COMSR STEVENS

HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

FRIDAY, 13 OCTOBER 1995

RESUMING 10.08 A.M.

COMSR: There is one matter which perhaps I can mention before I start. Have you returned, as yet, the exhibit that was released into your care?

MR KENNY: The copy of the exhibit I have returned three quarters of, and the other is apparently on its way, and it's in good hands.

COMSR: A copy?

MR KENNY: I understood I didn't have the original exhibit, it was merely a copy of it. I was just clarifying that. Maybe I did have the original exhibit, but I certainly didn't believe that I did. I expect it to be here sometime today.

MR SMITH: At the outset, could I tender the transcript of the raw footage of the Betty Fisher 7.30 Report of 7 August, and ask that you mark it Exhibit 22. Exhibit 22 is the two cassettes and Exhibit 22A is the transcript of the 7.30 Report to-air. The raw footage is more expansive of course, so I ask that you mark that Exhibit 22B.


Q. I just want to put a couple of things to you on the issue of your criticisms of Dr Fergie's methodology. Firstly, you agree with me that the Aboriginal and Torres Strait Islander Heritage Protection Act - I will just call it the act to save me repeating those words - the focus of that act is the significance, according to Aboriginal tradition, of certain sites.

A. That's probably the case, I don't have a copy of the
act, and I'm not intimate with it.

Q. In your criticisms of Dr Fergie's report conclusions and methodology, you haven't particularly paid attention to what the requirements of the act are.

A. My criticisms are on the validity of the findings and the outcome of that report.

Q. Dr Fergie would say that the critical issue for her in her preparing her report was the issue of how can you assess that something is a tradition, and that in deciding to go about that task, she formed the view that the genealogies were not the highest priority. Would you agree that that was a reasonable -

A. As I said yesterday, the genealogies, in my opinion, would have to be in any report that was dealing with matters that her report was dealing with.

Q. For the purposes of the act.

A. As I've just said, I'm not intimate with the act, but I'd imagine that would be the case.

Q. Dr Fergie says that there was some literature and it was also, she believed, appropriate to seek out some oral testimony, if I can put it that way, to speak to people.

A. Sorry, is that another question?

Q. Perhaps if you just wait and I'll continue. Do you agree that a methodology where one seeks out, for the purposes of reports, oral testimony from people is appropriate.

A. Yes, I do.

Q. That she believed it was important to undergo some authorisation process for the oral testimony that she received, do you agree that an authorisation process is appropriate.

A. I'm not quite sure what you mean by 'authorisation'. If one was to write a report, you would want to canvass all the possible variations, the broadest possible range of views, regardless of whether anyone was authorised by some official means or otherwise.

Q. Dr Fergie says that - well, she uses the phrase resonance, in essence, would be then necessary to, in
essence, compare the material that you got orally, the
resonance of that material, with other material on the
culture.
A. Is the question comparing oral data with historic
ethnographic data? Is that question?
Q. Yes, on literature generally on the culture.
A. Yes. All of that would have to have been accounted for,
discrepancies discussed, that type of thing.
Q. Dr Fergie would say it's also relevant to make some
assessment of the political location, interests of the
source, in essence, to try and work out what the
alignments or interests of her informants were.
A. Sorry, you're asking about a description of the
political environment?
Q. No, what I'm putting to you is this; that Dr Fergie is
saying that something she believes was relevant to do
was to make some assessment of the political location -
by that I mean the political dynamics - of the persons
who were providing her with information and the
interests of her sources.
A. Are you saying that she said this in the report, or is
this something that she is saying now to me through
you?
Q. If you listen to the question and answer the
question, your problem will be solved. What I'm putting
to you is this; Dr Fergie says it's important to test
the political dynamics of the sources in forming your
assessment, do you agree with that as a general
proposition, when you're writing the report.
COMSR: That is being put to you now. That's
the proposition, I take it.
XXN
Q. Do you believe that that's an appropriate process in
report writing.
A. It is appropriate to describe the political environment in which the report and the discussion, the data, is a part of. If that's what you're asking me, the answer is yes.
Q. That when weighing up or assessing information received from informants, would you agree with me that it's appropriate to weigh up one's own knowledge of the informants in terms of a history of trust or a relationship of that nature.
A. I think that's getting on dangerous ground, because then you're in the position of saying 'Well, this persons' a good informant, that person is a bad informant'. If there are a number of views within the community, then they all have to be treated, at least initially, as equal. I don't think an anthropologist should be ever in the position of saying 'Well, this informant's views are sound or bad for what I want to do, and I will go with them'.
Q. I'm not putting that to you, I'm simply saying -
A. All views of informants would have to be recorded and, if there needs to be some background material in order to explain the background of those views, well that should be in the report as well.
Q. So are you saying that when you, for example, are assessing and weighing up information that is provided to you by informants, that the previous knowledge of the informant and the reliability of their information is not something that you would take into account.
A. What I'm questioning is your use of `reliability’. I mean information is information. There is no sort of `one truth' when you're dealing with those types of belief. If one was to engage in that process that you're suggesting, of selecting reliable informants, then one ceases to be an anthropologist, but they become advocates. I wouldn't do that.
Q. You've misconstrued the question, but if that's your answer, I will leave it there. We might be here for another five minutes. Now you have said in your
evidence, and this is at p.269 - or it's put as a
question to you, but I'm just wanting to ascertain what
you mean by this - the question from counsel assisting
was this, and this is in the connection of he is asking
you about the methodology, `Just to descend from the
general into the particular for a moment, in respect of
this particular enquiry, if the model threw up, that is
the discretion of the literature and the establishing of
the model of the culture through up no secret sacred
women's business, then that would cause some concern to
the reporter, would it', and then your answer is `That's
right, it would have to be flagged as a major
discrepancy, and the writer of the report would then be
obliged to account for that discrepancy'. Now do I
understand that you were suggesting there that there was
a defect in Dr Fergie's report, that it was your view
that she should have been accounting for the discrepancy
in her report.
A. That's correct, because some of the few references that
she does use in the report are from reports such as the
Lucas report and the Berndt ethnography, which would
propose that there isn't women's business, or at least
secret sacred women's business as I defined it, and that
the record of mythology is very poor, so she's already
fleetingly used those references but does not, through
the report, acknowledge that the full data in those
references are actually going against what she is
putting forth in her own report.
COMSR
Q. Just one thing, you say women's business as you define
it, but of course women's business is defined in the
terms of reference, is it not.
A. Yes. I was just referring to the problems we had
yesterday with it.
Q. Yes, I know, and the terms of reference, as I understand
it, are correct in the passage from Dr Fergie's report,
and women's business is defined in terms of that passage
from her report, that's your understanding.
A. Sorry, are you asking me whether the terms of reference - ?

Q. Yes, I just want to know what we are talking about when we're talking about 'women's business'.

A. Yes, I want to correct myself and say secret sacred women's business, and I'm happy to use the commission's definition of that.

Q. It is defined for the purposes of this Commission.

A. That's right.

XXN

Q. I simply want to put this to you; you say that Dr Fergie should have pointed out in her report that secret sacred women's business was not otherwise disclosed in the literature in relation to the Lower Murray.

A. Yes.

Q. Again, getting back to the western desert, really what you're saying is that there's no evidence of a western desert-type secret sacred women's business being in any way applicable to Ngarrindjeri tradition.

A. Ngarrindjeri tradition as has been recorded up until the 1990s yes.

COMSR: It's been recorded, but does it give any indication of any, what is it, western desert-type women's business? Is that you're question Ms Pyke?

MS PYKE: Sorry?

COMSR: The witnesses answered that it's been recorded up to 1990. I'm just wondering what the implication of that answer is. It's been recorded without reference to -

A. I'm not aware of any record whatsoever of secret sacred women's business of the central Australian-type being recorded in the Lower Murray region.

XXN

Q. I just want to put this series of propositions to you; that you use the phrase 'secret sacred women's business' because it's your view that Dr Fergie, by her conclusions in her report, has suggested that there is an exclusive division of secret sacred women's
A. That's the thrust in the report, but my use of those
words can also be justified on the basis that she uses
those words, not in that exact combination, but they are
used through that report, so you're really asking two
questions and I'm answering both.
Q. I'm just simply putting this to you; it's your belief
that Dr Fergie's conclusion suggests that there is an
exclusive division of secret sacred women's knowledge,
and that's why you've used the phrase 'secret sacred'
women's business'.
A. It's not just the conclusions, it's right throughout her
whole report.
Q. That's your interpretation of it. Let me tell you that
Dr Fergie will give her own evidence.
A. Her conclusions.
COMSR: You ask the witness the questions, so
perhaps if we listen to his answers.
A. Her conclusions. If you mean recommendations, I gather
that's what you mean, in the back of her report - what
are you talking about when you say 'her conclusions'?
XXN
Q. When you've read her report, you have formed the view
that Dr Fergie is maintaining an opinion that there is
an exclusive division of secret sacred women's
knowledge. That is your view, it's the conclusion
you've drawn from reading Dr Fergie's report.
A. Yes.
Q. You say that a gender exclusive division of secret
sacred knowledge exists in the western desert cultures
but not, in your view, Ngarrindjeri culture.
A. That's correct.
Q. It's appropriate, in your view, to use the term 'secret
sacred women's business' to describe western desert
cultures.
A. It's recorded as appropriate in the literature that
relates to Central Australia, so whether it's my view or
whether it's appropriate or not, I'm conforming to the
existing literature, which is quite extensive.

Q. I'm not testing it, I'm simply putting to you that
that's your view. What you're suggesting is that Dr
Fergie is using a western desert model for the
Ngarrindjeri people.

A. It could be seen as that, but I find her model to be
fairly unique in itself, to be quite honest.

Q. You have put or addressed to Dr Fergie your views about
the western model. (NOT ANSWERED)

XXN: The witness has just said that he
considered her views unique, rather than they were in
the western model entirely.

Q. My question is you have put to Dr Fergie your views
about the western model in your telephone conversation.

A. As it being an influence, but I'm not saying one model
has totally come and supplanted another, I mean what's
happened is a lot more complex than that.

Q. In your conversation with Dr Fergie in July 1994, at
p.251 of the transcript, you said this, 'I had put
forward a model of the Central Australian influence upon
Doreen Kartinyeri, and mentioned to her the influences
that Doreen had on her through her sensitive sections
with people from the Ooldea West Coast region of
Australia'. Then you go to to say, 'She dismissed that
view that there was a Central Australian influence
involved, and my reason for introducing that fact. I
told Deane that it was my opinion that the definition
that Doreen was using of women's business was an
importation from Central Australia. She rejected that
idea'. That's the situation, isn't it. Dr Fergie has
put to you, quite clearly, that she rejects your notion
of an importation of the central desert.

A. She said on that occasion, yes.

Q. I put to you that the connection you make between the
central desert and the women's knowledge is, putting it
bluntly, a flight of fancy on your part.

A. Not at all. We discussed this yesterday, I gave
examples, that is still my opinion, and it's still a
very strong opinion.
Q. I suggest to you that there is, in fact, no basis for
that leap in -
COMSR: You've already put to him it's a flight
of fancy, and we covered it yesterday.
XXN
Q. You have referred in various places in your evidence - I
don't want to go through it all with you, but the
general gist of what you said was that you had found,
and I think you were responding to a question from
counsel assisting - in fact I will just put this brief
one to you, `No doubt you take some solace, then, from
the absence of that in the Berndt book in relation to
the lower River Murray in terms of your view about
that', and that was secret sacred women's business.
A. Sorry, what page is this on?
CONTINUED
Q. 179.
A. Sorry, what line?
Q. 22.
A. Yes, I have got that. What is the question?
COMSR: We are now on to matters which were heard in private session.
MS PYKE: I am only going to be talking about the Berndt and Berndt book.
COMSR: I just draw your attention to it.
MS PYKE: Yes, as I understand, we have moved on a little bit from where we were back then in terms of what is or is not in private sessions.
COMSR: Yes, I appreciate that and, of course, clearly not matters about which one needs to be sensitive.
XXN
Q. You are clearly familiar with the work of the Berndts.
A. I am familiar. There is a lot in the volume. It is a resource that one would have to read many, many times. And, if you are looking for - you would have to reread it each time you were looking for a particular aspect. As an ethnography, it has got that value.
Q. You would agree - I want to put forward a brief chronology of the Berndts to you. And I will put to you, rather than referring you to numerous pages in numerous books, I will simply put to you, at the moment, that Ronald - this has been gleaned from various sources and Dr Fergie will give her evidence in due course and provide the source of this information and it will just save, I think, half an hour or so of dredging through it. Ronald Berndt, Ronald was born in 1916. In 1938 he started subscribing to Oceania. In 1939 he was an honourary ethnographer in the South Australian Museum -
MR ABBOTT: Do you mean subscribing or contributing?
MS PYKE: Subscribing.
XXN
Q. In 1939 he goes to Ooldea as part of an exhibition.
From November 1939 to December 1939 he did intermittent field work at Murray Bridge. In 1940 he went to Sydney to study with Elkin. To that stage, he had no university qualifications. Met his wife. At around that time Mark Wilson dies -

COMSR: Ms Pyke, what is the purpose of this?

MS PYKE: I want to give a general overview, because I am going to be putting some views that we have about the Berndt book and its reliability as an ethnographic source. This witness has quoted at length and indicated that he has taken solace and consolation from the fact that certain things are not there and he has made extensive references I might say.

COMSR: Is this going to be put to him on the basis of the reliability that is in general attributed to it, or is attributed to it by Dr Fergie?

MS PYKE: As an ethnographic work.

MR ABBOTT: I object to this. I don't see how a potted history of significant aspects or what are said to be significant aspects -

MS PYKE: What is his interest?

MR ABBOTT: The time this is going to take and the futility of any answer given. I would submit strongly that it is obvious that Dr Fergie doesn't place reliance on the Berndt book whereas Dr Clarke does. There is a method of cross-examination which would get to the heart of this directly rather than in this round about way.

MS PYKE: Firstly, this witness asserts that the Berndts had a specific interest in the role of gender in that society, referring to the Ngarrindjeri people.

COMSR: How will a chronological history assist me?

MS PYKE: I was simply endeavour to, in some ways, make it easier for the witness. Dr Fergie will be giving her own evidence. If people object to me providing this witness with that information, I shan't.

COMSR: It is not a question of objecting.

MS PYKE: It is.
COMSR: I just can't see the utility of it, from my point of view, Ms Pyke. I mean, if, for instance, there is one aspect of that history that the witness objects to, his answer will be no.

XXN

Q. Let me put this to you, at the time that the Berndts were doing their study into the Ngarrindjeri people, from 1939 through to 1942, they were not qualified anthropologists. They had merely embarked upon anthropological studies, at some stage. Are you aware of that.

COMSR: You mean, qualified with a university degree, or something like that?

MS PYKE: Any qualification.

COMSR: You can be qualified by experience, can't you?

MS PYKE: I am putting this - that is why I am trying to put the history and the chronology.

XXN

Q. I am simply putting to you that, at the time they were doing their field work in relation to the Ngarrindjeri people, the Berndts were young, unqualified people. They were at the very beginning of any interest in their anthropological studies and qualifications.

A. The first period of their field work they have said in the book they were inexperienced - sorry, Professor Berndt was inexperienced. He then went away, became qualified and somewhere in that book there is a description of how Albert Karloan recognised that the quality of questions were, in terms of describing his own culture, were much better. I mean, they make a big thing of that in the book. So, if you are asking me whether he was qualified, by the time he had finished doing his ethnographic work, he clearly was.

Q. I suggest to you that they only received a diploma in anthropology after their field work had - in the same year that their field work was concluded.

A. Anthropologists were fairly thin on the ground back
then. That is certainly true. You would have had quite
a few people doing anthropology who were probably
primarily from the medical fraternity. Biologists. You
know, a whole host of people who would have been doing
anthropology back then who hadn't gone through the
formal scheme that we have now of undergraduate and
postgraduate work. So, I think it is unfair to
criticise them back in the 30s and 40s of not having the
qualifications that we all consider necessary today in
the 1990s.

Q. All I am simply putting to you is that from 1939 through
to 1943 during the period of time that jointly and
severally the Berndts were doing their field work, they
were young, comparatively inexperienced and, for a major
portion of that time, unqualified anthropologists.

A. Sorry, what is the question? Are you asking me to
confirm what's -

Q. I am simply putting that to you and you can agree or
disagree.

A. You will have to put it to me again, because I am not
actually sure of whether you are asking me to answer yes
or no or to comment upon the question.

Q. I will do it one by one, to make it easier for you.
Would you agree that in 1939 both of the Berndts were
quite young, in their early 20s.

A. I wouldn't consider that too young for doing field work.

Q. Beg your pardon.

A. I wouldn't consider that too young to do field work.

Most people doing their honours today in anthropology
would probably do it when they are 20, 21. And, as I
heard yesterday, having an honours degree in
anthropology is more important than having a PhD in
anthropology.

Q. You don't have a PhD in anthropology. You have a degree
granted from the university, as you well know.
A. No, my forms, if you want me to bring in my PhD forms,
the PhD is in anthropology and geology.

Q. It is a degree of the university, not of the Department.
A. No degree is a degree of the Department. They are all degrees of a university.
Q. I will move on from that topic, or we will be here for ever.
COMSR: Yes, I can't have evidence from you as to this. I mean, the only evidence I have got of that is from the witness.
MS PYKE: There will be other evidence in the effluxion of time.
XXN
Q. I will move on from the Berndts and their experience. We will get that in another way. As a general concept you don't agree that they were young and inexperienced, at the time they did their field work.
A. Young and inexperienced in what? I mean, they gained experience -
Q. In anthropological field work.
A. They gained experience through their field work. Naturally they were young and inexperienced in that culture before they started their field work. Through the course of that field work they gained experience. That is what field work is about. Gaining experience with a culture.
Q. On the topic of field work, let's deal with ethnography. For the purposes of your thesis, do you consider yourself to have done an ethnographic study of the Ngarrindjeri people.
A. I have compiled ethnographic data which has an ethnography that is put in my thesis. I have provided an ethnography in terms of the historic work. I provided ethnography in terms of my own field work.
Q. Would you agree with me that your thesis was a work of oral history not an ethnography.
A. No.
Q. What do you understand by doing an ethnographic study.
A. An ethnographic study, as I have already said, there is - involves historic work, comparative work, for contiguous reasons, from work of other anthropologists.
And, also, in most cases, contemporary field work. Although someone doing an ethnography based on information, as I said yesterday, in the middle ages obviously is not going to be able to reconstruct an ethnography from field work.

Q. Let me put this to you as a proposition: that the distinctive methodology of ethnography is participant observation, would you agree with that.

A. Sorry?

Q. Distinctive methodology of ethnography is participant observation.

A. Where is this being read from?

Q. Don't worry where it is read from, do you agree.

A. It is simplistic-

MR ABBOTT: If my learned friend is putting a reference from an anthropological source, there is a convention that the source is identified and the witness is told. This is not an ambush. This is a search, an inquiry that you are conducting and, if passages from books are to be put, it is customary and, indeed, I would have thought appropriate and proper for the reference to be told to the witness so he knows where it is coming from.

MS PYKE: I am actually reading it from my proof.

COMSR: Are you able to give the source for that?

XXN

Q. What I am reading from is my proof, but the source from what I have put in my proof is, as I understand it, the handout given to first year anthropology students. So, would you agree or disagree with that, that the distinctive methodology of ethnography is participant observation.

A. Again, I haven't got the handout in front of me and the context in which it is used, if it is a course that is talking about contemporary field work in anthropology, it may well be an appropriate statement, but whether that anthropology 1, whatever the course is, and I don't
have the handout in front of me, it is too dangerous for me to say yes or no. If you want to put it as a general thing that covers all anthropology, I would say it seems a bit restrictive, but, again, it may well have been used in the correct context on that handout.

Q. It might be correct for anthropologists as opposed to geographers.

COMSR: I don't understand that to be the witness's answer. It might be correct for a particular course of first year study to which it was attached or applied.

XXN

Q. I suggest to you, as a methodology for anthropologists, not just first year students, that participant observation is the major part of undertaking an ethnography.

A. Do you want me to say yes or no?

Q. Would you agree or disagree with that.

A. It is a major part. I am not saying - I am not going to be definitive. It is a major part of most ethnographies.

Q. And the participant observation for the purposes of undertaking an ethnography is undertaking it in the field.

A. How do we define 'the field'? I mean, 'the field' could, in a sense, even be this Commission, if things are being said about Aboriginal culture, Aboriginal people responding. I mean -

Q. I agree, but, if you are studying Ngarrindjeri people, the field would be, for example, where Ngarrindjeri people are.

A. What is the original question?

Q. That participant observation, for the purposes of undertaking an ethnography, is undertaken in the field.

A. By definition, if you weren't in the field, you couldn't observe, so the answer, of course, is yes.

Q. And that participant observation, for the purposes of ethnographic research, entails a period of 12 to 24
months in the field in which the research is, in effect, 
the entirety of the researcher's every day life.
A. Yes, and 'in the field' could be from one's office in 
the museum conducting, you know, research for galleries. 
In my case a fair bit of social interaction on other 
levels, but other anthropologists would also have their 
social connections. I am a bit wary of saying that 
there is a precise time limit to do field work and that 
somehow you have got to put on a pith helmet and go out 
and live in a shed somewhere out in the middle of 
nowhere. I mean, it is a lot more complicated than 
that, but you would want to obviously spend as much time 
doing field work as possible. I wouldn't even put an 
upper limit on it. I certainly wouldn't put a lower 
limit on it, depending on how the, or what the field 
work was for. 
COMSR
Q. Just so that I can clarify this, if you are dealing with 
a largely urbanised group or a group that is spread 
through perhaps a number of towns, where would the field 
be.
A. Once the anthropologists have embed themselves into that 
situation, you will find that, in a sense, the rest of 
the landscape slips away, because people are moving 
between, let's say, their auntie's house at Murray 
Bridge to their nephew's place at Salisbury. A funeral 
happens and, you know, you are involved in helping take 
people to a funeral. And there is a lot of interaction 
between people that are particularly Aboriginal that, 
although spacially are separated, they still maintain 
links. And, although I wouldn't want to be definitive, 
from my knowledge of western European style Australian 
society, middle class society, we don't keep those 
connections with kin anywhere near as much as Aboriginal 
people do. I mean, their kinship network is quite 
important. So, if people have to drive two or three 
hours, you know, to see a relative on some family 
business, you know, they do it. So, the disbursement
itself over the landscape is not really the problem.

Q. So far as your own thesis was concerned, you maintain,
   presumably, that you did ethnographic participant
   observation.

A. Employed as a museum anthropologist I was doing or using
   a variety of methodologies including participant
   observation long before I started officially involved in
   the thesis and writing the thesis.

CONTINUED
I make it quite clear that a lot of my insights and the
data that appear in there, in a sense, are outside my
PhD, from how I gained that knowledge. I am still doing
research today. ‘Today' in the sense of at this moment,
in the sense of being an anthropologist who is
interested in what's is going on in the Aboriginal
community.

Q. So I understand this, are you saying that you did go out
and do field work, that that is part of your day-to-day
life within your family.

A. I am saying you don't even have to go out and do field
work. I am immersed in it in the sense of what I do in
the museum and my various social obligations, and the
fact that at one point in time I enrolled in a degree
and started writing but continued all those other
activities. In a sense, it is besides the point. I
mean, I cannot nail down precise periods of field work
because, in a sense, it started from the moment I walked
through the museum doors up until the very present. I
do not say that there is a sort of different hat that I
can put on, a hat that says I am not doing field work
now and a hat that says I am doing it.

Q. So is it the reality that your field work was
intertwined with your day-to-day working life and your
family life.

A. All of that, yes.

Q. Was there any systematic field work that you did. By
that I mean go and immerse yourself for a period of
time.

A. Immerse myself into what? I have just said that I have
been immersed into field work.

Q. On a systematic basis as opposed to -

A. There is a number of projects that the museum has had
whereby, mainly through the 80s, in the company of Steve
Hemming, we did go out for weeks at a time doing
research for a variety of projects, not just the
gallery, but site recording projects, that type of
thing. That would entail basically using our car as an
office and staying at various Aboriginal homes throughout the Lower Murray, Riverland and other parts of the State.

Q. Can I take it that that is the field, for the purposes of when we are talking about field work, the Lower Murray.
A. In a sense, a lot of the Lower Murray people, Ngarrindjeri people that is, live in places outside the Lower Murray, so we might still be doing research into Lower Murray culture but be staying up at Berri, for example, for a week. The Aboriginal people who define themselves as Ngarrindjeri up there are still closely in tune with events happenings down in the Lower Murray itself. So it is quite acceptable to be going all over the State to sort of plug into the Ngarrindjeri network, if you like.

Q. So the field is where Ngarrindjeri people live.
A. That's a good way of looking at it, yes.

Q. In terms of the Berndt and Berndt book, that didn't purport to be an ethnography, did it.
A. The Berndt and Berndt book?
Q. Yes.
A. I believe that that is put forward as an ethnography. I would have to look through Professor Tonkinson's introduction. He describes it as an ethnography in there, I'm pretty certain.

Q. You wouldn't -
A. I consider it an ethnography.
Q. You would consider it an oral history, relying upon -
A. No. Oral history is quite different than an ethnography. An ethnography incorporates quite a bit of oral history, but oral history by itself is really a set of quotes and views that the insiders of a culture put forward. And oral history, if we consider it as a subdiscipline, may be just a matter of recording those different, or sometimes different, perceptions, but...
they're insider perceptions, whereas an ethnography
would go beyond that, by interpreting and putting some
order, and using an outsider's perspective to try and
make sense of the data. So they are both not the same.
Ethnography does not equal oral history.
Q. You agree, from your reading of Berndt and Berndt, that
they relied upon a small number of informants.
A. I don't know how you define `small', in the sense of
they were dealing with, from their point of view and
from the informants' point of view, a group of people
who were born pre-1900. If the community they have
defined is the Ngarrindjeri people who were born
pre-1900, then to describe their informants small in
number, if that was virtually the total number of
informants, would be doing them an injustice, I believe.
So how one defines `small' - if they were just trying to
describe a complete community of people of Aboriginal
descent who were alive in the 1940s then, yes, that
number of people would be small. But their data has
been used to produce the book they called - or the
publishers called `Black to White in South Australia',
and they clearly used a larger number of Ngarrindjeri
people in that publication.
Q. I am not talking about that publication.
A. But that publication is the other half of their total
Lower Murray field work. So we are splitting their
ethnography up. I am just, to avoid confusion later on,
signalling that if we are looking at all of their Lower
Murray field work, then you have to look at that rather
substantial body of work as well. So `The World that
Was' is one aspect of their field work.
Q. I am just talking about that particular book. From what
is in that particular book, they seem to have had
primarily three or four informants.
A. I think it was more than that, but I would have to go
through to come up with a - I believe it was with people
like Clarence Long, who is mentioned in it, and possibly
Ruben Walker and others. The list would be longer.
RF 45C

P. A. CLARKE XXN (MS PYKE)

1. COMSR
2. Q. 'The World that Was' is describing a world that existed
   before when.
3. A. Before - it is attempting to describe a world before
   European contact with Aboriginal people.
4. Q. So that I am clear about this, are you saying that, of
   the people in the particular age group, they were small
   in number, but their percentage of the total group was
   not small.
5. A. That would be the case. By the 1940s there still would
   have been quite a few people born in the latter half of
   the 19th century. People like Albert Karloan were
   involved in the last sequence of initiations some time
   in the 1980s, and it is really that group of people that
   the Berndts were concentrating on in terms of the data.
   It is only - the data that appears in 'The World that
   Was' is that data that related to that earlier period.
6. XXN

7. Q. The key informants for the Berndts, insofar as 'The
   World that Was', were Albert Karloan, Pinkie Mack and
   Mark Wilson. If that is not a proposition that you can
   agree with just simply say so, or if you do agree with
   it, please feel free to.
8. A. They are the main informants that I'm aware of.
9. Q. In your evidence, there was this question from counsel
   assisting to you 'From a lay reader's point of view,
   there appears in the Berndt work at least to be some -'
10. A. What page is this on?
11. Q. P.183.
12. COMSR: This was again in private session, but
13. you are not touching on anything?
14. MS PYKE: No. I will just be dealing with some
15. excerpts from the Berndt and Berndt book which I
16. understand, on the current criteria, is publicly
17. available.
18. XXN
19. Q. At line 32 the question was 'From a lay reader's point
   of view, there appears in the Berndt work at least to be
quite some intimate detail about matters of sexuality, birthing, menstruation and that sort of thing'. That was put to you by counsel assisting. You then went on and said 'Yes, there is quite a bit of detail in there, and it appears to have been gathered from both Albert Karloan and Pinkie Mack. So even the source of the information wasn't restricted to either male or female, and it doesn't appear to have been a major impediment to be either male or female in terms of being the recorder'. If you wish to have the Berndt and Berndt book in front of you, I think it has been tendered as an exhibit.

COMSR: Are we going to go into detail?

MS PYKE: I am just going to read a short passage from it.

Q. I will ask the question, and if you want to check it for yourself feel free to. At p.142 it says that the information on birth was primarily from Karloan, who obtained it from his wife's mother - I am summarising a little bit here - who is recognised as an excellent midwife. 'The information was supplemented by details given by Pinkie Mack'. From your perspective, as you tell us as an anthropologist, are there any implications of that, that information about child birth came from a man.

A. No, there is - I can't see any problems with this. The fact that Pinkie Mack gave extra details is understandable because, unlike Albert Karloan, she had actually given birth to children and she had also been involved in birth. So I can't see any problem with those sentences in relation to what I have said in evidence.

Q. Do you think that there might be gaps in the knowledge or information obtained by the Berndts about, for example, birth and midwifery, on account of the fact that their principal informant was a man.
A. The sentence that you read out said that the information was supplemented by details from Pinkie Mack. So obviously the information that the Berndts collected was considered by them to be fairly total.

Q. I suggest to you that that is not the implication at all from that sentence. They are not suggesting that it was total. They are saying that they got information primarily from Karloan, and that was supplemented by Pinkie Mack. They are not asserting there that they had all the -

A. But they go on to say `The usual pattern of the birth'. So obviously they have got an overview of birthing practices and they feel confident to say what is usual.

Q. I take it you don't agree with any proposition that there may well have been gaps in the knowledge of the Berndts about midwifery and birthing practices on account of the fact that the information came from a man, who had got it from his mother.

A. And the information, as you admitted then, was supplemented by Pinkie Mack.

Q. Primarily came from a man.

A. It may well have primarily come from a man, but the information was supplemented by Pinkie Mack so, therefore, on the basis of what I see in this book, I can only believe or consider that the Berndts had pretty well recorded what there was to know about Ngarrindjeri birthing.

Q. Primarily from one man, supplemented by information from one woman.

A. If it is supplemented by Pinkie Mack. Presumably she agreed with all the information that they had already got. So they could have gone to Pinkie Mack and got the information they had already got from Albert Karloan. You are trying to separate two bodies of knowledge. I think the use of the word `supplement' makes it pretty clear that she agreed with the information they had got from Karloan, and she just added in a few details that
Karloan omitted or, because he wasn't - because he had never given birth himself, may not have felt was all that important.

Q. I put it to you that you are making huge assumptions and quantum leaps in the conclusions you are drawing from that passage.

A. No, I think your questioning by neglecting to, well, acknowledge the word 'supplement' is in there, that you're in fact making the quantum leap.

Q. From your knowledge of Ngarrindjeri tradition and culture, would you agree with me that one means or method by which information was passed down or disclosed was in song.

A. Are we talking about pre-European Ngarrindjeri culture, or are we talking about 1990s, because I can't answer the question until I know what Ngarrindjeri culture you are talking about?

Q. I don't want to create a distinction of pre-European.

A. If we are talking about 'The World that Was', clearly song was a fairly important part of transferring knowledge. If we are talking about 'The World that Was'.

Q. In the Berndt book, and this is at p.154, there is referred to, songs accompanying the rite relating to menstruation, and Pinkie Mack couldn't remember them.

A. I was asked pretty closely this identical question by Ms Nelson. My answer was that it is not surprising by the 1940s that Pinkie Mack had forgotten some or even all of the songs that she had heard as a girl back in the 1880s, 60 years previously.

Q. You tell us of your extensive field work and work as an anthropologist. Are you familiar in any way of any reluctance on the part of Aboriginal people to disclose ceremonies, songs, the rituals or the like.

A. Which Aboriginal people are we talking about?

Q. Ngarrindjeri people, Aboriginal people generally.

A. I am not aware of reluctance to talk about Ngarrindjeri songs and things, because the only Ngarrindjeri songs
that I have been aware of through field work are ones
that are very public, associated with singing in church,
for example. So I am not aware of any reluctance at
ceremonial level, if that's what you are talking about,
because I am not aware of a ceremonial level within a
contemporary society which would be akin to what you
would - what the Berndts would consider ceremonial in
terms of 'The World that Was'.

Q. Are you familiar with a publication called 'Religion in
Aboriginal Australia and Anthropology' edited by Mr Max
Charlesworth.

A. I do have a copy of that. It is an anthology of several
authors, is it not?

CONTINUED
Q. Yes, indeed it is. Looking at the book produced,
firstly there are some observations at p.295, and I'm
sorry, you will have to search for it, I haven't
actually got the line numbers, but it says this -
COMSR: Who is `he'.
MS PYKE: This is Dianne Bell, her writings in
that particular book, `Religion in Aboriginal Australia,
Anthology', edited by Max Charlesworth.
XXN
Q. At p.295, this is said - that was published. I might
say, in 1984, `From the earliest casual observers to the
highly sophisticated analysis of contemporary cultural
symbolists, women have been peripheral to the mainstream
of interest in the Aboriginal culture and academic
anthropology'. In general terms, would you agree with
that.
A. In terms of Australia-wide and the existing detailed
ethnographies, there would be some validity in it. It's
the type of generalisation that I myself would be wary
of making, because it then opens the door for people'
coming up with work, such as Goodall and Hamilton and
others, that falls outside of that general statement
but, in sum total, I would agree. Even women who are
writing ethnographies such as Daisy Bates, have probably
put, or have put more emphasis on men than women.
Q. At p.296, and again I will just read this out `The
misunderstanding and misconceptions which have
characterised so many studies of Aboriginal women's role
and status may be seen as the result of the convergence
of a number of factors; A observer bias, B theoretical
orientation of academic anthropology, and C
philosophical assumptions regarding women's place in
society'. Again, as a general proposition, do you
accept that.
A. They are all elements that anthropologists, when
reviewing older work, would take into consideration, but
it doesn't negate the value of earlier work, it just
signals that, as she is suggesting here - in fact she
says these factors are interwoven - that an
anthropologists has to be very careful in reviewing work
that's been produced from previous periods of
anthropology, but again I suggest that it doesn't negate
the value of those works, it just means that one has to
be alert to possible biases.

Q. Again on p.296 'Aboriginal women are reluctant to
entrust secrets to other women who seek to work on male
routines.'
A. Yes. She is talking about Nancy Munn, who worked,
without naming the group, had worked in an area which we
have already have said in the commission had a strong
male versus female gender division of secret sacred
knowledge, so by using Munn's work there, what she is
saying is so. I would accept that it's quite correct.

Q. Then at p.297 she says this 'Women fieldworkers face the
same problem as their male counterparts when it comes to
secret material which is restricted to one sex.
Aboriginal women have preferred to deny the existence of
certain ceremonies rather than allow the significance of
their beliefs and practices to be probed. Feigned
ignorance by ritual bosses has, in fact, protected
certain women's ceremonies which have been performed in
the bush and away from the gazes of their own men, and
also away from most fieldworkers'. Is that an
observation that you've made, or you accept or disagree
with.
A. If this is Dianne Bell, and presumably she's working in
the early 1980s in Central Australia, I accept that what
she is talking about here is probably quite correct. If
it's her experience, then it is correct, but again, I'm
not going to validate this to say that it can be
generalised right across Australia. Aboriginal people
are fairly diverse, and it would be almost insulting
really to come up with generalisations that worked for
all parts of Australia.

Q. But do you accept that it may be a situation that some
Aboriginal women do resort to denying the existence of
certain ceremonies, or indeed certain beliefs and the 
like, rather than disclose them.
A. Well, if this is Dianne Bell's experiences and they 
relate to that central area, then I can only assume that 
she is probably quite correct, and that that statement 
is correct for that region.
Q. I'm simply putting to you this; do you think it might be 
correct for other regions too, is that something that 
you're prepared to concede. If that's been found, for 
example, in the central area, that it might flag for 
you, as an anthropologist, that there is perhaps an 
issue.
A. The extent of work of, for example, Ian Keene, at least 
for other regions, suggests that is not the case, so 
therefore I would say this is a possibility, and also 
the situation of it not being the case is a definite 
possibility for other parts of Australia, so it is very 
dangerous to generalise right across Australia. The 
Central Australian religion is very much different from 
many of the coastal religions, an it's very dangerous to 
generalise from one area to another.
Q. Let me put this to you, there are various instances in 
the Berndt and Berndt book where Pinkie Mack doesn't 
remember certain songs, or says she doesn't remember 
certain songs, and says that she doesn't remember the 
significance of certain ceremonies or rituals. Do you 
concede it's a possibility that Pinkie Mack is doing 
what has been suggested by Dianne Bell has been 
happening with the women in the central area, in essence 
that she is deliberately not remembering as a defence 
mechanism, if I can put it that way.
A. I regard it as an extremely remote possibility, in view 
of what we also know through other works of Pinkie Mack, 
and indeed the descriptions of Pinkie Mack that we get, 
or the insights into her through this work and other 
work and, when Professor Berndt and Dr Catherine Berndt 
were alive, through their own reminiscences of the lady, 
so I would say it's a very remote possibility. I would
say, it's my explanation, that people do forget, over 60
years, songs to be by far the more plausible answer.
Q. I will just put this to you, that Pinkie Mack was
described by the Berndts as a renowned song maker who
had undergone at least the first stage of the female
cicatrisation ritual, and claimed not to remember the
critical meaning of songs, or didn't disclose their
meanings, particularly in respect to matters to do with
women and human reproduction. Do you concede at least
it's a possibility that there might have been a reason
for that beyond not being able to remember.
A. The fact that she was, if you want to simplify things,
only partly initiated, shows that it was an incomplete
sequence. It's only through a complete sequence that
you would be able to hear the songs and participate in
the songs enough to pass them on. I suppose - well,
another possibility could be that, you know, she
imperfectly remembered them and therefore, because she
didn't have perfect knowledge of them, didn't want to
pass them on, but again, that would be a fairly remote
possibility. I would tend to support that particularly
if she was a song maker, if she got involved in making
other songs which weren't of a ceremonial or a high
ceremonial nature and, as it was as suggested in this
book, `The World That Was' was over in terms of the
informant's view, so songs and initiation practices
which were no longer relevant wouldn't be reinforced
through the years, so over the passage of 60 years,
people forgot things. I've been in similar ethnography
situations in another fieldwork areas, which I'd rather
not sort of specify, but where there was a similar
problem of informants being able to remember some songs,
but totally forgetting others, and it was reinforced
again and again to me that there was quite a bit of, in
Aboriginal English, `shame' from the point of view of
the informant who couldn't remember, but it was, in this
one case that I'm thinking of, the truth, he could not
remember back, and that would have been a similar period
of 50 odd years.

Q. As I understand you, what you say is it might be, it's a possibility, but you believe a remote possibility, that Pinkie Mack was choosing not to remember.

A. An extremely remote possibility.

Q. An extremely remote possibility.

A. Without being able to collect more data, one can never be a hundred per cent on anything, so I have to go with the rules of probability.

Q. You would agree with me that there is certainly contemporary writing which informs that at least in Central Australia, there is a problem encountered by fieldworkers of that region of women not wanting to disclose -

A. Perhaps some parts of Central Australia for some periods, depending on what the political situation was at the time. I'd want to know more about what was going on then, and that's probably available in `Daughters of the Dreaming', another book written by Dianne Bell.

Q. I won't put to you all of the instances where Pinkie Mack says she doesn't remember, but am I right in saying your general answer about the general question would be applied in each and every instance I put to you.

A. I would tend to put up the same model to you until I had data to show otherwise.

Q. So far as Ngarrindjeri people were concerned, do you accept that there was a specific and specialist domain of knowledge within Ngarrindjeri culture.

A. I accept that, and I would say that it would have been primarily divided along the age distinction, particularly if we use Ian Keene's recent book as an insight into secret information in general, but although there is often an element of gender in terms of how that information is conveyed or perceived or publically acknowledged, Ian Keene makes it quite plain that one of it's primary purposes is as a manner of making a distinction between older people and younger people.

Q. Well, apart from older people and younger people, I
suggest to you that there are well recorded, in
Ngarrindjeri culture, domains of specialist knowledge to
do with particular occupations, if I can put it that
way.
A. Yes, specialist knowledge which is reinforced through
practices of avoidance.

Q. What is a practice of avoidance.
A. Well if we take, for example, birthing itself, as it's
quite clear in my opinion in the Berndt book, men knew
what was going on and the significance of it, but they
avoided that situation for a variety of prohibitions in
the popular sense, taboo reasons, and they avoided it
just like, in our own society, there are various,
without spelling them out, of avoidance practices that
gender and age have in relation to particular
activities. What I'm saying is that gender division in
itself can be either more in terms of avoidance or, in
some cultures, to do with secret sacred business.

Q. I suggest to you that, in Ngarrindjeri culture, there
were specialist knowledges that were separate and secret
to the particular group to which it related.
A. Are you referring to birthing? I'm having difficulty
with examples.
Q. As a general concept do you accept that, that there were
particular groups within Ngarrindjeri culture who had
specialist information that was secret to that group.
COMSR: You're not referring to a division by
sex for this purpose.
MS PYKE: Not at this stage.
A. I would have difficulty with that just as a general
statement. For example, Ngarrindjeri marriage
practices. At any one time, half the people in a
particular clan group would have come from outside of
that clan, so if you define group as a clan, then there
is obvious mechanisms where a lot of information is
going both in and out of that unit laterally. I'd need
to know what that group was. I'd accept, as a general
term, `secret' in terms of avoidance, or `secret' in
terms of a division between older people and younger
people, but if your group, in fact, is an age category,
for example -

Q. I suggest to you that there were various groups in the
Ngarrindjeri community who had specialist and
differential knowledge which was secret in that sense of
the word, kept within that group and not disclosed to
others, and I will give you some categories. Sorcery.
Do you agree with me that there were sorcerers.

A. From my knowledge, going through the ethnography, at
least part of that was quite public in that -

Q. Not all of it.

A. Well, I mean obviously the people practising sorcery -
and I'm finding that I will be coming up against a s.35,
but in general terms -

Q. I don't want you to give me the information, but would
you agree in general terms there was knowledge of which
was confined to sorcerers.

A. No, now that you pose that question. I would be
willing, and in fact I would state that individuals who
were engaging in that activity would naturally keep
their own activity secret, because it would be an open
attack on someone, but I can't see that there is a group
that would be defined, through the act of sorcery, as a
group. Individuals would naturally keep their
activities secret.

Q. Just dealing with the sorcery, are you saying that there
was not, for example, a person who was a sorcerer and,
as a sorcerer, he had knowledge or information which was
not held by the general Ngarrindjeri community.

A. Well, you've said `he', for starters, and women can -

Q. I'm just using that as an example, I'm just talking
about one person, a sorcerer.

A. In general terms it's been put to me by Aboriginal
people that sorcery, as a generalisation, could be seen
as a practice that older people started to use when
their own physical strength is failing them and, in a
preEuropean situation, it was a control mechanism, one
of several, that older generations could have in
relation to, well, young men, for example, who could be
causing trouble, or disputes with other distant groups.
CONTINUED
So, I accept that there is a high level of secrecy implied in sorcery. What I don't accept is there are groups of people who have equal knowledge from within and disguised from outside. What I am saying is that a body of knowledge which is coterminous with a group of people. There is secrecy in sorcery, yes, but not groups defined through sorcery.

Q. I am not sure that I am following this. You say that sorcerers may have their own secrets, but the fact that there is sorcery is known.
A. Widely known. In fact, it has to be widely known to be effective.
Q. What about the first part of it. That there could be sorcery practices that are secret to the particular sorcerer.
A. Yes, each sorcerer would probably have their own methodology, if you like, which they would - which, in many cases, would involve their clan symbol. Their kinship connections with the environment.

COMSR: Does that cover the question you were asking?
Q. Do you agree with me that, in relation to sorcery, that there are layers of knowledge. The sort of knowledge that is generally described as inside and outside knowledge. That there is a core that may be secret, but there is a layer that perhaps would be more widely known.
A. Naturally a sorcerer would work on the assumption that they had gained or they work on the perception in terms of the wider community that they had gained special information through, say, visiting the sky world. But, again, that would be them visiting the sky world as an individual. And it is information that they would hold as an individual. The fact that virtually every major ethnographic source from the Lower Murray region has a chapter or a substantial part in it on sorcery and the
fact that there are people today in the Ngarrindjeri community who know at least the broad nature of how it worked I think shows that it was - the public side of it was quite significant.

Q. Yes, but there might - I was simply putting to you that there might be a secret side of it.
A. And I have agreed and said that it was on an individual level.

COMSR: Yes, I think the witness has agreed with that proposition a few times now.

Q. Let me put this to you, according to Berndt and Berndt there were aspects of Ngarrindjeri knowledge that were passed on in a particular way and sorcery is an instance that they have given which was by apprenticeship.
A. What page is that on?
Q. That is p.149.
A. The whole nature of passing through initiations, becoming, in the case of, say, males going from a boy to a man involves apprenticeship.
Q. I will read it out for the benefit of others `During the latter part of this relatively long period of "running about", as it was called, boys were attached to Elders who had specific professions: for instance, sorcery, healing, preparation of the dead, composing songs or processing furs. This was regarded as a preliminary and, indeed, voluntary (depending on a child's interest) apprenticeship.' Would you agree with me that that would seem to indicate that there were particular Elders who had particular knowledge which they passed on to particular people depending on interest.
A. A better way of looking at it would be that particular Elders had better skills in certain areas such as preparation of the dead. It doesn't necessarily mean that it is exclusive knowledge. But, in this case, it probably means that they were more skillful with their hands, for example. But it doesn't - I can't see here that they are suggesting that there was - you had to be
as a child enlisted in a certain apprenticeship to get any information or at least the total information on a particular aspect. I think, if it was as you are suggesting, there would have been a couple of extra sentences at least actually describing it that way. But I see it as in any society that there are people who have talents in particular areas and they are encouraged through being attached to an Elder, in this case, in the Aboriginal case, who also has talent and already gained skills in that particular area to be like an apprenticeship. I mean, it sounds like the, you know, most efficient way of running a small group. So, you could have people who are very good with making spears and they specialise. It is a level of specialised Aboriginal tradition. It doesn't imply that there are a series of special clubs that people gain membership to and then go on their business. I think you are reading too much into it, with that proposal.

Q. I suggest to you another area where there is a clear description of specialist and differential knowledge relates to putari, Aboriginal doctors, if I can put it in the colloquial.

A. It is seen in many ethnographies and that in a sense the same body of knowledge that one could use for sorcery could also be used differently. Used more positively, let's put it that way. It could also be used for healing. So, again, sure, someone could be regarded as a putari, but in another context they could also be regarded as a spearmaker or something like that.

Q. I will just read this out, at p.192 of the Berndt book `Apart from home-treatment, a person who was ill usually called for the services of a professional Aboriginal doctor (putari).'

A. What line is this?

Q. I am not sure what line. I haven't noted the line number. It is p.192.

A. I think it is p.193, isn't it?

Q. Right, sorry.
A. Yes.
Q. Yes, you are quite right. I will just read it out

`Apart from home-treatment, a person who was ill usually
called for the services of a professional Aboriginal
doctor (putari). Such a man gained prestige through his
successful cases and also received gifts in recompense
for his treatment. There were also female putari, but
their special area of expertise concerned midwifery and
menstruation, as well as contraceptive measures and so
forth. The handing on of knowledge was important: one
channel for this was serving an apprenticeship to a
putari of renown.’ Again, would you agree with me that
that would seem to indicate the existence of specialist
and differential knowledge.
A. Differential knowledge based on almost like a class of
people through that broader cultural group. So, yes, I
accept the fact that a particular person would be
regarded as being a good healer and when there is an
occasion where they needed a very good healer, naturally
that person would be one that would be called for. In
the case of women here, someone who had a great deal of
success in terms of being a midwife, among other things,
would naturally be called for in times when they were
needed. It doesn't exclude the fact that other people
in the community, if the putari wasn't available,
couldn't take on the same functions. All it is saying
is that there is expertise and - within the community.
That all people are not equal in the sense that people
have talents in different areas. And, again, you know,
the group is capitalising on the, you know, talents and
by making people serve apprenticeships.
Q. You have got nothing to - it is a specialist knowledge,
isn't it. It is not just a talent or interest. Clearly
it is suggested there that it is a particular special
expertise and specialty. The handing on of knowledge in
relation to that was important.
A. It was effective. It made good common sense. Like, I
would around my own house, I could do my own carpentry,
but I prefer to get a professional in.
Q. Do you agree with me that there is nothing to suggest in
there that that specialist knowledge was handed on to
the general community. There is nothing in that segment
of Berndt and Berndt which suggests that the general
knowledge was handed on in a general - the specialist
knowledge was handed on in a general way to the
community.
A. There is nothing in it to suggest that the general
knowledge wasn't handed on to the general community.
Q. I am just suggesting to you that you -
A. So, both questions are equally valid. I would, as I
have said - my assumption is, through reading it, that a
high level of that knowledge would be widespread through
the community, but particularly individuals who had
served, as the Berndts say here, an apprenticeship would
be the people you would go looking for. But, if they
are not available, well, the knowledge is still out
there.
Q. I just simply put to you that there is no basis for you
to make that assumption.
Q. There is no basis for you to deny my assumption, either.
COMSR: Are you going to pursue this line?
MS PYKE: Just a little bit, yes.
COMSR: Because, to a certain extent, it is
repetitious when the witness has made clear his general
position.
MS PYKE: I am not going on. I have just another
couple of - I mean, it is one that is probably not
necessary to put all of this to witness. Certainly
there will be - the book speaks for itself in a way.
COMSR: Yes, and his position is fairly clear,
at this stage, I think, Ms Pyke.
XXN
Q. I just want to put this to you: it is at p.170 of the
book and it is in about - it is in the second paragraph
there about just over half the way down through it, on
the right-hand side, the sentence ‘Of the three young men’. It says this that ‘Of the three young men, only Karloan showed an aptitude for assimilating the information they wished to pass on.’ And this is talking about the initiation. ‘Yet, however receptive he was, he admitted to us that the greater part of the traditional heritage died with those older men. Moreover, he said, they deliberately withheld much of the religious knowledge because in their view it was of little use to members of the younger generation who were coming increasingly under the influence of the mission and of Europeans generally.’ Do you agree with me that that would seem to suggest that there was a large body or perhaps a body of religious knowledge that certainly wasn’t passed down to those three young men as part of their initiation.

A. And the latter part of what you read out explains that the older men were recognising that their culture was going through a transformation. So, from - we would have to take that into consideration. That the preEuropean rules that regard the passing on of that information were being severely modified and in some cases cut out altogether.

Q. I am simply putting to you that, as a general proposition, that we have here a clear example of an indication that there is a deliberate withholding of the large or they say ‘much’ of the religious knowledge from these particular young men, which would indicate -

A. Is it religious knowledge?

Q. Yes.

A. Earlier on it is talking about sorcery.

Q. It says ‘Moreover, he said, they deliberately withheld much of the religious knowledge because in their view it was of little use to members of the younger generation.’

A. Again, I have to say that it is in the situation that their culture is going through a rapid transformation and the Berndts are putting that forward as at least part of the explanation to say why information was being
cut off and selectively being passed on, in some cases
not being passed on. So, I would say it is not a clear
example of what you are suggesting it is.
Q. I suggest to you it is certainly a clear example of how
it might be that, as time went by, some people had
information, for example, in relation to religion, which
others didn't.
A. Given that, yes, given that Karloan was involved in
that last sequence of initiations some information
was, in relation to that part of the religion, was
naturally being handed on. Otherwise he wouldn't have
been in the initiation. So that this is what the - we
are talking about, a passing on of information in the
1880s, yes.
COMSR
Q. Are you suggesting that it was a deliberate withholding,
because it was secret, or because the younger members
weren't receptive to that information, because of other
influences.
A. Yes, I think, if it is the same model that we would
know of from other parts of Australia, there came a
time when older people made a decision, right or wrong,
that they wanted to withhold their culture. That it
was no longer relevant to the mission, to the new way.
The new forces that were controlling their community.
I mean, it is a very sad story, but it has happened
again and again and it is still happening in some parts
of Australia in terms of older groups of people
basically saying that they won't pass information on,
because the environment which - the social environment
that they knew when they were younger is no longer
around. And, in a sense, they are saying that their
time is over. The whole title of this book is, 'The
World That Was', is sort of a sad testimony to that
fact. So, I have a great deal of difficulty
extrapolating out of this a general rule, when it is
quite clearly - when the society or Yaraldi society,
if you want to call it that, was on the brink. The
last initiations were going through. And, for right
or wrong, older people were, at that time, evaluating
whether there would be another or an initiation,
whether the information would be passed on.
CONTINUED
XXN

Q. This is something I have picked up in Berndt and Berndt, and I would like you to comment on it. This is at p.210 'Kukabrack society appears to have had no secret sacred rituals'. Then the footnote says this 'While certain elements of the male initiation ritual (see chapter 10) was said to have been secret sacred, the ritual as a whole was not'. Do you know -

A. Elsewhere in the book - and it is documented by other sources such as Tindale, and I believe I put them in my statement - they make the point that older women were excluded from the prohibitions about who could be there for the male initiation rituals. So I'm not clear whether they are actually saying those older women were excluded or just that women in general were excluded. It is quite well documented - and it is in my statement - that older women were not excluded in male initiations.

Q. I have had an opportunity of looking at these articles that you produced yesterday 'The Encyclopaedia of Aboriginal Australia', the article on contemporary religion that has been tendered. Firstly, who did you say wrote that article.

A. Debra Bird Rose. Her initials are at the bottom of that segment.

Q. Do you assert that what we are dealing with here, this Ngarrindjeri case, if I can call it that, is a case of the syncretic movement, as discussed by Debra Bird Rose in that article. Are you drawing any -

A. I am saying that her model of what's happening in south-eastern Australia - and it is not just her model, there is a body of literature that Swain and Rose have added quite a bit to, including some books which I refer to in my statement - but what I am saying is that that body of literature, and you have got two examples there, does put forward a model that explains a fair bit of the aspects, the formulations that we have on the Hindmarsh Island secret sacred women's business.
Q. What is your basis for contending that what we are dealing with here is in any way a case of a kind that is referred to in that article.

A. The description in that last paragraph is one bit of firm evidence. The papers and the books basically - I am sort of having difficulty condensing it all into one or two sentences - but they are talking about how the landscape, to many Aboriginal people, particularly in south-eastern Australia, although they have got examples from other areas, symbolically takes on the role of a body of a female ancestor in opposition to what was a male dominated colonizing process a hundred odd years ago. The Debra Bird Rose that you are reading at the moment, points out elements of this spiritualism that stress healing and other things. I would have to have a copy of it in front of me if you wanted me to read out the relevant sections.

Q. Presumably it has been tendered because you think it has got some relevance to what we are dealing with in the here and now.

A. Yes.

Q. When was that.

A. Is it 1994?


A. But again, that is just a summary of quite a large literature which I believe should have been referred to in the Fergie report.

Q. You better run that past me again. What do you think should have been included in the Fergie report.

A. Those sources, that literature, what that literature would add to the situation.

Q. Literature about syncretic healing methods and the like, contemporary religion, Christianity - let me just read them out to you -

A. Contemporary spirituality.

Q. Uniting Aboriginal and Islander Christian Congress publications -

A. I am not sure what part you are reading. You are not
reading from the segment that was highlighted.

Q. In any event, you say that all of that should have been referred to in Dr Fergie's report.

A. Yes. It is all literature that has been readily available, particularly over the last six or seven years. Swain and Debra Bird Rose have been working in that area, as have other anthropologists -

Q. Is that sort of literature included in your appendix to your - you have not referred to that -

A. I refer to some of that literature. I don't refer to The Encyclopaedia. I refer to other writings by Debra Bird Rose and Swain which make the same points. I have brought the commission's attention to that because I think it is a crystallization about what they are both saying in their various publications.

Q. Have you read a review in Oceania, Volume 65, No.1, on some of Swain's most recent book, which indeed incorporates that argument that you have put to us.

A. I know there are some quarters where that would be - he would be savagely attacked. That's the nature of the academic game. You can't write anything significant without being taken to task on it.

Q. I will read you this critique of it, which says "The cover blurb is once again accurate in describing Swain's unorthodox arguments as "provocative" and "controversial"."

A. That does not mean it is not true. All advances within a discipline are inevitably regarded, when they divert - when they step outside of the mainstream, all advances are always going to - in most cases are going to attract that type of criticism.

Q. I am simply putting to you, do you seriously suggest that Dr Fergie should have included all of that debate in her report.

A. It was extremely relevant to the report that she was doing, particularly in the sense that what she was describing had never been described for the Lower Murray region. I think it is criminal that she didn't refer to that.
Q. If it is that criminal, why did we get this so late in
the event, after you have finished your evidence in
chief, made your statement and the like.
A. As I have just said, that's a crystallization of the
work that I have referred to in my statement. I wanted
to make it easy for people to digest the outcomes, the
generalisations that that literature puts forward.
Q. In any event, I suggest to you what you have done is
brought that along as a bit of an afterthought and -
A. Not at all. As I said in evidence yesterday, I was
shown the article about the Onkaparinga River the night
before -
Q. I am not talking about that. I was talking about just
that -
A. It is all relevant.
Q. We will get to that after. I am suggesting to you, to
come here late in your evidence, after having given your
examination-in-chief, having got halfway through being
cross-examined, to produce a 1994 article that is
described as 'provocative' and controversial', and say
it is criminal that Dr Fergie didn't include that
article in her report, is self-serving nonsense.
A. That information could well have been provided when I
originally gave my statement. Counsel assisting
considered that, in view of the information that had
been given so far, perhaps that should have been given
back then. It could have been given back then. I was
in possession of all of that material before I ever
stepped foot in this building.
Q. You have referred to the O'Brien Williams article. I
haven't got the transcript here in front of me, but, as
I understand it, if I remember correctly, you allege
that this was an example of some sort of mother earth
debate or conspiracy or recent development.
A. I never alleged conspiracy.
Q. Perhaps you can explain it to me. I clearly didn't
understand what you were talking about yesterday.
A. I explained it yesterday. Can you give me the page and
I will see if there is something I have left out?

Q. Page of what.

A. Page in the transcript.

Q. I just said to you I haven't got the transcript.

A. The parts of the article that I read out made a number of points in terms of the recent importance, for example, of looking on maps in order to determine mythological spiritual significance. For example, the way that the body was described in relation to the maps.

Q. Is this another example of perhaps a fabrication, conspiracy, that we have got.

A. I have not used those words, and I wouldn't say - what I am saying is - and I thought it was pretty clear from my explanation of Rose and Swain's work - that these are very strong influences on Aboriginal people, and that's to do with the mother earth, the colonial images of the colonized landscape, and that's another example of that influence at work. I am not saying that the authors of that paper have fabricated anything. I am not saying that.

Q. So the authors of this article who have drawn some analogy with the shape of the Onkaparinga River -

A. Not some analogy. That's their explanation for it.

Q. Yes, an explanation. The shape of the Onkaparinga River representing the reproductive organs of a woman, you haven't produced that as an example of fabrication.

A. As I have said twice already, I haven't said they were fabricating. I am saying this is another example of how these mother earth notions are becoming increasingly important in contemporary - during the last 20 or 30 years of Aboriginal - it is an emergence of a spiritualism that has mother earth as a major theme.

Q. There is no mention of mother earth or maps in this article, is there.

A. Yes, there is a mention of the map. They include a Lake Eyre Basin example of a myth, that suggests total knowledge of the whole topography of Lake Eyre, and they are using that as another example of how Aboriginal
people could have a map-like view of the landscape. So
there is discussion. I mean, it is a very small paper.
In total number of words, it is not that great.
Q. What is the relevance of the Kaurna beliefs, that you
produced this article for, to the current debate about
Hindmarsh Island. I am just having some difficulty in
working out what the relevance of this is to what we're
talking about here in this Royal Commission.
A. I could spell it all out, and I would probably come up
against all the problems of Section 35, because I would
then have to talk about formulations.
COMSR: We are probably going into some private
session for a time.
MS PYKE: I would hope, seeing this has been
tendered in a public session -
COMSR: But discussion of it might well involve
matters -
MS PYKE: I don't know what is in the witness's
mind.
COMSR: I understand there are two or three
issues that you have touched upon, that if you are going
to develop them, would require a private session.
XXN
Q. In general terms, are you saying there have been
parallel developments of certain concepts over a period
of time.
A. That's as good a way of expressing it. It is showing
another - it is another example of the growing trends
that Rose and Swain have discussed in a number of
publications.
Q. You have just used the terminology of 20 or 30 years.
Are you able to tell us when this concept, vis-a-vis the
Onkaparinga River, started or -
A. From my knowledge, it is fairly recent, but I have not
made a detailed study. It seems to have been a piece of
work that two Aboriginal people have put forward as
their explanation of the landscape. In terms of 20 or
30 years, that's the time period that Swain and Rose
have tended to talk about in relation to south-eastern
Australia and these beliefs.

Q. If a belief is introduced in that way and it persists
for a number of years, does it then become part of the
traditional values of -
A. Yes, if a belief like that is believed by a substantial
number of people, and it is reinforced over the years,
then whether it was technically an introduction or not,
or even - I'm not talking about a particular example -
but even if it was a fabrication, something introduced
by a total outside source, if it is imbedded in the
minds of a couple of significant people, and then they
gather a following around those beliefs, and presumably
it is modified to make it more workable to fit in with
other known body of data, then, yes, it can become a
belief - can become a tradition. That is perhaps some
insight into a whole wide range of modern beliefs that
come into being.

Q. As I understand it, you have got no difficulty in
accepting that this is a generally validly held belief
by the Kaurna people.
A. I would say it is a generally held belief by the authors
of that paper, but I am not aware that the sum total of
all the people who call themselves Kaurna are even aware
of it. With the nature of how the Kaurna community is
still building - and it is a community that is built
from people who have grown up in some cases at Point
Pearce, in some cases at Point McLeay - I would doubt
very much whether those beliefs have been around long
enough, and, in a community sense, been tested and
discussed to be labelled then as something that all
Kaurna people know. But I am not suggesting that the
authors have written that as fiction. They clearly
believe that, and I am not at all poking fun at them for
believing that.
Q. Do you think that that belief is restricted only to the authors of that article.
A. That belief in terms of the detail, but that belief in terms of the influence, I'm saying that that is another example of what Rose and Swain are saying. There are levels, there's a set of initial influences, and they get expressed in different places of landscape in different ways if there are people there who are in tune with those influences. The influences that Swain and Rose talk about do tend towards making connections between an ever increasing wider body of Aboriginal people, so there is a hint - not a hint, there is an aspect of building a pan-Aboriginality through that process, but it's a process that is still underway and will continue, I'm sure, for many years to come but, in terms of the landscape, to plug that landscape into those beliefs, there is naturally going to be a different expression of those beliefs in terms of landscaper on each occasion. We don't live in a homogenous landscape. There is much variation and, therefore, any imposition on top of that, overlay on top of that, on what Swain and Rose are talking about with the mother earth concepts, naturally the expression of it in detail will be different on each occasion.
Q. Getting back to your evidence, you made some reference in your evidence to the nature of oral history, or you talk about oral history, put it that way, and that's at p.191 of the transcript. You say this, you're talking about oral history, it's at line 11, I think, 'Oral history has this tendency of coming in direct conflict with recorded resources of history so, by its very nature, oral history changes its very form virtually with every speaking of it.'
A. That's correct.
Q. But do you accept that, in a community such as the Ngarrindjeri community, that oral history forms a very large part of the history of the people.
A. History of the people, are you talking about in a
definitive sense?

Q. Ngarrindjeri people.

A. Are you talking about the history of the Ngarrindjeri people in a definitive sense?

Q. Yes.

A. Well again, as the number of points raised, first of all an academic style history or, for that matter, an academic style ethnography, is an author's perception, whereas oral history is, by its very nature, an insider's perception of what is important and what happened, and oral history is very important in terms of getting insights into how a group of people see themselves, what's important about their own history, so it's of immense importance in terms of building an ethnography but, by building an ethnography, an historian, as an outsider, will arrange those arguments quite differently. Oral history should not be used or seen as an attack on academic history or ethnography. Oral history is very important, and I would not suggest that people who have an oral history should be told that that is wrong, and that they should be looking at conventional history. Oral history is, in a sense, not history, it's a view of what is important to them, what has been of importance in their history. It's not a lineal record of events in a western European academic style of history.

Q. I suppose I'm simply asking or putting this; that until Europeans came to this country, Aboriginal history was entirely oral, if we exclude perhaps paintings.

A. Well, no, entirely oral in what sense? I mean participating in ceremonies, I wouldn't consider that oral, even though it may involve being put, for example, in a psychic state and visiting the sky world. Learning songs, being able to act out the songs, the movement, is just as important as what is sung in many cases. If you're saying that just the culture was just handed on by someone sitting down and just giving a long narrative to groups of people and saying 'Well, now it's handed
on', I don't think it's quite like that. It is
certainly true that Aboriginal people didn't have
computers and things and therefore a way of recording
things in a sort of physical or repetitive way. I just
think your generalisation was a bit too broad.
Q. The fact that European or academic history hasn't
recorded an aspect of the oral history of the
Ngarrindjeri people, doesn't mean that that didn't
exist, does it, the fact that it wasn't recorded in
writing.
A. Well, if we concede that oral history is something that
incorporates quite a bit of change, then if an academic
style history anthropology - we'll take it as a whole
body rather than one or two particular works - hasn't
recorded something as significant as that, and there is
a very strong suggestion that something of that
importance hasn't been recorded before, it may well have
been a recent import or formulation. I mean that
question would have to be asked. There may well be a
reason why something wasn't recorded before, but you
would have to look at the sum total of all of the
circumstances.
Q. I'm simply putting the simple proposition to you; the
fact that white man's history hasn't recorded a
particular oral Aboriginal piece of history or
tradition, does not mean that that didn't exist or
doesn't exist. The fact that it's not recorded doesn't
invalidate it.
A. It wouldn't in a region where there is not much history
or anthropology that has been done. In a very heavily
worked area like the Lower Murray, I would say that that
is extremely unlikely.
Q. We have already seen examples in Berndt and Berndt
where, for instance, certain religious information
wasn't passed down to particular people. If an element
of that that hasn't been recorded in white people's
literature, you're not going to suggest that that didn't
form part of the belief system of the Aboriginal people,
the Ngarrindjeri people.
A. Sorry, you've lost me that question. What is the question?
Q. What I'm putting to you is this; the fact that white
European recording hasn't recorded particular pieces of
Ngarrindjeri history doesn't mean that it didn't exist
and wasn't important to the Ngarrindjeri people.
A. It depends on what that particular part of Ngarrindjeri
culture was. If it's something of such immense
importance that the very nature of the Ngarrindjeri
cosmos hanged off of that, then I would say that it is
significant that it hadn't been recorded, and that I
would then favour the weaknesses of oral history that we
have just discussed, and look towards a recent
formulation, but there are still new facts coming in in
terms of things that haven't been recorded. I myself,
for example, managed to identify a number of species of
plant food during the 1980s which we just had a name
for. New facts come into the ethnographic situation all
the time. It's just a matter of whether the new facts
challenge the overall body of knowledge that is already
there.
Q. Even if they do challenge the overall body of knowledge,
it doesn't mean that they are necessarily invalid.
A. If a new fact comes in which dramatically challenges the
model, the knowledge that's already there, then one
would have to investigate why there is that challenge,
and in terms of, say, the Lower Murray area, if the new
data is still not being able to be fitted into the
overall model, then you start looking broader, you start
looking at influences that are perhaps not indigenous,
brought up from within the Lower Murray region, things
that have come from outside of the region.
Q. Whose model. You keep refer to `the model'.
A. The model. I would say, for example, the statements
about, you know, that the Berndts and Tonkinson have put
in theory about the nature of the secret sacred
business, that's part of the model. The model changes,
of course, according to what you're taking about, but
perhaps a better way of looking at that is the
ramifications of the sum total of the literature that's
been written on a particular aspect of a region.

Q. I mean, you referred earlier to academic history, but
the reality is that academic history is a view as well,

A. There's always going to be biases, but one would hope -
and this is the same for anthropology - there is core
information there that if there are facts that can't be
disputed, that say that such and such happened in such
and such away or on such an such a date, that that forms
the cornerstone, the foundation, of other information
that's put on it, and of course someone, an Aboriginal
person, for example, writing a history of Point McLeay,
could use say the same basic core facts that I would
use, and they would come up with a different
interpretation in terms of stress, but it would still be
based on the same core knowledge and, therefore, their
version wouldn't necessarily challenge the version that
I put forward.

Q. You have referred to invention of tradition in your
evidence. You've said in your statement, at p.8 of your
statement, 'I have no doubt Ms Kartinyeri, or Dr
Kartinyeri as we know she is, and many of the women who
listen to her, wholeheartedly believe in her basic
account'. What were you referring to there when you
said 'her basic account'. Is that the secret sacred
women's business, her account of it.

A. I have to say 'basic account', because I haven't read
the other appendices of the Fergie report, but what I'm
saying is that due to the circumstances whereby this
information came about, that it gathered a following,
certainly not, as is the evidence of the dissident
women, totally throughout the community, but it gathered
a following, and I would not consider that many of the
people who follow Dr Kartinyeri's beliefs are
fabricators or liars or whatever, there is an obvious
level of belief here, I'm saying there are some
variations and, in some cases the story seemed, if you
follow through the various quotes in the press, the
basic account has a number of variations put on top of
it but, yes, I'm saying that I am sure there are people
who believe in the women's business, the secret sacred
women's business on Hindmarsh Island.

Q. You say this in your evidence, and it's at p.204, 'I'm
not challenging anyone's view of the past, except in the
context of the secret sacred women's business connected
with Hindmarsh Island before the 90s'. As I understood
your evidence, were you trying to make the point there,
just as you've given your evidence now.

A. Sorry, I mean I can't see anything there that conflicts
with what I've said in the statement.

Q. All I meant is what you've said there is some marriage
of what you've just told us.

A. It's more than that. All I want to say is that that
statement is consistent with that statement, although
I've got more of an explanation in this (INDICATES), I
don't want to read it out again, but more of an
explanation.

Q. So certainly the bit, 'I'm not challenging anyone's view
of the past', again by that you are suggesting that you
accept that the opponent women, if I can put it that
way, have a belief.

A. I accept that they have a belief. Exactly how much of
that belief is part of the formulations, what we know
through looking through the media and other sources and
other reports, I don't know, but I'm sure that, deep
down, a lot of the women who support the women's
business do believe, at least at the most basic level.

Q. Well, from your knowledge, you say that you hadn't heard
of it before the 1990s.
A. More than that, from my knowledge through everything that I've read, written, all of that.

Q. When I said 'heard', I meant to incorporate that. So what you're saying is that you haven't read or heard of it before the 1990s.

A. And since I did hear of it in, say, 1994, I have not been able to find any evidence, re-reading all of these sources, to support it, so it's more than that. There wasn't any evidence I was aware of before and, in terms of it being a preEuropean belief, I can't find any evidence of it now.

Q. Well, let's not worry about preEuropean. I mean there is nothing that suggests that an Aboriginal tradition must be preEuropean.

A. Well, it is being put forward as a preEuropean belief. I'm not aware that it's ever been stated to be a belief that began in 1994.

Q. There is a huge deference between preEuropean and 1994.

MR MEYER: This one is stated to be 40,000 years old, that's the evidence. We haven't been here quite that long.

Q. I'm simply putting to you that there is no requirement for Aboriginal tradition to be, for the purposes of the act as I've called it, for it to be preEuropean or indeed centred or located in any time frame, is there, for the purposes of the Federal act.

A. The Federal act, again I've already stated I'm not intimate with the act, but it would be important to document all examples of that tradition, knowledge of that tradition existing, even if the details aren't known. It's such an important issue you would be obliged to, I would imagine, if I was in that position, prove, as much as possible, whether it was a 1994 belief in terms of its beginning, or whether it was there much earlier. I mean that's the use of the ethnography literature that we have.

Q. Well, do you say that you're able to pinpoint for us the
moment at which this belief started, and with whom it
started.
A. The evidence that you've heard through the commission
and my own narrative, my own knowledge of what was going
on and what information and how I gained information
from the major players, that to me suggests something
late March/April 1994, but until presumably the
investigation which the commission is undertaking is
over, I mean that might be modified, but that's my
theory, if you want to put it that way.
Q. So your pinpoint in time is around about the time that
Doreen Kartinyeri was speaking to you about the
connection between the name 'Kumarangk' and pregnancy.
A. Days or weeks, within that general process.
Q. Do you say that conversation with Doreen was in about
March, is that right.
A. No. I think I'd have to look at my statement, but April
was the main month that those things were happening.
I'd have to look at my statement, because a lot of these
events were placed in between known dates, like when I
started my leave, and when we unpacked the Tindale
collection at the museum, those kinds of things.
Q. Is what you're saying this; you see that as the origin
of it and from there, Doreen Kartinyeri has constructed
whatever.
A. I think the origin is probably more - correction, I
would say that it's quite likely that a number of
sources of information have sort of converged and come
up with a formulation that one or more of the sources
wouldn't have originally have had. That's just my
guess. You were asking me for my guess.
Q. Is what you're saying this; that Doreen Kartinyeri may
have had bits of information that she was acquiring over
a period of time, including what she -
A. What I did say in my statement was that she was working
it out.
Q. Let me just go on with with what you're saying. Is what
your taking this; Doreen Kartinyeri, as far as she is
one of the opponent women, over a period of time was
getting information from a variety of sources, including
from the Ngarrindjeri community, the Central Australian
community and the western desert community over a period
of time, and this filtered down ultimately in April 1994
to the crystallisation of a view or theory.
CONTINUED
A. I think that is over - I think that is probably the
basis of it, but I would think it is a bit more complex
than that in that we can't discount other players
involved in that. As I have already said, a complex
interplay of a number of people. What their motives
were, I wouldn't guess.

Q. In terms of time frame, you don't know whether this is a
process that would have been going on for years.
A. As I have already said, I believe it to be from my
knowledge March/April, particularly April, but that
might be modified, depending on new evidence that comes
in.

Q. I am simply putting to you this, are you saying that
this whole concept of secret sacred women's business
just started off with a thought in April 1994 -
A. No.

Q. And evolved from there. That is what I am trying to put
to you, or is it the situation that you are saying that,
look, over a period of time, some of these women
acquired bits of information from Aboriginal communities
generally. Let's even put it that way, which finally
distilled itself down to being crystalised in 1994 as
being the concept that we heard about.

A. It is more of the latter. There are various trends out
there. The Aboriginal communities re-establishing links
to the landscape in the process of rebuilding their
identity. That is quite to be expected and justified.
And the various trends that I have talked about
converged on a series of other factors which - and I
don't see that those influences are the only factors. I
am just trying to explain as an expert witness on the
culture side those particular aspects. But those
influences have played a major role in why a very large
number of Aboriginal people, you know, believe, you
know, this secret sacred women's business on Hindmarsh
Island. So, it has to be said.

Q. Is what you are saying this, that the secret sacred
women's business on Hindmarsh Island is a - in your
definition of, or your concept of invention of tradition
similar to what has been happening in other Aboriginal communities and that there has been a -
A. Sure, as `The Invention of Tradition' is a title of a book which talks about these processes and actually talks about or the main papers that I am familiar with in that volume are in relation to European examples of reinvention of tradition. So, it is a fact that cultural groups do start to play around with their own orgins, from time to time. Particularly groups perhaps where there is quite a substantial shortage of historical facts that are readily available to challenge.

Q. What I am putting to you in general terms is this, that it is just simply not possible to pinpoint the starting point of - and I will use your terminology - the secret sacred women's business in April 1994. Even on your own discussion of invention of tradition. It is something that clearly has evolved in its various pieces over a period of time.

A. No, this is where we make the distinction between secret sacred women's business on Hindmarsh Island, which is what I am saying March/April 1994 and as distinct from all of those other influences which have, in some cases, if we follow the Swain and Debra Bird Rose literature, have been growing over a number of years. Over the past 10, 20, 30 years. So, we can't roll them into one lump and say, bang, it just all happened and all of its orgins, if you are just talking about those broader influences. But, if you are talking about secret sacred women's business on Hindmarsh Island, I have given you, within a few weeks, whatever, my estimate, on the data that I have had available, of when it happened. The investigation in the Commission may modify that, in one way or another.

Q. I am just trying to, I suppose, get some clearer idea of what you talk about in terms of the invention of tradition, because that is what you are saying has
happened here, isn't it.

A. I have used that term, because it is a term used in the

title of that book, which describes exactly those

processes.

Q. All I am trying to clarify with you is this, I suppose:

That, notwithstanding what you say that you believe is

the concept of secret sacred women's business

crystallised in April 1994, the forces giving rise to

crystallise Aboriginal tradition, the concepts, the ideas

would have - have been something that was acquired by

the players - again to use your phrase - over a period

time.

OBJECTION Mr Abbott objects.

MR ABBOTT: I object to the question, because we are

slipping from secret sacred women's business to what

this witness has made clear is more specific. Secret

sacred women's business in relation to Hindmarsh Island.

And my learned friend can't ask questions on one and

expect an answer to the other.

MS PYKE: I thought I made it clear what I was

asking, but I will ask it again.

QUESTION REPHRASED

XXN

Q. You are saying that the concept of secret sacred women's

business on Hindmarsh Island was formulated - and I use

that phrase - in April 1994 or thereabouts.

A. Yes, I am saying that.

Q. But you are saying that that is something that has -

that that formulation has occurred by way of a process

of invention of tradition.

A. Yes, that's a convenient way of describing it.

Q. I am simply putting to you that the forces behind the

formulation must have been acquired over a period of

time. It just doesn't happen in a vacuum.

A. Nothing ever happens in in a vacuum, but there are

various influences out there and people can selectively

use those influences to push a particular political

line. I mean, that happens all the time.
Q. I am simply putting to you that the various influences that may have lead, on your theory - and we don't accept it, I might add - but the various influences would have been or might have been influences that would have been at play over a period of time.
A. What do you mean `at play'? With those particular women, or just out there generally in the community?
Q. With those women, firstly.
COMSR: I don't know how this witness can answer that question about what other people might have been influenced by and when, Ms Pyke.
MS PYKE: He has purported to give in evidence where he thinks it had its origins, where it was formulated.
COMSR: The presents of influence is one thing, but, when they influence particular people, I don't know that it is something this witness can answer.
XXN
Q. The article or the book that you refer to is `The Invention of Tradition', edited by Eric Hobsbawm and Terence Ranger.
A. Yes.
Q. Would that be the article or the book that you refer to.
A. That's correct.
Q. The phrase used is `invention of tradition', but by that, I mean, is what meant this: the evolution, not in the sense of improvement, but an evolving of tradition.
A. I would be more comfortable with a change of tradition, but we are talking about perceptions. If we are talking about perceptions, then often the change is not acknowledged. And the example in that book of, say, the highland tradition of Scotland, that was an invented tradition. And I will probably get in trouble for saying that, but it is in the book. And it gives an example of how that was changed and, yet, there has been the perception of continuity. So that it would come as a shock to a lot of people who are either immersed in that culture or hold those views dear. So, we have to
make a distinction between the insiders knowing that
there is change and the change itself.

Q. If it is an invention of tradition, does that mean that
something which was not there previously has appeared in
the tradition.
A. That's right. And it implies a - sort of a more radical
change. I mean, we accept that it is the nature of
culture to change all the time, but, in the case of
invention of tradition more particularly the examples
talked about there are talking about fairly major
changes.

Q. I will read out to you some passages from this book.
A. Which chapter, because there are several authors?
Q. The Eric Hobsbawm -
COMSR: Is this along the same lines of trying
to elicit from the witness what he means by invention of
tradition?
MS PYKE: Yes, I put to him a definition.
COMSR: Hasn't he covered that?
MS PYKE: I want to put to him the definition used
in the book. I want to put a couple of things in this
article and get his views about it.
COMSR: Yes, but we don't want to go over the
same ground over and over again once the witness has
expressed an opinion, do we?
MS PYKE: Right.

Q. I will just put this to you: that in the introduction -
MR ABBOTT: What page?
MS PYKE: P.1.

Q. I will read it out 'The term "invented tradition" is
used in a broad, but not imprecise sense. It includes
both "traditions" actually invented, constructed and
formally instituted and those emerging in a less easily
traceable manner within a brief and dateable period.'
Is that the sense in which you have - either of those
senses, the senses in which you have used `invented
tradition' to apply to what has happened in relation to
secret sacred women's business on Hindmarsh Island.
A. Yes, my use of that term is covered in part of what you
have said there, yes.
Q. Which part.
A. You will have to read it out to me again.
Q. Right, "It includes both "traditions" actually invented,
constructed and formally instituted and those emerging
in a less easily traceable manner within a brief and
dateable period.'
A. More the latter.
Q. That doesn't necessarily imply, though, does it, any
lack of belief in the genuineness, that it has been
invented necessarily, does it.
A. No, it is more a comment on the cultural processes of
inventing. I mean, it doesn't, for example, say that
the outside influences - people perhaps even having
knowledge of what they were doing. Presumably, for
example, in the article in that book on the Scottish
highland tradition, the various poets and writers who
reinvented that tradition had knowledge that they were
stretching the historical facts to breaking point and
repainting a picture that they would prefer rather than
what they saw. So, you can have active invention, if
you want to call it that. But, once it is taken on by a
group of people and becomes imbedded, either in the
literature or in belief, then the people who hold those
beliefs -
Q. Genuine believers.
A. Yes, would be genuine believers and will assume that the
generations before them had them as genuine beliefs,
even though they may not have. It is talking about the
mechanism whereby culture sort of lumps over a bit of a
problem in terms of the continuity of information or
practice.
XXN

Q. Again, can I just put to you, to you see if you agree with it, it is on p.4 of this particular book, it says...

`Inventing traditions, it is assumed here, is essentially a process of formalisation and ritualisation, characterised by reference to the past, if only by imposing repetition. The actual process of creating such ritual and symbolic complexes has not been adequately studied by historians. Much of it is still rather obscure.' Would you agree with that. That the process and concept of inventing traditions is one that is still an area that hasn't been adequately studied.

A. What is the date on that book? I mean, it was a fairly significant piece, when it was published, but it is getting a bit old, I think.

Q. 1983.

A. Yes, there has been quite a bit of work since then, but I am willing to take a bit of a swipe at historians. Historians, as distinct from anthropologists, have to watch out a little bit more for that type of thing, but that book is often referred to. And I think most competent anthropologists are well-aware of the message that that collection of papers brings about. I mean, 1983, I mean, it is, what, 12 years ago. It is a long time, in terms of anthropology and history.

Q. Would you agree with me that, in so far as inventing traditions as a concept is concerned, it is very difficult to establish any precise date, time or place, as to where the tradition was established.

A. It is always hard to prove a negative, but I believe that's where the anthropologist has skills that perhaps an historian wouldn't have. Just because something is difficult doesn't mean we don't try and do it. And I would say that the task in the general sense in every case is one that just can't be fulfilled.

Q. Again, I will just read from here and we are talking about the orgins it says this `It is probably most difficult to trace where such traditions are partly
invented, partly evolved in private groups (where the
process is less likely to be bureaucratically recorded),
or informally over a period of time.'
A. They are all problems. I wouldn't say in each and every
case they couldn't be solved. But, yes, it is a
complex, you know, interplay of a number of factors and
when that happens and that is what it is saying.
Q. The secret sacred women's business, as it relates to
Hindmarsh Island, shares those or has those problems,
doesn't it. In trying to establish when.
A. It has some of these problems and I think some of those
problems are well on the way to being solved.
Q. Did you hear the evidence of Betty Fisher or have you
seen a transcript of her evidence or a copy of her
statement.
A. I have seen some of that. She requested that I not be
in the Commission the first day she appeared and
possibly the second, so I have only got fragmentary
knowledge of what she has said, although I have watched
the full version of the 7.30 tape.
COMSR: I think some of that evidence, of
course, was taken at a hearing restricted to women only,
so the witness has a problem with that.
MS PYKE: I am only going to be general about
that.
Q. If the evidence of Betty Fisher is that there was
mention of secret sacred women's business or elements of
it back in 1967, which she recorded, would that affect
your views.
A. I was aware of her claims even before I gave evidence
and I was willing to concede, if the evidence became
available and could be tested, even if I was not
privileged to actually see the data, but, if it was
verified, that I would consider it and either modify my
statement or explain how it differed. But we are
talking about information that is said to exist and I
haven't seen it. And, at this stage, I think that it
would be wrong of me to make any allowance for it. So,

at this stage, I would say that, until it has been

verified, I wouldn't believe it. And I am not saying

anything beyond that, but I am here to verify my

information. I am not going to change what I have said

on the basis of something that is only said to exist.

CONTINUED
I mean, that gets back into the problems we have got with oral history.

Q. Are you not able to in any way say "If some of this has been documented back in 1967, I would certainly have to rethink my position about a recent invention of tradition."

COMSR: If it has been proved to have been documented.

MR ABBOTT: He has already said that if it was proved, then he would. So it is the same question again.

XXN

Q. Let me put the hypothetical. If it were proved that in 1967 there was mention of secret sacred women's business, an element of it to Mrs Betty Fisher -

A. Are we assuming -

Q. Let's just assume that that is proved, I will put the hypothetical.

A. Proved by whom?

Q. Let us not worry about proved by whom.

A. That is quite important to me.

Q. If madam commissioner, when she prepares her report, says: I have heard the evidence of Betty Fisher, I have seen her notebook perhaps, and this, this and this. I have formed the view that in 1967, on whatever basis, or I just accept, notwithstanding the comments that emanate from the bar table, that Mrs Betty Fisher is a credible witness. In essence, I accept the evidence of Mrs Betty Fisher that in 1967 information was given to her that relates to secret sacred women's business on Hindmarsh Island. Let us just say the commissioner, having heard all the evidence -

A. If it had been through such a rigorous testing and I was told at least the basic fact that there was secret sacred women's business on Hindmarsh Island, I would accept that as a basic fact. It is quite a different question, of course, whether the details behind that basic fact, which I may not be privileged to see,
actually mesh at all, or may even contradict other
formulations which date from a more recent time.
Q. I am just putting the hypothetical to you. If it is
found that back in 1967, information was given to Betty
Fisher consistent with the formulations of secret sacred
women's business that we are dealing with in this
commission, what impact would that have on your view.
A. I would accept the basic statement if it had been
vigorously tested, but even in terms of history of the
Ngarrindjeri people, even if it was as recent as 1967,
there would need to be a question answered in terms of
other influences. As my thesis clearly states in terms of
time lines, population movements and things, the
1940s, the very time that the Berndts were doing their
field work was a time when a large number of Aboriginal
people from all over Australia started to converge on
the urban environment. The fact that Betty Fisher's
main informant was there in the house of someone who is
of another cultural group, that is, of Point Pearce -
what I am saying is still the same set of basic
questions would have to be answered, but I would accept
that there was an element there, and that would then
have to - if that was a fact that it had been vigorously
tested and come through, then we can get past that first
of many questions and then get onto the `Well, how can
we explain it?' It may be that female anthropologists
would then have to do that on the basis of at least
background knowledge that they could get from my
writings and from me personally. So I don't think that
one question implies that everything I said will be
flushed down the toilet with just the mere fact that
what you have stated was proved to be true. But we are
talking about hypotheticals, aren't we?
Q. We are, but it is one that the commissioner is going to
have to grapple with.
COMSR: I note that it is 1 o'clock. I
appreciate in your case you have a fairly wide area to
cover in this matter, but we do seem to be going through
a reasonable amount of repetition with this witness.
MS PYKE: With respect, I wouldn't necessarily
agree with that, but you are entitled to your view. I
have certainly covered the bulk of what I want to put.
There is still a couple of things remaining, but, given
that I am not answering the questions, it is a bit hard
to estimate time. With no disrespect to Mr Clarke, some
lengthy answers get tucked in there. I will certainly
hope to finish within the hour, if not the half hour.
MR MEYER: While we are on that subject, Ms Pyke
has referred, on a number of occasions, to having a
proof. I am interested in, since she has a proof,
whether a statement of her client has been presented to
counsel assisting yet.
MS PYKE: We have been asking for a summons since
the start of this commission. I am simply not prepared
to hand over anything that I have got it.
COMSR: You are requesting a summons before you
will hand the statement over?
MS PYKE: Certainly.
MR MEYER: That is the first we have heard that.
COMSR: The question has come up from day one.
In any event, I think I made it clear
yesterday that, notwithstanding the previous attitude of
the commission not to issue summonses, in the case of
professional witnesses who ask for a summons to issue, I
have decided that it is appropriate that they do have a
summons. I think that is being attended to.
MR SMITH: Yes.
ADJOURNED 1.03 P.M.
RESUMING 2.35 P.M.
Q. We were talking before lunchtime about the impact that
Betty Fisher might have upon you and your views. I
think what you said was that you want what she had to
say tested in some way.
A. That's part of what I'm saying. There can be no impact,
of course, until I know what it is, what the nature of
that information is.
Q. Isn't what you are saying about Betty Fisher a little
bit inconsistent with what you were saying this morning,
when I was putting to you the concept of an
anthropologist having some trust or knowledge of an
informant, and using that as a way of weighing up the
extent to which perhaps they might take into account
information.
A. An informant in this case is not an indigenous person or
a person of that cultural group that is being discussed.
It is someone from outside, and it is information that,
for a variety of reasons, can't be tested. So it really
can't really be considered by someone like me until I
know more about that information.
Q. In your evidence at p.205 of the transcript, at line 34,
counsel assisting asked `For instance, I have heard
talk, in the context of this case, about the Seven Stars
Dreaming. Does that, in your view, have any relevance
to what has happened here in relation to Hindmarsh
Island'.
Q. Is this information that can be discussed?
A. No, I don't believe it is.
COMSR: We will have to move into private
session at some time.
MS PYKE: I don't want to know anything about it.
I don't want the detail.
MR SMITH: Discussions about the Aboriginal
traditions in areas other than the Lower River Murray,
even though they perhaps don't go so far as requiring
any Section 35 authority, are matters of sensitivity for
those other Aboriginal communities. So even though Ms
Pyke may not want an answer which goes into detail about
the content of that tradition, I would be asking, on
behalf of the commission, that this be dealt with
privately out of broad consideration of confidentiality
and sensitivity.
COMSR: We do have another difficulty, too, in that the authorisation that we now hold does not cover any matters of Aboriginal tradition outside the area of the Lower Murray.

MS PYKE: Firstly, this is evidence that has already been given at some length by this witness.

COMSR: Certainly, but the authorisation that the commission thought it was in possession of at that stage covered a wider area. We now have to work within the ambit of the present authorisation. It may well be that, to some extent, your questions can be framed as a generalisation.

MS PYKE: I am certainly not wanting to ask any detail about it. I will think about that.

COMSR: You can refer the witness perhaps to a page without mentioning it.

MS PYKE: I do have a question, but I don't want the detail of it. I just want to make sure I understand what he is actually talking about. I will keep going for a moment rather than enter private session and out again. I am getting towards the end of what I want to ask, and we can do it conveniently at the end.

XXN

Q. You are not suggesting that, as part of the process of preparation of Dr Fergie's report, that she should have consulted with every Ngarrindjeri woman.

A. As I've already said, that would be an extremely large number of people. However, it is important to get as many diverse opinions as possible, and, therefore, you would have to widely consult.

Q. I am asking you: are you suggesting she should have located each and every Ngarrindjeri woman in South Australia.

A. She should have sought out many more people than are reflected in the report. If she couldn't do that, then the nature of her final report should have made mention of that as a possible source of further work that needed to be done.
Q. Did you do that with the Ngurunderi exhibition. Did you consult each and every Ngarrindjeri person about their view.

COMSR: The witness has said it is not necessary to consult each and every one. He has said it would have required a wider consultation.

QUESTION NOT PURSUED

XXN

Q. You became aware of Dr Fergie's report at a time when your thesis had been submitted but not marked, is that correct.

A. My thesis was submitted in March 1994. I would have become aware of her report, I imagine, somewhere in June/July, and my thesis was in the process of being marked, of course, because it was submitted.

Q. You became aware in July that Dr Fergie's report suggested that Hindmarsh Island was a significant part of Ngarrindjeri tradition.

A. Sorry, am I aware that that was in the report, are you saying?

Q. Yes. In July you became aware that there had been a report of Dr Fergie which suggested that Hindmarsh Island was significant to Ngarrindjeri people and women in particular.

A. I became aware of that through talking to Deane. I still didn't have much of an idea of what was in the report, and I still don't, because a lot of it is of a nature that I cannot read. So I had no real idea of what was in the report. It is only in recent months I have seen the report, and a lot of our conversation in relation to what Deane was telling me, I see that in the report. I had no knowledge of or idea really of the shape or content of the report back in - at the time of my conversation in July 1994.

Q. You knew that it related to secret sacred women's business, as you've described it, and you knew that it related to Ngarrindjeri women, and you knew that it related to Hindmarsh Island.
A. They were aspects that Deane Fergie discussed with me, but, again, I had no clear idea of what was in the report. The report, for all I knew back then, may have only just touched on one of those aspects. I hadn't formulated any idea of what was in the Fergie report.

Q. You agree with me that your thesis contained no reference to issues relating to secret sacred women's business and Hindmarsh Island.

A. No, that's not correct, in the sense that Hindmarsh Island is mentioned in my thesis.

Q. Secret sacred women's business of Hindmarsh Island.

A. Sorry, they are your words. Secret sacred women's business on Hindmarsh Island, no, those words in that order don't appear in the thesis, or any words of that meaning - they don't appear in the thesis either.

Q. I suggest to you that you developed a model of what you thought Dr Fergie's report said, that is, the secret sacred women's business on the Western Desert model relating to Hindmarsh Island, at the time of your conversation with her on 11 July 1994.

A. Sorry, that that was the first time that I had, sorry, what, brought in the Western Desert influence?

Q. Yes, I suggest to you -

A. No, that's not correct.

Q. You talked to her about it on 11 July.

A. I mentioned it and, if I mentioned it obviously then I'd already thought of that and had had that as a possibility, and it was a possibility since I had already thought of it, and if my memory serves me correct, I even discussed it with a couple of other anthropologists in the museum, and I put it forward to Deane to get a response. But my main aim through talking to Deane was not to find out the words written in the report. I was more interested in building - you know, getting more data for my own interest in explaining what was going on. I didn't really have an interest in seeing her report. As I have said, I didn't see her report until quite late in the game, and was not
interested in it as a body of work in itself, although
interested in the information that maybe of help to me
in order to find out what’s going on.
Q. I simply put it to you that you had formed and developed
a view of the contents of Dr Fergie's report before
reading it, that you have developed a model of secret
sacred women’s business on the Western Desert model as
being your interpretation, if I can put it that way, of
Dr Fergie's report. You have elaborated that model
continuously since that time, and I suggest to you that
the model that you have developed is, putting it
bluntly, a figment of your imagination.
A. You have suggested several things there. First of all,
you seem to be suggesting that I had some expressed
interest in finding out about the Fergie report.
Clearly I didn't. I didn't see it until quite late in
the game. Secondly, no, it is not a figment of my
imagination, my ideas, my model of explaining what was
going on.
Q. I suggest to you that you have approached your
interpretation of Dr Fergie's report from a position of
bias.
A. How so?
Q. You formed a view about it before you'd even read it and
before you'd even spoken to her.
A. I keep saying I had not formed a view of the Fergie
report. I had formed a view of what was happening out
there in the community. The community and the whole
issue surrounding it kept going outside of the Fergie
report. The Fergie report is crucial for one aspect of
describing what went on and what's going on, but I was -
it was not central in terms of my interests to read the
Fergie report. So, therefore, opinions that I formed
were not of the Fergie report. Opinions I was forming
were of what was going on out there.
Q. I am putting it to you that your opinions had been
formed prior to 11 July 1994.
COMSR: I only need to have it put to a witness on one or possibly two occasions. If it is repeated more often than that it really doesn't assist me a great deal.

MS PYKE: With respect, the witness's answers are perhaps more the subject of criticism than the questions. If he answered the questions, I might not have to ask them several times.

Q. I don't want to put to you each and every article if I can avoid it. Would you agree, as a general proposition, that our knowledge of Aboriginal women, their culture lives and beliefs, is less than complete than our understanding of Aboriginal men.

A. Like many generalisations, it is open for criticism. As an anthropologist, you describe a society which includes both men and women, and there is a lot of overlap between the various cultural domains of both. If you mean - if you want to add up the number of books written about Aboriginal men's business, and put that number against the number of publications written about Aboriginal women's business, I wouldn't have a clue.
Q. Let's talk about Ngarrindjeri.
A. I would have to say that that is an incorrect statement, because in evidence I've given already, and which is stated quite clearly by sources of information such as Berndt and Tindale, that there wasn't women's knowledge of sacred business as on a par with men, and therefore the separation wasn't there so, by definition, you couldn't discuss what women knew in contrast to what men knew.

Q. Well, you don't agree with that, you think the body of knowledge of Ngarrindjeri women's cultural lives and beliefs is as complete as that of Ngarrindjeri Aboriginal men.
A. Nothing is ever complete, but there is lots of data on Aboriginal women, and there is lots of data from Aboriginal men from that society, it depends really on what aspect of that data that you want to investigate, whether the literature is full enough in order to come up with that answer. Beyond that, the question can't be answered.

Q. Would you agree in the past that there has been a bias in the literature in the sense that it has been predominantly men that have written about Ngarrindjeri women and men.
A. Well, in terms of the Lower Murray, I suppose themale bias that anthropology certainly didn't suffer from was very close to being balanced with the significant contributions from people that have already been mentioned, Catherine Berndt in particular, so I would have difficulty with saying that there's a bias, a strong bias, at least, towards Aboriginal men in that particular research region.

Q. I don't want to repeat what Ms Nelson has already put to you, you think that there's been a balance of views.
A. I mean there's broadly a balance, depending on again what issue you're looking at. There may well be a gap in the literature for something to do with Ngarrindjeri men, just like there are probably gaps in literature to
do with Ngarrindjeri women. The generalisations that you're putting to me are not of the type that can be easily answered, because it's a fairly complex literature.

Q. I accept that, but I put it to you as a general proposition, and you simply don't agree that there is any bias.

A. No, that's not what I've said. There are many biases throughout the literature, most of them minor in terms of gender. I think it's too much of a generalisation to say that there is a strong bias at least towards Ngarrindjeri men.

Q. So what you're saying is there is not a strong bias, but there is a bias.

A. In some issues, there probably is. If you were looking into aspects of material culture, for example, in the museum, we would concede that we know a little bit more about Ngarrindjeri male artifact making perhaps than Ngarrindjeri female artifacts, but even there it's not a clear generalisation. What I'm pointing out to you are just the problems that there are in making such a generalisation.

Q. You said yesterday that you were an informant for the Lucas reports, Mr Lucas had consulted you.

A. Which are report are you talking about, the Hindmarsh Island report?

Q. Yes.

A. I have a copy somewhere where he acknowledges me in that, as well as Steve Hemming and others.

Q. Did you refer him to the work of Alison Harvey or Mrs Tindale.

A. Mrs Tindale's work, at that stage, we were unaware of. Alison Harvey's work has been known to us for many years, and I'd imagine that if Steve Hemming hadn't put him on to that, that I would have.

Q. I'm not asking what you imagine, I'm asking you whether you did or you didn't.

A. I can't remember the conversation going back that far.
It would have been part of the literature. If he had
asked the right question, he would have got the right
answer. We would have been pointing out useful
references to him.

Q. That's simply what I'm asking. In pointing out the
useful references, do you recall whether you referred
him to either Alison Harvey or Mrs Tindale.
A. I can't recall it, but I can’t deny, I can't say that I
wouldn't have. In every likelihood I would have
referred him to at least Alison Harvey's published work,
if not her diary, but I have no actual memory of what
was referred to him.

Q. What writers or reporters do you say specifically look
at Ngarrindjeri women's knowledge.
A. Well, Catherine Berndt, with her extensive literature,
even with papers titled words to the effect of
'Aboriginal Women', I would say she is a fairly
important source. There are other people who have
worked in the region as anthropologists, as geographers,
who have worked quite a bit with Ngarrindjeri women.

Q. Ngarrindjeri women in particular.
A. Yes.

Q. So we have referred to Catherine Berndt in relation to
women's knowledge.
A. I've already mentioned Alison Harvey and her work, then
there is Professor Faye Gale and some of her students
that were involved in her projects. Joy Wundersitz, I
believe, did her masters thesis on Lower Murray culture.
I'm not as familiar with it, but she worked extensively
with Aboriginal women.

Q. I understand I'm asking the question in relation to
women's knowledge, not just who worked with Aboriginal
women, Aboriginal women's knowledge.
A. Are you saying women's knowledge which men don't have?
Q. Generally.
A. Because I have problems in that you're introducing a
paradigm of separate knowledge and, as I'm arguing, it's
not a clear topic to do research on. If you're talking
about people getting involved in what Aboriginal women
in the Lower Murray region do today, well, people like
Faye Gail with her various writings and books she has
edited has obviously worked quite a bit with Aboriginal
women, including Dr Doreen Kartinyeri.

Q. In your thesis, p.418, you said this, 'The histories of
Aboriginal and European interaction during the 19th
century in the northern parts of the Lower Murray at
places such as Goolwa, Milang, Strathalbyn, Wellington
and Murray Bridge, are relatively poorly known'. What
did you actually mean by that.

A. Sorry, what line is that?

Q. I haven't line numbered it, p.418.

A. Yes, I've got it. That's a general statement that can
be borne out by looking through a variety of maps, for
example, that I've got in terms of sites related to the
various spirit beings. It's also in something, for
example, that our museum collection of artifacts from
the Lower Murray region bears out; that there is a very
strong bias towards the Coorong/Point McLeay region,
with some things from, say, more the Victor Harbor end.
When we look at, say, Tindale's records, in his cards
which we have in the Tindale archive, he's got a note
there in relation to a tribal name he used, wanted to
use for roughly the Clayton through to Milang region. I
think that's warki, if I can just check that but, in
essence, he was saying that he continued to use that
name, but he suspected that it was a name that basically
meant 'other people'. When we come to Radcliffe-Brown's
work, that was actually earlier than Tindale's, in
relation to describing the clans on that top end of the
lake, he makes a similar statement, and he's got lots of
sort of question marks in terms of the totems of
particular groups of people and language groups. The
data from that I obtained from fieldwork in relation to
the places that contemporary Ngarrindjeri people hold
dear are pretty well, or do conform to that same pattern
along the Coorong, the bottom and very end of Lake
Alexandrina around to Wellington, whereas places on the
top end of the lake, well, we have much less data for.
I believe you could see that - well, that bias, of
course, is in the Berndt volume because he was mainly
dealing with Yaraldi people, whose territory started
roughly around Wellington, and then down towards the
southern end of Lake Alexandrina/Point McLeay, getting
on towards the Coorong, so it's those types or
categories of information that I'm referring to. I'm
sure there is quite a bit of archaeological work that
could be done throughout that whole region, but the
archaeology of the region is still largely unknown
territory.

MS PIKE: I want to ask the witness a couple of
questions about something that we heard on the tape of
the voice of Rebecca Wilson. I know that we played that
in closed session, if I remember correctly, to Dulcie
Wilson, out of respect for - I don't want to play it,
but I want to ask some questions, so I just flag that,
and I don't know whether there is any difficulty with
that. As I remember, it was the concept of not wanting
the voice to be played.

COMSR: I understand the sensitivity. I don't
know the nature of the topic that you propose to cover.

MS PIKE: It relates to something that Rebecca
Wilson said about Dr Gale. I think if I put just this
much to you.

COMSR: You don't have the page references, I
suppose.

MS PIKE: I don't think it was on the transcript.

COMSR: I see, it wasn't transcript that was
typed up.

MS PIKE: Dr Fergie has written her memory of what
was said. If you like, I will hand it up to you,
perhaps through counsel assisting. It's just a general
summary.

MR SMITH: I think it's best if my learned friend
puts what she says the tape said, just on that basis, to
Dr Clarke. That might be the safest way to deal with it.
COMSR: Yes, I don't know how -
MR SMITH: It could be put as an assumption, short of playing the tape.
COMSR: I don't really know how the witness is going to answer any questions concerning Daisy Bates.
MS PYKE: I just want to put that to him and ask him a general sort of question.
COMSR: Yes, well, I think the first proposition can be put without offending in any way. Do you want a copy of it back?
MS PYKE: It doesn't matter.
COMSR: I think that can quite clearly be put as a general proposition to the witness to comment on.
MR ABBOTT: There is a lot left out. Haven't you got a transcript of this?
COMSR: Yes, but it's this aspect that Ms Pike wishes to concentrate on.
MR ABBOTT: This doesn't record the relevant tone.
MS PYKE: I'm saying it's our memory, we haven't. Got a transcript. I didn't purport to have a transcript.
Q. Let me put this to you; do you agree with the general proposition that it takes quite a number of years for white people to really understand Aboriginal people and their traditions and practices.
A. I'm not sure quite what you mean, 'really understand', though I would accept that if an anthropologist worked outside of Australia, he would probably need some sort of time to review relevant literature and do fieldwork to sort of get a feel for a new ethnography situation, so I'm not suggesting that all anthropologists could just go zipping around and understand culture, the language as much as anything, and even in contemporary Australia, pidgin English, is quite important to get an understanding for meaningful fieldwork to take place.
Q. I don't think the question was a white anthropologist, it's a white man, a white person. I think the question put to you for comment was that it takes years for a white man or a white person to really get to know Aboriginal culture. (NOT ANSWERED)

COMSR: Is that what you were putting?

MS PYKE: Yes. It's a bit hard because I can't put the whole context, but I'm doing the best I can.

COMSR

Q. I don't think you're asked to comment how an anthropologist might understand, but how a white person.

A. I mean I'd accept that it takes some time. Some people are more intuitive and are willing to listen and, if they have got, daily, quite a bit of contact with Aboriginal people, they might gain an affinity and insight into that culture that other people might take years to do. It really depends on the nature of the white person, their personality and willingness to learn, and also the situation in terms of what is the nature of their contact. If they are a white station owner, for example, and they only see Aboriginal stockmen, then they are certainly going to have a fairly biased view of Aboriginal culture, and it may take a long while. If they were a white person who is living in a camp with an Aboriginal family in a fringe camp situation or some other situation, they would probably learn quite a bit in a much shorter period.

CONTINUED
Q. Would you agree with me that, generally speaking, even with someone in a professional capacity, be it as an anthropologist or a cultural geographer or whatever, that such a person is more likely to have information imparted to them if there is a relationship of trust between the Aboriginal person and the professional worker.

A. It is certainly the case that there has to be a level of trust there, but you wouldn't - it wouldn't be just a matter of between, say, one Aboriginal person and one anthropologist. An anthropologist would want a variety of connections if possible with a variety of people. And trust, of course, is an element in that if they are going to penetrate, say, a family situation and be around as a participant observer.

Q. The more sensitive the information perhaps the more important it is that the relationship of trust exists between the informant and the professional worker.

A. I think, in general, that is a fair comment and I suppose there are other aspects of a culture that may become apparent to a white person, even if they are not - they have not got that trust. And where the trust comes in, I think, is a matter of Aboriginal people, in this case, having some idea of how that knowledge is likely to be used by the white people involved.

Q. Your professional life, is that mainly or has that been at the museum. When I say 'professional life', I mean as a geographer/anthropologist/curator, in essence, to do with that, Aboriginal studies, for want of a better phrase.

A. In terms of paid work, it has been pretty close to all of my working life. I first started studying anthropology as part of my science degree, so, I came to the museum with an interest in anthropology and, although I have had several jobs of differing nature, although with a core of sameness, through the museum, I have not moved out of the museum. So, anthropology has been and contact with Aboriginal people has been a
consistent theme throughout my museum work.
Q. Have you worked at any institution, university or the
like, outside of the museum, any.
A. I have been paid to give a series of two or three
lectures here and there. I have worked on outside
consultancies for the Murray Darling Basin Commission.
A variety of other places. It is in my statement in
terms of other work. So, I have been forced to wear
other hats on occasion, but -
Q. Basically that being through the museum, though.
A. Yes, my museum standing as an anthropologist is what has
made other institutions seek me out.
Q. You said in your evidence and this is backtracking
slightly that, in terms of information that is conveyed,
being conveyed to, using the general phrase, a
professional worker - and it is on p.181 - you said this
-.
A. Is this in the transcript?
Q. In the transcript, yes.
A. What line?
Q. About 28. You said this `Having children and being
middle-aged is probably going to give someone better
access than being a young honours or, well, a young
graduate student in anthropology.'
A. Yes, I have got it here. Yes, that is a general
statement in the sense of having, as an anthropologist,
more in common with an age group of people that you were
probably wanting to communicate with. I communicate
fairly well with Aboriginal people my own age and older.
In some communities, it is seen as an advantage to be
middle-aged and, in a sense, have more in common with
the Aboriginal people of a similar age that you would be
working with.
Q. I just understood your evidence in that regard basically
to be that elements of trust and reliability between the
Aboriginal person and the worker are important and
things like being middle-aged and having children are
the sorts of things that might give indications of that
1    reliability, for want of a better phrase.
2 A. Reliability, but also in as much as - and, again, I am
3    trying to imagine what I meant here. A person - an
4    anthropologist has probably got a more mature outlook on
5    the discipline and life in general at that age. I meant
6    as much as that as anything.
7 CROSS-EXAMINATION BY MR KENNY
8 Q. You are no doubt aware of Camp Coorong.
9 A. Yes, I am.
10 Q. You have been there many times.
11 A. Many times I have stayed there and have been involved,
12    particularly in the early phases, with helping them out
13    as we were in the museum, yes.
14 Q. You are aware that people such as Tom and George
15    Trevorrow run what may be called, I don't know,
16    educational tours down there.
17 A. Yes, they have got a number of tours. Some are bush
18    tucker. Some - I think they have a sort of race
19    relations sort of package of tours and discussions, yes,
20    I am aware.
21 Q. Essentially they invite people down and talk about
22    Aboriginal culture to them.
23 A. They may invite people down, but they have tapped fairly
24    successfully into the echo tourism market, so people
25    book in. So, it is not as if you have to be asked.
26    People book in.
27 Q. I am not suggesting that.
28 A. Yes.
29 Q. It is a commercial enterprise in a sense.
30 A. That's correct.
31 Q. One of the things that it is really based on is an
32    explanation of Aboriginal culture and beliefs.
33 A. That's correct.
34 Q. Have you been on some of these tours, if we can call
35    them that.
36 A. Yes, I have tagged along with teams of university
37    students on a couple of occasions when I have been down
38    there.
Q. During those tours, have you heard mention of, if I can call it, just women's business.
A. No, I have never heard that mentioned. Most of the tours - the tours that I have been on are the bush tucker tours and tours around the fringe camps, which Camp Coorong manage. And they are tours which tap into the rich knowledge that the Trevorrows, in particular, have, about how and why the fringe camps operated.
Q. Have you ever heard them talk, just in general terms, I am not applying any specific definition to this, but just generally about the women's business or make any reference to that.
A. No, I have never heard, or I have no memory of ever hearing anything about women's business as a category, either secret, sacred or just women's business in general.
Q. You have never heard them mention anything about particular plants, for example, being plants that relate to women's business.
A. No, I haven't.
Q. Have you ever heard any of the Ngarrindjeri people talk about women's business at all as a general term.
A. At this stage, I would have to say, no. I would need more prompting in terms of what aspect of their life they are talking about. In a sense, there are things said where, say, the men will say `We leave that to the women to organise', and it might be a visiting Aboriginal group that are, say, coming down to Point McLeay and they need cooking -
Q. No, I am not talking about women's business as in the kitchen being women's business, but the example I used before was particular plants. I mean, that is an area that you are interested in.
A. I am interested in it. It has been a few years since I have been actively engaged in the field work. At this moment, I can't think of plants - or, actually, there is one plant that I had from one informant down in the South East, which - she claimed this plant was used as a
form of contraceptive. And that plant, if my memory serves me, has also been, probably from the same source, been published in the McCort & Mincham history of the Coorong region. So, that is a plant that has been spoken of in terms of a female use. It wasn't told - it wasn't spoken of in terms of being a women's business plant. That is the difficulty I am having. Women's business as a category that then is imposed on plants I have no knowledge of.

Q. Let's just clarify that: before, say, January 1994, to put a specific date on it, had you ever heard, in relation to the Ngarrindjeri people, the expression 'women's business', in any context.

A. I think, on a number of occasions, in a joking fashion, if, say, a male person wanted to avoid doing something, they would say 'This is women's business', and it might be in relation to cooking or going to the supermarket. So, on that level, sure, I have heard terms such as 'women's business' and 'men's business'. Men's business, I have heard that in relation to, say, an explanation of why a couple of men would go out shooting rabbits. Sometimes they -

Q. No, I am not talking about that sort of use. I was talking about something associated with Aboriginal tradition or beliefs.

A. I can't think of any examples of the nature you are looking for.

Q. Before 1994, were you aware of any, just generally, restrictive or restricted information that the Ngarrindjeri people had. When I say 'restricted information', I mean information that wasn't generally known to all of the people and was held essentially secret by some of them.

A. No, I can't think of any examples. The way that, from my knowledge, that such or the Ngarrindjeri community works is that, because there are so many very close lateral links between family units and sometimes it is very hard to even point out a family unit, because it
changes and people's children, at some stage, get
brought up by aunts and grandparents and things. The
family tree sometimes, if they are done on just purely a
biology level, it wouldn't reflect how people were
socialising. And, in a sense, you would need another
tree to describe that. And I can't - I mean, there are
certain categories of information that are widely known
within the community, but they make it quite clear that
ey don't want outsiders - for example, things that may
have something to do with a court case relating to one
of the young men, for example - and they wouldn't want
the details of that going outside the community.
Sometimes there is illegitimacy or a variety -
Q. No -
A. I am just giving examples of things that are widely
known, but secret, but I can't honestly think of any
examples of information that is restricted to a
particular unit within that community just because those
units don't correspond to particular families or
whatever within the community.
Q. No, perhaps we are a bit at cross-purposes there. I am
not suggesting just simply what we generally may call
private information, I am talking more of matters
relating to Aboriginal cultural understandings and
beliefs, but I will leave it there. You are not, as I
understand it, saying that there was no history in the
Ngarrindjeri people of restrictive information. You
would agree that there is a history of restrictive
information.
A. In the sort of preEuropean or at least the time of the
Berndts' book?
Q. Yes, for example, the Berndts' book, around that era.
A. Surely up until the 1940s, with the informants
that the Berndts used, there was information that those
informants, for one reason or another, weren't imparting
full or all of the information on to their next or young
generation. And, as I have said, that is part of the
sad history of the demography, the changes within that
community. There were periods where there was
restricted information, sure, on the basis of a variety
of categories. I just can't -

Q. Certainly in the Berndts' book there was considerable
reference to at least restricted information.
A. In terms of the preEuropean style culture, that's
correct.
Q. An example is secret names they refer to in the Berndts'
book.
A. Yes, there is secret names.
Q. There is reference to gender specific children's
corroborees.
A. That could well be in the book. I can't -
Q. There is also segregation in terms of men's initiation
and things like that.
A. As we discussed, there are male and female domains and,
sure, there are aspects where they are separated, but,
on the level of the knowledge which sets up those
initiations, for example, it is the same in the sense
that, for example, initiations - it is the - primarily
the Waiyungari mythology that links all of that
together. So, I am not saying that there isn't
separation between the genders - the gender - two gender
categories in certain aspects of their life.
Q. I think all I am trying to say to you is that there is a
history, within the Ngarrindjeri culture, of some
secrecy, in a number of different areas.
A. In terms of the culture that, as I have described, was
coming to a close in the 1880s in relation to the
initiation and various other rituals coming to an end,
that is certainly true, if you are looking at the
pre1880s period.
Q. Even up to the Berndts, they have referred to it a
number of times.
A. They have referred to it as a memory culture. That is
one of the problems that their informants had. That the
Berndts were interested in basically preEuropean culture
without influence from Europeans and they were giving
the enormous intellectual task to their informants to
actually go back and, in many cases, report on the
memories of their fathers and grandfathers, mothers,
grandmothers. So, even in the 1940s, a lot of that
culture that was recorded was not actually experienced
directly by the informants, but they had heard about it,
through older relatives who had been alive, say, in the
1880s and 1890s. And some of the events, some of the
examples of Ngarrindjeri life are from early in the 19th
century that have been put in the book. And that is
why, because it is a memory culture that the Berndts
were doing ethnography in. They make no secret of that.
And obviously that was a source of bias that they would
have to deal with and did deal with in the course of
preparing the ethnography.
Q. Perhaps if we can just move to a different topic.
Currently Aboriginal people, that is, the Ngarrindjeri
people, are very sensitive about the use of information
that they have in relation to their culture. We have
seen examples of it here at the Commission.
CONTINUED
A. From my experience, this is sort of an overview through
working for a museum, where we are constantly
negotiating, consulting with Aboriginal groups in
relation to restricted objects, information in our
archives, human remains. My overview is, the older the
information is in general, the less sensitive. So
information, for example, that we would have in the
Aboriginal family history project in the museum that
relates to the family trees of people who are still
living, there's lots of sensitivity in those areas.
Whereas from a generation or two back, there's more
interest and less sensitivity. It is the same with
artefacts. A lot of the information in the Berndt book
- I am staggered by the amount of detail which appears
in the Berndt book, and yet I am not aware of any
approach that an Aboriginal organisation have had in
terms of blocking the publishing or the sale of that
book. I think that proves my model, that the older the
information, the less sensitive. There may be examples
that go against that.
Q. What you are really saying is, people who are alive
today are very sensitive about their own approbation, if
that's a sort of brief summary.
A. Yes, and for that reason I had to deal with the
contemporary information in my thesis differently. When
I gave an ethnography, for example, on a Ngarrindjeri
funeral, I was obliged to change the names in order to
not embarrass any of the people involved.
Q. As a general proposition, they are also very sensitive
about the use of their names in anything written.
A. If you are talking in terms of providing a bit of
information and saying 'This person told me', that's
quite true. In fact, in my thesis I explain that
sensitivity, and for that reason, the people I was
associated with through the course of writing my thesis,
rather than acknowledge them in general through the body
of the texts, I acknowledged all the people that I work
with professionally and otherwise in the acknowledgements part of my thesis.

Q. So that was really a recognition of the sensitivity of the use of their name.

A. The use of their name in relation to particular bits of cultural information. There is sensitivity. At the same time, had I not acknowledged those people, there would have been sensitivity that, after all the time I had spent with them, you know, I didn't acknowledge them. It was the best way out. I explain that particularly in the appendix of my thesis. I think I have got a section there explaining the sensitivity - it is really sensitivity of information. Their names is a way of saying 'That person said this'. If I did that through the thesis, it would cause arguments because someone else would say 'No, that person got it wrong.'

Q. That is sufficient. While we are on your thesis, in it, you talk a lot about Aboriginal beliefs. Quite a lot of that is devoted to that. Is that correct.

A. Aboriginal beliefs, perceptions -

Q. I am not asking you for a discussion on these matters. I just want simple yes/no answers. If I put something specific to you and you feel you need a longer answer, that is fine. I am simply trying to introduce a general topic at this stage. The question is, in your thesis there is considerable discussion on various Aboriginal Ngarrindjeri beliefs.

A. And, again, I would feel that I would have to make a distinction between Aboriginal beliefs as already recorded in the historic literature, and Aboriginal beliefs and perceptions.

Q. Just -

COMSR: You have asked the question. Not every question is capable of a yes/no answer.

MR KENNY: I am trying to get to a topic. I am trying to direct him to where I am going.

COMSR: The witness doesn't accept what you are putting to him.
A. I just wanted to pave the way for saying it is not just
    a matter of recording the beliefs as such, that it has
    to go through a process. In order to get on, I will
    say, yes, there are Aboriginal beliefs in my thesis.

Q. Not all of those beliefs came from the writings of white
    people, do they.

A. That's true. There is a field work component, and there
    are also Aboriginal people who have written about their
    own culture that I have included in the thesis.

Q. Included in there, there are a number of beliefs that
    you have obtained from oral histories of Aboriginal
    people who are around today, or may have recently died.
    I understand a number of people mentioned in your thesis
    have in fact died.

A. That's correct. I have got quite a bit of notebook
    material. Steve Hemmings has got lots of tapes. We
    have gathered quite a bit of oral history and a lot of
    that is incorporated into it. There is also another
    layer of which - sorry, go on.

Q. Some of those beliefs that you have incorporated in
    there, do you recall if there are any that essentially
    was a belief - and I think you refer to them in many
    cases as myths, but I use the word 'belief' instead of
    the word 'myth' - did any of those beliefs essentially
    come from only one source, one person.

A. As we discussed earlier in the commission, the Thukabi
    story was one example where it was mainly one person who
    came up with that story at a time when the Signal Point
    Museum were interested in another explanation that
    didn't involve Ngurunderi, which was about the lake and
    the river. Of course, since that story has been used
    there, a wide number of people, including non-Aboriginal
    people, know the story and tell it.

Q. But Thukabi, which is referred at p. 114 of your thesis,
    Henry Rankine was your main informant for that.

A. That's correct.
Q. You say there he was the main informant. Was there anyone else that provided you with that belief.
A. Other people had heard Mr Rankine tell it in the schools. So it was a story that I was hearing in other places, and in other contexts. Of course, it is a major story that is in the Signal Point Museum. There is a video and -
Q. You have told us that. But essentially it all comes back to the fact that that was Henry Rankine's story, if I can put it that way.
A. He considers, and I am not arguing against this, that he owns that story. That's certainly the case.
Q. But you have never actually heard anyone else say, quite independently of Mr Rankine, that that story was passed on to them by their ancestors.
A. I have no knowledge of other people of his generation or older who have said that they have heard that, that's correct.
Q. So that really is an example of a belief that was only ever handed down to one person.
A. It is a fragment of a mythology. I don't say that in terms of saying it is at all inferior, but it is a fragment of a mythology that he's handed on. There is similar versions of that in the Tindale archive, Tindale notes, not exactly along the lines of Mr Rankine's version, but, yes, it is fair to say that he is the main informant, as I have described him in the thesis.
Q. Really, he is the only informant, is what I am putting to you.
A. At this stage there are many other people who know the story.
Q. But they only know it, as you understand it, from Mr Rankine.
A. That would be correct. I imagine that - I know he has quite a bit to do with the Raukkan Aboriginal School, and I am sure he has told that story there to the children.
Q. I am not saying he hasn't told it to anyone else, but I am saying that he is the one who has told that story. When you say there is a reference to it in Tindale's writing, are you referring to your reference to the myth of Pondi. Is that the one that you are saying is similar to Mr Rankine's story.

A. There is certainly some sort of similarity between Thukabi and Pondi. There is another series of stories about Thukabi which relate to a different episode, and that is what's recorded in Tindale. Whereas the word 'Thukabi', in terms of a literature survey I have done on the actual use of that name, only pops up in a couple of sources, and they seem to be further up the river. So it is a story that would be interesting to know more about, I agree.

Q. Were there other beliefs like that that came from only one person.

A. There are other examples in the thesis of parts of stories that particular people had. I think, after this number of years, it is probably safe to mention the name of Lola Bonney, or Cameron Bonney and Ron Bonney, as being people who had quite a good deal of information about the myths and things. I might add it is information - and they would say this themselves - that was not complete. They were fragments of information that they can remember.

Q. Without going into detail of what those fragments of information were, they were information on Ngarrindjeri tradition and beliefs.

A. Sometimes - in the case of the Bonneys, sometimes they would say that they - they would label something to be - they preferred to use the landscape talk about lakes belief, or Southern Coorong, Northern Coorong, up the river, South-East, and even Victoria.

Q. So they had particular beliefs that were only essentially known to them that related to the landscape.

A. They were stories that other people would hear, and often, when I had heard a bit of mythology or fragment
of myth or a story being told, you know. I would subtly
find out `Where have you heard that? Who tells that
story?’ You know, you would home in on people. But the
Bonneys were, in their own time, very knowledgeable
people of the type of information that was, in a sense,
a relic of the much greater body of information that the
Berndts recorded in the 40s.

Q. Essentially what you are saying is they had fragments of
information that often were unknown to a lot of the
other Ngarrindjeri people.

A. I would say that in those cases there were other
Aboriginal people who had heard those stories, or at
least some of them, but collectively all of them from
those same informants. Aboriginal people like Ron and
Lola, and there are other people, were often quite keen
to grab a young anthropologist, because they had said
`Our own younger generation, at this stage at least, are
interested in cars and other things’.

Q. So they realised, of course, that not everyone was
interested in all the traditions and beliefs of their
culture.

A. That’s - yes, not everyone within their social sphere
were interested, that’s true.

Q. The Bonneys, where did they live.

A. They lived on the extreme southern end of the Coorong at
a place called Teeluk.

Q. Did they have anything to do with the Bonney Reserve.

A. No. I have often thought there might have been a
connection, but I don’t believe there is any connection.
I think it is a coincidence. There is an overlander who
had passed through the region, and I think it may even
have been a hundred of Bonney down that way as well, and
there is a family of -

Q. It is okay. Just another example at p.123 of your
thesis, you talk of the starts, the Seven Sisters. At
one stage you say that there was one -
Q. Is this the area that I was told was a matter of some sensitivity.
A. It would be if it related to the northern beliefs, but this is - perhaps we will call it the Pleiades just to steer away -
Q. We will call it the Pleiades.
A. Which is how I refer to it in the thesis.
Q. You do say there that there was one Lower Murray informant who told you that all Aboriginal people are thought to have been originated from the Pleiades, is that correct.
A. I am just trying to -
Q. If I remember correctly, it is the last line of the Pleiades on p.123.
A. Yes, that's correct.
Q. You only ever heard of that from one person, I take it.
A. That's correct. It was from one person. I think it is safe to say - no, perhaps I won't mention the informant's name, even though they passed away a long time ago.
Q. It was a Ngarrindjeri person though.
A. A Ngarrindjeri person who had very strong connections with the South-East and Victorian region as well, but saw themselves as - this particular person used to argue that `Ngarrindjeri' meant all Aboriginal people, and she preferred to use a descent clan name which related to part of the Coorong to define herself. So this particular person was a bit of a maverick. In this section of the thesis -
Q. I don't think I will ask for the name now.
A. I didn't mean that in a bad way. This person would have quite enjoyed that comment, I think.
persons who had that knowledge or that had been
restricted to them in any way.
A. No, no. There has never been any hint of that.
Q. You don't make mention that anyone else knows. You seem
to identify one individual as knowing and believing
that.
A. In general, in Adelaide similar things have been said.
I think even on the letterhead of the Aboriginal
curriculum unit in the Education Department, for
example, they had a statement which pretty well said
along the lines that -
Q. No, I am not interested in what they may have had on
some letterhead.
A. I am saying, as an example, that it was much broader
than this one person. That's why I was saying that.
Q. But within the Ngarrindjeri people, did you know of
anyone else that had this belief.
A. Let me put it this way, I am assuming that there are
quite a few Lower Murray people who would have that
belief if they were asked that specifically.
Q. But have you ever heard of anyone else stating they
believe that.
A. I can't think of anyone at the moment, no.
Q. The Ngurunderi story, we have seen the film. It has
been part of the discussion. That would be one of the
major beliefs of the Ngarrindjeri people.
A. Again, at the time when we started doing field work for
that display, there are only very small fragments of it
known by people that we found to be knowledgeable people
in terms of mythology. There were people who knew that
Ngurunderi was a prominent figure, but the site-related
information in relation to that dreaming, if we can call
it that, was very poorly known. I would say there were
fragments of that myth known, and for that reason we had
to rely very heavily on the Berndt data that also
appears in that book and has been published in a couple
of other forms. So there wasn't any -
Q. How many people would have, ignoring the Berndts, in the Aboriginal community, how many people would have known anything about that, in your opinion.
A. In my opinion back, in the early 80s, even being a bit on the generous side, I would say a handful of people.
Q. What, three or four, 10.
A. Something like that, of that order, and that is fragments of that story.
Q. How many did you actually speak to that knew about it, perhaps if we can put it that way.
A. Well, this is a topic that Steve Hemming and I often talked about early on in terms of who had knowledge and who hadn't. He spoke to people, for example, that I didn't, and presumably I've spoken to people that he hasn't spoken to. If we use both of our works collectively, I would say that, you know, we're looking at three or four people, perhaps, that knew of Ngurunderi before the display as a concept was up and running. Of course Ngurunderi -
Q. Thank you. I appreciate that it's now fairly well known.
A. It has been in the popular literature right through 20th century.
Q. Thank you, I'm aware of that. Looking at the transcript of your evidence, pp.205 and 206, have you got it in front of you there.
A. Yes.
MR KENNY: I will indicate to you very clearly that this was taken originally in private session. I asked originally that it remain private and that it be suppressed. That suppression didn't continue, it was ultimately lifted. I'm going to now continue to ask -
COMSR: Ask for a suppression?
MR KENNY: No, the genie is out of the bottle, as it were, and it's a bit hard to put it -
COMSR: Not necessarily, it depends on the extent.
MR KENNY: I will flag very clearly some of the
questions that I'm going to ask.

COMSR: Now is it something that can be asked under the terms of the present authorisation, is the first thing.

MR KENNY: I was going to ask about dreamings, but not the details of them.

MR SMITH: Well, could I be heard just on this, to interrupt my learned friend? This is an area of sensitivity rather than a matter which requires a s.35 authority. It relates to a tradition in another area, so we haven't got an authorisation for it. In so far as it's only going to be dealt with generally, therefore you won't have a divulgence of Aboriginal tradition, or whether or not it's secret, but this is a sensitive area, it's sensitive to the peoples that are mentioned here, who are not the Lower Murray Aboriginal people.

COMSR: You see, that's the problem I have now, because we're restricted to dealing with the Lower Murray Aboriginal area, which is a different situation from what I was confronted with in the past. I'm not aware of this having been publicised, despite the fact that there was no suppression order. It may well be that given the present state of the authorisation, that it should have a suppression order.

MR SMITH: I think my learned friend is not going to go into detail about it, so there is not going to be a divulgence of Aboriginal tradition which is secret here, as I understand it, but no matter that, this area is sensitive to the people that are about to be discussed, and that's all it is.

COMSR: What are you suggesting?

MR SMITH: I'm suggesting that it has to be taken in closed session and be suppressed if Mr Kenny wants to.

COMSR: If that's the case, as the transcript now stands, as I understand what you're putting to me, I should impose a suppression order.
MR SMITH: You should reimpose it. I don't want to elaborate on it any more. If I do, I will be asking you to suppress what I say about it.

COMSR: If you just indicate the pages.

MR SMITH: The the very pages that my friend has referred to, pp.205 and 206 of Dr Clarke's previous evidence which was taken in closed session, but then the suppression order was lifted on 3 August. Mr Kenny then can have complete freedom to deal with it.

COMSR: In private session?

MR SMITH: In private session.

COMSR: I rather think that there are probably two or three issues that will have to be dealt with in private session by this witness at some stage.

MR KENNY: Certainly.

COMSR: Do you wish to perhaps leave this for the time being and go on to matters that can be dealt with in public session, or do you wish to move into private session now?

MR KENNY: I think the situation is now, as I understand from Ms Simpson, that the Aboriginal group, I don't think that there is - I think I can probably name the group who we're referring to.

MR SMITH: I wish my learned friend wouldn't.

MR KENNY: I will respect that, I don't have any difficulty. What has happened is that this witness - and you can have a look at it, p.206 - has made certain assertions, and these people, from what I gather from Ms Simpson, at least know about it and have become upset about it.

MR ABBOTT: I think all this should be said in private, rather than you providing a lead for the newspaper articles.

MR KENNY: That is not my intention.

COMSR: Do you wish to move - are there any other topics that can be dealt with in public session so that we can deal with all those matters first?

MR KENNY: I have other topics.
MR SMITH: Would you make a suppression order in respect of that topic on pp.205 and 206?

COMSR: I thought I just had, I have only suppressed pp.205 and 206.

MR ABBOTT: And the discussion that took place today.

MR KENNY: I don't object to that, it's not my intention -

COMSR: I suppress pp.205 and 206 and any discussion concerning those matters.

MR KENNY: Perhaps if we can move to a completely separate topic.

Q. In April 1994, you were at the museum and you had a visit from Victor Wilson and Doug Milera.

A. That's correct.

Q. How did you become aware that they were at the museum.

A. I'd been asked by either the museum director or head of division, I can't remember who, I'd been informed of their visit - apparently one of them had rung up saying they wanted access to the Tindale collection - I was rung up by either of those two, the head of division or museum director, and said well, 'Handle it'.

Q. Who was your head of division.

A. That would have been Mr Philip Jones then, our director, the other previous head of division was Chris Sanderson.

Q. You mean the entire event wasn't terribly extraordinary to you.

A. On the day that it happened, that's correct.

Q. So what you're saying is that you don't remember terribly much about it.

A. I remember, I remember what happened, because, with other events that happened soon after, it was quite clear that there was a pattern and something going on.

I have a memory of the actual event, but not how the
event came into being.

Q. When did you first see them at the museum. (NOT ANSWERED)

MR SMITH: On the last occasion, the witness gave evidence about this. He had notes and gave evidence from the notes. Is this a little test?

MR KENNY: I'm sorry, I didn't - perhaps I missed the fact that he had notes.

A. I don't have notes about this particular visit. It's in my statement, but I don't have journal notes. That's why I haven't been able to pin it down to a precise date.

XXN

Q. It's not a test of memory, I'm not testing your memory. I'm seeking details.

A. I have have a good memory of what was said and happened in the visit.

Q. Do you remember if Steve Hemming was there during that visit.

A. I'm very certain that he wasn't.

Q. So he wasn't there at all.

A. No. He had an office outside of the main museum and, from my memory, it was just the three of us.

Q. What about Graham Pretty, is it, was there a Graham Pretty at the museum.

A. Yes. He is no longer with us in the sense that he has taken a package. I imagine he would have been there at that stage.

Q. Did he have any role to play in this visit that you were aware of.

A. None whatsoever. At that stage I was in the habit of seeing Graham perhaps once a year, because his office was so far away, and all of his projects were ones which had no overlap with anything that I was doing.

Q. So I take it you're saying that Victor Wilson and Doug Milera came to your office.

A. From my memory, they came to the main area, the main anthropology area, which isn't far away from my office,
and I took them through the store, it's a long building,
to the room which was at the opposite end of that from
our office, into the room where we, at that stage, had
the Tindale collection stored. They had come to see the
Tindale collection, there was no point in sitting down
and talking about it, so we headed straight in there.

Q. Did they talk to you about restrictions on access to the
Tindale collection.
A. I have no memory of any restrictions in terms of, well,
in terms of anything. I have no memory of there being
any restrictions.

Q. I'm asking was there any discussion that you recall.
A. Not that I recall.

Q. Do you recall any discussion about skeletal remains that
the museum held at that time.
A. I have no memory of any discussion on skeletal remains.
I think if there had been, I would have remembered it,
because it's a sensitive area in terms of the museum,
and has been for some years.

Q. Was that Graham Pretty's area.
A. No, it was Dr Colin Pardoe's area. Dr Colin Pardoe has
been with us several years, so had there been any
interest in that area, I would not have attempted to
deal with it by myself. Colin Pardoe would have either
dealt with it by himself, or in the company of either
myself or Steve Hemming.

Q. So what you're saying is you don't believe that Steve
Hemming was there at all.
A. That's correct.

Q. Do you recall any discussion about the fact that
Tindale's writing was hard to understand.
A. I certainly told them and showed them the difficulty
there was, and still is, with working with the Tindale
collection. I don't consider the handwriting difficult
to read. I showed them examples, and they would have
come to the conclusion it was difficult to read. It
does take a few weeks to get used to Tindale's
handwriting.
Q. Was it possible there was a suggestion made at that time by someone that his writing was hard to understand, but that you could understand it.

A. I certainly would have told them that I was able to read his handwriting. The most important obstacle from their point of view, and one I would have stressed, was the way that Tindale's information is dispersed through a hundred odd journals. That's the prime obstacle. The fact that his handwriting is hard to read is a secondary one.

Q. I was simply asking you about discussion.

A. It would have been discussed, the difficulties, and they would have seen for themselves. They wouldn't have had to rely on my word for it, they would have come to that conclusion themselves very quickly.

Q. Was there any discussion about the difficulties of understanding the handwriting, do you recall.

A. It was talked about, that there would be a difficulty for them to sit down and read through all the journals and read the handwriting but, as I've said, the discussion is one thing, their own eyes would have had the evidence in front of them. There wouldn't have needed to be a great deal of discussion.

Q. Was there a discussion.

A. It was talked about, yes.

Q. Is it possible it was talked about by Steve Hemming.

A. If Steve Hemming had other conversations with them independent from that visit. No, I'm talking about at that visit at that time.

A. I've just said that Steve Hemming was not present at that visit.

CONTINUED
Q. In your evidence, at p.226, you said that `They
   desperately needed cultural information', referring to
   Hindmarsh Island and their intention to stop the bridge.
   Did they ever say that to you.
A. Yes, they said that to me. And the words -
Q. Did they say they desperately needed that information,
   or is that your interpretation of it.
A. If they didn't use the word `desperate', there would
   have been an equivalent word used. They said words to
   the effect `We desperately need cultural information.'
Q. You are saying they desperately needed it to stop the
   Hindmarsh Island bridge.
A. They made it quite clear, yes.
Q. I would suggest to you that they didn't ever say that.
   That they didn't say that they desperately needed
   cultural information.
A. I deny that. I have got very strong memories and my
   statement stands.
Q. After that discussion with you, what did they do, can
   you recall.
A. When the conversation was winding up, I had already told
   them that I had been through the -
Q. No, I am not asking you about the discussion during the
   winding up. I said after you finished the discussion on
   Tindale, do you know what they did after that.
A. I believe they had another meeting and they left and I
   had no more contact with them.
Q. Did you understand that was another meeting within the
   museum.
A. No, it definitely wasn't at the museum. It was a fairly
   short visit by them and then they were off.
Q. When you say `a fairly short visit', how long do you
   mean.
A. They might have been there quarter of an hour. I doubt
   very much longer. Maybe a bit less.
Q. So, it could be as short as, what, five to ten minutes.
A. Probably would have been between 10 and, let's say, 20
   minutes, to be on the safe side.
KC 45O

P.A. CLARKE XXN (MR KENNY)

Q. But you say that they definitely then were leaving the museum to go to another meeting outside the museum.
A. Another meeting, another appointment. They left the museum.
Q. Did you escort them out.
A. Only as far as showing them where the stairway was. It is pretty confusing, the layout of the museum, the public area, so, I escorted them as far as would have been needed to say 'That's the way out.'
Q. Is it possible they might have gone down to see Doreen Kartinyeri, at that time.
A. From my memory, they were going out. Whether they came back, at some later time the same day to see Dr Kartinyeri, I have got no knowledge.
Q. No, I mean, immediately after seeing you.
A. My knowledge is that were heading out.
Q. Do you recall them saying - Victor Wilson saying anything about wanting to look at the photos held by the museum.
A. They did both. They were desperate for information and they wanted me to, as quickly as possible, look for anything in relation to Hindmarsh Island in the Tindale journals.
Q. I suggest, rather than telling you they were desperate for information, they asked simply if you would look and see if there was anything in relation to Hindmarsh Island in the Tindale journals.
A. They did both. They were desperate for information and they wanted me to, as quickly as possible, look for anything in relation to Hindmarsh Island in the Tindale journals.
MR KENNY: I have a number of other areas that I would like to ask this witness. The next topic -
COMSR: These relate to areas of interest, as far as your clients are concerned?
MR KENNY: Specifically, yes.
The next topic I want to go to will take possibly a half an hour or so and I don't really want to do it Friday afternoon and then Monday or Tuesday and I will
need to come back to this witness, in any event, on the
restricted material. And there are probably a couple of
topics there that I would like to ask some questions on.
COMSR: Do you have any idea how much longer you
are likely to be?
MR KENNY: I would expect three-quarters of an
hour, maybe an hour. I don't expect to go beyond that.
COMSR: You understand we have covered a whole
lot of material now?
MR KENNY: I assure you that the areas are very
specific.
COMSR: Yes, I just want to get some idea of the
total amount of time for this witness.
MR KENNY: I would say an hour should see me out,
unless I get very busy over the weekend and reconsider
it.
COMSR: I wonder if other counsel can give me
some idea of who will be cross-examining?
MR ABBOTT: Yes, I will be some while. I understand
on Monday morning we lead off with Ms Caldwell, is that
right?
MR SMITH: Yes, perhaps the programme for Monday is
- perhaps I will let you know what that is and
arrangements can be made, subject to that.
The programme for Monday is Alison Caldwell, first
thing.
COMSR: I see, is that likely to take any length
of time?
MR SMITH: No, I wouldn't have thought that would
take a great deal of time, at all.
MR ABBOTT: An hour or so.
MR SMITH: Then Betty Fisher straight after Alison
Caldwell. And, this might be a bit optimistic, 10
o'clock Alison Caldwell, approximately 10.30 Betty
Fisher -
COMSR: That sounds optimistic altogether.
MR SMITH: There is more to come. 2.15 Alison
Harvey. And then Dr Clarke to resume on Tuesday. And,
at that time, Ms Nelson will be back. It is not to
accommodate Ms Nelson exactly, but I think that is the
way it will happen anyway, yes.

COMSR: I just want to give the witness some
idea of how long it will be.

MR SMITH: I would like you to release him until
Tuesday morning.

COMSR: All right.

MR MEYER: I come after Mr Abbott and I am likely
to be the shortest, because Mr Abbott, I think, will
cover the vast bulk of the material that I would touch
on. So, I would have very little, I would think, after
Mr Abbott.

COMSR: Dr Clarke will return on Tuesday.

MR SMITH: Yes, and Alison Harvey, we will release
Alison Harvey’s statement now to counsel and we want Mrs
Harvey finished by the end of the afternoon. And I
remind everyone strictly about the confidentiality
undertakings in relation to Alison Harvey, because we
are releasing her statement ahead of time as against our
practice, so that she won’t be held over.

COMSR: Is there any sensitive information
contained in that statement?

MR SMITH: There is no problem with the statement
of evidence, if counsel and solicitors comply with their
undertaking in relation to it.

COMSR: Is it covered by s.35?

MR SMITH: There is no s.35 material in it.

COMSR: There are no issues of confidentiality I
need concern myself about?

MR SMITH: None, other than are covered by the
undertakings. I just draw counsel’s attention to that,
to the undertakings.

MR ABBOTT: It may be appropriate for Mr Smith to
ask counsel what issues they want to raise with her, so
that he can have some idea, before she gets into the
witness box, whether it should go into private session.
I know roughly what her evidence is likely to be.
MR KENNY: We have got no idea. I don’t think I have even heard of her.

MR ABBOTT: Mr Hemming referred to her.

MR SMITH: She has been mentioned about thirty times.

MR ABBOTT: I assume it is referral to Mr Hemming, isn’t it?

MR SMITH: Yes, it is to do with the statement that I am concerned about, not so much her evidence.

MR KENNY: We have given undertakings. I don’t think there has been any breach of those undertakings. But I certainly undertake to comply with my undertaking.

MR MEYER: While we are on that score, I spoke to my friend, Mr Smith, earlier today and I rise in relation to Exhibit 197. That is the information relating to the Department of State Aboriginal Affairs. That has been handed out to us.

MR SMITH: Could I speak to my learned friend about this first?

MR MEYER: I will come back to counsel assisting. I spoke to him very briefly, but unfairly, because evidence was still going and I didn’t get a chance to discuss it with him properly.

MR ABBOTT: Exhibit 52? Still suppressed?

COMSR: Yes.

MR SMITH: Yes, is that the evidence in relation to the minute, is it?

MR ABBOTT: Yes.

MR SMITH: Yes.

COMSR: I am wondering whether it is not practicable to start a little earlier on Monday to ensure that? A little early, or we may have to sit late, if for some reason it is necessary to conclude with the witness’s evidence.

MR ABBOTT: Do you have any indication, Mr Smith, as to what other counsel are likely to be involved in the cross-examination of the witness?
MR SMITH: Of all three of these witnesses?
COMSR: All the witnesses or the afternoon witness, in particular?
MR SMITH: No, I haven't formulated a view about who should be interested in this lady. I think the people who are interested in the anthropology evidence will be interested in this lady. She is a field worker, anthropologist/field worker.
MR MEYER: Early is a problem, but I don't think late is.
MR SMITH: I think all the people who have been cross-examining Dr Clarke will be interested in Alison Harvey.
COMSR: We will adjourn then until Monday.
WITNESS STANDS DOWN
ADJOURNED 4.25 P.M. TO MONDAY, 16 OCTOBER 1995 AT 10.00 A.M.
COMSR STEVENS

HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

MONDAY 16 OCTOBER 1995

RESUMING 10.15 A.M.

MR SMITH: The programme for today is that the first witness is Alison Caldwell, the ABC journalist. The next witness is Mrs Betty Fisher for further cross-examination. Then this afternoon at 2.15, Alison Harvey.

Exhibit 22B is the transcript of the 7.30 Report, the raw footage of 7 August 1995. That transcript was tendered on Friday of last week but was incomplete, so I seek to substitute that exhibit with the document I hand to your clerk now. Copies have been given to counsel.

COMSR: We will substitute the transcript that was previously on the exhibit with the complete transcript.

MR SMITH: I tender now fresh the transcript of the tape recording that was played last week. That is the tape recording and the voices on it are Betty Fisher, Gladys Elphick and Rebecca Wilson that was played in closed session, you will recall, and that is Exhibit 20A. I ask that that be marked Exhibit 20A.

EXHIBIT 20A Transcript of tape recording tendered by Mr Smith. Admitted.

MR ANDERSON: I represent the ABC and Miss Caldwell.
MR SMITH CALLS
ALISON CALDWELL AFFIRMED
EXAMINATION BY MR SMITH
Q. I think you're a journalist employed in particular by
the ABC's 7.30 Report; is that so.
A. That's right, yes.
Q. I think you attend in answer to a subpoena to not only
give evidence, but to produce documents.
A. Yes.
Q. I think dealing, first of all, with the summons to the
extent that it requires you to produce records, that is
classified, of course, to the topic of the Betty Fisher
7.30 Report as we have called it.
A. Yes.
Q. I think you produce your records in relation to that, do
you not.
A. I have done via my counsel, yes.
Q. Looking at this bundle of documents produced to you, I
think they're the documents you produced via your legal
representatives.
A. Yes.
Q. I need you to describe them for us first of all.
A. Okay.
Q. I think, first of all, the first 8 pages are separate
document, aren't they.
A. Yes.
Q. How would you describe the first 8 pages.
A. I would describe those as being computer notes, computer
notes of a camera tape. When I go through a camera tape
after I have done the interview, we record in the
computer what sections we are interested in by time
code. So those first 8 pages are basically computer
notes of camera tapes involved in the story, notes
recorded on a computer.
COMSR
Q. These are actually your notes that you entered in.
A. That's right, and printed out.
A. CALDWELL XN (MR SMITH)

Q. Looking at the first document, is it the case that - looking at the first document then, can you look at the camera tape, we will call it the raw footage.

A. Yes.

Q. And we have tape one there.

A. Yes.

Q. And the date 5 August, you are looking at it; is that right.

A. That's right.

Q. You're looking at Betty Fisher tape one.

A. That's right.

Q. And the first entry there `He is breaking laws which any Aboriginal person' - I take it that is `et cetera'.

A. Yes, that's right.

Q. What are the numerals above that line.

A. The numerals above that line are the numbers that are on the playback machine, as we call it, which is next to our computers in our offices. They are the numbers recorded by the camera as it's recording an interview. So it says 51 to one minute 6 seconds, 51 seconds to one minute and 6 seconds. If you go to that particular camera tape and you rewind to 51 seconds, you will find that `grab', as we call it, which is that sentence.

Q. And that is the sentence that is abbreviated there.

A. Yes.

Q. We can take it that that is about just over a minute, that first grab.

A. No, that would be only about 15 seconds, 60 seconds.

Q. If we go through then the various tapes. That style of entry accounts for pages 1 to, what did we say, 8.

A. Yes, that's right.

Q. Then, can we go to p.9 in the bundle. What is p.9.

A. P.9 is a printout of the script that I wrote for the Betty Fisher story. That continues on pp.10, 11 and 12.

Q. When you say you wrote out the script, what does that mean precisely; that they are the words recorded on the TV video.
A. That's right. What you see written here is what you will hear when you watch the story.
Q. It will include a voice-over by you.
A. That includes a voice-over, yes.
Q. It says 'Betty Fisher kept' - this is a point 7 - 'Betty Fisher kept her promise for 30 years', that would be you talking.
A. That's right. In the darker type, that is the tape in - the darker type is the tape.
Q. That goes from pp.9, 10, 11, 12; is that right.
A. Yes.
Q. That's, to some extent then, a transcript of what went to air, is it.
A. Yes.
Q. The next section of documents are handwritten on A4 paper.
A. Yes.
Q. Is that in your handwriting.
A. That is my handwriting, yes.
Q. That's from an A4 book of yours; is that right.
A. That's right, yes.
Q. What would you describe this bundle of documents as.
A. I had - I would describe those as being my desk notebook, a notebook that I use when I am sitting at my desk at work as opposed to the reporter's notebook.
COMSR
Q. That first note, that is on the first handwritten pages, has that anything to do with the matter.
A. No. I keep a notebook for anything that I'm working on.
At the same time, I was working on another story and obviously that's nothing to do with the Royal Commission.
XN
Q. I think what you have done after having taken advice from your Mr Anderson and Mr Gretsas, you have actually edited out confidential phone numbers and names in relation to the morphine overdose notes; that style of thing has been eliminated from the copy. Is that right.
A. To an extent, yes.
Q. These two pages in your handwriting in your office
notebook, desk notebook notes, primarily relate to the
Betty Fisher story; is that right.
A. That's right.
Q. The next document is headed `Saturday, August 5, 1995,
Betty I/VS' and a tick.
A. Yes.
Q. That page, what is that.
A. This page is essentially on the start. August 5, I went
into work and I made notes of what I needed for my
story, the Betty Fisher story, to go to air on the
Monday. I was noting down for my own sake what I
needed, what I had already got and what I still had yet
to get my hands on.
Q. That's a plan for the story, is it.
A. That's right, yes.
Q. Then, the last five copy pages are your journalist's
notebook.
A. Yes.
Q. That is what you call it.
A. Reporter's notebook, yes.
Q. This is relating to this particular story.
A. Yes.
Q. Again, has no editing occurred there in respect to what
you copied.
A. No, there hasn't been.
Q. The first shooting, if you like, took place on 3 August
at Douglas Wardle's office in Gouger Street.
A. That's right.
Q. There was some library footage preceding that relating
to the story. Just focusing on this particular story
first of all, do you recall the location as Douglas
Wardle's office.
A. That's right.
Q. I think you have provided us with a what is called a
'shot list', have you not.
A. Yes.
Q. Were you aware, prior to 3 August, that Mrs Fisher had, for instance, conferred at the home of Douglas Wardle with counsel assisting the Commission, the anthropologist Philip Clarke, Lewis O'Brien and her solicitor Mr Wardle.
A. No, I wasn't.
Q. Were you aware that she had provided a statement to the Commission on 31 July.
A. I wasn't distinctly aware of the date she provided it, but I had an understanding that there was a statement.
Q. Did you have an understanding that, as I think the 7.30 footage shows, Mrs Fisher was not, at least at that particular time, going to give evidence.
A. Yes, I was.
Q. Can I take you then to the first location; that is the office of Douglas Wardle at Gouger Street, Adelaide, on 3 August. That was of - we see the raw footage tape of an interview with Betty Fisher there.
A. That's right.
Q. And we hear some discussion between you and Douglas Wardle, don't we.
A. Yes.
Q. Who was it that orchestrated the story; how did you come to be there in the first place; who made arrangements.
A. Betty Fisher contacted me on the morning of Thursday, 3 August. She told me that she didn't want to take part in the Royal Commission any longer and said she would speak to me on the 7.30 Report.
Q. Did you speak with her solicitor Mr Wardle.
A. I did. That morning, I rang Douglas Wardle's office and spoke to him briefly.
Q. Had you had any contact with Betty Fisher before this.
A. Only briefly. There were a couple of occasions when I first met her and then out the front of this Royal Commission when I spoke to her.
Q. There was - it's been mooted in evidence in this Commission that there was to be a Betty Fisher tapes press conference at the offices of the ALRM. Did you
A. CALDWELL XN (MR SMITH)

1. know anything about that.
2. A. I wasn't aware of that.
3. Q. In June.
4. A. I wasn't aware of that.
5. Q. When you went then to Douglas Wardle's offices in Gouger Street, Adelaide, on 3 August, were you armed with any material to facilitate the interview.
6. A. Yes. When we went to Douglas Wardle's offices, I was with a cameraman and he had a camera and I was with a sound recordist and he had sound recording equipment.
7. Q. Did you have any transcripts or documents, for instance, from the ALRM or Doreen Kartinyeri.
8. A. No, I didn't.
9. Q. So, the footage we see on the tape, Exhibit 22, that was taken at Douglas Wardle's offices on 3 August and that was followed by Betty Fisher attending the Mortlock Library.
10. A. That's right.
11. Q. I think Betty Fisher makes it plain to us that that was a reconstruction, the package was a package that was provided for the purpose; is that right.
12. A. Yes - no, that wasn't a reconstruction. What do you mean by `reconstruction'?
13. Q. The package that Betty Fisher opens, is that the genuine package; that is, the package with the tapes, et cetera, in it.
14. A. As I understood it, yes, it was. As I understood it, she had brought out of this box this package and it was the package containing the tapes. That was my understanding.
15. Q. The third location is the ABC studios at North East Road, Collinswood on 4 August.
16. A. Yes.
17. Q. I will give you a copy of the shot list produced. Were you present on that occasion.
18. A. I was to an extent, yes.
19. Q. The shot taken there is footage of the typed transcript, isn't it.
A. CALDWELL XN (MR SMITH)

1 A. Yes.
2 Q. How did you come or the ABC happen to have in its
3 possession, the typed transcript.
4 A. I knew that Doreen Kartinyeri had a copy of the typed
5 transcript. I got in touch with Sandra Saunders at the
6 Aboriginal Legal Rights Movement on 4 August, the
7 Friday, to find out where I do find Doreen Kartinyeri.
8 She told me that she was leaving Adelaide on a bus that
9 morning. I went to the bus station, found Doreen
10 Kartinyeri and asked her if she had a copy of the typed
11 transcript. I told her that I had done a interview with
12 Betty Fisher and discussed it with her for quite some
13 time and she agreed to hand over a copy of the taped
14 transcript.
15 Q. She handed it over to you at the bus station.
16 A. Yes, she did.
17 Q. Was that prearranged in the sense that when you were
18 getting the story together, did you have in mind getting
19 the transcript, or did you only discover it existed by
20 reason of talking to Betty Fisher.
21 A. No, I knew that the transcript existed.
22 Q. Had you made any prearrangement to secure it.
23 A. No, I hadn't.
24 COMSR
25 Q. Dr Kartinyeri didn't happened to have it in her
26 possession when you got to the bus stop.
27 A. She did.
28 XN
29 Q. Was that meeting at the bus station, was that
30 prearranged in the sense of occurring before 4 August.
31 A. No, it wasn't. I found out on the Friday morning, 4
32 August, that Doreen was at the bus station and I went to
33 the bus station.
34 A. She wasn't expecting me to show up as far as I know.
35 Q. When she handed the transcript over to you, did she give
36 you any instructions as to how you were to use it, any
37 safeguards, et cetera.
38 A. She had put markings on the transcript to tell us which
sections of transcript we could use in our story. So there are, you can see X's on the transcript on the camera tapes and those are sections that she said we can use.

Q. There are X's on the camera tapes.
A. Not on the tape. She handed me the transcript and she'd put markings on it.

Q. In that meeting with Doreen Kartinyeri at the bus station, did you, for instance, ask her whether or not she might give you the handwritten exercise book.
A. I did.

Q. What was said about that.
A. She told me she didn't have it.
1 Q. Did she tell you where it was.
2 A. She told me that the notebook was in the possession of
3 the Aboriginal Legal Rights Movement.
4 Q. Anyone in particular.
5 A. No.
6 Q. Did she give you permission to access that.
7 A. She did.
8 COMSR
9 Q. Did you.
10 A. Yes.
11 XN
12 Q. You did later on, didn't you.
13 A. Yes, I did.
14 Q. Any other instructions given to you about the use of the
15 typed transcript.
16 A. She told me that I couldn't photocopy the typed
17 transcript, and that I should send it back to her as
18 soon as possible when I'd finished with it.
19 Q. The typed transcript has on it a fax header `Aboriginal
20 Legal Rights', doesn't it.
21 A. Yes, it does.
22 Q. So the one we see on the raw footage, was that one given
23 to you.
24 A. That's right.
25 Q. Not faxed to you.
26 A. No.
27 Q. Any other constraints as to the use of the typed
28 transcript.
29 A. No.
30 Q. For instance, were there any instructions given about
31 male cameramen being able to read the transcript.
32 A. Certainly not.
33 Q. Even the sections that you weren't to copy, were they,
34 as far as you were aware, sections that could be read.
35 A. There was no instruction given that male cameramen could
36 not look at the transcript, or certain parts of the
37 transcript.
38 Q. Can I take you now, then, to the conversation at the bus
station with Doreen Kartinyeri about the exercise book
with the cursive writing in it.
A. Yes.
Q. You knew that existed, did you not, at that stage.
A. Betty Fisher told me it existed on the Thursday, yes, so
I knew of its existence.
Q. You raised that with Doreen.
A. Yes.
Q. For the first time. You'd not spoken to Doreen
Kartinyeri about this topic before, or had you.
A. Yes, I had.
Q. When.
A. 29 June.
Q. Person to person or telephone.
A. Yes, person to person. Doreen Kartinyeri told me that
she had some evidence which would help support her case.
I asked if she would tell me about it, and she produced,
from her handbag, a yellow envelope and, from that
yellow envelope, she brought out some typed pages, and
she showed me a line on the typed pages. I read the
line - she didn't give me the typed transcript - I read
the line, it said something like 'Down there on
Hindmarsh Island', or it said 'Hind Is.', 'We do women's
things'. Then she told me that she was aware of a woman
who had done an interview back in the 60s with an
Aboriginal woman who had mentioned something about
women's business on Hindmarsh Island, and she had proof
of that. I obviously said 'I'd like to see that, and
I'd like to do something with it, I'd like to follow it
up'. At that time she said 'No, I will give it to you
at a later stage', and then she said she would save it
for the Tickner enquiry.
Q. So she actually produced at least one of the typed pages
that you eventually got hold of on 4 August, did she.
A. Yes.
Q. What about the exercise book that you subsequently saw.
A. She didn't tell me about the exercise book on 29 June.
The first time I heard of the exercise book was when I
spoke to Betty Fisher.
Q. Can I take you, then, to the topic of the exercise book. You made arrangements, or you got permission from Doreen, to access that at ALRM. What do you remember being said by her about that. (NOT ANSWERED)
COMSR
Q. This is not going to involve any divulgence of matters covered by s.35, is it.
A. No. Because Betty Fisher had told me of the existence of the notebook, and had told me that she had written in the notebook. The only reason why I wanted to check it with Doreen was because Betty had told me that the notebook was now in the possession of Doreen Kartinyeri, so I asked Doreen if I could see the notebook. She said `I don't have it'. She told me where it was and that was it, she didn't say anything else about it.
XN
Q. You actually went to the offices of the ALRM on 7 August and saw the notebook there, didn't you.
A. Yes.
Q. Actually there is footage of you turning the pages of the notebook, isn't there.
A. Yes.
Q. Whose permission did you have, then, to do that on 7 August.
A. Sandra Saunders'.
Q. Not Doreen Kartinyeri.
A. Doreen Kartinyeri gave me permission to ask to see the notebook, to seek out the notebook, but Sandra Saunders gave me permission to come and look at the notebook.
Q. Is that the extent of your conversation with Doreen Kartinyeri at the bus station.
A. Yes.
Q. Two topics; typed transcript, exercise book.
A. Yes.
Q. I take it that your focus of attention, when you spoke to Doreen at the bus station, was securing the exercise book rather than the typed transcript.
A. No, the main exercise was to get the typed transcript.
I knew she had a hard copy of it, and I wanted to get a
hold of the hard copy.
Q. Did you, however, understand that the typed transcript
itself did or did not contain details of the women's
business, other than a general description of it.
A. I was aware that it had a general description.
Q. But that the real hard evidence, if you like, of women's
business was in the handwritten exercise book.
A. I wasn't certain of that. Betty Fisher had told me the
typed transcript was a typed transcript of what was in
the notebook.
COMSR
Q. Just so that I'm clear, you understood it to be a
verbatim copy, did you.
A. Yes.
XN
Q. You thought by getting the typed transcript you were
going, in effect, a typed up version of the notebook.
A. That's what I understood, yes.
Q. Then you'd made arrangements, or your employers had made
arrangements, to interview Bob Ellis, the man we saw on
in the 7.30 Report and on the raw footage, from
Queensland, presently in Queensland.
A. Yes.
Q. Who steered you on to him.
A. Betty Fisher.
Q. In what terms.
A. On the Thursday when I interviewed Betty Fisher,
afterwards I asked her if she could give me some
references, people who could speak on her behalf, people
who knew her. She gave me a couple of names, one of
which was Bob Ellis, who is now working in Queensland.
Q. 5 August 1995 was what day of the week.
A. 5 August would have been the Saturday.
Q. You went to the home of a relative of Veronica Brodie at
Paralowie.
A. Yes.
Q. You then had in your possession the typed transcript, didn't you.
A. Yes, I did.
Q. How many pages did that consist of.
A. I think there were four pages. I think she gave me four pages of typed transcript, one sided, on one side of each page.
COMSR
Q. So there were two pages and they were on the back and front of each page, is that what you're saying.
A. No, there were four pages with typed transcript on each page, one side of each page.
Q. How long did you have them in your possession.
A. I had them with me until Tuesday morning, Tuesday 8 August.
Q. How long a period of time was that.
A. Four days - five days including the Friday.
Q. You say you think you had four pages.
A. Yes.
XN
Q. There was present, apart from people who were off-camera, but at least the people who were filmed at the home of the relative of Veronica Brodie at Paralowie, were Betty Fisher, Maggie Jacobs, Veronica Brodie, yourself. They were the participants in at least the film section of what went on.
A. Yes, and the camera crew.
Q. There were children and a dog about too, weren't there.
A. Yes.
Q. Who organised that, who got these people to Paralowie.
A. I did.
Q. Getting Maggie Jacobs along, that was something you did. You contacted her, did you.
A. Veronica Brodie got in touch with Maggie Jacobs. She wanted Maggie there when she listened to the cassette tape. I contacted Maggie to see if she could be there, and she said she would be.
Q. You decided to have Veronica Brodie participate because
she was the daughter of Rebecca Wilson.

Q. Sorry, Veronica asked for Maggie Jacobs to be present, did she.
A. Yes, she did.

Q. You contacted her.
A. Yes.

Q. Why was it that this took place as far off as Paralowie.
A. I don't know. When I contacted Veronica, I was quite happy to do the interview at her house, but she said she wanted to do the interview at the house of her niece, I understood it was.

Q. We see what took place from the raw footage and from the 7.30 Report itself. Can I take you to Monday, 7 August.
A. Yes.

Q. On that day, you have recorded on the shot list that you attended at the Aboriginal Legal Rights Movement office in King William Street, and there was film of you turning the pages of the notebook, the handwritten notebook.
A. Yes.

Q. That is filmed by your crew.
A. By a cameraman and a sound recordist.

Q. A male cameraman.
A. Yes.

Q. Was that done in the presence of Sandra Saunders.
A. Yes, it was.

Q. Were there any constraints imposed in respect of this filming by her.
A. She preferred that the camera was at a reasonable distance away from the notebook, that we didn't get close-up shots of the notebook, and I wasn't allowed to take the notebook away.

Q. Can you tell us how many pages of the notebook did contain cursive writing, all of the notebook.
A. I flipped through about three pages.
Q. Did you yourself ascertain whether they contained material relevant, if you like, to women's business on Hindmarsh Island.
A. In a general sense. I briefly looked at three pages as I was flipping through it.
Q. Did Sandra Saunders indicate these three pages to you.
A. The book was sitting on a desk, we filmed the book, I asked if I could have a quick flick through of the book, she said yes.
Q. The three pages you flicked through, they were three of many handwritten pages, or not so many.
A. I didn't count them. I could say that it looked as if there were about 15 or 20 pages.
Q. All handwritten.
A. Of handwritten.
Q. You know that Betty Fisher was taking material from Gladys Elphick for a proposed book, and says that she took some material from Rebecca Wilson also. Were you able to identify in the notebook, in the exercise book which was handwritten, which was which, or whether it was the one topic.
A. The section of the notebook, the notebook as it was sitting on the desk, had the word `Koomi' on it, and that's the only name I saw as I flicked through the three pages of the notebook.
COMSR
Q. When you say `I flicked through', did you read any sentences.
A. Not closely, no.
XN
Q. At all.
A. No.
Q. When you got to your three pages, you told us you at least identified it as dealing with women's business.
A. Yes.
Q. But did it provided any detail of women's business - I don't want you to tell us what it was, but did it provide any detail of the women's business.
A. CALDWELL XN (MR SMITH)

1 A. In that I had access to that typed transcript at the
time, I was looking to see if the notebook matched the
transcript, and it did as far as I could ascertain.
2 Q. Did you ascertain in the notebook whether there was any
detail of the women's business.
3 A. No, I did didn't, no.
4 Q. Did you look for it.
5 A. No, not specifically no.
6 Q. Why not.
7 A. Well, I didn't - when you say `the women's business',
8 are you talking sacred secret women's business?
9 A. Yes.
10 Q. I don't know what the sacred secret women's business is.
11 I was just looking to see if it matched that typed
12 transcript, and I saw words along the lines of what I
13 saw in the typed transcript, but whether or not that is
14 women's business, I'm not sure.
15 Q. We hear on the tapes, on both tapes, Veronica Brodie
16 reading out sections of the typed transcript, don't we.
17 A. Yes.
18 Q. Is that the extent of the material that you identified
19 in the handwritten notebook, or did you identify
20 anything new.
21 A. I didn't see anything new, no.
22 Q. At that time, Monday 7 August, you still had in your
23 possession the typed transcript.
24 A. Yes.
25 Q. Did you have it with you at the time you went to the
26 Aboriginal Legal Rights Movement office.
27 A. I may have, yes, had it in my bag.
28 Q. When did you hand that back.
29 A. I posted it back on Tuesday, 8 August.
30 Q. To Doreen Kartinyeri.
31 A. Yes.
32 Q. At what address.
33 A. I can't remember. It was a post office box in Port
34 Germein.
35 Q. She gave you that in the conversation at the bus depot,
CROSS-EXAMINATION BY MR ABBOTT

Q. In relation to the typed transcript - and you understand when I used the words 'typed transcript', I'm referring to the typed transcript of what was said to be Betty Fisher's notebook.

A. Yes.

Q. You may not have personally have done this, but you know, do you not, that a copy or copies were made by the ABC of it.

A. No, I don't.

Q. Were you given any prohibition on making such a copy.

A. Yes. Doreen Kartinyeri asked me not to make any copies of it whatsoever.

Q. You haven't mentioned that.

A. I did.

Q. When you say 'no copies', are you telling us that the cameramen only had the copy that you had from Doreen.

A. That's right.

Q. You spoke to Doreen Kartinyeri at the bus station for how long.

A. I could have been with her for about 15 minutes. She was getting ready to catch a bus. It could have been about 15 minutes, I'm not sure.

Q. You've told us that she wasn't expecting you, you just turned up out of the blue, but you knew her from previous contact, didn't you.

A. Yes.

Q. In fact, you'd interviewed her on previous occasions.

A. Yes.

Q. How many occasions prior to 4 August.

A. I couldn't say to be exact. Probably four times, four or five times.
Q. After making the request of Doreen and after she produced the transcript from her bag, did you read it then and there with her, or part of it.
A. Partly, yes.

Q. I would like you to tell us what happened, because, you see, you have told us of a discussion in the course of which you and she both had the transcript and she was going through it with you and she was putting asterisks or crosses in the margin. Just tell us what was said, would you.
A. I can't remember to be exact and I didn't take notes of the discussion, but essentially I asked her if I could see the typed transcript and if I could take it away. She said that would be all right. I asked her if it would be okay if we filmed it. She said that would be all right. And then I said `Are there any bits, in particular, that you want us to steer clear of?' And she said `Oh, yes', and marked the transcript.

Q. How many marks did she put on it.
A. I think she only put four or six marks on it. She put a mark at the top of a section of transcript and a mark at the bottom of that section. So, two markings on, you know, I think probably about six markings.

Q. I haven't quite followed how many sections that translates into.
A. Three.

Q. In fact, one of them was - we see one of the sections with one of the asterisks alongside it, don't we.
A. That is the section she wanted us to film. When she put an asterisk, that means you can film this section.

Q. The asterisks were to show that you could film, not what you couldn't film.
A. That's right.

Q. After you got the transcript or, indeed, presumably at the time and soon after you read it.
A. Yes, I did.
A. CALDWELL XXN (MR ABBOTT)

Q. There was no restriction placed on you in not reading it.
A. No.
Q. And you read it right through.
A. Yes.
Q. Carefully.
A. Yes.
Q. I mean, this was the most important, at that stage, document that in your eyes related to this Royal Commission, wasn't it.
A. Yes.
Q. And it was something that was good for the ABC.
A. It was a good story.
Q. Thereafter it was - we know it was filmed by your cameramen, male cameramen.
A. Yes.
Q. Both of them.
A. We have one cameraman and one sound recordist when something like that is happening, yes.
Q. They obviously were able to look at it in its entirety.
A. Able to?
Q. Yes.
A. I didn't actually hand them the four pages of transcript. I handed them the sections that she had put markings on.
Q. How many pages was that.
A. I think I gave them four - three pages, three of the pages.
Q. Out of four.
A. Yes.
Q. So, there was one page without any asterisks on it.
A. As I remember, yes.
Q. Which of the four pages in sequence was it.
A. I think it was the last page, but I can't remember specifically.
Q. Are you suggesting then that, having read it through, there was anything different on the last page than there was on the other three pages.
KC 46C

A. CALDWELL XXN (MR ABBOTT)

1 A. I can't remember specifically what was on the last page.
2 Q. No, but was anything different in generality.
3 A. No.
4 Q. I mean, let's be frank about this, these four pages of
5 typed transcript were, without going into detail,
6 general in the extreme, weren't they.
7 A. I am not sure, I am not sure if I can say that from -
8 Q. Putting it another way, was there anything specific
9 about Hindmarsh Island.
10 A. Hindmarsh Island was mentioned, so was Kumaran, I
11 think it was mentioned as Kum an, or something.
12 Q. But was there any mention of anything said to be secret
13 or sacred women's business.
14 A. When you say 'secret or sacred women's business', what
15 do you mean?
16 Q. Forget what I mean. You read it through. You carefully
17 read it. You saw what was in it. Having read it
18 through, was there anything that you regarded as being
19 secret sacred women's business in view of what you had
20 heard.
21 A. There was mention of babies, going to Hindmarsh Island
22 to have babies.
23 Q. Women going to Hindmarsh Island to have babies.
24 A. Yes.
25 COMSR: If we are going to get any more
26 specific, there are certain things that are in the
27 public arena already.
28 COMSR
29 Q. Was there anything that is not the public arena.
30 A. No.
31 XXN
32 Q. You know that these four pages were said by Betty Fisher
33 on her oath to be a verbatim account of what is in - of
34 all that is in her notebook that relates to Hindmarsh
35 Island and secret sacred women's business, don't you.
36 A. At the time she told me that she had done a transcript
37 of her notebook.
38 Q. No, listen to my question.
A. CALDWELL XXN (MR ABBOTT)

Q. You have heard Betty Fisher give evidence.
A. Yes.
Q. Haven't you.
A. Yes.
Q. You know that she said that, we now them to be four pages and you think there were four pages, that the four pages of transcript is an exact account of all that is in her handwritten notebook that relates to secret sacred women's business and Hindmarsh Island.
A. Yes.
Q. Having read it through, you are able to tell the Commission that all of it that you read is in the public arena already.
A. Certainly now.
Q. And that there is nothing that we haven't already heard about that is referrable to secret sacred women's business on Hindmarsh Island.
A. Not from what I saw in reading the transcript.
Q. There is just one thing I would like to clarify, if I could: as far as the tapes are concerned, you heard those, did you.
A. The original reel-to-reel tapes, or the cassette tape?
Q. The cassette tape that has been handed to you?
A. Yes.
Q. It is not suggested, of course, that there is anything in those relating to Hindmarsh Island, is it.
A. I think, doesn't Gladys Elphick talk about that area?
Q. She talks about hearing her mother's voice.
A. No, Gladys Elphick, on that tape, I think she talks about that area. I think.
MR ABBOTT: The witness is referring to the introduction, before Rebecca Wilson speaks. But we will need to play it again, because I think that you are right and the witness's recollection is inaccurate. I
KC 46C

A. CALDWELL XXN (MR ABBOTT)

1 don't think there is any reference to Hindmarsh Island.
2 A. Certainly not from Rebecca Wilson there isn't, no.
3 MR ABBOTT: Nor, I would suggest, from Gladys Elphick, although we weren't allow to listen to it all.
4 There is a transcript already prepared, which is
5 Exhibit 20A.
6 COMSR: I was just trying to get the witness's understanding, Mr Abbott, at this time.
7 MR ABBOTT: Yes.
8 COMSR: I have the evidence of what was actually there.
9 XXN
10 Q. I need to ask you a few more questions about the transcript.
11 A. Yes.
12 Q. We can see from the shots of the transcript on the raw footage that there is written on the transcript a section which says `NB not to be used', or `special to Coorong people'. Do you remember seeing that section.
13 A. Yes, I do.
14 Q. Is there any other section in the typed transcript which has that designation on it or anything like that.
15 A. I don't remember seeing that.
16 Q. You would have remembered if there was another such section, wouldn't you.
17 A. I would hope so.
18 Q. What we see on the tape, and I can play the tape to you, but you probably remember, are the words `Next three pages not to be used' and then `NB special to Coorong people'.
19 A. Yes.
20 Q. You actually saw those words in the typed transcripts.
21 A. Yes, I did.
22 Q. Did you see them when you were flicking over the notebook.
23 A. I think I did.
24 Q. Do you remember Betty Fisher's evidence on this subject.
25 A. To an extent, yes.
Q. I paraphrase it, but Betty Fisher's evidence, I suggest,
was to this effect: that, when she came to the most
secret sacred section, that is, when Koomi came to the
most secret sacred section of what she was allegedly
recounting, she notified Betty Fisher, as a result of
which Betty Fisher wrote in her notebook over three
pages, three handwritten pages `NB not to be seen by
men', or something of that nature. Her evidence to this
extent is at p.1278 to p.1281. She said this at p.1277,
it starts at the bottom of p.1276, last line "That's not
quite an answer to my question. Are you telling us that
these three pages, which are entitled apparently "NB
special to Coorong people", are not the three pages that
relate to secret sacred women's business in relation to
Hindmarsh Island, as you have asserted it?" And she
said `No, no definitely not, definitely not.' And then
she went on to tell us that there were another three
pages headed by another note of exclusion in essence
saying that they were three pages which were preceded by
a note `Not to be seen by men'. You never saw anything
of that sort in this transcript.
A. Not in the four pages that I was handed, no.
Q. Nor in the notebook.
A. I'm not sure. I can't be sure about the notebook.
Q. You can't be sure, but not that you recall in the
notebook.
A. I can't recall.
Q. What size was the notebook in relation to an A4 page.
A. I would say in terms of its - it was A4 size, but
narrower, not as wide as an A4 page, but as long.
Q. You said it consisted of approximately 20 pages. I am
not asking you to say that that is an exact, but merely
an approximation.
A. Yes, could have been more.
Q. What was on the front cover.
A. There wasn't a front cover there.
Q. At all.
A. No.
Q. There was, what, just - you looked at it and there was a page of writing in front of you.
A. That's right.
Q. How did that page of writing start off.
A. I can't give you the words.
Q. The effect.
A. No, I can't.
Q. Was it about -
A. I think ‘Koomi’ was at the top of the page, I think.

COMSR
Q. So, this was a section, a part of the notebook.
A. Yes.
Q. And you wouldn't know whether the cover and other pages had been taken out or not.
A. It looked as if the cover and other pages had been taken out. It looked as if the pages preceding the pages that I saw had been cut away from the book.

XXN
Q. They were still double-sided pages.
A. No, all I saw was one side and, as it was sitting on the desk, there were pages which had been cut away.
Q. So, they were loose pages.
A. No, it was part of a book.
Q. When you saw the front of the book, you saw that there were some pages, including the cover, which had been cut off the book.
A. Yes.
Q. Because you could see what was left and that indicated that there previously had been a number of pages there.
A. Yes.
Q. And, of the pages that were left for your examination, there were some 20 pages or 10 pages or 20 sides.
A. There could have been 20 pages with writing on both sides. I don't know how many pages were there.
Q. But, in any event, how many of those pages related to matters relevant to the Royal Commission and how many pages didn't, you can't help us.
A. I am sorry, no.
Q. Because you only flipped through two or three. May I take it they were the first two or three.
A. Yes.
Q. And they did appear to be relevant.
A. Yes.

Q. Just for the sake of completeness, was it written in pencil, pen, biro or what.
A. It looked like a pencil, an organy, yellowy sort of pencil, but it wasn't biro.

Q. We know that you came to be involved in the Betty Fisher aspect of this Royal Commission, I think, early on in the week of 1 August.
A. When you say 'involved', what do you mean?
Q. By 3 August, you had arranged an interview with Betty Fisher, at the offices of Mr Douglas Wardle.
A. Yes.
Q. How long before that had you decided to try and interview Betty Fisher.
A. When Doreen Kartinyeri told me about this transcript that she had, in the back of my mind I was interested in doing a story about the transcript. On the first day of the Royal Commission I saw listed on the list of interested parties in the Commission the name Elizabeth Fisher and I asked - at one stage during the Royal Commission somebody tapped me on the shoulder in the Commission. I turned around. She was talking to me About my coverage of the Royal Commission. I think during the lunch break we were talking outside and I asked her if she was Elizabeth Fisher. She said 'Yes', and I asked her if she had done any interviews with any Aboriginal women in the 60s. She said 'Yes', she knew - yes. And I can't give you a date of when that happened, but it was after the Commission started.
Q. We know the Commission started on 19 July, so we are talking about the latter part of July, are we not.
A. Yes.
Q. By Monday, 31 July, I think you were aware that Betty Fisher had given a statement to the Royal Commission.
A. Yes, the first time I knew that she had given a statement was when she told me she had given a statement, provided a statement.

Q. When was that.
A. I can't give you a date.

Q. Did you get a copy of her statement.
A. No, I didn't.

Q. You have never had a copy of it.
A. No.

Q. Have you ever seen a copy of it.
A. No.

Q. How soon before 3 August 1995 was it that you made arrangements for the interview.
A. I didn't.

Q. You tell us what happened then.
CONTINUED
A. CALDWELL XXN (MR ABBOTT)

A. On 3 August, I got a phone call from Betty Fisher at work or at the ABC and she said that she was no longer wanting to take part in the Royal Commission and organised the interview there and then.

Q. You say this is entirely unsolicited by you.
A. Previously, when I had met her out the front of the building or in here, we talked about what she had done and I had said I would be interested in doing something. But at that point, she was taking part in the Royal Commission and her advice from her lawyer is that that is what she will do.

Q. However, by 3 August, there was obviously a change of heart on Betty Fisher's part. She told you that she didn't intend to take any part in the Royal Commission and she would now speak to you.
A. Yes.

Q. Did you make a note of that discussion.
A. No, I didn't.

Q. She told you to ring Doug Wardle.
A. The only note I made is Doug Wardle's address.

Q. Where is that.
A. In the notebook, reporter's notebook section.

Q. Is the original of that notebook available for perusal. Have you got it here.
A. It's here.

Q. Could I have a look at the original please.

OBJECTION Mr Andson objects.

MR ANDERSON: I object to that and I object to it on the basis that it is not the practice in this Commission for anyone to reveal their original notes if counsel assisting is satisfied that what is provided is genuine; and there's a wealth of information in there which is not the province of anybody, including counsel assisting. I have personally, with Mr Gretsas, assured myself that what has been provided to the Commission is what is relevant to this interview. That what he has got in the copies here is all that he needs, with respect.
MR ABBOTT: I would be happy if counsel assisting is able to give us the same assurance.

MR SMITH: I can't at the moment. I can do that very quickly.

MR ABBOTT: I would be happy for Mr Smith to inspect that.

COMSR: Is there any objection to Mr Smith inspecting that?

MR ANDERSON: No, none at all.

MR ABBOTT: Perhaps that can be done during the break.

COMSR: What break are we talking about?

MR ABBOTT: The lunch break.

COMSR: You are not anticipating that the examination of this witness will extend to that time?

There are limits.

MR ABBOTT: I am mindful of the limits and I'm intending to be as brief as I can.

Q. On p. 19 of the 20 pages it says: '10.30, 75 Gouger Street, Doug Wardle's office' and the number. That is the note that you refer to as the initial contact with Betty Fisher on 3 August 1995.

A. I think so.

Q. So, events were moving fairly quickly then. She rang you and by 10.30 you were going to be having an interview with her.

A. Yes.

Q. The other notes on that page, what do they relate to.

A. The first name that you see there is one of the names of a referee that she provided. The next two names, you know what these names. And the last name is someone who works at the library.

COMSR: Hasn't this ground been covered in the examination?

MR ABBOTT: That ground hasn't been.

MR ANDERSON: I interrupt and ask how is it relevant?

MR ABBOTT: It's relevant as to what Betty Fisher
said to this witness and how they went about this interview. And I'll turn straight to the interview that is taken on 3 August.

XXN

Q. Would you look at Exhibit 22B the raw footage produced. Of those pages, how many deal with the interview at Douglas Wardle's offices on 3 August.

A. Down to p.10, I think.

Q. Surely at the top of p.11 is also Douglas Wardle's office.

A. Yes. Sorry, yes, it is, yes.

Q. I would like you to help us as to what was said on the top of p.11. It's a male voice, is it not.

A. It could have been.

Q. Was it Mr Wardle's.

A. I'm not sure.

Q. We may have to play it and ask you to identify it.

A. Someone is saying something about 'One of those is responsible. I think what we have done is' - and then the Royal Commission staff couldn't translate what was there, so it read in the transcript 'I think what we have done is' - something - 'Have Tim Wooley present at the time of the fabrication. I think we will now work out how to get him out of there'. Do you remember that discussion.

A. No, not clear, no.

Q. At all.

A. It wasn't all that important, so I didn't make a -

Q. Who else was there.

A. There was myself, the cameraman, the sound recordist, Betty Fisher and Douglas Wardle.

Q. My suggestion is this is you: That it was Douglas Wardle speaking and that there is a discussion about when Mr Wardle is talking about Tim Wooley having been present at the time of fabrication. Do you remember that discussion.

A. Only vaguely.

Q. What was said.
A. CALDWELL XXN (MR ABBOTT)

Q. This is not things in general, this is about Tim Wooley being there at the time of the fabrication occurring.

A. I don't think that was what he was saying. No, I'm not sure. But I don't think that is what - it seems as if there is a full sentence there and you have only taken part of it.

Q. I put it to you that wasn't Mr Wardle in essence saying to you that he, not him personally, but his client Betty Fisher, was working hand in glove with the ALRM, that the problem of Tim Wooley being present at the time of the fabrication was a problem which they were addressing with the view to working out how to get Tim Wooley out of the problem that was presented by him having been present during the fabrication.

OBJECTION

Mr Anderson objects.

COMSR: Are you putting to the witness that that is part of the conversation?

MR ABBOTT: Yes, I am. If necessary, we will play it. In fact, I insist we play it.

MR SMITH: That would be better, I think. That is Exhibit 22.

COMSR: Perhaps I will hear Mr Anderson.

MR ANDERSON: I can't object if my friend wants to play it. I would have thought that by now someone would have worked out whether it was Mr Wardle or not. It is not for this unfortunate witness to guess about voices.

MR SMITH: It's certainly Mr Wardle, yes.

MR ANDERSON: It's unfair if some people in this Commission know that it is Mr Wardle and this witness is being asked to say whether it is or isn't - and I don't know whether it is unless I ask.

MR ABBOTT: I assume that she would have a fair and reasonable recollection of discussing it with Mr Wardle, wouldn't she? I would now like to play the tape. My view is that it is Mr Wardle and I can't give evidence of who it is and I can only have it played.
MR ANDERSON: It would be quicker to listen to the tape.

COMSR: Can we identify the portion of the tape.

Q. Can you recognise Mr Wardle's voice.

A. Probably.

COMSR: I suppose it will depend a little on the quality of the tape. Are you able to identify in some way what portion of the tape?

MR SMITH: It's the end of the first section. We can get to that by fast forwarding it fairly smartly.

MR ABBOTT: I am going to make a suggestion which is of slight variance to the transcript being provided to the Royal Commission.

Q. I would like you to listen with this variation in mind. That Mr Wardle says to you `Tim Wooley was present at the time of the fabrication. I think we will now work out how to get him out of there'. That's what I'm suggesting one hears on this tape. So can we now play that section.

COMSR: Are you asking that I suppress any mention of this at this stage?

MR WARDLE: Yes, I am.

COMSR: I notice from time to time members of the media dash out of the hearing room. In view of the nature of the suggestion that is being put, I certainly would be suppressing this until we can hear what is going on.

VIDEO PLAYED

Q. It says `One of the big problems is we have Tim Wooley present at the time of the fabrication.' That is what you heard.

A. If you would play it again?

VIDEO PLAYED

Q. `One of the big problems is we have Tim Wooley present at the time of the fabrication'. Do you agree with that.
A. CALDWELL XXN (MR ABBOTT)

A. Yes, something like that, yes. There was a couple of words that were there after.

Q. `The whole thing gets down to how to get him out of there. We will have to work out how to get him out of there'.

A. I think it was `We will now work out how to get him out of there'. That is the way they have transcribed it.

CONTINUED
VIDEO STOPPED
Q. Can you assist us with what was said.
A. I don't think we're talking about anything about Betty Fisher. I said we're just talking generally.
Q. Maybe you are talking about Betty Fisher, you personally, but how did it arise that Mr Wardle and you are discussing about the fact that Tim Wooley was present at the time of fabrication and how it can be worked out to get him out of there.
OBJECTION Mr Anderson objects.
MR ANDERSON: My friend has inbuilt in that question that she and Mr Wardle was discussing something. It's not a fair question to ask her what she is discussing.
MR ABBOTT: Your Honour looks astonished, the next words uttered by Alison Caldwell are `Doug Milera fell away.'
XXN
Q. Did you hear yourself saying that.
A. Yes.
Q. So you were discussing with Doug Wardle the problems that the opponent women were having in relation to the Royal Commission.
OBJECTION Mr Anderson objects.
OBJECTION Mr Wardle objects.
MR WARDLE: There is a whole slab missing from the start of that, and he is elevating me to a major player. It was off-camera discussion about nothing in particular.
COMSR: I still don't think you can put to this witness as a proposition that you were discussing - are you going to ask her `Were you discussing'. At least let's establish something.
MR ABBOTT: I will.
COMSR: The witness, I don't think, has purported to identify the male voice at present.
MR ABBOTT: We'll come to that.
XXN
Q. First of all, now that I've played this portion of the tape through to you, do you recognise, or are you able
1 to tell us that that was a discussion that you were
2 having with Douglas Wardle.
3 A. Yes.
4 Q. In the sense that he was talking to you, and you were
5 talking to him, correct.
6 A. Yes.
7 Q. Now that you've heard part of that discussion, could you
8 tell us what the discussion was about.
9 A. From what I can remember, it wasn't an important
10 conversation, and it wasn't a conversation which would
11 be recorded in any way. It was a general conversation
12 about the commission and what is before the commission,
13 what will be before the commission. Just a very, very
14 general conversation.
15 Q. Why did you raise Doug Milera.
16 A. I think that's because around that time Doug Milera was
17 part of the commission.
18 Q. You agree that we've now got Mr Wardle saying, in
19 essence, there was a problem because Tim Wooley was
20 present at the time of the fabrication. That's the
21 effect of what you heard him saying, isn't it.
22 A. Well, I'm not sure. I'd like to be able to hear the
23 whole, the beginning of that sentence.
24 Q. Come over here.
25 A. You don't have it. I think there is probably more
26 around that which would be useful to hear, but which
27 hasn't been recorded.
28 Q. I suggest you come over here again, and we'll listen to
29 the start of the sentence.
30 A. Okay.
31 VIDEO PLAYED
32 Q. `Otherwise dropped in cold'.
33 A. `You'd be dropped in cold'.
34 Q. Do you remember what that was about.
35 A. No.
36 VIDEO PLAYED
37 Q. `You're one of those responsible'.
38 A. Yes.
Q. Do you remember what that was about.
A. No.

VIDEO PLAYED
Q. 'One of the big problems we had was about concerning Tim Wooley'.
A. He may have said 'one of the problems they have'.
Q. 'One of the big problems they have is about concerning Tim Wooley'. Would you like to hear that again. (NOT ANSWERED)

VIDEO PLAYED
Q. 'One of the big problems they had is having Tim Wooley present'.
A. 'Suddenly discover that you're one of those responsible'. It sounds like 'One of the big problems they have concerns the fact that' -
Q. 'About having Tim Wooley present at the time of the fabrication'.
A. That's what.
Q. Is that right.
A. That's what it sounds like.

VIDEO PLAYED
Q. 'I think they have now worked out to keep him out of it'.
A. No, I don't think he says that. 'I think that now they have' -
Q. 'They worked out how to get him out of there'.
A. Yes, that could have been it.

VIDEO PLAYED
Q. What are you saying there.
A. I'm not sure, something about the commission evidence.
Q. Just listen to it again. (NOT ANSWERED)

VIDEO PLAYED
Q. Can you tell us what you were saying.
A. No, I can't.
Q. I will have to get it enhanced.

VIDEO PLAYED
A. 'The commissioner is now hearing something'.
Q. We'll play a bit more. (NOT ANSWERED)
A. CALDWELL XXN (MR ABBOTT)

Q. `I think that was the story that was floating around before the Royal Commission'.
A. That's what he says, yes.
Q. Then you say then `Doug Milera fell away'.
A. Yes.
Q. Do you remember why you said that.
A. I think we were talking about the Royal Commission and different, you know the Tim Wooley evidence, the Doug Milera evidence.
Q. I think that's the end of it. Well, if there is anything else that you can remember of the conversation that will assist us in putting it in context or not, please tell us.
A. I can't. It didn't seem to be terribly important at the time, and I didn't make notes of it. This is the first time I've thought about it since.
Q. On this tape, this is the raw footage tape, there are a couple of comments I want to make. First of all, the raw footage tape has no raw footage of what took place on 7 August 1995. Why is that.
A. I don't know.
Q. There surely would have been raw footage of that.
A. There would have been, but I don't know what happened to it.
Q. Have you tried to find out what happened to it.
A. No.
Q. Has anyone, because there was a subpoena addressed.
A. I assume someone has, but I don't know.
Q. You do keep logs or records of how much footage is spent at various places, do you not.
A. Not as such. What do you mean by that?
Q. Someone keeps a record of, on this particular tape, how much is devoted to this section.
A. No.
Q. This topic.
A. No.
Q. You see, on the to-air tape, there is seconds of shots showing your hands turning the pages of the book, correct.
A. Yes.
Q. In essence, however, the photographing presumably took a minute or so, at least.
A. Only that.
Q. Yes.
A. If not less. The camera could have been rolling only for about 30 or 40 seconds, 20 seconds.
Q. Did you ask for any other shots to be taken that day, like of Sandra Saunders, or the ALRM interior or exterior.
A. No.
Q. So the only footage that is referable to your exercise here is something on the order of a minute or less on 7 August of your hands turning the notebook.
A. On that particular tape?
Q. Well, on the tape that was taken by the cameramen on 7 August.
A. Are you asking is there anything else there?
Q. Yes.
A. I think on the same camera tape we got a shot of the house that Gladys Elphick used to live in.
Q. Where is that camera tape.
A. I don't know.
Q. That is the one that I was looking for when we got the raw footage, and it wasn't there.
A. I don't know. Basically as soon as I've written my story and handed tapes over to an editor, I don't know what happens to those tapes once I have handed them over.
Q. So we can assist - no doubt counsel assisting will want to pursue this - on the tape that relates to your trip to ALRM on 7 August 1995, there will be or there was in existence a raw footage tape which had shots of your hands at the ALRM turning the notebook, shots of the house where Gladys Elphick used to live, correct. What
A. CALDWELL XXN (MR ABBOTT)

else did it have on it.
A. The only other thing that may have been on there is a
photograph that Betty Fisher gave us.
Q. When.
A. On that Monday.
Q. That's on Monday, the 7th.
A. Yes.
Q. How did you meet Betty Fisher on the 7th that she had
given you a photograph.
A. I didn't meet her on the 7th, I telephone her in the
morning, and she couriered an envelope of photographs to
the ABC.
Q. Where do we find in your notes reference to that raw
footage tape. First of all in the first -
A. We don't.
Q. Not at all.
A. No, because that was done at lunchtime on the Monday,
Monday afternoon I came back to the Royal Commission,
and I left the tape with the cameramen and I asked him
to take it back to the ABC, and I identified to the
editor which shots I'd need, so he would have just
looked for them himself, but I didn't make notes of them
in a computer.
Q. Anything else on this raw footage tape.
A. No.
Q. Other than those three topics.
A. No.
Q. How long is the tape. Do you just use a section of it.
A. Yes. Tapes can sometimes be 20 minutes or a half an
hour. We may only use the first two minutes, we may use
15 minutes, whatever we record on that tape. Sometimes
we just do one quick interview, then change tapes. It's
different.
Q. I see, then you leave the rest of the tape blank, do
you.
A. That's right, yes.
XXN

Q. Could I just ask you about the raw footage tape that we have got. On some of the raw footage tape, there appears to be a soundtrack overlaid, is that right.
A. It appears to be, yes.

Q. It appears to have been done deliberately.
A. I don't know. I wasn't there whether that happened, I was in the Royal Commission.

Q. But I mean you're an experienced television journalist,
A. Yes.

Q. Someone has dubbed in noises on top of this tape in parts, haven't they.
A. I don't know.

Q. I know you don't know, but that's what it appears to be, traffic noises.
A. It could be that accidentally a channel has been left open. I don't know how that would have been done.

Q. Look, the raw footage tape that we have got, and which was the basis of the on-air tape, has obviously been subsequently doctored, hasn't it.

A. I wouldn't say necessarily `doctored'.

Q. Someone's laid down, on one of the two sound tracks, a noise to distort or minimise what we can here on the raw footage.
A. I don't know.

Q. That's what appears to have happened.
A. I was in the Royal Commission, and I don't know what happened.

Q. That's the effect of what's happened, isn't it.
A. Yes.

Q. Can you provide any explanation as to how that came to happen.
A. I can't.

Q. Can you tell us who might have been responsible for it.
A. No, I don't know who did the dub.

Q. Is there a clean copy, or is this the only one.
A. I'm not sure now. I don't know what's happened.
Q. You've now heard it, that there is an overlay and
someone's done some dubbing on top of the raw footage
tape. Have you asked anyone how this came to happen.
A. No, I didn't, no.
Q. Are you sure.
A. Yes.
Q. You've never asked anyone.
A. I haven't asked the person who did the dub what
happened.
Q. Who is the person who did the dub.
A. I'm not sure.
Q. Who could it have been.
A. I'm not sure.
Q. Give us a range of names, then.
A. No, I can't.
Q. You can't or won't.
A. I can't.
Q. Do you mean by that that you really don't know, you've
got no idea.
A. I don't know who did the dub, no.
Q. Is what we have got in this video clip here the actual
raw footage that you've got back at the ABC, that is it,
or are those camera tapes still in existence.
A. I'm not sure.
Q. You see, just so the commissioner knows, what the ABC
have put together for the purposes of this Royal
Commission is a compilation from various separate camera
tapes.
A. Yes.
Q. Cameras go out, or one cameraman and one camera goes
out. He uses, say, 10 tapes, right.
A. Yes.
Q. Our Exhibit 22 is a copy of those camera tapes so it
runs continuously.
A. Yes.
Q. In the copy that we have, someone has dubbed on a lot of
A. Caldwell, Xxn (Mr Abbott)

1 noises to make a lot of it unintelligible and very
difficult to hear, haven't they.
2 A. How it happened, I don't know.
3 Q. But that's the effect of what they have done, isn't it.
4 A. Yes.
5 Q. If we go back to the original raw footage, those noises
    shouldn't be on it, should they.
6 A. I wouldn't have thought so.
7 Q. Where are the original raw footage tapes.
8 A. I don't know, I haven't asked.
9 MR Abbott: I ask that they be produced.
10 MR Smith: The situation is that the subpoena was
    broad enough -
11 MR Abbott: Exactly.
12 MR Smith: - to encompass that, and I think we
    received an assurance that all the raw footage available
    was on the tape that was produced.
13 MR Abbott: I accept that assurance, but what they
    have done is doctored the tape that we have got so you
    can't hear some of it, or it's difficult to hear because
    it's got an overdubbing of some traffic noises, whines,
    electronic noises etc., and I ask that the original raw
    footage camera tapes be produced in answer to the
    subpoena.
14 COMSR: Are they available?
15 MR Anderson: I don't know, I will just get
    instructions. I will ask my friend if he wishes to
    pursue his persistence in relation to 'doctoring'. It
    is a pretty serious suggestion. There has already been
    a suggestion by the witness that a channel can be
    accidentally be left open on a camera. I don't have any
    instructions, but I will get them. I just wonder
    whether my learned friend thinks he's got a bit more and
    wishes to withdraw the allegation of doctoring.
16 COMSR: The situation is, as I understand it,
    that there are noises. How they got there -
17 MR Anderson: I don't know what the noises are.
COMSR: As yet, I have no evidence before me, one way or the other, as to the manner in which, the time at which, or -
MR ANDERSON: I will get instructions, as soon as I can. If you think it is important enough, I will get them now.
MR MEYER: I happen to think that is important, because I was concerned that we weren't able to hear. I just assumed that every little while trucks go past.
MR ABBOTT: No. And jackhammers start up.
MR MEYER: And I think it is important that we know, before we finish this cross-examination.
COMSR: Let me find out.
MR ANDERSON: Mr Anderson, is this something that can readily be done, or is it going to take some time?
COMSR: Perhaps that may mean this, Mr Anderson:
MR MEYER: I don't even know that, but I am prepared to ask for a short adjournment, to try and find out whether it is a long-term or a short-term process.
MR ABBOTT: And the missing raw footage tape, as well.
COMSR: Yes, is there available some raw footage? Has something happened to it?
MR ANDERSON: That previously there was something available, which is no longer available. So, perhaps if you can just assert that.
COMSR: That is certainly the case in relation to the interview with Ellis.
MR ABBOTT: We are not asking for the Ellis one.
MR ANDERSON: Just a minute, I am just explaining to the Commissioner.
COMSR: The Ellis was interview was on a satellite link and records aren't kept of that. And I can tell you that is
not available, that previously was available. Other than that, I can't help you. So, I think it is better if I do get instructions.

COMSR: Yes, I mean, I am not familiar with what happens to these tapes, whether they are kept for a certain time, or what. And, if so, how long.

MR ANDERSON: I will find all that out for you and, whether I can do it quickly or not, I am not certain.

COMSR: Perhaps you can at least find this out: whether you can do it quickly?

MR ANDERSON: Yes.

COMSR: And, if you can't, you can let me know.

ADJOURNED 11.58 A.M.
RESUMING 12.20 A.M.

MR ANDERSON: I think I can be of some help to you and hopefully my learned friends.

My instructions are that, when the subpoena was served on the ABC, the lady who served it indicated that they wanted the tapes as quickly as possible. The ABC and, indeed, I think most other television channels, record on highly sophisticated Betacam equipment. You haven't got Betacam. So, because of the subpoena, an operator at the ABC was asked to transfer the tapes, that is, the original carera tapes, from Beta on to VHS, which is what you have got. In the course of that transfer from Beta to VHS, he wasn't given any specific instructions and it was all done in a hurry - and I repeat, he wasn't given any specific instructions and it was all done in a hurry - and the operator effectively, when changing from Beta to VHS, had both channels recording over the other. In other words, if it had been going to air or whatever, one channel would have been turned down. The channels very simply are one is a camera microphone and one is a hand-held microphone and one is sometimes put some distance in the background near an open window or whatever and picks up all the background noise. The two channels were both recorded and that is what you hear. It was dubbed in a mixture, in other words, in the situation of getting the VHS copy to the Commission as quickly as possible. You won't achieve anything by having the Beta tapes brought here, but they can be. I have ascertained that they still are available, but the ABC have offered their facilities to enable you or anyone who wants to listen to the camera tapes to go out there and listen to them, so that Mr Abbott can be assured that his allegation is unfounded.

COMSR: No, I understand what you are saying.

MR ANDERSON: We can bring them in, but there is no point.

COMSR: We can't do it. That seems to be a pointless exercise to me.
MR ANDERSON: We can bring them in by 2.15. We will be happy to place them in your possession. If anyone else wants to hear them, the ABC will make the facilities available. They will have to go out there do it. I am offering those facilities.

COMSR: I don't want the Commission to be held up on a line of inquiry which is not going to assist me.

MR ABBOTT: Neither do I. I wonder whether the assistance of the ABC could go this far: perhaps they can make another copy of the raw footage that doesn't have this problem on it?

MR ANDERSON: I didn't ask that question, I'm sorry.

MR ABBOTT: That would be the easiest way out and we can substitute one without the background noise on it.

COMSR: Yes, I don't propose to spend any more time pursuing this line of enquiry.

MR ANDERSON: We are happy to do that. Anything to keep Mr Abbott happy.

MR ABBOTT: And the missing tape, can you keep me happy and tell me where that is?

MR ANDERSON: I don't know anything about a missing tape, I'm sorry.

MR ABBOTT: The one you were asked to get instructions on. The tape of 7 August.

COMSR: Perhaps you can take instructions and explain that to him. But, Mr Abbott, we seem to be wasting a lot of time enquiring into the practices of the ABC in relation to their -

MR ABBOTT: I don't intend to waste time at all.

COMSR: Their footage and such like. Whereas this witness in the box at present I understand was called so that we could pursue the matter of the documents that Mrs Fisher is said to have been the authoress of.

MR ABBOTT: Yes.

MR ANDERSON: I may have misunderstood Mr Abbott earlier, but I was after instructions in relation to the alleged doctoring. And I have got those instructions
and I have conveyed them to you.

In relation to any missing tape, perhaps if he will explain that to me in the adjournment, I will find out about that. I didn't do that in the time available. I am not sure which it is.

As I understand it, the extraneous noises which were there are explicable by virtue of the fact that you are trying to transfer from one system to another both the sound and the visual.

Yes, and without specifically designating that one channel only will go on to it.

Can I also say something else that is part of my instructions?

Yes.

In relation to the cross-examination that Mr Abbott was pursuing of the witness, in relation to the Doug Wardle discussion, you would have noticed there are several different camera shots during the discussion which takes place. And I understand, from speaking to Mr Smith, that there has been other evidence in this Commission that, when that takes place, in other words, when the camera shots change, so also does the audio. And, for a variety of reasons, that seems to be continuous, but it isn't necessarily so. There are different conversations going on when the camera changes.

But the same conversation.

Yes, but not that it was continuous and I wouldn't want you thinking that that was the situation. I understand that has been explained on an earlier occasion, but I don't think that was made clear in the cross-examination by Mr Abbott that he wasn't suggesting other than it was continuous.

Q. So we are clear that about, this was the part I say was continuous: Mr Wardle says to you `Otherwise, you would be dropped in cold and suddenly discover you are one of those responsible. Now, I think what they have done is
to - ', and then there is a pause `one of the big
problems they have had has been about having Tim Wooley
present at the time of the fabrication, but I think that
now they have now worked out how to get him out of
there.' Does that accord with your recollection of what
you heard.
A. Yes, but in what context I do not - I think you might be
taking it out of context in terms of it was a much
longer conversation and you have heard a snippet of it.
COMSR: Just so that we are clear, Mr Abbott,
that wasn't what you were initially putting to the
witness and attributing to Mr Wardle, is it?
MR ABBOTT: It is similar, but we have now listened
to it in greater detail and it is to the same effect,
but with greater refinement.
XXN
Q. Just a couple of other matters: do you know a woman
called Katrina Power.
A. Yes, I do.
Q. Has she played a part in the provision of these
documents and the filming of them.
A. No, she didn't.
Q. Or any of the interviews that took place.
A. No, she didn't.
Q. There is a sheet of what you were going to do on
Saturday, 5 August, do you have that sheet.
A. Yes, I do.
Q. There is an asterisk on the right-hand side. These are
some notes added later `Shot of 30 Yorke Terrace,
Ferryden Park.'
A. Yes.
Q. That is the reference to what I have called the missing
tape, being Gladys Elphick's house, is it.
A. Yes, it would be.
Q. For Monday you have got `Notebook Monday ALRM.' That is
a reference to returning the notebook or seeing the
notebook, rather.
A. Yes, to seeing the notebook.
Q. And you have got 'Take tape to Victor first thing Monday.' What is that reference to.
A. That is a reference to the audio tape that Betty Fisher gave me. Number 5 I have referred to it as. Taking it to a sound recordist at the ABC for him to listen to and see if there was any extra noise or fuzz on the tape he might be able to do something about, but that wasn't required.
Q. That is an audio taped now exhibited in the Royal Commission and played in your absence the other day.
A. Yes.
Q. Dealing with the interview that took place on 5 August at the home of Debbie Thomas whom you understood to be the niece of Veronica Brodie, you have told us a little about that and I would like to ask you a couple more questions. You arranged for Betty Fisher to attend.
A. Yes.
Q. You came to that meeting with the transcript.
A. Yes.
Q. You handed the transcript over to Veronica Brodie.
A. Yes.
Q. We have seen some of the shots of what was taken. Who else was handed that transcript, or who else read it or part of it.
A. At that house that day?
Q. Yes, both on and off-camera. I am not restricting the answer to on-camera.
A. I think Maggie Jacobs may have had a look at it. I think Betty Fisher may have had another look at it.
Q. Certainly Veronica Brodie did, because she read out from it.
A. Yes.
Q. You handed over to them all the transcript you had, didn't you.
A. Yes.
Q. There was no restriction on any part of it.
A. No.
Q. And how did you decide what part Veronica Brodie would
A. CALDWELL XXN (MR ABBOTT)

1. read out.
2. A. I think I went to the bits that had the asterisks on
3. them. I think those were the bits that I asked her to
4. read out.
5. Q. And that's why we see her going from page to page.
6. A. Yes.
7. Q. In the tape.
8. A. Yes.
9. Q. Those were the asterisks that had been placed on it by
10. Doreen Kartinyeri with a view to indicating areas that
11. could be shown to the public.
12. A. Yes.
13. Q. On film, at least. And certainly, in your
14. understanding, read out in public.
15. A. Yes.
17. A. Yes.
18. Q. You never wrote anything on this transcript.
19. A. No.
20. Q. I want to ask you about another document and that
21. relates to another interview of yours. This is an
22. interview you conducted in March 1995 with Doreen
23. Kartinyeri, I think, and/or Sandra Saunders. And it
24. concerns a document said to have been signed or compiled
25. by the daughter of Pinkie Mack.
26. A. Yes.
27. Q. We are talking about what was variously described in the
28. media as an affidavit.
29. A. Yes.
30. Q. Have you seen that document.
31. A. No, I haven't, no.
32. Q. You were present when it was being filmed, though, were
33. you not.
34. A. No, I wasn't.
35. Q. Do you remember it being referred to in an interview.
36. A. I think Sandra Saunders referred to it in a studio
37. interview that was done one night in March.
38. Q. She claimed to have had an affidavit from the daughter
of Pinkie Mack.

A. Yes, she did, I think, in that interview.

Q. But you have never seen it.

A. No, I haven't.

Q. In relation to your contact with Betty Fisher, has she mentioned to you a man called Lewis O'Brien.

A. Yes.

Q. In what connection.

A. The day that I met Betty Fisher here in the Royal Commission hearing room, she introduced me to the man sitting beside her and she said 'This is Lewis O'Brien. He is an Elder of the Kaurna tribe,'

Q. Is that the extent of her contact with Lewis O'Brien and you.

A. As far as I know, yes.

CONTINUED
CROSS-EXAMINATION BY MR MEYER

Q. I want to ask you some questions firstly about the 29 June meeting that you had with Doreen Kartinyeri.

Firstly, whereabouts did that meeting take place.

A. It was on a flight between Port Germein and Renmark.

Q. On a flight.

A. Yes.

Q. In an aeroplane.

A. Yes.

Q. How did you come to be flying with Doreen Kartinyeri in an aeroplane.

A. I was doing a half an hour special for the 7.30 Report. We flew down to Port Germein on the 29th to get pictures of Doreen at home, looking at her - I think she told us of the Tindale genealogies - and then we wanted to fly to Renmark to film Connie Roberts at her home at Berrie and Doreen with Connie Roberts at Connie's home. We were flying to make it easier, faster.

Q. I understand she took a transcript out of her bag.

A. Yes, she did.

Q. She said to you words to the effect that she had evidence to show that women had talked about women's business in the 60s.

A. She said she had evidence which would help support her case. Then, she said that she had a transcript of an interview that took place between a white woman in South Australia and an Aboriginal woman in the 60s.

Q. I understand she took a transcript from her bag.

A. She took an envelope from her bag.

Q. Did she take anything out of the envelope.

A. She pulled what looked like a transcript out of the envelope.

Q. Entirely out.

A. No, not completely.

Q. How much of the transcript did you see.

A. The only thing I remember seeing is the top half of a page, a group of pages held together, and that line which I recited to David Smith.
A. CALDWELL XXN (MR MEYER)

1 Q. Was that the same transcript as you subsequently received from Doreen Kartinyeri.
2 A. I'm not sure. I think so.
3 Q. Did it appear to be the same.
4 A. I only saw half of a page when she pulled it from an envelope.
5 Q. Did it look like the same.
6 A. That half looked much like what I received in the end, yes.
7 Q. About the same number of pages.
8 A. I would think so.
9 Q. Was that transcript represented to you as being a transcript that had been prepared in the 1960s.
10 A. Not exactly. no.
11 Q. If `not exactly', what was said in relation to the production of the transcript.
12 A. `This is a transcript of an interview that took place'.
13 Q. Was there any mention of when the transcript was made.
14 A. Not by Doreen Kartinyeri, no.
15 Q. What about by you.
16 A. No.
17 Q. So, you didn't enquire.
18 A. Not from Doreen, no.
19 Q. Did you enquire from anybody.
20 A. I asked Betty Fisher when the transcript was done.
21 Q. Was that because it was later.
22 A. Yes.
23 Q. In that flight, was there any mention of the notebook.
24 A. No.
25 Q. When was the first mention of the notebook.
26 A. I think the first time I heard about the notebook was from Betty Fisher on 3 August when I was about to interview her.
27 Q. What did you understand the transcript to represent.
28 A. I understood the typed transcript was a transcript of the notebook.
29 Q. I understood it that at that time no mention had been
made of the notebook.

A. No. The first time I heard of the notebook was on August 3.

Q. The first time you saw this transcript was on 29 June in your aeroplane.

A. Yes.

Q. No mention of a notebook.

A. No.

Q. What did you think the transcript, the typed transcript, was a transcript of.

A. Notes.

Q. Did you enquire.

A. No.

Q. Was it represented as being a transcript of any tapes.

A. Doreen may have said something about tapes, but I don't remember that, no.

Q. Had you heard of tapes by that time.

A. No, I hadn't.

Q. Have you got a copy of your notes.

A. Yes.

Q. Looking at the notes produced, the last page of the copy of your notes there is an entry which reads `Maggie Jacobs 75 years'. I take it that these notes were taken on the occasion when Veronica Brodie was filmed reading from the transcript.

A. That's right.

Q. These notes are of your handwriting.

A. Yes.

Q. Maggie Jacobs told you that she is 75 years old.

A. She did.

Q. She told you that she heard stories from her grandmother.

A. She did.

Q. That all related to women's business.

A. I think that is what she was referring to.

COMSR

Q. Is that what she said.
A. CALDWELL XXN (MR MEYER)

1. A. All she said was `I heard stories from my grandmother', and I have just written that.

2. Q. You were talking about matters relating to women's business, weren't you.

3. A. Yes, generally.

4. Q. That was the context of the conversation.

5. A. Yes.

6. Q. She also told you that she had heard those stories at school.

7. A. That is what appears to have been said, yes, from there.

8. Q. We are talking about women's business.

9. A. That's what I've written `She heard stories from', and on the next line `at school'.

10. Q. So I understand the relevance of this conversation, what Maggie Jacobs was telling you was that she heard, she says to you, stories about women's business both from her grandmother and while she was at school.

11. A. I don't know if that is exactly what she was saying. She did say `I heard stories from my grandmother', and then I have written `at school', but I don't remember the entire conversation.

12. Q. In this conversation, were you discussing stories other than matters relating to women's business.

13. A. No.

14. Q. You have said to Mr Abbott this reference to the tape on this full page of notes for August 5 relates to somebody at the ABC.

15. A. Yes.

16. Q. It doesn't mean, for example, taking a tape to Victor Harbor or alternatively taking a tape to Victor Wilson.

17. A. I thought you would think that, but that is not the case.

18. Q. On the occasion of Monday, 7 August, that was when you went to the ALRM to take the film of the notebook; is that right.

19. A. Yes.

20. Q. You went there, I take it, with a camera person.
A. CALDWELL XXN (MR MEYER)

1. A. Yes.
2. Q. And was that camera person the cameraman.
3. A. Yes.
4. Q. And did the cameraman take pictures of the notebook.
5. A. Yes.
6. Q. Who else was present.
7. A. The sound recordist.
8. Q. Was the sound recordist a male or a female.
9. A. A male.
10. Q. And there is you.
11. A. Yes.
12. Q. Who else.
13. A. Sandra Saunders - and I think Chris Charles was there as well.
14. Q. Doreen.
15. A. No.
16. Q. At this time when this notebook is present, it is present before three men and two women.
17. A. Yes.
18. Q. How long were you at the ALRM on that occasion.
19. A. All up, we're there for about, I would say, 25 minutes. We're waiting in the front foyer for about 20 minutes. I was talking to Sandra in a side office maybe for about 3 minutes, and that's the office where, yes, we saw the notebook there. We're there about 3 minutes, so maybe just over 20 minutes.
20. Q. I understood that this notebook was in the possession of Doreen Kartinyeri. That is not how you saw it.
21. A. On that day, the notebook was at the ALRM.
22. Q. So, if the notebook had been given by Betty Fisher into the custody of Doreen Kartinyeri, she has released it from her custody to people at the ALRM.
23. OBJECTION Mr Anderson objects on the ground that the witness could not know that scenario.
24. MR MEYER: Maybe she is in the room without Doreen Kartinyeri being there.
25. A. All I know is that the notebook was in an office at the
A. CALDWELL XXN (MR MEYER)
(MR WARDLE)

ALRM on Monday is all I know.

Q. Doreen wasn't there.
A. No.

Q. There was an audio tape made of Veronica Brodie; is that right.
A. Yes.

Q. Do you know where that audio tape came from.
A. From Betty Fisher.

Q. Did she bring it with her on that occasion.
A. Yes, she did.

CROSS-EXAMINATION BY MR WARDLE

Q. Do you have a copy of Exhibit 22B.
A. Is that the transcript of the tape?
Q. That is the transcript of the video tape.
A. No, I don't.

Q. Looking at the transcript of the video tape produced, Exhibit 22B, at p.11, which is the page containing the passage upon which you have been cross-examined, have you got that.
A. Yes.

Q. Firstly, would you agree with me that there was more conversation that took place than has actually been recorded.
A. Yes.

Q. I don't simply mean the bits that are marked 'inaudible' there, but there were other things said that were not recorded at all.
A. Yes.

Q. Would you also agree that this was at a stage when the interview with Betty Fisher had concluded, the microphone, or the main microphone had been turned off.
A. Yes.

Q. And there was simply filming of the tapes.
A. Yes.

Q. Any conversation that was picked up, I assume, would have only been picked up on the camera microphone.
A. That's right.
Q. Is there some difference in quality between the two microphones.
A. There can be, yes.

Q. The camera microphone was pointing in the opposite direction.
A. The camera microphone is pointing in the same direction as the camera. The camera was recording on cassette tapes.

Q. Whatever conversation was taking place between you and I was taking place behind the cameraman.
A. It was.

Q. Can I suggest that what was discussed was a general discussion about the issues facing the Royal Commission.
A. I'd say that's right.

Q. I suggest that, in particular, I was referring to the original opening of counsel assisting, Mr Smith, and in effect criticised that as being too generalised for anyone to know what the allegation against them was.
A. That may have been the case.

Q. Can you remember whether or not it was.
MR WARDLE: Can I put something additional, as that may assist.

Q. The comment about being `dropped in cold' related to the original opening address by counsel assisting.
A. Yes.

Q. It was a reference to witnesses coming before the Commission having no real idea, nor their counsel having any idea of what was being alleged.
A. Yes.

Q. Was that the effect of what was being discussed.

MR ABBOTT: Mr Abbott objects.

Q. What is the basis of your objection?

MR ABBOTT: Until Mr Wardle gives evidence, this
A. CALDWELL XXN (MR WARDLE)

witness will not know what is in Mr Wardle's mind when he offers the words that he wants this witness to comment on. He can ask her how she found out about this.

WITNESS: When we were talking with Betty Fisher, I brought up the issue of the Doug Milera's issues.

MR ABBOTT: I remind you that the words on the tape are 'dropped in cold'.

Q. That is, I suggest, a reference to the witnesses, not you personally.

A. No, not me. I didn't take it as a reference to myself. No, certainly not.

Q. You understood from what was being put to you that it was a reference to witnesses before the Commission.

A. Yes.

Q. Certainly not you personally.

A. No.

Q. I suggest that Tim Wooley was referred to.

A. Yes.

Q. I suggest that I referred to him in the context of it being a problem for the Commission to find fabrication, with the allegation being that Tim Wooley was present during the fabrication.

OBJECTION Mr Abbott objects.

MR ABBOTT: He can read out the words which are on the tape and I invite Mr Wardle to ask her how she understood them. But the way this is being put is, in my submission, quite wrong because the plain words on the tape don't support this view. The tape talks of one of the big problems they have had is about having Tim Wooley present at the time of the fabrication. That is not a problem for the Commission, that is a problem for the ALRM.

MR SMITH: Mr Wardle has a difficulty in this area in cross-examining a witness about what the witness said to him.

MR WARDLE: I can put a version.
COMSR: Yes, but I think what you are doing at
the present time is putting what you had intended to say
when you said that, and I can't say - what we are trying
to elicit is what the witness remembers of the
conversation.
MR SMITH: Mr Wardle is a potential witness on this
topic. I mean, he is really in a very difficult
situation to cross-examine about this.
COMSR: I find I am not persuaded that this
particular issue is going to take me too far. I know it
has been raised and Mr Wardle certainly has an interest
in pursuing it from his own point of view. How far it
will take me, Mr Wardle, might well be -
MR WARDLE: It may well be that I will have to give
evidence.
MR MEYER: I raise a problem as somebody
independent, as it were. I think that there is a
problem in Mr Wardle cross-examining in relation to
matters where he is putting specific details of a
conversation between himself and the witness. In the
normal course, I think - and I invite any other counsel
to comment - it would be to ensure that some other
counsel puts that in the normal practice and to ensure
that it is not your partner, because that places one's
partner in the difficult position of arguing the credit
or otherwise of one's partner. When that happens, you
go outside of your firm independently. That is a little
problem.
COMSR: I understand all of this, what I have to
give some consideration to. I understand Mr Wardle's
concern and that he should want to pursue that matter.
That is one issue. The other issue for me to consider
is to what extent will it assist me to answer the
questions that confront the Commission.
MR ANDERSON: I say that, doing the second one last.
What will assist you will be nothing unless Mr Abbott
can show what he was on about in relation to the
conversation, because you now know that it wasn't
necessarily continuous. But whatever his theme is on it, may or may not assist you. I can't comment on that as I don't know what his theme is. In relation to Mr Wardle, there is no problem with Mr Wardle - you suggest the problem is that he might end up in the witness box and the position of counsel cross-examining him about his own involvement. That won't stop the problem -

MR ABBOTT: It will. What I'm on about is the connection between Betty Fisher and the ALRM, and I'll be submitting to you that when Mr Wardle uses the words, 'one of the big problems', that he is referring to the ALRM. If Mr Wardle wants to give evidence, I will be seeking leave to cross-examine him about the contact he had with the ALRM on behalf of Betty Fisher.

COMSR: I don't know whether you want to consider -

MR WARDLE: It is nearly time for lunch and perhaps we will have lunch.

COMSR: Mr Wardle, if you want to pursue the questions with the witness, that will be a matter for you to decide. The concern I have is that you might be putting to the witness what was in your mind rather than what she remembers.

MR WARDLE: What I'm attempting to do is put the conversations. That is what I'm trying to do.

COMSR: Conversations rather than a gloss on conversations. I might have misinterpreted your question. That is what was exercising my mind that you put in the questions.

MR SMITH: Mr Wardle ought to consider his position. This topic is in the arena, as it were, and he jumped into the arena during this TV interview. If a big issue is going to be made of it, it's quite inappropriate for him to be cross-examining this witness about what conversation he said took place. He is representing Mrs Fisher. Who is he representing now on this topic? That is a problem he has and perhaps he ought to consider it over lunch time.
I remind you before you rise that you did suppress that part of this TV interview which forms part of the wild footage as compared to the footage that went to air. I would have thought that the only person with an interest in maintaining that order of suppression would be Mr Wardle.

COMSR: I think the reason was that here is a conversation which has been caught on the tape, as it were. Mr Wardle wasn't being interviewed himself at the time. I don't know, Mr Wardle, if you are seeking to have me continue the suppression?

MR WARDLE: Yes, of course I am.

COMSR: Because it is a matter that if this is going to be taken to any lengths, it is a matter that you might want some time to address some argument concerning the taping of this particular segment.

Mr Abbott, I don't know whether you want to take Mr Anderson up on his offer to listen to the original tapes, but I don't - I'm not here to inquire into the way particular television channels conduct -

MR ABBOTT: We have resolved that. I have spoken to counsel assisting. I understand the original raw footage camera tapes are or very shortly will be handed into the Royal Commission. And I assume that -
MR ANDERSON: I think been suggest they wouldn't be any good just handed in because they couldn't be played.

COMSR: If you would like to see them, but Mr Anderson has given what, on the face of it, seems to me to be a perfectly reasonable explanation.

MR ABBOTT: The answer is yes, I would like to see them, and the only issue is whether I see them in their raw footage state as separate unconnected tapes.

MR ANDERSON: You could only see them there.

MR ABBOTT: Go on the ABC and see them.

MR ANDERSON: That's the only way to see them.

MR ABBOTT: Or I will wait until another version of the raw footage tapes has been produced.

COMSR: I don't want to be diverted into an issue of what the ABC does with its tapes, or what any other channel does with its tapes, when it's not going to lead us anywhere. They have answered the subpoena and Mr Anderson has explained these matters.

MR ABBOTT: There is one missing tape that is being investigated.

ADJOURNED 12.57 P.M.

RESUMING 2.19 P.M.

MR ANDERSON: Just before the cross-examination continues, can I inform you of two things; the tape which has been raised as missing, remains missing. I'm instructed that it's of short duration, and it was taken by a freelance cameraman, and therefore catalogued differently. It was searched for at the time when the original subpoena was issued. It was not located. Another search has been made today, and my client is still unable to locate it. It is unlikely that we'll be able to produce it. They are my instructions. I apologise for that, but it's been lost.

Secondly, in relation to the allegations made by Mr Abbott concerning my client, I've raised with Mr Smith - and I understand it's acceptable to Mr Abbott - that my client, whereas it was prepared to produce the tapes to the commission, that was going to be of no avail, will
invite Mr Abbott or anyone else that is interested,
representing any party, to go to the ABC and listen to
the tape and view it for themselves. I think that is,
with respect, the easiest solution. That can be done
early tomorrow morning, and I suggest it be done before
the commission resumes.
Because of the seriousness of those allegations,
which my client treats obviously very seriously, I ask
you to suppress any reference to Mr Abbott's allegations
until such time as he views the film at the ABC and
obtains his clients instructions to pursue those serious
allegations. He may not choose to but, in view of the
damage which can be done by a reporting of those
allegations, unsubstantiated, I ask that you give
consideration to suppressing any reference to them until
this matter is cleared up, which can be done very easily
tomorrow morning.
COMSR: I think that's reasonable in the
circumstances. The only way in which it can possibly be
of relevance in this Commission is on the issue of
whether or not you've answered the subpoena, or your
client's answered the subpoena.
MR ANDERSON: I have strictly, in as much as the
original Beta tapes were produced, we thought we did,
but that's caused a problem. We're happy to resolve it
but, until it's resolved, let's keep it clean as far as
my client is concerned. If, after seeing it, Mr Abbott
is instructed by his clients to pursue that allegation,
so be it. Until that happens, I would suggest the
fairest course would be to suppress any evidence in
relation to it.
COMSR: I think that's reasonable.
MR ABBOTT: I don't want to say anything about what
course of action you take. It's a matter that needs to
be investigated, and I will continue to investigate it.
COMSR: I propose to make an order for
suppression of any mention of the allegation concerning,
well, the answer to the subpoena, I suppose.
MR ANDERSON: That would cover it.

COMSR: By Channel 2.

MR WARDLE: I've given some for thought to the matter over lunch. I think I would like to give evidence.

MR SMITH: Could I just interrupt my learned friend just to get that suppression order clear; I'm sure that I will get requests from the media to elucidate that. The objection that Mr Anderson takes, as I understand it, is the allegation put in cross-examination of Ms Caldwell that the dubbing over the sound amounted to doctoring of the tapes.

MR ANDERSON: That's what I'm concerned about.

COMSR: Perhaps the best way is to suppress any mention of the fact, of the issue of the dubbing over of the tapes.

MR SMITH: Amounting to doctoring. That's the point that Mr Anderson makes, or anything that tends to suggest that.

COMSR: I think I will suppress any mention at the present stage to, for want of a better expression, the dubbing over of the tapes.

MR ANDERSON: Including any reference to doctoring.

COMSR: Including any suggestion of doctoring of the tapes. Unfortunately it's afternoon. I don't know what may or may not have been reported.

MR ANDERSON: I appreciate that. I should have done it - I hadn't thought about it until I sat down at lunchtime. I should have done it at 1 o'clock, but if it's been done, it's been done. Perhaps I should say on that, therefore, any reference to any report which has already been made would be in breach of your order.

COMSR: I think the media would probably understand that.

MR ANDERSON: I should say it in open hearing; these facilities are available to Mr Abbott or Mr Meyer or anyone else at 9 a.m. tomorrow morning.

MR SMITH: Could I raise another question of
suppression? As I drew to your attention just before
the rise for lunch, you have suppressed the material on
the wild or raw footage which wasn't the subject of the
7.30 footage. Now could I suggest, to help the media
deal with this suppression, that that suppression order
be limited to the conversation between this witness, Ms
Caldwell, and Mr Wardle, because my submission would be
that there is nothing else on the raw footage.
COMSR: Well, it's a little while since I've
seen the raw footage. I don't know that there is
anything of a sensitive nature, as opposed to anything
of a -
MR SMITH: There are some conversations at the end
where the women are are sitting about talking about such
things as the dissident ladies.
MR MEYER: That's all been established to be in the
public arena by this witness.
MR SMITH: We're really talking about the editing
conversations at the end. You suppressed that, because
that's distinct from what went to air, so I'm suggesting
that you look at that topic again, at least to clarify
what order of suppression you've made. At the moment,
the press could report nothing more than that which is
in the 7.30 Report proper that went to air. You need to
clarify that, if that's what you still intend.
COMSR: I certainly, at this stage, intend to
suppress any reference to the off-camera conversation,
as it were, between Mr Wardle and the witness.
MR SMITH: I think since the last order no-one's
come forward in connection with suppressing anything
else, but that may not necessarily be the test.
MR ANDERSON: Can I ask that you do that, and not do
it straight away, because I'd like, if I may, to have
the opportunity of revisiting it as well. I just can't
remember the exact circumstances.
COMSR: I can't remember in detail, but so many
tapes have gone in at this stage.
MR ANDERSON: Although I made the application which
you ultimately granted, I can't remember the background
to it, and I would like to get some fresh instructions
on it. I'm just not familiar with those at the moment,
I'm sorry.
COMSR: As the suppression order stands, the
suppression order relates to all but the footage on air.
That would certainly cover the conversation that I'm
concerned should be covered at this time.
MR MEYER: I'm opposed to that course. That course
has not been followed in relation to Channel 10's tape
or all the other tapes that we have had. There is no
reason.
COMSR: I don't say this is a permanent order,
but you see what has happened is that Mr Anderson has
asked for an opportunity to refresh his memory about.
MR MEYER: Is that for the course of this
afternoon?
MR ANDERSON: I can do that by the end of the day, but
for tomorrow morning.
MR MEYER: I think tomorrow morning is too long. I
don't see why these tapes should be treated any
differently from what any other material has been in
relation to TV evidence.
COMSR: Eventually, of course, that may be the
outcome, but I don't think it's unreasonable for Mr
Anderson to have the opportunity.
MR MEYER: I wouldn't deny him a proper
opportunity.
MR ANDERSON: I'd ask until tomorrow morning. I need
to see about three or four different people, and I don't
know their availability.
COMSR: I don't think that's an unreasonable
request in the circumstances, Mr Meyer, and I propose to
continue the suppression order until tomorrow morning
when I will review it. That is of all but the to-air
footage.
MR SMITH: Sorry to drag this topic out, but I note
from the list of your suppression orders, you made that
suppression order in relation to this raw footage tape,
Exhibit 22, on 23 August 1995 at p.1231 of the
transcript. We're just checking the transcript now, but
your order was 'I suppress from publication any material
by way of audio and video record additional to that
which was shown on the videotape which went to air,
which involves Maggie Jacobs and Veronica Brodie', so
you focused on that end conversation.

COMSR: Yes, well, that doesn't cover the part
that we're concerned with, it relates to the
conversation between Mr Wardle and Ms Caldwell.

MR SMITH: So that's the order you previously made,
and you might add to that, if you are so disposed, to
embrace the conversation between Mr Wardle and Ms
Caldwell.

COMSR: That's what I am disposed to, to make an
order for a suppression that there be no publication of
the conversation between Mr Wardle and Ms Caldwell.

MR SMITH: I think perhaps the commission may
reconsider that initial order on 23 August.

COMSR: I may reconsider it but that, I take it,
is what Mr Anderson is asking for time, until tomorrow
morning, to make submissions on. That is not unduly
restrictive, that end part.

MR SMITH: No, it's just the last bit, then.

MR WARDLE: I've given further thought to the matter
over lunch. I would like to give evidence. I would
like Mr Abbott's allegation to be suppressed as part of
that order. I would like to be separately represented.
I would like, having arranged separate representation,
to have other counsel continue the cross-examination of
this witness.

COMSR: I'm not quite sure the basis of Mr
Abbott's allegation, but on the evidence as it comes
out, it's not quite clear to me that you have anything
to answer at this stage.

MR WARDLE: The allegation has been put, as I
understand it, by Mr Abbott that I and Mrs Fisher were
part of some conspiracy to somehow salvage Mr Wooley. That's the allegation that has been made.
COMSR: What I've heard of the conversation - I don't know whether there is more to come, but at this stage -
MR WARDLE: I don't think it's been withdrawn. An allegation has been made, not withdrawn, and I imagine it will be continued with.
COMSR: Perhaps we can get some clarification on it. I don't know whether it's made on the basis of an assumption as to what was in that particular conversation.
MR ABBOTT: Not merely that. The situation, as we see it, is that Betty Fisher, for reasons which I think are becoming more and more obvious as this commission proceeds, has made herself available to the ALRM for the ends that they are pushing, and -
INTERJECTOR: Rubbish.
MR ABBOTT: - moreover, as I've already put to Mrs Fisher, it is our view that the notebook has been recently compiled.
INTERJECTOR: Rubbish.
MR ABBOTT: Unless and until that notebook is produced, we take the view that Betty Fisher has, to put it bluntly, come along and told a number of lies to you, and in the witness box, and we'll be making submissions that you should find, at the end of the day, that she has perjured herself in the witness box.
COMSR: I'm concerned with an allegation against Mr Wardle.
MR ABBOTT: I'm not making any allegation against Mr Wardle personally; he acts at all times on instructions. What I'm suggesting is that, on instruction, Mr Wardle, because of those instructions, has had numerous contacts with ALRM on behalf of Betty Fisher.
COMSR: Is there something that I should read into that?
MR ABBOTT: Yes, that Betty Fisher is prepared to
MR WARDLE: On that, not only Betty Fisher, I'm supposed to have had contact with ALRM on her behalf. I'm going to have to give evidence about that as well.

COMSR: We have a witness in the box here who was called for the purpose of giving evidence concerning the documents that came into her possession. I'm going to suggest that we finish the examination of this witness on the basis that if it should be necessary to recall her, Mr Wardle, because you've indicated that you don't propose to cross-examine the witness at this stage, but I think that Ms Caldwell should be released at this stage on the understanding that if she is required to be recalled, that you'll be available to do so.

MR WARDLE: I would certainly want to give evidence about what is, I understand, Mr Abbott's suggestion that I am busily chatting about this conspiracy to this witness, and exposing the conspiracy to her. I want to give evidence about that myself, and I would like someone to put my version to the witness. I can't do that now. I need time to arrange representation for myself.

COMSR: I will have to give some consideration as to whether or not there is something in the evidence to date that you're called upon to answer.

MR WARDLE: Mr Abbott has said that this is what I said in relation to saving Tim Wooley, and that I've been making contact with the ALRM. I dispute both of those things but I can't do it from here.

COMSR: Well, Mr Wardle. I think the convenient course to adopt is to release the witness on the understanding that she will be available, if required to be recalled.

MR WARDLE: Yes. That brings me to Mrs Fisher, she is present today but, given the nature of the allegation
being made against both of us, I ask that she be
released as well. I would like to consider whether she
ought to be further represented by somebody else.
COMSR: Mrs Fisher is virtually at the end of
her evidence.
MR WARDLE: I don't think so, I don't think we'll
finish today.
MR ABBOTT: I don't have many more topics left.
MR WARDLE: You would have to put to her, at the
very at least, I would have thought, that she has been
instructing me to contact ALRM, just in the light of the
last comment Mr Abbott made.
COMSR: First of all, can we release this
witness? We can get that far, I think. Then I will
deal with your next point.
The witness will be released on the understanding
that she will be available if required to be recalled.
WITNESS STANDS DOWN
COMSR: Now dealing with her evidence you, I
understand, are applying for the continuation of the
suppression order in relation to -
MR WARDLE: Yes, I am, and I also ask that that
order extends to Mr Abbott's allegation, which I regard
as an allegation of conspiracy, in effect.
COMSR: I had hoped the order covered any
mentioned of your name.
MR WARDLE: And Mrs Fisher. She is supposed to be
part of it as well.
CONTINUED
COMSR: I am just wondering whether or not this allegation has been put to Mrs Fisher?
MR WARDLE: I don't think it has.
COMSR: Not in quite so many words.
MR WARDLE: Not as part of a conspiracy, anyway.
MR ABBOTT: I would like to point out that conspiracy is Mr Wardle's word, not mine.
MR WARDLE: I am reading from Mr Kenny's note.
MR KENNY: Just on my notes, I'm not sure, but I wrote it down. I don't know if he said it, but I wrote it down as the clear inference, discussing it with Mr Tilmouth. I am not sure that is the suggestion as I ran it. And, in fact, I clearly saw what Mr Abbott has later said and it is quite clear that he is suggesting, in my opinion, a conspiracy.
MR MEYER: I am opposed to that. I have got a consistent position, today. I am opposed to that suppression order, as well, because what it mounts to is an application for a suppression each time something unpalatable has been said against somebody. The press is against that and don't hesitate to report when something unpalatable is said about somebody. Mr Abbott has made it absolutely clear that he has not made an allegation against Mr Wardle of a personal nature whatsoever, but has been careful to say that Mr Wardle is carrying out his instructions. He has made direct allegations against Mrs Fisher and, in doing that, he has very fairly and frankly stated his position in very blunt terms. We are not under any illusions as to what his thrust is. He is not ambushing anyone. None of that is a ground for a suppression order. There is nothing secret, distasteful or abusive in any of that material, just because somebody might not like it.
COMSR: I understood the thrust of Mr Abbott's comments, but I must say that I had understood them to have an implication that Mr Wardle was, in the course of the conversation, at least demonstrating that he was implicated in some way in approaches to the ALRM. I
MR ABBOTT: On his own behalf?

COMSR: Yes.

MR ABBOTT: No, I have not and would not suggest that Mr Wardle was, for some personal reason of his own, approaching ALRM.

I will say it again:

What I have been endeavouring to put to Mrs Fisher, but have not yet completed putting, is the suggestion that she has decided, for reasons which, as I said, are becoming more apparent as this Commission goes on, to come forward with what we suggest is a made up notebook. And that she has, thereafter, using Mr Wardle, then involved with ALRM, in putting forward this story that there exists in this notebook - that it came into existence, so she claims, in 1967 - alleged secret sacred information. We say as to that that, firstly, it did not come into existence in 1967, but is a recent invention. And, secondly, we say that, because she was then unaware as to what the secret sacred business was that might eventually be raised, we do not have all the parties in the proponent side marching to the same tune. There is about four tunes playing and they are marching out of step.

COMSR: Yes, I just want to get one thing clarified, because Mr Wardle seems to have interpreted your statement in the same way as I am. That it contained something personal.

MR ABBOTT: I certainly think Mr Wardle needs to be represented and certainly needs to explain why he is saying to Alison Caldwell `One of the big problems that we have has been about having Tim Wooley present at the time of the fabrication, but I think that now they have worked out how to get him out of that.’ How he came to
make that statement. He claims it was made by him
apropos of counsel's opening, saying it was from
information obtained from ALRM.
MR WARDLE: I think Mr Abbott is saying that that
part on the video is an acknowledgement by me of some
sort of conspiracy.
MR ABBOTT: I am not saying it was a conspiracy, at
all.
MR WARDLE: Or whatever you want to call it. An
admission. I would like to be represented. I would
like to give evidence.
COMSR: Yes, I am wondering where it is leading.
MR WARDLE: I don't think it is leading anywhere.
It is an allegation made against me.
COMSR: Exactly, the allegation has been made.
As yet, as I say, Mr Wardle, as far as you are
concerned -
MR WARDLE: It has not been withdrawn yet.
COMSR: I know it hasn't been withdrawn.
MR WARDLE: If it is not, I have no choice but to
refute it. I don't think it is going anywhere, either.
COMSR: I am prepared to make the suppression
order, as far as you are concerned, at this stage.
Mrs Fisher, I will have to wait and see what course
the evidence takes, as far as she is concerned.
So, I am going to suppress from publication any
reference to the allegations by Mr Abbott concerning Mr
Wardle and the ALRM, at this stage.
MR WARDLE: That leaves, it seems to me, Mrs
Fisher's part in this.
COMSR: I don't know. We will have to wait and
see what comes of that.
MR WARDLE: I have provisionally arranged to see
someone to instruct this afternoon, at 3.30. I would
like to leave and do that and I would like Mrs Fisher to
leave, while I further consider whether it is possible
for me to continue to represent her. I have reached a
decision about that, but I would certainly like to think
MR ABBOTT: I would hope that I would finish Mrs Fisher by 3.30. It is only three-quarters of an hour.

MR WARDLE: One of the things someone will want to ask her about is what was said, because she was present.

MR ABBOTT: Indeed I will.

MR WARDLE: I know, but someone representing me might want to be here for that. I ask that she be released. I am sorry it is inconvenient, but I would prefer to come back at another time. Haven't we got another witness to go on with?

MR SMITH: No, we haven't, because the way things went this morning Mrs Harvey has been sent away for the afternoon rather than having her sit around.

I would urge Mr Wardle to see his way clear to represent Mrs Fisher this afternoon and let's get on. It must be an arduous business for Mrs Fisher to be hanging about all the time. She ought to be concluded.

MR WARDLE: That would be nice, but, given the allegation that has been made, I don't think it is possible.

MR SMITH: We could leave that topic of the conversation.

MR ABBOTT: Yes.

MR SMITH: And Mrs Fisher's rights and Mr Wardle's rights in respect of that limited topic of the off-camera conversation between Ms Caldwell and Mr Wardle could be left.

MR WARDLE: But that is not what it is about. There is going to be allegations that somehow or another Mrs Fisher was using me to do something with Aboriginal Legal Rights.

MR ABBOTT: I am happy to leave those allegations this afternoon for the sake of getting on with it.

COMSR: Yes, I think, if we leave those topics, because the plain fact of the matter is that, if someone else is going to represent Mrs Fisher, if that is what you decide, a lot of her evidence has already been given
in the absence of that person. And, in fact, for most
of it, I don't think you were present, in any event.

MR WARDLE: No.

COMSR: So, I would suggest then that we
continue with Mrs Fisher, avoiding that particular
topic, because with the available time, Mr Wardle, I
would think that -

MR WARDLE: I would like a moment to ask Mrs Fisher
if she has got a view on that. I haven't done that yet.

COMSR: That may be the case, Mr Wardle, but I
think we have to press on, as I say, leaving that
particular topic for a later hearing. It may be that
there won't be very much evidence that we can take from
Mrs Fisher this afternoon, in any case. But, if she is
going to be represented by someone else, then the rest
of the evidence will all be available for that person.

I think it is best that we press on, at this stage,
reserve the particular topic, and -

MRS FISHER: I would like to have discussion with my
legal representative. Thank you.

MR WARDLE: That saves me going out to ask that
question.

The other difficulty, of course, is that I would
like to see someone myself, at 3.30, in relation to
being represented. If we put that off, I don't know
when I am going to fit that in.

MR SMITH: That is really quite remiss of Mr Wardle
to make an appointment in the middle of the afternoon's
hearing like that.

MR WARDLE: I am sorry about that, but I thought it
was important to get in as soon as I could.

COMSR: Yes, Mr Wardle, as I say, for most of
Mrs Fisher's evidence, you have not been in attendance,
as I understand it.

MR WARDLE: That is because it has been in closed
session.

COMSR: Yes, a lot of it has been. A lot of it
has been in open session, also. But perhaps I will give
you the opportunity, then, it shouldn't take more than a few minutes.

MR WARDLE: No, it shouldn't.

COMSR: But what I would propose to do is to continue with Mrs Fisher's evidence, which will be in open court. There won't be any discussion of any sensitive subjects. And, if you could explain to her that what is proposed is that, as far as the allegations by Mr Abbott are concerned, that that topic will be reserved.

MR WARDLE: Thank you.

COMSR: We will adjourn then for five or ten minutes.

ADJOURNED 2.52 P.M.
RESUMING 3.07 P.M.

WITNESS E.M. FISHER ENTERS WITNESS BOX

COMSR: Mrs Fisher, you are under oath, you understand, so you don't have to be sworn again.

MR SMITH: Just before Mr Abbott starts, could I clear up one outstanding matter from Alison Caldwell's evidence.

I was to check the notebooks against the photocopied notes just to ensure that the photocopies reflected all the notes in Ms Caldwell's notebook about this Betty Fisher issue.

I checked the notebooks against the photocopies and I am satisfied that they do reflect all there is in the notebooks pertinent to the Betty Fisher 7.30 Report matter.

CROSS-EXAMINATION BY MR ABBOTT CONTINUING

Q. When you commenced giving evidence in this matter, you said, when you heard of Sarah Milera's photograph in the local press and -

COMSR: Could you refer to the passage of the evidence so the witness can have it in front of her?

MR ABBOTT: Yes.

XXN

Q. P.371 and we know from other evidence that the photograph of Sarah Milera to which you are speaking was on 7 June 1995 in the article entitled 'The great lie of Hindmarsh Island.' You said 'I rang the Narrunga people who are responsible for the tapes and everything and I got their permission to speak to Doreen Kartinyeri.' Why did you need their permission to speak to Doreen Kartinyeri.

A. I thought I had made this clear. I was asked to take down a number of pieces of information by the late Gladys Elphick in order to what she called 'Tell the story of my people.' Therefore, the bulk of the recordings and of the hours of recordings which I made belong in the main except for those few minutes of - where Koomi speaks, belong to the Narrunga people.
Q. We know all that and you have made that clear, but my question is why did you need the permission of the Narrunga people to speak to Doreen Kartinyeri.

A. Because Gladys Elphick was present at that interview and it is as much their business as it is anyone else's. I regard myself, Madam Commissioner, as a keeper of that information and I cannot do anything with it unless I ask their permission.

Q. So you regarded it as necessary to obtain the permission of the Narrunga people before you could even have any words with Doreen Kartinyeri.

A. Yes.

Q. And you have told us who you got permission from and it was Paul McHughes, I think.

A. No, I got permission in Lewis O'Brien and Paul Hughes.

Q. And Katrina Power.

A. Katrina Power had nothing whatsoever to do with this.

Q. You know her, do you.

A. Yes.

Q. And you have had dealings with her.

A. I know her, yes.

Q. And you have had dealings with her.

A. Yes, I regard myself as a reasonably - a good friend of her and you do have dealings with - yes, with friends.

Q. What is her position.

A. She is a young woman whom I met after the announcement of the Royal Commission.

Q. And she works for the ALRM, doesn't she.

A. No.

OBJECTION Mr Wardle objects.

MR WARDLE: Isn't this one of the topics we are going to leave until later? I don't want to be sucked in and find out it is, a bit later on.

MR ABBOTT: I will leave the topic of who Katrina Power works for.

A. I didn't meet her at all at ALRM, if that's what you are getting at.
XXN

Q. But are you suggesting that you did not obtain permission from Paul Hughes and Katrina Power.
A. No, I did not have to ask Katrina.

Q. Why did you, in giving evidence, at p.429, when you were asked this very question you said there were three people, Lewis O'Brien, Paul Hughes and Katrina Power.
A. The permission from Katrina, that was something that I added, because of present-day younger people. I didn't really have to get permission from Paul Hughes - from Katrina. I had to get permission from the Elder and she had spoken to that Elder, I understood.

Q. What Elder. Who is the Elder.
A. She is a Narrunga woman.

Q. What is her name.
A. That doesn't come into this Commission, Madam Commissioner. I don't think it is relevant.

MR ABBOTT: I submit it is. There is an inconsistency in her evidence. The last time when she was asked about who she got permission from, she nominated three persons. One of them was Katrina Power.
This time she has told us she did not get permission from Katrina Power. When I put the inconsistency in the evidence to her she said 'Yes, I did get permission from Katrina Power.' But A. That was much later. And B, she was only in a representative capacity.

COMSR
Q. Yes, I think it is relevant, Mrs Fisher, that you tell us that.
A. I would have to ask Katrina whether she consulted one or the other of an Elder Narrunga woman and so I will have to give that information later. I'm not sure.

XXN

Q. Can you tell us who the two would be.
A. Not at moment, I can't remember.

Q. You can't remember either of the two names.
A. No, not at the moment.

Q. May I suggests you are just making this up as you are
going along.

A. I am sorry, it is not true.

Q. The fact of the matter is that a few minutes -

A. The fact of the matter is that I am not making it up.

Q. A few minutes ago you were giving evidence that you had

only spoken to Lewis O'Brien and Paul Hughes, weren't

you.

A. Yes.

Q. When I pointed out on your oath a few pages on from when

you initially said Paul Hughes and Lewis O'Brien, you

were definite of Katrina Power. You now tell us that,

yes, you did consult Katrina Power. That is so, isn't

it.

CONTINUED
A. If you refer back to the rest of my evidence, you will find, too, I had to get permission from a woman among the Aboriginal people. The woman in question was the late Gladys Elphick. I had to find one who could give permission on her behalf. The reason I said 'straight away' to Katrina Power, I didn't want to involve the other two women.

Q. Why didn't you tell us that before.

A. Because there is a certain thing called Narrunga etiquette.

Q. Why did you lead us to believe in the Royal Commission, with any view and on any reading of your evidence - at p.429 you consulted three persons Lewis O'Brien, Paul Hughes and Katrina Power in their capacities as spokespersons for the Narrunga people.

A. I have already said that there is very little knowledge of Narrunga etiquette between the legal profession, and I didn't want to go on further and further into it where nobody understands.

Q. I suggest you are making this up, because at p.450 -

A. That is rubbish.

Q. At p.450, you were asked `From whom had you received permission to speak to the ABC'. I am going onto a different topic. I don't want to confuse you. I am not talking about permission to speak to Doreen Kartinyeri. Once you had seen 'The Great Lie of Hindmarsh Island' article, whom did you get permission from to speak to the ABC.

A. The ABC?

Q. Yes.

A. The same people.

Q. Paul Hughes, Lewis O'Brien and Katrina Power.

A. Yes, on behalf of -

Q. You didn't say it was on behalf of.

A. I didn't say it was on behalf of.

Q. You didn't say on behalf of at that stage, did you.

A. I knew that Narrunga people knew what I was doing when I spoke to Katrina Power, so they knew who were the people who needed to be talked to.
CJ 46K

E.M. FISHER XXN (MR ABBOTT)

Q. The fact of the matter is that you had no idea on whose behalf Katrina Power was speaking on, did you.
A. Yes, I did.

Q. You say they are -
A. You're making that up.

Q. You are saying -
A. I say you're inventing that. I have -

COMSR

Q. Can you tell us who Katrina Power -
A. Represents. Katrina Power is identified as a Narrunga Kaurna person - sorry, a Narrunga person with Ngarrindjeri connections. And Katrina Power knows the older women, the women who should have given permission for these things. I trusted Katrina to ask for on behalf of -

Q. So that I'm clear, she herself -
A. Is not an elder.

Q. She couldn't give any permission or approval.
A. Yes. I discussed that with Lewis: 'I think that Katrina will ask the women', and he said 'Yes', and I said 'Okay'.

XXN

Q. You don't know what women, do you.
A. Yes.

Q. You won't give us their names.
A. This is Narrunga material could not come into the Commission. I have to go to the Narrunga material and I did make that very clear right at the beginning of my evidence.

Q. I'm not asking for the Narrunga material, I am only asking for the names of the -
A. That is Narrunga material.

Q. What, a name.
A. Yes.

Q. 'Mrs Smith' is Narrunga material.
A. I'm sorry, I have to take what I believe to be Narrunga etiquette in what I say. If I feel - if you feel that I'm avoiding something, you may feel that I am avoiding
name people in this Commission.

Q. I have to -
A. They take it seriously.

Q. I have heard a lot of information about who are the elders in and among the Aboriginal women. I haven't gained the impression to date that there is any sort of embargo on naming anyone, but -

MR ABBOTT: Other than recently deceased people.

Q. Have you been given to understand that you cannot name those who are the elders of the Ngarrindjeri people.

MR ABBOTT: The Narrunga people.

A. I have been given to understand that I should not speak.

Q. Not speak at all, or not tell the Commissioner of their names.

A. No, nothing to do - just not speak.

Q. Will you write them down for the Commissioner only.

A. I could write one down.

Q. That will do.

MR ABBOTT: I ask that that be marked or received as an exhibit and seen only by you at this stage.

Q. There is the name of one of the Narrunga women whom you think Katrina Power -

A. May have contacted.

Q. May have contacted, but whom you never ascertained from Katrina Power had been contacted.

A. No. You see -

Q. Wait a minute. Either with reference to obtaining permission for you to speak to Doreen Kartinyeri or with reference to you giving the interview to the ABC; is that so.

A. What, as a fact?
Q. Can you tell us whether that is the position or not.
A. Well, I think that is what your saying. I think that is
the position. I mean, you're beginning to sound as if -
you are making it sound as if every word I say is
something that I personally have cooked up - which is a
load of rubbish. And let me say, sir, that you are
inventing more than I could believe possible in your
questions.
Q. What have I invented.
A. I might say that those who do not know Narrunga
etiquette and find this matter amusing will find
something the opposite later on in their lives, because
in 50 years time this will be viewed as a rather painful
episode if you continue to -
Q. What sort of a threat is that.
A. To indicate it's a threat of posterity's judgment on the
approach you might make of these things.
Q. I will move on to something else more useful to this
present -
COMSR: Most of your cross-examination appears
to be directed towards the issue of credibility rather
than to put the matters that are relevant to your
parties you are representing.
MR ABBOTT: Obviously her credibility is central to
the issue of the parties I represent.
XXN
Q. I was asking you about the - I will return to where I
was at p.321. I will give you the quote: `I rang the
Narrunga people who are responsible for the tapes and
everything and I got their permission to speak to Doreen
Kartinyeri. I rushed down and I got the notebook and
the tape I had from the donors copy from the Mortlock
Library and delivered them. My husband drove me to town
- I don't drive - to town and I delivered them to the
people at the ALRM and left them there with Doreen
Kartinyeri'.
A. Yes.
Q. Where did you rush down to.
A. Down to the room where I keep all of my notes and things - which is in grave disorder.
Q. We are not to read that as 'I rushed down and got the notebook and the tape I had from the donors copy from the Mortlock Library and delivered them' as the reference to going to the Mortlock Library.
A. No.
Q. You rushed from the top part of the house to the bottom part.
A. Yes, I rushed down to the room which is -
Q. The basement.
A. No, there is no basement. I went down the passageway to the room where I keep all of my boxes of material and sorted through and found that notebook.
Q. I suggest that you are endeavouring to give us the impression that you rushed down to the Mortlock Library.
A. No.
Q. It's rushing down the passageway, is it.
A. Yes, of -
Q. Of your home.
A. Yes, that's right.
Q. The consequence of this, you reading the article in the paper 'The Great Lie of Hindmarsh Island' and saw Sarah Milera on the front cover.
A. Yes.
Q. You then phoned around to Paul Hughes, Lewis O'Brien.
A. Yes.
Q. And Katrina Power.
A. Yes.
Q. That day.
A. Indeed.
Q. As soon as you got off the phone, you returned down and got the notebook and the tape.
A. I got the tape before.
Q. You rushed down and got the notebook and the tape from your room.
COMSR: The witness has answered this, has she not?
MR ABBOTT: I don't think this is right. I think
she is -
Q. You rushed down, what, to another house.
A. My kitchen is here and there is a room around there and
  I rushed down there.
COMSR
Q. From one room to the other, is that what you are saying.
A. Yes. I had one room next to the other. Exactly.
XXN
Q. Mr Lewis O'Brien is a good friend of yours.
A. Indeed.
Q. We have heard of a meeting, as Mr Smith said today, at
  Mr Wardle's home or office where you attended to see Dr
  Clarke.
A. Yes.
Q. Lewis O'Brien was present then.
A. Yes.
Q. Where was that meeting.
A. Can I have a word with Mr Smith please before I answer
  this?
MR SMITH: Perhaps I could raise it like a lot of
  meetings that the Commission have with witnesses before
  they give evidence. If Mr Abbott is going to go no
  further to establish the effect of this occurrence, I
  have no problems with it.
MR ABBOTT: No father than the production of the
  exhibit which has been put in evidence. That is all it
  is.
XXN
Q. Could you tell us where that was.
A. Yes. It was at the house - Mr Douglas Wardle's house.
Q. Present at that meeting, as we heard from counsel
  assisting, was Dr Philip Clarke.
A. Yes.
Q. Would you look at Exhibit 210 produced, which is an
  extract from the Kaurna High Education Journal, an
  article headed 'Similarity between river shape and
  reproductive organs'.

A. I can't answer that question. Lewis has indicated an
anger with Kaurna material being mentioned in
conjunction with Ngarrindjeri material. I can't answer
that question, I'm sorry.
Q. You haven't heard the question.
COMSR: Perhaps if you listen to the question
and then you can tell me what your objection is.
XXN
Q. Despite Mr Lewis O'Brien's anger, so you tell us, at the
use of Kaurna material being mixed with Ngarrindjeri
material, on this occasion you were being spoken to with
reference to Ngarrindjeri material, were you not.
A. Yes.
Q. Did not Mr Lewis O'Brien produce this very article
consisting of Kaurna material at that meeting.
A. I can't remember that.
Q. Do you deny that.
A. No, I can't remember it. I might have been discussing
something with someone else at the time.
Q. I suggest to you that Mr Lewis O'Brien at that meeting
at Mr Wardle's house produced a Royal Commission exhibit
210 in your presence when you were there.
A. He may have, but I may not have noticed.
Q. Looking at this document 210 produced, would you look at
it please.
A. I can't discuss it if it's to do with Kaurna things.
Q. I want to ask you one question about it. I'm not going
to discuss it.
A. You mean there?
Q. Yes, that book. At p.69 it is entitled `Similarity
between river shape and reproductive organs'.
A. No, I can't discuss it, I'm sorry.
Q. I'm sorry -
A. I can't discuss it.
Q. Why not.
A. Lewis has already rung me about that matter. I can't
discuss this. I have -
3851

CJ 46K

E.M. FISHER XXN (MR ABBOTT)

1 COMSR
2 Q. I'm not quite clear of the basis of the problem.
3 A. The basis is this is material that was written for
4 Kaurna people and this Royal Commission has nothing to
5 do with Kaurna people.
6 COMSR: I understood it was the Department of
7 Education.
8 MR ABBOTT: It is and there is an article by Gough
9 Whitlam in it.
10 WITNESS: When I knew of him.
11 COMSR
12 Q. I understand that this is, and correct me if I am wrong,
13 a course that anyone can enrol for.
14 MR ABBOTT: Anyone can buy it.
15 A. That has nothing to do with it and this is a different
16 nation and Lewis indicated to me that -
17 COMSR
18 Q. That he doesn't want you to mention it in this
19 Commission.
20 A. That's right.
21 XXN
22 Q. I will confine my question to this: Could you turn to
23 p.69 just so that I can show you what I am asking one
24 question about.
25 A. Yes, I see this.
26 Q. I think it actually starts two pages before it, does it
27 not, at p.67.
28 A. Yes.
29 Q. Had you ever seen that article before.
30 A. No, never. I have not got a copy of Lewis's book.
31 Q. Or of this article.
32 A. No.
33 COMSR
34 Q. So that I'm clear about it, you understand that Lewis
35 doesn't want you to discuss it.
36 A. He stated that never, despite the fact that it is a
37 public matter and someone can enrol, and so on, in all
38 of the discussions on it, it is a question of
approaching it under the Kaurna, in the Kaurna way, and
has nothing to do with the Ngarrindjeri. And,
therefore, comparisons that obviously could be made
should not be made. It is a Kaurna question and mixing
up the two nations is an error that is commonly made.

MR ABBOTT CALLS FOR THE PRODUCTION OF THE RECORDS OF THE
DEPOSITING OF THE ELPHICK WILSON MATERIAL IN THE MORTLOCK.

MR SMITH: We will endeavour to locate those.
MR ABBOTT: I have a photocopy, but mine is marked.
MR SMITH: Perhaps that could be used for the
meantime and we will supply a clean copy.

Q. The Mortlock Library records indicate that you and Lewis
O'Brien together deposited this material.
A. Yes. I asked him to come in when I took the tapes in,
yes.
Q. It's more than that. He is described as one of the
donors, is he not.
A. Yes, on behalf of the family.
Q. There is no suggestion it is on behalf of anyone. The
donors are described as you and Mr O'Brien.
A. That was fine with the Mortlock Library.
Q. And fine by you.
A. Yes, indeed.
Q. And the copyright in these materials is owned by Lewis
O'Brien.
A. Yes.
Q. So you wrote, or so you caused to be written: Lewis
O'Brien, Betty Fisher, Paul Hughes and Denise Troon.
A. Yes.
Q. Who is Denise Troon.
A. A daughter of the late Tim Hughes.
Q. In relation to the depositing of the tapes, Lewis
O'Brien who deposited the Rebecca Wilson taped and who
is asserted to be the joint donor and owner of the
copyright is the same Lewis O'Brien with you at Mr
Wardle's house and the same Lewis O'Brien -
A. That is - no, that is not so. Known as the Wilson -
sorry, is known as the Gladys Elphick.
Q. You know what I'm talking about.
A. Yes, I do.
Q. That is the Gladys Elphick that is the tapes of the
material of Rebecca Wilson.
A. Lewis didn't know that was on there.
Q. Maybe so, but he is the same Lewis Brian who is
described as the donor at that time or as being the
donor or the author of the copyright, et cetera, et
cetera.
A. Yes.
CONTINUED
Q. It's the same as you believed to be the authors of the Kaurna journal.
A. Yes.
Q. Whilst you were doing the taping of Rebecca Wilson on the occasion in 1967, you've mentioned that Gladys Elphick's son was there.
A. That's the youngest son you're talking about.
Q. Yes.
A. Yes.
Q. How old is he.
A. Well, he is the late -
Q. I don't want his name, how old was he at the time, approximately. Are we talking about a young boy, a teenager or what.
A. No, he would have been in his 20s, I think, even been in his 30s - must have been in the 30s, he went to the Korean War, so he must have been in his 30s.
Q. Did anyone else arrive.
A. I think somebody else came in that day, one of the many families with whom Gladys is connected, and their children. I can't remember exactly who they were, but Veronica has identified some of them, I think.
Q. Veronica Brodie has identified some of the voices on, we'll call it the Rebecca Wilson tape, even though it's Gladys Elphick's on which Rebecca Wilson's voice is heard, but we'll call with the Rebecca Wilson tape.
A. Yes.
Q. Veronica Brodie has identified a number of the voices on it, so it's clear that there were a number of relatives who arrived.
A. Yes.
Q. Apart from Gladys Elphick's son in his 20s or -
A. 30s,
Q. At the time when you received this information, when you wrote it down as distinct from recorded on the tape, was anyone else present.
A. Well, people were always coming and going in Gladie's house. To the best of my knowledge, I don't think so.
There would have been - when the visitors came, they had to go out again, I think. To the best of my knowledge, no.

Q. I'm suggesting to you that your story, which I understand to be `A taped discussion with Koomi. Then, at Gladys Elphick's request or suggestion, we moved into the other room. Then, at Gladys Elphick's direction, Koomi told me various secret sacred things which I wrote down in my notebook', is just made up.

A. Is it? That is what you've just made up. I didn't make it up.

Q. Because there were people coming in and out all day at that house.

A. Not all day.

Q. All that afternoon when you were allegedly writing down these secret sacred things, weren't there.

A. Well, there may have been, but they wouldn't have interrupted those two older women if they did.

Q. Are you suggesting that Koomi, Rebecca Wilson, chose this occasion, in Gladys Elphick's house, with people coming and going, to impart to you what some proponent women have described as being the secret of the universe.

A. I don't think we have any point further to discuss. You won't believe me, and I will accuse you of making things up. Sorry.

Q. In other words you say 'Yes, that's exactly what happened', don't you.

A. Yes.

Q. I want to ask you some questions about Rebecca Wilson, whom you'd never met before until you saw her on this day in 1967.

A. I'd heard a lot about her, and she had heard a lot about me.

Q. You'd never met her before.

A. No, not face to face.

COMSR: Have you covered this?

MR ABBOTT: Not this particular aspect. I will be
brief. I have to set the scene.

Q. Rebecca Wilson, according to your notes, told you, and I can read out what is in your -

COMSR: Is it something that can be read out?

MR ABBOTT: Yes, it is, because, I assure you it's not in any way within the suppressed realm.

COMSR: Well, not in the suppressed and not something that is information of the type referred to in s.35.

MR ABBOTT: No.

Q. If we look at the raw footage, p.21 of the raw footage transcript, which is Exhibit 22B.

A. Am I supposed to be looking at this.

COMSR

Q. In a minute.

A. I will put my glasses on. What page?

XXN

Q. Page 21 of the raw footage.

A. Yes.

Q. The last three lines. I tell you `VB' represents Veronica Brodie. This is a transcript of what Veronica Brodie is reading out from your notes. Do you understand what I'm putting to you.

A. Yes.

Q. Veronica Brodie is reading out for the camera some of the transcript that has been brought to that meeting.

A. Yes.

Q. On that Saturday, 5 August.

A. Yes.

Q. Veronica Brodie says `Mum said', then she reads what is there. This is in quotes from your transcript -

A. Yes.

Q. - of your handwritten notes originally, but then transcribed into your typewritten notes, `See Betty, like church, we go every time to church. By these ideas, these parts, these are parts of my mother, my
granny's stuff', so Rebecca Wilson is talking about her granny.

A. I'm making rough notes of what she is saying.

Q. But Rebecca Wilson is talking about her granny. This is not Veronica Brodie talking about her granny, but Rebecca Wilson talking about her granny. "These are parts of my mother, my granny's stuff. She came from the Coorong. Her religion is very important. She didn't say a lot, but all the old ones now know not to say very much or tell me'. I will pause there. It is clear, if your notes are accepted, that Rebecca Wilson was claiming that her grandmother came from the Coorong.

A. Yes, she did, she does make that statement.

Q. Indeed, your notes have a number of references as a result of what you claim Rebecca Wilson told you, and you've also made in note in your notes 'Special to the Coorong people'.

A. Yes.

Q. And not to be used because they are special to the Coorong people. Do you remember the notation.

A. Yes.

Q. So it was clear, if we accept what you say, that Rebecca Wilson was claiming to know secret sacred material special to the Coorong people.

A. Yes. She knew material that we don't talk about, quote unquote. By the way, I want to emphasise that in my note form I'm not indicating in any way that Rebecca Wilson was speaking pidgin English, it was a note form and therefore it reads. So long as that is well understood.

Q. Indeed, I suggested that to you.

A. And I suggested to you that I was very well aware of that.

Q. She was an erudite and well-spoken woman, and that your notes didn't do her justice.

A. A wonderful lady. Sorry if I'm an amateur historian.

Q. You see, I suggest that Rebecca Wilson never told you that her grandmother came from the Coorong. Do you know
where her grandmother came from.

A. Well, I go according to my notes. I haven't done any recent research on it at all.

Q. Let me tell you what Veronica Brodie says about her grandmother, her great grandmother.

A. I'd love to hear it.

Q. That's an exhibit, it's in the Colin James exhibits in the schedule, it's Exhibit 105, and it's attachment 71. It's an article of 25 August 1994. You recognise the photo of Veronica Brodie.

A. Yes.

Q. She is recorded as saying, and we have heard evidence from Mr James that this is what she said, and I will read out the relevant part. This is an article about Mrs Brodie losing patience about the CSR factory at Glanville because it contained the birth place of her great grandmother and grandmother. Mrs Brodie is saying that her great grandmother, Rebecca Wilson's grandmother -

A. Lartalare.

Q. - was born at Glanville.

A. That's okay.

Q. Did you know that she was known as Granny Glanville.

A. No.

Q. That she was not from the Coorong.

A. I'm sorry, I had not researched Coorong people. I've only given the Commission what I was told.

Q. I want to continue with this article, because I suggest that in your attempts to make up this story, you have nominated Rebecca Wilson's family as coming from the Coorong and, therefore, having some reference to Ngarrindjeri matters, when in fact the real truth of the matter is that Rebecca Wilson's genealogy is Kaurna or, in fact, from Glanville on her grandmother's side.

A. Well, look, I can only tell you what Koomi told me that I wrote down, and that's all that I've given you.

Q. You see, we are talking about women's business descendant on the women's side not the male's side.
A. I didn't do any research among the Ngarrindjeri people. I've already told you that many times.

Q. Go back to this account please, from Veronica Brodie in The Advertiser.

A. I don't know where it is now. You don't have to convince me historically. If that's what Koomi said at the time, there must have been some reason for her saying that. I have no idea.

Q. What, some reason for telling you an untruth.

A. No, I don't think she would ever tell you an untruth. She was not a person who would ever tell anybody an untruth, as far as I know.

Q. That's why I'm suggesting she told you nothing about -

A. You would say that.

Q. - about her mother and grandmother coming from the Coorong, since the fact of the matter is that they did not. They were both born, according to Veronica Brodie, at Glanville.

A. But I didn't write that, I wrote what I was told. Maybe she was saying she had connections. She didn't say that her grandmother was born there, she came from. Maybe she lived there, I don't know. Dear sir, I have no idea, I have not researched the Ngarrindjeri.

Q. Just have a look at this article.

COMSR: The witness has given her explanation.

A. A lot of people say they come from places, like Gladie did. She was born in Adelaide, but she said `I come from Point Pearce'.

Q. Just read on, `Mrs Brodie's Great Grandmother Lartalare was born at the camp site' that's in Glanville `In 1851 when it was surrounded by mangrove, dunes, tea-tree forests and creeks'. Now Mrs Brodie's Great Grandmother Lartalare, was Rebecca Wilson, Koomi's mother.

A. Yes.

Q. Veronica Brodie has also told Mr James, if you look in the next column, `The family shifted between Adelaide fringe camps before 16 year old Laura', that's Nanna Laura, `Married Jacob Harris in 1892. Four years later,
she gave birth to Veronica Brodie's mother Rebecca'.
That is Rebecca Wilson, Koomi, isn't it.
A. Yes. It's a pity to the CSR didn't give them their land back.
Q. It is a great pity, but unfortunately that's not a matter in this Royal Commission.
A. That's a pity too.
Q. I'm only putting this to you to ask you to tell us whether you still persist in the fabrication of this material, in asserting that Rebecca Wilson, on this day, was telling you that she was from the Coorong, that she had the Ngarrindjeri secrets in her head, and that this was the day when she was going to pass them on to you.
A. She never said she had the Ngarrindjeri secrets in her head, and you would say that, wouldn't you? I must say to you, all I can tell you is what those old women said to me, and I would not invent those matters, and I'm very sorry. They are too important to me in my life.
Q. I'd like you to look at your statement, which is Exhibit 6.
A. Yes.
MR ABBOTT: I don't want to read this out because this is covered by an order your Honour made.
COMSR: That's right.
XXN
Q. On p.1, down the bottom, is the reference to a claim by you that Rebecca Wilson told you something about Hindmarsh Island, which she called Kumarangk, and other islands.
A. Yes.
Q. On p.2, you detail some of the things you claim Rebecca Wilson said to you.
A. Yes.
Q. All those matters that are set out in your statement are now in the public domain, are they not.
A. They may be.
Q. Via the ABC.
A. They may be.
Q. I'm not going to therefore ask you about them, but was there anything else that Rebecca Wilson told you other than those matters on p.2.

COMSR

Q. Don't say what it was, just answer whether there was anything or there wasn't anything. Just a yes or a no to this question.

A. It's very difficult.

Q. You're being asked whether there was anything else. I don't want to know what it was because it might -

A. Well, yes, there was.

COMSR

Q. Did you write the 'anything else' down, or have we seen all there was that you've written down.

A. Yes.

Q. We have seen all you've written down, haven't we.

A. No.

COMSR

Q. Sorry, I don't understand.

A. No.

Q. You didn't write the additional -

A. I wrote things down and no, you haven't seen all there is to be seen, but I won't release them to anybody.

Q. There is more, is there. (NOT ANSWERED)

COMSR: I just want to make sure what Mrs Fisher has said.

COMSR

Q. Were there some things that you were told that you didn't write down, is that what you're telling me.

A. There were things that I was asked never to write down, and never to tell, which eventually I did write down because it was driving me mad, but they will never be released.

Q. When did you eventually - I'm not asking you what, I'm just asking you when.

A. Not long after.

XXN

Q. Where are those notes.
1 A. They are not notes.
2 Q. Where are they.
3 A. In a keeping, in a place, a keeping place.
4 Q. This is another lot of notes or documents.
5 A. No.
6 Q. Another lot of writings by you.
7 A. No, not by me.
8 COMSR
9 Q. Not writings.
10 A. Recording, just a recording of something, that's all.
11 XXN
12 Q. This is the first time you've mentioned it.
13 A. This is the first time you've asked me the question, to
14 my knowledge.
15 Q. Who did the recording, you on your own or someone else.
16 A. Recording? You mean writing?
17 Q. Writing, recording.
18 A. Yes, I did, yes.
19 COMSR
20 Q. Just so that I'm clear, this is the recording that you
21 eventually made, is that what you're taking about.
22 A. No. I'm sorry.
23 Q. I think you told me that you eventually recorded it, and
24 is this the eventual recording that we're talking about
25 now.
26 A. Yes.
27 CONTINUED
Q. And you have still got them.
A. They are in care, they are in safe hands, I suppose you could say.
Q. What, Doreen Kartinyeri and Sandra Saunders.
A. No.
Q. Who has got this lot.
A. You are very dismissive of something about which you know little.
Q. I am trying to find out more, that's why I am asking these questions.
A. You have no right to find out more. I have no right to say any more.
Q. You are not being asked what they were.
A. A bank.
Q. What year did you write out this other material.
A. The same year.
Q. 1967.
A. Yes.
Q. How many pages -
A. To the best of my knowledge it was 1967 or 1968.
Q. How many pages.
A. Not a page.
Q. Less than a page.
A. Much less.
Q. How many lines.
A. About - there is nothing - anything further I can discuss about that, I'm sorry.
Q. You can tell us how many lines.
A. No.
Q. Is that because you can't remember, or -
A. No, because I can't speak about it any more. Sorry.
Q. I want to ask you a couple more questions. It is in the bank.
A. Yes.
Q. Lodged by you.
A. Yes.
Q. And it is still there.
A. Yes.
Q. And this is the most secret thing that Rebecca Wilson known as Koomi told you.
A. Yes.
Q. And you could get it for us, if we asked you.
A. I would never give it to anybody. She asked me not to.
MR ABBOTT: I will ask her that. I must say I assumed that.
A. I can't answer that. I can't answer any more questions on that matter.
MR ABBOTT: This is an intolerable position.
A. It is very intolerable for me, too, as a keeper of secrets.
COMSR: You see, Mrs Fisher hasn't said it has got anything to do with women's business.
Q. I don't think anyone is asking you to tell us what the secrets were. I certainly wouldn't be allowing that sort of evidence to be taken. I think this is just a matter of establishing how much was involved in it, whether it was something lengthy or something short.
A. It was less than half a page.
Q. That is, half a page of your writing.
A. Much less than half a page, yes.
Q. What, about a quarter of a page.
A. Yes, I suppose, yes.
XXN
Q. When did you put that in the bank.
A. When I put everything else in.
Q. When.
A. A safe deposit. Before I came and gave evidence in the Royal Commission. When the Royal Commission began, I suppose.
Q. So, we are talking about August -
A. I can't remember a whole lot of things.
Q. We are talking about July 1995.
A. Yes.
Q. You took this one sheet of page that you -
A. No, I took tapes and one sheet of paper and a couple of other things.
Q. So, we learn today, for the first time that, apart from your notebook, which was written out, so you claim, in 1967, you wrote on a sheet of paper, in 1967 and 1968, an initial piece of information, which Rebecca Wilson had given you.
A. Yes.
Q. Have you made enquiries as to the whereabouts of your notebook.
A. Yes.
Q. Where is it.
A. I understand that somebody's got it in safekeeping. I don't know where, I don't know who. And I have tried to find out and my lawyer has tried to find out. I want the notebook back in order to bring it into the Commission. It has not been given to me. I will continue to make representations that it should come into the Commission. And that's the situation, your Honour.
Q. With whom are you experiencing difficulties.
A. The women who have it in their keeping.
Q. That is the ALRM.
A. I don't think it is the ALRM.
Q. To give them names: Sandra Saunders and Doreen Kartinyeri. They are the women.
A. It may be Doreen. I understand they have a great deal of hesitation, because of the doubts which have been cast already upon my evidence and also the doubts by you of anything worthy to be called the name of honourable and important that belong to Ngarrindjeri or any other Aboriginal person in historical terms.
Q. I reject utterly the accusation that you make.
A. That's how they feel.
Q. I am extremely interested and concerned about the traditions of Aboriginal people, of Ngarrindjeri -
A. They don't feel that you are.
Q. Ngarrindjeri and otherwise.
A. They feel that you are very much to the contrary.
Q. And I have had -
A. And, in fact, they are convinced you are to the contrary.
Q. Next time you meet them, you can tell them -
COMSR
Q. This is not taking us much further, but Mr Abbott does represent a number of Ngarrindjeri women, Mrs Fisher.
XXN
Q. And I also had the honour to act for Mrs Fisher's good friend, Mr Bob Ellis, when he was in charge of the Sacred Sites Registration Authority of the Northern Territory.
A. I hope you did a good job.
Q. I think he will say I did a good job acting for him.
A. Congratulations. That's very good. That's men's stuff, isn't it? It is different when it comes to women's stuff, isn't it?
Q. I am not allowed to reveal that.
COMSR
Q. So, it is not because of any compunction about the contents of the material, it is because you feel that, because of Mr Abbott's attitude here, that you won't -
A. That the women won't surrender it.
MR ABBOTT: I am to blame.
COMSR: I am trying to understand the witness's answer, Mr Abbott. That is as I understand the thrust of it to be.
XXN
Q. And we are talking about Muriel Van Der Byl.
A. No.
Q. Val Power.
A. No, nothing to do with it.
Q. Doreen Kartinyeri, yes.
A. Doreen, yes.
Q. Anyone else.
A. Don't know. I deal with Doreen on this question, because it was to her I entrusted this, because that was how I felt it - that's how it began and that's how it goes on.
Q. Do you know Mr Chris Charles.
A. Yes, I do.
Q. Have you spoken to him about this matter.
A. I spoke to him very early in the piece.
Q. Indeed, did he make some notes of an interview with you.
A. Yes.
Q. Indeed, he prepared a draft statement for you, didn't he.
A. Yes.
Q. Where is that.
A. Don't know.
Q. Mr Chris Charles is employed by the Aboriginal Legal Rights Movement.
A. That doesn't mean I am in a concerted plot against the Commission and nor would I be.
Q. How did it come about that Chris Charles, on behalf of the Aboriginal Legal Rights Movement, took a statement from you and prepared a draft statement.
A. I don't know. I said 'yes' to a statement, Madam Commissioner, but I am not quite sure it was a statement. What I understood I was signing was a receipt and a statement about, first of all, a statement about how I met Gladys and how I made the recordings with Koomi and the other things. He signed a receipt for material which I had given him, which were printed matters relevant to this business.
Q. Did you get a copy of it.
A. No, I haven't, actually.
Q. Have you asked for a copy of the statement and/or receipt that you signed.
A. Yes, he said he would send me one out. I haven't got it
yet.
Q. He never did.
A. I haven't got it yet.
COMSR
Q. You were talking about some other material. Printed
material.
A. Yes, I think they have got it all. It was just material
that I had from the time about Hindmarsh Island, the
Coorong and so on. And they said 'We've got all that,
but we'll keep it. We might need a second copy.' It
was just stuff in the public domain.
MR ABBOTT: I have no further questions unless if
and when we see this one page document as well as the
notebook.
COMSR
Q. I take it from what you have said, Mrs Fisher, you are
using your best endeavours -
A. Yes.
Q. To get the book back, the notebook back. And you would
be requesting -
A. Yes, I thought I was going to get it last week and it
didn't happen. I will try again.
MR ABBOTT: I should add, so Mrs Fisher knows why I
am sitting down, that I will be making a submission to
you that her evidence was, if not directly then
certainly by implication, that the notebook was the only
record that she made.
COMSR: I understand that to be the case.
COMSR
Q. You haven't claimed otherwise, have you?
MR ABBOTT: Until today.
COMSR: You are talking about the other -
MR ABBOTT: Yes.
A. That had nothing to do with anything that is in the
notebook. Nothing whatsoever with anything in the
notebook.
COMSR
Q. Just so I am clear about this, as I understand your
evidence, tell me if I am -
A. He has reminded me that I am on oath, so I have told you
that I took down a small amount of information from
Koomi, which I promised never to tell anybody about.
Q. Right, I understand that, but I am just trying to
clarify this: the only written record or record of any
sort that you took concerning women's business is that
which is contained in your handwriting in your notebook.
A. That's right.
Q. There is nothing on any tapes about that.
A. No. No, she wouldn't tell that.
Q. And that sheet of paper that you are referring to that
is in the bank vault has nothing to do with women's
business.
A. Not as being discussed in this Commission.
MR MEYER: You will recall that I reserved, at the
end of the cross-examination, that I did have other
matters that might be relevant to raise. I have only
got about five minutes of questions, so I won't keep you
very long. The notebook is one of the topics.
CROSS-EXAMINATION BY MR MEYER
Q. Why was it necessary to remove the tapes from the
Mortlock Library.
A. I must a very suspicious person. I thought that, in
fact, since I had used or asked permission for the
Mortlock Library to be a keeping place for those tapes,
I felt a very, very strong personal responsibility
towards what Gladys - the late Gladys Elphick had given
me and what Tim Hughes and quite a few others had given
me. I knew what was in the tapes. I didn't want anyone
else to see them. So, I removed them and put them in a
bank vault.
Q. That hasn't told me why.
A. Because of my sense of responsibility. I felt, if they
were under my care, nobody else was having to take my
responsibility. It was my responsibility to look after
them. And that's -
Q. How long had the tapes been at the library.
A. You have got a copy of the statement from my lawyer about that, have you not?
Q. Can you recall how long the tapes had been at the library.
A. At the moment, no. Is this another attempt to make out I am senile?
Q. I am just asking you a number of questions. How long were the tapes at the library.
A. Years.
Q. There is a form that you signed when you lodged the documents at the library.
A. Yes.
Q. You didn't seek to restrict access -
A. Yes.
Q. By anybody to those documents.
A. Yes, there was a red sticker on that and they are not to be seen by anybody under any - not documents, tapes.
Q. So you would be the only two people who could take that material out of the Mortlock Library.
A. Yes.
Q. Is that what you are saying.
A. Yes.
Q. Did you lodge the notebook in the library.
A. No.
Q. Why not.
A. I didn't know the Commission was going to happen. I didn't think it would be necessary. If you could see my room where I keep everything, you would understand why not.
Q. Years ago why didn't you lodge the notebook with the secretary in the library.
A. Because paper doesn't degrade at the rate that I understood that the tapes were going or may degrade and they get sticky. Stick together and tear and then fall apart and paper doesn't do that. To my knowledge.
Q. Besides the notebook that you have referred to, for the purposes of giving evidence and that Ms Caldwell has described, are there any other notebooks.
A. No.
Q. You have only ever had one notebook.
A. Yes.
Q. Did you cut the front cover off the notebook.
A. Yes.
Q. Why.
A. Because it had material on it that belonged to a conversation with myself with Gladys Elphick. It was Narrunga business, nothing to do with Ngarrindjeri.
Q. Where is the balance of the notebook.
A. In a bank vault.
Q. Can that be produced.
A. No.
Q. Why not.
A. It is Narrunga material.
Q. So the reality of it is that you are not prepared to produce any part of this notebook whatsoever, whether it is in your possession or not.
A. I have been asked not to put Gladys's words into this Commission.
Q. Because you say that you couldn't produce the section of the notebook that did relate to this Commission, because you gave it to somebody else and they won't give it back, that's right, isn't it.
A. Yes.
Q. The other part that is in your control, you won't give that, because you haven't got permission.
A. That's right.
Q. You have asked for permission.
A. Yes.
Q. And it has been refused.
A. Yes.
Q. You say that, realising that the production of the notebook could validate its age.
A. Yes, but, you see -
Q. But you still refuse to produce it.
A. Beg your pardon? What did you say?
Q. You realise that you won't produce the notebook, although realising that the production of the notebook could validate its age.
A. Yes, I will produce the rest of the notebook, as soon as I can.
Q. If you produce the first part of the notebook, that would at least date the notebook.
A. Yes, that's what I told them.
Q. But, you refuse to -
OBJECTION Mr Wardle objects.
MR WARDLE: She said that's what they told her.
XXN
Q. You have got the notebook.
A. Who?
Q. You have.
A. I have got the notebook.
Q. You have got the first section of the notebook, haven't you.
A. Yes.
Q. And you refuse to produce it.
A. I have not been given permission to produce it by the Narrunga people.
Q. Regardless of that, you refuse -
COMSR: The witness has made her position clear.
Q. She is refusing to produce it, because she does not have permission to produce it, as I understand what she is saying.
MR MEYER: There are some people unconnected with this Royal Commission and the point I am making is this:
that she refuses to produce it.

Q. Despite the fact that, if you did produce it, the age of
the notebook could be validated.
A. I will have a discussion with them further and see if we
can get something arranged about that.

Q. Have a discussion with who.
A. With the Narrunga people.

Q. Could you name them.
A. No.

Q. Why not.
A. It has nothing to do with the Royal Commission. I
can't, I can't keep on -

COMSR
Q. When you say "people", who are we talking about. A
person. Two people.
A. Yes, two or three people.

Q. Who, in your opinion, represent the Narrunga nation.
A. Yes, I am very unfortunate in that I take this very
seriously, you see. I can't.

Q. But, if some other persons came along who said that they
also represent the Narrunga nation, what then.
A. I would like to meet them.

XXN
Q. So, two or three people represent the entire Narrunga
nation, do they.
A. No, they represent what is on the notebook. They
represent the - what is known as the ownership of the
material in the notebook, of that front page.

COMSR
Q. Is there anyone here who, in your opinion, represents
the Narrunga nation in the court, in the hearing.
A. In the court? The Narrunga?

Q. Yes.
A. Somebody has got their hand up back there.

INTERJECTOR: I have been on the Reserve since 1949.
INTERJECTOR: She is a Narrunga.
A. I have never met. Have we met?
INTERJECTOR: She is definitely not a man.

COMSR: Just a moment. We can't have that sort of evidence from the body of the hearing room.

A. That is Chirpy, is it?

COMSR

Q. In any event, you are saying that you recognise two or three people as representing the Narrunga nation, do you.

CONTINUED
A. Yes, well, I mean not representing the Ngarrindjeri nation, no, representing by the person who gave me all of this material - it's on all of these tapes - and that was Gladys Elphick. And she asked me always to go to Paul to go to Lewis and to go to one of the senior woman, and she never named the senior woman.

Q. In the last few weeks have you addressed some national women's conference.
A. Yes. No, I haven't actually addressed them, they gave me a dinner in my honour, but I made a speech that night. But it wasn't actually addressing them.

Q. Was Doreen Kartinyeri at that function.
A. Yes.

Q. And did she speak to the same programme.
A. She addressed the conference, yes.

Q. Was the thrust of the speeches that both you and Doreen Kartinyeri made against any criticism of this Commission.
A. I didn't make a criticism of this Commission - certainly not of her Honour under any circumstances.

Q. You say that if I obtain a copy or a transcript of your speech, there is no criticism of this Royal Commission by you.
A. Not of the Commissioner herself.

Q. That wasn't my question. Of this Commission.
A. That is my answer.

Q. Of this Commission I said.
A. No, not critical of her Honour.

Q. So, I take the answer to the question to be this: I was critical of the Royal Commission but I wasn't critical of the Royal Commissioner.
A. No. I will say I was critical of those who undertook to institute the Royal Commission.

NO FURTHER QUESTIONS

MR WARDLE RESERVES HIS RIGHT TO CROSS-EXAMINE
RE-EXAMINATION BY MR SMITH

Q. I think that at the conference that took place at your
solicitor’s place, Mr Wardle, on 26 July, you spent a
lot of time in private consultation with Mrs Simpson,
didn't you.
A. That’s true.
Q. So, if a document were passed to Dr Clarke by Lewis
O’Brien, it could have happened in your absence.
A. That is what I tried to indicate, yes.
Q. You told us that I think on one of the earlier occasions
you gave evidence, that you first met Doreen Kartinyeri
in a coffee shop.
A. Back of Old Parliament House, yes.
Q. And I think you finally placed it around an Anzac Day
and then fixed it on 26 April 1994.
A. I think so.
Q. Would that be about right.
A. As well as I can recall it, it would be, yes.
Q. You recounted to us how Doreen had asked you if you had
any information that could help in respect of, words to
that effect, the Hindmarsh Island Bridge dispute.
A. Yes. And I first told her no, I didn’t.
Q. You resisted communicating to her what you say Rebecca
Wilson had disclosed to you.
A. Yes. Well, I was asked never to talk about those things
and never to disclose.
Q. In fact, it took until I think you saw the article in
the Advertiser called ‘The Great Lie of Hindmarsh
Island’.
A. Yes.
Q. For you to go to the ALRM and disclose some of this
material; that is right, isn't it.
A. Yes.
Q. Perhaps fixing that day. Looking at Exhibit 24
produced, which is an Advertiser article. Looking at
that article which is headlined ‘The Great Lie of
Hindmarsh Island’, that’s the Advertiser article that
provoked you to -
A. Yes. I don't know whether this was a city edition or
whether I got a different edition, but that photo was on
the front page. Yes, that is virtually so.
Q. You will see that is 7 June 1995.
A. Yes.
Q. You agree then that it was at this time that you decided
to disclose the Rebecca Wilson information that you say
you had.
A. Yes. The tape particularly was and the notebook, yes.
Q. You took that into the offices of the ALRM.
A. Yes.
Q. When you say `the tape', I'm not quite clear why you say
`the tape'. I understood that the tape contained no
information about the women's business.
A. Yes, but at least it demonstrated to them that I had met
her and that she had an opinion on those tapes that was
interesting.
Q. I think you told us that you left that material there,
which included the notebook, for Doreen Kartinyeri.
A. Yes.
Q. Can I take you through some of the events that happened
in between time. You agree, do you, that that is
between April 1994 and this occasion June 1995 when you
took the decision to disclose this information.
A. Yes.
Q. The Minister, the Federal Minister had made the
permanent declaration, hadn't he, in May 1994.
A. Yes. Well, I can't remember, but if you tell me that,
yes.
Q. I think that as 1994 proceeded, isn't it the case that
the dissident ladies started to come out to speak
against women's business.
A. Yes. Well -
Q. Do you remember that occurring.
A. I do remember women coming out and saying to myself `Oh
well, all of these historians will now come out of the
Q. Isn't it the case that late in 1994, Mr McLachlan made a speech that received some publicity in Parliament about the challenge to secret women's business on Hindmarsh Island.

A. Yes.

Q. You were aware of that, weren't you.

A. Yes.

Q. You were aware that in March 1995, the Parliamentarian McLachlan resigned over the question of handling the envelopes.

A. That was on the television. Knew a lot, yes.

Q. Isn't it the case that in March 1995, you helped organise a key note address by Mrs Kartinyeri to the International Women's Day Luncheon.

A. Yes.

Q. Do you agree that that is one of the most important dates on the State's feminists' calendar.

A. I'm very flattered to have you say that.

Q. Isn't that so recorded.

A. I hope so, yes.

Q. Isn't it the case that you're the longest, or have been the longest serving president of the International Women's Day Committee.

A. Haven't counted up the years. I was on it for a while, yes.

Q. Is it correct, as it's said in the press, that you were pivotal in arranging a motion that Mr McLachlan resign over his handling of the secret envelopes.

A. I think the press got it wrong as the point pivotal. There were about three other women involved in that.

Q. Do you mean you had no part to play in it.

A. As a president, it's hardly the role of the president to - it's hardly the part of the president to initiate motions. Certainly there were several motions handed up to me. So the press did their usual thing, I think, on
that one - and the press always attribute a lot of
things to people that are not always precisely so. They
get things wrong sometimes.

Q. Were you active in arranging the motion against Mr
McLachlan.
A. No. Not in arranging it, no. They kept saying to me
`Should we say this?', and I said `Look, you have to go
and talk to so and so. Go and talk amongst yourselves.
I can take the motion. Go and do it'.

Q. Is it correct, however.
A. I didn't make the motion.

Q. Do you agree that you arranged the key note address by
Doreen Kartinyeri.
A. Certainly.

Q. That was in March 1995.
A. Well, it took place in March. Arranging it three months
before, I asked her to speak and she said `I don't know
where I'll be or what I'll be doing', and I asked
another woman to speak in case she can't do it and that
was Shirley Piersley. I said `Look, if Doreen
Kartinyeri cannot speak, can you?'. You know, nearer
the event I had to ask somebody in case, because Doreen
was very sick and still continues to be quite sick and
so I had a fall-back position in asking Shirley.

Q. You have obviously - you obviously have an admiration
for Doreen Kartinyeri.
A. Indeed.

Q. Could you tell us then, bearing in mind the fact that
the dispute about women's business was fermenting right
through the latter part of 1994, was it not, and into
early 1995.
A. Yes. I suppose you could say that, yes, but, you know,
I had a lot of family problems around about the time and
I can't tell you that I read in detail, but I only know
that I was expecting as this tiny cog in the great
machine of history that all of these historians would
come out and say `Look this is the case', and for all of
that to be resolved, but it didn't. I couldn't understand why.

Q. You're not a tiny cog in the feminist movement in South Australia, are you.
A. The feminist movement has nothing to do with the Aboriginal people. I asked Glady about that once and she said it would be a very good idea.

Q. Why did you wait until 7 June to take your information into the Aboriginal Legal Rights Movement. Why did you not convey that at an earlier time.
A. Why didn't I forget about it and not do it at all? Precisely. Well, why did I wait until 7 June? Because, in fact, as I was told, probably erroneously, that the gentleman called Doug Milera was in some way related to Gladys Elphick and that immediately, in my mind, brought a great difficulty for me to hold silence any longer. Because Gladys is involved, somebody related to Gladys immediately involved Gladys, you see, or her memory.

Q. On the tape, Exhibit 226, that is the raw footage tape - Exhibit 22B, sorry, at the end of the tape you say to Maggie Jacobs and Veronica Brodie in front of Miss Caldwell, the transcript reads `In a whisper'- this is you according to the transcript - `Now listen kids, the Tickner inquiry is coming up'. Veronica Brodie said `Yes'. You say `And we aren't going to speak to anyone until that is finished in my opinion.' Do you agree you said that.
A. I possibly did.

Q. What changed your mind.
A. What date was that?
Q. This was 7 August 1995. You had met with - you had the conference.
A. Probably a number of things. I may have already given evidence on this, I'm not sure. I can't remember.

Q. It might have been actually on an earlier date than the 7th, but it was around about 7 August that you said that. You agree you said it to these ladies.
A. Yes.
Q. Having given a statement to this Commission.
A. I don't know, I must have been out of my mind. No, I think in fairness I have to say that I can't recall. I may have already given evidence on this when I could recall things. There have been recent events in my life that have driven a few things out of my mind.

COMSR
Q. I understand that you have unfortunately had a bereavement in your family.
A. I don't want to play any records on that. But, yes, I'm not agreeing to be admitting that I'm even senile. I have a few problems of memory. If I have given evidence on that, perhaps somebody can tell me?

REXS
Q. I'm not going to put any evidence to you about the topic. I'm suggesting to you that you advised the ladies present during that television interview to not say a word until the Tickner inquiry had come up, words to that effect.
A. I veer between wanting to come in and making a long speech in the Commission, saying nothing whatsoever, going to England or Timbuktu or burying myself somewhere. The emotions vary.

Q. What do you mean by making a speech, saying nothing whatever.
A. I vary from coming in and making a very long speech or saying nothing whatever or - and, in other words, I have variations of the reactions. And this may have been another one that I suddenly felt, look, we shouldn't say another word about anything that has to do with Aboriginality, we should wait until a more propitious time when the general mind set in the public ceases to destroy the cultural heritage of this country. Anyway, that is how I feel.

CONTINUED
Q. In any event, despite that television interview that we have the transcript of here, Exhibit 22B, you made a decision to come in and give evidence here, didn't you.

A. Yes.

Q. Can you tell us what provoked you to do that, or who provoked you to do that.

A. I can't recall. I mean I will have to think about it. If you'd ask me that question again, I'd try.

Q. Would you think about it now, please.

A. It was after this - no, before this. 7 June, this is.


A. I said I wouldn't come in here.

Q. You not only said - I will put what you said to you. In a whisper - in fact it was sotto voce, more than a whisper - 'Now listen, kids, the Tickner enquiry is coming up'. Veronica Brodie says 'Yeah', and you said 'And we aren't going to speak to anyone until that is finished, in my opinion', yet you were in here giving evidence in the Commission for the first time on Tuesday 8 August.

A. It might have been a phone call from my lawyer that persuaded me to come and give evidence, I'm not sure. It probably was.

Q. Is it not correct that you came to the commission in the early days together with and sat with people such as Sandra Saunders. That's correct, isn't it.

A. I sat with women I knew, asking them where Doreen was.

Q. My question really is have you come in here to give evidence at the instigation of people such as Sandra Saunders from the Aboriginal Legal Rights Movement.

A. No. No way. No. Sandra is a very much younger woman than me, and I would not be directed by Sandra. By Doreen, perhaps, but not by Sandra. Doreen could say to me 'Look, so and so and so and so', I would then speak to my lawyer and we would sort of have a discussion and I would decide what he said generally I would do.

Q. Did that happen. Did Doreen Kartinyeri suggest you might come in here.
A. No, Doreen said `Stay out'. She doesn't think I should
come in. As a matter of fact, Sandra has always said
`Why do you go in there'. I’ve been to my lawyer, my
lawyer I rely on, I think he is a good, honest man.

MR WARDLE: I would add to that and say it was
inspired by a phone call from my learned friend after
the television interview.

A. Sorry, I'm not persuaded by Sandra. She is a very good
young woman, absolutely dedicated, but I'm not persuaded
by her.

REXN
Q. You're a member, are you not, of the Union of Australian
women.
A. No.

Q. You have been.
A. No, not since 1970, thank you, and that's a long time
ago.

Q. Does that organisation publish a newsletter called 'Our
Women'.
A. It might. I never get it.

Q. You've contributed to that in the past, have you not.
A. Before 1968.

COMSR: Where is this taking us?

Q. Are you a member of the Women's Electoral Lobby.
A. I am.

Q. Would you regard yourself as a senior member of the
Women's Electoral Lobby.
A. A senior retired member.

Q. Are you a member of the Women Against Demeaning Images.
A. WADI, yes.

Q. Do you regard Aboriginal women as under a disadvantage
in terms of their relationship with their men.
A. No. I've always disagreed with that. They worked it
out many, many thousands of years ago. White women are
still working it out.

Q. Could you tell us, because this submission will be made
at the end of this commission about your evidence, can
you tell the commissioner why you came here to give
evidence without the notebook, the vital piece of
evidence that supported, well, you say supports what you
say.
A. Well, I was hoping to get it back later, I was. I was
relying on getting it back. I don't know whether you
believe me, but that's a fact. I was relying on getting
it back.
MR SMITH: I don't know whether Mr Abbott tendered
this document in the end, the Mortlock Library.
MR ABBOTT: No, it wasn't produced at that stage.
MR SMITH: I produce the original now.
MR ABBOTT: Would you also tender the notes about
the deposition, the notes of the transcript as well.
COMSR: What are we tendering? What is the
first document?
MR SMITH: This is documentation from the Mortlock
Library relating to the deposit and removal of the tapes
EXHIBIT 213 Documentation from the Mortlock Library
relating to the deposit and removal of
the tapes of Mrs Fisher tendered by Mr
Smith. Admitted.
COMSR: I have this sheet of paper on which Mrs
Fisher has written a name of an elder. What do you
propose I do with that?
MR SMITH: That has to be marked, but it has to be
kept to yourself, I imagine.
COMSR: Yes.
MR MEYER: I make the submission that it be
extended to Ms Simpson as the female junior counsel
assisting. That might help your Honour make some use of
it.
COMSR
Q. Is this information restricted just to women counsel or
can men counsel look at it. It's a name, isn't it.
A. The thing is I don't want her name, or any Nurrunga
name, further to go into the commission, because the
Nurrunga people have asked me not to, and I'm going to
be in diabolical strife if I do.
Q. That is, of course, unless someone from the Nurrunga
people come along saying they don't mind the name being
revealed. That would get you out of the difficulty.
A. But it has to be someone who is connected with the
person whose name it is, and that may not even be the
person that Katrina went to. She may have gone to
someone else, I didn't ask her. I was in a big hurry at
the time. I said 'Have you got permission', and she
said 'Yes'.
Q. So this is just someone whom you think she could have
gone to, or she might have gone to.
A. Yes. She is certainly someone whom I have recorded, and
someone who knew Glady very well indeed.
COMSR: The difficulty, of course, will be, if
it's not possible to disclose this name, to determine
from whom one gets permission to reveal it.
MR ABBOTT: There is a further document which I
thought Mr Smith was going to put in with the Mortlock
Library material. I'd seek permission to put this to
the witness to have identified so Mr Smith can put it
in. Ignore the red notation on the line.
REXN
Q. I will show this document to you first of all. Is that
a document of yours.
A. Yes.
Q. Is that in your handwriting.
A. Yes. This was addressed to Beth Robertson, the person
who is the Coordinator of the Somerville Oral History
Collection at the Mortlock Library, and I wrote to her
about this. I've got several sets of tape-recordings
that I'm putting in, so I know her quite well.
Q. The attachments to it are all your documents also.
A. Yes.
Q. They are just details of the Gladys Elphick material,
A. Yes.
Q. Is that what it is.
A. Yes.
Q. Just giving the library an idea of what it is that you've got in there, records.
A. Yes. She asked me to do a description, a brief description of what was contained.
Q. For their records.
A. Yes.
Q. That document relates to that.
A. Yes, because she always needs more staff. I said I'd save her the trouble.
EXHIBIT 214 Notes of records for the Mortlock Library tendered by Mr Smith. Admitted.
MR ABBOTT: Could I get my copy back and a clean copy substituted by the commission.
MR SMITH: Of the last document?
MR ABBOTT: Of the last exhibit, yes.
MR SMITH: Have you dealt with that last exhibit?
COMSR
Q. I'm just wondering, the evidence is not really very conclusive at linking that up. I mean the evidence is it could have been someone, it might have been someone. I think to admit it as an exhibit on that basis would be - you're not able to say for certain that this person was ever spoken to.
A. No. She rang me up a couple of weeks ago, and I said - she's going to come down and see me, or I'm going to see her, but I didn't think to ask her at the time if Katrina did ask her or who she asked. She knows a lot of women at Point Pearce, you see, so it could have been one of the other women.
Q. It's hard to say that that has been a sufficient identification of that person as one of the persons.
A. I'm sorry, I never thought I'd be asked the question, you see.
COMSR: I mean I can marked for identification.
MR SMITH: Yes.
COMSR: I'm not certain that there's been any sufficient link between the person named and Mrs Fisher receiving or seeking approval.
A. I'm sorry about that, I didn't think of it.
MR SMITH: For the time being, you can return it to the witness if you want to. I suspect it will clutter up the exhibits.
COMSR: I suspect that might be the safest course, because I just don't see a connection at present. It's a bit too tenuous. I will return this to Mrs Fisher.

DOCUMENT RETURNED TO WITNESS
MR SMITH: Exhibit 212 was marked for identification. That was the bundle of notes of the witness Alison Caldwell.
COMSR: That's right.
MR SMITH: And the shot sequence as well. Perhaps in light of the cross-examination, that ought to now become an exhibit. So could that be admitted as an Exhibit 212.
COMSR: Yes.
EXHIBIT 212 MFI 212 tendered by Mr Smith. Admitted.
MR SMITH: That should include the shot list that was given.
COMSR: The what?
MR SMITH: It's a document with a schedule of camera shots.
COMSR: That will form part of Exhibit 212.

What is going to happen with respect to Mrs Fisher? I'm sure Mrs Fisher will be greatful if her evidence can be concluded, and she can be finally released.
MR SMITH: I think she should be released subject to any more implications occurring with the question of Mr Wardle.
A. I'm not very happy, if you don't mind me saying so, I'm not very happy with senior counsel's explanation that I was in a plot with the ALRM. If I make a plot, people don't find out about it, so it is a plot, and plots such
as that are beneath me. It's ridiculous, totally ridiculous.

COMSR: The thing is I'd like to release you, but your counsel might be requiring you to return for some further questions concerning that matter, so Mr Wardle, shall I release Mrs Fisher subject to any requirement that you might have to question her, or anyone ask her further questions concerning that matter?

MR WARDLE: If you would.

COMSR

Q. Do you understand that, I'm releasing you, but there is the possibility -

A. I might have to come back.

WITNESS STANDS DOWN

MR SMITH: So the witness Philip Clarke for cross-examination tomorrow.

ADJOURNED 4.44 P.M. TO TUESDAY, 17 OCTOBER 1995 AT 10.00 A.M.