HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

TUESDAY, 5 SEPTEMBER 1995

RESUMING 10.10 A.M.

MR SMITH: The programme for today is three
         witnesses.
         Malcolm Robert Bates, the hotelier from Middleton.
         Kyla Jade Mulhern, the receptionist from the Appollon
         Motor In and Sue Lawrie.

MR SMITH CALLS

EXAMINATION BY MR SMITH

Q. I think, as at June of this year, you were the
   proprietor and publican of the Middleton Tavern at
   Middleton, is that correct.
A. That's right.

Q. I think you have provided a statement to this Commission
   in connection with observations you made at your tavern
   on Monday, 5 June 1995, is that correct.
A. That's right.

Q. Looking at this statement produced to you, do you
   recognise it as a statement you have provided to this
   Inquiry and your signature thereon.
A. Yes, that's right.

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

Q. You tell us in your statement that, on Monday, 5 June, a
   person you knew to be Douglas Milera came to your
   tavern, is that right.
A. That's right, yes.

Q. Your statement asserts that this was on Monday, 5 June.
Do you remember that by reason of what events that followed.

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

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

A. Yes.

Q. As the article you spoke of.

A. Yes.

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

A. Yes, Mondays.

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

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

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

A. Yes, Mr Denver.

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

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

Q. Again, that is something that you recollect.

A. Yes.

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

A. It was at the tail end of our lunch period, because, when they walked in, I had thoughts in my mind as to whether these two people would be ordering counter meals. The other counter meals for the day, those
people had already left. That was my concern, whether they would be ordering before the 2 o'clock cut off for counter meals. They were there before then.

Q. Mr Denver suggests that it was 2.30 or just beyond 2.30. Would you seriously disagree with that.

A. I would say it was closer to 2 o'clock, yes.

Q. Where did they go in the tavern premises.

A. There is an area known as Surfers' Bar, that was the area, they went and sat at a table in that area.

Q. There was just the two of them initially, that's the case.

A. Yes.

Q. When they first arrived, did they order drinks.

A. Not immediately, but not long afterwards they ordered a drink.

Q. Do you know who had what.

A. Mr Denver had a squash and he bought a stubbie of Southwark beer for Mr Milera.

Q. Could you tell us whether or not Mr Milera, for instance, when he first arrived, appeared sober, affected by liquor, or anything like that.

A. No, definitely sober, he was, yes.

Q. They were in the Surfers' Bar and you had served them the drinks, or one of your staff had.

A. No, I had, personally.

Q. You had.

A. Yes.

Q. What did they do.

A. They went and sat at the table and talked for a while and then Mr Denver just walked around the bar and I guess, in hindsight, they appeared to be waiting for somebody. They didn't seem to be sitting and talking. They just seemed to be doing their own thing a lot of the time.

Q. I think they were eventually joined by other people, were they not.

A. Yes, Mr Chapman arrived probably an hour or so later.

Q. Again, did you know Chapman, at that stage.
A. Yes, I recognised him, yes.
Q. How did you recognise him.
A. Just from the media reports, photos in the paper and things like that, yes. And I had had Mr Chapman pointed out to me at the Hindmarsh Island Tavern.
Q. During the time of this bridge dispute, or rather I should say about in the middle of 1994, were you at the Middleton Tavern in those days.
A. No, was I was the publican at Hawker in the Flinders Ranges.
Q. When did you move to Middleton.
A. Late November 1994.
Q. When Mr Chapman arrived, you would fix that time at about, what.
A. Probably 3 o'clock, between 3 and 3.30, somewhere in that area.
Q. There was a trio of people there then.
A. Yes.
Q. What did they do that you observed.
A. They certainly sat down and had a conversation between them and then there seemed to be a series of phone calls being made and then - with mobile phones, of course.
Q. Did that require people to go outside, or did they do it from within the hotel.
A. Quite a few of the calls were made from within the hotel, but I did notice Mr Milera leaving the premises on occasions to talk. He started talking inside the tavern, then he would move outside and talk on the phone outside.
Q. They stayed virtually all the afternoon, didn't they, this group.
A. Yes.
Q. I think they were joined later, as you say in your statement, by Mrs Chapman.
A. That's right, yes.
Q. Again, did you recognise her.
A. Yes.
Q. From -
A. Similar reasons and from having her pointed out to me on Hindmarsh Island.

Q. About what time was it that Mrs Chapman arrived.
A. It was just on darkness, so probably 5.30, 6 p.m. in the evening.

Q. Did the same scenario prevail, namely, that they were seated around a table discussing things.
A. Yes, all together, yes.

Q. And, what, phone calls persisted, did they.
A. Yes, they did, but not quite as often as earlier in the afternoon.

Q. Do you serve meals at the hotel in the evenings.
A. Yes.

Q. I take it that 6 o'clock onward was a time when you were serving meals to people.
A. Yes, 6 on.

Q. Did this group have any food.
A. I think Mr Denver had a meal before he left, but I don't recall anybody else having meals.

Q. You mention in your statement that you thought Mr Milera had a toasted sandwich.
A. Yes, that's correct, during the afternoon he did.

Q. That wasn't necessarily at dinner time.
A. I don't recall the exact time he had that, but they are available at any time during the day as a bar snack.

Q. In the course of that period then that you fix around about 2 - perhaps I had better ask you first. So, the group was a foursome then, Mr and Mrs Chapman, Milera and Denver.
A. And another lady.

Q. And another lady.
A. Arrived with Mrs Chapman and I just assumed that that was Mr Denver's wife, because he greeted her with a kiss when she arrived and there was a small child, I think it was a small girl with them, at the time.

Q. Did that group all stay together until they left your premises, or did they -
A. Pretty well stayed together. I think maybe Mrs Denver may have left a bit earlier than the others, but I just don't recall that exactly.

Q. What about the Chapmans and Milera and Denver, did they leave all together, or -

A. Yes.

Q. At about what time was that.

A. Probably about 7 or somewhere in that area.

Q. You told us that you served the first round of drinks to Denver and Milera, did that group have other drinks throughout the afternoon.

A. Yes, they did, but they were only drinking soft drinks with the exception of buying a few stubbies for Mr Milera, but Mr Chapman certainly didn't drink any alcohol. I don't recall Mrs Chapman drinking any either.

Q. In your estimate, or if you know precisely tell us, how many stubbies would Milera have had, during the course of the afternoon.

A. Between three and four. I would tend to go to the four, but I would say it was either the three or four. He certainly wasn't drinking much alcohol over that period of time.

Q. Then, when Milera left, I take it you were still at the hotel yourself.

A. Yes.

Q. What was his condition, in terms of his demeanour, his balance, his sobriety.

A. Fine, he was okay. He left the premises just probably as if he hadn't even had a drink as far as I was concerned. He walked straight out the door briskly and wasn't a problem at all.

COMSR

Q. How long have you been associated with the hotel business, working in hotels.

A. Probably eighteen years in total. I have owned my own hotels for eight years and I was a bar manager for ten years prior to that.
Q. Who paid for the drinks, do you know.
A. Mr Denver and Mr Chapman between them.

Q. In the course of the afternoon, did you have occasion to
not only observe Mr Milera but to speak to him, from
time to time.
A. No, I didn't speak to him at all and I only spoke to Mr
Denver and that was on arrival actually or shortly
thereafter.

Q. I take it, in those eighteen years, you have seen a few
people who have been affected by alcohol, from time to
time.
A. Quite a few, as a matter of fact, yes.

Q. Mr Denver - just one last matter - was he wearing a
jacket with some sort of emblem on it.
A. I think he was, just from memory, yes, the emblem just
reminded me of somebody that would be from the National
Parks, but I don't think it was a National Parks emblem,
but it just seemed like that.

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

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

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

CROSS-EXAMINATION BY MR MEYER

Q. You make a reference I think about Mr Milera making some
telephone calls.
A. That's right.

Q. And I understand that he went outside whilst he was
actually making telephone calls.
A. I think the telephone call was probably underway while
he was inside, but then moved outside during the process
of the call and finished off his conversation outside.
Q. My instructions are that Mr Milera had one telephone
call for a period of approximately an hour during which
he was outside all of that time, does that sound
correct.
A. That sounds about right. He may have made two calls,
but he certainly made one call when he was on the phone
for quite some time.
Q. He may have made another call while he was outside, but
you wouldn't know that.
A. That's right.
Q. Did they have mobile telephones - did Denver and Milera
have mobile telephones with them when they arrived, or
did the mobile phone arrive when Tom Chapman arrived.
A. That is something I can't answer. I didn't take any
notice of them arriving with telephones.
Q. Did you notice whether the phone calls started after Tom
Chapman arrived.
A. I am not too sure. I think Mr Denver may have made a
call. I think he may have made a call before Mr Chapman
arrived, actually. But they certainly had two phones
operating at one time during the afternoon or the
evening.
Q. I understand that a private investigator came and asked
you questions about Mr Milera's attendance at the
tavern.
A. That's right.
Q. Were you told on whose behalf that private investigator
came to ask you questions to find out what you said
occurred at the tavern.
A. I think he did, but I just don't recall who he mentioned
that he was working for.
Q. Looking at the document that I now produce to you, have
you seen that document before.
A. Yes, that's a copy of or this is the document that that
man, Seskis, faxed to me.
Q. I think it is your signature that appears on the bottom
of each page of that statement.
A. That's right.
Q. Your signature is dated 24 July 1995.
A. Yes.
Q. Looking at the opening part of the statement there is a date of 28 June 1995.
A. That's right.
Q. Did Mr Seskis come and see you and take the statement from you and then subsequently send you the copy and ask you to sign it.
A. They actually faxed it to us.
Q. You signed it and sent it back again.
A. Yes, after sometime. I held on to it for a while and then they rang again and asked why I hadn't signed it and sent it back.
Q. The opening lines of the statement refer to Mr Seskis introducing himself and telling you that he had been requested by solicitors acting on behalf of a Mr Douglas Milera to speak to you in relation to his attendance at the hotel.
A. Yes.
Q. Is that an accurate record of the way that Mr Seskis introduced himself, generally speaking.
A. Generally speaking I would say, yes.
MR MEYER: I tender the statement.
COMSR: I take it there is nothing in the statement other than what refers to the incident at the hotel?
MR MEYER: No, at the hotel. It is a verbatim statement which follows pretty closely the evidence that Mr Bates has given.
COMSR: Just so long as it doesn't touch other topics.
MR MEYER: No, we could check for that. I didn't see anything and I don't think Mr Smith saw anything.
MR SMITH: No.
CONTINUED
EXHIBIT 70 Statement of witness dated 28 June 1995
tendered by Mr Meyer. Admitted.
Q. Do you have a copy of the statement in front of you.
A. Yes, I do.
Q. Can you just look at the bottom of p.2. You were asked
what type of beer Mr Milera was drinking, and you said
that you thought it was a Southwark stubbie. Is that
right.
A. Well, it wasn't `I thought'. It was a definite
actually. A Southwark stubbie, yes.
Q. If you turn to p.5, were you asked by the investigator,
and I am looking about a third of the way down on p.5
`How did he appear when he left' referring to Mr Milera
`Did he appear inebriated or?' You replied `No, no,
fine'. That's how you thought that Mr Milera looked
when he left.
A. That's right.
Q. You didn't have any concern about serving alcohol to Mr
Milera.
A. No, no.
Q. Was this interview done on a tape.
A. Yes. Yes, he had a small tape.
Q. It is just, looking at the question I have just read to
you, you appear to have cut off the question. There is
the word `or' after the word `inebriated', and it
appears that you have cut in quickly with your answer,
saying `No, no, fine.' Was that a firm view that you
held.
A. Yes, it was a firm view, yes.
CROSS-EXAMINATION BY MR ABBOTT
Q. Mr Bates, I take it this wasn't all the conversation you
had with Edie Seskis.
A. This interview?
Q. Yes.
A. Yes, he came and he had a tape with him and he sat down,
and introduced himself first, and told us what he was
going to do, and then we just sat at the table, he
M.R. BATES XXN (MR ABBOTT)

turned on the tape, and then he started with this

Q. He told you that he was from a firm of private inquiry
agents called Warners and Associates.
A. That's right.
Q. And, in essence, they had been retained by lawyers
acting on behalf of Douglas Milera.
A. That's right. That's what he said.
Q. Did you ever ask him how Mr Milera was able to afford
private inquiry agents to come down and take interviews
from you.
A. No. It didn't concern me. It was none of my business.
Q. Did he volunteer it. Did he say how it had come about.
A. No, no. He just said it was to do with the Royal
Commission. Something like that.
Q. Did he represent himself as being associated with the
Royal Commission.
A. No, no, no. He just said that he was making an
interview - in the first statement there.
Q. What solicitors was he talking about.
A. He just said he was from Warner and Associates. That's
all.
Q. He mentions on the tape he has been asked by solicitors
acting on behalf of Mr Milera. Did he tell you the name
of those solicitors.
A. No.
Q. And you didn’t ask.
A. No.
Q. Had he arrived pursuant to making an appointment with
you.
A. No, he didn’t make an appointment. He -
Q. He just arrived out of the blue on 28 June.
A. Yes.
Q. And asked you about the events of the previous two weeks
- just over two weeks previously.
A. That's right.
Q. You were able to give this information more or less
straight away.
A. Yes. Well, the Monday that we refer to was a quiet day, so I remember the events quite plainly that day.

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

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

Q. Reinforced -

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

Q. You soon found out.

A. Yes.

CROSS-EXAMINATION BY MR KENNY

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

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

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

A. I would say so, yes.

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

OBJECTION Mr Lovell objects.

MR LOVELL: The first question I would ask is:

What status does Mr Kenny have to ask questions in that manner? And, in any event, it is a matter of expert evidence.

COMSR: I do not think he is being asked to give an expert opinion. He is being asked his observation.
MR LOVELL: He is asking about numbers of drinks now. It is getting into specifics. In any event, what has it got to do with Mr Kenny?

COMSR: How do you say it affects your clients' interests? This witness is giving evidence in relation to his observation of a person who, later on in the day, makes various allegations concerning my client.

COMSR: I think that is fair.

MR LOVELL: I can't take it any further.

MR KENNY: It is a general number. I picked six as a general number.

COMSR: I do not know that I can place much weight on the witness's view as to a specific number.

MR KENNY: No. He has given evidence in response to your question.

COMSR

Q. I take it, as a general observation, that the same amount of alcohol consumed by a person who is not used to handling alcohol, as far as you can observe, can have a greater affect than a seasoned drinker.

A. That would be right.

RE-EXAMINATION BY MR SMITH

Q. Looking at p.1 of Exhibit 70, you will notice there that the interviewer proceeds on the basis that Milera and Denver and the others were in your hotel on 6 June 1995.

A. That's right.

Q. Although you acceded to that at the time, are you content now that that is a day out, that it was indeed the 5th.

A. Yes, that's right.

NO FURTHER QUESTIONS

WITNESS RELEASED
MR SMITH CALLS
KYLJA JADE MULHERN SWORN
EXAMINATION BY MR SMITH
Q. Miss Mulhern, I think you are a receptionist employed by
the Appollon Motor Inn at Victor Harbor.
A. Yes, that's correct.
Q. You've held that job for how long now.
A. Nearly two years now.
Q. In June 1995 you were working at the motel, were you.
A. That's correct.
Q. I think you were on duty on the evening of 5 June 1995
when the jouralist, Chris Kenny, conducted an interview
in your premises with certain other people present. Is
that right.
A. Yes, that's correct.
Q. I think you've been spoken to by a number of people
about that. Is that right.
A. By just general people, as in local people or the people
that attended the meeting?
Q. I will be a bit more specific. I think you were spoken
to by an inquiry agent from Warners and Associates about
the events of the -
A. I can't recall if he was from there, but, yes, I was
spoken to by someone.
Q. Then I think you were spoken to by myself from the Royal
Commission.
A. That's correct.
Q. I think you, in connection with this matter, provided a
statement to the inquiry agent.
A. That's correct.
Q. And also a statement to this commission.
A. Yes.
Q. First of all, looking at this statement produced to you
and dated today, do you recognise that as the statement
you provided to the commission, and is that your
signature on the second page.
A. Yes, it is.
EXHIBIT 71  Statement of Kyla Mulhern tendered by Mr Smith. Admitted.
Q. Looking at this statement produced to you, consisting of 11 pages and being a copy, do you recognise that as the statement which you provided to the inquiry agent, Mr Seskis.
A. Yes.
EXHIBIT 72  Statement of Kyla Mulhern to inquiry agent tendered by Mr Smith. Admitted.
Q. Have you a copy of that with you.
A. Yes, I have.
COMSR: I take it there is nothing in that statement?
MR SMITH: No.
XN
Q. Looking at your copy of that statement, Exhibit 72, the phone numbers at the top of the statement are not in your hand, are they.
A. No, they are not.
Q. Coming down to the first paragraph, there is an alteration from 'the 6th June' to 'the 5th June', is that right.
A. That's correct, yes. It was done on Sunday night.
Q. Initialled by you.
A. That's correct, yes.
Q. You have said Sunday night. Are you sure that's not Monday night.
A. No, Sunday night.
Q. Sunday night.
A. Yes.
Q. If you go to p.2, again 'the 6th June' is altered, is that correct.
A. That's correct.
Q. You have made another alteration on p.3, about two thirds of the way down.
A. Yes.
Q. Just looking through the balance of the statement, on the next page, p.4, you have made another slight alteration.
A. That's correct, yes.
Q. At about point 3.
A. Yes.
Q. And p.7.
A. Yes.
Q. Can you translate that for us, `Reckoned it was going to come -' what's the alteration you have made there.
A. To a head. Like -
Q. Come to a head.
A. Like the truth is going to come out.
Q. So you have changed `fuss' to `head', and initialled it.
A. That's correct.
Q. If we go to p.10, again is that addition there in your handwriting.
A. Yes, it is.
Q. Can you read it to us so we know what it says.
A. When I type a letter at night I usually place the next day's date on it - the next day's date on the letter.
Q. That's why it was on 6th June. The letter was actually had the date of 6th June on top when I actually typed it on the 5th, which is on the Sunday night.
A. Yes.
Q. `When I type a letter at night I usually place the next day's date on the letter'.
A. Yes.
Q. `That's why it had the 6th June.'
A. That's correct.
Q. And that's your initials.
A. Yes, that's correct.
Q. I show you a diary for 1995. You will see Monday is the 5th.
A. Right.
Q. Okay.
A. Yes.
Q. Are you still -
A. I'm pretty sure it was the Sunday night. I was working a night shift. My bosses had actually gone to Adelaide for the night, so I actually stayed over. I know it is the 5th because I actually checked back on the day they
stayed. That is why I made the alteration from the 5th
to the 6th.
Q. It is not crucially important.
A. That's fine.
Q. Was it the next night that you saw Mr Milera appear on
the Channel 10 News.
A. No, I never actually saw it.
Q. You didn't see it.
A. I never actually saw it.
Q. Looking at Exhibit 71, where you have said in you
statement 'I was working at the hotel on the evening of
Monday, 5th June', you are a little bit unsure about
that, are you.
A. On the Monday?
Q. Yes.
A. I know it was the 5th, so if it is -
Q. So you accept it is Monday.
A. I accept it is Monday, yes.
Q. So your first involvement in this matter, according to
your statement, was when you had a phone call from a
person you now know as Chris Kenny.
A. That's correct, yes.
Q. That was at about 7 o'clock.
A. That's correct, yes. He rang on his mobile telephone.
Q. You have got in your statement that he booked a room for
a meeting.
A. That's correct, yes.
Q. Was that a motel room in the usual sense, or was it -
A. Yes, it was. He actually booked a motel room
specifically, but when he did arrive I asked him if
anyone was staying, and he asked Doug Milera whether he
was staying the night, and he said no. So that's why I
reconvened them to the conference room. It was set up
for them.
Q. So when the initial booking was made, it was for a room
for the night.
A. A motel room, yes.
Q. That's as you understood it.
A. That's correct, yes.
Q. When he rang you and made that booking, did he tell you for what purpose that room was wanted.
A. No, only for a meeting. He was going to hold a meeting there.
Q. Your statement then records that about five minutes before Kenny arrived, Mr Milera and a man, you called the National Parks and Wildlife man, arrived.
A. That's correct.
Q. Is that at about 8 o'clock, as you have said there.
A. Yes. They arrived just before 8. Mr Milera and the National Parks and Wildlife guy arrived, and Chris Kenny and the caravan arrived after.
Q. You have recorded in your statement that you knew it was Douglas Milera because he was introduced to you as Douglas Milera.
A. That's correct, yes.
Q. By the National Parks and Wildlife man.
A. That's correct, yes.
Q. They waited in the reception area, did they.
A. Yes, they did.
Q. For Kenny.
A. In the foyer.
Q. You have recorded that you served them some drinks while they were waiting.
A. Yes, that's correct.
Q. Is that right.
A. Yes. I served Doug Milera one stubbie, which was a Victorian Bitter, and the National Parks and Wildlife guy didn't have any.
Q. Who paid for that.
A. No-one paid for the initial drink. It was actually onto an account, which I discussed with Chris Kenny, which is the Channel 10 news reader.
Q. Did you discuss that later on with Chris Kenny.
A. Yes, later on.
Q. So when they actually purchased the drinks off you, what
arrangement was struck there and then about the cost of them.
A. I assumed that it was going to go onto an account because during a meeting you usually have an account at the end. No-one actually pays for anything beforehand.
Q. So until Kenny arrived, you just had the room organised rather than the conference room, did you.
A. Yes, that's correct.
CONTINUED
Q. When the National Parks and Wildlife man and Milera were there waiting and having a drink, that was in your statement, was it.
A. Yes, it was.
Q. What was the condition of Douglas Milera.
A. He seemed fine.
Q. I take it that is in the Appollon Motel there at Victor Harbor, and you have a dining room.
A. Yes, that's correct.
Q. A restaurant which is reasonably busy, is it.
A. Yes, it is, yes. During winter, it's fairly quiet and we don't get that many people there during the week days, but it can be quite busy.
Q. If you don't mind me asking: what is your age.
A. 19, yes.
Q. I suppose that, despite your youth, you have seen people drunk from time to time.
A. Yes.
Q. In the motel.
A. No, not in the motel, no. I'm only on the receptionist desk, so I don't see what is going on in the restaurant side of things.
Q. Within five minutes or so, Mr Kenny and his cameraman arrived.
A. That's correct.
Q. I take it that there were four people then, were there:
A. The cameraman and Kenny and the National Parks and Wildlife man and Milera.
Q. You then showed them into the conference.
A. I showed Chris Kenny to the conference room and said 'That might be more appropriate'.
Q. You were on duty that night until when.
A. I actually locked up around about 10.30. They were still in the conference room at that time. I actually went to my room after then. I actually locked up the motel itself.
Q. When you are on night duty, as it were, or on afternoon
duty, you actually stay on at the motel, do you.
A. No, I don't usually, but the bosses were temporarily in
Adelaide and so I stayed over on their behalf.
Q. Did you leave it so that they could let themselves out,
as it were.
A. Yes, that's correct. I told Chris Kenny that.
Q. You went off duty, as it were - and did you say 10.30.
A. Around about 10.30, yes.
Q. Was it the case that they were then in the conference
room, the four of them, from about 8 o'clock in the
evening at least until you left at 10.30.
A. That's correct. I stayed in the room next door to the
conference room and I heard when they left and saw them
leaving and packing their gear into the car. And they
left around about 11 o'clock, as I stated in the
statement.
Q. Was the motel busy that night.
A. No, it wasn't.
Q. Pretty quiet.
A. Yes.
Q. So you took care of this group, did you.
A. I didn't actually take care of them. I took them drinks
into the conference room when they were in the
conference room and they had their 10 minute break and
when Doug Milera came out and when I typed the letter
for them, and that is about it. I didn't have much
involvement in the meeting itself.
Q. Did they have food and drink in the time that they were
there.
A. Yes, they did, yes. I served around about two to three
servings of drinks which were Victorian Bitter stubbies
and they did dial a pizza which is a Dial-a-Pizza.
Q. Did they dial the pizza, or did you do it.
A. No, the cameraman dialled the pizza actually.
Q. That came into you.
A. Yes, that's correct.
Q. And you took it into them.
A. Yes.
Q. The drinks went on the Channel 10 account.
A. Yes, that's correct, yes.
Q. Did you speak to Kenny about that when he arrived, did you.
A. Not when he arrived, but when they had the 10 minute break, that's when when I actually spoke to him just before the break and just before I closed up, that's when I asked him.
Q. Did you tell me two to three rounds.
A. Two to three rounds of beers with three beers in each round of Victorian Bitter.
Q. Was Milera the only one drinking beer.
A. All I did was took them into the conference room, place the beers on the table. I didn't see who was drinking them. I did actually see Doug Milera when I walked in there a couple of times, he did actually have a stubbie of beer in his hand. Whether they were all for him or not, I've got no idea.
Q. You served them into the conference room.
A. Yes.
Q. Three beers.
A. Three beers times by three.
Q. Assuming Milera was drinking the beer, what sort of other drinks did you serve.
A. I served the soft drink to the cameraman.
Q. What about the National Parks and Wildlife man and Mr Kenny.
A. I saw him have a Victorian Bitter too, and I'm not quite sure about drinks for Kenny, but there were drinks on the table and they were all surrounding them. So whether he was drinking that or not, I can't actually say.
Q. Can we be clear then: At the beginning of the evening, you wouldn't have bought in all the drinks for the entire evening, would you.
A. No.
Q. So, there were two to three occasions where you served drinks for the foursome.
A. That's correct, yes.
Q. In separate steps if you like.
A. Yes, that's correct.
Q. Two to three times.
A. Yes.
Q. On each occasion that you took a round of drinks into
the conference room, what did you take in.
A. I took in Victorian Bitter stubbies.
Q. There were four people in there. How many drinks.
A. Only three. Three Victorian stubbies of bitter and
that's all.
Q. And a soft drink.
A. The cameraman came out and got the soft drink from me
from the reception desk. I didn't take that in.
Q. There were three separate occasions where you took three
stubbies of Victorian Bitter into the room.
A. Yes, that's correct.
Q. Your observations of the drinkers in the room were that
Milera was, at some time you saw, drinking stubbies of
Victorian Bitter.
A. Yes, that's correct, yes.
Q. The National Parks and Wildlife man.
A. I saw him drink one, but whether he drank another two, I
don't know.
Q. What about Chris Kenny.
A. I never actually saw Chris Kenny drink a beer, so.
Q. What was the state of play, can you tell us; did you
tidy up in the morning, for instance.
A. Yes, I did actually, yes. I was working the next
morning.
Q. Can you tell us what was left then.
A. Just empty stubbies of beer and the Dial-a-Pizza box
which was half eaten, the pizza was half eaten.
Q. Were the drinks itemised on an account.
A. It wasn't that, actually it was a total amount that I
sent to Chris Kenny, but we do have an itemized account
at the motel for our own records.
Q. If you look - do you have your statement in front of you, not the one that you gave to the inquiry agent, but the Exhibit 71. Have you got that.
A. Yes.
Q. You have said there: `Mr Milera had two to three stubbies of Victorian Bitter'.
A. Yes, that's correct.
Q. And is that correct, or is that, to some degree, an assumption.
A. I assumed when I was taking three in, they were for all the three - which is Doug Milera, Chris Kenny and the National Parks and Wildlife guy. I did actually see Doug Milera actually drink the Victorian Bitter stubbies.
Q. When these people first arrived, that is Milera and the National Parks and Wildlife man, they were in the reception area in your company, weren't they.
A. Yes.
Q. For at least five minutes, or thereabouts.
A. Yes, that's correct, yes.
Q. Did they speak to you during that time.
A. No, they didn't, no.
Q. You did, at some stage, have a conversation with Doug Milera.
A. Yes, I did. When they actually - they broke for about ten minutes and Doug Milera came out and asked whether he could buy a flagon, and I said no. I actually referred him down to one of the bottle shops down the main street, or the Crown or the Hotel Victor who would have been able to help him. And that's when he said to me `The truth is going to come out', and I said `As long as you tell the truth, you know'; that's basically it, yes.
Q. This was during the ten minute break they had.
A. That's correct, yes.
Q. You have set that out in p.2 of your statement.
A. Yes.
Q. He said `I'm going to get myself into trouble here with what I'm saying'.
A. That's correct, yes.
Q. That is your memory of it.
A. Yes.
Q. Your response to that, you have said is: `Fair enough, all you have to do is tell the truth'.
A. Yes.
Q. Did you have an inkling of what was going on.
A. I had an inkling of what was going on. I didn't actually get myself involved. It's really none of my business. I was there to work and that is all.
Q. What was the inkling you had of.
A. It was something to do with the Hindmarsh Bridge. I was speaking to Doug Milera and he said something of the Hindmarsh Bridge and I didn't actually ask, didn't ask any questions or anything like that. I left it as it was.
Q. When did he mention the Hindmarsh Island Bridge.
A. As I was speaking to him, he said `I'm going to get myself into trouble here'. He mentioned something about the Hindmarsh Bridge.
Q. Is there anything more you can remember about that conversation.
A. No. It was a very short and sweet conversation, except for that he wanted to buy a flagon and that is when I referred him down to the main street. That was all.
Q. He didn't leave to go down the main street.
A. No, he didn't, no.
Q. During the break when they all left the conference room, did they leave and go to the toilet.
A. They all didn't leave the conference room. It was mainly Doug Milera that came out and Chris Kenny and the cameraman was still in there. The cameraman came and went when they were not filming, otherwise the three of them were in there and the cameraman was the 4th one.
Q. You see there at the bottom of p.16 of your statement, you say `During the break, the National Parks guy talked..."
K.J. MULHERN XN (MR SMITH)

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

A. Yes, that's correct too.

Q. When did that conversation take place.

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

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

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

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

A. Yes, there is.

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

A. That's correct, yes.

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

A. No, it was billed out.

Q. Is it $50 for the conference room.

A. Yes, that's correct.

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

A. Yes, I was, yes.

Q. To the Federal Minister, Mr Tickner.

A. That's correct, yes.

Q. Can you tell us how that came about, what happened.
A. During the meeting, the National Parks and Wildlife guy came out and asked whether I had a typewriter and I said `Yes, I did'. And he was going to type it up and I offered on his behalf I could type it for him. That is when he gave me a piece of paper that had the letter written on there and I typed it on his behalf.

Q. At what stage of the evening was that.

A. That was towards the end of the night in between 10 and 10.30.

Q. Did you, from time to time, go into the room whilst -

A. I only went into the room when it was with the pizza, but other times when they broke that's when I actually took the beer in and entered into the room when the meeting, where the meeting was there.

Q. Looking at the two letters produced, which are Exhibit 61. First of all, you're looking at the top letter. Is that a handwritten letter.

A. That's correct, yes.

Q. Had you made any contributions to that letter at all or alterations.

A. I hadn't made any alterations, but the spelling of one word I wasn't quite sure on, so I actually asked the National Parks and Wildlife guy how to spell it and that's in my handwriting underneath the word.

Q. What is the word.


Q. You have printed that out under the word, have you.

A. Yes, that's correct.

Q. Apart from that, you have made no changes to that handwritten letter yourself.

A. No, I haven't actually made any changes. What is down below in my handwriting, it has `Doug Milera' because the National Parks and Wildlife guy said so, and also the Minister of Aboriginal affairs is like abbreviated and I wrote it in full. That was for my benefit really.

Q. You see up the top there, there is `Kumarangk'.

A. Yes.

Q. Printed out.
A. Yes.
Q. That is your handwriting.
A. No, it's not.
Q. Down the bottom, we have a couple of attempts at the spelling of `Armitage'.
A. Yes. No, that's not in my hand.
Q. Apart from the alteration to Binalong, was that letter presented to you as it is there.
A. As it was, that's correct, yes.
Q. That was your draft from which you typed the letter, which is the second letter in that exhibit.
A. Yes, that's correct.
Q. Looking at the second letter, is a copy of the typed letter; is that the letter you completed.
A. It's the way that I set it out. I can't actually remember exactly what I actually typed. It does actually look like the letter I typed, yes.
Q. You will see that the typed-up letter or the copy of it which you have there in that exhibit is dated 6 June, 1995; that is right.
A. Yes, that's correct.
Q. We have agreed that it was Monday the 5th.
A. Yes.
Q. What's the explanation for that date, if there is one.
A. On the Monday night on the 5th, when I type a letter for my bosses, I always put the next day's date on it as though it's going out in the mail on that date, and that's why it was typed `6 June' because I'm into the habit of typing the next day's date on it. That is the reason.
Q. I take it that some conversation passed between you and the National Parks and Wildlife man concerning the letter.
A. Yes.
Q. Beyond, you know, `Would you type it for us'.
A. Yes.
Q. Can you remember what was said between you.
A. There wasn't a huge conversation. I mean, what he did
K.J. MULHERN XN (MR SMITH)

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

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

A. Basically, yes.

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

A. No.

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

A. Yes.

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

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

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

A. Yes.

Q. What was his condition.

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

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

A. Yes.

Q. And he stood up.
K.J. MULHERN XN (MR SMITH)  
XXN (MR KENNY)

1. Yes.
2. Q. Erect.
3. A. Yes.

CROSS-EXAMINATION BY MR KENNY

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

Q. We have a record of a statement that was taken from you by someone called Eddie Seskis.
A. Yes, that's correct.
Q. Do you remember him.
A. I do remember him on the day that he came, yes.
Q. Did he arrive unannounced, or did he ring up and ask to see you first of all.
A. No, he arrived unannounced.
Q. Did you ask where he was from or what he was doing.
A. No, he actually introduced himself as a private investigator 'And also I am down here on behalf of Doug Milera's solicitor', and that is as far as it went.
Q. Were you surprised that Mr Milera was able to have private investigators coming down to see you.
A. Didn't even think of it.
Q. Did he mention anything about the solicitors that he was representing or acting on behalf of.
A. No, only that he was acting on behalf of Doug Milera's solicitor, that's all.
Q. He took all this on tape.
A. Yes, he did, yes.
Q. When he left did he say anything about what he would be doing.
A. He said that he would actually fax through the statement for me so I could actually read through and sign it.
Q. And he did.
A. Yes, he did.

CROSS-EXAMINATION BY MR MEYER

Q. You talked about typing the letter.
A. Yes.
Q. And the Parks and Wildlife bloke I think you say brought out the letter.
A. Yes, he did, yes.
Q. Did he bring the letter out of the room already written.
A. Yes, he did, yes.
Q. Did you keep a copy of the letter.
A. No, I didn't, no.
Q. Or did you just give the typed letter to him.
A. I just typed the letter and gave him both of the copies, which was the handwritten one and the typed one.
Q. Did you ever see Doug Milera with the letter.
A. No, I didn't, no.
CROSS-EXAMINATION BY MR LOVELL
Q. Just so I am clear, you were at the reception desk most of the evening apart from the time you served the drinks.
A. Yes, that's correct.
Q. The conference room is where in relation to your reception desk.
A. It is actually towards the back of the motel near the restaurant on the side of the motel. So you walk through the reception area, you walk through the restaurant. There is two sides of it. On one side is the restaurant towards that side (INDICATES), the conference room is off on the other.
Q. You couldn't see into the conference room from your reception room.
A. No, I couldn't, no.
Q. In this ten minute break that we have talked about, how was it that Mr Milera came to be by the reception desk.
A. He didn't actually come to the reception desk. I was in the restaurant cleaning up after the evening meals and that is when he actually came to me and asked me if he could buy a flagon off of me.
Q. He also mention something to you about the bridge problem.
A. Yes, he did, yes.
Q. Was that something that he volunteered to you.
A. Yes, he did.
Q. I think, at that stage, you didn't even know what it was all about, did you.
A. I had a clue, but I didn't take it any further than that. I didn't ask any questions. Yes, Doug Milera did actually say it on his own behalf.
Q. Was he quite friendly, chatting away to you.
A. He was just chatting, yes.
Q. Just generally.
A. Yes.
Q. He didn't appear to be particularly upset about
   anything.
A. No, not upset. He knew what he was going to say was
   going to get him into trouble. That was basically all
   he said to me.
Q. You have mentioned a couple of things that were said
   about the flagon. Was there something else that you
   chatted about or was it just general chit chat.
A. Basically he said he was going to get into trouble and I
   just said as long as you tell the truth and about the
   flagon and that was all.
Q. When you said you have got to tell the truth, what did
   he say to that.
A. I mean, he didn't say anything really. He was just
   quiet. He didn't seem happy and he didn't seem sad, so
   I suppose you could say it was in between.
Q. Right at the start of the evening when they all came you
   had initially booked a room and it got changed in the
   conference room.
A. Yes, that's correct.
Q. At that time I think you were the one who asked Mr Kenny
   whether anyone was actually going to be staying the
   night.
A. Yes, that's correct.
Q. It was at that time that Mr Kenny turned to Mr Milera
   and asked him if he was going to be staying there.
A. Yes, that's correct.
Q. And Mr Milera said 'No.'
A. Yes, that's correct.
Q. No-one gave any reason for that.
A. No.
Q. No-one said anything else, at that time.
A. No.
Q. And it was then that you suggested that they could use
the conference room.
A. That's correct, yes.
NO FURTHER QUESTIONS
WITNESS RELEASED
ADJOURNED 11.15 A.M.
RESUMING 11.30 A.M.
MR SMITH CALLS
SUE LOUISE LAWRIE SWORN
EXAMINATION BY MR SMITH

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

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

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

Q. Have you got a copy of your own statement.
A. I do.

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

Q. I take you to p.4. I think you have made a slight alteration on p.4, have you not.
A. Yes, just a minor alteration, where we refer to proper nouns, it is 'kairlie' for dog not 'kaitlie'.

Q. Going to p.14, there is a second alteration, is there not.
A. Yes, the spelling of the name of the mother of the woman whose house we were at is H-A-E-S-E.

Q. I think your grandfather was W.T. Lawrie, who, in 1913, was the school master at the Point McLeay school.
A. Yes, that's correct.

Q. In a sense, he is a highly respected if not famous person.
A. Absolutely, yes, almost legendary.

Q. He was appointed, was he not, as your statement makes clear, by the Government Education Department.
A. Yes, that's correct. And, despite numerous attempts to promote him and send him back to the city, he always refused to accept because of his dedication to the people at Point McLeay and the Ngarrindjeri people.
Q. And really since his day, since the 1930s, the Lawries have kept up a close association with Point McLeay, have they.
A. Absolutely, yes.
Q. And the Ngarrindjeri people.
A. Yes.
Q. W.T. Lawrie married your grandmother in about 1926, that's right, isn't it.
A. No, they actually married in the late or prior to 1920, but they didn't have children until about 1926.
Q. It was in 1926 that your Aunt Enid was born.
A. Yes, that's correct.
Q. In 1928 your father was born on the mission, wasn't he.
A. Yes, that's correct.
Q. I think your father was named Maclay.
A. Yes, named Maclay. A minor difference in spelling is M-A-C-L-A-Y, not McL and Mac for short, but he was always known as Raukkan Boy, because he was named after the mission.
Q. Accordingly then your father grew up on the mission, is that correct.
A. Yes, he did.
Q. I think he attended school at Narrung Primary.
A. Yes, in that era the schools were segregated and he and his sister had to go to Narrung, which was only about a kilometre away.
Q. He became known, apart from Raukkan Boy, as Mac, is that right.
A. That's correct, yes.
Q. Mac Lawrie.
A. Yes.
Q. He attended primary school at Narrung and high school at Victor Harbor.
A. Yes.
Q. Would that mean that he would stay away from home during the week.
A. When he went to high school, yes, but by that time the barrages had been built and he used to ride his bike
across the barrages from Victor Harbor back to Point McLeay for weekends. He must have been very fit.

Q. He would ride all the way from Victor Harbor to Goolwa.
A. Yes.

Q. Across the barrages.
A. Yes, and the islands and back to Point McLeay.

Q. On completing his schooling, your father I think as you have said in your statement moved to Melbourne.
A. Just briefly, yes.

Q. For what purpose.
A. To do an apprenticeship in the radiography trade, but it didn't suit him. He liked the life on the lakes with the boats and soon came back to Adelaide and set up his own business in a slipway with the boats.

Q. He has been in business at Port Adelaide or he had been in business at Port Adelaide since about, when.
A. Yes, since the very early 1950s, about 1952 until 1958, when he retired, but he still maintained an interest and, of course, was still diving up until about 12 months ago.

Q. So, the business consisted of what exactly.
A. He was a diver, marine contractor, boat repairer. A bit of a dare-devil pilot. Anything unusual that needed doing in the 50s and 60s, before we had a Police Rescue Squad, they would call Mac Lawrie and he was for ever doing weird and wonderful things, whether it was in the air or in the mud or wherever. It was a very, very interesting business.

Q. Moving back to your grandfather, for a moment, I think he retired in 1951.
A. Yes, he did.

Q. And he was still at Point McLeay Mission when he retired.
A. Yes, he was.

Q. And the day he left, what happened.
A. People were amazed that he was actually leaving. He did not want to leave. As I said earlier, every time he was offered a promotion, he refused to go. In fact, at the
time he left, the Point McLeay school had been upgraded
so that its classification was as good as the best high
school in the city, because it was the Education
Department's only means of keeping him there, because he
didn't want to leave. He put his heart and soul into
the education of the Ngarrindjeri people. He believed
very strongly that equality only came through education
and, the day he left and crossed the lake, taking some
Aboriginal children with him, he arrived at the Captain
Sturt paddle steamer where he was to spend the night at
Goolwa and that night he died. The day he left he died.
Q. It has been said in this Commission that, at some stage,
Point McLeay was one of the most literate communities in
South Australia.
A. Absolutely. He prided himself on it.
Q. When was that.
A. Through that era, through - as I say in my statement, he
was there from about 1913 and he really put everything
into making the community literate. He was strict. He
was an authoritarian, but highly respected and the
standard of education, I am told, not just by my own
family, but by people who were taught by him, was very,
very high.
Q. He was respected and loved by the Ngarrindjeri people.
A. Absolutely.
Q. Your grandmother, she lived in the community with your
grandfather.
A. Yes, she did.
Q. For all that time.
A. Yes.
Q. You describe her as a softly-spoken and motherly woman.
A. Yes.
Q. Was she involved in teaching in anyway.
A. Not in teaching as such. However, she was very heavily
involved in cooking classes, sewing, hygiene and she was
very welcoming and always in the homes of the women,
particularly when they had young children and babies,
explaining on the care and health issues to do with
young children and she was again very highly respected. She was very, very loved. And, in fact, the home that my father was born in on the mission is still standing and, when it was in disrepair, about five or six years ago, I had discussions with some of the women about perhaps having it renovated and using it as a centre for women. That has, in fact, happened and it is used as a skills type area for the women at Point McLeay, or Raukkan, as it is now known, and they have requested a picture of my grandmother in her memory to hang alongside Aboriginal women who are held in similar esteem.

Q. You grew up, however, whilst living at Alberton.
A. Yes, I am a Port Adelaide girl.
Q. However, even growing up as a young girl, did you spend much time back at Point McLeay.
A. We would return regularly whenever there was unfortunately funerals and I, in particular, would accompany my father to those events. Don Dunstan unveiled a foundation stone in the 60s and that was just one of several occasions when we returned. Through the 70s possibly not as much, but from the mid 80s onward I have made a particular point of returning as often as I can with my father. Sometimes for planned events, sometimes just to go and talk to people and reminisce, if you like. In the past five years, I would have been there approximately six or seven times for things like NAIDOC week, events associated with the school, the opening of the community centre. And sometimes just to plain visit. And I have had a very enjoyable time and been welcomed with open arms always.

Q. And going back to your childhood days at Alberton.
A. Yes.
Q. How often would you or your family go back to Point McLeay to visit your grandparents.
A. My grandfather had passed on and my grandmother was no longer there. After he died, she suffered a fairly serious accident and was bedridden back in the city.
But we would visit when there were events happening at Point McLeay or for funerals, weddings, those sorts of things.

Q. Would that be, I think you have said in your statement -
A. Once a year.

Q. Once a year.
A. Yes.

Q. Has the welcome that the Lawrie family have had at Point McLeay lessened over these years.
A. If anything, it has increased in recent years.

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

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

CONTINUED
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She very clearly, to me, was the matriarch of the community. She was held in very high regard. She was a strong, forceful woman, who knew what she believed in and stood by her beliefs very staunchly. A very upright, strong citizen, not just in her own community.

I think that she would have been well known, the sort of person she was. In more recent times, a person who stands out in my mind - and she is not in the same age bracket - is Jean Rankine. She is a woman with a quiet dignity, who seems to get things done, and is very highly regarded at Point McLeay. Whenever there have been things happening, she has been very quick to contact our family and include them in any invitations. And if we have turned up unexpectedly, just to go and have a visit at the old home, she has always welcomed us and taken us in and shown us around. She has a certain aura of authority and respect.

Q. Had you ever met Nanna Laura, the daughter of Pinkie Mack.
A. No. I had heard of her frequently but at that point I hadn't met her.
Q. We have been referring to her as the daughter of Pinkie Mack in this inquiry.
A. Yes.
Q. You did meet her, however, didn't you.
A. I did. I did.
Q. When you were at kindergarten, I take it that was in the city, in the Alberton area.
A. Port Adelaide.
Q. I think you had an Aboriginal teacher.
A. Yes, I did. Dora Hunter. She was a very strong influence on my life. I was very shy as a child - as a young child, and I sometimes blamed Dora Hunter for not being so shy and perhaps being a bit more out spoken now in later life, because she has spent a lot of time drawing me out and paid a lot of attention to me, and was one of the strongest early influences on my life.
A. She was also an extremely good friend of Rebecca Wilson,
and visited in my home with Rebecca Wilson when I was a young child.

Q. They were active women, weren't they.
A. Very, very.

Q. In the sense of -
A. They were strong, they were vocal, they were active and highly respected in their communities.

Q. By 'active', I mean activist. In the sense of taking up local issues, for instance.
A. Absolutely, yes.

Q. So that is both Miss Hunter, your teacher; and Rebecca Wilson.
A. Yes. Miss Hunter is still alive, and I bumped into her a few years ago. She is relatively young compared to say Rebecca Wilson, and she was working for the Department of Community Welfare at Port Adelaide, and I believe, the last I heard, was at Woodville. But she is still working in that community welfare field amongst her people.

Q. Rebecca Wilson, who is now deceased, isn't she.
A. Yes, yes.

Q. She was very much a person who spoke about issues, wasn't she.
A. Yes.

Q. Was she a person who was looked up to in the community for advice.
A. Absolutely.

Q. Was she a Christian.
A. Staunchly so. She made a point of making sure people realised what her value system was.

Q. Have you met the older daughter of Rebecca Wilson, Leila.
A. I recall meeting Leila at Point McLeay on a couple of occasions over the years, but I don't recall meeting her other daughter.

Q. Her other daughter being Veronica.
A. Yes.

Q. Veronica Brodie.
A. I may have met her, but I don't recall meeting her.
Q. And Leila is dead, is she not - deceased.
A. Yes.
Q. Did you have occasion to go to Rebecca Wilson's house.
A. Just once as a child. We visited her at her invitation.
She was in an attached - those double unit Housing Trust
places you see a lot of in the western and northern
suburbs. It was at Athol Park, quite close to Torrens
Road. I could take you there, but I can't tell you the
exact address.
Q. You are now living, I think, and working in Darwin. Is
that right.
A. Yes, that's correct. I work in Darwin.
Q. You have maintained an interest in the Aboriginal
community at Point McLeay.
A. Yes.
Q. I take it you have been following the tortured events of
this inquiry, have you.
A. To some extent. I mean, obviously earlier on there was
a huge interest, but being in Darwin, the news isn't as
frequent, and I rely on what family members remember to
tell me, which is sometimes a bit sketchy.
Q. Do you know about, and did you hear at the time it was
unfolding in this inquiry, of the evidence of Betty
Fisher.
A. Yes. My family were quite incensed at the time, so I
received a phone call about it.
Q. The thrust of the evidence of Betty Fisher, as you
understood it, was that Rebecca Wilson had confided in
Betty Fisher. Is that as you understood it.
A. That's as I understand what I'm told was said in the
inquiry.
Q. What is your view about that.
A. I just laughed -
OBJECTION: Mr Kenny objects.
MR KENNY: If I may just interrupt here?
MR ABBOTT: On what basis does he interrupt?
MR KENNY: I interrupt on the basis that I think
this witness's opinion is irrelevant. As best as I can
tell at this stage, she is now talking about her
kindergarten teacher's friend.
WITNESS: No, no, that is not correct.
MR ABBOTT: I ask on what basis does Mr Kenny make
any objection? It is counsel assisting's responsibility
to lead whatever evidence he feels is relevant.
COMSR: It is for me what weight I give to the
evidence. The more speculative it becomes, the less
weight attaches to it. But I gather that, in any event,
the witness feels that you have misapprehended the basis
on which she has given the evidence.
WITNESS: Absolutely.
COMSR: Perhaps if we can elicit from the
witness.
MR KENNY: Perhaps a little more information about
when she actually knew Rebecca Wilson, how old she was
and the time.
COMSR: I am sure Mr Smith will -
MR KENNY: Also, Mr Wardle, I presume hasn't -
perhaps he has been advised of this piece of evidence,
but he is certainly not here to ask any questions in
relation to it. I think he at least should be given the
opportunity to discuss this point. I think it is
appropriate that, if he wishes to take some objection on
this point, that he be given the opportunity to do so.
COMSR: Perhaps if we get the evidence..
MR KENNY: What I am saying is perhaps this witness
can be -
COMSR: If Mr Wardle wishes the opportunity to
come and cross-examine the witness, I understand she is
likely to be available -
MR SMITH: She will be in the witness box for
virtually the rest of the day. I undertake to notify Mr
Wardle.
MR KENNY: Perhaps this evidence can be left until
Mr Wardle -
MR SMITH: No, it is not going to be left.
MR KENNY: I would ask that counsel assisting at least establish on what basis this opinion is based.

Q. You have spoken about Rebecca Wilson.
A. Yes.
Q. And the degree to which you knew her.
A. Yes.
Q. Could you elaborate on her a bit.
A. I thought it was reasonably clear that I separately knew Dora Hunter, and I knew Rebecca Wilson under completely different circumstances. And Dora I knew from a very young age, from about two and a half to three. Rebecca I knew from a similar age, but separately. From the time I was about 7 or 8, I realised that they were close friends, and there were occasions from about that age when I saw the two of them together on a number of occasions. They visited in my home together, and separately, Rebecca Wilson was as strong, if not a stronger friend and acquaintance as Dora Hunter, but they both were friends and acquaintances, both separately and together visiting my family and vice versa.
Q. Going back in time, Rebecca Wilson was a long time resident at Point McLeay.
A. Absolutely. She had known my father from the time he was born. She had known my aunt from the time she was born, and had been very close - very very close to my grandmother and, of course, had known my grandfather extremely well. So, if you like, they had known the family through three generations, and I would have considered them close.
Q. You have had reports of the evidence of Betty Fisher.
A. Yes.
Q. What was your understanding of the thrust of Betty Fisher's evidence.
COMSR: I hope we are not going into any detail as to it?
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1 MR SMITH: No.
2 XN
3 A. It was my understanding that the thrust of the evidence was that Rebecca Wilson had told someone she had only known for a very short period of time, details that I would not have considered the sort of subject matter that Rebecca Wilson would talk about to anybody.
4 MR KENNY: Just in relation to my earlier objections. It appears from that information that the witness's dealings with Rebecca Wilson was when she was 7 or 8, and now she is giving an opinion -
5 WITNESS: And upwards. And upwards.
6 MR SMITH: I object to Mr Kenny interrupting this examination. He has no interest in this topic. Your leave to Mr Kenny is subject to that.
7 COMSR: Yes, Mr Kenny. The witness has established the basis on which she is giving her opinion. As I say, it is a question of what weight one attaches to it in the final analysis, but I think really we should proceed without interruption, because I cannot see that you have a relevant interest in this particular passage of evidence.
8 MR ABBOTT: I join in that. He can have no possible interest in it. This evidence -
9 COMSR: In any event, I think I have made it clear to Mr Kenny.
10 MR KENNY: I accept your ruling. I understand your direction that I not ask any further questions.
11 COMSR: It is not that you are not to ask any further questions, but your questions must have a more direct connection with the party you are representing.
12 XN
13 Q. Your understanding then was that Mrs Fisher had conveyed to the inquiry that Rebecca Wilson had confided special sacred information to her.
14 A. Yes.
15 Q. What is your reaction to that.
A. My reaction was that does not sound like the Rebecca
Wilson I knew when I was growing up. She had very
strong principles, and she would not divulge things to
strangers. She was not that sort of person. She would
think - she was very measured in her approach, and would
have thought very carefully before discussing anything
of a private nature with people she knew, let alone
strangers.
Q. Is that your personal reaction, or was that the reaction
also of other members of your -
A. That was also the reaction of my parents, both my
parents, and, I might add, my sister, whom I am staying
with at the moment.
Q. Can I take you to 27 November 1994.
A. Yes.
Q. I think that was a day of special significance, was it
not.
A. Yes. Yes, it certainly was.
Q. What was the significance.
A. My father, mother and I returned to Point McLeay, or
Raukkan, for a special back-to-Point-McLeay celebration
weekend. It was a Sunday. The celebrations had been
going on on both days. We arrived shortly after lunch
and spent the entire afternoon there. I particularly
spoke to a woman that I hadn't met previously, but I
came to know as Maggie Jacobs. I spent a great deal of
time reminiscing with her, and talking about my plans at
some point in the future to write a book on my father's
life. I took a number of photographs that day of her,
and other people at Point McLeay, and of the old family
home, and we generally had a wonderful time. She
encouraged me to come back and speak to her at greater
length. She actually lives in the city but spends quite
a deal of time out there, and suggested we get together
at some point earlier in the year so that she could tell
me her anecdotes and reminiscences of early life at
Point McLeay. She herself had left as a teenager, but
had very clear memories as a child.
Q. Did you have in mind taking your father along, too.
A. Absolutely. My father, since his retirement, finds it very difficult - having had such an interesting life, finds it very difficult filling his days of retirement with things of enthusiasm, of interest, and I thought it was a really good way to give him something to look forward to, and for him to get his memories on tape as well.
Q. Around about this time, I think there was an Adelaide journalist who -
A. Yes.
Q. Had plans to write such a book.
A. For many years I had had discussions with Jim Robbins, who was a well known local journalist.
Q. Is that R-O-B-B-I-N-S.
A. Yes. Jim had, many years ago, in his day-by-day column, and other columns, covered the exploits that my father was involved in, and really had a huge interest in him, and saw him as one of South Australia's true characters, if you like, and kept telling me that the book must be written, and that he had extensive files of his own, and had always said that we should sit down together and do the book. He was well aware of my interest, but unfortunately his health deteriorated very rapidly and he passed away. I had a very strong sense of having missed the boat, and that unless I acted quickly to start getting things on tape and photos and memorabilia, that it might be completely lost.
Q. While you were at Raukkan or Point McLeay on that day, 27 November, this publication was available, was it not.
A. Yes. I have my own copy here.
Q. A publication entitled "Trodden Thru Raukkan".
A. "Trodden Thru Raukkan'. That's so typical, that expression. That is one of the things that got us talking. I purchased my own copy that day, which I'm very proud of.
Q. I think you can purchase this publication for $8 or so from the South Australian museum.
A. If it hasn't sold out. I think it has probably had two
or three runs by now.
Q. Can I quickly just have you refer to a couple of things
in the book. Turning to p. 6 of that publication, I
think there is a photograph on top of p. 6 which includes
a group of people, including Maggie Jacobs. Is that
right.
A. Yes, that's correct.
Q. I think that photograph is taken at Dulcie and Lindsay
Wilson's house, is that right.
A. Yes.
Q. I think at p. 7 there is a photograph of the daughter of
Pinkie Mack.
A. Yes.
CONTINUED
Q. Going to the back of p.51 of the publication, I think we see an old photograph of Rebecca Wilson when she was 42 years of age.
A. Yes, that's correct.

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

Q. Your admiration for your father, was that shared by the community at Raukkan.
A. Absolutely. Some of the occasions in the past five years when I've returned, it has been without him and they always speak of him with a very great affection, 'Their Raukkan boy Mackie', and they are always telling me about wonderful things to do with his childhood and things since when he had contact with the community as well as WT. They speak very, very highly of him.

Q. Later on that day - and we are still on 27 November 1994.
A. Yes.

Q. Back to Point McLeay celebrations, I think you spent some time at the house of Jean and Henry Rankine.
A. That's correct, yes.

Q. Did you have discussions about your proposed book.
A. Yes.

Q. Anecdotes and things like that.
A. Yes. Particularly with Jean, although Henry was involved in the discussions as well.

Q. I think Jean Rankine told you about the photograph that had been taken at recent times at Point McLeay.
A. Yes, she - she was joking about it, but every time I've been back there, people say that the spirit of WT is still there and the people have seen him. I joked a bit about this particular occasion and she said that the photograph had been taken in recent times and people claimed WT is in the photo. He smoked a pipe and wore a hat and was very tall and the children would know he was coming because they would see the smoke rising in the pipe. This is one of the anecdotes that I often hear. In this particular photo, it's said people claim
they could see the smoke from the pipe and the hat in
the background. Just like students had always said many
years ago they could tell WT when there was a pipe and
smoke and the hat and claimed it was in the photo. I
didn't actually see the photograph.
Q. I think there is a belief, isn't there, in the community
about the juxtaposition of his death and departure.
A. Absolutely. People always comment to me on the fact
that he didn't want to go and that is why he died the
day he left; that he was broken hearted and didn't want
to leave the community. I might add that Jean Rankine
also told me a few years ago when I visited with her
family who had lived in that same area, the Green
family, we visited about four years ago now and they
were just opening up the old home as a Women's Centre,
and she and Henry took us all through the house. I had
the strangest experience. I could smell mutton cooking,
and I haven't smelt mutton cooking since for a long
time, and I pulled my son aside and said 'Can you smell
that roast, there's no stove going', and I could smell
mutton cooking. At that moment, Jean said, she was with
the rest of the group and said 'People say they can
still smell mutton cooking in the oven here and her
presence is still here'. My son and I looked absolutely
shocked. We had been talking about smelling roast
mutton and couldn't understand that we could smell that.
Q. Is there talk about the spirit of your grandfather.
A. People do talk about it and the presence still being
there in the house and the community.
Q. I take it you were somewhat, as you have said in your
statement, full of excitement about the prospects of
this book.
A. Absolutely, yes.
Q. In November 1994 when these celebrations were on, I
think you were still at the university.
A. Yes, I was.
Q. Studying for what degree.
A. Politics and history, Australian history.
Q. You graduated.
A. I haven't as yet.
Q. I think you were offered a position in Melbourne, as you have said.
A. Yes, a temporary position.
Q. Did you take that position.
A. Yes, I did. It commenced in January this year.
Q. In November of 1994 when you were at Raukkan, the Hindmarsh Island Bridge and the controversy surrounding it was still very much in the media and in people's minds, was it not.
A. Yes.
Q. Did you enter into discussions with people about this, or did you steer away from it.
A. No, I didn't. I didn't feel it was appropriate at the time. I didn't, of my own accord, instigate any discussions on the subject and I had not followed - although I was aware of it and clearly had opinions at different times, I really did not pursue that at all.
Q. You knew that the controversy centred about the question of the existence or not of women's business.
A. Yes.
Q. Do you have your own views about that.
A. Yes, I do.
Q. I think as your statement says you were dubious about it for a number of reasons, weren't you.
A. Yes.
Q. Had you ever heard anything of men's or women's business.
A. Never. I had heard of male-only corrobories. I hadn't heard of men's business as such or anything special to do with women.
Q. We are talking here about secret women's business.
A. Yes. There was nothing ever suggested in my childhood to me.
Q. Were you very close to your Aunt Enid.
A. Extremely close.
Q. She had grown up, I think, in Point McLeay.
A. Yes, she had - and like me she made a point of keeping
those ties strong.
Q. She's since passed away.
A. Yes, she has.
Q. When was that.
Q. Had Aunt Enid conveyed to her children aspects of
Aboriginal culture and Aboriginal language.
A. Yes, she had. Her youngest daughter, Bronwyn, in
particular because she remained at home. She could tell
you more nouns than I can. I know things like Kairlie,
K-A-I-R-L-I-E, and Moolyeri, M-O-O-L-Y-E-R-I, for the
magpie.
Q. Kairlie being the word for `dog'.
A. And Moolyeri the magpie. I can't roll my r's the way
that they do. They are much more musical. But my aunt
would often talk to myself and to Bronwyn about her
memories and the culture. And when she passed away, it
was with cancer, and when she knew how ill she was, she
spent a lot of time talking to my niece about customs
and her childhood and her memories of Point McLeay, and
was really particular to pass on any information that
she had. And speaking to my cousin in recent times
about all of this, she's relieved about what is
happening now as she believes the truth will come out.
Q. I'm going to ask you this: None of this is secret or
sacred.
A. Absolutely not.
Q. So there were stories of spirits that you heard.
A. Yes. Mulgewonk was a big part of my childhood. My
father told us lots of stories about tradition.
Q. That is M-U-L-G-E-W-O-N-K-E.
A. Yes. Mulgewonke was a spirit who apparently lived in
Lake Alexandrina and would come and take the spirits of
the dead under the lake after they have died. It was -
you were meant to be able to tell that he was around by
a loud rumbling noise, almost like an earthquake or a
loud rumbling coming from the lake. They would also
tell the children not to go out into the deep waters
because the mulgewonke would get them. I am told - I
have asked lots of people have they ever heard of the
mulgewonke, and asked Maggie Jacobs and a number of
other people and asked and they say no. My father's
family maintain they can hear the rumblings outside to
show a death and the people tell me someone has died by
the rumbling.
Q. I think it's the case, isn't it, that parents of
children used to use these sorts of things as a means of
control.
A. A bit like the boogieman will get you if you go out in
the dark.
Q. They were disciplinary measures.
A. Don't go out into the deep water, or the mulgewonke will
get you.
Q. When your grandparents were residents at Point McLeay
and when you and your father, your family, visited, were
you enquiring about the culture,
A. All the time. As a young child, you embarrass your
parents continually by asking of stories about the
pioneer days, and always think they're really ancient.
And my father would tell us stories about Point McLeay.
He was a great story-teller and every night there would
be more stories about his childhood and the things that
happened at Point McLeay - and the boy who kept his feet
warm in the milk when he was milking the milk. There
are lots of interesting stories and anecdotes that have
come out of this.
Q. When you were a young child but of reading age, did you
read.
A. I was an avid reader. I blame Dora Hunter. She got me
started reading at a very young age. I read the works
the Taplin - and I was nine or ten years of age, which
is around my parents. But I was just so fascinated by
the history of this group of people, and different
aspects really stand out in my mind about the culture.
Q. As you have said in your statement, your father had an
original copy.

A. Yes, he had an original copy and he's recently had it rebound.

Q. Of Taplin's works.

A. Yes, I might add that people like Tindale actually stayed in my father's home and grandparents' home. People who have been associated with the anthropological works of the Ngarrindjeri were closely associated with my grandfather and father, and he has clear memories of these people from childhood and the discussions that took place in the family home.

Q. Is my date correct that your grandfather was at Point McLeay in the days of the Berndts.

A. Yes.

Q. Their fieldwork.

A. Yes.

Q. Did he have any contact with the Berndts.

A. Yes, he did. That was towards the latter end, from memory.

Q. Did you take the view of yourself that you were quite well informed about Ngarrindjeri culture.

A. I believe as far as the non-indigenous community goes, I was quite well informed.

Q. As you point out in your statement, it was from about the 1850s that all Ngarrindjeri people were made to live at Point McLeay.

A. Yes.

Q. And that became, if you like, the headquarters.

A. Yes, of those people.

A. Yes, that centred that settlement.

Q. I think there are references taken from the census which is included in the publication `Troddin Thru Raukkan', Exhibit 74.

A. That's correct. I often refer to it.

Q. The census there is set out on pp.26 and 27.

A. And elsewhere, yes.

Q. And elsewhere.

A. Yes. It continues.
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Q. Is that a good guide as to where people are from and which families are from the area and which families are not.
A. In my opinion it is, because Taplin was absolutely meticulous in his record-keeping and he's quite thorough about where people were from - and even those he was only required by law to detail those people on Point McLeay, he went to great pains to make sure that everybody from all outlying tribes, no matter where the wurley was located, he sent details to everybody in the census.

Q. For the census, Taplin took responsibility recording these people.
A. Yes.
Q. And that is set out in `Troddin Thru Raukkan'.
A. Yes.
Q. That is a key, is it, to assessing which families are genuinely from the area and which ones are not.
A. To a certain extent. Because people were brought in - some of the people brought in were not necessarily from there originally; for instance, the Rigney family. The first Rigney was actually from Albany in Western Australia, and because he was orphaned and a teenager, the South Australian Government demanded that Taplin take him in because he had nowhere else to go. Although he was from a completely different tribe, he was also sent there. That was the way that - quite often, if there was single mothers of children by white men, then they would often be sent there because that was considered to be a nurturing environment, to be taken care of. So although it was mainly Ngarrindjeri people, not necessarily all of them are Ngarrindjeri people.
Q. I think Doreen Kartinyeri was a Rigney, was she not.
A. Yes, on her mother's side of the family.
Q. The other side of the family.
A. Kartinyeri. The `Kartinyeri' name is by adoption.
Q. So, she is a Kartinyeri by adoption.
A. Two or three generations.
Q. And a Rigney by adoption as well.
A. Yes.
Q. Is this the case from what you know of the genealogies, that Doreen Kartinyeri has Ngarrindjeri names on both sides, but they're by adoption rather than birth.
A. Yes.

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

Q. You say, in effect, that you had inquired into the available records.
A. I have inquired. I don't pretend to be a genealogy expert. Because of my knowledge, I have inquired into it and have the relevant lineages in my possession.

Q. Sally Kartinyeri.
A. Yes, that is her married name.

Q. Again, where does she come from.
A. From Poonindie, which is from Port Lincoln, the other side of Port Lincoln.

Q. That is Doreen Kartinyeri, the Auntie Sally we are talking about.
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1. A. Yes - grandmother, sorry.
2. Q. Nanna Sally Kartinyeri.
3. A. Yes.
4. Q. She comes from Poonindie.
5. A. Yes.
6. Q. That is the other side of Port Lincoln.
7. A. Yes.
8. Q. Again, is she a Ngarrindjeri person.
9. A. No. People from Poonindie are in no way related to the
10. Ngarrindjeri.
11. Q. She married someone whose name was Kartinyeri.
12. A. Yes, by adoption.
13. Q. You offer this to us on the basis that if there was
14. secret sacred knowledge to be passed down amongst the
15. Ngarrindjeri people, you would expect it to be to people
16. who have true ties and lineage.
17. A. Yes.
18. CONTINUED
Q. I take you to the topic of the centenary celebrations in the 1930s of Sturt's voyage down the Murray.
A. Yes.
Q. In 1930 it was approximately 100 years since they had mapped out the Murray and travelled down it, isn't that the case.
A. I am not too sure of the dates.
Q. But that was the centenary celebration, anyway.
A. Yes, in the 1930s.
Q. I think there was a major re-enactment of Sturt's voyage down the Murray in the 1930s.
A. Yes.
Q. And your family had something to do with that.
A. My grandfather took my father and Tom Rowlands, who was the son of the nurse on Point McLeay, across to the celebrations. They had done a complete re-enactment along the river system to the lakes. They had stopped off at Point McLeay briefly, but it culminated on Hindmarsh Island with a male-only corroboree.
A. Yes, I did.
Q. It was in about March of 1995 that you had some contact with the politician, Ian McLachlan.
A. Yes, that's correct.
Q. He had resigned from the front bench.
A. Yes.
Q. What was the nature of his contact with you.
A. A friend of mine, who has known of my association for many years, rang me one night after a few drinks with friends in Canberra and said 'Why aren't you doing anything about all this?' And I said 'Well, I don't really consider it appropriate.' And they suggested I should talk to all sorts of people, which I refused to do. But, after the conversation, my conscience pricked me a bit and I decided to ring Ian and just say how sorry I was to hear what had happened and - which is basically what I did. He wasn't there, at the time. I
spoke very briefly to Peter Miller, one of his staff, who did not know me or my background and I basically sent my commiserations and mentioned that I had a background relating to Point McLeay. Approximately a week later Ian McLachlan rang - he recognised who it was - rang and thanked me and said he was very surprised to hear that I had a connection. I mentioned that I was planning to come over at two or three different points, in the coming months, but, you know, said that I may or may not contact him if there was anything I thought was relevant, but I certainly would not question people specifically on the subject. I would not be trying to elicit information on the subject from people. But it was just a brief conversation.

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

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

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

A. Yes, I did.

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

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

Q. It wasn't a case of you reporting back, for instance.
A. Absolutely not. And, even if I had, it wouldn't have been of much interest, the sorts of things we discussed.

Q. That was in March, then, that contact with Ian McLachlan.

A. Yes.

Q. Through Peter Miller.

A. Yes.

Q. March 1995.

A. Yes.

Q. I take you to 1 April 1995, that was a Saturday, and I think you went to Point McLeay with your father.

A. Yes, and my son.

Q. And your son, Rob.

A. Yes.

Q. The purpose of the visit was.

A. To discuss with Maggie Jacobs, and anyone else, the stories of years gone by, their memories of life on Point McLeay, with my father and W.T.

Q. It was Maggie Jacobs's birthday, wasn't it.

A. Yes, it was, it was her 75th birthday.

Q. I think you spent several hours with Maggie Jacobs, Daisy Rankine and Patrick Byrt.

A. Yes.

Q. A white lawyer.

A. Yes, and various other people.

Q. Daisy Rankine, is she one of the Aboriginal women at Point McLeay.

A. Yes, she is.

Q. You now understand, I think, that she is a niece of the daughter of Pinkie Mack.

A. Yes.

Q. She has some association with the solicitor, Patrick Byrt, does she.

A. Yes.

Q. What, can you explain that.

A. Only from what I observed and was told on that day. She had written - she told me that she had written a letter to the Queen and that she was concerned about an address
that had been made by Taplin when Prince Albert visited
and that she wanted this address returned. And I found
it very confusing and had to question her two or three
times, to make sure that I had heard correctly, that
that is exactly what she was saying. And that she was
doing this at the suggestion of Patrick Byrt and that
they had worked in together to write this letter to the
Queen. And, when I said `Well, what is the concern?',
she said that - or they both said, Patrick in
particular, that `Nobody knew what was in that address
and we don't know what has been given to the prince by
Taplin. I mean, has he given away our right to land?'
And, with my historical studies, I was aware that we
were set up differently here in South Australia, where
you couldn't just give away land like that. And I was
amazed, but decided to keep my own counsel on it,
because the whole thing seemed very strange to me. But,
nonetheless, they had worked in closely on this project.
Q. Can you just explain that. An address be given -
A. Yes.
Q. Was given and ought to be given back.
A. Yes, a speech was given on the foreshore, when Prince
Albert had visited Point McLeay, during the - his royal
visit.
Q. And that was how long ago.
A. Probably the 1850s, it could have been early 1860.
Q. What is Albert, the, what, the husband of Queen
Victoria.
A. Yes, I assume so.
Q. Or one of the princes.
A. Just one of the princes, when he was here. But I was -
it didn't make a lot of sense to me, but I did question
her two or three times, to make sure that I had my facts
straight.
Q. And that the letter to the Queen was a current letter.
A. Yes.
Q. That he had encouraged Daisy Rankine to write.
A. Yes, it was written this year.
1 Q. Going back over 100 years almost.
2 A. Yes.
3 Q. I think there were other discussions that you became involved in -
4 A. Yes.
5 Q. Concerning Patrick Byrt, about Aboriginal culture and comparing it with Russian culture and that sort of thing, wasn't there.
6 A. Yes.
7 Q. Did you ask any questions about Hindmarsh Island.
8 A. No.
9 Q. What about your father in your presence.
10 A. When we were discussing things like mulgewonke and there was another thing that came up about Willy Wagtails being messenger birds and bringing messages of death, when these discussions were taking place, my father said `How were secrets passed on?'
11 Q. Who is he talking to, at this stage.
12 A. He was talking to Maggie, but there was a group of women there. He said `How are secrets passed on now?'
13 Q. A group of women, including Maggie Jacobs.
14 A. Yes, and she initially said `There are no secrets.' And then having said `There are no secrets', she stopped and said `Except, of course, the one at the moment.' And then elaborated and said `Women's business.'
15 Q. So, Maggie Jacobs said initially `There are no secrets.'
16 A. Yes.
17 Q. And then what happened.
18 A. Then she stopped and corrected herself and said `Oh, of course, this one, at the moment.' And then paused again and said `The women's business.'
19 Q. The birthday celebrations, as you say in your statement, took place in the hall.
20 A. Yes.
21 Q. I think it was at the celebrations at that place or shortly afterwards that Maggie Jacobs invited you to a reconciliation meeting at Graham's Castle at Goolwa.
22 A. Yes.
Q. That was to be on the Anzac weekend.
A. Yes.
Q. Were you keen to go along.
A. Initially I felt like I would probably be an outsider
and perhaps it wasn't appropriate. I was keen from the
point of view of I wanted to get more information and do
more research, but I said to her `Look, I don't know
what it would be appropriate.' And she said `Don't be
silly, you are one of us, you should really be there.'
And she was quite insistent and, after two or three goes
at me, I said `Well, I will make enquiries as to whether
I can get back and, if I can, I would be delighted to
attend.' And then I was quite excited at the thought of
going.
Q. And `get back' meant coming back from Melbourne.
A. Yes.
Q. Where you were working.
A. Yes.
Q. For Ken Aldred.
A. Yes.
Q. She impressed upon you its significance to the extent
that you were prepared to come back from Melbourne.
A. I said if I could get a cheap airfare, I would be happy
to come back.
Q. I suppose at the back of your mind in all this was the
book that you were hoping to write about your father.
A. Yes, absolutely. I might add, while all this is going
on, I - the book was the prime motivation and I was
planning a major party for 9 July where I was pulling
together all sorts of people from my father's background
for a big party here in Adelaide with a view to videoing
the whole thing and getting all the anecdotes on tape,
which has since happened and was a tremendous success.
Q. In the context of the invitation to the reconciliation
meeting, I think Maggie Jacobs, as you have made clear
in your statement, recommended that, if you wanted to
speak to any older women, that the daughter of Pinkie
Mack was the person you should speak to.
A. Yes, she explained that she was the eldest, but that she was in hospital at Murray Bridge. She didn’t know what her health was like, but she did say that she would be the oldest one and perhaps have memories going back a bit further than some of the others.

Q. I will come to that, in a moment, but did you take up - you eventually took up that suggestion, didn’t you.
A. Yes, I did.

Q. And sought out the daughter of Pinkie Mack.
A. Yes.

Q. On the following day, 2 April 1995, you went to Mundoo Island, I think, didn’t you.
A. Yes.

Q. You interviewed there Peter and Jean Grundy.
A. Yes.

Q. Who live on the island.
A. Yes, that’s correct.

Q. I think Peter is a pilot, is he not.
A. Yes, he is.

Q. And he took you on a flight in his aircraft over the Hindmarsh Island area.
A. That’s correct.

Q. You noticed something that you had noticed for the first time, I think.
A. Yes, I was quite surprised. There were the remains of a bridge connecting Hindmarsh Island and Mundoo Island and I questioned Peter on it and he said it had been built about 1930, 1931 to service the island and had been owned by the Government, but it had fallen into disrepair in more recent times because of the dispute about who was responsible for maintenance of the bridge. And very few people would know about it, because it actually connects between I believe the Denver property and Mundoo Island. And the Denver family through the 70s and 80s weren’t terribly keen to let people on to their property and so, unless you were closely associated with one or other of the families, you would probably not know of its existence, because access was
only through private property or if you were flying low enough to see it.

Q. I think you took a number of photographs from the aircraft -
A. Yes, I did.

Q. For research purposes, but I think you took two, in particular, of that area, did you not.
A. Yes, those two.

Q. Those two photographs, which you produce, show -
A. That is the barrage in that one (INDICATES) and that is the bridge (INDICATES).

Q. The curving line across the water there is the bridge connecting Mundoo Island and Hindmarsh Island.
A. Yes.

Q. And the straight line in the foreground at the top photograph is the barrage.
A. Yes.

Q. So, photograph no.1 is actually looking - that is looking in what direction.
A. This is Hindmarsh Island (INDICATES) on this side looking through to Mundoo Island.

Q. That is to the left of the photograph.
A. Yes, to the left.

Q. And Mundoo Island is to the right.
A. Yes.

Q. Are we looking towards the sea, south, the photographer.
A. You are looking away from the sea. The lakes are in the background and the sea is in the foreground.

Q. Photograph no.2 is, again - and that is obviously a shot of the bridge.
A. Yes.

Q. Connecting Mundoo Island and Hindmarsh Island, the sea on the horizon.
A. Yes.

Q. And the barrage in between.
A. Yes.
Q. I think you then followed up, on 9 April, with the visit to the daughter of Pinkie Mack.
A. Yes, I did.
Q. You rang the hospital, as your statement points out, on 9 April 1995 and asked for permission to visit.
A. Yes.
Q. You were greeted with a warm response by the daughter of Pinkie Mack.
A. An extremely warm response.
Q. When you arrived in her room, I think she was asleep.
A. Yes, that's correct.
Q. Who is 'we', you and your father.
A. My father and I, yes.
Q. How long were you there.
A. A little over an hour.
Q. Was it a room that she had by herself, or -
A. No.
Q. You make it clear, don't you.
A. Yes, it was a share room. There was another woman in the next bed and she joined in the conversation at various points.
Q. She was, at this juncture, quite elderly, wasn't she.
A. Yes, extremely elderly and frail.
Q. Did you have a view that perhaps because of that she couldn't help you much.
A. Yes, I took one look when I saw her sleeping and felt 'Oh, look, perhaps this isn't a good idea', and suggested to my father that perhaps we should go. And - but she woke at that point and beckoned to us to stay. And we did.
Q. What did you think was not a good idea.
A. She looked so frail and she was sound asleep and I just felt like maybe we shouldn't stay and interview her,
because she did look so elderly and frail that I was very concerned about her.

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

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

CONTINUED
RF 24H

S.L. LAWRIE XN (MR SMITH)

Q. So you were about to leave, were you.
A. Yes.

Q. What happened.
A. She woke and she saw us there and beckoned us to come back.

Q. Did she remember who you were.
A. Yes. I said 'Do you know who this man is?' And she said 'Yes, that's Mackie.'

Q. Did she start conversing with you.
A. Yes, she did.

Q. About what.
A. First of all, just talking to my father, and she was very softly spoken and I had to listen very carefully.

But then I said that we had some photos, would she like to look at the photos, which she said she'd like to do, and again, because she was so frail, I was concerned maybe she'd have difficulty looking at some of the photos, but she certainly didn't.

Q. Did she identify the people in the photographs.
A. Yes. I have marked a few here. Some of them are enlarged photos. We've got some photos that have been enlarged quite dramatically and, of course, she had no difficulty in naming people, and coming up with anecdotes about people in the enlarged photos. But what really amazed me was when we got past some of the large ones to group shots, which were quite small, she actually identified herself in one of the photos. I would never have been able to have picked her in it.

And my father was actually getting a bit embarrassed because, at 67, he feels his memory is fading, and she was so meticulous in being able to pick out people and remember things from the photos.

Q. You have the album in front of you there now.
A. Yes, I do.

Q. Would you indicate to us the photograph where she was able to -
A. She was in that photograph here, and she identified
people in these photographs.
Q. In the album you have marked one, two -
A. Yes, in the larger photos she told me that this was
Henry Rankine - as in Henry Rankine senior, not today's
Henry Rankine. Henry Long she identified.
Q. Was she correct there.
A. Yes, absolutely correct.
Q. Here, this woman I have known as Elva, as a friend of my
Aunt Enid, and she identified her as being the mother of
Doug Milera.
Q. You are now indicating a photograph of two women.
A. Yes.
Q. Your Auntie Enid.
A. Yes.
Q. Standing next to a lady marked as Elva Rigney.
A. Yes.
Q. So those series of five photographs from your album, you
took particular note of her reaction to that.
A. Yes.
Q. She reacted to all sorts of photos, but they were the
ones that in particular stand out.
Q. If this album were to be tendered, would that cause you
any distress.
A. Provided I get it back in tact.
Q. Would it be easier if we just took those photographs
out.
COMSR: If the witness is concerned whether or
not and when she is likely to get it back, perhaps it
would be better to take copies.
WITNESS: It depends on the length of time
involved here. I suppose that is not known at this
stage.
MR SMITH: I suggest that we will copy those five
photographs and return the album.
COMSR: I think that would be the preferable
course if you were concerned about the photographs.
WITNESS: Thank you, yes. They're very precious.
MR SMITH: I will tender those five photographs on the basis that the original album and the balance will be returned when we photocopy them.

MR MEYER: Perhaps counsel could be granted permission to view those five photographs and then we can work from the copies.

XN

Q. To be clear before we leave this and I show counsel, the first photograph you have specifically referred to is a group shot, and we will mark the yellow sticker number 1.

A. Yes.

Q. She identified a number of people in that group photograph.

A. Yes.

Q. There is at least 30 people there, isn't there.

A. Yes.

Q. The second photograph which we will mark number 2 on the yellow sticker -

A. This one here, I didn't realise until she told me, it is of a specific birthday party and she remembers the party quite vividly.

Q. So the sticker there is meaning to indicate the middle large photograph.

A. Yes.

Q. That is a photograph of a birthday party. Again, did she identify a number of the children there.

A. Yes.

Q. And there is a person seated in the middle, isn't there.

A. Yes, that's my grandmother.

Q. That's your grandmother.

A. Yes, and she picked her, too.

Q. And it looks like 20 children there, or more.

A. Yes.

Q. The third photograph, which we will mark 3 on the yellow sticker, is -

A. Henry Rankine.
Q. She nominated the man on the horse and cart there as Henry Rankine.
A. Yes.
Q. Is that correct.
A. I believe so. We didn't know who it was, and she said it was Henry Rankine.
Q. You haven't been able to verify that one way or the other.
A. No.
Q. The photograph, which we will mark number 4, is Henry Long.
A. Yes, and that is correct. We were aware of who it was, but she was quite excited at seeing Henry Long.
Q. Does Henry Long have a nickname.
A. I'm not certain. Most of them do have nicknames, but I just don't know what his is.
Q. Not Milerum.
A. I don't know.
Q. The photograph, which we will mark number 5 on the yellow sticker, is of your Auntie Enid.
A. Yes.
Q. And Elva Rigney.
A. Yes, whom she identified as Doug Milera's mother.
Q. And that's correct.
A. Yes.
Q. What about her memories.
A. Her memories were clear and vivid. As I say, she was slow and quietly spoken. However, she told me stories about - she told me that she was the daughter of Pinkie Mack. That she was born in a wurlie near Wellington. She told me about making feather flowers which was a traditional flower. The Ngarrindjeri made feather flowers particularly for the tourists. A number of people had mentioned feather flowers to me, but none of them actually said that they had made feather flowers. But the daughter of Pinkie Mack told me that she made feather flowers, and explained it had to be feathers from pelicans and gathered in a special way, and she
discussed all of that. She also talked about her love
of thukeri. It is a type of fish similar to carp. It
is fairly bony, but the Aboriginal people particularly
like thukeri. She used to fish for it and loved
fishing, and she wanted to go fishing as soon as she
could and have another feed of thukeri.

Q. Did she tell you about her past, that is, her place of
birth and her mother.
A. Yes, yes. She told me, as I said, about being born in
the wurlie on the shores of the Murray near Wellington.
That Pinkie Mack was her mother. She told me that she
was a midwife in her later years. That originally she
assisted Mrs Rowlands, the nurse, in delivering babies,
and later on, after Mrs Rowland's retirement, that she
was the midwife there on Point McLeay herself and
assisted in delivering many many babies on Point McLeay.

Q. She had clear memories of events.
A. Yes, very clear. Her long term recall was excellent.

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

Q. Did you take the view that there was a limit to the
amount of questions you could ask this woman.
A. Yes. Because of her age and her frailty, I felt like -
after an hour, I really felt it was time to go. The
woman in the next bed was speaking on and so I was
waiting for an opportunity to cut things off. I said to
her that I'd love to come back and talk to her again if
she wouldn't mind, and she said she'd like that. But
she said `I won't be in hospital then, dear. I'll be
out by then' forever hopeful. So I asked her her
address and she pointed to a card behind her head,
behind her bed with her address on it. I was writing
her details down, Mrs Kartinyeri and the address, and
just jokingly said, thinking of Doreen, that it is a
rather contentious name to have at the moment, and her
reaction was quite astounding. She said `Yes, yes,
that's me', and she got quite animated. She hadn't been
animated until this point, but her eyes really widened
and she said that it was her that had been in the press.
She said `And I'm going to go to gaol', and got very
upset. I said `Why would you go to gaol?' She said `The
women came to speak to me and said if I talk about
Hindmarsh Island any more they will take me to court'.
She started to cry and said `I'm an old lady, I don't
want to. I've never been in trouble with the police. I
don't want to go to court, I don't want to go to gaol.'
Clearly thinking that going to court meant gaol and
crime. I tried to calm her down and to say `Look, it's
okay, no-one's going to hurt you'. I asked her who was
threatening her and she kept saying `The women'. I only
got one name from her as being associated with this
group, and that was her niece. When I said `Do you need
help? If you need any help you can contact me.' She
said that her - I think she referred to her as a niece,
but I don't think she is a niece - she referred to
Dorothy as helping her and that it was okay, that
Dorothy would help her.

Q. That's Dorothy who.
A. Dorothy Wilson.

Q. Did your father say anything during this.
A. Yes. Yes, he said -

MR ABBOTT: I wonder if that could go down as

Dorothy Wilson, the lady whom I have the honour to
represent.

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

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

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

XN

Q. Can I make a couple of things clear before we leave this
topic. You said she spoke to you about `the women' who
had come to her and said if she speaks any more about
Hindmarsh Island they would take her to court.
A. Yes.
Q. You then mentioned you asked her who they were.
A. Yes. There was only one name that she actually
mentioned and that was Daisy.
Q. Daisy, who is that.
A. She said her niece, Daisy, who I understand to be Daisy
Rankine.
Q. Dorothy Wilson, whom Mr Abbott represents -
A. Yes, she was the one whom she claimed was helping her,
and would stand up for her.
Q. We have got to the stage of you telling us what your
father has said.
A. Yes.
Q. What did he say.
A. He questioned her on what the problem was with Hindmarsh
Island. She said that she had signed a letter, but now
the women tell her that people want to make big changes
to Hindmarsh Island, and that they want to take wild
animals over there. And she kept continually referring
to wild animals. He tried to question her ‘What do you
mean by wild animals? Do you mean kangaroos, emus?’ And
she kept saying ‘No, wild animals. They musn't take the
wild animals over to Hindmarsh Island’, and was clearly
very confused about what the whole issue was, just that
she had been threatened and that this group had told her
about wild animals being taken to Hindmarsh Island. She
was very very upset and in tears.
Q. You then asked her if anyone was helping her.
A. Yes.
Q. And she mentioned Dorothy Wilson, Mr Abbott's client.
A. Yes.
Q. Did you ask her if she needed any more help.
A. Yes. I wrote down my name and address and phone number
and said if she did require any help that she could
contact me any time and I would gladly help. It was
very very disturbing. It had a profound effect on this whole issue, as far as I'm concerned.

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

A. Absolutely.

Q. Of women's business on Hindmarsh Island.

A. Yes.

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

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

ADJOURNED 1.01 P.M.
RESUMING 2.25 P.M.

Q. Can I take you to 23 April 1995, which is the Graham's Castle meeting.
A. Yes.

Q. Isn't it.
A. Yes.

Q. That was the reconciliation meeting.
A. Yes.

Q. To which you were invited by Maggie Jacobs.
A. Yes, that’s correct.

Q. You were obviously able to get over from Melbourne for that.
A. Yes.

Q. What did you understand to be meant by the purpose of the meeting.
A. At the time, Maggie explained that it was a chance to get everybody together and to be a time of healing amongst Aboriginal women in the Aboriginal community, and she said it was to discuss tactics as well - and didn't explain what she meant by that. So, as far as I was concerned, it was just a coming together. She did say to some extent it was a reunion of people who met at Graham's Castle 12 months beforehand. I took that to mean when Cheryl Saunders was over.

Q. I was interested to know whether you gleaned from the invitation whether that was to reconcile the problems that had been caused to the Ngarrindjeri women by the bridge dispute.
A. No, I didn't take it to mean that. Although when she talked about tactics, I thought that perhaps it was the fact that the appeal, I think it was, in the Supreme Court was coming up in the week following and that it could relate to that.

Q. Or the Federal Court.
A. Sorry, the Federal Court, yes.

Q. You got yourself to Graham's Castle then on 23 April 1995.
S.L. LAWRIE XN (MR SMITH)

1. Yes, I did.
2. Q. Which was Anzac Day.
3. A. No, it was the Anzac weekend. It was the actual Sunday
   of the Anzac weekend. Anzac Day was on the Tuesday.
4. Q. You went down there by yourself, did you.
5. A. Yes, I did.
6. Q. What time did you arrive.
7. A. Shortly before 10 a.m.
8. Q. Could you tell us what then unfolded.
9. A. Well, I asked where the meeting was taking place and I
   entered a large meeting room and Maggie was pointed out
   to me across the room. I went over and spoke to her
   briefly. People were milling around at that stage of it
   and there was a table of literature, handouts, that
   people were picking up bits and pieces from. Anyway, I
   then went and sat next to Maggie Jacobs, having picked
   up some of the literature that was on the table. The
   meeting commenced. There was a woman who was a guest
   speaker from the Council of Reconciliation.
10. Q. Interrupting you there. The women there, were they
    predominantly from the Aboriginal community.
11. A. Yes. Actually, that is quite an important point. They
    were predominantly Aboriginal. There were some
    non-indigenous people like myself, probably about ten
    all up. But while they were predominantly Aboriginal, a
    large proportion of them weren't Ngarrindjeri, they were
    actually from Point Pearce and other areas. Although a
    number of them were Ngarrindjeri, but there were a
    number who weren't.
12. Q. You sat next to Maggie Jacobs.
13. A. Yes.
14. Q. Were there some elderly matriarchal women there.
15. A. `Elderly' might not be quite the right term, but older
   women, middle aged and, you know, some perhaps in their
   60s. They were seated to my left. I'm not sure whether
   you would call it that, but they were at the front of
   the room and I'd tend to call it the back. There were
   people sitting right around the perimeter of the room
behind me, to my left. There was several rows of people
sitting on the floor as well.
Q. To your right in the room, there was a group of younger
women, as you have said.
A. Yes, against the wall at the front, if you like, there
was a number of younger women who appeared to be in
their late teens, perhaps even early 20s.
Q. With them was a woman that you later came to identify as
Doreen Kartinyeri.
A. Yes, that's correct.
Q. At that stage, did you know Doreen Kartinyeri.
A. No. I knew her by reputation, but I couldn't say I
really knew her.
Q. At that stage, was it the case that you didn't even know
her by sight.
A. That's correct.
Q. At the front of the room, I think your statement points
out there were several people sitting on the floor.
A. That's what I'm referring to as the back where they were
sitting on the floor.
Q. There were - and you have spoken about a table with
literature on it.
A. Yes.
Q. There were petitions on the table.
A. Yes, there were petitions.
Q. What were the petitions addressed to.
A. One calling for the dismissal of Chris Gallus MP, who is
the shadow Minister for Aboriginal Affairs. There was
another one calling on the sacking of Ian McLachlan MP.
There was literature there from one of the, I think it's
the Southern Women's Shelter which is located in the
vicinity of Christies Beach. There was all sorts of
feminist literature there as well associated with those
groups.
Q. Was there any representation there of Labor members of
Parliament.
A. Later on in the day, when non-indigenous people were
later asked to leave the room, I was speaking with a
group of women, white women, and the guest speaker and I
very quickly realised that most of the women who were
there were closely associated with the Labor Party in
some form or other. They had either worked for or they
had either previously worked for or were currently
working for various Labor MPs or former Ministers.
Names that spring to mind were Susan Lenahan, Kym Mayes,
Gordon Bilney, people who predominantly were from the
southern areas, but, none the less, Labour MPs.

Q. The proceedings started with a guest speaker.
A. That's correct.
Q. Do you know who that was.
A. I don't know her name. She was from the Council of
Reconciliation.
Q. Was she an Aboriginal lady.
A. No, she wasn't, she was white and had formally been
married to an Asian. I don't recall her name.
Q. And that you listened to her for a while, I think.
A. Yes, I did.
Q. What was the topic of her address.
A. Her address was clearly about reconciliation and the
role of the counsel for reconciliation and how they
could assist on funding and how to go about applying for
funding for specific projects; for example, for projects
like the meeting they are having and anything of a
similar nature they might wish to do.
Q. Within a few minutes of this guest speaker commencing
her speech, I think certain events occurred.
A. Yes.
Q. Would you tell us what they were.
A. A woman stood up of the front of the room and was
extremely agitated and yelled across the room: 'What are
you doing here? Get out'.
Q. You later came to know who this woman was.
A. Yes.
Q. Who was it.
A. Doreen Kartinyeri.
Q. I think you didn't know her at the time.
A. No, I didn't know. It completely took me and everybody else by surprise.
Q. Would you tell us that again, so I won't interrupt you again.
A. She stood up and she shouted across the room to somebody that I didn't know her name: `What are you doing here? Get out'.
Q. Did she do anything in addition to saying that.
A. She paced up and down continually and gestured towards this woman. She was clearly very agitated. The guest speaker seemed in a state of shock. She didn't know whether she was being referred to or whether it was her or someone else, and she paused for a moment. And then the guest speaker continued and then, again, her speech was interrupted by this woman shouting at someone at the back of the room.
Q. She was gesturing towards the speaker, was she.
A. In the general direction of the speaker.
Q. You couldn't tell to whom her comments were directed.
A. No, I couldn't tell.
Q. When she did that, was she standing up.
A. Yes, she was.
Q. The guest speaker resumed the speech.
A. Yes.
Q. Did Doreen Kartinyeri sit down.
A. Temporarily, but then she got up and started again.
Q. After how long a time.
A. Just a matter of moments.
Q. Again, what did she say.
A. Well, she continued in the same vein initially and when whoever it was that she was shouting across the room at didn't move, she got up and `whitt' and gave a bit of a whistle and with a thumb motioned like this for `All out'. And this group of young woman at the front of the room got up as if in some sort of protest, and they all left the room - when I say `they all', that group at the front of the room left the room - leaving the rest of us sitting there with our mouths open, wondering `What has
just happened?'.
Q. Doreen and about how many women are we talking about left.
A. 8 to 10 people got up and went when Doreen went.
Q. They were the group of younger women.
A. Yes.
Q. Can you describe the manner in these two stints, the behaviour by Doreen.
A. Well, in my opinion, it was quite bazaar. I've been on hundreds of meetings and never seen someone act in this way when someone is speaking. I was in a state of shock. I didn't know what was going on. I found it quite threatening, her behaviour. I had no idea what was happening at that stage. I then turned to Maggie Jacobs and said `What's going on?', and she whispered behind her hand at me that there was a woman present who was faxing stuff to men and the Chapmans. And I said `What do you mean?', and she said `There's a traitor amongst us' and `I'll tell you all about it later'.
Q. Did the speaker resume after these people had left the room.
A. Yes. The speaker resumed and actually managed to keep talking for several minutes. Then, Doreen Kartinyeri appeared at the door and again, pointed to a woman - this time I could see who she was pointing at and it was a woman sitting on the floor to my left and slightly behind me. It's the first time I had noticed the woman. She had been sitting there the whole time. She hadn't come in part way through or anything. She seemed incredibly calm under the circumstances. And Doreen motioned to her `I want you out of here now' and was most insistent and motioned with her hand. Two women grabbed hold of this woman and held her down. They wouldn't let her get up. They said `No, this is a meeting about reconciliation. You have as much right to be here as anybody. You have a right to be heard', and they tried to hold her down. And with an incredible calmness, you know, she didn't react, you know, in a
manner I would have expected someone to react who was being treated like this. She said very calmly `No, it's okay, I don't want to cause any problems here, I'll go. I'll go and talk to Doreen'. That is the first time I heard the name 'Doreen' in reference to this other woman. She did, she got up and quietly left the room.

Q. You came to know who that woman was.
A. Yes.
Q. Who was it.
A. When I asked around outside, I discovered that it was Dorothy Wilson.
Q. Did you understand that to be the same Dorothy Wilson who had been mentioned by the daughter of Pinkie Mack.
A. Yes.
MR ABBOTT: May I add that since an allegation has been made that something was said by Maggie Jacobs to this witness, may I observe for the benefit of the press that the allegation that my client had faxed material to the Chapmans was directly put to my client on her oath and denied on her oath.

Q. Did you come to know if not both then at least one of the women who held Dorothy Wilson down.
A. Because of discussions that took place later - and, you know, I couldn't swear to it, but I believe one of them was Veronica Brodie and I think possibly Connie Roberts might have been the other one. I'm not 100% sure of that. Again, they were older women who were sitting just quite close by to me.
Q. In any event, Dorothy Wilson left the meeting room.
A. Yes, she did.
Q. What of the speaker.
A. The speaker then, yet again, continued. I really admired her the way she was able to pick up where she left off in very difficult circumstances. But then again, within a few moments, Doreen again appeared at the door and held up her hand to halt proceedings and said `Excuse me, would you mind if all non-indigenous
people leave the room. We have some business to sort out here. We have got some things we must sort out amongst our own people, our own business. If you wouldn't mind leaving us to us'. And asked us all to clear the room, which we did. Again, you know, people were still a bit stunned by it all because it had been a rather amazing turn of events. No-one, none of the non-indigenous, had any idea of what was going on still and stood around outside chatting. And the guest speaker was saying how shocked she was, particularly in the early stages, because to all intents and purposes Doreen had been shouting at her and she had wondered what she had done wrong. And nobody gave any form of explanation of what was going on and everybody felt very uncomfortable about the whole set of circumstances.

Q. What had the speaker been talking about.
A. Reconciliation and funding for reconciliation-type meetings.
Q. What, reconciliation of the Aboriginal community among itself.
A. Yes. Not just among itself, she was explaining the various forms of reconciliation between indigenous and non-indigenous people of different races, not necessarily - she also mentioned - that is why I mentioned her previous marriage. She used that as an example of reconciliation and Asian cultures.
Q. All types of reconciliation.
A. All types of reconciliation. And also the types of funding that are available through the council, the sorts of meetings and events that they are prepared to fund and how to go about putting the funding proposal to them. And so it was reconciliation in general.
Q. You waited outside for this other business to be resolved.
A. Yes.
Q. You and a number of other women.
1 A. That's correct.
2 Q. For how long.
3 A. Well, it would have been half to three-quarters of an
4      hour initially, perhaps even longer, because they were
5      meant to break for morning tea about 15 minutes after we
6      all left the room, but morning tea ended up being almost
7      an hour late when the Aboriginal women finally came out
8      of the room.
9 Q. Was this lady Dorothy Wilson, was she in this group
10     inside, as it were, who were sorting out the business.
11 A. Yes, she was.
12 Q. She went out initially.
13 A. Yes, but she came back in to work out these differences.
14 CONTINUED
Q. At the morning tea break I think as you make clear in your statement you all joined forces again, as it were.

A. Yes, that's correct.

Q. Was it obvious that there were two separate elements in this group of women.

A. Yes, the younger women that had left the room earlier with Doreen, they were standing around on the steps as the woman I have come to know as Dorothy Wilson left the room and they - or left the house and they were clearly, you know, sneering and making it quite clear that they weren't supportive of this person who was now leaving the room. Whereas two or three other women did walk up and slap her on the back and say things, you know, speak in a supportive manner to her. And it was later on I approached one of those women, I said - asked them who it was and that's when I was told that it was Dorothy Wilson and I got a phone number for her.

Q. In the morning tea break when everybody was joined, as it were, again where did you have morning tea.

A. Out the front of the Graham's Castle complex. It was just on the lawns.

Q. In the open, as it were.

A. Yes, in the open.

Q. Was Dorothy the subject of any unpleasant attention in the morning tea break.

A. In the morning tea break just the younger women, their attitude, the sneers and generally that group ostracised her, although there were other people as I said. Not many, but there was a small group of people who seemed quite supportive of her.

Q. In your statement and you could have a look at it, at p.12 there you said in about the second last paragraph 'The young group who appeared to be supporting Doreen kept very much to one side.'

A. Yes, they did.

Q. 'They were gesturing wildly at Dorothy as she came out.'

A. Yes, they were, on the steps and they were sort of waving their hands and pulling faces.
There was a fair bit of hostility between the two groups of them.

How did Dorothy handle that. With quiet dignity. She walked straight through calmly and quietly. That is what impressed me on the day, how anyone could remain calm with the level of attention and unpleasant attention, that I was quite impressed with the demeanour of the way she handled herself.

You remember you had left the hospital visit with the daughter of Pinkie Mack -

Determined to involve yourself in some way.

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

Had you done anything between 9 April and this meeting. No, apart from read information. I went back and borrowed three of the parliamentary library - reborrowed works of Taplin and located everything I could read about the culture and got hold of things like the Saunders report and anything else to acquaint myself with what was going on. But I hadn't been involved with any of the people in between times.

Did this enliven your interest in this problem. Yes, it did.

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

Did you hear her say anything about whether she was going to stay on or not at the meeting. I heard her say to the small group of women, the few who had been reasonably supportive of her when she came out, she said `No, I think I'll go. I don't want to cause trouble.' And then she quietly left and two women walked to the car with her and she left.
Q. You, as your statement makes plain at the bottom of p.12, decided that you would follow Dorothy Wilson up.
A. Yes, I did.
Q. And you got details of her address and phone number.
A. Yes.
Q. What motivated you to decide that.
A. I just thought the way she was treated was appalling. I would be furious if someone did that to me.
Q. You decided you would follow her up in some way.
A. Yes.
Q. After Dorothy had left, what happened then.
A. Proceedings continued - well, immediately after she left, Doreen Kartinyeri again sort of called everybody to attention and motioned with her thumb for all indigenous people to re-enter the room and they went in and the nonindigenous people again had to remain outside. I don't know what went on in that meeting, but they met for at least another half to three-quarters of an hour to discuss the outcome of what had taken place previously now that Dorothy had left.
Q. Were you nonindigenous people given any explanation for that.
A. No, none whatsoever. Maggie kept saying `Look, I'll talk to you about it later', but said `There is distressing things happening', and didn't like to talk about it with other people around.
Q. When Doreen motioned everyone back inside, you have here `After Dorothy Wilson left, Doreen whistled ...' -
A. Yes.
Q. `... and motioned everyone back in.'
A. She gave a whistle and with her thumb back in (INDICATES).
Q. Did you participate in any further proceedings on this reconciliation day before lunch.
A. We just hung around. At about that point, Christobel and David Mattingley arrived. Christobel is the author of a book on Aboriginal people in South Australia, not just the Ngarrindjeri, and I have known her through her
daughter since my teenage years. And we stood around
speaking for a while and then the meeting adjourned.
Then the luncheon was provided by The Friends of
Kumarangk and just joined in with various people,
particularly Maggie Jacobs. And then Maggie took me
over and introduced me to Doreen Kartinyeri and also to
Steve Hemming from the museum and various other people.
Doreen and I spoke at length about the pictures which
are in that album that I showed earlier. She said my
father had previously shown them to her at the museum a
couple of years ago and she was very keen to obtain
copies of them for her own works at the museum. And we
discussed the possibility of getting copies made of
those photos. We talked about W.T. and various things
to do with Point McLeay. And, at about that point, the
film crew from SBS - I don't know that they were
actually from SBS, but a film crew filming a documentary
on reconciliation with a view to showing it sometime on
SBS came around and filmed Doreen and various people in
a group talking. And they filmed a great deal of the
proceedings outside over lunch that day. And fairly
soon after lunch, people started to move on and adjourn.
Q. Who provided the lunch for this gathering.
A. The Friends of Kumarangk.
Q. Did you know who they were.
A. I had various people pointed out to me. I don't
specifically know their names. There were two or three
that I had - that I recognised, that I would recognise
again if I saw, them but I don't know their specific
names. There was one woman in particular who had a
bobbed blondie white hair that I recall and I
particularly recall her, because, at the time, she was -
she went over to Daisy Rankine who I was talking to and
said how sorry she was things had gone the way they had
gone that day. And Daisy was very abrupt to the point
of being abrasive with this woman and I was very
surprised and I asked her what the problem was
afterwards and she said "I think that is Chris Gallus,
you know, that Member of Parliament.' And I knew it wasn't and that she clearly thought this woman was and the woman looked a bit hurt that Daisy had treated her abruptly when she was part of this group.

Q. Did you understand that The Friends of Kumarangk were - perhaps it is unfair to term them this way, but a group that were interested in the bridge not being constructed.

A. Yes, I realised what they were and, I mean, during the day they were thanked on two or three occasions for their support and their help, particularly with the luncheon. So, there was no secret about who was putting on the lunch and paying for the lunch.

Q. Having, as it were, bumped into Daisy Rankine.

A. Yes.

Q. Is that the same Daisy who was named by the daughter of Pinkie Mack as having visited her.

A. Yes.

Q. Did you, for instance, speak to Daisy at this reconciliation meeting about what you had learnt had happened to the daughter of Pinkie Mack.

A. No, I didn't, because, when I was speaking to Daisy Rankine, she was clearly shaken by this other woman that she thought was Chris Gallus MP and she said - I said I would like to talk to her later, but that opportunity didn't arise.

Q. That afternoon concluded for you at least at about what time.

A. Probably about 3 o'clock in the afternoon.

Q. From what you have recounted to us, it was a fairly unpleasant affair.

A. There were many very, very pleasant aspects. In fact, I for the most part enjoyed myself, but the morning was very confusing and very intimidating.

Q. You were staying with your parents at Alberton, were you.

A. Yes, that's correct.

Q. So, you drove back to Adelaide.
A. Yes, that's correct.
Q. Did you ring Dorothy Wilson.
A. That evening over dinner I was discussing with my parents what had happened and my father suggested that perhaps I might like to call Dorothy and so while my parents were sitting there at the end of the meal I rang her and, when I rang her, I said that 'I am Sue Lawrie, I am the daughter of Mac Lawrie', and she immediately knew who I was from that and I said I had been at the meeting and was rather disturbed at what I had seen and she said that she hadn't specifically seen me, but she wouldn't have recognised me anyway. And we chatted for a few minutes about it all and she explained that she had differences of opinion with the women there about some of the issues associated with the secret women's business that prevented the bridge from being built. She explained to me quite emphatically that she was not a supporter of the bridge. That her differences were to do with the secret women's business and with the persons involved and what was being said, not with the bridge and that she in no way supported the bridge and she was tired of being accused of things which had nothing to do with the issue in her opinion. Anyway I suggested that perhaps she would like to sit down and talk about it and that we should get together for a coffee and agreed to meet her in Murray Bridge the next day. I am not overly familiar with Murray Bridge except from passing through on various occasions, so I suggested we meet outside the office of Peter Lewis MP. I know the location of the office. As it transpired the next day, she had had a phone call in the meantime from Ian McLachlan and he was passing through as well, so she suggested that we both meet with her at the same time. And, in any event, Mr Lewis was away, but his secretary had agreed to allow us to use the office for the meeting.
Q. You had taken the decision at this juncture to become really involved in this matter.
A. Yes.
Q. That was the next day, 24 April.
A. Yes.
Q. There was a meeting between yourself.
A. Yes.
Q. Dorothy Wilson and Ian McLachlan.
A. Yes.
Q. That meeting lasted for how long.
A. At least an hour and a half to about two hours.
Q. I think you tape recorded that conversation, didn't you.
A. Yes.
Q. Do you still have that tape.
A. Yes, I do.
Q. During the course of that conversation, Dorothy discussed with you her concerns about women's business.
A. Yes.
Q. And made it clear, I think, as you have already said, that it had nothing to do with the question of constructing the bridge or not.
A. Yes, absolutely.
Q. It had to do with her culture.
A. Yes.
Q. You have possession of that tape.
A. Yes.
Q. I take it in the course of the meeting there was some detailed discussion about women's business.
A. Yes, there was. And I did question her, at the time, did she mind discussing this and Mr McLachlan asked her not to proceed unless she felt comfortable and not to say anything in his presence that she felt uncomfortable saying and she continued her discussion and said that she was happy to talk about it in his presence, because she didn't believe to be true the things that she later divulged to us. I did ask at the beginning if she would mind if I taped it for the sake of accuracy.
Q. You have that tape in your possession.
A. Yes.
Q. Will you keep it in your possession.
A. I certainly will, but, at this point, given what has
happened with the Inquiry, I don't think it is appropriate to be released.

Q. In the course of that conversation, as you make clear at the bottom of p.13 of your statement, Dorothy conveyed to you that she felt strongly that she didn't have a strong voice on this question at all.

A. That's correct.

Q. You make the point there that she complained that it did not seem as if anyone wanted to listen to her.

A. That's right.

Q. Did you ascertain from Dorothy Wilson whether there were other women who felt as she did.

A. Yes, I did. She knew of some and she knew of others by hearsay and she was concerned on two or three fronts that she thought that there was a growing number of women who like her disputed the validity. She also felt uncomfortable about going public, if you like, because of her culture. She felt that she should speak to her Elders or women who were older than her first and get their approval and do things in the correct manner. But A. She wasn't sure how to go about getting together with some of these other women. And B. The media side of it, who to talk to, who she could trust. She was afraid of being carved up, if you like, and she wanted it to be handled sensitively. She didn't want to bring disrepute to her own people and she was very concerned that whatever happened be done in a sensitive manner.

Q. Of the women who felt like her, did she name some to you.

A. Yes, she named Dulcie Wilson, in particular. There were several other names that came up, as well, but Dulcie was the main one that she mentioned.

Q. Were you aware of the fact that, at that time, Dulcie had spoken out at the public meeting.

A. At that point, I wasn't aware of that.

Q. Who told you.

A. She did.
Q. Who is `she', Dulcie Wilson.
A. Dorothy told me.

Q. Dorothy told you that Dulcie had spoken at a meet where she was a guest speaker.
A. Yes, I think it was a Rotary meeting, but I'm not sure.

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

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

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

Q. What did you do.
A. First off, already Chris Kenny from Channel 10 seemed to be aware, he was doing his homework very thoroughly, and seemed to be aware that I was on the fringes and that something was going on and he made contact with me.

CONTINUED
I made it quite clear that whatever I did, I wanted to make sure that the women's story was put sensitively and I didn't want him just racing off and doing a story without knowing the full facts. But I said to please wait until I had more information, which he agreed to do. I also spoke to journalist Geoff Easdown in Melbourne. Obviously I was living in Melbourne at the time.

Q. You were looking what.
A. I was living in Melbourne at the time. He was the Aboriginal writer at that time for the 'Herald Sun'. I was tossing around and hadn't at that point come up with a third name, but eventually decided on John Kerrin from the 'Australian' as well. I've had a number of dealings with John Kerrin as well over the years.

Q. You had the meeting on 24 April with Dorothy Wilson, Ian McLachlan.
A. Yes.
Q. How soon after that were you -
A. Quite soon.
Q. Contacted by Chris Kenny, for instance.
A. It was in that week, in between time initially, but I didn't say much at all at that point.
Q. Apart from the journalists you contacted, did you contact any of the senior ladies with whom Dorothy wanted to confer.
A. Yes. I rang Dorothy Wilson on about the Thursday or the Friday. The Thursday -
Q. So we are around about the -
A. So that's about the 26th, 27th. Somewhere around that point. Again, I explained who I was, and she was just wonderful on the phone, and again immediately knew who I was. I told her that I had been speaking to Dorothy and that she was keen to speak to her elders, that she had grave concerns and would like to get together with other women who had concerns and her elders, in particular, to discuss the situation, and was she interested. She was very very keen. She said that her sister-in-law,
Bertha, was in the same position. That Bertha Gollan
was aged 74, and that she would contact her and one or
two other women that she knew of. We ascertained that
the only date that we could possibly all get together at
that point was May 1, so we organised a meeting in
Adelaide on May 1. But Dulcie is the one who contacted
the other women.

Q. In the meantime, you contacted the journalists, Easdown -
A. Yes.

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

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

Q. By 1 May, had you made contact then with the
journalists.
A. Only very very briefly with Kenny, and Geoff Easdown, in
Melbourne, I spoke to at some length about it. He,
being a journalist - an investigative journalist,
expressed some concerns about the manner in which the
meeting was held, and, of course, at this stage I never
expected all of this to come out of it. But he was
saying how we needed to protect ourselves with some sort
of signed statement, and he even talked about having
lawyers present and all sorts of things, which I thought
was gross overkill. I really didn't expect all of this
to happen. So, in the end, I invited the mother of the
person whose house it was to be there. She basically
assisted with food preparation, making cups of tea and
coffee, just to be an impartial observer, if you like;
to have a third party to sign that, yes, she was present
and that the meeting took place. The handwritten
statement, the copy of which has been tabled here
previously, came out of that meeting, with later more
detailed statements. But that's how that statement came
about.

Q. That is Mrs.
A. Mrs Haese.
Q. H-A-E-S-E.
A. Yes.
Q. Where was this meeting. I don't ask for the address.
A. At the daughter of Mrs Haese's house.
Q. Here.
A. Here in Adelaide. The women had expressed concern. For instance, Dorothy had had a call from Doreen in the interim.
Q. You have been told this, have you.
A. Dulcie explained that to me on the phone, sorry. Dulcie explained on the phone that she had had a call from Doreen. That Doreen was clearly concerned that the women may be about to speak out. Rumours were clearly going around that the women were thinking about speaking out, and Doreen had rung Dulcie in concern. And so, because of this concern, they wanted a neutral place. You know, not my parents' house or anywhere, Dorothy's house or Dulcie's house. We wanted it to be somewhere neutral, and this friend kindly gave me the key to her house.
Q. It was Mrs Haese who, in effect, catered for the gathering.
A. Yes, yes.
Q. I think your mother also was involved, wasn't she.
A. My mother collected Dorothy from the bus station and had not been intending to stay, but Dorothy had said 'Come on in', and when she came in, all the women were so pleased to see her, they were quite adamant that she should remain with us and said 'Look, there is nothing we can say that you shouldn't hear'. And I was glad to have my mother there for some moral support - not that I really needed her with this group of women.
Q. This gathering lasted for how long, approximately.
A. Approximately 3 hours.
Q. You obviously came up with some plan of action as a result of this gathering.
A. Yes. All manner of things to do with culture were discussed, so I don't feel it is appropriate to go into all the detail. Dulcie also mentioned that Doreen had rung her on that occasion, and that Doreen agreed to tell her what was in the envelopes, which I shan't go into. But Dulcie did relate that to this meeting, which was taped, and I have since had a transcript done of those tapes. But all manner of things were discussed. Dulcie, in particular, was very keen to actually come up with a plan of action out of the meeting and kept bringing it back to that. That's when she handed me a typed statement that she had done as a personal statement and signed, which I have a copy of here.

Q. During the afternoon I think Mrs Haese's other daughter and her husband dropped around, didn't they.

A. That's correct. Yes, they did. They were aware that their mother was there. Because we'd kept it very quiet, they weren't aware there was a meeting going on. So her elder daughter dropped in to see her mother with her husband, and they went off and sat in the lounge room and spoke to each other for maybe half an hour or so, but didn't participate in any way.

Q. I think you wrote down the main points that had come out of the discussions.

A. Yes, I did.

Q. In the form of a letter.

A. Or just a statement really.

Q. We don't need to refer to that.

A. What you have is a copy. That's the actual original of that document (INDICATES).

COMSR: This isn't anything that traverses any confidential information?

MR ABBOTT: Are we talking about the letter signed by Mrs Wilson?

WITNESS: No, we are talking about the handwritten statement.

MR ABBOTT: Neither do.
Q. Looking at Exhibit 26, is that a copy of the letter of
which you have the original.
A. Yes, that’s a copy -a blown up copy of my original.
Q. That’s your handwriting.
A. Yes, that is my handwriting.
Q. The signatures on that copy letter, can I just get you
to identify them.
A. Yes. My signature appears first; followed by D. Wilson,
which I think is Dorothy Wilson; followed by A.M. Dix,
which is Audrey Dix; my mother, Jean Lawrie; Bertha
Gollan; D.C. Wilson, which I think is Dulcie Wilson's
signature; and Y. Haese, which is the mother of the
owner of the property.
Q. Like the tape, will you just retain the original letter
for the time being.
A. Yes, I will.
Q. I think you took other steps that we are coming to,
didn’t you.
A. Yes, I did.
Q. So you wrote up, did you not, documents which you had
signed, setting out the individual backgrounds of these
women.
A. Yes. We talked about doing a prepared statement, but
with each of them being individualised for the women.
It was a combination of what appeared on the handwritten
statement, on the background information provided by
Dulcie Wilson in her signed statement, and then each
individual statement had a paragraph on that particular
person. So Dorothy's had her background, her lineage,
who her forebearers were, and why she felt she had a
right to comment. Likewise, Bertha, Audrey and Dulcie
all gave a bit of background information for their
individual statement.
Q. I think you have retained a copy for your own records of
Dulcie Wilson's statement.
A. Yes, I have.
Q. On which you based the others.
A. Yes.
Q. You produce that.
A. Yes.

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

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

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

Q. This was a document typed up as a joint effort of this meeting, if you like.
A. Yes, that's correct.

Q. Supervised by you.
A. Yes.

Q. And signed by Dulcie Wilson.
A. Yes, and in that first handwritten statement it says that I am to prepare the personalised statement.

COMSR
Q. I understand how the content got there.
A. But that statement was actually produced by Dulcie. The original one was produced by her before the meeting, and that's the wording we all used.

Q. This statement here which you produce from your records, which is original -
A. Yes.

Q. And purports to be signed by Dulcie Wilson -
A. Yes.
Q. That document was prepared where.
A. It was prepared by Dulcie prior to the meeting.
Q. Did she bring it to the meeting.
A. She brought it to the meeting with her.
Q. Was it signed when she brought it to the meeting.
A. Yes, already signed when she brought it to the meeting.
Q. And she gave it to you.
A. Yes.
Q. That was a model on which you based a series of
statements prepared for all the women.
A. Yes.
Q. And issued them.
A. Yes.

EXHIBIT 76 Statement of Dulcie Wilson tendered by
Mr Smith. Admitted.
Q. If you know, can you tell us what happened to those
statements of which that last exhibit is an example.
A. I have the originals. However, I am in the process of
moving between Melbourne and Darwin, and they are
somewhere in between in an Allied Pickford's van at the
moment.
Q. So nothing was done beyond having those statements
prepared.
A. No, when I did contact the media, I put together a
package with copies of the signed statements and a
transcript of what had happened at the meeting. There
were several bits and pieces that I put together as a
package for the three journalists involved.
Q. So it included those statements from all of these women,
including Dulcie.
A. Yes, that's correct.
Q. All the women agreed, according to your statement, that
they wanted to speak publicly.
A. Yes.
Q. And authorised you to make arrangements for.
A. Yes.
Q. You tape recorded this meeting.
1 A. Yes, I did.
2 Q. For the sake of Mr Tilmouth, did you have the consent of all the people.
3 A. Absolutely. In fact, it was Dulcie's tapes that were used.
4 Q. You intended, as your statement shows, to involve the print media.
5 A. Yes.
6 Q. And Geoff Easdown and John Kerrin were two people from the print media, weren't they.
7 A. Yes, that's correct. I was concerned if it were just Chris Kenny and television that it may end up a ten second grab on a Friday night that would be completely forgotten. I wanted thorough investigation by the journalists that were involved. I wanted it to be in print so that it could be read and hashed over and thorough. I didn't want it to be lost amongst everything else.
8 Q. You involved an interstate journalist.
9 A. Yes. Given the controversy surrounding the whole issue, I felt it important that coverage come not just from South Australia, but the national press be aware of some of the issues involved here and that there were people who dissented, and that unless the push came from everywhere that perhaps nothing would come of it and it might get buried. By this time, I was hopeful that there may be, at that point, some senate inquiry or some sort of inquiry into the issue.
10 Q. Had you come to a view about the group that you were dealing with here, apart from the women that you just met with.
11 A. You mean -
12 Q. The opposing group, if you like.
13 A. Right.
14 COMSR
15 Q. Did it in some way dictate your course of action.
16 A. To some extent, because I felt that they were organised; that they had resources; that they had access to fax
machines, to money, to funding. That perhaps this
dissenting group did not have the power and the access.
I coined a phrase through this period - not a phrase, it
is more an analogy, that if Aboriginal women are the
least empowered group in Australian society, how less
empowered are the women who disagree with the power
group within that group? And that's how I viewed people
like Dorothy and Dulcie. That they had a voice, they
wanted to be heard, they had valid concerns, but nobody
seemed keen to listen to them, and they certainly didn't
have the facilities or access that perhaps these other
people had. And I thought it was vital to give them
that opportunity.

Q. What organisations did you believe were aligned against
these women.
A. Very definitely the ALRM, probably more so than anybody.
But I certainly feel that right from the top, from Minister Tickner, his staff and the resources of the
Federal Government. I felt it was all stacked against
these women.
CONTINUED
Q. That is just a personal view.
A. Well, I saw lots of this first hand and I know the
   treatment, and I was in Canberra the week after this
   broke and was subjected to some of it myself.
COMSR: I suppose I have to be careful here in
   the Terms of Reference not to prejudice anything in the
   Federal Court proceedings.
MR SMITH: There's nothing more on this topic. But
   I think I can assure you that none of that addresses the
   Federal Court action.
MR ABBOTT: True.
COMSR: This is just the witness's point of
   view. In any case, it explains her actions.

Q. Can I take you to 22 May 1995. I think on Monday, 22
   May 1995, you met with Tom and Wendy Chapman and their
   lawyer Mr Palyga.
A. Yes.
Q. Can you tell us what passed between you at that meeting.
A. Well, firstly, a lot had happened in between the time
   since it had broken in the media the previous Friday and
   Saturday night, and I had been involved in interviews
   that had taken place. I had been present when Chris
   Kenny did his interviews. I was present with the women
   when Jeff Easdown did his interviews. And as a result
   on the Monday, following the story breaking, I had a
   call to say that a message was left with my parents, I
   believed, by Jeff Easdown - I can't be sure of that -
   that he had an appointment at Steve Palyga's office with
   Tom and Wendy Chapman and that I was invited to attend
   as well. I did go along and they opened up various
   documents to us. It was amazing the range of documents
   that were there. I was given access to all sorts of
   documents. But Mr Easdown was very particular, before
   accepting any documents, to check that they were
   available in the public domain, that they were available
   to the public through the Federal Court, or that they
The document that I particularly obtained that day is a copy of a letter that had been part of Federal Court evidence, a letter to Mr Tickner signed by Aboriginal women the previous year at the Mouth House with various signatures on it, where they asked the Minister to stop the bridge project based on information in the letter; and Dorothy Wilson's signature appears on that letter.

Q. Can I perhaps take you back in time to fill out the chronology of events, because I went straight to 22 May there. The meeting at the Haese's premises was on 1 May.

A. Yes.

Q. You told us all about that.

A. Yes.

Q. I think the steps that were taken implementing the resolution, if you like, of that meeting were that on 15 May, you met with Chris Kenny and separately with John Kerrin.

A. Yes, that's correct.

Q. After having sent them documents.

A. Yes.

Q. Gave them a further briefing.

A. Yes.

Q. You gave them contact details for these women.

A. Yes.

Q. You had previously done the same in respect of the journalist Jeff Easdown.

A. Yes, that's correct.

Q. On Tuesday, 16 May, you, I think, collected Dorothy Wilson; did you not.

A. Yes, that's correct.

Q. And drove with your mother to Millicent for the women to be interviewed by Chris Kenny.

A. That's correct.

Q. Then, on Thursday and Friday, 18 and 19 May, you flew to Adelaide and organised interviews with Dorothy and Dulcie for Jeff Easdown.
S.L. LAWRIE XN (MR SMITH)

A. Yes, that's correct.
Q. It was on Friday, 19 May that Channel 10 ran the stories and the interviews.
A. Yes.
Q. Then, that brings us to 22 May.
A. Right.
Q. Monday, when you met with Steve Palyga, Tom and Wendy Chapman at the offices of Michell, Sillar, Lynch & Meyer.
A. Yes, that's correct.
Q. I think you remained in Adelaide until Saturday, 27 May.
A. Yes.
Q. Lunched with Dorothy at Murray Bridge on the Friday; is that right.
A. Yes, that's correct.
Q. I think you, yourself, were involved in an interview with John Kerrin, the journalist.
A. Yes, I was.
Q. And that was featured in the Australian on Wednesday, 24 May 1995.
A. That's correct.
Q. As I understand it, you reluctantly did that.
A. Very reluctantly.
Q. And haven't done anything more.
A. No. After that article appeared, one of the journalists contacted me. I made it quite clear that was my one and only statement to the media. As far as I'm concerned, it's the women's story not mine. While I may have facilitated the media as to their story, and the article was accurate as far as anyone is happy about reading about themselves in print and that they should refer to that article as it was accurate, I wasn’t happy about that happening. I was forced into that situation, I might add.
Q. Why was that.
A. I had been undermined for some information sent to the Australian and I was fortunately warned by John Kerrin, who said `Well, how about I do the story? I might be
able to hold this off a bit.’ I would prefer not to go
into the details how it was undermined.

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

A. Yes.

Q. What was it.

A. I was obviously back in Melbourne and had had little
more to do with it. I mean, I was keeping my ear to the
ground, and that was about it. But, on that day, I
decided to get together with journalist Jeff Easdown for
a wrap-up of where things were, if you like. It was
just after Doug Milera has been interviewed by Channel
10 and Mr Easdown said that he would like to interview
Doug Milera if he could. And I made two or three phone
calls on my mobile phone, seeing if I could locate a
phone number for Doug Milera. Subsequently, I had a
call back from one of the many people I called to say
`Try this number’. I scribbled it down on a piece of
paper. I still have it here. I then dialled the
number on the mobile phone and handed it to Mr Easdown,
and the phone was answered by Sarah. I could hear
obviously all of his side of the conversation and he
said `Is that you Sarah?’, and she was speaking very
loudly and I could hear her voice quite clearly, and he
asked to speak to Doug. Doug came to the phone. The
conversation lasted approximately six minutes. It was
about 7 o'clock in the evening on the Queen's Birthday
and it became apparent that Doug was very concerned
about pressure being put on him to change his statement
again. He said things. It was relayed to me that he
said that he would have to disappear, that enormous
pressures were being put on him and he didn't know how
he was going to handle it all. I was so concerned that
when the conversation ended, I then rang the South
Australian Premier's Department and I spoke to a Jim
Bonner and expressed concern that there should be some
sort of witness protection programme for people like
Doug and those who are prepared to speak out, because of
the enormous pressures being put on these people.
Q. Did that apply - did you make enquiries on behalf of not
only Doug but others.
A. I said everybody, whether that is Dorothy, Doug or
whoever. I just felt that the pressure that was now
being applied was enormous and there should be some sort
of protection provided to these people.
Q. I think you returned to Adelaide from Melbourne on
Thursday, 6 July.
A. Yes, that's correct.
Q. To arrange the party that you spoke of earlier.
A. Yes.
Q. For your father.
A. Yes, it was the occasion of my parents' 40th wedding
anniversary. It was a tremendous success and I was
trying to get various anecdotes from friends of my
parents and people that my parents knew over the time
and to get them put onto video - and I got some
wonderful anecdotes put onto the video. And this was
the whole purpose of this year, bringing the people
together and talking about the various anecdotes. And
it was a huge success.
Q. You returned to Melbourne on 10 July.
A. Yes. And until this weekend I hadn't been back.
Q. Your next contact in connection with this matter was our
contact with you.
A. Yes. And in the meantime I had moved to Darwin. No
longer employed by Ken Aldred MP.
COMSR: I want to give some consideration to
some of the evidence given by the witness; that is, her
opinion as to who was involved. I can't help but think
that that might possibly touch on the area of the
Federal Court proceedings. I haven't quite worked it
out in my mind yet.
MR SMITH: Do you want me to articulate what your
concerns might be?
COMSR: Yes.
MR SMITH: You're concerned about the witness's
assertion that the forces rained against these women  
were amongst other forces, the Federal Government?  
COMSR: Yes, because I'm concerned that - see,  
one of the Terms of Reference is that this Commission do  
nothing to prejudice the Federal inquiry.  
MR SMITH: Well, Mam -  
COMSR: That goes to the manner in which the  
Minister went about handling the application.  
MR SMITH: That's about a year after the relevant  
events that the Minister's relevant declaration is that  
this evidence pertains to. But if you think it has the  
potential of -  
COMSR: I'm not quite clear in my own mind, to  
be quite honest, until I have had a look at it. It's  
the witness's personal opinion as to the forces rained.  
I certainly don't want to tread into any more dangerous  
waters than we have to in respect of the Terms of  
Reference.  
MR MEYER: I don't see how I could, being the  
counsel for the Chapmans in those proceedings, I don't  
see how I could usefully use it in relation to the  
Federal Court proceedings.  
COMSR: I appreciate that.  
MR MEYER: If you are minded to suppress it, I  
don't have any objection from my part.  
COMSR: I propose that at least while I consider  
it and see the transcript of it to do that. Consistent  
with what I've done previously, I might say in respect  
of persons who are named and -  
MR ABBOTT: You have several times referred to just  
this witness's opinion. However, Miss Lawrie does say  
she would be happy to give chapter and verse on the  
pressures exerted, and I think it would perhaps be worth  
while taking more evidence.  
COMSR: I don't know about that.  
MR ABBOTT: I don't think it should be passed off as  
only her opinion and that when, in fact, she's in  
Canberra and the recipient of some of the pressure.
1 COMSR: No, I'm only concerned for the time
2 being while I have a look at the transcript.
3 WITNESS: Perhaps we should look at Hansard.
4 COMSR: Of the effect of it, which probably will
5 be overnight before I get the transcript. Are we likely
6 to conclude with the witness today?
7 MR SMITH: Yes. I've nearly finished.
8 COMSR: Pending my at least having a look at the
9 transcript, I propose to suppress any mention of the
10 evidence as to the witness's opinion that the pressures
11 rained, that were rained against you went up to
12 ministerial level.
13 WITNESS: Fine.
14 MR ABBOTT: Rained against my clients, not against
15 this witness.
16 COMSR: Yes, I'm sorry, rained against your
17 clients.
18 XN
19 Q. These are pages taken out of your photograph album.
20 A. Yes.
21 Q. I think you indicated, just to make sure that the copies
22 we have got reflect what you indicated. Photograph no.1
23 was indicated to you the daughter of Pinkie Mack looked
24 at photograph no.1 marked in the copy.
25 A. Yes.
26 Q. And identified a number of the children and people
27 there.
28 A. Yes.
29 Q. Also the photograph marked 2.
30 A. Yes.
31 Q. On the copy.
32 A. Yes, the birthday party.
33 Q. Then go to photograph no.3 which is, I think, Henry
34 Rankine on the horse-drawn cart.
35 A. Yes, that's correct.
36 Q. She identified him.
37 A. Yes.
38 Q. Photograph no.4 was I think -
A. Henry Long.
Q. Identified as Henry Long.
A. Yes.
Q. And photograph no.5, which is your Auntie Enid together
with Doug Milera's mother, Elva Rigney.
A. Yes.
Q. They were the five photographs that you particularly
indicated to us.
A. Yes.

EXHIBIT 77 Five copy photographs tendered by Mr
Smith. Admitted
MR SMITH: I have no further questions for the time
being. There are a number of other topics that Miss
Lawrie's evidence needs to cover that we can't cover in
the light of the absence of an authority.
MR ABBOTT: Well, I think my learned friend
overstates the position. As I understand the position,
not that we can't cover in the absence of an authority,
it would be preferable to wait and see whether we do get
an authority. That will mean we don't have to then
decide, you don't have to then decide whether or not a
discussion would or would not fall within s.35. As I
understand the authority, it's - as it were, if it's
granted, it would be a cover-all situation. Hopefully,
that would cover the other topics that this witness
would be giving evidence about. And whether or not it's
needed or not needed, it would not be necessary to be
debated because it would be there, assuming that it is
granted. So, I understand that the matters, the rest of
this witness's evidence, particularly in so far as it
concerns my clients, will not be given today. We are
awaiting whether or not an authority is issued, and then
and only then may it be necessary to debate in the
absence of authority whether the evidence could then be
given.
MR SMITH: Yes. I put that rather baldly, yes.
COMSR: In any event, you can't complete your
examination of this witness?
MR SMITH: Well, the truth of the situation is that I'm unwilling to complete the evidence.
COMSR: You are probably unwilling to lead it and I may be unwilling to receive it.
MR SMITH: You may well have to come to grips with that later.
So that is the extent then of Ms Lawrie's evidence, at this stage, but I trust that that won't stop Ms Lawrie being cross-examined as much as can be, at this stage.

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

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

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

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

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

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

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

COMSR: Yes, I understand that. Of course, one of the undesirable features in this Inquiry has been the number of witnesses that have given evidence-in-chief and the cross-examination has been deferred. That arises from the nature of the Inquiry and not any wish
on my part to proceed in that way.

MR ABBOTT: No, so I will wait until we have heard as to the s.35 issue -

WITNESS: I might add that anything that has come up -

COMSR: I might ask that you don't make any unsolicited statements, at this time.

MR MEYER: I am willing to ask questions, if everybody else is reticence, at the present. But I ask them on the basis I have no idea whether they are all I will ever want to ask. If something comes up in the meantime, so be it.

CROSS-EXAMINATION BY MR MEYER

Q. Do you know or would you recognise a lady called Betty Fisher.

A. No.

Q. Have you seen Betty Fisher on any TV reports, or anything of that nature.

A. No, I haven't.

MR MEYER: Is it possible for us to show the exhibit of Mrs Fisher on the 7.30 Report?

COMSR: To set it up?

MR MEYER: The TV is here. I don't know how long it would take to put the video on it. It would only need to go for a minute.

COMSR: I think we will have to refer that to the technical staff. Simply for the purposes of seeing if this witness can identify -

MR MEYER: Betty Fisher.

COMSR: Betty Fisher as someone she has seen?

MR MEYER: Yes, my question is was Betty Fisher at the reconciliation meeting which occurred at Graham's Castle and, if Ms Lawrie needs to see a tape of the lady first before she can answer the question, then I would ask to show her the 7.30 Reprot. If that doesn't help, so be it, there is no answer to my question.
Q. While they are setting that up, we will go on to something different. You gave evidence in relation to having a conversation with Maggie Jacobs. And I refer to your evidence occurring at p.7 of your statement, 1 April 1995. On that occasion, did you tape your conversations with Maggie Jacobs.

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

VIDEO PLAYED

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

MR MEYER: There she is.

COMSR: There we are.

VIDEO PLAYED

COMSR: There is a better picture.

Q. Does that enable you to -

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

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

A. No.

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

A. Yes.

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

A. I would have thought about a third of them appeared to be - and you have got to bear in mind that there are differences in the tribes. Skin colouring, features, etc. Quite apart from Doreen talking about people being her friends from Point Pearce. I would have estimated close to a third of the women there, Aboriginal women there, weren't Ngarrindjeri women.
Q. When we read `large proportion', that would mean approximately a third.
A. Yes.
Q. In the photographs in Exhibit 74 there is a group of photographs, at p.21. There are two sets of photographs of rows of houses at Raukkan.
A. Yes.
Q. And, on the next page, they are numbered, on p.24, do you have that.
A. Yes.
Q. We have heard a number of witnesses refer to `the top row'. Is that an expression that you are familiar with.
A. I have heard that expression, yes.
Q. Do you know, of your knowledge, looking at the lower photograph on p.21, which row of houses may have been defined as being `the top row', since I observe there appear to be three rows.
A. The difficulty is Point McLeay looks very, very different today and what I would refer to as `the top row' today bears no resemblance to anything in this photo.
Q. Perhaps that is something we should tidy up with Mrs Dulcie Wilson, when she gives her evidence.
A. Yes.
Q. You made a reference in your evidence to after the Graham's Castle meeting your interest being increased in the matters relating to women's business, etc.
A. Yes.
Q. And you you said that you obtained a copy of the Saunders report.
A. Yes.
Q. How did you get that.
A. I have got a whole package of things that I have obtained through the Parliamentary Research Service, which was one of the benefits of working for a Federal Member of Parliament.
Q. That is like a library facility.
A. Yes, a research facility.
Q. You refer to having a meeting with Dorrie Wilson on 24 April 1995.
A. Yes.
Q. Did you have lunch with her that day.
A. No, I had lunch with her on Friday, 26 May, just prior to leaving Adelaide to go back to Melbourne, which was well after everything broke.
Q. Was that at Murray Bridge.
A. Yes, that was.
Q. Did you form any view as to whether you were being observed on the occasion.
A. Absolutely. This is back to where the Commissioner questioned some of the tactics. There was someone that Dorothy pointed out observing us. This gentleman had walked to a position where he could view us several times and I had been able to observe this person, but didn't realise who he was, but formed an opinion he was observing us and Dorothy happened to turn around, at this particular point, and see this man and said 'Oh, that is', and she named him, but I can't recall the name, 'the Murray Bridge representative of ALRM.' I commented to my father. We remained there for a few more minutes and, when we did leave, he had someone else that he had since called and there were the two of them watching us and one of them had a camera.
Q. Did you only observe this person whilst you were having lunch.
A. We then saw them again later on. I went around and there was a poster in the office of Peter Lewis that had pictures of Aboriginal people of importance to Murray Bridge on it including a very good shot of Nanna Laura and I had requested a copy of the poster. It also had Dorothy Wilson on it. And, when I went around to collect that, again we saw these people observing us.
MR MEYER: For the benefit of the press, Commissioner, and the reporters, we are referring to that lady as 'the daughter of Pinkie Mack'.
WITNESS: Yes.
COMSR: The press have probably woken up to that now, given the number of times it has been repeated, Mr Meyer.

XXN

Q. That was on the same day.
A. Yes.

Q. Are you able to describe the person who you say is the Murray Bridge representative of the ALRM.
A. Just generally.

Q. But that person was identified for you -
A. Yes.

Q. By Dorrie.
A. Yes, and we were introduced as we left. I mean, you know, they didn't try and hide, hide the fact that they were observing us.

MR MEYER: I have no other questions.

MR ABBOTT: I do have a couple of questions that I could ask that relate to my clients that arise out of what my friend my learned friend has just asked.

CROSS-EXAMINATION BY MR ABBOTT

Q. On the topic of lawyers, you mentioned on 1 April you went to Maggie Jacobs's birthday.
A. Yes.

Q. And you met someone called Patrick Byrt.
A. Yes.

Q. He was introduced to you as a lawyer.
A. Yes.

Q. By whom.
A. He introduced himself.

Q. You say in your statement that Daisy Rankine seemed to be influenced by Patrick Byrt.
A. Yes.

Q. What gave you that view.
A. A. They stuck together pretty much throughout the day.
B. She mentioned different things that he had helped
her draft, including this letter to the Queen. And he,  
Patrick himself, mentioned various things that he had  
discussed with Daisy and that they clearly had developed  
a working relationship on these sorts of things, but  
some of the things he brought up were rather difficult  
to understand.

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

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

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

A. Yes.

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

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

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

MR SMITH: No, he hasn't.

WITNESS: I think Mr Byrt should have -

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

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

A. Yes.

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

A. Yes.

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

MR ABBOTT: See if he wishes to respond.

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

MR ABBOTT: Yes, it is just in this witness's  
statement it appears that Mr Byrt said the Aboriginal
communities and the Irish communities are going to join
together in an uprising.

Q. Did he say how this was going to happen.
A. He went into all sorts of detail, but, again, I am not
sure that it is necessarily relevant to this case.

Q. Did you see Mr Byrt at the Graham's Castle meeting.
A. Yes, late in the afternoon. I didn't notice him earlier
on.

Q. What was he doing there, or did you see what he was
doing there.
A. No, given the earlier experience, I thought it best not
to get into conversation.

Q. With him.
A. Yes.

Q. You didn't get into contact with him.
A. No, I thought I might end up there for a long time if I
did.

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

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

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

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

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

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

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

MR ABBOTT: No, it is hardly worth responding to,
but there will be some or there may be some evidence as to his involvement in the meeting, the minutes of which have yet to be finally dealt with by you.

Q. Could I ask you about other lawyers, Mr Tim Wooley.
A. I would not recognise Mr Wooley, whether or not he had been there.

Q. Chris Charles.
A. I don't know the person involved.

Q. Did you see either Mr Wooley or Mr Charles at the Graham's Castle meeting.
A. Not to my knowledge. They may have been there, but I wouldn't have recognised them. There were a number of men there, but I didn't recognise them.

Q. Do you know Mr Hemming.
A. Yes, I was introduced to him that day.

Q. Was he there at the Graham's Castle meeting.
A. Yes, he was there. I was introduced to him, by Doreen Kartinyeri.

MR ABBOTT: That is all I wish to ask, at this stage.

COMSR: I take it you would ask that the witness be released subject to being recalled at a later stage,

MR SMITH: Yes.

COMSR: You understand that, that you are being released for the time being, but you may be required to return to give evidence at a later stage? I appreciate there are certain difficulties in your case being in Darwin and it is not something that will necessarily be arranged overnight.

WITNESS: Yes, okay.

WITNESS RELEASED
MR SMITH: I had anticipated that Miss Lawrie would take longer than she has. That is probably because of the topics we have steered away from, and the inability of counsel to really fully cross-examine. So that leaves us with potentially two very short witnesses tomorrow.

I have taken the decision, subject to your view about this, rather than have counsel and all the resources of the hearing room brought to bear on two witnesses, that might only take half an hour each, that we adjourn until Thursday morning, and I will notify counsel of the witness program for Thursday morning. So that at least they can get on with other work rather than come in for two witnesses, whom we can arrange for Thursday or Friday in any event.

COMSR: Will we be arranging them for Thursday or arranging them for Friday?

MR SMITH: It will be subject now to their convenience. Some of the witnesses, we don't know whether it is convenient for them to come up - COMSR: I appreciate you have had to re-arrange witnesses at short notice and that has, of course, involved certain difficulties with witnesses.

COMSR: I just want to know to which day to adjourn the hearing.

MR SMITH: Can we adjourn to Thursday morning at 10 a.m.. We have got enough evidence to fill Thursday and Friday.

COMSR: We will adjourn to Thursday.

ADJOURNED 4.05 P.M. TO THURSDAY, 7 SEPTEMBER 1995 AT 10 A.M.
HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

THURSDAY, 7 SEPTEMBER 1995

RESUMING 10.10 A.M.

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

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

COMSR: Then we can proceed.
MR SMITH CALLS
PETER GEORGE COOPER SWORN
EXAMINATION BY MR SMITH

Q. Mr Cooper, you are the General Manager, Head Works and Country, S.A. Water Corporation. Is that right.
A. That's correct.

Q. What is your role then, and we are talking about the E&WS, as we used to know it.
A. Yes. I am one of the general managers in the corporate structure. My role is to look after and manage, overall, the five country regions of South Australia run by S.A. Water, and all the head works, which is the dams and major treatment works, water and sewage treatment works in metropolitan Adelaide. As part of that role, of course, two of those country regions, the Riverland region and the Murray Mallee region, have the river Murray flowing through them, so all of the activities of the S.A. Water personnel on the locks and weirs and the barrages come under my control.

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

Q. You obtained that from what institution, and in what year.
A. That was the University of Adelaide in 1961.

Q. I think you have a postgraduate qualification also, do you not.
A. That's correct.

Q. What is that and when did you obtain it.
A. It is a Master of Engineering Science in Public Health Engineering from the University of New South Wales, and that was obtained in - I attended the study in 1970 and was awarded in 1971.

Q. I think you are a member of the Institution of Engineers of Australia.
A. That's correct.
Q. Could you give us a brief picture of your experience in the engineering field, if it has been in the engineering field, since graduation.

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

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

A. In 1915, after I might say many years of wrangling between the three States, New South Wales, South Australia and Victoria, an agreement was reached and ratified in 1915 to form a River Murray Commission between those three States and the Commonwealth, and that was a pioneering piece of legislation and agreement. The three States and the Commonwealth have agreed to have, from then on, certain shared financial inputs and shared water gains from the River Murray system, which is covered from - they have control of the waters that flow in the River Murray above the Hume Dam,
just above Albury, and some surplus water that flows out
of the River Darling. So that commission has a major
influence in control of the allocation, movement of
water, and usage of water between the three States: New
South Wales, South Australia and Victoria. In recent
years, the name of that commission was changed to the
Murray Darling Basin Commission, and that is as it is
today. It has control of the navigation and the
operations and construction of all the structures that
it's built on the River Murray system.

Q. As a deputy commissioner, you meet regularly with your
fellow deputies, and make decisions about the management
of the waters of that river system.
A. That's correct.
Q. And make recommendations to governments, do you.
A. Yes.
Q. In connection with this inquiry, you provided a
statement to this Royal Commission concerning, in
particular, the waters and the barrages in and about
Hindmarsh Island. That's correct, isn't it.
A. That's correct.
Q. Looking at this statement produced to you, I think
that's the statement provided by you and signed by you.
A. Yes, that's the statement.
Q. It has, on p.2, a number of small corrections.
A. That's correct.
EXHIBIT 78 Statement of Witness Cooper tendered by
Mr Smith. Admitted.
Q. Just so that everybody's copy of your statement reads
the same as the exhibit - do you have a copy before you.
A. I haven't got the correct copy. I have an uncorrected
one.
Q. I produce to you a copy that you can have in front of
you. If we look on p.1, just above the heading
'Background', it is correct, isn't it, to 'I have been a
Deputy Commissioner of the Murray Darling Basin.'
A. That's correct.
Q. You make that correction.
A. Yes.

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

A. Yes, correct.

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

A. That's right.

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

A. Yes, that's correct.

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

A. That's correct.

Q. They stretch from where to where.

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

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

A. Yes. That's when the River Murray Commission was formed - ratified, and that led to an agreement between the
three States and the Commonwealth to fund the
construction of a series of locks and weirs and dams on
the river system.

Q. What led to that. Why did that happen.
A. I think it principally occurred because South Australia
initially was denied water from the River Murray by the
other two States. In other words, new South Wales and
Victoria claimed they owned 50 per cent each of the
River Murray. South Australia, in those days, didn't
look on that too kindly, as the River Murray was a vital
link to South Australia, particularly in the irrigation
area, and the South Australian Government lobbied the
Prime Ministers in the other States very hard to get
some sort of an agreement between the States,
particularly for what they considered an equitable share
of the waters of the River Murray. I think that was -
another key reason was South Australia was extremely
keen to try and have locks constructed on the River
Murray system for navigation purposes, because it was
seen as a big boost to the economy of South Australia if
all the shipping on the river in those days - and this
goes back almost to the turn of the century - all those
paddle steamers, it would have been delightful if they
could have had free navigation throughout the year, and
perhaps turned Goolwa into the large port that would
tranship away, overseas, all the product from the
Murray Darling Basin. Unfortunately, that dream
evaporated because of the time it took to get that
ratification. Finally, in 1915, the railways had
started to creep out from New South Wales, Victoria and
South Australia to the river, and the paddle steamer
trade died away. So locks and weirs were built that
were not largely needed for that trade.

Q. So there was then that agreement in 1950 between the
three States, New South Wales, Victoria, South
Australia, and the Commonwealth.
A. That's correct.
Q. I think, in part, as you indicate in your statement, that agreement enabled certain works to be carried out.
A. That's correct.
Q. And enabled the river to become navigable in the sense of locks and things like that.
A. That's correct.
Q. Under that agreement - what was that called incidentally.
A. I think it was the River Murray Agreement, or it might have been the Murray River Agreement. I'm not sure. It is referred to in the -
Q. I think it is called the Murray River Agreement, isn't it.
A. Yes.
Q. Under that Murray River Agreement, the commission was established, wasn't it.
A. That's correct.
Q. The predecessor of -
COMSR: If you are referring to the statement, it is the River Murray Agreement.
MR SMITH: But it is the Murray River Agreement.
XN
Q. I think you are referring there to the report of the Parliamentary Standing Committee on Public Works.
A. That's correct.
Q. Which referred to the Murray River Agreement, didn't it.
A. That's correct.
Q. I will come to that in a moment. The commission was established under that agreement, that is, the predecessor of the Murray Darling Basin Commission.
A. That's correct.
Q. The members of the commission were the three State governments and the Commonwealth.
A. That's correct.
Q. The commission's responsibilities as set out in the agreement was what.
A. Just broadly, it was to have an agreement on the allocation and use of water, and there would have been
figures agreed on between the States, particularly what
share South Australia received. It would also have set
out the conditions of how the commission operated and
maintained all of the structures it was going to build,
how they were to be financed, who was going to do the
operations and maintenance, and how that would be
managed. All of those sorts of things about the
day-to-day operations and maintenance, and the legal
side of managing the River Murray.

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

A. That's correct.

Q. Along the length of the River Murray.

A. That's correct.

Q. The major construction being.

A. The major construction being, first, the Hume Dam, which
lies above - just upstream of the township of Albury.
That was a key part of the whole system because it has
allowed water to be stored in - to be used particularly
in New South Wales and Victoria during dry seasons for
irrigation. There was 9 locks and weirs constructed
from Blanchetown in South Australia, up to - adjacent to
Lake Victoria. Also, Lake Victoria was constructed, and
the prime purpose of that was to ensure South Australia
could draw significant water in times of need out of
Lake Victoria - stored water there. There was also
further locks 10, 11 and 15, in the New South
Wales/Victoria area. I think that is basically the
broad structure of the - there were no barrages built,
of course, and they were not agreed to be built at that
stage.
Q. When the original agreement was entered into in 1915, is it the case that it was believed that enough water would be able to be managed down the Murray, even in low flow periods, to enable water to remain usable at the lower end of the River Murray.

A. That is correct.

Q. Even from a salinity point of view.

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

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

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

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

A. That's correct.

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

A. Yes.
Q. And there was salinity problems as well.
A. That's correct.
Q. What happened then.
A. Well, there were petitions brought by irrigators in those areas to the Government of South Australia and also farmers that drew water from the lakes, Lake Albert and Lake Alexandrina, because the Commission had virtually written out the lakes as being a water supply that would be maintained as irrigable all the time. They were only concentrating on that lower section of the river, the formal river. Those lake residents and farmers also petitioned the Government. There were a number of petitions and the Government decided to hold an investigation by the Engineering and Water Supply Department. That investigation was then taken up by the River Murray Commission who undertook a detailed report. Physically, the proposal started as looking at another lock and weir to be placed right at the mouth of the river at Wellington just before it discharged into Lake Alexandrina. The River Murray Commission, I believe, would have probably been upper State and certainly happy with that. That would have given the lower river adequate water of a right salinity and left the lakes to stay brackish. However, they couldn't find a suitable site on the very poor soils and it would have been an extremely expensive exercise. So, they went back to the drawing boards, as it were, and the Commission, when they investigated - the River Murray Commission investigated and came back and said 'Let's move down to the correct place, to move down across the lakes to the little islands that are located there and put a series of five barrages in, which would maintain the level in the lakes, keep the lake water sweet and maintain the appropriate level in the lower stem of the river and appropriate salinity.’ That was what was recommended back to the South Australian Government.

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

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

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

A. Yes.

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

A. Yes.

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

A. That's correct.

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

A. Yes, that's correct.

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

A. Yes, that's certainly the document.

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

A. Yes.

Q. I think the report speaks for itself.

A. Yes.

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

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

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

Q. Is that on p.16.

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

Q. That is the figure for the barrages.

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

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

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

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

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

Q. At which point are you able to describe it.
MR SMITH: The witness could mark the map.
A. If I put 1.
Q. Put 1, 2, 3, 4, 5.
A. That is at location 2. The third barrage is located across Boundary Creek which connects Mundoo Island to Ewe Island, and I'll place no.3 at that location.
Q. The 4th barrage connects Ewe Island with Tauwitchere Island.
A. Yes. Tauwitchere Island, T-A-U-W-I-T-C-H-E-R-E, and I'll place no.4 at Ewe Island barrage. And the final barrage, the largest of the five, is on Tauwitchere barrage which connects Tauwitchere Island across to the mainland at a point called Pelican Point, and I'll place a figure 5 at that location.
EXHIBIT 80 Map of Goolwa, Hindmarsh Island and their surrounds marked by witness tendered by Mr Smith. Admitted.
Q. So, at the completion all of those works which we will go into in a moment, Hindmarsh Island was connected to the mainland in two places.
A. Yes, that's correct.
Q. The main Goolwa barrage marked no.1 and the Tauwitchere barrage marked no.5.
A. Well, Hindmarsh Island was only connected, would be connected at location no.1 and location no.2 to the next island.
Q. True. Via the other - I suppose the correct way of putting that was via the other barrages connected to the mainland at Pelican Point.
A. That's correct.
Q. So, that was recommended by the Parliamentary Standing Committee and those works were carried out there, weren't they.
A. Yes. I might add that the River Murray Commission required other works to be constructed. At the same time, additional works on the river upstream and the three States and the Commonwealth agreed to undertake the five barrage construction and as well undertake some
additional works in the other States, New South Wales and Victoria, and that those works were grouped together and approved by the Commission and by the South Australian Government; and those works are also mentioned in the public works Standing Committee report.

Q. I think they are mentioned, aren't they, at p.16 - am I right. That's the two wiers at the Murrumbidgee River: The Yarrawonga Weir and the roadway over the Hume Dam.
A. That's correct.
Q. Construction commenced when.
A. Construction would have commenced probably late 1934, early 1935.
Q. The project, at least this part of the project involving the five barrages at Goolwa, extended to approximately when.
A. 1940.
Q. That work involved the employment of many people.
A. Yes, that's correct.
Q. I think the Engineering and Water Supply Department, as I think it's been known for some time and was then known, produced a booklet on the barrages; is that right.
A. That's correct.
Q. Looking at this copy produced to you, do you recognise that as a copy of the booklet which really sets out some details about the barrages near the mouth of the River Murray.
A. Yes, that's correct.
Q. Historical details, the purpose of the works, some particulars of the works and how the structures are operated.
A. Yes.
Q. And some detail of the construction and what went into the construction.
A. Yes.
Q. Is that right.
A. Yes.
EXHIBIT 81  Booklet of Engineering and Water Supply Department tendered by Mr Smith. Admitted.

Q. I think also your department kept a photograph album of such works, did it not.
A. That's correct.
Q. As part of its historical data.
A. Yes, that's correct.
Q. You have brought that album with you, have you not.
A. Yes, I have.
Q. It's actually for, it's for archival purposes and regarded as `SA Water Photograph Album No.7'.
A. That is correct.
Q. You have kindly recovered that from your records for us.
A. Yes.
Q. Does that set out a pictorial record of the various phases of construction of the Goolwa barrage.
A. Yes, it does. It's rather a comprehensive sets of photographs of the various stages from the start to the completion of the Goolwa barrage.
Q. Could you, by reference to the album, could you perhaps indicate to us in summary the various stages of construction and what went into the works.
A. I suppose the first stage would be the construction of a cofferdam to surround the works area in the water. These cofferdams consist of sheet steel piles that are driven into the bed of the river and form a continuous, if you like, container. And inside that container, the water is pumped out once the sheet piling is completed and made water-tight, the pumps pump the water out and then there is a dry area maintained by pumping of the river bed where you want to construct the structures, the actual structures, to become the barrage. The first exercise would have been to construct a sheet piling enclosure, a very large enclosure. That is done in two stages either side of the river, if you like, and then that would be pumped out and construction could have started in earnest once that was completed.
Q. Could you locate in the album where that is shown.
A. I have located that.
Q. If we can go to it in the album, what page is that.
A. There is pp.1 and 2 and 3, and that will be enough to give you an idea of the cofferdam.
Q. Perhaps if I could borrow that from you for a moment and I will show the Commissioner.

PHOTOGRAPHS SHOWN TO COMMISSIONER AND COUNSEL

Q. The cofferdam, in fact, clears out the area for the work to be done, or at least hold the waters back as it were.
A. That's correct.
Q. Then, work proceeded then on the dry bed of the river itself.
A. That's correct.
Q. In broad terms, what was the method of construction.
A. Well, the method of construction, the bed of the river in that particular channel had alluvial material laid down by the river flows in the past, and that was not considered a very sound base to put a concrete structure on to hold back the river or to hold back the sea. In the design, they felt that the correct design would be to drive a series of piles, timber piles, long pieces of timber 40 foot long in the old style, 13 metres I suppose in today's measurements, into the bed of the river to distribute the load down into the, through the clay, so it would support the weight without settling. That is a standard procedure of design in situations like that. So, the construction, the first thing to be done after the material inside the cofferdam was excavated at the appropriate level was to drive this, I suppose you could describe it as a massive nest of timber piles right across the river on the line of the concrete structure to support that structure.
Q. Was there any floor constructed, or were those piers, as it were, timber piers, driven straight into the bed of the river.
A. They were driven straight into the bed of the river on an angle. They were angled because - in both
directions, driven down like that (DEMONSTRATES) and set
like that the other way (DEMONSTRATES), so that the
structure could withstand loadings of water from each
direction. Because it should be borne in mind that that
structure, all of those barrages, have to be designed to
withstand not only the river water being above the sea
water, but at times when the sea water can rise above
and over river waters in big storms and that tries to
tilt the structure the other way.
Q. You will come to diagrams in a moment, I think.
A. Yes.
Q. So, the piers were sort of angled to meet that force, as
it were.
A. That's correct.
Q. Then, a concrete floor was constructed, was it not.
A. A concrete base before that. There is another vital
stage in the middle of that row of piles right in the
middle of the structure, going right across the river, a
steel sheet pile cut-off wall was driven. It's a series
of large sheets of steel also about 40 feet long and
they were driven down by a pile driver to form an
impenetrable barrier against water leakage under the
structures. So, it was like a big waterproof steel
sheet which was driven down into the middle of the
piles. That is a very integral part of a structure like
that one. The concrete floor's based on top of this so
there's no quick leakage of water straight underneath
the structures and you will have suring of any collapse
of structures into a hole. That big cut-off wall, that
membrane of steel, if you like, going right across the
river, forces in like an angle and goes right down low
in a long flow path and prevents scouring underneath the
structure. There was this steel sheet piling, the
single 4,700 plus timber piles driven and once they were
all completed, the concrete floor was then constructed
on top of the piles.
Q. What was the distance between those timber piles. Were they side by side or what.
A. Very close. I'd say here about - probably looking them, about five feet on the old scale. There is a photo that illustrates them very well. You can see them, they are very close together, a whole nest, lines of them.

Q. I gather from that that there wasn't just a single line of piles.
A. No, there was something like six rows in that photograph.

Q. Looking at that bundle of documents produced to you there, first of all, I think that features the Ewe Island barrage, but then the second sheet is the section through the sluices of the Goolwa barrage.
A. That's correct.

Q. I think then you recognise, just to complete the bundle, they are construction diagrams for the Mundoo barrage, the Tauwitchere barrage and the Boundary Creek barrage.
A. That's correct.
CONTINUED
Q. And Ewe Island. I think Ewe Island is together with the
    Tauwitchere Island, isn't it.
A. That's correct.

Q. Just so that I get a bit of a picture of this, you say
    that there were five rows, as I understand you.
A. There is probably more. I am just taking it off the
drawing, but on the diagram there is ten piles in that
cross section. Ten rows of piles in that particular
cross section. And they varied with - across the -
there was a different number, slightly different number
at one section in the middle where we have the navigable
pass and the lock.

EXHIBIT 82 Construction documents tendered by Mr
Smith. Admitted.

Q. You were explaining and I didn't allow you the benefit
    of a diagram to help you with that. You were explaining
    the construction of the Goolwa barrage. I think the
    second sheet exemplifies what you were explaining, does
    it not.
A. That's correct.

Q. Hold it up for the Commissioner and, first of all, that
    is a section, isn't it, through what has been - through
    the sluices.
A. That's correct.

Q. Does that indicate then the method of the piling of the
    river anyway.
A. That does. That section illustrates right in the centre
    the vertical sheet piling that has to be driven down 40
    feet, which is the diaphragm to cut the water off
    between the two sides. And the timber piles are shown
    there driven on an incline to form the foundation to
    support the floor and the piers of the actual structure.

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

Q. And then we have got, on each side of the steel sheet
piling, a pile shown going in the other direction.
A. That's correct.
Q. Was it the case they were done alternately, or do you
know.
A. I couldn't explain exactly the pile driving procedure.
I don't think we have records going back now, but, that
wouldn't have any great significance. It would only be
a matter of ease of construction of how you drove those
piles.
COMSR
Q. I didn't understand that to be the drift of the
question. You are explaining that you don't know in
what sequence they were actually constructed, as I
understand it.
A. That's correct.
Q. I think, and I may be wrong, Mr Smith's question was
whether, having been constructed, they inclined in a
certain angle.
MR SMITH: My question was, whether, as we went
across -
XN
Q. Because this is a section, isn't it.
A. Yes.
Q. As we go across the barrage, as it were, would we have a
situation where the first pile on, say, the left-hand
side of the steel sheet piling was inclined, as it were,
angled against - angled in one way and then the next
pile angled the other.
A. No, it would have been just line after line, section
after section, inclined just as this section shows.
COMSR
Q. Let's see if I follow this, if I can, there was, first
of all, a line of piles driven in, which angled away on
each side from that centre membrane.
A. That's correct.
Q. Then there was another row of piles which angle in
towards it.
A. No.
Q. That is not the case.
A. No, just those two.
Q. Just two of them.
A. Those two would complete that one section of piles and
that would be repeated section upon section upon
section.
Q. So, that shows the total number of piles which were
driven in around each membrane.
A. The membrane just is continuous. It is difficult. The
membrane is going like this (INDICATES) away from the
paper as we are looking at it, right across. We just
have a series of piles driven four that way (INDICATES)
on a line and four that way (INDICATES) and two coming
the other way (INDICATES) and then that would be
repeated on another section on another section on
another section, right across.
XN
Q. That section there shows us the first row, as it were.
A. That's right.
Q. Is that correct.
A. Yes.
Q. What you have called the concrete floor, looking at that
section, where is that.
A. The concrete floor is the rectangular section that is -
has been poured on the top of those piles and the sort
of reduced heads on the top of the piles, you can see in
the diagram, are imbedded in that big concrete slab, as
is the steel diaphragm cut-off wall down the centre.
They all are an integral part of that floor. One, the
piles, so that they can transmit the load in the ground -
Q. Just pausing there, would you indicate that to us, by
holding up your plan.
A. So, that is, the heads of the piles (INDICATES) are all
reduced in the top (INDICATES) and then they are - form
part of that concrete slab (INDICATES). So that the
load and the - the loads coming down through that
concrete (INDICATES) are then transmitted down through
those timber piles, finally distributed in the soil
(INDICATES).

Q. So, that almost rectangular box depicted there on the section, which envelopes the heads of the piles.
A. That's correct.
Q. Is the concrete floor.
A. Is the concrete floor. And it contains a mass of reinforcing steel bar and then it is surrounded, of course, by concrete.
Q. Then, on top of that, you have said, in your statement, were sited a series of concrete piers.
A. That's correct.
Q. Can you indicate those to us.
A. Those concrete piers - that is an illustration of one of the concrete piers (INDICATES) standing up on the top of the floor (INDICATES) and there is a series of those, something like probably 130 concrete piers or more going across.

COMSR
Q. It is just difficult, when you read the transcript, to understand when you say `And that's the concrete or the concrete pier'.
COMSR: I am just wondering if perhaps it mightn't be of some assistance if Mr Cooper could write beside each of those on that particular Goolwa barrage section? I think we are referring to what is the concrete floor, what are the piers, so that I will be able to identify, at a later stage, what the witness is referring to?
MR SMITH: All right.

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

Q. Put an arrow.
A. First, I will direct an arrow to the piles and write the words 'timber piles'. I will put an arrow to the steel piling cut-off diaphragm and write 'steel piling cut-off diaphragm'. I could place an arrow across to the concrete floor.

Q. Yes.

A. And write the words 'concrete floor'. And I will place an arrow across to the pier and write the words 'concrete pier' (INDICATES).

Q. You then make mention, in your statement, of the stop log grooves into which the stop logs were placed.

A. That's correct.

Q. Would you indicate that. That is indicating for us, isn't it, on the plan.

A. That's indicated on the plan, but I will place an arrow across to the stop log grooves in the pier.

Q. Can we assume, then, that the concrete piers, of course, are not a continuous structure right across the barrage, are they.

A. No, there is a series of piers, as I said, previously, about 130 piers, placed at equal intervals with stop log grooves in them, so that a series of stop logs can be placed down to hold the fresh water back separated from the sea water.

Q. And released, if necessary.

A. Those stop logs can be released and are released regularly when there is surplus flows to be released from the lake out into the Coorong to the Murray Mouth.

Q. I think your Department actually has some video footage of the construction of this barrage.

A. That's correct.

Q. Tell me, before we show that, was this a major engineering work, as far as your Department was concerned.

A. I would say it would be a significant engineering work.

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

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

A. That's correct.

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

A. Yes.

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

A. That's correct.

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

A. That's correct.

Q. What is that indicating.

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

COMSR

Q. Is the concrete floor a continuous structure.

A. Yes, it is.

Q. That is across -

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

Q. Just for the sake of completeness, how thick was the
1843

KC 25C

P.G. COOPER XN

cement floor, are you able to say from this.
A. I don't know if that drawing gives the thickness, but I
   could find that information for you on our engineering
   drawings, but -
Q. There is a scale there in any case.
A. Yes, there is a -
Q. I can see it is not of uniform thickness, but there is a
   scale there anyway.
A. I will have to get that information for you.

Q. The lock: apart from the barrage, which is, as it
   indicates, just a barrier, there is a lock chamber
   constructed in the barrage isn't there.
A. That's correct.
Q. And I presume this is midway across the channel.
A. It is approximately in the middle.
Q. That allows for the passage of boats upstream and
   downstream.
A. It does.
Q. Is that a busy lock.
A. It is, it is our busiest lock of our nine locks and
   weirs that we looking after in the Murray Darling Basin
   Commission.
Q. Adjacent to the lock channel, there is an area of
   collapsible weir.
A. That's correct.
Q. Called a navigable path.
A. Yes.
Q. Can you explain that.
A. It is a navigable pass. In the design - and, I guess,
   hoping that large ships might still come up through the
   Murray Mouth to the Goolwa port, from time to time, a
   navigable pass was constructed alongside the lock. This
   navigable pass consists of a series of major steel
   beams, which can be dismantled to allow a boat to
   traverse either upstream or downstream, if you like,
   through a large weir section. It has to be done at the
   right time, because, obviously, if you have a large
level difference between upstream and downstream, there
is a tremendous flow through the navigable pass and it
would be very difficult and rather risky for boats to
cruise, under those conditions. So, we have to wait
until the two levels are almost identical and then we
dismantle all these beams and a large ship can get
through. Something like the Murray Explorer. There is
a paddle steamer on the River Murray.

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

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

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

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

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

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

CONTINUED
Q. Those forces are exacerbated, I take it, by the pressure of the seas, such as, aggravated by storms and that sort of thing.
A. That's correct.
Q. So the structure had to be prepared to resist that.
A. That's correct.
Q. Is this the case, that that cement floor is 51 feet wide.
A. Beg your pardon?
Q. I am looking at the Goolwa barrage section, the navigable pass. Is that cement floor 51 feet wide.
A. That is correct, yes.
Q. It looks approximately about 10 feet thick, just having a rough guess, on the basis of the scale.
A. Yes, it would be of that order. That's a thickened section there.
Q. On each side and in the centre there it looks like 5 or 6 feet, at a rough guess.
A. That would be probably about the rough order.
Q. Can I take you to the next plan, so after Goolwa plan sections through sluices, if we turn to Goolwa barrage section through navigable pass, dealing with the topic that you have just been speaking about. It is much the same section, save that we have a diagram on top of the concrete floor showing some sort of device. Can you explain that to us.
A. That is the collapsible beams that I mentioned previously, that have to be dismantled so that the ship can pass through that area. In other words, rather than having concrete piers and stop logs between concrete piers, we have that collapsible structure that you can see on that diagram, a series of big steel beams. They are pinned together, and they can be dismantled by a crane and laid down - part of it can be laid down on the floor there, and gives you enough clearance for a boat
P.G. COOPER XN (MR SMITH)

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

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

A. That's correct.

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

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

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

A. That is correct.

Q. They operate in what way.

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

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

A. Yes.

Q. Does that shown the taintor gates.

A. That does.

Q. In section, at least.
A. That's correct.
Q. So the arrow saying 'Gate in raised position' is indicating this tainter gate.
A. That's correct.
Q. There were some banks constructed also, weren't there, apart from construction purely and simple.
A. That's correct. The openings at Tauwitchere and Ewe Island were very shallow but very wide, and the
  hydraulic calculations indicated that they didn't need
gates to stretch across the very long distances between
those islands, and, hence, part of the barrier was an
earthen bank, constructed and faced with stone to
  protect it from the wave action of the river or the sea.
Q. Could you go to the plan and, in broad terms, tell us the method of construction of the barrages which you have marked 2, 3, 4 and 5.
A. The Mundoo barrage is at location 2, and that stretches - there is a bank there running out from the Hindmarsh Island side for three quarters of the distance across the water, and then there's the 26 bays of the Mundoo barrage, and then you reach the other side on Mundoo Island.
Q. So it is part embankment and part -
A. Concrete structure with piers and stop logs. Moving to Boundary Creek -
Q. Which is number 3.
A. Which is at location number 3 on the plan, the majority of the opening across Boundary Creek is a structure identical to the one built on Mundoo. It has 6 openings for stop logs to be placed between concrete piers. There is very little embankment there at all.
Q. Is there a method of passing through on a boat on those -
A. There is no boating access at Mundoo or Boundary Creek.
The next barrage is a rather long one, named Ewe Island, and designated at point 4 on the map. That consists of two long sections of bank, as described previously, and in the middle of that is a long section of concrete
barrage equipped with taintor gates, and I think, from
memory, there is about 111 openings along that section,
where gates can be lifted and fresh water passed
through. We have replaced some of those gates with stop
logs since its original construction.

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

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

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

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

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

A. That's correct.

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

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

A. It was quite different. Previously, the lake was a very - the level movement in the lake was quite a dynamic situation. In the very lower areas it would be affected by the tidal movement of the water in and out of the river mouth, and also the flows coming down the river. So the lakes and the lower river could be full of fresh water with a high flow coming down the river, and the lake would be at a certain level. If the flow dropped away, the sea would come in and tend to dominate the lower lakes, and you would have a mixture of fresh water. Sometimes, in very bad drought periods of the river - I mean, there has been periods where the River Murray has virtually stopped flowing, not very often, but this was before the lockage system - in those situations the lake would have become quite saline, almost sea water down in the lower end. So it was a dynamic situation in the past for level going up and down and whether it was saline or fresh. Now the sea
water just can't get back. Occasionally it does. In a very violent storm it might slop some water over into Goolwa. And occasionally it has been so violent that we haven't been able to get out there. It's been too dangerous to put some stop logs and some sea water would get back, but we would quickly drain that out. It has turned it into a much more constant level body of water, and certainly what we would term a fresh body of water.

Q. In a brutal sense, the four barrages here across to Mundoo Island and down to Pelican Point keep the sea water out of the lake area.

A. That's correct.

Q. That route, and at the barrage here at number 1, keeps the sea water out of that part of the lower reaches of the River Murray.

A. That's correct.

Q. The Goolwa barrage, I think, was not designed to enable traffic to move across it, was it.

A. That's correct.

Q. It was mooted to be part of the construction of a bridge at one stage, was it not.

A. I don't know about being mooted, but the South Australian Government did examine the possibility of the construction of a road access on the barrage.

Q. As constructed, does that create engineering problems.

A. I didn't see the calculations or was involved in that exercise, but you would have to look and see whether - the structure was not designed originally to take road traffic. However, it is constructed to take fairly heavy loads of the four legged crane that has to move along the whole distance to withdraw or place stop logs as appropriate. It would require significant upgrading and add-ons to be able to become a workable road bridge, in my opinion.

Q. What about the other barrages, do they provide any traffic access at all.
A. Yes, they do. They were designed for traffic access, purely for the Murray Darling Basin Commission employees or the S.A. Water employees, on behalf of the commission, to actually access those four structures to maintain them, to operate them, et cetera. In fact, it is not accessible to the public. It is totally on private property enclosed. So it is not a through road in any sense of the word.

Q. Maintenance traffic only.

A. That's correct.

Q. Just before we leave the construction then, you are familiar with the video, of course. It is part of your archive material, isn't it.

A. Yes.

Q. When we show it, I will ask you questions as we go through it, and I would like you to explain various stages of construction that are represented on the video.

A. I must say this is fairly tedious in that there is no sound. So there is long periods of viewing things with a few headlines.

MR ABBOTT: Can we ask questions if there is anything that occurs, rather than have to play it again later on? There wouldn't be many questions. I have seen this tape before so I am familiar with it and I have a couple of questions which, if my learned friend doesn't ask, I would like to ask.

MR SMITH: I encourage, if you are agreeable to this, anyone interrupting.

VIDEO PLAYED

CONTINUED
Q. Is this the Goolwa barrage.
A. That's a general shot of some of the barrages. The Goolwa one would be in the background. It's a very poor quality. It's an off-shot of the 1930s and so they put it on to video, but so it's not easily identifiable in parts. That would be a shot of the construction of the Goolwa barrage. Would you like me to call that out if people can't read those words?

Q. Could we go back to the start.
A. That's just a general shot of a model of the works.
Q. The opening shot of the model is there, is it.
A. That would be correct.
Q. Showing, first of all, the Goolwa barrage.
A. That's right, and a general shot in the Pelican Point direction and with Tauwitchere Island and the other islands in the distance. That would be probably an aerial photograph. That is a general panoramic scene of the Goolwa barrage area. It is very difficult to find out what that is, to discern that. That is a view of the works area from the - the first thing is `Preliminary work excavating the foundation and building the cofferdam with the derrick boat and an orange peel bucket', which is a type of excavation device. You can see some of the timber piles here in the foreground. They would have been used to drive in the foundation. That would be excavating the material inside the cofferdam to construct the dam and to get things rolling. You can see that they would have a lot of float barges and things like that for the excavation and for the pile driving. `Preparing the cofferdam. Temporary sheet piling'. Again, there is that temporary sheet piling I was telling you about that would keep the water out and allow you to dewater and excavate in a hole. There, again the sheet piling is put down for the temporary cofferdam. There, you can see what they have been able to achieve. That is the
bed of the river having been contained by - you can see there, that would be the cofferdam they have built.

MR ABBOTT: Could we go back and show that by slow frame. That shows the bit of the river I would like to ask a question on.

Q. That's the picture of the cofferdam with the barge going up against the sheet piling.
A. That's correct. That would be the sheet piling there and that would be the bed of the river and that would have to be excavated to a certain level to start the construction, so it would be nice and flat. And probably you'd have to take a bit of the river bed down because you were going to build up a concrete structure on top of that. That is excavated out and there were drains running out to keep it dry, and that is where they were driving the piles and the sheet diaphragm.

MR ABBOTT
Q. We can see some of the piles on the logs on the left, can we not.
A. Yes.
Q. That is of the 40 foot long piles that are driven into the base of the river bed.
A. That's correct.
Q. There is some machinery in the form of pile drivers there.
A. Yes.
Q. At least two or three.
A. That might be - that might be a little crane. Some of these would be cranes to lift these things around. I think later on there would be a shot of the - something like that might be pile driving. They had to hold the piles at a certain angle and drive them down.
Q. Eventually, we can see there is a railway on the bottom.
A. I don't know if it was on the bottom or it's up on the bank. They had a railway system to transport metal and the other things because of the large distances to travel.
TAPE PAUSED

MR KENNY

Q. Perhaps while pausing there, it looks like they have built three-quarters of the way across the channel; is that correct.

A. That would be correct. I don't know what that exact distance is. They would have to do it in parts. If you have obviously a flood flow coming down the river, you don't want to have the whole thing stopped off. They would have done it in a couple of stages at least and having the cofferdam and having it excavated and constructed on the one side and the cofferdam the other.

Q. So, during the period when this work was going on, there were still parts of the channel open and water was still running through that.

A. Yes. I haven't checked back in the detail of the design. I could do that. That would be the obvious way you would have to do it.

Q. That appears to be supported by the film there.

A. That's correct. There's mention in the photographs of cofferdam - I think (a) and (b) or one and two - so they obviously had a number of cofferdams.

MR ABBOTT

Q. On the assumption we are looking from the mainland towards Hindmarsh Island, then we are seeing the cofferdam which is nearest to the Murray Mouth, having moved from the cofferdam nearest to Goolwa. We have gone across the exposed bed of the river and now got to the section of the river bed and the cofferdam nearest the Murray Mouth.

A. I'm not sure if you could discern that from that film. That is very difficult. I'd have to -

Q. You are not sure whether that is taken from Hindmarsh Island or the mainland.

A. I'm not sure of that. You'd think it might be. It's very difficult to work out what that might be in the background, if it's Hindmarsh Island, or is it not the sandhills of Sir Richard Peninsula. That is very
Q. In any event, this shows a track laid to the riverbed for the pile drivers to work on.
A. Looks like that would be a structure for the pile drivers.

Q. That fencing we can see on the top of the cofferdam, that is the temporary sheet piling.
A. That would be the temporary sheet piling there. Here, it looks like - that is very difficult to find. I would suggest this is a sheet piling. The entire photograph is going down the centre of the structure.
Q. Looks like to put it in.
A. It's not easy.
Q. That is the 40 foot length.
A. Yes.

Q. Is there a reference number on the screen there.
A. No.

MR ABBOTT
Q. We could give it a minute reference. That is 25.24, is it, or thereabouts.
A. Yes. What that focuses on, if you hold it there, that would give you an idea of that side of the river.
Q. We stopped it there.
A. You focused it right there. That should tell you. It doesn't matter anyway.
Q. It's coming back.
A. I wouldn't worry, there will be other shots you might be able to pick it up.
Q. Tell me when to press `stop'.
A. It comes into focus for a moment. Right there. I think that is looking there to see - I think that looks like the Sir Richard Peninsula with the sea there. I would suggest that that would be on the side that you alluded to earlier which you can clearly see how the cofferdam is off and working on that area.

TAPE PLAYED FULL SPEED
A. That is the general picture of their office and
workshops and bending steel reinforcements. This is the
reinforcement I mentioned to you. That is placed in the
floor. And the piers, you will see a photograph of that
in a moment.

Q. What are we looking at now.
A. That is cutting steel reinforcement. That is used in
the floors and the piers. This is not very exciting for
you. I must admit, it is a pure engineering filming.
This is driving the steel sheet piles, 40 feet long
along the centre line of the structure to provide that
cut off diaphragm that I mentioned in my evidence.

Q. That is the base of the riverbed.
A. That's the base of the riverbed. These would be -
that's the sheet piling there. They have got a sort of
a castellated shape to them. They interlock one
another. You drive a sheet and the next one goes down
and interlocks with it and has a series of sheet piles
driving - `Wooden tongue and groove sheeting by means of
a sledge hammer and water jet'. And this sheet is at
the up sheet and down sheet of the concrete slabs.
There were extra little pieces of timber cut off at each
end of the floor structure and are very small and are
only very tiny. That is a person driving one down with
a sledge hammer and driving round wooden piles into the
foundation support. These are on a three to one sheet
and the number of piles driven was 4,768, if I was quick
enough to read that.

Q. That, again, is the riverbed.
A. That is the riverbed. That would be a pile driving
structure there.

Q. You can see the roads.
A. That would be a steam-driven pile driving hammer to
drive 4,700 plus piles.

Q. And what are those cross-members.
A. These would be derricks and cranes to move the things
around.
Q. We can see the road from the right-hand side, the road of - I thought it was the background.
A. There.
Q. There.
A. I'm not too sure. It's not very clear. I will - I think you will see some shots further on the heads of the piles. That is just a shot of the pile driving complex. There, they are the - there's the, you can see the driving and the hammer driving on to one of those and see the tops there of all the piles, timber piles.
Q. On the left is the pile driver.
A. That would be the pile driving rig there, yes.
Q. We can see the one section of the cofferdam.
A. That's right. That would be correct, out there. Says 'General view of cofferdam'.
Q. That looks as though it's towards Hindmarsh Island.
A. You would think it would be. It's difficult to pick up in these pictures.
Q. Again, in the foreground is the riverbed.
A. That's correct, and that would be the line of piles they have driven across the cofferdam. There's some of the piles just lying down.
Q. Are they the 40 foot piles.
A. I don't think so. Looking at it, they might be some of the - that's a hose, I think. It's very difficult to pick up in that picture.
Q. Could be dewatering.
A. Yes. They're certainly not the 40 foot piles. Again, you can see the heads of those piles there. 'Driving piles for the down phase of the abutment on the 3 to 1 slope. Swinging leads were used in the space, preventing use of a pile frame'. 'Swinging leads' would be derricks. Because of the tightness of the space, they couldn't fit all this formal frame in, so they probably had to hold it on a derrick, which would be very difficult to do. You can see a person climbing up
here, no harness - and, unbelievable, like a monkey.
Q. That shows, again, the bed.
A. That's correct.
Q. Driving the piles in on an angle.
A. That's correct.
Q. By use of the swinging derrick.
A. Yes.
COMSR
Q. Do you know what particular section of barrage this is showing, barrages this is showing.
A. No, I don't know specifically. It's very messy on the construction to locate exactly where it was as to the thing. We would have to study and look at the reference point.
Q. Is it Goolwa.
A. That is Goolwa.
MR ABBOTT
Q. I think we saw one of the 40 foot piles being lifted up to where that man is; did you see that.
A. No.
Q. I will press rewind.
A. Yes, there it is there.
Q. There's the man.
A. That's right, the pile.
Q. They are lifting up one of the 40 foot lengths.
A. Yes, that is that there.
Q. If we look at that.
A. There's the man sitting like an ant on top of the crane structure.
Q. I am playing this in slow frame.
A. They would be preparing the pile for driving into - positioning it. Actually driving piles on an angle like that is a lot more challenging, of course, than driving them vertically and positioning them. And keeping them on that line is quite a challenge. I just take my hat off to them, the techniques that they had available to them to achieve that. There it goes. There, you can see the steam coming up and out and the hammer starting
to drive itself down in that angle. A general view of
the foundation piles’ position. Also, the method of
driving the head of the piles. If you remember, I said
they cut the heads of the piles back. You can see -
there they go there. There is an axe or - an axe. That
is a general view of that whole run of piles that runs
right across, ultimately across the whole of the Goolwa
channel.
Q. That is, as it were, the plan view. We have the cross-
section view of the diagram.
CONTINUED
A. That's right. That is the plan view of the completed
cross sections, one after another after another, that we
showed on the drawing.
Q. The distance between the piles is about five feet.
A. I am just guessing from the film there. I could find
it, if I went to the detailed engineering drawings. You
can see they are fairly close.
COMSR
Q. What is that showing.
A. That is again just the - that nest of piles just poking
up out of the ground.
MR ABBOTT
Q. Would you be able to show the Commissioner, and answer
with reference to this diagram, how that relates to this
diagram (INDICATES).
A. Basically that is showing - most of these shots are
showing - the ground level is there (INDICATES). And it
is showing all of those tops of those piles (INDICATES).
They are just in one great big band, coming back like
that for that whole distance (INDICATES). So, you have
got something like ten pile heads across one line and
then you have got lines of those ten. So, it is just
almost solid wood there, by the look, you know, the way
you see that in that picture. You can see the trimmed
heads. Look, there is, you know, just going right back
across (INDICATES).
MR SMITH: The witness was there referring to
Exhibit 82.
COMSR: Yes, Exhibit 82, Goolwa barrage sections
through sluices.
MR ABBOTT
Q. There we see the whole lot or at least the whole run
anyway.
A. There is again a whole run of them, yes. There they are
again poking out. Here is the network of reinforcing
steel, that I mentioned earlier, that is being
constructed to enmesh the heads of those piles.
Q. There is the ten foot thick -
A. Well, it wouldn't be ten. I think that is only in one section it was about nine, ten feet, yes. The other, I would say, is probably - I will check it on the diagram for you. There were some marks that - I will calculate it later for you, but that is the actual - basically the set up for the construction of the floor of the whole barrage. And those (INDICATES) individual tops of the piles protrude into that floor and are surrounded by a mesh of concrete. You can see them there (INDICATES) and that is all going to be covered with concrete, `Loading and conveying the aggregates to the mixing plant.' That is just the various stone and sand that they used to mix the concrete on-site. There is nothing very spectacular about that.

Q. There is the train that they built on the track to take the aggregate down to be delivered to the site.
A. That's correct.

Q. Here we are on the barrage.
A. Yes, that is the start of the - they would have constructed some of the barrage there already (INDICATES). That is the - just mixing the material for the concrete, mixing and placing the concrete. `An internal type vibrator is used for compacting the concrete.' That is the wet concrete coming out of the mixer (INDICATES), it is taken into big skips (INDICATES), like that. Metal boxes, if you like, or skips. It is transported on that train (INDICATES), you can see there (INDICATES), out to where the - where they are placing the concrete. That is some of the finished structure there (INDICATES), and they are going over to the unfinished area to place that cement. That is a crane just carrying that big bucket of concrete, the skip of concrete (INDICATES).

Q. I think that shows, on the right-hand side, part of the actual barrage itself.
A. That's right. That would be one of the weirs - one of the piers, I am sorry.

Q. This area I think is between the cofferdam and the
barrage itself.

A. That's right. That would be - these are the various piers that have been built on that finished concrete floor there. And that is some of the stone to be - the rip rap, that I have mentioned, is to be placed there, when you are finally out of that and ready to complete the job.

Q. On the right is the cofferdam wall.

A. That's right. The cofferdam wall would be there (INDICATES).

Q. Between the cofferdam wall and the barrage itself, the concrete barrage itself, they have constructed a railway.

A. That's correct. That is the railway running here (INDICATES).

Q. And that is on the river bed.

A. That is on the river bed.

Q. That is another view of the railway on the river bed.

A. Yes, and that is some of the rip rap stone that they have placed (INDICATES).

Q. You can see the wall of the cofferdam there.

A. Yes.

Q. And the river behind it.

A. That's correct. That is the concrete about to be placed in one of these piers being constructed. You can see the timber formwork standing up (INDICATES).

Q. Just pausing there, we can see the concrete slab.

A. Yes, that's the slab there (INDICATES).

Q. And, underneath that, are the wooden piles.

A. That's correct. And they are imbedded into that slab (INDICATES). Absolutely in. It is absolutely essential that they are.

Q. Over the other side, of course, there is another wall of the cofferdam.

A. That's correct.

Q. Shovelling the concrete into the pier.

A. That's right.

INTERJECTOR: This, of course, was taken before
Aboriginal people had rights in this country. Just to let people know. It is what you are looking at.

COMSR: Yes, I would ask you ladies not to interrupt, while this is going on.

MR ABBOTT: Could it be noted that the person interrupting is the Director of the Aboriginal Legal Rights Movement?

INTERJECTOR: That's right. I will stand up, so you can see me.

COMSR: Certainly, if I could just ask you not to interrupt while the film is proceeding?

INTERJECTOR: I just wanted people to know that.

COMSR: I think the people got the message.

INTERJECTOR: Before the Aboriginal Heritage Act was in place, in fact.

COMSR: Yes.

A. And that is a view of placing the concrete with these vibrators there. Pieces of metal tube with air is driven down them and they vibrate and they cause the concrete to move down and surround the reinforcement properly. So, it is a method of making sure that you get the concrete into the different places by virtually vibrating it with a tube.

MR ABBOTT

Q. Are they the tops of the forty foot long piles being surrounded by concrete.

A. The top, yes, that's correct (INDICATES), they are the tops of the forty foot timber piles. And there they are trying to place the cement in and shovel it around that massive network of piles and reinforcement.

Q. Just pausing there, that shows the rip rap on one side, does it.

A. That would be - I don't think that is rip rap. That would be cement, I would suggest, there. They are placing a floor pour there, I would suggest.

Q. So, that is pouring the concrete slab.

A. Yes, pouring the concrete slab. There, again, you can see them trying to shovel it and work it between the
massive reinforcing rods. That is the vibrating arm
that - the vibrating rods that they used to vibrate the
concrete (INDICATES). Same thing again. There is
another view. If you look back there, of all those
piles are completed and they are ready to - they are
obviously building the slab out this way in sections
(INDICATES). `Placing large stone to protect the
downstream side of sluices against erosion.' And,
again, the little train (INDICATES). There is a pile of
rock here (INDICATES), stock piled.

Q. Then what did you say those tracks are laid over. They
are laid on the bed, are they, of the river on concrete
foundations, piers, are they.
A. Which tracks?
Q. That little train track.
A. That little train, it had a - at one stage, there were
tracks down on the bed inside the causeway, but they
have also - they lift it up and run on tracks on the
top, as well. So, they would have laid tracks in a
number of spots as construction progressed and obviously
they used the little trolley rails on the top of the
finished structure to take it out at that juncture, but,
at other times, it was down on the bed of the river.
So, it would have moved around. They would have laid
rails all over that place.

Q. That shot we just saw was really the train moving over a
section of almost completed barrage.
A. That's correct.
Q. To a section that was under construction.
A. That's correct.

Q. There is the rip rap.
A. That is the big stone that they placed to destroy the
energy of the water as it comes through the structure
and try to minimise the erosion downstream, so you don't
get a hole forming and then the possibility of the
structure collapsing into that hole. I must comment that the photographers certainly weren't going to miss any detail out when they took this. I apologise for the length of it, but they were determined to have all details recorded faithfully by the looks. This is another shot of the rip rap after placement. A large stone there (INDICATES), being lifted into position.

Q. We can see something on a track there, as well.
A. Yes, that would be - that might be a track there (INDICATES), for that crane structure.

Q. The travelling crane.
A. Yes.
Q. And that is the area between the actual barrage itself and the cofferdam.
A. That's correct. Very intensive labour type of work, this, where they have to try to place the stones in, jack them around and chip them around, so that they bed into an integral rip rap downstream. And there is - it looks a little bit like - it is hard to see whether it is complete or not, but you can see the idea of the end of the floor that we talked about. And they are the big piers (INDICATES), sitting on the probably about 130 piers, of that order, right across the river.

Q. And, on the left, of course, is the cofferdam wall.
A. That, again, would be the cofferdam wall.
Q. We have seen the shots before of the train running down where that rip rap was.
A. That's correct.
Q. And other trains and derricks, as well.
A. That's correct.

MR SMITH
Q. Does that indicate that it is nearly finished there, does it. Is that water that has got in there against the rip rap.
A. That would be just normal drainage water. It is impossible to have it completely watertight. There would be a pump down there somewhere that would be constantly work to keep that construction dry. This is
a shot of pumping water from the cofferdam. In other
words, that answers my question there, that there was
leakage water coming down here (INDICATES), and they
have obviously pooled it there (INDICATES), and pumped
it away back in the river or down into the sea.

MR ABBOTT

Q. There we see, not just the barrage itself on the left,
but the rip rap and tracks laid on the top of the rip
rap for the travelling crane, etc.

A. That's correct. That is just the water being pumped out
(INDICATES), to keep the area dry. `The finished work
before flooding the cofferdam,' Now they are at that
stage and they are ready to - getting ready to go out
completely and then flood it back with water and then
you equalise the water level on both sides of the
temporary cofferdam and then you can pull that cofferdam
out. That would be the finished rip rap and the whole
thing (INDICATES).

Q. There is something travelling on the top of the barrage.

A. There would be something there (INDICATES).

Q. Yes.

A. Yes, that is that - again, that little train, I think.

MR SMITH

Q. That gives a shot of the complete piers, doesn't it.

A. That's correct.

Q. With the stop logs, did you call them.

A. Yes, the stop log grooves. It would be difficult to
see, but there is a groove, a vertical, rectangular
groove going up, right down the length of which the stop
logs fit in either side (INDICATES). The stop logs
would have a piece of rubber right around them to try to
- when the water forces them against the stop log
gooves, it tends to seal it and stop some of the
leakage.

COMSR

Q. Does that show the width of the barrage.

A. There is not a shot there so far that has shown the
total width.
P.G. COOPER XN (MR SMITH)

Q. I don't mean from bank to bank, as it were, but looking across the barrage.
A. Yes, it is not easy to pick up when you have got - you mean, just the length of those piers, do you?
Q. If you were standing on one side of the barrage and looking across at it at one point, I wondered if that was what that was showing.
A. Yes, it is not - it doesn't really indicate that to you.

I think that might be what we call the navigable pass section (INDICATES). No, it is very difficult to pick. That just - that is a typical weir there. You can see where it is flooded. That is the width between the weirs and that is the length of the weir, if you are looking upstream. So, each of those sections has stop logs lowered down in them. 128 I think it is of them.

And 'The removing the filling from the cofferdam.' You can see there the cofferdam had actually two lines of sheet piles and they had material in between to give it a bit of mass, if you like, and they are digging that material out and they would have to dig the material out either side that they had sloped and they had to vary the two runs of sheet piling. 'Withdraw the temporary sheet piling in the cofferdam.' They do that with a steam pulling device. You can see that witch, which should be hooked on to the sheet piles and go up over a sheave and exert a vertical lifting force to actually pull each of the piles. You can see one of them being pulled there now. There it comes out of the ground and you have just got to repeat that to all of those interlocking sheet piles.

CONTINUED
MR ABBOTT
Q. That shows the cofferdam being removed - or the sheet piles of the cofferdam being removed and the floating barge, the barge behind it.
A. Yes, that's correct. That is just another shot of it. The grab hooks on and pulls it straight out. General view of the navigable pass and the sluices.
MR HUTTON
Q. Mr Cooper, the structure which runs across the screen is actually running over the top of some water, isn't it.
A. Yes.
Q. If you were above that structure looking down, that would have the effect of obscuring the water underneath, wouldn't it.
A. That's correct. That is the navigable pass that I mentioned in my evidence earlier. This section can be removed, the beams up here, and those sections of steel can be dismantled. They are pinned and laid down on the bed of the river. That allows a rather large boat to go either upstream or downstream.
Q. Underneath the structure.
A. Yes. This is removed. It has got to be removed because it has got to float down through there.
MR ABBOTT
Q. That is the paddle steamer.
A. That's correct. There is the train once again, running along the top. It is running out as far as the - that is the lock structure, navigable pass structure. Again, the standard piers going right across. That is the navigable pass area again, showing these sections that are able to be dismantled. There is a shot of the stop logs, timber stop logs, down in the navigable pass area.
MR HUTTON
Q. The navigable pass areas that you talk about, how wide are they approximately.
A. I couldn't tell you. I could get that information for
P.G. COOPER XN (MR SMITH)

Q. How many navigable passes are there.
A. Just one. You collapse all of these. It gives you a significant width, and then a boat can traverse up or down.

Q. Enough for a large paddle steamer.
A. The Murray - I think it was renamed the Brisbane Explorer - went down through that opening and went up to Brisbane. I wouldn't have liked to have sailed on it. It then operated in the Brisbane River area, or somewhere in Queensland, and then came back again and sailed through the Murray Mouth and ran aground. It was refloated, and came up and went past. At the appropriate time we dismantled that section and it sailed up into the lakes again. So it is a significant size vessel in that sense, those paddle steamers.

MR SMITH: Can I interrupt for a moment. We undertook to allow Mr Cooper to return for an important meeting at 12.30. Could we release Mr Cooper and have an early lunch and resume at 2.15? I have got a way to go, so perhaps we ought to release Mr Cooper until 3 o'clock.

COMSR: We will adjourn until 3 then.

ADJOURNED 12.20 P.M.
RESUMING 3.10 P.M.

I before we start, I would like to make it clear this is a public inquiry and all members of the public are permitted to come in. However, there are some rules in an inquiry, and that is that there be no disruption, otherwise we cannot proceed with the evidence in an orderly manner. As long as the inquiry can go ahead without disruption, we can continue to hold it in public.

WITNESS P.G. COOPER CONTINUING VIDEO RESUMES

Q. Mr Cooper, perhaps you can explain what we are looking at here.

A. If I remember, this was a picture of the Goolwa barrage. This section had been completed in construction, and they were filling the cofferdam with water and then removing the cofferdam sheet piling. This is preparing the Jarrah stop logs that are placed down between each set of piers to hold the water back between the sea and the fresh water. That's long pieces of Jarrah, approximately 12 feet long. They are put together from a number of pieces, mortared, and then cramped together to then form one stop log. A series of stop logs are put down between the two slots to form the full height barrier to hold the water back. That's a stop log in its finished form. It is being stored there on the side.

Q. Is there any particular reason why they are timber as opposed to the balance of the construction of the barrage.

A. Well, it would principally be weight. The timber would be much easier to handle, lifting and installing. But we have replaced the timber with prestressed concrete now, because that can be made quite a bit thinner than normally reinforced concrete of that era, and it has a longer life against the ravages of the salt and the
fresh water on the Jarrah. This is an opening swing
bridge. That's the lock at Goolwa - in the Goolwa
barrage. You can see a boat entering the lock. There
is a bridge that runs across for the crane travel, and
that has to be wound around on a turntable. The
gentleman - or boy it is, is turning the turntable,
swinging the bridge away so that the boat can traverse
through that lock from - there's the boat coming in now
from downstream from the sea side, the Coorong, up into
the lock, ready to have the gates closed and the water
to rise and exit the lock - the gate at the other end.

Q. Is that bridge still there.
A. Yes. It is generally kept in the open position because
it is only needed when you are running the big four
legged crane across the lock. So we generally have the
turntable in the open position, because we have a
tremendous amount of traffic in and out of the lock with
boat holders on their trips down the Coorong.

Q. That shot there just shows the stop logs in position,
does it not.
A. That's correct. These are just general shots of the
finished part of the structure.

Q. Is that showing it from one bank, as it were, to the
other.
A. Yes, that is from the down side, showing the sea. There
is a shot from both sides showing the finished
structure. That was the first half that was
constructed, and then they moved and constructed the
second half with another cofferdam.

Q. That's the conclusion of the video footage concerning
the Goolwa barrage, is it not.
A. Correct.
Q. I think there is some further footage showing some shots
of the other four barrages.
A. That's an aerial shot of a little model showing - it is very difficult for the court to pick that up, but it is just trying to outline the position of the various barrages which have been pointed out on the map and numbered this morning. It is showing Ewe Island and Tauwitchere. This is constructing cofferdam. Suitable material is loaded into half cubic yard side-tipping trucks and conveyed by horses or locomotives. This is just excavating soil. I am not too sure what - it is very difficult to pick up in the photo, but there is the horse power taking material in the half cubic yard skips. Building the cofferdam using sand bags. Again, they had to employ cofferdams, although they were much much shallower, because the four openings across Mundoo and the other islands are much shallower. You can see them standing there. It is nothing like the very deep Goolwa channel.

Q. What do we see there.
A. There is a little truck to ferry sand bags and material across. That would be just pushing cofferdam material out. A later method of building the cofferdam using a barge. That is again that little railway that we saw, the little train we saw in the previous photographs. Either they had another one or that one was transported across to these locations.

Q. What are we looking at there.
A. That's just dumping soil from the truck. They are pushing the core of their cut-off wall out, and then they are putting soil on each side to give it some extra support so that it will be strong enough to stand up when they pump the water out from inside the cofferdam to start construction. There they say the cofferdam is pumped out ready for excavation. They have made those walls. That dirt was that dirt there being tipped out when the water was on either side. Now they have pumped that side out and that wall there is holding the sea/fresh water back and they are excavating to build
the - I am not too sure what this one is, it might be
Mundoo, I'm not sure. They will tell us soon. That's
just excavating in the trenches in the bottom. There is
a - I mentioned earlier this morning that there is a
little trench dug underneath the foundation as a key, as
it were. Concrete is poured in that trench and is
bonded to the concrete of the foundation, so there is a
little key holding it against sliding. Once again,
people just operating in that environment. This
material here is what we call the calcareous limestone
reef that these four - the four barrages of Mundoo,
Boundary Creek, Ewe Island and Tauwitchere were
constructed on a much shallower hard reef. That is just
a picture of crabs running around on the bottom of the
evacuation. Generally forming up the foundation. There
is reinforcing material there. Just a general panoramic
shot of the construction site and the constant de-water
pumps that are required to keep the area dry enough to
pour concrete and work in. Preparing foundations using
picks operated by compressed air.

Q. Was the method of construction of the four remaining
barrages much the same.
A. It would have been very similar for these four
structures - for the concrete work of these four
structures, yes. Then there was associated bank work
which would have been fairly much similar for the four
structures as well.

Q. What is happening there.
A. They are just trimming out the foundation. That says
`Aggregates for concrete are delivered by barge and
unloaded by grab from the Derrick boat'.

Q. There.
A. That is just towing materials to the construction site
using the water method. It is very difficult to get
access to some of these places along the islands, so
obviously they use the water method there. They are
just stockpiling material I would say for the concrete
production at that site. In those days you had to mix
your concrete on the site of your construction. They
didn't have the niceties of being able to transport and
keep concrete alive and fresh, as it were, over long
distances. So you would have had to take all your
materials to produce that concrete right out across the
water and place it close to the site. So that's what
this is depicting, the bringing of all those materials
adjacent to the concrete construction site. This is
just screening some of the material. Concreting
operations, materials are batched in a half cubic yard
side-tipping trucks and dumped directly into the hopper
of the concrete mixer. You see all the little side
dumping trucks on the railway line. That is a shot of
the reinforcing rods that will be put in the material.
That's the material being dumped into the intake, into
the concrete mixer, which is this big drum rotating on
the left-hand side of the screen. That's the cement
being loaded in, mixed.
CONTINUED
Concrete mixed finally and wheeled in carts to the job.
Placing that, that would be down in that cut-off trench
that I mentioned to the Commissioner. As you can see,
it's very slow, laborious and a very long process to
pour concrete in those days with that sort of equipment.

Q. What year are we talking about.
A. That would be in the period from 1935 to 1940. They
were built over that period.

Q. It took five years.
A. Yes. That's just a shot of, showing the sort of
formwork being prepared to pour a concrete slab as part
of the one of those concrete barrage structures. You
can see laying concrete there and the reinforcing rods
protruding up in the air, which will be the foundation
of rods for the piers, those structures, and forming a
floor slab there. That's just screeding the concrete
level. There's a picture of the finished product and
they've got the slab ready. Gives a view of the base of
the slab having been, or floor having been poured and
they're starting to work on the vertical piers. Steel
forms are used and an internal type vibrator for
compacting the concrete.

Q. All this construction we see now would be common to the
four remaining barrages.
A. Yes. You know, you need to show that film, it keeps
going. Just shows the steel formwork placed in position
ready for pouring. That shows a vehicle travelling over
the top part of the columns, and obviously that's
starting to get near completion as far as a structure is
concerned. Again, the little train working on the
banks. That's a concrete vibrator. This is like a
lesson in civil engineering one. I'm not sure if the
court's interested in all of this intricate detail?
Placing decking on the structure and using pneumatic
auger. Placing the deck pieces on to enable traffic to
pass over the top. That is drilling holes in the timber
on the decking pieces. There we are, the barrage
starting to come to fruition. 'Lock chamber under
construction'. That's the Goolwa lock chamber. They
would be screwing there probably the bearings for the
lock gates, or something like that, into the floor of
the chamber. Some of the mechanism of the gate for the
lock chamber you can see the wheel there that bears
against the concrete. The gate slides across. This
gate was slid across laterally and had big roller wheels
to support it as it moved across. There's a picture of
the finished lock with the gates moving across. That is
in a closed position.

Q. Are we now back at the lock at the Goolwa barrage here.
A. I'm not sure. I think that is too small for the Goolwa
barrage. Very difficult to pick out on these
photographs which of the two locks it is. That is a
shot of the camp sites. Once again, the little train
taking materials over to the construction site. That's
showing the causeway. These are the embankment sections
that reach out to the concrete barrage parts of the
whole complex. A tremendous amount of stone pitching,
'rip rap' as we call it, was placed on both sides of the
banks to protect it from the wave action. A lot of
these stones were fitted laboriously by hand. The
finished article, I must say, is very pleasing to the
eye. The way they fitted those stones together, an
incredible labour of love. 'Constructing roadway across
the island.' On the plan which has been alluded to
earlier, there are sections of roadway between the
various barrages. A lot of that roadway is on private
property and the South Australian Government has the
right of access with those landowners, and they
constructed a reasonable foundation-based road to allow
them to transport heavy equipment, materials right
across the barrage. This is a shot of the tainter gates
which I mentioned this morning in my evidence. These
are the big rotating gates with the curved front.

That's in the lowered position, holds the water back.
They are the stub axles that the gates rotate in in the up position. They allow the water to run through. There was something like 322 of these gates on the Tauwitchere Island barrage and about 111, from memory, on the Ewe Island barrage.

Q. Does that mean that we had stop logs operating on the Goolwa barrage.

A. Yes.

Q. Is this an alternative to the stop logs.

A. Yes. Stop logs - and there's still stop logs at Goolwa, Mundoo and Boundary Creek and Ewe Island and Tauwitchere. Basically they were all tainter gates.

However, we have taken some of the tainter gates and replaced them with stop log for efficiency purposes since that time.

Q. Why the difference then.

A. Well, tainter gates are much easier to operate. When you have - they are more expensive than stop logs to construct, but when you have 322 of them which you have to raise and sometimes lower fairly quickly if storms brew up and the sea water is threatening to enter the lakes, so the tainter gates are easier and are lifted with the crane and lowered with the crane very quickly.

With stop logs, especially at Goolwa, they are slower but there's a much limited number of openings. And the tainter gate would have had to have been massively big down at Goolwa because of the deep openings. It was deemed we would go for stop logs there as against the quicker operating tainter gates. That is a picture of a car driving across and that's the - it is necessary to have that pneumatic tyred access across those four barrages, so that we can or could have access to them and undertake the basic operations and maintenance functions. You can see it's quite a considerable distance across each of those sections. Each of those gates is approximately a little bit more than 12 feet long, and, as I said, there are 322 of them in that section at Tauwitchere. There is a picture of them
raising the gate, I think, at the moment.
Q. Is that a picture of the bosses inspecting their work.
A. That's correct. You see them lower it and shut the
water flow off. Again, similar to the jarrah stop logs,
these gates were with rubber seals to try and minimise
leakage past the gates. Again, that is a little swing
bridge on the smaller lock there, a little small lock on
one end of the Tauwitchere structure. And that lock has
to, again, have a turntable to swing the bridge open so
a boat can pass through. This lock is operated by hand
and only takes small boats. You see the lock gate
moving back which allows passage from the lake to the
sea, or vice versa. That is how you have to operate it,
and that is how it's done even today.
Q. That's the end of it, is it not.
A. Well, I suppose they were the masters of the E & WS and
River Murray Commission of the day. ‘Completed
structure Ewe Island Channel’. That's ‘Completed
Structure Mundoo Channel.’
MR PALYGA
Q. All of these structures are bridges as well as barrages.
A. That's right, the four structures on the island. The
Goolwa barrage is not a bridge and you virtually - it's
very risky to drive a pneumatic tyred vehicle across it.
It is not designed to do so. It is only designed to
allow a four-legged crane to move right across it to
replace and lower the stop logs.
XN
Q. That is the end of the video, you will be pleased to
know.
A. Yes.
WITNESS RETURNS TO WITNESS BOX
EXHIBIT 83 Video tendered by Mr Smith. Admitted.
XN
Q. To complete the picture, I think you have kindly
provided the Commission with a plan showing the
landholding of the E & WS, as it was then known, and
it's not only landholding, but right of way for the
purposes of servicing the barrages.
A. That's correct.
Q. Looking at these two plans produced to you, I don't have
copies for counsel, but I show counsel first. Looking
at the two plans produced to you, I don't take you to
each coloured section individually, but this - in broad
terms, do both plans show the large tracks of land as
land vested in the E & WS.
A. That's correct.
Q. And in fact is almost the entirety of Sir Richard
Peninsula and Tauwitchere Island.
A. Yes. They are vested in the Minister on behalf of the
Murray Darling Basin - or the River Murray as it was -
Commission.
Q. There are roadways connecting roadways also indicated in
yellow and almost invariably they are rights of way
acquired by the Minister for the purposes of allowing
the E & WS or the Murray Darling Basin access.
A. That's correct.
EXHIBIT 84 Plans showing departmental property
relating to the barrages tendered as a
bundle by Mr Smith. Admitted.
Q. You have kindly provided the Commission from the
archives of the E & WS and the now Water Board, the
photograph album relating to the construction of the
Goolwa barrage.
A. Yes.
Q. Two further photograph albums relating to the
Tauwitchere barrage, the Mundoo and Boundary Creek and
Ewe Island barrages.
A. That's correct.
Q. It's the case, is it not, that you would produce these
to the Commission for return to you after whatever
photographs the Commission wants to reproduce.
A. That's correct.
Q. Is that the basis upon which you offer them.
A. Yes.
Q. Since they are valuable property.
A. Yes.

MR SMITH: Perhaps at this stage, the three albums be marked only for identification and I'll extract from the albums and tender in due course any photographs that may be of use to the Commission rather than appropriate the entire album.

COMSR: I think Mr Cooper might be a bit reluctant to part company with those albums.

MFI 84 Large photograph album of Goolwa barrage marked 84 for identification.

MFI 86 Photograph album of Tauwitchere barrage marked 86 for identification.

MFI 87 Photograph album of Mundoo barrage marked 87 for identification.

CONTINUED
Q. I think, over lunch, you have reflected on some of your evidence and you want to make some small additions to the evidence that you gave this morning.

A. It was not changing the evidence, but filling in the gaps. Commissioner, you did ask me the thickness of some slabs.

Q. Yes, that's right.

A. And I have looked at the plans and just ascertained that - if you could turn to your paper that has the Goolwa - the section of -

Q. That is Exhibit 82, are we talking about.

A. I am not too sure.

MR SMITH: Yes, Exhibit 82.

A. Yes, no.82. And there is a section called `The Goolwa barrage section through the navigable pass.' And the two thicknesses of the slab there in that section or that floor, in the thinner section, it is six foot and, in the thicker section, it is nine feet. And, on the other section titled `Goolwa barrage section through the sluices', which is a similar section showing the piles, section through the sluices, that floor slab is three foot thick. I was also asked by a counsel what was the width of the navigable pass and that figure is sixty-eight feet. That was the width for the big boats to pass through the navigable pass. And the sluiceways are approximately twelve feet. So, they are, I think, I hope, correcting the figures that I was asked, information that I couldn't recall.

Q. Before leaving the barrage, for the moment, looking at these two copies of I think perhaps even the video, do you recognise those as a construction stage of the Goolwa barrage.

A. Yes, they certainly are.

Q. And the completed stage of the Goolwa barrage, but perhaps before water was pumped out of the cofferdam.
Q. And they are the Goolwa barrages, aren't they, those two photographs.

A. Yes.

Q. I want to take you to another topic altogether, the question of river flow. Under the terms of the current Murray Darling Basin Agreement, South Australia has a minimum flow entitlement, is that correct.

A. That's correct.

Q. That New South Wales and Victoria, who control their dams, etc., have to honour. Is there an exception to that, however.

A. Yes, the way the agreement is written, South Australia is entitled to a minimum flow of 1,850 million litres per year and - sorry, correction, 1,850 gigalitres per year. That is a thousand megalitres. And -

Q. One gigalitre is a thousand megalitres.

A. That's correct, a thousand megalitres. This water is provided from the Murray Darling Basin storages at Dartmouth, Hume, Lake Victoria and, on some occasions, from water held in the Menindee Lakes. The two States of New South Wales and Victoria share the remaining waters outside of our entitlement, 50/50, on a 50/50 basis, and they must first provide us with our entitlement. And this would occur - at least that minimum entitlement would occur on probably almost all years, except extreme drought periods, where all of the water that is held in storage is divided by a third to each State. So, the only time we don't get our entitlement is under a condition of extreme drought.

Then we drop back to just a third of what is available.

Q. Is it the case, as you have said in your statement, that normal average flow of the river through South Australia is average, though, that is, is significantly above that minimum entitlement.
A. It is.
Q. However, has average flow been declining over the recent years.
A. The average flow that enters the sea from the Mouth has been declining over the years, as the water is utilised more and more for irrigation and other uses, major uses by large cities, like Adelaide, etc.
Q. I think, in June of 1995, there was an audit conducted of water use in the Murray Darling Basin, was there not.
A. That's correct.
Q. And figures were published in relation to it.
A. That's correct.
Q. You have a copy of that document, do you.
A. Yes.
Q. Looking at this document produced to you, which is a copy of that publication, is it not.
A. That's correct.
Q. And p.18 is the page which relevantly concerns us, is that right.
A. That's correct.
Q. What does that indicate.
A. The diagram, on p.18, displays the reducing flow available at the River Murray Mouth from - compared with natural conditions before water was dammed and diverted for various uses up until the 1994 demands. And what that indicates is that, I suppose, a key highlight which has been quoted in the press by the Ministerial Council and the Commission is that, if we take the natural flow conditions, 150 plus years ago, there is approximately 5,000 gigalitres, that is, accurately, 4,600 gigalitres a year would run out to the sea in a drought year, or what they call the 5%. Five years in a hundred, I think is the earliest way to explain it. Five years in a hundred, there would be that amount of water running out to sea, or less. So, that is under natural conditions.
Now, the amount of water drawn out of the river upstream has meant that that same flow, 4,600 gigalitres, or less, flows out of the Mouth, something like 60% of the
time. So, there has been a significant reduction in the
amount of water available to flow out to the sea over
that period.
Q. Because of the massive drawing on water, as it comes
down, from other sources.
A. That's correct.
Q. That is illustrated on p.18 of that publication.
A. Yes.
Q. What is that publication.
A. It is an audit of the water use in the Murray Darling
Basin. June 1995. Published by the Murray Darling
Basin Ministerial Council.
EXHIBIT 89 Extract of `An audit of water use in the
Murray Darling Basin June 1995' tendered
by Mr Smith. Admitted.
Q. I suppose one of the consequences of that statistic of
interference with the natural behaviour of the river is
making much more important the use of barrages and dams
and that sort of thing, is that right.
A. That's correct. I mean, it would have been - certainly
it was the driving factor in causing the barrages to be
constructed, because the increasing use of water
upstream and in South Australia and the higher parts of
South Australia was causing the sea to encroach further
and the river to drop lower and making it untenable for
irrigation in that lower area of the river between
Mannum and Wellington, as I mentioned this morning.
Q. Going to one last topic, which is the heading in your
statement on p.7, `The Murray Mouth': do you have a copy
of that.
A. Yes.
Q. I think the observations of the Murray Mouth and the
documentation of it show that, as you have said in your
statement, it is almost a living thing, isn't it, the
Murray Mouth, and alters position, according to a number
of conditions, doesn't it.
1. A. That's correct.
2. Q. Can you tell us broadly what they are.
3. A. The Murray Mouth, of course, is cut through the frontal sand dune and discharges into the southern ocean. And that is an extremely high energy coastline. Big waves and swirls. And, of course, that coastline has an effect on the Mouth. Especially when the flow or discharge from the Mouth reduces, there is an effect of wind and current. And those sorts of conditions down on that coastline can push the Murray Mouth backwards and forwards. It can drive sand into the Murray Mouth and it can result in a net movement of sand either south or north or southeast or northwest, if you like, along the coast. So, the energy and power of the coastline has a big effect on the Murray Mouth. Further to that, the amount of water that comes down and the power of the water coming through the Mouth obviously has an effect on the coastline. And, of course, tides can come into the Coorong area. And, before the barrages were constructed, they actually - the tides would have entered the lower part of those lakes and moved in and out. And the tides can bring sand in and dump sand and then go out, as well. So, there is - the sea can have quite a blocking-off mechanism, as it were, to the Murray Mouth, even though it is moving water apparently quickly. Large bodies of water in and out looks very impressive. There are times when it can leave sand behind and gradually close the opening.

COMSR

Q. Are you saying the Murray Mouth moves up and down the -
A. The coast.

Q. The coast.
A. Yes.

Q. Is that something that happens, over a period of decades, or can it happen -
A. Yes, well, it - I have some figures here that indicate - I mean, it does move slowly. It doesn't sort of move suddenly. But, yes, it does move, but it can accelerate
because of a large flood. A large flood can cut one 
side of the Mouth and move the Mouth, as it were, one 
way or another, over a relatively shortly period of 
time. Say, the months of a large flow. But, yes, it 
is, it is something that doesn't happen overnight, but 
it does move. And we have evidence of this and I can 
tender evidence of photographs of the movement of the 
Murray. In fact, I could quote from a report here, if I 
may? And these were from observations taken. And, 
could I quote from this report?

Q. Yes, which report is it.
A. It is a report by the Engineering and Water Supply 
Department on Coorong salinity, ‘Processes and options 
to reduce Coorong salinity.’ One of the things they 
were looking at was how the Murray Mouth was effecting 
that. From 1839 to 1876, there was an easterly movement 
of 900 metres. From 1876 to 1938, that is a fairly long 
period, there was a westerly movement, 1,340 metres. 
From 1938 to 1941, there was 430 metres, again, 
easterly. From 1941 to 1967, 370 metres, westerly. 
1967 to 1972, 360 metres, easterly. 1972 to 1981, 360 
metres, westerly. And from 1981 to 1989, 610 metres, 
westerly. That gives you an indication of the movement. 
It has been an oscillating movement. However, since 
1941 - sorry, since 1972, it has been basically 
westerly.

Q. Who was that report prepared by.
A. It was prepared by the Engineering and Water Supply 
Department. It was to examine the Coorong salinity 
process as to options to reduce the Coorong salinity. 
In other words, we had the role then of trying to see 
where - whether our barrages and the Mouth and those 
sorts of things could be in anyway used to improve or 
modify the salinity and what effects they had with the 
salinity of that whole body of water in the Coorong.

Q. That report, I take it, drew on records that were held 
in your Department.
1 A. That's correct, yes.
2 Q. Of observations and measurements of the movement of the
3 Murray Mouth.
4 A. That's correct.
5 Q. I think that was the case, wasn't it. Early records
6 were kept of the variations of the positions of the
7 river mouth, together with diagrams demonstrating
8 lateral movement. Those records were kept, as you say
9 in your statement, from 1956 to 1990.
10 A. That's correct.
11 Q. That behaviour of the Mouth is caused by, what, if there
12 is anything.
13 A. It is caused by a combination of things. Of energy from
14 the sea breaking on the shore. From the direction of
15 the prevailing winds over that period. The net movement
16 of sand. How the Murray Mouth was - how the flood flows
17 were moving out of the Murray Mouth. There is a whole
18 series of effects that can make it move.
19 Q. What is the primary effect.
20 A. I wouldn't be an expert to be able to say that. You
21 would have to ask probably an oceanographer or someone
22 like that. But, obviously the sea was a big effect and
23 the amount and frequency of river flow has a big effect.
24 Q. If the barrages are not opened, from time to time, and,
25 therefore, there is no river flow, that has an effect,
26 doesn't it.
27 A. That has an effect on whether the Mouth blocks up or not
28 and it certainly has a big effect, in that area.
29 CONTINUED
Q. In your time, has there been a recorded closure of the Murray Mouth.

A. Yes. The Murray Mouth was closed - in our interpretation of the word ‘closed’ - in 1981, following a prolonged period of low flows of the river and no water available to be admitted through the barrage system. The mouth actually fully closed with sand brought in by tidal action and then by storms and dumped in there. There was just no passage of tidal water at any time for quite a few weeks.

Q. Such that you could walk across the Murray Mouth.

A. Freely. It was just like a normal beach.

Q. Did your department do anything about that.

A. Yes.

Q. What was it.

A. We observed it closely to ensure that - just to keep a watching brief, because we hoped that that would free itself naturally when rains came down and the River Murray system and increased flows came to South Australia. We didn’t try to do anything to open it at that stage until natural rains came and gave us the water to cut through the mouth and re-establish it. When that occurred the sand had built up naturally to such a level that the water - we opened all the barrages, all the gates and stop logs, and the water filled the Coorong, but it was not high enough to flow out over the sand that had filled the mouth. So we observed it and the level rose, and virtually was analogous to a flood level in the lakes and the Coorong with no flow. The level started to rise and shacks were being endangered having their floors wet, and there was a possibility that Goolwa would have some minor wetting, flooding, wet feet. So we made the decision to actually open the mouth with mechanical diggers, and there was plenty of water coming down. The level was rising because there was plenty of water in the river pouring down into the lakes.

Q. But not able to get out to the sea.
1889
RF 25K
P.G. COOPER XN (MR SMITH)

A. No.
Q. Looking at this photocopy of a photograph produced to you, do you recognise that.
A. Yes. That's the construction activity that we undertook to dig a connecting channel between the Coorong, the lakes and the sea.
Q. Looking at that photograph, in the foreground is the sea. Is that correct.
A. That's correct.
Q. And in the background is the Coorong.
A. Yes, Coorong.
Q. And the Murray River, if you like.
A. That's correct.
Q. Again, to do that work, did you have to have cofferdams or anything like that.
A. No. We pushed sand away, but basically we dug a very deep hole from the Coorong, out across through the old mouth area, and eventually we put a small bank around to prevent the sea coming in, because the sea has a habit of slumping sand into excavations, all your work is in vain, and you've got to start again. We tried to keep the sea out with a little bank of sand long enough so that we could get a deep enough channel, and then we broke through that channel at low tied, and the pressure or the head of water in the Coorong drove that channel through and the mouth started to flow. I might add, once it flowed, with that level of water behind it, it just raced through and gouged - its usual very very deep flood mouth was re-established.

EXHIBIT 90 Copy photograph tendered by Mr Smith. Admitted.

Q. I think your department has illustrated the movement of the Murray and the closure of the mouth in 1981 by three displays, haven't they, over the years.
A. That's correct, and associated conditions in other times where the Murray almost closed.
Q. Can I ask you quickly to come out of the witness box.
Looking at this display, shall we call that display
number 1. We can identify that because it is the only one with the graph illustrated on it.

A. Right. That's an aerial picture showing the five barrages and the Murray Mouth.

Q. You are now indicating -

A. It is taking in 1972, just as a diagram, but what this shows is here in 1945 there is an aerial picture, showing the mouth with no flow, maximum flow, and the previous six months nil. It is the first aerial photograph we had of that area. So that is just a reference point for starting. The gates had been closed for 250 days, and you can see even then, in 1945, that the mouth had started to contract, but it was still reasonably well open.

Q. Just so the record shows what photograph you are indicating there, you are now indicating the left-hand top black and white photograph on the display.

A. That was the left-hand photograph.

Q. With the date.

A. With the date of 24.4.45. We move to the bottom left-hand photograph with a date of 30.4.81. It shows the Murray Mouth which has had no openings, no flow through it for 196 days, and the mouth is completely closed. You can see by the yellow sand area, it indicates how much sand is being brought in by the action of the tide coming into the Coorong, that sand being dumped, and the return water going out, and then later storms dumping sand and wind blown sand so it is absolutely closed off.

MR KENNY: Can I please interrupt here? I have had a request from one of the women in relation to this matter.

INTERJECTOR: Would you please turn those around.

MR KENNY: They are sacred to Aboriginal women. Please turn them around. Don't snigger. Please turn them around.

MR KENNY: I have been asked, on behalf of the woman who spoke to you, whose name I don't know, she is not a client of mine -
INTERJECTOR: It is Val Power, woman's adviser, and I am very angry that those photographs are on blatant display for all of you to see. Don't you have no respect?

MR KENNY: On her behalf, if I could ask if she could perhaps come forward and speak to you? She has some concerns about this matter.

COMSR: I think Ms Simpson might speak to her outside and see what the concerns are.

MS POWER: Yes, please.

COMSR: If you would mind going outside, because we cannot conduct a hearing while there is a lot of noise going on?

MS POWER: There is no noise going on.

Q. First of all, can you tell me who took these photographs.

A. They would be aerial photographs taken by the Department of Lands. I am not sure about that first one, but I would guess it would be Department Lands, but all of these would be aerial photographs. I am not sure, but I would be fairly confident that the majority of them, if not all of them, were taken by the Department of Lands' Aerial Photographic Unit.

Q. They are photographs that are available for public purchase.

A. I am not sure if they are available for public purchase, but I guess they would be. I would have to have that verified.

MR ABBOTT: They are available from Mapland at Netley.

COMSR

Q. I take it if you flew over that section that's what you would see from a plane.

A. That's correct.

Q. You were addressing then the photograph of 30 April 1981.
A. That's right.

MR ABBOTT: We made inquiries as to what was available and you can buy, at Mapland, every series of aerial photographs since 1945. They have done series not annually, but in recent years annually, and in fly-overs in the early days about three years apart. All of those can be purchased. In fact, I provided Mr Smith with a list of ones that I suggested, some selected purchases that should be made.

MR KENNY: While we are speaking on this, I might have something to say as well. I am not familiar with Aboriginal tradition in relation to these photos or disclosure. They have obviously caused concern.

MR ABBOTT: Alleged concern.

INTERJECTOR: Alleged concern, excuse me.

MR KENNY: My instructions are to pay due regard to Aboriginal tradition. They haven't specifically instructed me, my clients, in relation to the photographs that are here.

COMSR: I appreciate the ladies that are concerned are not your clients.

MR KENNY: If they raise a matter of concern, it comes within the instructions of my clients to support those concerns. I would ask that perhaps rather than cause offence, if they believe it is offensive to them, it would be considered by my clients to be offensive to them as well, and consequently I would ask that we leave this part of the evidence until a later time.

MR ABBOTT: I object. If any Aboriginal lady here has some concerns about any of these photographs and wishes to make a submission, let her come forward, give some evidence, be cross-examined on it, and then you can determine it. But I object to the campaign that has been waged by these women at the back of the court and by some who have left, whereby they will give the media what they choose and they will give us none. If they have objection then they should put it before you, and
by all means listen to it, but let us hear it from the
witness box like everyone else in this commission.
MR KENNY: We have all heard submissions on
Aboriginal tradition previously.
COMSR: I am not too sure that I have actually
heard assertions, but -
MR KENNY: At this stage I submit that we are not
really in a position to make any representations before
you, considering the lack of authorities to do so.
Consequently, we simply cannot, as Mr Abbott suggests,
put somebody in the witness box to give evidence
concerning Aboriginal tradition. That is not something
that -
COMSR: What concerns me is that anyone who goes
down to that area - any man, woman or child who goes
down to that area presumably can see what is there.
This is a photographic representation of what is there.
I am a little at a loss to understand the basis of the
objection.
MR KENNY: I am not in a position to go into it.
Nor is this commission, with respect, entitled to
receive evidence concerning it.
MR ABBOTT: Then let's forget about it.
MR KENNY: It is not simply a question of forgetting
about it. I suggest it should be of concern to the
commission if there is some apparent concern by
Aboriginal people about the display of these
photographs. It is quite clear that these people are
concerned about it. Their agitation clearly shows that.
MR ABBOTT: Let them speak to counsel assisting and
we will get on with it.
COMSR: I think Ms Simpson is out addressing -
MR KENNY: I would ask that perhaps until Ms
Simpson returns and until we have some clarification of
this issue, that no further discussion take place
concerning those photographs.
COMSR: I am not discussing the content of them. I am discussing the availability of the information. As I understand it, if any person were to go down to that area they could observe the coastline with their own eyes. If they were to fly over it, they could see this. If they were to take photographs, this is what would be shown on the photographs. What I am trying to understand is why, because it is produced in this commission, it is considered to be offensive. I do not know that you have any instructions on that. I appreciate your dilemma.
MR KENNY: I'm not in a position to provide you with any, and nor, as I said before, is this Commission in a position to take any evidence in relation to Aboriginal tradition and why these photographs may be offensive to people. Now, I quite readily agree with what you say in relation to observing the landscape. Perhaps there is some difference in their tradition - and I remind you that it's not just - we are not talking about ancient Aboriginal tradition when we speak about 'Aboriginal tradition' in the definition of the Aboriginal Heritage Act, we are also talking about tradition that has arisen since.

COMSR: Since when?

MR KENNY: Since the settlement of Australia by Europeans.

MR ABBOTT: Based on the old tradition.

COMSR: Perhaps - look, Miss Simpson is out there. I don't want to unduly delay the witness. I take it that there is not much more evidence that the witness is to give?

MR SMITH: The witness is quickly explaining the displays and that is the end of his evidence.

MR KENNY: We are ten minutes from the end of the day and the witness will have to come back tomorrow in any event. I would ask ten minutes' indulgence be given and instructions may be taken by Miss Simpson from these women so that the matter may be properly put before you.

COMSR: I will admit that this is my problem with this. I suppose a lot of people have gone down in that area and taken photographs. They may even have taken photographs from helicopters and aeroplanes. Is it only these photographs in this Commission that are objectionable?

MR ABBOTT: No. I'm not in a position to address you on it.

MR PALYGA: Can I point out that when we were down at the Sir Samuel Way Building, all of these photographs were shown to the Commission and they are actually in
evidence already, and I don't recall any objection from any Aboriginal person at that particular time.

INTERJECTOR: We're not allowed in.

MR PALYGA: I'm concerned that these objections are now made -

INTERJECTOR: We're not allowed in.

MR KENNY: My understanding is that they were tendered in the restricted area.

COMSR: When only the press were there?

INTERJECTOR: That's right.

MR KENNY: I don't know if these women know that.

MR SMITH: They were tendered through the witness of -

INTERJECTOR: Rubbish.

MR SMITH: Through Francis Anderson, who gave evidence in open hearing and identified a series of aerial photographs reproduced by her from the Mouth House.

MR ABBOTT: I apologise. I wasn't present for her evidence and wasn't aware when I came in.

MR SMITH: Not the press, in open hearing.

COMSR: It is 25 minutes past. Miss Simpson has no doubt been speaking to one of the ladies outside. I think it won't hurt if we take a five minute early adjournment today because the witness, unfortunately, will have to come back tomorrow, whatever you might have thought to the contrary. That's the situation now. Are you in a position to do that?

INTERJECTOR: You can go and look in the dictionary and see what `respect' means.

COMSR: Then, we perhaps might be able to find out what is the basis of the objection to these particular photographs. That's what I'm concerned about: what is it that attaches to these photographs that makes it objectionable. We will adjourn then.

ADJOURNED 4.24 P.M. TO FRIDAY, 8 SEPTEMBER 1995 AT 10 A.M.
COMSR STEVENS
HINDMARSH ISLAND BRIDGE ROYAL COMMISSION
FRIDAY, 8 SEPTEMBER 1995
RESUMING 10.15 A.M.

MR SMITH: The program for today is my learned friend, Ms Simpson, will tell you the outcome of her discussions with the Aboriginal ladies in connection with these pictures. Peter Cooper will finish his evidence. There will be evidence from John McHughes and the journalist, Geoff Easdown. That will be all the evidence today.

MS SIMPSON: I spoke to Val Power outside the hearing room yesterday and she requested that the photographs of the Murray Mouth, and in particular also the diagram in the centre of the first display board, not be displayed so that it is clearly visible from the body of the hearing room. She requested that it be turned around while being discussed, and, in particular, the other two not be visible during the hearing, as it was offensive to Aboriginal women.

MR ABBOTT: Can I ask whether she can provide any basis for her claim that it is offensive to Aboriginal women other than the fact that she asserted it? Again, we have this problem where the 7.30 Report show an aerial shot of Hindmarsh Island every time they have a report on the Hindmarsh Island Bridge Royal Commission. I think invariably they lead up to that sort of aerial shot? Can I inquire whether they have been contacted and told to desist from aerial views of Hindmarsh Island that show the same thing that we are seeing in coloured print?

COMSR: I don't suppose anyone is in a position to answer your query. I understand these photographs are available for purchase by the public.
MR SMITH: Indeed, you can buy as many and varied aerial photographs of this area as you can imagine. I would suggest that almost every holiday home in the Goolwa Hindmarsh Island area has one of these on the wall.

COMSR: I suppose that is an assertion on the same basis as Val Power's assertion.

MR ABBOTT: I am just wondering whether the complaint was directed towards these coloured photos or that map over there. Is that map to go as well? Are we not to have a map of the area on the wall?

MR KENNY: Perhaps I can speak on that. As I understand, there has been no complaint about the map. I also spoke to probably a dozen of the women who were outside yesterday afternoon. They have asked that we do show a little respect towards their beliefs. They will accept that there are people amongst us who do not accept their beliefs, and they have no difficulty with that, but they say that their beliefs should be respected.

It wasn't Val Power alone asserting that these photos were offensive. It was a large group of Aboriginal women who were saying it was offensive. I think it is simply a matter of showing some courtesy to to an Aboriginal request that we do not display these openly. They are not objecting to them as being -

COMSR: As exhibits. They are just asking that they not be faced out into the public hearing room.

MR KENNY: Yes. They weren't in a position to tell me why. I did inquire what the problem was, but they made it very clear that they could not and would not tell me, or anyone else, for that matter, who was present here, what the difficulty was that they had with the display. But it was very clear, I think, given the display we saw yesterday, that they are offended by it. I think it is only really a minor inconvenience to the commission. I would ask that the commission perhaps simply, as it will cause us no inconvenience -
COMSR: I do not know that it will cause any inconvenience.

MR ABBOTT: No, it won't. But yet again I regard yesterday's effort as nothing more than a media stunt by those ladies, and it is demonstrated by the fact that they will not even tell Mr Kenny why, or give him any hint of why, but they assert this is somehow part of their religious belief.

COMSR: There is no evidence before me.

MR ABBOTT: They refuse to give any basis.

MR KENNY: Perhaps if Mr Abbott is asserting this, I inquire whether he has instructions from his clients about these photographs and whether his clients say they are or are not offensive? Certainly I have instructions from my clients. I might say they are very clear.

COMSR: That is not the basis on which I am approaching this: to determine whether or not they're offensive or otherwise. I am simply observing that these are photographs readily available to the public, similar to photographs already before me in evidence.

MR KENNY: Certainly. The Nazi swastika is readily available, but that is seen as offensive by Jewish people. That is the equivalent. It is seen as being offensive to a group of people, and it is simply a matter of showing that this commission does have an interest in the beliefs of Aboriginal people.

COMSR: I do not ask that the commission rules on whether this request is reasonable or unreasonable, or whether it is accepted as being the truth of the matter, but simply out of a matter of caution and respect, I ask that we turn them around so that they are not visible.

COMSR: In the interest of expediting this particular part of the hearing so that we do not devote any more time to it, I propose that the board be shown in that position, which I take it is a position which does not face into the hearing room, but faces across to the witness so that the witness is able to give evidence concerning the matter. That is what is being sought.
MR KENNY: Thank you.
COMSR: I appreciate, your concerns here Mr Abbott. Perhaps I should explain I have adopted a course throughout this inquiry of allowing a latitude to the expression of opinion and the making of statements and submissions on arguments by persons who clearly have got no intention of becoming parties to the inquiry.
MR ABBOTT: Nor of assisting this inquiry.
COMSR: Which many, including yourself, would regard as quite permissive in the circumstances. I have probably done so at the risk of making the inquiry itself seem compliant.
MR ABBOTT: No, you are not seen as being compliant.
COMSR: I have been aware of your impatience and the impatience of other counsel, that I appear to be showing more regard for the concerns of persons and groups who are not parties to the commission that perhaps you consider inappropriate, but notwithstanding, at the risk of criticism about the course that I have adopted, I have done so with the objective of trying to achieve some input from this group.
MR ABBOTT: I accept all that. I haven't made the criticism that you have voiced.
COMSR: No, I hadn't said that it has been overt, but I felt that it might logically be a criticism.
MR ABBOTT: I know my clients feel they have come along and given their evidence and they are hoping for an expeditious end to that matter. The activities taken by Mr Kenny's clients and the Aboriginal ladies for whom he speaks for but doesn't represent, seem to be totally directed at the opposite result of this commission never finishing or not coming to an expeditious hearing.
MR KENNY: I object to that.
COMSR: Perhaps I should explain. An example of the attitude I have adopted was permitting the counsel for the proponent women to make a statement in which she outlined their objections to participating in the
commission. I followed that course so that at least I
have got something before me, so that I can consider the
strength of their objections.

But this inquiry actively seeks and would encourage
participation of all relevant persons here. As I say, I
have adopted an attitude of permitting persons who
clearly don't intend to become involved in the inquiry
and don't intend in any way to co-operate, at least to
express an opinion, so that I am able to have some basis
on which to judge the evidence.
WITNESS P.G. COOPER EXAMINATION BY MR SMITH CONTINUING

Q. Before you go back to the first display, the three displays that we have from your department that you are going to talk about, they were compiled for what purpose, broadly.

A. There was a number of reasons. One is to give a presentation to our engineering fraternity and people in our organisation to have a pictorial representation of a series of situations at the mouth which led to closure or near closure, so that we can perhaps understand better the mechanisms that were done back in the early days. There was also a senate inquiry into the low flow in the River Murray, and at least one of these would have been prepared for that demonstration when we were visited by the Senate Select Committee on the Murray Mouth. It had been used in other purposes. People have asked - some researchers have been interested in the behaviour of the Murray Mouth lining up with the general health of the Coorong. So there is multiple reasons and purposes why we had these displays made. They have been used, I would say, in certain presentations and lectures to people mainly from an engineering and scientific interest, to understand the behaviour of the Murray Mouth, which is of considerable interest to us.

Q. It flows from that then, that these were certainly not compiled for the purposes of this inquiry, were they.

A. No, these are all old. They would be quite a few years old now, these displays.

Q. You started yesterday dealing with the first display which is the first in time chronologically, isn’t it.

A. Yes.

Q. I am not sure how far we got before the interruption. Could you take us back to it perhaps and explain that first display to us.

A. I will try to be relatively quick because they are repeat photographs of the Murray Mouth at different times for different flow conditions basically. On the
top left-hand corner of the first display titled ‘Murray Mouth’, which includes the red patterned diagram, is an aerial photograph dated 24 April 1945. It is the first aerial photograph, I believe, that we could obtain of the Murray Mouth. After a period of 250 days with no flow from the barrages, it indicated how the mouth had narrowed down. So that was our first indication of the condition of the mouth from an aerial point of view after a long period of no flow. That is just really a reference overhead for us, an aerial photograph. The second photograph in the bottom left-hand corner has a date of 30 April 1981, and again it is of the Murray Mouth and it indicates how a massive amount of sand has been deposited in the mouth of the river and the mouth is basically blocked. That was the first time in all of our records that the mouth was completely blocked. In other words, it didn't get any tidal flow creeping over it at any time through the day or night. That was after a period of 196 days of no flow from the lakes into the Coorong and through the mouth. There is a picture alongside it on the bottom left-hand corner dated 27 July 1981, and that shows the mouth 10 days after it was re-opened, as I described yesterday, by mechanical diggers. It shows it was taken for us to observe the effectiveness of the flow going out, scouring the sand in the mouth area and right at the opening. In the bottom centre are two aerial photographs. The first one, the left-hand one, is dated 29 October 1981, and that shows the peak of the 1981 flood passing through the mouth after it was well opened. It was down in October and the peak flood flow had passed for that year down the river. It showed the maximum extent of the opening. Then again on the right-hand side at the bottom centre, the photograph of 22 December 1981 indicates, three weeks after the barrages closed, the condition of the mouth, and, once again, it is only three weeks but you can see a slight closing, as you would expect, of the sand gap known as the mouth.
Adjacent to that photograph to the right of that photograph at the bottom, is a photograph dated 25 February 1982. That was three months after the barrages closed. The mouth had relocated 200 metres towards Goolwa, and again the photo indicates how the mouth had started to narrow down again because it is in a period of no flow. On the top right-hand corner is an aerial picture of 13.5.66, a period again of quite drought conditions in the Murray Darling catchment. There was no flow for 181 days. Again, it shows the classical build up of sand in the Murray Mouth area, of the Coorong, and the mouth throttle, down to a very small width. Finally, there is a large aerial photograph on the bottom right-hand corner which indicates - it is dated 25 June 1982, and that indicates the condition of the mouth 207 days after the barrages closed and the sand continuing to build up inside the mouth which is narrowing. I think the prime things we can draw from an illustration like this is, number one, clearly the Murray Mouth is very very significantly affected by the river flow, and the mouth definitely will close if the river was, for argument sake, shut off forever. The other thing it does indicate is it is a very complex phenomenon. The length of time that there has been no flow is not the only indicator of the rate of closure. It depends on the sea and the storms and all sorts of other factors, because sometimes it is wider after a longer period of no flow than others. So that just indicates how complex the factors are operating on that mouth.

Q. The graphic illustration in the centre of that first display is what exactly.
A. It is titled `The History of Flow to South Australia, Barrage Closure and Estimated Spill to the Sea'. It just complements this to indicate the flow - I will look at that in detail. I will read that out. The entitlement flow to South Australia is shown as that squiggly line running down the middle. That's the
entitlement that we should have got. The red is the
estimated spill that we should have got out through the
barrage in those times. So it indicates obviously when
there is no spill that’s the periods of no flow.
Q. We will now go to the second display. What should we
call that.
A. This is the second display. It contains totally aerial
photographs of the Murray Mouth. That would be the way
to identify it of the three. That, again, is a series
of conditions of the Murray Mouth under flow and no
flow. Starting on the top left-hand corner, the
photograph of 15 September 1982 showed the Murray Mouth
still open after 288 days of closure of the barrages and
no flow.
CONTINUED
The next photograph is taken adjacent to it. In the top left-hand corner, 16 December 1982, it indicates that 380 days after the barrage was closed, it's over a year, there was still - in that period, there was still an open mouth. Just reflects what I said previously: The length of time is not the only indicator, because it has got much more throttle down than in under a less period of no flow at other times. Following on across on the top centre, the photograph 21 February 1983, 447 days after the barrage is closed, there was still an opening, albeit fairly small, and a lot of sand probably blocking the Coorong, but the mouth was still allowing some tidal movement in and out. On 2 June 1983, the adjacent photograph to the right, 548 days after the barrage closed, there was still an area open to allow tidal movement. Following on to the top right-hand side, the next photo. 18 July 1983, the river flow had started. The barrages had be opened and that is a picture showing the condition of the mouth 17 days after they were open. That photo illustrates how the mouth is widened and a lot of sand has been accreted in the mouth and the Coorong area had be washed away. Then, finally on the far right-hand side on the top, 4 August 1983, and indicates 35 days after the barrage is opened and it's obvious that the mouth is opening and more sand is being washed away. Dealing with the run of photographs on the bottom of the display, on the bottom left-hand corner dated 17 October 1983, the mouth where the barrages are being opened for 108 days, it indicates a very healthy free-flowing mouth with a lot of the sand removed inside. 15 March 1984 is the next photograph to the right. That indicates the condition where the lock had been, lot one flow is 13,000 megalitres. Barrages had been opened for 258 days and would be termed a very healthy Murray Mouth, and that shows the extent of the River Murray water pluming out into the ocean. Again, the next photograph on the right situated at the centre bottom of the display, 17 May 1984, the barrages had
been opened then for 321 days. Moving on to the right, the next photograph dated 11 October 1984, and the barrages had been opened then for 64 days. Again, showing a healthy Murray Mouth, again, after a brief closure of the locks and the barrages in that intervening period. Finally, another condition of the mouth on the bottom right-hand corner of the display, 6 May 1986, showed the mouth 185 days after the barrage had closed and, again, the build-up of sand inside the mouth of the River Murray is indicated. That completes that.

Q. Looking at the last display.

A. This is the third display titled ‘The Murray Mouth’ and this can be differentiated because it contains three diagrams that explain the dynamics of the action of the sea at the Murray Mouth. Starting at the top left-hand corner is a black and white aerial photograph of the Murray Mouth taken on 14 September 1956, which was when the great River Murray flood, largest ever recorded by man, occurred down the River Murray. All of the barrages were open at that date. The flow was 326,000 megalitres, which is by far the largest flow in that order that we have ever recorded. It just indicates the condition of the mouth and the Coorong at the peak of the largest recorded flow. Moving across the diagram, there’s a large aerial photograph taken on 26 February 1988 and that indicates the mouth 144 days after the barrages had closed, and again the classical build-up of sand starting to occur inside the mouth. Moving to the top right-hand side, an adjacent large aerial photograph dated 12 May 1988, indicates the mouth in that same year 220 days after the barrages closed, and again that almost classical build-up of sand inside the mouth and the protrusion of spits, sand spits, running back from the mouth into the Coorong. On the far right-hand side is a black and white aerial photograph of 2 December 1978, and that indicates the date last closed was 5.7.78. That would have been a flood flow coming through then, not of large proportions, and again it
indicates the shape and opening in the freedom of the
mouth. On the bottom line, starting at the bottom
left-hand corner, there is a photograph of a mechanical
digger opening the Murray Mouth with mechanical
machinery in July 1981, as I described to the court
yesterday, and that was to rid the mouth of enough sand
so that we could get a sustained flow of the fresh water
from the Coorong and the lakes to run through the mouth
and cut its own path to the sea. If we didn't do that,
we would have had major flooding of properties, homes,
people, et cetera. The bottom three diagrams in this
display with figures 1, 2 and 3, depict some of the
mechanisms by which sand is picked up by the sea and by
wave action and either taken into the mouth or taken
back out to sea. I don't think I need to describe them
in any more detail than that. That is just to indicate
how a beach can lose sand under certain sea conditions
and gain sand from offshore under other conditions, and
also how that sand can be taken in and dumped into the
inside of the mouth. And this is classical for any sort
of estuarine opening anywhere around a coastline around
the world. The far right hand bottom side of the third
display indicates, again, a picture of opening the
Murray Mouth with a machine trying to scour a channel to
the sea.

EXHIBIT 91  Copies of displays marked one, two and
three tendered by Mr Smith. Admitted.

CROSS-EXAMINATION BY MR MEYER
Q. I'm referring to Exhibit no.82. Do you have a copy of
that exhibit; that is the one that looks like that.
A. Yes, I have.
Q. I understand that for the purposes of constructing the
Mundoo barrage a cofferdam was constructed.
A. That's correct.
Q. Was it necessary for wooden pilings to be driven into
the river for the purposes of constructing that
cofferdam.
A. I wouldn't be exactly sure what they did drive in. We
have pictures in the tendered evidence on the albums that indicate that in detail. I'm not sure whether they are timber piles or steel sheet piles.

Q. One or the other, some sort of piles.
A. There would be something as a cofferdam, yes.

Q. For the purpose of a cofferdam.
A. Yes.

Q. With timber or with sheet piles, is it necessary that they are continuous.
A. If you are using it to hold water out, yes. Let me go back and correct my statement. Before, I said that I'd confirmed there were timber or steel sheet piles put in. I would like to study those albums. It may have been a plain bank on that cofferdam, and I would like to study those before I gave that answer. It's clearly sheet piles at Goolwa because they had to be driven into the alluvial material and they had to hold up a large pressure of water. On the Mundoo channel, that was much shallower and it was sited on the calcareous limestone reef. They may not have driven material in, they may have built a bank on top of the calcareous reef. I'd like to check that. That is not indicated on the design drawings, that's part of their constructions technique.

Q. We will come back to that in a minute. If you look at the page of the exhibit which is the Mundoo barrage section through sluices, see the words '(218-3)'. Have you that page.
A. Yes.

Q. There's shown as being beneath the barrage, a pier 6 feet deep and 2 foot 6 wide.
A. That's correct.

Q. Can you say what that material, that pier, is constructed of.
A. That would be constructed of reinforced concrete.

Q. Would there be a continuous trench and then, in fact, a beam poured rather than a pier as such.
A. That is correct.

Q. Continuously across.
A. That is correct.
Q. The albums have been brought in. Do you know what page
or section of the album you need to look at to answer my
question about the cofferdams.
A. I would have to look through it.
Q. We will come back to that in the end. Does the E & WS
have any records which would indicate any Aboriginal
employment in relation to the construction of the
barrages.
A. I couldn't answer that. I know of no records, but
that's not to say there wouldn't be records. That is a
long period of time ago, so I would be very doubtful
whether we would have retained employment records of
that period.
Q. I understand that there has been some work to upgrade
the barrages in the last year or two; is that right.
A. Not in a major way. We are not changing the intent of
the barrages, or anything like that. We are constantly
replacing materials that might be failing due to the sea
or due to age and replacing with a similar structure or
device. For argument sake, the bridge sections, if you
like, that run over the top of Mundoo, Boundary Creek,
Ewe Island and Tauwitchere, we've been progressively
replacing the original timber with now prestressed
concrete and now replacing some of those. Similarly,
the stop logs were all timber and now have all been
replaced over time with prestressed concrete.
Q. They are the ones that go down the slots in the barrage.
A. That's correct. We are always undertaking an on-going
replacement. However, we haven't made major structural
alterations to those, any of those structures.
Q. In the maintenance work that you do, is there any need
to do any form of piling work on the barrages.
A. Not to my knowledge that we have had to drive piles in
recent years.
Q. Apart from the barrage at Goolwa, are the other barrages
constructed on what I understand to be called calcite
reefs.
A. Yes, the 46 of them, yes.
Q. That is calcite, C-A-L-C-I-T-E.
A. Calcareous or calcite. Limestone reef.
Q. We can use the words 'limestone', it means all the same.
A. Yes.
Q. Do they form almost a natural barrage there themselves.
A. They would have been natural in those areas, yes, when
the barrages weren't build. There would have been tide
movement going back over those openings and river flows
when the river was flowing running through those areas.
Q. When the river is low, would they have the effect of
blocking off the flow of the river.
A. Well, the sea would come back over them at all times, so
there was an interconnection between the lake and the
Coorong via those calcareous areas and the normal tidal
water would run back over those. So, they would never
be dry unless there was a freak situation of wind.
Q. If the river flow was very low, the tidal flow would
just make up for the levels.
A. Yes, go back over, that's correct.
Q. In all times, in essence, there would be one or the
other in and around those areas.
A. That's correct.
Q. Is the barrage at Goolwa opened and closed, at times
when it is not closed permanently, on a regular or daily
basis.
A. It depends on the flow condition. If there's an
increasing flow coming, you might make adjustments to
your stop logs on a reasonable basis, but it's not the
sort of thing you need to be replacing.
Q. Or adjusting regularly. Are you adjusting logs daily or
taking logs out daily.
A. You might do it at certain times for certain particular
conditions that you want to do downstream for testing,
or whatever, but the flow doesn't change rapidly with
the big lake behind it so that you have got to be
pulling stop logs rapidly. When we do have to pull stop
logs rapidly is when we have the barrages open to some
degree letting water out and there is a major storm is anticipated or arrives and drives sea water, can drive sea water under and up and through the barrages and then starts mixing with the fresh water area, which is undesirable, obviously. There are times when we have to hastily get stop locks back.

Q. That is to block it from the other direction.

A. That's correct.
Q. There is a lock in the Goolwa barrage.
A. That's correct.
Q. That opens and closes, whenever boats are going through.
A. That's correct.
Q. But it has, as I understand it, hours of operation. It doesn't operate 24 hours a day.
A. That's correct, yes.
Q. At the times when it is not operating, is it in a closed condition.
A. It is always in a closed condition in the sense that there is two gates, one at each end. And obviously, if they were both open, you would just lose the lake through them, so there is always one gate shut and one open. Sometimes you can have both shut, if you like, but generally it has one open and one shut, depending on whether the traffic is approaching from upstream or downstream.
Q. And, generally speaking, the higher level would be on the river side.
A. Yes.
Q. So, when boats are let through, there would be a flow from the river side to the sea side.
A. That's correct.
Q. But, at other times, there would be no flow at all.
A. There would be - there is a few times when the tide would equal the level in the river and there would be no flow.
Q. What do you do, if the sea water is higher than the river water. Do you just not let the boats through.
A. No, you can do it the same. But, I mean, generally when the sea is higher than the river, no-one would want to be going down there in a boat, because you have got a king storm and violent winds.
Q. Common sense keeps you out, then.
A. Well, it is not a very nice place to be trying to navigate.
Q. I assume that the limestone reefs, etc., that the barrages are built on, are pretty solid.
A. Yes, they are relatively firm.

Q. If you were going to dig into them, for the purposes of the beams beneath the barrage, you would need mechanical means to do that.

A. You would have some sort of digging device, yes.

Q. In the exhibits that you have tendered, have we got any information about how deep the river was, at the point of the Goolwa barrage, before the barrage was built and, if we haven't got any information in what is already tendered, are you able to tell us.

A. I can't tell you, but, I mean, we would have to search our records, to see if we could locate plans of the sections of the Goolwa channel before construction. The diagrams we have tendered are only a brief diagramatic illustration. They are not the construction working drawings and I am not even sure if we would still have in our possession all of those detailed construction working drawings, but we would have to search for those, to see if they also contain the natural bed survey that would obviously have been done, at the time, bearing in mind that we are talking about 1934.

Q. But that sort of information would have been available prior to them starting to build the barrage, wouldn't it.

A. That's correct.

MR MEYER: It may be convenient if I find the relevant pictures in the albums and then ask the questions in relation to the cofferdams.

COMSR: Has counsel determined the order?

MR ABBOTT: In my submission, Mr Kenny should go next. The rule is that those who have the greater interest in opposing the evidence of the witness go first. I wish to support the evidence of this witness and I submit I should follow Mr Kenny.

COMSR: Mr Kenny, does that cause you any problem?

MR KENNY: No, it doesn't. I am happy to have Mr Abbott concede that I have a greater interest in this than he does.
CROSS-EXAMINATION BY MR KENNY

Q. How long have you been employed by the South Australian Water Corporation and its predecessor.
A. Since January 1954.

Q. The building of the barrages was quite clearly a major public work, wasn't it.
A. Yes.

Q. Assuming that it hadn't been done previously and the South Australian Water Corporation decided they wanted to do it now, would you consult Aboriginal people, at all, in your preliminary investigations.
A. That is not in my expertise. I am not in the planning, investigating area. However, we would have to comply with all of the conditions of an EIS, which includes the examination of any sites for archaeological purposes, etc., which is the appropriate methods that we use now. So, I guess, in that sense, there may be discussions with any interested party on the land that we were proposing to build new structures on. We are currently doing that, taking archaeological investigations into the proposed sites for a number of water filtration plants that we are proposing to build around - in and around the River Murray.

Q. At this stage, is it fair to say that you are aware that the South Australian Water Corporation is now consulting Aboriginal people in relation to its planned developments, is that correct.
A. All I am aware of is that we have to undertake Environmental Impact Studies and the other appropriate planning and investigation studies, which includes archaeological investigations. I can't say any more than that, because it is not in an area that comes under my control. So, I am not exactly - I couldn't say yes or no, who is specifically spoken to and who isn't.

Q. Do you know if any Aboriginal people are being spoken to in relation to those proposed developments along the Murray.
A. I can't answer that question.
Q. Are you aware of the Aboriginal Heritage Act.
A. I am aware of the Act, but I am not aware of the details of that Act.
Q. But is it fair to say that you now are generally aware that, if there is a planned development by the Corporation, that they would consult Aboriginal people.
A. I am certainly aware that we would undertake all the necessary investigations and consultation that we need to take, according to all of the Acts that refer to us, to build or create any structures on land.

Q. Is your area of control the engineering side of things.
A. I am the General Manager of Head Works and Country, which entails the management of all the existing operations over a wide area. I am not in charge of the investigation, design and planning of new works.

Q. Have you ever heard of the South Australian Water Corporation consulting with Aboriginal groups, or any Aboriginal party, at all, in relation to any development.
A. Yes, I have.
Q. It is something that is done.
A. Yes, we are currently doing it at Lake Victoria and in New South Wales, which comes under the control - is dedicated to us by the Murray Darling Basin Commission to operate, maintain and construct and we are part of significant discussions with the Aboriginal community in New South Wales regarding the Aboriginal burial sites that have been discovered in Lake Victoria. That is an example.

Q. You have been with the Water Corporation and its predecessor for many years, can you tell us when was the first occasion you ever heard of the South Australian Water Corporation consulting with Aboriginal people.
A. I find it difficult to answer, because those consultations would have occurred, without my knowledge, so -
Q. Within the last five years. You have certainly been quite a senior member of that organisation, for many years.
A. That's correct.
Q. When was the first time you ever heard any suggestions that the Corporation should consult with Aboriginal people.
A. We have been -
Q. I am not asking for a specific date. I am saying five years ago, ten, twenty.
A. That is a difficult question to answer of my knowledge of it, but I would say I have been aware that we have been undertaking archaeological investigations and other such investigations over the last five years now, but I'm not sure whether that included specifically talking to Aboriginal people, or how that investigation was undertaken. So, specifically speaking to Aboriginal people, my knowledge would be principally the Lake Victoria exercise.
Q. So, really, it has only been, as far as you are aware, or as far as you can say, a development in the last five or so years.
A. That would be correct.
Q. Certainly in, say, 1960, for example, you wouldn't have thought, or no-one -
QUESTION WITHDRAWN
COMSR: You have asked this witnesses when he heard about it. He has already explained that it is not really something under his control.
MR KENNY: No, I appreciate it, then. But I now wish to ask a slightly different question.
COMSR: As long as the witness appreciates that.
XXN
Q. In 1960, can you remember what your position was, then.
A. In 1960 I was in my last year of study for my Bachelor in Technology and Civil Engineering.
Q. Certainly in those areas there would have been no suggestion, at university or within the organisation
that you worked for, that in planning developments you
should consult with Aboriginal people.
A. I can't remember any instructions to that effect, in
1960.
Q. There was simply no consideration given to that point,
would that be a fair thing to say.
A. That would be a fair thing to say.
Q. I take it the situation is that the South Australian
Water Corporation would comply with any legislative
requirement in planning new developments, is that
correct.
A. That's correct.
Q. You have provided us with a copy of the report of the
Parliamentary Standing Committee on Public Works. It
has been tendered as Exhibit 79. And this is the report
that, as it were, carried out an inquiry and I presume
it was the only major inquiry carried out before the
decision to build the barrages was made.
A. No, it wasn't the only inquiry. If you read in the
report, it indicates that the River Murray Commission
undertook an inquiry. In fact, this Public Works
Standing Committee was meeting to consider the problem
of salinity and other problems in the Lower Murray and
it went into recession, whilst the River Murray
Commission and initially the South Australian Government
undertook an investigation of its own. And then the
River Murray Commission carried out an investigation and
then this Parliamentary Standing Committee reconvened
and heard that, took evidence on the River Murray
Commission's findings and evidence from further people
and then finally made their recommendations.
Q. This is very clearly the major report of all of those
reports.
A. Yes, that's correct.
Q. And it is the one that has considered all the previous
reports.
A. That's correct.
Q. You have read that report, I presume.
A. Yes, I have.
Q. It would appear, from my reading of it, that, although it is perhaps impossible to say, with initials and things being given in relation to some of the names of the witnesses, but I presume, in those days, the engineer for irrigation and the clerk of the District Council of Meningie were more likely to be men. It appears, from this report, that no women were consulted.
A. I can't comment on that, that is supposition.
COMSR: You mean, consulted - this refers to witnesses. Are you putting to Mr Cooper -
MR KENNY: I have asked the witness if he has read the report and I am simply asking him on his reading did there appear to be any evidence or any mention of any woman giving any evidence to this committee.
A. I didn't pick that up, from reading it.
XXN
Q. I certainly didn't, either, and I suggest we can assume that, given the year, it would probably be unlikely that any women were consulted, given nature of the works and the social order, in those days. Would that be a reasonable assumption, in your opinion.
A. That would be a reasonable assumption.
Q. Certainly, within that report, there is no suggestion that there was any consideration of any Aboriginal interest concerning the building of the barrages.
A. I agree, I didn't pick up any mention in here about consultation with Aboriginal people.
Q. From the evidence you have presented to us and the efforts that you have gone to to observe the Murray Mouth opening, it is obvious it is very important to you, from perhaps your professional responsibilities, that the Mouth of the Murray be kept open.
A. That's correct.
Q. I take it the reason for that is, essentially, so that there is a continual flow of water out of the Mouth in periods of perhaps storms or - no, sorry, heavy flows coming down the Murray.
That's correct. I mean -

Q. To avoid flooding.

A. That's correct.

Prior to European settlement, is there any suggestion or any evidence that suggests that the Mouth of the Murray might have actually been closed, at any time.

A. We know of no evidence that the Mouth may have been closed, but that is a very difficult question to answer.

I mean, there has been comments that the Mouth was nearly closed or closed way, way back in the past, but we have no firm evidence that the Mouth was closed. I would add here that our interpretation of `closed' means that the sea has total lack of access to the Coorong.

That is different. A lot of people have said `I went down to the Mouth and it was closed', and they walked across it and it might have been ankle-deep water, or it might have been dry. Just when the tide was at full, there was still enough water moving across at high tide. That is not a closed Mouth. The only clear evidence we can find is the 1981 situation.

Q. But over, say, the last thousand years, given that it is sand along there, the Mouth could have been closed on a number of occasions. Would that be - that wouldn't be -

CONTINUED
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P.G. COOPER XXN (MR KENNY)

1 COMSR: Is this within this witness's area of
2    expertise? The historical -
3 MR KENNY: I don't know. He is the one giving
4    evidence on the opening and closing of the mouth.
5 WITNESS: I am not a geologist, and I can't answer
6    that question.
7 COMSR: He has given evidence as to what has
8    occurred within the period of recorded time, but I think
9    you are asking him now pre-records.
10 MR KENNY: Certainly. I will get onto the point I
11    really want to make.
12 XXN
13 Q. You would concede that it is possible in the last
14    thousand years it may have been closed, and I mean prior
15    to the building of the barrages.
16 A. It may have.
17 Q. And the most likely time that that would occur, I would
18    suggest, would be in severe drought conditions, for
19    example, with very poor river flows,
20 A. It would be - that would be the set of conditions that
21    would make it most likely to close.
22 Q. But it would need to be fairly severe and prolonged
23    drought, for example, to do that.
24 A. That's correct.
25 Q. If that actually occurred, it no doubt would have quite
26    detrimental effects to the food chain, food supply
27    within the area and within the lakes itself. Would that
28    be a reasonable thing to say.
29 A. That's a difficult question to answer. You would need
30    an expert to comment on that, but I would proffer the
31    opinion that, as long as the closure was not of a long
32    period, there wouldn't be long term detrimental effects
33    on the food chain.
34 Q. But there could be short term. We are talking six
35    months to a year. That wouldn't be unreasonable, would
36    it.
37 A. No.
Q. Probably, if that occurred, there may have been a considerable build-up of salt water within the lake system prior to the closure if there was minimal flow coming down the river.
A. That would be correct.
Q. That would certainly be sufficient to make the water in the lakes undrinkable.
A. Could be brackish or undrinkable certainly.

CROSS-EXAMINATION BY MR ABBOTT
Q. Just on that point, the great drought of 1901 to 1902, what happened to the mouth, if you are aware of it, at that time.
A. I'm not aware specifically as to what happened at that time. We have records of the movement of the mouth, but whether we had a specific details of what happened in 1901, 1902 - as far as we are concerned our records indicated - our knowledge indicated that it didn't close at that time.
Q. On the point of what does close the mouth and the mouth itself, I think a study has been done at the behest of your department by Consulting Engineers, John Botting and Associates.
A. That's correct.
Q. That was done in December 1990.
A. That's correct.
Q. They produced a paper called 'The Effect of River Flows on Migration of the Murray Mouth'.
A. That's correct.
Q. Do you have a copy of that report.
A. I do.

MR ABBOTT: I am going to apply to tender this report. I just want to pick out some salient points in it, so we can easily refer to it.

XXN
Q. This was a report designed to ascertain what were the factors that were primarily responsible for the movement in the Murray Mouth that we can see.
MR KENNY: Perhaps Mr Abbott could establish this witness's knowledge and position on this report. It may be he was involved in setting it up, but at this stage it appears to be a third party's report that he is attempting to tender through this witness. It may be that this witness was instrumental in setting up the requirements and requesting the people to report to him. He may have some expertise in that area, but I would ask that Mr Abbott clarify the witness's knowledge in this matter.

MR ABBOTT: I am happy to ask more questions.

XXN

Q. This is a genuine report commissioned by your department.

A. It was commissioned by our department. We had a committee that was established to investigate the Coorong and the Murray Mouth. It was called the Coorong and the Murray Mouth Working Group. I was not a member of that. I was, in the earlier days, when it was called the Murray Mouth Working Party. The committee engaged this particular consulting firm to create or present three reports on various aspects of the behaviour of the Coorong, as it is our responsibility to try and get a better understanding of the mechanics and performance of the mouth and the behaviour of the Coorong from a salinity and ecological point of view.

Q. In particular, the interaction of the barrages and the effect they may or may not have on the movement of the Murray Mouth.

A. That is correct.

Q. You have the report in your hands.

A. I do.

Q. That's an official record of your department.

A. It is an official report of the E&WS, yes.

MR ABBOTT: On that basis I apply to tender it.

COMSR: I suppose I can receive it in evidence, but it is not this witness's document, so it may have limited -
MR ABBOTT: No, it is not this witness's document. I ask that it be given an exhibit number and I will ask some questions about it.

EXHIBIT 92 Coorong and Murray Mouth Working Group report dated December 1990 tendered by Mr Abbott. Admitted.

Q. Part of the work done was to take all of the aerial photographs that the department had, reduce them all to a similar scale, and then to plot the position of the Murray Mouth and compare it over the years, and that is set out in this report, is it not.

A. That's correct.

Q. Pp. 17 and 18.

A. That's correct.

Q. Could you hand over a copy of the report to her Honour so she can see it and I will approach you with my copy. At pp. 17 and 18 we see a diagramatic representation of the movement of the Murray Mouth.

A. That's correct.

Q. That runs from 1945 through to 1990.

A. That's correct.

Q. I think the authors conclude on p. 45 'The position of the Murray Mouth has varied over some 1,200 metres in the last 50 years. During the last 18 years there has been a considerable net north-westerly movement of approximately 1,100 metres'. Do you see that.

A. I do.

Q. That accords with your observations of the photographs as well.

A. That's correct.

Q. In that section, which is the summary and conclusion section, the authors identify what they have described as littoral drift as the most common explanation.

A. That's correct.

Q. That's a conclusion you agree with, is it.

A. That's a recommendation that the E&WS has accepted.
Q. So it appears from the work undertaken so far, the
reason why the Murray Mouth moves is that the waves
approach the coast at an angle and they deposit
sediment, as it were, on one side of the mouth and take
it away from the other side of the mouth, thereby
caus[ing a movement of the mouth in any particular area.
If there is a prevailing angle, that is, an angle at
which the waves approach more often than not, that
results in a progression to that area.
A. That's correct.
Q. There is also an article, that I don't know whether you
are aware of, by an employee of Botting and Associates,
who prepared this report in the South Australian
Geographical Journal of 1990. Have you seen that
article.
A. Yes, I have.
Q. That is by David Walker entitled 'The Role of River
Flows and the Behaviour of the Murray Mouth'. Do you
know Mr Walker.
A. No, I don't know him personally.
Q. One of the works referred to by Mr Walker in his paper
is a report in 1917 by Mr Johnson, entitled 'Report on
the Harbour for the River Murray Valley and
Parliamentary Papers'. Are you aware of that report.
A. No, I'm not.
Q. The drift of the Murray Mouth has, from time to time,
been accompanied by silting up of the Murray Mouth,
whether you call it closure or not, but a degree of
silting up, so that, as you have said, from time to time
you can walk over the Murray Mouth.
A. That's correct.
Q. That obviously has occurred, in essence from time
immemorial, has it not. You would expect that to be a
natural pattern based on this research.
A. It may have occurred, as I have mentioned to previous
counsel, but we believe that the amount of water being
used out of the River Murray has made that condition
much more frequent than it would have been in the past
when it was a natural river with no massive utilisation
of water for irrigation and other purposes the length of
the river. But certainly if there was a long period of
drought flow, as you would assume there would be back in
the past, there would be periods when that would get
close to closing.
Q. That would have the effect of what we see on one of
these charts, Exhibit 91, in particularly chart number
1. Looking at Exhibit 91, this photograph here on chart
number 1, dated 30 April 1981, appears to show a silting
up of the Murray Mouth and what's referred to in that
report as Bird Island.
A. That's correct.
Q. So that the whole lot becomes one mass.
A. That's correct.
Q. At that stage, is Hindmarsh Island effectively joined to
Bird Island.
A. It's difficult to say from that photograph, because
there is - there did remain little very shallow pieces
of water across there. You couldn't tell from that
aerial photograph whether that was connected or not.
Certainly the mouth has closed over in that photo right
down at the actual sand hills.
Q. But it looks as though you can walk across from the
mouth over to Hindmarsh Island.
A. Yes.
Q. Can I ask you a couple of questions about the building
of the barrages. The barrages are in fact bridges in
the sense that you can go across them, aren't they.
A. They are, except the Goolwa barrage is not - it is just
not designed for pneumatic tyre access. It would be
rare if ever we tried to take a vehicle other than a
crane across that barrage.
Q. The other barrages were constructed in a way that
enabled them to be utilised as bridges, that is, for
cars and other forms of transport to move across the top
of them.
A. That's correct.
Q. As an engineer, do you accept that the construction of the barrages caused far more disruption to the bed of the River Murray than building a bridge would, that is, a bridge on pylons or whatever.
A. That is difficult to answer. It depends on the sort of bridge.
Q. Let us take the Goolwa barrage, for example.
A. Certainly the Goolwa barrage -
COMSR: Perhaps before that question is answered. I am not really concerned in this inquiry with the question of whether or not bridges should be built.
MR ABBOTT: No, nor am I concerned with whether a bridge should be built. I am just asking so we get some idea of the degree of disruption in a context, if the witness can help us. That's all.
XXN
A. Certainly the Goolwa barrage, requiring 4,700 plus piles to be driven in the bed and a floor to be constructed right across the total bed of the river, requiring cofferdams to be driven to work in the dry, all that sort of exercise, would be a greater effect on the bed of the river than a bridge that consisted of a series of piles and a small number of piles supporting an overhead structure.
Q. Looking at Exhibit 82, which is the sectional views of the barrages. The second one in my bundle is entitled 'Goolwa Barrage Section Through Sluices'.
A. That's correct.
Q. The third one is 'Goolwa Barrage Section Through Navigable Pass'. There doesn't appear to be much difference in relation to the section through navigable pass, except the concrete slab is much thicker because there's not a large concrete edifice on top of it, and there is two extra piles, one on each side of the Larsen steel sheet piling, that have been driven in to create greater stability.
A. Yes.
Q. Can I take it from that, that the navigable pass was potentially more unstable, in engineering terms, than the section through the sluices, and, for that reason, required additional reinforcing into the river bed by means of those two extra piles and additional reinforcing by means of a much thicker concrete slab.

A. Yes. That largely would be the correct statement. The navigable pass has to be collapsible, so that they haven't got the 12 foot gaps between the piers. It is replaced by a steel structure that has to hold up the river in its own right. So there would be just a greater pressure in that area. So the designer would have thickened the slab up. It is just purely an engineering design and low distribution problem, and probably put a couple of extra piles in to take that extra load at that spot.

Q. Just going back to the section through the sluices, the effect of the Larsen steel sheet piling, combined with the 35 to 40 foot long wooden piles, the concrete slab, and the structure of the barrage, the concrete piers on top, is designed so that the whole lot acts as one whole, isn't it.

A. That's correct.

Q. So what you have got there is, in effect, like an inverted funnel, as it were. So that the whole area surrounded by the piles and the structure of the barrage itself, if it moves at all, moves as one.

A. That's correct.

Q. The sort of engineering effect is as per my dotted line on my drawing I show you, is it not.

A. That would be correct. The piles are absolutely an integral part of the structure because they transmit the load from the hydraulic loads on the structure down into the soil. So they are a totally contiguous structure, and they also are there to stop the barrage from just being pushed, sliding straight downstream.
Q. I wonder if you could put a dotted line around the exhibit as to what represents, as it were, the total mass of the edifice that we see.

COMSR: The witness doesn't have the exhibit, I have it here.

MR ABBOTT: He is working from a copy. I would like him to mark it on the original for you also.

WITNESS MARKS EXHIBIT AND COPY

Q. As to the effect of the barrage, are you aware that the effect of the barrage, so far as the area around Hindmarsh Island is concerned, that is upstream of the barrages, was to immediately increase the water height.

A. Yes.

Q. It resulted in large areas of land which were formally dry or, at worse, marshy, becoming permanently waterlogged and covered with water.

A. That's correct.

Q. And the effect of that can be seen even today, I think, because there are large areas of buried and dead tea tree that are the sequelae of the construction of the barrages in 1940.

A. I will say that the level that we control the lake level at is well below high flood levels, and there would have been times that that land would have been inundated during the flood period. By constructing the barrages, we have taken the level variation out of the water in the lakes in the lower river and replaced it with something of a fixed level rather than a fluctuating level that would have occurred under the more natural conditions.

Q. I accept that, but the effect of the fixed level is, by and large - and we are talking about a variation that now exists of about a foot or so - the effect of the fixed level is to have been to change the shape of the island considerably from what was formerly the land that you had worked on.

A. There would have been times, certainly under the lower flow and since, to say that that land had been
innundated permanently, yes.

Q. This area - I will show you on this map. This area here, (INDICATES), that is Hindmarsh Island and to the west of Hindmarsh Island, Mundoo, Mundoo to Ewe and Tauwitchere Island. In pre-barrage days, it was much larger - to a much larger extent able to be walked on as distinct from what you have to do now and use a boat to get through.

A. That would be correct.

Q. Whilst, of course, there were occasions when there were severe flooding and high tides, the area, generally speaking, would be described, if you were doing a map of it in those days, as much different in terms to the map you see now in terms of what you would normally call dry or swampy land.

A. Yes, there would be a change.

Q. With the building of the barrages, you were asked about the references to Aboriginal contact or involvement. I don't know whether you are aware of the work called `More Tales of the Coorong' compiled by E. LeTap Adman which has a chapter called `Working on the barrages'. Are you aware of that work.

A. I'm not aware of that.

Q. I want to read out a passage to you. The author says `Mr Meadows was the contractor' - this is for the barrages - `Who quarried the specially chosen stone from Yalkurii'. Pausing there. Would the E & WS have records and be able to confirm that Mr Meadows was such a contractor.

A. They may, but I would be very surprised. Unless we can discover from the photograph or a name in a report that - as I say, that's a long time ago and we would not have detailed records of this sort of things kept.

Q. What did you do with your old records.

A. Well, a record of a contract that would include the names of our contractors and subcontractors, that would be kept - I don't know what the period would be, but
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certainly it wouldn't be kept for this length of time,
those detailed records. There is no reason or need to
do that.

Q. They are not sent off to the archives.
A. No. There would be some - I mean, there has been
ing engineering papers written about the barrages and the
reports that we are quoting from, but the detailed
records are mainly, would lie in these lovely old
photographs we have preserved and in the minds, I might
add, of some people that worked on the barrages that are
still alive today, engineers that would be able to give
a better answer in the Commission to the happenings on
site at the time.

MR ABBOTT: You will be hearing from some of them.

Q. The author goes on to say, apart from saying that: "Mr
Meadows was a contractor who quarried specially chosen
stone from Yalkurii. He employed many men from Point
McLeay, or Raukkan, the Aboriginal settlement.
Thousands of tons had to be faced on one side to be set
as pavers on the approaches to the dam.' I take it you
would agree with the latter, perhaps, suggestion that
thousands of tons had to be faced.

A. That's correct.

Q. That is the riprap.

A. That's the riprap, and also the material that was placed
on the banks as well as the approaches to the structures
themselves.

Q. One other matter I would like to ask you a question
about. These are books on to Tauwitchere barrage and
the Mundoo barrage. If I could approach you. This is
the MFI 86. At p.10 is probably the best page. There
may be other photos that you say are better. Perhaps
p.11. It appears they built a series of cofferdams as
they went out across the lake on these long barrages.

A. That's correct.

Q. And so they had a cofferdam like we saw with the Goolwa
barrage, one wall keeping the sea out and one wall
keeping the lake water out, and then they laid a railway
track on this, what was then the exposed bed of the
river, and then constructed the embankment on the bed of
the river using the cofferdam principle.

A. That's correct.

Q. And have a look at the photos on pp.10 and 11, they best
show that.

A. Yes, they do.

MR ABBOTT: I apply to tender those photos on pp.10
and 11 of the showing the method of construction of the
Tauwitchere channel barrage.

EXHIBIT 86 Pages 10 and 11 of MFI 86 showing method
of construction of Tauwitchere channel
barrage tendered by Mr Abbott.
Admitted.

MR SMITH: Could I suggest that I be given an
opportunity to reproduce those rather than to take the
pages out of the album?

COMSR: Yes. I will nominate them as Exhibit 86
so that we have some continuity on the understanding
that there will be other photographs that form part of
that exhibit.

Q. The Mundoo barrage was done the same way with the
cofferdam, the bed of the river then exposed. We see
that in sheet no.12 and some of the photos in sheets 13
and 14.

A. That's correct.

Q. The same principle: cofferdam, exposed the bed and then
used the exposed bed as the basis on which to build the
embankment and thereafter the sluices, et cetera.

A. That's correct.

EXHIBIT 87 Copies of pp.12, 13 and 14 of MFI 87
relating to the construction of the
Mundoo Channel tendered by Mr Abbott.
Admitted.

MR ABBOTT: Looking at Exhibit 66, that is a
coloured print. This is Exhibit 66 and is a recent
aerial photograph of the Mundoo barrage connecting
1933

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Hindmarsh Island and Mundoo Island. It shows what we
were referred to as the old Mundoo barrage or bridge.
Can you tell us anything about that structure.
A. I don't know a lot of detail, but there were two
attempts to put structures across the Mundoo channel and
they are described, better than I can describe them, in
the Public Works Standing Committee Report.
Q. Which is already before us as Exhibit 79.
A. That's correct.
Q. Could you just show us looking, at Exhibit 79, what you
are intending to refer to in Exhibit 79.
A. It might take a bit of time to find it. I will have to
read through it to find it. It is in there.
Q. Don't worry. In any event, you are aware that there was
an old barrage there which did connect Mundoo to
Hindmarsh Island.
A. Yes. I've found the place.
Q. The reference is on what page.
A. Seven.
Q. Could you read out the reference.
A. `In 1914, action was taken to build a barrage across the
Mundoo channel. The statement had been made, and it was
given a certain degree of credence, that if the Mundoo
channel alone were blocked, it would prolong the period
of freshness in the lakes. Accordingly, a solid
structure with a small sluice in it was built, but,
ultimately, pressure from the settlers on the river
between Wellington and Murray Bridge led to its removal.
That barrage was afterwards replaced by a timber
structure without gates. The second barrage, however,
was undermined during a big storm and, since then,
nothing has been done in the way of constructing
barrages.'
Q. Is the remains of that timber barrage what we see in
this photograph.
A. I wouldn't be sure of that. That is a very poor
photograph. There are remains down there. I have seen
them.
Q. We can see the old barrage there in one of the photographs in this book on p.11 of MFI 87, can we not.
A. That's correct.
MR ABBOTT: I tender the photograph on p.11, or a copy of it, entitled 'The forming bank old barrage to right'.
COMSR: The photograph on p.11 will be admitted will form part of Exhibit 87.
CROSS-EXAMINATION BY MR MEYER
Q. I only ask a question on this matter to tidy up the issue of the cofferdam and I have found the relevant photograph. Looking at MFI 87, p.14, which has been tendered, would you look at p.14. Remember I asked you some questions about the construction of the cofferdam for the Mundoo barrage.
A. Yes.
Q. Looking at p.14, that indicates that there's timber piles, does it not.
A. That's correct.
Q. Each one of those would be driven individually.
A. It would have been driven, hand-driven, yes.
Q. Without bothering to go into numbers, there would be hundreds, if not thousands, of individual piles.
A. That's correct.
NO FURTHER QUESTIONS
MR MEYER: I compliment the E & WS on a magnificent archival record.
WITNESS: I did mark up on my plans here and recalled in evidence yesterday that I ought to leave this with you, the better identification of some of those points that I made on the section of the Goolwa barrage.
COMSR: Perhaps that copy can be included as part of Exhibit 82 then. The document just handed to me by the witness can form part of Exhibit 82.
WITNESS RELEASED
MR SMITH CALLS

JOHN ELLIOTT McHUGHES SWORN

EXAMINATION BY MR SMITH

Q. I think you live in Goolwa; is that correct.
A. That's correct.

Q. For how long have you lived in Goolwa.
A. We came to Goolwa between 1946 and '47 and have lived there ever since.

Q. Lived there ever since.
A. Yes.

Q. For a long time, you were the only Aboriginal person resident in Goolwa; is that correct.
A. Yes. The only permanent person living there since then, since the early '60s.

Q. I think, however, since you have been there, there have been some recent Aboriginal arrivals to Goolwa; is that right.
A. That's correct. Since, well, the last 12 months there's been two families, Aboriginal families, come back to live in Goolwa.

Q. I think you have provided a statement to this Commission in connection with its inquiry, have you not.
A. That's correct.

Q. Looking at the statement produced to you and signed and dated by you, do you recognise that as the statement which you provided.
A. That's the statement I provided, yes.

CONTINUED
Q. I think you were born in the Murray Bridge Hospital, in 1932, is that correct.
A. Yes.
Q. Your family were then living in Wellington and you stayed in Wellington until you were about seven years of age.
A. That's correct.
Q. When you were living in Wellington, were you living in an Aboriginal community there.
A. Yes, I was living right alongside the river and there was quite a number of Aboriginal people living around the area, at the time.
Q. Your life, when you were living at Wellington, could you describe it a bit for us, in terms of how you mixed and other members of the Aboriginal community and whether there was an extended family in operation, as it were.
A. Yes, Aboriginal people are normally very, very close. And, as I said, we lived right along the Alexander Lake and different Aborigines would always come over and stay and, you know, and play with us kids. As I said, I was only very small then and I used to have to walk to school, five miles and go across the ferry of a morning and back. In those days, we had no shoes to wear to school and, as I said, the - all the Aboriginal people, they were very, very close and they used to mix, you know, very well together.
Q. I think your mother was white, wasn't she, and your father Aboriginal.
A. That's correct, yes.
Q. Can you tell us whether that meant that you were, in fact, more - felt more part of the Aboriginal community than the white community, or wasn't it like that.
A. Sorry, can you repeat that?
Q. Yes, your father was Aboriginal and did you consider yourself, as a result of that, Aboriginal and, therefore, part of the Aboriginal community.
1. Very, very much so. I think, because the Aboriginal people were, sort of, the underdogs and things like that, referred to them as that, I did. Even every document that I have signed or asked my background I have stated I was part Aboriginal, always.

2. Q. I think it was when you were seven years of age you and your family moved to Langhorne Creek.

3. A. That's correct, yes.

4. Q. And then to Morphett Vale.

5. A. Yes.

6. Q. Your father was originally from Point McLeay, I think, is that right.

7. A. That's correct, yes. My grandfather, he was the local preacher at Point McLeay and he was the - also the local - he was a freemason - sorry, stonemason, and he built the church at Point McLeay and also at Wellington.

8. Q. I think your grandfather, who was William McHughes, wasn't he.

9. A. That's correct, yes, he was William McHughes.

10. Q. He was your -

11. A. Grandfather.

12. Q. And he was, to some extent, a famous person, was he.

13. A. Very much so. Mr Taplin wrote - in Taplin's book, he gave him quite a good write up, when he lived at Point McLeay.

14. Q. I think there has been a biography of your grandfather, William McHughes, prepared by a lady by the name of Louise Jaensch.

15. A. That's correct, yes.

16. Q. Looking at this document produced to you, do you recognise that as that biography, in respect of your grandfather.

17. A. Yes, most definitely.

18. Q. That is something you are proud of.

19. A. I am very proud of it, yes.

20. Q. You have got a copy of that with you, have you, a copy
of the biography.
Q. On the last page, there is a McHughes family tree set
out, is there not.
A. That's correct, yes.
Q. Are you the 'John' mentioned there, as against .7.
A. That is correct.
Q. You were living in Morphett Vale and at school at
Morphett Vale, were you not.
A. That's correct, yes.
Q. You left school at the age of 14 and commenced working
in a flaxmill.
A. That is correct, yes.
Q. Then, in 1947, you moved to Goolwa, that is the
position, is it.
A. That's correct, yes. Yes, we came to Goolwa from
Morphett Vale in 1946/1947 and a chappie by the name of
Hector Sumner, he was an Aboriginal chappie that lived
in Goolwa, and, when we moved to Goolwa, we had nowhere
to live and Mr Sumner moved out of his house and went
somewhere else and gave us his house to live in, until
we found a house of our own, which was on Hindmarsh
Island.
Q. And, on Hindmarsh Island, where did you work, when you
were there.
A. I worked for some dairy, the diary farmer over there on
Hindmarsh Island. My father, he worked for the
neighbour, grubbing out noxious weeds for a chappie by
the name of Mr Cecil Macbeth and I worked for Bristowe
Smith on the dairy farm, for nearly five years.
Q. At the time you moved to Goolwa, in 1947, were there
other Aboriginal families living at Goolwa.
A. Yes, there were quite a few. I would say quite a few.
I would say about half a dozen different families that
lived there permanently then. And, then, by 1961, or
the early 1960s, they all ventured off and moved
elsewhere.
Q. Hindmarsh Island, itself, when you went to live there,
having moved to the Goolwa area, were there any
Aboriginal families living on the island, itself.
A. Not that I recall. There was never any Aboriginal
family living on the island, apart from ourselves. At
different stages in the shearing time and things like
that, different Aboriginal men would come down and do
the shearing for the Grundys and the Rankines and people
like that, but, other than that, there was no-one living
there permanently, other than ourselves.
Q. In the early 1950s, I think you started work with a
professional fisherman, Charlie Godfrey, is that right.
A. That's correct, yes. He was also part Aboriginal and I
worked for him for three or four years.
Q. The fishing that you did was in the Goolwa area, was it.
A. In the Coorong, all through the Coorong, in the Goolwa
area, yes.
Q. How long did you work for Godfrey.
A. About three or four years.
Q. Were you involved in work on the barrages.
A. No, I wasn't involved in the work on the barrages, no.
Q. By that you mean you weren't involved in the
construction work of the barrages.
A. Yes, sorry, yes, I wasn't involved in it, but I did work
for - on the Tauwitchere barrage, for about 12 or 18
months.
Q. And that was about, when. About what year are we
talking about.
A. Early 1950s.
Q. You have given us a picture of about in the 1950s,
working as a professional fisherman with Charlie
Godfrey, in the mid 1950s, working on the barrage at
Tauwitchere.
A. That's correct.
Q. Then your next job, did you have a job with the Highways
Department.
A. Yes, when I left the barrages, I got a job on the
highways. We were building bridges, double bridges on
the road to Strathalbyn and I worked on that. And then
there was a bridge on the Victor Harbor/Mount Compass road. I helped build that. Then, when the Highways Camp was about to close at Goolwa there, the foreman said to me 'John', he said, 'if you want a job, you have got to go with the Highways, but you have got to go where they transfer you to.' And he said 'You will have to go to Willunga, but', he said, 'if you like, I can get you a job on the Goolwa ferry approach. They are putting in a new ferry there.' And he said 'If you like, there is about 18 months work there.' And he said 'I can get you a job there', which he did and I worked on the Goolwa ferry approaches for 18 months and I drove every pylon in that river, every pylon personally.

Q. In 1951, I think, there was an article published in the Advertiser about a native burial ground located near Goolwa, is that right.
A. That's correct, yes.
Q. You received a copy of that article from a friend of yours.
A. That's right, yes, from Mr Jeff Berndt.
Q. And your friend worked, where.
A. No, my friend, no, he didn't work for me. He worked for himself.
Q. He provided you with a copy of this article.
A. Yes, are you referring to the article about Aggie's Knob?
Q. Yes.
A. Yes, there was -
Q. Looking at this document produced to you, do you recognise that as the article.
A. Yes.
Q. That appeared in The Advertiser.
A. That is correct, yes.
Q. As given to you by your friend.
A. As given to me by my friend, that's right.
Q. So, you came to know about that matter -
A. Yes.
Q. Of Aggie's Knob.
A. That's right.

COMSR: This is a matter in the public arena, is it?
MR SMITH: Yes, it is in The Advertiser, of course, and that has been the test we have been using.
MR KENNY: I know you have made a ruling saying that, if it is in the public arena, but I have some difficulty. I haven't had a chance to read all of this article.

COMSR: Yes, you have got some difficulty with the article, because it talks about an Aboriginal site?
MR KENNY: Certainly.
COMSR: Perhaps you can ask the witness if there is anything secret or confidential about the site, because this is an article in which edition of The Advertiser?
MR SMITH: In 1951 it was.

Q. Can you tell us what happened to Aggie's Knob and what was - you know, what was related in the article.
A. Yes -
COMSR: I don't want to know what was related in the article, but what has happened to Aggie's Knob.
A. I just can't remember when, but quite a few years ago, when South Lakes was developed, the local contractor or the council bulldozed Aggie's Knob. There was quite a knoll there and they pulled those down for filling for the material they used to develop South Lakes and also the local bowling green.

Q. That was in the late 1950s that was done for the South Lakes development.
A. Yes.
COMSR: Is it necessary for me to have this article?
MR SMITH: Yes, it is relevant.
Perhaps I will just ask another question about it.
Q. To your knowledge, was there any outcry in respect of.
   That.
A. Sorry?
Q. Was there any protest about that occurrence, by
   Aboriginal people.
A. No, there was no protest whatsoever. And there was
   still Aboriginal people living there. And, when they
   built the bowling green with the filling they carted in,
   there was Aboriginal bones and the skeletons and things
   like that found in there.
MR KENNY: That supports what I say. I say we are
   now taking evidence that contravenes s.35 and I object.
MR SMITH: The matter is debated in detail in the
   article in the Advertiser in 1951, therefore, it is in
   the public arena.
   Why are we going over this again? There has been a
   divulgence. I wouldn't be approaching this topic, if it
   was not in the public arena, via The Advertiser article.
   It fits squarely within your ruling.
COMSR: Yes, excepting that, of course, at that
   time, there was - that was prior to the passing of the
   Aboriginal Heritage Act.
I would just like to consider that.
At this stage, is there any reason why it just can't
   be marked for identification?
MR SMITH: No, that is fine.
Q. In 1956, you married, is that right.
A. That's correct.
MFI 95 Advertiser article marked 95 for
   identification.
Q. I think it was about that time that your Highways job -
   the Highways Department camp closed down, is that right.
A. That is correct, yes.
Q. You have already mentioned this, but I will take you
   back to it: I think that is when you took work on the
new ferry construction work, is that right.
A. That is correct, yes.
Q. We are talking about the present location of the ferry, is that right.
A. That is correct, yes, the present location of it.
Q. What work was required, can you tell us that.
A. It mainly consisted of driving pylons down at the river bed, particularly on the Hindmarsh Island side, there was no bottom there and we drove two pylons, two 30 foot pylons on top of one another, drove them down to get a substantial footing for the ferry approaches. And the old - the existing pylons, the breakwaters and things like that, we never cut them off with a saw. We had to remove them all. We never cut them off with a saw or anything, they were all blasted from the river bed with cords of dynamite or gelignite, whichever. Cords of explosives were used, to remove all the old existing pylons.
Q. The pylons were put in where exactly in relation to the line of the ferry.
A. The pylons, you have got your breakwater, which is out from the ferry approach. They still exist there, to this very day. And there is also pylons underneath the ferry approach, itself. The concrete, itself. They had to drive the pylons down to support the ferry approach.
Q. There is a ferry approach on the Hindmarsh Island side, of course, and there is one on the mainland side.
A. That's correct, yes.
Q. Did you work in both areas.
A. I worked from start to finish, which is 18 months, on both sides.
Q. The extent of the pylons on both sides, that is, if you like, the area over which they were put down into the river bed, was about what.
A. Can you repeat that?
Q. Yes, what sort of area did the pylons occupy, that is, out from the shoreline.
A. I would say approximately 30 to 40 metres out from - on
both sides of the island - of the mainland and the
island.

Q. And then on top of the pylons there was a construction
of some sort, wasn't there.
A. Yes, there was concrete poured. There was steel
fabrication put underneath and the concrete poured over
the top of them.

Q. You were involved in that work for how long.
A. That took about 18 months, approximately.

Q. At that stage, were you actually employed by the
Highways Department.
A. No, I worked for the contractor, a chap by the name of
Jack Kernot. It was let out to a contractor.
Q. Were there any other Aboriginal people employed with you in that job.
A. No, I was the only one.

Q. I think in 1963 you commenced working for the local council, is that right.
A. That's correct, yes.

Q. You consider yourself a Ngarrindjeri person.
A. Most definitely.

Q. Have you played any part in the social activities of the Ngarrindjeri people at Point McLeay from time to time.
A. Only on weekends, I went across to visit at different times. Things like that. But socially I never mixed over there. But with the Aboriginal people in Goolwa there, I played football with them and tennis, and all that sort of sporting activities.

Q. So that you kept in touch in terms of staying tuned in to the culture of the people as it is discussed -
A. Yes.

Q. By your fellow Ngarrindjeri people.
A. Most definitely, yes.

Q. Were you aware in 1993, 1994, of archaeologist, anthropologist, Dr Neale Draper, working in the area.
A. Yes. I was informed by Michael Jolly. He is born and bred on Hindmarsh Island. I was working at the caravan park at North Goolwa there one day, and Michael came along and stopped and talked to me for a while, and naturally the bridge business came up. He said `John, has a Mr Neale Draper come and seen you?' I said `No. Who is he?' He said `He is an anthropologist who is doing this research on Hindmarsh Island, sacred sites and things like that'. I said `No, I never heard of him, I never seen him'. He said `He asked me the other day if there were any Aboriginal people still living in Goolwa' and he said `I told him, yes, there were. There's one family still living here' and he gave him my name and address. Mr Draper said he was going to come and see me, but I never - I wouldn't even know Mr Draper if I saw him now. I never laid eyes on him.
Q. I suppose if the question of Aboriginal culture, et cetera, in and about Hindmarsh Island and Goolwa was being researched by Mr Draper, you would have liked him to have spoken to you.

A. Yes. I would have very much liked him to have come and spoken to me about it, and I would have helped him as much as my knowledge, you know, would allow.

Q. The Hindmarsh Island Bridge dispute erupted around you, didn't it.

A. Yes. I was the first Aboriginal person - male person, that is - to come forward and dispute this women's business, because when it started getting around I thought 'It is a funny thing I've never heard a thing about this'. I'm sure my dad would have mentioned something to me if he had have known or heard something about it. Even if he hadn't known the full extent of it, if there was such a thing as women's business, I am sure he would have mentioned it to me.

Q. Did you become aware that a Professor Saunders was conducting investigations into this matter, or at least brief to report on it.

A. Yes. I was informed that this Cheryl Saunders was doing a report for Mr Tickner, and I even wrote a letter to Mr Tickner and also Cheryl Saunders, stating what I know all about this sacred sites and bridges and things like that.

Q. Looking at this handwritten letter produced to you, do you recognise that.

A. Yes. Yes, I do.

Q. That's a letter signed by you and addressed to Professor Saunders.

A. That's correct, yes.

Q. I think it is dated 9 June 1994.

A. That is correct, yes.

MR SMITH: I wish to tender that letter, and I emphasize the purpose of that tender is to in no way touch upon the Federal Court proceedings.
COMSR: Are you saying that that letter in no way touches upon it?
MR SMITH: It does in the sense it is a letter from an Aboriginal person, Mr McHughes in Goolwa, to Professor Saunders in connection with her report. But I emphasize the purpose of its tender is not to, if you like, question the report of Professor Saunders.
COMSR: It is simply to demonstrate the fact that the witness sent a letter?
MR SMITH: Yes.
COMSR: Is there anything in this letter that touches upon traditions and sites?
MR SMITH: No, there isn't anything which need concern you. The only mention there is the mention of Aggie's Knob, which is the subject of the earlier 'Advertiser' article.
COMSR: That is a matter on which I want to reserve -
MR KENNY: It does refer to it as an Aboriginal burial site.
MR SMITH: It is described as Aggie's Knob however, that we have dealt with.
COMSR: Pending my decision on your application to tender the -
MR SMITH: Could that be marked for identification at least then. I take it you are reluctant.
COMSR: I haven't had an opportunity to consider the circumstance of a publication back in 1994. For the time being, until I have had an opportunity to do that, I would think it would be appropriate to suppress from publication any mention of Aggie's Knob and its significance. I know I am going to get some representations from Mr Kenny or some argument concerning the matter, but until I have had an opportunity to consider the article, I think it will be appropriate to do so.
Just so I haven't left the members of the press in any confusion. The order is that I am suppressing from
1948

RF 26G

J.E. McHUGHES XN (MR SMITH)

publication any mention of Aggie's Knob and its
significance, or possible significance as far as sites
is concerned, while I determine whether or not to
receive the articles or documents into evidence.

XN

Q. In that letter to Professor Saunders, you enclosed your
grandfather's biography, which we have tendered here.
A. That's correct, yes.

Q. We also enclosed a newspaper article concerning the
works at Signal Point at Goolwa, is that right.
A. Yes, that's correct.

Q. Looking at this article produced to you, do you
recognise that as the article that you sent on to
Professor Saunders.
A. That is the article, yes.

MFI 96 Letter to Professor Saunders from
witness with copy of 'Advertiser'
article marked 96 for identification.

Q. The article concerns some construction work at Signal
Point. Can you tell us where Signal Point is.
A. Yes. Signal Point is situated in front - from the
river, in front of the old police station. When Signal
Point was built in 1987, I think it was, I made the
remark about there was no Aboriginal protests or
anything that went on while Signal Point was being
built. It amazes me to think now the Hindmarsh Island
Bridge is in such a controversy about it, that these
Aboriginal people come forward - women came forward
claiming the sacred sites and things like that. In the
article it shows you the bulldozers are in there and
front-end loaders levelling the ground off. And even
when the bridge got the go-ahead to be constructed, just
prior to that, the contractors brought some material
down and put material on this Signal Point, where the
bridge is supposed to be built. And the protestors -
the Aboriginal protestors came down and they cordoned
off the whole area with iron droppers and things like
that. They drove them into the ground. Yet the
contractors weren't allowed to even remove the material
with front-end loaders or bulldozers. They had to load
- the material I am talking about is screenings, gravel,
and they weren't allowed to pick the gravel up with the
front-end loaders. They had to level the site off so
they wouldn't disturb the land. And yet the Aboriginal
protestors came down and put tent pegs in and they
cordoned off the whole area, which is contrary to what
they are saying.
Q. I think, apart from writing to Professor Saunders, you
have written to several senators about this matter, have
you.
A. That's correct, yes, yes.
Q. About the matter of women's business.
A. That is correct.
Q. The thrust of what you have said to them is what, in
connection with women's business.
A. Sorry, could you just repeat that?
Q. You wrote to the senators. The purpose of you writing
to the senators was what.
A. Yes, saying about this women's business. I also wrote
to Mr Tickner.
Q. So the letter to the senators was in the same vein as
the letter to Mr Tickner.
A. Same, yes. Yes, exactly the same.
Q. Looking at this letter produced to you and dated 22 July
1994, do you recognise that as the letter that you have
written to Mr Tickner.
A. Most definitely, yes.
Q. Was that acknowledged.
A. Yes. Mr Tickner wrote back and the senators wrote back
and acknowledged - some of them did - to my reply.
COMSR: Is there any material in there?
MR SMITH: No, there is nothing that this witness
hasn't already spoken about. There is nothing in there
that isn't in the public arena.
RF 26G

J.E. McHUGHES XN (MR SMITH)

1 XN
2 Q. A topic that you have raised in that letter to Mr
3 Tickner was your meeting with Douglas Milera in the
4 Corio Hotel.
5 A. Yes, that's correct.
6 COMSR: When you say it is in the public arena,
7 more recently in the public arena?
8 MR SMITH: I will draw your attention to the
9 matters. There is a mention of the work done by this
10 man on the ferry approaches. That will not cause you
11 any concern. There is mention of work done by this man
12 in using explosives to blast out the pylons. There is
13 nothing in that that need concern you. There is mention
14 by this man in this letter of Signal Point being built
15 on an area which was later claimed to be sacred. That
16 matter is squarely in the public arena, it is on TV, et
17 cetera.
18 EXHIBIT 97 Letter to Mr Tickner from witness
19 dated 22 July 1994 tendered by
20 Mr Smith. Admitted.
21 XN
22 Q. Could I take you then to the evening when you met
23 Douglas Milera in the Corio Hotel.
24 A. Yes. I was in the Corio Hotel Saturday night -
25 Q. Before you start on that. Can you give us an idea about
26 when this was.
27 A. Yes. It was around about the time this women's business
28 arrived. As I said, on the Saturday I was in the hotel
29 and Mr -
30 Q. Was that before the minister's ban on the bridge.
31 A. Yes, yes.
32 Q. Which was in July of 1994. So are we some time before
34 A. Yes.
35 Q. Tell us what happened.
36 A. I was in the hotel this night, and this chappy came in
37 the door with fists raised - he opened the door and,
38 with fists raised (DEMONSTRATES) he said 'I've got the
power to build or stop the bridge'. Everyone looked
around and thought 'Gosh, who's he?' I was sitting
around the corner of the bar, and this chappy walked up
the other side of the bar, and he did say his name was
Doug so and so. I couldn't hear what he said, but I
know he said Doug. He apparently ordered 6 stubbies of
beer. As the barman walked past me to get the beer, I
said to the barman 'What did that chap say his name
was?' The barman said 'He said his name was Doug
Miller.' I said 'No, I think it's Doug Milera'. So the
barman said 'Oh, it could be'. With that, I got up and
walked around alongside this Doug Milera, and I said
'Are we going to get the bridge or not?' He said
'What's it to you?' I said 'I'm very very interested in
this bridge business.' He said 'I can't tell you
anything'. I said 'Why not? You came in here with your
fists raised and you said you had the power to stop or
build the bridge. I want to know if we are going to get
the bridge or not.' He said 'I can't tell you'. He
said 'You wouldn't understand anything about that
because we have left it up to the women to decide'.

Q. Was there some more talk between you about pylons, you
and this man Doug.
A. No, no - sorry, yes, Doug Milera did say to me - he said
'You wouldn't know anything about this women's business
because every pylon they drive through that river bed
goes through my - a pain goes through my stomach, so you
wouldn't understand that'. So I took it then that he
didn't know that I was part-Aboriginal also.

Q. You just left it at that, did you.
A. I just left it at that then.

Q. Did this man then leave.
A. No. Just before he left, the barman said to Doug 'Have
a beer'. He said 'No, I'm sorry I can't. I'm in a
hurry. I've got women out in the car and they're
waiting for me, but' he said 'here have a beer on me',
and he broke the 6 pack up and handed the barman a
stubbie of beer and then he left.
Q. When this man, who identified himself as Doug Milera, came into the bar, was he affected by liquor in your opinion.
A. No, not in my opinion, because, as I said, I went around and spoke to him, and in my honest opinion he wasn't affected with alcohol at all.
Q. I take it then that you followed the television items concerning the bridge and the protest and all that, did you.
A. Yes. Yes, I followed it.
Q. Have you ever met, for instance, Sarah Milera.
A. I've never met Sarah Milera in my life, no.
Q. Have you seen her on television.
A. That's the only time I have seen her, is on television.
Q. People such as George Trevorrow, Tom Trevorrow, have you met them.
A. No, I've never ever met them, no.
Q. Victor Wilson.
A. No, never.
Q. Doreen Kartinyeri.
A. No.
Q. So you have never laid eyes on them except on the television.
A. That is correct.
Q. And never met them in the Goolwa area.
A. Never met them in the Goolwa area, no, never.
Q. Have you had any contact with, for instance, Henry Rankine.
A. Yes. I rang Henry up on a couple of occasions. Actually I rang him up to congratulate him because he was involved with the Granite Island development over there. There was an article in the local paper with Henry Rankine and the Victor Harbor Council. There was a photograph in the local paper of them all signing agreements for the development of Granite Island.
CONTINUED
So, just after that, I rang Henry up and I said
'Congratulations on the successful negotiations with the
council of this development on Granite Island'. Henry
said 'Thanks John'. And I said 'I couldn't help but
notice there wasn't any women involved over there,
Henry'. And he said 'There wouldn't have been any
women involved over there', and I said 'Why?', and he
said 'There's no women involved there because when they
done the bridge work for Granite Island', he said 'With
all the blasting', he said 'So the breakwater at Granite
Island was built, that would have killed the women's
business'.
Q. That sort of concept was new to you.
A. Yes.
Q. Is that why you have told us about the blasting, is it.
A. That is correct.
Q. To the riverbed.
A. That's exactly right. 'When we done the blasting', I
talked to Henry Ranking about the blasting of Hindmarsh
Island as the ferry approaches there, and he said 'We
blasted all the old existing pylons on the riverbed
there. In my opinion, if it killed the women's business
in Granite Island, it would have definitely killed the
women's business on Hindmarsh Island'.
Q. There were meetings taking place at Goolwa, weren't
there, in the period leading up to July 1994.
A. Yes. Quite a lot of meetings, yes.
Q. Did you go to any of the meetings.
A. I attended most of them, yes.
Q. Are you in support of a bridge. I am very much in
support of a bridge, because of employment. I have two
sons and they are - one is employed now, but it's only
casual work, and that's the reason why I'm in favour of
the bridge. It will create employment and it will
snowball from there and put Goolwa on the map. Not only
that, there's access to - the island's most important
for people that are sick and things like that, and
Q. I take it from your evidence that no-one has ever approached you about the topic of the bridge because of your Aboriginality.
A. That's correct.
Q. It was your own decision.
A. It was definitely my decision to come forward. I wasn't asked to attend these meetings. There were, I think, to my knowledge, a couple of meetings prior to that which I didn't attend. I didn't know they existed and I heard there was meetings over there and I decided to attend.
Q. Have you been criticised in your position, the position taken by you in this matter.
A. Yes. I haven't been threatened or got any abuse over the phone, or things like that, but there was a couple of referrals to me were I was getting paid by the Chapmans for coming forward like this.
Q. What was your response; what is your response to that suggestion.
A. Definitely not. No, I never knew the Chapmans and I knew they had the marina on Hindmarsh Island, but I've never ever met or spoken to the Chapmans up until the last six months or so.
Q. In relation to the article on Aggie's Knob that we have spoken about earlier, you said a friend of yours provided you with a copy of the article.
A. That's right, yes, Mr Geoffrey Byrnes.
Q. I think he runs -
A. He is the local concrete contractor.
Q. You mentioned Mike Jolly. Who was Mike Jolly and what did he do.
A. Mike Jolly was born and bred on Hindmarsh Island and his father I knew quite well. Had a dairy farm on the island and Mike still owns property on Hindmarsh Island.
Q. He is not an Aboriginal person.
A. No, he is not, no.
Q. In November 1989, the island bridge plan was unveiled in an article in the Advertiser, wasn't it.
A. That's correct, yes.
Q. Looking at the copy article produced to you, dated - indicating the Advertiser of Wednesday, 8 November 1989, we see there a picture of the proposed bridge superimposed on the river.
A. Yes, that's correct.
Q. And a picture of, amongst other people, Tom Chapman.
A. Yes.
Q. And that's the Mayor.
A. That's the Mayor, that's right, Joe Barton. That's from the Council of Port Elliot.
Q. It's not the Advertiser at all, it's the local Victor Harbor paper.
A. Yes.
MR ABBOTT: It's only got 15,000 readers if it's the Advertiser.
EXHIBIT 98 Article from the local Victor Harbor paper tendered by Mr Smith. Admitted.
Q. Was there any reaction amongst Aboriginal people, that you know of, to that article and the plan unveiled in there.
A. No, there was nothing whatsoever at all. There was no Aboriginals came forward with sacred sites and things like that here. And I was very disturbed myself at the time that there was, no-one came forward and spoke of it. Surely, you know, if this women's business was existing, then surely someone would've came forward and spoke about it?
Q. What do you mean by that: that you weren't disturbed at the time but you are now disturbed that nothing happened then.
A. Yes, nothing happened then, yes.
Q. In your statement on p.3 there - you have a copy of it in front of you.
A. Yes.
Q. You have mentioned there a lady by the name of Mrs Lush. She was an Aboriginal lady.
A. Yes.
Q. Lived in Goolwa, is that right - isn't it down near one
of the bends in the river.
A. Yes, that's correct.
Q. You have set that out in your statement because what happened to her caused you some concern.
A. Yes. The local council, they - when the old lady died, she'd lived many, many years right on the river bank.
When she died, the local council bulldozed the land and brought in some filling and levelled it off, and stipulated in the paper they were going to call it 'Roy Galpin Reserve'. And this friend of mine Geoff Byrnes and myself put in a protest to the council about it and said it should be named after the old lady that lived there, Mrs Lush, the sole Aboriginal lady. And the council wrote back and said 'No, Mr Roy Galpin was the chairman of the council, had been there for years and years and its appropriate to name it after Roy Galpin'.
Q. You, I think, and a friend of yours, Geoff Byrnes, protested at that.
A. Yes. We protested, and it finished up the local council said, well, that if we liked to put instead a monument there in respect of Mrs Lush, which we did, and we got there a big stone and put a plaque on it in memory of Mrs Lush.
Q. Did you try and get some support in the Aboriginal community for your protest in that respect.
A. Yes. It was in the News and the Advertiser about we're protesting it was called after Mr Roy Galpin, and it was all in the local papers about it, and not one Aboriginal person came forward to support it to say it should be called after an Aboriginal woman.
CROSS-EXAMINATION BY MR KENNY
Q. Had you met Dorothy Wilson before this bridge issue became known.
A. Yes, I have met Dorothy Wilson, yes.
Q. When did you meet her.
A. She's a relation of mine.
Q. What about Jennifer Grace.
A. Jennifer, she just moved to Goolwa, been there probably
1957

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1 about, around about roughly 12 months.
2 Q. You had never met her before that 12 month period.
3 A. I never met her before, no.
4 Q. Beryl Kropinyeri.
5 A. No.
6 Q. Margaurite Effie Wilson.
7 A. No.
8 Q. Rocky Koolmatrie.
9 A. No.
10 Q. Val Power.
11 A. No.
12 Q. Audrey Dix.
13 A. No.
14 Q. Betty Tatt.
15 A. No.
16 Q. Bertha Gollan.
17 A. Only on TV. No, I've never met the woman.
18 Q. Maggie Jacobs.
19 A. No.
20 Q. Phillis Byrnes.
21 A. No.
22 Q. Do you know who we are referring to if I refer to a
23 person as the daughter of Pinkie Mack.
24 A. Only as Annie, Nanna Laura.
25 Q. Have you ever met her.
26 A. I have seen her. Yes, I have met her.
27 Q. You have seen her.
28 A. Yes, at a funeral.
29 Q. Veena Gollan.
30 A. No.
31 COMSR
32 Q. As far as you know, do any of those ladies live locally.
33 A. No, they don't, no.
34 XXN
35 Q. Do you know of or have you met these people: Edith
36 Rigney.
37 A. No.
38 Q. Eileen Mc Hughes.
1 A. Yes, I have seen Eileen McHughes.
2 Q. Have you ever spoken to her.
3 A. I have spoken to her. She's married to my nephew.
4 Q. But, I take it you don't have a close relationship with her.
5 A. No.
6 Q. Isabel Norvill.
7 A. No.
8 Q. Cathy McHughes.
9 A. No. It doesn't ring a bell.
10 Q. She's Eileen McHugh's daughter.
11 A. I gather as much. I've never met her.
12 Q. Patty Kropinyeri.
13 A. No.
14 Q. Iris Sparks.
15 A. No.
16 Q. Leah Rankine.
17 A. No.
18 Q. Shirley Trevorrow.
19 A. No.
20 Q. Rayleen Rigney.
21 A. No.
22 Q. Do you know a person by the name of Bruce Carter.
23 A. Yes. I played football with Bruce.
24 Q. You played football.
25 A. Football against Bruce, yes.
26 Q. Do you know where Bruce Carter lives these days.
27 A. Well, I haven't seen him for many, many years. I presume he lives at Murray Bridge. That was the last I saw of him.
28 Q. He is an Aboriginal person.
29 A. Yes.
30 Q. Robert Day.
31 A. No.
32 Q. Henry Rankine, have you met him.
33 A. Not personally, no. Only spoke to him over the phone.
34 Q. I take it then from that list of names I've read out, that really you haven't had a lot to do with too many of
the Ngarrindjeri people for a long time.
A. Yes. Only the people that lived in Goolwa.
Q. How many lived in Goolwa.
A. There was the Carters - Geoffrey Carter and all of his
family, Hector Sumner and all of his family, Herbie
Rigney and all of his family, the Walkers, and the
Tripps, Ephram Tripp -
Q. Do they still -
COMSR: I don't know if the witness had finished
answering the question.
Q. Had you finished answering.
A. Yes. I said that's about the only families that lived
there permanently when we came to Goolwa.
XXN
Q. Do those families still live down at Goolwa.
A. No. Most of those families moved out in about the early
'60s, 1960.
Q. Since the early 1960s, have you had much contact with
any of the Ngarrindjeri people.
A. Not a lot, no.
Q. If we can go back, I think you said until around about
the age of seven you lived at Wellington. Was that
correct.
A. That's correct.
Q. Whereabouts exactly did you live when you lived at
Wellington, in the town, or -
A. No. We lived about two miles on Lake Alexandrina on the
edge of the lake.
Q. Your family had a house there.
A. We had a house there, yes.
Q. Were there any other families living on that same
property as you.
A. No. But around the vicinity of Wellington itself, there
was quite a number of families living there.
Q. When you say there were a number of families, they were
mostly European families.
A. Yes.
Q. But, I think you said occasionally a couple of
Aboriginal boys would come over and play with you.
A. Yes. Quite often they would come over and we’d go swimming, and things like that, in the lake and, you
know, general play around. And elderly people used to come over and visit dad and talk for hours and sometimes stay overnight.
Q. That was up until you were about seven years of age.
A. That’s right.
Q. When you say these people came over, where did they come over from.
A. From the other side of the river. Sometimes they probably come from Point McLeay, but mainly the general people who lived around Wellington and Tailem Bend and things like that.
Q. Do you know who they were.
A. I remember the Gollans, they’d often come there. Carters, just to mention -
Q. Do you remember who the boys were whom you played with.
A. Would have been the young Carters and things like that.
Q. You don’t remember which ones though.
A. There was Harry Carter and Wynsell Carter and I think - there’s about nine boys in the Carter family.
Q. They would -
A. They were the youngest ones, Harry and Wynsell, they’re the younger. That’s how I remember them.
Q. Would they come over every week, or once every six months or so, or what.
A. No, just once in a while. Whenever they had to go to Tailem Bend or something like that as passing through and something, they would call in and stay for a while - not stay with us, stay with different relations around Wellington.
Q. Once every week, a month, six months.
A. It would be a bit hard to say now. Probably three or four months, something like that. Might be more frequent.
Q. Were there other Aboriginal families living in the
vicinity of where you were living at that time.
A. Beg your pardon?
Q. Were there other Aboriginal families living in the
vicinity of where you were living at that time.
A. There would have been quite a number of Aboriginal
people living around Wellington, yes, but what their
names were I sort of can't recall now.
XXN
Q. So, you really didn't have very much contact with those
Aboriginal people that lived around Wellington.
A. Not a lot, no.
Q. After you were seven, you moved over to Langhorne Creek.
A. That's correct.
Q. And then to Morphett Vale. I take it that you were not
living there with any other Aboriginal people when
living over there.
A. Only the people who came through and done the grape
picking, and things like that; or the Carters there were
grape picking for a while.
Q. Occasionally, someone would come and stay during the
grape-picking season.
A. Yes.
CONTINUED
Q. I think you told us you said you were working on the
barriages for about 12 to 18 months, in the early 1950s.
A. Yes, I worked on the Tauwitchere barrage for about
between 12 months and 18 months, yes.
Q. What were you doing there.
A. Just maintenance work, painting, the gates and
maintaining the locks and things like that.
Q. Say, in the last - or take, say, the year before the
bridge dispute arose. So, before, say, April 1994, that
is about a year ago. In the year or so before that, did
you attend any Aboriginal functions, such as NAIDOC
celebrations, or anything like that.
A. No.
Q. So, really, during the time leading up to the bridge,
you really didn't have much contact with any other
Aboriginal people.
A. No, no-one came and approached me, or anything like
that, no.
Q. You essentially had been living at, I take it, Goolwa,
since about the 1960s, as the only Aboriginal person
there.
A. The only Aboriginal person living there permanently,
yes.
Q. Were there others who lived there, from time to time, or
called to visit, or what was the situation.
A. Before 1960, there were Aboriginals. I mentioned
before, there was the Sumners, the Walkers, the Tripps
and all, they lived there permanently. But, after that,
they just moved off. And, occasionally, some Aboriginal
people would come down and things like that, but they
were just more or less passing through.
MR KENNY: There are a lot of other questions I
would like to ask this witness concerning his knowledge
of Aboriginal traditions, but I don't think this is an
appropriate time to be asking about them and,
consequently, I would ask that this witness perhaps be
released for now and recalled if a s.35 authority is
The other thing is, he has given evidence of speaking to one of my clients, Henry Rankine. I will need to take some instruction from Mr Rankine, but I don't ask is that this witness be held over and come back for that and then brought back again. I can suggest it is perhaps better if we simply put it off until we know whether a s.35 authority is going to be issued.

COMSR: There is nothing in what the witness claims to have said to your client which would require a s.35 authority, is there?

MR KENNY: Yes, there is.

COMSR: Is there?

MR KENNY: He is alleging that my client is saying, and I ask that this be suppressed -

COMSR: All right, I will take your word for it, that you can suppress it.

MR KENNY: You can read p.4, in the second paragraph.

COMSR: Let me have a look.

MR KENNY: I am aware that there are - I have had some discussions with my clients concerning Granite Island and they are certainly matters that, whilst I don't have detail, I could say that at least with me raised concerns about s.35.

COMSR: Yes, there is certainly a very general statement there, but, if you are going to ask more detailed questions than that, yes. What you are suggesting, at the present stage, is that you don't propose to cross-examine the witness any further. That, as far as you are concerned, he could be released, subject to this, he may be required to be recalled, at a later stage?

MR KENNY: Yes, and I can indicate there are some other documents I would like to have access to before I finish cross-examining this witness that are currently not released due to the s.35 ban. And one is Dr
Clarke's thesis, for example. And the Berndt and Berndt book, as well. But I can't take it any further, at this stage.

COMSR: We won't go into it, at this stage.

Does anyone else wish to ask questions?

MR ABBOTT: Yes, I have got some questions.

EXAMINATION BY MR ABBOTT

Q. How old are you now.

A. Sixty-three.

Q. I am the lawyer representing Dorrie Wilson and I understand that you and my client have common ancestry.

A. That's right, that's correct, yes.

ADJOURNED 1 P.M.
RESUMING 2.25 P.M.
WITNESS J.E. McHUGHES, CROSS-EXAMINATION BY MR ABBOTT
CONTINUING
Q. I was asking some questions about your genealogy. I am
   just trying to think of the best way of putting it.
   Could I put it in this way: your grandfather was the
   famous William McHughes.
A. That's correct.
Q. That William McHughes was a brother and had, as his
   sister, Queen Louisa.
A. That's correct.
Q. So, your grandfather and your grandfather's sister were
   both descended from an Aboriginal woman, whose name I
   think was Muntinda.
A. I believe so, yes.
Q. Do you know why she was called Queen Louisa. All the
   books refer to her as Queen Louisa.
A. Yes, honestly, no, I don't know.
Q. Exhibit 94 refers to William McHughes as the brother of
   Queen Louisa.
A. That's right.
Q. Your father was Walter McHughes.
A. That's correct.
Q. One of his brothers was Hughie McHughes.
A. That's correct.
Q. It is through Hughie McHughes that Dorothy Wilson, one
   of the previous witnesses, is descended.
A. That is correct.
Q. Hughie McHughes, your uncle, I think married Lena
   Gollan.
A. That is right.
Q. And one of their children was Dorrie Wilson's mother,
   Hetty McHughes.
A. That's correct.
Q. Effectively, Hetty McHughes and you are second cousins.
A. Hetty and -
Q. Hetty McHughes and you are first cousins.
A. No, Hughie McHughes is her father.
Q. Hughie McHughes is Hetty's father and Walter McHughes is your father.
A. That's correct.
Q. So, you are cousins.
A. That's correct, yes.
Q. And Dorrie Wilson always calls you Uncle John, doesn't she.
A. That's correct.
Q. And, whether it be strictly uncle, you regard yourself as her uncle.
A. Yes.
Q. You were asked a question about whether you knew a Beryl Kropinyeri. Do you know a Beryl Wilson, Dorrie's sister.
A. Yes, Beryl, yes, Wilson, yes.
Q. If I tell you that Kropinyeri is her married name - you do know Beryl, don't you.
A. Yes, I certainly know Beryl, yes.
Q. You have a number of sisters and nieces.
A. That's correct, yes.
Q. The Casey family.
A. That's right. That's - my sister married a Casey.
Q. The Wade family.
A. That's correct. My sister's daughters.
Q. You know all members of your family, as well as members of the Wilson family.
A. Yes, that's correct.
Q. I think that we can read about your father, Walter McHughes, on p.102, the page numbered 102 of this Exhibit 94. Turning to Exhibit 94, which is the biography and family history of William McHughes, your grandfather, do you have a copy of that document.
A. Yes, I have a document here.
Q. If you turn to the page which has the number no.102 up the top, do you have that page in front of you.
A. Yes.
Q. The sixth child Hughie McHughes: we read about Hughie there. I won't read it out.
1967

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A. Yes.
Q. You will see, at the end of that passage the four children, Beryl, Dorothy, Mervyn, and Laura. The ‘Dorothy’ referred to is Dorothy Wilson.
A. That's correct.
Q. And the seventh child, Walter McHughes, is your father.
A. That is correct.
Q. We read about Walter: he served in the Army for four years.
A. Yes, that's correct.
Q. One further aspect of the genealogy: although you are descended by your grandfather being William McHughes and he being the brother of Queen Louisa, the genealogy works this way, as I have said, William McHughes and Queen Louisa are brother and sister, that is so.
A. That is so, yes.
Q. Your father, Walter McHughes, and Pinkie Mack were cousins.
A. Yes.
Q. The daughter of Pinkie Mack - whose name you have mentioned and you - that is the name of the person Nanna Laura we mentioned, but we are referring to her as the daughter of Pinkie Mack - and you are second cousins.
A. That is correct.
Q. I suppose that is how you have really come to know her.
A. Yes.
Q. Through being related.
A. That is exactly right.
Q. Could I just ask you about this matter: I understand that, at the request of Jenny Grace, you were asked to speak to the female members of your family, to see whether or not they had heard of any women's business connected to Hindmarsh Island, or been told anything by their female relatives.
A. That's correct.
Q. Did you go and see certain female members of your family.
A. I certainly did.
Q. Did you get them to, or ask whether they would sign to that effect.
A. Yes, I did.
Q. Looking at the document, now before you, what is this document.
A. `We, the undersigned a group of -
Q. Yes, I know. Did you obtain these signatures.
A. Yes.
Q. Did you go and see the people.
A. I saw every one of them personally.
Q. Could you just tell us who these ladies are.
A. Yes, Margaret Casey. She is my sister.
Q. And she, like you, has lived for many years down at Goolwa.
A. Yes, we all came to Goolwa in 1946/1947. Rhonda Casey.
Q. She is my daughter's - my sister's daughter.
A. So, she is your niece.
Q. That is my niece. She's lived in Goolwa ever since we moved down there, all her life. Tania. That is Rhonda's daughter. It would be my -
Q. Great niece, or -
A. That's correct. And Jodie. That is Tania's sister.
Q. Another great niece, who lives at Goolwa.
A. Another niece, or whatever. And Gloria. That is my sister's, Dorothy, that is her daughter, Gloria Wade.
Q. Dianne Lesley. That is my own daughter. Barbara Bricknell. That is my sister. Betty Lockett. That is my sister. Kathy Squires. That is my - Betty Lockett's daughter. She is my niece. And Jenny Grace. She is the one that came round for this.
Q. You have told us the relationship between those ladies, but, of course, some of them are younger than you, being - some of them are young people, but most of them are of some reasonable age, the people on this list.
A. Yes.
Q. And are these the ladies whom, to your knowledge, have lived in the Goolwa area and who are of Ngarrindjeri extraction and whose views are, in your view, relevant
to this matter.

A. That is exactly right.

EXHIBIT 99 List tendered by Mr Abbott. Admitted.

Q. I have one question in relation to it: the document says, at the top, `We, the undersigned group of Ngarrindjeri women, would like to make it clear that we have not heard of any of the specific women's business connected to Hindmarsh Island and have never been told by our great grandmothers, grandmothers, mothers or aunts.' Did you ascertain from each of the persons who signed this exhibit that that was, in fact, their views.

A. That is exactly what their views were.

Q. I have one aspect, one further matter to put to you: Dorrie Wilson has given evidence and, in her witness statement, she spoke of an occasion in late - and I am referring to p.47 of her witness statement, an occasion `In late August or early September 1994', she said `Uncle John McHughes', that is you, `who must have been speaking to Chirpy', that is, Chirpy Campbell.

A. That's right.

Q. `Called me up and said that he wanted to talk to me about the bridge. He came over to my house in Murray Bridge with his sister, Auntie Betty.'

A. That's right.

Q. `And her daughter and my two sisters, as well. We were talking about our relations and the family tree, because Auntie Betty's daughter was working on our family tree.'

A. That's right.

Q. `We talked about the women's business and the fact that I thought it was rubbish.'

A. That is exactly right.

Q. `Uncle John said that he didn't believe the waters were spiritual. He said that they had put many, many pylons in the channel and had had to blast the water to do that.' Do you remember telling her about that.

A. That is exactly right.

Q. And she goes on to say that you told them `They had put
new pylons in in 1978.’ You told her that.
A. Yes.
Q. And you said that ‘If there had been any fertility
attached to the water, it would have been blasted away
when they put in the pylons.’
OBJECTION Mr Kenny objects.
MR KENNY: Obviously Mr Abbott is reading from an
unsensored copy of that witness statement. 1. I would
like to ask what he is doing with it. And 2. I will
ask him to return it.
MR ABBOTT: I will tell you what I am doing with it:
it is my witness's statement. That is what I am doing
with it.
MR KENNY: Well, it is suppressed, at this stage,
and my understanding was that it was to be excluded from
men having it. Perhaps Mr Abbott’s witness doesn't, or
client, doesn't have the same regard for Aboriginal
tradition as some of the other people, but -
MR ABBOTT: I have every regard for Aboriginal
tradition. I have no regard for fabricated material.
COMSR: I think the situation is that, of
course, you may well have got a copy of that, through
taking the witness statements, Mr Abbott, but, as far as
the release of the statement is concerned, the parts
that were blacked out are suppressed.
MR ABBOTT: If I had realised that, I wouldn't have
read it. But I have read it out and you can see how
innocuous the two lines are and I accept what you have
said and I withdraw my question.
XXN
Q. I will merely ask you this: did Dorrie Wilson tell you
that none of what had happened about what you had told
her had effected anyone's fertility and say ‘We are
having a baby boom in Murray Bridge.’
A. Yes.
Q. Did you know - did she mention anything about a baby
boom in Murray Bridge now.
A. Sorry?
Q. When you spoke to Dorrie Wilson, on that occasion, did she say to you that, as far as she was concerned, there had been no effect on anyone's fertility.
A. No, that's right. There wouldn't be any effect on anyone whatsoever.
Q. Your sister, whom Dorrie refers to as Auntie Betty, what is your sister's name.
A. Betty Lockett. Mrs Lockett.
Q. Her daughter, who was with her when you came to visit Dorrie.
A. Yes, that was Patricia.
CONTINUED
Q. Which daughter is the one that's working on the family tree.
A. That's Patricia.

CROSS-EXAMINATION BY MR MEYER
Q. When you speak about there being piling work being done for the ferry, was a cofferdam built.
A. There was a cofferdam built, yes. We had to pump all the water out. So a cofferdam was built right around the ferry approaches, and the water was pumped out and the pylons driven down through the river bed.
Q. What sort of cofferdam was -
A. Steel cofferdams. They interlock and they slide down inside one another to prevent the water from coming in. Then we installed big pumps to pump it out, and then the pylon was driven in underneath.
Q. That is like metal sheet piles.
A. Metal sheet piles, yes.
Q. Were they put in with a metal pile driver.
A. They were put in with a metal pile driver, yes.
MR MEYER: The next question I wish to ask is about Aggie's Knob, but, as far as I am aware, it cannot create any sort of problem in relation to Section 35.
XXN
Q. Does Aggie's Knob now exist.
A. Not the actual knob itself. The knob was bulldozed down. I -
Q. That's all you need to answer. A geographical question. There has been evidence about the Three Mile as being a spot outside of Tailem Bend.
A. Not to my knowledge. I haven't heard of it.
Q. You haven't heard of that.
A. No.
Q. You cannot tell me where it is then. The question I was going to ask is, where is it.
MR KENNY: I have some further questions arising out of Mr Abbott's cross-examination.
COMSR: Yes.
FURTHER CROSS-EXAMINATION BY MR KENNY

Q. Jennifer Grace, did she ask you to seek these signatures that are on Exhibit 99.
A. Yes. She - when I was speaking to her one day, she said `We're getting up a petition, John. Would you be prepared to get some signatures?' I said `Yes, more than welcome to'.
Q. So she brought this down to you in the prepared form.
A. She brought the form to me, yes.
Q. Did she say who was preparing that petition and what it was for.
A. No, it says on the thing. I read the petition what it was all about.
Q. But did she say `We want it for -' something.
A. No. She just brought that document to me and I read it. I said `Yes, I'll do what I can to get some signatures on that.'
Q. Did she ever tell you what she intended to do with it.
A. No, I didn't ask her.
Q. The age of some of these people - Tania Casey, how old is she.
A. Would be probably early 30s.
Q. Gloria Wade.
A. She'd be in her 40s.
Q. Betty Lockett.
A. Betty is my younger sister.
Q. I won't ask you how old she is. Mr Abbott referred you to Dorothy Wilson's statement and the fact that you telephoned her in August or early September 1994.
A. That's correct.
Q. Was that after talking to Chirpy.
A. No, probably before I spoke to Chirpy.
Q. But you spoke to Chirpy after -

OBJECTION Mr Abbott objects.

MR ABBOTT: Mr Kenny had the same opportunity of cross-examining this witness on a statement that is already in. The fact that I have chosen to ask some questions about it, doesn't entitle Mr Kenny to suddenly
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decide it would be a good thing if he asks a few things about it. He went first. He had his turn. I didn't rise to object to the petition material because that is new. This is not new.

COMSR: How does that arise?

MR KENNY: I accept what he says, but I seek to ask further questions in relation to this matter. It was a point that I had overlooked. I might point out that I didn't have all the background on this witness, and I didn't know he was going to be called before he was called today. I didn't have the opportunity to see his statement or to speak to him before he came here. It is not surprising, therefore, a number of issues may come up that I haven't had the opportunity to consider. I suggest that it is not unreasonable, given the shortness of notice of this witness, that I be allowed to ask further questions.

COMSR: I think that is so.

MR ABBOTT: On the basis that it is a genuine oversight on his part, I will not continue to object.

OBJECTION WITHDRAWN

XXN

Q. You spoke to Chirpy.

A. Yes, I have spoken to Chirpy, yes.

Q. That's Chirpy Campbell.

A. That's right.

Q. Do you know him very well.

A. Yes, I know him well. He's my relation.

Q. Before about September 1994, had you previously spoken to him.

A. Yes, because he lives in Sydney.

Q. So before September 1994, when was the last time you spoke to him.

A. He did ring me a couple of times from Sydney, saying that he was in the - looking into the deaths in custody, so I would have spoken to him prior to that two or three times over the phone.

Q. Had you met him before then.
A. I hadn't met him before then, no.
Q. Did you call Chirpy or did he call you in about September 1994.
A. No. There were several - I know I did ring him a couple of times and he did ring me a couple of times. Which was first, I just can't recall.
Q. This is in relation to the bridge, you are talking about you had several discussions with him.
A. That's right, yes.
Q. Can you tell us what those discussions were about.
A. It is mainly about the women's business.
Q. Did he tell you what his interest was.
A. He said he has never heard of the women's business before, never ever.
Q. Did he talk to you about negotiating with the contractors.
A. Sorry, can you repeat that?
Q. Did he talk to you about negotiating with the contractors in relation to the bridge.
A. Which contractors?
Q. The Chapmans and developers, perhaps I should say.
A. No, no.
Q. Did he talk to you about building an Aboriginal centre/museum and an Aboriginal education camp on the island for the kids in the future.
A. That was brought up at the meetings we had several times before this bridge business - or during this bridge business came up.
Q. But that's - that was Chirpy's suggestion, was it.
A. Yes.
Q. Did he say to you that he may become involved in that Aboriginal centre or museum.
A. He said he would like to see it developed and built, because he said, if the bridge was built, he would like to see this centre go up and get underway.
Q. Did he see that he, himself, had a role in working at that centre.
A. No, he didn't say so.
Q. I take it that Chirpy was saying that this centre should be built by the developers, is that correct.
A. I can't recall that.
Q. Did he say anything to you about the developers having to pay a price for wanting to build the bridge.
A. No, he didn't say that to me.
Q. Were you ever aware of him saying anything like that.
A. No, not to my knowledge.
Q. You get the Victor Harbor Times, do you.
A. Yes.
Q. Have you had your photo in there.
A. That's correct, yes.
Q. With Allan Campbell.
A. That's correct.
Q. That's Chirpy that we're talking about.
A. That's Chirpy that we're talking about.
Q. Do you remember that article on 28 February 1995.
A. Perhaps the witness can be shown this document.
MR ABBOTT: This could surely have been put beforehand. This is a document he has always had. It can hardly have gone undetected, or is this another mistake?
MR KENNY: Yes, I have made plenty of mistakes in not having all the evidence or the information about this witness, but, as I said, I spent most of this morning trying to read his statement and listen to his evidence.
COMSR: I appreciate we rearranged the witness order at very short notice and that there was not too much prior notice. I propose to allow Mr Kenny to ask these questions.
Q. Have you seen that article before.
A. Yes.
Q. That is indeed the article that appeared in the Victor Harbor Times on 28 February 1995.
A. That's correct.
Q. Do you support what Mr Campbell was saying in that article.
A. Would you like to read -
Q. In particular where he says `We also want an Aboriginal centre/museum and an Aboriginal education camp built on the island for the future of the kids. If the developer and the white island people want this bridge, that is the price they have to pay.'
A. I think something like that should be built on the island if the bridge is built.
Q. So you believe that the developers should pay a price for that development.
A. No, I didn't say that. I said I think something like that, that centre, should be built on Hindmarsh Island.
Q. Why do you say that.
A. Because of the Aboriginals that used to live in the area many many years ago and things like that. I would be in support of something going on like that for that reason.
Q. Do you believe that there was any restriction on the use of the waterway between Goolwa and the island where they propose to build the bridge.
COMSR: I don't follow the question.
MR KENNY: In terms of an Aboriginal belief or tradition.
COMSR: Isn't that going to get you into the same problem that you have?
MR KENNY: Yes, this is the difficulty we have.
COMSR: The only difficulty is that it has to be deferred.
MR KENNY: Perhaps I will defer the rest of it as well. There are some questions that Mr Campbell goes on to ask. I will simply tender this report at this stage.
EXHIBIT 100 Article from Victor Harbor Times dated 28 February 1995 tendered by Mr Kenny. Admitted.
RE-EXAMINATION BY MR SMITH
Q. If I understand the dates correctly, you were about 15 when you moved to Goolwa.
1 A. That's correct, yes.
2 Q. Were you a keen footballer.
3 A. Yes, very keen.
4 Q. Who did you play for.
5 A. I played for Goolwa.
6 Q. You played for a long time for Goolwa, didn't you.
7 A. I played until I was about 34 years of age.
8 Q. I think you are a life member of the Goolwa Football Club.
9 A. Yes, that's correct.
10 Q. Is the badge you've got on at the moment -
11 A. Yes, that's a life membership badge.
12 Q. What position did you play.
13 A. Actually all over the field. Mainly in the centre.
14 COMSR: I am taking it that the relevance of it will soon become obvious.
15 REXN
16 Q. In your early days, living and, amongst other things, working and playing football in Goolwa, were you known as a Ngarrindjeri Aboriginal man.
17 A. Yes. Yes, definitely.
18 Q. Is it the case that the other Ngarrindjeri peoples, many of whom were concentrated in Point McLeay, knew you.
19 A. Yes.
20 Q. Some of the questions that my learned friend, Mr Kenny, has asked you about who you know and who you don't know, suggest that you don't know many Ngarrindjeri people.
21 Could you clear that up for us.
22 A. Yes. As I said, I went to Point McLeay on different occasions. It wasn't very often. Mainly the Aboriginal people that I knew and mixed with was the people that lived in Goolwa and that I played sport with. A few of them used to drift through, you know, in and out of Goolwa, and I knew them also, but there would be a lot of Aboriginal people that I don't know and who claim that they lived in Goolwa. If they lived in Goolwa I would have definitely known them.
Q. Were you ever approached by the members of the Lower Murray Aboriginal Heritage Committee -
A. Never.
Q. During the days of the bridge dispute.
A. Never ever, no.
Q. Would they have known you were about in Goolwa to approach you.
A. I would think so, yes. Most definitely.
Q. Could you tell us how that could be.
A. I don't know why they haven't approached me. The Local Council now has put me on the council to represent the Ngarrindjeri people in Goolwa if anything ever arises from the heritage business, and I've only just been appointed on the council in the last few months to liaise with the Aboriginal people, if anything - development or anything like that - arises in Goolwa again.

COMSR: The witness may be released at this time subject to the fact that he may be required to be recalled at a later stage.
MR SMITH: Yes, subject to the wishes of counsel at the bar table about matters that may be sensitive.

NO FURTHER QUESTIONS
WITNESS RELEASED
MR SMITH CALLS

GEOFFREY MAXWELL EASDOWN SWORN

EXAMINATION BY MR SMITH

Q. I think you're a journalist currently working in Melbourne; is that correct.
A. That's correct.

Q. Currently in the employ of what organisation.
A. Of the Herald Sun newspaper in Melbourne and News Corporation.

Q. I think you have been a journalist for some 31 years now.
A. That is correct.

Q. I think in connection with your work as a journalist, you have had occasion from time to time to speak to people who have been actors, if you like, in the drama of the Hindmarsh Island Bridge.
A. Yes, I have.

Q. You have written articles.
A. Yes, I have written several articles; in fact, many articles on the Hindmarsh Island Bridge.

Q. Looking at this statement produced to you, do you recognise this as a statement which you kindly provided to the Commission in connection with this inquiry.
A. Yes, it is, and my signature appears on the bottom of p.4 with the date, and on p.1 there is an alteration with my initials on it.

EXHIBIT 101 Statement of Geoffrey Maxwell Easdown tendered by Mr Smith. Admitted.

Q. I think you have also provided to the Commission under an index a bundle of Herald Sun newspaper clippings dated and indexed.
A. Yes. I have my copy here, but that doesn't have an index with them.

Q. Looking at this bundle produced to you, I think that's the bundle which you have provided.
A. Yes, it is.

EXHIBIT 102 Bundle of news clippings of Herald Sun tendered by Mr Smith.
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1 Q. Those clippings are articles written by yourself
2 concerning the Hindmarsh Island Bridge dispute.
3 A. Yes, they are.
4 Q. Have you a copy of your statement. I can provide you
5 with one if you haven't got one.
6 A. I may have one here. No, I don't have the latest one.
7 Q. Looking at your statement produced, as you have said,
8 you have been a journalist now for some 31 years. I
9 want to ask you some questions about your career. I
10 think you joined the Melbourne Herald Newspaper in 1972.
11 A. Yes, that's correct, after something like eight years or
12 seven or eight years with country and regional daily
13 newspapers.
14 Q. You remained with that publication until the end of
15 1980.
16 A. Yes, I did. At that stage I was in the Canberra bureau
17 of the Melbourne Herald.
18 Q. I think you then transferred, as your statement sets
19 out, to the Geelong Advertiser; is that right.
20 A. Yes, that's correct.
21 Q. You were there Chief of Staff and News Editor.
22 A. Yes, I was.
23 Q. You stayed there for some two years; is that correct.
24 A. It was just under two years.
25 Q. Then, you returned to the Herald in April 1982.
26 A. Yes, that's correct.
27 Q. You have been there ever since.
28 A. Yes, I have; and I was there at the time when the Herald
29 was merged with the Sun News Pictorial to form the
30 Herald Sun.
31 Q. I think, going back a little bit, before that, I think
32 you were Deputy Bureau Chief for the Herald for a
33 numbers of years.
34 A. That was during my time in Canberra.
35 Q. For the last 10 to 15 years, you have been a journalist,
36 but concentrating in the investigative area; is that
37 right.
38 A. That's correct.
Q. Any particular emphasis.
A. It's largely - in many cases, it's been financial and legal matters. I've - as well as that, I've covered:
The Fitzgerald Royal Commission in Brisbane, I was there for 16 months; the WA Inc. Inquiry and there for several months; I attended at the State Bank Inquiry here in Adelaide for some weeks at one stage; I was in Kuala Lumpur for the execution of Barlow and Chambers and -
Q. I think you were in Vanuatu during the troubles over there.
A. Yes, I was.
Q. Reporting on that.
A. Yes, I was.
Q. I think also you have been the author of a number of books, have you not.
A. Yes, I have.
Q. Would you just briefly summarize those for us.
Q. The Leonski murders, what was that about.
A. That was an American soldier who came to Melbourne with the first troops that arrived from the United States. He murdered three Australian civilians and he was tried by their own military for crimes against the Australian civilians.
Q. What was the name of that book.
A. Yes.
Q. I think you also produced a book on the Kiewa Hydroelectric Scheme for the State of Victoria.
A. Yes.
Q. The history of the Falcon motorcar.
A. Yes, I did.
Q. You did the biography of Bob Jane.
A. Yes, I have. All of that work was supplementary to my work with the Herald; it was quite separate.
Q. The Herald, of course, has merged with its sister
   morning publication The Sun.
A. Yes, it has, The Sun News Pictorial.
Q. Is one of your responsibilities for the Herald Sun
   Aboriginal affairs.
A. Yes, it was.
Q. How long have you been reporting in that area.
A. I have been writing articles about Aboriginal affairs
   now off and on for probably as long as I have been an
   investigative reporter. I have people that I regard as
   very close friends who are Kooris, which is a Victorian
   term for `Aboriginal'.
Q. Can you spell that.
A. K-O-O-R-I.
Q. That has an equivalent here in South Australia with what
   word.
A. Nunga.
Q. I think you came into this matter, that is the Hindmarsh
   Island Bridge dispute, through a connection with Sue
   Lawrie.
A. Yes, I did.
Q. I would like to explore that a little bit. When did you
   first meet Sue Lawrie.
A. I met her during the last State election campaign in
   South Australia when she was running a campaign for a
   Chinese gentleman who was standing for a Liberal seat, a
   candidate in a Labor, strong Labor seat.
Q. So, was the attraction, if you like, because of that
   unusual configuration.
A. Yes. What I thought was interesting was that because of
   the, I suppose, the increasing Asianisation of this
   country and the links to Asia and the - I thought this
   was an interesting aspect to a campaign. We haven't
   seen it before and it was well worth focusing on.
Q. So, what interest it had to you was that there was a
   Liberal candidate who was a Chinese man vying for
   election in a strong Labor seat.
A. Yes.
Q. I think you actually did a story which compared his
efforts, if you like.
A. Yes, I did that.
Q. With another seat.
A. With the seat which Joan Steele-Hall, I think, was
standing for.
Q. Which was a safe Liberal seat.
A. Yes, it was.
Q. So, it was in that way that you, as it were, bumped into
Lawrie.
A. Yes. Myself and a chap from the Sydney Morning Herald
here for the campaign were invited to an electorate
dinner for Larry Leu Ong. I'm not sure how you spell
the name now.
Q. So, it was a professional contact in that sense.
A. Yes, it was a professional contact.
Q. Your next contact with Sue Lawrie was when.
A. It was during the Bonython campaign and she was, I
believe, managing the campaign for Andy Chapman, and it
was at a time when the support for John Hewson in
Canberra was falling, and I was interested in what was
going to be the outcome of the bi-election.
Q. So, Sue Lawrie thereby became one of a number of
political contacts you have from the Liberal side.
A. Yes, it was. I spoke to people on both sides, all sides
of politics.
Q. Sue Lawrie contacted you about this matter, I think, as
your statement says, in late April, early May of this
year.
A. Yes, in late April, early May. At this stage, Sue's
working in Melbourne and contacted me and told me that
she was looking into the Hindmarsh Island Bridge matter
and she said that she believed the matter was a hoax and
was I interested in having a look at the issue. At that
stage, she was trying to interview a number of the
principal witnesses in the case and I said 'Well, look,
when you're finished talking to them, I'm happy to have
a look at the transcript and see what I can do from
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1 there'. I said I really wanted to do my own research
2 and check the matter out independently, bearing in mind
3 her connections with the Liberal Party.
4 Q. So, you were concerned then to do just that I suppose:
5 Ensure what you had decided was independent.
6 A. Yes, I wanted it to be independent and wanted to come to
7 South Australia to talk to the people separately.
8 Q. That is independent from her view.
9 A. Yes.
10 Q. In any event, what she said to you interested you enough
11 to follow up.
12 A. Yes, it did.
13 Q. Did you offer her any advice at that stage.
14 A. Yes. She was telling me she was going to do this and I
15 said 'You should get an independent witness if you are
16 talking to any of these people'. I said 'It's only for
17 your own benefit'.
18 Q. I take it then that you had to convince your bosses, as
19 it were, that you could embark on this investigation, if
20 you like.
21 A. Yes, I did. It was no different to any other major
22 inquiry that requires budget. We have to support - we
23 have to present an idea of where we are going to get the
24 money to travel, to stay in hotels and whatever.
25 Q. I think, as your statement makes clear, it wasn't until
26 18 May 1995 that you had approval to, as it were, make a
27 move on the story.
28 A. That's correct. It was about 4 p.m. on the 18th and it
29 was brought to my attention that Channel 10 were well
30 into the story, and I was told that the Australian were
31 also working on it; and I was able to convince my news
32 editor that we should be here.
33 Q. You had a budget approved.
34 A. Yes.
35 Q. And you flew to Adelaide, as you have said there, on the
36 evening of 18 May.
37 A. Yes, I did. I think I left Melbourne - I was booked on
38 the 6 o'clock flight and I couldn't make that and I got
the last flight into Adelaide from Melbourne that evening.

Q. Upon arriving in Adelaide, where did you meet with Sue Lawrie.
A. Yes. I met her at the airport and it was arranged that she would come with me to Murray Bridge and provide an introduction to Dorothy Wilson.

Q. You drove to Murray Bridge then.
A. Yes, we drove to Murray Bridge. But we got there and couldn't find Dorothy Wilson, and someone at her home said that she was out for the evening. And we visited various hotels and coffee shops and finally found Sue finally found her at home about 11 that evening.

Q. I think, having found her, you went to some place, as it were, remote from the house.
A. Yes. We went to - Dorothy suggested that we not talk in the house in front of the rest of the family and should go to somewhere else. And we agreed to go to a coffee roadhouse coffee shop on the highway.

Q. Outside Murray Bridge.
A. It was on the highway which approaches to Murray Bridge.

Q. I think there you had coffee and something to eat.
A. We had coffee and raisin bread, it may have been toasted sandwiches. We were there until about 1 a.m., I think, talking. I might add that while I talked to Dorothy Wilson, Miss Lawrie left the room and allowed me to talk to her independently on my own. She came back towards the end of the interview.

Q. Did you make notes of that conversation, or otherwise.
A. I made some notes, very scribbled notes, but I tape recorded the conversation and I've still - I still possess the tape.

Q. You still have your rough notes.
A. I have some rough notes, yes.

Q. I think that interview and a later interview that you had was the topic, became the topic of your first article.
A. Yes.
Q. On this matter.
A. Yes, it did.
Q. Which was in the Herald Sun on Saturday, 20 May.
A. Yes. It was in the Herald Sun on Saturday, 20 May, it was in the Sydney Telegraph Mirror on the same day, and the Adelaide Advertiser and the Queensland Courier Mail.
Q. You have the tape, don't you.
A. Yes, I do.
Q. And you will preserve that.
A. Yes, I will.
Q. For some later time.
A. Yes, I'm happy to do that.
Q. The tape involves a conversation with Dorothy Wilson which extended for what period of time.
A. The tape itself is - I think it runs for about probably an hour.
Q. It canvasses, amongst other things, secret women's business.
A. Yes, it does, in quite some detail.
Q. That are contended for as far as she was aware and her reaction to it.
A. Her reaction to it, her rows with Doreen Kartinyeri.
Q. In conjunction with the tape, you had some rough notes too.
A. Yes, I did.
Q. I don't wish to inquire about what passed between you on the topic of the contended for women's business, but I do want to raise with you a couple of topics. Could you - have you got your rough notes.
A. I have some of them here, yes.
Q. It would be - you would like to look at those to answer the questions.
A. I'm sorry.
Q. You don't have to worry about the formality of that. You would like to refresh your memory from your notes in response to some of these questions, I take it.
A. Yes, I would.

PERMISSION TO REFER TO NOTES, MR MEYER NOT OBJECTING
1 Q. One of the topics of conversation between you and
2 Dorothy, that was a meeting at a place called the Mouth
3 House on 9 May.
4 A. Yes, it was.
5 Q. That's right, isn't it.
6 A. Yes, it was. I was under the impression it was earlier
7 than that, but subsequent documents have shown it to
8 prove to me that it was about that date, yes.
9 Q. I want to ask you questions about that and if you can
10 locate it in your notes to answer it, please do. The
11 mention of `Victor Wilson', the finance for the trip and
12 the use of a vehicle for the trip.
13 A. Yes, certainly.
14 Q. Was that topic noted by you.
15 A. Yes, it is. The mention of - she told me that he took a
16 bus from the Kalparran centre at, I believe, Murray
17 Bridge and Victor Wilson arranged that and asked us to
18 go down there to, I believe it was to Goolwa.
19 Q. Was there any talk - did Dorothy tell you anything
20 about, you know, the expenses for the trip and how they
21 were covered.
22 A. Yes, she did. I have a very rough transcript of my
23 conversation, but I distinctly remember her saying that
24 Victor financed the weekend's holiday for the group that
25 went down there, apart from herself, by using grant
26 money that was provided for a microwave for Kalparran.
27 OBJECTION Mr Kenny objects.
28 COMSR: That is one of your clients?
29 MR KENNY: Yes. I must say that that is purely
30 hearsay evidence, the suggestion that - he is suggesting
31 he committed some offence in relation to it. I don't
32 know how this witness is able to prove that or even the
33 person that he heard it from. It's a completely new
34 suggestion.
35 CONTINUED
COMSR: That you haven't got instructions on.
MR KENNY: I must say, it is the first time I have heard it. Dorothy Wilson certainly didn't mention it.
COMSR: Consistently with what I have done in the past, where persons have been accused of some conduct -
MR KENNY: It is not even a direct accusation. It is hearsay.
COMSR: I know you are present, but you haven't as yet had an opportunity to take any instructions on it.
I propose to suppress any mention of that accusation, at this time. I have a lot of these suppression orders to reconsider.

Q. Another topic: Doug Milera and Sarah Milera were mentioned, of course, in this tape recorded conversation, weren't they.
A. Yes, they were.
Q. Can I take you to the topic of whether or not Dorothy mentioned to you anything about Doug and Sarah staying on the island and how -
COMSR: Perhaps I should make myself clear as to suppression order.
    What I am suppressing is the suggestion that monies that were intended for one purpose, that is, for the purchase of a microwave, were appropriated to another purpose. That is, the travel expenses of the persons.

Q. Did Dorothy say anything to you, that you have recorded, either in your notes, or that you can remember on the tape.
A. Yes.
Q. Concerning Doug Milera and Sarah Milera staying on the island.
A. She said that `Sarah and Doug' and I have written in brackets `(Milera) were staying at a shack. They had been staying at white people's shack on the island,
because they were in with the white group who were down
there who did not want the bridge to be built.' And
then she - 'They had joined forces with the Lower Murray
Heritage Committee. Sarah and Doug would stay in the
shack down there.' And she went on to talk about an
incident that took place in the shack.

Q. Was there anything said about who had given them the
shack and for what period of time.

A. She said that - she said to me that 'Sarah and Doug had
been given', as I said there, that 'it was a white
person's shack and that they had been there for some six
weeks.'

Q. Did Dorothy say anything to you about the white person's
shack, whether that white person was from a group or
not, or was it just - any mention of that.

A. I believe she said that it was a group that were opposed
to the bridge being built.

Q. In broad terms, and I don't want to take you to it, in
detail, but Dorothy recounted to you what took place on
the island, on that 9 May.

A. Yes, she first of all told me of a conversation that she
and a group of women had with Doreen Kartinyeri and what
took place in those discussions and it was a cultural
matter, which I won't go into. And then she talked of
an incident that took place. They went across to the
island to the shack later. And what took place in the
shack.

Q. Can I take you to one other topic, then, relating to
that visit to the shack: was there talk - did Dorothy
tell you about the input of an anthropologist, on that
occasion.

A. Yes, she did.

Q. That is an anthropologist, not Dr Fergie.

A. No.

Q. Did she name the anthropologist to you.

A. I don't think she did, but I can't be sure, unless I
spent sometime going through these notes.

Q. But can you perhaps at least locate what was said about
the input of this anthropologist, at this meeting.

A. Yes, I can.

MR KENNY: I just rise here, at this stage. I presume the anthropologist is going to be one that has been represented here by Mr Steele, if I remember correctly? And I just enquire whether Mr Steele is aware that this evidence may be given and whether he has any interest in it? I mean, it seems to me there is a suggestion of some - it appears to be, at any rate, that there is going to be an allegation about this anthropologist being involved in some fabrication. That is the direction it appears to be heading in.

COMSR: Yes, I don't know which direction it is heading in, Mr Kenny, but -

A. Can I read from my notes?

XN

Q. Yes.

COMSR: What is the situation?

MR SMITH: Yes, that is quite the situation. And Mr Kenny need not keep reminding me of my duties. My plain duty is to contact people who are named by this. I have done it by and large. I will continue to do it. Mr Kenny should look after his own clients and not me.

A. She told me that `When we, the group of women, got down there, Doreen came down from up there.' She said `from Port Germein. She told us there was - she was asked to come down by Victor. She also told us that Victor had told her that the men had been trying to stop the bridge. They had an archaeologist’, she said, then she corrects the term to `anthropologist for about six weeks before we got there. They had him go all over the island - going all over the island for bones and sacred sites. They', and I have written `the men' in brackets, `had been down there for six weeks staying - `it looks like `staying to find those sacred sites to stop the bridge. They could never find anything. I think they got really upset with him' brackets `the anthropologist towards the end. They were going to sack him, because
he wasn't doing his job properly.'

Q. Is there any other reference to the anthropologist 
advising the men of something. And I don't want you to 
go into the detail of it, in connection -

COMSR: You just want to know, at present, 
whether there was any reference to an anthropologist?

MR SMITH: Yes.

A. She went on to say 'Because they could not stop the 
bridge, they called the women and said "We can't stop 
it. It is up to you women to stop the bridge being 
built.'

Q. And she is now recounting someone speaking, is she, 
Dorothy.

A. Yes, she is recounting Victor Wilson. She said `That's 
when they brought Doreen into it, because Doreen has 
been working in town in the museum there. So he, 
'Victor, asked her to come down.' And she went on to say 
'She said "Come on girls, sit down", referring to 
Dorothy - referring to Kartinyeri, 'she; Kartinyeri 
said "Come on girls, sit down and I'll tell you why the 
Island is sacred to us." I think, at some stage, but I 
can't find it, I asked her whether that anthropologist 
was Deane Fergie and she said 'No.' But - and unless I 
can study these notes for sometime, I'm not sure.

Q. In any event, that is spelled out clearly on your tape, 
isn't it.

A. Yes, it is.

Q. Therefore, having spoken with Dorothy for that period of 
time, what did you do then.

A. We took Dorothy home afterwards and I went on towards 
Millicent and stayed at a motel in a town away on the - 
it was on the river part of the way down. I'm not sure 
of the name of the place now.

Q. One of the reasons that you came over to Adelaide was to 
really check the story out yourself, wasn't it.

A. Yes, it was.
Q. To at least get your own impression of the people who were conveying this information.
A. Yes.
Q. Did you come away from that interview with Dorothy Wilson with a conviction, one Australian way or the other, as to the reliability of what you had been told.
A. Yes.

COMSR: I think that might be the very issue that I have to decide, Mr Smith, is it? It must be getting very close to it.

MR SMITH: I am asking the witness of his own impression. You are not necessarily bound by that. You will have your own impression.

COMSR: I appreciate that.

COMSR
Q. But you decided to go ahead and publish the story, did you.
A. Yes, I went from there to Millicent and spoke to Mrs Dulcie Wilson and later the following day then spoke to Bertha Gollan on the telephone and I wouldn't have written the story or had the story published if I wasn't satisfied with the credibility of all three people.

XN
Q. Just pick it up again: you say you stayed overnight at a motel and then, on that following day, which was 19 May, you interviewed Dulcie Wilson at her home.
A. Yes, I did at Millicent.
Q. In Millicent.
A. Yes.

Q. And the interview look, how long.
A. It wasn't very long, because she - her - she virtually corroborated what Dorothy had said. And the fact that she wasn't at the original meeting where the group of women were there, I think the one we discussed earlier, she was only going into other matters and - which she talked about the fact that the representative group of women - supposed representative group of women that met Professor Saunders she wasn't invited to be part of that
1 group and she was very concerned and upset that a
2 one-sided view had been put to the professor.
3 Q. You didn't have a cameraman with you, did you.
4 A. No, I took some photographs.
5 Q. I think, actually, one of your photographs of Dorothy
6 Wilson at the roadhouse appears in one of your articles
7 which have been tendered.
8 A. Yes, it does.
9 Q. Is that towards the back of the bundle, for Friday, 9
10 June, under the heading the `Spirit of Truth'.
11 A. Yes, that's it. It is on page - it was published on
13 Q. That was a photograph of Dorothy taken by you at the
14 roadhouse outside Murray Bridge.
15 A. Yes, it was.
16 Q. You returned to Melbourne I think then on the afternoon
17 of Saturday, the 20th.
18 A. Yes, I did.
19 Q. Your story had already reached the paper, hadn't it.
20 A. Yes, it had been published that morning.
21 Q. It had been published and that is the first of the
22 stories in the bundle of press clippings.
23 A. Yes, it is.
24 MR SMITH: Exhibit 102.
25 XN
26 Q. I think you did some follow-up stories, based on other
27 information you started to glean.
28 A. Yes, I did.
29 Q. And they are included in the clippings, too.
30 A. Yes, they are.
31 Q. Including, I think, a story on 22 May 1995, based on an
32 ATSIC briefing paper.
33 A. Yes.
34 Q. Is that right.
35 A. Yes, it is.
36 Q. Can I take you now to 22 May.
37 A. Yes.
38 Q. You came to Adelaide again, didn't you, on 22 May.
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G.M. EASDOWN XN (MR SMITH)

1 A. Yes, I did.
2 Q. I think you had, as your statement sets out, a meeting
3 with the Chapmans and the Chapmans's solicitor, Mr
4 Palyga, at his office.
5 A. Yes, I did.
6 Q. I think Sue Lawrie was at that meeting, also, wasn't
7 she.
8 A. Yes, I arrived at Mr Palyga's office, to find Mrs Lawrie
9 waiting to see them, as well.
10 Q. But that wasn't by arrangement, I think.
11 A. No, it wasn't. I was quite surprised she was there.
12 Q. That evening, you wrote the story.
13 A. Yes, I did.
14 Q. Which is - can you just identify that. Is that the
15 story for Tuesday, 23 May, the press clipping there.
16 A. Yes, it would be.
17 Q. Which features, amongst other things, `Bridge couple to
18 push $47 million claim.'
19 A. Yes, it was.
20 Q. Can I take you to 23 May: you were in Adelaide, at this
21 time, were you not.
22 A. Yes, I was.
23 Q. I think you contacted Sandra Saunders of the ALRM.
24 A. Yes, I did. I rang her that morning.
25 Q. Forgive this lay question, but were you - you were, in
26 effect, putting some -
27 A. What I wanted to do is that, up until that stage, we
28 hadn't been able to talk to Doreen Kartinyeri. We -
29 both myself and other representatives of our staff - had
30 been trying, since the previous Friday, to reach her.
31 One way or another, we hadn't been able to reach her and
32 I asked Sandra Saunders if she could act as an
33 intermediary and set some sort of meeting up.
34 Q. Did you know Sandra Saunders.
35 A. No, I didn't. I just rang the ALRM office and asked - I
36 had seen her - I had seen, I think, a report in one of
37 the Adelaide newspapers that morning referring to Sandra
38 Saunders and Doreen and I thought, well, this was -
might be the way to do it.

Q. And you wanted some balance material for what other material you had.

A. Yes, I did. I had been asked to write a substantial background piece spelling out the story from beginning to end and where it was going and I just didn't want it to be one-sided.

Q. I think you successfully arranged a meeting, didn't you?

A. Yes, that afternoon. And that afternoon - that I met Mrs Kartinyeri, Sandra Saunders - a younger Aboriginal woman who appeared to be the public relations officer for the ALRM and Maggie Jacobs - Margaret Jacobs.

Q. You met at the premises of ALRM.

A. I did. Sandra Saunders ushered me into a room at the back, which appeared like a conference room or boardroom, and we went out to a tea room to the side and made a cup of coffee together and walked back into the room, talking.

Q. This meeting lasted for what period of time.

A. Possibly an hour, maybe a little longer.

Q. The people you have mentioned, Doreen Kartinyeri, Sandra Saunders, Maggie Jacobs and the public relations lady were present with you.

A. Yes, they were.

Q. You had a conversation with them.

A. I did. And I think I have drawn a plan for you, to show you what took place in the room. How we were seated.

Q. Can you tell us about the conversation. What, in broad terms, what passed.

A. Yes, I discussed with Doreen Kartinyeri some allegations that Ian McLachlan had raised in the Federal Parliament about her and her links with the Point McLeay area. The fact that she was from another region and whether she would, in fact, have knowledge of - sacred knowledge of that area, of the Point McLeay area.

CONTINUED
Q. I will turn to your article that concerns this interview. I think it is p.23 of the 'Herald Sun' of Wednesday, 24 May.
A. Yes, it is. It was run over two pages.
Q. 'Bridge Rift Takes a Bitter Turn', is that it.
A. That's correct, yes.
Q. On the second page is a picture of Doreen Kartinyeri.
A. Yes.
Q. The article under the picture in the first column indicates that you asked Doreen Kartinyeri about her genealogy written for the Adelaide Museum in the 70s.
A. Yes, I did.
Q. Is that so, you did.
A. Yes, I did.
Q. It appears from the article that you put to her that in that article she claimed to have no knowledge of Ngarrindjeri customs.
MR KENNY: If I am reading the right paragraph, it does not say 'no knowledge', but that she did not know much then about Ngarrindjeri customs. I am referring to the last paragraph on the second page of that article in the left-hand column.
COMSR: I understand Mr Smith is referring to the first column under the picture.
OBJECTION WITHDRAWN
Q. Perhaps, by reference to the article, you can tell us what you put to her.
A. I asked her about her genealogy written for the Adelaide Museum. It is written here in the paragraph 'In the 70s, in which she is said to have claimed no knowledge of Ngarrindjeri customs, Ms Kartinyeri said this was because it was in answers to questions from a man.'
Q. 'And she went on', you quoted "I didn't want to give him too much from my mind".
A. Yes. I think she went on to say 'I had been told by my
elders when I was very young, don't let anyone pick your
mind.'
Q. Was there another topic of conversation that was raised
in this meeting relating to the geography of Hindmarsh
Island and its environs.
A. Yes, there was.
Q. Tell us what happened and what was said.
A. That was with Margaret Jacobs, or Auntie Maggie, as I
was also introduced to her as. We were discussing the
outline of the island and certain things that have been
said about what it represents, and she pointed to a
coloured map on the wall and said 'What do you think it
represents?' or words to that effect, and smiled at me.
I looked at the map, and looked back at her and smiled,
and I think I said 'I see some resemblance' but it was a
good humoured exchange.
Q. You have done a sketch map of the room, have you not.
A. Yes.
Q. And the sketch map shows the positions of people seated
around the table, Maggie Jacobs, Doreen Kartinyeri.
A. Yes.
Q. Sitting sort of opposite you.
A. They were opposite me.
Q. The PR officer down the end of the table on the same
side as you.
A. Yes.
Q. And Sandra Saunders next to you.
A. Yes.
Q. You have indicated in the rectangular room sort of
behind you and to your right, is that an indication of a
photograph.
A. That's where the photograph was, yes.
Q. Could the witness be shown Exhibit 29.
A. Yes, that's what I saw on the wall.
Q. Was it of that size.
A. I think it was slightly smaller.
Q. Slightly smaller.
A. Yes.
Q. Where was that, on the wall of the meeting room.
A. Yes, it was.

Q. You have indicated that on your plan there, behind you and to the right.
A. Behind me and to the right.

Q. So you had to turn to look.
A. I had to turn like that (DEMONSTRATES LOOKING OVER HIS RIGHT SHOULDER) to look at it, and then turn back to Maggie. It was quite - there was some good humour in the exchange about it, just as Doreen and I had a joke. She said something about Ian McLachlan having the money, and I suggested to her that she might have had the good looks. And we had good humoured banter through the conversation.

Q. You then, as we see from your bundle of press clippings, filed a number of stories in the days following that contact on 23 May, into June.
A. Yes, I did.

EXHIBIT 103 Plan of ALRM meeting room tendered by Mr Smith. Admitted.

Q. Later that day you travelled to Goolwa.
A. Yes.

Q. Did you not.
A. Yes, I did.

Q. And did some more -
A. Yes, I spoke to the previous witness, Mr McHughes.

Q. Spoke to Mr McHughes.
A. Yes. I asked him about a letter that he had sent to Robert Tickner, of which I had been given a copy. I wanted to show it to him personally and ask him was it in fact written by himself.

Q. What did he say.
A. Yes, he identified that he had written the letter, and he discussed with me the incident - an incident that took place at the Corio Hotel in Goolwa, and he told me about the fact that he had worked on building things. I
think he said driving piles in the area in the river at
some stage for the waterfront, and said he didn't feel
any pains in his stomach, or something.
Q. The incident he told you about in the Corio Hotel
involved Douglas Milera.
A. Yes.
Q. I think you returned then to Melbourne, didn't you.
A. I went back to - I returned to Adelaide that night. I
returned to Melbourne the following day.
Q. And having filed a story about the Chapmans winning a
reprieve on the property.
A. Yes, I did. Before going further, might I add that I
thought Mr McHughes' comments were supportive - just
followed a supportive line of what Dorothy Wilson had
told me on the Friday previous.
Q. Supportive in what sense.
A. In that they were supportive of the claims that Dorothy
was making, and, to me, it identified certain people,
that I should be inquiring about their activities.
Q. So you went back to Melbourne. I think you filed
another story, as your clippings show.
A. Yes.
Q. Then on 6 June you were told, as your statement sets
out, of a Channel 10 interview with Doug Milera and the
later 'Advertiser' interview with his wife Sarah.
A. Yes, I was. I knew - I had been alerted earlier in the
day that Channel 10 were going to run something. I
spoke to one or two people in Adelaide, who verified
that Milera had spoken to Channel 10 at some length in a
lengthy interview, it wasn't at Goolwa but at some other
location. And I was able to establish something of what
was said. We took a few paragraphs off the Channel 10
News that night, acknowledging that it came from
television.
Q. That, again, supported your interview with Dorothy and
Dulcie and people like that.
A. Yes, it did.
Q. Can I take you to 8 June. Having heard that Mr Milera had said what you had related to you about what he had said on Channel 10, I take it that you wanted to speak to him personally.
A. Yes. I wanted to speak to him personally to establish just what he had said and see if the matter could be taken any further, if there was any follow-up lines that I might be able to use.

Q. On 8 June I think you spoke to him, according to your statement.
A. Yes, I did. I spoke to him at John Campbell's home and I rang an 085 number. May I refer to my notes?
Q. Yes. You took notes of that conversation.
A. I took rough notes of the conversation, because the matters that we were discussing had been pretty well canvassed the previous day, and it didn't take the matter much further.

Q. By reference to your rough notes, will you tell us what he said to you. What conversation took place between you.
A. Yes. He said - Doug Milera said `I'm putting my life on the line. The whole debacle was a whole lot of crap from the start.' He said words to the effect that `I have deserted my marriage' and something about links, I think with the Ngarrindjeri. I asked him why he had said what he had said on television. He said `It was my conscience'. He then said `Christianity rules. You're in Australia and I was brought up a Christian. The beliefs of these people are largely Christian. They are trying to bring back' - `they are bringing back the past'. And then he said `They are hanging onto beliefs to try and get something'. There is some other - he said `My wife has been put under so much pressure'. I asked him what she thought of what he had done by speaking out. He said `I did the right thing. I instigated it from the beginning.' Then I have got something about `Something in the water is a lot of shit'. They aren't my remarks.
Q. I take it you are just relaying what was said to you.
A. Yes.

Q. That is the gist of what was said, or at least that is the extent of your notes.
A. Yes, that's the extent of my notes. He seemed - I believe that he came to my - came to the telephone, having been woken from a deep sleep. He sounded like a man under a great deal of pressure. The voice wasn't - the voice was not strong at all.

Q. Was he intoxicated perhaps.
A. I don't think at the time of day. It was 11 o'clock in the morning.

Q. Did he not sound intoxicated.
A. He didn't sound intoxicated. He sounded very sleepy.

Q. By this time I think the Royal Commission was announced, and Mr Tickner had also announced his own inquiry.
A. Yes, he did. That happened I think the same day as I spoke to Milera.

Q. Can I take you to the clipping for Friday, 9 June, which is -
A. There are several for 9 June.

Q. It is the one 'Elder Calls on the Spirit of Truth'.
A. Yes.

Q. The first page of that it has got a picture of the Chapmans, has it not.
A. Yes, it has.

Q. In the second column under your name there, 'Geoff Easdown peers into the muddy waters of the Hindmarsh Island Bridge affair', you relate, in the second paragraph, that Dorothy had told you that Milera had pointed to a map on the wall -
A. Yes. That's incorrect.

Q. And described how it resembled a female -
A. That is incorrect. It is my mistake. It should have been Wilson.

Q. In your original interview with Dorothy -
A. Yes, she said it was Victor Wilson and pointed to a map on the wall.

Q. I think the clippings show further articles submitted by you and published.

A. Yes.

Q. Can I take you to 12th June, that is the Monday holiday for the Queen's Birthday.

A. Yes.

Q. I think it was on that occasion that you rang Milera for another - on another occasion.

A. Yes, I did. I had spoken to John Campbell. I had written a story that day, on the 12th, and talked to John Campbell about a meeting that had taken place at Murray Bridge at the Nunga's Club on the previous Friday.

Q. You had received some information about that meeting, had you.

A. Yes, and that Milera in fact had gone along and put his case to them and his views to the meeting, and had been the only person - the only one of, what I would term, the dissident group admitted or invited to attend.

Q. Your information came from whom.

A. I spoke to Dorothy Wilson on that Monday, and I asked her if she had got an invitation to the meeting. She said no, and I believe she said to me it was only Doug Milera that went along to it.

Q. You got some information to the effect that Doug Milera stood up at the meeting and -

A. Yes, I had heard reports of that, and I wanted to know more about it.

Q. What did you hear that he had done at the meeting.

A. I had heard that he had stood up at the meeting and told them that - and verified what he had said on television and what he had said to me.

Q. That was a meeting at the Nunga's Club on the Friday prior to that holiday Monday, 12 June.

A. Yes.

CONTINUED
You then contacted and spoke with him on the phone, didn't you.
I spoke to John Campbell that day and wrote a piece about that. And afterwards, after I left the office, I - that evening I went to a hotel in Fitzroy where I met Sue Lawrie for a drink to discuss what was happening and where things had come. While we were there, her mobile phone rang and I think it was Wendy Chapman calling her and advising that there had been a strange car seen at the Milera home on the previous Saturday and I believe it was alleged that it was a member of the Aboriginal Legal Rights Movement had been there. My concerns were that perhaps it was pressure being put on Doug. I couldn't verify that - they were the thoughts that went through my mind at the time - and I wished to talk to Doug even more imperatively.
You made an effort to call him.
I attempted to call him and rang Campbell back. He wasn't there.
Campbell being in South Australia.
John Campbell. He wasn't at home. They gave me a number where he was and I rang him and he gave me a number to ring Doug Milera on. I spoke to Sarah, she answered the phone, and was reluctant to get Doug to come to the phone.
Did you make any notes of this.
No, I didn't, because it was on a mobile phone; and by that stage when I was making the call, I was in my car.
You had a conversation initially then with Sarah.
The gist of it was what.
I said that I would like to - I told her who I was, that I would like to speak to Doug. And she said `He's not available'. I said `I think it's in his interests to talk to me and I would like to talk to him very, very much'. She said - after some time, she said `Well, hang on a moment', and I heard her go away and a voice say `You have got to stand up and be counted for what you've
said. You have got to face up to it'. And he then
came to the phone.
Q. Tell us what was said.
A. Doug, without - I think I've said something in my
statement. He did say that -
Q. You can have a look at your statement there. It's on
p.4. I take it there's no notes of this.
A. No, there's no notes. That's right. Doug came to the
phone. His voice in this instance was very much
wavering. He was seemed very upset and, to me, there
was sort of a feeling of fear in his voice that came
through. He said he didn't want to say anything again,
but within days a real account of his story would come
out. I said `You're not recounting Doug? Are you
recounting, are you?', and he said `No, but my story
will come out'. I said `How is it going to come out?'.
He said `I'm going to make it come out'. Then he said
`I'm going to disappear and no-one will find me'. The
conversation, from my understanding, lasted about six
minutes and then it was over. But it didn't - and that
is where it was. It was - it took place on Miss
Lawrie's mobile phone and I believe she may well be able
to obtain a record of that, of the timing and that, of
the call.
Q. I think your clipping file then shows the further
articles that you published following 12 June.
A. Yes, they do.
Q. When you spoke with Dorothy Wilson, as you have said,
you taped and noted that.
A. Yes, I did, and I have a tape recorded conversation of
Dulcie Wilson's conversation as well.
Q. You will preserve that tape, as you will the one of the
conversation with Dorothy Wilson.
A. Yes, I will.
Q. When called upon to return to this inquiry and verify
that, you will do so.
A. Yes, I will.
MR SMITH: I have no further questions at this
stage. I realise that Mr Easdown is incomplete and I
wouldn't be urging on the Commission that counsel be
forced to conclude their cross-examination of him.
COMSR: Mr Smith is not suggesting that you
would have to complete your cross-examination at this
stage, because his evidence is incomplete.
MR KENNY: I will ask the general questions at this
stage, but it is clear that a lot of the information
will relate to those tapes.
COMSR: It is your intention to ask the general
questions in any case. This will be the more convenient
time to do that. There may be a lot of pressure of
time later.
CROSS-EXAMINATION BY MR KENNY
Q. If we can start at the end and your last conversation
with Doug Milera. You were talking about his voice
wavering and that apparently he was frightened.
A. Yes.
Q. Had you ever met him face to face.
A. No, I hadn't.
Q. You had only ever spoken to him in the phone
conversations recorded in your statement; is that
correct.
A. In the phone conversation and I also heard him on
Channel 10 in those interviews that Channel 10 made.
Q. You really weren't in a position to make any more than
very general observations of what your impressions were
at that time.
A. No, only that in my experience of talking to people, you
can tell whether people are nervous and upset.
Q. It's quite apparent to you that from that last
conversation, that Doug was going to change his story.
A. It appeared to me that he was going to change his story,
but he kept saying 'No, nothing has changed'. But, to
me, there seemed to be something major has changed.
Q. It seemed to you like he was lying to you.
A. Yes, I think so, on that last occasion; but, at the same
time, he was very fearful -
Q. You are now aware that he has -
MRS SHAW: If the witness is allowed to answer the
question. Mr Kenny keeps interrupting his answer.
COMSR
Q. Do you have anything more that you wished to say.
A. All I was going to say is that I felt something had
caused him to change his, may have caused him to change
his story. And the matters that had be brought to my
attention about a strange car being seen in his driveway
on the Saturday and the suggestion that it was a lawyer
from the Aboriginal Legal Rights Movement, it came up to
me that maybe there has been pressure brought to bear on
Doug.
XXN
Q. Doug never told you that yourself, as I understand it.
A. No.
Q. You really got that from a third party.
A. Yes, I did.
Q. And you never raised that with Doug.
A. I never got the opportunity to.
Q. You say in relation to his voice was waivering and it's
perhaps, I suggest to you, not inconsistent with a
person who, at some stage, has lied and is now going to
tell a different story. That, in your experience, would
make most people nervous, would it not.
A. I don't agree with you. I've talked to some good liars
in my time.
Q. At some stage, it's clear that Mr Milera has been lying.
A. Well, I don't know whether he is lying. I think he may
have been lying in the beginning. He could have been
lying at some stage, but he didn't appear to be lying to
me the morning I rang him at 11 o'clock and when he said
he was the person that fabricated the story.
Q. I suggest to you that it's most likely that he was
because it would appear - I will withdraw that. I don't
think we are going anywhere there. Sue Lawrie has had a
fairly close following of this story.
A. Yes.
Q. You have given evidence that she was the first one who contacted you in relation to the story.
A. Yes, she was.

Q. I think your first meeting with her was in late April, early May of this year.
A. No, it wasn't the first meeting with her.

Q. With her relation to this Hindmarsh Island Bridge matter.
A. Yes, it was.

Q. At that meeting, did she tell you that she was coming to Adelaide.
A. Well, I knew that she was regularly travelling back and forth to Adelaide to see her parents.

Q. Did she say that she was coming over to Adelaide at all when you spoke to her in that meeting in late April.
A. No. She said - she told me on one occasion that she was going to some sort of meeting down at, I think it was, Goolwa or down that area with a number of these women.

Q. Does Graham's Castle ring a bell.
A. Yes, it does. I'm not sure if that was the meeting. I think it was a meeting at Graham's Castle.

Q. Did she tell you what the meeting was about that she was going to.
A. No.

Q. I understand she discussed with you the fact that she was going to have some meetings with the dissident women.
A. She discussed it with me - and I didn't take much on board what she discussed with me. There was some idea of a family history for her father who had grown up in the area and talking to these, to a number of women from that era who were of the same age as her father and that she was trying to put together social events of his time and whatever. Nostalgia.

Q. There was a reference about having an independent person.
A. That was later. And then she said that - she said that she was - she told me she was going to have a meeting
with a group of women on, I think it was, 1 April. I'm not sure.

Q. It might have been 1 May.
A. I thought it was earlier. I thought it was April. And she said she was going to them, and I said `Sue, you're a political person and you're linked to a political party. If you want a story to stand up and you're going to talk to these people, you should take someone who is independent along with you'.

Q. Did you talk to her about that in Melbourne or in Adelaide - or perhaps I should say: did you talk to her in Melbourne face-to-face or was that discussion over the phone.
A. No, it was in Melbourne I believe.

Q. Did she tell you who these people were that she was meeting with.
A. No. Only that one of the people had links with the Salvation Army.

Q. Did you ask her how she knew those people.
A. No. Quite frankly, at that stage, I wasn't much interested in the matter. I thought the whole Hindmarsh Island Bridge saga had been well and truly told.

Q. Sue Lawrie went with you to Murray Bridge.
A. Yes, she did.

Q. Was she present at the meeting at the roadhouse as well.
A. For parts of it, but she left and I told her beforehand that I wanted to talk to Dorothy on her own.

Q. Did she go down to Millicent with you.
A. Yes, she did.

Q. Did she come with you to meet Dulcie Wilson.
A. Yes, she did, and she provided the introductions.

Q. She had met Dulcie Wilson beforehand.
A. There were, appeared to be very strong family links between Dulcie and her father and there was a lot of family conversation when we first arrived at Dulcie's house about her father and her grandfather and some meeting that had taken place with the father some weeks before.
Q. She then subsequently came back to Adelaide with you, I presume.
A. Yes. She came back to Adelaide with me on that Friday night. I went to the Advertiser to get the film developed and to have it transmitted.
Q. At that stage, did you know that she knew the Chapmans.
A. Not very well. She may have mentioned to me - I think she mentioned to me that she knew Tom and Wendy Chapman. I didn't know how well she knew them though.
Q. I take it she didn't organise the meetings with the Chapmans at Mr Palyga's office.
A. No. I organised that on the morning, on the Monday morning when I was coming - when it was agreed in the office that I should return to Adelaide and I think I rang Mr and Mrs Chapman at the island and they agreed to meet me with Mr Palyga in his chambers that afternoon.
CONTINUED
Q. You had no idea that Sue Lawrie was going to be there.
A. No, I didn't. I was quite surprised when - and, in any
event, I was somewhat annoyed that she was there.
Q. Why was that.
A. Because I pride myself on my independence and I wanted
to - I wanted this - I felt that this was such a
sensitive issue that I didn't want any links with any
political party tied to it.
Q. But it appeared to you that Sue Lawrie had a link with
this story and organising this story.
A. Beg your pardon?
Q. It appeared to you that she was linked with organising
this story to come out.
A. I am sure - we certainly - she had spoken to me about it
and I knew she had spoken to a journalist in Channel 10
and to John Kerrin from the Australian.
Q. And, shortly after 1 May 1995, did she provide you with
statements from some of the women.
A. Yes, she did. But, I will be quite frank with you, I
hadn't read them until I was on the plane coming to
Adelaide.
Q. Did she provide you with a tape recording of a
conversation she had had with the women or a
transcript.
A. They were transcripts.
Q. So, she provided you with a transcript of a tape
recorded conversation with the women.
A. Yes.
Q. Do you know if that was the meeting of 1 May 1995.
A. I couldn't - without referring to my notes, I couldn't
help you, but I may be able to assist you, if you bear
with me. I have a bag of documents outside this room.
Q. What do you have, in terms of notes.
A. What I am saying is, they are transcripts that Sue
Lawrie gave to me.
MR KENNY: I think we have already discussed the
question of those transcripts previously and they
involve s.35 matters.
COMSR: Yes.
MR KENNY: I simply note that, but I won't take it any further.
A. But, look, I can't tell you the date that they were recorded on, but I know that I have got a statement signed by I think four of the five women and Sue Lawrie's signature and one other signature on it. Plus a broad statement that is written in support of that original document.
Q. You didn't really use any of that material in your stories.
A. I think I used one quoted extract out of - off the signed statement.
Q. But the other quotes you have in your articles are quotes that -
A. They were obtained by myself.
Q. They were obtained by yourself.
A. Yes, they were.
Q. The meeting with Mr Palyga and the Chapmans and Ms Lawrie, you didn't happen to tape record that one, as well, did you.
OBJECTION Mr Meyer objects.
MR MEYER: Not to the question about the tape recording. I haven't heard Mr Easdown say he met with Ms Lawrie and Mr Palyga. I don't actually know what happened, but I haven't heard him say that they were all together, at once.
MR KENNY: That is an assumption I made from his statement, but perhaps I can clarify that with the witness?
XXN
Q. The meeting with the Chapmans, on 22 May 1995, who was there.
A. Mr Palyga was there. And Mr - Sue Lawrie and I were there. And Mr and Mrs Chapman arrived late. And I think I was talking to Mr Palyga for sometime before the Chapmans arrived.
MR MEYER: That doesn't clarify it, in my mind. I now understand Mr Easdown to have said, for example, Sue Lawrie was in the waiting room and he was in the waiting room.

A. That's correct.

MR MEYER: And I don't recall that it was a meeting. They happened to be in the waiting room, at the same time. I don't know whether Mr Easdown is going to say 'I meet with Palyga and, when I met with Palyga, Sue Lawrie was sitting in the room, as well.'

MR KENNY: I think the witness might be able to tell us.

COMSR Q. What is the situation.

A. Certainly, look, Mr Palyga ushered myself into a, I think it was a conference room. Ms Lawrie came in and she had a mobile phone that kept - no, she kept making phone calls and I said 'Look, I want to talk. I need the opportunity to talk.' And she went out to make phone calls from outside the room. And then Mr and Mrs Chapman arrived.

XXN Q. Did Ms Lawrie come back in on that discussion.

A. At a later stage, but she was an observer to the conversation.

Q. Did she say anything about how she knew the Chapmans.

A. No.

Q. You didn't enquire.

A. No, look, she said - she told me that Mrs Chapman had been I think Lord Mayor of Adelaide, at one stage, or something to that effect, but that is all I can remember her saying. I had a lot going around in my mind, at that stage, with what everyone was saying and it was something I didn't take in or compute.

Q. Just if we can move to the ALRM meeting.

A. Certainly.

Q. The room you describe is, I take it, the one at the back of the ground floor -
A. Yes, it is.
Q. Of the ALRM building.
A. Yes, it is.
Q. It is not a -
A. You walk down a fairly long passageway, I believe, from the front of the building and you walk down a long passageway. It is at the back, on the ground floor. And I think it occupies almost the full width of the building. There is a coffee - there seemed to be a little anteroom with a sink and coffee-making facilities at one side, on the right-hand side, as you go in.
Q. The photograph that you are referring to, that is not a public display, as it were. It is not open to the public, when they walk into that building.
A. No, but I - I believed I was a member of the public, or a visitor to the building and it was there for me to see.
Q. But you had been invited in there.
A. Yes, I had.
MR KENNY: I don't think I have any further questions, at this stage.
CROSS-EXAMINATION BY MR MEYER
Q. Referring to the conversation that you had with Mr Milera on the telephone on the final occasion of p.4 of your statement.
A. Yes.
Q. As I understand it, what you are saying is that Mr Milera wasn't, in fact, wavering or recanting at all in what he was telling you in that conversation.
A. No, he didn't seem to be at all.
Q. You had a concern -
A. I had a concern that he was going to back off, but he wasn't. He didn't, he wasn't recanting.
Q. You had a concern that he was under pressure of some kind.
A. Yes, I believed he was under pressure.
Q. As a journalist, having written some of these articles
that you had written, I take it it is appropriate for
you to have some concern, in a reporting sense, if, in
fact, he is now going to say something different.
A. Yes, I was concerned, because I could see that, if he
went the other - did something else, to some degree, my
credibility is at risk.
Q. Or, alternatively, if he now says `I have changed my
mind', that is something that, as a proper reporter, you
should then report.
A. Correct, yes.
Q. Because I take it that, as a journalist, what you do
before you publish a story, according to your own tests,
is you try and satisfy yourself as to the veracity of
what you are going to publish.
A. Yes, I do.
Q. You would need to satisfy yourself, if Mr Milera was,
in fact, saying something different, again you would
need to actually satisfy yourself about that.
A. Yes, and I would have liked to have had a second
witness to it.
Q. You spent a couple of hours with Dorothy Wilson.
A. Yes, I would say it was at least a couple of hours.
It may have been longer. It might have been two and
a half to three hours.
Q. Is that the only time that you have spoken with her.
A. No, I have spoken with her on two other occasions on
the telephone. I haven't diarised the dates of those
phone calls, but I know I have spoken to her.
Q. The questions I want to put to you are of a general
nature.
A. Yes.
Q. Not dates and times or anything of that nature, because
Mrs Wilson has given evidence. She is a very articulate
woman.
A. Yes, I believe so. And, to me, she came over as a woman
with a great depth of character.
Q. Calm.
A. Calm, very calm. And, in fact, I said that to her. And
I said that I was amazed at her strength of character, at the end of the interview. It is on the tape. And I said to her that `You are very brave to speak out.' And she said to me that something happened to her five years ago, four to five years ago, that made her be at peace with herself. She said that `Before that time, I would -', and she gave me the impression that she would have physically attacked Doreen for the remarks that she made about her.

Q. Whatever that was, it obviously had a material effect on her. Could I put to you an impression and ask you whether you would agree with it.

A. Certainly.

Q. That she is articulate, calm and cultured.

A. Yes, I might add that I discussed that with John Kerrin. On the Friday night after I had finished my work, we were having a drink at the hotel up from The Advertiser. I'm not sure of the name of it, because I am not a native of Adelaide, but it is the one near The Advertiser there.

Q. That is the Ambassador's, isn't it.

A. I don't frequent that area either. And he - and Kerrin remarked to me, he said `If you were looking for five more credible witnesses, as a journalist, you couldn't get five better witnesses.'

Q. Because they all came over to you as an articulate and well-spoken group of ladies.

A. The three that I spoke to did, yes.

COMSR: It is not proposed to bring Mr Easdown back on Monday?

MR SMITH: No, it wouldn't be worth it, bearing in mind the fact that he would have to come back on yet another occasion if and when the -

COMSR: What is proposed, Mr Smith?

MR SMITH: We resume on Monday, with evidence from Colin James, another journalist.

COMSR: I can release you for the present, Mr Easdown, but it sounds as though you are going to be
required later, but you will be advised when.

2 WITNESS STOOD DOWN

3 ADJOURNED 4.30 P.M. TO MONDAY, 11 SEPTEMBER 1995 AT 10 A.M.
COMSR STEVENS

HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

MONDAY, 11 SEPTEMBER 1995

RESUMING 10.08 A.M.

MR SMITH: The programme for the next two days is the evidence from the journalist Colin James from the Advertiser. We envisage that will take the two days. Subject to how that goes, I have in mind really at the end of Colin James's evidence-in-chief that there be a day when, for instance, you could take some evidence in the Riverland and then Colin James's cross-examination be on the Thursday when counsel have had time to absorb his statement and the numerous exhibits that will be tendered through him. So, we can completely dispose of Mr James this week.

COMSR: Finish his evidence you mean.

MR SMITH: Finish his evidence, so that he can get about his business. I can give you a further programme perhaps tomorrow as to the balance of the week. There is at least one witness in the Riverland that I have in mind that you can simply speak to this witness and, subject to further discussions with counsel about the mechanics of that, no other involvement. Perhaps we will raise that and discuss that tomorrow when more arrangements are made - and I know the reaction of counsel to that.

MR SHORT: I seek leave to appear for Mr James.

COMSR: Yes.


MR ABBOTT: Before the witness is sworn in, there is a sitting in the Supreme Court tomorrow for the appointment of Williams J.

COMSR: You would be seeking a later start?

MR ABBOTT: I wonder would it inconvenience you if we could start at 10.30? I was going to suggest that
you might consider while at this stage and before the
authority, if we have the time, that we don't start
until 10.30. It's just that, speaking for my own
convenience, it would be enable me to get more work done
on preparation.

COMSR: You are finding that the pressure of
getting -

MR ABBOTT: Effectively, the phone starts ringing at
9 o'clock and I have to be down here at quarter to ten -
and it's a matter I can take up with counsel assisting.

COMSR: I suppose I suggested ten because of the
limited time constraints.

MR ABBOTT: I will ask counsel assisting to discuss
it with me, and depending - if you don't have the time
available, depending on the witness, maybe to have a
10.30 start for a while.

MR SMITH: We can make a decision about that
tomorrow. It certainly wouldn't disrupt my programme at
this stage. So, that would not be an inconvenience.
CONTINUED
MR SMITH CALLS

COLIN ANTHONY JAMES SWORN

EXAMINATION BY MR SMITH

Q. You are a journalist by occupation and have been so for some 14 years; is that correct.
A. That's correct.

Q. You're employed with the Advertiser Newspapers Ltd; is that correct.
A. That's correct.

Q. You have been working in the city here in Adelaide for Advertiser Newspapers since December 1988.
A. That's correct.

Q. I think it's the case, is it not, that since March 1994, you have been regularly reporting on the developments on Hindmarsh Island and in particular the bridge dispute which has occurred there.
A. That's correct.

Q. In connection with that, you have established and maintained, in some part at least, numerous connections with the actors involved in the dramas of Hindmarsh Island.
A. That's correct.

Q. I think you have provided to the Commission, and I think you attend today, do you not, in answer to a subpoena to do so.
A. Yes, that's correct.

Q. And the subpoena requires you not only to attend to give evidence, but to produce all relevant documents.
A. That's correct.

Q. If need be, you have the subpoena to produce.
A. Yes.

Q. In connection with this inquiry, you have provided a statement and some documents in answer to the subpoena.
A. Yes.

Q. Looking at the statement produced to you, do you recognise that as your statement to this inquiry.
A. Yes, that's a statement I've signed.

Q. You have signed on each page, haven't you.
A. Yes.

EXHIBIT 104 Statement of Colin Anthony James tendered by Mr Smith. Admitted.

Q. That statement refers to a number of attachments being newspaper articles, predominantly Advertiser newspaper articles, does it not.

A. That's correct.

Q. Looking at this bundle of newspaper articles indexed at the front, would you flick through that and acknowledge that they are articles almost exclusive of your own, with one or two exceptions.

A. Yes.

Q. In fact, I think they are all Advertiser articles, aren't they.

A. They look like all Advertiser articles written by me, yes.

EXHIBIT 105 Bundle of Advertiser newspaper articles spanning the period between March 1994 and July 1995 tendered by Mr Smith. Admitted.

Q. I think you have an original scrap book which contains all these articles in Exhibit 105.

A. Yes. I have two scrap books here with me, beside me here.

Q. Before I ask you some questions about your background, I think you were born in England, is that right.

A. That's correct.

Q. Your age now.

A. 31.

Q. I think you grew up in New Zealand.

A. Yes, in Hawkes Bay.

Q. Could you give us a picture of your working life, what you did and where you did it.

A. In 1982, I graduated from the Auckland Technical Institute with a Diploma in Journalism. I commenced employment with the Napier Daily Telegraph in Hawkes Bay, New Zealand. I stayed there and completed my cadetship. I then joined the Sunday News, which is New
Zealand's biggest tabloid, for six months. I then moved to the Auckland Star. I worked in Auckland on the Auckland Star as the local Government reporter before taking over the national publication. I was transferred to Wellington where I was attached to the National Press Gallery with a brief to concentrate on investigative reports for the newspaper the Sunday Star. I then returned to Auckland where I was made deputy chief of staff for the Auckland Star and chief of staff for the Sunday Star. I left the Auckland Star and Sunday Star and went to England. In England, I was the editor of three suburban newspapers based in Bournemouth on the south coast. I came to Adelaide in December 1988 to join the Advertiser as a general reporter. I was a general reporter for some 18 months before I was appointed deputy chief of staff of the Advertiser. I held that position for some 18 months before I was appointed features editor. I was features editor of the Advertiser for two years, and then in March last year I was made chief reporter of the Advertiser with a brief to start a new section on Saturday called 'Insight', which I still edit. And I also compiled reports of that section of the newspaper as well as other parts of the newspaper.

Q. I think in November 1994, you received the Walkley Award for the coverage for your news coverage of the Hindmarsh Island Bridge affair in July of 1994; is that correct.
A. That's correct.

Q. Could you tell the Commissioner what the Walkley Award is exactly.
A. The Walkley Award has been running since 1954. It is a national award recognised in journalism in Australia. That is recorded as the top award for journalism in Australia. It is awarded on the basis of objectivity, accuracy, impartiality and basically good journalism; and I am the third person in the list of the Walkley Awards to win it from the Advertiser.

Q. I think further than that, you are a candidate or a
finalist for the South Australian Justice Administration
Foundation Awards which are to be decided, I think,
later this month; is that right.
A. That's correct; and that is also for the Hindmarsh
Island Bridge coverage.
Q. Is that for a particular period.
A. That's from the period from July 1994 to July 1995.
Q. I think that award relates to the best sustained
coverage of a single topic by a journalist.
A. That's correct.
Q. The South Australian Justice Administration Foundation
is an organisation associated with the law, if you like;
is that right.
A. Yes. From what I understand, it's under the auspices of
the Supreme Court, chaired by Samuel Jacobs QC.
Q. Could you will tell the Commissioner when it was you
first began work on the Hindmarsh Island Bridge issue.
A. March 1994.
Q. Can you tell us how you began; in other words, reporting
on the bridge.
A. During my time as features editor of the newspaper, I
had obviously monitored with close interest the
controversy surrounding the bridge development, the
community protests against that development, the inquiry
by Samuel Jacobs QC in that involvement and also the
inquiry by Parliamentary committee into that
development. And when I became, returned to reporting,
the issue was not being covered by any single reporter
on the newspaper and I had never seen, in all of my time
as features editor, a good quality artist's impression
of the bridge itself, and I decided to endeavour to try
and locate such an impression for publication of the
newspaper.
Q. I think you spoke, as your statement Exhibit 104 shows,
to a Mr Benny from Connell Wagner and he provided you
with an artist's impression of the bridge.
A. That's correct.
Q. That led, I think, to your first article on the bridge,
did it not, which featured a photograph showing the
impression of the bridge.
A. Yes, it did. The article was prepared in conjunction
with a journalist to the Advertiser, Leanne Weir, and
the part of that article which I contributed dealt with
the construction of the bridge, the engineering
specifications, the height and span of the bridge, the
method of construction, because that had not been
covered by the newspaper. The debate had actually,
instead, revolved around the other issues and nobody
looked at what the bridge was going to look like and how
it was going to be built.
Q. Attachment one, which is the first article in the bundle
Exhibit 105, features the picture of the bridge and is
really an artist's impression on a photograph, is it.
A. Yes. It looked to me like it was perhaps on an Apple
MacIntosh.
Q. Then, that was the beginning of your involvement, wasn't
it.
A. Yes.
Q. Then, were you contacted by a number of people as a
result of that article.
A. I was.
Q. That began, I think, a network of contacts that you
built up over the ensuing 18 months or so.
A. That's correct.
Q. I think the next article, being attachment two, was an
article written by you or at least published on 26 March
1994 headed 'Laidlaw set to meet bank over bridge deal'.
A. Can I refer to my scrap book?
Q. Yes.
A. But, yes, that's correct.
Q. That, as your statement makes clear, was in part as a
result of, for instance, contacting the Corporate
Affairs Manager of Westpac in Sydney telephoning Miss
Laidlaw's office, et cetera.
A. Yes.
Q. Then, on Monday, 28 March 1994 and Tuesday, 29 March
1994, your statement makes clear that you were contacted
by Professor David Shearman and Ms Margaret Bolster from
the Conservation Council of South Australia; is that
right.
A. Yes.
Q. What was the nature of that contact.
A. Telephone contact. Both Professor Shearman and Mrs
Bolster wished to approach me about communication they
were having at the time with Westpac, which was the
financier for the company proposing to develop the
marina on Hindmarsh Island, Binalong Pty Ltd.
Q. I think you were also contacted by a union
representative; is that right.
A. I was advised to contact a union representative and I
contacted him.
Q. I think that was Mr John Dunnery of the Australian
Workers Union.
A. That's correct.
Q. As your statement indicates, he informed you of a
dispute between the Australian Workers Union and the
CFMEU.
A. Yes. That stands for the Construction Forestry Energy
and Mining Union. It was a national dispute over which
union had coverage to construct bridges in Australia.
Q. I think you learned that there was a dispute between the
AWU, the Australian Workers Union, and the union, the
Construction Forestry Mining and Energy Union
represented by David Thomason.
A. That's correct.
Q. I think all of these contacts then led to the article
which features, the third article attachment 3: "Union
vows bridge will be built". Is that right.
A. That's correct.
Q. I think it's the case, isn't it, as the article
indicates, that Professor Shearman and Margaret Bolster
conveyed to you that Westpac took the view that there
were contractual obligations concerning the building of
the bridge.
A. Yes, they did.

Q. On 1 April, the story appeared, which is attachment 4 in your bundle of publications Exhibit 105, headed 'Bridge protest groups face gaol'. I think you wrote that story from material relating to Federal Court proceedings; is that right.

A. Yes, I did. I received copies of an interim Federal Court injunction and supporting affidavits relating to Binalong Pty Ltd, seeking s.45(d) notices against the Construction Forestry Energy Mining Union and the Conservation Council of South Australia and a protest group known as the Friends of Goolwa and Kumarangk.

CÔNTINUED
Q. Following the publication of that story, you became aware, I think, that there were Aboriginal groups opposing the construction of a bridge.

A. Not specifically Aboriginal groups. I became aware that ATSIC in Adelaide wished to comment about its involvement in the protest.

Q. Did you do anything about that.

A. Yes, I contacted a Mr Matt Rigney, who is the Regional Council chairman of ATSIC based in North Adelaide.

Q. About when did you do that.


Q. Can you tell us what was discussed between you and Mr Rigney.

A. Mr Rigney outlined to me the Aboriginal concerns that they hadn't been adequately consulted by either the developers or the Government in relation to the construction of the bridge and that he was proposing to call for a national boycott of the Westpac banking group, which was the official banker for ATSIC funds nationally and that these funds totalled something like close to $1 billion and that he had circulated a facsimile to all ATSIC bodies in Australia and all Aboriginal councils calling them to support his boycott.

Q. Did Mr Rigney send you some material in relation to that.

A. Yes, he did, he sent me a facsimile.

Q. Looking at this bundle of documents produced to you, it is a facsimile, a header sheet and then what would you describe that next document as, some sort of -

A. The following document is the actual letter that was sent by Matt Rigney to all ATSIC commissioners and regional council chairpeople around Australia regarding the Hindmarsh Island/Goolwa bridge development.


A. That's correct.

Q. Attached to that letter is a letter from Westpac to Douglas Milera, dated 30 March 1994.

A. Yes, it is. It is from a Mr Ashley Ayre from Westpac
C. A. JAMES XN (MR SMITH)

who was the officer internally appointed by Westpac to
oversee the negotiations of partnership of Pacific
Limited and Binalong.

Q. And that letter speaks for itself, but it is the case
that that is in response to some pressure that was put
on Westpac, a letter of response to Mr Milera.

A. Mr Milera had written to Westpac outlining Aboriginal
concerns about the project, yes.

Q. Then Mr Rigney also sent you a copy of a letter, dated 6
November 1993, from the Minister, Dr Michael Armitage,
to the secretary of the Lower Murray Aboriginal Heritage
Committee.

A. He wasn't actually the Minister, at the time. That
letter was sent to Mr Milera several weeks before the
State election in December 1993 and it indicated an
intention of Michael Armitage to help the Lower Murray
Aboriginal Heritage Committee, of which Mr Milera was
secretary, to stop the Hindmarsh Island bridge, once the
Liberal Government came into power.

Q. I think, the conversation you had with Mr Rigney, you
kept notes of that, did you not.

A. Yes, I did.

Q. I want to ask you some questions about the content of
that entire conversation.

A. Can I refer to my notes?

Q. Yes.

MR SMITH: Would it be in order for the witness to
refer to his notes?

COMSR

Q. I take it you made the notes, at the time you were
having the conversation.

A. Yes, I did.

Q. First of all, the date of that conversation.

A. It was the day preceding the publication of the article,
Q. It was the day you received the fax, which we have just tendered, the fax and the attached documents, Exhibit 106.
A. Yes, Mr Rigney sent me the fax at my request after I conducted this interview.
Q. Tell us what was said by reference to your notes.
A. My shorthand notes summarise the conversation that I had with Mr Rigney. He told me that he had sent a fax, which we have referred to. That he hadn't had a chance to talk to the Lower Murray Aboriginal Heritage Committee, but that delegation had met with an archaeologist who had told that delegation that he had identified 24 sites on Hindmarsh Island, but that that was not a full study. And that he says here `Because we are led to believe that Westpac are the financiers for the construction group, I have issued a letter to the ATSIC commissioners and regional chairpeople expressing my real concern of the threat to Aboriginal sites on Hindmarsh Island. And that, if Westpac is involved, that the Board of ATSIC should take out its money from Westpac.' And that he said to me that this was close to $1 billion. He said that `That letter has been faxed to the people of the Lower Murray Aboriginal Heritage Committee and to all national Aboriginal land councils.' And that he was asking for them to forward the letter to relevant State and Federal Minister and for the ATSIC Board to consider very, very strongly Westpac's involvement in the project. And that letter had been faxed last week and that he had met with the Lower Murray Aboriginal Heritage Committee and archaeologists on Friday, 25 March. `And, once we talked, they asked for ATSIC's support and the ATSIC Regional Council does not support any further construction until proper consultation takes place.' And that he felt very strongly that `Westpac's involvement is not in the Aboriginals' best interest or ATSIC's best interests as its major banker.' He repeated that the national
account totalled close to $1 billion and repeated that
the letter had been faxed to land councils and ATSIC
regional councils. He then provided me with the a name
of a Mr Victor Wilson of the Lower Murray Aboriginal
Heritage Committee. He gave me his telephone number and
also said that they would be writing a letter to Westpac
outlining their protest about its involvement in
financing the developer. And then went on to say that
the Department of State Aboriginal Affairs and the
Minister was withholding a $35,000 sum required to
complete the Aboriginal survey on the island.

Q. I think you asked Mr Rigney to fax you some material
about that.
A. Yes, I did. He faxed me this material here (INDICATES).
Q. That we have just referred to.
A. It is the original copy.
Q. That led to your article entitled `$1 billion threat in
bridge row'.
A. That's correct.
Q. On 6 April 1994, which is attachment 7.
A. Yes.
Q. In that article, `$1 billion threat to bridge row', you
included, I think, a reference to a report of a Dr Neale
Draper.
A. Yes, I did.
Q. You had been provided with a copy of that report, had
you.
A. Yes, I was.
Q. That was from a source you would prefer to keep
confidential, is that correct.
A. That's correct.
Q. On 6 April, following on that article, I think you had a
conversation, as you indicate in your statement, with
Tim Wooley, a solicitor from Aboriginal Legal Rights
Movement, is that right.
A. That's correct.
Q. I think you refer to him in a subsequent article as Mr
Willie, don't you.
A. That's correct.
Q. And that is a mistake.
A. He was very shy when I spoke to him and he wasn't terribly co-operative.
COMSR: Has Mr Stratford been notified? He is acting for Mr Wooley, isn't he?
MR SMITH: Yes, he has been notified and I had a conversation with him on Friday night.

Q. I think you also spoke, on 6 April, with Victor Wilson.
A. Yes, I did.
Q. I think he indicated to you that he wanted to talk to Dr Armitage before making any public statements.
A. From memory, he said that 'Things are pretty much up in the air', and he thought it was better to deal with the Minister rather than the media.
Q. I think you have actually got notes of the conversation in particular with Victor Wilson, do you not.
A. Yes, I have.
Q. Can you tell us what was said between you and Mr Wilson.
A. I think I contacted Mr Wilson in relation to the ATSIC threat to take the $1 billion out of Westpac and asked him what was the situation regarding the sites on Hindmarsh Island and their protection and he told me 'Everything is sort of up in the air. We are having meetings, at the moment. There is nothing, as far as I'm concerned, to say publicly. We have had a meeting with the Minister and we have had discussions about it and those discussions are continuing.'
Q. You spoke with him I take it in part at least or perhaps wholly as a result of being encouraged to do so by Matt Rigney.
A. I was notified of - I asked who was the relevant person to speak to on the committee and I was told Mr Wilson was the chairperson of that committee.
Q. Your article 'Sacred site threat to bridge', of 7 April, details conversations, however, with the lawyer, Mr Tim Wooley, doesn't it.
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1. A. Yes, it does.
2. Q. It is correct, is it, that Mr Wooley indicated to you that claims in respect of sites would be filed, if negotiations with the State Government failed to resolve the bridge impasse.
3. A. Yes.
4. Q. You have also indicated in the article that Mr Wooley said that he had been liaising with the Lower Murray Aboriginal Heritage Committee.
5. A. Yes, he was - explained to me that he was actually the lawyer acting for that committee.
6. Q. The topic of his concern was conveyed to you and is set out in the article `Sacred sites on the island', is that right.
7. A. `Sacred sites on the island' and the lack of consultation by the company proposing to develop the marina.
8. Q. Your article also mentions some contact with a Mr David O'Sullivan of Built Environs Pty Ltd.
9. A. Yes, Built Environs was the company contracted by the State Government to construct the bridge and David O'Sullivan was the principal contact of mine there.
10. Q. I think, on Friday, 8 April, you attended at the Supreme Court, that's right, isn't it.
11. A. Yes, I did.
12. Q. How did that come about.
13. A. I received a tip-off that Westpac was to move to try to put the Chapmans' company, Binalong Pty Ltd, into receivership and that the Chapmans were seeking a Supreme Court injunction to prevent this from happening.
14. Q. Your attendance at the Supreme Court, that was proved to be fruitless, was it. Was there anything happening at the Supreme Court.
15. A. I wouldn't say it was fruitless. I was the only journalist who attended that night. It was late in the afternoon and there was quite a lively debate between the lawyers representing Binalong and the lawyers representing Westpac, which provided a front page lead
for The Advertiser the following morning after two
attempts made to suppress the hearings were overruled by
the judge hearing the matter.

Q. So, that led to the article `Bridge to island in
jeapody'.
A. That's correct.

A. That's correct.

Q. Is it the case then that, although it is a matter of
deduction from the facts, it is no coincidence that
Westpac commenced moving following upon your article
about sacred sites.
A. Yes, this was an allegation made by the lawyers
representing Binalong Pty Ltd, that Westpac's actions,
in trying to place Binalong into receivership, was as a
direct result of the front page publicity given to the
ATSIC threat to take the $1 billion out of the bank.

Q. You told us about your - you had a conversation with Mr
Wooley, on 6 April. I think you also had a conversation
with him on 8 April, is that right.
A. That's correct. I was telephoning Mr Wooley on a
regular basis, by that point.

Q. Did you make notes of your conversation with Mr Wooley
on 8 April.
A. I did.

Q. Again, can you tell us what was said between the two of
you by reference to your notes.
A. `Mr Wooley - the notes are entitled `Sacred site claim',
and the notes refer to a discussion I had with Mr Wooley
by telephone and he explained that the Aboriginal Legal
Rights Movement, on behalf of the Lower Murray
Aboriginal Heritage Committee, was seeking to prohibit
further construction of the bridge until proper
consultation had taken place and that he had written a
letter or another letter on Wednesday asking for what he
told me was a s.23. He said that he was now awaiting an
urgent response from the Minister. `My instructions are
that, if we don't get a response from Armitage, we will
have to get Tickner involved.’ Mr Tickner being the
Federal Aboriginal Affairs Minister. He said that he
was - ‘We are hoping the South Australian legislation
will be put into effect.’ And that was a reference to
the State Aboriginal Heritage Act Act (1989). He said
it was good legislation, but, however, he wouldn’t be
probed too much on exactly what was going on between
Legal Rights and Armitage, saying that ‘That is between
my office and the Lower Murray Aboriginal Heritage
Committee. We have to try and maintain some sort of
relationship with Armitage. I have requested an urgent
response. We have also requested appropriate
consultation with relevant Aboriginal people to take
place, as required under the Aboriginal Heritage Act.
S.23 enables the Minister to authorise protection of
sacred sites. He can only do so, after taking
reasonable steps to consult all relevant Aboriginal
people. This is at the heart of the whole development
debate over the bridge as to the consultation.’

Q. Is this what Mr Wooley said to you.
A. Yes, that there had been insufficient consultation with
Aboriginal people. That the situation has changed as a
result of his survey, which was a reference to a survey
conducted by a State Government archaeologist, Dr Neale
Draper, and that significant sites have now been
identified. ‘And we were not aware of this prior to
November/December of the previous year.’

Q. Can I interrupt you there: what sort of sites was he
talking about, did he say.
A. He didn’t actually spell out the sites, but in all my
discussions up to this point we had always only talked
about archaeological sites.

Q. Go on.
A. He said that last year the sites up until
November/December last year, and it was quite clearly
known when planning - it was not known when the planning
permission was given in reference to the plan consent given to the bridge in I think 1989 or 1990.
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He also said that they found sites just under the
surface. When they did a more extensive field survey
and used historical photographs, that they were able to
identify these sites. I asked him about the involvement
of Legal Rights at this point. He said that his
involvement has not been terribly great. All he had
been doing was writing letters last year which started
the ball rolling. He told me that he did, on 13
December 1993, write to the Minister of State Aboriginal
Affairs, Dr Armitage, requesting that he intervene on
behalf of my clients, and that a similar letter had been
sent to Mr Tickner. He said that he had yet to get a
response from Michael Armitage, and that was a period of
some four to five months. He said it was important to
point out that Aboriginal people have not been involved
for some time, letters were sent also to the Minister of
Transport, Di Laidlaw, outlining our concern with the
Aboriginal heritage issues, and that an inquiry that was
being undertaken by Samuel Jacobs QC should be widened
to include heritage issues. He then provided me with a
name of Douglas Milera as a possible contact, to talk to
him about Aboriginal heritage issues. He told me that
he thought Michael Armitage had been caught between a
rock and a hard place, and that was the conclusion of
the notes that I have.

Q. That was on 8 April, wasn't it.
A. Yes.

Q. Then your story appeared on 9 April `Bridge to Island in
Jeopardy'.
A. That's correct.

Q. Your next article was 12 April 1994, attachment 12,
which was `Bridge to go ahead despite receivers'. Then,
on the same day, there was a second article `Bridge
trump card' which is attachment 13.
A. Yes, that's correct.

Q. `Bridge trump card' was a large feature article, a quite
extensive article, wasn't it.
A. Yes, it was.
Q. The article speaks for itself, but it is compiled obviously from information contained in a report of Dr Neale Draper. Is that correct.
A. Yes, that's correct. I received the first of three reports eventually prepared by Dr Neale Draper.
Q. There is also, I think, reference to a briefing paper for the Lower Murray Aboriginal Heritage Committee that you had access to.
A. That is actually one and the same. The briefing paper is actually now known as the Draper Report, number 1.
Q. I don't propose at this stage to show you those documents but, in any event, at this stage you were having discussions with a wide range of people involved in the Hindmarsh Island Bridge dispute, were you not.
A. Yes, I was. I have to say that most of them were from the anti-bridge side of things.
Q. Were you talking at this time with Professor David Shearman.
A. I was.
Q. What organisation did he -
A. He was President of the Conservation Council of South Australia.
Q. Were you talking also with a Margaret Bolster.
A. Yes, very regularly.
Q. Who was she.
A. Vice President of the Conservation Council of South Australia.
Q. You were talking with Tim Wooley, we know, the solicitor from the ALRM.
A. Yes, I was. He was my only contact inside the Legal Rights Movement.
Q. You were talking also at this time with a Richard Owen, were you not.
A. Yes, I was. He was President of the Friends of Goolwa and Kumarangk.
Q. Were you also talking at this stage with David Thomason.
A. Infrequently, but, yes.
Q. Remind us, who is he.
A. He is a union organiser with the CFMEU.
Q. Did you also have some informal contact with Dr Neale Draper at this time.
A. I did. Neale Draper was not authorised to speak to me publicly, because all comment had to go through the Minister's office but, yes, I was talking to him by mobile telephone.
Q. Your story of 12 April, so far as you know from your work on this topic, was that, as you indicated in your statement, the first time in which the extent of Aboriginal claims relating to sacred sites had been published in the mainstream media.
A. Yes, most definitely.
Q. On 14 April there was a further story published in the `Advertiser' written by yourself headed `New bid to force bridge go-ahead'. Is that right.
A. That's correct.
Q. That is attachment 15. I think that followed an interview which you carried out on 13 April with Russell Heywood-Smith and John Morgan, the joint receiver managers of Binalong Pty Ltd.
A. That's correct.
Q. On 15 April, your statement asserts that you had a discussion with Mr Reg Dodd, who was then currently the Chairman of the Aboriginal Heritage Committee.
A. I did.
Q. Did you note that conversation.
A. Yes, I did.
Q. Can you tell us who rang who. Do you know.
A. I telephoned Mr Dodd at Marree at the Arrabunna community facility there.
Q. Can you tell us what was said between the two of you in that conversation.
A. Yes. Mr Dodd was quite - not angry but he was disturbed that he had not been contacted by the Minister relating to the section 23 request submitted by the Aboriginal Legal Rights Movement. He conveyed to me that this was actually in breach of the legislation because, as the
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Chairman of the State Aboriginal Heritage Committee, under that legislation the Heritage Committee is meant to have all requests for section 23s referred to it for formal recommendation. When I asked him about the sacred site claim on Hindmarsh Island, he told me that was the first time he had heard of it, and that under the process he should have been notified by the Minister. He also told me that he couldn't understand why he hadn't been notified because the minister's office had his address and that of all members of the committee, and that they should have forwarded all such matters relating to Aboriginal heritage issues to the committee, and, under normal circumstances, they would also forward supporting documentation. But neither of this had occurred.

Q. Did that conversation lead to the article on 16 April 1994, attachment 17, under the heading `Suspicious sounds of silence'.
A. It was one of many conversations which I had. There were numerous events which led to that particular article.

Q. On 19 April you published an article dealing with the injunction proceedings in the Federal Court concerning the protesters.
A. Concerning the protesters, the union and the Conservation Council, yes.

Q. I think you were still in contact with people such as Shearman, Bolster and Owen, in particular in connection with those injunction proceedings in the Federal Court.
A. Increasingly so, because they were becoming more and more concerned about the impact the injunctions would have on their right to be able to protest and freedom of speech issues.

Q. On 20 April you published an article headed `Bridge protestors to be sued'. That is the article attachment 19.
A. That's correct.
Q. Had you had some contact with the union man, David Thomason, before that article.
A. Yes, I had.
Q. What was the nature of that contact.
A. Only brief contact, trying to find out what the union was planning to do in light of its threat to ban the work on the development, the injunctions which were pending, and what likely action would result.
Q. The photograph in that article is a photograph of the Chapmans in a motor car, is that right.
A. Yes, it is a photograph of Mr and Mrs Chapman. Mrs Chapman is disguising her face behind what appears to be a manilla folder or magazine, while Mr Chapman is holding a camera.
Q. Who provided you with that photograph.
A. Mr Thomason. He had actually walked up to the front of the vehicle and taken the photograph.
Q. On 21 April you published an article headed `Call to put bridge at Berri' which is attachment 20. I think that article touches upon, amongst other things, a plea by the Democrats, amongst other people, to have a bridge at Berri rather than at Hindmarsh Island.
A. It actually went a bit further than that. Mike Elliott actually proposed to put a private members bill through the Legislative Council, which would have enabled the government to have a legislative loophole to free itself from the contractual obligations to construct the bridge at Hindmarsh Island.
Q. On 27 April, there was an article headlined `Warning of $47m bridge law suit', which is attachment 21. A prelude to that article was the provision to you of some documents, was it not.
A. Yes, it was. Looking at this copy letter produced to you, do you recognise that.
A. Yes, I do. This is a letter provided to me by Richard Owen. It carries the letterhead of an Adelaide law firm, Michell Sillar Lynch & Meyer, and it is written by a solicitor at that law firm, Steve Palyga. It was hand
delivered to a number of people in the Goolwa area some
time around 22 April, and it contained a threat that
they would be sued for $47.5 million if they continued
to do anything to obstruct the construction of the
bridge, including picketing the bridge site.
Q. That letter was forwarded to you by whom.
A. Mr Richard Owen, and I also received other copies from
other people who received it.
Q. It is a proforma letter, isn't it.
A. All copies that I received were exactly the same. They
were just given to different people.
Q. There is some handwriting on the letter apart from the
typewritten script.
A. That's Mr Richard Owen's handwriting.
EXHIBIT 107 Proforma letter dated 22 April 1994
tendered by Mr Smith. Admitted.
Q. I now hand you a fax header sheet and a copy of the
minutes of meeting of the UTLC held on 12 April 1994.
Do you recognise those three documents.
A. Yes, I do. This is a facsimile sent to me by David
Thomason of the CMEFU.
Q. And you received that at about the same time as you
received the letter from Michell Sillar Lynch & Meyer,
did you.
A. Yes. A lot of people were very upset when they received
the letter from Michell Sillar Lynch & Meyer. It
frightened many people, particularly elderly people, who
feared they were going to be sued for an extraordinary
amount of money, and it created a climate of quite great
anxiety and trauma. As a result of that, Mr Thomason
contacted me to inform me that the UTLC was revising its
previous decision on its stance in relation to the
construction of the bridge.
Q. Can you confirm that that minute of the meeting of the
UTLC on 12 April 1994 was faxed by Thomason to you under
that fax header.
A. Yes, it was.
RF 27C

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1 COMSR: I suppose it can go in as a document
2 received by the witness. I am not too sure that this is
3 proof, of course, of the minute. Certainly it is the
4 material which was forwarded to the -
5 WITNESS: It is the official minute from the UTLC,
6 commissioner. I asked for it to be sent to me.
7 EXHIBIT 108 Facsimile header and minute of UTLC
8 meeting on 12.4.94 tendered by
9 Mr Smith. Admitted.
10 XN
11 Q. Those two documents then featured in your article of 27
12 April - or at least the information in those two
13 documents featured in that article headed `Warning of
14 $47m bridge law suit' is that right.
15 A. That's correct.
16 Q. Did you have information about what the previous
17 decision of the UTLC had been in relation to the picket
18 line.
19 A. I understood that the UTLC had actually stopped short of
20 declaring a total ban on the site, that it had been
21 reluctant to make such a decision, and that the CFMEU
22 was really the only union which was putting the green
23 ban on the site, and the UTLC reversed this and decided
24 to put a blanket ban on it with all unions involved.
25 COMSR
26 Q. You say you understood that was their reaction to the
27 letters which had been sent out, threatening lawsuits.
28 What is the basis of you saying that you understood that
29 was their reaction. You were told that by someone, were
30 you.
31 A. I was speaking to most people on this matter daily, if
32 not twice, three times a day. The Federal Court action
33 by Binalong created a great deal of anxiety among people
34 who felt that their freedom of speech and their right to
35 peacefully protest was being removed by a court of
36 Australia, and there was a real climate of trepidation
37 about what was happening. So people were contacting me
all the time to seek my assistance and bring it out into
the public arena.

Q. On 29 April, attachment 23, there is an article which
speaks for itself. I will do no more than say that it
is headed `Democrats bid to end bridge row'.
A. Yes. That's another follow-up to the legislative move
by Mike Elliott.
Q. On 29 April 1994, I think you went to Hindmarsh Island
yourself, did you not.
A. I travelled to Hindmarsh Island with a photographer from
the `Advertiser', Brenton Edwards.
CONTINUED
Q. You met there with whom.
A. I met with a Mrs Sarah Milera.
Q. That was by some prearrangement, was it.
A. Yes. I had been negotiating for a couple of weeks to obtain an interview with Mrs Milera. She had been, it had been conveyed to me she was one of the key Aboriginal protestors against the bridge and in light of the sacred site claim by legal rights, I was attempting to talk to the Aborigines directly involved.
Q. Is it the case that finally Sarah Milera agreed to speak with you.
A. Yes. It was - it took some negotiation, but she agreed to speak with me on a property on Hindmarsh Island on April the 29th.
Q. Was that the Mouth House.
A. Yes, it is, what is known as the Mouth House. That is a property owned by a woman called Mrs Anne Lucas.
Q. You and your photographer, Brenton Edwards, went there.
A. Yes.
Q. And I think arising out of this interview was your story published on 3 May `Countdown on bridge over tribal waters'.
A. That's correct.
Q. Following on `The sounds of silence'.
A. That's correct.
Q. Is that attachment 24, I think.
A. Yes.
Q. I take it that was a long-ish interview, bearing in mind that you took all the trouble to travel down there.
A. Yes. It was - there was a formal interview and informal discussion. And the period I would have spent down there would have been about three to four hours.
Q. You noted the interview.
A. I noted the formal interview, yes.
Q. Again, in shorthand.
A. Yes.
Q. In addition to that, I think there is a photograph of Sarah Milera on the sand dunes with the river and the
sea in the background; is that right.
A. No, more specifically the objective of the exercise was
to have an interview with Mrs Milera on Hindmarsh Island
and then photograph her with the Murray River mouth in
the background.
Q. Did the interview in the Mouth House take place in the
living room, did it not, of the Mouth House.
A. Not really, no. When we arrived, Mrs Milera was
walking. We agreed she'd walk to meet us to take us to
the Mouth House. She was walking with a walking stick.
We met with her. We went to the Mouth House. We spent
some time inside, but we actually conducted the
interview outside on chairs on the sand outside the
front of the house.
Q. But you went inside the house.
A. Yes. I was inside the house on, yes, at different
points.
Q. I want to show you a plan of the house. Looking at
Exhibit 27 produced. That is a rough - you are looking
at Exhibit 27 which is a rough plan of the Mouth House.
A. Yes. The kitchen was there, yes.
Q. You recognise that, broadly speaking.
A. Yes.
Q. Did you see some aerial photographs in that cottage.
A. I saw one which I remember.
Q. The one that you remember was where.
A. In the lounge, that was the only room I went in.
Q. You see there in the rough plan there is an indication
of a location of a photograph or a picture.
A. It was above a table.
Q. I think that is indicated, isn't it, there.
A. Okay. That is the table, okay, yes.
A. COMSR
Q. Are you saying that you saw that picture when you went
there.
A. Yes. It was quite a stunning photograph, an aerial
photograph.
Q. Was it or was it not the area indicated in photo one.
A. That's correct, because there was a lounge here, yes.
Q. You're indicating photo one on the plan closest to the table.
A. It was only a small room. Was only a small shack.
Q. Looking at Exhibit 29 produced, which is an aerial photograph. Looking at Exhibit 29, do you recognise that.
A. Yes, I do. That is a photograph - because we actually talked about the location of the shacks and the fact that they, there have been subsequent develops since the photograph was taken.
Q. You there indicated the shacks on Hindmarsh Island which are closest to the Murray Mouth in the middle foreground of the photograph.
A. That's correct, and the Murray Mouth at the point we went down had actually moved further northwards.
MR SMITH: The witness indicated the shacks there (INDICATES) which I have described closest to the Murray Mouth in the middle foreground of the picture.
COMSR: I suppose it is in the middle.
MR SMITH: Unless there is a better description.
PHOTOGRAPH SHOWN TO COUNSEL
MR SMITH: For the sake of the record, it could be noted that this is indeed a copy of the aerial map located in Mouth House by the witness Francis Ellen Anderson and this photograph was, indeed, hanging on the wall above the table in the main room and was marked 'photograph 10, the plan'.
Q. Can I take you then to your conversation with Mrs Milera. By reference to your notes, could you slowly tell us what passed between you as to the conversation.
A. Okay. It may take some time because it is a lengthy discussion. As I made notations here, my notes -
Q. Before you start, where was this conversation taking place.
A. Well, we went to a shack. We talked inside for a little
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while. We talked about the map on the wall. Brenton and I discussed it, the technique more than anything, to say that it is an interesting photograph. He's a photographer. It was a nice day and it was sunny and we went outside and sat outside and found a couple of chairs and put them in the sand. And then I began talking to Mrs Milera about who she was and why I was there and what my interests were and the issue. And she told me that it was actually difficult for her to speak to me. Actually, making the decision to speak to me was quite momentous because I was a man and also a white person. But she had decided to talk to me because she had been told by her people, whom I had been speaking with, that I could be trusted and was sensitive to the issue, and she found out that I was a New Zealander and that I have a knowledge of Maori culture and she felt this would be helpful in what she had to explain to me. She told me her culture and heritage were of paramount importance to her.

COMSR

Q. I take it that you would be familiar by now with the fact that there are certain matters which are covered by s.35 of the Aboriginal Heritage Act. Is there anything in this conversation about which -

A. At the outset, I can say that I'm very familiar with s.35 and the restrictions on the Commission. I've never been told anything which would breach s.35 and nor is it my intention to do so now.

Q. I appreciate that is not your intention. I want to be sure in my own mind.

A. What was stressed to me is that I couldn't know, but I was able to deduce the gist of it without knowing exactly what I wasn't meant to know. As I said, Mrs Milera told me that her culture and heritage were very important to her. She repeatedly stressed this throughout this interview and she explained to me the constitution of the Ngarrindjeri nation and some of the history of its people. I was quite ignorant about the
Ngarrindjeri nation and its size and its history. She referred me to a book that she had ‘A World That Was’ by Ronald and Catherine Berndt; and during the interview and at various times during the afternoon, I read parts of this book to learn more about what we were discussing.

Q. Pausing there for a minute. Could you have a look at the book and confirm that that is it. Looking at Exhibit 4 produced, which is the copy of ‘A World That Was’, by Berndt and Berndt. That is the book.

A. Yes, it is.

Q. Were you looking at a copy of it.

A. Yes, it is - or a copy of it. During the interview, Mrs Milera showed me a photograph in that book of a King Peter Pulami. That is black and white photograph. We actually took a photograph of the photograph in the book for future use in the newspaper. She told me that King Peter Pulami was her great grandfather and she then said that ‘We have always been told that we are Ngarrindjeri for all our lives’. Mrs Milera told me her position in the Ngarrindjeri nation was as the custodian of Goolwa. She told me ‘This was the position which she had accepted reluctantly because she did not believe she was old enough for it’. She said ‘I am the custodian of Goolwa. My great grandfather was King Peter Pulami. He was a paramount rupulle of the Ngarrindjeri nation. As a child, I was always told who I was. I am following the principle of Pulami. As a woman, I have a responsibility to a Ngarrindjeri nation. This is because I have come from the paramount rupulle. I'm trying to do what he did with everybody. He communicated with everybody, even the bad and the good. He tried to bring peace to it all. My great grandfather had control, but he called all people, all advisers. He was referred to as a judge and a king’. Mrs Milera told me that she had the support of a wide range of people and decided to speak to me after checking with other
Ngarrindjeri people. `I have a lot of people behind me and it's not always my culture. I have checked with my culture'. Mrs Milera told me that she had been authorised to tell me about the importance of Hindmarsh Island to a Ngarrindjeri people, but there was some aspects she could not discuss because I was a male. She told me that she had recently moved to Goolwa. She also told me that she had recently read the book `A World That Was'. She told me the Hindmarsh Island area and the Murray River mouth are very important to her. She then told me that it is revisiting history. `There are three spots: the Coorong, Goolwa and Victor Harbor. This is where traditional things happen. When I talk of Goolwa, I am not just talking about Goolwa, my history flows along the river. The last rupulle died in 1970. He was the paramount of hereditary law'.

Q. Pausing there. Rupulle is spelt R-U-P-U-L-L-E.
A. That's correct, and that is the from what I understand the head of the Ngarrindjeri nation who chaired the tendi T-E-N-D-I which is their council.

Q. You were saying there the last rupulle died in 1970.
A. He was paramount of her hereditary law. She said it was similar to Pitjantjatjara, and it was the high court of the Ngarrindjeri nation. `There are a lot of people need to learn that. `These people' - reference to the Chapmans - `are sitting in a spiritual ground and they are not going to win because it is wrong'. Mrs Milera then told me that Goolwa was a special spiritual women's area. `Goolwa is a special spiritual women's area, that is why I have to draw everybody to be a part of that because it brings a new theory to it. I have been taught how to determine who is part of the rupulle. Goolwa is a women's heritage area. Unfortunately, there is a lot of evidence in the water that belonged to us. That is why we are really upset because it is like wounding the spirit. It is terribly traumatic for us because it is like wounding the spirit. If they build the bridge, there will be boats and 4-wheel drives. We
should be the dictator of what changes the rivers and
the waters'. I then asked Mrs Milera about the book `A
world that was'. `I have got incredible strength from
it. It is like opening up the pages of your life and
discovering where you belong'. We then discussed the
bridge and the effect it was having on the Aboriginal
heritage issues in the Hindmarsh Island area. `I just
wished the Government would take control of it. I have
tried to convey it, but they are not listening. In 1970
the last rupulle died and he was the original land
owner'. My notes show that Mrs Milera then told me the
name of a man called George Kay. I do not have a record
of the surname. Mrs Milera told me she was born at Swan
Reach, but she was from the paramount rupulle line. `We
didn't leave the river. We are still in our area'. Mrs
Milera said King Peter Pulami's realm extended to
Victoria and New South Wales. `Because of that power,
he was feared. I have that same power. Legally, in
Ngarrindjeri terms, I have his power. I belong to all
the river, not just one section of it'. Mrs Milera told
me she had been pushed into being custodian for Goolwa.
I understood this to be a reference to Hindmarsh Island
and Goolwa. `Whether I want it or not, I am here as the
custodian. I am not old enough for it. There could be
other women around the Coorong and Medindie. The
custodian could be a man or a woman. I have to have
respect for the Ngarrindjeri nation. In some ways, I
belong to the world'. I asked Mrs Milera to tell me
about herself. `I went to Dawes Road School. I had to
go through a learning process in my life. You must go
through these stages before you go back to where you
come from. Now, I walk over the land to ensure there is
no disturbance'. This was a reference to her walking
everywhere with the - she told me she went for many long
walks around the island. Mrs Milera said `The custodian
has been tainted and it has been spoilt'. She then said
`I was brought up in Meningie. That living rupulle was
there. He was very protective and a giant of a man'.
Mrs Milera said there were other people from the rupulle line. `There are a lot of us around. I met one the other night who said "Keep up the good work".' Mrs Milera said she hoped the bridge issue would give her people a new focus. `Because our society is destroyed by drink and drugs, I hope this gives them a reason to bring them out of the misery of it. The Ngarrindjeri nation was the richest in Australia. People are doing things wrong and they are making a lot of mistakes. If they want reconciliation, the lesson could be here from Goolwa. I have given two whites guardianship of my grandmother's land. I don't have a problem of walking the streets of Goolwa. I respect it because I'm walking on traditional land. I have total respect for old people who come and tell me about my culture. If people step into Goolwa, they will find out the right way to do reconciliation. These awful things are not going to deter reconciliation. No-one can ever rubbish Goolwa to me because I am Goolwa. I have been here because a lot of people are hurting'.

CONTINUED
`I live in Murray Bridge. I have had spiritual things happen to me which I can't tell you about but I want all of my Ngarrindjeri nation to be a part of it because it is very important to me. I am part of Goolwa. This conflict I cannot tolerate. If I tell people what I know they will get a better understanding of what reconciliation is all about and a better understanding of the birds, water and everything else.' Mrs Milera told me then that she was frustrated at a lack of action from the State Government to stop the bridge project and to resolve the controversy. `In some respects we are relying on the unions to do what the Government should be doing. Why should we be doing that?' She told me she was confused about which laws the Ngarrindjeri had to obey in order to stop the bridge, European law or aboriginal law. She said she believed the Ngarrindjeri should follow their traditional laws. `I really want to know what law we are supposed to follow, because we have a confusion of laws dictated by power and greed. I think the whole Government has a responsibility for that.' I asked Mrs Milera again about where she lived. She told me again that she lived in Murray Bridge. `I came to Goolwa last October to answer my calling. Because it is a women's area, I must be here for my nation. Spiritually, this is a very important area. One little bridge has created a huge problem.' Mrs Milera told me she had spoken to Dr Michael Armitage about the bridge issue. She said discussions were continuing. `It is about appropriate progress. We must preserve the environment. We are saving the birds. The environment is going to be stuffed up otherwise.' Mrs Milera said she could not understand why a bridge was needed because the island was sinking. `There is water in the middle of the island. It is a bridge to nowhere. Who is going to listen? The Government is not going to listen. The developers are not listening. So, who is going to do it? We need a united front of reconciliation.' Mrs Milera told me that Aborigines and
the land were intrinsically linked. 'How do you separate us from the land? We get a spirituality from the land. This was my land. It is the poison of the world which has come into my culture and destroyed it. Native trees are part of us. The gums, the mallees. When we are saying no development, we don't mean stop everything. We are just asking for sensitive development. Four wheel drives are going to destroy everything.' Mrs Milera told me Hindmarsh Island was once densely vegetated. 'You couldn't see people for the trees. It was heavily vegetated. It was a breeding ground for our traditional birds.' She then went on to tell me about how women 'have a say in Ngarrindjeri things'. She said there were four burial grounds on the island. She said she had found a traditional spear near the bridge site. She said ETSA had disturbed human remains while digging a trench. She told me the South Australian Museum had 300 to 400 bones which her people were demanding to be returned to Goolwa for burial. She told me the site of the marina Goolwa was a burial ground. Mrs Milera told me she did not know how Mr and Mrs Chapman had got away with it. 'I don't know how they got away with it. I don't know where it is going to end. I wish I knew.' Mrs Milera told me she had a university degree. She then said 'I finally found my heritage in Goolwa.' She told me that the Goolwa RSL had admitted her brother. 'My brother is a lot darker than me, but he was accepted by the RSL.' This was in reference to the fact that she was being accepted by the people of Goolwa and her brother was being accepted into the RSL where he was free to go into to drink. I asked Mrs Milera about her university qualifications. She told me she had a diploma in psychology and computers and had partly completed law. She said she had studied through the University of South Australia. She also told me she suffered from very poor health. I think, from memory, she said motor neurons, but I can't be sure. But she told me that her health improved every
time she came near the Murray River Mouth and that a
machine which she required in Murray Bridge was not
required whenever she was near the Murray River Mouth.

Mrs Milera told me here great grandfather had 'opted for
the peaceful way'. She said the Ngarrindjeri people had
'never had a fair go with heritage'. She told me it was
her role to be an educator about her culture. She then
said 'If I want to put pressure on, I can. If anyone
wants to take me to court, I can handle it. I have no
fear of defending my heritage. I defend Goolwa and I
will not be challenged by anyone. I am Goolwa. I was
put here by tradition, not by circumstance or anything
else, by tradition.' The interview ended. We then
discussed a lot of things off the record. Brenton took
Mrs Milera away. She posed for photographs quite
happily. We then got in the car and returned to
Adelaide. This is the first time, to the best of my
recollection, that I received any first-hand information
from an Aboriginal informant about the so-called women's
business. And the article, based on that interview,
appeared the next day. Well, it actually appeared about
a week later. I held it for several days.

ADJOURNED 11.40 A.M.
RESUMING 12 NOON

Q. I think you made the point, just before you left the witness box, that, to your knowledge, this was the first time that - that is, your article, which was the article that flowed from your 29 April interview with Sarah Milera.

A. ‘Count down on bridge over tribal waters’.

Q. I think you made the point, just before you left the witness box, that, as far as you are aware, in all your familiarity with this matter, that is the first time it had been reported in the mainstream media that the island had spiritual significance.

A. To Aboriginal women, yes.

Q. I think it was on 3 May 1994 that Dr Armitage announced that the bridge would go ahead.

A. Yes, he did, yes.

Q. Did you follow up Sarah Milera after that article, ‘Count down on bridge over tribal waters’?

A. Yes, I did. On 3 May I telephoned Mrs Milera to seek comment on the decision by Michael Armitage to use s.23 to authorise damage or destruction of the sacred site.

Q. You spoke to her on 3 May 1994, is that right.

A. Yes, I did.

Q. Again, was that on the telephone.

A. That was by telephone.

Q. Did you note that conversation.

A. I did.

Q. By reference to your notes, could you tell us what was said.

A. She said ‘It’s the most ridiculous thing I have ever heard. I have no faith in this Government. I will never communicate with them any more. I will only communicate with the honest people. I have no confidence in this Government. Nothing could ever pacify me. Not reconciliation, nothing. I don’t want to hear from them. I banish them from my mind. I feel so strongly, I will still be standing in front of the tractor. They are so hypocritical, there have been
contracts before us. They, the Chapmans, broke the law in the first place. They took bones from a sacred site and dumped them at the dump. I am not going to give up. I don't believe it will go through. I want that in my mind, because I don't see it in my mind. If there is anybody listening, if there is any law in the land left, I can't believe this. I come from a powerful law, 65,000 years old, and I hear this. It is the hardest thing for me to understand. Bannon broke the first contract.' Mrs Milera told me that there were spiritual grounds and a burial ground in some respect near the proposed bridge. 'I go along the whole river. He, Dr Armitage, should resign and leave the position open. They should give it another name. He is not a Minister for Aboriginal Affairs. I hope all Aboriginal people in Australia respond to the ATSIC threat to withdraw the $1 billion from Westpac. I hope the law responds and I hope Tickner responds.'

Q. I think also you spoke on that day to Matt Rigney.

A. I did.

Q. Can you tell us what was said between you and Mr Rigney.

A. He said 'I am certainly dead against it. I don't support the Minister's decision and I am asking for the Federal Minister to intervene. I will be writing to Brown and Tickner really expressing my anger and disappointment to the State's decision to forsake our heritage. I have made a request that Tickner intervene under the Aboriginal and Torres Strait Islander Heritage Protection Act (1984).'

COMSR: I don't know how much further this is going to go, Mr Smith.

COMSR

Q. But you understand also it is one of the Terms of Reference of this Commission.

A. The Federal Court proceedings are, but that is it.

Q. Those two conversations, in part at least, led to your article, on 4 May, 'Row looms as bridge goes ahead.'
A. That's correct.

MR SMITH: Attachment 29.

Q. I think you followed that up with an article `Move to wind up marina developer’, attachment 30.

A. Yes, that’s correct.

Q. You have subsequently become aware of the fact that there had been a meeting of women, called the Mouth House meeting, on 9 May 1994.

A. No, I had no knowledge of that meeting.

Q. At the time you had no knowledge.

A. At the time no knowledge.

Q. But later you found out that that took place.

A. The first time I heard about the 9 May meeting with women exclusively was this year after Channel 10 broadcast that material.

Q. However, on 9 May, you had a conversation, I think, with Richard Owen, is that right.

A. Yes, I did.

Q. You have already told us that he was one of The Friends of Goolwa and Kumarangk.

A. No, more specifically he was the president of that organisation.

Q. Can you tell us what passed between you and him in that conversation.

A. By this stage, the Federal Court injunctions, from memory, had been granted to Binalong Pty Ltd v CFMEU and the Conservation Council and The Friends of Goolwa and Kumarangk and he basically said that they would be defying those injunctions in light of Michael Armitage's decision to go ahead with the bridge and that they would continue to picket the bridge site.

Q. As you pointed out in your statement, on p.7, did you have some knowledge that there was going to be some movement in terms of the beginning of the construction of the bridge.

A. Yes, I learnt that the company, Built Environ, was to deliver to this site transportable huts, known as Atcos,
to establish its site headquarters for the bridge project.

Q. Did you have some information as to a protest on 10 May.
A. Yes, I was informed that there would be a protest held the following day to try and stop the delivery of those huts.
Q. Did you receive such things as notices of meetings and flyers relating to rallies and things like that.
A. Not really from The Friends of Goolwa and Kumarangk, because I was in regular telephone contact with them, it wasn't necessary for them to notify me in writing.
Q. Did you have a flyer relating to the public rally on the bridge.
A. That was in June, we are in May.
Q. You just received some information that there was going to be a protest on 10 May.
A. I learnt that the Atco huts were going there and I wanted to find out what to expect the next day so we could prepare our coverage.
Q. You went down there on 10 May.
A. I did in the presence of two photographers from The Advertiser because my enquiries had ascertained that there would be a large turn out of protestors and I anticipated some confrontation with the police.
Q. What time did you get there.
A. I made notes of that protest meeting and I think we arrived about 10 a.m.
Q. By reference to your notes can you tell us what happened and tell us of any conversations you had.
A. My notes are basically just a running sheet scrawled in shorthand standing up and so they may be a bit hard to follow.
It began with a large group of people gathering behind a site at the Goolwa Police Station - or the old Goolwa Police Station, and they basically all gathered there with their chairs and their Thermoses and their placards and pickets - you know, placard signs. We were in attendance, when I observed the motor vehicle stop in the middle of the road and a man came out of that motor vehicle with a video camera and started to video who was there and what was happening. I approached him and asked him who he was. We had an exchange. He told me that he was a Bill Barton, and that it was his right, as a private citizen, to video whatever he wanted. So I instructed my photographers to photograph him videoing the protest rally. At about quarter past 10, a police officer arrived. He was identified as a chief inspector by the pips on the shoulder. He served Mrs Milera with a notice, which were the conditions of Michael Armitage's section 23 notice, authorising work to begin. Q. You saw that notice, did you. A. I didn't ever see the notice. I saw him hand it to Mrs Milera as a formal commencement of the proposed delivery of the Atco huts. Q. Dr Neale Draper was in attendance. A. He was there too, and Chief Inspector Tom Ryan was the name of the police officer. He asked Neale Draper to confirm that he was there formally to monitor the delivery of the huts and any impact on the site. He then read the notice to Sarah Milera, outlining the section 23 authorisation, and indicated the area where the site works or Atco huts would be positioned. There was some discussion about whether the section 23 notice had actually been Gazetted as legally required, and Chief Inspector Ryan assured the people present that that had occurred. Mrs Milera told Inspector Ryan that 'This is a heritage site and there are conditions for them', referring to Built Environments for coming onto it. She was then given Armitage's letter. Sarah Milera was given the letter from Chief Inspector Ryan. Chief
Inspector Ryan then told Sarah Milera that `Built Environ want to establish this site and we will be facilitating them in coming onto this site. They have to establish trucks coming onto here, and then they will be putting transportable huts onto the site'. Mrs Milera said that `They' - referring to Built Environ and the Chapmans, I assume - `have broken the law, and if I am taken to gaol I will be proud to go'. Chief Inspector Ryan said `As far as other sites go, we will have to look at them as and when they come up, and that includes sites on the island. All we are interested in doing here is allowing the trucks to come in'. He then indicated that some of the vehicles which had been parked on the site would have to be moved. This included two white vans which bore Commonwealth Government number plates, which had arrived with a large number of Aboriginal people from Murray Bridge. Dr Draper said he would like to talk to the committee before anything took place to establish the area and boundary of the site to be preserved. Mrs Milera said that she was annoyed that things had been done and that they had lived on an empty promise, and this was a reference to Dr Armitage's pledge before the State election to stop the bridge project. Chief Inspector Ryan told Mrs Milera that `Your solicitor' - a reference to Tim Wooley `is still working on those problems'. Mrs Milera and Dr Draper then went off to discuss what was going on. A short time later, Draper and Ryan had a discussion, and he read the notice out loud, and that was `I, Dr Armitage, authorise the agents to damage and interfere with any Aboriginal sites and remains'. I have some notation there. It is incomplete. Chief Inspector Ryan then said `If Built Environ do any excavation work they have to stop until Neale Draper checks it'. Then he outlined that three trucks were coming onto the site with transportable sheds, that bollards would be placed to outline the boundary, and that there would be security guards put onto the site on
a semi-permanent basis to ensure that there was no
interference with the headquarters. He then said if
those cars or vehicles aren't moved he will get a tow
time. He returned at 10.50 a.m. with representatives of
Built Environs, who I knew to be David O'Sullivan and Mr
Trevor Treadwell. He also said reinforcements were
coming down, and I took this to be police reinforcements
in light of the large number of people who by then were
on the site. He appealed to the people present to show
good nature, and informed them that he would allow a
lawful protest. He said that `We will allow Built
Environs to come onto the site'. He then informed Mr
David Thomason, who was also in attendance, that he was
still under a court injunction, and asked him to clarify
what role he was playing in the protest, and what he
intended to do in light of the Federal Court injunction
which had been granted against him. Mr Chapman, by this
stage, had arrived with his wife, and he moved over with
a micro cassette recorder or a tape recorder and taped
the conversation between Mr Thomason and Chief Inspector
Ryan. They arrived about 10.50. Six motor cycles
shortly arrived afterwards - police motor cycles and a
bus load of police officers. At about 11.31 the cops
told - I've got `cops' here, sorry - the police told Mr
Thomason and other unionists again to move the cars.
Chief Inspector Ryan told the unionists, particularly Mr
Thomason and Mr Ben Carslake, not to interfere. He said
that `Built Environs and the trucks wish to come onto
the land' and they would be facilitating that. I then
went for a walk to ascertain the police presence, and
found an ambulance around the corner out of sight, two
police paddy wagons, 15 extra police in a bus, and a
plain clothes surveillance team preparing their video
equipment and cameras, and another 16 - I counted 16
police officers in another bus. They then - a truck
arrived. The driver of that truck was confronted and
asked for his union pass. The two unionists were moved
to one side by police. Thomason was pushed to the
ground by police. There was shouting of words similar
to `scab' to the driver of the truck. Several women,
including some with children, moved into the path of the
truck. Several tried to sit down. They were dragged to
one side by the police. By this stage I climbed onto
the top of a WW Combie van to get out of the way and so
I could see what was happening below me. A woman in a
clerics uniform - who I later met and was introduced to
me as Helen Campbell - was dragged through mud in front
of me. Several women then started crying and weeping,
and saying things along the lines that `We don't count
any more, nobody counts us any more, no-one is listening
to us'. At about 12.50 the actual Atco hut was slid off
the back of a truck and hit the ground quite heavily.
By this stage, Mr Geoff Benny, who I had met from
Connell Wagner, had also arrived. Mrs Milera and
others, by this stage, were getting quite agitated and
she said `I just want people to stop this'. You know,
`I thank them for standing with us'. Mr Rocky Marshall,
a member of the Friends of Goolwa and Kumarangk Protest
Group, was making quite a big show of holding a sign. I
approached Mr and Mrs Chapman and asked them to comment.
Mrs Chapman declined to comment and told me she would
talk to me when she was ready to talk to me. Four males
and one female were arrested and put in the back of a
police paddy wagon. I was told on the scene that they
were being arrested for preventing a breach of the peace.
Q. At five past 1 the two trucks left, and a woman arrived
who I had never seen before. I later learnt that it was
a woman by the name of Mrs Doreen Kartinyeri. She
became extremely agitated and abusive, particularly
towards the representative from Built Environs, Mr
Treadwell. She swore, and started swearing quite
vigorously, saying that they had disturbed the soil of a
sacred site. Where the Atco hut had hit the ground it
had scraped a certain amount of soil, which wasn't a
large amount of soil, and she was accusing them of
damaging the sacred site and showing no consideration
and no sensitivity, and this caught my attention because
the protest had gone from being, well, not a violent
confrontation between the police and the protestors but
certainly one involving force to remove them out of the
way of the path of the truck, to a very verbal
confrontation between an Aboriginal woman and the police
and Built Environs over this scraping of the soil.
Chief Inspector Ryan told - tried to placate Mrs
Kartinyeri by saying he thought it was accidental. She
wouldn't be - it took a lot to settle her down. In
fact, she didn't settle down. She kept on behaving very
extremely, and basically things settled down slowly
after that.
Q. And the huts were completely unloaded then, were they.
A. Yes. The huts were left in exactly where they hit the
ground. The aborigines who were present then got out
their own marking tape and they cordoned off an area
which they said was a sacred site. They then commenced
to erect tents by hammering pegs into the ground and
putting tents up, indicating that they planned to occupy
the area.
Q. Was that an area near the Atco huts.
A. It would have been 20 to 30 metres away, at the most. I
then approached Chief Inspector Ryan for a debriefing on
the protest and how he thought it had gone from the
police perspective, and asked him for details of the
people who had been taken away and what they had been
taken away for. I then had several cups of tea with
members of the protest group which were there and
returned to Adelaide.
Q. During the course of this protest that you have
recounted to us, did you have a conversation with the
unionist, Mr Thomason.
A. Yes, because later - late in the morning or early
afternoon he received a telephone call on a mobile
telephone, and asked me to go to one side with him. He
informed myself and Mrs Milera not to worry too much
about what was perceived to be the extremity of the
police action, or the trauma that was caused, the upset
that had occurred with a large number of women who, by
then, were crying - and these were white women as well
as Aboriginal women who were upset - that Robert Tickner
was going to step in and he was going to stop the bridge
and, you know, to keep this not to myself but to use it
any way I wanted the next day, but I was the only one
who would find out about it.

Q. The next thing that happened then was your article,
A. That's correct, which appeared the following day.
Q. Attachment 33.
A. Yes.
Q. What do you call the opening photograph in such items.
That has got a journalistic -
A. I will just take you through the layout of that
particular article there. The top line across the top
is called a kicker or a teaser, which is basically a
summary of the content of the story.
Q. That's `Federal Government may step in'.
A. `Federal Government may step in after aborigines vow to
stay put' is a kicker, which is a supplementary headline
to a main headline, which is `Arrest in bridge clashes'.
My by-line is below that, and then the first paragraph
of a newspaper story is called an intro or a lead.
Q. That is `The Federal Government is expected to order
work to stop'.
A. That's correct.
Q. Was that picking up the information that you'd been
given by Thomason.
A. Yes. As a result of the information which had been
conveyed to me by Mr Thomason, I was able to accurately
predict that the Federal Government was going to
intervene and stop the bridge.
COMSR: How much further are we going into this
particular topic?
MR SMITH: No further.
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C. JAMES XN (MR SMITH)

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Chief Inspector Ryan told - tried to placate Mrs
Kartinyeri by saying he thought it was accidental. She
wouldn't be - it took a lot to settle her down. In
fact, she didn't settle down. She kept on behaving very
extremely, and basically things settled down slowly
after that.

Q. And the huts were completely unloaded then, were they.
A. Yes. The huts were left in exactly where they hit the
ground. The aborigines who were present then got out
their own marking tape and they cordoned off an area
which they said was a sacred site. They then commenced
to erect tents by hammering pegs into the ground and
putting tents up, indicating that they planned to occupy
the area.

Q. Was that an area near the Atco huts.
A. It would have been 20 to 30 metres away, at the most. I
then approached Chief Inspector Ryan for a debriefing on
the protest and how he thought it had gone from the
police perspective, and asked him for details of the
people who had been taken away and what they had been
taken away for. I then had several cups of tea with
members of the protest group which were there and
returned to Adelaide.

Q. During the course of this protest that you have
recounted to us, did you have a conversation with the
unionist, Mr Thomason.
A. Yes, because later - late in the morning or early
afternoon he received a telephone call on a mobile
telephone, and asked me to go to one side with him. He
informed myself and Mrs Milera not to worry too much
about what was perceived to be the extremity of the 
police action, or the trauma that was caused, the upset 
that had occurred with a large number of women who, by 
then, were crying - and these were white women as well 
as Aboriginal women who were upset - that Robert Tickner 
was going to step in and he was going to stop the bridge 
and, you know, to keep this not to myself but to use it 
any way I wanted the next day, but I was the only one 
who would find out about it.

Q. The next thing that happened then was your article, 
A. That's correct, which appeared the following day.
Q. Attachment 33.
A. Yes.
Q. What do you call the opening photograph in such items.
A. I will just take you through the layout of that 
particular article there. The top line across the top 
is called a kicker or a teaser, which is basically a 
summary of the content of the story.
Q. That's 'Federal Government may step in'.
A. 'Federal Government may step in after aborigines vow to 
stay put' is a kicker, which is a supplementary headline 
to a main headline, which is 'Arrest in bridge clashes'.
My by-line is below that, and then the first paragraph 
of a newspaper story is called an intro or a lead.
Q. That is 'The Federal Government is expected to order 
work to stop'.
A. That's correct.
Q. Was that picking up the information that you'd been 
given by Thomason.
A. Yes. As a result of the information which had been 
conveyed to me by Mr Thomason, I was able to accurately 
predict that the Federal Government was going to 
intervene and stop the bridge.
COMSR: How much further are we going into this 
particular topic?
MR SMITH: No further.
XN

Q. Then, the article really talks about what you had been
telling us about really, doesn't it.
A. Yes.
Q. See, the photograph there in the article of 11 May, is
Mr Thomason in this photograph anywhere.
A. In the photograph, shows Mr Carslake being arrested and
a gentleman who I don't know.
Q. Which one is Mr Carslake.
A. Is the smaller gentleman at the front.
Q. On 11 May, the article was published, of course, 'Arrest
in Bridge Clashes'. On that day, did you have any
conversations with the Mileras.
A. I may have.
Q. Did you, for instance, visit the sister of Sarah, of
either Sarah and Doug Milera on that day.
A. Yes. Because the Federal Minister, I'd learnt that he
was about to issue a 30 day stop, yes, I did visit Mr
and Mrs Milera at Mr Milera's sister's house at
Torrensville.
Q. Did you there speak with either one of the Mileras.
A. I spoke to both of them, yes.
Q. Can you tell us what was said.
A. Yes. Doug Milera - both Doug and Sarah jointly told me
that they were absolutely thrilled that Robert Tickner
was going to step in and try to resolve the issue. Mr
Milera specifically said what had happened the day after
the protest that Sarah Milera was taken by ambulance
from Goolwa to Adelaide and admitted to hospital. I was
told that it was related to the stress of the protests
and that she had collapsed later in the day. She had
spent the night at the Royal Adelaide Hospital. She had
been discharged the following morning. They rang me and
asked me to come around and see them to discuss the
latest developments. Mr Milera told me, according to my
notes, 'We were so distressed and stressed out that
Sarah had to go to hospital. You know that we cannot
believe the fact that we had to go through what we went
through yesterday, the pressure of it all'. They then
said that a lot of people had supported them and because
it was deemed to be a victory that they managed to get
Tickner to intervene, they said that ‘We really want to
thank all the people from The Friends of Goolwa and
Kumarangk who supported us, The Lower Murray Aboriginal
Heritage Committee, Mr Frank Tuckwell who was the
Director of Signal Point at Goolwa and the CFMEU Union'.
They actually said ‘We want to say special thanks to
Davey and Ben for listening to us in the first
instance’.

Q. Who were Davey and Ben.
A. ‘Davey’ is a reference to David Thomason and ‘Ben’ is a
reference to Ben Carslake. ‘They said their sorrow has
turned to joy. That the State Heritage Committee and
David Raffman would now have to really take it seriously
and that Doug has been doing a lot of writing and that
we still have a lot of work to do. I think it all
depends on who’ - sorry, I can't make out that note.
But Sarah said to me that she was counting on the 21
days of liquidation and we’ll see what will happen -
there is reference to the on-going Supreme Court action
relating to Binalong Pty Ltd. She just said that it was
a big relief with what had happened and reminded me that
Kumarangk means ‘woman' and there was still a lot of
people supporting them. Those are the only notes I
took.

Q. So, was your trip out to speak with Sarah and Doug to
get their reaction to the foreshadowed news of a ban,
was it.
A. Yes, it was; and also to see how Sarah was going. I was
concerned after learning that she had gone to hospital.
Q. Then on the 13th was the next event with your article on
A. Yes, it was.
Q. So, your prediction came true and there was a 30 day ban
by the Minister.
A. Yes.
Q. Did you, in connection with that story `Bridge protest victory', speak with anybody.
A. Yes. I spoke again with Mr Reg Dodd, the Chairman of the State Heritage Committee.
Q. What about more eminent people than that. I should withdraw that, actually. I'm speaking of - did you speak with any Ministers of Government, politicians.
A. Yes, I did. I had been talking for some time with Robert Tickner on different occasions and I had a discussion with Robert Tickner.

COMSR
Q. You will appreciate my situation here with the Terms of Reference, and I'm not quite sure what they will encompass in the final analysis. The Terms of Reference in this inquiry must not prejudice the Federal Court one.
A. Yes.
Q. And the exact parameters of that are not always entirely clear.
A. Yes.

XN
Q. Looking at this media release produced to you dated Thursday, 12 May, from the Minister for Aboriginal and Torres Strait Islander Affairs, that came to your attention in the course of your work.
A. Yes, it did; and the markings are mine.
Q. That announced the 30 day ban.
C.A. JAMES XN (MR SMITH)

1. That announced the 30 day ban and the reasons for it.
2. MR SMITH: And I emphasise that that is a matter of history and nothing more.
3. EXHIBIT 109 Media release dated 12 May 1994 from the Minister for Aboriginal and Torres Strait Islander Affairs tendered by Mr Smith. Admitted.
4. Q. Your article then for the following day, 13 May, followed on that media release.
5. A. Yes, it did, and the discussion I had with Mr Reg Dodd.
6. Q. Your article mentioned some contact with Mr Tickner. Was that personal contact.
7. A. Yes, direct by telephone.
8. Q. Did you also speak with Dianna Laidlaw on that day - or if you can't say.
9. A. I do believe I spoke with Miss Laidlaw direct too, yes.
10. Q. Doug and Sarah Milera again.
11. A. Yes.
12. Q. What was the topic of your conversation with them.
13. A. Just reaction to the actual formal notification that the bridge was going to be stopped.
14. Q. And Vic Wilson, did you speak with him.
15. A. Yes. Only briefly.
16. Q. Can you tell us what passed between you and Vic Wilson.
17. A. Well, he was obviously very happy. And basically the quote that appears in that story is all he said there as `Very important basis, and we have won a chance to negotiate properly' and that he was happy of the consultation that was going to start to take place.
18. Q. I think there followed three articles by you which are:
19. On 16 May: `Doubts on bridge's planning approval'.
20. A. Yes.
21. Q. On 18 May: `UN asked to act over bridge row'.
22. A. Yes.
23. Q. On 19 May 1994: `Canberra urged to end row'.
24. A. Yes.
25. Q. On 29 May, you secured an interview with Wendy Chapman, I think, is that right.
C.A. JAMES XN (MR SMITH)

A. From memory, Mrs Chapman telephoned me, yes.
Q. That led to a story which you published on 30 May.
A. That's correct.
Q. Can you tell us what passed between you and Mrs Chapman.
A. Mrs Chapman informed me that she had a media release
that she wished to send to me in relation to Mr
Tickner's 30 day stop on the project, and she also
elaborated on those events and had a discussion with me.
Q. On the telephone.
A. Yes, she did, this one here (WITNESS PRODUCES DOCUMENT)
- or is it this one here. She actually sent several
over several days, the 29th, 30th.
Q. Looking at this media release "Mabo a sideshow" says
Wendy Chapman', that was 29 May 1994.
A. Yes, it was.
Q. That was sent to you.
A. Yes, it was.
Q. Did that play a part in a subsequent article.
A. It played a large role. A lot of the comments quoted in
the subsequent article were taken from there.
EXHIBIT 110 Media release dated 29 May 1994 tendered
by Mr Smith. Admitted.
Q. Did you note the conversation.
A. There are these two releases as well.
Q. I know. Did you note that conversation on 29 May.
A. I may have, but I really took it from the press release.
Q. So, the press release is the gist of it.
A. The thrust of what Mrs Chapman was saying was conveyed
in that media release.
Q. The article of 30 May then dealt with that media release
and your conversation with Mrs Chapman.
A. Yes.
Q. It's 'Chapman breaks bridge silence'.
A. Yes.
Q. Was there a reaction to that from Aboriginal interests.
A. Certainly was. Mrs Chapman started to refer in the
following sort of week to `This is a super Mabo-type
situation' and made some comments which provoked a very angry response from Aboriginals. The particular paragraph that upset quite a few people was she said 'The powers that Mr Tickner had used were mind-boggling, sweeping, arbitrary and oppressive'.

Q. As a consequence of that article and in particular Mrs Chapman's statement in the article, I think you were contacted by Matt Rigney; is that right.

A. That's correct.

Q. He forwarded, I think, a fax to you for public release.

A. Yes, he did. Mr Rigney was particularly concerned about Mrs Chapman's comments and asked if he could provide a response in writing, which I said I was glad to accept, and he sent me a fax on 3 June.

Q. By then, you had published another article on 2 June, had you not.

A. Yes, I had.

Q. Namely: 'Bridge site report demanded'.

A. That's correct.

Q. That was a further follow-up of material provided by Mrs Chapman to you.

A. Yes. She further upset Aborigines by describing the Aboriginal heritage procedures as 'Obnoxious to our system of law. They cut across fundamental rights such as the right to fully know the case you have to meet and the right to full information and the right to protect your property'.

Q. Were there, subsequent to that release of 29 May 1994, did you receive further press releases from Mrs Chapman.

A. Yes.

Q. Can you tell us when was the next one you received.

A. I have one here 31 May and another one 30 May. And then later she started sending me a newsletter called 'Super Mabo'.

Q. Dealing with those two media releases of 30 and 31, would you produce those.

A. Yes, certainly.

Q. These form the basis of your article of 2 June, do they.
2071

CJ 27G

C.A. JAMES XN (MR SMITH)

1. A. Yes.
2. Q. That provoked a strong Aboriginal interest.
3. A. Yes, strong response.
4. MEDIA RELEASES OF 30 MAY AND 31 MAY 1994 INCLUDED AS PART
   OF IN EXHIBIT 110.
5. Q. As a result then of those articles and in particular the
   one of 2 June, you had a response then from Matt Rigney
   of ATSIC.
6. A. Yes, I did.
7. Q. Looking at this document produced, which is a fax from
   ATSIC of North Adelaide dated 3 June and directed to you
   by Mr Rigney, do you recognise that.
8. A. Yes, I do.
9. EXHIBIT 111 Fax sent to witness by Mr Rigney
   tendered by Mr Smith. Admitted.
10. Q. On 3 June, you spoke with Sarah Milera again, is that
   right.
11. A. Yes, I did.
12. Q. She had become then, had she, one of your prime
    informants, as it were.
13. A. Yes. She was my key Aboriginal contact. Richard Owen
    was my key protestor contact.
14. Q. Did you, could you tell us what passed between you and
    Sarah Milera in the conversation on 3 June. You have
    notes of that, I think.
15. A. Yes, I do, but I can't put my hands on them right at the
    moment.
16. Q. Take your time.
17. A. Do you have a copy of them?
18. Q. You may not have notes. Don't let me mislead you into
    thinking that you have got notes. You have a look at
    the article of the -
19. A. You're talking about the article of 4 June?
20. CONTINUED
Q. Yes, 4 June.
A. That actually came from a written statement prepared for me by Richard Owen and Sarah Milera, which I haven't been able to locate.
Q. Perhaps give us some more detail about it. You received some communication, did you, from Owen and Milera.
A. Yes, the comments by Wendy Chapman in the days following Mr Tickner's intervention, as I said, provoked a very strong response from Aboriginal people and Mrs Milera and Mr Owen did not want to just give an off-the-cuff response. They actually wanted to provide a detailed response in writing to me answering the comments that Mrs Chapman had been making.
Q. As a result of that, you received a letter, did you.
A. From memory, it was a three page statement, signed by Mrs Milera, but it was addressed to me, quite clearly. And it was for publication.
Q. It was for publication.
A. Definitely.
Q. You say that Richard Owen had some input into that, do you.
A. Yes, Richard helped Sarah put it together.
Q. How do you know that.
A. Because we talked about it.
Q. You and Richard.
A. Yes.
Q. You simply haven't been able to locate that document.
A. Not yet, but I will keep looking.
Q. Can you tell us what the document contained then, subject to you finding it.
A. It was a - from memory, a very well argued and articulate response to Mrs Chapman's comments about the use of the heritage laws to stop the bridge and sort of reiterating the concern about the alleged lack of consultation with Aboriginal groups, the overruling of the Parliamentary Committee which recommended the two ferry option, the litigation which was being undertaken against the protestors and also the need for a bit more
sensitivity in dealing with Aboriginal heritage issues.

Q. Then, on 8 June, a further article appeared, `No bridge compo warns Canberra'.

A. And that article included the extract from the second Draper report.

Q. Can we take it from that that portions of the second Draper report were in the correspondence to you from Owen and Sarah Milera.

A. That's correct.

Q. You are currently looking for that document, are you.

A. I am.

Q. On 8 June, was the article `No bridge compo warns Canberra', attachment 42 and that was followed by another article, on 9 June, which was headed or headlined `Row grows over secret sacred sites', that's right, isn't it.

A. That's correct. That was Western Mining trying to get access to the sacred site register.

Q. Then, on 9 June, there is a second article by you for that day concerning a rally, is there not.

A. Sorry, what date was that again?

Q. 9 June `Plea to back bridge rally', attachment 44.

A. That article appeared, but I may have the date slightly askew, but no, actually, no, it did appear. It was down the back of the paper. One was forward, one was down the back.

Q. You had some notice then that there was a rally to be held at Goolwa, on Friday, 10 June.

A. I didn't receive direct notice. I wasn't invited to attend that rally.

Q. Looking at the document I now produce to you, do you recognise that copy of what we have been calling a flyer.

A. Yes, I do. That was sent to me.

Q. That was sent to you.

A. Or one like it. It is not the one I got. I had several copies sent to me.

Q. Do you know by who.
A. By those who I assumed were Friends of Goolwa and Kumarangk people who wanted me to know that that rally was on, because the rally organisers didn't want me there.

Q. That is the flyer for the Goolwa rally.

A. Yes, that's correct.

EXHIBIT 112 Flyer for Goolwa rally of Friday, 10 June in support of bridge, tendered by Mr Smith. Admitted.

Q. Do you have a copy of that in your papers.

A. I do have a copy and the one which I received is this one (INDICATES) and it was actually marked my urgent attention.

Q. Whose handwriting is that.

A. I don't recognise the handwriting, but I did get several copies sent to me.

Q. Looking at the second page, can you explain that. There were little paragraphs that were attached to the flyer, were there.

A. Yes, there was some, in my opinion, pretty inflammatory material attached to that flyer and there were little drawings talking about the bridge and its impact on your children, farmers, employment opportunities, business in the area, family home property values dropping.

Q. That sort of thing.

A. That sort of thing. And it then went on to deal more specifically with the Aboriginal heritage quarter saying that it could go on to everybody's back yard.

Q. You attended that rally, didn't you.

A. Yes, I went to that rally in the - I attended that in the presence of a photographer from The Advertiser and our audio.

Q. I think you were subject to some ridicule in public by Mr Denver, were you not.

A. Yes, the rally began outside the Goolwa Police Station, it marched towards the sea, ended up in a hall, where
there were three addresses by three different people. I
didn't know who Mr Denver was, at that point, but I
learnt it was a Mr Kym Denver, a land owner from
Hindmarsh Island. He basically was MC and I had been
told by people on the street outside that I wasn't
welcome. That I was proAborigine and anti bridge and to
go back to Adelaide and how dare I have an opinion about
what was happening in Goolwa. I saw it as my duty to go
inside that hall and cover that meeting. I did so. I
started by sitting down at the back and I decided that I
wouldn't sit in amongst the group or the body of people.
I moved to the front and stood by the stage. And Mr
Denver, who I have learnt has a dislike for the media,
said to the meeting that 'We all know that journalists
don't let facts get in the way of a good story', and
pointed to me and said I was a prime example.
Q. On that day, on the day of that rally, was there a media
release from the Federal Minister.
A. There may have been.
Q. I produce to you -
A. He was starting to release them fairly frequently, at
that point.
Q. Looking at this copy fax produced to you -
COMSR: Is this a fax that the witness has
received?
MR SMITH: Yes.
Q. Yes, during the meeting, Mr Denver actually informed the
meeting that Mr Tickner had a 30 day ban, from 12 May,
which expired about 10 June. And Mr Denver told the
meeting that he had learnt that that ban was going to be
extended. And, when I returned to Adelaide, that media
release was waiting for me.
XN
Q. That is a fax of a media release that came directly to
you from the Federal Minister's office.
A. That's correct.
Q. On the afternoon of 10 June.
A. Yes.
Q. Indicating an extension of the temporary ban for a further 30 days.
A. That was the second 30 days.
EXHIBIT 113 Fax of media release tendered by Mr Smith. Admitted.
ADJOURNED 1 P.M.
RESUMING 2.20 P.M.
WITNESS C.A. JAMES, EXAMINATION BY MR SMITH CONTINUING

Q. Before the luncheon adjournment you had given evidence about a letter, which had been jointly written by Richard Owen and Sarah Milera, although signed only by Sarah.
A. Yes, that's correct.

Q. Which had been a prelude to your article, which was 'No bridge compo warns Canberra', or about then, wasn't it.
A. Yes, that's correct.

Q. Have you located that letter.
A. Yes, I found that in the lunchtime adjournment.

Q. Looking at the your subsequent fax 'Colin James 3 June 1994', produced to you, do you recognise that as a copy of the fax you received, signed by -
A. Mrs Sarah Milera, at the bottom of the third page, and attached is a copy of the letter written to the Premier, Mr Dean Brown, by Douglas Milera.


Q. You have told us you were content that that was not a composition of Sarah Milera's, but was rather done by Richard Owen.
A. I believe it was done in conjunction with Sarah Milera by Richard Owen.

COMSR

Q. What is the basis for that belief, something you were told.
A. Mr Owen told me so.

Q. Sorry.
A. Mr Owen told me so, that he was preparing a statement for me, with Sarah. Can I just add something?
Q. Yes.
A. For sometime I had been negotiating with the State Government to obtain the second Draper report. The Minister authorised its release to me, but the Lower Murray Aboriginal Heritage Committee was reluctant to
release it publicly. That letter included three
paragraphs from the second Draper report and I was
subsequently contacted by the State Government and
informed about s.35 and they wanted to know where I had
got my information from.
Q. I return to the chronology of articles -
MR ABBOTT: This document has a number of
closures -
A. No, that is the entire document that was given to me. I
didn't get the enclosures to the letter to Mr Brown.
Q. So they were enclosures in respect of the letter to Mr
Brown from Douglas Milera, a copy of which was enclosed
with the fax.
A. Yes, that is the entire fax you have there that was sent
to me.
Q. Between the rally and later in June you wrote a series
of articles, which are attachments 45, 46, 47, 48, 49,
50 and 51, which were - and I will just run through them
quickly - attachment 45 is 'Goolwa seeths over bridge',
11 June.
A. That's correct. That's about the public rally.
Q. Then we have a feature article on 13 June 'Bannon
bureaucrats and that bridge'.
A. Yes, that explored the origins of the bridge project and
the involvement of John Bannon and the Special Projects
Unit.
Q. Then, on 13 June 1994, or it is the same day, isn't it,
an article 'Bridge approved before report'.
A. Yes, that showed that Cabinet had approved the bridge,
before waiting for an official report.
Q. Then, on 14 June 1994, 'Bank moves to liquidate
developers'.
A. Yes.
Q. Which is attachment 48. And that simply was an article
setting just that topic out, wasn't it.
A. And in more particular detail conversations between the
Premier, at the time, Mr Bannon, and the Managing
Director of Westpac, Stuart Fowler, in which he promised to build the bridge.

Q. Then, 15 June 1994, attachment 49, `Chapmans to fight bank on liquidation'.
A. Yes, and that also reported the fact that the Uniting Church was objecting and was joining in in the debate.

Q. Then attachment 50, article of 16 June 1994, `$10 million bridge compo threat'.
A. Yes, that was about the land owners at the Goolwa marina and their belief that they would be able to sue for compensation.

Q. Then, on 18 June, attachment 51, 18 June 1994, you penned a story `Bridge row last minute reprieve for developers'.
CONTINUED
A. Yes, that was the decision by Acting Judge Boehm, to grant a reprieve for the Chapmans until after the Federal Government had decided what to do about the bridge.

Q. On that same day, 18 June, you republished a letter from Rocky Marshall in the `Advertiser'. (Exhibit 37).

A. That's correct.

Q. That is 18 June.

A. Yes, that's correct.

Q. Rocky Marshall was the person named by you as one of the protesters against the bridge.

A. Yes. I got to know Rocky Marshall. I met him for the first time when I went to Goolwa for the delivery of the Atco huts, and he had communicated with me subsequently.

Q. So that was 10 May that you met him.

A. Yes.

Q. Up to 18 June, you had spoken to him on a number of occasions.

A. Several times. He was very concerned about what was happening.

Q. You became aware of a letter published by him in the Goolwa Lions Club Newsletter, didn't you.

A. I did.

Q. He wanted you to publish that letter in the `Advertiser'.

A. He did.

Q. So you published the letter which is set out there in your article `Forbidden legend'.

A. That's correct.

Q. I think what you did was you edited the letter in the sense that you wrote the first paragraph, because the letter in its abridged form didn't have a start to it.

A. That's correct.

Q. I think there was, in effect, a retraction published by the `Advertiser' on behalf of Rocky Marshall, wasn't there, on two occasions.

A. No, only on one. I think it was about the following Wednesday, on 23 June 1994. I have a copy of it here.
Q. This is a Presscom report, isn't it.
A. That is a Presscom printout from the system at the
`Advertiser', yes.
Q. That sets out the text of the letter.
A. That is the full text as it appeared in the newspaper,
yes.
Q. In fact, a letter of apology for causing that letter -
A. Yes, it is. It starts 'I wish to make a public apology
to our aborigines'.
Q. Who is that written by.
A. Mr Rocky Marshall.
Q. What is the date of that letter.
A. 23 June.
EXHIBIT 115 Presscom printout dated 23 June 1994
tendered by Mr Smith. Admitted.
Q. I think you were out of the scene, as it were, for four
weeks or so around about this time.
A. Yes. I had to go into hospital to have a tonsillectomy.
Q. You returned to work on Sunday, 10 July 1994.
A. Yes, I did.
Q. In the meantime, you had heard about the Rocky Marshall
matter, I think, by speaking with people such as Richard
Owen.
A. Yes. I was informed that, as a result of the
publication of the letter on the Saturday in the
`Advertiser', a large group of Aboriginal women led by
Doreen Kartinyeri had visited Rocky Marshall at his home
and threatened to spear him for writing that letter and
breaking the secrets.
COMSR
Q. Sorry.
A. Apparently Neale Draper had to intervene. The threat
was taken very seriously that he was to be speared, and
he was then asked to write a full public retraction
which we published while I was in hospital.
Q. The letter was published. As far as you know, the contents of that letter, what it disclosed, have they been published elsewhere.

A. It was the first time, to my knowledge, that the alleged women's business was printed in such detail.

MR ABBOTT: It was published in the Lions newsletter.

WITNESS: But not in the wider public arena, commissioner.

Q. But subsequent to it being published by the 'Advertiser', that letter, was it more widely published, those details, anywhere else in any other publication.

A. No. It actually escaped the attention of most people. It slipped through the net, so to speak.

Q. Is this the situation: as far as you know, the only time that it has been published in such detail is in that edition of the 'Advertiser' in which it appeared.

A. Yes, to my knowledge. From then on it has been referred to as anatomical features, genitalia, reproductive organs, et cetera. From then on, after we learnt that there was such a strong objection, we didn't repeat the detail.

Q. There has been more press on that topic this year.

A. Recently, but not last year. I'm talking about last year. It has since become widely reported as a result of what happened in May.

Q. So you are back at work on 10 July. I think on that day you received a press release from Mr Tickner.

A. Yes, I returned to work on July 10, in anticipation that Mr Tickner would stop the bridge. I was pretty sure he would go ahead and stop the bridge. So that was a Sunday.

Q. This is the press release relating to the final declaration of the 25 year ban, is that right.

A. Yes. I received this after speaking to Mr Tickner.
EXHIBIT 116                  Press release from the Federal Minister
dated Sunday, 10 July 1994 tendered by
Mr Smith.  Admitted.
Q.  You had a telephone conversation, did you say, with the
Minister himself on that day.
A.  Yes, I did.
Q.  The topic was the permanent declaration, was it.
A.  He telephoned me to inform me that he would be making a
permanent declaration under section 10 of the Aboriginal
and Torres Strait Islander Protection Act 1984.
Q.  I think he faxed to you, by facsimile, the entire
Professor Saunders report, did he not.
A.  Yes, he did.
Q.  Looking at this volume produced to you, do you recognise
that as the Saunders report as faxed to you by the
Federal Minister.
A.  Yes, I do.  I punched the holes in this report, I placed
it into this red folder and the highlighted sections in
pink are my highlighting.
Q.  Looking at the fax header sheet, it is clearly from the
minister’s office.
A.  Yes, it is.  It was sent to me by Di Hudson, who is
Robert Tickner’s chief of staff.
Q.  There are 97 pages faxed.
A.  There are.  The Saunders report actually didn't go to 97
pages as a report in toto.  Mr Tickner was kind enough
also to send me the full list of all representations
that he had received from individuals and companies, a
copy of the map of the area concerned, and the relevant
sections, so I knew what he was doing.  All reports and
other material received are listed at the back as a
bibliography, and everybody's name of anyone who talked
to Professor Cheryl Saunders during her inquiry.
Q.  The fax header sheet indicates that the faxing of that
document took from 1440, that is 2.40 in the afternoon,
until 1518, which is nearly 20 past 3.
A.  It almost took an hour, which is a long time to tie up a
fax machine.
MR SMITH: We have a copy of Professor Saunders report. The only reason I seek to tender this is to establish it is clearly a public document. It was sent by the Minister himself to the media.

COMSR: That doesn't necessarily make it a public document, I suppose. Unless it is intended that it be published.

WITNESS: He sent it to me for the intention of publication.

MR SMITH: I tender the document, but could we have it on the same basis that that be copied? I intend only to copy the first few pages and the last, including the fax header sheet, and return the original to the witness. There is a press release that follows this where the Minister himself asserts that it is a public document.

COMSR: We already have this as an exhibit.

MR SMITH: Yes, I do not think there is any debate that it is a public document. You can buy this down at ATSIC.

EXHIBIT 117 Fax of Professor Sauder's report sent to witness tendered by Mr Smith. Admitted.

Q. Although it is published, as I understand the effect of the apology by Mr Marshall, it was that he inadvertently revealed something that he realised he wasn't at liberty to reveal. Is that the position.

A. No. No, he wanted to reveal it. He deliberately revealed it because at the public rally in the Goolwa town hall, very derogatory and quite racially inflammatory remarks were made by a Dr Partington from Flinders University, and it created a climate in Goolwa of skepticism about the validity of the sacred site claim. Rocky Marshall wanted the letter published to try and show people that there was in fact genuine business down there. He didn't realise the gravity of his actions, and when they went around there saying he
was going to be speared for it, he realised what he had done, and then he sought about trying to correct the letter. However, the intention of Rocky Marshall was to get it into the public arena to try and inform people about the sincerity of the Aboriginal claim.

MR ABBOTT: I understand that Mr Marshall is not of Aboriginal descent, nor is his mother.

WITNESS: That's correct.

MR ABBOTT: So we have got a situation where the information, assuming it was divulged as he says, was divulged by an Aboriginal woman to Mr Marshall's mother, who then gave it to Mr Marshall, who then caused it to be published.

WITNESS: That's correct.

COMSR: It is certainly in the public arena at the present time and it is a matter that involves a Section 35 consideration.

Q. It is in the public arena more recently, you say, because the same details have been -

A. It entered into the public arena, but I was the only journalist really covering the story. The rest of the media weren't following it at that point. The majority of the media only became interested in Hindmarsh Island in May this year, and no-one else picked it up. So when I say it slipped through the net, it wasn't actually picked up by the media then, but it has been picked up subsequently after Mr Milera went on television with his allegations in June this year.

MR SMITH: In accordance with your ruling, it is well and truly in the public arena through the ‘Advertiser’.

COMSR: It is just I have some concerns about the way in which it came into the public arena.

MR KENNY: I think this is a point that we have made previously, the fact that it is in the public arena, and I accept your previous ruling on it - I note there was an appeal in relation to that - but I would urge caution in these matters. It is quite clear,
particularly with respect to Mr Marshall's letter, that
a group of women were obviously very upset about that
disclosure. It is clearly a disclosure that Mr Marshall
didn't realise would upset anyone. But I think the
subsequent reaction of the individuals concerned
indicates that it is seen as being against Aboriginal
tradition to release such information.
MR ABBOTT: It is not seen at all to be against
Aboriginal tradition. It is asserted by this small
group. There is a difference.
MR KENNY: I don't know if it is a small group.
The witness has given evidence of a large group going
around there, quite prominent Aboriginal women. So I
would urge caution upon you. I note your earlier
rulings, however.
MR SMITH: We should move on. This is absolutely
in accordance with your ruling. There is no need to
make any orders in respect of that.
WITNESS: The newspaper never received any
complaint direct in any way, shape or form. Legal
Rights never raised anything in writing with us. We
never heard from anyone.
Q. What is the circulation of the `Advertiser'.
A. The circulation of the `Advertiser' on that particular
day would have been about 220,000. It would have been
read by an average of half a million people.
COMSR
Q. So you would say that one could fairly say that it was
in the public arena.
A. Totally.
Q. On 11 July your article `Secret of the bridge to
nowhere' appeared.
A. Yes, it did.
Q. There was also a break-out article called `Something
we'll never know'.
A. Yes.
C. JAMES XN (MR SMITH)

Q. Of the same day.
A. That's correct.
Q. A break-out article means what precisely.
A. A break-out is a supplementary article to a main article canvassing in more detail elements of the main article.
Q. On 11 July you spoke to your main informant, Sarah Milera, did you not.
A. Yes, I did.
Q. Again, did you take notes of this conversation.
A. Yes, I did.
Q. By reference to your notes, if you need to, can you tell us was that a telephone call, or was it a visit by you to her, or what.
A. No, it was a telephone call. I think she was in Goolwa.
Q. So this was to get her reaction, was it, to the permanent declaration for a stay of construction of the bridge.
A. Yes.
Q. Tell us what was said.
A. She told me that finally the Ngarrindjeri people have been recognised. `We had no rights. They - ` in reference to the Chapmans and the State government `Never approached us or talked about women's issues'. I asked Mrs Milera when the women's business first became an issue, because until this point my inquiries had always been based on the archeological sites and it wasn't until the Saunders report, which I received and I read, that the emphasis was mostly on the women's business. She told me about April, but nobody was listening because men held the rights to heritage. There were no heritage women.
Q. Just to interrupt you there. So your question to her was when the women's business first became an issue.
A. Yes.
Q. What was her answer to that.
A. About April last year but nobody was listening because men held the rights to heritage, but I actually think she meant about April this year.
There were no heritage women. What I was doing was regrouping and reconciliation. It's a very hard thing to do for one person. I still haven't told them all the things. Mrs Milera told me that the last living Ngarrindjeri person who knew the women's business was a Mrs Connie Roberts. She said the knowledge was a powerful thing when women were given the chance. That is why it happened this way which was a reference to a bridge ban by Mr Tickner. I told Mrs Milera I believed Mr and Mrs Chapman would appeal against Mr Tickner's ban. She said 'If they did, there's proof that wrongs were committed of a serious kind'. 'They' - meaning the Chapmans - 'never stayed in the guidelines of the Lucas report' - which is a reference to a report prepared by Dr Rod Lucas on anthropological issues associated with Hindmarsh Island commissioned by Binalong in the preparation of its draft EIS for the construction of the bridge. They never stayed in the guidelines. This has been my argument. Mrs Milera said 'Professor Cheryl Saunders had totally understood the Aboriginal case against the bridge. It's different and people don't have a hold on it. If people disbelieve it, then they are not who they think they are, but I know who I am'.

Q. Then, your article of 12 July 1994, '50 million dollar claim looms over bridge veto appeared'.

A. Yes. That was a summary of possible compensation claims which could arise as a result of Mr Tickner's ban.

Q. That was a review in part two, was it, of what happened today.

A. Yes. That was actually quite a detailed article. I had to summarize quite a lot of reaction to the ban. There was obviously quite a large fallout. Mr Tickner criticised Mr Brown, calling him culturally arrogant. Built Environs denied claims by the State Government that paid two million dollars for work towards the bridge project. Rifts came out within the Aboriginal community, which is the first time I heard of any division. Mr Karno Walker contacted me and expressed
some concern about what had happened. He claimed that
he was one of only two remaining direct descendants of
the Ngarrindjeri people. The rest of it was basically
political fallout, industry reaction and the SA
Conservation Council applauding Mr Tickner, and Mrs
Chapman claiming that his decision would impact along
the entire length of the River Murray. We also went
down to Goolwa. I dispatched another reporter, Judy
Gregory, to go down and get the local reaction of the
people from Goolwa and I also discussed the matter with
the Premier, Mr Brown.

Q. Then, on 13 July, you published an article 'New twist in
bridge dispute', which is attachment 59.
A. That showed that in the Professor Cheryl Saunders'
report, that emerged that the document which she saw
from Mr and Mrs Chapman relating to planning approval
for the bridge was missing an attachment which listed
the conditions under which they had planning consent and
which included quite detailed stipulations on Aboriginal
consultation.

Q. On 12 July, there was a press conference, wasn't there,
at Aboriginal Legal Rights Movement.
A. Yes, there was.

Q. Did you attend that press conference.
A. Yes. They media release inviting us to the press
conference was sent to the Advertiser. As the reporter
covering the issue, I attended.

Q. Looking at this media release produced, do you recognise
that.
A. Yes. It says: 'Media conference. At last an Aboriginal
voice. Know our story the way it was and the way it is.
It is time to listen'.

Q. You received that. That was faxed to you at the
Advertiser from the ALRM.
A. Yes, it was.
Q. The media conference notes 2 o'clock at the offices of
ALRM.

A. Yes, that's correct.

Q. You attended there.

A. Yes. Only two other journalists attended: Deborah
Tideman from the Australian and Royal Abbott from
Australian Associated Press.

Q. You were also present at the conference, apart from the
media represents you named.

A. We went to the foyer of ALRM and we were taken to a
conference room, and Doreen Kartinyeri was there along
with Sandra Saunders the director of the Aboriginal
Legal Rights Movement; a woman who was introduced to me
previously mentioned; Tony Walker, Doug Milera, and
Sarah Milera. I recognised Mrs Kartinyeri from the time
at Goolwa because of her behaviour when the soil was
scraped, and this was the first time I had met Miss
Saunders. Mrs Van Der Byl, Mr Karno Walker and Mr Tony
Walker obviously knew Doug and Sarah Milera.

Q. Van Der Byl is three separate words V-A-N D-E-R B-Y-L.

A. That's correct.

Q. And K-A-R-N-O.

A. That's right.

Q. You made your usual shorthand notes in respect of this
conference, did you.

A. Yes, I did.

Q. Would you tell us then what took place there.

A. The session began with Miss Saunders telling us about
the State and Federal legislation available to protect
Aboriginal heritage. She said 'Aboriginal people have
used that legislation to stop the destruction of
Aboriginal heritage sites in South Australia. People
feel that the problem is a whitefella's problem. It's
not an Aboriginal problem. We have used our legal
position to protect sites, but the focus is that
Aboriginal people are to blame'. Mrs Van Der Byl
interrupted at this point and said 'The State Government
did not do the right thing by us, so we had no
alternative but to go to the Federal Government to look
into our concerns'. Mrs Kartinyeri said 'We used the
Federal Heritage. We turned to Mr Tickner to make a
final decision because the State Minister had failed in
coming to the party by talking to the right people. I
have to add to Aboriginal people around Australia that
the Government and all their dealings with Aboriginal
issues have used this as a political football. We feel
it is time to speak out. We cannot let this continue.
We are going to have nothing left for our grandchildren.
The Bannon Government made these mistakes. Dean Brown
has turned the table and supported the bridge because
the politicians are going to gain. Both parties have
made a lot of mistakes trying to bail out the State Bank
and getting deeper and deeper into trouble. They are
using us as scapegoats. We are being used as political
footballs. I am not happy with what I read in the
papers. Bannon made mistakes with putting the bridge in
the contract, now we have to pay'. She said 'It is
recognition of the Ngarrindjeri nation. We could never
understand why the corruption could go on. They know
who they are and they know what they did. They have to
understand the Ngarrindjeri law, it's as simple as that.
I challenge anyone to say we are wrong. As Ngarrindjeri
people, we've got the law and we've had the law for
thousands of years. I have a broad history of law and
land and which I challenge anybody with. I have to
thank Mr Tickner for understanding that, because we have
been deserted by the State Government from all angles'.
Mrs Kartinyeri then said 'It's time white people learnt
from us. White people have failed because they are not
willing to learn Aboriginal law. Please sit down,
listen, hear what we are saying. Listen'. Karno Walker
then said 'I know my rights. I know who I am and I know
where I am going. Hindmarsh Island is a black and white
issue. It is a human rights' issue. We are not talking
about money, we are talking about things of the heart'.
Sandra Saunders said 'How dare you deny us our culture'.
By this point, Mrs Kartinyeri had become quite agitated.
She asked us what we were doing to obtain the report by
Samuel Jacobs QC. I replied that I asked for the report
under the Freedom of Information Act. She became very
angry at me and abused me. She used words to the effect
'Don't talk to me like that, you fucking white cunt'.
She told me to 'Fuck off and never come back'. Mrs
Kartinyeri then walked out of the room still abusing me.
She did not return. An Australian woman, who was
sitting there, began crying. Took quite a while to
console her.
Q. Could I interrupt you there. What had provoked this.
A. I have no idea.
Q. Was there any retorting, any response, if you like, from
anyone to the dissitations that was going on.
A. We were being very strongly lectured in a very heavy
manner by Sandra Saunders and Doreen and Muriel Van Der
Byl about: it was time for us to listen, it was time we
paid attention to the blackfella's way and the
whitefella should be held responsible and that
everything that happened was our fault. And it was
quite a personal sort of lecture to us as three
journalists who took up their invitation to go down
there. Mrs Kartinyeri, through it, was quite
aggressive, very aggressive, and in the end she said
'What are you doing about the Samuel Jacobs' report?'.
All I tried to say - and I hardly even completed the
sentence - was that I had actually made a freedom of
information request for the Samuel Jacobs' report and I
had been unsuccessful. And that she took exception, I
don't know, to my tone of voice. I was trying to talk politely, considering we had been listening to this for half an hour, and she called me what she called me.

Q. You had, up until this point in time, been reporting quite, shall I say, favourably in the Aboriginal interests from their point of view.

A. I think they had their point of view covered in a very detailed and comprehensive manner by the Advertiser and I had no reason to have any problems with Legal Rights.

And it came as quite a surprise that that was her attitude. They had never raised any problem with me up until that point.

Q. After she had told you, in effect, to leave and never come back, she walked out of the room; that is Doreen Kartinyeri.

A. Well, she stormed out of the room and slammed the door behind her and was muttering under her breath all the way out the door. And she went out and I stood there quite stunned, still on my feet because I got the message that I wasn't welcome to stay. And she went out and Sandra Saunders said 'Sorry', sort of said 'Don't worry about that. That's Doreen. That's the way she talks to everyone'. And tried to sort of say 'Well, basically that is Doreen and that is how she is. Don't worry about it because that is quite normal'.

Q. You say someone else began crying.

A. Yes. There was a member of The Friends of Goolwa and Kumarang who broke down and started sobbing. She couldn't believe the ferocity of the attack because it started with the words that I used and continued for some time. And she was absolutely aghast at what happened. And I stood there quite, as I say, stunned and tried to get my composure back. And I said 'Look, what do you want me to do? Do you want me to leave or do you want me to stay?' We tried to get the press conference restarted, but it was a shambles after that.

Deborah Tideman for the Australian couldn't believe it.

She tried to calm things down and went out to see Doreen...
to try and figure out what happened. She came back and
said it was a waste of time and I couldn't, we were
effectively wasting our time here and went to leave.

Q. You gave us a list of the people who were at the
conference. I take it this lady from The Friends of
Goolwa and Kumarangk was some additional person.
A. Yes, she was. I recognised her again when I saw her. I
actually can't remember her name now, but she was very
upset. She started crying and there was another
gentleman who was there who consoled her when she
basically broke down. They told me, you know, `That is
the way Doreen is, it's quite normal for outbursts like
that in meetings like that’. But it struck me as a
pretty bizarre way to treat the media.

CONTINUED
Q. The list of names you gave us, there were other people there from -
A. The only people I haven't given you are the two white people who were there, if you want to refer to them as white and black.
Q. That was the end of the press conference.
A. I sort of - it finished. We all gathered our bits and pieces and I sort of was obviously quite surprised by her attitude, because I thought I had done my best to cover the issue fairly and walked out and she was sitting on a couch in the foyer smoking a cigarette and I made an attempt to say goodbye to her and I think she told me to `fuck off' again, so I walked out. Sorry about my language.
COMSR
Q. I take it it is a verbatim report.
A. Yes, it is. I have checked with one of the other reporters, she taped it, but unfortunately she has lost the tape.
XN
Q. I think the next thing that happened was another press release from the Federal Minister, wasn't it, apart from you going home and licking your wounds.
A. Yes.
Q. Looking at this media release, now before you, from the Federal Minister, dated 13 July, I think you received that from the Federal Minister at the Advertiser, is that correct.
A. Yes, Mr Tickner and I had developed quite a good relationship, at this point, and he gave me a two page statement direct to the Advertiser just for our use responding to an attack made on him by Dean Brown.
MR SMITH: Just in case you have any misgivings about the assertions that are being made that Professor Saunders's report was a public document, at about .3 of the second page:
`I can categorically state that ... of Professor Saunders.'
I tender that media release.

EXHIBIT 119  
Media release, from Federal Minister, Mr Tickner, dated 13 July 1994, tendered by Mr Smith. Admitted.

Q. On 14 July was your next article in the Advertiser `Bridge scapegoats claim'.
A. Yes, it was. I decided that to salvage - to try and salvage something from the press conference, rather than just ignore it, I chose to write a story to try and express what the woman had said before Mrs Kartinyeri became abusive and I wrote a story based on their comments about being made political scapegoats. The issue being a political football. Their support for Mr Tickner and their disappointment with the State Government. I could have ignored it, but I didn't.

Q. There was a feature article, also on that day, which is attachment 63, `Trump card beat the bridge', and that was a feature article, by you, of 14 July 1994.
A. Yes, that was a full page article canvassing all the issues inside Professor Saunders's report.

Q. Featuring a photograph of Sarah Milera at the ferry.
A. Yes, and a photograph of the - Mr Carslake being arrested by the police and also a 19th century lithograph of Aborigines at Goolwa.

Q. Then, on 26 July, you featured an article, `Westpac in bid to block Chapmans', attachment 64.
A. Yes.

Q. That was just an article about just that topic, is that right.
A. Yes, that is. It was about Partnership Pacific Limited and the Chapmans' continuing dispute legally.

Q. Then, the next day, 27 July, there was a follow up article, `Chapmans use legal aid in bridge compo battle', attachment 65.
A. Yes, that basically showed they successfully applied for legal aid in their application in the Federal Court for a judicial review of Mr Tickner's decision.
Q. Then, on 8 August 1994, you penned another article, `$20 million debts claim Goolwa developer'.
A. Yes, as I said before, Acting Judge Boehm had deferred the liquidation question until after Robert Tickner had decided what to do. As a result of Mr Tickner's ban, Acting Judge Boehm granted the liquidation winding up order.
Q. Then, on 10 August, another article written by you, headed `Call for marina inquiry', attachment 67.
A. Yes, that summarised the concerns of a Mr Clem Viney about a development for a marina at Wellington, which he claimed had been torpedoed, because of the Chapmans' development on the other side of the river.
Q. On 11 August, you wrote an article, which was published on 11 August 1994, `Hindmarsh Island couple won't appeal'.
A. Yes, that was Mr David Meyer, the Chapmans' lawyer, notifying Acting Judge Boehm that there wouldn't be an appeal against the liquidation order.
Q. Then, on 19 August 1994, you moved to another area of the country, as it were, didn't you.
A. Yes, my foray into Aboriginal affairs was progressing to the urban area.
Q. You featured an article on the Port Adelaide area, dealing with Veronica Brodie.
A. Yes, I did.
Q. The article was headed `Sacred site bid threatens Port revamp'.
A. Yes.
Q. That article speaks for itself, but -
A. Essentially, in summary, it was Mrs Brodie had been trying for three years to get a site registered at Port Adelaide, more specifically, at Glanville, which was the site of the former CSR factory, because it was the birthplace of her great grandmother and also her grandmother and she wanted it registered on the sacred site register. And she was also seeking Federal Government funding to purchase the land, to develop a
retirement village for Aboriginal Elders.

Q. The relevance of that evidence I suppose to us is that there is a mention in your article of Rebecca Wilson.

A. Yes, Mrs Rebecca Wilson is Veronica Brodie's mother and she - I learnt, through my enquiries, that she was born at Colley Reserve at Glenelg and that she had taken Mrs Brodie back to the CSR site in the presence of her grandmother, Mrs Spender, to tell her that, whatever happened, she one day had to reclaim the CSR site as their matrilineal and their ancestral home.

Q. I think Veronica Brodie gave you an anthropological report by Sherridan Melvin.

A. Yes, Sherridan Melvin is not a professional anthropologist. She was an amateur who befriended Mrs Brodie and prepared this report (INDICATES), which details Mrs Brodie's great grandmother, grandmother and mother and her family history.

Q. I think you have produced that to the Commission, haven't you.

A. Yes, I have.

Q. On 23 August 1994, another article appeared headlined `Bridge ban political decision', which is attachment 70. I think that introduced, didn't it, the application for judicial review in the Federal Court.

A. Yes, that canvassed the issues that were being raised by Michell Sillar Lynch & Meyer, the Chapmans' lawyers, in their bid to have a judicial review of Mr Tickner's ban.

Q. On 25 August 1994, you returned for yet another follow up article on Veronica Brodie.

A. Yes, Mrs Brodie still despite the publicity in The Advertiser hadn't had any success with the Department in securing the registration of her site, so I published again in more detail the matrilineal links of Mrs Brodie and Mrs Rebecca Wilson to the site at Glanville.

Q. There was a further story on the same topic on the same day, which is attachment 72, isn't it.

A. Yes, the same day I also wrote a story about the fact that Mr Brown and Mr Armitage had decided to hold a
summit with Aboriginal leaders to talk about the
Hindmarsh Island issue, the problems of the sacred site
register as that was being perceived and the need to
have a look at consultation with Aboriginal groups
regarding development.
Q. Then, on 26 August, there was an article by you `Now it
Is a bridge too far', which is attachment 73.
A. Yes, that was an analysis story saying basically that
the Hindmarsh Island bridge saga was only just starting
and that it would probably go for many years yet.
Q. There are a series of articles then where you reported
on the Federal Court review.
A. Yes, I was the only journalist to cover the judicial
review.
Q. I will just run through them -
A. Apart from Catherine Towers from the Australian.
Q. There was an article, on 2 September 1994, attachment
74, `Bridge review set to start'.
A. Yes.
Q. Then an article, on 15 September 1994, attachment 75,
`Aborigines told how to stop bridge'.
A. Yes.
Q. An article, on 17 September 1994, attachment 76, `Phone
call angers sacred sites judge'.
A. Yes.
COMSR: I wonder if, before any journalist
leaves, I could try and explain something?
I must admit, it has been exercising my mind and
probably no-one would think to publish it, in any case,
but, while it is consistent with what I have previously
ruled, that anything in the public arena, in my view,
is not a divulgence contrary to s.35, I have, in this
instance, from what Mr James has said, gathered the
impression that there are some members of the
Aboriginal community who feel that Mr Marshall went
too far in what he had to say and that it was an
afront to them to have those details published. It
seems to me that, although they are in the public
arena, that the repetition of those particular details,
as I have been led to understand, could possibly cause
concern and distress to members of the Aboriginal
community. I appreciate I have made a number of
suppression orders, some of which are short-term and
have to be reviewed, but it is in the nature of this
Inquiry that I have to be concerned about the effect
of certain of the evidence. Notwithstanding that
these details have been published and republished,
I would be reluctant to think that the occasion of
the hearing of them in this Inquiry might cause them
to be republished in circumstances where they could
afford some distress to members of the Aboriginal
community.

I am not making any judgment on that. I am just,
for the purpose of what I have in mind, considering
that as a possibility. And, although there may appear
to be a certain inconsistency in what I have ruled and
what I propose to do, it seems to me that, pursuant to
s.16 of the Royal Commissions Act, that -

WITNESS: In May or June this year, after the fabrication allegations
became public, Rocky Marshall contacted me again and
he had written another letter and he wanted that letter
published in the newspaper and that letter basically
conveyed the incidents of last year and that he had
put this material in the newspaper. He had been
visited by these Aboriginal women who wanted to spear

1 him at his home a Goolwa.

COMSR

2 Q. Yes, I gathered that.

3 A. And he wanted this material to become public. Not the

4 material in the letter, but the fact that he had been

5 visited by the group of women, because he again wanted

6 to show how sincere and genuine they were and he said he

7 had to get the permission from ALRM before he could give

8 me the information. That permission wasn't forthcoming,

9 so I couldn't put it in the newspaper.

10 COMSR: The media would no doubt not pay the

11 slightest attention to it but for the fact that I have

12 drawn attention to it. But, if the repetition of these

13 details could cause some distress, it seems to me that

14 it is an occasion where at least I should have some

15 regard to what the witness has said. I am not saying

16 that it is contrary to s.35. I am simply saying that,

17 where there is evidence that the repetition of these

18 details can cause distress of the sort that the witness

19 has spoken about, that it is an appropriate occasion to

20 use s.16 of the Royal Commissions Act. Notwithstanding

21 that the matter is in the public arena.

22 There may seem to be a certain inconsistency in that

23 stance, Mr Smith, but I am simply saying that, if the

24 further repetition is likely to cause distress to

25 anyone, that it might be appropriate to consider

26 suppressing the details.

27 MR SMITH: I am concerned that you would be making

28 a rod for your own back in making that order, that is

29 all.

30 MR ABBOTT: In saying, as you did, that, in view of

31 the distress that was caused to these women: we have

32 yet to hear any evidence of that.

33 COMSR: I appreciate that.

34 MR ABBOTT: All this witness was able to tell us

35 quite properly was what had been reported to him by

36 Rocky Marshall.
COMSR: Yes, I know that.
MR ABBOTT: So, there is no direct evidence of any distress.
COMSR: Certainly there is no direct evidence of that sort, I appreciate that.
MR SHORT: If I may also just briefly say the evidence that you do have, at the moment, is that there was no complaint to The Advertiser. There was no criticism at all communicated to the newspaper for the publication to the State at large to a readership of half a million people and over 200,000 copies of that paper. There was no other reaction. Now, that is already all in the public arena. It is already divulged. It has already been made a publicly available exhibit, sometime ago, in this Commission. And there is no-one today who is putting forward any reasons why it should be suppressed.
COMSR: Yes, I admit it is my own concern on hearing the witness talk about the reaction that this brought. But perhaps I may be making a rod for my own back in simply mentioning it, because it draws attention to it, whereas it otherwise might remain unnoticed.
MR SHORT: Yes, could I suggest it may be more appropriate to move on with the evidence in the absence of any order?
COMSR: I don't know that there is any absence.
MR KENNY: I try not to interfere too often, but you have heard evidence of a reaction. It may be hearsay evidence, at this stage, but it has been fairly widely reported. In fact, no-one seems to doubt that there was a reaction, indeed, a retraction from Mr Marshall to his letter. And this, I think, is the second time we have heard evidence of that reaction. So, it is quite clear that there is a group of women that would be offended by the republication of that letter. And, indeed, on the previous occasion, there was, if I recall, very little evidence about it. It has now come to be a more significant letter, as it were,
and I would suggest the press, obviously through their counsel, are showing it much greater interest on this occasion. And, consequently, I do urge that you suppress the contents of that letter simply on the basis that the Commission does not wish to offend people who, shall I say, perhaps are in a position where it is not necessary for them or for this letter to be republished.

CONTINUED
It is available before the commission. It is essentially before you, and I would submit that really its republication would again cause offence. I note your interpretation on Section 35.

COMSR: I am not considering it as possibly caught by Section 35. I am just considering the evidence that I have heard about the reaction of a group of women to Mr Marshall's release of the details, and the suggestion that they were offended by it. Without in any way making any judgment on the merits of that claim or otherwise, it raises the possibility that there is a group of women who would be offended by it. Now, whether it is genuine or not, I am not in a position to say at this stage. As I say, I appreciate it is in the public arena. All I am concerned about is that the repetition of it -

MR KENNY: It was the point I made last week, that simply because it is in the public arena doesn't mean -

COMSR: That is the end of the matter.

MR KENNY: No, or specifically because something is in the public arena it doesn't offend some members of the public. I suggest, again, that is a similar situation here, that it may offend.

COMSR: I wasn't concerned about some members of the public. I was concerned with the specific group.

MR KENNY: That is correct. They are certainly also members of the public.

MR SMITH: Could I ask this witness one question before you make a ruling?

COMSR: Yes.

Q. I think you spoke with your informant, Sarah Milera, about the incident where Mr Marshall was -

A. I did.

Q. Confronted by these women, including Sarah, did you not.

A. Yes, I did.

Q. What did she.
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A. I asked her about the visitation of the large group of
women to Rocky Marshall's place at Goolwa and what it
was all about. She replied to me 'That was a pantomime
arranged and staged by Dodo' or Doreen Kartinyeri to try
and show the woman who had just arrived from Murray
Bridge on the Sunday before they met Professor Saunders
on the Monday, to show them how serious this whole
business was, and that it was actually a staged incident
to try and get across the gravity of the information
which she was about to share with them.

Q. Did she convey to you pantomime in the sense of -
A. She used the word 'It was a pantomime'.

COMSR: I do not find it an easy situation to
answer at the present time.
MR SMITH: Would you like to think about this?
COMSR: Yes, I intend to. As I say, I am aware
that I have made perhaps an unusual large number of
suppression orders, but it isn't permanent. As with a
number of these other orders I have made, I might review
a number of them, but I do think it is a matter I should
give some thought to.

MR SHORT: In light of what you have said, this may
make absolutely no difference, but I have said it
before, in the public nature of this inquiry -
COMSR: I appreciate its public nature.
MR SHORT: About sensitivity, I understand and
acknowledge that, in particular in the Section 35 area.
But we are in a situation where we are dealing with
public matters, and the further evidence Mr James has
just given makes it all the more important that this
should be before the public. If people want to come
along here and give a different version of events, we
courage them to do so.

COMSR: Yes, but it is too late then if somebody
comes along and gives a different version if, meanwhile,
a matter has been published.
MR SHORT: Absolutely not. In terms of getting to
the bottom of it, a report of this evidence is far more
likely to encourage people to come along and seek to
challenge it. Whereas, if it never gets out into the
public arena, no-one will ever know.
COMSR: Perhaps I am being unnecessarily
cconcerned about this matter, but -
MR SHORT: It is a matter of concern, but the
only -
COMSR: It is in the public arena. It has been
published on a number of occasions and there probably
will be no great hardship for a few days, while I
consider the matter, if the details are not repeated.
MR SHORT: It is certainly a matter of concern that
the only supporter of suppression from the bar table has
no right to make those submissions in respect of this
matter.
MR KENNY: I object.
COMSR: I appreciate that. It is a concern I
have raised myself. But it is a matter I just want to
think about. It doesn't mean that all of these matters
aren't going to be made public in the final analysis.
MR SHORT: The concern I raise in relation to a
suppression for a few days is again one I have
raised before. In terms of getting across to the public
a coherent picture of what is actually taking place in
this commission, if it is delayed for a few days it just
doesn't happen.
COMSR: I don't think that this is in that
category, because it is a matter that has been published
on a number of occasions before now.
MR SHORT: No, in relation to the course of the
hearing of this commission, I am not aware of it having
been published. I am aware that it has been available
to be published but no-one, I suggest, has put anything
to you but that Exhibit 37 has, as an Exhibit, been
reported, or that Mr James' evidence -
COMSR: It is not an easy situation. It seems
to me that if there is the suggestion that someone is
going to be unduly prejudiced by the repetition of this
material, that it is a basis for suppression, and it is
a matter I want to consider.
MR SHORT: The evidence at the moment is that there
was a pantomime. There was a charade. There is no
other evidence. What you have is evidence of a charade.
COMSR: I may be being unduly sensitive to this
issue, and I admit it. I don't find it an easy
situation in which to have to make decisions on the
question of suppressions, but it seems to me that no
great harm will be done as far as public appreciation is
cconcerned if I do consider this matter. I appreciate I
am alone in this respect.
MS PYKE: I stand in support of you, Commissioner,
in the sense that whether it is in the public arena or
not is scarcely the issue. I haven't brought with me
the Terms of Reference of the commission, but they
require you very specifically to be sensitive to the
beliefs and sensitivity of Aboriginal people. There is
very clear evidence that this is a particularly
sensitive topic. Mr Abbott might think this is a joke,
but I am sure there are a lot of people who don't hold
his view.
COMSR: As long as there is the possibility, at
this stage I have to treat as equally likely outcomes of
finding one way or the other.
MR SHORT: What I was putting to you was on the
basis of the evidence which has been given. There is no
other evidence. As far as I am aware, there is not
going to be any other evidence on this topic.
COMSR: The rod I have made for my own back is
probably bringing it up in the first place, but I do
propose at this stage to make, pursuant to section 16A
of the Royal Commissions Act, an order that, until
further order, those details as disclosed in Mr
Marshall's letter concerning what he was told by his
grandmother of women's business, not be republished at
this stage.
MR MEYER: That is just the seventh paragraph if you look at Exhibit 37.

MR SHORT: So that members of the media are clear what is being suppressed is the contents of the seventh paragraph of Exhibit 37.

COMSR: Yes.

MR MEYER: The paragraph starting `She told me.'

COMSR: Probably no-one intended to publish it in the first place, so it is no great problem.

MR SMITH: Is that `She told me of the Aboriginal legend covering the Lower Murray ... Murray figure, Lower Mouth' all of that?

COMSR: Yes.

MR SMITH: That has enormous repercussions on other areas of evidence because that is not only mentioned here in the Rocky Marshall letter. That particular configuration of landscape is the subject of other evidence, other documents, other newspaper articles.

COMSR: I have no doubt.

MR SMITH: If we suppress that, how does the other material stand?

COMSR: I don't know that it has been in such detail as that though.

MR SMITH: It has exactly been that, that is the trouble. The configuration of landscape, as is recounted there.

MR ABBOTT: It is in Dorothy Wilson's evidence, her cross-examination.

COMSR: Dorothy Wilson's evidence is not in the public arena.

MR SMITH: It is in other newspaper articles. It is in other reports. That is the difficulty of this topic. But you are limiting it just to this letter of Mr Marshall?

COMSR: Yes, that is the evidence I have before me at this stage. I am taking this step while I consider it, as much as anything. I can consider the effect it might have in the context of the other
evidence, but it is just a step while I consider whether
or not this commission should be allowing the repetition
of evidence of which I have heard evidence from the
witness, the reaction of other members of the Aboriginal
community.

Q. I think I have reached the stage where I was simply
nominating all your Federal Court report articles on the
application for judicial review. We had reached -
A. The phone calls to the Federal Court judge.
Q. That is right. So `Phone call angers Federal Court
Judge' was an article in the `Advertiser' penned by you
on 10 September 1994.
A. Yes, it was.
Q. That was about, we all know, the Minister ringing the
judge direct.
A. Yes, and upsetting Judge O'Loughlin.
Q. Again, your article `New push for island bridge' on 6
November 1994, attachment 77.
A. Yes. Westpac entered the fray again and said they
wanted the bridge built, putting the pressure back on.
Q. That wasn't a Federal Court report then.
A. No. That was - I came to hear of negotiations between
Westpac and the Transport Minister.
Q. Then on 8 November 1994 `Bridge ban leads to law
review', attachment 78.
A. Yes, that was an announcement by Mr Tickner that the
Federal Minister had overseen a meeting of all State
Aboriginal Affairs Ministers to look at the legislation,
which was used to stop the Hindmarsh Island Bridge for
possible review, and to look at the consultation process
nationally.
Q. You then reported on 10 November 1994 remarks made by Mr
Ian McLachlan in Federal parliament concerning `Women's
claims on bridge made up'.
A. That's correct.
Q. I think there you reported the speech of Mr McLachlan in
Federal parliament, detailing, amongst other things, the
dissident women’s position, or at least one of them.

A. Yes. It was the first time that the name of Mrs Dorothy Wilson had entered the public arena as someone who was disputing the validity of the beliefs.

Q. On 19 November, you reported an article concerning the laying of a cable, a Telecom cable across the river.

A. Yes, I did.

Q. Can you tell us what led you to be reporting about that.

A. Yes, I received a telephone call, informing me of an allegation that a large sum of money had been paid to the Aboriginal women who objected to the bridge to enable the laying of the fibre optic cable by Telecom right through the area which was declared off limits by Mr Tickner. This was in the vicinity of 150,000 up to half a million.

Q. You pursued that with Telecom.

A. Yes, I did. I subsequently had a meeting with Telecom. I put directly to them the allegation, that over 000 had been paid to the Aboriginal people who were opposed to the Hindmarsh Island Bridge to ensure that a fibre optic cable which was to be included in the construction of the bridge was able to be laid between the island and the mainland, therefore, linking the island to the mainland.

Q. The response from Telecom.

A. I asked them for a written response to those allegations.

Q. I think they handed you what amounted to a press release or a statement.

A. Yes, they did. They gave me a written statement, and I also obtained a information brief prepared by Telecom on its proposal to lay the cable, together with a map showing the route of the proposed cable, which was indeed through the area declared off limits by Mr Tickner.

Q. So this was the position, was it, that Telecom had planned a cable to be part of the construction of the
bridge. In other words, to go across the river as part
of the bridge.
A. Yes, that's correct. The bridge infrastructure was to
include a water main, a fibre optic cable and
electricity supply as part of the bridge infrastructure,
which is why the residents of the island wanted the
bridge as much as they did, which is one of the key
reasons.
Q. Of course, the bridge having been banned, Telecom were
faced with finding another means of getting their fibre
optic cable across the river.
A. Exactly. They still had to put the cable across and
they were in a quandary how to do it. Before this, I
had looked at a situation at Mount Barker involving
Telecom with the construction of the telecommunications
on top of the Mount Barker.
COMSR
Q. Has this got anything to do with this before me.
A. The same people were involved. The Lower Murray
Aboriginal Heritage Committee.
Q. I don’t suppose I can pursue that matter here under the
terms of this commission though, can I.
A. Sure.
XN
Q. In any event, you had a meeting with some
representatives from Telecom.
A. Yes, I did.
Q. They handed to you -
A. No, they later provided - after the meeting at which I
presented them with the allegation that they paid money
to the Aboriginal people, they provided me with that
statement there.
Q. Looking at this statement produced to you, that was the
response to your inquiry.
A. Yes, it was. I put not only the allegation that they
paid money and that money had been accepted, but also
asked them about the extent of consultation with the
Aboriginal people concerned.
Q. I think you also obtained an information brief about the
cable and how it was to be laid.
A. Yes, I did.
Q. You obtained that from whom.
A. Mr Karno Walker.
Q. But it is to do with the cable, isn't it.
A. Yes. He was upset at the fact that the money - this
alleged sum had been paid. He was saying that the money
should go to a school for Aboriginal children.
Q. Then you received plans showing, if you like, the route
of the cable across the river, bearing in mind now the
bridge couldn't go into place.
A. Yes, that's correct.
Q. You got these plans from whom.
A. Mr Karno Walker.
Q. And also a photocopy of some sort of junction box.
A. Yes, the actual infrastructure for the
telecommunications facility on the island. Mr Walker
also gave me various quotes which he wanted to be
published in the paper.
CONTINUED
Q. Bearing in mind the allegation that you have told us about, it's the case that Telecom made it clear to you in the statement they provided you that the only money which changed hands was a formal meeting payment of $505 required by the community to cover the transport and meal costs of members attending; is that right.

A. That's correct. The only sum that was paid was 505.

Q. Your investigation, as it were, actually provided no corroboration, if you like, or support for the allegation of a large sum of money.

A. That's correct.

Q. You made no further enquiries on that topic of Telecom.

A. Only into the suggestion at Mount Barker, which I felt was very relevant.

Q. On 15 December, you reported again on the Federal Court matter and in particular the evidence of Professor Saunders.

A. Yes, I did.

Q. I think you met Professor Saunders in court, didn't you.

A. Yes, I did.

Q. You continued reporting the Federal Court review and the two articles 'Bridge impact report slammed' and 'Bridge claims not invented', being attachments 82 and 83 and dated 7 December 1994 and 21 December 1994 were articles of the Federal Court review; is that right.

A. Yes, they were.

Q. In the article 'Bridge impact report slammed', you there feature Mr Campbell, I think, do you not.

A. Yes, Mr Alan 'Chirpy' Campbell.

Q. You spoke to him, did you.

A. Yes. I met Mr Campbell some time before this late on a Friday afternoon, early evening. He was introduced to me by Mr and Mrs Chapman.

Q. Did you make notes of your conversation with him.

A. Yes, but I don't think I have the notes here.
Q. Mr Campbell had given evidence in the Federal Court, hadn't he.
A. Well -
Q. Can you perhaps have a look.
A. My chronology - sorry, I don't have my notes in front of me. Mr Campbell - I met Mr Campbell and Mr and Mrs Chapman in a cafe and, from memory, Mr Campbell outlined his concerns about: the validity of the women's business; the fact that he was one of the sole remaining descendants of the clan which had lived on the island; that he had not been consulted at any point during the inquiry or the bridge ban; that he disputed the truthfulness of the claims being made by a group of women; and, basically, he wanted that material published. It wasn't published because I had no way of ascertaining exactly who Mr Campbell was. When I made enquiries, I learned that he was the same gentleman who had made a threat to get money from Colonel Gadaffi to shoot the white intruder, and I had a bit of a question mark about his credibility. I decided if he was going to make those sorts of claims, I would wait and hear them in the court, rather than to stick my neck out and put them in the paper.
Q. Your next story was 15 February 1995. I've skipped over the ones we have done before. Your next story was 15 February 1995: 'Bridge ban set to be reviewed'. That is attachment 84.
A. Yes, that's correct.
Q. Where you there predicting an outcome for the Federal Court inquiry.
A. Yes. I predicted, on the evidence which had been present - I was the only person to attend the Federal Court judicial review in its entirety. It seemed to me that there was a fairly strong case on procedural grounds for a review and I predicted that Justice or Judge O'Loughlin would actually come down in favour of the Chapmans' application, and my prediction proved correct.
MR MEYER: I think Mr James means that he was the only journalist who attended the inquiry in its entirety.

Q. On 16 February, you reported the ruling that you had predicted.
A. Yes. That prediction came true and Judge O'Loughlin overturned it on procedural grounds.

Q. You would accept that you have foibles in this area:
A. I'm not always right - and I've also called you a QC.

Q. On 17 February, you reported 'Huge compo claim looms over bridge', which is article 86.
A. Yes.

Q. That's article speaks for itself.
A. Yes.

Q. Then, you did another feature story on 18 February 1995, which was 'Seal of secrecy'.
A. That was a summary of the judicial review and the role being played by the so-called secret envelopes and the secrecy which surrounded the women's business and the difficulties that it posed for Judge O'Loughlin and the issues canvassed by the Chapmans.

Q. Then, on 22 February, another story of yours appears 'Spearing threat in new bridge move'. This is to do with a petition, I think, isn't it.
A. Yes. Mr Alan 'Chirpy' Campbell was upsetting a large number of people by this point with his continued activities behind the scenes and also publicly in trying to raise his concerns about the validity of the women's business. He, by this stage, had gathered what he purported to be 100 or so signatures from Ngarrindjeri people questioning the role being played by the Lower Murray Aboriginal Heritage Committee calling for the Minister, Dr Armitage, to disband that committee, to hold elections of that committee, and pointing out that the committee hadn't adequately consulted with
Ngarrindjeri people before opposing the bridge.

Q. I think you received a media release from Alan Campbell, did you not.
A. Yes, I did.

Q. Looking at this document produced, do you recognise that.
A. Yes, that's the media release I received relating - it says 'Hindmarsh Island Bridge from Alan Campbell, 17 February 1995'. It talks about his petition saying 'This has been signed by over 100 people and that has been sent to Mr Tickner, Mr Garnie Wilson the chairperson of the Aboriginal Heritage Committee. Mr Campbell describes himself as an elder of the Kumarangk tribe and very much would like Ministers Armitage and Tickner to recognise the other side of the family clans and for him to acknowledge that we exist and have never been consulted by him or his staff' - and that is a reference to Mr Tickner - `and talks about "We have been excluded from being Aboriginals because we have been denied moral support from the heritage mob - Tickner's and Armitage's office, the ALRM and the Lower Murray Nunga's Club - and we feel that we're treated as an outcast simply because we fought for our rightful opportunity of consultation"'.

Q. That media release that you received provoked your article of 22 February 1995.
A. Yes, because Mrs Milera, by this stage, had lost patience with Mr Campbell, as had other Ngarrindjeri women, and she wanted me to go down and see her at Goolwa.

EXHIBIT 121 Media release from Alan Campbell dated 17 February 1995 tendered by Mr Smith. Admitted.

Q. As a result of that media release, you actually sought out Sarah Milera and spoke with her, didn't you.
A. Yes. I, once again, applied my regular route down to Hindmarsh Island and met with Sarah Milera at the Goolwa wharf and in the company of her husband Douglas, with
Q. Did you make shorthand notes of that conversation.
A. I did.
Q. Can you then tell us precisely when it was that you spoke with the Mileras and what was said.
A. I spoke to them in, I think it was, late morning around lunch time on February 21. I talked to Mrs Milera about the petition and the issues that it had raised, particularly the consultation aspect with the committee and whether or not it had, in fact, consulted widely with Ngarrindjeri people before making the sacred sites claims against the bridge and the way it was presented to the Minister.
Q. The petition you spoke to her about, it was namely the one obtained by Alan `Chirpy’ Campbell.
A. Yes, it was.
Q. Can you tell us what was said.
A. She said `I’m sick and tired of it all. I’m not saying this is my island. I am the custodian of this land for all people. I have never denied his, Chirpy’s, right to be involved in this issue. The land, this land is for everyone. Everyone has the right to an opinion, but you don’t come and give a one-sided approach.’ Mrs Milera told me she was still living in Goolwa and heard rumours that Mr Campbell was going to move to Hindmarsh Island. She said `I have traditional help as well. Anything that affects me, the women hear about it. Goolwa needs peace, not the foolishness which is only greed and not for the benefit of my people. I still don’t hate him, Campbell. I will not talk to him. I have been fighting for my heritage. He should be banished or dealt with by traditional law.
COMSR
Q. `He’ being Mr Campbell.
A. She was talking about spearing him. `He has committed treason. He is a traitor. I respect him as a Ngarrindjeri person, but you have to make the right decisions. You have to be a person who everybody agrees

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with.’ I think I changed subject then and asked Mrs Milera where she had first heard about the women’s business. She said she had been told about it by ‘Connie Roberts, my auntie. She is the elder with the knowledge. She comes down when I need her. My bond is very special. I live here and she has taught me things. We didn't read it from books. We know it from tradition. I was born with it, the tradition. I have known it all my life. My auntie has told me I am the chosen one. There is a place for everyone, not just one section.’ I then asked Mrs Milera about the Federal Court decision by O'Loughlin J. ‘He hasn't overturned it on our rights. He has overturned it on the way Mr Tickner interpreted it.’ I asked Mrs Milera about the sealed envelopes. She said ‘Nobody knows the truth. It is missing from everyone. People who know us come with respect.’ Mrs Milera told me that the past 12 months had been very traumatic for her. ‘They have been really hard. I'm getting really tired. It's about time the Ngarrindjeri understood the law. If they want to be Ngarrindjeri, they must understand the law. You don't commit treason against your culture.’ Mrs Milera told me she believed some signatures on Mr Campbell's petition had been forged. She suggested I contact Mr Frank Tuckwell. She told me he was the Aboriginal liaison officer for the Port Elliot and Goolwa District Council. She told me Mr Tuckwell had a good understanding of the bridge issue and Aboriginal tradition. She said ‘Black politics has to be discussed by black people. They have to sort that out. Our system is in place and that is how we are dealing with Aboriginal planning issues until the Minister tells us something different.’ I asked Mrs Milera where she was living. She gave me her address as 17 Sexton Street, Goolwa. She said ‘I will defend my heritage. I will defend the law and I challenge anyone to come in. Whatever I have learnt will die with me. Women's business should not be dealt with lightly, but in all of
this there are lies, untruths. I could withdraw from it
all, but there is my heritage.' I asked Mrs Milera about
Mr Campbell's attempts to undermine the credibility of
the women's business. She told me the issue was
attracting stupid talk. `It is a part of this issue,
but it is not the whole issue. Why don't they put me
into court? Why don't they put me on the stand? I have
earned respect and support from all over the place. I
am very upset that Chirpy has now come in and is
threatening all the good work that has been done towards
more reconciliation. That is what has got to me here at
Goolwa. It feels like I have finally come home. I
have been lost. If anyone else comes and mucks up this
place, they will have the Aboriginal law to deal with.
Lots of times I have felt like giving all this up and
getting a quiet corner of the world. But I can't because
I must defend my heritage the right way. No-one can say
I did wrong. No-one. I can sleep at nights. Mr
Tickner didn't do anything wrong. What Mr Tickner did
was listen. He is a very fair person. Federal politics
understands us, but the State has deserted us. Why
aren't the State women politicians coming to talk to us?
Why aren't they talking to us? If they want
reconciliation, they must start talking. This Federal
Court judgment could destroy what has been achieved with
reconciliation and we could go backwards. I want to go
to court. Mr Tickner has to appeal because his
credibility is at stake, not just ours. This State
Government is so schizophrenic. They don't know what
they want. They can't make up their minds. They will
now find out about people pressure'.
CONTINUED
`We will still protect the environment. We will still protect the jobs.' Mrs Milera then told me that Impartja Television, which is an Aboriginal television network based in Alice Springs, was doing a story on the bridge issue. She said `All the traditional people know about it now.' That's a reference to the people who live in Central Australia and in the Pitjantjatjara lands. `They are getting organised to come down and support the women.' Mrs Milera said the threat by ATSIC to withdraw its money still remained. `People must live with respect. I want the right to see that petition. I query it. Men still support the women and are standing by the women. Val Power wants to know what to do with the Campbells.' I asked Mrs Milera again about the women's business. `What I have been saying is true. There is a truth that has not been written yet, because truth is part of the law, the law has to come back. They, the Campbells, went against our own culture from our own area.' And that is the completion of my shorthand notes. And I found this too (INDICATES).

Q. You now refer to a note out of your file, which reminds you of, what.
A. Yes, it is a note showing that Mrs Sarah Milera rang me wishing to speak with me urgently at 1.49 p.m., on 20 February, and it says `Alan Campbell getting 100 signatures to present to Armitage.'

Q. So, your attendance down at the Goolwa wharf was in response, was it, to that.
A. Yes, she came forward, wanted to meet me. I arranged to go down and see her the following day.

Q. Having obtained that response from Sarah Milera, the next thing that occurred was your article, on 23 February, 'Union pledges to stop bridge work', is that right.
A. That's correct.

Q. You there refer to your conversation with Mrs Milera, do you not.
A. No, not really. What happened there was the CFMEU gave
out a press release about a week earlier, which I sat
on, which is a journalistic term for not publishing
straight away, and that was basically that the CFMEU was
going to go ahead and build the bridge and defy the
injunction - not build it, that they stopped it. That
they continued to picket it. And Mr Campbell, at that
stage, had read Mrs Milera's story the previous day
about getting speared and rang me up in quite an
agitated state.

Q. I will come back to that. Looking at this fax produced
to you, dated 16 February 1995, do you recognise that as
a fax header sheet from the Construction Forestry Mining
and Energy Union to you.

A. Yes.

Q. Dated 16 February.

A. Yes, and it was from David Thomason, who referred to
himself as kilawee and also referred to me as kilawee.


A. Yes, Mr Thomason told me that was Ngarrindjeri for
brother of the tribe.

Q. Mr Thomason made you -

A. I have no idea if that is the case, but that is what Mr
Thomason told me.

Q. And the fax speaks for itself, but you remember
receiving that.

A. Yes, I do. I received two copies of it, because I lost
the first one. I had to get them to send it again, I
remember that.

Q. That was notifying you that that union was going to
unconditionally support the Aboriginal cause to stop the
bridge.

A. I think it is actually more specific than that. It was
actually unconditional support and solidarity to the
Ngarrindjeri people and, in particular, to the
Ngarrindjeri miminis, M-I-M-I-N-I-S, which I took to be
women.

Q. Having got that fax much earlier that you had sat on,
C.A. JAMES XN (MR SMITH)

that then went into your article then, on 23 February.
A. Yes, and I refer, in that article, to that word I have
just used to describe Ngarrindjeri women.
Q. On 7 March, you caused another article to appear in The
Advertiser, `Row erupts over leak of bridge documents'.
A. Yes.
Q. That was 7 March 1995.
A. Yes.
Q. What did that have to do with -
A. That was over the fact that the Federal Member for
Barker, Mr Ian McLachlan, had inadvertently received a
box of documents from the Federal Court proceedings,
which contained the contents of Mr Tickner's file on the
bridge. And that he had produced a photocopy of the
material inside the sealed envelopes inside the House of
Representatives and had presented it to Mr Tickner. And
there was a very large political bun fight over what was
happening, as a result of those actions.
Q. You then, on 8 March 1995, published an article `Women
will die if secrets read', which referred to a letter
from Doreen Kartinyeri to Ian McLachlan, is that right.
A. Yes, that's correct.
Q. You received a copy of this letter from Doreen
Kartinyeri to Ian McLachlan, did you.
A. I did.
Q. Looking at this copy letter produced to you, is that a
letter you received, apparently penned by Doreen
Kartinyeri to Ian McLachlan?
A. Yes, the letter is written in what I take to be Doreen
Kartinyeri's handwriting on Aboriginal Legal Rights
Movement letterhead.
Q. And dated 6 March 1995.
A. That's correct.
Q. That featured in your -
A. In my article.
Q. In your article of 8 March.
A. Yes.
Q. That document was leaked to you, was it.
A. I don't know if `leaked' is the right word. It was sent
to me at my request.
Q. Are you able to say, without breaching any confidences,
from whom you got it.
A. I don't think it would be any surprise that it came from
Mr Ian McLachlan.
EXHIBIT 122    Fax, dated 16 February 1995, to Colin
James from Kilawee (David Thomason)
tendered Mr Smith. Admitted.
EXHIBIT 123    Letter, from Doreen Kartinyeri to Ian
McLachlan, dated 6 March 1995, tendered
by Mr Smith. Admitted.
COMSR:    Is that a letter marked `Confidential'?
MR SMITH:  No.
MR SHORT:  At the bottom right-hand is `Solidarity
for ever'.
XN
Q. On 9 March, as I said, just a moment ago, you penned the
article, in attachment 94 `Contents of envelopes not
known'.
A. Sorry, no, I thought you asked me about `Women will die
if secrets read', and that was basically an assault on
Mr McLachlan, who had experienced quite a strong
political assault in the House of Representatives over
his photocopying of the secret envelopes and also the
despaching of a box of documents to Michell Sillar
Lynch & Meyer. And a similar box had also come to me,
at the Advertiser. And Mrs Kartinyeri said `If you have
read the stuff inside the envelopes, Ngarrindjeri women
will die.' And Mrs Kartinyeri came out and accused
Mr McLachlan of raping the beliefs of Aboriginal women.
Q. That information about Mrs Kartinyeri's reaction, apart
from in the letter, where did you get that from.
A. Mrs Kartinyeri made it quite plain to me that she didn't
want to talk to me in July of the previous year. She
always made it plain from that letter.
Q. That is the letter of 6 March 1995, Exhibit 123, is that
right.
A. That's correct.
Q. Then, on 9 March, we come to the story penned by you, `Contents of envelopes not known', attachment 94.
A. Yes.
Q. Again, you feature Doreen Kartinyeri as well as Sarah Milera in that article, do you not.
A. Yes, that article carries a joint by-line, myself and another journalist at the Advertiser, Nadine Williams.
On 8 March, I had spoken with Sarah Milera about the envelopes, yet again, because they had become the subject of a national political debate. And Nadine Williams had attended a luncheon organised by the Internatioanl Women's Day Committee, which is the pre-eminent feminist gathering each year in Adelaide.
Q. Was Mrs Fisher, Mrs Betty Fisher, involved in that luncheon.
A. Mrs Betty Fisher organised the luncheon.
Q. Who was the key note speaker.
A. Mrs Doreen Kartinyeri.
Q. And introduced by Mrs Fisher.
A. That's correct.
Q. That was a luncheon on -
A. That was the day before 8 March. Nadine was quite excited when she came back to the office, because 300 people - 300 women were at the luncheon had voted unanimously for Ian McLachlan to be sacked over what he had done with the envelopes, as a result of a formal motion put to the luncheon.
Q. On 8 March, you saw fit to speak to Sarah Milera again, is that right.
A. I had to. These envelopes, as much as Mr Tickner always down-played their significance, they had repeatedly become the subject of much legal, political debate and the issue of Mr McLachlan was on the front page of every newspaper in Australia and headlining every news bulletin. And I wanted to know once and for all, not what was inside them, but exactly what they were all about and why they were carrying so much weight.
So I actually spoke with Mrs Milera specifically about those envelopes.

Q. Again, that was a conversation which took place on 8 March 1995.
A. That's correct.
Q. Did you keep your usual shorthand notes of this.
A. Yes, I did.
Q. By refreshing your memory from those notes, will you tell us when it was on 8 March you spoke to Sarah Milera and where it was and what was said.
A. I don't recall the time. It was some time during the day. I spoke by telephone regarding the Ian McLachlan issue and the sensitivity surrounding the contents of the two sealed envelopes which he had produced inside Federal Parliament.
Q. If I just interrupt you there so you can assure us nothing untoward is going to happen. You are not about to tell us what Sarah told you was in the envelopes, if she did.
A. I have never been told what the women's business is, so I don't know.
Q. Tell us what was said.
A. I asked Mrs Milera about the envelopes and she said she did not care about them. She said too much emphasis had been placed on the envelopes. She said ‘I'm not interested in the envelopes’. Mrs Milera told me that everybody was getting it wrong and that Aboriginal law was being overlooked. ‘If the government wants to know if the law wants to know, then they need to come down here’ as a reference to Goolwa. ‘They have got it all wrong’. Mrs Milera told me I knew what she felt like. By this time I'd known for her well over a year and we had built up quite a strong rapport. She said ‘You know what I feel like’. I asked her again about the envelopes. She told me that she had not viewed the material inside the envelopes. She said the only person who had viewed the material inside was Mrs Doreen Kartinyeri, who she called Dodo. She said she is the
only person. Mrs Milera told me Mrs Kartinyeri was only coming from one angle and had not - did not take an holistic approach. This was a reference to the Aboriginal protest against the bridge. Mrs Milera told me there is still other matters. I asked her again about the women's business and why only a few women seem to know about it. She said ‘Each woman is selected. I know it, but I am not going to divulge it to anyone’.

Mrs Milera told me that there was real tradition about Hindmarsh Island. She told me that she knew this tradition. She told me she was upset by hatred which was emerging in the bridge issue. ‘I am not going to bow down to hatred, everybody makes mistakes’. Mrs Milera told me she knew this tradition. She told me she was upset by hatred which was emerging in the bridge issue. ‘I am not going to bow down to hatred, everybody makes mistakes’. Mrs Milera told me the actions of Mr McLachlan had distressed her. She said she believed he would not cope because of his conscience. She said ‘People cannot live with guilt. He is in trouble. I watched question time.’ Mrs Milera told me she believed there would be repercussions for Mr McLachlan and other members of the Federal opposition if they had read the secret women's business. ‘There will be a general weakening of the ranks. You will know who read it because they will be showing signs of weakening’, and I took this to mean physical weakening which would be visible.

Q. I think as a result of that conversation, or in part as a result of that conversation, the large article in the ‘Advertiser’ of 11 March occurred, is that correct.
A. Yes. Mr McLachlan announced his resignation from the coalition front bench two days later. Not as a result of that article, I don't think.

Q. So that article, do you call that a feature article.
A. Yes. I have two articles on 11 March. I have ‘McLachlan forced to quit’, which was a front page article which I wrote after attending a press conference held by Mr McLachlan at 3 o'clock at the Commonwealth Bank Building in King William Street, at which he announced his resignation. I then returned to the ‘Advertiser’ to write that news story, and I also wrote
a feature article `Keeping secrets'.
Q. So there is a separate article, is there `McLachlan
forced to quit'.
A. Yes. Sorry, you don't have that.
Q. On 11 March.
A. Yes, as well as the `Keeping secrets' article which
featured.
A. Which appeared inside, p.2.
MR SMITH: We need to add that extra article of 11
March 1995. If this is a convenient moment, I will add
that article to that exhibit.
ADJOURNED 4.30 P.M. TO TUESDAY, 12 SEPTEMBER 1995 AT 10 A.M.
COMSR STEVENS

HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

TUESDAY, 12 SEPTEMBER 1995

RESUMING 10.52 A.M.

COMSR: Before we begin the evidence again, there is something I would like to explain in case there is a perception that the evidence of investigative journalists is of marginal relevance in this inquiry. In an inquiry where there is an investigation into facts alleged, there will be evidence which is clearly directly relevant. There is also evidence which is less direct, but which is capable of shedding light on the direct evidence. This secondary evidence may be such as to support or throw into question the direct evidence. Often its purpose is to assist in an evaluation of the direct evidence. Sometimes evidence which initially appears of marginal relevance can later be seen to be quite significant when placed in the context of the whole of the evidence. On the other hand, evidence which looks as though it is significant, can be seen to be of little relevance in the final outcome.

Where a journalist is called to give evidence, his or her press articles are not the relevant evidence. All that a press cutting demonstrates is what was published. What is relevant and what he or she can attest to are conversations with the persons involved in the incidents giving rise to the inquiry.

Frequently a person, when interviewed, says far more than appears in a press report. A journalist can give sworn evidence of the whole of what a person said or did when interviewed concerning the question, for instance, of Hindmarsh Island or women's business, and this
involves both what was reported and what was omitted in
the press report.
Press reports do not speak for themselves. The
simple tendering of a bundle of press cuttings would not
be proof of what a person told a journalist. It requires
the sworn evidence of the journalist concerned to prove
the conversations. This is often a painstaking
procedure, but it is frequently in the nature of an
inquiry that it requires the patient accumulation of facts.

It is clearly relevant for this commission to hear
sworn evidence of what the people most closely connected
to the events in issue have voluntarily said concerning
these matters. It can, of course, be time consuming to
call such evidence. Given the time constraints within
which a final report is to be given by this commission,
it is clearly necessary to deal with evidence of this
nature, pending the determination by the Minister on the
matter of an authority.

The commission needs to utilise available time if it
is to finalise the report by the due date, and it can do
so by calling such evidence as does not require a
Section 35 authority. I thought I would try and explain
the nature of the evidence of the investigative
journalists in order to clarify the situation.

MR KENNY: I was wondering if we were going to
raise the matter of your taking evidence from Margaret
Lindsay tomorrow? I thought there was going to be some
discussion of that this morning.

MR SMITH: I need to circulate to counsel a medical
certificate relating to Mrs Lindsay, but I have not got
it as yet. Could that wait or is that causing a
problem?

MR KENNY: I am happy to wait.

MR SMITH: It is still envisaged that that will
take place, but I undertook to supply that to counsel on
the issue of whether there ought to be a full scale
hearing, for instance, in relation to this lady's
evidence or an investigation by you alone, Commissioner.
WITNESS C.A. JAMES, EXAMINATION BY MR SMITH CONTINUING

Q. Mr James, you have in front of you Exhibit 123, which is the Doreen Kartinyeri letter to Mr McLachlan of 6 March 1995.

A. That's correct.

Q. Or rather, a copy of the same, isn't it.

A. Yes.

Q. You came into possession of that letter, did you not.

A. Yes. I located this letter in the fax room at the 'Advertiser'.

Q. You told us yesterday that you thought that letter may have come from Mr Ian McLachlan.

A. Yes, I did, and subsequently spent some time thinking about it last night and also conducting a search of my files, and I am now satisfied that letter did in fact come from the Aboriginal Legal Rights Movement.

Q. The basis for -

A. The fax imprint on the top and my original copy of the letter is identical to all other faxes of letters received from the Aboriginal Legal Rights Movement.

Q. Does that fax imprint actually show on Exhibit 123.

A. No, it is omitted on this copy.

Q. Have you got your copy of your letter of 6 March.

A. Yes, I do.

Q. So that can be produced to anyone wishing to check the fax imprint.

MR ABBOTT: Could it be read onto the transcript what the fax imprint is?

COMSR: Are we dealing with exhibit number 123?

MR SMITH: We are.

COMSR: Which has been titled, to date 'Copy letter of Doreen Kartinyeri to Ian McLachlan. That is incorrect you say?

MR SMITH: No, that is correct. It is a letter from Doreen Kartinyeri to Ian McLachlan dated 6 March 1995. The witness, in evidence yesterday, asserted that he thought that was leaked to him from Ian McLachlan's office. He says now that that isn't the case. He has
just said so on the basis of the fax imprint at the very
top of his original copy. What we will do is recopy
Exhibit 123 from his best copy, which will show the fax
imprint at the top.
COMSR: The fax imprint is what?
MR SMITH: The fax imprint, on the witness's
evidence, is an indication that it came from the
Aboriginal Legal Rights Movement, but it doesn't exactly
assert that. He has just identified it as being a
similar imprint to the imprint that occurs on their
other faxes.
COMSR: What I was asking is what is the
imprint? Is it ALRM or something of that sort?
MR SMITH: No. Perhaps we will copy it so that
everyone will have it in front of them.
Q. Mr James, your copy shows that that was the third page
of something that came to the `Advertiser' by fax. Have
you got any idea what else came.
A. By this time, the Aboriginal Legal Rights Movement had
ceased sending me directly any material or
correspondence. Instead, they were addressing it
generally to the `Advertiser' and, at times, more
particularly to another journalist, Leanne Weir. From
memory, that page was the third of a three page fax,
which also included a general press statement regarding
Mr McLachlan's actions in the Federal Parliament. I
took the letter from the back page, gave the other two
pages to Leanne, and kept the third page, and I wrote
the screed which appeared in the paper.
Q. The press release, which was the front two pages of that
three page fax - or at least three page fax - came from
the -
A. The Aboriginal Legal Rights Movement.
Q. Yesterday we identified, as it were, a missing article
from a bundle of articles, exhibit 105, which was the
article entitled `McLachlan forced to quit', which was
an article written by you and published on 11 March 1995.
A. That's correct.
Q. Looking at the copy of that article produced to you, you recognise that as the article.
A. Yes, I do. That was a page 1 article with a spill on page 2.
MR SMITH: We can either include that in Exhibit 105 in its proper place chronologically or make it a separate exhibit altogether.
COMSR: I think it would be most convenient to include it in Exhibit 105.
MR SMITH: If it is in chronological order it will occur immediately after attachment 94, which is the article headed `Contents of envelopes not known', 9 March 1995. With a photograph of Doreen Kartinyeri and before the article `Keeping secrets'.
XN
Q. There was a press conference in relation to that article `McLachlan forced to quit', was there not.
A. Yes, there was. Mr McLachlan issued a media advice, informing the media there would be a press conference at his office at the Commonwealth Bank Building at 3 p.m. on the Friday, 10 March.
Q. You attended that press conference.
A. Yes, I did, with a photographer from the `Advertiser'.
Q. That, I think, was the last time you had any direct contact with Mr McLachlan.
A. Yes, it is. It was the last time I have spoken to Mr McLachlan.
Q. Looking at this artist impression photograph of the Hindmarsh Island Bridge, was that indeed the photograph that you used in your introductory article to this topic.
A. Yes, it is. That is the photograph I referred to yesterday, which I obtained from Connell Wagner, the engineering company which designed the bridge.
EXHIBIT 124 Artist impression of Hindmarsh Island tendered by Mr Smith. Admitted.
MR SMITH: In Exhibit 117, which is the faxed report of Professor Saunders from the Federal Minister, there is, by error, in the exhibit, the letter of Mr Marshall of 23 June. It is the very last page. If that could be taken off Exhibit 117, and put where it should be, which is Exhibit 115. The position is that Exhibit 115 is the published letter of Rocky Marshall in the `Advertiser'. The letter which was actually sent to the editor is indeed this document that the witness is now looking at.

Q. Looking at the letter of 20 June produced, is that so.

A. Yes. This is a letter notifying the editor of the paper, sent to me, which I - well, no, it wasn't sent to me, but sent to the paper wishing to make the public apology.

Q. That was then later published on 23 June.

A. That's correct.


Q. Picking up the chronology, the next article written by yourself was a large feature article entitled `Keeping secrets' dated 11 March 1995, which is attachment 96.

A. That correct.

Q. That featured, amongst other things, a photograph of Doreen Kartinyeri and an aerial photograph of the Murray Mouth.

A. Yes, I had that photograph since the previous episode with Rocky Marshall. It was my intention to publish that photograph with Rocky Marshall's letter. There wasn't any room, so I saved it and ran it with this article.

CONTINUED
MR ABBOTT: That is a copy of our exhibit, the same photograph as our exhibit, the cover photo.

COMSR: Which exhibit are you referring to?

MR SMITH: 29.

MR ABBOTT: It's the photo on the Mouth House wall.

Q. It's been suggested that that might be a photograph which is the same as Exhibit 29.

A. I actually took this photograph from the E & WS publication relating to the barrages and the salinity of the Lower Murray and Murray Darling Basin Commission. I don't think that is the same photograph. It's very similar, but I don't think it's the same.

Q. Did the Advertiser receive any criticism for publishing that photograph as seen in the article of 11 March 1995 'Keeping secrets'.

A. No.

Q. The next event is that the Advertiser published the Jeff Easdown article, is that right.

A. That's correct.

Q. And that's on 20 May 1995, the Advertiser article was headed 'Furor over bridge hoax', which is attachment no.97; is that correct.

A. That's correct.

Q. And the story dealt with, amongst other things, statements made by Bertha Gollan and Dulcie Wilson.

A. Yes, that's correct, and Mrs Dorothy Wilson.

Q. And that was actually a story that had been acknowledged to be written by Jeff Easdown.

A. Yes: a Herald Sun journalist.

Q. On the Weekend Australian of 11 and 12 March, there was featured an article headed 'Black women feel shame of stolen secrets'; is that right.

A. That's correct.

Q. You read that article.

A. Yes, I read that article. That is my clipping of it.

COMSR: Is that included in the press clippings?

MR SMITH: No, it isn't.
COMSR: Because that is not an Advertiser article.

MR SMITH: No, it isn't an Advertiser article, it is the one which isn't.

Q. That is a copy of that article produced which also includes any article `Black secrets leak broke 40,000 year tradition'.

A. Yes, that's correct.

EXHIBIT 125 Article from Australian entitled `Black secrets leak broke 40,000 year tradition' tendered by Mr Smith. Admitted.

Q. On 22 May 1995, the Advertiser received a bundle of documents faxed from the Aboriginal Legal Rights Movement, is that right. Looking at this bundle produced to you.

A. Yes, that's correct.

Q. Did this long document come to your attention.

A. Yes. It was forwarded to me by Carol Altmann, A-L-T-M-A-N-N.

Q. It was a press release with attachments signed by Sandra Saunders, or at least forwarded by Sandra Saunders, of the Aboriginal Legal Rights Movement.

A. Yes. Would you like me to take you through it?

Q. Yes, could you explain.

A. The press release from the Aboriginal Legal Rights Movement was a fairly detailed response to the allegations being raised in the public arena regarding the hoax allegations of Hindmarsh Island and this business. The press release begins by expressing concern at the allegations which had been made. It was also particularly concerned about allegations made on a Channel 10 news broadcast. It was equally concerned that those allegations were wrong and defamatory and it was then wanting to attempt to set the records straight by detailing in some detail the meeting which allegedly took place on Monday, 9 May, at what is now known as the `Mouth House'. And also enclosed to support its
statements, some documentation which included a letter
sent to Mr Robert Tickner on 20 April 1994 by Mr Tim
Wooley, the cover page of the Professor Cheryl Saunders'
report which was provided to the Federal Minister under
s.10, a page from that report detailing the significance
of the area as a whole, and some detail which is a part
of the Cheryl Saunders' report which details the belief
that Ngarrindjeri women have regard in the Murray area
mouth and that the tradition is not mythological but
spiritual. Also a detailed bibliography of reports and
material received by Professor Cheryl Saunders and the
press release itself, Mrs Saunders' statement; that is,
Sandra Saunders refers in some detail to the meeting and
basically the correspondence which occurred with the
Federal Minister, Mr Tickner, and the Channel 10 news
item and it concludes by saying that its solicitors have
been instructed in relation to possible defamation
proceedings.
Q. That bundle under the fax header there was, in its
totality, forwarded to you.
A. That's correct.
Q. I think there was a press clipping attached to the back.
A. No. Someone has added that press clipping
inaudibly. That wasn't with it.
Q. So that it is clear, from the fax header sheet in the
fax to you there are 12 pages.
A. Yes. And if you look at the top left-hand of that fax
imprint and you compare the date and the time to the
right-hand side of the earlier exhibit which I provided,
the letter between Mr McLaughlin and Doreen Kartinyeri,
you will find that the typeface is identical, and that
is how I identified the print of the ALRM.
Q. You are there referring to Exhibit 123.
A. I am.
Q. Although, the document does set out, the Aboriginal
Legal Rights Movement makes it clear that their letter
to The Honourable Robert Tickner MP of 20 April 1994 is,
although headed 'confidential', is considered by them to
be in the public arena.

A. The assumption that you have to make from a journalistic perspective is that certain material is sent to news rooms for publication to the broader population and that was the purpose of sending it to us.

Q. I direct your attention to the assertion in the fax itself that the ALRM considers that letter -

A. That fax says that. "Please note that the letter of 20 April 1994 marked "confidential" is now in the public domain and is a publicly available document'.

EXHIBIT 126 Faxed documents from ALRM of 22 May 1995 being 12 pages tendered by Mr Smith.

Admitted.

MR MEYER: Whilst that is being admitted, I would like you to know that in face of the arguments we have had about the Federal Court documents and what is and isn't public, in the arguments in relation to the Saunders' report and other associated matters put in this Commission by counsel appearing for the ALRM, that is quite inconsistent with the position they have taken. On the front page - has your Honour got the exhibit in front of you? If you turn to p.10 of the fax, if you are to look at the fax in the front. P.10 is the front page of the Saunders' report. P.11 is a selected extract from the Saunders' report. P.12 is a selected extract from the Saunders' report. P.7 is a document which is brought from what is called the s.13 documents which were before the Federal Court. And to those of us familiar with the Federal Court documents, these are incidentally recognisable as such by the black thick page numbering which is written on the corner of each document. I would like you to note that you have had arguments put before you saying that none of these documents are public and that they are not in the public domain, and yet the very person who puts those arguments to you is acting for the Aboriginal Legal Rights Movement who have, in fact, themselves forwarded those matters to the press; not only forwarded them to the
press, but forwarded them specifically with the note
that Mr James has just referred to which is at p.6,
which I think is somewhat unfortunate on the part of the
ALRM.
COMSR: You see that what I'm not familiar with,
Mr Meyer, is that although the letter may have been sent
and it may be described as being in the public domain,
whether it was dealt with on any other basis in the
Federal Court proceedings -
MR MEYER: What I refer to - and I'm not
criticising Miss Layton, who may well never have known
of the existence of this letter.
COMSR: You are drawing my attention to the
inconsistency?
MR MEYER: Yes, and her complaint.
MR ABBOTT: She must have known, she was counsel.
MR MEYER: Sometimes counsel do not know. I have
been in the unhappy position of not being told
everything by my clients. The ALRM obviously knew and
the ALRM have instructed Miss Layton to come here and
put an argument that something isn't in the public
domain, when now we know from the very document of their
own that it has been published in the most public
possible place. I mean, you cannot make something more
public than by giving it to a journalist.
COMSR: As I say, that answers that, yes, as far
as the particular journalist is concerned, it's a matter
which he can freely publish. It doesn't answer my
question or my reservation of whether or not it was
dealt with on some other basis in the Federal Court
proceedings, which proceedings, of course, I am bound
not to prejudice in any way under the terms of the
Commission.
MR MEYER: I absolutely accept that. I make the
point of the inconsistency.
MR KENNY: Can I comment on those? I mean, it's
quite clear -
COMSR: While we are in the commenting mood.
MR KENNY: It is quite clear that there is a distinction here. This is a letter that is written by the ALRM and has been sent by them, so it's actually a document they, in a sense, reason - it is not a document they obtained in breach of any order of the Federal Court.

MR SMITH: Is Mr Kenny acting for the ALRM now?

MR ABBOTT: He is. That is why he is here. Of course, he is acting for the ALRM.

MR KENNY: As you know, I act for five Aboriginal men. I do not take instructions from the ALRM and I have no instructions to act for them. But, in the absence, it might be a good question of -

MR ABBOTT: Are they paying your bill?

MR KENNY: If they were paying my bill as they are paying his, I would be quite happy.

MR ABBOTT: No-one is paying my bills.

MR KENNY: I might add that no-one is paying my bill, and I have no expectation or belief that I would be paid by the ALRM at all, and so I want to make that quite clear.

I would suggest that there is a distinction on those documents. The other thing I wish to raise is the question that Mr Tilmouth raised earlier and that is that there is a distinction to be drawn between the Aboriginal people releasing their own information in the manner which they choose to do so and a third party releasing that information without that authority. Presumably, that has been released with their authority. So, I suggest that there is nothing unusual about these documents being released.

COMSR: I don’t think it was suggested that it was unusual that it was released. I think Mr Meyer was saying that it was inconsistent with the argument that was later addressed to me.

MR ABBOTT: Exactly.

COMSR: No point has been taken, as I understand it, and that there is no criticism of ALRM for releasing
its documents.

MR MEYER: I don't criticise that for the moment. I stand in the position of saying its public and I don't have a difficulty with that. The difference is the point that I raise was that it was inconsistent with coming along here and saying it.

MR ABBOTT: I would like to offer a comment. My friend, Mr Kenny seems to be confusing two situations. The first is the right of any individual to release what information which is confidential and deploy it in public. Everyone there has a right. The law respects confidences and the High Court has said so. The respecting of confidences is what you were concerned about in relation to the Rocky Marshall letter, that that had nothing to do with s.35, yet Mr Kenny's argument or comment this morning blurred the boundaries between the two. The content of this material, obviously in the eyes of ALRM, has got nothing to do with s.35 Aboriginal tradition, et cetera, et cetera, otherwise they would have said so. What they decided to do, as is apparent from the document Mr James's read out, has been to release Aboriginal confidential information into the public arena. That is a right which, and a decision that I can respect and agree with. But, you know, to say that that somehow implies a s.35 overtone - and that was the thrust of what Mr Kenny was getting towards - then I reject that utterly.

CÔMSR: No-one else wishes to make further comment on?

MR SMITH: I'm reluctant to.

Q. On 24 May, and we are just dealing with getting some other, an article appeared in the Australian written by John Kerin concerning Sue Lawrie's involvement; that is right, isn't it.

A. That's correct.

Q. And that's been included in your book of publications, attachment 98, to complete the picture of what information was being disseminated into the public
C.A. JAMES XN (MR SMITH)

1. concerning this topic; is that right.
2. A. That's correct.
3. Q. You had no involvement with - I think there were, in
4. fact, were there, two stories there or only one - no.
5. A. The article was a p.1 story which appeared in the
6. Australian.
7. Q. You had nothing to do with those, but you did take that
8. on board, if you like.
9. A. I did. I had nothing to do with Sue Lawrie either.
10. Q. We are coming to your article which is the focus of some
11. attention, 'The great lie, Hindmarsh Island'.
12. A. Yes.
13. Q. That's an article which was published in the Advertiser
14. and penned by yourself on 7 June 1995.
15. A. That's correct. It was penned the day previously.
16. CONTINUED
Q. I think you didn't compose the headline in that, did you.
A. No, I didn't.

Q. But, in any event, as a prelude to that article, you interviewed Sarah Milera on 6 June, is that correct.
A. I did, by telephone.

Q. That was a relatively lengthy interview on the telephone.
A. It was. It would have lasted for at least an hour.

Q. You kept shorthand notes of that.
A. I did.

Q. Just to put this in context, I think on 6 June Channel 10 had run the Chris Kenny video, if you like, news item with the Doug Milera admissions, if I can call them that, is that right.
A. Yes, that was broadcast about 5 p.m. I was actually talking to Mrs Milera on the phone as that went to air. We finished at about half past 5, so I don't think she would have had a chance to see it.

Q. Can I take you then to this conversation and you can refer to your files and notes about that. You contacted Sarah Milera at about 4.30 on 6 June, is that correct.
A. No, she rang me.

Q. How do you know she rang you, is that a memory, or -
A. No, what had happened is, I tried to find her during the day. She telephoned me in response to calls that I had made through my normal contact to Sarah. In my contact book, I have at least ten different numbers for Sarah Milera.

Q. Tell us what was said between the two of you.
A. I told her that - basically an intermediary who I had asked to try and locate Sarah Milera for me telephoned me to say 'I have found her. She is here with me now', and Sarah Milera came to the phone. I told her that I had heard that Doug Milera was going to be on television that night and I wanted to know what was happening. I apologised for not contacting her earlier, but I said I
was trying to stay out of the fabrication allegation
coverage, because I didn't agree with how it was being
handled by several local media outlets and also the
national media or even the key protagonists themselves.
Mrs Milera told me that I know or I knew the real truth.
And I asked her what she meant by the 'real' truth and
she replied that 'We have been persecuted because of
it.' Mrs Milera reminded me of a discussion that we had
had on the Goolwa wharf, which I have referred to
earlier in my evidence, which was a very lengthy
discussion. And that was all about the rifts which
were appearing within the Aboriginal community,
particularly among the Ngarrindjeri people, over the
Hindmarsh Island issue. Her concern that Mr Chirpy
Campbell was stirring things up and the tension and
pressure which she had subsequently encountered as a
result of her involvement in the issue. She told me
that, she told me in - her words that I have noted were
'I told you on the wharf that no good was going to come
of this.' That was a statement that Mrs Milera made to
me on the wharf at Goolwa. She kept saying while we
were at Goolwa 'No good is going to come of it, because
they put it on paper. No good is going to come of it.'
I then had a discussion with her about her concerns,
which turned into a formal interview, because I told her
it was time, once and for all, that, if there was the
truth to come out, so to speak, that it was time for
the truth to be told. It was obvious that I had been
monitoring the fabrication allegations very closely. I
was aware of Mr McLachlan's concerns in Federal
Parliament last year. I had Hansard of his speech. I
was aware of Dorothy Wilson and her concerns, which had
obviously been, by now, fairly well broadcast and aired
on television by Channel 10 and also by other papers.
And I asked Mrs Milera essentially what was happening.
Why these people were saying what they are saying. What
is going on? You know, is there any truth to what they
are saying? She basically told me that - and I made
notes of these following statements which subsequently resulted in the article which appeared. Throughout this discussion I put to Mrs Milera directly questions about the veracity of the women's business. The people involved in - who had been profiled fairly highly about the women's business and whether or not there had been any fabrication whatsoever. Mrs Milera's position from April 1994 until this point had never really altered. She had always told me that there were genuine sites of significance to Aboriginal people at Hindmarsh Island, at Goolwa and at the Murray River Mouth, so to speak. This position has not altered until this day. However, what became quite clear to me in the discussion which I had with Mrs Milera was that these women from Adelaide - and that's how she referred to them - had come down and taken over and exaggerated the actual full nature of those claims. I then made notes from there. She said that 'I've got a superior knowledge of the law. The environment argument got forgotten and pushed aside. They, the other Aboriginal protestors against the bridge, didn't even care about it. If the court doesn't pick this up, I will say the truth, because the Ngarrindjeri law is being ignored.' To understand Mrs Milera's perspective, one has to understand that she has always told me that she has Aboriginal 'law'. Now, whether that is L-A-W or L-O-R-E, I have never really been able to ascertain. I have always assumed it was L-A-W and that this is paramount to her. And she has always emphasised this in every discussion I have ever had with her and I have many discussions with Mrs Milera over 18 months. Many which I haven't recorded or made notes of, but I have had many. She said to me that 'If the court doesn't pick it up, I will say the truth, because the Ngarrindjeri law is being ignored. The real truth of what it is about is in the law and I am the only one who knows. When Dodo', Doreen Kartinyeri, as I said yesterday, 'came in, she didn't know anything about it. Dodo didn't know my family
history and it's from the law. I said there is going to 
be a terrible time out of all of this. It's all a kind 
of weakness.' She then told me that she was very 
concerned about the whereabouts of her husband, Mr Doug 
Milera, and that -

Q. Can I interrupt you there. When she said, you said, 
`There is going to be a terrible time out of all of 
this', did you -
A. No, she said that.

Q. So, she is speaking all through this.
A. Yes, and what I am going to try and do is just 
introduce, as I go, the general tenor of the 
conversation which ensued, to put it into perspective 
for you, because it will be a bit hard to follow. So, 
you will have to -

Q. I will just let you go.
A. I will have to try. It was a fairly lengthy discussion 
and it was a fairly emotional discussion at points. She 
said that `Doug just disappeared.' Then she said `I'm 
still from the law.' And, when she says `I'm still from 
the law', she says it very emphatically and very firmly. 
And very strongly, if that can summarise her position. 
She said to me `There is no honesty any more from the 
law.' I asked Mrs Milera where the fertility claim had 
come from and what was inside the two sealed envelopes 
given to Mr Tickner, because this is a matter which I 
pursued with her numerous times, not whether - I didn't 
want to know what was in the envelopes, so to speak, or 
what the women's business was, but where it had come 
from, in light of the allegations first raised in 
November last year, in the paper, after Mr McLachlan's 
speech that there may be some question about its 
veracity. And she told me `They got it from a book.'

Mrs Milera repeatedly stressed that she was working 
towards reconciliation. This is a theme that she has 
always had in every discussion I have ever had with her 
that why she got involved and what the whole issue was 
about was reconciliation and she did not want all her
work that she had done to be destroyed. `I am going for
reconciliation from all of this. When is Tickner going
to listen? I said it was going to be wrong, because it
was put down on paper. My Ngarrindjeri is working
without the law and they are damaging themselves. I
have felt the most disillusioned. I stand by my truth
and that is the truth. It will stand up in court. It
is not women's business, it is the truth.' I again
asked Mrs Milera what the truth was and she said 'I
know, because I have got the evidence.' I asked, well,
what had gone wrong? Why had it started out as what
appeared to be a genuine claim based on sites which had
been identified by a State Government archaeologist
which had then been put into a formal report to a
Minister. There was no dispute about the existence of
those archaeological sites. What had gone wrong from
that point, where the s.23 authorisation was granted by
Michael Armitage? Why had we suddenly got to the point,
18 months later, or 12 months later, of Aboriginal
people being divided, squabbling, disputing the veracity
of the beliefs? And she told me 'If they', which was a
reference to the other women, 'had followed what I told
them, they would never have got into trouble.' I asked
Mrs Milera exactly what the other women had told Mr
Tickner, because my experience had always been that only
four of the thirty-five women that had met with
Professor Cheryl Saunders actually knew the women's
business the day before they met with Professor Saunders
and I asked her exactly what the women told Professor
Saunders who then conveyed it to Mr Tickner and she told
me that 'I don't know what they have got.' And that was
a reference, not only to Doreen Kartinyeri, but also to
the anthropologist who was engaged by the Aboriginal
Legal Rights Movement, Dr Deane Fergie, who prepared a
report, which I have never seen. She said 'I got the
feeling that they didn't want anyone else to know.' I
asked Mrs Milera why weren't more women told and why
were only thirty-five people actually at this meeting at
- which took place at a convention centre called Graham's Castle. This was a reference to Mr Campbell's petition, which indicated that there seemed to be more than 100 Ngarrindjeri people who were willing to put their names to a petition saying that they weren't consulted. And the size of the Ngarrindjeri community appeared to me to be much larger than what had been represented, up until this point. And she told me - I also asked her why were the dissident - so-called dissident women now speaking out and she said to me that 'They', the dissident women who should have been consulted, but weren't, 'are Ngarrindjeri Elders who were not given a thought for anything.' And she conveyed to me that they hadn't been considered. It wasn't even thought of to consult them. It was almost like leave them out quite deliberately. And she told me that 'If I was someone who had studied the genealogy', and this was a reference to Mrs Kartinyeri, who is an expert in genealogy based in the South Australian Museum, apparently, and that she said, well, if I had studied - 'If I was someone who studied genealogy, such as Mrs Kartinyeri, they would have been involved.' And that was a reference to the dissident women, because she was saying to me, well, if Mrs Kartinyeri is the expert which she purports to be about everyone's genealogy, then the various women who have now emerged publicly would have been involved from the outset and senior representatives of the Ngarrindjeri people. She again restated that I personally knew that the issue was going to turn sour. She again said to me that 'You knew no good would come out of it.' And I agreed that I basically felt this way in light of what had happened from the time they tried to stop the bridge. She also then repeated that she had evidence to support what she was saying. She told me that 'I still can't know the way it was going and the way it is going.' She conveyed to me that she was quite confused and quite hurt and felt quite betrayed about what was going on. There had
always been, in my discussions with Mrs Milera, the
impression conveyed to me that there was a bit of
jealousy and a bit of a power struggle over exactly who
was going to do the talking and who was going to be the
spokesperson and who was going to be put up at the front
of the proponents of the women's business which
eventually found its way to Mr Tickner. She told me
that -

Q. Was she specific about who the people were.
A. Yes, she told me that Dodo pushed her aside. That
Dodo treated her as stupid. Dodo told her that, you
know, she had nothing to do with it any more. It was
basically, from her perception, a power struggle
between her and Mrs Kartinyeri. That she started it.
She was the first one on the ground at Goolwa. Her
and her husband had been there since October 1993
protesting. No-one else had come and offered any
support from the Aboriginal community. No-one had
really ever shown any interest from within the
Aboriginal community. They were effectively on their
own down there. That they found these sites as a
result of the work that they did with Dr Draper. They
put a report into the Minister. They had a promise from
the Minister that he would help stop the bridge and
then, all of a sudden, he went ahead and said he would
actually build the bridge. And these people from
Adelaide, women from Adelaide came in and took over.
And she has often used the words to me that 'The women
from Adelaide took over.' She also said to me that she
was still working very hard towards reconciliation and
she told me that she had been made homeless, because of
her principles. That she had been pushed out basically
from wherever she was staying. That, because she was
standing firm, in light of the pressure which was being
brought to bear by other players in this saga, that she
had been made homeless and been left with nothing and
had been dispossessed.
Q. Interrupting you there: did she mean that literally, that she had nowhere to live.
A. Yes, she did.

Q. So, having lived in the Mouth House for sometime -
A. When I first met Mrs Milera 18 months prior to this, on 29 April, she was staying in that shack at Hindmarsh Island. It was almost my understanding that Mrs Anne Lucas was providing that property to her and her husband as a place to stay while the survey was being completed. They then decided to stay in Goolwa, because they liked it there. They felt welcome there. And this whole experience had given Mrs Milera particularly and also her husband new friends, new companions. They were very popular within The Friends of Goolwa and Kumarangk movement that was a large part of that particular protest group. And they felt at home at Goolwa and they liked it there after spending quite a lot of time in Murray Bridge. But, when I rang her, at this stage, she was actually visiting the friend of the wife of one of the ferrymen who Mrs Milera had always been quite strongly adamant that she was going to try and help save the jobs of the ferrymen, because they were threatened obviously if the bridge was built, there wouldn't be a ferry any more. She said that `I am teaching my Ngarrindjeri culture.' And then I said, well, how come your culture has created this awful situation that you find yourself in now where you have two opposing groups of Aboriginal people fighting effectively amongst themselves and then obviously quite bitterly in the media casting a lot of community scepticism upon the validity of Aboriginal beliefs? It was almost like the culture was effectively tearing itself apart. I said `Surely that wasn't the whole purpose of the exercise with Hindmarsh Island?' Mrs Milera had always told me the
whole purpose of Hindmarsh Island was about reconciliation, not division and she said that she walked out of the meeting, because she was so disillusioned with what was going on.

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Q. Which meeting are we referring to.
A. She wasn't specific, but I later tried to isolate what meeting she was actually talking about, and it came back to that May 9 meeting at the Mouth House last year. I don't think it is the only meeting that she has walked out of. She also told me she walked out of meetings at the Legal Rights Movement, a meeting with the Minister, the Mouth House meeting. I don't think walk-outs were particularly uncommon because, from what I could understand and the inquiries I have made, these meetings have degenerated into verbal brawls and got quite heated. She told me that she was happy when she was on her own. That she was happier when it was just her and Doug doing it at Goolwa before all the other players came into being. Her quote here is 'I was happy as one person teaching reconciliation'. She liked it, I think, when she was the centre of things, without anybody else sort of moving in. I asked her then about Dr Neale Draper, and what Dr Draper had done while he was at Hindmarsh Island, because it seemed to me that Dr Draper played obviously quite a pivotal part in this whole thing with his reports. As I have said, Sarah and Richard Owen sent to me an extract from the second Draper report which indicated, for the first time, this cultural/spiritual sort of significance of the area, and I asked her about the Draper reports. She told me 'Neale Draper report is not true if he hinges on what Dodo said'. She said 'It will be wrong'. She told me 'I stand by what I said', and that was again a reference to the fact that she always believed that there were archeological sites. She told me in April last year that she had had these spiritual happenings to her while she was at the Mouth House, which I have referred to in my statement, that she had a vision of a Ngarrindjeri warrior, that she found the spear, that she found these unexpected finds of cockles. So she still firmly believed in this spiritual sort of happenings from her
personal perspective, but she was always adamant about archaeology. The emphasis was never really that great about all this fertility material which has since come up. She said 'I stand by what I said', which is what I just referred to. She said 'What happened to me was that the heritage committee (men) decided to do that instead of letting things go'. This was in response to me asking her exactly what had happened about the fertility claim, because I said that you went from point A, of having archeological sites, to a point which I'd already reported quite extensively in the paper, that Mr Tickner was advised by ATSIC - ATSIC had written to Legal Rights Movement telling them that the Minister had never used this particular section to stop something on archeological grounds. The Hindmarsh Island Bridge issue, I think, from memory, was only the third or fourth time that section 10 had been used since it was brought in in 1984. The only other times were at Todd River in Alice Springs to stop a dam -

Q. I don't think we can go too far into -

A. It was a very rarely used piece of legislation, but they had gone back and said that the Minister has never done this on archeological grounds or historical cultural significance. I reminded Mrs Milera about these sequence of events, and how we had arrived at the fertility part which was extensively canvassed in the publicly available Cheryl Saunders report. She said 'What happened to me was that the Heritage Committee (men) decided to do that instead of letting some things go'. I've got a note here 'Because they were heritage men'. But she reminded me again that 'I am not going to foresake reconciliation'. Then she said 'I was the only woman here and I sat with people about the problems with the bridge. Then suddenly had a whole heap of people on me and I was shut up'. I said 'Where did this fertility thing come from?' She said 'The heritage committee men didn't come up with it', the women's business, and I said 'It came from somewhere.' She said 'The people who
did don't even know what Mundoo means'. Mundoo - I've had several descriptions given to me of what Mundoo means and, to this day, I've heard it means morgue and I've heard it also means little fish, so I don't know. But she said 'When you are dictated by law, you don't know what to do'. I said 'How did all this happen' again. I took her back. I think that anyone who has any experience with Mrs Milera will support me in a conclusion that she is very hard to follow in a conversation at points. I would describe often she talks in riddles, and you need to keep going back to her with the same theme over and over to actually get to a definitive answer. You can't just take one answer and accept it. You have got to come back and ask it a couple of times to make sure what she says is actually what she means to say. So I took her back again to where did this fertility business come from, where did all this so called women's business come from? She said 'They' - and I will describe them as the alleged fabricators 'sat in Adelaide and did it. They said to me "Sarah, you are an idiot". I walked in with documents and said "consider this"," but they didn't want to know. I saw Tim Wooley but he didn't want to know. When our friends were facing litigation I started to become very concerned. This is a reference back to the previous March with the Federal Court injunctions and the climate of anxiety and trauma that I described to you yesterday. She said 'I was going in one direction and they' the alleged fabricators were going in another direction. They lost the plot but I didn't.' She then moved onto this point about who got to speak to Cheryl Saunders. Anyone familiar with the Cheryl Saunders' report will know that Cheryl Saunders names Mrs Doreen Kartinyeri and Mrs Sarah Milera as her two key informants. She also points out that Mrs Kartinyeri was obviously the main informant and, while Mrs Milera was another informant, her evidence wasn't ranked as highly as that of Mrs Kartinyeri. She expressed concern to me
that she had not been elected the spokesperson to speak
to Professor Cheryl Saunders. Anyone else familiar with
the Professor Saunders report will be aware that a
meeting took place on June 19 last year at Graham's
Castle where a group of 35 Aboriginal women met. They
had a discussion that day about the Rocky Marshall
letter. They visited Rocky Marshall. They then
returned to Graham's Castle, had a further meeting.
Some stayed overnight. On the following morning they
were due to meet with Professor Cheryl Saunders and in
that 24 hour period they had decided to elect Doreen
Kartinyeri as their spokesperson. She said that they
said, meaning the women, that they would have to get the
best authority, and Mrs Kartinyeri obviously, with her
credentials at the SA Museum, her extensive experience
of publishing family histories, et cetera, was regarded
by the women as someone they could put up. She said
this was just selfishness and that they, the other
women, live with silly ideas. She then said to me, and
I still don't know what she meant to this day `How do
you think I felt when I got the Legal Aid letter?' We
didn't really pursue that point so I don't know what she
meant. What I took it to mean - in all my discussions
with Mrs Milera she has quite often told me that, you
know, pressure has been put onto her, pressure has been
brought to bear on her. Quite often she has referred to
the source of this pressure from being within the Legal
Rights Movement. She also said to me that `I have
always said the books have been written wrong. I have
said nothing will happen until they do it. I have the
superior knowledge. She (Dodo) is not authorised.' She
then told me that `They (the women in Adelaide) were
searching for something'. I said `Well, if they were
searching for something and they found this stuff and it
is not true, then why wasn't it picked up sooner, and
why have we got this situation now where we have all
this division?' She told me that ATSIC, as in the
Aboriginal and Torres Strait Islander Commission, should
have done a better job. She then told me `There was
pain in our Ngarrindjeri too' but `have still got to
think who you are and look at what the truth is.' I then
turned Mrs Milera back to the point that we were
talking about, and that is, if a fabrication took place,
where did it occur and who was responsible? She told me
that, again, they went away from the original plot, and
that there are sites which are important to women but
they are different to what everybody has been talking
about. She said `That is taking an overall view of it',
because she had introduced this, there are sites, and
she had previously said there weren't sites. I said
`What was the original plot?' She then told me that the
sites were under the water, which is the first time I'd
heard that one. Until then I'd heard - without going
into too much detail - the area where the Atco huts were
delivered to was a sacred site, the aerial view was a
sacred site, the mouth was a sacred site, a burial
ground and half the bridge, and now she was introducing
yet another one which was sites under the water. She
said that there was powerful information from white law
in relation to development. So I asked her about the
fertility claim and this business which is in the
Saunders report, of linking the mainland to the island,
and also this business about the aerial view resembling
female reproductive organs. She replied to me `That is
silly' and `It's wrong'. She then said `I think the
heritage men have got to be put through the griller and
asked what they had to do with it and asked what they
did. They forgot the original plot was to protect
sites. I never said anything about women's business.
We have got to do a lot of learning in this process. I have
got a challenge ahead of me. We then went back to
- I know it is going over it again, but this is the
tenor of the conversation that I went back to - `If we
have got a situation where something isn't true, how
come it has taken this long to come out? If all this
stuff is in the Saunders report and it is not true, how
did this occur?' And she told me `Dodo looked at me like I was nothing'. I said `Well, that might be the case, but why has Doug decided to go to a television station?' And she told me `I don't know why Dougie has done what he has done'. She then told me that a Channel 10 jounalist, Chris Kenny, had been chasing her or approaching her for comment. She said `When I was asked a question by Kenny I didn't want to know him'. She then said `There are women's sites but spiritual ground is different to me because of what's under the water'. She said to me that she regarded the River Murray as a sacred area because her brother had drowned in the river and, therefore, she had a sacred attachment to the river because of her brother who was deceased. She told me that the water is for the cleansing of the environment. This is a reference to - Mrs Milera had always told me - explained to me that the River Murray was the life blood of Australia. It was very important in Aboriginal terms for aeons, obviously as a source of life, a source of water, that the water around the island was dirty, that development was putting more pressure on the water, that the island was denuded of all vegetation. That, to save the island from any further damage, the water had to be protected, and it had to be restored, and no more development should take place because the pollution which would result would harm not only the immediate environs of Hindmarsh Island, but potentially the Coorong and all the birds that nested there. That was a theme that was repeatedly explored between myself and Mrs Milera, was the ecological impact of further development in that area. I again asked Mrs Milera `Where did the women's business come from?' She said `Really straight from that article' in the `Advertiser'. I said `Was that the article I wrote last April?' and she said `Yes, it was. You wouldn't believe the reaction that I got to that. People read about it'. Anyone who wants to read that article carefully, will refer - will see a paragraph where I describe the mouth
of the Murray River, because I was able to deduce from
my conversation with Mrs Milera, from just what she was
telling me about the spirituality of the area without
going into the so called nitty-gritty. She said that
people have read that article and suddenly have become
interested in her struggle to stop the bridge, so to
speak.

Q. Is that the article headed `Countdown on bridge over
tribal waters' published by you on 3 May 1994,
attachment 24.
A. That's correct. I was obviously a bit taken aback at
this because she was inferring that I played a part in
creating the women's business. I said `Surely that
can't be the case?' And she said that even Dr Neale
Draper didn't know anything about it, and that she had
told Dr Draper how to do anthropology, which, in
hindsight, can probably be explained by the fact that Dr
Draper is actually an archaeologist, from my memory, not
an anthropologist. She said `He didn't know what he was
doing'. She said `How can one woman turn this man
around?' And she wasn't referring to herself, she was
referring to another woman, Doreen Kartinyeri. She said
`How can one woman turn this man around?' I don't know
what Draper's positions were before or after, because,
as I say, his reports have never been publicly released
so I haven't had the opportunity to scrutinize them. I
was, however, having discussions with Dr Draper, and I
basically knew where he was heading in March, April last
year. She said `You can't have one woman by myself.
That is illogical.' She also said that she had been
reviewing it, the whole so-called bridge saga for the
last two years, and she said to me `I was right in the
beginning and stay with the sites'. Again - and the
point cannot be emphasized enough - this is
archaeological sites she was referring to. She said
`That was what I was working on'. She then said to me
that when Robert Tickner got the envelopes, she was
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1 concerned about the information which she had put in,
2 but she had been told by the other women in Adelaide she
3 had nothing to do with the material given to Robert
4 Tickner.
5 CONTINUED
Her quote was `When he had the envelopes, I was concerned about the information I could learn, but they said I had nothing to do with it'. She then said that `I am an individual out of all of that, and I will stay an individual'. Mrs Milera has always told me that the hatred which people have referred to as occurring, the death threats and, you know, all of this intimidation, the alleged intimidation, and the pressure and basically the nastiness that crept into the whole issue, has deeply upset her, but she has never actually been able to hate anyone. Even Mr Campbell, she said that she could not hate Mr Campbell for his agitation and that, she told me `I don't hate anyone really. I care about everybody, and our culture should come first or should be first.' That's the completion of my shorthand notes. I explained it to Mrs Milera the gravity of what she had told me and in light of Doug going on television that I would be preparing an article, and I went away and did so.

Q. What was her reaction to that indication that you were going to prepare an article which included what she said to you, no doubt.

A. See told me that she believed it was time the truth was told and it was time that it came out. She was very worried about where Doug was and what had happened. She basically said to me she believed Channel 10 had taken him away; even implied that they had abducted him from Murray Bridge and driven him to Goolwa - which my enquiries which I subsequently made over a number of days relating to that Channel 10 interview did not support that claim at all.

Q. Your article then, 'The great lie of Hindmarsh Island' appeared next morning in the Advertiser.

A. That's correct.

Q. That included references to your conversation with Sarah Milera, as you just recounted it, together with, in parts at least, things that were said by Doug Milera on TV.
C.J. 28E

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A. No, not at all. I've never ever quoted Doug Milera in
the Advertiser. I've never seen Doug Milera as a
spokesperson. Sarah Milera has always been my contact.
What appeared from Doug Milera in my article was
excerpts from a letter which he purportedly had written,
had definitely signed and had sent to Mr Tickner; and I
think from memory the State Government here was
apologising for his actions confirming that the women's
business was a fabrication and attempting to redress the
problems which he had apparently caused.
Q. Looking at Exhibit 61, produced which is the letter
composed in the Appollon Motel and later faxed to the
Federal Minister, looking at the second page of that
exhibit, is that the letter you are referring to.
A. That's the letter I am referring to.
Q. You had a copy of that somehow, did you.
A. Yes, I obtained a copy of that letter.
Q. The article appeared the first thing the next morning.
A. There was, no doubt, some reaction to that article.
Q. Can you tell us what happened in steps as far as you
were concerned; what people contacted you and
conversations you had.
A. There was obviously a great deal of reaction to that
article from numerous quarters. I got in work at 8
o'clock in the morning. My phone didn't stop ringing.
There was a large number of women rang me to express
their concern about what was on the front page of the
Advertiser. They claimed it was sensationalistic
reporting done at the expense of Mrs Milera. I had to
try and explain to them that Mrs Milera had actually
conducted an interview with me. I informed her that I
intended to publish the content of that interview and
that she was happy to see the truth come out. The women
were ringing on a regular basis.
Q. Who? Names?
MR ABBOTT: Who? Names?
XN
Q. Who are these people.
A. They were members of the public who, after a while, after about the 7th or 8th telephone call, I realised that it was largely scripted what they were telling me, or what they were saying to me.

Q. They didn't identify themselves.

A. Some did and some didn't. Some left on answering machine messages with their names, and basically it seemed to me that it was a fairly orchestrated campaign put together by someone to give me a hard time about putting what I had written in the paper.

Q. That happened on the morning of 7 June.

A. It did, and in the end I got fed up with it. I couldn't make any other phone calls or get any work done, and I confronted one of the women and said 'This sounds to be scripted to me. I've had about six other women all phone me up and say exactly the same thing as you. Are you on a roster or something?', and this woman got very uppity and hung up.

Q. I think just to dispose of that topic, you also received considerable mail, didn't you, about this.

A. Yes, I did. I received what could be politely termed as hate mail over a period of some time after this article was written by me.

Q. As far as on 7 June, putting those sorts of telephone calls aside and the mail aside, did you receive or did you have telephone conversations or any contact with the main players, if you like, in this drama.

A. Yes. It is my normal practice with something of such gravity that I will contact the people concerned once the article is published to make sure they are happy with the content of the article, its display and its presentation, and to make sure they are basically comfortable; because obviously it throws them in the limelight, they are suddenly hounded by television stations and radio networks who look for comment on it. It can be a bit overwhelming for people who haven't had experience in the media. That is my normal practice, to telephone people and to see how they are going.
Q. Did you contact Sarah Milera.
A. Well, I tried to. My phone wouldn't stop, as I say, with these women phoning, and Mrs Milera left a message for me - which I have here - at 9.30 that morning saying she needed to speak to me urgently.
Q. Did you call her back.
A. I did, indeed, straight away.
Q. About what time in the morning is this.
A. It would have been no later than 10 a.m. in the morning.
Q. By that time, had other things occurred with the Mileras that you knew of, or was it the following day.
A. No, that's the - the following day I also - there were telephone messages to ring a Mr Alan Clarke.
Q. Dealing with Sarah Milera, you rang her back on the morning of 7 June and you spoke with her again on the telephone.
A. Yes, I did.
Q. Again, did you make a note of that conversation, a shorthand note.
A. Yes, I did.
Q. Could you tell us what was said.
A. I asked Mrs Milera about how she was and was everything okay, because I was - knowing her, I know her, I was concerned about the impact basically of being splashed across the front page of the Advertiser in such a large extent. And I also had a feeling that the headline was probably a bit extreme and liable to cause some problems for her. She told me that she wasn't good, that her - she said `I'm facing a lot of flack'. She told me that 'I've lost all my friends at Goolwa'. And I said, `Well, why? Is there something wrong with the story?'.
Because while I think the headline, which I'm not responsible for, may have been a little strong, the first paragraph is pretty strong as well, but the balance of that article, I think, if people take the time to read it carefully, is a pretty accurate reflection of what Mrs Milera told me the day before, and also stresses that there were genuine sites in that
area, but that some and - the word there is that some of
the women's business had been 'concocted'. She told me
that her phone had basically been going very busy as
well and that she was copping a lot of flack. And I
said 'Well, why? What is wrong with the story?', from
her perspective. And she said 'Not all of it is wrong',
and I said 'Well, what is wrong?', and she said 'Well, I
don't think they have actually read it. I think what
happened is that they have looked at it and they haven't
bothered to read right through to the end'. She said
that it was obvious that they haven't read right through
the article. She also then said that 'There's some
radical women coming from Melbourne to meet with my mob
and I don't know if I want to be there'. She was also
very upset with her husband for the comments he made to
Channel 10 the night before and had completely reversed
her position at that point from the day before where she
wanted the truth to come out, to saying how upset she
was at Doug for going on the TV. And then she told me
that she said 'I will never forsake my heritage at any
cost'. And then she said 'Nobody has admitted it,
fabricating the women's business', and I said 'Before,
Sarah, you did yesterday', and she said to me 'Look, I
know Dougie was spirited away by somebody', and I said
'Well, I don't really think that would happen', and she
said 'I'm the one who is homeless'. And then she said
'They fed him grog and I want to know where Chris Kenny
took him', and said it very angrily. And I said - she
said 'I have to go back to Goolwa. I have to go back to
Goolwa'. She wanted me to find out for her where Doug
was and where Chris Kenny was and what had gone on
between the two of them. I indicated to her that I
would make some enquiries - which I subsequently did -
and I said 'Okay, well, we have a situation now where
Doug has been on TV, Doug's made all these statements in
front of a video camera about the fabrication or the
alleged fabrication. You have said things to me which
are now on the front page of the paper. You actually
are not saying its wrong basically, you are saying you
are copping a lot of flack over it. You said yesterday
you want the truth to come out. What is the truth? Go
on, what is the truth? If it hasn't come out yet, what
is the truth?'. She said to me that decisions were
made in Adelaide with no consultations, and that there
are still women's sites there which have to be
protected. And I again said 'Okay, well, we have
established that there are sites, we have been over that
before, but where did all of this fertility stuff come
from?'. She said 'Well, that was taken too far.' And she
then said this, she was really worried about the impact
that it would have on, that story, on Goolwa. And as I
have previously explained, reconciliation was a very big
part of what she had always told me she was trying to
work towards and she seemed to be worried that the
advances that had been made towards reconciliation
through the Hindmarsh Island Bridge issue, which had
united white people, so to speak, with black people for
the common cause which was stopping the bridge, could be
undone. I said 'Well, we wouldn't have got to this
situation if everyone had told the truth, and obviously
the truth hasn't been told'. She said 'They were not
listening right from the beginning when I said "Be
careful, be careful", but nobody was listening'. And
then she told me that 'We had a big meeting of
Ngarrindjeri down here today and there's a lot more to
it, and I will be protected by my culture, but I will
have to be the defensive one. I will be the criticised
one'. She then said that she never supported her
husband and his view because she had been abused by him
for defending her heritage. This was a reference to the
fact that had been made clear to me for some time that
the involvement of the women in the Hindmarsh Island
issue, where they became the key players, whereas up
until this point such issues as sacred sites et cetera
had generally been handled by men, this had caused quite
considerable tension within the Ngarrindjeri community
and its powerbrokers about the fact that women were
taking over rather than men. And she then told me that
he had left in mysterious circumstances and that 'I'm
the one who is left with all this bullshit'. And she
again said to me 'I want Chris Kenny to admit where he
is. I want you to speak my friend in Goolwa too'. And
I said 'Who? Who do you want me to ring, Sarah?'
Because she had - obviously someone had given her quite
a hard time that morning about what had gone on in the
paper.
Q. She said something to you about that.
A. She said she was facing a lot of flack and she conveyed
to me that pressure had been brought to bear as a result
of what appeared in the paper. And I said 'Who do you
want me to phone?', and she said 'Richard Owen' - who I
had known for some time. Then, she said 'When you look
at the claims, you can see what the problems are'. She
said 'The problems are that each section is talking and
they are not talking right because they don't know the
area'. And she said to me that she had walked and
crawled the area to find out what the truth is. And she
said 'The truth is that skeletal remains have been taken
away' - and this is a reference to numerous times that
she and other people had asked me to investigate the
claims that bones had been taken from the marina Goolwa,
and that vicinity, in the boot of a car and taken to a
Goolwa rubbish dump. I had spent considerable time
investigating those allegations and I have never been
able to find any factual substance. As a result, they
never saw the light of day in the newspaper. But it was
often raised with me by various people that that was the
situation. She then said that she had total respect for
Mr Tickner's decision because he stood by her heritage.
She said 'Nobody has tested the Aboriginal Heritage Act
before' - which my research had shown that this was
probably quite the case. That the legislation came in
1989 and Hindmarsh Island was a test case for that
legislation. I asked Mrs Milera about the allegation
that the claim was fabricated, and she said that the fabrication or the alleged fabrication had disgusted her. 'But because it was women's business, I still had to protect it because I was embarrassed by that'. She told me her views were quite different to her husband's and that 'All men have to learn that Kumarangk is a woman's place'. CONTINUED
`That is what is different with me and his views.' She then repeated the allegation that someone had gotten Mr Milera drunk from the minute he left Goolwa. She said `Nobody knows what happened. They have never bothered to find out. I have been ignored by everybody, but I am not a Chirpy Campbell.' Then I said to her `Well, that might be the case, but we have got a situation where we have got all these allegations. Yesterday you introduced even a new claim to me that there was material under water. And she said, well, `The real fact of what is there is that under the water there is pottery things.' And I sort of - it struck me as strange about pottery, because I had no idea how anyone would be able to see pottery underneath the water. And, to my knowledge, in all time, no-one had ever dived between Goolwa and Hindmarsh Island. She said that there were matters of paramount law and that `They have not got the right women's business.' She said that she was `the only one who learnt it from the spiritual line. It's something I told them about. I said no good was going to come out of this. They didn't want to know me then, they will not want me to know then', now. `It's still true, but it's on a different level. I still believe in women's issue after all this, but people don't have any respect for their law.' and I said `Well, again, you know, going back to this point where you have got the situation where you have got these conflicting stories, you have got allegations of pressure being brought to bear. You have got allegations of someone getting your husband drunk and, you know, all these forces at work.' And she told me that `Legal Aid', and Mrs Milera has always referred to the Aboriginal Legal Rights Movement as `Legal Aid', `have got people on side.' She said `It is like you are running against a brick wall.' She said `Nobody has really challenged me on anything. I have been silent too. Everybody rings me, but in a reconciliation way. I have worked for nothing in regards to reconciliation.
I have really done something for my heritage. I have had a lot of things to do. I knew if this was put on paper this was going to be the end of it. Then they decided to put Dodo up front. People were saying to me don't talk about the environment. I got my respect from Auntie Connie. That's from tradition handed down. These people are damming their own kind and it's a correction really for everyone. I have got a lot of healing through it.' She then told me that she would 'talk to honesty. But only from here on. Our nation has to be honest and stop persecuting people. I haven't forsaken reconciliation and I have not forsaken protection of sites, because that was my original aim and I stand by that aim. I stand by reconciliation. A lot of people respected the principle of Goolwa.' And, basically, we concluded that conversation. And, at her request, I telephoned Mr Richard Owen.

Q. Was that on the same morning that you telephoned Owen.
A. Yes, it was.

Q. And remind us, he is the -
A. President of The Friends of Goolwa and Kumarangk.

Q. And had you had much contact with him, over the 18 months or so, up until this time, hadn't you.
A. A vast amount of contact, yes.

Q. And documents from him, also.
A. At various times, yes.

Q. Tell us what passed between you and Mr Owen.
A. Mr Owen was very angry with me. He basically conveyed to me the impression that I had betrayed him and his cause and that I had overstepped the mark by what I had put in the paper.

Q. Was that a short conversation.
A. No, it started out on a fairly strong note. It continued on a fairly strong note and went for sometime.

Q. Did you note that conversation.
A. I didn't note that conversation, because it turned into a debate, so to speak, between myself and Mr Owen and I was too busy debating the point with Mr Owen.
Q. But the gist of it, then, was that he conveyed strong
disapproval of what you had done.
A. That's correct.
Q. Anything else that you can remember of relevance to this
Inquiry.
A. I basically - Mr Owen, Mrs Bolster, Mr Thomason and I
had met about six to eight weeks before this at a coffee
shop behind the Adelaide Town Hall. The fabrication
allegations had just become public. Mrs Bolster is, as
I have said before, from the Conservation Council. She
was concerned about the Development Act and changes
which were going on. She wanted to meet with me.
There was a bit of a debrief between myself, Owen,
Thomason and Bolster and they wanted to know what I
planned to do about the fabrication allegations.
Q. Mr Thomason was present too, was he.
A. Yes, he was.
Q. It was Richard Owen, Margaret Bolster.
A. And David Thomason. And I told them that I actually
planned to monitor it. That I didn't want to get
involved, at that point, and that I was more interested
in continuing to scrutinise the process followed by the
Federal Minister. That I believed that, if there was
any truth to the fabrication allegations, and this had
the potential to expose the taxpayers of this country to
compensation claims, which I had already reported as
totalling $15 million, that anyone responsible for any
fabrication or who had played any role in it would have
to be brought to account and that I would be doing my
utmost to make sure that happened. This was the same
position I repeated to Mr Owen that morning.
Q. And their reaction to that.
A. They were disappointed with me, because they felt that,
up until that point, I think they felt that I was on
their side, so to speak, and suddenly I reminded them
that I was a journalist and, as a journalist, I had a
job to do.
Q. Then the conversation with Richard Owen, you were
departing from that, to sort of give some background.

A. I reminded him of that conversation at the coffee shop
and that I still believed, even more so now, that, if
the allegation of a fabrication was true, and if he had
played any role in it, then I would bring him to
account.

Q. There were more conversations in the course of the
morning, were there not.
A. Yes, there was.

Q. Did you come to know, if it is correct, that Doug Milera
had spoken on the Keith Conlon Show, that morning, 7
June.
A. I didn't hear it, because, again, I was on the telephone
to all these women who were ringing me up.

Q. But you learnt about that later.
A. Yes, I did. I obtained a transcript from a media
monitoring service.

Q. You spoke to Sarah, you spoke to Richard Owe, and I
think you then had a series of telephone calls with an
Alan Clarke, is that right.
A. Yes, I did.

Q. Who is Alan Clarke.
A. The first message I received from Mr Clarke was on the
morning of the 7th of the 6th and the note which I have
here (INDICATES), which is the phone memo which was left
for me recording that call, was 're: comments made by
his mother in the paper this morning.'

Q. Is this the son of the Mileras who is an employee of
Victor Wilson.
A. It is.

Q. How many conversations did you have with Alan Clarke, in
the course of that day.
A. At least three, if not four.

Q. Do you remember the content, or have you noted some of
that, have you.
A. I noted some of them, yes. I noted my very first one.

And, from the opening discussion, it subsequently
changed a couple of times during the day.
Q. Tell us what passed between the two of you.

A. He telephoned me to inform me that he was the son of Sarah Milera and - yes, just checking that he didn't say stepson, but he said stepson of Douglas Milera. That he was ringing me in response to the article which appeared on the front page and went on to outline to me that he wanted to support his mother. But, at the same time, it had to be made known in the public arena that there were genuine sites on Hindmarsh Island. I told him that I wasn't disputing that and that, ‘If you read the article carefully, I only said "some of the women's business had been concocted".’ And he told me ‘Well, there are sites there for men and women.’ And he tried to encourage me to investigate the allegation that his father had been drinking before conducting an interview which was broadcast on television the night before. And he also tried to explain to me how a secret in Aboriginal tradition could remain a secret and that only a couple of people may well know what the secret is and that not necessarily everyone would get it passed on to them. And my notes show that he also talked about the fact that he was a supporter of the notion of heritage on Hindmarsh Island and the vicinity. And I said ‘Well, what can I put in the paper?’ You know, ‘Would you like to be quoted on any of this?’ And, after explaining all this to him, he was quite reluctant to actually be quoted in the paper and I said ‘Well, there is no point telling me all this, if I can't put it in the paper, because I am only one person.’ And so he did give me a quote to put in the paper, which was ‘There is women's issues and men's issues there and, whether people know about it or not is not to say that it does not exist.’

Q. There were two or three conversations of that sort with Alan Clarke, were there.

A. There were along that nature, but it seemed to go over a period of hours where he kept on ringing back wanting to change his story and to modify it to some extent.

Q. That evening I think Sarah Milera spoke to Murray Nichol
on the radio.

A. Yes, I facilitated Mr Clarke to go and pick up Doug Milera from Goolwa.

Q. You later in the day learnt that Sarah had spoken on the radio.

A. I was contacted by the producer of the Murray Nichol Programme and informed that people were claiming that the story, 'The great lie of Hindmarsh Island', was a misrepresentation of what Mrs Milera had said, that she had been misquoted and taken out of context. I informed the producer of the Murray Nichol Programme that I didn't believe that was the case. He told me that a large number of women had conveyed this to him and I said 'Oh, well, it will be interesting to see what she has to say next.' I then obviously put the radio on, to listen to Mrs Milera.

Q. And she did do that, on the radio.

A. She did and she didn't. I think anyone who reads that transcript of what happened will find, as I did, because I took notes of it, that Mrs Milera, by this stage, had had obviously a fairly lengthy day where her phone would have been going and I had arranged, through Mr Clarke to go and for him to go and get Mr Milera from Goolwa. He had picked up his father and - his stepfather and gone back to Murray Bridge and unfortunately walked in the door, just as Mrs Milera was talking to Murray Nichol at - and that interview started with a - sort of quite a strong question from Mr Nichol about what was going on and what was - what had transpired. They then immediately played an excerpt from the Keith Conlon interview that morning and Mrs Milera became quite agitated after - she, like, was asked a couple of Questions. Then they played this excerpt from the interview with the husband in the morning, which upset her. And then she was then asked a couple more questions about the story and, to my knowledge, she actually never said exactly what was wrong with it. That she wouldn't have written it the way it was
Q. I will interrupt you there, because we will actually have a transcript before the Commission.
A. So, anyway, she said these things. Then you could hear Douglas Milera arriving home towards the end of the interview and the pair of them had a fight, which or an argument, which you could hear. And then Mr Nichol obviously saw fit to cease the interview, at that point.
Q. I think you had a conversation, shortly after that, with Douglas Milera himself.
A. Yes, I did.
Q. When was that, what time and on what day.
A. My notes show that I received a telephone message from Douglas Milera the following day at 12.53 and the message says `Sarah's husband. Urgent. Please ring back on', a telephone number with an 085 prefix, which would be in the South Coast to Murray Bridge area.
Q. You made that call, did you.
A. I tried all afternoon to return that call. The line was constantly engaged. At about 7 p.m. that night, in light of the fact I think that was the day the Premier announced this Commission, I managed to make contact with Mr Milera.
Q. Did you take again shorthand notes of that conversation.
A. I did.
Q. Again, who rang on that occasion. He had rung you earlier. You were trying throughout the day.
A. Yes.
Q. In the end, who rang whom.
A. He had left that message (INDICATES), for me to ring him. I tried. I had to go and see the Premier along with the other journalists to talk about the - this Commission. And then I returned and kept trying to get hold of Mr Milera and I eventually got hold of him at that number at 7 o'clock that night.
Q. Tell us what passed between you.
A. I actually, this time around, didn't say much, quite surprisingly. I just let him do the talking and took
notes of what he said. He said 'Thanks for what you put
in the paper. It was okay. I am going to get the truth
out of the issue. The undercurrent on this whole issue
is spreading. They keep talking about thirty-five
women, but I have had women come and speak to me about
the whole issue and there is going to be hell to pay,
because we are going to wipe everything, because I want
to clear my conscience. I am going to turn my back on
the unions and the Kumarangk people. I am going to say
the truth. I slept with my wife last night and I spoke
to her this morning. I was disgusted when I went there
last night and she was talking to the radio saying you
had got things wrong. We were meant to stick together.
When I went back to the house to talk, the Chairman of
the Lower Murray Nungas Committee was there. Alan was
there. He is our son. Sarah loves Alan. Alan loves
me. Alan could lose his job tomorrow.'
When I went to Murray Bridge, Victor looked at me with so much hate in his eyes. I said "Hit me and get it over with". There is a manipulation going on in this country, not just Ngarrindjeri people saying what I said was a lot of bullshit. I have it on tape what Sarah has been talking about. Don't listen to my wife because she has been used and she knows it. Sarah and I have both been manipulated into this whole debacle from the beginning. When we got to Goolwa we thought that we would be accepted and we would be right, but when we had a meeting not long ago they said "Come to Adelaide straight away. We need you to back us up". People took over the reins from Sarah. She was a custodian of Goolwa. When she got to big meetings she was not allowed to say a word. Reins were taken over by bastards in Adelaide who were talking crap. Dodo was the instigator. Dodo was saying who could talk in public and who couldn't. I asked Sarah what was going on, but we walked out of it. We were being recognised by the country as the spokespeople. We were the ones who started it off. We were the ones who started talking about all this shit that has been going on. We were the ones who were talking about heritage with Neale Draper. We did survey of the island with Neale Draper. We knew fuck all of the island before we went down there. Victor told me to look at a map. He said "Look at the map of Hindmarsh Island". He said "Look at the lines". He said "You know what the mouth is?" He said "This was the birth place of the Ngarrindjeri nation". He said we would get women to support it and get everybody to know about it. I asked him where he had got it from. He said he wouldn't tell me. That is where I got it from. People in Adelaide told Sarah she would be a custodian. All these Ngarrindjeri women in Adelaide told her she was living in a fantasy world. I was told today and yesterday that my wife hasn't got any fucking brains to understand things. All I was trying to do was stick up by me and Sarah. They wanted to
C.A. JAMES XN (MR SMITH)

bring people from north, south, east and west to do things to ban Ngarrindjeri (dissidents), ban them from the tribes, and actually kill them. When women started talking about bringing people from the north to kill people, I said to Sarah "They are asking you to do things under tribal law to people". I slept with her last night. I said "Please don't be used any more". She said she had been put under pressure by Victor Wilson. Alan works for Victor. Alan was thinking of Sarah. Sarah was thinking about Alan's security. You should have seen the look on Victor's face. Can you ring Sarah and tell her that I love her and after all of this I just want us to be together. I think Alan may support me. Sarah, Victor and me started this thing. I said if we are going to split in the middle, and we start exiling people and threatening to kill them, then put me on the top of the list because we have always been a load of shit." Mr Milera then suggested I contact a Marge Tripp from ATSIC. He said Mrs Tripp had put her job on the line over supporting me. He also gave me the contact number in Murray Bridge for a Mrs Dorothy Wilson. He also asked me for $20, saying he did not have a cent in his wallet. He asked me to do him a favour and send him $20 to Karpy Road, Wellington. He had never asked me for money before, and I said I would not be able to send him any. I did not send any money. That was the conclusion of that telephone conversation with Mr Milera. I have not reported that in the public arena because the commission was announced and I thought it was up to you.

ADJOURNED 12.55 P.M.
RESUMING 2.24 P.M.

COMSR: I have got a copy of a medical certificate.

MR SMITH: Yes, it would be a convenient moment to raise that. You will remember I foreshadowed the plan for Wednesday for you to be travelling to the Riverland to obtain evidence, in effect, in private, from Margaret Lindsay. The justification for that is really set out in the medical report, a copy of which you have, from a Dr Geoffrey Whitford, dated 28 July 1995, which sets out Mrs Lindsay’s medical condition and the reasons why she couldn’t be subject to giving evidence in this atmosphere here in the inquiry and cross-examination.

COMSR: Do you know how old Mrs Lindsay is? Is it her age as well as -

MR ABBOTT: She is 68. She is my client. Perhaps I can add to this. Mrs Lindsay is in advanced years, as you have heard, frail and suffers from a degree of deafness as well. She is the mother of Mrs Jenny Grace, whom you have heard from already. She is unable to travel to Adelaide.

I think she would be able, in certain circumstances, to travel, but it is primarily the stress which an appearance in this Royal Commission in these surroundings would subject her to, as a result of which we hold out fears for her health, particularly her heart. Our submission is that you should attend without any counsel, other than counsel assisting. We are not even seeking at this stage to be there, and take the evidence.

COMSR: Mrs Lindsay is prepared to give that evidence, is she?

MR ABBOTT: Yes. Mrs Grace will need to be there to make introductions and calm her mother down, but apart from that, it is not intended that there be any legal input into this exercise. We would urge this course upon you, and then, depending upon the result of that evidence, the position can be further reviewed. I would
not think there would be any need to ask her any
questions, but I am invariably wrong about those
matters.
If there is a need demonstrated thereafter, that is
a problem we will then have to deal with, and you will
have to weigh up your observations of Mrs Lindsay and
the appropriateness of any cross-examination or
examination by counsel at all. You may determine that,
whilst it might be nice to hear some of the questions Mr
Kenny wanted to put, in the end result, it doesn't much
matter. I use Mr Kenny mainly by way of example, not to
indicate necessarily that he would want to ask
questions.
COMSR: I suppose a statement has been obtained.
Is it anticipated that Mr Kenny's clients would be
necessarily involved?
MR SMITH: I think Mr Kenny may have some input
into this discussion. I had in mind you taking this
view: that you take the evidence of Mrs Lindsay and
thereby no cross-examination of her, and there be no
attendances by any counsel for interested parties at
this lady's home. You are empowered to do that.
The evidence is to some degree contentious, it
cconcerns the issues before you. You would take into
account the fact that this lady was not tested by
cross-examination, as it were, in weighing her evidence.
I think in the end it is a matter for you. I recommend
that at least at this stage it be done this way. She is
everly, frail and ill, and the sooner we take her
evidence the better. I think Mr Kenny, however, has
something to say about this.
MR KENNY: I do not seek to challenge the medical
report. I accept that she is a frail, elderly woman,
but I urge that you do not accept this evidence. I urge
perhaps that you don't accept it at all, because we will
not have the opportunity of any cross-examination at
all. One of the difficulties I suggest you face is that
there really hasn't been a wide testing of all the
evidence here. The cross-examination that I have done
has been within limited areas, and -
COMSR: Limited to the interests of your
clients.
MR KENNY: That is right. I don't say it
encompasses everything that every witness has said.
Further, the instructions I received from my clients
don't enable me to carry out a full cross-examination
because there are matters that simply aren't within
their knowledge and I am not in a position to do that.
Nevertheless, my clients do have what I say is a
major interest in the outcome of these proceedings and
the evidence that is heard here. I take it you do not
have a copy of this woman's statement at this stage.
COMSR: No.
MR SMITH: The commission has but you have not seen
it yet.
MR KENNY: A copy has been supplied to me, I might
say. It appears there that this witness gives what some
may say is very important evidence concerning some of
the deceased elders of the Ngadjieri people and
contact with them, and suggests it is unlikely they may
have had the traditional knowledge and information that
others say they had, if I can put it in that way.
COMSR: It is the type of evidence that the
so-called dissident ladies have given in one respect or
another.
MR ABBOTT: It is more than that. This old lady had
a particular -
COMSR: Perhaps I should know what she says as
opposed to what I might hear.
MR ABBOTT: She particularly wants to talk about
Auntie Rose, being one of the alleged informants of
Doreen Kartinyeri.
COMSR: I can see that that would be
significant.
MR ABBOTT: I can tell you that my instructing
solicitor, Miss Freeman, had to travel to her home to
take her statement. It is not as though there is one
rule applied for the commission and another rule for
those who act for her. All we are asking is that you do
it step by step. That you take her evidence in the way
in which we have suggested, it can then be made
available in conjunction with her statement, and then,
whether his interests can be resolved. It may be they
can be put in written form. There are a number of ways
of dealing with this problem. The first step is the one
that we urge upon you at this stage. That is all. So
that you have actually got her evidence.
COMSR: Yes. There seems to be certain merit in
view of the medical certificate. You are not urging at
this stage that you should accompany me and try and
cross-examine her in view of the medical certificate,
but you would like the opportunity, I take it, to put -
MR KENNY: To be honest, I don't really wish to go
up to the Riverland, but I firstly urge that you don't
accept the evidence. That is essentially my submission.
COMSR: It appears to be relevant.
MR KENNY: I agree, some of the information that
you have previously received is within -
MR ABBOTT: But this submission that you don't
accept the evidence, he can't possibly have any standing
to argue on her knowledge of Auntie Rose.
MR KENNY: The other point I might make, it would
appear that Ms Pyke may have some inquiries she may wish
to make in relation to this woman. Ms Pyke, you might
remember, was acting for Deane Fergie and had more
information -
COMSR: I am sure Ms Pyke will let us know if
that is the situation.
MR KENNY: I haven't spoken to her about the
matter, I might say. I am suggesting I perhaps might
not be the only one who has some interest.
COMSR: I think the first step is to get the
information. I don't know what subsequently might
occur, given the situation with this witness and, of
course, that would all go to weight I would think.
Evidence that is untested by cross-examination, you
might well argue is not evidence which carries the same
weight as evidence that has been tested.
I think it is desirable to get this witness's
evidence at this stage, and not delay it unduly. The
question will then arise subsequently depending on what
her evidence is, what further steps might be desirable
in the circumstances.
MR KENNY: There was a couple of points in relation
to that. Secondly, if it is later decided that I may
ask her some questions, it may involve us all travelling
back to the Riverland to ask those questions. Secondly,
there may be questions of her knowledge of Aboriginal
tradition that may come up as well which could involve
some difficulty with Section 35. I don't say that there
will be -
COMSR: That wouldn't be the first time the
evidence has involved some difficulty with Section 35,
and I suppose that, consistent with what I have done
throughout the hearing, it would probably be that I
might consider it appropriate to suppress anything which
looks as though it is either in conflict with Section 35
or that there is some sufficient reason why it should
otherwise be suppressed. That is the constant
difficulty that arises with practically every witness in
this matter.
MR MEYER: We would be surprised if you were
anything but cautious.
COMSR: I suppose one can remedy
over-cautiousness, but it is a bit difficult to remedy
recklessness, on the other hand.
MR KENNY: In summary, my submissions are
essentially the evidence shouldn't be accepted, and
secondly, if it is to be accepted I would like an
opportunity to cross-examine the witness.
RF 28G

COMSR: Yes. The way in which that might be done might have to be considered in the light of the witness's situation, but I would propose to take the evidence. It might well touch some of the matters that you have indicated are of concern to you, but it would appear that the witness should not be subjected to too much in the way of cross-examination.

MR ABBOTT: May I suggest that it would be entirely appropriate for you to ask some questions that won't impose stress on her because of the setting, but which are by way of testing her. I am not suggesting that you should be unable to ask searching questions. It may be that Mr Kenny will be satisfied - although I find it hard to expect based on his previous performance - with the questions that you have asked.

COMSR: I have indicated that I propose to go ahead and get the witness's evidence. It may be that the matters with which you are concerned will be dealt with, Mr Kenny. If not, then it would be appropriate for you to make submissions to me either as to the weight or as to what further steps might be taken.

MR KENNY: Certainly. I understand you to mean that you will take that evidence in the absence of counsel at this stage?

COMSR: I don't know that any other counsel suggested that they would attend. Given the nature of the medical certificate, it is not exactly an invitation to counsel to be present and cross-examine. But I understood you to say, in any event, that it is not your intention that you seek to be present.

MR KENNY: No, it was my statement that I didn't particularly wish to go there, but if the evidence is to be received then I do seek to cross-examine. I was just clarifying the last point.

COMSR: I don't know what the condition of the witness may be after she has given her evidence. It would seem to be doubtful that she could be subjected to too much in the way of cross-examination. Are you
suggesting that you, in any event, go to Berri and
should she prove to be capable of dealing with
cross-examination -
MR ABBOTT: We would entirely oppose that course.
We have got a medical certificate from a specialist
physician, and the suggestion that somehow Mr Kenny
should attend and probe, as it were, the medical
condition by questions to see whether she is up to it,
quite frankly, we would resist wholeheartedly.
Particularly as it would be done in our absence. We are
not even going to be there.
CONTINUED
COMSR: I think, Mr Kenny, what I outline in the circumstances is appropriate. It's not ideal. It can't be in the circumstances. There is no ideal way of handling this situation. Doing the best I can in the circumstances, I think that it's appropriate that I take the evidence, that you have a copy of it, that you can see what it covers and at that stage you can make submissions to me as to what course you consider appropriate in the circumstances to adopt; always bearing in mind the limitations that the witness's physical condition will impose.

MR KENNY: Certainly. I just indicate in reply to what Mr Abbott says that I wasn't seeking to cross-examine her about the medical condition.

COMSR: I hadn't understood you to say so.

MR SMITH: That's the plan for tomorrow. At this stage, I would like to play a short tape of the Murray Nichol Drive Time evening programme of 7 June to Mr James. If that could be put on the radio.

AUDIO TAPE PLAYED

Q. That was the Murray Nichol programme you spoke of.
A. It was.

Q. Just prior to luncheon.
A. That's correct.

EXHIBIT 128 Audio tape tendered by Mr Smith.

Admitted.

MR SMITH: The Commission will prepare a transcript of that and issue it to everyone, all counsel.

Q. I think there was a press conference scheduled at the offices of the ALRM on 23 June 1995; is that right.
A. There was.

Q. Did you receive a notification of that in -
A. No.

Q. How did you learn about it.
A. I read about it in the Australian newspaper.

Q. What, prior to the event or when.
A. That morning, the story appeared in the paper saying that the Ngarrindjeri women would be making a formal
statement that day.
Q. Did you go to that press conference.
A. No. I telephoned the Legal Rights Movement asking what
time the press conference would be, and I made a diary
entry as a result of that telephone call.
Q. Was there anything else said that is of assistance to
us, other than a notification of the fact that it was
on.
A. Well, I rang the Legal Rights Movement at quarter past
ten. I was trying to obtain details of the formal
statement as flagged in the Australian newspaper. I
asked to speak to Sandra Saunders, the director of the
Legal Rights Movement. I was told she would not be in
until 11 o'clock that day. I then asked to speak to Mr
Chris Charles, who I previously contacted on a similar
matter, but he could not be located inside the building.
I then asked for any details of the statement to be
faxed to me, and Doreen Kartinyeri came to the phone.
Q. Yes.
A. She said to me that the statement would be issued after
12.30 p.m. after she finished her press conference, and
I asked if I could come along and she said to me, and
I've noted here, 'Everything you have written and done,
you have made a mockery of our religious beliefs. You
have made a mockery of our spiritual beliefs and I do
not have to deal with people like you', and I started to
say 'I'm sorry you feel that way ...' when she hung up.
Q. So you didn't go to the conference.
A. No, I didn't. Instead, I asked for a female reporter to
go to the press conference in my place.
Q. Did you receive a report back from that reporter.
A. Yes. Jane Reid went down. She said upon her return to
the office that everyone had been kept hanging around for
some time, when television crews assembled - there was
quite a large media turnout - and without explanation
Legal Rights announced that the press conference had
been cancelled.
Q. I think you continued to write stories about this issue
of the Hindmarsh Island Bridge, didn't you.
A. Yes, I did.
Q. When was the next time that you spoke with Sarah Milera, if you did.
A. On 28 June, I received another telephone call from Mrs Milera.
Q. Could you tell us who sought out whom.
A. I have a telephone memo here received at 2 p.m. on 28 June from Mrs Milera asking me to call her back on another `085' number.
Q. This is another number altogether again.
A. Yes, it is.
Q. Did you do that, did you.
A. Yes, I did. That number was actually a number which I frequently rung to locate Mrs Milera in Goolwa previously.
Q. Did you make shorthand notes of this conversation.
A. Yes, I did.
Q. Was it a lengthy conversation, or what.
A. Not terribly lengthy. There's four pages of notes.
Q. Tell us what was said between you.
A. My shorthand notes say `That is deserting for what I've done for my Ngarrindjeri nation. What was in the Advertiser was the truth. They said I was not to talk to Colin James any more. I said I didn't like that way. I was sick of hearing that sort of thing. Nobody has ever done so much as I have for my Ngarrindjeri nation. I am dispossessed and I am moving my furniture. Why am I hated for saying the right things? I can still stand by what I said about protection of sites and Ramsaar.' Ramsaar is spelt R-A-M-S-A-A-R. It is an international treaty signed in Ramsaar, Iran, to protect the breeding grounds of migratory birds. It is a Federal convention which the Federal Government has to abide by. `I think we would get a fair hearing. I was in town. If they want to talk about it, they can. That is what I talk about, reconciliation'. She then introduced the name of a Mrs Jenny Grace as someone I should talk to. She said
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C.A. JAMES XN (MR SMITH)

1 'Why should I care when other people are talking stupid? Why should I be judged for my different principles? I am wounded'. She told me she was going to be moving to a flat next door to Channel 7 in Adelaide. She then said 'I want to say don't look for me. Nobody look for me any more. Why should I be judged? They said "Don't talk to Colin James, Sarah"; they said to me. Why should they do that? They did get carried away from that' - that, I think, is a response to the question about this original plot business about the archaeological sites. 'I suppose people can't question these hotshots who are mouthing off and saying things like that. I didn't put Dodo up there in the spotlight. You know very well what I said here about it' - and that's again a reference to the Goolwa wharf conversations. 'I know the truth about what happened. It's stressing me to bits. I have my own kind hating me and hurting me. I never want to desert anyone in this matter. I was in there for the right reasons, not for the wrong reasons. I remember when I was growing up, I lived in the same town. I am not a part of the death threats. I go into Legal Aid and they say "You are nothing, Sarah". You can't live - I can't live with hatred and prejudices. People are telling me not to talk to Colin James or Chris Kenny. When I explained that, he understood it. If they are going to separate me from the law, from my law, then they are going to face that. No Royal Commission could ring me and say to me I have to say the truth. I never hurt the people. I hurt these hotshots who sit with prejudices. I am the one who is recognised for Ngarrindjeri, but what has been done for me? Nobody could ever put it on me and say I did the wrong thing. Dodo is the only one person. When I went to her and said "You, who are the walkers?", she did not know. There's a lot more to it and I think if you talk to Jenny Grace, she is trying to bring harmony. I am trying to ask them what has been so wrong. I never did it for my own selfish reasons, I did...
it for the whole world. Legal rights should not be involved. I want questions from my culture. What went wrong? I am sick of it’. She then told me that Mrs Kartinyeri was being paid $500 by the Legal Rights Movement each time she came down from her home in Port Germein. ‘You were only a party’ - we or you - ‘You were only a party to saying there is Ngarrindjeri law. There are descendants to it. You should feel comfortable to be able to walk in there’ - and that is, I asked Mrs Milera, after she told me about the payment of money to Mrs Kartinyeri, why Legal Rights was acting like it was towards me and she said ‘All I was a party to saying there is a Ngarrindjeri law and there are the descendants to it’ and she told me ‘You should feel comfortable to be able to walk there, in there’, which is a reference for me to be able to go to legal rights.

Q. Did you say there are ‘descendants’ or ‘dissentients’.
A. Descendants.

Q. Did you raise with her in this conversation the fact that she appeared to back-track a little or back-track to some extent anyway from what she told you as you put it in the article ‘The great lie of Hindmarsh Island’ on the radio.
A. Yes.

Q. With Murray Nichol.
A. As a result of the Murray Nichol interview, I made a very large number of enquiries about why Sarah Milera had suddenly come out on radio saying those things. Those enquiries led me to the conclusion that pressure had been brought to bear on Sarah Milera in the course of the day over the continued employment of her son Alan Clarke and that, as a result of that pressure, she decided to back-track. Two weeks later, she was now revising her position again and told me what was in the paper was the truth.

Q. That was the end of the conversation.
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C.A. JAMES XN (MR SMITH)

1 A. That's correct.
2 Q. I think you followed up with the lady Jenny Grace, I think.
3 A. No, Mrs Grace contacted me subsequent to that conversation.
4 Q. Was that in writing.
5 A. No, she telephoned me and introduced herself as Jenny Grace to me.
6 Q. Then, I think subsequently she sent some written material to you.
7 A. No, she didn't. Mrs Grace - what occurred was Mrs Grace telephoned me and she expressed a wish to speak to me urgently regarding this issue. In light of what happened with Mrs Milera, I was a bit gunshy and I said to her 'Well, basically, in light of what happened with Sarah, I think the best course of action is for you to prepare a written statement for me so I have it in writing. You can outline your concerns to me in writing. I can then come down and discuss with you that statement'. I proposed, I said to her 'Let's not do it in a rush. It doesn't need to be in a rush'. This was on a Wednesday or Thursday, and I'd arranged to come down and see her the following Wednesday because, at the conclusion of the Sarah Milera discussion, Sarah asked me to go and see her on the Tuesday, and the arrangement was to go and see Sarah with a tape recorder on the Tuesday, tape a formal statement from her and go and see Mrs Grace on the Wednesday. Mrs Milera subsequently cancelled the Tuesday appointment and I went to Goolwa as arranged on the Wednesday.
8 Q. You did subsequently receive a written statement from Mrs Grace outlining her concerns and the issues that she wished to raise with you.
9 A. Yes. I travelled by car to Goolwa on my own. The original intention was to take a photographer with me.
10 But what I did was arrange that I go down on my own. If the interview gleaned material which I deemed fit for publication, I was to send a photographer down to get a
photograph of Mrs Grace. I went to Mrs Grace's home at 22 Gardiner Street, Goolwa, and she produced for me several handwritten pages of notes. And I also produced the tape recorder and told her, in light of Mrs Milera's so-called public backflip, I would be taping the discussion so both of us had a fair and accurate record of what was said between us.

Q. Looking at these copies produced to you and dated 5 July, do you recognise those as copies of the documents given to you by Mrs Grace.

A. Yes, I do. I actually asked Mrs Grace to sign each page and date it at the conclusion of our session together.

Q. There are seven separate pages.

A. Yes, that's correct.

Q. And that is your memory.

A. Yes.

MR SMITH: Could I suggest a five to ten minute break. I have to say that I haven't produced this particular statement to ensure there is not some canvassing of difficult material and could I do that perhaps before it is copied and tendered.

COMSR: It would be advisable.

MR ABBOTT: Could we have the originals?

ADJOURNED 3.14 P.M.
RESUMING 3.37 P.M.

WITNESS C.A. JAMES, EXAMINATION BY MR SMITH CONTINUING

Q. Looking at this bundle of, how many pages.
A. Five.
Q. Five pages, do you recognise those five pages as the document provided to you by Mrs Jenny Grace, on 5 July 1995, when you went down to interview her.
A. That's correct.
Q. That set out her position as you wanted her to set it out in writing.
A. Yes, so we had a starting point for our interview.
EXHIBIT 128 Document tendered by Mr Smith.
Admitted.

Q. On Wednesday, 5 July, you interviewed Jenny Grace over several hours, I think.
A. Yes, it was a fairly lengthy session.
Q. I think, at the commencement of the interview, you produced a tape recorder and told Jenny Grace that, as a result of your difficulties with Sarah Milera, you wished to record the conversation on tape.
A. That's correct.
Q. You also kept shorthand notes, is that so.
A. That's correct.
Q. The tapes are available for listening and transcribing, are they.
A. They are, but Mrs Grace I think from what I can understand requested that they not made available, but I am quite happy to transcribe my shorthand notes, but I will need at least a day.

MR ABBOTT: Mrs Grace's attitude is she is happy for them to be made available to anyone involved. It was an interview that Mr James conducted, not for retailing to the public, but there is no problem with counsel.

Q. Can you produce the two tapes then, on that basis.
A. There they are, there.

TWO TAPES PRODUCED BY WITNESS AS REQUESTED
MFI 129 Two microtapes of interview, between Jenny Grace and Colin James, conducted at Goolwa, on 5 July 1995, marked 129 for identification.

Q. I think you then returned to Adelaide and you wrote a story arising out of your interview with Jenny Grace, is that correct.
A. Yes, I returned to Adelaide late that afternoon and I arranged for a photographer, Leon Mead, to visit Mrs Grace the following day, Thursday, to take a photograph of her for use in an article which I wrote for the Insight section on the Saturday. That was accompanied by another article in the news section.

Q. I think you actually faxed the story to Mrs Grace, did you not.
A. Yes, I did. I sent a fax of the draft of the article to the Goolwa Police Station after asking the sergeant there if it was possible to use his fax machine as Mrs Grace's home is located very nearby. He was happy to receive the fax. Mrs Grace went down, picked up the fax, read the story through, made some minor changes and then approved it for publication.

Q. I think the two stories then that were written by you were a story headed 'Breaking the silence', on p.3 of Insight, dated 8 July 1995, is that right.
A. That's correct.

Q. And also published on the same day, as you have just said, was a story entitled 'River woman joins secrets rebellion', again, on 8 July in the same paper, attachment 106.
A. That's correct.

Q. I think, during the course of that long interview with Jenny Grace, on 5 July, Jenny Grace told you that Sarah Milera had been a regular visitor to her house, over the last year or so.
A. Yes, up to two to three times a week Mrs Milera was a
regular visitor to Mrs Grace's home throughout the time that she was living at Goolwa and then for throughout the time that the bridge protest and the accompanying issues were continuing.

Q. I think Mrs Grace indicated to you that Sarah had conveyed to her, indeed, just what Sarah had conveyed to you for your story, 'The great lie of Hindmarsh Island'.
A. That's correct.

Q. During the interview with Mrs Grace I think you also made some contact with Mrs Grace's mother, is that right.
A. Yes, we telephoned Mrs Margaret Lindsay and I spoke to her.

Q. Can you recall the conversation with Mrs Margaret Lindsay, or the gist of it.
A. It was a brief conversation in which I asked her to confirm that she was raised from the age of four by a woman known as Auntie Rosie, or, as she was referred to by Mrs Grace, as Granny Rosie. Mrs Lindsay confirmed that this was the case. I also asked Mrs Lindsay if ever during the time that she spent with Mrs Margaret Lindsay had she ever heard about the women's business, was she ever told the women's business and she said she had never heard of it.

Q. I think Mrs Grace, on that 5 July, also provided you with a written statement from another witness in this Inquiry, Mrs Phyllis Burns.
A. Yes, Mrs Burns was introduced to me by Mrs Grace as a middle-aged to elderly woman living in the Riverland who, after learning that I would be seeing Mrs Grace, had provided a facsimile of a written statement for me to use in The Advertiser disputing the validity of the women's business. And had also said that she would be happy to write anything further for me that I required.

Q. Looking at this copy document produced to you, do you recognise that as the statement given to you by Mrs Grace being the statement of Phyllis Burns.
A. Yes, it is. It is signed 'Phyllis Burns' and the
handwriting below that signature is my own. I have
written 'Phyllis Burns. 64 Swan Reach. Ngarrindjeri
woman', then 'Auntie, probably second cousin.'
EXHIBIT 130 Statement of Phyllis Burns, as handed to
Mr James by Jenny Grace on 5 July,
tendered by Mr Smith. Admitted.
Q. I think also whilst you were at the Grace home another
telephone call was made to yet another lady, is that
correct.
A. That's correct.
Q. Who was that.
A. We telephoned a Ms Rocky Koolmatrie.
Q. Did you speak with Rocky Koolmatrie.
A. I did.
Q. Tell us what was said.
A. Ms Rocky Koolmatrie told me that she was the first
cousin of Sarah Milera. She questioned how Mrs Milera
could know anything about the women's business as she
had grown up with Mrs Milera. They were raised in
the same family and she had no idea about any women's
business and, therefore, she could not understand
how Mrs Milera could profess to have that same
knowledge.
Q. I think you made arrangements, or you asked Ms
Koolmatrie to forward to you a statement, as you had
required from everybody else.
A. Yes, again I made a request to Ms Koolmatrie to forward
me, by fax, the following day, at her earliest
convenience, a fax outlining her relationship to Mrs
Sarah Milera and her concerns about Mrs Milera's bona
fides.
Q. Looking at this fax produced to you, consisting of three
pages, do you recognise that as the faxed statement of
Ms Koolmatrie as sent to you.
A. I do.
Q. It is dated 6 July: is that the date you received it.
A. No.
Q. I will show you another copy.
A. The confusion with this document was that the fax imprint shows 5 July, but it actually did arrive on 6 July, being the date that it is signed.

EXHIBIT 131 Statement of Ms Rocky Koolmatrie, received by Colin James on 6 July 1995, tendered by Mr Smith. Admitted.

MR ABBOTT: Rocky Koolmatrie is the lady who is my client who you have already heard from.

COMSR: Yes, I appreciate that.

MR ABBOTT: And she and Sarah Milera are, as you will see from that statement, she said they are cousins. Sarah Milera was raised by Rocky Koolmatrie's mother and father after Sarah Milera's -

COMSR: Presumably the document will speak for itself.

MR ABBOTT: Yes, there is evidence that you have heard about it already.

COMSR: Yes, I have already heard.

MR SMITH: I just remind you that on 15 August you suppressed some of the material in that letter. On that day and I would suggest that it is in the evidence of Ms Koolmatrie. All you need to do is extend your suppression order as made on that day to this particular document.

COMSR: Yes, I can do that. As I say, I will probably be reviewing all of these matters in the near future. But, for the time being, this letter, it is not a copy of her statement?

MR SMITH: You only suppressed portion. I have handed you a copy of the actual order you made there. It was a little more restricted than the whole of the letter.

COMSR: I suppressed some of the evidence of Rocky Koolmatrie.

MR SMITH: Yes, one of those topics is canvassed in the letter that you suppressed from the evidence.

MR MEYER: At line 8.
COMSR: It is the reference to the fact that she went interstate, is that it?
MR ABBOTT: No, it was a reference to the medical attention that she sought.
Do you have the letter of 6 July with you?
COMSR: Yes.
MR ABBOTT: I understand that you suppressed the fourth line, the sentence beginning `When Auntie was'. Just `When Auntie was', and then the next four words after that.
MR MEYER: Yes.
MR ABBOTT: So, it would read `Mum and dad took Sarah'. And, then, three lines below that, beginning `She went interstate'.
COMSR: That's right.
MR ABBOTT: It is that line and the next line.
COMSR: It is only that line, the line starting `She went interstate', ending with the words `much to do with Aborigines', is that it?
MR ABBOTT: Out, I think.
MR MEYER: I agree with that.
COMSR: I will suppress those two lines from publication, then. That is consistent with the earlier suppression order.
MR SHORT: I won't say anything further today, except to say I understand these matters are to be reviewed in the near future.
COMSR: Yes, and, of course, the basis of that suppression order is that it has really got nothing to do with the matter that is before the Commission and it could be considered prejudicial and complicating.
MR SHORT: Rather than seeking to address it today, when these matters are reviewed, perhaps I can say more, at that time?
COMSR: Yes.
MR SHORT: I just flag it, at this stage.
COMSR: I mention the basis on which I am making the suppression order.
MR SHORT: It may be easier for the media, since the rest of the document will be available, if we actually let them know - they can have the document in a moment - exactly what is suppressed.

MR ABBOTT: It can be blacked out.

MR SHORT: If counsel assisting will attend to that.

COMSR: Yes. It may be difficult for the media to understand, in the absence of a copy of the document before them, precisely what we are referring to, as we are tiptoeing around mentioning the contents.

Q. You told us earlier that you spoke with Mrs Koolmatrie on the telephone on 5 July.

A. Yes. I was actually concerned about a segment of that letter that referred to her relatives as lying. I tried to reach Mrs Koolmatrie on her mobile telephone and could only reach her by an answering machine, and I left a message informing her that I considered that that remark could be potentially defamatory, and could expose both her and I to possible litigation, and I would not be republishing it, but I thanked her for the rest of the statement.

COMSR: Before we move on from this letter, I am just looking at the last two lines of the letter, starting with `We are in 1995.'

MR SMITH: The last two lines?

MR ABBOTT: After the words `Big thing out of this.'

MR MEYER: That's a comment rather than actually something that is offensive. I wouldn't support that. That is a flippant throw-away line that I don't think anybody can take offence about, whoever it was said about. That is just a general comment.

MR SMITH: With respect, I do not think you need clutter up your order. I think you would be looking to review that, if you made that order.

Q. On 10 July you were contacted at home, were you not.
A. Yes, I was. I received a telephone call at my private address at about 6.45 that night.
Q. Who was that from.
A. It was actually from Mr Chris Kenny.
Q. You spoke with Chris Kenny, did you.
A. Yes. It was quite a surprise to be contacted by Mr Kenny.
Q. What passed between the two of you.
A. Mr Kenny informed me that he had been contacted by Sarah Milera, and that Sarah was trying to locate me because she needed to see me.
Q. Were you provided with an address.
A. I already had the address, and I confirmed that that was the same address.
Q. Did you go that evening to that address.
A. Yes, I did. I had my meal, I found a tape recorder, a mobile phone and went to the address.
Q. That was the address near Channel 7.
A. Yes, it was flat 18, 40 Park Terrace, Gilberton.
Q. When you arrived there can you tell us what time that was.
A. It probably would have been about 7.15 to 7.30.
Q. Who was present when you arrived.
A. I knocked on the door, a young Aboriginal teenager came to the door, I asked if Sarah was there. Sarah came to the door and she led me into a lounge room. Inside, seated in the lounge room, was a person who I recognised obviously as Mrs Jenny Grace, and also a woman who was introduced to me as Mrs Dorothy Wilson.
Q. Was that the first time you'd met Dorothy Wilson.
A. It was.
MR ABBOTT: That is my client, Dorothy Wilson.
Q. I think you produced a tape recorder, a mobile telephone, a notebook and a pen.
A. Yes, I did.
Q. I think that caused some -
A. Yes, there was a joke that I was very loaded up.
Q. Did you have a discussion with those present as to why you had a tape recorder and obviously intended to record the conversation.
A. Yes. I explained to Mrs Milera she had got me into considerable trouble over the so-called retraction on the ABC with Murray Nicholl, and that, as a result, I would have to tape-record the conversation.
Q. I take it there was no opposition to that.
A. There wasn't.
Q. So you turned the tape recorder on, did you.
A. We talked for a while before I commenced taping, yes.
Q. So was this around the table with the tape recorder positioned in the middle of the table.
A. No. Mrs Milera was on the other side of the lounge room, Mrs Jenny Grace was to my left, Mrs Dorothy Wilson was on the other side of the table at which I was seated, the tape recorder was placed on the table. Mrs Milera would have been a good 10 feet away from the tape recorder.
Q. The discussion which ensued lasted how long.
A. The tape recorded segment of that discussion lasted for approximately 30 to 45 minutes, but the discussion went for a couple of hours.
Q. I want to get a picture of the overall discussion, what of it was taped and what of it wasn't.
A. It was a lengthy discussion. We taped it up to a point where Mrs Wilson, who had not said anything at all, asked me to turn the tape recorder off because she told me she could not speak to me unless it was off the record because her lawyers had advised her not to speak to anyone.
Q. So there was a section of conversation taped, and a section of conversation which wasn't taped.
A. That's correct.
Q. The section which wasn't taped, did you note that.
A. No, I didn't.
Q. First of all, in broad terms, what did Mrs Milera have to say to you.
A. On the Friday proceeding this Monday there had been a protest rally against this Royal Commission in the city, and Mrs Grace made her appearance publicly for the first time in the newspaper on the Saturday. She and Mrs Wilson had gone to visit Mrs Milera, and they had had discussion, and then Mrs Milera had contacted me through Mr Kenny.

Q. In broad terms, in the conversation, whether it be taped or otherwise, what did Mrs Milera say about the alleged fabrication.

A. Essentially it was a repeat of the discussion I had with her the night before 'The great lie of Hindmarsh Island' was published. I covered the same ground about the alleged fabrication, the identity of the individuals allegedly responsible, and what had occurred.

Q. Looking at the tape produced to you, MFI 42, do you recognise that as the tape.

A. Yes, it is. It is actually a working tape. It has press conferences on it as well from the Premier Mr Brown and other State Ministers, and the tape was taped over.

Q. I think there is no question about this, that it is very difficult to hear.

A. Yes, it's almost inaudible.

Q. Nonetheless, you have, yourself, made a transcription of this tape, haven't you.

A. Yes, I have, at the commission's request.

MR SMITH: I will not subject the commission to attempting to listen to this, but I would like Mr James to listen it to him himself and just identify it as the tape.

TAPE PLAYED TO WITNESS

A. Yes, that's the tape.

Q. Are Sarah Milera and yourself the only contributors to that tape recording.

A. Yes, we are. Almost in its entirety.

Q. Although, there are other people present, being Jenny Grace and Dorothy Wilson.
A. Neither Jenny Grace nor Dorothy Wilson said very much at all.

EXHIBIT 42        MFI 42 tendered by Mr Smith.
Admitted.

MR SMITH:    There is a copy of the tape in a large size cassette for playing. That will be available to play to counsel in the machine that we have here in court in due course. I will leave that in the same package as the exhibit.

Q. Looking at this transcript produced to you, I think that document of 8 pages records the transcription that you kindly did from your tape for the commission.
A. Yes, it is.

Q. That is, so far as your best efforts are involved, an accurate transcript of the tape Exhibit 42.
A. Yes, it is.

Q. There are some introductory comments, of course, at the beginning of the transcription, is there not.
A. Yes, there is.

EXHIBIT 132        Transcript of Exhibit 42 tendered by Mr Smith. Admitted

Q. We have, however, no record of the conversation that took place other than the tape itself. Could you tell us what was said in that gathering during the time that the tape was not running. That is, what was said that wasn’t recorded on the tape recorder.
A. If I can just have another look at the transcript, I will be able to pick it up from there. Do you want me to canvass basically the issues in here?

Q. I want you to relate to us, as best your memory can, not the transcript, but what was said during the time that the tape recorder was switched off. Is that actually recorded on the transcription, is it.
A. No. What’s in the transcription is what was said building up to the conversation which actually followed after I turned the tape recorder off.
Q. If you need to introduce it to make sense of it -
A. I think I do because it was obviously - Mrs Milera, to have me there and to have Dorothy Wilson and Jenny Grace there from the so-called dissident women's side, was quite a break through, and she outlined to us the reaction which had occurred to her after speaking out in the 'Advertiser', and told us that she had lost a lot of people and lost more than anyone could believe. She outlined pressure that had been brought to bear on her as a result of speaking out. She also suggested to Mrs Grace and Mrs Wilson that they should get placards and Mrs Bertha Gollan and other dissident women and do something radical and march up the street to show a united front. So, to me, it was an indication that she was actually crossing from one side of this issue to the other. She also talked about the fact that Connie Roberts was now her cousin and that - I asked her whether she would be ready to talk, and she said she doubted it. We also talked about why things had been done in so much of a rush last year. I asked her 'Why didn't Cheryl Saunders talk to more people?' And she said that they put it down to a hurry, and Legal Aid dictated who they should see, and that was one important point. She also said that Cheryl Saunders had put herself in an awkward position because she wasn't a lawyer, but, as Director of Legal Rights, she had to make sure those boys did their job right. It was quite an interesting discussion, canvassing a lot of the issues which we have already canvassed before, such as why four white women were authorised to see the contents of the so-called secret envelopes, but no Ngarrindjeri woman from the dissident side was allowed to see what was inside them. We also talked about Neale Draper's report and a letter which was sent to Mr Tickner in two different handwritings, and the authorship of that letter. Mrs Milera raised yet again the issue of the skeletal remains, and I advised her to be careful about what she said publicly about that.
Then, she informed me that she had evidence of that incident on tape and that this tape was stored in a secret place. We talked again about the sacred sites which were apparently in the path of the bridge and we also talked about the whole thing, about linking the mainland to the island and women losing their fertility. And she said `That was a lot of ...' and finished her sentence there. And I said `Well, that was why Tickner stopped the bridge', and `Where did it all come from?'; and she said that Victor Wilson and Dodo had never consulted her and that she foolishly had put a woman by the name of Isabel Norvill and her husband Doug also on Federal Court proceedings, and we then - I asked `Well who is Isabel, who is Isabel?', and Dorothy then asked if she could speak off the record. And I then outlined that I would have to keep - I wanted to keep taping it because I envisaged some opposition to my continued enquiries by some of the players in this particular issue. Dorothy insisted that I turn the tape off. However, Mrs Milera expressed the wish that she was glad that I was taping the conversation. But, in the end, I acquiesced to Mrs Wilson's request and turned the tape off. We then went on to talk about what happened and who was responsible. Mrs Milera identified for me Val Power, Sandra Saunders and Doreen Kartinyeri as the three key people to be looked at. She also said - repeated the allegation that some of the material came from books and that had been exaggerated and that, you know, she believed that there should be some sort of investigation into the matter. When I asked her `How on earth have we got to this point after 18 months of talking to you on a regular basis? Haven't you done anything about this before if it was a fabrication? How have we reached the point that it's causing so much derision and hurt? Why didn't you tell me earlier?', she said to me `I wanted to teach Dodo a lesson'.

Q. So that was the gist of the conversation.

A. That is the gist of the conversation.
Q. I think you spoke to Mrs Milera again on Saturday, 12 August 1995.
A. No, that day another article appeared by me, it was my last article on this matter, and it was an 'Insight' article called 'Lines of inquiry'. And around that article I placed numerous photographs of different players in this issue and I had labelled Mrs Milera as a whistle blower. She had left a message on my answering machine at the Advertiser asking me to call her.
Q. So that was the article about this inquiry.
A. That was an article canvassing the Royal Commission. The material from Veronica Brodie, their relationship between that material and what was being put forward by Mrs Betty Fisher and also the problem that the Commission was facing in terms of its deadline and its witnesses.
Q. You had a conversation then with Mrs Milera following that article, did you.
A. On the Monday morning, I was contacted by the Royal Commission, Mr Smith, and asked if I had a tape in my possession of that night at Gilberton. I informed them that I did so and he asked me if I could produce it.
Q. That was the tape which has just been tendered, Exhibit 42.
A. That's correct.
Q. Having delivered that tape to this Commission, I think you had yet another contact with Sarah Milera; is that right.
A. No, that was my first contact. Mr Smith indicated to me that they required the tape urgently, so I located the tape from where I had hidden it and I took it to the Royal Commission, which was then sitting in the Supreme Court. And, upon my return, I telephoned Mrs Milera to inform her that the tape has been handed to the Commission.
Q. That telephone contact with Mrs Milera was what date.
A. Monday, 11, 12, 13 I assume. I haven't got a calendar.
Q. Do you have a copy of your statement there.
C.J. JAMES XN (MR SMITH)

A. No, I don't.
Q. Perhaps have a look at that so that we are sure. Looking at Exhibit 104 produced, at the bottom of p.19 of your statement there, if I could go back to that.
A. Yes.
Q. This is the aftermath of the conversation of 10 July which you taped.
A. Yes.
Q. You see you there record 'I next spoke to Mrs Milera when she telephoned on Saturday, 12 August'.
A. Yes.
Q. 'She left a message on my answering machine at work'.
A. Yes.
Q. 'I received the message on Monday, the 14th'.
A. Yes.
Q. That was the message which was conveyed to you that she was disturbed about you labelling her in your article on the Saturday as a whistle blower.
A. Yes, that's correct.
Q. Then it goes on that on Monday the 14th, you made the point that you, at the request of counsel assisting the Commission, produced the tape recording of the conversation of 10 July to the Commission.
A. That's correct.
Q. At court as it were.
A. Yes.
Q. Then, when you returned from the Commission later in the day, on that Monday, the 14th, you actually telephoned Sarah Milera.
A. Yes, I did.
Q. That was in response to the message she had left.
A. On the Saturday?
Q. On the Saturday.
A. Yes.
Q. You again had a lengthy conversation with her.
A. Yes, I did.
Q. I think you taped that conversation on the phone, did you not.
A. Yes, I did.

Q. By what means.

A. A device with a suction cap that you plug into a tape recorder.

Q. Did you alert Mrs Milera to the fact that you were tape recording the telephone conversation.

A. No, I didn't.

Q. Could you tell the Commissioner why you taped it.

A. Because I deemed it in the public interest to tape it. By that stage, Mrs Milera was producing inconsistent statements. She was switching sides constantly. There had been an allegation that I misquoted her and had taken her out of context, which I took strong objection to. I also knew this Commission inquiry was underway and that it was likely that I would be called as a witness. I wanted to have a true and accurate record of the material which was contained in the story `The great lie of Hindmarsh Island', so I could produce it if required, so there would be no dispute about Mrs Milera, what she allegedly said or didn't say to me. And she also told me on the Monday at Gilberton that she was quite happy to be taped when speaking to me. That night, she also repeatedly went back over the fact that the women from Adelaide lost the original plot and that they had moved away from the archaeological issue. I wanted to get that on tape.

Q. Looking at the transcript, Exhibit 132 produced, you indicated at p.7 of that exhibit, about point 5 there, is that what you refer to when you indicate that Mrs Milera on the 10 July was pleased that you were taping it.

A. Yes. I said to Mrs Wilson in response to her asking me to turn my tape recorder off, because she said `I'm not allowed to talk to anybody, as much as I would like to join in the conversation', I said `I'm taping this for me, not for the paper. For me.' So I have a record of Sarah telling me what she has previously told me because I have never taped a conversation with Sarah. I have
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C.A. JAMES XN (MR SMITH)

never used the tape recorder with her. Sarah replied

`That's the truth. Never.' I said `Sarah went on radio

and said things which have got me into trouble and so
too my newspaper, but I stood by my notes and what I
know of Sarah. I think I understand what happened that
day with Alan and Victor'. She said `Yep'. I then
said `I know why Sarah went on radio this time around.
I want this up my sleeve, so if anyone comes back and
says anything to me, I can say "Look, I have got it on
tape"'. Sarah said `I am glad you are doing that
Colin'.

CONTINUED
Q. So, you determined to tape record the conversation, to protect your interests.
A. The conversation wasn't for publication. By that stage, I had ceased reporting on this issue and it wasn't my intention to use what she told me for use in the newspaper and it hasn't been used for the newspaper.

Q. But I take it that the purpose of recording - from the sounds of it, you had decided that any conversation you had with Sarah Milera from henceforth was going to be recorded, had you.
A. Yes.
Q. That was because you felt that otherwise you could be challenged as to the accuracy of the conversation.
A. That's correct.

Q. Looking at this tape produced to you, do you recognise that, at least so far as the case is concerned and, if you can, go beyond that.
A. Yes, that is my handwriting. It shows the date and also the words 'Sarah Milera'. It is a tape that I made on both sides of that microcassette.
Q. And the tape itself has got - there is writing on that too. Do you recognise that.
A. That is my handwriting - no, it is not. Someone else has written on that. That is not my handwriting. It is blurred. Someone's sweaty fingers have blurred it.

MR SMITH: I ask, subject to identifying that tape, perhaps if the witness could just identify the tape in terms of having portions of it played to him quickly. I will then submit that you can safely admit this tape into evidence.

TAPE PLAYED
A. That is Mrs Milera telling me she wants to come to the Royal Commission.

MR SMITH: I seek leave then to tender that tape and there is a transcription of it available and a large cassette available for playing. I submit to you in
relation to the admission of the tape that the
Commonwealth Telecommunications Interception Act (1979)
has no application and, in particular, s.4. In respect,
then, of the Listening Devices Act (South Australia),
there being no consent, no overt and specific consent to
the tape recording, you are then driven to consider the
provisions of s.7 of the Listening Devices Act. And, in
your discretion, you are able to receive such evidence,
if you are convinced that it is in either the public
interest, or for the protection of the lawful interests
of the person tape recording the conversation. That is,
that the tape recording is for those purposes. If you
are satisfied of that, you can readily admit the
material into evidence and I suggest that what Mr James
has said clearly qualifies him to take the view, for you
to take the view, first of all, that it is in the public
interest that you receive this evidence. And,
additionally, that the tape recording of this
conversation is for the protection of his lawful
interests. So, my submission is that, in respect of the
only Act that applies, the State Listening Devices Act,
you are empowered to admit this tape recording into
evidence.

COMSR: Does anyone wish to be heard to that?
MR KENNY: Yes, just initially if I could ask
counsel assisting, does he say that the Federal Act
doesn't apply in this case?
MR SMITH: Do I have to enter into a dialogue with
Mr Kenny? I mean, does he contend that the Federal Act
applies? He should make the argument if he says it is
appropriate.
MR KENNY: I haven't had a chance to look at it.
COMSR: As to what you say amounts to an
interception, you can put an argument to me. Perhaps
you might consider the question of what amounts to an
interception, under the Federal Act?
MR KENNY: Sure. Can this be deferred until
Thursday?
C. A. JAMES XN (MR SMITH)

COMSR: Yes, certainly.
MR SMITH: Perhaps in the meantime just, because it has been the subject of evidence, marked for identification?
MFI 133 Tape of conversation between Sarah Milera and witness marked 133 for identification.

COMSR: There is another matter before we adjourn.
I know I said, Mr Abbott, that in future - well, at least, pending the issue of an authority by the Minister, which might hasten things up, that we would commence the sitting day at 10.30. However, to make maximum use of the reporters that we have available, 10.15 would be an appropriate time.

MR ABBOTT: That is all right. Whatever.

COMSR: I propose that we adjourn until 10.15 on Thursday morning of this hearing. Of course, I will be adjourning tomorrow up to the Riverland to take evidence from the witness there.

MR SMITH: Could I just indicate that there is a transcript of this tape that will be the subject of some discussion first thing on Thursday morning and I have already handed out a transcript of that to counsel. And I just remind them of their undertakings in relation to that, since the witness's evidence hasn't finished.

COMSR: And since it is not before me by way of an exhibit, at the present time.

MR SMITH: No, the transcript isn't. So, I would ask counsel to nurture that transcript, as it were. And the tape recording is about 40 minutes long, subject to the arguments that might be made in relation to the admission of it, about 40 minutes long and I would ask counsel to be in a position to cross-examine Mr James during the course of Thursday and, if necessary, Friday.

COMSR: How many copies of this transcript of this tape have been distributed?

MR SMITH: Just to counsel at the bar table. No
other copies have been disseminated.
COMSR: It is wise to remember the undertakings
as to confidentiality, because I don't know what the
nature of the material might be.
MR SMITH: I don't want to go through the indignity
of taking them back. I don't think that is necessary.
COMSR: I don't know what is contained in the
transcript of that.
MR SMITH: No, I don't think there is anything that
would cause you concern in the transcript.
COMSR: No, I wasn't thinking might cause me
concern.
On the assurance that they will be treated
confidentially, I won't ask that they be returned and I
will now adjourn.
MR SMITH: No, that will put counsel in the
position that that will be this witness's evidence.
They will have the transcript, they should be in a
position to complete the cross-examination of this
witness Thursday and Friday, if necessary.
MR MEYER: All I say to that is, if need be, can we
have permission to listen to the MFI exhibit tomorrow,
with the undertakings and, if there are any points
that we need clarified.
MR SMITH: I will be here for anyone who wants to
listen to it.
ADJOURNED 4.35 P.M. TO WEDNESDAY, 13 SEPTEMBER 1995 IN THE
RIVERLAND