bridge.
- 34 Q. Can you confirm that that minute of the meeting of the  
35 UTLC on 12 April 1994 was faxed by Thomason to you under  
36 that fax header.
- 37 A. Yes, it was.

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1 COMSR: I suppose it can go in as a document  
2 received by the witness. I am not too sure that this is  
3 proof, of course, of the minute. Certainly it is the  
4 material which was forwarded to the -

5 WITNESS: It is the official minute from the UTLC,  
6 commissioner. I asked for it to be sent to me.

7 EXHIBIT 108 Facsimile header and minute of UTLC  
8 meeting on 12.4.94 tendered by  
9 Mr Smith. Admitted.

10 XN

11 Q. Those two documents then featured in your article of 27  
12 April - or at least the information in those two  
13 documents featured in that article headed 'Warning of  
14 \$47m bridge law suit' is that right.

15 A. That's correct.

16 Q. Did you have information about what the previous  
17 decision of the UTLC had been in relation to the picket  
18 line.

19 A. I understood that the UTLC had actually stopped short of  
20 declaring a total ban on the site, that it had been  
21 reluctant to make such a decision, and that the CFMEU  
22 was really the only union which was putting the green  
23 ban on the site, and the UTLC reversed this and decided  
24 to put a blanket ban on it with all unions involved.

25 COMSR

26 Q. You say you understood that was their reaction to the  
27 letters which had been sent out, threatening lawsuits.  
28 What is the basis of you saying that you understood that  
29 was their reaction. You were told that by someone, were  
30 you.

31 A. I was speaking to most people on this matter daily, if  
32 not twice, three times a day. The Federal Court action  
33 by Binalong created a great deal of anxiety among people  
34 who felt that their freedom of speech and their right to  
35 peacefully protest was being removed by a court of  
36 Australia, and there was a real climate of trepidation  
37 about what was happening. So people were contacting me

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1 all the time to seek my assistance and bring it out into  
2 the public arena.

3 XN

4 Q. On 29 April, attachment 23, there is an article which  
5 speaks for itself. I will do no more than say that it  
6 is headed `Democrats bid to end bridge row'.

7 A. Yes. That's another follow-up to the legislative move  
8 by Mike Elliott.

9 Q. On 29 April 1994, I think you went to Hindmarsh Island  
10 yourself, did you not.

11 A. I travelled to Hindmarsh Island with a photographer from  
12 the `Advertiser', Brenton Edwards.

13 CONTINUED

14

1 Q. You met there with whom.

2 A. I met with a Mrs Sarah Milera.

3 Q. That was by some prearrangement, was it.

4 A. Yes. I had been negotiating for a couple of weeks to  
5 obtain an interview with Mrs Milera. She had been, it  
6 had been conveyed to me she was one of the key  
7 Aboriginal protestors against the bridge and in light of  
8 the sacred site claim by legal rights, I was attempting  
9 to talk to the Aborigines directly involved.

10 Q. Is it the case that finally Sarah Milera agreed to speak  
11 with you.

12 A. Yes. It was - it took some negotiation, but she agreed  
13 to speak with me on a property on Hindmarsh Island on  
14 April the 29th.

15 Q. Was that the Mouth House.

16 A. Yes, it is, what is known as the Mouth House. That is a  
17 property owned by a woman called Mrs Anne Lucas.

18 Q. You and your photographer, Brenton Edwards, went there.

19 A. Yes.

20 Q. And I think arising out of this interview was your story  
21 published on 3 May 'Countdown on bridge over tribal  
22 waters'.

23 A. That's correct.

24 Q. Following on 'The sounds of silence'.

25 A. That's correct.

26 Q. Is that attachment 24, I think.

27 A. Yes.

28 Q. I take it that was a long-ish interview, bearing in mind  
29 that you took all the trouble to travel down there.

30 A. Yes. It was - there was a formal interview and informal  
31 discussion. And the period I would have spent down  
32 there would have been about three to four hours.

33 Q. You noted the interview.

34 A. I noted the formal interview, yes.

35 Q. Again, in shorthand.

36 A. Yes.

37 Q. In addition to that, I think there is a photograph of  
38 Sarah Milera on the sand dunes with the river and the

1 sea in the background; is that right.

2 A. No, more specifically the objective of the exercise was  
3 to have an interview with Mrs Milera on Hindmarsh Island  
4 and then photograph her with the Murray River mouth in  
5 the background.

6 Q. Did the interview in the Mouth House take place in the  
7 living room, did it not, of the Mouth House.

8 A. Not really, no. When we arrived, Mrs Milera was  
9 walking. We agreed she'd walk to meet us to take us to  
10 the Mouth House. She was walking with a walking stick.  
11 We met with her. We went to the Mouth House. We spent  
12 some time inside, but we actually conducted the  
13 interview outside on chairs on the sand outside the  
14 front of the house.

15 Q. But you went inside the house.

16 A. Yes. I was inside the house on, yes, at different  
17 points.

18 Q. I want to show you a plan of the house. Looking at  
19 Exhibit 27 produced. That is a rough - you are looking  
20 at Exhibit 27 which is a rough plan of the Mouth House.

21 A. Yes. The kitchen was there, yes.

22 Q. You recognise that, broadly speaking.

23 A. Yes.

24 Q. Did you see some aerial photographs in that cottage.

25 A. I saw one which I remember.

26 Q. The one that you remember was where.

27 A. In the lounge, that was the only room I went in.

28 Q. You see there in the rough plan there is an indication  
29 of a location of a photograph or a picture.

30 A. It was above a table.

31 Q. I think that is indicated, isn't it, there.

32 A. Okay. That is the table, okay, yes.

33 COMSR

34 Q. Are you saying that you saw that picture when you went  
35 there.

36 A. Yes. It was quite a stunning photograph, an aerial  
37 photograph.

38

1 XN

2 Q. Was it or was it not the area indicated in photo one.

3 A. That's correct, because there was a lounge here, yes.

4 Q. You're indicating photo one on the plan closest to the  
5 table.

6 A. It was only a small room. Was only a small shack.

7 Q. Looking at Exhibit 29 produced, which is an aerial  
8 photograph. Looking at Exhibit 29, do you recognise  
9 that.

10 A. Yes, I do. That is a photograph - because we actually  
11 talked about the location of the shacks and the fact  
12 that they, there have been subsequent develops since the  
13 photograph was taken.

14 Q. You there indicated the shacks on Hindmarsh Island which  
15 are closest to the Murray Mouth in the middle foreground  
16 of the photograph.

17 A. That's correct, and the Murray Mouth at the point we  
18 went down had actually moved further northwards.

19 MR SMITH: The witness indicated the shacks there  
20 (INDICATES) which I have described closest to the Murray  
21 Mouth in the middle foreground of the picture.

22 COMSR: I suppose it is in the middle.

23 MR SMITH: Unless there is a better description.

24 PHOTOGRAPH SHOWN TO COUNSEL

25 MR SMITH: For the sake of the record, it could be  
26 noted that this is indeed a copy of the aerial map  
27 located in Mouth House by the witness Francis Ellen  
28 Anderson and this photograph was, indeed, hanging on the  
29 wall above the table in the main room and was marked  
30 'photograph 10, the plan'.

31 Q. Can I take you then to your conversation with Mrs  
32 Milera. By reference to your notes, could you slowly  
33 tell us what passed between you as to the conversation.

34 A. Okay. It may take some time because it is a lengthy  
35 discussion. As I made notations here, my notes -

36 Q. Before you start, where was this conversation taking  
37 place.

38 A. Well, we went to a shack. We talked inside for a little

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1 while. We talked about the map on the wall. Brenton  
2 and I discussed it, the technique more than anything, to  
3 say that it is an interesting photograph. He's a  
4 photographer. It was a nice day and it was sunny and we  
5 went outside and sat outside and found a couple of  
6 chairs and put them in the sand. And then I began  
7 talking to Mrs Milera about who she was and why I was  
8 there and what my interests were and the issue. And she  
9 told me that it was actually difficult for her to speak  
10 to me. Actually, making the decision to speak to me was  
11 quite momentous because I was a man and also a white  
12 person. But she had decided to talk to me because she  
13 had been told by her people, whom I had been speaking  
14 with, that I could be trusted and was sensitive to the  
15 issue, and she found out that I was a New Zealander and  
16 that I have a knowledge of Maori culture and she felt  
17 this would be helpful in what she had to explain to me.  
18 She told me her culture and heritage were of paramount  
19 importance to her.

20 COMSR

21 Q. I take it that you would be familiar by now with the  
22 fact that there are certain matters which are covered by  
23 s.35 of the Aboriginal Heritage Act. Is there anything  
24 in this conversation about which -

25 A. At the outset, I can say that I'm very familiar with  
26 s.35 and the restrictions on the Commission. I've never  
27 been told anything which would breach s.35 and nor is it  
28 my intention to do so now.

29 Q. I appreciate that is not your intention. I want to be  
30 sure in my own mind.

31 A. What was stressed to me is that I couldn't know, but I  
32 was able to deduce the gist of it without knowing  
33 exactly what I wasn't meant to know. As I said, Mrs  
34 Milera told me that her culture and heritage were very  
35 important to her. She repeatedly stressed this  
36 throughout this interview and she explained to me the  
37 constitution of the Ngarrindjeri nation and some of the  
38 history of its people. I was quite ignorant about the

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1 Ngarrindjeri nation and its size and its history. She  
2 referred me to a book that she had 'A World That Was' by  
3 Ronald and Catherine Berndt; and during the interview  
4 and at various times during the afternoon, I read parts  
5 of this book to learn more about what we were  
6 discussing.

7 XN

8 Q. Pausing there for a minute. Could you have a look at  
9 the book and confirm that that is it. Looking at  
10 Exhibit 4 produced, which is the copy of 'A World That  
11 Was', by Berndt and Berndt. That is the book.

12 A. Yes, it is.

13 Q. Were you looking at a copy of it.

14 A. Yes, it is - or a copy of it. During the interview, Mrs  
15 Milera showed me a photograph in that book of a King  
16 Peter Pulami. That is black and white photograph. We  
17 actually took a photograph of the photograph in the book  
18 for future use in the newspaper. She told me that King  
19 Peter Pulami was her great grandfather and she then said  
20 that 'We have always been told that we are Ngarrindjeri  
21 for all our lives'. Mrs Milera told me her position in  
22 the Ngarrindjeri nation was as the custodian of Goolwa.  
23 She told me 'This was the position which she had  
24 accepted reluctantly because she did not believe she was  
25 old enough for it'. She said 'I am the custodian of  
26 Goolwa. My great grandfather was King Peter Pulami. He  
27 was a paramount rupulle of the Ngarrindjeri nation. As  
28 a child, I was always told who I was. I am following  
29 the principle of Pulami. As a woman, I have a  
30 responsibility to a Ngarrindjeri nation. This is  
31 because I have come from the paramount rupulle. I'm  
32 trying to do what he did with everybody. He  
33 communicated with everybody, even the bad and the good.  
34 He tried to bring peace to it all. My great grandfather  
35 had control, but he called all people, all advisers. He  
36 was referred to as a judge and a king'. Mrs Milera told  
37 me that she had the support of a wide range of people  
38 and decided to speak to me after checking with other



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- 1 Ngarrindjeri people. `I have a lot of people behind me  
2 and it's not always my culture. I have checked with my  
3 culture'. Mrs Milera told me that she had been  
4 authorised to tell me about the importance of Hindmarsh  
5 Island to a Ngarrindjeri people, but there was some  
6 aspects she could not discuss because I was a male. She  
7 told me that she had recently moved to Goolwa. She also  
8 told me that she had recently read the book `A World  
9 That Was'. She told me the Hindmarsh Island area and  
10 the Murray River mouth are very important to her. She  
11 then told me that it is revisiting history. `There are  
12 three spots: the Coorong, Goolwa and Victor Harbor.  
13 This is where traditional things happen. When I talk of  
14 Goolwa, I am not just talking about Goolwa, my history  
15 flows along the river. The last rupulle died in 1970.  
16 He was the paramount of hereditary law'.  
17 Q. Pausing there. Rupulle is spelt R-U-P-U-L-L-E.  
18 A. That's correct, and that is the from what I understand  
19 the head of the Ngarrindjeri nation who chaired the  
20 tendi T-E-N-D-I which is their council.  
21 Q. You were saying there the last rupulle died in 1970.  
22 A. He was paramount of her hereditary law. She said it was  
23 similar to Pitjantjatjara, and it was the high court of  
24 the Ngarrindjeri nation. `There are a lot of people  
25 need to learn that. These people' - reference to the  
26 Chapmans - `are sitting in a spiritual ground and they  
27 are not going to win because it is wrong'. Mrs Milera  
28 then told me that Goolwa was a special spiritual women's  
29 area. `Goolwa is a special spiritual women's area, that  
30 is why I have to draw everybody to be a part of that  
31 because it brings a new theory to it. I have been  
32 taught how to determine who is part of the rupulle.  
33 Goolwa is a women's heritage area. Unfortunately, there  
34 is a lot of evidence in the water that belonged to us.  
35 That is why we are really upset because it is like  
36 wounding the spirit. It is terribly traumatic for us  
37 because it is like wounding the spirit. If they build  
38 the bridge, there will be boats and 4-wheel drives. We

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1 should be the dictator of what changes the rivers and  
2 the waters'. I then asked Mrs Milera about the book 'A  
3 world that was'. 'I have got incredible strength from  
4 it. It is like opening up the pages of your life and  
5 discovering where you belong'. We then discussed the  
6 bridge and the effect it was having on the Aboriginal  
7 heritage issues in the Hindmarsh Island area. 'I just  
8 wished the Government would take control of it. I have  
9 tried to convey it, but they are not listening. In 1970  
10 the last rupulle died and he was the original land  
11 owner'. My notes show that Mrs Milera then told me the  
12 name of a man called George Kay. I do not have a record  
13 of the surname. Mrs Milera told me she was born at Swan  
14 Reach, but she was from the paramount rupulle line. 'We  
15 didn't leave the river. We are still in our area'. Mrs  
16 Milera said King Peter Pulami's realm extended to  
17 Victoria and New South Wales. 'Because of that power,  
18 he was feared. I have that same power. Legally, in  
19 Ngarrindjeri terms, I have his power. I belong to all  
20 the river, not just one section of it'. Mrs Milera told  
21 me she had been pushed into being custodian for Goolwa.  
22 I understood this to be a reference to Hindmarsh Island  
23 and Goolwa. 'Whether I want it or not, I am here as the  
24 custodian. I am not old enough for it. There could be  
25 other women around the Coorong and Medindie. The  
26 custodian could be a man or a woman. I have to have  
27 respect for the Ngarrindjeri nation. In some ways, I  
28 belong to the world'. I asked Mrs Milera to tell me  
29 about herself. 'I went to Dawes Road School. I had to  
30 go through a learning process in my life. You must go  
31 through these stages before you go back to where you  
32 come from. Now, I walk over the land to ensure there is  
33 no disturbance'. This was a reference to her walking  
34 everywhere with the - she told me she went for many long  
35 walks around the island. Mrs Milera said 'The custodian  
36 has been tainted and it has been spoilt'. She then said  
37 'I was brought up in Meningie. That living rupulle was  
38 there. He was very protective and a giant of a man'.

1 Mrs Milera said there were other people from the rupulle  
2 line. `There are a lot of us around. I met one the  
3 other night who said "Keep up the good work".' Mrs  
4 Milera said she hoped the bridge issue would give her  
5 people a new focus. `Because our society is destroyed  
6 by drink and drugs, I hope this gives them a reason to  
7 bring them out of the misery of it. The Ngarrindjeri  
8 nation was the richest in Australia. People are doing  
9 things wrong and they are making a lot of mistakes. If  
10 they want reconciliation, the lesson could be here from  
11 Goolwa. I have given two whites guardianship of my  
12 grandmother's land. I don't have a problem of walking  
13 the streets of Goolwa. I respect it because I'm walking  
14 on traditional land. I have total respect for old  
15 people who come and tell me about my culture. If people  
16 step into Goolwa, they will find out the right way to do  
17 reconciliation. These awful things are not going to  
18 deter reconciliation. No-one can ever rubbish Goolwa to  
19 me because I am Goolwa. I have been here because a lot  
20 of people are hurting'.  
21 CONTINUED

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1 `I live in Murray Bridge. I have had spiritual things  
2 happen to me which I can't tell you about but I want all  
3 of my Ngarrindjeri nation to be a part of it because it  
4 is very important to me. I am part of Goolwa. This  
5 conflict I cannot tolerate. If I tell people what I  
6 know they will get a better understanding of what  
7 reconciliation is all about and a better understanding  
8 of the birds, water and everything else.' Mrs Milera  
9 told me then that she was frustrated at a lack of action  
10 from the State Government to stop the bridge project and  
11 to resolve the controversy. `In some respects we are  
12 relying on the unions to do what the Government should  
13 be doing. Why should we be doing that?' She told me  
14 she was confused about which laws the Ngarrindjeri had  
15 to obey in order to stop the bridge, European law or  
16 aboriginal law. She said she believed the Ngarrindjeri  
17 should follow their traditional laws. `I really want  
18 to know what law we are supposed to follow, because we  
19 have a confusion of laws dictated by power and greed. I  
20 think the whole Government has a responsibility for  
21 that.' I asked Mrs Milera again about where she lived.  
22 She told me again that she lived in Murray Bridge. `I  
23 came to Goolwa last October to answer my calling.  
24 Because it is a women's area, I must be here for my  
25 nation. Spiritually, this is a very important area.  
26 One little bridge has created a huge problem.' Mrs  
27 Milera told me she had spoken to Dr Michael Armitage  
28 about the bridge issue. She said discussions were  
29 continuing. `It is about appropriate progress. We must  
30 preserve the environment. We are saving the birds. The  
31 environment is going to be stuffed up otherwise.' Mrs  
32 Milera said she could not understand why a bridge was  
33 needed because the island was sinking. `There is water  
34 in the middle of the island. It is a bridge to nowhere.  
35 Who is going to listen? The Government is not going to  
36 listen. The developers are not listening. So, who is  
37 going to do it? We need a united front of  
38 reconciliation.' Mrs Milera told me that Aborigines and

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1 the land were intrinsically linked. `How do you  
2 separate us from the land? We get a spirituality from  
3 the land. This was my land. It is the poison of the  
4 world which has come into my culture and destroyed it.  
5 Native trees are part of us. The gums, the mallees.  
6 When we are saying no development, we don't mean stop  
7 everything. We are just asking for sensitive  
8 development. Four wheel drives are going to destroy  
9 everything.' Mrs Milera told me Hindmarsh Island was  
10 once densely vegetated. `You couldn't see people for  
11 the trees. It was heavily vegetated. It was a breeding  
12 ground for our traditional birds.' She then went on to  
13 tell me about how women `have a say in Ngarrindjeri  
14 things'. She said there were four burial grounds on the  
15 island. She said she had found a traditional spear near  
16 the bridge site. She said ETSA had disturbed human  
17 remains while digging a trench. She told me the South  
18 Australian Museum had 300 to 400 bones which her people  
19 were demanding to be returned to Goolwa for burial. She  
20 told me the site of the marina Goolwa was a burial  
21 ground. Mrs Milera told me she did not know how Mr and  
22 Mrs Chapman had got away with it. `I don't know how  
23 they got away with it. I don't know where it is going  
24 to end. I wish I knew.' Mrs Milera told me she had a  
25 university degree. She then said `I finally found my  
26 heritage in Goolwa.' She told me that the Goolwa RSL  
27 had admitted her brother. `My brother is a lot darker  
28 than me, but he was accepted by the RSL.' This was in  
29 reference to the fact that she was being accepted by the  
30 people of Goolwa and her brother was being accepted into  
31 the RSL where he was free to go into to drink. I asked  
32 Mrs Milera about her university qualifications. She  
33 told me she had a diploma in psychology and computers  
34 and had partly completed law. She said she had studied  
35 through the University of South Australia. She also  
36 told me she suffered from very poor health. I think,  
37 from memory, she said motor neurons, but I can't be  
38 sure. But she told me that her health improved every

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1 time she came near the Murray River Mouth and that a  
2 machine which she required in Murray Bridge was not  
3 required whenever she was near the Murray River Mouth.  
4 Mrs Milera told me here great grandfather had `opted for  
5 the peaceful way'. She said the Ngarrindjeri people had  
6 `never had a fair go with heritage'. She told me it was  
7 her role to be an educator about her culture. She then  
8 said `If I want to put pressure on, I can. If anyone  
9 wants to take me to court, I can handle it. I have no  
10 fear of defending my heritage. I defend Goolwa and I  
11 will not be challenged by anyone. I am Goolwa. I was  
12 put here by tradition, not by circumstance or anything  
13 else, by tradition.' The interview ended. We then  
14 discussed a lot of things off the record. Brenton took  
15 Mrs Milera away. She posed for photographs quite  
16 happily. We then got in the car and returned to  
17 Adelaide. This is the first time, to the best of my  
18 recollection, that I received any first-hand information  
19 from an Aboriginal informant about the so-called women's  
20 business. And the article, based on that interview,  
21 appeared the next day. Well, it actually appeared about  
22 a week later. I held it for several days.  
23 ADJOURNED 11.40 A.M.

1 RESUMING 12 NOON

2 Q. I think you made the point, just before you left the  
3 witness box, that, to your knowledge, this was the first  
4 time that - that is, your article, which was the article  
5 that flowed from your 29 April interview with Sarah  
6 Milera.

7 A. 'Count down on bridge over tribal waters'.

8 Q. I think you made the point, just before you left the  
9 witness box, that, so far as you are aware, in all your  
10 familiarity with this matter, that is the first time it  
11 had been reported in the mainstream media that the  
12 island had spiritual significance.

13 A. To Aboriginal women, yes.

14 Q. I think it was on 3 May 1994 that Dr Armitage announced  
15 that the bridge would go ahead.

16 A. Yes, he did, yes.

17 Q. Did you follow up Sarah Milera after that article,  
18 'Count down on bridge over tribal waters.'

19 A. Yes, I did. On 3 May I telephoned Mrs Milera to seek  
20 comment on the decision by Michael Armitage to use s.23  
21 to authorise damage or destruction of the sacred site.

22 Q. You spoke to her on I think 3 May 1994, is that right.

23 A. Yes, I did.

24 Q. Again, was that on the telephone.

25 A. That was by telephone.

26 Q. Did you note that conversation.

27 A. I did.

28 Q. By reference to your notes, could you tell us what was  
29 said.

30 A. She said 'It's the most ridiculous thing I have ever  
31 heard. I have no faith in this Government. I will  
32 never communicate with them any more. I will only  
33 communicate with the honest people. I have no  
34 confidence in this Government. Nothing could ever  
35 pacify me. Not reconciliation, nothing. I don't want  
36 to hear from them. I banish them from my mind. I feel  
37 so strongly, I will still be standing in front of the  
38 tractor. They are so hypocritical, there have been

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1 contracts before us. They, the Chapmans, broke the law  
2 in the first place. They took bones from a sacred site  
3 and dumped them at the dump. I am not going to give up.  
4 I don't believe it will go through. I want that in my  
5 mind, because I don't see it in my mind. If there is  
6 anybody listening, if there is any law in the land left,  
7 I can't believe this. I come from a powerful law,  
8 65,000 years old, and I hear this. It is the hardest  
9 thing for me to understand. Bannon broke the first  
10 contract.' Mrs Milera told me that there were spiritual  
11 grounds and a burial ground in some respect near the  
12 proposed bridge. 'I go along the whole river. He, Dr  
13 Armitage, should resign and leave the position open.  
14 They should give it another name. He is not a Minister  
15 for Aboriginal Affairs. I hope all Aboriginal people in  
16 Australia respond to the ATSIC threat to withdraw the \$1  
17 billion from Westpac. I hope the law responds and I  
18 hope Tickner responds.'

19 Q. I think also you spoke on that day to Matt Rigney.

20 A. I did.

21 Q. Can you tell us what was said between you and Mr Rigney.

22 A. He said 'I am certainly dead against it. I don't  
23 support the Minister's decision and I am asking for the  
24 Federal Minister to intervene. I will be writing to  
25 Brown and Tickner really expressing my anger and  
26 disappointment to the State's decision to forsake our  
27 heritage. I have made a request that Tickner intervene  
28 under the Aboriginal and Torres Strait Islander Heritage  
29 Protection Act (1984).'

30 COMSR: I don't know how much further this is  
31 going to go, Mr Smith.

32 COMSR

33 Q. But you understand also it is one of the Terms of  
34 Reference of this Commission.

35 A. The Federal Court proceedings are, but that is it.

36 XN

37 Q. Those two conversations, in part at least, led to your  
38 article, on 4 May, 'Row looms as bridge goes ahead.'



1 A. That's correct.

2 MR SMITH: Attachment 29.

3 XN

4 Q. I think you followed that up with an article 'Move to  
5 wind up marina developer', attachment 30.

6 A. Yes, that's correct.

7 Q. You have subsequently become aware of the fact that  
8 there had been a meeting of women, called the Mouth  
9 House meeting, on 9 May 1994.

10 A. No, I had no knowledge of that meeting.

11 Q. At the time you had no knowledge.

12 A. At the time no knowledge.

13 Q. But later you found out that that took place.

14 A. The first time I heard about the 9 May meeting with  
15 women exclusively was this year after Channel 10  
16 broadcast that material.

17 Q. However, on 9 May, you had a conversation, I think, with  
18 Richard Owen, is that right.

19 A. Yes, I did.

20 Q. You have already told us that he was one of The Friends  
21 of Goolwa and Kumarangk.

22 A. No, more specifically he was the president of that  
23 organisation.

24 Q. Can you tell us what passed between you and him in that  
25 conversation.

26 A. By this stage, the Federal Court injunctions, from  
27 memory, had been granted to Binalong Pty Ltd v CFMEU and  
28 and the Conservation Council and The Friends of Goolwa  
29 and Kumarangk and he basically said that they would be  
30 defying those injunctions in light of Michael Armitage's  
31 decision to go ahead with the bridge and that they would  
32 continue to picket the bridge site.

33 Q. As you pointed out in your statement, on p.7, did you  
34 have some knowledge that there was going to be some  
35 movement in terms of the beginning of the construction  
36 of the bridge.

37 A. Yes, I learnt that the company, Built Environs, was to  
38 deliver to this site transportable huts, known as Atcos,

1 to establish its site headquarters for the bridge  
2 project.

3 Q. Did you have some information as to a protest on 10 May.

4 A. Yes, I was informed that there would be a protest held  
5 the following day to try and stop the delivery of those  
6 huts.

7 Q. Did you receive such things as notices of meetings and  
8 flyers relating to rallies and things like that.

9 A. Not really from The Friends of Goolwa and Kumarangk,  
10 because I was in regular telephone contact with them, it  
11 wasn't necessary for them to notify me in writing.

12 Q. Did you have a flyer relating to the public rally on the  
13 bridge.

14 A. That was in June, we are in May.

15 Q. You just received some information that there was going  
16 to be a protest on 10 May.

17 A. I learnt that the Atco huts were going there and I  
18 wanted to find out what to expect the next day so we  
19 could prepare our coverage.

20 Q. You went down there on 10 May.

21 A. I did in the presence of two photographers from The  
22 Advertiser because my enquiries had ascertained that  
23 there would be a large turn out of protestors and I  
24 anticipated some confrontation with the police.

25 Q. What time did you get there.

26 A. I made notes of that protest meeting and I think we  
27 arrived about 10 a.m.

28 Q. By reference to your notes can you tell us what happened  
29 and tell us of any conversations you had.

30 A. My notes are basically just a running sheet scrawled in  
31 shorthand standing up and so they may be a bit hard to  
32 follow.

33 CONTINUED

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1 It began with a large group of people gathering behind a  
2 site at the Goolwa Police Station - or the old Goolwa  
3 Police Station, and they basically all gathered there  
4 with their chairs and their Thermoses and their placards  
5 and pickets - you know, placard signs. We were in  
6 attendance, when I observed the motor vehicle stop in  
7 the middle of the road and a man came out of that motor  
8 vehicle with a video camera and started to video who was  
9 there and what was happening. I approached him and  
10 asked him who he was. We had an exchange. He told me  
11 that he was a Bill Barton, and that it was his right, as  
12 a private citizen, to video whatever he wanted. So I  
13 instructed my photographers to photograph him videoing  
14 the protest rally. At about quarter past 10, a police  
15 officer arrived. He was identified as a chief inspector  
16 by the pips on the shoulder. He served Mrs Milera with  
17 a notice, which were the conditions of Michael  
18 Armitage's section 23 notice, authorising work to begin.

19 Q. You saw that notice, did you.

20 A. I didn't ever see the notice. I saw him hand it to Mrs  
21 Milera as a formal commencement of the proposed delivery  
22 of the Atco huts.

23 Q. Dr Neale Draper was in attendance.

24 A. He was there too, and Chief Inspector Tom Ryan was the  
25 name of the police officer. He asked Neale Draper to  
26 confirm that he was there formally to monitor the  
27 delivery of the huts and any impact on the site. He  
28 then read the notice to Sarah Milera, outlining the  
29 section 23 authorisation, and indicated the area where  
30 the site works or Atco huts would be positioned. There  
31 was some discussion about whether the section 23 notice  
32 had actually been Gazetted as legally required, and  
33 Chief Inspector Ryan assured the people present that  
34 that had occurred. Mrs Milera told Inspector Ryan that  
35 'This is a heritage site and there are conditions for  
36 them', referring to Built Environs for coming onto it.  
37 She was then given Armitage's letter. Sarah Milera was  
38 given the letter from Chief Inspector Ryan. Chief

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1 Inspector Ryan then told Sarah Milera that `Built  
2 Environs want to establish this site and we will be  
3 facilitating them in coming onto this site. They have  
4 to establish trucks coming onto here, and then they will  
5 be putting transportable huts onto the site'. Mrs  
6 Milera said that `They' - referring to Built Environs  
7 and the Chapmans, I assume - `have broken the law, and  
8 if I am taken to gaol I will be proud to go'. Chief  
9 Inspector Ryan said `As far as other sites go, we will  
10 have to look at them as and when they come up, and that  
11 includes sites on the island. All we are interested in  
12 doing here is allowing the trucks to come in'. He then  
13 indicated that some of the vehicles which had been  
14 parked on the site would have to be moved. This  
15 included two white vans which bore Commonwealth  
16 Government number plates, which had arrived with a large  
17 number of Aboriginal people from Murray Bridge. Dr  
18 Draper said he would like to talk to the committee  
19 before anything took place to establish the area and  
20 boundary of the site to be preserved. Mrs Milera said  
21 that she was annoyed that things had been done and that  
22 they had lived on an empty promise, and this was a  
23 reference to Dr Armitage's pledge before the State  
24 election to stop the bridge project. Chief Inspector  
25 Ryan told Mrs Milera that `Your solicitor' - a reference  
26 to Tim Wooley `is still working on those problems'. Mrs  
27 Milera and Dr Draper then went off to discuss what was  
28 going on. A short time later, Draper and Ryan had a  
29 discussion, and he read the notice out loud, and that  
30 was `I, Dr Armitage, authorise the agents to damage and  
31 interfere with any Aboriginal sites and remains'. I  
32 have some notation there. It is incomplete. Chief  
33 Inspector Ryan then said `If Built Environs do any  
34 excavation work they have to stop until Neale Draper  
35 checks it'. Then he outlined that three trucks were  
36 coming onto the site with transportable sheds, that  
37 bollards would be placed to outline the boundary, and  
38 that there would be security guards put onto the site on

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1 a semi-permanent basis to ensure that there was no  
2 interference with the headquarters. He then said if  
3 those cars or vehicles aren't moved he will get a tow  
4 truck in to take them away, and he then left for a short  
5 time. He returned at 10.50 a.m. with representatives of  
6 Built Environs, who I knew to be David O'Sullivan and Mr  
7 Trevor Treadwell. He also said reinforcements were  
8 coming down, and I took this to be police reinforcements  
9 in light of the large number of people who by then were  
10 on the site. He appealed to the people present to show  
11 good nature, and informed them that he would allow a  
12 lawful protest. He said that 'We will allow Built  
13 Environs to come onto the site'. He then informed Mr  
14 David Thomason, who was also in attendance, that he was  
15 still under a court injunction, and asked him to clarify  
16 what role he was playing in the protest, and what he  
17 intended to do in light of the Federal Court injunction  
18 which had been granted against him. Mr Chapman, by this  
19 stage, had arrived with his wife, and he moved over with  
20 a micro cassette recorder or a tape recorder and taped  
21 the conversation between Mr Thomason and Chief Inspector  
22 Ryan. They arrived about 10.50. Six motor cycles  
23 shortly arrived afterwards - police motor cycles and a  
24 bus load of police officers. At about 11.31 the cops  
25 told - I've got 'cops' here, sorry - the police told Mr  
26 Thomason and other unionists again to move the cars.  
27 Chief Inspector Ryan told the unionists, particularly Mr  
28 Thomason and Mr Ben Carslake, not to interfere. He said  
29 that 'Built Environs and the trucks wish to come onto  
30 the land' and they would be facilitating that. I then  
31 went for a walk to ascertain the police presence, and  
32 found an ambulance around the corner out of sight, two  
33 police paddy wagons, 15 extra police in a bus, and a  
34 plain clothes surveillance team preparing their video  
35 equipment and cameras, and another 16 - I counted 16  
36 police officers in another bus. They then - a truck  
37 arrived. The driver of that truck was confronted and  
38 asked for his union pass. The two unionists were moved

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1 to one side by police. Thomason was pushed to the  
2 ground by police. There was shouting of words similar  
3 to `scab' to the driver of the truck. Several women,  
4 including some with children, moved into the path of the  
5 truck. Several tried to sit down. They were dragged to  
6 one side by the police. By this stage I climbed onto  
7 the top of a WW Combie van to get out of the way and so  
8 I could see what was happening below me. A woman in a  
9 clerics uniform - who I later met and was introduced to  
10 me as Helen Campbell - was dragged through mud in front  
11 of me. Several women then started crying and weeping,  
12 and saying things along the lines that `We don't count  
13 any more, nobody counts us any more, no-one is listening  
14 to us'. At about 12.50 the actual Atco hut was slid off  
15 the back of a truck and hit the ground quite heavily.  
16 By this stage, Mr Geoff Benny, who I had met from  
17 Connell Wagner, had also arrived. Mrs Milera and  
18 others, by this stage, were getting quite agitated and  
19 she said `I just want people to stop this'. You know,  
20 `I thank them for standing with us'. Mr Rocky Marshall,  
21 a member of the Friends of Goolwa and Kumarangk Protest  
22 Group, was making quite a big show of holding a sign. I  
23 approached Mr and Mrs Chapman and asked them to comment.  
24 Mrs Chapman declined to comment and told me she would  
25 talk to me when she was ready to talk to me. Four males  
26 and one female were arrested and put in the back of a  
27 police paddy wagon. I was told on the scene that they  
28 were being arrested for preventing a breach of the peace.  
29 Q. At five past 1 the two trucks left, and a woman arrived  
30 who I had never seen before. I later learnt that it was  
31 a woman by the name of Mrs Doreen Kartinyeri. She  
32 became extremely agitated and abusive, particularly  
33 towards the representative from Built Environs, Mr  
34 Treadwell. She swore, and started swearing quite  
35 vigorously, saying that they had disturbed the soil of a  
36 sacred site. Where the Atco hut had hit the ground it  
37 had scraped a certain amount of soil, which wasn't a  
38 large amount of soil, and she was accusing them of

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1     damaging the sacred site and showing no consideration  
2     and no sensitivity, and this caught my attention because  
3     the protest had gone from being, well, not a violent  
4     confrontation between the police and the protestors but  
5     certainly one involving force to remove them out of the  
6     way of the path of the truck, to a very verbal  
7     confrontation between an Aboriginal woman and the police  
8     and Built Environs over this scraping of the soil.  
9     Chief Inspector Ryan told - tried to placate Mrs  
10    Kartinyeri by saying he thought it was accidental. She  
11    wouldn't be - it took a lot to settle her down. In  
12    fact, she didn't settle down. She kept on behaving very  
13    extremely, and basically things settled down slowly  
14    after that.

15   Q. And the huts were completely unloaded then, were they.

16   A. Yes. The huts were left in exactly where they hit the  
17   ground. The aborigines who were present then got out  
18   their own marking tape and they cordoned off an area  
19   which they said was a sacred site. They then commenced  
20   to erect tents by hammering pegs into the ground and  
21   putting tents up, indicating that they planned to occupy  
22   the area.

23   Q. Was that an area near the Atco huts.

24   A. It would have been 20 to 30 metres away, at the most. I  
25   then approached Chief Inspector Ryan for a debriefing on  
26   the protest and how he thought it had gone from the  
27   police perspective, and asked him for details of the  
28   people who had been taken away and what they had been  
29   taken away for. I then had several cups of tea with  
30   members of the protest group which were there and  
31   returned to Adelaide.

32   Q. During the course of this protest that you have  
33   recounted to us, did you have a conversation with the  
34   unionist, Mr Thomason.

35   A. Yes, because later - late in the morning or early  
36   afternoon he received a telephone call on a mobile  
37   telephone, and asked me to go to one side with him. He  
38   informed myself and Mrs Milera not to worry too much

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1 about what was perceived to be the extremity of the  
2 police action, or the trauma that was caused, the upset  
3 that had occurred with a large number of women who, by  
4 then, were crying - and these were white women as well  
5 as Aboriginal women who were upset - that Robert Tickner  
6 was going to step in and he was going to stop the bridge  
7 and, you know, to keep this not to myself but to use it  
8 any way I wanted the next day, but I was the only one  
9 who would find out about it.

10 Q. The next thing that happened then was your article,  
11 `Arrests in bridge clashes' of 11 May 1994.

12 A. That's correct, which appeared the following day.

13 Q. Attachment 33.

14 A. Yes.

15 Q. What do you call the opening photograph in such items.  
16 That has got a journalistic -

17 A. I will just take you through the layout of that  
18 particular article there. The top line across the top  
19 is called a kicker or a teaser, which is basically a  
20 summary of the content of the story.

21 Q. That's `Federal Government may step in'.

22 A. `Federal Government may step in after aborigines vow to  
23 stay put' is a kicker, which is a supplementary headline  
24 to a main headline, which is `Arrest in bridge clashes'.  
25 My by-line is below that, and then the first paragraph  
26 of a newspaper story is called an intro or a lead.

27 Q. That is `The Federal Government is expected to order  
28 work to stop'.

29 A. That's correct.

30 Q. Was that picking up the information that you'd been  
31 given by Thomason.

32 A. Yes. As a result of the information which had been  
33 conveyed to me by Mr Thomason, I was able to accurately  
34 predict that the Federal Government was going to  
35 intervene and stop the bridge.

36 COMSR: How much further are we going into this  
37 particular topic?

38 MR SMITH: No further.



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1 It began with a large group of people gathering behind a  
2 site at the Goolwa Police Station - or the old Goolwa  
3 Police Station, and they basically all gathered there  
4 with their chairs and their Thermoses and their placards  
5 and pickets - you know, placard signs. We were in  
6 attendance, when I observed the motor vehicle stop in  
7 the middle of the road and a man came out of that motor  
8 vehicle with a video camera and started to video who was  
9 there and what was happening. I approached him and  
10 asked him who he was. We had an exchange. He told me  
11 that he was a Bill Barton, and that it was his right, as  
12 a private citizen, to video whatever he wanted. So I  
13 instructed my photographers to photograph him videoing  
14 the protest rally. At about quarter past 10, a police  
15 officer arrived. He was identified as a chief inspector  
16 by the pips on the shoulder. He served Mrs Milera with  
17 a notice, which were the conditions of Michael  
18 Armitage's section 23 notice, authorising work to begin.

19 Q. You saw that notice, did you.

20 A. I didn't ever see the notice. I saw him hand it to Mrs  
21 Milera as a formal commencement of the proposed delivery  
22 of the Atco huts.

23 Q. Dr Neale Draper was in attendance.

24 A. He was there too, and Chief Inspector Tom Ryan was the  
25 name of the police officer. He asked Neale Draper to  
26 confirm that he was there formally to monitor the  
27 delivery of the huts and any impact on the site. He  
28 then read the notice to Sarah Milera, outlining the  
29 section 23 authorisation, and indicated the area where  
30 the site works or Atco huts would be positioned. There  
31 was some discussion about whether the section 23 notice  
32 had actually been Gazetted as legally required, and  
33 Chief Inspector Ryan assured the people present that  
34 that had occurred. Mrs Milera told Inspector Ryan that  
35 'This is a heritage site and there are conditions for  
36 them', referring to Built Environs for coming onto it.  
37 She was then given Armitage's letter. Sarah Milera was  
38 given the letter from Chief Inspector Ryan. Chief

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1 Inspector Ryan then told Sarah Milera that `Built  
2 Environs want to establish this site and we will be  
3 facilitating them in coming onto this site. They have  
4 to establish trucks coming onto here, and then they will  
5 be putting transportable huts onto the site'. Mrs  
6 Milera said that `They' - referring to Built Environs  
7 and the Chapmans, I assume - `have broken the law, and  
8 if I am taken to gaol I will be proud to go'. Chief  
9 Inspector Ryan said `As far as other sites go, we will  
10 have to look at them as and when they come up, and that  
11 includes sites on the island. All we are interested in  
12 doing here is allowing the trucks to come in'. He then  
13 indicated that some of the vehicles which had been  
14 parked on the site would have to be moved. This  
15 included two white vans which bore Commonwealth  
16 Government number plates, which had arrived with a large  
17 number of Aboriginal people from Murray Bridge. Dr  
18 Draper said he would like to talk to the committee  
19 before anything took place to establish the area and  
20 boundary of the site to be preserved. Mrs Milera said  
21 that she was annoyed that things had been done and that  
22 they had lived on an empty promise, and this was a  
23 reference to Dr Armitage's pledge before the State  
24 election to stop the bridge project. Chief Inspector  
25 Ryan told Mrs Milera that `Your solicitor' - a reference  
26 to Tim Wooley `is still working on those problems'. Mrs  
27 Milera and Dr Draper then went off to discuss what was  
28 going on. A short time later, Draper and Ryan had a  
29 discussion, and he read the notice out loud, and that  
30 was `I, Dr Armitage, authorise the agents to damage and  
31 interfere with any Aboriginal sites and remains'. I  
32 have some notation there. It is incomplete. Chief  
33 Inspector Ryan then said `If Built Environs do any  
34 excavation work they have to stop until Neale Draper  
35 checks it'. Then he outlined that three trucks were  
36 coming onto the site with transportable sheds, that  
37 bollards would be placed to outline the boundary, and  
38 that there would be security guards put onto the site on

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1 a semi-permanent basis to ensure that there was no  
2 interference with the headquarters. He then said if  
3 those cars or vehicles aren't moved he will get a tow  
4 truck in to take them away, and he then left for a short  
5 time. He returned at 10.50 a.m. with representatives of  
6 Built Environs, who I knew to be David O'Sullivan and Mr  
7 Trevor Treadwell. He also said reinforcements were  
8 coming down, and I took this to be police reinforcements  
9 in light of the large number of people who by then were  
10 on the site. He appealed to the people present to show  
11 good nature, and informed them that he would allow a  
12 lawful protest. He said that 'We will allow Built  
13 Environs to come onto the site'. He then informed Mr  
14 David Thomason, who was also in attendance, that he was  
15 still under a court injunction, and asked him to clarify  
16 what role he was playing in the protest, and what he  
17 intended to do in light of the Federal Court injunction  
18 which had been granted against him. Mr Chapman, by this  
19 stage, had arrived with his wife, and he moved over with  
20 a micro cassette recorder or a tape recorder and taped  
21 the conversation between Mr Thomason and Chief Inspector  
22 Ryan. They arrived about 10.50. Six motor cycles  
23 shortly arrived afterwards - police motor cycles and a  
24 bus load of police officers. At about 11.31 the cops  
25 told - I've got 'cops' here, sorry - the police told Mr  
26 Thomason and other unionists again to move the cars.  
27 Chief Inspector Ryan told the unionists, particularly Mr  
28 Thomason and Mr Ben Carslake, not to interfere. He said  
29 that 'Built Environs and the trucks wish to come onto  
30 the land' and they would be facilitating that. I then  
31 went for a walk to ascertain the police presence, and  
32 found an ambulance around the corner out of sight, two  
33 police paddy wagons, 15 extra police in a bus, and a  
34 plain clothes surveillance team preparing their video  
35 equipment and cameras, and another 16 - I counted 16  
36 police officers in another bus. They then - a truck  
37 arrived. The driver of that truck was confronted and  
38 asked for his union pass. The two unionists were moved

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1 to one side by police. Thomason was pushed to the  
2 ground by police. There was shouting of words similar  
3 to `scab' to the driver of the truck. Several women,  
4 including some with children, moved into the path of the  
5 truck. Several tried to sit down. They were dragged to  
6 one side by the police. By this stage I climbed onto  
7 the top of a WW Combie van to get out of the way and so  
8 I could see what was happening below me. A woman in a  
9 clerics uniform - who I later met and was introduced to  
10 me as Helen Campbell - was dragged through mud in front  
11 of me. Several women then started crying and weeping,  
12 and saying things along the lines that `We don't count  
13 any more, nobody counts us any more, no-one is listening  
14 to us'. At about 12.50 the actual Atco hut was slid off  
15 the back of a truck and hit the ground quite heavily.  
16 By this stage, Mr Geoff Benny, who I had met from  
17 Connell Wagner, had also arrived. Mrs Milera and  
18 others, by this stage, were getting quite agitated and  
19 she said `I just want people to stop this'. You know,  
20 `I thank them for standing with us'. Mr Rocky Marshall,  
21 a member of the Friends of Goolwa and Kumarangk Protest  
22 Group, was making quite a big show of holding a sign. I  
23 approached Mr and Mrs Chapman and asked them to comment.  
24 Mrs Chapman declined to comment and told me she would  
25 talk to me when she was ready to talk to me. Four males  
26 and one female were arrested and put in the back of a  
27 police paddy wagon. I was told on the scene that they  
28 were being arrested for preventing a breach of the peace.  
29 Q. At five past 1 the two trucks left, and a woman arrived  
30 who I had never seen before. I later learnt that it was  
31 a woman by the name of Mrs Doreen Kartinyeri. She  
32 became extremely agitated and abusive, particularly  
33 towards the representative from Built Environs, Mr  
34 Treadwell. She swore, and started swearing quite  
35 vigorously, saying that they had disturbed the soil of a  
36 sacred site. Where the Atco hut had hit the ground it  
37 had scraped a certain amount of soil, which wasn't a  
38 large amount of soil, and she was accusing them of

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1     damaging the sacred site and showing no consideration  
2     and no sensitivity, and this caught my attention because  
3     the protest had gone from being, well, not a violent  
4     confrontation between the police and the protestors but  
5     certainly one involving force to remove them out of the  
6     way of the path of the truck, to a very verbal  
7     confrontation between an Aboriginal woman and the police  
8     and Built Environs over this scraping of the soil.  
9     Chief Inspector Ryan told - tried to placate Mrs  
10    Kartinyeri by saying he thought it was accidental. She  
11    wouldn't be - it took a lot to settle her down. In  
12    fact, she didn't settle down. She kept on behaving very  
13    extremely, and basically things settled down slowly  
14    after that.

15   Q. And the huts were completely unloaded then, were they.

16   A. Yes. The huts were left in exactly where they hit the  
17   ground. The aborigines who were present then got out  
18   their own marking tape and they cordoned off an area  
19   which they said was a sacred site. They then commenced  
20   to erect tents by hammering pegs into the ground and  
21   putting tents up, indicating that they planned to occupy  
22   the area.

23   Q. Was that an area near the Atco huts.

24   A. It would have been 20 to 30 metres away, at the most. I  
25   then approached Chief Inspector Ryan for a debriefing on  
26   the protest and how he thought it had gone from the  
27   police perspective, and asked him for details of the  
28   people who had been taken away and what they had been  
29   taken away for. I then had several cups of tea with  
30   members of the protest group which were there and  
31   returned to Adelaide.

32   Q. During the course of this protest that you have  
33   recounted to us, did you have a conversation with the  
34   unionist, Mr Thomason.

35   A. Yes, because later - late in the morning or early  
36   afternoon he received a telephone call on a mobile  
37   telephone, and asked me to go to one side with him. He  
38   informed myself and Mrs Milera not to worry too much

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1 about what was perceived to be the extremity of the  
2 police action, or the trauma that was caused, the upset  
3 that had occurred with a large number of women who, by  
4 then, were crying - and these were white women as well  
5 as Aboriginal women who were upset - that Robert Tickner  
6 was going to step in and he was going to stop the bridge  
7 and, you know, to keep this not to myself but to use it  
8 any way I wanted the next day, but I was the only one  
9 who would find out about it.

10 Q. The next thing that happened then was your article,  
11 `Arrests in bridge clashes' of 11 May 1994.

12 A. That's correct, which appeared the following day.

13 Q. Attachment 33.

14 A. Yes.

15 Q. What do you call the opening photograph in such items.  
16 That has got a journalistic -

17 A. I will just take you through the layout of that  
18 particular article there. The top line across the top  
19 is called a kicker or a teaser, which is basically a  
20 summary of the content of the story.

21 Q. That's `Federal Government may step in'.

22 A. `Federal Government may step in after aborigines vow to  
23 stay put' is a kicker, which is a supplementary headline  
24 to a main headline, which is `Arrest in bridge clashes'.  
25 My by-line is below that, and then the first paragraph  
26 of a newspaper story is called an intro or a lead.

27 Q. That is `The Federal Government is expected to order  
28 work to stop'.

29 A. That's correct.

30 Q. Was that picking up the information that you'd been  
31 given by Thomason.

32 A. Yes. As a result of the information which had been  
33 conveyed to me by Mr Thomason, I was able to accurately  
34 predict that the Federal Government was going to  
35 intervene and stop the bridge.

36 COMSR: How much further are we going into this  
37 particular topic?

38 MR SMITH: No further.

1 XN

2 Q. Then, the article really talks about what you had been  
3 telling us about really, doesn't it.

4 A. Yes.

5 Q. See, the photograph there in the article of 11 May, is  
6 Mr Thomason in this photograph anywhere.

7 A. In the photograph, shows Mr Carslake being arrested and  
8 a gentleman who I don't know.

9 Q. Which one is Mr Carslake.

10 A. Is the smaller gentleman at the front.

11 Q. On 11 May, the article was published, of course, 'Arrest  
12 in Bridge Clashes'. On that day, did you have any  
13 conversations with the Mileras.

14 A. I may have.

15 Q. Did you, for instance, visit the sister of Sarah, of  
16 either Sarah and Doug Milera on that day.

17 A. Yes. Because the Federal Minister, I'd learnt that he  
18 was about to issue a 30 day stop, yes, I did visit Mr  
19 and Mrs Milera at Mr Milera's sister's house at  
20 Torrensville.

21 Q. Did you there speak with either one of the Mileras.

22 A. I spoke to both of them, yes.

23 Q. Can you tell us what was said.

24 A. Yes. Doug Milera - both Doug and Sarah jointly told me  
25 that they were absolutely thrilled that Robert Tickner  
26 was going to step in and try to resolve the issue. Mr  
27 Milera specifically said what had happened the day after  
28 the protest that Sarah Milera was taken by ambulance  
29 from Goolwa to Adelaide and admitted to hospital. I was  
30 told that it was related to the stress of the protests  
31 and that she had collapsed later in the day. She had  
32 spent the night at the Royal Adelaide Hospital. She had  
33 been discharged the following morning. They rang me and  
34 asked me to come around and see them to discuss the  
35 latest developments. Mr Milera told me, according to my  
36 notes, 'We were so distressed and stressed out that  
37 Sarah had to go to hospital. You know that we cannot  
38 believe the fact that we had to go through what we went

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1 through yesterday, the pressure of it all'. They then  
2 said that a lot of people had supported them and because  
3 it was deemed to be a victory that they managed to get  
4 Tickner to intervene, they said that 'We really want to  
5 thank all the people from The Friends of Goolwa and  
6 Kumarangk who supported us, The Lower Murray Aboriginal  
7 Heritage Committee, Mr Frank Tuckwell who was the  
8 Director of Signal Point at Goolwa and the CFMEU Union'.  
9 They actually said 'We want to say special thanks to  
10 Davey and Ben for listening to us in the first  
11 instance'.

12 Q. Who were Davey and Ben.

13 A. 'Davey' is a reference to David Thomason and 'Ben' is a  
14 reference to Ben Carslake. 'They said their sorrow has  
15 turned to joy. That the State Heritage Committee and  
16 David Raffman would now have to really take it seriously  
17 and that Doug has been doing a lot of writing and that  
18 we still have a lot of work to do. I think it all  
19 depends on who' - sorry, I can't make out that note.  
20 But Sarah said to me that she was counting on the 21  
21 days of liquidation and we'll see what will happen -  
22 there is reference to the on-going Supreme Court action  
23 relating to Binalong Pty Ltd. She just said that it was  
24 a big relief with what had happened and reminded me that  
25 Kumarangk means 'woman' and there was still a lot of  
26 people supporting them. Those are the only notes I  
27 took.

28 Q. So, was your trip out to speak with Sarah and Doug to  
29 get their reaction to the foreshadowed news of a ban,  
30 was it.

31 A. Yes, it was; and also to see how Sarah was going. I was  
32 concerned after learning that she had gone to hospital.

33 Q. Then on the 13th was the next event with your article on  
34 13 May 1994: 'Bridge protest victory'. Attachment 34.

35 A. Yes, it was.

36 Q. So, your prediction came true and there was a 30 day ban  
37 by the Minister.

38 A. Yes.



- 1 Q. Did you, in connection with that story 'Bridge protest  
2 victory', speak with anybody.
- 3 A. Yes. I spoke again with Mr Reg Dodd, the Chairman of  
4 the State Heritage Committee.
- 5 Q. What about more eminent people than that. I should  
6 withdraw that, actually. I'm speaking of - did you  
7 speak with any Ministers of Government, politicians.
- 8 A. Yes, I did. I had been talking for some time with  
9 Robert Tickner on different occasions and I had a  
10 discussion with Robert Tickner.
- 11 COMSR
- 12 Q. You will appreciate my situation here with the Terms of  
13 Reference, and I'm not quite sure what they will  
14 encompass in the final analysis. The Terms of Reference  
15 in this inquiry must not prejudice the Federal Court  
16 one.
- 17 A. Yes.
- 18 Q. And the exact parameters of that are not always entirely  
19 clear.
- 20 A. Yes.
- 21 XN
- 22 Q. I think as a matter of course you receive media  
23 releases, do you, from such offices as Federal  
24 ministers.
- 25 A. From Mr Tickner, yes, and I only talked to him about  
26 those press releases.
- 27 MR SMITH: This question goes no further than the  
28 historical fact of receiving the media release. I'm not  
29 going to ask this witness to comment, or anything like  
30 that.
- 31 COMSR: Yes.
- 32 XN
- 33 Q. Looking at this media release produced to you dated  
34 Thursday, 12 May, from the Minister for Aboriginal and  
35 Torres Strait Islander Affairs, that came to your  
36 attention in the course of your work.
- 37 A. Yes, it did; and the markings are mine.
- 38 Q. That announced the 30 day ban.

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- 1 A. That announced the 30 day ban and the reasons for it.
- 2 MR SMITH: And I emphasise that that is a matter of  
3 history and nothing more.
- 4 EXHIBIT 109 Media release dated 12 May 1994 from the  
5 Minister for Aboriginal and Torres  
6 Strait Islander Affairs tendered by Mr  
7 Smith. Admitted.
- 8 Q. Your article then for the following day, 13 May,  
9 followed on that media release.
- 10 A. Yes, it did, and the discussion I had with Mr Reg Dodd.
- 11 Q. Your article mentioned some contact with Mr Tickner.  
12 Was that personal contact.
- 13 A. Yes, direct by telephone.
- 14 Q. Did you also speak with Dianna Laidlaw on that day - or  
15 if you can't say.
- 16 A. I do believe I spoke with Miss Laidlaw direct too, yes.
- 17 Q. Doug and Sarah Milera again.
- 18 A. Yes.
- 19 Q. What was the topic of your conversation with them.
- 20 A. Just reaction to the actual formal notification that the  
21 bridge was going to be stopped.
- 22 Q. And Vic Wilson, did you speak with him.
- 23 A. Yes. Only briefly.
- 24 Q. Can you tell us what passed between you and Vic Wilson.
- 25 A. Well, he was obviously very happy. And basically the  
26 quote that appears in that story is all he said there as  
27 'Very important basis, and we have won a chance to  
28 negotiate properly' and that he was happy of the  
29 consultation that was going to start to take place.
- 30 Q. I think there followed three articles by you which are:  
31 On 16 May: 'Doubts on bridge's planning approval'.  
32 A. Yes.
- 33 Q. On 18 May: 'UN asked to act over bridge row'.  
34 A. Yes.
- 35 Q. On 19 May 1994: 'Canberra urged to end row'.  
36 A. Yes.
- 37 Q. On 29 May, you secured an interview with Wendy Chapman,  
38 I think, is that right.

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- 1 A. From memory, Mrs Chapman telephoned me, yes.  
2 Q. That led to a story which you published on 30 May.  
3 A. That's correct.  
4 Q. Can you tell us what passed between you and Mrs Chapman.  
5 A. Mrs Chapman informed me that she had a media release  
6 that she wished to send to me in relation to Mr  
7 Tickner's 30 day stop on the project, and she also  
8 elaborated on those events and had a discussion with me.  
9 On the telephone.  
10 Q. Did she send you a media release.  
11 A. Yes, she did, this one here (WITNESS PRODUCES DOCUMENT)  
12 - or is it this one here. She actually sent several  
13 over several days, the 29th, 30th.  
14 Q. Looking at this media release "Mabo a sideshow" says  
15 Wendy Chapman', that was 29 May 1994.  
16 A. Yes, it was.  
17 Q. That was sent to you.  
18 A. Yes, it was.  
19 Q. Did that play a part in a subsequent article.  
20 A. It played a large role. A lot of the comments quoted in  
21 the subsequent article were taken from there.  
22 EXHIBIT 110 Media release dated 29 May 1994 tendered  
23 by Mr Smith. Admitted.  
24 Q. Did you note the conversation.  
25 A. There are these two releases as well.  
26 Q. I know. Did you note that conversation on 29 May.  
27 A. I may have, but I really took it from the press release.  
28 Q. So, the press release is the gist of it.  
29 A. The thrust of what Mrs Chapman was saying was conveyed  
30 in that media release.  
31 Q. The article of 30 May then dealt with that media release  
32 and your conversation with Mrs Chapman.  
33 A. Yes.  
34 Q. It's 'Chapman breaks bridge silence'.  
35 A. Yes.  
36 Q. Was there a reaction to that from Aboriginal interests.  
37 A. Certainly was. Mrs Chapman started to refer in the  
38 following sort of week to 'This is a super Mabo-type

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- 1 situation' and made some comments which provoked a very  
2 angry response from Aboriginals. The particular  
3 paragraph that upset quite a few people was she said  
4 'The powers that Mr Tickner had used were mind-boggling,  
5 sweeping, arbitrary and oppressive'.
- 6 Q. As a consequence of that article and in particular Mrs  
7 Chapman's statement in the article, I think you were  
8 contacted by Matt Rigney; is that right.
- 9 A. That's correct.
- 10 Q. He forwarded, I think, a fax to you for public release.
- 11 A. Yes, he did. Mr Rigney was particularly concerned about  
12 Mrs Chapman's comments and asked if he could provide a  
13 response in writing, which I said I was glad to accept,  
14 and he sent me a fax on 3 June.
- 15 Q. By then, you had published another article on 2 June,  
16 had you not.
- 17 A. Yes, I had.
- 18 Q. Namely: 'Bridge site report demanded'.
- 19 A. That's correct.
- 20 Q. That was a further follow-up of material provided by Mrs  
21 Chapman to you.
- 22 A. Yes. She further upset Aborigines by describing the  
23 Aboriginal heritage procedures as 'Obnoxious to our  
24 system of law. They cut across fundamental rights such  
25 as the right to fully know the case you have to meet and  
26 the right to full information and the right to protect  
27 your property'.
- 28 Q. Were there, subsequent to that release of 29 May 1994,  
29 did you receive further press releases from Mrs Chapman.
- 30 A. Yes.
- 31 Q. Can you tell us when was the next one you received.
- 32 A. I have one here 31 May and another one 30 May. And then  
33 later she started sending me a newsletter called 'Super  
34 Mabo'.
- 35 Q. Dealing with those two media releases of 30 and 31,  
36 would you produce those.
- 37 A. Yes, certainly.
- 38 Q. These form the basis of your article of 2 June, do they.

1 A. Yes.

2 Q. That provoked a strong Aboriginal interest.

3 A. Yes, strong response.

4 MEDIA RELEASES OF 30 MAY AND 31 MAY 1994 INCLUDED AS PART  
5 OF IN EXHIBIT 110.

6 Q. As a result then of those articles and in particular the  
7 one of 2 June, you had a response then from Matt Rigney  
8 of ATSIC.

9 A. Yes, I did.

10 Q. Looking at this document produced, which is a fax from  
11 ATSIC of North Adelaide dated 3 June and directed to you  
12 by Mr Rigney, do you recognise that.

13 A. Yes, I do.

14 EXHIBIT 111 Fax sent to witness by Mr Rigney  
15 tendered by Mr Smith. Admitted.

16 Q. On 3 June, you spoke with Sarah Milera again, is that  
17 right.

18 A. Yes, I did.

19 Q. She had become then, had she, one of your prime  
20 informants, as it were.

21 A. Yes. She was my key Aboriginal contact. Richard Owen  
22 was my key protestor contact.

23 Q. Did you, could you tell us what passed between you and  
24 Sarah Milera in the conversation on 3 June. You have  
25 notes of that, I think.

26 A. Yes, I do, but I can't put my hands on them right at the  
27 moment.

28 Q. Take your time.

29 A. Do you have a copy of them?

30 Q. You may not have notes. Don't let me mislead you into  
31 thinking that you have got notes. You have a look at  
32 the article of the -

33 A. You're talking about the article of 4 June?

34 CONTINUED

1 Q. Yes, 4 June.

2 A. That actually came from a written statement prepared for  
3 me by Richard Owen and Sarah Milera, which I haven't  
4 been able to locate.

5 Q. Perhaps give us some more detail about it. You received  
6 some communication, did you, from Owen and Milera.

7 A. Yes, the comments by Wendy Chapman in the days following  
8 Mr Tickner's intervention, as I said, provoked a very  
9 strong response from Aboriginal people and Mrs Milera  
10 and Mr Owen did not want to just give an off-the-cuff  
11 response. They actually wanted to provide a detailed  
12 response in writing to me answering the comments that  
13 Mrs Chapman had been making.

14 Q. As a result of that, you received a letter, did you.

15 A. From memory, it was a three page statement, signed by  
16 Mrs Milera, but it was addressed to me, quite clearly.  
17 And it was for publication.

18 Q. It was for publication.

19 A. Definitely.

20 Q. You say that Richard Owen had some input into that, do  
21 you.

22 A. Yes, Richard helped Sarah put it together.

23 Q. How do you know that.

24 A. Because we talked about it.

25 Q. You and Richard.

26 A. Yes.

27 Q. You simply haven't been able to locate that document.

28 A. Not yet, but I will keep looking.

29 Q. Can you tell us what the document contained then,  
30 subject to you finding it.

31 A. It was a - from memory, a very well argued and  
32 articulate response to Mrs Chapman's comments about the  
33 use of the heritage laws to stop the bridge and sort of  
34 reiterating the concern about the alleged lack of  
35 consultation with Aboriginal groups, the overruling of  
36 the Parliamentary Committee which recommended the two  
37 ferry option, the litigation which was being undertaken  
38 against the protestors and also the need for a bit more

- 1 sensitivity in dealing with Aboriginal heritage issues.
- 2 Q. Then, on 8 June, a further article appeared, 'No bridge  
3 compo warns Canberra'.
- 4 A. And that article included the extract from the second  
5 Draper report.
- 6 Q. Can we take it from that that portions of the second  
7 Draper report were in the correspondence to you from  
8 Owen and Sarah Milera.
- 9 A. That's correct.
- 10 Q. You are currently looking for that document, are you.
- 11 A. I am.
- 12 Q. On 8 June, was the article 'No bridge compo warns  
13 Canberra', attachment 42 and that was followed by  
14 another article, on 9 June, which was headed or  
15 headlined 'Row grows over secret sacred sites', that's  
16 right, isn't it.
- 17 A. That's correct. That was Western Mining trying to get  
18 access to the sacred site register.
- 19 Q. Then, on 9 June, there is a second article by you for  
20 that day concerning a rally, is there not.
- 21 A. Sorry, what date was that again?
- 22 Q. 9 June 'Plea to back bridge rally', attachment 44.
- 23 A. That article appeared, but I may have the date slightly  
24 askew, but, no, actually, no, it did appear. It was  
25 down the back of the paper. One was forward, one was  
26 down the back.
- 27 Q. You had some notice then that there was a rally to be  
28 held at Goolwa, on Friday, 10 June.
- 29 A. I didn't receive direct notice. I wasn't invited to  
30 attend that rally.
- 31 Q. Looking at the document I now produce to you, do you  
32 recognise that copy of what we have been calling a  
33 flyer.
- 34 A. Yes, I do. That was sent to me.
- 35 Q. That was sent to you.
- 36 A. Or one like it. It is not the one I got. I had several  
37 copies sent to me.
- 38 Q. Do you know by who.

## C.A. JAMES XN (MR SMITH)

1 A. By those who I assumed were Friends of Goolwa and  
2 Kumarangk people who wanted me to know that that rally  
3 was on, because the rally organisers didn't want me  
4 there.

5 COMSR

6 Q. That is the flyer for the Goolwa rally.

7 A. Yes, that's correct.

8 EXHIBIT 112 Flyer for Goolwa rally of Friday, 10  
9 June in support of bridge, tendered by  
10 Mr Smith. Admitted.

11 XN

12 Q. Do you have a copy of that in your papers.

13 A. I do have a copy and the one which I received is this  
14 one (INDICATES) and it was actually marked my urgent  
15 attention.

16 Q. Whose handwriting is that.

17 A. I don't recognise the handwriting, but I did get several  
18 copies sent to me.

19 Q. Looking at the second page, can you explain that. There  
20 were little paragraphs that were attached to the flyer,  
21 were there.

22 A. Yes, there was some, in my opinion, pretty inflammatory  
23 material attached to that flyer and there were little  
24 drawings talking about the bridge and its impact on your  
25 children, farmers, employment opportunities, business in  
26 the area, family home property values dropping.

27 Q. That sort of thing.

28 A. That sort of thing. And it then went on to deal more  
29 specifically with the Aboriginal heritage quarter saying  
30 that it could go on to everybody's back yard.

31 Q. You attended that rally, didn't you.

32 A. Yes, I went to that rally in the - I attended that in  
33 the presence of a photographer from The Advertiser and  
34 our audio.

35 Q. I think you were subject to some ridicule in public by  
36 Mr Denver, were you not.

37 A. Yes, the rally began outside the Goolwa Police Station,  
38 it marched towards the sea, ended up in a hall, where



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1 there were three addresses by three different people. I  
2 didn't know who Mr Denver was, at that point, but I  
3 learnt it was a Mr Kym Denver, a land owner from  
4 Hindmarsh Island. He basically was MC and I had been  
5 told by people on the street outside that I wasn't  
6 welcome. That I was proAborigine and anti bridge and to  
7 go back to Adelaide and how dare I have an opinion about  
8 what was happening in Goolwa. I saw it as my duty to go  
9 inside that hall and cover that meeting. I did so. I  
10 started by sitting down at the back and I decided that I  
11 wouldn't sit in amongst the group or the body of people.  
12 I moved to the front and stood by the stage. And Mr  
13 Denver, who I have learnt has a dislike for the media,  
14 said to the meeting that 'We all know that journalists  
15 don't let facts get in the way of a good story', and  
16 pointed to me and said I was a prime example.

17 Q. On that day, on the day of that rally, was there a media  
18 release from the Federal Minister.

19 A. There may have been.

20 Q. I produce to you -

21 A. He was starting to release them fairly frequently, at  
22 that point.

23 Q. Looking at this copy fax produced to you -

24 COMSR: Is this a fax that the witness has  
25 received?

26 MR SMITH: Yes.

27 A. Yes, during the meeting, Mr Denver actually informed the  
28 meeting that Mr Tickner had a 30 day ban, from 12 May,  
29 which expired about 10 June. And Mr Denver told the  
30 meeting that he had learnt that that ban was going to be  
31 extended. And, when I returned to Adelaide, that media  
32 release was waiting for me.

33 XN

34 Q. That is a fax of a media release that came directly to  
35 you from the Federal Minister's office.

36 A. That's correct.

37 Q. On the afternoon of 10 June.

38 A. Yes.

- 1 Q. Indicating an extension of the temporary ban for a
- 2 further 30 days.
- 3 A. That was the second 30 days.
- 4 EXHIBIT 113 Fax of media release tendered by Mr
- 5 Smith. Admitted.
- 6 ADJOURNED 1 P.M.

- 1 RESUMING 2.20 P.M.  
2 WITNESS C.A. JAMES, EXAMINATION BY MR SMITH CONTINUING  
3 Q. Before the luncheon adjournment you had given evidence  
4 about a letter, which had been jointly written by  
5 Richard Owen and Sarah Milera, although signed only by  
6 Sarah.  
7 A. Yes, that's correct.  
8 Q. Which had been a prelude to your article, which was 'No  
9 bridge compo warns Canberra', or about then, wasn't it.  
10 A. Yes, that's correct.  
11 Q. Have you located that letter.  
12 A. Yes, I found that in the lunchtime adjournment.  
13 Q. Looking at the your subsequent fax 'Colin James 3 June  
14 1994', produced to you, do you recognise that as a copy  
15 of the fax you received, signed by -  
16 A. Mrs Sarah Milera, at the bottom of the third page, and  
17 attached is a copy of the letter written to the Premier,  
18 Mr Dean Brown, by Douglas Milera.  
19 EXHIBIT 114 Letter, dated 3 June 1994, tendered by  
20 Mr Smith. Admitted.  
21 Q. You have told us you were content that that was not a  
22 composition of Sarah Milera's, but was rather done by  
23 Richard Owen.  
24 A. I believe it was done in conjunction with Sarah Milera  
25 by Richard Owen.  
26 COMSR  
27 Q. What is the basis for that belief, something you were  
28 told.  
29 A. Mr Owen told me so.  
30 XN  
31 Q. Sorry.  
32 A. Mr Owen told me so, that he was preparing a statement  
33 for me, with Sarah. Can I just add something?  
34 Q. Yes.  
35 A. For sometime I had been negotiating with the State  
36 Government to obtain the second Draper report. The  
37 Minister authorised its release to me, but the Lower  
38 Murray Aboriginal Heritage Committee was reluctant to

1 release it publicly. That letter included three  
2 paragraphs from the second Draper report and I was  
3 subsequently contacted by the State Government and  
4 informed about s.35 and they wanted to know where I had  
5 got my information from.

6 Q. I return to the chronology of articles -

7 MR ABBOTT: This document has a number of  
8 enclosures -

9 A. No, that is the entire document that was given to me. I  
10 didn't get the enclosures to the letter to Mr Brown.

11 XN

12 Q. So they were enclosures in respect of the letter to Mr  
13 Brown from Douglas Milera, a copy of which was enclosed  
14 with the fax.

15 A. Yes, that is the entire fax you have there that was sent  
16 to me.

17 Q. Between the rally and later in June you wrote a series  
18 of articles, which are attachments 45, 46, 47, 48, 49,  
19 50 and 51, which were - and I will just run through them  
20 quickly - attachment 45 is 'Goolwa seeths over bridge',  
21 11 June.

22 A. That's correct. That's about the public rally.

23 Q. Then we have a feature article on 13 June 'Bannon  
24 bureaucrats and that bridge'.

25 A. Yes, that explored the origins of the bridge project and  
26 the involvement of John Bannon and the Special Projects  
27 Unit.

28 Q. Then, on 13 June 1994, or it is the same day, isn't it,  
29 an article 'Bridge approved before report'.

30 A. Yes, that showed that Cabinet had approved the bridge,  
31 before waiting for an official report.

32 Q. Then, on 14 June 1994, 'Bank moves to liquidate  
33 developers'.

34 A. Yes.

35 Q. Which is attachment 48. And that simply was an article  
36 setting just that topic out, wasn't it.

37 A. And in more particular detail conversations between the  
38 Premier, at the time, Mr Bannon, and the Managing

1 Director of Westpac, Stuart Fowler, in which he promised  
2 to build the bridge.

3 Q. Then, 15 June 1994, attachment 49, 'Chapmans to fight  
4 bank on liquidation'.

5 A. Yes, and that also reported the fact that the Uniting  
6 Church was objecting and was joining in in the debate.

7 Q. Then attachment 50, article of 16 June 1994, '\$10  
8 million bridge compo threat'.

9 A. Yes, that was about the land owners at the Goolwa marina  
10 and their belief that they would be able to sue for  
11 compensation.

12 Q. Then, on 18 June, attachment 51, 18 June 1994, you  
13 penned a story 'Bridge row last minute reprieve for  
14 developers'.

15 CONTINUED

## C. JAMES XN (MR SMITH)

- 1 A. Yes, that was the decision by Acting Judge Boehm, to  
2 grant a reprieve for the Chapmans until after the  
3 Federal Government had decided what to do about the  
4 bridge.
- 5 Q. On that same day, 18 June, you republished a letter from  
6 Rocky Marshall in the 'Advertiser'. (Exhibit 37).
- 7 A. That's correct.
- 8 Q. That is 18 June.
- 9 A. Yes, that's correct.
- 10 Q. Rocky Marshall was the person named by you as one of the  
11 protesters against the bridge.
- 12 A. Yes. I got to know Rocky Marshall. I met him for the  
13 first time when I went to Goolwa for the delivery of the  
14 Atco huts, and he had communicated with me subsequently.
- 15 Q. So that was 10 May that you met him.
- 16 A. Yes.
- 17 Q. Up to 18 June, you had spoken to him on a number of  
18 occasions.
- 19 A. Several times. He was very concerned about what was  
20 happening.
- 21 Q. You became aware of a letter published by him in the  
22 Goolwa Lions Club Newsletter, didn't you.
- 23 A. I did.
- 24 Q. He wanted you to publish that letter in the  
25 'Advertiser'.
- 26 A. He did.
- 27 Q. So you published the letter which is set out there in  
28 your article 'Forbidden legend.'
- 29 A. That's correct.
- 30 Q. I think what you did was you edited the letter in the  
31 sense that you wrote the first paragraph, because the  
32 letter in its abridged form didn't have a start to it.
- 33 A. That's correct.
- 34 Q. I think there was, in effect, a retraction published by  
35 the 'Advertiser' on behalf of Rocky Marshall, wasn't  
36 there, on two occasions.
- 37 A. No, only on one. I think it was about the following  
38 Wednesday, on 23 June 1994. I have a copy of it here.

## C. JAMES XN (MR SMITH)

1 Q. This is a Presscom report, isn't it.

2 A. That is a Presscom printout from the system at the  
3 `Advertiser', yes.

4 Q. That sets out the text of the letter.

5 A. That is the full text as it appeared in the newspaper,  
6 yes.

7 Q. In fact, a letter of apology for causing that letter -

8 A. Yes, it is. It starts `I wish to make a public apology  
9 to our aborigines'.

10 COMSR

11 Q. Who is that written by.

12 A. Mr Rocky Marshall.

13 Q. What is the date of that letter.

14 A. 23 June.

15 EXHIBIT 115 Presscom printout dated 23 June 1994  
16 tendered by Mr Smith. Admitted.

17 XN

18 Q. I think you were out of the scene, as it were, for four  
19 weeks or so around about this time.

20 A. Yes. I had to go into hospital to have a tonsillectomy.

21 Q. You returned to work on Sunday, 10 July 1994.

22 A. Yes, I did.

23 Q. In the meantime, you had heard about the Rocky Marshall  
24 matter, I think, by speaking with people such as Richard  
25 Owen.

26 A. Yes. I was informed that, as a result of the  
27 publication of the letter on the Saturday in the  
28 `Advertiser', a large group of Aboriginal women led by  
29 Doreen Kartinyeri had visited Rocky Marshall at his home  
30 and threatened to spear him for writing that letter and  
31 breaking the secrets.

32 COMSR

33 Q. Sorry.

34 A. Apparently Neale Draper had to intervene. The threat  
35 was taken very seriously that he was to be speared, and  
36 he was then asked to write a full public retraction  
37 which we published while I was in hospital.

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1 Q. The letter was published. As far as you know, the  
2 contents of that letter, what it disclosed, have they  
3 been published elsewhere.

4 A. It was the first time, to my knowledge, that the alleged  
5 women's business was printed in such detail.

6 MR ABBOTT: It was published in the Lions  
7 newsletter.

8 WITNESS: But not in the wider public arena,  
9 commissioner.

10 COMSR

11 Q. But subsequent to it being published by the  
12 'Advertiser', that letter, was it more widely published,  
13 those details, anywhere else in any other publication.

14 A. No. It actually escaped the attention of most people.  
15 It slipped through the net, so to speak.

16 Q. Is this the situation: as far as you know, the only time  
17 that it has been published in such detail is in that  
18 edition of the 'Advertiser' in which it appeared.

19 A. Yes, to my knowledge. From then on it has been referred  
20 to as anatomical features, genitalia, reproductive  
21 organs, et cetera. From then on, after we learnt that  
22 there was such a strong objection, we didn't repeat the  
23 detail.

24 XN

25 Q. There has been more press on that topic this year.

26 A. Recently, but not last year. I'm talking about last  
27 year. It has since become widely reported as a result  
28 of what happened in May.

29 Q. So you are back at work on 10 July. I think on that day  
30 you received a press release from Mr Tickner.

31 A. Yes, I returned to work on July 10, in anticipation that  
32 Mr Tickner would stop the bridge. I was pretty sure he  
33 would go ahead and stop the bridge. So that was a  
34 Sunday.

35 Q. This is the press release relating to the final  
36 declaration of the 25 year ban, is that right.

37 A. Yes. I received this after speaking to Mr Tickner.



## C. JAMES XN (MR SMITH)

- 1 EXHIBIT 116 Press release from the Federal Minister  
2 dated Sunday, 10 July 1994 tendered by  
3 Mr Smith. Admitted.
- 4 Q. You had a telephone conversation, did you say, with the  
5 Minister himself on that day.
- 6 A. Yes, I did.
- 7 Q. The topic was the permanent declaration, was it.
- 8 A. He telephoned me to inform me that he would be making a  
9 permanent declaration under section 10 of the Aboriginal  
10 and Torres Strait Islander Protection Act 1984.
- 11 Q. I think he faxed to you, by facsimile, the entire  
12 Professor Saunders report, did he not.
- 13 A. Yes, he did.
- 14 Q. Looking at this volume produced to you, do you recognise  
15 that as the Saunders report as faxed to you by the  
16 Federal Minister.
- 17 A. Yes, I do. I punched the holes in this report, I placed  
18 it into this red folder and the highlighted sections in  
19 pink are my highlighting.
- 20 Q. Looking at the fax header sheet, it is clearly from the  
21 minister's office.
- 22 A. Yes, it is. It was sent to me by Di Hudson, who is  
23 Robert Tickner's chief of staff.
- 24 Q. There are 97 pages faxed.
- 25 A. There are. The Saunders report actually didn't go to 97  
26 pages as a report in toto. Mr Tickner was kind enough  
27 also to send me the full list of all representations  
28 that he had received from individuals and companies, a  
29 copy of the map of the area concerned, and the relevant  
30 sections, so I knew what he was doing. All reports and  
31 other material received are listed at the back as a  
32 bibliography, and everybody's name of anyone who talked  
33 to Professor Cheryl Saunders during her inquiry.
- 34 Q. The fax header sheet indicates that the faxing of that  
35 document took from 1440, that is 2.40 in the afternoon,  
36 until 1518, which is nearly 20 past 3.
- 37 A. It almost took an hour, which is a long time to tie up a  
38 fax machine.

## C. JAMES XN (MR SMITH)

1 MR SMITH: We have a copy of Professor Saunders  
2 report. The only reason I seek to tender this is to  
3 establish it is clearly a public document. It was sent  
4 by the Minister himself to the media.

5 COMSR: That doesn't necessarily make it a  
6 public document, I suppose. Unless it is intended that  
7 it be published.

8 WITNESS: He sent it to me for the intention of  
9 publication.

10 MR SMITH: I tender the document, but could we have  
11 it on the same basis that that be copied? I intend only  
12 to copy the first few pages and the last, including the  
13 fax header sheet, and return the original to the  
14 witness. There is a press release that follows this  
15 where the Minister himself asserts that it is a public  
16 document.

17 COMSR: We already have this as an exhibit.

18 MR SMITH: Yes, I do not think there is any debate  
19 that it is a public document. You can buy this down at  
20 ATSIIC.

21 EXHIBIT 117 Fax of Professor Saunder's report sent  
22 to witness tendered by Mr Smith.  
23 Admitted.

24 COMSR

25 Q. Although it is published, as I understand the effect of  
26 the apology by Mr Marshall, it was that he inadvertently  
27 revealed something that he realised he wasn't at liberty  
28 to reveal. Is that the position.

29 A. No. No, he wanted to reveal it. He deliberately  
30 revealed it because at the public rally in the Goolwa  
31 town hall, very derogatory and quite racially  
32 inflammatory remarks were made by a Dr Partington from  
33 Flinders University, and it created a climate in Goolwa  
34 of skepticism about the validity of the sacred site  
35 claim. Rocky Marshall wanted the letter published to  
36 try and show people that there was in fact genuine  
37 business down there. He didn't realise the gravity of  
38 his actions, and when they went around there saying he

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1 was going to be speared for it, he realised what he had  
2 done, and then he sought about trying to correct the  
3 letter. However, the intention of Rocky Marshall was to  
4 get it into the public arena to try and inform people  
5 about the sincerity of the Aboriginal claim.

6 MR ABBOTT: I understand that Mr Marshall is not of  
7 Aboriginal descent, nor is his mother.

8 WITNESS: That's correct.

9 MR ABBOTT: So we have got a situation where the  
10 information, assuming it was divulged as he says, was  
11 divulged by an Aboriginal woman to Mr Marshall's mother,  
12 who then gave it to Mr Marshall, who then caused it to  
13 be published.

14 WITNESS: That's correct.

15 COMSR: It is certainly in the public arena at  
16 the present time and it is a matter that involves a  
17 Section 35 consideration.

18 Q. It is in the public arena more recently, you say,  
19 because the same details have been -

20 A. It entered into the public arena, but I was the only  
21 journalist really covering the story. The rest of the  
22 media weren't following it at that point. The majority  
23 of the media only became interested in Hindmarsh Island  
24 in May this year, and no-one else picked it up. So when  
25 I say it slipped through the net, it wasn't actually  
26 picked up by the media then, but it has been picked up  
27 subsequently after Mr Milera went on television with his  
28 allegations in June this year.

29 MR SMITH: In accordance with your ruling, it is  
30 well and truly in the public arena through the  
31 'Advertiser'.

32 COMSR: It is just I have some concerns about  
33 the way in which it came into the public arena.

34 MR KENNY: I think this is a point that we have  
35 made previously, the fact that it is in the public  
36 arena, and I accept your previous ruling on it - I note  
37 there was an appeal in relation to that - but I would  
38 urge caution in these matters. It is quite clear,

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1 particularly with respect to Mr Marshall's letter, that  
2 a group of women were obviously very upset about that  
3 disclosure. It is clearly a disclosure that Mr Marshall  
4 didn't realise would upset anyone. But I think the  
5 subsequent reaction of the individuals concerned  
6 indicates that it is seen as being against Aboriginal  
7 tradition to release such information.

8 MR ABBOTT: It is not seen at all to be against  
9 Aboriginal tradition. It is asserted by this small  
10 group. There is a difference.

11 MR KENNY: I don't know if it is a small group.  
12 The witness has given evidence of a large group going  
13 around there, quite prominent Aboriginal women. So I  
14 would urge caution upon you. I note your earlier  
15 rulings, however.

16 MR SMITH: We should move on. This is absolutely  
17 in accordance with your ruling. There is no need to  
18 make any orders in respect of that.

19 WITNESS: The newspaper never received any  
20 complaint direct in any way, shape or form. Legal  
21 Rights never raised anything in writing with us. We  
22 never heard from anyone.

23 XN

24 Q. What is the circulation of the 'Advertiser'.

25 A. The circulation of the 'Advertiser' on that particular  
26 day would have been about 220,000. It would have been  
27 read by an average of half a million people.

28 COMSR

29 Q. So you would say that one could fairly say that it was  
30 in the public arena.

31 A. Totally.

32 XN

33 Q. On 11 July your article 'Secret of the bridge to  
34 nowhere' appeared.

35 A. Yes, it did.

36 Q. There was also a break-out article called 'Something  
37 we'll never know'.

38 A. Yes.

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1 Q. Of the same day.

2 A. That's correct.

3 Q. A break-out article means what precisely.

4 A. A break-out is a supplementary article to a main article  
5 canvassing in more detail elements of the main article.

6 Q. On 11 July you spoke to your main informant, Sarah  
7 Milera, did you not.

8 A. Yes, I did.

9 Q. Again, did you take notes of this conversation.

10 A. Yes, I did.

11 Q. By reference to your notes, if you need to, can you tell  
12 us was that a telephone call, or was it a visit by you  
13 to her, or what.

14 A. No, it was a telephone call. I think she was in Goolwa.

15 Q. So this was to get her reaction, was it, to the  
16 permanent declaration for a stay of construction of the  
17 bridge.

18 A. Yes.

19 Q. Tell us what was said.

20 A. She told me that finally the Ngarrindjeri people have  
21 been recognised. 'We had no rights. They - ' in  
22 reference to the Chapmans and the State government 'Never  
23 approached us or talked about women's issues'. I asked  
24 Mrs Milera when the women's business first became an  
25 Issue, because until this point my inquiries had always  
26 been based on the archeological sites and it wasn't  
27 until the Saunders report, which I received and I read,  
28 that the emphasis was mostly on the women's business.  
29 She told me about April, but nobody was listening  
30 because men held the rights to heritage. There were no  
31 heritage women.

32 Q. Just to interrupt you there. So your question to her  
33 was when the women's business first became an issue.

34 A. Yes.

35 Q. What was her answer to that.

36 A. About April last year but nobody was listening because  
37 men held the rights to heritage, but I actually think  
38 she meant about April this year.

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- 1 There were no heritage women. What I was doing was  
2 regrouping and reconciliation. It's a very hard thing  
3 to do for one person. I still haven't told them all the  
4 things. Mrs Milera told me that the last living  
5 Ngarrindjeri person who knew the women's business was a  
6 Mrs Connie Roberts. She said the knowledge was a  
7 powerful thing when women were given the chance. That  
8 is why it happened this way - which was a reference to a  
9 bridge ban by Mr Tickner. I told Mrs Milera I believed  
10 Mr and Mrs Chapman would appeal against Mr Tickner's  
11 ban. She said 'If they did, there's proof that wrongs  
12 were committed of a serious kind'. 'They' - meaning the  
13 Chapmans - 'never stayed in the guidelines of the Lucas  
14 report' - which is a reference to a report prepared by  
15 Dr Rod Lucas on anthropological issues associated with  
16 Hindmarsh Island commissioned by Binalong in the  
17 preparation of its draft EIS for the construction of the  
18 bridge. They never stayed in the guidelines. This has  
19 been my argument. Mrs Milera said 'Professor Cheryl  
20 Saunders had totally understood the Aboriginal case  
21 against the bridge. It's different and people don't  
22 have a hold on it. If people disbelieve it, then they  
23 are not who they think they are, but I know who I am'.  
24 Q. Then, your article of 12 July 1994, '50 million dollar  
25 claim looms over bridge veto appeared'.  
26 A. Yes. That was a summary of possible compensation claims  
27 which could arise as a result of Mr Tickner's ban.  
28 Q. That was a review in part two, was it, of what happened  
29 today.  
30 A. Yes. That was actually quite a detailed article. I had  
31 to summarize quite a lot of reaction to the ban. There  
32 was obviously quite a large fallout. Mr Tickner  
33 criticised Mr Brown, calling him culturally arrogant.  
34 Built Environs denied claims by the State Government  
35 that paid two million dollars for work towards the  
36 bridge project. Rifts came out within the Aboriginal  
37 community, which is the first time I heard of any  
38 division. Mr Karno Walker contacted me and expressed

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1 some concern about what had happened. He claimed that  
2 he was one of only two remaining direct descendants of  
3 the Ngarrindjeri people. The rest of it was basically  
4 political fallout, industry reaction and the SA  
5 Conservation Council applauding Mr Tickner, and Mrs  
6 Chapman claiming that his decision would impact along  
7 the entire length of the River Murray. We also went  
8 down to Goolwa. I dispatched another reporter, Judy  
9 Gregory, to go down and get the local reaction of the  
10 people from Goolwa and I also discussed the matter with  
11 the Premier, Mr Brown.

12 Q. Then, on 13 July, you published an article 'New twist in  
13 bridge dispute', which is attachment 59.

14 A. That showed that in the Professor Cheryl Saunders'  
15 report, that emerged that the document which she saw  
16 from Mr and Mrs Chapman relating to planning approval  
17 for the bridge was missing an attachment which listed  
18 the conditions under which they had planning consent and  
19 which included quite detailed stipulations on Aboriginal  
20 consultation.

21 Q. On 12 July, there was a press conference, wasn't there,  
22 at Aboriginal Legal Rights Movement.

23 A. Yes, there was.

24 Q. Did you attend that press conference.

25 A. Yes. They media release inviting us to the press  
26 conference was sent to the Advertiser. As the reporter  
27 covering the issue, I attended.

28 Q. Looking at this media release produced, do you recognise  
29 that.

30 A. Yes. It says: 'Media conference. At last an Aboriginal  
31 voice. Know our story the way it was and the way it is.  
32 It is time to listen'.

33 Q. You received that. That was faxed to you at the  
34 Advertiser from the ALRM.

35 A. Yes, it was.

36  
37  
38

- 1 EXHIBIT 117 Extract of Professor Saunders' report  
2 as faxed by the Federal Minister on  
3 10 July tendered by Mr Smith.  
4 Admitted.
- 5 EXHIBIT 118 Media conference notice dated 12 July  
6 1994 from ALRM tendered by Mr Smith.  
7 Admitted.
- 8 Q. The media conference notes 2 o'clock at the offices of  
9 ALRM.
- 10 A. Yes, that's correct.
- 11 Q. You attended there.
- 12 A. Yes. Only two other journalists attended: Deborah  
13 Tideman from the Australian and Royal Abbott from  
14 Australian Associated Press.
- 15 Q. You were also present at the conference, apart from the  
16 media represents you named.
- 17 A. We went to the foyer of ALRM and we were taken to a  
18 conference room, and Doreen Kartinyeri was there along  
19 with Sandra Saunders the director of the Aboriginal  
20 Legal Rights Movement; a woman who was introduced to me  
21 as Muriel Van Der Byl; a man Karno Walker who I  
22 previously mentioned; Tony Walker, Doug Milera, and  
23 Sarah Milera. I recognised Mrs Kartinyeri from the time  
24 at Goolwa because of her behaviour when the soil was  
25 scraped, and this was the first time I had met Miss  
26 Saunders. Mrs Van Der Byl, Mr Karno Walker and Mr Tony  
27 Walker obviously knew Doug and Sarah Milera.
- 28 Q. Van Der Byl is three separate words V-A-N D-E-R B-Y-L.
- 29 A. That's correct.
- 30 Q. And K-A-R-N-O.
- 31 A. That's right.
- 32 Q. You made your usual shorthand notes in respect of this  
33 conference, did you.
- 34 A. Yes, I did.
- 35 Q. Would you tell us then what took place there.
- 36 A. The session began with Miss Saunders telling us about  
37 the State and Federal legislation available to protect  
38 Aboriginal heritage. She said `Aboriginal people have



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1 used that legislation to stop the destruction of  
2 Aboriginal heritage sites in South Australia. People  
3 feel that the problem is a whitefella's problem. It's  
4 not an Aboriginal problem. We have used our legal  
5 position to protect sites, but the focus is that  
6 Aboriginal people are to blame'. Mrs Van Der Byl  
7 interrupted at this point and said `The State Government  
8 did not do the right thing by us, so we had no  
9 alternative but to go to the Federal Government to look  
10 into our concerns'. Mrs Kartinyeri said `We used the  
11 Federal Heritage. We turned to Mr Tickner to make a  
12 final decision because the State Minister had failed in  
13 coming to the party by talking to the right people. I  
14 have to add to Aboriginal people around Australia that  
15 the Government and all their dealings with Aboriginal  
16 issues have used this as a political football. We feel  
17 it is time to speak out. We cannot let this continue.  
18 We are going to have nothing left for our grandchildren.  
19 The Bannon Government made these mistakes. Dean Brown  
20 has turned the table and supported the bridge because  
21 the politicians are going to gain. Both parties have  
22 made a lot of mistakes trying to bail out the State Bank  
23 and getting deeper and deeper into trouble. They are  
24 using us as scapegoats. We are being used as political  
25 footballs. I am not happy with what I read in the  
26 papers. Bannon made mistakes with putting the bridge in  
27 the contract, now we have to pay'. She said `It is  
28 recognition of the Ngarrindjeri nation. We could never  
29 understand why the corruption could go on. They know  
30 who they are and they know what they did. They have to  
31 understand the Ngarrindjeri law, it's as simple as that.  
32 I challenge anyone to say we are wrong. As Ngarrindjeri  
33 people, we've got the law and we've had the law for  
34 thousands of years. I have a broad history of law and  
35 land and which I challenge anybody with. I have to  
36 thank Mr Tickner for understanding that, because we have  
37 been deserted by the State Government from all angles'.  
38 Mrs Kartinyeri then said `It's time white people learnt

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1 from us. White people have failed because they are not  
2 willing to learn Aboriginal law. Please sit down,  
3 listen, hear what we are saying. Listen'. Karno Walker  
4 then said 'I know my rights. I know who I am and I know  
5 where I am going. Hindmarsh Island is a black and white  
6 issue. It is a human rights' issue. We are not talking  
7 about money, we are talking about things of the heart'.  
8 Sandra Saunders said 'How dare you deny us our culture'.  
9 By this point, Mrs Kartinyeri had become quite agitated.  
10 She asked us what we were doing to obtain the report by  
11 Samuel Jacobs QC. I replied that I asked for the report  
12 under the Freedom of Information Act. She became very  
13 angry at me and abused me. She used words to the effect  
14 'Don't talk to me like that, you fucking white cunt'.  
15 She told me to 'Fuck off and never come back'. Mrs  
16 Kartinyeri then walked out of the room still abusing me.  
17 She did not return. An Australian woman, who was  
18 sitting there, began crying. Took quite a while to  
19 console her.

20 Q. Could I interrupt you there. What had provoked this.

21 A. I have no idea.

22 Q. Was there any retorting, any response, if you like, from  
23 anyone to the dissitations that was going on.

24 A. We were being very strongly lectured in a very heavy  
25 manner by Sandra Saunders and Doreen and Muriel Van Der  
26 Byl about: it was time for us to listen, it was time we  
27 paid attention to the blackfella's way and the  
28 whitefella should be held responsible and that  
29 everything that happened was our fault. And it was  
30 quite a personal sort of lecture to us as three  
31 journalists who took up their invitation to go down  
32 there. Mrs Kartinyeri, through it, was quite  
33 aggressive, very aggressive, and in the end she said  
34 'What are you doing about the Samuel Jacobs' report?'.  
35 All I tried to say - and I hardly even completed the  
36 sentence - was that I had actually made a freedom of  
37 information request for the Samuel Jacobs' report and I  
38 had been unsuccessful. And that she took exception, I

1 don't know, to my tone of voice. I was trying to talk  
2 politely, considering we had been listening to this for  
3 half an hour, and she called me what she called me.

4 Q. You had, up until this point in time, been reporting  
5 quite, shall I say, favourably in the Aboriginal  
6 interests from their point of view.

7 A. I think they had their point of view covered in a very  
8 detailed and comprehensive manner by the Advertiser and  
9 I had no reason to have any problems with Legal Rights.  
10 And it came as quite a surprise that that was her  
11 attitude. They had never raised any problem with me up  
12 until that point.

13 Q. After she had told you, in effect, to leave and never  
14 come back, she walked out of the room; that is Doreen  
15 Kartinyeri.

16 A. Well, she stormed out of the room and slammed the door  
17 behind her and was muttering under her breath all the  
18 way out the door. And she went out and I stood there  
19 quite stunned, still on my feet because I got the  
20 message that I wasn't welcome to stay. And she went out  
21 and Sandra Saunders said 'Sorry', sort of said 'Don't  
22 worry about that. That's Doreen. That's the way she  
23 talks to everyone'. And tried to sort of say 'Well,  
24 basically that is Doreen and that is how she is. Don't  
25 worry about it because that is quite normal'.

26 Q. You say someone else began crying.

27 A. Yes. There was a member of The Friends of Goolwa and  
28 Kumarangk who broke down and started sobbing. She  
29 couldn't believe the ferocity of the attack because it  
30 started with the words that I used and continued for  
31 some time. And she was absolutely aghast at what  
32 happened. And I stood there quite, as I say, stunned  
33 and tried to get my composure back. And I said 'Look,  
34 what do you want me to do? Do you want me to leave or  
35 do you want me to stay?' We tried to get the press  
36 conference restarted, but it was a shambles after that.  
37 Deborah Tideman for the Australian couldn't believe it.  
38 She tried to calm things down and went out to see Doreen

1 to try and figure out what happened. She came back and  
2 said it was a waste of time and I couldn't, we were  
3 effectively wasting our time here and went to leave.

4 Q. You gave us a list of the people who were at the  
5 conference. I take it this lady from The Friends of  
6 Goolwa and Kumarangk was some additional person.

7 A. Yes, she was. I recognised her again when I saw her. I  
8 actually can't remember her name now, but she was very  
9 upset. She started crying and there was another  
10 gentleman who was there who consoled her when she  
11 basically broke down. They told me, you know, 'That is  
12 the way Doreen is, it's quite normal for outbursts like  
13 that in meetings like that'. But it struck me as a  
14 pretty bizarre way to treat the media.

15 CONTINUED

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1 Q. The list of names you gave us, there were other people  
2 there from -

3 A. The only people I haven't given you are the two white  
4 people who were there, if you want to refer to them as  
5 white and black.

6 Q. That was the end of the press conference.

7 A. I sort of - it finished. We all gathered our bits and  
8 pieces and I sort of was obviously quite surprised by  
9 her attitude, because I thought I had done my best to  
10 cover the issue fairly and walked out and she was  
11 sitting on a couch in the foyer smoking a cigarette and  
12 I made an attempt to say goodbye to her and I think she  
13 told me to 'fuck off' again, so I walked out. Sorry  
14 about my language.

15 COMSR

16 Q. I take it it is a verbatim report.

17 A. Yes, it is. I have checked with one of the other  
18 reporters, she taped it, but unfortunately she has lost  
19 the tape.

20 XN

21 Q. I think the next thing that happened was another press  
22 release from the Federal Minister, wasn't it, apart from  
23 you going home and licking your wounds.

24 A. Yes.

25 Q. Looking at this media release, now before you, from the  
26 Federal Minister, dated 13 July, I think you received  
27 that from the Federal Minister at the Advertiser, is  
28 that correct.

29 A. Yes, Mr Tickner and I had developed quite a good  
30 relationship, at this point, and he gave me a two page  
31 statement direct to the Advertiser just for our use  
32 responding to an attack made on him by Dean Brown.

33 MR SMITH: Just in case you have any misgivings  
34 about the assertions that are being made that Professor  
35 Saunders's report was a public document, at about .3 of  
36 the second page:  
37 'I can categorically state that ... of Professor  
38 Saunders.'

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- 1 I tender that media release.  
2 EXHIBIT 119 Media release, from Federal Minister, Mr  
3 Tickner, dated 13 July 1994, tendered by  
4 Mr Smith. Admitted.  
5 XN  
6 Q. On 14 July was your next article in the Advertiser  
7 'Bridge scapegoats claim'.  
8 A. Yes, it was. I decided that to salvage - to try and  
9 salvage something from the press conference, rather than  
10 just ignore it, I chose to write a story to try and  
11 express what the woman had said before Mrs Kartinyeri  
12 became abusive and I wrote a story based on their  
13 comments about being made political scapegoats. The  
14 issue being a political football. Their support for Mr  
15 Tickner and their disappointment with the State  
16 Government. I could have ignored it, but I didn't.  
17 Q. There was a feature article, also on that day, which is  
18 attachment 63, 'Trump card beat the bridge', and that  
19 was a feature article, by you, of 14 July 1994.  
20 A. Yes, that was a full page article canvassing all the  
21 issues inside Professor Saunders's report.  
22 Q. Featuring a photograph of Sarah Milera at the ferry.  
23 A. Yes, and a photograph of the - Mr Carslake being  
24 arrested by the police and also a 19th century  
25 lithograph of Aborigines at Goolwa.  
26 Q. Then, on 26 July, you featured an article, 'Westpac in  
27 bid to block Chapmans', attachment 64.  
28 A. Yes.  
29 Q. That was just an article about just that topic, is that  
30 right.  
31 A. Yes, that is. It was about Partnership Pacific Limited  
32 and the Chapmans' continuing dispute legally.  
33 Q. Then, the next day, 27 July, there was a follow up  
34 article, 'Chapmans use legal aid in bridge compo  
35 battle', attachment 65.  
36 A. Yes, that basically showed they successfully applied for  
37 legal aid in their application in the Federal Court for  
38 a judicial review of Mr Tickner's decision.

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1 Q. Then, on 8 August 1994, you penned another article, '\$20  
2 million debts claim Goolwa developer'.

3 A. Yes, as I said before, Acting Judge Boehm had deferred  
4 the liquidation question until after Robert Tickner had  
5 decided what to do. As a result of Mr Tickner's ban,  
6 Acting Judge Boehm granted the liquidation winding up  
7 order.

8 Q. Then, on 10 August, another article written by you,  
9 headed 'Call for marina inquiry', attachment 67.

10 A. Yes, that summarised the concerns of a Mr Clem Viney  
11 about a development for a marina at Wellington, which he  
12 claimed had been torpedoed, because of the Chapmans'  
13 development on the other side of the river.

14 Q. On 11 August, you wrote an article, which was published  
15 on 11 August 1994, 'Hindmarsh Island couple won't  
16 appeal'.

17 A. Yes, that was Mr David Meyer, the Chapmans' lawyer,  
18 notifying Acting Judge Boehm that there wouldn't be an  
19 appeal against the liquidation order.

20 Q. Then, on 19 August 1994, you moved to another area of  
21 the country, as it were, didn't you.

22 A. Yes, my foray into Aboriginal affairs was progressing to  
23 the urban area.

24 Q. You featured an article on the Port Adelaide area,  
25 dealing with Veronica Brodie.

26 A. Yes, I did.

27 Q. The article was headed 'Sacred site bid threatens Port  
28 revamp'.

29 A. Yes.

30 Q. That article speaks for itself, but -

31 A. Essentially, in summary, it was Mrs Brodie had been  
32 trying for three years to get a site registered at Port  
33 Adelaide, more specifically, at Glanville, which was  
34 the site of the former CSR factory, because it was the  
35 birthplace of her great grandmother and also her  
36 grandmother and she wanted it registered on the sacred  
37 site register. And she was also seeking Federal  
38 Government funding to purchase the land, to develop a

1 retirement village for Aboriginal Elders.

2 Q. The relevance of that evidence I suppose to us is that  
3 there is a mention in your article of Rebecca Wilson.

4 A. Yes, Mrs Rebecca Wilson is Veronica Brodie's mother and  
5 she - I learnt, through my enquiries, that she was born  
6 at Colley Reserve at Glenelg and that she had taken Mrs  
7 Brodie back to the CSR site in the presence of her  
8 grandmother, Mrs Spender, to tell her that, whatever  
9 happened, she one day had to reclaim the CSR site as  
10 their matrilineal and their ancestral home.

11 Q. I think Veronica Brodie gave you an anthropological  
12 report by Sherridan Melvin.

13 A. Yes, Sherridan Melvin is not a professional  
14 anthropologist. She was an amateur who befriended Mrs  
15 Brodie and prepared this report (INDICATES), which  
16 details Mrs Brodie's great grandmother, grandmother and  
17 mother and her family history.

18 Q. I think you have produced that to the Commission,  
19 haven't you.

20 A. Yes, I have.

21 Q. On 23 August 1994, another article appeared headlined  
22 'Bridge ban political decision', which is attachment 70.  
23 I think that introduced, didn't it, the application for  
24 judicial review in the Federal Court.

25 A. Yes, that canvassed the issues that were being raised by  
26 Michell Sillar Lynch & Meyer, the Chapmans' lawyers, in  
27 their bid to have a judicial review of Mr Tickner's ban.

28 Q. On 25 August 1994, you returned for yet another follow  
29 up article on Veronica Brodie.

30 A. Yes, Mrs Brodie still despite the publicity in The  
31 Advertiser hadn't had any success with the Department in  
32 securing the registration of her site, so I published  
33 again in more detail the matrilineal links of Mrs Brodie  
34 and Mrs Rebecca Wilson to the site at Glanville.

35 Q. There was a further story on the same topic on the same  
36 day, which is attachment 72, isn't it.

37 A. Yes, the same day I also wrote a story about the fact  
38 that Mr Brown and Mr Armitage had decided to hold a



- 1 summit with Aboriginal leaders to talk about the  
2 Hindmarsh Island issue, the problems of the sacred site  
3 register as that was being perceived and the need to  
4 have a look at consultation with Aboriginal groups  
5 regarding development.
- 6 Q. Then, on 26 August, there was an article by you 'Now it  
7 Is a bridge too far', which is attachment 73.
- 8 A. Yes, that was an analysis story saying basically that  
9 the Hindmarsh Island bridge saga was only just starting  
10 and that it would probably go for many years yet.
- 11 Q. There are a series of articles then where you reported  
12 on the Federal Court review.
- 13 A. Yes, I was the only journalist to cover the judicial  
14 review.
- 15 Q. I will just run through them -
- 16 A. Apart from Catherine Towers from the Australian.
- 17 Q. There was an article, on 2 September 1994, attachment  
18 74, 'Bridge review set to start'.
- 19 A. Yes.
- 20 Q. Then an article, on 15 September 1994, attachment 75,  
21 'Aborigines told how to stop bridge'.
- 22 A. Yes.
- 23 Q. An article, on 17 September 1994, attachment 76, 'Phone  
24 call angers sacred sites judge'.
- 25 A. Yes.
- 26 COMSR: I wonder if, before any journalist  
27 leaves, I could try and explain something?  
28 I must admit, it has been exercising my mind and  
29 probably no-one would think to publish it, in any case,  
30 but, while it is consistent with what I have previously  
31 ruled, that anything in the public arena, in my view,  
32 is not a divulgence contrary to s.35, I have, in this  
33 instance, from what Mr James has said, gathered the  
34 impression that there are some members of the  
35 Aboriginal community who feel that Mr Marshall went  
36 too far in what he had to say and that it was an  
37 affront to them to have those details published. It  
38 seems to me that, although they are in the public

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1 arena, that the repetition of those particular details,  
2 as I have been led to understand, could possibly cause  
3 concern and distress to members of the Aboriginal  
4 community. I appreciate I have made a number of  
5 suppression orders, some of which are short-term and  
6 have to be reviewed, but it is in the nature of this  
7 Inquiry that I have to be concerned about the effect  
8 of certain of the evidence. Notwithstanding that  
9 these details have been published and republished,  
10 I would be reluctant to think that the occasion of  
11 the hearing of them in this Inquiry might cause them  
12 to be republished in circumstances where they could  
13 afford some distress to members of the Aboriginal  
14 community.

15 I am not making any judgment on that. I am just,  
16 for the purpose of what I have in mind, considering  
17 that as a possibility. And, although there may appear  
18 to be a certain inconsistency in what I have ruled and  
19 what I propose to do, it seems to me that, pursuant to  
20 s.16 of the Royal Commissions Act, that -

21 MR SMITH: Before you finally make the order,  
22 could I interrupt and say that the letter is an  
23 existing Exhibit 37, which was not subject to any  
24 suppression when it went in sometime ago. It was  
25 not subject to any interest by the media, on that  
26 occasion.

27 COMSR: I know and there is probably no  
28 interest in it now, but, on that occasion, I don't  
29 understand that I was in possession of information  
30 which suggested that the repetition of the details  
31 caused or could cause distress to people.

32 WITNESS: There is something further. In May  
33 or June this year, after the fabrication allegations  
34 became public, Rocky Marshall contacted me again and  
35 he had written another letter and he wanted that letter  
36 published in the newspaper and that letter basically  
37 conveyed the incidents of last year and that he had  
38 put this material in the newspaper. He had been

1 visited by these Aboriginal women who wanted to spear  
2 him at his home a Goolwa.

3 COMSR

4 Q. Yes, I gathered that.

5 A. And he wanted this material to become public. Not the  
6 material in the letter, but the fact that he had been  
7 visited by the group of women, because he again wanted  
8 to show how sincere and genuine they were and he said he  
9 had to get the permission from ALRM before he could give  
10 me the information. That permission wasn't forthcoming,  
11 so I couldn't put it in the newspaper.

12 COMSR: The media would no doubt not pay the  
13 slightest attention to it but for the fact that I have  
14 drawn attention to it. But, if the repetition of these  
15 details could cause some distress, it seems to me that  
16 it is an occasion where at least I should have some  
17 regard to what the witness has said. I am not saying  
18 that it is contrary to s.35. I am simply saying that,  
19 where there is evidence that the repetition of these  
20 details can cause distress of the sort that the witness  
21 has spoken about, that it is an appropriate occasion to  
22 use s.16 of the Royal Commissions Act. Notwithstanding  
23 that the matter is in the public arena.

24 There may seem to be a certain inconsistency in that  
25 stance, Mr Smith, but I am simply saying that, if the  
26 further repetition is likely to cause distress to  
27 anyone, that it might be appropriate to consider  
28 suppressing the details.

29 MR SMITH: I am concerned that you would be making  
30 a rod for your own back in making that order, that is  
31 all.

32 MR ABBOTT: In saying, as you did, that, in view of  
33 the distress that was caused to these women: we have  
34 yet to hear any evidence of that.

35 COMSR: I appreciate that.

36 MR ABBOTT: All this witness was able to tell us  
37 quite properly was what had been reported to him by  
38 Rocky Marshall.

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- 1 COMSR: Yes, I know that.
- 2 MR ABBOTT: So, there is no direct evidence of any  
3 distress.
- 4 COMSR: Certainly there is no direct evidence of  
5 that sort, I appreciate that.
- 6 MR SHORT: If I may also just briefly say the  
7 evidence that you do have, at the moment, is that there  
8 was no complaint to The Advertiser. There was no  
9 criticism at all communicated to the newspaper for the  
10 publication to the State at large to a readership of  
11 half a million people and over 200,000 copies of that  
12 paper. There was no other reaction. Now, that is  
13 already all in the public arena. It is already  
14 divulged. It has already been made a publicly  
15 available exhibit, sometime ago, in this Commission.  
16 And there is no-one today who is putting forward any  
17 reasons why it should be suppressed.
- 18 COMSR: Yes, I admit it is my own concern on  
19 hearing the witness talk about the reaction that this  
20 brought. But perhaps I may be making a rod for my own  
21 back in simply mentioning it, because it draws attention  
22 to it, whereas it otherwise might remain unnoticed.
- 23 MR SHORT: Yes, could I suggest it may be more  
24 appropriate to move on with the evidence in the absence  
25 of any order?
- 26 COMSR: I don't know that there is any absence.
- 27 MR KENNY: I try not to interfere too often, but  
28 you have heard evidence of a reaction. It may be  
29 hearsay evidence, at this stage, but it has been fairly  
30 widely reported. In fact, no-one seems to doubt that  
31 there was a reaction, indeed, a retraction from Mr  
32 Marshall to his letter. And this, I think, is the  
33 second time we have heard evidence of that reaction.  
34 So, it is quite clear that there is a group of women  
35 that would be offended by the republication of that  
36 letter. And, indeed, on the previous occasion, there  
37 was, if I recall, very little evidence about it. It has  
38 now come to be a more significant letter, as it were,

1 and I would suggest the press, obviously through their  
2 counsel, are showing it much greater interest on this  
3 occasion. And, consequently, I do urge that you  
4 suppress the contents of that letter simply on the basis  
5 that the Commission does not wish to offend people who,  
6 shall I say, perhaps are in a position where it is not  
7 necessary for them or for this letter to be republished.  
8 CONTINUED

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1 It is available before the commission. It is  
2 essentially before you, and I would submit that really  
3 its republication would again cause offence. I note  
4 your interpretation on Section 35.

5 COMSR: I am not considering it as possibly  
6 caught by Section 35. I am just considering the  
7 evidence that I have heard about the reaction of a group  
8 of women to Mr Marshall's release of the details, and  
9 the suggestion that they were offended by it. Without  
10 in any way making any judgment on the merits of that  
11 claim or otherwise, it raises the possibility that there  
12 is a group of women who would be offended by it. Now,  
13 whether it is genuine or not, I am not in a position to  
14 say at this stage. As I say, I appreciate it is in the  
15 public arena. All I am concerned about is that the  
16 repetition of it -

17 MR KENNY: It was the point I made last week, that  
18 simply because it is in the public arena doesn't mean -

19 COMSR: That is the end of the matter.

20 MR KENNY: No, or specifically because something is  
21 in the public arena it doesn't offend some members of  
22 the public. I suggest, again, that is a similar  
23 situation here, that it may offend.

24 COMSR: I wasn't concerned about some members of  
25 the public. I was concerned with the specific group.

26 MR KENNY: That is correct. They are certainly  
27 also members of the public.

28 MR SMITH: Could I ask this witness one question  
29 before you make a ruling?

30 COMSR: Yes.

31 XN

32 Q. I think you spoke with your informant, Sarah Milera,  
33 about the incident where Mr Marshall was -

34 A. I did.

35 Q. Confronted by these women, including Sarah, did you not.

36 A. Yes, I did.

37 Q. What did she.

1 A. I asked her about the visitation of the large group of  
2 women to Rocky Marshall's place at Goolwa and what it  
3 was all about. She replied to me 'That was a pantomime  
4 arranged and staged by Dodo' or Doreen Kartinyeri to try  
5 and show the woman who had just arrived from Murray  
6 Bridge on the Sunday before they met Professor Saunders  
7 on the Monday, to show them how serious this whole  
8 business was, and that it was actually a staged incident  
9 to try and get across the gravity of the information  
10 which she was about to share with them.

11 Q. Did she convey to you pantomime in the sense of -

12 A. She used the word 'It was a pantomime'.

13 COMSR: I do not find it an easy situation to  
14 answer at the present time.

15 MR SMITH: Would you like to think about this?

16 COMSR: Yes, I intend to. As I say, I am aware  
17 that I have made perhaps an unusual large number of  
18 suppression orders, but it isn't permanent. As with a  
19 number of these other orders I have made, I might review  
20 a number of them, but I do think it is a matter I should  
21 give some thought to.

22 MR SHORT: In light of what you have said, this may  
23 make absolutely no difference, but I have said it  
24 before, in the public nature of this inquiry -

25 COMSR: I appreciate its public nature.

26 MR SHORT: About sensitivity, I understand and  
27 acknowledge that, in particular in the Section 35 area.  
28 But we are in a situation where we are dealing with  
29 public matters, and the further evidence Mr James has  
30 just given makes it all the more important that this  
31 should be before the public. If people want to come  
32 along here and give a different version of events, we  
33 encourage them to do so.

34 COMSR: Yes, but it is too late then if somebody  
35 comes along and gives a different version if, meanwhile,  
36 a matter has been published.

37 MR SHORT: Absolutely not. In terms of getting to  
38 the bottom of it, a report of this evidence is far more

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- 1 likely to encourage people to come along and seek to  
2 challenge it. Whereas, if it never gets out into the  
3 public arena, no-one will ever know.
- 4 COMSR: Perhaps I am being unnecessarily  
5 concerned about this matter, but -
- 6 MR SHORT: It is a matter of concern, but the  
7 only -
- 8 COMSR: It is in the public arena. It has been  
9 published on a number of occasions and there probably  
10 will be no great hardship for a few days, while I  
11 consider the matter, if the details are not repeated.
- 12 MR SHORT: It is certainly a matter of concern that  
13 the only supporter of suppression from the bar table has  
14 no right to make those submissions in respect of this  
15 matter.
- 16 MR KENNY: I object.
- 17 COMSR: I appreciate that. It is a concern I  
18 have raised myself. But it is a matter I just want to  
19 think about. It doesn't mean that all of these matters  
20 aren't going to be made public in the final analysis.
- 21 MR SHORT: The concern I raise in relation to a  
22 suppression for a few days is again one I have  
23 raised before. In terms of getting across to the public  
24 a coherent picture of what is actually taking place in  
25 this commission, if it is delayed for a few days it just  
26 doesn't happen.
- 27 COMSR: I don't think that this is in that  
28 category, because it is a matter that has been published  
29 on a number of occasions before now.
- 30 MR SHORT: No, in relation to the course of the  
31 hearing of this commission, I am not aware of it having  
32 been published. I am aware that it has been available  
33 to be published but no-one, I suggest, has put anything  
34 to you but that Exhibit 37 has, as an Exhibit, been  
35 reported, or that Mr James' evidence -
- 36 COMSR: It is not an easy situation. It seems  
37 to me that if there is the suggestion that someone is  
38 going to be unduly prejudiced by the repetition of this



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1 material, that it is a basis for suppression, and it is  
2 a matter I want to consider.

3 MR SHORT: The evidence at the moment is that there  
4 was a pantomime. There was a charade. There is no  
5 other evidence. What you have is evidence of a charade.

6 COMSR: I may be being unduly sensitive to this  
7 issue, and I admit it. I don't find it an easy  
8 situation in which to have to make decisions on the  
9 question of suppressions, but it seems to me that no  
10 great harm will be done as far as public appreciation is  
11 concerned if I do consider this matter. I appreciate I  
12 am alone in this respect.

13 MS PYKE: I stand in support of you, Commissioner,  
14 in the sense that whether it is in the public arena or  
15 not is scarcely the issue. I haven't brought with me  
16 the Terms of Reference of the commission, but they  
17 require you very specifically to be sensitive to the  
18 beliefs and sensitivity of Aboriginal people. There is  
19 very clear evidence that this is a particularly  
20 sensitive topic. Mr Abbott might think this is a joke,  
21 but I am sure there are a lot of people who don't hold  
22 his view.

23 COMSR: As long as there is the possibility, at  
24 this stage I have to treat as equally likely outcomes of  
25 finding one way or the other.

26 MR SHORT: What I was putting to you was on the  
27 basis of the evidence which has been given. There is no  
28 other evidence. As far as I am aware, there is not  
29 going to be any other evidence on this topic.

30 COMSR: The rod I have made for my own back is  
31 probably bringing it up in the first place, but I do  
32 propose at this stage to make, pursuant to section 16A  
33 of the Royal Commissions Act, an order that, until  
34 further order, those details as disclosed in Mr  
35 Marshall's letter concerning what he was told by his  
36 grandmother of women's business, not be republished at  
37 this stage.

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- 1 MR MEYER: That is just the seventh paragraph if  
2 you look at Exhibit 37.
- 3 MR SHORT: So that members of the media are clear  
4 what is being suppressed it is the contents of the  
5 seventh paragraph of Exhibit 37.
- 6 COMSR: Yes.
- 7 MR MEYER: The paragraph starting 'She told me.'  
8 COMSR: Probably no-one intended to publish it  
9 in the first place, so it is no great problem.
- 10 MR SMITH: Is that 'She told me of the Aboriginal  
11 legend covering the Lower Murray ... Murray figure,  
12 Lower Mouth' all of that?
- 13 COMSR: Yes.
- 14 MR SMITH: That has enormous repercussions on other  
15 areas of evidence because that is not only mentioned  
16 here in the Rocky Marshall letter. That particular  
17 configuration of landscape is the subject of other  
18 evidence, other documents, other newspaper articles.
- 19 COMSR: I have no doubt.
- 20 MR SMITH: If we suppress that, how does the other  
21 material stand?
- 22 COMSR: I don't know that it has been in such  
23 detail as that though.
- 24 MR SMITH: It has exactly been that, that is the  
25 trouble. The configuration of landscape, as is  
26 recounted there.
- 27 MR ABBOTT: It is in Dorothy Wilson's evidence, her  
28 cross-examination.
- 29 COMSR: Dorothy Wilson's evidence is not in the  
30 public arena.
- 31 MR SMITH: It is in other newspaper articles. It  
32 is in other reports. That is the difficulty of this  
33 topic. But you are limiting it just to this letter of  
34 Mr Marshall?
- 35 COMSR: Yes, that is the evidence I have before  
36 me at this stage. I am taking this step while I  
37 consider it, as much as anything. I can consider the  
38 effect it might have in the context of the other

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1 evidence, but it is just a step while I consider whether  
2 or not this commission should be allowing the repetition  
3 of evidence of which I have heard evidence from the  
4 witness, the reaction of other members of the Aboriginal  
5 community.

6 XN

7 Q. I think I have reached the stage where I was simply  
8 nominating all your Federal Court report articles on the  
9 application for judicial review. We had reached -

10 A. The phone calls to the Federal Court judge.

11 Q. That is right. So 'Phone call angers Federal Court  
12 Judge' was an article in the 'Advertiser' penned by you  
13 on 10 September 1994.

14 A. Yes, it was.

15 Q. That was about, we all know, the Minister ringing the  
16 judge direct.

17 A. Yes, and upsetting Judge O'Loughlin.

18 Q. Again, your article 'New push for island bridge' on 6  
19 November 1994, attachment 77.

20 A. Yes. Westpac entered the fray again and said they  
21 wanted the bridge built, putting the pressure back on.

22 Q. That wasn't a Federal Court report then.

23 A. No. That was - I came to hear of negotiations between  
24 Westpac and the Transport Minister.

25 Q. Then on 8 November 1994 'Bridge ban leads to law  
26 review', attachment 78.

27 A. Yes, that was an announcement by Mr Tickner that the  
28 Federal Minister had overseen a meeting of all State  
29 Aboriginal Affairs Ministers to look at the legislation,  
30 which was used to stop the Hindmarsh Island Bridge for  
31 possible review, and to look at the consultation process  
32 nationally.

33 Q. You then reported on 10 November 1994 remarks made by Mr  
34 Ian McLachlan in Federal parliament concerning 'Women's  
35 claims on bridge made up'.

36 A. That's correct.

37 Q. I think there you reported the speech of Mr McLachlan in  
38 Federal parliament, detailing, amongst other things, the

1 dissident women's position, or at least one of them.

2 A. Yes. It was the first time that the name of Mrs Dorothy  
3 Wilson had entered the public arena as someone who was  
4 disputing the validity of the beliefs.

5 Q. On 19 November, you reported an article concerning the  
6 laying of a cable, a Telecom cable across the river.

7 A. Yes, I did.

8 Q. Can you tell us what led you to be reporting about that.

9 A. Yes, I received a telephone call, informing me of an  
10 allegation that a large sum of money had been paid to  
11 the Aboriginal women who objected to the bridge to  
12 enable the laying of the fibre optic cable by Telecom  
13 right through the area which was declared off limits by  
14 Mr Tickner. This was in the vicinity of 150,000 up to  
15 half a million.

16 Q. You pursued that with Telecom.

17 A. Yes, I did. I subsequently had a meeting with Telecom.  
18 I put directly to them the allegation, that over 000 had  
19 been paid to the Aboriginal people who were opposed to  
20 the Hindmarsh Island Bridge to ensure that a fibre optic  
21 cable which was to be included in the construction of  
22 the bridge was able to be laid between the island and  
23 the mainland, therefore, linking the island to the  
24 mainland.

25 Q. The response from Telecom.

26 A. I asked them for a written response to those  
27 allegations.

28 Q. I think they handed you what amounted to a press release  
29 or a statement.

30 A. Yes, they did. They gave me a written statement, and I  
31 also obtained a information brief prepared by Telecom on  
32 its proposal to lay the cable, together with a map  
33 showing the route of the proposed cable, which was  
34 indeed through the area declared off limits by Mr  
35 Tickner.

36 Q. So this was the position, was it, that Telecom had  
37 planned a cable to be part of the construction of the

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1 bridge. In other words, to go across the river as part  
2 of the bridge.

3 A. Yes, that's correct. The bridge infrastructure was to  
4 include a water main, a fibre optic cable and  
5 electricity supply as part of the bridge infrastructure,  
6 which is why the residents of the island wanted the  
7 bridge as much as they did, which is one of the key  
8 reasons.

9 Q. Of course, the bridge having been banned, Telecom were  
10 faced with finding another means of getting their fibre  
11 optic cable across the river.

12 A. Exactly. They still had to put the cable across and  
13 they were in a quandary how to do it. Before this, I  
14 had looked at a situation at Mount Barker involving  
15 Telecom with the construction of the telecommunications  
16 on top of the Mount Barker.

17 COMSR

18 Q. Has this got anything to do with this before me.

19 A. The same people were involved. The Lower Murray  
20 Aboriginal Heritage Committee.

21 Q. I don't suppose I can pursue that matter here under the  
22 terms of this commission though, can I.

23 A. Sure.

24 XN

25 Q. In any event, you had a meeting with some  
26 representatives from Telecom.

27 A. Yes, I did.

28 Q. They handed to you -

29 A. No, they later provided - after the meeting at which I  
30 presented them with the allegation that they paid money  
31 to the Aboriginal people, they provided me with that  
32 statement there.

33 Q. Looking at this statement produced to you, that was the  
34 response to your inquiry.

35 A. Yes, it was. I put not only the allegation that they  
36 paid money and that money had been accepted, but also  
37 asked them about the extent of consultation with the  
38 Aboriginal people concerned.

- 1 Q. I think you also obtained an information brief about the  
2 cable and how it was to be laid.
- 3 A. Yes, I did.
- 4 Q. You obtained that from whom.
- 5 A. Mr Karno Walker.
- 6 Q. But it is to do with the cable, isn't it.
- 7 A. Yes. He was upset at the fact that the money - this  
8 alleged sum had been paid. He was saying that the money  
9 should go to a school for Aboriginal children.
- 10 Q. Then you received plans showing, if you like, the route  
11 of the cable across the river, bearing in mind now the  
12 bridge couldn't go into place.
- 13 A. Yes, that's correct.
- 14 Q. You got these plans from whom.
- 15 A. Mr Karno Walker.
- 16 Q. And also a photocopy of some sort of junction box.
- 17 A. Yes, the actual infrastructure for the  
18 telecommunications facility on the island. Mr Walker  
19 also gave me various quotes which he wanted to be  
20 published in the paper.
- 21 CONTINUED
- 22

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- 1 Q. Bearing in mind the allegation that you have told us  
2 about, it's the case that Telecom made it clear to you  
3 in the statement they provided you that the only money  
4 which changed hands was a formal meeting payment of \$505  
5 required by the community to cover the transport and  
6 meal costs of members attending; is that right.
- 7 A. That's correct. The only sum that was paid was 505.
- 8 Q. Your investigation, as it were, actually provided no  
9 corroboration, if you like, or support for the  
10 allegation of a large sum of money.
- 11 A. That's correct.
- 12 EXHIBIT 120 Telecom statement information leaflet  
13 and plans concerning fibre optic cable  
14 tendered by Mr Smith. Admitted.
- 15 Q. You made no further enquiries on that topic of Telecom.
- 16 A. Only into the suggestion at Mount Barker, which I felt  
17 was very relevant.
- 18 Q. On 15 December, you reported again on the Federal Court  
19 matter and in particular the evidence of Professor  
20 Saunders.
- 21 A. Yes, I did.
- 22 Q. I think you met Professor Saunders in court, didn't you.
- 23 A. Yes, I did.
- 24 Q. You continued reporting the Federal Court review and the  
25 two articles 'Bridge impact report slammed' and 'Bridge  
26 claims not invented', being attachments 82 and 83 and  
27 dated 7 December 1994 and 21 December 1994 were articles  
28 of the Federal Court review; is that right.
- 29 A. Yes, they were.
- 30 Q. In the article 'Bridge impact report slammed', you there  
31 feature Mr Campbell, I think, do you not.
- 32 A. Yes, Mr Alan 'Chirpy' Campbell.
- 33 Q. You spoke to him, did you.
- 34 A. Yes. I met Mr Campbell some time before this late on a  
35 Friday afternoon, early evening. He was introduced to  
36 me by Mr and Mrs Chapman.
- 37 Q. Did you make notes of your conversation with him.
- 38 A. Yes, but I don't think I have the notes here.

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1 Q. Mr Campbell had given evidence in the Federal Court,  
2 hadn't he.

3 A. Well -

4 Q. Can you perhaps have a look.

5 A. My chronology - sorry, I don't have my notes in front of  
6 me. Mr Campbell - I met Mr Campbell and Mr and Mrs  
7 Chapman in a cafe and, from memory, Mr Campbell outlined  
8 his concerns about: the validity of the women's  
9 business; the fact that he was one of the sole remaining  
10 descendants of the clan which had lived on the island;  
11 that he had not been consulted at any point during the  
12 inquiry or the bridge ban; that he disputed the  
13 truthfulness of the claims being made by a group of  
14 women; and, basically, he wanted that material  
15 published. It wasn't published because I had no way of  
16 ascertaining exactly who Mr Campbell was. When I made  
17 enquiries, I learned that he was the same gentleman who  
18 had made a threat to get money from Colonel Gadaffi to  
19 shoot the white intruder, and I had a bit of a question  
20 mark about his credibility. I decided if he was going  
21 to make those sorts of claims, I would wait and hear  
22 them in the court, rather than to stick my neck out and  
23 put them in the paper.

24 Q. Your next story was 15 February 1995. I've skipped over  
25 the ones we have done before. Your next story was 15  
26 February 1995: 'Bridge ban set to be reviewed'. That is  
27 attachment 84.

28 A. Yes, that's correct.

29 Q. Where you there predicting an outcome for the Federal  
30 Court inquiry.

31 A. Yes. I predicted, on the evidence which had been  
32 present - I was the only person to attend the Federal  
33 Court judicial review in its entirety. It seemed to me  
34 that there was a fairly strong case on procedural  
35 grounds for a review and I predicted that justice or  
36 Judge O'Loughlin would actually come down in favour of  
37 the Chapmans' application, and my prediction proved  
38 correct.



1 MR MEYER: I think Mr James means that he was the  
2 only journalist who attended the inquiry in its  
3 entirety.

4 XN

5 Q. On 16 February, you reported the ruling that you had  
6 predicted.

7 A. Yes. That prediction came true and Judge O'Loughlin  
8 overturned it on procedural grounds.

9 Q. You would accept that you have foibles in this area:  
10 You recorded that Terry Worthington would be counsel  
11 assisting.

12 A. I'm not always right - and I've also called you a QC.

13 Q. On 17 February, you reported 'Huge compo claim looms  
14 over bridge', which is article 86.

15 A. Yes.

16 Q. That's article speaks for itself.

17 A. Yes.

18 Q. Then, you did another feature story on 18 February 1995,  
19 which was 'Seal of secrecy'.

20 A. That was a summary of the judicial review and the role  
21 being played by the so-called secret envelopes and the  
22 secrecy which surrounded the women's business and the  
23 difficulties that it posed for Judge O'Loughlin and the  
24 issues canvassed by the Chapmans.

25 Q. Then, on 22 February, another story of yours appears  
26 'Spearing threat in new bridge move'. This is to do  
27 with a petition, I think, isn't it.

28 A. Yes. Mr Alan 'Chirpy' Campbell was upsetting a large  
29 number of people by this point with his continued  
30 activities behind the scenes and also publicly in trying  
31 to raise his concerns about the validity of the women's  
32 business. He, by this stage, had gathered what he  
33 purported to be 100 or so signatures from Ngarrindjeri  
34 people questioning the role being played by the Lower  
35 Murray Aboriginal Heritage Committee calling for the  
36 Minister, Dr Armitage, to disband that committee, to  
37 hold elections of that committee, and pointing out that  
38 the committee hadn't adequately consulted with

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1 Ngarrindjeri people before opposing the bridge.

2 Q. I think you received a media release from Alan Campbell,  
3 did you not.

4 A. Yes, I did.

5 Q. Looking at this document produced, do you recognise  
6 that.

7 A. Yes, that's the media release I received relating - it  
8 says 'Hindmarsh Island Bridge from Alan Campbell, 17  
9 February 1995'. It talks about his petition saying  
10 'This has been signed by over 100 people and that has  
11 been sent to Mr Tickner, Mr Garnie Wilson the  
12 chairperson of the Aboriginal Heritage Committee. Mr  
13 Campbell describes himself as an elder of the Kumarangk  
14 tribe and very much would like Ministers Armitage and  
15 Tickner to recognise the other side of the family clans  
16 and for him to acknowledge that we exist and have never  
17 been consulted by him or his staff - and that is a  
18 reference to Mr Tickner - 'and talks about "We have  
19 been excluded from being Aboriginals because we have  
20 been denied moral support from the heritage mob -  
21 Tickner's and Armitage's office, the ALRM and the Lower  
22 Murray Nunga's Club - and we feel that we're treated as  
23 an outcast simply because we fought for our rightful  
24 opportunity of consultation".

25 Q. That media release that you received provoked your  
26 article of 22 February 1995.

27 A. Yes, because Mrs Milera, by this stage, had lost  
28 patience with Mr Campbell, as had other Ngarrindjeri  
29 women, and she wanted me to go down and see her at  
30 Goolwa.

31 EXHIBIT 121 Media release from Alan Campbell dated  
32 17 February 1995 tendered by Mr Smith.  
33 Admitted.

34 Q. As a result of that media release, you actually sought  
35 out Sarah Milera and spoke with her, didn't you.

36 A. Yes. I, once again, applied my regular route down to  
37 Hindmarsh Island and met with Sarah Milera at the Goolwa  
38 wharf and in the company of her husband Douglas, with

1 Dougie or Mio.

2 Q. Did you make shorthand notes of that conversation.

3 A. I did.

4 Q. Can you then tell us precisely when it was that you  
5 spoke with the Mileras and what was said.

6 A. I spoke to them in, I think it was, late morning around  
7 lunch time on February 21. I talked to Mrs Milera about  
8 the petition and the issues that it had raised,  
9 particularly the consultation aspect with the committee  
10 and whether or not it had, in fact, consulted widely  
11 with Ngarrindjeri people before making the sacred sites  
12 claims against the bridge and the way it was presented  
13 to the Minister.

14 Q. The petition you spoke to her about, it was namely the  
15 one obtained by Alan `Chirpy' Campbell.

16 A. Yes, it was.

17 Q. Can you tell us what was said.

18 A. She said `I'm sick and tired of it all. I'm not saying  
19 this is my island. I am the custodian of this land for  
20 all people. I have never denied his, Chirpy's, right to  
21 be involved in this issue. The land, this land is for  
22 everyone. Everyone has the right to an opinion, but you  
23 don't come and give a one-sided approach.' Mrs Milera  
24 told me she was still living in Goolwa and heard rumours  
25 that Mr Campbell was going to move to Hindmarsh Island.  
26 She said `I have traditional help as well. Anything  
27 that affects me, the women hear about it. Goolwa needs  
28 peace, not the foolishness which is only greed and not  
29 for the benefit of my people. I still don't hate him,  
30 Campbell. I will not talk to him. I have been  
31 fighting for my heritage. He should be banished or  
32 dealt with by traditional law.

33 COMSR

34 Q. `He' being Mr Campbell.

35 A. She was talking about spearing him. `He has committed  
36 treason. He is a traitor. I respect him as a  
37 Ngarrindjeri person, but you have to make the right  
38 decisions. You have to be a person who everybody agrees

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1 with.' I think I changed subject then and asked Mrs  
2 Milera where she had first heard about the women's  
3 business. She said she had been told about it by  
4 `Connie Roberts, my auntie. She is the elder with the  
5 knowledge. She comes down when I need her. My bond is  
6 very special. I live here and she has taught me things.  
7 We didn't read it from books. We know it from  
8 tradition. I was born with it, the tradition. I have  
9 known it all my life. My auntie has told me I am the  
10 chosen one. There is a place for everyone, not just one  
11 section.' I then asked Mrs Milera about the Federal  
12 Court decision by O'Loughlin J. `He hasn't overturned  
13 it on our rights. He has overturned it on the way Mr  
14 Tickner interpreted it.' I asked Mrs Milera about the  
15 sealed envelopes. She said `Nobody knows the truth.  
16 It is missing from everyone. People who know us come  
17 with respect.' Mrs Milera told me that the past 12  
18 months had been very traumatic for her. `They have been  
19 really hard. I'm getting really tired. It's about  
20 time the Ngarrindjeri understood the law. If they want  
21 to be Ngarrindjeri, they must understand the law. You  
22 don't commit treason against your culture.' Mrs Milera  
23 told me she believed some signatures on Mr Campbell's  
24 petition had been forged. She suggested I contact Mr  
25 Frank Tuckwell. She told me he was the Aboriginal  
26 liaison officer for the Port Elliot and Goolwa District  
27 Council. She told me Mr Tuckwell had a good  
28 understanding of the bridge issue and Aboriginal  
29 tradition. She said `Black politics has to be discussed  
30 by black people. They have to sort that out. Our  
31 system is in place and that is how we are dealing with  
32 Aboriginal planning issues until the Minister tells us  
33 something different.' I asked Mrs Milera where she was  
34 living. She gave me her address as 17 Sexton Street,  
35 Goolwa. She said `I will defend my heritage. I will  
36 defend the law and I challenge anyone to come in.  
37 Whatever I have learnt will die with me. Women's  
38 business should not be dealt with lightly, but in all of

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1 this there are lies, untruths. I could withdraw from it  
2 all, but there is my heritage.' I asked Mrs Milera about  
3 Mr Campbell's attempts to undermine the credibility of  
4 the women's business. She told me the issue was  
5 attracting stupid talk. `It is a part of this issue,  
6 but it is not the whole issue. Why don't they put me  
7 into court? Why don't they put me on the stand? I have  
8 earned respect and support from all over the place. I  
9 am very upset that Chirpy has now come in and is  
10 threatening all the good work that has been done towards  
11 more reconciliation. That is what has got to me here at  
12 Goolwa. It the feels like I have finally come home. I  
13 have been lost. If anyone else comes and mucks up this  
14 place, they will have the Aboriginal law to deal with.  
15 Lots of times I have felt like giving all this up and  
16 getting a quiet corner of the word. But I can't because  
17 I must defend my heritage the right way. No-one can say  
18 I did wrong. No-one. I can sleep at nights. Mr  
19 Tickner didn't do anything wrong. What Mr Tickner did  
20 was listen. He is a very fair person. Federal politics  
21 understands us, but the State has deserted us. Why  
22 aren't the State women politicians coming to talk to us?  
23 Why aren't they talking to us? If they want  
24 reconciliation, they must start talking. This Federal  
25 Court judgment could destroy what has been achieved with  
26 reconciliation and we could go backwards. I want to go  
27 to court. Mr Tickner has to appeal because his  
28 credibility is at stake, not just ours. This State  
29 Government is so schizophrenic. They don't know what  
30 they want. They can't make up their minds. They will  
31 now find out about people pressure'.  
32 CONTINUED

1 `We will still protect the environment. We will still  
2 protect the jobs.' Mrs Milera then told me that  
3 Impartja Television, which is an Aboriginal television  
4 network based in Alice Springs, was doing a story on the  
5 bridge issue. She said `All the traditional people know  
6 about it now.' That's a reference to the people who  
7 live in Central Australia and in the Pitjantjatjara  
8 lands. `They are getting organised to come down and  
9 support the women.' Mrs Milera said the threat by ATSIC  
10 to withdraw its money still remained. `People must live  
11 with respect. I want the right to see that petition. I  
12 query it. Men still support the women and are standing  
13 by the women. Val Power wants to know what to do with  
14 the Campbells.' I asked Mrs Milera again about the  
15 women's business. `What I have been saying is true.  
16 There is a truth that has not been written yet, because  
17 truth is part of the law, the law has to come back.  
18 They, the Campbells, went against our own culture from  
19 our own area.' And that is the completion of my  
20 shorthand notes. And I found this too (INDICATES).

21 XN

22 Q. You now refer to a note out of your file, which reminds  
23 you of, what.

24 A. Yes, it is a note showing that Mrs Sarah Milera rang me  
25 wishing to speak with me urgently at 1.49 p.m., on 20  
26 February, and it says `Alan Campbell getting 100  
27 signatures to present to Armitage.'

28 Q. So, your attendance down at the Goolwa wharf was in  
29 response, was it, to that.

30 A. Yes, she came forward, wanted to meet me. I arranged to  
31 go down and see her the following day.

32 Q. Having obtained that response from Sarah Milera, the  
33 next thing that occurred was your article, on 23  
34 February, `Union pledges to stop bridge work', is that  
35 right.

36 A. That's correct.

37 Q. You there refer to your conversation with Mrs Milera, do  
38 you not.

- 1 A. No, not really. What happened there was the CFMEU gave  
2 out a press release about a week earlier, which I sat  
3 on, which is a journalistic term for not publishing  
4 straight away, and that was basically that the CFMEU was  
5 going to go ahead and build the bridge and defy the  
6 injunction - not build it, that they stopped it. That  
7 they continued to picket it. And Mr Campbell, at that  
8 stage, had read Mrs Milera's story the previous day  
9 about getting speared and rang me up in quite an  
10 agitated state.
- 11 Q. I will come back to that. Looking at this fax produced  
12 to you, dated 16 February 1995, do you recognise that as  
13 a fax header sheet from the Construction Forestry Mining  
14 and Energy Union to you.
- 15 A. Yes.
- 16 Q. Dated 16 February.
- 17 A. Yes, and it was from David Thomason, who referred to  
18 himself as kilawee and also referred to me as kilawee.
- 19 Q. K-I-L-A-W-E-E.
- 20 A. Yes, Mr Thomason told me that was Ngarrindjeri for  
21 brother of the tribe.
- 22 Q. Mr Thomason made you -
- 23 A. I have no idea if that is the case, but that is what Mr  
24 Thomason told me.
- 25 Q. And the fax speaks for itself, but you remember  
26 receiving that.
- 27 A. Yes, I do. I received two copies of it, because I lost  
28 the first one. I had to get them to send it again, I  
29 remember that.
- 30 Q. That was notifying you that that union was going to  
31 unconditionally support the Aboriginal cause to stop the  
32 bridge.
- 33 A. I think it is actually more specific than that. It was  
34 actually unconditional support and solidarity to the  
35 Ngarrindjeri people and, in particular, to the  
36 Ngarrindjeri miminis, M-I-M-I-N-I-S, which I took to be  
37 women.
- 38 Q. Having got that fax much earlier that you had sat on,

1 that then went into your article then, on 23 February.

2 A. Yes, and I refer, in that article, to that word I have  
3 just used to describe Ngarrindjeri women.

4 Q. On 7 March, you caused another article to appear in The  
5 Advertiser, 'Row erupts over leak of bridge documents'.

6 A. Yes.

7 Q. That was 7 March 1995.

8 A. Yes.

9 Q. What did that have to do with -

10 A. That was over the fact that the Federal Member for  
11 Barker, Mr Ian McLachlan, had inadvertently received a  
12 box of documents from the Federal Court proceedings,  
13 which contained the contents of Mr Tickner's file on the  
14 bridge. And that he had produced a photocopy of the  
15 material inside the sealed envelopes inside the House of  
16 Representatives and had presented it to Mr Tickner. And  
17 there was a very large political bun fight over what was  
18 happening, as a result of those actions.

19 Q. You then, on 8 March 1995, published an article 'Women  
20 will die if secrets read', which referred to a letter  
21 from Doreen Kartinyeri to Ian McLachlan, is that right.

22 A. Yes, that's correct.

23 Q. You received a copy of this letter from Doreen  
24 Kartinyeri to Ian McLachlan, did you.

25 A. I did.

26 Q. Looking at this copy letter produced to you, is that a  
27 letter you received, apparently penned by Doreen  
28 Kartinyeri to Ian McLachlan.

29 A. Yes, the letter is written in what I take to be Doreen  
30 Kartinyeri's handwriting on Aboriginal Legal Rights  
31 Movement letterhead.

32 Q. And dated 6 March 1995.

33 A. That's correct.

34 Q. That featured in your -

35 A. In my article.

36 Q. In your article of 8 March.

37 A. Yes.

38 Q. That document was leaked to you, was it.



## C.A. JAMES XN (MR SMITH)

- 1 A. I don't know if 'leaked' is the right word. It was sent  
2 to me at my request.
- 3 Q. Are you able to say, without breaching any confidences,  
4 from whom you got it.
- 5 A. I don't think it would be any surprise that it came from  
6 Mr Ian McLachlan.
- 7 EXHIBIT 122 Fax, dated 16 February 1995, to Colin  
8 James from Kilawee (David Thomason)  
9 tendered Mr Smith. Admitted.
- 10 EXHIBIT 123 Letter, from Doreen Kartinyeri to Ian  
11 McLachlan, dated 6 March 1995, tendered  
12 by Mr Smith. Admitted.
- 13 COMSR: Is that a letter marked 'Confidential'?
- 14 MR SMITH: No.
- 15 MR SHORT: At the bottom right-hand is 'Solidarity  
16 for ever'.  
17 XN
- 18 Q. On 9 March, as I said, just a moment ago, you penned the  
19 article, in attachment 94 'Contents of envelopes not  
20 known'.
- 21 A. Sorry, no, I thought you asked me about 'Women will die  
22 if secrets read', and that was basically an assault on  
23 Mr McLachlan, who had experienced quite a strong  
24 political assault in the House of Representatives over  
25 his photocopying of the secret envelopes and also the  
26 despatching of a box of documents to Michell Sillar  
27 Lynch & Meyer. And a similar box had also come to me,  
28 at the Advertiser. And Mrs Kartinyeri said 'If you have  
29 read the stuff inside the envelopes, Ngarrindjeri women  
30 will die.' And Mrs Kartinyeri came out and accused  
31 Mr McLachlan of raping the beliefs of Aboriginal women.
- 32 Q. That information about Mrs Kartinyeri's reaction, apart  
33 from in the letter, where did you get that from.
- 34 A. Mrs Kartinyeri made it quite plain to me that she didn't  
35 want to talk to me in July of the previous year. She  
36 always made it plain from that letter.
- 37 Q. That is the letter of 6 March 1995, Exhibit 123, is that  
38 right.

1 A. That's correct.

2 Q. Then, on 9 March, we come to the story penned by you,  
3 'Contents of envelopes not known', attachment 94.

4 A. Yes.

5 Q. Again, you feature Doreen Kartinyeri as well as Sarah  
6 Milera in that article, do you not.

7 A. Yes, that article carries a joint by-line, myself and  
8 another journalist at the Advertiser, Nadine Williams.  
9 On 8 March, I had spoken with Sarah Milera about the  
10 envelopes, yet again, because they had become the  
11 subject of a national political debate. And Nadine  
12 Williams had attended a luncheon organised by the  
13 Internatioanl Women's Day Committee, which is the  
14 pre-eminent feminist gathering each year in Adelaide.

15 Q. Was Mrs Fisher, Mrs Betty Fisher, involved in that  
16 luncheon.

17 A. Mrs Betty Fisher organised the luncheon.

18 Q. Who was the key note speaker.

19 A. Mrs Doreen Kartinyeri.

20 Q. And introduced by Mrs Fisher.

21 A. That's correct.

22 Q. That was a luncheon on -

23 A. That was the day before 8 March. Nadine was quite  
24 excited when she came back to the office, because 300  
25 people - 300 women were at the luncheon had voted  
26 unanimously for Ian McLachlan to be sacked over what he  
27 had done with the envelopes, as a result of a formal  
28 motion put to the luncheon.

29 Q. On 8 March, you saw fit to speak to Sarah Milera again,  
30 is that right.

31 A. I had to. These envelopes, as much as Mr Tickner always  
32 down-played their significance, they had repeatedly  
33 become the subject of much legal, political debate and  
34 the issue of Mr McLachlan was on the front page of every  
35 newspaper in Australia and headlining every news  
36 bulletin. And I wanted to know once and for all, not  
37 what was inside them, but exactly what they were all  
38 about and why they were carrying so much weight.

## C.A. JAMES XN (MR SMITH)

1 So I actually spoke with Mrs Milera specifically about  
2 those envelopes.

3 Q. Again, that was a conversation which took place on 8  
4 March 1995.

5 A. That's correct.

6 Q. Did you keep your usual shorthand notes of this.

7 A. Yes, I did.

8 Q. By refreshing your memory from those notes, will you  
9 tell us when it was on 8 March you spoke to Sarah Milera  
10 and where it was and what was said.

11 A. I don't recall the time. It was some time during the  
12 day. I spoke by telephone regarding the Ian McLachlan  
13 issue and the sensitivity surrounding the contents of  
14 the two sealed envelopes which he had produced inside  
15 Federal Parliament.

16 Q. If I just interrupt you there so you can assure us  
17 nothing untoward is going to happen. You are not about  
18 to tell us what Sarah told you was in the envelopes, if  
19 she did.

20 A. I have never been told what the women's business is, so  
21 I don't know.

22 Q. Tell us what was said.

23 A. I asked Mrs Milera about the envelopes and she said she  
24 did not care about them. She said too much emphasis had  
25 been placed on the envelopes. She said 'I'm not  
26 interested in the envelopes'. Mrs Milera told me that  
27 everybody was getting it wrong and that Aboriginal law  
28 was being overlooked. 'If the government wants to know  
29 if the law wants to know, then they need to come down  
30 here' as a reference to Goolwa. 'They have got it all  
31 wrong'. Mrs Milera told me I knew what she felt like.  
32 By this time I'd known for her well over a year and we  
33 had built up quite a strong rapport. She said 'You know  
34 what I feel like'. I asked her again about the  
35 envelopes. She told me that she had not viewed the  
36 material inside the envelopes. She said the only person  
37 who had viewed the material inside was Mrs Doreen  
38 Kartinyeri, who she called Dodo. She said she is the

## C.A. JAMES XN (MR SMITH)

1 only person. Mrs Milera told me Mrs Kartinyeri was only  
2 coming from one angle and had not - did not take an  
3 holistic approach. This was a reference to the  
4 Aboriginal protest against the bridge. Mrs Milera told  
5 me there is still other matters. I asked her again  
6 about the women's business and why only a few women seem  
7 to know about it. She said 'Each woman is selected. I  
8 know it, but I am not going to divulge it to anyone'.  
9 Mrs Milera told me that there was real tradition about  
10 Hindmarsh Island. She told me that she knew this  
11 tradition. She told me she was upset by hatred which  
12 was emerging in the bridge issue. 'I am not going to  
13 bow down to hatred, everybody makes mistakes'. Mrs  
14 Milera told me the actions of Mr McLachlan had  
15 distressed her. She said she believed he would not cope  
16 because of his conscience. She said 'People cannot live  
17 with guilt. He is in trouble. I watched question  
18 time'. Mrs Milera told me she believed there would be  
19 repercussions for Mr McLachlan and other members of the  
20 Federal opposition if they had read the secret women's  
21 business. 'There will be a general weakening of the  
22 ranks. You will know who read it because they will be  
23 showing signs of weakening', and I took this to mean  
24 physical weakening which would be visible.

25 Q. I think as a result of that conversation, or in part as  
26 a result of that conversation, the large article in the  
27 'Advertiser' of 11 March occurred, is that correct.

28 A. Yes. Mr McLachlan announced his resignation from the  
29 coalition front bench two days later. Not as a result  
30 of that article, I don't think.

31 Q. So that article, do you call that a feature article.

32 A. Yes. I have two articles on 11 March. I have  
33 'McLachlan forced to quit', which was a front page  
34 article which I wrote after attending a press conference  
35 held by Mr McLachlan at 3 o'clock at the Commonwealth  
36 Bank Building in King William Street, at which he  
37 announced his resignation. I then returned to the  
38 'Advertiser' to write that news story, and I also wrote

1 a feature article `Keeping secrets'.

2 Q. So there is a separate article, is there `McLachlan  
3 forced to quit'.

4 A. Yes. Sorry, you don't have that.

5 Q. On 11 March.

6 A. Yes, as well as the `Keeping secrets' article which  
7 featured.

8 A. Which appeared inside, p.2.

9 MR SMITH: We need to add that extra article of 11  
10 March 1995. If this is a convenient moment, I will add  
11 that article to that exhibit.

12 ADJOURNED 4.30 P.M. TO TUESDAY, 12 SEPTEMBER 1995 AT 10 A.M.

1 COMSR STEVENS  
2  
3 HINDMARSH ISLAND BRIDGE ROYAL COMMISSION  
4  
5 TUESDAY, 12 SEPTEMBER 1995  
6  
7 RESUMING 10.52 A.M.

8  
9 COMSR: Before we begin the evidence again,  
10 there is something I would like to explain in case there  
11 is a perception that the evidence of investigative  
12 journalists is of marginal relevance in this inquiry. In  
13 an inquiry where there is an investigation into facts  
14 alleged, there will be evidence which is clearly  
15 directly relevant.

16 There is also evidence which is less direct, but  
17 which is capable of shedding light on the direct  
18 evidence. This secondary evidence may be such as to  
19 support or throw into question the direct evidence.  
20 Often its purpose is to assist in an evaluation of the  
21 direct evidence. Sometimes evidence which initially  
22 appears of marginal relevance can later be seen to be  
23 quite significant when placed in the context of the  
24 whole of the evidence. On the other hand, evidence  
25 which looks as though it is significant, can be seen to  
26 be of little relevance in the final outcome.

27 Where a journalist is called to give evidence, his or  
28 her press articles are not the relevant evidence. All  
29 that a press cutting demonstrates is what was published.  
30 What is relevant and what he or she can attest to are  
31 conversations with the persons involved in the incidents  
32 giving rise to the inquiry.

33 Frequently a person, when interviewed, says far more  
34 than appears in a press report. A journalist can give  
35 sworn evidence of the whole of what a person said or did  
36 when interviewed concerning the question, for instance,  
37 of Hindmarsh Island or women's business, and this

1 involves both what was reported and what was omitted in  
2 the press report.

3 Press reports do not speak for themselves. The  
4 simple tendering of a bundle of press cuttings would not  
5 be proof of what a person told a journalist. It requires  
6 the sworn evidence of the journalist concerned to prove  
7 the conversations. This is often a painstaking  
8 procedure, but it is frequently in the nature of an  
9 inquiry that it requires the patient accumulation of facts.

10 It is clearly relevant for this commission to hear  
11 sworn evidence of what the people most closely connected  
12 to the events in issue have voluntarily said concerning  
13 these matters. It can, of course, be time consuming to  
14 call such evidence. Given the time constraints within  
15 which a final report is to be given by this commission,  
16 it is clearly necessary to deal with evidence of this  
17 nature, pending the determination by the Minister on the  
18 matter of an authority.

19 The commission needs to utilise available time if it  
20 is to finalise the report by the due date, and it can do  
21 so by calling such evidence as does not require a  
22 Section 35 authority. I thought I would try and explain  
23 the nature of the evidence of the investigative  
24 journalists in order to clarify the situation.

25 MR KENNY: I was wondering if we were going to  
26 raise the matter of your taking evidence from Margaret  
27 Lindsay tomorrow? I thought there was going to be some  
28 discussion of that this morning.

29 MR SMITH: I need to circulate to counsel a medical  
30 certificate relating to Mrs Lindsay, but I have not got  
31 it as yet. Could that wait or is that causing a  
32 problem?

33 MR KENNY: I am happy to wait.

34 MR SMITH: It is still envisaged that that will  
35 take place, but I undertook to supply that to counsel on  
36 the issue of whether there ought to be a full scale  
37 hearing, for instance, in relation to this lady's  
38 evidence or an investigation by you alone, Commissioner.

## C.A. JAMES XN (MR SMITH)

1 WITNESS C.A. JAMES, EXAMINATION BY MR SMITH CONTINUING

2 Q. Mr James, you have in front of you Exhibit 123, which is  
3 the Doreen Kartinyeri letter to Mr McLachlan of 6 March  
4 1995.

5 A. That's correct.

6 Q. Or rather, a copy of the same, isn't it.

7 A. Yes.

8 Q. You came into possession of that letter, did you not.

9 A. Yes. I located this letter in the fax room at the  
10 'Advertiser'.

11 Q. You told us yesterday that you thought that letter may  
12 have come from Mr Ian McLachlan.

13 A. Yes, I did, and subsequently spent some time thinking  
14 about it last night and also conducting a search of my  
15 files, and I am now satisfied that letter did in fact  
16 come from the Aboriginal Legal Rights Movement.

17 Q. The basis for -

18 A. The fax imprint on the top and my original copy of the  
19 letter is identical to all other faxes of letters  
20 received from the Aboriginal Legal Rights Movement.

21 Q. Does that fax imprint actually show on Exhibit 123.

22 A. No, it is omitted on this copy.

23 Q. Have you got your copy of your letter of 6 March.

24 A. Yes, I do.

25 Q. So that can be produced to anyone wishing to check the  
26 fax imprint.

27 MR ABBOTT: Could it be read onto the transcript  
28 what the fax imprint is?

29 COMSR: Are we dealing with exhibit number 123?

30 MR SMITH: We are.

31 COMSR: Which has been titled, to date 'Copy  
32 letter of Doreen Kartinyeri to Ian McLachlan. That is  
33 incorrect you say?

34 MR SMITH: No, that is correct. It is a letter  
35 from Doreen Kartinyeri to Ian McLachlan dated 6 March  
36 1995. The witness, in evidence yesterday, asserted that  
37 he thought that was leaked to him from Ian McLachlan's  
38 office. He says now that that isn't the case. He has



## C.A. JAMES XN (MR SMITH)

1 just said so on the basis of the fax imprint at the very  
2 top of his original copy. What we will do is recopy  
3 Exhibit 123 from his best copy, which will show the fax  
4 imprint at the top.

5 COMSR: The fax imprint is what?

6 MR SMITH: The fax imprint, on the witness's  
7 evidence, is an indication that it came from the  
8 Aboriginal Legal Rights Movement, but it doesn't exactly  
9 assert that. He has just identified it as being a  
10 similar imprint to the imprint that occurs on their  
11 other faxes.

12 COMSR: What I was asking is what is the  
13 imprint? Is it ALRM or something of that sort?

14 MR SMITH: No. Perhaps we will copy it so that  
15 everyone will have it in front of them.

16 XN

17 Q. Mr James, your copy shows that that was the third page  
18 of something that came to the `Advertiser' by fax. Have  
19 you got any idea what else came.

20 A. By this time, the Aboriginal Legal Rights Movement had  
21 ceased sending me directly any material or  
22 correspondence. Instead, they were addressing it  
23 generally to the `Advertiser' and, at times, more  
24 particularly to another journalist, Leanne Weir. From  
25 memory, that page was the third of a three page fax,  
26 which also included a general press statement regarding  
27 Mr McLachlan's actions in the Federal Parliament. I  
28 took the letter from the back page, gave the other two  
29 pages to Leanne, and kept the third page, and I wrote  
30 the screed which appeared in the paper.

31 Q. The press release, which was the front two pages of that  
32 three page fax - or at least three page fax - came from  
33 the -

34 A. The Aboriginal Legal Rights Movement.

35 Q. Yesterday we identified, as it were, a missing article  
36 from a bundle of articles, exhibit 105, which was the  
37 article entitled `McLachlan forced to quit', which was  
38 an article written by you and published on 11 March 1995.

## C.A. JAMES XN (MR SMITH)

1 A. That's correct.

2 Q. Looking at the copy of that article produced to you, you  
3 recognise that as the article.

4 A. Yes, I do. That was a page 1 article with a spill on  
5 page 2.

6 MR SMITH: We can either include that in Exhibit  
7 105 in its proper place chronologically or make it a  
8 separate exhibit altogether.

9 COMSR: I think it would be most convenient to  
10 include it in Exhibit 105.

11 MR SMITH: If it is in chronological order it will  
12 occur immediately after attachment 94, which is the  
13 article headed 'Contents of envelopes not known', 9  
14 March 1995. With a photograph of Doreen Kartinyeri and  
15 before the article 'Keeping secrets'.

16 XN

17 Q. There was a press conference in relation to that article  
18 'McLachlan forced to quit', was there not.

19 A. Yes, there was. Mr McLachlan issued a media advice,  
20 informing the media there would be a press conference at  
21 his office at the Commonwealth Bank Building at 3 p.m.  
22 on the Friday, 10 March.

23 Q. You attended that press conference.

24 A. Yes, I did, with a photographer from the 'Advertiser'.

25 Q. That, I think, was the last time you had any direct  
26 contact with Mr McLachlan.

27 A. Yes, it is. It was the last time I have spoken to Mr  
28 McLachlan.

29 Q. Looking at this artist impression photograph of the  
30 Hindmarsh Island Bridge, was that indeed the photograph  
31 that you used in your introductory article to this  
32 topic.

33 A. Yes, it is. That is the photograph I referred to  
34 yesterday, which I obtained from Connell Wagner, the  
35 engineering company which designed the bridge.

36 EXHIBIT 124 Artist impression of Hindmarsh Island  
37 tendered by Mr Smith. Admitted.

## C.A. JAMES XN (MR SMITH)

1 MR SMITH: In Exhibit 117, which is the faxed  
2 report of Professor Saunders from the Federal Minister,  
3 there is, by error, in the exhibit, the letter of Mr  
4 Marshall of 23 June. It is the very last page. If that  
5 could be taken off Exhibit 117, and put where it should  
6 be, which is Exhibit 115. The position is that Exhibit  
7 115 is the published letter of Rocky Marshall in the  
8 `Advertiser'. The letter which was actually sent to the  
9 editor is indeed this document that the witness is now  
10 looking at.

11 XN

12 Q. Looking at the letter of 20 June produced, is that so.

13 A. Yes. This is a letter notifying the editor of the  
14 paper, sent to me, which I - well, no, it wasn't sent to  
15 me, but sent to the paper wishing to make the public  
16 apology.

17 Q. That was then later published on 23 June.

18 A. That's correct.

19 DESCRIPTION OF EXHIBIT 115 NOW TO BE LETTER TO THE EDITOR  
20 FROM ROCKY MARSHALL DATED 20 JUNE 1994, AND ALSO PUBLISHED  
21 LETTER DATED 23 JUNE 1994.

22 XN

23 Q. Picking up the chronology, the next article written by  
24 yourself was a large feature article entitled `Keeping  
25 secrets' dated 11 March 1995, which is attachment 96.  
26 Is that correct.

27 A. That's correct.

28 Q. That featured, amongst other things, a photograph of  
29 Doreen Kartinyeri and an aerial photograph of the Murray  
30 Mouth.

31 A. Yes, I had that photograph since the previous episode  
32 with Rocky Marshall. It was my intention to publish  
33 that photograph with Rocky Marshall's letter. There  
34 wasn't any room, so I saved it and ran it with this  
35 article.

36 CONTINUED

## C.A. JAMES XN (MR SMITH)

- 1 MR ABBOTT: That is a copy of our exhibit, the same  
2 photograph as our exhibit, the cover photo.
- 3 COMSR: Which exhibit are you referring to?
- 4 MR SMITH: 29.
- 5 MR ABBOTT: It's the photo on the Mouth House wall.  
6 XN
- 7 Q. It's been suggested that that might be a photograph  
8 which is the same as Exhibit 29.
- 9 A. I actually took this photograph from the E & WS  
10 publication relating to the barrages and the salinity of  
11 the Lower Murray and Murray Darling Basin Commission. I  
12 don't think that is the same photograph. It's very  
13 similar, but I don't think it's the same.
- 14 Q. Did the Advertiser receive any criticism for publishing  
15 that photograph as seen in the article of 11 March 1995  
16 `Keeping secrets'.
- 17 A. No.
- 18 Q. The next event is that the Advertiser published the Jeff  
19 Easdown article, is that right.
- 20 A. That's correct.
- 21 Q. And that's on 20 May 1995, the Advertiser article was  
22 headed `Furor over bridge hoax', which is attachment  
23 no.97; is that correct.
- 24 A. That's correct.
- 25 Q. And the story dealt with, amongst other things,  
26 statements made by Bertha Gollan and Dulcie Wilson.
- 27 A. Yes, that's correct, and Mrs Dorothy Wilson.
- 28 Q. And that was actually a story that had been acknowledged  
29 to be written by Jeff Easdown.
- 30 A. Yes; a Herald Sun journalist.
- 31 Q. On the Weekend Australian of 11 and 12 March, there was  
32 featured an article headed `Black women feel shame of  
33 stolen secrets'; is that right.
- 34 A. That's correct.
- 35 Q. You read that article.
- 36 A. Yes, I read that article. That is my clipping of it.
- 37 COMSR: Is that included in the press clippings?
- 38 MR SMITH: No, it isn't.

## C.A. JAMES XN (MR SMITH)

- 1 COMSR: Because that is not an Advertiser  
2 article.
- 3 MR SMITH: No, it isn't an Advertiser article, it  
4 is the one which isn't.
- 5 Q. That is a copy of that article produced which also  
6 includes any article 'Black secrets leak broke 40,000  
7 year tradition'.  
8 A. Yes, that's correct.
- 9 EXHIBIT 125 Article from Australian entitled 'Black  
10 secrets leak broke 40,000 year  
11 tradition' tendered by Mr Smith.  
12 Admitted.
- 13 Q. On 22 May 1995, the Advertiser received a bundle of  
14 documents faxed from the Aboriginal Legal Rights  
15 Movement, is that right. Looking at this bundle  
16 produced to you.  
17 A. Yes, that's correct.
- 18 Q. Did this long document come to your attention.  
19 A. Yes. It was forwarded to me by Carol Altmann,  
20 A-L-T-M-A-N-N.
- 21 Q. It was a press release with attachments signed by Sandra  
22 Saunders, or at least forwarded by Sandra Saunders, of  
23 the Aboriginal Legal Rights Movement.  
24 A. Yes. Would you like me to take you through it?  
25 Q. Yes, could you explain.  
26 A. The press release from the Aboriginal Legal Rights  
27 Movement was a fairly detailed response to the  
28 allegations being raised in the public arena regarding  
29 the hoax allegations of Hindmarsh Island and this  
30 business. The press release begins by expressing  
31 concern at the allegations which had been made. It was  
32 also particularly concerned about allegations made on a  
33 Channel 10 news broadcast. It was equally concerned  
34 that those allegations were wrong and defamatory and it  
35 was then wanting to attempt to set the records straight  
36 by detailing in some detail the meeting which allegedly  
37 took place on Monday, 9 May, at what is now known as the  
38 'Mouth House'. And also enclosed to support its

## C.A. JAMES XN (MR SMITH)

1 statements, some documentation which included a letter  
2 sent to Mr Robert Tickner on 20 April 1994 by Mr Tim  
3 Wooley, the cover page of the Professor Cheryl Saunders'  
4 report which was provided to the Federal Minister under  
5 s.10, a page from that report detailing the significance  
6 of the area as a whole, and some detail which is a part  
7 of the Cheryl Saunders' report which details the belief  
8 that Ngarrindjeri women have regard in the Murray area  
9 mouth and that the tradition is not mythological but  
10 spiritual. Also a detailed bibliography of reports and  
11 material received by Professor Cheryl Saunders and the  
12 press release itself, Mrs Saunders' statement; that is,  
13 Sandra Saunders refers in some detail to the meeting and  
14 basically the correspondence which occurred with the  
15 Federal Minister, Mr Tickner, and the Channel 10 news  
16 item and it concludes by saying that its solicitors have  
17 been instructed in relation to possible defamation  
18 proceedings.

19 Q. That bundle under the fax header there was, in its  
20 entirety, forwarded to you.

21 A. That's correct.

22 Q. I think there was a press clipping attached to the back.

23 A. No. Someone has added that press clipping  
24 inadvertently. That wasn't with it.

25 Q. So that it is clear, from the fax header sheet in the  
26 fax to you there are 12 pages.

27 A. Yes. And if you look at the top left-hand of that fax  
28 imprint and you compare the date and the time to the  
29 right-hand side of the earlier exhibit which I provided,  
30 the letter between Mr McLaughlin and Doreen Kartinyeri,  
31 you will find that the typeface is identical, and that  
32 is how I identified the print of the ALRM.

33 Q. You are there referring to Exhibit 123.

34 A. I am.

35 Q. Although, the document does set out, the Aboriginal  
36 Legal Rights Movement makes it clear that their letter  
37 to The Honourable Robert Tickner MP of 20 April 1994 is,  
38 although headed 'confidential', is considered by them to

1 be in the public arena.

2 A. The assumption that you have to make from a journalistic  
3 perspective is that certain material is sent to news  
4 rooms for publication to the broader population and that  
5 was the purpose of sending it to us.

6 Q. I direct your attention to the assertion in the fax  
7 itself that the ALRM considers that letter -

8 A. That fax says that. 'Please note that the letter of 20  
9 April 1994 marked "confidential" is now in the public  
10 domain and is a publicly available document'.

11 EXHIBIT 126 Faxed documents from ALRM of 22 May 1995  
12 being 12 pages tendered by Mr Smith.  
13 Admitted.

14 MR MEYER: Whilst that is being admitted, I would  
15 like you to know that in face of the arguments we have  
16 had about the Federal Court documents and what is and  
17 isn't public, in the arguments in relation to the  
18 Saunders' report and other associated matters put in  
19 this Commission by counsel appearing for the ALRM, that  
20 is quite inconsistent with the position they have taken.  
21 On the front page - has your Honour got the exhibit in  
22 front you? If you turn to p.10 of the fax, if you are  
23 to look at the fax in the front. P.10 is the front  
24 page of the Saunders' report. P.11 is a selected  
25 extract from the Saunders' report. P.12 is a selected  
26 extract from the Saunders' report. P.7 is a document  
27 which is brought from what is called the s.13 documents  
28 which were before the Federal Court. And to those of us  
29 familiar with the Federal Court documents, these are  
30 incidentally recognisable as such by the black thick  
31 page numbering which is written on the corner of each  
32 document. I would like you to note that you have had  
33 arguments put before you saying that none of these  
34 documents are public and that they are not in the public  
35 domain, and yet the very person who puts those arguments  
36 to you is acting for the Aboriginal Legal Rights  
37 Movement who have, in fact, themselves forwarded those  
38 matters to the press; not only forwarded them to the

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1 press, but forwarded them specifically with the note  
2 that Mr James has just referred to which is at p.6,  
3 which I think is somewhat unfortunate on the part of the  
4 ALRM.

5 COMSR: You see that what I'm not familiar with,  
6 Mr Meyer, is that although the letter may have been sent  
7 and it may be described as being in the public domain,  
8 whether it was dealt with on any other basis in the  
9 Federal Court proceedings -

10 MR MEYER: What I refer to - and I'm not  
11 criticising Miss Layton, who may well never have known  
12 of the existence of this letter.

13 COMSR: You are drawing my attention to the  
14 inconsistency?

15 MR MEYER: Yes, and her complaint.

16 MR ABBOTT: She must have known, she was counsel.

17 MR MEYER: Sometimes counsel do not know. I have  
18 been in the unhappy position of not being told  
19 everything by my clients. The ALRM obviously knew and  
20 the ALRM have instructed Miss Layton to come here and  
21 put an argument that something isn't in the public  
22 domain, when now we know from the very document of their  
23 own that it has been published in the most public  
24 possible place. I mean, you cannot make something more  
25 public than by giving it to a journalist.

26 COMSR: As I say, that answers that, yes, as far  
27 as the particular journalist is concerned, it's a matter  
28 which he can freely publish. It doesn't answer my  
29 question or my reservation of whether or not it was  
30 dealt with on some other basis in the Federal Court  
31 proceedings, which proceedings, of course, I am bound  
32 not to prejudice in any way under the terms of the  
33 Commission.

34 MR MEYER: I absolutely accept that. I make the  
35 point of the inconsistency.

36 MR KENNY: Can I comment on those? I mean, it's  
37 quite clear -

38 COMSR: While we are in the commenting mood.



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- 1 MR KENNY: It is quite clear that there is a  
2 distinction here. This is a letter that is written by  
3 the ALRM and has been sent by them, so it's actually a  
4 document they, in a sense, reason - it is not a document  
5 they obtained in breach of any order of the Federal  
6 Court.
- 7 MR SMITH: Is Mr Kenny acting for the ALRM now?
- 8 MR ABBOTT: He is. That is why he is here. Of  
9 course, he is acting for the ALRM.
- 10 MR KENNY: As you know, I act for five Aboriginal  
11 men. I do not take instructions from the ALRM and I  
12 have no instructions to act for them. But, in the  
13 absence, it might be a good question of -
- 14 MR ABBOTT: Are they paying your bill?
- 15 MR KENNY: If they were paying my bill as they are  
16 paying his, I would be quite happy.
- 17 MR ABBOTT: No-one is paying my bills.
- 18 MR KENNY: I might add that no-one is paying my  
19 bill, and I have no expectation or belief that I would  
20 be paid by the ALRM at all, and so I want to make that  
21 quite clear.
- 22 I would suggest that there is a distinction on those  
23 documents. The other thing I wish to raise is the  
24 question that Mr Tilmouth raised earlier and that is  
25 that there is a distinction to be drawn between the  
26 Aboriginal people releasing their own information in the  
27 manner which they choose to do so and a third party  
28 releasing that information without that authority.  
29 Presumably, that has been released with their authority.  
30 So, I suggest that there is nothing unusual about these  
31 documents being released.
- 32 COMSR: I don't think it was suggested that it  
33 was unusual that it was released. I think Mr Meyer was  
34 saying that it was inconsistent with the argument that  
35 was later addressed to me.
- 36 MR ABBOTT: Exactly.
- 37 COMSR: No point has been taken, as I understand  
38 it, and that there is no criticism of ALRM for releasing

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1 its documents.

2 MR MEYER: I don't criticise that for the moment.

3 I stand in the position of saying its public and I don't  
4 have a difficulty with that. The difference is the  
5 point that I raise was that it was inconsistent with  
6 coming along here and saying it.

7 MR ABBOTT: I would like to offer a comment. My  
8 friend, Mr Kenny seems to be confusing two situations.  
9 The first is the right of any individual to release what  
10 information which is confidential and deploy it in  
11 public. Everyone there has a right. The law respects  
12 confidences and the High Court has said so. The  
13 respecting of confidences is what you were concerned  
14 about in relation to the Rocky Marshall letter, that  
15 that had nothing to do with s.35, yet Mr Kenny's  
16 argument or comment this morning blurred the boundaries  
17 between the two. The content of this material,  
18 obviously in the eyes of ALRM, has got nothing to do  
19 with s.35 Aboriginal tradition, et cetera, et cetera,  
20 otherwise they would have said so. What they decided to  
21 do, as is apparent from the document Mr James's read  
22 out, has been to release Aboriginal confidential  
23 information into the public arena. That is a right  
24 which, and a decision that I can respect and agree with.  
25 But, you know, to say that that somehow implies a s.35  
26 overtone - and that was the thrust of what Mr Kenny was  
27 getting towards - then I reject that utterly.

28 COMSR: No-one else wishes to make further  
29 comment on?

30 MR SMITH: I'm reluctant to.

31 Q. On 24 May, and we are just dealing with getting some  
32 other, an article appeared in the Australian written by  
33 John Kerin concerning Sue Lawrie's involvement; that is  
34 right, isn't it.

35 A. That's correct.

36 Q. And that's been included in your book of publications,  
37 attachment 98, to complete the picture of what  
38 information was being disseminated into the public

- 1 concerning this topic; is that right.
- 2 A. That's correct.
- 3 Q. You had no involvement with - I think there were, in  
4 fact, were there, two stories there or only one - no.
- 5 A. The article was a p.1 story which appeared in the  
6 Australian.
- 7 Q. You had nothing to do with those, but you did take that  
8 on board, if you like.
- 9 A. I did. I had nothing to do with Sue Lawrie either.
- 10 Q. We are coming to your article which is the focus of some  
11 attention, 'The great lie, Hindmarsh Island'.
- 12 A. Yes.
- 13 Q. That's an article which was published in the Advertiser  
14 and penned by yourself on 7 June 1995.
- 15 A. That's correct. It was penned the day previously.
- 16 CONTINUED

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- 1 Q. I think you didn't compose the headline in that, did  
2 you.
- 3 A. No, I didn't.
- 4 Q. But, in any event, as a prelude to that article, you  
5 interviewed Sarah Milera on 6 June, is that correct.
- 6 A. I did, by telephone.
- 7 Q. That was a relatively lengthy interview on the  
8 telephone.
- 9 A. It was. It would have lasted for at least an hour.
- 10 Q. You kept shorthand notes of that.
- 11 A. I did.
- 12 Q. Just to put this in context, I think on 6 June Channel  
13 10 had run the Chris Kenny video, if you like, news item  
14 with the Doug Milera admissions, if I can call them  
15 that, is that right.
- 16 A. Yes, that was broadcast about 5 p.m. I was actually  
17 talking to Mrs Milera on the phone as that went to air.  
18 I began talking to her about half past 4 that afternoon.  
19 We finished at about half past 5, so I don't think she  
20 would have had a chance to see it.
- 21 Q. Can I take you then to this conversation and you can  
22 refer to your files and notes about that. You contacted  
23 Sarah Milera at about 4.30 on 6 June, is that correct.
- 24 A. No, she rang me.
- 25 Q. How do you know she rang you, is that a memory, or -
- 26 A. No, what had happened is, I tried to find her during the  
27 day. She telephoned me in response to calls that I had  
28 made through my normal contact to Sarah. In my contact  
29 book, I have at least ten different numbers for Sarah  
30 Milera.
- 31 Q. Tell us what was said between the two of you.
- 32 A. I told her that - basically an intermediary who I had  
33 asked to try and locate Sarah Milera for me telephoned  
34 me to say 'I have found her. She is here with me now',  
35 and Sarah Milera came to the phone. I told her that I  
36 had heard that Doug Milera was going to be on television  
37 that night and I wanted to know what was happening. I  
38 apologised for not contacting her earlier, but I said I

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1 was trying to stay out of the fabrication allegation  
2 coverage, because I didn't agree with how it was being  
3 handled by several local media outlets and also the  
4 national media or even the key protagonists themselves.  
5 Mrs Milera told me that I know or I knew the real truth.  
6 And I asked her what she meant by the `real' truth and  
7 she replied that `We have been persecuted because of  
8 it.' Mrs Milera reminded me of a discussion that we had  
9 had on the Goolwa wharf, which I have referred to  
10 earlier in my evidence, which was a very lengthy  
11 discussion. And that was all about the rifts which  
12 were appearing within the Aboriginal community,  
13 particularly among the Ngarrindjeri people, over the  
14 Hindmarsh Island issue. Her concern that Mr Chirpy  
15 Campbell was stirring things up and the tension and  
16 pressure which she had subsequently encountered as a  
17 result of her involvement in the issue. She told me  
18 that, she told me in - her words that I have noted were  
19 `I told you on the wharf that no good was going to come  
20 of this.' That was a statement that Mrs Milera made to  
21 me on the wharf at Goolwa. She kept saying while we  
22 were at Goolwa `No good is going to come of it, because  
23 they put it on paper. No good is going to come of it.'  
24 I then had a discussion with her about her concerns,  
25 which turned into a formal interview, because I told her  
26 it was time, once and for all, that, if there was the  
27 truth to come out, so to speak, that it was time for  
28 the truth to be told. It was obvious that I had been  
29 monitoring the fabrication allegations very closely. I  
30 was aware of Mr McLachlan's concerns in Federal  
31 Parliament last year. I had Hansard of his speech. I  
32 was aware of Dorothy Wilson and her concerns, which had  
33 obviously been, by now, fairly well broadcast and aired  
34 on television by Channel 10 and also by other papers.  
35 And I asked Mrs Milera essentially what was happening.  
36 Why these people were saying what they are saying. What  
37 is going on? You know, is there any truth to what they  
38 are saying? She basically told me that - and I made

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1 notes of these following statements which subsequently  
2 resulted in the article which appeared. Throughout this  
3 discussion I put to Mrs Milera directly questions about  
4 the veracity of the women's business. The people  
5 involved in - who had been profiled fairly highly about  
6 the women's business and whether or not there had been  
7 any fabrication whatsoever. Mrs Milera's position from  
8 April 1994 until this point had never really altered.  
9 She had always told me that there were genuine sites of  
10 significance to Aboriginal people at Hindmarsh Island,  
11 at Goolwa and at the Murray River Mouth, so to speak.  
12 This position has not altered until this day. However,  
13 what became quite clear to me in the discussion which I  
14 had with Mrs Milera was that these women from Adelaide  
15 - and that's how she referred to them - had come down  
16 and taken over and exaggerated the actual full nature of  
17 those claims. I then made notes from there. She said  
18 that 'I've got a superior knowledge of the law. The  
19 environment argument got forgotten and pushed aside.  
20 They, the other Aboriginal protestors against the  
21 bridge, didn't even care about it. If the court doesn't  
22 pick this up, I will say the truth, because the  
23 Ngarrindjeri law is being ignored.' To understand Mrs  
24 Milera's perspective, one has to understand that she has  
25 always told me that she has Aboriginal 'law'. Now,  
26 whether that is L-A-W or L-O-R-E, I have never really  
27 been able to ascertain. I have always assumed it was  
28 L-A-W and that this is paramount to her. And she has  
29 always emphasised this in every discussion I have ever  
30 had with her and I have many discussions with Mrs  
31 Milera over 18 months. Many which I haven't recorded  
32 or made notes of, but I have had many. She said to me  
33 that 'If the court doesn't pick it up, I will say the  
34 truth, because the Ngarrindjeri law is being ignored.  
35 The real truth of what it is about is in the law and I  
36 am the only one who knows. When Dodo', Doreen  
37 Kartinyeri, as I said yesterday, 'came in, she didn't  
38 know anything about it. Dodo didn't know my family

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1 history and it's from the law. I said there is going to  
2 be a terrible time out of all of this. It's all a kind  
3 of weakness.' She then told me that she was very  
4 concerned about the whereabouts of her husband, Mr Doug  
5 Milera, and that -

6 Q. Can I interrupt you there. When she said, you said,  
7 'There is going to be a terrible time out of all of  
8 this', did you -

9 A. No, she said that.

10 Q. So, she is speaking all through this.

11 A. Yes, and what I am going to try and do is just  
12 introduce, as I go, the general tenor of the  
13 conversation which ensued, to put it into perspective  
14 for you, because it will be a bit hard to follow. So,  
15 you will have to -

16 Q. I will just let you go.

17 A. I will have to try. It was a fairly lengthy discussion  
18 and it was a fairly emotional discussion at points. She  
19 said that 'Doug just disappeared.' Then she said 'I'm  
20 still from the law.' And, when she says 'I'm still from  
21 the law', she says it very emphatically and very firmly.  
22 And very strongly, if that can summarise her position.  
23 She said to me 'There is no honesty any more from the  
24 law.' I asked Mrs Milera where the fertility claim had  
25 come from and what was inside the two sealed envelopes  
26 given to Mr Tickner, because this is a matter which I  
27 pursued with her numerous times, not whether - I didn't  
28 want to know what was in the envelopes, so to speak, or  
29 what the women's business was, but where it had come  
30 from, in light of the allegations first raised in  
31 November last year, in the paper, after Mr McLachlan's  
32 speech that there may be some question about its  
33 veracity. And she told me 'They got it from a book.'  
34 Mrs Milera repeatedly stressed that she was working  
35 towards reconciliation. This is a theme that she has  
36 always had in every discussion I have ever had with her  
37 that why she got involved and what the whole issue was  
38 about was reconciliation and she did not want all her

1 work that she had done to be destroyed. `I am going for  
2 reconciliation from all of this. When is Tickner going  
3 to listen? I said it was going to be wrong, because it  
4 was put down on paper. My Ngarrindjeri is working  
5 without the law and they are damaging themselves. I  
6 have felt the most disillusioned. I stand by my truth  
7 and that is the truth. It will stand up in court. It  
8 is not women's business, it is the truth.' I again  
9 asked Mrs Milera what the truth was and she said `I  
10 know, because I have got the evidence.' I asked, well,  
11 what had gone wrong? Why had it started out as what  
12 appeared to be a genuine claim based on sites which had  
13 been identified by a State Government archaeologist  
14 which had then been put into a formal report to a  
15 Minister. There was no dispute about the existence of  
16 those archaeological sites. What had gone wrong from  
17 that point, where the s.23 authorisation was granted by  
18 Michael Armitage? Why had we suddenly got to the point,  
19 18 months later, or 12 months later, of Aboriginal  
20 people being divided, squabbling, disputing the veracity  
21 of the beliefs? And she told me `If they', which was a  
22 reference to the other women, `had followed what I told  
23 them, they would never have got into trouble.' I asked  
24 Mrs Milera exactly what the other women had told Mr  
25 Tickner, because my experience had always been that only  
26 four of the thirty-five women that had met with  
27 Professor Cheryl Saunders actually knew the women's  
28 business the day before they met with Professor Saunders  
29 and I asked her exactly what the women told Professor  
30 Saunders who then conveyed it to Mr Tickner and she told  
31 me that `I don't know what they have got.' And that was  
32 a reference, not only to Doreen Kartinyeri, but also to  
33 the anthropologist who was engaged by the Aboriginal  
34 Legal Rights Movement, Dr Deane Fergie, who prepared a  
35 report, which I have never seen. She said `I got the  
36 feeling that they didn't want anyone else to know.' I  
37 asked Mrs Milera why weren't more women told and why  
38 were only thirty-five people actually at this meeting at



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1 - which took place at a convention centre called  
2 Graham's Castle. This was a reference to Mr Campbell's  
3 petition, which indicated that there seemed to be more  
4 than 100 Ngarrindjeri people who were willing to put  
5 their names to a petition saying that they weren't  
6 consulted. And the size of the Ngarrindjeri community  
7 appeared to me to be much larger than what had been  
8 represented, up until this point. And she told me - I  
9 also asked her why were the dissident - so-called  
10 dissident women now speaking out and she said to me  
11 that 'They', the dissident women who should have been  
12 consulted, but weren't, 'are Ngarrindjeri Elders who  
13 were not given a thought for anything.' And she  
14 conveyed to me that they hadn't been considered. It  
15 wasn't even thought of to consult them. It was almost  
16 like leave them out quite deliberately. And she told me  
17 that 'If I was someone who had studied the genealogy',  
18 and this was a reference to Mrs Kartinyeri, who is an  
19 expert in genealogy based in the South Australian  
20 Museum, apparently, and that she said, well, if I had  
21 studied - 'If I was someone who studied genealogy, such  
22 as Mrs Kartinyeri, they would have been involved.' And  
23 that was a reference to the dissident women, because she  
24 was saying to me, well, if Mrs Kartinyeri is the expert  
25 which she purports to be about everyone's genealogy,  
26 then the various women who have now emerged publicly  
27 would have been been involved from the outset and senior  
28 representatives of the Ngarrindjeri people. She again  
29 restated that I personally knew that the issue was going  
30 to turn sour. She again said to me that 'You knew no  
31 good would come out of it.' And I agreed that I  
32 basically felt this way in light of what had happened  
33 from the time they tried to stop the bridge. She also  
34 then repeated that she had evidence to support what she  
35 was saying. She told me that 'I still can't know the  
36 way it was going and the way it is going.' She conveyed  
37 to me that she was quite confused and quite hurt and  
38 felt quite betrayed about what was going on. There had

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1 always been, in my discussions with Mrs Milera, the  
2 impression conveyed to me that there was a bit of  
3 jealousy and a bit of a power struggle over exactly who  
4 was going to do the talking and who was going to be the  
5 spokesperson and who was going to be put up at the front  
6 of the proponents of the women's business which  
7 eventually found its way to Mr Tickner. She told me  
8 that -

9 COMSR

10 Q. Was she specific about who the people were.

11 A. Yes, she told me that Dodo pushed her aside. That  
12 Dodo treated her as stupid. Dodo told her that, you  
13 know, she had nothing to do with it any more. It was  
14 basically, from her perception, a power struggle  
15 between her and Mrs Kartinyeri. That she started it.  
16 She was the first one on the ground at Goolwa. Her  
17 and her husband had been there since October 1993  
18 protesting. No-one else had come and offered any  
19 support from the Aboriginal community. No-one had  
20 really ever shown any interest from within the  
21 Aboriginal community. They were effectively on their  
22 own down there. That they found these sites as a  
23 result of the work that they did with Dr Draper. They  
24 put a report into the Minister. They had a promise from  
25 the Minister that he would help stop the bridge and  
26 then, all of a sudden, he went ahead and said he would  
27 actually build the bridge. And these people from  
28 Adelaide, women from Adelaide came in and took over.  
29 And she has often used the words to me that `The women  
30 from Adelaide took over.' She also said to me that she  
31 was still working very hard towards reconciliation and  
32 she told me that she had been made homeless, because of  
33 her principles. That she had been pushed out basically  
34 from wherever she was staying. That, because she was  
35 standing firm, in light of the pressure which was being  
36 brought to bear by other players in this saga, that she  
37 had been made homeless and been left with nothing and  
38 had been dispossessed.

1 XN

2 Q. Interrupting you there: did she mean that literally,  
3 that she had nowhere to live.

4 A. Yes, she did.

5 Q. So, having lived in the Mouth House for sometime -

6 A. When I first met Mrs Milera 18 months prior to this,  
7 on 29 April, she was staying in that shack at  
8 Hindmarsh Island. It was almost my understanding  
9 that Mrs Anne Lucas was providing that property to  
10 her and her husband as a place to stay while the  
11 survey was being completed. They then decided to  
12 stay in Goolwa, because they liked it there. They  
13 felt welcome there. And this whole experience had  
14 given Mrs Milera particularly and also her husband  
15 new friends, new companions. They were very popular  
16 within The Friends of Goolwa and Kumarangk movement  
17 within that side of the residential sort of base  
18 that was a large part of that particular protest  
19 group. And they felt at home at Goolwa and they  
20 liked it there after spending quite a lot of time  
21 in Murray Bridge. But, when I rang her, at this  
22 stage, she was actually visiting the friend of the  
23 wife of one of the ferrymen who Mrs Milera had always  
24 been quite strongly adamant that she was going to try  
25 and help save the jobs of the ferrymen, because they  
26 were threatened obviously if the bridge was built,  
27 there wouldn't be a ferry any more. She said that  
28 'I am teaching my Ngarrindjeri culture.' And then  
29 I said, well, how come your culture has created this  
30 awful situation that you find yourself in now where  
31 you have two opposing groups of Aboriginal people  
32 fighting effectively amongst themselves and then  
33 obviously quite bitterly in the media casting a  
34 lot of community scepticism upon the validity of  
35 Aboriginal beliefs? It was almost like the culture  
36 was effectively tearing itself apart. I said 'Surely  
37 that wasn't the whole purpose of the exercise with  
38 Hindmarsh Island?' Mrs Milera had always told me the

1 whole purpose of Hindmarsh Island was about  
2 reconciliation, not division and she said that she  
3 walked out of the meeting, because she was so  
4 disillusioned with what was going on.  
5 CONTINUED

1 COMSR

2 Q. Which meeting are we referring to.

3 A. She wasn't specific, but I later tried to isolate what  
4 meeting she was actually talking about, and it came back  
5 to that May 9 meeting at the Mouth House last year. I  
6 don't think it is the only meeting that she has walked  
7 out of. She also told me she walked out of meetings at  
8 the Legal Rights Movement, a meeting with the Minister,  
9 the Mouth House meeting. I don't think walk-outs were  
10 particularly uncommon because, from what I could  
11 understand and the inquiries I have made, these meetings  
12 have degenerated into verbal brawls and got quite  
13 heated. She told me that she was happy when she was on  
14 her own. That she was happier when it was just her and  
15 Doug doing it at Goolwa before all the other players  
16 came into being. Her quote here is 'I was happy as one  
17 person teaching reconciliation'. She liked it, I think,  
18 when she was the centre of things, without anybody else  
19 sort of moving in. I asked her then about Dr Neale  
20 Draper, and what Dr Draper had done while he was at  
21 Hindmarsh Island, because it seemed to me that Dr Draper  
22 played obviously quite a pivotal part in this whole  
23 thing with his reports. As I have said, Sarah and  
24 Richard Owen sent to me an extract from the second  
25 Draper report which indicated, for the first time, this  
26 cultural/spiritual sort of significance of the area, and  
27 I asked her about the Draper reports. She told me  
28 'Neale Draper report is not true if he hinges on what  
29 Dodo said'. She said 'It will be wrong'. She told me  
30 'I stand by what I said', and that was again a reference  
31 to the fact that she always believed that there were  
32 archeological sites. She told me in April last year  
33 that she had had these spiritual happenings to her while  
34 she was at the Mouth House, which I have referred to in  
35 my statement, that she had a vision of a Ngarrindjeri  
36 warrior, that she found the spear, that she found these  
37 unexpected finds of cockles. So she still firmly  
38 believed in this spiritual sort of happenings from her

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1 personal perspective, but she was always adamant about  
2 archaeology. The emphasis was never really that great  
3 about all this fertility material which has since come  
4 up. She said 'I stand by what I said', which is what I  
5 just referred to. She said 'What happened to me was  
6 that the heritage committee (men) decided to do that  
7 instead of letting things go'. This was in response to  
8 me asking her exactly what had happened about the  
9 fertility claim, because I said that you went from point  
10 A, of having archeological sites, to a point which I'd  
11 already reported quite extensively in the paper, that Mr  
12 Tickner was advised by ATSIC - ATSIC had written to  
13 Legal Rights Movement telling them that the Minister had  
14 never used this particular section to stop something on  
15 archeological grounds. The Hindmarsh Island Bridge  
16 issue, I think, from memory, was only the third or  
17 fourth time that section 10 had been used since it was  
18 brought in in 1984. The only other times were at Todd  
19 River in Alice Springs to stop a dam -

20 Q. I don't think we can go too far into -

21 A. It was a very rarely used piece of legislation, but they  
22 had gone back and said that the Minister has never done  
23 this on archeological grounds or historical cultural  
24 significance. I reminded Mrs Milera about these  
25 sequence of events, and how we had arrived at the  
26 fertility part which was extensively canvassed in the  
27 publicly available Cheryl Saunders report. She said  
28 'What happened to me was that the Heritage Committee  
29 (men) decided to do that instead of letting some things  
30 go'. I've got a note here 'Because they were heritage  
31 men'. But she reminded me again that 'I am not going to  
32 forsake reconciliation'. Then she said 'I was the only  
33 woman here and I sat with people about the problems with  
34 the bridge. Then suddenly had a whole heap of people on  
35 me and I was shut up'. I said 'Where did this fertility  
36 thing come from?' She said 'The heritage committee men  
37 didn't come up with it', the women's business, and I  
38 said 'It came from somewhere.' She said 'The people who

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1 did don't even know what Mundoo means'. Mundoo - I've  
2 had several descriptions given to me of what Mundoo  
3 means and, to this day, I've heard it means morgue and  
4 I've heard it also means little fish, so I don't know.  
5 But she said `When you are dictated by law, you don't  
6 know what to do'. I said `How did all this happen'  
7 again. I took her back. I think that anyone who has  
8 any experience with Mrs Milera will support me in a  
9 conclusion that she is very hard to follow in a  
10 conversation at points. I would describe often she  
11 talks in riddles, and you need to keep going back to her  
12 with the same theme over and over to actually get to a  
13 definitive answer. You can't just take one answer and  
14 accept it. You have got to come back and ask it a  
15 couple of times to make sure what she says is actually  
16 what she means to say. So I took her back again to  
17 where did this fertility business come from, where did  
18 all this so called women's business come from? She said  
19 `They' - and I will describe them as the alleged  
20 fabricators `sat in Adelaide and did it. They said to  
21 me "Sarah, you are an idiot". I walked in with  
22 documents and said "consider this", but they didn't want  
23 to know. I saw Tim Wooley but he didn't want to know.  
24 When our friends were facing litigation I started to  
25 become very concerned.' This is a reference back to the  
26 previous March with the Federal Court injunctions and  
27 the climate of anxiety and trauma that I described to  
28 you yesterday. She said `I was going in one direction  
29 and they' the alleged fabricators `were going in another  
30 direction. They lost the plot but I didn't.' She then  
31 moved onto this point about who got to speak to Cheryl  
32 Saunders. Anyone familiar with the Cheryl Saunders'  
33 report will know that Cheryl Saunders names Mrs Doreen  
34 Kartinyeri and Mrs Sarah Milera as her two key  
35 informants. She also points out that Mrs Kartinyeri was  
36 obviously the main informant and, while Mrs Milera was  
37 another informant, her evidence wasn't ranked as highly  
38 as that of Mrs Kartinyeri. She expressed concern to me

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1 that she had not been elected the spokesperson to speak  
2 to Professor Cheryl Saunders. Anyone else familiar with  
3 the Professor Saunders report will be aware that a  
4 meeting took place on June 19 last year at Graham's  
5 Castle where a group of 35 Aboriginal women met. They  
6 had a discussion that day about the Rocky Marshall  
7 letter. They visited Rocky Marshall. They then  
8 returned to Graham's Castle, had a further meeting.  
9 Some stayed overnight. On the following morning they  
10 were due to meet with Professor Cheryl Saunders and in  
11 that 24 hour period they had decided to elect Doreen  
12 Kartinyeri as their spokesperson. She said that they  
13 said, meaning the women, that they would have to get the  
14 best authority, and Mrs Kartinyeri obviously, with her  
15 credentials at the SA Museum, her extensive experience  
16 of publishing family histories, et cetera, was regarded  
17 by the women as someone they could put up. She said  
18 this was just selfishness and that they, the other  
19 women, live with silly ideas. She then said to me, and  
20 I still don't know what she meant to this day `How do  
21 you think I felt when I got the Legal Aid letter?' We  
22 didn't really pursue that point so I don't know what she  
23 meant. What I took it to mean - in all my discussions  
24 with Mrs Milera she has quite often told me that, you  
25 know, pressure has been put onto her, pressure has been  
26 brought to bear on her. Quite often she has referred to  
27 the source of this pressure from being within the Legal  
28 Rights Movement. She also said to me that `I have  
29 always said the books have been written wrong. I have  
30 said nothing will happen until they do it. I have the  
31 superior knowledge. She (Dodo) is not authorised.' She  
32 then told me that `They (the women in Adelaide) were  
33 searching for something'. I said `Well, if they were  
34 searching for something and they found this stuff and it  
35 is not true, then why wasn't it picked up sooner, and  
36 why have we got this situation now where we have all  
37 this division?' She told me that ATSIC, as in the  
38 Aboriginal and Torres Strait Islander Commission, should



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1 have done a better job. She then told me `There was  
2 pain in our Ngarrindjeri too' but `have still got to  
3 think who you are and look at what the truth is.' I then  
4 returned Mrs Milera back to the point that we were  
5 talking about, and that is, if a fabrication took place,  
6 where did it occur and who was responsible? She told me  
7 that, again, they went away from the original plot, and  
8 that there are sites which are important to women but  
9 they are different to what everybody has been talking  
10 about. She said `That is taking an overall view of it',  
11 because she had introduced this, there are sites, and  
12 she had previously said there weren't sites. I said  
13 `What was the original plot?' She then told me that the  
14 sites were under the water, which is the first time I'd  
15 heard that one. Until then I'd heard - without going  
16 into too much detail - the area where the Atco huts were  
17 delivered to was a sacred site, the aerial view was a  
18 sacred site, the mouth was a sacred site, a burial  
19 ground and half the bridge, and now she was introducing  
20 yet another one which was sites under the water. She  
21 said that there was powerful information from white law  
22 in relation to development. So I asked her about the  
23 fertility claim and this business which is in the  
24 Saunders report, of linking the mainland to the island,  
25 and also this business about the aerial view resembling  
26 female reproductive organs. She replied to me `That is  
27 silly' and `It's wrong'. She then said `I think the  
28 heritage men have got to be put through the griller and  
29 asked what they had to do with it and asked what they  
30 did. They forgot the original plot was to protect  
31 sites. I never said anything about women's business.  
32 We have got to do a lot of learning in this process. I  
33 have got a challenge ahead of me.' We then went back to  
34 - I know it is going over it again, but this is the  
35 tenor of the conversation that I went back to - `If we  
36 have got a situation where something isn't true, how  
37 come it has taken this long to come out? If all this  
38 stuff is in the Saunders report and it is not true, how

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1 did this occur?' And she told me 'Dodo looked at me like  
2 I was nothing'. I said 'Well, that might be the case,  
3 but why has Doug decided to go to a television station?'  
4 And she told me 'I don't know why Dougie has done what  
5 he has done'. She then told me that a Channel 10  
6 journalist, Chris Kenny, had been chasing her or  
7 approaching her for comment. She said 'When I was asked  
8 a question by Kenny I didn't want to know him'. She  
9 then said 'There are women's sites but spiritual ground  
10 is different to me because of what's under the water'.  
11 She said to me that she regarded the River Murray as a  
12 sacred area because her brother had drowned in the river  
13 and, therefore, she had a sacred attachment to the river  
14 because of her brother who was deceased. She told me  
15 that the water is for the cleansing of the environment.  
16 This is a reference to - Mrs Milera had always told me -  
17 explained to me that the River Murray was the life blood  
18 of Australia. It was very important in Aboriginal terms  
19 for aeons, obviously as a source of life, a source of  
20 water, that the water around the island was dirty, that  
21 development was putting more pressure on the water, that  
22 the island was denuded of all vegetation. That, to save  
23 the island from any further damage, the water had to be  
24 protected, and it had to be restored, and no more  
25 development should take place because the pollution  
26 which would result would harm not only the immediate  
27 environs of Hindmarsh Island, but potentially the  
28 Coorong and all the birds that nested there. That was a  
29 theme that was repeatedly explored between myself and  
30 Mrs Milera, was the ecological impact of further  
31 development in that area. I again asked Mrs Milera  
32 'Where did the women's business come from?' She said  
33 'Really straight from that article' in the 'Advertiser'.  
34 I said 'Was that the article I wrote last April?' and  
35 she said 'Yes, it was. You wouldn't believe the  
36 reaction that I got to that. People read about it'.  
37 Anyone who wants to read that article carefully, will  
38 refer - will see a paragraph where I describe the mouth

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1 of the Murray River, because I was able to deduce from  
2 my conversation with Mrs Milera, from just what she was  
3 telling me about the spirituality of the area without  
4 going into the so called nitty-gritty. She said that  
5 people have read that article and suddenly have become  
6 interested in her struggle to stop the bridge, so to  
7 speak.

8 XN

9 Q. Is that the article headed 'Countdown on bridge over  
10 tribal waters' published by you on 3 May 1994,  
11 attachment 24.

12 A. That's correct. I was obviously a bit taken aback at  
13 this because she was inferring that I played a part in  
14 creating the women's business. I said 'Surely that  
15 can't be the case?' And she said that even Dr Neale  
16 Draper didn't know anything about it, and that she had  
17 to tell Dr Draper how to do anthropology, which, in  
18 hindsight, can probably be explained by the fact that Dr  
19 Draper is actually an archaeologist, from my memory, not  
20 an anthropologist. She said 'He didn't know what he was  
21 doing'. She said 'How can one woman turn this man  
22 around?' And she wasn't referring to herself, she was  
23 referring to another woman, Doreen Kartinyeri. She said  
24 'How can one woman turn this man around?' I don't know  
25 what Draper's positions were before or after, because,  
26 as I say, his reports have never been publicly released  
27 so I haven't had the opportunity to scrutinize them. I  
28 was, however, having discussions with Dr Draper, and I  
29 basically knew where he was heading in March, April last  
30 year. She said 'You can't have one woman by myself.  
31 That is illogical.' She also said that she had been  
32 reviewing it, the whole so-called bridge saga for the  
33 last two years, and she said to me 'I was right in the  
34 beginning and stay with the sites'. Again - and the  
35 point cannot be emphasized enough - this is  
36 archeological sites she was referring to. She said  
37 'That was what I was working on'. She then said to me  
38 that when Robert Tickner got the envelopes, she was

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1 concerned about the information which she had put in,  
2 but she had been told by the other women in Adelaide she  
3 had nothing to do with the material given to Robert  
4 Tickner.  
5 CONTINUED

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1 Her quote was `When he had the envelopes, I was  
2 concerned about the information I could learn, but they  
3 said I had nothing to do with it'. She then said that  
4 `I am an individual out of all of that, and I will stay  
5 an individual'. Mrs Milera has always told me that the  
6 hatred which people have referred to as occurring, the  
7 death threats and, you know, all of this intimidation,  
8 the alleged intimidation, and the pressure and basically  
9 the nastiness that crept into the whole issue, has  
10 deeply upset her, but she has never actually been able  
11 to hate anyone. Even Mr Campbell, she said that she  
12 could not hate Mr Campbell for his agitation and that,  
13 she told me `I don't hate anyone really. I care about  
14 everybody, and our culture should come first or should  
15 be first.' That's the completion of my shorthand notes.  
16 I explained it to Mrs Milera the gravity of what she had  
17 told me and in light of Doug going on television that I  
18 would be preparing an article, and I went away and did  
19 so.

20 Q. What was her reaction to that indication that you were  
21 going to prepare an article which included what she said  
22 to you, no doubt.

23 A. See told me that she believed it was time the truth was  
24 told and it was time that it came out. She was very  
25 worried about where Doug was and what had happened. She  
26 basically said to me she believed Channel 10 had taken  
27 him away; even implied that they had abducted him from  
28 Murray Bridge and driven him to Goolwa - which my  
29 enquiries which I subsequently made over a number of  
30 days relating to that Channel 10 interview did not  
31 support that claim at all.

32 Q. Your article then, `The great lie of Hindmarsh Island'  
33 appeared next morning in the Advertiser.

34 A. That's correct.

35 Q. That included references to your conversation with Sarah  
36 Milera, as you just recounted it, together with, in  
37 parts at least, things that were said by Doug Milera on  
38 TV.

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1 A. No, not at all. I've never ever quoted Doug Milera in  
2 the Advertiser. I've never seen Doug Milera as a  
3 spokesperson. Sarah Milera has always been my contact.  
4 What appeared from Doug Milera in my article was  
5 excerpts from a letter which he purportedly had written,  
6 had definitely signed and had sent to Mr Tickner; and I  
7 think from memory the State Government here was  
8 apologising for his actions confirming that the women's  
9 business was a fabrication and attempting to redress the  
10 problems which he had apparently caused.

11 Q. Looking at Exhibit 61, produced which is the letter  
12 composed in the Appollon Motel and later faxed to the  
13 Federal Minister, looking at the second page of that  
14 exhibit, is that the letter you are referring to.

15 A. That's the letter I am referring to.

16 Q. You had a copy of that somehow, did you.

17 A. Yes, I obtained a copy of that letter.

18 Q. The article appeared the first thing the next morning.

19 There was, no doubt, some reaction to that article.

20 A. Yes.

21 Q. Can you tell us what happened in steps as far as you  
22 were concerned; what people contacted you and  
23 conversations you had.

24 A. There was obviously a great deal of reaction to that  
25 article from numerous quarters. I got in work at 8  
26 o'clock in the morning. My phone didn't stop ringing.  
27 There was a large number of women rang me to express  
28 their concern about what was on the front page of the  
29 Advertiser. They claimed it was sensationalistic  
30 reporting done at the expense of Mrs Milera. I had to  
31 try and explain to them that Mrs Milera had actually  
32 conducted an interview with me. I informed her that I  
33 intended to publish the content of that interview and  
34 that she was happy to see the truth come out. The women  
35 were ringing on a regular basis.

36 MR ABBOTT: Who? Names?

37 XN

38 Q. Who are these people.

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1 A. They were members of the public who, after a while,  
2 after about the 7th or 8th telephone call, I realised  
3 that it was largely scripted what they were telling me,  
4 or what they were saying to me.

5 Q. They didn't identify themselves.

6 A. Some did and some didn't. Some left on answering  
7 machine messages with their names, and basically it  
8 seemed to me that it was a fairly orchestrated campaign  
9 put together by someone to give me a hard time about  
10 putting what I had written in the paper.

11 Q. That happened on the morning of 7 June.

12 A. It did, and in the end I got fed up with it. I couldn't  
13 make any other phone calls or get any work done, and I  
14 confronted one of the women and said 'This sounds to be  
15 scripted to me. I've had about six other women all  
16 phone me up and say exactly the same thing as you. Are  
17 you on a roster or something?', and this woman got very  
18 uppity and hung up.

19 Q. I think just to dispose of that topic, you also received  
20 considerable mail, didn't you, about this.

21 A. Yes, I did. I received what could be politely termed as  
22 hate mail over a period of some time after this article  
23 was written by me.

24 Q. As far as on 7 June, putting those sorts of telephone  
25 calls aside and the mail aside, did you receive or did  
26 you have telephone conversations or any contact with the  
27 main players, if you like, in this drama.

28 A. Yes. It is my normal practice with something of such  
29 gravity that I will contact the people concerned once  
30 the article is published to make sure they are happy  
31 with the content of the article, its display and its  
32 presentation, and to make sure they are basically  
33 comfortable; because obviously it throws them in the  
34 limelight, they are suddenly hounded by television  
35 stations and radio networks who look for comment on it.  
36 It can be a bit overwhelming for people who haven't had  
37 experience in the media. That is my normal practice, to  
38 telephone people and to see how they are going.

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1 Q. Did you contact Sarah Milera.

2 A. Well, I tried to. My phone wouldn't stop, as I say,  
3 with these women phoning, and Mrs Milera left a message  
4 for me - which I have here - at 9.30 that morning saying  
5 she needed to speak to me urgently.

6 Q. Did you call her back.

7 A. I did, indeed, straight away.

8 Q. About what time in the morning is this.

9 A. It would have been no later than 10 a.m. in the morning.

10 Q. By that time, had other things occurred with the Mileras  
11 that you knew of, or was it the following day.

12 A. No, that's the - the following day I also - there were  
13 telephone messages to ring a Mr Alan Clarke.

14 Q. Dealing with Sarah Milera, you rang her back on the  
15 morning of 7 June and you spoke with her again on the  
16 telephone.

17 A. Yes, I did.

18 Q. Again, did you make a note of that conversation, a  
19 shorthand note.

20 A. Yes, I did.

21 Q. Could you tell us what was said.

22 A. I asked Mrs Milera about how she was and was everything  
23 okay, because I was - knowing her, I know her, I was  
24 concerned about the impact basically of being splashed  
25 across the front page of the Advertiser in such a large  
26 extent. And I also had a feeling that the headline was  
27 probably a bit extreme and liable to cause some problems  
28 for her. She told me that she wasn't good, that her -  
29 she said 'I'm facing a lot of flack'. She told me that  
30 'I've lost all my friends at Goolwa'. And I said,  
31 'Well, why? Is there something wrong with the story?'.  
32 Because while I think the headline, which I'm not  
33 responsible for, may have been a little strong, the  
34 first paragraph is pretty strong as well, but the  
35 balance of that article, I think, if people take the  
36 time to read it carefully, is a pretty accurate  
37 reflection of what Mrs Milera told me the day before,  
38 and also stresses that there were genuine sites in that



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1 area, but that some and - the word there is that some of  
2 the women's business had been `concocted'. She told me  
3 that her phone had basically been going very busy as  
4 well and that she was copping a lot of flack. And I  
5 said `Well, why? What is wrong with the story?', from  
6 her perspective. And she said `Not all of it is wrong',  
7 and I said `Well, what is wrong?', and she said `Well, I  
8 don't think they have actually read it. I think what  
9 happened is that they have looked at it and they haven't  
10 bothered to read right through to the end'. She said  
11 that it was obvious that they haven't read right through  
12 the article. She also then said that `There's some  
13 radical women coming from Melbourne to meet with my mob  
14 and I don't know if I want to be there'. She was also  
15 very upset with her husband for the comments he made to  
16 Channel 10 the night before and had completely reversed  
17 her position at that point from the day before where she  
18 wanted the truth to come out, to saying how upset she  
19 was at Doug for going on the TV. And then she told me  
20 that she said `I will never forsake my heritage at any  
21 cost'. And then she said `Nobody has admitted it,  
22 fabricating the women's business', and I said `Before,  
23 Sarah, you did yesterday', and she said to me `Look, I  
24 know Dougie was spirited away by somebody', and I said  
25 `Well, I don't really think that would happen', and she  
26 said `I'm the one who is homeless'. And then she said  
27 `They fed him grog and I want to know where Chris Kenny  
28 took him', and said it very angrily. And I said - she  
29 said `I have to go back to Goolwa. I have to go back to  
30 Goolwa'. She wanted me to find out for her where Doug  
31 was and where Chris Kenny was and what had gone on  
32 between the two of them. I indicated to her that I  
33 would make some enquiries - which I subsequently did -  
34 and I said `Okay, well, we have a situation now where  
35 Doug has been on TV, Doug's made all these statements in  
36 front of a video camera about the fabrication or the  
37 alleged fabrication. You have said things to me which  
38 are now on the front page of the paper. You actually

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1 are not saying its wrong basically, you are saying you  
2 are copping a lot of flack over it. You said yesterday  
3 you want the truth to come out. What is the truth? Go  
4 on, what is the truth? If it hasn't come out yet, what  
5 is the truth?'. She said to me that decisions were  
6 made in Adelaide with no consultations, and that there  
7 are still women's sites there which have to be  
8 protected. And I again said `Okay, well, we have  
9 established that there are sites, we have been over that  
10 before, but where did all of this fertility stuff come  
11 from?' She said `Well, that was taken too far.' And she  
12 then said this, she was really worried about the impact  
13 that it would have on, that story, on Goolwa. And as I  
14 have previously explained, reconciliation was a very big  
15 part of what she had always told me she was trying to  
16 work towards and she seemed to be worried that the  
17 advances that had been made towards reconciliation  
18 through the Hindmarsh Island Bridge issue, which had  
19 united white people, so to speak, with black people for  
20 the common cause which was stopping the bridge, could be  
21 undone. I said `Well, we wouldn't have got to this  
22 situation if everyone had told the truth, and obviously  
23 the truth hasn't been told'. She said `They were not  
24 listening right from the beginning when I said "Be  
25 careful, be careful", but nobody was listening'. And  
26 then she told me that `We had a big meeting of  
27 Ngarrindjeri down here today and there's a lot more to  
28 it, and I will be protected by my culture, but I will  
29 have to be the defensive one. I will be the criticised  
30 one'. She then said that she never supported her  
31 husband and his view because she had been abused by him  
32 for defending her heritage. This was a reference to the  
33 fact that had been made clear to me for some time that  
34 the involvement of the women in the Hindmarsh Island  
35 issue, where they became the key players, whereas up  
36 until this point such issues as sacred sites et cetera  
37 had generally been handled by men, this had caused quite  
38 considerable tension within the Ngarrindjeri community

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1 and its powerbrokers about the fact that women were  
2 taking over rather than men. And she then told me that  
3 he had left in mysterious circumstances and that 'I'm  
4 the one who is left with all this bullshit'. And she  
5 again said to me 'I want Chris Kenny to admit where he  
6 is. I want you to speak my friend in Goolwa too'. And  
7 I said 'Who? Who do you want me to ring, Sarah?'  
8 Because she had - obviously someone had given her quite  
9 a hard time that morning about what had gone on in the  
10 paper.

11 Q. She said something to you about that.

12 A. She said she was facing a lot of flack and she conveyed  
13 to me that pressure had been brought to bear as a result  
14 of what appeared in the paper. And I said 'Who do you  
15 want me to phone?', and she said 'Richard Owen' - who I  
16 had known for some time. Then, she said 'When you look  
17 at the claims, you can see what the problems are'. She  
18 said 'The problems are that each section is talking and  
19 they are not talking right because they don't know the  
20 area'. And she said to me that she had walked and  
21 crawled the area to find out what the truth is. And she  
22 said 'The truth is that skeletal remains have been taken  
23 away' - and this is a reference to numerous times that  
24 she and other people had asked me to investigate the  
25 claims that bones had been taken from the marina Goolwa,  
26 and that vicinity, in the boot of a car and taken to a  
27 Goolwa rubbish dump. I had spent considerable time  
28 investigating those allegations and I have never been  
29 able to find any factual substance. As a result, they  
30 never saw the light of day in the newspaper. But it was  
31 often raised with me by various people that that was the  
32 situation. She then said that she had total respect for  
33 Mr Tickner's decision because he stood by her heritage.  
34 She said 'Nobody has tested the Aboriginal Heritage Act  
35 before' - which my research had shown that this was  
36 probably quite the case. That the legislation came in  
37 in 1989 and Hindmarsh Island was a test case for that  
38 legislation. I asked Mrs Milera about the allegation

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1 that the claim was fabricated, and she said that the  
2 fabrication or the alleged fabrication had disgusted  
3 her. `But because it was women's business, I still had  
4 to protect it because I was embarrassed by that'. She  
5 told me her views were quite different to her husband's  
6 and that `All men have to learn that Kumarangk is a  
7 woman's place'.  
8 CONTINUED

## C.A. JAMES XN (MR SMITH)

1 `That is what is different with me and his views.' She  
2 then repeated the allegation that someone had gotten Mr  
3 Milera drunk from the minute he left Goolwa. She said  
4 `Nobody knows what happened. They have never bothered  
5 to find out. I have been ignored by everybody, but I am  
6 not a Chirpy Campbell.' Then I said to her `Well, that  
7 might be the case, but we have got a situation where we  
8 have got all these allegations. Yesterday you  
9 introduced even a new claim to me that there was  
10 material under water. And she said, well, `The real  
11 fact of what is there is that under the water there is  
12 pottery things.' And I sort of - it struck me as  
13 strange about pottery, because I had no idea how anyone  
14 would be able to see pottery underneath the water. And,  
15 to my knowledge, in all time, no-one had ever dived  
16 between Goolwa and Hindmarsh Island. She said that  
17 there were matters of paramount law and that `They have  
18 not got the right women's business.' She said that she  
19 was `the only one who learnt it from the spiritual  
20 line. It's something I told them about. I said no good  
21 was going to come out of this. They didn't want to know  
22 me then, they will not want me to know then', now.  
23 `It's still true, but it's on a different level. I  
24 still believe in women's issue after all this, but  
25 people don't have any respect for their law.' and I  
26 said `Well, again, you know, going back to this point  
27 where you have got the situation where you have got  
28 these conflicting stories, you have got allegations of  
29 pressure being brought to bear. You have got  
30 allegations of someone getting your husband drunk and,  
31 you know, all these forces at work.' And she told me  
32 that `Legal Aid', and Mrs Milera has always referred to  
33 the Aboriginal Legal Rights Movement as `Legal Aid',  
34 `have got people on side.' She said `It is like you are  
35 running against a brick wall.' She said `Nobody has  
36 really challenged me on anything. I have been silent  
37 too. Everybody rings me, but in a reconciliation way.  
38 I have worked for nothing in regards to reconciliation.

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- 1 I have really done something for my heritage. I have  
2 had a lot things to do. I knew if this was put on paper  
3 this was going to be the end of it. Then they decided  
4 to put Dodo up front. People were saying to me don't  
5 talk about the environment. I got my respect from  
6 Auntie Connie. That's from tradition handed down.  
7 These people are damning their own kind and it's a  
8 correction really for everyone. I have got a lot of  
9 healing through it.' She then told me that she would  
10 `talk to honesty. But only from here on. Our nation  
11 has to be honest and stop persecuting people. I haven't  
12 forsaken reconciliation and I have not forsaken  
13 protection of sites, because that was my original aim  
14 and I stand by that aim. I stand by reconciliation. A  
15 lot of people respected the principle of Goolwa.' And,  
16 basically, we concluded that conversation. And, at her  
17 request, I telephoned Mr Richard Owen.
- 18 Q. Was that on the same morning that you telephoned Owen.  
19 A. Yes, it was.
- 20 Q. And remind us, he is the -  
21 A. President of The Friends of Goolwa and Kumarangk.
- 22 Q. And had you had much contact with him, over the 18  
23 months or so, up until this time, hadn't you.  
24 A. A vast amount of contact, yes.
- 25 Q. And documents from him, also.  
26 A. At various times, yes.
- 27 Q. Tell us what passed between you and Mr Owen.  
28 A. Mr Owen was very angry with me. He basically conveyed  
29 to me the impression that I had betrayed him and his  
30 cause and that I had overstepped the mark by what I had  
31 put in the paper.
- 32 Q. Was that a short conversation.  
33 A. No, it started out on a fairly strong note. It  
34 continued on a fairly strong note and went for sometime.
- 35 Q. Did you note that conversation.  
36 A. I didn't note that conversation, because it turned into  
37 a debate, so to speak, between myself and Mr Owen and I  
38 was too busy debating the point with Mr Owen.

- 1 Q. But the gist of it, then, was that he conveyed strong  
2 disapproval of what you had done.
- 3 A. That's correct.
- 4 Q. Anything else that you can remember of relevance to this  
5 Inquiry.
- 6 A. I basically - Mr Owen, Mrs Bolster, Mr Thomason and I  
7 had met about six to eight weeks before this at a coffee  
8 shop behind the Adelaide Town Hall. The fabrication  
9 allegations had just become public. Mrs Bolster is, as  
10 I have said before, from the Conservation Council. She  
11 was concerned about the Development Act and changes  
12 which were going on. She wanted to meet with me.  
13 There was a bit of a debrief between myself, Owen,  
14 Thomason and Bolster and they wanted to know what I  
15 planned to do about the fabrication allegations.
- 16 Q. Mr Thomason was present too, was he.
- 17 A. Yes, he was.
- 18 Q. It was Richard Owen, Margaret Bolster.
- 19 A. And David Thomason. And I told them that I actually  
20 planned to monitor it. That I didn't want to get  
21 involved, at that point, and that I was more interested  
22 in continuing to scrutinise the process followed by the  
23 Federal Minister. That I believed that, if there was  
24 any truth to the fabrication allegations, and this had  
25 the potential to expose the taxpayers of this country to  
26 compensation claims, which I had already reported as  
27 totalling \$15 million, that anyone responsible for any  
28 fabrication or who had played any role in it would have  
29 to be brought to account and that I would be doing my  
30 utmost to make sure that happened. This was the same  
31 position I repeated to Mr Owen that morning.
- 32 Q. And their reaction to that.
- 33 A. They were disappointed with me, because they felt that,  
34 up until that point, I think they felt that I was on  
35 their side, so to speak, and suddenly I reminded them  
36 that I was a journalist and, as a journalist, I had a  
37 job to do.
- 38 Q. Then the conversation with Richard Owen, you were

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- 1 departing from that, to sort of give some background.
- 2 A. I reminded him of that conversation at the coffee shop
- 3 and that I still believed, even more so now, that, if
- 4 the allegation of a fabrication was true, and if he had
- 5 played any role in it, then I would bring him to
- 6 account.
- 7 Q. There were more conversations in the course of the
- 8 morning, were there not.
- 9 A. Yes, there was.
- 10 Q. Did you come to know, if it is correct, that Doug Milera
- 11 had spoken on the Keith Conlon Show, that morning, 7
- 12 June.
- 13 A. I didn't hear it, because, again, I was on the telephone
- 14 to all these women who were ringing me up.
- 15 Q. But you learnt about that later.
- 16 A. Yes, I did. I obtained a transcript from a media
- 17 monitoring service.
- 18 Q. You spoke to Sarah, you spoke to Richard Owe, and I
- 19 think you then had a series of telephone calls with an
- 20 Alan Clarke, is that right.
- 21 A. Yes, I did.
- 22 Q. Who is Alan Clarke.
- 23 A. The first message I received from Mr Clarke was on the
- 24 morning of the 7th of the 6th and the note which I have
- 25 here (INDICATES), which is the phone memo which was left
- 26 for me recording that call, was `re: comments made by
- 27 his mother in the paper this morning.'
- 28 Q. Is this the son of the Mileras who is an employee of
- 29 Victor Wilson.
- 30 A. It is.
- 31 Q. How many conversations did you have with Alan Clarke, in
- 32 the course of that day.
- 33 A. At least three, if not four.
- 34 Q. Do you remember the content, or have you noted some of
- 35 that, have you.
- 36 A. I noted some of them, yes. I noted my very first one.
- 37 And, from the opening discussion, it subsequently
- 38 changed a couple of times during the day.



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1 Q. Tell us what passed between the two of you.

2 A. He telephoned me to inform me that he was the son of  
3 Sarah Milera and - yes, just checking that he didn't say  
4 stepson, but he said stepson of Douglas Milera. That he  
5 was ringing me in response to the article which appeared  
6 on the front page and went on to outline to me that he  
7 wanted to support his mother. But, at the same time, it  
8 had to be made known in the public arena that there were  
9 genuine sites on Hindmarsh Island. I told him that I  
10 wasn't disputing that and that, 'If you read the article  
11 carefully, I only said "some of the women's business had  
12 been concocted".' And he told me 'Well, there are sites  
13 there for men and women.' And he tried to encourage me  
14 to investigate the allegation that his father had been  
15 drinking before conducting an interview which was  
16 broadcast on television the night before. And he also  
17 tried to explain to me how a secret in Aboriginal  
18 tradition could remain a secret and that only a couple  
19 of people may well know what the secret is and that not  
20 necessarily everyone would get it passed on to them.  
21 And my notes show that he also talked about the fact  
22 that he was a supporter of the notion of heritage on  
23 Hindmarsh Island and the vicinity. And I said 'Well,  
24 what can I put in the paper?' You know, 'Would you like  
25 to be quoted on any of this?' And, after explaining all  
26 this to him, he was quite reluctant to actually be  
27 quoted in the paper and I said 'Well, there is no point  
28 telling me all this, if I can't put it in the paper,  
29 because I am only one person.' And so he did give me a  
30 quote to put in the paper, which was 'There is women's  
31 issues and men's issues there and, whether people know  
32 about it or not is not to say that it does not exist.'

33 Q. There were two or three conversations of that sort with  
34 Alan Clarke, were there.

35 A. There were along that nature, but it seemed to go over a  
36 period of hours where he kept on ringing back wanting to  
37 change his story and to modify it to some extent.

38 Q. That evening I think Sarah Milera spoke to Murray Nichol

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1 on the radio.

2 A. Yes, I facilitated Mr Clarke to go and pick up Doug  
3 Milera from Goolwa.

4 Q. You later in the day learnt that Sarah had spoken on the  
5 radio.

6 A. I was contacted by the producer of the Murray Nichol  
7 Programme and informed that people were claiming that  
8 the story, 'The great lie of Hindmarsh Island', was a  
9 misrepresentation of what Mrs Milera had said, that she  
10 had been misquoted and taken out of context. I informed  
11 the producer of the Murray Nichol Programme that I  
12 didn't believe that was the case. He told me that a  
13 large number of women had conveyed this to him and I  
14 said 'Oh, well, it will be interesting to see what she  
15 has to say next.' I then obviously put the radio on, to  
16 listen to Mrs Milera.

17 Q. And she did do that, on the radio.

18 A. She did and she didn't. I think anyone who reads that  
19 transcript of what happened will find, as I did, because  
20 I took notes of it, that Mrs Milera, by this stage, had  
21 had obviously a fairly lengthy day where her phone would  
22 have been going and I had arranged, through Mr Clarke to  
23 go and for him to go and get Mr Milera from Goolwa. He  
24 had picked up his father and - his stepfather and gone  
25 back to Murray Bridge and unfortunately walked in the  
26 door, just as Mrs Milera was talking to Murray Nichol at  
27 - and that interview started with a - sort of quite a  
28 strong question from Mr Nichol about what was going on  
29 and what was - what had transpired. They then  
30 immediately played an excerpt from the Keith Conlon  
31 interview that morning and Mrs Milera became quite  
32 agitated after - she, like, was asked a couple of  
33 Questions. Then they played this excerpt from the  
34 interview with the husband in the morning, which upset  
35 her. And then she was then asked a couple more  
36 questions about the story and, to my knowledge, she  
37 actually never said exactly what was wrong with it.  
38 That she wouldn't have written it the way it was

1 written.

2 Q. I will interrupt you there, because we will actually  
3 have a transcript before the Commission.

4 A. So, anyway, she said these things. Then you could hear  
5 Douglas Milera arriving home towards the end of the  
6 interview and the pair of them had a fight, which - or  
7 an argument, which you could hear. And then Mr Nichol  
8 obviously saw fit to cease the interview, at that point.

9 Q. I think you had a conversation, shortly after that, with  
10 Douglas Milera himself.

11 A. Yes, I did.

12 Q. When was that, what time and on what day.

13 A. My notes show that I received a telephone message from  
14 Douglas Milera the following day at 12.53 and the  
15 message says 'Sarah's husband. Urgent. Please ring  
16 back on', a telephone number with an 085 prefix, which  
17 would be in the South Coast to Murray Bridge area.

18 Q. You made that call, did you.

19 A. I tried all afternoon to return that call. The line was  
20 constantly engaged. At about 7 p.m. that night, in  
21 light of the fact I think that was the day the Premier  
22 announced this Commission, I managed to make contact  
23 with Mr Milera.

24 Q. Did you take again shorthand notes of that conversation.

25 A. I did.

26 Q. Again, who rang on that occasion. He had rung you  
27 earlier. You were trying throughout the day.

28 A. Yes.

29 Q. In the end, who rang whom.

30 A. He had left that message (INDICATES), for me to ring  
31 him. I tried. I had to go and see the Premier along  
32 with the other journalists to talk about the - this  
33 Commission. And then I returned and kept trying to get  
34 hold of Mr Milera and I eventually got hold of him at  
35 that number at 7 o'clock that night.

36 Q. Tell us what passed between you.

37 A. I actually, this time around, didn't say much, quite  
38 surprisingly. I just let him do the talking and took

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1 notes of what he said. He said `Thanks for what you put  
2 in the paper. It was okay. I am going to get the truth  
3 out of the issue. The undercurrent on this whole issue  
4 is spreading. They keep talking about thirty-five  
5 women, but I have had women come and speak to me about  
6 the whole issue and there is going to be hell to pay,  
7 because we are going to wipe everything, because I want  
8 to clear my conscience. I am going to turn my back on  
9 the unions and the Kumarangk people. I am going to say  
10 the truth. I slept with my wife last night and I spoke  
11 to her this morning. I was disgusted when I went there  
12 last night and she was talking to the radio saying you  
13 had got things wrong. We were meant to stick together.  
14 When I went back to the house to talk, the Chairman of  
15 the Lower Murray Nungas Committee was there. Alan was  
16 there. He is our son. Sarah loves Alan. Alan loves  
17 me. Alan could lose his job tomorrow.'  
18 CONTINUED

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1     `When I went to Murray Bridge, Victor looked at me with  
2     so much hate in his eyes. I said "Hit me and get it  
3     over with". There is a manipulation going on in this  
4     country, not just Ngarrindjeri people saying what I said  
5     was a lot of bullshit. I have it on tape what Sarah has  
6     been talking about. Don't listen to my wife because she  
7     has been used and she knows it. Sarah and I have both  
8     been manipulated into this whole debacle from the  
9     beginning. When we got to Goolwa we thought that we  
10    would be accepted and we would be right, but when we had  
11    a meeting not long ago they said "Come to Adelaide  
12    straight away. We need you to back us up". People took  
13    over the reins from Sarah. She was a custodian of  
14    Goolwa. When she got to big meetings she was not  
15    allowed to say a word. Reins were taken over by  
16    bastards in Adelaide who were talking crap. Dodo was  
17    the instigator. Dodo was saying who could talk in  
18    public and who couldn't. I asked Sarah what was going  
19    on, but we walked out of it. We were being recognised  
20    by the country as the spokespeople. We were the ones  
21    who started it off. We were the ones who started  
22    talking about all this shit that has been going on. We  
23    were the ones who were talking about heritage with Neale  
24    Draper. We did survey of the island with Neale Draper.  
25    We knew fuck all of the island before we went down  
26    there. Victor told me to look at a map. He said "Look  
27    at the map of Hindmarsh Island". He said "Look at the  
28    lines". He said "You know what the mouth is?" He said  
29    "This was the birth place of the Ngarrindjeri nation".  
30    He said we would get women to support it and get  
31    everybody to know about it. I asked him where he had  
32    got it from. He said he wouldn't tell me. That is  
33    where I got it from. People in Adelaide told Sarah she  
34    would be a custodian. All these Ngarrindjeri women in  
35    Adelaide told her she was living in a fantasy world. I  
36    was told today and yesterday that my wife hasn't got any  
37    fucking brains to understand things. All I was trying  
38    to do was stick up by me and Sarah. They wanted to

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1 bring people from north, south, east and west to do  
2 things to ban Ngarrindjeri (dissidents), ban them from  
3 the tribes, and actually kill them. When women started  
4 talking about bringing people from the north to kill  
5 people, I said to Sarah "They are asking you to do  
6 things under tribal law to people". I slept with her  
7 last night. I said "Please don't be used any more".  
8 She said she had been put under pressure by Victor  
9 Wilson. Alan works for Victor. Alan was thinking of  
10 Sarah. Sarah was thinking about Alan's security. You  
11 should have seen the look on Victor's face. Can you  
12 ring Sarah and tell her that I love her and after all of  
13 this I just want us to be together. I think Alan may  
14 support me. Sarah, Victor and me started this thing. I  
15 said if we are going to split in the middle, and we  
16 start exiling people and threatening to kill them, then  
17 put me on the top of the list because we have always  
18 been a load of shit.' Mr Milera then suggested I  
19 contact a Marge Tripp from ATSIC. He said Mrs Tripp had  
20 put her job on the line over supporting me. He also  
21 gave me the contact number in Murray Bridge for a Mrs  
22 Dorothy Wilson. He also asked me for \$20, saying he did  
23 not have a cent in his wallet. He asked me to do him a  
24 favour and send him \$20 to Karpy Road, Wellington. He  
25 had never asked me for money before, and I said I would  
26 not be able to send him any. I did not send any money.  
27 That was the conclusion of that telephone conversation  
28 with Mr Milera. I have not reported that in the public  
29 arena because the commission was announced and I thought  
30 it was up to you.  
31 ADJOURNED 12.55 P.M.

1 RESUMING 2.24 P.M.

2 COMSR: I have got a copy of a medical  
3 certificate.

4 MR SMITH: Yes, it would be a convenient moment to  
5 raise that. You will remember I foreshadowed the plan  
6 for Wednesday for you to be travelling to the Riverland  
7 to obtain evidence, in effect, in private, from Margaret  
8 Lindsay. The justification for that is really set out  
9 in the medical report, a copy of which you have, from a  
10 Dr Geoffrey Whitford, dated 28 July 1995, which sets out  
11 Mrs Lindsay's medical condition and the reasons why she  
12 couldn't be subject to giving evidence in this  
13 atmosphere here in the inquiry and cross-examination.

14 COMSR: Do you know how old Mrs Lindsay is? Is  
15 it her age as well as -

16 MR ABBOTT: She is 68. She is my client. Perhaps I  
17 can add to this. Mrs Lindsay is in advanced years, as  
18 you have heard, frail and suffers from a degree of  
19 deafness as well. She is the mother of Mrs Jenny Grace,  
20 whom you have heard from already. She is unable to  
21 travel to Adelaide.

22 I think she would be able, in certain circumstances,  
23 to travel, but it is primarily the stress which an  
24 appearance in this Royal Commission in these  
25 surroundings would subject her to, as a result of which  
26 we hold out fears for her health, particularly her  
27 heart. Our submission is that you should attend without  
28 any counsel, other than counsel assisting. We are not  
29 even seeking at this stage to be there, and take the  
30 evidence.

31 COMSR: Mrs Lindsay is prepared to give that  
32 evidence, is she?

33 MR ABBOTT: Yes. Mrs Grace will need to be there to  
34 make introductions and calm her mother down, but apart  
35 from that, it is not intended that there be any legal  
36 input into this exercise. We would urge this course  
37 upon you, and then, depending upon the result of that  
38 evidence, the position can be further reviewed. I would

1 not think there would be any need to ask her any  
2 questions, but I am invariably wrong about those  
3 matters.

4 If there is a need demonstrated thereafter, that is  
5 a problem we will then have to deal with, and you will  
6 have to weigh up your observations of Mrs Lindsay and  
7 the appropriateness of any cross-examination or  
8 examination by counsel at all. You may determine that,  
9 whilst it might be nice to hear some of the questions Mr  
10 Kenny wanted to put, in the end result, it doesn't much  
11 matter. I use Mr Kenny mainly by way of example, not to  
12 indicate necessarily that he would want to ask  
13 questions.

14 COMSR: I suppose a statement has been obtained.  
15 Is it anticipated that Mr Kenny's clients would be  
16 necessarily involved?

17 MR SMITH: I think Mr Kenny may have some input  
18 into this discussion. I had in mind you taking this  
19 view: that you take the evidence of Mrs Lindsay and  
20 thereby no cross-examination of her, and there be no  
21 attendances by any counsel for interested parties at  
22 this lady's home. You are empowered to do that.

23 The evidence is to some degree contentious, it  
24 concerns the issues before you. You would take into  
25 account the fact that this lady was not tested by  
26 cross-examination, as it were, in weighing her evidence.  
27 I think in the end it is a matter for you. I recommend  
28 that at least at this stage it be done this way. She is  
29 elderly, frail and ill, and the sooner we take her  
30 evidence the better. I think Mr Kenny, however, has  
31 something to say about this.

32 MR KENNY: I do not seek to challenge the medical  
33 report. I accept that she is a frail, elderly woman,  
34 but I urge that you do not accept this evidence. I urge  
35 perhaps that you don't accept it at all, because we will  
36 not have the opportunity of any cross-examination at  
37 all. One of the difficulties I suggest you face is that  
38 there really hasn't been a wide testing of all the



- 1 evidence here. The cross-examination that I have done  
2 has been within limited areas, and -
- 3 COMSR: Limited to the interests of your  
4 clients.
- 5 MR KENNY: That is right. I don't say it  
6 encompasses everything that every witness has said.  
7 Further, the instructions I received from my clients  
8 don't enable me to carry out a full cross-examination  
9 because there are matters that simply aren't within  
10 their knowledge and I am not in a position to do that.  
11 Nevertheless, my clients do have what I say is a  
12 major interest in the outcome of these proceedings and  
13 the evidence that is heard here. I take it you do not  
14 have a copy of this woman's statement at this stage.
- 15 COMSR: No.
- 16 MR SMITH: The commission has but you have not seen  
17 it yet.
- 18 MR KENNY: A copy has been supplied to me, I might  
19 say. It appears there that this witness gives what some  
20 may say is very important evidence concerning some of  
21 the deceased elders of the Ngarrindjeri people and  
22 contact with them, and suggests it is unlikely they may  
23 have had the traditional knowledge and information that  
24 others say they had, if I can put it in that way.
- 25 COMSR: It is the type of evidence that the  
26 so-called dissident ladies have given in one respect or  
27 another.
- 28 MR ABBOTT: It is more than that. This old lady had  
29 a particular -
- 30 COMSR: Perhaps I should know what she says as  
31 opposed to what I might hear.
- 32 MR ABBOTT: She particularly wants to talk about  
33 Auntie Rose, being one of the alleged informants of  
34 Doreen Kartinyeri.
- 35 COMSR: I can see that that would be  
36 significant.
- 37 MR ABBOTT: I can tell you that my instructing  
38 solicitor, Miss Freeman, had to travel to her home to

1 take her statement. It is not as though there is one  
2 rule applied for the commission and another rule for  
3 those who act for her. All we are asking is that you do  
4 it step by step. That you take her evidence in the way  
5 in which we have suggested, it can then be made  
6 available in conjunction with her statement, and then,  
7 if Mr Kenny has questions, let us then talk about  
8 whether his interests can be resolved. It may be they  
9 can be put in written form. There are a number of ways  
10 of dealing with this problem. The first step is the one  
11 that we urge upon you at this stage. That is all. So  
12 that you have actually got her evidence.

13 COMSR: Yes. There seems to be certain merit in  
14 view of the medical certificate. You are not urging at  
15 this stage that you should accompany me and try and  
16 cross-examine her in view of the medical certificate,  
17 but you would like the opportunity, I take it, to put -

18 MR KENNY: To be honest, I don't really wish to go  
19 up to the Riverland, but I firstly urge that you don't  
20 accept the evidence. That is essentially my submission.

21 COMSR: It appears to be relevant.

22 MR KENNY: I agree, some of the information that  
23 you have previously received is within -

24 MR ABBOTT: But this submission that you don't  
25 accept the evidence, he can't possibly have any standing  
26 to argue on her knowledge of Auntie Rose.

27 MR KENNY: The other point I might make, it would  
28 appear that Ms Pyke may have some inquiries she may wish  
29 to make in relation to this woman. Ms Pyke, you might  
30 remember, was acting for Deane Fergie and had more  
31 information -

32 COMSR: I am sure Ms Pyke will let us know if  
33 that is the situation.

34 MR KENNY: I haven't spoken to her about the  
35 matter, I might say. I am suggesting I perhaps might  
36 not be the only one who has some interest.

37 COMSR: I think the first step is to get the  
38 information. I don't know what subsequently might

1 occur, given the situation with this witness and, of  
2 course, that would all go to weight I would think.  
3 Evidence that is untested by cross-examination, you  
4 might well argue is not evidence which carries the same  
5 weight as evidence that has been tested.

6 I think it is desirable to get this witness's  
7 evidence at this stage, and not delay it unduly. The  
8 question will then arise subsequently depending on what  
9 her evidence is, what further steps might be desirable  
10 in the circumstances.

11 MR KENNY: There was a couple of points in relation  
12 to that. Secondly, if it is later decided that I may  
13 ask her some questions, it may involve us all travelling  
14 back to the Riverland to ask those questions. Secondly,  
15 there may be questions of her knowledge of Aboriginal  
16 tradition that may come up as well which could involve  
17 some difficulty with Section 35. I don't say that there  
18 will be -

19 COMSR: That wouldn't be the first time the  
20 evidence has involved some difficulty with Section 35,  
21 and I suppose that, consistent with what I have done  
22 throughout the hearing, it would probably be that I  
23 might consider it appropriate to suppress anything which  
24 looks as though it is either in conflict with Section 35  
25 or that there is some sufficient reason why it should  
26 otherwise be suppressed. That is the constant  
27 difficulty that arises with practically every witness in  
28 this matter.

29 MR MEYER: We would be surprised if you were  
30 anything but cautious.

31 COMSR: I suppose one can remedy  
32 over-cautiousness, but it is a bit difficult to remedy  
33 recklessness, on the other hand.

34 MR KENNY: In summary, my submissions are  
35 essentially the evidence shouldn't be accepted, and  
36 secondly, if it is to be accepted I would like an  
37 opportunity to cross-examine the witness.

1 COMSR: Yes. The way in which that might be  
2 done might have to be considered in the light of the  
3 witness's situation, but I would propose to take the  
4 evidence. It might well touch some of the matters that  
5 you have indicated are of concern to you, but it would  
6 appear that the witness should not be subjected to too  
7 much in the way of cross-examination.

8 MR ABBOTT: May I suggest that it would be entirely  
9 appropriate for you to ask some questions that won't  
10 impose stress on her because of the setting, but which  
11 are by way of testing her. I am not suggesting that you  
12 should be unable to ask searching questions. It may be  
13 that Mr Kenny will be satisfied - although I find it  
14 hard to expect based on his previous performance - with  
15 the questions that you have asked.

16 COMSR: I have indicated that I propose to go  
17 ahead and get the witness's evidence. It may be that  
18 the matters with which you are concerned will be dealt  
19 with, Mr Kenny. If not, then it would be appropriate  
20 for you to make submissions to me either as to the  
21 weight or as to what further steps might be taken.

22 MR KENNY: Certainly. I understand you to mean  
23 that you will take that evidence in the absence of  
24 counsel at this stage?

25 COMSR: I don't know that any other counsel  
26 suggested that they would attend. Given the nature of  
27 the medical certificate, it is not exactly an invitation  
28 to counsel to be present and cross-examine. But I  
29 understood you to say, in any event, that it is not your  
30 intention that you seek to be present.

31 MR KENNY: No, it was my statement that I didn't  
32 particularly wish to go there, but if the evidence is to  
33 be received then I do seek to cross-examine. I was just  
34 clarifying the last point.

35 COMSR: I don't know what the condition of the  
36 witness may be after she has given her evidence. It  
37 would seem to be doubtful that she could be subjected to  
38 too much in the way of cross-examination. Are you

1 suggesting that you, in any event, go to Berri and  
2 should she prove to be capable of dealing with  
3 cross-examination -  
4 MR ABBOTT: We would entirely oppose that course.  
5 We have got a medical certificate from a specialist  
6 physician, and the suggestion that somehow Mr Kenny  
7 should attend and probe, as it were, the medical  
8 condition by questions to see whether she is up to it,  
9 quite frankly, we would resist wholeheartedly.  
10 Particularly as it would be done in our absence. We are  
11 not even going to be there.  
12 CONTINUED  
13

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- 1 COMSR: I think, Mr Kenny, what I outline in the  
2 circumstances is appropriate. It's not ideal. It can't  
3 be in the circumstances. There is no ideal way of  
4 handling this situation. Doing the best I can in the  
5 circumstances, I think that it's appropriate that I take  
6 the evidence, that you have a copy of it, that you can  
7 see what it covers and at that stage you can make  
8 submissions to me as to what course you consider  
9 appropriate in the circumstances to adopt; always  
10 bearing in mind the limitations that the witness's  
11 physical condition will impose.
- 12 MR KENNY: Certainly. I just indicate in reply to  
13 what Mr Abbott says that I wasn't seeking to  
14 cross-examine her about the medical condition.
- 15 COMSR: I hadn't understood you to say so.
- 16 MR SMITH: That's the plan for tomorrow. At this  
17 stage, I would like to play a short tape of the Murray  
18 Nichol Drive Time evening programme of 7 June to Mr  
19 James. If that could be put on the radio.
- 20 AUDIO TAPE PLAYED
- 21 Q. That was the Murray Nichol programme you spoke of.  
22 A. It was.
- 23 Q. Just prior to luncheon.  
24 A. That's correct.
- 25 EXHIBIT 128 Audio tape tendered by Mr Smith.  
26 Admitted.
- 27 MR SMITH: The Commission will prepare a transcript  
28 of that and issue it to everyone, all counsel.
- 29 Q. I think there was a press conference scheduled at the  
30 offices of the ALRM on 23 June 1995; is that right.  
31 A. There was.
- 32 Q. Did you receive a notification of that in -  
33 A. No.
- 34 Q. How did you learn about it.  
35 A. I read about it in the Australian newspaper.
- 36 Q. What, prior to the event or when.  
37 A. That morning, the story appeared in the paper saying  
38 that the Ngarrindjeri women would be making a formal

1 statement that day.

2 Q. Did you go to that press conference.

3 A. No. I telephoned the Legal Rights Movement asking what  
4 time the press conference would be, and I made a diary  
5 entry as a result of that telephone call.

6 Q. Was there anything else said that is of assistance to  
7 us, other than a notification of the fact that it was  
8 on.

9 A. Well, I rang the Legal Rights Movement at quarter past  
10 ten. I was trying to obtain details of the formal  
11 statement as flagged in the Australian newspaper. I  
12 asked to speak to Sandra Saunders, the director of the  
13 Legal Rights Movement. I was told she would not be in  
14 until 11 o'clock that day. I then asked to speak to Mr  
15 Chris Charles, who I previously contacted on a similar  
16 matter, but he could not be located inside the building.  
17 I then asked for any details of the statement to be  
18 faxed to me, and Doreen Kartinyeri came to the phone.

19 Q. Yes.

20 A. She said to me that the statement would be issued after  
21 12.30 p.m. after she finished her press conference, and  
22 I asked if I could come along and she said to me, and  
23 I've noted here, 'Everything you have written and done,  
24 you have made a mockery of our religious beliefs. You  
25 have made a mockery of our spiritual beliefs and I do  
26 not have to deal with people like you', and I started to  
27 say 'I'm sorry you feel that way ...' when she hung up.

28 Q. So you didn't go to the conference.

29 A. No, I didn't. Instead, I asked for a female reporter to  
30 go to the press conference in my place.

31 Q. Did you receive a report back from that reporter.

32 A. Yes. Jane Reid went down. She said upon her return to  
33 the office that everyone had be kept hanging around for  
34 some time, when television crews assembled - there was  
35 quite a large media turnout - and without explanation  
36 Legal Rights announced that the press conference had  
37 been cancelled.

38 Q. I think you continued to write stories about this issue

1 of the Hindmarsh Island Bridge, didn't you.

2 A. Yes, I did.

3 Q. When was the next time that you spoke with Sarah Milera,  
4 if you did.

5 A. On 28 June, I received another telephone call from Mrs  
6 Milera.

7 Q. Could you tell us who sought out whom.

8 A. I have a telephone memo here received at 2 p.m. on 28  
9 June from Mrs Milera asking me to call her back on  
10 another `085' number.

11 Q. This is another number altogether again.

12 A. Yes, it is.

13 Q. Did you do that, did you.

14 A. Yes, I did. That number was actually a number which I  
15 frequently rung to locate Mrs Milera in Goolwa  
16 previously.

17 Q. Did you make shorthand notes of this conversation.

18 A. Yes, I did.

19 Q. Was it a lengthy conversation, or what.

20 A. Not terribly lengthy. There's four pages of notes.

21 Q. Tell us what was said between you.

22 A. My shorthand notes say `That is deserting for what I've  
23 done for my Ngarrindjeri nation. What was in the  
24 Advertiser was the truth. They said I was not to talk  
25 to Colin James any more. I said I didn't like that way.  
26 I was sick of hearing that sort of thing. Nobody has  
27 ever done so much as I have for my Ngarrindjeri nation.  
28 I am dispossessed and I am moving my furniture. Why am  
29 I hated for saying the right things? I can still stand  
30 by what I said about protection of sites and Ramsaar.'  
31 Ramsaar is spelt R-A-M-S-A-A-R. It is an international  
32 treaty signed in Ramsaar, Iran, to protect the breeding  
33 grounds of migratory birds. It is a Federal convention  
34 which the Federal Government has to abide by. `I think  
35 we would get a fair hearing. I was in town. If they  
36 want to talk about it, they can. That is what I talk  
37 about, reconciliation'. She then introduced the name of  
38 a Mrs Jenny Grace as someone I should talk to. She said



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1     `Why should I care when other people are talking stupid?  
2     Why should I be judged for my different principles? I  
3     am wounded'. She told me she was going to be moving to  
4     a flat next door to Channel 7 in Adelaide. She then  
5     said `I want to say don't look for me. Nobody look for  
6     me any more. Why should I be judged? They said "Don't  
7     talk to Colin James, Sarah", they said to me. Why  
8     should they do that? They did get carried away from  
9     that' - that, I think, is a response to the question  
10    about this original plot business about the  
11    archaeological sites. `I suppose people can't question  
12    these hotshots who are mouthing off and saying things  
13    like that. I didn't put Dodo up there in the spotlight.  
14    You know very well what I said here about it' - and  
15    that's again a reference to the Goolwa wharf  
16    conversations. `I know the truth about what happened.  
17    It's stressing me to bits. I have my own kind hating me  
18    and hurting me. I never want to desert anyone in this  
19    matter. I was in there for the right reasons, not for  
20    the wrong reasons. I remember when I was growing up, I  
21    lived in the same town. I am not a part of the death  
22    threats. I go into Legal Aid and they say "You are  
23    nothing, Sarah". You can't live - I can't live with  
24    hatred and prejudices. People are telling me not to  
25    talk to Colin James or Chris Kenny. When I explained  
26    that, he understood it. If they are going to separate  
27    me from the law, from my law, then they are going to  
28    face that. No Royal Commission could ring me and say to  
29    me I have to say the truth. I never hurt the people. I  
30    hurt these hotshots who sit with prejudices. I am the  
31    one who is recognised for Ngarrindjeri, but what has  
32    been done for me? Nobody could ever put it on me and  
33    say I did the wrong thing. Dodo is the only one person.  
34    When I went to her and said "You, who are the walkers?",  
35    she did not know. There's a lot more to it and I think  
36    if you talk to Jenny Grace, she is trying to bring  
37    harmony. I am trying to ask them what has been so  
38    wrong. I never did it for my own selfish reasons, I did

1 it for the whole world. Legal rights should not be  
2 involved. I want questions from my culture. What went  
3 wrong? I am sick of it'. She then told me that Mrs  
4 Kartinyeri was being paid \$500 by the Legal Rights  
5 Movement each time she came down from her home in Port  
6 Germein. 'You were only a party' - we or you - 'You  
7 were only a party to saying there is Ngarrindjeri law.  
8 There are descendants to it. You should feel  
9 comfortable to be able to walk in there' - and that is,  
10 I asked Mrs Milera, after she told me about the payment  
11 of money to Mrs Kartinyeri, why Legal Rights was acting  
12 like it was towards me and she said 'All I was a party  
13 to saying there is a Ngarrindjeri law and there are the  
14 descendants to it' and she told me 'You should feel  
15 comfortable to be able to walk there, in there', which  
16 is a reference for me to be able to go to legal rights.

17 COMSR

18 Q. Did you say there are 'descendants' or 'dissentients'.

19 A. Descendants.

20 XN

21 Q. Did you raise with her in this conversation the fact  
22 that she appeared to back-track a little or back-track  
23 to some extent anyway from what she told you as you put  
24 it in the article 'The great lie of Hindmarsh Island' on  
25 the radio.

26 A. Yes.

27 Q. With Murray Nichol.

28 A. As a result of the Murray Nichol interview, I made a  
29 very large number of enquiries about why Sarah Milera  
30 had suddenly come out on radio saying those things.  
31 Those enquiries led me to the conclusion that pressure  
32 had been brought to bear on Sarah Milera in the course  
33 of the day over the continued employment of her son Alan  
34 Clarke and that, as a result of that pressure, she  
35 decided to back-track. Two weeks later, she was now  
36 revising her position again and told me what was in the  
37 paper was the truth.

38 Q. That was the end of the conversation.

1 A. That's correct.

2 Q. I think you followed up with the lady Jenny Grace, I  
3 think.

4 A. No, Mrs Grace contacted me subsequent to that  
5 conversation.

6 Q. Was that in writing.

7 A. No, she telephoned me and introduced herself as Jenny  
8 Grace to me.

9 Q. Then, I think subsequently she sent some written  
10 material to you.

11 A. No, she didn't. Mrs Grace - what occurred was Mrs Grace  
12 telephoned me and she expressed a wish to speak to me  
13 urgently regarding this issue. In light of what  
14 happened with Mrs Milera, I was a bit gunshy and I said  
15 to her `Well, basically, in light of what happened with  
16 Sarah, I think the best course of action is for you to  
17 prepare a written statement for me so I have it in  
18 writing. You can outline your concerns to me in  
19 writing. I can then come down and discuss with you that  
20 statement'. I proposed, I said to her `Let's not do it  
21 in a rush. It doesn't need to be in a rush'. This was  
22 on a Wednesday or Thursday, and I'd arranged to come  
23 down and see her the following Wednesday because, at the  
24 conclusion of the Sarah Milera discussion, Sarah asked  
25 me to go and see her on the Tuesday, and the arrangement  
26 was to go and see Sarah with a tape recorder on the  
27 Tuesday, tape a formal statement from her and go and see  
28 Mrs Grace on the Wednesday. Mrs Milera subsequently  
29 cancelled the Tuesday appointment and I went to Goolwa  
30 as arranged on the Wednesday.

31 Q. You did subsequently receive a written statement from  
32 Mrs Grace outlining her concerns and the issues that she  
33 wished to raise with you.

34 A. Yes. I travelled by car to Goolwa on my own. The  
35 original intention was to take a photographer with me.  
36 But what I did was arrange that I go down on my own. If  
37 the interview gleaned material which I deemed fit for  
38 publication, I was to send a photographer down to get a

1 photograph of Mrs Grace. I went to Mrs Grace's home at  
2 22 Gardiner Street, Goolwa, and she produced for me  
3 several handwritten pages of notes. And I also produced  
4 the tape recorder and told her, in light of Mrs Milera's  
5 so-called public backflip, I would be taping the  
6 discussion so both of us had a fair and accurate record  
7 of what was said between us.

8 Q. Looking at these copies produced to you and dated 5  
9 July, do you recognise those as copies of the documents  
10 given to you by Mrs Grace.

11 A. Yes, I do. I actually asked Mrs Grace to sign each page  
12 and date it at the conclusion of our session together.

13 Q. There are seven separate pages.

14 A. Yes, that's correct.

15 Q. And that is your memory.

16 A. Yes.

17 MR SMITH: Could I suggest a five to ten minute  
18 break. I have to say that I haven't produced this  
19 particular statement to ensure there is not some  
20 canvassing of difficult material and could I do that  
21 perhaps before it is copied and tendered.

22 COMSR: It would be advisable.

23 MR ABBOTT: Could we have the originals?

24 ADJOURNED 3.14 P.M.

- 1 RESUMING 3.37 P.M.  
2 WITNESS C.A. JAMES, EXAMINATION BY MR SMITH CONTINUING  
3 Q. Looking at this bundle of, how many pages.  
4 A. Five.  
5 Q. Five pages, do you recognise those five pages as the  
6 document provided to you by Mrs Jenny Grace, on 5 July  
7 1995, when you went down to interview her.  
8 A. That's correct.  
9 Q. That set out her position as you wanted her to set it  
10 out in writing.  
11 A. Yes, so we had a starting point for our interview.  
12 EXHIBIT 128 Document tendered by Mr Smith.  
13 Admitted.  
14 Q. On Wednesday, 5 July, you interviewed Jenny Grace over  
15 several hours, I think.  
16 A. Yes, it was a fairly lengthy session.  
17 Q. I think, at the commencement of the interview, you  
18 produced a tape recorder and told Jenny Grace that,  
19 as a result of your difficulties with Sarah Milera,  
20 you wished to record the conversation on tape.  
21 A. That's correct.  
22 Q. You also kept shorthand notes, is that so.  
23 A. That's correct.  
24 Q. The tapes are available for listening and transcribing,  
25 are they.  
26 A. They are, but Mrs Grace I think from what I can  
27 understand requested that they not made available,  
28 but I am quite happy to transcribe my shorthand  
29 notes, but I will need at least a day.  
30 MR ABBOTT: Mrs Grace's attitude is she is happy  
31 for them to be made available to anyone involved. It  
32 was an interview that Mr James conducted, not for  
33 retailing to the public, but there is no problem with  
34 counsel.  
35 XN  
36 Q. Can you produce the two tapes then, on that basis.  
37 A. There they are, there.  
38 TWO TAPES PRODUCED BY WITNESS AS REQUESTED

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1 MFI 129 Two microtapes of interview, between  
2 Jenny Grace and Colin James, conducted  
3 at Goolwa, on 5 July 1995, marked 129  
4 for identification.

5 Q. I think you then returned to Adelaide and you wrote a  
6 story arising out of your interview with Jenny Grace, is  
7 that correct.

8 A. Yes, I returned to Adelaide late that afternoon and I  
9 arranged for a photographer, Leon Mead, to visit Mrs  
10 Grace the following day, Thursday, to take a photograph  
11 of her for use in an article which I wrote for the  
12 Insight section on the Saturday. That was accompanied  
13 by another article in the news section.

14 Q. I think you actually faxed the story to Mrs Grace, did  
15 you not.

16 A. Yes, I did. I sent a fax of the draft of the article to  
17 the Goolwa Police Station after asking the sergeant  
18 there if it was possible to use his fax machine as Mrs  
19 Grace's home is located very nearby. He was happy to  
20 receive the fax. Mrs Grace went down, picked up the  
21 fax, read the story through, made some minor changes and  
22 then approved it for publication.

23 Q. I think the two stories then that were written by you  
24 were a story headed 'Breaking the silence', on p.3 of  
25 Insight, dated 8 July 1995, is that right.

26 A. That's correct.

27 MR SMITH: Attachment 105.

28 XN

29 Q. And also published on the same day, as you have just  
30 said, was a story entitled 'River woman joins secrets  
31 rebellion', again, on 8 July in the same paper,  
32 attachment 106.

33 A. That's correct.

34 Q. I think, during the course of that long interview with  
35 Jenny Grace, on 5 July, Jenny Grace told you that Sarah  
36 Milera had been a regular visitor to her house, over the  
37 last year or so.

38 A. Yes, up to two to three times a week Mrs Milera was a

1 regular visitor to Mrs Grace's home throughout the time  
2 that she was living at Goolwa and then for throughout  
3 the time that the bridge protest and the accompanying  
4 issues were continuing.

5 Q. I think Mrs Grace indicated to you that Sarah had  
6 conveyed to her, indeed, just what Sarah had conveyed to  
7 you for your story, 'The great lie of Hindmarsh Island'.

8 A. That's correct.

9 Q. During the interview with Mrs Grace I think you also  
10 made some contact with Mrs Grace's mother, is that  
11 right.

12 A. Yes, we telephoned Mrs Margaret Lindsay and I spoke to  
13 her.

14 Q. Can you recall the conversation with Mrs Margaret  
15 Lindsay, or the gist of it.

16 A. It was a brief conversation in which I asked her to  
17 confirm that she was raised from the age of four by a  
18 woman known as Auntie Rosie, or, as she was referred to  
19 by Mrs Grace, as Granny Rosie. Mrs Lindsay confirmed  
20 that this was the case. I also asked Mrs Lindsay if  
21 ever during the time that she spent with Mrs Margaret  
22 Lindsay had she ever heard about the women's business,  
23 was she ever told the women's business and she said she  
24 had never heard of it.

25 Q. I think Mrs Grace, on that 5 July, also provided you  
26 with a written statement from another witness in this  
27 Inquiry, Mrs Phyllis Burns.

28 A. Yes, Mrs Burns was introduced to me by Mrs Grace as a  
29 middle-aged to elderly woman living in the Riverland  
30 who, after learning that I would be seeing Mrs Grace,  
31 had provided a facsimile of a written statement for me  
32 to use in The Advertiser disputing the validity of the  
33 women's business. And had also said that she would be  
34 happy to write anything further for me that I required.

35 Q. Looking at this copy document produced to you, do you  
36 recognise that as the statement given to you by Mrs  
37 Grace being the statement of Phyllis Burns.

38 A. Yes, it is. It is signed 'Phyllis Burns' and the

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- 1 handwriting below that signature is my own. I have  
2 written 'Phyllis Burns. 64 Swan Reach. Ngarrindjeri  
3 woman', then 'Auntie, probably second cousin.'  
4 EXHIBIT 130 Statement of Phyllis Burns, as handed to  
5 Mr James by Jenny Grace on 5 July,  
6 tendered by Mr Smith. Admitted.
- 7 Q. I think also whilst you were at the Grace home another  
8 telephone call was made to yet another lady, is that  
9 correct.
- 10 A. That's correct.
- 11 Q. Who was that.
- 12 A. We telephoned a Ms Rocky Koolmatrie.
- 13 Q. Did you speak with Rocky Koolmatrie.
- 14 A. I did.
- 15 Q. Tell us what was said.
- 16 A. Ms Rocky Koolmatrie told me that she was the first  
17 cousin of Sarah Milera. She questioned how Mrs Milera  
18 could know anything about the women's business as she  
19 had grown up with Mrs Milera. They were raised in  
20 the same family and she had no idea about any women's  
21 business and, therefore, she could not understand  
22 how Mrs Milera could profess to have that same  
23 knowledge.
- 24 Q. I think you made arrangements, or you asked Ms  
25 Koolmatrie to forward to you a statement, as you had  
26 required from everybody else.
- 27 A. Yes, again I made a request to Ms Koolmatrie to forward  
28 me, by fax, the following day, at her earliest  
29 convenience, a fax outlining her relationship to Mrs  
30 Sarah Milera and her concerns about Mrs Milera's bona  
31 fides.
- 32 Q. Looking at this fax produced to you, consisting of three  
33 pages, do you recognise that as the faxed statement of  
34 Ms Koolmatrie as sent to you.
- 35 A. I do.
- 36 Q. It is dated 6 July: is that the date you received it.
- 37 A. No.
- 38 Q. I will show you another copy.



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- 1 A. The confusion with this document was that the fax  
2 imprint shows 5 July, but it actually did arrive on 6  
3 July, being the date that it is signed.
- 4 EXHIBIT 131 Statement of Ms Rocky Koolmatrie,  
5 received by Colin James on 6 July 1995,  
6 tendered by Mr Smith. Admitted.
- 7 MR ABBOTT: Rocky Koolmatrie is the lady who is my  
8 client who you have already heard from.
- 9 COMSR: Yes, I appreciate that.
- 10 MR ABBOTT: And she and Sarah Milera are, as you  
11 will see from that statement, she said they are cousins.  
12 Sarah Milera was raised by Rocky Koolmatrie's mother and  
13 father after Sarah Milera's -
- 14 COMSR: Presumably the document will speak for  
15 itself.
- 16 MR ABBOTT: Yes, there is evidence that you have  
17 heard about it already.
- 18 COMSR: Yes, I have already heard.
- 19 MR SMITH: I just remind you that on 15 August you  
20 suppressed some of the material in that letter.  
21 I hand you a copy of your suppression order as made.  
22 On that day and I would suggest that it is in the  
23 evidence of Ms Koolmatrie. All you need to do is extend  
24 your suppression order as made on that day to this  
25 particular document.
- 26 COMSR: Yes, I can do that. As I say, I will  
27 probably be reviewing all of these matters in the near  
28 future. But, for the time being, this letter, it is not  
29 a copy of her statement?
- 30 MR SMITH: You only suppressed portion. I have  
31 handed you a copy of the actual order you made there.  
32 It was a little more restricted than the whole of the  
33 letter.
- 34 COMSR: I suppressed some of the evidence of  
35 Rocky Koolmatrie.
- 36 MR SMITH: Yes, one of those topics is canvassed in  
37 the letter that you suppressed from the evidence.
- 38 MR MEYER: At line 8.

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- 1 COMSR: It is the reference to the fact that she  
2 went interstate, is that it?
- 3 MR ABBOTT: No, it was a reference to the medical  
4 attention that she sought.  
5 Do you have the letter of 6 July with you?
- 6 COMSR: Yes.
- 7 MR ABBOTT: I understand that you suppressed the  
8 fourth line, the sentence beginning 'When Auntie was'.  
9 Just 'When Auntie was', and then the next four words  
10 after that.
- 11 MR MEYER: Yes.
- 12 MR ABBOTT: So, it would read 'Mum and dad took  
13 Sarah'. And, then, three lines below that, beginning  
14 'She went interstate'.
- 15 COMSR: That's right.
- 16 MR ABBOTT: It is that line and the next line.
- 17 COMSR: It is only that line, the line starting  
18 'She went interstate', ending with the words 'much to do  
19 with Aborigines', is that it?
- 20 MR ABBOTT: Out, I think.
- 21 MR MEYER: I agree with that.
- 22 COMSR: I will suppress those two lines from  
23 publication, then. That is consistent with the earlier  
24 suppression order.
- 25 MR SHORT: I won't say anything further today,  
26 except to say I understand these matters are to be  
27 reviewed in the near future.
- 28 COMSR: Yes, and, of course, the basis of that  
29 suppression order is that it has really got nothing to  
30 do with the matter that is before the Commission and it  
31 could be considered prejudicial and complicating.
- 32 MR SHORT: Rather than seeking to address it today,  
33 when these matters are reviewed, perhaps I can say more,  
34 at that time?
- 35 COMSR: Yes.
- 36 MR SHORT: I just flag it, at this stage.
- 37 COMSR: I mention the basis on which I am making  
38 the suppression order.

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1 MR SHORT: It may be easier for the media, since  
2 the rest of the document will be available, if we  
3 actually let them know - they can have the document in  
4 a moment - exactly what is suppressed.

5 MR ABBOTT: It can be blacked out.

6 MR SHORT: If counsel assisting will attend to that.

7 COMSR: Yes. It may be difficult for the media  
8 to understand, in the absence of a copy of the document  
9 before them, precisely what we are referring to, as we  
10 are tiptoeing around mentioning the contents.

11 XN

12 Q. You told us earlier that you spoke with Mrs Koolmatrie  
13 on the telephone on 5 July.

14 A. Yes. I was actually concerned about a segment of that  
15 letter that referred to her relatives as lying. I tried  
16 to reach Mrs Koolmatrie on her mobile telephone and  
17 could only reach her by an answering machine, and I left  
18 a message informing her that I considered that that  
19 remark could be potentially defamatory, and could expose  
20 both her and I to possible litigation, and I would not  
21 be republishing it, but I thanked her for the rest of  
22 the statement.

23 COMSR: Before we move on from this letter, I am  
24 just looking at the last two lines of the letter,  
25 starting with 'We are in 1995.'

26 MR SMITH: The last two lines?

27 MR ABBOTT: After the words 'Big thing out of this.'

28 MR MEYER: That's a comment rather than actually  
29 something that is offensive. I wouldn't support that.  
30 That is a flippant throw-away line that I don't think  
31 anybody can take offence about, whoever it was said  
32 about. That is just a general comment.

33 MR SMITH: With respect, I do not think you need  
34 clutter up your order. I think you would be looking to  
35 review that, if you made that order.

36 XN

37 Q. On 10 July you were contacted at home, were you not.

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- 1 A. Yes, I was. I received a telephone call at my private  
2 address at about 6.45 that night.
- 3 Q. Who was that from.
- 4 A. It was actually from Mr Chris Kenny.
- 5 Q. You spoke with Chris Kenny, did you.
- 6 A. Yes. It was quite a surprise to be contacted by Mr  
7 Kenny.
- 8 Q. What passed between the two of you.
- 9 A. Mr Kenny informed me that he had been contacted by Sarah  
10 Milera, and that Sarah was trying to locate me because  
11 she needed to see me.
- 12 Q. Were you provided with an address.
- 13 A. I already had the address, and I confirmed that that was  
14 the same address.
- 15 Q. Did you go that evening to that address.
- 16 A. Yes, I did. I had my meal, I found a tape recorder, a  
17 mobile phone and went to the address.
- 18 Q. That was the address near Channel 7.
- 19 A. Yes, it was flat 18, 40 Park Terrace, Gilberton.
- 20 Q. When you arrived there can you tell us what time that  
21 was.
- 22 A. It probably would have been about 7.15 to 7.30.
- 23 Q. Who was present when you arrived.
- 24 A. I knocked on the door, a young Aboriginal teenager came  
25 to the door, I asked if Sarah was there. Sarah came to  
26 the door and she led me into a lounge room. Inside,  
27 seated in the lounge room, was a person who I recognised  
28 obviously as Mrs Jenny Grace, and also a woman who was  
29 introduced to me as Mrs Dorothy Wilson.
- 30 Q. Was that the first time you'd met Dorothy Wilson.
- 31 A. It was.
- 32 MR ABBOTT: That is my client, Dorothy Wilson.  
33 XN
- 34 Q. I think you produced a tape recorder, a mobile  
35 telephone, a notebook and a pen.
- 36 A. Yes, I did.
- 37 Q. I think that caused some -
- 38 A. Yes, there was a joke that I was very loaded up.

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- 1 Q. Did you have a discussion with those present as to why  
2 you had a tape recorder and obviously intended to record  
3 the conversation.
- 4 A. Yes. I explained to Mrs Milera she had got me into  
5 considerable trouble over the so-called retraction on  
6 the ABC with Murray Nicholl, and that, as a result, I  
7 would have to tape-record the conversation.
- 8 Q. I take it there was no opposition to that.
- 9 A. There wasn't.
- 10 Q. So you turned the tape recorder on, did you.
- 11 A. We talked for a while before I commenced taping, yes.
- 12 Q. So was this around the table with the tape recorder  
13 positioned in the middle of the table.
- 14 A. No. Mrs Milera was on the other side of the lounge  
15 room, Mrs Jenny Grace was to my left, Mrs Dorothy Wilson  
16 was on the other side of the table at which I was  
17 seated, the tape recorder was placed on the table. Mrs  
18 Milera would have been a good 10 feet away from the tape  
19 recorder.
- 20 Q. The discussion which ensued lasted how long.
- 21 A. The tape recorded segment of that discussion lasted for  
22 approximately 30 to 45 minutes, but the discussion went  
23 for a couple of hours.
- 24 Q. I want to get a picture of the overall discussion, what  
25 of it was taped and what of it wasn't.
- 26 A. It was a lengthy discussion. We taped it up to a point  
27 where Mrs Wilson, who had not said anything at all,  
28 asked me to turn the tape recorder off because she told  
29 me she could not speak to me unless it was off the  
30 record because her lawyers had advised her not to speak  
31 to anyone.
- 32 Q. So there was a section of conversation taped, and a  
33 section of conversation which wasn't taped.
- 34 A. That's correct.
- 35 Q. The section which wasn't taped, did you note that.
- 36 A. No, I didn't.
- 37 Q. First of all, in broad terms, what did Mrs Milera have  
38 to say to you.

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1 A. On the Friday proceeding this Monday there had been a  
2 protest rally against this Royal Commission in the city,  
3 and Mrs Grace made her appearance publicly for the first  
4 time in the newspaper on the Saturday. She and Mrs  
5 Wilson had gone to visit Mrs Milera, and they had had  
6 discussion, and then Mrs Milera had contacted me through  
7 Mr Kenny.

8 Q. In broad terms, in the conversation, whether it be taped  
9 or otherwise, what did Mrs Milera say about the alleged  
10 fabrication.

11 A. Essentially it was a repeat of the discussion I had with  
12 her the night before 'The great lie of Hindmarsh Island'  
13 was published. I covered the same ground about the  
14 alleged fabrication, the identity of the individuals  
15 allegedly responsible, and what had occurred.

16 Q. Looking at the tape produced to you, MFI 42, do you  
17 recognise that as the tape.

18 A. Yes, it is. It is actually a working tape. It has  
19 press conferences on it as well from the Premier Mr  
20 Brown and other State Ministers, and the tape was taped  
21 over.

22 Q. I think there is no question about this, that it is very  
23 difficult to hear.

24 A. Yes. It's almost inaudible.

25 Q. Nonetheless, you have, yourself, made a transcription of  
26 this tape, haven't you.

27 A. Yes, I have, at the commission's request.

28 MR SMITH: I will not subject the commission to  
29 attempting to listen to this, but I would like Mr James  
30 to listen it to him himself and just identify it as the  
31 tape.

32 TAPE PLAYED TO WITNESS

33 A. Yes, that's the tape.

34 Q. Are Sarah Milera and yourself the only contributors to  
35 that tape recording.

36 A. Yes, we are. Almost in its entirety.

37 Q. Although, there are other people present, being Jenny  
38 Grace and Dorothy Wilson.

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1 A. Neither Jenny Grace nor Dorothy Wilson said very much at  
2 all.

3 EXHIBIT 42 MFI 42 tendered by Mr Smith.

4 Admitted.

5 MR SMITH: There is a copy of the tape in a large  
6 size cassette for playing. That will be available to  
7 play to counsel in the machine that we have here in  
8 court in due course. I will leave that in the same  
9 package as the exhibit.

10 XN

11 Q. Looking at this transcript produced to you, I think that  
12 document of 8 pages records the transcription that you  
13 kindly did from your tape for the commission.

14 A. Yes, it is.

15 Q. That is, so far as your best efforts are involved, an  
16 accurate transcript of the tape Exhibit 42.

17 A. Yes, it is.

18 Q. There are some introductory comments, of course, at the  
19 beginning of the transcription, is there not.

20 A. Yes, there is.

21 EXHIBIT 132 Transcript of Exhibit 42 tendered  
22 by Mr Smith. Admitted

23 Q. We have, however, no record of the conversation that  
24 took place other than the tape itself. Could you tell  
25 us what was said in that gathering during the time that  
26 the tape was not running. That is, what was said that  
27 wasn't recorded on the tape recorder.

28 A. If I can just have another look at the transcript, I  
29 will be able to pick it up from there. Do you want me  
30 to canvass basically the issues in here?

31 Q. I want you to relate to us, as best your memory can, not  
32 the transcript, but what was said during the time that  
33 the tape recorder was switched off. Is that actually  
34 recorded on the transcription, is it.

35 A. No. What's in the transcription is what was said  
36 building up to the conversation which actually followed  
37 after I turned the tape recorder off.

38 Q. If you need to introduce it to make sense of it -

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1 A. I think I do because it was obviously - Mrs Milera, to  
2 have me there and to have Dorothy Wilson and Jenny Grace  
3 there from the so-called dissident women's side, was  
4 quite a break through, and she outlined to us the  
5 reaction which had occurred to her after speaking out in  
6 the 'Advertiser', and told us that she had lost a lot of  
7 people and lost more than anyone could believe. She  
8 outlined pressure that had been brought to bear on her  
9 as a result of speaking out. She also suggested to Mrs  
10 Grace and Mrs Wilson that they should get placards and  
11 Mrs Bertha Gollan and other dissident women and do  
12 something radical and march up the street to show a  
13 united front. So, to me, it was an indication that she  
14 was actually crossing from one side of this issue to the  
15 other. She also talked about the fact that Connie  
16 Roberts was now her cousin and that - I asked her  
17 whether she would be ready to talk, and she said she  
18 doubted it. We also talked about why things had been  
19 done in so much of a rush last year. I asked her 'Why  
20 didn't Cheryl Saunders talk to more people?' And she  
21 said that they put it down to a hurry, and Legal Aid  
22 dictated who they should see, and that was one important  
23 point. She also said that Cheryl Saunders had put  
24 herself in an awkward position because she wasn't a  
25 lawyer, but, as Director of Legal Rights, she had to  
26 make sure those boys did their job right. It was quite  
27 an interesting discussion, canvassing a lot of the  
28 issues which we have already canvassed before, such as  
29 why four white women were authorised to see the contents  
30 of the so-called secret envelopes, but no Ngarrindjeri  
31 woman from the dissident side was allowed to see what  
32 was inside them. We also talked about Neale Draper's  
33 report and a letter which was sent to Mr Tickner in two  
34 different handwritings, and the authorship of that  
35 letter. Mrs Milera raised yet again the issue of the  
36 skeletal remains, and I advised her to be careful about  
37 what she said publicly about that.

38 CONTINUED



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- 1 Then, she informed me that she had evidence of that  
2 incident on tape and that this tape was stored in a  
3 secret place. We talked again about the sacred sites  
4 which were apparently in the path of the bridge and we  
5 also talked about the whole thing, about linking the  
6 mainland to the island and women losing their fertility.  
7 And she said `That was a lot of ...' and finished her  
8 sentence there. And I said `Well, that was why Tickner  
9 stopped the bridge', and `Where did it all come from?',  
10 and she said that Victor Wilson and Dodo had never  
11 consulted her and that she foolishly had put a woman by  
12 the name of Isabel Norvill and her husband Doug also on  
13 Federal Court proceedings, and we then - I asked `Well  
14 who is Isabel, who is Isabel?', and Dorothy then asked  
15 if she could speak off the record. And I then outlined  
16 that I would have to keep - I wanted to keep taping it  
17 because I envisaged some opposition to my continued  
18 enquiries by some of the players in this particular  
19 issue. Dorothy insisted that I turn the tape off.  
20 However, Mrs Milera expressed the wish that she was glad  
21 that I was taping the conversation. But, in the end, I  
22 acquiesced to Mrs Wilson's request and turned the tape  
23 off. We then went on to talk about what happened and  
24 who was responsible. Mrs Milera identified for me Val  
25 Power, Sandra Saunders and Doreen Kartinyeri as the  
26 three key people to be looked at. She also said -  
27 repeated the allegation that some of the material came  
28 from books and that had been exaggerated and that, you  
29 know, she believed that there should be some sort of  
30 investigation into the matter. When I asked her `How on  
31 earth have we got to this point after 18 months of  
32 talking to you on a regular basis? Haven't you done  
33 anything about this before if it was a fabrication? How  
34 have we reached the point that it's causing so much  
35 derision and hurt? Why didn't you tell me earlier?',  
36 she said to me `I wanted to teach Dodo a lesson'.  
37 Q. So that was the gist of the conversation.  
38 A. That is the gist of the conversation.

1 Q. I think you spoke to Mrs Milera again on Saturday, 12  
2 August 1995.

3 A. No, that day another article appeared by me, it was my  
4 last article on this matter, and it was an 'Insight'  
5 article called 'Lines of inquiry'. And around that  
6 article I placed numerous photographs of different  
7 players in this issue and I had labelled Mrs Milera as a  
8 whistle blower. She had left a message on my answering  
9 machine at the Advertiser asking me to call her.

10 Q. So that was the article about this inquiry.

11 A. That was an article canvassing the Royal Commission.  
12 The material from Veronica Brodie, their relationship  
13 between that material and what was being put forward by  
14 Mrs Betty Fisher and also the problem that the  
15 Commission was facing in terms of its deadline and its  
16 witnesses.

17 Q. You had a conversation then with Mrs Milera following  
18 that article, did you.

19 A. On the Monday morning, I was contacted by the Royal  
20 Commission, Mr Smith, and asked if I had a tape in my  
21 possession of that night at Gilberton. I informed them  
22 that I did so and he asked me if I could produce it.

23 Q. That was the tape which has just been tendered, Exhibit  
24 42.

25 A. That's correct.

26 Q. Having delivered that tape to this Commission, I think  
27 you had yet another contact with Sarah Milera; is that  
28 right.

29 A. No, that was my first contact. Mr Smith indicated to me  
30 that they required the tape urgently, so I located the  
31 tape from where I had hidden it and I took it to the  
32 Royal Commission, which was then sitting in the Supreme  
33 Court. And, upon my return, I telephoned Mrs Milera to  
34 inform her that the tape has been handed to the  
35 Commission.

36 Q. That telephone contact with Mrs Milera was what date.

37 A. Monday, 11, 12, 13 I assume. I haven't got a calendar.

38 Q. Do you have a copy of your statement there.

- 1 A. No, I don't.
- 2 Q. Perhaps have a look at that so that we are sure.
- 3 Looking at Exhibit 104 produced, at the bottom of p.19
- 4 of your statement there, if I could go back to that.
- 5 A. Yes.
- 6 Q. This is the aftermath of the conversation of 10 July
- 7 which you taped.
- 8 A. Yes.
- 9 Q. You see you there record 'I next spoke to Mrs Milera
- 10 when she telephoned on Saturday, 12 August'.
- 11 A. Yes.
- 12 Q. 'She left a message on my answering machine at work'.
- 13 A. Yes.
- 14 Q. 'I received the message on Monday, the 14th'.
- 15 A. Yes.
- 16 Q. That was the message which was conveyed to you that she
- 17 was disturbed about you labelling her in your article on
- 18 the Saturday as a whistle blower.
- 19 A. Yes, that's correct.
- 20 Q. Then it goes on that on Monday the 14th, you made the
- 21 point that you, at the request of counsel assisting the
- 22 Commission, produced the tape recording of the
- 23 conversation of 10 July to the Commission.
- 24 A. That's correct.
- 25 Q. At court as it were.
- 26 A. Yes.
- 27 Q. Then, when you returned from the Commission later in the
- 28 day, on that Monday, the 14th, you actually telephoned
- 29 Sarah Milera.
- 30 A. Yes, I did.
- 31 Q. That was in response to the message she had left.
- 32 A. On the Saturday?
- 33 Q. On the Saturday.
- 34 A. Yes.
- 35 Q. You again had a lengthy conversation with her.
- 36 A. Yes, I did.
- 37 Q. I think you taped that conversation on the phone, did
- 38 you not.

1 A. Yes, I did.

2 Q. By what means.

3 A. A device with a suction cap that you plug into a tape  
4 recorder.

5 Q. Did you alert Mrs Milera to the fact that you were tape  
6 recording the telephone conversation.

7 A. No, I didn't.

8 Q. Could you tell the Commissioner why you taped it.

9 A. Because I deemed it in the public interest to tape it.

10 By that stage, Mrs Milera was producing inconsistent  
11 statements. She was switching sides constantly. There  
12 had been an allegation that I misquoted her and had  
13 taken her out of context, which I took strong objection  
14 to. I also knew this Commission inquiry was underway  
15 and that it was likely that I would be called as a  
16 witness. I wanted to have a true and accurate record of  
17 the material which was contained in the story 'The great  
18 lie of Hindmarsh Island', so I could produce it if  
19 required, so there would be no dispute about Mrs Milera,  
20 what she allegedly said or didn't say to me. And she  
21 also told me on the Monday at Gilberton that she was  
22 quite happy to be taped when speaking to me. That  
23 night, she also repeatedly went back over the fact that  
24 the women from Adelaide lost the original plot and that  
25 they had moved away from the archaeological issue. I  
26 wanted to get that on tape.

27 Q. Looking at the transcript, Exhibit 132 produced, you  
28 indicated at p.7 of that exhibit, about point 5 there,  
29 is that what you refer to when you indicate that Mrs  
30 Milera on the 10 July was pleased that you were taping  
31 it.

32 A. Yes. I said to Mrs Wilson in response to her asking me  
33 to turn my tape recorder off, because she said 'I'm not  
34 allowed to talk to anybody, as much as I would like to  
35 join in the conversation', I said 'I'm taping this for  
36 me, not for the paper. For me.' So I have a record of  
37 Sarah telling me what she has previously told me because  
38 I have never taped a conversation with Sarah. I have

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1 never used the tape recorder with her. Sarah replied  
2 `That's the truth. Never.' I said `Sarah went on radio  
3 and said things which have got me into trouble and so  
4 too my newspaper, but I stood by my notes and what I  
5 know of Sarah. I think I understand what happened that  
6 day with Alan and Victor'. She said `Yep'. I then  
7 said `I know why Sarah went on radio this time around.  
8 I want this up my sleeve, so if anyone comes back and  
9 says anything to me, I can say "Look, I have got it on  
10 tape"'. Sarah said `I am glad you are doing that  
11 Colin'.  
12 CONTINUED

1 Q. So, you determined to tape record the conversation, to  
2 protect your interests.

3 A. The conversation wasn't for publication. By that stage,  
4 I had ceased reporting on this issue and it wasn't my  
5 intention to use what she told me for use in the  
6 newspaper and it hasn't been used for the newspaper.

7 COMSR

8 Q. But I take it that the purpose of recording - from the  
9 sounds of it, you had decided that any conversation you  
10 had with Sarah Milera from henceforth was going to be  
11 recorded, had you.

12 A. Yes.

13 Q. That was because you felt that otherwise you could be  
14 challenged as to the accuracy of the conversation.

15 A. That's correct.

16 XN

17 Q. Looking at this tape produced to you, do you recognise  
18 that, at least so far as the case is concerned and, if  
19 you can, go beyond that.

20 A. Yes, that is my handwriting. It shows the date and also  
21 the words 'Sarah Milera'. It is a tape that I made on  
22 both sides of that microcassette.

23 Q. And the tape itself has got - there is writing on that  
24 too. Do you recognise that.

25 A. That is my handwriting - no, it is not. Someone else  
26 has written on that. That is not my handwriting. It is  
27 blurred. Someone's sweaty fingers have blurred it.

28 MR SMITH: I ask, subject to identifying that tape,  
29 perhaps if the witness could just identify the tape in  
30 terms of having portions of it played to him quickly. I  
31 will then submit that you can safely admit this tape  
32 into evidence.

33 TAPE PLAYED

34 A. That is Mrs Milera telling me she wants to come to  
35 the Royal Commission.

36 MR SMITH: I seek leave then to tender that tape  
37 and there is a transcription of it available and a large  
38 cassette available for playing. I submit to you in

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1 relation to the admission of the tape that the  
2 Commonwealth Telecommunications Interception Act (1979)  
3 has no application and, in particular, s.4. In respect,  
4 then, of the Listening Devices Act (South Australia),  
5 there being no consent, no overt and specific consent to  
6 the tape recording, you are then driven to consider the  
7 provisions of s.7 of the Listening Devices Act. And, in  
8 your discretion, you are able to receive such evidence,  
9 if you are convinced that it is in either the public  
10 interest, or for the protection of the lawful interests  
11 of the person tape recording the conversation. That is,  
12 that the tape recording is for those purposes. If you  
13 are satisfied of that, you can readily admit the  
14 material into evidence and I suggest that what Mr James  
15 has said clearly qualifies him to take the view, for you  
16 to take the view, first of all, that it is in the public  
17 interest that you receive this evidence. And,  
18 additionally, that the tape recording of this  
19 conversation is for the protection of his lawful  
20 interests. So, my submission is that, in respect of the  
21 only Act that applies, the State Listening Devices Act,  
22 you are empowered to admit this tape recording into  
23 evidence.

24 COMSR: Does anyone wish to be heard to that?

25 MR KENNY: Yes, just initially if I could ask  
26 counsel assisting, does he say that the Federal Act  
27 doesn't apply in this case?

28 MR SMITH: Do I have to enter into a dialogue with  
29 Mr Kenny? I mean, does he contend that the Federal Act  
30 applies? He should make the argument if he says it is  
31 appropriate.

32 MR KENNY: I haven't had a chance to look at it.

33 COMSR: As to what you say amounts to an  
34 interception, you can put an argument to me. Perhaps  
35 you might consider the question of what amounts to an  
36 interception, under the Federal Act?

37 MR KENNY: Sure. Can this be deferred until  
38 Thursday?

- 1 COMSR: Yes, certainly.
- 2 MR SMITH: Perhaps in the meantime just, because  
3 it has been the subject of evidence, marked for  
4 identification?
- 5 MFI 133 Tape of conversation between Sarah  
6 Milera and witness marked 133 for  
7 identification.
- 8 COMSR: There is another matter before we  
9 adjourn.  
10 I know I said, Mr Abbott, that in future - well, at  
11 least, pending the issue of an authority by the  
12 Minister, which might hasten things up, that we would  
13 commence the sitting day at 10.30. However, to make  
14 maximum use of the reporters that we have available,  
15 10.15 would be an appropriate time.
- 16 MR ABBOTT: That is all right. Whatever.
- 17 COMSR: I propose that we adjourn until 10.15 on  
18 Thursday morning of this hearing. Of course, I will be  
19 adjourning tomorrow up to the Riverland to take evidence  
20 from the witness there.
- 21 MR SMITH: Could I just indicate that there is a  
22 transcript of this tape that will be the subject of some  
23 discussion first thing on Thursday morning and I have  
24 already handed out a transcript of that to counsel. And  
25 I just remind them of their undertakings in relation to  
26 that, since the witness's evidence hasn't finished.
- 27 COMSR: And since it is not before me by way of  
28 an exhibit, at the present time.
- 29 MR SMITH: No, the transcript isn't. So, I would  
30 ask counsel to nurture that transcript, as it were.  
31 And the tape recording is about 40 minutes long, subject  
32 to the arguments that might be made in relation to the  
33 admission of it, about 40 minutes long and I would ask  
34 counsel to be in a position to cross-examine Mr James  
35 during the course of Thursday and, if necessary, Friday.
- 36 COMSR: How many copies of this transcript of  
37 this tape have been distributed?
- 38 MR SMITH: Just to counsel at the bar table. No



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1 other copies have been disseminated.

2 COMSR: It is wise to remember the undertakings  
3 as to confidentiality, because I don't know what the  
4 nature of the material might be.

5 MR SMITH: I don't want to go through the indignity  
6 of taking them back. I don't think that is necessary.

7 COMSR: I don't know what is contained in the  
8 transcript of that.

9 MR SMITH: No, I don't think there is anything that  
10 would cause you concern in the transcript.

11 COMSR: No, I wasn't thinking might cause me  
12 concern.

13 On the the assurance that they will be treated  
14 confidentially, I won't ask that they be returned and I  
15 will now adjourn.

16 MR SMITH: No, that will put counsel in the  
17 position that that will be this witness's evidence.

18 They will have the transcript, they should be in a  
19 position to complete the cross-examination of this  
20 witness Thursday and Friday, if necessary.

21 MR MEYER: All I say to that is, if need be, can we  
22 have permission to listen to the MFI exhibit tomorrow,  
23 with the undertakings and, if there are any points  
24 that we need clarified.

25 MR SMITH: I will be here for anyone who wants to  
26 listen to it.

27 ADJOURNED 4.35 P.M. TO WEDNESDAY, 13 SEPTEMBER 1995 IN THE  
28 RIVERLAND

